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HOUSE OF REPRESENTATIVES—*Monday, May 8, 2006*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. THORNBERRY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 8, 2006.

I hereby appoint the Honorable MAC THORNBERRY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Eternal Creator of streams and pastures and mountains and seas, and all the beauty of the Earth, calm the forces of nature. Bring out the best in Your people.

Eternal shepherd, guide of the nations, though Your people walk in the valley of darkness and live in fear of terrorists, illness, natural disaster, and all forms of evil human behavior, You ask us to place all our anxieties into Your hands. Help us to live attuned to Your voice, so that we may stay on the safe path and find our way to peace.

As Your people, may we come to know the strength of Your outstretched arm and take delight in Your presence. With You as our shepherd, we need only to follow You now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 5, 2006.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on May 5, 2006, at 10:30 am:

That the Senate passed S. 1086.

That the Senate agreed to without amendment H.J. Res. 83.

That the Senate agreed to without amendment H. Con. Res. 359.

With best wishes, I am,

Sincerely,

KAREN L. HAAS,
Clerk of the House.

BILL PRESENTED TO THE PRESIDENT

Karen L. Haas, Clerk of the House reports that on May 5, 2006, she presented to the President of the United States, for his approval, the following bill.

H.R. 3351. To make technical corrections to laws relating to Native Americans, and for other purposes.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. tomorrow for morning hour debate.

There was no objection.

Accordingly (at 2 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, May 9, 2006, at 12:30 p.m., for morning hour debate.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7284. A letter from the Secretary, Department of the Treasury, transmitting as required by Executive Order 13313 of July 31, 2003 a six-month periodic report on the national emergency with respect to Burma declared by Executive Order 13047 of May 20, 1997, pursuant to 50 U.S.C. 1641(c); to the Committee on International Relations.

7285. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

7286. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's Annual No Fear Report to Congress for FY 2005, pursuant to Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2003, Pub. L. 107–174; to the Committee on Government Reform.

7287. A letter from the Acting Director, Office of Management and Budget, transmitting in accordance with Section 647(b) of Division F of the Consolidated Appropriations Act, FY 2004, Pub. L. 108–199, the Office's report on competitive sourcing efforts for FY 2005; to the Committee on Government Reform.

7288. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area [Docket No. 060216044-6044-01; I.D. 032006A] received April 4, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7289. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska [Docket No. 060216044-6044-01; I.D. 0321106B] received April 4,2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

7290. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Fishery Closure [Docket No. 060317076-6076-01; I.D. 032006E] received April 4, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7291. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock from the Aleutian Islands Subarea to the Bering Sea Subarea [Docket No. 060216045–6045–01; I.D. 030306A] received March 20, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7292. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Western Regulatory Area of the Gulf of Alaska [Docket No. 060216044-6044-01; I.D. 030106A] received March 20, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7293. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 021506A] received March 7, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7294. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 060216045-6045-01; I.D. 030706A] received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7295. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Non-Community Development Quota Pollock with Trawl Gear in the Chinook Salmon Savings Areas of the Bering Sea and Aleutian Islands Management Area [Docket No. 041126332-5039-02; I.D. 021406B] received March 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7296. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf of Alaska [Docket No. 060216044–6044–01; I.D. 022806A] received March 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7297. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Rock Sole, Flathead Sole, and "Other Flatfish" by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area [Docket No. 041126332–5039–02; I.D. 022106B] received March 10, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7298. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels 60 Feet (18.3 Meters) Length Overall and Using Hook-and-line Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 041126332–5039–02; I.D. 022406A] received March 10, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7299. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska [Docket No. 041126333–5040–02; I.D. 022206C] received March 10, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7300. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands Management Area [Docket No. 041126332-5039-02; I.D. 021606D] received March 10, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7301. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 ft. (18.3m) LOA Using Jig or Hook-and-Line Gear in the Bogoslof Pacific Cod Exemption Area in the Bering Sea and Aleutian Islands Management Area [Docket No. 020718172–2303–02; I.D. 022206A] received March 10, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7302. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Magnuson-Stevens Fishery Conservation and Management Act provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Modification of the Yellowtail Flounder Landing Limit for the U.S./Canada Management Area [Docket No. 040804229-4300-02; I.D. 021706B] received March 10, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7303. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Central Regulatory Area of the Gulf of Alaska [Docket No. 041126333–5040–02; I.D. 021606F] received March 10, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7304. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Western Regulatory Area of the Gulf of Alaska [Docket No. 041126333-5040-02; I.D. 021606E] received March 10, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7305. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Hawaii-based Shallow-set Longline Fishery [Docket No. 060317076–6076–01; I.D. 031606D] received April 4, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7306. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Specifications and Management Measures [Docket No. 051014263–6028–03; I.D. 120805A] (RIN: 0648–AUOO) received March 7, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7307. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Pacific Halibut Fisheries; Catch Sharing Plan [Docket No. 060111007-6053-02; I.D. 010906A] (RIN: 0648-AT56) received March 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7308. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Guam Longline Fishing Prohibited Area [Docket No. 05120322–6051–02; I.D. 010506C] (RIN: 0648–AU11) received March 14, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7309. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; 2006 and 2007 Final Harvest Specifications for Groundfish [Docket No. 060216044–6044–01; I.D. 112805B] received March 14, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7310. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2006 and 2007 Harvest Specifications for Groundfish [Docket No. 060216044–6044–01; I.D. 112805A] received March 14, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7311. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Amendment 13 and Framework Adjustment 40–A [Docket No. 050520136–5317–02; I.D. 040705A] (RIN: 0648-AS80) received March 10, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7312. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2006 Specifications [Docket No. 051130316–6047–02; I.D. 110905C] (RIN: 0648–AT21) received March 14, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7313. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Atlantic Bluefish Fisheries; 2006 Atlantic Bluefish Specifications; Quota Adjustment; 2006 Research Set-Aside Project [Docket No. 051128313–6029–02; I.D. 11705C] (RIN: 0648–AT20) received March 10, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7314. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; 2006 Specifications [Docket No. 051209329–6046–02; I.D. 120205A] (RIN: 0648–AT19) received March 14, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7315. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Limited Entry Fixed Gear Sablefish Fishery Permit Stacking Program [Docket No. 050921244–6049–02; I.D. 091305A] (RIN: 0648–AP38) received March 14, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7316. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendments to the Federal Rules of Criminal Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2072; (H. Doc. No. 109–104;) to the Committee on the Judiciary and ordered to be printed.

7317. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendments to the Federal Rules of Civil Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2072; (H. Doc. No. 109–105;) to the Committee on the Judiciary and ordered to be printed.

7318. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendments to the Federal Rules of Appellate Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2072; (H. Doc. No. 109–106;) to the Committee on the Judiciary and ordered to be printed.

7319. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendments to the Federal Rules of Bankruptcy Procedure that have been adopted by the Court, pursuant to 28 U.S.C. 2075; (H. Doc. No. 109–107;) to the Committee on the Judiciary and ordered to be printed.

7320. A letter from the Chief Justice, Supreme Court of the United States, transmitting amendments to the Federal Rules of Evidence that have been adopted by the Court, pursuant to 28 U.S.C. 2072; (H. Doc. No. 109–108;) to the Committee on the Judiciary and ordered to be printed.

7321. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; San Francisco Bay—Brooklyn Basin, CA [COTP San Francisco Bay 06–008] (RIN: 1625–AA87) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7322. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zones; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisan Bay, California [COTP San Francisco 06–009] (RIN: 1625–AA87) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7323. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Local Regulations; 2005 Jacksonville Light Parade, St. Johns River, Jacksonville, FL [CGD07–05–137] (RIN: 1625–AA08) received April 12, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7324. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Local Regulation; 2005 Savannah Harbor Boat Parade of Lights, Savannah [CGD07–05–150] (RIN: 1625–AA08) received April 12, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7325. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Local Regulation; Charleston Harbor, Christmas Parade of Boats, Charleston, SC [CGD07–05–151] (RIN: 1625–AA08) received April 12, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7326. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lake Michigan, Waugoshance Light House, Michigan [CGD09–05–129] (RIN: 1625–AA00) received April 12, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7327. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; High Capacity Passenger Vessels and Alaska Marine Highway System Vessels in Alaska [CGD17–05–002] (RIN: 1625–AA87) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7328. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Maple-Oregon Bridge Boring Program, Sturgeon Bay Ship Canal, Sturgeon Bay, WI [CGD09–06–017] (RIN: 1625–AA00) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7329. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Anchorage Regulations; Long Beach, CA [CGD11–04–005] (RIN: 1625–AA01) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7330. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Regulated Navigation Area; San Carlos Bay, FL [COTP St. Petersburg 05–166] (RIN: 1625–AA11) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7331. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Local Regulations: St. Petersburg Grand Prix Air Show; St. Petersburg, FL [CGD 07–06–020] (RIN: 1625–AA08) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7332. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Local Regulations for Marine Events; Chesapeake Bay [CGD05–05–130] (RIN: 1625–AA08) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7333. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Local Regulations for Marine Events; Severn River, College Creek, Weems Creek and Carr Creek, Annapolis, MD [CGD05–06–007] (RIN: 1625–AA08) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7334. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Special Local Regulations for Marine Events; 2006 San Francisco Giants' Opening Night Fireworks Display, San Francisco Bay, CA [CGD 11–06–002] (RIN: 1625–AA08) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7335. A letter from the Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a report required by the Foreign Intelligence Surveillance Act of 1978, pursuant to 50 U.S.C. 1807; jointly to the Committees on the Judiciary and Intelligence (Permanent Select).

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Filed on May 5, 2006]

Mr. HUNTER: Committee on Armed Services. H.R. 5122. A bill to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2007, and for other purposes; with amendments (Rept. 109–452). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and report were delivered to the Clerk for printing, and bills referred as follows:

[Omitted from the Record of May 4, 2006]

Mr. BARTON of Texas: Committee on Energy and Commerce. H.R. 4127. A bill to protect consumers by requiring reasonable security policies and procedures to protect computerized data containing personal information, and to provide for nationwide notice in the event of a security breach, with an amendment; referred to the Committee on Financial Services for a period ending not later than June 2, 2006, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(g), rule X and referred to the Committee on the Judiciary for a period ending not later than June 2, 2006 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(l), rule X (Rept. 109–453, Pt. 1) Ordered to be printed.

Mr. OXLEY: Committee on Financial Services. H.R. 3997. A bill to amend the Fair Credit Reporting Act to provide for secure financial data, and for other purposes, with an amendment; referred to the Committee on Energy and Commerce for a period ending not later than June 2, 2006, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that Committee pursuant to clause 1(f), rule X (Rept. 109–454, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII,

Mrs. JOHNSON of Connecticut (for herself and Mr. OLVER) introduced a bill (H.R. 5311) to establish the Upper Housatonic Valley National Heritage Area; which was referred to the Committee on Resources.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

307. The SPEAKER presented a memorial of the Senate of the State of West Virginia, relative to Senate Resolution No. 11 requesting the Congress of the United States defeat the Budget Reconciliation Bill; to the Committee on the Budget.

308. Also, a memorial of the House of Representatives of the Commonwealth of Puerto Rico, relative to a Resolution reaffirming the pride felt by all Puerto Ricans for our U.S. citizenship and to demand of the Congress of the United States rights equal to those of all other U.S. citizens in the Nation during the U.S. Citizenship Week in Puerto Rico and on the U.S. Citizenship Advent Day; to the Committee on the Judiciary.

309. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 33 memorializing the Congress of the United States to take such actions as are necessary to secure our nation's borders, identify and deport immigration violators, preclude automatic citizenship for children born of such violators, and revise the work visa program; to the Committee on the Judiciary.

310. Also, a memorial of the Senate of the State of New Jersey, relative to Senate Resolution No. 14 memorializing the Congress of the United States to pass the "Solid Waste Environmental Regulation Clarification Affecting Railroads Act of 2005"; to the Committee on Transportation and Infrastructure.

311. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No.4 memorializing the Congress of the United States to take such actions as are necessary to ensure that the Federal Emergency Management Agency and the United States Army Corps of Engineers break up large federal disaster recovery contracts in Louisiana so that small, local owned businesses can compete for and be awarded such contracts; to the Committee on Transportation and Infrastructure.

312. Also, a memorial of the Legislature of the State of Louisiana, relative to House Resolution No. 38 memorializing the Congress of the United States to take such actions as are necessary to immediately close the Mississippi River Gulf Outlet and to request that the Louisiana congressional delegation file the necessary legislation to accomplish this closure; to the Committee on Transportation and Infrastructure.

313. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 24 memorializing the Congress of the United States to take such actions as are necessary to remove the TRIO programs Upward Bound and Talent Search from the list of programs to be eliminated in the 2007 budget and memorializing the Congress to continue the funding of such programs; jointly to the Committees on the Budget and Education and the Workforce.

ADDITIONAL SPONSORS TO PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 215: Mr. PAYNE.

H.R. 952: Mr. NEAL of Massachusetts.

H.R. 1177: Mr. GORDON and Mr. PAUL.

H.R. 1295: Mr. FILNER.

H.R. 1425: Mr. DEFAZIO and Mr. MCGOVERN.

H.R. 1558: Mr. CLAY.

H.R. 2074: Mr. STRICKLAND.

H.R. 3352: Mr. SIMMONS.

H.R. 3883: Mr. CONAWAY.

H.R. 4547: Mr. KLINE and Mr. LEWIS of Kentucky.

H.R. 4703: Mr. POE.

H.R. 4974: Mr. GUTIERREZ.

H.R. 5121: Mr. SHAYS, Mr. WYNN, Ms. HARRIS, Mr. HINOJOSA, Mrs. MALONEY, and Mr. PAYNE.

H.R. 5149: Mr. THOMPSON of California, and Mr. CALVERT.

H.R. 5249: Mrs. BONO.

H. Con. Res. 318: Mrs. NAPOLITANO.

H. Res. 763: Mr. WOLF and Mr. NEY.

H. Res. 795: Mr. LINCOLN DIAZ-BALART of Florida, Mr. SWEENEY, Mr. HASTINGS of Florida, Mr. ROTHMAN, Mr. BURTON of Indiana, Mr. TANCREDO, Ms. ROS-LEHTINEN, Mr. MCNULTY, Mr. MCCOTTER, and Mr. LANTOS.

SENATE—*Monday, May 8, 2006*

The Senate met at 1:00 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, You are not only just and holy, but Your mercies endure forever. Because of Your goodness, we receive Your forgiveness and love. Forgive our past mistakes and give us new hearts that we might serve You with passion.

Today, bless our Senators physically, mentally, and spiritually. Strengthen them so that they will control their tongues, actions, minds, and hearts. Preserve them in soundness of mind that all their decisions will be made for Your glory.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will return to debate on several health care proposals. We had previously slated this week to consider two medical liability, medical malpractice reform bills, as well as the small business health plan bill reported by the HELP Committee. Because there was an objection to proceeding to each of these three bills, I was forced to file cloture last week on each of these bills on the motion to proceed. Thus, the first vote will be at 5:15 today on one of the medical liability bills and the second medical liability bill, if we do not get cloture on the first, to follow.

At 5:15, the vote will be on the Medical Care Access Protection Act of 2006, S. 22. If cloture is not invoked on that comprehensive bill, the Senate will then immediately vote to invoke cloture on the motion to proceed to S. 23, the Healthy Mothers and Healthy Babies Access To Care Act. That second bill is similar to the first, S. 22, but limits itself to litigation and focuses just on obstetrical and gynecological care.

If the Senate is not able to turn to either of these pieces of legislation, the next vote we will have will be tomorrow morning, Tuesday morning, on cloture on the motion to proceed to S. 1955, the Health Insurance Marketplace Modernization and Affordability Act. This is the bill reported by Chairman ENZI's committee called the small business health plans bill. The bill is intended to aid small business owners by giving them more power to negotiate for affordable insurance for their employees and their families.

We have set aside debate throughout the day today to allow Senators to speak on any of these three health care measures. I look forward to the debate on each of these issues—each very important—as we look at the overall affordability of health care, the access to health care, as well as the quality of health care for all Americans.

HEALTH CARE REFORM

Mr. FRIST. Mr. President, at this point I would like to briefly extend some comments I made at the end of last week on the issue of the medical liability bills that are before this body.

On Friday, the Senate filed cloture on the medical liability reform bill—or actually two bills—and we will vote on at least one of those bills today, this afternoon. All of this centers around the fact that our broken medical liability system is hurting every American, every patient, every physician, and the health care system. But the important thing is that it hurts every American. It is an issue that, as a physician as well as a Senator, concerns me deeply. Indeed, it needs to concern and should concern every single American who is walking or will walk into a doctor's office. That is because every American is suffering from the high costs which are totally unnecessary and, in many ways, frivolous and out of control.

A litigation lottery system is what it really is that we suffer from today. Each year, health care costs are rising three to four times faster than the average American's paycheck, and that is in part—in part—driven by this litigation lottery system, a system that is driving up costs, and when it drives up costs, it drives up the premiums that not just doctors pay, because those premiums are passed on to the patients and potential patients, but it drives up costs, diminishes access to health care today, and thus diminishes quality for every American. Access to quality issues are equally important to the costs, but they are all interrelated.

Innocent doctors and patients are being punished because of the greed of a few opportunistic trial lawyers who are exploiting the system the way it is currently configured. Thus, the legislation that we propose and that we hope we will be able to debate on the floor reforms that system—it fixes the system—with a sense of fairness and commonsense reform.

This is an issue which I have been compelled to bring back to the floor again and again, really on principle, because it is the right thing to do. In the last Congress, in the 108th Congress, I attempted to bring medical liability reform to the Senate on three separate occasions. Each time, a minority of Senators blocked consideration and prevented an up-or-down vote on those pieces of legislation. Indeed, although we will have to see how the votes fall here in about 4 or 5 hours, they may do so again today. But I am going to remain determined to press for action on principle because it is the right thing to do. It boils down to the fact that health care dollars should be spent on patients and not on lawyers who are out abusing the system—on patients and not lawyers. It is a clear choice.

Last week, I talked a little bit about my own son Harrison who traveled with me to town meetings around the country a couple of years ago. We went to Florida, we went to Pennsylvania, and we went to Ohio and talked about a range of issues. Being a physician and a Senator, doctors would come up to me again and again and tell their stories about having to stop practicing their specialty, a neurosurgeon or an obstetrician who has to stop delivering babies, or actually moving out of Pennsylvania down to other States in the South or out of Ohio or out of Florida because they really had no choice. At the end of that trip, my son said: Dad, I know you love medicine and that is your life. My granddad was a family physician and loved it, and both my uncles are physicians. But why in the world, Dad, would you encourage me to go into a profession where everybody gets sued—not just once but again and again and again—even if they have done nothing wrong?

That is what hurts and also really scares me because it means we are going to lose a whole generation of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

good people, committed people who care about treating patients, who simply aren't going to go into the profession because they don't want to expose themselves or, more importantly, their own families to these frivolous lawsuits. It is happening.

I hope everybody listening to this debate over the next few hours and hopefully several days will ask their physicians, whoever they are—pick up the phone and call them or e-mail or if you are going to the doctor's office ask them: Does this medical liability stuff really mean that you are unable to treat patients in the way you otherwise would? It really is affecting cost and access and quality? Just ask them, and I guarantee the answer will be yes.

Access to care. Across the country right now, one out of two counties does not have an OB-GYN. That means mothers or expectant mothers are having to drive extra miles, as fewer and fewer people deliver babies, in order to have their babies delivered. Three-quarters of neurosurgeons will no longer operate on children, in large part because of the number of lawsuits. Increasingly, neurosurgeons are not taking trauma calls at the local hospital wherever you live in the world today because they know by taking that trauma call, their malpractice premiums, their liability premiums skyrocket because of the likelihood, even if they give good care, of being sued.

I have seen it and heard about it, talking again and again to my own medical colleagues and in traveling across Tennessee. In Tennessee, 81 out of the 95 Tennessee counties don't have a neurosurgeon. Half don't have an orthopedic surgeon, an emergency physician, or an OB-GYN. Average malpractice premiums for Tennessee doctors have increased 90 percent—90 percent—in the last 6 years.

As a result of all of this, my colleagues in Tennessee tell me, or at least nearly three-quarters of them tell me—and in a recent survey—that their medical communities already have a shortage of the high-risk specialties, the trauma specialists, the obstetricians, the neurosurgeons, and those same counties are having a hard time recruiting new physicians. Nobody is going to move into a county where those premiums are sky high and the risk of them being sued is so high.

We have to reform the system. We can do it with commonsense reforms. The reforms have been laid out in the legislation.

The nationwide picture is very similar. The AMA, the American Medical Association, says we have reached crisis proportions in 21 States, including Florida, West Virginia, Ohio, Pennsylvania, New York, and Tennessee. Families in these States are simply not getting the quality of care they need because of these out-of-control liability premiums.

Right now, if you talk to obstetricians, about one out of seven stopped delivering babies, and they point to the reason of the skyrocketing medical liability costs. We talk about the doctors and we talk about their premiums, but let's remember that as a result of those costs and premiums, you lose the access, you lose the availability. The excessive costs, the waste—it doesn't go down to the doctor-patient relationship; it doesn't mean you get better care. Ultimately, it is the patients who suffer. It is the American people who suffer—not the doctors, not just their premiums. Ultimately, it is the patient's care that suffers.

High-risk specialists. Again, I say this as a cardiac surgeon talking about my colleagues, but the neurosurgeons I mentioned are the ones who are getting hit the hardest. Emergency room staff are being depleted. That is a big concern. I will cite it again and again on the floor: If something happens to you driving home today, is there going to be a neurosurgeon there to take care of that head injury? Increasingly, it is less likely that you will have that sort of expertise there in the emergency room.

We know how to address this crisis. This is the good news. We know there are things we can do that work. Commonsense reform, based on principle, is not all that hard to do.

I was in Texas last month, about 3 or 4 weeks ago, talking to the doctors there, and they have seen the results of a reform movement that is alive and well and has had an impact. Since 2003, the rate of malpractice filings has declined by 80 percent in most major Texas counties. This year alone, the rate cuts by five major Texas insurers will save physicians nearly $49 million in premium payments. They say they save physicians $49 million and, remember, all of those premiums just get passed on to the American people and get translated into higher premiums that you pay for your monthly health care security. Between 3,000 and 4,000 doctors have moved into the State, into Texas, where just the opposite is happening in Pennsylvania and Ohio and Florida, where physicians are moving out of the State.

The Texas story is a true success story. Because of this inequity from State to State, we need a national approach.

As I mentioned, we will be voting in a few hours on the medical liability reform bills. These bills are a part of a larger vision of health care which is patient centered—patient centered—which is provider friendly, which centers on 21st century information and choice and an element of control. But this is a major piece in reaching that vision. We need our doctors and hospitals and offices to be places which they are intended to be—places of healing and not minefields for greedy, predatory lawyers who are simply exploiting a system that needs to be reformed.

Mr. President, I encourage my colleagues to vote today for cloture so that we can discuss both of these medical liability bills. My colleagues know well that the medical liability system does need reform, and as a physician and as a Senator, I know we can deliver these meaningful reforms, and I intend to do so. I hope we are given that opportunity. I encourage all of our colleagues to vote for cloture so we can address these bills.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. SESSIONS). The Democratic leader is recognized.

IMMIGRATION

Mr. REID. Mr. President, I would simply mention to the distinguished leader before he leaves that a week ago, I came to the floor and talked about immigration and indicated that we would be willing to go forward—10 amendments on each side—and with the direction where I think we should go on conference. I hope the leader will understand that time is running out. We need to be able to do this.

We are terribly concerned, even more concerned based on the statements from the House last week. Chairman SENSENBRENNER gave a speech last week talking about why he had, in his bill, his legislation, at the request of the White House—I am sure the White House has backed off on this; I certainly hope so—but making people who are here who are undocumented, felons. He gave some illustrations that were not very good. He talked about, Japan doesn't have many immigrants that come illegally. That is right, that is because it is an island. They would have to swim there or come in on an airplane or boat. They don't have the mass migration problems we have.

I hope the leader, with the many things he has to do, would understand that we have, after this week, only 2 weeks left in this legislative session. The leader stated we are going to try to finish this before Memorial Day. To do that, we are going to have to get on that bill. If we have all these amendments, it is going to take a lot of time.

Mr. FRIST. Mr. President, briefly, because I know the Democratic leader has another statement to make, I am absolutely committed to completing and giving adequate time to complete what is a complex bill. As the Democratic leader implied, there are a lot of issues we need to talk about in this bill. I appreciate the spirit in which he and I are approaching the bill, in terms of allowing debate and amendment and also addressing issues about conference, to make sure—I know what his intent is—that the will of the Senate is expressed strongly in that conference.

I do encourage all of our colleagues to recognize that step one is debating the bill here on the floor of the Senate, getting it off the floor with a majority vote, and I would argue for a good comprehensive bill stressing the border and border security. What I would like to do, as I discussed scheduling with the Democratic leader, is to be on the immigration bill next week and the following week. That should give adequate time.

There was one last thing, at least on our side of the aisle. In terms of numbers of amendments, we are doing our very best to focus each and every day on the amendments which would be substantive amendments, to try not to have unnecessary amendments or amendments just for political reasons but substantive amendments coming to the floor. Hopefully, coming to the floor, people will continue work. People don't see that on the floor, but literally every day we are meeting looking at those amendments. So once we get on the bill, we can have a fair process, not a lot of unnecessary time spent figuring out what the amendments would be. I am confident that we can, working together, be on a bill that will be a comprehensive bill, that will be a bill reflecting the will of the Senate, by early next week.

The PRESIDING OFFICER. The Democratic leader.

MEDICAL MALPRACTICE

Mr. REID. Mr. President, people will have other thoughts on medical malpractice legislation as they come to the floor, as they cast their vote. But for me, I want to make this a day to remember a wonderful woman by the name of Billie Robinson. I have handled medical malpractice cases. I want to talk about this one. I have talked about her before. I want to talk about her again. I could talk about other cases, but nothing has been so fixed in my mind, as I prepared for today, as Billie Robinson.

I really didn't know Billie Robinson when she had all of her faculties; I only knew her after she had this surgery. Billie Robinson came from my hometown of Searchlight. She was like some other people in Searchlight, she had basically no education. She was a hard worker. She worked very hard physically. She developed headaches that were difficult for her to describe, but she did her best and went to a series of physicians. Every physician she went to told her she drank too much and she should lay off the booze and she would be better.

She ultimately went to her fifth or sixth doctor, and the doctor decided maybe he should look and see what is inside her head and ordered some x rays and other diagnostic tests and found she had a tremendously large tumor in her head causing these blinding headaches. Her activities, her actions were not a result of alcoholism; they were the result of her head having a tumor causing her these horrible headaches. And yes, she did drink. She drank everything she could get her hands on to try to relieve that pain. A simple test early on would have determined what was wrong with Billie Robinson.

As I said, when I saw her, she had already had the surgery. She didn't speak well. She would speak with very slurred speech, but you could tell this woman was a good woman. She had a good heart. She had no alternative, in an effort to live her remaining days in some dignity, but to try to seek some type of redress for the negligence of those doctors who had seen her, and she did get some satisfaction. It was not necessary that we go to a jury because those doctors who had attempted to treat her realized they had not done their job properly. So she lived out her life in a condition that was not appropriate.

Had she had that surgery years before when the tumor was small, she would have been normal. It was not a malignant tumor. By the time they were able to operate, there had been so much damage because of the growth of the tumor that she had significant brain damage. She was able to buy herself a new mobile home and lived a quiet, peaceful life in Searchlight.

Today, I remember Billie Robinson. Had this legislation been in effect that the majority is trying to pass today, if it had been in effect then, Billie Robinson would not have been able to buy herself a new mobile home. She worked for minimum wage almost all of her life. She would not have been able to have recovered compensation for the pain and suffering, to any degree, that she went through. She basically would not have had much.

Today, I rise in protest. I rise to object to these Republican bills, these two bills that are put here as a result of the insurance industry. These measures before the Senate do not represent a serious attempt to improve health care or the civil justice system in our country. Moving to these bills is a tired political exercise, and the Senate should reject this political exercise out of hand. To think, with American consumers paying more than $3 a gallon for gas—the record is in San Diego, $3.40 today; all over Nevada, it is more than $3; the average across the country is $2.95—college tuition moving out of the reach of the middle class; to think, with the number of the Iraq war dead now pushing 2,500; to think, with immigration now being a security crisis unresolved; to think, with our country's deficit soon approaching $9 trillion; to think, with 46 million Americans lacking health care coverage, that we are moving to bills that are unnecessary and will go nowhere? What a waste of the Senate's time.

It is wrong that we are doing this. We could more profitably use this time on any of the issues about which I just spoke. We could more properly use the scarce time remaining to address any of these urgent challenges facing America's families. I haven't even mentioned energy. We could do that. And we could address the real health care crisis, not this "make do" health care crisis.

Both of these bills the Senate will consider today contain the same one-size-fits-all cap on damages. These bills have been rejected time and time again, and rightfully so. Both contain the same unjustified protections for hospitals, rest homes, HMOs, and, of course, insurance companies. In fact, these proposals are virtually identical to legislation we turned aside three times the last Congress. These bills are the same old song, and the votes will be the same old dance: Democrats protecting the American consumer from these huge companies.

The top of this company pyramid, of course, is the insurance company, then hospital companies, extended-care facilities, rest homes. Even though these measures would dramatically rewrite the tort laws of all 50 States and even though they would denigrate the legal rights of countless Americans, they have undergone no serious legislative review in this Congress.

Don't be fooled by the bill numbers—S. 22 and S. 23—they are simply placeholders for legislative text that was only formally introduced last Wednesday. In fact, the text of these bills was not even available until a couple of days ago.

The majority leader used a procedural technique called rule XIV that brings these bills straight to the Senate floor to avoid consideration of these bills by either the Judiciary Committee or the Health Committee. There has not been a single committee hearing, not a single witness, not a single opportunity to amend, not a single opportunity to compromise or negotiate. With this insurance industry legislation before this body, every step of the legislative process has been abandoned.

Why has the majority proceeded in this manner? Because this is not a serious exercise in legislating. It is a political stunt being performed for the sole purpose of allowing Republicans to go back to their special interest friends led by the insurance industry and say: Look what we have tried to do to help, even though they should not be fooled by these transparent theatrics because that is all it is.

The majority is short-circuiting the committee process because of the illusion of medical malpractice crisis. It is an illusion. It doesn't exist. Medical malpractice crisis? No. Health care crisis? Yes. There is a health crisis, but it has nothing to do with tort laws. It has nothing to do with the Billie Robinsons of this world. It has nothing to do with the people out there who are struggling to be able to take their kid to see the doctor, to be able to buy prescription drugs. It is a crisis when 46 million Americans have no health insurance, it is a crisis when health insurance is too costly for the average American. It is a crisis when medical errors are the sixth leading cause of death in America. But not a single provision in this legislation will provide health insurance to the uninsured, lower health care costs, or make patients safer. In reality, the whole premise of the medical malpractice crisis is unfounded.

Over the weekend, I read a book. It is an insightful book entitled "The Medical Malpractice Myth," written by Tom Baker. Who is Tom Baker? Tom Baker is not a trial lawyer, he is not a lawyer who specializes in medical malpractice cases. Tom Baker's father and father-in-law are physicians. Tom Baker is a professor of law at the University of Connecticut School of Law. He is director of the Insurance Law Center at that university. He is not affiliated in any way with trial lawyers.

In this book, Professor Baker methodically debunks the most common myths in the medical malpractice debate.

Myth No. 1: "Lawyers, not doctors, cause malpractice."

Professor Baker presents numerous studies demonstrating that the real problem is too much malpractice, not too much litigation. Of course, most doctors are skilled professionals and don't commit malpractice, but just as there are a few rotten apples in every basket, there are a small number of unskilled, uncaring, and negligent physicians in every State. Unfortunately, they don't always come to the attention of the licensing boards, and some move from State to State to avoid disciplinary action. These rotten-apple doctors should be held accountable, and the victims of their negligence deserve to be compensated, just like Billie Robinson deserves to be compensated.

Myth No. 2: "Lawsuits make health care unaffordable."

That is a myth.

Professor Baker demonstrates that medical malpractice rates are based more on the cyclical nature of the stock market than on malpractice verdicts. When insurance companies' investments lose money, the companies raise their rates which they charge doctors to compensate for their loss.

There is no better example that exists than what St. Paul did in the Las Vegas, NV, area. In fact, they had a deal. If the Clark County Medical Association referred a doctor to them, they gave a kickback to the Clark County Medical Association. They had almost all of the medical malpractice insurance in the Las Vegas area. What happened? There was a general lapse in the economy, the stock market wasn't doing well, real estate wasn't doing well, and they were in big trouble because they do not make their money with their premiums. They invest the premiums. That is where they make the money. When they make bad investments, that is when they come in and start talking about how unaffordable medical malpractice is. As a result, caps on damages do not reduce insurance premiums in the long run.

For the most part, insurance rates have not gone down in those States which have capped damages. Nevada is a good example. After the self-imposed crisis that St. Paul created, the Governor held a special session of the legislature and they set a cap of $350,000 on pain and suffering damages. OB-GYN malpractice premiums are 37 percent higher than in States without caps, general surgery premiums are 52 percent higher, and internal medicine premiums are 44 percent higher. In fact, since 2001, claims paid by Nevada's largest insurer have dropped 16.7 percent while premiums have increased almost 33 percent.

From 2000 to 2005, the net payouts of malpractice insurers declined 3.1 percent. But over the same period in which payouts were declining, net insurance premiums were increasing by 93.2 percent. So claims decreased, but the companies more than doubled their premiums.

Even if caps on damages did affect malpractice premiums, there is no reason to believe that caps would make health care more affordable overall.

According to the Congressional Budget Office, malpractice costs amount to less than 2 percent of overall health care spending. If a reduction of 25 to 30 percent in malpractice costs were attainable, it would lower health care costs by only 0.4 percent to 0.5 percent.

Myth No. 3: "Lawsuits deny access to care."

That is a myth. It is only a myth.

Despite the century-old complaint that lawsuits drive doctors from their practices, the medical profession continues to grow each year, and applications to medical schools have increased—and they are increasing right now. The number of physicians in the United States has increased every year since 1996, from 738,000 in 1996 to almost 885,000 in 2004—less than 2 years ago.

In 2003, the nonpartisan General Accounting Office surveyed five States repeatedly cited by the American Medical Association as examples of communities suffering from shortages of care because doctors are fleeing. The report concluded that such claims are widely overstated, and I quote. "Many of the reported physician actions and hospital-based service reductions were not substantiated or did not widely affect access to health care." Where doctor shortages exist, they are due to population shifts and the reluctance of doctors to practice in rural and low-income areas.

In any event, caps on damages do not change the availability of physicians. States without caps on damages have more doctors per capita and 14 percent more active physicians than States with caps on damages. For example, the number of OB-GYNs in the United States has increased by nearly 25 percent—from 33,000 in 1990 to 42,000 in 2004. But in Nevada, where we have caps on damages, there are 27 percent fewer OB-GYNs than in States that don't have caps.

Myth No. 4: "Lawsuits cause doctors to practice wasteful defensive medicine."

In his book, Dr. Professor Baker devotes a whole chapter to the goods on defensive medicine. He cites reports from the Congressional Budget Office and the former Congressional Office of Technology Assessment that question estimates of defensive medicine. The Congressional Budget Office specifically concludes that any savings from reducing defensive medicine would be small at best.

Myth No. 5: "Most lawsuits are frivolous."

Anyone who listened to the radio today heard a report that this isn't true. Take one look at the book "The Faces of Neglect Behind the Closed Doors of Nursing Homes"—and you'll see case after case of neglect in these institutions, case after case, horrible pictures of things that were done to these men and women in rest homes. If this legislation passes, don't worry about holding them accountable anymore.

Not every lawsuit has merit, but the tort system has plenty of mechanisms for weeding out frivolous claims. According to Professor Baker, "[m]ost undeserving claims disappear before trial; most trials end in a verdict for the doctor; doctors almost never pay claims out of their own pockets; and hospitals and insurance companies refuse to pay claims unless there is good evidence of malpractice." And that is an understatement.

At the same time, the assertion that there exists an "explosion" in medical malpractice payouts in recent years is simply untrue. The average verdict size is relatively low and has remained stable for many years. A study by Americans for Insurance Reform found payouts have been virtually flat since the mid-1980s. As it is, Americans use the civil justice system as a last resort, going to court after all their efforts have failed.

For these reasons, Professor Baker concludes that the medical malpractice crisis is a product of exaggeration and distortion.

But even if there were a medical malpractice problem that needed to be cured, these bills are not the right medicine. They are riddled with major flaws. Let me talk about a few of them.

First, they would impose an unreasonably low $250,000 cap on pain and suffering. Proponents of these bills claim that the cap is $750,000, but in the typical case where there is a single negligent party, the cap remains $250,000. In cases where the wrong limb is amputated or a patient is paralyzed or a mother loses a child, $250,000, I submit, is grossly inadequate. And it is even worse under S. 23. Under this legislation, the life of a woman rendered sterile by gross negligence of an OB-GYN is worth less than that of a man mistakenly sterilized.

This is bad legislation.

Second, these bills discriminate against women in more ways than that. By capping pain and suffering while simultaneously preserving full compensation for lost wages and salary, these bills devalue the worth of homemakers and stay-at-home parents. For instance, a homemaker whose reproductive system is destroyed by negligent treatment would suffer only noneconomic losses which are arbitrarily capped by this bill.

At the same time, the bills limit punitive damages, a change which disproportionally affects women patients. Punitive damages are very rare in malpractice cases, but the cases where they do occur often involve sexual abuse of a female patient. Punitives would be virtually impossible to receive under this legislation.

Third, the bills unjustifiably protect large corporations that own nursing homes from liability when they abuse or kill their patients. The National Citizens Coalition for Nursing Home Reform released this book, I mentioned earlier, "The Faces of Neglect; Behind the Closed Doors of Nursing Homes," which profiles the heartbreaking experiences of 36 Americans who have suffered from abuse and neglect while in long-term facilities. These are only a few cases of hundreds and hundreds. The book includes the story of Barbara Salerno, a Reno, NV, woman whose father died due to the neglect of a nursing home. It is a tragic case.

The numbers of seniors who could be hurt by this bill are staggering. According to the GAO, 300,000 elderly and disabled residents live in chronically deficient nursing homes where they are "at risk of harm due to woefully deficient care." Nationwide, 26.2 percent of nursing homes were cited for violations related to quality of care by regulatory agencies in 2004 alone, yet this bill gives sweeping liability protections to these negligent facilities.

Fourth, these bills are an affront to federalism. Republicans love to talk about States rights, except when they want to impose a Federal solution on all 50 States. More than half of all States have already enacted malpractice reforms, but these bills would override these State legislative decisions. Specifically, this bill preempts those States which have debated a cap on damages and decided against that step on their own.

For these reasons and many others, the pending bills are objectionable. In fact, the entire concept of medical malpractice reform is misguided. The right way to bring down medical malpractice insurance premiums is to reform the insurance industry, which is badly in need of oversight.

A study commissioned by the Center for Justice and Democracy showed that insurance premiums more than doubled between 2000 and 2004 even though claims for pay-outs remained essentially flat. Given this price gouging, it is little wonder that the profits of the Nation's five largest medical malpractice insurers rose by nearly 18 percent last year, more than double the "Fortune 500" average.

We need to strengthen Federal oversight of insurance industry practices that contribute to these rises in malpractice premiums. Unfortunately, the insurance industry enjoys almost complete immunity from Federal antitrust laws, and using this exemption, insurance companies can collude to set rates, resulting in higher premiums than true competition would achieve. Federal enforcement officials cannot investigate any such collusion because of this exemption.

I am embarrassed to say this law came about as a result of the Nevada Senator McCarran. The McCarran-Ferguson Act. That is, I submit, the only bad thing he did.

This act was passed to give a few years of relief to the insurance industry. Now, some 70 years later, insurance companies are the only businesses—other than Major League Baseball—not subject to antitrust laws. This rationale for this exemption has long since passed. Insurance should be like any other business—subject to antitrust laws.

Senator LEAHY's bill would accomplish this. To pretend these medical malpractice bills have anything do with making health more affordable is a cruel joke. These bills override the sound judgment of State legislatures and juries and substitute the arbitrary judgement of an insurance friendly Congress.

We should not reward insurance companies making record profits. We should help doctors by reforming the insurance industry rather than undermining the legal rights of seriously injured malpractice patients. That is what these would do.

I am going to vote against cloture. It is bad legislation. I hope that once again, we will help the American consumers and defeat these two bad bills.

MEDICAL CARE ACCESS PROTECTION ACT OF 2006—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration on the motion to proceed to S. 22, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 422, S. 22, a bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the time from 1:30 p.m. until 2 p.m. shall be under the control of the minority, and the time from 2 p.m. to 2:30 p.m. shall be under the control of the majority. The time will rotate in this format until the time from 5 p.m. to 5:15 p.m. which will be under the control of the majority.

The Senator from Florida.

Mr. NELSON of Florida. Mr. President, under the previous order, with the time being allocated to this side, I wish to speak on the Medicare prescription drug deadline that is fast approaching 1 week from today. Since this week is called Health Week In the Senate, it is strange we are not going to be discussing the extension of the deadline of May 15, a week from today. It is a deadline for all the senior citizens. For those who want to sign up for the Medicare prescription drug benefit, they have to do so by the deadline; otherwise, they get penalized 1 percent a month. If they sign up for the wrong plan, they are stuck for a year and they cannot change plans.

Of course, senior citizens are having a very difficult time figuring out in this multiplicity of plans what the formulary is in a plan, if it would cover their prescription drugs. If suddenly they choose a plan that does not cover their prescriptions, they are stuck for a year unless they do not sign up, and then they are going to be penalized economically up to 12 percent a year.

It is imperative we take up this legislation and extend the deadline and provide essential protections for Medicare beneficiaries during the first year of implementation of this Medicare prescription drug benefit.

We have been advocating for some period of time providing seniors with a meaningful prescription drug coverage, not one that is overly confusing and one that fails to address the escalating costs of prescription drugs. The plan has passed. It passed several years ago, and it is being implemented. Our job now is to help the seniors who are going to choose to enroll in the program, to help them pick the plan that is right for them. The stakes are very high. We must provide them with the time and resources they need to make an informed decision.

I have spoken with Medicare beneficiaries all across my State of Florida.

They are understandably confused. They are concerned about this new prescription drug benefit. They are facing a number of private plan options. Sorting through all of these options is difficult for our senior citizens.

This is not the first time the senior Senator from Florida has spoken in the Senate. I have offered this to the Senate several times. It has received majority votes, but we have not passed it into law.

An example: In my State, there are 18 companies offering 43 standalone prescription drug plans. Each of these different options differs in terms of premiums, cost sharing requirements, drugs covered, and pharmacy access. Sorting through these plans is complicated and time consuming.

Further complicating matters, the Medicare drug benefit has been marred by implementation problems. This adds to the confusion for the Senators. To give an example, in a rural community where there is only one pharmacy, seniors naturally want to get their prescriptions from that pharmacy. What happens if that pharmacy is not covered in the formulary of the plan they pick?

They need time to sort through all of this. Yet the beneficiaries, the Medicare recipients who do not select their plan, 1 week from today, will face a substantial financial penalty.

On the other hand, if we can delay the late enrollment penalties and give a Medicare recipient the chance to change plans once during the first year, we can make sure our senior citizen constituents are not forced to make a hasty decision they are going to regret later.

I have introduced S. 1841, the Medicare Informed Choice Act. This bill extends the annual open enrollment period under the Medicare prescription drug plan through all of this year of 2006. It will not impose a late enrollment penalty and allows a one-time change in plans at any point in 2006.

According to the Congressional Budget Office, if we extend the deadline for all of 2006, over 1 million more senior citizens will sign up for the program. In addition, another 7.5 million seniors will pay lower premiums because they will have fewer penalties. Why in the world would we not be doing this for our senior citizens?

A recent poll by the Kaiser Family Foundation demonstrates the need for this legislation. In that survey, 4 in 10 elderly Americans still do not know the enrollment deadline for the new Medicare drug benefit is May 15. In addition, in that survey, nearly half of all the seniors are unaware they face a financial penalty if they delay.

This bill I have filed, S. 1841, is a time-limited step to help ease the pressure of the first year of this new prescription drug benefit. It is time to stop playing politics with the health care of our seniors. It is time to start putting their needs first.

The Senators have heard their citizens back home. They are very clear in what they would like us to do. I urge all of our colleagues, every time we bring this up—a majority favor this position, but it is always beat down, saying we have to have the deadline. There is no reason we should put this imposition on our senior citizens 1 week from today when they are going to pay the penalties.

As we have already indicated earlier, I ask unanimous consent in the Senate that upon disposition of Calendar No. 417, S. 1955, the Enzi small business health care bill, the Committee on Finance be discharged from further consideration of the bill I have just talked about, S. 1841, and that the Senate proceed then to its immediate consideration. That is my unanimous consent request.

The PRESIDING OFFICER. In my capacity as a Senator from Alabama, I object. The matter has not been cleared by committee or the Republican leadership.

Mr. NELSON of Florida. I understand that is the position of the majority.

We will continue to fight this out over the course of this week. This is "doing right" by our seniors. As the Good Book says: Come and let us reason together.

I am offering an extension for the entire year. We ought to have some coming together, to reason together, on some kind of extension, even if it is not for the remaining 6 months of the year in which we can help out our senior citizens.

I will continue to press this in the course of this week's debate. I will continue throughout, as I have just indicated, to bring up this matter. I will continue to ask unanimous consent from the Senate that this matter be brought to the Senate because of the emergency nature of meeting the deadline a week from today, May 15, to help out our senior citizens.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, with great fanfare, the majority leader has announced this is Health Week in the Senate. This is a week he has set to address the Nation's urgent health issues. But there is something very big missing from this agenda. The American people are demanding action on embryonic stem cell research.

In poll after poll, the overwhelming majority of Americans favor lifting the President's arbitrary and harsh restrictions on embryonic stem cell research. The American people want the Senate to vote on H.R. 810, a bill passed almost a year ago, 350 days ago to be exact, by the House of Representatives. It was offered by a Republican, Congressman Mike Castle from Delaware, and a Democrat, Congresswoman DEGETTE from Colorado. It was bipartisan. It passed the House. Yet it has been sitting here for nearly a year and we cannot bring it up.

How in the world can we have Health Week in the Senate and not bring up H.R. 810 and allow consideration of the public's No. 1 health research priority? Instead we are scheduled to debate three bills that have no chance of passage in the Senate. The majority leader knows it, I know it, and the rest of the Senate knows it.

It is a gimmick that we are talking about health care. However, we will have bills that somehow excite the political base, get certain segments moving in this political year.

The American people want the Senate to address the issue of embryonic stem cell research. I tried to explain to my nephew, Kelly, who was injured 26 years ago in a tragic accident on an aircraft carrier. He has been a quadriplegic ever since. He finds it incomprehensible and totally unacceptable that we in the Senate cannot bring up this bill and pass it. I tried to explain to him that it is politics. He says this is ridiculous, it shouldn't be Democrat or Republican.

This is the most promising revolutionary avenue of biomedical research, and it is being blocked because of politics? Try explaining that to someone with juvenile diabetes, ALS, Parkinson's, spinal cord injuries.

I appreciate the fact that some Republican Senators have been outspoken. I see Senator HATCH in the Senate, Senator SPECTER, and Senator SMITH urging the majority leader to bring up the bill. Senator FRIST himself gave an eloquent and courageous speech last summer when he endorsed H.R. 810.

Why don't we have it in the Senate? This is Health Week. Bring it up.

Leader FRIST said last summer:

> Therefore I believe the President's policy should be modified. We should expand Federal funding and current guidelines governing stem cell research carefully and thoughtfully, staying within ethical bounds.

That is what the majority leader said last summer. I could not agree more. In December, they asked unanimous consent to pass the cord blood bill. I spoke on it at that time. We wanted the two to go together. We let the cord blood bill pass—fine, I am all for that—with a promise that we would somehow get a vote on H.R. 810 sometime in this session.

This session is almost half over. We have Health Week. Stem cell research is not on the agenda. That is a shame. Why don't we bring up H.R. 810 and debate it? We could have a time limit. The votes are here to pass it. We know that. We know the votes are here to pass it. Why don't we bring it up?

On the President's arbitrary date of August 9, 2001, he said there were 78 stem cell lines. We now know there are only 22. Of those 22, all are contaminated with mouse cells. They will never be used for any kind of human interventions.

The President's policy of August 9, 2001, is a dead end. It offers false hope to millions of people across America and around the world who are suffering from diseases that could be cured or treated throughout embryonic stem cell research.

Scientists have made great advances in deriving the stem cell lines since August of 2001. They have been grown without mouse cells. Shouldn't our top scientists be studying those lines instead of being limited to the 22 that will never be used in humans?

In closing, we do not expect our astronomers to study the heavens with Galileo's telescope. We do not expect geologists to study the Earth with a tape measure. It is time we move to the next level of research to help people who are suffering from ALS, Parkinson's disease, and juvenile diabetes. We should bring up embryonic stem cell research and pass it in the Senate during Health Week.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Utah.

Mr. HATCH. Madam President, I share the frustration of the distinguished Senator from Iowa about stem cell research, but I do believe the majority leader is committed to bringing it up, and I expect him to do that, I hope, within the near future.

But today I rise to speak in support of S. 22, the Medical Care Access and Protection Act of 2006, and S. 23, the Healthy Mothers and Healthy Babies Access to Care Act. I am a proud cosponsor of both bills.

These bills address the medical liability and litigation crisis in our country, a crisis that is preventing patients from receiving high-quality health care or, in some cases, any care at all because doctors are being driven out of practice. This crisis is limiting or denying access to vital medical care and needlessly increasing the cost of care for every American.

This issue is much more difficult to assess than just studying physicians who leave practice. The more important issue is how physicians are changing their mode of practice and financial structure in response to increasing costs from medical malpractice insurance premiums.

As many know, this crisis began when obstetrician/gynecologists started getting out of the obstetric care business. Unfortunately, it has now progressed to almost all medical specialties, limiting high-risk/low-return activities, such as emergency room coverage, to limit exposure. Just last week, the RAND Corporation reported that over 70 percent of emergency rooms in this country do not have adequate physician staffing. And who ends up suffering the most as a result? Well, the patient does.

In a city such as Salt Lake, where there are academic medical centers, this results in patient cases shifting from lower cost community hospitals to the higher cost settings.

The chief operating officer of our University of Utah Hospital was in my office recently to discuss the impact of this problem on the financial stability of the hospital. He told us it is becoming increasingly difficult for his hospital to provide care to the poor and uninsured.

On the financial side, we are seeing physicians' practices modifying their financial structure and, in some cases, taking advantage of the fact that there is growing demand and diminishing supply in the physician world. Primary care physicians are creating upfront fees for services which also allow for reduced practice size. The bottom line is, lacking a different strategy for reimbursement and/or practice costs—a good part of which is driven by malpractice insurance—we are driving private physicians away from traditional settings. Instead, we are creating a trend that adversely affects physician access and supply and increases costs in other sectors of the health care environment.

The Utah Hospital Association president tells me that a major hospital system in Utah saw its malpractice premiums increase 300 percent in the last 10 years, while at the same time being continually recognized nationally for its outstanding clinical practice.

The time to act is now. This crisis is jeopardizing access to health care for many Americans. The medical liability crisis also is inhibiting efforts to improve patient safety and stifling medical innovation. Excessive litigation is adding billions of dollars in increased costs and reducing access to high-quality health care.

I am really deeply concerned that we are needlessly compromising patient safety and quality health care. We know that about 4 percent of hospitalizations involve an adverse event and 1 percent of hospitalizations involve an injury that would be considered negligent in court.

These numbers have been consistent in large studies conducted in my home State of Utah, New York, California, and Colorado, just to mention 4 States. However, the equally troubling statistic is that few cases with actual negligent injuries result in claims and less than one-fifth—that is 17 percent—of claims filed actually involve a negligent injury.

This situation has been likened to a traffic cop who regularly gives out more tickets to drivers who go through green lights than to those who run through red lights. Clearly, nobody would defend that method of ensuring traffic safety. And we should not accept such an inefficient and inequitable method of ensuring patient safety. These numbers are a searing indictment of the current medical liability system.

I believe we can do better for the American people. The two bills before us are important steps in that path.

The problem is particularly acute for women who need obstetrical and gynecological care because OB/GYN is among the top three specialties with the highest professional liability insurance premiums. This has led to many leaving their practices, thus resulting in a shortage of doctors in many States, including my home State of Utah.

Studies by both the Utah Medical Association and the Utah Chapter of the American College of Obstetricians and Gynecologists, often called ACOG, underscore the problem in my State. Over half—50.5 percent—of Utah family practitioners have already given up obstetrical services or never even begun the practice of obstetrics at all.

Of the remaining 49.5 percent who still deliver babies, 32.7 percent say they plan to stop providing obstetric services within the next decade. Most plan to stop within the next 5 years.

An ACOG survey revealed that over half—53.16 percent—of OB/GYNs in Utah have changed their practice. They are retiring, relocating, or dropping obstetrics because of the medical liability reform crisis. This change in practice leaves 1,458 pregnant Utahns without OB/GYN care.

The medical liability crisis, while affecting all medical specialties and practices, hits OB/GYN practices especially hard. Astonishingly, three-quarters—76.5 percent—of obstetrician/gynecologists report being sued at least once in their career. Indeed, over one-fourth of OB/GYN doctors will be sued for care given during their residency. These numbers have discouraged Americans finishing medical school from choosing this vital specialty. I know this is the case in my home State of Utah.

Currently, one-third of OB/GYN residency slots are filled by foreign medical graduates, compared to only 14 percent one decade ago. That is one-third to 14 percent. OB/GYN doctors are particularly vulnerable to unjustified lawsuits because of the tendency to blame the doctor for brain-injured infants, although research has proven that physician error is responsible for less than 4 percent of all neurologically impaired babies.

Ensuring the availability of high-quality prenatal and delivery care for pregnant women and their babies—the most vulnerable members of our society—is imperative. We need to pass this legislation.

An August 2003 GAO report concluded that States that have enacted tort reform laws with caps on noneconomic damages have slower growth rates in medical malpractice premiums and claims payments. From 2001 to 2002, the average premiums for medical malpractice insurance increased about 10 percent in States with caps on noneconomic damages. In comparison, States with more limited reforms experienced an increase of 29 percent in medical malpractice premiums. Overall, the situation has gotten worse. In 2004, malpractice insurance costs increased 55 percent; in 2005, 34 percent; and in 2006, 18 percent. That is 107 percent in just 3 years. Now, under anybody's measure, that is an unfair cost for physicians to bear for a system that does not achieve the goal of either rewarding the most injured patients or improving the safety and quality of health care.

Medical liability litigation directly and dramatically increases health care costs for all Americans. In addition, skyrocketing medical litigation costs indirectly increase health care costs by changing the way doctors practice medicine.

Defensive medicine is defined as medical care that is primarily or solely motivated by fear of malpractice claims and not by the patient's medical condition. According to a survey of 1,800 doctors published in the journal, Medical Economics, more than three-quarters of doctors believed they must practice defensive medicine. A study of defensive medicine conducted by the current director of the Centers for Medicare and Medicaid Services, Dr. Mark McClellan, before he took office used national health expenditure data and showed that medical liability reform had the potential to reduce defensive medicine expenditures by $69 billion to $124 billion in 2001, an amount that is between 3.2 and 5.8 times the amount of malpractice premiums. That amount would be significantly greater today

The financial toll of defensive medicine is great and especially significant for reform purposes as it does not produce any positive health benefits. Not only does defensive medicine increase health care costs, it also puts Americans at avoidable risk.

Now, there is good defensive medicine and there is bad defensive medicine. But the vast majority of defensive medicine is extra defenses in order to have the history of the patient show the doctor did everything in his power. Frankly, that leads to more and increased costs every time the doctor has to do extraordinary analyses just to make sure his history has everything he possibly can think of in it, even though that is very seldom necessary.

Nearly every test and every treatment has possible side effects. Thus, every unnecessary test, procedure, and treatment potentially puts a patient in harm's way. Seventy-six percent of physicians are concerned that malpractice litigation has hurt their ability to provide quality care to patients.

What can we do to address this crisis? The answer is plenty. And there are excellent examples of what works.

HHS has reported how reasonable reforms in some States have reduced health care costs and improved access to and quality of care. More specifically, in States with limits of $250,000 to $350,000 on noneconomic damages, premiums have increased at an average of just 18 percent compared to 45 percent in States without such limits.

California enacted the Medical Injury Compensation Reform Act, also known as MICRA, more than a quarter century ago. MICRA slowed the rate of increase in medical liability premiums dramatically without affecting negatively the quality of health care received by the State's residents. As a result, doctors are not leaving California.

Furthermore, between 1976 and 2000, premiums increased by 167 percent in California while they increased three times as much—505 percent—in the rest of the country. Consequently, Californians were saved billions of dollars in health care costs and Federal taxpayers were saved billions of dollars in the Medicare and Medicaid Programs.

Before coming to Congress, I litigated several medical liability cases as a defense lawyer. I have seen heart-wrenching cases in which mistakes were made. But, more often, I have seen heart-wrenching cases in which mistakes were not made and doctors were forced to expend valuable time and resources defending themselves against frivolous lawsuits. And the vast majority of these suits are frivolous.

An Institute of Medicine report, "To Err Is Human," concluded that "the majority of medical errors do not result from individual recklessness or the actions of a particular group—this is not a 'bad apple' problem. More commonly, errors are caused by faulty systems, processes, and conditions that lead people to make mistakes or fail to prevent them."

We need reform to improve the health care systems and processes that allow errors to occur and to identify better when malpractice has not occurred.

The reform that I envision would address litigation abuses in order to provide swift and appropriate compensation for malpractice victims, redress for serious problems, and ensure that medical liability costs do not prevent patients from accessing the care they need.

So we need to move ahead with legislation to improve patient safety and reduce medical errors.

Without tort reform, juries are awarding astounding and unreasonable sums for pain and suffering. A sizable portion of those awards goes to the attorney rather than the patient. The result is that doctors cannot get insurance and patients cannot get the care they need.

All Americans deserve the access to care, the cost savings, and the legal protections that States like California and Texas provide their residents. Today's bills will allow us to begin to address this crisis in our health care system, give our citizens, especially women and their babies, access to OB/GYN doctors, and enable physicians to provide high-quality, cost-effective medical care.

So I strongly support this legislation and urge my colleagues to support cloture on the motion to proceed.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I appreciated the opportunity to listen to the statement of my colleague from Utah and hearing of the effects that medical malpractice liability costs are having in his particular State. I think all of us in this body could stand on the Senate floor and discuss what is happening in our respective States and in our respective regions as we look at how medical malpractice issues are affecting access to care and access to quality physicians.

Truly, across the Nation, emergency departments are losing staff. Critical services are being cut and even trauma units being closed. One in seven obstetricians has stopped delivering babies. Countless surgeons are no longer performing high-risk procedures. You have to stop and ask the question: What has happened? What has caused this breakdown in our Nation's medical liability system?

Skyrocketing medical liability rates are forcing so many of our doctors across the country to stop practicing medicine. It is the millions of patients around the country who suffer when this happens.

In the State of Alaska, where our patients, my constituents, live throughout some 586,000 square miles, the situation is chilling. It is a crisis. We have 25 to 30 percent fewer physicians than our population needs. In fact, Alaska has one of the smallest numbers of physicians per capita in the United States. We need a minimum of 500 more doctors just to be at the national average of physicians per capita.

An American Medical News article recently declared Alaska's precarious situation by stating that "Alaska has long ranked among the worst states in terms of physician supply." Just recently, we learned about new deployments with one of our medical units in the Anchorage area coming out of Elmendorf. We have had a recent deployment of Alaskan military physicians and health care providers, and this month we are losing over 60 health care providers. So the few civilian physicians we have in the area are being asked to absorb some 5,400 military and military families into their already strained practices.

In certain of the physician specialties, the shortages there are at even worse levels.

For example, we all know Alaska is a huge State, a State larger than Texas, California, and Montana combined. Envision that area. We have lost half of our internists. Over one-half of the internist population is now gone from the State of Alaska. And, in Alaska, a State where we have the highest rate of traumatic brain injury in the Nation, we have three neurosurgeons for the entire State. Where do you go? You have to go outside, you go to Seattle. But you have to leave the State for that medical care.

In Nome, a town in western Alaska where my mother was born, there are no anesthesiologists. Nome is the regional hub in the Northwest. There are no anesthesiologists. So if you are a woman who is delivering a baby and the condition requires that a C-section be performed, you can't have the C-section done in Nome because there is no anesthesiologist. You have to get on a jet and fly an hour and a half to Anchorage. These are the situations we deal with in Alaska on a daily basis.

Many of these physicians were forced out of practice because they could no longer afford their medical liability premiums. Our physician shortage crisis was a key reason that medical liability reform was so important to Alaska. It was last May, as the legislature concluded its business, as they are doing this week, that the Alaska State Legislature passed a medical liability reform bill. Like the bills currently before the Senate, the Alaska bill fully compensates a patient for all quantifiable damages, such as lost wages and all medical and future medical costs. And like the legislation we have before us, the Alaska law places reasonable limitations on unquantifiable, noneconomic damages.

The American Academy of Actuaries has stated that placing limitations on unquantifiable, noneconomic damages is "imperative in stabilizing the physician professional liability insurance marketplace."

Our hope with the new legislation is that the Alaska law will provide equitable and predictable settlements in medical injury cases resulting in a more stable, professional liability insurance marketplace and, most importantly, it will help us with the recruitment of physicians to fill the chronic shortage.

I am happy to report that our medical liability reform does appear to be working. Ketchikan General Hospital, for the first time in years, has been able to recruit two new physicians. We have an internist and a general surgeon. For the first time also in years, I am told, their medical liability premiums have not increased.

Additionally, the Mat-Suu Valley has been able to recruit a cardiologist and Anchorage has finally been able to recruit a reconstructive surgeon. Both of these physicians fled their states that were in "liability crisis" and moved to Alaska where reform has been enacted. This is good news.

However, this is an issue that has national implications. That is why we in Washington must act now. The bills before the Senate, S. 22 and S. 23, are based on a fair and commonsense approach that passed in the State of Texas. As a result of the Texas law, physicians are returning to that State, particularly in the underserved specialties and counties. Insurance premiums to protect against frivolous lawsuits have declined dramatically, with the State's largest carrier reporting declines of up to 22 percent and other carriers reducing premiums by an average of 13 percent. The number of lawsuits filed against doctors has been cut almost in half.

Too many lives around the Nation are threatened or lost because good, quality physicians are forced out of their practice. A majority of the American public supports medical liability reform and ending lawsuit abuse. It is time that the Senate passed effective medical liability reform. I am pleased we are at that juncture today.

I see the chairman of the HELP Committee. He has done a great job on so many of these issues.

I yield the floor.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the Senator from Alaska for her kind comments. I want to make a few comments about medical liability, and then I want to talk about a bill for which we will be voting tomorrow morning on the motion to proceed. There is not much debate time on that so I will try to work in about 5 minutes on it and hope that that will convince everybody it needs to be debated. That is all we are going to be voting on, whether we ought to debate it at all.

First, I want to read a little bit from a book entitled "Fixing Our Broken Health Care System." It was written by Senator Charles Scott, a State Senator from Wyoming. He has been the chairman of the Labor, Health, and Social Services Committee for many years. He was chairman of that committee when I served. He writes in his book:

> We in Wyoming are having the problem in one of our communities right now. In 2003 the doctors in Newcastle quit delivering babies. The community is small and the doctors each were delivering between 20 and 25 babies a year. At that rate their malpractice insurance costs had risen to over $1,000 per delivery.

He does the math to show what the difference would be between obstetrics and family health, and divided it by the 20 babies.

> Roughly half of their deliveries are paid for through the state Medicaid program which pays $866.25 per delivery for a normal . . . delivery; the payment increases to $1,401.87 if normal prenatal and post-partum care is provided.

The cost for them is $1,317, and the most they can get is $1,401.87. Usually you get $866. You can see where they are losing money before they pay rent, before they pay the nurses, before they pay themselves a dime. They couldn't raise their private rates because in that community most young couples starting a family couldn't afford a higher rate, and too many were not covered by insurance.

> The economics were clear—the doctors were losing money with each delivery. They dropped the obstetric part of their practice, and now a woman in Newcastle has to be driven 73 miles to Gillette, Wyoming, or 80 miles to Rapid City, South Dakota, to have her baby delivered by a medical doctor.

You have to remember that we get a little bit of snow out in Wyoming sometimes, which can make that journey a little bit hazardous because there is a lot of cost to traveling 73 or 80 miles to have your baby, and probably cuts into the prenatal care.

I want to devote the remaining couple of minutes I have to talking about the bill we will vote on tomorrow morning with hardly any debate. It shouldn't hardly take any debate because the motion that we will be debating is whether we are going to debate a bill that will provide health care for small businesses across this Nation, that is supported by over 200 small business associations that recognize that there are about 22 million employers and employees out there who are uninsured because they can't afford it. This bill is designed to give them access to insurance. They have none right now. They recognize what they need to be able to do is ban together across State lines with their association to have enough clout to negotiate with their insurance carrier so they can get a lower rate.

But what we are talking about now is cloture on a motion to proceed. That allows for about 3 days' worth of debate, normally, before you get the vote. Then when you have the vote, you devote another 30 hours to deciding whether you are going to debate the bill or not. I am hoping the other side will see the need not to have this vote. I know they are hearing from their small businessmen. Everybody knows that small business is the backbone of the U.S. economy. If they have looked at the polls, they have found that 89 percent of the people in the United States, even after hearing the disadvantage of the old AHP form of this legislation, which is not this legislation, even after hearing those disadvantages, 89 percent said this legislation was needed to save small businesses.

We shouldn't be taking a needless vote. I am hoping it will be vitiated in the morning, and we will go ahead with the debate so people can see where the bill is going to go. I have never seen so much money spent in opposition to a bill before there was even permission to debate it. And neither have all the people who called me from Wyoming, other places in the United States, and in the District. You may have heard ads that said: Stop ENZI.

It isn't stop ENZI. It is keep small business from being able to get reasonable insurance. That shouldn't happen before a debate. That kind of thing sometimes happens when a bill is coming out of conference committee, after it has been amended on the floor of the Senate, after it has been amended on the floor of the House, after the two sides have gotten together and said: Is there a solution on which we can agree?

If they agree on something that is radical, then this kind of action is usually done, not when we are talking about whether we ought to debate it, whether we ought to amend it, where it ought to go, where it can go, and what can be done. This bill needs to be voted on after a debate, not stopped from having a debate.

The NFIB collected 500,000 petitions asking for us to debate this bill. It isn't the same bill that we have been talking about before, the bill that the House has passed eight times in the past. This is a different bill. I got the insurance companies and the insurance commissioners to sit down with the associations and talk about a fair way of maintaining State control and maintaining consumer oversight at the State level. I have to say there are a lot of rumors out there. That is partly what PBS did. They reported a bunch of assertions without verification.

We are trying to get that corrected now. But I have never seen a bill that generated so much opposition before it was even debated. I hope we will cut that out and go ahead and vitiate the cloture motion so that we don't have to take the 30 minutes it is going to take to do that vote, and get right to the debate and start offering amendments and debate what can be done.

That is the process we ought to use. That is the process that we normally use. But I suspect there is a lot of money that can be lost if those small businessmen can actually negotiate against the insurance companies. I will get into that more when it is the appropriate time, not when we are talking about whether we ought to proceed on the bill at all.

I see that I have used my time. I yield the floor.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, today marks the start of what the majority leader has called Health Week in the Senate. We start today with two cloture votes because legislation has been brought to the Senate that deals with what is called medical malpractice, or "medmal," reform. The bills we are being asked to consider have not been before a Senate committee, have not been a part of a committee hearing. They have just been brought to the floor of the Senate so we can have two cloture votes, both of which will fail. This is about someone wanting to cross a check off their list of what they feel they must do in the Senate. It hardly serves the opportunity to address serious issues. There is a way, for example, to address the issue of medical malpractice reform. But it is not this way.

I must say, as I said the other day, there are challenges in this area, but I think the way to address the challenge of medical malpractice is not to decide that victims of medical malpractice should not be given the opportunity to seek redress. That doesn't make any sense to me.

Mr. President, there are many things we can and should talk about this week, if this is, in fact, Health Week. When the cloture votes are held later in the afternoon—and both will fail—then my understanding is that we will go to the legislation offered by the Senator from Wyoming. It is further my understanding that the leader will what is called "fill the tree"; that is, we will be on that legislation, but we will not be able to offer any amendments.

Let me talk about a couple of things. I came to the floor to talk about, during Health Week, the need to deal with something called stem cell research. I know that is a controversial issue. But it is one I think the American people deserve to have the Congress address and deal with. Almost 1 year ago—May 24, 2005, to be exact—the U.S. House of Representatives passed their Stem Cell Research Enhancement Act with broad bipartisan support. It will expand the number of embryonic stem cell lines eligible for Federal funding.

Back in July of 2005, the majority leader in the Senate made a speech and he outlined his support for expanding the number of stem cell lines available for research. He pledged to bring the issue to the floor of the Senate at some point during this Congress. If this is the week we are going to be dealing with health care in the Senate, I encourage the majority leader to set aside time for an open and fair debate on stem cell research.

Embryonic stem cell research holds great promise for addressing some of the devastating diseases that we face—diabetes, Alzheimer's, Parkinson's, heart disease, cancer. To shut off or limit medical research is an unbelievable mistake for this country. I, like many others, have lost loved ones to disease. When I lost a daughter to heart disease, I decided that I would never try to placate one group or another by stopping promising research to try to address diseases that people all across this planet face.

Embryonic stem cell research is so unbelievably promising. This is not just about some ethereal debate, it is about real people. We have about 400,000 embryos frozen at in vitro fertilization clinics, and 8,000 to 11,000 of them are thrown away every year. Yes, 8,000 to 11,000 fertilized embryos that are frozen at the IVF clinics are just discarded, put in a trash can called "medical waste." Would they not better be used to advance medical research? One million babies have been born in this world by in vitro fertilization. It started in England, called the "test tube baby." One million babies have been born.

When we had a hearing in the Commerce Committee about stem cell research, one of the witnesses was asked the question—in fact, I asked the question. He opposed in vitro fertilization. He said it should not happen.

I said: Do you think those 1 million people who were born that way should not have been born?

He didn't think they should have been born; it was wrong. There are 1 million people living among us that are here as a result of in vitro fertilization. At the clinics where IVF takes place, the egg and sperm are united in a test tube and fertilized in a petri dish for the purpose of implanting in a woman's uterus and growing a baby. They produce far more embryos than they need. As a result, you have in storage about 400,000 embryos—400,000—of which 8,000 to 11,000 each year are simply discarded.

President Bush and others have decided that they shall not be used for stem cell research. I am not talking about the stem cell research in which a cell is cloned. That is called somatic cell nuclear transfer. I will talk about that in a moment. I am talking about embryos that are going to be thrown in a waste can and discarded. This Administration and too many in this Congress believe these discarded embryos cannot and should not ever be used for embryonic stem cell research.

Let me put a face to this issue and hold up this picture. This is a young woman I met with recently. This is a picture of Camille Johnson. She is in the middle. She plays the clarinet in the middle school band. I have met Camille and her mother several times. She is a volunteer with the Juvenile Diabetes Research Foundation. She gave me something that I keep in my office. This is to describe what this young girl goes through with diabetes—and I will describe why I am talking about diabetes.

This young lady has had some very close calls and serious hospitalizations with her diabetes. It is very aggressive. She is poked with a needle every day at 7 o'clock, 11 o'clock, 5 o'clock, and 8 o'clock—1,460 pokes with a needle to test her blood every single year. She receives 1,095 shots every year. She has to watch her diet every day. If she does not keep her diabetes under control, the complications are amputation, blindness, kidney failure, heart failure, and death.

Why do I describe that? Because there is remarkable research going on to use stem cells to treat diabetes. The work that has been done in the transplant of islets to the pancreas is unbelievably important work. Yet we are told that much of this work cannot continue with Federal funding. Stem cell research has shown such great promise. For example, in spinal cord injuries, stem cell research has allowed disabled rats with damaged spinal cords to walk again. It has relieved diabetes and Parkinson's disease symptoms in mice. It has developed heart cells, eye cells, and nerve cells. I was told of a researcher who described, I believe, two dozen mice in which researchers induced severe heart attacks. They injected stem cells back into the heart muscles of those mice, and a couple of weeks later nearly all of the mice not only didn't show severely damaged hearts, which they had after a heart attack, but they showed no damage to their hearts at all. So there has been unbelievable progress with stem cell research.

Yet we are told by some that research should not go forward. Let me describe for a moment some of the other areas, in addition to embryonic stem cell research, that are so controversial: The issue of taking one skin cell from one's ear lobe, for example, and putting it into an evacuated egg. The skin cell is stimulated to create a blastocyst, or cluster of cells, 100 to 200 cells. Those cells can eventually be injected back into your own heart muscle. There has been no fertilized egg. It is simply your own skin cell that has been stimulated to reproduce. Yes, it creates an embryo, but there is no fertilized egg. It creates an embryo that will never become a human being.

We are told by some that is murder; you have destroyed an embryo. No, this is about life, about saving lives. Those who want to shut down these promising areas of research, in my judgment, are just dead wrong.

The last campaign I ran for office, the first two television commercials that were run by my opponent—the first was about gay marriage, that I voted against amending the U.S. Constitution to prohibit gay marriage. I can hardly think that George Washington, Thomas Jefferson, Ben Franklin, Mason and Madison, as they looked at what they had created as a Constitution, would think: What have we missed here? We need to put something in about gay marriage. I don't think that belongs in the Constitution.

The first commercial was of two men kissing, with the message you would expect from the extremists. The second commercial was about a campfire leader sitting around a campfire at night with little kids sitting around gathered in front of him. "Tell us a scary story," the little kid said. Then the campfire leader said. "Well, there is a man named Byron"—referring to me, I guess—"and he has a plan to implant embryos into mommies' uteruses, wombs, and harvest them later for body parts."

That is an unbelievably ignorant television commercial, but that commercial was born of an attempt to distort my position on the issue of stem cell research.

I am not interested in harvesting body parts. I am not interested in the discussion about murdering embryos. I am interested in a discussion about saving lives and about continuing the kind of promising research that exists that might unlock the mysteries of Alzheimer's disease, might provide a cure for Parkinson's, for diabetes, or heart disease.

I am not suggesting there are not some ethical considerations that need to be made with respect to how we do it, and I don't suggest we should discard those issues. But I am suggesting that a country that shuts down that research has made a horrible mistake. My point in coming to the floor was, if this is Health Week, then let's talk about health issues, about the Indian Health Care Improvement Act that has been stranded. Let's talk about that and bring it to the floor and vote on it.

No group of Americans has more difficult health issues to face than Native Americans. Let's talk about that on the floor of the Senate.

Let's vote on the proposition the majority put in the prescription drug bill that prohibits the Federal Government from negotiating for lower drug prices with the pharmaceutical industry. Let's have that on the floor and vote on that. There are half a dozen of those issues. But I speak today about stem cell research. If we are going to be serious about health care and have a health care week, then we ought to talk about this issue.

The House of Representatives has already passed a bill. The majority leader said we would have a bill on the floor of the Senate, and it appears at this point that we will head toward the end of this session, despite the fact there is bipartisan support for legislation that will deal with stem cell research in the appropriate way.

I understand this is a serious issue. I don't dismiss the concern of others, nor do I accept, however, that this is somehow a discussion about murder. This is a discussion about saving lives. It is a discussion about finding cures to devastating diseases. This country ought to be in the lead when it comes to research that can provide cures for diseases. Stem cells provide much of that opportunity.

This young girl, Camille Johnson, deserves to have the opportunity to have the very best treatment available. Some of that will come from stem cell research. And perhaps we will find a cure for diabetes. Perhaps Camille Johnson will not live her life as a diabetic. Maybe through stem cell research we will find this cure and one day she won't have to take shot after shot to provide her body with sufficient insulin for her to live. Let's hope that is the case.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLARD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I rise this afternoon to voice my concern about the current debate we have begun on the floor of this body. This is the fourth time that we in this Chamber have devoted floor time for legislation to restrict the rights of those injured by medical malpractice. Once again, this bill is being considered without any committee consideration whatsoever, without any hearings examining this question, and without any attempt to enter into meaningful negotiations with the minority over our very legitimate concerns about this legislation. So to begin with, we are going to take a week of the Senate's time to debate a piece of legislation which has not been considered by committee, has had no hearings and no effort to try to reach any kind of a compromise position on critical legislation dealing with medical malpractice.

I have always believed that the best public policy comes out of consensus, when we work together as Democrats and Republicans, not when one side tries to dictate to the other exactly what we are going to have to accept or reject. By bringing together a broad coalition of people, we can and have on many occasions enacted laws and made sure they work as they ought to. Yet, too often these days, we are seeing tactics meant to divide rather than to reach any kind of consensus at all—tactics, in my view, which have no place in our system of governance and which will undoubtedly lead to bad public policy, if any public policy at all.

I come to this medical liability debate with no prejudgments about the merits of the claims of those who support this legislation. I have never shied away from legal reform when warranted, and most of my colleagues know this. In the past, I have supported reform to class action litigation, securities litigation, asbestos litigation, Y2K litigation, and the list goes on. In each and every one of those instances, I worked with Republicans and other Democrats to fashion compromise consensus legislation. We did it on class action, we did it on asbestos, we did it on securities litigation, and I was pleased to do it with my colleague from Utah, BOB BENNETT, on Y2K legislation. Yet on this occasion dealing with medical malpractice, no effort is being made at all to reach any consensus. No hearings, no committee work, just take it or leave it with legislation that is seriously flawed.

I have also opposed legal reforms when I believed it was unwarranted, such as reforms that effectively inoculate gun manufacturers and sellers from essentially any and all liability, and I say that as a Senator representing a State with the largest number of gun manufacturers in the United States, and one of the largest gun manufacturers in the world. They are wonderful people. I respect them immensely. But the idea that we would take an entire industry and excuse it even from the worst kind of negligence made no sense to me whatsoever.

A recent proposal to shield vaccine manufacturers from responsibilities for the safety and effectiveness of their products was something I opposed as well, since it made no sense to me whatsoever.

The two bills we are going to consider this week—one to cap noneconomic damages for all medical malpractice cases and one to cap damages in cases involving women and children—fall into the latter category. These are unwarranted proposals, they are unfair, and they are terribly unwise.

I could quote facts to let my colleagues know how troubled I am about these proposals. The point is very simple. The pillars upon which the supporters of this legislation rest their arguments are deeply flawed. As we heard our colleague from New York, Senator Pat Moynihan, say on numerous occasions: Everyone in this Chamber is entitled to their opinions, but they are not entitled to their own set of facts.

The facts here are very clear. The fact is the magnitude of this crisis regarding medical malpractice has been drastically overstated. The number of physicians in the United States increased from 814,000 to 885,000 between the years 2000 and 2004, and the number of OB/GYNs increased from 40,000 to 42,000 in the same period, while the birth rate was in decline in many States.

What we normally hear is we are losing physicians, people are leaving the profession, OB/GYNs are packing up and moving on to other professions. The fact is there are more OB/GYNs today than there were in the year 2000.

We should be looking to rein in health care costs, but the supporters of this proposal are looking in the wrong place, in my view. The fact is, liability premiums account for less than 1 percent of health care costs. Let me repeat that. Liability premiums account for less than 1 percent of health care costs, and yet, when we hear this debate this week, we will hear numbers that bear no relationship to the facts.

The fact is that the number of claims and the value of jury awards have not spiked, as some suggest. Between the years 2001 and 2004, the number of claims filed actually decreased by almost 14 percent, and the amount that defendants and their insurers are paying for medical malpractice claims, including jury awards and settlements, has not increased in relationship to medical inflation.

The fact is that those States which have adopted caps have seen greater increases in premiums than States without caps. Let me repeat that. In those States which adopted caps, they have seen a greater increase in premiums than States without caps. Seven of the 10 States with the highest premiums already have caps. In 2003, premiums actually increased by 17.1 percent for OB/GYNs in States with caps, compared to a 16.6-percent increase in States without caps on these awards. In 2004, the average premium for physicians in States with caps was $46,733. The average premium in States without caps was $42,563. So, if anything, the evidence suggests the caps on patient damages actually correspond to higher insurance premiums for doctors.

Again, these numbers are high. Premiums that are $46,000 or $42,000 are extremely large. But if we are going to address the problem, then we ought to address the cause of why these premiums are so high.

I could continue to quote a number of these facts to underscore my point, but I think the point is very simple. Again, the facts which the supporters of this bill rest their arguments on are flawed. Again, they are entitled to their opinions but not their facts.

The number of practicing physicians is on the rise. The number of medical malpractice claims is actually falling. The amount of awards to victims actually lags behind inflation. Malpractice premiums in States with caps are higher than in States without caps. Those are the facts. And based on this evidence, we are being asked to limit the rights of injured patients. The facts fail utterly to dictate such a conclusion, in this Senator's opinion.

But if neither the number of claims nor the amount of malpractice awards can explain rising premiums, then what is the explanation? What is going on? According to several analysts, the increase in premiums does, in fact, correlate with fluctuations in the stock market and interest rates.

One recent study showed premiums closely tracked insurers' economic cycles. During good economic times, insurers slashed premiums to attract as much business as possible. This is because every new policy brings in an additional so-called float, money to invest in a booming market. However, when the market turns, the investment returns are weak, as has happened in the last few years, and insurers raise their rates or, in some cases, leave the market altogether. When this happens, of course, the result is often a crisis in the availability and affordability of insurance. This is what we have seen over the past several years. In fact, with markets showing some improvement, the evidence suggests today that premium increases are slowing dramatically.

The idea of placing caps on noneconomic damages is also unfair. One of the bills we are considering today seeks to limit the legal rights of a very specific segment of our society, and that is women and newborns.

It is important to remember that this bill is going to affect those who have actually been injured by malpractice. This is not just anyone who has a bad outcome, but malpractice. An individual has been accused of malpractice. A jury has already decided that they are eligible to collect noneconomic damages, that malpractice has occurred. Somebody has messed up terribly and caused a woman or a child to suffer. That conclusion has been reached. Now we are saying we are going to put a cap on that damage and limit it only to economic damages. We are essentially telling women and infants that their injuries and the suffering they experience as a result are not worth as much as the injuries and suffering of other people in this country.

We are going to single out women and children for special consideration, and that is to say: You have been damaged because of malpractice, and here we are going to make it almost impossible for you to collect any damage beyond economic damages.

Furthermore, these bills do not take into account the extent of injuries and the costs thereof. As a result, they will hurt the most seriously injured, those who might receive a noneconomic damage of more than $250,000 were it not for this arbitrary cap.

Finally, this legislation is terribly unwise, in my view. Reasonable litigation provides accountability. When health care providers make mistakes, they should be held accountable. Placing a cap on noneconomic damages simply removes the incentive for the health care system to improve quality and patient safety, and it does so with no guarantee that there will be any reduction in doctors' medical malpractice premiums. In fact, time and time again, insurance companies have refused to commit to lowering premiums, even if a cap is enacted.

Last year, for instance, a spokesman for the American Insurance Association said:

> We have not promised price reductions with tort reform. Six months after Texas enacted a cap like the one we are debating here today, one insurer in that State tried to raise premiums by 19 percent, arguing that noneconomic damages are a small percentage of total losses paid. Capping noneconomic damages would show lost savings of 1 percent or less.

I just have a few more comments to make on this issue. I realize I am extending my time. I see my colleague from Kentucky and my colleague from Tennessee are here. Let me just wrap up, Mr. President, and take a minute, if I can.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. There are other things we need to be doing. Information technology in health care would be a major step forward. I have supported almost every major tort reform piece of legislation here in the last 10 years. I have done it on securities litigation reform. I did it on class action. I was willing to do it on asbestos and on Y2K legislation. In all of those cases, we worked out compromises to make sure that what we were doing would make sense.

This bill makes no sense whatsoever. The facts show that there is no justification for moving in the direction we would be with this piece of legislation. I urge my colleagues to reject this proposal and come back with a piece of legislation that really would make a difference.

If we really want to reduce these kinds of costs, there are steps that can be taken to allow us to do it. But with this bill, the number of doctors is increasing, the number of OB/GYNs is increasing. States with caps are watching premium costs go up, and States without caps are watching premium costs go down—the exact reverse of what we are claiming we would accomplish with this legislation. The details of my statement make that clear.

Again, you are entitled to your opinion but not facts. The fact is, we are going in the wrong direction with this bill. I urge my colleagues to step back, allow for some hearings to go forward, allow for people to sit down and look into things as we did with class action, as we did with Y2K and asbestos litigation. With those bills, we put together and produced good legislation. This bill is nothing like that and does not deserve to be on the floor without that kind of work.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who seeks recognition?

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak as in morning business for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. ALEXANDER and Mr. AKAKA are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I am here today to stand in strong support of S. 22 and S. 23. I do so as a Senator from Pennsylvania representing a State that has been racked by the consequences of having a tort liability system that is simply out of balance, out of whack. That imbalance is causing real tragedies to occur on a daily basis in the Commonwealth. People are not getting access to the kind of care they deserve because, as I will lay out in great detail, physicians are leaving the State and hospitals are closing down because of the cost of awards, in particular in areas that serve high-risk patients in some of our communities where there are underserved populations, whether they are inner city or very rural. Patients are not getting access, whether it is to neurosurgery or high-risk obstetrics or orthopedic care and other types of high-risk specialties, and physicians are leaving areas in our State, both rural and urban, because of this liability crisis.

I had hoped that the Commonwealth itself and our State legislature would have responded to this problem. They have tried on a couple of occasions, and the Governor has vetoed legislation to make that happen, and so we are here today to try to solve this problem on a national level.

I believe that while Pennsylvania is severely impacted, probably as much as any State in the country, this is a problem which has national impact. It impacts the Medicare and Medicaid system which this Congress and which the Federal Government pay for. So I do believe it is appropriate for us to consider it.

I wish to make sure that folks understand what we are trying to accomplish. I have had people come to me on more than one occasion and ask questions about why we are trying to limit people's right to sue. No. 1, we are not limiting anybody's right to sue. People can sue a physician or a hospital or a drug company or anybody else in the health care arena. They can sue as many times as they want and as often as they want and for as much as they want. The only thing we are attempting to do as far as a limitation in this bill is to limit the award in one category of damages.

There is, of course, more than one category of damages allowed in most liability suits.

Certainly there are economic damages allowed for income loss, so that if you lost income as a result of the injury you incurred, you have lost the ability to earn future income or some portion of future income, that is fully recoverable. If you have medical bills in the past or going forward—for example, let's say you were left without the use of an arm or maybe you ended up in a wheelchair as a result of medical malfeasance on the part of a provider—there is no limit on the amount of medical recovery you could have. Nothing in the bills we are looking at limit recovery in those areas whatsoever. There are also punitive damages that are available. Punitive damages are damages against someone who does something malicious or willful to harm you in the conduct of providing care, and there is no limit whatsoever on any punitive damages in this legislation.

All we attempt to do is take one category of damages, which is loosely known as pain and suffering, and try to put a cap on that; we try to quantify that. It is very hard to quantify it in the first place, but we are just trying to say that we want to put a cap on that. Why? Why would you want to put a cap on that? Because in some cases, you look at the harm that has been done to somebody and you say: Wow, I can't even think about how much pain or how much suffering or how that person's life has changed, and I would like to help. Well, the reason we need to put some sort of limitation on it is in order to strike a balance between the desire of our fellow citizens, through a jury or judge, to compensate someone for the injury they had in exchange for the costs associated to our society and to the medical system, which results in other people not getting care.

We can go to a recent conference I attended in Philadelphia where it was relayed to me that we have had I think it is nine maternity wards in the city of Philadelphia close down over the past few years—nine—one most recently in northeast Philadelphia and the last one in the most densely populated area of Philadelphia, an urban population, where the OB ward closed down. So if you live in northeast Philly, which is again the largest area population-wise in the city of Philadelphia, there are no hospitals to deliver babies. You have to come into the Center City area or the neighboring county to get obstetrical care. You have consequences. You have consequences of high-risk pregnancies where people do not get to the delivery room on time and mothers and children are harmed.

One of the reasons I have introduced S. 23, the bill we are going to have a cloture vote on later today in order to proceed, is, in fact, to say that this is of crisis proportion in my State, and even if we can't do a broader bill, let's try to do a narrower bill that deals with the issue of mothers and children to make sure there is care for those particularly vulnerable in our population.

I had an ER doctor in suburban Philadelphia tell me that just over the last couple of years, they have been able to document I think seven people who have shown up in emergency rooms in suburban Philadelphia with head traumas who were not treated because there were no neurosurgeons available on call. There just was no one to come. As a result, seven people are now dead who, had there been someone on call and available, without question would have lived. You ask the question: Who do the family members of those deceased people sue? The answer is they can't sue anybody. They get no recovery. They get nothing. Why? Because we have a system that rewards a very few—maybe justifiably. I am not arguing that their award isn't justifiable. I would probably argue for an enormous amount of money, depending on what the injury is. The question is, How do we balance that person's right to be compensated with another person's right in the future to get health care?

That is what this attempts to do: balance the rights of those who are injured with the rights of those who will be injured if we don't limit those first rights. We see that happening every day in Pennsylvania, and that is one of the reasons I feel so passionate about bringing this legislation to the floor and trying to attempt to do something here on the floor of the U.S. Senate.

What we do in trying to limit rights is actually different from what we have done in the past here. We try to limit the ability to recover—not the right to sue but the ability to recover—in some small way. It most cases, it will be a small way.

What this does is it provides certainty in the insurance market. Right now, you have a category of damages called pain and suffering. I think if you asked 100 people how much suffering—if you took a case and said: How much should this person be awarded for this much suffering, would you get 100 different answers. It is hard to insure against those 100 different answers about what a judge or a jury is going to do. So by putting a limit here, you are then able to quantify for insurance purposes and allow insurance companies to offer reasonable insurance packages for physicians and hospitals, and you put physicians in—this is also important—you put physicians in a position where they are not simply practicing defensive medicine, which drives up the cost of health care precipitously.

The cap we are talking about here is a $250,000 cap on a physician, a $250,000 cap additionally on the health care provider, on the institution where the care is provided. If there is more than one institution, it is a total cap of $500,000, so two or more institutions could combine, for a total of $500,000. So it is a $750,000 total cap, which is three times what we voted on here last session of Congress.

So this is a much higher cap. I have said in the past, both on the floor and around my State, that I thought the $250,000 cap was a bit low, and I feel more comfortable with this cap, and it allows flexibility for the States to do something different. This just takes care of situations where there aren't any caps in place by the State.

So I think we have a situation where we have a bill that puts in a reasonable limitation on damages. Even though I certainly can make the argument that there may be cases where this would be a difficult limit, it is a balance between limiting somebody's recovery and making sure that by doing so, you have access to care for other people who will be harmed if we don't limit that recovery.

I want to talk about the situation specifically in Pennsylvania. This is a tragic situation that we have seen evolve over the past several years where the liability costs have just gone through the roof. We have a situation where, if you look between 1999 and 2005, the 20 most populous States saw a 15-percent to 35-percent increase in the number of Medicare physicians. In Pennsylvania we saw a 10-percent decline in the number of physicians available to treat Medicare patients.

The number of doctors in training who stayed in Pennsylvania? In Pennsylvania we are very blessed with a lot of great medical schools. We train a lot of physicians and train a lot of health care workers generally in Philadelphia and Pittsburgh and in between. Twelve years ago, in 1994, we had a rate of about 50 percent of all the physicians we trained in Pennsylvania stayed in Pennsylvania. Two years ago it was 7.8 percent. We went from 13th in the country, during this time, of the percentage of physicians under the age of 35—we were 13th in the country in the percentage of physicians under the age of 35. Today we are 45th in the country in the percentage of physicians under the age of 35. We have older and older doctors; fewer and fewer are staying. This is a crisis. It is horrible now. It is only going to get worse if we do not do something about it.

Why? If you look at it, the payouts have skyrocketed from $180 million in 1991 to $450 million 2 years ago. The average liability payout per physician—the average is $6,000 nationwide. It is $16,000 in Pennsylvania, almost three times as much. This is a serious problem in our State.

We are looking to Washington, DC, to help. They are saying just in a couple of years we could have a shortfall of nearly 10,000 physicians in the Commonwealth of Pennsylvania. So this is a pressing problem, one I hope we can get to.

Just allow us to bring up the bill, allow us to debate. Here we are, the greatest deliberative body in the world. We have a huge problem in my State, and I suggest we have others stand up and talk about the problem in their States. If you don't like the solution we have put forward, then let's have a debate. Let's have some amendments. Let's talk about how we can change the bill around to move it forward. But not allowing us to bring it up is not a reasonable alternative.

We have heard from folks in our State. This is a petition. We have gotten a whole bunch. I just wanted to reproduce one of the hundreds of petitions we have received, particularly focused on what is going on with our obstetrical care. These are citizens, in this case, from West Reading, PA, who said:

> Every day OBGYNs are closing doors because of America's medical liability crisis. Is yours next? We the undersigned are in favor of keeping women's health care availability and strongly urge Congress to enact meaningful legislative relief.

That is what we are trying to accomplish today. It is amazing, the effect of this on—I always say physicians, but it is health care professionals, not just physicians. "One-third of residents"—

This is from the Department of Health Policy and Management in the Harvard School of Public Health. They did some surveys and talked to physicians out in our State. It says:

> One-third of residents in their final or next to last year of residency planned to leave Pennsylvania because of the lack of availability of affordable malpractice coverage. . . . Those who are about to leave Pennsylvania named malpractice cost as the primary reason three times more often than any other factor.

I met with a woman graduating from the University of Pennsylvania in thoracic surgery. She had a decision to make: to come to Washington DC, or stay in Philadelphia. She is from Philadelphia; her family is there. She wants to stay. The cost of malpractice insurance in Washington is $4,000 for her specialty. In Philadelphia, $40,000, 10 times the amount, plus the complexity of not being able to practice the medicine she wants to practice.

> Seventy-one percent of residency program directors reported a decrease in retention of residents in the state since the onset of the professional liability crisis. For some programs the decreases were very large.
>
> An environment of mounting liability costs in Pennsylvania appears to have dissuaded substantial numbers of residents in high risk specialties from locating their clinical practices in the state.

This is a serious problem. I am going to talk about it some more. We probably are not going to be successful today, but I will be back on the floor, not just today but in the future to continue to talk about this critical crisis that we have in our commonwealth. It is not just about making sure that we have reasonable malpractice rates. It is about access to care. It is about people who are going to be hurt and are going to die because we have not put this medical liability system in balance. We need to do so and it would be a great start if the Senate would allow us to proceed to that debate today.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I commend the Senator from Pennsylvania for his observations, not only about the state of medical care access in Pennsylvania, but across the Nation. I would like to make some observations about the situation in Kentucky and across the Nation as well.

I am obviously here to support the Medical Care Access Protection Act. On several occasions in recent years this body has attempted to debate commonsense reforms to our medical liability system—a system that we all know is increasing health care costs and limiting patients' access to care.

Unfortunately, the minority party's obsession with obstructionism has prevented this body from even considering medical liability reform. But the problem of patients not getting the care they need is simply not going to go away on its own. The Senate needs to act, and act now.

Passing the Medical Care Access Protection Act would leave doctors free to go where the patients are, not just where the lawyers aren't. Let me turn briefly to the Commonwealth of Kentucky.

Like 20 other States across our Nation, we, in Kentucky, are facing a medical liability crisis. In past years, I have shared stories of doctors who left Kentucky, of hospitals that have closed their maternity wards, and of women who have been denied access to care because their doctors could no longer afford the medical liability premiums.

I wish I could tell my colleagues that I was out of such stories; that the problem had fixed itself. Unfortunately, that is not the case. The minority has not allowed this body to act, and the problem has not gone away. So today I would like to share a story that ran earlier this year in my hometown newspaper, the Louisville Courier-Journal, back on January 29.

> Rashelle Perryman's first two babies were born at Crittenden County Hospital in Marion, KY, about 10 minutes from her home. But her third child, due in June, is to be born in Madisonville, 40 miles away in Hopkins County, because rising malpractice insurance rates caused doctors at the Crittenden County Hospital to stop delivering babies last year.
>
> That forced the hospital to drop obstetrical services and Ms. Perryman to find a new doctor.
>
> "I don't like it at all," she said about having to give birth in another county. She's a nurse at Crittenden County Hospital and its former obstetrics supervisor.

So she knows a good bit about the subject matter.

> With Perryman's first two deliveries, "I knew everybody here in the hospital, and I was comfortable," she said. "And now I am going somewhere where I don't know anybody, or how anything's done."

Ms. Perryman will have to travel a long 40 miles to deliver her child. Just to put her plight in perspective, 40 miles is about the same distance from the Capitol to downtown Baltimore. I know we will all hope for a safe delivery for Ms. Perryman, but what if there are complications along the way? Wouldn't it be better for both Ms. Perryman and her baby if they could still go to their local hospital, rather than driving 40 miles down the road?

Would any Member of the Senate want his wife, or his or her daughter, to have to drive as far as Baltimore in a similar circumstance?

Unfortunately, this is not an isolated problem within this one Kentucky community. Our Lady of Bellefonte in Ashland, KY, and Knox County Hospital in eastern Kentucky have also stopped delivering babies. They are not delivering babies anymore. Patients in west Kentucky who need the services of an emergency neurosurgeon frequently must be transferred to St. Louis or Nashville because there are not enough neurosurgeons to staff the hospitals in Paducah around the clock.

From 2000 to 2004, the number of practicing OB/GYNs in the country fell from 504 to 473. Among those OB/GYNs who have remained in the State, fewer and fewer of them are still willing to deliver babies. Even among those who are staying in the State, fewer of them are willing to deliver babies.

The American College of Obstetrics and Gynecology report that 18 percent of Kentucky OB/GYNs have stopped delivering babies entirely. Nearly one-third of OB/GYNs, 31 percent, have limited the number of "high-risk" expectant mothers they will see for liability reasons.

So even among those who are still willing to deliver babies, they are sort of preselecting the mothers based upon the riskiness of the procedure and parceling out those who are more risky to someone else or some other community or whoever will accept the liability potential.

The Kentucky Medical Association reviewed State and hospital records and found that only 426 doctors in Kentucky delivered babies last year. That is down 79 doctors from 1 year before.

Let me say that again. We have in Kentucky gone down to 426 doctors who delivered babies last year, down 79 from the year before.

As I have noted in the past, 66 of Kentucky's 120 counties have no OB/GYNs at all. The red counties on the map, all across my State, from east to far west—the red counties have no OB/GYNs at all; 66 out of 120 counties. Over half of our counties have no OB/GYNs at all.

What does this mean to the patients? I think it is rather obvious. It means that patients such as Ms. Perryman, on one of the most challenging but important days of her life, will need to travel far from home to deliver her baby.

This problem extends far beyond Kentucky's borders. In his State of the Union Address this year, President Bush noted that 1,500 American counties have no OB/GYN. So these 66 counties in Kentucky are not unique; 1,500 counties across America don't have a single OB/GYN.

As the map next to me shows, the American Medical Association reports that 21 States are now facing a full-blown medical liability crisis.

The red States have a full-blown medical liability crisis—21 of them. A few years ago, there were just 12. You will notice Texas, Mr. President? Texas is an interesting State to note. It is getting itself out of the crisis stage, heading in the direction of being a State not in crisis, as a direct result of legislation similar to what we are suggesting be enacted on the Federal level.

So we know the Texas reforms work because we see Texas now moving from a State in crisis to a State that is effectively reforming and basically halting the crisis.

An example of a State with a serious problem still is Arizona. Some of my colleagues might recall the story of one Arizonan, Melinda Sallard, from a few years ago. In 2002, the administrators at Copper Queen Community Hospital College in Brisbee, AZ, were forced to close their maternity ward because their doctors' insurance premiums had risen by 500 percent; 500 percent. A few months later, Melinda awoke at 2 o'clock in the morning with sharp labor pains. Since her local hospital stopped delivering babies because of the medical liability crisis, Melinda and her husband were faced with a 45-mile drive to Sierra Vista in order to reach the nearest hospital with a maternity ward.

As many of us who are parents know, babies don't always wait for the hospital, particularly when that hospital is almost an hour away.

Melinda gave birth to her daughter in a car on a desert highway leading to Sierra Vista.

When the child was born, she wasn't breathing. Her levelheaded mother cleared the child's mouth and performed CPR. After resuscitating the infant, Melinda wrapped her in a sweater, and the new family completed the journey to Sierra Vista.

Thankfully, both mother and daughter survived. However, it is clearly unacceptable that expectant mothers should be forced to drive past a perfectly good hospital and continue on 45 miles through the desert to deliver a child.

We have here a picture of the mother and daughter, and in that particular instance, because of a particularly alert mother, we were able to avert a crisis.

There are commonsense reforms the Senate can adopt that will lower medical liability premiums and allow doctors to continue their lifesaving work.

In past years, the Senate has considered legislation modeled after the successful MICRA reforms out in California that have contained medical liability premiums for more than 25 years. I have supported those efforts, but we are taking a different approach this year and we are modeling this legislation offered by Senators SANTORUM, ENSIGN, and GREGG on the Texas reforms to which I referred a few moments ago. The Texas reforms are a little more generous, and they also are clearly working to get the right result.

It is important to remember that under any of this legislation, patients would be allowed to recover 100 percent of their economic damages. This can include hospital bills, lost wages, therapy, and rehabilitation costs, and a wide variety of additional expenses a victim might incur.

In an attempt to reach a compromise on the contentious issue of non-economic damages, the Medical Care Access Act includes, as I said, Texas's tiered cap on non-economic damages that could allow a patient to recover as much as three-quarters of a million dollars. That is three times the amount of non-economic damages that was available under legislation we previously considered here in this Senate.

Our colleagues across the aisle have indicated they would not consider legislation that would limit non-economic damages at $250,000. This bill does not have that limitation. Hopefully, a limitation on non-economic damages alone of three-quarters of a million dollars will be more acceptable.

This legislation also includes important reforms, such as "fair share liability," limits on lawyers' fees, and collateral source reforms that have been a part of previous proposals here in the Senate.

This problem is not going to go away on its own. The Senate has an opportunity to act. I hope we will, in fact, vote cloture and get to this legislation. If there are amendments to be offered, fine. Let us have votes and move in the direction of addressing this serious national health care problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this legislation, S. 22, is not a serious attempt to address a significant problem being faced by physicians in some States. It is the product of a party caucus rather than the bipartisan deliberations of a Senate committee. It was designed to score political points, not to achieve the bipartisan consensus which is needed to enact major legislation. In fact, the legislative language was not even available for review until late last week. For these reasons, it does not deserve to be taken seriously by the Senate.

We must reject the simplistic and ineffective responses proposed by those who contend that the only way to help doctors is to further hurt seriously injured patients. Unfortunately, as we saw in the Patients' Bill of Rights debate, the Bush administration and congressional Republicans are again advocating a policy which will benefit neither doctors nor patients, only insurance companies. Caps on compensatory damages and other extreme "tort reforms" are not only unfair to the victims of malpractice, they do not result in a reduction of malpractice insurance premiums.

Not only does this legislation fail to do what it claims, but it would do many things that its authors are attempting to conceal. In reality, this legislation is designed to shield much of the health care industry from basic accountability for the care it provides. While those across the aisle like to talk about doctors, the real beneficiaries will be insurance companies and large health care corporations. This amendment would enrich them at the expense of the most seriously injured patients: men, women and children whose entire lives have been devastated by medical neglect and abuse.

S. 22 would drastically limit the financial responsibility of the health care industry to compensate injured patients for the harm they have suffered. This legislation is extremely broad in its scope. It defines a "health care liability claim" as any claim "based upon the provision of, use of, or payment for—or the failure to provide, use, or pay for—health care services."

It is attempting to use the sympathetic family doctor as a Trojan horse concealing an enormous array of special legal privileges for every corporation which provides a health care service, or insures the payment of a medical bill. For example, this proposal would shield HMOs and health insurers that refuse to provide needed care. Less accountability will never lead to better health care.

Every provision of this bill is carefully designed to take existing rights away from those who have been harmed by medical neglect and corporate greed.

This legislation would deprive seriously injured patients of the right to recover fair compensation for their injuries by placing an arbitrary cap on how much they can receive for non-economic loss, that is for the very real pain and suffering these victims experience every day. This cap only serves to hurt those patients who have suffered the most severe, life-altering injuries and who have proven their cases in court.

They are the paralyzed, the brain-injured, and the blinded. They are the ones who have lost limbs, organs, reproductive capacity, and in some cases even years of life. These are life-altering conditions which deprive a person of the ability to engage in many of the normal activities of day to day living. It would be terribly wrong to take their rights away. The Bush administration talks about deterring frivolous cases, but caps by their nature apply only to the most serious cases which have been proven in court.

A person with a severe injury is not made whole merely by receiving reimbursement for medical bills and lost wages. Noneconomic damages compensate victims for the very real loss in quality of life that results from a serious, permanent injury. It is absurd to suggest that $250,000 is fair compensation for a person paralyzed for life.

The sponsors of this bill claim that they have increased the cap from $250,000 to $750,000. But that claim is very misleading. The $250,000 limit would still apply to the overwhelming majority of malpractice victims, no matter how severe their injuries. The $750,000 limit would apply only to the small number of cases in which three different defendants—one doctor and two health care institutions—were all responsible for the victim's injury. It would not even apply in cases where three doctors all committed malpractice. In reality, nothing has changed from prior Republican bills. Nearly all victims would still be prohibited from receiving more than $250,000 for their injuries.

Caps are totally arbitrary. They do not adjust the amount of the compensation ceiling with either the seriousness of the injury, or with the length of years that the victim must endure the resulting disability. Someone with a less serious injury can be fully compensated without reaching the cap.

However, a patient with severe, permanent injuries is prevented by the cap from receiving full compensation for their more serious injuries. Is it fair to apply the same limit on compensation to a person who is confined to a wheelchair for life that is applied to someone with a temporary leg injury?

Caps discriminate against younger victims. A young person with a severe injury such as paralysis must endure it for many more years than an older person with the same injury. Yet that young person is prohibited from receiving greater compensation for the many more years he will be disabled. Is that fair?

Caps on noneconomic damages discriminate against women, children, minorities, and low income workers. These groups do not receive large economic damages attributable to lost earning capacity.

Women who are homemakers and caregivers for their families sustain no lost wages when they are injured, so they only receive minimal economic damages. Should a woman working in the home receive less compensation for the same injury than a woman working outside the home? Is that just?

A seriously injured child may be confined to his or her home for years of painful recuperation, but that child has no lost wages. Should he get less compensation than an adult with a similar injury? Is that fair?

Noneconomic damages—compensation for lost quality of life—is particularly important to these vulnerable populations.

In addition to imposing caps, this legislation would place other major restrictions on seriously injured patients seeking to recover fair compensation. At every stage of the judicial process, it would change long-established judicial rules to disadvantage patients and shield defendants from the consequences of their actions.

First , it would abolish joint and several liability for all damages. This means the most seriously injured people may never receive all of the compensation that the court has awarded to them. They may not even receive full payment for their lost wages and medical bills. Under this provision, health care providers whose misconduct contributed to the patient's injuries will in many cases be able to escape responsibility for paying full compensation to that patient.

Second, the bias in the legislation could not be clearer. It would preempt State laws that allow fair treatment for injured patients, but would allow State laws to be enacted which contained greater restrictions on patients' rights than the proposed Federal law. This one-way preemption contained in section 11(c) shows how result-oriented the legislation really is. It is not about fairness or balance. It is about protecting defendants.

Third, the amendment preempts state statutes of limitation, cutting back the time allowed by many States for a patient to file suit against the health care provider who injured him. Under the legislation, the statute of limitations can expire before the injured patient even knows that it was malpractice which caused his or her injury.

Fourth, it places severe limitations on when an injured patient can receive punitive damages, and how much punitive damages the victim can recover. Under the bill, punitive damages can only be awarded if the defendant acted "with malicious intent to injure" or "deliberately failed to avoid unnecessary injury." This is far more restrictive than current law. It entirely prohibits punitive damages for "reckless" and "wanton" misconduct, which the overwhelming majority of States allow. In the very small number of cases where punitive damages would still be allowed, the bill would cap them at twice the amount of economic damages, no matter how egregious the defendant's conduct and no matter how large its assets.

Fifth, it imposes unprecedented limits on the amount of the contingent fee which a client and his or her attorney can agree to—limiting it to 15 percent of most of the recoveries. This will make it more difficult for injured patients to retain the attorney of their choice in cases that involve complex legal issues. It can have the effect of denying them their day in court. Again the provision is one-sided, because it places no limit on how much the health care provider can spend defending the case.

If we were to arbitrarily restrict the rights of seriously injured patients as the sponsors of this legislation propose, what benefits would result? Certainly less accountability for health care providers will never improve the quality of health care. It will not even result in less costly care. The cost of medical malpractice premiums constitutes less than two-thirds of 1 percent, 0.66 percent, of the Nation's health care expenditures each year. For example, in 2004, health care costs totaled $1.88 trillion, while the total cost of all medical malpractice insurance premiums was $11.4 billion. Malpractice premiums are not the cause of the high rate of medical inflation. This bill will not make health care more affordable.

The White House and other supporters of caps have argued that restricting an injured patient's right to recover fair compensation will reduce malpractice premiums. But, there is scant evidence to support their claim. In fact, there is substantial evidence to refute it.

Between 2000 and 2003, there were dramatic increases in the cost of medical malpractice insurance in States that already had damage caps and other restrictive tort reforms on the statute books, as well as in States that did not. No substantial increase in the number or size of malpractice judgments suddenly occurred which would have justified the enormous increase in premiums that many doctors were being forced to pay. Now rates have stabilized, again both in States with and States without damage caps.

Comprehensive national studies show that medical malpractice premiums are not significantly lower on average in States that have enacted damage caps and other restrictions on patient rights than in States without these restrictions. Insurance companies are merely pocketing the dollars which patients no longer receive when "tort reform" is enacted.

Let's look at the facts. Slightly more than half of the States have a cap on medical malpractice damages. Many of them have had those statutes for a substantial number of years. The other half of States do not have a cap on malpractice damages. The best evidence of whether such caps affect the cost of malpractice insurance is to compare the rates in those two groups of States. Based on data from the Medical Liability Monitor on all 50 States, the average liability premium in 2005 for doctors practicing in States without caps on malpractice damages $45,719—was actually lower than the average premium for doctors practicing in States with caps, $51,405. There are many reasons why insurance rates vary substantially from State to State. This data demonstrates that it is not a State's tort reform laws which determine the rates. Caps do not make a significant difference in the malpractice premiums which doctors pay. This is borne out by a comparison of premium levels for a range of medical specialties.

The average liability premium in 2005 for doctors practicing internal medicine was more—18.7 percent more—for doctors in States with caps on malpractice damages—$16,212—than in States without caps on damages—$13,658. Internists actually pay more for malpractice insurance in States that have caps.

The average liability premium in 2005 for general surgeons was more—19.4 percent more—for doctors in States with caps—$57,662—than States without caps—$48,267. Surgeons are paying more for malpractice insurance in the States that have caps.

The average liability premium for OB/GYN physicians in 2005 in States with caps—$80,341—was also more than for doctors in States without caps—$75,233. OB/GYNs in States with caps paid slightly more—7 percent more—than in States without caps.

Clearly, a State's tort laws do not determine that State's medical malpractice insurance rates.

This evidence demonstrates that capping malpractice damages does not benefit the doctors it purports to help. It only helps the insurance companies earn even bigger profits. As Business Week Magazine concluded after reviewing the data at the height of the malpractice rate crisis "the statistical case for caps is flimsy."

In 2003, Weiss Ratings, Inc., a nationally recognized financial analyst, conducted an in-depth examination of the impact of capping damages in medical malpractice cases. Their conclusions sharply contradict the assumptions on which this legislation is based. Weiss found that capping damages does reduce the amount of money that malpractice insurance companies pay out to injured patients. However, those savings are not passed on to doctors in lower premiums.

The Weiss Report, stated:

> Since the insurers in the states with caps reaped the benefit of lower medical malpractice payouts, one would expect that they would reduce the premiums they charged doctors. At the very minimum, they should have been able to slow down the premium increases. Surprisingly, the data show they did precisely the opposite.

Between 1991 and 2002, the Weiss analysis shows that premiums rose by substantially more in the States with damage caps than in the States without caps. The 12-year increase in the median annual premium was 48.2 percent in the States that had caps, and only 35.9 percent in the States that had no caps. In the words of the report:

> On average, doctors in States with caps actually suffered a significantly larger increase than doctors in states without caps . . . In short, the results clearly invalidate the expectations of cap proponents.

Since malpractice premiums are not significantly affected by the imposition of caps on recovery, it stands to reason that the availability of physicians does not differ between States that have caps and States that do not. AMA data shows that there are 283 physicians per 100,000 residents in States that do not have medical malpractice caps and 249 physicians per 100,000 residents in States with caps. Clearly there is no correlation.

If a Federal cap on noneconomic compensatory damages were to pass, it would sacrifice fair compensation for injured patients in a vain attempt to reduce medical malpractice premiums. Doctors will not get the relief they are seeking. Only the insurance companies, which created the problem, will benefit.

Insurance industry practices were responsible for the sudden dramatic premium increases which occurred in some States between 2000 and 2003. The explanation for these premium spikes can be found not in legislative halls or in courtrooms, but in the boardrooms of the insurance companies themselves.

There were substantial increases in a number of insurance lines, not just medical malpractice, during that period. Insurers make much of their money from investment income. Interest earned on premium dollars is particularly important in medical malpractice insurance because there is a much longer period of time between receipt of the premium and payment of the claim than in most lines of casualty insurance. The industry creates a "malpractice crisis" whenever its investments do poorly. The combination of a sharp decline in the equity markets and record low interest rates several years ago was the reason for the sharp increase in medical malpractice insurance premiums during that period. What we witnessed then was not new. The industry has engaged in this pattern of behavior repeatedly over the last 30 years. When "tort reform" laws are enacted, the insurance companies pocket the resulting savings to bolster their profits.

Data from the National Association of Insurance Commissioners shows that in 2005, the profits for the five largest for-profit medical malpractice insurers were more than double those of the Fortune 500 average 17.7 percent v. 8.7 percent.

Doctors, especially those in high risk specialties, whose malpractice premiums have increased dramatically do deserve premium relief. That relief will only come as the result of tougher regulation of the insurance industry. When insurance companies lose money on their investments, they should not be able to recover those losses from the doctors they insure. Unfortunately, that is what is happening now.

Doctors and patients are both victims of the insurance industry. Excess profits from the boom years should be used to keep premiums stable when investment earnings drop. However, the insurance industry will never do that voluntarily. Only by recognizing the real problem can we begin to structure an effective solution that will bring an end to unreasonably high medical malpractice premiums.

There are specific changes in the law which should be made to address the abusive manner in which medical malpractice insurers operate. The first and most important would be to subject the insurance industry to the Nation's antitrust laws. It is the only major industry in America where corporations are free to conspire to fix prices, withhold and restrict coverage, and engage in a myriad of other anticompetitive actions. A medical malpractice "crisis" does not just happen. It is the result of insurance industry schemes to raise premiums and to increase profits by forcing antipatient changes in the tort law. I have introduced, with Senator LEAHY, legislation which will at long last require the insurance industry to abide by the same rules of fair competition as other businesses.

Unlike the harsh and ineffective proposals in S. 22, this is a real solution which will help physicians without further harming seriously injured patients. Unfortunately, the Republican leadership continues to protect their allies in the insurance industry and refuses to consider real solutions to the malpractice premium crisis.

I want to conclude with a quotation from the analysis of medical malpractice premiums by Weiss Ratings, Inc. Weiss Ratings is not speaking from the perspective of a trial lawyer or a patient advocate, but as a hard-nosed financial analyst that has studied the facts of malpractice insurance rating. Here is their recommendation to us based on those facts:

> First, legislators must immediately put on hold all proposals involving non-economic damage caps until convincing evidence can be produced to demonstrate a true benefit to doctors in the form of reduced med mal costs. Right now, consumers are being asked to sacrifice not only large damage claims, but also critical leverage to help regulate the medical profession—all with the stated goal that it will end the med mal crisis for doctors. However, the data indicate that, similar State legislation has merely produced the worst of both worlds: The sacrifice by consumers plus a continuing—and even worsening—crisis for doctors. Neither party derived any benefit whatsoever from the caps.

Before yielding the floor, I want to briefly address the second malpractice bill, S. 23, that the Republican leadership has brought before the Senate. The only difference between them is that the first bill would take basic rights away from all patients, while the second bill takes those rights away only from women and newborn babies who are the victims of negligent obstetric and gynecological care. That difference does not make the latter bill more acceptable. On the contrary, it adds a new element of unfairness.

The proponents argue that they are somehow doing these women and their babies a favor by depriving them of the right to fair compensation when they are seriously injured. It is an Alice in Wonderland argument which they are making. Under their proposal, a woman whose gynecologist negligently failed to diagnose her cervical cancer until it had spread and become incurable would be denied the same legal right as a man whose doctor negligently failed to diagnose his prostate cancer until it was too late. Is that fair? By what convoluted logic would that woman be better off? Both the woman and the man were condemned to suffer a painful and premature death as a result of their doctors' malpractice, but her compensation would be severely limited while his is not. She would be denied the right to introduce the same evidence of medical negligence which he could. She would be denied the same freedom to select the lawyer of her choice which he had. She would be denied the right to have her case tried under the same judicial rules which he could. That hardly sounds like equal protection of the law to me. Yet, that is what the advocates of this legislation are proposing.

Of course, this bill does not only take rights away from women. It takes them away from newborn babies who sustain devastating prenatal injuries as well. These children face a lifetime with severe mental and physical impairments all because of an obstetrician's malpractice, or misconduct by a health care provider or insurer. This legislation would limit the compensation those children can receive for lost quality of life to $250,000 in nearly all cases—just $250,000 for an entire lifetime. What could be more unjust?

There are babies who suffered serious brain injuries at birth and will never be able to lead normal lives. There are women who lost organs, reproductive capacity, and in some cases even years of life. These are life-altering conditions. It would be terribly wrong to take their rights away. The Republicans talk about deterring frivolous cases, but caps by their nature apply only to the most serious cases which have been proven in court. These badly injured patients are the last ones we should be depriving of fair compensation.

The entire premise of this bill is both false and offensive. Our Republican colleagues claim that women and their babies must sacrifice their fundamental legal rights in order to preserve access to OB/GYN care, that they must leave their rights at the door. The very idea is outrageous. For those locales—mostly in sparsely populated areas—where the availability of OB/GYN specialists is a problem, there are far less drastic ways to solve it.

This bill is based on the false premise that the availability of OB/GYN physicians depends on the enactment of Draconian tort reforms. If that were accurate, States that have already enacted damage caps would have a higher number of OB/GYNS providing care. However, there is in fact no correlation. States without caps actually have 29.1 OB/GYNS per 100,000 women, while States with caps have 25.5 OB/GYNS per 100,000 women. States without caps actually have more OB/GYNS serving their female population.

This is not a more acceptable bill because it applies only to women and newborn babies injured by obstetrical and gynecological malpractice. That makes it even more arbitrary, even more outrageous. Not one victim should be denied the basic rights that this bill would take away.

I urge my colleagues to oppose both of these very unfair bills.

The PRESIDING OFFICER (Mr. CORNYN). The Senator's time has expired.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I want to speak directly to the issue of the bill that applies to the need of women to be able to access doctors when they are delivering children and generally to get care from OB/GYNs. The Senator from Massachusetts has characterized this bill. Let me characterize it, as I think the facts are on the side of this bill.

The purpose of this bill is to allow women, especially women who are trying to have children, to have adequate health care. There is a crisis in this country today. Large numbers of women either cannot find an OB/GYN to assist them or if they can find an OB/GYN, they only have one choice. If they do not get along with that doctor, if they find they are not comfortable with that doctor, they have no other choice but that doctor.

This bill sets up a very clear decision: You can be for the trial lawyers or you can be for women. You can be for the trial lawyers or you can be for doctors who want to deliver babies as their profession. You can be for the trial lawyers or you can be for children, especially children in prenatal situations. That is the choice in this bill.

The facts are almost uncontrovertible because they are so clear. The number of doctors practicing and delivering babies is dropping radically. This is especially true—especially true—in rural areas. You cannot—let's put it this way: A trial lawyer cannot deliver a baby. They are talented people. In fact, in the years 2003 and 2004, they contributed over $185 million in political contributions, and as a result, they were able to garnish $18 billion in fees dealing with malpractice activity. So they are talented people. I do not deny that. But a trial lawyer cannot deliver a baby.

But we are getting to a point where if you are a young woman or a woman who desires to have a child, you are probably going to have to drive by the courthouse to find your doctor because they are being subjected to so many lawsuits, if they happen to be in the business of delivering babies.

New Hampshire is a classic example of this situation. There is only one doctor north of the White Mountains, which is a fairly large amount of area and a great place to live, and people who live there choose to live there because it is a great place to live. There is only one doctor above the White Mountains—that is called northern New Hampshire—who delivers babies. If that doctor is not around or if that doctor is on a break or maybe if you do not like that doctor, you literally are going to have to drive an hour, 2 hours, maybe even longer, in order to see a doctor if you are a woman who wants to get care in delivering your child. And believe me, that can be a dangerous experience, driving in a snowstorm. Hopefully, you can get somebody to drive you if you are about to deliver. But in any event, driving through a snowstorm in northern New Hampshire is a difficult situation. But that is what people are subjected to in that part of the State because the doctors who used to practice up there, who used to deliver babies, cannot afford to deliver babies any longer in that part of the State. Why? Because the population is not large enough to pay their premiums, which have escalated, skyrocketed, doubled—doubled upon doubled—over the last 20 years in the area of delivering children. So they have opted out of the practice. In fact, one doctor simply closed her practice and moved to another State because of the fact that the cost of insurance premiums was so high.

Another whole practice in Rochester, NH, with five OB/GYNs, simply picked up their practice and moved across the State line to Maine because of the cost of delivering babies.

One of the leading doctors in the State, Dr. Cynthia Cooper, who is head of the New Hampshire Board of Medicine and an OB/GYN, has given up delivering babies, as I understand it.

Dr. Patricia Miller from Derry, NH, a town of 38,000 people, has also given up delivering babies, after 15 years.

I had a doctor in Laconia, which is in the Lakes region—a beautiful part of the State—who essentially told me he has to deliver babies through November simply to pay the cost of the premium for his insurance. He does it because he feels it is his obligation, his obligation as a doctor, because that region would not have his talent and his care. But believe me, it is hardly an incentivizing event to pursue that type of practice.

What drives these premiums? Well, if you listen to the Senator from Massachusetts, it is the evil insurance companies. Insurance companies do not drive these premiums. What a fallacious argument that is. They set the premium in order to be able to afford to pay the costs, which costs are generated by the excessive amount of lawsuits that are being brought and the extraordinary recoveries which, on occasion, are simply out of whack.

When trial lawyers in this country are obtaining $18 billion in fees over a 2-year period that could have been money—if the Senator from Massachusetts wants to help out the health care system—that could have been money which could have gone into health care delivery, think of how many OB/GYNs would be practicing out there.

Well, one State decided to do something about that, the State of the Presiding Officer: Texas. In an act of considerable clairvoyance, I would say, they decided to take the California model, which has worked pretty well, and improve on it. As a result, they have put in place a tiered system of recovery, which is what the bill does. It essentially follows the Texas model, which was a follow-on to the California model.

In both Texas and California, recovery has been reasonable for those people injured. But equally important, doctors have started to practice medicine again, instead of just basically defending themselves from lawsuits. It has become affordable to become a doctor and practice in the State of Texas, so much so that the facts speak for themselves. Mr. President, 3,000 new doctors have moved into Texas since this law was passed, with 81 new obstetric doctors. That is a huge increase in medical opportunity and care, especially for women, women of childbearing years, and for children because Texas had the good sense to take this approach. The same has occurred in California.

So progress has been made. We have uncontrovertible facts which show that you can resolve this issue, that you can allow women to have the opportunity, especially women of childbearing age, to see doctors and have choices in doctors and be able to be cared for by doctors who wish to deliver babies and can afford to deliver babies.

This is a huge step forward for those two States. It is time the Federal Government, the National Government, address the issue, also. That is why we have brought forward this very targeted bill.

The bigger bill, which I also support, is an excellent idea. There are other specialties that need attention: neurosurgeons, emergency room docs, doctors, especially, practicing in underserved areas. If you are a doctor in an emergency room or if you are a doctor practicing in an underserved area, you are not making a lot of money. You are fortunate if you are making anything. I do not know what the hourly rate works out to, but those doctors work massive hours. Considering the huge amount of expense they put into their education and their professional development, their return is not all that high if they have decided to pursue caring for people in underserved areas, rural or urban areas, or emergency rooms. Yet they get hit with these premiums, which essentially make it very difficult for doctors to choose that course of practice, which is so important.

So a broader bill does make sense. But it gets attacked, and it has been attacked rather aggressively from the other side, with the footnotes that have been handed to the other side by the trial lawyer groups, as they try to set up the straw dog of the insurance companies or the straw dog of some sort of recovery system that is unfair to the seriously injured. So the bigger argument becomes more complex and more difficult to understand and can be more obfuscated and has been effectively by our friends on the other side and by the trial bar.

But it is very hard to obfuscate, it is very hard to get past the simple fact that there is only one OB/GYN practicing in northern New Hampshire. It is very hard to get by the simple fact that if you are a woman in rural Kansas or rural New York or rural Illinois or urban areas within those States or rural Texas, you are going to have a lot of problems finding a doctor when you decide to have children because the doctors have been driven out of the business of the practice by these excessive and unrelenting lawsuits.

So this bill is very simple. Rather than getting into the rather convoluted, smoke-filled discussion of the entire medical reform issue, it just goes at one great, important need in our country; that is, if a woman wants to have a child, she should have high-quality medical care so that child is brought into the world in the best possible condition and the woman's health is protected during the childbearing period. This bill will do that, and I hope everyone will support it.

At this point, I reserve the remainder of our time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THUNE. Mr. President, today the Senate will vote on a couple of cloture motions dealing with medical malpractice reform. We will have a debate later this week on small business health plans. This is a week in which we have an opportunity to address what is probably one of the most important, if not the most important, domestic policy issues that we will deal with in the foreseeable future; that is, access to health care for more Americans, more affordable health care for more Americans.

These issues are not new to the Congress. In fact, as a Member of the House of Representatives, I had the opportunity to vote numerous times on medical malpractice reform, on small business health plans to allow more people to have access to health care by joining larger groups, thereby driving down the cost of insurance and providing coverage to some of the 45 million people who currently are not covered.

Estimates are that as small business health plans pass, we will have 11 million more Americans with health insurance, making a big dent in the ranks of the uninsured. In the time since I first came to Congress in 1996, in the last decade, there have been 13 different votes in the Congress: There have been five votes on medical malpractice reform; there have been eight votes on small business health plans. In those cases, the House of Representatives has acted. There have been majority votes coming out of the House. That legislation would then come to the Senate where it would be obstructed, filibustered, and ultimately would die.

I submit to my colleagues that these are both measures for which there is majority support in the Congress. If you look at the House, they have passed it repeatedly. If you look at the Senate, if we had a vote today and we had to get 51 votes or a simple majority in the Senate, we would be able to pass medical malpractice reform. We would also be able to pass small business health plans. The other side has repeatedly denied us an opportunity to have an up-or-down vote on these particular issues. That is wrong. It is wrong for a lot of reasons, but it is wrong, most importantly, because it is hurting the welfare of Americans who desperately need access to health care and need the cost of health care brought down.

Today when we vote on medical malpractice reform, we will be addressing an issue that affects the well-being of all Americans because in one way or another, when physicians have to deal with escalating premiums for liability insurance, those costs ultimately get passed on to all of us. If you don't believe that, look at the statistics.

In 2002, the Health and Human Services issued an update on the medical liability crisis. It found that the direct cost of medical liability coverage and the indirect cost of defensive medicine increased the amount the Federal Government must pay for Federal health programs such as Medicare and Medicaid by $22.5 billion a year.

Additionally, a January 2006 Pricewaterhouse Coopers study entitled "The Factors Fueling Rising Health Care Costs," concluded that medical liability and defensive medicine accounted for 10 percent of the increase in the rising cost of health insurance premiums.

The median liability jury award in medical liability cases almost tripled between 1997 and 2004. In 2003, the GAO found:

> Losses on medical malpractice claims—which make up the largest part of insurers' costs—appear to be the primary driver of rate increases in the long run.

With these statistics and findings of not only the GAO but numerous independent studies, it is easy to see that it is time for Congress to address the medical liability crisis. S. 22 and S. 23 provide needed and sensible medical liability reform. Based on the Texas stacked cap model for noneconomic damages, these pieces of legislation allow up to $750,000 for noneconomic damages and unlimited awards for economic damages. Additionally, plaintiffs may recover punitive damages twice the amount of economic damages, or $250,000, whichever is greater.

S. 22 and S. 23 also maximize patient recovery by limiting the fees attorneys may recover on a contingency basis. My State of South Dakota currently has a cap of $500,000 for noneconomic damages. S. 22 and S. 23 respect States rights and do not preempt noneconomic damage caps in place, not only in South Dakota but in 25 other States as well. It is time the obstruction in the Senate come to an end and that we put patients before lawyers and allow a straight up-or-down vote on S. 22 and S. 23. Obstructing a vote on medical liability reform jeopardizes every American's access to quality health care and raises the cost for individual taxpayers as well as for State and Federal Governments. This is especially true in rural States such as South Dakota where there is only one licensed physician for every 450 residents.

I believe it is high time the Senate show the American people that Congress understands their concerns about access to and the cost of health care. Pass S. 22 and S. 23 and do what I believe a majority in the Senate and the House of Representatives support: that is, to address the rising cost of health care by putting reasonable limits in place, many of which have been adopted and are successfully working in

States throughout the country. It is time to end the obstruction and allow these measures to be voted on. I hope my colleagues will vote that way when the cloture votes come up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, a lot has been said about the Texas model, which is the bill that we are considering today. I wanted to talk a little bit about what the Texas situation was before 2003 when significant medical malpractice reform was enacted.

According to the Texas Department of Health, 24 counties in Texas had no primary care physicians, 138 counties had no pediatricians, and 158 counties had no obstetricians. Texas ranked 48th of the 50 States in physician manpower. Why were we having such trouble? Because the cost of doing business in Texas before 2003 was unsustainable due to increased litigious activity. Insurance rates were driving our doctors out of Texas, or they were going out of business and not even practicing medicine anymore.

In 1991, Texas averaged 13 claims per 100 physicians. Yet by 2000, Texas averaged over 30 claims per 100 physicians. Of these claims, there was a disproportionate growth in noneconomic damages, damages such as pain and suffering, loss of consortium. This growth was in contrast to awards of economic damages such as lost wages and medical care costs. In 1991, noneconomic damages averaged only 35 percent of total verdicts. By 1995, they were 65 percent of total verdicts.

From 1999 to 2003, the Texas Medical Liability Trust, which covered about one-third of the State's doctors, increased rates by 147 percent. In the Rio Grande Valley, physicians in general surgery and OB/GYNs ranked sixth and seventh, respectively, in the Nation for highest premium rates in 2002. Naturally, all of these costs were passed on to consumers. The impact on litigation in the Texas health care system was undeniable and unsustainable.

In 2003, Texas made bold changes to the tort system in an attempt to restore access to health care, and we have seen a dramatic change. Texas has gained more than 3,000 physicians since passing liability reform. After a net loss of nine orthopedic surgeons in our State from 2000 to 2003, the State has experienced a net gain of 93 orthopedic surgeons since 2003. After a net loss of 14 OB/GYNs from 2001 to 2003, Texas has had a net gain of 91 since 2003.

We have also added 273 anesthesiologists, 24 neurosurgeons, 24 pediatric cardiologists, 14 pediatric oncologists, and 10 pediatric surgeons since passing liability reform.

Claims in most Texas counties have been cut in half. Prior to the reforms, statewide claims averaged close to 400 per month. After the reforms, claims have averaged 200 per month in our State.

Prior to reform, Texas had five liability carriers. Since reform, Texas has added 3 new rate-regulated carriers and 13 new unregulated insurers. The five largest insurers announced rate cuts last year, with an average premium reduction of 11.7 percent.

Anecdotally, I have talked to doctors who are coming back into practice, doctors who have said they have seen as much as 40 percent cuts in premiums for medical liability.

Medical liability reform works. Lawsuits are down, insurers have returned to the State, rates are down, and physician numbers are up. This means better health care for the citizens of our State.

The bills before us that we will be voting on today are modeled on the Texas plan. Damages for pain and suffering are allowed, but not at such exorbitant rates that doctors are taken out of our health care system. Since 2003, Texas has seen an increase in the quality of health care for our citizens because more physicians are coming back to the State.

I urge my colleagues to support the bill. Year after year, we have tried to reform medical malpractice in this country, and the Senate has been the stumbling block. Let's do something good for health care and access to health care for our citizens, and let's start debating malpractice reform.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The minority controls the time until 5 p.m.

Mr. LEAHY. Mr. President, I find it unfortunate that we do not hear any discussion by proponents of this legislation about what is best for patients injured or killed by medical errors. The debate in favor of malpractice award caps has been cast in terms of patient accessibility to health care, but what about patient safety? Capping noneconomic damages may benefit insurance companies, but it does nothing for victims and nothing to address the serious problem of preventable medical errors.

Despite all of the rhetoric and all the myths and misinformation about the so-called crisis facing our medical professionals, what about the fact that studies have estimated that medical errors kill up to nearly 100,000 people each year? How does capping what a victim can recover help address this tragic fact? Rather than having all the talk be about alleged physician shortages and phantom reductions in insurance rates, we should be looking at how to improve the quality of care patients receive and how to improve patient safety. This legislation does nothing to provide any incentive for health care providers to improve the safety of their services, drug companies to rigorously test their products, or nursing homes to provide responsible and compassionate care to our elderly citizens.

Aside from the fact that caps on noneconomic damages will not address exorbitant insurance rates, such caps harm both women and children. The Wall Street Journal published an article in 2004 detailing the effects of California's non-economic damages cap. The article discussed how the California law has created two classes of malpractice victims: those who earn large amounts of money and get good representation, and those who do not and cannot find advocates willing to take on their cases. The effect is that many women who do not work, but raise children, cannot get representation because they cannot point to an annual salary that will be lost, and thus lawyers are reluctant to invest the hundreds of thousands of dollars necessary to litigate a meritorious claim. The same is true for children, whose recovery under this legislation would depend on often difficult estimates of the cost of future care. A California attorney quoted in The Wall Street Journal article summed up the California law's effect by concluding: "We are saying to doctors and hospitals it's OK to kill somebody who comes from a poor family because ultimately they aren't going to have the same effect on our medical-malpractice insurance as somebody who comes from a rich family." The similar one-size-fits-all approach in this legislation is the wrong way to go.

I also question the timing of partisan legislation that will do nothing to address patient safety. As insurance rates, like gas prices, continue to soar to the benefit of corporate profits, as the number of uninsured continue to rise during this presidency, the Republican-controlled Senate seeks to take up partisan legislation that will help a few very powerful insurance companies become even more powerful. Rather than take up legislation to apply competitive antitrust principles to the business of insurance, the majority leader insists that we limit our actions to legislative proposals that will deprive citizens injured by medical errors a full measure of justice. Instead of taking up legislation to push the frontiers of life-saving medicine through stem cell research, we are going to debate whether we should make it easier for insurance companies to continue their predatory behavior at the expense of both doctors and patients. Instead of calling this a malpractice bill, we should call it a gift to the insurance companies bill.

In recent weeks, hundreds of thousands of Americans have taken to the streets in peaceful demonstrations to urge sensible and humane immigration reform and the public clearly wants Congress to address these issues and to strengthen our borders, and instead we are discussing how to dismantle our internal borders and tread on State sovereignty by nullifying State tort law. A war rages in Iraq in which our Nation's best and bravest are making the ultimate sacrifice to advance democracy, and meanwhile we are talking about how to curtail Americans' access to justice. Forty-five million people do not have health insurance in this country, and yet we are considering legislation that will make it harder for children who suffer lifelong injuries from medical errors to get the long term care they need. The gap between the richest Americans and everyone else continues to widen, but instead of taking up legislation to raise the minimum wage, the majority leader wants to shield lucrative insurance companies from having to pay fair awards to medical malpractice victims. Where in the majority leader's schedule are the American people's real priorities?

There are ways to improve health care. These bills do not do that. There are alternatives that address the high costs of medical malpractice insurance and patient safety, but they differ from the narrow approach we debate today. There are solutions to both the current high rate of medical errors, as well as high insurance costs, that will not further victimize patients or intrude into the sovereignty of State legislatures and citizens, but they are not brought before the Senate for consideration and action.

If we want to address high insurance costs, let us address the unhelpful practices within the insurance industry and find a real solution that does not penalize victims of medical errors. If we want to bring down the number of medical errors, merely cutting costs and increasing profits for insurance companies is not the way to go. Capping malpractice awards does nothing to treat the root cause of malpractice lawsuits. Let us put patients before insurance companies in this debate and find real solutions to the preventable medical errors that are occurring every day.

Some of us have proposed legislation to tackle the problem of rising insurance costs without taking away American citizens' access to justice. If we want to improve patient care and lower the number of medical malpractice claims, we need to find ways to prevent medical errors at the rate they occur now. That is common sense. Senator OBAMA has proposed the Hospital Quality Report Card Act of 2006 to provide accountability within those hospitals compensated through Medicare by requiring highly detailed reporting of safety procedures, patient accessibility, the incidence of errors and infections, and many other areas important to both patient safety the effectiveness of treatment. Senator OBAMA's bill would provide the information to help consumers make an informed decision about where to obtain treatment. It would provide the information necessary for hospitals to improve the safety and effectiveness of their services. It would allow insurers and purchasers of insurance to reduce the likelihood of claims by sending their insured customers and employees to the best hospitals available, and would allow doctors and policy makers to target areas in need of improvement. Senator OBAMA's bill puts the priorities of patient safety and health care improvement first. I commend the Senator from Illinois for this bill and I urge other Senators to join me in supporting it.

If we want to reign in the costs of insurance for health care providers, we must address the conditions within the insurance industry. I have proposed a bill along with Senator KENNEDY to exempt medical malpractice insurers from the counterproductive McCarran-Ferguson Act. This bill would give regulators the tools necessary to prevent anti-competitive business practices that hurt doctors and patients. If medical malpractice insurers are artificially driving up the costs of insurance, we should stop it. Health care in our country is too important to allow profits at the expense of patients. We are not going to stop soaring insurance premiums by cutting off the access of victims to justice. We are going to stop them by stopping the anti-competitive behavior of the insurance companies. Again, health care in our country is too important to allow profit at the expense of patients, especially when in the last 6 years we have seen the highest increase in the number of uninsured Americans in my lifetime.

I urge other Senators to join me in rejecting legislation that will do nothing more than benefit profitable insurance companies under the guise of improving patient accessibility. Let us work together in a bipartisan fashion to come up with real solutions to the problem of preventable medical errors. Let us find ways to end the abusive practices in assisted living facilities and nursing homes. Let us find ways to lower insurance costs without hurting victims. Those in need of care must be able to trust their doctors and health care providers without doubt. Elderly Americans deserve the best care that can be provided. Our doctors and other health care providers deserve to be treated fairly in the marketplace when purchasing malpractice insurance, and not be affected by artificial monopolies and price-fixing cartels. If we work together, we can make progress and make a difference.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, first, I thank Senator ENZI from Wyoming and his staff and my staff for the effort they have put into S. 1955. I was pleased to work with them in trying to help our Nation's small businesses and our Nation's uninsured.

Mr. President, 45 million people don't have health insurance in our country today. We have heard that statistic so many times that it is starting to feel numb to us, but we can't let that happen. Forty-five million people translates to about one of every six Americans. I would like to put a face to that figure and start bringing some feeling back to the state of health insurance coverage in the United States.

If the 45 million uninsured Americans held hands and formed a chain between New York City and Los Angeles, they would not only stretch the entire distance, they would be able to go back and forth from coast to coast 14 times.

We can no longer wait to help this ever-growing number of people gain health insurance. It is time to start increasing the number of insured people in our country, and this bill does just that.

It is projected that S. 1955 will make health insurance affordable for 1 million working Americans, and that is a sizable start to the process of providing health insurance to the one in six without it.

By allowing business and trade associations to band their members together and offer group health insurance coverage on a national or statewide basis, we will be making an important stride in making health insurance affordable for Americans.

Nearly every week since becoming a Senator, I have heard from small business owners in my State that can no longer afford health care for themselves or their employees.

Health care premiums are experiencing double-digit growth annually. Small businesses can't keep up with the costs. Since 2000, group premiums for family coverage have grown nearly 60 percent. So if we don't do something to help small businesses cope with the cost of health insurance, soon we will have an entire workforce without health insurance coverage.

This bill, the Health Insurance Marketplace Modernization and Affordability Act of 2005, is designed to lower health insurance costs by stimulating market reforms and promoting competition, while allowing trade associations the ability to offer group insurance plans for employees.

It is important to note that we keep oversight at the State level with the State insurance commissioners. For the past 10 years, the Senate has debated AHP legislation, and for 10 years nothing has happened to help our small businesses provide those health benefits. And small business health plans can work. It is time we looked at something that can and will work.

I believe in this legislation because it is the first health benefits legislation to get both sides—the business folks and the insurance folks—working together.

Senator ENZI and I know that concerns have been raised about this bill, and each time we have been approached by a group with a concern, we have listened and we have tried to work together to strengthen this bill and its hopes for making health insurance affordable for America's small businesses.

The traditional AHP bill gave a rating and mandate advantage to association plans that resulted in adverse selection and an unlevel playing field. The Enzi-Nelson bill eliminates the rating and mandate advantage that Federal AHPs would have had under previously proposed legislation, which went nowhere. As a former insurance commissioner myself, it was crucial to me that this bill adhere to strict insurance principles. I think the bill before us will do just that.

As I see it, we have three options. The first is to do nothing to help the 45 million uninsured Americans. Since I genuinely believe we all want to improve health care, I will move on to the next option.

The second option is to keep trying to pass AHP legislation year after year, but I am afraid this approach will result in about the same dismal outcome as the do-nothing option that no one wants.

The third option, which I think is the best solution, is to act on small business health plans and pass this legislation.

In Nebraska, there are at least 30,000 small businesses with fewer than 50 employees who would be directly impacted by this legislation. Currently, 20,000 of these businesses don't offer health benefits.

I read a report last month by respected actuaries who looked at our bill. They believe it will help small businesses reduce health insurance costs by $1,000 per employee and shrink the number of uninsured working families by 8 percent. That is 1 million Americans who will now be able to afford health insurance because of the bill.

Recent survey results conducted by a bipartisan research firm shows that S. 1955 enjoys the support of 89 percent of Americans. It is a rare day in the United States anymore when 9 out of 10 people are united behind a cause.

So I hope this unity carries over to the Senate floor and that colleagues will join with Senator ENZI, myself, and others and pass S. 1955. It is in the best interest of Americans who want health insurance.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I rise today to speak about the medical liability reform bills before us today: one is a comprehensive reform bill that I introduced, and the other specifically deals with OB/GYNs, which Senator SANTORUM introduced.

There are a couple of very important points to make on this legislation. First of all, Senator NELSON, a friend of mine, just spoke about the number of uninsured Americans. Over the next couple of days, we are going to vote on legislation to establish Small Business Health Plans. This is good legislation that is intended to help reduce the number of uninsured.

But another problem related to the number of uninsured Americans is the high cost of health care. The cost of health care is making it too expensive for people to afford health insurance. One of the primary drivers of health care costs is increasing medical liability premiums for health care providers.

Doctors are being forced out of their practices because they cannot afford to practice anymore. We saw the trauma center in southern Nevada close for a 10-day period. It serves 10,000 square miles. People died because of the closure. We have also seen maternity wards close across the country. Neurosurgeons and other specialists are no longer taking calls unless the calls are for cases that are not very risky. Specialists can't afford to take high-risk cases because they risk losing everything they have based on seeing one case.

I have a good friend in southern Nevada who practices obstetrics. In his practice, he specializes in high-risk pregnancies. Because of the medical liability problems that we have seen in the past several years, his insurance company limits the number of high-risk pregnancies with which he can assist.

If you are a woman and you are pregnant with a high-risk pregnancy, it would seem to me that you would want the best of the best to take care of you. That only makes sense. But because of the medical liability crisis we are facing in this country, the best of the best are limited in the number of cases they can see.

If you are a doctor in America today—this is becoming a truism—you will be sued. If you practice long enough, you will be sued in America today. We need to deal with the number of frivolous lawsuits that are clogging our legal system.

Every American needs to ask themselves this fundamental question: If you were in an automobile accident or if you needed care in an emergency room, and the specialist you wanted to see wasn't available, wasn't there, was no longer practicing, or wouldn't take the call, would you accept the reason that this happened is because this body, the Senate, wouldn't even take up a bill and debate medical liability reform, which could bring down health care costs, as it has in several States across America? If you were a mother who had a high-risk pregnancy or any type of pregnancy, and you couldn't get obstetrical care, how would you feel if the reason you couldn't get care was because your doctor left practice or left the State because medical liability insurance premiums were too high?

We have a serious problem. According to the American Medical Association, 21 States are in crisis today, 6 States are not, and the rest of the States are headed toward crisis. The six States that are not in crisis have all passed meaningful medical liability reform. The bill before us today is modeled after one of those States: the State of Texas. The State of Texas has a $250,000 cap for a judgment against a health care provider. In addition, the patient can be awarded up to $250,000 for a judgment against one health care institution. If two or more institutions are involved, the patient can receive up to $500,000, with each institution not liable for more than $250,000. Thus, injured patients can be awarded noneconomic damages for pain and suffering totaling $750,000. The legislation has no limits on economic damages for necessary health care expenses that you may incur over your lifetime. You can sue for unlimited economic damages. But, the caps on noneconomic damages are key to whether the legislation is effective.

Let's compare a couple of States, Texas and Pennsylvania. Texas has enacted meaningful medical liability insurance reform; Pennsylvania has not. These are just two examples. In Texas, doctors are moving back to the State. As a matter of fact, nine hundred doctors specializing in emergency care and high-risk procedures have moved to Texas since 2003, when Texas law was enacted. Texas infants and children now have better access to specialists. Ninety-four pediatric specialists alone have moved into the State. In contrast, Pennsylvania doctors are leaving the State. I believe there are more medical schools in Pennsylvania than practically anywhere else in the country, yet doctors are leaving the State—not because they don't love Pennsylvania, but because they cannot afford to practice in Pennsylvania. In Texas, the premiums for medical liability insurance policies are going down. In Pennsylvania, they continue to skyrocket. Because of medical liability reform in Texas, 30 new medical liability insurers have come into the State to write policies for doctors. In Pennsylvania, medical liability insurers are leaving the State.

The difference here is that doctors in Texas can shop among 30 different medical liability insurers. And, market forces bring insurance prices down. Because of all of this, it is becoming less expensive to practice medicine in

Texas and more expensive to practice in Pennsylvania.

The bill I offered, which is before us today, is modeled after the Texas legislation. The bill establishes caps on noneconomic damages. The bill also limits attorneys' fees. This provision will ensure that patients receive a larger percentage of their damage awards. I believe that the person who is injured with a true medical malpractice case should get the award instead of having the award go to higher and higher attorneys' fees.

My legislation also includes an expert witness provision to ensure that relevant medical experts serve as trial witnesses. This provision is extremely important. Today, if you have a medical liability case before a jury, they bring in so-called professional witnesses to testify who are used to further abuse the system. There is a whole industry of these so-called professional witnesses who travel around the country and testify. The problem is that a lot of these so-called professional witnesses are not experts in the field in which they are testifying. This bill says that if you are, for instance, testifying in a neurology case, then you should be a specialist in neurology. I know this is common sense, but that is not the way our courts work today. This bill would require a specialist or an expert to truly be an expert in the field in which they are testifying.

This bill has been contentious for several years. The trial lawyers and their cohorts spent $182 million over the last few elections. And they have gotten back out, just in medical liability awards, $18 billion. That is a 10,000-percent return on their investment in politics.

We cannot allow the trial lawyers to control this debate. We cannot allow the trial lawyers to say: We are not even going to allow for debate of this bill on the floor of the Senate. That is what is happening. This bill isn't even going to be allowed to have an up-or-down vote. Some people say: Let's have insurance reform. Let's bring it all on. Let's have those amendments and let's debate it. But the other side of the aisle is not even allowing us to debate this bill on the floor of the Senate.

This crisis is not going away; it is getting worse in America. We must act as a responsible body. It is unfortunate that the greatest deliberative body supposedly in the history of the world can't even deliberate on this bill. It is time to bring real medical liability reform to the floor of the Senate and debate it. Let's let the American people see what the medical liability reform debate is all about. Let's go forward so that we can save our doctors, nurses, nurse midwives, and other health care providers, so that when patients need care, they get that care.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I want to continue on with some of the comments I was making earlier about the critical situation in Pennsylvania with respect to this liability crisis and a couple of examples of how out of control the system has become. I was at St. Luke's Hospital up in the Lehigh Valley, and I was saddened by the changes that have happened with some of the losses of physicians that have occurred in there. It is one of the growing areas of our State, and this is an area that has been hit with very high rates of malpractice and obviously, as I will discuss here, losing physicians.

I want to talk about a couple of things. One is a case that St. Luke's was involved in that tells you how absurd, and particularly in this case, the jury awards are in Philadelphia, which has been the big problem area in Pennsylvania—some of the jury awards that have come out of Philadelphia.

We had a case in September and October of the year 2000 which involved a baby girl born 3 months premature to a 17-year-old mother whose medical records indicated a crack cocaine addiction. The mother began experiencing complications, including a partial placental abruption and premature labor. The mother was admitted to another hospital for these complications and then transferred to St. Luke's. The mother was placed on strict bed rest and given medication to stop the onset of labor and to prevent progression of the placental abruption. Despite warnings from her doctor about the risks to her baby of premature birth and possible neurological damage, possibly death, the mother, against medical advice, left the hospital. She turned up 3 days later with complete placental abruption and premature delivery could not be avoided at that point. Emergency surgery was performed. The baby was delivered weighing 4.1 pounds. The baby had a common condition with premature babies which is an opening in the heart that usually closes shortly after birth. The baby was treated for 29 days in the neonatal intensive care unit at St. Luke's, was given medication to attempt to close the opening in the heart. The baby had an adverse reaction to the medication. Surgery was required to close the opening. The surgeon was unsuccessful. There were no documented complications in the surgery, no allegations that St. Luke's did anything wrong or improper in her care.

The baby was transferred to another hospital for further surgery. During treatment at the second hospital, the baby had complications, was transferred back to ICU at St. Luke's. Again, no documented complications during the second stay at St. Luke's up until the child's release. The mother during this time gave up parental rights. The baby was adopted down the road by parents who elected not to seek legal action. But—and this is somewhat unknown—somehow or another, an attorney in Philadelphia was appointed the guardian ad litem to the child because of the child's nexus to a second hospital located in Philadelphia County. So the lawyer sued on behalf of the baby without the consent or knowledge of either the actual parent or the adopted parent.

The verdict in the case was $100 million against the hospital—a $100 million verdict in this case. So you wonder: Well, gee, why are we trying to put caps on awards? A $100 million verdict in this case. That verdict would have shut down this hospital, which is a major medical center in the Lehigh Valley. Subsequent to the verdict, they negotiated a settlement for substantially less money. But the bottom line is, you have a situation where things get out of control because bad things happen to people. People are injured. In this case this little baby, because of a whole lot of factors I have detailed, is going to have a tough life. But is it the fault of St. Luke's Hospital? Is it the fault of the physicians who were attending? The answer from all indications is no. But you have someone who feels bad that this child is going to need some help, so you give verdicts of $100 million.

The consequence at St. Luke's was that since 2000, 32 private physicians have left St. Luke's as a direct result of the malpractice insurance crisis. Twelve OB-GYNs, 5 neurosurgeons, 2 pulmonary specialists, 3 orthopods, 3 general surgeons, 2 internists, and 1 pain management specialist. There has been a 44-percent decline in the number of private practice OB-GYN physicians on their medical staff.

One of the reasons I have introduced S. 23 is because it is not just a problem at St. Luke's, it is a problem in Philadelphia, a problem in Pittsburgh. We are down to I think three maternity wards in the city of Pittsburgh. This is a problem across our State. Unfortunately, the heavy hand of politics is played not just here in Washington but also in our State Capitol.

There was a study done that showed that the trial attorneys in America in the 2003–2004 election cycle contributed $182 million to political campaigns—$182 million. That sounds like a lot of money. It is a lot of money. But it is actually a pretty good investment on the part of the trial attorneys. Because for that $182 million, they were able to collect $18 billion in fees—$18 billion in fees. That is a 10,000-percent rate of return. Not a bad investment. So they are investing in the political climate here. They are investing to make sure there is no balance in the system. They are investing because they want to keep things out of whack. They want to keep those 40- and 50-percent awards, the percentages of contingency fees to these big awards, so they can keep the gravy train coming.

That is something our health care system cannot afford. We cannot afford to allow this kind of litigation to be practiced in the health care arena. It is destroying our ability to keep physicians in Pennsylvania. It is destroying our ability to have responsible medicine practiced—not defensive medicine but appropriate medicine and responsible medicine that treats patients the way they should be treated, not the way they need to be treated to avoid possible litigation.

That is not responsible medicine. That is not the medicine physicians want to practice. But, increasingly, in my State, that is the medicine they are practicing, and unless we do something tonight, in a few minutes, they are going to have to continue to practice that way.

Mr. VOINOVICH. Mr. President, I rise to speak today about the dilemma this Nation is facing regarding access to quality, affordable health care. Next to the economy, it is the greatest domestic challenge facing our Nation. In fact, the rising cost of health care is a major part of what is hurting our competitiveness in the global marketplace.

One of the biggest factors driving health care costs through the roof is medical lawsuit abuse. I have been concerned about this issue for quite some time—in fact, since my days as Governor of Ohio. I wish we had the outpouring of support for medical liability reform back then that I see now. In 1996, I essentially had to pull teeth in the Ohio Legislature to pass my tort reform bill.

I signed it into law in October 1996. Three years later, the Ohio Supreme Court ruled it unconstitutional, and if that law had withstood the supreme court's scrutiny, Ohioans wouldn't be facing the medical access problems they are facing today.

While things are getting marginally better in some communities in Ohio thanks to the California MICRA-like reform initiatives that were passed in Ohio in 2002 and 2003, doctors are still leaving their practice, and in too many towns, patients are not able to receive the care they need. In fact, too many physicians in northeast Ohio are still feeling the strain of skyrocketing premiums. For example, thoracic surgeons in Ohio are paying as much as $181,000 annually, and OB/GYNs in the area are paying $200,000 annually for liability coverage.

The past 5 years have been especially tough on physicians.

Back in 2002, The Medical Liability Monitor ranked Ohio among the top five States for premium increases, and no one felt the impact of this increase more than the Schwieterman family in Ohio's rural west-central Mercer County. I have mentioned brothers, Doctors Jim and Tom Schwieterman, along with their father, retired Dr. Don Schwieterman, before here on the floor, but their story is worth repeating.

Together, these 3 doctors have delivered about 5,700 babies over the years. This family has a 113-year history of bringing babies into the world—their great-grandfather started their current medical practice in 1896. Most importantly, they have never been sued for a delivery.

Yet, as of September 27, 2004, this family gave up delivering babies because of escalating malpractice insurance costs. Their insurance rates rose from $25,000 annually to over $80,000 in just 4 years—a threefold increase. Dr. Jim Schwieterman has stated that he would continue to deliver babies if he could just break even; unfortunately, he can't.

This situation becomes even more devastating when you learn that Dr. Jim Schwieterman was one of only a handful of obstetricians providing obstetrical care in Mercer County. Now, pregnant mothers must travel, in many cases, outside of the county to get obstetrical care.

Women in Morrow County, OH, are faced with a similar situation. As of January 2003, the only remaining physician in the county still delivering babies, Dr. Bachedler, was forced to stop after his liability costs more than doubled in one year.

Sadly, obstetricians are not the only physicians in my State who are being forced out of practicing medicine. Dr. Romeo Diaz, an oncologist from my hometown of Cleveland, saw his liability premiums rise $60,000 annually. Despite his patients attempt to help him raise the money he needed to remain in practice, Dr. Diaz closed his doors in 2003.

The decision to limit or close their practice does not come easily to these physicians. Some time ago, a good friend of mine brought to my attention a letter from an OB/GYN in Dublin, OH, who had decided to retire from his practice. He wrote the following to his patients:

> On June 17, 2003, I received my professional liability insurance rate quote for the upcoming year, and it is 64 percent higher than last year's rate. I have seen my premiums almost triple during the past two years, despite never having had a single penny paid out on my behalf in twenty-seven years as a physician. Even worse, during this time the insurance company has reduced the amount of coverage that I can purchase from $5 million to only $1 million, while jury verdicts have skyrocketed, often exceeding $3-4 million. If I were to purchase this policy, I would be putting all of my family's personal assets at risk every time that I delivered a baby or performed surgery. I refuse to do that. I have therefore decided to retire from private practice on July 31, 2003, the final day of my current liability insurance policy. This is not a decision that I take lightly, but unfortunately it has become necessary. For many of you, I have been part of your life for years. I have delivered your babies, and helped you through some of life's most difficult challenges. It has truly been an honor.

Like these doctors, in 2004, a survey by the Ohio State Medical Association, OSMA, indicated that 34 percent of Ohio physicians expect to close their practices within the next 2 years without a reversal in medical liability rates. And whether they are ultimately forced to close their doors, a majority of physicians in Ohio agree that rising medical liability rates have directly impacted the way they practice medicine. Fifty-six percent of them believe they have increased the number of tests they have ordered for patients in order to protect themselves from potential lawsuits.

In fact, a March 3, 2003, report by the Department of Health and Human Services calculated the practice of defensive medicine costs the United States a total of between $70 and 126 billion a year and estimates that the cost for the Federal Government alone is between $35 and $56 billion. This is costing you and me real money.

Nevertheless, I am very hopeful when I now hear from physicians back home that thanks to the latest packages of tort reform measure that passed the Ohio State Legislature, medical liability rates are finally beginning to stabilize.

In fact, a January 2006 Ohio Department of Insurance report found that overall rate increases pursued by the five largest insurers were significantly less in 2005 than in previous years—6.7 percent in 2005, compared to 20 percent in 2004 and approximately 30 percent in 2003. For 2006, one insurer has even lowered its rates by 5 percent.

Good, balanced legislation can make all the difference. Just like we are beginning to see in Ohio, medical liability reform efforts in States like Texas are providing real results. We have been hearing a great deal about the good news coming out of Texas this week on the Senate floor, and it is for good reason. In 2003, the Texas Legislature enacted comprehensive sweeping medical liability reforms, with reasonable limits on noneconomic damages. Texas voters also understood the importance of this reform and approved proposition 12 amending the State constitution to specifically allow the legislature to enact the reasonable caps.

In just 3 short years, the results have been tremendous. It is hard to believe, but Texas physicians are once again able to competitively shop for medical liability coverage according to the Texas insurance commissioner.

While this is great news, in many places across the Nation, the situation is not the same, and the need for Federal medical liability reform is still very real.

Since the 107th Congress, I have been coming to the floor to speak in support of numerous medical liability bills: The HEALTH Act, the Patients First Act, The Healthy Mothers and Babies Access to Care Act, and the Pregnancy and Trauma Care Access Protection Act, and others. Unfortunately, none of these pieces of legislation garnered the 60 votes needed here in the Senate to achieve cloture.

Frustrated by this, several years ago, I spent countless hours along with the American Medical Association, AMA, going door to door to meet with my colleagues to examine other possible approaches for reform. I met with a number of my colleagues to explore those approaches and generate the kind of support needed to get to 60 votes.

The biggest complaint I heard from my colleagues is that the cap on noneconomic damages in these earlier bills was too low. For this reason, I am especially hopeful about the legislation before us today and proud to be a cosponsor of both the Medical Care Access Protection Act and the Healthy Mothers and Healthy Babies Access to Care Act.

These bills provide the Senate with a new approach to reforming our medical liability system. Like past bills, this legislation provides for unlimited payments on economic damages, but it would also mimic the State of Texas' approach to capping noneconomic damages. This legislation would limit noneconomic damage awards to $250,000 for each claimant, a healthcare provider, or each of two health care institutions. In total, this legislation creates a $750,000 cap on noneconomic damages.

I also heard concerns from my colleagues that past versions of medical liability reform bills would preempt State laws when some States already have laws that are working.

The bill before us preserves States' rights by keeping medical liability statutes in place and by allowing future State laws to supersede Federal limits on damages.

Further, the bill protects patients by placing reasonable limits on attorney fees, provides a review of expert witnesses to provide greater creditability to cases, and maximizes patients' recovery for damages by limiting the amount of payment attorneys are able to claim from awards.

I have been so passionate about the need for liability reform over my public service career because the issue is very personal to me. When I was young, I suffered from osteomyelitis, a disease in the bone marrow. During my 6-month hospital stay, I had two physicians who approached my parents with treatment options for me. One physician wanted to go with the "gold standard" treatment at the time, which would more than likely have saved my life but also had the potential to leave me without use of my right leg. The second physician, Dr. Holoway, offered my parents a more experimental option, one that was less invasive and posed less of a risk to my leg. I am thankful my parents chose the more experimental treatment, which left me with full mobility.

I wonder whether a physician in Dr. Holoway's shoes today would have taken the same approach with all the potential legal implications. I fear in today's environment that doctor would not.

For this reason, I urge my colleagues to support both the Medical Care Access Protection Act and the Healthy Mothers and Healthy Babies Access to Care Act. I am confident these bills strike a delicate balance between the rights of aggrieved parties to bring lawsuits and receive rapid and fair compensation and the rights of society to be protected against frivolous lawsuits and outrageous rewards for noneconomic damages—damages that are disproportionate to compensating the injured and made at the expense of society as a whole.

Mr. SPECTER. Mr. President, I seek recognition to support moving to legislation which would address the serious problems faced today by doctors, hospitals and other medical professionals who provide medical services, including obstetrical and gynecological services, while providing fair treatment to people who are injured in the course of medical treatment.

While most of the attention has been directed to OB/GYN malpractice verdicts, the issues are much broader, involving medical errors, insurance company premiums and insurer investments.

I support caps on noneconomic damages so long as they do not apply to situations such as the paperwork mixup leading to an erroneous double mastectomy of a woman or the death of a 17-year-old woman on a North Carolina transplant case where there was a faulty blood type match or comparable cases in the OB/GYN services area.

An appropriate standard for cases not covered could be analogous provisions in Pennsylvania law which limit actions against governmental entities or in the limited tort context which exclude from the caps death, serious impairment of bodily function, and permanent disfigurement or dismemberment.

Beyond the issue of caps, I believe there could be savings on the cost of OB/GYN malpractice insurance and other malpractice insurance by eliminating frivolous cases by requiring plaintiffs to file with the court a certification by a doctor in the field that it is an appropriate case to bring to court. This proposal, which is now part of Pennsylvania State procedure, would be expanded federally, thus reducing claims and saving costs. While most malpractice cases are won by defendants, the high cost of litigation drives up OB/GYN malpractice premiums and other premiums. The proposed certification would reduce plaintiff's joinder of peripheral defendants and cut defense costs.

Further savings could be accomplished through patient safety initiatives identified in a report of the Institute of Medicine. On November 29, 1999, the Institute of Medicine, IOM, issued a report entitled: To Err is Human: Building a Safer Health System. The IOM report estimated that between 44,000 and 98,000 hospitalized Americans die each year due to avoidable medical mistakes. However, only a fraction of these deaths and injuries are due to negligence; most errors are caused by system failures. The IOM issued a comprehensive set of recommendations, including the establishment of a nationwide mandatory reporting system; incorporation of patient safety standards in regulatory and accreditation programs; and the development of a nonpunitive culture of safety in health care organizations. The report called for a 50 percent reduction in medical errors over 5 years.

The Appropriations Subcommittee on Labor, Health and Human Services and Education, which I chair, held three hearings to discuss the IOM's findings and explore ways to implement the recommendations outlined in the IOM report. The fiscal year 2001 Labor-HHS appropriations bill contained $50 million for a patient safety initiative and directed the Agency for Healthcare Research and Quality, AHRQ, to develop guidelines on the collection of uniform error data; establish a competitive demonstration program to test best practices; and research ways to improve provider training. These initiatives were funded at $55 million in fiscal years 2002 and 2003, and $84 million in fiscal years 2004, 2005, and 2006, for a total of $412 million.

There is some evidence that increases in OB/GYN insurance premiums and other premiums have been caused, at least in part, by insurance company losses, the declining stock market of the past several years, and the general rate-setting practices of the industry. As a matter of insurance company calculations, premiums are collected and invested to build up an insurance reserve where there is considerable lag time between the payment of the premium and litigation which results in a verdict or settlement. When the stock market has gone down, for example, that has resulted in insufficient funding to pay claims and the attendant increase in OB/GYN insurance premiums. A similar result occurred in Texas on homeowners insurance where cost and availability of insurance became an issue because companies lost money in the market and could not cover the insured losses on hurricanes.

In structuring legislation to put caps on jury verdicts in malpractice cases, due regard should be given to the history and development of trial by jury under the common law where reliance is placed on average men and women who comprise a jury to reach a just result reflecting the values and views of the community.

Jury trials in modern tort cases descend from the common law jury in trespass, which was drawn from and intended to be representative of the average members of the community in which the alleged trespass occurred. This coincides with the incorporation of negligence standards of liability into trespass actions.

This "representative" jury right in civil actions was protected by consensus among the state drafters of the U.S. Constitution's Bill of Rights. The explicit trial by jury safeguards in the Seventh Amendment to the Constitution were adaptations of these common law concepts harmonized with the Sixth Amendment's clause that local juries be used in criminal trials. Thus, from its inception at common law through its inclusion in the Bill of Rights and today, the jury in tort/negligence cases is meant to be representative of the judgment of average members of the community, not of elected representatives.

The right to have a jury decide one's damages has been greatly circumscribed in recent decisions of the United States Supreme Court. An example is the analysis that the court has applied to limit punitive damage awards.

The Court has shifted its Seventh Amendment focus away from two centuries of precedent in deciding that federal appellate review of punitive damage awards will be decided on a de novo basis and that a jury's determination of punitive damages is not a finding of fact for purposes of the re-examination clause of the Seventh Amendment—"no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law." Then, in 2003, the Court reasoned that any ratio of punitive damages to compensatory damages greater than 9:1 will likely be considered unreasonable and disproportionate, and thus constitute an unconstitutional deprivation of property in non-personal injury cases. Plaintiffs will inevitably face a vastly increased burden to justify a greater ratio, and appellate courts have far greater latitude to disallow or reduce such an award.

These decisions may have already, in effect, placed caps on some jury verdicts in malpractice cases which may involve punitive damages.

The pending bills are a starting point for analysis, discussion, debate and amendment. I am prepared to proceed with the caveat that there is much work to be done before the Senate would be ready, in my opinion, for consideration of final passage.

Mr. WARNER. Mr. President, I rise today, once again, in support of health care liability reform.

I have long been a major supporter of reforming our medical malpractice laws in an effort to stem the astronomical increases in health care costs. In fact, in the 108th Congress, I was pleased to offer my own amendment on health care liability reform called the Protect the Practice of Medicine Act.

While my amendment was supported by the American Medical Association, the American College of Surgeons, and a number of other associations representing the men and women in our medical profession, unfortunately, a procedural move by opponents prevented my amendment from receiving an up-or-down vote.

In fact, opponents of health care liability reform have been using procedural tactics in the Senate to prevent an up-or-down vote on this issue for years now. The consequences are grave: men and women, who have invested years of their lives training to become doctors and hundreds of thousands of dollars on their education, continue to leave the practice of medicine due to the high cost of malpractice insurance.

Opponents of reform argue that the cost of medical malpractice insurance is stabilizing and that the increases in malpractice premiums are not as dramatic as they were a few years ago. The truth is that these premiums remain extremely high. Having rates stabilize does not mean that those rates have gone down. Time and time again, doctors come into my office and tell me that they are having a difficult time making a living and keeping quality staff because of the staggering amounts they are paying for medical liability insurance.

I have received numerous letters from medical professionals in the Commonwealth of Virginia and from across the Nation that share with me the very real difficulties they are encountering with malpractice insurance and the consequences of this problem. Let me read part of one those letters that was sent to me by a doctor in Virginia. The doctor writes:

> I am writing you to elicit your support and advice for the acute malpractice crisis going on in Virginia. . . . I am a 48-year-old single parent of a 14 and 17 year old. After all the time and money spent training to practice OB/GYN, I find myself on the verge of almost certain unemployment and unemployability because of the malpractice crisis. I have been employed by a small OB/GYN Group for the last 7 years. . . . Our malpractice premiums were increased by 60 percent . . . The reality is that we will not be able to keep the practice open and cover the malpractice insurance along with other expenses of practice.

Out of respect for this doctor's privacy, I will not share the doctor's name, but I do keep her letter in my files.

According to the American College of Surgeons, many surgeons are being forced to retire earlier, stop providing high-risk procedures, or move to States where strong medical liability reforms are in place.

On March 16, 2006, Norfolk, VA's, newspaper, the Virginian-Pilot, featured the story of Dr. Shawne Bryant, an OB/GYN in Kempsville, VA. Dr. Bryant explained that she stopped performing surgery in 2003, citing high malpractice insurance rates. She redirected her talent into quiltmaking.

Dr. Bryant, who has been in the field of obstetrics and gynecology for 21 years, said, "I used to be in the operating room two to three days a week. This [quiltmaking] is an outlet for me because I'm still working with my hands." Since giving up the practice of surgery, Bryant has made eight quilts.

Both Time Magazine and Newsweek have thoroughly detailed the crisis doctors are facing across America.

In June of 2003, Time Magazine had a cover story on the affects of rising malpractice insurance rates. The story, entitled "The Doctor is Out," discusses several doctors, all across America, who have had to either stop practicing medicine or have had to take other action due to increased insurance premiums.

One example cited in Time's article is the case of Dr. Mary-Emma Beres. Time reports that, "Dr Mary-Emma Beres, a family practitioner in Sparta, N.C., has always loved delivering babies. But last year Beres, 35, concluded that she couldn't afford the tripling of her $17,000 malpractice premium and had to stop. With just one obstetrician left in town for high risk cases, some women who need C-sections now must take a 40-minute ambulance ride."

Dr. Beres' case makes clear that not only doctors are being affected by the medical malpractice insurance crisis—patients are as well. With increased frequency, due to rising malpractice rates, more and more patients are not able to find the medical specialists they need.

Newsweek also had a cover story on the medical liability crisis. That cover story was entitled "Lawsuit Hell." I was particularly struck by the feature in this magazine about a doctor from Ohio who saw his malpractice premiums rise in one year from $12,000 to $57,000 a year. As a result, this doctor, and I quote from the article, "decided to lower his bill by cutting out higher-risk procedures like vasectomies, setting broken bones and delivering babies—even though obstetrics was his favorite part of the practice. Now he glances wistfully at the cluster of baby photos still tacked to a wall in his office, 'I miss that terribly,' he says."

Without a doubt, the cost of medical malpractice insurance premiums are having wide-ranging effects. It is a national problem, and it is time for a national solution.

President Bush has indicated that the medical liability system in America is largely responsible for the rising costs of malpractice insurance. The American Medical Association and the American College of Surgeons agree with him, as does almost every doctor in Virginia with whom I have discussed the issue.

Let me state unequivocally that I agree with our President, with the AMA, with the American College of Surgeons, and with the vast majority of doctors all across Virginia.

I am pleased that S. 23, the Healthy Mothers and Health Babies Access to Care Act, reduces the excessive burden the liability system places specifically on the delivery of obstetrical and gynecological services. And I am pleased that S. 22, the "Medical Care Access Protection Act of 2006" or "MCAP Act," extends liability protections to all health care providers and health care institutions.

These bills are a commonsense solution to a serious problem, and it is time for us to vote up or down on this legislation.

Mr. FEINGOLD. Mr. President, once again we are faced with ill-advised medical malpractice bills coming to the Senate floor without any committee consideration. Some argue that we have a malpractice insurance crisis that is driving doctors from the practice of medicine, particularly in the field of obstetrics and gynecology, or OB/GYN. But we haven't yet explored these issues in the Senate at all. No committee has held hearings or marked up a bill on this topic. Instead, extreme proposals have been brought directly to the floor and Senators are expected to vote for them. Indeed, motions to proceed to two different bills are being considered at the same time because no one really expects them to succeed. This is just a show. That is not how the legislative process should work on an issue of importance to so many people. I will vote no on cloture, as I have repeatedly in the past and will do in the future, until this issue is addressed in a serious way.

I would like very much for Congress to address the problem of malpractice insurance premiums once we understand the causes of the problem and the effectiveness of the proposed solutions. But by bringing these bills directly to the floor, the majority simply demonstrates that it is not serious about addressing the problem. It just wants to play a political card. To the extent that there really is a malpractice insurance problem, what is going on here is a cynical exercise, designed only to fail and to provide fodder for political attacks.

These bills, in my judgment, will not solve the problem that they supposedly have been designed to address. What they will surely do is harm innocent Americans who have suffered horrible and permanent injury at the hands of negligent medical practitioners.

There are many provisions of S. 22 and S. 23 with which I have serious disagreement. Let me just mention a few. In a provision called the "fair share rule," the bills eliminate joint and several liability in the lawsuits covered by the bills. What that means is that if one responsible defendant is insolvent and has no insurance coverage, the victim of malpractice ends up without a full recovery of his or her damages. This is not fair. Most state laws provide that the risk of one defendant being insolvent or judgment-proof is borne by the other responsible defendants. There is no reason to change this longstanding principle of law. All it does is make it more likely that injured mothers and children will not recover the damages that a court has decided they are due.

Another problem with these bills is a new statute of limitations that applies only in States that are more protective of the injured party than the new Federal standard. Shorter statutes of limitation don't discourage frivolous claims, they encourage them. Lawyers facing a looming statute of limitations are more likely to file lawsuits to protect their clients' options. Imposing a statute of limitations of as little as one year, as these bills do, does not allow adequate time to investigate a case and determine if it really should be brought.

But perhaps the most ill-advised provision in these bills is the cap on noneconomic damages. These caps have been modified from previous bills and are designed to look more generous, although they actually won't be in most cases. Indeed, it will be very rare for a plaintiff to reach the new maximum caps because most lawsuits don't name at least one doctor, and least two hospitals or other institutions as defendants.

We have held no hearings on the medical malpractice issue in this Congress, but at the one hearing held on this issue in the last Congress, the Judiciary and HELP Committees heard from Linda McDougal, a 46-year-old Navy veteran from Woodville, WI. Several years ago, Ms. McDougal underwent a double mastectomy after her biopsy results were switched with those of another patient. She didn't have cancer, she never had cancer. We can be thankful for that. But her life, and her family's life, will never be the same.

I hope everyone in the Senate will read Linda McDougal's testimony and learn about her experience. It is a powerful cautionary tale for those of us who are charged with voting on legislation concerning medical malpractice.

I find it hard to believe that anyone in this body can look Linda McDougal or any of the thousands of victims of catastrophic medical malpractice in the eye and say, "all your pain and suffering is worth only $250,000, or maybe $750,000 if you sue enough people." Would any of us be able to tell our mothers or our wives or our daughters that their damages should be limited in this arbitrary way if they were the victims of the unspeakable pain and lifelong sadness that Linda McDougal will endure? Remember, Linda McDougal didn't have extraordinary medical bills or lost wages. Her damages are noneconomic. But her loss is real, it is permanent, it is unfathomable.

There is no question that we have a problem in this country over the cost of malpractice insurance. But the solution cannot be to penalize innocent victims like Linda McDougal, to prolong and extend their suffering by denying them adequate compensation.

Caps on noneconomic damages are a cruel hoax. They are advertised as a disincentive to frivolous lawsuits. But they have the most impact on the most serious and nonfrivolous cases, cases where unimaginable pain has been inflicted on someone by a careless health professional.

In addition, we have virtually no evidence that caps on economic damages will actually lower insurance rates. Indeed, in States that have caps on noneconomic damages, insurance premiums increased 48 percent from 1991 to 2002. But in States without caps, the increase has been only 36 percent. So the case has simply not been made that the caps in this bill will lower malpractice premiums. But more importantly, the case has not been made, and in my view cannot be made, that these caps are fair to victims like Linda McDougal.

There very well may be solutions that we in the Senate can develop to address the cost of medical malpractice insurance in this country and the effect on patient care that rising premiums are causing. And there certainly are things we can do to address the disturbing problem of medical error in this country. The Institute of Medicine estimates that between 44,000 and 98,000 adverse medical events occur in hospitals every year. Other studies suggest that those numbers may be a vast underestimate.

If we want to reduce malpractice insurance premiums we must address these problems as well as looking closely at the business practices of the insurance companies. What we shouldn't do is limit the recovery of victims of horrible injury to an arbitrarily low sum.

This is obviously a complicated issue. This is the kind of issue that needs to be explored in depth in our committees so that a consensus can emerge. It is certainly not the kind of issue that should be brought directly to the floor with such a great gulf between supporters and opponents. So I will vote no on cloture today on both S. 22 and S. 23, and I hope that these bills will go through the HELP Committee and the Judiciary Committee before we begin floor consideration of this important topic.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. BURR). Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

> We the undersigned Senators, in accordance with the provisions of rule XXII of the standing rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 22: A bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.
>
> Bill Frist, Johnny Isakson, Sam Brownback, John Thune, Thad Cochran, Wayne Allard, John Ensign, Pat Roberts, Larry Craig, Ted Stevens, David Vitter, John McCain, Lamar Alexander, Norm Coleman, Judd Gregg, John Sununu, Craig Thomas.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 22, a bill to improve patient access to health care services and provide improved medical care by reducing excessive burden the liability system places on the health care delivery system, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Montana (Mr. BURNS), the Senator from Oklahoma (Mr. COBURN), and the Senator from Arizona (Mr. McCAIN).

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Illinois (Mr. DURBIN), the Senator from Vermont (Mr. JEFFORDS), the Senator from Illinois (Mr. OBAMA), the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I also announce that the Senator from North Dakota (Mr. CONRAD) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 48, nays 42, as follows:

[Rollcall Vote No. 115 Leg.]

YEAS—48

Alexander
Allard
Allen
Bennett
Bond
Bunning
Burr
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McConnell
Murkowski
Roberts
Santorum
Sessions
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—42

Akaka
Baucus
Bayh
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Crapo
Dayton
Dodd
Dorgan
Feingold
Feinstein
Graham
Harkin
Inouye
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Menendez
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Salazar
Sarbanes
Schumer
Shelby
Stabenow
Wyden

NOT VOTING—10

Biden
Brownback
Burns
Coburn
Conrad
Durbin
Jeffords
McCain
Obama
Rockefeller

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

HEALTHY MOTHERS AND HEALTHY BABIES ACCESS TO CARE ACT—MOTION TO PROCEED—Resumed

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture on the motion to proceed to S. 23.

The legislative clerk read as follows:

CLOTURE MOTION

> We the undersigned Senators, in accordance with the provisions of rule XXII of the standing rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 23: A bill to improve women's access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.
>
> Bill Frist, Johnny Isakson, Sam Brownback, John Thune, Thad Cochran, Wayne Allard, John Ensign, Pat Roberts, Larry Craig, Ted Stevens, David Vitter, John McCain, Lamar Alexander, Norm Coleman, Judd Gregg, John Sununu, Craig Thomas.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 23, a bill to improve women's access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Montana (Mr. BURNS), and the Senator from Arizona (Mr. McCAIN).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Vermont (Mr. JEFFORDS), and the Senator from West Virginia (Mr. ROCKERFELLER) are necessarily absent.

I also announce that the Senator from North Dakota (Mr. CONRAD) is absent due to illness in family.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN) would vote "nay."

The yeas and nays resulted—yeas 49, nays 44, as follows:

[Rollcall Vote No. 116 Leg.]

YEAS—49

Alexander
Allard
Allen
Bennett
Bond
Bunning
Burr
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McConnell
Murkowski
Roberts
Santorum
Sessions
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—44

Akaka
Baucus
Bayh
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Crapo
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Graham
Harkin
Inouye
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Menendez
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Salazar
Sarbanes
Schumer
Shelby
Stabenow
Wyden

NOT VOTING—7

Biden
Brownback
Burns
Conrad
Jeffords
McCain
Rockefeller

The PRESIDING OFFICER (Mr. VITTER). On this vote, the yeas are 49, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. BYRD. Mr. President, last Wednesday, Senator ENSIGN introduced S. 22, the Medical Care Access Protection Act of 2006, a bill that would "cap" legal damages awarded to victims of medical malpractice. Senators SANTORUM and GREGG similarly, just last week, introduced S. 23, the Healthy Mothers and Healthy Babies Access to Care Act, a bill to limit legal damages in cases involving obstetrical and gynecological services.

Today I voted not to invoke cloture on the motions to proceed to these two bills, because there has been no debate of these particular measures in the 109th Congress. There have been no hearings scheduled or held on the bills this year, and their provisions raise questions to which West Virginians deserve complete and well-considered responses.

The situation in West Virginia today is not as it was several years ago, when the State legislature enacted medical liability tort reform. At that time, there was a perceived crisis based on the escalating costs of medical insurance premiums, and there were serious concerns that doctors and other health care providers may have been leaving the State to avoid the expenses they incurred in protecting themselves from legal liability. Today, however, even the West Virginia State Medical Association, a strong supporter of medical liability reform, advises that, based on the significant changes passed by the West Virginia State Legislature in 2003, the State has "already seen positive results with recent decreases in insurance premiums and an increase in the ability to recruit physicians to the state."

Based on the acknowledged success of West Virginia's legislative enactments in this area, it would be irresponsible, if not downright foolhardy, to enact S. 22 and S. 23 with little examination and no recent debate, particularly when the provisions of these bills would explicitly preempt certain State laws. In addition, the bills shorten the time during which patients can bring cases; they limit punitive damages; they exempt from product liability lawsuits health care providers who have prescribed drugs or devices approved by the FDA; and they generally revamp our Nation's medical liability system in the wink of an eye, though the bills' provisions have been subject to little, if any, serious scrutiny.

Based on the changes that have occurred in our medical liability system since 2003, legislation of this importance requires careful consideration by the Senate's relevant committees of jurisdiction. To give such important provisions such short shrift, particularly in this changed environment, would do a tremendous disservice to medical providers and patients throughout both West Virginia and the Nation.

Mr. KOHL. Today the Senate once again considered medical liability reform bills—S. 22 and S. 23—both of which would impose an arbitrary cap on the amount of noneconomic damages—pain and suffering awards—an injured patient can receive in a medical malpractice lawsuit.

This is not the first time the Senate has dealt with such legislation. In years past, there were real problems with skyrocketing premiums that insurance companies were charging doctors. Even then, imposing damage caps was the wrong approach to address the issue and remains just as wrong today. A so-called reform based on arbitrarily capping pain and suffering awards is not a panacea. Studies show that passing a Federal medical malpractice law with damage caps will likely have no impact on runaway insurance premiums. Further, there is no promise that any savings insurance companies realize from such a law would be passed on to doctors.

Moreover, we find that medical malpractice premiums have leveled off or are no longer increasing in both States with and without caps on noneconomic damages. A reasonable person could question why we are even considering this legislation when it appears the problem is abating. Nonetheless, some insist against all evidence that we need to pass these bills to save the health care system. Just as I have opposed similar damage cap bills in the past, I will oppose both S. 22 and S. 23.

Wisconsin has thoroughly addressed this issue with great success. As a result, we do not have a medical liability insurance crisis like some other States. Wisconsin has a noneconomic cap and a system that works for doctors and patients alike. Specifically, Wisconsin limits the amount of liability insurance a medical professional must obtain, and beyond that, Wisconsin's Patient Compensation Fund ensures that injured patients are fully reimbursed for their damages. I oppose doing anything to upset the delicate balance the State has found.

Though neither S. 22 nor S. 23 would preempt Wisconsin's damage caps, Wisconsin law would be overturned in several other areas. For example, Wisconsin law grants children the right to sue, better ensures that victims fully recover their damages from defendants, and does not limit attorney fees as much as the Federal proposal. I will not support a Federal solution that undoes Wisconsin's law.

To be sure, the larger issue of medical liability reform deserves a serious debate instead of the resurfacing of a one-sided solution. We might want to look to Wisconsin as a model.

Mr. CHAFEE. Mr. President, today I voted in favor of invoking cloture on S. 22, the Medical Care Access Protection Act of 2006, and S. 23, the Healthy Mothers and Healthy Babies Access to Care Act. I have concerns about various aspects of the legislation including the specific levels of the proposed damage caps. However, I do believe that reform of the medical malpractice system should be considered by the Senate to discourage frivolous lawsuits and to ensure that individuals are able to access affordable health care. For these reasons, I voted to invoke cloture on both of these bills in an effort to move this important debate forward.

The PRESIDING OFFICER. The Senator from Wyoming.

MORNING BUSINESS

Mr. ENZI. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SMALL BUSINESS HEALTH PLANS

Mr. ENZI. Mr. President, I rise today to support action on health care this week. There is a bill that will be voted on tomorrow morning that I think is extremely critical to the health of the Nation.

As chairman of the Committee on Health, Education, Labor, and Pensions, I can attest that access to affordable health care is the No. 1 issue for working families who contact my committee. I do need to explain where we are in this process.

We have a bill that made it out of committee to provide for small business health plans. There has been unanimous consent requested to proceed to the debate. That was denied. That is just the right to debate the bill, but it was denied. So a cloture motion was put in, and we will vote on that cloture motion tomorrow. That will be the 3 days after the cloture motion was filed. So that is a 3-day delay that we already have in solving small business health plan problems.

Tomorrow morning we will vote at 10. I can't imagine anybody voting against better health for people who work in small businesses. I am anticipating that we will get 60 votes. When we get 60 votes, we still will not get to debate the bill. We will have 30 hours of debate on that cloture vote before we will get to offer any amendments. Thirty hours. That could easily be 3 days. It could easily be Thursday before we get to offer the first amendment. I hope the other side will help to get cloture so that we can proceed to the debate. Then I hope that they would agree to shorten that time significantly so we could actually get to amendments and debate the bill.

We need to have a debate over the rising cost of health care. More importantly, we need to take action. Americans are tired of the status quo. They are tired of more of the same from the Senate. They are tired of excuses. They do want to see change for the better.

The majority leader announced his intention to bring a bill before the Senate that would allow small businesses to band together across the country and negotiate for better health care benefits at better prices. This bill sets up a system where we get a little bit of uniformity out there for the small businesses to band together across State lines and form a big enough pool that they have some power to negotiate against the insurance companies.

It is probably important to do that vote. I have some actuarial studies that show how many more people will be brought into the system, and CBO has done some evaluations of how many more people will be able to be insured and what kind of savings there will be. But I don't think they have the numbers right. The numbers are far greater than what they list.

Here is the reason I believe that. I had a lot of people call me Friday and

Saturday and Sunday and let me know about the ads being run across the country. They are not referring to it as the small business health plans or even the Health Insurance Marketplace Modernization and Affordability Act. They are not even referring to it as S. 1955. They are referring to it as the Enzi bill. It is not the Enzi bill. It is the small business health plan bill. There are even Web sites set up. Thousands, if not millions, of dollars are being spent on advertising against it, which tells me that perhaps the ability for small companies to get together and negotiate against the insurance companies might be worth a lot more than anybody anticipated. That is where the ads are coming from.

Tomorrow morning we will be voting on the motion to proceed to the consideration of S. 1955. The bill will reduce the cost of health care, especially for America's small business owners and working families. Today, of the 45 million people without health insurance, 22 million own or work for small business, according to the Small Business Committee definition of a small business, or they live in families that depend on that small business for wages. Besides the 22 million out of the 45 million, there is another 5 million who are self-employed who could take advantage of this bill. That makes 27 million people who can't afford decent health insurance right now.

It is long past time for Congress to take action. The American people aren't going to accept excuses any longer. It is time for the Senate to take the first major step in nearly 15 years toward more affordable health insurance options for small businesses and working families.

There has been a bill on the House side that has passed 8 times in the last 12 years for association health plans. The Senate has never gotten any kind of a bill like that out of committee until now. This bill is not quite like that bill. This bill was derived by talking to the insurance companies, talking to the insurance commissioners, having them sit down with the associations and try to find a workable way that would not unlevel the playing field so that some people would be paying more for their health insurance while others were paying less. They worked for almost a year with me. All of them were convinced that something needed to be done. All of them were willing to work in a positive manner to come up with a bill that would work. That is what we have before us now.

That is not to say that the bill won't be changed through the debate, if we can get to the debate. There probably will be changes. There can be amendments to the bill. One of the things I have learned being in the State legislature as well as in Congress is that quite often amendments do help make a bill better. I do know that the American people support giving small businesses the same power that big businesses have had to negotiate for better benefits and better prices.

The fact that it has taken us so long to get to this point has to be frustrating for our constituents and the small businessmen. That is most of the people in the United States. They are either small business or they work in small businesses. When they work in a small business, they understand the plight of the business much better than in a big business. We already gave big business a lot more opportunity to negotiate than what we have in this bill for small business. This is a great start for small businesses to bring those costs down.

Small business owners and working families do want an up-or-down vote on small business health plans. They think they deserve it, and I believe they deserve it. I believe almost everybody here thinks they deserve a vote on whether they ought to be able to have a fraction of what the big companies have as an advantage in working with the insurance companies.

For years the small business owners have been asking the Senate to grant them the power that the big businesses have so they can secure affordable health care for their employees and their families. For the first time in over a decade, the Senate committee has reported a bill that gives small business owners the power they are seeking. Americans have sent hundreds of thousands of letters, petitions, phone calls, e-mails, faxes to the Senate over the past few weeks in support of small business health plans. The National Federation of Independent Businesses, one of the associations interested in this, delivered 500,000 petitions from across the United States asking us to do something. The people have taken time out of their busy days to demand action, and they deserve that up-or-down vote.

I remember getting permission, shortly after I got to the Senate, to hold a small business hearing in Casper, WY. That is the big city in the center of Wyoming. I held that hearing. I was pleased. I had about 100 small businessmen show up to lend their support and express their needs.

Afterward, one of the reporters asked: Aren't you disappointed you only had 100 people show up?

I said: Actually, this is small business. I am kind of surprised that 100 showed up because in small business, if you have an extra person who can spend a day at a hearing, you would probably fire them because you would have one more person than you needed.

In small business, they don't have nearly the diversity or the specialization, but they have a lot of personal ability and flexibility to take their product to market and to make a difference against the big companies that way. But they need some extra help. I know the minority leader will want an up-or-down vote on a bill sponsored by Senators DURBIN and LINCOLN. I believe the minority leader should get that up-or-down vote, even though I don't believe the bill he supports would provide the kind of change small business owners want and need. I know what the support is for that bill. I would love to do the comparisons between what we are trying to do in small business health plans and that. Let's see what the will of the Senate is, and let's not resort to blocking consideration through procedural motions.

I am sure some of my Democratic colleagues will want to use their share of the 30 hours of debate after this vote to discuss a variety of health care issues. Some Members of the minority will want to discuss the Medicare drug benefit. I have heard that on the floor in this preliminary time. Some will want to talk about drug importation. Some will want to talk about stem cell research. I know that from the debate we have had on the floor today. It is their right under the Senate rules.

I am not sure how I would go about explaining that to the small business owners and the working families who work in those small businesses. I suppose that the vast majority of those small business owners are going to be too busy during the day and night to watch the Senate debate on C-SPAN2. But those who do will understand that the issues we are talking about are not the solution they are expecting, and that they are external to the bill we are debating at this time. Those are important issues. But if they are just being done to block a bill—and that will be the way it will be termed by small business—I suspect there will be a price to pay for that kind of action.

I hope, for all our sakes, that the TVs in hospital emergency rooms are not tuned to C-SPAN. Some of those Americans who depend on small business and are in the emergency room may have no health insurance. Maybe their company dropped the coverage last year or maybe the company could not afford health insurance in the first place.

What would they say if they were watching us this week? After all, the caption on the screen will read that we are supposed to be debating health insurance for working families. But instead of debating two competing visions for providing more affordable health care options for small businesses, we will be talking about Democratic amendments on a number of issues, including the Medicare drug benefit, which has already been done, and people are signing up in numbers that had not been anticipated. There is also already enough competition out there that it has driven the prices down. That is what competition does. It is working for seniors and they are saving money.

But instead of talking about things that are working for Americans, we should be debating the challenges that still face us, such as the rising cost of health care for America's working families.

Every day, emergency rooms treat more than 30,000 uninsured Americans who work for or depend on small business. That is at least 30,000 reasons why we should move right away to the consideration of S. 1955 to create small business health plans.

For the first time in more than a decade, the Senate has been presented with a bill that would create a whole new set of affordable health care choices through small business health plans.

Is it the perfect bill? No. I have never seen one in my 9 years in the Senate. We won't get to see anything even near perfect if we don't get to debate it. I believe most of my colleagues like the concept of getting as much perfection through amendments as possible and do want to work with me on it. Procedural votes won't get that done.

If we are waiting for the perfect bill, the one true and comprehensive solution to fix our health care system, then someone needs to bring us a tent, flashlights, and field rations, because we are going to be a very long time waiting for that. I am hoping it is not a series of 30-hour waits to debate things that won't have anything to do with getting small business health plans for small businesses. Americans are never waiting for perfection from Congress. They have given up on that long ago. But they do want action.

We have a good bill before us. We have a bipartisan bill before us. I am a former small business owner and I know something about the struggle to provide affordable health care to my family and to my work families.

Senator BEN NELSON, who coauthored this bill, is a former State insurance commissioner, so he knows something about the importance of protecting consumers. Senator NELSON and I have spoken about this bill with just about every Member of the Senate. We think it is a very good bill, and we have reached out to our colleagues over the last several months to take their concerns into account as we put the bill together.

Some of our colleagues will have amendments they believe will make it even better, and they should have the opportunity to offer those amendments. Neither Senator NELSON nor I are afraid of that, nor are we afraid of any alternative bills that Members might want to propose.

I urge my colleagues to set aside tomorrow's motion to proceed to the consideration of the bill. Let's get on with it, debate it, and have some amendments. We can have constructive votes on the floor on a number of issues that will improve this bill. But if we have to go through the procedural motions, let's keep in mind those 27 million uninsured Americans who work for or depend on small businesses. Those are 27 million Americans who are counting on the Senate to act now—not next month, not next year, but now.

Let's take the step toward more affordable health care for all Americans by giving small business owners the power to create small business health plans for themselves, their families, and their workers. Give them the chance they are seeking, instead of more of the same excuses for not acting. I don't think they will buy that.

I am hoping some of the media that is doing coverage will do a little bit better job than I happened to see last weekend. PBS did a special. They forgot to talk to anybody who worked on the bill. They talked about some problems with California's health care and attributed it to this bill. This bill cannot be the cause of that yet because it is not in California.

There have been concerns by a number of other groups. One was the attorneys general for a number of States. Again, it would have been nice if they would have talked to us to be sure they had the right bill and had read it before they took their action. So we will be covering that in the next few days.

If we have to talk for 30 hours, we will be plenty willing to do that. There are a lot of people in small businesses who see this as a primary concern and need, and they wish to see it done as soon as possible. They will not be very forgiving if people are holding things up to try to defeat the bill instead of making constructive progress.

I appreciate all those who have worked with me and all of those who are still working on amendments. Particularly, I would appreciate it if they would talk to me. There are some good ideas out there, things that would work. Many are for clarification. It will make a difference to small business. I hope everybody will get past this motion to proceed and the 30 hours of debate will get finished.

NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT OF 2005

Mr. ALEXANDER. Mr. President, today the U.S. Civil Rights Commission announced its opposition to S. 147, the Native Hawaiian Government Reorganization Act of 2005, which the Commission found to "discriminate on the basis of race."

It is possible that the Senate will be asked in the next few weeks to consider this legislation. I hope my colleagues will agree with the Civil Rights Commission and oppose this legislation.

Here is what the Commission had to say:

> The Commission recommends against passage of the Native Hawaiian Government Reorganization Act of 2005, or any other legislation that would discriminate on the basis of race or national origin and further subdivide the American people into discrete subgroups accorded varying degrees of privilege.

S. 147, the act to which the Commission refers, would create a separate, independent, race-based government for native Hawaiians. It would undermine our unity in this country. It would undermine our history of being a nation based not on race but upon common values of liberty, equal opportunity, and democracy.

The question the bill poses is thus one that is fundamental to the very existence of our country. It creates a new government based on race. Our Constitution guarantees just the opposite—equal opportunity without regard to race.

Hawaiians are Americans. They became United States citizens in 1900. They have saluted the American flag, paid American taxes, fought in American wars. In 1959, 94 percent of Hawaiians reaffirmed that commitment to become Americans by voting to become a state. Like citizens of every other state, Hawaii votes in national elections.

Becoming an American has always meant giving up allegiance to your previous country and pledging allegiance to your new country, the United States of America.

This goes back to Valley Forge when George Washington himself signed and then administered this oath to his officers: "I . . . renounce, refuse, and abjure any allegiance or obedience to [King George III]; and I do swear that I will to the utmost of my power, support, maintain and defend the said United States. . . ."

America is different because, under our Constitution, becoming an American can have nothing to do with ancestry. That is because America is an idea, not a race. Ours is a nation based not upon race, not upon ethnicity, not upon national origin, but upon our shared values, enshrined in our founding documents, the Declaration of Independence and the Constitution, upon our history as a nation, and upon our shared language, English. An American can technically become a citizen of Japan, but would never be considered "Japanese." But if a Japanese person wants to become a citizen of the United States, he or she must become an American.

That's who we are as Americans, and when we forget that, we run the risk of undermining our greatest strength. Some say that diversity is our greatest strength. And it is a great strength, but hardly our greatest. Jerusalem is diverse. The Balkans are diverse. Iraq is diverse. Our greatest strength is that we have taken all that magnificent diversity and forged it into one Nation.

My heritage is Scotch-Irish. In early America, the Scotch-Irish referred to themselves as a race of people. But despite Scotch-Irish contributions to

American independence and some injustices before independence, they did not ask for a separate nation based on race.

It is suggested that "native Hawaiians" are different because they lived on the islands of Hawaii before Asian and white settlers came there, and that their previous government was undermined by Americans who came. So, the argument goes, they should be treated as an American Indian tribe.

But U.S. law has specific requirements for recognition of an Indian tribe. A tribe must have operated as a sovereign for the last 100 years, must be a separate and distinct community, and must have had a preexisting political organization. Native Hawaiians do not meet those requirements. In 1998 the State of Hawaii acknowledged this in a Supreme Court brief in Rice v. Cayetano, saying: "The tribal concept simply has no place in the context of Hawaiian history."

If the bill establishing a "native Hawaiian" government were to pass, it would have the dubious honor of being the first to create a separate nation within the United States. While Congress has recognized pre-existing American Indian tribes before, it has never created a new one. This is a dangerous precedent. This is not much different than if American citizens who are descended from Hispanics that lived in Texas before it became a republic in 1836 created their own tribe, based on claims that these lands were improperly seized from Mexico. Or it could open the door to religious groups, such as the Amish or Hassidic Jews, who might seek tribal status to avoid the constraints of the Establishment Clause of the Constitution. If we start down this path, the end may be the disintegration of the United States into ethnic enclaves.

Hawaii itself is a proud example of the American tradition of diversity. According to the 2000 Census, 40 percent of Hawaiians are of Asian descent. Twenty-four percent are white. Nine percent said they were Native Hawaiian or Pacific Islanders. Seven percent claimed Hispanic ethnicity and 2 percent were black. Twenty-one percent of Hawaiians reported two or more racial identities. Their two Senators are of native Hawaiian and Japanese ancestry. Their Governor is white and also happens to be Jewish. But what unites Hawaii is not its diversity, but its common Hawaiian traditions and the fact that Hawaiians are all Americans.

The proposed new government for "native Hawaiians" would be based solely upon race. S. 147 makes individuals eligible to be "native Hawaiian" specifically by blood. Surely we have by now learned our lesson about treating people differently based upon race. Our most tragic experiences have occurred when we have treated people differently based upon race, whether they were African-Americans, Native American, or of other descent.

In the documents to which we have pledged allegiance, the way we have sought to right those wrongs is to guarantee respect for each American as an individual, regardless of his or her race. This legislation instead would compound those old wrongs. It would create a separate government, and separate rules—perhaps later even separate schools—based solely upon race.

To destroy our national unity by treating Americans differently based upon race is to destroy what is most unique about our country. It would begin to make us a United Nations instead of the United States of America.

The Senate should heed the advice of the U.S. Commission on Civil Rights and defeat this legislation that would discriminate on the basis of race or national origin and further subdivide the American people into discrete subgroups accorded varying degrees of privilege and create a new, separate, race-based government for those of native Hawaiian descent.

This idea is the reverse of what it means to become an American. Instead of making us one nation indivisible, it divides us. Instead of guaranteeing rights without regard to race, it makes them depend solely upon race. Instead of becoming "one from many," we would become many from one.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I rise in response to my good friend and colleague, the junior Senator from Tennessee, who spoke about legislation that is critical to the people of Hawaii, S. 147, the Native Hawaiian Government Reorganization Act of 2005.

S. 147 would extend the Federal policy of self-governance and self-determination to Hawaii's indigenous peoples, the native Hawaiians, by authorizing a process for the reorganization of a native Hawaiian governing entity for the purposes of a government-to-government relationship with the United States.

My colleague raised the actions by the U.S. Commission on Civil Rights last week. The Commission issued a report in opposition to S. 147. The report was based on a briefing that was conducted on January 20, 2006.

I am seriously concerned about the lack of objectivity in the Commission's review. The Commission never contacted its Hawaii advisory committee, which includes members who are experts in Hawaii's history and Indian law. Not once was the advisory committee informed of the briefing or allowed to contribute to the Commission's report.

Further, despite the fact that the Commission was provided with the substitute amendment which reflects negotiations with the executive branch, the Commission chose to issue its report based on the bill as reported out of committee. The substitute amendment to S. 147 will be offered when we consider the bill and reflects negotiations with the officials from the Department of Justice, Office of Management and Budget, and the White House.

The substitute amendment satisfactorily addresses the concerns expressed by the Bush administration regarding the liability of the U.S. Government, military readiness, civil and criminal jurisdiction, and gaming. The amendment has been publicly available since September 2005 and has been widely distributed.

I applaud the efforts of Commissioners Arlen Melendez and Michael Yaki who voted in opposition to the report and tried to inject objectivity and fairness into this process. It really saddens me when an independent commission begins to act in a politically motivated manner.

Despite this fact, I remain committed to my constituents and the people of Hawaii. I will continue to work to bring this bill to the Senate floor as it has been promised by the majority leader and the junior Senator from Arizona. The people of Hawaii deserve no less than a debate and a vote on an issue of critical importance to them and to their State.

When I first started my career in Congress over 30 years ago, there was a protocol and a courtesy. If legislation was going to impact a particular State, and the leaders of that State all supported the issue, it was protocol that other Members would not interfere or obstruct efforts to legislate on behalf of that State. Unfortunately, this longstanding protocol and courtesy, I am ashamed to say, no longer exists.

S. 147 is widely supported in Hawaii—widely supported in Hawaii. The bill enjoys the bipartisan support of my colleagues, Senators CANTWELL, COLEMAN, DODD, DORGAN, GRAHAM, INOUYE, MURKOWSKI, SMITH, and STEVENS. It is strongly supported by Hawaii's first Republican Governor in 40 years, Linda Lingle. She supports this bill. It is supported strongly by Hawaii's State Legislature which has passed three resolutions in favor of extending the Federal policy of self-governance and self-determination to native Hawaiians. It is supported by almost every single political leader in Hawaii. S. 147 is also supported by native Hawaiians and non-native Hawaiians.

Why, you might ask? Because in Hawaii, native Hawaiian issues are nonpartisan. We have tremendous respect for the indigenous peoples who have shared their lands, traditions, and cultures with the rest of us.

Mr. President, I have been patient, and the people of Hawaii have been patient. For the past 3 years, the majority and Democratic leaders have been working with me to uphold a commitment that was made at the end of the

108th Congress that we would consider and vote on this bill. Unfortunately—again, unfortunately—their efforts have been thwarted by a handful of colleagues who have taken it upon themselves to block this bill despite the widespread support from the State of Hawaii.

After 7 years of delay by a few of my colleagues, it is time we are provided with the opportunity to debate this bill in the open. I will be coming to the floor to talk about my bill every day until we begin debate on the bill. I will use every day to talk about what my bill does and does not do and to respond to the outright untruths that have been spread about the legislation. I will use every day to help share Hawaii's history with my colleagues as the opponents of this legislation have taken it upon themselves to rewrite the tragedies of Hawaii's history in a manner that suits them for the purposes of opposing this legislation.

I am deeply saddened by their tactics, but I am committed to ensuring that the Members of this body and all of the citizens in the United States understand Hawaii's history and the importance of extending the Federal policy of self-governance and self-determination to Hawaii's indigenous peoples, the native Hawaiians.

VOTE EXPLANATION

Mr. DURBIN. Mr. President, on vote No. 115, I was necessarily absent, due to a mechanical problem with the plane on my United flight 614 from Chicago. Had I been present for that vote, I would have voted against the motion to invoke cloture.

Mr. OBAMA. Mr. President, on vote No. 115—the motion to invoke cloture on the motion to proceed to S. 22—I was necessarily absent due to a delay with my flight back from Chicago. Had I been present for that vote, I would have voted against the motion to invoke cloture.

HONORING OUR ARMED FORCES

MARINE LANCE CORPORAL STEPHEN BIXLER

Mr. DODD. Mr. President, it is with a heavy heart that I rise today to honor the memory of Marine LCpl Stephen Bixler, of Suffield, CT, who was killed last week while serving our Nation in Iraq. He was 20 years old.

Tragically, Corporal Bixler's life was cut short when an improvised explosive device detonated while he was on patrol in Iraq's Al Anbar province. He was on his third tour of duty with the Marine Corps, having served previous tours in Haiti and Iraq. His heroic service is remembered today by a grateful nation.

Service and leadership. These are the traits that best defined Stephen Bixler—as a talented runner on his high school cross-country team and as senior patrol leader in Boy Scout Troop 260. He was awarded the rank of Eagle Scout after working hard to improve the Jesse F. Smith Memorial Forest. He decided early on in high school that he wanted to serve his country, and shortly after graduating in 2003 he joined the Marines.

Stephen returned home during the holidays last year and took the time to speak to students at his former high school about his experiences overseas and his pride in serving his country. Friends remember him as an intelligent, dedicated young man who was truly patriotic and possessed a self-confidence and leadership ability beyond his years.

All of us in Connecticut and across America owe a deep and solemn debt of gratitude to Stephen Bixler and to his family for his tremendous service to our country. On behalf of the United States, I offer my deepest condolences to Stephen's parents, Richard and Linda, his twin sister Sandra, and to everyone who knew and loved him.

ALTERNATIVE PLURIPOTENT STEM CELL THERAPIES ENHANCEMENT ACT

Mr. SPECTER. Mr. President, I have sought recognition to cosponsor and speak in support of legislation introduced by Senator SANTORUM called the Alternative Pluripotent Stem Cell Therapies Enhancement Act. This bill would authorize research into deriving stem cells using alternative methods that would not result in the destruction of a human embryo.

This legislation, which Senator SANTORUM and I have drafted in close partnership, represents a good faith effort to find common ground among those who support human embryonic stem cell research and those who do not. This bill is fully complementary to legislation that Senators HARKIN, HATCH, FEINSTEIN, SMITH, AND KENNEDY have introduced—the Stem Cell Research Enhancement Act of 2005—which would allow Federal funding for research on additional human embryonic stem cell lines. It will move forward research that could potentially eliminate the objections that some have to embryonic stem cell research while achieving the same goals. However, let me be clear, this legislation is not a substitute for supporting H.R. 810, the House-passed version of the Stem Cell Research Enhancement Act of 2005.

I believe medical research should be pursued with all possible haste to cure the diseases and maladies affecting Americans. In my capacity as Chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee, I have backed up this belief by supporting increases in funding for the National Institutes of Health. I have said many times that the NIH is the crown jewel of the Federal Government—perhaps the only jewel of the Federal government. When I came to the Senate in 1981, NIH spending totaled $3.6 billion. In fiscal year 2006, NIH received a little over $29 billion to fund its pursuit of life-saving research. The successes realized by this investment in NIH have spawned revolutionary advances in our knowledge and treatment for diseases such as cancer, Alzheimer's disease, Parkinson's disease, mental illnesses, diabetes, osteoporosis, heart disease, ALS and many others. It is clear to me that Congress's commitment to the NIH is paying off. This is the time to seize the scientific opportunities that lie before us, and to ensure that all avenues of research toward cures—including stem cell research—are open for investigation.

In 1998, I learned of the discovery of human embryonic stem cells. These cells have the ability to become any type of cell in the human body. Another way of saying this is that the cells are pluripotent. The consequences of this unique property of stem cells are far-reaching and are key to their potential use in therapies. Scientists and doctors with whom I spoke—and who have since testified before my Appropriations Subcommittee at 17 stem cell-related hearings—were excited by this discovery. They believed that these cells could be used to replace damaged or malfunctioning cells in patients with a wide range of diseases. This could lead to cures and treatments for maladies such as Juvenile Diabetes, Parkinson's disease, Alzheimer's disease, cardiovascular diseases, and spinal cord injury.

Senator HARKIN and I took the lead on making Federal funding available for this promising research. On the issue of funding human embryonic stem cell research, I along with Senators HARKIN, HATCH, FEINSTEIN, SMITH, and KENNEDY are the Senate sponsors of the Stem Cell Research Act of 2005, which we hope will soon be coming up for a vote in the Senate. That critical bill would enable Federal funding of stem cell research with new human embryonic stem cell lines.

Embryonic stem cells are derived from embryos that would otherwise have been discarded. During the course of in vitro fertilization—IVF—therapies, sperm and several eggs are combined in a laboratory to create 4 to 16 embryos for a couple having difficulty becoming pregnant. The embryos grow in an incubator for 5 to 7 days until they contain approximately 100 cells. To maximize the chances of success, several embryos are implanted into the woman. The remaining embryos are frozen for future use. If the woman becomes pregnant after the first implantation, and does not want to have more pregnancies, the remaining embryos are in excess of clinical need and can be donated for research. Embryonic stem cells are derived from these embryos—destroying the embryo in the process. This process raises concerns for some, including my distinguished colleague Senator SANTORUM.

Although I disagree with the calculus that embryos should be discarded rather than used in research, I recognize and appreciate these deeply felt objections. In fact, I took the lead on creating an embryo adoption awareness campaign in fiscal year 2002, and continue to include $2 million for that campaign in the HHS appropriation. If these embryos are likely to be donated to families that cannot conceive, I want this to be the first choice. However, with 400,000 frozen embryos in IVF clinics around the country, the supply far exceeds the demand and embryos are being discarded. Nonetheless, I want to pursue this and other options to address the objections of some of my colleagues.

When the President's Council on Bioethics reported on several theoretical methods for deriving stem cells without destroying embryos, I immediately scheduled a hearing to investigate these ideas. On July 12, 2005, the Labor-HHS Subcommittee heard testimony from five witnesses describing several theoretical techniques for deriving stem cells without destroying embryos. All five witnesses supported moving forward with the alternative methods without abandoning embryonic stem cell research. The alternative stem cells would theoretically also have the key ability to become any type of cell. Let me briefly mention several of the techniques discussed at the hearing.

Dr. Robert Lanza of Advanced Cell Technologies claims to have derived stem cells from a single cell extracted from 2-day-old, eight-celled mouse embryos. This single cell is called a blastomere and its removal from human embryos does not destroy the original embryo. Scientists know a single cell can be taken from a 2-day-old embryo without destroying it, because it is routinely done in pre-implantation genetic diagnosis.

Dr. William Hurlbut, a Stanford University bioethicist, supports a technique where a cloned embryo would be created whose DNA is mutated such that it cannot develop into a baby. This altered embryo would be destroyed for its stem cells. Since the embryo never had the potential to produce a baby, some of the objections normally raised with embryonic stem cell research would be circumvented.

Several scientists have suggested deriving stem cells from technically dead embryos. When embryos frozen during in-vitro fertilization are thawed, some never resume dividing and thus are discarded.

Many scientists are attempting to turn back the clock on older cells so they again become "pluripotent," the scientific term for the ability to turn into any tissue. Scientists already are trying to do this to some degree through "adult stem cell" research, such as turning blood-making cells into cells that produce liver or muscle tissues.

The legislation, which Senator SANTORUM and I have drafted, is meant to encourage these alternative methods for deriving stem cells without harming human embryos. The act amends the Public Health Service Act by inserting a section that:

(1) Mandates that the Secretary of Health and Human Services shall support meritorious peer-reviewed research to develop techniques for the derivation of stem cells without creating or destroying human embryos.

(2) Requires the Secretary to issue guidelines within 90 days to implement this research and to identify and prioritize the next research steps.

(3) Requires the Secretary to consider techniques outlined by the President's Council on Bioethics, such as altered nuclear transfer and single cell derivation.

(4) Requires the Secretary to report yearly on the activities carried out under this authorization.

(5) Includes a "Rule of Construction" stating: "Nothing in this section shall be construed to affect any policy, guideline, or regulation regarding embryonic stem cell research, human cloning by somatic cell nuclear transfer, or any other research not specifically authorized by this section."

(6) Defines "human embryo" by reference to the latest definition contained in the appropriations act for the Department of Health and Human Services.

(7) Authorizes "such sums as may be necessary" for fiscal years 2007 through 2009.

Knowing that scientists never know exactly which research will lead to the next great cure, I have always supported opening as many avenues of research as possible. Based on that line of reasoning, I have always supported human embryonic, adult, and cord blood stem cell research. My goal is to see cures for the various afflictions that lower the quality of life—or end the lives—of Americans.

The Santorum/Specter bill focuses attention on one of those avenues of research. I must emphasize that this bill is not a substitute for support of human embryonic stem cell research or support for H.R. 810. The two bills are complementary in their scope and together will advance our understanding of biomedical science and bring us another step closer to the cures and treatment that we all desire.

MONTANA'S NATIONAL GUARD

Mr. BAUCUS. Mr. President, I rise today to pay tribute to the 1–163rd infantry battalion of Montana's National Guard for their continued contribution to our Nation. In peacetime, these soldiers have performed admirably at home in Montana, but in wartime the members of the first of the 163rd infantry battalion truly deserve recognition.

For 18 months, they were deployed to Iraq where, on a daily basis, they risked their lives to defend our Nation's core beliefs—freedom, justice, and equality. In November of 2005, 700 troops returned home to Montana.

While serving abroad, these men and women spent the majority of their time at 3 forward operating bases in northern Iraq. They bravely undermined insurgency in the largest and most dangerous area in the 116th Brigade's area of operations.

These Montanans risked their lives daily during their field operations. In total, the 1–163rd infantry battalion performed 6,400 patrols where they encountered frequent attacks. During their deployment, the 1–163rd engaged in over 35 direct battles with members of the Iraqi insurgency and received small arms fire over 130 times. The battalion also defused almost 200 improvised explosive devices, IEDs, and experienced 359 IED detonations.

In addition to the routine patrols that the unit regularly performed, the battalion also conduced 35 task force level operations, 10 joint task force air assault missions, and 120 deliberate company-level operations.

Despite the dangerous conditions, the 1–163rd infantry battalion still made considerable advances in neutralizing their area of operations. The battalion was able to reduce the number of arms and insurgents in the area. Hundreds of Iraqi weapon systems were confiscated, including AK-47s, rocket propelled grenades and mortar tubes, and over 100 insurgents were detained. These efforts were critical in minimizing the likelihood of future attacks in the area.

Not only did the 1–163rd improve the overall safety of northern Iraq, but this infantry battalion also participated in the extensive reconstruction effort. In total, 68 projects worth $7.5 million were successfully implemented by the battalion. Countless improvements to municipalities in northern Iraq are directly attributable to the 1–163rd.

Today I wish to especially commend two members of the 1–163rd who did not return home but instead gave their lives in service to this great Nation. SGT Travis Arndt, 23, from Great Falls, MT, was killed in action near Kirkuk, Iraq, on September 21, 2005. MSG Robbie McNary, 42, died in combat in Hawijah, Iraq, on March 31, 2005, leaving behind his wife and three children in Lewistown, MT. Let us remember them for their honorable service and ultimate sacrifice.

As a Montanan, an American, and a Senator, I would like to truly thank and commend the first of the 163rd infantry battalion of the Montana's National Guard for their excellent performance during this last deployment and their impressive dedication and loyalty to this nation.

In November, when the 1-163rd returned to Montana from their 18-month deployment, they were applauded for their success, but I would like to keep that recognition alive. Long after this war on terror is over, we will remember their contribution to our most valuable freedom and security. Thank you.

ADDITIONAL STATEMENTS

CELEBRATING THE 100TH BIRTHDAY OF NANCY IRISH

• Mr. LIEBERMAN. Mr. President, I would like to wish a happy birthday to Nancy Irish of Stafford Springs, CT. Nancy will be celebrating her 100th birthday on May 9. While the birthday itself is, of course, worthy of much celebration, those who know Nancy well—her friends, relatives, coworkers and neighbors—would all tell you that Nancy deserves the most congratulations for the life she has led over the past 100 years.

Born May 9, 1906, to Italian immigrant parents, Nancy lived in New York until she and her family moved to Massachusetts when she was a teenager. On July 12, 1924, she married Daniel Woods Irish, and together they moved to Connecticut. They had three children, Daniel, Darian, and Dolores. When her husband Daniel tragically passed away early, Nancy worked very hard to provide for her family. Throughout her life, she held a variety of jobs, including working in the Tobacco Valley cigar industry and, at one time, running a taxi business and a rooming house. After years of hard work, Nancy retired to Florida for over 20 years before moving back to Connecticut. She is currently enjoying a well-deserved retirement and loves spending time with her family, including two surviving children, five grandchildren, nine great-grandchildren and a great-great-grandson.

Nancy Irish has lived a long, remarkable life and has touched many people's lives. If you consider the strength, determination, and hard work she has demonstrated throughout her life, can it really be any shock that she has lived such a long, fulfilling life? Happy birthday, Nancy Irish. May your 100th year be your best yet.•

CELEBRATION OF NAVY WEEK

• Mr. OBAMA. Mr. President, I rise today to speak about the Illinois celebration of "Navy Week," which will occur this year during the week of May 15, 2006. This celebration recognizes the men and women who have served and sacrificed on behalf of this country both at home and abroad.

The strength and bravery of the U.S. Navy played an integral role in the creation and development of the United States during its struggle for freedom and American sovereignty. Many brave Illinois citizens have served and continue to serve honorably in the U.S. Navy.

There are more than 350,000 active duty and more than 135,000 Ready Reserve Navy personnel in the U.S. Navy, serving the Nation in support and defense of the values and freedom that all people in the United States cherish.

This week, members of the Navy in Illinois will spend time serving their country and community in other ways. The Navy band will perform in city parks throughout Chicago, and Navy personnel will work at food banks and travel to the Great Lakes Veterans Hospital to support those who are a part of the great history of the U.S. Navy.

In addition, the Navy will participate in Habitat for Humanity, building houses around Illinois, and they will work with the Chicago Christian Industrial League to help the homeless of Chicago and those suffering from substance abuse.

Recognizing "Navy Week" will allow us to celebrate the strength and bravery displayed by members and veterans of the U.S. Navy and the role they have played throughout our history.•

CONGRATULATING JOHN FALES

• Mr. AKAKA. Mr. President, I rise today to congratulate Mr. John Fales for receiving the American Legion National Commander's Public Relations Award for 2006. John has a long and distinguished military career and has continued his service to this great Nation as an unwavering supporter of veterans as a journalist and advocate.

During his military career, John served more than 27 years on active duty for the U.S. Navy and Marine Corps. He is highly decorated with awards including the Purple Heart, Vietnam Service Medal, Vietnam Campaign Medal, National Defense Service Medal, Armed Forces Expeditionary Service Medal, New York State Conspicuous Service Medal, Presidential Unit Citation, Combat Action Ribbon, and South Vietnamese Cross of Gallantry. He earned these decorations as he defended our Nation's freedoms and liberties.

Today, John helps our veterans access care and benefits. To the many readers of his column, he is known as Sergeant Shaft, the witty newspaper columnist that provides information affecting the veterans' community. His column helps veterans and their families navigate the highly complicated VA system to obtain the care and benefits they have earned through their service. John is also the president of the Blinded American Veterans Foundation which advocates for sensory disabled veterans and provides outreach efforts to ensure sensory disabled veterans are able to lead productive lives.

John Fales's service and patriotism are beyond question. He is a deserving recipient of the American Legion National Commander's Public Relations Award for 2006. Once again, I congratulate John for his commendation.•

EMMANUEL OFOSU YEBOAH'S DISABILITIES LEADERSHIP

• Mr. OBAMA. Mr. President, I rise today to honor and congratulate Emmanuel Ofosu Yeboah for his leadership and dedication to raising awareness about disabilities around the world.

Emmanuel was born without a tibia in his right leg, leaving it useless and severely deformed. This would have been an enormous obstacle for anyone in our society to overcome. But he was not born here—he was born in Ghana, where historically the disabled were often poisoned or left to die. At the time, it was believed that a child was born disabled due to a sin the mother had committed. Because of his son's deformed leg, Emmanuel's father abandoned his family, and his mother's friends encouraged her to kill or, at the very least, abandon her disabled son.

Instead, she chose to nurture and encourage him, making the radical decision to send him to primary school, rather than sending him to the streets as a beggar.

Unfortunately, his mother died when he was 13, and Emmanuel was forced to drop out of school. His only option for survival was to shine shoes for a living—earning the equivalent of only 2 dollars a day.

Despite his struggle, Emmanuel's story is a successful one. He refused to resort to begging, and instead chose to focus the attention of his countrymen on the issue of discrimination of the disabled in Ghana. His method: biking across Ghana—with one leg. The only problem was that he didn't own a bicycle.

After seeking support from the Challenged Athlete Foundation in the United States in 2002, Emmanuel began his journey through Ghana, garnering media attention with every mile. By the time he reached his destination, Emmanuel was a national hero.

After 2003, when he competed in a triathlon, riding a 56-mile bike segment as part of a relay team, he was given a whole new life. Doctors were able to free him from his crutches by partially amputating his leg and applying a prosthetic one.

Emmanuel has since dedicated his life to improving the lives of Ghana's many disabled citizens. In conjunction with the Free Wheelchair Mission, Emmanuel has helped provide free wheelchairs to disabled people around the world. He has started a cycling team, a wheelchair basketball team, and a running team for physically challenged athletes, and is currently working on starting a sports academy for disabled athletes in Ghana.

Today, of the 20 million people living in Ghana, 2 million are disabled. Thanks to the efforts of Emmanuel Ofosu Yeboah, Ghanaians with physical disabilities are living their lives with purpose, dignity, and value.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

NOTIFICATION OF THE CONTINUATION OF AN EXECUTIVE ORDER BLOCKING THE PROPERTY OF CERTAIN PERSONS AND PROHIBITING THE EXPORT OF CERTAIN GOODS TO SYRIA—PM 47

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U. So. C. 1622 (d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the Federal Register for publication the enclosed notice, stating that the national emergency declared in Executive Order 13338 of May 11, 2004, and expanded in scope in Executive Order 13399 of April 25, 2006, authorizing the blocking of property of certain persons and prohibiting the exportation and reexportation of certain goods to Syria, is to continue in effect beyond May 11, 2006. The most recent notice continuing this emergency was published in the Federal Register on May 10, 2005 (70 FR 24697).

The actions of the Government of Syria in supporting terrorism, interfering in Lebanon, pursuing weapons of mass destruction and missile programs, and undermining United States and international efforts with respect to the stabilization and reconstruction of Iraq, pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue in effect the national emergency authorizing the blocking of property of certain persons and prohibiting the exportation and reexportation of certain goods to Syria and to maintain in force the sanctions to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *May 8, 2006*.

MESSAGE FROM THE HOUSE

At 3:13 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4954. An act to improve maritime and cargo security through enhanced layered defenses, and for other purposes.

The message also announced that pursuant to 22 U.S.C. 276d, clause 10 of rule I, and the order of the House of December 18, 2005, the Speaker appoints the following members of the House of Representatives to the United States Delegation of the Canada-United States Interparliamentary Group: Mr. MANZULLO of Illinois, Chairman, Mr. MCCOTTER of Michigan, Vice Chairman, Mr. DREIER of California, Ms. SLAUGHTER of New York, Mr. PETERSON of Minnesota, Mr. ENGLISH of Pennsylvania, Mr. GUTKNECHT of Minnesota, Mr. SOUDER of Indiana, Mr. TANCREDO of Colorado, Mr. BROWN of South Carolina, and Mr. LIPINSKI of Illinois.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-6771. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Chemical Weapons Convention Regulations" (RIN0694-AB06) received on May 1, 2006; to the Committee on Commerce, Science, and Transportation.

EC-6772. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Entity List: Addition" (RIN0694-AD66) received on May 1, 2006; to the Committee on Commerce, Science, and Transportation.

EC-6773. A communication from the Chief, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Request to Update Default Compensation Rate for Dial-Around Calls from Payphones" (WC Docket No. 03-225) received on May 1, 2006; to the Committee on Commerce, Science, and Transportation.

EC-6774. A communication from the Associate Bureau Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Part 97 of the Commission's Rules to Implement Certain World Radio Conference 2003 Final Acts" (WT Docket No. 96-86) received on May 1, 2006; to the Committee on Commerce, Science, and Transportation.

EC-6775. A communication from the Legal Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures, Second Report and Order and Second Further Notice of Proposed Rule Making" (WT Docket No. 05-211) received on May 1, 2006; to the Committee on Commerce, Science, and Transportation.

EC-6776. A communication from the Attorney, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hazardous Materials: Requirements for Lighters and Lighter Refills" (RIN2137-AD88) received on April 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC-6777. A communication from the Attorney Advisor, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a vacancy in the position of Administrator, received on May 1, 2006; to the Committee on Commerce, Science, and Transportation.

EC-6778. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure of the Quarter II Fishery for Loligo Squid" (I.D. No. 041406A) received on May 1, 2006; to the Committee on Commerce, Science, and Transportation.

EC-6779. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish by Vessels Using Non-Pelagic Trawl Gear in the Red King Crab Savings Subarea" (I.D. No. 040406) received on May 1, 2006; to the Committee on Commerce, Science, and Transportation.

EC-6780. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Inseason Adjustments; Pacific Halibut Fisheries" (I.D. No. 041906A) received on May 1, 2006; to the Committee on Commerce, Science, and Transportation.

EC-6781. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Retention Standard" (RIN0648–AT04) received on May 1, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6782. A communication from the Chairman, Dwight D. Eisenhower Memorial Commission, transmitting, pursuant to law, the Fifth Report of the Dwight D. Eisenhower Memorial Commission; to the Committee on Rules and Administration.

EC–6783. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six month periodic report on the national emergency with respect to Sudan that was declared in Executive Order 13067; to the Committee on Banking, Housing, and Urban Affairs.

EC–6784. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Citrus from Peru" (Docket No. 03–113–3) received on May 3, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6785. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Milk in the Northeast et al: Final Rule" (Docket No. DA–06–06; AO–14–A75, et al.) received on May 3, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6786. A communication from the Secretary of Agriculture, transmitting, a report relative to seven separate user fee proposals which would shift the funding of the covered activities from the government to the beneficiaries of the activities; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6787. A communication from the Acting Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a report of the closure of the Defense commissary stores at Giebelstadt and Kitzingen, Germany, on August 1, 2006; to the Committee on Armed Services.

EC–6788. A communication from the Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" (29 CFR Parts 4022 and 4044) received on May 3, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–6789. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Regulation of Fuels and Fuel Additives: Removal of Reformulated Gasoline Oxygen Content Requirement and Revision of Commingling Prohibition to Address Non-Oxygenated Reformulated Gasoline; Partial Withdrawal: Correction" (FRL No. 8167–4) received on May 3, 2006; to the Committee on Environment and Public Works.

EC–6790. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Update of Continuous Instrumental Test Methods" (FRL No. 8165–1) received on May 3, 2006; to the Committee on Environment and Public Works.

EC–6791. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Regulation of Fuels and Fuel Additives: Removal of Reformulated Gasoline Oxygen Content Requirement" (FRL No. 8167–5) received on May 3, 2006; to the Committee on Environment and Public Works.

EC–6792. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Virginia: Final Authorization of State Hazardous Waste Management Program Revisions" (FRL No. 8165–7) received on May 3, 2006; to the Committee on Environment and Public Works.

EC–6793. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to Stage II Vapor Recovery at Gasoline Dispensing Facilities" (FRL No. 8165–2) received on May 3, 2006; to the Committee on Environment and Public Works.

EC–6794. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Large Municipal Waste Combustors" (FRL No. 8164–9) received on May 3, 2006; to the Committee on Environment and Public Works.

EC–6795. A communication from the Regulations Coordinator, Center for Medicare Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Prospective Payment System for Long-Term Care Hospitals RY 2007: Annual Payment Rate Updates, Policy Changes, and Clarification" (RIN 0938–AO06) received on May 3, 2006; to the Committee on Finance.

EC–6796. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Modifications to the Subpart F Treatment of Aircraft and Vessel Leasing Income" (Notice 2006–48) received on May 3, 2006; to the Committee on Finance.

EC–6797. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Interim Guidance with Respect to the Application of Treas. Reg. 1.883–3" (Notice 2006–43) received on May 3, 2006; to the Committee on Finance.

EC–6798. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revenue Procedure: Competent Authority Procedures with Respect to the U.S. Possessions" (Notice 2006–23) received on May 3, 2006; to the Committee on Finance.

EC–6799. A communication from the Director, Executive Secretariat, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Making Pictures, Television Productions, or Sound Tracks on Certain Areas Under the Jurisdiction of the Department of the Interior" (RIN1093–AA10) received on May 3, 2006; to the Committee on Energy and Natural Resources.

EC–6800. A communication from the Attorney, Office of Assistant General Counsel for Legislation and Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Guidelines for Voluntary Greenhouse Gas Reporting" (RIN1901–AB11) received on May 3, 2006; to the Committee on Energy and Natural Resources.

EC–6801. A communication from the Deputy Assistant Secretary, Fish and Wildlife and Parks, National Park Service, transmitting, pursuant to law, the report of a rule entitled "Bighorn Canyon National Recreation Area, Personal Watercraft Use" (RIN1024–AC96) received on May 3, 2006; to the Committee on Energy and Natural Resources.

EC–6802. A communication from the Deputy Assistant Secretary, Fish and Wildlife and Parks, National Park Service, transmitting, pursuant to law, the report of a rule entitled "Pictured Rocks National Lakeshore, Personal Watercraft Use" (RIN1024–AC93) received on May 3, 2006; to the Committee on Energy and Natural Resources.

EC–6803. A communication from the Deputy Assistant Secretary, Fish and Wildlife and Parks, National Park Service, transmitting, pursuant to law, the report of a rule entitled "Gulf Islands National Seashore, Personal Watercraft Use" (RIN1024–AD21) received on May 3, 2006; to the Committee on Energy and Natural Resources.

EC–6804. A communication from the Deputy Assistant Secretary, Fish and Wildlife and Parks, National Park Service, transmitting, pursuant to law, the report of a rule entitled "Fire Island National Seashore, Personal Watercraft Use" (RIN1024–AC94) received on May 3, 2006; to the Committee on Energy and Natural Resources.

EC–6805. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–366, "Uniform Family Support Amendment Act of 2006" received on May 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6806. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–367, "Child Support Guideline Revision Act of 2006" received on May 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6807. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–368, "Scrap Vehicle Title Authorization Act of 2006" received on May 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–6808. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–369, "Tenant Evictions Reform Amendment Act of 2006" received on May 5, 2006; to the Committee on Homeland Security and Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER:

S. 2757. A bill to temporarily increase the standard mileage rate for use of an automobile for purposes of certain deductions allowed under the Internal Revenue Code of 1986 and to temporarily increase the reimbursement rate for use of an automobile by Federal employees; to the Committee on Finance.

By Mr. LIEBERMAN:

S. 2758. A bill to amend the Federal Cigarette Labeling and Advertising Act with respect to the labeling of cigarette packages, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SMITH (for himself and Mr. BINGAMAN):

S. 2759. A bill to provide for additional outreach and education related to the Medicare program and to amend title XVIII of the Social Security Act to provide a special enrollment period for individuals who qualify for an income-related subsidy under the Medicare prescription drug program; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. KYL, and Mr. SUNUNU):

S. 2760. A bill to suspend the duty on imports of ethanol, and for other purposes; to the Committee on Finance.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 2761. A bill to authorize the Secretary of the Army to acquire land for the purpose of expanding Pinon Canyon Maneuver Site, and for other purposes; to the Committee on Armed Services.

By Mr. AKAKA:

S. 2762. A bill to amend title 38, United States Code, to ensure appropriate payment for the cost of long-term care provided to veterans in State homes, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SCHUMER:

S. 2763. A bill to suspend temporarily the duty on ethanol; to the Committee on Finance.

By Mr. REID (for himself and Mr. ENSIGN):

S. 2764. A bill to amend Public Law 108-67 to correct a provision relating to the conveyance of the Lake Tahoe Basin Management Unit; to the Committee on Energy and Natural Resources.

By Mr. KERRY:

S.J. Res. 36. A joint resolution providing a strategy for stabilizing Iraq and withdrawing United States troops; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LIEBERMAN (for himself, Mr. MARTINEZ, Mr. NELSON of Florida, Mr. MENENDEZ, Mr. ENSIGN, Mr. MCCAIN, and Mr. BIDEN):

S. Res. 469. A resolution condemning the April 25, 2006, beating and intimidation of Cuban dissident Martha Beatriz Roque; to the Committee on Foreign Relations.

By Mr. KERRY:

S. Res. 470. A resolution promoting a comprehensive political agreement in Iraq; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. ENSIGN, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 22, a bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

S. 23

At the request of Mr. SANTORUM, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from Mississippi (Mr. LOTT) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S. 23, a bill to improve women's access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

S. 58

At the request of Mr. INOUYE, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 58, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 241

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 311

At the request of Mr. SMITH, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 311, a bill to amend title XIX of the Social Security Act to permit States the option to provide Medicaid coverage for low-income individuals infected with HIV.

S. 333

At the request of Mr. SANTORUM, the names of the Senator from Missouri (Mr. BOND), the Senator from Nevada (Mr. REID) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 537

At the request of Mr. BINGAMAN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 537, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 728

At the request of Mr. BOND, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 728, a bill to provide for the consideration and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

S. 811

At the request of Mr. DURBIN, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 811, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln.

S. 1008

At the request of Mr. SANTORUM, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1008, a bill to amend the Internal Revenue Code of 1986 to add meningococcal vaccines to the list of taxable vaccines for purposes of the Vaccine Injury Compensation Trust Fund.

S. 1035

At the request of Mr. INHOFE, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1035, a bill to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States.

S. 1046

At the request of Mr. KYL, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1046, a bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts over certain cases and controversies involving the Pledge of Allegiance.

S. 1062

At the request of Mr. KENNEDY, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1062, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

S. 1221

At the request of Mr. DEWINE, his name was added as a cosponsor of S. 1221, a bill to amend chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employee's duty.

S. 1619

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1619, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to require local educational agencies and schools to implement integrated pest management systems to minimize the use of pesticides in schools and to provide parents, guardians, and employees with notice of the use of pesticides in schools, and for other purposes.

S. 1621

At the request of Ms. COLLINS, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1621, a bill to amend the Internal Revenue Code of 1986 to increase the above-the-line deduction for teacher classroom supplies and to expand such deduction to include qualified professional development expenses.

S. 2025

At the request of Mr. BAYH, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2025, a bill to promote the national security and stability of the United States economy by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, and for other purposes.

S. 2079

At the request of Mr. SMITH, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2079, a bill to improve the ability of the Secretary of Agriculture and the Secretary of the Interior to promptly implement recovery treatments in response to catastrophic events affecting the natural resources of Forest Service land and Bureau of Land Management Land, respectively, to support the recovery of non-Federal land damaged by catastrophic events, to assist impacted communities, to revitalize Forest Service experimental forests, and for other purposes.

S. 2429

At the request of Mr. LUGAR, the names of the Senator from Missouri (Mr. BOND) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 2429, a bill to authorize the President to waive the application of certain requirements under the Atomic Energy Act of 1954 with respect to India.

S. 2503

At the request of Mrs. LINCOLN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2503, a bill to amend the Internal Revenue Code of 1986 to provide for an extension of the period of limitation to file claims for refunds on account of disability determinations by the Department of Veterans Affairs.

S. 2548

At the request of Mr. STEVENS, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 2548, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure that State and local emergency preparedness operational plans address the needs of individuals with household pets and service animals following a major disaster or emergency.

S. 2554

At the request of Mr. ENSIGN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2554, a bill to amend the Internal Revenue Code of 1986 to expand the permissible use of health savings accounts to include premiums for non-group high deductible health plan coverage.

S. 2563

At the request of Mr. COCHRAN, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 2563, a bill to amend title XVIII of the Social Security Act to require prompt payment to pharmacies under part D, to restrict pharmacy co-branding on prescription drug cards issued under such part, and to provide guidelines for Medication Therapy Management Services programs offered by prescription drug plans and MA-PD plans under such part.

S. 2642

At the request of Mrs. FEINSTEIN, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2642, a bill to amend the Commodity Exchange Act to add a provision relating to reporting and recordkeeping for positions involving energy commodities.

S. 2652

At the request of Mr. ALLEN, his name was added as a cosponsor of S. 2652, a bill to amend chapter 27 of title 18, United States code, to prohibit the unauthorized construction, financing, or, with reckless disregard, permitting the construction or use on one's land, of a tunnel or subterranean passageway between the United States and another country.

S. 2695

At the request of Mr. CORNYN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2695, a bill to provide for Federal agencies to develop public access policies relating to research conducted by employees of that agency or from funds administered by that agency.

S. 2703

At the request of Mr. LEAHY, the names of the Senator from Washington (Ms. CANTWELL), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2703, a bill to amend the Voting Rights Act of 1965.

S. 2720

At the request of Mr. BAUCUS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2720, a bill to amend the Internal Revenue Code of 1986 to provide incentives to improve America's research competitiveness, and for other purposes.

S. 2721

At the request of Mr. SCHUMER, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 2721, a bill to simplify the taxation of business activity, and for other purposes.

S. 2747

At the request of Mr. BINGAMAN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2747, a bill to enhance energy efficiency and conserve oil and natural gas, and for other purposes.

S. 2748

At the request of Mr. BINGAMAN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2748, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to promote energy production and conservation, and for other purposes.

S. CON. RES. 16

At the request of Mr. BINGAMAN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. Con. Res. 16, a concurrent resolution conveying the sympathy of Congress to the families of the young women murdered in the State of Chihuahua, Mexico, and encouraging increased United States involvement in bringing an end to these crimes.

S. RES. 320

At the request of Mr. ENSIGN, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. Res. 320, a resolution calling the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SMITH (for himself and Mr. BINGAMAN):

S. 2759. A bill to provide for additional outreach and education related to the Medicare program and to amend title XVIII of the Social Security Act to provide a special enrollment period for individuals who qualify for an income-related subsidy under the Medicare prescription drug program; to the Committee on Finance.

Mr. SMITH. Mr. President, today I am proud to file the Medicare Part D Outreach and Enrollment Enhancement Act of 2006. This timely piece of legislation addresses two very targeted administrative issues that have come to light since Medicare's new prescription drug benefit became effective earlier this year. I am also pleased that Senator BINGAMAN is joining on this bill.

With more than 30 million beneficiaries now receiving coverage through Medicare Part D, the program is well on its way to helping deliver much needed access to lower cost prescription drugs. And with the close of the initial enrollment period on May 15 looming, the Centers for Medicare and Medicaid Services (CMS) and advocacy organizations across the country are working diligently to provide last minute assistance to those beneficiaries still wishing to enroll.

However, even after the May 15 deadline passes, beneficiaries will still need counsel on the program's benefits, including the availability of the low-income subsidy. For instance, dual eligible beneficiaries and those who previously received assistance through a Medicare Savings Program have the ability to change their prescription drug plan monthly. This particularly vulnerable group of beneficiaries likely will need extra assistance in choosing a plan that more appropriately meets their medical and financial needs.

There also are those beneficiaries who will age into Medicare throughout the year. They will be provided an initial enrollment period to choose a prescription drug plan once they turn age 65. And with the first regular enrollment cycle beginning in November, many beneficiaries will need advice as they evaluate new plan options or consider switching plans if their existing coverage has changed. We owe it to our seniors to provide them quality information so they can make the best possible prescription drug plan choice.

That is why I am asking for increased Part D outreach and education funding in the bill I am filing today. State Health Insurance Programs (SHIPs), which provide a range of valuable services, help beneficiaries select quality prescription drug plans, identify additional financial help with their drug costs, and resolve general enrollment difficulties.

This year, CMS supported the outreach work of SHIPs with a $30 million allotment. Despite this funding, there still remains a great need to raise further awareness about the new Part D benefit among beneficiaries and provide them assistance with selecting an appropriate prescription drug plan. The Outreach and Enrollment Enhancement Act would allocate SHIPs an additional $13.5 million, bringing their total funding to $43.5 million, or, one dollar per Medicare beneficiary. To assure that the work of SHIPs is sufficiently supported in future years, the bill also creates a new funding authorization that is set to increase as the number of Medicare beneficiaries grows.

The legislation I am filing today also provides funding to the Area Agencies on Aging (AAA) and Native American aging programs that have absorbed an increased workload since the passage of the Medicare Modernization Act. In Oregon, the Multnomah County AAA has incurred $30,000 in expenses related to Medicare outreach since the beginning of this year, but they have received very little new funding in return. The bill recognizes the important role AAAs and Native American aging programs play in helping elderly Americans enroll in Medicare by providing new funding in the amount of $6.3 million this fiscal year.

Apart from increased funding for outreach and education, the bill addresses a very targeted problem with the current enrollment process that has recently become apparent. Beneficiaries who believe their income and asset levels may qualify them for extra help with their prescription drug costs may apply for a low-income subsidy (LIS) at any point during the year. If they submit an application to the Social Security Administration (SSA) during an initial enrollment period but do not receive notification of their eligibility before the enrollment deadline, they have one of two options available to them. They could enroll into a prescription drug plan before the deadline not knowing whether they will have to pay all or part of the costs of the monthly premium. This could place a beneficiary in the awkward position if they choose a plan that they ultimately are unable to afford.

Under a recent CMS administrative action, beneficiaries who have applied for the LIS subsidy could choose to delay their enrollment in the program until they receive notification of their eligibility for a subsidy. However, they still would be required to pay a late enrollment penalty. While enrolling late may allow a beneficiary to make a more informed decision regarding their prescription drug plan, it would not be fair to assess them a fee simply because there was administrative delay in processing their LIS application. Both of these scenarios place beneficiaries in an untenable position. For the enrollment process to be successful, beneficiaries need to have as much information available to them as possible so they may choose the prescription drug plan that best meets their preferences.

The Outreach and Enrollment Enhancement Act provides a solution to this dilemma. The legislation creates a special 30-day enrollment period that begins on the day a beneficiary receives a decision regarding their LIS eligibility. Most importantly, the late enrollment penalty that would be imposed upon them under current law would be waived during the special enrollment period, in addition to the time it takes SSA to process their application. This small, yet significant, change to the existing enrollment process will allow LIS beneficiaries sufficient time to effectively consider and evaluate prescription drug plan options with all necessary information. We cannot afford to undermine seniors' trust in Medicare's prescription drug program by penalizing a certain group of beneficiaries for a problem that is created by the federal government.

I understand that many of my colleagues prefer to address administrative issues with Medicare Part D at a later date, so that the initial implementation process can run its full course without undue interference from Congress. While I would agree with that argument in principle, there are a number of existing problems that only serve to tarnish Medicare's image if we allow them to linger much longer. I believe providing additional resources for outreach and educational services and correcting the LIS enrollment issue are two such problems that Congress should address immediately—before the May 15 deadline passes.

The SSA has estimated that 80,000 beneficiaries might not have been notified of their LIS eligibility by the close of the first regular enrollment period. It would be entirely unfair to assess even one of these beneficiaries a late enrollment penalty, when by their understanding, they were playing by the rules CMS and SSA set forth regarding the low-income subsidy.

I ask the Majority Leader and my colleagues to support my call for the Outreach and Enrollment Enhancement Act to be treated as an emergency measure and provide it quick passage in the Senate. By taking up this very targeted measure, Congress can demonstrate to America's seniors that we are committed to the continued success of the Medicare prescription drug program.

By Mrs. FEINSTEIN (for herself, Mr. KYL, and Mr. SUNUNU):

S. 2760. A bill to suspend the duty on imports of ethanol, and for other purposes; to the Committee on Finance.

Mrs. FEINSTEIN. Mr. President, I rise today with Senators KYL and SUNUNU to introduce a bill to strike the ethanol import tariff.

With record high gas prices and demand for ethanol growing faster than expected, I believe we need to act now to ease the ethanol supply crunch.

As many of my colleagues know, I have been strongly opposed to the ethanol mandate that was included in the energy bill enacted last August.

Today, more than ever, I believe that the time has come to end unwarranted subsidies to ethanol producers.

They include: $4.5 billion in agricultural subsidies in 2004 alone that benefit corn farmers (Environmental Working Group); a 51 cent per gallon tax credit for ethanol producers; and a

7.5 billion gallon ethanol mandate that was included in the energy bill.

The current 51 cent per gallon subsidy is costing American taxpayers $2 billion per year, and will cost even more after 2012—almost $4 billion per year—when the use of ethanol is mandated to nearly double.

Now that the ethanol mandate is law, it is time for the subsidies to cease.

I believe we need to start by striking the 54 cent per gallon ethanol import tariff.

Ethanol imports are extremely limited, even though production costs for ethanol in foreign countries are significantly lower than in the United States.

For example, according to the Congressional Research Service, Brazilian productions costs are 40 to 50 percent lower than in the United States. Yet the tariff raises the cost of ethanol enough to pose a significant barrier to imports.

It is egregious to put such a high tariff on ethanol importation. It makes it impossible for U.S. consumers to purchase the lowest-cost ethanol.

And with the refineries choosing to phase-out MTBE this year, the demand for ethanol is even greater than was expected.

It is not clear if the domestic supply will be able to meet that growing demand.

Any ethanol supply disruption will hurt drivers on the east and west coasts the most.

Right now, ethanol is produced in the Midwest and must be trucked or railed to the coasts. According to news reports, ethanol delivery from the Midwest is currently being hindered by strong demand for limited rail time and a shortage of trucks and drivers.

If we strike the tariff, refineries can have more economic and efficient access to ethanol.

So, it's time to eliminate this 54 cent tariff and give consumers a break at the pump.

And we are not alone in this effort. Just last week, the President asked that Congress consider eliminating the tariff.

If they are going to be forced to use ethanol, our refineries should have the ability to buy it from the cheapest seller. They should not be constrained by artificial protectionist tariffs.

I hope my colleagues will join with me to strike this tariff.

Mr. AKAKA:

S. 2762. A bill to amend title 38, United States Code, to ensure appropriate payment for the cost of long-term care provided to veterans in State homes, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, I introduce legislation today to protect the state home program and expand the ability of states and the Department of Veterans Affairs (VA) to care for veterans. I truly believe that the state home program is an incredibly valuable asset as we grapple with how best to care for our aging veterans. The program has proven time and time again that it is cost effective.

VA involvement in the state home program dates back to 1888 when Congress first authorized Federal grants-in-aid for veterans in State homes. Today, there are 119 State-operated Veterans' Homes in 47 States and the Commonwealth of Puerto Rico. State homes provide nursing home care in 114 of these homes and domiciliary care in 52 of these locations.

As many of my colleagues know, the State home program is supported in two ways by VA—construction grants and per diem payments. Subject to available funding, VA provides construction matching-grant funding for up to 65 percent of the cost of constructing or rehabilitating homes, with at least 35 percent covered by State funding commitments.

The per diem portion of the program provides current reimbursement to State homes—currently $63.40 for a day of nursing home care. This amount equates to less than 30 percent of the total cost to provide this care. Yet, VA is currently authorized to provide up to 50 percent of States' costs.

In January of this year, Chairman CRAIG and I held field hearings in my State of Hawaii. The hearing on the island of Kauai focused exclusively on long-term care in rural settings. We heard from two witnesses who spoke about the benefits of the State home program and ways to improve upon it, so as to specifically care for rural veterans.

Tom Driskill, the President and CEO of Hawaii Health Systems Corporation, testified about the soon-to-be-built State home in Hilo. He said, "The synergy of a combined Federal and State funding of the home has been the catalyst for making this dream a reality." The Hilo home will be Hawaii's first State home and will house 95 beds and will serve veterans throughout the State.

The Committee also heard testimony about an innovative approach to fill significant gaps in long-term care services to veterans due to the nature and geography of certain States. Bob Shaw, the National Legislative Chairman for the National Association of State Veterans' Homes, testified that large State homes are not appropriate for the more remote locations in Hawaii. Instead, he argued, we should look to how Alaska has managed the challenge.

Rather than building large new homes, the State of Alaska is using its own Pioneer Homes, which provide nursing care to older Alaskans, in order to care for veterans. Similarly, Hawaii could use existing beds in the community and deem such beds as part of the State home program. Doing so would trigger per diem payments from VA to help defray the cost of nursing home care.

Accordingly, my legislation would authorize VA to provide construction grants and per diem payments for small long-term care units, approximately 10 to 30 beds, in pre-existing health care facilities. Such units would address gaps in long-term care services for veterans living in remote and rural regions including Alaska, Wyoming, Idaho, Montana, Kansas and other large, rural States.

I am quite proud of the changes we made to VA long-term care as part of the Millennium Act, which provides nursing home care to veterans who are 70 percent or more service-connected. I think we can expand the locations where such mandatory nursing home care is available. Currently, there is no mechanism in current law to permit VA to pay State homes for care provided to service-connected veterans. My legislation would authorize VA to place severely disabled service-connected veterans directly in State homes and would require VA to reimburse State homes for the cost of such care.

The legislation would also authorize severely disabled, service-connected veterans in State homes to receive VA's comprehensive medication benefit. Currently, such veterans are eligible to receive VA's full medication benefit if they are residing in community nursing homes but not if they reside in State homes. We need to ensure equitable coverage of medication needs.

Finally, this legislation mandates consultation and reporting requirements for VA prior to implementation of proposed changes to the current per diem system. Such requirements should include, at a minimum, consultations with Congress, State governments, and State homes. In addition, VA should be required to report to Congress how any such proposed changes would affect the long-term viability of the State home program before any such changes take effect. As part of the FY 06 budget, the Administration proposed dramatic restrictions to current per diem payments so as to only include a small portion of the veterans currently in State homes. Such a proposal, if enacted, would have devastated care in the homes.

Mr. President, we can give States and VA more tools to deal with burgeoning long-term care needs of veterans. I urge my colleagues in the Senate to join me in supporting this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD following this statement.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2762

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Long-Term Care Security Act of 2006".

SEC. 2. REQUIREMENT FOR REPORT TO CONGRESS BEFORE IMPLEMENTATION OF REDUCTION IN PER DIEM RATES FOR CARE PROVIDED TO VETERANS IN STATE HOMES.

(a) REQUIREMENT FOR REPORT.—Subsection (c) of section 1741 of title 38, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) If the Secretary proposes to implement a reduction in payments made under this section with respect to a fiscal year the Secretary shall, not later than January 1 of the preceding fiscal year, submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report containing a detailed justification of such proposed reduction.

"(B) For purposes of this paragraph, a reduction in payments is—

"(i) a lack of increase in the rates paid under subsection (a) pursuant to a determination of the Secretary under paragraph (1); or

"(ii) a modification of the eligibility for veterans to receive care in State homes that would, if enacted into law, result in fewer veterans eligible to receive such care in State homes.

"(C) In preparing a report under subparagraph (A), the Secretary shall consult with the heads and appropriate officials of the State and local agencies responsible for the supervision of State homes in each State in which State homes are operated, and representatives of such other organizations with expertise in State home matters as the Secretary determines appropriate.

"(D) A report under subparagraph (A) shall include the following information:

"(i) A specific description of the degree to which the proposed reduction in payments would effect the financial well-being of each State home.

"(ii) A detailed description of the consultation with heads, officials, and representatives required under subparagraph (C), and the results of that consultation.

"(iii) A description of the intent of the Secretary to recover grant amounts under section 8136(a) of this title where a State determines, as a result of the proposed reduction in payments, to close a State home within the period prescribed under that section.

"(iv) A description of the effect of the proposed reduction in payments on the long-term care needs of veterans who receive care in State homes, including a description of the options for long-term care in reasonably proximate facilities available to such veterans and an assessment of the cost of the provision of care for such veterans in such facilities.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act, and apply with respect to per diem payments made under section 1741 of title 38, United States Code, on or after such date.

SEC. 3. NURSING HOME CARE AND PRESCRIPTION MEDICATIONS IN STATE HOMES FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) NURSING HOME CARE.—Subchapter V of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 1744. Nursing home care and medications for veterans with service-connected disabilities

"(a)(1) The Secretary shall pay each State home for nursing home care at the applicable rate payable under section 1720 of this title for nursing home care furnished in a non-Department nursing home (as that term is defined in subsection (e)(2) of such section), where such care is provided to any veteran as follows:

"(A) Any veteran in need of such care for a service-connected disability.

"(B) Any veteran who—

"(i) has a service-connected disability rated at 70 percent or more; and

"(ii) is in need of such care.

"(2) Payment by the Secretary under paragraph (1) to a State home for nursing home care provided to a veteran described in that paragraph constitutes payment in full to the State home for such care furnished to that veteran.".

(b) PROVISION OF PRESCRIPTION MEDICINES.—Such section is further amended by adding at the end the following new subsection:

"(b) The Secretary shall furnish such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of illness or injury to any veteran as follows:

"(1) Any veteran in need of such drugs and medicines for a service-connected disability.

"(2) Any veteran who—

"(A) has a service-connected disability rated at 50 percent or more;

"(B) is provided nursing home care that is payable under subsection (a); and

"(C) is in need of such drugs and medicines.".

(c) CONFORMING AMENDMENTS.—

(1) CRITERIA FOR PAYMENT.—Section 1741(a)(1) of such title is amended by striking "The" and inserting "Except as provided in section 1744 of this title, the".

(2) ELIGIBILITY FOR NURSING HOME CARE.—Section 1710(a)(4) of such title is amended—

(A) by striking "and" before "the requirement in section 1710B of this title"; and

(B) by inserting ", and the requirement in section 1744 of this title to provide nursing home care and prescription medicines to veterans with service-connected disabilities in State homes" after "a program of extended care services".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1743 the following new item:

"1744. Nursing home care and medications for veterans with service-connected disabilities.".

(e) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 2006.

SEC. 4. AUTHORITY TO TREAT CERTAIN HEALTH FACILITIES AS STATE HOMES.

(a) AUTHORITY.—Subchapter III of chapter 81 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 8138. Treatment of certain health facilities as State homes

"(a) The Secretary may treat a health facility as a State home for purposes of subchapter V of chapter 17 of this title if the following requirements are met:

"(1) The facility meets the standards for the provision of nursing home care that is applicable to State homes, as prescribed by the Secretary under section 8134(b) of this title, and such other standards relating to the facility as the Secretary may require.

"(2) The facility is licensed or certified by the appropriate State and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting State home facilities.

"(3) The State demonstrates in an application to the Secretary that, but for the treatment of a facility as a State home under this subsection, a substantial number of veterans residing in the geographic area in which the facility is located who require nursing home care will not have access to such care.

"(4) The Secretary determines that the treatment of the facility as a State home best meets the needs of veterans for nursing home care in the geographic area in which the facility is located.

"(5) The Secretary approves the application submitted by the State with respect to the facility.

"(b) The Secretary may not treat a health facility as a State home under subsection (a) if the Secretary determines that such treatment would increase the number of beds allocated to the State in excess of the limit on the number of beds provided for by regulations prescribed under section 8134(a) of this title.

"(c) The number of beds occupied by veterans in a health facility for which payment may be made under subchapter V of chapter 17 of this title by reason of subsection (a) shall not exceed the number of veterans in beds in State homes that otherwise would be permitted in the State under regulations prescribed under section 8134(a) of this title.

"(d) The number of beds in a health facility in a State that has been treated as a State home under subsection (a) shall be taken into account in determining the unmet need for beds for State homes for the State under section 8134(d)(1) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 81 of such title is amended by inserting after the item relating to section 8137 the following new item:

"8138. Treatment of certain health facilities as State homes.".

By Mr. REID (for himself and Mr. ENSIGN):

S. 2764. A bill to amend Public Law 108–67 to correct a provision relating to the conveyance of the Lake Tahoe Basin Management Unit; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no oblection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2764

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CORRECTION OF CONVEYANCE.

Section 2 of Public Law 108–67 (117 Stat. 880) is amended—

(1) by striking "Subject to" and inserting the following:

"(a) IN GENERAL.—Subject to";

(2) in subsection (a) (as designated by paragraph (1)), by striking "the parcel" and all that follows and inserting the following: "and to a portion comprising approximately 23 acres of land of Lots 3 and 4, as depicted on the United States and Encumbrance Map,

revised January 10, 1991, for the Toiyabe National Forest, Ranger District Carson-1, and more particularly described as S½NW¼SE¼ and N½SW¼SE¼ of sec. 27, T. 15 N., R. 18 E., Mt. Diablo Base and Meridian."; and

(3) by adding at the end the following:

"(b) PUBLIC ACCESS AND USE.—Nothing in this Act prohibits any approved general public access (through existing easements or by boat) to or use of land remaining within the Lake Tahoe Basin Management Unit after the conveyance to the Secretary of the Interior, in trust for the Tribe, under subsection (a), including access to and use of the beach and shoreline areas adjacent to the portion of land conveyed under that subsection.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 469—CONDEMNING THE APRIL 25, 2006, BEATING AND INTIMIDATION OF CUBAN DISSIDENT MARTHA BEATRIZ ROQUE

Mr. LIEBERMAN (for himself, Mr. MARTINEZ, Mr. NELSON of Florida, Mr. MENENDEZ, Mr. ENSIGN, Mr. MCCAIN, and Mr. BIDEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 469

Whereas the 47-year communist dictatorship of Fidel Castro in Cuba received the lowest rating from Freedom House in its "Freedom in the World 2005" report for political rights and civil liberties, and is categorized by that organization as "repressive" and having "virtually no freedom";

Whereas Human Rights Watch describes Cuba in its "World Report 2006" as "an undemocratic government that represses nearly all forms of political dissent";

Whereas human rights observers have documented that the regime in Cuba attempts to intimidate human rights dissidents and their families through "acts of repudiation," consisting of mobs of regime supporters screaming threats and insults;

Whereas, on April 25, 2006, an act of repudiation against Martha Beatriz Roque became violent when she was punched, knocked down, and dragged outside her home in Havana while she was leaving to attend a meeting with Michael E. Parmly, the Chief of Mission-Designate for the United States Interests Section in Havana, Cuba;

Whereas Martha Beatriz Roque is a citizen of Cuba and leader of the Assembly to Promote Civil Society in Cuba, a coalition of 365 independent civil society groups within Cuba;

Whereas, in March 2003, the regime of Fidel Castro imprisoned dozens of Cuban dissidents including Martha Beatriz Roque for their activities supporting freedom and democracy; and

Whereas Martha Beatriz Roque was released in 2005 for health reasons without a pardon or a commutation of her sentence: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the brutality of the regime of Fidel Castro toward Martha Beatriz Roque, a 61-year-old woman in frail health;

(2) demands the regime of Cuba allow the people of Cuba to exercise their fundamental human rights, rather than responding to calls for freedom with imprisonment and intimidation;

(3) commends the courage and perseverance of Martha Beatriz Roque and all dissidents in Cuba;

(4) calls on the regime of Cuba to release the hundreds of political prisoners still held today and to stop the intimidation of dissidents and their families; and

(5) calls for continued international support and solidarity with pro-democracy leaders in Cuba.

SENATE RESOLUTION 470—PROMOTING A COMPREHENSIVE POLITICAL AGREEMENT IN IRAQ

Mr. KERRY submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 470

Whereas Iraq is destabilized by an ongoing insurgency and increasing sectarian violence;

Whereas General John P. Abizaid, the head of the United States Central Command, said in March 2006 that "sectarian violence is a greater concern for us security-wise right now than the insurgency";

Whereas General George Casey, the senior United States military commander in Iraq, and Zalmay Khalilzad, the United States Ambassador to Iraq, have stated that "the principal threat to stability is shifting from an insurgency grounded in rejection of the new political order to sectarian violence grounded in mutual fears and recriminations";

Whereas a national unity government and a comprehensive political agreement among Shias, Sunnis, and Kurds are essential to end sectarian violence, undermine the insurgency, and bring stability to Iraq;

Whereas, on April 22, 2006, the Iraqi National Assembly approved senior leaders of a national unity government, including Jawad al-Mailiki as Prime Minister;

Whereas, under the constitution of Iraq, the Prime Minister has 30 days to form a government;

Whereas a comprehensive political agreement must resolve fundamental issues dividing Iraqis and undermining stability, including federalism, oil revenues, the militias, security guarantees, reconstruction, and border security;

Whereas reaching a comprehensive agreement that will help bring stability to Iraq is in the best interests of Iraq's neighbors, the region, and the international community;

Whereas Iraq's neighbors, representatives of the Arab League, and the international community as represented by NATO, the European Union, and the permanent members of the United Nations Security Council can assist in the process of bringing about such a comprehensive agreement; and

Whereas the President should expedite this process by bringing together these parties and the leaders of the new Government of Iraq: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President, not later than 30 days after the date of the formation of a new national unity government in Iraq, should convene a summit that includes the leaders of that government, leaders of the governments of each country bordering Iraq, representatives of the Arab League, the Secretary General of the North Atlantic Treaty Organization, representatives of the European Union, and leaders of the governments of each permanent member of the United Nations Security Council, for the purpose of reaching a comprehensive political agreement for Iraq that addresses fundamental issues including federalism, oil revenues, the militias, security guarantees, reconstruction, economic assistance, and border security.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on May 15, 2006 at 2:30 p.m. in room SD-366 of the Dirksen Building.

The purpose of the hearing is to receive testimony relating to implementation of the Energy Policy Act of 2005's electricity reliability provisions.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Kellie Donnelly at (202) 224-9360 or Shannon Ewan at (202) 224-7555.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been rescheduled before the Committee on Energy and Natural Resources.

The hearing originally scheduled for Thursday, May 11, 2006 at 10 a.m. in Room SD-366 of the Dirksen Senate Office Building will now be held on Tuesday, May 16, 2006 at 10 a.m. in the same room.

The purpose of the hearing is to receive testimony regarding the status of the Yucca Mountain Repository Project within the Office of Civilian Radioactive Waste Management at the Department of Energy.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Clint Williamson at (202) 224-7556 or Steve Waskiewicz at (202) 228-6195.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on

Energy and Natural Resources be authorized to meet during the session of the Senate on Monday, May 8, at 3 p.m. The purpose of this hearing is to receive testimony regarding issues associated with the implementation of the provisions of the Energy Policy Act of 2005 addressing licensing of hydroelectric facilities.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Monday, May 8, 2006, at 3:30 p.m. to consider the nomination of David L. Norquist to be Chief Financial Officer at the U.S. Department of Homeland Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

AFFIRMING THAT STATEMENTS OF NATIONAL UNITY SHOULD BE IN ENGLISH

Mr. ENZI. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate now proceed to S. Res. 458.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 458) affirming that statements of national unity, including the National Anthem, should be recited or sung in English.

There being no objection, the Senate proceeded to consider the resolution.

Mr. AKAKA. Mr. President, today I rise to oppose a resolution stating that it is the Sense of the Senate that statements of national unity, including the National Anthem, the Pledge of Allegiance, and the Oath of Allegiance sworn by new U.S. citizens should be recited or sung in English.

I agree with my colleagues that English is the common language of the United States and I join with them in urging all people who come to the U.S. and those who want to become U.S. citizens to learn the English language and understand our culture. Conversely, I believe the U.S. would benefit if its citizens knew the languages and cultures of other nations. We must develop long-term relationships with people throughout the world and learn to speak other languages, whether or not the languages spoken are considered critical for a particular situation or emergency. As 9/11 showed us, the failures of communication can do swift damage.

S. Res. 458 acknowledges that the vast majority of Americans are immigrants or descendants of immigrants, and that millions of Americans speak or study other languages. It further states that despite the linguistic and historic cultural diversity of the nation we are all Americans and our common language is English. However, even though English is our common language, the State Department offers translations of the National Anthem, the U.S. Constitution, the Pledge of Allegiance, and other U.S. documents in French, Arabic, and other foreign languages on its Web site to help people better understand America. Nor did President Bush refrain from singing the National Anthem in Spanish when he was running for office in 2000 or prevent pop star Jon Secada from singing our anthem in both English and Spanish when entertaining the President in 2001.

The resolution offered by my colleagues states that the original national motto of the United States, E Pluribus Unum—from many, one—is incorporated into the Great Seal of the United States, is printed on U.S. currency, and inscribed on the wall of the Senate Chamber. The sponsors of this resolution use these examples to argue that from many languages and backgrounds we have one language—English. However, our Nation's motto is written in Latin—not English.

The translation of key statements of national unity, such as the Pledge of Allegiance and the National Anthem, affords immigrants who have not fully learned the English language and individuals from all across the world the opportunity to better understand these symbols of America and the ideals of freedom that they represent. Such translations help those outside the U.S. to better understand our culture and our beliefs.

Last June, the Pew Global Attitudes Project released a report on America's image. Survey results from the citizens of 16 nations found that only six nations, one of which is the U.S., have a 50 percent or more favorable view of the United States. We cannot win the hearts and minds of people of other nations and promote American ideals if we close the door on people expressing their support for our country and the freedoms on which it was founded.

Our Constitution grants us the freedom of speech. This resolution, by limiting the language in which we can recite the Pledge of Allegiance or sing the National Anthem, violates the spirit of the Constitution and is antithetical to the very freedoms and beliefs that these statements of national unity represent.

To limit the ability of non-English speakers to know about the United States and, in turn, show their support for the U.S., would be a disservice to the country. Since this resolution is non-binding I will not object to it being acted upon by the Senate. However, I do not support the resolution.

Mr. ENZI. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 458) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 458

Whereas Francis Scott Key wrote the words of the Star-Spangled Banner in English in 1814, inspired by the sight of the American flag still waving at Fort McHenry after 25 hours of continual bombardment by British forces;

Whereas Congress declared the Star-Spangled Banner the National Anthem of the United States in 1931 (section 301 of title 3, United States Code);

Whereas the Pledge of Allegiance to the Flag of the United States, written in English, was first specified in law by Congress in 1942 (section 4 of title 4, United States Code);

Whereas the Oath of Allegiance, to which lawful permanent residents swear upon becoming citizens of the United States (as required under section 337 of the Immigration and Naturalization Act (8 U.S.C. 1448)), is based, in part, on language originally written in English by General George Washington and sworn by him and his general officers at Valley Forge in 1778;

Whereas the vast majority of Americans are immigrants or the descendants of immigrants, proud of their ancestral country, but prouder still to be American;

Whereas millions of Americans speak or study additional languages, but English is their common language;

Whereas the original national motto of the United States, "E Pluribus Unum", meaning "from many, one", signifies the coming together of people from many foreign countries to form one Nation, was incorporated into the Great Seal of the United States in 1776, is printed on currency of the United States, and inscribed on the wall of the Senate chamber;

Whereas the people of the United States are united not by race, ancestry, or origin, but by a common language, English, and by common belief in the principles prescribed in the founding documents of the Nation, especially the Declaration of Independence and the Constitution; and

Whereas, to become citizens of the United States, under sections 312 and 337 of the Immigration and Nationality Act (8 U.S.C. 1423 and 1448), lawful permanent residents of the United States who have immigrated from foreign countries must, among other requirements, renounce allegiance to the government of their country of origin, swear allegiance to the laws and Constitution of the United States, and demonstrate an understanding of the English language: Now, therefore, be it

Resolved, That the Senate affirms that statements or songs that symbolize the unity of the Nation, including the National Anthem, the Oath of Allegiance sworn by new United States citizens, and the Pledge of Allegiance to the Flag of the United States, should be recited or sung in English, the common language of the United States.

AUTHORIZING CORRECTION OF THE ENGROSSMENT OF THE SENATE AMENDMENT TO H.R. 4939

Mr. ENZI. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to correct the engrossment of the Senate amendment to H.R. 4939, to reconcile the text of amendments 3728 and 3789.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, MAY 9, 2006

Mr. ENZI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Tuesday, May 9. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate resume consideration of the motion to proceed to S. 1955, the small business health plans bill, with a vote on the motion to invoke cloture on the motion to proceed to S. 1955 to occur at 10 a.m.; further, that the time before the vote be equally divided between the chairman and ranking member of the HELP Committee or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ENZI. Mr. President, tomorrow morning at 10 o'clock, we will have a cloture vote on the motion to proceed to S. 1955, the small business health plans bill. I do expect we will be able to proceed to this bill, and I hope we can expedite the 30 hours of debate postcloture and get on with the bill tomorrow.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. ENZI. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:40 p.m., adjourned until Tuesday, May 9, 2006, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate May 8, 2006:

DEPARTMENT OF STATE

W. STUART SYMINGTON IV, OF MISSOURI, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF DJIBOUTI.

DEPARTMENT OF EDUCATION

TROY R. JUSTESEN, OF UTAH, TO BE ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION, DEPARTMENT OF EDUCATION, VICE SUSAN K. SCLAFANI.

CENTRAL INTELLIGENCE AGENCY

GENERAL MICHAEL V. HAYDEN, UNITED STATES AIR FORCE, TO BE DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY, VICE PORTER J. GOSS, RESIGNED.

EXTENSIONS OF REMARKS

HONORING KAREN WOLFORD FOR RECEIVING THE UNITED STATES MARSHALS SERVICE DISTINGUISHED SERVICE AWARD

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 2006

Mr. RUPPERSBERGER. Mr. Speaker, it gives me great honor to rise before you today in celebration of the United States Marshals Service (USMS) Distinguished Service Award Recipient, Ms. Karen Wolford.

As Property Management Specialist, Ms. Wolford is a widely recognized expert in her field of asset forfeiture. She joined the USMS Asset Forfeiture Unit in the District of Maryland in 1968. According to her justification for the award, "she may very well be the longest serving current employee of the USMS." She has been a tremendous asset to the United States Marshals Service and the Department of Justice. Over the years, Ms. Wolford has acquired a wealth of knowledge. Her outstanding leadership and professionalism have led her to achieve great things in her field.

Ms. Wolford is the supervisor of one USMS employee and five asset forfeiture employees. In her role as supervisor, she oversees all activities in the District of Maryland, Delaware, Western Michigan, Western Missouri and West Virginia.

She is a past member of the US Marshals, Leadership Council and the AFO Process Mapping Team. She is also a current member of the LECC Asset Forfeiture Committee.

During her employment, she has received awards from Dundalk Community College, the Federal Bar Association, the Maryland State Police, and the Asset Forfeiture Office. Ms. Wolford has received many letters of commendation, clean audit reports and outstanding performance awards.

Mr. Speaker, it gives me great pleasure to represent such a hard working and dedicated person in the Second Congressional District of Maryland. Ms. Karen Wolford is truly deserving of all the awards and acknowledgements she has received. Please join with me in honoring her for the continuous contributions she has made to the United States Marshals Service and the Department of Justice.

TRIBUTE TO JOHN DAVITT

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 2006

Mr. SCHIFF. Mr. Speaker, I rise today to congratulate John Davitt who is retiring as Superintendent-President of Glendale Community College after 38 years of exemplary service.

Dr. Davitt has been president of Glendale Community College since 1985 and is the longest-tenured head of a community college in California. He is credited with overseeing a tripling of enrollment, bringing the current student population to about 22,000. There are literally tens of thousands of former Glendale College students who live not only in the Glendale community, but throughout Southern California, who have attended the college—taking a class to enrich their lives, or several general education classes in order to transfer to a four-year university.

Dr. Davitt has always included everyone in the campus community, from students and faculty to administrators and staff, when faced with the decision-making process that affected the students. Dr. Davitt acted each day to bolster opportunities for the students. He was instrumental in obtaining funding for the new state-of-the-art science center and planetarium—a facility no other community college in the nation boasts. Through his devoted focus on quality academics, Dr. Davitt has propelled Glendale to the forefront of the community colleges.

In 1968, Dr. Davitt introduced his unique and open management style to our community by taking the position of Administrative Dean of Personnel Services at Glendale Community College. In 1983, he was named Vice President of Instructional Services. Subsequently, in 1985 he became the college's Superintendent-President, transforming the campus into an innovative and productive center for learning. Dr. Davitt has devoted 38 years of dedicated service to the Glendale community. He is a remarkable man who is respected not only by the college's faculty, but by the student body as well. Dr. Davitt has managed to instill strong values of academics and workmanship while serving Glendale Community College, and these ideals are still gratified today.

The Glendale community is indebted to Dr. Davitt for his countless achievements. I want to again congratulate John Davitt on a truly exemplary professional and public service career, and for his immense commitment to Glendale Community College and the students it serves.

PERSONAL EXPLANATION

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 2006

Mr. ANDREWS. Mr. Speaker, I regret that I missed three votes on May 4th, 2006 because I had minor surgery. Had I been present I would have voted "yes" on the Sanchez amendment which prohibits the current Customs and Border Protection (CBP) practice of granting expedited clearance to Customs Trade Partnership Against Terrorism (C–TPAT) members that have not had their security plans physically reviewed by CBP; "yes" on the Motion to Recommit which would require that 100% of shipping containers be scanned and sealed using the best available technology before being loaded onto ships destined for the United States; and "yes" on H.R. 4954, the SAFE Port Act.

RECOGNIZING DOUGLAS AND SHARON STROUSE FOR THEIR COMMUNITY OUTREACH EFFORTS

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 2006

Mr. RUPPERSBERGER. Mr. Speaker, I am honored to stand before you in recognition of the outstanding community outreach efforts of Mr. and Mrs. Douglas Strouse. Recently, the American Red Cross issued the Strouses with the Hometown Hero Education Award.

Several years ago, the Strouse family suffered a great loss. Their daughter, Kristin Rita, like many young girls, battled depression. Unfortunately, her illness overwhelmed her and she took her own life.

Dealing with the loss of a child is the ultimate challenge any parent can attempt to overcome. Although the loss was extremely difficult for them, the Strouses were able to triumph by using their pain as motivation. The couple developed the Kristin Rita Strouse Foundation (KRSF) which raises awareness of the illness, develops methods of prevention, and provides high schools and universities with educational resources.

Many of today's youth struggle with their private pain; they often need some type of intervention but are unable to find it. Kristin was a talented girl with a passion for art. Her natural-born gift led her to the Parson School of Design. Shortly before her death, she created a work which is the inspiration of the annual "Yellow Dress Golf Classic Dinner and Live Auction," which raises money for depression awareness and provides funding for the foundation. Doug and Sharon Strouse have made a conscious effort to guarantee others will not suffer in silence. As a tribute to their daughter, they have devoted their energy to saving the lives of those who still have a fighting chance.

Mr. Speaker, I ask you to join with me in honoring Douglas and Sharon Strouse as well as the memory of their daughter, Kristin Rita Strouse. It took an incredible amount of strength to build this successful organization and they must be commended for the assistance and education they are providing to this nation's youth.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

H.R. 282 IRAN SANCTIONS ACT

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 2006

Ms. BALDWIN. Mr. Speaker, recently I made a difficult decision in voting against H.R. 282, the Iran Sanctions Act, a bill that I cosponsored. I based my vote on the significant changes the International Relations Committee made to the underlying bill, many of which I believe are counter-productive to the U.S. efforts to deter Iran from its nuclear ambitions. It is also a reflection of my strong concerns, based on numerous recent and credible reports, that the Administration is actively exploring and studying a number of military options against Iran. The significant alterations made to H.R. 282 in Committee and the changing political circumstances informed my decision to vote against this legislation.

I want to outline several changes made to H.R. 282 that I oppose. Specifically, H.R. 282 was amended to include a brand new section requiring the president to impose sanctions under the Foreign Assistance Act of 1961 against any "agency or instrumentality" of a foreign government investing $20 million or more in the development of Iran's oil or gas industry. The president is also required to publish in the Federal Register a list of all U.S. and foreign entities that have invested more than $20 million in Iran's energy sector retroactive to August 5, 1996. I believe such a heavy-handed approach targeting foreign investment in the oil or gas industry is misguided. The Department of State, in a letter to the House International Relations Committee, has stated that H.R. 282 impairs our government's ability to work with our allies in pursuit of a diplomatic solution in dealing with Iran's nuclear ambitions. Rather than encouraging a collaborative process with our colleagues at the U.N. Security Council, this bill penalizes them. I believe this new prohibition, which was not part of H.R. 282 at the time I co-sponsored it, hinders our ability to proactively work with our partners in responding to the challenges imposed by Iran.

In addition, I am very troubled by a new provision of the bill, incorporated by the International Relations Committee, which purports to strengthen the Nuclear Nonproliferation Treaty. It contains the following "finding" of Congress: "Iran has manipulated Article IV of the Nuclear Nonproliferation Treaty to acquire technologies needed to *manufacture nuclear weapons* under the guise of developing peaceful nuclear technology." [Emphasis added.] I find this language troubling. The finding states a conclusion that Iran is seeking to manufacture nuclear weapons as it pursues the development of nuclear power generation. I fear that this or a subsequent Administration could use such finding to justify an invasion or other military action against Iran, under its doctrine of preemption. Prior to its 2003 invasion of Iraq, the Administration cited the Iraq Liberation Act of 1998 as one of its bases for taking this country into war. A Congressional finding that Iran is seeking to manufacture nuclear weapons could provide a basis for the Administration to conduct preemptive strikes or declare war against Iran. I believe Congress should not, once again, provide cover to this Administration, which has shown ample evidence of incompetence in the collection of intelligence on the development of weapons of mass destruction by foreign nations. A Congressional "finding" is no substitute for reliable intelligence on the status of Iran's nuclear program. Mr. Speaker, much has changed in the months between the introduction of H.R. 282 and our floor debate last week. Iran abandoned its voluntary suspension of enrichment-related activities at the beginning of this year. Subsequently the U.N. Security Council called for Iran's compliance with the Nuclear Non-Proliferation Treaty. The International Atomic Energy Agency reported just last week that Tehran's work on enriching uranium was accelerating even as it continued to block inspectors' attempts to learn more about the troubling parts of the program. The United States is now engaged in the difficult task of persuading the U.N. Security Council to order an end to Iran's nuclear program. Aggressive diplomatic efforts with our allies are now more critical than ever. Yet, recent reports, including a detailed article by Seymour Hersh published in the New Yorker, suggest that the Administration is planning to pursue military options, including the use of nuclear weapons, against Iran to prevent its acquisition and development of atomic warheads. News articles have also disclosed that senior Pentagon strategists are updating plans to strike Iran's nuclear sites. The Administration's apparent pursuit of a nuclear option before diplomatic efforts have run their course is not only irresponsible, it is simply wrong. Passing H.R. 282, as amended in Committee, at this critical juncture not only appears to represent Congress' acquiescence in this Administration's foolhardy tendency to plan for war without diplomacy, it risks validating the Administration's go-it-alone approach in chasing a military solution to Iran's nuclear ambition.

Make no mistake; I believe the threat imposed by Iran must be addressed swiftly and skillfully, but through diplomatic means. I supported the underlying goals of the Iran-Libya sanctions Act enacted in 1996 that sought to deter private foreign investment in Iran's energy sector. But much has changed between the time when I signed on as a cosponsor of H.R. 282 and the time I was asked to vote on it, both with regard to the substance of the bill and the political climate surrounding the issue. At a time when the House of Representatives should be putting our full support behind multilateral diplomacy and efforts to persuade the U.N. Security Council to act decisively, we passed a bill that would further alienate our allies and give cover for a military attack by this Administration. For these reasons, I could not, in good conscience, vote for this bill that I once supported. It is my sincere hope that the Senate will take a much more balanced approach that would truly strengthen, not hinder, the interests of our diplomatic efforts in addressing Iran's nuclear threat.

CONGRATULATIONS TO CENTAURI HIGH SCHOOL

HON. JOHN T. SALAZAR

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 2006

Mr. SALAZAR. Mr. Speaker, I rise today to commend and applaud the Centauri High School Falcons Girls Basketball team for their thrilling victory over the Denver Christian High Crusaders in the Colorado State Championship this past March. This riveting victory marks Centauri High School's second girls state championship, one undoubtedly deserved by this group of hard-working and devoted players.

Displaying their tenacious defense, the Falcons forced 31 turnovers against the Crusaders. Even though they were down by 8 points at the end of the first half, Centauri High proved its maturity and experience, regrouping and coming back in the second half to win the game 62 to 57.

The Falcons are soaring high today not only because they are great individuals, but because they are great athletes who work together. Led by coach Dave Forster, teammates Janette McCarroll, Amanda Gylling, Marcie Cooley, Wynona Miller, and Lucia Muniz all displayed the determination, focus, and teamwork needed to defeat their challenging opponent. The Falcons' victory was based on a combination of accurate shooting, powerful defense, and masterful passing. Throughout the intense second half, the team never lost its focus or concentration, sinking pivotal free throws and continually executing plays with perfection.

The Falcons' ability to work together is a true inspiration to any person who has ever been on a team or worked with others. Once again, congratulations to these amazing student athletes and all of Centauri High School on their great victory!

TRIBUTE TO PASTOR THOMAS J. BOYD OF SALEM BAPTIST CHURCH ON HIS RETIREMENT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 2006

Mr. TOWNS. Mr. Speaker, I rise to give tribute to the Reverend Thomas J. Boyd, retiring pastor of Salem Baptist Church in Brooklyn, New York. A Native Brooklynite born eighty-nine years ago in Bedford Stuyvesant, Reverend Boyd has for forty years led his flock through the true spirit of the Creator. His vision and hard work have resulted in more than half a million dollars in scholarship funds distributed to deserving young people and through his leadership, Salem Baptist Church has grown dramatically in size and membership.

Mr. Speaker, I ask that this tribute to the Rev. Dr. Thomas J. Boyd be entered into the RECORD so that we can remember his good works and a lifetime of achievement.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 9, 2006 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 10

9:30 a.m.
Indian Affairs
To hold an oversight hearing to examine economic development.
SR–485

Judiciary
To hold hearings to examine modern enforcement of the Voting Rights Act.
SD–226

10 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the implementation of the sugar provisions of the Farm Security and Rural Investment Act of 2002.
SH–216

Appropriations
Defense Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2007 for the missile defense program.
SD–192

Finance
To hold hearings to examine progress achieved and challenges ahead for America's child welfare system.
SD–215

Foreign Relations
To hold hearings to examine the nominations of Earl Anthony Wayne, of Maryland, to be Ambassador to Argentina, David M. Robinson, of Connecticut, to be Ambassador to the Co-operative Republic of Guyana, and Lisa Bobbie Schreiber Hughes, of Pennsylvania, to be Ambassador to the Republic of Suriname.
SD–419

Joint Economic Committee
To hold hearings to examine the next generation of health information tools for consumers.
SD–106

11:30 a.m.
Energy and Natural Resources
Business meeting to consider the nomination of Dirk Kempthorne, of Idaho, to be Secretary of the Interior.
SD–366

2:30 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 906, to promote wildland firefighter safety, S. 2003, to make permanent the authorization for watershed restoration and enhancement agreements, H.R. 585, to require Federal land managers to support, and to communicate, coordinate, and cooperate with, designated gateway communities, to improve the ability of gateway communities to participate in Federal land management planning conducted by the Forest Service and agencies of the Department of the Interior, and to respond to the impacts of the public use of the Federal lands administered by these agencies, and H.R. 3981, to authorize the Secretary of Agriculture to carry out certain land exchanges involving small parcels of National Forest System land in the Tahoe National Forest in the State of California.
SD–366

Intelligence
Closed business meeting to consider pending intelligence matters.
SH–219

MAY 11

9:30 a.m.
Foreign Relations
To hold a closed briefing on Iran's nuclear program and the impact of potential sanctions.
S–407, Capitol

Judiciary
Business meeting to consider pending calendar business.
SD–226

10 a.m.
Budget
To hold hearings to examine the nomination of Robert J. Portman, of Ohio, to be Director of the Office of Management and Budget.
SD–608

Veterans' Affairs
To hold hearings to examine pending health care related legislation.
SR–418

10:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine Department of Agriculture's national response plan to detect and control the potential spread of Avian Influenza into the United States.
SD–106

2:30 p.m.
Foreign Relations
To hold hearings to examine the nomination of Daniel S. Sullivan, of Alaska, to be an Assistant Secretary of State for Economic and Business Affairs.
SD–106

Intelligence
To hold closed hearings to examine certain intelligence matters.
SH–219

MAY 12

10 a.m.
Foreign Relations
To hold hearings to examine the nomination of Anne E. Derse, of Maryland, to be Ambassador to the Republic of Azerbaijan.
SD–419

MAY 15

2:30 p.m.
Energy and Natural Resources
To hold hearings to examine the implementation of the Energy Policy Act of 2005's electricity reliability provisions.
SD–366

MAY 16

10 a.m.
Commerce, Science, and Transportation
To hold hearings to examine Transportation Worker Identification Credential.
SD–562

Energy and Natural Resources
To hold hearings to examine the status of Yucca Mountain Repository Project within the Office of Civilian Radioactive Waste Management at the Department of Energy.
SD–366

Health, Education, Labor, and Pensions
Retirement Security and Aging Subcommittee
To hold hearings to examine naturally occurring retirement communities.
SD–430

2:30 p.m.
Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine S. 1686, to amend the Constitution Heritage Act of 1988 to provide for the operation of the National Constitution Center, S. 2417 and H.R. 4192, bills to authorize the Secretary of the Interior to designate the President William Jefferson Clinton Birthplace home in Hope, Arkansas, as a National Historic Site and unit of the National Park System, S. 2419 and H.R. 4882, bills to ensure the proper remembrance of Vietnam veterans and the Vietnam War by providing a deadline for the designation of a visitor center for the Vietnam Veterans Memorial, S. 2568, to amend the National Trails System Act to designate the Captain John Smith Chesapeake National Historic Trail, S. 2627, to amend the Act of August 21, 1935, to extend the authorization for the National Park System Advisory Board, and S. Res. 468, supporting the continued administration of Channel Islands National Park, including Santa Rosa Island, in accordance with the laws (including regulations) and policies of the National Park Service.
SD–366

MAY 17

9:30 a.m.
Indian Affairs
To hold an oversight hearing to examine Indian youth suicide.
SR–485

10 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider pending calendar business.
SD–430

Commerce, Science, and Transportation
Technology, Innovation, and Competitiveness Subcommittee
To hold hearings to examine accelerating the adoption of health information technology.
Room to be announced

2 p.m.
Commission on Security and Cooperation in Europe
To hold hearings to examine the role of the Office for Democratic Institutions

and Human Rights relating to advancing the human dimension in the OSCE.
SD–226

MAY 18

10 a.m.
Commerce, Science, and Transportation
To hold hearings to examine S. 2686, to amend the Communications Act of 1934 and for other purposes.
SH–216

2:30 p.m.
Commerce, Science, and Transportation
Business meeting to markup the proposed innovation bill.
SD–562

MAY 23

10 a.m.
Commerce, Science, and Transportation
To hold hearings to examine price gouging related to gas prices.
SD–562

MAY 24

10:30 a.m.
Appropriations
Legislative Branch Subcommittee
To resume hearings to examine the progress of construction on the Capitol Visitor Center.
SD–138

2:30 p.m.
Commerce, Science, and Transportation
Disaster Prevention and Prediction Subcommittee
To hold hearings to examine 2006 hurricane forecast and at-risk cities.
SD–562

MAY 25

9:30 a.m.
Indian Affairs
To hold an oversight hearing to examine Indian education.
SR–485

10 a.m.
Commerce, Science, and Transportation
To resume hearings to examine S. 2686, to amend the Communications Act of 1934 and for other purposes.
SD–106

Veterans' Affairs
To hold hearings to examine pending benefits related legislation.
SR–418

2:30 p.m.
Commerce, Science, and Transportation
To hold hearings to examine Pacific Salmon Treaty.
SD–562

JUNE 8

10 a.m.
Commerce, Science, and Transportation
Business meeting to markup S. 2686, to amend the Communications Act of 1934 and for other purposes.
SH–216

JUNE 14

10 a.m.
Commerce, Science, and Transportation
Technology, Innovation, and Competitiveness Subcommittee
To hold hearings to examine alternative energy technologies.
Room to be announced

JUNE 15

10:30 a.m.
Commerce, Science, and Transportation
Fisheries and Coast Guard Subcommittee
To hold hearings to examine the Coast Guard budget.
SD–562

SENATE—*Tuesday, May 9, 2006*

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, our Father, the way, the truth, and the life, lead us to Your truth. Keep us from twisting the truth to conceal our mistakes. Keep us from evading the truth we do not wish to see. Keep us from silencing the truth because we are afraid of people.

Infuse Your Senators today with a passion for truth that will save them from false words or cowardly silence.

Teach us all to speak Your truth in love.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, in just a few minutes, at 10 a.m., the Senate will proceed to the vote on invoking cloture on the motion to proceed to the small business health plan bill. Chairman ENZI is here, and there will be a few minutes for closing remarks before that vote. If cloture is invoked, I hope we will be able to proceed to the bill today and begin debate on the substance of the legislation.

Today, the two party policy luncheons will occur between the hours of 12:30 and 2:15 p.m. Once we determine when we will be able to proceed to the small business health plan bill, we will then set up a recess to accommodate those two meetings.

HEALTH INSURANCE MARKETPLACE MODERNIZATION AND AFFORDABILITY ACT OF 2006—MOTION TO PROCEED

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration on the motion to proceed on S. 1955.

The legislative clerk read as follows:

> Motion to proceed to Calendar No. 417, a bill (S. 1955) to amend title I of the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace, and for other purposes.

The PRESIDENT pro tempore. Under the previous order, the time until 10 a.m. shall be equally divided between the Senator from Wyoming, Mr. ENZI, and the Senator from Massachusetts, Mr. KENNEDY, or his designee.

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I am here this morning to ask this body to support the motion to proceed to the debate. All we are voting on is whether we are going to get to debate, not whether we are going to have health insurance for small businesses. But if this vote does not get 60 votes, we will not have the opportunity in this Congress to see whether we can help out small businesses across this country.

The bill before us will provide for small businesses to be able to join across State lines to negotiate against the insurance companies with enough power to make a difference. This is something which the small businesses have been asking for for almost 15 years. In the last 12 years, it has passed the House eight times but has never even gotten out of committee in the Senate until this year. The reason it got out of committee is because we have drastically changed the bill. We are not talking about the old association health plans we had in the past. This is one which has had some modifications that have been helped with insurance companies and State insurance commissioners. It still keeps the power of oversight and consumer protection in the hands of the State insurance commissioners, but it does allow the ability to unify things so that we can get across State lines.

How is it doing? Well, the Washington Post says it went too far. The Wall Street Journal says it didn't go far enough. So maybe we are somewhere right there in the middle. But unless we get to debate this issue, we will never know until we can get through the motion to proceed and possibly 30 hours of still debating whether we are going to debate before we ever get to a motion. So I am hoping that this morning we can pass this motion to proceed.

I can't believe that any Senator here hasn't heard from enough small businessmen that he wouldn't allow us to proceed to the debate. I am hoping that following that motion to proceed to debate, we can limit the hours of debating that particular motion and get on with the substance of trying to perfect a bill.

In my 9 years in the Senate, I have never seen a perfect bill. I am not saying this is a perfect bill. I am saying it is one that has come out of compromise, long discussions, and has moved away from the point of huge objection on the Senate side to less objection on the Senate side. It is a bill that can be worked out, can be passed, and can have a significant difference for small companies across the United States.

Will it make a difference? There are several surveys that say it will make a difference. I am saying that from the amount of advertising which was done before we even had the motion to proceed, there must be a lot of big bucks in savings in this thing to have the kind of opposition we have already had on it. But we will never know unless we get the right to debate. So I am asking my colleagues to vote aye on the motion to proceed so that we can proceed to a debate, sometime within the next 30 hours, hopefully.

Mr. President, I reserve the remainder of my time.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask the Chair to let me know when I have 1 minute remaining.

Mr. President, this should be a historic week. The Senate has the opportunity at last to have a debate on the basic questions of health care. Senator ENZI has put forward a proposal that deserves debate and the opportunity for amendment, and I commend him for his diligence in bringing forward his proposal. But after careful study and debate, I believe the Senate will conclude that the course laid out in this proposal is the wrong one for health care.

The legislation will make health care coverage less affordable and less accessible for millions of Americans. It will raise premiums for Americans when they are older or when they fall ill. It will mean the end of laws to guarantee coverage for cancer, for diabetes, for

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

mental health parity, and other essential services. It will undermine the laws that protect consumers from fraud and abuse, and it will give no real help to the self-employed.

We have a better approach. The proposal offered by Senators DURBIN and LINCOLN will allow small businesses to band together to get the same low rates offered to larger employers. It provides real help for small businesses with the high costs of health care through tax credits and reinsurance programs to defray the cost of the most expensive claims.

When our debate concludes, I believe the Senate will agree with the over 200 organizations that have written letters of opposition to this legislation. These organizations represent patients with diabetes and cancer and mental health needs. They represent older Americans, workers, health care professionals, small businesses, and Americans in all walks of life. They represent the over 15,000 Americans who have called the Senate to ask this body to oppose legislation that will take a step backward from our commitment to quality health care, and they represent the millions more who will be harmed if we do not reject the legislation before us.

We have heard from Governors, insurance commissioners, and attorneys general from Maine to Hawaii and from Florida to Alaska, and all of them—all of them—have urged the Senate to reject this bill.

I urge my colleagues to oppose the current legislation, but I hope they will vote to proceed to consideration of this bill. The Senate has been denied the chance to take action on major health priorities for too long. Next week, seniors will be forced to pay a steep penalty if they are unable to navigate through the tangle of confusing Medicare plans and options. The Senate ought to vote on Senator NELSON's proposal to let seniors make their choice without the threat of heavy fines if they do not meet this arbitrary deadline.

The Republican Medicare law also includes a provision so contrary to commonsense that people hardly believe you when you tell them it was included. The legislation makes it illegal for Medicare to bargain for discounts on drugs for seniors. We have a proposal to end that shameful prohibition, and we should vote on that proposal.

On Medicaid, we should take action to end the cruel cuts imposed on the poorest of our fellow citizens by the Deficit Reduction Act, which paid for tax cuts for the wealthy through health cuts for the poor.

We have been promised and promised that the Senate would vote on drug importation, but the vote never comes. Senator DORGAN, Senator SNOWE, Senator MCCAIN, and I have a proposal that will allow safe importation of lower cost medicines from Canada and elsewhere. Surely, Health Week is the time for a vote.

Before the week is out, the Senate should see that the promise of stem cell research—stem cell research—is no longer denied to the millions of patients and their families who look on with anger and bewilderment as the bill passed by the House languishes for month after month after month in the Senate. And we have failed year in and year out to fulfill the promise of this century of the life sciences by making quality care a right for every American. Let us at long last take action to extend quality care to every American.

So I say to my colleagues: Vote for cloture on this motion. Vote for a health care debate. Vote for a chance to go on record with your answer to these important questions on Medicare, on Medicaid, on stem cell research, on drug importation, on coverage, and on many other health priorities. Let's have a debate, and let's let the Senate decide where it stands.

Mr. President, I reserve the remainder of my time.

The PRESIDENT pro tempore. Who yields time?

Mr. ENZI. Mr. President, I thank the Senator from Massachusetts for his encouragement on his side of the aisle to vote for the motion to proceed. I think that will get us into a debate that will make a difference for the working people of America, the people up the street and across the street, the working families that are a part of small business.

Today, there are 45 million people in the United States who are without health insurance in this country. Twenty-two million people own or work for small businesses or live in families that depend on small business wages, and another 5 million are unemployed. Those are the 27 million people we are talking about whom this health care bill will be making decisions for in the next few days.

It is long past time for Congress to take some action. The American people aren't going to accept excuses any longer. It has been a long time getting to this debate. I am pleased that it sounds like we will be able to have it. I welcome any amendments that are alternate approaches or improvements to this bill. I know what the complaints are out there, I know what the counters to those are, and I know what the concerns are. It is very important that when we walk away from this week, we walk away with a plan which will help the small business people of the United States, the ones working for small businesses, the ones owning them, and their families who need the help.

Mr. President, I reserve the remainder of my time.

The PRESIDENT pro tempore. Who yields time? Each side has 1 minute remaining.

Mr. KENNEDY. Mr. President, I will mention at this time some of the organizations. We will have a chance during the course of the debate to get into the reasons why. The American Academy of Pediatrics; the American Cancer Society; the Diabetes Association; the Nurses Association; Families USA; the lists of Governors—and I will include those—more than probably 15, 18 Governors; the attorneys general. I think there are probably close to 40 of the attorneys general representing States North, South, East, and West who have opposed this bill. The Insurance Commissioners of the States—a whole list of those. At the appropriate time, I will include those in the RECORD.

I hope our colleagues will put their ear to the ground and find out what people are saying back home, what your cancer society, diabetes, pediatric nurses and doctors are saying about this, what the attorneys general are saying about this, and what those in the medical profession are saying about this. We think we have a better way to help small business, and during the course of the debate, we will show how that can be done.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Wyoming has 56 seconds.

Mr. ENZI. Mr. President, I thank the Senator from Massachusetts for listing those 200 organizations. I have never done a count on them, and I am not familiar with quite that many; I am only familiar with about 40 that have expressed some concern that I suspect will be taken care of in amendment if we can get to the amendment process.

I would like to mention that there are over 200 business organizations that are looking forward to being able to unite these people across State lines to get lower rates for their people. There are actually 80 million employees in those businesses, in those organizations. The realtors are going to be here with 9,000 people next week, expecting that we will have already taken action. The National Federation of Independent Businesses is another big one that is supporting this. I could mention a lot more. Even some of the associations that have concerns about it want to be sure that this bill passes so their employees can be covered.

I yield the floor.

CLOTURE MOTION

The PRESIDENT pro tempore. By unanimous consent, pursuant to rule XXII, the chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the standing rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 417, S. 1955, Health Insurance Marketplace Modernization and Affordability Act of 2005.

Bill Frist, Johnny Isakson, Sam Brownback, John Thune, Thad Cochran, Wayne Allard, John Ensign, Richard Shelby, Larry Craig, Ted Stevens, John McCain, Lamar Alexander, Norm Coleman, Judd Gregg, Pat Roberts, Craig Thomas, Richard Burr.

The PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on S. 1955, the Health Insurance Marketplace Modernization and Affordability Act of 2005, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

I also announce that the Senator from North Dakota (Mr. CONRAD) is absent due to illness in family.

The PRESIDING OFFICER (Mr. DEMINT). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 96, nays 2, as follows:

[Rollcall Vote No. 117 Leg.]

YEAS—96

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Menendez
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—2

Coburn
DeMint

NOT VOTING—2

Conrad
Rockefeller

The PRESIDING OFFICER. On this vote, the yeas are 96, the nays are 2. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. ENZI. Mr. President, I ask unanimous consent that the postcloture debate on the motion to proceed be divided as follows: From now until 11 a.m. will be under majority control; from 11 to 11:30 will be under minority control; 11:30 to 12 will be under majority control; and noon to 12:30 will be under minority control.

The Senate will stand in recess from 12:30 to 2:15 p.m. I ask that time count under the provisions of rule XXII. The time from 2:15 to 2:30 will be equally divided between the majority and minority; from 2:30 to 3 we begin majority control, with the next 30 minutes under minority control, and each 30 minutes rotating in this format until the hour of 5:30 p.m.

Before the Chair rules, we would like to make out a time certain to begin consideration of the bill. In the interim, this unanimous consent allows the Senate to have an orderly debate for speakers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. Mr. President, I thank virtually all Members in the Senate for their help in getting the motion to proceed. That will allow us to do 30 more hours of debate before we actually get into the substance of making any changes in the bill. I hope we can work out a unanimous consent agreement that will shorten that time and get us into the meat of the debate. I will push for some rapid consideration of some amendments so we can get this resolved for the small businessmen of this country in short order.

I will address some of the charges made against this bill. I listened yesterday and the day before to the minority leader's speech to the Senate on Friday. I was surprised by several of the statements he made regarding this bill. If I had not already known that he was talking about S. 1955, I would never have guessed it.

The first comment the minority leader made was that our bill threatens the coverage of those who have insurance now and does nothing to extend coverage to those who need it. I make two points in response to that. First, it seems to me the status quo is what is truly threatening the coverage of those who are insured now. Prices are going up dramatically. Small business has no leverage. No one can afford more of the same or more excuses from Washington.

Blocking an honest debate on this bill is a vote for more of the same. It is a vote for health insurance costs continuing to rise dramatically, for more small businesses dropping coverage for their employees, and for more uninsured American families. Year after year of more of the same is what is truly threatening America's health care security.

Second, this bill will indeed extend coverage to more people who need health insurance. If you do not believe me, listen to our nonpartisan CBO. The CBO says this bill will reduce health insurance costs for three out of every four small businesses. The CBO also said the bill will extend private health coverage insurance to 750,000 more people than have it today.

Is that a comprehensive solution to the problems of health care and the uninsured? Of course not. I understand this is not a comprehensive solution to the problem of health care costs and the uninsured, but it is definitely a step in the right direction and a building block for the future.

I have more comments about statements made about the bill in ads and in editorials, but at this point, I release the remainder of our time until 11 o'clock to the Senator from Missouri who has been working on this in the House for years in a totally different version but has brought his expertise, talent, and knowledge to this side of the building. He has been a strong advocate for doing something for small businesses. He has been extremely cooperative in finding ways to do things so we can have something for small businesses.

I relinquish the floor to the Senator from Missouri, Mr. TALENT.

Mr. TALENT. Mr. President, I thank the Senator from Wyoming for his kind words and his great work and his comments regarding my involvement with the idea of small business health plans. What he said is true regarding my involvement. I am not the father of this idea, but I think I probably "midwifed" it years and years ago when I served in the House in 1997. It has passed the House on a regular basis ever since then and, as the chairman knows, on a very strong bipartisan basis because the idea of small business health plans is fully within the mainstream of both parties' thinking which is one of the very powerful arguments in favor of it.

The No. 1 issue facing small business today as a whole is not energy costs, although certainly they are too high. It is not immigration, although that is definitely an issue. It is not taxes, although we all hear our share of complaints from small business people about that. It is the rising cost of health insurance and the number of people who do not have health insurance. That is largely a small business problem.

There are 45.8 million Americans who are uninsured today, 4 million more than 2001. That number has grown every year, in years of prosperity or recession. The vast majority of those uninsured people are working people. And most of those working people are people who work for a small business. They work for a small business, they own a small business, or they are dependents of someone who works for or who owns a small business.

The smaller the business is, the worse the problem gets. Only 40 percent of businesses with 3 to 6 employees today have health insurance for their employees and that number is down from 52 percent in 2004 and 58 percent in 2002.

We are entitled to ask ourselves, Why? I have heard a lot of explanations over the years. Why does small business have a problem providing health insurance for its employees whereas bigger companies don't? You would be surprised at the explanations offered. I had one witness from the Government Accountability Office tell me that he did not think employees of small business wanted health insurance. I have other people speculate that small employers did not care as much about their people who work for them as big companies do. That certainly will come as a revelation to Senators that big corporate employers care more about their employees than the small business owners and managers do—the small business people who work on a daily basis with their employees, the small business people who would like to get health insurance themselves from the small business if they could figure out a way for the small business to provide that health care to the employees.

It is not a question of the small business people caring enough. The problem is, the cost and complexity of getting health insurance for a small business is greater than it is for a big business. It will surprise no one who has common sense that it is harder to insure a small market, a small group, than a big group. The cost of insurance is less if you can spread it across a bigger pool of people. This has been studied extensively, and that very common-sense conclusion has been validated.

I will go over some of the figures for the Senate. Health insurance premiums for small business people increased by 10.9 percent in 2001, 12.9 in 2002, 13.9 in 2003, 11.2 percent in 2004, and 9.2 percent in 2005.

The smallest firms have always seen bigger increases in premiums. Why? Well, the SBA's Office of Advocacy has found that small businesses typically spend much more than large businesses for the same benefits. Not that the benefit packages are different, not that small businesses are trying to buy more expensive benefit packages; they have to spend more to get the same benefits because the administrative costs of some benefits are almost 14 times more for the smallest firms than for their largest counterparts.

According to the Government Accountability Office, from 20 to 25 percent of small employer premiums typically go toward expenses other than benefits compared with about 10 percent for large employers. The small business people are paying more to get the same benefits because they have higher overhead costs and higher administrative costs. They do not enjoy the same economies of scale the big companies enjoy.

The American people know this. I have a lot of stories from Missouri I could tell. I do not have the time. But the American people are living with this every day.

Jim Henderson is the president of Dynamic Sales in St. Louis. It is a third-generation family business that sells welding accessories and other products. It is a small business. He has eight employees. Health insurance has been a problem for 16 years for Jim. He spoke with his insurance agent, who suggested raising the deductible to keep the premium the same, so he has raised the deductible. It has gone from zero to a $1,000 deductible in the last 10 years. So despite that huge increase in the deductible, to this day, he experiences huge increases each time he tries to renew the policy. When he asked his carrier about the enormous increases and why they are raising his premiums so much, the carrier responded: Well, because we can.

Tammy Herbert is a certified optician from Farmington, MO. She is a cancer survivor. She had breast cancer. She is a single, working mom. She is an inspiration when you talk to her. She told me because of her history of breast cancer, 2 years ago her employer's insurer canceled all the individual policies for her and her colleagues.

People talk about small business health plans resulting in cherry-picking. They ought to see what is happening today in the small group market.

Renee Kerckhoff is the second generation owner of Rudroff Heating & Air Conditioning, in Belton, MO. She can only afford to cover a small portion of employee insurance premiums—about $150 a person per month. As a result, and despite her best efforts, her employees are having to drop their health insurance because they cannot afford the copays and the premiums they have to make and are going on public assistance.

These stories are happening all over Missouri and all over the country. Sometimes I will get with a group of people and ask them: Look, if you had a history of medical illness, and you had the choice of working for a big company or a small company, and all you cared about was health insurance, and all you knew about the companies was that one was a big Fortune 500 company and the other was a small company, which one would you work for? I have never had anybody raise their hand and say: I would work for the small company because the assumption is I am going to get better health insurance from the small business.

They know, because it is a matter of common sense, insuring a large pool of people is more efficient, more economical and, therefore, less expensive than insuring a small group of people.

Just look at the people who are insured in the country. Virtually everybody who has health insurance, except for the employees of small business people, have it as part of a big national pool. It may be public, it may be private, but it is a big national pool. They work for a big company. They are in a labor union. They are on Medicare or Medicaid or they are a Federal employee or a retired Federal employee or in the VA.

All these other organizations could insure on a small group basis if they wanted to. The Federal Government could go out and take each section of Federal employees in different cities and divide them all up and insure them in a small group. There is no law against that. Microsoft could do the same thing. Hallmark in Missouri could. Anheuser-Busch in Missouri could. They could insure each little section if they wanted to. Well, they do not because it does not make any sense. It would cost them more money to do it. Yet small business people have to do that every day.

So what is the answer? Well, there is a simple answer that is out there. Everybody tries to make it more complicated than it is, but it is simple: Empower the small business people to do what the big business people can already do. Allow them to pool together through their trade associations and get health insurance as part of a big, national, voluntary, efficient, economical pool.

I give an example: I think it is the best way to describe it. Take a restaurant owner such as my brother, who owns a little restaurant. It is kind of a tavern restaurant. It is a great place. It has great chicken sandwiches. And I highly recommend it to you if you get to Missouri. He does not have health insurance for his people. It is too expensive. It is complex and foreboding for him. He and my sister-in-law run the business. They do not want to have to wrestle with big insurance companies. They are afraid if something goes wrong, they could get sued. He would like to have health insurance. Then he could get it through the business, too.

Now, what if the National Restaurant Association could contract with big insurance companies? They could be his employee benefits section, just like big companies have an employee benefits section. By joining the National Restaurant Association, he automatically would have the right to join the big pool. They would send him the papers. They would show him the options he has, and he could decide how much he wants to pay. He could let his employees pay the rest and join the pool. He could have health insurance as part of a big pool. It would be must-offer, must-carry. They would have to let him join the National Restaurant Association and would have to offer the health insurance to him.

When I chaired the Small Business Committee in the House, we studied this issue. And I have seen a lot of other studies since then. The best estimates I saw were that it would reduce premiums for small employers by 10 to 20 percent; a recent study came out and said 12 percent. There would be a million fewer people uninsured.

It costs the taxpayers nothing. It is not a Government program. It is empowering small business people to do what big business people already can do. I think the impact would be much greater than the studies have shown because right now the psychology of health insurance, if you are a small business, is so negative. I think you would see whole segments of the economy, which traditionally have not provided health insurance to their employees, begin to provide health insurance. And the restaurant business is one of them. It is one of the reasons the National Restaurant Association is so strongly in favor of this concept.

Now I have talked about this for almost 10 years. I lay it out for people, and they say to me: Well, who would oppose this? I actually get that question a lot: Who is opposed to it? And that is a good question. It is fully within the mainstream of both parties' philosophy. It is empowering the little guy, just like farm co-ops. It passes the House with a strong, bipartisan majority every year. And why shouldn't it?

What is the downside of it? The downside is: It does not work as well as we hope it is going to work. Not as many people go into it as we hope and believe will go into it.

It is not as though the taxpayers are going out on a limb. So who is opposed to it? Well, nobody will be surprised to hear that the big insurance companies have opposed it, and they have come up with all sorts of excuses over the years. I am not going to go heavily into it because the chairman has worked very hard to get as much consensus as he can get. But I will say this. I think they oppose it not because they are afraid it will not work but because they believe it will work. And they control most of the small group market now. I do not have time to go through those figures. But the concentration of the small group market within the five largest carriers has grown and grown and grown. And small business health plans would be a powerful, new competitive force in that market.

The State insurance commissioners have been concerned because these small business health plans would be national and they felt the State would not be able to regulate it. In fairness, I have to say, I have never agreed with that. Remember, the big companies already operate free of State regulation. That has been the law for 30 years. And we have not had any disasters as a result of that. I do not believe anything that has happened in the last 10 years or so is proof that we can trust the big companies more than we can trust the small companies.

If I had to decide who was going to be free of State regulation, I think I would rather have the small businesses free of that. And it is not as though the market the States have regulated never has any problems. There are a lot of insurance companies that go bankrupt, and the States have to take them over.

But the good news is that the chairman has squared this circle. He has worked out an arrangement for the regulation of small business health plans where many of the State regulations and much of the State regulatory authority will still apply. I am not saying the State insurance commissioners are standing up for his bill, but I think it is safe to say that many of their objections have been ameliorated, and the chairman has made much progress on that front.

Folks who tend to be sincerely on the ideological extreme on health care issues—and maybe "extreme" is the wrong word, but they want to go one way or the other—have been lukewarm about small business health plans. There are some who wish to eliminate the employer system and take the Federal tax deduction and pass it through to individuals and let them go out and buy health insurance on their own, and there are others who want a total Government solution. And this is not any one of those things.

It is a substantial and important and meaningful but incremental change in the world we are in. It makes things better for people on a day-to-day basis who are out struggling in the real world. Maybe it is not the reform that any of the think tanks on the right or left would come up with, but it makes a difference. It will help. There is little or no downside to it. We need to help the real people who are really hurting.

Finally—and this I understand entirely; I struggled with this myself in the years I had this bill—the groups that have worked to get various disease mandates in the States have been concerned. Because if you worked hard to get a mandate so that mammogram screening is covered in your State as a matter of right, and small business health plans go into a national pool, just like the big companies, if we do not do something, they would not be subject to those State mandates.

I have made a point in talking with these groups over the years saying that, look, the big company plans, the big pools that exist out there—the labor unions, the company plans, the Federal employee plans; all those sorts of things—they usually cover all those mandated coverages, anyway, because most of them are pretty common sense.

Again, remember, if you have been sick, and you have a choice of working for a big company that is not covered by the State mandates or a little company that is, which do you think has the better health insurance? The folks I have talked to over the years say: Well, we would go with the big company.

But I think we are going to be able to square that circle as well. Senator SNOWE is going to offer an amendment which will represent progress in this area. It will provide that if 26 States cover a mandate, that mandate applies to small business health plans, and it is protected in the States that have it. So this is progress. It is not just net progress; it is absolute progress for these various groups that have sought these protections because they are going to have, if that amendment passes—and, certainly, I am going to support it—they will have protections on the Federal level for the first time for these various coverages.

So I am very hopeful they will take a look at this. I believe with the amendment Senator SNOWE is going to offer, the concerns they had not only do not apply anymore, but actually they are going to be better off because for the first time we are going to have national pools set up under Federal law with certain basic patient protections and coverages that are guaranteed. As I said, I do not think those would be necessary because I think the pools would cover them, anyway. Most of those are pretty common sense. But we can put them in the law and reassure everybody. And I think we can make the bill better if we do that.

I see my time is running out, Mr. President.

So what is left? Why should we oppose this? I do not want to be presumptuous. I have lived with this bill for so long that maybe there are weaknesses I do not see. But this is something we can do for people. It passes the House regularly. They like it over there. It has a strong measure of bipartisanship, anyway. There is no real downside to it.

Let's debate the bill, and let's resolve that we are going to debate it with a view toward actually voting on it.

I hope nobody filibusters this bill. We can work out agreements about debate, work out agreements about amendments, and have a chance to help people. This is a problem. This is a case where people are hurting. I know politics is important here; I know this is an election year; I know all of that. But we can make a difference for real people on the ground every day who are worried about losing their health insurance or who do not have health insurance and are worried about getting sick. We ought to do it.

I thank the Senator for yielding. It looks as though my time has expired. I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Connecticut.

Mr. DODD. Mr. President, I yield myself 20 minutes. Senator KENNEDY is not here right now, but pursuant to previous agreement, I would like to be notified when 15 minutes expires so I can conclude my remarks in the 20 minutes.

I spoke yesterday about this legislation. I want to begin by saying to my friend from Wyoming, the chairman, I have a great deal of regard for him. I have enjoyed working with him on the HELP Committee. We do a lot of work together. I have enjoyed that relationship. It is with a note of sadness that I disagree with him about this bill. We had a lengthy markup. He was very patient to listen to all of our ideas and the amendments we offered during the markup. I appreciated his willingness to do so. But as happens from time to time, we have disagreements. They are not personal. They are ideas on which we have a different point of view. Today is one of those occasions. These remarks are in no way intended to denigrate the work of the chairman of the committee or those who agree with him.

There are those of us who believe strongly that this proposal would do a lot more harm than good, that, in fact, the cure being proposed with this legislation creates far more problems than presently exist, as bad as the present situation is. We know, as a matter of fact, that over the last 3 years, the premium cost for health care has risen: 9 percent in 2005, 11 percent in 2004, 14 percent in 2003. These costs continue to rise. A family of four today is paying about $11,000 in premiums for health care coverage. The problem is significant.

I regret in some ways—and this is not the fault of the chairman of the committee—that we are not debating in a broader sense how we might address the far more significant issue, as important as this one is, when we have 45 million fellow Americans with no health care coverage at all. I regret that we are not having a larger debate on that issue.

Secondly, I believe it is a legitimate issue to raise the issue of how small business is dealt with when it comes to insurance. In the next 2 days, we will offer a substitute to the proposal authored by the chairman of the committee, the Senator from Wyoming, that we believe will deal far more thoroughly with the legitimate issues that smaller businesses face. In fact, we redefine small business to mean businesses not with 50 employees or less but 100 employees or less, thereby covering more small businesses than would be covered by the legislation before us.

The problems are huge in the area of health care. If you do surveys of the American public and ask them to identify what are the largest concerns they have, if not the No. 1 issue—from time to time other issues may be more important to people—consistently year in and year out, people will tell you their great concern is about the fear of watching a family member or themselves be hit with a major health care crisis and not having the resources to pay for it, not being able to get the doctors, not being able to have the kind of care they would want for their families because they cannot afford the premiums that would provide them broader coverage, if they have any kind of coverage at all. They may not have any kind of health care. This is a major problem. We ought to be spending a lot more time addressing this issue than we are.

Having said that, let me talk about this proposal. I am deeply worried about it. It isn't just my concern. Many Governors, more than three-quarters of the attorneys general of the States which we represent, not to mention the health insurance commissioners of many States, have raised very serious concerns about this legislation. They are very worried about what this bill will do to their constituents, the States that we represent as Senators.

Let me share a letter from the Connecticut Business and Industry Association. This association represents 5,000 small employers in my State. This is not an organization that is known for its liberal tendencies. Quite the contrary, it is a very conservative business group. Listen to what my business group that represents the small businesses of my State has to say about this bill.

> We believe that in Connecticut federally certified AHPs would destabilize the small business insurance marketplace, erode carefully crafted consumer protections and raise premium rates for small businesses with older workforces and those that employ people with chronic illnesses or disabilities.

The letter goes on to say:

> Although the passage of AHP legislation would present us with opportunities to expand our CBIA health connection's product customer base as a regional offering, we do not believe that the proposed legislation represents a sound public policy for providing more affordable coverage or access to health care benefits. The proposed legislation does little to address the underlying causes of health care inflation, which is the most important barrier to small employers providing health care benefits.

That is a strong letter from an organization that represents 5,000 small employers in the State of Connecticut. They are worried about what this bill will do to smaller employers in my State in terms of their costs. They are deeply worried about this legislation and what it may mean.

Let me also share with my colleagues a second chart. This was a chart that was produced by Families USA, with estimates from the Agency for Health Care Research and Quality, a medical expenditure panel, and from the U.S. Census Bureau. It tells us the number of people that will be losing State regulatory protections if this bill is passed. What we are doing is shrinking the amount of benefits that can be offered. In my State, we offer a range of 30 different benefits—that was passed by my State legislature—that insurance companies must cover. If you are going to do business in my State, then you have to provide coverage for these 30 areas that we believe are important.

I note this morning an editorial in the Wall Street Journal that criticizes those of us who have raised issues about this bill. They say in one paragraph:

> Some provider groups are opposed for nakedly self-interest reasons since it would allow plans to bypass state regulations mandating coverage for, say, chiropractors.

Chiropractors provide some decent services to people. But with all due respect, I would suggest that it is a lot more than chiropractors who get bypassed with this legislation. It is things such as diabetes, cancer screening, infant health care, mental health care, pregnancy, Lyme disease, to mention a few. I know several of my colleagues have had family members affected by Lyme disease. My State thinks that is an important area to provide coverage. This bill would eliminate coverage for Lyme disease because this legislation would mandate that Federal law would supersede State law. Regardless of what your State thinks is important, this bill will decide what will be covered. Everything else goes. That is an overreach, in my view. As a result, the analysis of the legislation presented on this chart suggests that in the State of Alabama, 1.7 million people who would be adversely affected if this legislation is passed. In Connecticut, more than a million people would lose benefits that the State legislature requires the insurance industry to cover. In State after State, the numbers are at least in the six-figure category. In California, 12 million people would be adversely affected. Kentucky over a million people. Kansas over a million people. Illinois almost 4 million people, and the like.

I will leave this chart so my colleagues will be able to see how many people will be affected in their States, according to data collected by those who have examined what it would mean to a Federal mandate that tells every State in the country: We don't care what you have done, we don't care what benefits you think are important, this bill will tell you what kind of coverage you are going to have.

We also prohibit the States by preempting their ratings rules, which is my second point. This legislation preempts the States from having rating rules that will actually determine what the difference in cost would be between young and healthy workers and older, sicker workers, to make sure they are not going to price the product so beyond the reach of an older, less healthy person that it would be unaffordable. It is de facto exclusion if you allow the insurance industry to set that price by preempting the States from determining whether there ought to be a cap on how much an insurance company can charge. By limiting benefits and by preempting the States from determining rates and holding them down, we make it very difficult for literally millions of people to be positively affected by this legislation.

Those are the two major concerns we have. There are other areas that we will certainly raise. I mentioned earlier in my State, more than a million people will lose access to cancer screening, well childcare, diabetes supplies, alcoholism treatment, mental health care, the treatment for Lyme disease, to mention some. The list goes on with my State.

In addition to seeing their benefits disappear, millions of Americans will see their health insurance premiums skyrocket as well. This bill preempts State laws that currently protect older workers, those with serious illnesses such as diabetes, cancer, and heart disease, even expectant mothers, from seeing their premiums increase. This bill will allow the insurance industry to charge people more based on the fact that they are sick or pregnant or simply older.

I have many insurance companies in my State, as my colleagues know, that do a wonderful job in many ways. But don't have any illusions about this. They are going to be offering as few benefits as they can get away with and charge as much as they can. That is what they are in business for. This is not the Vista Program or AmeriCorps. These are private companies. If we give them a green light to limit the benefits you can provide and take the caps off what they can charge, then, obviously, they are going to take advantage of it. I am greatly concerned, as the major business organization in my State warns. When the Connecticut Business and Industry Association says this bill would hurt the businesses in my State, we ought to take note of it. This organization has a strong record of protecting the interests of smaller businesses.

It doesn't take an expert to predict what will happen. Insurance companies are going to offer plans with minimal or no benefits, hoping to attract young and healthy workers. Older, sicker people are going to be left without a plan that meets their needs. Every analysis of this bill reaches the same conclusion.

Listen to what the Congressional Budget Office says. They found the bill "would tend to reduce health insurance premiums for small firms with workers who have relatively low expected costs for health care and increase premiums for firms with workers who have relatively high expected costs.

In other words, instead of attacking the real problem, the rising cost of health care, this legislation would simply shift costs to small businesses with older and less well workers.

In fact, another study commissioned by the supporters of this legislation concluded this bill "is not going to address the underlying causes of high health insurance premiums, which are high health care costs."

Again, Governors, State attorneys general, the State insurance commissioners have all reached the same conclusion, as have an enormous number of groups representing health care providers and patients. All of them say the same thing. They all can't be wrong. When your Governors, attorneys general of the States, insurance commissioners, not to mention almost every single health care group in the country warns about the passage of this bill, then we ought to take note of it. When you hear that you will have literally millions of people losing benefits passed by State legislative bodies that require the insurance industry to cover them, then we ought to take note of that as well.

I know my colleagues will be offering amendments to allow lifesaving stem cell research to go forward, to strengthen Medicaid, reduce prescription drug prices, and ensure access to mental health care. I look forward to having an opportunity to debate those amendments, many of which I will be supporting. We should also consider an amendment to extend the Medicare prescription drug plan enrollment deadline which is causing a huge problem. These are the kinds of issues that ought to be part of our debate today. Medicare beneficiaries have only until this coming Monday, May 15, to enroll in a prescription drug plan, if they are to avoid financial penalty. Why don't we take that as an amendment and extend that time to allow people to come forward. As we are all aware, for many of the Nation's 41 million Medicare beneficiaries, the new prescription drug plan offers more confusion than assistance and, frankly, extending that date would make sense.

I intend to offer an amendment to protect newborns and children from the damage inflicted by this legislation. Right now, 25 states have enacted mandates requiring insurers to provide benefits to the children of their enrollee; 31 States require insurers to cover the cost of childhood immunization.

I am going to ask my colleagues to support language that would see to it that newborns and children are protected in every State, instead of allowing the insurance industry to pick plans that would exclude child immunization and well-child care.

This legislation would completely preempt these State laws, leaving babies and children unprotected. That is a major step backward. Instead, families will be faced with health insurance that doesn't cover routine care for children. They might be forced to pay out of pocket, drastically driving up health care costs, or to forego care entirely. My amendment would ensure that those State laws not be preempted by this Federal mandate that we are about to adopt.

I will also offer an amendment that would prevent health insurers from deciding how much to charge a person for health insurance based on how healthy they are. That is something we have done across the country in State after State.

Many States, including my own, have laws preventing the insurance industry from charging more based on health status. Unfortunately, this legislation would remove those State protections. It would allow the insurance industry to charge more based on health status. We ought to make sure we don't allow that to occur in this bill.

Without these protections in place, it just makes good business sense for an insurance company to increase premiums for people with diabetes, HIV/AIDS, cancer survivors, pregnant women, or anybody with health needs that are outside of the ordinary. As a result, the people who need insurance the most will find they would be the first to lose it.

Finally, I will offer an amendment to protect those patients that admirably choose to participate in clinical trials from undue costs resulting from their routine care. Currently, 19 States, including my own State of Connecticut, have enacted mandates requiring insurers to provide coverage for routine patient care costs while those patients are participating in potentially lifesaving clinical trials. But this legislation, as crafted, would completely preempt these State laws, leaving patients without needed coverage for items such as blood work and physician visits. And this legislation would preempt States like mine that provide benefits for people who are willing to become part of a clinical trial.

Clinical trials save lives. Just 50 years ago, less than one in four women with breast cancer survived for 5 years or more. Compare that to today when 96 percent of women with localized breast cancer reach the 5-year mark. This legislation would create a powerful disincentive to patients weighing the option of whether to participate in a clinical trial. Tragically, we know that only 3 percent of adults suffering from cancer participate in clinical trials. Compare this to the 60 percent of children with cancer that enroll in a trial.

Mr. President, there are a number of amendments we would offer to try to improve this piece of legislation. While I respect the intent of the authors, the bottom line is that it would do great damage to the gains that have been made in State after State across the country, by controlling the costs of premiums and seeing to it that benefits are offered to people out there. The States made these decisions, and the insurance industry, if they want to do business in their States, should comply.

This legislation would mean that the Federal Government would wipe out protection in State after State that has provided for the protection of its people—listen to your Governors, your attorneys general, your health commissioners, insurance commissioners; listen to the groups out there that pay attention to this kind of legislation. Listen to the business groups that have warned what this would do to smaller businesses across the country.

Mr. President, I hope that when the appropriate time comes, we will either adopt amendments that will improve the bill substantially or, more important, adopt the substitute that will be offered by Senator LINCOLN of Arkansas and Senator DURBIN, which would allow people to have the same kind of benefits each and every one of us have as Members of Congress, as part of a Federal health benefit program here that allows for the pooling of people, that would cover 100 employees or less, far beyond what this bill would cover with 50 or less. It would not mandate that benefits provided by States be eliminated, and it would not preempt the States from setting caps on premiums when it comes to older and sicker workers. That is the way to go.

If you really want to make a difference, why don't we adopt this alternative. That would be a major gain for smaller businesses and people who work with them. I understand this is an important issue. Small businesses could use help, but we are not helping them with this bill, with all due respect. We can help them if we take the right steps.

I urge my colleagues to adopt the alternative, or at least improve the bill with the amendments we will be offering in the next few days.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as I understand it, we are rotating back and forth. Could the Chair tell us how much time we have on this side?

The PRESIDING OFFICER. Nine minutes remain.

Mr. KENNEDY. Well, Mr. President, I thank my friend from Connecticut for an excellent presentation and summation of the principal concerns about this legislation. I ask the Chair to let me know when there is 1 minute remaining.

The PRESIDING OFFICER. The Chair will do so.

Mr. KENNEDY. Mr. President, I thank the chairman of our committee, Senator ENZI, for his diligence in the development of the legislation. It is legislation that I cannot support. But the chairman of our committee has put his finger on an area of health policy, which is enormously important for us to consider, and that is the general kind of challenge that is out there for small businesses in this country. By and large, they pay two or three times higher premiums than many of the very large businesses in their States, and they are also seeing a turmoil in the market.

More often than not, they are changing companies every year, or every other year, and increasing numbers of those small businesses have to drop coverage. This is a real problem.

If the proposal that is before us, the Enzi bill, was only to deal with that particular issue, it ought to be given focus and attention and full debate and support. But his bill goes far beyond that. Fortunately, we have an alternative, as the closing remarks of my friend and colleague from Connecticut pointed out, in the Durbin and Lincoln legislation, which addresses the small business needs. It does it creatively and effectively, and it does it without threatening the health protections that are there for States. The message and word ought to go out to all those who support the Durbin-Lincoln proposal that workers in those small businesses will effectively have the same kind of health care coverage that we have in the Senate of the United States. That has been certainly a goal of mine for all Americans in the time I have been in the Senate, and it still is.

We have an opportunity for the small business community, and for the workers in those companies of 100 or less, to provide for them the same things that we have for the Members of the U.S. Congress and Senate. That statement cannot be made by the Senator from Wyoming. His bill does not do that. It has all kinds of adverse impacts in terms of workers and health care protections.

So as we start this debate, we ought to recognize that there is an alternative which we on this side strongly support which will focus and give attention to the small business community. The other proposal by Senator ENZI does not do that.

Mr. President, I am going to take a few minutes, because that is all I have, to review what I think are the most dangerous aspects of this legislation. The fact is, today, as has been pointed out, there are some 85 million Americans who have protections that will be effectively lost with the Enzi proposal. Those are protections for screening on cancer, for help and assistance in terms of diabetes, for medicines. There are different protections that are given to other diseases that are threatened, and it threatens American families. Those have been discussed in local communities and in States that are now providing those protections; and effectively, under the Enzi bill, those will be prohibited. There are a number of groups.

First of all, this is what the State insurance commissioners say, and why they are important is because they have a responsibility in terms of protecting consumers. This is what they have pointed out, Mr. President:

> Standardizing the rating laws among States will do little or nothing to reduce health insurance costs.

And also:

> S. 1955 will result in older and less healthy employees being priced out of the market as a result of expanding the rate bands.
>
> Small New Jersey employers with older and sicker employees would see a dramatic rise and increase under the Federal approach, effectively driving them from the insurance market and leaving them vulnerable citizens without adequate health coverage.

They are talking about ratings. Insurance companies are going to be able to charge for the proposal that the Senator from Wyoming has talked about. They are going to have a flexibility of up to 26 percent difference—26 times the difference in terms of premiums. Do you understand that? If you are an older worker and have had sickness in your family, you will pay a rating that will be up through the roof.

That is not true in Massachusetts. In Massachusetts, no matter how sick or young you are, you are still within a 3-point or 3 times rating increase. That has worked very effectively. That is something that every older worker, every family that has had some kind of health challenges ought to recognize—that they, under the Enzi bill, could well be priced out of the market.

This is what the attorneys general have said:

> The Health Insurance Marketplace Modernization And Affordability Act should be more appropriately labeled the Health Insurance Cost Escalation Act.

That was the attorney general from Minnesota.

The attorney general of New York said:

> This legislation is not the answer here. It eliminates many of the protections that consumers enjoy, without addressing the underlying problem of cost containment.

They are also eliminating protections, as we have mentioned, for breast cancer and diabetes.

Another one by the attorneys general:

> There are no legitimate grounds for exempting the type of insurance plan for State laws that provide essential safeguards for persons covered by insurance.

It is not just Democrats, but Democrats and Republicans; 41 out of the 50 attorneys general charged with protecting consumers are saying this bill doesn't get it.

Mr. President, this is very interesting by the New Hampshire Governor on S. 1955:

> In 2003, New Hampshire passed a law establishing rating rules similar to those contemplated under S. 1955.

New Hampshire passed almost the identical bill that is now being considered in the Senate.

> With the rules allowing insurance companies to discriminate against businesses with

> sick workers, or based on geography, this law sent small business health insurance costs skyrocketing across New Hampshire. Small business could not grow, could not hire new workers, and some considered ending their health insurance plans altogether.

They have done it. It is rare around here when you have a new proposal that you have had experience with—and the State of New Hampshire has it—and they ended up withdrawing that proposal.

Finally, we have the various patient groups. Here is the American Diabetes Association:

> S. 1955 would result in millions of Americans with diabetes losing their guarantee of diabetes coverage.

The Cancer Society said:

> Passage of this legislation would represent a retreat in this Nation's commitment to defeat cancer.

The National Partnership for Women and Families said:

> Instead of making health care more affordable for those who need it most, S. 1955 would roll back the reforms adopted by many States to require fair pricing.

We look forward on this side to debating these issues—the Durbin-Lincoln proposal and the Enzi proposal—and we also look forward to debating stem cell research, the real Medicare alternative in the prescription drug debate, the ability of Medicare to be able to negotiate lower prices for our senior citizens, and drug importation. If we are going to have a health care debate, let's make sure we are going to deal with many of the issues that people in our country want us to deal with.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ENZI. Mr. President, as we wait on a couple of people to speak, I would like to make a few comments on the comments that have been made. I do appreciate the spirit in which they have been made. I know there are amendments waiting to modify several of the things that have been suggested, but my biggest concern is that there were some comments about the Attorneys General of the United States and the insurance commissioners who are against it, and even the Connecticut business associations who are apparently saying they are against the bill.

But what I need to correct is the comments they are making are not on this bill. What they are talking about is the bill that the House has passed eight separate times: the associated health plans bill. Associated health plans are different than this bill. It would be nice if some of the people who are going national and public on this would actually check with us on some of their comments to see if they are remotely right.

We have put forward a solution which they said that 85 million people would lose their benefits from. That would be just as ridiculous as me saying that all 27 million people who are uninsured who work for small business would be covered by this bill. Neither of those things is going to happen. There is a medium in there where there will be more people who are insured. The difficult parts that were talked about concerning things being taken away from people I am confident are not going to happen. There are a couple of reasons they are not going to happen.

First of all, there are experiments across the country which in a small way have done what we are talking about in the small business health plans, and in those experiments, they have worked: Taking away the mandates that States have and actually making a point of mandating that we take away the mandates. Around here, "mandates" is a bad word. Mandates means you are forcing somebody to do something and you are not paying for it. You are saying you have to have this, and whether you can afford it or not, we are going to make you do it. So your choice is to take the mandate or drop your insurance.

When we are talking about these mandates, a lot of them we are talking about are regular maintenance of your body, and we ought to be having everybody do those. It shouldn't matter whether they are covered by insurance or otherwise. In fact, in Wyoming, we have gone to great lengths to have more things done by public health for free. That means your insurance doesn't have to pay for it and you don't have to pay your insurance company for it and you don't have to pay your insurance company for the administration of that service. But you can get that service. Then we have some other screenings that are covered in a very reasonable way. We have a program in Wyoming trying to get everybody to have mammograms, and it is focused on Mother's Day, which is coming up this next weekend: Get a mammography for your mom. Show that you care. And thousands of people in Wyoming do exactly that.

I will cover some of the other issues, but I see that Senator HATCH, the Senator from Utah, has arrived and has some comments in this regard, and he has been a very diligent worker on all of the small business problems. So I yield time to the Senator from Utah.

Mr. HATCH. Mr. President, I thank my distinguished chairman who I think has done a terrific job on this bill. I understand the distinguished Senator from New Hampshire needs about 3 minutes, so I ask unanimous consent that he be given 3 minutes, and then the time be returned to me.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. SUNUNU. Mr. President, I wish to speak to the legislation before us and in particular to address some of the remarks that were made earlier by Senator KENNEDY from Massachusetts. He raised concerns about the State of New Hampshire and suggested that this legislation would be bad for the State of New Hampshire and that the State of New Hampshire had already enacted legislation identical to this. I think it is wrong for someone to provide information that is not entirely accurate. I think that is inaccurate, and it is not inaccurate in some very key areas.

First, the bands that were discussed that were enacted in the State of New Hampshire were much smaller than the rating bands contemplated in this legislation, and they did it in New Hampshire without any transition period. Those are two very significant, specific differences between this legislation and what was attempted in New Hampshire.

Second, as with any legislation, it cuts both ways. There were some employers that saw increases in their premiums 2 and 3 years ago that some claimed were a result of the legislation in New Hampshire, but many businesses—in fact, the NFIB would suggest the majority of businesses—in New Hampshire saw some great relief because they are the smaller businesses that we are talking about, those who would be allowed to improve their negotiating position through the provisions in this bill. Moreover, this isn't a debate about one State. This is a debate about providing increased access—increased access—to plans that are negotiated by associations, by the members of small businesses and, as a result, negotiating lower prices.

Finally, there was discussion about community rating and how objectionable it is that there will be an ability to differentiate on price based on a number of factors. I think the truth is, when you force that kind of price control, you force adverse selection because if I tell you that you have to charge the exact same price to anyone, no matter what region, circumstance, or situation, then the insurer will automatically market to the healthiest people because they won't want to take on the additional costs associated with those who might have significant needs that result in higher prices.

So if you go to price control, which is exactly what the other side is suggesting, forcing the same price for everyone no matter who is covered, businesses will naturally—naturally—only market to those who are healthy and, as a result, reduce the accessibility and availability of health insurance to those who might need it most.

It is a dramatic, unintended consequence, and that is the exact outcome that will be the result of the policies that are being suggested by the other side. We need to be accurate in what we represent. This is a good bill for small business and, as a result, it is an excellent bill for New Hampshire because in New Hampshire, small businesses make up over 95% of all firms with employees. If we want to do something about the uninsured, the majority of whom are working as self-employed or for small businesses, we need to take up the exact kind of provisions that are in this bill: Increased access of health insurance for those working in the smallest firms.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). Senator HATCH is recognized.

Mr. HATCH. Mr. President, I rise in support of S. 1955, the Health Insurance Marketplace Modernization and Affordability Act. This is a good bill, with good intentions. The lack of health insurance, particularly for employees of small businesses, is a significant problem in Utah and throughout the Nation.

We cannot afford to sit by the sidelines and bemoan this problem, taking little action while millions of American families suffer. The House of Representatives has acted and we should do the same.

Immediately upon its passage though, we were besieged by complaints about House legislation, principal among them the complaint that it overrides State insurance law.

I give the Health, Education, Labor and Pensions Committee Chairman MIKE ENZI a lot of credit.

Chairman ENZI didn't sit idly by.

He studied the House bill, he held extensive hearings, and then he drafted a compromise that resolved many of the concerns expressed about the House bill. This was no easy job.

Immediately, the HELP Committee effort—a solid effort I might add—was besieged by criticism. Much of this criticism I must hasten to add, is not valid.

"It isn't going to cover cancer care," the naysayers decry.

"It isn't going to cover diabetics and their supplies," they allege.

"It isn't going to cover prenatal care or OB/GYN care for women," is a recent complaint.

"It is going to run chiropractors, podiatrists and optometrists out of business," say hundreds of form letters that have flooded our offices.

The problem is, these complaints aren't even true. While the standard plan employees must be offered under this bill may not cover all those things, S. 1955 clearly provides an alternative. Employees must be offered an enhanced plan, based on the coverage that public employees receive in the five most populous States, if their employer's standard plan is not consistent with State law.

Most, if not all, of these services would be included in those enhanced plans that employers must offer under S. 1955.

But, let's talk about our basic goal here.

We want to provide affordable health insurance coverage to those who currently do not have coverage.

If we could afford to give them coverage for every possible illness, condition, or procedure, if small businesses could afford to give them coverage for every possible illness, condition or procedure, don't you think it would have been done by now?

Of course it would.

That is the genius of the Enzi bill. It allows a basic level of coverage—perhaps not every single service imaginable, but good solid health care insurance—and for those who want to pay more, there is a plan with more coverage.

In that way, the millions of Americans without health insurance will have access to coverage.

You may ask yourself, "Who doesn't have health insurance coverage?"

Today, over 45 million Americans do not have health insurance.

Over 25 percent of self-employed individuals are uninsured.

Over 30 percent of people who work for small businesses with fewer than 25 employees are uninsured.

Over 20 percent of the people who work for small businesses with fewer than 100 employees are uninsured.

Something clearly needs to be done.

And that's why we are here, today, debating S. 1955.

I want to illustrate why passage of this legislation is necessary.

Ramona Rudert and her husband, Michael, have owned Professional Automotive Equipment in North Salt Lake for 28 years. They have 12 employees and they offer health insurance to them.

The Ruderts contribute $200 per month to their employees' health care premiums.

Their employees have to pay approximately $500 per month for family coverage.

Their health insurance plan has a $1000 deductible.

So at least there is potential coverage. But here's the kicker: only one of Professional Automotive Equipment's 12 employees decided to be covered by their company's health policy, besides the Rudert family. The rest of their employees cannot afford it.

The interesting twist about this story is that Ramona and Michael have a daughter with juvenile diabetes. They recognize that the basic plan may not cover all the services their daughter needs.

But when asked why she supports S. 1955, Mrs. Rudert replied that she is "always looking for ways to improve her employees' access to health care" and that while she has a daughter with Type 1 diabetes, her greatest concern is about the affordability of insurance premiums for her employees."

Passage of this bill is the top priority for Mr. and Mrs. Rudert, and thousands of Utah businesses. They recognize that affordability is a key component to making that happen.

Let us not make perfect the enemy of the good.

It is an economic fact of life that a Federal requirement for small businesses to cover every small business employee for every possible health care-related service is neither appropriate nor affordable.

Those who decry this bill because it does not guarantee small business employees a comprehensive plan, must be reminded that most employees of small businesses do not have a choice today, if they are fortunate to have health insurance coverage. The legislation before the Senate will create new options for small businesses and, the potential for more choices.

Today, smaller employers do not have the purchasing power of larger employers. If they offer different types of health plans to their employees, the administrative costs of offering these choices are much higher for small employers.

But by leveraging their combined purchasing power, some local small business associations are offering plans that give employers more choice. I believe that similar models could be created regionally and nationally through S. 1955 through regional and national associations.

The goals of S. 1955 are simple. We want to create more affordable health insurance options through choice and competition.

And we want to end the decades-long deadlock and give real relief to America's small businesses and working families.

Who can argue with that?

And small businesses support the freedom to band together across state lines, even without self-funding. Insurance companies support the creation of a level playing field with Small Business Health Plans.

Most important, according to a Mercer study released on March 7, 2006, it is predicted that costs will go down 12 percent for small employers and coverage of the working uninsured will go up 8 percent, approximately 1 million more working Americans.

An added benefit is that the Congressional Budget Office, CBO, believes that passage of S. 1955 will reduce net spending in the Medicaid Program. This is due to the enrollment in employer-sponsored insurance plans of people, who under current law, would be covered by Medicaid.

CBO estimates that enacting S. 1955 would reduce direct spending for the Federal share of Medicaid expenditures by $235 million over the 2007–2011 period and $790 million over the 2007–2016 period. In addition, the bill would result in estimated Medicaid savings to States totaling $180 million over the 2007–2011 period and $600 million over the 2007–2016 period.

CBO estimates that by 2011, approximately 600,000 more people would have health insurance coverage. The majority of these newly covered individuals would be employees of small companies and their dependents.

S. 1955 has been endorsed by a host of organizations: The Small-Business Health Plan Coalition; the National Association of Realtors; the Chamber of Commerce, the National Federation of Independent Business; the National Restaurant Association; the National Association of Manufacturers; the Associated Builders and Contractors; the National Association of Home Builders; the National Retail Federation; the Association Healthcare Coalition; the Textile Rental Services Association of America; the Motor & Equipment Manufacturers Association; the Precision Metalforming Association; the American Council of Engineering Council; Women Impacting Public Policy; National Association of Wholesaler-Distributors; Wendy's International which includes Tim Hortons, Wendy's, Baja Fresh and Cafe Express; Cendant Corporation; American Institute of Architects; Federation of American Hospitals; National Funeral Directors Association; HR Policy Association; Motor & Equipment Manufacturers Association; and the Society of American Florists.

Mr. President, that is an impressive list of supporters.

And I believe that the main reason that we have such an impressive list is due to the leadership of the Chairman MIKE ENZI.

He and his staff did something that the Senate has not been able to do for over a decade report small business health legislation out of the Senate HELP Committee.

For months, Chairman ENZI spearheaded meetings with the major stakeholders of this legislation the insurance companies, the small business groups, and the insurance commissioners. These meetings produced the bill that we are considering today.

Again, my colleagues may ask themselves, is this bill really needed? Will it truly make a difference?

Just last week a 42-year-old woman from Provo, Utah called my office. Both she and her 9-year-old daughter are diabetics. And she had heard from the American Diabetes Association that S. 1955 would hurt their health coverage.

But as my staff explained the bill's important role in allowing small businesses to provide insurance for their employees, including diabetics, she became very emotional. She recalled how, several years ago, she had her own small business. And buying health care for her employees was forcing her toward bankruptcy. So my constituent had to take away their health insurance. This was extremely difficult for her because she herself had a chronic illness and fully understood the implications. She ended up with an individual health insurance policy. And she found that for the same insurance coverage that she had had in her group insurance policy, she had to pay nearly twice as much.

This happened for two reasons. First, as an individual, she was not eligible for the tax benefit that supports the cost of insurance paid through employers. And, second—because she had diabetes, a chronic illness, her insurance rating caused her to pay significantly more than someone without that disease. There was no risk pool for her to join.

Passage of S. 1955 could have prevented these problems.

I urge my colleagues to think about the health care needs of small business employees in their states before voting on this legislation. This legislation will improve their health care options. Today, they rarely have options when it comes to health insurance and when they do, it is extremely expensive.

Let me conclude by sharing the sentiments of Chris Kyler, the CEO of the Utah Association of Realtors.

> Small business owners in Utah are facing a growing crisis with health care availability and affordability. Our profession represents 17% of Utah's gross state product and yet we're arguably the most uninsured working segment in our state simply because we're small business people. As productive contributors to the economy, as a younger, healthier populous, we're supportive of S. 1955 because it will provide us with the opportunity to purchase affordable health insurance.

I believe that Mr. Kyler's sentiments sum up why the Senate needs to pass this legislation as soon as possible. I urge my colleagues to support this legislation so that employees of small business will have access to affordable health care.

I yield the floor.

Mr. ENZI. Mr. President, I yield the remainder of the time to the Senator from Maine.

The PRESIDING OFFICER (Mr. BURR). The Senator from Maine.

Ms. SNOWE. Mr. President, how much time will that be?

The PRESIDING OFFICER. The majority has 9 minutes remaining.

Ms. SNOWE. Mr. President, I thank Chairman ENZI for yielding the time as well as for his leadership in bringing this legislation to the floor, legislation that is so critical and vital to the future well-being of small businesses. I know in my State and across America.

As chair of the Small Business Committee, I know firsthand that this crisis is real. It is an undue burden on entrepreneurs throughout this country, and it certainly didn't develop overnight. Now we have a solution at hand, if we are all willing to forge the consensus necessary to make it happen.

This issue is all the more critical when you consider the fact that today nearly 46 million Americans are uninsured. That is an increase of over 4 million people since 2001. According to the Employee Benefit Research Institute, of the working uninsured, who make up 83 percent of our Nation's uninsured population, 60.6 percent either work for small business with fewer than 100 employees or are self-employed.

There should be no doubt or question that the time has long since come to pass this legislation that will at once assist our small businesses in accessing affordable health insurance for their employees and their families while assuring more of those employees can actually have health insurance.

For this past decade, health insurance premiums have exploded at double-digit percentage levels and far outpaced inflation and wage gains, and Congress has failed to act. Study after study has confirmed beyond a doubt that fewer and fewer small businesses are able to offer health insurance to their employees. Little has been done to alleviate the problem. Quite simply, it has been an abrogation of responsibility.

As chair of the Senate Committee on Small Business and Entrepreneurship, I have held hearings on this question. Small business owners in Maine and across America have consistently and repeatedly begged Congress for relief. They need competition in the market. They need to be able to offer this to their own employees and their families.

That is why I originally introduced the Small Business Health Fairness Act which would have allowed the creation of association health plans to offer uniform health plans across the country, allowing small businesses to leverage their purchasing power on a national basis. This week, for the first time, thanks to the leadership of Chairman ENZI in bringing this legislation to the floor from his committee, the full Senate will be trying to resolve many of the issues, many of the differences of positions and perspectives everybody has on this question.

I thank the majority leader for making this legislation the key component of Health Week in the Senate.

I also thank my friends on both sides of the political aisle, Senator BYRD, who has cosponsored my initiative originally, Senator TALENT, who initiated this effort when he was chair of the Small Business Committee in the House, and the same is true for my predecessor, Senator BOND, when he was chair of the Small Business Committee, for helping to move this issue to the pivotal point where we are today.

I also thank Senator KERRY as ranking member of the Small Business Committee because we also modified my original bill, worked on another consensus bill that would have been a modification based on regional association health plans. I thank him for his effort. Again, that was another attempt to bridge these efforts across the aisle.

But I most especially recognize Senator ENZI's work and his commitment in moving this bill, holding the hearings, trying to reconcile the differences.

This week is not about engaging in heated partisan debate to create issues for the upcoming election. What this should be all about is providing solutions to small businesses and America's uninsured for the much needed relief they certainly deserve.

We are trying to do everything we can to resolve some of the issues. I know there are some concerns, as there were with my initial legislation and as there is with Chairman ENZI's bill now before the Senate. A couple of those issues are, of course, preemption of mandated benefits. I hope to be able to address that question with an amendment so, hopefully, we can reconcile some of the differences across party lines, across philosophical perspectives, so we can get the job done.

There are some concerns about the changes in community ratings. I know that is a particular issue for my State as well. I understand the chairman will address that issue in his managers' amendment.

What we are all here about today is what can we do to address the underlying concern that small businesses have across America. This is a summary of their foremost concern—increasing health insurance costs for themselves and for their employees and their families to the point, as I think we all recognize, small businesses are unable to offer this crucial benefit at a time when they need to be competitive with larger companies because they cannot afford, they simply cannot afford to provide health insurance.

If they can afford it, it is catastrophic coverage, it is a $5,000 or $10,000 or $15,000 deductible at best that they are able to offer. That is why I introduced the initial association health plans, to give fairness to the market, especially to the small group markets such as the State of Maine. The State of Maine is a small group market and, guess what, there is no competition. No competition means higher prices. Higher prices means virtually no health insurance.

That is why I offered the association health plan. That is why Chairman ENZI is doing what he is doing here today, to try to bridge the differences so we can move and advance this process forward because it is good for all of America.

Small business is the engine that is driving the economy. Two-thirds of the job growth occurring in America today is emanating from small businesses. So it is important to ensure their well-being.

By offering the mechanisms that are proposed in Chairman ENZI's legislation, the small business health insurance plan will help with uniformity as well. Because 50 States have 50 sets of administrative rules, regulations, and mandates, it is virtually impossible to have a uniform standard nationwide. This will allow small businesses to be basically on par with Fortune 500 companies and unions. After all, no one is ever complaining about Fortune 500 companies and unions' plans. In fact, they are the most generous in America. So if they are good for Fortune 500 companies, if they are good for unions, why can't they be good for small businesses? That is what it is all about.

Now people say these associations will not design good plans. If you want to attract members to the plan, if you want people to join your plan, obviously you are going to ensure that you design these plans which will be the most attractive to the greatest number of people who join up in these associations. After all, it is in the interests of small businesses to have attractive plans for their employees because they have to compete with large employers to get good employees, to get skilled employees. If they don't have this crucial and vital benefit, they do not attract the kind of employees they need to make their business successful. That is what it is all about.

I hope we can reconcile our differences through the amendment process, with what I hope to offer as amendments and what others will offer, that can lead us to our goal of addressing the fundamental question for small businesses in America that ultimately will help mitigate the problem of the uninsured that is ever growing in America as well.

As we engage in this debate this week, in the end I hope we can come to a conclusion with a reasonable compromise that will become law. That is what it is all about. I know people have differences of opinion. But I don't think there ought to be a difference of opinion in the final analysis when we address all the issues—the ones that Chairman ENZI addressed to bridge the gap, the ones that my amendment will do, and others might do—which will ultimately get us to the point of beginning to resolve this crisis.

The fact remains that we are seeing fewer and fewer small employers that are providing health insurance for their employees.

If you look at this chart, only 47 percent of the smallest businesses in America—those with three to nine workers—offer health insurance. It is on a declining trend—down to 52 percent, and down to 58 percent in 2002—in sharp contrast to the 98 percent of larger businesses with 200 or more workers that are offering health insurance as a benefit.

For small businesses, things are trending in the wrong direction. Then you look at the small group marketplaces in States such as Maine, which is what this essentially is all about. As we learned from the Government Accountability Office study that Senator TALENT and I requested, Blue Cross-Blue Shield is actually consolidating their market share in a number of States across the country. In fact, 44 percent are in group markets.

I hope we can begin to reconcile these differences and do what I think this Congress can do for the first time that we have had the opportunity to do. Let us not deny small businesses and their employees this one chance to do it. Time has long since passed for action.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before she leaves the floor, I want to express my thanks to the distinguished Senator from Maine for working so closely with me on health care issues. I expect that before long Senator SNOWE and I will be offering our bipartisan amendment to lift the restriction on Medicare that bars Medicare from bargaining to hold down health care costs. Senator SNOWE and I have worked on this for over 3 years. We recently got 54 votes in the Senate to win passage of this bipartisan effort. I thank her for all the good work she is doing in the health care field and look forward to when she offers our bipartisan amendment before too long and to prosecuting this cause on behalf of senior citizens and taxpayers alike.

Mr. President and colleagues, no other health policy in America is more objectionable to the people of this country than preventing Medicare from bargaining to hold down health care costs.

This restriction that bars Medicare from bargaining to hold down health costs simply defies common sense. The restriction that bars Medicare from bargaining to hold down health costs is contrary to what goes on in the private sector of this country every single day. It certainly is contrary to the needs of this program and the taxpayers of this country when we see the Federal budget deficit exploding every time we turn around.

It seems to me that to have Medicare actually barred from bargaining to hold down prescription costs simply defies the sensible approaches that we have always taken in holding down health costs. That approach is to use your bargaining power and the capacity to argue on behalf of large numbers of people. That is using marketplace forces to really make a difference.

The way Medicare is buying prescription drugs under this program is like somebody going to Costco and buying toilet paper one roll at a time. Nobody would ever go shopping that way. Certainly when steel companies, auto companies, any major manufacturing concerns first sit down with a vendor, they ask: What kind of deal will you give me on the basis of the large volume of this product that I am going to be purchasing? Not Medicare. Medicare won't do what everyone else does all across this country every single day.

It is especially important that Medicare use this bargaining power, given what the American Association of Retired Persons has found recently in a report they released to us on the cost of prescription drugs. The AARP released a report in February of 2006 that found brand name medications most commonly used by older people rose almost twice the rate of inflation in other areas of health care.

So here is a chance to actually save money for senior citizens and taxpayers. We can especially expect to see savings when you have single-source drugs for which there is absolutely no competition. There are concrete cases where the Federal Government says we are not going to allow price controls, we are not going to allow the establishment of a one-size-fits-all formulary, but we are going to say that the Government is going to be able to bargain, and that approach will make a real difference.

I know some colleagues think any effort by the Government to allow bargaining to hold down the cost of medicine will lead to price controls. The amendment which Senator SNOWE and I expect to file before long is very clear. It does not permit price setting or the creation of a formulary. All it says is the Federal Government, and in effect the seniors of this country, would be able to go into the market and use their clout just like any other big purchaser could to hold down the cost of medicine using marketplace forces.

As colleagues consider this particular approach I hope—I know the distinguished President of the Senate has a great interest in pharmaceuticals and prescription drugs—that colleagues will look at what Senator SNOWE and I advocate. In that amendment, on page 3, lines 2 through 8 make it clear that we are opposed to price controls. We have continually tried to address this. We are not in favor of price controls. We are not in favor of establishing a one-size-fits-all formulary or instituting a uniform price structure of any kind. All we are saying is that the Federal Government ought to have a chance to do some hard-nosed bargaining the way everybody else does to hold down the cost of prescription drugs.

Secretary Tommy Thompson, former Secretary of Health and Human Services, said that the one power he wanted as he left office and was denied by the Congress was the opportunity to negotiate when necessary to hold down the cost of prescription drugs.

This amendment would ensure that the prescription drug benefit is sustainable without interfering with marketplace forces and would simply say that the Federal Government could leverage the marketplace just as any other big buyer of a product does.

To date, millions of seniors have enrolled in this program and, of course, they are realizing some savings on their prescription drugs. We are glad to see that, but it has come about primarily through the infusion of taxpayer money.

What I and Senator SNOWE would like to do is bring about some savings—not just by pouring more and more taxpayer money into this program but by using marketplace forces to protect the interests of seniors and our taxpayers.

Prohibiting Medicare from negotiating for drug prices was an overreach. I know of no other industry in the United States that has power like this. We don't see any other industry that does business with the Federal Government in which discussions and negotiations with the Federal Government is specifically barred. Everybody else has to sit down across the table from the Government representing the interests of our taxpayers and get into the nuts and bolts of negotiating the best deal for a particular group of Americans. We need to end this special treatment, this favoritism, this unwarranted preference that only the prescription drug industry has and give our Government the bargaining power that is needed so that seniors and taxpayers can be protected through marketplace forces.

Some who are opposed to what Senator SNOWE and I want to do have said that we are already seeing some negotiations. Of course, that is true. Having voted for this program and wanting to see it work—I have welts on my back to show for that—I am pleased that we are seeing some discussion among health plans and others. But I think we will see a whole lot more opportunity to contain costs and contain them through marketplace forces if we untie the hands of the Secretary, as the previous Secretary of Health and Human Services, Tommy Thompson, sought to do. I believe we ought to take every possible step to save every possible nickel to protect seniors and taxpayers, and lifting this absurd restriction on Medicare bargaining power will do just that.

I cannot for the life of me conceive of a rational reason Medicare should not have the same power to negotiate just the way other smart shoppers do across this country. Every smart shopper in the private sector—every single one—wants the kind of opportunity that I and Senator SNOWE are advocating.

I don't know of any private entity, whether it is a timber company in my home State or a big auto company or anybody else who doesn't sit down across the bargaining table and ask, what are we going to do to work something out that reflects the fact that I am going to be buying a lot of something? Why shouldn't Medicare, if it believes it is warranted, have that authority in effect as a standby?

Senator SNOWE and I have been crystal clear in saying that there is a difference between negotiating and bargaining and price controls and uniform formularies. We would say to our colleagues: Look at our proposal just as we did in the one that received 54 votes recently. We spell it out. We lay it out on page 3 of our amendment, lines 2 through 8. We stipulate no price controls, no uniform formulary, no particular kind of one-size-fits-all price structure in any way.

I would like to, along with Senator SNOWE, offer a market-based, comprehensive cost containment to help hold down the cost of prescription drugs in our country.

I am glad we are discussing Medicare this week. I think it is high time. I tell colleagues that no other health policy in America is more objectionable than the one that prevents Medicare from bargaining to hold down health care costs. It is time to inject some common sense into the Medicare drug benefit. Giving Medicare bargaining power to millions of senior citizens through Medicare is economics 101. If it is important to the seniors of this country, it is important to taxpayers.

We expect to bring a bipartisan proposal to the floor of the Senate this week. We all know we could sure use some bipartisanship around here at this critical time. I hope colleagues will, as they did a few weeks ago, show strong bipartisan support for our proposal. If we are serious about reining in health costs, and the American people say it is at the top of their agenda, you have to lift this restriction that bars Medicare from bargaining. We expect to be filing the bipartisan Snowe-Wyden amendment before long.

We hope, as we did on the last occasion when we voted on this, we will have a strong majority in the Senate in support of a commonsense, practical way to protect senior citizens who are buying prescription drugs and are taxpayers at the same time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I thank my colleague from Oregon for his incredible leadership on something that makes so much sense, negotiating group prices under Medicare.

Why in the world wouldn't we want to get the best price? Taxpayers want us to get the best price. Seniors want us to get the best price. The disabled want us to get the best price. Why in the world wouldn't we want to do everything possible to have a Medicare prescription drug benefit that offers the very best prices so we can offer as much coverage as possible? One of the things we know, the gap in coverage is partly because we are paying so much for the whole plan. We could give people more coverage and spread it out differently if we were, in fact, negotiating group prices.

I thank my colleague who has come to the Senate floor on so many occasions. He always makes so much sense. I know the people in Oregon are proud of what he has done.

To add to the discussion on Medicare, I am pleased we have Health Week. Even though I will speak at some later time in terms of the concerns I have about the underlying bill, we all chose to vote to proceed to debate on health care because there is nothing more important to the people we represent, whether it is the manufacturers I represent who are having to compete in a global economy and figure how to do that while paying so much of the cost of health care or whether it is small businesses, self-employed people who cannot find coverage at affordable prices, whether it is our seniors or whether it is women and children who need care.

We have a serious issue when we spend twice as much on health care in this country than any other country and still have 46 million people with no insurance, 80 percent of them working.

This is an important debate. Part of that debate, I believe because of the timing, needs to be to address what is happening with Medicare prescription drug coverage. Unfortunately, we are 6 days away from a Medicare prescription drug deadline. Right now, 6 days from now, folks are going to be penalized if they have not signed up for a Medicare prescription drug plan, even though they are having to wade through a lot of information and misinformation in order to be able to figure out what to do, if anything.

I am sure my colleagues have received as many calls as I have received, thousands of calls and letters from people all across Michigan about the trouble they are having related to this Medicare prescription drug program—calls from pharmacists trying to help people figure what to do, spending hours on the phone, being put on hold, unfortunately, receiving inaccurate information too much of the time. We know there are serious issues that have come about because the Government has not gotten its act together, as we should, to be able to present them to people in a way they can understand and make sure it works for seniors and disabled.

We know choosing a plan is extremely challenging and confusing. We have an obligation on our end to do something about that, not wait 6 days and penalize people because they have not signed up for a plan that they may not be able to figure out.

This is not because people are not bright. In Michigan alone there are at least 79 different plans to choose from. Each plan has a different premium, a different copay, covers different medicines. Under the current law, as I indicated before, anyone who does not go through these 79 plans, or whatever number they have in their State, by next Monday will find themselves paying a lifetime penalty, more for prescription drugs than they would if they signed up before then.

A decision about something that is so fundamental to a person's health as their medicine should not be rushed. We should not be scaring seniors into picking a plan that may not work for them because of a penalty they will receive after next Monday. Unfortunately, that is exactly what is happening.

Unfortunately, I continue to believe the "D" in Medicare Part D stands for disaster. That does not mean some people are not getting helped. We want people to be helped. We want people who have not otherwise had help to be able to receive it. That is a very important point in this process because the administration has been talking about the 29.7 million seniors who are now covered, seniors and disabled who now have drug coverage under Part D.

But what they are not saying, of the 29 million, 20 million already had coverage. They were covered under Medicaid, they were covered under private insurance, under a Medicare HMO. We are talking about less than 30 percent of those who have not had any help with their medicine, less than 30 percent, have actually signed up so far.

Is it because they do not want help? Of course not. It is because they are having challenges getting through the bureaucracy and trying to figure out what works for them and what does not work for them?

I will share a story of a woman who called me yesterday. This exemplifies the thousands of calls and stories I receive in Michigan. A member of my staff spoke with Shirley Campbell from Midland, MI, yesterday, not far from my hometown. Shirley told my staff about the experience she and her sister had enrolling in Part D. First, they had a terrible time getting through to the so-called "help" line.

By the way, the Government Accountability Office says almost 60 percent of the time folks trying to get through to the 1-800 Medicare number are getting incomplete or inaccurate information. That is stunning. We have to get our act together before we penalize people for not signing up for a program.

She kept trying. Shirley kept trying. Once she got through, in response to her question, she was told, "I can't answer that question because the site is down." She did not give up. She called back the next week and she called back the following week. Each time she had the same experience. She could not get an answer to her question because "the site is down." This is the administration's idea of a "help" line? It is not much help.

Because Shirley could not get the information she needed from the administration, she called several plans and asked them all to send her their information. Imagine how big that mailbox was. Then she and her sister sat down and spent more than 10 hours sifting through all the information they had received. They narrowed it down to six plans and began a thorough analysis.

What did they find? From the six plans, all of the plans would cost Shirley more than she is currently paying for the medications necessary for her rheumatoid arthritis. Six plans she narrowed it down to, and all of them would cost her more than what she is currently paying. Shirley currently does not have any coverage. Yet she would end up paying more under any of the six plans she studied.

Think of that. We are trying to help people who do not have coverage, and less than 30 percent of the folks who have signed up have been people who did not have help before. Maybe it is because they were like Shirley, when they tried to find someone to help them, they found out they would be paying even more under this privatized scheme that has been set up than they are currently paying.

She also told my staff that most of the plans would have cost her twice as much as she is now paying. But she ended up choosing a plan that would cost her more than what she is currently paying, even though she currently does not have any coverage. She says she signed up because she was worried about the looming May 15 enrollment deadline and the prospect of paying a penalty for the rest of her life.

What sense does this make? Folks are seeing the clock count, 6 days away, until the May 15 deadline and penalty. And Shirley is so worried about what that means down the road, the cost she would be paying and a lifetime penalty, she signs up for a plan that costs her more than she is currently paying. I don't believe Shirley or any senior should be rushed into a premature decision because of an arbitrarily determined deadline. That is all this is. There is nothing magical about May 15, nothing at all.

Shirley worked in middle management all her life. She had the ability to spend hours and hours wading through the plan, the brochures, the paperwork. In the end, she had to make a decision that leaves her worse off than she is today.

Shirley wrapped up her experience of choosing a Part D plan by saying, "I never in a million years would have done anything like this to my staff."

She then asked my health legislative assistant to deliver the message to me that the Medicare Part D Program needs to be fixed. Amen. I could not agree more with Shirley.

This is Health Week. This is the time to fix it. The first thing we need to do to fix it is to give folks more time.

I am proud to be joining Senator BILL NELSON on legislation to extend the deadline to the end of the year. If given the opportunity, and I hope we will have the opportunity, we intend to offer that as an amendment, as we proceed with Health Week. People should not be penalized because the Government cannot get its act together. People should not be penalized when almost 60 percent of the time when they call a hotline they cannot get the information they need, it is inaccurate or incomplete. That is not their fault.

The whole point of this was to make sure we were helping people who were choosing between food and medicine, people who were choosing between medicine and paying the rent, the electric bill or gas prices right now. If that is not happening, why are we moving full steam ahead with some arbitrary deadline? Six days from now, folks are going to be penalized because the Government has been slow to get its act together, and they will be permanently penalized by paying more.

Less than 30 percent of the people who do not currently get help paying for their medicines have actually signed up. That should say something. It should either say, it is not a good deal, and they found out they would be paying more, and they said forget it or it says to us that maybe we need to go back to the drawing board and make sure the right information, in the right way, is given out to people so they can make the best decision for themselves.

I am also extremely concerned that in my home State of Michigan only 22 percent of the 256,000 seniors eligible for low-income help, only 22 percent of those whom we said we wanted to help the most by waiving the premium and the copay, only 22 percent have signed up to get that extra help.

Unfortunately, our low-income seniors are caught twice because they have to pick a plan. They have to, similar to Shirley, wade through all kinds of plans. Then they have to sign up separately to be able to get low-income help.

I am pleased the administration has said they will allow low-income seniors to be able to sign up after May 15. I appreciate that. That is a good start. Unfortunately, the penalty is not waived. Our lowest income seniors, even though they may be able to sign up in June, July, and August—and that is a good thing and I appreciate the administration doing that—I urge them to waive that penalty. It makes no sense if you allow people to sign up for extra help and then take it away through a penalty for signing up late.

The final issue is our poorest seniors, our lowest income seniors in Michigan and individuals making less than $14,700 a year, our lowest income seniors or the disabled, in too many instances are actually paying more under this plan than they were before. Why? Because they were on Medicaid before for the low-income health care. In Michigan, that meant paying a $1 copay for a prescription, and that has doubled, tripled or gone higher. This also makes no sense.

On top of that, those who were in Medicaid, our lowest income seniors, many in nursing homes, were automatically enrolled sometime in the last few months, into a plan, regardless of whether it covered the medicines. We have said to the lowest income seniors, many of them in nursing homes, you are signed up for a plan, and you have to go figure out whether it even helps you and how you are going to get out of it if it doesn't help you. And, by the way, you are going to pay more.

We can do better than this. I believe No. 1 is to stop the 6-day count. No. 1, we have to give folks more time to wade through all of this, to figure out what is going on, and we have to give some more time to the Government to get its act together. The administration is doing a disservice to people by the way this has been handled. Giving more time will allow that to happen.

I am also very hopeful we are going to come back and come together and give people the one choice they really want. People do not want 70 plans. They are not saying: Oh, please, give me a whole bunch of insurance papers to wade through. Give me increased premiums. Give me all kinds of deadlines to deal with. What they said was: I need help with my medicine.

We are blessed in this country to have more medicine available as a part of the way we allow ourselves to live healthier lives, longer lives, to be able to treat cancers, to be able to treat other chronic illnesses. Medicines are available now. But they are not available if they are not affordable. We can do better.

Mr. President, I am hopeful at some point we are going to come back to this floor and give people the choice they want: A real Medicare benefit through Medicare, with a reasonable copay and premium, where you sign up and you can go to your local pharmacy, and Medicare negotiates good prices. That is what we ought to be doing.

In the meantime, let's stop the countdown to May 15.

Thank you, Mr. President.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:32 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

HEALTH INSURANCE MARKETPLACE MODERNIZATION AND AFFORDABILITY ACT OF 2006—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. Under the previous order, the time until 2:30 shall be equally divided.

The Senator from North Carolina.

Mr. BURR. Mr. President, I am going to be here numerous times this week. This legislation is too important to have it shortcut. There is not enough time in the debate to say it all at one time.

Last night, this body had the opportunity to vote on proceeding to changes to the liability crisis that exists in health care today, but the minority denied us the ability to move forward. They denied the ability of the American people to hear an honest debate, to consider thoughtful amendments, and then to judge up or down on the content of the legislation.

They had two opportunities: liability that was reform for all medical professionals; and, then, liability that was only changed for those who are OB/GYNs—that next generation of medical professionals who are going to deliver our grandchildren and our great-grandchildren, that profession that is going to regenerate the population of this country and, in fact, is suffering today because of the high rate of liability costs for the premiums they have to have.

Now we are here. We are in debate—30 hours of debate—to see if we can proceed on a bill to bring small business group health insurance reforms into law, to enable small businesses in America to be able to price insurance for their employees in the same way large corporations are able to produce products for their employees.

Today, small businesses' choice is between nothing and nothing. It is not something and something. It is nothing and nothing. And what will we do? We will debate, for 30 hours, whether we should proceed. Some don't believe this is important enough or, if it is important enough, that there ought to be all sorts of changes to it that are unrelated to these millions of Americans for whom their employer cannot afford to provide health care. Why? Because they are not big. The marketplace discriminates because they are small.

Let me give you some statistics about North Carolina. In North Carolina, 98 percent of firms with employees are small businesses. Ninety-eight percent of my employers are shut out of the ability to negotiate a reasonable cost of health care for their employees. Because of that, their employees have a choice between nothing and nothing.

We will have 30 hours of debate to see if we are going to proceed in this body to provide something versus nothing—not something and something. How can anybody object to providing a choice of something for those who do not have an option today?

Additionally, in North Carolina, we have 1.3 million uninsured individuals. And 898,000—almost 900,000—North Carolinians are uninsured individuals in families or on their own with one full-time worker. Those are all individuals who potentially could be covered under an individual or a family plan.

Of the 1.3 million who are uninsured in North Carolina, 900,000 could be affected with this one piece of legislation in the Senate. But for the next 30 hours, we will debate whether we proceed or never get to the process of an up-or-down vote; in other words, it is a choice as to whether we keep them with nothing and nothing and the uninsured numbers stay at 1.3 million or, in fact, we are going to provide something for North Carolina—900,000 people who today have nothing provided for them.

Later today, I am going to come to this floor, and I am going to read for my colleagues real letters, handwritten letters—handwritten letters—from people who live in North Carolina, whose choice is nothing and nothing. These are individuals who have the same health needs, individuals who would like to have health insurance but whose employers cannot afford it today, who want the opportunity in employer-based health care, but because of the way the system is designed today, it is not achievable because it is not affordable for them.

We are here today and tomorrow, and we ought to be here as long as it takes to make sure Americans at all levels have choices between something and something. These 30 hours will determine, in fact, whether this historic institution will provide that for the American people or we will walk away; whereby, once again, the American people will be denied because some in this body do not believe there is a responsibility to move to a point where there is an up-or-down vote. Truly, people can look and say: You have my future in your hands. My health security is in the hands of the Senate, the Members of the Senate, and whether they are going to, in fact, respond to that.

Well, I think people in North Carolina desperately want choice. I think they desperately want this bill. They want their employers to have the opportunity to be able to look at health insurance and to find it affordable. Why? Because that is their security. That is their ability to have coverage.

My hope today is that the outcome of this legislation will not be a quick death such as last night with medical liability reform. We all agree health care is too expensive. We disagree on what the solutions are. But to end up with nothing, to deny the ability to move forward, to deny the ability for the American people's voice to be heard through the amendment process on this floor is disgraceful.

My hope is after these 30 hours we will proceed, we will have a robust debate on the amendments, and, at the end of the day, the American people will have an opportunity for an up-or-down vote in the Senate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, today we are here in the middle of what is being called Health Week in the Senate. But rather than debating important lifesaving, life-enhancing legislation that has bipartisan support and could actually deliver hope and promise to millions of Americans, the Republican leadership in the Senate has, instead, decided to continue their political posturing, business-as-usual approach to governing.

It is no wonder the American people have become disillusioned with the leadership in Washington. Instead of debating and passing stem cell legislation that will end suffering and extend lives, we are again focusing on a partisan proposal to limit patient options, even when they are harmed, for example, through medical malpractice.

Instead of passing stem cell legislation that will provide new treatments and cures for debilitating diseases, such as Alzheimer's, juvenile diabetes, spinal cord injuries or cancer, we are debating a bill that would actually eliminate—eliminate—the health coverage that many States currently provide to cover some of these very diseases, that will cherry-pick, pitting the healthy versus older workers or those who have some chronic disease or illness. And where there is no insurance regulation, prices go up, insurance companies pick the healthy, and they discriminate against older workers and those who are less healthy.

And they can deny coverage that States have thought important to have to meet the challenges of their individual States, sometimes very uniquely so.

So instead of wasting an entire week debating legislation that I believe ultimately has no chance of passing, we owe it to the American people—to the millions of Americans and their families suffering from life-altering disabilities and diseases—to demonstrate our Nation's full commitment to finding a cure and doing all we can to help their hopes and dreams come true.

It has been almost 1 year since the House of Representatives passed the Stem Cell Enhancement Act, and yet the Senate still has not passed this vital legislation. I rise to urge the majority leader to do the same and bring this important legislation to a vote in the Senate.

I was fortunate to have had the opportunity to vote in favor of the bill as a Member of the House, where we had broad bipartisan support for the proposal. I believe that same bipartisan support exists in the Senate, which makes it even more difficult to understand why we cannot come together and do something meaningful for those who are suffering.

My support of stem cell research is partially a reflection of my home State's commitment to innovation and discovery. In 2004, New Jersey became the second State in the Nation to enact a law that specifically permits embryonic stem cell research. We know that embryonic stem cells have the unique ability to develop into virtually every cell and tissue in the body. And we know that numerous frozen embryos in fertility clinics remain unused by couples at the completion of their fertility treatments. Why shouldn't they be allowed to donate those embryos to Federal research to save lives? We allow people to donate organs to save lives. Why couldn't a couple, if they so chose, donate their frozen embryos instead of simply discarding them?

The great State of New Jersey offers more scientists, engineers, and technicians per capita than any other State, and I am proud to represent the innovation and research taking place in New Jersey. Our State is not only known as the Garden State but also as America's "Medicine Chest." But for our State and our country to continue to compete globally with health care breakthroughs, it is going to take more than private and State support. It is going to take the support of our Nation. It is going to take leadership that looks beyond politics.

But, to me, similar to countless Americans and New Jerseyans, this issue is about more than our ability to compete as a nation. The promise of stem cell research is painfully personal. It means hope and promise—hope that people such as my mother who suffer from advanced Alzheimer's disease might one day be cured from the loneliness and confusion caused by this horrible disease and the promise that future generations of families will not have to see their loved ones enter into a world of dementia that robs them of the best years of their lives.

We hold the key to unlock that door. It is shameful that we have let partisan politics stand in the way of medical progress. We owe it to our parents, to our children, and our grandchildren to unlock that door.

Diabetes, Alzheimer's, cancer, Parkinson's—none of these diseases boast a party affiliation. And we cannot let ours keep us from doing what is right.

Today we have an opportunity to do what is right. But it is clear to me that the majority will again let that opportunity pass them by. I will continue to fight, along with many of my colleagues, to see that this bipartisan bill is debated on the Senate floor and becomes law. We can no longer afford to delay this bill when it holds the key to curing some of the most devastating and debilitating diseases of our day. As the bill waits in the wings of the Capitol, children and adults alike wait for the cure they have been praying for.

This is Health Week. What could better demonstrate our commitment to the health of this country than full Federal support for embryonic stem cell research? This bill has the potential to make a profound and positive impact on the health of millions of Americans. All we need is the leadership to bring the bill to the floor for a vote for the humanity of our Nation and for the mothers, fathers, brothers, sisters, sons, and daughters across this country who are suffering or watching a loved one suffer.

This bill means so much more than ending restrictions placed on stem cell research. This bill means hope and promise to countless Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, like many of my colleagues, I rise today in support of S. 1955, the Health Insurance Marketplace Modernization Act. As a member of the Health, Education, Labor, and Pensions Committee, I am proud to have worked on this legislation and to lend my support as a cosponsor.

First and foremost, I thank Chairman ENZI and Senator BEN NELSON, who have worked so hard on this legislation. The chairman and Senator NELSON did what many thought was impossible: they got the health insurers, State insurance commissioners, and the small business community to sit down together and work to find a compromise for small businesses. After over 10 years of deadlock, the Senate is finally considering a solution that will provide real relief to small businesses. This is truly a milestone. It has been said before, I am sure many times, that the House has passed this eight times, and we have yet to find a solution. Now is the time.

Like many rural States, the Kansas economy is built on thousands of small businesses. Whether it is the farm implement store or the local pharmacy, the beauty salon or the downtown coffee shop, these small businesses and their employees are the backbone of our communities. They are what we are all about. But one nagging problem for virtually every small business owner is the high cost of providing health insurance. Most small businesses can't even afford to offer health insurance to their employees, forcing many to go without health coverage.

In Kansas, only about 41 percent—not even 50 percent, not even half—of our small businesses offer any health insurance coverage. This is in stark contrast to the 97 percent of our larger businesses that offer health insurance to their employees. Without such health insurance coverage, employees are vulnerable to huge health care debts of their own, and it is harder for small employers to attract a good worker. I have literally heard from hundreds of Kansas small business owners and entrepreneurs, local Chamber of Commerce members over the years who say they are forced to choose between staying in business or providing the health care they deserve to their hard-working employees.

Take for example Kimberly Smith of Andover, KS. Kimberly has three children, including a 3-year-old with a mild heart condition. She is self-employed. She is a realtor. She is a good realtor. Like many, she does not have access to affordable health insurance. Because of this, Kimberly and her family have been forced to go without health insurance coverage, and now she must pay all of her medical costs out of her pocket.

Denise Breason from Lawrence, KS, is also facing the same crunch to find affordable health care. Even though Denise is a hard-working small business employee, she has been without health insurance for over a year and a half and had to stop taking all of her medications because she could no longer afford them without health insurance.

Denise Hulse and her husband went without health insurance for their family for years. They prayed their children would remain healthy so they would not have to make a visit to the doctor or the emergency room. In the end, her husband was forced to let his small business go and take a low-paying job, just because it came with health insurance. To quote Denise:

> It is sometimes very hard just making it in the small business community, and very few small business owners are rich enough to be able to afford the high costs of health insurance for their families.

Another small business owner in Kansas told me he is paying over $2,000 a month each month in premiums alone for health insurance for his family. This is more than his house payment, more than his utility bills and grocery expenses, all combined.

These stories go on and on, not limited to my home State of Kansas. I heard these stories when I had the privilege of serving in the House of Representatives. Eight times we approached this issue. Eight times we passed a bill. Now it is our turn in the Senate, and it is long overdue. I hear these stories from small business owners and employees across the country. Small businesses all share one main concern: finding affordable health care insurance.

This is why I am asking my colleagues today to support and pass the Health Insurance Marketplace Modernization Act. The real question is, Do we take it up? Do we vote for cloture? Or do we let the House pass the bill the ninth time while we sit in the Senate and do nothing for those who cannot afford health insurance? I cannot imagine us doing that at this particular time.

This legislation allows small businesses to pool together through an association and offer health insurance. Everything has to have an acronym in Washington. This one does, too. It is SBHP. I won't venture into what that acronym will be called, but it stands for small business health care plan. It is going to give small businesses an affordable choice for health care.

The legislation is built on the fact that small businesses, unlike large companies such as Microsoft or others, or unions, do not have the power to negotiate affordable prices for health care.

The concept of small business pooling together is not new. I supported legislation when I served in the House. In fact, the association health plan legislation has passed the House numerous times over the years without any action in the Senate. Now we finally have a solution that will provide meaningful relief to small businesses across Kansas and the country. We all know small businesses face many pressures in running the businesses. I believe we must enact commonsense policies to overcome these hurdles. We should allow the local farm implement dealer to pool together with other dealers in Kansas and across the Nation to purchase affordable care.

Kimberly Smith should no longer have to worry about finding affordable health insurance for her children. Denise Breason should not have to stop taking her medications just because she works for a small business and cannot afford her care. Denise Hulse and her husband should not have been forced to let go of their small business, their dream they loved, just to find affordable health coverage. Instead, we need to find these hard-working folks affordable options that allow them to continue to contribute to our small communities, rural and smalltown America. This is why I support the legislation.

As I stand before my colleagues today, I know there have been strong concerns expressed about this and previous association plan proposals. However, the small business health plans that are created under this bill have the necessary protections in place to address these concerns. I would like my colleagues who have concerns to please pay attention.

The small business health plans will be regulated by the States, not the Federal Government. The small business plans will have to play by the same set of rules as other small group health plans. They must purchase their insurance through the regular insurance market. They cannot self-insure. Finally, the SBHPs may offer coverage that varies from State benefit mandates, but they must also offer an alternative plan that provides comprehensive coverage. This gives the consumer a choice in choosing a health plan that best fits their needs, and that is the key.

I have heard concerns from organizations and individuals who fear this bill will take away their coverage for cancer screenings, mental health benefits, or any other mandates required by State law. However, I stress that this is simply not true. Small business, under this bill, will have access to a more comprehensive plan which will cover screenings, mental health services, or numerous other benefits. However, it is up to the small businesses to decide whether such a comprehensive plan is right for them.

The purpose of this language is to give small businesses the option of choosing comprehensive benefits but not requiring them to buy such a rich package or a package they cannot afford. Simply put, this legislation trusts small businesses to choose a health care plan that best fits their needs and puts these small businesses, not health insurers or the Government, in the driver's seat when choosing their health care coverage. If a small employer wants to choose a more affordable plan for himself, his family, and his employees, he should have that option. Under this legislation, he has that option. However, he should not be forced by law to buy benefits that may be beyond what he can afford or beyond what he and his employees really need.

I want to put the problem of mandating coverage in perspective. While small employers want to provide affordable health insurance for their employees, expensive and burdensome benefit mandates make doing so very difficult. Small firms and self-employed people have almost no leverage with insurance companies. In addition, they have to deal with an enormous array of State-level health insurance regulations. I don't think you read them; I think you weigh them. All of the benefit mandates, all of these regulations add to the cost and the complexity of the coverage.

In contrast, however, big businesses generally don't have to deal with burdensome regulations. Federal law lets large companies, such as Microsoft and GM, and unions bypass expensive State benefit mandates to provide affordable comprehensive coverage for their workers. I ask my colleagues, why shouldn't small businesses be able to enjoy these same opportunities?

Today, there are more than 1,800 State mandates, making it nearly impossible for associations to offer uniform and affordable benefit packages on a regional or national basis. Taken together, these benefit mandates create a confusing web, an unfunded mandate that prices many Americans out of the health insurance market. The Congressional Budget Office and the Government Accountability Office and others have found that State-imposed benefit mandates raise the cost of health insurance anywhere from 5 to 22 percent. In addition, CBO estimates that every 1-percent increase in insurance costs results in 200,000 to 300,000 more uninsured Americans. In reality, benefit mandates represent an unfunded mandate on employers because insurance companies simply pass the cost of each mandate along. When the cost goes up, the coverage goes down. You have more uninsured.

The legislation we are debating today simply provides an opportunity for a small business health plan to relax these burdensome mandates to offer affordable health insurance to small businesses on a regional or national basis, just like the big businesses and unions currently do. We should not be forcing small businesses to choose between staying in business or offering health insurance to their employees. Boy, that is a Hobson's choice. Instead, we need to give them more affordable health insurance choices and be willing to trust them to choose the option that makes the most sense for themselves, their families, their employees, and the future of their businesses.

I know this bill is not perfect. Seldom do we or the other body pass a bill that is perfect. I have long said that we usually achieve the best possible bill, but sometimes must settle for the best bill possible.

I appreciate the concerns that have been expressed with this legislation. However, I express to my colleagues that I think this bill is the best opportunity we have for easing the burden on our small businesses and allowing them to finally offer affordable health care insurance to their employees. I am proud to support this legislation. I urge my colleagues to do the same and vote for cloture. Eight times in the House, zero in the Senate. That should not be a moment of pride for this body. Let us vote for cloture and let us support this bill.

I yield back my time.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I rise to associate myself with the remarks of the Senator from Kansas, and especially with the efforts of the Senator from Wyoming who brought this bill to the floor of the Senate. This is a very significant piece of legislation in our efforts to try to make sure more Americans have the opportunity to get fair, affordable, and good health care insurance. It is a piece of legislation about people. It is directed at people who work in what is termed "small business." That is the person who works as a cook in a local family restaurant or a person who works as a mechanic in a garage or a person who runs a mom-and-pop real estate agency.

Literally, there are tens of thousands, millions of these small entrepreneurial centers throughout this country. Most of these folks don't make a great deal of money. They work very hard. They are taking care of their families. One of their biggest concerns is whether they can get health insurance so if somebody should get sick who works with them or should somebody in their family get sick, they will be able to have adequate care. But too many of them are not able to afford health insurance. Approximately 22 million people who are in these small businesses, these small retail businesses, small manufacturing businesses, small entrepreneurial shops, don't have insurance. Another 5 million people, who are sole proprietors and work by themselves, do not have a number of employees working with them, also don't have insurance. That is 27 million people who fall into this category. So Senator ENZI has brought forward a bill to try to address that problem. It is going to try to make it possible for these people who work so hard and who would like to have insurance policies that are affordable to get them. By allowing them to band together in trade groups, so realtors can come together, as well as automobile dealers, garage owners, restaurant associations, and hotel associations can come together and form a large enough group so that they can create enough of a mass of interest and buying power so that they can go out and purchase insurance. That is something they cannot do today as individuals. This bill allows them to do that.

It is hard to understand how anybody could oppose this concept. But people do oppose it, and I think most of the opposition comes from folks who either misunderstand the bill or who are using the bill as a way to energize their constituencies with information that is at the margin of believable, to be kind. The biggest opposition today to this bill, other than insurance companies who might see this as a competitor, comes from these groups that represent various different diseases and have compelling stories to tell about their diseases. They have gone to the State legislatures and they have gotten them to put in place what is known as mandates so any policy sold in that State has to cover that disease.

As was pointed out by the Senator from Kansas, every time that happens that increases the cost of the insurance in that State. For every 1 percent increase in the cost of insurance—and some of these specific mandates are expensive enough so they by themselves represent a 1-percent increase in insurance premiums. But there are 200,000 to 300,000 people who cannot afford insurance because the insurance bills go up and 200,000 or 300,000 people fall off the rolls.

What this bill tries to do is address the issue of the person who has fallen off the rolls, the person who hasn't been able to get the insurance, by giving them an option that they can buy, which they feel is adequate to their needs—it may not have a specific mandate in it because maybe they don't need those mandates to be covered, but at least it gives them the basic coverage they need in order to get through their health insurance risks.

The flip side of this coin, which isn't talked about much but which is fairly obvious, is that these people have no insurance at all. When these mandate groups argue, if you pass this bill, you are going to undermine the capacity of people to get insurance for this disease group, that is a totally misleading presentation because the people this is focused on don't have insurance to begin with. You cannot take something away from somebody who doesn't have it. If a person doesn't have an insurance policy, he doesn't have the mandates that the insurance policy requires.

If a cook working in a restaurant or a garage attendant working at a gas station or a realtor working in a small mom-and-pop real estate agency doesn't have any health insurance, you cannot take away from them mandated coverage for health insurance because they don't have it to begin with.

What this bill tries to do is allow that individual to participate in a group where they will have health insurance as an option. And if they have that option of health insurance, without mandates, they also have to have—that group, that restaurant, that real estate agency, that garage the option to purchase a fully mandated policy. In other words, it is a policy that is, for lack of better terms, a higher option policy, where you have everything covered. It has to track the five States in this country which have the most mandates on their insured. So the bill is balanced in that area of mandates.

A second opposition to this bill has been the fact that it moves from community rating to a banding system. What does that mean? It essentially means that on a community rating you basically force everybody to be rated the same, no matter their health risk or age group or occupation. With a rating system, you adjust marginally for what health experience it may be or what age it is. Adjustments can be made, but they are limited by the State. If you have a community-rated system, you inevitably have a much higher cost going in for a lot of those people who are banding together in groups, who maybe don't have as much risk as others. But if you have a rating system, some people are going to be lower in insurance costs and some people will be higher. They are going to be within a relatively narrow band.

So this bill allows these policies to be offered with a rating system, with a band. In New Hampshire—and this has been referred to on the floor by the Senator from Massachusetts—they had a very bad experience because, regrettably, New Hampshire did it the wrong way. We had a community rating system and then we went to a band rating system because we recognized that was better policy. I congratulate the State for that, but they didn't go to it correctly. They went sort of cold turkey. The practical effect was that one day people got one type of bill, and the next day they got a different type of bill. For some people it went up, for some people it went down, and it was a rather startling event for them. We looked at that experience in committee and said we don't want to emulate what happened in New Hampshire. We want to make this a much more responsible approach. We put into place a glidepath, 5-year phasing, so there will be plenty of time to adjust and to be able to handle this.

That type of opposition to this bill, clearly, in my opinion, has been addressed. It has been addressed specifically because of the New Hampshire experience. So it is a misrepresentation to say that continues to be a major issue with this bill. As a practical matter, there are about 85 million people in this country who work in small businesses. That is a huge number. They deserve the opportunity to have this type of insurance made available to them. They should have the same opportunity as big businesses—the IBMs, the Microsofts, the major manufacturers—in our country, if for no other reason than they happen to be the engine of economic activity in this country. Most of the new jobs are created by small businesses, the moms and pops who are willing to build that restaurant, take on that exciting opportunity, start small and grow. When they do that, they ought to have the opportunity to also have an insurance option available. But many of them don't because it is not affordable, because of the way the States work the system, and because of that these small groups, as individuals, have no buying power. So this bill has addressed that need.

It is not the answer. This isn't a magic wand, but it is another opportunity put on, let's say, the cafeteria line of insurance that gives a small businessperson the chance to go down that cafeteria line and say: Yes, this plan works for the five people who work for me, and I am going to buy into the plan because I can afford it. Today, most people who walk down that cafeteria line, if they are small businesspeople, don't choose anything because they cannot afford the price of anything, or many of them are in that capacity, that 22 million. This will take a fairly significant number of those folks and give them the opportunity to purchase health insurance.

So it will take people from a noninsurance status to an insured status, from a situation where if they get sick, they don't know how they are going to pay for it, to a situation where if they get sick, they will have coverage. It is very important financially to most people and, obviously, it is important psychologically to everybody. So it is a good bill, something we should support.

I do think much of the opposition to it is misguided because it doesn't recognize that the basic goal is to take people who don't have insurance today and get them insurance. Therefore, the arguments around mandates are irrelevant to that group of people and the argument of community rating as I think we will address.

I congratulate the Senator from Wyoming for bringing this bill forward. I look forward to working with him on this bill.

I want to speak on another matter briefly because there is a lot going on that is very good in this country relative to the economy, and it is not being highlighted.

Today, there was an editorial in the New York Times that said we should not extend the tax cuts put into place in 2003. They say those tax cuts should not be extended in the areas of capital gains and dividends. That argument is good in 1930s economics. It is the old left theory of tax policy, which is that you increase revenues by constantly increasing taxes on people. It has been proven wrong this year, last year, and the year before. It was proven wrong by John Kennedy when he put in place the first tax cut. It was proven wrong by Ronald Reagan when he put in place the tax cut of 1980. And it has been proven wrong again.

In fact, in the first 6 months of this year, tax revenues jumped 11 percent, $134 billion, and a large percentage of that is the increase in tax revenues from capital gains and the fact that we have reduced the rate on capital gains which causes people to free up assets. Over the last 3 years, revenues have jumped dramatically—in fact, last year by 14 percent, and the year before by 7 percent, and next year they are projected to jump again. Why is that? It is because we are seeing an economic boom which has created 5.3 million new jobs since those tax cuts were put into place. There have been more jobs added in the United States in that period than Europe and Japan combined have created. And those jobs have led to economic activity and, in turn, have led to revenues to the Federal Government.

Revenues to the Federal Government are dramatically increasing because the economy is growing, and the economy is growing because the burden on those people who go out and are willing to take risks through capital investment, dividend activity, through income tax activity—those people are taking risks and creating economic activity and, as a result, creating jobs which, in turn, create taxpayers, which, in turn, increases the Federal revenues.

The numbers don't lie. They are huge, significant, and they confirm, once again, that John Kennedy was right, Ronald Reagan was right, and George Bush was right. By making tax rates fair, especially on capital formation, you energize economic activity and, in turn, you create massive increases in Federal revenues. Regrettably, I must say the New York Times is wrong.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mrs. LINCOLN. Mr. President, I am so happy to come to the floor today because the Senate is finally debating how we can help small businesses across our country afford health care for their employees. Just as Senator GREGG has mentioned how important it is to provide benefits to groups who want to invest, and to individuals and companies who want to invest and grow the economy, so too it is critically important that we provide small businesses the ability to invest in themselves. That is what I want to talk about today.

Small businesses are critical to this country. They are critical to rural States such as mine in Arkansas, but they are the engine of our economy in this great Nation. They are the No. 1 employers. That is why it is so important that we get this right, that we provide them with a tool that will allow them to reinvest in themselves and their employees and their communities, so that we can keep that engine going.

I applaud my colleague from Wyoming, Senator ENZI, for all he has done in bringing about this debate. He has worked hard and genuinely on this issue, and I appreciate very much what he has put into this. He has helped us make sure this is not a debate about whether this is a critical issue.

This reminds me of something I was taught by my father who said: If it is worth doing, it is worth doing right. It is worth doing correctly. That is what we are here to talk about today.

I believe very strongly that our small businesses are so important to us—our self-employed individuals in this country have the greatest spirit in the world—and it is so important that we should not offer them a second-rate opportunity. We should offer them the same opportunity we have as Federal employees and Members of Congress: The opportunity to build a pool that will offer them greater access, greater choice at a lower cost, by pooling all of themselves together across this great country, while maintaining the quality, which is what we do for ourselves. We maintain the quality of the product of the health insurance we receive or have access to as Federal employees and Members of Congress, and we should do no less for the small businesses and the self-employed individuals in this great country.

So I hope, as we continue this debate, we will remember those hard-working American families who are depending on us not just to do something, but to do what is right and fair, and offering what we see as fair tax policy and offering what we see as fair access to the same quality product of health care and health insurance that we as Members of Congress get.

The small business health care crisis is undoubtedly one of the issues I hear the most about when I return home to Arkansas. In fact, in every community in our Nation, as well as millions of working families across this country, we are seeing the difficulty of having access to quality health care and health insurance and the ability to pay for that.

There are approximately 46 million Americans currently without health insurance, including 456,000 Arkansans whom I am responsible for in terms of producing a product that is worthy of those individuals. Small businesses are the No. 1 source of our jobs in Arkansas. Yet only 26 percent of the businesses with fewer than 50 employees offer health insurance coverage. Workers at these businesses, which again are the engine of our economy, are most likely to be uninsured. In fact, 20 percent of working-age adults are uninsured in Arkansas. This number is alarming, and addressing this problem should be a national priority, and we should approach it as if we are going to do the best job that we are capable of doing. That is why we are here today, to talk about that.

Mr. President, 224 major organizations are opposed to the proposal that Senator ENZI has brought before us. Two hundred-and-twenty-four is a huge number: everywhere from diabetes to mental illness to hospital federations. These individuals understand how important the years have been in allowing State insurance commissioners to be able to set mandates in order to cover what is important to individuals in their States, and what is important to small businesses and everyone in those States. Those States have the right and the ability to figure out what is important to them, and the majority of them have agreed on many of these major issues.

Those who lack health insurance do not get access to timely and appropriate health care. We know that, and we see it. We see it in the cost of Medicare when people don't get health care for 20 or 25 years when they are in the working marketplace as a small business owner or employee, and then they become more costly to us when they hit Medicare age because they haven't received the screenings, the timely visits to the doctor, and they haven't been getting the kind of health care they truly need. They have less access to these important screenings. They don't have access to the state-of-the-art technology that exists or prescription drugs, which is another piece of what can help keep down the cost of health care.

Working families need help with this problem. The Institute of Medicine has reported that 18,000 people die each year because they are uninsured. The fact is, being insured does matter. It makes a big difference. It makes a difference in our health care costs. It makes a difference in whether you are going to survive—longevity, the ability to care for your family. It makes a big difference. We have reached a juncture where we are going to debate how we deal with those who are uninsured, whether we are going to give them substandard coverage or whether we are going to give them the coverage that we have.

Again, I commend my colleagues, Senator ENZI from Wyoming and Senator NELSON from Nebraska, for their leadership. I appreciate their hard work on this issue. But I do disagree, because I believe that the devil is in the details on this issue, and I am deeply concerned about the very harsh and unintended consequences that will occur if S. 1955 were to become law.

Senator DURBIN and myself have been working together for several years to come up with what we believe is a better health care plan for America's small businesses. What we have done is looked to a 40-year-old tested delivery system, and it is the one that we ourselves use. It is a Federal plan that takes the best of what Government can do and combines it with the best of what private industry can do. The private marketplace and the competition that it can create allows the Government to pool all of its Federal employees and use that pool as a negotiating tool to bring us greater choice at a lower cost.

About 3 years ago, I suppose it was, my staff and I were discussing the way we could help small businesses, and I thought about the way my Senate office operates. It operates much like a small business in my home State and here. As I looked at my employees, I saw that I had two employees, one with 26 years with the Federal Government, another with 30 years with the Federal Government. I had two women who had delivered babies and were on maternity leave. I had some, such as myself, with small children and a husband that is on my plan, and then I had a host of young, healthy staffers who were single. But I had a whole array of different individuals who needed a tailor-made insurance plan for their needs. While there are similarities in our Senate office and small businesses, there are also some obvious differences. One of the most glaring contrasts is access to affordable and quality health care. I saw what my office went through and realized that is what small businesses are going through. I knew we could do better. I knew we could take the plan of what we have and apply it to small businesses.

Last year, more than 8 million people were banded together in the Federal employees purchasing pool, and that gave us choices among 10 national health insurance plans and a variety of local insurance plans, and a total of 278 private insurance plans from the private marketplace. Not government-run—not government-run health care at all—but health care from the private industry, health insurance from the private industry that was created by competition of the multiple Federal employees across the country. It offered us greater access, greater choices at a lower cost.

So I am here to ask this question: Why don't we try to give small businesses access to that same type of private health insurance option that Members of Congress and Federal employees enjoy today? Rather than reinvent the wheel, why don't we create a program for small businesses that is based on our Federal Employees Health Benefit Plan, through the FEHBP, by pooling them, the small businesses, together in one nationwide pool. That is exactly what Senator DURBIN and I have proposed in our Small Employers Health Benefit Program. By pooling small businesses across America into one risk and purchasing pool similar to the FEHBP, our program will allow employers to reap the benefit of group purchasing power and streamline administrative costs as well as access to more plan choices. The SEHBP, as we have introduced, lowers costs for small businesses in two key ways: It pools them into one national pool across the country, therefore spreading the risk between the healthy and the sick, the young, the old, those who live and work in the remotest parts of this great land and those who work in the most urban areas. Second, our plan significantly lowers administrative costs for small businesses.

Two economists have estimated that SEHBP would save small businesses between 27 and 37 percent annually, even if they don't take advantage of the tax cut that we offset costs with by insuring lower income workers. We provide a tax cut to small businesses, and for the life of me, I can't figure out why those on the other side of the aisle, for the first time I have ever noticed, will fight a tax cut for small businesses. Providing small business a tax cut to be able to engage in what is such an important tool in getting themselves and their employees insured makes good sense. What a great investment.

Senator GREGG was talking about balancing all of that and the economy. What a great way to balance what corporate America gets and their ability to deduct health insurance costs that they have and small business getting a tax cut for investing in their employees and health benefits for them. Under our bill, employers will receive an annual tax credit for contributions made on behalf of their workers who make $25,000 per year or less. And if the employer contributes 60 percent or more to the health insurance premium of an employee making $25,000 or less, the employer will receive a 25-percent tax credit. And the tax credits increase with the number of people covered and the proportion of premium the employer chooses to cover. Also, the employer receives a bonus tax credit for signing up in the first year of the program, because we know from the example of the Federal employees that the more employees who are in the pool, the greater advantage to everyone concerned. Small businesses will save thousands of dollars—even more—under our plan.

Segmenting the market into different association pools, as S. 1955 does under Senator ENZI's bill, will not achieve these savings that would be created by instituting one large pool with all of those small businesses and self-employed individuals. Each association will be administering to a separate group with a different administrative structure and different costs, obviously. More funds would be going to administrative costs as opposed to serving the people with a quality health plan. Our SEHBP would have one administrative structure and could pool approximately 53 million workers together, therefore balancing the risk of sick and healthy, young and old, rural and urban, for affordable rates for everybody. Why wouldn't we want to make our pool as big as it possibly could be, as we do with the Federal workers?

I believe our plan takes a real moderate and balanced approach that combines the best of what Government can do with the best of what the private sector can do, and preserving important coverage for preventive health care treatment such as diabetes supplies, mammograms, prostate screening, maternity and well-baby care, immunization, things that States themselves have decided are important enough to mandate coverage for and ensure that the people of their State are going to get the safe and important coverage of illnesse that are critical to them in their State.

Like the FEHB Plan, our program does not promote Government-run health care, but it harnesses the power of market competition to bring down health insurance costs using a proven Government negotiator in the Office of Personnel Management, OPM, which is the negotiator for our plan. We, once a year, as Federal employees, can choose among 270-plus plans. We are able to actually benefit from that proven Government negotiator and the harnessing of that power.

Our legislation, S. 2510, has been endorsed by many organizations—the National Association of Women Business Owners, Small Business Majority, the American Medical Society, the American Diabetes Association, the National Mental Health Association, the Cancer Society, and many more that have realized how important it is to use a proven example, a proven structure that maintains quality but helps by pooling and bringing down those costs.

The Mental Health Liaison Group, representing over 35 national mental health organizations, wrote to us and said about our bill:

> S. 2510 does not sacrifice quality of coverage for affordability or allow the offering of second class health insurance to small businesses. Within the FEHBP program, small business owners, employees and their family members would be covered by all the consumer protections in their home states—including hard-won state mental health parity laws and mandated benefit laws.

The American Academy of Pediatrics, writing to us on behalf of over 60,000 primary care pediatricians and pediatric specialists, wrote:

> Through the benefits of pooling small businesses and providing tax cuts to small employers, small pediatric practices will be assisted in the health insurance market without sacrificing health care services for children.

The American Diabetes Association wrote to us and said:

> While other proposals seeking to provide health benefits for small businesses . . . have exempted or eliminated coverage for important diabetes care protections, [our bill,] S. 2510, will allow individuals with diabetes to receive the important health care coverage they require to remain healthy and productive members of the workforce.

This is not just about quality of life, although many of us believe that is very important. We as Members of Congress enjoy a quality of life because of the very healthy health insurance program we are offered. We want our small businesses that are vital to our economy to enjoy that same opportunity. But it is also about economics. It is about making sure we keep our workforce, particularly our small businesses and their workforce, healthy and thriving and productive and in the workplace. It is about making sure America's working individuals and working families get the health care they need before they reach 65. When they hit 65 in the Medicare Program, then they are going to be more costly to Government because they are not going to have gotten the health care they needed and deserved in their working years.

I believe our plan is better in so many ways. I am proud we are having this debate, and I hope so many people will realize we can do better. We can do better and make sure we truly elevate small businesses and self-employed people to the same level we hold ourselves, in providing them the access to the same quality type of health care.

Our SEHBP bill offers tax cuts for small employers. Senator Enzi's bill does not. SEHBP relies on a proven program. It is based on the successful Federal Employees Health Benefit Program which has efficiently and effectively provided extensive benefit choices at affordable prices to Members of Congress and Federal employees for decades. For decades, we have had a proven program out there that proves you can harness the competitive nature of the marketplace, and with the oversight of Government and the State mandates, you can actually provide that quality of health insurance at a lower cost. By pooling small businesses together and allowing OPM to negotiate with private health insurance companies on their behalf, they, too, could have access to this wide variety.

On the other hand, Senator Enzi and Senator Nelson's bill establishes a new set of responsibilities at the U.S. Department of Labor, to administer an untried and an untested program. We don't reinvent the wheel. What we do is use what already exists. To invent a new section of the Department of Labor to administer Senator Enzi's bill is going to take time and money. We are not going to know how it needs to be administered through the Department of Labor. They have never done it before. Even the Department of Labor employees currently enjoy benefits from the health insurance program that is negotiated by the Office of Personnel Management. So it is hard to believe they are going to want to go to another system.

SEHBP offers individual self-employed workers the same access to health insurance that is offered to group businesses. SEHBP defines small businesses as groups of 1 to 100, so an individual self-employed person will be treated exactly as a business with 2 or more people. Any business with 1 to 100 employees is eligible to participate in what we are trying to do.

Under Senator Enzi's bill, the self-employed people are not pooled with the small businesses, unless they are mandated by State law. And there are not that many State laws that actually mandate that. But the self-employed people in 36 States, including Arkansas, will not have access to the same negotiated rates of businesses with 2 or more people. They will be pulled out of that pool and rated on their own. That means, if they are younger women of childbearing years or perhaps they are older workers at 50 or 55 and are diabetic, they will be rated completely separate from the pool, which means they will be segregated and treated differently. They don't get to enjoy the benefit of a larger risk pool which could bring down their costs and offer them greater choice.

Our bill also ensures access to health care specialists. Many States have passed laws requiring insurers to cover certain health care providers, including dentists or psychologists or chiropractors. All three of these and many more are required by our State of Arkansas law. I know the people of my State enjoy the assurance they have of knowing that their State regulator, their State insurance commissioner, is looking out for their needs. They can do that better on a State level. That is why we have always left those types of regulatory issues up to our State—because they know and can work.

Can you imagine being a small business, or better yet an employee of a small business, having to call some big, huge, Federal bureaucratic office to request or to complain or to have your concerns heard about what is not covered under your insurance plan? No, they call the State insurance commissioner today, and that is the way it should be. The State insurance commissioner can then respond to the concerns of their constituency and has done so very well over many years.

The coverage for diabetes supplies, mammography, and other important screenings are mandated by State law which would be preempted by what Senator Enzi is trying to do. Many States have passed laws requiring health insurance companies to cover these benefits because insurers simply were not doing it. It did not happen because the insurance commissioners just decided on a whim to do it; it is because the insurers were not covering it. Why do we have to go back and relearn that lesson?

For 40 years, the Federal Government has used the effectiveness of the pool of the 8 million Federal employees and been able to enjoy the protections that are there, guided by State insurance commissioners.

Our bill also prevents unfair rating on gender and health status. Under our bill, health insurers will be prohibited from ratings based on health status—whether you happen to be diabetic, whether you happen to have eating disorders—your gender, or the type of industry in which the employees are working. Under Senator Enzi's rules, that will be all preempted, even for the 15 States that don't allow ratings on these factors.

Our bill also frees employers to focus on running their businesses. They don't have to go and negotiate these plans through their association or with their association. They are going to get sent a booklet just as we do, once a year, to review all that is available to them, and choices, and then figure out what is best for them. My employees—each of them picks something different. I pick coverage for a family with children. Some of them pick a PPO or an HMO. Some of them pick all different kinds of State plans and others that are offered to them in that process.

Mr. CARPER. Will the Senator yield?

Mrs. LINCOLN. Absolutely.

Mr. CARPER. Mr. President, how much time is left on our side during this period of debate?

The PRESIDING OFFICER. There is 5 minutes remaining.

Mr. CARPER. How much longer does the Senator expect to speak?

Mrs. LINCOLN. How about if I just go ahead and yield to the Senator from Delaware because as a former Governor, he has some incredible stories to tell, and I think they really add to this debate. I will simply say to my colleagues that I hope they follow this debate very closely and certainly appreciate how important this is to the working families of all of our States.

Mr. CARPER. I thank my colleague for yielding. I ask if she would stay on the floor.

I commend Senator Lincoln for actually coming up with this idea. It is an idea for which she and Senator Durbin share credit. When you think of some of our options, the options basically are do nothing, maintain the status quo, continue to make the cost of insurance very steep and rising for small businesses or to adopt the proposal of our colleagues, Senator Enzi and Senator Nelson, whom I believe are two of the most thoughtful Members of the Senate. They have worked hard to try to make a not very good idea—the original association health plan—a better idea. But between doing nothing and the modified HP legislation from Senators Enzi and Nelson is a third way. The third way has already been outlined here by Senator Lincoln.

I wish to ask my colleagues to think about it. I don't care whether it is a Democratic idea or Republican idea. It is actually an opportunity to take the best from what the Government, the public sector, can bring and to take maybe the best the private sector can bring.

One of the common values that are shared by the Enzi-Nelson legislation and the Lincoln-Durbin legislation is the notion that we have a lot of smaller employers, they have a lot of employees, and together is there some way we could pool their purchasing power? Maybe we could increase the number of health insurance options available to them and maybe we could bring down the cost of those options. They propose to do it in one particular way which, as Senator Lincoln pointed out, has a number of problems, one of which affects us negatively in Delaware.

We have had a very high rate of cancer mortality. Finally, we have brought it down over the last 10 years or so, in part by having mandatory cancer screening—mammography, for cervical cancer, prostate screening, for colorectal cancers—and that has helped to bring down our cancer mortality rate. From the top in the country, we have finally now dropped to the top five. We are moving in the right direction. I will talk about that tomorrow, and I will even bring some charts to rival the chart of my colleague, I hope.

But I suggest to my colleagues, think about this. We have all these disparate Federal agencies across the country. Collectively, we have a couple of million employees, family members, and retirees, and all we do through the Federal health benefit plan is we pool our collective purchasing power. It doesn't matter if you work for the VA or Homeland Security or some other Federal agency—EPA—basically we could come together and use our collective might to negotiate better rates and, frankly, better coverage than would otherwise be the case if we were just negotiating for ourselves. We do it all through the Office of Personnel Management.

What Senator LINCOLN is suggesting is it works great for us, provides reasonably good coverage for Federal employees, including us as U.S. Senators. We have to pay our portion. It is not that we get it for free. We have to pay our share. But it works pretty darn well. She has come up with a way where we take that Government idea and transpose it and transfer it to the private sector. She would have the Office of Personnel Management effectively provide the service or play the role in the private sector that it currently plays in the public sector, to allow a lot of employees, whether you work for the local hardware store or restaurant or small manufacturer or technology company, to say: We would like our employees to be able to pull together from Arkansas, from Delaware, even from Minnesota, in order to get a chance to buy better insurance products, have more variety, and bring down our costs to our small business employees.

It has worked. It is proven. It is time tested, and I believe it is worth trying. The worst thing that I think could happen, coming out of this week, is for us to do nothing.

It is a big problem. It is a big problem for small employers, and it is a big problem for large employers. It is a big problem for America.

I think what would be the worst thing that could happen, and what would basically ensure that we do nothing is for our Republican friends to basically allow no amendments to the Enzi-Nelson legislation. I think that would be awful. That would be a huge mistake. It would pretty much basically ensure we end up not getting this bill done or some variation and not even having a chance for debate and vote on the Lincoln-Durbin legislation. We can do better than that.

Frankly, the Senate deserves a lot better than that.

I say to my colleague from Arkansas, who has been good enough to relinquish her time, I thank her on behalf of all us for pointing out a different course, a third way in this regard. I thank her.

Mrs. LINCOLN. Mr. President, I thank my colleague from Delaware.

The PRESIDING OFFICER. Minority time has expired.

Mrs. LINCOLN. Thank you, Mr. President.

I ask unanimous consent to continue until other Members arrive.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mrs. LINCOLN. Thank you, Mr. President.

I will be glad to yield the floor when others are ready to speak.

I would like to add that the experience of many of our colleagues, whether they are former insurance commissioners, former Governors and others, brings to this table the understanding what the American people want, what our working families want. I think the debate is that small businesses definitely want more affordable health care. They also want to make sure that what they are providing for themselves and their families and their employees is quality service, quality coverage. That is what they deserve. That is what they want.

Even for those who feel so young and invincible, we also know that they may be one car accident or one diagnosis away from needing more comprehensive health insurance for the rest of their lives.

That is why we want to make sure—as I said in the beginning—that whatever we do is right, that we don't move forward on something that is going to be less productive and in the long run, unfortunately, put more people at risk.

My goal is to help small businesses while not jeopardizing the quality of health care for the 68 million Americans in State-regulated group plans that are already out there. We don't want to do harm there.

The fact is if we move forward on what Senator ENZI wants to do, which is preempting those State regulations and State mandates, we could do tremendous harm for those who are currently insured and the 16.5 million Americans with individual health insurance coverage who would probably lose some quality of coverage which they have.

If it is good enough for Federal employees, and if it good enough for Members of Congress, I think it should be good enough for millions of small business employees who are the economic backbone of communities throughout this Nation.

I applaud my colleagues for coming to the floor for this debate, and I hope we will have a serious debate so we can move forward and actually do what is right for the American people.

Mr. CARPER. Mr. President, will the Senator yield once again?

Mrs. LINCOLN. Yes, absolutely.

Mr. CARPER. Mr. President, we do not often think of the Federal Government in the way we are trying to harness market forces and competition and put them to work. We try to hold down Federal outlays. That is what we do with respect to the Federal. It is literally what we do with respect to the Federal Employee Health Benefit Plan. What we are trying to do, with respect to what the Senator has outlined, is harness market forces and competition and put them to work for small businesses as well.

Mr. ENZI. Mr. President, reclaiming our time, I didn't realize they would be allowed to use part of it.

It would be helpful if the other side would actually share the details of their amendment with us so that we can take a look at it. The details of our bill have been through the committee, out here, and had hearings. We don't know what is going to be in there. The last time I looked at it, there was, I think, $9 billion of cost in it each year, and the huge bureaucracy that would be built up. I make that request to the other side—that we sure would like to take a look at their bill. It is hard to do until we have a copy.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I thank the Chair.

CAPE WIND FACILITY IN NANTUCKET SOUND

Mr. President, I am here to discuss the provision in the Coast Guard and Maritime Transportation Act of 2006 and the provision which allows the State of Massachusetts to have a say in the siting of a 24-square-mile, 130-wind turbine energy facility.

I have a chart I want to use and describe.

First, let me say why the Senator from Alaska is involved in this issue. What I am trying to say is that this is a tremendous precedent.

We have a series of areas of various States where there is a gap in State jurisdiction and where Federal waters are adjacent to and sometimes almost surrounding State waters. That is particularly true in my State. With the Cook Inlet on either side of Kalgin Island, there are gaps of Federal waters surrounded by the mainland of Alaska going down the inlet.

The Minerals Management Service tells us there are roughly 2.5 million acres of Federal waters going down that inlet that could be used for projects such as I am going to discuss today.

A similar situation exists with Chandeleur Island, LA; the Channel Islands in California; the Farallon Islands in California; the Hawaiian Islands in many instances; and in Puerto Rico.

What I am here to talk about is the precedent that would be established by locating this facility in Nantucket

Sound, less than 2 miles beyond the State of Massachusetts' jurisdiction.

If we look at this chart, you can see very clearly the area with the darkest color on the chart, which is the proposed site of this power facility. It is 9 miles from one part of Massachusetts, 13.8 miles from the other side, and 6 miles from the other direction.

When you look at the situation, we realize the State has jurisdiction over at least 3 miles in that area.

This is very close to the area of Massachusetts where people have a right to be concerned over this project. Before the Federal Government claimed ownership of this area, there was a judicial dispute over which government had jurisdiction over it. I am informed that the State of Massachusetts had established a marine park in this area. As a matter of fact, it was listed as part of a proposed marine sanctuary, even in the Federal listings. It is now the proposed site for the largest and most expansive offshore wind energy project ever undertaken in the world.

This facility would include turbines that stand 417 feet tall.

This is a chart that describes it. Those windmills would be 417 feet tall, taller than the Statue of Liberty. The one little point at the bottom shows a 30-foot sailboat. You can see the size of it. People sail their boats that size on Nantucket Bay, and the Great Point Lighthouse is supposed to keep sailors and mariners warned about the area. It is only 73 feet tall.

When you look this area, it is 24 miles across, more than half the size of Boston Harbor itself. It is going to be the site of this enormous facility.

As I said, it is larger than any similar kind of wind energy project in the world.

It is a very small area of Federal jurisdiction, completely surrounded by the mainland and islands of Massachusetts.

Some in the media have insinuated that by including this provision in the Coast Guard and Maritime Transportation Act, I am doing it as an old friend to Senator TED KENNEDY. He is an old friend. It is true that Senator KENNEDY and the Governor of Massachusetts support the provision in the Coast Guard bill, but this is my amendment. They have agreed with me. I didn't seek their agreement. It is not an issue based on friendship or on past favors or future favors. It is strictly a provision based upon my long-held belief that States should have the final say on projects which will directly impact their lands, resources, and constituents.

Some in the press have claimed this provision is embedded in "obscure legislation to be passed in the dead of the night." We hear this all the time. But the Coast Guard authorization bill is hardly obscure legislation, and there is nothing secretive about this bill.

The version of this bill that passed the House of Representatives included a provision related to offshore wind farms. It was in the House-passed bill to start with. The House and the Senate, in a bicameral, bipartisan group of Members of a conference committee, discussed and negotiated language to provide the State of Massachusetts a greater voice in the siting of this windmill farm in Nantucket Sound.

This bicameral, bipartisan group also negotiated language requiring the Coast Guard to assess the potential navigational impacts of the proposed offshore powerplant.

This is the normal legislative process for passing legislation of this type through the Congress.

Again, let me point out this chart. I don't live in this area, but I have studied it very well. This is the path the ferries take coming out of these areas and going through this sound, and it is the path which the commercial traffic, steamships, and cargo ships use going into that port.

As a consequence of this location, this line demonstrates the State's jurisdiction and how close it is to the State's jurisdiction. As a matter of fact, the area that is has been lined shows the previous plan which would have gone partially into the State's jurisdiction. The project was amended, so it does not touch the State waters or State jurisdiction areas at all.

It is this area of solid brown on this chart.

By the way, this is the very shallow portion of this area. There is no question about it. Nantucket Island is out here. But there are equally shallow portions outside of the sound that could have been used. But, of course, it is deeper going in there, and that access to this interior part of this sound I think is strictly a financial decision.

At the heart of the debate on the issue is States' rights. The fact is this project will be located entirely in the sound—in this small doughnut hole of the Federal water surrounded by islands and mainland of the State of Massachusetts.

The debate over this project is similar to the fights those of us in Alaska have been engaged in for decades. Our State lands are surrounded by Federal lands, and we often don't have any decision regarding the development of our resources or projects which will be located in our State.

This is one of those situations where Congress ought to listen to the Governor. They ought to listen to the senior Senator, in my opinion.

Those in Massachusetts have raised legitimate concerns about the impact of this wind farm and what its impact will be on maritime navigation, aviation, and radar installations critical to our homeland security.

This proposed site is an area already known for its treacherous flight conditions, and this facility could make those conditions much worse. According to the National Air Traffic Controllers Association, this facility will be located in the flight path of thousands of small planes. Both the Barnstable and Nantucket Airport Commissions are opposed to the construction of this facility, as are the major ferry lines that operate in Nantucket Sound.

As the chart I have described shows, ferry routes pass within a mile of the proposed location for this project on two sides. The 24-square-mile footprint for this facility is nearly half the size of Boston Harbor, a 471-foot wind farm.

Again, those windmills are larger than this building. Those windmills are larger than the Capitol.

You have to get the specter of this size being built in the center of this sound. It is a 24-square-mile footprint for this facility. As I have said, it is half the size of Boston Harbor and has shipping and ferry channels bordering on three sides.

There is not a single local fishing group from Massachusetts that supports this project, I am informed. It would effectively close a 24-mile-square-mile footprint of many kinds of fishing that has taken place in this sound for generations. Horseshoe Shoal, where the facility will be built, is one of the most productive fishing grounds in the area. That means this area produces offspring. This is where the fish spawn.

The impact of the shoal will be significant. The piling for each one of these windmills—there are 130 of them—are 16 feet in diameter and will be bored down into the shoal to a depth of about 80 feet. This productive area will be littered with 130 drilled holes. Each piling will occupy 2 acres of productive fishing ground. Navigating in and around 130 turbines will make fishing and fishing reproduction in this area nearly impossible.

In addition, these turbines will make Coast Guard search and rescue missions much more difficult in this area, already known for severe weather and sea conditions in parts of the year.

Those in Massachusetts raise another important point. Developing a wind farm of this size and scale offshore has never been done before, let alone in an environment as extreme as the waters of the North Atlantic.

To put this challenge in perspective, it helps to compare the Massachusetts project to the wind farm currently operating in Palm Springs, CA. I know a little bit about this. I have gone into that town several times by air. That facility stands 150 feet at the tallest point. The blades are half the length of a football field, but they are one-third of this size. Even on dry land and a relatively calm desert climate, the Palm Springs wind farm has been plagued by serious maintenance complications. Many of the turbines require constant maintenance and repair.

Put that in the Massachusetts Sound. They require maintenance and repair constantly. This Massachusetts project would require maintenance and repair to take place in icy waters of Nantucket Sound. The size of the windmills for this facility would dwarf the existing land-based wind projects. The windmills in Nantucket Sound would stand nearly three times as tall as those in Palm Springs, with wind blades over a football field in length. Just the blade is a football field in length.

Now, given the legitimate issues raised by the people of Massachusetts and their representative, I believe it is only fair to allow the State to have an equal voice in the debate over the siting of this project. Nantucket Sound, as I have said, is not the only place where a project of this kind can be built. In Europe, deepwater wind energy technologies are currently being developed as far out as 15 miles in 138 feet of water. Placing wind energy facilities further from their shore reduces their impact on maritime navigation.

If this 24-square-mile wind farm is built further away from shore, there would be a number of benefits. It would be removed from boating, fishing, ferrying, shipping channels, reducing the risk of collision and reducing the potential impact on the navigation which we have asked the Coast Guard to look into.

I do support America's use of alternative energy sources, including wind farms and wind power. I have supported wind projects in the past during my time as chairman of the Senate Committee on Appropriations. Our committee appropriated over $105 million for wind projects in fiscal year 2002 to fiscal year 2006. There was even one in my State around Kotzebue.

It is the right of a State to determine if this type of project is consistent with its efforts to protect its resources. I believe Congress should defer to the judgment of the Massachusetts congressional delegation, the Governor of Massachusetts, and the people of Massachusetts on this matter. States should have a say in the activities taking place in the waters adjacent to their shores. This location, in particular, deserves special consideration due to the geographic peculiarities of the region.

California blocked oil platforms, Oregon and Washington blocked them before they were even built.

We now have a dispute before the Congress over a potential development of gas resources 170 miles off the State of Florida. This is 3 miles. This is within a sound that is one of the—I have only been there two or three times, but it is a place if you ever go to it you would not forget. It is not a place that deserves to have this impact. The residents of Massachusetts will have to live with the impact of this project. They must have a greater role in determining the fate of this treasured area.

This bill, H.R. 889, as agreed to by the conference committee, rightly awards the State of Massachusetts this greater authority in the decisions regarding this project. So I am here today to urge the House and the Senate to listen to the people of Massachusetts and particularly to listen to their senior Senator.

I am pleased to yield whatever time I have remaining. I think I have only another 10 minutes or so. I yield to the Senator from Massachusetts.

I think we have 30 minutes on this side and 30 minutes on that side, is that correct?

The PRESIDING OFFICER. There is 14 minutes remaining on the majority side.

Mr. STEVENS. Is there time on the Democratic side for the Senator from Massachusetts?

Mr. KENNEDY. We are rotating back and forth. I am happy to work that out.

Mr. STEVENS. We will work that out.

Mr. KENNEDY. We will stay on the subject matter.

Mr. ENZI. We had some latitude here to allow 20 minutes on this and we were 5 minutes late from that one.

Mr. STEVENS. I talked too long.

Mr. ENZI. And Senator THUNE does not have the time for his speech.

Mr. THUNE. Mr. President, I cannot yield, but if the Senator from Massachusetts requests time and wants to use the Democratic time for that, we have 14 minutes on the majority side I would like to use to talk about the small business health plan. But if the Senator from Massachusetts wants to use Democratic time, that is fine.

Mr. KENNEDY. I ask to be yielded 8 minutes on the Democratic time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank my friend and colleague, the Senator from Alaska.

I hope to have an opportunity to get into this in greater detail than I will for the few minutes I have this afternoon.

There are certain points I want to make. That is, the waters around the area described by the Senator from Alaska, the Nantucket-Martha's Vineyard-Cape Cod area, has been designated a state ocean sanctuary and it is an unreplaceable asset to the people of Massachusetts. Up to 1986, it was generally recognized to be under the jurisdiction of the Commonwealth. In the 1970s, Massachusetts was concerned about potential development threats and made the entire area a protected state ocean sanctuary—where no structures could be built on the seabed and where no offshore electricity generation facilities could be constructed.

The legislation was passed easily through the State House. And the specific part of Nantucket Sound that is no longer protected by the state laws, because of a Supreme Court decision, is under consideration for national marine sanctuary status.

My second point, Mr. President, is that I am for wind energy. We all know we need it to meet our future needs, and we've seen the successes that onshore wind energy farms can be. We ought to have offshore wind energy, but we need to get it right.

The problem in Massachusetts is that we have a developer who's basically staked a claim to 24 square miles of Nantucket Sound back when there were no rules on offshore wind development, and then got the project written into the new law so the new rules won't apply to this project.

And the practical effect is that there will be no competition for the developer and that his application is being reviewed and processed before the Department of the Interior can even complete a national policy.

In the Energy bill, section 388 says:

> . . . the Secretary shall issue a lease, easement or right-of-way under paragraph (1) on a competitive basis unless the Secretary after public notice of a proposed lease, easement or right-of-way that there is no competitive interest.

The next provision says:

> Nothing in the amendment made by subsection (a) requires the resubmittal of any document that was previously submitted or the reauthorization of any action that was previously authorized with respect to a project for which, before the date of enactment of this Act—
>
> (1) an offshore test facility has been constructed;

Well, where in the country was there a project that had an offshore test facility?—only in Nantucket Sound. So this was a real special interest provision.

Because of this "savings provision," the developers are pushing Interior to complete this review before the rules of the game are even established and before the ocean is zoned.

So while Interior is setting a uniform program—and deciding which sites should be used—this project is on the fast track. The developer and the developer alone picked the site.

And this is a serious problem. Look at what the EPA said about this project's draft environmental impact statement. They called it "inadequate." That's from the EPA, the agency charged with protecting the environment.

And the EPA wasn't alone. Look at what the US Geological Survey said about Cape Wind's draft environmental impact statement:

> . . . the DEIS is at best incomplete, and too often inaccurate and misleading.

Inadequate—Incomplete—and too often inaccurate and/or misleading. Does this sound like project that should be on the fast track?

But because they've been written into the law, the interests of our state have been basically submerged to a special interest developer.

They complain about the provision in this bill that Senator STEVENS negotiated with the House. He's right. He's trying to at least bring this back up for review under the sunlight and ensure that the interests of the state for safety and for environmental protection aren't run roughshod over.

The project's developer is the one that got the special interest legislation. This Coast Guard provision is designed to check that and preserve the public interest.

The provision Senator STEVENS crafted tries to remedy an injustice the developer created, and at least let the people of our State be heard.

We wish this provision wasn't necessary, and it wouldn't be if the developer was content with following the rules that apply to everyone else.

That would have been satisfactory, but no, we are denied that equal treatment. We are prohibited from that. That is not right.

Our State went out and created the Cape and Islands Ocean Sanctuary as a protected area. Then the Supreme Court cut a hole in those protections, and now the interests of the State to preserve the fisheries and environment of the whole region is being undermined. It is being handed off to private interests. It's not right. We deserve to have at least a little fairness in this.

I will not take the time to list the various national marine sanctuaries, including the Channel Islands, all the Florida Keys, and other national treasures, like Stellwagen Bank outside of Boston, which I am so happy we have protected into the future.

The law says you can't build energy facilities in those sanctuaries and we shouldn't—and Nantucket Sound is just as important as those.

For 400 years the Sound was considered Massachusetts waters, and it was a protected by the people of our state.

In preparation for the 1986 Supreme Court decision that would specify that this narrow area would be carved out as Federal land, we took special care to get on the national marine sanctuary site evaluation list. We didn't want to take any chances then, and we're still on the list. At a minimum, no industrial project should be built there until we can resolve that status.

And now we have a developer who wants complete control over 24 miles in the middle of the Sound, even though no government agency has zoned it for energy development yet.

We know that the U.S. Commission on Ocean Policy called for a comprehensive siting policy, and that Interior is now working on it. We endorse that approach completely, but this developer is undermining that.

And the American people should know just what this developer is getting for this no-bid, no-compete contract. There will be at least $28 million a year in federal tax benefits available to the developer that's $280 million over 10 years.

And in Massachusetts, the developer will be eligible for between $37 million and $82 million a year in price subsidies under the renewable energy credit program. That's $370 million to $820 million in price subsidies over 10 years.

Then there's the fact that the company will be able to write off the $800 million cost of this project off in just 5 years.

This is a boondoggle, and it's an outrage the developer's getting a no-bid contract to a public resource. We've seen what no-bid contracts can do, Mr. President.

Who pays when we talk about subsidies? It comes out of the taxpayers' pockets when we talk about subsidies.

It is a great deal for this developer. It is a great deal for his investors. It is a great deal for the venture capitalists. They will get so much money they will not be able to count it. But it shouldn't be done without the voice, without the consideration, and without the interest of the State, let alone the many groups that oppose this project and fear that it will undermine the safety, environment, and economic interests of the region for years to come.

I thank the Senator from Alaska for his hard work on this bill and this provision.

Let me ask the Senator—and I know the time is up—I understand if this proposal were for an LNG facility in Nantucket Sound, the Governor of Massachusetts would have the same authority under the Deepwater Port Act that we're seeking here for this project. Am I correct?

Mr. STEVENS. That is right.

Mr. KENNEDY. We need LNG and we need more energy sources, but if they had decided here to do an LNG on this site, the Governor would have a voice in that, am I correct?

Mr. STEVENS. I believe the Senator is correct.

Mr. KENNEDY. So this idea about having a voice on this makes a good deal of sense.

I thank the Senator from Alaska.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from South Dakota.

Mr. THUNE. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Ten minutes remains.

Mr. THUNE. Mr. President, I ask unanimous consent, if necessary, that I have a couple of additional minutes beyond that. I believe the other side was granted a little bit of extra time when they were addressing this issue as well.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The Senator will have an additional 2 minutes.

Mr. THUNE. Mr. President, last week the Robert Wood Johnson Foundation sponsored "Cover the Uninsured" week, a call for this country to wake up and address a huge and growing problem in our Nation. In 2004, approximately 19.1 percent of nonelderly Americans did not have health insurance. That number is growing.

Why do we have this problem in one of the wealthiest nations in the world? It is because nearly one-half of the 45 million uninsured individuals in the United States are either employees of small firms or family members of small business employees.

The primary reason cited by small businesses themselves for not offering health benefits is simply the high cost of health insurance. We can do something about that beginning today. We also have this problem because Congress has repeatedly failed to do its job in the past. We can also do something about that, beginning today.

Today the Senate voted on a motion to proceed to S. 1955, which is a bipartisan bill addressing the issue of the working uninsured. This legislation allows the creation of small business health plans to help lower the cost of health care for small business owners and their employees.

Our colleagues on the other side have also offered some legislation today to address this issue. Senators DURBIN and LINCOLN have talked about their particular proposal, which is a Government approach. In fact, they say it saves money, but it shifts the costs over to the taxpayers, to the tune of $73 billion over a 10-year period. Why would we ask for taxpayers to foot the bill before we have allowed the small businesses of this country to take advantage of a market-based approach and to use the market forces that exist out there in a way that would drive health care costs down for them and their employees? It is very simply a difference of philosophy.

Our philosophy—the approach contemplated under S. 1955—deals with a market-based solution to this issue. The proposal, S. 2510, by our colleagues on the other side is a Federal Government solution to this issue, at a great cost, I might add, to the taxpayers of $73 billion over a 10-year period.

S. 1955, the Enzi bill, which, as I said earlier, we were able to move to proceed to today, would lower the cost of care for employers and employees. In addition, the Congressional Budget Office estimates S. 1955 would reduce net Federal spending for Medicaid by about $790 million over the next 10 years. It would also save the States of this country about $600 million in the cost of Medicaid over a 10-year period. That is in addition, as I said, to the savings that would be achieved for small businesses.

The Congressional Budget Office has analyzed this particular piece of legislation and concluded it would save somewhere between 2 and 3 percent for small firms in this country on the cost of their health insurance. What is significant about this, as well, in contrast to the proposal by our colleagues on the other side, which would cost an additional $73 billion over the course of the next 10 years, is the Congressional Budget Office said that the Enzi bill, S. 1955, would increase tax revenues coming into the Government by $3.3 billion over 10 years because lower spending on health insurance would increase the share of employee compensation paid in taxable wages and salaries versus tax-excluded health benefits. In other words, lower spending on health insurance would translate into higher wages and salaries and actually would also generate more revenue for the Federal Government rather than less, which is what would happen under the proposal by the Democrats, which would cost the taxpayers $73 billion, according to the Congressional Budget Office, over a 10-year period.

So I believe it is important we move forward and we vote to send S. 1955 out of the Senate to conference with the House. As a Member of the House of Representatives, I voted for the creation of small business health plans numerous times. In fact, that particular proposal has been voted on no fewer than eight times in the House of Representatives.

Every time I voted when I was a Member of the House, and every time it has been passed by the House of Representatives, it has come to the Senate and has been unable to be voted on because it has been filibustered, obstructed by the other side. I would say, that is in spite of the fact that if it were allowed an up-or-down vote in the Senate, I believe there would be a decisive bipartisan majority in favor of this legislation.

Unfortunately, due to obstructionism, the Senate, until today, has never voted on legislation creating small business health plans. As a Congressman and now Senator, I have listened to many accusations about the harm that S. 1955 or similar legislation would do if it were enacted.

What harm would be caused by decreasing the cost of health care for small employers by 12 percent and increasing the coverage of the working uninsured by 8 percent? Lower cost and more coverage for those who are currently uninsured: That is not harm. That is exactly what we ought to be accomplishing here by enacting legislation that would make health care coverage more affordable and more available to more Americans.

South Dakota has an estimated 72,949 small businesses as of 2004, which is an increase of 2.4 percent from the previous year in 2003. South Dakota also had an estimated 90,000 uninsured individuals or 12 percent of our population in the year 2004. Fifty-two percent of South Dakotans had employer-based health insurance, 8 percent below the national average.

Small businesses are the backbone of South Dakota's, as well as our Nation's, economy. It is time these businesses were placed on a level playing field and allowed to pool together to purchase health insurance, like large employers and unions.

I have heard from many provider groups in my State of South Dakota concerned about coverage for their specific services. S. 1955 allows small business health plans to offer a basic benefit plan that would be exempt from State mandates as long as the small business health plan also offers an enhanced benefits option that includes at least those covered benefits and providers that are covered by a State employee health benefit plan in one of the five most populated States in this country.

According to the Council for Affordable Health Insurance, all of these States—all of these States—require coverage for alcoholism, breast reconstruction, diabetes self-management, diabetic supplies, emergency services, mammograms, mastectomy stays, maternity stays, general mental health, chiropractors, optometrists, podiatrists, psychologists, and social workers.

Small business owners want to give their employees the best health coverage possible under their budgets to recruit and retrain their workforce. Facts suggest self-insured large company health plans, currently exempt from State mandates, generally cover services important to their employees.

This legislation would create new options for small businesses and the potential for a choice in health plans for their employees. Today, only 10 percent of firms with 50 or fewer employees offer their workforce a choice of more than one health plan. Lowering the administrative costs of health insurance plans will give small firms new and better coverage choices for their workers.

Additionally, the GAO found that the added cost of mandates to a typical plan is between 5 and 22 percent. CBO estimates that every 1-percent increase in insurance costs results in 200,000 to 300,000 more uninsured Americans. When the cost of health insurance goes up, coverage and access go down.

The concept behind S. 1955 is very simple: to provide health insurance to small businesses that is both affordable and accessible. Small businesses not only in my State of South Dakota but across the Nation have been fighting for the creation of small business health plans for over 10 years. It is high time that the obstruction end in the Senate, that the Senate step aside and allow an up-and-down vote on this very important legislation.

As I said before, it is legislation that, if you look at just the Congressional Budget Office findings, would cover nearly a million more people, would allow three out of every four small business employees to pay lower premiums than they currently pay under current law, and would see small firms' premium costs decline by 2 to 3 percent. The average decrease per firm would likely be greater, since the CBO estimate is a total that factors in the costs of other benefits added by firms in response to the reduction in premiums.

It would also allow annual spending on employer-sponsored health insurance to be reduced by about $2 billion in a 5-year period. As I said earlier, it would increase Federal tax revenues by $3.3 billion over 10 years because lower spending on health insurance would increase the share of employee compensation paid in taxable wages and salaries versus tax-excluded health benefits—more coverage; lower costs; more revenue to the Federal Treasury, not less. The alternative offered by our colleagues on the other side, as I said earlier, comes at a high cost to the taxpayers: $73 billion over a 5-year period.

We can do better. We can allow the market forces of this country to be used. We can take a market-based approach to this issue and do something that has been done a long time ago, something that has, as I said, been voted on repeatedly in the House of Representatives, never to have been voted on here in the Senate, because it has been blocked.

It is high time for the small businesses of this country, for their employees, for families who lack coverage today, to have another tool at their disposal, a tool that takes into account and takes full advantage of market forces, by allowing small businesses to group together to leverage their size, to drive down the rates they pay for health insurance and, thereby, cover more of their employees.

That, again, is in stark contrast to the model and the proposal that is being offered by our colleagues on the other side, which consists of a government-based solution, that comes at a very high cost to the taxpayers, that calls for more bureaucracy and redtape, and does nothing in the end to bring down the cost of health care for small businesses in this country.

It is long overdue. I hope, as we have the chance to debate this now in the Senate, once that debate is concluded, we will be able to proceed to a vote because the one thing that has always been missed here in the Senate, despite action on eight different occasions in the House, is an actual up-and-down vote in the Senate that would allow the Senate to speak on the issue of whether we want to do something meaningful to reduce the cost of health care for small businesses in this country, to provide more coverage for those who are currently uninsured, and also to do something that would reduce the cost to the Government, the cost of Medicaid, as well as the other costs that are associated, as I said earlier, by increasing the amount that would come into the Treasury.

For those reasons, Mr. President, I ask my colleagues to support this legislation.

I yield back the remainder of my time.

The PRESIDING OFFICER. The time until 4:30 is controlled by the minority.

The Senator from Iowa.

Mr. HARKIN. Mr. President, here we are on day 2 of Health Week, and there are still no plans to bring up H.R. 810, the stem cell research bill.

This bill was passed by the House of Representatives 351 days ago—almost a year ago now—with still no action here in the Senate. Yet the majority of Senators are for it. I do not understand how in the world we can have a Health Week in the Senate and not vote on the American public's No. 1 health research priority: lifting the President's restriction on embryonic stem cell research.

That seems to be what we are doing. We are wasting our time on bills that everyone knows are not going to pass. We are passing up a golden opportunity to promote one of the most promising areas of research in our lifetimes.

Most people by now have heard of the enormous potential of embryonic stem cells. These cells have the remarkable ability to turn into every other type of cell in the human body—brain cells that could replace those lost in Parkinson's disease, islet cells to replace those lost in type 1 diabetes, and on and on. Adult stem cells don't have that power, only embryonic stem cells. That is why the world's best scientists think embryonic stem cell research has so much promise to save lives and ease human suffering. It is also why they are so frustrated by the President's arbitrary restrictions on stem cell research.

Under the President's guidelines, Federal funding can be used for research only on those stem cell lines that were created before August 9, 2001, at 9 p.m. Where did that date come from? Out of thin air? If the stem cell lines were created at 8:30 p.m., they are fine, they are moral, they are OK. If they were created at 9:30 p.m., all of a sudden they missed the cutoff. It is totally arbitrary.

Shortly after the President announced his policy, he said 78 stem cell lines were eligible under his guidelines. It turns out that only 22 are. In fact, it is even worse. Only a handful of those are even healthy enough and readily available. More importantly, all of the 22 lines that are available have been contaminated by mouse cells. They have been grown in a mouse feeder cell environment. It is unlikely they will ever be used for any kind of human intervention, which is supposed to be the whole point of the research anyway.

Dozens more stem cell lines have been created since August 9, 2001. They are healthier. Many have never been contaminated with mouse cells. But thanks to President Bush, they are off limits to our best scientists.

Yet opponents of H.R. 810 sometimes argue that embryonic stem cell research has no potential. Last week, Senator BROWNBACK presented a list of diseases that are being treated with adult stem cells and asked why that hasn't happened yet with embryonic stem cells. Let me address that directly. Scientists have been doing research on adult stem cells for over 30 years. There are no arbitrary restrictions on research with adult stem cells. Scientists and private companies don't have to be skittish about doing this research. They don't have to worry that all of a sudden the Federal Government is going to ban it or limit it.

Let's compare that situation with human embryonic stem cells. Scientists didn't even know how to derive them until 1998. The first Federal grant for these stem cells wasn't awarded until 2002. Even now, only a tiny fraction of the total Federal budget for stem cell research is used for embryonic stem cells. The vast majority goes for adult stem cell research, and every scientist who enters this field is taking a risk that Congress will pass a law to shut down the lab. They also risk that they won't get any 1 of the 22 lines contaminated by mouse feeder cells which they will then not be able to use for human therapy. So it is no wonder that more diseases are being treated today with adult stem cells. Adult stem cell research had a 30-year head start. Meanwhile, scientists have been studying embryonic stem cells for just 5 years with one arm tied behind their back.

The fact is, it doesn't matter what I think about the potential of embryonic stem cell research. It doesn't matter what Senator BROWNBACK thinks either. What matters is what the scientists think. And I defy anyone to find a single reputable biomedical scientist whose doesn't believe we should pursue embryonic stem cell research.

I have a letter from Dr. J. Michael Bishop who won the Nobel Prize in medicine in 1989. He writes:

> The vast majority of the biomedical research community believes that human embryonic stem cells are likely to be the source of key discoveries related to many debilitating diseases. . . . In fact, some of the strongest advocates for human embryonic stem cell research are those scientists who have devoted their careers to the study of adult stem cells.

A letter from Dr. Alfred G. Gilman, who won the Nobel Prize for medicine in 1994:

> It has become obvious, however, that the number of stem cell lines actually available under current policy is too small and is controlled by a limited monopoly, which has made it significantly more difficult and expensive for research to be conducted. These limits have hindered the important search for new understanding and treatment of devastating diseases.

I have similar letters from Dr. Ferid Murad, who won the Nobel Prize for medicine in 1998; Dr. Arthur Kornberg, who won the Nobel Prize in medicine in 1959; and dozens more of our Nation's top researchers—all of whom believe in the potential of embryonic stem cell research. I ask my friend from Kansas, in response to his speech of late last week: Are there any Nobel Prize winners in medicine who oppose embryonic stem cell research? Name one.

In fact, I challenge him further: Are there any reputable biomedical researchers at all who think we should be studying adult stem cells only and not embryonic stem cells? Name one.

I don't think he will find one. Every scientist I have spoken to says stem cell research should not be an either/or endeavor. We should not be talking about stem cell research or embryonic stem cell research. We should study both. We should open all doors in the pursuit of therapies that can save lives and ease human suffering. The breakthroughs are coming, but they take time. To clamp down on embryonic stem cell research before it even has a chance to start shows a total lack of understanding about how science works. More importantly, it denies hope to millions of Americans who suffer from Parkinson's, ALS, juvenile diabetes, spinal cord injuries, and dozens of other terrible diseases and conditions.

We are rapidly approaching the 1-year anniversary of the vote in the House on H.R. 810. It has been 351 days since the House passed it on a strong bipartisan vote. If the Senate were allowed to vote on H.R. 810, we would win here, too. We have the votes. We would pass this bill and send it on to the President. Regrettably, however, the Republican leadership has not let that happen. So here we are, we are going through this farce—it is farcical—comedy, gimmickry of a so-called Health Week without taking up the American public's No. 1 health research priority.

It is Tuesday. Health Week lasts for 3 more days. We could pass H.R. 810 in a matter of hours. I urge the majority leader, take up the bill. Let the Senate have a quantified amount of time to debate it. We will pass it, and we will give millions of Americans who are suffering from diseases the hope they deserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, before he leaves the floor, I say to my colleague from Iowa, Senator HARKIN, how much I appreciate his leadership in the area of health care. His analysis of where we stand on the stem cell issue is so appropriate, and he is so right. Here we have a whole area of scientific research that is waiting to take off. We have States, such as mine and others, that are taking the lead instead of following the lead of the Federal Government.

I say to my friend, does he ever remember a time in history when this country was plagued by disease that the Federal Government didn't step to the plate, whether there was a Republican President or a Democratic President? Isn't it shocking that as we face these epidemics of Alzheimer's and Parkinson's and cancer and heart disease and all the others my friend mentioned, isn't it amazing—I am sure it is to him as well as to me—that we have a lack of leadership in Washington?

Mr. HARKIN. I say to the Senator from California, it is not just amazing, it is shameful. It is shameful what is happening now with the lack of support for biomedical research, especially embryonic stem cell research. As I said, every Nobel Prize winner in medicine, all the reputable scientists say we should be on it and we should be on it strongly. Yet the President, through this arbitrary cutoff, is denying this for scientists, denying it to people who are suffering. I say to my friend from California, God bless California. They took the lead out there. Her State has taken the lead. They are forging ahead. Other States are following their lead. If only we could get the Federal Government to follow their lead.

Mrs. BOXER. As my friend pointed out in his statement, we have the votes for stem cell research, even with the President's opposition. If we asked for a show of hands in any roomful of people: Have you been touched by cancer, have you not personally or someone you know been touched by heart disease, by stroke, by Alzheimer's, Parkinson's, paralysis, all these things, we know how many hands would go up.

Mr. HARKIN. Juvenile diabetes.

Mrs. BOXER. That is clearly one. And I have met with juvenile diabetics. I have met with the children, the parents and the families. They are counting on us. Here we are in Health Week, as my friend points out. We have the votes. Yet what do they bring up? A bill that is actually going to take away health care from people, the Enzi bill.

Mr. HARKIN. Exactly. I appreciate my colleague from California. She is right on target. I know my friend from California, the distinguished Senator, has been in the forefront of fighting for the things that will help people have better lives, especially in health care, and to ease the pain and suffering of people, especially juvenile diabetics.

As the Senator knows, the families tell us that perhaps one of the first therapies that could come from embryonic stem cell research would be for these kids suffering from juvenile diabetes. What a great day that would be. I thank the Senator for her comments and strong leadership in all the areas of health care, and I thank California, through her, for the leadership they have shown.

Mrs. BOXER. I am very proud of my State.

In my State the gentleman who took the lead in putting the stem cell research initiative on the ballot has a child with juvenile diabetes. Watching that child suffer and struggle motivated him. He ignited this wonderful movement in our State. Shockingly, here we are in Health Week and this thing is nowhere to be seen. It is another example of why we need change around this place. I thank my friend.

This Health Week Republican style is really fascinating when you look at the bills that have come before us. The first two bills would have hurt patients who were injured by malpractice, patients who might have been made infertile or harmed in many ways. Those two bills took away the rights of patients.

The PRESIDING OFFICER. The minority's time has expired.

Mrs. BOXER. I ask unanimous consent to speak another 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. ENZI. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. BOXER. I ask unanimous consent to suggest a quorum call.

Mr. ENZI. Mr. President, under the unanimous consent agreement, we are alternating every 30 minutes.

The PRESIDING OFFICER. Under the precedents of the Senate, the Senator must control at least 10 minutes in order to suggest the absence of a quorum.

Mrs. BOXER. I ask unanimous consent that at 5 o'clock I be given the floor for 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. ENZI. Mr. President, reserving the right to object, the Senator's side controls the time at that time. So if they want to give the Senator the 10 minutes, there would be no objection to that. It would come out of the Democratic time.

Mrs. BOXER. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming.

Mr. ENZI. Mr. President, first, I apologize for the confusion over the unanimous consent that we had. It was designed early this morning to make sure each side had an opportunity to have an equal amount of say on the 30 hours that we are working on in order to actually get to amendments on this bill. Now that we have had cloture and everybody has agreed, or almost everybody, that we needed to proceed on the bill, we are talking about an issue that is huge to small businesses out there and wanting to find some kind of solution. We even suggested that perhaps they would like to reduce the number of hours of debate about the right to proceed so that we could actually get to offering amendments. But we have a 30-hour time requirement. That could be reduced by unanimous consent, or even eliminated by unanimous consent. But it has not been, so we will try to keep on a half-hour rotating basis so that as many people as possible can have something to say on the bill.

I am going to take a few minutes at this point to talk about this issue. We have been talking about health care. One advantage of having this 30 hours is to have some additional health care debate. I need to talk a little bit about prescription drugs Part D. That is not part of the motion to proceed, but it has been talked about a number of times on the Senate floor today. There are some confusing things out there for seniors that I would like to clear up.

I have been taking the last two recesses to travel across Wyoming and hold meetings with senior citizens to explain the prescription drug plan to get them signed up so they can get the benefit. There is some confusion out there. When we were designing the plan, we were worried that there would not be any plan interested in our small population in Wyoming. We have less than 500,000 people in our State. Our biggest city has 52,000 people. So we have a little bit of trouble finding a big enough pool for anything and to encourage interest. So I asked that there be kind of a Federal backup plan on it, and that was put in the bill.

But when the time came around for companies to offer plans in Wyoming, obviously, they were even excited about 500,000 people because we had 41 plans respond. That is competition. That competition brought the prices down by 25 percent before the people even applied for the benefit. A huge decrease in cost; that is cost by competition. The downside is that 41 plans create confusion. If you have ever tried to buy insurance and talk to a number of different insurance salesmen, every package is designed slightly different to make it a little bit more confusing so that their plan looks better, but it is also harder for you to make comparisons.

There is an easy way to make comparisons. Medicare saw that coming and set up a computer analyzation so that all you have to know is what your prescriptions are and what the doses are. You can put them in over the Internet or you can talk to somebody live by an 800 number or there are a lot of volunteers across America who are helping to get this information out. It lets Medicare do the math. They will present you with three or four plans that meet your prescription, your doses, and your criteria for where you want to buy it. You can look at these line by line. All the lines match up and you can compare them and find the best one for you. It has been a tremendous help.

My mother asked me to help her on her decision. There are kids across the United States—kids like me—who need to be helping their moms on these kinds of decisions. I was happy to do it because it gave me an opportunity to try out the telephone method, the Internet method, and I talked to a number of volunteers and the local pharmacist. We owe the local pharmacist a great deal of thanks for the way this is working and the difficulties that they have had doing a new program. We have not had a big change in the program in decades. When we first had Medicare, there were problems. They got worked out. When we started this one, there were problems, and I think they have mostly been worked out.

Occasionally, at these hearings, somebody was having a problem. A hour and a half was the longest it took us to straighten out any problem for anybody. I ran this process and came up with these four best at the least cost for my mom.

One of the things that people raise in those sections is they say: I don't need any drugs so I should not have to do this. I should not have to pay a penalty later.

The way insurance works is that you buy into the plan usually before you get sick. You pay a premium and when you get sick, then you have the coverage for the things that can happen to you in the future.

Medicare prescription Part D is completely different because you can already have a huge medical problem and a lot of prescriptions and you can sign up for this now and have a maximum guaranteed cost. I know of people who are actually saving thousands of dollars because they signed up. If you don't have anything the matter with you and you don't want to buy into a big plan, you run the evaluation and you can find a small plan you can buy into.

One in Wyoming is $1.87 a month. What if the $1.87 a month doesn't cover me if I have something really bad happen to me? Well, every November 15 to December 31 you can change your mind. You can change your company, and they cannot stop you. Tell me where else insurance works like that. Every November 15 to December 31, you can change your mind and sign up for a plan that has new kinds of benefits for you that match new illnesses that you might have.

This is working for the people who have paid attention. It is easy to have Medicare do the math. So everybody out there who hasn't signed up needs to talk to the volunteers, probably at their senior citizen center or call the 1-800 number or get on the Medicare Internet site and have that plan figured out for you. It takes a few minutes and you can be set so that you, first of all, won't have any penalties, but, secondly, you will have some tremendous benefits as you need the medication. It has made a huge difference.

Some people have talked about negotiating the price. When I was doing these hearings, I had some difficulty with people who showed up and said: You know, there are some medications I really want to have, that I am supposed to have, and I cannot get them. Well, when I checked, those were the veterans, and the veterans' prices are negotiated, and when they negotiate prices, they pick a similar drug and get the best price by kind of fixing the price on it and driving the price down through this bidding war. But it eliminates medications. Yes, there are medications you can take. It may not be the medication your doctor thinks is absolutely the best. But that is what happens with negotiated prices.

So what we relied on in the Medicare prescription Part D was competition, and competition has happened. Prices came down 25 percent, and then people who signed up for the program who are using medications found out that they are also saving another 25 percent as the least amount, or 37 percent as the average amount, and some people are getting 83 percent—I say some people. I know some people who are getting several thousand times more than what they are paying in because they are into the catastrophic care. I wasn't even listing the catastrophic care.

The important thing is that we need to tell people and help people to sign up by May 15. It is a tremendous benefit. We have had more people sign up than we had anticipated signing up. That means, again, a bigger market; that means lower costs. So it works for all of us when people sign up. Remember, there are plans out there. If they have them for $1.87 a month in Wyoming, I bet they have that at $1.87 or less every place in the country. Look at those if you are not using any medication.

So that is what competition does. That is the purpose of the bill that we are talking about and that we have actually had the motion to proceed on, not the ones that fall under other committees' jurisdictions, such as Medicare or stem cells or some of the other things that have been talked about here. Those are things that actually—this falls under the jurisdiction of the Health, Education, Labor and Pensions Committee. We took the bill through committee that has never been through the Senate before. The House passed a bill that is considerably more liberal and difficult than the one that we passed. They passed it eight times over there in a very bipartisan way. If we have the same Democratic Senators over here vote for it that had Democrats in the House vote for it, we will pass this bill easily. Even if there is a filibuster, we will pass it because it is a concept that small businesses have been asking for. This is the first opportunity we have had to provide it for them.

We did it by being very conservative in the approach and going to a situation where we could work across State borders, so that associations could build a big enough pool that they could effectively work with their insurance companies to get these multiple competition bids. We are certain that it will work. One of the reasons we are certain that it will work is because it has been tried within States. But those who have tried it within States have found that it works very well, and they know it would work even better if they could go across State borders. So even those who are doing it are asking to do it on a wider scale than what they have been. For a lot of the States that have less population, yes, they want to be able to do it at all. They don't have big enough pools within their States to do it, so they want to be able to go across the State borders.

I want to discuss a little bit why we need to pass S. 1955 and allow for the creation of these small business health plans. First of all, the concept of allowing small businesses to join together to find better prices for health insurance is not new, as I mentioned. Many organizations have offered nationwide health plans to members in the past. But States continued to add mandated benefits and other regulations to their insurance markets during the 1980s and 1990s, and the administrative hassles and costs associated with the mandates and regulations became too much of a burden for existing plans that could no longer offer an affordable benefit on a national basis. So they discontinued the plans.

The Associated Builders and Contractors organization, known as ABC, is an unfortunate example of this problem. Their insurance carrier refused to continue doing business with the ABC insurance trust in the late 1990s because the panoply of 50 different State regulations and excessive benefit mandates made it impractical and unattractive for the insurance company to continue the program. ABC was unable to find another carrier to pick up their business.

This chart kind of shows how health care costs have gone. I don't think there is any argument on either side of the aisle that this is what has happened. There has been a rapid escalation, and compared to what it used to be, there has been a rapid escalation for a long time, oddly enough. We are up to a national average cost per employee of about $8,000 a year. That doesn't include the part the individuals are paying, which brings it up to about $11,000 a year. That is the amount we have been talking about on both sides of the aisle today.

What is truly unfortunate is that workers at ABC's member companies were benefiting from this program, and the companies were saving money on their health care expenses. The health plan sponsored by ABC for nearly 45 years had total administrative expenses of about 13 cents for every dollar in premium. These costs included all marketing administration, insurance company risk, claim payment expenses, and State premium taxes. Compare this to the small business employers who purchase coverage directly from an insurance company. The total expenses for most small businesses today can approach 35 cents for every dollar of premium. So saving nearly 25 cents on a dollar is real money, especially in today's health insurance prices.

The other benefit to ABC's member companies and employees is that any profit generated by their health plan stays in the plan. This also helped keep costs down. So the idea isn't new, and it has worked before.

But Congress needs to act before small business organizations can resurrect their defunct programs and before other organizations can start new ones. Congress considered fixing this problem during debate over the Health Insurance Portability and Accountability Act in 1996—it is better known as HIPAA—but the small business affordability provisions in the House bill were dropped during the conference between the House and the Senate in the final bill. As a result, HIPAA only addressed access to health insurance and not affordability. So now everyone has access to health insurance policies, but the policies themselves are unaffordable to many. When I became chairman of the Committee on Health, Education, Labor, and Pensions last year, I announced that I would bring a health insurance affordability bill before the committee so we could finish the job we started 10 years ago—in other words, to make it possible for all Americans to have access to a health insurance policy that is affordable.

Many were skeptical then, and some may still be skeptical now, but the time for more of the same is over. America's working families want change, and they are tired of excuses from Congress.

Small businesses and working families are demanding relief from high health insurance costs. And it is no wonder. This year, employers are paying twice what they were paying in the year 2000 for health insurance. That is correct. What businesses paid for health insurance has doubled over the past 6 years. That is a pace we can't keep up.

This cost squeeze hurts small businesses the most. The highest rates of uninsured workers can be found in businesses with 25 or fewer workers. Only 60 percent of the Nation's businesses are offering health insurance these days, down from nearly 75 percent just 5 years ago.

Small businesses and working families are stuck on the escalator of rising health insurance costs, with no end in sight. And in a tight labor market, small business owners don't want to jump off this fast-moving escalator because dropping health insurance puts them at a major disadvantage in competing for the best workers. We need to give them a safe place to get off this escalator of rising costs, somewhere where it is more affordable for themselves and working families, and the small business health plan will give them that option.

Mr. President, I yield the floor to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. BURR. Mr. President, the chairman has brought a carefully crafted piece of legislation to the Senate floor, one that took a tremendous amount of skill to negotiate and one that has incredible support—more support when the bill passed out of committee than it does today. Why? Because people now fear it might become law. People fear this might pass, and they never believed it would. What does it do? It brings additional competition to the marketplace, but more importantly, it brings health care coverage to Americans who have no coverage today.

Why are we here today, on Tuesday afternoon at almost 5 o'clock? Because the Senate is in a 30-hour debate about whether we are going to be willing or able to proceed. We are not even on the bill yet; we are in a procedural mode which requires us to have a vote to proceed to consider whether we are going to have a debate on this bill, S. 1955, a bill that changes the choices of the uninsured population in America.

The choices they have today are nothing and nothing. Under any scenario, you would have unanimous support to change that. But there are actually people who are against that up here, but not across the country. As a matter of fact, in this poll done by Public Opinion Strategies in March of this year, over 80 percent of the people polled overwhelmingly support small business health plans; in other words, they support this legislation—the effort to bring new choices of products that are affordable to small businesses, to employers, and, more importantly, to the employees they hire.

In North Carolina, we have 671,000 small businesses. Ninety-eight percent of firms with employees are small businesses in North Carolina. Don't let anybody come to the floor and tell you that this bill does not have an effect except on a select group of people. It may be a select group of people, but it is 98 percent of the employers of North Carolina. Women-owned small businesses have increased 24 percent in North Carolina since 1997. Hispanic-owned small businesses have increased 24 percent since the same date, Black-owned small businesses have increased 31 percent since 1997, and Asian-owned small businesses have increased 74 percent since 1997. These are companies which benefit from this legislation. These are the companies which today can't afford the premium costs of health insurance; therefore, their employee base goes without. They are in that category of uninsured that so many people come and talk about on this floor, but they talk about uninsured without the solution as to how to cover them.

This is a population which in some cases today is on Medicaid. They work full-time. Their income level qualifies them for Medicaid. And what would be the incentive for them to get off of Medicaid? It would be if their employer has the option to offer them health care the way the majority of America is now provided health care: through their employer. But we are here in 30 hours of debate trying to decide whether we are going to allow Members to come to the floor and debate a bill and offer amendments which will allow us to switch from nothing and nothing to nothing and something, which will allow us to inject something, some ray of hope into the millions of Americans who don't have coverage today.

Let me read a few letters. I think it is always helpful to hear from people whom this affects, the human face behind the issues that sometimes we lose on this floor simply because we don't want to talk about names or pictures.

This is a woman from Sunbury, NC. She wrote me in mid-April of this year. I am just going to read some pieces. She says:

> Support SBHP legislation, S. 1955. I feel that this is very important because I haven't had health insurance in many years, because my employer doesn't have access to affordable insurance to offer us.

Some suggest on this Senate floor that is not the case, that everybody has the opportunity to have health insurance. "I haven't had health insurance in many years." Why? "Because my employer can't afford what is available."

Another letter received in April of this year from a young lady in Elizabeth City, NC:

> Please support Senate bill 1955, the Health Insurance Marketplace Modernization and Affordability Act. My employer cannot afford health insurance for their employees. My husband works for Ford. They are closing his plant soon. We will have no insurance unless my employer offers it. I have premature twins. They were born 3 months early. It costs me $2,000 a month to feed them. That does not include any doctor's appointments we have to go to. I feel that this is a great bill.

What is America looking for? They are looking for hope. They are looking for us to produce a product out of this institution that actually fulfills their needs. I don't know how it can be any clearer.

> It is not offered to me today, because my employer can't afford the options that are in our marketplace.

What do we do? We create new options that are affordable. That is, in fact, what the chairman is trying to do with this bill.

Here is a third letter, also from Elizabeth City but a different business. It says:

> Small businesses need help with insurance—

In big bold letters—

> I am now paying $986 per month for my wife and myself. This is for only 60 percent coverage and a $2,500 deductible. I know people with group insurance who are paying $600 a month for 80 percent coverage and a $250 deductible. Many of those have dental insurance as well. My policy provides none. Please vote for this bill. Allow small businesses to have coverage equal to employers of other companies.

That is all we are doing. We are using the scale of what people who have a tremendous amount of employees can do, and that is they can go to insurance carriers and they can negotiate for products based upon the volume of their employees. But how does a small business owner do that when he has five or six or seven employees? Well, it is real simple. We allow them to band together. We allow them to band together into a common association, and we allow that association to then market their entire association based upon the volume.

Another letter that I received on April 6 says:

> As a small business owner, it is important to enable some economy of scale in allowing franchises to obtain more affordable health care coverage.

The last one I am going to read is quite unique.

> As a professional photographer, I have seen firsthand the difficulty that my fellow professional photographers face when attempting to purchase health insurance on their own. S. 1955 would allow photographers and other independent business owners to band together across State lines and purchase health insurance. Having this as an option and choice will improve our access to quality health care and help control costs through competition.

These letters are from people on the front lines. They are from employees whose employers can't offer coverage today because it is not affordable. They are from individuals who own businesses and would like to offer coverage to their employees. They are even from photographers, people whose lives are in their hands every day in a camera, but they cannot afford the individual costs of health insurance in today's marketplace.

In North Carolina, we have 1.3 million uninsured North Carolinians. Of that 1.3 million, almost 900,000 uninsured individuals are in families or are on their own where one person at least works full-time. With the passage of this bill, 900,000 of the 1.3 million uninsured in North Carolina could potentially be offered health insurance. We can narrow it down from 1.3 million to 400,000 individuals who are uninsured in North Carolina with the passage of one simple bill, or at least they would have the option to be able to purchase it for once. Ninety-one percent of workers in large firms of 1,000 employees or more have health insurance, yet 66 percent of workers in small businesses defined as 10 employees or fewer have health insurance. Well, if you remember the North Carolina numbers, I said 98 percent of firms with employees were small businesses. Think of the millions of Americans who are going to be touched by the passage of this one piece of legislation that provides them choice. Where today their choice is between nothing and nothing, tomorrow their choice is between nothing and something.

Why are we here? We are here for 30 hours of debate—not debate on the bill, not debate about the amendments, debate about whether we are going to move forward. We do that at a time when—I just went back and did a quick calculation on the back of my calendar—we have 76 legislative days left between now and adjournment. That is assuming we have productive days on Fridays and Mondays, and as the chairman knows, Fridays and Mondays are not always productive in the Halls of Congress. People are either slow to get here or quick to leave. If you take out Fridays and Mondays, we are down to 45 days. But we are going to spend 30 hours trying to decide whether we are going to move forward to debate this bill, and we will spend another 30 hours after we file cloture on the bill to get to a point where we can have an up-or-down vote, if, in fact, we get that far.

Last night, we voted on two medical liability bills—medical liability that covers the entire medical professional world—and last night, we were denied the ability to proceed and to debate the legislation, much less amend it. The second bill is legislation in which—and I think the American people would be shocked at this—we were denied the ability to move forward to debate or amend legislation that limited the liability to OB/GYNs in America, a specialty we are losing specialists out of every day, where every year people aren't continuing to practice. But we will spend 30 hours debating whether we proceed to debate not necessarily the merits of the bill—and my hope is that the chairman will be successful, and I will be beside him arguing every step of the way, because without this, these Americans don't have hope of a choice of anything other than nothing and nothing.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ISAKSON). Under the previous order, the Senator from California is recognized.

Mrs. BOXER. Mr. President, my understanding is that Senator DORGAN had time at 5 o'clock set aside, so if he wishes to take it now, then I will wait until his conclusion.

I ask unanimous consent that at the conclusion of Senator DORGAN's remarks I be permitted to speak at that time. Since it is controlled by the Democrats, I can make that request by myself.

The PRESIDING OFFICER. The Senator from North Dakota will be recognized, and at such time as he completes his statement, the Senator from California will be recognized.

Mr. ENZI. That is assuming it comes within the 30-minute parameters?

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. Mr. President, I have listened to some of the debate today. It has been very interesting. The last speaker spoke about choice and choices. I want to talk about choices in health care a bit. This is Health Week, we are told. It is an opportunity, for a change, at long last to talk about some health care issues on the floor of the Senate.

The intent, I believe, of the chairman who brings this bill to the floor is that we should speak only about and address only the issues dealing with small business health plans. However, he knows and I know there are many other health issues that have been long delayed by this Chamber and that need to be debated. I intend to offer a number of amendments. They are in order under the rules of the Senate. They are amendments that deal explicitly with health care issues.

The issue before the Senate is not unimportant. The question of rising health care costs is very significant to everybody—individuals, businesses, governments. Everyone who is a consumer has to deal with increased costs of health care and we should, indeed, address the issue of health care costs for business associations and for small businesses. There is no question about that. I wish to be a part of the group that works on that in a bipartisan way, in a way that expands opportunity, not narrows opportunity; in a way that expands coverage, not narrows coverage; in a way that covers everyone, not just a few. I do not agree that we should make health care unaffordable for the older and sicker and then make profit out of insuring people who are younger and healthier. That is not the right way to do this.

But having said all of that, let me describe some other things that have been long delayed on the floor of the Senate that need to be addressed. Let me talk about the first one. It is the issue of reimportation of prescription drugs. A bipartisan piece of legislation has been long ago introduced and discussed here on the floor of the Senate, and we have not had the opportunity to vote on it.

The reimportation of prescription drugs, why is that important? Because the American people are charged the highest prices in the world for prescription drugs; it is not even close—the highest prices in the world. Consumers in every other country are paying lower prices. Try to buy Lipitor and if you buy it in the United States you pay a higher price than in any country in the world—France, Germany, England, you name it. You pay the highest prices in the United States. Why should U.S. consumers be charged the highest prices?

With consent, I want to show a couple of things on the floor of the Senate. Let me show, if I might, two bottles of Lipitor. I ask consent to show these on the floor of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. As you can see, they look identical: identical labels, identical pills in the same bottle made by the same company—shipped to two different places. One is shipped to Canada and one is shipped to the United States. The difference? One is half the price of the other. Guess which. It is the Canadian consumer who gets the benefit of paying half the price for the identical prescription drug.

Let me also show a couple of containers of Prevacid. This is a drug that is widely used for ulcers. Once again, as you can see, it is essentially the same bottle, same pill, made by the same company, made in an FDA-approved plant and shipped to two different locations, one to Canada and one to the United States. The difference? This one costs twice as much. Who buys this one? The U.S. consumer; twice as much for the same pill.

An old fellow sitting on a hay bale in North Dakota at a farm meeting said, my wife has been fighting breast cancer for 3 years. She took Tamoxifen for breast cancer. Every 3 months we drove to Canada to get Tamoxifen because it was the only way we could afford it, and we paid about 80 percent less than it would have cost us to buy that prescription drug to treat her breast cancer. We paid 80 percent less by driving to Canada to get it.

The fact is, they allow a small amount of drugs to come across the border for personal use. But other than that, a U.S. consumer cannot access an FDA-approved prescription drug nor can a U.S. pharmacist access that same FDA-approved prescription drug. That is unbelievable. We have a bipartisan group of Members of the Senate who say consumers ought to be able to purchase FDA prescription drugs by reimporting them from other countries. That would put downward pressure on prescription drug prices in this country. A bipartisan group of Senators wants to do that, but we are prevented from doing it by current law. We want to change the law.

Yet we are prevented from changing the law because the majority leader won't bring this legislation to the floor of the Senate. This is something we can offer as an amendment to the bill on the floor. It is well within the rules of the Senate, it deals with health care, and I am serving notice now that this is an amendment we will offer and vote on during the conduct of this discussion, providing we are allowed to offer amendments. I am hearing rumors that perhaps the majority leader will decide to fill the tree legislatively and allow no amendments. If that is the case, it will be a long week, but my hope is he will not do that. If amendments are allowed, I will offer this amendment and will get a vote.

Let me go back to about midnight on the night of March 11, 2004. That is a little over 2 years ago—midnight. The reason I remember it was midnight, I was sitting right back here and I reached an agreement with the majority leader, Senator FRIST. Here is what Senator FRIST announced that evening after our negotiations, and after which I agreed to release the name of Dr. Mark McClellan to be promoted from the head of FDA to the Centers for Medicare and Medicaid Services. As a result of that, Senator FRIST came to the floor and put this in the RECORD.

> I announce for the information of my colleagues that, with consultation with the chairman of the Senate Committee on Health, Education, Labor, Pensions, Senator DORGAN, Senator STABENOW, Senator MCCAIN, Senator COCHRAN, and other interested Senators, the Senate will begin a process for developing proposals that would allow for the safe reimportation of FDA-approved prescription drugs.

Two years later, nothing: No vote on the floor of the Senate, nothing. My colleague, Senator VITTER, sent a letter around a year ago. It says:

> . . . in the context of the Lester Crawford FDA nomination, I obtained an agreement with Majority Leader FRIST regarding drug importation legislation. . . .The Senate will probably hold some floor vote on a reimportation amendment soon, probably on the Agriculture Appropriations bill. Should that vote demonstrate that reimportation has 60-vote support on the floor, then Leader FRIST will be open to and work in good faith toward a floor debate and vote on a reimportation bill. . . .

What happened as a result of that? Nothing. No action, no votes, nothing.

This bill on the floor of the Senate is amendable. This bipartisan amendment deals with health care. It has been long delayed—and no more. I intend to offer this amendment this week.

Finally, at long last, perhaps the American consumers will no longer be charged the highest prices in the world for prescription drugs because they will be able to access FDA-approved drugs by reimporting them from virtually any other country in which the consumers are paying a lesser price for the identical prescription drug. That is unfair to the American people. The only reason we have not changed it yet is there are, regrettably, a few people in this Chamber who have blocked that opportunity, I assume on behalf of the pharmaceutical industry. But that blocking is about done. This week this bill is open for amendment. I intend to come and offer this as an amendment.

That is one.

Let me talk for a moment about another issue, once again long promised here to the Senate. We are told we are going to have an opportunity to do this—again and again and again—and we are not. We don't get the opportunity. It is called stem cell research. It is controversial; there is no question about that. I understand the controversy. But is it important? Yes, it is. We have all these people who talk about life. This is about life. This is about life-giving medical research, to find ways to unlock the mysteries and to cure some of the worst diseases known to people: Alzheimer's, diabetes, cancer, heart disease, Parkinson's. There is an unbelievable opportunity for medical research to unlock the cures for some of these diseases. But we need to proceed with stem cell research.

We have been long promised the opportunity to have a vote on stem cell research on the floor of the Senate, and guess what. No such vote. On May 24, almost 1 year ago, the House of Representatives passed a bill on stem cell research. We are still waiting to have a vote on that here on the floor of the Senate—once again, a bill with bipartisan support.

Let me describe, if I might, the importance of this in the eyes of a young woman. I met with this young girl about 2 weeks ago. It is not the first time I met her. She is a young lady, Camille Johnson, 13 years old, diagnosed with type 1 diabetes at age 4. She is the one in the middle, playing the clarinet. She has had some very serious health problems, some very serious problems in her young life. She would like very much to live her life without diabetes. She would like diabetes to be cured for her and millions of others.

In 2002, scientists at Stanford University used special chemicals to what is called transform undifferentiated embryonic stem cells of mice into cell masses that resemble islets found in the mouse pancreas. When this tissue is transplanted into the diabetic mice, it produces insulin in response to high glucose levels in animals. Wouldn't it be wonderful if, through this stem cell research, we cure diabetes; if we could tell this young woman your life is not going to be a life of diabetes. We can cure that disease.

I have been involved in political campaigns recently and have been told by opponents that my proposal and my position on stem cell research is one that murders embryos. Nothing could be further from the truth, nothing at all. Do you know there are 1 million people living among us, walking, breathing, talking—1 million people who were conceived through in vitro fertilization? One million people. When that in vitro fertilization takes place, the uniting of a sperm and an egg in a petri dish, more than a single embryo is created. A number of embryos are created in that process. Some are implanted into the uterus of a woman and some become a human being. Some are cryogenically frozen and stored in the event they should be used again if this did not result in a pregnancy.

There are some 400,000 of those embryos frozen at in vitro clinics right now, 400,000 of them, and 8,000 to 11,000 are discarded, thrown away, every year. They become hospital waste.

Should some perhaps be used for stem cell research with the hope of saving lives? The answer clearly is yes. This is not about murdering an embryo. If in fact this is the murder of an embryo, then the discarding of the embryos at the in vitro fertilization clinic, 8,000 to 11,000 a year, is also murder.

We had one person testify at the Commerce Committee a couple of years ago who said those 1 million people who are here as a result of in vitro fertilization should not be here; it was wrong to create these people. Tell that to the parents who had those children; the childless parents who, through in vitro fertilization, discovered the miracle of having a child.

The question of stem cell research is not about murdering an embryo, it is about an opportunity to cure some of the dreaded diseases.

The other issue—and the reason I am talking about this is this is a big issue that we are not allowed to vote on in the Senate. This, too, should be an amendment on this bill. This, too, during Health Week is a very important issue dealing with health.

The other side of this research is something called somatic cell nuclear transfer. Simply it is this: Let us assume a patient takes a skin cell from their own earlobe and that skin cell from their earlobe is then put in an evacuated egg and stimulated to become a blastocyst of a couple of hundred cells.

That blastocyst now has predictor cells. They use the predictor cells for heart muscle, to inject back into the heart muscle to grow a stronger heart, to repair a heart attack.

Some would say you have destroyed or murdered an embryo. There is no fertilized egg. There is only the skin cell from the person who had the heart attack whose cell is now being used, through somatic cell nuclear transfer, to save that person's life. This is about lifesaving. Yet we have so many here who said: Let's not worry about these diseases. Let's shut off this research because we think it is about murdering embryos.

That is not what this is about. It is about this young girl and whether we decide we want this young girl to live her life as a diabetic, a life filled with hope at this point that Congress will finally do the right thing.

The House of Representatives did it. The Senate needs to vote on it. Perhaps this week is as good a week as any. We have been promised. A year ago we were promised, just like drug reimportation. This Chamber is full of promises, but we never quite get to vote on important issues.

I am not suggesting that when I talk about stem cell research that there are not ethical considerations, without serious concerns and serious issues to which we should be attentive. We should. I don't dismiss all the other concerns. But I do say this: If you have lost a child, if you have lost a loved one, and you have watched someone die from Parkinson's or cancer or heart disease, if you have been through that and then say to yourself: But I want to shut down promising research that could potentially cure diseases, then you have not been through it the way a number of people in this Chamber have been through it. I think it is so important for us to do the right thing and to continue this breathtaking research that can save lives.

There are so many other issues. There are just a couple of minutes remaining. Then I will yield the time to my colleague from California.

We passed recently in the Senate a piece of legislation that provides prescription drug benefits to senior citizens. But we did nothing to put downward pressure on drug prices. There is a special provision in the bill which my colleagues, Senators WYDEN and SNOWE, were talking about earlier today, that actually prevents the Federal Government from negotiating for lower prices with the pharmaceutical industry. That is unbelievably ignorant. A provision like that is unbelievably ignorant, and it ought to be repealed.

All we need is a vote on that on the Senate floor. That, too, is a health issue. There is no excuse for this Congress to say: By the way, the Federal Government cannot negotiate for a lower price. We already do it in the VA. We end up with far lower prices as a result of the negotiations.

In this case, with this bill, there is a provision that says: Don't you dare negotiate. It would be against the law for you to try to get lower prices and reduce Government spending. That, too, is a health issue. That, too, will be in order this week.

I hope very much that we will have a vote on that. Yes, the underlying bill is important. We ought to find a bipartisan way to fix it. No, it doesn't work the way it is. It will restrict choice, in my judgement, increase prices for some, and make others completely uninsurable. We ought to fix it in a bipartisan way.

But on the other three issues—reimportation of prescription drugs, stem cell research, repeal the law that prevents negotiation of lower prices with the pharmaceutical industry to save taxpayers money—shouldn't we do all three of those? We ought to do all three of those this afternoon, right now. We have been blocked for far too long.

If there is, in fact, an amendable vehicle—and I hope it will be; we will know that tomorrow morning—then I have just described three amendments that I believe should be offered, and when offered I believe will be approved in the coming days. If not, if this is a charade, and tomorrow we discover there is a legislative approach called "filling the tree," which is simply setting up a little blocking device to say we are not going to allow anybody to offer anything, then I think the Senate will have sent a very strong message that this isn't Health Week. This is a week in which you want to trot out a little proposal of your own and avoid votes on serious issues that we should be taking in the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I appreciate Senator DORGAN's remarks. I have been on the floor of the Senate a lot today waiting to get the time, and I have been fortunate to hear many colleagues. I thank him for very succinctly pointing out that in a real health care week you wouldn't close your eyes to hope—hope that we are going to find cures for the terrible diseases that plague our families—Parkinson's, Alzheimer's, diabetes, spinal cord injuries, stroke, heart attack, you just name them. The fact is, we know stem cell research is promising. We know a lot of States have gotten out ahead of the Federal Government because this President and this Congress have restricted the number of stem cell lines we can fund research on. And many of those stem cell lines are, frankly, no good at all because they have been impacted by mice cells. And they lack the diversity needed for robust research.

I have talked to leaders in this field. I am not a scientist. I was educated in economics. But I have spoken to leading scientists, among whom is a gentleman named Dr. Peterson who worked at USFC in San Francisco. He is one of the leading pioneers in stem cell research who left to go to England because this President and this Congress put up a big stop sign in front of stem cell research. It is tragic.

Our families need the hope of a cure. How many of us have met with these youngsters who have juvenile diabetes, and we have seen how difficult their lives are and how they suffer, even with the strides that have been made in this area. They are still in great danger.

Health Week is here. We have a vehicle, as Senator DORGAN calls it, the Enzi bill, which tries to deal with the health insurance problems that small businesses face. I am going to talk about a better alternative to the Enzi bill that will really do something. But we also have a chance to raise these issues during the debate on the Enzi bill.

We have bipartisan support for drug importation from countries such as Canada, where drugs are sold at half the price of what drug companies charge in the U.S. We have bipartisan support for stem cell research, fixing the Medicare prescription drug issue so we could actually say to Medicare: You have the ability and the right just as the VA has to negotiate with the pharmaceutical companies for lower prices. But I have to say Health Care Week Republican style is really Insurance Company Week.

If you look at the bills that have been brought before us, they all help the insurance companies. They don't help average Americans. They do not help us.

The first two bills said we are going to restrict the right of patients—whether they are very wealthy, whether they are middle income, whether they are poor—we are going to stop them from recovering damages if they are harmed by medical malpractice.

I was very pleased that the Senate chose not to limit debate on those two bills which would have taken away the rights of patients while giving a gift to the insurance companies. And hopefully we can change the Enzi bill.

I don't like bills that take away benefits from my people in California. I don't like bills that take away benefits from all Americans. That is why the Enzi bill is a bad bill. It does just that. I will go through with you the list of benefits that are taken away.

Mr. President, the Republicans bring us Health Care Week. They bring us the Enzi bill. What they do not tell us and you don't find out until you look is that all the States' protections that have been put into place will be wiped out upon passage of the Enzi bill.

Those are harsh words. What do I mean? What benefits will be taken away from my people in California? According to the report put together by Families U.S.A, "The Enzi Bill, Bad Medicine for America," those benefits include AIDS vaccines, alcoholism treatment, blood lead screening. You know that is important because if you don't screen kids for lead in their blood they could have learning disabilities—bone density screening. We know about osteoporosis. In California we guarantee that your insurance will pay for that; no guarantee in the Enzi bill whatsoever. As a matter of fact, the Enzi bill overrides all of this—cervical cancer screening, clinical trials, colorectal screening, contraceptives, diabetic supplies and education.

We just talked about how it is so important for diabetics to have their meds—drug abuse treatment, emergency services, home health care, hospice care, infertility treatment, mammography screening, maternity care, mental health parity.

In my State, if you have a mental health problem and you need help, your insurance coverage will cover your treatment, just the same as if you had a physical problem. We know it works. The list goes on—metabolic disorders, minimal mastectomy, off-label drug use. In California, we have a law that says you can't kick a woman out of a hospital the same day she has a mastectomy. What, you may say? This happens? It does—off-label drug use, orthotics, prosthetics, prostate cancer screening. We know that prostate cancer is a scourge—reconstructive surgery, second medical surgery opinion.

If somebody tells you you need serious surgery, you can get a second opinion in California. That is covered—special footwear, telemedicine, well child care, so that we prevent diseases. That is my State.

Every single State in the Union gets overridden, whether it is Alabama, Colorado, Georgia, Idaho.

I know my friend from Georgia would be interested because he is sitting in the Chair. These are the things that your State offers. It protects your consumers. It is as long a list as California, I am proud to say—alcoholism treatment, ambulatory surgery, bone density screening, bone marrow transplants are covered in the State of Georgia. Cervical cancer screening, contraceptives, dental anesthesia, diabetic supplies, drug abuse treatment, emergency services, heart transplants are covered in Georgia. Infertility treatment, mammography screening, mental health parity, minimal mastectomy stay, morbid obesity care—which is very important now with the obesity epidemic—off-label drug use, ovarian cancer screening, telemedicine, and well child care. Georgia has a very inclusive and wonderful list of guaranteed protections for people.

In the State of Georgia there are 2.347 million people affected by this who would not have those guarantees under the Enzi plan. The Enzi plan essentially says to insurance companies: You can choose. You have to offer one plan. What do they call that plan? One premium plan. You have to offer one premium plan based on a state plan of their choosing, but there is no guarantee at all that what is in that premium plan is what is in the Georgia plan or the California plan or the North Dakota plan.

The fact is, all of the work that has been done in our States—and I find it somewhat amusing given this is a Republican debate, that the Republican bill preempts the States. What is wrong with this picture? I thought our Republican friends loved decisionmaking at the State level. No, not here in the Senate. They would prefer the insurance companies decide it rather than the States.

This is why I call my colleagues' attention to a study done on the impact on all the States, with letters compiled from attorneys general from many of the States and Governors.

From Oregon, they register their opposition, first their benefits are not guaranteed any longer. In addition, they are very worried about what happens to premiums. The Enzi bill disadvantages older people. As far as the research I have done, it disadvantages women. It certainly disadvantages people who come in with a preexisting condition such as high blood pressure. That includes a lot of Americans.

The bottom line is, the Enzi bill, the star rollout production of the Republican Health Care Week, will make null and void all protections that our States have given their citizens and replace them with some kind of riverboat gamble where insurers will choose some plan, from some State, and apply it to my State. I don't want a so-called premium plan from another State.

Here is a good example. In Connecticut, there is a terrible epidemic of Lyme disease. A tick bites your body and it can make a person very ill. We have some of that in California, but we do not have as much per capita as Connecticut. In Connecticut, the State legislature and the Governor say insurers have to cover Lyme disease because it is an epidemic in the State. In other States, it may not be necessary. However, we will wipe that Connecticut requirement off the books, and we will say, through the Enzi bill, insurance companies are going to decide.

Something is wrong. This is not Health Care Week, this is "insurance company week." That is not good for consumers.

My own State has built a comprehensive State health insurance system that encourages affordable and equitable coverage for all, while ensuring consumers are protected and guaranteed benefits. The Enzi bill takes away a State's power to regulate health insurance. It is a gift to the insurers, as I said. It preempts benefits, as I said. It also is going to lead to way higher premiums for all in America who are covered by health insurance.

Insurance companies, not the States, will now decide what benefits the consumers. That is why we have letter after letter after letter from Governors, from attorneys general, warning us not to pass the Enzi bill.

There appears to be no limits on the cost shares an insurer can charge nor are there requirements that plans treat consumers equitably or offer comprehensive coverage.

As I said, if you are a little older—maybe you have high blood pressure, maybe you have some other health problems—you are in trouble. You are not going to have an affordable plan and you will lose the benefits you have. You may be priced out of the market. It will be catastrophic.

We have serious problems with the Enzi bill. Here is the great news. There is a wonderful alternative out there, the Durbin-Lincoln bill, of which I am a cosponsor. I thank my friends for working so hard on this.

As I go around my State, people nod in agreement with the Durbin-Lincoln bill's premise. Senators have very good health insurance. We pay half of the premium and the Government matches the other half. There is a Federal Employee Health Benefits Program. There are basic benefits required and private companies come in and offer various plans. People such as me and my employees can choose from a broad array of plans. It works beautifully.

I ask unanimous consent, at 5:45, the Senator from Oregon, Senator MURRAY, be recognized for 15 minutes, until 6 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Senators DURBIN and LINCOLN take this Federal plan and open it up to small businesses with 100 employees down to a single self-employed person.

This plan will work because there will be a huge pool set up. Everyone can buy into it from any business in this country with less than 100 employees. It would be a very diverse pool of people. They will be insured. The pricing is going to be very fair and reasonable. The plan will be administered in the same way our Federal benefits are administered.

I heard Senator THUNE say: That is a government plan. No, it isn't. It is a plan that is administered by the Federal Employees Health Benefit Plan, but it is coverage provided by private insurers. Because the administrative costs are kept so low, this is going to be very affordable and will solve the problem.

And guess what. This alternative, the Durbin-Lincoln alternative, does not take away the protections States have given all who live in those States. If you are in California, you still get the benefits. By law, you are protected. If you live in Washington State, you will get those benefits. The alternative that the Democrats are behind will cost less. It will protect benefits. It will work beautifully.

I say to my colleagues, if it is good enough for you, it ought to be good enough for small businesses and their employees. This bill is a wonderful and practical alternative.

In my concluding 6 or 7 minutes, I will say that this so-called Health Care Week is a major disappointment, unless we find out tomorrow we can amend the Enzi bill. If we can amend Enzi and pass stem cell research and prescription drug reimportation, if we can make sure there is hope for patients with Alzheimer's, diabetes, heart condition, stroke, cancer because we move ahead with science, then Health Care Week will have mattered. If we can offer the Durbin-Lincoln substitute, it will not preempt the protections of State law as the Enzi bill does. The Enzi bill has more opposition than any bill I remember. AARP is against it. The Cancer Foundation is against it. There are 224 organizations against it.

I ask unanimous consent to have printed in the RECORD those organizations opposed to the Enzi bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

National Partnership for Women & Families, 9 to 5, Association for Working Women, Action Alliance of Senior Citizens of Greater Philadelphia, Alabama Psychological Association, Alliance for Advancing Nonprofit Health Care, Alliance for Justice, Alliance for the Status of Missouri Women, American Academy of Child & Adolescent Psychiatry, American Academy of HIV Medicine, American Academy of Pediatrics.

American Academy of Pediatrics—Nebraska Chapter, American Academy of Physician Assistants, American Association for Geriatric Psychiatry, American Association for Marriage and Family Therapy, American Association of People with Disabilities, American Association on Mental Retardation, American Chiropractic Association, American College of Nurse-Midwives, American Counseling Association, American Diabetes Association.

American Federation of State, County and Municipal Employees, American Federation of Teachers, American Foundation for the Blind, American Nurses Association, American Occupational Therapy Association, American Optometric Association, American Pediatric Society, American Podiatric Medical Association, American Psychiatric Association, American Psychological Association.

American Speech-Language-Hearing Association, Arizona Action Network, Arizona Business and Professional Women, Arizona Psychological Association, Asociacion de Psicologia de Puerto Rico, Assistive Technology Law Center, Association of Medical School Pediatric Department Chairs, Association of University Centers on Disabilities, Association of Women's Health, Obstetric and Neonatal Nurses, B'nai B'rith International.

Bazelon Center for Mental Health Law, C3: Colorectal Cancer Coalition, California Coalition for PKU and Allied Disorders, California Black Health Network, California Psychological Association, Campaign for Better Health Care—Illinois, Capital District Physician's Health Plan, Inc., Catholics for a Free Choice, Center for Civil Justice, Center for Justice and Democracy.

Center for Women Policy Studies, Children's Alliance, Citizen Action/Illinois, Citizen Action of New York, Clinical Social Work Guild 49, OPEIU, Coalition on Human Needs, Colorado Center on Law and Policy, Colorado Children's Campaign, Colorado Progressive Action, Colorado Psychological Association.

Committee of Ten Thousand, Communications Workers of America, Connecticut Citizen Action Group, Consumers for Affordable Health Care, Delaware Alliance for Health Care, Delaware Psychological Association, Department for Professional Employees, AFL-CIO, Disability Rights Wisconsin, District of Columbia Psychological Association, Easter Seals.

Empire Justice Center, Epilepsy Foundation, Excellus Blue Cross Blue Shield, Families USA, Families with PKU, Family Planning Advocates of New York State, Florida Consumer Action Network, Georgia Rural Urban Summit, Guttmacher Institute, HIP Health Plan of New York.

Hawaii Psychological Association, Health and Disability Advocates, Hemophilia Federation of America, Idaho Psychological Association, Illinois Alliance for Retired Americans, Illinois Psychological Association, Indiana Psychological Association, Institute for Reproductive Health Access, International Association of Machinists & Aerospace Workers, International Brotherhood of Electrical Workers.

International Longshore & Warehouse Union, Iowa Citizen Action Network, Iowa Psychological Association, Kansas Psychological Association, Kentucky Task Force on Hunger, League of Women Voters, Maine Children's Alliance, Maine Dirigo Alliance, Maine People's Alliance, Maine Psychological Association.

Maine Women's Lobby, Massachusetts Psychological Association, Maternal and Child Health Access, Mental Health Association in Michigan, Mental Health Legal Advisors Committee (Commonwealth of Massachusetts), Michigan Association for Children with Emotional Disorders, Michigan Campaign for Quality Care, Michigan Citizen Action, Minnesota COACT, Minnesota Psychological Association.

Missouri Association of Social Welfare, Missouri Progressive Vote Coalition, Montana Psychological Association, Montana Senior Citizens Association, Inc., NAADAC—The Association for Addiction Professionals, NETWORK, a National Catholic Social Justice Lobby, National Alliance on Mental Illness, National Association for Children's Behavioral Health, National Association of Anorexia Nervosa and Associated Disorders, National Association of Social Workers.

National Association of Social Workers, Arizona Chapter, National Association of County Behavioral Health and Developmental Disability Directors, National Coalition for Cancer Survivorship, National Consumers League, National Council for Community Behavioral Health Care, National Council of Jewish Women, National Council on Independent Living, National Disability Rights Network, National Family Planning and Reproductive Health Association, National Health Care for the Homeless Council.

National Health Law Program, National Hemophilia Foundation, National Mental Health Association, National Multiple Sclerosis Society, National Organization for Women, National Rehabilitation Association, National Research Center for Women & Families, National Urea Cycle Disorders Foundation, National Women's Health Network, National Women's Law Center.

Nebraska Psychological Association, Nevada State Psychological Association, New Hampshire Citizens Alliance, New Jersey Citizen Action, New Jersey Psychological

Association, New Mexico PACE, New Mexico Psychological Association, New York Civil Liberties Union Reproductive Rights Project, New York State Health Care Campaign, New York State Psychological Association.

North Carolina Justice Center's Health Access Coalition, North Carolina Psychological Association, North Dakota PKU Organization, North Dakota Progressive Coalition, North Dakota Psychological Association, Northwest Health Law Advocates, Northwest Women's Law Center, Ohio Psychological Association, Oklahoma Psychological Association, Oregon Action.

Oregon Advocacy Center, Oregon Psychological Association, Organic Acidemia Association, Patient Services, Inc., Pediatrix Medical Group, Pennsylvania Council of Churches, Pennsylvania Psychological Association, Philadelphia Citizens for Children and Youth, Philadelphia Coalition of Labor Union Women, Planned Parenthood Federation of America.

Planned Parenthood of New York City, Population Connection, Progressive Maryland, Public Citizen, RESULTS, Religious Coalition for Reproductive Choice, Reproductive Health Technologies Project, Rhode Island Ocean State Action, Rhode Island Psychological Association.

Sargent Shriver National Center on Poverty Law, Save Babies Through Screening Foundation, Senior Citizens' Law Office, Small Business Majority, Society for Pediatric Research, South Dakota Psychological Association, Suicide Prevention Action Network USA, Summit Health Institute for Research and Education, Inc., Tennessee Citizen Action, Tennessee Psychological Association.

Texas Psychological Association, The Arc of the United States, The Black Children's Institute of Tennessee, The Disability Coalition of New Mexico, The Institute for Reproductive Health Access, The Senior Citizens' Law Office, The Virginia Academy of Clinical Psychologists, Triumph Treatment Services, US Action, US Action Education Fund.

U.S. PIRG (Public Interest Research Group), Union for Reform Judaism, United Association of Journeymen and Apprentices in the Plumbing and Pipe Fitting Industry, United Cerebral Palsy, United Food and Commercial Workers, United Senior Action of Indiana, United Steelworkers International Union, United Vision for Idaho, Univera Healthcare, Universal Health Care Action Network.

Utah Health Policy Project, Vermont Coalition for Disability Rights, Vermont Office of Health Care Ombudsman, Voices for America's Children, Voices for Virginia's Children, Washington Citizen Action, Washington State Coalition on Women's Substance Abuse Issues, Washington State Psychological Association, West Virginia Citizen Action Group, West Virginia Psychological Association.

Wisconsin Citizen Action, Wisconsin Psychological Association, Women of Reform Judaism, World Institute on Disability, Wyoming Psychological Association.

Mrs. BOXER. Mr. President, this bill is going to hurt American health care by cancelling out all the hard-won State protections and by raising premiums so high they will price consumers out of the market. That is why across the board there is opposition. I have not seen this many organizations come out against a bill.

By the way, this bill, when it was first presented, sounded reasonable. It was only when we looked at the small print that we realized how dangerous it is.

Instead of working on this misguided bill, we could have done the alternative, we could have done the stem cell, we could have fixed the Medicare prescription drugs, we could have allowed drug importation.

If we didn't want to do real health care reform, there are a lot of other things we could have done, such as raise the minimum wage. We could have finished the job on immigration reform, strengthening the enforcement at the border and stopping illegal immigration, but getting people on a path and out of the shadows.

What about Superfund sites? We have some of the most polluted sites in the country still awaiting cleanup. We have one in four people in America, including 10 million children, living within 4 miles of a Superfund site.

What about debating the war Iraq? That is on everyone's mind. There is still no exit strategy. There is still no plan. We see suffering on the ground there every single day.

We have issues with a potential nuclear Iran. We should debate that. In Afghanistan, the situation is deteriorating and we have all but forgotten about it. We have not followed the recommendations of the 9/11 Commission to this date. We have failed fiscal policies. We have debt as far as the eye can see. We ought to debate pay-as-you-go. If Members want to spend money, they should show how they going to pay for it instead of putting the burden on the backs of America's children.

There are many other things we could do, but since we are on Health Care Week, let's fix our health care system. Let's not pass a bill that will not help people with serious diseases or fix the problems with the Medicare prescription drug program.

We have so much work to do and this Enzi bill is masquerading as a bill that will help our citizens. When we read the fine print, we find out it is only going to make matters worse.

I am proud to yield the floor to my friend from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 15 minutes.

Mrs. MURRAY. Mr. President, I ask unanimous consent the next Democratic speakers in order be Senator DAYTON, Senator DURBIN, and Senator AKAKA.

The PRESIDING OFFICER (Mr. CHAMBLISS). Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, at this hour, families are struggling with health care. Seniors are facing a critical deadline for drug coverage. Businesses are grappling with the high cost of insurance. And patients are being denied the cutting-edge research that could save their lives. Those are critical issues. And what is the Senate doing? We are dealing with a distraction instead of real solutions to make health care affordable, more accessible, and more innovative.

I am on the Senate floor this evening to talk about what we should be doing to help families and businesses and communities meet their health care needs. I also want to talk this evening about why the Republican proposal, S. 1955, could do more harm than good.

This is a bill which takes a good idea—pooling the risk in health insurance—and distorts it with a plan that will raise the cost of health care, strip away patient protections, and hurt many of our small businesses. But do not take my word for it. Attorneys general from 41 States, including my own, have written to outline the serious problems with the Republican bill. I have heard from doctors with the Washington State Medical Association and from my own Governor about the damage this bill will inflict on patients and on our economy.

Simply put, this proposal is a distraction. Instead of dealing with real solutions to real problems, the Republican leadership is wasting time on one narrow proposal that is only going to make things worse. We can do better. The truth is that patients and seniors, doctors and nurses, and all of our communities deserve better.

If we were serious about reducing the cost of health care, helping to improve access, and driving innovation, we would be talking about the critical issues that the Republican leadership is trying to avoid. We should be focusing on everything from the Medicare drug program, to stem cell research, to community health care. Frankly, we do not have a day to waste.

On Monday, millions of seniors and disabled will be hit with a deadline that means higher premiums for their prescription drugs. That May 15 deadline is just 6 days away. I am hearing from seniors that they are very worried about this deadline. They are worried they are going to pick the wrong plan, and they do not think it is fair to be punished if they need more time so they can make an informed choice.

I have been traveling throughout my home State of Washington, meeting with seniors and holding roundtables with patients, with pharmacists, with advocates.

Three weeks ago, I was in Chehalis, at the Twin Cities Senior Center. I can tell you, seniors are worried. They are angry. They are frustrated. They are frightened about this May 15 deadline, and that deadline is just one of the problems this flawed drug program is presenting.

The week before that, I was in Silverdale, and I have held Medicare roundtables in Kent, Vancouver, Ballard, Shelton, Spokane, Anacortes, Bellevue, Aberdeen, Olympia, Lakewood, Seattle, and Everett. Everywhere, I have heard from seniors about just how bad the Medicare Part D Program is. I have heard their frustration about dealing with such a confusing system. I have heard their anger that this program does not meet their needs. And I have heard from many who just want to throw their hands up in the air and ignore the whole program.

If we were serious about improving health care, we would be fixing the problems they have outlined. Instead, we are going to let an unfair deadline hurt our seniors even further. In just 6 days—in just 6 days—they are going to have to pick a plan or face high penalties whenever they do enroll, and the penalties grow larger the longer they wait. To me, that is just not fair.

Right now, this Senate could be extending the deadline so our seniors are not pressured into making the wrong choice in such a complicated system. Right now, we could be lifting the penalty so that seniors are not punished if they need more time to make the right choice. Right now, we could be providing help to millions of vulnerable Americans who have been mistreated by this flawed Republican plan. But, instead, this Congress is leaving seniors to fend for themselves. The Secretary of Health and Human Services has said he opposes extending the deadline or lifting the penalties, and this Republican Congress seems to agree with him by a shameful lack of action.

Seniors deserve better. The disabled deserve better. Our most vulnerable neighbors deserve better. If we really wanted to make health care more affordable and more accessible and more innovative, we would be on this floor fixing the Medicare drug program and helping seniors who are facing that unfair deadline.

Now, that is just one example of what a real focus on health care on this floor would include.

If we were serious about helping patients, we would be expanding lifesaving research. For patients who are living with diseases such as Parkinson's or multiple sclerosis or Alzheimer's or diabetes, stem cell research holds the potential to help us understand and to treat and someday perhaps cure those devastating diseases.

Nearly a year ago, the House of Representatives passed legislation to lift the restrictions that hold back this promising research. The House of Representatives has acted, but for an entire year the Senate has not. My colleagues, Senator SPECTER and Senator HARKIN, are well known for their leadership on this fight. They were promised a vote on stem cell research, and that vote has still not taken place. Every delay means missed opportunities for patients with devastating diseases.

If this Senate is serious about health care and saving lives, we should be voting on stem cell legislation today. That is why, last week, I joined with 39 other Senators in writing to the majority leader urging him to bring up H.R. 810, the Stem Cell Research Enhancement Act. But instead of real solutions, the Senate is focusing on a distraction. Patients with life-threatening diseases deserve a lot better.

If we were serious about improving health care, we would be investing in local efforts that boost access to health care.

Two weeks ago, through the Johnson & Johnson Community Health Care Awards, I had a chance to honor leaders from across the country who are doing innovative work to break down the barriers to care. If we were serious about improving health care, we would be building more Federal support for their work. Instead, we are moving in the opposite direction.

Perhaps the best example is the Bush administration's 5-year effort to kill the Healthy Communities Access Program, which is known as HCAP. This is a program which helps our local organizations coordinate care for the uninsured. I have seen it make a tremendous difference in my home State. Well, every year since taking office, this Bush administration has tried to kill that successful program. I have been out here on the floor leading the fight for our local communities every year, and most years we have won. But this past year, the White House and the Republican Congress ended the support for Healthy Communities and thus made health care less accessible for families from coast to coast.

If we were serious about improving health care, we would be investing in local programs that make a difference. But, instead, the Republican leadership is focused on distractions. We can do better than that.

So let me take a few minutes to turn to the specific problems with the bill that is before us, S. 1955, and explain why so many experts across this country are warning us that this bill will eliminate critical patient protections, it will lead to unfair premiums and insurance practices, and it will raise the cost of health care.

First of all, this bill will eliminate many of the important protections that keep patients healthy and lower the cost of health care.

In my home State of Washington, we have enacted a number of State patient protections that require health plans to cover services such as diabetic care, mental health services, breast and cervical cancer screening, emergency medical services, and dental procedures. But under this bill, small business health plans or association health plans would not be required to cover those important benefits. Allowing insurers to abandon mandated benefits, many of which are preventive and are diagnostic, will result in a sicker population and higher health costs for everyone.

When this legislation was debated in the HELP Committee, I offered a number of amendments to provide for coverage of several important women's health benefits. Unfortunately, every one of those amendments was defeated. So now, here we are, and we have a bill on this floor that will strip away the protections on which our patients across this country rely.

A new report by Families USA shows just how many families in my home State will be hurt by this bill. That report found that 1,861,000 residents of Washington State may lose protections if this bill is passed. And what could they lose? Emergency services, home health care, drug and alcohol treatment, contraceptives, diabetic supplies and education, hospice care, mammography screening, maternity services, mental health care—the list goes on. I am not going to tell nearly 2 million people in my home State whom I represent that we are going to take a gamble and risk losing those hard-won protections for a plan that will likely raise the cost of health care for many of our families and small businesses.

Secondly, this bill will encourage insurance companies to charge higher premiums for less healthy consumers. This bill will preempt strong laws and protections in our State that limit the ability of insurers to vary premiums based on health status, age, gender, or geography. I am very concerned this will result in adverse selection or what we call cherry-picking, leading to higher premiums for less healthy consumers. In fact, rates will likely become unaffordable for those who need it the most, potentially increasing the number of uninsured Americans.

Now, Mr. President, I would like to share some letters I have received from leaders in my home State who all speak against this flawed proposal. I ask unanimous consent that these two letters be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. MURRAY. Mr. President, recently I received a letter from the Governor, Governor Christine Gregoire of my home State of Washington, in which she expressed many of her concerns regarding this legislation and its impact on the people who live in my home State.

This chart behind me contains the full text of the Governor's letter. As you can see, she has many serious concerns. I wish to highlight for the Senate some of the main points our Governor has raised with me.

Governor Gregoire alludes to the harmful aspects of this bill, and she says:

> [S. 1955] stands to harm our small group insurance market, which is a critical component of [Washington State's] current health care system. . . .
>
> Instead of promoting more affordable health care, this legislation would cause a serious increase in rates for consumers—possibly two or three times over what they now pay.

Governor Gregoire also warns in her letter to me that:

> [this] bill threatens consumer protections that the state of Washington strives to guarantee to [all of] our residents.

The Governor also warns that this bill:

> would foster a proliferation of health plans that do not cover preventive services that are absolutely vital to the health and wellbeing of Washington residents. . . .

Mr. President, I would also like to share a letter that I have received from the 9,000-member Washington State Medical Association that wrote to me in strong opposition to S. 1955.

Now, this chart shows the full letter, and I want to read just a portion of it:

> This legislation will have a severe impact on all the consumer health gains that have been made in Washington State over the past decade.
>
> S. 1955 will:
>
> Undermine Washington State's many gains in advancing health care quality;
>
> Pull people from existing insurance coverage rather than attract the uninsured;
>
> Lead to higher costs for consumers;
>
> Strike down Washington's Mental Health Parity law, which took eight years of work to be enacted;
>
> Eliminate other mandated benefits that help consumers such as mammography services; and,
>
> Leave Washington's citizens at risk for unpaid medical bills in the event of an AHP insolvency.

That is from the head of the Washington State Medical Association, which has 9,000 members in my home State. I think their words should be heeded by the Members of this Senate.

Third, this proposal does nothing to address increasing health care costs.

In fact, it builds on the sorry record of this administration and this Congress in not addressing the rising costs that Americans face. Because of the flaws I mentioned, this bill does nothing to contain those costs. In fact, it could dramatically increase costs for many businesses and families in Washington State. It could well mean that people in the State of Washington who have affordable coverage today could end up worse off than they are right now.

I know my State has been a leader in working to expand access to affordable health insurance for working families and small businesses. Many of the reforms that worked to control costs in my State would be jeopardized if this legislation is enacted. Washington State has a proud tradition of strong consumer protections and integrated managed care that has improved health outcomes and controlled cost increases. We should not jeopardize what my State has fought hard for by dangerous Federal legislation.

I do support the concept of pooling. I believe we can implement policies that provide stability in health insurance premiums. In fact, I am currently working with a number of my colleagues on legislation to create Federal and State catastrophic cost pools to spread out the risks and address what is driving health care costs. We can help spread the risk in ways that will lower costs and still protect patients. The legislation before us could raise costs for consumers and small businesses. We can do better than that.

There are serious challenges facing our country when it comes to health care. This Senate needs to get serious. Instead of focusing on a distraction, we should be helping seniors with prescription drugs. We should be expanding lifesaving research, and we should be supporting community health care. Those are some of the things we should be working on to reduce the cost of health care and to improve access and to accelerate innovation. We can do all of those things, but we need the Republican leadership to get serious if we are going to provide serious solutions. We don't have a day to waste. I hope we can get to work on the real solutions that our American families deserve.

EXHIBIT 1

CHRISTINE O. GREGOIRE,
OFFICE OF THE GOVERNOR,
Olympia, WA, April 27, 2006.

Hon. PATTY MURRAY,
U.S. Senate, Washington, DC.

DEAR SENATOR MURRAY: I am writing with great concern about S. 1955, the Health Insurance Marketplace Modernization and Affordability Act, and its potential to further erode our ability to provide sound health coverage to citizens in Washington State. This bill stands to harm our small group insurance market, which is a critical component of our current health care system. Furthermore, the bill threatens consumer protections that the State of Washington strives to guarantee to our residents. For these reasons, I ask that you oppose the bill in its current form.

When it comes to providing health care, the federal government has been putting an ever-Increasing burden on the states. The Deficit Reduction Act, alone, paves the way to eliminate nearly $50 billion over the next five years for the Medicaid program. Fresh on the heals of signing the Deficit Reduction Act, the President unveiled his Fiscal Year 2007 budget proposal, which proposes eliminating $36 billion from the Medicare program over the next five years. Additionally, the implementation of the Medicare Part D prescription drug program has had enormous impacts on the states. Nearly every state in the Nation—Washington included—felt compelled to step in to ensure that our most needy citizens, our dual eligible population, continue to receive their medications due to fundamental flaws in the Medicare Modernization Act. Against this backdrop now comes S. 1955.

If passed, S. 1955 would establish a small group rating mechanism that would further erode the possibility of pursuing reasonable health care costs in the states. Instead of promoting more affordable health care, this legislation would cause a serious increase in rates for consumers—possibly two or three times over what they now pay. At its worst, the bill could result in the total collapse of our small group insurance market, something we must fight to prevent.

Additionally, I am concerned that S. 1955 would foster a proliferation of health plans that do not cover preventative services that are absolutely vital to the health and wellbeing of Washington residents, such as mammography, colonoscopies, diabetic care services, and newborn coverage. In 2005, the Washington State Legislature passed, and I signed, legislation providing mental health parity. If Congress passes S. 1955, the bill could also fully abrogate this effort to ensure mental health coverage in Washington State.

It is surprising to me that S. 1955 is moving forward, given that it is patterned, in part, on a flawed National Association of Insurance Commissioner's 1993 Model Rating Law, actually adopted by the state of New Hampshire in 2003. This proved to be an unfortunate experiment for the people of New Hampshire. Just this year, that state's Legislature repealed provisions of its 2003 law due to the astronomical jump in rates that occurred in only a two-year period after it was implemented. Given this history that he knows only too well, my colleague, Governor John Lynch of New Hampshire, recently registered his opposition to S. 1955 in a letter to his federal delegation, dated March 28, 2006. New Hampshire's experience is illustrative and a harbinger of what could come to all states, should Congress adopt S. 1955.

As Washington State's Attorney General from 1993–2005, I, along with the majority of my colleagues within the National Association of Attorneys General (NAAG), opposed several precursor bills to S. 1955. Introduced in each of the last several Congresses, these bills allow for the federal regulation of association health plans (AHPs), and have passed out of the U.S. House more than once. I appreciate that S. 1955, in its current form, does away with one fatal flaw of the earlier AHP bills—that being the wholesale obliteration of state regulation over national AHPs. But, as I have articulated, S. 1955 still goes too far in preempting other basic consumer protections. It is heartening to see that a majority of current members of NAAG, including Washington State Attorney General Rob McKenna, have now weighed in with their concerns and opposition to S. 1955.

As a nation, we need innovative solutions that provide high quality, sustainable and affordable health care access to our un- and under-insured populations. With the help of the Washington State Legislature, I have embarked on a five-point strategy to promote evidence-based medicine; better manage chronic diseases; increase prevention and wellness initiatives; require data transparency; and expand the reach of health information technology. These strategies invite strong partnerships between states and the federal government that I remain committed to pursuing with you. Unfortunately, proposals like S. 1955, are counterintuitive to the notion of forging such partnerships and I ask that you reject the bill.

Sincerely,

CHRISTINE O. GREGOIRE,
Governor.

WASHINGTON STATE
MEDICAL ASSOCIATION,
April 25, 2006.
Hon. PATTY MURRAY,
U.S. Senate, Washington, DC.

DEAR SENATOR MURRAY: On behalf of the 9,000 members of the Washington State Medical Association, WSMA, I am writing to ask that you vote no on S. 1955—Association Health Plans, AHPs, when the bill comes to a vote in the U.S. Senate.

The WSMA is very concerned about the negative effect of this legislation on our State's citizens, purchasers, providers and health plans.

This legislation will have a severe impact on all the consumer health gains that have been made in Washington State over the past decade.

S. 1955 will:

Undermine Washington State's many gains in advancing health care quality;

Pull people from existing insurance coverage rather than attract the uninsured;

Lead to higher costs for consumers:

Strike down Washington's Mental Health Parity law, which took eight years of work to be enacted;

Eliminate other mandated benefits that help consumers such as mammography services; and,

Leave Washington's citizens at risk for unpaid medical bills in the event of an AHP insolvency

The Washington State Medical Association works hard every day to insure that Washington's citizens have access to the finest medical care in the country. This legislation will test our ability to continue in this endeavor.

For more information, please do not hesitate to contact Len Eddinger in our Olympia office.

Very Truly yours,
PETER J. DUNBAR, MD,
President.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I rise to address some issues my colleagues have raised. I am appreciative of the debate and the chance to talk about health care. It is a critically important topic. It is one that we have to talk a lot more about, how we can provide as much health care as possible to everybody at the lowest price that we can get it and get more people insured. That is at the root of what we are trying to get done with the proposal of Senator ENZI and others to get more health insurance, better coverage to more people across the United States. That is a worthy goal, something we need to do. We have far too many people uninsured. We need more people insured. That is central to us. It is central to the hospital and the provider community that we have people who are insured. Because of those who are not insured and then can't pay the price of their health care, that is spread across to other people, which is what we do today. That is what we need to do, but it would be better if we could get more people insured and have a direct system of payment.

Others have said that what we need to be talking about is different than this, rather than expanding health insurance coverage. I respect that. Some of my colleagues have raised the stem cell issue. I want to address the concerns my colleagues have raised on stem cells. I want to report to my colleagues what a tremendous positive story we have to tell about stem cells, an exciting story of people receiving treatments, living longer and healthier lives because of stem cell treatments. These are not the controversial ones. This does not involve the destruction of a young human in the embryonic stage. This involves the use of adult stem cells, which the Presiding Officer and others, everybody in this room has in their body, adult stem cells. It also involves cord blood stem cells. These are the stem cells that are in the umbilical cord between the mother and child, while the mother is carrying the child.

I want to show two charts to start off. I think it is best if we make this a personal debate. I challenge my colleagues who have challenged me about this topic to come forward with pictures of individuals who are being treated with embryonic stem cells. I would like to see the people who are being treated with embryonic stem cells. We have put nearly half a billion dollars of research money into embryonic stem cell research. We have known about embryonic stem cells for 20 years. I don't know of the people being treated by embryonic stem cells.

I can show people who are being treated with adult stem cells or cord blood. This is Erik Haines. He is 13 years old. He was diagnosed with Krabbes disease, the first patient to receive cord blood for this rare, inherited metabolic disease. The date of transplant was 1994. He is alive today. He would be dead without this having taken place.

Let me show you a picture of Keone Penn. I had him in to testify before a Commerce Committee hearing a couple years ago. He has sickle cell anemia. The date of transplant was December 11, 1998. He had been very sick. He wasn't expected to live. As a matter of fact, it says in a statement that he made: If it wasn't for cord blood, I would probably be dead by now. It is a good thing I found a match. It saved my life.

We have now many more people being treated for sickle cell, a whole host of diseases. As a matter of fact, I want to read off a few of these. These are human clinical trials, real people getting real treatments, living longer lives, if not being cured, by the use of adult stem cells and cord blood stem cells in 69 different disease areas.

My colleagues have heard this debate for a period of years. We have been debating stem cells for a number of years. We have been debating the controversial area of embryonic stem cells, which the Federal Government funds, which State governments fund, which private industry and the private sector is fully free to fund completely, every bit of the way that they want to do that. They can. They have been. And we have no human treatments from embryonic stem cells to date. We don't have any. They are funded globally. There is no prohibition against embryonic stem cell research in the United States.

My colleagues seek more than the nearly $500 billion that we have put into embryonic stem cell research, an area that has not produced any human treatments to date. I want to be clear that that is what we are talking about. When we started this debate, my colleagues pushing embryonic stem cells, who in their hearts absolutely believe they are doing the right thing and this will lead to cures, listed cancer, sickle cell anemia, Lou Gehrig's disease. We are going to deal with all of these things. With the promise of embryonic stem cells, we will cure these things. That is what they said on their side when we started this debate 6 years ago. Six years later—I could be off a year or 2—where are the cures? I say we have them. They are in adult and cord blood stem cells.

I ask unanimous consent to print in the RECORD at the end of my statement a sheet of human clinical applications using adult stem cells.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BROWNBACK. I want to read a few of the 69 from this document: Sickle cell anemia, aplastic anemia, chronic Epstein-Barr infection, lupus, Crohn's disease, rheumatoid arthritis, juvenile arthritis, multiple sclerosis, brain tumors, different cancers, lymphoma, non-Hodgkins lymphoma, a number of solid tumors, cardiovascular. This is an exciting area that is taking place where we now have people with acute heart damage, chronic coronary artery disease being treated with adult stem cells. Primarily, this has been an adult stem cell treatment where they harvest stem cells out of their own body and inject them right back into the damaged heart tissue.

Now we are seeing people who couldn't walk up a flight of steps going up eight flights, having hard tissue being regenerated with the use of their own adult stem cells. There is no rejection problem. This is their own cells. They take these adult stem cells from your body, which are repair cells, grow them outside of the body, put them back into the damaged heart tissue area, and now instead of congestive heart failure, without any ability to get enough blood throughout the body, the heart is pumping harder and better. It is actually working. They are regenerating the heart in these people. This is actually taking place in human clinical trials today. It is a beautiful issue.

The list goes on: chronic liver failure, Parkinson's disease. I had a gentleman in to testify who had taken stem cells out of a part of his body, grew them, put them in the left part of the brain. The right side of the body started functioning without Parkinson's disease. Later it came back, after several years, but he had several years free and was starting to learn how better this can work with Parkinson's disease.

Again, continuing from the list: spinal cord injury, stroke damage, limb gangrene, skull bone repair. We have recently had advances. For example, they took the stem cells out of a person's body. They had a form around which the bladder could be grown, outside a new bladder could be grown. They took the stem cells, put them around this form, and actually grew a bladder out of a person's own stem cells. These are marvelous, miraculous things that are taking place in 69 different areas of human clinical trials, adult and cord blood. I ask my colleagues from the other side, the ones who promised all of the cures from embryonic stem cells, as this debate moves forward, we will bring out statements that people made 5, 6 years ago about the cures that would come from embryonic stem cells. The cures have come from these noncontroversial areas. This is where we ought to be funding. This is what we ought to be doing. This is where we are getting treatments.

I ask my colleagues from the other side, where are the treatments with embryonic stem cells? Colleagues on the other side, for whom I have great respect and I know in their hearts are doing what they believe is the right thing to do, asked about reputable scientists opposed to embryonic stem cells. I ask unanimous consent to print in the RECORD this letter at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BROWNBACK. It is dated October 27, 2004. It is to Senator John F. Kerry, running for President at the time, signed by 57 scientists who have a real problem with embryonic stem cell research.

They say in this letter:

> As professionals trained in the life sciences we are alarmed at these statements.

They are referring to what Senator KERRY was saying, that this would be a centerpiece issue for him in moving forward with science. This is in 2004.

> First, your statement misrepresents science. In itself, science is not a policy or a political program.
>
> Second, it is no mere "ideology" to be concerned about the possible misuse of humans in scientific research.

Here we come to the real rub of the issue on embryonic stem cell research. Is the embryo human life or isn't it? It is one or the other. It is either a human life or it isn't. It is alive. It is human in its genetic form. Is it a human life or not? If it is not a human life, do with it as you choose. If it is a human life, it deserves protection and respect. We do it for everybody in this room, no matter what your State is, your physical condition. Why wouldn't we do it while you are in the womb?

I have a letter signed by 57 scientists with a real problem with embryonic stem cell research. My colleague asked me to produce scientists who are opposed to embryonic stem cell research. Here they are.

I finally say to my colleagues on this topic, the promises they have made about embryonic stem cell research have not been realized to date, and reputable scientists question whether they will ever be realized. We are half a billion dollars later after investment from the Federal Government on embryonic stem cell research, animal and human. Now you are seeing—this is just the Federal Government, not about the private sector or other governments around the world. I will read to you what other scientists who support embryonic stem cell research are saying about the prospects of embryonic stem cell research. A British stem cell research expert, named Winston, warned colleagues that the political hype in support of human embryonic stem cells needs to be reined in. This is dated June 20, 2005, where he says this:

> One of the problems is that in order to persuade the public that we must do this work, we often go rather too far in promising what we might achieve. This is a real issue for the scientists. I am not entirely convinced that embryonic stem cells will, in my lifetime, and possibly anybody's lifetime, for that matter, be holding quite the promise that we desperately hope they will.

Let's look at another researcher talking in this field. I want to get testimony in here from Jamie Thompson, the first scientist to grow human embryonic stem cells. This is the question posed to him:

> People who use nuclear transfer generally say that the technique is optimized for producing stem cells rather than making babies. They would not want to equate this with the process that produces embryos that were fit for implantation, and they argue that they are used in the reproductive process differently.

I am talking about the use of embryonic stem cell research in a cloning procedure, where you create a clone, take the embryonic stem cells from the clone.

This is what Professor Thompson says:

> So you are trying to define it away and it doesn't work. If you create an embryo by nuclear transfer and you give it to somebody, you didn't know where it came from, there would be no test you could do on that embryo to say where it came from. It is what it is. It is an embryo. It is a young human life. It's true that they have much lower probability of giving rise to a child, but by any reasonable definition, at least at some frequency, you are creating an embryo. If you are trying to define it away, you are being disingenuous.

My colleagues started to raise the issue that if you create an embryo by process of cloning, it is not really a young human life. But if you create an embryo that is a sheep, like Dolly, and grow it up to be Dolly the sheep, is Dolly not a sheep? Would that be the contention? That is simply not the case when they are creating a cloned individual or cloned human being, and that goes into the next step in this debate, to discuss human cloning. The other side calls it somatic nuclear cell transfer—the same process that created Dolly.

My point is that that is the next step on this continuum. We are talking about embryonic stem cell research funding and the lack of production taking place there for human treatment. The next step is that we need to clone and then we need to clone the individual and not harvest it in a day or two, but we need to grow the fetus out several weeks so we have sort of fetal farming, which is a ghastly thing to even consider. Yet it is being talked about in some research circles.

I conclude with the statement that if we want to be successful in this area and treat people, which I believe is the measure that we should go by—the treatment of individuals—our best bet, if my colleagues want human treatments to take place, they want to cure people, if that is what their effort is, let's fund what is working, which is adult cord blood. Let's move off of this politicized debate which is about the definition of young human life. Let's move off this debate and do something that is curing people. And we can.

That is the way we ought to go in this debate. We ought to also pass the Enzi proposal that gets more people health insurance, which is where we should focus this debate now because that is what we are talking about, rather than a politicized issue of embryonic stem cell research, which has not worked and is not working.

I yield the floor.

EXHIBIT 1

ADULT & NON-EMBRYONIC STEM CELL RESEARCH

ADVANCES & UPDATES FOR APRIL 2006

HIGHLIGHT OF THE MONTH—STEM CELL HOPE FOR LIVER PATIENTS

British doctors reported treatment of 5 patients with liver failure with the patients' own adult stem cells. Four of the 5 patients showed improvement, and 2 patients regained near normal liver function. The authors noted: "Liver transplantation is the only current therapeutic modality for liver failure but it is available to only a small proportion of patients due to the shortage of organ donors. Adult stem cell therapy could solve the problem of degenerative disorders, including liver disease, in which organ transplantation is inappropriate or there is a shortage of organ donors."—Stem Cells Express, Mar. 30, 2006

ADVANCES IN HUMAN TREATMENTS USING ADULT STEM CELLS—

Buerger's Disease: Scientists in Korea using adult stem cell treatments showed significant improvement in the limbs of patients with Buergers disease, where blood vessels are blocked and inflamed, eventually leading to tissue destruction and gangrene in the limb. Out of 27 patients there was a 79% positive response rate and improvement in the limbs, including the healing of previously non-healing ulcers.—Stem Cells Express, Jan. 26, 2006

Bladder Disease: Doctors at Wake Forest constructed new bladders for 7 patients with bladder disease, using the patients' own progenitor cells grown on an artificial framework in the laboratory. When implanted back into the patients, the tissue-engineered bladders appeared to function normally and improved the patients' conditions. "This suggests that tissue engineering may one day be a solution to the shortage of donor organs in this country for those needing transplants," said Dr. Anthony Atala, the lead researcher.—The Lancet, Apr. 4, 2006; reported by the AP, Apr. 4, 2006

Lupus: Adult Stem Cell Transplant Offers Promise for Severe Lupus—Dr. Richard Burt of Northwestern Memorial Hospital is pioneering new research that uses a patient's own adult stem cells to treat extremely severe cases of lupus and other autoimmune diseases such as multiple sclerosis and rheumatoid arthritis. In a recent study of 50 patients with lupus, the treatment with the patients' adult stem cells resulted in stabilization of the disease or even improvement of previous organ damage, and greatly increased survival of patients. "We bring the patient in, and we give them chemo to destroy their immune system," Dr. Burt said. "And then right after the chemotherapy, we infuse the stems cells to make a brand-new immune system."—ABC News, Apr. 11, 2006; Journal of the American Medical Assn, Feb. 1, 2006

Cancer: Bush policy may help cure cancer—"Unlike embryonic stem cells . . . cancer stem cells are mutated forms of adult stem cells. . . . Interest in the [adult stem cell] field is growing rapidly, thanks in part, paradoxically, to President George W. Bush's restrictions on embryonic-stem-cell research. Some of the federal funds that might otherwise have gone to embryonic stem cells could be finding their way into cancer [adult]-stem-cell studies."—Time: Stem Cells that Kill, Apr. 17, 2006

Heart: Adult stem cells may inhibit remodeling and make the heart pump better and more efficiently.—Researchers in Pittsburgh have shown that adding a patient's adult stem cells along with bypass surgery can give significant improvement for those with chronic heart failure. Ten patients treated with their own bone marrow adult stem cells improved well beyond patients who had only standard bypass surgery. In addition, scientists in Arkansas and Boston administered the protein G-CSF to advanced heart failure patients, to activate the patients' bone marrow adult stem cells, and found significant heart improvement 9 months after the treatment.—Journal of Thoracic and Cardiovascular Surgery, Dec., 2005; American Journal of Cardiology, Mar., 2006

Stroke: Mobilizing adult stem cells helps stroke patients—Researchers in Taiwan have shown that mobilizing a stroke patient's bone marrow adult stem cells can improve recovery. Seven stroke patients were given injections of a protein—G-CSF—that encourages bone marrow stem cells to leave the marrow and enter the bloodstream. From there, they home in on damaged brain tissue and stimulate repair. The 7 patients showed significantly greater improvement after stroke than patients receiving standard care.—Canadian Medical Association Journal Mar. 3, 2006

69 CURRENT HUMAN CLINICAL APPLICATIONS USING ADULT STEM CELLS

ANEMIAS & OTHER BLOOD CONDITIONS

Sickle cell anemia, Sideroblastic anemia, Aplastic anemia, Red cell aplasia (failure of red blood cell development), Amegakaryocytic thrombocytopenia, Thalassemia (genetic [inherited] disorders all of which involve underproduction of hemoglobin), Primary amyloidosis (A disorder of plasma cells), Diamond blackfan anemia, Fanconi's anemia, Chronic Epstein-Barr infection (similar to Mono).

AUTO-IMMUNE DISEASES

Systemic lupus (auto-immune condition that can affect skin, heart, lungs, kidneys, joints, and nervous system), Sjogren's syndrome (autoimmune disease w/symptoms similar to arthritis), Myasthenia (An autoimmune neuromuscular disorder), Autoimmune cytopenia, Scleromyxedema (skin condition), Scleroderma (skin disorder), Crohn's disease (chronic inflammatory disease of the intestines), Behcet's disease, Rheumatoid arthritis, Juvenile arthritis, Multiple sclerosis, Polychondritis (chronic disorder of the cartilage) Systemic vasculitis (inflammation of the blood vessels), Alopecia universalis, Buerger's disease (limb vessel constriction, inflammation).

CANCER

Brain tumors—medulloblastoma and glioma, Retinoblastoma (cancer), Ovarian cancer, Skin cancer: Merkel cell carcinoma, Testicular cancer, Lymphoma, Non-Hodgkin's lymphoma, Hodgkin's lymphoma, Acute lymphoblastic leukemia, Acute myelogenous leukemia, Chronic myelogenous leukemia, Juvenile myelomonocytic leukemia, Cancer of the lymph nodes: Angioimmunoblastic lymphadenopathy, Multiple myeloma (cancer affecting white blood cells of the immune system), Myelodysplasia (bone marrow disorder), Breast cancer, Neuroblastoma (childhood cancer of the nervous system), Renal cell carcinoma (cancer of the kidney), Soft tissue sarcoma (malignant tumor that begins in the muscle, fat, fibrous tissue, blood vessels), Various solid tumors, Waldenstrom's macroglobulinemia (type of lymphoma), Hemophagocytic lymphohistiocytosis, POEMS syndrome (osteosclerotic myeloma), Myelofibrosis.

CARDIOVASCULAR

Acute Heart damage, Chronic coronary artery disease.

IMMUNODEFICIENCIES

Severe combined immunodeficiency syndrome, X-linked lymphoproliferative syndrome, X-linked hyper immunoglobulin M syndrome.

LIVER DISEASE

Chronic liver failure.

NEURAL DEGENERATIVE DISEASES & INJURIES

Parkinson's disease, Spinal cord injury, Stroke damage.

OCULAR

Corneal regeneration.

WOUNDS & INJURIES

Limb gangrene, Surface wound healing, Jawbone replacement, Skull bone repair.

OTHER METABOLIC DISORDERS

Sandhoff disease (hereditary genetic disorder), Hurler's syndrome (hereditary genetic disorder), Osteogenesis imperfecta (bone/cartilage disorder), Krabbe Leukodystrophy (hereditary genetic disorder), Osteopetrosis (genetic bone disorder), Cerebral X-linked adrenoleukodystrophy.

EXHIBIT 2

OCTOBER 27, 2004.

Senator JOHN F. KERRY,
John Kerry for President,
Washington, DC.

DEAR SENATOR KERRY: Recently you have made the promotion of embryonic stem cell research, including the cloning of human embryos for research purposes, into a centerpiece of your campaign. You have said you will make such research a "top priority" for government, academia and medicine (Los Angeles Times, 10/17/04). You have even equated support for this research with respect for "science," and said that science must be freed from "ideology" to produce miracle cures for numerous diseases.

As professionals trained in the life sciences we are alarmed at these statements.

First, your statements misrepresent science. In itself, science is not a policy or a political program. Science is a systematic method for developing and testing hypotheses about the physical world. It does not "promise" miracle cures based on scanty evidence. When scientists make such assertions, they are acting as individuals, out of their own personal faith and hopes, not as the voice of "science". If such scientists allow their individual faith in the future of embryonic stem cell research to be interpreted as a reliable prediction of the outcome of this research, they are acting irresponsibly.

Second, it is no mere "ideology" to be concerned about the possible misuse of humans in scientific research. Federal bioethics advisory groups, serving under both Democratic and Republican presidents, have affirmed that the human embryo is a developing form of human life that deserves respect. Indeed you have said that human life begins at conception, that fertilization produces a "human being." To equate concern for these beings with mere "ideology" is to dismiss the entire history of efforts to protect human subjects from research abuse.

Third, the statements you have made regarding the purported medical applications of embryonic stem cells reach far beyond any credible evidence, ignoring the limited state of our knowledge about embryonic stem cells and the advances in other areas of research that may render use of these cells unnecessary for many applications. To make such exaggerated claims, at this stage of our knowledge, is not only scientifically irresponsible—it is deceptive and cruel to millions of patients and their families who hope desperately for cures and have come to rely on the scientific community for accurate information.

What does science tell us about embryonic stem cells? The facts can be summed up as follows:

At present these cells can be obtained only by destroying live human embryos at the blastocyst (4–7 days old) stage. They proliferate rapidly and are extremely versatile, ultimately capable (in an embryonic environment) of forming any kind of cell found in the developed human body. Yet there is scant scientific evidence that embryonic stem cells will form normal tissues in a culture dish, and the very versatility of these cells is now known to be a disadvantage as well—embryonic stem cells are difficult to develop into a stable cell line, spontaneously accumulate genetic abnormalities in culture, and are prone to uncontrollable growth and tumor formation when placed in animals.

Almost 25 years of research using mouse embryonic stem cells have produced limited indications of clinical benefit in some animals, as well as indications of serious and potentially lethal side-effects. Based on this evidence, claims of a safe and reliable treatment for any disease in humans are premature at best.

Embryonic stem cells obtained by destroying cloned human embryos pose an additional ethical issue—that of creating human lives solely to destroy them for research—and may pose added practical problems as well. The cloning process is now known to produce many problems of chaotic gene expression, and this may affect the usefulness and safety of these cells. Nor is it proven that cloning will prevent all rejection of embryonic stem cells, as even genetically matched stem cells from cloning are sometimes rejected by animal hosts. Some animal trials in research cloning have required placing cloned embryos in a womb and developing them to the fetal stage, then destroying them for their more developed tissues, to provide clinical benefit—surely an approach that poses horrific ethical issues if applied to humans.

Non-embryonic stem cells have also received increasing scientific attention. Here the trajectory has been very different from that of embryonic stem cells: Instead of developing these cells and deducing that they may someday have a clinical use, researchers have discovered them producing undoubted clinical benefits and then sought to better understand how and why they work so they can be put to more uses. Bone marrow transplants were benefiting patients with various forms of cancer for many years before it was understood that the active ingredients in these transplants are stem cells. Non-embryonic stem cells have been discovered in many unexpected tissues—in blood, nerve, fat, skin, muscle, umbilical cord blood, placenta, even dental pulp—and dozens of studies indicate that they are far more versatile than once thought. Use of these cells poses no serious ethical problem, and may avoid all problems of tissue rejection if stem cells can be obtained from a patient for use in that same patient. Clinical use of non-embryonic stem cells has grown greatly in recent years. In contrast to embryonic stem cells, adult stem cells are in established or experimental use to treat human patients with several dozen conditions, according to the National Institutes of Health and the National Marrow Donor Program (Cong. Record, September 9, 2004, pages H6956–7). They have been or are being assessed in human trials for treatment of spinal cord injury, Parkinson's disease, stroke, cardiac damage, multiple sclerosis, and so on. The results of these experimental trials will help us better assess the medical prospects for stem cell therapies.

In the case of many conditions, advances are likely to come from sources other than any kind of stem cell. For example, there is a strong scientific consensus that complex diseases such as Alzheimer's are unlikely to be treated by any stem cell therapy. When asked recently why so many people nonetheless believe that embryonic stem cells will provide a cure for Alzheimer's disease, NIH stem cell expert Ron McKay commented that "people need a fairy tale" (Washington Post, June 10, 2004, page A3). Similarly, autoimmune diseases like juvenile diabetes, lupus and MS are unlikely to benefit from simple addition of new cells unless the underlying problem—a faulty immune system that attacks the body's own cells as though they were foreign invaders—is corrected.

In short, embryonic stem cells pose one especially controversial avenue toward understanding and (perhaps) someday treating various degenerative diseases. Based on the available evidence, no one can predict with certainty whether they will ever produce clinical benefits—much less whether they will produce benefits unobtainable by other, less ethically problematic means.

Therefore, to turn this one approach into a political campaign—even more, to declare that it will be a "top priority" or receive any particular amount of federal funding, regardless of future evidence or the usual scientific peer review process—is, in our view, irresponsible. It is, in fact, a subordination of science to ideology.

Because politicians, biotechnology interests and even some scientists have publicly exaggerated the "promise" of embryonic stem cells, public perceptions of this avenue have become skewed and unrealistic. Politicians may hope to benefit from these false hopes to win elections, knowing that the collision of these hopes with reality will come only after they win their races. The scientific and medical professions have no such luxury. When desperate patients discover that they have been subjected to a salesman's pitch rather than an objective and candid assessment of possibilities, we have reason to fear a public backlash against the credibility of our professions. We urge you not to exacerbate this problem now by repeating false promises that exploit patients' hopes for political gain.

Signed by 57 doctors.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT ON HURRICANE KATRINA

Mr. DAYTON. Mr. President, last week the Senate Committee on Homeland Security and Governmental Affairs, of which I am a member, approved its report titled "Hurricane Katrina. A Nation Still Unprepared." The committee's distinguished chairman set today as the deadline for additional views.

I reluctantly voted not to approve that draft of the report last week because it is seriously incomplete. While it is still lacking all of the information, documents, and testimony which President Bush and his subordinates denied the committee, last March 15 the ranking member asked the chairman to subpoena witnesses and documents that have been withheld by the White House. Regrettably, she declined to do so.

Earlier this year, on January 12, the chairman and ranking member wrote the White House Chief of Staff, Mr. Andrew Card, regarding the information they had previously requested. Their letter stated, in part:

> This practice (of withholding information) must cease.

It continued:

> We are willing to discuss claims of executive privilege asserted by the White House, either directly or through a Federal agency. But we will not stand for blanket instructions to refuse answering any questions concerning any communications with the EOP [Executive Office of the President].

Their insistence that either administration officials comply with this oversight committee's rightful demands or the President invoke his executive privilege not to do so was entirely appropriate. Unfortunately, when Mr. Card and his subordinates still refused to comply, the chairman denied the ranking member's request to issue subpoenas.

Regrettably, at its markup of the draft report, the Senate committee failed to support my motion to subpoena those documents and witnesses, which were being withheld by the White House without claim to executive privilege, and which were being wrongfully denied by executive agencies.

The administration's refusal to comply and cooperate with this investigation is deplorable, as is the Homeland Security Committee's failure to back the chairman and ranking member's proper insistence that the White House do so. That committee is charged by the full Senate with the responsibility to oversee the agencies, programs, and activities that are related to homeland security. The committee was expressly directed by the Senate majority leader to examine the Bush administration's failure to respond quickly or effectively to the disasters caused by Hurricane Katrina. This investigation is not complete without all of the information requested from the administration. Furthermore, the report's findings and conclusions can hardly be considered reliable if the White House has decided what information to provide and what information to withhold from the committee.

This unfortunate acquiescence confirms the judgment of the Senate Democratic leader that an independent bipartisan commission was necessary to ensure complete and unbiased investigation into the failed Federal, State, and local responses to Hurricane Katrina. His request has been repeatedly denied by the majority, with the assurance that the Senate committee would fulfill those responsibilities. Tragically and reprehensibly, it has failed to do so. Thus, the committee failed the Senate's constitutional obligations to be an independent, coequal branch of Government from the executive. It also failed the long-suffering victims of Hurricane Katrina, who deserve to know why their governments failed them, and all of the American people, who depend upon their elected representatives to protect their lives and their interests, without regard to partisan political considerations. That partisanship includes unjustified protection of an administration of the same political party, as much as undue criticism of one from another party.

That partisan protectionism is especially unwarranted given widespread agreement about the urgent need to understand the failures during and after Hurricane Katrina and to remedy them before another large-scale disaster, God forbid, should occur.

Now, 8 months after the hurricane, the lack of progress in cleanup, repair, and reconstruction in devastated areas provides further evidence of the Federal Government's continuing failure to respond efficiently or effectively. There is no time in which the helping hand of Government is more urgently needed and more surely deserved than during and after a disaster. Victims are damaged or devastated physically, emotionally, and financially.

Local officials and their public services are overwhelmed, if not destroyed. They need a Federal emergency response organization comprised of experienced, dedicated professionals, who have the resources necessary to alleviate short-term suffering and commence long-term recovery, and also have the authority to expeditiously commit those resources.

What the failed Federal response to Hurricane Katrina showed is the utter ineptitude of the Federal Emergency Management Agency, known as FEMA. Even worse, FEMA's indifference and incompetence in the aftermath of Katrina was not an isolated instance. In my direct experience with FEMA's disaster relief responses in Minnesota, the agency is too often a major obstruction to recovery projects rather than a principal ally.

Thus, I agree with the report's recommendation to create a new, comprehensive emergency management organization, to prepare for and respond to all disasters and catastrophes. I remain openminded about whether this new entity should remain within the Department of Homeland Security, as this recommendation intends, or be established as a separate Federal agency. The challenge for the committee, for all of Congress, and for the administration will be to actually recreate an existing Federal agency which has become dysfunctional and nonfunctional. Merely "reforming" FEMA by rearranging some boxes and lines in its organizational chart, revising it, and giving its head a new title, will be woefully inadequate. The new organization must be more streamlined, centralized, and compact than its predecessor. It must be less bureaucratic, less consumed with regulatory minutiae, and less resistant to local recovery initiatives. It must spend less time creating complex plans and cumbersome procedures, and more time in training and perfecting action responses to emergency situations.

History shows that "if a student does not learn the lesson, the teacher reappears." This report describes some of the most important lessons from the failed response to Hurricane Katrina. The committee's and this Congress's subsequent actions to correct these serious deficiencies before the next catastrophe will indicate whether those lessons will be learned.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I ask unanimous consent that I be allowed to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT OF 2005

Mr. AKAKA. Mr. President, I rise today to talk about bipartisan legislation that is of critical importance to the people of Hawaii. S. 147, the Native Hawaiian Government Reorganization Act of 2005, would extend the Federal policy of self-governance and self-determination to Hawaii's indigenous peoples, Native Hawaiians, by authorizing a process for the reorganization of a Native Hawaiian governing entity for the purposes of a government-to-government relationship with the United States.

Together with my senior Senator and the rest of Hawaii's congressional delegation, I first introduced this bill in 1999. The bill passed the House in 2000, but, unfortunately, the Senate adjourned before we could complete consideration of that bill.

Since then, I have introduced a bill every Congress. In every Congress, the committees of jurisdiction—the Senate Committee on Indian Affairs and the House Committee on Resources—have favorably reported the bill and its companion measure.

I thank the majority leader, the senior Senator from Tennessee, who is working to uphold his commitment to bring this bill to the Senate floor for a debate and rollcall vote. I must tell my colleagues that he did try to meet his commitment in September 2005 and did schedule it for the floor. But at that time, Katrina happened, and we took it off the calendar.

I also appreciate the efforts of my colleague from Arizona who opposes the bill on substance, but has worked with me to uphold his promise to allow the bill to come to the floor for debate and rollcall vote.

S. 147 does three things. First, it authorizes the Office of Native Hawaiian Relations in the Department of the Interior. The office is intended to serve as a liaison between Native Hawaiians and the United States. It is not intended to become another Bureau of Indian Affairs, as the current program for Native Hawaiians will remain with the agencies that currently administer those programs.

Second, the bill establishes the Native Hawaiian interagency coordinating group. This is a Federal working group to be composed of representatives from Federal agencies who administer programs and services for Native Hawaiians. There is no statutory requirement for these agencies to work together. This working group can coordinate policies to ensure consistency and prevent unnecessary duplication in Federal policies impacting Native Hawaiians.

Finally, the bill authorizes a process for the reorganization of the Native Hawaiian governing entity. And we ask: Why do we need to organize the entity? It is because the Native Hawaiian Government was overthrown with the assistance of U.S. agents in 1893. Rather than shed the blood of the people, our beloved queen, Queen Lili'uokalani, abdicated her throne after being arrested and imprisoned in her own home.

Following the overthrow, a republic was formed. Any reformation of a native governing entity has been discouraged. Despite this fact, Native Hawaiians have established distinct communities and retained their language, culture, and traditions. They have done so in a way that also allows other cultures to flourish in Hawaii. Now their generosity is being used against them by opponents of this bill who claim that because Native Hawaiians do not have a governing entity, they cannot partake in the Federal policy of self-governance and self-determination that is offered to their native brethren in the United States.

My bill authorizes a process for the reorganization of the Native Hawaiian governing entity for the purposes of a federally recognized government-to-government relationship. There are many checks and balances in this process which has the structure necessary to comply—to comply—with Federal law and still maintains the flexibility for Native Hawaiians to determine the outcome of this process.

Further, my bill includes a negotiations process between the Native Hawaiian governing entity, the State of Hawaii, and the United States to address issues such as lands, natural resources, assets, criminal and civil jurisdiction, and historical grievances. Nothing that is currently within the jurisdiction of another level of government can be conveyed to the Native Hawaiian Government without going through this negotiations process.

I am proud of the fact that this bill respects the rights of Hawaii's indigenous peoples through a process that is consistent with Federal law and it provides the structured process for the people of Hawaii to address the long-standing issues which have plagued both Native Hawaiians and non-Native Hawaiians since the overthrow of the Kingdom of Hawaii.

I want to reiterate to my colleagues that this bill is not race based. This bill is based on the Federal policies toward indigenous peoples. Those who characterize this bill as race based fail to understand the Federal policies toward indigenous peoples. Those who characterize this bill as race based fail to understand the legal and political relationship the United States had with the indigenous peoples and their governments preexisting the United States.

Finally, those who characterize this bill as race based are saying that Native Hawaiians are not native enough. I find this offensive. And I ask that my colleagues join me in my efforts to bring parity to Native Hawaiians by enacting my bill.

This effort will continue from day-today here. We will continue to bring forward the history of Hawaii and the reasons why we are trying to enact this bill, not only for the benefit of the indigenous people of Hawaii but for the benefit of the United States as well.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THUNE). Without objection, it is so ordered.

MORNING BUSINESS

Mr. VOINOVICH. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE EXPLANATION

Mr. DURBIN. Mr. President, yesterday, the Senate voted on two motions to invoke cloture to proceed to legislation regarding medical malpractice. Due to a mechanical problem with the plane on my flight from Chicago, I was necessarily absent for this debate and the first vote. Had I been present for that vote, I would have voted against the motion to invoke cloture, and I did vote against the second motion.

Since 2003, the last time Congress considered this issue, 34 States have passed malpractice legislation. Four additional States have pending legislation in this year.

AMA counts 21 States as "crisis" States. Of those 21 States, 16 States passed legislation in the past 2 years, and two are currently considering bills.

Instead of considering ways to cap pain and suffering damages for injured patients, Congress should be working on other health care priorities.

Neither S. 22 nor S. 23 do anything to address medical errors, the underlying reason for medical malpractice lawsuits.

According to the Institute of Medicine, medical errors have caused more American deaths per year than breast cancer, AIDS and car accidents combined. It is equivalent to a jumbo jet liner crashing every 24 hours for 1 year.

When I sat on the Government Affairs Committee, Dr. Carolyn Clancy, Director of the Agency for Healthcare Research and Quality, testified about patient safety.

She called medical errors "a national problem of epidemic proportions." She went on to say that Congress and HHS need to make sure that health care professionals work in systems that are designed to prevent mistakes and catch problems before they cause harm.

These bills will do nothing to reach that goal.

The most far-reaching study of the extent and cost of medical errors in our hospitals was published in the Journal of the American Medical Association, the authors of the study analyzed 7.45 million records from 994 hospitals in 28 States, a sample representative of about 20 percent of U.S. hospitals.

They concluded that medical injuries in hospitals "pose a significant threat to patients and incur substantial costs to society" and "are a serious epidemic confronting our health care system."

The study found that injuries in U.S. hospitals in 2000, just 1 year, led to approximately 32,600 deaths, at least 2.4 million extra days of patient hospitalization and additional costs of up to $9.3 billion. These injuries did not include adverse drug reactions or malfunctioning medical devices.

What do these bills do about these medical errors? Nothing.

Instead, these bills place an arbitrary, one-size-fits-all cap on non-economic damages, forfeiting the right of a jury to decide the appropriate level of compensation for an injured person.

The answer to this problem is not to have Congress deciding what injured patients should receive. America has judges and juries who make those decisions. One hundred Senators do not have all the facts and should not place a blanket cap on all cases.

Proponents of this bill are saying it is a "new" medical malpractice proposal because a patient could receive up to $750,000 in pain and suffering as opposed to the $250,000 cap we considered in 2003.

However, the cap is still $250,000 for a doctor, a hospital or other provider. If a patient is injured at three hospitals or by three doctors, he or she could receive a total $750,000, but the cap is still $250,000 per provider.

Ten years ago, Donna Harnett arrived at a hospital in Chicago, IL, in labor with her first child. She waited nearly 5 hours before being admitted. Following an initial examination, her doctor decided that her labor was not progressing quickly enough and prescribed a drug to help induce more contractions.

Later, when Donna's labor still was not progressing, her doctor broke her water and found that it was abnormal. Rather than consider a C-section, Donna's doctor decided to continue administering the drug, in hopes that the labor would progress.

Six hours later, Donna still hadn't delivered, but her son's fetal monitoring system began alarming, indicating that the baby was in serious respiratory distress. The doctor finally decided that it was time to perform an emergency C-section, but it was another hour before Donna was taken into the operating room.

During that time, the doctor failed to administer oxygen or an IV to help the baby breathe. After Martin was born, he remained in the intensive care unit for 3 weeks. Examinations have since revealed that Martin has substantial brain damage and cerebral palsy—a direct result of the doctor's failure to respond to indications of serious oxygen deprivation and deliver in a timely manner.

Donna's doctor told her never to have more children because there was a serious problem with her DNA, which could result in similar mental and physical disabilities in any of her future children.

Donna has since given birth to three perfectly healthy sons. Donna sued the doctor responsible for Martin's delivery and received a settlement, but this doctor is still licensed and practicing medicine in Illinois—despite several other cases that have been filed against him.

Donna is thankful that she has money from a malpractice settlement to help cover the costs associated with Martin's care that are not covered by health insurance—such as the used, wheelchair-accessible van that she purchased for $50,000, and the $100,000 for renovating the new home she purchased to make it accessible for Martin.

If the law we are debating today had been in place when Donna filed her malpractice suit against the doctor who delivered Martin, she doubts that she would have been able to keep him out of an institution, because as someone who sustained permanent injuries as a newborn, Martin would not have been eligible for an economic damage award.

The problem with malpractice premiums is a cyclical insurance problem.

We had a crisis during the 1970s and again in the 1980s. Dozens of States have passed tort reform. Yet we find ourselves faced with the same problems. That is because we haven't looked closely at insurance companies.

Property casualty insurers had a record year in 2005.

The property casualty insurance industry made $43 billion in profit last year.

The difference between the cost of the policies offered to doctors and hospitals, and the payouts from lawsuits is enormous. Payouts have remained steady while premiums have skyrocketed.

Wonder where that money is going?

Jeffry Immelt, the CEO of GE, made $19.23 million last year.

Martin Sullivan, CEO of American International Group, made $11 million.

Stephen Lilienthal, CEO of CNA Financial Corporation, made $3.2 million.

A. Derrill Crowe, CEO of ProAssurance, made $1.5 million.

This bill completely ignores the role of insurers in this problem.

Between 1993 and 2003, the annual premiums Americans paid for their health insurance increased by 79 percent and employer contributions to their employee insurance increased by 90 percent.

We need to be looking at the underlying reasons for rising health costs, and these bills do nothing to achieve that goal.

In fact, a new CBO report, published last Friday concluded that "the estimated effect of implementing a package of previously proposed tort limits is near zero."

In other words, capping pain and suffering for patients will not bring down health insurance costs.

Proponents of limiting pain and suffering claim frivolous lawsuits are at the root of the problem, but these bills do nothing to cut down on the number of lawsuits. They only punish those who have legitimate cases.

The people whose cases make it to jury verdicts have surmounted many hurdles. Cases without merit are thrown out before they ever reach the jury. Why would we want to limit pain and suffering for those whose cases make it through the system?

Medical malpractice is a complicated and multifaceted problem that requires a variety of solutions.

First, we must improve patient safety. Medicare is starting to embrace something called Pay for Performance that will go a long way toward improving quality.

The idea of Pay for Performance is to pay doctors based on whether they fulfill certain quality standards and use the best treatment methods, rather than simply reimbursing for all services performed.

Under a Medicare pilot program, doctors can qualify for bonuses if they provide services like vaccines and cancer screening, and eliminate unnecessary procedures.

Here is an example of how it can improve quality.

Hackensack University Medical Center in New Jersey signed up for the program. It agreed to report its performance on a variety of measures.

Right away, the hospitals noticed some problem areas. Under clinical guidelines, a patient who has had orthopedic surgery should be taken off IV antibiotics after 24 hours. Longer use of the drugs don't prevent infection, they cost money, and they can lead to greater antibiotic resistance.

Hackensack hospital found that 25 percent of their surgery patients were being kept on IV antibiotics longer than 24 hours. Within one week of the launch of the Pay for Performance program, 94 percent of patients were taken off the drugs on time.

Second, we must improve oversight. We have something called the National Practitioner Data Bank, which was set up to allow licensing boards and employers to check on doctors' records before they are hired so problem doctors could not move from state to state.

This data bank is not working. According to the federal Department of Health and Human Services, nearly 54 percent of all hospitals have never reported a disciplinary action to the data bank.

Federal law requires that hospitals and medical boards be penalized if they don't report to the data bank. But no fine or penalty has ever been levied.

Further, hospitals sometimes agree not to report doctors they are forcing from their staffs to smooth their departure. Also, physicians' names are removed from malpractice settlements to keep them out of the data bank.

The failings of the data bank create problems like the one faced by Gwyneth Vives. Three hours after giving birth to a healthy boy in 2001, Vives, a scientist at Los Alamos National Laboratory in New Mexico, suffered a complication and bled to death.

The OB/GYN who tended to Ms. Vives had a troubled history. She had previously been forced to leave a job at Duke University Medical Center in North Carolina when questions arose about her surgical skills and her complication rate.

According to the New Mexico Medical Board, she lied to get her New Mexico license, saying she had never lost hospital privileges.

After Ms. Vives died, the OB/GYN went to Michigan and got a license.

We must improve the national practitioner database system so the few doctors who are causing medical injuries cannot simply move to another State.

Contrary to popular belief about frivolous lawsuits, 95 percent of people who are injured by a doctor do not sue.

Studies have shown that the most significant reason people sue is because they feel their doctor or hospital did not acknowledge the problem, or apologize. In other words, they are angry.

Based on this data, a program called "Sorry Works" has been launched. Under the program, doctors and hospital staff conduct analyses after every patient injury, and if a medical error caused the problem, the doctors and hospital staff apologize, provide solutions to fix the problem, and offer upfront compensation to the patient, family, and their attorney.

This approach helps alleviate anger and actually reduces the chances of litigation and costly defense litigation bills. The program has worked successfully at hospitals such as the University of Michigan Hospital system, Stanford Medical Center, Children's Hospitals and Clinics of Minnesota, and the VA Hospital in Lexington, Kentucky.

I am proud to say that Illinois is the first State to enact a Sorry Works pilot program statewide.

My colleague from Illinois, BARACK OBAMA, has introduced a bill in the U.S. Senate to facilitate federal funding for apology programs.

The insurance industry has a blanket exemption from Federal antitrust laws. Using their exemption, insurers can collude to set rates, resulting in higher premiums than true competition would achieve—and because of this exemption, enforcement officials cannot investigate any such collusion.

There was an article in the Washington Post last Friday about Hank Greenberg, the former chairman of one of the largest malpractice insurers in the country, American Continental Group.

Mr. Greenberg has been sued by New York Attorney General Eliot Spitzer for fraudulent transactions aimed at manipulating the insurer's financial statements and deceiving regulators and investors.

If Congress is serious about controlling rising medical malpractice premiums, we must revoke this blanket exemption created in the McCarran-Ferguson act.

I am a cosponsor of a bill introduced by Senator LEAHY called the Medical Malpractice Insurance Antitrust Act. Our bill modifies the McCarran-Ferguson Act for the most pernicious antitrust offenses: price fixing, bid rigging, and market allocations.

Who could object to a prohibition on insurance carriers' fixing prices or dividing territories for anticompetitive purposes. After all, the rest of our Nation's industries manage either to abide by these laws or pay the consequences.

We need to stop insurers from gouging doctors and hospitals and this bill is a step in the right direction.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On March 7, 2006, in New York, NY, Victor Lopez and David Andrade were sentenced separately to 8 years in prison for their involvement in a series of beatings that targeted gay men. Lopez and Andrade would pick up gay men, then beat and rob them. According to police, these attacks were motivated by the victims sexual orientation.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

HONORING OUR ARMED FORCES

STAFF SERGEANT JOSEPH E. PROCTOR

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave man from Indianapolis. Joseph E. Proctor, 38 years old, was killed on May 2 in a suicide bombing near his observation post in Iraq. Leaving his life and family behind him, Joseph risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

After September 11, many Americans, including Joseph, felt a deep calling to help their country in its time of need. In the wake of the attacks, despite his family's concerns over his safety, Joseph signed up for the Indiana National Guard, where he had served 20 years ago as a young man. After his Guard service in the mid-1980s, he went into the Army on active duty and served in Desert Storm. Joseph re-enlisted in the Guard in 2002, and began work as a refueler in Iraq. His brother Eddie told a local news outlet that Joseph had seen his military service as a way to help out fellow soldiers. He recounted Joseph's selflessness, saying that one of the reasons Joseph went to Iraq was to give other soldiers a break to come home and see their families. At the time of his death, he was supposed to return home in just 2 weeks.

Joseph was killed while serving his country in Operation Iraqi Freedom. He was assigned to the 638th Aviation Support Battalion in Noblesville. This brave soldier leaves behind his wife, Beth, and three children, Joe, 20, Cassandra, 17, and Adam, 11, years old.

Today, I join Joseph's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Joseph, a memory that will burn brightly during these continuing days of conflict and grief.

Joseph was known for his dedication to his family and his love of country. Today and always, Joseph will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Joseph's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Joseph's actions will live on far longer that any record of these words.

It is my sad duty to enter the name of Joseph Proctor in the official record of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Joseph's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Joseph.

HONORING CORPORAL ERIC LUEKEN

Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young Marine from Southern Indiana. Eric Lueken, 23 years old, died on April 22 in combat operations in the Anbar province of Iraq. With his entire life before him, Eric risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

A 2001 graduate of Northeast Dubois High School, Eric joined the Marine Corps in October 2003 to challenge himself and see the world. He previously served in Afghanistan for 8 months, before heading out to Iraq in March. He was a decorated war hero, who was awarded with a Purple Heart, two Combat Action Ribbons, a National Defense Service Medal, a Sea Service Deployment Ribbon, Iraq and Afghanistan Service Medals and the Global War on Terror Service Medal. A Marine who took his work seriously, Eric had planned to marry his girlfriend Ericka Merkel upon his return from Iraq. She told a local paper, "He always put other people before him." I stand here today to express my gratitude for Eric's sacrifice and that of his family and loved ones.

Eric was killed while serving his country in Operation Iraqi Freedom. He was assigned to the 3rd Battalion, 3rd Marine Regiment, 3rd Marine Division, III Marine Expeditionary Force based at Kaneohe Bay, Hawaii. This brave young soldier leaves behind his parents Glenn "Jake" and Melinda Lueken, and his brother Brent.

Today, I join Eric's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Eric, a memory that will burn brightly during these continuing days of conflict and grief.

Eric was known for his dedication to his family and his love of country. Today and always, Eric will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Eric's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Eric's actions will live on far longer that any record of these words.

It is my sad duty to enter the name of Eric Lueken in the official record of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Eric's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Eric.

HONORING STAFF SERGEANT ERIC A. MCINTOSH

Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Indianapolis. Eric McIntosh, 29 years old, was one of three Marines killed on April 2 during combat operations in the Anbar province of Iraq. With his entire life before him, Eric risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

A former Roncalli High School student, Eric had been in the Marines for 10 years and was on his second tour in Iraq when he was killed. Although he graduated high school unsure of what he wanted to do with his life, he found purpose during his time as a Marine. After completing his second tour, he hoped to become a recruiter for the military. Despite having battled asthma as a child, Eric was an avid athlete and an enthusiastic surfer. His brother Richard, who served in the Army during the Gulf War, recalled his pride in Eric and Eric's passion for his job. "He loved the Marines. He loved his job," said Richard. "He was a way better soldier than I was."

Eric was killed while serving his country in Operation Iraqi Freedom. He was a member of the 3rd Battalion, 8th Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force. This brave young soldier leaves behind his mother Betty, his brother Richard, his sister Lisa Schoenly; and his wife Cynthia.

Today, I join Eric's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Eric, a memory that will burn brightly during these continuing days of conflict and grief.

Eric was known for his dedication to his family and his love of country. Today and always, Eric will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Eric's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Eric's actions will live on far longer that any record of these words.

It is my sad duty to enter the name of Eric McIntosh in the official record of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Eric's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Eric.

COSPONSORSHIP OF S. 722

Mr. BURNS. Mr. President, I rise today to express my support for legislation introduced in the Senate which has a significant impact on more than 800 small businesses in Montana and hundreds of thousands more around the country. S. 722 would reduce the tax burden on every barrel of beer, which currently stands at $18. Prior to 1991, this tax was only half of the cost today.

This tax was originally enacted as a means to pay for the U.S. Civil War. The lesson is that there is no such thing as a short-term tax. The tax on beer, which accounts for 44 percent of a bottle of beer and a whopping 80 percent cost of a six-pack, has been steadily increasing since 1991.

The taxation of beer falls unfairly on Montanans who can least afford to pay it. A report by Citizens for Tax Justice indicates that people whose family's income is in the top 20 percent pay five times less in excise beer tax than those whose family is in the bottom 20 percent.

The Tax Code was intended to raise revenue for the Federal Government. It should not be used to influence behavior or personal choice. This excessive tax on beer is not efficient at raising revenue, and the cost of each dollar imposed is much greater in terms of jobs lost and economic drag.

There are, of course, concerns about the social costs of alcohol consumption. I am very sensitive to those concerns and am encouraged by the reductions in drunk driving and alcohol abuse. But the fact is, this tax punishes all beer consumers instead of the minority who act dangerously. In any case, these problems must be addressed directly through specific legislation rather than indirectly through the Tax Code, which is already complicated enough.

Mr. President, because this tax has grown so much since 1991 and because it not only affects beer wholesalers and resellers but hard-working Montanans who enjoy these products responsibly, I am pleased to cosponsor this legislation in the Senate.

PASSING THE MINIMUM WAGE

Mr. BIDEN. Mr. President, every day we see more evidence that this economy is not working for millions of Americans. One troubling trend is the growing divide between rich and poor the widening gap in income inequality and the distribution of wealth in our country.

Over the past 24 years, the most fortunate Americans, in the top 1 percent, saw their incomes more than double from an average of $306,000 to over $700,000. During that same period, the incomes of average Americans grew just 15 percent.

But the poorest fifth of our citizens saw their already inadequate incomes grow just $600—over 24 years.

As a result, the top 1 percent of Americans now get over 12 percent of all the income, up over 50 percent 24 years ago. And the share of the average family actually dropped. The share going to the bottom fifth dropped even more.

We are moving apart, not coming together, as a nation. Last year, the Chair of the Federal Reserve called growing concentration of income in the hands of a tiny minority "a really serious problem."

There are many things we need to do to get our economy working for working families. One place to start is at the bottom among those Americans who work at full-time jobs and remain below the poverty line. We should not permit that to happen. If we honor work, we have to reward it. We should not stand for any American to work a full-time job and come home too poor to meet the basic needs.

The minimum wage has not increased since 1996—and all of that increase has been wiped out by the cost of living. The minimum wage today, at $5.15 an hour, is even worth less in today's dollars than the $4.25 rate it replaced.

Today, the minimum wage is worth only a third of the average hourly wage of American workers, the lowest level in more than half a century. The bottom rung of the ladder of opportunity is broken. It is time to fix it.

That is why I am a cosponsor of S. 1062, which will raise the minimum wage in three stages, over the next 3 years, to $7.25 an hour.

That means a pay raise for over 7 million workers and lifting the floor under everybody's wages.

It has been 10 years since we last raised the minimum wage. Over the past few years, we have passed tax cuts that last year alone gave over $100,000 to the wealthiest among us. The gap between rich and poor is now as big as it was during the Great Depression.

Raising the minimum wage is only the first step in restoring balance and fairness to our economy. But it is past time for us to take that step. We must not wait any longer.

BE KIND TO ANIMALS WEEK

Mr. ALLARD. Mr. President, I am pleased to announce that this week, May 7 to 13, 2006, has been designated by the American Humane Association as the 92nd Be Kind to Animals Week. The American Humane Association, which is headquartered in Englewood, CO, was founded in 1877 and is the oldest national organization dedicated to the mission of preventing cruelty to animals, as well as to children. Through this work, American Humane has helped America shed light on the nature and origins of cruelty and through this annual observance reminds us that the practice of kindness can both heal hurt and yield constructive reform.

When, in 1915, American Humane launched the Nation's first national week for animals, its purpose was simple: "to direct the attention of the public to the importance of giving proper care and attention to animals." This message resonated powerfully with Americans and quickly evolved into a national public education campaign with a broader mission: promoting the teaching of humane education in our schools; promoting the good works of animal shelters; and helping Americans understand the unique bond between humans and animals.

Be Kind to Animals Week is the oldest event of its kind. Each year it reminds us how animals enrich our lives through their companionship, friendship and love. Over the last 91 years, a central theme of this annual event has been the importance of teaching the principles of kindness and compassion to children. Humane groups spend much of their time reacting to mistreatment of animals as it occurs. American Humane believes that, if we share our humane values with our children, these problems can be prevented and our society made safer and kinder.

American Humane's Be Kind to Animals Week is as much a lifelong attitude as it is a weeklong event. It is about animal shelters, veterinarians, humane educators, animal control professionals, and the faith community promoting discussion and reflection about kindness to animals, to individuals, within families and perhaps most important, within communities. But Be Kind to Animals Week isn't just about animals. It is also about children and those who care for and about them.

As a veterinarian, I have seen firsthand how important animals are to people. When a family adopts a pet, it becomes one of them. Usually, when people bring an animal to a veterinarian, it is because there is something wrong with the animal. It was always obvious to me the love that people had for their animals. The illness of a pet can cause great sorrow, but the healing of a pet brings great joy. Many studies have shown the increased happiness and healing powers of spending time with a pet.

During Be Kind to Animals Week, we should all keep in mind a simple but powerful message. The week should serve as a reminder that as humans, we need to be ever more compassionate about the animals in our world, whether they are companion pets, service animals such as seeing-eye dogs, zoo critters, livestock, or nature's wildlife. It is a reminder that the bond between humans and animals is a vital one and is capable of bringing joy and healing to people of all ages. It is also a reminder to be more kind and compassionate to our fellow man. We co-exist in this world—human to human and human to animal—and those bonds must be maintained, they must be kept strong.

ADDITIONAL STATEMENTS

HONORING SIGNATURE SCHOOL

• Mr. BAYH. Mr. President, I rise today to pay tribute to Evanville's Signature School, which was recently ranked by Newsweek Magazine as one of the top one hundred high schools in the Nation. This ranking is a remarkable honor to the school, and it demonstrates the hard work and dedication to educational excellence of the students and teachers at Signature.

I am honored to have the opportunity to commend the achievements of Signature's students and the commitment of Signature's families and teachers, which made this prestigious recognition possible. Now more than ever, education is the key to greater personal opportunity. Here in Washington, I have fought to ensure that education is available and accessible to all our Nation's students. However, the real, heroic work is done on the ground, in our schools. The Signature School is a perfect example of what can happen when teachers and students unite around the goal of achieving academic excellence.

Signature was the first charter school in Indiana, created to offer a challenging curriculum and nurturing educational environment to its students. Signature was a half-day program offering accelerated courses for a decade, before the passage of Indiana's charter school law, allowing Signature to become a full-day, independent charter school in 2002. Since then, Signature has been able to focus full-time on offering Evansville students the opportunity to compete at a national level. As Newsweek's rankings demonstrate, the school has certainly succeeded in accomplishing its mission.

I wish to take a moment to pay special tribute to Signature's teachers and principal, Vicki Schneider. With their focus on quality education and dedication to their students, every teacher and staff person at Signature has helped ensure that their graduates have the necessary tools to excel in today's increasingly competitive world. This summer, as Signature's graduates take the next step in their lives, they do so well-prepared to assume the mantle of leadership for their generation. I look forward to following their future successes, and I hope they will remember their extraordinary education and someday return the favor and give back to the youth of our country so that they can enjoy similar opportunities.•

IN RECOGNITION OF DELTA TAU DELTA'S BETA PHI CHAPTER

• Mr. CARPER. Mr. President, I rise today to recognize the Beta Phi Chapter of Delta Tau Delta for their reinstatement to the Ohio State University's fraternity system and for the chapter's commitment to living lives of excellence that can serve as an example for us all.

Founded at Bethany College in 1858, Delta Tau Delta began as a response by the eight founding members to suspicions that the student-run Neotrophian Literary Society had been compromised and that the results of a student oratory contest had been manipulated. This injustice was not to be tolerated by the young founding members, as they were devoted to the idea of truth in all matters. Their response was to found the fraternal society of Delta Tau Delta, which continues to thrive on college campuses across America.

This devotion to the truth is only one of the hallmarks of Delta Tau Delta. The ideals of courage, faith and power complete the quartet of founding principles. These guiding lights have illuminated the lives of many extraordinary young men who have undertaken the commitment that is required to become an active member of this outstanding organization.

Those men have gone on to serve in positions of trust and great responsibility today as CEOs of companies like GM and General Mills, as Governor of New Mexico, as U.S. Representatives, and as U.S. Senators of South Dakota and Delaware.

The Beta Phi chapter at the Ohio State University was founded on November 19, 1894. More than 2,000 young men have forged their college memories there through their participation in this chapter. Located less than 200 yards from campus, the Delta Tau Delta house stood for much of the past century as a testament to character, honesty, and integrity. The reinstatement of the Beta Phi chapter represents a return to those values.

These bonds of brotherhood do not dissolve at graduation. They continue through time because the brothers of Delta Tau Delta commit themselves to a cause that is larger than a single individual or graduating class.

With chapters on more than 200 college campuses across America and approximately 6,000 active members and more than 145,000 alumni. Delta Tau Delta has had an immeasurable impact on the communities in which its members—past and present—live and serve. Volunteer service is vital to the improvement of any community. It is one of the primary requirements for becoming an active member of Delta Tau Delta. By partnering with the Adopt-A-School volunteer service organization, the men of the Beta Phi Chapter have lent their time and energy at every turn to mentor and tutor thousands of schoolchildren less fortunate than they.

The Delta Tau Delta experience also allows young men to gain experience that the average college student does not receive by providing members with opportunities for responsibility and leadership that are not easily found in the many traditional college settings. Whether mentoring school children or organizing a community blood drive. the men of Delta Tau Delta accept responsibility for more than themselves. They learn to give back to their communities and strive for excellence at every opportunity.

With this proud tradition in mind. the men of Delta Tau Delta's Beta Phi chapter are to be commended and applauded for their reinstatement to the Ohio State University community and for this chapter's return to the principles on which it was founded more than a century ago.•

IN RECOGNITION OF RETHA FISHER'S RETIREMENT

• Mr. CARPER. Mr. President. I rise to today in recognition of Retha Fisher upon her retirement. Retha has served as Westminster Presbyterian Church's director of social services for 29 years. and her leadership over that span of time has won her the respect and gratitude of our entire State. She has been, and remains, a trusted friend to many members of our congregation and of the community that we serve.

Retha was born in Fayetteville, NC, on April 18, 1936. She was the only child of Clara and Lester McLerin. Her early childhood ambition was to become a nurse, but she decided against it because she disliked the sight of blood. After many years of piano and voice lessons, she began her college career in Washington, DC. at Howard University where she majored in music. She later decided to follow her childhood desire to help her fellow man and changed her major to psychology and sociology with a minor in English. It was during this time that she made the decision to become a social worker.

After graduation and while looking for employment. Retha applied to what was then known as the State Department of Welfare, Child Welfare Division in Dover. During the interview process. she was asked if she would like to take advantage of a stipend to attend graduate school. While living in Wilmington, she attended the University of Pennsylvania's School of Social Work and was placed in a position in Dover. Her placement was with Child Welfare Services. and she soon discovered that working with children was her true calling. Twelve years later, Retha accepted a position with the Wilmington Housing Authority as their coordinator of social services.

Throughout these many years doing her fine work, Retha maintained and nourished some other "loves of her life." She met and married Arland Roland Fisher, whom everyone called Roland. Together they had one daughter, Whitney Gayle Fisher, who now practices personal injury and criminal law in Newark, NJ. After her daughter's birth, Retha left her position to with the Wilmington Housing Authority to devote her time as a full-time wife and mother.

In 1977, though, Retha was asked by Westminster Presbyterian Church if she would be interested in interviewing for a job there. It was with this wonderful opportunity that Retha found her true calling. She became the church's director of social services, and the people of Westminster and of Delaware have been truly blessed by this decision for almost three decades.

Retha's service has extended far beyond the church walls and well into the community. In 1993, she founded the Food Bank of Delaware. a nonprofit agency that helps feed hungry people throughout our State. The Food Bank of Delaware is the only facility in Delaware with the equipment, warehouse, and staff to collect donations for all sectors of the food industry and to safely and efficiently redistribute it to the people who need it most. Through 235 member agencies. the Food Bank of Delaware distributes over 10 million pounds of food annually.

In addition to the Food Bank of Delaware. Retha has also helped countless low-income individuals with financial assistance. She founded F.A.I.T.H. Center, which provides financial assistance to the poor. In 1992. she also chaired the Conectiv—now Delmarva Power—Consumer Council. which continues to meet with representatives of the utility and the State of Delaware to bring financial support to those who cannot afford to pay their utility bills.

In 1989, Retha met with 10 Westminster couples to explore the possibility of how they might help homeless families get off the street and into adequate housing. To that end, Retha founded the Samaritans. From case management to furniture to mentoring. the Samaritans stand ready to provide support for the year or so that a homeless family needs to become stabilized.

At Christmastime. Retha embodies the true spirit of the holidays. Each year, Retha organizes and oversees Westminster's yearly program to distribute Christmas food and gift baskets to nearly 200 clients of the social services agencies of greater Wilmington.

Retha has not only brought financial assistance through her work in these various programs, but she has served as a spiritual leader as well. She has been an ear to the lonely and a person to pray with through the hard times. She has given each of these people who have come to her dignity and hope.

Through Retha's tireless efforts, she has made a profound difference in the lives of thousands of Delawareans. Upon her retirement. she leaves behind a legacy of commitment to public service for future generations to follow. I thank her for the friendship that many of us are privileged to share with Retha and for the inspiration that she provides through a lifetime of caring. On behalf of all Delawareans, I congratulate her on a truly remarkable and distinguished career and extend to her my very best wishes for every success in the future. I wish her and her family only the very best in all that lies ahead.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2389. A bill to amend the Communications Act of 1934 to prohibit the unlawful acquisition and use of confidential customer proprietary network information. and for other purposes (Rept. No. 109-253).

By Mr. WARNER, from the Committee on Armed Services, without amendment:

S. 2766. An original bill to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes (Rept. No. 109–254).

S. 2767. An original bill to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

S. 2768. An original bill to authorize appropriations for fiscal year 2007 for military construction, and for other purposes.

S. 2769. An original bill to authorize appropriations for fiscal year 2007 for defense activities of the Department of Energy, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DODD (for himself and Mr. SMITH):

S. 2765. A bill to provide assistance to improve the health of newborns, children, and mothers in developing countries, and for other purposes; to the Committee on Foreign Relations.

By Mr. WARNER:

S. 2766. An original bill to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. WARNER:

S. 2767. An original bill to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. WARNER:

S. 2768. An original bill to authorize appropriations for fiscal year 2007 for military construction, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. WARNER:

S. 2769. An original bill to authorize appropriations for fiscal year 2007 for defense activities of the Department of Energy, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. MCCAIN (for himself, Mr. BIDEN, Mr. LIEBERMAN, and Mr. LEAHY):

S. 2770. A bill to impose sanctions on certain officials of Uzbekistan responsible for the Andijan massacre; to the Committee on Foreign Relations.

By Mr. VITTER:

S. 2771. A bill to increase the types of Federal housing assistance available to individuals and households in response to a major disaster, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. VOINOVICH (for himself, Mr. BINGAMAN, Mr. DEWINE, and Mr. AKAKA):

S. 2772. A bill to provide for innovation in health care through State initiatives that expand coverage and access and improve quality and efficiency in the health care system; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:

S. 2773. A bill to require the Federal Government to purchase fuel efficient automobiles, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COLEMAN (for himself, Ms. LANDRIEU, and Mr. CRAIG):

S. Res. 471. A resolution recognizing that, during National Foster Care Month, the leaders of the Federal, State, and local governments should provide leadership to improve the care given to children in foster care programs; considered and agreed to.

ADDITIONAL COSPONSORS

S. 185

At the request of Mr. NELSON of Florida, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 401

At the request of Mr. HARKIN, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 401, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 713

At the request of Mr. ROBERTS, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 713, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 722

At the request of Mr. SANTORUM, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 722, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 1278

At the request of Mr. LEAHY, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1278, a bill to amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States, and for other purposes.

S. 1537

At the request of Mr. AKAKA, the names of the Senator from Illinois (Mr. OBAMA) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1537, a bill to amend title 38, United States Code, to provide for the establishment of Parkinson's Disease Research Education and Clinical Centers in the Veterans Health Administration of the Department of Veterans Affairs and Multiple Sclerosis Centers of Excellence.

S. 1698

At the request of Mr. KERRY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1698, a bill to accelerate efforts to develop vaccines for diseases primarily affecting developing countries and for other purposes.

S. 1774

At the request of Mr. CORNYN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1774, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Heart, Lung, and Blood Institute with respect to research on pulmonary hypertension.

S. 1934

At the request of Mr. SPECTER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1934, a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes.

S. 2039

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2039, a bill to provide for loan repayment for prosecutors and public defenders.

S. 2306

At the request of Mr. LEVIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2306, a bill to amend the National Organ Transplant Act to clarify that kidney paired donation and kidney list donation do not involve the transfer of a human organ for valuable consideration.

S. 2321

At the request of Mr. SANTORUM, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from North Carolina (Mrs. DOLE) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. 2321, a bill to require the Secretary of the Treasury to mint coins in commemoration of Louis Braille.

S. 2452

At the request of Mr. BAYH, the name of the Senator from Nebraska (Mr.

HAGEL) was added as a cosponsor of S. 2452, a bill to prohibit picketing at the funerals of members and former members of the armed forces.

S. 2491

At the request of Mr. CORNYN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2491, a bill to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

S. 2510

At the request of Mr. DURBIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2510, a bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes.

S. 2554

At the request of Mr. ENSIGN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 2554, a bill to amend the Internal Revenue Code of 1986 to expand the permissible use of health savings accounts to include premiums for non-group high deductible health plan coverage.

S. 2562

At the request of Mr. CRAIG, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2562, a bill to increase, effective as of December 1, 2006, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 2644

At the request of Mrs. FEINSTEIN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2644, a bill to harmonize rate setting standards for copyright licenses under sections 112 and 114 of title 17, United States Code, and for other purposes.

S. 2652

At the request of Mrs. FEINSTEIN, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2652, a bill to amend chapter 27 of title 18, United States code, to prohibit the unauthorized construction, financing, or, with reckless disregard, permitting the construction or use on one's land, of a tunnel or subterranean passageway between the United States and another country.

S. 2658

At the request of Mr. BOND, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2658, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

At the request of Mr. LEAHY, the names of the Senator from Nevada (Mr. REID) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2658, supra.

S. 2674

At the request of Mr. AKAKA, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2674, a bill to amend the Native American Languages Act to provide for the support of Native American language survival schools, and for other purposes.

S. 2692

At the request of Mr. LEVIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2692, a bill to suspend temporarily the duty on certain microphones used in automotive interiors.

S. 2694

At the request of Mr. CRAIG, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2694, a bill to amend title 38, United States Code, to remove certain limitations on attorney representation of claimants for veterans benefits in administrative proceedings before the Department of Veterans Affairs, and for other purposes.

S. 2697

At the request of Mr. LUGAR, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2697, a bill to establish the position of the United States Ambassador for ASEAN.

S. 2703

At the request of Mr. LEAHY, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Indiana (Mr. BAYH) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 2703, a bill to amend the Voting Rights Act of 1965.

S. 2704

At the request of Mr. DEWINE, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2704, a bill to revise and extend the National Police Athletic League Youth Enrichment Act of 2000.

S. 2723

At the request of Mr. LAUTENBERG, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 2723, a bill to amend title XVIII of the Social Security Act to require the sponsor of a prescription drug plan or an organization offering an MA-PD plan to promptly pay claims submitted under part D, and for other purposes.

S. 2725

At the request of Mrs. CLINTON, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 2725, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal Minimum wage and to ensure that increases in the Federal minimum wage keep pace with any pay adjustments for Members of Congress.

S. 2754

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2754, a bill to derive human pluripotent stem cell lines using techniques that do not knowingly harm embryos.

S. 2759

At the request of Mr. SMITH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2759, a bill to provide for additional outreach and education related to the Medicare program and to amend title XVIII of the Social Security Act to provide a special enrollment period for individuals who qualify for an income-related subsidy under the Medicare prescription drug program.

S. RES. 320

At the request of Mr. ENSIGN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. Res. 320, a resolution calling the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide.

S. RES. 436

At the request of Mr. MCCAIN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. Res. 436, a resolution urging the Federation Internationale de Football Association to prevent persons or groups representing the Islamic Republic of Iran from participating in sanctioned soccer matches.

S. RES. 469

At the request of Mr. LIEBERMAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 469, a resolution condemning the April 25, 2006, beating and intimidation of Cuban dissident Martha Beatriz Roque.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. DODD (for himself and Mr. SMITH):

S. 2765. A bill to provide assistance to improve the health of newborns, children, and mothers in developing countries, and for other purposes; to the Committee on Foreign Relations.

Mr. President, I rise today to introduce, on behalf of myself and my friend, Senator GORDON SMITH of Oregon, the Child Health Investment for Long-term Development (CHILD and Newborn) Act of 2006. This legislation would perform four simple, yet critically important functions.

First, it would require the Administration to develop and implement a strategy to improve the health of, and reduce mortality rates among, newborns, children, and mothers in developing countries.

Second, it would mandate the establishment of a U.S. Government task force to assess, monitor, and evaluate the progress of U.S. efforts to meet the United Nations Millennium Development Goals by 2015—specifically as those goals relate to reducing mortality rates for mothers and for children less than 5 years of age in developing countries.

Third, it would authorize the President to furnish assistance for programs whose goal is to improve the health of newborns, children, and mothers in developing countries.

And fourth, this legislation would authorize appropriations to carry out its provisions—$660 million for fiscal year 2007, and $1.2 billion for each of fiscal years 2008–2011.

I know that some of my colleagues will look at this bill and ask why the U.S. should devote such large amounts of resources to combating child and maternal mortality in the developing world. Certainly, nobody would deny that it's an important cause, but should it really be this much of a priority?

I would argue that the answer to this is yes. Why? Because with U.S. leadership, the current reality for mothers and their young children in the developing world can be changed dramatically.

What is that reality?

Almost 11 million children under the age of 5 die every year in the developing world—that's approximately 30,000 each day. About four million of those children die in their first four weeks of life. In many cases, they aren't even provided with a fighting chance. Indeed, for children under the age of five in the developing world, preventable or treatable diseases such as measles, tetanus, diarrhea, pneumonia, and malaria are the most common causes of death.

Each year, more than 525,000 women die from causes related to pregnancy and childbirth—more than 1,400 each day. Ninety-nine percent of these deaths occur in the developing world. And the lifetime risk of an African woman dying from a pregnancy or childbirth-related complication is I in 16, a high level of risk that is all the more striking when compared to the same risk for women in more developed regions—1 in 2,800. Some of the most common risk factors for maternal death in developing countries include early pregnancy and childbirth, closely spaced births, infectious diseases, malnutrition, and complications during childbirth.

Mr. President, the deaths of these nearly 12 million mothers and children are from largely preventable causes. This is a tragic situation, and it shouldn't be the case.

Luckily, we can combat these high levels of mortality—and it won't require lots of sophisticated technology. Instead, it will require simple measures that we take for granted here in the developed world.

For instance, it is estimated that two-thirds of deaths among children under 5 years of age—that's 7.1 million children, including 3 million newborns—could be prevented by low-cost, low-tech health and nutritional interventions. These interventions include encouraging breastfeeding; providing vitamin supplements, immunizations, and antibiotics; offering oral rehydration therapy with clean water; and expansion of basic clinical care.

For expecting mothers, simple steps such as birth spacing, access to preventive care, skilled birth attendants, and emergency obstetric care can help reduce maternal morality rates. And keeping mothers healthy is critical because the welfare of newborns and infants is inextricably tied to the health of the mother.

Mr. President, the U.S. isn't new at this battle. Over the past 30 years, our work in promoting child survival and maternal health globally has resulted in millions of lives being saved.

And in 2000, the U.S. joined 188 other countries in supporting eight Millennium Development Goals laid out by the United Nations. Two of these goals are related to child and maternal health—one calls for a reduction by two-thirds in the mortality rate of children under 5, and the other calls for a reduction in maternal deaths by three-quarters. Both of these goals are targeted to be met by 2015.

But with current structures and at current funding levels, the world is unlikely to meet these laudable goals. Certainly, the U.S. can't meet these global needs alone. Addressing this critical issue can't be a unilateral effort—countries around the world must also do their part and come forward with much-needed funding.

But passing the CHILD and Newborn Act of 2006 would send a strong message to the international community that this is a priority issue, and it would encourage them to step up to the plate. Millions of lives could be saved in the process.

On September 14, 2005, President Bush stated that the U.S. is "committed to the Millennium Development Goals." I commend the President for his words. But now, it is time for Congress to stand up and make sure that the U.S. fulfills this commitment to protect millions of innocent women and their children around the globe. I urge my colleagues to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2765

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Health Investment for Long-term Development (CHILD and Newborn) Act of 2006".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Around the world, approximately 10.8 million children under the age of five die each year, more than 30,000 per day, almost all in the developing world.

(2) Each year in the developing world, four million newborns die in their first four weeks of life.

(3) Sub-Saharan Africa, with only 10 percent of the world's population, accounts for 43 percent of all deaths among children under the age of five.

(4) Countries such as Afghanistan, Angola and Niger experience extreme levels of child mortality, with 25 percent of children dying before their fifth birthday.

(5) For children under the age of five in the developing world, preventable or treatable diseases, such as measles, tetanus, diarrhea, pneumonia, and malaria, are the most common causes of death.

(6) Throughout the developing world, the lack of basic health services, clean water, adequate sanitation, and proper nutrition contribute significantly to child mortality.

(7) Hunger and malnutrition contribute to over five million child deaths annually.

(8) The lack of low-cost antibiotics and anti-malarial drugs contribute to three million child deaths each year.

(9) Lack of access to health services results in 30 million children under the age of one year going without necessary immunizations.

(10) Every year an estimated 250,000 to 500,000 vitamin A-deficient children become blind, with one-half of such children dying within 12 months of losing their sight.

(11) Iron deficiency, affecting over 30 percent of the world's population, causes premature birth, low birth weight, and infections, elevating the risk of death in children.

(12) Two-thirds of deaths of children under five years of age, or 7.1 million children, including three million newborn deaths, could be prevented by low-cost, low-tech health and nutritional interventions.

(13) Exclusive breastfeeding—giving only breast milk for the first six months of life—could prevent an estimated 1.3 million newborn and infant deaths each year, primarily by protecting against diarrhea and pneumonia.

(14) An additional two million lives could be saved annually by providing oral-rehydration therapy prepared with clean water.

(15) During the 1990s, successful immunization programs reduced polio by 99 percent, tetanus deaths by 50 percent, and measles cases by 40 percent.

(16) Between 1998 and 2000, distribution of low-cost vitamin A supplements saved an estimated one million lives.

(17) Expansion of clinical care of newborns and mothers, such as clean delivery by skilled attendants, emergency obstetric care, and neonatal resuscitation, can avert 50 percent of newborn deaths.

(18) Keeping mothers healthy is essential for child survival because illness, complications, or maternal death during or following

pregnancy increases the risk for death in newborns and infants.

(19) Each year more than 525,000 women die from causes related to pregnancy and childbirth, with 99 percent of these deaths occurring in developing countries.

(20) The lifetime risk of an African woman dying from a complication related to pregnancy or childbirth is 1 in 16, while the same risk for a woman in a developed country is 1 in 2,800.

(21) Risk factors for maternal death in developing countries include early pregnancy and childbirth, closely spaced births, infectious diseases, malnutrition, and complications during childbirth.

(22) Birth spacing, access to preventive care, skilled birth attendants, and emergency obstetric care can help reduce maternal mortality.

(23) The role of the United States in promoting child survival and maternal health over the past three decades has resulted in millions of lives being saved around the world.

(24) In 2000, the United States joined 188 other countries in supporting eight Millennium Development Goals designed to achieve "a more peaceful, prosperous and just world".

(25) Two of the Millennium Development Goals call for a reduction in the mortality rate of children under the age of five by two-thirds and a reduction in maternal deaths by three-quarters by 2015.

(26) On September 14, 2005, President George W. Bush stated before the leaders of the world: "To spread a vision of hope, the United States is determined to help nations that are struggling with poverty. We are committed to the Millennium Development Goals.".

(b) PURPOSES.—The purposes of this Act are to—

(1) authorize assistance to improve the health of newborns, children, and mothers in developing countries, including by strengthening the capacity of health systems and health workers;

(2) develop and implement a strategy to improve the health of newborns, children, and mothers, including reducing child and maternal mortality, in developing countries;

(3) to establish a task force to assess, monitor, and evaluate the progress and contributions of relevant departments and agencies of the Government of the United States in achieving the United Nations Millennium Development Goals by 2015 for reducing the mortality of children under the age of five by two-thirds and reducing maternal mortality by three-quarters in developing countries.

SEC. 3. ASSISTANCE TO IMPROVE THE HEALTH OF NEWBORNS, CHILDREN, AND MOTHERS IN DEVELOPING COUNTRIES.

(a) IN GENERAL.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended—

(1) in section 104(c)—

(A) by striking paragraphs (2) and (3); and

(B) by redesignating paragraph (4) as paragraph (2);

(2) by redesignating sections 104A, 104B, and 104C as sections 104B, 104C, and 104D, respectively; and

(3) by inserting after section 104 the following new section:

"SEC. 104A. ASSISTANCE TO IMPROVE THE HEALTH OF NEWBORNS, CHILDREN, AND MOTHERS.

"(a) AUTHORIZATION.—Consistent with section 104(c), the President is authorized to furnish assistance, on such terms and conditions as the President may determine, to improve the health of newborns, children, and mothers in developing countries.

"(b) ACTIVITIES SUPPORTED.—Assistance provided under subsection (b) shall, to the maximum extent practicable, be used to carry out the following activities:

"(1) Activities to strengthen the capacity of health systems in developing countries, including training for clinicians, nurses, technicians, sanitation and public health workers, community-based health workers, midwives and birth attendants, peer educators, and private sector enterprises.

"(2) Activities to provide health care access to underserved and marginalized populations.

"(3) Activities to ensure the supply, logistical support, and distribution of essential drugs, vaccines, commodities, and equipment to regional, district, and local levels.

"(4) Activities to educate underserved and marginalized populations to seek health care when appropriate, including clinical and community-based activities.

"(5) Activities to integrate and coordinate assistance provided under this section with existing health programs for—

"(A) the prevention of the transmission of HIV from mother-to-child and other HIV/AIDS counseling, care, and treatment activities;

"(B) malaria;

"(C) tuberculosis; and

"(D) child spacing.

"(6) Activities to expand access to safe water and sanitation.

"(7) Activities to expand the use of and technical support for appropriate technology to reduce acute respiratory infection from firewood smoke inhalation.

"(c) GUIDELINES.—To the maximum extent practicable, programs, projects, and activities carried out using assistance provided under this section shall be—

"(1) carried out through private and voluntary organizations, as well as faith-based organizations, giving priority to organizations that demonstrate effectiveness and commitment to improving the health of newborns, children, and mothers;

"(2) carried out with input by host countries, including civil society and local communities, as well as other donors and multilateral organizations;

"(3) carried out with input by beneficiaries and other directly affected populations, especially women and marginalized communities; and

"(4) designed to build the capacity of host country governments and civil society organizations.

"(d) ANNUAL REPORT.—Not later than January 31 of each year, the President shall transmit to Congress a report on the implementation of this section for the prior fiscal year.

"(e) DEFINITIONS.—In this section:

"(1) AIDS.—The term 'AIDS' has the meaning given the term in section 104B(g)(1) of this Act.

"(2) HIV.—The term 'HIV' has the meaning given the term in section 104B(g)(2) of this Act.

"(3) HIV/AIDS.—The term 'HIV/AIDS' has the meaning given the term in section 104B(g)(3) of this Act.".

(b) CONFORMING AMENDMENTS.—The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended—

(1) in section 104(c)(2) (as redesignated by subsection (a)(1)(B) of this section), by striking "and 104C" and inserting "104C, and 104D";

(2) in section 104B (as redesignated by subsection (a)(2) of this section)—

(A) in subsection (c)(1), by inserting "and section 104A" after "section 104(c)";

(B) in subsection (e)(2), by striking "section 104B, and section 104C" and inserting "section 104C, and section 104D"; and

(C) in subsection (f), by striking "section 104(c), this section, section 104B, and section 104C" and inserting "section 104(c), section 104A, this section, section 104C, and section 104D";

(3) in subsection (c) of section 104C (as redesignated by subsection (a)(2) of this section), by inserting "and section 104A" after "section 104(c)";

(4) in subsection (c) of section 104D (as redesignated by subsection (a)(2) of this section), by inserting "and section 104A" after "section 104(c)"; and

(5) in the first sentence of section 119(c), by striking "section 104(c)(2), relating to Child Survival Fund" and inserting "section 104A".

SEC. 4. DEVELOPMENT OF STRATEGY TO IMPROVE THE HEALTH OF NEWBORNS, CHILDREN, AND MOTHERS IN DEVELOPING COUNTRIES.

(a) DEVELOPMENT OF STRATEGY.—The President shall develop a comprehensive strategy to improve the health of newborns, children, and mothers, including reducing newborn, child, and maternal mortality, in developing countries.

(b) COMPONENTS.—The strategy developed pursuant to subsection (a) shall include the following:

(1) Programmatic areas and interventions providing maximum health benefits to populations at risk as well as maximum reduction in mortality, including—

(A) costs and benefits of programs and interventions; and

(B) investments needed in identified programs and interventions to achieve the greatest results.

(2) An identification of countries with priority needs for the five-year period beginning on the date of the enactment of this Act based on—

(A) the neonatal mortality rate;

(B) the mortality rate of children under the age of five;

(C) the maternal mortality rate;

(D) the percentage of women and children with limited or no access to basic health care; and

(E) additional criteria for evaluation such as—

(i) the percentage of one-year old children who are fully immunized;

(ii) the percentage of children under the age of five who sleep under insecticide-treated bed nets;

(iii) the percentage of children under the age of five with fever treated with anti-malarial drugs;

(iv) the percentage of children under the age of five who are covered by vitamin A supplementation;

(v) the percentage of children under the age of five with diarrhea who are receiving oral-rehydration therapy and continued feeding;

(vi) the percentage of children under the age of five with pneumonia who are receiving appropriate care;

(vii) the percentage of the population with access to improved sanitation facilities;

(viii) the percentage of the population with access to safe drinking water;

(ix) the percentage of children under the age of five who are underweight for their age;

(x) the percentage of births attended by skilled health care personnel;

(xi) the percentage of women with access to emergency obstetric care;

(xii) the potential for implementing newborn, child, and maternal health interventions at scale; and

(xiii) the demonstrated commitment of countries to newborn, child, and maternal health.

(3) A description of how United States assistance complements and leverages efforts by other donors, as well as builds capacity and self-sufficiency among recipient countries.

(4) An expansion of the Child Survival and Health Grants Program of the United States Agency for International Development to provide additional support programs and interventions determined to be efficacious and cost-effective in improving health and reducing mortality.

(5) Enhanced coordination among relevant departments and agencies of the Government of the United States engaged in activities to improve the health of newborns, children, and mothers in developing countries.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to Congress a report that contains the strategy described in this section.

SEC. 5. INTERAGENCY TASK FORCE ON CHILD SURVIVAL AND MATERNAL HEALTH IN DEVELOPING COUNTRIES.

(a) ESTABLISHMENT.—There is established a task force to be known as the Interagency Task Force on Child Survival and Maternal Health in Developing Countries (in this section referred to as the "Task Force").

(b) DUTIES.—

(1) IN GENERAL.—The Task Force shall assess, monitor, and evaluate the progress and contributions of relevant departments and agencies of the Government of the United States in achieving the Millennium Development Goals by 2015 for reducing the mortality of children under the age of five by two-thirds and reducing maternal mortality by three-quarters in developing countries, including by—

(A) identifying and evaluating programs and interventions that directly or indirectly contribute to the reduction of child and maternal mortality rates;

(B) assessing effectiveness of programs, interventions, and strategies toward achieving the maximum reduction of child and maternal mortality rates;

(C) assessing the level of coordination among relevant departments and agencies of the Government of the United States, the international community, international organizations, faith-based organizations, academic institutions, and the private sector;

(D) assessing the contributions made by United States-funded programs toward achieving the Millennium Development Goals;

(E) identifying the bilateral efforts of other nations and multilateral efforts toward achieving the Millennium Development Goals; and

(F) preparing the annual report required by subsection (f).

(2) CONSULTATION.—To the maximum extent practicable, the Task Force shall consult with individuals with expertise in the matters to be considered by the Task Force who are not officers or employees of the Government of the United States, including representatives of United States-based nongovernmental organizations (including faith-based organizations and private foundations), academic institutions, private corporations, the United Nations Children's Fund (UNICEF), and the World Bank.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Task Force shall be composed of the following members:

(A) The Administrator of the United States Agency for International Development.

(B) The Assistant Secretary of State for Population, Refugees and Migration.

(C) The Coordinator of United States Government Activities to Combat HIV/AIDS Globally.

(D) The Director of the Office of Global Health Affairs of the Department of Health and Human Services.

(E) The Under Secretary for Food, Nutrition and Consumer Services of the Department of Agriculture.

(F) The Chief Executive Officer of the Millennium Challenge Corporation.

(G) The Director of the Peace Corps.

(H) Other officials of relevant departments and agencies of the Federal Government who shall be appointed by the President.

(2) CHAIRPERSON.—The Administrator of the United States Agency for International Development shall serve as chairperson of the Task Force.

(d) MEETINGS.—The Task Force shall meet on a regular basis, not less often than quarterly, on a schedule to be agreed upon by the members of the Task Force, and starting not later than 90 days after the date of the enactment of this Act.

(e) DEFINITION.—In this subsection, the term "Millennium Development Goals" means the key development objectives described in the United Nations Millennium Declaration, as contained in United Nations General Assembly Resolution 55/2 (September 2000).

(f) REPORT.—Not later than 120 days after the date of the enactment of this Act, and not later than April 30 of each year thereafter, the Task Force shall submit to Congress and the President a report on the implementation of this section.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, and the amendments made by this Act, $660,000,000 for fiscal year 2007 and $1,200,000,000 for each of the fiscal years 2008 through 2011.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

By Mr. VOINOVICH (for himself, Mr. BINGAMAN, Mr. DEWINE, and Mr. AKAKA):

S. 2772. A bill to provide for innovation in health care through State initiatives that expand coverage and access and improve quality and efficiency in the health care system; to the Committee on Health, Education, Labor, and Pensions.

Mr. VOINOVICH. Mr. President, I rise to speak about a bill my colleague Senator BINGAMAN and I introduced today, the Health Care Partnership Act. For too many years, I have listened to my colleagues on both sides of the aisle talk about the rising cost of health care and the growing number of uninsured Americans. Yet, we have not been able to make much progress here at the Federal level to find a meaningful solution for the dilemma this Nation is facing regarding access to quality, affordable health care. Next to the economy, it is the greatest domestic challenge facing our Nation. In fact, the rising cost of health care is a major part of what is hurting our competitiveness in the global marketplace.

While surveys have indicated that health insurance premiums have stabilized—a 9.2 percent increase in 2006 and 2005 and compared with a 12.3 percent in 2004; 14.7 percent in 2003; and 15.2 percent in 2002—health insurance costs continue to be a significant factor impacting American competitiveness. In addition, the share of costs that individuals have paid for employer sponsored insurance has risen roughly 2 percent each year, from 31.4 percent of health care costs in 2001 to 38.4 percent this year.

In fact, spending on health care in the United States reached $1.9 trillion in 2004—almost 16.5 percent of our GDP—the largest share ever.

Yet, despite all the increases in health care spending some 46 million Americans—15 percent of the population—had no health insurance at some point last year. This number has increased steadily. In 2000, that number was 39.8 million. In 2002 it was 43.6 million.

These statistics are startling and it is time that we do something about them. The bill Senator BINGAMAN and I are introducing today aims to break the log-jam here in Washington and allow states the freedom to explore with health care reform options. This bill would support state-based efforts to reduce the uninsured and the cost of health care, improve quality, improve access to care, and expand information technology.

I have been in this situation before. As Governor of Ohio, I had to work creatively to expand coverage and deal with increasing health care costs for a growing number of uninsured Ohioans. I am happy to report that we were able to make some progress toward reducing the number of uninsured Ohioans during my time as the head of the state by negotiating with the state unions to move to managed care; by controlling Medicaid costs to the point where from 1995 to 1998, due to good stewardship and management, Ohio ended up underspending on Medicaid without harming families; and implementing the S-CHIP program to provide coverage for uninsured children.

Like we did in Ohio, a number of states are already actively pursuing efforts to reduce the number of their residents who lack adequate health care coverage. The Health Care Partnership Act will build on what states like Massachusetts and others are doing, while providing a mechanism to analyze results and make recommendations for future action at the Federal level.

Under the Health Partnership Act, Congress would authorize grants to individual states, groups of states, and

Indian tribes and local governments to carry out any of a broad range of strategies to improve our Nation's health care delivery. The bill creates a mechanism for states to apply for grants to a bipartisan "State Health Innovation Commission" housed at the Department of Health and Human Services (HHS). After reviewing the state proposals, the Commission would submit to Congress a list of recommended state applications. The Commission would also recommend the amount of Federal grant money each state should receive to carry out the actions described in their plan.

Most importantly, at the end of the five-year period, the Commission would be required to report to Congress whether the states are meeting the goals of the Act. The Commission would then recommend future action Congress should take concerning overall reform, including whether or not to extend the state program.

I believe it is important that we pass this legislation to provide a platform from which we can have a thoughtful conversation about health care reform here in Washington. Since I have been in the Senate, Congress has made some progress toward improving health care, most notably for our 43 million seniors who now have access to affordable prescription medication through the Medicare Modernization Act. We have also increased funding for community health centers and safety net hospitals that provide health care for the uninsured and under insured; increased the use of technology in our health care delivery system; and improved the safety of medical care by passing a medical errors reporting bill.

Yet, these incremental steps are not enough, and we have been at this too long here in Washington without comprehensive, meaningful results. I ask for my colleagues' support for this bipartisan bill that I hope will move us closer toward a solution to the uninsured.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2772

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Partnership Act".

SEC. 2. STATE HEALTH REFORM PROJECTS.

(a) PURPOSE; ESTABLISHMENT OF STATE HEALTH CARE EXPANSION AND IMPROVEMENT PROGRAM.—The purposes of the programs approved under this section shall include, but not be limited to—

(1) achieving the goals of increased health coverage and access;

(2) ensuring that patients receive high-quality, appropriate health care;

(3) improving the efficiency of health care spending; and

(4) testing alternative reforms, such as building on the public or private health systems, or creating new systems, to achieve the objectives of this Act.

(b) APPLICATIONS BY STATES, LOCAL GOVERNMENTS, AND TRIBES.—

(1) ENTITIES THAT MAY APPLY.—

(A) IN GENERAL.—A State, in consultation with local governments, Indian tribes, and Indian organizations involved in the provision of health care, may apply for a State health care expansion and improvement program for the entire State (or for regions of the State) under paragraph (2).

(B) REGIONAL GROUPS.—A regional entity consisting of more than one State may apply for a multi State health care expansion and improvement program for the entire region involved under paragraph (2).

(C) DEFINITION.—In this Act, the term "State" means the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico. Such term shall include a regional entity described in subparagraph (B).

(2) SUBMISSION OF APPLICATION.—In accordance with this section, each State desiring to implement a State health care expansion and improvement program may submit an application to the State Health Innovation Commission under subsection (c) (referred to in this section as the "Commission") for approval.

(3) LOCAL GOVERNMENT APPLICATIONS.—

(A) IN GENERAL.—Where a State declines to submit an application under this section, a unit of local government of such State, or a consortium of such units of local governments, may submit an application directly to the Commission for programs or projects under this subsection. Such an application shall be subject to the requirements of this section.

(B) OTHER APPLICATIONS.—Subject to such additional guidelines as the Secretary may prescribe, a unit of local government, Indian tribe, or Indian health organization may submit an application under this section, whether or not the State submits such an application, if such unit of local government can demonstrate unique demographic needs or a significant population size that warrants a substate program under this subsection.

(c) STATE HEALTH INNOVATION COMMISSION.—

(1) IN GENERAL.—Within 90 days after the date of the enactment of this Act, the Secretary shall establish a State Health Innovation Commission that shall—

(A) be comprised of—

(i) the Secretary;

(ii) four State governors to be appointed by the National Governors Association on a bipartisan basis;

(iii) two members of a State legislature to be appointed by the National Conference of State Legislators on a bipartisan basis;

(iv) two county officials to be appointed by the National Association of Counties on a bipartisan basis;

(v) two mayors to be appointed by the United States Conference of Mayors on a bipartisan basis;

(vi) two individuals to be appointed by the Speaker of the House of Representatives;

(vii) two individuals to be appointed by the Minority Leader of the House of Representatives;

(viii) two individuals to be appointed by the Majority Leader of the Senate;

(ix) two individuals to be appointed by the Minority Leader of the Senate; and

(x) two individuals who are members of federally-recognized Indian tribes to be appointed on a bipartisan basis by the National Congress of American Indians;

(B) upon approval of ⅔ of the members of the Commission, provide the States with a variety of reform options for their applications, such as tax credit approaches, expansions of public programs such as medicaid and the State Children's Health Insurance Program, the creation of purchasing pooling arrangements similar to the Federal Employees Health Benefits Program, individual market purchasing options, single risk pool or single payer systems, health savings accounts, a combination of the options described in this clause, or other alternatives determined appropriate by the Commission, including options suggested by States, Indian tribes, or the public;

(C) establish, in collaboration with a qualified and independent organization such as the Institute of Medicine, minimum performance measures and goals with respect to coverage, quality, and cost of State programs, as described under subsection (d)(1);

(D) conduct a thorough review of the grant application from a State and carry on a dialogue with all State applicants concerning possible modifications and adjustments;

(E) submit the recommendations and legislative proposal described in subsection (d)(4)(B);

(F) be responsible for monitoring the status and progress achieved under program or projects granted under this section;

(G) report to the public concerning progress made by States with respect to the performance measures and goals established under this Act, the periodic progress of the State relative to its State performance measures and goals, and the State program application procedures, by region and State jurisdiction;

(H) promote information exchange between States and the Federal Government; and

(I) be responsible for making recommendations to the Secretary and the Congress, using equivalency or minimum standards, for minimizing the negative effect of State program on national employer groups, provider organizations, and insurers because of differing State requirements under the programs.

(2) PERIOD OF APPOINTMENT; REPRESENTATION REQUIREMENTS; VACANCIES.—Members shall be appointed for a term of 5 years. In appointing such members under paragraph (1)(A), the designated appointing individuals shall ensure the representation of urban and rural areas and an appropriate geographic distribution of such members. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(3) CHAIRPERSON, MEETINGS.—

(A) CHAIRPERSON.—The Commission shall select a Chairperson from among its members.

(B) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(C) MEETINGS.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting. The Commission shall meet at the call of the Chairperson.

(4) POWERS OF THE COMMISSION.—

(A) NEGOTIATIONS WITH STATES.—The Commission may conduct detailed discussions and negotiations with States submitting applications under this section, either individually or in groups, to facilitate a final set of recommendations for purposes of subsection (d)(4)(B). Such negotiations shall include consultations with Indian tribes, and be conducted in a public forum.

(B) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subsection.

(C) MEETINGS.—In addition to other meetings the Commission may hold, the Commission shall hold an annual meeting with the participating States under this section for the purpose of having States report progress toward the purposes in subsection (a)(1) and for an exchange of information.

(D) INFORMATION.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subsection. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission if the head of the department or agency involved determines it appropriate.

(E) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(5) PERSONNEL MATTERS.—

(A) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government or of a State or local government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(B) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(C) STAFF.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(D) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(E) TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(6) FUNDING.—For the purpose of carrying out this subsection, there are authorized to be appropriated $3,000,000 for fiscal year 2006 and each fiscal year thereafter.

(d) REQUIREMENTS FOR PROGRAMS.—

(1) STATE PLAN.—A State that seeks to receive a grant under subsection (f) to operate a program under this section shall prepare and submit to the Commission, as part of the application under subsection (b), a State health care plan that shall have as its goal improvements in coverage, quality and costs. To achieve such goal, the State plan shall comply with the following:

(A) COVERAGE.—With respect to coverage, the State plan shall—

(i) provide and describe the manner in which the State will ensure that an increased number of individuals residing within the State will have expanded access to health care coverage with a specific 5-year target for reduction in the number of uninsured individuals through either private or public program expansion, or both, in accordance with the options established by the Commission;

(ii) describe the number and percentage of current uninsured individuals who will achieve coverage under the State health program;

(iii) describe the minimum benefits package that will be provided to all classes of beneficiaries under the State health program;

(iv) identify Federal, State, or local and private programs that currently provide health care services in the State and describe how such programs could be coordinated with the State health program, to the extent practicable; and

(v) provide for improvements in the availability of appropriate health care services that will increase access to care in urban, rural, and frontier areas of the State with medically underserved populations or where there is an inadequate supply of health care providers.

(B) QUALITY.—With respect to quality, the State plan shall—

(i) provide a plan to improve health care quality in the State, including increasing effectiveness, efficiency, timeliness, patient focused, equity while reducing health disparities, and medical errors; and

(ii) contain appropriate results-based quality indicators established by the Commission that will be addressed by the State as well as State-specific quality indicators.

(C) COSTS.—With respect to costs, the State plan shall—

(i) provide that the State will develop and implement systems to improve the efficiency of health care, including a specific 5-year target for reducing administrative costs (including paperwork burdens);

(ii) describe the public and private sector financing to be provided for the State health program;

(iii) estimate the amount of Federal, State, and local expenditures, as well as, the costs to business and individuals under the State health program;

(iv) describe how the State plan will ensure the financial solvency of the State health program; and

(v) provide that the State will prepare and submit to the Secretary and the Commission such reports as the Secretary or Commission may require to carry out program evaluations.

(D) HEALTH INFORMATION TECHNOLOGY.—With respect to health information technology, the State plan shall provide methodology for the appropriate use of health information technology to improve infrastructure, such as improving the availability of evidence-based medical and outcomes data to providers and patients, as well as other health information (such as electronic health records, electronic billing, and electronic prescribing).

(2) TECHNICAL ASSISTANCE.—The Secretary shall, if requested, provide technical assistance to States to assist such States in developing applications and plans under this section, including technical assistance by private sector entities if determined appropriate by the Commission.

(3) INITIAL REVIEW.—With respect to a State application for a grant under subsection (b), the Secretary and the Commission shall complete an initial review of such State application within 60 days of the receipt of such application, analyze the scope of the proposal, and determine whether additional information is needed from the State. The Commission shall advise the State within such period of the need to submit additional information.

(4) FINAL DETERMINATION.—

(A) IN GENERAL.—Not later than 90 days after completion of the initial review under paragraph (3), the Commission shall determine whether to submit a State proposal to Congress for approval.

(B) VOTING.—

(i) IN GENERAL.—The determination to submit a State proposal to Congress under subparagraph (A) shall be approved by ⅔ of the members of the Commission who are eligible to participate in such determination subject to clause (ii).

(ii) ELIGIBILITY.—A member of the Commission shall not participate in a determination under subparagraph (A) if—

(I) in the case of a member who is a Governor, such determination relates to the State of which the member is the Governor; or

(II) in the case of member not described in subclause (I), such determination relates to the geographic area of a State of which such member serves as a State or local official.

(C) SUBMISSION.—Not later than 90 days prior to October 1 of each fiscal year, the Commission shall submit to Congress a list, in the form of a legislative proposal, of the State applications that the Commission recommends for approval under this section.

(D) APPROVAL.—With respect to a fiscal year, a State proposal that has been recommended under subparagraph (B) shall be deemed to be approved, and subject to the availability of appropriations, Federal funds shall be provided to such program, unless a joint resolution has been enacted disapproving such proposal as provided for in subsection (e). Nothing in the preceding sentence shall be construed to include the approval of State proposals that involve waivers or modifications in applicable Federal law.

(5) PROGRAM OR PROJECT PERIOD.—A State program or project may be approved for a period of 5 years and may be extended for subsequent 5-year periods upon approval by the Commission and the Secretary, based upon achievement of targets, except that a shorter period may be requested by a State and granted by the Secretary.

(e) EXPEDITED CONGRESSIONAL CONSIDERATION.—

(1) INTRODUCTION AND COMMITTEE CONSIDERATION.—

(A) INTRODUCTION.—The legislative proposal submitted pursuant to subsection (d)(4)(B) shall be in the form of a joint resolution (in this subsection referred to as the "resolution"). Such resolution shall be introduced in the House of Representatives by the Speaker, and in the Senate, by the Majority Leader, immediately upon receipt of the language and shall be referred to the appropriate committee of Congress. If the resolution is not introduced in accordance with the preceding sentence, the resolution may be introduced in either House of Congress by any member thereof.

(B) COMMITTEE CONSIDERATION.—A resolution introduced in the House of Representatives shall be referred to the Committee on Ways and Means of the House of Representatives. A resolution introduced in the Senate shall be referred to the Committee on Finance of the Senate. Not later than 15 calendar days after the introduction of the resolution, the committee of Congress to which the resolution was referred shall report the resolution or a committee amendment thereto. If the committee has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a resolution, whichever is earlier, such committee shall be deemed to be discharged from further consideration of such reform bill and such reform bill shall be placed on the appropriate calendar of the House involved.

(2) EXPEDITED PROCEDURE.—

(A) CONSIDERATION.—Not later than 5 days after the date on which a committee has been discharged from consideration of a resolution, the Speaker of the House of Representatives, or the Speaker's designee, or the Majority Leader of the Senate, or the Leader's designee, shall move to proceed to the consideration of the committee amendment to the resolution, and if there is no such amendment, to the resolution. It shall also be in order for any member of the House of Representatives or the Senate, respectively, to move to proceed to the consideration of the resolution at any time after the conclusion of such 5-day period. All points of order against the resolution (and against consideration of the resolution) are waived. A motion to proceed to the consideration of the resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone consideration of the resolution, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or not agreed to shall not be in order. If the motion to proceed is agreed to, the House of Representatives or the Senate, as the case may be, shall immediately proceed to consideration of the resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the House of Representatives or the Senate, as the case may be, until disposed of.

(B) CONSIDERATION BY OTHER HOUSE.—If, before the passage by one House of the resolution that was introduced in such House, such House receives from the other House a resolution as passed by such other House—

(i) the resolution of the other House shall not be referred to a committee and may only be considered for final passage in the House that receives it under clause (iii);

(ii) the procedure in the House in receipt of the resolution of the other House, with respect to the resolution that was introduced in the House in receipt of the resolution of the other House, shall be the same as if no resolution had been received from the other House; and

(iii) notwithstanding clause (ii), the vote on final passage shall be on the reform bill of the other House.

Upon disposition of a resolution that is received by one House from the other House, it shall no longer be in order to consider the resolution bill that was introduced in the receiving House.

(C) CONSIDERATION IN CONFERENCE.—Immediately upon a final passage of the resolution that results in a disagreement between the two Houses of Congress with respect to the resolution, conferees shall be appointed and a conference convened. Not later than 10 days after the date on which conferees are appointed, the conferees shall file a report with the House of Representatives and the Senate resolving the differences between the Houses on the resolution. Notwithstanding any other rule of the House of Representatives or the Senate, it shall be in order to immediately consider a report of a committee of conference on the resolution filed in accordance with this subclause. Debate in the House of Representatives and the Senate on the conference report shall be limited to 10 hours, equally divided and controlled by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives or their designees and the Majority and Minority Leaders of the Senate or their designees. A vote on final passage of the conference report shall occur immediately at the conclusion or yielding back of all time for debate on the conference report.

(3) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(4) LIMITATION.—The amount of Federal funds provided with respect to any State proposal that is deemed approved under subsection (d)(3) shall not exceed the cost provided for such proposals within the concurrent resolution on the budget as enacted by Congress for the fiscal year involved.

(f) FUNDING.—

(1) IN GENERAL.—The Secretary shall provide a grant to a State that has an application approved under subsection (b) to enable such State to carry out an innovative State health program in the State.

(2) AMOUNT OF GRANT.—The amount of a grant provided to a State under paragraph (1) shall be determined based upon the recommendations of the Commission, subject to the amount appropriated under subsection (k).

(3) PERFORMANCE-BASED FUNDING ALLOCATION AND PRIORITIZATION.—In awarding grants under paragraph (1), the Secretary shall—

(A) fund a diversity of approaches as provided for by the Commission in subsection (c)(1)(B);

(B) give priority to those State programs that the Commission determines have the greatest opportunity to succeed in providing expanded health insurance coverage and in providing children, youth, and other vulnerable populations with improved access to health care items and services; and

(C) link allocations to the State to the meeting of the goals and performance measures relating to health care coverage, quality, and health care costs established under this Act through the State project application process.

(4) MAINTENANCE OF EFFORT.—A State, in utilizing the proceeds of a grant received under paragraph (1), shall maintain the expenditures of the State for health care coverage purposes for the support of direct health care delivery at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received.

(5) REPORT.—At the end of the 5-year period beginning on the date on which the Secretary awards the first grant under paragraph (1), the State Health Innovation Advisory Commission established under subsection (c) shall prepare and submit to the appropriate committees of Congress, a report on the progress made by States receiving grants under paragraph (1) in meeting the goals of expanded coverage, improved quality, and cost containment through performance measures established during the 5-year period of the grant. Such report shall contain the recommendation of the Commission concerning any future action that Congress should take concerning health care reform, including whether or not to extend the program established under this subsection.

(g) MONITORING AND EVALUATION.—

(1) ANNUAL REPORTS AND PARTICIPATION BY STATES.—Each State that has received a program approval shall—

(A) submit to the Commission an annual report based on the period representing the respective State's fiscal year, detailing compliance with the requirements established by the Commission and the Secretary in the approval and in this section; and

(B) participate in the annual meeting under subsection (c)(4)(B).

(2) EVALUATIONS BY COMMISSION.—The Commission, in consultation with a qualified and independent organization such as the Institute of Medicine, shall prepare and submit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce, the Committee on Education and the Workforce, and the Committee on Ways and Means of the House of Representatives annual reports that shall contain—

(A) a description of the effects of the reforms undertaken in States receiving approvals under this section;

(B) a description of the recommendations of the Commission and actions taken based on these recommendations;

(C) an evaluation of the effectiveness of such reforms in—

(i) expanding health care coverage for State residents;

(ii) improving the quality of health care provided in the States; and

(iii) reducing or containing health care costs in the States;

(D) recommendations regarding the advisability of increasing Federal financial assistance for State ongoing or future health program initiatives, including the amount and source of such assistance; and

(E) as required by the Commission or the Secretary under subsection (f)(5), a periodic, independent evaluation of the program.

(h) NONCOMPLIANCE.—

(1) CORRECTIVE ACTION PLANS.—If a State is not in compliance with a requirements of this section, the Secretary shall develop a corrective action plan for such State.

(2) TERMINATION.—For good cause and in consultation with the Commission, the Secretary may revoke any program granted under this section. Such decisions shall be subject to a petition for reconsideration and

appeal pursuant to regulations established by the Secretary.

(i) RELATIONSHIP TO FEDERAL PROGRAMS.—

(1) IN GENERAL.—Nothing in this Act, or in section 1115 of the Social Security Act (42 U.S.C. 1315) shall be construed as authorizing the Secretary, the Commission, a State, or any other person or entity to alter or affect in any way the provisions of title XIX of such Act (42 U.S.C. 1396 et seq.) or the regulations implementing such title.

(2) MAINTENANCE OF EFFORT.—No payment may be made under this section if the State adopts criteria for benefits, income, and resource standards and methodologies for purposes of determining an individual's eligibility for medical assistance under the State plan under title XIX that are more restrictive than those applied as of the date of enactment of this Act.

(j) MISCELLANEOUS PROVISIONS.—

(1) APPLICATION OF CERTAIN REQUIREMENTS.—

(A) RESTRICTION ON APPLICATION OF PREEXISTING CONDITION EXCLUSIONS.—

(i) IN GENERAL.—Subject to subparagraph (B), a State shall not permit the imposition of any preexisting condition exclusion for covered benefits under a program or project under this section.

(ii) GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.—If the State program or project provides for benefits through payment for, or a contract with, a group health plan or group health insurance coverage, the program or project may permit the imposition of a preexisting condition exclusion but only insofar and to the extent that such exclusion is permitted under the applicable provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and title XXVII of the Public Health Service Act.

(B) COMPLIANCE WITH OTHER REQUIREMENTS.—Coverage offered under the program or project shall comply with the requirements of subpart 2 of part A of title XXVII of the Public Health Service Act insofar as such requirements apply with respect to a health insurance issuer that offers group health insurance coverage.

(2) PREVENTION OF DUPLICATIVE PAYMENTS.—

(A) OTHER HEALTH PLANS.—No payment shall be made to a State under this section for expenditures for health assistance provided for an individual to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided health assistance under the plan.

(B) OTHER FEDERAL GOVERNMENTAL PROGRAMS.—Except as provided in any other provision of law, no payment shall be made to a State under this section for expenditures for health assistance provided for an individual to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program, other than an insurance program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) of the Social Security Act shall apply.

(3) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections of the Social Security Act shall apply to States under this section in the same manner as they apply to a State under such title XIX:

(A) TITLE XIX PROVISIONS.—

(i) Section 1902(a)(4)(C) (relating to conflict of interest standards).

(ii) Paragraphs (2), (16), and (17) of section 1903(i) (relating to limitations on payment).

(iii) Section 1903(w) (relating to limitations on provider taxes and donations).

(iv) Section 1920A (relating to presumptive eligibility for children).

(B) TITLE XI PROVISIONS.—

(i) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with this title.

(ii) Section 1124 (relating to disclosure of ownership and related information).

(iii) Section 1126 (relating to disclosure of information about certain convicted individuals).

(iv) Section 1128A (relating to civil monetary penalties).

(v) Section 1128B(d) (relating to criminal penalties for certain additional charges).

(vi) Section 1132 (relating to periods within which claims must be filed).

(4) RELATION TO OTHER LAWS.—

(A) HIPAA.—Health benefits coverage provided under a State program or project under this section shall be treated as creditable coverage for purposes of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and subtitle K of the Internal Revenue Code of 1986.

(B) ERISA.—Nothing in this section shall be construed as affecting or modifying section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) with respect to a group health plan (as defined in section 2791(a)(1) of the Public Health Service Act (42 U.S.C. 300gg-91(a)(1))).

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary in each fiscal year. Amounts appropriated for a fiscal year under this subsection and not expended may be used in subsequent fiscal years to carry out this section.

Mr. BINGAMAN. I am pleased to announce today the introduction of bipartisan legislation with Senator VOINOVICH entitled the "Health Partnership Act of 2006" with additional bipartisan support from Senators DEWINE and AKAKA. The "Health Partnership Act" is intended to move beyond the political gridlock in Washington, D.C., and set us on a path toward finding solutions to affordable, quality health care for all Americans by creating partnerships between the federal government, state and local governments, private payers, and health care providers to implement different and promising approaches to health care.

Federal funding and support would be committed to states to reduce the number of uninsured, reduce costs, and improve the quality of health care for all Americans. Should a state decline to apply or if a unique need exists, local governments also would be authorized to apply for a federal grant for such purposes.

States, local governments, and tribes and tribal governments would be able to submit applications to the federal government for funding to implement a state health care expansion and improvement program to a bipartisan "State Health Innovation Commission." Based on funding available through the federal budget process, the Commission would approve a variety of reform options and innovative approaches.

This federalist approach to health reform would encourage a broad array of reform options that would be closely monitored to see what is working and what is not. As Supreme Court Justice Louis D. Brandeis wrote in 1932, "It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country."

Our bipartisan legislation, the "Health Partnership Act," encourages this type of state-based innovation and will help the nation better address both the policy and the politics of health care reform. We do not have consensus at the federal level on anyone approach and so encouraging states to adopt a variety of approaches will help us all better understand what may or may not work. And, it is well past the time when we need action to be taking place to address the growing and related problems of the uninsured and increasing health care costs.

In fact, spending on health care in our country has now reached $2 trillion annually, and yet, the number of uninsured has increased to 46 million people, which is six million more than in 2000. The consequences are staggering, as uninsured citizens get about half the medical care they need compared to those with health insurance and, according to the Institute of Medicine, about 18,000 unnecessary deaths occur each year in the United States because of lack of health Insurance.

While gridlock absent a solution continues to permeate Washington, DC, a number of states and local governments are moving ahead with health reform. The premise on which this bill is based is that the federal government should provide support for such efforts rather than constantly undermining them.

The "Health Partnership Act" would provide such support, as it authorizes grants to states, groups of states, local governments, and Indian tribes and organizations to carry out any of a broad range of strategies to reach the goals of reducing the number of uninsured, reducing costs, and improving the quality of care.

As usual, state and local governments are not waiting around for federal action. This is exactly what was happening in the early 1990s as states such as New Mexico, Massachusetts, Pennsylvania, Florida, Rhode Island, Hawaii, Maryland, Tennessee, Vermont, and Washington led the way to expanding coverage to children through the enactment of a variety of health reforms. Some of these programs worked better than others and the federal government responded in 1997 with passage of the "State Children's Health Insurance Program" or SCHIP. This legislation received broad bipartisan support and was built upon the experience of the state expansions. SCHIP continues to be a state-based model that covers millions of children and continues to have broad-based bipartisan support across this nation.

So, why not use that successful model and build upon it? In fact, state and local governments are already taking up that challenge and the federal government should, through the enactment of the "Health Partnership Act," do what it can to be helpful with those efforts. For example—

On November 15, 2005, Illinois Governor Rod Blagojevich signed into law the "Covering All Kids Health Insurance Act" which, beginning in July 2006, will attempt to make insurance coverage available to all uninsured children.

In Massachusetts, Governor Mitt Romney recently signed into law legislation that requires all Bay State residents to have health insurance. Virtually everyone interested in solutions to our nation's health care problems are looking at the Massachusetts "experiment" as a possible solution.

Other states, including New Mexico, Maine, West Virginia, Oklahoma, and New York have enacted other health reforms that have had mixed success.

All of these efforts are very important to add to our knowledge base, which can then lead to the formation of a possible national solution to our uninsured and affordability crisis. We can learn from each and every one of these efforts, whether successful or failed.

Commonwealth Fund President Karen Davis said it well by noting that state-based reforms, such as that passed in Massachusetts, are very good news. As she notes, "First, any substantive effort to expand access to coverage is worthwhile, given the growing number of uninsured in this country and the large body of evidence showing the dangerous health implications of lacking coverage."

She adds, "But something more important is at work here. While we urgently need a national solution so that all Americans have insurance, it doesn't appear that we'll be getting one at the federal level any time soon. So what Massachusetts has done potentially holds lessons for every state." I would add that it holds lessons for the federal government as well and not just for the mechanics of implementing health reform policy but also to the politics of health reform.

As she concludes, "One particularly cogent lesson is the manner in which the measure was crafted—via a civil process that successfully brought together numerous players from across the political business, health care delivery, and policy sectors."

Mr. President, Senator VOINOVICH and I have worked together for many months now on this legislation via a process much like that described by Karen Davis. The legislation stems from past legislative efforts by senators such as Bob Graham, Mark Hatfield, and Paul Wellstone, but also from work across ideological lines by Henry Aaron of the Brookings Institute and Stuart Butler of the Heritage Foundation.

The legislation also received much advice and support from Dr. Tim Garson who, as Dean of the University of Virginia, brought a much needed provider perspective which is reflected in support for the legislation from the American Medical Association, the American Academy of Pediatrics, the American College of Physicians, the American College of Cardiology, American Gastroenterological Association, the Visiting Nurses Association, the National Association of Community Health Centers, and from state-based health providers such as the New Mexico Medical Society and Ohio Association of Community Health Centers.

And the legislation also received much comment and support from consumer-based groups advocating for national health reform, including that by Dr. Ken Frisof and UHCAN, which is the Universal Health Care Action Network, Bill Vaughan at Consumers Union, and from numerous health care advocates in New Mexico, including Community Action New Mexico, Health Action New Mexico, Health Care for All Campaign of New Mexico, New Mexico Center on Law and Poverty, New Mexico Health Choices Initiative, New Mexico POZ Coalition, New Mexico Public Health Association, New Mexico Religious Coalition for Reproductive Choice, New Mexico Progressive Alliance for Community Empowerment, and the Health Security for New Mexicans Campaign, which includes 115 organizations based in the State.

Support from all stakeholders in our nation's health care system has been sought and I would like to thank the many organizations from New Mexico for their support and input to this legislation. There is great urgency in New Mexico because our State, like all of those along the U.S.-Mexico border, faces a severe health care crisis. In fact, New Mexico ranks second only to Texas in the percentage of its citizens who are uninsured. New Mexico is also the only state in the country with less than half of its population having private health insurance coverage.

A rather shocking statistic, which also continues to worsen, is that one out of every three Hispanic citizens are uninsured. In fact, less than 43 percent of the Hispanic population now has employer-based coverage nationwide, which is in sharp comparison to the 68 percent of non-Hispanic whites who have employer-based coverage.

The State has also enacted its own health reform plan called the State Coverage Initiative, or SCI in July 2005. SCI is a public/private partnership that is intended to expand employer-sponsored insurance and was developed in part with grant funding from the Robert Wood Johnson Foundation. As of May 1, there were just over 4,500 people covered by this initiative and there are efforts to expand this effort to cover over 20,000 individuals. With federal support for my State, the hope would be to further expand coverage to as many New Mexicans as possible.

It is also important to note that the legislation encourages reforms at both the state and local levels of government. Senator VOINOVICH, as former Mayor of Cleveland, suggested language that would capture community-based efforts as well. Illinois, Georgia, Michigan, and Oregon have all initiated efforts at the local level for reform, including what is known as the "three-share" programs in Illinois and Michigan. These initiatives have employers, employees, and the community each pick up about one-third of the cost of the program.

Jeaneane Smith, deputy administrator in the Office of Oregon Health Policy and Research was quoted in a recent Academy Health publication saying, "In recent years it has become apparent that there is a need to consider both state- and community-level approaches to improved access. We want to learn how best to support communities as they play an integral part in addressing the gaps in coverage."

Our hope is to spawn as much creative innovation as possible. Brookings Institute Senior Health Fellow Henry Aaron and Heritage Foundation Vice President Stuart Butler wrote a Health Affairs article in March 2004 that lays out the foundation for this legislative effort. They argue that while we remain unable to reconcile how best to expand coverage at the federal level, we can agree to support states in their efforts to try widely differing solutions to health coverage, cost containment, and quality improvement. As they write, "This approach offers both a way to improve knowledge about how to reform health care and a practical way to initiate a process of reform. Such a pluralist approach respects the real, abiding differences in politics, preferences, traditions, and institutions across the nation. It also implies a willingness to accept differences over an extended period in order to make progress. And it recognizes that permitting wide diversity can foster consensus by revealing the strengths and exposing the weaknesses of rival approaches."

The most important message that I hope this bill carries is that we must stop having the perfect be the enemy of the good. This proposal is certainly not perfect but we hope it makes a very important contribution to addressing our nation's health care crisis.

In addition to Dr. Garson, Mr. Aaron, Mr. Butler, and Dr. Frisof, I would like to express my appreciation to Dan Hawkins at the National Association of Community Health Centers, Bill Vaughan at Consumers Union, and both Jack Meyer and Stan Dorn at ESRI for their counsel and guidance on health reform and this legislation.

I would also like to commend the American College of Physicians, or ACP, for their outstanding leadership on the issue of the uninsured and for their willingness to support a variety of efforts to expand health coverage. ACP has been a longstanding advocate for expanding health coverage and has authored landmark reports on the important role that health insurance has in reducing people's morbidity and mortality. In fact, to cite the conclusion of one of those studies, "Lack of insurance contributes to the endangerment of the health of each uninsured American as well as the collective health of the nation."

And finally, I would also thank the many people at the Robert Wood Johnson Foundation on their forethought and knowledge on all the issues confronting the uninsured. Their efforts to maintain the focus and dialogue on addressing the uninsured has kept the issue alive for many years.

I hope we can break the gridlock and urge my colleagues to support this important legislation.

I would ask for unanimous consent for a Fact Sheet and copy of the Health Affairs article entitled "How Federalism Could Spur Bipartisan Action on the Uninsured" be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Health Partnership Act

Introduced by Senators Voinovich and Bingaman in May 2006—"A bill to provide for innovation in health care through state initiatives that expand coverage and access and improve quality and efficiency in the health care system."

The Health Partnership Act, cosponsored by U.S. Senators Voinovich (R–OH) and Bingaman (D–NM), is a first step to move beyond the political deadlock that has prevented the United States from finding paths to affordable, quality health care for all. For decades, national solutions have proven impossible to attain because of sharp differences on how to pay for and organize health care services. The Health Partnership Act breaks through the impasse. It creates partnerships among the federal government, state governments, private payers and health care providers to implement different approaches to achieve sustainable reform that provides affordable, quality health care for all. It demonstrates federal leadership on health care through establishing a mechanism by which federal dollars are committed to states to reduce the number of uninsured and to improve the quality of health care for all.

A creative new bipartisan initiative to move beyond political deadlock and a potential first step towards affordable quality health care for all.

THE FEDERAL LEVEL

Federal dollars will fund five-year State Health Care Expansion and Improvement Grants. The amount of federal funding for new grants will be determined annually in the budgetary process.

The bill establishes a bipartisan State Health Innovation Commission composed of national, state and local leaders that will:

Issue requests for proposals.

Establish, in collaboration with an organization such as the Institute of Medicine, minimum performance standards and 5-year goals.

Provide states with a "toolkit" of reform options, such as single-payer systems, public program expansions, pay-or-play mechanisms, tax credit incentives, health savings accounts, etc.

Ensure the maintenance of Medicaid—prohibiting restrictive rule changes that would limit eligibility or benefits.

Recommend to Congress which grants to support, giving preference to states maximizing the reduction in numbers of the uninsured.

Monitor the progress of programs and promote information exchange on what works.

Recommend ways to minimize negative effects on national employer groups, providers and insurers related to differing state requirements.

STATE LEVEL

Each state applying for a grant will develop a health care plan to increase coverage, improve quality and reduce costs, with specific targets for reduction in the number of uninsured and the costs of administration.

States will receive renewable grants for five-year expansion and improvement programs.

States will receive from the federal level technical assistance, if requested, for developing proposals.

Each state plan would address:

Coverage by describing the process and setting a 5-year target for reducing the number of uninsured individuals in the state.

Quality by providing a plan to increase health care effectiveness, efficiency, timeliness, and equity while reducing health disparities and medical errors.

Costs by developing and implementing systems to improve the efficiency of health care, including a 5-year target to reduce administrative costs and paperwork burdens.

Information technology by designing the appropriate use of health information technology to improve infrastructure, to expand the availability of evidence-based medical and to provide outcomes data to providers and patients.

STATES IN THE LEAD: LESSONS ON THE PROCESS OF MAKING CHANGE

Given the inaction of the federal government on health care access issues, states have begun to address these challenges creatively with sensitivity to local ideas and conditions. Dozens of states are considering new proposals. Five have already acted.

Maine, June 2003—the Dirigo Health Plan.

California, October 2003—phased-in Employer Mandate (repealed by ballot initiative, November 2004).

Illinois, September 2005—Health Care for All Children.

Maryland, January 2006—Fair Share Health Care (employer mandate for the largest employers).

Massachusetts, April 2006—Massachusetts Health Reform Package—with both an individual and an employer mandate.

The recently passed Massachusetts law deserves special attention because it is the first one enacted cooperatively with a divided government—a strongly Democratic state legislature and a Republican governor.

The detailed policy particulars in each of these state measures are controversial, with strong supporters and strong detractors. But they teach us a lot about the process of reforming health care in America.

State political leadership at the highest level is necessary.

Active consumer advocacy plays an important role.

Some stakeholder leadership must be willing to put the larger public interest above their own narrow economic self-interest.

The proposals have implementation phased in over several years.

It is easier for these proposals to expand access than to restrain the growth of costs—the latter being critical to make them sustainable over the long term.

Massachusetts, in particular, demonstrated how modest federal financial incentives (in this case the threatened loss of less than ⅒ of federal Medicaid funding) can provide the critical stimulus for leaders to come together to create comprehensive reform.

POLITICAL ADVANTAGES OF THE HEALTH PARTNERSHIP ACT

The Health Partnership Act provides positive multi-year financial incentives to states to address these issues, making it more likely for them to take the first steps and less likely to backslide when money concerns arise.

Congress need not pick just one path to health care for all. Members may be willing to let other states try models that they would oppose in their home states.

Allowing states to design their own plans, based on simple federal standards, has the potential to break through the current political deadlock. Breakthroughs in some states could be replicated elsewhere.

Advocacy is needed concurrently at the state and federal levels, with each reinforcing the other.

Federal support has the potential to counteract likely opposition by special interests in state efforts.

POLICY ADVANTAGES OF THE HEALTH PARTNERSHIP ACT

The process of implementing a variety of partnerships recognizes that one national plan may not address the differences among states and encourages states to address creatively their own needs.

Lessons learned in testing diverse state plans would benefit other states and national reform.

How Federalism Could Spur Bipartisan Action on the Uninsured

(By Henry J. Aaron and Stuart M. Butler)

Nearly everyone thinks that something should be done to reduce the number of Americans lacking health insurance. Unfortunately, while numerous plans exist on how to reach that goal, few agree on any one. Indeed, as authors we disagree on how best to extend and assure health insurance coverage. Nonetheless, we believe that using the pluralism and creative power of federalism is the best way to break the political logjam and to discover the best way to expand coverage.

Accordingly, we believe that states should be strongly encouraged to try any of a wide range of approaches to increasing health insurance coverage and rewarded for their success. This approach offers both a way to improve knowledge about how to reform health care and a practical way to initiate a process of reform. Such a pluralist approach respects the real, abiding differences in politics, preferences, traditions, and institutions across the nation. It also implies a willingness to accept differences over an extended period in order to make progress. And it recognizes that permitting wide diversity can foster consensus by revealing the strengths and exposing the weaknesses of rival approaches.

Despite our abiding disagreements on which substantive approach to extending coverage is best, we believe that people of goodwill must be prepared to countenance the testing of ideas they oppose if progress is to be made. Moreover, we believe that there is no hope for legislation to begin to transform the largest U.S. industry—health care—unless such legislation enjoys strong support from both major political parties.

USING FEDERALISM TO SPUR ACTION

Proposals to reduce the number of uninsured Americans abound. Some favor expanding government programs, such as Medicaid. Others favor refundable tax credits to help families buy private health insurance. Still others favor regulatory approaches, such as changes in insurance rules. But working together in health care to achieve a goal shared by virtually everyone has proved to be impossible. One reason for this is that the capacity to reach substantive compromise in Washington has seriously eroded. Among the causes is the widespread view that reforming the complex health care system requires very carefully designed and internally consistent actions. Some say that it is like building a new airplane: Unless all the key parts are there and fit together perfectly, the airplane will not fly. Thus, many proponents of particular approaches fear that abandoning key components of their proposals to achieve a compromise will prevent a fair test of their favored approach and lead to failure. Another obstacle is that many lawmakers believe that approaches that might conceivably work in one part of the country, given the cultural, philosophical, or health industry conditions prevailing there, will not work in their state or district because of different local conditions. This view leads many in Congress to resist proposals that might work in some areas because they believe that those proposals could make things worse for their constituents.

These and other factors have stalled efforts to extend health insurance and achieve other reforms for decades. The enactment of Medicare and Medicaid stands as one notable—and instructive—exception to that pattern. Medicare sprang from comprehensive social insurance initiatives of congressional Democrats, Medicaid from limited needs based approaches of congressional Republicans. The passage of each program was possible only because the two initiatives were linked in the form of a trade-off, not so much by blending some elements of each approach but by moving forward with two programs in parallel: Medicare for the elderly and disabled, and Medicaid for the poor of all ages. That experience illustrates a principle of politics: that progress often requires combining elements of competing proposals into a hybrid legislative initiative, in which internally consistent approaches operate in parallel.

In our view, federalism offers a promising approach to the challenge of building support to tackle the problem of uninsurance. While proponents of nationwide measures to introduce health insurance tax credits, or to extend Medicare or the State Children's Health Insurance Program (SCHIP) to other groups, should of course continue to make their case for national policies, we emphasize an initiative designed to support states in launching a variety of localized initiatives. Under this process, the federal government would reward states that agreed to test comprehensive and internally consistent strategies that succeeded in extending coverage within their borders. In contrast to block grants, federal-state covenants would operate within congressionally specified policy constraints designed to achieve national goals for extending health insurance. These covenants would include plans ranging from heavy government regulation to almost none, as long as the plans were consistent with the broad goals and included specified protections. States could also select items from a federally designed "policy toolbox" to include in their proposals. Allowable state plans would include forms of single-payer plans, employer mandates, mandatory individual purchase of privately offered insurance, tax credits, and creative new approaches. States would be free not to undertake such experiments and continue with the current array of programs, but sizable financial incentives would be offered to those that chose to experiment and financial rewards given to those that achieve agreed-upon goals.

The model we propose builds upon proposals we have outlined elsewhere. It is also compatible with some other federalism approaches, such as the plan advanced by the Institute of Medicine. We favor a wide diversity of federal-state initiatives for three reasons. First, fostering a bold program in a state will produce much information that will aid the policy discovery process. Successes will encourage others to follow, while unanticipated problems will force redesign or abandonment and will be geographically contained. Second, encouraging bold state action will quickly and directly extend coverage to many of the uninsured. Instead of facing continued national inaction or the potential for disruption of state initiatives by future federal action, states would have the incentive and freedom to act decisively. Third, we see no evidence of an emerging consensus on how to deal with these problems at the national level. But our proposal is based on the observation that advocates of rival plans trust their preferred approaches enough to believe that a real-life version would persuade opponents and create a consensus. Not all can be right, of course, but all advocates of health insurance reform, like residents of Lake Wobegon, seem to believe that their plans are above average. Thus, they should be open to the idea of testing diverse proposals. Our proposal is a process to enable policymakers to discover which is right, either for the whole country or for a region.

CORE ELEMENTS

We propose that Congress provide financial assistance and a legal framework to trigger a diverse set of federal-state initiatives. To help break the impasse in Congress over most national approaches, we propose steps designed to enable "first choice" political ideas to be tried in limited areas, with the support of states and through the enactment of a federal "policy toolbox" of legislated approaches that would be available to states but not imposed on them. Our view is that elected officials would be prepared to authorize some approaches now bottled up in Congress if they knew that the approach would not be imposed on their states. Our proposed strategy would contain six key elements.

Goals and protections. First, Congress would set certain goals and general protections. Goals would be established for extending coverage, and perhaps improving the coverage of some of those with inadequate coverage today. One such goal could be a percentage reduction in the number of uninsured people in a state. The more precise the goals, the more contentious they are likely to be. But clear and measurable goals under the proposed covenants are necessary if the system of financial rewards described below is to work effectively.

What is "insurance"? For a coverage goal to mean anything, it would have to define what constitutes "insurance." Specifying adequate coverage in health care is no easier than quantifying an adequate high school education, and when money follows success, drafting such definitions becomes even more difficult.

In defining what is meant by adequate insurance, agreement on two characteristics is vital: the services to be covered and the maximum residual costs (deductibles and copayments) that the insured must bear. States could be more generous than these standards. Instead of speciying precisely what states must do in each of these dimensions, we suggest that Congress establish a required actuarial minimum—such as the cost of providing the benefit package of the Federal Employees Health Benefits Program (FEHBP) for the state's population—as the standard, with states retaining considerable latitude on which services to include and how much cost sharing to require. Whether to set this actuarial standard high or low will be controversial and will determine the overall cost to the federal government of eliciting state participation.

Both high and low benefit standards suffer from well-known problems. High standards would raise program costs and weaken individuals' incentives to be prudent purchasers of health care. Low standards expose patients to sizable financial risk and raise questions about whether to restrict patients' right to buy supplemental coverage. Thus, federal legislation would not specify the content of insurance plans beyond some such actuarial amount. States would then be free to design plans as they wish, although certain types of plans might be presumptively acceptable (see below), and others could be negotiated as part of a covenant. The exact mix of benefits could vary within reason, but no further limits would be imposed. One goal of this approach, after all, is to encourage experimentation to generate information on whether particular configurations of benefits work better than others. It might turn out, for example, that states would adopt quite different plans with similar actuarial values. One group might opt for high deductible plans covering a wide range of services with no cost sharing above the deductible and generous relief from the deductible for the poor, while others might adopt a system with low deductibles and modest cost sharing but covering a much narrower range of benefits. Discovering how individuals' and providers' attitudes and behavior differ under such plans and how health outcomes vary would provide valuable information for private health insurance planners and government officials.

Protections for individuals. In addition to the definitional question, the question also arises, What limitations and protections should be applied to state experiments? If a simple net reduction in uninsurance guaranteed a financial reward to a state, for example, the state would have the incentive to drop coverage of costly high-risk adults and extend coverage to less costly (healthier and younger) workers. Some such concerns could be addressed in negotiating covenants, but some broad protections and policy "corridors" would be established under our proposal and would be necessary to achieve political support.

One of the most politically sensitive would be a primum non nocere limitation. That is, states could not introduce a plan that reduced coverage for currently insured populations, most notably the Medicaid population, beyond some minimum amount. We believe that no reform proposal is likely to be achievable without that restriction. Most Medicaid outlays in many states are not strictly mandated by federal law, in the sense that some beneficiaries and some services for all beneficiaries are optional. States provide optional coverage because federal law permits it, and the federal match makes its provision attractive to states. If incentives were introduced to cover the non-Medicaid population, states might find it financially and politically attractive to increase the total number of insured people by curtailing Medicaid eligibility and benefits and using the money saved, together with federal support, to cover a larger number of people who are uninsured but less poor.

Designing and enforcing rules to prohibit or limit such "insurance swapping" would be extremely challenging but politically—and, one could argue, morally—essential. On the other hand, we believe that states should have some opportunity to propose different ways of delivering the Medicaid commitment to the currently insured population, as long as the degree and quality of coverage were not diminished. That form of Medicaid protection could stimulate creativity and improvement in coverage for the poorest citizens while avoiding any threat to their existing coverage. To be sure, there are disagreements, including between us, on the degree of freedom states should have in deciding how to deliver the Medicaid commitment. Positions range from only minor tweaking to sweeping changes in the delivery system, such as allowing states to use Medicaid money to subsidize individual enrollment in an equivalent private plan. The degree of flexibility states should have, while maintaining eligibility and level of coverage, is a difficult political issue for Congress to decide.

Acceptable state proposals would also have to limit cost sharing and features analogous to pension nondiscrimination rules. We believe that requirements, consistent with the general goals and protections we propose, are needed to ensure that lower-income households do not face unaffordable coverage. Without such limits, states could reduce the number of uninsured people and secure attendant federal financial support, for example, by instituting an individual mandate with a high premium that would effectively make insurance universal among the financially secure and do little for the poor. States would need to propose a fair, plausible way of meeting the requirement, such as by mandating some form of community rating or through a cross-subsidy to more vulnerable populations.

The federal government should establish broad guidelines, but no more. A key principle of our proposal is that state officials are more likely than federal officials to design successful solutions to those problems that members of the policy or congressional staff community have failed to solve. Congress can and should set the parameters, but it should avoid micromanagement.

"Policy toolbox" of federal policies and programs. A feature of the congressional impasse noted earlier is that many plausible health initiatives that might merit testing, and have support in some states, are blocked by other lawmakers who oppose the introduction of the approach in their own state or across the country. Thus, we propose that Congress enact presumptively legitimate approaches to the expansion of health insurance coverage as a "policy toolbox" that would be available to states a la carte to apply within their borders. Lawmakers could safely vote to permit an initiative, confident that it would not be imposed on their states. In this way, potentially useful policies and programs could be "unlocked" from Congress and become available for states to use in their own initiatives.

A policy toolbox likely would include expansions of existing policies, such as raising income limits under Medicaid or lowering the age of Medicare eligibility. It could include arrangements to subsidize individual buy-ins to the FEHBP, refundable tax credits or their equivalent (perhaps with some steps to modify the federal income tax exclusion for employee-sponsored health insurance costs), mandating employer or individual coverage, or creating a single state insurance plan though which everyone may buy subsidized coverage.

Other possible examples might include the following: (1) Remove regulatory and tax obstacles to churches, unions, and other organizations providing group health insurance plans. This could open up new forms of group coverage offered though organizations with an established membership and common values. (2) Allow Medicaid and SCHIP to cover additional populations, with greatly enhanced federal matching payments, and perhaps to operate in very different ways—with appropriate safeguards to protect those who are covered under current law. Both federal welfare legislation and SCHIP, for example, included safeguards to preserve existing Medicaid coverage. (3) Extend limited federal Employee Retirement Income Security Act (ERISA) protection to large corporate health plans willing to enroll nonemployees, and extend the tax exclusion to those enrollees. This could lead in a state to expanded access to comprehensive coverage. (4) Provide a voucher to individuals designed to mimic a comprehensive refundable tax credit for health insurance. This could allow the practical issues of a major tax credit approach to be examined. (5) Enact legislation to make forms of FEHBP-style coverage available to broader populations within states. This would enable states and federal government to explore the issues associated with extending the program to nonfederal employees and retirees. (6) Enable states to establish association plans and other innovative health organizations.

We emphasize that any menu of tools would be optional for states. None would be required. Members of Congress would be more likely to agree to the inclusion of elements they would deplore in their own states if they knew that no state, including their own, would be forced to adopt them than they would be in a nationally uniform system. Some lawmakers, for instance, oppose association plans be cause they believe that such plans would disrupt successful state insurance arrangements. Under the menu approach, association plans would be introduced only in states wishing to use them as part of their overall strategy.

State proposals, federal approval. Under our proposed strategy, states interested in a bold, creative initiative would design a proposal consistent with the goals and restrictions established by Congress. Typically this proposal would include some elements from the federal policy toolbox in conjunction with state initiatives.

Needless to say, a critical congressional decision would concern mechanisms for approving state plans and monitoring state performance. States would no doubt seek to take advantage of every financial opportunity to game the system and to stretch agreements to the limit, as the almost zany history of the Medicaid upper payment level (UPL) controversy makes painfully clear. Yet monitoring state behavior, determining state violations, and enforcing penalties on states is enormously difficult. Moreover, the entity could (and we think should) have the power to negotiate parts of a proposal, not merely approve or reject it, so that refinements could be made consistent with Congress's objectives.

But what entity should this be? It might seem natural to designate an executive agency that reports to the president, such as the Department of Health and Human Services (HHS). We suspect, however, that many members of Congress would refuse to cede so much selection authority to another branch of government and that roughly half would fear partisan decisions by an administration of the "other" party. Congress would likely insist on adding suffocating selection criteria and other restrictions to executive department decisions, jeopardizing the very creativity we intend. Thus, we favor instead an existing or newly created body that has independence but ultimately answers to Congress. A new bipartisan body might perform this function with members selected by Congress and the administration or with members also representing the states, with technical advice from the U.S. Government Accountability Office (GAO). This body would evaluate and negotiate draft state proposals according to the general requirements specified by Congress and then present a recommended "slate" of proposals to Congress for an up-or-down vote without amendment. Once the state proposals had been selected, HHS would be responsible for implementing the program.

Bipartisan willingness to authorize state programs and to appropriate sufficient funds to elicit state participation also requires that members of Congress believe that approaches they find congenial will receive a fair trial and agree that approaches they reject will also receive a fair trial. Unfortunately, current federal legislation makes two key approaches difficult to implement in individual states or even groups of states: a single-payer plan and an individual mandate combined with refundable tax credits. A federalist approach should include mechanisms that would enable states to give such proposals as fair and complete a test as possible, both because that would provide valuable information and because the political support of their advocates is important in Congress.

Crafting a single-payer experiment. ERISA, which exempts self-insured plans from state regulation, is the primary technical obstacle to testing single-payer plans. The political sensitivity to modifications in ERISA is difficult to exaggerate. Any attempt to carve out an exception from ERISA for state programs to extend cover age would probably doom federal legislation. But states could create "wrap around" plans to cover all who are not currently insured, or even to cover all who are not insured under plans exempted by ERISA from state regulation. While such an arrangement would not be a single-payer plan, it could achieve universal coverage, which is one defining characteristic of single-payer plans, and arguably be sufficient for a valid test. After all, the U.S. health care system is characterized by different subsystems for certain populations and has a form of single-payer coverage for military veterans. But of course the real test is whether advocates of single-payer plans regard such a limited arrangement as a fair trial.

An individual tax credit approach. The obstacles to a state level individual mandate with a refundable credit are also serious and complicated. We presume that an individual mandate would require some contribution from people with incomes above defined levels. Such a mandate raises both political and practical questions. Testing federal tax reform in selected geographic areas also raises constitutional and practical issues, although advocates of the approach maintain that other site-specific programs involving federal tax changes, such as enterprise zones, have passed muster. In addition, for a limited experiment it might be possible to design subsidy programs that would mimic tax relief.

Administering a refundable tax credit would pose formidable difficulties for some states, particularly those that do not have a personal income tax. In all states, the logistics of providing a credit with reasonable accuracy on a timely basis would be challenging. So, too, would deciding how to address such administrative problems as households that live in one state yet work in another. Advocates for tax credits say they have solutions to these and similar challenges, just as supporters of single-payer approaches or employer mandates claim to have answers to challenges facing those approaches. For instance, some maintain that the employment-based tax withholding system could serve as a vehicle for refundable credits or equivalent subsidies and would make individual enrollment practical. Whether or not they are right is of course disputed by their critics. The beauty of a "put up or shut up" federalism initiative is that it offers a chance for advocates to offer such solutions in practice instead of in theory.

Using "managed federalism" to build support? Deciding how many states could qualify for experiments is an open political and technical question. One approach would be to limit it to a few states. This would limit costs but has little else to be said for it. Accordingly, we would favor opening the program to all states wishing to accept a federal offer. Nevertheless, we recognize that some lawmakers would be reluctant to vote for a process of federal-state innovation unless they were sure that certain "generic" or "standard" approaches were included—especially if the number of states in the program were to be limited. In particular, we believe that our proposal can win congressional support only if liberals and conservatives alike are fully convinced that the approaches each holds dear will receive a fair and full trial in practice.

While we believe that any state initiative that meets approval should be welcomed, political considerations thus might require that no state's proposal would be approved unless a sufficient range of acceptable variants was proposed. For example, strong advocates of market-based or single-payer approaches might find the federalism option acceptable only if each was confident that favored approaches would be tested.

Adequate data collection. To determine whether a state was actually making progress toward a goal, accurate and timely data would be needed. These data would include surveys of insurance coverage, with sufficient detail to provide state-level estimates. Such surveys would be essential to show whether the states were making progress in extending health insurance coverage. They are vital to the success of the whole approach because payments to states (apart from modest planning assistance) should be based on actual progress in extending coverage, not on compliance with procedural milestones.

Congress should also assure that states report on use of health services, costs, health status, and any other information deemed necessary to judge the relative success of various approaches to extending coverage. Only a national effort could ensure that data are comparable across states. States' cooperation with data collection would be one element of the determination of whether a state was in compliance with its covenant and was therefore eligible for full incentive payments. The experience with state waivers under welfare before enactment of the 1996 welfare reform clearly illustrates the power and importance of such data collection. The cumulative effect of the reports showing the effectiveness of welfare-to-work requirements in reducing rolls, increasing earnings, and raising recipients' satisfaction transformed the political environment and made welfare reform inescapable.

Rewarding progress. Congress would design a formula under which states would be rewarded for their progress in meeting the agreed federal-state goals of extending insurance coverage. As experience with countless grant programs attests, haggling over such formulas can become politics at its grubbiest, with elected officials voting solely on the basis of what a particular formula does for their districts. Even without political parochialism, designing a formula that rewards progress fairly is no easy task. For one thing, states will be starting from quite different places. The proportion of states' uninsured populations under age sixty-five during 1997–1999 ranged from 27.7 percent in New Mexico and 26.8 percent in Texas to 9.6 percent in Rhode Island and 10.5 percent in Minnesota and Hawaii. Designing an incentive formula to reward progress amid such diverse conditions is both an analytical and a political challenge. Moreover, the per capita cost of health care varies across the nation, which further complicates the assessment of progress. The cost of extending coverage depends on the geographic location, income, and health status of the uninsured population. Having financial access may be hollow in communities where services are physically unavailable or highly limited. Extending coverage may require supply-side measures to supplement financial access.

We believe that the only way to design such a formula is to remove the detailed design decisions from congressional micromanagement. We suggest that Congress be asked to adopt the domestic equivalent of "fast-track" trade negotiation rules or base-closing legislation. Under this arrangement, Congress would designate a body appointed in equal numbers by the two parties, to design an incentive formula that Congress would agree to vote up or down, without amendments. Such a formula would have to recognize the different positions from which various states would start. Any acceptable formula would have to reward both absolute and relative reductions in the proportions of uninsured people. Whether financial incentives would be offered for other dimensions of performance and how performance would be measured constitute additional important challenges.

Sources of funding. Bleak budget prospects could cause one to give up on this or any other attempt to extend health insurance coverage broadly. But as recent history amply illustrates, the political and budgetary weather can change dramatically and with little notice. What funding approach would be desirable if funds were available? Under our proposal, the federal funding would be intended for several broad purposes: (1) A large portion of the money would be used to help states actually fund approaches to be tested. (2) Some funding (perhaps with assistance from private foundations) would provide national support and technical assistance to states. A model to consider for such support is the Health Resources and Services Administration (HRSA) State Planning Grants program, which both funds state planning activities and provides federal support and technical assistance. (3) Some funds would cover the cost of independent performance monitoring. (4) Some funds would be set aside to reward states for meeting the goals in their agreed-upon plan. Congress might consider an automatic "performance bonus" system similar to the mechanism used in welfare reform. Congress could also consider withholding the periodic release of part of a state's grant pending a periodic assessment by the independent monitor of the degree to which the state is accomplishing the objectives specified in its covenant. Only those states willing to offer proposals designed to achieve the national goals would be eligible for a share of the funding or for the menu of federal policy tools. A state could decline to offer a proposal and remain under current programs.

Federalism enables the states to undertake innovative approaches to challenges facing the United States. Federal legislation often grants states broad discretion in designing even those programs for which the federal government bears much or most of the cost. In health care as well as education or welfare, states have been the primary innovators. But the federal government limits, shapes, and facilitates such innovation through regulation, taxation, and grants. Such a partnership is bound to be marked by conflict and tension as state and federal interests diverge.

A creative federalism approach of the kind we propose would change the dynamics of discovering better ways to expand insurance coverage, just as a version of this approach triggered a radical change in the way states addressed welfare dependency. By actually testing competing approaches to reach common goals, rather than endlessly debating them, the United States is far more likely to find the solution to the perplexing and seemingly intractable problem of uninsurance.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 471—RECOGNIZING THAT, DURING NATIONAL FOSTER CARE MONTH, THE LEADERS OF THE FEDERAL, STATE, AND LOCAL GOVERNMENTS SHOULD PROVIDE LEADERSHIP TO IMPROVE THE CARE GIVEN TO CHILDREN IN FOSTER CARE PROGRAMS

Mr. COLEMAN (for himself, Ms. LANDRIEU, and Mr. CRAIG) submitted the following resolution, which was considered and agreed to:

S. Res 471

Whereas more than 500,000 children are in foster care programs throughout the United States;

Whereas, while approximately ¼ of all children in foster care programs are available for adoption, only about 50,000 foster children are adopted each year;

Whereas many of the children in foster care programs have endured—

(1) numerous years in the foster care system; and

(2) frequent moves to and from foster homes;

Whereas approximately 50 percent of foster care children have been placed in foster care programs for longer than 1 year;

Whereas 25 percent of foster care children have been placed in foster care programs for at least 3 years;

Whereas children who spend longer amounts of time in foster care programs often experience worse outcomes than children who are placed for shorter periods of time;

Whereas children who spend time in foster care programs are more likely to—

(1) become teen parents;

(2) rely on public assistance when they become adults; and

(3) interact with the criminal justice system;

Whereas Federal, State, and local governments—

(1) share a unique relationship with foster children; and

(2) have removed children from their homes to better provide for the safety, permanency, and well-being of the children;

Whereas unfortunately, studies indicate that Federal, State, and local governments have not been entirely successful in caring for foster children;

Whereas Congress recognizes the commitment of Federal, State, and local governments to ensure the safety and permanency of children placed in foster care programs; and

Whereas every child deserves a loving family: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes—

(A) May 2006 as "National Foster Care Month"; and

(B) that, during National Foster Care Month, the leaders of the Federal, State, and local governments should rededicate themselves to provide better care to the foster children of the United States; and

(2) resolves to provide leadership to help identify the role that Federal, State, and local governments should play to ensure that foster children receive appropriate parenting throughout their entire childhood.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3861. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, to amend the title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table.

SA 3862. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3863. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3864. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3865. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3866. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3867. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3868. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3869. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3870. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3871. Mrs. FEINSTEIN (for herself, Mr. DORGAN, Mr. BINGAMAN, and Ms. STABENOW) submitted an amendment intended to be proposed by her to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3872. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3873. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3861. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Local Law Enforcement Enhancement Act of 2005".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) The prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the family and friends of the victim, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including—

(A) by impeding the movement of members of targeted groups and forcing such members to move across State lines to escape the incidence or risk of such violence; and

(B) by preventing members of targeted groups from purchasing goods and services, obtaining or sustaining employment, or participating in other commercial activity.

(7) Perpetrators cross State lines to commit such violence.

(8) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(9) Such violence is committed using articles that have traveled in interstate commerce.

(10) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(11) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct "races". Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(12) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(13) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States and local jurisdictions.

SEC. 3. DEFINITION OF HATE CRIME.

In this Act, the term "hate crime" has the same meaning as in section 280003(a) of the

Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

SEC. 4. SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of a law enforcement official of a State or Indian tribe; the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(B) constitutes a felony under the laws of the State or Indian tribe; and

(C) is motivated by prejudice based on the race, color, religion, national origin, gender, sexual orientation, or disability of the victim, or is a violation of the hate crime laws of the State or Indian tribe.

(2) PRIORITY.—In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than 1 State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(b) GRANTS.—

IN GENERAL.—The Attorney General may award grants to assist State, local, and Indian law enforcement officials with the extraordinary expenses associated with the investigation and prosecution of hate crimes.

(2) OFFICE OF JUSTICE PROGRAMS.—In implementing the grant program, the Office of Justice Programs shall work closely with the funded jurisdictions to ensure that the concerns and needs of all affected parties, including community groups and schools, colleges, and universities, are addressed through the local infrastructure developed under the grants.

(3) APPLICATION.—

(A) IN GENERAL.—Each State that desires a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(B) DATE FOR SUBMISSION.—Applications submitted pursuant to subparagraph (A) shall be submitted during the 60-day period beginning on a date that the Attorney General shall prescribe.

(C) REQUIREMENTS.—A State or political subdivision of a State or tribal official applying for assistance under this subsection shall—

(i) describe the extraordinary purposes for which the grant is needed;

(ii) certify that the State; political subdivision, or Indian tribe lacks the resources necessary to investigate or prosecute the hate crime;

(iii) demonstrate that, in developing a plan to implement the grant, the State, political subdivision, or tribal official has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of hate crimes; and

(iv) certify that any Federal funds received under this subsection will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection.

(4) DEADLINE.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 30 business days after the date on which the Attorney General receives the application.

(5) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000 for any single jurisdiction within a 1 year period.

(6) REPORT.—Not later than December 31, 2006, the Attorney General shall submit to Congress a report describing the applications submitted for grants under this subsection, the award of such grants, and the purposes for which the grant amounts were expended.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2006 and 2007.

SEC. 5. GRANT PROGRAM.

(a) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice shall award grants, in accordance with such regulations as the Attorney General may prescribe, to State and local programs designed to combat hate crimes committed by juveniles, including programs to train local law enforcement officers in identifying, investigating, prosecuting, and preventing hate crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 6. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE AND LOCAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, for fiscal years 2006, 2007, and 2008 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 249 of title 18, United States Code, as added by section 7.

SEC. 7. PROHIBITION OF CERTAIN HATE CRIME ACTS.

(a) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

§ 249. Hate crime acts

“(a) IN GENERAL.—

“(1) OFFENSES INVOLVING ACTUAL OR PERCEIVED RACE, COLOR, RELIGION, OR NATIONAL ORIGIN.—Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person—

“(A) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

“(B) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

“(i) death results from the offense; or

“(ii) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

“(2) OFFENSES INVOLVING ACTUAL OR PERCEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, OR DISABILITY.—

“(A) IN GENERAL.—Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B), willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, or disability of any person—

“(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

“(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

“(I) death results from the offense; or

“(II) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

“(B) CIRCUMSTANCES DESCRIBED.—For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

“(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim—

“(I) across a State line or national border; or

“(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

“(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

“(iii) in connection with the conduct described in subparagraph (A), the defendant employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

“(iv) the conduct described in subparagraph (A)—

“(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

“(II) otherwise affects interstate or foreign commerce.

“(b) CERTIFICATION REQUIREMENT.—No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that—

“(1) he or she has reasonable cause to believe that the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of any person was a motivating factor underlying the alleged conduct of the defendant; and

“(2) he or his designee or she or her designee has consulted with State or local law enforcement officials regarding the prosecution and determined that—

“(A) the State does not have jurisdiction or does not intend to exercise jurisdiction;

“(B) the State has requested that the Federal Government assume jurisdiction;

“(C) the State does not object to the Federal Government assuming jurisdiction; or

“(D) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence.

“(c) DEFINITIONS.—In this section—

“(1) the term ‘explosive or incendiary device’ has the meaning given the term in section 232 of this title; and

“(2) the term ‘firearm’ has the meaning given the term in section 921(a) of this title.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 13 of title 18, United States Code, is amended by adding at the end the following:

“249. Hate crime acts”.

SEC. 8. DUTIES OF FEDERAL SENTENCING COMMISSION.

(a) AMENDMENT OF FEDERAL SENTENCING GUIDELINES.—Pursuant to the authority provided under section 994 of title 28, United States Code, the United States Sentencing Commission shall study the issue of adult recruitment of juveniles to commit hate crimes and shall, if appropriate, amend the Federal sentencing guidelines to provide sentencing enhancements (in addition to the sentencing enhancement provided for the use of a minor during the commission of an offense) for adult defendants who recruit juveniles to assist in the commission of hate crimes.

(b) CONSISTENCY WITH OTHER GUIDELINES.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishments for substantially the same offense.

SEC. 9. STATISTICS.

Subsection (b)(1) of the first section of the Hate Crimes Statistics Act (28 U.S.C. 534 note) is amended by inserting "gender," after "race,".

SEC. 10. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SA 3862. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Kids Come First Act of 2006".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—EXPANDED COVERAGE OF CHILDREN UNDER MEDICAID AND SCHIP

Sec. 101. State option to receive 100 percent FMAP for medical assistance for children in poverty in exchange for expanded coverage of children in working poor families under medicaid or SCHIP.
Sec. 102. Elimination of cap on SCHIP funding for States that expand eligibility for children.

TITLE II—STATE OPTIONS FOR INCREMENTAL CHILD COVERAGE EXPANSIONS

Sec. 201. State option to provide wrap-around SCHIP coverage to children who have other health coverage.
Sec. 202. State option to enroll low-income children of State employees in SCHIP.
Sec. 203. Optional coverage of legal immigrant children under medicaid and SCHIP.
Sec. 204. State option for passive renewal of eligibility for children under medicaid and SCHIP.

TITLE III—TAX INCENTIVES FOR HEALTH INSURANCE COVERAGE OF CHILDREN

Sec. 301. Refundable credit for health insurance coverage of children.
Sec. 302. Forfeiture of personal exemption for any child not covered by health insurance.

TITLE IV—MISCELLANEOUS

Sec. 401. Requirement for group market health insurers to offer dependent coverage option for workers with children.
Sec. 402. Effective date.

TITLE V—REVENUE PROVISION

Sec. 501. Partial repeal of rate reduction in the highest income tax bracket.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) NEED FOR UNIVERSAL COVERAGE.—

(A) Currently, there are 9,000,000 children under the age of 19 that are uninsured. One out of every 8 children are uninsured while 1 in 5 Hispanic children and 1 in 7 African American children are uninsured. Three-quarters, approximately 6,800,000, of these children are eligible but not enrolled in the medicaid program or the State children's health insurance program (SCHIP). Long-range studies found that 1 in 3 children went without health insurance for all or part of 2002 and 2003.

(B) Low-income children are 3 times as likely as children in higher income families to be uninsured. It is estimated that 65 percent of uninsured children have at least 1 parent working full time over the course of the year.

(C) It is estimated that 50 percent of all legal immigrant children in families with income that is less than 200 percent of the Federal poverty line are uninsured. In States without programs to cover immigrant children, 57 percent of non-citizen children are uninsured.

(D) Children in the Southern and Western parts of the United States were nearly 1.7 times more likely to be uninsured than children in the Northeast. In the Northeast, 9.4 percent of children are uninsured while in the Midwest, 8.3 percent are uninsured. The South's rate of uninsured children is 14.3 percent while the West has an uninsured rate of 13 percent.

(E) Children's health care needs are neglected in the United States. One-quarter of young children in the United States are not fully up to date on their basic immunizations. One-third of children with chronic asthma do not get a prescription for the necessary medications to manage the disease.

(F) According to the Centers for Disease Control and Prevention, nearly ½ of all uninsured children have not had a well-child visit in the past year. One out of every 5 children has problems accessing needed care, and 1 out of every 4 children do not receive annual dental exams. One in 6 uninsured children had a delayed or unmet medical need in the past year. Minority children are less likely to receive proven treatments such as prescription medications to treat chronic disease.

(G) There are 7,600,000 young adults between the ages of 19 and 20. In the United States, approximately 28 percent, or 2,100,000 individuals, of this group are uninsured.

(H) Chronic illness and disability among children are on the rise. Children most at risk for chronic illness and disability are children who are most likely to be poor and uninsured.

(2) ROLE OF THE MEDICAID AND STATE CHILDREN'S HEALTH INSURANCE PROGRAMS.—

(A) The medicaid program and SCHIP serve as a crucial health safety net for 30,000,000 children. During the recent economic downturn and the highest number of uninsured individuals ever recorded in the United States, the medicaid program and SCHIP offset losses in employer-sponsored coverage. While the number of children living in low-income families increased by 2,000,000 between 2000 and 2003, the number of uninsured children fell due to the medicaid program and SCHIP.

(B) In 2003, 25,000,000 children were enrolled in the medicaid program, accounting for ½ of all enrollees and only 19 percent of total program costs.

(C) The medicaid program and SCHIP do more than just fill in the gaps. Gains in public coverage have reduced the percentage of low-income uninsured by a ⅓ from 1997 to 2003. In addition, a recent study found that publicly-insured children are more likely to obtain medical care, preventive care and dental care than similar low-income privately-insured children.

(D) Publicly funded programs such as the medicaid program and SCHIP actually improve children's health. Children who are currently insured by public programs are in better health than they were a year ago. Expansion of coverage for children and pregnant women under the medicaid program and SCHIP reduces rates of avoidable hospitalizations by 22 percent.

(E) Studies have found that children enrolled in public insurance programs experienced a 68 percent improvement in measures of school performance.

(F) Despite the success of expansions in general under the medicaid program and SCHIP, due to current budget constraints, many States have stopped doing aggressive outreach and have raised premiums and cost-sharing requirements on families under these programs. In addition, 8 States stopped enrollment in SCHIP for a period of time between April 2003 and July 2004. As a result, SCHIP enrollment fell by 200,000 children for the first time in the program's history.

(G) It is estimated that nearly 50 percent of children covered through SCHIP do not remain in the program due to reenrollment barriers. A recent study found that between 10 and 40 percent of these children are "lost" in the system. Difficult renewal policies and reenrollment barriers make seamless coverage in SCHIP unattainable. Studies indicate that as many as 67 percent of children who were eligible but not enrolled for SCHIP had applied for coverage but were denied due to procedural issues.

(H) While the medicaid program and SCHIP expansions to date have done much to offset what otherwise would have been a significant loss of coverage among children because of declining access to employer coverage, the shortcomings of previous expansions, such as the failure to enroll all eligible children and caps on enrollment in SCHIP because of under-funding, also are clear.

TITLE I—EXPANDED COVERAGE OF CHILDREN UNDER MEDICAID AND SCHIP

SEC. 101. STATE OPTION TO RECEIVE 100 PERCENT FMAP FOR MEDICAL ASSISTANCE FOR CHILDREN IN POVERTY IN EXCHANGE FOR EXPANDED COVERAGE OF CHILDREN IN WORKING POOR FAMILIES UNDER MEDICAID OR SCHIP.

(a) STATE OPTION.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1939 as section 1940, and by inserting after section 1938 the following:

"STATE OPTION FOR INCREASED FMAP FOR MEDICAL ASSISTANCE FOR CHILDREN IN POVERTY IN EXCHANGE FOR EXPANDED COVERAGE OF CHILDREN IN WORKING POOR FAMILIES UNDER THIS TITLE OR TITLE XXI

"SEC. 1939. (a) 100 PERCENT FMAP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, in the case of a State that, through an amendment to each of its State plans under this title and title XXI (or to a waiver of either such plan), agrees to satisfy the conditions described in subsections (b), (c), and (d) the Federal medical assistance percentage shall be 100 percent with respect to the total amount expended by the State for providing medical assistance under this title for each fiscal year quarter beginning on or after the date described in subsection (e) for children whose family income does not exceed 100 percent of the poverty line.

"(2) LIMITATION ON SCOPE OF APPLICATION OF INCREASE.—The increase in the Federal medical assistance percentage for a State under this section shall apply only with respect to the total amount expended for providing medical assistance under this title for a fiscal year quarter for children described in paragraph (1) and shall not apply with respect to—

"(A) any other payments made under this title, including disproportionate share hospital payments described in section 1923;

"(B) payments under title IV or XXI; or

"(C) any payments made under this title or title XXI that are based on the enhanced FMAP described in section 2105(b).

"(b) ELIGIBILITY EXPANSIONS.—The condition described in this subsection is that the State agrees to do the following:

"(1) COVERAGE UNDER MEDICAID OR SCHIP FOR CHILDREN IN FAMILIES WHOSE INCOME DOES NOT EXCEED 300 PERCENT OF THE POVERTY LINE.—

"(A) IN GENERAL.—The State agrees to provide medical assistance under this title or child health assistance under title XXI to children whose family income exceeds the medicaid applicable income level (as defined in section 2110(b)(4) but by substituting 'January 1, 2006' for 'March 31, 1997'), but does not exceed 300 percent of the poverty line.

"(B) STATE OPTION TO EXPAND COVERAGE THROUGH SUBSIDIZED PURCHASE OF FAMILY COVERAGE.—A State may elect to carry out subparagraph (A) through the provision of assistance for the purchase of dependent coverage under a group health plan or health insurance coverage if—

"(i) the dependent coverage is consistent with the benefit standards under this title or title XXI, as approved by the Secretary; and

"(ii) the State provides additional benefits under this title or title XXI.

"(C) DEEMED SATISFACTION FOR CERTAIN STATES.—A State that, as of January 1, 2006, provides medical assistance under this title or child health assistance under title XXI to children whose family income is 300 percent of the poverty line shall be deemed to satisfy this paragraph.

"(2) COVERAGE FOR CHILDREN UNDER AGE 21.—The State agrees to define a child for purposes of this title and title XXI as an individual who has not attained 21 years of age.

"(3) OPPORTUNITY FOR HIGHER INCOME CHILDREN TO PURCHASE SCHIP COVERAGE.—The State agrees to permit any child whose family income exceeds 300 percent of the poverty line to purchase full or additional coverage under title XXI at the full cost of providing such coverage, as determined by the State.

"(4) COVERAGE FOR LEGAL IMMIGRANT CHILDREN.—The State agrees to—

"(A) provide medical assistance under this title and child health assistance under title XXI for alien children who are lawfully residing in the United States (including battered aliens described in section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) and who are otherwise eligible for such assistance in accordance with section 1903(v)(4) and 2107(e)(1)(E); and

"(B) not establish or enforce barriers that deter applications by such aliens, including through the application of the removal of the barriers described in subsection (c).

"(c) REMOVAL OF ENROLLMENT AND ACCESS BARRIERS.—The condition described in this subsection is that the State agrees to do the following:

"(1) PRESUMPTIVE ELIGIBILITY FOR CHILDREN.—The State agrees to—

"(A) provide presumptive eligibility for children under this title and title XXI in accordance with section 1920A;

"(B) treat any items or services that are provided to an uncovered child (as defined in section 2110(c)(8)) who is determined ineligible for medical assistance under this title as child health assistance for purposes of paying a provider of such items or services, so long as such items or services would be considered child health assistance for a targeted low-income child under title XXI.

"(2) ADOPTION OF 12-MONTH CONTINUOUS ENROLLMENT.—The State agrees to provide that eligibility for assistance under this title and title XXI shall not be regularly redetermined more often than once every year for children.

"(3) ACCEPTANCE OF SELF-DECLARATION OF INCOME.—The State agrees to permit the family of a child applying for medical assistance under this title or child health assistance under title XXI to declare and certify by signature under penalty of perjury family income for purposes of collecting financial eligibility information.

"(4) ADOPTION OF ACCEPTANCE OF ELIGIBILITY DETERMINATIONS FOR OTHER ASSISTANCE PROGRAMS.—The State agrees to accept determinations (made within a reasonable period, as found by the State, before its use for this purpose) of an individual's family or household income made by a Federal or State agency (or a public or private entity making such determination on behalf of such agency), including the agencies administering the Food Stamp Act of 1977, the Richard B. Russell National School Lunch Act, and the Child Nutrition Act of 1966, notwithstanding any differences in budget unit, disregard, deeming, or other methodology, but only if—

"(A) such agency has fiscal liabilities or responsibilities affected or potentially affected by such determinations; and

"(B) any information furnished by such agency pursuant to this subparagraph is used solely for purposes of determining eligibility for medical assistance under this title or for child health assistance under title XXI.

"(5) NO ASSETS TEST.—The State agrees to not (or demonstrates that it does not) apply any assets or resources test for eligibility under this title or title XXI with respect to children.

"(6) ELIGIBILITY DETERMINATIONS AND REDETERMINATIONS.—

"(A) IN GENERAL.—The State agrees for purposes of initial eligibility determinations and redeterminations of children under this title and title XXI not to require a face-to-face interview and to permit applications and renewals by mail, telephone, and the Internet.

"(B) NONDUPLICATION OF INFORMATION.—

"(i) IN GENERAL.—For purposes of redeterminations of eligibility for currently or previously enrolled children under this title and title XXI, the State agrees to use all information in its possession (including information available to the State under other Federal or State programs) to determine eligibility or redetermine continued eligibility before seeking similar information from parents.

"(ii) RULE OF CONSTRUCTION.—Nothing in clause (i) shall be construed as limiting any obligation of a State to provide notice and a fair hearing before denying, terminating, or reducing a child's coverage based on such information in the possession of the State.

"(7) NO WAITING LIST FOR CHILDREN UNDER SCHIP.—The State agrees to not impose any numerical limitation, waiting list, waiting period, or similar limitation on the eligibility of children for child health assistance under title XXI or to establish or enforce other barriers to the enrollment of eligible children based on the date of their application for coverage.

"(8) ADEQUATE PROVIDER PAYMENT RATES.—The State agrees to—

"(A) establish payment rates for children's health care providers under this title that are no less than the average of payment rates for similar services for such providers provided under the benchmark benefit packages described in section 2103(b);

"(B) establish such rates in amounts that are sufficient to ensure that children enrolled under this title or title XXI have adequate access to comprehensive care, in accordance with the requirements of section 1902(a)(30)(A); and

"(C) include provisions in its contracts with providers under this title guaranteeing compliance with these requirements.

"(d) MAINTENANCE OF MEDICAID ELIGIBILITY LEVELS FOR CHILDREN.—

"(1) IN GENERAL.—The condition described in this subsection is that the State agrees to maintain eligibility income, resources, and methodologies applied under this title (including under a waiver of such title or under section 1115) with respect to children that are no more restrictive than the eligibility income, resources, and methodologies applied with respect to children under this title (including under such a waiver) as of January 1, 2006.

"(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as implying that a State does not have to comply with the minimum income levels required for children under section 1902(l)(2).

"(e) DATE DESCRIBED.—The date described in this subsection is the date on which, with respect to a State, a plan amendment that satisfies the requirements of subsections (b), (c), and (d) is approved by the Secretary.

"(f) DEFINITION OF POVERTY LINE.—In this section, the term 'poverty line' has the meaning given that term in section 2110(c)(5).".

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by inserting before the period the following: ", and with respect to amounts expended for medical assistance for children on or after the date described in subsection (d) of section 1939, in the case of a State that has, in accordance with such section, an approved plan amendment under this title and title XXI".

(2) Section 1903(f)(4) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended—

(A) in subparagraph (C), by adding "or" after "section 1611(b)(1),"; and

(B) by inserting after subparagraph (C), the following:

"(D) who would not receive such medical assistance but for State electing the option under section 1939 and satisfying the conditions described in subsections (b), (c), and (d) of such section,".

SEC. 102. ELIMINATION OF CAP ON SCHIP FUNDING FOR STATES THAT EXPAND ELIGIBILITY FOR CHILDREN.

(a) In General.—Section 2105 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following:

"(h) Guaranteed Funding for Child Health Assistance for Coverage Expansion States.—

"(1) In general.—Only in the case of a State that has, in accordance with section 1939, an approved plan amendment under this title and title XIX, any payment cap that would otherwise apply to the State under this title as a result of having expended all allotments available for expenditure by the State with respect to a fiscal year shall not apply with respect to amounts expended by the State on or after the date described in section 1939(d).

"(2) Appropriation.—There is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the purpose of paying a State described in paragraph (1) for each quarter beginning on or after the date described in section 1939(d), an amount equal to the enhanced FMAP of expenditures described in paragraph (1) and incurred during such quarter.".

(b) Conforming Amendments.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended—

(1) in subsection (a), by inserting "subject to section 2105(h)," after "under this section,";

(2) in subsection (b)(1), by inserting "and section 2105(h)" after "Subject to paragraph (4)"; and

(3) in subsection (c)(1), by inserting "subject to section 2105(h)," after "for a fiscal year,".

TITLE II—STATE OPTIONS FOR INCREMENTAL CHILD COVERAGE EXPANSIONS

SEC. 201. STATE OPTION TO PROVIDE ADDITIONAL SCHIP COVERAGE TO CHILDREN WHO HAVE OTHER HEALTH COVERAGE.

(a) In General.—Section 2110(b) of the Social Security Act (42 U.S.C. 1397jj(b)) is amended—

(1) in paragraph (1)(C), by inserting ", subject to paragraph (5)," after "under title XIX or"; and

(2) by adding at the end the following new paragraph:

"(5) State option to provide additional coverage.—

"(A) In general.—A State may waive the requirement of paragraph (1)(C) that a targeted low-income child may not be covered under a group health plan or under health insurance coverage in order to provide—

"(i) items or services that are not covered, or are only partially covered, under such plan or coverage; or

"(ii) cost-sharing protection.

"(B) Eligibility.—In waiving such requirement, a State may limit the application of the waiver to children whose family income does not exceed a level specified by the State, so long as the level so specified does not exceed the maximum income level otherwise established for other children under the State child health plan.

"(C) Continued application of duty to prevent substitution of existing coverage.—Nothing in this paragraph shall be construed as modifying the application of section 2102(b)(3)(C) to a State.".

(b) Application of Enhanced Match under Medicaid.—Section 1905 of such Act (42 U.S.C. 1396d) is amended—

(1) in subsection (b), in the fourth sentence, by striking "subsection (u)(3)" and inserting "(u)(3), or (u)(4)"; and

(2) in subsection (u), by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following:

"(4) For purposes of subsection (b), the expenditures described in this paragraph are expenditures for items and services for children described in section 2110(b)(5).".

(c) Application of Secondary Payor Provisions.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)) is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) Section 1902(a)(25) (relating to coordination of benefits and secondary payor provisions) with respect to children covered under a waiver described in section 2110(b)(5).".

SEC. 202. STATE OPTION TO ENROLL LOW-INCOME CHILDREN OF STATE EMPLOYEES IN SCHIP.

Section 2110(b)(2) of the Social Security Act (42 U.S.C. 1397jj(b)(2)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively and realigning the left margins of such clauses appropriately;

(2) by striking "Such term" and inserting the following:

"(A) In general.—Such term"; and

(3) by adding at the end the following:

"(B) State option to enroll low-income children of state employees.—At the option of a State, subparagraph (A)(ii) shall not apply to any low-income child who would otherwise be eligible for child health assistance under this title but for such subparagraph.".

SEC. 203. OPTIONAL COVERAGE OF LEGAL IMMIGRANT CHILDREN UNDER MEDICAID AND SCHIP.

(a) Medicaid Program.—Section 1903(v) of the Social Security Act (42 U.S.C. 1396b(v)) is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (4)"; and

(2) by adding at the end the following:

"(4)(A) A State may elect (in a plan amendment under this title) to provide medical assistance under this title for aliens who are lawfully residing in the United States (including battered aliens described in section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) and who are otherwise eligible for such assistance, within any of the following eligibility categories:

"(i) Children.—Children (as defined under such plan), including optional targeted low-income children described in section 1905(u)(2)(B).

"(B)(i) In the case of a State that has elected to provide medical assistance to a category of aliens under subparagraph (A), no debt shall accrue under an affidavit of support against any sponsor of such an alien on the basis of provision of assistance to such category and the cost of such assistance shall not be considered as an unreimbursed cost.

"(ii) The provisions of sections 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not apply to a State that makes an election under subparagraph (A).".

(b) Title XXI.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended by adding at the end the following:

"(E) Section 1903(v)(4) (relating to optional coverage of permanent resident alien children), but only if the State has elected to apply such section to that category of children under title XIX.".

SEC. 204. STATE OPTION FOR PASSIVE RENEWAL OF ELIGIBILITY FOR CHILDREN UNDER MEDICAID AND SCHIP.

(a) In General.—Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended by adding at the end the following:

"(5) Notwithstanding any other provision of this title, a State may provide that an individual who has not attained 21 years of age who has been determined eligible for medical assistance under this title shall remain eligible for medical assistance until such time as the State has information demonstrating that the individual is no longer so eligible.".

(b) Application under Title XXI.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)) is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(2) by inserting after subparagraph (A), the following:

"(B) Section 1902(l)(5) (relating to passive renewal of eligibility for children).".

TITLE III—TAX INCENTIVES FOR HEALTH INSURANCE COVERAGE OF CHILDREN

SEC. 301. REFUNDABLE CREDIT FOR HEALTH INSURANCE COVERAGE OF CHILDREN.

(a) In General.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

"SEC. 36. HEALTH INSURANCE COVERAGE OF CHILDREN.

"(a) In General.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to so much of the amount paid during the taxable year, not compensated for by insurance or otherwise, for qualified health insurance for each dependent child of the taxpayer, as exceeds 5 percent of the adjusted gross income of such taxpayer for such taxable year.

"(b) Dependent Child.—For purposes of this section, the term 'dependent child' means any child (as defined in section 152(f)(1)) who has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins and with respect to whom a deduction under section 151 is allowable to the taxpayer.

"(c) Qualified Health Insurance.—For purposes of this section—

"(1) In general.—The term 'qualified health insurance' means insurance, either employer-provided or made available under title XIX or XXI of the Social Security Act, which constitutes medical care as defined in section 213(d) without regard to—

"(A) paragraph (1)(C) thereof, and

"(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance contracts.

"(2) Exclusion of certain other contracts.—Such term shall not include insurance if a substantial portion of its benefits are excepted benefits (as defined in section 9832(c)).

"(d) Medical Savings Account and Health Savings Account Contributions.—

"(1) In general.—If a deduction would (but for paragraph (2)) be allowed under section

220 or 223 to the taxpayer for a payment for the taxable year to the medical savings account or health savings account of an individual, subsection (a) shall be applied by treating such payment as a payment for qualified health insurance for such individual.

"(2) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under section 220 or 223 for that portion of the payments otherwise allowable as a deduction under section 220 or 223 for the taxable year which is equal to the amount of credit allowed for such taxable year by reason of this subsection.

"(e) SPECIAL RULES.—

"(1) DETERMINATION OF INSURANCE COSTS.—The Secretary shall provide rules for the allocation of the cost of any qualified health insurance for family coverage to the coverage of any dependent child under such insurance.

"(2) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—In the case of a taxpayer who is eligible to deduct any amount under section 162(l) for the taxable year, this section shall apply only if the taxpayer elects not to claim any amount as a deduction under such section for such year.

"(3) COORDINATION WITH MEDICAL EXPENSE AND HIGH DEDUCTIBLE HEALTH PLAN DEDUCTIONS.—The amount which would (but for this paragraph) be taken into account by the taxpayer under section 213 or 224 for the taxable year shall be reduced by the credit (if any) allowed by this section to the taxpayer for such year.

"(4) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(5) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under subsection (a) if the credit under section 35 is allowed and no credit shall be allowed under 35 if a credit is allowed under this section.

"(6) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.".

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050T the following new section:

"SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR QUALIFIED HEALTH INSURANCE.

"(a) IN GENERAL.—Any governmental unit or any person who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of a dependent child (as defined in section 36(b)) of such individual under creditable health insurance, shall make the return described in subsection (b) (at such time as the Secretary may by regulations prescribe) with respect to each individual from whom such payments were received.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe, and

"(2) contains—

"(A) the name, address, and TIN of the individual from whom payments described in subsection (a) were received,

"(B) the name, address, and TIN of each dependent child (as so defined) who was provided by such person with coverage under creditable health insurance by reason of such payments and the period of such coverage, and

"(C) such other information as the Secretary may reasonably prescribe.

"(c) CREDITABLE HEALTH INSURANCE.—For purposes of this section, the term 'creditable health insurance' means qualified health insurance (as defined in section 36(c)).

"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required under subsection (b)(2)(A) to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return and the phone number of the information contact for such person,

"(2) the aggregate amount of payments described in subsection (a) received by the person required to make such return from the individual to whom the statement is required to be furnished, and

"(3) the information required under subsection (b)(2)(B) with respect to such payments.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

"(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).".

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xiii) through (xviii) as clauses (xiv) through (xix), respectively, and by inserting after clause (xii) the following new clause:

"(xiii) section 6050U (relating to returns relating to payments for qualified health insurance),".

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking "or" at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting ", or", and by adding at the end the following new subparagraph:

"(CC) section 6050U(d) (relating to returns relating to payments for qualified health insurance).".

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050T the following new item:

"Sec. 6050U. Returns relating to payments for qualified health insurance.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 36 of such Code".

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

"Sec. 36. Health insurance coverage of children.

"Sec. 37. Overpayments of tax.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 302. FORFEITURE OF PERSONAL EXEMPTION FOR ANY CHILD NOT COVERED BY HEALTH INSURANCE.

(a) IN GENERAL.—Section 151(d) of the Internal Revenue Code of 1986 (relating to exemption amount) is amended by adding at the end the following new paragraph:

"(5) REDUCTION OF EXEMPTION AMOUNT FOR ANY CHILD NOT COVERED BY HEALTH INSURANCE.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the exemption amount otherwise determined under this subsection for any dependent child (as defined in section 36(b)) for any taxable year shall be reduced by the same percentage as the percentage of such taxable year during which such dependent child was not covered by qualified health insurance (as defined in section 36(c)).

"(B) FULL REDUCTION IF NO PROOF OF COVERAGE IS PROVIDED.—For purposes of subparagraph (A), in the case of any taxpayer who fails to attach to the return of tax for any taxable year a copy of the statement furnished to such taxpayer under section 6050U, the percentage reduction under such subparagraph shall be deemed to be 100 percent.

"(C) NONAPPLICATION OF PARAGRAPH TO TAXPAYERS IN LOWEST TAX BRACKET.—This paragraph shall not apply to any taxpayer whose taxable income for the taxable year does not exceed the initial bracket amount determined under section 1(i)(1)(B).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

TITLE IV—MISCELLANEOUS

SEC. 401. REQUIREMENT FOR GROUP MARKET HEALTH INSURERS TO OFFER DEPENDENT COVERAGE OPTION FOR WORKERS WITH CHILDREN.

(a) ERISA.—

(1) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

"SEC. 714. REQUIREMENT TO OFFER OPTION TO PURCHASE DEPENDENT COVERAGE FOR CHILDREN.

"(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, shall offer an individual who is enrolled in such coverage the option to purchase dependent coverage for a child of the individual.

"(b) NO EMPLOYER CONTRIBUTION REQUIRED.—An employer shall not be required to contribute to the cost of purchasing dependent coverage for a child by an individual who is an employee of such employer.

"(c) DEFINITION OF CHILD.—In this section, the term 'child' means an individual who has not attained 21 years of age.".

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001) is amended by inserting after the item relating to section 713 the following:

"Sec. 714. Requirement to offer option to purchase dependent coverage for children.".

(b) PUBLIC HEALTH SERVICE ACT.—Subpart 2 of part A of title XXVII of the Public

Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

"SEC. 2707. REQUIREMENT TO OFFER OPTION TO PURCHASE DEPENDENT COVERAGE FOR CHILDREN.

"(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, shall offer an individual who is enrolled in such coverage the option to purchase dependent coverage for a child of the individual.

"(b) NO EMPLOYER CONTRIBUTION REQUIRED.—An employer shall not be required to contribute to the cost of purchasing dependent coverage for a child by an individual who is an employee of such employer.

"(c) DEFINITION OF CHILD.—In this section, the term 'child' means an individual who has not attained 21 years of age.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after January 1, 2007.

SEC. 402. EFFECTIVE DATE.

Unless otherwise provided, the amendments made by this Act shall take effect on October 1, 2006, and shall apply to child health assistance and medical assistance provided on or after that date without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

TITLE V—REVENUE PROVISION

SEC. 501. PARTIAL REPEAL OF RATE REDUCTION IN THE HIGHEST INCOME TAX BRACKET.

Section 1(i)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following flush sentence:

"In the case of taxable years beginning during calendar year 2006 and thereafter, the final item in the fourth column in the preceding table shall be applied by substituting for '35.0%' such rate as the Secretary determines is necessary to provide sufficient revenues to offset the Federal outlays required to implement the provisions of, and amendments made by, the Kids Come First Act of 2006.".

SA 3863. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955 to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

In section 2922 of the Public Health Service Act, as added by section 201 of the bill, strike subsection (a) and insert the following:

"(a) BENEFIT CHOICE OPTIONS.—

"(1) DEVELOPMENT.—Not later than 6 months after the date of enactment of this title, the Secretary shall issue, by interim final rule, Benefit Choice Standards that implement a standard benefit package as provided for in this part.

"(2) REQUIREMENT.—The Benefit Choice Standards shall provide that a health insurance issuer in a State, may offer a coverage plan or plan in the small group market, individual market, large group market, or through a small business health plan, that does not comply with one or more mandates regarding covered benefits, services, or category of provider as may be in effect in such State with respect to such market or markets (either prior to or following the date of enactment of this title), if such coverage or plan provides for coverage of a standard benefit package as provided for in paragraph (3).

"(3) STANDARD BENEFIT PACKAGE.—A health insurance issuer described in paragraph (2) shall offer to purchasers (including, with respect to a small business health plan, the participating employers of such plan) a plan that, at a minimum, provides coverage for such benefits, services, and categories of providers as are required under the laws of at least 25 States, as determined by the Secretary.

"(4) PUBLICATION OF BENEFIT PACKAGE.—Not later than 3 months after the date of enactment of this title, and on the first day of every calendar year thereafter, the Secretary shall publish in the Federal Register the standard benefit package required under this subsection. In making such publication the Secretary shall resolve any variations that exist in the scope of the benefits, services, and categories of providers required under the laws of the States considered by the Secretary for purposes of paragraph (3).

"(5) UPDATING OF BENEFIT PACKAGE.—Not later than 2 years after the date on which the standard benefit package is issued under paragraph (3), and every 2 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners, shall update the package. The Secretary shall issue the updated package by regulation, and such updated package shall be effective upon the first plan year following the issuance of such regulation.

SA 3864. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955 to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

"(___) PROVISION OF MENTAL HEALTH BENEFITS.—The standard benefit package under this part shall require that health plans include coverage (and cost sharing if applicable) for mental health care in a manner that is comparable to the coverage (and cost sharing if applicable) provided under such plan for items and services relating to physical health.

SA 3865. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955 to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

In section 2922(a) of the Public Health Service Act, as added by section 201 of the bill, add at the end the following:

"(5) APPLICATION OF COST SHARING.—A health insurance issuer in a State that offers a basic option plan as provided for in paragraph (2) and an enhanced option plan as provided for in paragraph (3), shall ensure that any cost sharing required under either such option is comparable, with respect to dollar amounts, to the cost sharing required under the other such option.

SA 3866. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955 to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

In section 2922(a) of the Public Health Service Act, as added by section 201 of the bill, add at the end the following:

"(5) PROVISION OF MENTAL HEALTH BENEFITS.—A health insurance issuer in a State that offers a basic option plan as provided for in paragraph (2) and an enhanced option plan as provided for in paragraph (3), shall ensure that each such plan provides coverage (and cost sharing if applicable) for mental health care in a manner that is comparable to the coverage (and cost sharing if applicable) provided under each such plan for items and services relating to physical health.

SA 3867. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1955 to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NEGOTIATING FAIR PRICES FOR MEDICARE PRESCRIPTION DRUGS.

(a) IN GENERAL.—Section 1860D–11 (42 U.S.C. 1395w–111) is amended by striking subsection (i) (relating to noninterference) and inserting the following:

"(i) AUTHORITY TO NEGOTIATE PRICES WITH MANUFACTURERS.—

"(1) IN GENERAL.—Subject to paragraph (4), in order to ensure that beneficiaries enrolled under prescription drug plans and MA–PD plans pay the lowest possible price, the Secretary shall have authority similar to that of other Federal entities that purchase prescription drugs in bulk to negotiate contracts with manufacturers of covered part D drugs, consistent with the requirements and in furtherance of the goals of providing quality care and containing costs under this part.

"(2) MANDATORY RESPONSIBILITIES.—The Secretary shall be required to—

"(A) negotiate contracts with manufacturers of covered part D drugs for each fallback prescription drug plan under subsection (g); and

"(B) participate in negotiation of contracts of any covered part D drug upon request of an approved prescription drug plan or MA–PD plan.

"(3) RULE OF CONSTRUCTION.—Nothing in paragraph (2) shall be construed to limit the authority of the Secretary under paragraph (1) to the mandatory responsibilities under paragraph (2).

"(4) NO PARTICULAR FORMULARY OR PRICE STRUCTURE.—In order to promote competition under this part and in carrying out this part, the Secretary may not require a particular formulary or institute a price structure for the reimbursement of covered part D drugs.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

SA 3868. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hospital Quality Report Card Act of 2006".

SEC. 2. PURPOSE.

The purpose of this Act is to expand hospital quality reporting by establishing the Hospital Quality Report Card Initiative under the Medicare program to ensure that hospital quality measures data are readily available and accessible in order to—

(1) assist patients and consumers in making decisions about where to get health care;

(2) assist purchasers and insurers in making decisions that determine where employees, subscribers, members, or participants are able to go for their health care;

(3) assist health care providers in identifying opportunities for quality improvement and cost containment; and

(4) enhance the understanding of policy makers and public officials of health care issues, raise public awareness of hospital quality issues, and to help constituents of such policy makers and officials identify quality health care options.

SEC. 3. HOSPITAL QUALITY REPORT CARD INITIATIVE.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

"SEC. 1898. HOSPITAL QUALITY REPORT CARD INITIATIVE.

"(a) IN GENERAL.—Not later than 18 months after the date of the enactment of the Hospital Quality Report Card Act of 2006, the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services (in this section referred to as the 'Administrator') and in consultation with the Director of the Agency for Healthcare Research and Quality, shall, directly or through contracts with States, establish and implement a Hospital Quality Report Card Initiative (in this section referred to as the 'Initiative') to report on health care quality in subsection (d) hospitals.

"(b) SUBSECTION (d) HOSPITAL.—For purposes of this section, the term 'subsection (d) hospital' has the meaning given such term in section 1886(d)(1)(B).

"(c) REQUIREMENTS OF INITIATIVE.—

"(1) QUALITY MEASUREMENT REPORTS FOR HOSPITALS.—

"(A) QUALITY MEASURES.—Not less than 2 times each year, the Secretary shall publish reports on hospital quality. Such reports shall include quality measures data submitted under section 1886(b)(3)(B)(viii), and other data as feasible, that allow for an assessment of health care—

"(i) effectiveness;

"(ii) safety;

"(iii) timeliness;

"(iv) efficiency;

"(v) patient-centeredness; and

"(vi) equity.

"(B) REPORT CARD FEATURES.—In collecting and reporting data as provided for under subparagraph (A), the Secretary shall include hospital information, as possible, relating to—

"(i) staffing levels of nurses and other health professionals, as appropriate;

"(ii) rates of nosocomial infections;

"(iii) the volume of various procedures performed;

"(iv) the availability of interpreter services on-site;

"(v) the accreditation of hospitals, as well as sanctions and other violations found by accreditation or State licensing boards;

"(vi) the quality of care for various patient populations, including pediatric populations and racial and ethnic minority populations;

"(vii) the availability of emergency rooms, intensive care units, obstetrical units, and burn units;

"(viii) the quality of care in various hospital settings, including inpatient, outpatient, emergency, maternity, and intensive care unit settings;

"(ix) the use of health information technology, telemedicine, and electronic medical records;

"(x) ongoing patient safety initiatives; and

"(xi) other measures determined appropriate by the Secretary.

"(C) TAILORING OF HOSPITAL QUALITY REPORTS.—The Director of the Agency for Healthcare Research and Quality may modify and publish hospital reports to include quality measures for diseases and health conditions of particular relevance to certain regions, States, or local areas.

"(D) RISK ADJUSTMENT.—

"(i) IN GENERAL.—In reporting data as provided for under subparagraph (A), the Secretary may risk adjust quality measures to account for differences relating to—

"(I) the characteristics of the reporting hospital, such as licensed bed size, geography, teaching hospital status, and profit status; and

"(II) patient characteristics, such as health status, severity of illness, insurance status, and socioeconomic status.

"(ii) AVAILABILITY OF UNADJUSTED DATA.—If the Secretary reports data under subparagraph (A) using risk-adjusted quality measures, the Secretary shall establish procedures for making the unadjusted data available to the public in a manner determined appropriate by the Secretary.

"(E) COSTS.—The Secretary shall—

"(i) compile data relating to the average hospital cost for ICD-9 conditions for which quality measures data are collected; and

"(ii) report such information in a manner that allows cost comparisons between or among subsection (d) hospitals.

"(F) VERIFICATION.—Under the Initiative, the Secretary may verify data reported under this paragraph to ensure accuracy and validity.

"(G) DISCLOSURE.—The Secretary shall disclose the entire methodology for the reporting of data under this paragraph to all relevant organizations and all subsection (d) hospitals that are the subject of any such information that is to be made available to the public prior to the public disclosure of such information.

"(H) PUBLIC INPUT.—The Secretary shall provide an opportunity for public review and comment with respect to the quality measures to be reported for subsection (d) hospitals under this section for at least 60 days prior to the finalization by the Secretary of the quality measures to be used for such hospitals.

"(I) AVAILABILITY OF REPORTS AND FINDINGS.—

"(i) ELECTRONIC AVAILABILITY.—The Secretary shall ensure that reports are made available under this section in an electronic format, in an understandable manner with respect to various populations (including those with low functional health literacy), and in a manner that allows health care quality comparisons to be made between local hospitals.

"(ii) FINDINGS.—The Secretary shall establish procedures for making report findings available to the public, upon request, in a non-electronic format, such as through the toll-free telephone number 1-800-MEDICARE.

"(J) IDENTIFICATION OF METHODOLOGY.—The analytic methodologies and limitations on data sources utilized by the Secretary to develop and disseminate the comparative data under this section shall be identified and acknowledged as part of the dissemination of such data, and include the appropriate and inappropriate uses of such data.

"(K) ADVERSE SELECTION OF PATIENTS.—On at least an annual basis, the Secretary shall compare quality measures data submitted by each subsection (d) hospital under section 1886(b)(3)(B)(viii) with data submitted in the prior year or years by the same hospital in order to identify and report actions that would lead to false or artificial improvements in the hospital's quality measurements, including—

"(i) adverse selection against patients with severe illness or other factors that predispose patients to poor health outcomes; and

"(ii) provision of health care that does not meet established recommendations or accepted standards for care.

"(2) DATA SAFEGUARDS.—

"(A) UNAUTHORIZED USE AND DISCLOSURE.—The Secretary shall develop and implement effective safeguards to protect against the unauthorized use or disclosure of hospital data that is reported under this section.

"(B) INACCURATE INFORMATION.—The Secretary shall develop and implement effective safeguards to protect against the dissemination of inconsistent, incomplete, invalid, inaccurate, or subjective hospital data.

"(C) IDENTIFIABLE DATA.—The Secretary shall ensure that identifiable patient data shall not be released to the public.

"(d) GRANTS AND TECHNICAL ASSISTANCE.—The Secretary may award grants to national or State organizations, partnerships, or other entities that may assist with hospital quality improvement.

"(e) HOSPITAL QUALITY ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—The Administrator, in consultation with the Director of the Agency for Healthcare Research and Quality, shall establish the Hospital Quality Advisory Committee (in this subsection referred to as the 'Advisory Committee') to provide advice to the Administrator on the submission, collection, and reporting of quality measures data. The Administrator shall serve as the chairperson of the Advisory Committee.

"(2) MEMBERSHIP.—The Advisory Committee shall include representatives of the following (except with respect to subparagraphs (A) through (D), to be appointed by the Administrator):

"(A) The Agency for Healthcare Research and Quality.

"(B) The Health Resources and Services Administration.

"(C) The Department of Veterans Affairs.

"(D) The Centers for Disease Control and Prevention.

"(E) National membership organizations that focus on health care quality improvement.

"(F) Public and private hospitals.

"(G) Physicians, nurses, and other health professionals.

"(H) Patients and patient advocates.

"(I) Health insurance purchasers and other payers.

"(J) Health researchers, policymakers, and other experts in the field of health care quality.

"(K) Health care accreditation entities.

"(L) Other agencies and groups as determined appropriate by the Administrator.

"(3) DUTIES.—The Advisory Committee shall review and provide guidance and recommendations to the Administrator on—

"(A) the establishment of the Initiative;

"(B) integration and coordination of Federal quality measures data submission requirements, to avoid needless duplication and inefficiency;

"(C) legal and regulatory barriers that may hinder quality measures data collection and reporting; and

"(D) necessary technical and financial assistance to encourage quality measures data collection and reporting;

"(4) STAFF AND RESOURCES.—The Administrator shall provide the Advisory Committee with appropriate staff and resources for the functioning of the Advisory Committee.

"(5) DURATION.—The Advisory Committee shall terminate at the discretion of the Administrator, but in no event later than 5 years after the date of enactment of this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2007 through 2016.".

(b) CONFORMING AMENDMENT.—Section 1886(b)(3)(B)(viii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(viii)), as added by section 5001 of the Deficit Reduction Act of 2005, is amended to read as follows:

"(VII) The Secretary shall use the data submitted under this clause for the Hospital Quality Report Card Initiative under section 1898.".

SEC. 4. EVALUATION OF THE HOSPITAL QUALITY REPORT CARD INITIATIVE.

(a) IN GENERAL.—The Director of the Agency for Healthcare Research and Quality, directly or through contract, shall evaluate and periodically report to Congress on the effectiveness of the Hospital Quality Report Card Initiative established under section 1898 of the Social Security Act, as added by section 3, including the effectiveness of the Initiative in meeting the purpose described in section 2. The Director shall make such reports available to the public.

(b) RESEARCH.—The Director of the Agency for Healthcare Research and Quality, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, shall use the outcomes from the evaluation conducted pursuant to subsection (a) to increase the usefulness of the Hospital Quality Report Card Initiative, particularly for patients, as necessary.

SA 3869. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Care for Hybrids Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States imports over half the oil it consumes.

(2) According to present trends, the United States reliance on foreign oil will increase to 68 percent of its total consumption by 2025.

(3) With only 3 percent of the world's known oil reserves, the health of the United States economy is dependent on world oil prices.

(4) World oil prices are overwhelmingly dictated by countries other than the United States, thus endangering our economic and national security.

(5) Legacy health care costs associated with retiree workers are an increasing burden on the global competitiveness of American industries.

(6) American automakers have lagged behind their foreign competitors in producing hybrid and other energy efficient automobiles.

(7) Innovative uses of new technology in automobiles in the United States will help retain American jobs, support health care obligations for retiring workers in the automotive sector, decrease America's dependence on foreign oil, and address pressing environmental concerns.

TITLE I—PROGRAM

SEC. 101. COORDINATING TASK FORCE.

Not later than 6 months after the date of enactment of this Act, the Secretary of Energy, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of the Treasury shall establish, and appoint an equal number of representatives to, a task force (referred to in this Act as the "task force") to administer the program established under this Act.

SEC. 102. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the task force established under section 101 shall establish a program to provide financial assistance to eligible domestic automobile manufacturers for the costs incurred in providing health benefits to their retired employees.

(b) CONSULTATION.—In establishing the program under subsection (a), the task force shall consult with representatives from the domestic automobile manufacturers, unions representing employees of such manufacturers, and consumer and environmental groups.

(c) ELIGIBLE DOMESTIC AUTOMOBILE MANUFACTURER.—To be eligible to receive financial assistance under the program established under subsection (a), a domestic automobile manufacturer shall—

(1) submit an application to the task force at such time, in such manner, and containing such information as the task force shall require;

(2) certify that such manufacturer is providing full health care coverage to all of its domestic employees;

(3) provide an assurance that the manufacturer will invest an amount equal to not less than 50 percent of the amount of health savings derived by the manufacturer as a result of its retiree health care costs being covered under the program under this section, in—

(A) the domestic manufacture and commercialization of petroleum fuel reduction technologies, including alternative or flexible fuel vehicles, hybrids, and other state-of-the-art fuel saving technologies;

(B) the retraining of workers and retooling of assembly lines for such domestic manufacture and commercialization;

(C) research and development, design, commercialization, and other costs related to the diversifying of domestic production of automobiles through the offering of high performance fuel efficient vehicles; and

(D) assisting domestic automobile component suppliers to retool their domestic manufacturing plants to produce components for petroleum fuel reduction technologies, including alternative or flexible fuel vehicles, hybrid, advanced diesel, or other state-of-the-art fuel saving technologies; and

(4) provide additional assurances and information as the task force may require, including information needed by the task force to audit the manufacturer's compliance with the requirements of the program.

(d) LIMITATION.—The total amount of financial assistance that may be provided each year under the program under this section with respect to any single domestic automobile manufacturer shall not exceed an amount equal to 10 percent of the retiree health care costs of that manufacturer for that year.

SEC. 103. REPORTING.

Not later than 6 months after the date of enactment of this Act, and every 6 months thereafter, the task force shall submit to Congress a report on any financial assistance provided under this program under this Act and the resulting changes in the manufacture and commercialization of fuel saving technologies implemented by auto manufacturers as a result of such financial assistance. Not later than 1 year after the date of enactment of this Act, the task force shall submit a report to Congress on the effectiveness of current consumer incentives available for the purchase of hybrid vehicles in encouraging the purchase of such vehicles and whether these incentives should be expanded.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, such sums as may be necessary in each fiscal year to carry out this Act.

SEC. 105. LIMITATION ON BACKSLIDING.

To be eligible to receive financial assistance under this title, a manufacturer shall provide assurances to the task force that fuel savings achieved with respect its average adjusted fuel economy will not result in decreases with respect to fuel economy elsewhere in the domestic fleet. The task force shall determine compliance with such assurances using accepted measurements of fuel savings.

SEC. 106. TERMINATION OF PROGRAM.

The program established under this title shall terminate on December 31, 2015.

TITLE II—OFFSETS

SEC. 201. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 of the Internal Revenue Code of 1986 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTION WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under title I with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by title I. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under title I.

"(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

"(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

"(I) depreciation,

"(II) any tax credit, or

"(III) any other deduction as provided in guidance by the Secretary, and

"(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 202. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 of the Internal Revenue Code of 1986 is amended by inserting after section 6662A the following new section:

"SEC. 6662A. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) APPLICABLE RULES.—The rules of paragraphs (2) and (3) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) CROSS REFERENCES.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).".

(b) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

(1) The second sentence of section 6662(d)(2)(A) of the Internal Revenue Code of 1986 is amended by inserting "and without regard to items with respect to which a penalty is imposed by section 6662B" before the period at the end.

(2) Subsection (e) of section 6662A of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (1), by inserting "and noneconomic substance transaction understatements" after "reportable transaction understatements" both places it appears,

(B) in paragraph (2)(A), by inserting "and a noneconomic substance transaction understatement" after "reportable transaction understatement",

(C) in paragraph (2)(B), by inserting "6662B or" before "6663",

(D) in paragraph (2)(C)(i), by inserting "or section 6662B" before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting "and section 6662B" after "This section",

(F) in paragraph (3), by inserting "or noneconomic substance transaction understatement" after "reportable transaction understatement", and

(G) by adding at the end the following new paragraph:

"(3) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).".

(3) Subsection (e) of section 6707A of the Internal Revenue Code of 1986 is amended—

(A) by striking "or" at the end of subparagraph (B), and

(B) by striking subparagraph (C) and inserting the following new subparagraphs:

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

"(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B,".

(c) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 6662A the following new item:

> "Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 203. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163(m) of the Internal Revenue Code of 1986 (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking "attributable" and all that follows and inserting the following: "attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).''; and

(2) by inserting "and noneconomic substance transactions" after "transactions".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

SA 3870. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Healthy Places Act of 2006".

SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) BUILT ENVIRONMENT.—The term "built environment" means an environment consisting of all buildings, spaces, and products that are created or modified by people, including—

(A) homes, schools, workplaces, parks and recreation areas, greenways, business areas, and transportation systems;

(B) electric transmission lines;

(C) waste disposal sites; and

(D) land-use planning and policies that impact urban, rural, and suburban communities.

(3) DIRECTOR.—The term "Director" means the Director of the Centers for Disease Control and Prevention.

(4) ENVIRONMENTAL HEALTH.—The term "environmental health" means the health and well-being of a population as affected by—

(A) the direct pathological effects of chemicals, radiation, and some biological agents; and

(B) the effects (often indirect) of the broad physical, psychological, social, and aesthetic environment.

(5) HEALTH IMPACT ASSESSMENT.—The term "health impact assessment" means any combination of procedures, methods, tools, and means used under section 4 to analyze the actual or potential effects of a policy, program, or project on the health of a population (including the distribution of those effects within the population).

(6) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 3. INTERAGENCY WORKING GROUP ON ENVIRONMENTAL HEALTH.

(a) DEFINITIONS.—In this section:

(1) INSTITUTE.—The term "Institute" means the Institute of Medicine of the National Academies of Science.

(2) IWG.—The term "IWG" means the interagency working group established under subsection (b).

(b) ESTABLISHMENT.—The Secretary, in coordination with the Administrator, shall establish an interagency working group to discuss environmental health concerns, particularly concerns disproportionately affecting disadvantaged populations.

(c) MEMBERSHIP.—The IWG shall be composed of a representative from each Federal agency (as appointed by the head of the agency) that has jurisdiction over, or is affected by, environmental policies and projects, including—

(1) the Council on Environmental Quality;

(2) the Department of Agriculture;

(3) the Department of Commerce;

(4) the Department of Defense;

(5) the Department of Education;

(6) the Department of Energy;

(7) the Department of Health and Human Services;

(8) the Department of Housing and Urban Development;

(9) the Department of the Interior;

(10) the Department of Justice;

(11) the Department of Labor;

(12) the Department of State;

(13) the Department of Transportation;

(14) the Environmental Protection Agency; and

(15) such other Federal agencies as the Administrator and the Secretary jointly determine to be appropriate.

(d) DUTIES.—The IWG shall—

(1) facilitate communication and partnership on environmental health-related projects and policies—

(A) to generate a better understanding of the interactions between policy areas; and

(B) to raise awareness of the relevance of health across policy areas to ensure that the potential positive and negative health consequences of decisions are not overlooked;

(2) serve as a centralized mechanism to coordinate a national effort—

(A) to discuss and evaluate evidence and knowledge on the relationship between the general environment and the health of the population of the United States;

(B) to determine the range of effective, feasible, and comprehensive actions to improve environmental health; and

(C) to examine and better address the influence of social and environmental determinants of health;

(3) survey Federal agencies to determine which policies are effective in encouraging, and how best to facilitate outreach without duplicating, efforts relating to environmental health promotion;

(4) establish specific goals within and across Federal agencies for environmental health promotion, including determinations of accountability for reaching those goals;

(5) develop a strategy for allocating responsibilities and ensuring participation in environmental health promotions, particularly in the case of competing agency priorities;

(6) coordinate plans to communicate research results relating to environmental health to enable reporting and outreach activities to produce more useful and timely information;

(7) establish an interdisciplinary committee to continue research efforts to further understand the relationship between the built environment and health factors (including air quality, physical activity levels, housing quality, access to primary health care practitioners and health care facilities, injury risk, and availability of nutritional, fresh food) that coordinates the expertise of the public health, urban planning, and transportation communities;

(8) develop an appropriate research agenda for Federal agencies—

(A) to support—

(i) longitudinal studies;

(ii) rapid-response capability to evaluate natural conditions and occurrences; and

(iii) extensions of national databases; and

(B) to review evaluation and economic data relating to the impact of Federal interventions on the prevention of environmental health concerns;

(9) initiate environmental health impact demonstration projects to develop integrated place-based models for addressing community quality-of-life issues;

(10) provide a description of evidence-based best practices, model programs, effective guidelines, and other strategies for promoting environmental health;

(11) make recommendations to improve Federal efforts relating to environmental health promotion and to ensure Federal efforts are consistent with available standards and evidence and other programs in existence as of the date of enactment of this Act;

(12) monitor Federal progress in meeting specific environmental health promotion goals;

(13) assist in ensuring, to the maximum extent practicable, integration of the impact of environmental policies, programs, and activities on the areas under Federal jurisdiction;

(14) assist in the implementation of the recommendations from the reports of the Institute of Medicine entitled "Does the Built Environment Influence Physical Activity? Examining the Evidence" and dated January 11, 2005, and "Rebuilding the Unity of Health and the Environment: A New Vision of Environmental Health for the 21st Century" and dated January 22, 2001, including recommendations for—

(A) the expansion of national public health and travel surveys to provide more detailed information about the connection between the built environment and health, including expansion of such surveys as—

(i) the Behavioral Risk Factor Surveillance System, the National Health and Nutrition Examination Survey, and the National Health Interview Survey conducted by the Centers for Disease Control and Prevention;

(ii) the American Community survey conducted by the Census Bureau;

(iii) the American Time Use Survey conducted by the Bureau of Labor Statistics;

(iv) the Youth Risk Behavior Survey conducted by the Centers for Disease Control and Prevention; and

(v) the National Longitudinal Cohort Survey of American Children (the National Children's Study) conducted by the National Institute of Child Health and Human Development;

(B) collaboration with national initiatives to learn from natural experiments such as observations from changes in the built environment and the consequent effects on health;

(C) development of a program of research with a defined mission and recommended budget, concentrating on multiyear projects and enhanced data collection;

(D) development of interdisciplinary education programs—

(i) to train professionals in conducting recommended research; and

(ii) to prepare practitioners with appropriate skills at the intersection of physical activity, public health, transportation, and urban planning;

(15) not later than 2 years after the date of enactment of this Act, submit to Congress a report that describes the extent to which recommendations from the Institute of Medicine reports described in paragraph (14) were executed; and

(16) assist the Director with the development of guidance for the assessment of the potential health effects of land use, housing, and transportation policy and plans.

(e) MEETINGS.—

(1) IN GENERAL.—The IWG shall meet at least 3 times each year.

(2) ANNUAL CONFERENCE.—The Secretary, acting through the Director and in collaboration with the Administrator, shall sponsor an annual conference on environmental health and health disparities to enhance coordination, build partnerships, and share best practices in environmental health data collection, analysis, and reporting.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 4. HEALTH IMPACT ASSESSMENTS.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" means any unit of State or local government the jurisdiction of which includes individuals or populations the health of which are or will be affected by an activity or a proposed activity.

(b) ESTABLISHMENT.—The Secretary, acting through the Director and in collaboration with the Administrator, shall—

(1) establish a program at the National Center of Environmental Health at the Centers for Disease Control and Prevention focused on advancing the field of health impact assessment, including—

(A) collecting and disseminating best practices;

(B) administering capacity building grants, in accordance with subsection (d);

(C) providing technical assistance;

(D) providing training;

(E) conducting evaluations; and

(F) awarding competitive extramural research grants;

(2) in accordance with subsection (f), develop guidance to conduct health impact assessments; and

(3) establish a grant program to allow eligible entities to conduct health impact assessments.

(c) GUIDANCE.—The Director, in collaboration with the IWG, shall—

(1) develop guidance for the assessment of the potential health effects of land use, housing, and transportation policy and plans, including—

(A) background on international efforts to bridge urban planning and public health institutions and disciplines, including a review of health impact assessment best practices internationally;

(B) evidence-based causal pathways that link urban planning, transportation, and housing policy and objectives to human health objectives;

(C) data resources and quantitative and qualitative forecasting methods to evaluate both the status of health determinants and health effects; and

(D) best practices for inclusive public involvement in planning decision-making;

(2) not later than 1 year after the date of enactment of this Act, promulgate the guidance; and

(3) present the guidance to the public at the annual conference described in section 3(e)(2).

(d) GRANT PROGRAM.—The Secretary, acting through the Director and in collaboration with the Administrator, shall establish a program under which the Secretary shall provide funding and technical assistance to eligible entities to prepare health impact assessments—

(1) to ensure that appropriate health factors are taken into consideration as early as practicable during any planning, review, or decision-making process; and

(2) to evaluate the effect on the health of individuals and populations, and on social and economic development, of decisions made outside of the health sector that result in modifications of a physical or social environment.

(e) APPLICATIONS.—

(1) IN GENERAL.—To receive a grant under this section, an eligible entity shall submit to the Secretary an application in accordance with this subsection, in such time, in such manner, and containing such additional information as the Secretary may require.

(2) INCLUSION.—

(A) IN GENERAL.—An application under this subsection shall include an assessment by the eligible entity of the probability that an applicable activity or proposed activity will have at least 1 significant, adverse health effect on an individual or population in the jurisdiction of the eligible entity, based on the criteria described in subparagraph (B).

(B) CRITERIA.—The criteria referred to in subparagraph (A) include, with respect to the applicable activity or proposed activity—

(i) any substantial adverse effect on—

(I) existing air quality, ground or surface water quality or quantity, or traffic or noise levels;

(II) a significant habitat area;

(III) physical activity;

(IV) injury;

(V) mental health;

(VI) social capital;

(VII) accessibility;

(VIII) the character or quality of an important historical, archeological, architectural, or aesthetic resource (including neighborhood character) of the community of the eligible entity; or

(IX) any other natural resource;

(ii) any increase in—

(I) solid waste production; or

(II) problems relating to erosion, flooding, leaching, or drainage;

(iii) any requirement that a large quantity of vegetation or fauna be removed or destroyed;

(iv) any conflict with the plans or goals of the community of the eligible entity;

(v) any major change in the quantity or type of energy used by the community of the eligible entity;

(vi) any hazard presented to human health;

(vii) any substantial change in the use, or intensity of use, of land in the jurisdiction of the eligible entity, including agricultural, open space, and recreational uses;

(viii) the probability that the activity or proposed activity will result in an increase in tourism in the jurisdiction of the eligible entity;

(ix) any substantial, adverse aggregate impact on environmental health resulting from—

(I) changes caused by the activity or proposed activity to 2 or more elements of the environment; or

(II) 2 or more related actions carried out under the activity or proposed activity; and

(x) any other significant change of concern, as determined by the eligible entity.

(C) FACTORS FOR CONSIDERATION.—In making an assessment under subparagraph (A), an eligible entity may take into consideration any reasonable, direct, indirect, or cumulative effect relating to the applicable activity or proposed activity, including the effect of any action that is—

(i) included in the long-range plan relating to the activity or proposed activity;

(ii) likely to be carried out in coordination with the activity or proposed activity;

(iii) dependent on the occurrence of the activity or proposed activity; or

(iv) likely to have a disproportionate impact on disadvantaged populations.

(f) USE OF FUNDS.—

(1) IN GENERAL.—An eligible entity shall use assistance received under this section to prepare and submit to the Secretary a health impact assessment in accordance with this subsection.

(2) PURPOSES.—The purposes of a health impact assessment are—

(A) to facilitate the involvement of State and local health officials in community planning and land use decisions to identify any potential health concern relating to an activity or proposed activity;

(B) to provide for an investigation of any health-related issue addressed in an environmental impact statement or policy appraisal relating to an activity or a proposed activity;

(C) to describe and compare alternatives (including no-action alternatives) to an activity or a proposed activity to provide clarification with respect to the costs and benefits of the activity or proposed activity; and

(D) to contribute to the findings of an environmental impact statement with respect to the terms and conditions of implementing an activity or a proposed activity, as necessary.

(3) REQUIREMENTS.—A health impact assessment prepared under this subsection shall—

(A) describe the relevance of the applicable activity or proposed activity (including the policy of the activity) with respect to health issues;

(B) assess each health impact of the applicable activity or proposed activity;

(C) provide recommendations of the eligible entity with respect to—

(i) the mitigation of any adverse impact on health of the applicable activity or proposed activity; or

(ii) the encouragement of any positive impact of the applicable activity or proposed activity;

(D) provide for monitoring of the impacts on health of the applicable activity or proposed activity, as the eligible entity determines to be appropriate; and

(E) include a list of each comment received with respect to the health impact assessment under subsection (e).

(4) METHODOLOGY.—In preparing a health impact assessment under this subsection, an eligible entity—

(A) shall follow guidelines developed by the Director, in collaboration with the IWG, that—

(i) are consistent with subsection (c);

(ii) will be established not later than 1 year after the date of enactment of this Act; and

(iii) will be made publicly available at the annual conference described in section 3(e)(2); and

(B) may establish a balance, as the eligible entity determines to be appropriate, between the use of—

(i) rigorous methods requiring special skills or increased use of resources; and

(ii) expedient, cost-effective measures.

(g) PUBLIC PARTICIPATION.—

(1) IN GENERAL.—Before preparing and submitting to the Secretary a final health impact assessment, an eligible entity shall request and take into consideration public and agency comments, in accordance with this subsection.

(2) REQUIREMENT.—Not later than 30 days after the date on which a draft health impact assessment is completed, an eligible entity shall submit the draft health impact assessment to each Federal agency, and each State and local organization, that—

(A) has jurisdiction with respect to the activity or proposed activity to which the health impact assessment applies;

(B) has special knowledge with respect to an environmental or health impact of the activity or proposed activity; or

(C) is authorized to develop or enforce any environmental standard relating to the activity or proposed activity.

(3) COMMENTS REQUESTED.—

(A) REQUEST BY ELIGIBLE ENTITY.—An eligible entity may request comments with respect to a health impact assessment from—

(i) affected Indian tribes;

(ii) interested or affected individuals or organizations; and

(iii) any other State or local agency, as the eligible entity determines to be appropriate.

(B) REQUEST BY OTHERS.—Any interested or affected agency, organization, or individual may—

(i) request an opportunity to comment on a health impact assessment; and

(ii) submit to the appropriate eligible entity comments with respect to the health impact assessment by not later than—

(I) for a Federal, State, or local government agency or organization, the date on which a final health impact assessment is prepared; and

(II) for any other individual or organization, the date described in subclause (I) or another date, as the eligible entity may determine.

(4) RESPONSE TO COMMENTS.—A final health impact assessment shall describe the response of the eligible entity to comments received within a 90-day period under this subsection, including—

(A) a description of any means by which the eligible entity, as a result of such a comment—

(i) modified an alternative recommended with respect to the applicable activity or proposed activity;

(ii) developed and evaluated any alternative not previously considered by the eligible entity;

(iii) supplemented, improved, or modified an analysis of the eligible entity; or

(iv) made any factual correction to the health impact assessment; and

(B) for any comment with respect to which the eligible entity took no action, an explanation of the reasons why no action was taken and, if appropriate, a description of the circumstances under which the eligible entity would take such an action.

(h) HEALTH IMPACT ASSESSMENT DATABASE.—The Secretary, acting through the Director and in collaboration with the Administrator, shall establish and maintain a health impact assessment database, including—

(1) a catalog of health impact assessments received under this section;

(2) an inventory of tools used by eligible entities to prepare draft and final health impact assessments; and

(3) guidance for eligible entities with respect to the selection of appropriate tools described in paragraph (2).

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary.

SEC. 5. GRANT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director of the Centers for Disease Control and Prevention, acting in collaboration with the Administrator and the Director of the National Institute of Environmental Health Sciences.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means a State or local community that—

(A) bears a disproportionate burden of exposure to environmental health hazards;

(B) has established a coalition—

(i) with not less than 1 community-based organization; and

(ii) with not less than 1—

(I) public health entity;

(II) health care provider organization; or

(III) academic institution;

(C) ensures planned activities and funding streams are coordinated to improve community health; and

(D) submits an application in accordance with subsection (c).

(b) ESTABLISHMENT.—The Director shall establish a grant program under which eligible entities shall receive grants to conduct environmental health improvement activities.

(c) APPLICATION.—To receive a grant under this section, an eligible entity shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may require.

(d) COOPERATIVE AGREEMENTS.—An eligible entity may use a grant under this section—

(1) to promote environmental health; and

(2) to address environmental health disparities.

(e) AMOUNT OF COOPERATIVE AGREEMENT.—

(1) IN GENERAL.—The Director shall award grants to eligible entities at the 2 different funding levels described in this subsection.

(2) LEVEL 1 COOPERATIVE AGREEMENTS.—

(A) IN GENERAL.—An eligible entity awarded a grant under this paragraph shall use the funds to identify environmental health problems and solutions by—

(i) establishing a planning and prioritizing council in accordance with subparagraph (B); and

(ii) conducting an environmental health assessment in accordance with subparagraph (C).

(B) PLANNING AND PRIORITIZING COUNCIL.—

(i) IN GENERAL.—A prioritizing and planning council established under subparagraph (A)(i) (referred to in this paragraph as a "PPC") shall assist the environmental health assessment process and environmental health promotion activities of the eligible entity.

(ii) MEMBERSHIP.—Membership of a PPC shall consist of representatives from various organizations within public health, planning, development, and environmental services and shall include stakeholders from vulnerable groups such as children, the elderly, disabled, and minority ethnic groups that are often not actively involved in democratic or decision-making processes.

(iii) DUTIES.—A PPC shall—

(I) identify key stakeholders and engage and coordinate potential partners in the planning process;

(II) establish a formal advisory group to plan for the establishment of services;

(III) conduct an in-depth review of the nature and extent of the need for an environmental health assessment, including a local epidemiological profile, an evaluation of the service provider capacity of the community, and a profile of any target populations; and

(IV) define the components of care and form essential programmatic linkages with related providers in the community.

(C) ENVIRONMENTAL HEALTH ASSESSMENT.—

(i) IN GENERAL.—A PPC shall carry out an environmental health assessment to identify environmental health concerns.

(ii) ASSESSMENT PROCESS.—The PPC shall—

(I) define the goals of the assessment;

(II) generate the environmental health issue list;

(III) analyze issues with a systems framework;

(IV) develop appropriate community environmental health indicators;

(V) rank the environmental health issues;

(VI) set priorities for action;

(VII) develop an action plan;

(VIII) implement the plan; and

(IX) evaluate progress and planning for the future.

(D) EVALUATION.—Each eligible entity that receives a grant under this paragraph shall evaluate, report, and disseminate program findings and outcomes.

(E) TECHNICAL ASSISTANCE.—The Director may provide such technical and other non-financial assistance to eligible entities as the Director determines to be necessary.

(3) LEVEL 2 COOPERATIVE AGREEMENTS.—

(A) ELIGIBILITY.—

(i) IN GENERAL.—The Director shall award grants under this paragraph to eligible entities that have already—

(I) established broad-based collaborative partnerships; and

(II) completed environmental assessments.

(ii) NO LEVEL 1 REQUIREMENT.—To be eligible to receive a grant under this paragraph, an eligible entity is not required to have successfully completed a Level 1 Cooperative Agreement (as described in paragraph (2)).

(B) USE OF GRANT FUNDS.—An eligible entity awarded a grant under this paragraph shall use the funds to further activities to carry out environmental health improvement activities, including—

(i) addressing community environmental health priorities in accordance with paragraph (2)(C)(ii), including—

(I) air quality;

(II) water quality;

(III) solid waste;

(IV) land use;

(V) housing;

(VI) food safety;

(VII) crime;

(VIII) injuries; and

(IX) healthcare services;

(ii) building partnerships between planning, public health, and other sectors, to address how the built environment impacts food availability and access and physical activity to promote healthy behaviors and lifestyles and reduce obesity and related comorbidities;

(iii) establishing programs to address—

(I) how environmental and social conditions of work and living choices influence physical activity and dietary intake; or

(II) how those conditions influence the concerns and needs of people who have impaired mobility and use assistance devices, including wheelchairs and lower limb prostheses; and

(iv) convening intervention programs that examine the role of the social environment in connection with the physical and chemical environment in—

(I) determining access to nutritional food; and

(II) improving physical activity to reduce morbidity and increase quality of life.

(f) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section—

(1) $25,000,000 for fiscal year 2007; and

(2) such sums as are necessary for the period of fiscal years 2008 through 2011.

SEC. 6. ADDITIONAL RESEARCH ON THE RELATIONSHIP BETWEEN THE BUILT ENVIRONMENT AND THE HEALTH OF COMMUNITY RESIDENTS.

(a) Definition of Eligible Institution.—In this section, the term "eligible institution" means a public or private nonprofit institution that submits to the Secretary and the Administrator an application for a grant under the grant program authorized under subsection (b)(2) at such time, in such manner, and containing such agreements, assurances, and information as the Secretary and Administrator may require.

(b) Research Grant Program.—

(1) Definition of health.—In this section, the term "health" includes—

(A) levels of physical activity;

(B) consumption of nutritional foods;

(C) rates of crime;

(D) air, water, and soil quality;

(E) risk of injury;

(F) accessibility to healthcare services; and

(G) other indicators as determined appropriate by the Secretary.

(2) Grants.—The Secretary, in collaboration with the Administrator, shall provide grants to eligible institutions to conduct and coordinate research on the built environment and its influence on individual and population-based health.

(3) Research.—The Secretary shall support research that—

(A) investigates and defines the causal links between all aspects of the built environment and the health of residents;

(B) examines—

(i) the extent of the impact of the built environment (including the various characteristics of the built environment) on the health of residents;

(ii) the variance in the health of residents by—

(I) location (such as inner cities, inner suburbs, and outer suburbs); and

(II) population subgroup (such as children, the elderly, the disadvantaged); or

(iii) the importance of the built environment to the total health of residents, which is the primary variable of interest from a public health perspective;

(C) is used to develop—

(i) measures to address health and the connection of health to the built environment; and

(ii) efforts to link the measures to travel and health databases;

(D) distinguishes carefully between personal attitudes and choices and external influences on observed behavior to determine how much an observed association between the built environment and the health of residents, versus the lifestyle preferences of the people that choose to live in the neighborhood, reflects the physical characteristics of the neighborhood; and

(E)(i) identifies or develops effective intervention strategies to promote better health among residents with a focus on behavioral interventions and enhancements of the built environment that promote increased use by residents; and

(ii) in developing the intervention strategies under clause (i), ensures that the intervention strategies will reach out to high-risk populations, including low-income urban and rural communities.

(4) Priority.—In providing assistance under the grant program authorized under paragraph (2), the Secretary and the Administrator shall give priority to research that incorporates—

(A) interdisciplinary approaches; or

(B) the expertise of the public health, physical activity, urban planning, and transportation research communities in the United States and abroad.

(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 3871. Mrs. FEINSTEIN (for herself, Mr. DORGAN, Mr. BINGAMAN, and Ms. STABENOW) submitted an amendment intended to be proposed by her to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Drug Formulary Protection Act".

SEC. 2. REMOVAL OF COVERED PART D DRUGS FROM THE PRESCRIPTION DRUG PLAN FORMULARY.

(a) Limitation on Removal or Change of Covered Part D Drugs From the Prescription Drug Plan Formulary.—Section 1860D-4(b)(3)(E) of the Social Security Act (42 U.S.C. 1395w–104(b)(3)(E)) is amended to read as follows:

"(E) Removing a drug from formulary or imposing a restriction or limitation on coverage.—

"(i) Limitation on removal, limitation, or restriction.—

"(I) In general.—Subject to subclause (II) and clause (ii), beginning with 2006, the PDP sponsor of a prescription drug plan may not remove a covered part D drug from the plan formulary or impose a restriction or limitation on the coverage of such a drug (such as through the application of a preferred status, usage restriction, step therapy, prior authorization, or quantity limitation) other than at the beginning of each plan year.

"(II) Special rule for newly enrolled individuals.—Subject to clause (ii), in the case of an individual who enrolls in a prescription drug plan on or after the date of enactment of this subparagraph, the PDP sponsor of such plan may not remove a covered part D drug from the plan formulary or impose a restriction or limitation on the coverage of such a drug (such as through the application of a preferred status, usage restriction, step therapy, prior authorization, or quantity limitation) during the period beginning on the date of such enrollment and ending on December 31 of the immediately succeeding plan year.

"(ii) Exceptions to limitation on removal.—Clause (i) shall not apply with respect to a covered part D drug that—

"(I) is a brand name drug for which there is a generic drug approved under section 505(j) of the Food and Drug Cosmetic Act (21 U.S.C. 355(j)) that is placed on the market during the period in which there are limitations on removal or change in the formulary under clause (i);

"(II) is a brand name drug that goes off-patent during such period;

"(III) is a drug for which the Commissioner of Food and Drugs issues a clinical warning that imposes a restriction or limitation on the drug during such period or removes the drug from the market;

"(IV) is a drug that the plan's pharmacy and therapeutic committee determines, based on scientific evidence, to be unsafe or ineffective during such period; or

"(V) is a drug for which the Secretary has determined an exception to such application is appropriate (such as to take into account new therapeutic uses and newly covered part D drugs).

"(iii) Notice of removal under application of exception to limitation.—The PDP sponsor of a prescription drug plan shall provide appropriate notice (such as under subsection (a)(3)) of any removal or change under clause (ii) to the Secretary, affected enrollees, physicians, pharmacies, and pharmacists.".

(b) Notice for Change in Formulary and Other Restrictions or Limitations on Coverage.—

(1) In general.—Section 1860D–4(a) of such Act (42 U.S.C. 1395w–104(a)) is amended by adding at the end the following new paragraph:

"(5) Annual notice of changes in formulary and other restrictions or limitations on coverage.—Each PDP sponsor offering a prescription drug plan shall furnish to each enrollee at the time of each annual coordinated election period (referred to in section 1860D–1(b)(1)(B)(iii)) for a plan year a notice of any changes in the formulary or other restrictions or limitations on coverage of a covered part D drug under the plan that will take effect for the plan year.".

(2) Effective date.—The amendment made by paragraph (1) shall apply to annual, coordinated election periods beginning after the date of the enactment of this Act.

SA 3872. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . CREDIT FOR EMPLOYEE HEALTH INSURANCE EXPENSES.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of the Internal

Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

"SEC. 45N. EMPLOYEE HEALTH INSURANCE EXPENSES.

"(a) General Rule.—For purposes of section 38, in the case of a qualified small employer, the employee health insurance expenses credit determined under this section is an amount equal to the applicable percentage of the amount paid by the taxpayer during the taxable year for qualified employee health insurance expenses.

"(b) Applicable Percentage.—For purposes of subsection (a), the applicable percentage is—

"(1) 50 percent in the case of an employer with less than 10 qualified employees,

"(2) 25 percent in the case of an employer with more than 9 but less than 25 qualified employees, and

"(3) 20 percent in the case of an employer with more than 24 but less than 50 qualified employees.

"(c) Per Employee Dollar Limitation.—

"(1) In general.—The amount of qualified employee health insurance expenses taken into account under subsection (a) with respect to any qualified employee for any taxable year shall not exceed—

"(A) $4,000 for self-only coverage, and

"(B) $10,000 for family coverage.

"(2) Phaseout of per employee dollar limitation.—

"(A) In general.—The amount determined under paragraph (1) with respect to any qualified employee for any taxable year shall be reduced by the amount determined under subparagraph (B).

"(B) Amount of reduction.—The amount determined under this subparagraph shall be the amount which bears the same ratio to such amount determined under paragraph (1) as—

"(i) the excess of—

"(I) the qualified employee's compensation from the qualified small employer for such taxable year, over

"(II) $30,000, bears to

"(ii) $20,000.

The rules of subparagraphs (B) and (C) of section 219(g)(2) shall apply to any reduction under this subparagraph.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Qualified small employer.—

"(A) In general.—The term 'qualified small employer' means any small employer which—

"(i) provides eligibility for health insurance coverage (after any waiting period (as defined in section 9801(b)(4))) to all qualified employees of the employer under similar terms, and

"(ii) pays at least 50 percent of the cost of such coverage for each qualified employee.

"(B) Small employer.—

"(i) In general.—For purposes of this paragraph, the term 'small employer' means, with respect to any taxable year, any employer if—

"(I) the average gross receipts of such employer for the preceding 3 taxable years does not exceed $5,000,000, and

"(II) such employer employed an average of more than 1 but less than 50 employees on business days during the preceding taxable year.

"(ii) Employers not in existence in preceding year.—For purposes of clause (i)(II)—

"(I) a preceding taxable year may be taken into account only if the employer was in existence throughout such year, and

"(II) in the case of an employer which was not in existence throughout the preceding taxable year, the determination of whether such employer is a qualified small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current taxable year.

"(iii) Aggregation rules.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as one person for purposes of this subparagraph.

"(iv) Predecessors.—The Secretary may prescribe regulations which provide for references in this subparagraph to an employer to be treated as including references to predecessors of such employer.

"(2) Qualified employee health insurance expenses.—

"(A) In general.—The term 'qualified employee health insurance expenses' means any amount paid by an employer for health insurance coverage to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) Exception for amounts paid under salary reduction arrangements.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(C) Health insurance coverage.—The term 'health insurance coverage' has the meaning given such term by section 9832(b)(1).

"(3) Qualified employee.—

"(A) In general.—The term 'qualified employee' means an employee of an employer who, with respect to any period, is not provided health insurance coverage under—

"(i) a health plan of the employee's spouse,

"(ii) title XVIII, XIX, or XXI of the Social Security Act,

"(iii) chapter 17 of title 38, United States Code,

"(iv) chapter 55 of title 10, United States Code,

"(v) chapter 89 of title 5, United States Code, or

"(vi) any other provision of law.

For purposes of clause (i), the Secretary shall prescribe by regulation the manner by which an employee's health insurance coverage under a health plan of the employee's spouse is certified to the employee's employer.

"(B) Employee.—The term 'employee'—

"(i) means any individual, with respect to any calendar year, who is reasonably expected to receive at least $5,000, but not more than $50,000, of compensation from the employer during such year, and

"(ii) includes a leased employee within the meaning of section 414(n).

"(C) Compensation.—The term 'compensation' means amounts described in section 6051(a)(3).

"(D) Inflation adjustment.—

"(i) In general.—In the case of a taxable year beginning after 2007, the $50,000 amount in subparagraph (B)(i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2006' for 'calendar year 1992' in subparagraph (B) thereof.

"(ii) Rounding.—If any amount as adjusted under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lowest multiple of $1,000.

"(e) Portion of Credit Made Refundable.—

"(1) In general.—The aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

"(A) the credit which would be allowed under subsection (a) without regard to this subsection and the limitation under section 38(c), or

"(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 38(c) for any taxable year were increased by the amount of employer payroll taxes imposed on the taxpayer during the calendar year in which the taxable year begins.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit otherwise allowable under subsection (a) without regard to section 38(c).

"(2) Employer payroll taxes.—For purposes of this subsection—

"(A) In general.—The term 'employer payroll taxes' means the taxes imposed by—

"(i) subsections (a) and (b) of section 3111, and

"(ii) sections 3211(a) and 3221(a) (determined at a rate equal to the sum of the rates under subsections (a) and (b) of section 3111).

"(B) Special rule.—A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).

"(f) Denial of Double Benefit.—No deduction or credit under any other provision of this chapter shall be allowed with respect to qualified employee health insurance expenses taken into account under subsection (a).".

(b) Credit to Be Part of General Business Credit.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking "and" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", plus", and by adding at the end the following:

"(31) the employee health insurance expenses credit determined under section 45N.".

(c) Conforming Amendment.—Section 6211(b)(4)(A) of the Internal Revenue Code of 1986 is amended by striking "and 34" and inserting "34, and 45N(e)".

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Sec. 45N. Employee health insurance expenses.".

(e) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2006.

SA 3873. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MEDICAL MALPRACTICE INSURANCE ANTITRUST PROVISIONS.

(a) SHORT TITLE.—This section may be cited as the "Medical Malpractice Insurance Antitrust Act of 2005".

(b) PROHIBITION ON ANTI-COMPETITIVE ACTIVITIES.—Notwithstanding any other provision of law, nothing in the Act of March 9, 1945 (15 U.S.C. 1011 et seq., commonly known as the "McCarran-Ferguson Act") shall be construed to permit commercial insurers to engage in any form of price fixing, bid rigging, or market allocations in connection with the conduct of the business of providing medical malpractice insurance.

(c) APPLICATION TO ACTIVITIES OF STATE COMMISSIONS OF INSURANCE AND OTHER STATE INSURANCE REGULATORY BODIES.—This section does not apply to the information gathering and rate setting activities of any State commissions of insurance, or any other State regulatory body with authority to set insurance rates.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON AVIATION

Mr. ENZI. Mr. President. I ask unanimous consent that the Senate Committee on Commerce Science and Transportation's Subcommittee on Aviation be authorized to meet on Tuesday, May 9, 2006, at 2:30 p.m. on the Department of Transportation's Notice of Proposed Rulemaking.

The PRESIDING OFFICER. Without objection. it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Employment and Workplace Safety, be authorized to hold a hearing during the session of the Senate on Tuesday, May 9, 2006 at 10 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing on "Judicial Nominations" on Tuesday, May 9, 2006, at 2 p.m. in Room 226 of the Dirksen Senate Office Building. The witness list will be provided when it becomes available.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing on "An Introduction to the Expiring Provisions of the Voting Rights Act and Legal Issues Relating to Reauthorization" on Tuesday, May 9. 2006, at 9:30 a.m. in Room 226 of the Dirksen Senate Office Building.

Witness List:

Panel I: Chandler Davidson, Radoslav Tsanoff Professor Emeritus and Research Professor, Rice University, Houston, TX: Ted Shaw, Director-Counsel and President, NAACP Legal Defense and Educational Fund, Inc. (LDF), New York City, NY; Richard L. Hasen, William H. Hannon Distinguished Professor of Law, Loyola Law School, Los Angeles, CA; Laughlin McDonald, Director of the ACLU Voting Rights Project, Atlanta, GA: and Samuel Issacharoff, Reiss Professor of Constitutional Law, New York University School of Law, New York, NY.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. ENZI. Mr. President. I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation's Subcommittee on Surface Transportation and Merchant Marine be authorized to meet on Tuesday, May 9, 2006, at 10 a.m. on Corporate Average Fuel Economy (CAFE) Standards.

The PRESIDING OFFICER. Without objection. it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. DODD. Mr. President, I ask unanimous consent that Elizabeth Hoffman, a fellow in my office, be granted the privileges of the floor for the duration of the debate on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, on behalf of Senator BAUCUS, I ask unanimous consent that the following interns and fellows be granted floor privileges during consideration of S. 1955: Leona Cutler, David Schwartz, Diedra Henry-Spires, Britt Sandler, Tiffany Smith, Tom Louthan, and Christal Edwards.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that Courtney Wilcox of my staff be granted floor privileges for the duration of today's session.

The PRESIDING OFFICER. Without objection. it is so ordered.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, after consultation with the ranking member of the Senate Committee on Finance, pursuant to Public Law 106–170, announces the appointment of the following individual to serve as a member of the Ticket to Work and Work Incentives Advisory Panel: Katie Beckett of Iowa.

The Chair, on behalf of the majority leader, in consultation with the Democratic Leader, pursuant to Public Law 68–541, as amended by Public Law 102–246, appoints John Medveckis, of Pennsylvania, as a member of the Library of Congress Trust Fund Board for a term of 5 years.

NATIONAL FOSTER CARE MONTH

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 471 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 471) recognizing that, during National Foster Care Month, the leaders of the Federal, State, and local governments should provide leadership to improve the care given to children in foster care programs.

There being no objection, the Senate proceeded to consider the resolution.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 471) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 471

Whereas more than 500,000 children are in foster care programs throughout the United States;

Whereas, while approximately ¼ of all children in foster care programs are available for adoption, only about 50,000 foster children are adopted each year;

Whereas many of the children in foster care programs have endured—

(1) numerous years in the foster care system; and

(2) frequent moves to and from foster homes;

Whereas approximately 50 percent of foster care children have been placed in foster care programs for longer than 1 year;

Whereas 25 percent of foster care children have been placed in foster care programs for at least 3 years;

Whereas children who spend longer amounts of time in foster care programs often experience worse outcomes than children who are placed for shorter periods of time;

Whereas children who spend time in foster care programs are more likely to—

(1) become teen parents;

(2) rely on public assistance when they become adults; and

(3) interact with the criminal justice system;

Whereas Federal, State, and local governments—

(1) share a unique relationship with foster children; and

(2) have removed children from their homes to better provide for the safety, permanency, and well-being of the children;

Whereas unfortunately, studies indicate that Federal, State, and local governments have not been entirely successful in caring for foster children;

Whereas Congress recognizes the commitment of Federal, State, and local governments to ensure the safety and permanency of children placed in foster care programs; and

Whereas every child deserves a loving family: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes—

(A) May 2006 as "National Foster Care Month"; and

(B) that, during National Foster Care Month, the leaders of the Federal, State, and local governments should rededicate themselves to provide better care to the foster children of the United States; and

(2) resolves to provide leadership to help identify the role that Federal, State, and local governments should play to ensure that foster children receive appropriate parenting throughout their entire childhood.

ORDERS FOR WEDNESDAY, MAY 10, 2006

Mr. VOINOVICH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, May 10. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to dare, the time for the two leaders be reserved, and the Senate proceed to a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the majority leader or his designee and the final 30 minutes under the control of the Democratic leader or his designee; further, that the Senate then begin consideration of S. 1955, the small business health plans bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. VOINOVICH. Mr. President, today cloture was invoked on the motion to proceed to the small business health plans bill by a vote of 96 to 2. Tomorrow morning, we will begin consideration of the bill. Chairman ENZI will be here and will be available to discuss relevant amendments that Senators may want to offer during tomorrow's session. Therefore, rollcall votes are possible during Wednesday's session on the small business health plans-related amendments.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. VOINOVICH. Mr. President, if there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:31 p.m., adjourned until Wednesday, May 10, 2006, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 9, 2006:

DEPARTMENT OF THE TREASURY

ERIC SOLOMON, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE PAMELA F. OLSON, RESIGNED.

NATIONAL COUNCIL ON DISABILITY

VICTORIA RAY CARLSON, OF IOWA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2007, VICE JOEL KAHN, TERM EXPIRED.

CHAD COLLEY, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2007, VICE DAVID WENZEL, TERM EXPIRED.

LISA MATTHEISS, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2007, VICE CAROL HUGHES NOVAK, TERM EXPIRED.

JOHN R. VAUGHN, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2007, VICE LEX FRIEDEN, TERM EXPIRED.

UNITED STATES POSTAL SERVICE

ELLEN C. WILLIAMS, OF KENTUCKY, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 8, 2007, VICE JOHN S. GARDNER.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. THOMAS P. MEEK, 8051

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be read admiral (lower half)

CAPT. JANICE M. HAMBY, 4913

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. STEVEN R. EASTBURG, 0239

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be read admiral (lower half)

CAPT. GREGORY J. SMITH, 2462

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. JOSEPH F. CAMPBELL, 0035
CAPT. THOMAS J. ECCLES, 5294

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPTAIN TOWNSEND G. ALEXANDER, 8946
CAPTAIN DAVID H. BUSS, 3577
CAPTAIN KENDALL L. CARD, 8333
CAPTAIN JOHN N. CHRISTENSON, 4645
CAPTAIN MICHAEL J. CONNOR, 7632
CAPTAIN JOHN ELNITSKY II, 1510
CAPTAIN KENNETH E. FLOYD, 5264
CAPTAIN PHILIP H. GREENE, 9852
CAPTAIN BRUCE E. GROOMS, 0608
CAPTAIN JAMES C. GRUNEWALD, 3365
CAPTAIN EDWARD S. HEBNER, 8910
CAPTAIN MICHELLE J. HOWARD, 6763
CAPTAIN ARNOLD O. LOTRING, JR, 7794
CAPTAIN JAMES P. MCMANAMON, 5156
CAPTAIN JOSEPH P. MULLOY, 0400
CAPTAIN CHARLES E. SMITH, 4827
CAPTAIN SCOTT H. SWIFT, 9644
CAPTAIN DAVID M. THOMAS, 1168
CAPTAIN KURT W. TIDD, 5355
CAPTAIN MICHAEL P. TILLOTSON, 7164
CAPTAIN MARK A. VANCE, 1181
CAPTAIN GARRY R. WHITE, 1944
CAPTAIN EDWARD G. WINTERS III, 5375

HOUSE OF REPRESENTATIVES—*Tuesday, May 9, 2006*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mrs. DRAKE).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 9, 2006.

I hereby appoint the Honorable THELMA D. DRAKE to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 31, 2006, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from California (Mr. DANIEL E. LUNGREN) for 5 minutes.

IMMIGRATION

Mr. DANIEL E. LUNGREN of California. Madam Speaker, in assessing the effectiveness of immigration policy, it is helpful to look at both the push factors and the pull factors which contribute to the phenomenon of illegal immigration.

In assessing the push factors, we must not overlook the role of the government of Mexico. On a human level, it is a sad fact that people are motivated to make what is often a dangerous trek north to the United States because of the absence of economic opportunity in Mexico itself. Yet this flow of illegal immigration into the United States acts as a pressure relief valve by allowing the Mexican government to escape political accountability to those it has failed.

Ironically, the Mexican government's laissez fare attitude towards immigration out of Mexico is not reflected in its policy concerning its own southern border. When you hear the President of Mexico or other Mexican politicians rail against the House-passed border control bill, please keep in mind that when it comes to their own border policies, all of the rhetoric concerning the right to migration is suddenly nowhere to be found. In the end, the Mexican government's policy will prove to be shortsighted and will ultimately cause serious damage to their own country. Imagine the long-term effects of a nation losing millions of its hardest working younger people. The future of Mexico is sending its government a clear and unmistakable message of adios as they vote with their feet.

Furthermore, when one factors Mexico's demographic future into the equation, a dire picture emerges. According to an article by Philip Longman in the May/June issue of Foreign Affairs, "Mexican fertility rates have dropped so dramatically, the country is now aging five times faster than is the United States. It took 50 years for the American median age to rise just five years, from 30 to 35. By contrast, between 2000 and 2050, Mexico's median age, according to U.N. projections, will increase by 20 years, leaving half the population over 42. Meanwhile, the median American age in the year 2050 is expected to be 39.7." Thus, ultimately illegal immigration from Mexico into the U.S. is not good for either Mexico or the United States.

According to the Associated Press, President Fox has characterized the House immigration bill as, quote, stupid. To his credit, the same AP story quoted President Fox as acknowledging that his government must "generate opportunities here in Mexico." However, it is the responsibility of the United States Government to control our own borders and to take action to reduce the pull factors which draw people to the United States. We must demagnetize the attraction of illegal employment in the U.S. Unfortunately, our track record here reflects a failure of government policy on our side of the border.

The Immigration Reform and Control Act of 1986, IRCA, or Simpson-Mazzoli, for the first time imposed sanctions on employers for the hiring of those ineligible to work in the United States. Yet since the passage of that bill, administrations of both political parties have failed to enforce the law. The fact that there were only three cases last year, three, of a notice to file a prosecution for the unlawful hiring of illegal aliens is utterly indefensible. There must be a will to enforce the law.

I wish to recount what in retrospect was the death knell to an effective regime of employer sanctions. An amendment to Simpson-Mazzoli was accepted which completely undermined the employment verification system. In its place, a series of documents required to be submitted with the I-9 employment eligibility verification form was substituted. The end result was the creation of a new cottage industry for the production of false documentation. I would like to emphasize once again that it was the negation of an effective employer verification system, which in combination with the lack of enforcement, undermined the usefulness of employer sanctions as an immigration enforcement tool.

It was for this reason that the basic pilot project was created in 1996 by this Congress. The system allows employers to voluntarily check the names and Social Security numbers of its employees against the records maintained by the Social Security Administration and the Department of Homeland Security. Building on this project, H.R. 4437, the House-passed bill, would create a nationwide mandatory program. Unlike the watered-down language in the 1986 bill, the employment verification provisions in the House-passed bill offers a genuine prospect for effective employer sanctions necessary to demagnetize the attraction of unlawful employment in the U.S.

An effective employer sanctions regime, coupled with the need to fully fund the additional 2,000 Border Patrol positions authorized this year and in the out years, is essential if we are going to control illegal immigration. At the same time if we are to maximize the cooperation of employers with the implementation of an effective system of employer sanctions, it is necessary to ensure that in those cases where U.S. workers are unavailable, employers have the option of employing temporary foreign workers. Let me suggest that regulating the stream of workers which have crossed back and forth our southern border since the 1870s will facilitate the job of a larger Border Patrol and the implementation of an effective system of employer sanctions.

By definition however, in a temporary worker program, the workers should be temporary. Along the lines of an amendment I offered unsuccessfully in 1986, workers could work in the United States for up to 10 months of the year. During that time a portion of their wages could be withheld. The money would be placed in an escrow account and would only be returned to the workers upon their return to their home country—in most cases—Mexico. The proposal has a built in incentive for the temporary workers to return

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

home to work their own small farms and to reunite with their families. In fact, Mexico and Canada have entered into a temporary agricultural worker program along these lines, which by all accounts has operated quite successfully.

Finally, we cannot avoid the issue of what we will do with those who have entered our country illegally and have settled in our communities. I certainly do not favor an amnesty. But the use of the word "amnesty" does not excuse anyone on this side of the argument from explaining exactly what they propose to do with as many as 11 million people.

By the same token, those who have violated our laws should not be allowed to cut in line in front of those who have obeyed them. A middle ground solution would allow those undocumented persons with sufficient equities in our society to remain. They could continue to work and travel back and forth between the United States and their home country. They would be legal residents, "blue card" holders if you will. However, they would not be afforded the legal equivalent of a diamond lane to citizenship. If they wish to become citizens, they would be required to return home, file an application and get in line like everyone else.

Such requirements are necessary to reassure Americans who have been turned off by the ideologically driven multicultural agenda of those groups promoting identification with the Mexican flag, an alternative national anthem, and celebration of May Day in solidarity with leftist Mexican trade unions. It is hard for me to conceive of anything which could do more damage to the case one might make on behalf of those who demand acceptance by us to be equal partners in our society. For the common element of all immigrants who have come to this land has been a deep and burning desire to become Americans. The welcome mat extended to previous generations of immigrants was predicated upon a commitment to a common patrimony. Nothing less should be expected of those who currently seek to become a part of the tapestry of a larger tradition and history of American immigration.

ENERGY

The SPEAKER pro tempore. Pursuant to the order of the House of January 31, 2006, the gentleman from California (Mr. GEORGE MILLER) is recognized during morning hour debates for 5 minutes.

Mr. GEORGE MILLER of California. Madam Speaker, Members of the House, as Americans are paying over $3 a gallon for gasoline and have been doing so for a couple of months, we see the Bush administration and Congressional Republicans running away from their record of supporting the oil and gas industry and trying to convince the public that they are deeply concerned and on the side of consumers. They even went so far as to insult the public by suggesting that they would increase the deficit and give them back a $100 check at the end of the summer. Fortunately, the Republican leadership in the House called the idea stupid and it seems to have waned.

What the American public really wants is a comprehensive energy policy that gives them choices about their transportation, gives them choices in the heating of their homes and the cooling of their homes, gives them choices in energy conservation. That is what they are looking for, but that is not what the Republicans have delivered over the last 6 years.

Why? Because 6 years ago, Vice President CHENEY sat down with the executives of the oil companies and made a decision that they would put the oil companies in charge of America's energy policy. They would put the oil companies in charge of whether or not we would have innovation, whether or not we would have new technologies, whether or not we would have alternative energies such as solar, biofuels and all the rest of that. And the oil companies basically decided we would keep doing business on our energy policy as we have since the 1950s and 1960s, that is, we would just let the oil companies continue to drill.

That meeting with Mr. CHENEY made it very, very profitable for the oil companies because since that time the Congress has done nothing but lavish tax breaks on the oil and gas industry. The policy seems to have worked because when you look at the profits, they have gone through the roof. Chevron netted $4 billion in 3 months. That is a profit of $44 million a day. But they look like a small business alongside of ExxonMobil which reported a profit of $8.4 billion, and that is after they gave the CEO of ExxonMobil a $400 million pay package. And they were still able to get a profit into the billions. I bet they loved being in that meeting with Mr. CHENEY where they got the rights to do all this.

So Congress has continued to lavish tens of billions of dollars of tax breaks on the industry, income tax deductions for Humvee purchases, opening the California coast and other protected places for oil exploration, liability protection for the oil industry against MTBE contamination of cities' drinking waters that is occurring all over the country, and, finally, a royalty holiday, treating the oil companies like royalty. They won't have to pay the United States taxpayers for the right to drill oil on those lands that are owned by the taxpayer. They will get a royalty holiday. But, of course, today, now the Republican leadership is running around and the President has said that a royalty holiday makes no sense when oil is at $70 a barrel. He actually said it when it was at $50 a barrel. It makes no sense at $50 a barrel, it makes no sense at $60 a barrel, and it makes no sense at $70 a barrel. But the fact of the matter is we don't see one step being taken in this Congress to end that royalty holiday and end it today and give that money back to the taxpayers and reduce the deficit.

No, what the Republicans ought to do is they ought to check their voting record and see how voted this last year when our colleague from Arizona (Mr. GRIJALVA) offered that amendment in April, 2005, to make sure that we would get rid of the royalty holiday. But it didn't pass. It didn't pass because that is not on the oil companies' agenda. And as we now know, the oil companies are running the agenda for this Congress.

The Democrats have a better idea. We believe that working together across all of the talents of America, that we can provide energy independence within 10 years. But to do so you would have to dramatically encourage new technologies, alternative forms of transportation, of mass transportation, the use of solar, the use of biofuels, the use of these kinds of conservation efforts combined with new fuels and new technologies to let America be independent, to make choices about its energy future.

Today, the President of the United States walks hand in hand with the Sheik from Saudi Arabia and that is our energy policy: Don't do anything to upset the Saudis.

The fact of the matter is we have to take control of our energy policy. But we will only do that when we break the link between the Republican Party and the oil and gas industry in this country. We will only have the chance to bring new forms of transportation online, to bring solar energy at a much more affordable price for American consumers, to bring alternative fuel sources online at a more affordable price, to break our dependency on Middle East oil. As our leader said over the weekend on Meet the Press, we want to send our money to the middle west to develop biofuels, to develop switch fuels, to develop syn fuels, to develop ethanol. That is what we want to do, instead of sending our money to the Middle East where it is being used for very dubious purposes in terms of the interests of this country.

But this administration to date has not broken its alliance with the oil sheiks in the Middle East and has not broken its alliance with the oil industry in this country. And Americans today continue to drive to work paying over $3 a gallon for gas with no respite in the future because of the absence, the abandonment of this country by this administration for an energy policy that works to the benefit of America's consumers.

WORKING TOGETHER TO ADDRESS RISING ENERGY PRICES

The SPEAKER pro tempore. Pursuant to the order of the House of January 31, 2006, the gentleman from Virginia (Mr. WOLF) is recognized during morning hour debates for 5 minutes.

Mr. WOLF. Madam Speaker, I rise today because we must find ways to effectively address the rising gas prices the citizens of the Nation are paying at the pump.

Last week the House passed new legislation to address price gouging at the pump and set Federal penalties for price manipulation. The major oil companies say there are many factors in gas pricing, including basic economics of supply and demand, the switch to ethanol from MTBE as a clean fuel additive, and lack of refining capacity, among others, and that they have no control over the spiking gas prices.

But my constituents, especially working people raising families and those on fixed incomes whose wallets are being pinched tighter and tighter, tell me they are not satisfied with those answers.

Madam Speaker, it is time for the President to use the bully pulpit to get to the bottom of this issue the way that Teddy Roosevelt did. He should call to the Oval Office every chief executive of the major oil companies and let them explain to the American people why the average price for a gallon of unleaded gasoline in the United States today is nearly $3, and in some areas at least a dime over that.

There is another area of the energy market that also needs attention. Recent news accounts have theorized that the commodity futures trading market could be partly responsible for the rapid jumps in gasoline prices over the past couple of months. This past weekend, television investigative reports pointed to the energy trading industry as an area in need of investigation to see if fraud or manipulation is occurring. I learned yesterday that bipartisan legislation was introduced in the Senate on this matter. Senators FEINSTEIN and SNOWE have a bill that would increase transparency and accountability in the energy markets.

Madam Speaker, according to our colleagues, energy trades are often made using an electronic trading platform where no records are kept, so there is no audit trail for the Government to monitor. Currently, most energy exchanges occur on the New York Mercantile Exchange or on electronic exchanges such as the InterContinental Exchange. I was surprised to learn that while the New York Mercantile Exchange is regulated by the Commodity Futures Trading Commission, the electronic exchanges like the InterContinental Exchange are largely unregulated, even though it is estimated that up to 80 percent of our energy commodities are traded on the InterContinental Exchange. Under CFTC regulations, traders using the New York Mercantile Exchange must keep records for 5 years and report large trading positions to the commission. But traders using the InterContinental Exchange keep no records. Additionally, traders using the New York exchange are subject to other Federal regulations, like limits on how much of a given commodity can be traded in one day. Traders using the InterContinental Exchange are not.

Where is the transparency? Where is the accountability? Who are these speculators? The American people need to know their government is leaving no stone unturned in investigating this issue. After Hurricane Katrina, we saw prices jump. Many Americans certainly understood Katrina's wrath, but there were questions raised then about the almost overnight jump of gasoline prices. To find out if indeed there was gouging at the pump, this Congress ordered an investigation in last year's commerce spending bill. The FTC will report on May 22.

Can markets really be manipulated? Think back to the electricity market manipulation by Enron. As a result, last year's energy bill gave more authority to the Federal Energy Regulatory Commission in the regulation of natural gas and electricity markets including more transparency.

In closing, there is no similar process for the Commodity Futures Trading Commission in the unregulated energy markets. Who is to say whether investment firms, commercial bankers or hedge funds could actually be driving up oil prices through futures trading?

Madam Speaker, as I mentioned at the beginning, a good place to start would be for the President to have an Oval Office chat with the big oil executives. It would also be important to have the heads of the Securities and Exchange Commission, Chris Cox, our former colleague who is running the SEC; and the Commodity Futures Trading Commission in that meeting.

We owe it to our constituents to find the answers, to bring everybody together. And so I urge the administration to do exactly what Teddy Roosevelt would have done, bring all the parties together to hammer this out, look at all of the trading to show and demonstrate we are doing everything we can to get to the bottom of this to begin to reduce these prices.

ON NATURAL DISASTERS AND GLOBAL WARMING

The SPEAKER pro tempore. Pursuant to the order of the House of January 31, 2006, the gentleman from Oregon (Mr. BLUMENAUER) is recognized during morning hour debates for 5 minutes.

Mr. BLUMENAUER. Madam Speaker, beyond the day's headlines of crimes, scandal and foreign affairs, there are still stories of flooding, fire, hurricanes, tornadoes and mudslides still in the news. They are much on the minds of the American public. After years in local government and in Congress, I share their concerns about these threats that we face from natural disasters, how we make these threats worse by what we do, and how we learn little from our experience. Mostly I wonder what it will take to provoke a coordinated, thoughtful response from the Federal Government to the challenges posed by natural disasters.

For years before Katrina, I had been discussing on this floor what was likely to happen in New Orleans when the "big one" hit. My concerns became more urgent as I witnessed firsthand the devastation in Asia from the tsunami.

It is not like we don't know what to do to protect our constituents. After the floods in the upper Mississippi River, FEMA in the Clinton Adminisration, under the leadership of James Lee Witt, took a coordinated approach with the natural environment, forming partnerships with private companies, landowners and local governments to dramatically reduce the damage in subsequent floods. We took similar actions in Portland, Oregon. We know what works.

After years of struggle, Congress is finally reforming the flood insurance program to stop encouraging people to live in harm's way, to reduce the damage by building smarter, or moving families to safer, higher ground. For years we have been sponsoring round table discussions with experts on coordinated policy response in all of these elements, from fire and earthquake to flooding. People are ready to support legislation introduced before Katrina, to provide resources for communities to plan to avoid disaster.

There are national and local visionaries ready to develop a comprehensive response to Katrina throughout the gulf region so that we are ready for the next inevitable round of hurricanes. But what will it take for people to act on the discussion, the plans, the legislation, to get real action?

What about the Federal Government? Will it take the next disaster season to force Congress and the administration to respond thoughtfully with simple changes? After 25 years, will we update the hopelessly outdated operating principles and guidelines of the Corps of Engineers? Can we eliminate the perverse budget rules that make it actually cheaper for Congress to spend billions of dollars on emergency flood relief than a few million on prevention? Can we see past the next sensational headlines so that the Federal Government can exercise its responsibility on its own land in order to prevent development from sprawling into forested areas near cities, putting more people at risk and sending the costs of firefighting spiraling upward exponentially? Can we avoid another example like Los Alamos, where the Federal Government incredibly put sensitive, dangerous and expensive nuclear facilities in the middle of an area that has burned repeatedly from wildfires every few years for centuries?

Will the next round of disasters prompt the Federal Government to finally show leadership on global warming, which will make all of these problems more intense? With global warming, it is not just the damage to New Orleans from hurricanes but risks to coastal communities from New York's Long Island to the Rio Grande Valley in Texas. Rising temperatures have already defrosted and eroded ever larger portions of Alaska. Will scientists at NASA and NOAA at last be able to speak freely about global warming?

These questions are not beyond our capacity. Simple, cost-effective solutions are at hand that can be understood by the public who will end up paying the bill. I think progress is possible because this is not a Red State or a Blue State issue, not liberal or conservative, not big government versus small government. Exercising common sense, bipartisan cooperation and a tiny bit of leadership will save lives and money.

I had hoped that the devastation caused by Hurricane Katrina would have already spurred us toward some meaningful, comprehensive action. Instead, our response to Katrina has stalled and people are trickling back into harm's way without a real plan or a vision, and the protections against the next hurricane are not in place.

I do think there is hope. With the evidence so clear and the Katrina memories so vivid, we begin another predicted serious hurricane season. Maybe this will be the time that we learn from what has happened and finally act to make our communities safer, healthier, and more economically secure.

SECURING OUR BORDERS, SECURING OUR NATION

The SPEAKER pro tempore. Pursuant to the order of the House of January 31, 2006, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour debates for 5 minutes.

Mr. STEARNS. La Ladrillera, a brickyard in Sasabe, Mexico, is the last gathering place where coyotes deliver final words of advice before smuggling their human cargo across the border into the United States. Each illegal immigrant pays anywhere from $1,500 to $2,000 to these opportunists to be guided on their 3-day journey across the desert into their ideal of a promised land, the United States.

My colleagues, let us be clear on the nature of these smugglers. They are not generous humanitarians aiding their fellow man. Many of these illegal immigrants are beaten, robbed and even raped before they even reach the Mexico-U.S. border. Yet they keep paying the coyotes enough money so that these smugglers have access to sophisticated arms, weapons, GPS equipment and high quality mobile radios. Many of them have better equipment than our own Border Patrol agents.

In today's Washington Times, Gilbert Reyes, one of these smugglers, or successful local businessmen, describes the situation of these immigrants: "They want to get into the United States, and they are willing to do almost anything, even walk for mile after mile in the desert. They think they can go into America and get a pay to stay permanently. Maybe they can. Maybe they can't."

His assertion about the immigrants' belief rings true as we look at the facts on immigration. In 1986, the Immigration Reform and Control Act granted amnesty to 2.7 million illegal immigrants, and now today we have 11 to 12 million illegal immigrants seeking amnesty. Two years ago, President Bush first announced his guest worker program, and illegal immigrant numbers have risen steadily since. A survey conducted by the Border Patrol in 2004 revealed that of those illegal aliens in custody of the Border Patrol, 45 percent were influenced to come to the U.S. by the promise of amnesty. The immigration bill we passed in the House directly strengthened legal recourse against these coyotes and focused on securing our borders, increasing the number of Border Patrol agents, and enforcing the immigration laws that we currently have. These are essential steps that must be taken before any form of immigration reform has a hope of succeeding. And the American people agree. In a recent Zogby poll, 64 percent of respondents preferred the House bill's approach of enforcement first and only 30 percent preferred the Senate's approach of amnesty. Additionally, 73 percent of respondents had little or no confidence in the ability of our government to screen out terrorists or criminals if there is a mass amnesty for those 12 million illegals already in this country.

And yet the pressure is mounting in favor of this unpopular and impractical proposal. There are some journalistic groups that have even begun to object to the use of the word "illegal" when referring to these immigrants. We are supposed to refer to these individuals as, quote, undocumented or even the other extreme proposal, to call them economic refugees. But calling breaking the law by any other name does not make it less of a crime. According to the Immigration and Nationality Act, it is illegal to enter the United States illegally. It is illegal to smuggle human beings into the United States for a price. And it is illegal to knowingly hire and aid a person you know entered our country illegally.

Another central issue with immigration reform is to ensure that those waiting and hoping to enter this country will be treated fairly. Many of them have undergone grueling ordeals to be able to enter the United States. I have heard from one couple in my district that had to undergo multiple in-depth interviews at the embassy before getting their permits. The embassy was a 3-hour commute away for them. As they had no transportation, they had to walk. But they told me they were happy to do so for the simple chance to come into the United States. Many legal immigrants have to wait 5, 10, sometimes 15 years before they get their final approval to immigrate. To allow those who bypassed all the rules and snuck into the U.S. amnesty and a path to citizenship is an egregious slap in the face to all those immigrants who sacrificed to respect our laws and enter legally.

My colleagues, we are a nation of immigrants. Immigrants have vitalized our society, brought new life to our democracy and strengthened our communities simply by their contributions. However, we are also a nation of laws, and those whose first action is to willfully break them should be held accountable, not given preferential treatment.

THE DEBT AND THE DEFICIT

The SPEAKER pro tempore. Pursuant to the order of the House of January 31, 2006, the gentleman from Oregon (Mr. DEFAZIO) is recognized during morning hour debates for 5 minutes.

Mr. DEFAZIO. Well, it is going to be a big week for America and a big week for Republicans in the House. The long-delayed budget is going to be adopted. It is estimated that if this budget is adopted, the deficit will be about $500 billion next year. That means they are going to borrow more than $1.4 billion a day to run the government. But don't worry, some of it is off the books. They are borrowing all of the Social Security surplus, $193 billion, which is supposed to go to pay for future benefits in the trust fund but they are going to borrow and spend that. So they are going to really say, oh, the deficit is only $300 billion, that's all we're borrowing from China and Japan and other foreign investors. But we are also borrowing and spending all the Social Security trust fund. So a $500 billion, half a trillion dollar deficit, borrowing $1.4 billion a day, the party of fiscal responsibility and small government.

In the meantime, they are cutting programs important to the middle class. Student financial aid. Hey, those kids have got to pay higher interest on their loans and their parents, too, because we're in trouble financially. At the same time, this week they are going to pass a $70 billion extension of tax cuts which favor investors over workers.

Why do the Republicans hate people who work for wages and salaries so much? That is a question that begs answering around here. Because investors who can clip coupons off their stocks pay a lower rate of taxes to the Federal Government than a policeman, a fireman or a teacher. And that is the way the Republicans say it should be. Those who are lucky enough to inherit or otherwise able to invest for a living, they shouldn't pay taxes like those suckers who work for salary and wages.

What contempt they are showing for the people of America. They are not only cutting the programs essential to them, borrowing in their name, handing them the bill, now they are borrowing money to give to rich investors which the middle class will have to pay for, because in the Republicans' world only the middle class pays taxes.

The tax cuts they are proposing this week to extend will give an average cut of $20 to the middle fifth of taxpayers, those who average $36,000 a year. But for the lucky winners, the top 1 percent, average income $5.3 million, they will save $82,415. Or if you could put it another way, the person who earns $36,000 will be obligated and their kids will be obligated to borrow $82,415 to give to that wealthy investor because we don't have a surplus to give taxes away to those folks. They say, Oh, don't worry. These tax cuts pay for themselves.

Oh, okay. If that is true, why on page 121, buried almost indecipherably in their budget, 151 pages long, page 121, the Republicans for the fifth time in 5 years are increasing the debt limit of the United States without discussion on the floor of the House or a vote? They are going to increase it by $653 billion.

Let's see. If the tax cuts pay for themselves, why would they have to increase the debt limit of the United States for the fifth time in 5 years in a stealth fashion like this? That is underhanded.

When President Bush took office, we had a borrowing limit of $5.95 trillion, $6 trillion. When their budget passes this week, it is going to be $9.62 trillion. Not bad. Up 60 percent in 5 years. The party of small government and fiscal responsibility has indebted the United States, increased the debt by more than 60 percent in 5 short years. They have amassed more foreign debt than all of the administrations that preceded them since the beginning of the Republic. So we are not only borrowing against our future, borrowing against Social Security, handing a bill to the middle class, we are also indebting the country to foreign holders of debt, particularly China, Japan and others.

What a great vision they have for America. The wealthy will live on their estates behind big walls with private security. They will send their kids to private schools in private limousines, they will ride their private jets to private resorts, and then the rest of us can mow their lawns and carry their golf clubs and wait on their tables. And there won't be much left for the rest of us.

They can't afford a decent bill for homeland security. They can't afford money for cops, police, fire, public education, but we can afford more tax cuts for the wealthiest among us because the investors are the important people to the Republicans. They are also their big contributors.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 1 o'clock and 6 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BISHOP of Utah) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, we invite the Nation to pray for the Members of Congress today with heartfelt compassion. They are in need of Your wisdom and our understanding.

The making of law is never an easy task. It requires dedicated attention, artful skills of language, personal integrity and responsibility to be truly effective. Because of the multiple issues facing the Nation and the complexity of every problem, intelligent minds and enlightened convictions are necessary for each Member of this legislative body to supply answers, to seek healing and build peaceful unity.

In a democracy as ours, laws can be crafted by diverse minds representing a variety of interests. But in the end, every law and every policy of government must seek the consent of the governed and ultimately Your almighty judgment of justice.

In You alone, Lord God, do we find the fulfillment of the law both now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from South Carolina (Mr. WILSON) come forward and lead the House in the Pledge of Allegiance.

Mr. WILSON of South Carolina led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

> H.R. 4939. An act making emergency supplemental appropriations for the fiscal year ending September 30, 2006, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4939) "An Act making emergency supplemental appropriations for the fiscal year ending September 30, 2006, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses, thereon, and appoints Mr. COCHRAN, Mr. STEVENS, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. BURNS, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mr. CRAIG, Mrs. HUTCHISON, Mr. DEWINE, Mr. BROWNBACK, Mr. ALLARD, Mr. BYRD, Mr. INOUYE, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. KOHL, Mrs. MURRAY, Mr. DORGAN, Mrs. FEINSTEIN, Mr. DURBIN, Mr. JOHNSON, and Ms. LANDRIEU, to be the conferees on the part of the Senate.

ASSOCIATION HEALTH PLANS

(Mr. KELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KELLER. Mr. Speaker, I rise today to urge the Senate to help small business people with the skyrocketing costs of health insurance by passing Association Health Plans.

Of the 45 million Americans without health insurance, 60 percent are small business employees and their families. By joining together, small businesses in central Florida will have the same bargaining power to negotiate lower health insurance rates as big companies, like Disney World and Darden. This will help lower their health insurance premiums by up to 30 percent, and expand access to millions of people without health insurance.

On April 27, 2005, the House of Representatives passed my Small Business Bill of Rights which created a blueprint for this Congress to follow to help small business create additional jobs. On the top of the list was passage of Association Health Plans.

Three months later, on July 26, 2005, the House passed Association Health Plans with a wide margin of 263–153.

I applaud the Senate for taking up this important debate today, and I urge them to act now to pass Association Health Plans.

MEDICARE PART D ENROLLMENT DEADLINE

(Mrs. CAPPS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPPS. Mr. Speaker, the May 15 Medicare part D enrollment deadline is now 6 days away; but a significant number of eligible beneficiaries do not even know that. The enrollment deadline is 6 days away, and eligible beneficiaries don't know about the penalty fee they would incur for the rest of their lives.

Mr. Speaker, the enrollment deadline is 6 days away, but call centers are still giving eligible beneficiaries inaccurate or incomplete information. This Sunday, sons and daughters should be spending time with their mothers taking them to brunch or showering them with gifts, not trying to navigate a complex Web site or holding onto the phone.

The administration's insistence on this deadline is offensive to millions of Medicare beneficiaries. Many of them are telling me just that, and many are the most vulnerable in our society.

I urge my colleagues to press for extending the deadline for part D enrollment. We owe it to the unenrolled seniors and seniors who are disabled, who need more time to figure out this complex program. We owe it to all beneficiaries so that we can continue fixing the many flaws of the Medicare prescription drug plan.

THE HERO ACT

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Mr. Speaker, I rise today in strong support of H.R. 1499, the Heroes Earned Retirement Opportunities Act. I introduced this bill after learning our current Tax Code prohibits many of our men and women serving in combat zones from taking advantage of individual retirement accounts.

Most of our troops serving in these combat zones are paid in wages designated as military hazard pay. These wages are not taxed, nor should they be. However, since this compensation is nontaxable, the wages are not eligible for IRA contributions. IRAs are an excellent tool for responsible retirement savings.

Our troops defending America in harm's way should not be excluded from full participation in this important investment opportunity because of a glitch in our Tax Code.

The HERO Act will correct this glitch by designating combat hazard pay earned by members of the Armed Forces as eligible for contribution to retirement accounts. This bill has been endorsed by the Reserve Officers Association and the MOAA.

I encourage my colleagues to support this important bill this afternoon and give our troops the opportunity they deserve to save for their future.

MEDICARE PART D DEADLINE

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I want to call attention to the May 15 deadline for seniors to enroll in the Medicare part D prescription drug plan. The fact is, seniors who are eligible for Medicare part D who do not sign up by May 15 will face a higher monthly premium if they enroll at a later time. This puts a lot of pressure on the seniors.

I had a town hall meeting and lots of seniors came. Most of them knew nothing about how to do it or did not understand it.

But, seniors, as hard as we have tried, we cannot extend this deadline beyond May 15. There are nearly 48,000 residents aged 65 and older in Dallas, Texas. Not that many came to the town hall, but quite a few. I am concerned that they are not getting the message.

Missing May 15 may have expensive consequences. We would like to have a bit more compassion. America's health is about more than just numbers on an insurance company's roll book.

SIX DAYS AWAY

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, 6 days. In just 6 days, that is when the deadline for the Medicare prescription drug program is: May 15.

Thirty million Americans have already signed up. However, there remain other seniors who would benefit from this voluntary program, and they should take these next few days to see if Medicare part D is right for them.

To help facilitate the enrollment process in my district, I have held Medicare seminars to educate seniors on the options available, including two just last Friday. Many have said they are happy with the choices they have, and they are grateful for the time we took to sit down and explain this new program.

Yesterday I also had the chance to visit two pharmacies in my district and speak with the pharmacists and their staffs. This offered a great, behind-the-scenes look at the process these pharmacists have used to help local seniors understand and utilize this new prescription drug plan.

The general sense is that the kinks have been worked out and most seniors are truly gaining great benefit, better health.

Over the next 6 days, I urge all of my colleagues in Congress to do all that we can to provide seniors whatever assistance they may require to sign up for and navigate their new plan.

MEDICARE PART D AND THE LATINO COMMUNITY

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, I rise today because the Medicare part D plan, as written, in my opinion is bad for Latino seniors. Latinos are less likely to have worked at firms with employer-provided pension plans, tend to work at a lower-paying job resulting in less accumulated savings and smaller Social Security checks. And 62 percent have incomes below 150 percent of the Federal poverty level.

Yet more than 1 million Latino seniors have not yet even enrolled in this program because of cultural, language and economic barriers. That is more than 30 percent of all eligible Latino seniors who lack coverage.

The lack of detailed, easy-to-understand culturally competent information makes it even more difficult for community organizations to focus resources on this vulnerable population. Our Latino seniors and all seniors need our help.

I urge my colleagues to pass legislation to extend the enrollment deadline, take away the fear of penalty, and give Medicare beneficiaries more time to check their facts, know their options, and make informed decisions about part D.

EMERGENCY SUPPLEMENTAL RESTRAINT

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, Webster's dictionary defines emergencies as serious situations or occurrences that happen unexpectedly and demand immediate attention.

As Congress considers this year's emergency supplemental spending bill, I hope all of my colleagues will remember the definition of an emergency and support Majority Leader BOEHNER's strong efforts to ensure that we spend taxpayer money on America's most urgent needs.

Last week I was proud when he clearly articulated that the House will not take up an emergency supplemental bill that spends $1 more than the President's budget request. By declaring that Congress will use this funding for troops' efforts in the global war on terrorism and rebuilding communities throughout the gulf coast. Majority Leader BOEHNER is leading House Republicans to rein in the Federal budget and spend taxpayer dollars wisely.

As the budget process continues. I am confident that Majority Leader BOEHNER will continue to define the difference between irresponsible wishes and American emergencies.

In conclusion. God bless our troops, and we will never forget September 11.

DARFUR PEACE AGREEMENT

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I rise to welcome the news of the signing of the Darfur peace agreement. It is important to recognize the hard work that our international partners and the administration have done on this issue. Specifically, President Bush has done an outstanding job. as have Secretary Rice, Deputy Secretary Zoellick and Roger Winter; and there should be special gratitude expressed to Secretary Zoellick who went out there and spent 5 days to bring this to fruition.

Their efforts have moved the parties to an agreement, and the United States now must remain steadfast in this effort. It is my hope this agreement will be a stepping stone toward achieving lasting peace and security for the people of Darfur.

The international community and the American people now have an opportunity to take meaningful steps to improve the lives of the people of Darfur.

Most of the food in Darfur where I visited is coming from the United States Government and from the American people as a result of what the Bush administration has done. However, we must remember that women and children are still dying in the camps. Men are still being killed, and the genocide is still taking place. We must build on that momentum.

But the efforts of the administration are to be commended. And although the road ahead is long, this administration and Bob Zoellick have done an outstanding job. And the people who rallied on the Mall last week ought to be congratulated, too.

STAR-SPANGLED BANNER SUNG IN ENGLISH

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, Americans hail from many different backgrounds, but we are united by our freedoms, our democratic government, and our language. It goes without saying that the Star-Spangled Banner should be sung in English. This Spanish-language anthem is nothing but a cynical attempt to divide our country during the debate on this most vigorous and divisive issue of immigration and illegal immigration.

It will not distract from the critical tasks at hand, securing our borders. I am committed to enforcing our immigration laws and effectively reforming our immigration system without providing amnesty, and I believe that all of our colleagues should join in cosponsoring the legislation offered by our colleague from Kansas (Mr. RYUN) H. Res. 793, which will underscore the fact that the Star Spangled Banner should be sung in English.

☐ 1415

URGING A CONFERENCE ON CHILDREN'S SAFETY ACT

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, despite the fact of having a bit of laryngitis, I rise today on a very important issue. I want to commend the Senate for passing Senate 1086, the Sex Offender Registration and Notification Act.

Now that the Senate has joined the House in passing legislation to protect our children, I urge the appointment of a conference committee so that we can see this actually enacted into law this year.

Nine-year-old Jessica Lunsford lost her life at the hands of a convicted sex offender more than a year ago. This monster assaulted her, buried her in a plastic garbage bag, and killed her just across the street from her home and her family.

We cannot let one more minute go by without closing the loophole in the law that her tragic death revealed. I can't go back to my district and tell Jessica's father that Congress's schedule was too busy and that we will pass something into law next year. The time to act is now.

MEDICARE PART D

(Mr. GINGREY asked and was given permission to address the House for 1 minute.)

Mr. GINGREY. Mr. Speaker, this Sunday is Mother's Day. I know there must be people out there, who, like me, are looking for a last minute gift for their mothers, and I have a great suggestion.

If your mother or father, and Father's Day is coming up soon too, if either of them is a senior, you can give them the gift of health by helping them enroll in a Medicare prescription drug plan.

The initial enrollment period for Medicare part D ends next Monday, May 15, the day after Mother's Day. That means seniors have less than a week remaining to enroll in a plan and be guaranteed the lowest premiums and the most savings.

Already, more than 30 million seniors have enrolled, and those seniors are saving an average of $1,100 a year on their medications. A recent survey showed that 90 percent of seniors say their plan is convenient to use, and 85 percent say their plan is affordable and covers the medicines that they need.

As a physician, I know if seniors can't afford their medication, they will go without to the detriment of their health.

After years of promises, Mr. Speaker, President Bush and this Republican Congress have finally delivered on prescription drug coverage under Medicare. Now, in this final week, I encourage all seniors to sign up and start saving.

RESPECT FOR AMERICA'S FALLEN HEROES ACT

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, today I rise to draw to the attention of the House H.R. 5037. This is the Respect For America's Fallen Heroes Act, and I would like to encourage each Member of this body to join me and my colleagues in this act. What it is going to do is to put in place criteria that will prohibit a person from carrying out demonstrations at the funeral of one of our fallen heroes.

We are going to have a press conference, Mr. Speaker, at 2:30 today to talk more about this, and I want to commend my colleagues, Representative ROGERS from Michigan, our Veterans Affairs' Committee Chairman, Mr. BUYER of Indiana, Mr. CHABOT of Ohio, Mr. WILSON of South Carolina, Mr. CARTER of Texas, and Mr. GARRETT of New Jersey for joining with me on this piece of legislation and for joining to honor the members of the Patriot Guard Riders, who stand with our families to honor our fallen heroes.

COMMUNICATION FROM HON. NANCY PELOSI, DEMOCRATIC LEADER

The SPEAKER pro tempore laid before the House the following communication from NANCY PELOSI, Democratic Leader:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, May 9, 2006.

Hon. J. DENNIS HASTERT,
Speaker, United States House of Representatives Washington, DC.

DEAR MR. SPEAKER: Pursuant to clause 5(a)(4)(A) of rule X of the Rules of the House of Representatives. I designate the following Members to be available for service on an investigative subcommittee of the Committee on Standards of Official Conduct: Mr. Becerra of California, Mr. Capuano of Massachusetts, Mr. Chandler of Kentucky, Mr. Delahunt of Massachusetts, Mr. Schiff of California, Mr. Scott of Virginia, Ms. Solis of California, Mr. Stupak of Michigan, Ms. Tauscher of California, and Mr. Van Hollen of Maryland.

Sincerely,

NANCY PELOSI,
Democratic Leader.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, May 9, 2006.

HON. J. DENNIS HASTERT,
Speaker, U.S. House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on May 8, 2006, at 4:43 p.m. and said to contain a message from the President whereby he notifies the Congress he has extended the national emergency with respect to Syria.

With best wishes, I am

Sincerely,

KAREN L. HAAS,
Clerk of the House.

CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO SYRIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–109)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice, stating that the national emergency declared in Executive Order 13338 of May 11, 2004, and expanded in scope in Executive Order 13399 of April 25, 2006, authorizing the blocking of property of certain persons and prohibiting the exportation and reexportation of certain goods to Syria, is to continue in effect beyond May 11, 2006. The most recent notice continuing this emergency was published in the *Federal Register* on May 10, 2005 (70 FR 24697).

The actions of the Government of Syria in supporting terrorism, interfering in Lebanon, pursuing weapons of mass destruction and missile programs, and undermining United States and international efforts with respect to the stabilization and reconstruction of Iraq, pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue in effect the national emergency authorizing the blocking of property of certain persons and prohibiting the exportation and reexportation of certain goods to Syria and to maintain in force the sanctions to respond to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, *May 8, 2006.*

COMMUNICATION FROM DEPUTY CHIEF OF STAFF OF HON. WILLIAM J. JEFFERSON, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Roberta Y. Hopkins, Deputy Chief of Staff of the Honorable WILLIAM J. JEFFERSON, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 9, 2006.

Hon. J. DENNIS HASTERT,
Speaker, U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a grand jury subpoena for testimony issued by the U.S. District Court for the Eastern District of Virginia.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

ROBERTA Y. HOPKINS,
Deputy Chief of Staff.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

AMERICAN RIVER PUMP STATION PROJECT TRANSFER ACT OF 2006

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4204) to direct the Secretary of the Interior to transfer ownership of the American River Pump Station Project, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American River Pump Station Project Transfer Act of 2006".

SEC. 2. AUTHORITY TO TRANSFER.

The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall transfer ownership of the American River Pump Station Project located at Auburn, California, which includes the Pumping Plant, associated facilities, and easements necessary for permanent operation of the facilities, to the Placer County Water Agency, in accordance with the terms of Contract No. 02–LC–20–7790 between the United States and Placer County Water Agency and the terms and conditions established in this Act.

SEC. 3. FEDERAL COSTS NONREIMBURSABLE.

Federal costs associated with construction of the American River Pump Station Project located at Auburn, California, are nonreimbursable.

SEC. 4. GRANT OF REAL PROPERTY INTEREST.

The Secretary is authorized to grant title to Placer County Water Agency as provided in section 2 in full satisfaction of the United States' obligations under Land Purchase Contract 14–06–859–308 to provide a water supply to the Placer County Water Agency.

SEC. 5. COMPLIANCE WITH ENVIRONMENTAL LAWS.

(a) IN GENERAL.—Before conveying land and facilities pursuant to this Act, the Secretary shall comply with all applicable requirements under—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(3) any other law applicable to the land and facilities.

(b) EFFECT.—Nothing in this Act modifies or alters any obligations under—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 6. RELEASE FROM LIABILITY.

Effective on the date of transfer to the Placer County Water Agency of any land or facility under this Act, the United States shall not be liable for damages arising out of any act, omission, or occurrence relating to the land and facilities, consistent with Article 9 of Contract No. 02–LC–20–7790 between the United States and Placer County Water Agency.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. RADANOVICH. Mr. Speaker, I ask unanimous consent that all Members may be given 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RADANOVICH. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, H.R. 4204, introduced by our distinguished colleague, JOHN DOOLITTLE, directs the Secretary of the Interior to transfer ownership of the American River Pump Station Project to the Placer County Water Agency in northern California.

To facilitate construction of the Auburn Dam nearly 40 years ago, the Federal Government removed a locally owned pump station located at the dam site. The dam was never built, and now the Federal Government is building a permanent pump station to replace the one it removed years earlier. Under an agreement, the Federal Government must transfer the pump station to the local water users once construction is complete. Before transfer can take place, congressional authorization is needed, and this legislation achieves that objective. I urge my colleagues to support this commonsense bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

We on this side of the aisle have reviewed the legislation and have no objection to the passage of H.R. 4204. The bill would fulfill the legal commitment of the United States Government to replace the water supply for the Placer County Water Agency.

The majority has already correctly characterized and explained the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 4204, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

UPPER HOUSATONIC VALLEY NATIONAL HERITAGE AREA ACT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5311) to establish the Upper Housatonic Valley National Heritage Area.

The Clerk read as follows:

H.R. 5311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Upper Housatonic Valley National Heritage Area Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The upper Housatonic Valley, encompassing 29 towns in the hilly terrain of western Massachusetts and northwestern Connecticut, is a singular geographical and cultural region that has made significant national contributions through its literary, artistic, musical, and architectural achievements, its iron, paper, and electrical equipment industries, and its scenic beautification and environmental conservation efforts.

(2) The upper Housatonic Valley has 139 properties and historic districts listed on the National Register of Historic Places, including—

(A) five National Historic Landmarks—

(i) Edith Wharton's home, The Mount, Lenox, Massachusetts;

(ii) Herman Melville's home, Arrowhead, Pittsfield, Massachusetts;

(iii) W.E.B. DuBois' Boyhood Homesite, Great Barrington, Massachusetts;

(iv) Mission House, Stockbridge, Massachusetts; and

(v) Crane and Company Old Stone Mill Rag Room, Dalton, Massachusetts; and

(B) four National Natural Landmarks—

(i) Bartholomew's Cobble, Sheffield, Massachusetts, and Salisbury, Connecticut;

(ii) Beckley Bog, Norfolk, Connecticut;

(iii) Bingham Bog, Salisbury, Connecticut; and

(iv) Cathedral Pines, Cornwall, Connecticut.

(3) Writers, artists, musicians, and vacationers have visited the region for more than 150 years to enjoy its scenic wonders, making it one of the country's leading cultural resorts.

(4) The upper Housatonic Valley has made significant national cultural contributions through such writers as Herman Melville, Nathaniel Hawthorne, Edith Wharton, and W.E.B. DuBois, artists Daniel Chester French and Norman Rockwell, and the performing arts centers of Tanglewood, Music Mountain, Norfolk (Connecticut) Chamber Music Festival, Jacob's Pillow, and Shakespeare & Company.

(5) The upper Housatonic Valley is noted for its pioneering achievements in the iron, paper, and electrical generation industries and has cultural resources to interpret those industries.

(6) The region became a national leader in scenic beautification and environmental conservation efforts following the era of industrialization and deforestation and maintains a fabric of significant conservation areas including the meandering Housatonic River.

(7) Important historical events related to the American Revolution, Shays' Rebellion, and early civil rights took place in the upper Housatonic Valley.

(8) The region had an American Indian presence going back 10,000 years and Mohicans had a formative role in contact with Europeans during the seventeenth and eighteenth centuries.

(9) The Upper Housatonic Valley National Heritage Area has been proposed in order to heighten appreciation of the region, preserve its natural and historical resources, and improve the quality of life and economy of the area.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts.

(2) To implement the national heritage area alternative as described in the document entitled "Upper Housatonic Valley National Heritage Area Feasibility Study, 2003".

(3) To provide a management framework to foster a close working relationship with all levels of government, the private sector, and the local communities in the upper Housatonic Valley region to conserve the region's heritage while continuing to pursue compatible economic opportunities.

(4) To assist communities, organizations, and citizens in the State of Connecticut and the Commonwealth of Massachusetts in identifying, preserving, interpreting, and developing the historical, cultural, scenic, and natural resources of the region for the educational and inspirational benefit of current and future generations.

SEC. 3. DEFINITIONS.

In this Act:

(1) HERITAGE AREA.—The term "Heritage Area" means the Upper Housatonic Valley National Heritage Area, established in section 4.

(2) MANAGEMENT ENTITY.—The term "Management Entity" means the management entity for the Heritage Area designated by section 4(d).

(3) MANAGEMENT PLAN.—The term "Management Plan" means the management plan for the Heritage Area specified in section 6.

(4) MAP.—The term "map" means the map entitled "Boundary Map Upper Housatonic Valley National Heritage Area", numbered P17/80,000, and dated February 2003.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of Connecticut and the Commonwealth of Massachusetts.

SEC. 4. UPPER HOUSATONIC VALLEY NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established the Upper Housatonic Valley National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall be comprised of—

(1) part of the Housatonic River's watershed, which extends 60 miles from Lanesboro, Massachusetts to Kent, Connecticut;

(2) the towns of Canaan, Colebrook, Cornwall, Kent, Norfolk, North Canaan, Salisbury, Sharon, and Warren in Connecticut; and

(3) the towns of Alford, Becket, Dalton, Egremont, Great Barrington, Hancock, Hinsdale, Lanesboro, Lee, Lenox, Monterey, Mount Washington, New Marlboro, Pittsfield, Richmond, Sheffield, Stockbridge, Tyringham, Washington, and West Stockbridge in Massachusetts.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(d) MANAGEMENT ENTITY.—The Upper Housatonic Valley National Heritage Area, Inc. shall be the management entity for the Heritage Area.

SEC. 5. AUTHORITIES, PROHIBITIONS, AND DUTIES OF THE MANAGEMENT ENTITY.

(a) DUTIES OF THE MANAGEMENT ENTITY.—To further the purposes of the Heritage Area, the management entity shall—

(1) prepare and submit a management plan for the Heritage Area to the Secretary in accordance with section 6;

(2) assist units of local government, regional planning organizations, and nonprofit

organizations in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect and enhance important resource values within the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

(D) increasing public awareness of and appreciation for natural, historical, scenic, and cultural resources of the Heritage Area;

(E) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with heritage area themes;

(F) ensuring that signs identifying points of public access and sites of interest are posted throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations and individuals to further the purposes of the Heritage Area;

(3) consider the interests of diverse units of government, businesses, organizations and individuals in the Heritage Area in the preparation and implementation of the management plan;

(4) conduct meetings open to the public at least semi-annually regarding the development and implementation of the management plan;

(5) submit an annual report to the Secretary for any fiscal year in which the management entity receives Federal funds under this Act, setting forth its accomplishments, expenses, and income, including grants to any other entities during the year for which the report is made;

(6) make available for audit for any fiscal year in which it receives Federal funds under this Act, all information pertaining to the expenditure of such funds and any matching funds, and require in all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organizations make available for such audit all records and other information pertaining to the expenditure of such funds; and

(7) encourage by appropriate means economic development that is consistent with the purposes of the Heritage Area.

(b) AUTHORITIES.—The management entity may, for the purposes of preparing and implementing the management plan for the Heritage Area, use Federal funds made available through this Act to—

(1) make grants to the State of Connecticut and the Commonwealth of Massachusetts, their political subdivisions, nonprofit organizations and other persons;

(2) enter into cooperative agreements with or provide technical assistance to the State of Connecticut and the Commonwealth of Massachusetts, their subdivisions, nonprofit organizations, and other interested parties;

(3) hire and compensate staff, which shall include individuals with expertise in natural, cultural, and historical resources protection, and heritage programming;

(4) obtain money or services from any source including any that are provided under any other Federal law or program;

(5) contract for goods or services; and

(6) undertake to be a catalyst for any other activity that furthers the purposes of the Heritage Area and is consistent with the approved management plan.

(c) PROHIBITIONS ON THE ACQUISITION OF REAL PROPERTY.—The management entity may not use Federal funds received under this Act to acquire real property, but may use any other source of funding, including other Federal funding outside this authority, intended for the acquisition of real property.

SEC. 6. MANAGEMENT PLAN.

(a) IN GENERAL.—The management plan for the Heritage Area shall—

(1) include comprehensive policies, strategies and recommendations for conservation, funding, management and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans in the development of the management plan and its implementation;

(3) include a description of actions that governments, private organizations, and individuals have agreed to take to protect the natural, historical and cultural resources of the Heritage Area;

(4) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area in the first 5 years of implementation;

(5) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area related to the themes of the Heritage Area that should be preserved, restored, managed, developed, or maintained;

(6) describe a program of implementation for the management plan including plans for resource protection, restoration, construction, and specific commitments for implementation that have been made by the management entity or any government, organization, or individual for the first 5 years of implementation; and

(7) include an interpretive plan for the Heritage Area.

(b) DEADLINE AND TERMINATION OF FUNDING.—

(1) DEADLINE.—The management entity shall submit the management plan to the Secretary for approval within 3 years after funds are made available for this Act.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with this subsection, the management entity shall not qualify for Federal funding under this Act until such time as the management plan is submitted to the Secretary.

SEC. 7. DUTIES AND AUTHORITIES OF THE SECRETARY.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary may, upon the request of the management entity, provide technical assistance on a reimbursable or non-reimbursable basis and financial assistance to the Heritage Area to develop and implement the approved management plan. The Secretary is authorized to enter into cooperative agreements with the management entity and other public or private entities for this purpose. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in—

(1) conserving the significant natural, historical, cultural, and scenic resources of the Heritage Area; and

(2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(b) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall approve or disapprove the management plan not later than 90 days after receiving the management plan.

(2) CRITERIA FOR APPROVAL.—In determining the approval of the management plan, the Secretary shall consider whether—

(A) the management entity is representative of the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(B) the management entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan;

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historical, and cultural resources of the Heritage Area; and

(D) the management plan is supported by the appropriate State and local officials whose cooperation is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan, the Secretary shall advise the management entity in writing of the reasons therefore and shall make recommendations for revisions to the management plan. The Secretary shall approve or disapprove a proposed revision within 60 days after the date it is submitted.

(4) APPROVAL OF AMENDMENTS.—Substantial amendments to the management plan shall be reviewed by the Secretary and approved in the same manner as provided for the original management plan. The management entity shall not use Federal funds authorized by this Act to implement any amendments until the Secretary has approved the amendments.

SEC. 8. DUTIES OF OTHER FEDERAL AGENCIES.

Any Federal agency conducting or supporting activities directly affecting the Heritage Area shall—

(1) consult with the Secretary and the management entity with respect to such activities;

(2) cooperate with the Secretary and the management entity in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner which the management entity determines will not have an adverse effect on the Heritage Area.

SEC. 9. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) LANDOWNER WITHDRAW.—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

SEC. 10. PRIVATE PROPERTY PROTECTION.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this Act shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) LIABILITY.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this Act shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.—Nothing in this Act shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the Heritage Area represent the area within which Federal funds appropriated for the purpose of this Act may be expended. The establishment of the Heritage Area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Area or its viewshed by the Secretary, the National Park Service, or the management entity.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated for the purposes of this Act not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Area under this Act.

(b) MATCHING FUNDS.—Federal funding provided under this Act may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this Act.

SEC. 12. SUNSET.

The authority of the Secretary to provide assistance under this Act shall terminate on the day occurring 15 years after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. RADANOVICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RADANOVICH. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, H.R. 5311 is introduced by Mrs. JOHNSON of Connecticut and would establish the Upper Housatonic Valley National Heritage Area in Connecticut and Massachusetts. The valley is recognized for its cultural achievements through such authors as Herman Melville, Nathaniel Hawthorne and W.E.B. DuBois, and was the site of countless significant events in American history. Proponents of the bill hope to preserve, recognize, and enhance the area's contributions in literature, art, music, architecture, iron, paper, and its electrical equipment industries.

I would note that the text of the bill passed this House in the 108th Congress and in the previous session of the 109th Congress. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

The majority has described the variety of historic and natural resources that will be preserved and interpreted in the proposed National Heritage Area, and we do not oppose this legislation.

We would note, however, that the majority's approach to heritage area legislation has been widely inconsistent. The Republican leadership has gone from opposing heritage areas to approving them in large packages to now approving some of the same ones over again as stand-alone bills.

This inconsistency is particularly frustrating to those of us, like myself, with heritage area proposals of our own which have been caught up in this needless legislative red tape and sometimes for several years and several Congresses. It is my hope that once we have approved H.R. 5311, the majority will provide all remaining meritorious heritage area proposals similar consideration.

Mr. Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman from California for recognizing me on this bill to designate the Upper Housatonic Valley National Heritage Area. This area encompasses 29 towns in the hilly terrain of western Massachusetts and northwestern Connecticut which is a singular and important geographic and cultural area. And my colleague, Mr. OLVER, while he may be here before we finish debate, has worked closely with me on this as it links our two districts together.

Its residents, over hundreds of years, have made significant national contributions to American literature, art, music and architecture, founded the iron industry in America, and host unique minerals and environmental treasures. This area has been awaiting designation for several years, and I am thrilled to have it on the floor today.

I would like to thank Chairman POMBO and the Resources Committee for recognizing that through this locally led initiative, the States of Connecticut and Massachusetts will be able to make real progress in protecting the river and the river valley, its heritage and also collaborating regionally to develop the economy in harmony with its history, environmental resources, and unique cultural heritage.

☐ 1430

The Heritage designation enjoys overwhelming support throughout the region from individuals. Historic and civic organizations, local businesses, and local and State elected officials all have expressed strong support for the establishment of the National Heritage Area, and are enthusiastic about the potential that designation creates for the small towns of the area to work together to celebrate and preserve our heritage.

It has inspired the development of a local organization that has already begun hosting hiking events, historic visits and numerous educational programs, laying a new foundation for regional action for both preservation and economic development.

Congress established criteria in 2000 clarifying that designation requires a cultural, natural and historical heritage of national significance and must have broad public support and a qualified organization to manage the area. The National Park Service agreed that the Upper Housatonic Valley meets the Department's 10 criteria for designation and even cite it as a national model of how to become a National Heritage Area.

The Upper Housatonic Valley National Heritage Area will extend from Lanesboro, Massachusetts, 60 miles south to Kent, Connecticut. This region of New England is home to the Nation's first industrial iron sites from 1730 to the 1920s. The first blast furnace was built here in 1762 by Ethan Allen and supplied the iron for the cannons that helped George Washington's Army defeat the British in Boston and to make other weapons for the soldiers of the Revolutionary War.

While many of the furnaces, mine sites and charcoal pits have been lost to development and time, those that remain are in need of refurbishment. The Beckley Furnace in Canaan, Connecticut, was designated as an official project by the Millennium Committee to Save America's Treasures and now has been well restored.

The valley's history as a cultural retreat from Boston and New York provides both past and current riches for the country. Since the 1930s, visitors from all over have come to hear music at Tanglewood, Massachusetts and Music Mountain in Falls Village, Connecticut; to see paintings at the Norman Rockwell Museum and at the Eric Sloane Museum and to watch serious theater at Stockbridge, Massachusetts, and Norfolk, Connecticut. Today's local authors have drawn on a long tradition going back to the 19th century when Herman Melville, Nathaniel Hawthorne and Edith Wharton lived and wrote in these hills.

The Housatonic Valley is also rich with environmental and recreational treasures. On the Housatonic River just below Falls Village, Connecticut, is one of the prize fly fishing centers in the northeast and is enjoyed by fishermen not only from Connecticut and Massachusetts, but the entire eastern seaboard.

Olympic rowers have trained on this river as our children have learned to swim, boat, fish and value its ecosystem. The Appalachian Trail winds through this area, as do the trails on Canaan Mountain and in the Great Mountain Forest.

The Upper Housatonic Valley with its remoteness from, but ties to, large cities occupies a special niche in our national culture, and I encourage my colleagues to support this legislation. I thank the gentleman from California.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BISHOP of Utah). The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 5311.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PUYALLUP INDIAN TRIBE LAND CLAIMS SETTLEMENT

Mr. RADANOVICH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1382) to require the Secretary of the Interior to accept the conveyance of certain land, to be held in trust for the benefit of the Puyallup Indian tribe.

The Clerk read as follows:

S. 1382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PUYALLUP INDIAN TRIBE LAND CLAIMS SETTLEMENT.

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) accept the conveyance of the parcels of land within the Puyallup Reservation described in subsection (b); and

(2) hold the land in trust for the benefit of the Puyallup Indian tribe.

(b) LAND DESCRIPTION.—The parcels of land referred to in subsection (a) are as follows:

(1) PARCEL A.—Lot B, boundary line adjustment 9508150496, as depicted on the map dated August 15, 1995, held in the records of the Pierce County Auditor, situated in the city of Fife, county of Pierce, State of Washington.

(2) PARCEL B.—

(A) IN GENERAL.—Parcel B shall be comprised of land situated in the city of Fife, county of Pierce, State of Washington, more particularly described as follows:

(i) Lots 3 and 4, Pierce County Short Plat No. 8908020412, as depicted on the map dated August 2, 1989, held in the records of the Pierce County Auditor, together with portion of SR 5 abutting lot 4, conveyed by the deed recorded under Recording No. 9309070433, described as follows:

(I) That portion of Government lot 1, sec. 07, T. 20 N., R. 4 E., of the Willamette Meridian, described as commencing at Highway Engineer's Station AL 26 6+38.0 P.O.T. on the AL26 line survey of SR 5, Tacoma to King County line.

(II) Thence S88°54′30″ E., along the north line of said lot 1 a distance of 95 feet to the true point of beginning.

(III) Thence S01°05′30″ W87.4′ feet.

(IV) Thence westerly to a point opposite Highway Engineer's Station AL26 5+50.6 P.O.T. on said AL26 line survey and 75 feet easterly therefrom.

(V) Thence northwesterly to a point opposite AL26 5+80.6 on said AL26 line survey and 55 feet easterly therefrom.

(VI) Thence northerly parallel with said line survey to the north line of said lot 1.

(VII) Thence N88°54′30″ E., to the true point of beginning.

(ii) Chicago Title Insurance Company Order No. 4293514 lot A boundary line adjustment recorded under Recording No. 9508150496, as depicted on the map dated August 15, 1995, held in the records of the Pierce County Auditor.

(B) EXCLUSION.—Excluded from Parcel B shall be that portion of lot 4 conveyed to the State of Washington by deed recorded under recording number 9308100165 and more particularly described as follows:

(i) Commencing at the northeast corner of said lot 4.

(ii) Thence N89°53′30″ W., along the north line of said lot 4 a distance of 147.44 feet to the true point of beginning and a point of curvature.

(iii) Thence southwesterly along a curve to the left, the center of which bears S0°06′30″ W., 55.00 feet distance, through a central angle of 89°01′00″, an arc distance of 85.45 feet.

(iv) Thence S01°05′30″ W., 59.43 feet.

(v) Thence N88°54′30″ W., 20.00 feet to a point on the westerly line of said lot 4.

(vi) Thence N0°57′10″ E., along said westerly line 113.15 feet to the northwest corner of said lot 4.

(vii) Thence S89°53′30″ east along said north line, a distance of 74.34 feet to the true point of beginning.

(3) ADDITIONAL LOTS.—Any lots acquired by the Puyallup Indian tribe located in block 7846, 7850, 7945, 7946, 7949, 7950, 8045, or 8049 in the Indian Addition to the city of Tacoma, State of Washington.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. RADANOVICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RADANOVICH. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, S. 1382 will expedite the approval process for relocating a casino owned by the Puyallup Indian tribe of Washington State. This business is affected by the planned expansion of the Port of Tacoma. On November 16, 2004 the Port of Tacoma, State of Washington, the tribe and the cities of Fife and Tacoma signed an agreement to pursue a major expansion of terminal facilities at that time Port of Tacoma.

The agreement allows the tribe to move its Emerald Queen Casino, which is impacted by the construction of the new Port of Tacoma terminal facility, to a new location within the boundaries of the tribe's reservation. The agreement will create nearly 4,000 jobs for the local area and increase the cargo capacity of the Port of Tacoma, already the seventh busiest waterborne freight gateway in the United States.

S. 1382 has the full support of the Washington State delegation, and I look forward to the support of this House.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of this legislation and to congratulate the gentleman from Washington, NORM DICKS, who is the author of the House companion bill.

Mr. DICKS has worked tirelessly over the last several months to bring this bill before us today. This provision would enable the Puyallup Indian tribe to continue its ability to provide needed services to its members and to preserve a significant number of jobs held by both Indians and non-Indians.

The port and other State and local entities support the tribe's effort to have this land placed into trust. Once enacted, this legislation will assist the tribe in its business ventures.

I would again pay tribute to Congressman DICKS for his tenacity in getting this bill moved through the House. This provision has already passed the Senate and has the support of State and local government.

I urge all of our colleagues to support the passage of S. 1382.

Mr. Speaker, I would like to yield such time as he might consume to the sponsor of the bill, Mr. DICKS.

Mr. DICKS. Mr. Speaker, I appreciate the distinguished gentlewoman from the Virgin Islands for recognizing me. I want to thank the chairman and the others who presented the bill.

I rise in strong support of this bill, S. 1382, which would require that reservation land be put into trust on behalf of the Puyallup Indians. I introduced similar legislation in the House, which was approved by the Resources Committee in March.

Passage of the Senate bill today will clear the legislation for the President's signature. I want to thank Resources Chairman POMBO for his support of this legislation and the action of the Resources Committee took to move the bill forward. I also want to extend my gratitude toward ranking Democratic

Member RAHALL for his assistance. The staff of both of these Members have been very helpful.

The legislation is consistent with previous actions that Congress has taken on behalf of the Puyallup tribe. After many years of negotiations, the tribe and the local community came together to settle the serious and long-standing land claims that affected a large portion of what is now the Port of Tacoma.

When the settlement agreement was reached in 1989, Congress approved specific legislation authorizing the terms of this landmark settlement, which has now led to robust development in the Port of Tacoma. The creation of a substantial number of new jobs in shipping and trade-related businesses and to the development of many new tribal enterprises that will sustain the current and next generation of Puyallup tribe members really was a win-win situation for the tribe, the Port of Tacoma, the city of Tacoma, the city of Fife and for Pierce County.

With the support of Congress, it has resulted in a very productive working relationship between all of those parties. A prime example of this improved relationship is the mutually beneficial situation that led to the legislation we are considering today.

A few years ago, the Port of Tacoma was presented with the opportunity to build a large new container terminal that would lead to the creation of many new family wage jobs if it could build on tribal-owned land in the port. After some negotiation, the tribe agreed to relocate a casino that was situated on this land in order to allow for the type of cargo-handling development to occur at the waterfront, consistent with the goals of the settlement agreement.

This is another case in which everyone wins. The State of Washington and all local governments have recognized the tribe's cooperative spirit and have actively supported this relocation. Thus, this legislation would simply allow for the alternate parcel of reservation land in Fife to be put into trust status in order to meet the requirements of the State of Washington.

Again, I want to thank the chairman, the ranking member and the Resources Committee for their assistance in moving this piece of legislation that will result in further job creation and economic development in the Port of Tacoma, not only helping the tribe in the local community, but positively affecting our Nation's balance of trade.

Mr. SMITH of Washington. Mr. Speaker, I am pleased that today the House of Representatives passed S. 1382, a bill which would allow the Puyallup Indian Tribe to convert parts of their tribal land into a Trust held by the Department of the Interior.

The Puyallup Tribe has worked in partnership with the State of Washington, the Port of Tacoma, Pierce County, the Cities of Fife, Puyallup, and Tacoma to finalize an arrangement that will enable more than $450 million in new investment and create an estimated 4,000 construction jobs and nearly 6,000 permanent jobs in Pierce County. Under the multi-party agreement—which builds on the 1988 Puyallup Indian Land Claims Settlement—relocation of some of the tribal lands will enable construction of a major new container terminal on the Blair Waterway.

S. 1382 is critical to the success of this broad-based agreement, and I look forward to the President signing this important legislation into law so that it can be fully implemented and the region can realize the benefits. I commend all parties involved on the way they worked together to allow for this expansion which will be an economic driver for the region.

Mrs. CHRISTENSEN. I yield back the balance of my time.

Mr. RADANOVICH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 1382.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

PROVIDING FOR CONCURRENCE BY HOUSE WITH AMENDMENT IN SENATE AMENDMENT TO H.R. 1499. HEROES EARNED RETIREMENT OPPORTUNITIES ACT

Mr. SAM JOHNSON of Texas. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 803) providing for the concurrence by the House with amendment in the amendment of the Senate to H.R. 1499.

The Clerk read as follows:

H. RES. 803

Resolved, That upon the adoption of this resolution the bill (H.R. 1499) entitled "An Act to amend the Internal Revenue Code of 1986 to allow members of the Armed Forces serving in a combat zone to make contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income, and for other purposes", with the Senate amendment thereto, shall be considered to have been taken from the Speaker's table to the end that the Senate amendment thereto be, and the same is hereby, agreed to with an amendment as follows:

Add at the end of the Senate amendment the following:

Page 3, after line 3, insert the following new subsection:

(c) CONTRIBUTIONS FOR TAXABLE YEARS ENDING BEFORE ENACTMENT.—

(1) IN GENERAL.—In the case of any taxpayer with respect to whom compensation was excluded from gross income under section 112 of the Internal Revenue Code of 1986 for any taxable year beginning after December 31, 2003, and ending before the date of the enactment of this Act, any contribution to an individual retirement plan made on account of such taxable year and not later than the last day of the 3-year period beginning on the date of the enactment of this Act shall be treated, for purposes of such Code, as having been made on the last day of such taxable year.

(2) WAIVER OF LIMITATIONS.—

(A) CREDIT OR REFUND.—If the credit or refund of any overpayment of tax resulting from a contribution to which paragraph (1) applies is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date that such contribution is made (determined without regard to paragraph (1)).

(B) ASSESSMENT OF DEFICIENCY.—The period for assessing a deficiency attributable to a contribution to which paragraph (1) applies shall not expire before the close of the 3-year period beginning on the date that such contribution is made. Such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

(3) INDIVIDUAL RETIREMENT PLAN DEFINED.—For purposes of this subsection, the term "individual retirement plan" has the meaning given such term by section 7701(a)(37) of such Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SAM JOHNSON) and the gentleman from Michigan (Mr. LEVIN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. SAM JOHNSON of Texas. Mr. Speaker, this is an important bill that will allow our troops serving in combat zones to contribute some of their tax-exempt combat pay to retirement savings. Because combat pay is exempt from tax, it does not qualify as earned income that is normally allowed in an individual retirement account.

Mr. Speaker, I would now like to yield as much time as she may consume to the Representative from North Carolina (Ms. FOXX).

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Ms. FOXX. Mr. Speaker, I am truly honored to be here today. I am honored because the mere consideration of this bill represents the greatness of our Republican democracy. At this time 2 years ago, I dreamed of coming before this House and working for the people of the Fifth Congressional District of North Carolina. Here I am today promoting a bill I wrote to help those very constituents who deserve it the most.

Just over a year ago, the family of Army Specialist Michael Hensley from my district in Clemmons, North Carolina, contacted me with a problem that his son and many of our other brave soldiers are facing.

Specialist Hensley wanted to do the responsible thing by making the maximum allowable contribution to his individual retirement account, but found out that because of the nature of his wages, he would not be able to contribute to his nest egg this year.

Thanks to the Republican leadership of this House, we stand here this afternoon to solve this problem.

Mr. Speaker, our current Tax Code wrongfully prohibits many of our brave men and women serving in combat zones from taking advantage of individual retirement accounts, or IRAs. Most soldiers serving in these combat zones are paid in wages designated as military hazard pay. As deployment times have grown longer and longer, many soldiers now serve entire calendar years overseas, making their yearly compensation consist of hazard pay exclusively. These wages are not taxed, nor should they be. However, since this compensation is nontaxable, the wages are not eligible for IRA contributions. That is entirely unfair.

As we all know, IRAs are an excellent tool for responsible retirement savings, and responsible retirement savings should be encouraged for everyone, but especially for those who take up arms in war zones and fight for our freedom.

The men and women defending America in harm's way overseas should not be excluded from fully participating in the important retirement investment opportunity that IRAs provide because of a glitch in our Tax Code.

H.R. 1499, the Heroes Earned Retirement Opportunities, or HERO Act, will correct this serious injustice. The HERO Act simply designates combat hazard pay earned by a member of the Armed Forces as eligible for contribution to retirement accounts. The legislation, which is endorsed by the Reserve Officers Association and the Military Officers Association of America, would not actually tax these wages. It would merely allow them to be invested in the same retirement accounts available to all Americans.

To quote the Military Officers Association of America in their letter of support for the bill: "This change makes perfect sense in view of all we are asking our servicemembers to do in the war on terror in Iraq, Afghanistan and elsewhere." I could not have said it better myself.

Mr. Speaker, our heroes defending America overseas certainly deserve the same access to retirement savings that we receive. In fact, we should be encouraging and even facilitating retirement savings whenever possible. Americans need to take responsibility for and control of their retirement. Those responsible enough to save their hard-earned wages should be rewarded, not burdened with taxes and regulations.

I would like to thank our Republican majority leader, JOHN BOEHNER, as well as Chairman BILL THOMAS, for recognizing the importance of this bill and for expeditiously bringing it to the floor of this House. I would also like to thank Chairman DUNCAN HUNTER for his service to our Nation in Vietnam, for his excellent leadership on the House Armed Services Committee and for cosponsoring and supporting this great bill. His commitment to our troops is to be applauded.

Lastly, I would like to thank Congressman SAM JOHNSON for his 29 years of service to our Nation and for his cosponsorship of this bill and his assistance in the Ways and Means Committee to bring the bill to the floor of the House. Congressman JOHNSON is a true hero, having served as a prisoner of war. It is an honor to have him as a cosponsor and to have had his strong support throughout the effort to get this bill passed.

I urge all my colleagues to help right this fundamental wrong by voting for this straightforward, commonsense legislation.

Mr. LEVIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I stand today in support of H.R. 1499. This bill is actively supported by my Democratic colleagues. On May 23, 2005, this bill passed the House under suspension of the rules by voice vote. The bill was referred to the Senate and was approved with an amendment to change the effective date. Because of the later effective date as passed by the Senate, the bill is before us again today merely to incorporate a technical change. This change would indeed ensure that our service men and women can make eligible contributions for previous tax years, 2004 and 2005, for which the deadline has passed, but years for which they were eligible to make these contributions.

We acknowledge fully the work of our military personnel who continue to perform so ably for our Nation. We honor their bravery and their sacrifice. Therefore, it goes without saying that we endorse this effort by the Congress to make it possible for these men and women to take advantage of every tax benefit that is available to them, including saving for their retirement.

H.R. 1499, as my colleague and friend, the gentleman from Texas, Mr. JOHNSON, has said, would allow our service men and women to treat their compensation received while serving in combat as taxable income in order to help them meet the income eligibility requirement for making contributions to an individual retirement account.

At a recent hearing of our committee, two of our five witnesses highlighted the large shortfall in retirement savings many of our workers in this country face. I am sure that many members of the military fall within this group. This bill is a small step in the right direction of closing that gap.

Other larger steps need to be taken. For example, Democratic Members of this Congress are hopeful that we can work with our Republican colleagues to preserve another tax benefit that may be of even greater help to many military families. A provision in current law would permit military families to treat combat pay as taxable compensation for purposes of claiming the Earned Income Tax Credit. This provision, though, is set to expire at the end of this year.

The EITC is a refundable credit many low- and middle-income taxpayers can claim when they file their Federal tax returns. Eligible families may claim a portion of their credit ratably during the year. The EITC helps to relieve the Federal tax burden on many families who are working full-time, yet find themselves at or below the poverty level.

We had hoped that this provision could be included as part of the bill before us today to further help military families. However, we were assured that this provision will be taken up later in the year, and we will continue to press for the extension of this provision before it expires.

Also let me finish by expressing my hope and the hope of so many on my side of the aisle that this Congress and the administration will meet their responsibilities to our veterans on health, on re-employment, and on so many other major needs of those in the military and the veterans of this country.

Mr. Speaker, I would say to my friend, Mr. JOHNSON, therefore anticipating your remarks, and your remarks indeed reflect your service to this country, I yield back the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as Mr. LEVIN pointed out, we passed this legislation before. Our colleagues in the Senate then passed the bill by unanimous consent back in October, but made a change regarding the effective date.

The HERO Act will help our combat troops save for their retirement, as Mr. LEVIN pointed out, or for first-time home purchases or for education by saving in a Roth IRA.

Currently, all Americans can save up to $4,000 this year in an IRA or a Roth IRA. This cap on annual contributions will increase to $5,000 in 2008. Right now our combat troops are not able to contribute to IRAs because that combat pay does not fit the definition of taxable earned income.

As Mr. LEVIN pointed out, our combat troops are putting their lives on the line in a very dangerous situation, and to recognize this service, their pay is not subject to tax. This bill is a way for Congress and the American people to say thank you every payday.

There are a lot of young servicemembers who are single who come home at the end of a tour in a combat zone with a nice little nest egg. Once we get this bill signed into law, it will be great for these young men and women to put some of that money into a Roth IRA for the purchase of a home, to spend on school, or just for long-term retirement. While there are plenty of other tantalizing things for these young people to spend their money on, we need to at least give them the opportunity to save some of it in the same way that all other Americans can save.

I am one of the conferees working out the differences between the House and Senate on the pension bill. I look forward to getting that bill completed soon so we can increase the opportunity of all Americans to save and to make their pension plans safer. However, our troops are prohibited from even contributing combat pay to an IRA, and we need to remedy this situation right now.

According to the Joint Committee on Taxation, the bill would provide $70 million of tax benefits to military families over the next decade. We will pass the HERO Act with no controversy, and I hope our colleagues in the other body follow suit in the near future.

Mr. Speaker, I thank Mr. LEVIN for his comments, and I appreciate Ms. FOXX introducing the bill. It is the right thing to do.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM JOHNSON) that the House suspend the rules and agree to the resolution, H. Res. 803.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LEVIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

RURAL HEALTH CARE CAPITAL ACCESS ACT OF 2006

Mr. RENZI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4912) to amend section 242 of the National Housing Act to extend the exemption for critical access hospitals under the FHA program for mortgage insurance for hospitals.

The Clerk read as follows:

H.R. 4912

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Health Care Capital Access Act of 2006".

SEC. 2. EXTENSION.

Paragraph (1) of section 242(i) of the National Housing Act (12 U.S.C. 1715z–7(i)(1)) is amended by striking "July 31, 2006" and inserting "July 31, 2011".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. RENZI) and the gentleman from California (Mr. BACA) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4912, the Rural Health Care Capital Access Act of 2006. This piece of legislation would extend the exemption of the current law that allows small rural hospitals to remain eligible for Federal Housing Administration mortgage insurance.

Recent health care statistics show a huge backlog of capital improvement needs for the majority of hospitals in the United States, and rural hospitals face even fewer opportunities to make such needed repairs, achieve reasonable terms for refinancing or build replacement facilities. The FHA Section 242 Hospital Mortgage Insurance Program has been a valuable tool for many hospitals seeking to rebuild or make improvements.

Recently the program became available to critical access hospitals. Critical access hospitals are facilities certified to receive cost-based reimbursement for Medicare. This cost-based reimbursement is intended to improve their financial performance and thereby reduce hospital closures.

Despite the efforts of FHA, some challenges have remained for these rural hospitals to gain access to the critical access program. One of these was a statutory requirement in section 242 that at least 50 percent of the hospital's adjusted net patient days must be used for acute medical care. While this requirement may be useful in urban areas, rural isolated communities such as those served by critical access hospitals often cannot sustain separate independent hospitals which provide acute care and nursing facilities.

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It is common for rural hospitals and nursing homes to operate as a single unit in order to take advantage of savings related to cost-sharing of some services and staff.

To deny critical-access hospitals access to FHA mortgage insurance on these grounds unfairly disadvantages these facilities that are desperately in need of capital improvements.

H.R. 659, the Hospital Mortgage Insurance Act of 2003 amended section 242 of the National Housing Act and included an exemption that eliminated the so-called Patient Day Test for critical-access hospitals, which allowed these rural hospitals to be eligible for FHA mortgage insurance. The exemption expires on July 31, 2006. H.R. 4912 would simply extend this vital exemption for 5 years, which would give FHA and the Department of Housing and Urban Development time to review the exemption's impact and recommend to the Congress whether it should be made permanent.

I am a proud cosponsor of this important legislation, which will benefit 11 critical-access hospitals in my home State of Arizona and three hospitals in my district: Page Memorial Hospital in Page, Arizona, Sage Memorial Hospital in Ganado, located on the Navajo Nation, and Winslow Memorial Hospital located in the town of Winslow, Arizona.

I would like to thank the Housing Subcommittee chairman, Congressman NEY, Ranking Member WATERS, full committee Chairman OXLEY, Ranking Member FRANK and all of those who worked hard to pull this together for their support of this legislation.

Mr. Speaker, I urge my colleagues to support this bipartisan piece of legislation that would allow more opportunities for critical-access hospitals to improve the quality of health care in rural America.

Mr. Speaker, I reserve the balance of my time.

Mr. BACA. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise today to express my strong support for H.R. 4912, the Rural Health Care Capital Access Act of 2006, along with Mr. FRANK who is one of the cosponsors of this important legislation.

This bill extends and exempts under the Hospital Mortgage Insurance Act of 2003 small, rural critical-access hospitals. This allows them to qualify for the Department of Housing and Urban Development section 242 mortgage insurance program.

This section 242 program is an important program which provides mortgage insurance for loans made for construction, renovation and equipment of acute-care hospitals. To be eligible for section 242 requires that at least half of the hospital's net patient days qualify as acute care, which is referred to as a Patient's Day Test.

Small, rural hospitals sometimes have a hard time meeting these requirements. This is because rural communities often have hospitals and nursing homes combined in order to achieve savings by sharing facilities and services such as pharmacy and food services.

The Hospital Mortgage Insurance Act of 2003 eliminated the so-called Patient Day Test for critical-access hospital, but limited the exemption to 3 years. The exemption expires on July 31, 2006.

Today only one hospital sought approval under this exemption. This is not surprising considering the length of time required for applying to the program, particularly for small hospitals with limited staff and resources to devote to such complicated processes.

As we all know, there are many small hospitals throughout the Nation that need this kind of help. It is very complicated, applying for this kind of a process. Nevertheless, this exemption is necessary for small hospitals to have access, and I state, to have access to section 242 programs. And it is important that they do have the access.

H.R. 4912, the Rural Health Care Capital Access Act of 2006, would extend the exemption for an additional 5 years. During this time, HUD and FHA can review the impact and recommend to Congress whether the exemption should be made permanent.

Again, Mr. Speaker, I express my strong support for this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RENZI. Mr. Speaker, I have no additional speakers, and reserve the balance of my time.

Ms. WATERS. Mr. Speaker, I rise in strong support of H.R. 4912, the "Rural Health Care Capital Access Act of 2006", of which I am an original sponsor. The Committee on Financial Services marked-up H.R. 4912 on March 13, 2006, so I am delighted that this important measure has reached the floor today. Mr. NEY, the Chairman of the Subcommittee on Housing and Community Affairs, is to be applauded for his efforts on behalf of rural communities.

The bill would allow hospitals located in rural areas access to the Federal Housing Administration (FHA) mortgage insurance program for hospitals, under Section 242 of the National Housing Act. These hospitals are located in rural areas of the country, and are not always able to meet the bed capacity requirements for critical care facilities. Thus, the bill would extend the exemption for another 5 years, enabling rural hospitals to be exempted from critical bed requirements.

The bill addresses the mortgage insurance needs of Critical Access Hospitals. These hospitals are rural hospitals with a maximum of 25 beds and must be 35 miles from the nearest hospital. Another requirement is related to the so-called "patient day" requirement. Under Section 242, not more than 50 percent of a hospital's adjusted net patient days could be "assignable to the categories of chronic convalescent and rest, drug and alcoholic, epileptic, mentally deficient, mental, nervous and mental, and tuberculosis . . ." These are onerous requirements for small rural hospitals to meet. When we passed the Hospital Insurance Mortgage Act of 2003, it eliminated the patient day requirement, but it expires on July 31, 2006.

By supporting H.R. 4912 to extend the exemption for another 5 years, we will be addressing an issue of major concern in rural areas. Hospitals are far and few apart. Within many of our rural communities hospitals double up with nursing homes to meet these bed requirements, as well as to share in cost savings, to qualify for Section 242 mortgage insurance. H.R. 4912 removes another barrier to health care in rural communities, and therefore, I urge support of the measure.

Mr. BACA. Mr. Speaker, I have no additional speakers. I appreciate the gentleman from Arizona's leadership in taking up this legislation along with the cosponsor, Mr. FRANK, who feels this is important for a lot of the hospitals in rural communities, and I yield back the balance of my time.

Mr. RENZI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PRICE of Georgia). The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and pass the bill, H.R. 4912.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

BYRON NELSON CONGRESSIONAL GOLD MEDAL ACT

Mr. RENZI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4902) to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

The Clerk read as follows:

H.R. 4902

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Byron Nelson Congressional Gold Medal Act".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Byron Nelson was a top player in the sport of golf during the World War II era and his accomplishments as a player, a teacher, and commentator are renowned.

(2) Byron Nelson won 54 career victories, including a record 11 in a row in 1945, during his short 13-year career.

(3) Byron Nelson won 5 majors, including 2 Masters (1937 and 1942), two Professional Golf Association (PGA) Championships (1940 and 1945) and the U.S. Open (1939).

(4) Sports journalist Bill Nichols recently ranked the greatest seasons on the PGA tour for The Dallas Morning News and picked Roanoke, `Texas-resident Byron Nelson's 1945 tour as the greatest season of golf in American history.

(5) In 1945, Byron Nelson accumulated 18 total victories, 11 of which were consecutive, while averaging 68.33 strokes per round for 30 tournaments.

(6) At the Seattle Open in 1945, Byron Nelson shot a record 62 for 18 holes and the world record 259, 29 shots under par for 72 holes.

(7) Byron Nelson is one of only two golfers to be named "Male Athlete of the Year" twice by the Associated Press: in 1944, when he won 7 tournaments and averaged 69.67 strokes for 85 rounds, and again after his 1945 season.

(8) The World Golf Hall of Fame honored Byron Nelson in 2004 by featuring an exhibit entitled "Byron Nelson: A Champion . . . A Gentleman".

(9) Byron Nelson was selected for the Ryder Cup 4 times—in 1937, 1939, 1947 and 1965, and on that last occasion he led the United States Ryder Cup team as team captain to victory over Great Britain.

(10) Byron Nelson was also a pioneer in the golf business, helping to develop the golf shoes and umbrellas used today.

(11) In 1966, True Temper created the "Iron Byron" robot to replicate Byron Nelson's swing in order to test the company's equipment, but the robot was eventually used for club and ball testing by the United States Golf Association (USGA) and many other manufacturing companies.

(12) Byron Nelson mentored many golf hopefuls, including 1964 Player of the Year Ken Venturi and 6-time PGA Player of the Year Tom Watson.

(13) Byron Nelson was one of the first golf analysts on network television where his understanding of the game in general, and the golf swing in particular, was demonstrably profound.

(14) Byron Nelson received the United States Golf Association's Bob Jones Award for distinguished sportsmanship in golf in 1974.

(15) In 1974, the Golf Writers Association of America presented Byron Nelson with the Richardson Award for consistently outstanding contributions to golf.

(16) Since 1983, the Byron and Louise Nelson Golf Endowment Fund has provided over $1,500,000 in endowment funds to Abilene Christian University in Abilene, Texas.

(17) Byron Nelson received the PGA Distinguished Service Award in 1993. This award is presented to an individual who has helped perpetuate the ideals and values of the PGA.

(18) Byron Nelson has served as an honorary chairperson for the Metroport Meals on Wheels since 1992.

(19) In 1994, the Golf Course Superintendents Association of America presented Byron Nelson with the Old Tom Morris Award for outstanding contributions to the game.

(20) Byron Nelson helped to develop the Tournament Players Course (TPC) Four Seasons at Los Colinas, Texas, site of the EDS Byron Nelson Championship and the Byron Nelson Golf School, into a world-class facility.

(21) The EDS Byron Nelson Championship is the only PGA tour event named in honor of a professional golfer and traditionally attracts the strongest players in the sport.

(22) Since its inception, the EDS Byron Nelson Championship has raised $88,000,000 for Salesmanship Club Youth and Family Centers, a nonprofit agency that provides education and mental health services for more than 2,700 children and their families in the greater Dallas area.

(23) In 2002, Byron Nelson received the prestigious Donald Ross Award from the American Society of Golf Course Architects (ASGCA) for his significant contribution to the game of golf and the profession of golf course architecture.

(24) The United States Golf Association presented Byron Nelson the Ike Grainger Award for volunteer service to the game of golf in 2002.

(25) In 2002, the National Golf Foundation presented Byron Nelson with the Graffis Award for outstanding lifelong contributions to the game of golf.

SEC. 3. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President pro tempore of the Senate shall make appropriate arrangements for the presentation, on behalf of the Congress, of a gold medal of appropriate design to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 4. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 3 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 5. STATUS OF MEDALS.

(a) National Medals.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) Numismatic Items.—For purposes of section 5134 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

SEC. 6. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.

(a) Authority to Use Fund Amounts.—There is authorized to be charged against the United States Mint Public Enterprise Fund, such amounts as may be necessary to pay for the costs of the medals struck pursuant to this Act.

(b) Proceeds of Sale.—Amounts received from the sale of duplicate bronze medals authorized under section 4 shall be deposited into the United States Mint Public Enterprise Fund.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. Renzi) and the gentleman from California (Mr. Baca) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 4902, the Byron Nelson Congressional Gold Medal Act, sponsored by my friend from Texas (Mr. Burgess).

Mr. Speaker, while most people know Byron Nelson's significant contributions to the game of golf, it is his humanitarian and philanthropic activities that make him worthy of receiving this medal. The highest civilian honor Congress can bestow is this gold medal.

Mr. Nelson is a golf champion, but he is also a champion for the underprivileged. He has given his time, his talent and his treasure to make this world a better place. Through the EDS Byron Nelson Championship, Mr. Nelson has helped raise more than $88 million for the Salesmanship Club Youth and Family Centers, a nonprofit agency that provides education and mental health services to more than 2,700 children and their families throughout our Nation.

Additional, the Byron and Louise Nelson Golf Endowment Fund has provided more than $1.5 million in endowment funding to Abilene Christian University in Abilene, Texas.

Further, since 1992, Mr. Nelson has been the honorary chairman of the Metroport Meals on Wheels which provides daily home delivery of hot lunches for the frail, elderly and chronically ill residents of Texas.

Mr. Speaker, Byron Nelson is a legend in the game of golf, much noted for his unprecedented 11 consecutive wins in 1945, his five victories at major tournaments, and his overall 54 career victories.

Byron Nelson is one of the greatest players the game of golf has ever seen. Through his outstanding accomplishments as a golfer and a humanitarian, Byron Nelson has provided and shown us what it is to be a United States citizen.

The time has come for Congress to bestow on this gentleman an honor worthy of his lifelong accomplishments and what he has put forth to improve the lives of those who are less privileged.

Therefore, Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BACA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I stand in strong support of H.R. 4902, the Byron Nelson Congressional Gold Medal Act. We are honoring Byron Nelson for his accomplishments in golf. He truly has set a legacy, not only for those of us who have watched golf, but have participated in golf and have seen him during this period of time.

He is a true champion. He is a teacher, he is a course designer, and he is a commentator. But most of all, he brought integrity to the game of golf. For those of us that play the game, we aspire to be like him. Some of us would love to shoot the rounds that he has. And some of us will probably never do that. But at least we have those dreams and the hopes that one day we can achieve what he has achieved.

I know that for many youth he has been a positive role model and he has set a good example. In addition, he has given back to the community by supporting nonprofit agencies in the greater Dallas area.

Byron Nelson was also a top player in the sport of golf during the World War II era. He grew up near Ft. Worth, Texas, and first got involved in golf as a caddy. And that is inspiration when we see many of the movies that have occurred where caddies ultimately became, then, professional golfers.

And when you see someone, and someone is caddying, you also learn how to hit the ball, pick up the club, give directions and learn just the course management and the integrity of the game itself.

He did this at a local club at Glen Garden Country Club. In fact, among the other caddies that were there was Ben Hogan, another individual that we admire very much, who also became a champion golfer. But in 1927, Byron Nelson competed against Ben Hogan in the club's caddy championship, and he, Byron Nelson, won that match.

In 1944, he won seven tournaments, averaging 69.67 strokes for 85 rounds. Can you imagine what that is like? And the average is 72 per course. That means three strokes under, that he accomplished during that period of time.

And like I said, I only shoot a round once in a while of 68, but never on a consistent basis, and for someone to do it on a consistent basis for 85 rounds is very difficult. He was named Male Athlete of the Year, but he would be even better than that.

In 1945 Byron Nelson had what is still considered today the best season ever by a male golfer. He won 18 different tournaments that year, including a remarkable 11 in a row at one point. And that is something that you do not even see in a lot of the eras that are here today.

That season he averaged 68.33 strokes per round for 31 tournaments. Again, imagine, 31 tournaments going under 72.

At the Seattle Open in 1945, he shot a record of 62, and that is something that I dream about. I probably will never accomplish in my life, but one day, in my dreams I will shoot a 62 and under for 18 holes, and a 259 and a 29 shots under for 72 holes.

In 1945, the AP again named him Male Athlete of the Year. Only two golfers have received that honor twice. He was selected for the Ryder Cup four times, in 1937, 1939, 1947, and again in 1965, when he led the American team to victory over the Britons.

Byron Nelson won five majors, including the Masters twice, 1937 and 1942; the Professional Golf Association PGA, that really stands for posture, grip and alignment, Championship twice, in 1940 and 1945; and the U.S. Open once in 1939.

He won a total of 54 victories during his short 13-year career. He retired from full-time competition in golf at the age of 34 to buy a ranch in his native Texas. Can you imagine what he would have done on the Senior Tour if he would have continued to golf, and if it was available for him to have participated? He would have probably added additional tournaments on the Senior Tour, as well, but he decided to retire at the young age of 34.

After his playing days were over, Byron Nelson continued to contribute to golf. He served as a coach, as a mentor to other players, including Tom Watson, and as a role model for many individuals. He has also shared his knowledge of the sport as a television analyst.

Byron Nelson also was a pioneer in the golf business, helping to develop golf shoes and umbrellas used today. Of course, I bought a couple of his golf shoes, a couple of his umbrellas that I still use on rainy days.

He has helped design world class golf courses. Byron Nelson also helped to develop the Tournament Players Course, TPC, Four Seasons at Las Colinas in Texas into a world-class facility. That course is the home of the

Byron Nelson Classic, and Byron Nelson's Golf School.

The Byron Nelson Classic is the only PGA tour event named in honor of a professional golfer, and traditionally attracts the strongest players in sports.

The Byron Nelson Classic has raised a total of $82 million for the Salesmanship Club Youth and Family Centers, a nonprofit agency that provides education and mental health services for almost 3,000 children and their families in the greater Dallas area.

So we are honored, not only to have a great golfer but a good man and a man whose legacy will live on because he has contributed an awful lot to the sport of golf and contributed as a role model, too.

In the spirit of celebration, I have also introduced a separate piece of legislation that will honor the achievements of Arnold Palmer and Tiger Woods, each of whom has excelled in golf and has contributed to the public through significant charitable work, and both have served as role models and inspiration to many others.

Arnold Palmer once commented, "Byron Nelson's accomplishment is a thing on the pro tour that will never be seen and will never be approached again". So it is with pride that we stand in honor of one of the true great heroes of golf. And his legacy will live on forever: that is Byron Nelson.

Again, Mr. Speaker, I express my strong support for this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RENZI. Mr. Speaker, I thank the gentleman from California for that tribute, and I yield to the author of the bill for as much time as he may consume, the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Speaker, I thank the gentleman from Arizona for bringing this bill to the floor. I thank the gentleman from California for his recollection of the deeds and the triumphs of Byron Nelson.

Back in Texas, we know Byron Nelson by many terms: gifted athlete, philanthropist, and today, thanks to their efforts, we are going to know him by what he really is, a national treasure.

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He is a philanthropist. He is a gentleman who just happens to be an excellent golfer. In fact, it is Byron Nelson who provided the marriage between unparalleled athleticism and unparalleled philanthropy.

I first became aware of Byron Nelson as a child growing up in north Texas. I am not a golfer nor have I ever pretended to be, but my mother was. My mother was a fan of "Lord Byron" back in the 1950s. And so much of it was not because he was a famous golfer, but because of the gentleman that Mr. Nelson was.

As I grew older, I continued to hear of the wonderful giving nature of Mr. Nelson. He continually seeks to help his fellow man. Over the decades, he did not promote the game of golf; he embodied a life of service. He was and is today the most humble of men. Some of you may not know of all the great humanitarian efforts he has championed, but that is because the man himself shuns recognition for his generosity. And the school that the gentleman from California and the gentleman from Arizona referenced that the Salesmanship Club sponsors down in Texas, I have visited that school. It not only serves the children there, but it serves as a template, a model for other schools around the Nation. It is a living research laboratory for the right way to teach children.

Mr. Nelson has never limited giving of himself and encouraging others to do the same when it comes to helping others. His charitable work with the Salesmanship Club of Dallas, the Metroport Meals on Wheels, and the creation of an endowment scholarship fund are but a few of his leadership roles.

Thrust into the national scene in the 1930s and 1940s for his golf prowess, Mr. Nelson took a sport and helped to move it into the philanthropic giant that it is today. Since 1938, the PGA tour tournaments have provided over $1 billion for their local charities.

The Byron Nelson Championship, which is played this week in Irving, Texas, is the only PGA tour that is named for a specific player. The EDS Byron Nelson Championship has raised over $88 million for the Salesmanship Club of Dallas since 1968, and I believe with the ticket sales this year are going to be very close to the $100 million mark.

So why is Byron Nelson the only golfer to have a tournament named after him? Because Mr. Nelson represents the adage, "sportsmanship then victory." He understood that helping others was the only way to true victory in life.

Mr. Speaker, we lost my mother a couple of years ago; but in her library I found a book, a book that Mr. Nelson wrote and published in 1995. In it he describes many different facets and philosophies that have influenced him over the years, and I would like to take a moment to highlight a passage that I believe depicts the true character of Byron Nelson, a character that is infused with his kindness, generosity and his humility. He borrows a philosophy from his days playing golf and applies it to life.

Under the chapter called "Sportsmanship" from the golf tournament in 1941 says: "Perhaps more than any other sport, golf remains a game of etiquette and sportsmanship. Golfers are expected to abide by a traditional set of rules and that sometimes means either accepting a strange ruling that works against you or calling a penalty on yourself, even when no one else has witnessed the indiscretion. That's why they say golf is truly a game of character."

Byron understands that it is not what people see you do that truly matters, but that you know your worth and you have done what you can do to help others in this world. You are worth what you give back to the world.

Most Members of Congress come here not to be show horses, but to make a difference in society. Byron was not a leader in humanitarian causes that raised millions for families for the glory. Far from it. He shied away from acknowledgment of his work; but I believe, and so do over 300 Members of this House, that the time has come to recognize the true giving nature of Byron Nelson by nominating him for the Congressional Gold Medal.

This generous man has been giving back to America for over 90 years; and in recognition of these efforts, I am honored to bring forth H.R. 4902, to award Byron Nelson, my constituent, the Congressional Gold Medal.

Mr. BACA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to add that not only did he touch the lives of many individuals, as I stated before as a positive role model, but he gave of himself and he gave of himself to the community; and that is important when someone plays the game with integrity and character that sets positive examples for many of our youth. And if you look at Byron Nelson's contribution on the golf course and off the golf course, he truly is an example that all of us should follow. His integrity and his legacy will live forever. I urge everyone to support this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from California. Mr. Speaker, I have a good friend in Flagstaff, Arizona, a guy named Joe Galli who is a terrific golfer himself and he was kind enough just to inform me that my neighbor in Flagstaff is PGA pro Ted Purdy. He was the 2005 Byron Nelson Classic champion last year. He defends that title this year. So from Flagstaff, Arizona, I want to thank you for allowing me to manage this bill today.

It is certainly exemplary of the fine spirit, that generosity, that philanthropic endeavor that this gentleman has given to our Nation. So I congratulate the Nelson family.

Mr. OXLEY. Mr. Speaker, I rise in strong support of this legislation, authored by the gentleman from Texas.

It's no secret that I enjoy the game of golf, and it's no secret that I admire the achievements of the greats of the game, and Byron Nelson certainly is one of those greats. In fact, he's something of a legend of the game.

Much noted for his unprecedented winning streak in 1945, for his five victories at major tournaments, and for his overall 54 career victories, it is not an overstatement to call Byron Nelson one of the greatest players the game has ever seen. He was twice named "Male Athlete of the Year" by the Associated Press, a feat only accomplished by one other golfer, Tiger Woods. Additionally, Byron Nelson was selected for the Ryder Cup four times, leading the United States team as Captain to victory over Great Britain in 1965.

He is also the only PGA professional golfer to have a PGA tour named in his honor: the EDS Byron Nelson Championship. The World Golf Hall of Fame honored Byron Nelson in 2004 by featuring an exhibit entitled "Byron Nelson: A Champion . . . A Gentleman." Byron Nelson's accomplishments as a professional golfer are as impressive as his golf swing, and an inspiration to us all.

Just as impressive are his achievements off the links. They already have been well-detailed here, but suffice it to say that Byron Nelson is the perfect example of the unselfish sports hero, the sort of hero that I and a lot of others wish there were more of, in every sport.

With that, Mr. Speaker, let me just say that I support this legislation, and that I urge its immediate passage.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today to honor a man who is a living legend to golf, Byron Nelson.

Throughout his career, this Native Texan has exhibited sportsmanship and a competitive drive unparalleled by most athletes.

In 1945, Byron Nelson achieved 11 simultaneous wins—a record that stands today.

He has won the Masters twice, the U.S. Open and the PGA Championship. He was also the first winner of the Shell Houston Open in 1946.

He has been named "Male Athlete of the Year" twice by the Associate Press, and led the U.S. to defeat Great Britain to win the Ryder Cup in 1965.

While these accomplishments are impressive, Byron Nelson is also known as a great philanthropist.

The Byron Nelson golf tournament has raised well over $88 million to provide educational and mental health services to thousands of children and their families.

In addition, he has been involved as an honorary chairperson of Meals on Wheels for the Dallas Metroplex area.

I believe Byron Nelson exhibits the qualities worthy of a Congressional Gold Medal.

His accomplishments on the golf course are impressive, but his commitment to improving and helping his community over several decades speaks to his character.

I urge my colleagues to support this resolution and grant Byron Nelson the Congressional Gold Medal.

Mr. RENZI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and pass the bill, H.R. 4902.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RENZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 4902 and H.R. 4912 and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

CONGRATULATING CHRIS CARPENTER ON BEING NAMED THE CY YOUNG AWARD WINNER FOR THE NATIONAL LEAGUE FOR THE 2005 MAJOR LEAGUE BASEBALL SEASON

Mrs. MILLER of Michigan. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 627) congratulating Chris Carpenter on being named the Cy Young Award winner for the National League for the 2005 Major League Baseball season.

The Clerk read as follows:

H. Res. 627

Whereas Chris Carpenter of the St. Louis Cardinals was named the Cy Young Award winner for being the best pitcher in the National League during the 2005 Major League Baseball season;

Whereas during the 2005 season Chris Carpenter posted a record of 21 wins and 5 losses and an outstanding winning percentage of .808;

Whereas in 2005 Chris Carpenter had an earned run average of 2.83, one of the best in Major League Baseball; and

Whereas Chris Carpenter has demonstrated an outstanding ability to overcome injury and adversity and won the Player's Choice National League Comeback Player of the Year award in 2004: Now, therefore, be it

Resolved, That the House of Representatives congratulates Chris Carpenter on being named the Cy Young Award winner for the National League for the 2005 Major League Baseball season.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan (Mrs. MILLER) and the gentleman from Missouri (Mr. CARNAHAN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Michigan.

GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H. Res. 627 offered by the distinguished gentleman from Missouri (Mr. CARNAHAN).

This resolution would congratulate Chris Carpenter on being named the Cy Young Award winner for the National League in 2005.

After missing the 2003 season while rehabilitating his injured shoulder, Chris Carpenter made a miraculous recovery to win the 2005 Cy Young Award. He went 21–5 with a 2.83 ERA for the St. Louis Cardinals, receiving 19 of 32 first place votes and finishing with 132 points in balloting by the Baseball Writers Association of America.

Carpenter began his career with Toronto. After compiling a 49–50 record in his first six seasons, Carpenter had surgery in September of 2002 to repair a tear in his pitching shoulder and the Blue Jays contemplated sending him back to the minors. He refused the assignment and chose to become a free agent before signing with St. Louis.

Finally healthy in 2004, Carpenter went 15–5 with a 3.45 ERA to earn National League's comeback player of the year honors from his peers. In 2005, Carpenter won 13 straight decisions from June 14 through September 8, helping the Cardinals to the best record in baseball at 100 wins and 62 losses. He struck out 213 batters and got the best of several aces around the league.

I would urge all Members to come together and honor the perseverance and dedication of Chris Carpenter, the winner of one of Major League Baseball's most prestigious awards, by adopting House Resolution 627.

Mr. Speaker, I reserve the balance of my time.

Mr. CARNAHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this has been a real pleasure to cosponsor this with several Members from around the country and on both sides of the aisle. I want to offer House Resolution 627, congratulating Chris Carpenter of the St. Louis Cardinals on winning the Cy Young Award for the 2005 Major League Baseball season.

Chris is a 1992 graduate from Trinity High School in Manchester, New Hampshire, where he earned the athlete of the year honors as a senior. He was elected to the All State Team for 3 years in both baseball and hockey, and as a member of the Globe All Scholastic Team as a senior, captured the State championship in baseball in 1992.

He played American Legion, Babe Ruth, and Little League Baseball. Chris and his wife have two children, and they make their off-season home in Bedford, Massachusetts. We are proud that he is one of the star players, not just in the league but for the St. Louis Cardinals.

After missing the 2003 season recovering from shoulder surgery, many wondered how Chris Carpenter would respond. He responded in 2004 with a 15-win season and with an earned run average of 3.46. Through his hard work, perseverance and skill, he improved upon those lofty numbers and turned in a spectacular 21-win season with a 2.83 earned run average in the 2005 season.

He was a major factor in the Cardinals' 100 wins last year and earned a place among the most elite pitchers in baseball. For his feats, Carpenter was recognized with the Cy Young Award as the best pitcher in the National League.

As a lifelong Cardinals fan, it is an absolute joy to watch a thrilling player like Chris Carpenter. I look forward to watching his continued success.

In addition, I would like to mention Chris's teammate, Albert Pujols, who won the National League MVP last year. This marks the first time since 1968 that the Cardinals have had both the MVP and the Cy Young Award winner the same year.

I have cosponsored a companion resolution with many others in this House congratulating Albert Pujols, and I hope the House will have an opportunity to take that up in the near future.

Once again, I wish my heartiest congratulations to Chris Carpenter and all that he has accomplished and wish him the best in the future.

Mr. Speaker, I yield back the balance of my time.

Mrs. MILLER of Michigan. Mr. Speaker, I would urge all Members to support the adoption of House Resolution 627. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Michigan (Mrs. MILLER) that the House suspend the rules and agree to the resolution, H. Res. 627.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

RESPECT FOR AMERICA'S FALLEN HEROES ACT

Mr. BUYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5037) to amend titles 38 and 18, United States Code, to prohibit certain demonstrations at cemeteries under the control of the National Cemetery Administration and at Arlington National Cemetery, and for other purposes.

The Clerk read as follows:

H.R. 5037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Respect for America's Fallen Heroes Act".

SEC. 2. PROHIBITION ON CERTAIN DEMONSTRATIONS AT CEMETERIES UNDER THE CONTROL OF THE NATIONAL CEMETERY ADMINISTRATION AND AT ARLINGTON NATIONAL CEMETERY.

(a) PROHIBITION.—Chapter 24 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 2413. Prohibition on certain demonstrations at cemeteries under control of National Cemetery Administration and at Arlington National Cemetery

"(a) PROHIBITION.—No person may carry out—

"(1) a demonstration on the property of a cemetery under the control of the National Cemetery Administration or on the property of Arlington National Cemetery unless the demonstration has been approved by the cemetery superintendent or the director of the property on which the cemetery is located; or

"(2) with respect to such a cemetery at which a funeral or memorial service or ceremony is to be held, a demonstration within 500 feet of that cemetery that—

"(A) is conducted during the period beginning 60 minutes before and ending 60 minutes after the funeral or memorial service or ceremony is held; and

"(B) includes, as a part of such demonstration, any individual willfully making or assisting in the making of any noise or diversion that disturbs or tends to disturb the peace or good order of the funeral or memorial service or ceremony.

"(b) DEMONSTRATION.—For purposes of this section, the term 'demonstration' includes the following:

"(1) Any picketing or similar conduct.

"(2) Any oration, speech, use of sound amplification equipment or device, or similar conduct before an assembled group of people that is not part of a funeral or memorial service or ceremony.

"(3) The display of any placard, banner, flag, or similar device, unless such a display is part of a funeral or memorial service or ceremony.

"(4) The distribution of any handbill, pamphlet, leaflet, or other written or printed matter other than a program distributed as part of a funeral or memorial service or ceremony.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2413. Prohibition on demonstrations at cemeteries under control of National Cemetery Administration and at Arlington National Cemetery.".

SEC. 3. PENALTY FOR VIOLATION OF PROHIBITION ON UNAPPROVED DEMONSTRATIONS AT CEMETERIES UNDER THE CONTROL OF THE NATIONAL CEMETERY ADMINISTRATION AND AT ARLINGTON NATIONAL CEMETERY.

(a) PENALTY.—Chapter 67 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1387. Demonstrations at cemeteries under the control of National Cemetery Administration and at Arlington National Cemetery

"Whoever violates section 2413 of title 38 shall be fined under this title, imprisoned for not more than one year, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1387. Demonstrations at cemeteries under the control of National Cemetery Administration and at Arlington National Cemetery.".

SEC. 4. SENSE OF CONGRESS ON STATE RESTRICTION OF DEMONSTRATIONS NEAR MILITARY FUNERALS.

It is the sense of Congress that each State should enact legislation to restrict demonstrations near any military funeral.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. BUYER) and the gentleman from Texas (Mr. REYES) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana.

Mr. BUYER. Mr. Speaker, I yield myself such time as I may consume.

☐ 1530

Mr. Speaker, I rise today in support of well-considered legislation that will protect the sanctity of military funerals at national cemeteries and will protect the privacy of grieving families as they bury their precious loved ones who died in the service of our country.

The first to rise, however, were the principal individuals in an organization called the Patriot Guard Riders, members of which are in Washington today. The Patriot Riders have two goals: to show respect for fallen heroes, their families and their communities; and to protect the mourning family and friends from interruptions created by any protestor or group of protestors. We owe them our deep sense of thanks and gratitude.

Mr. Speaker, this bill was jointly referred to the Committee on Judiciary, who waived consideration of the bill, and I will insert my letter requesting the waiver and Chairman SENSENBRENNER's letter in the CONGRESSIONAL RECORD at this point.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, April 25, 2006.

Hon. F. JAMES SENSENBRENNER, Jr.
Chairman, Committee on Judiciary, House of Representatives, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: In order to expedite consideration of H.R. 5037, the "Respect for America's Fallen Heroes Act," the Committee on Veterans' Affairs requests that the Committee on the Judiciary waive consideration of the bill. As you know, H.R. 5037 was referred to the Committee on the Judiciary in addition to the Committee on Veterans' Affairs. The Committee on Veterans' Affairs acknowledges the jurisdiction of the Committee on the Judiciary over portions of this legislation, particularly section 3, which provides for criminal penalties under title 18 of the United States Code.

The Committee on Veterans' Affairs would not construe a waiver of consideration as a waiver of jurisdiction by the Committee on Judiciary over the subject matter contained in this or similar legislation, and the Committee on Veterans' Affairs would fully support any request by you seeking an appointment to any House-Senate conference on this legislation. I will place a copy of your reply letter in the Congressional Record during consideration of the bill on the House floor.

I very much appreciate the cooperation by you and your staff in this matter.

Sincerely,

STEVE BUYER,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 25, 2006.

Hon. STEVE BUYER,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR CHAIRMAN BUYER: In recognition of the desire to expedite consideration of H.R. 5037, the "Respect for America's Fallen Heroes Act," the Committee on the Judiciary hereby waives consideration of the bill. There are provisions contained in H.R. 5037 that implicate the rule X jurisdiction of the Committee on the Judiciary. Specifically, section 3 provides for an additional penalty under title 18 of the United States Code. This provision implicates the rule X(I)(1)(7) jurisdiction of the Committee over "criminal law enforcement."

The Committee takes this action with the understanding that by forgoing consideration of H.R. 5037, the Committee on the Judiciary does not waive any jurisdiction over subject matter contained in this or similar legislation. The Committee also reserves the right to seek appointment to any House-Senate conference on this legislation and requests your support if such a request is made. Finally, I would appreciate your including this letter in the Congressional Record during consideration of H.R. 5037 on the House floor. Thank you for your attention to these matters.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Chairman.

Mr. Speaker, I would like to thank Chairman SENSENBRENNER and his staff for working closely with us to craft this important legislation.

We have all seen the stories right now of the extremist protestors in their demonstrations, placards that read, "Thank God for IEDs" and "Thank God our Soldiers are Dead," and individuals such as Sergeant Ricky Jones in Indiana whose home had been egged twice and somebody put trash all over their yard and called his mother on the phone to tell them that they were thankful that their son had died.

On March 2, I stood here and described to my colleagues the perversions committed by this individual who claimed a first amendment right to disrupt the solemn ritual of a military funeral. They would manipulate the Constitution to justify harassing families who are mourning a lost family member. By the stunned silence in this Chamber and the gasp that ensued that moment, I knew that most all my colleagues shared a deep abhorrence to these outrageous acts and that we share equally a deep desire to prevent them.

Today, we bring for a vote a bill that will do just that. H.R. 5037, the Respect for America's Fallen Heroes Act, will prohibit demonstrations within 500 feet of a national cemetery and Arlington National Cemetery 60 minutes before and after a funeral. This is a bipartisan effort with over 174 cosponsors.

We have worked closely with the Judiciary Committee. We have examined the issues of both constitutionality and the proportionality with regard to sentencing. The Federal circuit court of appeals in Griffin v. Secretary of Veterans Affairs upheld the constitutional existing Department of Veterans Affairs regulations setting requirements for the decorum and decency while on VA property. H.R. 5037 essentially codifies the regulation.

The United States Supreme Court had addressed the "time, place or manner" standard in several cases, including Grayned v. City of Rockford. In that decision, the Court upheld an anti-noise ordinance that prohibited activities adjacent to a school that "disturbs or tends to disturb the peace or good order of such school session or class thereof."

H.R. 5037's restrictions on "willfully making or assisting in the making of any noise or diversion that disturbs or tends to disturb the peace or good order of the funeral or memorial service or ceremony," closely tracked the language approved in the Supreme Court opinion. Additional cases that address the time, place and manner standard include Ward v. Rock against Racism and Renton v. Playtime Theaters, Inc.

Mr. Speaker, H.R. 5037 does not unconstitutionally draw distinction on what demonstrations are or are not allowed based on the content of the speech. It would not prevent the Secretary of Veterans Affairs from promulgating or enforcing regulations that prohibit or restrict the VA property or other conduct that is not specifically referenced in this legislation.

Penalties associated with the violations of this legislation are fair and appropriate. Violating the prohibition on demonstrations would be a class A misdemeanor under title 18, United States Code, resulting in fines up to $100,000 and imprisonment of not more than 1 year or both. The penalty balances the need for deterrence with the equally important requirement for proportionality.

Mr. Speaker, I reserve the balance of my time.

Mr. REYES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank Congressman MIKE ROGERS specifically for his leadership in introducing H.R. 5037, the Respect for America's Fallen Heroes Act. I would also like to thank House Veterans' Affairs Committee Chairman BUYER and Ranking Member LANE EVANS for their strong support and for helping bring this legislation to the House floor.

Today, I was scheduled to be in my congressional district in El Paso, Texas, to participate in a Medicare prescription drug conference, which I helped to organize, so that our seniors would be provided the latest information on Medicare part D.

Mr. Speaker, while I would have liked to have been able to attend that conference, this issue is just as important, and I am proud to be here today and serve as the lead Democrat cosponsor of this bill, which has gained, by the way, Mr. Speaker, very strong bipartisan support, including the entire House Democratic leadership.

I know that all of us agree that our servicemembers who have made the ultimate sacrifice while serving their country deserve to be laid to rest with respect and dignity. The families of these courageous men and women also deserve funerals that allow them to say good-bye to their loved ones and mourn their loss in that same peace and dignity. Organized protests have disrupted the sanctity of these funerals that have been conducted throughout the United States for servicemembers who have been killed while serving in our current military operations. Some protestors have disrupted these funerals with shouts and signs that read, "Thank God for IEDs" and "Thank God for Dead Soldiers."

In my congressional district of El Paso, our community has mourned the loss of 20 servicemembers who have made this ultimate sacrifice while serving our country in Iraq and Afghanistan.

As a Vietnam combat veteran and member of the House Veterans' Affairs and House Armed Services Committees, I knew I had to do my part to ensure that our Nation's heroes are given the burial that they deserve.

To that end, the respect for America's Fallen Heroes Act would, first, prohibit all demonstrations during the 60 minutes prior to and after funerals taking place at Department of Veterans Affairs national cemeteries or the Department of the Army's Arlington National Cemetery.

Second, impose 500-foot restriction on demonstrations near national cemeteries and Arlington National Cemetery during the funeral and for a brief period before and after the funeral to allow mourners to enter and leave that cemetery in peace and dignity.

Third, allow for civil infraction for violations, including monetary fines and/or jail time of 6 months to a year, as consistent with authority granted to the Secretary of Veterans Affairs to maintain order in national cemeteries under current regulations.

Fourth, express the sense of Congress that all States should enact similar restrictions for State and private cemeteries, as well as funeral homes.

Mr. Speaker, this bill is narrowly tailored to protect military families at the sacred time from verbal attacks, while protecting our freedom of speech at the same time. Furthermore, provisions in this legislation are in line with judicial precedents specific to time, place and manner of demonstration.

In Griffin v. Secretary of Veterans Affairs, the United States Supreme

Court upheld the constitutionality of existing regulations that prohibit demonstrations on property under the control of the National Cemetery Administration. The Supreme Court held: "All visitors are expected to observe proper standards of decorum and decency while on VA property. Toward this end, any service, ceremony, or demonstration except as authorized by the head of the facility or his designee, is prohibited."

As mentioned earlier, our bill is limited to Federal land under the control of the Department of Veterans Affairs and the Department of the Army's Arlington National Cemetery.

Furthermore, Mr. Speaker, in Grayned v. City of Rockford, the Supreme Court held that the Secretary of Veterans Affairs maintains very broad discretion to implement regulations to prohibit demonstrations. The Court stated: "Because the judgment necessary to ensure that cemeteries remain 'sacred to honor and memory of those interred or memorialized there' may defy objective description and may vary with individual circumstances, we conclude that the discretion vested in VA administrators is reasonable in light of the characteristic nature and function of our national cemeteries."

Mr. Speaker, this legislation is narrowly drawn to allow the families and friends of our fallen heroes to lay their loved ones to rest in peace and dignity. The restriction on freedom of speech is content neutral.

The restriction is limited in time, manner and place to balance the constitutionally protected rights of law-abiding speakers against the legitimate competing interests of unwilling listeners who would otherwise be distracted from an important social objective, the dignified burial of our honored dead.

So with that, Mr. Speaker, in a few weeks, our Nation will come together to remember and honor our servicemembers who have made the ultimate sacrifice while in service to our country. I ask all my colleagues to join me, to join us, in honoring our fallen servicemembers by voting in favor of H.R. 5037.

Mr. Speaker, I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I would like to inform the body that the Congressional Budget Office has determined that implementing H.R. 5037 would have no significant cost to the Federal Government, and it has no intergovernmental mandate as defined by Federal law.

Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. ROGERS), a former captain in the United States Army and former FBI agent, who has worked closely with this legislation.

Mr. ROGERS of Michigan. Mr. Speaker, I want to thank Chairman BUYER for his counsel and his leadership working through this bill. I greatly appreciate it. I know certainly the families do as well.

To my good friend and colleague, SILVESTRE REYES, thank you for lending your leadership and your voice and assistance and counsel on this very important piece of legislation. Thank you for your service, not only for the military but the Border Patrol and now to the people of your district back home. I certainly appreciate it.

Mr. Chairman, this started for me when I attended the funeral of Sergeant Joshua Youmans, a very brave and great American who gave his life defending freedom in Iraq; and as I arrived to the funeral to the chants and the taunting and some of the most vile things I had ever heard, it was almost staggering to me that someone would take the time and energy to show up and preach that kind of hateful speech upon some very vulnerable individuals as they went into the church to mourn the loss of a great American patriot.

What struck me that day is this very young widow who got before a very packed church service to lay her honored husband to rest and told the story about how this soldier, before he passed away, had the privilege of holding his daughter for the first and only time. She talked about how proud she was of her husband and what he had done for his country, how proud she was to be an Army wife and how she could not wait to tell her young daughter, McKenzie, the courage and sacrifice of a great American, her husband, Joshua Youmans.

You juxtapose that with what they had to go through, this gauntlet of terror, people taunting and jeering and saying the most hateful things you possibly can imagine, and I walked out of that church that day knowing that we as Americans can and must do better by these families. This is their chance to stand up and mourn the loss of a family member.

A father once told me that at a service of his son he knew that this was the moment between sanity and insanity for him, and you can imagine that when people stop by and grieve and support and love and comfort these families, when America steps up to put their arms around these families to say that we love you, we support you and we respect you and we appreciate your sacrifice, it means the difference in that father returning to sanity after the burial of his son or, in this case, the burial of the husband.

It is so important that we stand by the men and women who sacrifice so much, and this bill does that. It protects the first amendment. They can still preach their vile hatred, if they want to do that an hour before and an hour after; but, again, it also creates a bubble. It creates a hub of American people around these families to give them the right, which they so richly deserve, to grieve in peace and have the dignity and the honor to lay their loved ones to rest in peace.

I can say it no better, Mr. Speaker, than so many people who e-mailed me, almost 30,000 people from Baghdad Iraq to Brighton, Michigan, my hometown and told stories of why this was so important, some of them very moving.

I will read you one now: "Over the last 6 months my unit has taken over 30 casualties in some of the most vicious areas south of Baghdad. The thought of their families having to face protestors after their memorials incites a rage I have never known before. These protestors mock all that we have accomplished here, the lives that have been forever changed, and the lives that have been lost, using our most valued doctrines of faith and freedom as their defense. I cannot thank you, and Congress, enough for your dedication to this effort. I can only hope that your colleagues will join you in this battle. Mr. Speaker, so many have. Signed, Sergeant Ashley A. Voss, Baghdad, Iraq."

□ 1545

I will share another letter from a grieving mother.

"Thank you for creating and seeking to help grieving families of our American heroes. My husband and I support this act 100 percent. Our son, Sergeant Trevor Blumberg, was killed in action in Iraq on September 14, 2003. We know the pain and horror in losing a heroic son; no less than to have to face cruel, inhumane people who cannot dignify your time of grief. Please continue to place these families in America's hearts and minds. Nothing less is deserved."

That was from Janet M. Blumberg, a proud parent of an American hero.

Thanks to all who support the act.

Mr. REYES. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. BACA) who knows the pride of wearing America's military uniform, an Army veteran.

Mr. BACA. Mr. Speaker, I rise today in support of H.R. 5037, which I am a proud cosponsor of as a veteran, the Respect for America's Fallen Heroes Act.

These are individuals who have sacrificed their lives for this country, men and women who have served us, and we must remember those who have sacrificed their lives because we are enjoying our lives, because they gave ultimately so we would enjoy the freedom and peace we have today.

So we have the same responsibility, and that is what this bill does to honor those individuals. As we commemorate Military Appreciation Month in May as well as Memorial Day on May 29, I urge my colleagues to support this bill. It seeks to provide every fallen soldier with a private and dignified burial for those who have given to this country, the men and women who have sacrificed a lot.

All around the country, grieving families of soldiers who were killed in service to our Nation are being harassed at funeral sites. These protesters show us with hurtful signs and messages, adding undue stress to military families seeking to bury their loved ones with pride and dignity.

While we respect the right of free speech in this country, military families have a right to mourn the loss of their husbands, wives, and children in peace. H.R. 5037 would enforce the right by banning protests at VA national cemeteries, as well as Arlington National Cemetery, 60 minutes before and after a funeral takes place.

This bill would also impose a 500-foot restriction on demonstrations at the site to give families privacy. Additionally, this bill would create a class A misdemeanor for violations with penalties up to $100,000 in fines or 1 year in prison.

Finally, H.R. 5037 expresses a sense of Congress that all States should enact similar bans for both State-run and privately owned cemeteries and funeral homes.

Mr. Speaker, this bill is consistent with the Supreme Court ruling. It is consistent with the Supreme Court ruling and it is constitutional. This bill provides additional rights to free speech while giving the Armed Forces and their families the due respect and the dignity that they deserve because their families have given so much to this country, and we deserve to give it back to them.

I ask Members to support this important bill.

Mr. BUYER. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I rise today in support of H.R. 5037, the Respect for America's Fallen Heroes Act, and I am very pleased to have been an original cosponsor and to have helped to author the bill, along with Chairman BUYER, Chairman MILLER and Representative ROGERS.

We are all painfully aware of the recent trend of demonstrations and protests occurring near military funerals and national cemeteries. These protests have included signs saying "God Hates America" and "Thank God for IEDs," which are those improvised explosive devices which are responsible for so many of the deaths of our honorable military soldiers in Iraq and Afghanistan. Such demonstrations are not compatible with respect due to our Nation's fallen heroes and they should not be consistent with our Nation's laws.

This act prohibits such demonstrations in a manner that is fully consistent with the Constitution while fully protecting the respect and dignity of funerals held on and near national cemeteries.

The first provision of H.R. 5037 prohibits demonstrations on national cemetery grounds unless such demonstrations are approved by the cemetery director. It is common sense.

This provision is clearly constitutional under judicial precedents, most recently Griffin v. Secretary of Veterans Affairs. In that case, the Federal Circuit Court of Appeals, just a few years ago, upheld as constitutional an existing Federal regulation providing "any service, ceremony, or demonstration, except as authorized by the head of the facility or designee, is prohibited" on Veterans Affairs property. The first provision of H.R. 5037 simply codifies that principle in statute.

The second provision of H.R. 5037 prohibits any demonstration within 500 feet of national cemeteries within 60 minutes before or after the service, if the demonstration includes "any individual willfully making or assisting in the making of any noise or diversion that disturbs or tends to disturb the peace or good order of the funeral or memorial service or ceremony." This exact language has been upheld as constitutional by the Supreme Court in the case of Grayned v. City of Rockford.

At the same time, this language does not unconstitutionally draw distinctions regarding what demonstrations are allowed and are not allowed, based on the content of the speech. The Supreme Court, again in the Grayned case, upheld this precise language as constitutional because the language "contains no broad invitation to subjective or discriminatory enforcement."

This is clearly important legislation, and I strongly urge its passing.

Let me say that all supporters of H.R. 5037 are asking is that the families and friends of our Nation's fallen heroes be given a few hours of peace during which to honor their loved one's greatest sacrifice, a few hours to pay respect to a selfless life devoted to protecting others. That is not unconstitutional. That is not even an imposition. That is the least we can do for those who fight to uphold the Constitution.

I urge all my colleagues to join in supporting this bill, which will give the families of those who died for us the comfort of knowing they will be able to pray in peace and thank the fallen on and near the sacred ground where they will rest forever so we can live free today.

Mr. REYES. Mr. Speaker, I reserve the balance of my time.

Mr. BUYER. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Speaker, just over 2 months ago, during the funeral of Corporal Andrew Kemple, a Minnesotan who was killed while fighting for freedom, vile slogans like "God Hates America" and "God Loves IEDs" were chanted by protesters, and I use that term loosely, with a radical, hateful agenda.

Words like "reprehensible" and "disgusting" simply do not adequately describe the slogans or this stunt on such a solemn occasion. The men and women who have given what Lincoln called "the last full measure of devotion" deserve better than this.

I urge my colleagues to support the Respect for America's Fallen Heroes Act. Our men and women in uniform never fail us when the Nation calls upon them. We owe them nothing less than the same commitment to duty.

Mr. REYES. Mr. Speaker, I yield myself such time as I may consume to read into the RECORD a statement from our minority leader, Ms. PELOSI.

"I urge all of my colleagues to vote today for H.R. 5037, the Respect for America's Fallen Heroes Act. I am proud to be a cosponsor of this bipartisan legislation that will ensure grieving military families are protected from protesters spewing a message of hatred. For our men and women in uniform who have made the ultimate sacrifice for our country, and for their families, we must act today to ensure that they receive the respect and the moments of solemnity that they have earned and deserve.

"No Americans have stood stronger and braver for our Nation than those who have served in our Armed Forces. Our soldiers have courageously answered when called, gone when ordered, and defended our Nation with great honor. Their noble service reminds us of our mission as a nation, to build a future worthy of their courage and sacrifice.

"Americans may debate and disagree about foreign and domestic policy. This is the essence of our democracy. But when it comes to our military men and women, America must stand united and honor them as the heroes that they are."

Minority Leader NANCY PELOSI.

Mr. Speaker, I continue to reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Speaker, during this time of conflict, we have seen so many examples of heroism exhibited by the men and women of our armed services.

Every day these great heroes are on the front line of the war in Iraq and Afghanistan and throughout the entire world, defending our liberty and freedom and democracy. And most Americans, thank goodness, support their efforts and their mission; and the vast majority honor their service and sacrifice.

But some do not and have expressed their objections in a variety of ways that have been articulated on this floor today. Some are protesting the Congress or the President, and that is fine because we are the policy-makers and we are the correct targets for indicating support or opposition to the war.

But some have taken their objections to places where they simply do not belong. Many have begun to protest our fallen heroes as they are being laid to rest by their loved ones. Groups like the Patriot Guard, God bless them, have stood up and shielded families from this obscene type of protest, but we need to do more.

No fallen soldier, sailor, airman or marine's family should ever be subjected to such trauma at a time of such great grief. Instead, our fallen heroes should be afforded the honor and dignity befitting their sacrifice.

I urge my colleagues to support this important piece of legislation.

Mr. REYES. Mr. Speaker, I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, when the unbridled expression of one right infringes on another, we appropriately limit that right, and that is what we do today.

On March 3 of this year, 20-year-old Lance Corporal Matthew Snyder of Westminster, Maryland, was killed when his Humvee overturned on assignment in Iraq.

Before his deployment, Matthew explained that he volunteered for convoy escort security because, "There was a position that needs to be filled, and I am a Marine."

Outside the church where Matthew's family and friends gathered for his funeral, a group of six out-of-State protesters loudly chanted and carried signs, including, "Thank God for Dead Soldiers."

I stand today joined in spirit by members of the American Legion and the For Our Troops Club of Hereford High School in support of this bill that will honor America's fallen soldiers and respect the privacy of their families by protecting the dignity of their funerals.

Mr. REYES. Mr. Speaker, I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank Chairman BUYER, Chairman CHABOT, Chairman MILLER, Mr. REYES, and all of the Members that have brought forth this bill, the Respect for America's Fallen Heroes Act.

Mr. Speaker, it is unbelievable that we would need this kind of a bill, but we do know what is going on. You have heard that from the other Members that have spoken. It is unbelievable that people would trample on the families of these fallen soldiers during such a sensitive time.

In my district, Mr. Speaker, had they showed up at the funeral of Justin Johnston or Paul Saylors or Lieutenant Tyler Brown, who was buried at Arlington, I am sure those families would have had a lot of difficulty restraining themselves, as would this Member.

I think we need to pay tribute, of course, to the Patriot Guard riders who have been keeping these people away from the funeral sites until this legislation has its intended effect.

This bill to pass today is going to require 66 percent vote of this body. I think it will get 100 percent.

Mr. REYES. Mr. Speaker, I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I yield 1½ minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Speaker, I rise in strong support of H.R. 5037, the Respect for America's Fallen Heroes Act. I am a proud cosponsor of this act which will ban protests at military funerals at national cemeteries, including Arlington National Cemetery.

Burying a child, father, husband or wife is hard enough without having to see signs that say things like "God Hates You" or hearing hateful language shouted at your family during a funeral procession or graveside ceremony.

□ 1600

On February 23, 2006, the funeral of Army Corporal Andrew Kemple from Anoka, Minnesota, was disrupted by protestors who claimed that U.S. military deaths are divine retribution for the Nation's tolerance for homosexuality. The protestors even went so far as to taunt Andrew's mother as she entered the church for her son's funeral service.

It is hard to think of a more shameful act than taunting a woman who just gave her son in service to our Nation.

All Americans are proud of the sacrifices made by our Nation's brave Americans in uniform. We have seen their skill and their courage in the armored charges and midnight raids and in their lonely hours of faithful watch. We have seen the joy when they return home and felt the pain when one is lost.

No matter what one's position may be on U.S. policy matters, we should all agree that demonstrating at the funeral of one of our fallen heroes is disgraceful and unacceptable. We must stand behind our Nation's military families, especially on the day when caskets draped with the American flag are carried that last mile.

The Minnesota State legislature passed a bill on Monday, May 1, to ban all protests at military funerals, burials, and memorial services. I encourage other States to follow Minnesota's lead, and I urge the House of Representatives to pass the Respect For America's Fallen Heroes Act today. Our Nation's heroes deserve no less.

Mr. REYES. Mr. Speaker, I have no further requests for time, so I will now close and then yield back the time.

Mr. Speaker, this afternoon, all around the country they have seen Members of Congress come together to stand up for our men and women in uniform and for their families. I think the message is clear that we want those that have made the ultimate sacrifice, and those that are laying them to rest, to have the opportunity to do so with peace and dignity. So I am proud to be here, and I am proud to work with my colleagues and thank them for their support in bringing this to the floor this afternoon.

Mr. BUYER. Mr. Speaker, will the gentleman yield?

Mr. REYES. I yield to the gentleman from Indiana.

Mr. BUYER. Mr. Speaker, and my colleagues, I want to thank the gentleman from Texas. It is a pleasure to have worked with you. We are colleagues on the Veterans' Affairs Committee, and I appreciate your service over the years. But you and I haven't had a chance specifically to work on a bill. And I have enjoyed my associations with you. And the cause is right. The spirit of the country is right. They want us to set the standards of dignity, and you recognized that early on and championed this cause in a bipartisan fashion. And it says a lot about who you are. I think it is because you know who you are, and that makes this is a pretty easy process. For that I want to thank the gentleman.

Mr. REYES. Thank you, Mr. Chairman. I really equally appreciate the opportunity to work with you because we know, as veterans, the sacrifices that men and women make on behalf of this country and their families, and so it has been a privilege to be able to work with you and my colleague, MIKE ROGERS, who also has been a leader on this very important issue for our country and for our country's military.

Mr. BUYER. Mr. REYES, you probably share the very same sense I do when you see the Patriot Guard Riders. And you know, one thing I want to comment to you, that I am proud about them, not only for taking an individual initiative, but also for their restraint.

I do recall what it was like when I came back from the first gulf war, and we buried a friend, and we stood there in our military uniforms, so proud of our service. At the same time we were grieving, and we were also moved that one of the finest of our unit was killed, and it was so powerful to all of us. And it was also yet so private and personal to all of us, given what we had just gone through on behalf of a country.

And as I reflect upon that moment, I could not imagine someone from the outside, based on some other reason or rationale and their own image, would interrupt that moment in time for us. And I think a lot of these Patriot Guard Riders also share that very same feeling I have. And I just want to compliment their restraint; because I could tell you, it would be hard, it would be really hard, if I were in the family, if I were one of the family members and this was happening, I would want to go over there and take matters into my own hands. But you know what? People haven't done that. And I am really proud of some of the families and the Patriot Guard Riders themselves.

So we are not only setting the standards of decency. We are also setting the standards for criminal conduct so everybody is well behaved. But I just want to thank the gentleman.

Mr. REYES. Absolutely. And I also would make two observations. First, the great restraint that they are showing shows the great respect that we have as a Nation of laws because while we may disagree with the message, we don't disagree that they have a right to deliver it. It is just not appropriate. And somewhere along the line they didn't learn the lesson that they should not intrude on somebody's private time to grieve and to be at peace, especially for their loved ones who have just sacrificed everything for their country.

Yesterday morning I had the opportunity to be with some of our military troops at Fort Bliss in my district. And I had several of them come to me and very privately, because, you know, our men and women in uniform are that way. They are courageous, they are professional. They are top-notch, but they are also very private. And in a private way they thanked me and said, please convey to all your colleagues in Congress our deep appreciation that we know that if something happens to us, our families will be taken care of, and specifically referred to this legislation and the peace of mind that they have, and they wanted us to convey that message.

Mr. BUYER. I am glad and pleased that you and Mr. ROGERS took this initiative. But at the same time it is a sad commentary that we actually have to come to the House floor and create a law in title XVIII to do this. We shouldn't have to be doing this. So when people say you are regulating speech again, well, nobody really wants to do that. We have such respect for the first amendment. But at the same time there is a significant government interest here and that deals with our decency that you spoke of in setting those standards.

And also the case law that you cited. The Supreme Court has been very clear to give us that ability to do just that, as Mr. CHABOT had also testified to before our committee.

But it is unfortunate we have to be here to do that. But we cannot permit the repugnant acts of a few to define the character of America.

Mr. REYES. I agree with you, Mr. Chairman.

Mr. Speaker, I yield back the balance of my time.

Mr. BUYER. Mr. Speaker, when I rose in March to tell this body of the outrageous acts committed against one grieving family in Indiana, I said that the great virtue of the American character is our compassion. It is our compassion and human decency that represents the very best of our Nation.

I had a task to perform and that was very similar to many of my colleagues in this body, and that is, when we get the word that someone from our congressional districts has died in the service of our country. So it is an easy call to make, but it is a difficult conversation to have.

And I remember calling the mother of Sergeant Ricky Jones in Kokomo, Indiana, and when I spoke with her and said, Ma'am, is there anything that I can do for you or the family, she said, You can't believe what this has been like. And I said, Well, I have two children. You are right. I can't believe that. She said, No, no, you don't understand, and then began to convey to me that. When I had heard that Ricky had died, I began receiving family and friends to the home. They would also call on the telephone. The phone rang. I thought it was going to be either family or friend, and she picked up the phone and the voice on the other end said, I am glad your son is dead. He deserved to die, and hung up the phone. She was shocked and appalled. And she recovered from that.

About an hour later the phone rings again and it is another voice on the other end of the phone that said, I am glad your son is coming home in a body bag. I am glad he is dead, and hangs up the phone.

Later, someone had egged their family home twice. And then they put trash all over their yard in the middle of the night. And all this was done while the body of Sergeant Ricky Jones was being transported back to Indiana.

I was pleased that the Deputy Secretary of Veterans Affairs, Gordon Mansfield, and the Under Secretary for Memorial Affairs, Bill Turk, came to Indiana to stand with this family, with myself, and also the Governor of Indiana was also present. But for Gordon Mansfield to have made that trip was very meaningful because Gordon Mansfield is a highly decorated combat veteran from Vietnam who is a paraplegic. He is in a wheelchair from his combat wounds. And for him to also have been so disturbed by what happened, for him to travel to Indiana to be with that family says so much about Gordon Mansfield and the leadership that he gives at the Department of Veterans Affairs.

I was pleased. It was the first time I had ever seen the Patriot Guard Riders. Hundreds of them were there. And that is why, Mr. REYES, that I spoke about their restraint, because when you see them, you are not sure what's about to happen here. These are some pretty tough guys.

And one thing that I recall from that experience that was very intriguing was that many of them were also Vietnam veterans. Not all of them were Vietnam veterans, and not all of them were even veterans. Some of them were not. They are patriots.

And Sergeant Ricky Jones is the son of an Air Force Vietnam veteran; so these Vietnam era veterans, they know exactly what it was like when they came home.

Mr. Speaker, I ask unanimous consent for an additional 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BUYER. They know exactly what it was like when they came home, and they were not going to permit this to occur to their son or daughter; but they were going to set those standards. And so for that reason, and many others, I am so proud of the Patriot Guard Riders.

We have before us an opportunity to make a clear expression of that compassion and decency on behalf of those who are passing their darkest hours and on behalf of all Americans who would give them peace during that difficult journey.

Mr. Speaker, I would like to thank the chief sponsors of this bill, Mr. ROGERS of Michigan, SILVESTRE REYES of Texas, and JEFF MILLER of Florida. Together they have done their due diligence to ensure that the legislation will withstand any judicial scrutiny.

I would like to thank Kingston Smith and Mary Ellen McCarthy, counsel of the Veterans' Affairs Committee; Paige McManus of the Veterans' Affairs Committee for their work on the bill; as well as Andy Kaiser of Congressman ROGERS' staff.

I would also like to thank, of the Judiciary Committee staff: Paul Taylor, Hillary Funk and Mike Volkov.

Mr. Speaker, I urge my colleagues to unanimously support H.R. 5037.

Mr. TIAHRT. Mr. Speaker, every so often a bill comes before this House that I wish was unnecessary. A bill that is so intrinsically rooted in basic human decency that no one could imagine a legislative remedy would be needed. H.R. 5037, Respect for America's Fallen Heroes Act, is such a bill.

H.R. 5037 would prohibit protests at the funerals of our fallen military men and women. A small group of people are hurling insult onto tragedy for the family and friends of fallen heroes. For me and my constituents, this blight on human decency is personal.

On November 29, 2005, Kansans Sergeant Jerry Mills and Sergeant Donald Hasse were patrolling Taji, Iraq their vehicle was hit by an improvised explosive device—tragically cutting their lives short. Their bodies were returned to Kansas for burial and everlasting respect of their grateful countrymen.

Sergeants Mills and Hasse were heroes. They gave their lives for this country. Both of these heroes deserved funerals befitting of their patriotism and sacrifice. Regrettably, some wanted to turn a solemn event into a political statement.

Protesters arrived at Sergeant Hasse's funeral in Wichita, Kansas. Fortunately, so did the Patriot Guard Riders, a group of motorcycle riders dedicated to honoring fallen service men and women and protecting the funeral proceedings from protestors. The Patriot Guard Riders, invited by the Hasse family, kept the protestors at bay and protected Sergeant Hasse's young son from having to witness such inhumanity.

Although the same protesters were due to also demonstrate at the funeral for Sergeant Mills in Arkansas City, Kansas, they never arrived. The Patriot Guard, invited by the Mills family, did attend to honor the memory of Sergeant Mills. An injustice was adverted.

No family should have to endure such a double tragedy of losing a loved one and then being berated by protesters. The Respect for America's Fallen Heroes Act will keep protesters away from grieving families and friends—allowing these heroes to be mourned and honored with dignity and respect. I ask all my colleagues to join me in supporting this important piece of legislation that is unfortunately needed. I ask my fellow Americans to remember and honor these heroes, and their families, who have made the ultimate sacrifice defending freedom.

Mr. BACA. Mr. Speaker, I rise today in support of H.R. 5037, the "Respect for America's Fallen Heroes Act."

As we commemorate Military Appreciation Month in May, as well as Memorial Day on the 29th, I urge my colleagues to support a bill that seeks to provide every fallen American soldier with a private, dignified burial.

All around the country, grieving families of soldiers killed in service to our nation are being harassed at funeral sites. These protesters show up with hurtful signs or messages, adding undue stress to military families seeking to bury their loved ones.

While we respect the right to free speech in this country, military families also have a right to mourn the loss of their husbands, wives, and children in peace. H.R. 5037 would enforce that right by banning protests at VA national cemeteries, as well as at Arlington Cemetery, 60 minutes before and after a funeral takes place. This bill would also impose a 500-foot restriction on demonstrations at these sites and create a Class A Misdemeanor for violations with penalties up to $100,000 in fines or 1 year in prison. Finally, H.R. 5037 would express the sense of Congress that all states should enact similar bans for both state-run and privately-owned cemeteries and funeral homes.

Mr. Speaker, this bill is constitutional and preserves the individual's right to free speech, while giving our Armed Forces and their families their due respect. It is the right thing to do and I ask my colleagues vote in support of this important piece of legislation.

Mr. DAVIS of Florida. Mr. Speaker, I rise in strong support of H.R. 5037, the Respect for America's Fallen Heroes Act, which would ban all non-approved demonstrations 60 minutes prior to and after funerals taking place at VA national cemeteries or at Arlington National Cemetery, as well as impose a 500-foot restriction on demonstrations. Furthermore, the bill would allow for a Class A Misdemeanor for violations with penalties up to $100,000 in fines or up to one year in prison.

As we have seen, a troubling public display has been taking place around the country perpetuated by groups who wish to call attention to a cause. This activity is not a case of free speech and should be stopped. There is a time and a place for protest in our Democracy, but it is wholly inappropriate to use a funeral as an opportunity to make statements about a personal belief, a political cause or federal policy. Families and loved ones should be allowed to grieve in peace. For this reason, I am a cosponsor of this legislation along with more than 170 of my colleagues.

Mr. Speaker, more than 2,500 brave men and women have given this country the ultimate sacrifice while serving their country in Iraq and Afghanistan. Their families and loved ones should be proud of their service to their country. The sadness of those left behind is bad enough without having to face screaming protesters with an agenda.

This bipartisan bill is consistent with the Constitution and is not a limitation of the freedom of speech that we enjoy in this country. I strongly support this legislation and stand with my colleagues. I hope that this legislation becomes law as soon as possible.

I urge my colleagues to vote "yes" on H.R. 5037.

Mr. PORTER. Mr. Speaker, over 2,400 brave men and women have paid the ultimate sacrifice fighting the War on Terror and the great State of Nevada has lost 19 heroic sons, 9 of which, are in my district. Just last week, on May 5, First Sergeant Carlos N. Saenz of Las Vegas died when an improvised explosive device detonated near his military vehicle.

As we continue to fight the War on Terror, it is imperative that we protect America's fallen heroes by ensuring that they are treated with respect, while being laid to rest.

As a member of Congress, and a parent, I understand the importance of ensuring that families are able to provide a meaningful and proper burial for their loved ones. As we protect the constitutional rights of those who disagree with the war, we must also protect the rights of our fallen heroes and their families.

The Respect for America's Fallen Heroes Act, which bans all demonstrations 60 minutes prior to and after funerals taking place at Department of Veterans Affairs' national cemeteries or the Department of Army's Arlington National Cemetery, seeks to protect the families right to grieve in peace.

The National Cemetery Administration's (NCA) vision is to serve all veterans and their families with the utmost dignity, respect, and compassion and to ensure that every national cemetery will be a place that inspires visitors to understand and appreciate the service and sacrifice of our Nation's veterans. In order to ensure that the NCA and the Department of Veterans Affairs are able to keep their commitment to America's veterans and their families, I am in full support of this important piece of legislation.

Mr. Speaker and my distinguished colleagues, I offer my full support for this important piece of legislation and I support your efforts to protect the rights of America's fallen heroes and their families.

Mr. MILLER of Florida. Mr. Speaker, I rise today to offer my unwavering support for H.R. 5037, the Respect for America's Fallen Heroes Act. I am proud to be an original cosponsor of this bill.

The rights of free speech and expression under the Constitution's First Amendment are not absolute, and there are many U.S. Supreme Court decisions interpreting and explaining the right and its limits. As Chairman BUYER explained, there are several judicial precedents which make clear that H.R. 5037 is constitutional. On April 6, the Subcommittee on Disability Assistance and Memorial Affairs, the subcommittee I chair, took testimony on this bill.

Said David Forte, Professor of Law, Cleveland-Marshall College of Law, Cleveland State University, in written testimony submitted to the Subcommittee:

> "There are thus two constitutional issues to be confronted: (1) Does the ban on "certain" demonstrations meet the requirement of First Amendment law as laid down in Supreme Court precedents, and (2) Is the discretion lodged in the cemetery superintendent to permit exceptions fall within an acceptable constitutional range? I conclude that the answer to both questions is in the affirmative and that the bill is well within constitutional limits.

Mr. Speaker, at this time I ask unanimous consent that Mr. Forte's statement be included in the CONGRESSIONAL RECORD.

I have visited the troops in Afghanistan and Iraq several times over the years.

While always moving and inspiring experiences, one time in particular stands out. It was September 2003 and we were preparing to return to the States. After quite a wait, we were told that they were loading onto the plane the casket of Sergeant Trevor Blumberg, and we would be leaving Baghdad with his body. I have had few honors as great as that one. I am pleased to say that Mrs. Blumberg has since contacted Representative ROGERS' office to express her and her husband's support for this bill.

Our Nation's veterans have made the ultimate sacrifice, and it is appalling to see and hear their military service being derided. Unfortunately, throughout the country, that is indeed what is happening and it must stop.

I want to thank Mr. ROGERS, Chairman BUYER, and Mr. REYES for all their work in crafting this legislation and their continued dedication to the men and women of our armed forces.

I would also like to recognize Mr. Paul Taylor and Ms. Hilary Funk, staff on the Judiciary Committee's Subcommittee on the Constitution, for working so closely with my staff and me.

Mr. Speaker, I urge all my colleagues to support this bill.

TESTIMONY OF DAVID F. FORTE, PROFESSOR OF LAW, CLEVELAND-MARSHALL COLLEGE OF LAW, CLEVELAND STATE UNIVERSITY, IN SUPPORT OF H.R. 5037 BEFORE THE HOUSE COMMITTEE ON VETERANS' AFFAIRS, SUBCOMMITTEE ON DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS, JEFF MILLER, CHAIRMAN, APRIL 18, 2006

I. INTRODUCTION

H.R. 5037, entitled the "Respect for America's Fallen Heroes Act," seeks to limit "certain demonstrations" in cemeteries under the control of the National Cemetery Administration or on the property of Arlington National Cemetery. The bill defines what constitutes a demonstration disruptive of the memorial services or funerals being held in or within 500 feet of such cemeteries, but allows an exception for demonstrations on cemetery grounds if "approved by the cemetery superintendent." There are thus two constitutional issues to be confronted: (1) Does the ban on "certain" demonstrations meet the requirements of First Amendment law as laid down in Supreme Court precedents, and (2) Is the discretion lodged in the cemetery superintendent to permit exceptions fall within an acceptable constitutional range? I conclude that the answer to both questions is in the affirmative and that the bill is well within constitutional limits.

II. THE BAN ON DEMONSTRATIONS

Demonstrations are a form of expressive conduct. In all governmental restrictions on expressive conduct, Supreme Court jurisprudence requires application of the O'Brien test, *United States* v. *O'Brien*, 391 U.S. 367 (1968) or of the "time, place, and manner" test. *Cox* v. *New Hampshire*, 312 U.S. 569 (1941). The Court has declared that both tests have similar standards. *Clark* v. *Community for Creative Non-Violence*, 468 U.S. 288 (1984).

Under the O'Brien test, "a governmental regulation is sufficiently justified if it is within the constitutional power of the government; if it furthers an important or substantial governmental interest; if the governmental interest is unrelated to the suppression of free expression; and if the incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest." 391 U.S. at 376. Under the "time, place, and manner" test, government regulations of expressive conduct are valid "provided that they are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open alternative channels for communication of the information." Clark, 468 U.S. at 293.

It is clear from the text of H.R. 5037 that the purpose of the bill is to assure the dignity of funerals or memorial services held in honor of our fallen dead by preventing demonstrations that are disruptive of those ceremonies. To that end, the bill delineates what kind of demonstrations shall be prohibited, viz, a demonstration within five hundred feet of a cemetery in which a funeral or memorial service is to be held if the demonstration takes place within a time period from 60 minutes before until 60 minutes after the funeral or memorial service. Furthermore, the bill requires that only those demonstrations in which a "noise or diversion" is willfully made and "that disturbs or tends to disturb the peace or good order of the funeral service or memorial service or ceremony" shall be prohibited.

Maintaining cemeteries for veterans is clearly within the constitutional power of government. It is also clear that, under 38 U.S.C. sect. 2403, the purpose of maintaining cemeteries "as a tribute to our gallant dead" is an important or substantial governmental interest. It is similarly evident from the text of the bill that its purpose is to prevent conduct that is intentionally disruptive of a funeral or memorial service without reference to the content of the expressive conduct. The text does not ban accidental noises present in our modern society near to many cemeteries, such as traffic or the sounds of children playing. Nor does it ban only demonstrations with a particular kind of message. A demonstration connected with a labor dispute that is disruptive of a funeral is as violative of the law as would be an antiwar demonstration or a "support our troops" march. Finally, "the incidental restriction on First Amendment freedoms is no greater than is essential to the furtherance" of the interest of maintaining the dignity of a funeral for our fallen dead. Demonstrations 60 minutes before or 60 minutes after the ceremony are permitted. Even during the period in which a ceremony is being held, a demonstration beyond 500 feet of the cemetery is permitted. This is no blanket ban at all.

The fact that H.R. 5037 prohibits disruptive demonstrations on grounds that are not part of a national cemetery finds support in Supreme Court precedent. The case of *Grayned* v. *City of Rockford*, 408 U.S. 104 (1972) is directly on point. In Grayned, the Supreme Court upheld an antinoise ordinance, which read: "No person, while on public or private grounds adjacent to any building in which a school or any class thereof is in session, shall willfully make or assist in the making on any noise or diversion which disturbs or tends to disturb the peace or good order of such school session or class thereof." 408 U.S. at 107–08. It is axiomatic in our legal tradition that the state may take reasonable steps to abate a nuisance that may emanate from private property. What H.R. 5037 does is to abate a nuisance that would disturb the good order of a federally mandated activity in our national cemeteries, namely, to provide memorial services and ceremonies that are "a tribute to our gallant dead."

It should be noted that in Grayned, the Supreme Court held that the antinoise ordinance was good against claims of overbreadth or vagueness. H.R. 5037's prohibition on "willfully making or assisting in the making of any noise or diversion that disturbs or tends to disturb the peace or good order of the funeral or memorial service or ceremony" tracks the language approved by the Court in Grayned.

Furthermore, the language of H.R. 5037 finds support in the case of *Boos* v. *Barry*, 485 U.S. 312 (1988). In the case, the Supreme Court reviewed a District of Columbia law that made it unlawful to display any sign that brought a foreign government into "public odium" or "public disrepute" within 500 feet of an embassy, and which banned "congregating" within 500 feet of an embassy. The Court struck down the ban on displaying a sign critical of a foreign government, but upheld the ban on congregating if, as construed by the lower courts, the congregation was "directed at a foreign embassy." H.R. 5037 bans only those demonstrations within 500 feet of a cemetery that are intentionally disruptive of ceremonies or funerals within national cemeteries. The disruptive requirement does not need judicial construction. It is made in the terms of the statute and is fully supported by the decision in Boos v. Barry.

Under H.R. 5037, a person who displays "any placard, banner, flag, or similar device, unless the display is part of a funeral or memorial service or ceremony," and such a display causes a "diversion that disturbs or tends to disturb the good order of the funeral or memorial service" is subject to the law. This prohibition is closely akin to the focused picketing ordinance upheld by the Supreme Court in *Frisby* v. *Schultz*, 484 U.S. 474 (1988). That ordinance banned picketing "before and about" any residence. Although in most public areas, people may picket and expostulate even though others may object to the message, in certain areas the functioning of the forum takes precedence, provided there are alternative ways the protestor may express his message. Schools are one forum whose functioning may not be disturbed or diverted. Grayned. The home is another place. Justice O'Connor noted that the picketers could still march through the neighborhood to express their opposition to abortion and abortionists. They simply could not disrupt the "tranquility" of a doctor's home. 484 U.S. at 484. Similarly, in H.R. 5037, the bill seeks to protect the tranquility and dignity of a memorial service. It allows the picketer or demonstrator to display whatever kind of sign or device he wishes one hour before or one hour after the ceremony, or at any time if more than 500 feet distant from the cemetery, even if it offends those who may be traveling to the ceremony.

If, however, a person displays "any placard, banner, flag, or similar device, unless the display is part of a funeral or memorial service or ceremony," and the display occurs within a cemetery, there is no requirement in the bill that it be part of a disruptive demonstration. But in that case, the display does not take place in a traditional public forum, such as a public sidewalk, but rather within a non-public forum dedicated to honoring our veterans. In that situation, the ban is a reasonable, and thereby a valid, restriction in a non-public forum designed to preserve the appropriate functioning of the forum, i.e., a national cemetery. I discuss the law applying to non-public forums in Part III below.

Thus, under either the O'Brien test or under the time, place and manner test, the statute is drawn to be within Constitutional standards.

Nonetheless, I find one phrase in the bill puzzling. Under section (b)(2), a demonstration is defined as "Any oration, speech, use of sound amplification equipment or device, or similar conduct *before an assembled group of people* that is not part of a funeral or memorial service or ceremony." (emphasis added) It would see that a single individual with a bullhorn who disrupts a ceremony might not be covered under this section. Thus, I do not see the use of the phrase "before an assembled group of people." In any event, with such a phrase, the restriction on expressive conduct is even less than would be permitted to be under the Constitution.

III. THE DISCRETION OF THE CEMETERY SUPERINTENDENT

It is a central canon of our First Amendment jurisprudence that permission to engage in expressive conduct cannot be left to the unbridled discretion of a governmental official. *City of Lakewood* v. *Plain Dealer Publishing Co.*, 486 U.S. 750 (1988). Such a discretion carries with it the dangers of prior restraint, vagueness, overbreadth, and content and viewpoint discrimination. Section (a)(1) of H.R. 5037 prohibits demonstrations in cemeteries under the control of the National Cemetery Administration or in Arlington National Cemetery "unless the demonstration has been approved by the cemetery superintendent." Nonetheless, I do not believe that this section permits unbridled discretion in the cemetery superintendent. Rather, I think that his discretion is well-cabined within and defined by the administrative function the law places upon the cemetery superintendent.

A case directly on point is *Griffin* v. *Secretary of Veterans Affairs*, 288 F.3d 1309 (Fed. Cir. 2002). Some veterans were not permitted under federal regulations from placing a Confederate flag at a national cemetery. Placing a flag was interpreted as a forbidden demonstration under 38 C.F.R., sect. 1.218(a)(14). Subsection (i) declares in part, "[A]ny service, ceremony, or demonstration, except as authorized by the head of the facility or designee, is prohibited." Petitioners asserted that the section gave unconstitutional discretion to the administrator of the facility.

In Griffin, the Federal Circuit Court pointed out that cemeteries are non-public forums the regulations of which are subject only to a reasonable basis test. However, although the government may limit the content of expression in non-public forums, it may not engage in viewpoint discrimination. The question was whether the discretion given by the law to the cemetery's administrator brought with it the danger of viewpoint discrimination. After all, a Confederate flag carries a different viewpoint from the Stars and Stripes.

The Federal Circuit found that the Supreme Court had applied the viewpoint discrimination doctrine only in traditional public forums or in designated public forums. 288 F.3d at 1321. The court zeroed in on the relevant variable in this kind of case: "We are obliged to examine the nature of the forum because the restrictions in nonpublic fora may be reasonable if they are aimed at preserving the property for the purpose to which it is dedicated." 288 F.3d at 1323. Finding that there was sufficient Supreme Court support, citing *United States* v. *Kokinda*, 497 U.S. 720 (1990), the Federal Circuit upheld the discretion lodged in the cemetery's administrator "when such discretion is necessary to preserve the function and character of the forum." 288 F.3d at 1323.

The purpose of many non-public forums is normative and preserving the function of that forum may entail restricting opposing normative viewpoints. Schools, for example, are nonpublic forums charged with developing students' character for participation as well-informed and well-developed citizens in our system of representative government. To that end, schools may insist that students observe rules of respect and avoid hateful or immoral language. A student with an opposite viewpoint who fails to observe the rules of respect and makes his point with crude language is not protected by the First Amendment. *Hazelwood School District* v. *Kuhlmeier*, 484 U.S. 260 (1968). Accordingly, the superintendent of a national cemetery is charged with maintaining the cemetery and its activities "as a tribute to our gallant dead." Under H.R. 5037 he is granted reasonable discretion to assure that all activities within the cemetery accord with its lawfully stated purpose. He may permit ceremonies or demonstrations or signs or programs that accord with such purpose and forbid those that do not. In doing so, the restriction imposed is "reasonable and not an effort to suppress expression merely because public officials oppose the speaker's view." 288 F.3d at 1321, citing, *Cornelius* v. *NAACP Legal Del & Educ. Fund, Inc.*, 473 U.S. 788, 800 (1985).

IV. CONCLUSION

H.R. 5037 is a well-crafted bill that seeks to maintain the decorum necessary to honor our veterans and those who have died for our freedoms and who now rest in national cemeteries. I find that the bill's careful limitations on disruptive demonstrations and the limited discretion it gives to cemetery superintendents to be well with constitutional limits.

Mr. CANTOR. Mr. Speaker, I rise today in strong support of H.R. 5037, the Respect for America's Fallen Heroes Act.

Throughout the history of our country, countless Americans have made the ultimate sacrifice so that we could live freely.

We owe these fallen heroes a debt of gratitude, and we should guarantee the fallen and their families a peaceful journey to their final resting place.

Mr. Speaker, our military cemeteries are hallowed grounds. During the Gettysburg Address, I believe President Abraham Lincoln said it best:

> We have come to dedicate a portion of that field, as a final resting place for those who here gave their lives that the nation might live. It is altogether fitting and proper that we should do this.
>
> But, in a larger sense, we can not dedicate—we can not consecrate—we can not hallow—this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note, nor long remember what we say here, but it can never forget what they did here.

For these reasons, I am greatly troubled that groups exploit the sacrifice of so many Americans. These groups trespass on the memories and hallowed ground of our heroes.

Demonstrations at cemeteries disrespect those who have fallen and the loved ones they leave behind. As they held their lines—we must do the same. This bill strikes a proper balance between the liberties they defended and the respect earned.

I urge the passage of this bill for we must support their loved ones and honor their sacrifice.

Mr. RYUN of Kansas. Mr. Speaker, I rise today in support of H.R. 5037, the Respect for America's Fallen Heroes Act. This is a much needed piece of legislation to curb the unfortunate actions of a small minority of people.

Although I am glad to have this opportunity to support the servicemembers in my home state of Kansas and around the world, I am disappointed that we even need this bill.

I have a lot of servicemembers in my district who are courageously serving our country in combat. I have talked to many of them and I have seen their desire and passion to serve their country out of a love for freedom, democracy, and for their country.

Unfortunately, some of these servicemembers have lost their lives and their families must now grieve their loss. The families of our fallen servicemembers—our true heroes—should not be subjected to protests, hate-filled phone calls, and other obscenities. No one should experience that, especially not after losing a loved one. That is why I support this bill that will help protect the families of our fallen servicemembers from unwelcome protestors.

Our servicemembers embody the exact opposite of hate by sacrificing their lives so that we can keep ours. I pay tribute to them, and I wholeheartedly support this legislation.

Mr. ORTIZ. Mr. Speaker, I rise today in support of the Respect for America's Fallen Heroes Act—of which I am a proud co-sponsor.

Like so many of my colleagues, I was horrified that members of Topeka, Kansas, based Westboro Baptist Church were verbally abusing—and interrupting—the funerals of service members who gave the last full measure of devotion to this Nation. My constituents and I have been revolted by this offensive activity.

It matters not what your individual position is on either war we are currently prosecuting—in Iraq or Afghanistan—certainly we can all agree protesting at military funerals is a cruel and unnecessary hardship on our military families during their most difficult hour.

I respect the first amendment rights of protesters, and I do not believe this legislation would restrict that right. The restrictions placed in this bill would allow families the privacy to conduct funerals, while still preserving the constitutional right of political protest either before or after family funerals conducted within the National Cemetery System.

We can best respect fallen service members by respecting the principles for which they made the supreme sacrifice. Today's bill respects them by honoring those principles of freedom—even when a callous few ineffectively attempt to demean their dignity—and it allows their families to grieve without being victimized by those who feel the need to denigrate fallen soldiers and their families at a most private moment.

I ask that all our States pass similar legislation at their State cemeteries, and I urge my colleagues to vote yes on this bill.

Mr. ADERHOLT. Mr. Speaker, I rise today in strong support of H.R. 5037, offered by my colleague from Michigan. We owe a tremendous debt of gratitude not only to the fallen soldier, sailor, airman, or Marine, but to their families as well. At their darkest hour, their grief does not need to be exploited by those trying to make a political point. This intentional disruption of a brief period of time meant to honor a fallen hero goes against the very fiber of American decency. Free speech and public protests are a right; however, taunting and tormenting families at the very moment they bury heir dead is not a right; it is abhorrent. This bill gives the family members of our fallen heroes the respect that they are owed, and the peace that they deserve as they bury their loved ones. I urge my colleagues to vote yes on this bill, and I hope it is then acted on quickly by the Senate and signed into law by the President.

Mr. MOORE of Kansas. Mr. Speaker, I rise today in support of H.R. 5037, the Respect for America's Fallen Heroes Act. I read with disgust the article on the protests that occurred at the military funeral for Army SSG. Jeremy Doyle, who was killed in Iraq, earlier this year. It especially saddens me that the individuals who protested at Staff Sergeant Doyle's funeral were from the Westboro Baptist Church in Topeka, KS. The church's founder, Rev. Fred Phelps, says that American soldiers are being killed in Iraq as vengeance from God for protecting a country that harbors gays.

I find it abhorrent that individuals and groups feel a military funeral is an appropriate forum to display their beliefs on gay rights. Losing a family member during military service is a very difficult and devastating thing. It is unfortunate that some individuals and groups add to the anguish and grief of those who have lost a loved one by protesting outside of the funerals of fallen soldiers. Our military heroes who make the ultimate sacrifice for our country deserve our respect and gratitude. I condemn these actions in the strongest terms possible and I'm proud to support H.R. 5037.

Mr. BUYER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The gentleman from Texas also has another 5 minutes.

Mr. REYES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BUYER) that the House suspend the rules and pass the bill, H.R. 5037.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BUYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. BUYER. Mr. Speaker, I ask that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 5037.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

JACK C. MONTGOMERY DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Mr. BUYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3829) to designate the Department of Veterans Affairs Medical Center in Muskogee, Oklahoma, as the Jack C. Montgomery Department of Veterans Affairs Medical Center.

The Clerk read as follows:

H.R. 3829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JACK C. MONTGOMERY DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

(a) IN GENERAL.—The Department of Veterans Affairs medical center in Muskogee, Oklahoma, shall after the date of the enactment of this Act be known and designated as the "Jack C. Montgomery Department of Veterans Affairs Medical Center".

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the Jack C. Montgomery Department of Veterans Affairs Medical Center.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. BUYER) and the gentleman from Maine (Mr. MICHAUD) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana.

Mr. BUYER. Mr. Speaker, I yield myself such time as I may consume.

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Mr. Speaker, Jack C. Montgomery, a Cherokee from Oklahoma, was one of five Native Americans who were awarded the highest military honor in the 20th century, the Medal of Honor, and a first lieutenant with the 45th Infantry Division, the Thunderbirds.

On February 22, 1944, near Padiglione, Italy, Montgomery's rifle platoon was under fire by three echelons of enemy forces when he singlehandedly attacked all three positions, taking prisoners in the process. As a result of his valor, Lieutenant Montgomery's actions demoralized the enemy and inspired his men to defeat the enemy forces.

In addition to being awarded the Medal of Honor, Lieutenant Montgomery was also awarded the Silver Star, the Bronze Star Medal and the Purple Heart with an Oak Leaf Cluster. On his release from the Army after World War II, Mr. Montgomery began a career with the Veterans Administration in Muskogee, Oklahoma, where he remained in service for most of his life.

It is appropriate that we name the VA Medical Center in Muskogee for this American hero who not only served his country in wartime, but also continued his service to this Nation through his work in the Veterans Administration.

Mr. Montgomery is survived by his wife, Joyce; and it is our hope to have this legislation passed by the Senate and signed by the President in a timely manner. This legislation is cosponsored and supported by the entire Oklahoma delegation and also has the support of the State's major veterans service organizations.

Mr. Speaker, I particularly would like to thank my colleague, Mr. BOREN, who represents the Second Congressional District of Oklahoma, for introducing this most appropriate legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MICHAUD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank Congressman DAN BOREN, who represents the Second Congressional District of Oklahoma, for his leadership in introducing H.R. 3829. I would also like to thank Chairman BUYER and Ranking Member EVANS for helping to bring this legislation to the floor.

H.R. 3829 pays tribute to World War II hero Jack C. Montgomery by designating the Department of Veterans Affairs Medical Center in Muskogee, Oklahoma, as the Jack C. Montgomery Department of Veterans Affairs Medical Center.

Jack Montgomery is a recipient of the Medal of Honor, the highest award for valor and combat bestowed upon an individual serving in the armed services. For his distinguished service, he was also recognized by the Silver Star, the Bronze Star and the Purple Heart with Cluster.

During World War II, Jack Montgomery served as a first lieutenant in the United States Army's 45th Infantry Division. On February 22, 1944, in Italy, he fearlessly risked his life above and beyond the call of duty by singlehandedly attacking three strong enemy infantry positions that threatened the rifle platoons under his command. His fearless, aggressive and brave action that morning accounted for a total of 11 enemy dead, 32 prisoners and an unknown number wounded. Late that night, while supporting an adjacent unit, he was seriously wounded by mortar fragments.

The citation accommodating his Medal of Honor recognized that his courage and heroism inspired his men to a degree beyond estimation. Upon his release from the Army, he began a career in the Veterans Administration, Muskogee, Oklahoma.

It is fitting that Congress designate the Muskogee VA Medical Center to Jack C. Montgomery, Department of Veterans Affairs Medical Center. I rise in support of this legislation and urge my colleagues to do the same.

Mr. Speaker, I yield 5 minutes to the gentleman from Oklahoma, a gentleman who cares very dearly about veterans and a fellow Blue Dog, Congressman DAN BOREN.

Mr. BOREN. Mr. Speaker, I rise today in support of H.R. 3829. This bill will designate the Department of Veterans Affairs Medical Center in my hometown of Muskogee, Oklahoma, as the Jack C. Montgomery Department of Veterans Affairs Medical Center. Mr. Speaker, I think of very few other Americans who deserve to have an honor such as this bestowed upon them, and I am proud to sponsor this bill.

Jack C. Montgomery is a true American hero. His story of service to his country begins while attending Bacone College in Muskogee. During this time, he felt the call to serve his country during World War II, and enlisted in the 45th Division Thunderbirds of the Oklahoma National Guard.

Shortly thereafter, Lieutenant Montgomery found himself with members of the 45th near Padiglione, Italy on February 22, 1944. On this day, Lieutenant Montgomery's rifle platoon came under the fire of three echelons of enemy forces. Under enemy fire, Jack Montgomery single-handedly attacked all three enemy echelons. As a result of his courage, Lieutenant Montgomery's actions demoralized the enemy troops and inspired his men to defeat and capture 32 Axis troops.

Upon returning to the United States, a good Democrat, President Franklin D. Roosevelt, personally awarded Jack Montgomery the Medal of Honor, which is the highest honor for valor awarded to members of the Armed Forces.

Mr. Speaker, Jack Montgomery's distinguished military career goes far beyond the Medal of Honor. He was also awarded the Silver Star, the Bronze Star and the Purple Heart with Cluster, to mention only a few of his distinctions. Following World War II, Jack Montgomery was honorably released from the Army.

However, I am proud to say that he chose to continue his service to his country and his fellow veterans by beginning a career with a VA administration in Muskogee, Oklahoma.

Even following his retirement from the Veterans Administration, Jack Montgomery chose to continue helping his fellow veterans by volunteering at the VA Medical Center, also located in Muskogee, Oklahoma, where he worked for more than 750 hours driving a shuttle to transport veterans from the parking lot to the hospital.

Mr. Speaker, this VA medical center where the Medal of Honor recipient, Lieutenant Jack Montgomery, gave his time helping his fellow veterans is the same facility that this bill seeks to name in his honor. I find it only fitting that we honor an individual like Jack Montgomery for his selflessness, both on the battlefield and here at home in the United States of America.

Mr. Speaker, I encourage my colleagues to join me in supporting H.R. 3829.

Mr. BUYER. Mr. Speaker, I reserve the balance of my time.

Mr. MICHAUD. Mr. Speaker, it is appropriate that we in Congress recognize the heroism of the men and women who have served our Nation in the Armed Forces. It is an important and enduring symbolic tribute to name a VA medical center in honor of this World War II hero.

As we near Memorial Day and our thoughts turn to those who made the ultimate sacrifice, we in Congress must continue to pay tribute to our living veterans with both symbols and tangible benefits and services.

We have much work to do, and veterans and their families are counting on us to act. I know that we are united in this commitment to honor our veterans. I appreciate the hard work and look forward, as I have over the last 3½ years, to work with Chairman BUYER to make sure that we do all we can to help our veterans and continue to look forward to working with Chairman BUYER, Chairman BROWN and Ranking Member EVANS and other Veterans Affairs Committee members to pass needed health care and benefit legislation to meet this obligation.

Mr. Speaker, I yield back the balance of my time.

Mr. BUYER. Mr. Speaker, I would like to thank the gentleman from Maine (Mr. MICHAUD). He serves as ranking member of the Subcommittee on Health for the House Veterans Affairs Committee. His heart is right, and he does his homework.

You have got the right demeanor. I appreciate your leadership.

Mr. Speaker, I urge all Members to give favorable consideration to H.R. 3829, a bill to honor a true American hero.

I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BUYER) that the House suspend the rules and pass the bill, H.R. 3829.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BUYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. BUYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on H.R. 3829.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 4297, TAX INCREASE PREVENTION AND RECONCILIATION ACT OF 2005

Mr. THOMAS submitted the following conference report and statement on the bill (H.R. 4297) to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006:

CONFERENCE REPORT (H. REPT. 109–455)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4297), to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Increase Prevention and Reconciliation Act of 2005".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—EXTENSION AND MODIFICATION OF CERTAIN PROVISIONS

Sec. 101. Increased expensing for small business.
Sec. 102. Capital gains and dividends rates.
Sec. 103. Controlled foreign corporations.

TITLE II—OTHER PROVISIONS

Sec. 201. Clarification of taxation of certain settlement funds.
Sec. 202. Modification of active business definition under section 355.
Sec. 203. Veterans' mortgage bonds.
Sec. 204. Capital gains treatment for certain self-created musical works.
Sec. 205. Vessel tonnage limit.
Sec. 206. Modification of special arbitrage rule for certain funds.
Sec. 207. Amortization of expenses incurred in creating or acquiring music or music copyrights.
Sec. 208. Modification of effective date of disregard of certain capital expenditures for purposes of qualified small issue bonds.
Sec. 209. Modification of treatment of loans to qualified continuing care facilities.

TITLE III—ALTERNATIVE MINIMUM TAX RELIEF

Sec. 301. Increase in alternative minimum tax exemption amount for 2006.
Sec. 302. Allowance of nonrefundable personal credits against regular and alternative minimum tax liability.

TITLE IV—CORPORATE ESTIMATED TAX PROVISIONS

Sec. 401. Time for payment of corporate estimated taxes.

TITLE V—REVENUE OFFSET PROVISIONS

Sec. 501. Application of earnings stripping rules to partners which are corporations.
Sec. 502. Reporting of interest on tax-exempt bonds.
Sec. 503. 5-year amortization of geological and geophysical expenditures for certain major integrated oil companies.
Sec. 504. Application of FIRPTA to regulated investment companies.
Sec. 505. Treatment of distributions attributable to FIRPTA gains.
Sec. 506. Prevention of avoidance of tax on investments of foreign persons in United States real property through wash sale transactions.
Sec. 507. Section 355 not to apply to distributions involving disqualified investment companies.
Sec. 508. Loan and redemption requirements on pooled financing requirements.

Sec. 509. Partial payments required with submission of offers-in-compromise.
Sec. 510. Increase in age of minor children whose unearned income is taxed as if parent's income.
Sec. 511. Imposition of withholding on certain payments made by government entities.
Sec. 512. Conversions to Roth IRAs.
Sec. 513. Repeal of FSC/ETI binding contract relief.
Sec. 514. Only wages attributable to domestic production taken into account in determining deduction for domestic production.
Sec. 515. Modification of exclusion for citizens living abroad.
Sec. 516. Tax involvement of accommodation parties in tax shelter transactions.

TITLE I—EXTENSION AND MODIFICATION OF CERTAIN PROVISIONS

SEC. 101. INCREASED EXPENSING FOR SMALL BUSINESS.

Subsections (b)(1), (b)(2), (b)(5), (c)(2), and (d)(1)(A)(ii) of section 179 (relating to election to expense certain depreciable business assets) are each amended by striking "2008" and inserting "2010".

SEC. 102. CAPITAL GAINS AND DIVIDENDS RATES.

Section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended by striking "December 31, 2008" and inserting "December 31, 2010".

SEC. 103. CONTROLLED FOREIGN CORPORATIONS.

(a) SUBPART F EXCEPTION FOR ACTIVE FINANCING.—

(1) EXEMPT INSURANCE INCOME.—Paragraph (10) of section 953(e) (relating to application) is amended—

(A) by striking "January 1, 2007" and inserting "January 1, 2009", and

(B) by striking "December 31, 2006" and inserting "December 31, 2008".

(2) EXCEPTION TO TREATMENT AS FOREIGN PERSONAL HOLDING COMPANY INCOME.—Paragraph (9) of section 954(h) (relating to application) is amended by striking "January 1, 2007" and inserting "January 1, 2009".

(b) LOOK-THROUGH TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER THE FOREIGN PERSONAL HOLDING COMPANY RULES.—

(1) IN GENERAL.—Subsection (c) of section 954 (relating to foreign personal holding company income) is amended by adding at the end the following new paragraph:

"(6) LOOK-THRU RULE FOR RELATED CONTROLLED FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—For purposes of this subsection, dividends, interest, rents, and royalties received or accrued from a controlled foreign corporation which is a related person shall not be treated as foreign personal holding company income to the extent attributable or properly allocable (determined under rules similar to the rules of subparagraphs (C) and (D) of section 904(d)(3)) to income of the related person which is not subpart F income. For purposes of this subparagraph, interest shall include factoring income which is treated as income equivalent to interest for purposes of paragraph (1)(E). The Secretary shall prescribe such regulations as may be appropriate to prevent the abuse of the purposes of this paragraph.

"(B) APPLICATION.—Subparagraph (A) shall apply to taxable years of foreign corporations beginning after December 31, 2005, and before January 1, 2009, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years of foreign corporations beginning after December 31, 2005, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

TITLE II—OTHER PROVISIONS

SEC. 201. CLARIFICATION OF TAXATION OF CERTAIN SETTLEMENT FUNDS.

(a) IN GENERAL.—Subsection (g) of section 468B (relating to clarification of taxation of certain funds) is amended to read as follows:

"(g) CLARIFICATION OF TAXATION OF CERTAIN FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), nothing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax. The Secretary shall prescribe regulations providing for the taxation of any such account or fund whether as a grantor trust or otherwise.

"(2) EXEMPTION FROM TAX FOR CERTAIN SETTLEMENT FUNDS.—An escrow account, settlement fund, or similar fund shall be treated as beneficially owned by the United States and shall be exempt from taxation under this subtitle if—

"(A) it is established pursuant to a consent decree entered by a judge of a United States District Court,

"(B) it is created for the receipt of settlement payments as directed by a government entity for the sole purpose of resolving or satisfying one or more claims asserting liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980,

"(C) the authority and control over the expenditure of funds therein (including the expenditure of contributions thereto and any net earnings thereon) is with such government entity, and

"(D) upon termination, any remaining funds will be disbursed to such government entity for use in accordance with applicable law.

For purposes of this paragraph, the term 'government entity' means the United States, any State or political subdivision thereof, the District of Columbia, any possession of the United States, and any agency or instrumentality of any of the foregoing.

"(3) TERMINATION.—Paragraph (2) shall not apply to accounts and funds established after December 31, 2010.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to accounts and funds established after the date of the enactment of this Act.

SEC. 202. MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355.

Subsection (b) of section 355 (defining active conduct of a trade or business) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE RELATING TO ACTIVE BUSINESS REQUIREMENT.—

"(A) IN GENERAL.—In the case of any distribution made after the date of the enactment of this paragraph and on or before December 31, 2010, a corporation shall be treated as meeting the requirement of paragraph (2)(A) if and only if such corporation is engaged in the active conduct of a trade or business.

"(B) AFFILIATED GROUP RULE.—For purposes of subparagraph (A), all members of such corporation's separate affiliated group shall be treated as one corporation. For purposes of the preceding sentence, a corporation's separate affiliated group is the affiliated group which would be determined under section 1504(a) if such corporation were the common parent and section 1504(b) did not apply.

"(C) TRANSITION RULE.—Subparagraph (A) shall not apply to any distribution pursuant to a transaction which is—

"(i) made pursuant to an agreement which was binding on the date of the enactment of this paragraph and at all times thereafter,

"(ii) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

"(iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

The preceding sentence shall not apply if the distributing corporation elects not to have such sentence apply to distributions of such corporation. Any such election, once made, shall be irrevocable.

"(D) SPECIAL RULE FOR CERTAIN PRE-ENACTMENT DISTRIBUTIONS.—For purposes of determining the continued qualification under paragraph (2)(A) of distributions made on or before the date of the enactment of this paragraph as a result of an acquisition, disposition, or other restructuring after such date and on or before December 31, 2010, such distribution shall be treated as made on the date of such acquisition, disposition, or restructuring for purposes of applying subparagraphs (A) through (C) of this paragraph.".

SEC. 203. VETERANS' MORTGAGE BONDS.

(a) EXPANSION OF DEFINITION OF VETERANS ELIGIBLE FOR STATE HOME LOAN PROGRAMS FUNDED BY QUALIFIED VETERANS' MORTGAGE BONDS.—

(1) IN GENERAL.—Paragraph (4) of section 143(l) (defining qualified veteran) is amended to read as follows:

"(4) QUALIFIED VETERAN.—For purposes of this subsection, the term 'qualified veteran' means—

"(A) in the case of the States of Alaska, Oregon, and Wisconsin, any veteran—

"(i) who served on active duty, and

"(ii) who applied for the financing before the date 25 years after the last date on which such veteran left active service, and

"(B) in the case of any other State, any veteran—

"(i) who served on active duty at some time before January 1, 1977, and

"(ii) who applied for the financing before the later of—

"(I) the date 30 years after the last date on which such veteran left active service, or

"(II) January 31, 1985.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to bonds issued on or after the date of the enactment of this Act.

(b) REVISION OF STATE VETERANS LIMIT.—

(1) IN GENERAL.—Subparagraph (B) of section 143(l)(3) (relating to volume limitation) is amended—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving such clauses 2 ems to the right,

(B) by amending the matter preceding subclause (I), as designated by subparagraph (A), to read as follows:

"(B) STATE VETERANS LIMIT.—

"(i) IN GENERAL.—In the case of any State to which clause (ii) does not apply, the State veterans limit for any calendar year is the amount equal to—", and

(C) by adding at the end the following new clauses:

"(ii) ALASKA, OREGON, AND WISCONSIN.—In the case of the following States, the State veterans limit for any calendar year is the amount equal to—

"(I) $25,000,000 for the State of Alaska,

"(II) $25,000,000 for the State of Oregon, and

"(III) $25,000,000 for the State of Wisconsin.

"(iii) PHASEIN.—In the case of calendar years beginning before 2010, clause (ii) shall be applied by substituting for each of the dollar amounts therein an amount equal to the applicable percentage of such dollar amount. For purposes of the preceding sentence, the applicable percentage shall be determined in accordance with the following table:

"For Calendar Year:	Applicable percentage is:
2006	20 percent

"For Calendar Year:	*Applicable percentage is:*
2007	*40 percent*
2008	*60 percent*
2009	*80 percent.*

"(iv) TERMINATION.—The State veterans limit for the States specified in clause (ii) for any calendar year after 2010 is zero.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to allocations of State volume limit after April 5, 2006.

SEC. 204. CAPITAL GAINS TREATMENT FOR CERTAIN SELF-CREATED MUSICAL WORKS.

(a) IN GENERAL.—Subsection (b) of section 1221 (relating to capital asset defined) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) SALE OR EXCHANGE OF SELF-CREATED MUSICAL WORKS.—At the election of the taxpayer, paragraphs (1) and (3) of subsection (a) shall not apply to musical compositions or copyrights in musical works sold or exchanged before January 1, 2011, by a taxpayer described in subsection (a)(3).".

(b) LIMITATION ON CHARITABLE CONTRIBUTIONS.—Subparagraph (A) of section 170(e)(1) is amended by inserting "(determined without regard to section 1221(b)(3))" after "long-term capital gain".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges in taxable years beginning after the date of the enactment of this Act.

SEC. 205. VESSEL TONNAGE LIMIT.

(a) IN GENERAL.—Paragraph (4) of section 1355(a) (relating to qualifying vessel) is amended by inserting "(6,000, in the case of taxable years beginning after December 31, 2005, and ending before January 1, 2011)" after "10,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

SEC. 206. MODIFICATION OF SPECIAL ARBITRAGE RULE FOR CERTAIN FUNDS.

In the case of bonds issued after the date of the enactment of this Act and before August 31, 2009—

(1) the requirement of paragraph (1) of section 648 of the Deficit Reduction Act of 1984 (98 Stat. 941) shall be treated as met with respect to the securities or obligations referred to in such section if such securities or obligations are held in a fund the annual distributions from which cannot exceed 7 percent of the average fair market value of the assets held in such fund except to the extent distributions are necessary to pay debt service on the bond issue, and

(2) paragraph (3) of such section shall be applied by substituting "distributions from" for "the investment earnings of" both places it appears.

SEC. 207. AMORTIZATION OF EXPENSES INCURRED IN CREATING OR ACQUIRING MUSIC OR MUSIC COPYRIGHTS.

(a) IN GENERAL.—Section 167(g) (relating to depreciation under income forecast method) is amended by adding at the end the following new paragraph:

"(8) SPECIAL RULES FOR CERTAIN MUSICAL WORKS AND COPYRIGHTS.—

"(A) IN GENERAL.—If an election is in effect under this paragraph for any taxable year, then, notwithstanding paragraph (1), any expense which—

"(i) is paid or incurred by the taxpayer in creating or acquiring any applicable musical property placed in service during the taxable year, and

"(ii) is otherwise properly chargeable to capital account,

shall be amortized ratably over the 5-year period beginning with the month in which the property was placed in service. The preceding sentence shall not apply to any expense which, without regard to this paragraph, would not be allowable as a deduction.

"(B) EXCLUSIVE METHOD.—Except as provided in this paragraph, no depreciation or amortization deduction shall be allowed with respect to any expense to which subparagraph (A) applies.

"(C) APPLICABLE MUSICAL PROPERTY.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable musical property' means any musical composition (including any accompanying words), or any copyright with respect to a musical composition, which is property to which this subsection applies without regard to this paragraph.

"(ii) EXCEPTIONS.—Such term shall not include any property—

"(I) with respect to which expenses are treated as qualified creative expenses to which section 263A(h) applies,

"(II) to which a simplified procedure established under section 263A(j)(2) applies, or

"(III) which is an amortizable section 197 intangible (as defined in section 197(c)).

"(D) ELECTION.—An election under this paragraph shall be made at such time and in such form as the Secretary may prescribe and shall apply to all applicable musical property placed in service during the taxable year for which the election applies.

"(E) TERMINATION.—An election may not be made under this paragraph for any taxable year beginning after December 31, 2010.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred with respect to property placed in service in taxable years beginning after December 31, 2005.

SEC. 208. MODIFICATION OF EFFECTIVE DATE OF DISREGARD OF CERTAIN CAPITAL EXPENDITURES FOR PURPOSES OF QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Section 144(a)(4)(G) is amended by striking "September 30, 2009" and inserting "December 31, 2006".

(b) CONFORMING AMENDMENT.—Section 144(a)(4)(F) is amended by striking "September 30, 2009" and inserting "December 31, 2006".

SEC. 209. MODIFICATION OF TREATMENT OF LOANS TO QUALIFIED CONTINUING CARE FACILITIES.

(a) IN GENERAL.—Section 7872 is amended by redesignating subsection (h) as subsection (i) and inserting after subsection (g) the following new subsection:

"(h) EXCEPTION FOR LOANS TO QUALIFIED CONTINUING CARE FACILITIES.—

"(1) IN GENERAL.—This section shall not apply for any calendar year to any below-market loan owed by a facility which on the last day of such year is a qualified continuing care facility, if such loan was made pursuant to a continuing care contract and if the lender (or the lender's spouse) attains age 62 before the close of such year.

"(2) CONTINUING CARE CONTRACT.—For purposes of this section, the term 'continuing care contract' means a written contract between an individual and a qualified continuing care facility under which—

"(A) the individual or individual's spouse may use a qualified continuing care facility for their life or lives,

"(B) the individual or individual's spouse will be provided with housing, as appropriate for the health of such individual or individual's spouse—

"(i) in an independent living unit (which has additional available facilities outside such unit for the provision of meals and other personal care), and

"(ii) in an assisted living facility or a nursing facility, as is available in the continuing care facility, and

"(C) the individual or individual's spouse will be provided assisted living or nursing care as the health of such individual or individual's spouse requires, and as is available in the continuing care facility.

The Secretary shall issue guidance which limits such term to contracts which provide only facilities, care, and services described in this paragraph.

"(3) QUALIFIED CONTINUING CARE FACILITY.—

"(A) IN GENERAL.—For purposes of this section, the term 'qualified continuing care facility' means 1 or more facilities—

"(i) which are designed to provide services under continuing care contracts,

"(ii) which include an independent living unit, plus an assisted living or nursing facility, or both, and

"(iii) substantially all of the independent living unit residents of which are covered by continuing care contracts.

"(B) NURSING HOMES EXCLUDED.—The term 'qualified continuing care facility' shall not include any facility which is of a type which is traditionally considered a nursing home.

"(4) TERMINATION.—This subsection shall not apply to any calendar year after 2010.".

(b) CONFORMING AMENDMENTS.—

(1) Section 7872(g) is amended by adding at the end the following new paragraph:

"(6) SUSPENSION OF APPLICATION.—Paragraph (1) shall not apply for any calendar year to which subsection (h) applies.".

(2) Section 142(d)(2)(B) is amended by striking "Section 7872(g)" and inserting "Subsections (g) and (h) of section 7872".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years beginning after December 31, 2005, with respect to loans made before, on, or after such date.

TITLE III—ALTERNATIVE MINIMUM TAX RELIEF

SEC. 301. INCREASE IN ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNT FOR 2006.

(a) IN GENERAL.—Section 55(d)(1) (relating to exemption amount for taxpayers other than corporations) is amended—

(1) by striking "$58,000" and all that follows through "2005" in subparagraph (A) and inserting "$62,550 in the case of taxable years beginning in 2006", and

(2) by striking "$40,250" and all that follows through "2005" in subparagraph (B) and inserting "$42,500 in the case of taxable years beginning in 2006".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 302. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking "2005" in the heading thereof and inserting "2006", and

(2) by striking "or 2005" and inserting "2005, or 2006".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

TITLE IV—CORPORATE ESTIMATED TAX PROVISIONS

SEC. 401. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

Notwithstanding section 6655 of the Internal Revenue Code of 1986—

(1) in the case of a corporation with assets of not less than $1,000,000,000 (determined as of the end of the preceding taxable year)—

(A) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2006 shall be 105 percent of such amount,

(B) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2012 shall be 106.25 percent of such amount,

(C) the amount of any required installment of corporate estimated tax which is otherwise due in July, August, or September of 2013 shall be 100.75 percent of such amount, and

(D) the amount of the next required installment after an installment referred to in subparagraph (A), (B), or (C) shall be appropriately reduced to reflect the amount of the increase by reason of such subparagraph,

(2) 20.5 percent of the amount of any required installment of corporate estimated tax which is otherwise due in September 2010 shall not be due until October 1, 2010, and

(3) 27.5 percent of the amount of any required installment of corporate estimated tax which is otherwise due in September 2011 shall not be due until October 1, 2011.

TITLE V—REVENUE OFFSET PROVISIONS

SEC. 501. APPLICATION OF EARNINGS STRIPPING RULES TO PARTNERS WHICH ARE CORPORATIONS.

(a) In General.—Section 163(j) (relating to limitation on deduction for interest on certain indebtedness) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) Treatment of corporate partners.—Except to the extent provided by regulations, in applying this subsection to a corporation which owns (directly or indirectly) an interest in a partnership—

"(A) such corporation's distributive share of interest income paid or accrued to such partnership shall be treated as interest income paid or accrued to such corporation,

"(B) such corporation's distributive share of interest paid or accrued by such partnership shall be treated as interest paid or accrued by such corporation, and

"(C) such corporation's share of the liabilities of such partnership shall be treated as liabilities of such corporation.".

(b) Additional Regulatory Authority.—Section 163(j)(9) (relating to regulations), as redesignated by subsection (a), is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) regulations providing for the reallocation of shares of partnership indebtedness, or distributive shares of the partnership's interest income or interest expense.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning on or after the date of the enactment of this Act.

SEC. 502. REPORTING OF INTEREST ON TAX-EXEMPT BONDS.

(a) In General.—Section 6049(b)(2) (relating to exceptions) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) Conforming Amendment.—Section 6049(b)(2)(C), as redesignated by subsection (a), is amended by striking "subparagraph (C)" and inserting "subparagraph (B)".

(c) Effective Date.—The amendments made by this section shall apply to interest paid after December 31, 2005.

SEC. 503. 5-YEAR AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR CERTAIN MAJOR INTEGRATED OIL COMPANIES.

(a) In General.—Section 167(h) (relating to amortization of geological and geophysical expenditures) is amended by adding at the end the following new paragraph:

"(5) Special rule for major integrated oil companies.—

"(A) In general.—In the case of a major integrated oil company, paragraphs (1) and (4) shall be applied by substituting '5-year' for '24 month'.

"(B) Major integrated oil company.—For purposes of this paragraph, the term 'major integrated oil company' means, with respect to any taxable year, a producer of crude oil—

"(i) which has an average daily worldwide production of crude oil of at least 500,000 barrels for the taxable year,

"(ii) which had gross receipts in excess of $1,000,000,000 for its last taxable year ending during calendar year 2005, and

"(iii) to which subsection (c) of section 613A does not apply by reason of paragraph (4) of section 613A(d), determined—

"(I) by substituting '15 percent' for '5 percent' each place it occurs in paragraph (3) of section 613A(d), and

"(II) without regard to whether subsection (c) of section 613A does not apply by reason of paragraph (2) of section 613A(d).

For purposes of clauses (i) and (ii), all persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as 1 person and, in case of a short taxable year, the rule under section 448(c)(3)(B) shall apply.".

(b) Effective Date.—The amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 504. APPLICATION OF FIRPTA TO REGULATED INVESTMENT COMPANIES.

(a) In General.—Subclause (II) of section 897(h)(4)(A)(i) (defining qualified investment entity) is amended by inserting "which is a United States real property holding corporation or which would be a United States real property holding corporation if the exceptions provided in subsections (c)(3) and (h)(2) did not apply to interests in any real estate investment trust or regulated investment company" after "regulated investment company".

(b) Effective Date.—The amendment made by this section shall take effect as if included in the provisions of section 411 of the American Jobs Creation Act of 2004 to which it relates.

SEC. 505. TREATMENT OF DISTRIBUTIONS ATTRIBUTABLE TO FIRPTA GAINS.

(a) Qualified Investment Entity.—

(1) In general.—Section 897(h)(1) is amended—

(A) by striking "a nonresident alien individual or a foreign corporation" in the first sentence and inserting "a nonresident alien individual, a foreign corporation, or other qualified investment entity",

(B) by striking "such nonresident alien individual or foreign corporation" in the first sentence and inserting "such nonresident alien individual, foreign corporation, or other qualified investment entity", and

(C) by striking the second sentence and inserting the following new sentence: "Notwithstanding the preceding sentence, any distribution by a qualified investment entity to a nonresident alien individual or a foreign corporation with respect to any class of stock which is regularly traded on an established securities market located in the United States shall not be treated as gain recognized from the sale or exchange of a United States real property interest if such individual or corporation did not own more than 5 percent of such class of stock at any time during the 1-year period ending on the date of such distribution.".

(2) Exception to termination of application of section 897 rules to regulated investment companies.—Clause (ii) of section 897(h)(4)(A) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, an entity described in clause (i)(II) shall be treated as a qualified investment entity for purposes of applying paragraphs (1) and (5) and section 1445 with respect to any distribution by the entity to a nonresident alien individual or a foreign corporation which is attributable directly or indirectly to a distribution to the entity from a real estate investment trust.".

(b) Withholding on Distributions Treated as Gain From United States Real Property Interests.—Section 1445(e) (relating to special rules for distributions, etc. by corporations, partnerships, trusts, or estates) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) Distributions by regulated investment companies and real estate investment trusts.—If any portion of a distribution from a qualified investment entity (as defined in section 897(h)(4)) to a nonresident alien individual or a foreign corporation is treated under section 897(h)(1) as gain realized by such individual or corporation from the sale or exchange of a United States real property interest, the qualified investment entity shall deduct and withhold under subsection (a) a tax equal to 35 percent (or, to the extent provided in regulations, 15 percent (20 percent in the case of taxable years beginning after December 31, 2010)) of the amount so treated.".

(c) Treatment of Certain Distributions as Dividends.—

(1) In general.—Section 852(b)(3) (relating to capital gains) is amended by adding at the end the following new subparagraph:

"(E) Certain distributions.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount of such distribution which would be included in computing long-term capital gains for the shareholder under subparagraph (B) or (D) (without regard to this subparagraph)—

"(i) shall not be included in computing such shareholder's long-term capital gains, and

"(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.".

(2) Conforming amendment.—Section 871(k)(2) (relating to short-term capital gain dividends) is amended by adding at the end the following new subparagraph:

"(E) Certain distributions.—In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount which would be treated as a short-term capital gain dividend to the shareholder (without regard to this subparagraph)—

"(i) shall not be treated as a short-term capital gain dividend, and

"(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.".

(d) Effective Dates.—The amendments made by this section shall apply to taxable years of qualified investment entities beginning after December 31, 2005, except that no amount shall be required to be withheld under section 1441, 1442, or 1445 of the Internal Revenue Code of 1986 with respect to any distribution before the date of the enactment of this Act if such amount was not otherwise required to be withheld under any such section as in effect before such amendments.

SEC. 506. PREVENTION OF AVOIDANCE OF TAX ON INVESTMENTS OF FOREIGN PERSONS IN UNITED STATES REAL PROPERTY THROUGH WASH SALE TRANSACTIONS.

(a) In General.—Section 897(h) (relating to special rules for certain investment entities) is amended by adding at the end the following new paragraph:

"(5) TREATMENT OF CERTAIN WASH SALE TRANSACTIONS.—

"(A) IN GENERAL.—If an interest in a domestically controlled qualified investment entity is disposed of in an applicable wash sale transaction, the taxpayer shall, for purposes of this section, be treated as having gain from the sale or exchange of a United States real property interest in an amount equal to the portion of the distribution described in subparagraph (B) with respect to such interest which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1).

"(B) APPLICABLE WASH SALES TRANSACTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable wash sales transaction' means any transaction (or series of transactions) under which a nonresident alien individual, foreign corporation, or qualified investment entity—

"(I) disposes of an interest in a domestically controlled qualified investment entity during the 30-day period preceding the ex-dividend date of a distribution which is to be made with respect to the interest and any portion of which, but for the disposition, would have been treated by the taxpayer as gain from the sale or exchange of a United States real property interest under paragraph (1), and

"(II) acquires, or enters into a contract or option to acquire, a substantially identical interest in such entity during the 61-day period beginning with the 1st day of the 30-day period described in subclause (I).

For purposes of subclause (II), a nonresident alien individual, foreign corporation, or qualified investment entity shall be treated as having acquired any interest acquired by a person related (within the meaning of section 267(b) or 707(b)(1)) to the individual, corporation, or entity, and any interest which such person has entered into any contract or option to acquire.

"(ii) APPLICATION TO SUBSTITUTE DIVIDEND AND SIMILAR PAYMENTS.—Subparagraph (A) shall apply to—

"(I) any substitute dividend payment (within the meaning of section 861), or

"(II) any other similar payment specified in regulations which the Secretary determines necessary to prevent avoidance of the purposes of this paragraph.

The portion of any such payment treated by the taxpayer as gain from the sale or exchange of a United States real property interest under subparagraph (A) by reason of this clause shall be equal to the portion of the distribution such payment is in lieu of which would have been so treated but for the transaction giving rise to such payment.

"(iii) EXCEPTION WHERE DISTRIBUTION ACTUALLY RECEIVED.—A transaction shall not be treated as an applicable wash sales transaction if the nonresident alien individual, foreign corporation, or qualified investment entity receives the distribution described in clause (i)(I) with respect to either the interest which was disposed of, or acquired, in the transaction.

"(iv) EXCEPTION FOR CERTAIN PUBLICLY TRADED STOCK.—A transaction shall not be treated as an applicable wash sales transaction if it involves the disposition of any class of stock in a qualified investment entity which is regularly traded on an established securities market within the United States but only if the nonresident alien individual, foreign corporation, or qualified investment entity did not own more than 5 percent of such class of stock at any time during the 1-year period ending on the date of the distribution described in clause (i)(I).".

(b) NO WITHHOLDING REQUIRED.—Section 1445(b) (relating to exemptions) is amended by adding at the end the following new paragraph:

"(8) APPLICABLE WASH SALES TRANSACTIONS.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a disposition which is treated as a disposition of a United States real property interest solely by reason of section 897(h)(5).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005, except that such amendments shall not apply to any distribution, or substitute dividend payment, occurring before the date that is 30 days after the date of the enactment of this Act.

SEC. 507. SECTION 355 NOT TO APPLY TO DISTRIBUTIONS INVOLVING DISQUALIFIED INVESTMENT COMPANIES.

(a) IN GENERAL.—Section 355 (relating to distributions of stock and securities of a controlled corporation) is amended by adding at the end the following new subsection:

"(g) SECTION NOT TO APPLY TO DISTRIBUTIONS INVOLVING DISQUALIFIED INVESTMENT CORPORATIONS.—

"(1) IN GENERAL.—This section (and so much of section 356 as relates to this section) shall not apply to any distribution which is part of a transaction if—

"(A) either the distributing corporation or controlled corporation is, immediately after the transaction, a disqualified investment corporation, and

"(B) any person holds, immediately after the transaction, a 50-percent or greater interest in any disqualified investment corporation, but only if such person did not hold such an interest in such corporation immediately before the transaction.

"(2) DISQUALIFIED INVESTMENT CORPORATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'disqualified investment corporation' means any distributing or controlled corporation if the fair market value of the investment assets of the corporation is—

"(i) in the case of distributions after the end of the 1-year period beginning on the date of the enactment of this subsection, ⅔ or more of the fair market value of all assets of the corporation, and

"(ii) in the case of distributions during such 1-year period, ¾ or more of the fair market value of all assets of the corporation.

"(B) INVESTMENT ASSETS.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'investment assets' means—

"(I) cash,

"(II) any stock or securities in a corporation,

"(III) any interest in a partnership,

"(IV) any debt instrument or other evidence of indebtedness,

"(V) any option, forward or futures contract, notional principal contract, or derivative,

"(VI) foreign currency, or

"(VII) any similar asset.

"(ii) EXCEPTION FOR ASSETS USED IN ACTIVE CONDUCT OF CERTAIN FINANCIAL TRADES OR BUSINESSES.—Such term shall not include any asset which is held for use in the active and regular conduct of—

"(I) a lending or finance business (within the meaning of section 954(h)(4)),

"(II) a banking business through a bank (as defined in section 581), a domestic building and loan association (within the meaning of section 7701(a)(19)), or any similar institution specified by the Secretary, or

"(III) an insurance business if the conduct of the business is licensed, authorized, or regulated by an applicable insurance regulatory body.

This clause shall only apply with respect to any business if substantially all of the income of the business is derived from persons who are not related (within the meaning of section 267(b) or 707(b)(1)) to the person conducting the business.

"(iii) EXCEPTION FOR SECURITIES MARKED TO MARKET.—Such term shall not include any security (as defined in section 475(c)(2)) which is held by a dealer in securities and to which section 475(a) applies.

"(iv) STOCK OR SECURITIES IN A 20-PERCENT CONTROLLED ENTITY.—

"(I) IN GENERAL.—Such term shall not include any stock and securities in, or any asset described in subclause (IV) or (V) of clause (i) issued by, a corporation which is a 20-percent controlled entity with respect to the distributing or controlled corporation.

"(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any 20-percent controlled entity.

"(III) 20-PERCENT CONTROLLED ENTITY.—For purposes of this clause, the term '20-percent controlled entity' means, with respect to any distributing or controlled corporation, any corporation with respect to which the distributing or controlled corporation owns directly or indirectly stock meeting the requirements of section 1504(a)(2), except that such section shall be applied by substituting '20 percent' for '80 percent' and without regard to stock described in section 1504(a)(4).

"(v) INTERESTS IN CERTAIN PARTNERSHIPS.—

"(I) IN GENERAL.—Such term shall not include any interest in a partnership, or any debt instrument or other evidence of indebtedness, issued by the partnership, if 1 or more of the trades or businesses of the partnership are (or, without regard to the 5-year requirement under subsection (b)(2)(B), would be) taken into account by the distributing or controlled corporation, as the case may be, in determining whether the requirements of subsection (b) are met with respect to the distribution.

"(II) LOOK-THRU RULE.—The distributing or controlled corporation shall, for purposes of applying this subsection, be treated as owning its ratable share of the assets of any partnership described in subclause (I).

"(3) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—The term '50-percent or greater interest' has the meaning given such term by subsection (d)(4).

"(B) ATTRIBUTION RULES.—The rules of section 318 shall apply for purposes of determining ownership of stock for purposes of this paragraph.

"(4) TRANSACTION.—For purposes of this subsection, the term 'transaction' includes a series of transactions.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out, or prevent the avoidance of, the purposes of this subsection, including regulations—

"(A) to carry out, or prevent the avoidance of, the purposes of this subsection in cases involving—

"(i) the use of related persons, intermediaries, pass-thru entities, options, or other arrangements, and

"(ii) the treatment of assets unrelated to the trade or business of a corporation as investment assets if, prior to the distribution, investment assets were used to acquire such unrelated assets,

"(B) which in appropriate cases exclude from the application of this subsection a distribution which does not have the character of a redemption which would be treated as a sale or exchange under section 302, and

"(C) which modify the application of the attribution rules applied for purposes of this subsection.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution pursuant to a transaction which is—

(A) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date, or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

SEC. 508. LOAN AND REDEMPTION REQUIREMENTS ON POOLED FINANCING REQUIREMENTS.

(a) STRENGTHENED REASONABLE EXPECTATION REQUIREMENT.—Subparagraph (A) of section 149(f)(2) (relating to reasonable expectation requirement) is amended to read as follows:

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that—

"(i) as of the close of the 1-year period beginning on the date of issuance of the issue, at least 30 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers, and

"(ii) as of the close of the 3-year period beginning on such date of issuance, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been so used.".

(b) WRITTEN LOAN COMMITMENT AND REDEMPTION REQUIREMENTS.—Section 149(f) (relating to treatment of certain pooled financing bonds) is amended by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively, and by inserting after paragraph (3) the following new paragraphs:

"(4) WRITTEN LOAN COMMITMENT REQUIREMENT.—

"(A) IN GENERAL.—The requirement of this paragraph is met with respect to an issue if the issuer receives prior to issuance written loan commitments identifying the ultimate potential borrowers of at least 30 percent of the net proceeds of such issue.

"(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to any issuer which—

"(i) is a State (or an integral part of a State) issuing pooled financing bonds to make or finance loans to subordinate governmental units of such State, or

"(ii) is a State-created entity providing financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

"(5) REDEMPTION REQUIREMENT.—The requirement of this paragraph is met if to the extent that less than the percentage of the proceeds of an issue required to be used under clause (i) or (ii) of paragraph (2)(A) is used by the close of the period identified in such clause, the issuer uses an amount of proceeds equal to the excess of—

"(A) the amount required to be used under such clause, over

"(B) the amount actually used by the close of such period,

to redeem outstanding bonds within 90 days after the end of such period.".

(c) ELIMINATION OF DISREGARD OF POOLED BONDS IN DETERMINING ELIGIBILITY FOR SMALL ISSUER EXCEPTION TO ARBITRAGE REBATE.—Section 148(f)(4)(D)(ii) (relating to aggregation of issuers) is amended by striking subclause (II) and by redesignating subclauses (III) and (IV) as subclauses (II) and (III), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Section 149(f)(1) is amended by striking "paragraphs (2) and (3)" and inserting "paragraphs (2), (3), (4), and (5)".

(2) Section 149(f)(7)(B), as redesignated by subsection (b), is amended by striking "paragraph (4)(A)" and inserting "paragraph (6)(A)".

(3) Section 54(l)(2) is amended by striking "section 149(f)(4)(A)" and inserting "section 149(f)(6)(A)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 509. PARTIAL PAYMENTS REQUIRED WITH SUBMISSION OF OFFERS-IN-COMPROMISE.

(a) IN GENERAL.—Section 7122 (relating to compromises) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) RULES FOR SUBMISSION OF OFFERS-IN-COMPROMISE.—

"(1) PARTIAL PAYMENT REQUIRED WITH SUBMISSION.—

"(A) LUMP-SUM OFFERS.—

"(i) IN GENERAL.—The submission of any lump-sum offer-in-compromise shall be accompanied by the payment of 20 percent of the amount of such offer.

"(ii) LUMP-SUM OFFER-IN-COMPROMISE.—For purposes of this section, the term 'lump-sum offer-in-compromise' means any offer of payments made in 5 or fewer installments.

"(B) PERIODIC PAYMENT OFFERS.—

"(i) IN GENERAL.—The submission of any periodic payment offer-in-compromise shall be accompanied by the payment of the amount of the first proposed installment.

"(ii) FAILURE TO MAKE INSTALLMENT DURING PENDENCY OF OFFER.—Any failure to make an installment (other than the first installment) due under such offer-in-compromise during the period such offer is being evaluated by the Secretary may be treated by the Secretary as a withdrawal of such offer-in-compromise.

"(2) RULES OF APPLICATION.—

"(A) USE OF PAYMENT.—The application of any payment made under this subsection to the assessed tax or other amounts imposed under this title with respect to such tax may be specified by the taxpayer.

"(B) APPLICATION OF USER FEE.—In the case of any assessed tax or other amounts imposed under this title with respect to such tax which is the subject of an offer-in-compromise to which this subsection applies, such tax or other amounts shall be reduced by any user fee imposed under this title with respect to such offer-in-compromise.

"(C) WAIVER AUTHORITY.—The Secretary may issue regulations waiving any payment required under paragraph (1) in a manner consistent with the practices established in accordance with the requirements under subsection (d)(3).".

(b) ADDITIONAL RULES RELATING TO TREATMENT OF OFFERS.—

(1) UNPROCESSABLE OFFER IF PAYMENT REQUIREMENTS ARE NOT MET.—Paragraph (3) of section 7122(d) (relating to standards for evaluation of offers), as redesignated by subsection (a), is amended by striking "; and" at the end of subparagraph (A) and inserting a comma, by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) any offer-in-compromise which does not meet the requirements of subparagraph (A)(i) or (B)(i), as the case may be, of subsection (c)(1) may be returned to the taxpayer as unprocessable.".

(2) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Section 7122, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(f) DEEMED ACCEPTANCE OF OFFER NOT REJECTED WITHIN CERTAIN PERIOD.—Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after the date of the submission of such offer. For purposes of the preceding sentence, any period during which any tax liability which is the subject of such offer-in-compromise is in dispute in any judicial proceeding shall not be taken into account in determining the expiration of the 24-month period.".

(c) CONFORMING AMENDMENT.—Section 6159(f) is amended by striking "section 7122(d)" and inserting "section 7122(e)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted on and after the date which is 60 days after the date of the enactment of this Act.

SEC. 510. INCREASE IN AGE OF MINOR CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

(a) IN GENERAL.—Section 1(g)(2)(A) (relating to child to whom subsection applies) is amended by striking "age 14" and inserting "age 18".

(b) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—Section 1(g)(4) (relating to net unearned income) is amended by adding at the end the following new subparagraph:

"(C) TREATMENT OF DISTRIBUTIONS FROM QUALIFIED DISABILITY TRUSTS.—For purposes of this subsection, in the case of any child who is a beneficiary of a qualified disability trust (as defined in section 642(b)(2)(C)(ii)), any amount included in the income of such child under sections 652 and 662 during a taxable year shall be considered earned income of such child for such taxable year.".

(c) CONFORMING AMENDMENT.—Section 1(g)(2) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) such child does not file a joint return for the taxable year.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 511. IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.

(a) IN GENERAL.—Section 3402 is amended by adding at the end the following new subsection:

"(t) EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES.—

"(1) GENERAL RULE.—The Government of the United States, every State, every political subdivision thereof, and every instrumentality of the foregoing (including multi-State agencies) making any payment to any person providing any property or services (including any payment made in connection with a government voucher or certificate program which functions as a payment for property or services) shall deduct and withhold from such payment a tax in an amount equal to 3 percent of such payment.

"(2) PROPERTY AND SERVICES SUBJECT TO WITHHOLDING.—Paragraph (1) shall not apply to any payment—

"(A) except as provided in subparagraph (B), which is subject to withholding under any other provision of this chapter or chapter 3,

"(B) which is subject to withholding under section 3406 and from which amounts are being withheld under such section,

"(C) of interest,

"(D) for real property,

"(E) to any governmental entity subject to the requirements of paragraph (1), any tax-exempt entity, or any foreign government,

"(F) made pursuant to a classified or confidential contract described in section 6050M(e)(3),

"(G) made by a political subdivision of a State (or any instrumentality thereof) which makes *less than $100,000,000 of such payments annually,*

"(H) which is in connection with a public assistance or public welfare program for which eligibility is determined by a needs or income test, and

"(I) to any government employee not otherwise excludable with respect to their services as an employee.

"(3) COORDINATION WITH OTHER SECTIONS.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, payments to any person for property or services which are subject to withholding shall be treated as if such payments were wages paid by an employer to an employee.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2010.

SEC. 512. CONVERSIONS TO ROTH IRAS.

(a) REPEAL OF INCOME LIMITATIONS.—

(1) IN GENERAL.—Paragraph (3) of section 408A(c) (relating to limits based on modified adjusted gross income) is amended by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(2) CONFORMING AMENDMENT.—Clause (i) of section 408A(c)(3)(B) (as redesignated by paragraph (1)) is amended by striking "except that—" and all that follows and inserting "except that any amount included in gross income under subsection (d)(3) shall not be taken into account, and".

(b) ROLLOVERS TO A ROTH IRA FROM AN IRA OTHER THAN A ROTH IRA.—

(1) IN GENERAL.—Clause (iii) of section 408A(d)(3)(A) (relating to rollovers from an IRA other than a Roth IRA) is amended to read as follows:

"(iii) unless the taxpayer elects not to have this clause apply, any amount required to be included in gross income for any taxable year beginning in 2010 by reason of this paragraph shall be so included ratably over the 2-taxable-year period beginning with the first taxable year beginning in 2011.".

(2) CONFORMING AMENDMENTS.—

(A) Clause (i) of section 408A(d)(3)(E) is amended to read as follows:

"(i) ACCELERATION OF INCLUSION.—

"(I) IN GENERAL.—The amount otherwise required to be included in gross income for any taxable year beginning in 2010 or the first taxable year in the 2-year period under subparagraph (A)(iii) shall be increased by the aggregate distributions from Roth IRAs for such taxable year which are allocable under paragraph (4) to the portion of such qualified rollover contribution required to be included in gross income under subparagraph (A)(i).

"(II) LIMITATION ON AGGREGATE AMOUNT INCLUDED.—The amount required to be included in gross income for any taxable year under subparagraph (A)(iii) shall not exceed the aggregate amount required to be included in gross income under subparagraph (A)(iii) for all taxable years in the 2-year period (without regard to subclause (I)) reduced by amounts included for all preceding taxable years.".

(B) The heading for section 408A(d)(3)(E) is amended by striking "4-YEAR" and inserting "2-YEAR".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 513. REPEAL OF FSC/ETI BINDING CONTRACT RELIEF.

(a) FSC PROVISIONS.—Paragraph (1) of section 5(c) of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 is amended by striking "which occurs—" and all that follows and inserting "which occurs before January 1, 2002.".

(b) ETI PROVISIONS.—Section 101 of the American Jobs Creation Act of 2004 is amended by striking subsection (f).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 514. ONLY WAGES ATTRIBUTABLE TO DOMESTIC PRODUCTION TAKEN INTO ACCOUNT IN DETERMINING DEDUCTION FOR DOMESTIC PRODUCTION.

(a) IN GENERAL.—Paragraph (2) of section 199(b) (relating to W-2 wages) is amended to read as follows:

"(2) W-2 WAGES.—For purposes of this section—

"(A) IN GENERAL.—The term 'W-2 wages' means, with respect to any person for any taxable year of such person, the sum of the amounts described in paragraphs (3) and (8) of section 6051(a) paid by such person with respect to employment of employees by such person during the calendar year ending during such taxable year.

"(B) LIMITATION TO WAGES ATTRIBUTABLE TO DOMESTIC PRODUCTION.—Such term shall not include any amount which is not properly allocable to domestic production gross receipts for purposes of subsection (c)(1).

"(C) RETURN REQUIREMENT.—Such term shall not include any amount which is not properly included in a return filed with the Social Security Administration on or before the 60th day after the due date (including extensions) for such return.".

(b) SIMPLIFICATION OF RULES FOR DETERMINING W-2 WAGES OF PARTNERS AND S CORPORATION SHAREHOLDERS.—

(1) IN GENERAL.—Clause (iii) of section 199(d)(1)(A) is amended to read as follows:

"(iii) each partner or shareholder shall be treated for purposes of subsection (b) as having W-2 wages for the taxable year in an amount equal to such person's allocable share of the W-2 wages of the partnership or S corporation for the taxable year (as determined under regulations prescribed by the Secretary).".

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 199(a) is amended by striking "and subsection (d)(1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 515. MODIFICATION OF EXCLUSION FOR CITIZENS LIVING ABROAD.

(a) INFLATION ADJUSTMENT OF FOREIGN EARNED INCOME LIMITATION.—Clause (ii) of section 911(b)(2)(D) (relating to inflation adjustment) is amended—

(1) by striking "2007" and inserting "2005", and

(2) by striking "2006" in subclause (II) and inserting "2004".

(b) MODIFICATION OF HOUSING COST AMOUNT.—

(1) MODIFICATION OF HOUSING COST FLOOR.—Clause (i) of section 911(c)(1)(B) is amended to read as follows:

"(i) 16 percent of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which such taxable year begins, multiplied by".

(2) MAXIMUM AMOUNT OF EXCLUSION.—

(A) IN GENERAL.—Subparagraph (A) of section 911(c)(1) is amended by inserting "to the extent such expenses do not exceed the amount determined under paragraph (2)" after "the taxable year".

(B) LIMITATION.—Subsection (c) of section 911 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) LIMITATION.—

"(A) IN GENERAL.—The amount determined under this paragraph is an amount equal to the product of—

"(i) 30 percent (adjusted as may be provided under subparagraph (B)) of the amount (computed on a daily basis) in effect under subsection (b)(2)(D) for the calendar year in which the taxable year of the individual begins, multiplied by

"(ii) the number of days of such taxable year within the applicable period described in subparagraph (A) or (B) of subsection (d)(1).

"(B) REGULATIONS.—The Secretary may issue regulations or other guidance providing for the adjustment of the percentage under subparagraph (A)(i) on the basis of geographic differences in housing costs relative to housing costs in the United States.".

(C) CONFORMING AMENDMENTS.—

(i) Section 911(d)(4) is amended by striking "and (c)(1)(B)(ii)" and inserting ", (c)(1)(B)(ii), and (c)(2)(A)(ii)".

(ii) Section 911(d)(7) is amended by striking "subsection (c)(3)" and inserting "subsection (c)(4)".

(c) RATES OF TAX APPLICABLE TO NONEXCLUDED INCOME.—Section 911 (relating to exclusion of certain income of citizens and residents of the United States living abroad) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) DETERMINATION OF TAX LIABILITY ON NONEXCLUDED AMOUNTS.—For purposes of this chapter, if any amount is excluded from the gross income of a taxpayer under subsection (a) for any taxable year, then, notwithstanding section 1 or 55—

"(1) the tax imposed by section 1 on the taxpayer for such taxable year shall be equal to the excess (if any) of—

"(A) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were increased by the amount excluded under subsection (a) for the taxable year, over

"(B) the tax which would be imposed by section 1 for the taxable year if the taxpayer's taxable income were equal to the amount excluded under subsection (a) for the taxable year, and

"(2) the tentative minimum tax under section 55 for such taxable year shall be equal to the excess (if any) of—

"(A) the amount which would be such tentative minimum tax for the taxable year if the taxpayer's taxable excess were increased by the amount excluded under subsection (a) for the taxable year, over

"(B) the amount which would be such tentative minimum tax for the taxable year if the taxpayer's taxable excess were equal to the amount excluded under subsection (a) for the taxable year.

For purposes of this subsection, the amount excluded under subsection (a) shall be reduced by the aggregate amount of any deductions or exclusions disallowed under subsection (d)(6) with respect to such excluded amount.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 516. TAX INVOLVEMENT OF ACCOMMODATION PARTIES IN TAX SHELTER TRANSACTIONS.

(a) IMPOSITION OF EXCISE TAX.—

(1) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by adding at the end the following new subchapter:

"Subchapter F—Tax Shelter Transactions

"Sec. 4965. Excise tax on certain tax-exempt entities entering into prohibited tax shelter transactions.

"SEC. 4965. EXCISE TAX ON CERTAIN TAX-EXEMPT ENTITIES ENTERING INTO PROHIBITED TAX SHELTER TRANSACTIONS.

"(a) BEING A PARTY TO AND APPROVAL OF PROHIBITED TRANSACTIONS.—

"(1) TAX-EXEMPT ENTITY.—

"(A) IN GENERAL.—If a transaction is a prohibited tax shelter transaction at the time any tax-exempt entity described in paragraph (1), (2), or (3) of subsection (c) becomes a party to the transaction, such entity shall pay a tax for the taxable year in which the entity becomes such a party and any subsequent taxable year in the amount determined under subsection (b)(1).

"(B) POST-TRANSACTION DETERMINATION.—If any tax-exempt entity described in paragraph (1), (2), or (3) of subsection (c) is a party to a subsequently listed transaction at any time during a taxable year, such entity shall pay a tax for such taxable year in the amount determined under subsection (b)(1).

"(2) ENTITY MANAGER.—If any entity manager of a tax-exempt entity approves such entity as (or otherwise causes such entity to be) a party to a prohibited tax shelter transaction at any time during the taxable year and knows or has reason to know that the transaction is a prohibited tax shelter transaction, such manager shall pay a tax for such taxable year in the amount determined under subsection (b)(2).

"(b) AMOUNT OF TAX.—

"(1) ENTITY.—In the case of a tax-exempt entity—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of the tax imposed under subsection (a)(1) with respect to any transaction for a taxable year shall be an amount equal to the product of the highest rate of tax under section 11, and the greater of—

"(i) the entity's net income (after taking into account any tax imposed by this subtitle (other than by this section) with respect to such transaction) for such taxable year which—

"(I) in the case of a prohibited tax shelter transaction (other than a subsequently listed transaction), is attributable to such transaction, or

"(II) in the case of a subsequently listed transaction, is attributable to such transaction and which is properly allocable to the period beginning on the later of the date such transaction is identified by guidance as a listed transaction by the Secretary or the first day of the taxable year, or

"(ii) 75 percent of the proceeds received by the entity for the taxable year which—

"(I) in the case of a prohibited tax shelter transaction (other than a subsequently listed transaction), are attributable to such transaction, or

"(II) in the case of a subsequently listed transaction, are attributable to such transaction and which are properly allocable to the period beginning on the later of the date such transaction is identified by guidance as a listed transaction by the Secretary or the first day of the taxable year.

"(B) INCREASE IN TAX FOR CERTAIN KNOWING TRANSACTIONS.—In the case of a tax-exempt entity which knew, or had reason to know, a transaction was a prohibited tax shelter transaction at the time the entity became a party to the transaction, the amount of the tax imposed under subsection (a)(1)(A) with respect to any transaction for a taxable year shall be the greater of—

"(i) 100 percent of the entity's net income (after taking into account any tax imposed by this subtitle (other than by this section) with respect to the prohibited tax shelter transaction) for such taxable year which is attributable to the prohibited tax shelter transaction, or

"(ii) 75 percent of the proceeds received by the entity for the taxable year which are attributable to the prohibited tax shelter transaction. This subparagraph shall not apply to any prohibited tax shelter transaction to which a tax-exempt entity became a party on or before the date of the enactment of this section.

"(2) ENTITY MANAGER.—In the case of each entity manager, the amount of the tax imposed under subsection (a)(2) shall be $20,000 for each approval (or other act causing participation) described in subsection (a)(2).

"(c) TAX-EXEMPT ENTITY.—For purposes of this section, the term 'tax-exempt entity' means an entity which is—

"(1) described in section 501(c) or 501(d),

"(2) described in section 170(c) (other than the United States),

"(3) an Indian tribal government (within the meaning of section 7701(a)(40)),

"(4) described in paragraph (1), (2), or (3) of section 4979(e),

"(5) a program described in section 529,

"(6) an eligible deferred compensation plan described in section 457(b) which is maintained by an employer described in section 4457(e)(1)(A), or

"(7) an arrangement described in section 4973(a).

"(d) ENTITY MANAGER.—For purposes of this section, the term 'entity manager' means—

"(1) in the case of an entity described in paragraph (1), (2), or (3) of subsection (c)—

"(A) the person with authority or responsibility similar to that exercised by an officer, director, or trustee of an organization, and

"(B) with respect to any act, the person having authority or responsibility with respect to such act, and

"(2) in the case of an entity described in paragraph (4), (5), (6), or (7) of subsection (c), the person who approves or otherwise causes the entity to be a party to the prohibited tax shelter transaction.

"(e) PROHIBITED TAX SHELTER TRANSACTION; SUBSEQUENTLY LISTED TRANSACTION.—For purposes of this section—

"(1) PROHIBITED TAX SHELTER TRANSACTION.—

"(A) IN GENERAL.—The term 'prohibited tax shelter transaction' means—

"(i) any listed transaction, and

"(ii) any prohibited reportable transaction.

"(B) LISTED TRANSACTION.—The term 'listed transaction' has the meaning given such term by section 6707A(c)(2).

"(C) PROHIBITED REPORTABLE TRANSACTION.—The term 'prohibited reportable transaction' means any confidential transaction or any transaction with contractual protection (as defined under regulations prescribed by the Secretary) which is a reportable transaction (as defined in section 6707A(c)(1)).

"(2) SUBSEQUENTLY LISTED TRANSACTION.—The term 'subsequently listed transaction' means any transaction to which a tax-exempt entity is a party and which is determined by the Secretary to be a listed transaction at any time after the entity has become a party to the transaction. Such term shall not include a transaction which is a prohibited reportable transaction at the time the entity became a party to the transaction.

"(f) REGULATORY AUTHORITY.—The Secretary is authorized to promulgate regulations which provide guidance regarding the determination of the allocation of net income or proceeds of a tax-exempt entity attributable to a transaction to various periods, including before and after the listing of the transaction or the date which is 90 days after the date of the enactment of this section.

"(g) COORDINATION WITH OTHER TAXES AND PENALTIES.—The tax imposed by this section is in addition to any other tax, addition to tax, or penalty imposed under this title.".

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 42 is amended by adding at the end the following new item:

"SUBCHAPTER F. TAX SHELTER TRANSACTIONS.".

(b) DISCLOSURE REQUIREMENTS.—

(1) DISCLOSURE BY ENTITY TO THE INTERNAL REVENUE SERVICE.—

(A) IN GENERAL.—Section 6033(a) (relating to organizations required to file) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) BEING A PARTY TO CERTAIN REPORTABLE TRANSACTIONS.—Every tax-exempt entity described in section 4965(c) shall file (in such form and manner and at such time as determined by the Secretary) a disclosure of—

"(A) such entity's being a party to any prohibited tax shelter transaction (as defined in section 4965(e)), and

"(B) the identity of any other party to such transaction which is known by such tax-exempt entity.".

(B) CONFORMING AMENDMENT.—Section 6033(a)(1) is amended by striking "paragraph (2)" and inserting "paragraph (3)".

(2) DISCLOSURE BY OTHER TAXPAYERS TO THE TAX-EXEMPT ENTITY.—Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) DISCLOSURE OF REPORTABLE TRANSACTION TO TAX-EXEMPT ENTITY.—Any taxable party to a prohibited tax shelter transaction (as defined in section 4965(e)(1)) shall by statement disclose to any tax-exempt entity (as defined in section 4965(c)) which is a party to such transaction that such transaction is such a prohibited tax shelter transaction.".

(c) PENALTY FOR NONDISCLOSURE.—

(1) IN GENERAL.—Section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) DISCLOSURE UNDER SECTION 6033(a)(2).—

"(A) PENALTY ON ENTITIES.—In the case of a failure to file a disclosure required under section 6033(a)(2), there shall be paid by the tax-exempt entity (the entity manager in the case of a tax-exempt entity described in paragraph (4), (5), (6), or (7) of section 4965(c)) $100 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 disclosure shall not exceed $50,000.

"(B) WRITTEN DEMAND.—

"(i) IN GENERAL.—The Secretary may make a written demand on any entity or manager subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the disclosure shall be filed for purposes of this subparagraph.

"(ii) FAILURE TO COMPLY WITH DEMAND.—If any entity or manager fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by such entity or manager failing to so comply $100 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all entities and managers for failures with respect to any 1 disclosure shall not exceed $10,000.

"(C) DEFINITIONS.—Any term used in this section which is also used in section 4965 shall have the meaning given such term under section 4965.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 6652(c) is amended by striking "6033" each place it appears in the text and heading thereof and inserting "6033(a)(1)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section

shall apply to taxable years ending after the date of the enactment of this Act, with respect to transactions before, on, or after such date, except that no tax under section 4965(a) of the Internal Revenue Code of 1986 (as added by this section) shall apply with respect to income or proceeds that are properly allocable to any period ending on or before the date which is 90 days after such date of enactment.

(2) DISCLOSURE.—The amendments made by subsections (b) and (c) shall apply to disclosures the due date for which are after the date of the enactment of this Act.

And the Senate agree to the same.

WILLIAM THOMAS,
JIM MCCRERY,
DAVE CAMP,
Managers on the Part of the House.

CHUCK GRASSLEY,
JON KYL,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4297), to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—EXTENSION AND MODIFICATION OF CERTAIN PROVISIONS

A. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX LIABILITY

(Sec. 101 of the House bill, sec. 107 of the Senate amendment, and sec. 26 of the Code)

PRESENT LAW

Present law provides for certain nonrefundable personal tax credits (i.e., the dependent care credit, the credit for the elderly and disabled, the adoption credit, the child tax credit, the credit for interest on certain home mortgages, the HOPE Scholarship and Lifetime Learning credits, the credit for savers, the credit for certain nonbusiness energy property, the credit for residential energy efficient property, and the D.C. first-time homebuyer credit). The Energy Tax Incentives Act of 2005 enacted, effective for 2006, nonrefundable tax credits for alternative motor vehicles, and alternative motor vehicle refueling property.[1]

For taxable years beginning in 2005, the nonrefundable personal credits are allowed to the extent of the full amount of the individual's regular tax and alternative minimum tax.

For taxable years beginning after 2005, the nonrefundable personal credits (other than the adoption credit, child credit and saver's credit) are allowed only to the extent that the individual's regular income tax liability exceeds the individual's tentative minimum tax, determined without regard to the minimum tax foreign tax credit. The adoption credit, child credit, and saver's credit are allowed to the full extent of the individual's regular tax and alternative minimum tax.

The alternative minimum tax is the amount by which the tentative minimum tax exceeds the regular income tax. An individual's tentative minimum tax is the sum of (1) 26 percent of so much of the taxable excess as does not exceed $175,000 ($87,500 in the case of a married individual filing a separate return) and (2) 28 percent of the remaining taxable excess. The taxable excess is so much of the alternative minimum taxable income ("AMTI") as exceeds the exemption amount. The maximum tax rates on net capital gain and dividends used in computing the regular tax are used in computing the tentative minimum tax. AMTI is the individual's taxable income adjusted to take account of specified preferences and adjustments.

The exemption amount is: (1) $45,000 ($58,000 for taxable years beginning before 2006) in the case of married individuals filing a joint return and surviving spouses; (2) $33,750 ($40,250 for taxable years beginning before 2006) in the case of other unmarried individuals; (3) $22,500 ($29,000 for taxable years beginning before 2006) in the case of married individuals filing a separate return; and (4) $22,500 in the case of an estate or trust. The exemption amount is phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) $150,000 in the case of married individuals filing a joint return and surviving spouses, (2) $112,500 in the case of other unmarried individuals, and (3) $75,000 in the case of married individuals filing separate returns, an estate, or a trust. These amounts are not indexed for inflation.

HOUSE BILL

The House bill extends for one year the present-law provision allowing nonrefundable personal credits to the full extent of the individual's regular tax and alternative minimum tax (through taxable years beginning on or before December 31, 2006).

Effective date.—The provision applies to taxable years beginning after December 31, 2005.

SENATE AMENDMENT

The Senate amendment extends for two years the present-law provision allowing nonrefundable personal credits to the full extent of the individual's regular tax and alternative minimum tax (through taxable years beginning on or before December 31, 2007).

The provision also applies to the personal credits for alternative motor vehicles, and alternative motor vehicle refueling property.

Effective date.—The provision applies to taxable years beginning after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement includes the House bill provision.

B. TAX INCENTIVES FOR BUSINESS ACTIVITIES ON INDIAN RESERVATIONS

1. Indian employment tax credit (Sec. 102(a) of the House bill, sec. 115 of the Senate amendment, and sec. 45A of the Code)

PRESENT LAW

In general, a credit against income tax liability is allowed to employers for the first $20,000 of qualified wages and qualified employee health insurance costs paid or incurred by the employer with respect to certain employees (sec. 45A).[2] The credit is equal to 20 percent of the excess of eligible employee qualified wages and health insurance costs during the current year over the amount of such wages and costs incurred by the employer during 1993. The credit is an incremental credit, such that an employer's current-year qualified wages and qualified employee health insurance costs (up to $20,000 per employee) are eligible for the credit only to the extent that the sum of such costs exceeds the sum of comparable costs paid during 1993. No deduction is allowed for the portion of the wages equal to the amount of the credit.

Qualified wages means wages paid or incurred by an employer for services performed by a qualified employee. A qualified employee means any employee who is an enrolled member of an Indian tribe or the spouse of an enrolled member of an Indian tribe, who performs substantially all of the services within an Indian reservation, and whose principal place of abode while performing such services is on or near the reservation in which the services are performed. An "Indian reservation" is a reservation as defined in section 3(d) of the Indian Financing Act of 1974 or section 4(1) of the Indian Child Welfare Act of 1978. For purposes of the preceding sentence, section 3(d) is applied by treating "former Indian reservations in Oklahoma" as including only lands that are (1) within the jurisdictional area of an Oklahoma Indian tribe as determined by the Secretary of the Interior, and (2) recognized by such Secretary as an area eligible for trust land status under 25 C.F.R. Part 151 (as in effect on August 5, 1997).

An employee is not treated as a qualified employee for any taxable year of the employer if the total amount of wages paid or incurred by the employer with respect to such employee during the taxable year exceeds an amount determined at an annual rate of $30,000 (which after adjusted for inflation after 1993 is currently $35,000). In addition, an employee will not be treated as a qualified employee under certain specific circumstances, such as where the employee is related to the employer (in the case of an individual employer) or to one of the employer's shareholders, partners, or grantors. Similarly, an employee will not be treated as a qualified employee where the employee has more than a 5 percent ownership interest in the employer. Finally, an employee will not be considered a qualified employee to the extent the employee's services relate to gaming activities or are performed in a building housing such activities.

The wage credit is available for wages paid or incurred on or after January 1, 1994, in taxable years that begin before January 1, 2006.

HOUSE BILL

The provision extends for one year the present-law employment credit provision (through taxable years beginning on or before December 31, 2006).

Effective date.—The provision is effective for taxable years beginning after December 31, 2005.

SENATE AMENDMENT

The Senate amendment extends for two years the present-law employment credit provision (through taxable years beginning on or before December 31, 2007).

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[1] The portion of these credits relating to personal use property is subject to the same tax liability limitation as the nonrefundable personal tax credits (other than the adoption credit, child credit, and saver's credit).

[2] All section references are to the Internal Revenue Code of 1986, unless otherwise indicated.

Effective date.—Same as the House bill provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision or the Senate amendment provision.

2. Accelerated depreciation for business property on Indian reservations (sec. 102(b) of the House bill, sec. 116 of the Senate amendment, and sec. 168(j) of the Code)

PRESENT LAW

With respect to certain property used in connection with the conduct of a trade or business within an Indian reservation, depreciation deductions under section 168(j) are determined using the following recovery periods:

	Years
3-year property	2
5-year property	3
7-year property	4
10-year property	6
15-year property	9
20-year property	12
Nonresidential real property	22

"Qualified Indian reservation property" eligible for accelerated depreciation includes property which is (1) used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation, (2) not used or located outside the reservation on a regular basis, (3) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)), and (4) described in the recovery-period table above. In addition, property is not "qualified Indian reservation property" if it is placed in service for purposes of conducting gaming activities. Certain "qualified infrastructure property" may be eligible for the accelerated depreciation even if located outside an Indian reservation, provided that the purpose of such property is to connect with qualified infrastructure property located within the reservation (e.g., roads, power lines, water systems, railroad spurs, and communications facilities).

An "Indian reservation" means a reservation as defined in section 3(d) of the Indian Financing Act of 1974 or section 4(1) of the Indian Child Welfare Act of 1978. For purposes of the preceding sentence, section 3(d) is applied by treating "former Indian reservations in Oklahoma" as including only lands that are (1) within the jurisdictional area of an Oklahoma Indian tribe as determined by the Secretary of the Interior, and (2) recognized by such Secretary as an area eligible for trust land status under 25 CFR. Part 151 (as in effect on August 5, 1997).

The depreciation deduction allowed for regular tax purposes is also allowed for purposes of the alternative minimum tax. The accelerated depreciation for Indian reservations is available with respect to property placed in service on or after January 1, 1994, and before January 1, 2006.

HOUSE BILL

The provision extends for one year the present-law incentive relating to depreciation of qualified Indian reservation property (to apply to property placed in service through December 31, 2006).

Effective date.—The provision applies to property placed in service after December 31, 2005.

SENATE AMENDMENT

The Senate amendment extends for two years the present-law incentive relating to depreciation of qualified Indian reservation property (to apply to property placed in service through December 31, 2007).

Effective date.—The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision or the Senate amendment provision.

C. WORK OPPORTUNITY TAX CREDIT AND WELFARE-TO-WORK TAX CREDIT

(Secs. 103 and 104 of the House bill, sec. 109 of the Senate amendment and secs. 51 and 51A of the Code)

PRESENT LAW

Work opportunity tax credit

Targeted groups eligible for the credit

The work opportunity tax credit is available on an elective basis for employers hiring individuals from one or more of eight targeted groups. The eight targeted groups are: (1) certain families eligible to receive benefits under the Temporary Assistance for Needy Families Program; (2) high-risk youth; (3) qualified ex-felons; (4) vocational rehabilitation referrals; (5) qualified summer youth employees; (6) qualified veterans; (7) families receiving food stamps; and (8) persons receiving certain Supplemental Security Income (SSI) benefits.

A high-risk youth is an individual aged 18 but not aged 25 on the hiring date who is certified by a designated local agency as having a principal place of abode within an empowerment zone, enterprise community, or renewal community. The credit is not available if such youth's principal place of abode ceases to be within an empowerment zone, enterprise community, or renewal community.

A qualified ex-felon is an individual certified by a designated local agency as: (1) having been convicted of a felony under State or Federal law; (2) being a member of an economically disadvantaged family; and (3) having a hiring date within one year of release from prison or conviction.

A food stamp recipient is an individual aged 18 but not aged 25 on the hiring date certified by a designated local agency as being a member of a family either currently or recently receiving assistance under an eligible food stamp program.

Qualified wages

Generally, qualified wages are defined as cash wages paid by the employer to a member of a targeted group. The employer's deduction for wages is reduced by the amount of the credit.

Calculation of the credit

The credit equals 40 percent (25 percent for employment of 400 hours or less) of qualified first-year wages. Generally, qualified first-year wages are qualified wages (not in excess of $6,000) attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual began work for the employer. Therefore, the maximum credit per employee is $2,400 (40 percent of the first $6,000 of qualified first-year wages). With respect to qualified summer youth employees, the maximum credit is $1,200 (40 percent of the first $3,000 of qualified first-year wages).

Minimum employment period

No credit is allowed for qualified wages paid to employees who work less than 120 hours in the first year of employment.

Coordination of the work opportunity tax credit and the welfare-to-work tax credit

An employer cannot claim the work opportunity tax credit with respect to wages of any employee on which the employer claims the welfare-to-work tax credit.

Other rules

The work opportunity tax credit is not allowed for wages paid to a relative or dependent of the taxpayer. Similarity wages paid to replacement workers during a strike or lockout are not eligible for the work opportunity tax credit. Wages paid to any employee during any period for which the employer received on-the-job training program payments with respect to that employee are not eligible for the work opportunity tax credit. The work opportunity tax credit generally is not allowed for wages paid to individuals who had previously been employed by the employer. In addition, many other technical rules apply.

Expiration

The work opportunity tax credit is not available for individuals who begin work for an employer after December 31, 2005.

Welfare-to-work tax credit

Targeted group eligible for the credit

The welfare-to-work tax credit is available on an elective basis to employers of qualified long-term family assistance recipients. Qualified long-term family assistance recipients are: (1) members of a family that has received family assistance for at least 18 consecutive months ending on the hiring date; (2) members of a family that has received such family assistance for a total of at least 18 months (whether or not consecutive) after August 5, 1997 (the date of enactment of the welfare-to-work tax credit) if they are hired within 2 years after the date that the 18-month total is reached; and (3) members of a family who are no longer eligible for family assistance because of either Federal or State time limits, if they are hired within 2 years after the Federal or State time limits made the family ineligible for family assistance.

Qualified wages

Qualified wages for purposes of the welfare-to-work tax credit are defined more broadly than the work opportunity tax credit. Unlike the definition of wages for the work opportunity tax credit which includes simply cash wages, the definition of wages for the welfare-to-work tax credit includes cash wages paid to an employee plus amounts paid by the employer for: (1) educational assistance excludable under a section 127 program (or that would be excludable but for the expiration of sec. 127); (2) health plan coverage for the employee, but not more than the applicable premium defined under section 4980B(f)(4); and (3) dependent care assistance excludable under section 129. The employer's deduction for wages is reduced by the amount of the credit.

Calculation of the credit

The welfare-to-work tax credit is available on an elective basis to employers of qualified long-term family assistance recipients during the first two years of employment. The maximum credit is 35 percent of the first $10,000 of qualified first-year wages and 50 percent of the first $10,000 of qualified second-year wages. Qualified first-year wages are defined as qualified wages (not in excess of $10,000) attributable to service rendered by a member of the targeted group during the one-year period beginning with the day the individual began work for the employer. Qualified second-year wages are defined as qualified wages (not in excess of $10,000) attributable to service rendered by a member of the targeted group during the one-year period beginning immediately after the first year of that individual's employment for the employer. The maximum credit is $8,500 per qualified employee.

Minimum employment period

No credit is allowed for qualified wages paid to a member of the targeted group unless they work at least 400 hours or 180 days in the first year of employment.

Coordination of the work opportunity tax credit and the welfare-to-work tax credit

An employer cannot claim the work opportunity tax credit with respect to wages of any employee on which the employer claims the welfare-to-work tax credit.

Other rules

The welfare-to-work tax credit incorporates directly or by reference many of these other rules contained on the work opportunity tax credit.

Expiration

The welfare-to-work credit is not available for individuals who begin work for an employer after December 31, 2005.

HOUSE BILL

Work opportunity tax credit

The House bill extends the work opportunity credit for one year (through December 31, 2006). Also, the House bill raises the maximum age limit for the food stamp recipient category to include individuals who are at least age 18 but under age 35 on the hiring date.

Effective date.—The provision is effective for wages paid or incurred to a qualified individual who begins work for an employer after December 31, 2005, and before January 1, 2007.

Welfare-to-work tax credit

The House bill extends the welfare-to-work tax credit for one year (through December 31, 2006).

Effective date.—The provision is effective for wages paid or incurred to a qualified individual who begins work for an employer after December 31, 2005, and before January 1, 2007.

SENATE AMENDMENT

In general

The Senate amendment combines the work opportunity and welfare-to-work tax credits and extends the combined credit for one year. The welfare-to-work credit is repealed.

Targeted groups eligible for the combined credit

The combined credit is available on an elective basis for employers hiring individuals from one or more of all nine targeted groups. The nine targeted groups are the present-law eight groups with the addition of the welfare-to-work credit/long-term family assistance recipient as the ninth targeted group.

The Senate amendment raises the age limit for the high-risk youth category to include individuals aged 18 but not aged 40 on the hiring date. The Senate amendment also renames the high-risk youth category to be the designated community resident category.

The Senate amendment repeals the requirement that a qualified ex-felon be an individual certified as a member of an economically disadvantaged family.

The Senate amendment raises the age limit for the food stamp recipient category to include individuals aged 18 but not aged 40 on the hiring date.

Qualified wages

Qualified first-year wages for the eight work opportunity tax credit categories remain capped at $6,000 ($3,000 for qualified summer youth employees). No credit is allowed for second-year wages. In the case of long-term family assistance recipients, the cap is $10,000 for both qualified first-year wages and qualified second-year wages. The combined credit follows the work opportunity tax credit definition of wages which does not include amounts paid by the employer for: (1) educational assistance excludable under a section 127 program (or that would be excludable but for the expiration of sec. 127); (2) health plan coverage for the employee, but not more than the applicable premium defined under section 4980B(f)(4); and (3) dependent care assistance excludable under section 129. For all targeted groups, the employer's deduction for wages is reduced by the amount of the credit.

Calculation of the credit

First-year wages.—For the eight work opportunity tax credit categories, the credit equals 40 percent (25 percent for employment of 400 hours or less) of qualified first-year wages. Generally, qualified first-year wages are qualified wages (not in excess of $6,000) attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual began work for the employer. Therefore, the maximum credit per employee for members of any of the eight work opportunity tax credit targeted groups generally is $2,400 (40 percent of the first $6,000 of qualified first-year wages). With respect to qualified summer youth employees, the maximum credit remains $1,200 (40 percent of the first $3,000 of qualified first-year wages). For the welfare-to-work/long-term family assistance recipients, the maximum credit equals $4,000 per employee (40 percent of $10,000 of wages).

Second year wages.—In the case of long-term family assistance recipients the maximum credit is $5,000 (50 percent of the first $10,000 of qualified second-year wages).

Minimum employment period

No credit is allowed for qualified wages paid to employees who work less than 120 hours in the first year of employment.

Coordination of the work opportunity tax credit and the welfare-to-work tax credit

Coordination is no longer necessary once the two credits are combined.

Effective date.—The provision is effective for wages paid or incurred to a qualified individual who begins work for an employer after December 31, 2005, and before January 1, 2007.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision or the Senate amendment provision.

D. DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT

(Sec. 105 of the House bill, sec. 111 of the Senate amendment and sec. 170 of the Code)

PRESENT LAW

In the case of a charitable contribution of inventory or other ordinary-income or short-term capital gain property, the amount of the charitable deduction generally is limited to the taxpayer's basis in the property. In the case of a charitable contribution of tangible personal property, the deduction is limited to the taxpayer's basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose. In cases involving contributions to a private foundation (other than certain private operating foundations), the amount of the deduction is limited to the taxpayer's basis in the property.

Under present law, a taxpayer's deduction for charitable contributions of computer technology and equipment generally is limited to the taxpayer's basis (typically, cost) in the property. However, certain corporations may claim a deduction in excess of basis for a "qualified computer contribution." This enhanced deduction is equal to the lesser of (1) basis plus one-half of the item's appreciation (i.e., basis plus one half of fair market value minus basis) or (2) two times basis. The enhanced deduction for qualified computer contributions expires for any contribution made during any taxable year beginning after December 31, 2005.

A qualified computer contribution means a charitable contribution of any computer technology or equipment, which meets standards of functionality and suitability as established by the Secretary of the Treasury. The contribution must be to certain educational organizations or public libraries and made not later than three years after the taxpayer acquired the property or, if the taxpayer constructed the property, not later than the date construction of the property is substantially completed. The original use of the property must be by the donor or the donee, and in the case of the donee, must be used substantially for educational purposes related to the function or purpose of the donee. The property must fit productively into the donee's education plan. The donee may not transfer the property in exchange for money, other property, or services, except for shipping, installation, and transfer costs. To determine whether property is constructed by the taxpayer, the rules applicable to qualified research contributions apply. That is, property is considered constructed by the taxpayer only if the cost of the parts used in the construction of the property (other than parts manufactured by the taxpayer or a related person) does not exceed 50 percent of the taxpayer's basis in the property. Contributions may be made to private foundations under certain conditions.

HOUSE BILL

The present-law provision is extended for one year to apply to contributions made during any taxable year beginning after December 31, 2005, and before January 1, 2007.

Effective date.—The provision is effective for contributions made in taxable years beginning after December 31, 2005.

SENATE AMENDMENT

Same as House bill.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision or the Senate amendment provision.

E. AVAILABILITY OF ARCHER MEDICAL SAVINGS ACCOUNTS

(Sec. 106 of the House bill and sec. 220 of the Code)

PRESENT LAW

Archer medical savings accounts

In general

Within limits, contributions to an Archer medical savings account ("Archer MSA") are deductible in determining adjusted gross income if made by an eligible individual and are excludable from gross income and wages for employment tax purposes if made by the employer of an eligible individual. Earnings on amounts in an Archer MSA are not currently taxable. Distributions from an Archer MSA for medical expenses are not includible in gross income. Distributions not used for medical expenses are includible in gross income. In addition, distributions not used for medical expenses are subject to an additional 15-percent tax unless the distribution is made after age 65, death, or disability.

Eligible individuals

Archer MSAs are available to employees covered under an employer-sponsored high deductible plan of a small employer and self-employed individuals covered under a high deductible health plan. An employer is a small employer if it employed, on average, no more than 50 employees on business days during either the preceding or the second preceding year. An individual is not eligible for an Archer MSA if he or she is covered under any other health plan in addition to the high deductible plan.

Tax treatment of and limits on contributions

Individual contributions to an Archer MSA are deductible (within limits) in determining adjusted gross income (*i.e.*, "above-the-line"). In addition, employer contributions are excludable from gross income and wages for employment tax purposes (within the same limits), except that this exclusion does not apply to contributions made through a cafeteria plan. In the case of an employee, contributions can be made to an Archer MSA either by the individual or by the individual's employer.

The maximum annual contribution that can be made to an Archer MSA for a year is 65 percent of the deductible under the high deductible plan in the case of individual coverage and 75 percent of the deductible in the case of family coverage.

Definition of high deductible plan

A high deductible plan is a health plan with an annual deductible of at least $1,800 and no more than $2,700 in the case of individual coverage and at least $3,650 and no more than $5,450 in the case of family coverage (for 2006). In addition, the maximum out-of-pocket expenses with respect to allowed costs (including the deductible) must be no more than $3,650 in the case of individual coverage and no more than $6,650 in the case of family coverage (for 2006). A plan does not fail to qualify as a high deductible plan merely because it does not have a deductible for preventive care as required by State law. A plan does not qualify as a high deductible health plan if substantially all of the coverage under the plan is for certain permitted coverage. In the case of a self-insured plan, the plan must in fact be insurance (*e.g.*, there must be appropriate risk shifting) and not merely a reimbursement arrangement.

Cap on taxpayers utilizing Archer MSAs and expiration of pilot program

The number of taxpayers benefiting annually from an Archer MSA contribution is limited to a threshold level (generally 750,000 taxpayers). The number of Archer MSAs established has not exceeded the threshold level.

After 2005, no new contributions may be made to Archer MSAs except by or on behalf of individuals who previously made (or had made on their behalf) Archer MSA contributions and employees who are employed by a participating employer.

Trustees of Archer MSAs are generally required to make reports to the Treasury by August 1 regarding Archer MSAs established by July 1 of that year. If the threshold level is reached in a year, the Secretary is required to make and publish such determination by October 1 of such year.

Health savings accounts

Health savings accounts ("HSAs") were enacted by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. Like Archer MSAs, an HSA is a tax-exempt trust or custodial account to which tax-deductible contributions may be made by individuals with a high deductible health plan. HSAs provide tax benefits similar to, but more favorable than, those provide by Archer MSAs. HSAs were established on a permanent basis.

HOUSE BILL

The House bill extends for one year the present-law Archer MSA provisions (through December 31, 2006).

The report required by Archer MSA trustees is treated as timely filed if made before the close of the 90-day period beginning on the date of enactment. The determination and publication whether the threshold level has been exceeded is treated as timely if made before the close of the 120-day period beginning on the date of enactment.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.

F. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS

(Sec. 107 and sec. 108 of the House bill, sec. 117 of the Senate amendment, and sec. 168 of the Code)

PRESENT LAW

In general

A taxpayer generally must capitalize the cost of property used in a trade or business and recover such cost over time through annual deductions for depreciation or amortization. Tangible property generally is depreciated under the modified accelerated cost recovery system ("MACRS"), which determines depreciation by applying specific recovery periods, placed-in-service conventions, and depreciation methods to the cost of various types of depreciable property (sec. 168). The cost of nonresidential real property is recovered using the straight-line method of depreciation and a recovery period of 39 years. Nonresidential real property is subject to the mid-month placed-in-service convention. Under the mid-month convention, the depreciation allowance for the first year property is placed in service is based on the number of months the property was in service, and property placed in service at any time during a month is treated as having been placed in service in the middle of the month.

Depreciation of leasehold improvements

Generally, depreciation allowances for improvements made on leased property are determined under MACRS, even if the MACRS recovery period assigned to the property is longer than the term of the lease. This rule applies regardless of whether the lessor or the lessee places the leasehold improvements in service. If a leasehold improvement constitutes an addition or improvement to nonresidential real property already placed in service, the improvement generally is depreciated using the straight-line method over a 39-year recovery period, beginning in the month the addition or improvement was placed in service. However, exceptions exist for certain qualified leasehold improvements and certain qualified restaurant property.

Qualified leasehold improvement property

Section 168(e)(3)(E)(iv) provides a statutory 15-year recovery period for qualified leasehold improvement property placed in service before January 1, 2006. Qualified leasehold improvement property is recovered using the straight-line method. Leasehold improvements placed in service in 2006 and later will be subject to the general rules described above.

Qualified leasehold improvement property is any improvement to an interior portion of a building that is nonresidential real property, provided certain requirements are met. The improvement must be made under or pursuant to a lease either by the lessee (or sublessee), or by the lessor, of that portion of the building to be occupied exclusively by the lessee (or sublessee). The improvement must be placed in service more than three years after the date the building was first placed in service. Qualified leasehold improvement property does not include any improvement for which the expenditure is attributable to the enlargement of the building, any elevator or escalator, any structural component benefiting a common area, or the internal structural framework of the building. However, if a lessor makes an improvement that qualifies as qualified leasehold improvement property, such improvement does not qualify as qualified leasehold improvement property to any subsequent owner of such improvement. An exception to the rule applies in the case of death and certain transfers of property that qualify for nonrecognition treatment.

Qualified restaurant property

Section 168(e)(3)(E)(v) provides a statutory 15-year recovery period for qualified restaurant property placed in service before January 1, 2006. For purposes of the provision, qualified restaurant property means any improvement to a building if such improvement is placed in service more than three years after the date such building was first placed in service and more than 50 percent of the building's square footage is devoted to the preparation of, and seating for on-premises consumption of, prepared meals. Qualified restaurant property is recovered using the straight-line method.

HOUSE BILL

Under the House bill, the present-law provisions relating to qualified leasehold improvement property and qualified restaurant improvement property are extended for one year (through December 31, 2006).

Effective date.—The House bill applies to property placed in service after December 31, 2005.

SENATE AMENDMENT

Under the Senate amendment, the present-law provisions are extended for two years (through December 31, 2007).

Effective date.—The Senate amendment applies to property placed in service after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision or the Senate amendment provision.

G. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES

(Sec. 109 of the House bill and sec. 613A(c)(6)(H) of the Code)

PRESENT LAW

The Code permits taxpayers to recover their investments in oil and gas wells through depletion deductions. Two methods of depletion are currently allowable under the Code: (1) the cost depletion method, and (2) the percentage depletion method. Under the cost depletion method, the taxpayer deducts that portion of the adjusted basis of the depletable property which is equal to the ratio of units sold from that property during the taxable year to the number of units remaining as of the end of taxable year plus the number of units sold during the taxable year. Thus, the amount recovered under cost depletion may never exceed the taxpayer's basis in the property.

The Code generally limits the percentage depletion method for oil and gas properties to independent producers and royalty owners. Generally, under the percentage depletion method, 15 percent of the taxpayer's gross income from an oil- or gas-producing property is allowed as a deduction in each taxable year. The amount deducted generally may not exceed 100 percent of the taxable income from that property in any year. For marginal production, the 100–percent taxable income limitation has been suspended for taxable years beginning after December 31, 1997, and before January 1, 2006.

Marginal production is defined as domestic crude oil and natural gas production from stripper well property or from property substantially all of the production from which during the calendar year is heavy oil. Stripper well property is property from which the average daily production is 15 barrel equivalents or less, determined by dividing the average daily production of domestic crude oil and domestic natural gas from producing wells on the property for the calendar year by the number of wells. Heavy oil is domestic crude oil with a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit).

HOUSE BILL

The provision extends for one year the present-law taxable income limitation suspension provision for marginal production (through taxable years beginning on or before December 31, 2006).

Effective date.—The provision applies to taxable years beginning after December 31, 2005.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.

H. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA

(Sec. 110 of the House bill, sec. 114 of the Senate amendment and secs. 1400, 1400A, 1400B, and 1400C of the Code)

PRESENT LAW

In general

The Taxpayer Relief Act of 1997 designated certain economically depressed census tracts within the District of Columbia as the District of Columbia Enterprise Zone (the "D.C. Zone"), within which businesses and individual residents are eligible for special tax incentives. The census tracts that compose the D.C. Zone are (1) all census tracts that presently are part of the D.C. enterprise community designated under section 1391 (i.e., portions of Anacostia, Mt. Pleasant, Chinatown, and the easternmost part of the District), and (2) all additional census tracts within the District of Columbia where the poverty rate is not less than 20 percent. The D.C. Zone designation remains in effect for the period from January 1, 1998, through December 31, 2005. In general, the tax incentives available in connection with the D.C. Zone are a 20-percent wage credit, an additional $35,000 of section 179 expensing for qualified zone property, expanded tax-exempt financing for certain zone facilities, and a zero-percent capital gains rate from the sale of certain qualified D.C. zone assets.

Wage credit

A 20-percent wage credit is available to employers for the first $15,000 of qualified wages paid to each employee (i.e., a maximum credit of $3,000 with respect to each qualified employee) who (1) is a resident of the D.C. Zone, and (2) performs substantially all employment services within the D.C. Zone in a trade or business of the employer.

Wages paid to a qualified employee who earns more than $15,000 are eligible for the wage credit (although only the first $15,000 of wages is eligible for the credit). The wage credit is available with respect to a qualified full-time or part-time employee (employed for at least 90 days), regardless of the number of other employees who work for the employer. In general, any taxable business carrying out activities in the D.C. Zone may claim the wage credit, regardless of whether the employer meets the definition of a "D.C. Zone business."[3]

An employer's deduction otherwise allowed for wages paid is reduced by the amount of wage credit claimed for that taxable year.[4] Wages are not to be taken into account for purposes of the wage credit if taken into account in determining the employer's work opportunity tax credit under section 51 or the welfare-to-work credit under section 51A.[5] In addition, the $15,000 cap is reduced by any wages taken into account in computing the work opportunity tax credit or the welfare-to-work credit.[6] The wage credit may be used to offset up to 25 percent of alternative minimum tax liability.[7]

Section 179 expensing

In general, a D.C. Zone business is allowed an additional $35,000 of section 179 expensing for qualifying property placed in service by a D.C. Zone business.[8] The section 179 expensing allowed to a taxpayer is phased out by the amount by which 50 percent of the cost of qualified zone property placed in service during the year by the taxpayer exceeds $200,000 ($400,000 for taxable years beginning after 2002 and before 2008). The term "qualified zone property" is defined as depreciable tangible property (including buildings), provided that (1) the property is acquired by the taxpayer (from an unrelated party) after the designation took effect, (2) the original use of the property in the D.C. Zone commences with the taxpayer, and (3) substantially all of the use of the property is in the D.C. Zone in the active conduct of a trade or business by the taxpayer.[9] Special rules are provided in the case of property that is substantially renovated by the taxpayer.

Tax-exempt financing

A qualified D.C. Zone business is permitted to borrow proceeds from tax-exempt qualified enterprise zone facility bonds (as defined in section 1394) issued by the District of Columbia.[10] Such bonds are subject to the District of Columbia's annual private activity bond volume limitation. Generally, qualified enterprise zone facility bonds for the District of Columbia are bonds 95 percent or more of the net proceeds of which are used to finance certain facilities within the D.C. Zone. The aggregate face amount of all outstanding qualified enterprise zone facility bonds per qualified D.C. Zone business may not exceed $15 million and may be issued only while the D.C. Zone designation is in effect.

Zero-percent capital gains

A zero-percent capital gains rate applies to capital gains from the sale of certain qualified D.C. Zone assets held for more than five years.[11] In general, a qualified "D.C. Zone asset" means stock or partnership interests held in, or tangible property held by, a D.C. Zone business. For purposes of the zero-percent capital gains rate, the D.C. Enterprise Zone is defined to include all census tracts within the District of Columbia where the poverty rate is not less than 10 percent.

In general, gain eligible for the zero-percent tax rate means gain from the sale or exchange of a qualified D.C. Zone asset that is (1) a capital asset or property used in the trade or business as defined in section 1231(b), and (2) acquired before January 1, 2006. Gain that is attributable to real property, or to intangible assets, qualifies for the zero-percent rate, provided that such real property or intangible asset is an integral part of a qualified D.C. Zone business.[12] However, no gain attributable to periods before January 1, 1998, and after December 31, 2010, is qualified capital gain.

District of Columbia homebuyer tax credit

First-time homebuyers of a principal residence in the District of Columbia are eligible for a nonrefundable tax credit of up to $5,000 of the amount of the purchase price. The $5,000 maximum credit applies both to individuals and married couples. Married individuals filing separately can claim a maximum credit of $2,500 each. The credit phases out for individual taxpayers with adjusted gross income between $70,000 and $90,000 ($110,000-$130,000 for joint filers). For purposes of eligibility, "first-time homebuyer" means any individual if such individual did not have a present ownership interest in a principal residence in the District of Columbia in the one-year period ending on the date of the purchase of the residence to which the credit applies. The credit is scheduled to expire for residences purchased after December 31, 2005.[13]

HOUSE BILL

The provision extends the designation of the D.C. Zone for one year (through December 31, 2006), thus extending the wage credit and section 179 expensing for one year.

The provision extends the tax-exempt financing authority for one year, applying to bonds issued during the period beginning on January 1, 1998, and ending on December 31, 2006.

The provision extends the zero-percent capital gains rate applicable to capital gains from the sale of certain qualified D.C. Zone assets for one year.

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[3] However, the wage credit is not available for wages paid in connection with certain business activities described in section 144(c)(6)(B) or certain farming activities. In addition, wages are not eligible for the wage credit if paid to (1) a person who owns more than five percent of the stock (or capital or profits interests) of the employer, (2) certain relatives of the employer, or (3) if the employer is a corporation or partnership, certain relatives of a person who owns more than 50 percent of the business.

[4] Sec. 280C(a).

[5] Secs. 1400H(a), 1396(c)(3)(A) and 51A(d)(2).

[6] Secs. 1400H(a), 1396(c)(3)(B) and 51A(d)(2).

[7] Sec. 38(c)(2).

[8] Sec. 1397A.

[9] Sec. 1397D.

[10] Sec. 1400A.

[11] Sec. 1400B.

[12] However, sole proprietorships and other taxpayers selling assets directly cannot claim the zero-percent rate on capital gain from the sale of any intangible property (i.e., the integrally related test does not apply).

[13] Sec. 1400C(i).

The provision extends the first-time homebuyer credit for one year, through December 31, 2006.

Effective date.—The amendment generally is effective on January 1, 2006, except the provision relating to bonds is effective for obligations issued after the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision or the Senate amendment provision.

I. POSSESSION TAX CREDIT WITH RESPECT TO AMERICAN SAMOA

(Sec. 111 of the House bill and sec. 936 of the Code)

PRESENT LAW

In general

Certain domestic corporations with business operations in the U.S. possessions are eligible for the possession tax credit.[14] This credit offsets the U.S. tax imposed on certain income related to operations in the U.S. possessions.[15] For purposes of the section 936 credit, possessions include, among other places, American Samoa. Income eligible for the section 936 credit includes non-U.S. source income from (1) the active conduct of a trade or business within a U.S. possession, (2) the sale or exchange of substantially all of the assets that were used in such a trade or business, or (3) certain possessions investments. The section 936 credit expires for taxable years beginning after December 31, 2005.

To qualify for the possession tax credit for a taxable year, a domestic corporation must satisfy two conditions. First, the corporation must derive at least 80 percent of its gross income for the three-year period immediately preceding the close of the taxable year from sources within a possession. Second, the corporation must derive at least 75 percent of its gross income for that same period from the active conduct of a possession business. A domestic corporation that has elected the possession tax credit and that satisfies these two conditions for a taxable year generally is entitled to a credit against the U.S. tax attributable to the taxpayer's income that is eligible for the section 936 credit.

The possession tax credit applies only to a corporation that qualifies as an existing credit claimant. The determination of whether a corporation is an existing credit claimant is made separately for each possession. The possession tax credit is computed separately for each possession with respect to which the corporation is an existing credit claimant, and the credit is subject to either an economic activity-based limitation or an income-based limit.

Qualification as existing credit claimant

A corporation is an existing credit claimant with respect to a possession if (1) the corporation was engaged in the active conduct of a trade or business within the possession on October 13, 1995, and (2) the corporation elected the benefits of the possession tax credit in an election in effect for its taxable year that included October 13, 1995.[16] A corporation that adds a substantial new line of business (other than in a qualifying acquisition of all the assets of a trade or business of an existing credit claimant) ceases to be an existing credit claimant as of the close of the taxable year ending before the date on which that new line of business is added.

Economic activity-based limit

Under the economic activity-based limit, the amount of the credit determined under the rules described above may not exceed an amount equal to the sum of (1) 60 percent of the taxpayer's qualifying possession wage and fringe benefit expenses, (2) 15 percent of depreciation allowances with respect to short-life qualifying tangible property, plus 40 percent of depreciation allowances with respect to medium-life qualifying tangible property, plus 65 percent of depreciation allowances with respect to long-life tangible property, and (3) in certain cases, a portion of the taxpayer's possession income taxes.

Income-based limit

As an alternative to the economic activity-based limit, a taxpayer may elect to apply a limit equal to the applicable percentage of the credit that would otherwise be allowable with respect to possession business income; the applicable percentage currently is 40 percent.

Repeal and phase out

In 1996, the section 936 credit was repealed for new claimants for taxable years beginning after 1995 and was phased out for existing credit claimants over a period including taxable years beginning before 2006. The amount of the available credit during the phaseout period generally is reduced by special limitation rules. These phaseout period limitation rules do not apply to the credit available to existing credit claimants for income from activities in Guam. American Samoa, and the Northern Mariana Islands. The section 936 credit is repealed for all possessions, including Guam, American Samoa, and the Northern Mariana Islands, for all taxable years beginning after 2005.

HOUSE BILL

The House bill extends for one year the present-law section 936 credit as applied to American Samoa; it thus allows existing credit claimants to claim the credit for income from activities in American Samoa in taxable years beginning on or before December 31, 2006.

Effective date.—The provision is effective for taxable years beginning after December 31, 2005.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.

J. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS

(Sec. 112 of the House bill and sec. 9812 of the Code)

PRESENT LAW[17]

The Code, the Employee Retirement Income Security Act of 1974 ("ERISA") and the Public Health Service Act ("PHSA") contain provisions under which group health plans that provide both medical and surgical benefits and mental health benefits cannot impose aggregate lifetime or annual dollar limits on mental health benefits that are not imposed on substantially all medical and surgical benefits ("mental health parity requirements"). In the case of a group health plan which provides benefits for mental health, the mental health parity requirements do not affect the terms and conditions (including cost sharing, limits on numbers of visits or days of coverage, and requirements relating to medical necessity) relating to the amount, duration, or scope of mental health benefits under the plan, except as specifically provided in regard to parity in the imposition of aggregate lifetime limits and annual limits.

The Code imposes an excise tax on group health plans which fail to meet the mental health parity requirements. The excise tax is equal to $100 per day during the period of noncompliance and is generally imposed on the employer sponsoring the plan if the plan fails to meet the requirements. The maximum tax that can be imposed during a taxable year cannot exceed the lesser of 10 percent of the employer's group health plan expenses for the prior year or $500,000. No tax is imposed if the Secretary determines that the employer did not know, and in exercising reasonable diligence would not have known, that the failure existed.

The mental health parity requirements do not apply to group health plans of small employers nor do they apply if their application results in an increase in the cost under a group health plan of at least one percent. Further, the mental health parity requirements do not require group health plans to provide mental health benefits.

The Code, ERISA and PHSA mental health parity requirements are scheduled to expire with respect to benefits for services furnished after December 31, 2005.

HOUSE BILL

The House bill extends for one year the present-law Code excise tax for failure to comply with the mental health parity requirements (through December 31, 2006).

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision.

K. RESEARCH CREDIT

(Sec. 113 of the House bill, sec. 108 of the Senate amendment, and sec. 41 of the Code)

PRESENT LAW

General rule

Prior to January 1, 2006, a taxpayer could claim a research credit equal to 20 percent of the amount by which the taxpayer's qualified research expenses for a taxable year exceeded its base amount for that year.[18] Thus, the research credit was generally available with respect to incremental increases in qualified research.

A 20-percent research tax credit was also available with respect to the excess of (1) 100 percent of corporate cash expenses (including grants or contributions) paid for basic research conducted by universities (and certain nonprofit scientific research organizations) over (2) the sum of (a) the greater of two minimum basic research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation. This separate credit computation was commonly referred to as the university basic research credit (see sec. 41(e)).

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[14] Secs. 27(b), 936.

[15] Domestic corporations with activities in Puerto Rico are eligible for the seciton 30A economic activity credit. That credit is calculated under the rules set forth in section 936.

[16] A corporation will qualify as an existing credit claimant if it acquired all the assets of a trade or business of a corporation that (1) actively conducted that trade or business in a possession on October 13, 1995, and (2) had elected the benefits of the possession tax credit in an election for the taxable year that includes October 13, 1995.

[17] This description of present law refers to the law in effect at the time the bill passed the House of Representatives, which was before the enactment of Pub. L. No. 109-151, which extended the mental health parity requirements of the Code, ERISA, and the PHSA through December 31, 2006.

[18] Sec. 41.

Finally, a research credit was available for a taxpayer's expenditures on research undertaken by an energy research consortium. This separate credit computation was commonly referred to as the energy research credit. Unlike the other research credits, the energy research credit applied to all qualified expenditures, not just those in excess of a base amount.

The research credit, including the university basic research credit and the energy research credit, expired on December 31, 2005.[19]

Computation of allowable credit

Except for energy research payments and certain university basic research payments made by corporations, the research tax credit applied only to the extent that the taxpayer's qualified research expenses for the current taxable year exceeded its base amount. The base amount for the current year generally was computed by multiplying the taxpayer's fixed-base percentage by the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurred qualified research expenses and had gross receipts during each of at least three years from 1984 through 1988, then its fixed-base percentage was the ratio that its total qualified research expenses for the 1984–1988 period bore to its total gross receipts for that period (subject to a maximum fixed-base percentage of 16 percent). All other taxpayers (so-called start-up firms) were assigned a fixed-base percentage of three percent.[20]

In computing the credit, a taxpayer's base amount could not be less than 50 percent of its current-year qualified research expenses.

To prevent artificial increases in research expenditures by shifting expenditures among commonly controlled or otherwise related entities, a special aggregation rule provided that all members of the same controlled group of corporations were treated as a single taxpayer (sec. 41(f)(1)). Under regulations prescribed by the Secretary, special rules applied for computing the credit when a major portion of a trade or business (or unit thereof) changed hands, under which qualified research expenses and gross receipts for periods prior to the change of ownership of a trade or business were treated as transferred with the trade or business that gave rise to those expenses and receipts for purposes of recomputing a taxpayer's fixed-base percentage (sec. 41(f)(3)).

Alternative incremental research credit regime

Taxpayers were allowed to elect an alternative incremental research credit regime.[21]

If a taxpayer elected to be subject to this alternative regime, the taxpayer was assigned a three-tiered fixed-base percentage (that was lower than the fixed-base percentage otherwise applicable) and the credit rate likewise was reduced. Under the alternative incremental credit regime, a credit rate of 2.65 percent applied to the extent that a taxpayer's current-year research expenses exceeded a base amount computed by using a fixed-base percentage of one percent (i.e., the base amount equaled one percent of the taxpayer's average gross receipts for the four preceding years) but did not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 3.2 percent applied to the extent that a taxpayer's current-year research expenses exceeded a base amount computed by using a fixed-base percentage of 1.5 percent but did not exceed a base amount computed by using a fixed-base percentage of two percent. A credit rate of 3.75 percent applied to the extent that a taxpayer's current-year research expenses exceeded a base amount computed by using a fixed-base percentage of two percent. An election to be subject to this alternative incremental credit regime could be made for any taxable year beginning after June 30, 1996, and such an election applied to that taxable year and all subsequent years unless revoked with the consent of the Secretary of the Treasury.

Eligible expenses

Qualified research expenses eligible for the research tax credit consisted of: (1) in-house expenses of the taxpayer for wages and supplies attributable to qualified research; (2) certain time-sharing costs for computer use in qualified research; and (3) 65 percent of amounts paid or incurred by the taxpayer to certain other persons for qualified research conducted on the taxpayer's behalf (so-called contract research expenses).[22] Notwithstanding the limitation for contract research expenses, qualified research expenses included 100 percent of amounts paid or incurred by the taxpayer to an eligible small business, university, or Federal laboratory for qualified energy research.

To be eligible for the credit, the research did not only have to satisfy the requirements of present-law section 174 (described below) but also had to be undertaken for the purpose of discovering information that is technological in nature, the application of which was intended to be useful in the development of a new or improved business component of the taxpayer, and substantially all of the activities of which had to constitute elements of a process of experimentation for functional aspects, performance, reliability, or quality of a business component. Research did not qualify for the credit if substantially all of the activities related to style, taste, cosmetic, or seasonal design factors (sec. 41(d)(3)). In addition, research did not qualify for the credit: (1) if conducted after the beginning of commercial production of the business component; (2) if related to the adaptation of an existing business component to a particular customer's requirements; (3) if related to the duplication of an existing business component from a physical examination of the component itself or certain other information; or (4) if related to certain efficiency surveys, management function or technique, market research, market testing, or market development, routine data collection or routine quality control (sec. 41(d)(4)). Research did not qualify for the credit if it was conducted outside the United States, Puerto Rico, or any U.S. possession.

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[19] The research tax credit initially was enacted in the Economic Recovery Tax Act of 1981 as a credit equal to 25 percent of the excess of qualified research expenses incurred in the current taxable year over the average of qualified research expenses incurred in the prior three taxable years. The research tax credit was modified in the Tax Reform Act of 1986, which (1) extended the credit through December 31, 1988, (2) reduced the credit rate to 20 percent, (3) tightened the definition of qualified research expenses eligible for the credit, and (4) enacted the separate university basic credit.

The Technical and Miscellaneous Revenue Act of 1988 ("1988 Act") extended the research tax credit for one additional year, through December 31, 1989. The 1988 Act also reduced the deduction allowed under section 174 (or any other section) for qualified research expenses by an amount equal to 50 percent of the research tax credit determined for the year.

The Omnibus Budget Reconciliation Act of 1989 ("1989 Act") effectively extended the research credit for nine months (by prorating qualified expenses incurred before January 1, 1991). The 1989 Act also modified the method for calculating a taxpayer's base amount (i.e., by substituting the present-law method which uses a fixed-base percentage for the prior-law moving base which was calculated by reference to the taxpayer's average research expenses incurred ion the preceding three taxable years). The 1989 Act further reduced the deduction allowed under section 174 (or any other section) for qualified research expenses by an amount equal to 100 percent of the research tax credit determined for the year.

The Omnibus Budget Reconciliation Act of 1990 extended the research tax credit through December 31, 1991 (and repealed the special rule to prorate qualified expenses incurred before January 1, 1991).

The Tax Extension Act of 1991 extended the research tax credit for six months (i.e., for qualified expenses incurred through June 30, 1992).

The Omnibus Budget Reconciliation Act of 1993 ("1993 Act") extended the research tax credit for three years—i.e., retroactively from July 1, 1992 through June 30, 1995. The 1993 Act also provided a special rule for start-up firms, so that the fixed-base ratio of such firms eventually will be computed by reference to their actual research experience.

Although the research tax credit expired during the period July 1, 1995, through June 30, 1996, the Small Business Job Protection Act of 1996 ("1996 Act") extended the credit for the period July 1, 1996, through May 31, 1997 (with a special 11-month extension for taxpayers that elect to be subject to the alternative incremental research credit regime). In addition, the 1996 Act expanded the definition of start-up firms under section 41(c)(3)(B)(i), enacted a special rule for certain research consortia payments under section 41(b)(3)(C), and provided that taxpayers may elect an alternative research credit regime (under which the taxpayer is assigned a three-tiered fixed-base percentage that is lower than the fixed-base percentage otherwise applicable and the credit rate likewise is reduced) for the taxpayer's first taxable year beginning after June 30, 1996, and before July 1, 1997.

The Taxpayer Relief Act of 1997 ("1997 Act") extended the research credit for 13 months—i.e, generally for the period June 1, 1997, through June 30, 1998. The 1997 Act also provided that taxpayers are permitted to elect the alternative incremental research credit regime for any taxable year beginning after June 30, 1996 (and such election will apply to that taxable year and all subsequent taxable years unless revoked with the consent of the Secretary of the Treasury). The Tax and Trade Relief Extension Act of 1998 extended the research credit for 12 months, i.e., through June 30, 1999.

The Ticket to Work and Work Incentive Improvement Act of 1999 extended the research credit for five years, through June 30, 2004, increased the rates of credit under the alternative incremental research credit regime, and expanded the definition of research to include research undertaken in Puerto Rico and possessions of the United States.

The Working Families Tax Relief Act of 224 extended the research credit through December 31, 2005.

The Energy Tax Incentives Act of 2005 added the energy research credit.

[20] The Small Business Job Protection Act of 1996 expanded the definition of start-up firms under section 41(c)(3)(B)(i) to include any firm if the first taxable year in which such firm had both gross receipts and qualified research expenses began after 1983. A special rule (enacted in 1993) was designed to gradually recompute a start-up firm's fixed-base percentage based on its actual research experience. Under this special rule, a start-up firm would be assigned a fixed-base percentage of three percent for each of its first five taxable years after 1993 in which it incurs qualified research expenses. In the event that the research credit is extended beyond its expiration date, a start-up date, a start-up firm's fixed-base percentage for its sixth through tenth taxable years after 1993 in which it incurs qualified research expenses will be a phased-in ratio based on its actual research experience. For all subsequent taxable years, the taxpayer's fixed-base percentage will be its actual ratio of qualified research expenses to gross receipts for any five years selected by the taxpayer from its fifth through tenth taxable years after 1993 (sec. 41(c)(3)(B)).

[21] Sec. 41(c)(4).

[22] Under a special rule enacted as part of the Small Business Job Protection Act of 1996, 75 percent of amounts paid to a research consortium for qualified research were treated as qualified research expenses eligible for the research credit (rather than 65 percent under the general rule under section 41(b)(3) governing contract research expenses) if (1) such research consortium was a tax-exempt organization that is described in section 501(c)(3) (other than a private foundation) or section 501(c)(6) and was organized and operated primarily to conduct scientific research, and (2) such qualified research was conducted by the consortium on behalf of the taxpayer and one or more persons not related to the taxpayer. Sec. 41(b)(3)(C).

Relation to deduction

Under section 174, taxpayers may elect to deduct currently the amount of certain research or experimental expenditures paid or incurred in connection with a trade or business, notwithstanding the general rule that business expenses to develop or create an asset that has a useful life extending beyond the current year must be capitalized.[23] While the research credit was in effect, however, deductions allowed to a taxpayer under section 174 (or any other section) were reduced by an amount equal to 100 percent of the taxpayer's research tax credit determined for the taxable year (sec. 280C(c)). Taxpayers could alternatively elect to claim a reduced research tax credit amount (13 percent) under section 41 in lieu of reducing deductions otherwise allowed (sec. 280C(c)(3)).

HOUSE BILL

The provision extends for one year and modifies the present-law research credit provision (for amounts paid or incurred through December 31, 2006).

The provision increases the rates of the alternative incremental credit: (1) a credit rate of three percent (rather than 2.65 percent) applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of one percent (*i.e.*, the base amount equals one percent of the taxpayer's average gross receipts for the four preceding years) but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent; (2) a credit rate of four percent (rather than 3.2 percent) applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1.5 percent but do not exceed a base amount computed by using a fixed-base percentage of two percent; and (3) a credit rate of 5 percent (rather than 3.75 percent) applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of two percent.

The provision also creates, at the election of the taxpayer, an alternative simplified credit for qualified research expenses. The alternative simplified research is equal to 12 percent of qualified research expenses that exceed 50 percent of the average qualified research expenses for the three preceding taxable years. The rate is reduced to 6 percent if a taxpayer has no qualified research expenses in any one of the three preceding taxable years.

An election to use the alternative simplified credit applies to all succeeding taxable years unless revoked with the consent of the Secretary. An election to use the alternative simplified credit may not be made for any taxable year for which an election to use the alternative incremental credit is in effect. A special transition rule applies which permits a taxpayer to elect to use the alternative simplified credit in lieu of the alternative incremental credit if such election is made during the taxable year which includes the date of enactment of the provision. The transition rule only applies to the taxable year which includes the date of enactment.

Effective date.—The extension of the research credit applies to amounts paid or incurred after December 31, 2005. The modification of the alternative incremental credit and the creation of the alternative simplified credit are effective for taxable years ending after date of enactment.

SENATE AMENDMENT

The Senate amendment generally follows the House bill but provides for a two-year extension of the modified research credit. It also adds a provision that broadens the research credit as it applies to research consortia. Under the Senate amendment, a 20 percent credit would be available for a taxpayer's expenditures on research carried out by any research consortium, rather than being limited to research carried out by an energy research consortium.

Effective date.—The Senate amendment applies to amounts paid or incurred after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision or the Senate amendment provision.

L. QUALIFIED ZONE ACADEMY BONDS

(Sec. 114 of the House bill, sec. 110 of the Senate amendment and sec. 1397E of the Code)

PRESENT LAW

Tax-exempt bonds

Interest on State and local governmental bonds generally is excluded from gross income for Federal income tax purposes if the proceeds of the bonds are used to finance direct activities of these governmental units or if the bonds are repaid with revenues of these governmental units. Activities that can be financed with these tax-exempt bonds include the financing of public schools (sec. 103).

Qualified zone academy bonds

As an alternative to interest-bearing tax-exempt bonds, States and local governments are given the authority to issue "qualified zone academy bonds" (sec. 1397E). A total of $400 million of qualified zone academy bonds may be issued annually in calendar years 1998 through 2005. The $400 million aggregate bond cap is allocated each year to the States according to their respective populations of individuals below the poverty line. Each State, in turn, allocates the credit authority to qualified zone academies within such State.

Financial institutions that hold qualified zone academy bonds are entitled to a nonrefundable tax credit in an amount equal to a credit rate multiplied by the face amount of the bond. A taxpayer holding a qualified zone academy bond on the credit allowance date is entitled to a credit. The credit is includable in gross income (as if it were a taxable interest payment on the bond), and may be claimed against regular income tax and AMT liability.

The Treasury Department sets the credit rate at a rate estimated to allow issuance of qualified zone academy bonds without discount and without interest cost to the issuer. The maximum term of the bond is determined by the Treasury Department, so that the present value of the obligation to repay the bond is 50 percent of the face value of the bond.

"Qualified zone academy bonds" are defined as any bond issued by a State or local government, provided that: (1) at least 95 percent of the proceeds are used for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other school personnel in a "qualified zone academy" ("qualified zone academy property") and (2) private entities have promised to contribute to the qualified zone academy certain equipment, technical assistance or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds.

A school is a "qualified zone academy" if: (1) the school is a public school that provides education and training below the college level, (2) the school operates a special academic program in cooperation with businesses to enhance the academic curriculum and increase graduation and employment rates, and (3) either (a) the school is located in an empowerment zone or enterprise community designated under the Code or (b) it is reasonably expected that at least 35 percent of the students at the school will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

Arbitrage restrictions on tax-exempt bonds

To prevent States and local governments from issuing more tax-exempt bonds than is necessary for the activity being financed or from issuing such bonds earlier than needed for the purpose of the borrowing, the Code includes arbitrage restrictions limiting the ability to profit from investment of tax-exempt bond proceeds. In general, arbitrage profits may be earned only during specified periods (e.g., defined "temporary periods" before funds are needed for the purpose of the borrowing) or on specified types of investments (e.g., "reasonably required reserve or replacement funds"). Subject to limited exceptions, profits that are earned during these periods or on such investments must be rebated to the Federal Government. Governmental bonds are subject to less restrictive arbitrage rules than most private activity bonds. The arbitrage rules do not apply to qualified zone academy bonds.

HOUSE BILL

The House bill extends for one year the present-law provision relating to qualified zone academy bonds (through December 31, 2006).

Effective date.—The provision is effective for bonds issued after December 31, 2005.

SENATE AMENDMENT

The Senate amendment extends for two years the present-law provision relating to qualified zone academy bonds (through December 31, 2007).

In addition, the Senate amendment imposes the arbitrage requirements of section 148 that apply to tax-exempt bonds to qualified zone academy bonds. Principles under section 148 and the regulations thereunder shall apply for purposes of determining the yield restriction and arbitrage rebate requirements applicable to qualified zone academy bonds. For example, for arbitrage purposes, the yield on an issue of qualified zone academy bonds is computed by taking into account all payments of interest, if any, on such bonds, i.e., whether the bonds are issued at par, premium, or discount. However, for purposes of determining yield, the amount of the credit allowed to a taxpayer holding qualified zone academy bonds is not treated as interest, although such credit amount is treated as interest income to the taxpayer.

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[23] Taxpayers may elect 10-year amortization of certain research expenditures allowable as a deduction under section 174(a). Secs. 174(f)(2) and 59(e).

The provision imposes new spending requirements for qualified zone academy bonds. An issuer of qualified zone academy bonds must reasonably expect to and actually spend 95 percent or more of the proceeds of such bonds on qualified zone academy property within the five-year period that begins on the date of issuance. To the extent less than 95 percent of the proceeds are used to finance qualified zone academy property during the five-year spending period, bonds will continue to qualify as qualified zone academy bonds if unspent proceeds are used within 90 days from the end of such five-year period to redeem any "nonqualified bonds." For these purposes, the amount of nonqualified bonds is to be determined in the same manner as Treasury regulations under section 142. In addition, the provision provides that the five-year spending period may be extended by the Secretary upon the issuer's request if reasonable cause for such extension is established.

Under the provision, qualified private business contributions must be in the form of cash or cash equivalents, rather than property or services as permitted under present law. The provision also requires an equal amount of principal is to be paid by the issuer during each calendar year that the issue is outstanding.

Under the provision, issuers of qualified zone academy bonds are required to report issuance to the IRS in a manner similar to that required for tax-exempt bonds.

Effective date.—The provision is effective for bonds issued after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision or the Senate amendment provision.

M. Above-the-Line Deduction for Certain Expenses of Elementary and Secondary School Teachers

(Sec. 115 of the House bill, sec. 112 of the Senate amendment and sec. 62 of the Code)

PRESENT LAW

In general, ordinary and necessary business expenses are deductible (sec. 162). However, in general, unreimbursed employee business expenses are deductible only as an itemized deduction and only to the extent that the individual's total miscellaneous deductions (including employee business expenses) exceed two percent of adjusted gross income. An individual's otherwise allowable itemized deductions may be further limited by the overall limitation on itemized deductions, which reduces itemized deductions for taxpayers with adjusted gross income in excess of $145,950 (for 2005). In addition, miscellaneous itemized deductions are not allowable under the alternative minimum tax.

Certain expenses of eligible educators are allowed an above-the-line deduction. Specifically, for taxable years beginning prior to January 1, 2006, an above-the-line deduction is allowed for up to $250 annually of expenses paid or incurred by an eligible educator for books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom. To be eligible for this deduction, the expenses must be otherwise deductible under 162 as a trade or business expense. A deduction is allowed only to the extent the amount of expenses exceeds the amount excludable from income under section 135 (relating to education savings bonds), 529(c)(1) (relating to qualified tuition programs), and section 530(d)(2) (relating to Coverdell education savings accounts).

An eligible educator is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year. A school means any school which provides elementary education or secondary education, as determined under State law.

The above-the-line deduction for eligible educators is not allowed for taxable years beginning after December 31, 2005.

HOUSE BILL

The present-law provision is extended for one year, through December 31, 2006.

Effective date.—The provision is effective for expenses paid or incurred in taxable years beginning after December 31, 2005.

SENATE AMENDMENT

The present-law provision is extended for two years, through December 31, 2007.

Effective date.—The provision is effective for expenses paid or incurred in taxable years beginning after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision or the Senate amendment provision.

N. Above-the-Line Deduction for Higher Education Expenses

(Sec. 116 of the House bill, sec. 103 of the Senate amendment and sec. 222 of the Code)

PRESENT LAW

An individual is allowed an above-the-line deduction for qualified tuition and related expenses for higher education paid by the individual during the taxable year. Qualified tuition and related expenses include tuition and fees required for the enrollment or attendance of the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer with respect to whom the taxpayer may claim a personal exemption, at an eligible institution of higher education for courses of instruction of such individual at such institution. Charges and fees associated with meals, lodging, insurance, transportation, and similar personal, living, or family expenses are not eligible for the deduction. The expenses of education involving sports, games, or hobbies are not qualified tuition and related expenses unless this education is part of the student's degree program.

The amount of qualified tuition and related expenses must be reduced by certain scholarships, educational assistance allowances, and other amounts paid for the benefit of such individual, and by the amount of such expenses taken into account for purposes of determining any exclusion from gross income of: (1) income from certain United States Savings Bonds used to pay higher education tuition and fees; and (2) income from a Coverdell education savings account. Additionally, such expenses must be reduced by the earnings portion (but not the return of principal) of distributions from a qualified tuition program if an exclusion under section 529 is claimed with respect to expenses eligible for exclusion under section 222. No deduction is allowed for any expense for which a deduction is otherwise allowed or with respect to an individual for whom a Hope credit or Lifetime Learning credit is elected for such taxable year.

The expenses must be in connection with enrollment at an institution of higher education during the taxable year, or with an academic term beginning during the taxable year or during the first three months of the next taxable year. The deduction is not available for tuition and related expenses paid for elementary or secondary education.

For taxable years beginning in 2004 and 2005, the maximum deduction is $4,000 for an individual whose adjusted gross income for the taxable year does not exceed $65,000 ($130,000 in the case of a joint return), or $2,000 for other individuals whose adjusted gross income does not exceed $80,000 ($160,000 in the case of a joint return). No deduction is allowed for an individual whose adjusted gross income exceeds the relevant adjusted gross income limitations, for a married individual who does not file a joint return, or for an individual with respect to whom a personal exemption deduction may be claimed by another taxpayer for the taxable year. The deduction is not available for taxable years beginning after December 31, 2005.

HOUSE BILL

The provision extends the tuition deduction for one year, through December 31, 2006.

Effective date.—The provision is effective for taxable years beginning after December 31, 2005.

SENATE AMENDMENT

The provision extends the tuition deduction for four years, through December 31, 2009.

Effective date.—The provision is effective for taxable years beginning after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the House provision or the Senate amendment provision.

O. Deduction of State and Local General Sales Taxes

(Sec. 117 of the House bill, sec. 105 of the Senate amendment, and sec. 164 of the Code)

PRESENT LAW

For purposes of determining regular tax liability, an itemized deduction is permitted for certain State and local taxes paid, including individual income taxes, real property taxes, and personal property taxes. The itemized deduction is not permitted for purposes of determining a taxpayer's alternative minimum taxable income. For taxable years beginning in 2004 and 2005, at the election of the taxpayer, an itemized deduction may be taken for State and local general sales taxes in lieu of the itemized deduction provided under present law for State and local income taxes. As is the case for State and local income taxes, the itemized deduction for State and local general sales taxes is not permitted for purposes of determining a taxpayer's alternative minimum taxable income. Taxpayers have two options with respect to the determination of the sales tax deduction amount. Taxpayers may deduct the total amount of general State and local sales taxes paid by accumulating receipts showing general sales taxes paid. Alternatively, taxpayers may use tables created by the Secretary of the Treasury that show the allowable deduction. The tables are based on average consumption by taxpayers on a State-by-State basis taking into account filing status, number of dependents, adjusted gross income and rates of State and local general sales taxation. Taxpayers who use the tables created by the Secretary may, in addition to the table amounts, deduct eligible general sales taxes paid with respect to the purchase of motor vehicles, boats and other items specified by the Secretary. Sales taxes for items that may be added to the tables are not reflected in the tables themselves.

The term "general sales tax" means a tax imposed at one rate with respect to the sale at retail of a broad range of classes of items. However, in the case of items of food, clothing, medical supplies, and motor vehicles, the fact that the tax does not apply with respect to some or all of such items is not taken into account in determining whether the tax applies with respect to a broad range of classes of items, and the fact that the rate of tax applicable with respect to some or all of such items is lower than the general rate of tax is not taken into account in determining whether the tax is imposed at one rate. Except in the case of a lower rate of tax applicable with respect to food, clothing, medical supplies, or motor vehicles, no deduction is allowed for any general sales tax imposed with respect to an item at a rate other than the general rate of tax. However, in the case of motor vehicles, if the rate of tax exceeds the general rate, such excess shall be disregarded and the general rate is treated as the rate of tax.

A compensating use tax with respect to an item is treated as a general sales tax, provided such tax is complimentary to a general sales tax and a deduction for sales taxes is allowable with respect to items sold at retail in the taxing jurisdiction that are similar to such item.

HOUSE BILL

The present-law provision allowing taxpayers to elect to deduct State and local sales taxes in lieu of State and local income taxes is extended for one year (through December 31, 2006).

Effective date.—The provision applies to taxable years beginning after December 31, 2005.

SENATE AMENDMENT

The present-law provision allowing taxpayers to elect to deduct State and local sales taxes in lieu of State and local income taxes is extended for two years (through December 31, 2007).

Effective date.—The provision applies to taxable years beginning after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision or the Senate amendment provision.

P. EXTENSION AND EXPANSION TO PETROLEUM PRODUCTS OF EXPENSING FOR ENVIRONMENTAL REMEDIATION COSTS

(Sec. 201 of the House bill, sec. 113 of the Senate amendment, and sec. 198 of the Code)

PRESENT LAW

Present law allows a deduction for ordinary and necessary expenses paid or incurred in carrying on any trade or business.[24] Treasury regulations provide that the cost of incidental repairs that neither materially add to the value of property nor appreciably prolong its life, but keep it in an ordinarily efficient operating condition, may be deducted currently as a business expense. Section 263(a)(1) limits the scope of section 162 by prohibiting a current deduction for certain capital expenditures. Treasury regulations define "capital expenditures" as amounts paid or incurred to materially add to the value, or substantially prolong the useful life, of property owned by the taxpayer, or to adapt property to a new or different use. Amounts paid for repairs and maintenance do not constitute capital expenditures. The determination of whether an expense is deductible or capitalizable is based on the facts and circumstances of each case.

Taxpayers may elect to treat certain environmental remediation expenditures that would otherwise be chargeable to capital account as deductible in the year paid or incurred.[25] The deduction applies for both regular and alternative minimum tax purposes. The expenditure must be incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site. In general, any expenditure for the acquisition of depreciable property used in connection with the abatement or control of hazardous substances at a qualified contaminated site does not constitute a qualified environmental remediation expenditure. However, depreciation deductions allowable for such property, which would otherwise be allocated to the site under the principles set forth in Commissioner v. Idaho Power Co.[26] and section 263A, are treated as qualified environmental remediation expenditures.

A "qualified contaminated site" (a so-called "brownfield") generally is any property that is held for use in a trade or business, for the production of income, or as inventory and is certified by the appropriate State environmental agency to be an area at or on which there has been a release (or threat of release) or disposal of a hazardous substance. Both urban and rural property may qualify. However, sites that are identified on the national priorities list under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA")[27] cannot qualify as targeted areas. Hazardous substances generally are defined by reference to sections 101(14) and 102 of CERCLA, subject to additional limitations applicable to asbestos and similar substances within buildings, certain naturally occurring substances such as radon, and certain other substances released into drinking water supplies due to deterioration through ordinary use. Petroleum products generally are not regarded as hazardous substances for purposes of section 198 (except for purposes of determining qualified environmental remediation expenditures in the "Gulf Opportunity Zone" under section 1400N(g), as described below).[28]

In the case of property to which a qualified environmental remediation expenditure otherwise would have been capitalized, any deduction allowed under section 198 is treated as a depreciation deduction and the property is treated as section 1245 property. Thus, deductions for qualified environmental remediation expenditures are subject to recapture as ordinary income upon a sale or other disposition of the property. In addition, sections 280B (demolition of structures) and 468 (special rules for mining and solid waste reclamation and closing costs) do not apply to amounts that are treated as expenses under this provision.

Eligible expenditures are those paid or incurred before January 1, 2006.

Under section 1400N(g), the above provisions apply to expenditures paid or incurred to abate contamination at qualified contaminated sites in the Gulf Opportunity Zone (defined as that portion of the Hurricane Katrina Disaster Area determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina) before January 1, 2008; in addition, within the Gulf Opportunity Zone section 1400N(g) broadens the definition of hazardous substance to include petroleum products (defined by reference to section 4612(a)(3)).

HOUSE BILL

The House bill extends for two years the present-law provisions relating to environmental remediation expenditures (through December 31, 2007).

In addition, the provision expands the definition of hazardous substance to include petroleum products. Under the provision, petroleum products are defined by reference to section 4612(a)(3), and thus include crude oil, crude oil condensates and natural gasoline.[29]

Effective date.—The provision applies to expenditures paid or incurred after December 31, 2005.

SENATE AMENDMENT

The Senate amendment modifies the House bill to provide for only a one-year extension of the present-law provisions relating to environmental remediation expenditures (through December 31, 2006). The Senate amendment follows the House bill in expanding the definition of hazardous substances to include petroleum products.

Effective date.—The provision applies to expenditures paid or incurred after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision or the Senate amendment provision.

Q. CONTROLLED FOREIGN CORPORATIONS

1. Subpart F exception for active financing (Sec. 202(a) of the House bill and secs. 953 and 954 of the Code)

PRESENT LAW

Under the subpart F rules, 10-percent U.S. shareholders of a controlled foreign corporation ("CFC") are subject to U.S. tax currently on certain income earned by the CFC, whether or not such income is distributed to the shareholders. The income subject to current inclusion under the subpart F rules includes, among other things, insurance income and foreign base company income. Foreign base company income includes, among other things, foreign personal holding company income and foreign base company services income (i.e., income derived from services performed for or on behalf of a related person outside the country in which the CFC is organized).

Foreign personal holding company income generally consists of the following: (1) dividends, interest, royalties, rents, and annuities; (2) net gains from the sale or exchange of (a) property that gives rise to the preceding types of income, (b) property that does not give rise to income, and (c) interests in trusts, partnerships, and REMICs; (3) net gains from commodities transactions; (4) net gains from certain foreign currency transactions; (5) income that is equivalent to interest; (6) income from notional principal contracts; (7) payments in lieu of dividends;

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[24] Sec. 162.

[25] Sec. 198.

[26] 418 U.S. 1 (1974).

[27] Pub. L. No. 96-510 (1980).

[28] Section 101(14) of CERCLA specifically excludes "petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph," from the definition of "hazardous substance."

[29] The present law exceptions for sites on the national priorities list under CERCLA, and for substances with respect to which a removal or remediation is not permitted under section 104 of CERCLA by reason of subsection (a)(3) thereof, would continue to apply to all hazardous substances (including petroleum products).

and (8) amounts received under personal service contracts.

Insurance income subject to current inclusion under the subpart F rules includes any income of a CFC attributable to the issuing or reinsuring of any insurance or annuity contract in connection with risks located in a country other than the CFC's country of organization. Subpart F insurance income also includes income attributable to an insurance contract in connection with risks located within the CFC's country of organization, as the result of an arrangement under which another corporation receives a substantially equal amount of consideration for insurance of other country risks. Investment income of a CFC that is allocable to any insurance or annuity contract related to risks located outside the CFC's country of organization is taxable as subpart F insurance income.[30]

Temporary exceptions from foreign personal holding company income, foreign base company services income, and insurance income apply for subpart F purposes for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business (so-called "active financing income").[31]

With respect to income derived in the active conduct of a banking, financing, or similar business, a CFC is required to be predominantly engaged in such business and to conduct substantial activity with respect to such business in order to qualify for the exceptions. In addition, certain nexus requirements apply, which provide that income derived by a CFC or a qualified business unit ("QBU") of a CFC from transactions with customers is eligible for the exceptions if, among other things, substantially all of the activities in connection with such transactions are conducted directly by the CFC or QBU in its home country, and such income is treated as earned by the CFC or QBU in its home country for purposes of such country's tax laws. Moreover, the exceptions apply to income derived from certain cross border transactions, provided that certain requirements are met. Additional exceptions from foreign personal holding company income apply for certain income derived by a securities dealer within the meaning of section 475 and for gain from the sale of active financing assets.

In the case of insurance, in addition to a temporary exception from foreign personal holding company income for certain income of a qualifying insurance company with respect to risks located within the CFC's country of creation or organization, certain temporary exceptions from insurance income and from foreign personal holding company income apply for certain income of a qualifying branch of a qualifying insurance company with respect to risks located within the home country of the branch, provided certain requirements are met under each of the exceptions. Further, additional temporary exceptions from insurance income and from foreign personal holding company income apply for certain income of certain CFCs or branches with respect to risks located in a country other than the United States, provided that the requirements for these exceptions are met.

In the case of a life insurance or annuity contract, reserves for such contracts are determined as follows for purposes of these provisions. The reserves equal the greater of: (1) the net surrender value of the contract (as defined in section 807(e)(1)(A)), including in the case of pension plan contracts; or (2) the amount determined by applying the tax reserve method that would apply if the qualifying life insurance company were subject to tax under Subchapter L of the Code, with the following modifications. First, there is substituted for the applicable Federal interest rate an interest rate determined for the functional currency of the qualifying insurance company's home country, calculated (except as provided by the Treasury Secretary in order to address insufficient data and similar problems) in the same manner as the mid-term applicable Federal interest rate (within the meaning of section 1274(d)). Second, there is substituted for the prevailing State assumed rate the highest assumed interest rate permitted to be used for purposes of determining statement reserves in the foreign country for the contract. Third, in lieu of U.S. mortality and morbidity tables, mortality and morbidity tables are applied that reasonably reflect the current mortality and morbidity risks in the foreign country. Fourth, the Treasury Secretary may provide that the interest rate and mortality and morbidity tables of a qualifying insurance company may be used for one or more of its branches when appropriate. In no event may the reserve for any contract at any time exceed the foreign statement reserve for the contract, reduced by any catastrophe, equalization, or deficiency reserve or any similar reserve.

Present law permits a taxpayer in certain circumstances, subject to approval by the IRS through the ruling process or in published guidance, to establish that the reserve of a life insurance company for life insurance and annuity contracts is the amount taken into account in determining the foreign statement reserve for the contract (reduced by catastrophe, equalization, or deficiency reserve or any similar reserve). IRS approval is to be based on whether the method, the interest rate, the mortality and morbidity assumptions, and any other factors taken into account in determining foreign statement reserves (taken together or separately) provide an appropriate means of measuring income for Federal income tax purposes. In seeking a ruling, the taxpayer is required to provide the IRS with necessary and appropriate information as to the method, interest rate, mortality and morbidity assumptions and other assumptions under the foreign reserve rules so that a comparison can be made to the reserve amount determined by applying the tax reserve method that would apply if the qualifying insurance company were subject to tax under Subchapter L of the Code (with the modifications provided under present law for purposes of these exceptions). The IRS also may issue published guidance indicating its approval. Present law continues to apply with respect to reserves for any life insurance or annuity contract for which the IRS has not approved the use of the foreign statement reserve. An IRS ruling request under this provision is subject to the present-law provisions relating to IRS user fees.

HOUSE BILL

The House bill extends for two years (for taxable years beginning before 2009) the present-law temporary exceptions from subpart F foreign personal holding company income, foreign base company services income, and insurance income for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business.

Effective date.—The provision is effective for taxable years of foreign corporations beginning after December 31, 2006, and before January 1, 2009, and for taxable years of U.S. shareholders with or within which such taxable years of such foreign corporations end.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill provision.

2. Look-through treatment of payments between related controlled foreign corporations under foreign personal holding company income rules (sec. 202(b) of the House bill and sec. 954(c) of the Code)

PRESENT LAW

In general, the rules of subpart F (secs. 951–964) require U.S. shareholders with a 10 percent or greater interest in a controlled foreign corporation ("CFC") to include certain income of the CFC (referred to as "subpart F income") on a current basis for U.S. tax purposes, regardless of whether the income is distributed to the shareholders.

Subpart F income includes foreign base company income. One category of foreign base company income is foreign personal holding company income. For subpart F purposes, foreign personal holding company income generally includes dividends, interest, rents, and royalties, among other types of income. However, foreign personal holding company income does not include dividends and interest received by a CFC from a related corporation organized and operating in the same foreign country in which the CFC is organized, or rents and royalties received by a CFC from a related corporation for the use of property within the country in which the CFC is organized. Interest, rent, and royalty payments do not qualify for this exclusion to the extent that such payments reduce the subpart F income of the payor.

HOUSE BILL

Under the House bill, for taxable years beginning after 2005 and before 2009, dividends, interest,[32] rents, and royalties received by one CFC from a related CFC are not treated as foreign personal holding company income to the extent attributable or properly allocable to non-subpart-F income of the payor. For this purpose, a related CFC is a CFC that controls or is controlled by the other CFC, or a CFC that is controlled by the same person or persons that control the other CFC. Ownership of more than 50 percent of the CFC's stock (by vote or value) constitutes control for these purposes. The bill provides that the Secretary shall prescribe such regulations as are appropriate to prevent the abuse of the purposes of this provision.

The provision in the House bill is effective for taxable years of foreign corporations beginning after December 31, 2005, but before January 1, 2009, and for taxable years of U.S. shareholders with or within which such taxable years of such foreign corporations end.

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[30] Prop. Treas. Reg. sec. 1.953-1(a).

[31] Temporary exceptions from the subpart F provisions for certain active financing income applied only for taxable years beginning in 1998. Those exceptions were modified and extended for one year, applicable only for taxable years beginning in 1999. The Tax Relief Extension Act of 1999 (Pub. L. No. 106-170) clarified and extended the temporary exceptions for two years, applicable only for taxable years beginning after 1999 and before 2002. The Job Creation and Worker Assistance Act of 2002 (Pub. L. No. 107-147) modified and extended the temporary exceptions for five years, for taxable years beginning after 2001 and before 2007.

[32] Interest for this purpose includes factoring income which is treated as equivalent to interest under sec. 954(c)(1)(E).

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill provision.

R. REDUCED RATES FOR CAPITAL GAINS AND DIVIDENDS OF INDIVIDUALS

(Sec. 203 of the House bill and sec. 1(h) of the Code)

PRESENT LAW

Capital gains

In general

In general, gain or loss reflected in the value of an asset is not recognized for income tax purposes until a taxpayer disposes of the asset. On the sale or exchange of a capital asset, any gain generally is included in income. Any net capital gain of an individual is generally taxed at maximum rates lower than the rates applicable to ordinary income. Net capital gain is the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for the year. Gain or loss is treated as long-term if the asset is held for more than one year.

Capital losses generally are deductible in full against capital gains. In addition, individual taxpayers may deduct capital losses against up to $3,000 of ordinary income in each year. Any remaining unused capital losses may be carried forward indefinitely to another taxable year.

A capital asset generally means any property except (1) inventory, stock in trade, or property held primarily for sale to customers in the ordinary course of the taxpayer's trade or business, (2) depreciable or real property used in the taxpayer's trade or business, (3) specified literary or artistic property, (4) business accounts or notes receivable, (5) certain U.S. publications, (6) certain commodity derivative financial instruments, (7) hedging transactions, and (8) business supplies. In addition, the net gain from the disposition of certain property used in the taxpayer's trade or business is treated as long-term capital gain. Gain from the disposition of depreciable personal property is not treated as capital gain to the extent of all previous depreciation allowances. Gain from the disposition of depreciable real property is generally not treated as capital gain to the extent of the depreciation allowances in excess of the allowances that would have been available under the straight-line method of depreciation.

Tax rates before 2009

Under present law, for taxable years beginning before January 1, 2009, the maximum rate of tax on the adjusted net capital gain of an individual is 15 percent. Any adjusted net capital gain which otherwise would be taxed at a 10- or 15–percent rate is taxed at a 5-percent rate (zero for taxable years beginning after 2007). These rates apply for purposes of both the regular tax and the alternative minimum tax.

Under present law, the "adjusted net capital gain" of an individual is the net capital gain reduced (but not below zero) by the sum of the 28–percent rate gain and the unrecaptured section 1250 gain. The net capital gain is reduced by the amount of gain that the individual treats as investment income for purposes of determining the investment interest limitation under section 163(d).

The term "28-percent rate gain" means the amount of net gain attributable to long-term capital gains and losses from the sale or exchange of collectibles (as defined in section 408(m) without regard to paragraph (3) thereof), an amount of gain equal to the amount of gain excluded from gross income under section 1202 (relating to certain small business stock), the net short-term capital loss for the taxable year, and any long-term capital loss carryover to the taxable year.

"Unrecaptured section 1250 gain" means any long-term capital gain from the sale or exchange of section 1250 property (i.e., depreciable real estate) held more than one year to the extent of the gain that would have been treated as ordinary income if section 1250 applied to all depreciation, reduced by the net loss (if any) attributable to the items taken into account in computing 28–percent rate gain. The amount of unrecaptured section 1250 gain (before the reduction for the net loss) attributable to the disposition of property to which section 1231 (relating to certain property used in a trade or business) applies may not exceed the net section 1231 gain for the year.

An individual's unrecaptured section 1250 gain is taxed at a maximum rate of 25 percent, and the 28–percent rate gain is taxed at a maximum rate of 28 percent. Any amount of unrecaptured section 1250 gain or 28-percent rate gain otherwise taxed at a 10- or 15–percent rate is taxed at the otherwise applicable rate.

Tax rates after 2008

For taxable years beginning after December 31, 2008, the maximum rate of tax on the adjusted net capital gain of an individual is 20 percent. Any adjusted net capital gain which otherwise would be taxed at a 10- or 15–percent rate is taxed at a 10–percent rate.

In addition, any gain from the sale or exchange of property held more than five years that would otherwise have been taxed at the 10–percent rate is taxed at an 8–percent rate. Any gain from the sale or exchange of property held more than five years and the holding period for which began after December 31, 2000, that would otherwise have been taxed at a 20-percent rate is taxed at an 18–percent rate.

The tax rates on 28-percent gain and unrecaptured section 1250 gain are the same as for taxable years beginning before 2009.

Dividends

In general

A dividend is the distribution of property made by a corporation to its shareholders out of its after-tax earnings and profits.

Tax rates before 2009

Under present law, dividends received by an individual from domestic corporations and qualified foreign corporations are taxed at the same rates that apply to capital gains. This treatment applies for purposes of both the regular tax and the alternative minimum tax. Thus, for taxable years beginning before 2009, dividends received by an individual are taxed at rates of five (zero for taxable years beginning after 2007) and 15 percent.

If a shareholder does not hold a share of stock for more than 60 days during the 121–day period beginning 60 days before the ex-dividend date (as measured under section 246(c)), dividends received on the stock are not eligible for the reduced rates. Also, the reduced rates are not available for dividends to the extent that the taxpayer is obligated to make related payments with respect to positions in substantially similar or related property.

Qualified dividend income includes otherwise qualified dividends received from qualified foreign corporations. The term "qualified foreign corporation" includes a foreign corporation that is eligible for the benefits of a comprehensive income tax treaty with the United States which the Treasury Department determines to be satisfactory and which includes an exchange of information program. In addition, a foreign corporation is treated as a qualified foreign corporation with respect to any dividend paid by the corporation with respect to stock that is readily tradable on an established securities market in the United States.

Dividends received from a corporation that is a passive foreign investment company (as defined in section 1297) in either the taxable year of the distribution, or the preceding taxable year, are not qualified dividends.

Special rules apply in determining a taxpayer's foreign tax credit limitation under section 904 in the case of qualified dividend income. For these purposes, rules similar to the rules of section 904(b)(2)(B) concerning adjustments to the foreign tax credit limitation to reflect any capital gain rate differential will apply to any qualified dividend income.

If a taxpayer receives an extraordinary dividend (within the meaning of section 1059(c)) eligible for the reduced rates with respect to any share of stock, any loss on the sale of the stock is treated as a long-term capital loss to the extent of the dividend.

A dividend is treated as investment income for purposes of determining the amount of deductible investment interest only if the taxpayer elects to treat the dividend as not eligible for the reduced rates.

The amount of dividends qualifying for reduced rates that may be paid by a regulated investment company ("RIC") for any taxable year in which the qualified dividend income received by the RIC is less than 95 percent of its gross income (as specially computed) may not exceed the sum of (i) the qualified dividend income of the RIC for the taxable year and (ii) the amount of earnings and profits accumulated in a non-RIC taxable year that were distributed by the RIC during the taxable year.

The amount of dividends qualifying for reduced rates that may be paid by a real estate investment trust ("REIT") for any taxable year may not exceed the sum of (i) the qualified dividend income of the REIT for the taxable year, (ii) an amount equal to the excess of the income subject to the taxes imposed by section 857(b)(1) and the regulations prescribed under section 337(d) for the preceding taxable year over the amount of these taxes for the preceding taxable year, and (iii) the amount of earnings and profits accumulated in a non-REIT taxable year that were distributed by the REIT during the taxable year.

The reduced rates do not apply to dividends received from an organization that was exempt from tax under section 501 or was a tax-exempt farmers' cooperative in either the taxable year of the distribution or the preceding taxable year; dividends received from a mutual savings bank that received a deduction under section 591; or deductible dividends paid on employer securities.[33]

Tax rates after 2008

For taxable years beginning after 2008, dividends received by an individual are taxed at ordinary income tax rates.

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[33] In addition, for taxable years beginning before 2009, amounts treated as ordinary income on the disposition of certain preferred stock (sec. 306) are treated as dividends for purposes of applying the reduced rates; the tax rate for the accumulated earnings tax (sec. 531) and the personal holding company tax (sec. 541) is reduced to 15 percent; and the collapsible corporation rules (sec. 341) are repealed.

HOUSE BILL

The House bill extends for two years the present-law provisions relating to lower capital gain and dividend tax rates (through taxable years beginning on or before December 31, 2010).

Effective date.—The provision applies to taxable years beginning after December 31, 2008.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill provision.

S. CREDIT FOR ELECTIVE DEFERRALS AND IRA CONTRIBUTIONS (THE "SAVER'S CREDIT")

(Sec. 204 of the House bill, sec. 102 of the Senate amendment, and sec. 25B of the Code)

PRESENT LAW

Present law provides a temporary nonrefundable tax credit for eligible taxpayers for qualified retirement savings contributions, referred to as the "saver's credit." The maximum annual contribution eligible for the credit is $2,000. The credit rate depends on the adjusted gross income ("AGI") of the taxpayer. Taxpayers filing joint returns with AGI of $50,000 or less, head of household returns of $37,500 or less, and single returns of $25,000 or less are eligible for the credit. The AGI limits applicable to single taxpayers apply to married taxpayers filing separate returns. The credit is in addition to any deduction or exclusion that would otherwise apply with respect to the contribution. The credit offsets minimum tax liability as well as regular tax liability. The credit is available to individuals who are 18 or over, other than individuals who are full-time students or claimed as a dependent on another taxpayer's return.

The credit is available with respect to: (1) elective deferrals to a qualified cash or deferred arrangement (a "section 401(k) plan"), a tax-sheltered annuity (a "section 403(b)" annuity), an eligible deferred compensation arrangement of a State or local government (a "governmental section 457 plan"), a SIMPLE plan, or a simplified employee pension ("SEP"); (2) contributions to a traditional or Roth IRA; and (3) voluntary after-tax employee contributions to a tax-sheltered annuity or qualified retirement plan.

The amount of any contribution eligible for the credit is generally reduced by distributions received by the taxpayer (or by the taxpayer's spouse if the taxpayer filed a joint return with the spouse) from any plan or IRA to which eligible contributions can be made during the taxable year for which the credit is claimed, the two taxable years prior to the year the credit is claimed, and during the period after the end of the taxable year for which the credit is claimed and prior to the due date for filing the taxpayer's return for the year. Distributions that are rolled over to another retirement plan do not affect the credit.

The credit rates based on AGI are provided below.

TABLE 1.—CREDIT RATES FOR SAVER'S CREDIT

Joint filers	Heads of households	All other filers	Credit rate (percent)
$0-$30,000	$0-$22,500	$0-$15,000	50
30,001-32,500	22,501-24,375	15,001-16,250	20
32,501—50,000	24,376-37,500	16,251-25,000	10
Over $50,000	Over $37,500	Over $25,000	0

The credit does not apply to taxable years beginning after December 31, 2006.[34]

HOUSE BILL

The House bill extends the saver's credit for two years, through December 31, 2008.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment extends the saver's credit for three years, through December 31, 2009.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the House bill provision or the Senate amendment provision.

T. EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESS

(Sec. 205 of the House bill, sec. 101 of the Senate amendment, and sec. 179 of the Code)

PRESENT LAW

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct (or "expense") such costs. Present law provides that the maximum amount a taxpayer may expense, for taxable years beginning in 2003 through 2007, is $100,000 of the cost of qualifying property placed in service for the taxable year.[35] In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. Off-the-shelf computer software placed in service in taxable years beginning before 2008 is treated as qualifying property. The $100,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $400,000. The $100,000 and $400,000 amounts are indexed for inflation for taxable years beginning after 2003 and before 2008.

The amount eligible to be expensed for a taxable year may not exceed the taxable income for a taxable year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations). No general business credit under section 38 is allowed with respect to any amount for which a deduction is allowed under section 179. An expensing election is made under rules prescribed by the Secretary.[36]

For taxable years beginning in 2008 and thereafter (or before 2003), the following rules apply. A taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $25,000 of the cost of qualifying property placed in service for the taxable year. The $25,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. The $25,000 and $200,000 amounts are not indexed. In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business (not including off-the-shelf computer software). An expensing election may be revoked only with consent of the Commissioner.[37]

HOUSE BILL

The provision extends for two years the increased amount that a taxpayer may deduct and the other section 179 rules applicable in taxable years beginning before 2008. Thus, under the provision, these present-law rules continue in effect for taxable years beginning after 2007 and before 2010.

Effective date.—The provision is effective for taxable years beginning after 2007 and before 2010.

SENATE AMENDMENT

The Senate amendment provision is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement includes the provision in the House bill and the Senate amendment.

U. EXTEND AND INCREASE ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNT FOR INDIVIDUALS

(Sec. 106 of the Senate amendment and sec. 55 of the Code)

PRESENT LAW

Present law imposes an alternative minimum tax. The alternative minimum tax is the amount by which the tentative minimum tax exceeds the regular income tax. An individual's tentative minimum tax is the sum of (1) 26 percent of so much of the taxable excess as does not exceed $175,000 ($87,500 in the case of a married individual filing a separate return) and (2) 28 percent of the remaining taxable excess. The taxable excess is so much of the alternative minimum taxable income ("AMTI") as exceeds the exemption amount. The maximum tax rates on net capital gain and dividends used in computing the regular tax are used in computing the tentative minimum tax. AMTI is the individual's taxable income adjusted to take account of specified preferences and adjustments.

The exemption amount is: (1) $45,000 ($58,000 for taxable years beginning before 2006) in the case of married individuals filing a joint return and surviving spouses; (2) $33,750 ($40,250 for taxable years beginning before 2006) in the case of unmarried individuals other than surviving spouses; (3) $22,500

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[34] The saver's credit was enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"), Pub. L. No. 107-16. The provisions of EGTRRA generally do not apply for years beginning after December 31, 2010.

[35] Additional section 179 incentives are provided with respect to a qualified property used by a business in the New York Liberty Zone (sec. 1400L(f)), an empowerment zone (sec. 1397A), or a renewal community (sec. 1400J).

[36] Sec. 179(c)(1). Under Treas. Reg. sec. 179-5, applicable to property placed in service in taxable years beginning after 2002 and before 2008, a taxpayer is permitted to make or revoke an election under section 179 without the consent of the Commissioner on an amended Federal tax return for that taxable year. This amended return must be filed within the time prescribed by law for filing an amended return for the taxable year. T.D. 9209, July 12, 2005.

[37] Sec. 179(c)(2).

($29,000 for taxable years beginning before 2006) in the case of married individuals filing a separate return; and (4) $22,500 in the case of estates and trusts. The exemption amount is phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) $150,000 in the case of married individuals filing a joint return and surviving spouses, (2) $112,500 in the case of unmarried individuals other than surviving spouses, and (3) $75,000 in the case of married individuals filing separate returns, estates, and trusts. These amounts are not indexed for inflation.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, for taxable years beginning in 2006, the exemption amounts are increased to: (1) $62,550 in the case of married individuals filing a joint return and surviving spouses; (2) $42,500 in the case of unmarried individuals other than surviving spouses; and (3) $31,275 in the case of married individuals filing a separate return.

Effective date.—The provision applies to taxable years beginning after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement includes the provision in the Senate amendment.

V. EXTENSION AND MODIFICATION OF THE NEW MARKETS TAX CREDIT

(Sec. 204 of the Senate amendment and sec. 45D of the Code)

PRESENT LAW

Section 45D provides a new markets tax credit for qualified equity investments made to acquire stock in a corporation, or a capital interest in a partnership, that is a qualified community development entity ("CDE").[38] The amount of the credit allowable to the investor (either the original purchaser or a subsequent holder) is (1) a five-percent credit for the year in which the equity interest is purchased from the CDE and for each of the following two years, and (2) a six-percent credit for each of the following four years. The credit is determined by applying the applicable percentage (five or six percent) to the amount paid to the CDE for the investment at its original issue, and is available for a taxable year to the taxpayer who holds the qualified equity investment on the date of the initial investment or on the respective anniversary date that occurs during the taxable year. The credit is recaptured if at any time during the seven-year period that begins on the date of the original issue of the investment the entity ceases to be a qualified CDE, the proceeds of the investment cease to be used as required, or the equity investment is redeemed.

A qualified CDE is any domestic corporation or partnership: (1) whose primary mission is serving or providing investment capital for low-income communities or low-income persons; (2) that maintains accountability to residents of low-income communities by their representation on any governing board of or any advisory board to the CDE; and (3) that is certified by the Secretary as being a qualified CDE. A qualified equity investment means stock (other than nonqualified preferred stock) in a corporation or a capital interest in a partnership that is acquired directly from a CDE for cash, and includes an investment of a subsequent purchaser if such investment was a qualified equity investment in the hands of the prior holder. Substantially all of the investment proceeds must be used by the CDE to make qualified low-income community investments. For this purpose, qualified low-income community investments include: (1) capital or equity investments in, or loans to, qualified active low-income community businesses; (2) certain financial counseling and other services to businesses and residents in low-income communities; (3) the purchase from another CDE of any loan made by such entity that is a qualified low-income community investment; or (4) an equity investment in, or loan to, another CDE.

A "low-income community" is a population census tract with either (1) a poverty rate of at least 20 percent or (2) median family income which does not exceed 80 percent of the greater of metropolitan area median family income or statewide median family income (for a non-metropolitan census tract, does not exceed 80 percent of statewide median family income). In the case of a population census tract located within a high migration rural county, low-income is defined by reference to 85 percent (rather than 80 percent) of statewide median family income. For this purpose, a high migration rural county is any county that, during the 20-year period ending with the year in which the most recent census was conducted, has a net out-migration of inhabitants from the county of at least 10 percent of the population of the county at the beginning of such period.

The Secretary has the authority to designate "targeted populations" as low-income communities for purposes of the new markets tax credit. For this purpose, a "targeted population" is defined by reference to section 103(20) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702(20)) to mean individuals, or an identifiable group of individuals, including an Indian tribe, who (A) are low-income persons; or (B) otherwise lack adequate access to loans or equity investments. Under such Act, "low-income" means (1) for a targeted population within a metropolitan area, less than 80 percent of the area median family income; and (2) for a targeted population within a non-metropolitan area, less than the greater of 80 percent of the area median family income or 80 percent of the statewide non-metropolitan area median family income.[39] Under such Act, a targeted population is not required to be within any census tract. In addition, a population census tract with a population of less than 2,000 is treated as a low-income community for purposes of the credit if such tract is within an empowerment zone, the designation of which is in effect under section 1391, and is contiguous to one or more low-income communities.

A qualified active low-income community business is defined as a business that satisfies, with respect to a taxable year, the following requirements: (1) at least 50 percent of the total gross income of the business is derived from the active conduct of trade or business activities in any low-income community; (2) a substantial portion of the tangible property of such business is used in a low-income community; (3) a substantial portion of the services performed for such business by its employees is performed in a low-income community; and (4) less than five percent of the average of the aggregate unadjusted bases of the property of such business is attributable to certain financial property or to certain collectibles.

The maximum annual amount of qualified equity investments is capped at $2.0 billion per year for calendar years 2004 and 2005, and at $3.5 billion per year for calendar years 2006 and 2007.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision extends through 2008 the $3.5 billion maximum annual amount of qualified equity investments. The provision also requires that the Secretary prescribe regulations to ensure that non-metropolitan counties receive a proportional allocation of qualified equity investments.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

W. PHASEDOWN OF CREDIT FOR ELECTRIC VEHICLES

(Sec. 118 of the Senate amendment and sec. 30 of the Code)

PRESENT LAW

A 10-percent tax credit is provided for the cost of a qualified electric vehicle, up to a maximum credit of $4,000. A qualified electric vehicle generally is a motor vehicle that is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current. The full amount of the credit is available for purchases prior to 2006. The credit is reduced to 25 percent of the otherwise allowable amount for purchases in 2006, and is unavailable for purchases after December 31, 2006.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, the full amount of the credit for qualified electric vehicles is available for purchases prior to 2006. As under present law, the credit is unavailable for purchases after December 31, 2006.

Effective date.—The provision is effective for property placed in service after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

X. APPLICATION OF EGTRRA SUNSET TO TITLE II OF THE SENATE AMENDMENT

(Sec. 231 of the Senate amendment)

PRESENT LAW

Reconciliation is a procedure under the Congressional Budget Act of 1974 (the "Budget Act") by which Congress implements spending and tax policies contained in a budget resolution. The Budget Act contains numerous rules enforcing the scope of items permitted to be considered under the budget reconciliation process. One such rule, the so-called "Byrd rule," was incorporated into the Budget Act in 1990. The Byrd rule, named after its principal sponsor, Senator Robert C. Byrd, is contained in section 313 of the Budget Act. The Byrd rule generally permits members to raise a point of order against extraneous provisions (those which are unrelated to the goals of the reconciliation process) from either a reconciliation bill or a conference report on such bill.

Under the Byrd rule, a provision is considered to be extraneous if it falls under one or more of the following six definitions:

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[38] Section 45D was added by section 121(a) of the Community Renewal Tax Relief Act of 2000, P.L. No. 106-554 (December 21, 2000).

[39] 12. U.S.C. 4702(17) (defines "low-income" for purposes of 12 U.S.C. 4702(20)).

1. It does not produce a change in outlays or revenues;
2. It produces an outlay increase or revenue decrease when the instructed committee is not in compliance with its instructions;
3. It is outside of the jurisdiction of the committee that submitted the title or provision for inclusion in the reconciliation measure;
4. It produces a change in outlays or revenues which is merely incidental to the nonbudgetary components of the provision;
5. It would increase the deficit for a fiscal year beyond those covered by the reconciliation measure; and
6. It recommends changes in Social Security.

The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) contains sunset provisions to ensure compliance with the Budget Act. Under title IX of EGTRRA, the provisions of, and amendments made by that Act that are in effect on September 30, 2011, shall cease to apply as of the close of September 30, 2011, except that all provisions of, and amendments made by, the Act generally do not apply for taxable, plan or limitation years beginning after December 31, 2010. With respect to the estate, gift, and generation-skipping provisions of the Act, the provisions do not apply to estates of decedents dying, gifts made, or generation-skipping transfers, after December 31, 2010. The Code and the Employee Retirement Income Security Act of 1974 are applied to such years, estates, gifts and transfers after December 31, 2010, as if the provisions of and amendments made by the Act had never been enacted.

HOUSE BILL

No provision.

SENATE AMENDMENT

Sunset of provisions

To ensure compliance with the Budget Act, the Senate amendment provides that all provisions of, and amendments made by title II of the Senate amendment shall be subject to the sunset provisions of EGTRRA to the same extent and in the same manner as the provision of such Act to which the Senate amendment provision relates.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

TITLE II—OTHER PROVISONS

A. TAXATION OF CERTAIN SETTLEMENT FUNDS

(Sec. 301 of the House bill and sec. 468B of the Code)

PRESENT LAW

Present law provides that if a taxpayer makes a payment to a designated settlement fund pursuant to a court order, the deduction timing rules that require economic performance generally are deemed to be met as the payments are made by the taxpayer to the fund. A designated settlement fund means a fund which: is established pursuant to a court order; extinguishes completely the taxpayer's tort liability arising out of personal injury, death or property damage; is administered by persons a majority of whom are independent of the taxpayer; and under the terms of the fund the taxpayer (or any related person) may not hold any beneficial interest in the income or corpus of the fund.

Generally, a designated or qualified settlement fund is taxed as a separate entity at the maximum trust rate on its modified income. Modified income is generally gross income less deductions for administrative costs and other incidental expenses incurred in connection with the operation of the settlement fund.

The cleanup of hazardous waste sites is sometimes funded by environmental "settlement funds" or escrow accounts. These escrow accounts are established in consent decrees between the Environmental Protection Agency ("EPA") and the settling parties under the jurisdiction of a Federal district court. The EPA uses these accounts to resolve claims against private parties under Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA").

Present law provides that nothing in any provision of law is to be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax.

HOUSE BILL

The provision provides that certain settlement funds established in consent decrees for the sole purpose of resolving claims under CERCLA are to be treated as beneficially owned by the United States government and therefore not subject to Federal income tax.

To qualify the settlement fund must be: (1) established pursuant to a consent decree entered by a judge of a United States District Court; (2) created for the receipt of settlement payments for the sole purpose of resolving claims under CERCLA; (3) controlled (in terms of expenditures of contributions and earnings thereon) by the government or an agency or instrumentality thereof; and (4) upon termination, any remaining funds will be disbursed to such government entity and used in accordance with applicable law. For purposes of the provision, a government entity means the United States, any State of political subdivision thereof, the District of Columbia, any possession of the United States, and any agency or instrumentality of the foregoing.

The provision does not apply to accounts or funds established after December 31, 2010.

Effective date.—The provision is effective for accounts and funds established after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill provision.

B. MODIFICATIONS TO RULES RELATING TO TAXATION OF DISTRIBUTIONS OF STOCK AND SECURITIES OF A CONTROLLED CORPORATION

(Sec. 302 of the House bill, sec. 467 of the Senate amendment and sec. 355 of the Code)

PRESENT LAW

A corporation generally is required to recognize gain on the distribution of property (including stock of a subsidiary) to its shareholders as if the corporation had sold such property for its fair market value. In addition, the shareholders receiving the distributed property are ordinarily treated as receiving a dividend of the value of the distribution (to the extent of the distributing corporation's earnings and profits), or capital gain in the case of a stock buyback that significantly reduces the shareholder's interest in the parent corporation.

An exception to these rules applies if the distribution of the stock of a controlled corporation satisfies the requirements of section 355 of the Code. If all the requirements are satisfied, there is no tax to the distributing corporation or to the shareholders on the distribution.

One requirement to qualify for tax-free treatment under section 355 is that both the distributing corporation and the controlled corporation must be engaged immediately after the distribution in the active conduct of a trade or business that has been conducted for at least five years and was not acquired in a taxable transaction during that period (the "active business test").[40] For this purpose, a corporation is engaged in the active conduct of a trade or business only if (1) the corporation is directly engaged in the active conduct of a trade or business, or (2) the corporation is not directly engaged in an active business, but substantially all its assets consist of stock and securities of one or more corporations that it controls that are engaged in the active conduct of a trade or business.[41]

In determining whether a corporation is directly engaged in an active trade or business that satisfies the requirement, old IRS guidelines for advance ruling purposes required that the value of the gross assets of the trade or business being relied on must ordinarily constitute at least five percent of the total fair market value of the gross assets of the corporation directly conducting the trade or business.[42] More recently, the IRS has suspended this specific rule in connection with its general administrative practice of moving IRS resources away from advance rulings on factual aspects of section 355 transactions in general.[43]

If the distributing or controlled corporation is not directly engaged in an active trade or business, then the IRS takes the position that the "substantially all" test as applied to that corporation requires that at least 90 percent of the fair market value of the corporation's gross assets consist of stock and securities of a controlled corporation that is engaged in the active conduct of a trade or business.[44]

In determining whether assets are part of a five-year qualifying active business, assets acquired more recently than five years prior to the distribution, in a taxable transaction, are permitted to qualify as five-year "active business" assets if they are considered to have been acquired as part of an expansion of an existing business that does so qualify.[45]

When a corporation holds an interest in a partnership, IRS revenue rulings have allowed an active business of the partnership to count as an active business of a corporate partner in certain circumstances. One such case involved a situation in which the corporation owned at least 20 percent of the partnership, was actively engaged in management of the partnership, and the partnership itself had an active business.[46]

In addition to its active business requirements, section 355 does not apply to any transaction that is a "device" for the distribution of earnings and profits to a shareholder without the payment of tax on a dividend. A transaction is ordinarily not considered a "device" to avoid dividend tax if the distribution would have been treated by the shareholder as a redemption that was a sale or exchange of its stock, rather than as a dividend, if section 355 had not applied.[47]

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[40] Section 355(b).

[41] Section 355(b)(2)(A). The IRS takes the position that the statutory test requires that at least 90 percent of the fair market value of the corporation's gross assets consist of stock and securities of a controlled corporation that is engaged in the active conduct of a trade or business. Rev. Proc. 96-30, sec. 4.03(5), 1996-1 C.B. 696; Rev. Proc. 77-37, sec. 3.04, 1977-2 C.B. 568.

[42] Rev. Proc. 2003-3, sec. 4.01(30), 2003-1 I.R.B. 113.

[43] Rev. Proc. 2003-48, 2003-29 I.R.B. 86.

[44] Rev. Proc. 96-30, sec. 4.03(5), 1996-1 C.B. 696; Rev. Proc. 77-37, sec. 3.04, 1977-2 C.B. 568.

[45] Treas. Reg. sec. 1.355-3(b)(ii).

[46] Rev. Rul. 92-17, 1002-1 C.B. 142; see also, Rev. Rul. 2002-49, 2002-2 C.B. 50.

HOUSE BILL

Under the House bill provision, the active business test is determined by reference to the relevant affiliated group. For the distributing corporation, the relevant affiliated group consists of the distributing corporation as the common parent and all corporations affiliated with the distributing corporation through stock ownership described in section 1504(a)(1)(B) (regardless of whether the corporations are includible corporations under section 1504(b)), immediately after the distribution. The relevant affiliated group for a controlled corporation is determined in a similar manner (with the controlled corporation as the common parent).

Effective date.—The provision applies to distributions after the date of enactment and before December 31, 2010, with three exceptions. The provision does not apply to distributions (1) made pursuant to an agreement which is binding on the date of enactment and at all times thereafter, (2) described in a ruling request submitted to the IRS on or before the date of enactment, or (3) described on or before the date of enactment in a public announcement or in a filing with the Securities and Exchange Commission. The distributing corporation may irrevocably elect not to have the exceptions described above apply.

The provision also applies, solely for the purpose of determining whether, after the date of enactment, there is continuing qualification under the requirements of section 355(b)(2)(A) of distributions made before such date, as a result of an acquisition, disposition, or other restructuring after such date and before December 31, 2010.[48]

SENATE AMENDMENT

The Senate amendment provision is the same as the House bill with respect to the House bill provision described above, except for the date on which that provision sunsets.[49]

In addition, the Senate amendment contains another provision that denies section 355 treatment if either the distributing or distributed corporation is a disqualified investment corporation immediately after the transaction (including any series of related transactions) and any person that did not hold 50 percent or more of the voting power or value of stock of such distributing or controlled corporation immediately before the transaction does hold such a 50 percent or greater interest immediately after such transaction. The attribution rules of section 318 apply for purposes of this determination.

A disqualified investment corporation is any distributing or controlled corporation if the fair market value of the investment assets of the corporation is 75 percent or more of the fair market value of all assets of the corporation. Except as otherwise provided, the term "investment assets" for this purpose means (i) cash, (ii) any stock or securities in a corporation, (iii) any interest in a partnership, (iv) any debt instrument or other evidence of indebtedness; (v) any option, forward or futures contract, notional principal contract, or derivative; (vi) foreign currency, or (vii) any similar asset.

The term "investment assets" does not include any asset which is held for use in the active and regular conduct of (i) a lending or finance business (as defined in section 954(h)(4)); (ii) a banking business through a bank (as defined in section 581), a domestic building and loan association (within the meaning of section 7701(a)(19), or any similar institution specified by the Secretary; or (iii) an insurance business if the conduct of the business is licensed, authorized, or regulated by an applicable insurance regulatory body. These exceptions only apply with respect to any business if substantially all the income of the business is derived from persons who are not related (within the meaning of section 267(b) or 707(b)(1) to the person conducting the business.

The term "investment assets" also does not include any security (as defined in section 475(c)(2)) which is held by a dealer in securities and to which section 475(a) applies.

The term "investment assets" also does not include any stock or securities in, or any debt instrument, evidence of indebtedness, option, forward or futures contract, notional principal contract, or derivative issued by, a corporation which is a 25-percent controlled entity with respect to the distributing or controlled corporation. Instead, the distributing or controlled corporation is treated as owning its ratable share of the assets of any 25-percent controlled entity.

The term 25-percent controlled entity means any corporation with respect to which the corporation in question (distributing or controlled) owns directly or indirectly stock possessing at least 25 percent of voting power and value, excluding stock that is not entitled to vote, is limited and preferred as to dividends and does not participate in corporate growth to any significant extent, has redemption and liquidation rights which do not exceed the issue price of such stock (except for a reasonable redemption or liquidation premium), and is not convertible into another class of stock.

The term "investment assets" also does not include any interest in a partnership, or any debt instrument or other evidence of indebtedness issued by the partnership, if one or more trades or businesses of the partnership are, (or without regard to the 5-year requirement of section 355(b)(2)(B), would be) taken into account by the distributing or controlled corporation, as the case may be, in determining whether the active business test of section 355 is met by such corporation.

The Treasury department shall provide regulations as may be necessary to carry out, or prevent the avoidance of, the purposes of the provision, including regulations in cases involving related persons, intermediaries, pass-through entities, or other arrangements; and the treatment of assets unrelated to the trade or business of a corporation as investment assets if, prior to the distribution, investment assets were used to acquire such assets. Regulations may also in appropriate cases exclude from the application of the provision a distribution which does not have the character of a redemption and which would be treated as a sale or exchange under section 302, and may modify the application of the attribution rules.

Effective date.—The effective date of the first provision of the Senate amendment generally is the same as the effective date of the identical provision of the House bill, except that the Senate amendment provision sunsets for distributions (and for acquisitions, dispositions, or other restructurings as relating to continuing qualification of pre-effective date distributions) after December 31, 2009, rather than for distributions (and for acquisitions, dispositions, or other restructurings as relating to continuing qualification of pre-effective date distributions) on or after December 31, 2010.

The second provision of the Senate amendment is effective for distributions after the date of enactment, except in transactions which are (i) made pursuant to an agreement which was binding on such date of enactment and at all times thereafter; (ii) described in a ruling request submitted to the Intetnal Revenue Service on or before such date, or (iii) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

CONFERENCE AGREEMENT

The conference agreement includes the House bill and the Senate amendment with modifications.

With respect to the provision that applies the active business test by reference to the relevant affiliated group, the conference agreement provision is the same as the House bill and the Senate amendment except for the date on which the conference agreement provision sunsets.[50]

With respect to the provision that affects transactions involving disqualified investment corporations, the conference agreement reduces the percentage of investment assets of a corporation that will cause such corporation to be a disqualified investment corporation, from 75 percent (three-quarters) to two-thirds of the fair market value of the corporation's assets, for distributions occurring after one year after the date of enactment.

The conference agreement also reduces from 25 percent to 20 percent the percentage stock ownership in a corporation that will cause such ownership to be disregarded as an investment asset itself, instead requiring "look-through" to the ratable share of the underlying assets of such corporation attributable to such stock ownership.

The conferees wish to clarify that the disqualified investment corporation provision applies when a person directly or indirectly holds 50 percent of either the vote or the value of a company immediately following a distribution, and such person did not hold such 50 percent interest directly or indirectly prior to the distribution. As one example, the provfsion applies if a person that held 50 percent or more of the vote, but not of the value, of a distributing corporation immediately prior to a transaction in which a controlled corporation that was 100 percent owned by that distributing corporation is distributed, directly or indirectly holds 50 percent of the value of either the distributing or controlled corporation immediately following such transaction.

The conferees further wish to clarify that the enumeration in subsection 355(g)(5)(A) through (C) of specific situations that Treasury regulations may address is not intended to restrict or limit any other situations that Treasury may address under the general authority of new section 355(g)(5) to carry out, or prevent the avoidance of, the purposes of the disqualified investment corporation provision.

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[47] Treas. Reg. sec. 1.355-2(d)(5)(iv).

[48] For example, a holding company taxpayer that had distributed a controlled corporation in a spin-off prior to the date of enactment, in which spin-off the taxpayer satisfied the "substantially all" active business stock test of present law section 355(b)(2)(A) immediately after the distribution, would not be deemed to have failed to satisfy any requirement that it continue that same qualified structure for any period of time after the distribution, solely because of a restructuring that occurs after the date of enactment and before January 1, 2010, and that would satisfy the requirements of new section 355(b)(2)(A).

[49] See "Effective date" for the Senate Amendment, infra.

[50] See "Effective date" of the conference agreement provision, infra.

Effective date.—The starting effective date of the provision that applies the active business test by reference to the relevant affiliated group is the same as that of the House bill and the Senate amendment provisions. The conference agreement changes the date on which the provision sunsets so that the provision does not apply for distributions (or for acquisitions, dispositions, or other restructurings as relating to continuing qualification of pre-effective date distributions) occurring after December 31, 2010.

The effective date of the provision that affects transactions involving disqualified investment corporations is the same as that of the Senate amendment provision, except for the conference agreement reduction in the amount of investment assets of a corporation that will cause it to be a disqualified investment corporation, from three-quarters to two thirds of the fair market value of all assets of the corporation. The two-thirds test applies for distributions occurring after one year after the date of enactment.

C. QUALIFIED VETERAN'S MORTGAGE BONDS

(Sec. 303 of the House bill and sec. 143 of the Code)

PRESENT LAW

Private activity bonds are bonds that nominally are issued by States or local governments, but the proceeds of which are used (directly or indirectly) by a private person and payment of which is derived from funds of such private person. The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes ("qualified private activity bonds"). The definition of a qualified private activity bond includes both qualified mortgage bonds and qualified veterans' mortgage bonds.

Qualified veterans' mortgage bonds are private activity bonds the proceeds of which are used to make mortgage loans to certain veterans. Authority to issue qualified veterans' mortgage bonds is limited to States that had issued such bonds before June 22, 1984. Qualified veterans' mortgage bonds are not subject to the State volume limitations generally applicable to private activity bonds. Instead, annual issuance in each State is subject to a State volume limitation based on the volume of such bonds issued by the State before June 22, 1984. The five States eligible to issue these bonds are Alaska, California, Oregon, Texas, and Wisconsin. Loans financed with qualified veterans' mortgage bonds can be made only with respect to principal residences and can not be made to acquire or replace existing mortgages. Mortgage loans made with the proceeds of these bonds can be made only to veterans who served on active duty before 1977 and who applied for the financing before the date 30 years after the last date on which such veteran left active service (the "eligibility period").

Qualified mortgage bonds are issued to make mortgage loans to qualified mortgagors for owner-occupied residences. The Code imposes several limitations on qualified mortgage bonds, including income limitations for homebuyers and purchase price limitations for the home financed with bond proceeds. In addition, qualified mortgage bonds generally cannot be used to finance a mortgage for a homebuyer who had an ownership interest in a principal residence in the three years preceding the execution of the mortgage (the "first-time homebuyer" requirement).

HOUSE BILL

The House bill repeals the requirement that veterans receiving loans financed with qualified veterans' mortgage bonds must have served before 1977. It also reduces the eligibility period to 25 years (rather than 30 years) following release from the military service. The bill provides new State volume limits for these bonds for the five eligible States. In 2010, the new annual limit on the total volume of veterans' bonds is $25 million for Alaska, $66.25 million for California, $25 million for Oregon, $53.75 million for Texas, and $25 million for Wisconsin. These volume limits are phased-in over the four-year period immediately preceding 2010 by allowing the applicable percentage of the 2010 volume limits. The following table provides those percentages.

Calendar Year:	*Applicable Percentage is:*
2006	20
2007	40
2008	60
2009	80

The volume limits are zero for 2011 and each year thereafter. Unused allocation cannot be carried forward to subsequent years.

Effective date.—The provision generally applies to bonds issued after December 31, 2005. The provision expanding the definition of eligible veterans applies to financing provided after date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill with the following modifications. The conference agreement does not amend present law as it relates to qualified veterans' mortgage bonds issued by the States of California and Texas. In the case of qualified veterans' mortgage bonds issued by the States of Alaska, Oregon, and Wisconsin, (1) the requirement that veterans must have served before 1977 is repealed and (2) the eligibility period for applying for a loan following release from the military service is reduced from 30 years to 25 years.

In addition, the annual issuance of qualified veterans' mortgage bonds in the States of Alaska, Oregon and Wisconsin is subject to new State volume limitations which are phased in between the years 2006 and 2010. The State volume limit in these States for any calendar year after 2010 is zero.

Effective date.—The provision expanding the definition of eligible veterans applies to bonds issued on or after date of enactment. The provision amending State volume limitations applies to allocations of volume limitation made after April 5, 2006.

D. CAPITAL GAINS TREATMENT FOR CERTAIN SELF-CREATED MUSICAL WORKS

(Sec. 304 of the House bill and sec. 1221 of the Code)

PRESENT LAW

Capital gains

The maximum tax rate on the net capital gain income of an individual is 15 percent for taxable years beginning in 2006. By contrast, the maximum tax rate on an individual's ordinary income is 35 percent. The reduced 15-percent rate generally is available for gain from the sale or exchange of a capital asset for which the taxpayer has satisfied a holding-period requirement. Capital assets generally include all property held by a taxpayer with certain specified exclusions.

An exclusion from the definition of a capital asset applies to inventory property or property held by a taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business. Another exclusion from capital asset status applies to copyrights, literary, musical, or artistic compositions, letters or memoranda, or similar property held by a taxpayer whose personal efforts created the property (or held by a taxpayer whose basis in the property is determined by reference to the basis of the taxpayer whose personal efforts created the property). Consequently, when a taxpayer that owns copyrights in, for example, books, songs, or paintings that the taxpayer created (or when a taxpayer to which the copyrights have been transferred by the works' creator in a substituted basis transaction) sells the copyrights, gain from the sale is treated as ordinary income, not capital gain.

Charitable contributions

A taxpayer generally is allowed a deduction for the fair market value of property contributed to a charity. If a taxpayer makes a contribution of property that would have generated ordinary income (or short-term capital gain), the taxpayer's charitable contribution deduction generally is limited to the property's adjusted basis.

HOUSE BILL

The House bill provides that at the election of a taxpayer, the sale or exchange before January 1, 2011 of musical compositions or copyrights in musical works created by the taxpayer's personal efforts (or having a basis determined by reference to the basis in the hands of the taxpayer whose personal efforts created the compositions or copyrights) is treated as the sale or exchange of a capital asset. The House bill provision does not change the present law limitation on a taxpayer's charitable deduction for the contribution of those compositions or copyrights.

Effective date.—The provision is effective for sales or exchanges in taxable years beginning after the date of enactment.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the House bill provision.

E. DECREASE MINIMUM VESSEL TONNAGE LIMIT TO 6,000 DEADWEIGHT TONS

(Sec. 305 of the House bill and sec. 1355 of the Code)

PRESENT LAW

The United States employs a "worldwide" tax system, under which domestic corporations generally are taxed on all income, including income from shipping operations, whether derived in the United States or abroad. In order to mitigate double taxation, a foreign tax credit for income taxes paid to foreign countries is provided to reduce or eliminate the U.S. tax owed on such income, subject to certain limitations.

Generally, the United States taxes foreign corporations only on income that has a sufficient nexus to the United States. Thus, a foreign corporation is generally subject to U.S. tax only on income, including income from shipping operations, which is "effectively connected" with the conduct of a trade or business in the United States (sec. 882). Such "effectively connected income" generally is taxed in the same manner and at the same rates as the income of a U.S. corporation.

The United States imposes a four percent tax on the amount of a foreign corporation's U.S. source gross transportation income (sec. 887). Transportation income includes income from the use (or hiring or leasing for use) of a vessel and income from services directly related to the use of a vessel. Fifty percent of the transportation income attributable to transportation that either begins or ends (but not both) in the United States is treated as U.S. source gross transportation income. The tax does not apply, however, to U.S. source gross transportation income that is treated as income effectively connected with the conduct of a U.S. trade or business. U.S. source gross transportation income is not treated as effectively connected income unless (1) the taxpayer has a fixed place of business in the United States involved in earning the income, and (2) substantially all the income is attributable to regularly scheduled transportation.

The tax imposed by section 882 or 887 on income from shipping operations may be limited by an applicable U.S. income tax treaty or by an exemption of a foreign corporation's international shipping operations income in instances where a foreign country grants an equivalent exemption (sec. 883).

Notwithstanding the general rules described above, the American Jobs Creation Act of 2004 ("AJCA")[51] generally allows corporations that are qualifying vessel operators[52] to elect a "tonnage tax" in lieu of the corporate income tax on taxable income from certain shipping activities. Accordingly, an electing corporation's gross income does not include its income from qualifying shipping activities (and items of loss, deduction, or credit are disallowed with respect to such excluded income), and electing corporations are only subject to tax on these activities at the maximum corporate income tax rate on their notional shipping income, which is based on the net tonnage of the corporation's qualifying vessels.[53] No deductions are allowed against the notional shipping income of an electing corporation, and no credit is allowed against the notional tax imposed under the tonnage tax regime. In addition, special deferral rules apply to the gain on the sale of a qualifying vessel, if such vessel is replaced during a limited replacement period.

Generally, a "qualifying vessel" is defined as a self-propelled (or a combination of self-propelled and non-self-propelled) U.S.-flag vessel of not less than 10,000 deadweight tons[54] that is used exclusively in the U.S. foreign trade.

HOUSE BILL

The House bill expands the definition of "qualifying vessel" to include self-propelled (or a combination of self-propelled and non-self-propelled) U.S. flag vessels of not less than 6,000 deadweight tons used exclusively in the United States foreign trade. The modified definition applies for taxable years beginning after December 31, 2005 and ending before January 1, 2011.

Effective date.—The provision applies to taxable years beginning after December 31, 2005 and ending before January 1, 2011.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement includes the provision in the House bill.

F. MODIFICATION OF SPECIAL ARBITRAGE RULE FOR CERTAIN FUNDS

(Sec. 306 of the House bill and sec. 307 of the Senate amendment)

PRESENT LAW

In general, present-law tax-exempt bond arbitrage restrictions provide that interest on a State or local government bond is not eligible for tax-exemption if the proceeds are invested, directly or indirectly, in materially higher yielding investments or if the debt service on the bond is secured by or paid from (directly or indirectly) such investments. An exception to the arbitrage restrictions, enacted in 1984, provides that the pledge of income from investments in the Texas Permanent University Fund (the "Fund") as security for a limited amount of tax-exempt bonds will not cause interest on those bonds to be taxable. The terms of this exception are limited to State constitutional or statutory restrictions continuously in effect since October 9, 1969. In addition, the exception only applies to an amount of tax-exempt bonds that does not exceed 20 percent of the value of the Fund.

The Fund consists of certain State lands that were set aside for the benefit of higher education, the income from mineral rights to these lands, and certain other earnings on Fund assets. The Texas constitution directs that monies held in the Fund are to be invested in interest-bearing obligations and other securities. Income from the Fund is apportioned between two university systems operated by the State. Tax-exempt bonds issued by the university systems to finance buildings and other permanent improvements were secured by and payable from the income of the Fund.

Prior to 1999, the constitution did not permit the expenditure or mortgage of the Fund for any purpose. In 1999, the State constitutional rules governing the Fund were modified with regard to the manner in which amounts in the Fund are distributed for the benefit of the two university systems. The State constitutional amendments allow for the possibility that in the event investment earnings are less than annual debt service on the bonds some of the debt service could be considered as having been paid with the Fund corpus. The 1984 exception refers only to bonds secured by investment earnings on securities or obligations held by the Fund. Despite the constitutional amendments, the IRS has agreed to continue to apply the 1984 exception to the Fund through August 31, 2007, if clarifying legislation is introduced in the 109th Congress prior to August 31, 2005. Clarifying legislation was introduced in the 109th Congress on May 26, 2005.[55]

HOUSE BILL

The provision codifies and extends the IRS agreement until August 31, 2009. The 1984 exception is conformed to the State constitutional amendments to permit its continued applicability to bonds of the two university systems. The limitation on the aggregate amount of bonds which may benefit from the exception is not modified, and remains at 20 percent of the value of the Fund. The provision sunsets August 31, 2009.

Effective date.—The provision is effective for bonds issued after the date of enactment and before August 31, 2009.

SENATE AMENDMENT

The Senate amendment follows the House bill provision, and also increases the amount of bonds that may benefit from the exception to 30 percent of the value of the Fund.

Effective date.—The Senate amendment is the same as the House bill.

CONFERENCE AGREEMENT

The conference agreement includes the House bill provision.

G. AMORTIZATION OF EXPENSES INCURRED IN CREATING OR ACQUIRING MUSIC OR MUSIC COPYRIGHTS

(Sec. 468 of the Senate amendment and secs. 167(g) and 263A of the Code)

PRESENT LAW

A taxpayer is allowed to recover, through annual depreciation deductions, the cost of certain property used in a trade or business or for the production of income. Section 167(g) provides that the cost of motion picture films, sound recordings, copyrights, books, patents, and other property specified in regulations is eligible to be recovered using the income forecast method of depreciation.

Under the income forecast method, the depreciation deduction with respect to eligible property for a taxable year is determined by multiplying the adjusted basis of the property by a fraction, the numerator of which is the income generated by the property during the year, and the denominator of which is the total forecasted or estimated income expected to be generated prior to the close of the tenth taxable year after the year the property was placed in service. Any costs that are not recovered by the end of the tenth taxable year after the property was placed in service may be taken into account as depreciation in such year.

The adjusted basis of property that may be taken into account under the income forecast method includes only amounts that satisfy the economic performance standard of section 461(h) (except in the case of certain participations and residuals). In addition, taxpayers that claim depreciation deductions under the income forecast method are required to pay (or receive) interest based on a recalculation of depreciation under a "look-back" method.

The "look-back" method is applied in any "recomputation year" by (1) comparing depreciation deductions that had been claimed in prior periods to depreciation deductions that would have been claimed had the taxpayer used actual, rather than estimated, total income from the property; (2) determining the hypothetical overpayment or underpayment of tax based on this recalculated depreciation; and (3) applying the overpayment rate of section 6621 of the Code. Except as provided in Treasury regulations, a "recomputation year" is the third and tenth taxable year after the taxable year the property was placed in service, unless the actual income from the property for each taxable year ending with or before the close of such years was within 10 percent of the estimated income from the property for such years.

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[51] Pub. L. No. 108–357, sec. 248. The tonnage tax regime is effective for taxable years beginning after the date of enactment of AJCA (October 22, 2004).

[52] Generally, a qualifying vessel operator is a corporation that (1) operates one or more qualifying vessels and (2) meets certain requirements with respect to its shipping activities.

[53] An electing corporation's notional shipping income for the taxable year is the product of the following amounts for each of the qualifying vessels it operates: (1) the daily notional shipping income from the operation of the qualifying vessel, and (2) the number of days during the taxable year that the electing corporation operated such vessel as a qualifying vessel in the United States foreign trade. The daily notional shipping income from the operation of a qualifying vessel is (1) 40 cents for each 100 tons of so much of the net tonnage of the vessel as does not exceed 25,000 net tons, and (2) 20 cents for each 100 tons of so much of the net tonnage of the vessel as exceeds 25,000 net tons. "United States foreign trade" means the transportation of goods or passengers between a place in the United States and a foreign place or between foreign places. The temporary use in the United States domestic trade (i.e., the transportation of goods or passengers between places in the United States) of any qualifying vessel or the temporary ceasing to use a qualifying vessel may be disregarded, under special rules.

[54] Deadweight measures the lifting capacity of a ship expressed in long tons (2,240 lbs.), including cargo, crew, and consumables such as fuel, lube oil, drinking water, and stores. It is the difference between the number of tons of water a vessel displaces without such items on board and the number of tons it displaces when fully loaded.

[55] H.R. 2661.

A special rule is provided under Treasury guidance in the case of certain authors and other taxpayers, with respect to their capitalization of costs under section 263A and with respect to the recovery or amortization of such costs. Specifically, IRS Notice 88-62 (1988-1 C.B. 548) provides an elective safe harbor under which eligible taxpayers capitalize qualified created costs incurred during the taxable year and amortize 50 percent of the costs in the taxable year incurred, and 25 percent in each of the two successive taxable years. Under the Notice, qualified creative costs generally are those incurred by a self-employed individual in the production of creative properties (such as films, sound recordings, musical and dance compositions including accompanying words, and other similar properties), provided the personal efforts of the individual predominantly create the properties. An eligible taxpayer is an individual, and also a corporation or partnership, substantially all of which is owned by one qualified employee owner (an individual and family members).

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that if any expense is paid or incurred by the taxpayer in creating or acquiring any musical composition (including accompanying words) or any copyright with respect to a musical composition that is required to be capitalized, then the income forecast method does not apply to such expenses, but rather, the expenses are amortized over a five-year period. The five-year period is the period beginning with the month in which the composition or copyright was acquired (or if created, the five-taxable-year period beginning with the taxable year in which the expenses were paid or incurred).

The provision does not apply to certain expenses. The expenses to which it does not apply are expenses: (1) that are qualified creative expenses under section 263A(h); (2) to which a simplified procedure established under section 263A(j)(2) applies; (3) that are an amortizable section 197 intangible; or (4) that, without regard to this provision, would not be allowable as a deduction.

Effective date.—The provision is effective for expenses paid or incurred after December 31, 2005, in taxable years ending after that date.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision with the following modifications. Under the conference agreement, the five-year amortization period is elective for the taxable year. Thus, a taxpayer that places in service any musical composition or copyright with respect to a musical composition in a taxable year may elect to apply the provision with respect to all musical compositions and musical composition copyrights placed in service in that taxable year. An eligible taxpayer that does not make the election may recover the costs under any method allowable under present law, including the income forecast method.

Under the conference agreement, the election may be made for any taxable year which begins before January 1, 2011.

In addition, the conference agreement provides that the five-year amortization period begins in the month the property is placed in service.

Effective date.—The conference agreement is effective for expenses paid or incurred with respect to property placed in service in taxable years beginning after December 31, 2005 and before January 1, 2011.

TITLE III—CHARITABLE PROVISIONS

A. CHARITABLE GIVING INCENTIVES

1. Charitable deduction for nonitemizers; floor on deductions for itemizers (Sec. 201 of the Senate amendment and secs. 63 and 170 of the Code)

PRESENT LAW

In computing taxable income, an individual taxpayer who itemizes deductions generally is allowed to deduct the amount of cash and up to the fair market value of property contributed to a charity described in section 501(c)(3), to certain veterans' organizations, fraternal societies, and cemetery companies,[56] or to a Federal, State, or local governmental entity for exclusively public purposes.[57] The deduction also is allowed for purposes of calculating alternative minimum taxable income.

The amount of the deduction allowable for a taxable year with respect to a charitable contribution of property may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer.[58]

A taxpayer who takes the standard deduction (i.e., who does not itemize deductions) may not take a separate deduction for charitable contributions.[59]

A payment to a charity (regardless of whether it is termed a "contribution") in exchange for which the donor receives an economic benefit is not deductible, except to the extent that the donor can demonstrate that the payment exceeds the fair market value of the benefit received from the charity. To facilitate distinguishing charitable contributions from purchases of goods or services from charities, present law provides that no charitable contribution deduction is allowed for a separate contribution of $250 or more unless the donor obtains a contemporaneous written acknowledgement of the contribution from the charity indicating whether the charity provided any good or service (and an estimate of the value of any such good or service) to the taxpayer in consideration for the contribution.[60] In addition, present law requires that any charity that receives a contribution exceeding $75 made partly as a gift and partly as consideration for goods or services furnished by the charity (a "quid pro quo" contribution) is required to inform the contributor in writing of an estimate of the value of the goods or services furnished by the charity and that only the portion exceeding the value of the goods or services is deductible as a charitable contribution.[61]

Under present law, total deductible contributions of an individual taxpayer to public charities, private operating foundations, and certain types of private nonoperating foundations may not exceed 50 percent of the taxpayer's contribution base, which is the taxpayer's adjusted gross income for a taxable year (disregarding any net operating loss carryback). To the extent a taxpayer has not exceeded the 50-percent limitation, (1) contributions of capital gain property to public charities generally may be deducted up to 30 percent of the taxpayer's contribution base, (2) contributions of cash to private foundations and certain other charitable organizations generally may be deducted up to 30 percent of the taxpayer's contribution base, and (3) contributions of capital gain property to private foundations and certain other charitable organizations generally may be deducted up to 20 percent of the taxpayer's contribution base.

Contributions by individuals in excess of the 50-percent, 30-percent, and 20-percent limit may be carried over and deducted over the next five taxable years, subject to the relevant percentage limitations on the deduction in each of those years.

In addition to the percentage limitations imposed specifically on charitable contributions, present law imposes a reduction on most itemized deductions, including charitable contribution deductions, for taxpayers with adjusted gross income in excess of a threshold amount, which is indexed annually for inflation. The threshold amount for 2006 is $150,500 ($77,250 for married individuals filing separate returns). For those deductions that are subject to the limit, the total amount of itemized deductions is reduced by three percent of adjusted gross income over the threshold amount, but not by more than 80 percent of itemized deductions subject to the limit. Beginning in 2006, the overall limitation on itemized deductions phases out for all taxpayers. The overall limitation on itemized deductions is reduced by one-third in taxable years beginning in 2006 and 2007, and by two-thirds in taxable years beginning in 2008 and 2009. The overall limitation on itemized deductions is eliminated for taxable years beginning after December 31, 2009; however, this elimination of the limitation sunsets on December 31, 2010.

HOUSE BILL

No provision.

SENATE AMENDMENT

Deduction for nonitemizers

In the case of an individual taxpayer who does not itemize deductions, the provision allows a "direct charitable deduction" from adjusted gross income for charitable contributions paid in cash during the taxable year. This deduction is allowed in addition to the standard deduction. The direct charitable deduction is the amount of the deduction allowable under section 170(a) for the taxable year for cash contributions (determined without regard to any carryover). The amount deductible under the provision is subject to the rules normally governing charitable contribution deductions, such as the substantiation requirements. In addition, the amount of the deduction is available only to the extent that the otherwise allowable direct charitable deduction exceeds the floor on charitable contributions, described below (i.e., $210 ($420 in the case of a joint return)). The deduction is allowed in computing alternative minimum taxable income.

The provision does not change the present-law rules regarding the carryover of charitable contributions to or from a taxable year, including a taxable year in which the taxpayer is allowed the direct contribution deduction.

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[56] Secs. 170(c)(3)-(5).

[57] Sec. 170(c)(1).

[58] Secs. 170(b) and (e).

[59] Sec. 170(a). The Economic Recovery Tax Act of 1981 adopted a temporary provision that permitted individual taxpayers who did not itemize income tax deductions to claim a deduction from gross income for a specified percentage of their charitable contributions. The maximum deduction was $25 for 1982 and 1983, $75 for 1984, 50 percent of the amount of the contribution for 1985, and 100 percent of the amount of the contribution for 1986. The nonitemizer deduction terminated for contributions made after 1986.

[60] Sec. 170(f)(8).

[61] Sec. 6115.

Floor on itemized deductions

Under the provision, the amount of an individual's charitable contribution deduction (cash and noncash) is subject to a floor. The floor is $210 ($420 in the case of a joint return). In the case of an individual who elects to itemize deductions, the floor applies to the deduction otherwise allowed under section 170 for all contributions. In the case of an individual who does not elect to itemize deductions, the floor applies in determining the amount of the direct charitable deduction. The provision does not otherwise change the present-law rules pertaining to charitable contributions.

Effective date.—The provision is effective for contributions made in taxable years beginning after December 31, 2005, and before January 1, 2008.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

2. Tax-free distributions from individual retirement plans for charitable purposes (Sec. 202 of the Senate amendment and secs. 408, 6034, 6104, and 6652 of the Code)

PRESENT LAW

In general

If an amount withdrawn from a traditional individual retirement arrangement ("IRA") or a Roth IRA is donated to a charitable organization, the rules relating to the tax treatment of withdrawals from IRAs apply to the amount withdrawn and the charitable contribution is subject to the normally applicable limitations on deductibility of such contributions.

Charitable contributions

In computing taxable income, an individual taxpayer who itemizes deductions generally is allowed to deduct the amount of cash and up to the fair market value of property contributed to a charity described in section 501(c)(3), to certain veterans' organizations, fraternal societies, and cemetery companies,[62] or to a Federal, State, or local governmental entity for exclusively public purposes.[63] The deduction also is allowed for purposes of calculating alternative minimum taxable income.

The amount of the deduction allowable for a taxable year with respect to a charitable contribution of property may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer.[64]

A taxpayer who takes the standard deduction (i.e., who does not itemize deductions) may not take a separate deduction for charitable contributions.[65]

A payment to a charity (regardless of whether it is termed a "contribution") in exchange for which the donor receives an economic benefit is not deductible, except to the extent that the donor can demonstrate, among other things, that the payment exceeds the fair market value of the benefit received from the charity. To facilitate distinguishing charitable contributions from purchases of goods or services from charities, present law provides that no charitable contribution deduction is allowed for a separate contribution of $250 or more unless the donor obtains a contemporaneous written acknowledgement of the contribution from the charity indicating whether the charity provided any good or service (and an estimate of the value of any such good or service) to the taxpayer in consideration for the contribution.[66] In addition, present law requires that any charity that receives a contribution exceeding $75 made partly as a gift and partly as consideration for goods or services furnished by the charity (a "quid pro quo" contribution) is required to inform the contributor in writing of an estimate of the value of the goods or services furnished by the charity and that only the portion exceeding the value of the goods or services may be deductible as a charitable contribution.[67]

Under present law, total deductible contributions of an individual taxpayer to public charities, private operating foundations, and certain types of private nonoperating foundations may not exceed 50 percent of the taxpayer's contribution base, which is the taxpayer's adjusted gross income for a taxable year (disregarding any net operating loss carryback). To the extent a taxpayer has not exceeded the 50-percent limitation, (1) contributions of capital gain property to public charities generally may be deducted up to 30 percent of the taxpayer's contribution base, (2) contributions of cash to private foundations and certain other charitable organizations generally may be deducted up to 30 percent of the taxpayer's contribution base, and (3) contributions of capital gain property to private foundations and certain other charitable organizations generally may be deducted up to 20 percent of the taxpayer's contribution base.

Contributions by individuals in excess of the 50-percent, 30-percent, and 20-percent limits may be carried over and deducted over the next five taxable years, subject to the relevant percentage limitations on the deduction in each of those years.

In addition to the percentage limitations imposed specifically on charitable contributions, present law imposes a reduction on most itemized deductions, including charitable contribution deductions, for taxpayers with adjusted gross income in excess of a threshold amount, which is indexed annually for inflation. The threshold amount for 2006 is $150,500 ($75,250 for married individuals filing separate returns). For those deductions that are subject to the limit, the total amount of itemized deductions is reduced by three percent of adjusted gross income over the threshold amount, but not by more than 80 percent of itemized deductions subject to the limit. Beginning in 2006, the overall limitation on itemized deductions phases-out for all taxpayers. The overall limitation on itemized deductions is reduced by one-third in taxable years beginning in 2006 and 2007, and by two-thirds in taxable years beginning in 2008 and 2009. The overall limitation on itemized deductions is eliminated for taxable years beginning after December 31, 2009; however, this elimination of the limitation sunsets on December 31, 2010.

In general, a charitable deduction is not allowed for income, estate, or gift tax purposes if the donor transfers an interest in property to a charity (e.g., a remainder) while also either retaining an interest in that property (e.g., an income interest) or transferring an interest in that property to a noncharity for less than full and adequate consideration.[68] Exceptions to this general rule are provided for, among other interests, remainder interests in charitable remainder annuity trusts, charitable remainder unitrusts, and pooled income funds, and present interests in the form of a guaranteed annuity or a fixed percentage of the annual value of the property.[69] For such interests, a charitable deduction is allowed to the extent of the present value of the interest designated for a charitable organization.

IRA rules

Within limits, individuals may make deductible and nondeductible contributions to a traditional IRA. Amounts in a traditional IRA are includible in income when withdrawn (except to the extent the withdrawal represents a return of nondeductible contributions). Individuals also may make nondeductible contributions to a Roth IRA. Qualified withdrawals from a Roth IRA are excludable from gross income. Withdrawals from a Roth IRA that are not qualified withdrawals are includible in gross income to the extent attributable to earnings. Includible amounts withdrawn from a traditional IRA or a Roth IRA before attainment of age 59½ are subject to an additional 10-percent early withdrawal tax, unless an exception applies. Under present law, minimum distributions are required to be made from tax-favored retirement arrangements, including IRAs. Minimum required distributions from a traditional IRA must generally begin by the April 1 of the calendar year following the year in which the IRA owner attains age 70½.[70]

If an individual has made nondeductible contributions to a traditional IRA, a portion of each distribution from an IRA is nontaxable until the total amount of nondeductible contributions has been received. In general, the amount of a distribution that is nontaxable is determined by multiplying the amount of the distribution by the ratio of the remaining nondeductible contributions to the account balance. In making the calculation, all traditional IRAs of an individual are treated as a single IRA, all distributions during any taxable year are treated as a single distribution, and the value of the contract, income on the contract, and investment in the contract are computed as of the close of the calendar year.

In the case of a distribution from a Roth IRA that is not a qualified distribution, in determining the portion of the distribution attributable to earnings, contributions and distributions are deemed to be distributed in the following order: (1) regular Roth IRA contributions; (2) taxable conversion contributions;[71] (3) nontaxable conversion contributions; and (4) earnings. In determining the amount of taxable distributions from a Roth IRA, all Roth IRA distributions in the same taxable year are treated as a single distribution, all regular Roth IRA contributions for a year are treated as a single contribution, and all conversion contributions during the year are treated as a single contribution.

Distributions from an IRA (other than a Roth IRA) are generally subject to withholding unless the individual elects not to have withholding apply.[72] Elections not to have withholding apply are to be made in the time and manner prescribed by the Secretary.

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[62] Secs. 170(c)(3)-(5).

[63] Sec. 170(c)(1).

[64] Secs. 170(b) and (e).

[65] Sec. 170(a).

[66] Sec. 170(f)(8).

[67] Sec. 6115.

[68] Secs. 170(f), 2055(e)(2), and 2522(c)(2).

[69] Sec. 170(f)(2).

[70] Minimum distribution rules also apply in the case of distributions after the death of a traditional or Roth IRA owner.

[71] Conversion contributions refer to conversions of amounts in a traditional IRA to a Roth IRA.

[72] Sec. 3405.

Split-interest trust filing requirements

Split-interest trusts, including charitable remainder annuity trusts, charitable remainder unitrusts, and pooled income funds, are required to file an annual information return (Form 1041A).[73] Trusts that are not split-interest trusts but that claim a charitable deduction for amounts permanently set aside for a charitable purpose[74] also are required to file Form 1041A. The returns are required to be made publicly available.[75] A trust that is required to distribute all trust net income currently to trust beneficiaries in a taxable year is exempt from this return requirement for such taxable year. A failure to file the required return may result in a penalty on the trust of $10 a day for as long as the failure continues, up to a maximum of $5,000 per return.

In addition, split-interest trusts are required to file annually Form 5227.[76] Form 5227 requires disclosure of information regarding a trust's noncharitable beneficiaries. The penalty for failure to file this return is calculated based on the amount of tax owed. A split-interest trust generally is not subject to tax and therefore, in general, a penalty may not be imposed for the failure to file Form 5227. Form 5227 is not required to be made publicly available.

HOUSE BILL

No provision.

SENATE AMENDMENT

Qualified charitable distributions from IRAs

The provision provides an exclusion from gross income for otherwise taxable IRA distributions from a traditional or a Roth IRA in the case of qualified charitable distributions.[77] Special rules apply in determining the amount of an IRA distribution that is otherwise taxable. The present-law rules regarding taxation of IRA distributions and the deduction of charitable contributions continue to apply to distributions from an IRA that are not qualified charitable distributions. Qualified charitable distributions are taken into account for purposes of the minimum distribution rules applicable to traditional IRAs to the same extent the distribution would have been taken into account under such rules had the distribution not been directly distributed under the provision. An IRA does not fail to qualify as an IRA merely because qualified charitable distributions have been made from the IRA. It is intended that the Secretary will prescribe rules under which IRA owners are deemed to elect out of withholding if they designate that a distribution is intended to be a qualified charitable distribution.

A qualified charitable distribution is any distribution from an IRA that is made after December 31, 2005, and before January 1, 2008, directly by the IRA trustee either to (1) an organization to which deductible contributions can be made (a "direct distribution") or (2) a "split-interest entity." A split-interest entity means a charitable remainder annuity trust or charitable remainder unitrust (together referred to as a "charitable remainder trust"), a pooled income fund, or a charitable gift annuity. Direct distributions are eligible for the exclusion only if made on or after the date the IRA owner attains age 70½. Distributions to a split interest entity are eligible for the exclusion only if made on or after the date the IRA owner attains age 59½. In the case of distributions to split-interest distributions, no person may hold an income interest in the amounts in the split-interest entity attributable to the charitable distribution other than the IRA owner, the IRA owner's spouse, or a charitable organization.

The exclusion applies to direct distributions only if a charitable contribution deduction for the entire distribution otherwise would be allowable (under present law), determined without regard to the generally applicable percentage limitations. Thus, for example, if the deductible amount is reduced because of a benefit received in exchange, or if a deduction is not allowable because the donor did not obtain sufficient substantiation, the exclusion is not available with respect to any part of the IRA distribution. Similarly, the exclusion applies in the case of a distribution directly to a split-interest entity only if a charitable contribution deduction for the entire present value of the charitable interest (for example, a remainder interest) otherwise would be allowable, determined without regard to the generally applicable percentage limitations.

If the IRA owner has any IRA that includes nondeductible contributions, a special rule applies in determining the portion of a distribution that is includible in gross income (but for the provision) and thus is eligible for qualified charitable distribution treatment. Under the special rule, the distribution is treated as consisting of income first, up to the aggregate amount that would be includible in gross income (but for the provision) if the aggregate balance of all IRAs having the same owner were distributed during the same year. In determining the amount of subsequent IRA distributions includible in income, proper adjustments are to be made to reflect the amount treated as a qualified charitable distribution under the special rule.

Special rules apply for distributions to split-interest entities. For distributions to charitable remainder trusts, the provision provides that subsequent distributions from the charitable remainder trust are treated as ordinary income in the hands of the beneficiary, notwithstanding how such amounts normally are treated under section 664(b). In addition, for a charitable remainder trust to be eligible to receive qualified charitable distributions, the charitable remainder trust has to be funded exclusively by such distributions. For example, an IRA owner may not make qualified charitable distributions to an existing charitable remainder trust any part of which was funded with assets that were not qualified charitable distributions.

Under the provision, a pooled income fund is eligible to receive qualified charitable distributions only if the fund accounts separately for amounts attributable to such distributions. In addition, all distributions from the pooled income fund that are attributable to qualified charitable distributions are treated as ordinary income to the beneficiary. Qualified charitable distributions to a pooled income fund are not includible in the fund's gross income.

In determining the amount includible in gross income by reason of a payment from a charitable gift annuity purchased with a qualified charitable distribution from an IRA, the portion of the distribution from the IRA used to purchase the annuity is not an investment in the annuity contract.

Any amount excluded from gross income by reason of the provision is not taken into account in determining the deduction for charitable contributions under section 170.

Qualified charitable distribution examples

The following examples illustrate the determination of the portion of an IRA distribution that is a qualified charitable distribution and the application of the special rules for a qualified charitable distribution to a split-interest entity. In each example, it is assumed that the requirements for qualified charitable distribution treatment are otherwise met (e.g., the applicable age requirement and the requirement that contributions are otherwise deductible) and that no other IRA distributions occur during the year.

Example 1.—Individual A has a traditional IRA with a balance of $100,000, consisting solely of deductible contributions and earnings. Individual A has no other IRA. The entire IRA balance is distributed in a direct distribution to a charitable organization. Under present law, the entire distribution of $100,000 would be includible in Individual A's income. Accordingly, under the provision, the entire distribution of $100,000 is a qualified charitable distribution. As a result, no amount is included in Individual A's income as a result of the distribution and the distribution is not taken into account in determining the amount of Individual A's charitable deduction for the year.

Example 2.—The facts are the same as in Example 1, except that the entire IRA balance of $100,000 is distributed to a charitable remainder unitrust, which contains no other assets and which must be funded exclusively by qualified charitable distributions. Under the terms of the trust, Individual A is entitled to receive five percent of the net fair market value of the trust assets each year. As explained in Example 1, the entire $100,000 distribution is a qualified charitable distribution, no amount is included in Individual A's income as a result of the distribution, and the distribution is not taken into account in determining the amount of Individual A's charitable deduction for the year. In addition, under a special rule in the provision for charitable remainder trusts, any distribution from the charitable remainder unitrust to Individual A is includible in gross income as ordinary income, regardless of the character of the distribution under the usual rules for the taxation of distributions from such a trust.

Example 3.—Individual B has a traditional IRA with a balance of $100,000, consisting of $20,000 of nondeductible contributions and $80,000 of deductible contributions and earnings. Individual B has no other IRA. In a direct distribution to a charitable organization, $80,000 is distributed from the IRA. Under present law, a portion of the distribution from the IRA would be treated as a nontaxable return of nondeductible contributions. The nontaxable portion of the distribution would be $16,000, determined by multiplying the amount of the distribution ($80,000) by the ratio of the nondeductible contributions to the account balance ($20,000/$100,000). Accordingly, under present law, $64,000 of the distribution ($80,000 minus $16,000) would be includible in Individual B's income.

Under the provision, notwithstanding the present-law tax treatment of IRA distributions, the distribution is treated as consisting of income first, up to the total amount that would be includible in gross income (but for the provision) if all amounts were distributed from all IRAs otherwise taken into account in determining the amount of IRA distributions. The total amount that would be includible in income if all amounts were distributed from the IRA is $80,000. Accordingly, under the provision, the entire $80,000 distributed to the charitable organization is treated as includible in income (before application of the provision) and is a qualified charitable distribution. As a result, no amount is included in Individual B's income as a result of the distribution and the distribution is not taken into account in determining the amount of Individual B's charitable deduction for the year. In addition, for purposes of determining the tax treatment of other distributions from the IRA, $20,000 of the amount remaining in the IRA is treated as Individual B's nondeductible contributions (i.e., not subject to tax upon distribution).

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[73] Sec. 6034. This requirement applies to all split-interest trusts described in section 4947(a)(2).

[74] Sec. 642(c).

[75] Sec. 6104(b).

[76] Sec. 6011; Treas. Reg. sec. 53.6011-1(d).

[77] The provision does not apply to distributions from employer-sponsored retirements plans, including SIMPLE IRAs and simplified employee pensions ("SEPs").

Split-interest trust filing requirements

The provision increases the penalty on split-interest trusts for failure to file a return and for failure to include any of the information required to be shown on such return and to show the correct information. The penalty is $20 for each day the failure continues up to $10,000 for any one return. In the case of a split-interest trust with gross income in excess of $250,000, the penalty is $100 for each day the failure continues up to a maximum of $50,000. In addition, if a person (meaning any officer, director, trustee, employee, or other individual who is under a duty to file the return or include required information)[78] knowingly failed to file the return or include required information, then that person is personally liable for such a penalty, which would be imposed in addition to the penalty that is paid by the organization. Information regarding beneficiaries that are not charitable organizations as described in section 170(c) is exempt from the requirement to make information publicly available. In addition, the provision repeals the present-law exception to the filing requirement for split-interest trusts that are required in a taxable year to distribute all net income currently to beneficiaries. Such exception remains available to trusts other than split-interest trusts that are otherwise subject to the filing requirement.

Effective date

The provision relating to qualified charitable distributions is effective for distributions made in taxable years beginning after December 31, 2005, and before January 1, 2008. The provision relating to information returns of split-interest trusts is effective for returns for taxable years beginning after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

3. Charitable deduction for contributions of food inventory (sec. 203 of the Senate amendment and sec. 170 of the Code)

PRESENT LAW

Under present law, a taxpayer's deduction for charitable contributions of inventory generally is limited to the taxpayer's basis (typically, cost) in the inventory, or if less the fair market value of the inventory.

For certain contributions of inventory, C corporations may claim an enhanced deduction equal to the lesser of (1) basis plus one-half of the item's appreciation (*i.e.*, basis plus one half of fair market value in excess of basis) or (2) two times basis (sec. 170(e)(3)). In general, a C corporation's charitable contribution deductions for a year may not exceed 10 percent of the corporation's taxable income (sec. 170(b)(2)). To be eligible for the enhanced deduction, the contributed property generally must be inventory of the taxpayer, contributed to a charitable organization described in section 501(c)(3) (except for private nonoperating foundations), and the donee must (1) use the property consistent with the donee's exempt purpose solely for the care of the ill, the needy, or infants, (2) not transfer the property in exchange for money, other property, or services, and (3) provide the taxpayer a written statement that the donee's use of the property will be consistent with such requirements. In the case of contributed property subject to the Federal Food, Drug, and Cosmetic Act, the property must satisfy the applicable requirements of such Act on the date of transfer and for 180 days prior to the transfer.

A donor making a charitable contribution of inventory must make a corresponding adjustment to the cost of goods sold by decreasing the cost of goods sold by the lesser of the fair market value of the property or the donor's basis with respect to the inventory (Treas. Reg. sec. 1.170A-4A(c)(3)). Accordingly, if the allowable charitable deduction for inventory is the fair market value of the inventory, the donor reduces its cost of goods sold by such value, with the result that the difference between the fair market value and the donor's basis may still be recovered by the donor other than as a charitable contribution.

To use the enhanced deduction, the taxpayer must establish that the fair market value of the donated item exceeds basis. The valuation of food inventory has been the subject of disputes between taxpayers and the IRS.[79]

Under the Katrina Emergency Tax Relief Act of 2005, any taxpayer, whether or not a C corporation, engaged in a trade or business is eligible to claim the enhanced deduction for certain donations made after August 28, 2005, and before January 1, 2006, of food inventory. For taxpayers other than C corporations, the total deduction for donations of food inventory in a taxable year generally may not exceed 10 percent of the taxpayer's net income for such taxable year from all sole proprietorships, S corporations, or partnerships (or other entity that is not a C corporation) from which contributions of "apparently wholesome food" are made. "Apparently wholesome food" is defined as food intended for human consumption that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

HOUSE BILL

No provision.

SENATE AMENDMENT

Extension of Katrina Emergency Tax Relief Act of 2005

The provision extends the provision enacted as part of the Katrina Emergency Tax Relief Act of 2005. As under such Act, under the provision, any taxpayer, whether or not a C corporation, engaged in a trade or business is eligible to claim the enhanced deduction for donations of food inventory. For taxpayers other than C corporations, the total deduction for donations of food inventory in a taxable year generally may not exceed 10 percent of the taxpayer's net income for such taxable year from all sole proprietorships, S corporations, or partnerships (or other non C corporation) from which contributions of apparently wholesome food are made. For example, as under the Katrina Emergency Tax Relief Act of 2005, if a taxpayer is a sole proprietor, a shareholder in an S corporation, and a partner in a partnership, and each business makes charitable contributions of food inventory, the taxpayer's deduction for donations of food inventory is limited to 10 percent of the taxpayer's net income from the sole proprietorship and the taxpayer's interests in the S corporation and partnership. However, if only the sole proprietorship and the S corporation made charitable contributions of food inventory, the taxpayer's deduction would be limited to 10 percent of the net income from the trade or business of the sole proprietorship and the taxpayer's interest in the S corporation, but not the taxpayer's interest in the partnership.[80]

Under the provision, the enhanced deduction for food is available only for food that qualifies as "apparently wholesome food." "Apparently wholesome food" is defined as it is defined under the Katrina Emergency Tax Relief Act of 2005.

Modifications to enhanced deduction for food inventory

Under the provision, for purposes of calculating the enhanced deduction, taxpayers that do not account for inventories under section 471 and that are not required to capitalize indirect costs under section 263A are able to elect to treat the basis of the contributed food as being equal to 25 percent of the food's fair market value.[81]

The provision changes the amount of the enhanced deduction for eligible contributions of food inventory to the lesser of fair market value or twice the taxpayer's basis in the inventory. For example, a taxpayer who makes an eligible donation of food that has a fair market value of $10 and a basis of $4 could take a deduction of $8 (twice basis). If the taxpayer's basis is $6 instead of $4, then the deduction would be $10 (fair market value). By contrast, under present law, a C corporation's deduction in the first example would be $7 (fair market value less half the appreciation) and in the second example would be $8. (Except for contributions made after August 28, 2005, and before January 1, 2006, taxpayers other than C corporations generally could take a deduction for a contribution of food inventory only for the $4 basis in either example.)

The provision provides that the fair market value of donated apparently wholesome food that cannot or will not be sold solely due to internal standards of the taxpayer or lack of market is determined without regard to such internal standards or lack of market and by taking into account the price at which the same or substantially the same food items (as to both type and quality) are sold by the taxpayer at the time of the contribution or, if not so sold at such time, in the recent past.

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[78] Sec. 6652(c)(4)(C).

[79] *Lucky Stores Inc.* v. *Commissioner*, 105 T.C. 420 (1995) (holding that the value of surplus bread inventory donated to charity was the full retail price of the bread rather than half the retail price, as the IRS asserted).

[80] The 10 percent limitation does not affect the application of the generally applicable percentage limitations. For example, if 10 percent of a sole proprietor's net income from the proprietor's trade or business was greater than 50 percent of the proprietor's contribution base, the available deduction for the taxable year (with respect to contributions to public charities) would be 50 percent of the proprietor's contribution base. Consistent with present law, such contributions may be carried forward because they exceed the 50 percent limitation. Contributions of food inventory by a taxpayer that is not a C corporation that exceed the 10 percent limitation but not the 50 percent limitation could not be carried forward.

[81] This includes, for example, taxpayers who are eligible for administrative relief under Revenue Procedures 2002-28 and 2001-10.

Effective date.—The provision is effective for contributions made in taxable years beginning after December 31, 2005, and before January 1, 2008.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

4. Basis adjustment to stock of S corporation contributing property (Sec. 204 of the Senate amendment and sec. 1367 of the Code)

PRESENT LAW

Under present law, if an S corporation contributes money or other property to a charity, each shareholder takes into account the shareholder's pro rata share of the contribution in determining its own income tax liability.[82] A shareholder of an S corporation reduces the basis in the stock of the S corporation by the amount of the charitable contribution that flows through to the shareholder.[83]

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides that the amount of a shareholder's basis reduction in the stock of an S corporation by reason of a charitable contribution made by the corporation will be equal to the shareholder's pro rata share of the adjusted basis of the contributed property.[84]

Thus, for example, assume an S corporation with one individual shareholder makes a charitable contribution of stock with a basis of $200 and a fair market value of $500. The shareholder will be treated as having made a $500 charitable contribution (or a lesser amount if the special rules of section 170(e) apply), and will reduce the basis of the S corporation stock by $200.[85]

Effective date.—The provision applies to contributions made in taxable years beginning after December 31, 2005, and before January 1, 2008.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

5. Charitable deduction for contributions of book inventory (Sec. 205 of the Senate amendment and sec. 170 of the Code)

PRESENT LAW

Under present law, a taxpayer's deduction for charitable contributions of inventory generally is limited to the taxpayer's basis (typically, cost) in the inventory, or if less the fair market value of the inventory.

For certain contributions of inventory, C corporations may claim an enhanced deduction equal to the lesser of (1) basis plus one-half of the item's appreciation (i.e., basis plus one half of fair market value in excess of basis) or (2) two times basis (sec. 170(e)(3)). In general, a C corporation's charitable contribution deductions for a year may not exceed 10 percent of the corporation's taxable income (sec. 170(b)(2)). To be eligible for the enhanced deduction, the contributed property generally must be inventory of the taxpayer, contributed to a charitable organization described in section 501(c)(3) (except for private nonoperating foundations), and the donee must (1) use the property consistent with the donee's exempt purpose solely for the care of the ill, the needy, or infants, (2) not transfer the property in exchange for money, other property, or services, and (3) provide the taxpayer a written statement that the donee's use of the property will be consistent with such requirements. In the case of contributed property subject to the Federal Food, Drug, and Cosmetic Act, the property must satisfy the applicable requirements of such Act on the date of transfer and for 180 days prior to the transfer.

A donor making a charitable contribution of inventory must make a corresponding adjustment to the cost of goods sold by decreasing the cost of goods sold by the lesser of the fair market value of the property or the donor's basis with respect to the inventory (Treas. Reg. sec. 1.170A-4A(c)(3)). Accordingly, if the allowable charitable deduction for inventory is the fair market value of the inventory, the donor reduces its cost of goods sold by such value, with the result that the difference between the fair market value and the donor's basis may still be recovered by the donor other than as a charitable contribution.

To use the enhanced deduction, the taxpayer must establish that the fair market value of the donated item exceeds basis.

The Katrina Emergency Tax Relief Act of 2005 extended the present-law enhanced deduction for C corporations to certain qualified book contributions made after August 28, 2005, and before January 1, 2006. For such purposes, a qualified book contribution means a charitable contribution of books to a public school that provides elementary education or secondary education (kindergarten through grade 12) and that is an educational organization that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The enhanced deduction under the Katrina Emergency Tax Relief Act of 2005 is not allowed unless the donee organization certifies in writing that the contributed books are suitable, in terms of currency, content, and quantity, for use in the donee's educational programs and that the donee will use the books in such educational programs.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision modifies the present-law enhanced deduction for C corporations so that it is equal to the lesser of fair market value or twice the taxpayer's basis in the case of qualified book contributions. The provision provides that the fair market value for this purpose is determined by reference to a bona fide published market price for the book. Under the provision, a bona fide published market price of a book is a price of a book, determined using the same printing and same edition, published within seven years preceding the contribution, determined as a result of an arm's length transaction, and for which the book was customarily sold. For example, a publisher's listed retail price for a book would not meet the standard if the publisher could not demonstrate to the satisfaction of the Secretary that the price was one at which the book was customarily sold and was the result of an arm's length transaction. If a publisher entered into a contract with a local school district to sell newly published textbooks six years prior to making a qualified book contribution of such textbooks, the publisher could use as a bona fide published market price, the price at which such books regularly were sold to the school district under the contract. By contrast, if a publisher listed in a catalogue or elsewhere a "suggested retail price," but books were not in fact customarily sold at such price, the publisher could not use the "suggested retail price" to determine the fair market value of the book for purposes of the enhanced deduction. Thus, in general, a bona fide published market price must be independently verifiable by reference to actual sales within the seven-year period preceding the contribution, and not to a publisher's own price list.

As an illustration of the mechanics of calculating the enhanced deduction under the provision, a C corporation that made a qualified book contribution with a bona fide published market price of $10 and a basis of $4 could take a deduction of $8 (twice basis). If the taxpayer's basis is $6 instead of $4, then the deduction is $10. Also, in such latter case, if the book's bona fide published market price was $5 at the time of the contribution but was $10 five years before the contribution, then the deduction is $10.

A qualified book contribution means a charitable contribution of books to: (1) an educational organization that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on; (2) a public library; or (3) an organization described in section 501(c)(3) (except for private nonoperating foundations), that is organized primarily to make books available to the general public at no cost or to operate a literacy program. The donee must: (1) use the property consistent with the donee's exempt purpose; (2) not transfer the property in exchange for money, other property, or services; and (3) provide the taxpayer a written statement that the donee's use of the property will be consistent with such requirements and also that the books are suitable, in terms of currency, content, and quantity, for use in the donee's educational programs and that the donee will use the books in such educational programs.

Effective date.—The provision is effective for contributions made in taxable years beginning after December 31, 2005, and before January 1, 2008.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

6. Modify tax treatment of certain payments to controlling exempt organizations and public disclosure of information relating to UBIT (Sec. 206 of the Senate amendment and secs. 512, 6011, 6104, and new sec. 6720C of the Code)

PRESENT LAW

Payments to controlling exempt organizations

In general, interest, rents, royalties, and annuities are excluded from the unrelated business income of tax-exempt organizations. However, section 512(b)(13) generally treats otherwise excluded rent, royalty, annuity, and interest income as unrelated business income if such income is received from a taxable or tax-exempt subsidiary that is 50 percent controlled by the parent tax-exempt organization. In the case of a stock subsidiary, "control" means ownership by vote or value of more than 50 percent of the stock. In the case of a partnership or other entity, control means ownership of more than 50 percent of the profits, capital or beneficial interests. In addition, present law applies the constructive ownership rules of section 318 for purposes of section 512(b)(13). Thus, a parent exempt organization is deemed to control any subsidiary in which it holds more than 50 percent of the voting power or value, directly (as in the case of a first-tier subsidiary) or indirectly (as in the case of a second-tier subsidiary).

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[82] Sec. 1366(a)(1)(A).

[83] Sec. 1367(a)(2)(B).

[84] See Rev. Rul. 96-11 (1996-1 C.B. 140) for a rule reaching a similar result in the case of charitable contributions made by a partnership.

[85] This example assumes that basis of the S corporation stock (before reduction) is at least $200.

Under present law, interest, rent, annuity, or royalty payments made by a controlled entity to a tax-exempt organization are includable in the latter organization's unrelated business income and are subject to the unrelated business income tax to the extent the payment reduces the net unrelated income (or increases any net unrelated loss) of the controlled entity (determined as if the entity were tax exempt).

The Taxpayer Relief Act of 1997 (the "1997 Act") made several modifications to the control requirement of section 512(b)(13). In order to provide transitional relief, the changes made by the 1997 Act do not apply to any payment received or accrued during the first two taxable years beginning on or after the date of enactment of the 1997 Act (August 5, 1997) if such payment is received or accrued pursuant to a binding written contract in effect on June 8, 1997, and at all times thereafter before such payment (but not pursuant to any contract provision that permits optional accelerated payments).

Public disclosure of returns

In general, an organization described in section 501(c) or (d) is required to make available for public inspection a copy of its annual information return (Form 990) and exemption application materials.[86] A penalty may be imposed on any person who does not make an organization's annual returns or exemption application materials available for public inspection. The penalty amount is $20 for each day during which a failure occurs. If more than one person fails to comply, each person is jointly and severally liable for the full amount of the penalty. The maximum penalty that may be imposed on all persons for any one annual return is $10,000. There is no maximum penalty amount for failing to make exemption application materials available for public inspection. Any person who willfully fails to comply with the public inspection requirements is subject to an additional penalty of $5,000.[87]

These requirements do not apply to an organization's annual return for unrelated business income tax (generally Form 990-T).[88]

HOUSE BILL

No provision.

SENATE AMENDMENT

Payments to controlling exempt organizations

The provision provides that the general rule of section 512(b)(13), which includes interest, rent, annuity, or royalty payments made by a controlled entity to a tax-exempt organization in the latter organization's unrelated business income to the extent the payment reduces the net unrelated income (or increases any net unrelated loss) of the controlled entity, applies only to the portion of payments received or accrued in a taxable year that exceed the amount of the specified payment that would have been paid or accrued if such payment had been determined under the principles of section 482. Thus, if a payment of rent by a controlled subsidiary to its tax-exempt parent organization exceeds fair market value, the excess amount of such payment over fair market value (as determined in accordance with section 482) is included in the parent organization's unrelated business income, to the extent that such excess reduced the net unrelated income (or increased any net unrelated loss) of the controlled entity (determined as if the entity were tax exempt). In addition, the provision imposes a 20-percent penalty on the larger of such excess determined without regard to any amendment or supplement to a return of tax, or such excess determined with regard to all such amendments and supplements.

The provision provides that if modifications to section 512(b)(13) made by the 1997 Act did not apply to a contract because of the transitional relief provided by the 1997 Act, then such modifications also do not apply to amounts received or accrued under such contract before January 1, 2001.

Require public availability of unrelated business income tax returns

The provision extends the present-law public inspection and disclosure requirements and penalties applicable to the Form 990 to the unrelated business income tax return (Form 990-T) of organizations described in section 501(c)(3). The provision provides that certain information may be withheld by the organization from public disclosure and inspection if public availability would adversely affect the organization, similar to the information that may be withheld under present law with respect to applications for tax exemption and the Form 990 (e.g., information relating to a trade secret, patent, process, style of work, or apparatus of the organization, if the Secretary determines that public disclosure of such information would adversely affect the organization).

Require a UBIT certification for certain large charitable organizations

Under the provision, a charitable organization that has annual total gross income and receipts (including, e.g., contributions and grants, program service revenue, investment income, and revenues from an unrelated trade or business or other sources) or gross assets of at least $10 million on the last day of the taxable year must include with its Form 990 and Form 990-T filings (if any) a statement by an independent auditor or an independent counsel that (1) contains a certification that the information contained in the return has been reviewed by the auditor or counsel and, to the best of his or her knowledge, is accurate; (2) to the best of the auditor's or counsel's knowledge, the allocation of expenses between the exempt and the unrelated business income activities of the organization comply with the requirements set forth by the Secretary under section 512; and (3) indicates whether the auditor or counsel has provided a tax opinion to the organization regarding the classification of any trade or business of the organization as an unrelated trade or business or the treatment of any income as unrelated business taxable income and a description of any material facts with respect to any such opinion.

Failure to file the required statement results in a penalty, imposed on the organization, of one half of one percent (0.5 percent) of the organization's total gross revenues for the taxable year, excluding revenues from contributions and grants. No penalty is imposed with respect to any failure that is due to reasonable cause.

Effective date.—The provision related to payments to controlling organizations applies to payments received or accrued after December 31, 2000. The public availability requirements of the provision apply to returns filed after the date of enactment. The certification requirement applies to returns for taxable years beginning after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

7. Encourage contributions of real property made for conservation purposes (Sec. 207 of the Senate amendment and sec. 170 of the Code)

PRESENT LAW

Charitable contributions generally

In general, a deduction is permitted for charitable contributions, subject to certain limitations that depend on the type of taxpayer, the property contributed, and the donee organization. The amount of deduction generally equals the fair market value of the contributed property on the date of the contribution. Charitable deductions are provided for income, estate, and gift tax purposes.[89]

In general, in any taxable year, charitable contributions by a corporation are not deductible to the extent the aggregate contributions exceed 10 percent of the corporation's taxable income computed without regard to net operating or capital loss carrybacks. For individuals, the amount deductible is a percentage of the taxpayer's contribution base, which is the taxpayer's adjusted gross income computed without regard to any net operating loss carryback. The applicable percentage of the contribution base varies depending on the type of donee organization and property contributed. Cash contributions of an individual taxpayer to public charities, private operating foundations, and certain types of private nonoperating foundations may not exceed 50 percent of the taxpayer's contribution base. Cash contributions to private foundations and certain other organizations generally may be deducted up to 30 percent of the taxpayer's contribution base.

In general, a charitable deduction is not allowed for income, estate, or gift tax purposes if the donor transfers an interest in property to a charity while also either retaining an interest in that property or transferring an interest in that property to a noncharity for less than full and adequate consideration. Exceptions to this general rule are provided for, among other interests, remainder interests in charitable remainder annuity trusts, charitable remainder unitrusts, and pooled income funds, present interests in the form of a guaranteed annuity or a fixed percentage of the annual value of the property, and qualified conservation contributions.

Capital gain property

Capital gain property means any capital asset or property used in the taxpayer's trade or business the sale of which at its fair market value, at the time of contribution, would have resulted in gain that would have been long-term capital gain. Contributions of capital gain property to a qualified charity are deductible at fair market value within certain limitations. Contributions of capital gain property to charitable organizations described in section 170(b)(1)(A) (*e.g.*, public charities, private foundations other than private non-operating foundations, and certain governmental units) generally are deductible up to 30 percent of the taxpayer's contribution base. An individual may elect, however, to bring all these contributions of capital gain property for a taxable year within the 50-percent limitation category by reducing the amount of the contribution deduction by the amount of the appreciation in the capital gain property. Contributions of capital gain property to charitable organizations described in section 170(b)(1)(B) (*e.g.*, private non-operating foundations) are deductible up to 20 percent of the taxpayer's contribution base.

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[86] Sec. 6104(d).

[87] Sec. 6685.

[88] Treas. Reg. sec. 301.6104(d)-1(b)(4)(ii).

[89] Secs. 170, 2055, and 2522, respectively.

For purposes of determining whether a taxpayer's aggregate charitable contributions in a taxable year exceed the applicable percentage limitation, contributions of capital gain property are taken into account after other charitable contributions. Contributions of capital gain property that exceed the percentage limitation may be carried forward for five years.

Qualified conservation contributions

Qualified conservation contributions are not subject to the "partial interest" rule, which generally bars deductions for charitable contributions of partial interests in property. A qualified conservation contribution is a contribution of a qualified real property interest to a qualified organization exclusively for conservation purposes. A qualified real property interest is defined as: (1) the entire interest of the donor other than a qualified mineral interest; (2) a remainder interest; or (3) a restriction (granted in perpetuity) on the use that may be made of the real property. Qualified organizations include certain governmental units, public charities that meet certain public support tests, and certain supporting organizations. Conservation purposes include: (1) the preservation of land areas for outdoor recreation by, or for the education of, the general public; (2) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem; (3) the preservation of open space (including farmland and forest land) where such preservation will yield a significant public benefit and is either for the scenic enjoyment of the general public or pursuant to a clearly delineated Federal, State, or local governmental conservation policy; and (4) the preservation of an historically important land area or a certified historic structure.

Qualified conservation contributions of capital gain property are subject to the same limitations and carryover rules of other charitable contributions of capital gain property.

HOUSE BILL

No provision.

SENATE AMENDMENT

In general

Under the provision, the 30-percent contribution base limitation on contributions of capital gain property by individuals does not apply to qualified conservation contributions (as defined under present law). Instead, individuals may deduct the fair market value of any qualified conservation contribution to an organization described in section 170(b)(1)(A) to the extent of the excess of 50 percent of the contribution base over the amount of all other allowable charitable contributions. These contributions are not taken into account in determining the amount of other allowable charitable contributions.

Individuals are allowed to carryover any qualified conservation contributions that exceed the 50-percent limitation for up to 15 years.

For example, assume an individual with a contribution base of $100 makes a qualified conservation contribution of property with a fair market value of $80 and makes other charitable contributions subject to the 50-percent limitation of $60. The individual is allowed a deduction of $50 in the current taxable year for the non-conservation contributions (50 percent of the $100 contribution base) and is allowed to carryover the excess $10 for up to 5 years. No current deduction is allowed for the qualified conservation contribution, but the entire $80 qualified conservation contribution may be carried forward for up to 15 years.

Farmers and ranchers

Individuals

In the case of an individual who is a qualified farmer or rancher for the taxable year in which the contribution is made, a qualified conservation contribution is allowable up to 100 percent of the excess of the taxpayer's contribution base over the amount of all other allowable charitable contributions.

In the above example, if the individual is a qualified farmer or rancher, in addition to the $50 deduction for non-conservation contributions, an additional $50 for the qualified conservation contribution is allowed and $30 may be carried forward for up to 15 years as a contribution subject to the 100-percent limitation.

Corporations

In the case of a corporation (other than a publicly traded corporation) that is a qualified farmer or rancher for the taxable year in which the contribution is made, any qualified conservation contribution is allowable up to 100 percent of the excess of the corporation's taxable income (as computed under section 170(b)(2)) over the amount of all other allowable charitable contributions. Any excess may be carried forward for up to 15 years as a contribution subject to the 100-percent limitation.

Definition

A qualified farmer or rancher means a taxpayer whose gross income from the trade of business of farming (within the meaning of section 2032A(e)(5)) is greater than 50 percent of the taxpayer's gross income for the taxable year.

Effective date.—The provision applies to contributions made in taxable years beginning after December 31, 2005, and before January 1, 2008.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

8. Enhanced deduction for charitable contributions of literary, musical, artistic, and scholarly compositions (sec. 208 of the Senate amendment and sec. 170 of the Code)

PRESENT LAW

In the case of a charitable contribution of inventory or other ordinary-income or short-term capital gain property, the amount of the deduction generally is limited to the taxpayer's basis in the property.[90] In the case of a charitable contribution of tangible personal property, the deduction is limited to the taxpayer's basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose. In cases involving contributions of tangible personal property to a private foundation (other than certain private foundations),[91] the amount of the deduction is limited to the taxpayer's basis in the property.

Under present law, charitable contributions of literary, musical, and artistic compositions created or prepared by the donor are considered ordinary income property and a taxpayer's deduction of such property is limited to the taxpayer's basis (typically, cost) in the property. A charitable contribution of a literary, musical, or artistic composition by a person other than the person who created or prepared the work generally is eligible for a fair market value deduction if the donee organization's use of the property is related to such organization's exempt purposes.

To be eligible for the deduction, the contribution must be of an undivided portion of the donor's entire interest in the property.[92] For purposes of the charitable income tax deduction, the copyright and the work in which the copyright is embodied are not treated as separate property interests. Accordingly, if a donor owns a work of art and the copyright to the work of art, a gift of the artwork without the copyright or the copyright without the artwork will constitute a gift of a "partial interest" and will not qualify for the income tax charitable deduction.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides that a deduction for "qualified artistic charitable contributions" generally is increased from the value under present law (generally, basis) to the fair market value of the property contributed, measured at the time of the contribution. However, the amount of the increase of the deduction provided by the provision may not exceed the amount of the donor's adjusted gross income for the taxable year attributable to: (1) income from the sale or use of property created by the personal efforts of the donor that is of the same type as the donated property; and (2) income from teaching, lecturing, performing, or similar activities with respect to such property. In addition, the increase to the present-law deduction provided by the provision may not be carried over and deducted in other taxable years.

The provision defines a qualified artistic charitable contribution to mean a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both) that meets certain requirements. First, the contributed property must have been created by the personal efforts of the donor at least 18 months prior to the date of contribution. Second, the donor must obtain a qualified appraisal of the contributed property, a copy of which is required to be attached to the donor's income tax return for the taxable year in which such contribution is made. The appraisal must include evidence of the extent (if any) to which property created by the personal efforts of the taxpayer and of the same type as the donated property is or has been owned, maintained, and displayed by certain charitable organizations and sold to or exchanged by persons other than the taxpayer, donee, or any related person. Third, the contribution must be made to a public charity or to certain limited types of private foundations (i.e., an organization described in section 170(b)(1)(A)). Finally, the use of donated property by the recipient organization must be related to the organization's charitable purpose or function, and the donor must receive a written statement from the organization verifying such use.

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[90] Sec. 170(e)(1).

[91] Sec. 170(e)(1)(B)(ii).

[92] Sec. 170(f)(3).

Under the provision, the tangible property and the copyright on such property are treated as separate properties for purposes of the "partial interest" rule; thus, a gift of artwork without the copyright or a copyright without the artwork does not constitute a gift of a partial interest and is deductible. Contributions of letters, memoranda, or similar property that are written, prepared, or produced by or for an individual while the individual is an officer or employee of any person (including a government agency or instrumentality) do not qualify for a fair market value deduction unless the contributed property is entirely personal.

Effective date.—The deduction for qualified artistic charitable contributions applies to contributions made after December 31, 2005, and before January 1, 2008.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

9. Mileage reimbursements to charitable volunteers excluded from gross income (sec. 209 of the Senate amendment and new sec. 139B of the Code)

PRESENT LAW

In general, an itemized deduction is permitted for charitable contributions, subject to certain limitations that depend on the type of taxpayer, the property contributed, and the donee organization. Unreimbursed out-of-pocket expenditures made incident to providing donated services to a qualified charitable organization—such as out-of-pocket transportation expenses necessarily incurred in performing donated services—may qualify as a charitable contribution.[93] No charitable contribution deduction is allowed for traveling expenses (including expenses for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in such travel.[94]

In determining the amount treated as a charitable contribution where a taxpayer operates a vehicle to provide donated services to a charity, the taxpayer either may deduct actual out-of-pocket expenditures or, in the case of a passenger automobile, may use the charitable standard mileage rate. The charitable standard mileage rate is set by statute at 14 cents per mile.[95] The taxpayer may also deduct (under either computation method), any parking fees and tolls incurred in rendering the services, but may not deduct any amount (regardless of the computation method used) for general repair or maintenance expenses, depreciation, insurance, registration fees, etc. Regardless of the computation method used, the taxpayer must keep reliable written records of expenses incurred. For example, where a taxpayer uses the charitable standard mileage rate to determine a deduction, the IRS has stated that the taxpayer generally must maintain records of miles driven, time, place (or use), and purpose of the mileage. If the charitable standard mileage rate is not used to determine the deduction, the taxpayer generally must maintain reliable written records of actual expenses incurred.

In lieu of actual operating expenses, an optional standard mileage rate may be used in computing the deductible costs of business use of an automobile. The business standard mileage rate is determined by the IRS and updated periodically. For business use occurring on or after January 1, 2006, the business standard mileage rate specified by the IRS is 44.5 cents per mile.

The standard mileage rate for charitable purposes is lower than the standard business rate because the charitable rate covers only the out-of-pocket operating expenses (including gasoline and oil) directly related to the use of the automobile in performing the donated services that a taxpayer may deduct as a charitable contribution. The charitable rate does not include costs that are not deductible as a charitable contribution such as general repair or maintenance expenses, depreciation, insurance, and registration fees. Such costs are, however, included in computing the business standard mileage rate.

Volunteer drivers who are reimbursed for mileage expenses have taxable income to the extent the reimbursement exceeds deductible travel expenses. Employees who are reimbursed for mileage expenses under a qualified arrangement that pays a mileage allowance in lieu of reimbursing actual expenses generally have taxable income to the extent the reimbursement exceeds the amount of the business standard mileage rate multiplied by the actual business miles.

Under section 6041, information reporting generally is required with respect to payments of $600 or more in any taxable year.

Under the Katrina Emergency Tax Relief Act of 2005, reimbursement by an organization described in section 170(c) (including public charities and private foundations) to a volunteer for the costs of using a passenger automobile in providing donated services to charity solely for the provision of relief related to Hurricane Katrina is excludable from the gross income of the volunteer up to an amount that does not exceed the business standard mileage rate prescribed for business use (as periodically adjusted), provided that recordkeeping requirements applicable to deductible business expenses are satisfied. The Katrina Emergency Tax Relief Act of 2005 does not permit a volunteer to claim a deduction or credit with respect to such amounts excluded. The provision applies for purposes of use of a passenger automobile during the period beginning on August 25, 2005, and ending on December 31, 2006.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision extends the provision enacted as part of the Katrina Emergency Tax Relief Act of 2005. Under the provision, reimbursement by an organization described in section 170(c) (including public charities and private foundations) to a volunteer for the costs of using a passenger automobile in providing donated services to charity is excludable from the gross income of the volunteer up to an amount that does not exceed the business standard mileage rate prescribed for business use (as periodically adjusted), provided that recordkeeping requirements applicable to deductible business expenses are satisfied. Unlike the provision enacted as part of the Katrina Emergency Tax Relief Act of 2005, the provision is not limited to use solely for the provision of relief related to Hurricane Katrina. The provision does not permit a volunteer to claim a deduction or credit with respect to amounts excluded under the provision. Information reporting required by section 6041 is not required with respect to reimbursements excluded under the provision.

Effective date.—The provision applies for taxable years beginning after December 31, 2005, and beginning before January 1, 2008.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

10. Alternative percentage limitation for corporate charitable contributions to the mathematics and science partnership program (sec. 210 of the Senate amendment and sec. 170 of the Code)

PRESENT LAW

Under present law, a corporation is allowed to deduct charitable contributions up to 10 percent of the corporation's modified taxable income for the year. For this purpose, taxable income is determined without regard to (1) the charitable contributions deduction, (2) any net operating loss carryback, (3) deductions for dividends received, and (4) any capital loss carryback for the taxable year.[96] Any charitable contribution by a corporation that is not currently deductible because of the percentage limitation may be carried forward for up to five taxable years.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the provision, the corporate percentage limitation is applied separately to eligible mathematics and science contributions and to all other charitable contributions. In addition, the applicable percentage limitation for purposes of eligible mathematics and science contributions is 15 percent; the applicable percentage limitation for all other corporate charitable contributions remains 10 percent.

In general, an eligible mathematics and science contribution is a charitable contribution (other than a contribution of used equipment) to a qualified partnership for the purpose of an activity described in section 2202(c) of the Elementary and Secondary Education Act of 1965. Such activities include, for example, creating opportunities for enhanced and ongoing professional development of mathematics and science teachers and promoting strong teaching skills for mathematics and science teachers and teacher educators. A qualified partnership is an eligible partnership within the meaning of section 2201(b)(1) of the Elementary and Secondary Education Act of 1965, but only to the extent that such partnership does not include a person other than a person described in section 170(b)(1)(A) (describing organizations to which individuals may make charitable contributions deductible up to 50 percent of such individual's contribution base).

Effective date.—The provision applies for contributions made in taxable years beginning after December 31, 2005, and beginning before January 1, 2007.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

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[93] Treas. Reg. sec. 1.170A-1(g).

[94] Sec. 170(j).

[95] Sec. 170(i).

[96] Sec. 170(b)(2).

B. REFORMING CHARITABLE ORGANIZATIONS

1. Tax involvement of accommodation parties in tax-shelter transactions (Sec. 211 of the Senate amendment and secs. 6011, 6033, 6652, and new sec. 4965 of the Code)

PRESENT LAW

Disclosure of listed and other reportable transactions by taxpayers

Present law provides that a taxpayer that participates in a reportable transaction (including a listed transaction) and that is required to file a tax return must attach to its return a disclosure statement in the form prescribed by the Secretary.[97] For this purpose, the term taxpayer includes any person, including an individual, trust, estate, partnership, association, company, or corporation.[98]

Under present Treasury regulations, a reportable transaction includes a listed transaction and five other categories of transactions: (1) confidential transactions, which are transactions offered to a taxpayer under conditions of confidentiality and for which the taxpayer has paid an advisor a minimum fee; (2) transactions with contractual protection, which include transactions for which the taxpayer or a related party has the right to a full or partial refund of fees if all or part of the intended tax consequences from the transaction are not sustained, or for which fees are contingent on the taxpayer's realization of tax benefits from the transaction; (3) loss transactions, which are transactions resulting in the taxpayer claiming a loss under section 165 that exceeds certain thresholds, depending upon the type of taxpayer; (4) transactions with a significant book-tax difference; and (5) transactions involving a brief asset holding period.[99] A listed transaction means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011 (relating to the filing of returns and statements), and identified by notice, regulation, or other form of published guidance as a listed transaction.[100] The fact that a transaction is a reportable transaction does not affect the legal determination of whether the taxpayer's treatment of the transaction is proper.[101] Present law authorizes the Secretary to define a reportable transaction on the basis of such transaction being of a type which the Secretary determines as having a potential for tax avoidance or evasion.[102]

Treasury regulations provide guidance regarding the determination of when a taxpayer participates in a transaction for these purposes.[103] A taxpayer has participated in a listed transaction if the taxpayer's tax return reflects tax consequences or a tax strategy described in the published guidance that lists the transaction, or if the taxpayer knows or has reason to know that the taxpayer's tax benefits are derived directly or indirectly from tax consequences of a tax strategy described in published guidance that lists a transaction. A taxpayer has participated in a confidential transaction if the taxpayer's tax return reflects a tax benefit from the transaction and the taxpayer's disclosure of the tax treatment or tax structure of the transaction is limited under conditions of confidentiality. A taxpayer has participated in a transaction with contractual protection if the taxpayer's tax return reflects a tax benefit from the transaction, and the taxpayer has the right to the full or partial refund of fees or the fees are contingent.

Present law provides a penalty for any person who fails to include on any return or statement any required information with respect to a reportable transaction.[104] The penalty applies without regard to whether the transaction ultimately results in an understatement of tax, and applies in addition to any other penalty that may be imposed.

The penalty for failing to disclose a reportable transaction is $10,000 in the case of a natural person and $50,000 in any other case. The amount is increased to $100,000 and $200,000, respectively, if the failure is with respect to a listed transaction. The penalty cannot be waived with respect to a listed transaction. As to reportable transactions, the IRS Commissioner may rescind all or a portion of the penalty if rescission would promote compliance with the tax laws and effective tax administration.

Disclosure of listed and other reportable transactions by material advisors

Present law requires each material advisor with respect to any reportable transaction (including any listed transaction) to timely file an information return with the Secretary (in such form and manner as the Secretary may prescribe).[105] The information return must include (1) information identifying and describing the transaction, (2) information describing any potential tax benefits expected to result from the transaction, and (3) such other information as the Secretary may prescribe. The return must be filed by the date specified by the Secretary.

A "material advisor" means any person (1) who provides material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, insuring, or carrying out any reportable transaction, and (2) who directly or indirectly derives gross income in excess of $250,000 ($50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons) or such other amount as may be prescribed by the Secretary for such advice or assistance.[106]

The Secretary may prescribe regulations which provide (1) that only one material advisor is required to file an information return in cases in which two or more material advisors would otherwise be required to file information returns with respect to a particular reportable transaction, (2) exemptions from the requirements of this section, and (3) other rules as may be necessary or appropriate to carry out the purposes of this section.[107]

Present law imposes a penalty on any material advisor who fails to timely file an information return, or who files a false or incomplete information return, with respect to a reportable transaction (including a listed transaction).[108] The amount of the penalty is $50,000. If the penalty is with respect to a listed transaction, the amount of the penalty is increased to the greater of (1) $200,000, or (2) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the transaction before the date the information return that includes the transaction is filed. An intentional failure or act by a material advisor with respect to the requirement to disclose a listed transaction increases the penalty to 75 percent of the gross income derived from the transaction.

The penalty cannot be waived with respect to a listed transaction. As to reportable transactions, the IRS Commissioner can rescind all or a portion of the penalty if rescission would promote compliance with the tax laws and effective tax administration.

HOUSE BILL

No provision.

SENATE AMENDMENT

In general

In general, under the provision, certain tax-exempt entities are subject to penalties for being a party to a prohibited tax shelter transaction. A prohibited tax shelter transaction is a transaction that the Secretary determines is a listed transaction (as defined in section 6707A(c)(2)) or a prohibited transaction. A prohibited reportable transaction is a confidential transaction or a transaction with contractual protection (as defined by the Secretary in regulations) which is a reportable transaction as defined in sec. 6707A(c)(1). Under the provision, a tax-exempt entity is an entity that is described in section 501(c), 501(d), or 170(c) (not including the United States), Indian tribal governments, and tax qualified pension plans, individual retirement arrangements ("IRAs"), and similar tax-favored savings arrangements (such as Coverdell education savings accounts, health savings accounts, and qualified tuition plans).

Entity level tax

Under the provision, if a tax-exempt entity is a party at any time to a transaction during a taxable year and knows or has reason to know that the transaction is a prohibited tax shelter transaction, the entity is subject to a tax for such year equal to the greater of (1) 100 percent of the entity's net income (after taking into account any tax imposed with respect to the transaction) for such year that is attributable to the transaction or (2) 75 percent of the proceeds received by the entity that are attributable to the transaction.

In addition, if a transaction is not a listed transaction at the time a tax-exempt entity enters into the transaction (and is not otherwise a prohibited tax shelter transaction), but the transaction subsequently is determined by the Secretary to be a listed transaction (a "subsequently listed transaction"), the entity must pay each taxable year an excise tax at the highest unrelated business taxable income rate times the greater of (1) the entity's net income (after taking into account any tax imposed) that is attributable to the subsequently listed transaction and that is properly allocable to the period beginning on the later of the date such transaction is listed by the Secretary or the first day of the taxable year or (2) 75 percent of the proceeds received by the entity that are attributable to the subsequently listed transaction and that are properly allocable to the period beginning on the later of the date such transaction is listed by the Secretary or the first day of the taxable year. The Secretary has the authority to promulgate regulations that provide guidance regarding the determination of the allocation of net income of a tax-exempt entity that is attributable to a transaction to various periods, including before and after the listing of the transaction or the date which is 90 days after the date of enactment of the provision.

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[97] Treas. Reg. sec. 1.6011-4(a).

[98] Sec. 7701(a)(1); Treas. Reg. sec. 1.6011-4(c)(1).

[99] Treas. Reg. sec. 1.6011-4(b). In Notice 2006-6 (January 6, 2006), the Service indicated that it was removing transactions with a significant book-tax difference from the categories of reportable transactions.

[100] Sec. 6707A(c)(2); Treas. Reg. sec. 1.6011-4(b)(2).

[101] Treas. Reg. sec. 1.6011-4(a).

[102] Sec. 6707A(c)(1).

[103] Treas. Reg. sec. 1.6011-4(c)(3).

[104] Sec. 6707A.

[105] Sec. 6707(a), as added by the American Jobs Creation Act of 2004, Pub. L. No. 108-357, sec. 816(a).

[106] Sec. 6707(b)(1).

[107] Sec. 6707(c).

[108] Sec. 6707(b).

The entity level tax does not apply if the entity's participation is not willful and is due to reasonable cause, except that the willful and reasonable cause exception does not apply to the tax imposed for subsequently listed transactions. The entity level taxes do not apply to tax qualified pension plans, IRAs, and similar tax-favored savings arrangements (such as Coverdell education savings accounts, health savings accounts, and qualified tuition plans).

Disclosure of participation in prohibited tax shelter transactions

The provision requires that a taxable party to a prohibited tax shelter transaction disclose to the tax-exempt entity that the transaction is a prohibited tax shelter transaction. Failure to make such disclosure is subject to the present-law penalty for failure to include reportable transaction information under section 6707A. Thus, the penalty is $10,000 in the case of a natural person or $50,000 in any other case, except that if the transaction is a listed transaction, the penalty is $100,000 in the case of a natural person and $200,000 in any other case.[109]

The provision requires disclosure by a tax-exempt entity to the IRS of each participation in a prohibited tax shelter transaction and disclosure of other known parties to the transaction. The penalty for failure to disclose is imposed on the entity (or entity manager, in the case of qualified pension plans and similar tax favored retirement arrangements) at $100 per day the failure continues, not to exceed $50,000. If any person fails to comply with a demand on the tax-exempt entity by the Secretary for disclosure, such person or persons shall pay a penalty of $100 per day (beginning on the date of the failure to comply) not to exceed $10,000 per prohibited tax shelter transaction. As under present-law section 6652, no penalty is imposed with respect to any failure if it is shown that the failure is due to reasonable cause.

Penalty on entity managers

A tax of $20,000 is imposed on an entity manager that approves or otherwise causes a tax-exempt entity to be a party to a prohibited tax shelter transaction at any time during the taxable year, knowing or with reason to know that the transaction is a prohibited tax shelter transaction. An entity manager is defined as a person with authority or responsibility similar to that exercised by an officer, director, or trustee of an organization, except: (1) in the case of an entity described in section 501(c)(3) or (c)(4) (other than a private foundation), an entity manager is an organization manager as defined in section 4958(f)(2); and (2) in the case of a private foundation, an entity manager is a foundation manager as defined in section 4946(b). The reasonable cause (or no willful participation) exception applies to this tax.

Effective date.—The provision generally is effective for transactions after the date of enactment, except that no tax applies with respect to income that is properly allocable to any period on or before the date that is 90 days after the date of enactment. The disclosure provisions apply to disclosures the due date for which are after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision, with modifications.

The conference agreement does not include the provision that the entity level or entity manager tax does not apply if the entity's participation is not willful and is due to reasonable cause.

In addition, the conference agreement adds a tax in the event that a tax-exempt entity becomes a party to a prohibited tax shelter transaction without knowing or having reason to know that the transaction is a prohibited tax shelter transaction. In that case, the tax-exempt entity is subject to a tax in the taxable year the entity becomes a party and any subsequent taxable year of the highest unrelated business taxable income rate times the greater of (1) the entity's net income (after taking into account any tax imposed with respect to the transaction) for such year that is attributable to the transaction or (2) 75 percent of the proceeds received by the entity that are attributable to the transaction for such year.[110]

The conference agreement clarifies that the entity level tax rate that applies if the entity knows or has reason to know that a transaction is a prohibited tax shelter transaction does not apply to subsequently listed transactions.

The conference agreement modifies the definition of an entity manager to provide that: (1) in the case of tax qualified pension plans, IRAs, and similar tax-favored savings arrangements (such as Coverdell education savings accounts, health savings accounts, and qualified tuition plans) an entity manager is the person that approves or otherwise causes the entity to be a party to a prohibited tax shelter transaction, and (2) in all other cases the entity manager is the person with authority or responsibility similar to that exercised by an officer, director, or trustee of an organization, and with respect to any act, the person having authority or responsibility with respect to such act.

In the case of a qualified pension plan, IRA, or similar tax-favored savings arrangement (such as a Coverdell education savings account, health savings account, or qualified tuition plan), the conferees intend that, in general, a person who decides that assets of the plan, IRA, or other savings arrangement are to be invested in a prohibited tax shelter transaction is the entity manager under the provision. Except in the case of a fully self-directed plan or other savings arrangement with respect to which a participant or beneficiary decides to invest in the prohibited tax shelter transaction, a participant or beneficiary generally is not an entity manager under the provision. Thus, for example, a participant or beneficiary is not an entity manager merely by reason of choosing among pre-selected investment options (as is typically the case if a qualified retirement plan provides for participant-directed investments).[111] Similarly, if an individual has an IRA and may choose among various mutual funds offered by the IRA trustee, but has no control over the investments held in the mutual funds, the individual is not an entity manager under the provision.

Under the provision, certain taxes are imposed if the entity or entity manager knows or has reason to know that a transaction is a prohibited tax shelter transaction. In general, the conferees intend that in order for an entity or entity manager to have reason to know that a transaction is a prohibited tax shelter transaction, the entity or entity manager must have knowledge of sufficient facts that would lead a reasonable person to conclude that the transaction is a prohibited tax shelter transaction. If there is justifiable reliance on a reasoned written opinion of legal counsel (including in-house counsel) or of an independent accountant with expertise in tax matters, after making full disclosure of relevant facts about a transaction to such counsel or accountant, that a transaction is not a prohibited tax shelter transaction, then absent knowledge of facts not considered in the reasoned written opinion that would lead a reasonable person to conclude that the transaction is a prohibited tax shelter transaction, the reason to know standard is not met.

Not obtaining a reasoned written opinion of legal counsel does not alone indicate whether a person has reason to know. However, if a transaction is extraordinary for the entity, promises a return for the organization that is exceptional considering the amount invested by, the participation of, or the absence of risk to the organization, or the transaction is of significant size, either in an absolute sense or relative to the receipts of the entity, then, in general, the presence of such factors may indicate that the entity or entity manager has a responsibility to inquire further about whether a transaction is a prohibited tax shelter transaction, or, absent such inquiry, that the reason to know standard is satisfied. For example, if a tax-exempt entity's investment in a transaction is $1,000, and the entity is promised or expects to receive $10,000 in the near term, in general, the rate of return would be considered exceptional and the entity should make inquiries with respect to the transaction. As another example, if a tax-exempt entity's expected income from a transaction is greater than five percent of the entity's annual receipts, or is in excess of $1,000,000, and the entity fails to make appropriate inquiries with respect to its participation in such transaction, such failure is a factor tending to show that the reason to know standard is met. Appropriate inquiries need not involve obtaining a reasoned written opinion. In general, if a transaction does not present the factors described above and the organization is small (measured by receipts and assets) and described in section 501(c)(3), it is expected that the reason to know standard will not be met.

In general, the conferees intend that in determining whether a tax-exempt entity is a "party" to a prohibited tax shelter transaction all the facts and circumstances should be taken into account. Absence of a written agreement is not determinative. Certain indirect involvement in a prohibited tax shelter transaction would not result in an entity being considered a party to the transaction. For example, investment by a tax-exempt entity in a mutual fund that in turn invests in or participates in a prohibited tax shelter transaction does not, in general, make the tax-exempt entity a party to such transaction, absent facts or circumstances that indicate that the purpose of the tax exempt entity's investment in the mutual fund was specifically to participate in such a transaction. However, whether a tax-exempt entity is a party to such a transaction will be informed by whether the entity or entity manager knew or had reason to know that an investment of the entity would be used in a prohibited tax shelter transaction. Presence of such knowledge or reason to know may indicate that the purpose of the investment was to participate in the prohibited tax shelter transaction and that the tax-exempt entity is a party to such transaction.

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[109] The IRS Commissioner may rescind all or any portion of any such penalty if the violation is with respect to a prohibited tax shelter transaction other than a listed transaction and doing so would promote compliance with the requirements of the Code and effective tax administration. See sec. 6707A(d).

[110] The conference agreement clarifies that in all cases the 75 percent of proceeds received by the entity that are attributable to the transaction are with respect to the taxable year.

[111] Depending on the circumstances, the person who is responsible for determining the pre-selected investment options may be an entity manager under the provision.

The conference agreement clarifies that a subsequently listed transaction means any transaction to which a tax-exempt entity is a party and which is determined by the Secretary to be a listed transaction at any time after the entity has "become a party to" the transaction, and not, as under the Senate amendment, when the entity "entered into" the transaction. The conference agreement provides that a subsequently listed transaction does not include a transaction that is a prohibited reportable transaction. The conference agreement provides that the Secretary has the authority to allocate proceeds as well as income of a tax-exempt entity to various periods. The conference agreement also provides that the disclosure by tax-exempt entities to the Internal Revenue Service required under the provision is based on an entity's being a party to a prohibited tax shelter transaction and not, as under the Senate amendment, on an entity's "participation" in a prohibited tax shelter transaction. The conference agreement further provides that the Secretary may make a demand for disclosure on any entity manager subject to the tax, as well as on any tax exempt entity, and also provides that such managers and entities and not, as under the Senate amendment, "persons" are subject to the penalty for failure to comply with the demand.

Effective date.—In general, the provision is effective for taxable years ending after the date of enactment, with respect to transactions before, on, or after such date, except that no tax shall apply with respect to income or proceeds that are properly allocable to any period ending on or before the date that is 90 days after the date of enactment. The tax on certain knowing transactions does not apply to any prohibited tax shelter transaction to which a tax-exempt entity became a party on or before the date of enactment. The disclosure provisions apply to disclosures the due date for which are after the date of enactment.

2. Apply an excise tax to acquisitions of interests in insurance contracts in which certain exempt organizations hold interests (sec. 212 of the Senate amendment and new secs. 4966 and 6050V of the Code)

PRESENT LAW

Amounts received under a life insurance contract

Amounts received under a life insurance contract paid by reason of the death of the insured are not includible in gross income for Federal tax purposes.[112] No Federal income tax generally is imposed on a policyholder with respect to the earnings under a life insurance contract (inside buildup).[113]

Distributions from a life insurance contract (other than a modified endowment contract) that are made prior to the death of the insured generally are includible in income to the extent that the amounts distributed exceed the taxpayer's investment in the contract (i.e., basis). Such distributions generally are treated first as a tax-free recovery of basis, and then as income.[114]

Transfers for value

A limitation on the exclusion for amounts received under a life insurance contract is provided in the case of transfers for value. If a life insurance contract (or an interest in the contract) is transferred for valuable consideration, the amount excluded from income by reason of the death of the insured is limited to the actual value of the consideration plus the premiums and other amounts subsequently paid by the acquiror of the contract.[115]

Tax treatment of charitable organizations and donors

Present law generally provides tax-exempt status for charitable, educational and certain other organizations, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and which meet certain other requirements.[116] Governmental entities, including some educational organizations, are exempt from tax on income under other tax rules providing that gross income does not include income derived from the exercise of any essential governmental function and accruing to a State or any political subdivision thereof.[117]

In computing taxable income, a taxpayer who itemizes deductions generally is allowed to deduct the amount of cash and the fair market value of property contributed to an organization described in section 501(c)(3) or to a Federal, State, or local governmental entity for exclusively public purposes.[118]

State-law insurable interest rules

State laws generally provide that the owner of a life insurance contract must have an insurable interest in the insured person when the life insurance contract is issued. State laws vary as to the insurable interest of a charitable organization in the life of any individual. Some State laws provide that a charitable organization meeting the requirements of section 501(c)(3) of the Code is treated as having an insurable interest in the life of any donor,[119] or, in other States, in the life of any individual who consents (whether or not the individual is a donor).[120] Other States' insurable interest rules permit the purchase of a life insurance contract even though the person paying the consideration has no insurable interest in the life of the person insured if a charitable, benevolent, educational or religious institution is designated irrevocably as the beneficiary.[121]

Transactions involving charities and non-charities acquiring life insurance

Recently, there has been an increase in transactions involving the acquisition of life insurance contracts using arrangements in which both exempt organizations, primarily charities, and private investors have an interest in the contract.[122] The exempt organization has an insurable interest in the insured individuals, either because they are donors, because they consent, or otherwise under applicable State insurable interest rules. Private investors provide capital used to fund the purchase of the life insurance contracts, sometimes together with annuity contracts. Both the private investors and the charity have an interest in the contracts, directly or indirectly, through the use of trusts, partnerships, or other arrangements for sharing the rights to the contracts. Both the charity and the private investors receive cash amounts in connection with the investment in the contracts while the life insurance is in force or as the insured individuals die.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision imposes an excise tax, equal to 100 percent of the acquisition costs, on the taxable acquisition of any interest in an applicable insurance contract. An applicable insurance contract is any life insurance, annuity or endowment contract in which both an applicable exempt organization and any person that is not an applicable exempt organization have, directly or indirectly, held an interest in the contract (whether or not the interests are held at the same time).

An applicable exempt organization is any organization described in section 170(c), 168(h)(2)(A)(iv), 2055(a), or 2522(a). Thus, for example, an applicable exempt organization generally includes an organization that is exempt from Federal income tax by reason of being described in section 501(c)(3) (including one organized outside the United States), a government or political subdivision of a government, and an Indian tribal government.

A taxable acquisition is the acquisition of any direct or indirect interest in an applicable insurance contract by an applicable exempt organization, or by any other person if the interest in the contract in that person's hands is not described in the specific exceptions to "applicable insurance contract."

Under the provision, acquisition costs mean the direct or indirect costs (including premiums, commissions, fees, charges, or other amounts) of acquiring or maintaining an interest in an applicable insurance contract. Except as provided in regulations, if acquisition costs of any taxable acquisition are paid or incurred in more than one calendar year, the excise tax under the provision is imposed each time such costs are paid or incurred. In the case of an acquisition of an interest in an entity that directly or indirectly holds an interest in an applicable insurance contract, acquisition costs are intended to include the amount of money or value of property (including an applicable insurance contract) contributed to an entity or otherwise transferred or paid to acquire or increase an interest in the entity, that directly or indirectly holds an interest in an applicable insurance contract.

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[112] Sec. 101(a).

[113] This favorable tax treatment is available only if a life insurance contract meets certain requirements designed to limit the investment character of the contract. Sec. 7702.

[114] Sec. 72(e). In the case of a modified endowment contract, however, in general, distributions are treated as income first, loans are treated as distributions (i.e., income rather than basis recovery first), and an additional 10-percent tax is imposed on the income portion of distributions made before age 59½ and in certain other circumstances. Secs. 72(e) and (v). A modified endowment contract is a life insurance contract that does not meet a statutory "7-pay" test, i.e., generally is funded more rapidly than seven annual level premiums. Sec. 7702A.

[115] Section 101(a)(2). The transfer-for-value rule does not apply, however, in the case of a transfer in which the life insurance contract (or interest in the contract) transferred has a basis in the hands of the transferee that is determined by reference to the transferor's basis. Similarly, the transfer-for-value rule generally does not apply if the transfer is between certain parties (specifically, if the transfer is to the insured, a partner of the insured, a partnership in which the insured is a partner, or a corporation in which the insured is a shareholder or officer).

[116] Section 501(c)(3).

[117] Section 115.

[118] Section 170.

[119] See, e.g., Mass. Gen. Laws Ann. ch. 175, sec. 123A(2) (West 2005); Iowa Code Ann. sec. 511.39 (West 2004) ("a person who, when purchasing a life insurance policy, makes a donation to the charitable organization or makes the charitable organization the beneficiary of all or a part of the proceeds of the policy . . .).

[120] See, e.g., Cal. Ins. Code sec. 10110.1(f) (West 2005); 40 Pa. Cons. Stat. Ann. sec. 40-512 (2004); Fla. Stat. Ann. sec. 27.404 (2) (2004); Mich. Comp. Laws Ann. sec. 500.2212 (West 2004).

[121] Or. Rev. Stat. sec. 743.030 (2003); Del. Code Ann. Tit. 18, sec. 2705(a) (2004).

[122] Davis, Wendy, "Death-Pool Donations," Trusts and Estates, May 2004, 55; Francis, Theo, "Tax May Thwart Investment Plans Enlisting Charities," Wall St. J., Feb. 8, 2005, A-10.

For example, acquisition costs include (1) each premium, commission, or fee with respect to the contract, (2) each amount paid or incurred to acquire or increase an interest in the contract, (3) each amount paid or incurred to acquire or increase an interest in an entity (such as a partnership, trust, corporation, or other type of entity or arrangement) that has a direct or indirect interest in the contract, and (4) if the contract is contributed to an entity, the greater of the value of the contract or the total amount of premiums, commissions, and fees paid or incurred to acquire and maintain the insurance contract. It is intended that, under regulatory authority provided as necessary to carry out the purposes of the provision, any other similar or economically equivalent amount paid or incurred is to be treated as acquisition costs.

Under the provision, an interest in an applicable insurance contract includes any right with respect to the contract, whether as an owner, beneficiary, or otherwise. An indirect interest in a contract includes an interest in an entity that, directly or indirectly, holds an interest in the contract. In the case of a section 1035 exchange of an applicable insurance contract, any interest in any of the contracts involved in the exchange is treated as an interest in all such contracts. An increase in an interest in an applicable insurance contract is treated as a separate acquisition, for purposes of application of the excise tax under the provision.

If an interest of an applicable exempt organization exists solely because the organization holds, as part of a diversified investment strategy, a de minimis interest in an entity which directly or indirectly holds an interest in the contract, such interest is not taken into account for purposes of the provision. For example, if an applicable exempt organization owns a de minimis amount of stock in a corporation which in turn owns life insurance contracts covering key employees, the excise tax under the provision does not apply because the stock ownership is not treated as an indirect interest in this circumstance. It is intended that Treasury regulations provide guidance as to the application of this rule so that it does not permit circumvention of the provision.

Except as provided in regulations, if a person acquires an interest in a contract before the contract is treated as an applicable insurance contract, the acquisition is treated as a taxable acquisition of an interest in applicable insurance contract as of the date the contract becomes an applicable insurance contract.

It is intended that an interest in an applicable insurance contract includes, for example, (1) a right with respect to the applicable insurance contract pursuant to a side contract or other similar arrangement, (2) an interest as a trust beneficiary in distributions from or income of a trust holding an interest in a contract, and (3) a right to distributions, guaranteed payments, or income of a partnership that holds an interest in a contract. It is not intended that a right with respect to the contract include typical rights of issuers of applicable insurance contracts.

Exceptions to the term "applicable insurance contract" apply under the provision. First, the term does not apply if each person (other than an applicable exempt organization) with a direct or indirect interest in the contract has an insurable interest in the insured independent of any interest of the exempt organization in the contract. Second, the term does not apply if the sole interest in the contract of each person other than the applicable exempt organization is as a named beneficiary. Third, the term does not apply if the sole interest in the contract of each person other than the applicable exempt organization is either (1) as a beneficiary of a trust holding an interest in the contract, but only if the person's designation as such a beneficiary was made without consideration and solely on a purely gratuitous basis, or (2) as a trustee who holds an interest in the contract in a fiduciary capacity solely for the benefit of applicable exempt organizations or of persons otherwise meeting one of the first two exceptions.

An exception to the term "applicable insurance contract" also is provided under the provision in certain cases in which a person other than an applicable exempt organization has an interest solely as a lender[123] with respect to the contract, and the contract covers only one individual who is an officer, director, or employee of the applicable exempt organization with an interest in the contract, provided other requirements are met. This exception applies only if the number of insured persons under loans by such lenders with respect to such contracts does not exceed the greater of: (1) the lesser of five percent of the total officers, directors, and employees of the organization or 20, or (2) five. Under this exception, the aggregate amount of indebtedness with respect to 1 or more contracts covering a single individual may not exceed $50,000.

In addition, Treasury regulatory authority is provided to except certain contracts from treatment as applicable insurance contracts. Contracts may be excepted based on specific factors including (1) whether the transaction is at arms' length, (2) whether the economic benefits to the applicable exempt organization substantially exceed the economic benefits to all other persons with an interest in the contract (determined without regard to whether, or the extent to which, such organization has paid or contributed with respect to the contract), and (3) the likelihood of abuse.

The application of the exceptions can be illustrated as follows. Assume that an individual acquires a life insurance contract in which the individual is the insured person, and the named beneficiaries are the individual's son and a university that is an organization described in section 170(c). The contract is not an applicable insurance contract because the first exception applies. That is, because both the individual and his son have an insurable interest in the individual, all persons holding any interest in the contract (other than applicable exempt organizations) have an insurable interest in the insured independent of any interest of an applicable exempt organization in the contract. The second exception also applies in this situation.

As another example, assume that the three named beneficiaries are the insured's son, an unrelated friend, and a charity. The contract is not an applicable insurance contract because the second exception applies. That is, each beneficiary's sole interest is as a named beneficiary. In addition, the first exception also applies in this situation.

As a further example, assume that the insured individual creates an irrevocable trust for the benefit of the insured's descendants, and that the trustee of the trust uses trust funds to purchase a life insurance policy on the insured's life, and the trust is both the owner and beneficiary of the insurance policy. The insured individual's naming of his or her descendants as trust beneficiaries is a gratuitous act, done without consideration. As a result, the contract is not an applicable insurance contract under the third exception.

No Federal income tax deduction is permitted for the excise tax payable under the provision, as provided under the rule of Code section 275(a)(6). The amount of the excise tax payable under the provision is not included in the investment in the contract for purposes of section 72.

Treasury regulatory authority is provided to carry out the purposes of the provision. This includes authority to provide appropriate rules in the case in which a person acquires an interest before a contract is treated as an applicable insurance contract. This also includes authority to prevent, in cases the Treasury Secretary determines appropriate, the imposition of more than one tax if the same interest is acquired more than once (otherwise, the tax under the provision applies to each acquisition). Treasury regulatory authority is also provided to prevent avoidance of the provision, including through the use of intermediaries.

The provision provides reporting rules requiring an applicable exempt organization or other person that makes a taxable acquisition of an applicable insurance contract to file a return containing required information and such other information as is prescribed by the Treasury Secretary. Under these rules, a statement is required to be furnished to each person whose taxpayer identification information is required to be reported on the return. Penalties apply for failure to file the return or furnish the statement, including, in the case of intentional disregard of the return filing requirement, a penalty equal to the amount of the excise tax that has not been paid with respect to the items required to be included on the return.

Effective date.—The provision is effective for contracts issued after May 3, 2005.

The application of the effective date with respect to prior acquisitions of interests may be illustrated as follows. Assume that an exempt organization and a person that is not an exempt organization described in section 170(c) form a partnership before May 3, 2005. After May 3, 2005, the partnership acquires an interest in a life insurance contract that is issued after May 3, 2005. The acquisition by the partnership of the interest in the contract is treated as a taxable acquisition under the provision by each of the partners (*i.e.*, the exempt organization and the other person).

The provision also requires reporting of existing life insurance, endowment and annuity contracts issued on or before that date, in which an applicable exempt organization holds an interest on that date and which would be treated as an applicable insurance contract under the provision. This reporting is required within one year after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

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[123] For this purpose, an interest as a lender includes a security interest in the insurance contract to which the loan relates.

3. Increase the amounts of excise taxes imposed on public charities, social welfare organizations, and private foundations (sec. 213 of the Senate amendment and secs. 4941, 4942, 4943, 4944, 4945, and 4958 of the Code)

PRESENT LAW

Public charities and social welfare organizations

The Code imposes excise taxes on excess benefit transactions between disqualified persons (as defined in section 4958(f)) and charitable organizations (other than private foundations) or social welfare organizations (as described in section 501(c)(4)).[124] An excess benefit transaction generally is a transaction in which an economic benefit is provided by a charitable or social welfare organization directly or indirectly to or for the use of a disqualified person, if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit.

The excess benefit tax is imposed on the disqualified person and, in certain cases, on the organization manager, but is not imposed on the exempt organization. An initial tax of 25 percent of the excess benefit amount is imposed on the disqualified person that receives the excess benefit. An additional tax on the disqualified person of 200 percent of the excess benefit applies if the violation is not corrected. A tax of 10 percent of the excess benefit (not to exceed $10,000 with respect to any excess benefit transaction) is imposed on an organization manager that knowingly participated in the excess benefit transaction, if the manager's participation was willful and not due to reasonable cause, and if the initial tax was imposed on the disqualified person.[125] If more than one person is liable for the tax on disqualified persons or on management, all such persons are jointly and severally liable for the tax.[126]

Private foundations

Self-dealing by private foundations

Excise taxes are imposed on acts of self-dealing between a disqualified person (as defined in section 4946) and a private foundation.[127] In general, self-dealing transactions are any direct or indirect: (1) sale or exchange, or leasing, of property between a private foundation and a disqualified person; (2) lending of money or other extension of credit between a private foundation and a disqualified person; (3) the furnishing of goods, services, or facilities between a private foundation and a disqualified person; (4) the payment of compensation (or payment or reimbursement of expenses) by a private foundation to a disqualified person; (5) the transfer to, or use by or for the benefit of, a disqualified person of the income or assets of the private foundation; and (6) certain payments of money or property to a government official.[128] Certain exceptions apply.[129]

An initial tax of five percent of the amount involved with respect to an act of self-dealing is imposed on any disqualified person (other than a foundation manager acting only as such) who participates in the act of self-dealing. If such a tax is imposed, a 2.5-percent tax of the amount involved is imposed on a foundation manager who participated in the act of self-dealing knowing it was such an act (and such participation was not willful and was due to reasonable cause) up to $10,000 per act. Such initial taxes may not be abated.[130] Such initial taxes are imposed for each year in the taxable period, which begins on the date the act of self-dealing occurs and ends on the earliest of the date of mailing of a notice of deficiency for the tax, the date on which the tax is assessed, or the date on which correction of the act of self-dealing is completed. A government official (as defined in section 4946(c)) is subject to such initial tax only if the official participates in the act of self-dealing knowing it is such an act. If the act of self-dealing is not corrected, a tax of 200 percent of the amount involved is imposed on the disqualified person and a tax of 50 percent of the amount involved (up to $10,000 per act) is imposed on a foundation manager who refused to agree to correcting the act of self-dealing. Such additional taxes are subject to abatement.[131]

Tax on failure to distribute income

Private nonoperating foundations are required to pay out a minimum amount each year as qualifying distributions. In general, a qualifying distribution is an amount paid to accomplish one or more of the organization's exempt purposes, including reasonable and necessary administrative expenses.[132] Failure to pay out the minimum results in an initial excise tax on the foundation of 15 percent of the undistributed amount. An additional tax of 100 percent of the undistributed amount applies if an initial tax is imposed and the required distributions have not been made by the end of the applicable taxable period.[133] A foundation may include as a qualifying distribution the salaries, occupancy expenses, travel costs, and other reasonable and necessary administrative expenses that the foundation incurs in operating a grant program. A qualifying distribution also includes any amount paid to acquire an asset used (or held for use) directly in carrying out one or more of the organization's exempt purposes and certain amounts set-aside for exempt purposes.[134] Private operating foundations are not subject to the payout requirements.

Tax on excess business holdings

Private foundations are subject to tax on excess business holdings.[135] In general, a private foundation is permitted to hold 20 percent of the voting stock in a corporation, reduced by the amount of voting stock held by all disqualified persons (as defined in section 4946). If it is established that no disqualified person has effective control of the corporation, a private foundation and disqualified persons together may own up to 35 percent of the voting stock of a corporation. A private foundation shall not be treated as having excess business holdings in any corporation if it owns (together with certain other related private foundations) not more than two percent of the voting stock and not more than two percent in value of all outstanding shares of all classes of stock in that corporation. Similar rules apply with respect to holdings in a partnership ("profits interest" is substituted for "voting stock" and "capital interest" for "nonvoting stock") and to other unincorporated enterprises (by substituting "beneficial interest" for "voting stock"). Private foundations are not permitted to have holdings in a proprietorship. Foundations generally have a five-year period to dispose of excess business holdings (acquired other than by purchase) without being subject to tax.[136] This five-year period may be extended an additional five years in limited circumstances.[137]

The initial tax is equal to five percent of the value of the excess business holdings held during the foundation's applicable taxable year. An additional tax is imposed if an initial tax is imposed and at the close of the applicable taxable period, the foundation continues to hold excess business holdings. The amount of the additional tax is equal to 200 percent of such holdings.

Tax on jeopardizing investments

Private foundations and foundation managers are subject to tax on investments that jeopardize the foundation's charitable purpose.[138] In general, an initial tax of five percent of the amount of the investment applies to the foundation and to foundation managers who participated in the making of the investment knowing that it jeopardized the carrying out of the foundation's exempt purposes. The initial tax on foundation managers may not exceed $5,000 per investment. If the investment is not removed from jeopardy (e.g., sold or otherwise disposed of), an additional tax of 25 percent of the amount of the investment is imposed on the foundation and five percent of the amount of the investment on a foundation manager who refused to agree to removing the investment from jeopardy. The additional tax on foundation managers may not exceed $10,000 per investment. An investment, the primary purpose of which is to accomplish a charitable purpose and no significant purpose of which is the production of income or the appreciation of property, is not considered a jeopardizing investment.[139]

Tax on taxable expenditures

Certain expenditures of private foundations are subject to tax.[140] In general, taxable expenditures are expenses: (1) for lobbying; (2) to influence the outcome of a public election or carry on a voter registration drive (unless certain requirements are met); (3) as a grant to an individual for travel, study, or similar purposes unless made pursuant to procedures approved by the Secretary; (4) as a grant to an organization that is not a public charity or exempt operating foundation unless the foundation exercises expenditure responsibility[141] with respect to the grant; or (5) for any non-charitable purpose. For each taxable expenditure, a tax is imposed on the foundation of 10 percent of the amount of the expenditure, and an additional tax of 100 percent is imposed on the foundation if the expenditure is not corrected. A tax of 2.5 percent of the expenditure (up to $5,000) also is imposed on a foundation manager who agrees to making a taxable expenditure knowing that it is a taxable expenditure. An additional tax of 50 percent of the amount of the expenditure (up to $10,000) is imposed on a foundation manager who refuses to agree to correction of such expenditure.

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[124] Sec. 4958. The excess benefit transaction tax is commonly referred to as "intermediate sanctions," because it imposes penalties generally considered to be less punitive than revocation of the organization's exempt status.

[125] Sec. 4958(d)(2). Taxes imposed may be abated if certain conditions are met. Secs. 4961 and 4962.

[126] Sec. 4958(d)(1).

[127] Sec. 4941.

[128] Sec. 4941(d)(1).

[129] See sec. 4941(d)(2).

[130] Sec. 4962(b).

[131] Sec. 4961.

[132] Sec. 4942(g)(1)(A).

[133] Sec. 4942(a) and (b). Taxes imposed may be abated if certain conditions are met. Secs. 4961 and 4962.

[134] Sec. 4942(g)(1)(B) and 4942(g)(2). In general, an organization is permitted to adjust the distributable amount in those cases where distributions during the five preceding years have exceeded the payout requirements. Sec. 4942(i).

[135] Sec. 4943. Taxes imposed may be abated if certain conditions are met. Secs. 4961 and 4962.

[136] Sec. 4943(c)(6).

[137] Sec. 4943(c)(7).

[138] Sec. 4944. Taxes imposed may be abated if certain conditions are met. Secs. 4961 and 4962.

[139] Sec. 4944(c).

[140] Sec. 4945. Taxes imposed may be abated if certain conditions are met. Secs. 4961 and 4962.

[141] In general, expenditure responsibility requires that a foundation make all reasonable efforts and establish reasonable procedures to ensure that the grant is spent solely for the purpose for which it was made, to obtain reports from the grantee on the expenditure of the grant, and to make reports to the Secretary regarding such expenditures. Sec. 4945(h).

HOUSE BILL

No provision.

SENATE AMENDMENT

Self-dealing and excess benefit transaction initial taxes and dollar limitations

For acts of self-dealing other than the payment of compensation by a private foundation to a disqualified person, the provision increases the initial tax on the self-dealer from five percent of the amount involved to 10 percent of the amount involved. For acts of self-dealing regarding the payment of compensation by a private foundation to a disqualified person, the provision increases the initial tax on the self-dealer from five percent of the amount involved (none of which is subject to abatement) to 25 percent of the amount involved (15 percent of which is subject to abatement). The provision increases the initial tax on foundation managers from 2.5 percent of the amount involved to five percent of the amount involved and increases the dollar limitation on the amount of the initial and additional taxes on foundation managers per act of self-dealing from $10,000 per act to $20,000 per act. Similarly, the provision doubles the dollar limitation on organization managers of public charities and social welfare organizations for participation in excess benefit transactions from $10,000 per transaction to $20,000 per transaction.

Failure to distribute income, excess business holdings, jeopardizing investments, and taxable expenditures

The provision doubles the amounts of the initial taxes and the dollar limitations on foundation managers with respect to the private foundation excise taxes on the failure to distribute income, excess business holdings, jeopardizing investments, and taxable expenditures.

Specifically, for the failure to distribute income, the initial tax on the foundation is increased from 15 percent of the undistributed amount to 30 percent of the undistributed amount.

For excess business holdings, the initial tax on excess business holdings is increased from five percent of the value of such holdings to 10 percent of such value.

For jeopardizing investments, the initial tax of five percent of the amount of the investment that is imposed on the foundation and on foundation managers is increased to 10 percent of the amount of the investment. The dollar limitation on the initial tax on foundation managers of $5,000 per investment is increased to $10,000 and the dollar limitation on the additional tax on foundation managers of $10,000 per investment is increased to $20,000.

For taxable expenditures, the initial tax on the foundation is increased from 10 percent of the amount of the expenditure to 20 percent, the initial tax on the foundation manager is increased from 2.5 percent of the amount of the expenditure to five percent, the dollar limitation on the initial tax on foundation managers is increased from $5,000 to $10,000, and the dollar limitation on the additional tax on foundation managers is increased from $10,000 to $20,000.

Effective date.—The provision is effective for taxable years beginning after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

4. Reform rules for charitable contributions of easements on buildings in registered historic districts (Sec. 214 of the Senate amendment and sec. 170 of the Code)

PRESENT LAW

In general

Present law provides special rules that apply to charitable deductions of qualified conservation contributions, which include conservation easements and facade easements.[142] Qualified conservation contributions are not subject to the "partial interest" rule, which generally bars deductions for charitable contributions of partial interests in property.[143] Accordingly, qualified conservation contributions are contributions of partial interests that are eligible for a fair market value charitable deduction.

A qualified conservation contribution is a contribution of a qualified real property interest to a qualified organization exclusively for conservation purposes. A qualified real property interest is defined as: (1) the entire interest of the donor other than a qualified mineral interest; (2) a remainder interest; or (3) a restriction (granted in perpetuity) on the use that may be made of the real property.[144] Qualified organizations include certain governmental units, public charities that meet certain public support tests, and certain supporting organizations.

Conservation purposes include: (1) the preservation of land areas for outdoor recreation by, or for the education of, the general public; (2) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem; (3) the preservation of open space (including farmland and forest land) where such preservation will yield a significant public benefit and is either for the scenic enjoyment of the general public or pursuant to a clearly delineated Federal, State, or local governmental conservation policy; and (4) the preservation of an historically important land area or a certified historic structure.[145]

In general, no deduction is available if the property may be put to a use that is inconsistent with the conservation purpose of the gift.[146] A contribution is not deductible if it accomplishes a permitted conservation purpose while also destroying other significant conservation interests.[147]

Taxpayers are required to obtain a qualified appraisal for donated property with a value of $5,000 or more, and to attach an appraisal summary to the tax return.[148] Under Treasury regulations, a qualified appraisal means an appraisal document that, among other things: (1) relates to an appraisal that is made not earlier than 60 days prior to the date of contribution of the appraised property and not later than the due date (including extensions) of the return on which a deduction is first claimed under section 170;[149] (2) is prepared, signed, and dated by a qualified appraiser; (3) includes (a) a description of the property appraised; (b) the fair market value of such property on the date of contribution and the specific basis for the valuation; (c) a statement that such appraisal was prepared for income tax purposes; (d) the qualifications of the qualified appraiser; and (e) the signature and taxpayer identification number of such appraiser; and (4) does not involve an appraisal fee that violates certain prescribed rules.[150]

Valuation

The value of a conservation restriction granted in perpetuity generally is determined under the "before and after approach." Such approach provides that the fair market value of the restriction is equal to the difference (if any) between the fair market value of the property the restriction encumbers before the restriction is granted and the fair market value of the encumbered property after the restriction is granted.[151]

If the granting of a perpetual restriction has the effect of increasing the value of any other property owned by the donor or a related person, the amount of the charitable deduction for the conservation contribution is to be reduced by the amount of the increase in the value of the other property.[152] In addition, the donor is to reduce the amount of the charitable deduction by the amount of financial or economic benefits that the donor or a related person receives or can reasonably be expected to receive as a result of the contribution.[153] If such benefits are greater than those that will inure to the general public from the transfer, no deduction is allowed.[154] In those instances where the grant of a conservation restriction has no material effect on the value of the property, or serves to enhance, rather than reduce, the value of the property, no deduction is allowed.[155]

Preservation of a certified historic structure

A certified historic structure means any building, structure, or land which is (i) listed in the National Register, or (ii) located in a registered historic district (as defined in section 47(c)(3)(B)) and is certified by the Secretary of the Interior to the Secretary of the Treasury as being of historic significance to the district.[156] For this purpose, a structure means any structure, whether or not it is depreciable, and, accordingly, easements on private residences may qualify.[157] If restrictions to preserve a building or land area within a registered historic district permit future development on the site, a deduction will be allowed only if the terms of the restrictions require that such development conform with appropriate local, State, or Federal standards for construction or rehabilitation within the district.[158]

The IRS and the courts have held that a facade easement may constitute a qualifying conservation contribution.[159] In general, a facade easement is a restriction the purpose of which is to preserve certain architectural, historic, and cultural features of the facade, or front, of a building. The terms of a facade easement might permit the property owner to make alterations to the facade of the structure if the owner obtains consent from the qualified organization that holds the easement.

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[142] Sec. 170(h).

[143] Sec. 170(f)(3).

[144] Charitable contributions of interests that constitute the taxpayer's entire interest in the property are not regarded as qualified real property interests within the meaning of section 170(h), but instead are subject to the general rules applicable to charitable contributions of entire interests of the taxpayer (i.e., generally are deductible at fair market value, without regard to satisfaction of the requirements of section 170(h)).

[145] Sec. 170(h)(4)(A).

[146] Treas. Reg. sec. 1.170A-14(e)(2).

[147] Treas. Reg. sec. 1.170A-14(e)(2).

[148] Sec. 170(f)(11)(C).

[149] In the case of a deduction first claimed or reported on an amended return, the deadline is the date on which the amended return is filed.

[150] Treas. Reg. sec. 1.170A-13(c)(3).

[151] Treas. Reg. sec. 1.170A-14(h)(3).

[152] Treas. Reg. sec. 1.170A-14(h)(3)(i).

[153] Id.

[154] Id.

[155] Treas. Reg. sec. 1.170A-14(h)(3)(ii).

[156] Sec. 170(h)(4)(B).

[157] Treas. Reg. sec. 1.170A-14(d)(5)(iii).

[158] Treas. Reg. sec. 1.170A-14(d)(5)(i).

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision revises the rules for qualified conservation contributions with respect to property for which a charitable deduction is allowable under section 170(h)(4)(B)(ii) by reason of a property's location in a registered historic district. Under the provision, a charitable deduction is not allowable with respect to a structure or land area located in such a district (by reason of the structure or land area's location in such a district). A charitable deduction is allowable with respect to buildings (as is the case under present law) but the qualified real property interest that relates to the exterior of the building must preserve the entire exterior of the building, including the space above the building, the sides, the rear, and the front of the building. In addition, such qualified real property interest must provide that no portion of the exterior of the building may be changed in a manner inconsistent with the historical character of such exterior.

For any contribution relating to a registered historic district made after the date of enactment of the provision, taxpayers must include with the return for the taxable year of the contribution a qualified appraisal of the qualified real property interest (irrespective of the claimed value of such interest) and attach the appraisal with the taxpayer's return, photographs of the entire exterior of the building, and descriptions of all current restrictions on development of the building, including, for example, zoning laws, ordinances, neighborhood association rules, restrictive covenants, and other similar restrictions. Failure to obtain and attach an appraisal or to include the required information results in disallowance of the deduction. In addition, the donor and the donee must enter into a written agreement certifying, under penalty of perjury, that the donee is a qualified organization, with a purpose of environmental protection, land conservation, open space preservation, or historic preservation, and that the donee has the resources to manage and enforce the restriction and a commitment to do so.

Taxpayers claiming a deduction for a qualified conservation contribution with respect to the exterior of a building located in a registered historic district in excess of the greater of three percent of the fair market value of the underlying property or $10,000 must pay a $500 fee to the Internal Revenue Service or the deduction is not allowed. Amounts paid are required to be dedicated to Internal Revenue Service enforcement of qualified conservation contributions.

Effective date.—The provision relating to deductions for contributions relating to structures and land areas is effective for contributions made after the date of enactment. The limitation on the amount that may be deducted and the filing fee is effective for contributions made 180 days after the date of enactment. The rest of the provision is effective for contributions made after November 15, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

5. Reform rules relating to charitable contributions of taxidermy and recapture tax benefit on property not used for an exempt use (secs. 215 and 216 of the Senate amendment and secs. 170, 6050L, and new sec. 6720B of the Code)

PRESENT LAW

Deductibility of charitable contributions

In general

In computing taxable income, a taxpayer who itemizes deductions generally is allowed to deduct the amount of cash and the fair market value of property contributed to an organization described in section 501(c)(3) or to a Federal, State, or local governmental entity.[160] The amount of the deduction allowable for a taxable year with respect to a charitable contribution of property may be reduced or limited depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer.[161] In general, more generous charitable contribution deduction rules apply to gifts made to public charities than to gifts made to private foundations. Within certain limitations, donors also are entitled to deduct their contributions to section 501(c)(3) organizations for Federal estate and gift tax purposes. By contrast, contributions to nongovernmental, non-charitable tax-exempt organizations generally are not deductible by the donor,[162] though such organizations are eligible for the exemption from Federal income tax with respect to such donations.

Contributions of property

The amount of the deduction for charitable contributions of capital gain property generally equals the fair market value of the contributed property on the date of the contribution. Capital gain property means any capital asset, or property used in the taxpayer's trade or business, the sale of which at its fair market value, at the time of contribution, would have resulted in gain that would have been long-term capital gain. Contributions of capital gain property are subject to different percentage limitations (*i.e.*, limitations based on the donor's income) than other contributions of property.

For certain contributions of property, the deductible amount is reduced from the fair market value of the contributed property by the amount of any gain, generally resulting in a deduction equal to the taxpayer's basis. This rule applies to contributions of: (1) ordinary income property, *e.g.*, property that, at the time of contribution, would not have resulted in long-term capital gain if the property was sold by the taxpayer on the contribution date;[163] (2) tangible personal property that is used by the donee in a manner unrelated to the donee's exempt (or governmental) purpose; and (3) property to or for the use of a private foundation (other than a foundation defined in section 170(b)(1)(E)).

Charitable contributions of taxidermy are subject to the tangible personal property rule (number (2) above). For example, for appreciated taxidermy, if the property is used to further the donee's exempt purpose, the deduction is fair market value. But if the property is not used to further the donee's exempt purpose, the deduction is the donor's basis. If the taxidermy is depreciated, i.e., the value is less than the taxpayer's basis in such property, taxpayers generally deduct the fair market value of such contributions, regardless of whether the property is used for exempt or unrelated purposes by the donee.

Substantiation

No charitable deduction is allowed for any contribution of $250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgement of the contribution by the donee organization.[164] Such acknowledgement must include the amount of cash and a description (but not value) of any property other than cash contributed, whether the donee provided any goods or services in consideration for the contribution (and a good faith estimate of the value of any such goods or services).

In general, if the total charitable deduction claimed for non-cash property is more than $500, the taxpayer must attach a completed Form 8283 (Noncash Charitable Contributions) to the taxpayer's return or the deduction is not allowed.[165] C corporations (other than personal service corporations and closely-held corporations) are required to file Form 8283 only if the deduction claimed is more than $5,000. Information required on the Form 8283 includes, among other things, a description of the property, the appraised fair market value (if an appraisal is required), the donor's basis in the property, how the donor acquired the property, a declaration by the appraiser regarding the appraiser's general qualifications, an acknowledgement by the donee that it is eligible to receive deductible contributions, and an indication by the donee whether the property is intended for an unrelated use.

Taxpayers are required to obtain a qualified appraisal for donated property with a value of more than $5,000, and to attach an appraisal summary to the tax return.[166] Under Treasury regulations, a qualified appraisal means an appraisal document that, among other things: (1) relates to an appraisal that is made not earlier than 60 days prior to the date of contribution of the appraised property and not later than the due date (including extensions) of the return on which a deduction is first claimed under section 170;[167] (2) is prepared, signed, and dated by a qualified appraiser; (3) includes (a) a description of the property appraised; (b) the fair market value of such property on the date of contribution and the specific basis for the valuation; (c) a statement that such appraisal was prepared for income tax purposes; (d) the qualifications of the qualified appraiser; and (e) the signature and taxpayer identification number of such appraiser; and (4) does not involve an appraisal fee that violates certain prescribed rules.[168] In the case of contributions of art valued at more than $20,000 and other contributions of more than $500,000, taxpayers are required to attach the appraisal to the tax return. Taxpayers may request a Statement of Value from the Internal Revenue Service in order to substantiate the value of art with an appraised value of $50,000 or more for income, estate, or gift tax purposes.[169] The fee for such a Statement is $2,500 for one, two, or three items or art plus $250 for each additional item.

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[159] *Hillborn* v. *Commissioner*, 85 T.C. 677 (1985) (holding the fair market value of a facade donation generally is determined by applying the "before and after" valuation approach); *Richmond* v. *U.S.*, 699 F. Supp. 578 (E.D. La. 1988); Priv. Ltr. Rul. 199933029 (May 24, 1999) (ruling that a preservation and conservation easement relating to the facade and certain interior portions of a fraternity house was a qualified conservation contribution).

[160] The deduction also is allowed for purposes of calculating alternative minimum taxable income.

[161] Secs. 170(b) and (e).

[162] Exceptions to the general rule of non-deductibility include certain gifts made to a veterans' organization or to a domestic fraternal society. In addition, contributions to certain nonprofit cemetery companies are deductible for Federal income tax purposes, but generally are not deductible for Federal estate and gift tax purposes. Secs. 170(c)(3), 170(c)(4), 170(c)(5), 2055(a)(3), 2055(a)(4), 2106(a)(2)(A)(iii), 2522(a)(3), and 2522(a)(4).

[163] For certain contributions of inventory, C corporations may claim an enhanced deduction equal to the lesser of (1) basis plus one-half of the item's appreciation (*i.e.*, basis plus one half of fair market value in excess of basis) or (2) two times basis. Sec. 170(e)(3), 170(e)(4), 170(e)(6).

[164] Sec. 170(f)(8).

[165] Sec. 170(f)(11).

[166] Id.

[167] In the case of a deduction first claimed or reported on an amended return, the deadline is the date on which the amended return is filed.

If a donee organization sells, exchanges, or otherwise disposes of contributed property with a claimed value of more than $5,000 (other than publicly traded securities) within two years of the property's receipt, the donee is required to file a return (Form 8282) with the Secretary, and to furnish a copy of the return to the donor, showing the name, address, and taxpayer identification number of the donor, a description of the property, the date of the contribution, the amount received on the disposition, and the date of the disposition.[170]

HOUSE BILL

No provision.

SENATE AMENDMENT

Contributions of taxidermy

For contributions of taxidermy property with a claimed value of more than $500, the individual must include with the individual's return a photograph of the taxidermy and comparable sales data for similar items. It is intended that valuation must be based on comparable sales and that a deduction is not allowable if sufficient comparable sales are not provided.

For claims of more than $5,000, the taxpayer must notify the IRS of the deduction and include with the taxpayer's return a statement of value from the IRS, similar to that available under present law for items of art, or a request for such a statement and a fee of $500. The provision defines taxidermy property as a mounted work of art which contains any part of a dead animal.

It is intended that for purposes of the charitable contribution deduction, a taxpayer may not include in the taxpayer's basis of the contributed taxidermy any costs attributable to travel.

Recapture of tax benefit upon subsequent disposition of tangible personal property intended for an exempt use

In general, the provision recovers the tax benefit for charitable contributions of tangible personal property with respect to which a fair market value deduction is claimed and which is not used for exempt purposes. The provision applies to appreciated tangible personal property that is identified by the donee organization as for a use related to the purpose or function constituting the donee's basis for tax exemption, and for which a deduction of more than $5,000 is claimed ("applicable property").[171]

Under the provision, if a donee organization disposes of applicable property within three years of the contribution of the property, the donor is subject to an adjustment of the tax benefit. If the disposition occurs in the tax year of the donor in which the contribution is made, the donor's deduction generally is basis and not fair market value.[172] If the disposition occurs in a subsequent year, the donor must include as ordinary income for its taxable year in which the disposition occurs an amount equal to the excess (if any) of (i) the amount of the deduction previously claimed by the donor as a charitable contribution with respect to such property, over (ii) the donor's basis in such property at the time of the contribution.

There is no adjustment of the tax benefit if the donee organization makes a certification to the Secretary, by written statement signed under penalties of perjury by an officer of the organization. The statement must either (1) certify that the use of the property by the donee was related to the purpose or function constituting the basis for the donee's exemption, and describe how the property was used and how such use furthered such purpose or function; or (2) state the intended use of the property by the donee at the time of the contribution and certify that such use became impossible or infeasible to implement. The organization must furnish a copy of the certification to the donor.

A penalty of $10,000 applies to a person that identifies applicable property as having a use that is related to a purpose or function constituting the basis for the donee's exemption knowing that it is not intended for such a use.[173]

Reporting of exempt use property contributions

The provision modifies the present-law information return requirements that apply upon the disposition of contributed property by a charitable organization (Form 8282, sec. 6050L). The return requirement is extended to dispositions made within three years after receipt (from two years). The donee organization also must provide, in addition to the information already required to be provided on the return, a description of the donee's use of the property, a statement of whether use of the property was related to the purpose or function constituting the basis for the donee's exemption, and, if applicable, a certification of any such use (described above).

Effective date.—With respect to contributions of taxidermy property, the provision is effective for contributions made after November 15, 2005. With respect to exempt use property generally, the provision is effective for contributions made and returns filed after June 1, 2006.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

6. Limit charitable deduction for contributions of clothing and household items and modify recordkeeping and substantiation requirements for certain charitable contributions (secs. 217 and 218 of the Senate amendment and sec. 170 of the Code)

PRESENT LAW

Deductibility of charitable contributions

In general

In computing taxable income, a taxpayer who itemizes deductions generally is allowed to deduct the amount of cash and the fair market value of property contributed to an organization described in section 501(c)(3) or to a Federal, State, or local governmental entity.[174] The amount of the deduction allowable for a taxable year with respect to a charitable contribution of property may be reduced or limited depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer.[175] In general, more generous charitable contribution deduction rules apply to gifts made to public charities than to gifts made to private foundations. Within certain limitations, donors also are entitled to deduct their contributions to section 501(c)(3) organizations for Federal estate and gift tax purposes. By contrast, contributions to nongovernmental, non-charitable tax-exempt organizations generally are not deductible by the donor,[176] though such organizations are eligible for the exemption from Federal income tax with respect to such donations.

Contributions of property

The amount of the deduction for charitable contributions of capital gain property generally equals the fair market value of the contributed property on the date of the contribution. Capital gain property means any capital asset or property used in the taxpayer's trade or business the sale of which at its fair market value, at the time of contribution, would have resulted in gain that would have been long-term capital gain. Contributions of capital gain property are subject to different percentage limitations than other contributions of property.

For certain contributions of property, the deductible amount is reduced from the fair market value of the contributed property by the amount of any gain, generally resulting in a deduction equal to the taxpayer's basis. This rule applies to contributions of: (1) ordinary income property, e.g., property that, at the time of contribution, would not have resulted in long-term capital gain if the property was sold by the taxpayer on the contribution date;[177] (2) tangible personal property that is used by the donee in a manner unrelated to the donee's exempt (or governmental) purpose; and (3) property to or for the use of a private foundation (other than a foundation defined in section 170(b)(1)(E)).

Charitable contributions of clothing and household items are subject to the tangible personal property rule (number (2) above). If such contributed property is appreciated property in the hands of the taxpayer, and is not used to further the donee's exempt purpose, the deduction is basis. In general, however, the value of clothing and household items is less than the taxpayer's basis in such property, with the result that taxpayers generally deduct the fair market value of such contributions, regardless of whether the property is used for exempt or unrelated purposes by the donee.

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[168] Treas. Reg. sec. 1.170A-13(c)(3). Sec. 170(f)(11)(E).

[169] Rev. Proc. 96-15, 1996-1 C.B. 627.

[170] Sec. 6050L(a)(1).

[171] Present law rules continue to apply to any contribution of exempt use property for which a deduction of $5,000 or less is claimed.

[172] The disposition proceeds are regarded as relevant to a determination of fair market value.

[173] Other present-law penalties also may apply, such as the penalty for aiding and abetting the understatement of tax liability under section 6701.

[174] The deduction also is allowed for purposes of calculating alternative minimum taxable income.

[175] Secs. 170(b) and (e).

[176] Exceptions to the general rule of non-deductibility include certain gifts made to a veterans' organization or to a domestic fraternal society. In addition, contributions to certain nonprofit cemetery companies are deductible for Federal income tax purposes, but generally are not deductible for Federal estate and gift tax purposes. Secs. 170(c)(3), 170(c)(4), 170(c)(5), 2055(a)(3), 2055(a)(4), 2106(a)(2)(A)(iii), 2522(a)(3), and 2522(a)(4).

[177] For certain contributions of inventory and other property, C corporations may claim an enhanced deduction equal to the lesser of (1) basis plus one-half of the item's appreciation (i.e., basis plus one half of fair market value in excess of basis) or (2) two times basis. Sec. 170(e)(3), 170(e)(4), 170(e)(6).

Substantiation

A donor who claims a deduction for a charitable contribution must maintain reliable written records regarding the contribution, regardless of the value or amount of such contribution. For a contribution of money, the donor generally must maintain one of the following: (1) a cancelled check; (2) a receipt (or a letter or other written communication) from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution; or (3) in the absence of a cancelled check or a receipt, other reliable written records showing the name of the donee, the date of the contribution, and the amount of the contribution. For a contribution of property other than money, the donor generally must maintain a receipt from the donee organization showing the name of the donee, the date and location of the contribution, and a detailed description (but not the value) of the property.[178] A donor of property other than money need not obtain a receipt, however, if circumstances make obtaining a receipt impracticable. Under such circumstances, the donor must maintain reliable written records regarding the contribution. The required content of such a record varies depending upon factors such as the type and value of property contributed.[179]

In addition to the foregoing recordkeeping requirements, substantiation requirements apply in the case of charitable contributions with a value of $250 or more. No charitable deduction is allowed for any contribution of $250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgement of the contribution by the donee organization. Such acknowledgement must include the amount of cash and a description (but not value) of any property other than cash contributed, whether the donee provided any goods or services in consideration for the contribution, and a good faith estimate of the value of any such goods or services.[180] In general, if the total charitable deduction claimed for non-cash property is more than $500, the taxpayer must attach a completed Form 8283 (Noncash Charitable Contributions) to the taxpayer's return or the deduction is not allowed.[181] In general, taxpayers are required to obtain a qualified appraisal for donated property with a value of more than $5,000, and to attach an appraisal summary to the tax return.

HOUSE BILL

SENATE AMENDMENT

General rule relating to clothing and household items

The provision requires the Secretary to prepare and publish an itemized list of clothing and household items and to assign an amount to each item on the list. The assigned amount is treated as the fair market value of the item for purposes of the charitable contribution deduction and is based on an assumption that the item is in good used condition or better. Any deduction for a charitable contribution of each such item may not exceed the item's assigned amount. Any deduction for an item not in good used condition or better may not exceed 20 percent of the item's assigned amount. Any deduction for an item that is not functional with respect to the use for which it was designed is not allowed. The list must be published by the Secretary at least once each calendar year and is applicable to contributions of clothing and household items made while the list is effective. The Secretary has discretion to determine the effective dates for each published list. The list should be prepared in consultation with donee organizations that accept charitable contributions of clothing and household items. In assigning amounts to particular items, the Secretary should take into account the sales price of such contributed item when sold by the donee organizations, whether through an exempt program of such organizations or otherwise. If an item of clothing or household item is not included on the list published by the Secretary, present law rules apply to the contribution of the item.

The provision does not apply to contributions for which the donor has obtained a qualified appraisal. The provision also does not apply to contributions for which a deduction of more than $500 is claimed if (1) the donee sells the contributed item before the earlier of the due date (including extensions) for filing the return of tax for the taxable year of the donor in which the contribution was made or the date such return was filed; (2) the donee reports the sales price of the contributed item to the donor; and (3) the amount claimed as a deduction with respect to the contributed item does not exceed the amount of the sales price reported to the donor.

The provision does not apply to contributions by C corporations. The provision applies to new and used items. Household items include furniture, furnishings, electronics, appliances, linens, and other similar items. Food, paintings, antiques, and other objects of art, jewelry and gems, and collections are excluded from the provision.

Substantiation

Clothing and household items

As under present law, for contributions with a claimed value of $250 or more, the taxpayer must obtain contemporaneous substantiation from the donee organization, which must include a description of the property contributed. The provision provides that, as part of such substantiation, the taxpayer obtain an indication of the condition of the item(s), a description of the type of item, and either a copy of the published list or instructions as to how to find such list.

Under present law, if a taxpayer claims that the total value of charitable contributions of noncash property is more than $500, the taxpayer must include with the taxpayer's return a description of the property contributed and such other information as the Secretary may require in order to claim a charitable deduction (sec. 170(f)(11)(B)). This requirement presently is satisfied through completion by the taxpayer of the Form 8283 and attachment of the form to the taxpayer's return. The provision requires that the donor include the information about the contribution that is contained in the contemporaneous substantiation obtained from the donee organization (for gifts of $250 or more) as part of such requirement.

Contributions of cash

In addition, in the case of a charitable contribution of money, regardless of the amount, applicable recordkeeping requirements are satisfied under the provision only if the donor maintains a cancelled check or a receipt (or a letter or other written communication) from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution. The recordkeeping requirements may not be satisfied by maintaining other written records.

Effective date.—The provision relating to clothing and household items is effective for contributions made after December 31, 2006. The provision relating to substantiation more generally is effective for contributions made in taxable years beginning after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

7. Contributions of fractional interests in tangible personal property (sec. 219 of the Senate amendment and sec. 170 of the Code)

PRESENT LAW

In general, a charitable deduction is not allowable for a contribution of a partial interest in property, such as an income interest, a remainder interest, or a right to use property.[182] A gift of an undivided portion of a donor's entire interest in property generally is not treated as a nondeductible gift of a partial interest in property.[183] For this purpose, an undivided portion of a donor's entire interest in property must consist of a fraction or percentage of each and every substantial interest or right owned by the donor in such property and must extend over the entire term of the donor's interest in such property.[184] A gift generally is treated as a gift of an undivided portion of a donor's entire interest in property if the donee is given the right, as a tenant in common with the donor, to possession, dominion, and control of the property for a portion of each year appropriate to its interest in such property.[185]

Consistent with these requirements, a charitable contribution deduction generally is not allowable for a contribution of a future interest in tangible personal property.[186] For this purpose, a future interest is one "in which a donor purports to give tangible personal property to a charitable organization, but has an understanding, arrangement, agreement, etc., whether written or oral, with the charitable organization which has the effect of reserving to, or retaining in, such donor a right to the use, possession, or enjoyment of the property."[187] Treasury regulations provide that section 170(a)(3), which generally denies a deduction for a contribution of a future interest in tangible personal property, "[has] no application in respect of a transfer of an undivided present interest in property. For example, a contribution of an undivided one-quarter interest in a painting with respect to which the donee is entitled to possession during three months of each year shall be treated as made upon the receipt by the donee of a formally executed and acknowledged deed of gift. However, the period of initial possession by the donee may not be deferred in time for more than one year."[188]

HOUSE BILL

No provision.

SENATE AMENDMENT

Require consistent valuation of fractional interests in the same item of property

In general, under present law and the provision a donor may take a deduction for a charitable contribution of a fractional interest in tangible personal property (such as an artwork), provided the donor satisfies the requirements for deductibility (including the requirements concerning contributions of partial interests and future interests in property), and in subsequent years make additional charitable contributions of interests in the same property.[189] Under the provision, a donor's charitable deduction for the initial contribution of a fractional interest in an item of tangible personal property (or collection of such items) shall be determined as under current law (e.g., based upon the fair market value of the artwork at the time of the contribution of the fractional interest and considering whether the use of the artwork will be related to the donee's exempt purposes). For purposes of determining the deductible amount of each additional contribution of an interest (whether or not a fractional interest) in the same item of property, under the provision, the fair market value of the item shall be the lesser of: (1) the value used for purposes of determining the charitable deduction for the initial fractional contribution; or (2) the fair market value of the item at the time of the subsequent contribution. This portion of the provision applies for income, gift, and estate tax purposes.

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[178] Treas. Reg. sec. 1.170A-13(a).

[179] Treas. Reg. sec. 1.170A-13(b).

[180] Sec. 170(f)(8).

[181] Sec. 170(f)(11).

[182] Secs. 170(f)(3)(A) (income tax), 2055(e)(2) (estate tax), and 2522(c)(2) (gift tax).

[183] Sec. 170(f)(3)(B)(ii).

[184] Treas. Reg. sec. 1.170A-7(b)(1).

[185] Treas. Reg. sec. 1.170A-7(b)(1).

[186] Sec. 170(a)(3).

[187] Treas. Reg. sec. 1.170A-5(a)(4).

[188] Treas. Reg. sec. 1.170A-5(a)(2).

Require actual possession by the donee

The provision provides for recapture of the income tax charitable deduction or gift tax charitable deduction under certain circumstances. Specifically, if, during any one-year period following a contribution of a fractional interest in an item of tangible personal property, the donee fails to take actual possession of the item for a period of time corresponding substantially to the donee's then-existing percentage interest in the item, then the donee's charitable deduction for all previous contributions of interests in the item shall be recaptured (plus interest).

Under the provision, the Secretary of the Treasury is authorized to promulgate rules to prevent the circumvention of the provision by, for example, engaging in a transaction in which a donor first transfers one or more items of tangible personal property to a separate entity in exchange for ownership interests in the entity, and subsequently makes charitable contributions of such ownership interests.

Effective date.—The provision is applicable for contributions, bequests, and gifts made after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

8. Provisions relating to substantial and gross overstatement of valuations of property (Sec. 220 of the Senate amendment and secs. 6662 and 6664 of the Code)

PRESENT LAW

Taxpayer penalties

Present law imposes accuracy-related penalties on a taxpayer in cases involving a substantial valuation misstatement or gross valuation misstatement relating to an underpayment of income tax.[190] For this purpose, a substantial valuation misstatement generally means a value claimed that is at least twice (200 percent or more) the amount determined to be the correct value, and a gross valuation misstatement generally means a value claimed that is at least four times (400 percent or more) the amount determined to be the correct value.

The penalty is 20 percent of the underpayment of tax resulting from a substantial valuation misstatement and rises to 40 percent for a gross valuation misstatement. No penalty is imposed unless the portion of the underpayment attributable to the valuation misstatement exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company). Under present law, no penalty is imposed with respect to any portion of the understatement attributable to any item if (1) the treatment of the item on the return is or was supported by substantial authority, or (2) facts relevant to the tax treatment of the item were adequately disclosed on the return or on a statement attached to the return and there is a reasonable basis for the tax treatment. Special rules apply to tax shelters.

In addition, the accuracy-related penalty does not apply if a taxpayer shows there was reasonable cause for an underpayment and the taxpayer acted in good faith.[191]

Penalty for aiding and abetting understatement of tax

A penalty is imposed on a person who: (1) aids or assists in or advises with respect to a tax return or other document; (2) knows (or has reason to believe) that such document will be used in connection with a material tax matter; and (3) knows that this would result in an understatement of tax of another person. In general, the amount of the penalty is $1,000. If the document relates to the tax return of a corporation, the amount of the penalty is $10,000.

Qualified appraisals

Present law requires a taxpayer to obtain a qualified appraisal for donated property with a value of more than $5,000, and to attach an appraisal summary to the tax return.[192] Treasury Regulations state that a qualified appraisal means an appraisal document that, among other things: (1) relates to an appraisal that is made not earlier than 60 days prior to the date of contribution of the appraised property and not later than the due date (including extensions) of the return on which a deduction is first claimed under section 170; (2) is prepared, signed, and dated by a qualified appraiser; (3) includes (a) a description of the property appraised; (b) the fair market value of such property on the date of contribution and the specific basis for the valuation; (c) a statement that such appraisal was prepared for income tax purposes; (d) the qualifications of the qualified appraiser; and (e) the signature and taxpayer identification number of such appraiser; and (4) does not involve an appraisal fee that violates certain prescribed rules.[193]

Qualified appraisers

Treasury Regulations define a qualified appraiser as a person who holds himself or herself out to the public as an appraiser or performs appraisals on a regular basis, is qualified to make appraisals of the type of property being valued (as determined by the appraiser's background, experience, education and membership, if any, in professional appraisal associations), is independent, and understands that an intentionally false or fraudulent overstatement of the value of the appraised property may subject the appraiser to civil penalties.[194]

Appraiser oversight

The Secretary is authorized to regulate the practice of representatives of persons before the Department of the Treasury ("Department").[195] After notice and hearing, the Secretary is authorized to suspend or disbar from practice before the Department or the Internal Revenue Service ("IRS") a representative who is incompetent, who is disreputable, who violates the rules regulating practice before the Department or the IRS, or who (with intent to defraud) willfully and knowingly misleads or threatens the person being represented (or a person who may be represented).

The Secretary also is authorized to bar from appearing before the Department or the IRS, for the purpose of offering opinion evidence on the value of property or other assets, any individual against whom a civil penalty for aiding and abetting the understatement of tax has been assessed. Thus, an appraiser who aids or assists in the preparation or presentation of an appraisal will be subject to disciplinary action if the appraiser knows that the appraisal will be used in connection with the tax laws and will result in an understatement of the tax liability of another person. The Secretary has authority to provide that the appraisals of an appraiser who has been disciplined have no probative effect in any administrative proceeding before the Department or the IRS.

HOUSE BILL

No provision.

SENATE AMENDMENT

Taxpayer penalties

The provision lowers the thresholds for imposing accuracy-related penalties on a taxpayer who claims a deduction for donated property for which a qualified appraisal is required. Under the provision, a substantial valuation misstatement exists when the claimed value of donated property is 150 percent or more of the amount determined to be the correct value. A gross valuation misstatement occurs when the claimed value of donated property is 200 percent or more the amount determined to be the correct value. Under the provision, the reasonable cause exception to the accuracy-related penalty does not apply in the case of gross valuation misstatements.

Appraiser oversight

Appraiser penalties

The provision establishes a civil penalty on any person who prepares an appraisal that is to be used to support a tax position if such appraisal results in a substantial or gross valuation misstatement. The penalty is equal to the greater of $1,000 or 10 percent of the understatement of tax resulting from a substantial or gross valuation misstatement, up to a maximum of 125 percent of the gross income derived from the appraisal. Under the provision, the penalty does not apply if the appraiser establishes that it was "more likely than not" that the appraisal was correct.

Disciplinary proceeding

The provision eliminates the requirement that the Secretary assess against an appraiser the civil penalty for aiding and abetting the understatement of tax before such appraiser may be subject to disciplinary action. Thus, the Secretary is authorized to discipline appraisers after notice and hearing. Disciplinary action may include, but is not limited to, suspending or barring an appraiser from: preparing or presenting appraisals on the value of property or other assets to the Department or the IRS; appearing before the Department or the IRS for the purpose of offering opinion evidence on the value of property or other assets; and providing that the appraisals of an appraiser who have been disciplined have no probative effect in any administrative proceeding before the Department or the IRS.

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[189] See, e.g., *Winokur* v. *Commissioner*, 90 T.C. 733 (1988).

[190] Sec. 6662(b)(3) and (h).

[191] Sec. 6664(c).

[192] Sec. 170(f)(11).

[193] Treas. Reg. sec. 1.170A-13(c)(3).

[194] Treas. Reg. sec. 1.170A-13(c)(5)(i).

[195] 31 U.S.C. sec. 330.

Qualified appraisers

The provision defines a qualified appraiser as an individual who (1) has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements to be determined by the IRS in regulations; (2) regularly performs appraisals for which he or she receives compensation; (3) can demonstrate verifiable education and experience in valuing the type of property for which the appraisal is being performed; (4) has not been prohibited from practicing before the IRS by the Secretary at any time during the three years preceding the conduct of the appraisal; and (5) is not excluded from being a qualified appraiser under applicable Treasury regulations.

Qualified appraisals

The provision defines a qualified appraisal as an appraisal of property prepared by a qualified appraiser (as defined by the provision) in accordance with generally accepted appraisal standards and any regulations or other guidance prescribed by the Secretary.

Effective date

The provision amending the accuracy-related penalty applies to returns filed after the date of enactment. The provision establishing a civil penalty that may be imposed on any person who prepares an appraisal that is to be used to support a tax position if such appraisal results in a substantial or gross valuation misstatement applies to appraisals prepared with respect to returns or submissions filed after the date of enactment. The provisions relating to appraiser oversight apply to appraisals prepared with respect to returns or submissions filed after the date of enactment. With respect to any contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in section 170(h)(4)(C)(ii) (currently designated section 170(h)(4)(B)(ii), relating to certain property located in a registered historic district and certified as being of historic significance to the district), and any appraisal with respect to such contribution, the provision generally applies to returns filed after December 16, 2004.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

9. Establish additional exemption standards for credit counseling organizations (Sec. 221 of the Senate amendment and secs. 501 and 513 of the Code)

PRESENT LAW

Under present law, a credit counseling organization may be exempt as a charitable or educational organization described in section 501(c)(3), or as a social welfare organization described in section 501(c)(4). The IRS has issued two revenue rulings holding that certain credit counseling organizations are exempt as charitable or educational organizations or as social welfare organizations.

In Revenue Ruling 65–299,[196] an organization whose purpose was to assist families and individuals with financial problems, and help reduce the incidence of personal bankruptcy, was determined to be a social welfare organization described in section 501(c)(4). The organization counseled people in financial difficulties, advised applicants on payment of debts, and negotiated with creditors and set up debt repayment plans. The organization did not restrict its services to the poor, made no charge for counseling services, and made a nominal charge for certain services to cover postage and supplies. For financial support, the organization relied on voluntary contributions from local businesses, lending agencies, and labor unions.

In Revenue Ruling 69–441,[197] the IRS ruled an organization was a charitable or educational organization exempt under section 501(c)(3) by virtue of aiding low-income people who had financial problems and providing education to the public. The organization in that ruling had two functions: (1) educating the public on personal money management, such as budgeting, buying practices, and the sound use of consumer credit through the use of films, speakers, and publications; and (2) providing individual counseling to low-income individuals and families without charge. As part of its counseling activities, the organization established debt management plans for clients who required such services, at no charge to the clients.[198] The organization was supported by contributions primarily from creditors, and its board of directors was comprised of representatives from religious organizations, civic groups, labor unions, business groups, and educational institutions.

In 1976, the IRS denied exempt status to an organization, Consumer Credit Counseling Service of Alabama, whose activities were distinguishable from those in Revenue Ruling 69–441 in that (1) it did not restrict its services to the poor, and (2) it charged a nominal fee for its debt management plans.[199] The organization provided free information to the general public through the use of speakers, films, and publications on the subjects of budgeting, buying practices, and the use of consumer credit. It also provided counseling to debt-distressed individuals, not necessarily poor or low-income, and provided debt management plans at the cost of $10 per month, which was waived in cases of financial hardship. Its debt management activities were a relatively small part of its overall activities. The district court determined the organization qualified as charitable and educational within section 501(c)(3), finding the debt management plans to be an integral part of the agency's counseling function, and that its debt management activities were incidental to its principal functions, as only approximately 12 percent of the counselors' time was applied to such programs and the charge for the service was nominal. The court also considered the facts that the agency was publicly supported, and that it had a board dominated by members of the general public, as factors indicating a charitable operation.[200]

A recent estimate shows the number of credit counseling organizations increased from approximately 200 in 1990 to over 1,000 in 2002.[201] During the period from 1994 to late 2003, 1,215 credit counseling organizations applied to the IRS for tax exempt status under section 501(c)(3), including 810 during 2000 to 2003.[202] The IRS has recognized more than 850 credit counseling organizations as tax exempt under section 501c)((3).[203] Few credit counseling organizations have sought section 501(c)(4) status, and the IRS reports it has not seen any significant increase in the number or activity of such organizations operating as social welfare organizations.[204] As of late 2003, there were 872 active tax-exempt credit counseling agencies operating in the United States.[205]

A credit counseling organization described in section 501(c)(3) is exempt from certain Federal and State consumer protection laws that provide exemptions for organizations described therein.[206] Some believe that these exclusions from Federal and State regulation may be a primary motivation for the recent increase in the number of organizations seeking and obtaining exempt status under section 501(c)(3).[207] Such regulatory exemptions generally are not available for social welfare organizations described in section 501(c)(4).

Congress recently conducted hearings investigating the activities of credit counseling organizations under various consumer protection laws,[208] such as the Federal Trade Commission Act.[209] In addition, the IRS has commenced a broad examination and compliance program with respect to the credit counseling industry, pursuant to which the IRS has initiated audits of 50 credit counseling organizations, including nine of the 15 largest in terms of gross receipts.[210]

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[196] Rev. Rul. 65–299, 1965-2 C.B. 165.

[197] Rev. Rul. 65–441, 1969–2 C.B. 115.

[198] Debt management plans are debt payment arrangements, including debt consolidation arrangements, entered into by a debtor and one or more of the debtor's creditors, generally structured to reduce the amount of a debtor's regular ongoing payment by modifying the interest rate, minimum payment, maturity or other terms of the debt. Such plans frequently are promoted as a means for a debtor to restructure debt without filing for bankruptcy.

[199] *Consumer Credit Counseling Services of Alabama, Inc.* v. *U.S.*, 44 A.F.T.R. 2d (RIA) 5122 (D.D.C. 1978). The case involved 24 agencies throughout the United States.

[200] See also, *Credit Counseling Centers of Oklahoma, Inc.* v. *U.S.*, 45 A.F.T.R. 2d (RIA) 1401 (D.D.C. 1979) (holding the same on virtually identical facts).

[201] Opening Statement of The Honorable Max Sandlin, Hearing on Non-Profit Credit Counseling Organizations, House Ways and Means Committee, Subcommittee on Oversight (November 20, 2003).

[202] United States Senate Permanent Subcommittee on Investigations, Committee on Governmental Affairs, Profiteering in a Non-Profit Industry: Abusive Practices in Credit Counseling, Report Prepared by the Majority & Minority Staffs of the Permanent Subcommittee on Investigations and Released in Conjunction with the Permanent Subcommittee Investigations' Hearing on March 24, 2004, p. 3 (citing letter dated December 18, 2003, to the Subcommittee from IRS Commissioner Everson).

[203] Testimony of Commissioner Mark Everson before the House Ways and Means Committee, Subcommittee on Oversight (November 20, 2003).

[204] Testimony of Commissioner Mark Everson before the House Ways and Means Committee, Subcommittee on Oversight (November 20, 2003).

[205] United States Senate Permanent Subcommittee on Investigations, Committee on Governmental Affairs, Profiteering in a Non-Profit Industry: Abusive Practices in Credit Counseling, Report Prepared by the Majority & Minority Staffs of the Permanent Subcommittee on Investigations and Released in Conjunction with the Permanent Subcommittee Investigations' Hearing on March 24, 2004, p. 3 (citing letter dated December 18, 2003 to the Subcommittee from IRS Commissioner Everson).

[206] E.g., The Credit Repair Organizations Act, 15 U.S.C. section 1679 et seq., effective April 1, 1997 (imposing restrictions on credit repair organizations that are enforced by the Federal Trade Commission, including forbidding the making of untrue or misleading statements and forbidding advance payments; section 501(c)(3) organizations are explicitly exempt from such regulation). Testimony of Commissioner Mark Everson before the House Ways and Means Committee, Subcommittee on Oversight (November 20, 2003) (California's consumer protections laws that impose strict standards on credit service organizations and the credit repair industry do not apply to nonprofit organizations that have received a final determination from the IRS that they are exempt from tax under section 501(c)(3) and are not private foundations).

[207] Testimony of Commissioner Mark Everson before the House Ways and Means Committee, Subcommittee on Oversight (November 20, 2003).

Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, an individual generally may not be a debtor in bankruptcy unless such individual has, within 180 days of filing a petition for bankruptcy, received from an approved nonprofit budget and credit counseling agency an individual or group briefing that outlines the opportunities for available credit counseling and assists the individual in performing a related budget analysis.[211] The clerk of the court must maintain a publicly available list of nonprofit budget and credit counseling agencies approved by the U.S. Trustee (or bankruptcy administrator). In general, the U.S. Trustee (or bankruptcy administrator) shall only approve an agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters relating to the quality, effectiveness, and financial security of the services it provides. The minimum qualifications for approval of such an agency include: (1) in general, having an independent board of directors; (2) charging no more than a reasonable fee, and providing services without regard to ability to pay; (3) adequate provision for safekeeping and payment of client funds; (4) provision of full disclosures to clients; (5) provision of adequate counseling with respect to a client's credit problems; (6) trained counselors who receive no commissions or bonuses based on the outcome of the counseling services; (7) experience and background in providing credit counseling; and (8) adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan. An individual debtor must file with the court a certificate from the approved nonprofit budget and credit counseling agency that provided the required services describing the services provided, and a copy of the debt management plan, if any, developed through the agency.[212]

HOUSE BILL

No provision.

SENATE AMENDMENT

Requirements for exempt status of credit counseling organizations

Under the provision, an organization that provides credit counseling services as a substantial purpose of the organization ("credit counseling organization") is eligible for exemption from Federal income tax only as a charitable or educational organization under section 501(c)(3) or as a social welfare organization under section 501(c)(4), and only if (in addition to present-law requirements) the credit counseling organization is organized and operated in accordance with the following:

1. The organization provides credit counseling services tailored to the specific needs and circumstances of the consumer;

2. The organization makes no loans to debtors and does not negotiate the making of loans on behalf of debtors;

3. The organization generally does not promote, or charge any separate fee for any service for the purpose of improving any consumer's credit record, credit history, or credit rating;

4. The organization does not refuse to provide credit counseling services to a consumer due to inability of the consumer to pay, the ineligibility of the consumer for debt management plan enrollment, or the unwillingness of a consumer to enroll in a debt management plan;

5. The organization establishes and implements a fee policy to require that any fees charged to a consumer for its services are reasonable, and prohibits charging any fee based in whole or in part on a percentage of the consumer's debt, the consumer's payments to be made pursuant to a debt management plan, or on the projected or actual savings to the consumer resulting from enrolling in a debt management plan;

6. The organization at all times has a board of directors or other governing body (a) that is controlled by persons who represent the broad interests of the public, such as public officials acting in their capacities as such, persons having special knowledge or expertise in credit or financial education, and community leaders; (b) not more than 20 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees or the repayment of consumer debt to creditors other than the credit counseling organization or its affiliates) and (c) not more than 49 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees);

7. The organization receives no amount for providing referrals to others for financial services (including debt management services) or credit counseling services to be provided to consumers, and pays no amount to others for obtaining referrals of consumers; and

8. The organization does not own more than 35 percent of the total combined voting power of a corporation (or profits or beneficial interest in the case of a partnership or trust or estate) that is in the business of lending money, repairing credit, or providing debt management plan services, payment processing, and similar services.

The Secretary may require any credit counseling organization to submit such information as the Secretary requires to verify that such organization meets the requirements of the provision.

Additional requirements for charitable and educational organizations

Under the provision, a credit counseling organization is described in section 501(c)(3) only if, in addition to satisfying the above requirements, the organization is organized and operated such that the organization (1) charges no fees (other than nominal fees) for debt management plan services and waives any fees if the consumer is unable to pay such fees; (2) does not solicit contributions from consumers during the initial counseling process or while the consumer is receiving services from the organization; (3) normally limits debt management plan services (in the aggregate) to 25 percent of the organization's total activities (determined by taking into account time, resources, source of revenues or effort expended by the organization, and any other measures prescribed by the Secretary).[213]

Additional requirements for social welfare organizations

Under the provision, a credit counseling organization is described in section 501(c)(4) only if, in addition to satisfying the above requirements applicable to such organizations, it is organized and operated such that the organization charges no fees (other than nominal fees) for its credit counseling services, and waives any fees if the consumer is unable to pay such fees. In addition, a credit counseling organization shall not be treated as an organization described in section 501(c)(4) unless such organization notifies the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition as a credit counseling organization.

Debt management plan services treated as an unrelated trade or business

Under the provision, debt management plan services are treated as an unrelated trade or business for purposes of the tax on income from an unrelated trade or business to the extent such services are not substantially related to the provision of credit counseling services to a consumer or are provided by an organization that is not a credit counseling organization.

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[208] United States Senate Permanent Subcommittee on Investigations, Committee on Governmental Affairs, Profiteering in a Non-Profit Industry: Abusive Practices in Credit Counseling, Report Prepared by the Majority & Minority Staffs of the Permanent Subcommittee on Investigations and Released in Conjunction with the Permanent Subcommittee Investigations' Hearing on March 24, 2004.

[209] 15 U.S.C. sec. 45(a) (prohibiting unfair and deceptive acts or practices in or affecting commerce; although the Federal Trade Commission generally lacks jurisdiction to enforce consumer protection laws against bona fide nonprofit organizations, it may assert jurisdiction over a nonprofit, including a credit counseling organization, if it demonstrates the organization is organized to carry on business for profit, is a mere instrumentality of a for-profit entity, or operates through a common enterprise with one or more for-profit entities).

[210] United States Senate Permanent Subcommittee on Investigations, Committee on Governmental Affairs, Profiteering in a Non-Profit Industry: Abusive Practices in Credit Counseling, Report Prepared by the Majority & Minority Staffs of the Permanent Subcommittee on Investigations and Released in Conjunction with the Permanent Subcommittee Investigations' Hearing on March 24, 2004, p. 31.

[211] This requirement does not apply in certain circumstances, such as: (1) in general, where a debtor resides in a district for which the U.S. Trustee has determined that the approved counseling agencies for such district are not reasonably able to provide adequate services to additional individuals; (2) where exigent circumstances merit a waiver, the individual seeking bankruptcy protection files an appropriate certification with the court, and the certification is acceptable to the court; and (3) in general, where a court determines, after notice and hearing, that the individual is unable to complete the requirement because of incapacity, disability, or active military duty in a military combat zone.

[212] The Act also requires that, prior to discharge of indebtedness under chapter 7 or chapter 13, a debtor complete an approved instructional course concerning personal financial management, which course need not be conducted by a nonprofit agency.

[213] If, under any such measure, the organization's debt management plan services exceed 25 percent of the organization's total activities, the organization is treated as exceeding the 25-percent limit. For example, an organization that devotes 30 percent of its total staff time to debt management plan services is regarded as exceeding the 25-percent limit, even if the organization devotes less than 15 percent of its total financial resources to debt management plan services.

Definitions

Credit counseling services

Credit counseling services are (a) the provision of educational information to the general public on budgeting, personal finance, financial literacy, saving and spending practices, and the sound use of consumer credit; (b) the assisting of individuals and families with financial problems by providing them with counseling; or (c) any combination of such activities.

Debt management plan services

Debt management plan services are services related to the repayment, consolidation, or restructuring of a consumer's debt, and includes the negotiation with creditors of lower interest rates, the waiver or reduction of fees, and the marketing and processing of debt management plans.

Effective date.—In general the provision applies to taxable years beginning after the date of enactment. For a credit counseling organization that is described in section 501(c)(3) or 501(c)(4) on the date of enactment, the provision is effective for taxable years beginning after the date that is one year after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

10. Expand the base of the tax on private foundation net investment income (sec. 222 of the Senate amendment and sec. 4940 of the Code)

PRESENT LAW

In general

Under section 4940(a) of the Code, private foundations that are recognized as exempt from Federal income tax under section 501(a) of the Code are subject to a two-percent excise tax on their net investment income. Private foundations that are not exempt from tax, such as certain charitable trusts,[214] also are subject to an excise tax under section 4940(b) based on net investment income and unrelated business income. The two-percent rate of tax is reduced to one-percent if certain requirements are met in a taxable year.[215] Unlike certain other excise taxes imposed on private foundations, the tax based on investment income does not result from a violation of substantive law by the private foundation; it is solely an excise tax.

The tax on taxable private foundations under section 4940(b) is equal to the excess of the sum of the excise tax that would have been imposed under section 4940(a) if the foundation were tax exempt and the amount of the unrelated business income tax that would have been imposed if the foundation were tax exempt, over the income tax imposed on the foundation under subtitle A of the Code.

Net investment income

Internal Revenue Code

In general, net investment income is defined as the amount by which the sum of gross investment income and capital gain net income exceeds the deductions relating to the production of gross investment income.[216]

Gross investment income is the gross amount of income from interest, dividends, rents, payments with respect to securities loans, and royalties. Gross investment income does not include any income that is included in computing a foundation's unrelated business taxable income.[217]

Capital gain net income takes into account only gains and losses from the sale or other disposition of property used for the production of interest, dividends, rents, and royalties, and property used for the production of income included in computing the unrelated business income tax (except to the extent the gain or loss is taken into account for purposes of such tax). Losses from sales or other dispositions of property are allowed only to the extent of gains from such sales or other dispositions, and no capital loss carryovers are allowed.[218]

Treasury Regulations and case law

The Treasury regulations elaborate on the Code definition of net investment income. The regulations cite items of investment income listed in the Code, and in addition clarify that net investment income includes interest, dividends, rents, and royalties derived from all sources, including from assets devoted to charitable activities. For example, interest received on a student loan is includible in the gross investment income of a foundation making the loan.[219]

The regulations further provide that gross investment income includes certain items of investment income that are described in the unrelated business income tax regulations.[220] Such additional items include payments with respect to securities loans (an item added to the Code in 1978), annuities, income from notional principal contracts, and other substantially similar income from ordinary and routine investments to the extent determined by the Commissioner.[221] These latter three categories of income are not enumerated as net investment income in the Code.

The Treasury regulations also elaborate on the Code definition of capital gain net income. The regulations provide that the only capital gains and losses that are taken into account are (1) gains and losses from the sale or other disposition of property held by a private foundation for investment purposes (other than program related investments), and (2) property used for the production of income included in computing the unrelated business income tax (except to the extent the gain or loss is taken into account for purposes of such tax).

This definition of capital gain net income builds on the definition provided in the Code by providing an exception for gain and loss from program related investments and by stating, in addition, that "gains and losses from the sale or other disposition of property used for the exempt purposes of the private foundation are excluded."[222] As an example, the regulations provide that gain or loss on the sale of buildings used for the foundation's exempt activities are not taken into account for purposes of the section 4940 tax. If a foundation uses exempt income for exempt purposes and (other than incidentally) for investment purposes, then the portion of the gain or loss received upon sale or other disposition that is allocable to the investment use is taken into account for purposes of the tax.

The regulations further provide that "property shall be treated as held for investment purposes even though such property is disposed of by the foundation immediately upon its receipt, if it is property of a type which generally produces interest, dividends, rents, royalties, or capital gains through appreciation (for example, rental real estate, stock, bonds, mineral interest, mortgages, and securities)."[223]

This regulation has been challenged in the courts. The regulation says that property is treated as held for investment purposes if it is of a type that "generally produces" certain types of income. By contrast, the Code provides that the property be "used" to produce such income. In *Zemurray Foundation* v. *United States*, 687 F.2d 97 (5th Cir. 1982), the taxpayer foundation challenged the Treasury's attempt to tax under section 4940 capital gain on the sale of timber property. The taxpayer asserted that the property was not actually used to produce investment income, and that the Treasury Regulation was invalid because the regulation would subject to tax property that is of a type that could generally be used to produce investment income. On this issue, the court upheld the Treasury regulation, reasoning that the regulation's use of the phrase "generally used," though permitting taxation "so long as the property sold is usable to produce the applicable types of income, regardless of whether the property is actually used to produce income or not" was not unreasonable or plainly inconsistent with the statute.[224] However, on remand to the district court, the district court concluded that the timber property at issue, though a type of property generally used to produce investment income, was not susceptible for such use.[225] Thus, the district court concluded that the Treasury could not tax the gain under this portion of the regulation.

The question then turned to the taxpayer's second challenge to the regulation. At issue was the meaning of the regulatory phrase "capital gains through appreciation." The regulation provides that if property is of a type that generally produces capital gains through appreciation, then the gain is subject to tax. The Treasury argued that the timber property at issue, although held by the court not to be property (in this case) susceptible for use to produce interest, dividends, rents, or royalties, still was held by the taxpayer to produce capital gain through appreciation and therefore the gain should be subject to tax under the regulation.

On this issue, the court held for the taxpayer, reasoning that the language of the Code clearly is limited to certain gains and losses, e.g., the court cited the Code language providing that "there shall be taken into account only gains and losses from the sale or other disposition of property used for the production of interest, dividends, rents, and royalties. . . ."[226] The court noted that "capital gains through appreciation" is not enumerated in the statute. The court used as an example a jade figurine held by a foundation. Jade figurines do not generally produce interest, dividends, rents, or royalties, but gain on the sale of such a figurine would be taxable under the "capital gains through appreciation" standard, yet such standard does not appear in the statute. After Zemurray, the Treasury generally conceded this issue.[227]

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[214] See sec. 4947(a)(1).

[215] Sec. 4940(e).

[216] Sec. 4940(c)(1). Net investment income also is determined by applying section 103 (generally providing an exclusion for interest on certain State and local bonds) and section 265 (generally disallowing the deduction for interest and certain other expenses with respect to tax-exempt income). Sec. 4940(c)(5).

[217] Sec. 4940(c)(2).

[218] Sec. 4940(c)(4).

[219] Treas. Reg. sec. 53.4940-1(d)(1).

[220] Id.

[221] Treas. Reg. sec. 1.512(b)-1(a)(1).

[222] Treas. Reg. sec. 53.4940-1(f)(1).

[223] Id.

[224] *Zemurray Foundation* v. *United States*, 687 F.2d 97, 100 (5th Cir. 1982).

[225] *Zemurray Foundation* v. *United States*, 53 A.F.T.R. 2d (RIA) 842 (E. D. La. 1983).

[226] *Zemurray Foundation* v. *United States*, 755 F.2d 404 (5th Cir. 1985), 413 (citing Code sec. 4940(c)(4)(A).

[227] G.C.M. 39538 (July 23, 1986).

With respect to capital losses, the Code provides that carryovers are not permitted, whereas the regulations state that neither carryovers nor carrybacks are permitted.[228]

Application of Zemurray to the Code and the regulations

Applying the Zemurray case to the Code and regulations results in a general principle for purposes of present law: private foundations are subject to tax under section 4940 only on the items of income and only on gains and losses specifically enumerated therein. Under this principle, private foundations generally are not subject to the section 4940 tax on other substantially similar types of income from ordinary and routine investments, notwithstanding Treasury regulations to the contrary. In addition, the regulations provide that gain or loss from the sale or other disposition of assets used for exempt purposes, with specific reference to program-related investments, is excluded. The Code provides for no such blanket exclusion; thus, under the language of the Code and the reasoning of Zemurray, if a foundation provided office space at below market rent to a charitable organization for use in the organization's exempt purposes, gain on the sale of the building by the foundation should be subject to the section 4940 tax despite the Treasury regulations.[229]

In addition, under the logic of Zemurray, capital loss carrybacks arguably are permitted, notwithstanding Treasury regulations to the contrary, because the Code mentions only a bar on use of carryovers and says nothing about carrybacks.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision amends the definition of gross investment income (including for purposes of capital gain net income) to include items of income that are similar to the items presently enumerated in the Code. Such similar items include income from notional principal contracts, annuities, and other substantially similar income from ordinary and routine investments, and, with respect to capital gain net income, capital gains from appreciation, including capital gains and losses from the sale or other disposition of assets used to further an exempt purpose.

The provision provides that there are no carrybacks of losses from sales or other dispositions of property.

Effective date.—The provision is effective for taxable years beginning after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

11. Definition of convention or association of churches (sec. 223 of the Senate amendment and sec. 7701 of the Code)

PRESENT LAW

Under present law, an organization that qualifies as a "convention or association of churches" (within the meaning of sec. 170(b)(1)(A)(i)) is not required to file an annual return,[230] is subject to the church tax inquiry and church tax examination provisions applicable to organizations claiming to be a church,[231] and is subject to certain other provisions generally applicable to churches.[232] The Internal Revenue Code does not define the term "convention or association of churches."

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides that an organization that otherwise is a convention or association of churches does not fail to so qualify merely because the membership of the organization includes individuals as well as churches, or because individuals have voting rights in the organization.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

12. Notification requirement for exempt entities not currently required to file an annual information return (sec. 224 of the Senate amendment and secs. 6033, 6104, 6652, and 7428 of the Code)

PRESENT LAW

Under present law, the requirement that an exempt organization file an annual information return does not apply to several categories of exempt organizations. Organizations excepted from the filing requirement include organizations (other than private foundations), the gross receipts of which in each taxable year normally are not more than $25,000.[233] Also exempt from the requirement are churches, their integrated auxiliaries, and conventions or associations of churches; the exclusively religious activities of any religious order; section 501(c)(1) instrumentalities of the United States; section 501(c)(21) trusts; an interchurch organization of local units of a church; certain mission societies; certain church-affiliated elementary and high schools; certain state institutions whose income is excluded from gross income under section 115; certain governmental units and affiliates of governmental units; and other organizations that the IRS has relieved from the filing requirement pursuant to its statutory discretionary authority.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides that organizations that are excused from filing an information return by reason of normally having gross receipts below a certain specified amount (generally, under $25,000) shall furnish to the Secretary annually the legal name of the organization, any name under which the organization operates or does business, the organization's mailing address and Internet web site address (if any), the organization's taxpayer identification number, the name and address of a principal officer, and evidence of the organization's continuing basis for its exemption from the generally applicable information return filing requirements. Upon such organization's termination of existence, the organization is required to furnish notice of such termination.

The provision provides that if an organization fails to provide the required notice for three consecutive years, the organization's tax-exempt status is revoked. In addition, if an organization that is required to file an annual information return under section 6033(a) (Form 990) fails to file such an information return for three consecutive years, the organization's tax-exempt status is revoked. If an organization fails to meet its filing obligation to the IRS for three consecutive years in cases where the organization is subject to the information return filing requirement in one or more years during a three-year period and also is subject to the notice requirement for one or more years during the same three-year period, the organization's tax-exempt status is revoked.

A revocation under the provision is effective from the date that the Secretary determines was the last day the organization could have timely filed the third required information return or notice. To again be recognized as tax-exempt, the organization must apply to the Secretary for recognition of tax-exemption, irrespective of whether the organization was required to make an application for recognition of tax-exemption in order to gain tax-exemption originally.

If upon application for tax-exempt status after a revocation under the provision, the organization shows to the satisfaction of the Secretary reasonable cause for failing to file the required annual notices or returns, the organization's tax-exempt status may, in the discretion of the Secretary, be reinstated retroactive to the date of revocation. An organization may not challenge under the Code's declaratory judgment procedures (section 7428) a revocation of tax-exemption made pursuant to the provision.

There is no monetary penalty for failure to file the notice. The provision does not require that the notices be made available to the public under the public disclosure and inspection rules generally applicable to exempt organizations. The provision does not affect an organization's obligation under present law to file required information returns or existing penalties for failure to file such returns.

The Secretary is required to notify in a timely manner every organization that is subject to the notice filing requirement of the new filing obligation. Notification by the Secretary shall be by mail, in the case of any organization the identity and address of which is included in the list of exempt organizations maintained by the Secretary, and by Internet or other means of outreach, in the case of any other organization. In addition, the Secretary is required to publicize in a timely manner in appropriate forms and instructions and other means of outreach the new penalty imposed for consecutive failures to file the information return.

The Secretary is authorized to publish a list of organizations whose exempt status is revoked under the provision.

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[228] Treas. Reg. sec. 53.4940-1(f)(3).

[229] See also the example in Treas. Reg. sec. 53.4940-1(f)(1).

[230] Sec. 6033(a)(2)(A)(i).

[231] Sec. 7611(h)(1)(B).

[232] See, e.g., Sec. 402(g)(8)(B) (limitation on elective deferrals); sec. 403(b)(9)(B) (definition of retirement income account); sec. 410(d) (election to have participation, vesting, funding, and certain other provisions apply to church plans); sec. 414(e) (definition of church plan); sec. 415(c)(7) (certain contributions by church plans); sec. 501(h)(5) (disqualification of certain organizations from making the sec. 501(h) election regarding lobbying expenditure limits); sec. 501(m)(3) (definition of commercial-type insurance); sec. 508(c)(1)(A) (exception from requirement to file application seeking recognition of exempt status); sec. 512(b)(12) (allowance of up to $1,000 deduction for purposes of determining unrelated business taxable income); sec. 514(b)(3)(E) (definition of debt-financed property); sec. 3121(w)(3)(A) (election regarding exemption from social security taxes); sec. 3309(b)(1) (application of federal unemployment tax provisions to services performed in the employ of certain organizations); sec. 6043(b)(1) (requirement to file a return upon liquidation or dissolution of the organization); and sec. 7702(j)(3)(A) (treatment of certain death benefit plans as life insurance).

[233] Sec. 6033(a)(2); Treas. Reg. sec. 1.6033-2(a)(2)(i); Treas. Reg. sec. 1.6033-2(g)(1). Sec. 6033(a)(2)(A)(ii) provides a $5,000 annual gross receipts exception from the annual reporting requirements for certain exempt organizations. In Announcement 82-88, 1982-25 I.R.B. 23, the IRS exercised its discretionary authority under section 6033 to increase the gross receipts exception to $25,000, and enlarge the category of exempt organizations that are not required to file Form 990.

Effective date.—The provision is effective for notices and returns with respect to annual periods beginning after 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

13. Disclosure to state officials of proposed actions related to section 501(c) organizations (sec. 225 of the Senate amendment and secs. 6103, 6104, 7213, 7213A, and 7431 of the Code)

PRESENT LAW

In the case of organizations that are described in section 501(c)(3) and exempt from tax under section 501(a) or that have applied for exemption as an organization so described, present law (sec. 6104(c)) requires the Secretary to notify the appropriate State officer of (1) a refusal to recognize such organization as an organization described in section 501(c)(3), (2) a revocation of a section 501(c)(3) organization's tax-exempt status, and (3) the mailing of a notice of deficiency for any tax imposed under section 507, chapter 41, or chapter 42.[234] In addition, at the request of such appropriate State officer, the Secretary is required to make available for inspection and copying, such returns, filed statements, records, reports, and other information relating to the above-described disclosures, as are relevant to any State law determination. An appropriate State officer is the State attorney general, State tax officer, or any State official charged with overseeing organizations of the type described in section 501(c)(3).

In general, returns and return information (as such terms are defined in section 6103(b)) are confidential and may not be disclosed or inspected unless expressly provided by law.[235] Present law requires the Secretary to keep records of disclosures and requests for inspection[236] and requires that persons authorized to receive returns and return information maintain various safeguards to protect such information against unauthorized disclosure.[237] Willful unauthorized disclosure or inspection of returns or return information is subject to a fine and/or imprisonment.[238] The knowing or negligent unauthorized inspection or disclosure of returns or return information gives the taxpayer a right to bring a civil suit.[239] Such present-law protections against unauthorized disclosure or inspection of returns and return information do not apply to the disclosures or inspections, described above, that are authorized by section 6104(c).

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision provides that upon written request by an appropriate State officer, the Secretary may disclose: (1) a notice of proposed refusal to recognize an organization as a section 501(c)(3) organization; (2) a notice of proposed revocation of tax-exemption of a section 501(c)(3) organization; (3) the issuance of a proposed deficiency of tax imposed under section 507, chapter 41, or chapter 42; (4) the names, addresses, and taxpayer identification numbers of organizations that have applied for recognition as section 501(c)(3) organizations; and (5) returns and return information of organizations with respect to which information has been disclosed under (1) through (4) above.[240] Disclosure or inspection is permitted for the purpose of, and only to the extent necessary in, the administration of State laws regulating section 501(c)(3) organizations, such as laws regulating tax-exempt status, charitable trusts, charitable solicitation, and fraud. Such disclosure or inspection may be made only to or by an appropriate State officer or to an officer or employee of the State who is designated by the appropriate State officer, and may not be made by or to a contractor or agent. The Secretary also is permitted to disclose or open to inspection the returns and return information of an organization that is recognized as tax-exempt under section 501(c)(3), or that has applied for such recognition, to an appropriate State officer if the Secretary determines that disclosure or inspection may facilitate the resolution of Federal or State issues relating to the tax-exempt status of the organization. For this purpose, appropriate State officer means the State attorney general, the State tax official, or any other State official charged with overseeing organizations of the type described in section 501(c)(3).

In addition, the provision provides that upon the written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of an organization described in section 501(c)(2) (certain title holding companies), 501(c)(4) (certain social welfare organizations), 501(c)(6) (certain business leagues and similar organizations), 501(c)(7) (certain recreational clubs), 501(c)(8) (certain fraternal organizations), 501(c)(10) (certain domestic fraternal organizations operating under the lodge system), and 501(c)(13) (certain cemetery companies). Such returns and return information are available for inspection or disclosure only for the purpose of, and to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such disclosure or inspection may be made only to or by an appropriate State officer or to an officer or employee of the State who is designated by the appropriate State officer, and may not be made by or to a contractor or agent. For this purpose, appropriate State officer means the State attorney general, the State tax officer, and the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes of such organizations.

In addition, the provision provides that any returns and return information disclosed under section 6104(c) may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating the applicable tax-exempt organization in a manner prescribed by the Secretary. Returns and return information are not to be disclosed under section 6104(c), or in such an administrative or judicial proceeding, to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration. The provision makes disclosures of returns and return information under section 6104(c) subject to the disclosure, recordkeeping, and safeguard provisions of section 6103, including the requirements that the Secretary maintain a permanent system of records of requests for disclosure (sec. 6103(p)(3)), and that the appropriate State officer maintain various safeguards that protect against unauthorized disclosure (sec. 6103(p)(4)). The provision provides that the willful unauthorized disclosure of returns or return information described in section 6104(c) is a felony subject to a fine of up to $5,000 and/or imprisonment of up to five years (sec. 7213(a)(2)), the willful unauthorized inspection of returns or return information described in section 6104(c) is subject to a fine of up to $1,000 and/or imprisonment of up to one year (sec. 7213A), and provides the taxpayer the right to bring a civil action for damages in the case of knowing or negligent unauthorized disclosure or inspection of such information (sec. 7431(a)(2)).

Effective date.—The provision is effective on the date of enactment but does not apply to requests made before such date.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

14. Improve accountability of donor advised funds (secs. 231 through 234 of the Senate amendment and secs. 170 and 4958 and new secs. 4967, 4968, and 4969 of the Code)

PRESENT LAW

Requirements for section 501(c)(3) tax-exempt status

Charitable organizations, i.e., organizations described in section 501(c)(3), generally are exempt from Federal income tax and are eligible to receive tax deductible contributions. A charitable organization must operate primarily in pursuance of one or more tax-exempt purposes constituting the basis of its tax exemption.[241] In order to qualify as operating primarily for a purpose described in section 501(c)(3), an organization must satisfy the following operational requirements: (1) the net earnings of the organization may not inure to the benefit of any person in a position to influence the activities of the organization; (2) the organization must operate to provide a public benefit, not a private benefit;[242] (3) the organization may not be operated primarily to conduct an unrelated trade or business;[243] (4) the organization may not engage in substantial legislative lobbying; and (5) the organization may not participate or intervene in any political campaign.

Classification of section 501(c)(3) organizations

Section 501(c)(3) organizations are classified either as "public charities" or "private foundations."[244] Private foundations generally are defined under section 509(a) as all

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[234] The applicable taxes include the termination tax on private foundations; taxes on public charities for certain excess lobbying expenses; taxes on a private foundation's net investment income, self-dealing activities, undistributed income, excess business holdings, investments that jeopardize charitable purposes, and taxable expenditures (some of these taxes also apply to certain non-exempt trusts); taxes on the political expenditures and excess benefit transactions of section 501(c)(3) organizations; and certain taxes on black lung benefit trusts and foreign organizations.

[235] Sec. 6103(a).

[236] Sec. 6103(p)(3).

[237] Sec. 6103(p)(4).

[238] Secs. 7213 and 7213A.

[239] Sec. 7431.

[240] Such returns and return information also may be open to inspection by an appropriate State officer.

[241] Treas. Reg. sec. 1.501(c)(3)-1(c)(1). The Code specifies such purposes as religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster international amateur sports competition, or for the prevention of cruelty to children or animals. In general, an organization is organized and operated for charitable purposes if it provides relief for the poor and distressed or the underprivileged. Treas. Reg. sec. 1.501(c)(3)-1(d)(2).

[242] Treas. Reg. sec. 1.501(c)(3)-1(d)(1)(ii).

[243] Treas. Reg. sec. 1.501(c)(3)-1(e)(1). Conducting a certain level of unrelated trade or business activity will not jeopardize tax-exempt status.

[244] Sec. 509(a). Private foundations are either private operating foundations or private non-operating

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organizations described in section 501(c)(3) other than an organization granted public charity status by reason of: (1) being a specified type of organization (i.e., churches, educational institutions, hospitals and certain other medical organizations, certain organizations providing assistance to colleges and universities, or a governmental unit); (2) receiving a substantial part of its support from governmental units or direct or indirect contributions from the general public; or (3) providing support to another section 501(c)(3) entity that is not a private foundation. In contrast to public charities, private foundations generally are funded from a limited number of sources (e.g., an individual, family, or corporation). Donors to private foundations and persons related to such donors together often control the operations of private foundations.

Because private foundations receive support from, and typically are controlled by, a small number of supporters, private foundations are subject to a number of anti-abuse rules and excise taxes not applicable to public charities.[245] For example, the Code imposes excise taxes on acts of "self-dealing" between disqualified persons (generally, an enumerated class of foundation insiders[246]) and a private foundation. Acts of self-dealing include, for example, sales or exchanges, or leasing, of property; lending of money; or the furnishing of goods, services, or facilities between a disqualified person and a private foundation.[247] In addition, private non-operating foundations are required to pay out a minimum amount each year as qualifying distributions. In general, a qualifying distribution is an amount paid to accomplish one or more of the organization's exempt purposes, including reasonable and necessary administrative expenses.[248] Certain expenditures of private foundations are also subject to tax.[249] In general, taxable expenditures are expenditures: (1) for lobbying; (2) to influence the outcome of a public election or carry on a voter registration drive (unless certain requirements are met); (3) as a grant to an individual for travel, study, or similar purposes unless made pursuant to procedures approved by the Secretary; (4) as a grant to an organization that is not a public charity or exempt operating foundation unless the foundation exercises expenditure responsibility[250] with respect to the grant; or (5) for any non-charitable purpose. Additional excise taxes may also apply in the event a private foundation holds certain business interests ("excess business holdings")[251] or makes an investment that jeopardizes the foundation's exempt purposes.[252]

Supporting organizations

The Code provides that certain "supporting organizations" (in general, organizations that provide support to another section 501(c)(3) organization that is not a private foundation) are classified as public charities rather than private foundations.[253] To qualify as a supporting organization, an organization must meet all three of the following tests: (1) it must be organized and at all times operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more "publicly supported organizations"[254] (the "organizational and operational tests");[255] (2) it must be operated, supervised, or controlled by or in connection with one or more publicly supported organizations (the "relationship test");[256] and (3) it must not be controlled directly or indirectly by one or more disqualified persons (as defined in section 4946) other than foundation managers and other than one or more publicly supported organizations (the "lack of outside control test").[257]

To satisfy the relationship test, a supporting organization must hold one of three statutorily described close relationships with the supported organization. The organization must be: (1) operated, supervised, or controlled by a publicly supported organization (commonly referred to as "Type I" supporting organizations); (2) supervised or controlled in connection with a publicly supported organization ("Type II" supporting organizations); or (3) operated in connection with a publicly supported organization ("Type III" supporting organizations).[258]

Type I supporting organizations

In the case of supporting organizations that are operated, supervised, or controlled by one or more publicly supported organizations (Type I supporting organizations), one or more supported organizations must exercise a substantial degree of direction over the policies, programs, and activities of the supporting organization.[259] The relationship between the Type I supporting organization and the supported organization generally is comparable to that of a parent and subsidiary. The requisite relationship may be established by the fact that a majority of the officers, directors, or trustees of the supporting organization are appointed or elected by the governing body, members of the governing body, officers acting in their official capacity, or the membership of one or more publicly supported organizations.[260]

Type II supporting organizations

Type II supporting organizations are supervised or controlled in connection with one or more publicly supported organizations. Rather than the parent-subsidiary relationship characteristic of Type I organizations, the relationship between a Type II organization and its supported organizations is more analogous to a brother-sister relationship. In order to satisfy the Type II relationship requirement, generally there must be common supervision or control by the persons supervising or controlling both the supporting organization and the publicly supported organizations.[261] An organization generally is not considered to be "supervised or controlled in connection with" a publicly supported organization merely because the supporting organization makes payments to the publicly supported organization, even if the obligation to make payments is enforceable under state law.[262]

Type III supporting organizations

Type III supporting organizations are "operated in connection with" one or more publicly supported organizations. To satisfy the "operated in connection with" relationship, Treasury regulations require that the supporting organization be responsive to, and significantly involved in the operations of, the publicly supported organization. This relationship is deemed to exist where the supporting organization meets both a "responsiveness test" and an "integral part test."[263] In general, the responsiveness test requires that the Type III supporting organization be responsive to the needs or demands of the publicly supported organizations. In general, the integral part test requires that the Type III supporting organization maintain significant involvement in the operations of one or more publicly supported organizations, and that such publicly supported organizations are in turn dependent upon the supporting organization for the type of support which it provides.

Charitable contributions

Contributions to organizations described in section 501(c)(3) are deductible, subject to certain limitations, as an itemized deduction from Federal income taxes.[264] Such contributions also generally are deductible for estate and gift tax purposes.[265] However, if the taxpayer retains control over the assets transferred to charity, the transfer may not qualify as a completed gift for purposes of claiming an income, estate, or gift tax deduction.

Public charities enjoy certain advantages over private foundations regarding the deductibility of contributions. For example, contributions of appreciated capital gain property to a private foundation generally are deductible only to the extent of the donor's cost basis.[266] In contrast, contributions to public charities generally are deductible in an amount equal to the property's fair market value, except for gifts of inventory and other ordinary income property, short-term capital gain property, and tangible personal property the use of which is unrelated to the donee organization's exempt purpose. In addition, under present law, a taxpayer's deductible contributions generally are limited to specified percentages of the taxpayer's contribution base, which generally is the taxpayer's adjusted gross income for a taxable year. The applicable percentage limitations vary depending upon the type of property contributed and the classification of the donee organization. In general, contributions to non-operating private foundations are limited to a smaller percentage of the donor's contribution base (up to 30 percent) than contributions to public charities (up to 50 percent).[267]

In general, taxpayers who make contributions and claim a charitable deduction must

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foundations. In general, private operating foundations operate their own charitable programs in contrast to private non-operating foundations, which generally are grant-making organizations. Most private foundations are non-operating foundations.

[245] Secs. 4940–4945.

[246] See sec. 4946(a).

[247] Sec. 4941.

[248] Sec. 4942(g)(1)(A). A qualifying distribution also includes any amount paid to acquire an asset used (or held for use) directly in carrying out one or more of the organization's exempt purposes and certain amounts set-aside for exempt purposes. Sec. 4942(g)(1)(B) and 4942(g)(2).

[249] Sec. 4945. Taxes imposed may be abated if certain conditions are met. Secs. 4961 and 4962.

[250] In general, expenditure responsibility requires that a foundation make all reasonable efforts and establish reasonable procedures to ensure that the grant is spent solely for the purpose for which it was made, to obtain reports from the grantee on the expenditure of the grant, and to make reports to the Secretary regarding such expenditures. Sec. 4945(h).

[251] Sec. 4943.

[252] Sec. 4944.

[253] Sec. 509(a)(3).

[254] In general, supported organizations of a supporting organization must be publicly supported charities described in sections 509(a)(1) or (a)(2).

[255] Sec. 509(a)(3)(A).

[256] Sec. 509(a)(3)(B).

[257] Sec. 509(a)(3)(C).

[258] Treas. Reg. sec. 1.509(a)-4(f)(2).

[259] Treas. Reg. sec. 1.509(a)-4(g)(1)(i).

[260] Id.

[261] Treas. Reg. sec. 1.509(a)-4(h)(1).

[262] Treas. Reg. sec. 1.509(a)-4(h)(2).

[263] Treas. Reg. sec. 1.509(a)-4(i)(1).

[264] Sec. 170.

[265] Secs. 2055 and 2522.

[266] A special rule in section 170(e)(5) provides that taxpayers are allowed a deduction equal to the fair market value of certain contributions of appreciated, publicly traded stock contributed to a private foundation.

[267] Sec. 170(b).

satisfy recordkeeping and substantiation requirements.[268] The requirements vary depending on the type and value of property contributed. A deduction generally may be denied if the donor fails to satisfy applicable recordkeeping or substantiation requirements.

Intermediate sanctions (excess benefit transaction tax)

The Code imposes excise taxes on excess benefit transactions between disqualified persons and public charities.[269] An excess benefit transaction generally is a transaction in which an economic benefit is provided by a public charity directly or indirectly to or for the use of a disqualified person, if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit.

For purposes of the excess benefit transaction rules, a disqualified person is any person in a position to exercise substantial influence over the affairs of the public charity at any time in the five-year period ending on the date of the transaction at issue.[270] Persons holding certain powers, responsibilities, or interests (e.g., officers, directors, or trustees) are considered to be in a position to exercise substantial influence over the affairs of the public charity.

An excess benefit transaction tax is imposed on the disqualified person and, in certain cases, on the organization managers, but is not imposed on the public charity. An initial tax of 25 percent of the excess benefit amount is imposed on the disqualified person that receives the excess benefit. An additional tax on the disqualified person of 200 percent of the excess benefit applies if the violation is not corrected within a specified period. A tax of 10 percent of the excess benefit (not to exceed $10,000 with respect to any excess benefit transaction) is imposed on an organization manager that knowingly participated in the excess benefit transaction, if the manager's participation was willful and not due to reasonable cause, and if the initial tax was imposed on the disqualified person.

Community foundations

Community foundations generally are broadly supported section 501(c)(3) public charities that make grants to other charitable organizations located within a community foundation's particular geographic area. Donors sometimes make contributions to a community foundation through transfers to a separate trust or fund, the assets of which are held and managed by a bank or investment company.

Certain community foundations are subject to special rules that permit them to treat the separate funds or trusts maintained by the community foundation as a single entity for tax purposes. This "single entity" status allows the community foundation to be classified as a public charity. One of the requirements that community foundations must meet is that funds maintained by the community foundation may not be subject by the donor to any material restrictions or conditions. The prohibition against material restrictions or conditions is designed to prevent a donor from encumbering a fund in a manner that prevents the community foundation from freely distributing the assets and income from it in furtherance of the community foundation's charitable purposes. Under Treasury regulations, whether a particular restriction or condition placed by the donor on the transfer of assets is material must be determined from all of the facts and circumstances of the transfer. The regulations set out some of the more significant facts and circumstances to be considered in making a determination, including: (1) whether the transferee public charity is the fee owner of the assets received; (2) whether the assets are held and administered by the public charity in a manner consistent with its own exempt purposes; (3) whether the governing body of the public charity has the ultimate authority and control over the assets and the income derived from them; and (4) whether the governing body of the public charity is independent from the donor. The regulations provide several non-adverse factors for determining whether a particular restriction or condition placed by the donor on the transfer of assets is material. In addition, the regulations list numerous factors and subfactors that indicate that the community foundation is prevented from freely and effectively employing the donated assets and the income thereon.

Donor advised funds

Some charitable organizations (including community foundations) establish accounts to which donors may contribute and thereafter provide nonbinding advice or recommendations with regard to distributions from the fund or the investment of assets in the fund. Such accounts are commonly referred to as "donor advised funds." Donors who make contributions to charities for maintenance in a donor advised fund generally claim a charitable contribution deduction at the time of the contribution. Although sponsoring charities frequently permit donors (or other persons appointed by donors) to provide nonbinding recommendations concerning the distribution or investment of assets in a donor advised fund, sponsoring charities generally must have legal ownership and control of such assets following the contribution. If the sponsoring charity does not have such control (or permits a donor to exercise control over amounts contributed), the donor's contributions may not qualify for a charitable deduction, and, in the case of a community foundation, the contribution may be treated as being subject to a material restriction or condition by the donor.

In recent years, a number of financial institutions have formed charitable corporations for the principal purpose of offering donor advised funds, sometimes referred to as "commercial" donor advised funds. In addition, some established charities have begun operating donor advised funds in addition to their primary activities. The IRS has recognized several organizations that sponsor donor advised funds, including "commercial" donor advised funds, as section 501(c)(3) public charities. The term "donor advised fund" is not defined in statute or regulations.

Under the Katrina Emergency Tax Relief Act of 2005, certain of the above-described percent limitations on contributions to public charities are temporarily suspended for purposes of certain "qualified contributions" to public charities. Under the Act, qualified contributions do not include a contribution if the contribution is for establishment of a new, or maintenance in an existing, segregated fund or account with respect to which the donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to distributions or investments by reason of the donor's status as a donor.

HOUSE BILL

No provision.

SENATE AMENDMENT

Definitions

Donor advised fund

The provision defines a "donor advised fund" as a fund or account that is: (1) separately identified by reference to contributions of a donor or donors[271] (2) owned and controlled by a sponsoring organization and (3) with respect to which a donor (or any person appointed or designated by such donor (a "donor advisor")) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in the separately identified fund or account by reason of the donor's status as a donor.

Notwithstanding the foregoing, the term "donor advised fund" does not include a fund or account from which are made grants to individuals for travel, study, or other similar purposes by such individual, provided that (1) a donor's or donor advisor's advisory privileges are performed exclusively by such donor or donor advisor in such person's capacity as a member of a committee appointed by the sponsoring organization, (2) no combination of a donor and persons related to or appointed by such donor, control, directly or indirectly, such committee, and (3) all grants from such fund or account satisfy requirements similar to those described in section 4945(g) (concerning grants to individuals by private foundations). In addition, the Secretary may exempt a fund or account from treatment as a donor advised fund if such fund or account (1) is advised by a committee not directly or indirectly controlled by a donor, donor advisor, or persons related to a donor or donor advisor or (2) will benefit a single identified organization or governmental entity or a single identified charitable purpose.

Sponsoring organization

The provision defines a "sponsoring organization" as an organization that: (1) is described in section 170(c)[272] (other than a governmental entity described in section 170(c)(1), and without regard to any requirement that the organization be organized in the United States[273]); and (2) maintains one or more donor advised funds.

Investment advisor

Under the provision, the term "investment advisor" means, with respect to any sponsoring organization, any person (other than an employee of the sponsoring organization) compensated by the sponsoring organization for managing the investment of, or providing investment advice with respect to, assets maintained in donor advised funds owned by the sponsoring organization.

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[268] Sec. 170(f)(8).

[269] Sec. 4958. The excess benefit transaction tax is commonly referred to as "intermediate sanctions," because it imposes penalties generally considered to be less punitive than revocation of the organization's exempt status. The tax also applies to transactions between disqualified persons and social welfare organizations (as described in section 501(c)(4)).

[270] Sec. 4958(f)(1). A disqualified person also includes certain family members of such a person, and certain entities that satisfy a control test with respect to such persons.

[271] The requirement that a donor advised fund be separately identified by reference to contributions of a donor or donors is intended to exclude from the definition of "donor advised fund" certain types of funds or accounts maintained by community foundations and other charities, such as field-of-interest funds and scholarship funds, provided such funds or accounts are not separately identified by reference to contributions of a donor or donors.

[272] Section 170(c) describes organizations to which charitable contributions that are deductible for income tax purposes can be made.

[273] See sec. 170(c)(2)(A).

Deductibility of contributions to a sponsoring organization for maintenance in a donor advised fund

Contributions to certain sponsoring organizations for maintenance in a donor advised fund not eligible for a charitable deduction

Under the provision, contributions to a sponsoring organization for maintenance in a donor advised fund are not eligible for a charitable deduction for income tax purposes if the sponsoring organization is a veterans' organization described in section 170(c)(3), a fraternal society described in section 170(c)(4), or a cemetery company described in section 170(c)(5); for gift tax purposes if the sponsoring organization is a fraternal society described in section 2522(a)(3) or a veterans' organization described in section 2522(a)(4); or for estate tax purposes if the sponsoring organization is a fraternal society described in section 2055(a)(3) or a veterans' organization described in section 2055(a)(4). In addition, contributions to a sponsoring organization for maintenance in a donor advised fund are not eligible for a charitable deduction if the sponsoring organization is a Type III supporting organization; a deduction is allowed for such a contribution to a Type I or Type II supporting organization to the extent not prohibited by regulations. Regulations generally shall prohibit such a deduction where the donor of the contribution directly or indirectly controls a supported organization of the Type I or Type II supporting organization.

Additional substantiation requirements

In addition to satisfying present-law substantiation requirements under section 170(f), a donor must obtain, with respect to each charitable contribution to a sponsoring organization to be maintained in a donor advised fund, a contemporaneous written acknowledgment from the sponsoring organization providing that the sponsoring organization has exclusive legal control over the assets contributed.

Minimum distributions

Aggregate distribution requirement

Under the provision, a sponsoring organization is required, for each taxable year of the organization, to make qualifying distributions, from the assets of donor advised funds maintained by the organization, equivalent to the applicable percentage of the aggregate asset value of donor advised funds maintained by the sponsoring organization as determined on the last day of the immediately preceding taxable year. Such qualifying distributions generally must be made by the first day of the second taxable year following the taxable year. The provision excludes from the computation of the required distributable amount for a taxable year the assets of donor advised funds that have been in existence for less than one full year as of the end of the immediately preceding taxable year.[274] The aggregate payout rule does not apply in the case of a donor advised fund maintained by a private foundation that is subject to the requirements of section 4942. The applicable percentage is three percent for the first taxable year beginning after the date of enactment, four percent for the second such taxable year, and five percent for any such taxable year thereafter.

Generally applicable account-level activity requirement

Under the provision, a sponsoring organization must distribute from each of its donor advised funds at least a certain amount in qualifying distributions during any applicable three-year period by the 181st day of the first taxable year following such period. The required distributable amount is the greater of (1) $250 or (2) two and one-half percent of the sponsoring organization's average required minimum initial contribution amount for such period[275] (or average required minimum balance, if greater) for the type of donor[276] at issue. An applicable three-year period must correspond with three consecutive taxable years of the sponsoring organization. The first applicable three-year period for a donor advised fund begins only after the fund has been in existence for one full year.[277]

Account-level distribution requirement for accounts that hold illiquid assets

If, as of the end of any taxable year of the sponsoring organization, a donor advised fund holds assets other than cash and marketable securities (i.e., "illiquid assets") that equal more than 10 percent of the total value of assets in the fund (determined using the valuation procedures described below), the donor advised fund is considered to be an "illiquid asset donor advised fund" for the subsequent taxable year of the sponsoring organization. A sponsoring organization must distribute from each illiquid asset donor advised fund as qualifying distributions by the 181st day of the second taxable year following such subsequent taxable year an amount equal to the applicable percentage of the value of the assets in the donor advised fund as of the end of such year (the "illiquid asset payout requirement"). The applicable percentage is three percent for the first taxable year beginning after the date of enactment, four percent for the second such taxable year, and five percent for any such taxable year thereafter.

If, as of the end of a taxable year of the sponsoring organization, an illiquid asset in a donor advised fund has not been held for a period of 12 months, such asset is not considered an illiquid asset for such year. However, if an illiquid asset has been exchanged for another illiquid asset, then the holding period for any such other illiquid asset includes the period during which the illiquid asset that was exchanged was held. The Secretary is authorized to promulgate anti-abuse rules to prevent the circumvention of the provision through transactions designed to avoid application of illiquid asset payout requirement, such as through exchanges of illiquid assets for other assets.

Qualifying distributions

For purposes of all of the distribution requirements described in the provision, qualifying distributions are amounts paid to organizations described in section 170(b)(1)(A) (other than Type III supporting organizations or a sponsoring organization if the amount is for maintenance in a donor advised fund). Distributions to Type I or Type II supporting organizations may be qualifying distributions if not prohibited by regulations.[278] Distributions to the sponsoring organization generally are qualifying distributions; however, a distribution to the sponsoring organization in satisfaction of the aggregate distribution requirement is a qualifying distribution only if the distribution is designated for use in connection with a charitable program of the sponsoring organization (e.g., if funds are transferred to a scholarship fund (that does not meet the definition of donor advised fund because, for example, the scholarship fund is not separately identified by reference to donors) for the awarding of scholarships consistent with the sponsoring organization's exempt purposes). Amounts permanently set aside for purposes, and under procedures similar to those, described in section 4942(g) are treated as qualifying distributions. Qualifying distributions also include amounts paid during a taxable year for reasonable and necessary administrative expenses charged to a donor advised fund by a sponsoring organization.

Valuation

Special valuation rules apply for purposes of determining the required distributable amount for a taxable year under the aggregate payout requirement and the account-level payout requirement applicable to accounts that hold illiquid assets. For such purposes, the fair market values of cash and of securities for which market quotations are readily available are determined on a monthly basis. All other assets ("illiquid assets") transferred by a donor to a sponsoring organization for maintenance in a donor advised fund are valued at the sum of (1) the value claimed by the donor for purposes of determining the donor's charitable deduction for the contribution of such assets to the sponsoring organization,[279] and (2) an assumed annual rate of return of five percent. If a donor advised fund purchases an illiquid asset, such asset is valued at the sum of (1) the purchase price paid for the assets, and (2) an assumed annual rate of return of five percent. The Secretary of the Treasury is authorized to specify the requirements for making such computations. Under the provision, the Secretary of the Treasury is also authorized to promulgate rules permitting adjustments in the value of an illiquid asset in situations where the asset declines significantly in value following a contribution or purchase of the asset.

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[274] Assume, for example, that a sponsoring organization initially maintained 10 donor advised funds, each established in Year 1. In Year 3, a new donor advised fund is established. For purposes of determining the sponsoring organization's aggregate payout requirement for Year 4, the donor advised fund established in Year 3 is excluded, because it was in existence for less than a year as of the end of Year 3. For these purposes, a donor advised fund is considered created when the account is first established (rather than, for example, when a donor achieves the minimum account balance required under the sponsoring organization's rules to begin grantmaking).

[275] For purposes of the provision, the required minimum initial contribution amount is the minimum contribution amount required by the sponsoring organization in order to open a donor advised fund.

[276] Under some circumstances, for example, a sponsoring organization may establish higher minimum initial contribution amounts for corporate donors than for individual donors.

[277] Applicable three-year periods for any donor advised fund run consecutively, such that the second three-year period begins immediately after the first three-year period ends. For example, assume donor advised fund X is established on March 30 of Year 1, and the sponsoring organization's taxable year corresponds to the calendar year. As of the end of Year 1, X has not been in existence for one full year; therefore, X's first applicable three-year period does not begin in Year 2. Instead, the first such period begins on January 1 of Year 3 and runs through December 31 of Year 5. X's second applicable three-year period begins on January 1 of Year 6 and ends on December 31 of Year 8.

[278] Regulations generally shall prohibit such a distribution where the donor or donor advisor of the amounts distributed directly or indirectly controls a supported organization of the Type I or Type II supporting organization.

[279] The donor is required to report to the sponsoring organization the value of the asset claimed by the donor for charitable deduction purposes either by supplying to the sponsoring organization a copy of the donor's completed Form 8283 related to the deduction (if applicable) or by following any alternative procedures specified by the Secretary.

Treatment of qualifying distributions

Distributions made in satisfaction of any of the above-described distribution requirements are counted for purposes of all payout requirements described in the provision. For purposes of any distribution requirement described in this provision, the taxpayer may designate a qualifying distribution as being made out of the undistributed amount remaining from any prior taxable year or as being made in satisfaction of the distribution requirement for the current taxable year. Amounts distributed in excess of the undistributed amount for the current year and all previous taxable years may be carried forward for up to five taxable years following the taxable year in which the excess payment is made.

Excise tax for failure to distribute

In the event of a failure to distribute the required amount in connection with any of the above-described distribution requirements within the prescribed time period, the provision imposes excise taxes similar to the private foundation excise taxes under section 4942. Specifically, a first-tier excise tax equal to 30 percent of the undistributed amount is imposed. If the failure is not corrected within the taxable period (as defined in existing section 4942(j)(1)), a second-tier tax equal to 100 percent of the undistributed amount is imposed. The first and second tier taxes are subject to abatement under generally applicable present law rules. Taxable period means, with respect to any undistributed amount for any taxable year or applicable 3-year period, the period beginning with the first day of the taxable year or applicable period and ending on the earlier of the date of mailing of a notice of deficiency with respect to the imposition of the initial tax or the date on which such tax is assessed.

Disqualified persons, excess benefit transactions, and other sanctions

Disqualified persons

The provision provides that donors, donor advisors, and investment advisors to donor advised funds (as well as persons related to the foregoing persons[280]) are treated as disqualified persons with respect to the sponsoring organization under section 4958 or under section 4946(a).

Excess benefit transactions

The provision also provides that distributions from a donor advised fund to a person that with respect to such fund is a donor, donor adviser, or a person related to a donor or donor adviser (though not an investment advisor) is treated as an excess benefit transaction under section 4958, with the entire amount paid to any such person treated as the amount of the excess benefit. This rule applies regardless of whether the sponsoring organization is a public charity or a private foundation and regardless of whether, but for this rule, the transaction would have been subject to the section 4941 self-dealing rules.[281]

Any amount repaid as a result of correcting such an excess benefit transaction shall not be held in or credited to any donor advised fund.

Other sanctions

Under the provision, distributions from a donor advised fund (as opposed to a sponsoring organization's non donor advised funds or accounts) to any person other than the sponsoring organization's non donor advised funds or accounts or organizations described in section 170(b)(1)(A)[282] (other than Type III supporting organizations[283] or sponsoring organizations for maintenance in a donor advised fund) are prohibited.[284] The provision provides for a penalty in the event a distribution is made from a donor advised fund to an ineligible person, such as a private non-operating foundation or a Type III supporting organization. In the event of such a distribution, an excise tax equal to 20 percent of the amount of the distribution is imposed against any donor or donor advisor who advised that such distribution be made. In addition, an excise tax equal to five percent of the amount of the distribution is imposed against any manager of the sponsoring organization (defined in a manner similar to the term "foundation manager" under section 4945) who knowingly approved the distribution. The taxes described in this paragraph are subject to abatement under generally applicable present law rules.

Under the provision, if a donor, a donor advisor, or a person related to a donor or donor advisor of a donor advised fund advises as to a distribution that results in any such person receiving, directly or indirectly, a more than incidental benefit, excise taxes are imposed against any donor or donor advisor who advised as to the distribution, and against the recipient of the benefit. The amount of the tax is determined by multiplying the rate of the initial tax imposed against a disqualified person under section 4958 by the amount of the distribution that gave rise to the more-than-incidental benefit. Persons subject to the tax are jointly and severally liable for the entire amount of the tax. In addition, if a manager of the sponsoring organization (defined in a manner similar to the term "foundation manager" under section 4945) who agreed to the making of the distribution knowing that the distribution would confer a more than incidental benefit on a donor, a donor advisor, or a person related to a donor or donor advisor of a donor advised fund, the manager also is subject to an excise tax, calculated by multiplying the rate of the initial tax specified under section 4958 with respect to organization managers by the amount of the distribution that gave rise to the more than incidental benefit. The taxes on more than incidental benefit are subject to abatement under generally applicable present law rules.

Reporting and disclosure

The provision requires each sponsoring organization to disclose on its information return: (1) the total number of donor advised funds it owns; (2) the aggregate value of assets held in those funds at the end of the organization's taxable year; and (3) the aggregate contributions to and grants made from those funds during the year. The statute of limitations for assessing any tax arising under the provision in any year with respect to which the required information has not been provided shall not expire before three years after the date on which the required information is disclosed to the IRS.

In addition, when seeking recognition of its tax-exempt status, a sponsoring organization must disclose whether it intends to maintain donor advised funds.

Effective date.—The provision generally is effective for taxable years beginning after the date of enactment. Distribution requirements are effective for taxable years beginning after the date of enactment. Information return requirements are effective for taxable years ending after the date of enactment. The requirements concerning disclosures on an organization's application for tax exemption are effective for organizations applying for recognition of exempt status after the date of enactment. Requirements relating to charitable contributions to donor advised funds are effective for contributions made after 180 days from the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

15. Improve accountability of supporting organizations (secs. 241–246 of the Senate amendment and secs. 509, 4942, 4943, 4945, 4958, and 6033 and new sec. 4959 of the Code)

PRESENT LAW

Requirements for section 501(c)(3) tax-exempt status

Charitable organizations, i.e., organizations described in section 501(c)(3), generally are exempt from Federal income tax and are eligible to receive tax deductible contributions. A charitable organization must operate primarily in pursuance of one or more tax-exempt purposes constituting the basis of its tax exemption.[285] In order to qualify as operating primarily for a purpose described in section 501(c)(3), an organization must satisfy the following operational requirements: (1) the net earnings of the organization may not inure to the benefit of any person in a position to influence the activities of the organization; (2) the organization must operate to provide a public benefit, not a private benefit;[286] (3) the organization may not be operated primarily to conduct an unrelated trade or business;[287] (4) the organization may not engage in substantial legislative lobbying; and (5) the organization may not participate or intervene in any political campaign.

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[280] For purposes of the provision, a person is treated as related to another person if (1) such person bears a relationship to such other person similar to the relationships described in sections 4958(f)(1)(B) and 4958(f)(1)(C).

[281] This rule includes any distribution to a donor, donor advisor, or a related person, whether in the form of a grant, loan, compensation arrangement, expense reimbursement, or other payment. If the excess benefit results from the payment of compensation, the entire amount paid as compensation will be deemed the amount of the excess benefit, whether the sponsoring organization is a private foundation or a public charity.

[282] By requiring that distributions from a donor advised fund be made only to certain entities, the provision prohibits distributions from a donor advised fund to a donor or donor advisor (or person related to a donor or donor advisor), whether as compensation, loans, or reimbursement of expenses.

[283] Distributions to Type I and Type II supporting organizations generally are not prohibited unless prohibited under regulations. Regulations generally shall prohibit such distributions where the donor or donor advisor of the amounts distributed directly or indirectly controls a supported organization of the Type I or Type II supporting organization.

[284] Under the provision, distributions from donor advised funds to individuals are prohibited. However, sponsoring organizations may make grants to individuals from amounts not held in donor advised funds and may establish scholarship funds that are not donor advised funds. A donor may choose to make a contribution directly to such a scholarship fund (or advise that a donor advised fund make a distribution to such a scholarship fund).

[285] Treas. Reg. sec. 1.501(c)(3)-1(c)(1). The Code specifies such purposes as religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster international amateur sports competition, or for the prevention of cruelty to children or animals. In general, an organization is organized and operated for charitable purposes if it provides relief for the poor and distressed or the underprivileged. Treas. Reg. sec. 1.501(c)(3)-1(d)(2).

[286] Treas. Reg. sec. 1.501(c)(3)-1(d)(1)(ii).

[287] Treas. Reg. sec. 1.501(c)(3)-1(e)(1). Conducting a certain level of unrelated trade or business activity will not jeopardize tax-exempt status.

Section 501(c)(3) organizations (with certain exceptions) are required to seek formal recognition of tax-exempt status by filing an application with the IRS (Form 1023). In response to the application, the IRS issues a determination letter or ruling either recognizing the applicant as tax-exempt or not.

In general, organizations exempt from Federal income tax under section 501(a) are required to file an annual information return with the IRS.[288] Under present law, the information return requirement does not apply to several categories of exempt organizations. Organizations exempt from the filing requirement include organizations (other than private foundations), the gross receipts of which in each taxable year normally are not more than $25,000.[289]

Classification of section 501(c)(3) organizations

In general

Section 501(c)(3) organizations are classified either as “public charities” or “private foundations.”[290] Private foundations generally are defined under section 509(a) as all organizations described in section 501(c)(3) other than an organization granted public charity status by reason of: (1) being a specified type of organization (i.e., churches, educational institutions, hospitals and certain other medical organizations, certain organizations providing assistance to colleges and universities, or a governmental unit); (2) receiving a substantial part of its support from governmental units or direct or indirect contributions from the general public; or (3) providing support to another section 501(c)(3) entity that is not a private foundation. In contrast to public charities, private foundations generally are funded from a limited number of sources (e.g., an individual, family, or corporation). Donors to private foundations and persons related to such donors together often control the operations of private foundations.

Because private foundations receive support from, and typically are controlled by, a small number of supporters, private foundations are subject to a number of anti-abuse rules and excise taxes not applicable to public charities.[291] For example, the Code imposes excise taxes on acts of “self-dealing” between disqualified persons (generally, an enumerated class of foundation insiders[292]) and a private foundation. Acts of self-dealing include, for example, sales or exchanges, or leasing, of property; lending of money; or the furnishing of goods, services, or facilities between a disqualified person and a private foundation.[293] In addition, private non-operating foundations are required to pay out a minimum amount each year as qualifying distributions. In general, a qualifying distribution is an amount paid to accomplish one or more of the organization's exempt purposes, including reasonable and necessary administrative expenses.[294] Certain expenditures of private foundations are also subject to tax.[295] In general, taxable expenditures are expenditures: (1) for lobbying; (2) to influence the outcome of a public election or carry on a voter registration drive (unless certain requirements are met); (3) as a grant to an individual for travel, study, or similar purposes unless made pursuant to procedures approved by the Secretary; (4) as a grant to an organization that is not a public charity or exempt operating foundation unless the foundation exercises expenditure responsibility[296] with respect to the grant; or (5) for any non-charitable purpose. Additional excise taxes may apply in the event a private foundation holds certain business interests (“excess business holdings”)[297] or makes an investment that jeopardizes the foundation's exempt purposes.[298]

Public charities also enjoy certain advantages over private foundations regarding the deductibility of contributions. For example, contributions of appreciated capital gain property to a private foundation generally are deductible only to the extent of the donor's cost basis.[299] In contrast, contributions to public charities generally are deductible in an amount equal to the property's fair market value, except for gifts of inventory and other ordinary income property, short-term capital gain property, and tangible personal property the use of which is unrelated to the donee organization's exempt purpose. In addition, under present law, a taxpayer's deductible contributions generally are limited to specified percentages of the taxpayer's contribution base, which generally is the taxpayer's adjusted gross income for a taxable year. The applicable percentage limitations vary depending upon the type of property contributed and the classification of the donee organization. In general, contributions to non-operating private foundations are limited to a smaller percentage of the donor's contribution base (up to 30 percent) than contributions to public charities (up to 50 percent).[300]

Supporting organizations (section 509(a)(3))

The Code provides that certain “supporting organizations” (in general, organizations that provide support to another section 501(c)(3) organization that is not a private foundation) are classified as public charities rather than private foundations.[301] To qualify as a supporting organization, an organization must meet all three of the following tests: (1) it must be organized and at all times operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more “publicly supported organizations”[302] (the “organizational and operational tests”);[303] (2) it must be operated, supervised, or controlled by or in connection with one or more publicly supported organizations (the “relationship test”);[304] and (3) it must not be controlled directly or indirectly by one or more disqualified persons (as defined in section 4946) other than foundation managers and other than one or more publicly supported organizations (the “lack of outside control test”).[305]

To satisfy the relationship test, a supporting organization must hold one of three statutorily described close relationships with the supported organization. The organization must be: (1) operated, supervised, or controlled by a publicly supported organization (commonly referred to as “Type I” supporting organizations); (2) supervised or controlled in connection with a publicly supported organization (“Type II” supporting organizations); or (3) operated in connection with a publicly supported organization (“Type III” supporting organizations).[306]

Type I supporting organizations

In the case of supporting organizations that are operated, supervised, or controlled by one or more publicly supported organizations (Type I supporting organizations), one or more supported organizations must exercise a substantial degree of direction over the policies, programs, and activities of the supporting organization.[307] The relationship between the Type I supporting organization and the supported organization generally is comparable to that of a parent and subsidiary. The requisite relationship may be established by the fact that a majority of the officers, directors, or trustees of the supporting organization are appointed or elected by the governing body, members of the governing body, officers acting in their official capacity, or the membership of one or more publicly supported organizations.[308]

Type II supporting organizations

Type II supporting organizations are supervised or controlled in connection with one or more publicly supported organizations. Rather than the parent-subsidiary relationship characteristic of Type I organizations, the relationship between a Type II organization and its supported organizations is more analogous to a brother-sister relationship. In order to satisfy the Type II relationship requirement, generally there must be common supervision or control by the persons supervising or controlling both the supporting organization and the publicly supported organizations.[309] An organization generally is not considered to be “supervised or controlled in connection with” a publicly supported organization merely because the supporting organization makes payments to the publicly supported organization, even if the obligation to make payments is enforceable under state law.[310]

Type III supporting organizations

Type III supporting organizations are “operated in connection with” one or more publicly supported organizations. To satisfy the

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[288] Sec. 6033(a)(1).

[289] Sec. 6033(a)(2); Treas. Reg. sec. 1.6033-2(a)(2)(i); Treas. Reg. sec. 1.6033-2(g)(1). Sec. 6033(a)(2)(A)(ii) provides a $5,000 annual gross receipts exception from the annual reporting requirements for certain exempt organizations. In Announcement 82-88, 1982-25 I.R.B. 23, the IRS exercised its discretionary authority under section 6033 to increase the gross receipts exception to $25,000, and enlarge the category of exempt organizations that are not required to file Form 990.

[290] Sec. 509(a). Private foundations are either private operating foundations or private non operating foundations. In general, private operating foundations operate their own charitable programs in contrast to private non-operating foundations, which generally are grant making organizations. Most private foundations are non-operating foundations.

[291] Secs. 4940–4945.

[292] See sec. 4946(a).

[293] Sec. 4941.

[294] Sec. 4942(g)(1)(A). A qualifying distribution also includes any amount paid to acquire an asset used (or held for use) directly in carrying out one or more of the organization's exempt purposes and certain amounts set-aside for exempt purposes. Sec. 4942(g)(1)(B) and 4942(g)(2).

[295] Sec. 4945. Taxes imposed may be abated if certain conditions are met. Secs. 4961 and 4962.

[296] In general, expenditure responsibility requires that a foundation make all reasonable efforts and establish reasonable procedures to ensure that the grant is spent solely for the purpose for which it was made, to obtain reports from the grantee on the expenditure of the grant, and to make reports to the Secretary regarding such expenditures. Sec. 4945(h).

[297] Sec. 4943.

[298] Sec. 4944.

[299] A special rule in section 170(e)(5) provides that taxpayers are allowed a deduction equal to the fair market value of certain contributions of appreciated, publicly traded stock contributed to a private foundation.

[300] Sec. 170(b).

[301] Sec. 509(a)(3).

[302] In general, supported organizations of a supporting organization must be publicly supported charities described in sections 509(a)(1) or (a)(2).

[303] Sec. 509(a)(3)(A).

[304] Sec. 509(a)(3)(B).

[305] Sec. 509(a)(3)(C).

[306] Treas. Reg. sec. 1.509(a)-4(f)(2).

[307] Treas. Reg. sec. 1.509(a)-4(g)(1)(i).

[308] Id.

[309] Treas. Reg. sec. 1.509(a)-4(h)(1).

[310] Treas. Reg. sec. 1.509(a)-4(h)(2).

"operated in connection with" relationship, Treasury regulations require that the supporting organization be responsive to, and significantly involved in the operations of, the publicly supported organization. This relationship is deemed to exist where the supporting organization meets both a "responsiveness test" and an "integral part test."[311]

In general, the responsiveness test requires that the Type III supporting organization be responsive to the needs or demands of the publicly supported organizations. The responsiveness test may be satisfied in one of two ways.[312] First, the supporting organization may demonstrate that: (1)(a) one or more of its officers, directors, or trustees are elected or appointed by the officers, directors, trustees, or membership of the supported organization; (b) one or more members of the governing bodies of the publicly supported organizations are also officers, directors, or trustees of the supporting organization; or (c) the officers, directors, or trustees of the supporting organization maintain a close continuous working relationship with the officers, directors, or trustees of the publicly supported organizations; and (2) by reason of such arrangement, the officers, directors, or trustees of the supported organization have a significant voice in the investment policies of the supporting organization, the timing and manner of making grants, the selection of grant recipients by the supporting organization, and otherwise directing the use of the income or assets of the supporting organization.[313] Alternatively, the responsiveness test may be satisfied if the supporting organization is a charitable trust under state law, each specified supported organization is a named beneficiary under the trust's governing instrument, and the beneficiary organization has the power to enforce the trust and compel an accounting under state law.[314]

In general, the integral part test requires that the Type III supporting organization maintain significant involvement in the operations of one or more publicly supported organizations, and that such publicly supported organizations are in turn dependent upon the supporting organization for the type of support which it provides. There are two alternative methods for satisfying the integral part test. The first alternative is to establish that (1) the activities engaged in for or on behalf of the publicly supported organization are activities to perform the functions of, or carry out the purposes of, such organizations; and (2) these activities, but for the involvement of the supporting organization, normally would be engaged in by the publicly supported organizations themselves.[315] The second method for satisfying the integral part test is to establish that: (1) the supporting organization pays substantially all of its income to or for the use of one or more publicly supported organizations;[316] (2) the amount of support received by one or more of the publicly supported organizations is sufficient to insure the attentiveness of the organization or organizations to the operations of the supporting organization (this is known as the "attentiveness requirement");[317] and (3) a significant amount of the total support of the supporting organization goes to those publicly supported organizations that meet the attentiveness requirement.[318]

Intermediate sanctions (excess benefit transaction tax)

The Code imposes excise taxes on excess benefit transactions between disqualified persons and public charities.[319] An excess benefit transaction generally is a transaction in which an economic benefit is provided by a public charity directly or indirectly to or for the use of a disqualified person, if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit.

For purposes of the excess benefit transaction rules, a disqualified person is any person in a position to exercise substantial influence over the affairs of the public charity at any time in the five-year period ending on the date of the transaction at issue.[320] Persons holding certain powers, responsibilities, or interests (e.g., officers, directors, or trustees) are considered to be in a position to exercise substantial influence over the affairs of the public charity.

An excess benefit transaction tax is imposed on the disqualified person and, in certain cases, on the organization managers, but is not imposed on the public charity. An initial tax of 25 percent of the excess benefit amount is imposed on the disqualified person that receives the excess benefit. An additional tax on the disqualified person of 200 percent of the excess benefit applies if the violation is not corrected within a specified period. A tax of 10 percent of the excess benefit (not to exceed $10,000 with respect to any excess benefit transaction) is imposed on an organization manager that knowingly participated in the excess benefit transaction, if the manager's participation was willful and not due to reasonable cause, and if the initial tax was imposed on the disqualified person.

HOUSE BILL

No provision.

SENATE AMENDMENT

Provisions relating to all (Type I, Type II, and Type III) supporting organizations

Excess benefit transactions

Under the provision, if a supporting organization (Type I, Type II, or Type III) makes a grant, loan, payment of compensation, or other similar payment to a substantial contributor (or person related to the substantial contributor) of the supporting organization, for purposes of the excess benefit transaction rules (sec. 4958), the substantial contributor is treated as a disqualified person and the payment is treated as an excess benefit transaction with the entire amount of the payment treated as the excess benefit.

A substantial contributor means any person who contributed or bequeathed an aggregate amount of more than $5,000 to the organization, if such amount is more than two percent of the total contributions and bequests received by the organization before the close of the taxable year of the organization in which the contribution or bequest is received by the organization from such person. In the case of a trust, a substantial contributor also includes the creator of the trust. A substantial contributor does not include a public charity (other than a supporting organization).

A person is a related person ("related person") if a person is a member of the family (determined under section 4958(f)(4)) of a substantial contributor, or a 35 percent entity, defined as a corporation, partnership, trust, or estate in which a substantial contributor or family member thereof own more than 35 percent of the total combined voting power, profits interest, or beneficial interest, as the case may be.

In addition, under the provision, loans by any supporting organization (Type I, Type II, or Type III) to a disqualified person (as defined in section 4958) of the supporting organization are treated as an excess benefit transaction under section 4958 and the entire amount of the loan is treated as an excess benefit. For this purpose, a disqualified person does not include a public charity (other than a supporting organization).

Disclosure requirements

All supporting organizations are required to file an annual information return (Form 990 series) with the Secretary, regardless of the organization's gross receipts. A supporting organization must indicate on such annual information return whether it is a Type I, Type II, or Type III supporting organization and must identify its supported organizations.

Supporting organizations must demonstrate annually that the organization is not controlled directly or indirectly by one or more disqualified persons (other than foundation managers and other than one or more publicly supported organizations) through a certification on the annual information return.

Disqualified person

For purposes of the excess benefit transaction rules (sec. 4958), a disqualified person of a supporting organization is treated as a disqualified person of the supported organization.

Provisions that apply to Type III supporting organizations

Modify payout requirement of Type III supporting organizations

A Type III supporting organization must pay each taxable year, to or for the use of one or more public charities described in section 509(a)(1) or 509(a)(2) ("qualifying distributions"), the sum of (1) the greater of (i) 85 percent of its adjusted net income (as defined in section 4942(f)) for the preceding taxable year or (ii) the applicable percentage[321]

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[311] Treas. Reg. sec. 1.509(a)-4(i)(1).

[312] For an organization that was supporting or benefiting one or more publicly supported organizations before November 20, 1970, additional facts and circumstances, such as an historic and continuing relationship between organizations, also may be taken into consideration to establish compliance with either of the responsiveness tests. Treas. Reg. sec. 1.509(a)-4(i)(1)(ii).

[313] Treas. Reg. sec. 1.509(a)-4(i)(2)(ii).

[314] Treas. Reg. sec. 1.509(a)-4(i)(2)(iii).

[315] Treas. Reg. sec. 1.509(a)-4(i)(3)(ii).

[316] For this purpose, the IRS has defined the term "substantially all" of an organization's income to mean 85 percent or more. Rev. Rul. 76-208, 1976-1 C.B. 161.

[317] Although the regulations do not specify the requisite level of support in numerical or percentage terms, the IRS has suggested that grants that represent less than 10 percent of the beneficiary's support likely would be viewed as insufficient to ensure attentiveness. Gen. Couns. Mem. 36379 (August 15, 1975). As an alternative to satisfying the attentiveness standard by the foregoing method, a supporting organization may demonstrate attentiveness by showing that, in order to avoid the interruption of the carrying on of a particular function or activity, the beneficiary organization will be sufficiently attentive to the operations of the supporting organization. Treas. Reg. sec. 1.509(a)-4(i)(3)(iii)(b).

[318] Treas. Reg. sec. 1.509(a)-4(i)(3)(iii).

[319] Sec. 4958. The excess benefit transaction tax is commonly referred to as "intermediate sanctions," because it imposes penalties generally considered to be less punitive than revocation of the organization's exempt status. The tax also applies to transactions between disqualified persons and social welfare organizations (as described in section 501(c)(4)).

[320] Sec. 4958(f)(1). A disqualified person also includes certain family members of such a person, and certain entities that satisfy a control test with respect to such persons.

[321] The percentage is three percent for the first taxable year beginning after the date of enactment,

Continued

of the aggregate fair market value of all of the assets of the organization other than assets that are used (or held for use) directly in supporting the charitable programs of the supporting organization or one or more supported organizations, determined as of the last day of the preceding taxable year, and (2) any amount received or accrued in such year as repayments of amounts that were taken into account as support provided by the supporting organization in prior years. Qualifying distributions are treated as made first to satisfy the pay out requirement of the immediately preceding taxable year, and then of the taxable year, unless the taxpayer elects to have an amount as satisfying the payout of any prior taxable year. Amounts distributed in excess of the required payout for the current year and all previous taxable years may be carried forward for up to five taxable years following the taxable year in which the excess payment is made.

A supporting organization's administrative expenses count as expenses to or for the use of a supported organization. The holding of assets for investment purposes, or to operate an unrelated trade or business, is not considered a use or holding for use directly to support a supported organization's charitable programs. The Secretary may provide guidance as to types of uses of assets that are considered to be directly in support of a supported organization's charitable programs similar to guidance provided under Treasury Regulation section 53.4942(a)-2(c)(3)(i).

An organization that fails to meet the payout requirement is subject to an initial tax of 30 percent of the unpaid amount, increased to 100 percent of the unpaid amount if the payout requirement is not met by the earlier of the date of mailing of a notice of deficiency with respect to the initial tax or the date on which the initial tax is assessed.

Excess business holdings

The excess business holdings rules of section 4943 are applied to Type III supporting organizations. In applying such rules, the term disqualified person has the meaning provided in section 4958, and also includes substantial contributors and related persons and any organization that is effectively controlled by the same person or persons who control the supporting organization or any organization substantially all of the contributions to which were made by the same person or persons who made substantially all of the contributions to the supporting organization. The excess business holdings rules do not apply if the holdings are held for the benefit of the community pursuant to the direction of a State attorney general or a State official with jurisdiction over the Type III supporting organization. The Secretary has the authority not to impose the excess business holding rules if the organization establishes to the satisfaction of the Secretary that the excess holdings are consistent with the exempt purposes of the organization. Transition rules apply to the present holdings of an organization similar to those of section 4943(c)(4)-(6).

The excess business holdings rules also apply to Type II supporting organizations but only if such organization accepts any gift or contribution from a person (other than a public charity, not including a supporting organization) who (1) controls, directly or indirectly, either alone or together (with persons described below) the governing body of a supported organization of the supporting organization; (2) is a member of the family of such a person; or (3) is a 35 percent controlled entity.

Organizational and operational requirements

In general, after the date of enactment of the provision, a Type III supporting organization may not support more than five organizations. A transition rule applies to Type III supporting organizations that support more than five organizations on such date. Such organizations are not required to reduce the number of supported organizations, but may not increase the number of organizations supported above the number of organizations supported on the date of enactment, and may not add new supported organizations as beneficiaries unless no more than five organizations are supported by the supporting organization following such addition.

A Type III supporting organization may not support an organization that is not organized in the United States on any date after the date which is 180 days after the date of enactment,[322] and may not be a donor with respect to a donor advised fund.

Relationship to supported organization(s)

A Type III supporting organization must, as part of its exemption application (Form 1023) attach a letter from each supported organization acknowledging that the supported organization has been designated by such organization as a supported organization.

On the annual information return filed by a Type III supporting organization, the organization must indicate that it has obtained letters from organizations that received its support. It is intended that all such letters must be signed by a senior officer or a member of the Board of the supported organization. The letters must show (1) that the supported organization agrees to be supported by the supporting organization, (2) the type of support provided or to be provided, and (3) how such support furthers the supported organization's charitable purposes.

A Type III supporting organization must apprise each organization it supports of information regarding the supporting organization in order to help ensure the supporting organization's responsiveness. Such a showing could be satisfied, for example, through provision of documentation such as a copy of the supporting organization's governing documents, any changes made to the governing documents, the organization's annual information return filed with the Secretary (Form 990 series), any tax return (Form 990-T) filed with the Secretary, and an annual report (including a description of all of the support provided by the supporting organization, how such support was calculated, and a projection of the next year's support). Failure to make a sufficient showing is a factor in determining whether the responsiveness test of present law is met.

A Type III supporting organization that is organized as a trust must, in addition to present law requirements, establish to the satisfaction of the Secretary, that it has a close and continuous relationship with the supported organization such that the trust is responsive to the needs or demands of the supported organization.

Other provisions

Under the provision, if a Type I or Type III supporting organization accepts any gift or contribution from a person (other than a public charity, not including a supporting organization) who (1) controls, directly or indirectly, either alone or together (with persons described below) the governing body of a supported organization of the supporting organization; (2) is a member of the family of such a person; or (3) is a 35 percent controlled entity, then the supporting organization is treated as a private foundation for all purposes until such time as the organization can demonstrate to the satisfaction of the Secretary that it qualifies as a public charity other than as a supporting organization.

Under the provision, a non-operating private foundation may not count as a qualifying distribution under section 4942 any amount paid to a supporting organization. In addition, any such amount is treated as a taxable expenditure under section 4945.

Effective date.—The provision generally is effective on the date of enactment. The distribution requirements are effective for taxable years beginning after the date of enactment. The prohibited transaction rules are effective for transactions occurring after the date of enactment. The excess business holdings requirements are effective for taxable years beginning after the date of enactment. The provision relating to distributions by nonoperating private foundations is effective for distributions and expenditures made after the date of enactment. The return requirements are effective for returns filed for taxable years ending after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

TITLE IV—MISCELLANEOUS PROVISIONS

A. RESTRUCTURE NEW YORK LIBERTY ZONE TAX INCENTIVES

(Sec. 301 of the Senate amendment)

PRESENT LAW

In general

Present law includes a number of incentives to invest in property located in the New York Liberty Zone ("NYLZ"), which is the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York. These incentives were enacted following the terrorist attack in New York City on September 11, 2001.[323]

Special depreciation allowance for qualified New York Liberty Zone property

Section 1400L(b) allows an additional first-year depreciation deduction equal to 30 percent of the adjusted basis of qualified NYLZ property.[324] In order to qualify, property generally must be placed in service on or before December 31, 2006 (December 31, 2009 in the case of nonresidential real property and residential rental property).

The additional first-year depreciation deduction is allowed for both regular tax and

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four percent for the second such taxable year, and five percent for any such taxable year thereafter.

[322] U.S. charities established principally to provide financial and other assistance to a foreign charity, sometimes referred to as "friends of" organizations, may not be established as supporting organizations under the provision. Such organizations may continue to obtain public charity status, however, by virtue of demonstrating broad public support (as described in sections 509(a)(1) and 509(a)(2)).

[323] In addition to the NYLZ provisions described above, other NYLZ incentives are provided: (1) $8 billion of tax-exempt private activity bond financing for certain nonresidential real property, residential rental property and public utility property is authorized to be issued after March 9, 2002, and before January 1, 2010; and (2) $9 billion of additional tax-exempt advance refunding bonds is available after March 9, 2002, and before January 1, 2006, with respect to certain State or local bonds outstanding on September 11, 2001.

[324] The amount of the additional first year depreciation deduction is not affected by a short taxable year.

alternative minimum tax purposes for the taxable year in which the property is placed in service. A taxpayer is allowed to elect out of the additional first-year depreciation for any class of property for any taxable year.

In order for property to qualify for the additional first-year depreciation deduction, it must meet all of the following requirements. First, the property must be property to which the general rules of the Modified Accelerated Cost Recovery System ("MACRS")[325] apply with (1) an applicable recovery period of 20 years or less, (2) water utility property (as defined in section 168(e)(5)), (3) certain nonresidential real property and residential rental property, or (4) computer software other than computer software covered by section 197. A special rule precludes the additional first-year depreciation under this provision for (1) qualified NYLZ leasehold improvement property[326] and (2) property eligible for the additional first-year depreciation deduction under section 168(k) (i.e., property is eligible for only one 30 percent additional first-year depreciation). Second, substantially all of the use of such property must be in the NYLZ. Third, the original use of the property in the NYLZ must commence with the taxpayer on or after September 11, 2001. Finally, the property must be acquired by purchase[327] by the taxpayer after September 10, 2001 and placed in service on or before December 31, 2006. For qualifying nonresidential real property and residential rental property the property must be placed in service on or before December 31, 2009 in lieu of December 31, 2006. Property will not qualify if a binding written contract for the acquisition of such property was in effect before September 11, 2001.[328]

Nonresidential real property and residential rental property is eligible for the additional first-year depreciation only to the extent such property rehabilitates real property damaged, or replaces real property destroyed or condemned as a result of the terrorist attacks of September 11, 2001.

Property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer qualifies for the additional first-year depreciation deduction if the taxpayer begins the manufacture, construction, or production of the property after September 10, 2001, and the property is placed in service on or before December 31, 2006[329] (and all other requirements are met). Property that is manufactured, constructed, or produced for the taxpayer by another person under a contract that is entered into prior to the manufacture, construction, or production of the property is considered to be manufactured, constructed, or produced by the taxpayer.

Depreciation of New York Liberty Zone leasehold improvements

Generally, depreciation allowances for improvements made on leased property are determined under MACRS, even if the MACRS recovery period assigned to the property is longer than the term of the lease.[330] This rule applies regardless of whether the lessor or the lessee places the leasehold improvements in service.[331] If a leasehold improvement constitutes an addition or improvement to nonresidential real property already placed in service, the improvement generally is depreciated using the straight-line method over a 39-year recovery period, beginning in the month the addition or improvement is placed in service.[332]

A special rule exists for qualified NYLZ leasehold improvement property, which is recovered over five years using the straight-line method. The term qualified NYLZ leasehold improvement property means property defined in section 168(e)(6) that is acquired and placed in service after September 10, 2001, and before January 1, 2007 (and not subject to a binding contract on September 10, 2001), in the NYLZ. For purposes of the alternative depreciation system, the property is assigned a nine-year recovery period. A taxpayer may elect out of the 5-year (and 9-year) recovery period for qualified NYLZ leasehold improvement property.

Increased section 179 expensing for qualified New York Liberty Zone property

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct the cost of qualifying property. For taxable years beginning in 2003 through 2007, a taxpayer may deduct up to $100,000 of the cost of qualifying property placed in service for the taxable year. In general, qualifying property for this purpose is defined as depreciable tangible personal property (and certain computer software) that is purchased for use in the active conduct of a trade or business. The $100,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $400,000. The $100,000 and $400,000 amounts are indexed for inflation.

For taxable years beginning in 2008 and thereafter, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $25,000 of the cost of qualifying property placed in service for the taxable year. The $25,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. In general, qualifying property for this purpose is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business.

The amount eligible to be expensed for a taxable year may not exceed the taxable income for a taxable year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations). No general business credit under section 38 is allowed with respect to any amount for which a deduction is allowed under section 179.

The amount a taxpayer can deduct under section 179 is increased for qualifying property used in the NYLZ. Specifically, the maximum dollar amount that may be deducted under section 179 is increased by the lesser of (1) $35,000 or (2) the cost of qualifying property placed in service during the taxable year. This amount is in addition to the amount otherwise deductible under section 179.

Qualifying property for purposes of the NYLZ provision means section 179 property[333] purchased and placed in service by the taxpayer after September 10, 2001 and before January 1, 2007, where (1) substantially all of the use of such property is in the NYLZ in the active conduct of a trade or business by the taxpayer in the NYLZ, and (2) the original use of which in the NYLZ commences with the taxpayer after September 10, 2001.[334]

The phase-out range for the section 179 deduction attributable to NYLZ property is applied by taking into account only 50 percent of the cost of NYLZ property that is section 179 property. Also, no general business credit under section 38 is allowed with respect to any amount for which a deduction is allowed under section 179.

The provision is effective for property placed in service after September 10, 2001 and before January 1, 2007.

Extended replacement period for New York Liberty Zone involuntary conversions

A taxpayer may elect not to recognize gain with respect to property that is involuntarily converted if the taxpayer acquires within an applicable period (the "replacement period") property similar or related in service or use (section 1033). If the taxpayer does not replace the converted property with property similar or related in service or use, then gain generally is recognized. If the taxpayer elects to apply the rules of section 1033, gain on the converted property is recognized only to the extent that the amount realized on the conversion exceeds the cost of the replacement property. In general, the replacement period begins with the date of the disposition of the converted property and ends two years after the close of the first taxable year in which any part of the gain upon conversion is realized.[335] The replacement period is extended to three years if the converted property is real property held for the productive use in a trade or business or for investment.[336]

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[325] A special rule precludes the additional first-year depreciation deduction for property that is required to be depreciated under the alternative depreciation system of MACRS.

[326] Qualified NYLZ leasehold improvement property is defined in another provision. Leasehold improvements that do not satisfy the requirements to be treated as "qualified NYLZ leasehold improvement property" maybe eligible for the 30 percent additional first-year depreciation deduction (assuming all other conditions are met).

[327] For purposes of this provision, purchase is defined as under section 179(d).

[328] Property is not precluded from qualifying for the additional first-year depreciation merely because a binding written contract to acquire a component of the property is in effect prior to September 11, 2001.

[329] December 31, 2009 with respect to qualified nonresidential real property and residential rental property.

[330] Sec. 168(i)(8). The Tax Reform Act of 1986 modified the Accelerated Cost Recovery System ("ACRS") to institute MACRS. Prior to the adoption of ACRS by the Economic Recovery Tax Act of 1981, taxpayers were allowed to depreciate the various components of a building as separate assets with separate useful lives. The use of component depreciation was repealed upon the adoption of ACRS. The Tax Reform Act of 1986 also denied the use of component depreciation under MACRS.

[331] Former sections 168(f)(6) and 178 provided that, in certain circumstances, a lessee could recover the cost of leasehold improvements made over the remaining term of the lease. The Tax Reform Act of 1986 repealed these provisions.

[332] Secs. 168(b)(3), (c), (d)(2), and (i)(6). If the improvement is characterized as tangible personal property, ACRS or MACRS depreciation is calculated using the shorter recovery periods, accelerated methods, and conventions applicable to such property. The determination of whether improvements are characterized as tangible personal property or as nonresidential real property often depends on whether or not the improvements constitute a "structural component" of a building (as defined by Treas. Reg. sec. 1.48-1(e)(1)). See, e.g., Metro National Corp v. Commissioner, 52 TCM (CCH) 1440 (1987); King Radio Corp Inc. v. U.S., 486 F.2d 1091 (10th Cir. 1973); Mallinckrodt, Inc. v. Commissioner, 778 F.2d 402 (8th Cir. 1985) (with respect to various leasehold improvements).

[333] As defined in sec. 179(d)(1).

[334] See Rev. Proc. 2002-33, 2002-20 I.R.B. 963 (May 20, 2002), for procedures on claiming the increased section 179 expensing deduction by taxpayers who filed their tax returns before June 1, 2002.

[335] Section 1033(a)(2)(B).

The replacement period is extended to five years with respect to property that was involuntarily converted within the NYLZ as a result of the terrorist attacks that occurred on September 11, 2001. However, the five-year period is available only if substantially all of the use of the replacement property is in New York City. In all other cases, the present-law replacement period rules continue to apply.

HOUSE BILL

No provision.

SENATE AMENDMENT

Repeal of certain NYLZ incentives

The provision repeals the four NYLZ incentives relating to the additional first-year depreciation allowance of 30 percent, the five-year depreciation of leasehold improvements, the additional section 179 expensing, and the extended replacement period for involuntary conversions.[337]

Creation of New York Liberty Zone tax credits

The provision provides a credit against tax imposed (other than taxes of section 3111(a), 3403, or subtitle D) paid or incurred by any governmental unit of the State of New York and the City of New York equal to the lesser of (1) the total expenditures during such year by such governmental unit for qualifying projects, or (2) the amount allocated to such governmental unit for such calendar year.

Qualifying projects means any transportation infrastructure project, including highways, mass transit systems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone, which is designated as a qualifying project jointly by the Governor of the State of New York and the Mayor of the City of New York.

The Governor of the State of New York and the Mayor of the City of New York shall jointly allocate to a governmental unit the amount of expenditures which may be taken into account for purposes of the credit for any calendar year in the credit period with respect to a qualifying project. The aggregate limit that may be allocated for all calendar years in the credit period is two billion dollars. The annual limit for any calendar year in the credit period shall not exceed the sum of 200 million dollars plus the aggregate amount authorized to be allocated for all preceding calendar years in the credit period which was not allocated. The credit period is the ten-year period beginning on January 1, 2006.

If, at the close of the credit period, the aggregate amounts allocated are less than the 2 billion dollar aggregate limit, the Governor of the State of New York and the Mayor of the City of New York may jointly allocate, for any calendar year following the credit period, for expenditures with respect to qualifying projects, amounts that in sum for all years following the credit period would equal such shortfall.

Under the provision, any expenditure for a qualifying project taken into account for purposes of the credit shall be considered State and local funds for the purpose of any Federal program.

Effective date

The provision is effective on the date of enactment, with an exception for property subject to a written binding contract in effect on the date of enactment which is placed in service prior to the original sunset dates under present law. The extended replacement period for involuntarily converted property ends on the earlier of (1) the date of enactment or (2) the last day of the five-year period specified in the Jobs Creation and Worker Assistance Act of 2002 ("JCWAA").[338]

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

B. MODIFICATION OF S CORPORATION PASSIVE INVESTMENT INCOME RULES

(Sec. 302 of the Senate amendment and secs. 1362 and 1375 of the Code)

PRESENT LAW

An S corporation is subject to corporate-level tax, at the highest corporate tax rate, on its excess net passive income if the corporation has (1) accumulated earnings and profits at the close of the taxable year and (2) gross receipts more than 25 percent of which are passive investment income.

Excess net passive income is the net passive income for a taxable year multiplied by a fraction, the numerator of which is the amount of passive investment income in excess of 25 percent of gross receipts and the denominator of which is the passive investment income for the year. Net passive income is defined as passive investment income reduced by the allowable deductions that are directly connected with the production of that income. Passive investment income generally means gross receipts derived from royalties, rents, dividends, interest, annuities, and sales or exchanges of stock or securities (to the extent of gains). Passive investment income generally does not include interest on accounts receivable, gross receipts that are derived directly from the active and regular conduct of a lending or finance business, gross receipts from certain liquidations, or gain or loss from any section 1256 contract (or related property) of an options or commodities dealer.

In addition, an S corporation election is terminated whenever the S corporation has accumulated earnings and profits at the close of each of three consecutive taxable years and has gross receipts for each of those years more than 25 percent of which are passive investment income.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment increases the 25-percent threshold to 60 percent; eliminates gains from the sale or exchange of stock or securities from the definition of passive investment income; and eliminates the rule terminating an S election by reason of having excess passive investment income for three consecutive taxable years.

Effective date.—The provision applies to taxable years beginning after December 31, 2006, and before October 1, 2009.

CONFERENCE AGREEMENT

The conference agreement does not contain the Senate amendment provision.

C. CAPITAL EXPENDITURE LIMITATION FOR QUALIFIED SMALL ISSUE BONDS

(Sec. 303 of the Senate amendment and sec. 144 of the Code)

PRESENT LAW

Qualified small-issue bonds are tax-exempt State and local government bonds used to finance private business manufacturing facilities (including certain directly related and ancillary facilities) or the acquisition of land and equipment by certain farmers. In both instances, these bonds are subject to limits on the amount of financing that may be provided, both for a single borrowing and in the aggregate. In general, no more than $1 million of small-issue bond financing may be outstanding at any time for property of a business (including related parties) located in the same municipality or county. Generally, this $1 million limit may be increased to $10 million if all other capital expenditures of the business in the same municipality or county are counted toward the limit over a six-year period that begins three years before the issue date of the bonds and ends three years after such date. Outstanding aggregate borrowing is limited to $40 million per borrower (including related parties) regardless of where the property is located.

For bonds issued after September 30, 2009, the Code permits up to $10 million of capital expenditures to be disregarded, in effect increasing from $10 million to $20 million the maximum allowable amount of total capital expenditures by an eligible business in the same municipality or county.[339] However, no more than $10 million of bond financing may be outstanding at any time for property of an eligible business (including related parties) located in the same municipality or county. Other limits (e.g., the $40 million per borrower limit) also continue to apply.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision accelerates the application of the $20 million capital expenditure limitation from bonds issued after September 30, 2009, to bonds issued after December 31, 2006.

Effective date.—The provision is effective on the date of enactment for bonds issued after December 31, 2006.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision.

D. PREMIUMS FOR MORTGAGE INSURANCE

(Sec. 304 of the Senate amendment and secs. 163(h) and 6050H of the Code)

PRESENT LAW

Present law provides that qualified residence interest is deductible notwithstanding the general rule that personal interest is nondeductible (sec. 163(h)).

Qualified residence interest is interest on acquisition indebtedness and home equity indebtedness with respect to a principal and a second residence of the taxpayer. The maximum amount of home equity indebtedness is $100,000. The maximum amount of acquisition indebtedness is $1 million. Acquisition indebtedness means debt that is incurred in acquiring constructing, or substantially improving a qualified residence of the taxpayer, and that is secured by the residence. Home equity indebtedness is debt (other than acquisition indebtedness) that is secured by the taxpayer's principal or second residence, to the extent the aggregate amount of such debt does not exceed the difference between the total acquisition indebtedness with respect to the residence, and the fair market value of the residence.

HOUSE BILL

No provision.

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[336] Section 1033(g)(4).

[337] The provision does not change the present-law rules relating to certain NYLZ private activity bond financing and additional advance refunding bonds.

[338] Pub. L. No. 107-147, sec. 301 (2002).

[339] Sec. 144(a)(4)(G) as added by sec. 340(a) of the American Jobs Creation Act of 2004, Pub. L. No. 108-357 (2004).

SENATE AMENDMENT

The Senate amendment provision provides that premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness on a qualified residence of the taxpayer are treated as interest that is qualified residence interest and thus deductible. The amount allowable as a deduction under the provision is phased out ratably by 10 percent for each $1,000 by which the taxpayer's adjusted gross income exceeds $100,000 ($500 and $50,000, respectively, in the case of a married individual filing a separate return). Thus, the deduction is not allowed if the taxpayer's adjusted gross income exceeds $110,000 ($55,000 in the case of married individual filing a separate return).

For this purpose, qualified mortgage insurance means mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and private mortgage insurance (defined in section 2 of the Homeowners Protection Act of 1998 as in effect on the date of enactment of the Senate amendment provision).

Amounts paid for qualified mortgage insurance that are properly allocable to periods after the close of the taxable year are treated as paid in the period to which they are allocated. No deduction is allowed for the unamortized balance if the mortgage is paid before its term (except in the case of qualified mortgage insurance provided by the Department of Veterans Affairs or Rural Housing Administration).

Reporting rules apply under the provision.

Effective date.—The Senate amendment provision is effective for amounts paid or accrued in taxable years beginning after December 31, 2006, and ending before January 1, 2008, and properly allocable to that period, with respect to mortgage insurance contracts issued after December 31, 2006.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

E. Sense of the Senate on Use of No-Bid Contracting by Federal Emergency Management Agency

(Sec. 305 of the Senate amendment)

PRESENT LAW

Present law does not provide for the special rules contemplated in the Sense of the Senate provision described below.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate Amendment provision provides that it is the sense of the Senate that the Federal Emergency Management Agency should (1) rebid certain contracts entered into following Hurricane Katrina for which competing bids were not solicited; (2) implement its planned competitive contracting strategy and, in carrying out that strategy, prioritize local and small disadvantaged businesses in contracting and subcontracting; and (3) immediately after awarding any contract, make public the dollar amount of the contract and whether competing bids were solicited.

Effective date.—The Senate amendment provision is effective upon enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

F. Sense of Congress Regarding Doha Round

(Sec. 306 of the Senate amendment)

PRESENT LAW

Present law does not provide a sense of Congress regarding the Doha Round of trade negotiations.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision provides that it is the sense of Congress that the United States should not be a signatory to an agreement or protocol with respect to the Doha Development Round of the World Trade Organization (WTO) negotiations or any other bilateral or multilateral trade negotiations if the agreement or protocol (1) adopts any provision to lessen the effectiveness of domestic and international disciplines on unfair trade or safeguard provisions or (2) would lessen in any manner the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws. The provision also provides that it is the sense of Congress that (1) the United States trade laws and international rules appropriately serve the public interest by offsetting injurious unfair trade, and that further balancing modifications or other similar provisions are unnecessary and would add to the complexity and difficulty of achieving relief against injurious unfair trade practices, and (2) the United States should ensure that any new agreement relating to international disciplines on unfair trade or safeguard provisions fully rectifies and corrects decisions by WTO dispute settlement panels or the Appellate Body that have unjustifiably and negatively impacted, or threaten to negatively impact, United States law or practice, including a law or practice with respect to foreign dumping or subsidization.

Effective date.—The Senate amendment provision is effective upon enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

G. Treatment of Certain Stock Option Plans Under Nonqualified Deferred Compensation Rules

(Sec. 308 of the Senate amendment)

PRESENT LAW

Amounts deferred under a nonqualified deferred compensation plan for all taxable years are currently includible in gross income to the extent not subject to a substantial risk of forfeiture and not previously included in gross income, unless certain requirements are satisfied.[340] For example, distributions from a nonqualified deferred compensation plan may be allowed only upon certain times and events. Rules also apply for the timing of elections. If the requirements are not satisfied, in addition to current income inclusion, interest at the underpayment rate plus one percentage point is imposed on the underpayments that would have occurred had the compensation been includible in income when first deferred, or if later, when not subject to a substantial risk of forfeiture. The amount required to be included in income is also subject to a 20-percent additional tax.

The rules governing the tax treatment of nonqualified deferred compensation generally apply to stock options granted to employees. However, exceptions apply to incentive stock options and options granted under employee stock purchase plans.[341]

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, the Secretary of the Treasury is directed to modify the regulations relating to nonqualified deferred compensation to extend to applicable foreign option plans the exceptions for incentive stock options and options granted under employee stock purchase plans. The exception for applicable foreign option plans is subject to such terms and conditions as may be prescribed in the regulations.

An applicable foreign option plan means a plan that (1) provides for the issuance of employee stock options; (2) is established under the laws of a foreign jurisdiction; and (3) under such laws or the terms of the plan (or both), is subject to requirements substantially similar to the requirements applicable to incentive stock options and options granted under employee stock purchase plans.

For this purpose, a foreign option plan is not treated as subject to requirements substantially similar to the requirements applicable to incentive stock options and options granted under employee stock purchase plans unless the foreign option plan: (1) is required to cover substantially all employees; (2) in the case of an option under an employee stock purchase plan, is required to provide an option price of not less than the lesser of not less than 80 percent of the fair market value of the stock at the time the option is granted or an amount which, under the terms of the option, cannot be less than 80 percent of the fair market value of the stock at the time the option is exercised; (3) is required to provide coverage of individuals who, but for the exception under the provision, would be subject to tax under the nonqualified deferred compensation rules with respect to the plan; and (4) meets such other requirements as prescribed in regulations issued under the provision.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

H. Sense of the Senate Regarding the Dedication of Excess Funds

(Sec. 309 of the Senate amendment)

PRESENT LAW

Present law does not provide a sense of the Senate regarding the dedication of Treasury revenues that exceed amounts specified in the reconciliation instructions for this bill.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that it is the sense of the Senate that any Federal revenue increases resulting from the Senate amendment and exceeding the amounts specified in applicable reconciliation instructions are to be dedicated to the Low-Income Home Energy Assistance Program. The amount so dedicated is not to exceed by more than $2.9 billion the funding level established for the program for fiscal year 2005.

Effective date.—The Senate amendment provision is effective upon enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

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[340] Section 409A.

[341] Sections 422 and 423, respectively.

I. Modification of Treatment of Loans to Qualified Continuing Care Facilities

(Sec. 310 of the Senate amendment and sec. 7872(g) of the Code)

PRESENT LAW

Present law provides generally that certain loans that bear interest at a below-market rate are treated as loans bearing interest at the market rate, accompanied by imputed payments characterized in accordance with the substance of the transaction (for example, as a gift, compensation, a dividend, or interest).[342]

An exception to this imputation rule is provided for any calendar year for a below-market loan made by a lender to a qualified continuing care facility pursuant to a continuing care contract, if the lender or the lender's spouse attains age 65 before the close of the calendar year.[343]

The exception applies only to the extent the aggregate outstanding loans by the lender (and spouse) to any qualified continuing care facility do not exceed $163,300 (for 2006).[344]

For this purpose, a continuing care contract means a written contract between an individual and a qualified continuing care facility under which: (1) the individual or the individual's spouse may use a qualified continuing care facility for their life or lives; (2) the individual or the individual's spouse will first reside in a separate, independent living unit with additional facilities outside such unit for the providing of meals and other personal care and will not require long-term nursing care, and then will be provided long-term and skilled nursing care as the health of the individual or the individual's spouse requires; and (3) no additional substantial payment is required if the individual or the individual's spouse requires increased personal care services or long-term and skilled nursing care.

For this purpose, a qualified continuing care facility means one or more facilities that are designed to provide services under continuing care contracts, and substantially all of the residents of which are covered by continuing care contracts. A facility is not treated as a qualified continuing care facility unless substantially all facilities that are used to provide services required to be provided under a continuing care contract are owned or operated by the borrower. For these purposes, a nursing home is not a qualified continuing care facility.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision modifies the present-law exception under section 7872(g) relating to loans to continuing care facilities by eliminating the dollar cap on aggregate outstanding loans and making other modifications.

The Senate amendment provision provides an exception to the imputation rule of section 7872 for any calendar year for any below-market loan owed by a facility which on the last day of the year is a qualified continuing care facility, if the loan was made pursuant to a continuing care contract and if the lender or the lender's spouse attains age 62 before the close of the year.

For this purpose, a continuing care contract means a written contract between an individual and a qualified continuing care facility under which: (1) the individual or the individual's spouse may use a qualified continuing care facility for their life or lives; (2) the individual or the individual's spouse will be provided with housing in an independent living unit (which has additional available facilities outside such unit for the provision of meals and other personal care), an assisted living facility or nursing facility, as is available in the continuing care facility, as appropriate for the health of the individual or the individual's spouse; and (3) the individual or the individual's spouse will be provided assisted living or nursing care as the health of the individual or the individual's spouse requires, and as is available in the continuing care facility.

For this purpose, a qualified continuing care facility means one or more facilities: (1) that are designed to provide services under continuing care contracts; (2) that include an independent living unit, plus an assisted living or nursing facility, or both; and (3) substantially all of the independent living unit residents of which are covered by continuing care contracts. For these purposes, a nursing home is not a qualified continuing care facility.

Effective date.—The provision is effective for loans made after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision, with modifications. The conference agreement provision provides that a continuing care contract is a written contract between an individual and a qualified continuing care facility under which: (1) the individual or the individual's spouse may use a qualified continuing care facility for their life or lives; (2) the individual or the individual's spouse will be provided with housing, as appropriate for the health of such individual or individual's spouse, (i) in an independent living unit (which has additional available facilities outside such unit for the provision of meals and other personal care), and (ii) in an assisted living facility or a nursing facility, as is available in the continuing care facility; and (3) the individual or the individual's spouse will be provided assisted living or nursing care as the health of the individual or the individual's spouse requires, and as is available in the continuing care facility. The Secretary is required to issue guidance that limits the term "continuing care contract" to contracts that provide only facilities, care, and services described in the preceding sentence.

For purposes of defining the terms "continuing care contract" and "qualified continuing care facility" under the conference agreement provision, the term "assisted living facility" is intended to mean a facility at which assistance is provided (1) with activities of daily living (such as eating, toileting, transferring, bathing, dressing, and continence) or (2) in cases of cognitive impairment, to protect the health or safety of an individual. The term "nursing facility" is intended to mean a facility that offers care requiring the utilization of licensed nursing staff.

Effective date.—The conference agreement provision is generally effective for calendar years beginning after December 31, 2005, with respect to loans made before, on, or after such date. The conference agreement provision does not apply to any calendar year after 2010. Thus, the conference agreement provision does not apply with respect to interest imputed after December 31, 2010. After such date, the law as in effect prior to enactment applies.

J. Exclusion of Gain on Sale of a Principal Residence by a Member of the Intelligence Community

(Sec. 311 of the Senate amendment and sec. 121 of the Code)

PRESENT LAW

Under present law, an individual taxpayer may exclude up to $250,000 ($500,000 if married filing a joint return) of gain realized on the sale or exchange of a principal residence. To be eligible for the exclusion, the taxpayer must have owned and used the residence as a principal residence for at least two of the five years ending on the sale or exchange. A taxpayer who fails to meet these requirements by reason of a change of place of employment, health, or, to the extent provided under regulations, unforeseen circumstances is able to exclude an amount equal to the fraction of the $250,000 ($500,000 if married filing a joint return) that is equal to the fraction of the two years that the ownership and use requirements are met.

Present law also contains special rules relating to members of the uniformed services or the Foreign Service of the United States. An individual may elect to suspend for a maximum of 10 years the five-year test period for ownership and use during certain absences due to service in the uniformed services or the Foreign Service of the United States. The uniformed services include: (1) the Armed Forces (the Army, Navy, Air Force, Marine Corps, and Coast Guard); (2) the commissioned corps of the National Oceanic and Atmospheric Administration; and (3) the commissioned corps of the Public Health Service. If the election is made, the five-year period ending on the date of the sale or exchange of a principal residence does not include any period up to five years during which the taxpayer or the taxpayer's spouse is on qualified official extended duty as a member of the uniformed services or in the Foreign Service of the United States. For these purposes, qualified official extended duty is any period of extended duty while serving at a place of duty at least 50 miles away from the taxpayer's principal residence or under orders compelling residence in Government furnished quarters. Extended duty is defined as any period of duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period. The election may be made with respect to only one property for a suspension period.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the provision, specified employees of the intelligence community may elect to suspend the running of the five-year test period during any period in which they are serving on extended duty. The term "employee of the intelligence community" means an employee of the Office of the Director of National Intelligence, the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, or the National Reconnaissance Office. The term also includes employment with: (1) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs; (2) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, the Department of Energy, and the Coast Guard; (3) the Bureau of Intelligence and Research of the Department of State; and (4) the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information. To qualify, a specified employee must move from one duty station to another and at least one of such duty stations must be located outside of the Washington, D.C. and Baltimore metropolitan statistical areas, as defined by the Secretary of Commerce. As under present law, the five-year period may not be extended more than 10 years.

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[342] Sec. 7872.

[343] Sec. 7872(g).

[344] Rev. Rul. 2005-75, 2005-49 I.R.B. 1073.

Effective date.—The provision is effective for sales and exchanges after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

K. SENSE OF THE SENATE REGARDING THE PERMANENT EXTENSION OF EGTRRA AND JGTRRA PROVISIONS RELATING TO THE CHILD TAX CREDIT

(Sec. 312 of the Senate amendment)

PRESENT LAW

Present law provides for the sunset of the child tax credit provisions under Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") and Jobs and Growth Tax Relief Reconciliation Act of 2003 ("JGTRRA").

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment includes a provision stating that it is the sense of the Senate that the conferees for the Tax Relief Act of 2006 should strive to permanently extend the amendments to the child tax credit made by EGTRRA and JGTRRA.

Effective date.—The Senate amendment provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

L. PARTIAL EXPENSING FOR ADVANCED MINE SAFETY EQUIPMENT

(Sec. 313 of the Senate amendment)

PRESENT LAW

A taxpayer generally must capitalize the cost of property used in a trade or business and recover such cost over time through annual deductions for depreciation or amortization. Tangible property generally is depreciated under the Modified Accelerated Cost Recovery System ("MACRS"), which determines depreciation by applying specific recovery periods, placed-in-service conventions, and depreciation methods to the cost of various types of depreciable property (sec. 168).

Personal property is classified under MACRS based on the property's class life unless a different classification is specifically provided in section 168. The class life applicable for personal property is the asset guideline period (midpoint class life as of January 1, 1986). Based on the property's classification, a recovery period is prescribed under MACRS. In general, there are six classes of recovery periods to which personal property can be assigned. For example, personal property that has a class life of four years or less has a recovery period of three years, whereas personal property with a class life greater than four years but less than 10 years has a recovery period of five years. The class lives and recovery periods for most property are contained in Revenue Procedure 87-56.[345]

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct (or "expense") such costs. Present law provides that the maximum amount a taxpayer may expense, for taxable years beginning in 2003 through 2007, is $100,000 of the cost of qualifying property placed in service for the taxable year. In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. The $100,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $400,000.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that the taxpayer may elect to treat 50 percent of the cost of any qualified advanced mine safety equipment property as a deduction in the taxable year in which the equipment is placed in service.

Advanced mine safety equipment property means any of the following: (1) emergency communication technology or devices used to allow a miner to maintain constant communication with an individual who is not in the mine; (2) electronic identification and location devices that allow individuals not in the mine to track at all times the movements and location of miners working in or at the mine; (3) emergency oxygen-generating, self-rescue devices that provide oxygen for at least 90 minutes; (4) pre-positioned supplies of oxygen providing each miner on a shift the ability to survive for at least 48 hours; and (5) comprehensive atmospheric monitoring systems that monitor the levels of carbon monoxide, methane and oxygen that are present in all areas of the mine and that can detect smoke in the case of a fire in a mine.

To be treated as qualified advanced mine safety equipment property under the provision, the original use of the property must have commenced with the taxpayer, and the taxpayer must have placed the property in service after the date of enactment.

The portion of the cost of any property with respect to which an expensing election under section 179 is made may not be taken into account for purposes of the 50-percent deduction allowed under this provision. For Federal tax purposes, the basis of property is reduced by the portion of its cost that is taken into account for purposes of the 50-percent deduction allowed under the provision.

The provision requires the taxpayer to report information required by the Treasury Secretary with respect to the operation of mines of the taxpayer, in order for the deduction to be allowed for the taxable year.

The provision includes a termination rule providing that it does not apply to property placed in service after the date that is three years after the date of enactment.

Effective date.—The provision applies to costs paid or incurred after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

M. MINE RESCUE TEAM TRAINING CREDIT

(Sec. 314 of the Senate amendment and new sec. 45N of the Code)

PRESENT LAW

There is no present law credit for expenditures incurred by a taxpayer to train mine rescue workers. In general, a deduction is allowed for all ordinary and necessary expenses that are paid or incurred by the taxpayer during the taxable year in carrying on any trade or business.[346] A taxpayer that employs individuals as miners in underground mines will generally be permitted to deduct as ordinary and necessary expenses the educational expenditures such taxpayer incurs to train its employees in the principles, procedures, and techniques of mine rescue, as well as the wages paid by the taxpayer for the time its employees were engaged in such training.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that a taxpayer which is an eligible employer may claim a credit equal to the lesser of (1) 20 percent of the amount paid or incurred by the taxpayer during the taxable year with respect to the training program costs of each qualified mine rescue team employee (including wages of the employee), or (2) $10,000.[347] An eligible employer is any taxpayer which employs individuals as miners in underground mines in the United States. No deduction is allowed for the amount of the expenses otherwise deductible which is equal to the amount of the credit.

A qualified mine rescue team employee is any full-time employee of the taxpayer who is a miner eligible for more than six months of a taxable year to serve as a mine rescue team member by virtue of either having completed the initial 20-hour course of instruction prescribed by the Mine Safety and Health Administration's Office of Educational Policy and Development, or receiving at least 40 hours of refresher training in such instruction.

Effective date.—The provision is effective for taxable years beginning after December 31, 2005, and before January 1, 2009.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

N. FUNDING FOR VETERANS HEALTH CARE AND DISABILITY COMPENSATION AND HOSPITAL INFRASTRUCTURE FOR VETERANS

(Sec. 315 of the Senate amendment)

PRESENT LAW

Within the U.S. Department of Veterans Affairs, the Veterans Health Administration provides a broad spectrum of medical, surgical, and rehabilitative care to veterans. The Veteran Benefits Administration provides services to veterans, including services related to compensation and pensions.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment authorizes the appropriation of funds for the Department of Veterans Affairs for the Veterans Health Administration for Medical Care as well as the Veterans Benefits Administration for Compensation and Pensions for fiscal years 2006 through 2010 in the amounts listed below. The amounts authorized are in addition to any other amounts authorized for these Administrations under any other provision of law.

Fiscal year	Veterans health administration	Veterans benefits administration
2006	$900,000,000	$2,300,000,000

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[345] 1987-2 C.B. 674 (as clarified and modified by Rev. Proc. 88-22, 1988-1 C.B. 785).

[346] Sec. 162(a).

[347] The credit is part of the general business credit (sec. 38).

Fiscal year	Veterans health administration	Veterans benefits administration
2007	1,300,000,000	2,700,000,000
2008	1,500,000,000	3,000,000,000
2009	1,600,000,000	3,000,000,000
2010	1,600,000,000	3,000,000,000

The Senate amendment also establishes the Veterans Hospital Improvement Fund, with an initial balance of $1,000,000,000, to be administered by the Secretary of Veterans Affairs. The funds are to be used for improvements of health facilities treating veterans.

Effective date.—The Senate amendment is effective upon the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

O. SENSE OF THE SENATE REGARDING PROTECTING MIDDLE-CLASS FAMILIES FROM THE ALTERNATIVE MINIMUM TAX

(Sec. 316 of the Senate amendment)

PRESENT LAW

Present law imposes an alternative minimum tax. The alternative minimum tax is the amount by which the tentative minimum tax exceeds the regular income tax. An individual's tentative minimum tax is the sum of (1) 26 percent of so much of the taxable excess as does not exceed $175,000 ($87,500 in the case of a married individual filing a separate return) and (2) 28 percent of the remaining taxable excess. The taxable excess is so much of the alternative minimum taxable income ("AMTI") as exceeds an exemption amount. AMTI is the individual's taxable income adjusted to take account of specified preferences and adjustments.

Under present law, for taxable years beginning before January 1, 2009, the maximum rate of tax on the adjusted net capital gain of an individual is 15 percent, and dividends received by an individual from domestic corporations and qualified foreign corporations are taxed at the same rates that apply to capital gains. For taxable years beginning after December 31, 2008, the maximum rate of tax on the adjusted net capital gain of an individual is 20 percent, and dividends received by an individual are taxed as ordinary income at rates of up to 35 percent.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that it is the sense of the Senate that protecting middle-class families from the alternative minimum tax should be a higher priority for Congress in 2006 than extending a tax cut that does not expire until the end of 2008.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

TITLE V—REVENUE OFFSET PROVISIONS

A. PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS

1. Understatement of taxpayer's liability by income tax return preparer (Sec. 401 of the Senate amendment and sec. 6694 of the Code)

PRESENT LAW

An income tax return preparer who prepares a return with respect to which there is an understatement of tax that is due to an undisclosed position for which there was not a realistic possibility of being sustained on its merits, or a frivolous position, is liable for a penalty of $250, provided the preparer knew or reasonably should have known of the position. An income tax return preparer who prepares a return and engages in specified willful or reckless conduct with respect to preparing such a return is liable for a penalty of $1,000.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision alters the standards of conduct that must be met to avoid imposition of the first penalty described above by replacing the realistic possibility standard with a requirement that there be a reasonable belief that the tax treatment of the position was more likely than not the proper treatment. The provision also replaces the not-frivolous standard with the requirement that there be a reasonable basis for the tax treatment of the position, increases the present-law $250 penalty to $1,000, and increases the present-law $1,000 penalty to $5,000.

Effective date.—The provision is effective for documents prepared after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

2. Frivolous tax submissions (Sec. 402 of the Senate amendment and sec. 6702 of the Code)

PRESENT LAW

The Code provides that an individual who files a frivolous income tax return is subject to a penalty of $500 imposed by the IRS (sec. 6702). The Code also permits the Tax Court[348] to impose a penalty of up to $25,000 if a taxpayer has instituted or maintained proceedings primarily for delay or if the taxpayer's position in the proceeding is frivolous or groundless (sec. 6673(a)).

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment modifies the IRS-imposed penalty by increasing the amount of the penalty to up to $5,000 and by applying it to all taxpayers and to all types of Federal taxes.

The Senate amendment also modifies present law with respect to certain submissions that raise frivolous arguments or that are intended to delay or impede tax administration. The submissions to which the Senate amendment applies are requests for a collection due process hearing, installment agreements, offers-in-compromise, and taxpayer assistance orders. First, the Senate amendment permits the IRS to disregard such requests. Second, the Senate amendment permits the IRS to impose a penalty of up to $5,000 for such requests, unless the taxpayer withdraws the request after being given an opportunity to do so.

The Senate amendment requires the IRS to publish a list of positions, arguments, requests, and submissions determined to be frivolous for purposes of these provisions.

Effective date.—The Senate amendment applies to submissions made and issues raised after the date on which the Secretary first prescribes the required list of frivolous positions.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

3. Penalty for promoting abusive tax shelters (Sec. 403 of the Senate amendment and sec. 6700 of the Code)

PRESENT LAW

A penalty is imposed on any person who organizes, assists in the organization of, or participates in the sale of any interest in, a partnership or other entity, any investment plan or arrangement, or any other plan or arrangement, if in connection with such activity the person makes or furnishes a qualifying false or fraudulent statement or a gross valuation overstatement.[349] A qualified false or fraudulent statement is any statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement which the person knows or has reason to know is false or fraudulent as to any material matter. A "gross valuation overstatement" means any statement as to the value of any property or services if the stated value exceeds 200 percent of the correct valuation, and the value is directly related to the amount of any allowable income tax deduction or credit.

In the case of a gross valuation overstatement, the amount of the penalty is $1,000 (or, if the person establishes that it is less, 100 percent of the gross income derived or to be derived by the person from such activity). A penalty attributable to a gross valuation misstatement can be waived on a showing that there was a reasonable basis for the valuation and it was made in good faith. In the case of any activity that involves a qualified false or fraudulent statement, the penalty amount is equal to 50 percent of the gross income derived by the person from the activity.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment modifies the penalty rate imposed on any person who organizes, assists in the organization of, or participates in the sale of any interest in, a partnership or other entity, any investment plan or arrangement, or any other plan or arrangement, if in connection with such activity the person makes or furnishes a qualifying false or fraudulent statement or a gross valuation overstatement. The penalty is equal to 100 percent of the gross income derived (or to be derived) from the activity. The penalty amount is calculated with respect to each instance of an activity subject to the penalty, each instance in which income was derived by the person or persons subject to the penalty, and each person who participated in an activity subject to the penalty.

Under the Senate amendment, if more than one person is liable for the penalty, all such persons are jointly and severally liable for the penalty. In addition, the Senate amendment provides that the penalty, as well as amounts paid to settle or avoid the imposition of the penalty, is not deductible for tax purposes.

Effective date.—The provision is effective for activities occurring after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

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[348] Because in general the Tax Court is the only pre-payment forum available to taxpayers, it deals with most of the frivolous, groundless, or dilatory arguments raised in tax cases.

[349] Sec. 6700.

4. Penalty for aiding and abetting the understatement of tax liability (Sec. 404 of the Senate amendment and sec. 6701 of the Code)

PRESENT LAW

A penalty is imposed on a person who: (1) aids or assists in, procures, or advises with respect to a tax return or other document; (2) knows (or has reason to believe) that such document will be used in connection with a material tax matter; and (3) knows that this would result in an understatement of tax of another person. In general, the amount of the penalty is $1,000. If the document relates to the tax return of a corporation, the amount of the penalty is $10,000.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment expands the scope of the penalty in several ways. First, it applies the penalty to aiding or assisting with respect to tax liability reflected in a tax return. Second, it applies the penalty to each instance of aiding or abetting. Third, it increases the amount of the penalty to a maximum of 100 percent of the gross income derived (or to be derived) from the aiding or abetting. Fourth, if more than one person is liable for the penalty, all such persons are jointly and severally liable for the penalty. Fifth, the penalty, as well as amounts paid to settle or avoid the imposition of the penalty, is not deductible for tax purposes.

Effective date.—The provision is effective for activities occurring after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

B. ECONOMIC SUBSTANCE DOCTRINE

1. Clarification of the economic substance doctrine (sec. 411 of the Senate amendment)

PRESENT LAW

In general

The Code provides specific rules regarding the computation of taxable income, including the amount, timing, source, and character of items of income, gain, loss and deduction. These rules are designed to provide for the computation of taxable income in a manner that provides for a degree of specificity to both taxpayers and the government. Taxpayers generally may plan their transactions in reliance on these rules to determine the federal income tax consequences arising from the transactions.

In addition to the statutory provisions, courts have developed several doctrines that can be applied to deny the tax benefits of tax motivated transactions, notwithstanding that the transaction may satisfy the literal requirements of a specific tax provision. The common-law doctrines are not entirely distinguishable, and their application to a given set of facts is often blurred by the courts and the IRS. Although these doctrines serve an important role in the administration of the tax system, invocation of these doctrines can be seen as at odds with an objective, "rule-based" system of taxation. Nonetheless, courts have applied the doctrines to deny tax benefits arising from certain transactions.[350]

A common-law doctrine applied with increasing frequency is the "economic substance" doctrine. In general, this doctrine denies tax benefits arising from transactions that do not result in a meaningful change to the taxpayer's economic position other than a purported reduction in federal income tax.[351]

Economic substance doctrine

Courts generally deny claimed tax benefits if the transaction that gives rise to those benefits lacks economic substance independent of tax considerations—notwithstanding that the purported activity actually occurred. The tax court has described the doctrine as follows:

> The tax law . . . requires that the intended transactions have economic substance separate and distinct from economic benefit achieved solely by tax reduction. The doctrine of economic substance becomes applicable, and a judicial remedy is warranted, where a taxpayer seeks to claim tax benefits, unintended by Congress, by means of transactions that serve no economic purpose other than tax savings.[352]

Business purpose doctrine

Another common law doctrine that overlays and is often considered together with (if not part and parcel of) the economic substance doctrine is the business purpose doctrine. The business purpose test is a subjective inquiry into the motives of the taxpayer—that is, whether the taxpayer intended the transaction to serve some useful non-tax purpose. In making this determination, some courts have bifurcated a transaction in which independent activities with non-tax objectives have been combined with an unrelated item having only tax-avoidance objectives in order to disallow the tax benefits of the overall transaction.[353]

Application by the courts

Elements of the doctrine

There is a lack of uniformity regarding the proper application of the economic substance doctrine.[354] Some courts apply a conjunctive test that requires a taxpayer to establish the presence of both economic substance (i.e., the objective component) and business purpose (i.e., the subjective component) in order for the transaction to survive judicial scrutiny.[355] A narrower approach used by some courts is to conclude that either a business purpose or economic substance is sufficient to respect the transaction).[356] A third approach regards economic substance and business purpose as "simply more precise factors to consider" in determining whether a transaction has any practical economic effects other than the creation of tax benefits.[357]

Recently, the Court of Federal Claims questioned the continuing viability of the doctrine.[358] The court also stated that "the use of the 'economic substance' doctrine to trump 'mere compliance with the Code' would violate the separation of powers."[359]

Nontax economic benefits

There also is a lack of uniformity regarding the type of non-tax economic benefit a taxpayer must establish in order to satisfy economic substance. Several courts have denied tax benefits on the grounds that the subject transactions lacked profit potential.[360] In addition, some courts have applied the economic substance doctrine to disallow tax benefits in transactions in which a taxpayer was exposed to risk and the transaction had a profit potential, but the court concluded that the economic risks and profit potential were insignificant when compared to the tax benefits.[361] Under this analysis, the taxpayer's profit potential must be more than nominal. Conversely, other courts view the application of the economic substance doctrine as requiring an objective determination of whether a "reasonable possibility of profit" from the transaction existed apart from the tax benefits.[362] In these cases, in assessing whether a reasonable possibility of profit exists, it is sufficient if there is a nominal amount of pre-tax profit as measured against expected net tax benefits.

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[350] See, e.g., *ACM Partnership* v. *Commissioner*, 157 F.3d 231 (3d Cir. 1998), *aff'g* 73 T.C.M. (CCH) 2189 (1997), *cert. denied* 526 U.S. 1017 (1999).

[351] Closely related doctrines also applied by the courts (sometimes interchangeable with the economic substance doctrine) include the "sham transaction doctrine" and the "business purpose doctrine". See, e.g., *Knetsch* v. *United States*, 364 U.S. 361 (1960) (denying interest deductions on a "sham transaction" whose only purpose was to create the deductions).

[352] *ACM Partnership* v. *Commissioner*, 73 T.C.M. at 2215.

[353] *ACM Partnership* v. *Commissioner*, 157 F.3d at 256 n.48.

[354] "The casebooks are glutted with [economic substance] tests. Many such tests proliferate because they give the comforting illusion of consistency and precision. They often obscure rather than clarify." *Collins* v. *Commissioner*, 857 F.2d 1383, 1386 (9th Cir. 1988).

[355] See, e.g., *Pasternak* v. *Commissioner*, 990 F.2d 893, 898 (6th Cir. 1993) ("The threshold question is whether the transaction has economic substance. If the answer is yes, the question becomes whether the taxpayer was motivated by profit to participate in the transaction.").

[356] See, e.g., *Rice's Toyota World* v. *Commissioner*, 752 F.2d 89, 91-92 (4th Cir. 1985) ("To treat a transaction as a sham, the court must find that the taxpayer was motivated by no business purposes other than obtaining tax benefits in entering the transaction, and, second, that the transaction has no economic substance because no reasonable possibility of a profit exists."); *IES Industries* v. *United States*, 253 F.3d 350, 358 (8th Cir. 2001) ("In determining whether a transaction is a sham for tax purposes [under the Eighth Circuit test], a transaction will be characterized as a sham if it is not motivated by any economic purpose out of tax considerations (the business purpose test), and if it is without economic substance because no real potential for profit exists (the economic substance test)."). As noted earlier, the economic substance doctrine and the sham transaction doctrine are similar and sometimes are applied interchangeably. For a more detailed discussion of the sham transaction doctrine, see, e.g., Joint Committee on Taxation, *Study of Present-Law Penalty and Interest Provisions as Required by Section 3801 of the Internal Revenue Service Restructuring and Reform Act of 1998 (including Provisions Relating to Corporate Tax Shelters)* (JCS-3-99) at 182.

[357] See, e.g., *ACM Partnership* v. *Commissioner*, 157 F.3d at 247; *James* v. *Commissioner*, 899 F.2d 905, 908 (10th Cir. 1995); *Sacks* v. *Commissioner*, 69 F.3d 982, 985 (9th Cir. 1995) ("Instead, the consideration of business purpose and economic substance are simply more precise factors to consider . . . We have repeatedly and carefully noted that this formulation cannot be used as a 'rigid two-step analysis'.").

[358] *Coltec Industries, Inc.* v. *United States*, 62 Fed. Cl. 716 (2004) (slip opinion at 123-124). The court also found, however, that the doctrine was satisfied in that case. *Id.* at 128.

[359] *Id.* at 128.

[360] See, e.g., *Knetsch*, 364 U.S. at 361; *Goldstein* v. *Commissioner*, 364 F.2d 734 (2d Cir. 1966) (holding that an unprofitable, leveraged acquisition of Treasury bills, and accompanying prepaid interest deduction, lacked economic substance).

[361] See, e.g., *Goldstein* v. *Commissioner*, 364 F.2d at 739-40 (disallowing deduction even though taxpayer had a possibility of small gain or loss by owning Treasury bills); *Sheldon* v. *Commissioner*, 94 T.C. 738, 768 (1990) (stating that "potential for gain . . . is infinitesimally nominal and vastly insignificant when considered in comparison with the claimed deductions").

[362] See, e.g., *Rice's Toyota World* v. *Commissioner*, 752 F.2d at 94 (the economic substance inquiry requires an objective determination of whether a reasonable possibility of profit from the transaction existed apart from tax benefits); *Compaq Computer Corp.* v. *Commissioner*, 277 F.3d at 781 (applied the same test, citing *Rice's Toyota World*); *IES Industries* v. *United States*, 253 F.3d 350, 354 (8th Cir. 2001).

Financial accounting benefits

In determining whether a taxpayer had a valid business purpose for entering into a transaction, at least one court has concluded that financial accounting benefits arising from tax savings do not qualify as a non-tax business purpose.[363] However, based on court decisions that recognize the importance of financial accounting treatment, taxpayers have asserted that financial accounting benefits arising from tax savings can satisfy the business purpose test.[364]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision clarifies and enhances the application of the economic substance doctrine. Under the provision, in a case in which a court determines that the economic substance doctrine is relevant to a transaction (or a series of transactions), such transaction (or series of transactions) has economic substance (and thus satisfies the economic substance doctrine) only if the taxpayer establishes that (1) the transaction changes in a meaningful way (apart from Federal income tax consequences) the taxpayer's economic position, and (2) the taxpayer has a substantial non-tax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.[365]

The provision does not change current law standards used by courts in determining when to utilize an economic substance analysis.[366] Also, the provision does not alter the court's ability to aggregate, disaggregate or otherwise recharacterize a transaction when applying the doctrine.[367] The provision provides a uniform definition of economic substance, but does not alter the flexibility of the courts in other respects.

Conjunctive analysis

The provision clarifies that the economic substance doctrine involves a conjunctive analysis—there must be an objective inquiry regarding the effects of the transaction on the taxpayer's economic position, as well as a subjective inquiry regarding the taxpayer's motives for engaging in the transaction. Under the provision, a transaction must satisfy both tests—i.e., it must change in a meaningful way (apart from Federal income tax consequences) the taxpayer's economic position, and the taxpayer must have a substantial non-tax purpose for entering into such transaction (and the transaction is a reasonable means of accomplishing such purpose)—in order to satisfy the economic substance doctrine. This clarification eliminates the disparity that exists among the circuits regarding the application of the doctrine, and modifies its application in those circuits in which either a change in economic position or a non-tax business purpose (without having both) is sufficient to satisfy the economic substance doctrine.

Non-tax business purpose

Under the provision, a taxpayer's non-tax purpose for entering into a transaction (the second prong in the analysis) must be "substantial," and the transaction must be "a reasonable means" of accomplishing such purpose. Under this formulation, the non-tax purpose for the transaction must bear a reasonable relationship to the taxpayer's normal business operations or investment activities.[368]

In determining whether a taxpayer has a substantial non-tax business purpose, an objective of achieving a favorable accounting treatment for financial reporting purposes will not be treated as having a substantial non-tax purpose.[369] Furthermore, a transaction that is expected to increase financial accounting income as a result of generating tax deductions or losses without a corresponding financial accounting charge (i.e., a permanent book-tax difference)[370] should not be considered to have a substantial non-tax purpose unless a substantial non-tax purpose exists apart from the financial accounting benefits.[371]

By requiring that a transaction be a "reasonable means" of accomplishing its non-tax purpose, the provision reiterates the present-law ability of the courts to bifurcate a transaction in which independent activities with non-tax objectives are combined with an unrelated item having only tax-avoidance objectives in order to disallow the tax benefits of the overall transaction.[372]

Profit potential

Under the provision, a taxpayer may rely on factors other than profit potential to demonstrate that a transaction results in a meaningful change in the taxpayer's economic position; the provision merely sets forth a minimum threshold of profit potential if that test is relied on to demonstrate a meaningful change in economic position. If a taxpayer relies on a profit potential, however, the present value of the reasonably expected pre-tax profit must be substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected.[373] Moreover, the profit potential must exceed a risk-free rate of return. In addition, in determining pre-tax profit, fees and other transaction expenses and foreign taxes are treated as expenses.

In applying the profit potential test to a lessor of tangible property, depreciation, applicable tax credits (such as the rehabilitation tax credit and the low income housing tax credit), and any other deduction as provided in guidance by the Secretary are not taken into account in measuring tax benefits.

Transactions with tax-indifferent parties

The provision also provides special rules for transactions with tax-indifferent parties. For this purpose, a tax-indifferent party means any person or entity not subject to Federal income tax, or any person to whom an item would have no substantial impact on its income tax liability. Under these rules, the form of a financing transaction will not be respected if the present value of the tax deductions to be claimed is substantially in excess of the present value of the anticipated economic returns to the lender. Also, the form of a transaction with a tax-indifferent party will not be respected if it results in an allocation of income or gain to the tax-indifferent party in excess of the tax-indifferent party's economic gain or income or if the transaction results in the shifting of basis on account of overstating the income or gain of the tax-indifferent party.

Other rules

The Secretary may prescribe regulations which provide (1) exemptions from the application of the provision, and (2) other rules as may be necessary or appropriate to carry out the purposes of the provision.

No inference is intended as to the proper application of the economic substance doctrine under present law. In addition, except with respect to the economic substance doctrine, the provision shall not be construed as altering or supplanting any other common law doctrine (including the sham transaction doctrine), and the provision shall be construed as being additive to any such other doctrine.

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[363] See, *American Electric Power, Inc.* v. *U.S.*, 136 F. Supp. 2d 762, 791–92 (S.D. Ohio 2001), *aff'd* 326 F.3d.737 (6th Cir. 2003).

[364] See, e.g., Joint Committee on Taxation, *Report of Investigation of Enron Corporation and Related Entities Regarding Federal Tax and Compensation Issues, and Policy Recommendations* (JSC–3–03) February, 2003 ("Enron Report"), Volume III at C–93, 289. Enron Corporation relied on *Frank Lyon Co. v. United States*, 435 U.S. 561, 577–78 (1978), and *Newman v. Commissioner*, 902 F.2d 159, 163 (2d Cir. 1990) to argue that financial accounting benefits arising from tax savings constitutes a good business purpose.

[365] If the tax benefits are clearly contemplated and expected by the language and purpose of the relevant authority, it is not intended that such tax benefits be disallowed if the only reason for such disallowance is that the transaction fails the economic substance doctrine as defined in this provision.

[366] See, e.g., Treas. Reg. sec. 1.269–2, stating that characteristic of circumstances in which a deduction otherwise allowed will be disallowed are those in which the effect of the deduction, credit, or other allowance would be to distort the liability of the particular taxpayer when the essential nature of the transaction or situation is examined in the light of the basic purpose or plan which the deduction, credit, or other allowance was designed by the Congress to effectuate.

[367] See, e.g., *Minnesota Tea Co.* v. *Helvering*, 302 U.S. 609, 613 (1938) ("A given result at the end of a straight path is not made a different result because reached by following a devious path.").

[368] See, e.g., Treas. Reg. sec. 1.269–2(b) (stating that a distortion of tax liability indicating the principal purpose of tax evasion or avoidance might be evidenced by the fact that "the transaction was not undertaken for reasons germane to the conduct of the business of the taxpayer"). Similarly, in *ACM Partnership* v. *Commissioner*, 73 T.C.M. (CCH) 2189 (1997), the court stated:

"Key to [the determination of whether a transaction has economic substance] is that the transaction must be rationally related to a useful nontax purpose that is plausible in light of the taxpayer's conduct and useful in light of the taxpayer's economic situation and intentions. Both the utility of the stated purpose and the rationality of the means chosen to effectuate it must be evaluated in accordance with commercial practices in the relevant industry. A rational relationship between purpose and means ordinarily will not be found unless there was a reasonable expectation that the nontax benefits would be at least commensurate with the transaction costs." [citations omitted]

[369] However, if the tax benefits are clearly contemplated and expected by the language and purpose of the relevant authority, such tax benefits should not be disallowed solely because the transaction results in a favorable accounting treatment. An example is the repealed foreign sales corporation rules.

[370] This includes tax deductions or losses that are anticipated to be recognized in a period subsequent to the period the financial accounting benefit is recognized. For example, FAS 109 in some cases permits the recognition of financial accounting benefits prior to the period in which the tax benefits are recognized for income tax purposes.

[371] Claiming that a financial accounting benefit constitutes a substantial non-tax purpose fails to consider the origin of the accounting benefit (i.e., reduction of taxes) and significantly diminishes the purpose for having a substantial non-tax purpose requirement. See, e.g., *American Electric Power, Inc.* v. *U.S.*, 136 F. Supp. 2d 762, 791–92 (S.D. Ohio, 2001) ("AEP's intended use of the cash flows generated by the [corporate-owned life insurance] plan is irrelevant to the subjective prong of the economic substance analysis. If a legitimate business purpose for the use of the tax savings 'were sufficient to breathe substance into a transaction whose only purpose was to reduce taxes, [then] every sham tax-shelter device might succeed.'") (citing *Winn-Dixie* v. *Commissioner*, 113 T.C. 254, 287 (1999)); aff'd 326 F3d 737 (6th Cir. 2003).

[372] See, e.g., *ACM Partnership* v. *Commissioner*, 157 F.3d at 256 n.48.

[373] Thus, a "reasonable possibility of profit" will not be sufficient to establish that a transaction has economic substance.

Effective date.—The provision applies to transactions entered into after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

2. Penalty for understatements attributable to transactions lacking economic substance, etc. (Sec. 412 of the Senate amendment)

PRESENT LAW

General accuracy-related penalty

An accuracy-related penalty under section 6662 applies to the portion of any underpayment that is attributable to (1) negligence, (2) any substantial understatement of income tax, (3) any substantial valuation misstatement, (4) any substantial overstatement of pension liabilities, or (5) any substantial estate or gift tax valuation understatement. If the correct income tax liability exceeds that reported by the taxpayer by the greater of 10 percent of the correct tax or $5,000 (or, in the case of corporations, by the lesser of (a) 10 percent of the correct tax (or $10,000 if greater) or (b) $10 million), then a substantial understatement exists and a penalty may be imposed equal to 20 percent of the underpayment of tax attributable to the understatement.[374] Except in the case of tax shelters,[375] the amount of any understatement is reduced by any portion attributable to an item if (1) the treatment of the item is supported by substantial authority, or (2) facts relevant to the tax treatment of the item were adequately disclosed and there was a reasonable basis for its tax treatment. The Treasury Secretary may prescribe a list of positions which the Secretary believes do not meet the requirements for substantial authority under this provision.

The section 6662 penalty generally is abated (even with respect to tax shelters) in cases in which the taxpayer can demonstrate that there was "reasonable cause" for the underpayment and that the taxpayer acted in good faith.[376] The relevant regulations provide that reasonable cause exists where the taxpayer "reasonably relies in good faith on an opinion based on a professional tax advisor's analysis of the pertinent facts and authorities [that] . . . unambiguously concludes that there is a greater than 50-percent likelihood that the tax treatment of the item will be upheld if challenged" by the IRS.[377]

Listed transactions and reportable avoidance transactions

In general

A separate accuracy-related penalty under section 6662A applies to "listed transactions" and to other "reportable transactions" with a significant tax avoidance purpose (hereinafter referred to as a "reportable avoidance transaction"). The penalty rate and defenses available to avoid the penalty vary depending on whether the transaction was adequately disclosed.

Both listed transactions and reportable transactions are allowed to be described by the Treasury Department under section 6707A(c), which imposes a penalty for failure adequately to report such transactions under section 6011. A reportable transaction is defined as one that the Treasury Secretary determines is required to be disclosed because it is determined to have a potential for tax avoidance or evasion.[378] A listed transaction is defined as a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of the reporting disclosure requirements.[379]

Disclosed transactions

In general, a 20-percent accuracy-related penalty is imposed on any understatement attributable to an adequately disclosed listed transaction or reportable avoidance transaction.[380] The only exception to the penalty is if the taxpayer satisfies a more stringent reasonable cause and good faith exception (hereinafter referred to as the "strengthened reasonable cause exception"), which is described below. The strengthened reasonable cause exception is available only if the relevant facts affecting the tax treatment are adequately disclosed, there is or was substantial authority for the claimed tax treatment, and the taxpayer reasonably believed that the claimed tax treatment was more likely than not the proper treatment.

Undisclosed transactions

If the taxpayer does not adequately disclose the transaction, the strengthened reasonable cause exception is not available (i.e., a strict-liability penalty generally applies), and the taxpayer is subject to an increased penalty equal to 30 percent of the understatement.[381] However, a taxpayer will be treated as having adequately disclosed a transaction for this purpose if the IRS Commissioner has separately rescinded the separate penalty under section 6707A for failure to disclose a reportable transaction.[382] The IRS Commissioner is authorized to do this only if the failure does not relate to a listed transaction and only if rescinding the penalty would promote compliance and effective tax administration.[383]

A public entity that is required to pay a penalty for an undisclosed listed or reportable transaction must disclose the imposition of the penalty in reports to the SEC for such periods as the Secretary shall specify. The disclosure to the SEC applies without regard to whether the taxpayer determines the amount of the penalty to be material to the reports in which the penalty must appear; and any failure to disclose such penalty in the reports is treated as a failure to disclose a listed transaction. A taxpayer must disclose a penalty in reports to the SEC once the taxpayer has exhausted its administrative and judicial remedies with respect to the penalty (or if earlier, when paid).[384]

Determination of the understatement amount

The penalty is applied to the amount of any understatement attributable to the listed or reportable avoidance transaction without regard to other items on the tax return. For purposes of this provision, the amount of the understatement is determined as the sum of: (1) the product of the highest corporate or individual tax rate (as appropriate) and the increase in taxable income resulting from the difference between the taxpayer's treatment of the item and the proper treatment of the item (without regard to other items on the tax return);[385] and (2) the amount of any decrease in the aggregate amount of credits which results from a difference between the taxpayer's treatment of an item and the proper tax treatment of such item.

Except as provided in regulations, a taxpayer's treatment of an item shall not take into account any amendment or supplement to a return if the amendment or supplement is filed after the earlier of when the taxpayer is first contacted regarding an examination of the return or such other date as specified by the Secretary.[386]

Strengthened reasonable cause exception

A penalty is not imposed under the provision with respect to any portion of an understatement if it is shown that there was reasonable cause for such portion and the taxpayer acted in good faith. Such a showing requires: (1) adequate disclosure of the facts affecting the transaction in accordance with the regulations under section 6011;[387] (2) that there is or was substantial authority for such treatment; and (3) that the taxpayer reasonably believed that such treatment was more likely than not the proper treatment. For this purpose, a taxpayer will be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief: (1) is based on the facts and law that exist at the time the tax return (that includes the item) is filed; and (2) relates solely to the taxpayer's chances of success on the merits and does not take into account the possibility that (a) a return will not be audited, (b) the treatment will not be raised on audit, or (c) the treatment will be resolved through settlement if raised.[388]

A taxpayer may (but is not required to) rely on an opinion of a tax advisor in establishing its reasonable belief with respect to the tax treatment of the item. However, a taxpayer may not rely on an opinion of a tax advisor for this purpose if the opinion (1) is provided by a "disqualified tax advisor" or (2) is a "disqualified opinion."

Disqualified tax advisor

A disqualified tax advisor is any advisor who: (1) is a material advisor[389] and who participates in the organization, management, promotion or sale of the transaction or is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates; (2) is compensated directly or indirectly[390] by a material advisor with respect to the transaction; (3) has a fee arrangement with respect to the transaction that is contingent on all or part of the intended tax benefits from the transaction being sustained; or (4) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

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[374] Sec. 6662.

[375] A tax shelter is defined for this purpose as a partnership or other entity, an investment plan or arrangement, or any other plan or arrangement if a significant purpose of such partnership, other entity, plan, or arrangement is the avoidance or evasion of Federal income tax. Sec. 6662(d)(2)(C).

[376] Sec. 6664(c).

[377] Treas. Reg. sec. 1.6662-4(g)(4)(i)(B); Treas. Reg. sec. 1.6664-4(c).

[378] Sec. 6707A(c)(1).

[379] Sec. 6707A(c)(2).

[380] Sec. 6662A(a).

[381] Sec. 6662A(c).

[382] Sec. 6664(d).

[383] Sec. 6707A(d).

[384] Sec. 6707A(e).

[385] For this purpose, any reduction in the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income. Sec. 6662A(b).

[386] Sec. 6662A(e)(3).

[387] See the previous discussion regarding the penalty for failing to disclose a reportable transaction.

[388] Sec. 6664(d).

[389] The term "material advisor" means any person who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, or carrying out any reportable transaction, and who derives gross income in excess of $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons ($250,000 in any other case). Sec. 6111(b)(1).

[390] This situation could arise, for example, when an advisor has an arrangement or understanding (oral or written) with an organizer, manager, or promoter of a reportable transaction that such party will recommend or refer potential participants to the advisor for an opinion regarding the tax treatment of the transaction.

A material advisor is considered as participating in the "organization" of a transaction if the advisor performs acts relating to the development of the transaction. This may include, for example, preparing documents: (1) establishing a structure used in connection with the transaction (such as a partnership agreement); (2) describing the transaction (such as an offering memorandum or other statement describing the transaction); or (3) relating to the registration of the transaction with any federal, state or local government body.[391] Participation in the "management" of a transaction means involvement in the decision-making process regarding any business activity with respect to the transaction. Participation in the "promotion or sale" of a transaction means involvement in the marketing or solicitation of the transaction to others. Thus, an advisor who provides information about the transaction to a potential participant is involved in the promotion or sale of a transaction, as is any advisor who recommends the transaction to a potential participant.

Disqualified opinion

An opinion may not be relied upon if the opinion: (1) is based on unreasonable factual or legal assumptions (including assumptions as to future events); (2) unreasonably relies upon representations, statements, findings or agreements of the taxpayer or any other person; (3) does not identify and consider all relevant facts; or (4) fails to meet any other requirement prescribed by the Secretary.

Coordination with other penalties

To the extent a penalty on an understatement is imposed under section 6662A, that same amount of understatement is not also subject to the accuracy-related penalty under section 6662(a) or to the valuation misstatement penalties under section 6662(e) or 6662(h). However, such amount of understatement is included for purposes of determining whether any understatement (as defined in sec. 6662(d)(2)) is a substantial understatement as defined under section 6662(d)(1) and for purposes of identifying an underpayment under the section 6663 fraud penalty.

The penalty imposed under section 6662A does not apply to any portion of an understatement to which a fraud penalty is applied under section 6663.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision imposes a new, stronger penalty for an understatement attributable to any transaction that lacks economic substance (referred to in the statute as a "non-economic substance transaction understatement").[392] The penalty rate is 40 percent (reduced to 20 percent if the taxpayer adequately discloses the relevant facts in accordance with regulations prescribed under section 6011). No exceptions (including the reasonable cause or rescission rules) to the penalty are available (i.e., the penalty is a strict-liability penalty).

A "non-economic substance transaction" means any transaction if (1) the transaction lacks economic substance (as defined in the Senate amendment provision regarding the clarification of the economic substance doctrine),[393] (2) the transaction was not respected under the rules relating to transactions with tax-indifferent parties (as described in the Senate amendment provision regarding the clarification of the economic substance doctrine),[394] or (3) any similar rule of law. For this purpose, a similar rule of law would include, for example, an understatement attributable to a transaction that is determined to be a sham transaction.

For purposes of the bill, the calculation of an "understatement" is made in the same manner as in the present law provision relating to accuracy-related penalties for listed and reportable avoidance transactions (sec. 6662A). Thus, the amount of the understatement under the provision would be determined as the sum of (1) the product of the highest corporate or individual tax rate (as appropriate) and the increase in taxable income resulting from the difference between the taxpayer's treatment of the item and the proper treatment of the item (without regard to other items on the tax return),[395] and (2) the amount of any decrease in the aggregate amount of credits which results from a difference between the taxpayer's treatment of an item and the proper tax treatment of such item. In essence, the penalty will apply to the amount of any understatement attributable solely to a non-economic substance transaction.

As in the case of the understatement penalty for reportable and listed transactions under present law section 6662A(e)(3), except as provided in regulations, the taxpayer's treatment of an item will not take into account any amendment or supplement to a return if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted regarding an examination of such return or such other date as specified by the Secretary.

As in the case of the understatement penalty for undisclosed reportable transactions under present law section 6707A, a public entity that is required to pay a penalty under the provision (but in this case, regardless of whether the transaction was disclosed) must disclose the imposition of the penalty in reports to the SEC for such periods as the Secretary shall specify. The disclosure to the SEC applies without regard to whether the taxpayer determines the amount of the penalty to be material to the reports in which the penalty must appear, and any failure to disclose such penalty in the reports is treated as a failure to disclose a listed transaction. A taxpayer must disclose a penalty in reports to the SEC once the taxpayer has exhausted its administrative and judicial remedies with respect to the penalty (or if earlier, when paid).

Regardless of whether the transaction was disclosed, once a penalty under the provision has been included in the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the IRS Office of Appeals, the penalty cannot be compromised for purposes of a settlement without approval of the Commissioner personally. Furthermore, the IRS is required to keep records summarizing the application of this penalty and providing a description of each penalty compromised under the provision and the reasons for the compromise.

Any understatement on which a penalty is imposed under the provision will not be subject to the accuracy-related penalty under section 6662 or under 6662A (accuracy-related penalties for listed and reportable avoidance transactions). However, an understatement under the provision is taken into account for purposes of determining whether any understatement (as defined in sec. 6662(d)(2)) is a substantial understatement as defined under section 6662(d)(1). The penalty imposed under the provision will not apply to any portion of an understatement to which a fraud penalty is applied under section 6663.

Effective date.—The provision applies to transactions entered into after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not contain the Senate amendment provision.

3. Denial of deduction for interest on underpayments attributable to noneconomic substance transactions (sec. 413 of the Senate amendment and sec. 163(m) of the Code)

PRESENT LAW

No deduction for interest is allowed for interest paid or accrued on any underpayment of tax which is attributable to the portion of any reportable transaction understatement with respect to which the relevant facts were not adequately disclosed.[396] The Secretary of the Treasury is authorized to define reportable transactions for this purpose.[397]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision extends the disallowance of interest deductions to interest paid or accrued on any underpayment of tax which is attributable to any noneconomic substance underpayment (whether or not disclosed).

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[391] An advisor should not be treated as participating in the organization of a transaction if the advisor's only involvement with respect to the organization of the transaction is the rendering of an opinion regarding the tax consequences of such transaction. However, such an advisor may be a "disqualified tax advisor" with respect to the transaction if the advisor participates in the management, promotion or sale of the transaction (or if the advisor is compensated by a material advisor, has a fee arrangement that is contingent on the tax benefits of the transaction, or as determined by the Secretary, has a continuing financial interest with respect to the transaction).

[392] Thus, unlike the present-law accuracy-related penalty under section 6662A (which applies only to listed and reportable avoidance transactions), the new penalty under the provision applies to any transaction that lacks economic substance.

[393] That Senate amendment provision generally provides that in any case in which a court determines that the economic substance doctrine is relevant, a transaction has economic substance only if: (1) the transaction changes in a meaningful way (apart from Federal income tax effects) the taxpayer's economic position, and (2) the taxpayer has a substantial non-tax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose. Specific other rules also apply. See "Explanation of Provision" for the immediately preceding Senate amendment provision, "Clarification of the economic substance doctrine."

[394] That Senate amendment provision provides that the form of a transaction that involves a tax-indifferent party will not be respected in certain circumstances. See "Explanation of Provision" for the immediately preceding Senate amendment provision, "Clarification of the economic substance doctrine."

[395] For this purpose, any reduction in the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses that would (without regard to section 1211) be allowed for such year, would be treated as an increase in taxable income.

[396] Sec. 163(m). Under section 6664(d)(2)(A), in such a case of nondisclosure, the taxpayer also is not entitled to the "reasonable cause and good faith" exception to the section 6662A penalty for a reportable transaction understatement.

[397] See the description of present law with respect to the immediately preceding Senate amendment provision, "Penalty for understatements attributable to transactions lacking economic substance, etc."

Effective date.—The provision applies to transactions after the date of enactment in taxable years ending after such date.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

C. IMPROVEMENTS IN EFFICIENCY AND SAFEGUARDS IN INTERNAL REVENUE SERVICE COLLECTIONS

1. Waiver of user fee for installment agreements using automated withdrawals (Sec. 421 of the Senate amendment and sec. 6159 of the Code)

PRESENT LAW

The Code authorizes the IRS to enter into written agreements with any taxpayer under which the taxpayer is allowed to pay taxes owed, as well as interest and penalties, in installment payments if the IRS determines that doing so will facilitate collection of the amounts owed.[398] An installment agreement does not reduce the amount of taxes, interest, or penalties owed. Generally, during the period installment payments are being made, other IRS enforcement actions (such as levies or seizures) with respect to the taxes included in that agreement are held in abeyance.

The IRS charges a user fee if a request for an installment agreement is approved.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment waives the user fee for installment agreements in which the parties agree to the use of automated installment payments (such as automated debits from a bank account).

Effective date.—The provision is effective with respect to agreements entered into on or after the date which is 180 days after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

2. Termination of installment agreements (Sec. 422 of the Senate amendment and sec. 6159 of the Code)

PRESENT LAW

The Code authorizes the IRS to enter into written agreements with any taxpayer under which the taxpayer is allowed to pay taxes owed, as well as interest and penalties, in installment payments, if the IRS determines that doing so will facilitate collection of the amounts owed.[399] An installment agreement does not reduce the amount of taxes, interest, or penalties owed. Generally, during the period installment payments are being made, other IRS enforcement actions (such as levies or seizures) with respect to the taxes included in that agreement are held in abeyance.

Under present law, the IRS is permitted to terminate an installment agreement only if: (1) the taxpayer fails to pay an installment at the time the payment is due; (2) the taxpayer fails to pay any other tax liability at the time when such liability is due; (3) the taxpayer fails to provide a financial condition update as required by the IRS; (4) the taxpayer provides inadequate or incomplete information when applying for an installment agreement; (5) there has been a significant change in the financial condition of the taxpayer; or (6) the collection of the tax is in jeopardy.[400]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment grants the IRS authority to terminate installment agreement when a taxpayer fails to timely make a required Federal tax deposit or fails to timely file a tax return (including extensions). Under the provision, the IRS may terminate an installment agreement even if the taxpayer remained current with payments under the installment agreement.

Effective date.—The provision is effective for failures occurring on or after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

3. Partial payments required with submissions of offers-in-compromise (Sec. 423 of the Senate amendment and sec. 7122 of the Code)

PRESENT LAW

The IRS has the authority to compromise any civil or criminal case arising under the internal revenue laws.[401] In general, taxpayers initiate this process by making an offer-in-compromise, which is an offer by the taxpayer to settle an outstanding tax liability for less than the total amount due. The IRS currently imposes a user fee of $150 on most offers, payable upon submission of the offer to the IRS. Taxpayers may justify their offers on the basis of doubt as to collectibility or liability or on the basis of effective tax administration. In general, enforcement action is suspended during the period that the IRS evaluates an offer. In some instances, it may take the IRS 12 to 18 months to evaluate an offer.[402] Taxpayers are permitted (but not required) to make a deposit with their offer; if the offer is rejected, the deposit is generally returned to the taxpayer. There are two general categories[403] of offers-in-compromise, lump-sum offers and periodic payment offers. Taxpayers making lump-sum offers propose to make one lump-sum payment of a specified dollar amount in settlement of their outstanding liability. Taxpayers making periodic payment offers propose to make a series of payments over time (either short-term or long-term) in settlement of their outstanding liability.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision requires a taxpayer to make partial payments to the IRS while the taxpayer's offer is being considered by the IRS. For lump-sum offers, taxpayers must make a down payment of 20 percent of the amount of the offer with any application. For purposes of this provision, a lump-sum offer includes single payments as well as payments made in five or fewer installments. For periodic payment offers, the provision requires the taxpayer to comply with the taxpayer's own proposed payment schedule while the offer is being considered. Offers submitted to the IRS that do not comport with these payment requirements are returned to the taxpayer as unprocessable and immediate enforcement action is permitted. The provision eliminates the user fee requirement for offers submitted with the appropriate partial payment.

The provision also provides that an offer is deemed accepted if the IRS does not make a decision with respect to the offer within two years from the date the offer was submitted. The Senate amendment authorizes the Secretary to issue regulations providing exceptions to the partial payment requirements in the case of offers from certain low-income taxpayers and offers based on doubt as to liability.

Effective date.—The provision is effective for offers-in-compromise submitted on and after the date which is 60 days after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision, with the following modifications. Under the conference agreement, any user fee imposed by the IRS for participation in the offer-in-compromise program must be submitted with the appropriate partial payment. The user fee is applied to the taxpayer's outstanding tax liability. In addition, under the conference agreement, offers submitted to the IRS that do not comport with the payment requirements may be returned to the taxpayer as unprocessable.

D. PENALTIES AND FINES

1. Increase in criminal monetary penalty limitation for the underpayment or overpayment of tax due to fraud (Sec. 431 of the Senate amendment and secs. 7201, 7203, and 7206 of the Code)

PRESENT LAW

Attempt to evade or defeat tax

In general, section 7201 imposes a criminal penalty on persons who willfully attempt to evade or defeat any tax imposed by the Code. Upon conviction, the Code provides that the penalty is up to $100,000 or imprisonment of not more than five years (or both). In the case of a corporation, the Code increases the monetary penalty to a maximum of $500,000.

Willful failure to file return, supply information, or pay tax

In general, section 7203 imposes a criminal penalty on persons required to make estimated tax payments, pay taxes, keep records, or supply information under the Code who willfully fails to do so. Upon conviction, the Code provides that the penalty is up to $25,000 or imprisonment of not more than one year (or both). In the case of a corporation, the Code increases the monetary penalty to a maximum of $100,000.

Fraud and false statements

In general, section 7206 imposes a criminal penalty on persons who make fraudulent or false statements under the Code. Upon conviction, the Code provides that the penalty is up to $100,000 or imprisonment of not more than three years (or both). In the case of a corporation, the Code increases the monetary penalty to a maximum of $500,000.

Uniform sentencing guidelines

Under the uniform sentencing guidelines established by 18 U.S.C. 3571, a defendant found guilty of a criminal offense is subject to a maximum fine that is the greatest of: (a) the amount specified in the underlying provision, (b) for a felony[404] $250,000 for an individual or $500,000 for an organization, or (c) twice the gross gain if a person derives pecuniary gain from the offense. This Title 18 provision applies to all criminal provisions in the United States Code, including those in the Internal Revenue Code. For example, for an individual, the maximum fine under present law upon conviction of violating section 7206 is $250,000 or, if greater, twice the amount of gross gain from the offense.

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[398] Sec. 6159.

[399] Sec. 6159.

[400] Sec. 6159(b)(2), (3), and (4).

[401] Sec. 7122.

[402] Olsen v. United States, 326 F. Supp. 2d 184 (D. Mass. 2004).

[403] The IRS categorizes payment plans with more specificity, which is generally not significant for purposes of the provision. See Form 656, Offer in Compromise, page 6 of instruction booklet (revised July 2004).

[404] Section 7206 states that making fraudulent or false statements under the Code is a felony. In addition, this offense is a felony pursuant to the classification guidelines of 18 U.S.C. 3559(a)(5).

HOUSE BILL

No provision.

SENATE AMENDMENT

Attempt to evade or defeat tax

The provision increases the criminal penalty under section 7201 of the Code for individuals to $500,000 and for corporations to $1,000,000. The provision increases the maximum prison sentence to ten years.

Willful failure to file return, supply information, or pay tax

The provision increases the criminal penalty under section 7203 of the Code for individuals from $25,000 to $50,000 and, in the case of an "aggravated failure to file" (defined as a failure to file a return for a period of three or more consecutive taxable years if the aggregated tax liability for such period is at least $100,000), changes the crime from a misdemeanor to a felony and increases the maximum prison sentence to ten years.

Fraud and false statements

The provision increases the criminal penalty for making fraudulent or false statements to $500,000 for individuals and $1,000,000 for corporations. The provision increases the maximum prison sentence for making fraudulent or false statements to five years. The provision provides that in no event shall the amount of the monetary penalty under the provision be less than the amount of the underpayment or overpayment attributable to fraud.

Effective date

The provision is effective for actions and failures to act occurring after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

2. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements (Sec. 432 of the Senate amendment)

PRESENT LAW

In general

The Code contains numerous civil penalties, such as the delinquency, accuracy-related, fraud, and assessable penalties. These civil penalties are in addition to any interest that may be due as a result of an underpayment of tax. If all or any part of a tax is not paid when due, the Code imposes interest on the underpayment, which is assessed and collected in the same manner as the underlying tax and is subject to the respective statutes of limitations for assessment and collection.

Delinquency penalties

Failure to file.—Under present law, a taxpayer who fails to file a tax return on a timely basis is generally subject to a penalty equal to 5 percent of the net amount of tax due for each month that the return is not filed, up to a maximum of five months or 25 percent. An exception from the penalty applies if the failure is due to reasonable cause. In the case of fraudulent failure to file, the penalty is increased to 15 percent of the net amount of tax due for each month that the return is not filed, up to a maximum of five months or 75 percent. The net amount of tax due is the excess of the amount of the tax required to be shown on the return over the amount of any tax paid on or before the due date prescribed for the payment of tax.

Failure to pay.—Taxpayers who fail to pay their taxes are subject to a penalty of 0.5 percent per month on the unpaid amount, up to a maximum of 25 percent. If a penalty for failure to file and a penalty for failure to pay tax shown on a return both apply for the same month, the amount of the penalty for failure to file for such month is reduced by the amount of the penalty for failure to pay tax shown on a return. If an income tax return is filed more than 60 days after its due date, then the penalty for failure to pay tax shown on a return may not reduce the penalty for failure to file below the lesser of $100 or 100 percent of the amount required to be shown on the return. For any month in which an installment payment agreement with the IRS is in effect, the rate of the penalty is half the usual rate (0.25 percent instead of 0.5 percent), provided that the taxpayer filed the tax return in a timely manner (including extensions).

Failure to make timely deposits of tax.—The penalty for the failure to make timely deposits of tax consists of a four-tiered structure in which the amount of the penalty varies with the length of time within which the taxpayer corrects the failure. A depositor is subject to a penalty equal to 2 percent of the amount of the underpayment if the failure is corrected on or before the date that is five days after the prescribed due date. A depositor is subject to a penalty equal to 5 percent of the amount of the underpayment if the failure is corrected after the date that is five days after the prescribed due date but on or before the date that is 15 days after the prescribed due date. A depositor is subject to a penalty equal to 10 percent of the amount of the underpayment if the failure is corrected after the date that is 15 days after the due date but on or before the date that is 10 days after the date of the first delinquency notice to the taxpayer (under sec. 6303). Finally, a depositor is subject to a penalty equal to 15 percent of the amount of the underpayment if the failure is not corrected on or before earlier of 10 days after the date of the first delinquency notice to the taxpayer and 10 days after the date on which notice and demand for immediate payment of tax is given in cases of jeopardy.

An exception from the penalty applies if the failure is due to reasonable cause. In addition, the Secretary may waive the penalty for an inadvertent failure to deposit any tax by specified first-time depositors.

Accuracy-related penalties

In general.—The accuracy-related penalties are imposed at a rate of 20 percent of the portion of any underpayment that is attributable, in relevant part, to (1) negligence, (2) any substantial understatement of income tax, (3) any substantial valuation misstatement, and (4) any reportable transaction understatement. The penalty for a substantial valuation misstatement is doubled for certain gross valuation misstatements. In the case of a reportable transaction understatement for which the transaction is not disclosed, the penalty rate is 30 percent. These penalties are coordinated with the fraud penalty. This statutory structure operates to eliminate any stacking of the penalties.

No penalty is to be imposed if it is shown that there was reasonable cause for an underpayment and the taxpayer acted in good faith, and in the case of a reportable transaction understatement the relevant facts of the transaction have been disclosed, there is or was substantial authority for the taxpayer's treatment of such transaction, and the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

Negligence or disregard for the rules or regulations.—If an underpayment of tax is attributable to negligence, the negligence penalty applies only to the portion of the underpayment that is attributable to negligence. Negligence means any failure to make a reasonable attempt to comply with the provisions of the Code. Disregard includes any careless, reckless, or intentional disregard of the rules or regulations.

Substantial understatement of income tax.—Generally, an understatement is substantial if the understatement exceeds the greater of (1) 10 percent of the tax required to be shown on the return for the tax year, or (2) $5,000. In determining whether a substantial understatement exists, the amount of the understatement is reduced by any portion attributable to an item if (1) the treatment of the item on the return is or was supported by substantial authority, or (2) facts relevant to the tax treatment of the item were adequately disclosed on the return or on a statement attached to the return.

Substantial valuation misstatement.—A penalty applies to the portion of an underpayment that is attributable to a substantial valuation misstatement. Generally, a substantial valuation misstatement exists if the value or adjusted basis of any property claimed on a return is 200 percent or more of the correct value or adjusted basis. The amount of the penalty for a substantial valuation misstatement is 20 percent of the amount of the underpayment if the value or adjusted basis claimed is 200 percent or more but less than 400 percent of the correct value or adjusted basis. If the value or adjusted basis claimed is 400 percent or more of the correct value or adjusted basis, then the overvaluation is a gross valuation misstatement.

Reportable transaction understatement.—A penalty applies to any item that is attributable to any listed transaction, or to any reportable transaction (other than a listed transaction) if a significant purpose of such reportable transaction is tax avoidance or evasion.

Fraud penalty

The fraud penalty is imposed at a rate of 75 percent of the portion of any underpayment that is attributable to fraud. The accuracy-related penalty does not apply to any portion of an underpayment on which the fraud penalty is imposed.

Assessable penalties

In addition to the penalties described above, the Code imposes a number of additional penalties, including, for example, penalties for failure to file (or untimely filing of) information returns with respect to foreign trusts, and penalties for failure to disclose any required information with respect to a reportable transaction.

Interest provisions

Taxpayers are required to pay interest to the IRS whenever there is an underpayment of tax. An underpayment of tax exists whenever the correct amount of tax is not paid by the last date prescribed for the payment of the tax. The last date prescribed for the payment of the income tax is the original due date of the return.

Different interest rates are provided for the payment of interest depending upon the type of taxpayer, whether the interest relates to an underpayment or overpayment, and the size of the underpayment or overpayment. Interest on underpayments is compounded daily.

Offshore Voluntary Compliance Initiative

In January 2003, Treasury announced the Offshore Voluntary Compliance Initiative ("OVCI") to encourage the voluntary disclosure of previously unreported income placed by taxpayers in offshore accounts and accessed through credit card or other financial arrangements. A taxpayer had to comply with various requirements in order to participate in the OVCI, including sending a written request to participate in the program by April 15, 2003. This request had to include information about the taxpayer, the taxpayer's introduction to the credit card or other financial arrangements and the names of parties that promoted the transaction. A taxpayer entering into a closing agreement under the OVCI is not liable for the civil fraud penalty, the fraudulent failure to file penalty, or the civil information return penalties. Such a taxpayer is responsible for back taxes, interest, and certain accuracy-related and delinquency penalties.[405]

Voluntary disclosure policy

A taxpayer's timely, voluntary disclosure of a substantial unreported tax liability has long been an important factor in deciding whether the taxpayer's case should ultimately be referred for criminal prosecution. The voluntary disclosure must be truthful, timely, and complete. The taxpayer must show a willingness to cooperate (as well as actual cooperation) with the IRS in determining the correct tax liability. The taxpayer must make good-faith arrangements with the IRS to pay in full the tax, interest, and any penalties determined by the IRS to be applicable. A voluntary disclosure does not guarantee immunity from prosecution. It creates no substantive or procedural rights for taxpayers[406] The IRS treats participation in the OVCI as a voluntary disclosure.[407]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment doubles the amounts of civil penalties, interest, and fines related to taxpayers' underpayments of U.S. income tax liability through the direct or indirect use of certain offshore financial arrangements. The provision applies to taxpayers who did not (or do not) voluntarily disclose such arrangements through the OVCI or otherwise. Under the Senate amendment, the determination of whether any civil penalty is to be applied to such underpayment is made without regard to whether a return has been filed, whether there was reasonable cause for such underpayment, and whether the taxpayer acted in good faith.

The proscribed financial arrangements include, but are not limited to, the use of certain foreign leasing corporations for providing domestic employee services,[408] certain arrangements whereby the taxpayer may hold securities trading accounts through offshore banks or other financial intermediaries, certain arrangements whereby the taxpayer may access funds through the use of offshore credit, debit, or charge cards, and offshore annuities or trusts.

The Secretary of the Treasury is granted the authority to waive the application of the provision if the use of the offshore financial arrangements is incidental to the transaction and, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business in which the taxpayer is engaged.

Effective date.—The provision generally is effective with respect to a taxpayer's open tax years on or after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

3. Denial of deduction for certain fines, penalties, and other amounts (Sec. 433 of the Senate Amendment and sec. 162 of the Code)

PRESENT LAW

Under present law, no deduction is allowed as a trade or business expense under section 162(a) for the payment of a fine or similar penalty to a government for the violation of any law (sec. 162(f)). The enactment of section 162(f) in 1969 codified existing case law that denied the deductibility of fines as ordinary and necessary business expenses on the grounds that "allowance of the deduction would frustrate sharply defined national or State policies proscribing the particular types of conduct evidenced by some governmental declaration thereof."[409]

Treasury regulation section 1.162–21(b)(1) provides that a fine or similar penalty includes an amount: (1) paid pursuant to conviction or a plea of guilty or nolo contendere for a crime (felony or misdemeanor) in a criminal proceeding; (2) paid as a civil penalty imposed by Federal, State, or local law, including additions to tax and additional amounts and assessable penalties imposed by chapter 68 of the Code; (3) paid in settlement of the taxpayer's actual or potential liability for a fine or penalty (civil or criminal); or (4) forfeited as collateral posted in connection with a proceeding which could result in imposition of such a fine or penalty. Treasury regulation section 1.162–21(b)(2) provides, among other things, that compensatory damages (including damages under section 4A of the Clayton Act (15 U.S.C. 15a), as amended) paid to a government do not constitute a fine or penalty.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision modifies the rules regarding the determination whether payments are nondeductible payments of fines or penalties under section 162(f). In particular, the provision generally provides that amounts paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government in relation to the violation of any law or the investigation or inquiry into the potential violation of any law[410] are nondeductible under any provision of the income tax provisions.[411] The provision applies to deny a deduction for any such payments, including those where there is no admission of guilt or liability and those made for the purpose of avoiding further investigation or litigation. An exception applies to payments that the taxpayer establishes are either restitution (including remediation of property), or amounts required to come into compliance with any law that was violated or involved in the investigation or inquiry, and that are identified in the court order or settlement as restitution, remediation, or required to come into compliance.[412] The IRS remains free to challenge the characterization of an amount so identified; however, no deduction is allowed unless the identification is made.[413]

An exception also applies to any amount paid or incurred as taxes due.[414]

The provision is intended to apply only where a government (or other entity treated in a manner similar to a government under the amendment) is a complainant or investigator with respect to the violation or potential violation of any law.[415]

It is intended that a payment will be treated as restitution (including remediation of property) only if substantially all of the payment is required to be paid to the specific persons, or in relation to the specific property, actually harmed by the conduct of the taxpayer that resulted in the payment. Thus, a payment to or with respect to a class substantially broader than the specific persons or property that were actually harmed (e.g., to a class including similarly situated persons or property) does not qualify as restitution or included remediation of property.[416] Restitution and included remediation of property is limited to the amount that bears a substantial quantitative relationship to the harm caused by the past conduct or actions of the taxpayer that resulted in the payment in question. If the party harmed is a government or other entity, then restitution and included remediation of property includes payment to such harmed government or entity, provided the payment bears a substantial quantitative relationship to the harm. However, restitution or included remediation of property does not include reimbursement of government investigative or litigation costs, or payments to whistleblowers.

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[405] Rev. Proc. 2003–11, 2003–4 C.B. 311.

[406] Internal Revenue News Release 2002–135, IR–2002–135 (December 11, 2002).

[407] Rev. Proc. 2003–11, 2003–4 C.B. 311.

[408] These arrangements were described and classified as listed transactions in Notice 2003–22, 2003–1 C.B. 851.

[409] S. Rep. No. 91–552, 91st Cong. 1st Sess., 273–74 (1969), referring to *Tank Truck Rentals, Inc.* v. *Commissioner*, 356 U.S. 30 (1958).

[410] The provision does not affect amounts paid or incurred in performing routine audits or reviews such as annual audits that are required of all organizations or individuals in a similar business sector, or profession, as a requirement for being allowed to conduct business. However, if the government or regulator raised an issue of compliance and a payment is required in settlement of such issue, the provision would affect that payment.

[411] The provision provides that such amounts are nondeductible under chapter 1 of the Internal Revenue Code.

[412] The provision does not affect the treatment of antitrust payments made under section 4 of the Clayton Act, which continue to be governed by the provisions of section 162(g).

[413] If a settlement agreement does not specify a specific amount to be paid for the purpose of coming into compliance but instead simply requires the taxpayer to come into compliance, it is sufficient identification to so state. Amounts expended by the taxpayer for that purpose would then be considered identified. However, if an agreement specifies a specific dollar amount that must be paid or incurred, the amount would not be eligible to be deducted without a specification that it is for restitution (including remediation of property), or coming into compliance.

[414] Thus, amounts paid or incurred as taxes due are not affected by the provision (e.g., State taxes that are otherwise deductible). The reference to taxes due is also intended to include interest with respect to such taxes (but not interest, if any, with respect to any penalties imposed with respect to such taxes).

[415] Thus, for example, the provision would not apply to payments made by one private party to another in a lawsuit between private parties, merely because a judge or jury acting in the capacity as a court directs the payment to be made. The mere fact that a court enters a judgment or directs a result in a private dispute does not cause a payment to be made "at the direction of a government" for purposes of the provision.

[416] Similarly, a payment to a charitable organization benefiting a broader class than the persons or property actually harmed, or to be paid out without a substantial quantitative relationship to the harm caused, would not qualify as restitution. Under the provision, such a payment not deductible under section 162 would also not be deductible under section 170.

It is intended that a payment will be treated as an amount required to come into compliance only if it directly corrects a violation with respect to a particular requirement of law that was under investigation. For example, if the law requires a particular emission standard to be met or particular machinery to be used, amounts required to be paid under a settlement agreement to meet the required standard or install the machinery are deductible to the extent otherwise allowed. Similarly, if the law requires certain practices and procedures to be followed and a settlement agreement requires the taxpayer to pay to establish such practices or procedures, such amounts would be deductible. However, amounts paid for other purposes not directly correcting a violation of law are not deductible. For example, amounts paid to bring other machinery that is already in compliance up to a standard higher than required by the law, or to create other benefits (such as a park or other action not previously required by law), are not deductible if required under a settlement agreement. Similarly, amounts paid to educate consumers or customers about the risks of doing business with the taxpayer or about the field in which the taxpayer does business generally, which education efforts are not specifically required under the law, are not deductible if required under a settlement agreement.

The provision requires government agencies to report to the IRS and to the taxpayer the amount of each settlement agreement or order entered where the aggregate amount required to be paid or incurred to or at the direction of the government under such settlement agreements and orders with respect to the violation, investigation, or inquiry is least $600 (or such other amount as may be specified by the Secretary of the Treasury as necessary to ensure the efficient administration of the Internal Revenue laws). The reports must be made within 30 days of the date the court order is issued or the settlement agreement is entered into, or such other time as may be required by Secretary. The report must separately identify any amounts that are restitution or remediation of property, or correction of noncompliance.[417]

The IRS is encouraged to require taxpayers to identify separately on their tax returns the amounts of any such settlements with respect to which reporting is required under the provision, including separate identification of the nondeductible amount and of any amount deductible as restitution, remediation, or required to correct noncompliance.[418]

Amounts paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, any self-regulatory entity that regulates a financial market or other market that is a qualified board or exchange under section 1256(g)(7), and that is authorized to impose sanctions (e.g., the National Association of Securities Dealers) are likewise subject to the provision if paid in relation to a violation, or investigation or inquiry into a potential violation, of any law (or any rule or other requirement of such entity). To the extent provided in regulations, amounts paid or incurred to, or at the direction of, any other nongovernmental entity that exercises self-regulatory powers as part of performing an essential governmental function are similarly subject to the provision. The exception for payments that the taxpayer establishes are paid or incurred for restitution, remediation of property, or coming into compliance and that are identified as such in the order or settlement agreement likewise applies in these cases. The requirement of reporting to the IRS and the taxpayer also applies in these cases.

No inference is intended as to the treatment of payments as nondeductible fines or penalties under present law. In particular, the provision is not intended to limit the scope of present-law section 162(f) or the regulations thereunder.

Effective date.—The provision is effective for amounts paid or incurred on or after the date of enactment; however the provision does not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Any order or agreement requiring court approval is not a binding order or agreement for this purpose unless such approval was obtained before the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not contain the Senate amendment provision.

4. Denial of deduction for punitive damages (Sec. 434 of the Senate amendment and sec. 162 of the Code)

PRESENT LAW

In general, a deduction is allowed for all ordinary and necessary expenses that are paid or incurred by the taxpayer during the taxable year in carrying on any trade or business.[419] However, no deduction is allowed for any payment that is made to an official of any governmental agency if the payment constitutes an illegal bribe or kickback or if the payment is to an official or employee of a foreign government and is illegal under Federal law.[420] In addition, no deduction is allowed under present law for any fine or similar payment made to a government for violation of any law.[421] Furthermore, no deduction is permitted for two-thirds of any damage payments made by a taxpayer who is convicted of a violation of the Clayton antitrust law or any related antitrust law.[422]

In general, gross income does not include amounts received on account of personal physical injuries and physical sickness.[423] However, this exclusion does not apply to punitive damages.[424]

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision denies any deduction for punitive damages that are paid or incurred by the taxpayer as a result of a judgment or in settlement of a claim. If the liability for punitive damages is covered by insurance, any such punitive damages paid by the insurer are included in gross income of the insured person and the insurer is required to report such amounts to both the insured person and the IRS.

Effective date.—The provision is effective for punitive damages that are paid or incurred on or after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

5. Increase in penalty for bad checks and money orders (Sec. 435 of the Senate amendment and sec. 6657 of the Code)

PRESENT LAW

The Code[425] imposes a penalty for bad checks and money orders on the person who tendered it. The penalty is two percent of the amount of the bad check or money order. For checks that are less than $750, the minimum penalty is $15 (or, if less, the amount of the check).

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision increases the minimum penalty to $25 (or, if less, the amount of the check), applicable to checks that are less than $1,250.

Effective date.—The provision is effective with respect to checks or money orders received after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

E. Provisions to Discourage Expatriation

1. Tax treatment of inverted corporate entities (Sec. 441 of the Senate amendment and sec. 7874 of the Code)

PRESENT LAW

Determination of corporate residence

The U.S. tax treatment of a multinational corporate group depends significantly on whether the parent corporation of the group is domestic or foreign. For purposes of U.S. tax law, a corporation is treated as domestic if it is incorporated under the law of the United States or of any State. Other corporations (i.e., those incorporated under the laws of foreign countries or U.S. possessions) generally are treated as foreign.

U.S. taxation of domestic corporations

The United States employs a "worldwide" tax system, under which domestic corporations generally are taxed on all income, whether derived in the United States or abroad. In order to mitigate the double taxation that may arise from taxing the foreign-source income of a domestic corporation, a foreign tax credit for income taxes paid to foreign countries is provided to reduce or eliminate the U.S. tax owed on such income, subject to certain limitations.

Income earned by a domestic parent corporation from foreign operations conducted by foreign corporate subsidiaries generally is subject to U.S. tax when the income is distributed as a dividend to the domestic corporation. Until such repatriation, the U.S. tax on such income generally is deferred, and U.S. tax is imposed on such income when repatriated. However, certain anti-deferral regimes may cause the domestic parent corporation to be taxed on a current basis in the United States with respect to certain categories of passive or highly mobile income earned by its foreign subsidiaries, regardless of whether the income has been distributed as a dividend to the domestic parent corporation. The main anti-deferral regimes in this context are the controlled foreign corporation rules of subpart F (secs. 951–964) and the passive foreign investment company rules (secs. 1291–1298). A foreign tax credit is generally available to offset, in whole or in part, the U.S. tax owed on this foreign-source income, whether such income is repatriated as an actual dividend or included under one of the anti-deferral regimes.

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[417] As in the case of the identification requirement, if the agreement does not specify a specific amount to be expended to come into compliance but simply requires that to occur, it is expected that the report may state simply that the taxpayer is required to come into compliance but no specific dollar amount has been specified for that purpose in the settlement agreement.

[418] For example, the IRS might require such reporting as part of the schedule M-3, whether or not the particular amounts create a book-tax difference.

[419] Sec. 162(a).

[420] Sec. 162(c).

[421] Sec. 162(f).

[422] Sec. 162(g).

[423] Sec. 104(a).

[424] Sec. 104(a)(2).

[425] Sec. 6657.

U.S. taxation of foreign corporations

The United States taxes foreign corporations only on income that has a sufficient nexus to the United States. Thus, a foreign corporation is generally subject to U.S. tax only on income that is "effectively connected" with the conduct of a trade or business in the United States. Such "effectively connected income" generally is taxed in the same manner and at the same rates as the income of a U.S. corporation. An applicable tax treaty may limit the imposition of U.S. tax on business operations of a foreign corporation to cases in which the business is conducted through a "permanent establishment" in the United States.

In addition, foreign corporations generally are subject to a gross-basis U.S. tax at a flat 30-percent rate on the receipt of interest, dividends, rents, royalties, and certain similar types of income derived from U.S. sources, subject to certain exceptions. The tax generally is collected by means of withholding by the person making the payment. This tax may be reduced or eliminated under an applicable tax treaty.

U.S. tax treatment of inversion transactions prior to the American Jobs Creation Act of 2004

Prior to the American Jobs Creation Act of 2004 ("AJCA"), a U.S. corporation could reincorporate in a foreign jurisdiction and thereby replace the U.S. parent corporation of a multinational corporate group with a foreign parent corporation. These transactions were commonly referred to as inversion transactions. Inversion transactions could take many different forms, including stock inversions, asset inversions, and various combinations of and variations on the two. Most of the known transactions were stock inversions. In one example of a stock inversion, a U.S. corporation forms a foreign corporation, which in turn forms a domestic merger subsidiary. The domestic merger subsidiary then merges into the U.S. corporation, with the U.S. corporation surviving, now as a subsidiary of the new foreign corporation. The U.S. corporation's shareholders receive shares of the foreign corporation and are treated as having exchanged their U.S. corporation shares for the foreign corporation shares. An asset inversion could be used to reach a similar result, but through a direct merger of the top-tier U.S. corporation into a new foreign corporation, among other possible forms. An inversion transaction could be accompanied or followed by further restructuring of the corporate group. For example, in the case of a stock inversion, in order to remove income from foreign operations from the U.S. taxing jurisdiction, the U.S. corporation could transfer some or all of its foreign subsidiaries directly to the new foreign parent corporation or other related foreign corporations.

In addition to removing foreign operations from U.S. taxing jurisdiction, the corporate group could seek to derive further advantage from the inverted structure by reducing U.S. tax on U.S.-source income through various earnings stripping or other transactions. This could include earnings stripping through payment by a U.S. corporation of deductible amounts such as interest, royalties, rents, or management service fees to the new foreign parent or other foreign affiliates. In this respect, the post-inversion structure could enable the group to employ the same tax-reduction strategies that are available to other multinational corporate groups with foreign parents and U.S. subsidiaries, subject to the same limitations (e.g., secs. 163(j) and 482).

Inversion transactions could give rise to immediate U.S. tax consequences at the shareholder and/or the corporate level, depending on the type of inversion. In stock inversions, the U.S. shareholders generally recognized gain (but not loss) under section 367(a), based on the difference between the fair market value of the foreign corporation shares received and the adjusted basis of the domestic corporation stock exchanged. To the extent that a corporation's share value had declined, and/or it had many foreign or tax-exempt shareholders, the impact of this section 367(a) "toll charge" was reduced. The transfer of foreign subsidiaries or other assets to the foreign parent corporation also could give rise to U.S. tax consequences at the corporate level (e.g., gain recognition and earnings and profits inclusions under secs. 1001, 311(b), 304, 367, 1248 or other provisions). The tax on any income recognized as a result of these restructurings could be reduced or eliminated through the use of net operating losses, foreign tax credits, and other tax attributes.

In asset inversions, the U.S. corporation generally recognized gain (but not loss) under section 367(a) as though it had sold all of its assets, but the shareholders generally did not recognize gain or loss, assuming the transaction met the requirements of a reorganization under section 368.

U.S. tax treatment of inversion transactions under AJCA

In general

AJCA added new section 7874 to the Code, which defines two different types of corporate inversion transactions and establishes a different set of consequences for each type. Certain partnership transactions also are covered.

Transactions involving at least 80 percent identity of stock ownership

The first type of inversion is a transaction in which, pursuant to a plan[426] or a series of related transactions: (1) a U.S. corporation becomes a subsidiary of a foreign-incorporated entity or otherwise transfers substantially all of its properties to such an entity in a transaction completed after March 4, 2003; (2) the former shareholders of the U.S. corporation hold (by reason of holding stock in the U.S. corporation) 80 percent or more (by vote or value) of the stock of the foreign-incorporated entity after the transaction; and (3) the foreign-incorporated entity, considered together with all companies connected to it by a chain of greater than 50 percent ownership (i.e., the "expanded affiliated group"), does not have substantial business activities in the entity's country of incorporation, compared to the total worldwide business activities of the expanded affiliated group. The provision denies the intended tax benefits of this type of inversion by deeming the top-tier foreign corporation to be a domestic corporation for all purposes of the Code.[427]

In determining whether a transaction meets the definition of an inversion under the provision, stock held by members of the expanded affiliated group that includes the foreign incorporated entity is disregarded. For example, if the former top-tier U.S. corporation receives stock of the foreign incorporated entity (e.g., so-called "hook" stock), the stock would not be considered in determining whether the transaction meets the definition. Similarly, if a U.S. parent corporation converts an existing wholly owned U.S. subsidiary into a new wholly owned controlled foreign corporation, the stock of the new foreign corporation would be disregarded, with the result that the transaction would not meet the definition of an inversion under the provision. Stock sold in a public offering related to the transaction also is disregarded for these purposes.

Transfers of properties or liabilities as part of a plan a principal purpose of which is to avoid the purposes of the provision are disregarded. In addition, the Treasury Secretary is to provide regulations to carry out the provision, including regulations to prevent the avoidance of the purposes of the provision, including avoidance through the use of related persons, pass-through or other noncorporate entities, or other intermediaries, and through transactions designed to qualify or disqualify a person as a related person or a member of an expanded affiliated group. Similarly, the Treasury Secretary has the authority to treat certain non-stock instruments as stock, and certain stock as not stock, where necessary to carry out the purposes of the provision.

Transactions involving at least 60 percent but less than 80 percent identity of stock ownership

The second type of inversion is a transaction that would meet the definition of an inversion transaction described above, except that the 80-percent ownership threshold is not met. In such a case, if at least a 60-percent ownership threshold is met, then a second set of rules applies to the inversion. Under these rules, the inversion transaction is respected (i.e., the foreign corporation is treated as foreign), but any applicable corporate-level "toll charges" for establishing the inverted structure are not offset by tax attributes such as net operating losses or foreign tax credits. Specifically, any applicable corporate-level income or gain required to be recognized under sections 304, 311(b), 367, 1001, 1248, or any other provision with respect to the transfer of controlled foreign corporation stock or the transfer or license of other assets by a U.S. corporation as part of the inversion transaction or after such transaction to a related foreign person is taxable, without offset by any tax attributes (e.g., net operating losses or foreign tax credits). This rule does not apply to certain transfers of inventory and similar property. These measures generally apply for a 10-year period following the inversion transaction.

Other rules

Under section 7874, inversion transactions include certain partnership transactions.

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[426] Acquisitions with respect to a domestic corporation or partnership are deemed to be "pursuant to a plan" if they occur within the four-year period beginning on the date which is two years before the ownership threshold under the provision is met with respect to such corporation or partnership.

[427] Since the top-tier foreign corporation is treated for all purposes of the Code as domestic, the shareholder-level "toll charge" of sec. 367(a) does not apply to these inversion transactions.

Specifically, the provision applies to transactions in which a foreign-incorporated entity acquires substantially all of the properties constituting a trade or business of a domestic partnership, if after the acquisition at least 60 percent (or 80 percent, as the case may be) of the stock of the entity is held by former partners of the partnership (by reason of holding their partnership interests), provided that the other terms of the basic definition are met. For purposes of applying this test, all partnerships that are under common control within the meaning of section 482 are treated as one partnership, except as provided otherwise in regulations. In addition, the modified "toll charge" rules apply at the partner level.

A transaction otherwise meeting the definition of an inversion transaction is not treated as an inversion transaction if, on or before March 4, 2003, the foreign-incorporated entity had acquired directly or indirectly more than half of the properties held directly or indirectly by the domestic corporation, or more than half of the properties constituting the partnership trade or business, as the case may be.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment makes several changes to the inversions regime of section 7874. First, the provision applies the rules of section 7874 to transactions completed after March 20, 2002 (as opposed to March 4, 2003 under present law). A transaction otherwise meeting the definition of an inversion transaction under the provision is not treated as an inversion transaction if, on or before March 20, 2002, the foreign-incorporated entity had acquired directly or indirectly more than half the properties held directly or indirectly by the domestic corporation, or more than half the properties constituting the partnership trade or business, as the case may be.

The Senate amendment also lowers the present-law 60-percent ownership threshold for the second category of inversion transactions to greater-than-50-percent, and increases the accuracy-related penalties and tightens the earnings stripping rules of section 163(j) with respect to companies involved in this type of transaction. Specifically, the 20-percent penalty for negligence or disregard of rules or regulations, substantial understatement of income tax, and substantial valuation misstatement is increased to 30 percent with respect to the inverting entity and taxpayers related to the inverting entity, and the 40-percent penalty for gross valuation misstatement is increased to 50 percent with respect to such taxpayers. In applying section 163(j) to taxpayers related to the inverted entity, the generally applicable debt-equity threshold is eliminated, and the 50-percent thresholds for "excess interest expense" and "excess limitation" are lowered to 25 percent.

The Senate amendment also excludes from the inversions regime the acquisition of a U.S. corporation in cases in which none of the stock of the U.S. corporation was readily tradable on an established securities market at any time during the four-year period ending on the date of the acquisition, except as provided in regulations.

Effective date.—The provision in the Senate amendment is effective for taxable years ending after March 20, 2002.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

2. Revision of tax rules on expatriation of individuals (Sec. 442 of the Senate amendment and secs. 102, 877, 2107, 2501, 7701, and 6039G of the Code)

PRESENT LAW

In general

U.S. citizens and residents generally are subject to U.S. income taxation on their worldwide income. The U.S. tax may be reduced or offset by a credit allowed for foreign income taxes paid with respect to foreign source income. Nonresident aliens are taxed at a flat rate of 30 percent (or a lower treaty rate) on certain types of passive income derived from U.S. sources, and at regular graduated rates on net profits derived from a U.S. trade or business. The estates of nonresident aliens generally are subject to estate tax on U.S.-situated property (e.g., real estate and tangible property located within the United States and stock in a U.S. corporation). Nonresident aliens generally are subject to gift tax on transfers by gift of U.S.-situated property (e.g., real estate and tangible property located within the United States), but excluding intangibles, such as stock, regardless of where they are located.

Income tax rules with respect to expatriates

For the 10 taxable years after an individual relinquishes his or her U.S. citizenship or terminates his or her U.S. long-term residency, unless certain conditions are met, the individual is subject to an alternative method of income taxation than that generally applicable to nonresident aliens (the "alternative tax regime"). Generally, the individual is subject to income tax for the 10-year period at the rates applicable to U.S. citizens, but only on U.S.-source income.[128]

A "long-term resident" is a noncitizen who is a lawful permanent resident of the United States for at least eight taxable years during the period of 15 taxable years ending with the taxable year during which the individual either ceases to be a lawful permanent resident of the United States or commences to be treated as a resident of a foreign country under a tax treaty between such foreign country and the United States (and does not waive such benefits).

A former citizen or former long-term resident is subject to the alternative tax regime for a 10-year period following citizenship relinquishment or residency termination, unless the former citizen or former long-term resident: (1) establishes that his or her average annual net income tax liability for the five preceding years does not exceed $124,000 (adjusted for inflation after 2004) and his or her net worth is less than $2 million, or alternatively satisfies limited, objective exceptions for certain dual citizens and minors who have had no substantial contacts with the United States; and (2) certifies under penalties of perjury that he or she has complied with all U.S. Federal tax obligations for the preceding five years and provides such evidence of compliance as the Secretary of the Treasury may require.

Anti-abuse rules are provided to prevent the circumvention of the alternative tax regime.

Estate tax rules with respect to expatriates

Special estate tax rules apply to individuals who die during a taxable year in which he or she is subject to the alternative tax regime. Under these special rules, certain closely-held foreign stock owned by the former citizen or former long-term resident is includible in his or her gross estate to the extent that the foreign corporation owns U.S.-situated assets. The special rules apply if, at the time of death: (1) the former citizen or former long-term resident directly or indirectly owns 10 percent or more of the total combined voting power of all classes of stock entitled to vote of the foreign corporation; and (2) directly or indirectly, is considered to own more than 50 percent of (a) the total combined voting power of all classes of stock entitled to vote in the foreign corporation, or (b) the total value of the stock of such corporation. If this stock ownership test is met, then the gross estate of the former citizen or former long-term resident includes that proportion of the fair market value of the foreign stock owned by the individual at the time of death, which the fair market value of any assets owned by such foreign corporation and situated in the United States (at the time of death) bears to the total fair market value of all assets owned by such foreign corporation (at the time of death).

Gift tax rules with respect to expatriates

Special gift tax rules apply to individuals who make gifts during a taxable year in which he or she is subject to the alternative tax regime. The individual is subject to gift tax on gifts of U.S.-situated intangibles made during the 10 years following citizenship relinquishment or residency termination. In addition, gifts of stock of certain closely-held foreign corporations by a former citizen or former long-term resident are subject to gift tax, if the gift is made during the time that such person is subject to the alternative tax regime. The operative rules with respect to these gifts of closely-held foreign stock are the same as described above relating to the estate tax, except that the relevant testing and valuation date is the date of gift rather than the date of death.

Termination of U.S. citizenship or long-term resident status for U.S. Federal income tax purposes

An individual continues to be treated as a U.S. citizen or long-term resident for U.S. Federal tax purposes, including for purposes of section 7701(b)(10), until the individual: (1) gives notice of an expatriating act or termination of residency (with the requisite intent to relinquish citizenship or terminate residency) to the Secretary of State or the Secretary of Homeland Security, respectively; and (2) provides a statement to the Secretary of the Treasury in accordance with section 6039G.

Sanction for individuals subject to the individual tax regime who return to the United States for extended periods

The alternative tax regime does not apply to any individual for any taxable year during the 10-year period following citizenship relinquishment or residency termination if such individual is present in the United States for more than 30 days in the calendar year ending in such taxable year. Such individual is treated as a U.S. citizen or resident for such taxable year and, therefore, is taxed on his or her worldwide income.

Similarly, if an individual subject to the alternative tax regime is present in the United States for more than 30 days in any calendar year ending during the 10-year period following citizenship relinquishment or residency termination, and the individual dies during that year, he or she is treated as a U.S. resident, and the individual's worldwide estate is subject to U.S. estate tax. Likewise, if an individual subject to the alternative tax regime is present in the United

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[128] For this purpose, however, U.S. source income has a broader scope than it does typically in the Code.

States for more than 30 days in any year during the 10-year period following citizenship relinquishment or residency termination, the individual is subject to U.S. gift tax on any transfer of his or her worldwide assets by gift during that taxable year.

For purposes of these rules, an individual is treated as present in the United States on any day if such individual is physically present in the United States at any time during that day. The present-law exceptions from being treated as present in the United States for residency purposes[429] generally do not apply for this purpose. However, for individuals with certain ties to countries other than the United States[430] and individuals with minimal prior physical presence in the United States,[431] a day of physical presence in the United States is disregarded if the individual is performing services in the United States on such day for an unrelated employer (within the meaning of sections 267 and 707(b)), who meets the requirements the Secretary of the Treasury may prescribe in regulations. No more than 30 days may be disregarded during any calendar year under this rule.

Annual return

Former citizens and former long-term residents are required to file an annual return for each year following citizenship relinquishment or residency termination in which they are subject to the alternative tax regime. The annual return is required even if no U.S. Federal income tax is due. The annual return requires certain information, including information on the permanent home of the individual, the individual's country of residence, the number of days the individual was present in the United States for the year, and detailed information about the individual's income and assets that are subject to the alternative tax regime. This requirement includes information relating to foreign stock potentially subject to the special estate and gift tax rules.

If the individual fails to file the statement in a timely manner or fails correctly to include all the required information, the individual is required to pay a penalty of $10,000. The $10,000 penalty does not apply if it is shown that the failure is due to reasonable cause and not to willful neglect.

HOUSE BILL

No provision.

SENATE AMENDMENT

In general

The Senate amendment creates new section 877A, that generally subjects certain U.S. citizens who relinquish their U.S. citizenship and certain long-term U.S. residents who terminate their U.S. residence to tax on the net unrealized gain in their property as if such property were sold for fair market value on the day before the expatriation or residency termination ("mark-to-market tax"). Gain from the deemed sale is taken into account at that time without regard to other Code provisions. Any loss from the deemed sale generally is taken into account to the extent otherwise provided in the Code, except that the wash sale rules of section 1091 do not apply. Any net gain on the deemed sale, is recognized to the extent it exceeds $600,000 ($1.2 million in the case of married individuals filing a joint return, both of whom relinquish citizenship or terminate residency). The $600,000 amount is increased by a cost of living adjustment factor for calendar years after 2005.

Individuals covered

Under the Senate amendment, the mark-to-market tax applies to U.S. citizens who relinquish citizenship and long-term residents who terminate U.S. residency (collectively, "covered expatriates"). The definition of "long-term resident" under the provision is the same as that under present law. As under present law, an individual is considered to terminate long-term residency when the individual either ceases to be a lawful permanent resident (i.e., loses his or her green card status), or is treated as a resident of another country under a tax treaty and does not waive the benefits of the treaty.

Exceptions to an individual's classification as a covered expatriate are provided in two situations. The first exception applies to an individual who was born with citizenship both in the United States and in another country; provided that (1) as of the expatriation date the individual continues to be a citizen of, and is taxed as a resident of, such other country, and (2) the individual was not a resident of the United States for the five taxable years ending with the year of expatriation. The second exception applies to a U.S. citizen who relinquishes U.S. citizenship before reaching age 18½, provided that the individual was a resident of the United States for no more than five taxable years before such relinquishment.

For purposes of the mark-to-market tax, an individual is treated as having relinquished U.S. citizenship on the earliest of four possible dates: (1) the date that the individual renounces U.S. nationality before a diplomatic or consular officer of the United States (provided that the voluntary relinquishment is later confirmed by the issuance of a certificate of loss of nationality); (2) the date that the individual furnishes to the State Department a signed statement of voluntary relinquishment of U.S. nationality confirming the performance of an expatriating act (again, provided that the voluntary relinquishment is later confirmed by the issuance of a certificate of loss of nationality); (3) the date that the State Department issues a certificate of loss of nationality; or (4) the date that a U.S. court cancels a naturalized citizen's certificate of naturalization.

In addition, the provision provides that, for all tax purposes (i.e., not limited to the mark-to-market tax), a U.S. citizen continues to be treated as a U.S. citizen for tax purposes until that individual's citizenship is treated as relinquished under the rules of the immediately preceding paragraph. However, under Treasury regulations, relinquishment may occur earlier with respect to an individual who became at birth a citizen of the United Sates and of another country.

Election to be treated as a U.S. citizen

Under the provision, a covered expatriate is permitted to make an irrevocable election to continue to be taxed as a U.S. citizen with respect to all property that otherwise is covered by the expatriation tax. This election is an "all or nothing" election; an individual is not permitted to elect this treatment for some property but not for other property. The election, if made, applies to all property that would be subject to the expatriation tax and to any property the basis of which is determined by reference to such property. Under this election, following expatriation the individual continues to pay U.S. income taxes at the rates applicable to U.S. citizens on any income generated by the property and on any gain realized on the disposition of the property. In addition, the property continues to be subject to U.S. gift, estate, and generation-skipping transfer taxes. In order to make this election, the taxpayer is required to waive any treaty rights that would preclude the collection of the tax.

The individual is also required to provide security to ensure payment of the tax under this election in such form, manner, and amount as the Secretary of the Treasury requires. The amount of mark-to-market tax that would have been owed but for this election (including any interest, penalties, and certain other items) becomes a lien in favor of the United States on all U.S.-situated property owned by the individual. This lien arises on the expatriation date and continues until the tax liability is satisfied, the tax liability has become unenforceable by reason of lapse of time, or the Secretary of the Treasury is satisfied that no further tax liability may arise by reason of this provision. The rules of section 6324A(d)(1), (3), and (4) (relating to liens arising in connection with the deferral of estate tax under section 6166) apply to liens arising under this provision.

Deemed sale of property upon expatriation or residency termination and tentative tax

The deemed sale rule of the provision generally applies to all property interests held by the individual on the date of relinquishment of citizenship or termination of residency. Special rules apply in the case of trust interests, as described below. U.S. real property interests (which remain subject to U.S. tax in the hands of nonresident noncitizens), with the exception of stock of certain former U.S. real property holding corporations, are exempted from the provision. Regulatory authority is granted to the Treasury to exempt other types of property from the provision.

Under the provision, an individual who is subject to the mark-to-market tax is required to pay a tentative tax equal to the amount of tax that would be due for a hypothetical short tax year ending on the date the individual relinquishes citizenship or terminates residency. Thus, the tentative tax is based on all income, gains, deductions, losses, and credits of the individual for the year through such date, including amounts realized from the deemed sale of property. Moreover, notwithstanding any other provision of the Code, any period during which recognition of income or gain had been deferred terminates on the day before relinquishment of citizenship or termination of residency (and, therefore, such income or gain recognition becomes part of the tax base of the tentative tax). The tentative tax is due on the 90th day after the date of relinquishment of citizenship or termination of residency, subject to the election, described below, to defer payments of the mark-to-market tax. In addition, notwithstanding any other provision of the Code, any extension of time for payment of tax ceases to apply on the day before relinquishment of citizenship or termination of residency, and the unpaid portion of such tax becomes due and payable at the time and in the manner prescribed by the Secretary of the Treasury.

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[429] Secs. 7701(b)(3)(D), 7701(b)(5) and 7701(b)(7)(B)-(D).

[430] An individual has such a relationship to a foreign country if (1) the individual becomes a citizen or resident of the country in which the individual was born, such individual's spouse was born, or either of the individual's parents was born, and (2) the individual becomes fully liable for income tax in such country.

[431] An individual has a minimal prior physical presence in the United States if the individual was physically present for no more than 30 days during each year in the ten-year period ending on the date of loss of United States citizenship or termination of residency. However, for purposes of this test, an individual is not treated as being present in the United States on a day if the individual remained in the United States because of a medical condition that arose while the individual was in the United States. Sec. 7701(b)(3)(D)(ii).

Deferral of payment of mark-to-market tax

Under the provision, an individual is permitted to elect to defer payment of the mark-to-market tax imposed on the deemed sale of property. Interest is charged for the period the tax is deferred at a rate two percentage points higher than the rate normally applicable to individual underpayments. The election is irrevocable and is made on a property-by-property basis. Under the election, the deferred tax attributable to a particular property is due when the property is disposed of (or, if the property is disposed of in a transaction in which gain is not recognized in whole or in part, at such other time as the Secretary of the Treasury may prescribe). The deferred tax attributable to a particular property is an amount that bears the same ratio to the total mark-to-market tax as the gain taken into account with respect to such property bears to the total gain taken into account under these rules. The deferral of the mark-to-market tax may not be extended beyond the due date of the return for the taxable year which includes the individual's death.

In order to elect deferral of the mark-to-market tax, the individual is required to provide a bond in the amount of the deferred tax to the Secretary of the Treasury. Other security mechanisms are permitted provided that the individual establishes to the satisfaction of the Secretary of the Treasury that the security is adequate. In the event that the security provided with respect to a particular property subsequently becomes inadequate and the individual fails to correct the situation, the deferred tax and the interest with respect to such property will become due. As a further condition to making the election, the individual is required to consent to the waiver of any treaty rights that would preclude the collection of the tax.

The deferred tax amount (including any interest, penalties, and certain other items) becomes a lien in favor of the United States on all U.S.-situated property owned by the individual. This lien arises on the expatriation date and continues until the tax liability is satisfied, the tax liability has become unenforceable by reason of lapse of time, or the Secretary is satisfied that no further tax liability may arise by reason of this provision. The rules of section 6324A(d)(1), (3), and (4) (relating to liens arising in connection with the deferral of estate tax under section 6166) apply to such liens.

Retirement plans and similar arrangements

Subject to certain exceptions, the provision applies to all property interests held by covered expatriates at the time of relinquishment of citizenship or termination of residency. Accordingly, such property includes an interest in an employer-sponsored qualified plan or deferred compensation arrangement as well as an interest in an individual retirement account or annuity (i.e., an IRA).[432] However, the provision contains a special rule for an interest in a "retirement plan." For purposes of the provision, a "retirement plan" includes an employer-sponsored qualified plan (sec. 401(a)), a qualified annuity (sec. 403(a)), a tax-sheltered annuity (sec. 403(b)), an eligible deferred compensation plan of a governmental employer (sec. 457(b)), an individual retirement account (sec. 408(a)), and an individual retirement annuity (sec. 408(b)). The special retirement plan rule also applies, to the extent provided in regulations, to any foreign plan or similar retirement arrangement or program. An interest in a trust that is part of a retirement plan is subject to the special retirement plan rules and not to the rules for interests in trusts (discussed below).

Under the special retirement plan rules, in lieu of the deemed sale rule, an amount equal to the present value of the individual's vested, accrued benefit under a retirement plan is treated as having been received by the individual as a distribution under the retirement plan on the day before the individual's relinquishment of citizenship or termination of residency. In the case of any later distribution to the individual from the retirement plan, the amount otherwise includible in the individual's income as a result of the distribution is reduced to reflect the amount previously included in income under the special retirement plan rule. The amount of the reduction applied to a distribution is the excess of: (1) the amount included in income under the special retirement plan rule, over (2) the total reductions applied to any prior distributions. It is not intended that the retirement plan would be deemed to have made a distribution at the time of expatriation for purposes of the tax-favored status of the retirement plan, such as whether a plan may permit distributions before a participant has severed employment. However, the retirement plan, and any person acting on the plan's behalf, will treat any later distribution in the same manner as the distribution would be treated without regard to the special retirement plan rule.

It is expected that the Treasury Department will provide guidance for determining the present value of an individual's vested, accrued benefit under a retirement plan, such as the individual's account balance in the case of a defined contribution plan or an IRA, or present value determined under the qualified joint and survivor annuity rules applicable to a defined benefit plan (sec. 417(e)).

Interests in trusts

Detailed rules apply under the provision to trust interests held by an individual at the time of relinquishment of citizenship or termination of residency. The treatment of trust interests depends on whether the trust is a "qualified trust." A trust is a qualified trust if a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust.

Constructive ownership rules apply to a trust beneficiary that is a corporation, partnership, trust, or estate. In such cases, the shareholders, partners, or beneficiaries of the entity are deemed to be the direct beneficiaries of the trust. In addition, an individual who holds (or who is treated as holding) a trust instrument at the time of relinquishment of citizenship or termination of residency is required to disclose on his or her tax return the methodology used to determine his or her interest in the trust, and whether such individual knows (or has reason to know) that any other beneficiary of the trust uses a different method.

Nonqualified trusts.—If an individual holds an interest in a trust that is not a qualified trust, a special rule applies for purposes of determining the amount of the mark-to-market tax due with respect to such trust interest. The individual's interest in the trust is treated as a separate trust consisting of the trust assets allocable to such interest. Such separate trust is treated as having sold its net assets for their fair market value on the day before the date of relinquishment of citizenship or termination of residency and having distributed the assets to the individual, who then is treated as having recontributed the assets to the trust. Any income, gain, or loss of the individual arising from the deemed distribution from the trust is taken into account as if it had arisen under the deemed sale rules.

The election to defer payment is available for the mark-to-market tax attributable to a nonqualified trust interest. A beneficiary's interest in a nonqualified trust is determined under all the facts and circumstances, including the trust instrument, letters of wishes, historical patterns of trust distributions, and the existence of, and function performed by, a trust protector or any similar advisor.

Qualified trusts.—If an individual has an interest in a qualified trust, the amount of mark-to-market tax on unrealized gain allocable to the individual's trust interest ("allocable expatriation gain") is calculated at the time of expatriation or residency termination, but is collected as the individual receives distributions from the qualified trust. The allocable expatriation gain is the amount of gain which would be allocable to the individual's trust interest if the individual directly held all the assets allocable to such interest.[433] If any individual's interest in a trust is vested as of the day before the expatriation date (e.g., if the individual's interest in the trust is non-contingent and non-discretionary), the gain allocable to the individual's trust interest is determined based on the trust assets allocable to his or her trust interest. If the individual's interest in the trust is not vested as of the expatriation date (e.g., if the individual's trust interest is a contingent or discretionary interest), the gain allocable to his or her trust interest is determined based on all of the trust assets that could be allocable to his or her trust interest, determined by resolving all contingencies and discretionary powers in the individual's favor (i.e., the individual is allocated the maximum amount that he or she could receive).

Taxes are imposed on each distribution from a qualified trust. These distributions also may be subject to other U.S. income taxes. If a distribution from a qualified trust is made after the individual relinquishes citizenship or terminates residency, the mark-to-market tax is imposed in an amount equal to the amount of the distribution multiplied by the highest tax rate generally applicable to trusts and estates for the taxable year which includes the date of expatriation, but in no event will the tax imposed exceed the balance in the "deferred tax account" with respect to the trust interest. For this purpose, the balance in the deferred tax account is equal to (1) the hypothetical tax calculated under the "regular" deemed sale rules with respect to the allocable expatriation gain, (2) increased by interest charged on the balance in the deferred tax account at a rate two percentage points higher than the rate normally applicable to individual underpayments, for periods beginning after the 90th day after the expatriation date and calculated up to 30 days prior to the date of the distribution, (3) reduced by any mark-to-market tax imposed on prior trust distributions to the individual, and (4) to the extent provided in Treasury regulations, in the case of a covered expatriate holding a nonvested interest, reduced by mark-to-market taxes imposed on trust distributions to other persons holding nonvested interests.

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[432] Application of the provision is not limited to an interest that meets the definition of property under section 83 (relating to property transferred in connection with the performance of services).

[433] Allocable expatriation gain is subject to the $600,000 exemption (adjusted for cost of living increases).

The tax that is imposed on distributions from a qualified trust generally is to be deducted and withheld by the trustees. If the individual does not agree to waive treaty rights that would preclude collection of the tax, the tax with respect to such distributions is imposed on the trust, the trustee is personally liable for the tax, and any other beneficiary has a right of contribution against such individual with respect to the tax.

Mark-to-market taxes become due immediately if the trust ceases to be a qualified trust, the individual disposes of his or her qualified trust interest, or the individual dies. In such cases, the amount of mark-to-market tax equals the lesser of (1) the tax calculated under the rules for nonqualified trust interests as of the date of the triggering event, or (2) the balance in the deferred tax account with respect to the trust interest immediately before that date. Such tax is imposed on the trust, the trustee is personally liable for the tax, and any other beneficiary has a right of contribution against such individual (or his or her estate) with respect to such tax.

Regulatory authority

The provision authorizes the Secretary of the Treasury to prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 877A. In addition, the Secretary of the Treasury may provide for adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, to ensure that gain is taxed only once.

Income tax treatment of gifts and inheritances from a former citizen or former long-term resident

Under the provision, the exclusion from income provided in section 102 (relating to exclusions from income for the value of property acquired by gift or inheritance) does not apply to the value of any property received by gift or inheritance from a covered expatriate. Accordingly, a U.S. taxpayer who receives a gift or inheritance from such an individual is required to include the value of such gift or inheritance in gross income and is subject to U.S. tax on such amount. Having included the value of the property in income, the recipient takes a basis in the property equal to that value. The tax does not apply to property that is shown on a timely filed gift tax return and that is a taxable gift by the former citizen or former long-term resident, or property that is shown on a timely filed estate tax return and included in the gross U.S. estate of the former citizen or former long-term resident (regardless of whether the tax liability shown on such a return is reduced by credits, deductions, or exclusions available under the estate and gift tax rules). In addition, the tax does not apply to property in cases in which no estate or gift tax return was filed, but no such return would have been required to be filed if the former citizen or former long-term resident had not relinquished citizenship or terminated residency, as the case may be.

Coordination with present-law alternative tax regime

The provision provides a coordination rule with the present-law alternative tax regime. Under the provision, the expatriation income tax rules under section 877, and the special present-law expatriation estate and gift tax rules under sections 2107 and 2501(a)(3) (generally described above), do not apply to a covered expatriate whose expatriation or residency termination occurs on or after the date of enactment.

Information reporting

Certain information reporting requirements under the law presently applicable to former citizens and former long-term residents (sec. 6039G) also apply for purposes of the provision.

Immigration rules

The provision denies former citizens reentry into the United States if the individual is determined not to be in compliance with his or her tax obligations under the provision's expatriation tax rules (regardless of the subjective motive for expatriating). For this purpose, the provision permits the IRS to disclose certain items of return information of an individual, upon written request of the Attorney General or his delegate, as is necessary for making a determination under section 212(a)(10)(E) of the Immigration and Nationality Act. Specifically, the provision permits the IRS to disclose to the agency administering section 212(a)(10)(E) whether such taxpayer is in compliance with section 877A, and to identify the items of any noncompliance. Recordkeeping requirements, safeguards, and civil and criminal penalties for unauthorized disclosure or inspection apply to return information disclosed under this provision.

Effective date

The provision generally is effective for U.S. citizens who relinquish citizenship or long-term residents who terminate their residency on or after the date of enactment. The due date for tentative tax, however, may not occur before the 90th day after the date of enactment. The provision relating to income taxes on gifts and inheritances is effective for gifts and inheritances received from former citizens or former long-term residents (or their estates) on or after the date of enactment, whose relinquishment of citizenship or residency termination occurs after such date. The immigration and disclosure provisions relating to former citizens are effective with respect to individuals who relinquish citizenship on or after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

F. MISCELLANEOUS PROVISIONS

1. Treatment of contingent payment convertible debt instruments (Sec. 451 of the Senate amendment and sec. 1275 of the Code)

PRESENT LAW

Under present law, a taxpayer generally deducts the amount of interest paid or accrued within the taxable year on indebtedness issued by the taxpayer. In the case of original issue discount ("OID"), the issuer of a debt instrument generally accrues and deducts, as interest, the OID over the life of the obligation, even though the amount of the OID may not be paid until the maturity of the instrument.

The amount of OID with respect to a debt instrument is equal to the excess of the stated redemption price at maturity over the issue price of the debt instrument. The stated redemption price at maturity includes all amounts that are payable on the debt instrument by maturity. The amount of OID with respect to a debt instrument is allocated over the life of the instrument through a series of adjustments to the issue price for each accrual period. The adjustment to the issue price is determined by multiplying the adjusted issue price (i.e., the issue price increased or decreased by adjustments prior to the accrual period) by the instrument's yield to maturity, and then subtracting any payments on the debt instrument (other than non-OID stated interest) during the accrual period. Thus, in order to compute the amount of OID and the portion of OID allocable to a particular period, the stated redemption price at maturity and the time of maturity must be known. Issuers of debt instruments with OID accrue and deduct the amount of OID as interest expense in the same manner as the holders of such instruments accrue and include in gross income the amount of OID as interest income.

Treasury regulations provide special rules for determining the amount of OID allocated to a period with respect to certain debt instruments that provide for one or more contingent payments of principal or interest.[434] The regulations provide that a debt instrument does not provide for contingent payments merely because it provides for an option to convert the debt instrument into the stock of the issuer, into the stock or debt of a related party, or into cash or other property in an amount equal to the approximate value of such stock or debt.[435] The regulations also provide that a payment is not a contingent payment merely because of a contingency that, as of the issue date of the debt instrument, is either remote or incidental.[436]

In the case of contingent payment debt instruments that are issued for money or publicly traded property,[437] the regulations provide that interest on a debt instrument must be taken into account (as OID) whether or not the amount of any payment is fixed or determinable in the taxable year. The amount of OID that is taken into account for each accrual period is determined by constructing a comparable yield and a projected payment schedule for the debt instrument, and then accruing the OID on the basis of the comparable yield and projected payment schedule by applying rules similar to those for accruing OID on a noncontingent debt instrument (the "noncontingent bond method"). If the actual amount of a contingent payment is not equal to the projected amount, appropriate adjustments are made to reflect the difference. The comparable yield for a debt instrument is the yield at which the issuer would be able to issue a fixed-rate noncontingent debt instrument with terms and conditions similar to those of the contingent payment debt instrument (i.e., the comparable fixed-rate debt instrument), including the level of subordination, term, timing of payments, and general market conditions.[438]

With respect to certain debt instruments that are convertible into the common stock of the issuer and that also provide for contingent payments (other than the conversion feature)—often referred to as "contingent convertible" debt instruments—the IRS has stated that the noncontingent bond method applies in computing the accrual of OID on the debt instrument.[439] In applying the noncontingent bond method, the IRS has stated that the comparable yield for a contingent convertible debt instrument is determined by reference to a comparable fixed-rate nonconvertible debt instrument, and the projected payment schedule is determined by treating the issuer stock received upon a conversion of the debt instrument as a contingent payment.

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[434] Treas. Reg. sec. 1.1275-4.

[435] Treas. Reg. sec. 1.1275-4(a)(4).

[436] Treas. Reg. sec. 1.1275-4(a)(5).

[437] Treas. Reg. sec. 1.1275-4(b).

[438] Treas. Reg. sec. 1.1275-4(b)(4)(i)(A).

[439] Rev. Rul. 2002-31, 2002-1 C.B. 1023.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that, in the case of a contingent convertible debt instrument,[440] any Treasury regulations which require OID to be determined by reference to the comparable yield of a noncontingent fixed-rate debt instrument shall be applied as requiring that such comparable yield be determined by reference to a noncontingent fixed-rate debt instrument which is convertible into stock. For purposes of applying the provision, the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock. Thus, the noncontingent bond method in the Treasury regulations shall be applied in a manner such that the comparable yield for contingent convertible debt instruments shall be determined by reference to comparable noncontingent fixed-rate convertible (rather than nonconvertible) debt instruments.

Effective date.—The provision is effective for debt instruments issued on or after date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

2. Grant Treasury regulatory authority to address foreign tax credit transactions involving inappropriate separation of foreign taxes from related foreign income (sec. 452 of the Senate amendment and sec. 901 of the Code)

PRESENT LAW

The United States employs a "worldwide" tax system, under which residents generally are taxed on all income, whether derived in the United States or abroad. In order to mitigate the possibility of double taxation arising from overlapping claims of the United States and a source country to tax the same item of income, the United States provides a credit for foreign income taxes paid or accrued, subject to several conditions and limitations.

For purposes of the foreign tax credit, regulations provide that a foreign tax is treated as being paid by "the person on whom foreign law imposes legal liability for such tax."[441] Thus, for example, if a U.S. corporation owns an interest in a foreign partnership, the U.S. corporation can claim foreign tax credits for the tax that is imposed on it as a partner in the foreign entity. This would be true under the regulations even if the U.S. corporation elected to treat the foreign entity as a corporation for U.S. tax purposes. In such a case, if the foreign entity does not meet the definition of a controlled foreign corporation or does not generate income that is subject to current inclusion under the rules of subpart F, the income generated by the foreign entity might never be reported on a U.S. return, and yet the U.S. corporation might take the position that it can claim credits for taxes imposed on that income. This is one example of how a taxpayer might attempt to separate foreign taxes from the related foreign income, and thereby attempt to claim a foreign tax credit under circumstances in which there is no threat of double taxation.

The Treasury Department currently has the authority to promulgate regulations under section 901 and other provisions of the Code to address transactions and structures that produce inappropriate foreign tax credit results.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment enhances the regulatory authority of the Treasury Department to address transactions that involve the inappropriate separation of foreign taxes from the related foreign income or in which foreign taxes are imposed on any person in respect of income of another person. This grant of regulatory authority supplements existing Treasury Department authority and thereby provide greater flexibility in addressing a wide range of transactions and structures. Regulations issued pursuant to this authority could, for example, provide for the disallowance of a credit for all or a portion of the foreign taxes, or for the allocation of the foreign taxes among the participants in the transaction in a manner more consistent with the economics of the transaction.

Effective date.—The provision generally is effective for transactions entered into after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision. No inference is intended as to the scope of the Treasury Department's existing regulatory authority to address transactions that involve the inappropriate separation of foreign taxes from the related foreign income.

3. Modifications of effective dates of leasing provisions of the American Jobs Creation Act of 2004 (sec. 453 of the Senate amendment and sec. 470 of the Code)

PRESENT LAW

Present law provides for the deferral of losses attributable to certain tax exempt use property, generally effective for leases entered into after March 12, 2004. However, the deferral provision does not apply to property located in the United States that is subject to a lease with respect to which a formal application: (1) was submitted for approval to the Federal Transit Administration (an agency of the Department of Transportation) after June 30, 2003, and before March 13, 2004; (2) is approved by the Federal Transit Administration before January 1, 2006; and (3) includes a description and the fair market value of such property (the "qualified transportation property exception").

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment makes two changes to the effective date of the loss deferral rules. First, the Senate amendment repeals the qualified transportation property exception. Second, the Senate amendment applies the loss deferral rules to leases entered into on or before March 12, 2004, if the lessee is a foreign person or entity. With respect to such leases, losses are deferred starting in taxable years beginning after December 31, 2005.

Effective date.—The Senate amendment is effective as if included in the provisions of the American Jobs Creation Act of 2004, Pub. L. No. 108-357 (2004), to which it relates.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

4. Application of earnings stripping rules to partners which are corporations (sec. 454 of the Senate amendment and sec. 163 of the Code)

PRESENT LAW

Present law provides rules to limit the ability of U.S. corporations to reduce the U.S. tax on their U.S.-source income through earnings stripping transactions. Section 163(j) specifically addresses earnings stripping involving interest payments, by limiting the deductibility of interest paid to certain related parties ("disqualified interest"),[442] if the payor's debt-equity ratio exceeds 1.5 to 1 and the payor's net interest expense exceeds 50 percent of its "adjusted taxable income" (generally taxable income computed without regard to deductions for net interest expense, net operating losses, and depreciation, amortization, and depletion). Disallowed interest amounts can be carried forward indefinitely. In addition, excess limitation (i.e., any excess of the 50-percent limit over a company's net interest expense for a given year) can be carried forward three years.

Proposed Treasury regulations provide that a partner's proportionate share of partnership liabilities is treated as liabilities incurred directly by the partner, for purposes of applying the earnings stripping limitation to interest payments by a corporate partner of a partnership.[443] The proposed Treasury regulations provide that interest paid or accrued to a partnership is treated as paid or accrued to the partners of the partnership in proportion to each partner's distributive share of the partnership's interest income for the taxable year.[444] In addition, the proposed Treasury regulations provide that interest expense paid or accrued by a partnership is treated as paid or accrued by the partners of the partnership in proportion to each partner's distributive share of the partnership's interest expense.[445]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision codifies the approach of the proposed Treasury regulations by providing that, except to the extent provided by regulations, in the case of a corporation that owns, directly or indirectly, an interest in a partnership, the corporation's share of partnership liabilities is treated as liabilities of the corporation for purposes of applying the earnings stripping rules to the corporation. The provision provides that the corporation's distributive share of interest income of the partnership, and of interest expense of the partnership, is treated as interest income or interest expense of the corporation.

The provision provides Treasury regulatory authority to reallocate shares of partnership debt, or distributive shares of the partnership's interest income or interest expense, as may be appropriate to carry out the purposes of the provision. For example, it is not intended that the application of the earnings stripping rules to corporations with direct or indirect interests in partnerships be circumvented through the use of allocations of partnership interest income or expense (or partnership liabilities) to or away from partners.

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[440] Under the provision, a contingent convertible debt instrument is defined as a debt instrument that: (1) is convertible into stock of the issuing corporation, or a corporation in control of, or controlled by, the issuing corporation; and (2) provides for contingent payments.

[441] Treas. Reg. sec. 1.901-2(f)(1).

[442] This interest also may include interest paid to unrelated parties in certain cases in which a related party guarantees the debt.

[443] Prop. Treas. Reg. sec. 1.163(j)-3(b)(3).

[444] Prop. Treas. Reg. sec. 1.163(j)-2(e)(4).

[445] Prop. Treas. reg. sec. 1.163(j)-2(e)(5).

Effective date.—The provision is effective for taxable years beginning on or after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision.

5. Limitation on employer deduction for certain entertainment expenses (sec. 455 of the Senate amendment and sec. 274(e) of the Code)

PRESENT LAW

In general

Under present law, no deduction is allowed with respect to (1) an activity generally considered to be entertainment, amusement or recreation, unless the taxpayer establishes that the item was directly related to (or, in certain cases, associated with) the active conduct of the taxpayer's trade or business, or (2) a facility (*e.g.*, an airplane) used in connection with such activity.[446] The Code includes a number of exceptions to the general rule disallowing deductions of entertainment expenses. Under one exception, the deduction disallowance rule does not apply to expenses for goods, services, and facilities to the extent that the expenses are reported by the taxpayer as compensation and wages to an employee.[447] The deduction disallowance rule also does not apply to expenses paid or incurred by the taxpayer for goods, services, and facilities to the extent that the expenses are includible in the gross income of a recipient who is not an employee (*e.g.*, a non-employee director) as compensation for services rendered or as a prize or award.[448] The exceptions apply only to the extent that amounts are properly reported by the company as compensation and wages or otherwise includible in income. In no event can the amount of the deduction exceed the amount of the actual cost, even if a greater amount is includible in income.

Except as otherwise provided, gross income includes compensation for services, including fees, commissions, fringe benefits, and similar items. In general, an employee or other service provider must include in gross income the amount by which the fair value of a fringe benefit exceeds the amount paid by the individual. Treasury regulations provide rules regarding the valuation of fringe benefits, including flights on an employer-provided aircraft.[449] In general, the value of a non-commercial flight is determined under the base aircraft valuation formula, also known as the Standard Industry Fare Level formula or "SIFL".[450] If the SIFL valuation rules do not apply, the value of a flight on a company-provided aircraft is generally equal to the amount that an individual would have to pay in an arm's-length transaction to charter the same or a comparable aircraft for that period for the same or a comparable flight.[451]

In the context of an employer providing an aircraft to employees for nonbusiness (*e.g.*, vacation) flights, the exception for expenses treated as compensation was interpreted in Sutherland Lumber-Southwest, Inc. v. Commissioner ("Sutherland Lumber") as not limiting the company's deduction for operation of the aircraft to the amount of compensation reportable to its employees,[452] which can result in a deduction many times larger than the amount required to be included in income. In many cases, the individual including amounts attributable to personal travel in income directly benefits from the enhanced deduction, resulting in a net deduction for the personal use of the company aircraft.

Specified individuals

In the case of specified individuals, the exceptions to the general entertainment expense disallowance rule for expenses treated as compensation or includible in income apply only to the extent of the amount of expenses treated as compensation or includible in income of the specified individual. For example, a company's deduction attributable to aircraft operating costs and other expenses for a specified individual's vacation use of a company aircraft is limited to the amount reported as compensation to the specified individual. Sutherland Lumber is thus overturned with respect to specified individuals.

Specified individuals are individuals who, with respect to an employer or other service recipient (or a related party), are subject to the requirements of section 16(a) of the Securities and Exchange Act of 1934, or would be subject to such requirements if the employer or service recipient (or the related party) were an issuer of equity securities referred to in section 16(a).[453] Such individuals generally include officers (as defined by section 16(a)),[454] directors, and 10-percent-or-greater owners of private and publicly-held companies.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, in the case of all individuals, the exceptions to the general entertainment expense disallowance rule for expenses treated as compensation or includible in income apply only to the extent of the amount of expenses treated as compensation or includible in income. Thus, under those exceptions, no deduction is allowed with respect to expenses for (1) a nonbusiness activity generally considered to be entertainment, amusement or recreation, or (2) a facility (e.g., an airplane) used in connection with such activity to the extent that such expenses exceed the amount treated as compensation or includible in income. The provision is intended to overturn Sutherland Lumber for all individuals. As under present law, the exceptions apply only if amounts are properly reported by the company as compensation and wages or otherwise includible in income.

Effective date.—The provision is effective for expenses incurred after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

6. Increase in age of minor children whose unearned income is taxed as if parent's income (Sec. 456 of the Senate amendment and sec. 1(g) of the Code)

PRESENT LAW

Filing requirements for children

A single unmarried individual eligible to be claimed as a dependent on another taxpayer's return generally must file an individual income tax return if he or she has: (1) earned income only over $5,150 (for 2006); (2) unearned income only over the minimum standard deduction amount for dependents ($850 in 2006); or (3) both earned income and unearned income totaling more than the smaller of (a) $5,150 (for 2006) or (b) the larger of (i) $850 (for 2006), or (ii) earned income plus $300.[455] Thus, if a dependent child has less than $850 in gross income, the child does not have to file an individual income tax return for 2006.[456]

A child who cannot be claimed as a dependent on another person's tax return is subject to the generally applicable filing requirements. Such a child generally must file a return if the individual's gross income exceeds the sum of the standard deduction and the personal exemption amount ($3,300 for 2006).

Taxation of unearned income under section 1(g)

Special rules (generally referred to as the "kiddie tax") apply to the unearned income of a child who is under age 14.[457] The kiddie tax applies if: (1) the child has not reached the age of 14 by the close of the taxable year; (2) the child's unearned income was more than $1,700 (for 2006); and (3) the child is required to file a return for the year. The kiddie tax applies regardless of whether the child may be claimed as a dependent on the parent's return.

For these purposes, unearned income is income other than wages, salaries, professional fees, or other amounts received as compensation for personal services actually rendered.[458] For children under age 14, net unearned income (for 2006, generally unearned income over $1,700) is taxed at the parent's rate if the parent's rate is higher than the child's rate. The remainder of a child's taxable income (i.e., earned income, plus unearned income up to $1,700 (for 2006), less the child's standard deduction) is taxed at the child's rates, regardless of whether the kiddie tax applies to the child. In general, a child is eligible to use the preferential tax rates for qualified dividends and capital gains.[459]

The kiddie tax is calculated by computing the "allocable parental tax." This involves adding the net unearned income of the child to the parent's income and then applying the parent's tax rate. A child's "net unearned income" is the child's unearned income less the sum of (1) the minimum standard deduction allowed to dependents ($850 for 2006), and (2) the greater of (a) such minimum standard deduction amount or (b) the amount of allowable itemized deductions that are directly connected with the production of the unearned income.[460] A child's net unearned income cannot exceed the child's taxable income.

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[446] Sec. 274(a).

[447] Sec. 274(e)(2). As discussed below, a special rule applies in the case of specified individuals.

[448] Sec. 274(e)(9).

[449] Treas. Reg. sec. 1.61-21.

[450] Treas. Reg. sec. 1.61-21(g).

[451] Treas. Reg. sec. 1.61-21(b)(6).

[452] *Sutherland Lumber-Southwest, Inc.* v. *Comm.*, 114 T.C. 197 (2000), aff'd, 255 F.3d 495 (8th Cir. 2001), acq., AOD 2002-02 (Feb. 11, 2002).

[453] For purposes of this definition, a person is a related party with respect to another person if such person bears a relationship to such other person described in section 267(b) or 707(b).

[454] An officer is defined as the president, principal financial officer, principal accounting officer (or, if there is no such accounting officer, the controller), any vice-president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions.

[455] Sec. 6012(a)(1)(C). Other filing requirements apply to dependents who are married, elderly, or blind. See, Internal Revenue Service, Publication 929, Tax Rules for Children and Dependents, at 2, Table 1 (2005).

[456] A taxpayer generally need not file a return if he or she has gross income in an amount less than the standard deduction (and, if allowable to the taxpayer, the personal exemption amount). An individual who may be claimed as a dependent of another taxpayer is not eligible to claim the dependency exemption relating to that individual. Sec. 151(d)(2). For taxable years beginning in 2006, the standard deduction amount for an individual who may be claimed as a dependent by another taxpayer may not exceed the greater of $850 or the sum of $300 and the individual's earned income.

[457] Sec. 1(g).

[458] Sec. 1(g)(4) and sec. 911(d)(2).

[459] Sec. 1(h).

The allocable parental tax equals the hypothetical increase in tax to the parent that results from adding the child's net unearned income to the parent's taxable income. If the child has net capital gains or qualified dividends, these items are allocated to the parent's hypothetical taxable income according to the ratio of net unearned income to the child's total unearned income. If a parent has more than one child subject to the kiddie tax, the net unearned income of all children is combined, and a single kiddie tax is calculated. Each child is then allocated a proportionate share of the hypothetical increase, based upon the child's net unearned income relative to the aggregate net unearned income of all of the parent's children subject to the tax.

Special rules apply to determine which parent's tax return and rate is used to calculate the kiddie tax. If the parents file a joint return, the allocable parental tax is calculated using the income reported on the joint return. In the case of parents who are married but file separate returns, the allocable parental tax is calculated using the income of the parent with the greater amount of taxable income. In the case of unmarried parents, the child's custodial parent is the parent whose taxable income is taken into account in determining the child's liability. If the custodial parent has remarried, the stepparent is treated as the child's other parent. Thus, if the custodial parent and stepparent file a joint return, the kiddie tax is calculated using that joint return. If the custodial parent and stepparent file separate returns, the return of the one with the greater taxable income is used. If the parents are unmarried but lived together all year, the return of the parent with the greater taxable income is used.[461]

Unless the parent elects to include the child's income on the parent's return (as described below) the child files a separate return to report the child's income.[462] In this case, items on the parent's return are not affected by the child's income. The total tax due from a child is the greater of:

1. the sum of (a) the tax payable by the child on the child's earned income and unearned income up to $1,700 (for 2006), plus (b) the allocable parental tax on the child's unearned income, or
2. the tax on the child's income without regard to the kiddie tax provisions.

Parental election to include child's dividends and interest on parent's return

Under certain circumstances, a parent may elect to report a child's dividends and interest on the parent's return. If the election is made, the child is treated as having no income for the year and the child does not have to file a return. The parent makes the election on Form 8814, Parents' Election to Report Child's Interest and Dividends. The requirements for the parent's election are that:

1. the child has gross income only from interest and dividends (including capital gains distributions and Alaska Permanent Fund Dividends);[463]
2. such income is more than the minimum standard deduction amount for dependents ($850 in 2006) and less than 10 times that amount ($8500 in 2006);
3. no estimated tax payments for the year were made in the child's name and taxpayer identification number;
4. no backup withholding occurred; and
5. the child is required to file a return if the parent does not make the election.

Only the parent whose return must be used when calculating the kiddie tax may make the election. The parent includes in income the child's gross income in excess of twice the minimum standard deduction amount for dependents (i.e., the child's gross income in excess of $1,700 for 2007). This amount is taxed at the parent's rate. The parent also must report an additional tax liability equal to the lesser of: (1) $85 (in 2006), or (2) 10 percent of the child's gross income exceeding the child's standard deduction ($850 in 2006).

Including the child's income on the parent's return can affect the parent's deductions and credits that are based on adjusted gross income, as well as income-based phaseouts, limitations, and floors.[464] In addition, certain deductions that the child would have been entitled to take on his or her own return are lost.[465] Further, if the child received tax-exempt interest from a private activity bond, that item is considered a tax preference of the parent for alternative minimum tax purposes.[466]

Taxation of compensation for services under section 1(g)

Compensation for a child's services is considered the gross income of the child, not the parent, even if the compensation is not received or retained by the child (e.g. is the parent's income under local law).[467] If the child's income tax is not paid, however, an assessment against the child will be considered as also made against the parent to the extent the assessment is attributable to amounts received for the child's services.[468]

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision increases the age to which the kiddie tax provisions apply from under 14 to under 18 years of age. The provision also creates an exception to the kiddie tax for distributions from certain qualified disability trusts, defined by cross-reference to sections 1917 and 1614(a)(3) of the Social Security Act.

Effective date.—The provision applies to taxable years beginning after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision with one modification. This modification provides that the kiddie tax does not apply to a child who is married and files a joint return for the taxable year.

7. Impose loan and redemption requirements on pooled financing bonds (sec. 457 of the Senate amendment and sec. 149 of the Code)

PRESENT LAW

In general

Interest on bonds issued by State and local governments generally is excluded from gross income for Federal income tax purposes if the proceeds of such bonds are used to finance direct activities of governmental units or if such bonds are repaid with revenues of governmental units. These bonds are called "governmental bonds." Interest on State or local government bonds issued to finance activities of private persons is taxable unless a specific exception applies. These bonds are called "private activity bonds." The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes. In addition, the Code imposes qualification requirements that apply to all State and local bonds. Arbitrage restrictions, for example, limit the ability of issuers to profit from investment of tax-exempt bond proceeds. The Code also imposes requirements that only apply to specific types of bond issues. For instance, pooled financing bonds (defined below) are not tax-exempt unless the issuer meets certain requirements regarding the expected use of proceeds.

Pooled financing bond restrictions

State or local governments also issue bonds to provide financing for the benefit of a third party (a "conduit borrower"). Pooled financing bonds are bond issues that are used to make or finance loans to two or more conduit borrowers, unless the conduit loans are to be used to finance a single project.[469] The Code imposes several requirements on pooled financing bonds if more than $5 million of proceeds are expected to be used to make loans to conduit borrowers. For purposes of these rules, a pooled financing bond does not include certain private activity bonds.[470]

A pooled financing bond is not tax-exempt unless the issuer reasonably expects that at least 95 percent of the net proceeds will be lent to ultimate borrowers by the end of the third year after the date of issue. The term "net proceeds" is defined to mean the proceeds of the issue less the following amounts: 1) proceeds used to finance issuance costs; 2) proceeds necessary to pay interest on the bonds during a three-year period; and 3) amounts in reasonably required reserves.[471]

An issuer's past experience regarding loan origination is a criterion upon which the reasonableness of the issuer's expectations can be based. As an additional requirement for tax exemption, all legal and underwriting costs associated with the issuance of pooled financing bonds may not be contingent and must be substantially paid within 180 days of the date of issuance.

Arbitrage restrictions on tax-exempt bonds

To prevent the issuance of more Federally subsidized tax-exempt bonds than necessary, the tax exemption for State and local bonds does not apply to any arbitrage bond.[472] An arbitrage bond is defined as any bond that is part of an issue if any proceeds of the issue are reasonably expected to be used (or intentionally are used) to acquire higher yielding investments or to replace funds that are used to acquire higher yielding investments. In general, arbitrage profits may be earned only during specified periods (e.g., defined "temporary periods") before funds are needed for the purpose of the borrowing or on specified types of investments (e.g., "reasonably required reserve or replacement funds"). Subject to limited exceptions, investment profits that are earned during these periods or on such investments must be rebated to the Federal Government ("arbitrage rebate").

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[460] Sec. 1(g)(4).

[461] Sec. 1(g)(5); Internal Revenue Service, Publication 929, Tax Rules for Children and Dependents, at 6 (2005).

[462] The child must attach to the return Form 8615, Tax for Children Under Age 14 With Investment Income of More Than $1,700 (2006).

[463] Internal Revenue Service, Publication 929, Tax Rules for Children and Dependents, at 6 (2005).

[464] Internal Revenue Service, Publication 929, Tax Rules for Children and Dependents, at 7 (2005).

[465] Internal Revenue Service, Publication 929, Tax Rules for Children and Dependents, at 7 (2005).

[466] Sec. 1(g)(7)(B).

[467] Sec. 73(a).

[468] Sec. 6201(c).

[469] Treas. Reg. sec. 1.150-1(b).

[470] Sec. 149(f)(4)(B).

[471] Sec. 149(f)(2)(C).

[472] Secs. 103(a) and (b)(2).

The Code contains several exceptions to the arbitrage rebate requirement, including an exception for bonds issued by small governments (the "small issuer exception"). For this purpose, small governments are defined as general purpose governmental units that issue no more than $5 million of tax-exempt governmental bonds in a calendar year.[473]

Pooled financing bonds are subject to the arbitrage restrictions that apply to all tax-exempt bonds, including arbitrage rebate. Under certain circumstances, however, small governments may issue pooled financing bonds without those bonds counting towards the determination of whether the issuer qualifies for the small issuer exception to arbitrage rebate. In the case of a pooled financing bond where the ultimate borrowers are governmental units with general taxing powers not subordinate to the issuer of the pooled bond, the pooled bond does not count against the issuer's $5 million limitation, provided the issuer is not a borrower from the pooled bond.[474] However, the issuer of the pooled financing bond remains subject to the arbitrage rebate requirement for unloaned proceeds.[475]

HOUSE BILL

No provision.

SENATE AMENDMENT

In general

The provision imposes new requirements on pooled financing bonds as a condition of tax-exemption. First, the provision imposes a written loan commitment requirement to restrict the issuance of pooled bonds where potential borrowers have not been identified ("blind pools"). Second, in addition to the current three-year expectations requirement, the issuer must reasonably expect that at least 50 percent of the net proceeds of the pooled bond will be lent to borrowers one year after the date of issue. Third, the provision requires the redemption of outstanding bonds with proceeds that are not loaned to borrowers within the expected loan origination periods. Finally, the provision eliminates the rule allowing an issuer of pooled financing bonds to disregard the pooled bonds for purposes of determining whether the issuer qualifies for the small issuer exception to rebate.

Borrower identification

Under the provision, interest on a pooled financing bond is tax exempt only if the issuer obtains written commitments with ultimate borrowers for loans equal to at least 50 percent of the net proceeds of the pooled bond prior to issuance. The loan commitment requirement does not apply to bonds issued by States (or an integral part of a State) to provide loans to subordinate governmental units or State entities created to provide financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

Loan origination expectations

The provision imposes new reasonable expectations requirements for loan originations. The issuer must expect that at least 50 percent of the net proceeds of a pooled financing bond will be lent to ultimate borrowers one year after the date of issue. This is in addition to the present-law requirement that at least 95 percent of the net proceeds will be lent to ultimate borrowers by the end of the third year after the date of issue.

Redemption requirement

Under the provision, if bond proceeds are not loaned to borrowers within prescribed periods, outstanding bonds equal to the amount of proceeds that were not loaned within the required period must be redeemed with 90 days. The bond redemption requirement applies with respect to proceeds that are unloaned as of expiration of the one-year and three-year loan origination periods. For example, if an amount equal to 45 percent of the net proceeds of an issue are used to make loans to ultimate borrowers as of one year after the bonds are issued, an amount equal to five percent of the net proceeds of the issue is no longer available for lending and must be used to redeem bonds within the following six-month period. Similarly, if only 85 percent of the net proceeds of the issue are used to make qualifying loans (or to redeem bonds) as of three years after the bonds are issued, 10 percent of the remaining net proceeds is no longer available for lending and must be used to redeem bonds within the following six months.

Small issuer exception

The provision eliminates the rule disregarding pooled financing bonds from the issuer's $5,000,000 annual limitation for purposes of the small issuer exception to arbitrage rebate.

Effective date.—The provision is effective for bonds issued after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision, with the following modifications.

Under the conference agreement, issuers of pooled financing bonds must reasonably expect that at least 30 percent of the net proceeds of such bonds will be loaned to ultimate borrowers one year after the date of issue. The present-law requirement that issuers must reasonably expect to loan at least 95 percent of the net proceeds of a pooled financing bond to ultimate borrowers three years after the date of issue is unchanged. Bond proceeds that are not loaned to borrowers as required under the one- and three-year rules must be used to redeem outstanding bonds within 90 days of the expiration of such one- and three-year periods.

The conference agreement requires issuers of pooled financing bonds to obtain, prior to issuance, written commitments from borrowers equal to at least 30 percent of the net proceeds of the pooled financing bond. The conference agreement includes the Senate amendment's exception to the written loan commitment requirement. Thus, the loan commitment requirement does not apply to pooled financing bonds issued by States (or an integral part of a State) to provide loans to subordinate governmental units or State entities created to provide financing for water-infrastructure projects through the federally-sponsored State revolving fund program.

8. Amend information reporting requirements to include interest on tax-exempt bonds (sec. 458 of the Senate amendment and sec. 6049 of the Code)

PRESENT LAW

Tax-exempt bonds

Generally, gross income does not include interest on State or local bonds.[476] State and local bonds are classified generally as either governmental bonds or private activity bonds. Governmental bonds are bonds the proceeds of which are primarily used to finance governmental facilities or the debt is repaid with governmental funds. Private activity bonds are bonds in which the State or local government serves as a conduit providing financing to nongovernmental persons (e.g., private businesses or individuals). The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain purposes ("qualified private activity bonds") permitted by the Code.[477]

Tax-exempt interest reporting by taxpayers

The Code provides that every person required to file a return must report the amount of tax-exempt interest received or accrued during any taxable year.[478] There are a number of reasons why the amount of tax-exempt interest received is relevant to determining tax liability despite the general exclusion from income. For example, the interest income from qualified private activity bonds (other than qualified 501(c)(3) bonds) issued after August 7, 1986, is a preference item for purposes of calculating the alternative minimum tax ("AMT").[479] Tax-exempt interest also is relevant for determining eligibility for the earned income credit (the "EIC")[480] and the amount of Social Security benefits includable in gross income.[481] Moreover, determining includable Social Security benefits is necessary for calculating either adjusted or modified adjusted gross income under several Code sections.[482]

Information reporting by payors

The Code generally requires every person who makes payments of interest aggregating $10 or more or receives payments of interest as a nominee and who makes payments aggregating $10 or more to file an information return setting forth the amount of interest payments for the calendar year and the name, address, and TIN[483] of the person to whom interest is paid.[484] Treasury regulations prescribe the form and manner for filing interest payment information returns. Penalties are imposed for failures to file interest payment information returns or payee statements.[485] Treasury Regulations also impose recordkeeping requirements on any person required to file information returns.[486] The Code excludes interest paid on tax-exempt bonds from interest reporting requirements.[487]

HOUSE BILL

No provision.

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[473] The $5 million limit is increased to $15 million if at least $10 million of the bonds are used to finance public schools.

[474] Sec. 148(f)(4)(D)(ii)(II).

[475] Treas. Reg. sec. 1.148-8(d)(1).

[476] Sec. 103.

[477] Secs. 103(b)(1) and 141.

[478] Sec. 6012(d).

[479] Sec. 57(a)(5). Special rules apply to exclude refundings of bonds issued before August 8, 1986, and certain bonds issued before September 1, 1986.

[480] Sec. 32(i).

[481] Sec. 86.

[482] See Secs. 135, 219, and 221.

[483] The taxpayer's identification number, generally, for individuals is the taxpayer's social security number. Sec. 7701(a)(41).

[484] Sec. 6049.

[485] Secs. 6721 and 6722.

[486] Treas. Reg. sec. 1.6001-1(a).

[487] Sec. 6049.

SENATE AMENDMENT

The provision eliminates the exception from information reporting requirements for interest paid on tax-exempt bonds.

Effective date.—The provision is effective for interest paid on tax-exempt bonds after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision.

9. Modification of credit for fuel from a non-conventional source (sec. 459 of the Senate amendment and sec. 45K of the Code)

PRESENT LAW

Certain fuels produced from "non-conventional sources" and sold to unrelated parties are eligible for an income tax credit equal to $3 (generally adjusted for inflation)[488] per barrel or Btu oil barrel equivalent ("non-conventional source fuel credit").[489] Qualified fuels must be produced within the United States.

Qualified fuels include:

—oil produced from shale and tar sands;

—gas produced from geopressured brine, Devonian shale, coal seams, tight formations, or biomass; and

—liquid, gaseous, or solid synthetic fuels produced from coal (including lignite).

Generally, the non-conventional source fuel credit has expired, except for certain biomass gas and synthetic fuels sold before January 1, 2008, and produced at facilities placed in service after December 31, 1992, and before July 1, 1998. The non-conventional source fuel credit provision also includes a credit for producing coke or coke gas at qualified facilities placed in service before 1993 or after June 30, 1998, and before 2010. The coke production credit is available for coke or coke gas produced over the four-year period beginning on January 1, 2006, or the date the facility was placed in service, if later. The amount of credit-eligible coke produced at any one facility may not exceed an average barrel-of-oil equivalent of 4,000 barrels per day.

The non-conventional source fuel credit is reduced (but not below zero) over a $6 (inflation-adjusted) phase-out period as the reference price for oil exceeds $23.50 per barrel (also adjusted for inflation). The reference price is the Secretary's estimate of the annual average wellhead price per barrel for all domestic crude oil. The credit did not phase-out for 2004 because the reference price for that year of $50.26 did not exceed the inflation adjusted threshold of $51.35.

Beginning with taxable years ending after December 31, 2005, the non-conventional source fuel credit is part of the general business credit (sec. 38).

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision modifies the manner in which the phase-out of the non-conventional source fuel credit is calculated. Specifically, in calculating the phase-out of the credit rather than relying upon the reference price for the calendar year in which the sale of qualified non-conventional fuel occurs, the provision uses the reference price for the calendar year preceding the calendar year in which the sale occurs. Thus, under the provision, whether the credit is phased out in 2005 is determined by reference to 2004 wellhead prices, whether the credit is phased out in 2006 is determined by reference to 2005 wellhead prices, and so on. In addition, the provision repeals the phase-out limitation entirely for coke and coke gas produced under section 45K(g).

The provision eliminates the inflation adjustment for all fuels other than coke and coke gas for 2005, 2006, and 2007. Thus, the current credit amount of $6.79 per barrel of oil equivalent would be retroactively reduced to $6.56 per barrel of oil equivalent, and that reduced amount would remain in effect through the December 31, 2007. Under the provision, the credit amount of $3 per barrel of oil equivalent for coke and coke gas produced under section 45K(g) would continue to be adjusted for inflation using 2004 as the base year.

Finally, the provision clarifies that qualifying facilities producing coke and coke gas under section 45K(g) do not include facilities that produce petroleum-based coke or coke gas.

Effective date.—The provision applies to fuel sold after December 31, 2004.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

10. Modification of individual estimated tax safe harbor (sec. 460 of the Senate Amendment and sec. 6654 of the Code)

PRESENT LAW

An individual taxpayer generally is subject to an addition to tax for any underpayment of estimated tax. An individual generally does not have an underpayment of estimated tax if he or she makes timely estimated tax payments equal to the lesser of: (1) 90 percent of the tax shown on the current year's return or (2) 100 percent of the prior year's tax. For individuals with a prior year's AGI above $150,000, however, the rule that allows payment of 100 percent of prior year's tax is modified. Individuals with prior-year AGI above $150,000 generally must make estimated payments equal to the lesser of (1) 90 percent of the tax shown on the current year's return or (2) 110 percent of the tax shown on the prior year's return.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that individuals with prior year's AGI above $150,000 who make estimated tax payments based on prior year's tax must do so based on 120 percent of the tax shown on the prior year's return, for estimated tax payments for taxable years beginning in 2006. That percentage will revert back to 110 percent for taxable years beginning after 2006.

Effective date.—The provision is effective for estimated tax payments for taxable years beginning after December 31, 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

11. Revaluation of LIFO inventories of large integrated oil companies (sec. 461 of the Senate amendment)

PRESENT LAW

A taxpayer is generally permitted to use a last-in, first-out (LIFO) method to inventory goods, on the condition that the taxpayer also uses the LIFO method in reporting to shareholders, partners, other proprietors, and beneficiaries, and for credit purposes.[490] Under the LIFO method, a taxpayer (i) treats goods on hand at the close of the taxable year as being: first, those goods included in the opening inventory of the taxable year (in the order of acquisition) to the extent thereof; and second, those acquired in the taxable year; (ii) inventories the goods at cost; and (iii) treats those goods included in the opening inventory of the taxable year in which the LIFO method was first used as having been acquired at the same time, and determines their cost by the average cost method.[491]

In periods during which a taxpayer produces or purchases more goods than the taxpayer sells (such excess, an "inventory increment"), a LIFO method taxpayer generally records the inventory cost of such excess (and separately tracks such amount as the "LIFO layer" for such period), adds it to the cost of inventory at the start of the period, and carries such total inventory cost forward to the beginning inventory of the following year.

In periods during which the taxpayer sells more goods than the taxpayer produces or purchases (such decrease, an "inventory decrement"), a LIFO method taxpayer generally determines the cost of goods sold of the amount of the decrement by treating such sales as occurring out of the most recent LIFO layer (or the most recent LIFO layers, if the amount of the decrement exceeds the amount of inventory in the most recent LIFO layer) in reverse chronological order.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision disallows a portion of the benefit of the LIFO method to integrated oil companies[492] which have an average daily production of crude oil of at least 500,000 barrels of oil and which have in excess of $1 billion for the last taxable year ending during 2005.

Specifically, the provision requires such taxpayers to revalue each historic LIFO layer of crude oil inventories by adding to each layer an amount equal to $18.75 multiplied by the number of barrels of crude oil represented by such LIFO layer; the taxpayer must reduce its cost of sales for such taxable year by a like amount.

For example, suppose a taxpayer, which is an integrated oil company with average daily production of at least 500,000 barrels of oil and revenues in excess of $1 billion, has a 2005 starting inventory of 200x barrels, comprised of a 1955 LIFO layer with 50x barrels valued at $5 per barrel (with a total cost of $250x); a 1985 LIFO layer with 100x barrels valued at $18 per barrel (with a total cost $1800x); a 2000 LIFO layer with 30x barrels valued at $25 per barrel (with a total cost of $750x), and a 2004 LIFO layer with 20x barrels valued at $35 per barrel (with a total cost $700x), for a total inventory value of $3500x. Suppose further that the taxpayer's ending inventory is 200x barrels, i.e., the same as the starting inventory, so the taxpayer has neither an inventory increment nor an inventory decrement for the taxable year.

Under the provision, the taxpayer will revalue each layer upwards by $18.75/barrel.

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[488] The inflation adjustment is generally calculated using 1979 as the base year. Generally, the value of the credit for fuel produced in 2005 was $6.79 per barrel-of-oil equivalent produced, which is approximately $1.20 per thousand cubic feet of natural gas. The credit for coke or coke gas is indexed for inflation using 2004 as the base year instead of 1979.

[489] Sec. 29 (for tax years ending before 2006); sec. 45K (for tax years ending after 2005).

[490] Sec. 472(c).

[491] Sec. 472.

[492] The provision defines an "integrated oil company" by cross-reference to section 291(b)(4), which generally includes retailers and large refiners of oil or natural gas or any product derived from oil or natural gas.

Thus, the taxpayer will increase its 1955 LIFO layer by $937.50x; its 1985 LIFO layer by $1875x; its 2000 LIFO layer by $562.50x; and its 2004 LIFO layer by $375x. The taxpayer will offset this $3750x increase in inventory by reducing by $3750x the taxpayer's cost of goods sold for the last taxable year ending in 2005. In the event the taxpayer's cost of goods sold for such taxable year prior to such reduction is less than $3750x, the taxpayer will reduce its cost of goods sold to zero and increase its gross income for such taxable year by such difference.

Effective date.—The provision is effective for the last taxable year of a taxpayer ending in 2005.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

12. Amortization of geological and geophysical expenditures (sec. 462 of the Senate amendment and sec. 167(h) of the Code)

PRESENT LAW

Geological and geophysical expenditures ("G&G costs") are costs incurred by a taxpayer for the purpose of obtaining and accumulating data that will serve as the basis for the acquisition and retention of mineral properties by taxpayers exploring for minerals. G&G costs incurred in connection with oil and gas exploration in the United States may be amortized over two years.[493] In the case of abandoned property, remaining basis may not be recovered in the year of abandonment of a property as all basis is recovered over the two-year amortization period.

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision repeals the two-year amortization period with respect to G&G costs paid or incurred by certain large integrated oil companies, defined to include integrated oil companies (as defined in section 291(b)(4) of the Code) that have an average daily worldwide production of crude oil of at least 500,000 barrels. Thus, affected oil companies are required to capitalize their G&G costs associated with successful exploration projects that result in the acquisition of property. Such companies can recover any G&G costs associated with abandoned property in the year of abandonment.

Effective date.—The provision is effective for G&G costs paid or incurred in taxable years beginning after August 8, 2005.

CONFERENCE AGREEMENT

The conference agreement extends the two-year amortization period for G&G costs to five years for certain major integrated oil companies. Under the conference agreement, the five-year amortization rule for G&G costs applies only to integrated oil companies that have an average daily worldwide production of crude oil of at least 500,000 barrels for the taxable year, gross receipts in excess of $1 billion in the last taxable year ending during calendar year 2005, and an ownership interest in a crude oil refiner of 15 percent or more.

Effective date.—The provision applies to amounts paid or incurred after the date of enactment.

13. Valuation of employee personal use of noncommercial aircraft (sec. 463 of the Senate amendment)

PRESENT LAW

Unless an exception applies, gross income includes compensation for services, including fees, commissions, fringe benefits, and similar items. In general, an employee or other service provider must include in gross income the amount by which the fair value of a fringe benefit exceeds the amount paid by the individual. Treasury regulations provide rules regarding the valuation of fringe benefits, including flights on an employer-provided aircraft.[494] In general, the value of a non-commercial flight is determined under the base aircraft valuation formula, also known as the Standard Industry Fare Level formula or "SIFL".[495] If the SIFL valuation rules do not apply, the value of a flight on a company-provided aircraft is generally equal to the amount that an individual would have to pay in an arm's-length transaction to charter the same or a comparable aircraft for that period for the same or a comparable flight.[496]

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, for purposes of income inclusion, the value of any employee personal use of noncommercial aircraft is equal to the excess of (1) the greater of the fair market value of such use or actual cost of such use (including all fixed and variable costs), over (2) the amount paid by or on behalf of the employee for such use. Thus, the SIFL valuation rules may no longer be used to determine the value of such use.

Effective date.—The provision applies to use after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

14. Application of Foreign Investment in Real Property Tax Act ("FIRPTA") to Regulated Investment Companies ("RICs") (sec. 464 of the Senate amendment and sec. 897(h)(4) of the Code)

In general

A nonresident alien individual or foreign corporation is taxable on its taxable income which is effectively connected with the conduct of a trade or business within the United States, at the income tax rates applicable to U.S. persons. A nonresident alien individual is taxed (at a 30-percent rate) on gains, derived from sources within the United States, from the sale or exchange of capital assets if the individual is present in the United States for 183 days or more during the taxable year.

In addition, the Foreign Investment in Real Property Tax Act (FIRPTA)[497] generally treats a nonresident alien individual or foreign corporation's gain or loss from the disposition of a U.S. real property interest (USRPI) as income that is effectively connected with a U.S. trade or business, and thus taxable at the income tax rates applicable to U.S. persons, including the rates for net capital gain. A foreign investor subject to tax on this income is required to file a U.S. income tax return under the normal rules relating to receipt of income effectively connected with a U.S. trade or business.

The payor of FIRPTA effectively connected income to a foreign person is generally required to withhold U.S. tax from the payment. Withholding is generally 10 percent of the sales price in the case of a direct sale by the foreign person of a USRPI, and 35 percent of the amount of a distribution to a foreign person of proceeds attributable to such sales from an entity such as a partnership.[498] The foreign person can request a refund with its U.S. tax return, if appropriate based on that person's total U.S. effectively connected income and deductions (if any) for the taxable year.

USRPIs include interests in real property located in the United States or the U.S. Virgin Islands, and stock of a domestic U.S. real property holding company (USRPHC), generally defined as any corporation, unless the taxpayer established that the fair market value of its U.S. real property interests is less than 50 percent of the combined fair market value of all its real property interests (U.S. and worldwide) and of all its assets used or held for use in a trade or business.[499] However, any class of stock that is regularly traded on an established securities market located in the U.S. is treated as a U.S. real property interest only if the seller held more than 5 percent of the stock at any time during the 5-year period ending on the date of disposition of the stock.[500]

Special rules for certain investment entities

Real estate investment trusts and regulated investment companies are generally passive investment entities. They are organized as U.S. domestic entities and are taxed as U.S. domestic corporations. However, because of their special status, they are entitled to deduct amounts distributed to shareholders and, in some cases, to allow the shareholders to characterize these amounts based on the type of income the REIT or RIC received. Among numerous other requirements for qualification as a REIT or RIC, the entity is required to distribute to shareholders at least 90 percent of its income (excluding net capital gain) annually.[501] A REIT or RIC may designate a capital gain dividend to its shareholders, who then treat the amount designated as capital gain.[502] A REIT or RIC is taxed at regular corporate rates on undistributed income; but the combination of the requirement to distribute income other than net capital gain, plus the ability to declare a capital gain dividend and avoid corporate level tax on such income, can result in little, if any, corporate level tax paid by a REIT or RIC. Instead, the shareholder-level tax on distributions is the principal tax paid with respect to income of these entities. The requirements for REIT eligibility include primary investment in real estate assets (which assets can include mortgages). The requirements for RIC eligibility include primary investment in stocks and securities (which can include stock of REITs or of other RICs).

FIRPTA contains special rules for real estate investment trusts (REITs) and regulated investment companies (RICs).[503]

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[493] Sec. 167(h).

[494] Treas. Reg. sec. 1.61-21.

[495] Treas. Reg. sec. 1.61-21(g).

[496] Treas. Reg. sec. 1.61-21(b)(6).

[497] FIRPTA is codified in section 897 of the Code.

[498] Sec. 1445 and Treasury regulations thereunder. The Treasury department is authorized to issue regulations that would reduce the 35 percent withholding on distributions to 15 percent during the time that the maximum income tax rate on dividends and capital gains of U.S. persons is 15 percent. Section 1445 statutorily requires the 10 percent withholding by the purchaser of a USRPI and the 35 percent withholding (or less if directed by Treasury) on certain distributions by partnerships, trusts, and estates, among other situations. Treasury regulations prescribe the 35 percent withholding requirement for distributions by REITs to foreign shareholders. Treas. Reg. sec. 1.1445-8. No regulations have been issued relating specifically to RIC distributions, which first became subject to FIRPTA in 2005.

[499] Sec. 897(c)(2).

[500] Sec. 897(c)(3).

[501] Secs. 852(a)(1) and 852(b)(2)(A); 857(a)(1).

[502] Secs. 852(b)(3); 857(b)(3).

[503] Sec. 897(h).

Stock of a "domestically controlled" REIT is not a USRPI. The term "domestically controlled" is defined to mean that less than 50 percent in value of the REIT has been owned by non-U.S. shareholders during the 5-year period ending on the date of disposition.[504] For 2005, 2006, and 2007, a similar exception applies to RIC stock. Thus, stock of a domestically controlled REIT or RIC can be sold without FIRPTA consequences. This exception applies regardless of whether the sale of stock is made directly by a foreign person, or by a REIT or RIC whose distributions to foreign persons of gain attributable to the sale of USRPI's would be subject to FIRPTA as described below.

A distribution by a REIT to a foreign shareholder, to the extent attributable to gain from the REIT's sale or exchange of USRPIs, is generally treated as FIRPTA gain to the shareholder. An exception enacted in 2004 applies if the distribution is made on a class of REIT stock that is regularly traded on an established securities market located in the United States and the foreign shareholder has not held more than 5 percent of the class of stock at any time during the one-year period ending on the date of the distribution.[505] Where the exception applies, the distribution to the foreign shareholder is treated as the distribution of an ordinary dividend (rather than as a capital gain dividend), subject to 30-percent (or lower treaty rate) withholding.[506]

Prior to 2005, distributions by RICs to foreign shareholders, to the extent attributable to the RIC's sale or exchange of USRPIs, were not treated as FIRPTA gain. If distributions were attributable to long-term capital gains, the RIC could designate the distributions as long-term capital gain dividends that would not be subject to any tax to the foreign shareholder, rather than as a regular dividends subject to 30-percent (or lower treaty rate) withholding.[507] For 2005, 2006, and 2007, RICs are subject to the rule that had applied to REITs prior to 2005, i.e., any distribution to a foreign shareholder attributable to gain from the RIC's sale of a USRPI is characterized as FIRPTA gain, without any exceptions.[508]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provision provides that distributions by a RIC to foreign shareholders of amounts attributable to the sale of USRPIs are not treated as FIRPTA income unless the RIC itself is a U.S. real property holding corporation (i.e. 50 percent or more of its value is represented by its U.S. real property interests, including investments in U.S. real property holding corporations). In determining whether a RIC is a real property holding company for this purpose, a special rule applies that requires the RIC to include as U.S. real property interests its holdings of RIC or REIT stock if such RIC or REIT is a U.S. real property holding corporation, even if such stock is regularly traded on an established securities market and even if the RIC owns less than 5 percent of such stock. Another special rule requires the RIC to include as U.S. real property interests its interests in any domestically controlled RIC or REIT that is a U.S. real property holding corporation.

Effective date.—The provision applies to distributions with respect to taxable years beginning after December 31, 2004.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision with a clarification to the effective date. Under the clarification, the provision takes effect as if included in the provisions of section 411 of the American Jobs Creation Act of 2004 to which it relates.

15. Treatment of REIT and RIC distributions attributable to FIRPTA gains (secs. 465 and 466 of the Senate amendment and secs. 897, 852, and 871 of the Code)

PRESENT LAW

General treatment of U.S.-source income of foreign investors

Fixed and determinable annual and periodical income

The United States generally imposes a flat 30-percent tax, collected by withholding, on the gross amount of U.S.-source investment income payments, such as interest, dividends, rents, royalties and similar types of fixed and determinable annual and periodical income, to nonresident alien individuals and foreign corporations ("foreign persons").[509] Under treaties, the United States may reduce or eliminate such taxes.

Dividends

Even taking into account U.S. treaties, the tax on a dividend generally is not entirely eliminated. Instead, U.S.-source portfolio investment dividends received by foreign persons generally are subject to U.S. withholding tax at a rate of at least 15 percent.

Interest

Although payments of U.S.-source interest that is not effectively connected with a U.S. trade or business generally are subject to the 30-percent withholding tax, there are exceptions to that rule. For example, interest from certain deposits with banks and other financial institutions is exempt from tax.[510] Original issue discount on obligations maturing in 183 days or less from the date of original issue (without regard to the period held by the taxpayer) is also exempt from tax.[511] An additional exception is provided for certain interest paid on portfolio obligations.[512] Such "portfolio interest" generally is defined as any U.S.-source interest (including original issue discount), not effectively connected with the conduct of a U.S. trade or business, (i) on an obligation that satisfies certain registration requirements or specified exceptions thereto (i.e., the obligation is "foreign targeted"), and (ii) that is not received by a 10-percent shareholder.[513] With respect to a registered obligation, a statement that the beneficial owner is not a U.S. person is required.[514] This exception is not available for any interest received either by a bank on a loan extended in the ordinary course of its business (except in the case of interest paid on an obligation of the United States), or by a controlled foreign corporation from a related person.[515] Moreover, this exception is not available for certain contingent interest payments.[516] For 2005, 2006 and 2007, a regulated investment company ("RIC") may designate certain distributions to foreign shareholders that are attributable to the RIC's qualified interest income as non-taxable interest distributions to such foreign persons.[517]

Capital gains

A foreign person generally is not subject to U.S. tax on capital gain, including gain realized on the disposition of stock or securities issued by a U.S. person, unless the gain is effectively connected with the conduct of a trade or business in the United States or such person is an individual present in the United States for a period or periods aggregating 183 days or more during the taxable year.[518] A regulated investment company (RIC) can generally designate dividends to foreign persons that are attributable to the RIC's long term capital gain as a long-term gain dividends that are not subject to withholding.[519] For 2005, 2006 and 2007, RICs may also designate short-term capital gain dividends.[520]

For the years 2005, 2006 and 2007, RIC capital gain dividends that are attributable to the sale of U.S. real property interests (which can include stock of companies that are U.S. real property holding companies) are subject to special rules described below.

Real estate investment trusts (REITs) can also designate long-term capital gain dividends to shareholders; but when made to a foreign person such distributions attributable to the sale of U.S. real property interests are also subject to the special rules described below.

Foreign Investment in Real Property Tax Act ("FIRPTA")

Unlike most other U.S. source capital gains, which are generally not taxed to a foreign investor, the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) subjects gain or loss of a foreign person from the disposition of a U.S. real property interest (USRPI) to tax as if the taxpayer were engaged in a trade or business within the United States and the gain or loss were effectively connected with such trade or business.[521] In addition to an interest in real property located in the United States or the Virgin Islands, USRPIs include (among other things) any interest in a domestic corporation unless the taxpayer establishes that the corporation was not, during a five-year period ending on the date of the disposition of the interest, a U.S. real property holding corporation (which is defined generally to mean any corporation the fair market value of whose U.S. real property interests equals or exceeds 50 percent of the sum of the fair market values of its real property interests and any other of its assets used or held for use in a trade or business).

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[504] Sec. 897(h)(2) and (h)(4)(B).

[505] This exception, effective beginning in 2005, was added by section 418 of the American Jobs Creation Act of 2004 ("AJCA"), Pub. L. No. 108-357, and modified by section 403(p) of the Tax Technical Corrections Act of 2005.

[506] Sec. 857(b)(3)(F).

[507] Sec. 852(b)(3)(C); Treas. Reg. sec. 1.1441-3(c)(2)(D).

[508] This requirement for RICs was added by section 411 of the American Jobs Creation Act of 2004 ("AJCA"), in connection with the enactment of other rules that allow RICs to identify certain types of distributions to foreign shareholders, attributable to the RIC's receipt of short-term capital gains or interest income, as distributions to such shareholders of such short-term gains or interest income and thus not taxed to the foreign shareholders, rather than as regular dividends that would be subject to withholding. See Secs. 871(k), 881(e), 1441(c)(12) and 1442(a). All these rules are scheduled to expire at the end of 2007, as is the rule subjecting to FIRPTA all distributions of RIC gain attributable to sales of U.S. real property interests and the rule excepting from FIRPTA a foreign person's sale of stock of a "domestically controlled" RIC.

[509] Secs. 871(a), 881, 1441, and 1442.

[510] Secs. 871(i)(2)(A) and 881(d).

[511] Sec. 871(g).

[512] Secs. 871(h) and 881(c).

[513] Secs. 871(h)(3) and 881(c)(3).

[514] Secs. 871(h)(2), (5) and 881(c)(2).

[515] Sec. 881(c)(3).

[516] Secs. 871(h)(4) and 881(c)(4).

[517] This interest distribution rule was added by section 411 of the American Jobs Creation Act of 2004 ("AJCA"), Pub. L. No. 108-357.

[518] Secs. 871(a)(2) and 881.

[519] Treas. Reg. sec. 1.1441-3(c)(2)(D).

[520] This short-term gain distribution rule was added by section 411 of AJCA.

[521] Sec. 897.

Distributions by a REIT to its foreign shareholders attributable to the sale of USRPI's are generally treated as income from the sale of USRPIs.[522] Treasury regulations require the REIT to withhold at 35 percent on such a distribution.[523] However, there is an exception for distributions by a REIT with respect to stock of the REIT that is regularly traded on an established securities market located in the U.S., to a foreign shareholder that has not held more than 5 percent of the stock of the REIT for the one year period ending with the date of the distribution.[524] In such cases, the REIT and the shareholder treat the distribution to a foreign shareholder as the distribution of an ordinary dividend,[525] subject to the 30-percent (or lower treaty rate) withholding applicable to dividends.

For 2005, 2006, and 2007, any RIC distribution to a foreign shareholder attributable to the sale of USRPIs is treated as FIRPTA income, without any exceptions.[526] However, no Treasury regulations have been issued addressing withholding obligations with respect to such distributions.

A more complete description of the provisions of FIRPTA and the special rules under FIRPTA that apply to RICs and REITs is contained under "Present Law" for the provision "Application of Foreign Investors in Real Property Tax Act (FIRPTA) to Regulated Investment Companies (RICS).

Although the law thus provides rules for taxing foreign persons under FIRPTA on distributions of gain from the sale of USRPIs by RICs or REITs, some taxpayers may be taking the position that if a foreign person invests in a RIC or REIT that, in turn, invests in a lower-tier RIC or REIT that is the entity that disposes of USRPIs and distributes the proceeds, then the proceeds from such disposition by the lower-tier RIC or REIT cease to be FIRPTA income when distributed to the upper-tier RIC or REIT (which is not itself a foreign person), and can thereafter be distributed by that latter entity to its foreign shareholders as non-FIRPTA income of such RIC or REIT, rather than continuing to be categorized as FIRPTA income. Furthermore, RICs may take the position that in the absence of regulations or a specific statutory rule addressing the withholding rules for FIRPTA capital gain that is treated as effectively connected with a U.S. trade or business, such gain should be considered capital gain for which no withholding is required.

In addition, some foreign persons may be attempting to avoid FIRPTA tax on a distribution from a RIC or a REIT, by selling the RIC or REIT stock shortly before the distribution and buying back the stock shortly after the distribution. If the stock is not a U.S. real property interest in the hands of the foreign seller, that person would take the position that the gain on the sale of the stock is capital gain not subject to U.S. tax. Stock of a RIC or REIT that is "domestically controlled" is not a U.S. real property interest.[527]

If the stock is a USRPI in the hands of the foreign person, the transferee generally is required to withhold 10 percent of the gross sales price under general FIRPTA withholding rules.[528]

HOUSE BILL

No provision.

SENATE AMENDMENT

The first part of the Senate amendment provision requires any distribution that is made by a RIC or a REIT that would otherwise be subject to FIRPTA because the distribution is attributable to the disposition of a U.S. real property interest (USRPI) to retain its character as FIRPTA income when distributed to any other RIC or REIT, and to be treated as if it were from the disposition of a USRPI by that other RIC or REIT. Under the provision, a RIC continues to be subject to FIRPTA, even after December 31, 2007, in any case in which a REIT makes a distribution to the RIC that is attributable to gain from the sale of U.S. real property interests.

The second part of the Senate amendment provision provides that a distribution by a RIC to a foreign shareholder, or to a RIC or REIT shareholder, attributable to sales of USRPIs is not treated as gain from the sale of a USRPI by that shareholder if the distribution is made with respect to a class of RIC stock that is regularly traded on an established securities market[529] located in the U.S. and if such shareholder did not hold more than 5 percent of such stock within the one year period ending on the date of the distribution. Such distributions instead are treated as dividend distributions.[530]

The third part of the Senate amendment provision requires a foreign person that disposes of stock of a RIC or REIT during the 30-day period preceding a distribution on that stock that would have been treated as a distribution from the disposition of a USRPI, that acquires an identical stock interest during the 60 day period beginning the first day of such 30-day period preceding the distribution, and that does not in fact receive the distribution in a manner that subjects the person to tax under FIRPTA, to pay FIRPTA tax on an amount equal to the amount of the distribution that was not taxed under FIRPTA as a result of the disposition. A foreign person is treated as having acquired any interest acquired by any person treated as related to that foreign first person under section 465(b)(3)(C).[531]

This third part of the Senate amendment provision applies only in the case of a shareholder that would have been treated as receiving FIRPTA income on the distribution if that shareholder had in fact received the distribution, but that would not have been treated as receiving FIRPTA income if the form of the disposition transaction were respected. This category of persons consists of persons that are shareholders in a domestically controlled RIC or REIT (since sales of shares of such an entity are not subject to FIRPTA tax), but does not include a person who sells stock that is regularly traded on an established securities market located in the U.S. and who did not own more than five percent of such stock during the one year period ending on the date of the distribution (since such a person would not have been subject to FIRPTA tax under present law for REITs and under the second part of the Senate amendment provision for RICs, *supra.*, if that person had received the dividend instead of disposing of the stock).

Notwithstanding the recharacterization of the disposition as involving a FIRPTA distribution to the foreign person, no withholding on disposition proceeds to the foreign person on the disposition of such stock would be required. No inference is intended as to what situations under present law would or would not be respected as dispositions.

Effective dates.—The first part of the Senate amendment provision is effective for distributions with respect to taxable years of a RIC or REIT beginning after the date of enactment.

The second part of the Senate amendment provision applies to dividends with respect to taxable years of regulated investment companies beginning after December 31, 2004.

The third part of the Senate amendment provision is effective for dispositions after December 31, 2005, in taxable years ending after that date.

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[522] Sec. 897(h)(1).

[523] Treas. Reg. sec. 1.1445-8.

[524] Sec. 897(h)(1)(second sentence).

[525] Sec. 857(b)(3)(F).

[526] Sec. 897(h)(1)

[527] Sec. 897(g)(3). A RIC or REIT is "domestically controlled" if less than 50 percent in value of the entity's stock is held by foreign persons. RIC stock ceases to be eligible for this exception as of the end of 2007. Distributions by a domestically controlled RIC or REIT, if attributable to the sale of U.S. real property interests, are not exempt from FIRPTA by reason of such domestic control. A foreign person that would be subject to FIRPTA on receipt of a distribution from such an entity might sell its stock before the distribution and repurchase stock after the distribution in an attempt to avoid FIRPTA consequences.

Under a different exception from FIRPTA, applicable to stock of all entities, neither RIC nor REIT stock is a U.S. real property interest if the RIC or REIT stock is regularly traded on an established securities market located in the United States and if the stock sale is made by a foreign shareholder that has not owned more than five percent of the stock during the five years ending with the date of the sale. Sec. 897(c)(3). Distributions by a REIT to a foreign person, attributable to the sale of U.S. real property interests, are also not subject to FIRPTA if made with respect to stock that is regularly traded on an established securities market located in the United States and made to a foreign person that has not held more than five percent of the REIT stock for the one-year period ending on the date of distribution. (Sec. 897(h)(1), second sentence.) Thus, any foreign shareholder of such a regularly traded REIT that would be exempt from FIRPTA on a sale of the REIT stock immediately before a distribution would also generally be exempt from FIRPTA on a distribution from the REIT if such shareholder held the stock through the date of the distribution, due to the holding period requirements. Distributions that are not subject to FIRPTA under this five percent exception are recharacterized as ordinary dividends and thus would normally be subject to ordinary dividend withholding rules. Secs. 857(b)(3)(F) and 1441.

[528] Secs. 1445(a) and 1445(e).

[529] It is intended that the rules generally applicable for this purpose under section 897 also apply under the provision in determining whether a class of interests is regularly traded on an established securities market located in the United States. For example, at the present time the rules currently in force for this purpose include Temp. Reg. sec. 1.897-9T(d)(2).

[530] The provision treats such distributions as ordinary dividend distributions rather than as distributions of long term capital gain. This rule is the same as the present law rule for publicly traded REITs making a distribution to a foreign shareholder. In addition, under the immediately preceding provision (sec. 464) of the Senate amendment, for the years 2005, 2006 and 2007 that RICs are subject to FIRPTA, a RIC can make distributions from sales of USRPIs to shareholders who do not meet this rule, and such distributions will be treated not as dividends but as non-taxable long- or short-term capital gain, if so designated by the RIC, as long as the RIC itself is not a USRPHC after applying the special rules for counting the RIC's ownership of REIT or other RIC stock.

[531] These relationships generally include persons that are engaged in trades or businesses under common control (generally, a more than 50 percent relationship) and also include persons that have a more than 10 percent relationship, such as (for example) a corporation and an individual owning more than 10 percent of the corporation; or a corporation and a partnership if the same persons own more than 10 percent of the interests in each.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision with modifications and clarifications.

The conference agreement provides that the second part of the Senate amendment provision, treating certain distributions attributable to sales of U.S. real property interests as dividends subject to dividend withholding, applies when the distribution is made to a foreign shareholder of a RIC or REIT, but does not apply when the distribution is made to another RIC or a REIT. In such cases, the character of the distribution as FIRPTA gain is retained and must be tracked by the recipient RIC or REIT, but the distribution itself does not become dividend income in the hands of such RIC or REIT. Therefore, such recipient RIC or REIT can in turn distribute amounts attributable to that distribution (attributable to the sale of USRPIs) to its U.S shareholders as capital gain. However, if any recipient RIC or REIT in turn distributes to a foreign shareholder amounts that are attributable to a sale by a lower tier RIC or REIT of USRPIs, such amounts distributed to a foreign shareholder shall be treated as FIRPTA gain or as dividend income, according to whether or not such distribution to such foreign shareholder qualifies for dividend treatment.

The conference agreement amends section 1445 so that it explicitly requires withholding on RIC and REIT distributions to foreign persons, attributable to the sale of USRPIs, at 35 percent, or, to the extent provided by regulations, at 15 percent.[532]

The conference agreement clarifies that the treatment of a RIC as a qualified investment entity continues after December 2007 with respect to a RIC that receives a distribution from a REIT, not only for purposes of the distribution rules, including withholding on distributions to foreign shareholders, but also for purposes of the new "wash sale" rules of the provision.

The conference agreement modifies the new "wash sale" rule. The period within which the basic "wash-sale" rule applies is changed from 60 days to 61 days.[533] The definition of "applicable wash sales transaction" is expanded to cover not only situations in which the taxpayer acquires a substantially identical interest, but also situations in which the taxpayer enters into a contract or option to acquire such an interest. The related party rule is also modified to apply the 50-percent relationship test under section 267(b) and 707(b)(1) rather than a 10-percent test.

In addition, treatment of a foreign shareholder of a RIC or REIT as if it had received a FIRPTA distribution that is treated as U.S. effectively connected income is extended to transactions that meet the definition of "substitute dividend payments" provided for purposes of section 861 and that would be properly treated by the foreign taxpayer as receipt of a distribution of FIRPTA gain if the distribution from the RIC or REIT had itself been received by the taxpayer, but that, by virtue of the substitute dividend payment, is not so treated but for the provision,[534] as well as to other similar arrangements to which Treasury may extend the rules.

Effective date.—The first part of the conference agreement provision, relating to distributions generally, applies to distributions with respect to taxable years of RICs and REITs beginning after December 31, 2005, except that no withholding is required under sections 1441, 1442, or 1445 with respect to any distribution before the date of enactment if such amount was not otherwise required to be withheld under any such section as in affect before the amendments made by the conference agreement.

The second part of the conference agreement, relating to the "wash sale" and substitute dividend payment transactions, is applicable to distributions and substitute dividend payments occurring on or after the 30th day following the date of enactment.

No inference is intended regarding the treatment under present law of any transactions addressed by the conference agreement.

16. Credit to holders of rural renaissance bonds (sec. 469 of the Senate amendment)

PRESENT LAW

In general

Interest on bonds issued by State and local governments generally is excluded from gross income for Federal income tax purposes if the proceeds of such bonds are used to finance direct activities of governmental units or if such bonds are repaid with revenues of governmental units. These bonds are called "governmental bonds." Interest on State or local government bonds issued to finance activities of private persons is taxable unless a specific exception applies. These bonds are called "private activity bonds." The term "private person" generally includes the Federal Government and all other individuals and entities other than States or local governments.

Private activity bonds are eligible for tax-exemption if issued for certain purposes permitted by the Code ("qualified private activity bonds"). Generally, qualified private activity bonds are subject to restrictions on the use of proceeds for the acquisition of land and existing property, use of proceeds to finance certain specified facilities (e.g., airplanes, skyboxes, other luxury boxes, health club facilities, gambling facilities, and liquor stores), and use of proceeds to pay costs of issuance (e.g., bond counsel and underwriter fees). Small issue and redevelopment also are subject to additional restrictions on the use of proceeds for certain facilities (e.g., golf courses and massage parlors). Moreover, the term of qualified private activity bonds generally may not exceed 120 percent of the economic life of the property being financed and certain public approval requirements (similar to requirements that typically apply under State law to issuance of governmental debt) apply under Federal law to issuance of private activity bonds.

Tax-credit bonds

As an alternative to traditional tax-exempt bonds, States and local governments may issue tax-credit bonds for certain purposes. Rather than receiving interest payments, a taxpayer holding a tax-credit bond on an allowance date is entitled to a credit. Generally, the credit amount is includible in gross income (as if it were a taxable interest payment on the bond), and the credit may be claimed against regular income tax and alternative minimum tax liability. The following types of tax-credit bonds may be issued under present law: "qualified zone academy bonds," which are bonds issued for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other personnel at certain school facilities; "clean renewable energy bonds," which are bonds issued to finance for facilities that would qualify for the tax credit under section 45 without regard to the placed in service date requirements of that section; and "gulf tax credit bonds," which are bonds issued by the States of Louisiana, Mississippi, and Alabama to pay principal, interest, or premium on certain prior bonds.

Arbitrage restrictions on tax-exempt bonds

To prevent States and local governments from issuing more tax-exempt bonds than is necessary for the activity being financed or from issuing such bonds earlier than needed for the purpose of the borrowing, the Code includes arbitrage restrictions limiting the ability to profit from investment of tax-exempt bond proceeds. In general, arbitrage profits may be earned only during specified periods (e.g., defined "temporary periods" before funds are needed for the purpose of the borrowing) or on specified types of investments (e.g., "reasonably required reserve or replacement funds"). Subject to limited exceptions, profits that are earned during these periods or on such investments must be rebated to the Federal Government. Governmental bonds are subject to less restrictive arbitrage rules than most private activity bonds.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment creates a new category of tax-credit bonds to finance certain projects located in rural areas ("Rural Renaissance Bonds"). As with present law tax-credit bonds, the taxpayer holding Rural Renaissance Bonds on the allowance date would be entitled to a tax credit. The amount of the credit would be determined by multiplying the bond's credit rate by the face amount on the holder's bond. The credit would be includible in gross income (as if it were an interest payment on the bond) and could be claimed against regular income tax liability and alternative minimum tax liability.

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[532] This provision is similar to present law section 1445(c)(1). The regulatory authority to reduce the withholding to 15 percent sunsets in accordance with the same sunset that applies to section 1445(c)(1), at the time that the present law maximum 15 percent rate on dividends is scheduled to sunset.

Treasury regulations under section 1445 already impose FIRPTA withholding on REITs under present law. Treasury has not yet written regulations applicable to RICs. No inference is intended regarding the existing Treasury regulations in force under section 1445 with respect to REITs.

[533] Thus the period includes the 30 days before and the 30 days after the ex-dividend date, in addition to the ex-dividend date itself.

[534] The conference agreement adopts the definition of "substitute dividend payment" used for purposes of section 861, which definition applies to determine substitute dividend payments under the conference agreement provision, even though the recipient may not be an individual and even though the underlying payment would not have been treated as a dividend to the recipient but as a distribution of FIRPTA gain. Treasury regulations section 1.861-3(a)(6) defines a "substitute dividend payment" as a payment, made to the transferor of a security in a securities lending transaction or a sale-repurchase transaction, of an amount equivalent to a dividend distribution which the owner of the transferred security is entitled to receive during the term of the transaction. The regulation applies to amounts received or accrued by the taxpayer. The regulation defines a securities lending transaction as a transfer of one or more securities that is described in section 1058(a) or a substantially similar transaction. The regulation defines a sale-repurchase transaction as an agreement under which a person transfers a security in exchange for cash and simultaneously agrees to receive substantially identical securities from the transferee in the future in exchange for cash. Under the regulation, a "substitute dividend payment" is generally sourced and in many instances characterized in the same manner as the underlying distribution with respect to the transferred security.

Under the Senate amendment, Rural Renaissance Bonds are defined as any bonds issued by a qualified issuer if, in addition to the requirements discussed below, 95 percent or more of the proceeds of such bonds are used to finance capital expenditures incurred for one or more qualified projects. "Qualified projects" include any of the following projects located in a rural area: (i) a water or waste treatment project, (ii) an affordable housing project, (iii) a community facility project, including hospitals, fire and police stations, and nursing and assisted-living facilities, (iv) a value-added agriculture or renewable energy facility project for agricultural producers or farmer-owned entities, including any project to promote the production, processing, or retail sale of ethanol (including fuel at least 85 percent of the volume of which consists of ethanol), bio-diesel, animal waste, biomass, raw commodities, or wind as a fuel, (v) a distance learning or telemedicine project, (vi) a rural utility infrastructure project, including any electric or telephone system, (vii) a project to expand broadband technology, (viii) a rural teleworks project, and (ix) any of the previously described projects if carried out by the Delta Regional Authority. A "rural area" means any area other than a city or town which has a population of greater than 50,000 inhabitants or the urbanized area contiguous and adjacent to such a city or town.

For purposes of the provision, the term "qualified issuer" means any not-for-profit cooperative lender which, as of the date of enactment of this provision, has received a guarantee under the Rural Electrification Act. A qualified issuer must also meet a user fee requirement during the period any Rural Renaissance Bond issued by such qualified issuer is outstanding. The user fee requirement is met if the qualified issuer makes semi-annual grants for qualified projects equal to the outstanding principal of Rural Renaissance Bond issued by such issuer multiplied by one-half the rate on United States Treasury securities of the same maturity.

The Senate amendment imposes a maximum maturity limitation on Rural Renaissance Bonds. The maximum maturity is the term which the Secretary estimates will result in the present value of the obligation to repay the principal on any bonds being equal to 50 percent of the face amount of such bond. The provision also requires level amortization of Rural Renaissance Bonds during the period such bonds are outstanding.

To qualify as Rural Renaissance Bonds, the qualified issuer of such bonds must reasonably expect to and actually spend 95 percent or more of the proceeds of such bonds on qualified projects within the five-year period that begins on the date of issuance. To the extent less than 95 percent of the proceeds are used to finance qualified projects during the five-year spending period, bonds will continue to qualify as Rural Renaissance Bonds if unspent proceeds are used within 90 days from the end of such five-year period to redeem any "nonqualified bonds." For these purposes, the amount of nonqualified bonds is to be determined in the same manner as Treasury regulations under section 142. In addition, the provision provides that the five-year spending period may be extended by the Secretary upon the qualified issuer's request.

Under the provision, Rural Renaissance Bonds are subject to the arbitrage requirements of section 148 that apply to traditional tax-exempt bonds. Principles under section 148 and the regulations thereunder shall apply for purposes of determining the yield restriction and arbitrage rebate requirements applicable to Rural Renaissance Bonds. For example, for arbitrage purposes, the yield on an issue of Rural Renaissance Bonds is computed by taking into account all payments of interest, if any, on such bonds, i.e., whether the bonds are issued at par, premium, or discount. However, for purposes of determining yield, the amount of the credit allowed to a taxpayer holding Rural Renaissance Bonds is not treated as interest, although such credit amount is treated as interest income to the taxpayer.

Rural Renaissance Bonds must be designated as such by the qualified issuer and must be issued in registered form. The provision also requires issuers of Rural Renaissance Bonds to report issuance to the IRS in a manner similar to that required for tax-exempt bonds. There is a national limitation of $200 million of Rural Renaissance Bonds that the Secretary may allocate, in the aggregate, to qualified projects. The authority to issue Rural Renaissance Bonds expires December 31, 2009.

Effective date.—The provision is effective for bonds issued after the date of enactment and before January 1, 2010.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

17. Modify foreign tax credit rules for large integrated oil companies which are dual capacity taxpayers (sec. 470 of the Senate amendment and sec. 901 of the Code)

PRESENT LAW

U.S. persons are subject to U.S. income tax on their worldwide income. A credit against U.S. tax on foreign source income is allowed for foreign taxes that are paid or accrued.[535] In addition, a domestic corporation which owns 10 percent or more of the voting stock of a foreign corporation from which it receives dividends or with respect to which it is taxed under the rules of subpart F is deemed to have paid a portion of the foreign taxes of such foreign corporation.[536] The foreign tax credit is available only for foreign income, war profits, and excess profits taxes, and for certain taxes that qualify under section 903 as imposed "in lieu" of such taxes. Other foreign levies generally are treated as deductible expenses only.

The amount of foreign tax credits that a taxpayer may claim in a year is subject to a limitation that prevents taxpayers from using foreign tax credits to offset U.S. tax on U.S. source income. The foreign tax credit limitation is calculated separately for specific categories of income. The amount of creditable taxes paid or accrued (or deemed paid) in any taxable year which exceeds the foreign tax credit limitation is permitted to be carried back one year and carried forward 10 years.

Treasury regulations provide detailed rules for determining whether a foreign levy is a creditable income tax. A levy generally is a tax if it is a compulsory payment under the authority of a foreign country to levy taxes and is not compensation for a specific economic benefit provided by a foreign country. A taxpayer that is subject to a foreign levy and also receives a specific economic benefit from such country is considered a "dual capacity taxpayer."[537] Treasury regulations provide that the portion of a foreign levy paid by a dual capacity taxpayer that is considered a tax is determined based on all the facts and circumstances.[538] Alternatively, under a safe harbor provided in the regulations, the portion of a foreign levy paid by a dual capacity taxpayer that is creditable is determined based on the foreign country's generally imposed income tax or, if the foreign country has no generally imposed income tax, the U.S. tax.[539]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment denies the foreign tax credit with respect to all amounts paid or accrued (or deemed paid) to any foreign country or possession by a large integrated oil company which is a dual capacity taxpayer if the country or possession does not impose a generally applicable income tax. The provision modifies the safe harbor rule currently provided by Treasury Regulations. Under the provision, as under present law, a dual capacity taxpayer is a person who is subject to a levy in a foreign country or possession and also directly or indirectly receives (or will receive) a specific economic benefit (as determined in accordance with regulations) from such foreign country or possession. A generally applicable income tax is an income tax that is generally imposed on income derived from a trade or business conducted within that foreign country or possession (which may include taxes qualifying under section 903 as imposed in lieu of income taxes), provided that the tax has substantial application (by its terms and in practice) to persons who are not dual capacity taxpayers and to persons who are citizens or residents of the foreign country or possession.

If the country does impose a generally applicable income tax, the foreign tax credit is denied to the extent that such amounts exceed the amount (as determined under regulations) which is paid by the dual capacity taxpayer pursuant to such generally applicable income tax, or which would have been paid if such generally applicable income tax were applicable to the dual capacity taxpayer. Amounts not in excess of the amount calculated under the generally applicable income tax are subject to all other rules pertaining to foreign tax credits. Amounts for which the foreign tax credit is denied under the provision are not subject to carryback or carryforward, but could constitute deductible expenses if such amounts qualify under the relevant deduction provisions. The provision does not apply to the extent contrary to any treaty obligation of the United States.

The provision applies only to "large integrated oil companies." These are persons that meet all of the following requirements for a particular taxable year: (1) the person is a producer of crude oil; (2) the person has gross receipts in excess of one billion dollars; (3) the person or persons related to such person has an average daily worldwide production of crude oil of at least 500,000 barrels; and (4) either (a) the person or persons related to such person sells at retail oil or natural gas (excluding bulk sales of such items to commercial or industrial users), or any product derived from oil or natural gas (excluding bulk sales of aviation fuels to the Department of Defense), in an aggregate amount of five million dollars or greater, or (b) the person or persons related to such person engage in the refining of crude oil, if the aggregate average daily refinery runs for that taxable year exceeds 75,000 barrels. For purposes of requirement (4), a person is a related person with respect to another person if either one owns a five percent or greater interest in the other, or if a third person owns such an interest in both.

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[535] Sec. 901. Foreign taxes include taxes imposed by possessions.

[536] Secs. 902 and 960. Foreign corporations include corporations created or organized in possessions.

[537] Treas. Reg. sec. 1.901-2(a)(2)(ii)(A).

[538] Treas. Reg. sec. 1.901-2A(c)(2)(i).

[539] Treas. Reg. sec. 1.901-2A(e).

Effective date.—The provision applies to taxes paid or accrued in taxable years beginning after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

18. Disability preference program for tax collection contracts (sec. 471 of the Senate amendment)

PRESENT LAW

Under present law, the IRS may use private debt collection companies to locate and contact taxpayers owing outstanding tax liabilities of any type and to arrange payment of those taxes by the taxpayers.

There are several procedural conditions applicable to the use of private debt collection contracts. First, provisions of the Fair Debt Collection Practices Act apply to the private debt collection company. Second, taxpayer protections that are statutorily applicable to the IRS are also made statutorily applicable to the private sector debt collection companies. In addition, taxpayer protections that are statutorily applicable to IRS employees also are made statutorily applicable to employees of private sector debt collection companies. Third, subcontractors are prohibited from having contact with taxpayers, providing quality assurance services, and composing debt collection notices; any other service provided by a subcontractor must receive prior approval from the IRS.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that the IRS may not enter a contract with a private debt collection company after April 1, 2006, until the Secretary implements a qualified disability preference program. A qualified disability preference program is a program that requires qualified employers to receive not less than 10 percent of taxpayer accounts (based on dollar value) awarded to private debt collection companies. A qualified employer is an employer who, as of the date the private debt collection contract is awarded, employs not less than 50 severely disabled individuals or not less than 30 percent of such employer's employees are severely disabled. In addition, a qualified employer must agree that not more than 90 days after being awarded a private debt collection contract not less than 35 percent of the employees providing services under the private debt collection contract shall be severely disabled individuals and hired after the date the contract is awarded.

For purposes of the provision, a severely disabled individual means (i) a veteran of the United States armed forces with a disability of 50 percent or greater determined by law or the Secretary of Veterans Affairs to be service-connected or (ii) any individual who is a disabled beneficiary as defined by the Social Security Act or would be considered to such a disabled beneficiary but for having income or resources in excess of limits established by the Social Security Act.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

TITLE VI—SUNSET OF CERTAIN PROVISIONS AND AMENDMENTS

(Sec. 501 of the Senate amendment)

PRESENT LAW

Reconciliation is a procedure under the Congressional Budget Act of 1974 (the "Budget Act") by which Congress implements spending and tax policies contained in a budget resolution. The Budget Act contains numerous rules enforcing the scope of items permitted to be considered under the budget reconciliation process. One such rule, the so-called "Byrd rule," was incorporated into the Budget Act in 1990. The Byrd rule, named after its principal sponsor, Senator Robert C. Byrd, is contained in section 313 of the Budget Act. The Byrd rule generally permits members to raise a point of order against extraneous provisions (those which are unrelated to the goals of the reconciliation process) from either a reconciliation bill or a conference report on such bill.

Under the Byrd rule, a provision is considered to be extraneous if it falls under one or more of the following six definitions:

1. It does not produce a change in outlays or revenues;
2. It produces an outlay increase or revenue decrease when the instructed committee is not in compliance with its instructions;
3. It is outside of the jurisdiction of the committee that submitted the title or provision for inclusion in the reconciliation measure;
4. It produces a change in outlays or revenues which is merely incidental to the nonbudgetary components of the provision;
5. It would increase the deficit for a fiscal year beyond those covered by the reconciliation measure; and
6. It recommends changes in Social Security.

HOUSE BILL

No provision.

SENATE AMENDMENT

To ensure compliance with the Budget Act, the Senate amendment provides that the provisions of, and amendments made by, title I, subtitle A of title II, and title III of the Senate amendment shall not apply to taxable years beginning after September 30, 2010, and that the Code shall be applied and administered to such years as if those provisions and amendments had never been enacted.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

TITLE VII—FUNDING FOR MILITARY OPERATIONS

(Secs. 601 and 602 of the Senate amendment)

PRESENT LAW

Present law does not include the Senate amendment provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that there is to be appropriated, out of any money in the Treasury that is not otherwise appropriated, for the fiscal years 2006 through 2010, the following amounts, to be used for resetting and recapitalizing equipment being used in theaters of operations: (1) $16,900,000,000 for operations and maintenance of the Army; (2) $1,800,000,000 for aircraft for the Army; (3) $6,300,000,000 for other Army procurement; (4) $10,000,000,000 for wheeled and tracked combat vehicles for the Army; (5) $467,000,000 for the Army working capital fund; (6) $6,000,000 for missiles for the Department of Defense; (7) $100,000,000 for defense wide procurement for the Department of Defense; (8) $4,500,000,000 for Marine Corps procurement; (9) $1,500,000,000 for operations and maintenance of the Marine Corps; and (10) $2,700,000,000 for Navy aircraft procurement.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

TITLE VIII—OTHER REVENUE OFFSET PROVISIONS

A. IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE BY GOVERNMENT ENTITIES

(Sec. 3402 of the Code)

PRESENT LAW

Withholding requirements

Employers are required to withhold income tax on wages paid to employees, including wages and salaries of employees or elected officials of Federal, State, and local government units. Withholding rates vary depending on the amount of wages paid, the length of the payroll period, and the number of withholding allowances claimed by the employee.

Certain non-wage payments also are subject to mandatory or voluntary withholding. For example:

—Employers are required to withhold FICA and Railroad Retirement taxes from wages paid to their employees. Withholding rates are generally uniform.

—Payors of pensions are required to withhold from payments made to payees, unless the payee elects no withholding.[510] Withholding from periodic payments is at variable rates, parallel to income tax withholding from wages, whereas withholding from nonperiodic payments is at a flat 10-percent rate.

—A variety of payments (such as interest and dividends) are subject to backup withholding if the payee has not provided a valid taxpayer identification number (TIN). Withholding is at a flat rate based on the fourth lowest rate of tax applicable to single taxpayers.

—Certain gambling proceeds are subject to withholding. Withholding is at a flat rate based on the third lowest rate of tax applicable to single taxpayers.

—Voluntary withholding applies to certain Federal payments, such as Social Security payments. Withholding is at rates specified by Treasury regulations.

—Voluntary withholding applies to unemployment compensation benefits. Withholding is at a flat 10-percent rate.

—Foreign taxpayers are generally subject to withholding on certain U.S.-source income which is not effectively connected with the conduct of a U.S. trade or business. Withholding is at a flat 30-percent rate (14-percent for certain items of income).

Many payments, including payments made by government entities, are not subject to withholding under present law. For example, no tax is generally withheld from payments made to workers who are not classified as employees (i.e., independent contractors).

Information reporting

Present law imposes numerous information reporting requirements that enable the Internal Revenue Service ("IRS") to verify the correctness of taxpayers' returns. For example, every person engaged in a trade or business generally is required to file information returns for each calendar year for payments of $600 or more made in the course of the payor's trade or business. Special information reporting requirements exist for employers required to deduct and withhold tax from employees' income. In addition, any service recipient engaged in a trade or business and paying for services is required to make a return according to regulations when the aggregate of payments is $600 or more. Government entities are specifically required to make an information return, reporting certain payments to corporations as well as individuals. Moreover, the head of every Federal executive agency that enters into certain contracts must file an information return reporting the contractor's name, address, TIN, date of contract action, amount to be paid to the contractor, and any other information required by Forms 8596 (Information Return for Federal Contracts) and 8596A (Quarterly Transmittal of Information Returns for Federal Contracts).

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[510] Withholding at a rate of 20 percent is required in the case of an eligible rollover distribution that is not directly rolled over.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement requires withholding on certain payments to persons providing property or services made by the Government of the United States, every State, every political subdivision thereof, and every instrumentality of the foregoing (including multi-State agencies). The withholding requirement applies regardless of whether the government entity making such payment is the recipient of the property or services. Political subdivisions of States (or any instrumentality thereof) with less than $100 million of annual expenditures for property or services that would otherwise be subject to withholding under this provision are exempt from the withholding requirement.

The rate of withholding is three percent on all payments regardless of whether the payments are for property or services. Payments subject to withholding under the provision include any payment made in connection with a government voucher or certificate program which functions as a payment for property or services. For example, payments to a commodity producer under a government commodity support program are subject to the withholding requirement. The provision imposes information reporting requirements on the payments that are subject to withholding under the provision.

The provision does not apply to any payments made through a Federal, State, or local government public assistance or public welfare program for which eligibility is determined by a needs or income test. For example, payments under government programs providing food vouchers or medical assistance to low-income individuals are not subject to withholding under the provision. However, payments under government programs to provide health care or other services that are not based on the needs or income of the recipients are subject to withholding, including programs where eligibility is based on the age of the beneficiary.

The provision does not apply to payments of wages or to any other payment with respect to which mandatory (e.g., U.S.-source income of foreign taxpayers) or voluntary (e.g., unemployment benefits) withholding applies under present law. The provision does not exclude payments that are potentially subject to backup withholding under section 3406. If, however, payments are actually being withheld under backup withholding, withholding under the provision does not apply.

The provision also does not apply to the following: payments of interest; payments for real property; payments to tax-exempt entities or foreign governments; intra-governmental payments; payments made pursuant to a classified or confidential contract (as defined in section 6050M(e)(3)); and payments to government employees that are not otherwise excludable from the new withholding provision with respect to the employees' services as an employees.

Effective date.—The provision applies to payments made after December 31, 2010.

B. ELIMINATE INCOME LIMITATIONS ON ROTH IRA CONVERSIONS

(Sec. 408A of the Code)

PRESENT LAW

There are two general types of individual retirement arrangements ("IRAs"): traditional IRAs and Roth IRAs. The total amount that an individual may contribute to one or more IRAs for a year is generally limited to the lesser of: (1) a dollar amount ($4,000 for 2006); and (2) the amount of the individual's compensation that is includible in gross income for the year. In the case of an individual who has attained age 50 before the end of the year, the dollar amount is increased by an additional amount ($1,000 for 2006). In the case of a married couple, contributions can be made up to the dollar limit for each spouse if the combined compensation of the spouses that is includible in gross income is at least equal to the contributed amount. IRA contributions in excess of the applicable limit are generally subject to an excise tax of six percent per year until withdrawn.

Contributions to a traditional IRA may or may not be deductible. The extent to which contributions to a traditional IRA are deductible depends on whether or not the individual (or the individual's spouse) is an active participant in an employer-sponsored retirement plan and the taxpayer's AGI. An individual may deduct his or her contributions to a traditional IRA if neither the individual nor the individual's spouse is an active participant in an employer-sponsored retirement plan. If an individual or the individual's spouse is an active participant in an employer-sponsored retirement plan, the deduction is phased out for taxpayers with AGI over certain levels. To the extent an individual does not or cannot make deductible contributions, the individual may make nondeductible contributions to a traditional IRA, subject to the maximum contribution limit. Distributions from a traditional IRA are includible in gross income to the extent not attributable to a return of nondeductible contributions.

Individuals with adjusted gross income ("AGI") below certain levels may make contributions to a Roth IRA (up to the maximum IRA contribution limit). The maximum Roth IRA contribution is phased out between $150,000 to $160,000 of AGI in the case of married taxpayers filing a joint return and between $95,000 to $105,000 in the case of all other returns (except a separate return of a married individual).[541] Contributions to a Roth IRA are not deductible. Qualified distributions from a Roth IRA are excludable from gross income. Distributions from a Roth IRA that are not qualified distributions are includible in gross income to the extent attributable to earnings. In general, a qualified distribution is a distribution that is made on or after the individual attains age 59½, death, or disability or which is a qualified special purpose distribution. A distribution is not a qualified distribution if it is made within the five-taxable year period beginning with the taxable year for which an individual first made a contribution to a Roth IRA.

A taxpayer with AGI of $100,000 or less may convert all or a portion of a traditional IRA to a Roth IRA.[542] The amount converted is treated as a distribution from the traditional IRA for income tax purposes, except that the 10-percent additional tax on early withdrawals does not apply.

In the case of a distribution from a Roth IRA that is not a qualified distribution, certain ordering rules apply in determining the amount of the distribution that is includible in income. For this purpose, a distribution that is not a qualified distribution is treated as made in the following order: (1) regular Roth IRA contributions; (2) conversion contributions (on a first in, first out basis); and (3) earnings. To the extent a distribution is treated as made from a conversion contribution, it is treated as made first from the portion, if any, of the conversion contribution that was required to be included in income as a result of the conversion.

Includible amounts withdrawn from a traditional IRA or a Roth IRA before attainment of age 59½, death, or disability are subject to an additional 10-percent early withdrawal tax, unless an exception applies.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement eliminates the income limits on conversions of traditional IRAs to Roth IRAs.[543] Thus, taxpayers may make such conversions without regard to their AGI.

For conversions occurring in 2010, unless a taxpayer elects otherwise, the amount includible in gross income as a result of the conversion is included ratably in 2011 and 2012. That is, unless a taxpayer elects otherwise, none of the amount includible in gross income as a result of a conversion occurring in 2010 is included in income in 2010, and half of the income resulting from the conversion is includible in gross income in 2011 and half in 2012. However, income inclusion is accelerated if converted amounts are distributed before 2012.[544] In that case, the amount included in income in the year of the distribution is increased by the amount distributed, and the amount included in income in 2012 (or 2011 and 2012 in the case of a distribution in 2010) is the lesser of: (1) half of the amount includible in income as a result of the conversion; and (2) the remaining portion of such amount not already included in income. The following example illustrates the application of the accelerated inclusion rule.

Example.—Taxpayer A has a traditional IRA with a value of $100, consisting of deductible contributions and earnings. A does not have a Roth IRA. A converts the traditional IRA to a Roth IRA in 2010, and, as a result of the conversion, $100 is includible in gross income. Unless A elects otherwise, $50 of the income resulting from the conversion is included in income in 2011 and $50 in 2012. Later in 2010, A takes a $20 distribution, which is not a qualified distribution and all of which, under the ordering rules, is attributable to amounts includible in gross income as a result of the conversion. Under the accelerated inclusion rule, $20 is included in income in 2010. The amount included in income in 2011 is the lesser of (1) $50 (half of the income resulting from the conversion) or (2) $70 (the remaining income from the conversion), or $50. The amount included in income in 2012 is the lesser of (1) $50 (half of the income resulting from the conversion) or (2) $30 (the remaining income from the conversion, i.e., $100—$70 ($20 included in income in 2010 and $50 included in income in 2011)), or $30.

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[541] In the case of a married taxpayer filing a separate return, the phaseout range is $0 to $10,000 of AGI.

[542] Married taxpayers filing a separate return may not convert amounts in a traditional IRA into a Roth IRA.

[543] Under the conference agreement, married taxpayers filing a separate return may convert amounts in a traditional IRA into a Roth IRA.

[544] Whether a distribution consists of converted amounts is determined under the present-law ordering rules.

Effective date.---he provision is effective for taxable years beginning after December 31, 2009.

C. Repeal of FSC/ETI Binding Contract Relief

PRIOR AND PRESENT LAW

For most of the last two decades, the United States provided export-related tax benefits under the foreign sales corporation ("FSC") regime. In 2000, the World Trade Organization ("WTO") held that the FSC regime constituted a prohibited export subsidy under the relevant trade agreements. In response to this WTO finding, the United States repealed the FSC rules and enacted a new regime, under the FSC Repeal and Extraterritorial Income ("ETI") Exclusion Act of 2000. Transition rules delayed the repeal of the FSC rules and the effective date of ETI for transactions in the ordinary course of a trade or business occurring before January 1, 2002, or after December 31, 2001 pursuant to a binding contract between the taxpayer and an unrelated person which was in effect on September 30, 2000 and at all times thereafter (the "FSC binding contract relief").[545] In 2002, the WTO held that the ETI regime also constituted a prohibited export subsidy.

In general, under the ETI regime, an exclusion from gross income applied with respect to "extraterritorial income," which was a taxpayer's gross income attributable to "foreign trading gross receipts." This income was eligible for the exclusion to the extent that it was "qualifying foreign trade income." Qualifying foreign trade income was the amount of gross income that, if excluded, would result in a reduction of taxable income by the greatest of: (1) 1.2 percent of the foreign trading gross receipts derived by the taxpayer from the transaction; (2) 15 percent of the "foreign trade income" derived by the taxpayer from the transaction;[546] or (3) 30 percent of the "foreign sale and leasing income" derived by the taxpayer from the transaction.[547]

Foreign trading gross receipts were gross receipts derived from certain activities in connection with "qualifying foreign trade property" with respect to which certain economic processes had taken place outside of the United States. Specifically, the gross receipts must have been: (1) from the sale, exchange, or other disposition of qualifying foreign trade property; (2) from the lease or rental of qualifying foreign trade property for use by the lessee outside the United States; (3) for services which were related and subsidiary to the sale, exchange, disposition, lease, or rental of qualifying foreign trade property (as described above); (4) for engineering or architectural services for construction projects located outside the United States; or (5) for the performance of certain managerial services for unrelated persons. A taxpayer could elect to treat gross receipts from a transaction as not being foreign trading gross receipts. As a result of such an election, a taxpayer could use any related foreign tax credits in lieu of the exclusion.

Qualifying foreign trade property generally was property manufactured, produced, grown, or extracted within or outside the United States that was held primarily for sale, lease, or rental in the ordinary course of a trade or business for direct use, consumption, or disposition outside the United States. No more than 50 percent of the fair market value of such property could be attributable to the sum of: (1) the fair market value of articles manufactured outside the United States; and (2) the direct costs of labor performed outside the United States. With respect to property that was manufactured outside the United States, certain rules were provided to ensure consistent U.S. tax treatment with respect to manufacturers.

The American Jobs Creation Act of 2004 ("AJCA") repealed the ETI exclusion,[548] generally effective for transactions after December 31, 2004. AJCA provides a general transition rule under which taxpayers retain 100 percent of their ETI benefits for transactions prior to 2005, 80 percent of their otherwise-applicable ETI benefits for transactions during 2005, and 60 percent of their otherwise-applicable ETI benefits for transactions during 2006.

In addition to the general transition rule, AJCA provides that the ETI exclusion provisions remain in effect for transactions in the ordinary course of a trade or business if such transactions are pursuant to a binding contract[549] between the taxpayer and an unrelated person and such contract is in effect on September 17, 2003, and at all times thereafter (the "ETI binding contract relief").

In early 2006, the WTO Appellate Body held that the ETI general transition rule and the FSC and ETI binding contract relief measures are prohibited export subsidies.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement repeals both the FSC binding contract relief and the ETI binding contract relief. The general transition rule remains in effect.

Effective date.—The provision is effective for taxable years beginning after date of enactment.

D. Modification of Wage Limit for Purposes of Domestic Production Activities Deduction

(Sec. 199 of the Code)

PRESENT LAW

In general

Present law provides a deduction from taxable income (or, in the case of an individual, adjusted gross income) that is equal to a portion of the taxpayer's qualified production activities income. For taxable years beginning after 2009, the deduction is nine percent of such income. For taxable years beginning in 2005 and 2006, the deduction is three percent of income and, for taxable years beginning in 2007, 2008 and 2009, the deduction is six percent of income. However, the deduction for a taxable year is limited to 50 percent of the wages paid by the taxpayer during the calendar year that ends in such taxable year.[550]

Qualified production activities income

In general, "qualified production activities income" is equal to domestic production gross receipts (defined by section 199(c)(4)), reduced by the sum of: (1) the costs of goods sold that are allocable to such receipts; and (2) other expenses, losses, or deductions which are properly allocable to such receipts.

Application of wage limitation to passthrough entities

For purposes of applying the wage limitation, a shareholder, partner, or similar person who is allocated components of qualified production activities income from a passthrough entity also is treated as having been allocated wages from such entity in an amount that is equal to the lesser of: (1) such person's allocable share of wages, as determined under regulations prescribed by the Secretary; or (2) twice the qualified production activities income that actually is allocated to such person for the taxable year.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Under the conference agreement, the wage limitation is modified such that taxpayers may only include amounts which are properly allocable to domestic production gross receipts.[551] Thus, the wage limitation is 50 percent of those wages which are deducted in arriving at qualified production activities income.

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[545] An election was provided, however, under which taxpayers could adopt ETI at an earlier date for transactions after September 30, 2000. This election allowed the ETI rules to apply to transactions after September 30, 2000, including transactions occurring pursuant to pre-existing binding contracts.

[546] "Foreign trade income" was the taxable income of the taxpayer (determined without regard to the exclusion of qualifying foreign trade income) attributable to foreign trading gross receipts.

[547] "Foreign sale and leasing income" was the amount of the taxpayer's foreign trade income (with respect to a transaction) that was properly allocable to activities constituting foreign economic processes. Foreign sale and leasing income also included foreign trade income derived by the taxpayer in connection with the lease or rental of qualifying foreign trade property for use by the lessee outside the United States.

[548] Pub. L. No. 108–357, sec. 101. In addition, foreign corporations that elected to be treated for all Federal tax purposes as domestic corporations in order to facilitate the claiming of ETI benefits were allowed to revoke such elections within one year of the date of enactment of the repeal without recognition of gain or loss, subject to anti-abuse rules.

[549] This rule also applies to a purchase option, renewal option, or replacement option that is included in such contract. For this purpose, a replacement option is considered enforceable against a lessor notwithstanding the fact that a lessor retained approval of the replacement lessee.

[550] For purposes of the provision, "wages" include the sum of the amounts of wages as defined in section 3401(a) and elective deferrals that the taxpayer properly reports to the Social Security Administration with respect to the employment of employees of the taxpayer during the calendar year ending during the taxpayer's taxable year. Elective deferrals include elective deferrals as defined in section 402(g)(3), amounts deferred under section 457, and, for taxable years beginning after December 31, 2005, designated Roth contributions (as defined in section 402A).

[551] As under present law, the Secretary shall provide rules for the proper allocation of items (including wages) in determining qualified production activities income. Section 199(c)(2).

In addition, the conference agreement repeals the special limitation on wages treated as allocated to partners or shareholders of passthrough entities. Accordingly, for purposes of the wage limitation, a shareholder, partner, or similar person who is allocated components of qualified production activities income from a passthrough entity is treated as having been allocated wages from such entity in an amount that is equal to such person's allocable share of wages as determined under regulations prescribed by the Secretary, even if such amount is more than twice the qualified production activities income that actually is allocated to such person for the taxable year. The shareholder, partner, or similar person will then include in its wage limitation only those wages which are deducted in arriving at qualified production activities income.

Effective date.—The conference agreement is effective with respect to taxable years beginning after the date of enactment.

E. MODIFICATION OF EXCLUSION FOR CITIZENS LIVING ABROAD

(Sec. 911 of the Code)

PRESENT LAW

In general

U.S. citizens generally are subject to U.S. income tax on all their income, whether derived in the United States or elsewhere. A U.S. citizen who earns income in a foreign country also may be taxed on that income by the foreign country. The United States generally cedes the primary right to tax a U.S. citizen's non-U.S. source income to the foreign country in which the income is derived. This concession is effected by the allowance of a credit against the U.S. income tax imposed on foreign-source income for foreign taxes paid on that income. The amount of the credit for foreign income tax paid on foreign-source income generally is limited to the amount of U.S. tax otherwise owed on that income. Accordingly, if the amount of foreign tax paid on foreign-source income is less than the amount of U.S. tax owed on that income, a foreign tax credit generally is allowed in an amount not exceeding the amount of the foreign tax, and a residual U.S. tax liability remains.

A U.S. citizen or resident living abroad may be eligible to exclude from U.S. taxable income certain foreign earned income and foreign housing costs.[552] This exclusion applies regardless of whether any foreign tax is paid on the foreign earned income or housing costs. To qualify for these exclusions, an individual (a "qualified individual") must have his or her tax home in a foreign country and must be either (1) a U.S. citizen[553] who is a bona fide resident of a foreign country or countries for an uninterrupted period that includes an entire taxable year, or (2) a U.S. citizen or resident present in a foreign country or countries for at least 330 full days in any 12-consecutive-month period.

Exclusion for compensation

The foreign earned income exclusion generally is available for a qualified individual's non-U.S. source earned income attributable to personal services performed by that individual during the period of foreign residence or presence described above. The maximum exclusion amount for any calendar year is $80,000 in 2002 through 2007 and is indexed for inflation after 2007.

Exclusion for housing costs

A qualified individual is allowed an exclusion from gross income (or, as described below, a deduction) for certain foreign housing costs paid or incurred by or on behalf of the individual. The amount of this housing cost exclusion is equal to the excess of a taxpayer's "housing expenses" over a base housing amount. The term "housing expenses" means the reasonable expenses paid or incurred during the taxable year for a taxpayer's housing (and, if they live with the taxpayer, for the housing of the taxpayer's spouse and dependents) in a foreign country. The term includes expenses attributable to housing such as utilities and insurance, but it does not include separately deductible interest and taxes. If the taxpayer maintains a second household outside the United States for a spouse or dependents who do not reside with the taxpayer because of dangerous, unhealthful, or otherwise adverse living conditions, the housing expenses of the second household also are eligible for exclusion. The base housing amount above which costs are eligible for exclusion in a taxable year is 16 percent of the annual salary (computed on a daily basis) of a grade GS–14, step 1, U.S. government employee, multiplied by the number of days of foreign residence or presence (as described above) in the taxable year. For 2006 this salary is $77,793; the current base housing amount therefore is $12,447 (assuming the taxpayer is a bona fide resident of or is present in a foreign country every day during the year).

To the extent otherwise excludable housing costs are not paid or reimbursed by a taxpayer's employer, these costs generally are allowed as a deduction in computing adjusted gross income.

Exclusion limitation amounts

The combined foreign earned income exclusion and housing cost exclusion (including the amount of any deductible housing costs) may not exceed the taxpayer's total foreign earned income for the taxable year. The taxpayer's foreign tax credit is reduced by the amount of the credit that is attributable to excluded income.

Tax brackets

A taxpayer with excludable income under section 911 is subject to tax on the taxpayer's other income, after deductions, starting in the lowest tax rate bracket.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

Exclusion for compensation

The conference agreement provision adjusts for inflation the maximum amount of the foreign earned income exclusion in taxable years beginning in calendar years after 2005 (rather than, as under present law, after 2007). The limitation in 2006 therefore is $82,400.[554]

Exclusion for housing costs

Under the conference agreement, the base housing amount used in calculating the foreign housing cost exclusion in a taxable year is 16 percent of the amount (computed on a daily basis) of the foreign earned income exclusion limitation (instead of the present law 16 percent of the grade GS–14, step 1 amount), multiplied by the number of days of foreign residence or presence (as previously described) in that year.

Reasonable foreign housing expenses in excess of the base housing amount remain excluded from gross income (or, if paid by the taxpayer, are deductible) under the conference agreement, but the amount of the exclusion is limited to 30 percent of the maximum amount of a taxpayer's foreign earned income exclusion.[555] The Secretary is given authority to issue regulations or other guidance providing for the adjustment of this 30-percent housing cost limitation based on geographic differences in housing costs relative to housing costs in the United States. The conferees intend that the Secretary be permitted to use publicly available data, such as the Quarterly Report Indexes published by the U.S. Department of State or any other information deemed reliable by the Secretary, in making adjustments. The conferees also intend that the Secretary may adjust the 30-percent amount upward or downward. The conferees intend that the Secretary make adjustments annually.

Under the 30-percent rule described above, the maximum amount of the foreign housing cost exclusion in 2006 is (assuming foreign residence or presence on all days in the year) $11,536 (= ($82,400 x 30 percent)—($82,400 x 16 percent)).[556]

Tax brackets

Under the conference agreement, if an individual excludes an amount from income under section 911, any income in excess of the exclusion amount determined under section 911 is taxed (under the regular tax and alternative minimum tax) by applying to that income the tax rates that would have been applicable had the individual not elected the section 911 exclusion. For example, an individual with $80,000 of foreign earned income that is excluded under section 911 and with $20,000 in other taxable income (after deductions) would be subject to tax on that $20,000 at the rate or rates applicable to taxable income in the range of $80,000 to $100,000.

Effective date.—The conference agreement provision is effective for taxable years beginning after December 31, 2005.

TITLE IX—CORPORATE ESTIMATED TAX PROVISIONS

PRESENT LAW

In general, corporations are required to make quarterly estimated tax payments of their income tax liability. For a corporation whose taxable year is a calendar year, these estimated tax payments must be made by April 15, June 15, September 15, and December 15.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

In case of a corporation with assets of at least $1 billion, payments due in July, August, and September, 2006, shall be increased to 105 percent of the payment otherwise due and the next required payment shall be reduced accordingly.

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[552] Sec. 911.

[553] Generally, only U.S. citizens may qualify under the bona fide residence test. A U.S. resident alien who is a citizen of a country with which the United States has a tax treaty may, however, qualify for the section 911 exclusions under the bona fide residence test by application of a nondiscrimination provision of the treaty.

[554] This $82,400 amount is calculated under section 911(b)(2)(D)(ii), as amended by the conference agreement provision, using current U.S. Bureau of Labor Statistics ("BLS") Consumer Price Index data.

[555] In certain programs including grant-making to subsidize rents, the U.S. Department of Housing and Urban Development considers maximum affordable housing costs to be 30 percent of a household's income. See, e.g., United States Housing Act of 1937, 42 U.S.C. sec. 1437a (a)(1)(A), as amended.

[556] The $11,536 amount is based on a calculation under section 911(b)(2)(D)(ii), as amended by the conference agreement, using the BLS data described above.

In case of a corporation with assets of at least $1 billion, the payments due in July, August, and September, 2012, shall be increased to 106.25 percent of the payment otherwise due and the next required payment shall be reduced accordingly.

In case of a corporation with assets of at least $1 billion, the payments due in July, August, and September, 2013, shall be increased to 100.75 percent of the payment otherwise due and the next required payment shall be reduced accordingly.

With respect to corporate estimated tax payments due on September 15, 2010, 20.5 percent shall not be due until October 1, 2010.

With respect to corporate estimated tax payments due on September 15, 2011, 27.5 percent shall not be due until October 1, 2011.

Effective date.—The provision is effective on the date of enactment.

TITLE X—COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service ("IRS") and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code (the "Code") and has widespread applicability to individuals or small businesses. For each such provision identified by the staff of the Joint Committee on Taxation, a summary description of the provision is provided along with an estimate of the number and type of affected taxpayers, and a discussion regarding the relevant complexity and administrative issues.

Following the analysis of the staff of the Joint Committee on Taxation are the comments of the IRS and Treasury regarding each of the provisions included in the complexity analysis.

Capital gain and dividend rate reduction (sec. 102 of the conference agreement)

Summary description of provision

The conference agreement extends the zero- and 15-percent capital gain and dividend rates to taxable years beginning in 2009 and 2010.

Number of affected taxpayers

It is estimated that the provision will affect 33 million individual tax returns.

Discussion

The extension of the provision means that for 2009 and 2010 individual taxpayers and the IRS will continue to use the same forms for capital gains and dividends.

The extension of the lower rates for net capital gain will achieve simplification because the extension prevents the separate five-year holding periods from going into effect in 2009 and 2010. On the other hand, the extension of the lower rates for dividends will continue requiring dividends to be classified as qualified dividends and nonqualified dividends in 2009 and 2010 and will continue to require the tax to be computed using the capital gains forms.

Increase in the AMT exemption amount (sec. 301 of the conference agreement)

Summary description of the provision

The alternative minimum tax exemption amounts for 2006 are increased.

Number of affected taxpayers

It is estimated that the provisions will affect approximately 19 million individual tax returns.

Discussion

Many individuals will not have to compute their alternative minimum tax and file the IRS forms relating to that tax.

TITLE XI—UNFUNDED MANDATES

The staff of the Joint Committee on Taxation has reviewed the tax provisions in the conference agreement for H.R. 4297, the "Tax Relief Extension Reconciliation Act of 2005" as agreed to by the conferees. This information is provided in accordance with the requirements of Public Law 104–04, the Unfunded Mandates Reform Act of 1995, which provides that if a conference agreement contains (1) a mandate that was not previously considered by either the House or the Senate, or (2) an increase in the direct cost of a previously considered mandate, then the committee of conference is to ensure, to the greatest extent practicable, that a mandates statement is prepared.

We have determined that the tax provisions of the conference agreement contain two unfunded private sector mandates that were not previously considered by either the House or the Senate: (1) repeal of FSC–ETI grandfather rule, and (2) amend section 911 housing exclusion. In addition, the provision relating to withholding on certain government payments imposes an intergovernmental mandate not previously considered by either the House or the Senate.

The costs required to comply with each Federal private sector mandate and Federal intergovernmental mandate generally are no greater than the aggregate estimated budget effects of the provision as indicated on the enclosed revenue table. Benefits from the provisions include improved administration of the tax laws and a more accurate measurement of income for Federal income tax purposes.

ESTIMATED REVENUE EFFECTS OF THE CONFERENCE AGREEMENT FOR THE "TAX INCREASE PREVENTION AND RECONCILIATION ACT OF 2005"

Fiscal Years 2006 - 2015

[Millions of Dollars]

Provision	Effective	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2006-10	2006-15
I. Extension and Modification of Certain Provisions													
1. Increase section 179 expensing from $25,000 to $100,000 and increase the phaseout threshold amount from $200,000 to $400,000; include software in section 179 property; and extend indexing of both the deduction limit and the phaseout threshold (sunset 12/31/09)	tyba 12/31/07	---	---	-2,605	-4,459	-209	2,707	1,772	1,222	826	476	-7,274	-271
2. Tax capital gains and dividends with a 15%/0% rate structure:													
a. Capital gains (sunset 12/31/10)	tyba 12/31/08	---	---	-1,549	-8,375	2,672	-54	-12,698	[1]	[1]	---	-7,252	-20,004
b. Dividends (sunset 12/31/10)	tyba 12/31/08	---	---	-860	-4,431	-8,008	-9,368	-6,326	-1,224	-450	-112	-13,299	-30,779
3. Controlled foreign corporations:													
a. Exception under subpart F for active financing income (sunset 12/31/08)	[2]	---	-775	-2,339	-1,682	---	---	---	---	---	---	-4,796	-4,796
b. Look-through treatment of payments between related CFCs under foreign personal holding company income rules (sunset 12/31/08)	[3]	-82	-237	-260	-167	---	---	---	---	---	---	-746	-746
Total of Extension and Modification of Certain Provisions		**-82**	**-1,012**	**-7,613**	**-19,114**	**-5,545**	**-6,715**	**-17,252**	**-2**	**376**	**364**	**-33,367**	**-56,596**
II. Other Provisions													
1. Clarification of taxation of certain settlement funds (sunset 12/31/10)	aafea DOE	-2	-9	-10	-11	-12	-13	-14	-15	-15	-15	-44	-116
2. Modify active business definition under section 355 (sunset 12/31/10)	generally da DOE	-1	-7	-8	-8	-9	-9	-5	-3	-1	---	-33	-51
3. Expand the qualified veterans' mortgage bond program (sunset 12/31/10)	[4]	[1]	[1]	-1	-2	-3	-5	-5	-5	-5	-5	-7	-32
4. Provide capital gains treatment for certain self-created musical works (sunset 12/31/10)	soei tyba DOE	---	-1	-5	-5	-4	-2	-4	---	---	---	-14	-20
5. Expand the eligibility for the tonnage tax election (minimum of 6,000 deadweight tons) (sunset taxable years ending before 1/1/11)	tyba 12/31/05	-2	-3	-4	-4	-4	-3	---	---	---	---	-17	-20
6. Modification of certain arbitrage rules for certain funds (include 20% State limitation) (sunset 8/31/09)	bia DOE	---	---	-1	-2	-1	[1]	[1]	---	---	---	-4	-5
7. Amortization of song rights (sunset 12/31/10)	ppisi tyba 12/31/05	1	3	2	1	-1	-3	-6	-5	-2	-3	6	-13
8. Modification to small issue bonds - accelerate effective date for increase in capital expenditure limit	bia 12/31/06	---	-2	-9	-15	-18	-18	-18	-18	-18	-18	-44	-136
9. Modification of treatment of loans to qualified continuing care facilities (sunset 12/31/10)	[5]	[1]	-3	-2	-2	-2	-1	---	---	---	---	-10	-10
Total of Other Provisions		**-4**	**-22**	**-38**	**-48**	**-54**	**-54**	**-52**	**-46**	**-41**	**-41**	**-167**	**-403**

Page 2

Provision	Effective	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2006-10	2006-15
III. Individual AMT Provisions													
1. Increase individual AMT exemption amount for 2006 to $42,500 ($62,550 Joint) (sunset 12/31/06)	tyba 12/31/05	-12,419	-18,628	---	---	---	---	---	---	---	---	-31,047	-31,047
2. Treatment of nonrefundable personal credits under the individual alternative minimum tax (sunset 12/31/06) [6]	tyba 12/31/05	-565	-2,260	---	---	---	---	---	---	---	---	-2,825	-2,825
Total of Individual AMT Provisions		**-12,984**	**-20,888**	**—**	**—**	**—**	**—**	**—**	**—**	**—**	**—**	**-33,872**	**-33,872**
IV. Corporate Estimated Tax Provisions													
1. Increase corporate estimated tax payments due July through September for corporations with assets in excess of $1 billion in certain years (increase to 105% in 2006, 106.25% in 2012, and 100.75% in 2013 of the otherwise required amount)	DOE	2,209	-2,209	---	---	---	---	3,189	-2,793	-396	---	---	---
2. Delay due date until October 1 for a percentage of corporate estimated taxes that are otherwise due on September 15 in certain years (20.5% in 2010 and 27.5% in 2011)	DOE	---	---	---	---	-5,640	-2,541	8,182	---	---	---	-5,640	---
Total of Corporate Estimated Tax Provisions		**2,209**	**-2,209**	**—**	**—**	**-5,640**	**-2,541**	**11,371**	**-2,793**	**-396**	**—**	**-5,640**	**—**
V. Revenue Offset Provisions													
1. Application of earnings stripping rules to partners which are C corporations	tybo/a DOE	2	23	25	27	29	31	33	35	38	41	106	284
2. Reporting of interest on tax-exempt bonds	ipa 12/31/05	[7]	2	2	2	2	3	3	3	3	3	9	24
3. 5-year amortization of geological and geophysical costs for major integrated oil companies	apoia DOE	5	28	49	48	30	10	3	4	6	6	160	189
4. Treatment of distributions attributable to FIRPTA gains (including application of FIRPTA to RICs, and prevention of avoidance through wash sales) [8]	various	1	3	3	3	3	3	3	3	3	3	13	28
5. Section 355 not to apply to distributions involving disqualified investment companies	da DOE	2	9	11	12	12	12	12	15	15	16	46	116
6. Loan and redemption requirements on pooled financings (30% first-year loan origination requirement)	bia DOE	16	35	39	40	42	44	46	49	52	54	172	417
7. Require partial payments with submissions of offers-in-compromise (permanent 24-month rule)	osoaa 60da DOE	---	160	172	185	199	214	230	247	265	285	715	1,955
8. Increase in age of minor children whose unearned income is taxed as if parent's income	tyba 12/31/05	56	145	203	219	153	204	242	260	298	349	776	2,128
9. Withholding on government payments (including payments under certificate or voucher programs) for property and services	pma 12/31/10	---	---	---	---	---	6,079	215	220	228	235	---	6,977
10. Eliminate the income limitations on Roth IRA conversions; taxpayers can elect to pay tax on amounts converted in 2010 in equal installments in 2011 and 2012	tyba 12/31/09	---	---	---	-154	-293	2,541	4,929	1,756	-1,080	-1,267	-447	6,432
11. Repeal of FSC/ETI binding contract relief	tyba DOE	6	209	144	72	36	18	9	5	2	1	467	502
12. Modify wage limitation for section 199 to include only wages allocable to domestic production gross receipts and repeal special rule limiting amount of W-2 wages allocated by pass-thru entities	tyba DOE	1	7	8	9	19	24	26	28	29	31	43	181
13. Amend section 911 housing exclusion and impose a stacking rule and provide regulatory authority to allow for geographic differences	tyba 2005	15	261	199	206	222	228	234	239	254	268	903	2,126

Provision	Effective	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2006-10	2006-15
14. Tax involvement of accommodation parties in tax shelter transactions	[9]	---	18	31	35	40	46	53	62	69	75	123	428
Total of Revenue Offset Provisions		104	900	886	704	494	9,457	6,038	2,926	182	100	3,086	21,787
NET TOTAL		-10,757	-23,231	-6,765	-18,458	-10,745	147	105	85	121	423	-69,960	-69,084

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. Date of enactment is assumed to be July 1, 2006. Provisions are estimated relative to the Congressional Budget Office baseline of January, 2005.

Legend for "Effective" column:
aafea = accounts and funds established after
apoia = amounts paid or incurred after
bia = bonds issued after
da = distributions after
DOE = date of enactment
ipa = interest paid after
osoaa = offers submitted on and after
pma = payments made after
ppisi = property placed in service in
soei = sales or exchanges in
tyba = taxable years beginning after
tybo/a = taxable years beginning on or after
60da = 60 days after

[1] Loss of less than $500,000.

[2] Effective for taxable years of foreign corporations beginning after December 31, 2006, and before January 1, 2009, and to taxable years of U.S. shareholders with or within which such taxable years of such foreign corporations end.

[3] Effective for taxable years of foreign corporations beginning after December 31, 2005, and before January 1, 2009, and to taxable years of U.S. shareholders with or within which such taxable years of such foreign corporations end.

[4] Modification of definition of a qualified veteran is effective for bonds issued on or after the date of enactment. New State volume limitation is effective for allocations of State volume limits after April 5, 2006.

[5] Effective for calendar years beginning after December 31, 2005, with respect to loans made before, on, or after such date.

[6] The "Economic Growth and Tax Relief Reconciliation Act of 2001" provides that the child tax credit and adoption tax credit are allowed for purposes of the alternative minimum tax for 2002 through 2010. For purposes of the alternative minimum tax, the proposal does not treat the alternative motor vehicle credit and the alternative fuel vehicle refueling property credit as nonrefundable personal credits.

[7] Gain of less than $500,000.

[8] Some of the provisions sunset December 31, 2007.

[9] Effective for taxable years ending after the date of enactment, with respect to transactions before, on, or after such date, except that no tax applies to income or proceeds that are properly allocable to the period ending 90 days after the date of enactment; effective for disclosures due after the date of enactment.

WILLIAM THOMAS,
JIM MCCRERY,
DAVE CAMP,
Managers on the Part of the House.

CHUCK GRASSLEY,
JON KYL,
Managers on the Part of the Senate.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 4 o'clock and 26 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1832

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PORTER) at 6 o'clock and 32 minutes p.m.

APPOINTMENT OF MEMBER TO BOARD OF VISITORS TO UNITED STATES MERCHANT MARINE ACADEMY

The SPEAKER pro tempore. Pursuant to 46 U.S.C. 1295b(h), and the order of the House of December 18, 2005, the Chair announces the Speaker's appointment of the following Member of the House to the Board of Visitors to the United States Merchant Marine Academy:

Mrs. MCCARTHY, New York

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H. Res. 803; by the yeas and nays;
H.R. 5037; by the yeas and nays;
H.R. 3829; by the yeas and nays.

The first and third electronic votes will be conducted as 15-minute votes. The second vote in this series will be conducted as a 5-minute vote.

PROVIDING FOR CONCURRENCE BY HOUSE WITH AMENDMENT IN SENATE AMENDMENT TO H.R. 1499, HEROES EARNED RETIREMENT OPPORTUNITIES ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 803.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM JOHNSON) that the House suspend the rules and agree to the resolution, H. Res. 803, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 20, as follows:

[Roll No. 128]

YEAS—412

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—20

Andrews
Brown, Corrine
Cardoza
Clay
Davis (FL)
Davis (KY)
Evans
Feeney
Green (WI)
Gutierrez
Kennedy (RI)
Larsen (WA)
Meehan
Mollohan
Murphy
Nussle
Osborne
Payne
Smith (WA)
Strickland

□ 1901

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RESPECT FOR AMERICA'S FALLEN HEROES ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5037.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BUYER) that the House suspend the rules and pass the bill, H.R. 5037, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 408, nays 3, not voting 21, as follows:

[Roll No. 129]

YEAS—408

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—3

Frank (MA)
Paul
Wu

NOT VOTING—21

Andrews
Barrett (SC)
Brown, Corrine
Cardoza
Clay
Davis (FL)
Davis (KY)
Evans
Feeney
Green (WI)
Gutierrez
Kennedy (RI)
Larsen (WA)
Meehan
Mollohan
Murphy
Nussle
Osborne
Payne
Smith (WA)
Strickland

□ 1910

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BARRETT of South Carolina. Mr. Speaker, on rollcall No. 129 I was unavoidably detained. Had I been present, I would have voted "yea."

HONORING IKE SKELTON

(Mr. CLEAVER asked and was given permission to address the House for 1 minute.)

Mr. CLEAVER. Mr. Speaker, on this past Friday evening, our colleague, IKE SKELTON, joined an elite group of Americans as he was presented with the Harry S Truman Public Service Award. He joins Colin Powell, Madeline Albright, Henry Kissinger and Tom Eagleton, just to name a few; and so I stand before you, Mr. Speaker and colleagues of IKE SKELTON, to say that we can stand proud of what he has done over his career and fact that he has now been recognized by the body that salutes Harry Truman.

JACK C. MONTGOMERY DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3829.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. BUYER) that the House suspend the rules and pass the bill, H.R. 3829, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 407, nays 0, not voting 25, as follows:

[Roll No. 130]

YEAS—407

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer

Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—25

Andrews
Brown, Corrine
Butterfield
Cardoza
Clay
Crowley
Davis (FL)
Davis (KY)
Evans
Feeney
Green (WI)
Gutierrez
Johnson, Sam
Kennedy (RI)
Larsen (WA)
Mollohan
Murphy
Nussle
Osborne
Oxley
Payne
Pence
Saxton
Smith (WA)
Strickland

□ 1929

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MURPHY. Mr. Speaker, I regret that I was unable to be present for today's rollcall votes due to a death in the family. Had I been present, let the RECORD reflect that I would have voted "yea" on H.R. 1499, "yea" on H.R. 5037, and "yea" on H.R. 3829.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this Chamber today. I would like the RECORD to show that, had I been present, I would have voted "yea" on rollcall votes 128, 129 and 130.

PERSONAL EXPLANATION

Mr. DAVIS of Kentucky. Mr. Speaker, on Tuesday, May 9, 2006, I was absent from the House. Had I been present I would have voted: Rollcall No. 128—"yea"; rollcall No. 129—"yea"; rollcall No. 130—"yea."

PERSONAL EXPLANATION

Mr. GREEN of Wisconsin. Mr. Speaker, I was absent from Washington on Tuesday, May 9, 2006. As a result, I was not recorded for rollcall votes No. 128, No. 129 and No. 130. Had I been present, I would have voted "yea" on rollcall No. 128, No. 129 and No. 130.

PRIVILEGED REPORT ON RESOLUTION OF INQUIRY TO THE PRESIDENT

Mr. SHAYS, from the Committee on Government Reform, submitted an adverse privileged report (Rept. No. 109-457) on the resolution (H. Res. 752) requesting the President to transmit to the House of Representatives not later than 14 days after the date of adoption of this resolution documents in the possession of the President relating to the receipt and consideration by the Executive Office of the President of any information concerning the variation between the version of S. 1932, the Deficit Reduction Act of 2005, that the House of Representatives passed on February 1, 2006, and the version of the bill that the President signed on February 8, 2006, which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5289

Mr. BOREN. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor for H.R. 5289.

The SPEAKER pro tempore (Mr. KUHL of New York). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

MILITARY RECRUITMENT TACTICS

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Mr. Speaker, this weekend the Portland Oregonian reported a troubling story of an 18-year-old high school student with autism in my district who, despite his disability, was recruited into the Army as a cavalry scout, over the strong objection of his parents, and in violation of military rules.

To place somebody with his disability in a combat role would create an entirely unnecessary risk of harm, not just to him, but other members of his unit who would have to rely on him.

I have written to the Secretary of Defense calling for an investigation in this case, which does not appear to be an isolated incident. Accusations of recruitment abuse are at record levels as recruiters face extreme pressure to meet enlistment targets and quotas.

I am concerned that the military has created a situation where recruiters are pressured to act in unethical and possible illegal ways in order to successfully fulfill their orders.

I believe we need a real investigation into the breadth of such requirement practices, and that new safeguards must be put in place to ensure that what happened to my young constituent doesn't happen to any other young man or woman.

Our Nation cannot produce the finest fighting force in the world without also demanding the most rigorous standards of conduct in all ranks of the military.

THE SLY FOX OF MEXICO

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, let me recite to you an immigration policy.

1. If you migrate to this country you must speak the native language.

2. You have to be a professional or an investor. No unskilled workers are allowed.

3. There will be no special bilingual programs in the schools, no special ballots or elections, and all government business will be conducted in one language.

4. Foreigners will not have the right to vote.

5. Foreigners will never be able to hold public office.

6. Foreigners will not be a burden to taxpayers. There will be no welfare, no food stamps, no health care or other government assistance programs.

7. If foreigners come and want to buy land, that is highly restricted.

8. Foreigners may not protest. No demonstrations, no foreign flag, no political organizing, no criticizing the President or the policies. If you do, you will be sent back to your country.

9. If you come to this country illegally, you will be arrested by our Federal police and sent to jail.

Mr. Speaker, this is not U.S. immigration policy, but the alleged policy of President Vicente Fox and Mexico. President Fox is a hypocrite for trying to dictate to America what we should do in this country, letting his illegal citizens into the United States, while apparently demanding tougher immigration laws in his own country. Fox is nothing more than a fox in fox clothing. And that's just the way it is.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

HONORING KATLYN MARIE MARCHETTI AND STRESSING THE IMPORTANCE OF SEATBELTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BILIRAKIS) is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Speaker, I rise today to honor the memory of a young woman whose life tragically was cut short by her decision not to wear her seatbelt.

Katlyn Marie Marchetti, known as Katie to her family and friends, was a vibrant, loving, community-oriented high school junior who dreamed of a career in fashion or interior design. She encouraged other young women through her participation in the Ophelia Project, a nonprofit group dedicated to encouraging middle and high school girls to believe that an individual's true beauty comes from within.

As a junior at Durant High School in Valrico, Florida, Katie planned to take the SATs in April and spend her summer examining colleges. Her commitment to academic achievement and hard work guaranteed that she would succeed in whatever field she chose. Katie's entire future was ahead of her, and what a bright one it would have been.

But it was not to be. On March 3, 2006, Katie was involved in a car accident that ended up claiming her life early the following morning. To the devastation of her loving parents, Vincent and Laura, and her younger brother, Andrew, she was not wearing her seatbelt. Had she buckled up, March 4 may have been one day closer to realizing her dreams. Instead, it was the day when they were ended.

Unfortunately, Katie's decision to forego wearing a seatbelt is not uncommon. Among the entire population, teenagers are the most likely to neglect this important lifesaving measure. A study conducted by the National Highway Traffic Safety Administration in 2002 indicated that only 69 percent of 16 to 24-year-olds use seatbelts, compared to 82 percent of children and 76 percent of adults. Among 16 to 19-year-olds, the statistics are more troubling. Only 40 percent use seatbelts consistently. And the Fatality Analysis Reporting System shows that 63 percent of teens killed in crashes were not wearing seatbelts.

Data also reveals insights into why teens neglect to fasten up when they get in a vehicle. According to a 2003 survey, only 79 percent of teen drivers reported that they wear a seatbelt all the time. About 47 percent indicated that safety belts were as likely to harm as to help, and 30 percent said that crashes close to home were usually not as serious. Approximately 30 percent affirmed that they would feel self-conscious if they were going against the group norm in wearing safety belts.

Mr. Speaker, these statistics are troubling. Seatbelt use has proven effective time and again in saving lives. According to NHTSA, the wearing of safety belts saved an estimated 14,164 lives in 2002. Choosing to buckle up is the best protection against drunk, tired, or aggressive drivers. And yet people choose not to take this precaution. What can be done to encourage them to do so?

Studies have shown that highly publicized and visible enforcement of safety belt laws have increased seatbelt use. Peer-led education and awareness also hold promise in changing youth norms and attitudes about seatbelt use. Parental involvement is absolutely critical. Children who observe their parents using seatbelts and obeying traffic laws are more likely to adopt these lifesaving habits.

Vincent and Laura Marchetti imparted this wisdom to their daughter and even prevented her from getting her license until she was 6 months beyond her 16th birthday. They instilled a sense of responsibility in her and practiced driving under all sorts of conditions, but it was not enough.

Technological advances have proven to be one of the most promising catalysts for increased seatbelt use. A study commissioned by NHTSA found that while enhanced safety belt reminders such as buzzers, lights and dashboard messages are aimed at the general population, they may be particularly effective for teenagers. Because teens tend to forget to fasten their seatbelts and are less likely than adults to disengage warning systems, they may be more likely to be persuaded to buckle up by these annoyances.

Mr. Speaker, I encourage the automobile industry to help address this problem by increasing and expanding the manufacture of vehicles with warning systems that do not disengage until the seatbelt is fastened. These systems may save precious young lives.

Mr. Speaker, I didn't know Katie personally, but through my discussions with her parents and brother who are in Washington this week, I know what a special young woman she was. I grieve with them and the rest of their family for their loss. I admire the strength and perseverance of the Marchettis to channel this grief into educating teenagers and their parents about the importance of seatbelt use through the Katie Marchetti Memorial Foundation. I rise today to join their call and to plead with all Americans to "cross it, click it and live."

THE BIG CHILL IN WASHINGTON, D.C.

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent to speak out of turn.

The SPEAKER pro tempore. Without objection, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

There was no objection.

Mr. McDERMOTT. Mr. Speaker, it is awfully cold in Washington, D.C. these days, and the arrival of spring is not going to change the frigid temperature beginning to grip the Nation's Capital.

No matter how much we stand in the bright sunlight, Washington, D.C. is fast becoming a cold, cold place under this President and administration.

The Big Chill is on and it is becoming an ice age for the "People's-Right-to-Know."

The New York Times and The Washington Post recently won Pulitzer Prizes for breaking through the administration's secrecy to inform the American people about secret prisons and secret wiretapping.

In response, the administration wants journalism stopped. It just gets in the way of the administration telling people only what they want them to know.

Maintaining this veil of secrecy is so important that the administration directed the Attorney General to see if he might invoke the 1917 Espionage Act as a way to make the first amendment disappear. By controlling what you know, they hope to control what you think.

It is the solution to their Iraq dilemma. You don't have to mislead the people, as the President did, if the people simply don't know anything at all. That is what this assault on free speech is all about.

I seek permission to enter into the RECORD an editorial promoted by the Washington Times by Nat Hentoff entitled "Chilling Free Speech."

The President and his administration are doing everything possible to impose censorship. They know that secrecy is the fastest, most effective way to silence dissent.

If the American people know what they are doing, the American people could make them accountable for what they are doing. But there is no accountability for their actions, so they hide them under a blanket of secrecy.

The President cried "shameful" that the Pulitzer Prize-winning journalism had reunited the American people with the truth about secret prisons and secret wiretapping ordered by the President and his administration.

In other words, the truth made it out into the open, and that was not part of their plan. The only way to account for it was to attack those responsible for telling us. It is the centerpiece of the Republican playbook. Attack anyone who disagrees. I know those tactics firsthand.

But the cracks are beginning to show in the Republican wall of silent acquiescence.

☐ 1945

A rubber stamp is still being used in this Congress by the Republicans, but many of my colleagues, my Republican colleagues, know that their mandatory vote at the discretion of the President is not in the best interest of the American people, and the people are beginning to listen to other voices, when they can hear them above the clatter of the Republican noise machine. Here is the proof.

David Wise in the Los Angeles Times recently wrote an article entitled, "Secrecy's Shadow Falls on Washington." I ask permission to enter this article in the RECORD. To help the American people understand how pervasive secrecy in the administration is, let me read a short excerpt from Mr. Wise's article, quote. "The National Archives and Records Administration have been embarrassed by the revelation that at least 55,000 documents formerly available to researchers have been withdrawn and reclassified under secret agreements with the military and the CIA. The deals were so secretive that the documents simply disappeared from the shelves." That is the end of the quote.

At least temporarily the head of the National Archives has suspended the disappearance of American history. It doesn't mean the threat has passed; it just means someone is fighting to keep America free. We have two choices, the free flow of information or the outright control of information. America is strong because of the protections within the free flow of information. It is guaranteed by the first amendment.

But the President and his majority want to tell you what to think through the outright control of the information. Geoffrey Stone, author and law professor at the University of Chicago wrote an article in the New York Times the other day called, "Scared of Scoops." Again, I ask to enter it in the RECORD.

As the writer points out, the administration's primary tactic is intimidation. When in doubt, they try to make you afraid. When unpopular, they try to make you afraid. When they are losing their hold on power because of their record, they tend to make you afraid. The only reason you know this President has no energy policy for America is because he can't hide the price of gasoline at the pumps. He would make it a secret if he could.

Don't be surprised if the President tries to classify the price of gasoline as a national security matter. That is his method of accountability to the American people. None. In a Nation where free speech is the last defense against absolute power, they don't want you to know because the more you know, the worse they look.

[From the Washington Times, May 8, 2006.]

CHILLING FREE SPEECH

(By Nat Hentoff)

Beyond the firing of CIA officer Mary O. McCarthy for leaking classified information to the press is a much larger story of the administration's increasing investigation of other such press leaks as a possible prelude to an American version of Britain's stringent Official Secrets Act. In February, CIA Director Porter Goss told the Senate Intelligence Committee of the need for a grand jury investigation including reporters who receive these leaks.

The charge against Miss McCarthy, which she denies, is that she was a source of highly classified information for Dana Priest's report in The Washington Post on CIA secret prisons in Eastern Europe. Miss Priest, a 2006 winner of a Pulitzer award for the story, has been writing about the CIA's "black sites" since late 2002; and Sen. Pat Roberts, chairman of the Senate Intelligence Committee, continually refuses to authorize an investigation of the CIA's violations of American and international laws in its prisons wholly hidden from our rule of law.

Miss Priest is already subject to a Justice Department investigation, as are New York Times reporters James Risen and Eric Lichtblau for their disclosure of the president's secret approval of the National Security Agency's warrantless surveillance of Americans. (Those reporters have also received Pulitzers this year, despite the president's characterization of their reporting as "shameful.")

The administration's position has been clearly stated by FBI spokesman Bill Carter (The Washington Post, April 19): "Under the law, no private person (including journalists) may possess classified documents that were illegally provided to them. These documents remain the property of the government."

The law Mr. Carter cited is this administration's expansion of the Espionage Act of 1917, which is now before the courts in a case that can greatly diminish the First Amendment rights of the press—and the right of Americans to receive information about such lawless government practices as the CIA's secret interrogation centers and the president's violation of the Foreign Intelligence Surveillance Act in unleashing the National Security Agency.

This espionage case—United States of America v. Lawrence Anthony Franklin, Steven J. Rosen and Keith Weissman—is the first in which the federal government is charging violations of the Espionage Act by American citizens—who are not government officials—for being involved in what until now have been regarded as First Amendment-protected activities engaged in by hundreds of American journalists.

Messrs. Rosen and Weissman, former staff members of the American Israel Public Affairs Committee (AIPAC)—who have since been fired—are accused of receiving classified information from Defense Department analyst Franklin regarding U.S. government Middle East and terrorism strategy. Messrs. Rosen and Weissman are charged with then providing that classified information to an Israeli diplomat—and a journalist.

Government official Franklin has pleaded guilty and been sentenced to prison. But defense attorneys for Rosen and Weissman declare: "Never (until now) has a lobbyist, reporter or any other nongovernment employee been charged . . . for receiving oral information the government alleges to be national-defense material as part of that (accused) person's normal First Amendment-protected activities."

In an amicus brief to the U.S. District Court for the Eastern District of Virginia, the Reporters Committee for the Freedom of the Press (with which I am affiliated) says:

"These charges potentially eviscerate the primary function of journalism—to gather and publicize information of public concern—particularly where the most valuable information to the public is information that the government wants to conceal" so that the public cannot "participate in and serve as a check on the government." (That's why the First Amendment's freedom of the press was added to the Constitution in 1791.)

But the judge now hearing this espionage case, T.S. Ellis III, already said in March: "Persons who come into unauthorized possession of classified information must abide by the law. That applies to academics, lawyers, journalists, professors, whatever." Recently, the judge appears to be backing off.

However he decides, and it's uncertain, Steven Aftergood—head of the Project on Government Secrecy at the Federation of American Scientists—says: "To make a crime of the kind of conversations Rosen and Weissman had with Franklin over lunch would not be surprising in the People's Republic of China. But it's utterly foreign to the American political system." (This censorship of the press was cut out of the Espionage Act of 1917.)

If the Supreme Court agrees with the Bush administration on this case, we will, as Mr. Aftergood says, have to build many more jails—and disarm the First Amendment.

[From the Los Angeles Times]

SECRECY'S SHADOW FALLS ON WASHINGTON

(By David Wise)

Unencumbered by a First Amendment, Britain for almost 100 years has had an Official Secrets Act to prevent leaks to the media and to prosecute offenders, including journalists.

Some Bush administration officials and members of Congress are casting a longing eye at the British law. If only the United States had a similar law, their reasoning goes, the reporters who revealed CIA-run prisons in Eastern Europe and the National Security Agency's warrantless wiretapping of terrorism suspects would be prosecuted instead of receiving Pulitzer Prizes.

The U.S. Constitution remains a barrier to those who would restrict the flow of information to the media—and thus to the public. But administration policies are chipping away at its protections. The nation is in danger of having an Official Secrets Act not through passage of a law—although that is a possibility—but through incremental steps.

The evidence is mounting: Judith Miller, as a reporter for The New York Times, spent 85 days in jail after refusing to name a confidential source in the investigation by Special Prosecutor Patrick J. Fitzgerald into the leak of the name of CIA officer Valerie Plame. Miller and half a dozen other reporters have been questioned by the prosecutor.

Two former staff members of the American Israel Public Affairs Committee, or AIPAC, a pro-Israel lobby, are on trial in federal court on charges of conspiring to violate espionage statutes by obtaining defense information from a Pentagon official. Both lobbyists are civilians, and the government does not claim they received any documents, classified or otherwise.

The National Archives and Records Administration has been embarrassed by the revelation that at least 55,000 documents formerly available to researchers have been withdrawn and reclassified under secret agreements with the military and the CIA. The deals were so secretive that the documents simply disappeared from the shelves.

Historian Matthew Aid, who discovered the reclassification, pointed out that because he possesses some of the documents, he might be in violation of the Espionage Act. Allen Weinstein, who heads the National Archives, has halted the documents' reclassification.

The FBI is seeking access to the papers of the late muckraking columnist Jack Anderson to seize classified documents in his files. Anderson broke many stories the government tried to keep secret. His family, citing the First Amendment, has refused the agency's request. It is unclear how far the FBI plans to push the matter, or whether the government will try next to examine the files of other journalists, dead or alive.

Porter J. Goss, director of the CIA, has testified that "it is my aim and it is my hope" that reporters who receive leaks on intelligence subjects are hauled before a grand jury and forced "to reveal who is leaking this information." The CIA dismissed Mary O. McCarthy, a senior official, for allegedly having unauthorized contacts with the media and disclosing classified information to reporters. The agency let stand the impression that she had leaked the story of the CIA secret prisons for terrorists in Eastern Europe to Dana Priest of The Washington Post, who won a Pulitzer Prize for her account. McCarthy's attorney says she was not the source of the story and has never leaked classified information.

Congress is considering legislation that would enable intelligence agencies to revoke the pensions of employees who make unauthorized disclosures. The measure also would allow the CIA and NSA to arrest suspicious people outside their gates without a warrant.

Although the indictment of the two lobbyists for the American Israel Public Affairs Committee is replete with references to "classified information," the espionage laws, with one narrow exception, refer only to "information relating to the national defense." The spy laws were passed in 1917 during World War I. A 1951 presidential executive order created the current system of classifying documents.

There is no law prohibiting leaks, so the government has used the espionage laws to combat the practice. President Clinton vetoed anti-leak legislation passed in 2000 that would have made it a crime for a government official to disclose classified information.

To criminalize leaks of government information simply because the information is marked "classified" is absurd. In 2004, the most recent year for which figures are available, the government classified over 15.3 million documents. It is hardly likely that the government has that many real secrets to withhold from its citizens.

Unnecessarily classifying documents is a fact of life in Washington. Many bureaucrats know that unless they stamp a document "secret" or "top secret," their superiors may not even bother to read it. One agency classified the fact that water does not flow uphill. During World War II, the Army labeled the bow and arrow a secret, calling it a "silent flash less weapon."

The government's theory in the lobbyists' prosecution could, if it stands, change the nature of how news is gathered in Washington and how lobbyists and academics interact with the government.

"What makes the AIPAC case so alarming," said Steven Aftergood, director of the Project on Government Secrecy of the Federation of American Scientists, "is the defendants are not being charged with being agents of a foreign power but with receiving classified information without authorization. Most Americans who read the newspaper are also in possession of classified information, whether they know it or not. The scope of the charges is incredibly broad."

Officials in Washington talk to reporters every day about matters that may, in some government file cabinet, in some agency, be stamped with a secrecy classification. How would a journalist be expected to know that he or she was a "recipient" of classified information and, in theory, subject to prosecution under a law that was meant to catch spies?

The original British Official Secrets Act, passed in 1911, allowed the crown to prosecute anyone, even a journalist, who published a railroad timetable. The act was made less draconian in 1989, but still carries tough provisions and can apply to journalists.

Until recently, the U.S. government applied the espionage laws to officials who leaked, not to the recipients.

"Otherwise," Aftergood said, "Bob Woodward would not be a wealthy, bestselling author. He would be serving a life sentence."

[From the New York Times]

SCARED OF SCOOPS

(By Geoffrey R. Stone)

While tensions between the federal government and the press are as old as the Republic itself, presidential administrations have never been inclined to criminally prosecute the news media for publishing information they would rather keep secret. In recent weeks, however, the Bush administration and its advocates, including Attorney General Alberto Gonzales, have spoken of prosecuting The Washington Post and The New York Times for publishing Pulitzer Prize-winning exposés of the administration's secret prisons in Eastern Europe and secret National Security Agency surveillance of Americans.

Specifically, the president and some of his supporters say reporters and publishers have violated a provision of the 1917 Espionage Act, which provides in part that anyone in unauthorized possession "of information relating to the national defense, which information the possessor has reason to believe could be used to the injury of the United States" who willfully communicates it to any person not entitled to receive it "shall be fined under this title or imprisoned not more than 10 years, or both."

But for at least three reasons, such threats are largely empty. First, the provision was never intended to be used against the press. When the Espionage Act was proposed by President Woodrow Wilson, it included a section that would expressly have made it a crime for the press to publish information that the president had declared to be "of such character that it is or might be useful to the enemy." Congress overwhelmingly rejected that proposal, with members of both parties characterizing it as "un-American" and "an instrument of tyranny."

Second, if the 1917 act were meant to apply to journalists, it would unquestionably violate the First Amendment. Laws regulating speech must be precisely tailored to prohibit only speech that may constitutionally be proscribed. This requirement addresses the concern that overbroad laws will chill the willingness of individuals to speak freely.

Not surprisingly, because the act was drafted before the Supreme Court had ever interpreted the First Amendment in a relevant manner, it does not incorporate any of the safeguards the court has since held the Constitution requires. For example, the provision of the act is not limited only to published accounts that pose a "clear and present danger" to the nation. For this reason, it seems clear, any prosecution of the press under it would be dismissed out of hand by the judiciary.

Third, if Congress today enacted legislation that incorporated the requirements of the First Amendment, it could not apply to articles like those published by The Times and The Post. Such a statute would have to be limited to articles that, first, do not disclose information of legitimate and important public interest and, second, pose a clear and present danger. Nobody could deny that articles like those on secret prisons and electronic surveillance of Americans clearly concerned matters of legitimate and important public interest; nor could the administration show that such disclosures created a clear and present danger of serious harm to the national security.

I do not mean to suggest that the government has no interest in keeping military secrets or that it may never punish the press for disclosing classified information. To the contrary, the government may take many steps to keep such information secret, including (in appropriate circumstances) firing and even prosecuting public employees who unlawfully leak such information.

Moreover, in narrowly defined circumstances, the government may prosecute the press for disclosing classified national security information. Such a prosecution might be consistent with the First Amendment, for example, if a newspaper revealed that the government had secretly broken an important Qaeda code, thus causing that group to change its cipher. But revelations like those in The Times and Post revealed significant government wrongdoing and therefore are essential to effective self-governance; they are at the very core of the First Amendment.

Although the threats of the White House are largely bluster, they must nonetheless be taken seriously. Not because newspapers are really in danger of being prosecuted, but because such intimidation is the latest step in this administration's relentless campaign to control the press and keep the American people in the dark.)

DON FRANCISCO

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent to claim Mr. McHenry's time.

The SPEAKER pro tempore. Without objection, the gentlewoman from Florida (Ms. Ros-Lehtinen) is recognized for 5 minutes.

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I am so proud to rise today to honor the 20th anniversary of the television personality Don Francisco and his wildly popular show Sabado Gigante.

This show was created and is still hosted by Mr. Mario Kreutzberger, better known as Don Francisco, and is watched every Saturday evening by, get this, more than 100 million people worldwide.

Don Francisco's Spanish language international television show Sabado Gigante was recognized by the Guinness Book of World Records as the world's longest-running variety program.

After a successful 24-year run in Chile, the show's operations were moved to the United States in 1986 when it began airing throughout the Americas, through the prominent U.S.-Spanish television network, Univision.

By 2001, Don Francisco had already been honored with a star on the Hollywood Walk of Fame and The New York Times said he was, quote, "probably the most popular and best-known Hispanic television personality," end quote, and described him as "a mix of Ed Sullivan, Regis Philbin, Art Linkletter, Bob Barker, Geraldo Rivera and Phil Donahue, with a dash of Oprah Winfrey's civic-mindedness."

Don Francisco, your commitment to the U.S.-Hispanic community helped bridge the gap between North America and our the Latin American cultures. Your determination taught newcomers the values and the endless opportunities that their adopted country has to offer.

Don Francisco, you have had a long and illustrious career that has spanned many years of service, dedication, hard work and devotion not only for Hispanics, but for all Americans across our country. Your leadership throughout the past years has helped our Hispanic community grow to become one of America's largest-growing populations and the ideals that it stands for have become an intrinsic part of our country.

A stronger and more educated American population contributes to the greatness of this wonderful Nation, making us competitive for this new global economy in this technologically advanced society.

Your commitment to enriching the lives of others is truly commendable. It is the perseverance and the compassion of people like you who continue to help in the development of a stronger, healthier and more successful community for all Hispanics in the United States.

Don Francisco, you have been such an incredible influence for all Americans across the Americas that this tribute is much well deserved. Your personality, your charisma, your willingness to help others and your incredible talent have assured you a prominent place in television history.

I congratulate Don Francisco wholeheartedly, and I wish him the very best. Felicidades, Don Francisco and 20 more years.

JOB DESCRIPTION OF MOTHERS

Mr. EMANUEL. Mr. Speaker, I ask permission to speak out of order.

The SPEAKER pro tempore. Without objection, the gentleman from Illinois (Mr. Emanuel) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, with Mother's Day coming up, I had come across a document on the Internet that was sent around to a number of women, including some in my office. In honor of all the mothers across America, I would like to read this, if I could.

A woman, renewing her driver's license at the county clerk's office, was asked by the woman recorder to state her occupation.

She hesitated, uncertain how to classify herself. "What I mean is," explained the clerk, "do you have a job or are you just a . . . ?"

"Of course I have a job," snapped the woman.

"I'm a Mom."

"We don't list 'Mom' as an occupation, 'housewife' covers it," said the recorder emphatically.

I forgot all about her story until one day I found myself in the same situation, this time at our own town hall. The clerk was obviously a career woman, poised, efficient and possessed of a high sounding title like, "Official Interrogator" or "Town Registrar."

"What is your occupation?" she probed.

What made me say it? I do not know. The words simply popped out.

"I'm a Research Associate in the field of Child Development and Human Relations."

The clerk paused, ball-point pen frozen in midair and looked up as though she had not heard right. I repeated the title, slowly emphasizing the most significant words. Then I stared with wonder as my pronouncement was written in bold, black ink on the official questionnaire.

"Might I ask," said the clerk with new interest, "just what you do in your field?"

Coolly, without any trace of fluster in my voice, I heard myself reply, "I have a continuing program of research (what mother doesn't), in the laboratory and in the field (normally I would have said indoors and out).

"I'm working for my Master's (the whole darned family), and already have four credits (all daughters). Of course, the job is one of the most demanding in the humanities (any mother care to disagree?), and I often work 14 hours a day (24 is more like it). But the job is more challenging than most run-of-the-mill careers and the rewards are more of a satisfaction, rather than just money."

There was an increasing note of respect in the clerk's voice as she completed the form, stood up and personally ushered me to the door.

As I drove into our driveway, buoyed up by my glamorous new career, I was greeted by my lab assistants, ages 13, 7, and 3. Upstairs I could hear our new experimental model (a 6-month-old baby) in the child development program, testing out a new vocal pattern. I felt I had scored a beat on bureaucracy. And I had gone on the official records as someone more distinguished and indispensable to mankind than "just another Mom."

Motherhood. What a glorious career, especially when there's a title on the door.

Does this make grandmothers "Senior Research Associates in the Field of Child Development and Human Relations," and great-grandmothers "Executive Senior Research Associates"? I think so. I also think it makes aunts "Associate Research Assistants."

Please send this on to another mom, grandmother, aunt and any friends you know.

To all those mothers who will be celebrating Mother's Day, who have the most important profession, the most satisfying profession and probably the only title that says in three words what all of us rely on, to those mothers out there, thank you for what you do every day making sure our children have a home, a place of warmth, and a place of great values in honor of all mothers on Mother's Day.

KARA POE ALEXANDER, PH.D.

Mr. POE. Mr. Speaker, I request permission to take Mr. Jones' place.

The SPEAKER pro tempore. Without objection, the gentleman from Texas (Mr. Poe) is recognized for 5 minutes.

There was no objection.

Mr. POE. Mr. Speaker, when born in the hot humid heat of a Texas August in 1976, she was called a bicentennial baby in honor of America's 200th birthday. She was the second of four children and grew up with that second child competitive determination.

She was strongly serious as she went to elementary school. While enjoying playing with her siblings, Kim, Kurt and Kellee Lyn, she also liked irritating the older next-door-neighbor boy.

While growing up, Kara learned and liked to plant vegetables and to take care of a large family garden. But upon entering elementary school, she spoke some words with difficulty, and her speech patterns were not really satisfactory. This began to affect her socially and really bruised her young self-image.

Her third grade teacher at the Oaks Elementary School in Humble, Texas, was determined to help this little girl and worked with her in pronouncing those English words correctly. This little girl, Kara, overcame this issue and speaks perfect English with an exceptional Texas accent, another of America's dedicated school teachers helping out one child at a time.

Anyway, Kara played on soccer teams and was on the swim team with her brother and sisters. They spent those long Saturdays competing at swim meets all over North Houston. Kara not only took to sports but academics in high school. She lettered 4 years in basketball, was the team captain, high scorer her senior year and played in the Texas State playoffs. Volleyball and cheerleading were also activities she enjoyed and participated in.

After doing some babysitting jobs at 15, Kara applied to work at a local Target store while in school. On her job application, she was asked about her job experiences and reason for leaving her previous job. So she put, quote, "last job, baby sitting." Reason for leaving, quote, "Kids were brats." Blunt truth got her the job.

She continued to tell it like it was, even to this day. At Target, Kara Poe learned how to deal with real people in the real world by working as a cashier. She doesn't like to admit it, but she even held the long-time record as the fastest scanner. She has continued her studies and studied endlessly. She played high school sports, and has continued to work and save as much money as she possibly can.

By the way, Mr. Speaker, Kara graduated valedictorian from her high school, Northland Christian High School in Houston, Texas. Kara, like all the Poe kids, went to Abilene Christian University, and she worked while in college and still was able to graduate with a grade point average of 3.88 with a B.S. in interdisciplinary studies, English and history.

Quite opinionated on all subjects, especially politics and sports, being an avid Astros fan, she loves the freedoms and loves this country.

She went on to get her Master's degree at Abilene Christian University in English, and her GPA was a perfect 4.0. She got married to a guy by the name of Shane Alexander; I was honored to perform that wedding. She has a 10-month-old daughter named Elizabeth.

Mr. Speaker, this Saturday that little girl who had trouble with speech in third grade will receive her doctoral degree from the University of Louisville in rhetoric and composition. She has a GPA of 3.92.

At 29, she obtained her doctoral degree in less than 4 years, a marvelous amount of time and a short time for obtaining a doctorate.

She already has a job at Baylor University in Waco, Texas, and she will be teaching on the tenured track. She will be teaching English, Mr. Speaker, and she will be a teacher like her mother, both her grandmothers and her sister, Kim.

So, Kara, as your dad, I am proud of your determination, commitment and attitude. Congratulations to you for your success in the field and noble field of education and being a teacher. Congratulations to you for your success in life.

That's just the way it is.

☐ 2000

LOSING GROUND ON THE WAR ON TERRORISM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, the so-called war on terrorism has been going on for more than 4½ years, and it looks like terrorism is winning.

The U.S. Government released its annual survey of global terrorism two Fridays ago. Of course, they always save the bad news for Friday, when they hope everyone will have checked out for the weekend. The results? The number of terrorists attacks worldwide quadrupled from 2004 to 2005, climbing over 11,000. That is 30 strikes by terrorists every day, an average of more than one an hour.

Of the 11,000, nearly one-third took place in Iraq, and those Iraqi attacks led to 8,300 deaths. Keep in mind, these are just civilian casualties. These numbers don't even include the number of American troops who have been killed at the hands of the insurgency.

Thank goodness there have been no more attacks on American soil and nothing on the order of 9/11. Then again, if violent extremists want to kill Americans, they don't have to infiltrate our borders. They can make a much easier trip to Iraq, where 130,000 of our bravest men and women are deployed.

The dirty little secret that you won't find in the report is that the Iraq war is responsible for the proliferation of terrorism in recent years. Our preemptive invasion strike on Iraq inspired vicious animosity towards the United States, the likes of which we have never seen and the likes of which we will be dealing with for years and years to come.

The continued occupation is a rallying point for bin Laden and everyone who already dislikes America. The war has given jihadists the best possible propaganda tool, turning Iraq into a hotbed of terrorism. And the way we have conducted the war has only exacerbated the problem. The abuses at Abu Ghraib, the detention camps at Guantanamo, the secret gulags around the world, all of these have eroded U.S. moral authority and further radicalized the Muslim world.

The President has sold the Iraq campaign as some kind of antidote to terrorism. The truth is just the opposite. Our presence in Iraq is pouring gasoline on the fire instead of putting it out.

Peter Bergen, a terrorism expert at the New America Foundation, put it this way: he said, "The President is right that Iraq is the main front in the war on terrorism, but this is a front we created."

There was one part of the terrorism report that I just could not believe. The Washington Post cites the survey as indicating that bin Laden and al-Zawahiri are frustrated by their lack of direct control over terrorist operations. Here is a man who is American public enemy number one, a sadistic killer who President Bush promised to hunt down and capture, dead or alive, and the best we can say 4½ years later is that we have got him frustrated?

There is only one answer, Mr. Speaker: we must bring our troops home, and we must do it at once. Every day that we persist with this occupation is another day that the insurgency gathers strength and further justifies itself. Every day that we stay in Iraq is a day that we lose ground in the war on terror.

It is time for a new counterterrorism strategy like the one I have outlined in my SMART Security proposal; one that is based on strong intelligence and cooperation with our allies and multilateral organizations; one that invests in homeland security and enhances efforts to cut off financing for terrorist organizations.

Defeating terrorism will require more brains and less brawn. It demands, first and foremost, that we bring our troops home.

MAINTAINING AIR SUPERIORITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. BISHOP) is recognized for 5 minutes.

Mr. BISHOP of Utah. Mr. Speaker, in 1781, George Washington, even though he had won the Revolutionary War, kept the Army intact and on alert for 2 more years until the signing of the peace treaty, saying, "There is nothing that will so soon produce a speedy and honorable peace as a state of preparedness for war."

Now, this week we will be voting on the Defense Authorization Act, which is not talking about our military in this year or the next year, but 10 and 15 years from now, because those who have our positions 10 and 15 years from now will have their military and their diplomatic options defined by what we do on the Defense Authorization Act this week.

The United States is superpower because of the quality of the individuals we have in our military and the technology and weapons system that back them up. As former general and Secretary of State Colin Powell said, "If we go to war, we don't want to be in a fair fight."

Now, Operation Desert Storm in the early 1990s illustrated the awesome air superiority we have. Afghanistan and Iraq clearly illustrate our air superiority. In fact, the United States has had air superiority since the Korean War. However, we have flown a military sortie every day for the past 15 years, and it is starting to take its toll on our equipment.

A Defense Department study recently said that there has been a 10 percent decline in the mission capable rates of our aircraft since Desert Storm in the 1990s. Now, this 10 percent reduction is not because we have maintenance deficiencies or trained personnel deficiencies. It is because we are still flying the same aircraft, this time, though, much older and with hundreds of more flight hours on the same airframe.

In the 1990s, we took a procurement holiday in Congress and wanted to cash in on the so-called "peace dividend," which simply meant in practical terms the defense budget was cut in favor of other Federal spending and the new generation of fighters, the F–22s, the F–35s, were caught in the cross-hairs of that spending practice and shoved to the outside years, which meant we are now starting to fall behind. We were ignoring the leapfrog of technology that is available to our systems. We are now realizing that the F–22 and the F–35 are going to be that which closes gaps and helps us to ensure air dominance for the foreseeable future.

Both the 22 and the 35 employ stealth technology, which provides our warfighters with a critical edge in any conflict, even in low intensity battles like Iraq. Those responsible for planning the air campaign need the protections provided by stealth fighters in protecting other non-stealth aircraft, as well as ground combat.

The flight range of the 22 is three times the combat radius, and the 35 is projected to have more than double the unrefueled combat radius of the fighters they would hope to replace. The avionics would allow them for a longer stand-off, which simply means we, the good guys, can see, detect, and shoot down the bad guys before they recognize we are in the area, which is what we want to have in any type of combat.

These weapons systems we are talking about are incorporating high-tech advances in composite technologies which result in more durable aircraft parts, reduced corrosion, and lessen the needs of maintenance in the future. What we are doing, Mr. Speaker, is planning for the future.

In 2004, we had a program called Cope India, which revealed that pilots outside the United States are certainly capable of achieving very high levels of proficiency. While we don't count India as a likely enemy, this exercise was an eye-opener for the United States in the sense that it demonstrated the United States can no longer take for granted that it will always be facing an inferior air adversary, even amongst Third World nations.

Fifteen years from now we do not know whether we will be fighting a war of terror or a conventional war. But, as Washington said, we must be prepared for whatever circumstances may be there. Because at the end of the day when we are compelled to take up arms to defend our freedom, we don't want to be in a fair fight. We want our sons and daughters to have the very best capabilities, and we want to prevail.

We must recommit as a Nation to provide the support and the resources to properly field the next generation of fighters, the F–22 and the F–35. We have an oversight responsibility to make sure that these programs are carried out in a responsible manner. We need to work together to ensure that they succeed, because they are one of the most important foundation blocks of our future national defense.

Terrorism does not take a holiday. We cannot. We must look forward to the future, so that 10 and 15 years down the line we will be able to defend ourselves in an appropriate way.

A NEED FOR SELF-MADE LEADERS, NOT DERIVATIVE LEADERS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I have been asking myself why the President of the United States really can't get a grip on policies that would help America become energy independent here at home. Last week, as we were looking at rising gasoline prices all across our country, he suggested that we import, import more ethanol.

I thought about that comment and his whole administration's lack of attention to energy independence for our country, and I sort of sat there at my desk and thought, why would the President behave this way? And I thought a lot about how we form our personalities and when we take whatever occupation we get into as adults, why we behave the way we do.

There are some personalities that result from experiences that make you self-made, and then there are those personalities that I call derivative personalities, and their behaviors result from a different set of experiences, so when they get in a job they really can't command and direct, because they have never really done it themselves.

Here is an example. I grew up in a family where our mother made our clothing. We didn't have a lot of money, so we learned how to scrimp, and we learned how to invent and to create. And those are learned skills.

The President grew up in a family that was extraordinarily wealthy. I would guess that they bought most of their clothes. In fact, I can remember when the President, his father, didn't even know how much socks cost in the store during one of his Presidential races. They always bought everything. They never made. They had enough assets, he inherited enough, that they really didn't have to learn how to be self-made. So he doesn't have a mind that lends itself to creativity necessarily.

We came from a family where we ran our own small business. Our dad made his own products. We made our own sausages, our own meatloafs, our own pickles. Dad had to do everything himself. He had to figure out how to finance his business.

We have a President who inherited his wealth. Everything that he did, he had this soft landing pad. He failed a number of times in businesses that he inherited from his own family, but he never really paid the consequences, because someone was always there to catch him and to refinance him, even in the purchase of the baseball team that he owned, which then he eventually sold and used those dollars to get elected President of the United States. Most American families don't have that kind of landing pad.

In our family, we had to earn our way to go to college, and we had to get good grades, because there was nobody there that was going to save you. Nobody in our family had ever gone to college before. I had to keep good grades to keep a scholarship up for the scholarship I did receive.

But the President's education was paid for by his family. In fact, he was admitted to schools, based on his grades, that most Americans could never get admitted to.

I think what these kinds of experiences do is create a different kind of personality, a personality of people who are self-made and they know how to create, versus a personality that is more derivative and sometimes can't solve problems, and they look to someone else to solve them.

So if we have an energy problem in America, the President would look to somebody else. And he says, well, let's import the ethanol. He doesn't really think about creating a whole new industry here at home and using the Government of the United States to help create that industry.

That is why he has proposed cutting programs. At the same time out of one side of his mouth he talks about energy addiction, but then is trying to use the Government of the United States to create a new energy future for America. He really doesn't know what to do with it when he is in command of it.

It was actually Congress that adopted the first energy title to a farm bill. It didn't come from the administration. And if you look at every single budget that he has offered, he talks about energy independence, and then he cuts the programs that would lead us in that direction.

What America really needs is a new biofuels industry as a complement to other forms of power that we can create. But we need self-made people to help move America in that direction. Many of our farmers are figuring it out. We need programs to help them finance the development of the new infrastructure and the production facilities that are necessary to green up this industry. They need the President's help to do it so they are not bought out by Big Oil and by companies that really don't want them to bring up this new industry. But the President really doesn't know how to create it. His Secretary of Agriculture isn't doing it.

We could have programs like title IX in USDA funded at $1 billion. We struggle to even get $25 million or $23 million in our committee, which is laughable in terms of a trade deficit in oil of over $60 billion and counting.

The President's Cabinet members are not energy-focused. The Secretary of Defense said energy isn't his job. He runs the largest instrument in this country that uses fuel, and energy independence isn't his job? He said that to us in committee.

Mr. Speaker, we need people in our country and the Presidency and this Congress who are self-made, not derivative, to lead America to a new independent energy age.

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SENATE HEALTH WEEK

Mr. GINGREY. Mr. Speaker, I ask unanimous consent to speak out of order for 5 minutes.

The SPEAKER pro tempore. Without objection, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

There was no objection.

Mr. GINGREY. Mr. Speaker, I rise tonight to applaud the United States Senate for bringing to the floor this week three critical pieces of health care legislation. Unfortunately, only one of the three still stands a chance to see an actual up-or-down vote on the Senate floor.

The rising cost of health care is an issue the Federal Government can no longer afford to ignore. The Department of Health and Human Services reports the cost of medical liability coverage and defensive medicine alone increases the amount taxpayers must pay for Medicaid, Medicare and other Federal health programs by as much as $56 billion a year. So much more than the increased cost of malpractice premiums is the astronomical cost of defensive medicine.

Mr. Speaker, the Federal Government is seeing, as is every business and State legislature across America, their budget being crowded out by the skyrocketing costs of health care. We no longer have the luxury to pretend that this is not a national crisis, and it demands not only our full attention, but our resolve to find real solutions.

Each and every year, the House of Representatives has tackled the tough issue of controlling the cost of health care. In this body, we have passed medical malpractice liability three times in the last 2 years. Each and every time, that piece of legislation has fallen victim to the inaction of the Senate, and each year our health care crisis continues to grow.

When someone we love brings a child into this world, we do not thank a trial lawyer for his hard work. When a family member is admitted to the emergency room after a heart attack, we do not feel relieved that there was a trial lawyer close by. And yet unless we do something soon to fix our medical liability system, we might discover it is far easier to find a lawyer in our community than to find a doctor.

Guaranteeing all Americans access to quality health care should be what drives this debate. Just think: The best medical care in the world goes to waste if there are not doctors in our community to deliver it.

There are many stories, Mr. Speaker, too numerous to tell, of quality physicians hanging up their stethoscopes to pursue other careers. When they are faced with soaring medical malpractice premiums and decreasing reimbursement, the best and the brightest are pursuing other career paths.

Ask your neighborhood physician if they would encourage their children to follow in their footsteps and to become a doctor. All too often you would get a resounding "no."

Unfortunately, there were not enough Senators yesterday who stood on the side of patients. There were not enough Senators yesterday who put quality health care above partisan politics. Once again, sensible medical malpractice reform legislation died in the Senate.

This sensible legislation is based on a proven system that is saving health care in Texas. H.R. 5, the Health Act, common-sense reform legislation for which I was the lead sponsor last year in this House is also based on a successful reform model from the State of California, that was enacted in 1978, called MICRA.

What we know, looking at these precedents is that reform works. Mr. Speaker, look at the medical malpractice premiums in 2003 for OB/GYNs in two different cities. In San Francisco, a city in a reform State, California, an average OB/GYN physician would pay $40,000 a year for an annual policy. However, an OB/GYN physician practicing in Chicago, Illinois, a nonreform State, would pay an annual premium of $139,000.

This is not a situation that can be righted overnight, but there are sensible reforms that provide necessary steps to transform the American health care system, and medical malpractice reform is certainly one of them.

Mr. Speaker, another good step towards transforming health care is Senate bill 1955, which the Senate is currently debating. The Health Insurance Marketplace Modernization and Affordability Act is legislation that is similar to H.R. 525, the Small Business Health Fairness Act, that we passed in this body. This bill was introduced by Representative SAM JOHNSON, and as I say, it passed the House last year. This legislation will reduce the cost of health benefits for small business and the self-employed by establishing the new national Association Health Plans, or AHPs, as they are known.

AHPs currently exist, but they are severely hampered by the administrative burden and the high cost of having to comply with 50 different sets of State insurance laws and regulations. These barriers have made it virtually impossible to start new plans, and they have forced many of these plans to close, thus greatly limiting the availability of affordable health insurance to small businesses.

Allowing an environment that will permit association or small business health plans to flourish will strengthen our health insurance markets by creating greater competition and more choices of health plans for small business. Greater competition will benefit consumers by driving down premiums and expanding access to coverage.

H.R. 525 is just another example of House Republicans showing the American people they get it done when it comes to healthcare reform. In regards to decreasing the cost of health care, expanding private insurance coverage to all Americans, and increasing the quality of the healthcare delivery system; patients across our country deserve our undivided attention and it's time for the Senate to act, or stand accountable.

ASIAN PACIFIC AMERICAN HERITAGE MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

Ms. LEE. Mr. Speaker, I rise this evening to celebrate Asian Pacific American Heritage Month.

Mr. Speaker, I would like to thank a great leader, our colleague, Congressman HONDA, and the Asian Pacific American Caucus, of which I am a very proud member, for organizing later this night a special order to honor the contributions of Asian Pacific Americans.

Mr. Speaker, I cannot help but first recall and remind us of the great leadership of our beloved Congressman Bob Matsui, whom we all knew so well, who led the fight for justice and reparations for Japanese Americans who were interned in our own country.

And it is in his memory tonight that I hope we will all reflect on the legacy and great contributions of not only Congressman Matsui, but so many Asian Pacific Americans who played a tremendous role in the development of our Nation.

I would like to acknowledge the late Congresswoman Patsy Takemoto Mink, our first woman of color to serve in the United States House of Representatives. She was a trailblazer for Asian Pacific Americans and women and all people of color. And it is wonderful to see that her impact is felt and that her legacy continues. We miss her tremendously.

APA Heritage Month is especially important to my congressional district. Asian Pacific Island American culture has a very large impact in the cities in my district. My district is the birthplace of Amy Tan, a Chinese American woman, and the New York Times best-selling author of the Joy Luck Club. Many have read that novel and its subsequent film adaptation. She has received countless acknowledgments, including the Bay Area Book Reviewers Award. Tonight, Ms. Tan's novels and short stories are part of high schools and universities literacy curricula nationwide.

My district is also the birthplace of Fred Korematsu, born in Oakland to Japanese immigrants who challenged the World War II internment of Japanese American citizens. As an American citizen, Mr. Korematsu refused, he refused to go to an internment camp, but he was arrested. He was sent to one in 1942 and branded a spy by newspapers. He opposed the internment policy in the Supreme Court, but in its 1944 decision, the Supreme Court upheld that policy. Unbelievable.

In 1983, Mr. Korematsu, appealed his conviction which a Federal court overturned, acknowledging that the government's case at the time had been based on misleading and racially biased information.

President Bill Clinton awarded Mr. Korematsu the Presidential Medal of Freedom in 1998, honoring Mr. Korematsu for fighting for human rights and ensuring the very liberties that created this great Nation.

Today, the legacy of Asian Pacific American leaders such as Ms. Tan and Mr. Korematsu, Congressman Matsui, Congresswoman Patsy Mink is apparent in the numerous and remarkable programs and initiatives in our communities and especially throughout my district.

There are several that I would like to recognize, including Oakland's Asian Students Educational Services, also known as OASES. As the City of Oakland is one of three cities in the Bay Area that has the lowest high school graduation rates for Asian students, this organization works to decrease cultural gaps in education.

I would also like to recognize the Oakland Asian Cultural Center. This center works by employing the belief that upholding cultural traditions and honoring cultural heritage are the core of maintaining healthy and liveable communities.

My district is also home to several of the Nation's leading health care providers for the APA community. Asian Community Mental Health Services, for example, is an organization that offers access to and increases community acceptance of mental care, in which many APA communities remain taboo.

Lastly, I would like to bring special attention to Asian Communities for Reproductive Justice and its executive director, Ms. Eveline Shen. Founded in 1989, ACRJ has been a long-time leader in ensuring that APA women and girls are equipped with the tools to make important decisions about their reproductive health. I commend Ms. Shen and the ACRJ's dedication to assisting women to obtain America's promise of liberty and justice for all.

Mr. Speaker, again I would like to thank Mr. HONDA and the APA Caucus for inviting me to participate later tonight in this special order. Let us continue to unite and pay tribute to Asian Pacific Americans and remember the importance of their outstanding contributions to our Nation.

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ASIAN PACIFIC ISLANDER AMERICAN HERITAGE MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. ROYBAL-ALLARD) is recognized for 5 minutes.

Ms. ROYBAL-ALLARD. Mr. Speaker, I am proud to stand with my colleagues as we celebrate Asian Pacific American Heritage Month. I thank Congressman HONDA and the Congressional Asian Pacific American Caucus for organizing tonight's special order.

Our theme for this year's festivities, Dreams and Challenges of Asian Pacific Americans, speaks to the many generations of Asian Pacific Americans who worked hard to overcome economic hardship, racism and other barriers in their pursuit of the American dream.

The theme reminds us of the Chinese who endured inhumane conditions to build our western railroads, and the Koreans who did the back-breaking work on the sugar plantations in Hawaii. And it reminds us of the Filipino Americans who fought bravely for our country, and the courageous Japanese Americans who fought for their country despite the shameful treatment toward their families in internment camps during World War II.

This year's theme also reminds us that in spite of these hardships, the API community has successfully met the challenges it faced and has enhanced greatly the richness and strength of our American society.

The contributions and cultural imprint of the API community is especially impressive in Los Angeles where many of the first Asian American immigrants made their home.

I have the pleasure of representing the Los Angeles communities of Little Tokyo and parts of Chinatown, and Filipinotown. As is true for all Angelenos, my life has been enriched by the magnificent culture of Asian Pacific Islanders and their positive impact on our city and on our Nation.

Asian Pacific Islanders contribute to our economy in many ways. They are leaders, for example, in our international trade. They are pioneers in our fashion industry. They are nonprofit community leaders, restaurateurs and small business owners. They are patriots who continue to defend our Nation and our American way of life through the distinguished service in our Armed Forces.

The API community also enhances our lives throughout the year with its many cultural celebrations. In my own district of downtown Los Angeles, I look forward to riding in the annual Nisei parade in Little Tokyo and the Chinese New Years parade in Chinatown.

Mr. Speaker, Asian Pacific American Heritage Month is a wonderful opportunity for our country to honor our country's API community and its many worthy contributions. And it is a wonderful time to explore their rich and diverse culture, customs and history.

I thank my API constituents who continue to enrich my life, the life of Angelenos, and our Nation. I am proud to join my congressional colleagues in paying tribute to the API community as we celebrate Asian Pacific American Heritage Month.

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REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4297, TAX INCREASE PREVENTION AND RECONCILIATION ACT OF 2005

Mr. GINGREY, from the Committee on Rules, submitted a privileged report (Rept. No. 109–458) on the resolution (H. Res. 805) waiving points of order against the conference report to accompany the bill (H.R. 4297) to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5122, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

Mr. GINGREY, from the Committee on Rules, submitted a privileged report (Rept. No. 109–459) on the resolution (H. Res. 806) providing for consideration of the bill (H.R. 5122) to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2007, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SUBURBAN CAUCUS AGENDA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Illinois (Mr. KIRK) is recognized for 60 minutes as the designee of the majority leader.

Mr. KIRK. Mr. Speaker, I want to thank the House and my colleague from Georgia for arranging for this time to talk about a new suburban agenda for the country, one that addresses key issues before families in America and reflects the new suburban reality of the way we live our lives.

This Congress is well known for being home to a Rural Caucus and an Urban Affairs Caucus. But to date we have never had a Suburban Caucus addressing the needs of suburban families. For us at this time we should recognize not how Americans lived in the 20th century but how they live now in the 21st century.

In the most recent election, over half of all voters were from suburban families, and suburban communities are under attack. They are under attack from gangs moving to the suburbs and taking on suburban police departments. They are under attack from Internet predators. Over 50,000 of them online at any one time attempting to contact our kids. We see a growing wave, a disappearance of green and open space that need to be protected. And there is a general fear held by three-quarters of the American public that it may be more difficult for their kids to enter the middle class than it was for them.

Five dozen Members of Congress have gathered together to put together a suburban agenda to address these needs. And one of those Members is representing the Atlanta suburbs, Congressman TOM PRICE, and a member of Suburban Agenda Caucus, and I yield to him.

Mr. PRICE of Georgia. I thank the gentleman for yielding. I thank the gentleman for his leadership. I appreciate the leadership allowing us to bring this agenda forward.

When I go home, I am often times asked, How often do you get back? How do you get that touchstone? How do you make certain that you are staying in touch with your district? And most Members do go home every weekend and that is important because it is important that we keep in touch with our constituents and hear their views and their concerns. Like most Members, I go home every week, most of us go home every weekend, to my district which is the Sixth District of Georgia. It is a wonderful place to represent. It is the northern suburban Atlanta area. It is kind of the quintessential suburban district. It is full of active and productive families, patriotic Americans, hardworking folks.

And when I am at home, yes, my constituents are concerned about the war on terror, and, yes, they are concerned about the crisis of illegal immigration; but, Mr. Speaker, they are also concerned about school safety; and they are also concerned about easing the difficulty of obtaining health care for themselves and their family and their parents. And they are also concerned about increasing conservation of our Nation's resources, and they are also concerned about being able to afford a college education for their children. So tonight I am honored to join the gentleman from Illinois. I appreciate his leadership in this area, for what has been coined the Suburban Agenda.

I am pleased to support this agenda and this activity. I look forward to assisting the gentleman from Illinois and others in shepherding this legislation through the House. I am so honored to work with him in this endeavor. I look forward to the discussion this evening.

Mr. KIRK. I thank the gentleman.

One of the critical problems we have is from powerful social networking sites like MySpace.com and other sites that have given online predators powerful tools to reach children. Our leader, the author of the Delete Online Predators Act, is a Congressman from Pennsylvania, MIKE FITZPATRICK and I want to yield to him.

Mr. FITZPATRICK of Pennsylvania. Mr. Speaker, I am proud to join my colleagues tonight as we unveil the Suburban Caucus' agenda for America. Tonight we bring to the House floor strong forward-looking legislation that would help America's families in some of the fastest growing areas of our country.

I, along with our fellow caucus members, understand the issues that suburban families face each day because each one of us lives in the suburbs. I grew up in a place called Levittown, Pennsylvania, which sits just a few miles north of Philadelphia. The majority of my district is situated only 2 hours from New York City. My district borders the Delaware River right across from Trenton, New Jersey, and I am proud to represent neighborhoods in Northeast Philadelphia.

These are all suburban areas, places removed from cities, but impacted by them on a daily basis. The suburbs have held a sentimental sway in America since the fifties. Thousands of my constituents have migrated away from New York and Philadelphia to live in my district in search of a change of pace, the purchase of a new home, more space to raise a family, a new economic opportunity. However, increased urbanization has blurred the line between city and suburb, creating new challenges that were unheard of only a decade before.

My constituents, like millions of other suburbanites, face transportation challenges, threats from increased crime, environmental concerns, financial worries, and concern over the state of their children's education. In many ways they share the same concerns their neighboring cities have, and those concerns need to be met with attention from Congress.

The Suburban Caucus is dedicated to addressing these issues, and I am proud to be a member of the caucus and to take part in tonight's discussion.

Mr. Speaker, my most important job is my role as a father of six children. In a world that moves and changes at a dizzying pace, being a father gets harder all the time. Technology is one of the key concerns I have as a parent, specifically the Internet and the sites my kids visit, register with, and use on a daily basis.

The Internet is a wonderful invention. It has opened a window to the world right in our homes. However, with the limitless possibilities that window offers, we must be mindful of what we view and let into our homes. One of the most interest and worrying development of late has been the growth in what are called "social networking sites." We have all heard of them in one way or another. Sites like MySpace, Friendster, and Face Book have literally exploded in popularity in just a few short years. MySpace alone has just over 76 million users and ranks as the sixth most popular English language Web site and the eighth most popular site in the world. Everyone can use these sites. Companies and colleges, teachers and students, young and old all make use of networking sites to connect with people electronically, to share pictures, information, course work, and common interests. These sites have torn down the geographical divide that once prevented long distance social relationships from forming, allowing instant communication and connections to take place and a virtual second life to take hold.

For adults, these sites are fairly benign. For children, they open the door to many dangers, including online bullying and exposure to child predators that have turned the Internet into a virtual hunting ground for children.

Mr. Speaker, the dangers our children are exposed to by these sites are clear and compelling. A Department of Justice survey found that one in five children have received an unwanted sexual solicitation from online interests in the past year alone. Mr. Speaker, one in five children.

The FBI reports that child pornography cases have increased more than 2,000 percent over the past decade. And MySpace, which is self-regulated, has removed an estimated 200,00 objectionable profiles since it started in 2003. Look closely at local and national news stories and you will see a troubling increase in cases of child sexual assault where sites like MySpace and Friendster were a key component in the crime.

That is why just this evening I introduced the Deleting Online Predators Act, H.R. 5319, as part of the Suburban Caucus agenda. Parents have the ability to screen their children's Internet access at home, but this protection ends when their child leaves for school or for the library. The Deleting Online Predators Act requires schools and libraries to monitor the Internet activities and implement technology to protect children from accessing commercial networking sites like MySpace.com; and chat rooms which allow children to be preyed upon by individuals seeking to do harm to our children; and visual depictions that are obscene or child pornography.

Additionally, the legislation would require the Federal Trade Commission to design and publish a unique Web site to serve as a clearinghouse and resource for parents, teachers, and children for information on the dangers of surfing the Internet. The Web site would include detailed information about commercial networking sites like MySpace. The FTC would also be responsible for issuing consumer alerts to parents, teachers, school officials, and others regarding the potential dangers of Internet child predators and others and their ability to contact children through MySpace.com and other social networking sites.

In addition, the bill would require the Federal Communication Commission to establish an advisory board to review and report commercial social networking sites like MySpace.com and chat rooms that have shown to allow sexual predators easy access to personal information of and contact with our Nation's children.

Make no mistake, our children on the Internet are at risk. Predators will look for any way to talk to children online, whether through sites like MySpace, instant messaging, or even online games. The best defense against these people is to educate parents and children of the dangers that come along with the Internet and by protecting our children during the school day. There may be no one silver bullet solution to this problem, Mr. Speaker, but this legislation takes a strong step forward in deleting the presence of child predators online.

It is a step that must be taken and an action that families across the Nation expect and deserve from their United States Congress.

Mr. KIRK. I thank the gentleman who has become the leader on protecting kids from these new powerful tools online.

Suburban families have told us consistently that they want congressional action on education, health care, conservation and the economy; and one of our big reforms in the area of health care is accelerating health care information technology. I yield to my colleague from Georgia to talk about that major piece of legislation.

Mr. PRICE of Georgia. I thank the gentleman from Illinois once again for his leadership and for yielding on this issue.

As you mentioned, right below those top button issues for folks all across this Nation, but especially in the suburban area, if you ask them what is important to them, education and health care are truly right there. They are concerned about being able to have access to health care. They are concerned about being able to afford health care. They are concerned about health care for their parents, and they are concerned about the accuracy of the records that are kept regarding health care and the portability, moving those records around.

As a physician, I practiced medicine for over 20 years; and so many things have changed in medicine, the different medications that we use, the different surgical procedures that we perform. The vast majority of those were not around 20 years ago, but what is around still, not just from 20 years ago but from 40 years ago and 60 years ago is the paper record of one's health care. Most of us go into the doctor and the paper chart shuffles through the office. That was not all bad in that time, but today we can cut down on the errors in health care. We can cut down on the cost of health care. We can improve health care access to folks, to go from a primary care physician to a special physician by the use of health information technology.

Our colleague, NANCY JOHNSON from Connecticut, is introducing, along with the Suburban Caucus, the Health Information Technology Promotion Act. It will result in a remarkable incentive to fully promote electronic medical records that will cut the costs and reduce medical errors by over 80 percent is what the statistics will tell you. Civilian patient records in New Orleans were wiped out. One of the things that made it so was that there was not the portability of health care for those individuals. But the electronic records for veterans were fully protected and available at any VA hospital.

This is just a case in point for how much advantage we could gain as a Nation having health records available in an electronic form. Over 60 percent of Americans support this, and it is imperative that we move in this direction for safety reasons, for access reasons, and for ease of availability of health care for all citizens across this Nation, and especially in our suburban areas.

So I look forward again to working with my colleague from Illinois and all members of the Suburban Caucus and the House to promote these positive, positive agenda items in the area of health and elsewhere.

□ 2045

Mr. KIRK. Mr. Speaker, I thank the gentleman. We saw a dramatic testament to the value of fully electronic medical records when Hurricane Katrina hit New Orleans. The many civilian hospitals had not yet upgraded to fully electronic medical records, and their record rooms were flooded out. Many of those patients then lost their medical histories, but the veterans in New Orleans did not have that problem. Their records were already fully digitized, and so a veteran reporting to a VA hospital in Houston or in Baton Rouge had their complete medical history protected.

That is one key issue in the suburban agenda, but another is protecting kids from predators, especially in schools. We heard of the great tragedy of Jessica Lunsford, an example of inadequate screening for people who come in contact with kids, and one of our experts on this field is my colleague from the State of Florida, and I yield to her.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, thank you very much. First of all, I apologize. I have a little bit of laryngitis here, but I wanted to join you to express my support for the suburban agenda. You have done a great job, and I know I heard Dr. PRICE say that he goes home every weekend, as most of us do.

My district in Florida, the largest city I have is all of 21,000. I have a lot of suburban areas and areas that we call unincorporated areas, and the suburban agenda clearly is one that my constituents who are not city folk, maybe they used to be but they are not anymore, can really relate to. One of the concepts clearly is protecting our children. Whether it is a grandmother who lives in Florida or whether it is a young family that lives in Florida, they all want to make sure that children are protected.

February 23 marked the 1-year anniversary of Jessica Lunsford's death. Her dad, Mark, and her grandparents, Archie and Ruth Lunsford, live in Citrus County in my district. I actually lived less than 5 miles from Jessica at the time that she was murdered.

If she were still with us today, she would have been in the fifth grade, learning about decimals and fractions, the solar system and certainly American government. Instead, her life was taken by a sex offender who kidnapped, assaulted, and murdered her and then buried her in his backyard. This tragedy all of America grieved for.

The irony of it is that the perpetrator actually worked at her school. He was hired by a company that was doing some construction work at her school.

Congressman PORTER introduced the School Safety Acquiring Faculty Excellence Act, which would permit school districts to access FBI criminal data before hiring new employees.

My bill, the Jessica Lunsford Act, requires offenders to wear ankle monitoring devices if they fail to report when they move from area to area. In addition to the current fines and jail time under the Jessica Lunsford Act, offenders would have to wear the GPS monitoring device for 5 years and predators for 10 years.

Probation officers right now are not provided with notification of a probationer's sex offender status from a previous crime. My legislation requires that that record be given to the probation officer. I am sure, Mr. Speaker, that if the probation officer knew of this record that he never ever would have allowed the predator to work in that school.

We need to make sure that we have this information out there and available; and, certainly, protecting our children from those who would do them harm, those who really are the lowest of our society, is so very, very necessary; and I know that all of the members of the Suburban Caucus are very, very supportive of protecting our children.

Like Dr. PRICE and many of you all here tonight, I, too, go home every weekend. People are surprised to see me, but I tell them that I do not ever want to start thinking like the Beltway mentality up here. For that reason, I was delighted to participate and was a bit encouraged that the Senate passed a version of the bill that we passed here, actually that we passed to protect children. Whether there is a conference committee or whether it is just something that is worked out between the two chairmen of the Judiciary Committees, the Senate chairman and our chairman here, certainly remains to be seen. But let us make no mistake: we want to make sure that we protect our children.

I am so glad that you have included that issue in this suburban agenda. My hat is off to you, and I am sure that all of the suburban areas that we represent and yours will be very, very happy that we have taken these issues on.

Mr. KIRK. Mr. Speaker, I thank the gentlewoman who lost Jessica Lunsford in her own district.

Our leader on this issue is Congressman JON PORTER from Nevada, the author of the School Safety Acquiring Faculty Excellence Act, and I want to yield to him.

Mr. PORTER. Mr. Speaker, I want to thank my colleague and friend from Illinois (Mr. KIRK) for bringing us to together as a caucus that is focused on, I think, issues that are impacting a lot of moms and dads across this country, especially in a part of the country, suburbia, where a lot of these folks are busy taking their kids to school, getting off to work and do not necessarily have a lot of time to show up for congressional hearings.

If we look back through the history, our leadership has been very supportive. I appreciate Mr. HASTERT and Mr. BOEHNER for allowing us this time tonight on these key issues.

If we look back in time, about 40-some years ago, when I was a young man in a small Catholic grade school in the Midwest, in the community of Humbolt, Ohio, a number of challenges for teachers and challenges for parents and students had a lot to do with spitwads. Maybe showing up on time for class, making sure we are on time and making sure we got good grades, of course, was a priority; but think how things have changed. In those days, in my little Catholic grade school, we could not wear blue jeans with rivets because we were afraid we would scratch the desks.

Let us fast forward today into suburbia. Today, we have children in the classroom that are trying to deal with drive-by shooting drills. They have drive-by shooting drills in certain schools across the country. We have children that need our special help more than ever, with an environment that is ever-changing, and it is not about rivets and blue jeans. It is about worrying about the Internet, worrying about predators, worrying about predators that stalk our students, that hang around the playgrounds.

If you look at suburbia and inner city and communities around the country, if you look at police files, you will see that on maps they put dots and marks where sexual predators live and they frequent schools and hang around classrooms and hang around the ball fields.

Well, being a parent myself, and having two children that graduated from the public school system in the community of Nevada and southern Nevada, I trust that when our schools open and when our schools hire teachers, that they are going to have the best tools available to screen teachers, to make sure that we hire the best and the brightest to take care of our children.

We are very fortunate that the bulk of all of our teachers across this country are absolutely some of the finest. They care about their children, they care about the school, and they care about educating our precious resource, that is, our kids.

I cannot imagine the pain of a parent or a child that has been molested or taken advantage of by a teacher or a faculty member at a school somewhere across the country. We pick up the paper every day, and there is a story about someone that slipped through the system, a teacher or a faculty member somewhere that has applied and has found a job and is employed with our children and teaching our children. I will be honest with you. I cannot imagine the pain if my child or a friend of mine's child was molested or assaulted.

In the late 1990s, 1998, this Congress in its wisdom passed legislation to allow for complete background checks on teachers. That was in 1998. Unfortunately, as we fast forward, that bill which was to provide, again, complete knowledge, complete background checks to make sure that our teachers are safe, to date, to 2006, only 26 States are able to use the law that we passed in 1998. Again, that law was passed as a reason to make sure our principals, our administrators have the right tools to check the backgrounds of teachers. Like I said, fortunately, 26 States today are using it; 24 are not. So almost half are not using this tool that is available.

We use Nevada as an example. Clark County School District in southern Nevada hires around 2,000 new teachers a year, another 3,000 or 4,000 faculty members, close to 6,000, 7,000 people a year. You go across the State, you look at our growth, we are one of the fastest growing States in the country. We need to build 2½ new schools each month. We also need about 2,500 new teachers, but we have run into some problems.

Unfortunately, since 1998 only 26 States are using the background check that is available due to constitutional challenges within their States, due to bureaucratic challenges in their States. We want to make sure in Nevada that when we check the background of a teacher that we have the most up-to-date, up-to-the-minute information without barriers.

Well, again, unfortunately, that tool has not been available to all the States. So I proposed legislation, and it is H.R. 4894, the School Safety Acquiring Faculty Excellence Act, and what it does is allows every State to have access to information, both Federal and State information, on criminal background checks on teachers. Again, unfortunately, some of the States that we checked with, and we are trying to hire new teachers, due to different reasons are not able to provide the information that we need. So I encourage that we pass H.R. 4894.

It does a couple of things. One, it gives the tools to all the States to check backgrounds through the Federal Bureau of Investigation, through all that information so they can feel comfortable that they are getting the latest up-to-date information. Number two, it streamlines the process. Some States now, although they are doing background checks, it could take weeks or months to get information on hiring a new teacher.

So the bill really does two things. It provides immediate access so there are fewer barriers so our administrators can have the proper information to make sure our students are safe, and it provides for those States that cannot currently follow the act of 1998 to gather that information.

Mr. Speaker, I appreciate this opportunity. There is no more precious resource than our children. We want to make sure that our parents, our administrators and our teachers and, most certainly, our children have the best available to them through the teachers that we are hiring; and with that, again, I appreciate the time.

Mr. KIRK. Mr. Speaker, I thank the gentleman from Nevada because he is the author of the lead bill of the suburban agenda, and that will be coming up shortly in the Congress here.

We know that, for example, in the State of Michigan, schools unwittingly hired 2,500 people convicted of sexual assault, murder and other felonies, exactly because these predators fell between the cracks of the various State registries which have been established and were not brought together in a single Federal register.

One of the great problems that we have is also the emergence of international drug gangs moving into suburban communities. There are over 800,000 members of drug gangs now in America. It would be the seventh largest army in the world, and we need action to make sure that these gangs, sometimes suppressed inside large urban cores by capable police departments like the Chicago Police Department, are now moving into the suburbs. This is a phenomenon that we are not immune to in Chicagoland. It is happening all over the country, and I yield to my colleague from Atlanta to talk about the law enforcement situation that they face with gangs in that community.

Mr. PRICE of Georgia. Mr. Speaker, I thank my colleague for yielding. I tell you, one of the things that excites me so about this suburban agenda is that it addresses real issues of real people, in real life, in real-time. Oftentimes, we deal with issues and they seem kind of out there. They are far away, and they are issues that are difficult to get your arms around; but I tell you, in my community, the issue of gangs and gang violence has reared its head.

□ 2100

When we have neighborhood meetings or you get together with PTA groups and you talk about this, folks just shake their head. They say, It doesn't make any sense. How can this be going on?

That is why I am so excited about the suburban agenda because what it does is bring issues that people are talking about every single day in our districts back at home and saying, Why can't we do something about that? That is what Congressman Reichert has brought forward. H.R. 5291 is the Gang Elimination Act of 2006.

Will it eliminate gangs? No, but it will go a long, long way because what it does is charge the Attorney General with identifying those gangs that are the most egregious, that are the most violent, that are the most threatening to our communities all across this Nation, a lot of suburban areas, but all across this Nation and says, Let's get a strategy down to make certain that we address these and start knocking these gangs down, start making it so that these gangs are not able to function in the way that they are able to function right now and not able to threaten our families and our children.

Mr. KIRK. One of the critical problems we have, we have heard of gangs like the Latin Kings and the Vice Lords and the Gangster Disciples, but we have a new gang emerging called MS–13 that may have reported, we don't know, links to international terror groups coming out of drug activity south of the border that seem to have no compunction with killing police officers, both on the West and East coasts. This is not just a threat to kids in school, it is a homeland defense issue.

Mr. PRICE of Georgia. You are absolutely right. Apparently, so many of these gangs have a rite of passage that they institute for their members. That rite of passage is often very violent. Sometimes it is the murder of a member of the police force or a member of the community.

And so this again is real-time issues, real issues that face our communities all across this Nation each day. I am proud again to stand with my colleagues here and I am so proud of Congressman Reichert for his leadership on this issue. We look forward to having it passed.

Mr. KIRK. We all know Dave Reichert from Washington, who was the national hero who tracked down the Green River killer and is someone who understands well law enforcement challenges east of the Cascades in Seattle.

One of the big issues we are also dealing with is a fear among families in America that it may be more difficult for their children to reach the middle class than it was for them. Another key item of the suburban agenda would establish 401-kids, a tax-deferred savings account for each child.

I want to yield to my colleague who shares Florida with the author of that legislation, Clay Shaw.

Ms. GINNY BROWN-WAITE of Florida. I thank the gentleman for yielding.

Clay Shaw has introduced a bill called 401-kids. What it does is it gives young families the opportunity to save for college for the education expenses of their children tax-free. It is an awfully good idea and one that many, many people are looking forward to taking advantage of.

You know, when children are first born, you tend to think, Oh, it's going to be so long, but as those of us whose children have grown now, the time does fly by. So the best way to save, certainly whether it is a parent or a grandparent, is by using a system similar to that which many working people use, a 401(k) program.

Mr. Shaw's bill is one that allows you to set aside money tax-free so it can grow, so it can help to pay for the education of our children. And it is one that I have heard a lot of support for in my district. We want to make sure that not only parents, but grandparents also can participate in setting aside some money for the future education of the generation who will be in college 18 years from now, or sooner.

One of the things that I wanted to also comment on, if you would allow me, is if you put in the word "gangs" and your State into a search engine, it is absolutely astonishing. Coming from Florida, people may think that AARP is the only gang in town. I can assure you that it is not. When we put this information in, we got three-and-a-half pages of gangs that were listed. This is a problem for local law enforcement.

Yesterday, I actually spoke to a man whose son was killed by a gang in Pasco County. I assured him, and he hasn't heard anything from law enforcement, this happened within the last month, that law enforcement is not sitting by idly. Certainly they are involved with it, because it also goes over into the hate crimes area. And the sheriff and the FBI were all involved in this.

Unfortunately, these gangs have no morals, they have no respect for life, and they are taking the lives and terrorizing many, many communities. That is an area that the Suburban Caucus is also focusing on and one that is very, very long overdue.

As I say, if you put in your State and the word "gangs," you would be absolutely amazed. Who would have thought that this would happen in Florida?

Mr. KIRK. I thank the gentlelady.

We have seen a number of gangs morph from the view that we had of them in the 1950s coming out of cartoon images like West Side Story of the Jets and the Sharks, a group of local toughs that no longer exist. These gangs are all connected to international drug cartels, many times having weapons and contacts far exceeding local law enforcement, especially suburban law enforcement.

And now the view that they have is that they merely need to move outside of cities where they take on smaller police departments or high school officials and security officials that are not well experienced with these groups to continue their operations.

Congressman Reichert's Gang Elimination Act of 2006 makes common sense. It simply says to the Attorney General, identify the top three national drug threat gangs and put forward a plan to the Congress to take them down within 4 years. It sets an example of those gangs that if you represent a near and present danger to kids and to the homeland security of the United States, that the U.S. Government is going to take effective action.

The suburban agenda is very much about the security of families from gang violence. It is also about financial security. It is building a nest egg for each child with 401-kids family savings accounts. The Congress should build success upon success. The creation of the 401(k) program transformed the culture of the country to promote much greater savings and investment for people's retirement. In 2001, the Congress created 529 college savings plans, and over 7 million Americans have saved over $75 billion in these accounts.

The 401-kids accounts expands the tax-free savings for each child's college education to also allow the first-time purchase of a home. This is something that much more greatly ensures access of our children into the middle class. That opportunity is not just to build a nest egg for the child, it also gives an opportunity for each parent to sit down with that child and review how their account is being built, what is the difference between a stock and a bond and a regular savings account, how they did this year, to build a culture of savings and investment for the rest of the child's life.

I yield to my colleague from Georgia.

Mr. PRICE of Georgia. Thank you so much. So much of what you have just said makes sense. You talked about common sense. We could call this suburban agenda the common-sense agenda really, because when moms and dads sit at home and they try to figure out how to take care of their health or their child's safety or their child's college education, they want to know whether or not they are going to be able to make that happen. One of the ways to do that is obviously through increased savings.

When Congress finds something that works, we ought to do it, we ought to do more of it, especially when it results in greater savings and greater prosperity for so many individuals across our land. So with the success of retirement security and the 401(k) plans and the success of the 529 plans that you mentioned, we ought to build on that success.

That is exactly what the 401-kids family savings account does. I think it is important. Education really is a key to advancing in society.

But a college education isn't right for every single person. What the 401-kids family savings account recognizes is that that money may be best used for purchasing a first home, or for starting a new business for a child or with a child. That is expanding the success that we have had with the 529 plans, common-sense kinds of solutions that I think will be embraced by this entire House and, frankly, by all of America.

Mr. KIRK. I would say that we welcome Republicans, Democrats, everyone, to join this agenda, because while this is popular, while people want this to happen, it hasn't happened yet. This is an incomplete agenda, where we have not set a national strategy to eliminate gangs; we have not established 401-kids programs; we have not interlinked the Federal databases on sexual predators; we have not taken sufficient action on social networking sites like myspace.com to protect kids.

All of this, then, builds up to a set of unfinished work which the Congress should now finish in order to protect the lives of Americans.

One of the other issues that we hear about very often from suburban families is that we need to take greater action for conservation, that we support the national park system, we want it to be healthy and we want it to grow, but we also want to protect green and open space right near home. Without action by the Federal and State governments, there might come a day when we would drive to work or school and see an unending series of strip malls and no green or open space taken to protect the environment in our local communities.

The suburban agenda also contains two pieces of legislation, one by JIM GERLACH and the other by MIKE FITZPATRICK, both of Pennsylvania, that encourages donations of open space for conservation purposes and also protects farmland from being gobbled up in suburban communities. I think it is critical that we embrace a future in this country of rapidly expanding suburban communities in which families 10 and 20 years from now also see green and open space and that they do not let inaction by the government or a climate which does not encourage the donation of these areas, to let these key properties go.

I yield to my colleague from Georgia.

Mr. PRICE of Georgia. I thank the gentleman for yielding.

You are absolutely right. As the suburban areas expand, they often eat up the green land and the open space that is available. Before you know it, there is not enough parkland or open space that is left. And you can't get it back. It doesn't come back.

I, like so many of my colleagues here in Congress, had the privilege of serving in the State legislature. One of the bills that I was so very proud of in the State legislature in Georgia was called the Green Space bill. What it does is provide State resources to set aside on future developments a certain percentage of land for open space, green space.

I am so proud and privileged to be able to join my colleagues here in the Suburban Caucus and my two colleagues from Pennsylvania, Mr. GERLACH and Mr. FITZPATRICK, for promoting these bills that will provide encouragement for the purchase of conservation easements, as it does with Mr. GERLACH's bill, and increase tax easements to encourage charitable contributions of real property for conservation and open space purposes, which is Mr. FITZPATRICK's bill.

These are common-sense solutions. They are not mandates. They aren't requirements. They aren't the heavy hand of the law. But what they are are conservative principles being used for conservation.

I am so pleased to be able to stand with my colleagues and support these positive steps forward.

Mr. KIRK. I thank the gentleman.

It was decisive action of this kind that saved the Wagner Farm in Glenview, Illinois. We still celebrate the cows in that suburban community, now intensely built up, but because of foresighted action by the local community, that farm was preserved and it is helping educate a number of kids in the area about different ways to live and to preserve green space in their community.

I want to speak for a second about another bill, a bill that is later on in the suburban agenda that defends the rights of teachers to be able to search a child to make sure that their classroom is gun and drug free.

A number of us, me included, hesitated seeing a child using our training and our instinct as teachers, knowing that we probably have an issue with a child, but under Federal law and current Supreme Court decisions, we have to show a specific suspicion toward that child before we can execute a search of their book bag, their clothes or their locker.

I think that the country is ready to trust teachers, especially people that are long-experienced, certified, full-time teachers, to use their intuition and experience to defend a fundamental value, which is that Americans have a right to a safe and drug-free school and that the teachers and the administrators in that school know best how to appreciate danger and handle it immediately.

☐ 2115

I recently talked with two teachers at Stevenson High School in Lincolnshire, Illinois, where they said that they knew the children, where they had a problem of a weapon potentially coming into the school, but they hesitated. They hesitated because many families in the neighborhood were lawyers, and they would worry about a big lawsuit and jeopardizing their jobs. That hesitation so far in Lincolnshire, Illinois, has not led to a tragedy.

But we have seen other tragedies, like at Columbine High School or in my own district in Winnetka, Illinois, where Laurie Dann led an attack against school kids with a gun.

Defending the rights of teachers to ensure the safety of their classroom is what the Teacher Safety Act is all about from Congressman GEOFF DAVIS, and I think this once again represents commonsense action.

Why do we need to take Federal action on what should be a local issue? Because the Federal courts have continually ruled on this issue, and it is only by action of the Federal legislature that we can define the rights of teachers to protect their classroom.

I yield to my colleague from Georgia.

Mr. PRICE of Georgia. Thank you so much. This is another one of those items, as you mention, it is just common sense. When moms and dads at home wonder why their kids are subjected to the kinds of threats that they are at school, when a teacher stepping in at an appropriate time could have solved that problem, it just doesn't make any sense to them.

And you mention why it needs to be done at the Federal level. When individuals have access to Federal courts for these kinds of issues, then it is imperative that Congress step in and act because the threat of liability of a teacher ought not get in the way of the safety of our children.

When you and I were going to school, our parents would say, look, I don't care what you do, but you ought not upset the teacher. The teacher is right. The teacher is, in essence, your parent while at school, in loco parentis. I am not an attorney, but what that means is that the teacher can act as the parent while the child is at school. When the child is at home, the parent certainly is able to search the child. So that ought to be the case at school as well. And it is important because of the day and time that we live in. Our children are subjected to risks that you and I never dreamed about, and so it is imperative that adults that are on the scene, the teachers in the classroom, administrators in the school, be trusted to make the right decisions in these areas and not be exposed to liability, not have to think in the back of their mind, if I do that, will I get sued. That's just foolishness, and it threatens our children.

So I am proud once again that you brought that forward.

Mr. KIRK. What we want is to give a message to the country's teachers that when it comes to an issue of the safety and security of kids in the classroom, do not hesitate. Do not worry about some impending lawsuit. Make sure that your classroom is secure. We are going to trust your judgement as a certified teacher, as a full-time employee of the school, to make that call and to make sure the classroom is secure.

When you look at all of this, we know that the House has long been a forum for issues on rural issues, and those are very important issues. We have also been a forum for issues on urban communities, and those are vital to the future of the country.

But there is a reality in the 21st century and it is that Americans, a majority of them, live in suburbs. Suburban families face a number of critical problems. There are drug gangs moving into suburbs that are seeking to take on suburban law enforcement communities that do not have the experience of big-city departments.

There are thousands of online predators who are trying to contact our kids using powerful engines like MySpace.com.

We are watching as green and open space disappear in the suburbs. And millions of Americans worry that it may be tougher for their children to enter the middle class than it was for us.

Suburban families are under attack, and they need a voice in the Congress; and that is why this agenda is coming forward.

These are critical issues in my district of Libertyville, Illinois. They represent commonsense, practical, grassroots solutions coming from the communities to the Congress in a way that we welcome Republicans and Democrats coming together to move this agenda forward.

We will be outlining all of this in detail tomorrow: a School Safety Acquiring Faculty Excellence Act, which helps us screen and make sure that everyone coming into contact with kids is safe and appropriate; a Delete On-Line Predators Act to make sure that these powerful search engines are not put in the service of online predators; a Gang Elimination Act, making the commonsense step forward of identifying the top gangs that are a threat to kids and the Homeland Security of the country and to take them down; a Health Information Technology Promotion Act to accelerate high technology, health information technology to make sure that your medical record, when appropriately available, is appropriate to every doctor that you see and is in a survivable form in case there is a fire or other catastrophe. And, last, a 401–Kids Tax Deferred Savings Account to have more guaranteed access of children, not just in the suburbs, but also in cities and in rural communities into the middle class with tax deferred savings from the day a child is born.

I yield to my colleague from Georgia to wrap up.

Mr. PRICE of Georgia. I thank you so much for yielding and for your leadership on this issue. I want to also thank once again our leadership, the Speaker and majority leader, majority whip, conference Chair, for allowing us to share with the House and with the American people tonight this exciting, commonsense suburban agenda. And it's not just for the suburban area, but the problems and challenges that we have in suburban America oftentimes precede those that we see elsewhere. And so it is so very important that we move this forward, the commonsense suburban agenda.

As I mentioned before, folks in our districts are concerned about all the big issues, the huge issues, the war on terror, the crisis of illegal immigration; but they are also concerned about the issues of school safety. They are also concerned about the issues of making certain that their children are safe when they go on the Internet. They are also concerned about the importance of having private personal medical records and the ease of being able to take them from one doctor to another. They are terribly concerned about making certain that we preserve our Nation's open space and green space. And they are concerned about the ability that they have to assist their children in succeeding, whether it be through starting a business or providing a college education for them.

So I commend the gentleman from Illinois so highly for his leadership on this issue. He has been a champion for the entire length of time, short time, that I have been in the United States Congress. It is a privilege to stand with you this evening, and I look forward to shepherding with you these issues through the United States House and Congress.

Mr. KIRK. I thank the gentleman. Tomorrow, then, five dozen Members of Congress come together to unveil the suburban agenda, many of these pieces of legislation already with bipartisan support, and it represents commonsense solutions addressing real issues before the country, important issues for all families, and it represents a critical agenda of key items of legislation addressing problems before American families that can be done in this session of Congress.

CONGRESSIONAL ASIAN PACIFIC CAUCUS

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Under the Speaker's announced policy of January 4, 2005, the gentleman from California (Mr. HONDA) is recognized for 60 minutes as the designee of the minority leader.

Mr. HONDA. Mr. Speaker, I would like to recognize the gentleman from Texas, Congressman AL GREEN.

Mr. AL GREEN of Texas. Mr. Speaker, I rise to celebrate the contributions of the Asian Pacific Islander American community and to celebrate Asian Pacific American Heritage Month.

I also want to take this opportunity to thank and commend my good friend from California, Congressman HONDA, for his strong leadership as Chair of the Congressional Asian Pacific American Caucus.

Mr. Speaker, for over 200 years, Asian Americans have played a pivotal role in the development of our great Nation. When it was time to build the transcontinental railroad, they were there. Chinese immigrants were paid $28 a month to do the very dangerous work of blasting and laying ties over treacherous terrain. It was their labor under harsh working conditions, for meager wages, that helped in the development and progress of our Nation.

When our Nation was drawn into war, they were there. From World War II through the current wars in Iraq and Afghanistan, Asian Americans have been on the front lines in our battle to defend and protect our Nation. There are 32 Asian American Medal of Honor recipients, and thousands of others who have served and continue to courageously serve our Nation.

When hundreds of thousands of people were evacuated from Louisiana and Mississippi after Hurricane Katrina, they were there. The Asian American community in my home city of Houston joined all Americans around the country in welcoming Katrina evacuees and assisting the relief efforts. In Houston, the Asian American community raised more than $200,000 for the Katrina Relief Fund and took in over 15,000 displaced Americans.

And the contributions of this community will continue far into the future. Tomorrow, when it is time to cure the diseases of the future, they will be there. There are more than 105,000 Asian American doctors in the United States.

Tomorrow, when new worlds are to be explored, they will be there. There are thousands of Asian Americans working in the space program.

And tomorrow, when it is time to elect the leaders that will guide our great Nation, they will be there, in Congress, on the Supreme Court, and as President. If our country is to live up to its promises in the Declaration of Independence and the Constitution, every ethnic group will have one of its own to serve as President.

This is why we must protect the voting rights of Asian Americans and others to vote under the Voting Rights Act. We must win this battle now, so that the 14 million Asian Americans, together with all Americans, can have the equitable input that they justly deserve into our political process.

They helped to make America great. The greatness of America rests on the shoulders of all Americans, none more so than our Asian American brothers and sisters.

Mr. HONDA. I want to thank the gentleman from Texas for his wonderful words, and we shall be there.

Mr. Speaker, I would like to bring up now the gentlewoman from California, Congresswoman JUANITA MILLENDER-MCDONALD.

Ms. MILLENDER-McDONALD. Mr. Speaker, let me thank my dear friend and colleague, Congressman MIKE HONDA, who is just a great leader, not only for the great State of California, but for this great Nation. He is our chairman of the Congressional Asian Pacific American Caucus, and I thank him for convening us here tonight.

It is with great pride and pleasure that I rise as a proud member of the Congressional Asian Pacific American Caucus, and on behalf of the over 80,000 Asian Pacific Americans who reside in my district in commemoration of the Asian Pacific American Heritage Month. I am so pleased to call him my friend, and all of my Asian friends, and I am here to celebrate with them this great heritage month because they have provided so much to this country.

Since the early 1800s, Asian Pacific Americans have played a significant role in the development of our Nation. They have joined hands with the many who came to our shores in search of opportunity, freedom of expression and adventure to make this country what it is today. Their work has made this country a proud country.

This year marks the centennial celebration of the first wave of Filipino migrants to the United States. In 1906, Filipino workers came to the United States, particularly to Hawaii, and later California, to work in the fields as laborers.

Many Chinese and Japanese laborers who arrived in the mid-19th century were instrumental in the completion of the transcontinental railroad on May 10 of 1869.

□ 2130

These workers and those who followed in their footsteps have thrived in various fields of endeavor through their work ethic and ingenuity. They are proud Americans. They have done extremely, extraordinarily well in showing us what work ethic is all about.

Today, the U.S. Census reports an estimated 14 million or more U.S. residents classify themselves as Asian Pacific Americans or having Asian Pacific origins, and many of whom have made extraordinary contributions to our Nation.

Additionally, the United States Census reports 1.1 million businesses are owned by Asian Pacific Americans; 312,700 military veterans have contributed in protecting our democracy and our democratic ideals around the world. Our Filipino veterans are still waiting for their due benefits, having served in World War II.

Furthermore, 46 percent of total Asian Americans and 23 percent of Pacific Islanders' population works in management, professional and related occupations. I am so pleased to know that they are in our legislatures. They are judges. Of course, they are business people. They are teachers. They have made profound progress and extraordinary contributions to this country.

The figures show that Asian Pacific Americans have attained high levels of education, employment and high median household incomes. However, Mr. Speaker, many Asian Pacific Americans have yet to achieve their American dream. Twenty-three percent of the Asian Pacific population lives in poverty.

Attention needs to be given to Asian Pacific Americans who, because of inadequate skills like my Cambodian constituents, find themselves working just to make ends meet. We must work to provide job training and other community-based programs that will allow all of our citizens to fulfill their potential.

Asian Pacific Americans also face significant health disparities. They account for over half of the 1.4 million chronic hepatitis B cases in the United States, and they also suffer from high rates of diabetes, cervical and liver cancers.

Furthermore, the incidence of HIV/AIDS is on the rise in Asian Pacific women. The work that I do on my HIV/AIDS and my 5K AIDS Walk with various Asian Pacific organizations seeks to address this.

Some progress has been made in addressing Asian Pacific American health issues, the availability of Asian and Pacific Islander cancer education materials; Web tools that provide cancer information materials in Asian and Pacific Islander languages for those with limited English is a good start, but more needs to be done to address access to affordable health care.

For example, 50 percent of Asian Pacific Americans are medically underserved since the cost of health insurance is a major barrier to Asian Pacific Americans who are either self-employed or working for small businesses that do not provide employee-sponsored health coverage.

As we celebrate May as Asian Pacific American Heritage Month, we must celebrate the legacy, the culture, the rich traditions and achievements of our Asian Pacific Americans, as well as reflect on the challenges faced by their community. This is an excellent opportunity, Mr. Speaker, for all of us here in this House to celebrate these rich cultures, as well as to strive to address the health and education challenges that confront them in our great Nation.

My commendation to all Asian Pacific community groups, especially those in my district, that have worked tirelessly to promote, assist and improve the lives of all Asian Pacific Americans and all Americans.

Mr. Speaker, I would like to thank my dear friend, Congressman MIKE HONDA, for putting together this special order tonight and his outstanding and extraordinary leadership representing Asian American Pacific Islanders across this country and the profound group of people whom I call my sisters and brothers. He is the chairman of our caucus, and I am pleased to be a part that caucus.

Mr. HONDA. I thank my gracious colleague from California for your wonderful words.

Mr. Speaker, I would like to rise today to recognize the Asian and Pacific Islander community and to commemorate Asian Pacific American Heritage Month.

As Chair of the Congressional Asian Pacific American Caucus we call CAPAC. I feel privileged to be here tonight to speak of the Asian and Pacific Islander history and accomplishments. Additionally, I will be highlighting those issues affecting our communities and the priorities for CAPAC.

Mr. Speaker, I would like to take a moment to acknowledge and remember extraordinary community leaders, long-time friends of the APIA community that we have lost this year, Judge Delbert Wong and journalist Sam Chu Lin.

Sam Chu Lin, who began reporting in the 1960s, worked as a correspondent for CBS and Fox. Sam Chu Lin was also a respected print journalist, writing columns and articles on Asian Pacific affairs for Asian Week, Rafu Shimpo and the San Francisco Examiner.

Judge Delbert Wong was the first Chinese American judge in the continental United States. Delbert Wong was a fourth generation American of Chinese heritage. After earning his undergraduate degree in business at U.C. Berkeley, Wong served in World War II as a B–17 navigator and was awarded numerous medals.

After the war, Judge Wong faced a choice between joining his family's grocery business or entering law school. This was not met with much support from his parents, who would say, Who would hire you, a Chinese, they would constantly say. Undeterred, Wong completed his law degree in 1948, becoming the first Chinese American graduate of Stanford Law School.

After graduation, he was appointed deputy legislative counsel, serving the California State legislature in Sacramento and later appointed deputy attorney general, becoming the first Asian American to hold those positions.

In 1992, Congress passed a law that officially designated May of each year as Asian Pacific American Heritage Month.

I want to thank the following people who have worked to designate May as Asian Pacific Heritage Month: the late Congressman FRANK Horton from New York; my good friend, Secretary of Transportation, Norman Mineta; Senators Daniel Inouye and the late Senator Spark, or Sparky, Matsunaga.

Some important dates include the first 10 days of May, which coincide with two important anniversaries, the arrival of Japanese American immigrants on May 7, 1843 to California, settling in El Dorado County; and the completion of the transcontinental railroad on May 10, 1869, by the Chinese laborers.

The first APIA settlement in this country dates to 1763 when Filipinos escaped imprisonment aboard Spanish galleons and established a community near New Orleans.

Today, the APIA community is one of the fastest-growing populations in the country, with over 13 million APIAs living in the U.S. and representing 4.5 percent of the total U.S. population.

My home State of California has both the largest APIA population, approximately 4.6 million, and the largest numerical increase of APIAs since April of 2000.

Mr. Speaker, this year's theme for Asian Pacific American Heritage Month, Dreams and Challenges for Asian Pacific Americans, reflects hardships overcome by the APIA community while highlighting the hope we maintain as we contribute to the prosperity of this great Nation.

This year, I would like to particularly honor the centennial celebration of Filipinos in Hawaii and the 50th year since Dalip Singh Saund became the first Asian American Sikh to be elected to the U.S. Congress.

On December 20, 1906, a group of Filipino plantation workers arrived in Hawaii aboard the Doric, leading the first wave of Filipinos to migrate to Hawaii. The first group of Filipinos was followed by subsequent waves of Filipino immigrants who came to settle in Hawaii and, also, other parts of the United States, contributing to a migration pattern that continues up to this day.

Today, Filipinos with their rich culture and heritage have become a positive influence on mainstream life in Hawaii, with many of them succeeding prominently in their respected professions, in business, politics, government, the academe and the arts.

2006 also marks the 50th year since Dalip Singh Saund became the first Asian American to be elected to the U.S. Congress. While in office, Dalip Singh Saund forged a measure that allowed South Asians to become U.S. citizens.

As our community expands, we must also continue to educate our fellow citizens about the uniqueness of our experiences.

The APIA community is often misperceived as monolithic. Our community is extremely diverse in our languages, ethnicities and culture. Aggregating such a large and diverse group makes it difficult to understand the unique problems faced by the individual and subgroups, such as the Southeast Asian Americans, who are refugees that fled their home countries in the late 1970s and the early 1980s.

As a country, we need to better address the needs of the APIA community when we discuss disaster preparedness, comprehensive immigration reform, voting rights, education, health issues and veterans.

National disasters such as the September 11th terrorist attacks, Hurricane Rita and Hurricane Katrina, exposed serious gaps in the delivery of public services to limited-English-proficient communities, or LEP communities. In fact, the lack of linguistic and culturally competent services within FEMA and related Federal agencies prevented many LEP individuals from accessing critical disaster-relief services such as cash assistance, health care, mental health care, housing and small business loans.

As a result, at least 15,000 families from the gulf coast suffered unnecessary hardships. Many of the Asian Americans in the gulf coast region, hit by Katrina, were shrimpers and fishermen and were significant contributors to the local economy and fishing industry for years.

Plaquemines Parish in southern Louisiana is one of the locations of the main fishing and shrimp sites. Plaquemines Parish commercial landings average $441,181,891 in retail annually. Plaquemines Parish has an average annual landing of 28.8 million pounds of shrimp, valued at $238.3 million in retail value.

Extensive reports from FEMA community relations and local fishermen determined that all but 20 percent of the fishing boats were destroyed in the hurricanes. In order for these families to go back to their old way of life, approximately 430 boats must be repaired and in the water before shrimp season begins May 15.

Many of the fishermen, due to cultural and linguistic barriers, were not accustomed to the American way of accessing public assistance, navigating the intricacies and bureaucracies of public agencies and commercial transactions. The fishermen have been denied Small Business Administration loans, which would help them rebuild their boats, due to the fact that they need to buy insurance prior to getting a loan. But one cannot buy insurance for a boat until it is in a working order.

Fishermen must also prove that they can pay back the loan. But without income, SBA is reluctant to give loans. Due to the complications of the system and of the linguistic and cultural barriers that are posed to them, the Asian Pacific community faces an even bigger struggle.

This month, I will introduce legislation to improve disaster relief and preparedness services for individuals with limited English proficiency by requiring the Federal Emergency Management Agency to bolster Federal resources and outreach to community organizations that serve the limited-English population.

Mr. Speaker, our Nation was founded by immigrants who valued freedom and liberty, who sought to be free from persecution, from a tyrant government. Families fled their home countries to seek refuge in this great Nation, because they too believed in liberty, justice and freedom for all.

APIA families who seek to be reunited with their family members overseas have not seen their dreams come true because of our broken immigration system. Over 1.5 million Asians are caught in the family immigration backlog, and immediate family members from overseas wait as long as 10 years to reunite with their families in the U.S.

Mothers and fathers wait to reunite with their children. But due to the long years of waiting, their children may have already reached the age of 18, and their families will have to start the process all over again.

As we honor the 41st anniversary of the Immigration Nationality Act of 1965 and the 31st anniversary of the Refugee Act of 1975, we need to remember that our country was founded and created to protect our freedom and civil liberties.

□ 2145

I believe we need comprehensive immigration reform to fix our broken immigration system.

Mr. Speaker, I would like to take a break in my presentation to offer the microphone and the floor to our Democratic leader, a great leader from the State of California, from the great City of San Francisco, someplace where you always leave your heart, our leader, NANCY PELOSI.

Ms. PELOSI. Thank you very much, my colleague, Congressman HONDA, the distinguished Chair of the Asian Pacific American Caucus. I am pleased to join you, and I thank you for your leadership in calling this Special Order to acknowledge Asian Pacific American Heritage Month. It is a time when we can focus on and sing the praises of the contributions of the Asian Pacific American community to our great country. I wish to associate myself with your extensive remarks and praise of the proud community that you are a part of and thank you for your leadership in the Congress.

I was interested in your comments, where you talked about Katrina and what happened at a time of natural disaster. As you acknowledged, I represent the great City of San Francisco in the Congress, and we are blessed in our community with a large Asian Pacific American community. They have built our city. They have been part of its growth and its success.

This year, we observed the 100th anniversary of the 1906 earthquake. At that time, it was a sorry, sorry sight to see, San Francisco.

A black mark on that time, but one that was averted, but was suggested, was when the earthquake came and the city burned, thousands of people were displaced in downtown San Francisco's Chinatown. It was a horrible thing. There were those in the press who suggested, who wrote in the daily metropolitan journals which were published almost immediately, they suggested that now might be a good time to get rid of Chinatown, get rid of foreigners and everything that went with it. Of course, they had their eye on this prime real estate that was Chinatown right in the heart of downtown San Francisco. But their motivation was not only commercial; it was also racist, quite frankly.

Fortunately, the city leaders at the time rejected that unfair notion and Chinatown was rebuilt, and it is such a magnificent part of our community to this day. It attracts visitors from all over the world and all over California because it is such a magnificent place. It is so invigorating to go there. When you do, you are constantly reminded of the contribution that our Asian Pacific American community makes to America.

We talk about family values. The Asian Pacific Americans take the lead. Their coming to our shores, whether it was over a century ago to build the railroads, whether it is a few days ago, each one of them brings to our community family values, this wonderful optimism and determination for a better future for their children, this courage. Imagine the courage to leave home to come to America, no matter when it was or is now. And they bring a commitment to community, to academic success. They make America stronger, and we owe a great debt of gratitude to the Asian Pacific Americans in this regard. As I say, I see it firsthand in my own community.

But how similar it was in 1906, when the earthquake came and there were those, for whatever reason, who thought this was a good idea to change the community that was San Francisco. Fortunately, it was rejected.

Sadly, it resembled some of the rhetoric following Katrina in New Orleans; and hopefully those notions will be rejected as well, because as we rebuild these cities, we must always remember to rebuild the communities that strengthen them.

I am proud to pay tribute to AAPI leaders in my City of San Francisco who have recently passed away since we had this meeting last year, but leave their legacies. George Wong was a pioneer in the labor movement who worked until his death to ensure that workers' rights were protected.

The Godmother of San Francisco's Japantown and a leading community activist, "Sox" Kitashima, she was just fabulous, Sox was, a driving force behind the Japanese American redress movement.

The late Joe Yuey distinguished himself during his 100 years of life as Asian art enthusiast, amassing a collection that is part of the world-renowned San Francisco Asian Art Museum.

Jade Snow Wong was a famous author, ceramicist and businesswoman, whose book "Fifth Chinese Daughter" is included on school reading lists across our Nation.

The legacy of all these outstanding people is one that must be carried on as an example for other Americans to follow.

And let us also remember this year as the centennial of Filipino immigration to the United States. My colleague Mr. HONDA has referenced the magnificent contributions of the Filipino American community.

The first Filipinos arrived on the shores of Hawaii to work on the sugar plantations in 1906, again, 1906, a year fraught with meaning, with the belief that a better life could come from hard work and determination. Filipinos continued migrating to the United States, as they are now the second largest AAPI population, making remarkable contributions to our country.

My colleagues have referenced the great contributions, not only the Chinese, the Japanese, the Vietnamese, Cambodians, people from Laos, from South Asia, from India and Pakistan and from so many places in Asia, so different one to the next of these groups, the Korean Americans, the list goes on. They all make a wonderful contribution, and we should acknowledge all of it.

I am very pleased to share in this Special Order with you. Mr. HONDA, because you, frankly, laid out some of the problems and challenges that were faced by the community over time.

I am proud to serve with you, and I am proud to serve with ENI FALEOMAVAEGA and our colleagues Congresswoman MATSUI and DAVID WU, with you and others.

I also want to acknowledge the loss of our dear friend, Bob Matsui, whom we served with. Over a year-and-a-half ago he left us, but his inspiration is still with us here. And Patsy Mink. There can be no discussion of Asian Americans in Congress without mentioning the exceptional leadership of Congresswoman Patsy Mink, who served from Hawaii.

The list goes on and on, and the legacy does too. But the future is brighter because of the contributions of the Asian Pacific American community, and it is appropriate that this heritage month be established and be commemorated.

Mr. HONDA. Thank you, madam leader.

Mr. Speaker, if I may just suspend my remarks and invite my colleague from American Samoa to share his comments with us, the great Congressman who has been here for quite a few years, Congressman ENI FALEOMAVAEGA.

Mr. FALEOMAVAEGA. Mr. Speaker, I would like to thank my colleague and dear friend, the gentleman from California, Mr. HONDA, who is managing this Special Order, but more especially also as an outstanding leader in our Asian Pacific American community and currently serving as chairman of our Asian Pacific Congressional Caucus.

I want to also commend our Democratic leader, Ms. NANCY PELOSI, for her outstanding remarks. The fact that she also is a Member who has one of the largest constituencies in not only the State of California of our Asian Pacific American community, but, as Ms. PELOSI was making her statement, I recalled also her predecessor, someone whom I have had the highest admiration and respect for, a giant of a man not only in his ways but as an example, with a real great sensitivity and compassion for the needs of the Asian Pacific American community people, none other than the late Congressman Phil Burton.

I would also like to commend my colleagues, Congresswoman JUANITA MILLENDER-MCDONALD and Congressman AL GREEN, for their outstanding remarks this evening in this Special Order.

Mr. Speaker, I rise today in celebration of the Asian Pacific American Heritage Month to acknowledge the contributions of our Asian Pacific American individuals and communities to the success of our great Nation. I commend my colleagues who founded this celebration in 1977 by introducing a resolution calling upon the President to proclaim the first 10 days in May Asian Pacific Heritage Week, former Representatives Norm Mineta and Frank Horton, and Senators DANIEL K. INOUYE and Senator Spark Matsunaga.

I think we need to also understand, Mr. Speaker, the dynamics. Those of us who are Americans, and we are very, very proud of being Americans, but whose roots are from the Asian Pacific region, and the dynamics of why the Asian Pacific region is so important, it is in our national interests, not only our national security, the economics, just about every phase of what is really critically important in our Nation in dealing with this region of the world which, by the way, two-thirds of the world's population is the Asian Pacific region. Six of the 10 largest armies in the world are in the Asian Pacific region. Our trade with the Asian Pacific region is four times greater than any other region in the world, including especially that of Europe.

I am reminded a couple of years ago what Senator INOUYE said, for every one 747 that flies between the Atlantic and the United States, four 747s fly between the Asian Pacific region and our country.

Mr. Speaker, the Asian Pacific American community is vibrant and growing with an estimated 14 million Asian American residents and another 975,000 Pacific Americans. I am proud to be a member of this Asian Pacific American community, a community that has produced so many inspiring individuals. In government, in the military, in the sciences, sports, entertainment, business, you name it, we have it.

In government, for example, especially from the great State of Hawaii, among the first, I guess you might say, U.S. Senator Hiram Fong, Senator DANIEL INOUYE, Senator DANIEL AKAKA, the first elected Asian American Governor of any State, Governor George Ariyoshi, our first native Hawaiian Governor, Governor John Waihee, our first Filipino American Governor, Governor Ben Cayetano.

We also have Mayor Neal Blaisdell, and the newly elected mayor of the city and county of Honolulu, Mufi Hannemann. We also have Lieutenant Governors Jimmy Kealoha and Duke Ainoa. Norm Mineta, a good friend of mine who is not only partly responsible for initiating this Heritage Month, but was always the first Asian Pacific American mayor of a major U.S. city like San Jose, he was also the first Asian Pacific American to be a member of a Presidential Cabinet when he was appointed as Secretary of Commerce in the year 2000 by former President Clinton and now is U.S. Secretary of Transportation appointed by President Bush.

Elaine Chao, another first. Secretary Chao is the first female Asian American Cabinet member, appointed Secretary of Labor by President Bush.

Gary Locke, first Asian American Governor on the mainland United States, elected Governor of the State of Washington in 1996. And I could never forget and my deepest respect to the late Congresswoman Patsy Mink, first Asian American female elected to the U.S. Congress since 1964. Then our late colleague and friend, my dear friend, the late Congressman Bob Matsui, who inspired me and mentored me throughout our time here together as a senior member of the House Committee on Ways and Means.

As a Vietnam veteran, Mr. Speaker, it would be ludicrous for me not to say something to honor the hundreds of thousands of Asian Pacific Americans who have and continue to serve in all the branches of the armed services of our Nation.

I would like to share with you the contributions of tens of thousands of Japanese American soldiers who volunteered to fight our Nation's enemies in Europe during World War II.

Mr. Speaker, we are all aware of the fact that after the surprise attack on Pearl Harbor on December 7, 1941, by the Imperial Army of Japan, there was such an outrage and cry for an all-out war against Japan. In days afterwards, our President and the Congress formally declared war. But caught in this crossfire were hundreds of thousands of Americans, mind you Americans, who happened to be of Japanese ancestry.

□ 2200

Our national government immediately implemented a policy whereby over 100,000 Americans of Japanese ancestry were forced to live in what were called, supposedly, "relocation camps"; I call them "concentration camps." Their lands, their homes, and their properties were confiscated without due process of law.

It was also a time in our Nation's history that there was so much hatred and bigotry and racism against our Japanese American community. And yet despite all of this, leaving their wives, their parents, their brothers and sisters behind barbed-wire fences in these prison camps, the White House accepted the requests from tens of thousands of Japanese Americans who volunteered to join the Army, and as a result, two combat units were organized.

One was called the 100th Battalion, and the other was known as the 442nd Infantry Combat Group. Both were sent to Europe to fight. And I might say that I am very, very proud to have been associated and been a former member of the 100th Battalion, 442nd Infantry Combat Group out of the State of Hawaii.

Mr. Speaker, in my humble opinion, history speaks for itself in documenting that none have shed their blood more valiantly for our Nation than the Japanese American solders who served in those two combat units while fighting enemy forces in Europe during World War II.

The military records of the 100th Battalion and the 442nd Infantry are without equal. Those Japanese American units suffered an unprecedented casualty rate of 314 percent, and received over 18,000 individual decorations, many awarded posthumously for bravery and courage in the field of battle.

For your information, Mr. Speaker, 52 Distinguished Service Crosses, 560 Silver Stars, and 9,480 Purple Hearts were awarded to the Japanese American soldiers of the 100th Battalion and 442nd Infantry Group. I find it unusual, however, that only one Medal of Honor was given. Nonetheless, the 442nd Combat Group emerged as the most decorated combat unit of its size in the history of the United States Army.

President Truman was so moved by their bravery in the field of battle, as well as the tremendous sacrifices of the African American soldiers in World War II, that he issued an executive order to finally desegregate all of the branches of the armed services.

Senator INOUYE lost his arm while engaged in battle against two German machine gun posts, and he was awarded the Distinguished Service Cross. After a congressional mandate to review again the military records of these two combat units some 5 years ago, I was privileged to attend a White House ceremony where President Clinton presented 19, 19 Congressional Medals of Honor to the Japanese American soldiers who were members of the 100th Battalion and 442nd Combat Infantry. Senator INOUYE was one of those recipients of the Congressional Medal of Honor.

I submit, Mr. Speaker, these Japanese Americans paid their dues in blood to protect our Nation from its enemies. It is a shameful mark on the history of our country that when the patriotic survivors of the 100th Battalion and the 442nd Infantry returned to the United States to be reunited with their families, who were locked up behind barbed wire fences, living in prison camps, and could not even get a haircut in downtown San Francisco, simply because they looked Japanese, they were Japanese, and for that reason alone, even with their uniforms on, they were not given the privilege of getting a haircut.

My former colleague and now U.S. Secretary of Transportation, Norm Mineta, and the late Congressman Bob Matsui from Sacramento both spent some of the early years of their lives in these prison camps. Secretary Mineta told me one of the interesting features of these prison camps was posting of machine gun nests all around the camp, and everyone was told that these machine guns were posted to protect them against rioters. But then Secretary Mineta observed, if these machine guns were posted to guard us, why is it that they are all directed inside the prison camp rather than outside it?

I submit, ladies and gentlemen, my good friends, my colleagues, the wholesale and arbitrary abolishment of the constitutional rights of these loyal Japanese Americans should forever serve as a reminder and testament that this must never be allowed to occur again.

When this miscarriage of justice unfolded during World War II, Americans of German and Italian ancestry were not similarly jailed en masse. Some declared the incident as an outright example of racism and bigotry in its ugliest form.

After viewing the Holocaust Museum in Washington, I understand better why the genocide of some 6 million Jews has prompted the cry "Never again, never again." Likewise, I sincerely hope that mass internments on the basis of race alone will never again darken the pages of the history of this great Nation.

Now, to those who say, Well, that happened decades ago, we must say that we have to continue to be on our guard for this kind of thing to happen again. I remember years ago the case of Bruce Yamashita, the Japanese American born and raised in the State of Hawaii, who was discharged from the Marine Corps after a training program as an officer candidate and an ugly display of racial discrimination.

The Marine Corps superiors taunted Yamashita with ethnic slurs and told him, We do not want your kind around here, go back to your own country. The situation was made worse when a leading officer of the Marine Corps made a statement on the 60 Minutes program who said, Marine officers who are minorities do not shoot, swim or use compasses as well as white officers.

The Commandant later apologized for his remarks, but it was a little too late. And I am really happy to know that after all of the investigations that the Secretary of the Navy finally awarded Mr. Yamashita his commission as an officer and a captain in the United States Marine Corps.

The tradition continues today of the thousands of Asian Pacific Americans who served in the armed services. Retired General Eric Shinseki was the first Asian Pacific American four-star general who served as U.S. Army Chief of Staff.

Our Asian American Pacific Island soldiers are fighting for freedom in Iraq even as I speak. Just this past weekend I was privileged to witness in Germany the swearing in of a Samoan soldier by the name of Command Sergeant Major Iuniasolua Savusa as the Command Sergeant Major for U.S. Army Europe and the 7th Army.

I am very proud of Command Sergeant Major Savusa for his accomplishments. He is an inspiration and a great role model for our youth and other Asian Pacific Americans who currently serve in the military.

Mr. Speaker, I think at this point I want to defer to my good friend, the gentleman from California (Mr. HONDA) the manager of this special order this evening. And I am sure that he may want to continue portions of his statement as well.

Mr. HONDA. Mr. Speaker, I thank the gentleman from American Samoa for adding so much information to this presentation, because I think that when people listen and hear what it is that we are sharing with this country, there may be many, many people out there that say, I did not know that.

Although we talk about many firsts, accomplishments from members of our communities, I am sure also, that those who are first expect never to be last, that they would continue, that we would continue to contribute to this country. And in order to contribute to our country, we have to also defend the Constitution.

Defending the Constitution and defending the rights of our people also entails the voting rights. This past week, H.R. 9, the Voting Rights Act reauthorization was introduced.

The right to vote is keenly felt by the Asian and Pacific Islander American community. Chinese Americans could not vote until the Chinese Exclusion Acts of 1882 and 1892 were repealed in 1943. First-generation Japanese Americans could not vote until 1952 because of the racial restrictions contained in the 1790 naturalization law.

With the markup in Judiciary Committee tomorrow, we need to ensure that important provisions such as section 203, which has been very vital to the API community's ability to participate in the electoral process, gets reauthorized in this Congress.

Language-minority citizens were often denied needed assistance at the polls. In the 1975 amendments to the Voting Rights Act, such assistance became required in certain situations, and we need to ensure that these provisions continue to remain in current law.

Mr. Speaker, as Americans, we need to ensure that our children receive a quality education, but also provide adequate teacher training, funds for after-school and extracurricular activities and ensuring that college is affordable for every student that deserves to receive a higher education.

According to the U.S. Census, 50 percent of Asians age 25 and over have a Bachelor's degree or higher level of education. However, I would like to emphasize that when we disaggregate the data, when we tease apart the information for the API subgroups, we find that the model minority stereotype is in fact a myth.

Only 9.1 percent of Cambodian Americans, 7.4 percent Hmong Americans, 7.6 Lao Americans, 19.5 percent Vietnamese Americans and 16 percent of native Hawaiians and Pacific Islanders who are 25 years and older have a Bachelor's degree.

These numbers show that we must do a better job of disaggregating data and information about our communities to assess the needs of those hard-working Americans who still falter behind. To address the disparities between subgroups of the larger APIA community, we need Congress to pass the Asian American and Pacific Islander Serving Institutions bill, which my colleague from Oregon, Congressman DAVID WU, will be introducing later this month.

This legislation will provide Federal grants to colleges and universities that have an enrollment of undergraduate students that is at least 10 percent APIA and at least 50 percent of its degree-seeking students receive financial assistance.

As a caucus, we will work to increase the availability of loan assistance, scholarships and programs to allow APIA students to attend a higher education institution; to ensure full funding for teachers and bilingual education programs under the No Child Left Behind law; to support English language learners; and to support full funding of minority outreach programs for access to higher education, such as the TRIO programs to expand services to serve APIA students.

Mr. Speaker, a common misperception of APIAs is that, as a group, we face fewer health problems than other racial and ethnic groups. In fact, APIAs as a group and specific populations within this group do experience disparities in health and health care.

For example, APIAs have the highest hepatitis B rates of any racial group in the United States. APIAs are also five times more likely to develop cervical and liver cancer than any other ethnic and racial group.

According to the Census Bureau, 18 percent of APIAs went without insurance for the entire year in 2000. This means that the uninsured are not only more likely to go without care for serious medical conditions, they are also more likely to go without routine care, less likely to have a regular source of care, less likely to use preventive services and have fewer visits per year.

At the same time, without appropriate language translation services or properly translated materials, limited-English-proficient immigrants cannot receive adequate care, as well as State and Federal benefits for which they may be eligible.

In the APIA community, 76 percent of Hmong Americans, 61 percent of Vietnamese Americans, 52 percent of Korean Americans and 39 percent of Tongans speak limited English. Therefore, eliminating health care disparities in the APIA community must include data collection, linguistically appropriate and culturally competent services, and access to health insurance.

CAPAC has been working with both the Congressional Hispanic and Black Caucuses on the Health Care Equality and Accountability Act to eliminate ethnic and racial health disparities for all of our communities.

I have introduced the Health Care Equality and Accountability Act, which will address expanding the health care safety net by diversifying the health care workforce, combating diseases that disproportionately affect racial and ethnic minorities, emphasizing prevention and behavioral health and promoting the collection and dissemination of data and enhanced medical research.

Mr. Speaker, I would also like to extend my gratitude to the patriotic men and women serving our country in the military, including the 60,813 APIAs serving on active duty in the U.S. armed services, as well as the 28,066 in the Reserves and the National Guard.

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I also commend and thank the 351,000 APIA veterans who fought for this country. I would like to highlight and honor the Filipino veterans as my colleague had done who have not been compensated and recognized for their service, which I believe is a national disservice to these brave veterans.

As a country, it is our duty to ensure that these veterans have equal access to all the benefits and treatment that other veterans receive. We believe that our troops should be taken care of when we send them into battle and that they should be given the respect when they return home. Therefore, I stand with my colleagues, Congressman ISSA and Congressman FILNER, to support their bipartisan legislation, H.R. 4574, to restore full benefits to these veterans who fought for our Nation during World War II. With Congressman ISSA taking the lead and Congressman FILNER in a leadership position in the Veterans' Affairs Committee, we have a great chance to get this bill to the floor in honor of the centennial celebration of Filipinos in Hawaii and to keep the word of Congress that we gave to these brave veterans of World War II.

I am proud of our community's accomplishment, Mr. Speaker, and I would like to recognize many of the APIA firsts in areas of art, film, sports, sciences, academia, and politics. In each effort, these folks, who were first, expect that they are not the last:

In 1847, Yung Wing, the first Chinese American graduated from Yale University and the first APIA to graduate from a U.S. college;

In 1863, William Ah Hang, who was Chinese American, became the first APIA to enlist in the U.S. Navy during the Civil War;

In 1944, An Wang, a Chinese American who invented the magnetic core memory revolutionized computing and served as a standard method for memory retrieval and storage;

In 1946, Wing F. Ong, a Chinese American from Arizona, became the first APIA to be elected to State office;

In 1948, Victoria Manalo Draves, a Filipino American diver, became the first woman to win Olympic gold medals in both the 10 meter platform and the 3 meter spring board events;

In 1956, Dalip Singh Saud, the first Indian American to be elected to Congress;

In 1965, Patsy Takemoto Mink, the first Japanese woman and woman of color elected to Congress who championed title IX;

In 1985, Haing Ngor, a Cambodian American, became the first APIA to win an Academy Award for his role in the movie "Killing Fields";

In 1985, Ellison Onizuka, a Japanese American, became the first APIA astronaut whose life was lost in a launching tragedy.

In conclusion, Mr. Speaker, the Asian American Pacific Islander American community continues to fight for our civil liberties and our civil rights as Americans.

Even after the internment of the Japanese Americans during World War II, we as a community did not grow embittered or cowed by discrimination; instead, we progressed and moved forward. I am proud to be a member of the APIA community because we continue to serve as positive contributors to our many communities by investing in education, business, and cultural opportunities for all Americans.

In closing, this Asian Pacific American Heritage Month we take pride in our history, accomplishments, and the promise of our future as we continue to pave the way for a better tomorrow in the name of dreams and challenges of Asian Pacific Americans.

Mr. Speaker, the 6 years I have served here I learned that Asian Americans have a unique contribution to make to this body and to this country, and that we because of our history in this country uniquely understand and recognize that our Constitution is never tested in times of tranquility. Our Constitution is always tested in times of trauma, terror, tension and tragedy. And to the point where we can internalize the principles of our Bill of Rights and our Constitution, and to the point where we understand that defending this Constitution and its people will we be able to face as Members of this body, face overwhelming public approval which could be wrong and stand up to them, say it is wrong because it does not follow the Constitution.

These are the kinds of heritage and contributions Asian Americans have made, will make and continue to make in this country so that we may fulfill the phrase in the preamble of our Constitution that says "to form a more perfect union."

In the words of Congressman AL GREEN, "There will be a tomorrow."

Mr. Speaker, I yield to my friend.

Mr. FALEOMAVAEGA. Mr. Speaker, how much time do we have remaining?

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The gentleman has 3 minutes remaining.

Mr. FALEOMAVAEGA. Mr. Speaker, I would like to offer my closing remarks. I say, Mr. Speaker, when I envision America I do not see a melting pot designed to reduce or removal racial differences. The America I see is a brilliant rainbow, a rainbow of ethnicities and cultures with each people proudly contributing in their own distinctive and unique way a better America for generations to come.

Asian Pacific Americans wish to find a just and equitable place in our society that will allow, like all Americans, to grow, to succeed, to achieve and to contribute to the advancements of this great Nation.

I would like to close my remarks by asking all of us here this evening, What is America all about?

I cannot think of it said better than on the steps of the Lincoln Memorial in the summer of 1963 when an African American minister by the name of Martin Luther King, Jr., poured out his heart and soul to every American who could hear his voice when he uttered these famous words, "I have a dream. My dream is that one day my children will be judged not by the color of their skin, but by the content of their character."

That is what I believe America is all about, Mr. Speaker. Again, I thank my colleague and my good friend, the gentleman from California, for his management of this Special Order honoring all of the Asian Pacific American community in our country and the contributions that they have made to make our country to form a more perfect union.

I rise today in celebration of Asian Pacific American Heritage Month, to acknowledge the contributions of our Asian Pacific American individuals and communities to the success of our great Nation.

I commend my colleagues who founded this celebration in 1977 by introducing a resolution calling upon the President to proclaim the first ten days in May Asian/Pacific Heritage week—Representatives Norm Mineta and Frank Horton, and Senators DANIEL K. INOUYE and Spark Matsunaga.

The Asian Pacific American community is vibrant and growing, with an estimated 14 million Asian American residents and another 975,000 Pacific Americans.

I am proud to be a member of this Asian Pacific American community, a community that has produced so many inspiring individuals in government, the military, the sciences, sports, entertainment, and business. In government, for example: from Hawaii

Senators Hyrum Fong, DANIEL INOUYE, DANIEL AKAKA.

Governors George Ariyoshi, John Waihee, Ben Cayetano.

Mayors Neal Blaisdell and Mufi Hannemann, Lt. Governors Jimmy Kealoha and Duke Aiona.

Norm Mineta—my good friend was not only partly responsible for initiating APA Heritage Month, but was also the first Asian Pacific American mayor of a major U.S. city (San Jose). He was also the first Asian Pacific American to be a member of the Presidential Cabinet, when he was appointed as Secretary of Commerce in 2000 by former President Clinton and five years ago Mr. Mineta was appointed by President Bush as U.S. Secretary of Transportation.

Elaine Chao—another first, Secretary Chao is the first female Asian-American cabinet member, appointed Secretary of Labor in 2001, also appointed by President Bush.

Gary Locke—the first Asian-American governor on the mainland U.S., elected governor of Washington, 1996.

Patsy Mink—the first Asian-American female elected to Congress, in 1964 from Hawaii.

Bob Matsui—my dear friend and colleague who inspired me and mentored me throughout our time together here as a senior member of the House Committee on Ways and Means.

As a Vietnam Veteran, it would be ludicrous for me not to say something to honor the hundreds of thousands of Asian-Pacific Americans who have and continue to serve in all the branches of armed services of our Nation. I would like to share with you the contributions of the tens of thousands of Japanese-American soldiers who volunteered to fight our Nation's enemies in Europe during World War II.

Mr. Speaker, we are well aware of the fact that after the surprise attack on Pearl Harbor on December 7, 1941, by the Imperial Army of Japan—there was such an outrage and cry for all-out war against Japan, and days afterward, our President and the Congress formally declared war—but caught in this cross-fire were hundreds of thousands of Americans—Americans mind you who happened to be of Japanese ancestry.

Our national government immediately implemented a policy whereby over one-hundred thousand Americans of Japanese ancestry, were forced to live in what were called relocations camps—but were actually more like prison or concentration camps. Their lands, homes and properties were confiscated without due process of law.

It was also a time in our Nation's history that there was so much hatred, bigotry and racism against our Japanese-American community—and yet despite all this—leaving their wives, their parents, their brothers and sisters behind barbed wire fences in these prison camps—the White House accepted the request from tens of thousands of the Japanese-Americans who volunteered to join the Army. And as a result two combat units were organized—one was the 100th Battalion and the other known as the 442nd Infantry Combat Group—both were sent to fight in Europe.

In my humble opinion, history speaks for itself in documenting that none have shed their blood more valiantly for our Nation than the Japanese-Americans soldiers who served in these two combat units while fighting enemy forces in Europe during World War II.

The military records of the 100th Battalion and 442nd Infantry are without equal. These Japanese-American units suffered an unprecedented casualty rate of 314 percent and received over 18,000 individual decorations, many awarded posthumously, for bravery and courage in the field of battle.

For your information Mr, Speaker, 52 Distinguished Service Crosses, 560 Silver Stars, and 9,480 Purple Hearts, were awarded to the Japanese-American soldiers of the 100th Battalion and 442nd Infantry Group. I find it unusual; however, that only one Medal of Honor was ever given. Nonetheless, the 442nd Combat Group emerged as the most decorated combat unit of its size in the history of the United States Army.

President Truman was so moved by their bravery in the field of battle, as well as that of African-American soldiers during World War II, that he issued an executive order to finally desegregate all branches of the Armed Services.

Senator INOUYE lost his arm while engaged in battle against two German machine gun posts and he was awarded the Distinguished Service Cross. After a Congressional mandate to review again the military records of these two combat units 5 years ago—I was privileged to attend the White House ceremony where President Clinton presented nineteen Congressional Medals of Honor to the Japanese-American soldiers who were members of 100th Battalion and 442nd Combat Infantry group—Senator INOUYE was one of those recipients of the Medal of Honor.

I submit, Mr. Speaker, these Japanese-Americans paid their dues in blood to protect our Nation from its enemies. It is a shameful mark on the history of our country that when the patriotic survivors of the 100th Battalion and the 442nd Infantry returned to the United States to be reunited with their families who were locked-up behind barbed wire fences, living in prison camps—and could not even get a haircut in downtown San Francisco because they all looked Japanese—despite the fact that they too were Americans.

My former colleague and now U.S. Secretary of Transportation, Norman Mineta, and the late Congressman Bob Matsui from Sacramento both spent some of the early years of their lives in these prison camps.

Secretary Mineta told of one of the interesting features of these prison camps were postings of machine gun nests all around the camp and everyone was told that these machine guns were posted to protect them against rioters.

But then Secretary Mineta observed—if these machine guns are posted to guard us, why is it that they are all directed inside the prison camp compound and not outside?

I submit, ladies and gentlemen, the wholesale and arbitrary abolishment of the constitutional rights of these loyal Japanese-Americans should forever serve as a reminder and testament that this must never be allowed to occur again. When this miscarriage of justice unfolded during World War II, Americans of German and Italian ancestry were not similarly jailed en masse. Some declare the incident as an example of outright racism and bigotry in its ugliest form. After viewing the Holocaust Museum in Washington, I understand better why the genocide of some 6 million Jews has prompted the cry, "Never Again, Never Again!" Likewise, I sincerely hope that mass internments of the basis of race alone will never again darken the history of our great nation.

To those that say, well, that occurred decades ago, I say we must continue to be vigilant in guarding against such evil today.

Not long ago, we had the case of Bruce Yamashita, a Japanese-American from Hawaii who was discharged from the Marine Corps officer training program in an ugly display of racial discrimination. Marine Corps superiors taunted Yamashita with ethnic slurs and told him, "We don't want your kind around here. Go back to your own country." The situation was made worse by the Commandant of the Marine Corps, a four star general, who appeared on television's "Sixty Minutes" and stated: "Marine officers who are minorities do not shoot, swim, or use compasses as well as white officers." The Commandant later apologized for his remarks, but it was a little too late.

After years of perseverance and appeals, Mr. Yamashita was vindicated after proving he was the target of vicious racial harassment during his officer training program. The Secretary of the Navy's investigation into whether minorities were deliberately being discouraged from becoming officers resulted in Bruce Yamashita receiving is commission as a captain in the Marine Corps.

The tradition continues today of the thousands of Asian-Pacific Americans who serve in the armed services. Retired General Eric Shinseki was the first Asian-American four-star general who served as U.S. Army Chief of Staff. Our Asian-American and Pacific Island soldiers are fighting for freedom in Iraq even as I speak.

Just this past weekend, I was privileged to witness the swearing in of the Samoan soldier CSM Iuniasolua Savusa as the Command Sergeant Major for U.S. Army Europe and the 7th Army. I am very proud of Command Sergeant Major Iuni Savusa for his accomplishments. He is an inspiration and a great role model for our youth and other Asian-Pacific Americans who currently serving in the military.

Other outstanding Asian-Pacific Americans who have made significant contributions to our nation:

Dr. David Ho—pioneered treatment for HIV/AIDS and named by Time Magazine as its "Man of the Year" in 1996.

Dr. Hideyo Noguchi—isolated the syphilis germ in 1911, leading to a cure for the deadly disease.

Dr. Subrahmanyan Chandrasekhar—Nobel Prize winner, evolution of stars, led to modern astrophysics.

Ellison Onizuka—the first Asian-American astronaut, 1985, Died aboard the Space shuttle *Challenger* in 1986.

Kalpana Chawla—Astronaut, first Indian American woman in space.

News, Sports, and Entertainment—

Ellen Nakashima—chief reporter for the Washington Post in Southeast Asia.

Connie Chung—in 1993, became the first Asian American to be a nightly news anchor for a major network.

Keanu Reeves—internationally renown actor.

Apolo Ohno—Olympic Gold & Silver Medalist, speed skating.

Jet Li—movie actor.

Kristi Yamaguchi—Olympic Gold Medalist, figure skating.

Dwayne Johnson—also known as the "Rock," professional wrestler and movie star—Scorpion King, Walking Tell, Doomed.

Dr. Sammy Lee, Olympic gold medalist high diver.

Greg Louganis—Olympic gold.

Michelle Kwan: Olympic Silver and Bronze medalist, Figure skating.

Duke Kahanamokee, gold medalist swimmer.

Angela Perez Baraquio: First Asian American Miss America 2001 (Miss Hawaii).

Sarah Chang: world famous violinist.

Lucy Liu: Actress.

Bruce Lee: Martial Artist and Actor.

Tiger Woods: Golf Professional.

Michelle Wie: Professional Golfer.

Akebono (Chad Rowan): Sumo Wrestler (retired), yokozuna.

Konishiki Salevaia Afigaroe: Sumo wrestler, oyeki.

Musashimaru Peitari, Sumo wrestler, retired, yokozuna.

24 Samoan NFL football players in 2005/2006 season.

9 Native Hawaiian NFL football players.

5 Tongan Americans—NFL football players.

Mr. Speaker, when I envision America, I don't see a melting pot designed to reduce and remove racial differences. The America I see is a brilliant rainbow—a rainbow of ethnicities and cultures, with each people proudly contributing in their own distinctive and unique way—a better America for a generation of Americans yet unborn.

Asian-Pacific Americans wish to find a just and equitable place in our society that will allow them—like all Americans—to grow, to succeed, to achieve and to contribute to the advancement of this great nation.

Mr. Speaker, first as an American, whose roots are from the Asian Pacific Region, I would like to close my remarks by asking all of us here tonight, what is America about? I think it could not have been said better than on the steps of the Lincoln Memorial in the summer of 1963 when an African-American minister named Martin Luther King Jr. poured out his heart and soul to every American who could hear his voice, when he uttered these words: "I have a dream. My dream is that one day my children will be judged not by the color of their skin, but by the content of their character."

That is what I believe America is all about.

RECOGNIZING THE CONTRIBUTIONS OF ASIAN PACIFIC AMERICANS

Ms. BORDALLO. Mr. Speaker, I rise today in honor of Asian Pacific American Heritage Month and to recognize the role that Asian and Pacific Islander Americans play in our nation. I want to thank Mr. HONDA, the Chairman, and Mr. FALEOMAVAEGA, the Vice Chairman, of the Congressional Asian Pacific American Caucus for their commitment to and leadership of the Caucus and their efforts on behalf of our communities.

Asian Pacific Islanders are leaders in academia, in the arts, in all levels of government and the military, and in the private sector. They contribute to all aspects of American life and, in doing so they enrich the lives of Americans and make this country stronger. This month is set aside to honor their successes and contributions.

As we celebrate Asian Pacific Islander traditions this month, we must remember those pioneers who forged the path on which we walk today. Their work, their sacrifices, and the impacts they made on America provided the foundation of understanding of Asian and Pacific Islander cultures, traditions, and heritage, all of which have opened doors for current and future generations. True to this record, Asian Pacific Islander American achievements today will inspire and support future generations of Asian Pacific Islanders to excel tomorrow.

This year's theme is "Dreams and Challenges of Asian Pacific Americans." It is through these strong dreams that the Asian Pacific Islander community has progressed. As we come together to celebrate another Asian Pacific American Heritage Month, I am reminded of the many contributions and successes of our community. The importance of our community has been recognized by the White House. On May 13, 2004, President Bush signed Executive Order 13339, which created the President's Advisory Commission on the White House Initiative on Asian Americans and Pacific Islanders. This was a significant step in voicing the special needs of the APA community through the Executive branch of government. One of Guam's very own was chosen to serve on this Commission.

Martha Cruz Ruth is one of fourteen APAs appointed by the President to serve on the President's Advisory Commission for the White House Initiative on Asian Americans and Pacific Islanders. The Commission was chosen based on their history of involvement with the APA community and for their expertise in a specific field. Mrs. Cruz's specialties range from media affairs and marketing to local politics, having served a term in Guam's Legislature in 1987, and she brings a unique voice to this Commission.

Asian Pacific Americans have demonstrated a long and distinguished history of service to this country. Many have served in our armed forces. On Guam, our men and women volunteer for military service at higher rates per capita than any state in the union. We owe each and every one of these servicemen and women a debt of gratitude for their service and sacrifice.

Through hard work and dedication, Asian-Pacific Americans have risen through the ranks to the top levels of military leadership. General Eric K. Shinseki, holds the distinction of being the highest-ranking APA in the U.S. Army. Major General Antonio Taguba, who served as the chief investigator during the Abu Ghraib prison scandal, is only the second Filipino American to rise to the position of General in the U.S. Army. Brigadier General Vicente Tomas (Ben) Blaz, of Guam, had a distinguished career with the U.S. Marine Corps, and he made our island proud when he was promoted to Brigadier General in 1977. In 1984, after retiring from the Marines, General Blaz came here to our nation's capital to serve as Guam's Delegate to the U.S. House of Representatives and served in that capacity for eight years.

Among those who have served in the military, I especially want to remember those who have given their lives to protect our freedom, including those who lost their lives in the Global War on Terrorism. Specialist Christopher Jude Rivera Wesley, Lieutenant Michael Aguon Vega, Specialist Jonathan Pangelinan Santos, Specialist Richard DeGracia Naputi, Jr., and Specialist Kasper Alan Camacho Dudkiewicz are five of Guam's sons who were killed in Iraq. In addition, the Micronesian region has lost six of its own sons. Though their deaths sadden us, their courage reminds us that freedom is never free.

The Asian Pacific American communities have embraced America as our home and have thrived through the limitless opportunities this country has to offer.

Today, as we go forward celebrating "Dreams and Challenges of Asian Pacific Americans," let us celebrate the unique histories and stories of our people.

This year the people of Guam will commemorate the 62nd anniversary of our liberation from enemy occupation by U.S. armed forces during World War II. As the only American territory with a civilian population occupied by the enemy during World War II, the people of Guam risked their lives to protect American servicemen from capture and endured great hardships and suffering. I want to recognize the people of Guam for their steadfast loyalty during these trying times.

Guam continues to play an important role in our nation's relations with Asian countries. Recently, Secretary Donald Rumsfeld announced the re-location of marines from Okinawa to Guam as part of a major realignment of forces in Japan. With the impending arrival of 8,000 Marines from Okinawa, our island is planning for a period of tremendous growth. We look forward to making a significant contribution to peace and security in the western Pacific and Asia, and we hope that the realignment of forces will strengthen the U.S.-Japan alliance.

As we celebrate Asian Pacific American Heritage Month, let us honor the contributions of all Asian and Pacific Islander Americans. Let us ensure that their stories are known to the younger generation. Let us celebrate the beauty of our cultures and the richness of our heritage. And let us celebrate how we help make America the great country it is.

Dangkulo na Si Yu'os Ma'ase.

Ms. MATSUI. Mr. Speaker, this month we continue a nearly three decade tradition of Asian Pacific American Heritage. Without the sacrifices and contributions that have been made by Asian Americans, the United States would not be the world leader that it is.

During this special month we have the opportunity to acknowledge and pay tribute to the contributions of the 15-million strong Asian Pacific American community—from I. M. Pei, Maya Lin, and astronaut Ellison Onizuka, to Amy Tan, Yo Yo Ma, and General Eric Shinseki. Our Nation would not be what it is today without their immeasurable input. Their unique contributions enhance the moral fabric and character of this great Nation.

As we celebrate the contributions of Asian Americans and Pacific Islanders to the whole of the Nation, we must rededicate our efforts to ensuring equality and opportunities so that all Americans have a chance to reach their full potential. Together, we can make the American dream a reality for all Americans.

Mr. CASE. Mr. Speaker, I am pleased to join Chairman HONDA and other members of the Congressional Asian Pacific American Caucus in commemorating Asian Pacific American Heritage Month.

I am even more pleased that several Asian Pacific American organizations or governmental initiatives are holding their annual conventions in Hawaii this month. This includes the Federal Asian Pacific American Council and the White House Initiative on Asian Americans and Pacific Islanders.

There are also several Filipino American organizations that will be hosting events this year in Hawaii, including the National Federation of Filipino American Associations, as 2006 marks the centennial of sustained immigration from the Philippines to the United States.

The Filipino Centennial Celebration Commission in Hawaii, led by Elias Beniga, and the Smithsonian Filipino American Centennial Commemoration have done a wonderful job in providing commemorative activities across the country, including in Hawaii and Washington, D.C.

I was pleased that Congress passed in December, H. Con. Res. 218, my resolution recognizing the centennial and acknowledging the contributions of Filipino-Americans to the United States.

While there are many issues of importance, a timely issue I believe should be considered by Congress is the inclusion of my bill, H.R. 901, into any comprehensive immigration reform bill moving through Congress.

H.R. 901 would prioritize the permanent immigration petitions of the sons and daughters of Filipino World War II Veterans who were extended U.S. citizenship under the Immigration and Nationality Act of 1990. Most recently, I wrote to President Bush and Congressional leaders urging their inclusion of this provision in immigration reform legislation.

I believe my bill fulfills one of the bedrock principles of our federal immigration policy—family reunification—and warrants special consideration given the unique history between the United States and the Philippines, as well as the contributions of our Filipino World War II veterans to our country and to U.S. national security interests.

As we commemorate Asian Pacific American Heritage Month, I celebrate the contributions of all Asian Americans and Pacific Islanders who call our country home, and I congratulate the Filipino American community for their centennial celebrations this year!

Ms. WATSON. Mr. Speaker, I rise today to celebrate Asian Pacific American Heritage Month. I want to congratulate my good friend and colleague, Mr. HONDA, for arranging this special order so that we can celebrate Asian Pacific American Heritage Month and acknowledge the important contributions of Asian Americans. This year's theme, "Dreams and Challenges of Asian Pacific Americans," reflects the Asian and Pacific Islander American community's commitment to fairness and equality.

I represent California's 33rd congressional district. It is one of the most ethnically and culturally diverse congressional districts in the U.S. It is emblematic of the emerging "majority minority" demographic of the state of California.

California is home to the largest Korean-American population in the country. More people of Korean heritage live and work in Los Angeles than in any place in the world outside Korea; and more Korean-Americans live and work in the 33rd congressional district than in any other congressional district in California.

I want to comment briefly on the recent and, in many ways, historic visit of Super Bowl MVP Hines Ward to Korea last month. His visit, I believe, embodies this year's theme of fairness and equality. The NFL hero, who is of mixed Korean and African-American ancestry, traveled to his native country to express pride in his Korean roots even though he shunned that side of his heritage after he faced prejudice as a child. His Korean mother accompanied him.

By all accounts, South Korea warmly embraced Hines Ward and received him as a hero. The government made him an honorary citizen. Moreover, his visit not only galvanized the Korean community but also brought attention to the plight of Koreans of mixed ancestry.

Korea has 35,000 people of mixed race, and many are subjected to discrimination. 22 percent are unemployed, and only 2 percent have administrative jobs. The rest are laborers. Statistics suggest that 9.8 percent of mixed-race Koreans leave primary school and 17.5 percent middle school. The average drop-out rate for Korean middle school students is 1.1 percent. The Pearl Buck Foundation notes that international marriages between Koreans and non-Koreans are on the rise and that the mixed-race population in Korea is estimated to grow to 2 million by 2020.

My home state of California is a leader in the growth of mixed-race populations in the U.S. In the 2000 Census, 7 million people self-identified themselves as multiracial. Historically, the West has always been very multiracial due to high immigration levels, the rich mix of different ethnic groups, and the historical absence of legal barriers to interracial marriage. Much work, however, remains to be done as mixed-race children in the U.S. and their counterparts overseas suffer from sleights and discrimination.

Hines Ward's visit to Korea has made a positive difference. The government and the ruling Uri Party recently agreed to grant for the first time legal status to people having mixed-race backgrounds and their families. The Ministry of Justice is now reviewing a plan to grant citizenship or residency status to those who marry Koreans. All acknowledge the impact and importance of Hines Ward's visit.

I want to congratulate Mr. Ward on his triumphal return to his homeland. He has used his celebrity status to bring attention to an issue of mutual importance to both the U.S. and Korea. I also want to congratulate the Korean government for taking positive steps to address an issue that until now has been largely ignored.

Finally, Mr. Speaker, as we celebrate Asian Pacific Heritage Month, let us not overlook those Asian-Americans of mixed race who have also made significant contributions to our nation.

Mr. BACA. Mr. Speaker, I rise today in celebration of Asian Pacific American Heritage Month and to honor the more than 14 million Asian Pacific Americans that contribute to the success of tour great nation.

I am proud to be a Representative from the great state of California, which is home to the largest Asian/Pacific Islander American (API) community in the United States. I truly believe diversity is what makes our country great and California benefits greatly from the API community's presence there.

The theme for this year's Asian Pacific American Heritage Month is "Dreams and Challenges of Asian Pacific Americans" and it is an idea that resonates especially for those of us from the Golden State. Indeed, much of California's earliest infrastructure and railways were built by the sweat and labor of Chinese and Japanese immigrants. Despite grueling work and harsh discrimination, these workers played a vital role in developing California's early economy and today, Chinese and Japanese Americans are among the largest, most successful API groups in the state.

The API community has also been at the heart of some of California's saddest and darkest hours. During World War II, our state was home to most of the internment camps that unjustly imprisoned more than 112,000 Japanese Americans between 1942 and 1948. Government-sanctioned racism forced many of these law abiding citizens to lose everything they owned and many families remain seared by the memory of this injustice.

However, the suffering and struggle of the API community didn't stop there. As recently as 1992, Americans witnessed a milestone in Asian Pacific American history as the streets of Koreatown exploded in violence during the Los Angeles Riots. Thousands of Korean Americans watched their American Dream go up in flames and they, too, had no choice but to rebuild and rise again.

And the list goes on. America is the home of Vietnamese, Cambodian, Hmong, Filipino, Thai, Malaysian, Native Hawaiian or other API communities. Each of these groups has overcome heartache, oppression, discrimination, and intolerance to achieve their goals in America. They are proud to be Americans and grateful for the opportunity to live freely and pursue their dreams.

The API community is among the fastest growing minority groups in our country and is succeeding in every arena. Asian Pacific Americans proudly serve in our military; they are among some of the most successful entrepreneurs; and some of them are my esteemed colleagues here in the halls of Congress.

I am proud to honor the Asian Pacific American community today not only for their persistence, but also for their accomplishments, contributions, and leadership.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I'd like to thank the gentleman from California for putting together this Special Order to celebrate Asian Pacific American Heritage Month.

Mr. Speaker, I proudly represent one of the largest Vietnamese communities in the world outside of Vietnam in Orange County, California.

Many of them came to the United States only about thirty years ago, seeking refuge from an oppressive regime in an unknown land and facing an uncertain future.

These individuals risked everything for a chance to live freely and provide better opportunities for their children and for their families.

Since their arrival, these Vietnamese refugees have become Americans in the finest and truest sense of the word—hard working people trying to create a better future for themselves and their families.

One success story that I love to mention is that of Mr. Chieu Le, founder and chief executive officer of Lee's Sandwiches in Orange County, California.

In 1981, one year after immigrating to the United States from Vietnam, Mr. Le and his family bought their first catering truck and began serving sandwiches in the community.

Twenty years later, they opened the first Lee's Sandwich Shop in Garden Grove, California.

Today, Lee's Sandwiches is the fastest-growing restaurant chain in the West, with over 35 stores in operation or development.

And Mr. Le and his family have given back to the community as well, raising hundreds of thousands of dollars for victims of the 9/11 attacks and the South Asia tsunami.

But Mr. Le and his family are only one example. Dr. Nguyen-Lam Kim Oanh of the Garden Grove Unified School District is the first Vietnamese-American woman elected to a school board in Orange County.

Or actress Kieu Chinh, who has appeared in numerous movies and TV shows including E.R. and The Joy Luck Club, and was the subject of the Emmy-award winning 1996 documentary "Kieu Chinh: A Journey Home."

And groups such as the Union of Vietnamese Student Associations—a non-profit, volunteer-run organization that puts together the annual Tet Festival in Orange County, which draws twenty to thirty thousand attendees.

Or the Orange County Asian and Pacific Islander Community Alliance—the largest Pan-Asian Pacific Islander organization in Orange County. Their health outreach programs, after-school programs, and policy advocacy programs make a real difference in the lives of Orange County residents.

Through their hard work and dedication, Vietnamese Americans and other Asian-Pacific individuals and groups like these have become an integral part of the Orange County family—as entrepreneurs, as community leaders, and as activists for worthy causes at home and abroad. On behalf of all my colleagues in the House, I offer them our praise and our gratitude.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to honor Asian Pacific American Heritage Month and to pay tribute to the struggles and enormous contributions of Asian Pacific Americans to our Nation's culture.

It is an honor to pay tribute to the many achievements and honor the countless unique contributions to the United States made by Asian Pacific Americans across our Nation.

May commemorates the arrival of the first Japanese immigrants in 1843. Therefore, it is appropriate that during the month of May we recognize the contributions made by Asian Pacific Americans to our communities.

May 10, 1869 marks the completion of the transcontinental railroad and its completion is greatly credited to the labor of the Chinese immigrants. Today, there are over 14 million Asian Pacific Americans living in the United States and this represents 5 percent of the population.

The rich history associated with the Asian Pacific American population has been a great contribution to the culture of the United States.

Over the years, the Asian Pacific American communities have made significant contributions to Texas's diverse culture.

The United States is a land of immigrants, and the history reflects a Nation that has greatly benefited from the many contributions of its immigrants.

The Greater Dallas Asian American Chamber of Commerce (GDAACC) is the largest Asian American Chamber in the United States with 1,200 members currently enrolled.

Located in the Asian Trade District in Northwest Dallas, GDAACC, is the focal point of Asian American economic development and cultural exchange.

In recent years, due to great efforts to expand the number of programs that provide assistance to members, sponsors and partners, the GDAACC initiated the Asian Festival and approximately 15,000 people were in attendance.

GDAACC is also responsible for initiating the Leadership Tomorrow Program; the Multi-Ethnic Education and Economic Development Center; and the Texas Asian American Business Symposium in Dallas, Texas.

The Asian Pacific American community is well deserving of the many accolades they receive because their contributions have greatly enriched the culture and history of our Nation.

Mr. MCDERMOTT. Mr. Speaker, May is Asian Pacific American Heritage Month, and I rise to proudly recognize and honor over 78,000 Asian Pacific Americans who live in my 7th Congressional District in Washington State. They are the largest minority group in my district, embracing over 13 percent of the population. They are Japanese, Asian Indian, Korean, Chinese, Filipino, Cambodian, Laotian, Hmong, Vietnamese, Pacific Islanders, as well as other Asian American cultures. Their contributions have helped to make Seattle a richly textured weave of cultures and people. We all benefit as a result.

Beginning in the late 19th century, Asian Americans immigrated to the United States to work hard and make a better life for themselves and their families. Many faced prejudice, racial injustice, and discrimination, but these new immigrants believed in America, and they made our Nation stronger by fighting for American values like equality. As our Nation again debates the importance and role of immigration in the early 21st Century, we should consider the contributions that Asian-Americans have made, and continue to make, to our Nation, becoming leaders in public and social service, business and industry.

In Seattle, I am proud to have introduced the legislation that renamed a United States Courthouse as the William Kenzo Nakamura United States Courthouse in honor of a Japanese American who was posthumously awarded the Congressional Medal of Honor for his courage under fire in World War II. Mr. Nakamura made the ultimate sacrifice in service to the country he loved, an honor made more poignant by the fact that William and his family were forcibly relocated to a federal internment camp at the beginning of the war.

Today, we proudly celebrate Asian Pacific American culture and heritage, from the Vietnamese Tet in Seattle Lunar New Year celebration to other local cultural festivals. We also honor Asian Pacific Americans by preserving the ethnic heritage of our citizens. Places like the Wing Luke Asian Museum, the Seattle Asian Art Museum, the Filipino American National Historical Society, and Densho: The Japanese American Legacy Project keep us in touch with the roots of our neighbors.

Our pride in and recognition of many Asian American role models has earned Washington State a global awareness. Just last month Chinese President Hu Jintao chose Seattle for his inaugural visit to the United States as head of state, touring a Boeing plant and Microsoft headquarters and noting the "good cooperative relations" between China and Washington State. One out of every four jobs in Washington State is directly tied to international trade, and we have a strong and growing trading relationship with the Asia Pacific region. This relationship has been established, expanded, and nurtured largely through cultural awareness first developed in the region by Asian-American immigrants. We all benefit from the contributions Asian Pacific Americans make to our community and country.

Asian Pacific American Heritage Month is a celebration of the American spirit. We are a nation of immigrants, and by honoring Asian Pacific Americans, we honor all cultures.

Mr. RANGEL. Mr. Speaker, I rise in celebration of Asian/Pacific Americans and their innumerable contributions to our Nation. The fabric of American society has benefited from the talent, dedication and enthusiasm of Asian/Pacific Americans. The month of May is designated as a time when we all can appreciate and observe diversity in America by highlighting the contributions of Asian/Pacific Americans.

In June 1977, Representative Frank Horton of New York and Norman Y. Mineta of California introduced a House Resolution that called upon the President to designate the first ten days of May as Asian/Pacific Heritage Week. Subsequently, Senators DANIEL INOUYE and Spark Matsunaga introduced a similar bill in the Senate. Both House and Senate Bills were passed. The first 10 days of May were chosen to coincide with two important milestones in Asian/Pacific American history. The arrival in the United States of the first Japanese immigrants on May 7, 1843 and contributions of Chinese workers to the building of the transcontinental railroad, completed on May 10, 1869. In 1992, Congress expanded the observance for the entirety of May.

Asian Pacific American Heritage Month is celebrated with community festivals, government-sponsored activities, and educational activities for students. This year's theme is "Freedom for All—A Nation We Call Our Own."

Mr. Speaker, Asian/Pacific Americans are leaders in public service, business, government, science, law, education, athletics, the arts, and many other areas. Their love of family, community, and hard work has helped to uphold our Nation for many generations. Asian/Pacific American entrepreneurs are helping to strengthen our economy and our communities through their hard work and ingenuity, and they inspire a new generation of American innovation through their example. More than 14 million Americans of Asian or Pacific Island Heritage contribute to the vitality, success, and prosperity of our Nation.

Ms. LEE. Mr. Speaker, I rise today to celebrate Asian Pacific American Heritage Month. I would like to thank Congressman HONDA and the Asian Pacific American Caucus for organizing a special order tonight to honor Asian Pacific Americans and the great contributions they have made to our Nation. I would also like to say that I am very proud to be a member of the Tri-Caucus, which unites the Congressional Asian Pacific American Caucus, Congressional Hispanic Caucus and Congressional Black Caucus. Mr. Speaker, I strongly believe in the importance of honoring all of our country's unique cultures, and it is truly a privilege to participate in this special order.

Asian Pacific Americans have played a tremendous role in the development of our Nation. I would first like to acknowledge the late Congresswoman Patsy Takemoto Mink, our first woman of color to serve in the U.S. House of Representatives. She was a trailblazer for Asian Pacific Americans, and it is wonderful to see that her impact is still felt and that her legacy continues.

As Representative of California's Ninth U.S. Congressional District, APA Heritage month is especially important to me. Asian and Pacific Island American culture has a very large impact in the cities of my district.

My district is the birthplace of Amy Tan, a Chinese-American woman and New York Times bestselling author best known for her novel The Joy Luck Club, and it's subsequent film adaptation. She has received countless acknowledgments including the Bay Area Book Reviewer's Award. Today, Ms. Tan's novels and short stories are a part of high schools and universities' literary curricula nationwide.

My district is also the birthplace of Fred Korematsu, born in Oakland to Japanese immigrants, who challenged the World War II internment of Japanese American citizens. As an American citizen Mr. Korematsu refused to go to an internment camp, but he was arrested, sent to one in 1942 and branded a spy by newspapers. He opposed the internment policy in the Supreme Court, but in its ignoble 1944 decision the Supreme Court upheld the policy. In 1983 Mr. Korematsu appealed his conviction, which a Federal court overturned acknowledging that the Government's case at the time had been based on misleading and racially biased information. President Bill Clinton awarded Mr. Korematsu the Presidential Medal of Freedom in 1998, honoring Mr. Korematsu for fighting for human rights and ensuring the very liberties that created this great Nation.

Today, the legacy of Asian Pacific American leaders such as Ms. Tan and Mr. Korematsu is apparent in the numerous remarkable programs and initiatives in APA communities throughout my district. There are several that I would like to recognize, including Oakland Asian Students Educational Services also known as OASES. As the city of Oakland is one of three cities in the Bay Area that has the lowest high school graduation rates for Asian students, this organization works to decrease cultural gaps in education. OASES reaches out to all youth with limited resources and limited educational opportunities, particularly children of Asian Pacific Islander families.

I would also like to recognize the Oakland Asian Cultural Center. This center works by employing the belief that upholding cultural tradition and honoring cultural heritage are at the core of maintaining healthy and lively communities. The center presents a variety of cultural festivities and artistic expression in dance, literature, music and visual arts. The center is an excellent resource for understanding the legacy of Asian and Pacific Island Americans and their great influence on the cultural identities of our communities.

My district is also home to several of the nation's leading health care providers for APA communities. Asian Community Mental Health Services, for example, is an organization that offers access to and increases community acceptance of mental healthcare, which in many APA communities remains taboo. Asian Health Services is another organization that works to ensure that members of APA communities can overcome challenges to obtaining high-quality, affordable healthcare due to language barriers, income, lack of insurance coverage and cultural differences.

Lastly, I would like to bring special attention to Asian Communities for Reproductive Justice (ACRJ) and its Executive Director, Ms. Eveline Shen. Founded in 1989, ACRJ has been a longtime leader in ensuring that APA women and girls are equipped with the tools to make important decisions about their reproductive health. Under the leadership of Ms. Shen, ACRJ places reproductive health and freedom at the center of promoting social and economic freedom for APA women in the shadows of patriarchal cultures. During her nearly two decades of community organizing and eight years at ACRJ, Ms. Shen has become a leader in building a social justice movement in APA communities, which is one of the fastest growing constituencies in California and in my district. I commend Ms. Shen and ACRJ's dedication to assisting APA women to obtain the American promise of "liberty and justice for all."

As our Nation is home to so many people from all over the world, it is important that we continue to bring attention to the issues that affect all communities. It is our responsibility to ensure that no one is ignored and that equal attention is given to all groups. It is also our duty to seek justice for those who are underrepresented. And, lastly, it is our privilege to come together to celebrate the accomplishments of the many leaders throughout Ameican history, who have embodied excellence in advancing the principles of democracy, freedom and justice for all of our communities and strengthening the foundation of America.

Mr. Speaker, again I would like to thank Mr. HONDA and the APA Caucus for inviting me to participate in this special order. Let us continue to unite, pay tribute to Asian Pacific Americans and remember the importance their outstanding contributions to our Nation.

Ms. ZOE LOFGREN of California. Mr. Speaker, today and throughout the month of May, we celebrate the many contributions Asian Pacific Americans have made to the fabric of our communities and to this Nation as a whole.

More than 100 Members of Congress work together in the Congressional Asian Pacific American Caucus to promote Asian Pacific American issues and concerns, and I'm pleased that we are led by my long-time friend and colleague, Congressman MIKE HONDA.

Congressman HONDA and I are proud to represent San Jose, California and surrounding areas, a community blessed with diversity and culture from around the world, including close to 350,000 Asian Pacific Americans.

Some notable Asian Pacific Americans from our area include Norman Mineta, the longest serving Secretary in the history of the U.S. Department of Transportation, the first Asian American mayor of a major U.S. city, and the first Asian American Cabinet member during the Clinton Administration.

San Jose Councilmember Madison Nguyen is another extraordinary Asian Pacific American. She is the first Vietnamese American woman elected to office in the State of California.

Another distinguished Asian Pacific American from the San Jose area is Dr. Allan Seid who founded Asian Americans for Community Involvement (AACI), the largest social services nonprofit organization serving the Asian Pacific American community in Santa Clara County.

Vinod Khosla has contributed immensely to Silicon Valley as a distinguished venture capitalist and a co-founder of Sun Microsystems, headquartered in Santa Clara, California, a company that has grown into one of the largest providers of computers, computer components, software, and information-technology services.

In this Congress, there are five Asian Pacific Americans serving our Nation and their communities as members of the House of Representatives, as well as one delegate from American Samoa and two Asian Pacific Americans serving in the Senate. I am proud that the California Democratic Delegation includes two of these Representatives from the Asian Pacific American community.

In the field of science and technology, Asian Pacific Americans have long contributed to our country, from Ellison Onizuka, the first Asian-American in space, to Flossi Wong-Staal and Dr. David D. Ho, for their work on HIV and AIDS. Moreover, several Asian Pacific Americans have received Nobel Prizes for their accomplishments in science and technology.

Hundreds of thousands of Asian Pacific Americans have also loyally served our Nation in the military willing to give their life for the United States of America. Asian Pacific American veterans of the Armed Forces number 312,700.

In sports, Asian Pacific Americans have helped bring home Olympic gold medals for the United States, including the first woman to win gold medals in the ten and three meter diving events—Filipina American Victoria Manalo Draves.

Although it is important for us to celebrate Asian Pacific American heritage this month, we must not forget the plight that Asian Pacific Americans endure despite the community's many accomplishments.

The pitfalls of immigration law and the backlog of immigration applications continue to prevent many Asian Pacific American families from reuniting for several years.

We must also not forget that the APA community suffers from greater poverty than non-Hispanic Whites, especially in the Hmong, Laotian, Cambodian, and Vietnamese American communities.

We must work to ensure that Asian Pacific Americans are appropriately counted when our government collects data that will be used to understand the needs of the APA community.

We must make every effort to invite Asian Pacific Americans to participate in government to ensure that our government meets the needs of the APA community.

In commemoration of Asian Pacific American Heritage Month, I honor the contributions of millions of Asian Pacific Americans who have contributed to our Nation and who I am sure will continue to contribute in the future. But while I celebrate this month, I also renew my pledge to address the issues affecting Asian Pacific Americans around the country.

IMMIGRATION REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Iowa (Mr. KING) is recognized for half the time remaining before midnight.

Mr. KING of Iowa. Mr. Speaker, as always, I very much appreciate the privilege to address you, Mr. Speaker, and in so doing addressing this great United States of America House of Representatives.

I am a bit breathless because I hustled over here to arrive at the appointed time; and I thank my colleagues, hopefully, they filibustered a few minutes on my behalf as good friends likely would.

Mr. Speaker, I would like to speak to you about a few issues about border control especially on the southern border and primarily on the southern border. I have long spoken about the policy that I think we need to have with regard to the immigration policy across the Nation, about domestic enforcement and shutting off the jobs magnet, and also about the need to stop the bleeding at our southern border.

And so I had gone down to the border about a year ago and spent a long weekend down there, at least 3 days on the ground and in the air, as a guest of the Border Patrol and some of the other agencies that operate the security along the border. And I was given a very good tour and a few rides in helicopters at night and also in the daytime, shining the night sun down along our border to identify where there might be illegals that have come across or future illegals preparing to come across. And I stopped and visited some of the stations and their equipment and talked to the men. I was impressed with the quality of the team people that they had assembled, the equipment they had assembled, and the tactics they had. Yet in that full long weekend, I did not actually see activity which would indicate to a reasonable person that there was not activity to be seen.

In spite all of those hours in the air and the hours on the ground and the night vision equipment, I did not again see any illegal activities, although I got many reports of the success of the interdiction of our border patrol and our other agencies.

Well, as I listen to the debate here in the House of Representatives, Mr. Speaker, and the testimony that comes before the immigration subcommittee which I sit upon, and I sit in those hearings two, three, even four times a week and we will have four, sometimes eight witnesses giving us credible data and good well-informed information on this issue from both sides of the issue, Mr. Speaker, and always the years, the cumulative information has built in me after those years of sitting on the immigration subcommittee, I began to think that I have a pretty decent broad background on the subject. And yet there was a gap, Mr. Speaker, there was a gap in that subject because I had not gone down and spent time on the border more or less unguided, more or less outside the scope of the Border Patrol, but gone ahead and gone down to the border and looked under all the stones and met with the people that were actually more likely to be more frank with me.

So that was my mission this past weekend where I spent perhaps as much as 4 days on the ground in Arizona. And the goal was to meet with the people that are enforcing our laws down there, the ones that are out in the night and those people who have seen this bleeding, this hemorrhaging at our border firsthand, that can describe to me the scope of the bleeding in our southern border.

Mr. Speaker, I am here to say tonight that it is astonishing. It is far worse than I had imagined and my imagination was fairly strong. My predictions and the numbers that I put out were fairly aggressive, at least viewed by some of my critics. But there is nothing I saw down on the border over the weekend, Mr. Speaker, that would cause me to believe that I have overstated the numbers of people who are illegally crossing our border or the amount of drugs, illegal drugs, that are coming across our border, or the amount of violence that is visited because of the drug problem both south of the border, north of the border, and the violence that goes throughout the drug culture in America and the collateral damage to the victims that may not be associate with that at all, but happened to be in the wrong place at the wrong time and are victims of murder, victims of negligent homicide generally in the form of a car accident where the driver who was at fault was under the influence of alcohol or drugs.

So what I did, Mr. Speaker, was go down to visit in a region, starting out on Friday, in a region south of Tucson, south and a little bit east of Tucson. I first met with a special agent who briefed me on a lot of information that had been coming by this individual on a consistent basis. And then I went to Bisbee, Arizona, where I went on down then to the border there to Naco, Arizona, right on the border with Mexico. That is a location that has seen a fair amount of violence and a lot of concentration of illegal traffic going along the border. They finally decided to establish and build a fence, Mr. Speaker.

I was guided to that location by a retired Border Patrol officer and a rancher from that region, both with a passion of patriotism for America, both that have a memory of growing up in an America and that part of Arizona that was a different kind of country than it is today. It was then a place that they could feel safe in their streets and safe in their homes and walk the streets and not lock their homes. And today that region has been flooded with just thousands and tens of thousands and perhaps hundreds of thousands of illegals, many of them carrying illegal drugs through that region.

And cars drive across the border where sometimes there had been an existing fence that was built originally to contain livestock, that fence has essentially been systematically broken down, and vehicles with drugs and illegals in them would drive right through the gaps in the fence, sometimes drive through the fence, and take off across the desert or cut across over to a highway and get up on the highway. And once they were on the highway, for a little ways they were gone, they were free, they were in America, not ever to be captured again, not ever to be accountable again unless they were just simply victims of bad luck.

They realized the magnitude of this problem at Naco, Arizona, and went in and built a fence through there, Mr. Speaker. It is built out of interlocking steel that sometimes can be 10 feet high or higher and then above that in some cases they have welded a kind of wire mesh that goes up another 4 to 6 feet. And when they originally built the fence, people said it would not work. It cannot work. People will go over it. They will go through. They will go under it, or they will go around it. In fact, they do go around it, Mr. Speaker.

At one point they picked up a cutting torch and cut a hole through it and made their own gate in that solid steel fence, and that was a pathway by which people and drugs traveled into the United States, and some went back through that gate. And the patrol went there and welded the gate shut, and as they kept some maintenance up on the fence, the other side essentially gave up on trying to breech the fence.

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Now, the illegal traffic goes around the end as one reason, rather than trying to find a way through a barrier that is a good solid barrier that has been very, very effective.

The Border Patrol officer whom I was there with and the rancher whom I was there with said look at this, and they described the problem they used to have about the thousands of people pouring across there. They said: We do not have that problem anymore. This community is safer than it was. It is more secure than it was. There is far less illegal traffic going through here. There is far less crime of all kinds, far less violence, and far fewer illegal drugs in this community because we built a barrier that kept the elements out that were eroding our quality of life in Naco, Arizona.

That was an interesting trip, and they took me out along the border where that fence essentially stops and diminishes in some locations. There is nothing there, not even a way to define where the border is between the United States and Mexico, but simply open places where illegals can walk across the border and one location just in a dry river bed or they would not be seen by night vision. They were protected by the shrubbery and vegetation. They could simply walk down from Mexico into the United States unimpeded, unobstructed, unobserved and become shadow people here in the United States doing whatever they do.

They were strong advocates of the border barrier and one that is solidly built and one that can be efficient and is becoming a tool that could very much support our law enforcement and let them focus their energy on plans that could be more effective than riding herd on a broad length of an unprotected border. It is ridiculous to think that we could ever hire enough people to sit along the border, especially at night, and watch people come across and then catch them rather than put in a fence that would not allow them to come across in the first place.

That was Naco, Arizona, and again, I learned a lot about the culture and the level of corruption on the south side of the border. It was an interesting conversation.

From there, I went down then to the reservation and was a guest of a number of the Shadow Wolves who are part of the Customs and Border Patrol. Actually, today, they are a part of the Border Patrol. They have been shifted to that, but it is on the Tohono O'odham Reservation, and on the reservation the Native Americans control that land. They have support of the Border Patrol, but they have had an organization there called the Shadow Wolves. They are Federal employees and their responsibility is to guard the border and interdict illegal drugs and illegal aliens. They are focusing on illegal drugs. Their peak recruitment, the top numbers there, Mr. Speaker; were 22, and when they were 22 strong, in fact, that does not sound like a very large group given the size of the reservation and given the miles of border that they have to protect, and I believe that number is 76 miles of border protected and controlled by 22 Shadow Wolves, members of the Tohono O'odham tribe on the reservation; but those 22, in the period of a year, I have got to dig up the statistics so I will be able to release those and publish those, Mr. Speaker, but the information I received, that they had interdicted more illegal drugs in a 12-month period of time with 22 of their Shadow Wolves than all 2,000 Border Patrol agents did in that entire sector for the same period of time.

That is an extraordinary example of effectiveness and efficiency, Mr. Speaker; and it is the kind of thing that we here in this Congress need to endorse and support and encourage and fund and authorize and protect and encourage and enhance, do all of things that we can do to identify the best among us, to encourage them, to grow that culture off beyond the bounds of the reservation, take that same culture of efficiency and enforcement on to the other reservations, whether Native American tribes that control land on our national boundaries with our neighbors, and the level of success that has been there has not been rewarded. It has not been encouraged. It has not been enhanced by the Border Patrol who seems to want to be seeking to undermine their efforts and absorb them into the broader Border Patrol, in which case, if they did that, the Shadow Wolves would lose their identity.

These people have an extraordinary amount of character and courage and conviction and pride in what they do; but like anyone, if they do not see a reward for that, if they do not see some kind of encouragement. if they do not understand that here in Congress we are supporting them, eventually they will be assimilated into the Border Patrol and their level of efficiency will be assimilated into the broader overall level of efficiency in the Border Patrol.

Now, I do not mean to imply that the Border Patrol is not efficient or that they may not have the kind of personnel that I would like to see. In fact, they have some very extraordinarily, brave, noble, hardworking officers, and many of them. The structure has become big and it has become difficult to be efficient. So I am not here to discourage them. I am here to encourage them, and I often shake their hands and thank them for what they do because they are the last line of defense along our border to protect us from the incursions of millions that take place in this country every single night, Mr. Speaker.

But what I saw from the Shadow Wolves was not only some of the history in their legacy and their efficiency and effectiveness, but I went out in the field with them and watched the way that they follow the border. When they see that there has been a border crossing there, they will pick up that sound, that track if you will, and they will follow that track down and hunt down the illegals. Sometimes they are carrying backpacks of illegal drugs. Sometimes they are just people entering the United States illegally, but they will find that track and get on a trot and follow that track and trace them to where they are. pick them up and detain them and then process them in a fashion in accordance with law.

Again. their effort has been extraordinary in some of the things that they showed and taught me, too much to go in depth here, Mr. Speaker, on the floor of the House of Representatives, but quite a lot of extraordinary skill that appears to me would be very constructive if it could be passed along to other agencies out there, particularly the broader Border Patrol.

But the culture is there as well as more important the skills to protect the culture of the Shadow Wolves. It is extraordinary. I was impressed with what they do, and I intend to support and encourage and enhance them. I will be looking for a way legislatively to demonstrate my commitment to their commitment to protect our border and defend us against the illegal incursions into the United States and the thousands and thousands of pounds of illegal drugs that come across our border every single day, many of them still pouring through the Tohono O'odham Reservation and in spite of the best efforts of the now-shrunken Shadow Wolves, down from 22 to 16 to cover those 76 miles of border fence. So, again, I have been extraordinarily impressed, but they have done their job.

From there, I traveled outside the reservation and went over then to the Cabeza Prieta National Wildlife Refuge and met with some people there, some national parks people and Department of the Interior forest rangers. Seventy-five percent of their work, which they signed up to do, would be to protect our natural resources, preserve our parks, enhance our parks, let Mother Nature be enhanced there so that the visiting public could come into these locations, like the Cabeza Prieta National Refuge, and be able to appreciate Mother Nature in its purest form.

That is why our forest rangers and our park officers got into the business, because they appreciate wildlife. They appreciate our plant life. They appreciate how the species of nature have balanced in these regions and how they have grown, and they try to enhance that.

They find that 75 percent of their time, their Border Patrol officers even, 75 percent of their time is spent protecting the border, 75 percent of the time keeping illegals and illegal drugs out of the park, not a successful effort I might add, and perhaps a futile effort, but an effort that needs to be attempted nonetheless.

With dozens and dozens of abandoned vehicles sitting out across the national wildlife refuge, vehicles that have blazed a trail through there and hundreds of miles of roads have been carved through that national wildlife refuge because that was the most expeditious route for smugglers to drive their suburbans and their 4-wheel drive pickups and you name your vehicle, there, and there will be somebody else behind you, and the next night another and another and another. That formerly pristine desert turns into sometimes a 200-foot wide path after it has been pounded in the desert with traffic enough times it turns into what they call moon dust, just loose dust that lays there in ruts in a way that you can get stuck in that dust, 200 feet wide perhaps.

Before, this was a few less than 10 years ago, in fact, starting about 1998, was when these border incursions began and when they began to create these roads and these trails and tear up our natural resources. The people that are dying in an attempt to get across the desert have gone from a couple of years ago or 3 years ago 150, 175 a year, now across our southern border, as many as 450 a year do not make it across the desert when they seek to walk into the United States. They die of hypothermia, they die of exposure, they die of dehydration, more dehydration than anything else. The desert is not very forgiving, and some of them are not very well prepared. They are not very well-guided, and that human tragedy is exacerbated by the damage to our natural resources which I had a, I will say, less than enhanced appreciation for.

Mr. Speaker, I really learned to respect and appreciate the work that is done by our Department of the Interior, as well as the value of the resources that they are seeking to protect. A case in point I think illustrates this better than anything else would be a rare species of a bat, a long nose bat, and this is an endangered species. It only lives and reproduces in four caves, and those caves are all down in that region.

One of those caves was a cave that was frequented consistently by the illegals who would go up into the region, and then their guide and their track would take them to this cave where the baby bats were born. They began taking a stop off and temporary residence in the cave to the point where they scared the bats off and they would not come back in.

The long nose bat, the lesser long nose bat, left the cave, would not come back to reproduce, and so our National Park Service looked at that situation, said we have to protect this resource; and if this happens in the other three caves, there will be no place for these bats to reproduce, who knows if they will become extinct.

So they put up a wrought iron fence around the opening to this cave, cost $75,000, and there is other labor that was not tallied in, put the wrought iron fence around the cave, and it was built in way to keep the illegals out of the cave. Fortunately, the lesser long nose bats returned to the cave, and they are in there now living there and reproducing, but think about it for a moment if you would, Mr. Speaker, the effect of building a fence just around the entrance of the cave that provided a deterrent that allowed the bats to come back and live there again and reproduce and fly out, and they are really essential. They are essential then to the pollination of certain cactus out there in the desert, without which the cactus would not survive. It has a whole set of chain reactions.

I am submitting that we build a fence on the border because it is a lot cheaper to do than it is to build a fence around everything that is threatened from the illegals and the drug trade that comes from our southern border.

That was the lesson there at the Cabeza Prieta National Wildlife Refuge, that being a second stop or actually a third stop along the way; and then from there I went on over to Organ Pipe National Cactus Monument. Organ Pipe is another national monument location, and that is the location where the National Park Service officer, his name was Chris Eggle, was killed in a shootout with drug lords near the Mexican border in the park property.

I went there with his father, Bob. I visited the location where the shooting took place, where he stood, where the shooter laid, where he fell, where there is a monument there today that was built and placed by his father, Bob, and his mother, Bonnie. Well, they brought stones from their farm in Michigan down to place around the monument, and there is a cross and a picture and a place to remember where this happened, where it happened that Chris was killed by a drug lord or at least an employee of a drug lord who had driven across the Mexican border where there was no barrier. When he was being under hot pursuit by the Mexican police and his vehicle broke down and collapsed and stopped across the border into the United States and Chris Eggle and his partner were called in on that scene, as they split up and converged on the location where the drug smuggler was, Chris was ambushed with an AK–47 that had been brought into the United States, illegal, of course, on a vehicle that was illegal, with drugs that were illegal, across a border that was undefined, let alone defined with a barrier.

□ 2245

Had there been a vehicle barrier there, had there been a fence there, Chris Eggle would be alive today. He is not.

There is a memorial there at the Organ Pipe Cactus National Monument that memorializes him as well. I talked to many of his coworkers that were there. His spirit is alive and his spirit is strong today. The happy Chris Eggle is the one that is remembered. Although he is not with us, his spirit is with us and his sacrifice is something we need to remember.

He is not the only one. He is not the first one. I pray he will be the last one, but I saw nothing down there that would indicate to me, Mr. Speaker, that he will be the last one.

That tragedy taught them something at Organ Pipe after the tragedy of Chris' death at the hands of the drug runner whom the Mexicans were chasing into the United States; and by the way, that drug runner was subsequently shot and killed by the Mexican police department. He was in the United States and shot from their side of the border. That is not an issue with me, but as a matter of full disclosure, I point that out, Mr. Speaker. The lesson learned from that was to close the border, at least shut off the vehicle traffic.

So they have built a vehicle barrier along Organ Pipe and it is most of the way along the Organ Pipe National Monument. It is perhaps 32 miles altogether. As I look at that and travel along the side of that border, it is built so that steel posts full of concrete set in the ground, and then it has got horizontal barriers, about two of those, one about eye height and one about halfway up, designed so that vehicles can't drive through it, but the desert pronghorn can run through it and jackrabbits can run through it and any kind of wildlife can go back and forth through there.

They had trouble with cattle moving in from Mexico, so they stretched a couple of barbed wires in there to keep the cattle on the Mexican side. Of course those barbed wires were cut because the people who were jumping the border thought it was an obstruction to have to climb over one barbed wire, so they cut the fence.

We drove through and picked a place where the illegal traffic was going across and they were demonstrating how that tracking takes place as they did with the Shadow Wolves on their reservation. What I saw in a number of places, it got to where you could pick it out easily, every night, traffic coming into the national monument and paths that are beaten so smooth, one of the officers said, Well, one day we'll shut off this illegal traffic and it will be a nice path for citizens to come down here and visit our park, because it is already smoothed out, it is kind of graded out by all the foot traffic.

In fact, in one of those locations, Mr. Speaker, the traffic goes across the fence and right by a sign and the sign says, Do not enter into the United States.

This is a dangerous place. The sun is hot. You can die in the desert. There isn't water for you. There are snakes. There are scorpions. It's dangerous. Turn back. Cynically, the path goes right by the sign. The sign is in Spanish. If they can read, they can read that. But in a way, I think it is cynically they go by that sign just to send us a message.

Fifty-eight percent of Mexicans believe they have a right to come to the United States. Mr. Speaker, they are utterly wrong, but we need to convey that message to them so that they can understand that the United States needs to be committed to enforcing our borders.

The incidents that happened down there illustrate what I saw. First, the argument, as I asked the officers, retired Border Patrol or current officers who were at the point of retiring or quitting and giving up, those were the kind of people that would talk to me. They were the people that would open up to me.

One of them was an officer at a station. No one would talk to me because the orders were, You don't speak to a Member of Congress. You don't talk to anybody from government. Your job is to do your job, but not to tell anyone what that job is, what the statistics are in your area. So they sent me to an individual there who is near retirement and that individual was willing to speak.

In fact, numbers of those individuals were willing to speak with me, some ready to quit, some ready to retire, some retired. They would talk to me straight up and open. They didn't care about the consequences for that. They care about this country. They care about our border security and our border control and they understand that you can't be a nation if you don't have a border. You can't call it a border if you don't defend your border, Mr. Speaker.

I hear the testimony here in Congress as the Border Patrol testifies before the Immigration Subcommittee, and consistently it is, we stop 25 to 33–1/3 percent of the illegals that are traveling across our border. I have used that number consistently in my remarks across this country and I ask that question of the people that are down there in the line, on the line, defending our national security, and I would say, What percentage do you stop? Where do you stand?

They would hesitate in their answer, and I would say, 25 to 33 percent? Do you stop a fourth? Do you stop a third? How many do you stop? They would laugh and give me a number. One of them burst out in hysterical laughter when I submitted that they could be successful in stopping 25 percent of the illegal traffic. He responded back to me, No, it's more like 3 percent of the illegal traffic, of the illegals coming into the United States do we stop and perhaps 5 percent of the illegal drugs. It's not 25 percent. It's not 33 percent. In fact, it's not 10 percent.

But of the informed answers that I got down there, and I asked it at every stop, the informed answers that I got, I never got an informed answer above 10 percent, of anybody that was involved in actual protection of the border and processing people that were coming through that border. Ten percent.

Now, think about it for a moment, 10 percent, Mr. Speaker. Last year, we apprehended about 1,188,000 illegal entrants into the United States on our southern border, on that 2,000-mile run. 1,188,000. If that number is correct on 10 percent, if you move that decimal point one over, that is 11,880,000 attempts to cross the border. You can take perhaps a couple of million off that if you wanted to be generous and take it down to 10 million succeeded. I don't think actually 10 million succeeded coming into the United States, but I do think the number is far higher than the numbers that we are working with in the media today.

We have used the number here, 11 million illegals in America. We used the number for 3 years while 4 million people a year at least were coming across the border, maybe a lot more than that. And over 3 years the number didn't accumulate, but about 500,000 a year, even less. So after 3 years we finally raised the number to 12 million, but no one now pays attention to that. We are still back stuck in that 11 million mode of illegals in America.

Mr. Speaker, that number is far higher than 11 million.

Maybe we are successful in stopping 10 percent. Maybe the individual who advised me that 3 percent of illegals and 5 percent of the illegal drugs, maybe he was off by a factor of, oh, let's say two. Maybe it is 6 percent of the illegals and 10 percent of the illegal drugs. However you measure this, it is astonishing in its magnitude in the cost to this country. In fact, we are headed down a path, it won't be very much longer that everyone who wants to come to the United States will be here. The message was sent January 6, 2004, when our esteemed commander in chief gave a speech, it is called in America, "the amnesty speech." It was the one that said, here is the policy that we want to have, it is one of a guest worker/temporary worker as the only solution.

If you have too many illegals in America, I suppose the quickest and cheapest and the most guaranteed solution one could have, Mr. Speaker, is simply legalize them all, give them all amnesty, give them a path to citizenship, voila, no problem. We have fixed the problem because we have legalized them all by a version of amnesty.

The American people, Mr. Speaker, reject amnesty in this country. They understand that we have to have a rule of law, that citizenship must be precious, that you must respect the rule of law. There is more to being an American than having somebody stamp automatic citizenship on your green card or on your matricular consular card.

There is more to being an American than that, Mr. Speaker. Being an American is rooted in and based upon a common culture, an understanding and a common sense of experience and history, of reverence and respect for our borders, for the sovereignty of the United States of America, for the destiny of this country, for the assimilation that has made us so great, that have been able to take immigrants in from all over the world, bring them into this great giant melting pot of America, give them this opportunity and let them reach out and earn and succeed in this opportunity for success.

The legal immigrants in America have performed extraordinarily well. In fact, the vigor that they bring to our society and our economy surpasses much of the vigor that we find in the native-born Americans that are here.

All of us in this Congress, Mr. Speaker, support a rational immigration policy that is designed to enhance the economic, social and cultural well-being of America. But if we have an open borders policy and the people that advocate for an open borders policy are really advocating for an unlimited amount of immigration, everyone who might want to come here to the United States could come here; and if all 6 billion people on the planet want to arrive here in the same year, that is fine with them.

They don't take a stand that there is such a thing as too much immigration, even too much illegal immigration. They will not stand in the way of one of them. They will not stand up and say, The best thing you can do for your country is to stay in your country, grow its economy, be part of the solution, bring reform to the governments of places like Mexico and points south, places that are so utterly corrupt that the economy is strangled, places that are so corrupt that there has to be protection paid at every stop along the way, that you can't get a birth certification when you are born in a country unless you happen to be born into a family that has the connections and maybe is willing to pay the kind of funds to pay off the Madrina network that is there so that you can get your birth certificate and somebody identify who you are and be able to move around in this society or that society.

The level of corruption is astonishing. It runs deep. I would add to this that in spite of all the statistics that I could tell you, in fact, I will go to some of those statistics in a moment, Mr. Speaker, but first I would like to recount a few incidents that really bring home the circumstances and reality.

As I was there on the Tohono O'Odham reservation with the Shadow Wolves, there was a drug smuggler who was pulled over and stopped. We were out in the desert tracking some illegals and getting a feel for how that worked and excellently being guided. While this was on, there was a call to an emergency and a number of the Shadow Wolves mobilized and they called in a Black Hawk helicopter that was there to aerially observe a vehicle that was escaping from the ground people. They followed the vehicle and got it trapped up into a dead-end road and the driver took off and ran and they followed him and finally apprehended him.

They brought him and the pickup, the small truck as I would say to some of my other friends in America, Mr. Speaker, into the compound there where the Shadow Wolves headquarters is and looked the vehicle over. It looked like it had been reworked, that they had taken it through a body shop and created a false floor underneath the bed of that pickup. The bed itself had a plastic liner in it so you couldn't see the bodywork that had been done. We looked that over and they pointed out to me how that work was done. It was done in a chop-shop in Mexico.

Once they got the clearance to go ahead and search the truck, they went in with the jaws of life and peeled the bed of that vehicle up and apart. In there we carried out 18 large bales of marijuana, about 10 pounds or more per bale, at least 180 pounds of marijuana lying underneath that 6- to 8-inch false floor of that vehicle. The alleged perpetrator, and I did lay eyes on him and evaluated him, I guess, for my own perspective, he had a 13 tattooed on his arm, many other tattoos all over his chest and arms. It was clear to the people there that he was MS–13, Mara Salxatrucha 13, the most dangerous gang that we have ever seen in this continent.

That dangerous gang, of course, is smuggling drugs up into the United States. They had collared one of their members, one of their perpetrators who was then in that holding cell.

I was there to help unload the drugs from the pickup, there to observe this entire process. There recorded and there to burn it into my memory, Mr. Speaker, that we think of a large quantity of drugs where I come from, it might be, oh, perhaps a few pounds. Occasionally we get larger loads coming up through Iowa, of course. But when somebody says a lot of illegal drugs, we are thinking of a quantity substantially smaller than 180 pounds. They think of 180 pounds or 200 pounds of illegal marijuana as a decoy, a decoy that might be designed to draw the law enforcement down another path so that when the path clears, when all the law enforcement pounces on the decoy, then the larger loads can come through, the 1,000 pounds, the 2,600-pound loads, the full semi loads can start up the road.

It is a fact that on those drug routes, those highways that flow from the southern part of Arizona up into the rest of the United States, on those small mountains that are there, there are lookouts on every strategic point.

□ 2300

Those lookouts are manned by two people, and they are supplied regularly and they stay on that mountain for 2-week stretches at a time. They are well armed. They have good equipment. They have night vision goggles. Infrared equipment. For daylight they have top-notch optical equipment, and they have automatic weapons of all kinds, and they have good food and good support, and they sit up there. And they have good communications so that they can radio from mountaintop to mountaintop and be able to tell each other where our drug enforcement people, where our Border Patrol are, where the ICE people are, where the special agents are, where the Park Service people are, so that when the coast is clear, they can run their large load of drugs up through the corridors.

Now, this is an astonishing thing to be able to see that military positions in the United States are occupied by the drug lords and their troops, and that they are well equipped and well armed and well maintained and well supplied, and they are manned 24/7 by two people, and we are sitting down here on the floor of this Congress, Mr. Speaker, thinking we can get a handle on this some other way. But the numbers coming across the border, Mr.

Speaker, are astonishing and the positions that are taken on those mountaintops where the lookouts are are shocking that we would tolerate that in this country, know they are there but not go up and take them out.

The volume of drugs, again, is something beyond my imagination before going down there. I had never seen such a pile of illegal drugs. Our Federal agencies report that 90 percent of the illegal drugs in the United States come across the Mexican border, and the value of those drugs is in the area of $60 billion a year. And we sit here in the United States of America, we tolerate such a thing, such a thing that we would let foreign interests, foreign economic interests, illegal interests violate our laws and enrich themselves with the wealth of a Nation.

And the drug addiction that is here in America, of course, feeds it, Mr. Speaker; and that is another subject for another time. That is something that we need to address.

That is one incident, the interdiction of about 180 pounds of marijuana by the Shadow Wolves during a later afternoon down on the Tohono O'odham Reservation.

But the following evening, as I was looking around, I went down to a place called Sasabe, and that again is on the border with Mexico. I visited a port of entry there that is manned by the Border Patrol. They didn't expect that I was coming. I didn't call in advance. I just drove down there and got out of the vehicle and began to talk to them. Good people. They are doing their job there, and they are doing it well as far as I can see.

As I began to have a conversation with them, there was an emergency call. There had been a drug deal that had gone bad on the other side of the border in the Mexican community just on the south side of that port of entry.

Usually, it is a shooting, Mr. Speaker, but this was a knifing. And the subject who was knifed had a large wound in his abdomen about 3½ inches wide, entered in below the ribs on the right side and up through and it did end up lacerating his liver. It didn't get his lung as far as I know.

But the word came that the ambulance was going to cross from Mexico into the United States. And they prepared for that. They called in a Medivac from the hospital in Tucson. And the Medivac, by the time it arrived, there had been two U.S. ambulances that had arrived. The Mexican ambulance didn't have any oxygen, didn't have bandages, had only surgical gloves on it was a paramedic that was with me lent himself right to the task and began to stabilize the patient. When the oxygen came, they put oxygen on the patient and held him stable until they could load him onto the helicopter and airlift him out to the Tucson hospital, all at the cost of the American taxpayer, Mr. Speaker. And the cost of this I will get compiled over time.

The ambulance that came across from Mexico simply parked on the United States side. Two ambulances came in, one from near Tucson, one from 24 miles away. One brought oxygen. The other was there for support. And all lent a hand to get him loaded on the helicopter and flew him up to University Hospital in Tucson where they do a great job, and they have the only trauma center in all of southern Arizona.

It was a real eye opener for me to see this individual who had been knifed in this fight, covered with tattoos and substantially pierced and inebriated with alcohol and cocaine, at his own admission, as part of the contributor, I think, to the violence on the other side.

And I am advised that that kind of incident wasn't just a fluke. And I kidded the Border Patrol officer, you staged this for me. Of course he didn't. He didn't know I was going to be there. But it happens about four times a quarter in that location alone, roughly 16 times a year. More shootings than stabbings, when we evacuate people out from Mexico into United States hospitals.

And so I followed up yesterday, Mr. Speaker, and visited the hospital and visited the patient. And he had been stabilized and his life had been saved. Without that extraordinary effort, it is likely he would not have survived the next few hours. But his life appears now that it has been saved, and I am grateful for that.

But I also met with the hospital administrators and they are eating millions of dollars of costs in funding the people who are generally illegals in the United States. They don't separate that cost from those that are evacuated from an injury or a wound that takes place on the Mexican side of the border.

But the American taxpayers fund this. The American ratepayers fund this. And the hospital swallows a fair amount of it. And there have been occasions where residents and American citizens of Tucson aren't able to be treated because all the beds are full, full of people who are illegally in the United States. And so that health care for the Tucson residents, the Americans occasionally will go to Phoenix, and then the family members that live in the city have to drive to Phoenix to visit their family. And just the travel time puts their lives at risk as well.

That's two incidents, Mr. Speaker. And I did follow up on those, and I will follow up on the information that comes from it.

I would add the third incident was I went down to the border last night, down to the San Miguel Gate on the reservation, sat in the dark for 3 hours and listened. And it wasn't difficult to hear the vehicles bring the illegals down near the border, drop them off and hear them talking, hear them hush up and then single file, go through the desert brush, cross the border into the United States and be off to points unknown.

I used to believe that it was the illegal traffic into the United States that was the biggest problem, and that illegal drugs was a problem that was part of that. And I am informed that when we put the barriers in there, the vehicle barriers, that since they can't drive across the border with illegal drugs any longer, Mr. Speaker, in some of the locations there are many places where they can, they simply put 50 pounds of marijuana in a backpack, on one young male Mexican or Central American, generally Mexicans, and each one takes a backpack of 50 pounds each. Maybe 10 of them at a time, maybe 25 at a time. They have caught as many as a hundred at a time, walking each with 50 pounds. And they can walk through 10 or 15 or more miles of desert on the Mexico side, 25 or more miles of desert on the U.S. side, and arrive up at a transportation predetermined location, and then drop off their illegal drugs there. And many of them turn around and walk back to Mexico where they pick up another load.

So the illegal crossings, many of those illegal crossings are people coming into the United States with illegal drugs, turning back around and walking back into Mexico to get another load of illegal drugs. Sometimes I wonder if we wouldn't be better off in this country if they would simply stay here and get a job, illegal or not, Mr. Speaker. And I don't advocate that, certainly.

So as I listened and was there while illegals were creeping across our border in the dead of the night, not even 24 hours ago, Mr. Speaker, and it is another dimension entirely, to see the drugs, the interdiction of the drugs, the violence on the border, the knifing, the blood, the lack of health care that is there, the incursions on our border, the volume that is backpacked up into the United States, the volume that is trucked into the United States, and to understand that if we can seal this border and seal it with confidence, we could shut off 90 percent of the illegal drugs that get by in the United States, at least until they find another route to go around.

But we can build an effective barrier. And as I submitted that to the people down there working on the border, consistently, they realize that if we build a good solid barrier, one that couldn't be cut through, one that couldn't be driven through, one that was solid and one that would make it easy for them to drive the trail and enforce it, that it could be the most effective tool that we could have.

It costs us $6 billion a year, Mr. Speaker, to incarcerate the illegals here in the United States. Twenty-eight percent of our prison population are criminal aliens.

That is our city, our county, our State and our Federal penitentiaries, 28 percent criminal aliens, $6 billion a year. We can build one tremendous barrier with $6 billion and a one-time expenditure.

Of course, we wouldn't get it all built in 1 year, so we could spread it out over 3 or 4 years, and we could concentrate on the areas that needed it the most. We must do that, stop the bleeding, stop the bleeding first. Shut off the leaky pipe, and then we can begin to have a legitimate debate in this country on what to do about the mess it has left.

But I submit that we shut off the jobs magnet, and we end birthright citizenship.

Another interesting little anecdote down in that same hospital was a Mexican national who was pregnant with multiple births. They took care of her prenatal care out of the hospital in Tucson, and they also set up the provider in Mexico so that they could have the equipment to arrange for and give her good care for multiple births.

Instead, she waited until she went into labor, waited close to the border, came into the United States, went into the hospital in Tucson and delivered five children there to the tune of six figures times X. Those children all have birthright citizenship. They all have now the right and the ability to bring in by chain migration their extended family members. Who knows what that costs, Mr. Speaker?

Our compassion knows no bounds, I understand; neither do the borders of the United States of the America, apparently. The United States Senate needs to pass the legislation 4437 that we passed in this House, send it to the President for his signature, establish enforcement, Mr. Speaker, and then we can have a legitimate discussion on whether or not we might want to have guest workers in this country.

□ 2310

THE BLUE DOG COALITION

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Under the Speaker's announced policy of January 4, 2005, the gentleman from Arkansas (Mr. ROSS) is recognized for the time remaining until midnight.

Mr. ROSS. Mr. Speaker, I rise on behalf of the 37-member strong, fiscally conservative Democratic Blue Dog Coalition. There are 37 of us that are Democrats. We are fiscal conservatives and we are concerned about the debt and the deficit that plagues this great Nation ours.

In fact, you can see here, the Blue Dog coalition today, the United States national debt is $8,361,683,340,530 and some change. Now, for every man, woman and child, including those born today, their share of this enormous national debt is about $28,000. It is what we call the debt tax, d-e-b-t. That is one tax that cannot go away until we get our Nation's fiscal house in order.

It is hard now to believe that from 1998 to 2001 we had a balanced budget in this country. Things were going pretty well. Now, what do we have? We have gasoline prices that are up 80 percent, health care up 50 percent, higher education, college costs up 40 percent. Things are not going so well. Mr. Speaker, I submit to you, it is directly related to this debt, the largest debt ever in our Nation's history, this deficit, the largest deficit ever in our Nation's history.

You know, the projected deficit for fiscal year 2007 is $348 billion. But the reason it is $348 billion is because they are borrowing, our government is borrowing from the Social Security trust fund. The projected deficit for fiscal year 2007, not counting the Social Security surplus; in other words, if the politicians in Washington kept their hands off the Social Security trust fund, the real deficit for fiscal year 2007 is $548 billion.

The first bill I filed as a Member of Congress was a bill to tell the politicians in Washington to keep their hands off the Social Security trust fund. Now I am beginning to understand why the Republican leadership would not give me a vote, even a hearing, on this bill, because they are now using the Social Security trust fund to run our government to pay for tax cuts to those earning over $400,000 a year in this manner of reckless spending that we are seeing going on, in fact, for the sixth year in a row.

The 2006 deficit, $372 billion. Not counting the Social Security surplus, it was $605 billion. In fiscal year 2005, it was $318 billion; if you don't count the Social Security surplus, Social Security trust fund, it was $494 billion. Fiscal year 2004, $412 billion deficit, and it goes on and on.

My point is this, Mr. Speaker, our Nation is borrowing $1 billion a day. We are spending $279 million every day to Iraq. But don't ask this administration for a plan on how that money is being spent. Don't ask this administration to be accountable for that $279 million a year tax money going to Iraq every day, because if you do, they will tell you they are unpatriotic. $57 million every day going to Afghanistan, and billions more going to pay for tax cuts for folks earning over $400,000 a year.

Mr. Speaker, I submit to you this reckless spending that we are seeing in this country must end. As members of the Blue Dog Coalition, we have a plan, we have a 12-point plan for meaningful budget reform that will get our Nation's fiscal house in order. We will talk more about that in a little bit. We will talk more about the budget that may come to the floor of this Chamber in a little bit.

The other point that I want to make is in addition to the billion dollars a day that our Nation is borrowing, the debt is already $8.3 trillion. It is going up to the tune of about $1 billion every day. So it is $8.3 trillion and growing.

On that $8.3 trillion in debt, our Nation is spending about half a billion dollars a day simply paying interest on the debt we already got. No principal, just interest.

Some people say, well, none of this really matters. But it does, and it should matter to everybody in America, because that is a half a billion dollars a day that cannot go to fund America's priorities until our government gets its fiscal house in order.

In my congressional district, which spans about half of Arkansas, I have got I–49 on the western side of the State. We need $1.5 billion to complete that interstate that can create all kinds of jobs and economic opportunity. That is a lot of money until you look at it this way and you realize, oh, my goodness, we could finish that interstate with just 3 days' interest on the national debt.

On the eastern and southern part of my district we have I–69 under way. I need $1.6 billion to finish it. Again, just for 3 days, interest on the national debt, I could complete I–69 in Arkansas. I could four-lane U.S. highway 167 from Little Rock to El Dorado on 1 day's interest on the national debt. Give me a few hours interest of the national debt, I can finish that expressway around Hot Springs National Park, Arkansas.

My point is that whether it is education, health care, roads, whatever it might be, America's priorities continue to go unmet until we get our Nation's fiscal house in order.

Now, in a little bit, we will be talking more about our foreign debt and about the Blue Dog 12-point plan to budget reform, which includes a balanced budget amendment. We will be talking more about the budget that may come to the floor of this Chamber this week.

But at this time, I am pleased to turn this microphone over to a real leader within the Blue Dog Coalition, someone that really understands fiscal discipline and someone that I am very pleased and honored to have join me this evening. That is the gentleman from Georgia, my friend, David Scott.

Mr. SCOTT of Georgia. Mr. ROSS, it is always a pleasure to come down on the floor and talk with you about the pressing issues facing our Nation and the world today.

You know, Mr. ROSS, you talked about the debt, and you talked about the budget. It is the budget that provides us with the blueprint.

Just this morning, on my way, before I got on the airplane to get up here, I was talking with one of my constituents out in Cobb County, a town called Austell.

□ 2320

I was talking to Ms. Winnie Smith, putting in a yard sign in her yard. She came up to me and she said, "Congressman, our country is moving in the wrong direction. If you could just do four things. The four things I wish you all could do something about right away, one is secure our borders. We have a terrible problem with our borders. If we could just protect this country and protect our porous borders."

Then she said, "Bring down these gas prices. Please do something about the gas prices."

Then she asked me, she said, "Lord, if you could just do something and get our young men and women home out of this mess in Iraq. And then, Congressman, if you could just do something about this debt."

I told her, "Ms. Smith, you hit four things right there on the button."

I want to just talk, if I can just take a few brief moments on each of these little points, and I want to use the budget that we probably may vote on, I hope we don't, because I truly believe that there are enough Republicans who are able to look through this smoke and mirrors of this budget and see that it is not the blueprint, it is not the direction that we want to go.

Mr. ROSS, if we could just take the first item that Ms. Smith, my constituent down there on Clay Road in Cobb County talked to me about this morning, and that is our borders. I thought I would get here and I would try to go through the budget here for a moment, because it is the blueprint.

There is a howl and a cry the likes of which I have not seen in my whole 32-year history of being an elected official. For 32 years, every other year my name has been on the ballot somewhere in Georgia. Thank God the people of Georgia have voted me in each of those 30-some years, and I appreciate what the people of Georgia have done.

But the cries from the people of Georgia and all across this Nation, nothing is as piercing and as meaningful as what they feel about the insecurity of the borders. Immigration issues, all of the other issues aside, what we do with the 11 million or 12 million illegals that are here, how we deal with that, all registers with folks, but the most important thing is what are we going to do about the borders?

So I got here today and I went to work, and I want to report on exactly what this Congress, what the President, is proposing to do to secure the budget.

You can have a lot of talk. I just listened intently to our friend Mr. KING here a few minutes ago talking eloquently and very passionately about the border and the need to do so, and I concur with him. But the point is, what are we doing about it?

Well, the American people need to know. I want to point out tonight what shows the shortcoming in this budget for four of the most pressing issues facing the American people today.

The 9/11 Commission has given this Congress and this President a D on collaboration on border security. The 9/11 Commission December 2005 report card, Washington Republicans got a D on international collaboration on border security. The commission points out that there has been no systematic, diplomatic effort to work with other countries on shared terrorist watch lists to ensure terrorists cannot get across our borders.

I start off with the motive of terrorism rather than immigration so the people understand that the insecurity of our borders is paramount in our war on terror.

But as we get down to the immigration fight, and we just look at the one most important area, there are 1,000 fewer additional Border Patrol agents than were promised in the 9/11 act. This Congress, under the leadership of Republicans, and I must say that, not to be partisan, because I want to correct something immediately here. There are Republicans and Democrats who are equally concerned about this issue. That is why that budget has not passed yet. So I don't want this to be just purely partisan. This is not a Republican or a Democrat issue. This is an American issue, and this President and the Republican leadership of this Congress, not all the Republicans in the Congress, are clearly out of step, for they have broken the promise made on funding for additional Border Patrol agents. Quite honestly, Mr. ROSS, we need at least three times as many agents:

Immigrant enforcement agents and detention beds. Specifically in 2004 Congress enacted the 9/11 act, the Intelligence Reform Act, for those watching C–SPAN and want to check it, it is Public Law 108–458, which mandated an additional 2,000 Border Patrol agents being hired over each of the next 5 years. Yet for this fiscal year 2006, this Republican-led Congress has funded only 1,000 additional agents.

Is it any wonder that our own citizens are taking it upon themselves, called Minutemen, to patrol our borders, because our government is letting them down, and it is clear in this budget. We funded only 1,000. The 9/11 act also mandated an additional 800 immigration enforcement agents over the next 5 years. Yet in this FY 2006 budget the Congress has funded only 350 additional agents. It mandated an additional 8,000 detention beds, yet in the 2006 budget the Congress funded only 1,800 additional beds. So it is no wonder that they are having difficulty getting this budget increased.

Now, let me just say on this point of immigration, because I want everybody to understand exactly where this Congressman is coming from, earlier tonight I was watching on TV the Asian Pacific Caucus on this floor. It was a very moving presentation by them about the contributions that the Japanese Americans and Asian Americans have made, and particularly the Japanese Americans, particularly during World War II as their people were being interned in camps. Yet, similar to African Americans, they still fought for this country in the face of tremendous bigotry and odds, because they wanted to show we are Americans.

That is what this immigration fight is about. Yes, we want to secure the boarders, but it is about being Americans.

I was just in Miami, Mr. ROSS, this past weekend with my wife. I was down there with the congressional wives and their foundation. I took it upon myself to visit and to do a little field work there.

While I am at it, I want to give congratulations and kudos to the hospitality that the people of Miami Beach showed and the leadership KENDRICK MEEK and his wife provided for us as the host. It was wonderful.

But the one interesting thing about Miami Beach that I found was most everybody is from somewhere else. If you want to see a melting pot, really want to see immigration and America at work at the same time, visit Miami Beach. I haven't been there for a while.

I spent 3 days there this weekend. I talked to everybody. Whether they were Cuban or Mexican or Latin American or Caribbean or Jamaican or Haitian or Asian, they are all there in different ways.

One of the things I did, Mr. ROSS, was every time I would say thank you, I would add the phrase when I said thank you and shook their hand. I would say, "You are a good American." And when I said "you are a good American," a smile came over their face. I ask you to try it sometime, or anybody in country to try it sometime, and you will see people in this country understand and they get the point.

This is America. We must translate that to some of those who are slipping and sneaking into this country to understand this is America, to understand it is one America, to understand that there is one language, English, there is one flag, there is one National anthem, there is one set of values. We have got to work to get that through.

That was the story that came through so passionately on this floor earlier today with the story of the contributions of the Japanese Americans, because it says we are a country of immigrants.

But on this issue, we want people to be legal, to pay their taxes and work hard the American way, learn our language, learn our values, as everybody else did. But the most important thing before we get to all that point is to secure our borders.

I want to just mention quite quickly what we Democrats are doing, because a lot of times when we come up here and we talk, we talk about what the Republicans and the President are doing. Here is what I want the American people to understand, what we are doing on border security.

□ 2330

On border security, since 9/11 House Democrats have repeatedly tried to increase appropriations for border security. For example, Representative DAVID OBEY, our senior Member on Appropriations offered a motion to recommit the conference report on the fiscal year 2005 supplemental appropriations bill with instructions to add $284 million to fund an additional 550 border patrol agents. That is securing your border.

And also an additional 200 immigration agents. That is dealing with the immigration problem where it counts, and border aerial vehicles, using our technology. But Republicans defeated that motion to recommit by a vote of 201–225.

Senate Democrats on the other side, as far as border security, Senate Democrats have also repeatedly fought to increase the border security appropriations. Senator ROBERT BYRD of West Virginia offered an amendment to the fiscal year 2005 supplemental appropriations bill to increase funding for border security by $390 million, providing for the hiring of additional border patrol agents and the operation of unmanned aerial vehicles.

With support from 21 Republicans, Democrats succeeded in adopting the Byrd amendment by a vote of 65–34. That is what I said earlier. It is not just a Democratic fight, there are Republicans who are working with us on this.

However, most of this additional border security funding was removed by the Republicans in conference. That is why when you look at the polls, when you look at what the American people are seeing, it is not just us here. The American people are not dumb. They know who is running this place. They know who is responsible for these high gas prices. They know who is responsible for the lack of appropriations and a lack of a budget with a proper blueprint that shows the vision this country ought to have on these critical areas.

And these Republicans, they have got to plan for the blame for this bad situation with our budget and our deficit.

Mr. ROSS. Mr. Speaker, I thank the gentleman, Mr. SCOTT from Georgia for joining me this evening. I appreciate his leadership within the 37 Member strong fiscally conservative Democratic Blue Dog Coalition. We are here on the floor talking about the budget, the debt, the deficit late into the evening on Tuesday because America, America has a debt that is out of control.

It has a deficit out of control. Mr. Speaker, it is time to restore some common sense and fiscal discipline to our Nation's Government.

Mr. SCOTT just talked about priorities, about how this Republican Congress is clearly in the majority for the first time in well over 50 years. They control the White House, the House, the Senate, and now the Supreme Court. And they voted against funding border security.

And yet the budget that will be presented on this floor this week calls for $228 billion, that is with a B, in tax cuts that primarily benefit those earning over $400,000 a year.

Mr. SCOTT, I do not know about in your district, but I do not have a lot of folks in my 150 towns and all the square miles that I represent that earn $400,000 a year. I yield.

Mr. SCOTT of Georgia. And the people are not asking for these tax cuts. They are not demanding these tax cuts. They are demanding that the borders be secure. They are demanding that gas prices come down. And it is a shame that this budget is not addressing this.

And the President is about tax cuts. Well, they are not really tax cuts. They are deferred tax increases. Somebody has got to pay for those. And the tragedy is, Mr. ROSS, that we are at the mercy in borrowing money from foreign governments.

And not just any foreign governments. It is very important that we take a look at the major players on the international stage now as far as our basic fiscal insecurity is concerned.

90 percent, 90 percent of everything we are spending to run this Government of the United States today is on borrowed money. From China, nearly $300 billion. From Japan, nearly $700 billion. From Taiwan, $118 billion.

From Hong-Kong, $127 billion. From the OPEC nations of Saudi Arabia and others in the Middle East, staggering, over $200 billion.

You look at those countries, Mr. ROSS, and you must realize that those are some of the same countries that are eating our lunch on this oil. The other countries that are eating our lunch on oil, Iran, Iraq, where we are mired, Saudi Arabia, again, where we are, and the Middle Eastern countries underneath have about 30 to 40 percent of all of the known oil reserves at this time.

So if on the one hand you are borrowing money from the very same people who are holding you hostage for oil, that is a bad situation to be in. And the American people want us to address those issues. And they realize it takes resources to do that.

Furthermore, we have to pay for these tax cuts, Mr. ROSS. It is so disheartening to me that to pay for those tax cuts on the backs of our veterans. We are cutting veterans programs by $1.2 billion. We are raising their copay for their insurance that they use to buy their medicines over 100 percent.

That is wrong, Mr. ROSS. That is not what the American people are after. And that is why they are expressing it. As I said before, the American people have had it up to here.

Mr. ROSS. Mr. Speaker, the gentleman makes an excellent point. And look, I am not against tax cuts. I voted for the biggest tax cut in 20 years back before 9/11. It was back before Iraq, Afghanistan. It was back when we had a surplus. We were really giving people some of their money back.

But this notion that you can give tax cuts in times when you do not have a surplus, in times of deficit spending to provide tax cuts for those earning over $400,000 a year, and to accomplish that and pay for that by cutting programs like Medicaid and Medicare and student loans, and borrowing the rest from places like China and Japan, that may be a tax cut on these earning over $400,000 dollars a year today, but it is a tax increase on our kids. It is a tax increase on our children and our grandchildren.

Mr. Speaker, it is about priorities. We have $3 dollar gasoline. There is a lot of talk from the Republican leadership. Well, there was one proposal where they want to give us $100 close to election time. They want to give us $100 and tell us to get over it and get used to it.

Mr. SCOTT of Georgia. Mr. Speaker, under today's prices, that $100 would get you two fill-ups if gas is at $3.25

Mr. ROSS. Let me tell you, as a Member of the House Energy and Commerce Committee, I can tell you that these are the facts. The Republican leadership talks a lot about alternative and renewable fuels. Biomass refineries, grants to create biomass refineries for all of America for the next 365 days totals $100 million.

We will send nearly three times that much money to Iraq in the next 24 hours. It is about priorities. This President has announced already that if this supplemental appropriations bill includes funding for disaster payments for our farm families here in America who have suffered through one of the worst droughts in this Nation's history that he will veto it, the first veto of this administration after 6 years.

Again, it is about America's priorities, and America's priorities are found all over this Republican budget for fiscal year 2007. A budget that should reflect the priorities and values of our Nation, a budget that may very well be debated and voted on on the floor of this chamber sometime this week.

Well, Mr. Speaker, the Republican majority has had a difficult time bringing a proposal to the floor for a vote. This is because they cannot find consensus within their own party about the choices made to cut programs that are essential to the most vulnerable in our Nation, while increasing record deficits by providing tax cuts to those making over $400,000 a year.

□ 2340

If they fail to pass a budget, it will be the first time in three decades that the House has not adopted a blueprint, a budget blueprint. But if they succeed, the damage to our Nation and those we represent will be devastating.

Since this administration took office, it has requested and this Republican controlled Congress has provided four increases, four increases in the statutory debt ceiling totaling $3 trillion. Under this budget, the statutory debt by 2011 will increase by another $2.3 trillion for a total increase of $5.3 trillion. As you can see, as of tonight our national debt, $8,351,683,340,530 and some change.

While Republicans say their objective is to restore fiscal discipline to our Nation, this budget does not lead us in that direction. While tremendous cuts are made to programs that serve a majority of Americans, the Republican budget includes $228 billion in new tax cuts that will benefit only a small few, mostly those earning over $400,000 a year. As a result, their budget resolution continues to deficit spend over $400 billion for the next 5 years.

These deficits mean that under Republican policies, the five largest deficits in history will have occurred in the five consecutive years that they have controlled this Congress, the White House, this Senate, and the Supreme Court. This is not how the American people want our government to function.

The American people want a good dose of common sense. They want an end to all this partisan bickering. They want to see one America again. Cutting vital programs for those who are most in need to provide a tax cut to the wealthiest among us is morally unconscionable.

The Republican proposal eliminates 42, 42 education programs including those that support vocational education, college-readiness programs for low-income students, and family literacy programs. Overall, both the President's budget and the House Republican resolution cut funding for the Department of Education by $2.2 billion below the comparable 2006 level.

This is the second year in a row that the Republicans will cut Federal education funding despite the need for school districts to meet demanding standards under the federally mandated No Child Left Behind law. This funding level does not meet the educational needs of America's students. It fails to provide assistance to nearly 4 million children eligible for title I services and 2 million children eligible for afterschool services that enhance student achievement.

For the many families that are trying to send their children to college, their proposal cuts aid for students to help pay for college. It freezes the maximum Pell grant award at $4,050 right where it has been since 2003, while the average tuition and fees at 4-year public colleges have risen nearly $1,400. As a parent with a child who will be attending college in the next couple of years, I understand firsthand the increasing costs of tuition and the need to provide assistance to those seeking higher education

Some of the most egregious cuts in the Republican budget adversely impact the most vulnerable Americans. The Republican proposal is largely consistent with the President's budget in its effect on safety net programs such as housing, child care, and nutrition assistance. The President's budget eliminates over $100 million for the commodity supplemental food program which provides nutrient-rich food packaging for low-income women, infants, children, and senior citizens. The program serves 420,000 elderly and 50,000 mothers and their children each month.

The House Republican budget imposes even deeper cuts to these type of programs than the President's budget. Like the President's budget, the Republican proposal freezes child care for 2007 at the 2006 level and cuts funding for the following years. These are just a few examples of the misplaced priorities that this Republican-controlled Congress has for our country and why it is important to oppose these cuts.

I urge my colleagues to reject these cuts and take action to begin an honest dialogue to pass legislation that will provide needed resources for the majority of our Nation. It is time to pass a budget that reflects America's priorities. Not the priorities of a divided America, but the priorities of a united America.

Mr. Speaker, I am convinced we can do that. We can do that, and we can have a balanced budget. It is about priorities. It is about making the difficult decisions that will allow us to pay down this debt, to stop this deficit spending. We can do it. We can do it by beginning with one of the Blue Dog proposals which requires our Nation to have a balanced budget, something 49 States are required to do, something I helped do as a State senator in Arkansas for 10 years.

With that, I yield to my friend, Mr. SCOTT from Georgia.

Mr. SCOTT of Georgia. Again, Mr. Ross, we must repeat because it is very important, we are here to do America's business. Every waking moment this Congress should be preoccupied with the three or four basic concerns that are threatening the quality of life in this country and very well threatening our own security, our borders.

We have not heard enough of what we are going to do to secure our borders. We need to hear from this leadership, and we are hearing it from Democrats. I assure you, Democrats will control our border. Democrats will put the military on our borders.

Let me tell you something, Mr. Ross. I worked for a while as a teacher, and my favorite subject to teach as was history because it taught you so much. And one of the things that you look back on history is that history teaches us a couple of things. It teaches us that if you forget your history, you are doomed to repeat it. And if you forget the bad parts of your history, they will certainly reoccur.

We are at a very, very serious point in our country of having a very, very significant time of keeping our progress moving forward on each level of security.

Let us first of all talk about this Nation's security. History shows us when we look back and we evaluate how we came about to formulate what is now called the National Guard was a need to do exactly what the National Guard was set up to do, guard our Nation. The first order of business to secure our borders is, number one, to put in the process of hiring and tripling the number of agents, putting forth the technical surveillance on our borders. But until we can get up to speed on that, we need to put our military strategy on our borders and send a message.

We cannot take any more illegal immigrants coming into this country. It threatens the country. Even our immigrants who are here are saying the same thing. We can no longer not have our borders secure because of the war on terror.

□ 2350

CNN is doing a wonderful report on our borders, and I am not just talking about the Mexican border. I am talking about the Canadian border as well, and if I am watching CNN and you are watching CNN, and Anderson Cooper is doing this wonderful special on CNN, I hope people will watch it because it is very revealing. I saw it this weekend.

It showed about this little area up in Canada on the Canadian border somewhere north of Minnesota or something where the border is so porous up there that a guy comes in, goes into a little shack, opens the shack, speaks into a microphone, looks into a camera, and says I am so and so, I am crossing the border, thank you very much, and that is it, for those who will stop.

I am scratching my head and I am saying, in this time of terror, if I am watching this, surely al Qaeda's watching it. I am telling you, it is just a matter of time before we get an attack as a result of not checking our borders.

Some of our law enforcement people who are working some of these borders are saying that some of that may have already happened. I am telling you, if we do not check our borders, it is the most significant thing you can do, and you look at this budget and you show me in this budget where there has any priority or urgency to close down these borders. This is why the American people are upset. It is their security. It is their way of life. It is what we fought for. It is what generations have fought for.

America, it is on the verge of being threatened out of existence. It has happened before. History is cluttered with the bleached bones of many great past civilizations who woke up too late to respond. Go back, look at your history books, look at Rome, look at the Ottoman Empire, look at the Netherlands particularly when it came to energy, and to a degree Great Britain. All of these powers lost because of those four things: global overreach, and not taking care of home and their border; dwindling resources at home; and the third thing, you guessed it, debt in the hands of foreign governments.

We are headed down that path, and the American people are looking for us to change that direction. That is what my folks down in Georgia are saying. That is what they want us to do, and we have got to do it. That is why I am so proud that we are here as Blue Dogs, pointing the way, showing how we will be fiscally responsible. Nobody can take that away from us. There has been nobody manning the watch, watching this debt, long before it was up to this level of priority than the Blue Dog Coalition who have been at the front, Democrats at the front of the line, talking about financial responsibility and, foremost, paying down this debt.

What a tragedy it is for this administration, this Congress to just lark along, borrowing all of this money, putting this extraordinary tax increase on the backs of our children and our grandchildren, and America's getting this.

I was surprised this morning when I was down there in my district in Cobb County, and she mentioned those four things. Iraq, I knew; immigration, I knew, that is hot, that is heavy, oil prices, that is heavy. But then she says: And the debt. America is waking up and understanding this debt situation is placing this country in a very precarious position, and we have got to change it and be responsible.

That is why it is important for us to put in pay-as-you-go measures, measures we have been preaching about for a long time. The American people are ready for that because if we do not, we, too, can go the way of so many of those past civilizations who woke up too late.

Mr. ROSS. Mr. Speaker, I appreciate the gentleman from Georgia for joining me this evening, and he is right. I am concerned, as he is, about America's security.

Some people will say, well, there has not been another attack in America since 9/11, and I submit to you that is true and we have been real lucky. We have been lucky. We have been lucky because it is very clear that our border is not secure with Mexico or Canada. It is clear that while we take our shoes off and we go through the metal detectors at the airport and while our suitcases are X-rayed, the freight which can take up as much as a quarter to half of the belly of a plane continues to go unchecked. All the containers, for the most part, coming into our ports remain unchecked.

I submit to you that instead of having a budget that is going to be debated on this floor this week that calls for $228 billion in tax cuts for folks earning over $400,000 a year, let us invest in America's security. Let us make those ports secure. Let us make our borders secure. Let us check the freight on the belly of those commercial airplanes. Let us invest in America again.

Mr. SCOTT of Georgia. This is exactly right. America's not crying out here for tax cuts for the top 1 percent. As a matter of fact, Bill Gates and several others said we do not want it; Mr. President, we do not need it. Those farmers need it for the drought. Those counties need it for the community block grant programs that is a lifeline of these counties. The children need it for their student aid programs and their loans, they need it. Firemen need it. Our first responders need it, and we need it to provide the incentives in place to help with our patrol.

I want to mention because there was so much we wanted to cover tonight, but I cannot leave without saying this one thing. It really points an example of our lack of response, we have talked about it, to the border security problem, but look at our lack of response properly in this budget to our gas problem. Every basic issue that needs to be responded to, American people know we did not get to this point by just one thing. Oil companies have a lot to do with it, but their profits are not the real reason.

The real reason is we have a serious shortage because we are being held hostage by most of the petroleum producing countries and because we have not planned properly with our refineries and because we have not planned properly with our automobiles and our guzzlers, and even when we move to do that, with one example, I just point out to you, the hybrid cars. The one good program that we could use would be that.

There is nothing in the budget that even approaches what we need to do to give our American people true incentives, serious tax incentives to purchase hybrid cars, hybrid cars whose engines are run on a combination of electric batteries and gasoline. The key to our success, as far as bringing down these energy crises and stop making us so dependent on these other volatile Nations for our energy is to lower our consumption of oil, and to lower our consumption means we need to go elsewhere to find the fuel mix to do it. We can do it. We have got the American know-how.

You take the hybrid engine. They have got, what is it, $2,000 for the tax credit now. It is going up to $3,400, but then there is all kind of complications in that make it so confounding that dealing with it is for the first manufacturer to produce 60,000 cars, then it goes down every quarter. It just gets so complex that the poor American people do not even have a clear angle with which to attack it and go out and purchase the automobiles. We need to clear that up.

We need to put in this budget that we will give a 50 percent increase at least on the tax incentives and make that a going up scale so that we can get more hybrid cars running. We need to go and start giving incentives to farmers who are producing corn and soybeans, creating a new industry with which to produce ethanol, and mix that with our gasoline to be able to carry our fuel much like Brazil is doing. We need to enrich conservation programs to conserve our energy, and then, finally, we have got to do all we can to get the American people out of their automobiles, the commuter rail and with mass transit.

But where is the will? Where is the direction? Where is the encouragement? Where is the inspiration to say let us go, America, we can do it? That is what the American people are waiting on, and we have got to provide the direction for them to do it. It is not this budget, and that is why it is not passing.

Mr. ROSS. Mr. Speaker, I thank the gentleman from Georgia. Mr. Speaker, if you have any comments or concerns or questions for us, you can e-mail us at bluedog@mail.house.gov. That is bluedog@mail.house.gov.

Next Tuesday night, Mr. Speaker, I will return to this House floor to talk about the plight of our farm families across this country, the disasters they face this year ranging from droughts in parts of the country to the needs in other parts of the country, to the hurricanes, a real concern among the Blue Dog Coalition about the plight of the family farmer. It is every bit as critical to our Nation's security so that our farm families can provide us with a safe and secure source for food and fiber. That is just as critical to us as our energy sources are. We will be talking more about that on the floor next Tuesday night.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CARDOZA (at the request of Ms. PELOSI) for today and the balance of the week on account of a death in the family.

Mr. DAVIS of Kentucky (at the request of Mr. BOEHNER) for today on account of his wife's surgery.

Mr. MURPHY (at the request of Mr. BOEHNER) for today and May 10 on account of a death in the family.

Mr. OSBORNE (at the request of Mr. BOEHNER) for today and until 5:00 p.m. May 10 on account of business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. LEE) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. ETHERIDGE, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

(The following Members (at the request of Mr. FITZPATRICK of Pennsylvania) to revise and extend their remarks and include extraneous material:)

Mr. MCHENRY, for 5 minutes, May 10 and 11.

Mr. POE, for 5 minutes, today and May 10 and 11.

Mr. DREIER, for 5 minutes, today and May 10 and 11.

Mr. KENNEDY of Minnesota, for 5 minutes, May 10.

Mr. NORWOOD, for 5 minutes, May 11.

Mr. BURTON of Indiana, for 5 minutes, today and May 10 and 11.

Mr. GUTKNECHT, for 5 minutes, May 10.

Mr. BILIRAKIS, for 5 minutes, May 10 and 16.

Mr. HUNTER, for 5 minutes, May 16.

Mr. BISHOP of Utah, for 5 minutes, today and May 11.

Mr. DAVIS of Kentucky, for 5 minutes, May 10.

Mr. GINGREY, for 5 minutes, today.

Mr. BASS, for 5 minutes, May 11.

Mr. GILCHREST, for 5 minutes, May 10 and 11.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. ROYBAL-ALLARD, for 5 minutes, today.

ENROLLED BILL SIGNED

Mrs. Haas, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 83. Joint resolution to memorialize and honor the contribution of Chief Justice William H. Rehnquist.

ADJOURNMENT

Mr. ROSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at midnight), the House adjourned until today, Wednesday, May 10, 2006, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7336. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Department's "Country Reports on Terrorism: 2005," pursuant to 22 U.S.C. 2656f; to the Committee on International Relations.

7337. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, Transmittal No. 06-29, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Japan for defense articles and services; to the Committee on International Relations.

7338. A letter from the Chairman, United States Sentencing Commission, transmitting a report of amendments to the sentencing guidelines together with the reasons for these amendments, pursuant to 28 U.S.C. 994(o); to the Committee on the Judiciary.

7339. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Headlands Beach State Park, Mentor, Ohio [CGD09-05-105] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7340. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone—Toledo, OH, Maumee River [CGD09-05-106] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7341. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Erie Bayfront Ground Breaking Fireworks, Presque Isle Bay, Erie, PA [CGD09-05-107] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7342. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Celebrate Erie, Dobbins Landing, Erie, PA [CGD09-05-109] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7343. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Carly's Crossing, Buffalo Outer Harbor, Buffalo, NY [CGD09-05-110] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7344. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Menominee Fireworks Display, Lake Michigan, Menominee, MI [CGD09-05-111] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7345. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Calumet-Saginaw River, Chicago, IL [CGD09-05-116] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7346. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Fairport Harbor, Fairport, Ohio [CGD09-05-121] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7347. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Port of Toledo — Anthony Wayne Bridge, OH, Maumee River [CGD09-05-124] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7348. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Bonneville Power Administration Over Water Cable Operations, Snake River, WA [CGD13-05-032] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7349. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Puget Sound Crossing For Kids, Puget Sound, Washington [CGD13-05-035] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7350. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Ribault to St. Johns River [COTP Jacksonville 05-110] (RIN: 1625-AA87) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7351. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Intra Coastal Waterway, Indian River, Brevard County, FL [COTP Jacksonville 05-111] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7352. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Kings Bay to the Sea Bouy at the Entrance of St. Marys River, GA [COTP Jacksonville 05-122] (RIN: 1625-AA87) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7353. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Port Canaveral Entrance Channel to Trident Basin, Port Canaveral, FL [COTP Jacksonville 05-123] (RIN: 1625-AA87) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7354. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Port Canaveral Jetties, Port Canaveral, FL [COTP Jacksonville 05-124] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7355. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Port Canaveral Entrance Channel to Trident Basin, Port Canaveral, FL [COTP Jacksonville 05-125] (RIN: 1625-AA87) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7356. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Trident Basin, Port Canaveral, FL to the Sea Buoy at the Entrance of the Port Canaveral Channel [COTP Jacksonville 05-126] (RIN: 1625-AA87) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7357. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Trident Basin, Port Canaveral, FL to the Sea Buoy at the Entrance of the Port Canaveral Channel [COTP Jacksonville 05-130] (RIN: 1625-AA87) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7358. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone, Plantation Key, FL [COTP Key West 05-004] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7359. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Pensacola Caucus Channel and Pensacola Bay Channel, Pensacola, FL [COTP Mobile-05-010] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7360. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; GICW MM60 to GICW MM128, Longbeach, MS to Dauphin Island Bridge, AL [COTP Mobile-05-016] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7361. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Gulfport, MS thru Bayou La Batre, AL [COTP Mobile-05-017] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7362. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; GICW MM128 to GICW MM155, Mobile, AL to Gulf Shores, AL [COTP Mobile-05-018] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7363. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; GICW MM155 to GICW MM251 Orange Beach, AL to Highway 331 Choctawhatchee Bay Bridge, FL [COTP Mobile-05-019] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7364. A letter from the Assistant Secretary for Legislative and Intergovernmental Affairs, Department of Homeland Security, transmitting the Department's report on Capabilities and Readiness to Fulfill National Defense Responsibilites, pursuant to Section 426 of the Maritime Transportation Security Act of 2002; to the Committee on Transportation and Infrastructure.

7365. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A321-100 Series Airplanes [Docket No. FAA-2006-23935; Directorate Identifier 2005-NM-060-AD; Amendment 39-14492; AD 2006-04-11] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7366. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; AvCraft Dornier Model 328-100 Airplanes [Docket No. FAA-2005-22813; Directorate Identifier 2002-NM-117-AD; Amendment 39-14493; AD 2000-24-03 R1] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7367. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company Model 390 Airplanes [Docket No. FAA-2005-23221; Directorate Identifier 2005-CE-51-AD; Amendment 39-14459; AD 2006-02-07] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7368. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cessna Model 650 Airplanes [Docket No. 2002-NM-332-AD; Amendment 39-14158; AD 2005-13-21] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7369. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The Cessna Aircraft Company Models 208 and 208B Airplanes [Docket No. FAA-2005-21275; Directorate Identifier 2005-CE-28-AD; Amendment 39-14515; AD 2006-01-11 R1] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7370. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dassault Model Falcon 2000 and Falcon 2000EX Airplanes [Docket No. FAA-2006-23716; Dirctorate Identifier 2006-NM-008-AD; Amendment 39-14466; AD 2006-03-02] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7371. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnel Douglas Model DC-9-14, DC-9-15, and DC-9-15F Airplanes; Model DC-9-20, DC-9-30, DC-9-40, and DC-9-50 Series Airplanes; Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), and DC-9-87 (MD-87) Airplanes; Model MD-88 Airplanes; and Model MD-90-30 Airplanes [Docket No. 2002-NM-105-AD; Amendment 39-14441; AD 2006-01-02] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7372. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pacific Aerospace Corporation Ltd. Model 750XL Airplanes [Docket No. FAA-2005-23473; Directorate Identifier 2005-CE-54-AD; Amendment 39-14451; AD 2005-26-53] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7373. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The Cessna Aircraft Company Models 208 and 208B Airplanes [Docket No. FAA-2005-21275; Directorate Identifier 2005-CE-28-AD; Amendment 39-14450; AD 2006-01-11] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7374. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Honeywell International Inc. (Formerly AlliedSignal, Inc., Formerly Textron Lycoming, Formerly Avco Lycoming) T3509, T5311, T5313B, T5317A, T5317A-1, and T5317B Series [Docket No. FAA-2004-18038; Directorate Identifier 2004-NE-01-AD; Amendment 39-14444; AD 2006-01-05] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7375. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Aerospace LP Model Gulfstream 100 Airplanes; and Model Astra SPX, and 1125 Westwind Astra Airplanes [Docket No. FAA-2005-22511; Directorate Identifier 2005-NM-120-AD; Amendment 39-14440; AD 2006-01-01] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7376. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Frakes Aviation

(Gulfstream American) Model G-73 (Mallard) Series Airplanes and Model G-73 Airplanes That Have Been Converted To Have Turbine Engines [Docket No. FAA-2005-23440; Directorate Identifier 2005-NM-256-AD; Amendment 39-14452; AD 2006-01-51] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7377. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-200B, 747-200C, 747-200F, 747-400F, 747SR, and 747SP Series Airplanes [Docket No. FAA-2005-22289; Directorate Identifier 2005-NM-101-AD; Amendment 39-14446; AD 2006-01-07] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7378. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model Avro 146-RJ Airplanes [Docket No. FAA-2005-22792; Directorate Identifier 2005-NM-084-AD; Amendment 39-14447; AD 2006-01-08] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7379. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes [Docket No. FAA-2005-22035; Directorate Identifier 2005-NM-016-AD; Amendment 39-14442; AD 2006-01-03] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7380. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146-100A and -200A Series Airplanes [Docket No. FAA-2005-22791; Directorate Identifier 2005-NM-083-AD; Amendment 39-14448; AD 2006-01-09] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7381. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B4-600, B4-600R, and F4-600R Series Airplanes, and Model C4-605R Variant F Airplanes (Collectively Called A300-600 Series Airlanes); and Airbus Model A310 Series Airplanes [Docket No. FAA-2005-22053; Directorate Identifier 2004-NM-74-AD; Amendment 39-14449; AD 2006-01-10] (RIN: 2120-AA64) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7382. A letter from the Acting General Counsel, Department of Defense, transmitting a copy of legislative proposals as part of the National Defense Authorization Bill for Fiscal Year 2007; jointly to the Committees on Armed Services and Financial Services.

7383. A letter from the Secretary, Federal Trade Commission, transmitting the fifth annual report pursuant to the College Scholarship Fraud Prevention Act of 2000; jointly to the Committees on Education and the Workforce and the Judiciary.

7384. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's "Major" final rule — Medicare Program; Prospective Payment System for Long-Term Care Hospitals RY 2007: Annual Payment Rate Updates, Policy Changes, and Clarification [CMS-1485-F] (RIN: 0938-AO06) received May 2, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMAS: Committee of Conference. Conference report on H.R. 4297. A bill to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006 (Rept. 109–455). Ordered to be printed.

Mr. BOEHLERT: Committee on Science. H.R. 5143. A bill to authorize the Secretary of Energy to establish monetary prizes for achievements in overcoming scientific and technical barriers associated with hydrogen energy; with an amendment (Rept. 109–456). Referred to the Committee of the Whole House on the State of the Union.

Mr. TOM DAVIS of Virginia: Committee on Government Reform. House Resolution 752. Resolution requesting the President to transmit to the House of Representatives not later than 14 days after the date of adoption of this resolution documents in the possession of the President relating to the receipt and consideration by the Executive Office of the President of any information concerning the variation between the version of S. 1932, the Deficit Reduction Act of 2005, that the House of Representatives passed on February 1, 2006, and the version of the bill that the President signed on February 8, 2006; adversely (Rept. 109–457). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 805. Resolution waiving points of order against the conference report to accompany the bill (H.R. 4297) to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006 (Rept. 109–458). Referred to the House Calendar.

Mr. COLE of Oklahoma: Committee on Rules. House Resolution 806. Resolution providing for consideration of the bill (H.R. 5122) to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2007, and for other purposes (Rept. 109–459). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. YOUNG of Alaska (for himself, Mr. Hayworth, Mr. Renzi, Mr. Cole of Oklahoma, Mr. Rahall, Mr. Oberstar, Mr. Pallone, Mr. Baca, Mr. Case, Ms. Bordallo, Mr. Honda, Mr. Udall of New Mexico, Mr. Kildee, and Mr. Waxman):

H.R. 5312. A bill to amend the Indian Health Care Improvement Act to revise and extend that Act; to the Committee on Resources, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GERLACH (for himself, Mr. Kirk, Mrs. Miller of Michigan, Mrs. Biggert, Mr. Weldon of Pennsylvania, and Mr. Reichert):

H.R. 5313. A bill to reserve a small percentage of the amounts made available to the Secretary of Agriculture for the farmland protection program to fund challenge grants to encourage the purchase of conservation easements and other interests in land to be held by a State agency, county, or other eligible entity, and for other purposes; to the Committee on Agriculture.

By Mr. SHAW (for himself, Mr. Kirk, Mr. Foley, Mr. Cole of Oklahoma, Mr. Weller, Mrs. Miller of Michigan, Mrs. Biggert, Mr. Ramstad, and Mr. Davis of Kentucky):

H.R. 5314. A bill to amend the Internal Revenue Code of 1986 to improve and expand education savings accounts; to the Committee on Ways and Means.

By Mr. CARDOZA:

H.R. 5315. A bill to amend the Federal Financial Management Improvement Act of 1996 to require the head of an agency to be reconfirmed by the Senate unless the agency is found to be in compliance with the requirements of such Act, as reported by the Comptroller General; to the Committee on Government Reform.

By Mr. YOUNG of Alaska (for himself, Mr. Oberstar, Mr. Tom Davis of Virginia, Mr. Obey, Mr. Shuster, Ms. Norton, Mr. Shaw, Mr. Rahall, Mr. Baker, Mr. DeFazio, Mr. Bachus, Mr. Costello, Mr. Buyer, Mr. Nadler, Mr. Mica, Ms. Corrine Brown of Florida, Mr. Foley, Mr. Filner, Mrs. Kelly, Ms. Eddie Bernice Johnson of Texas, Mr. LaTourette, Mr. Taylor of Mississippi, Mrs. Myrick, Ms. Millender-McDonald, Mr. Wamp, Mr. Cummings, Mrs. Emerson, Mr. Blumenauer, Ms. Granger, Mr. Boswell, Mr. Pickering, Mr. Holden, Mrs. Jo Ann Davis of Virginia, Mr. Baird, Mr. Miller of Florida, Ms. Berkley, Mr. Bonner, Mr. Matheson, Mr. Cole of Oklahoma, Mr. Honda, Mr. Boustany, Mr. Larsen of Washington, Mr. Jindal, Mr. Capuano, Mr. Kuhl of New York, Mr. Weiner, Mr. Poe, Ms. Carson, Mr. Bishop of New York, Mr. Davis of Tennessee, Mr. Chandler, Mr. Higgins, Mr. Carnahan, Ms. Schwartz of Pennsylvania, and Mr. Ford):

H.R. 5316. A bill to reestablish the Federal Emergency Management Agency as a cabinet-level independent establishment in the executive branch that is responsible for the Nation's preparedness for, response to, recovery from, and mitigation against disasters, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Homeland Security, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HAYES (for himself, Mrs. Kelly, Mr. McHenry, and Mr. Wilson of South Carolina):

H.R. 5317. A bill to amend the Internal Revenue Code of 1986 to increase the incentives for E–85 fuel vehicle refueling property; to the Committee on Ways and Means.

By Mr. SENSENBRENNER (for himself, Mr. Coble, Mr. Smith of Texas, Mr. Feeney, Mr. Schiff, and Ms. Pryce of Ohio):

H.R. 5318. A bill to amend title 18, United States Code, to better assure cyber-security, and for other purposes; to the Committee on the Judiciary.

By Mr. FITZPATRICK of Pennsylvania (for himself, Mr. Kirk, Mrs. Miller of Michigan, Mr. Weldon of Pennsylvania, Mr. English of Pennsylvania, Mr. Davis of Kentucky, and Mr. Castle):

H.R. 5319. A bill to amend the Communications Act of 1934 to require recipients of universal service support for schools and libraries to protect minors from commercial social networking websites and chat rooms; to the Committee on Energy and Commerce.

By Mr. ANDREWS:

H.R. 5320. A bill to amend the Occupational Safety and Health Act of 1970 to provide for coverage under that Act of employees of States and political subdivisions of States, and for other purposes; to the Committee on Education and the Workforce.

By Mr. BASS (for himself, Mr. McDermott, and Mr. Sam Johnson of Texas):

H.R. 5321. A bill to establish a pilot project to demonstrate the impact of payment for more frequent hemodialysis treatment under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. GINNY BROWN-WAITE of Florida:

H.R. 5322. A bill to amend the Internal Revenue Code of 1986 to increase the contribution limits for individual retirement plans, defined contribution plans, and salary reduction plans, and for other purposes; to the Committee on Ways and Means.

By Mr. FARR (for himself and Mr. Hobson):

H.R. 5323. A bill to require the Secretary of Homeland Security to provide for ceremonies on or near Independence Day for administering oaths of allegiance to legal immigrants whose applications for naturalization have been approved; to the Committee on the Judiciary.

By Mrs. CUBIN:

H.R. 5324. A bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare Program, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DOOLITTLE:

H.R. 5325. A bill to direct the Federal Trade Commission to revise the do-not-call telemarketing rules to permit individuals to opt out of receiving telephone calls from certain political organizations; to the Committee on Energy and Commerce.

By Mrs. EMERSON (for herself and Mr. Filner):

H.R. 5326. A bill to amend title 10, United States Code, to increase the amount of educational assistance available to members of the reserve components called or ordered to active service for more than nine consecutive months or more than 18 total months during any 24-month period; to the Committee on Armed Services.

By Mr. ISRAEL (for himself and Mr. Davis of Kentucky):

H.R. 5327. A bill to amend the Servicemembers Civil Relief Act to protect the credit of servicemembers deployed to an overseas combat zone and to facilitate awareness of a servicemember's rights under such Act, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MILLENDER-McDONALD (for herself, Ms. Norton, Mr. Cummings, and Mr. Wynn):

H.R. 5328. A bill to grant certain Library of Congress employees the same competitive status for appointment granted to certain employees of the judicial branch, and to extend to displaced Library employees the same career-transition assistance extended to employees of the executive branch; to the Committee on House Administration, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GARY G. MILLER of California (for himself, Mr. Calvert, and Mr. Young of Alaska):

H.R. 5329. A bill to authorize the Secretary of Transportation to carry out certain transportation projects in the State of California to relieve congestion on State Route 91; to the Committee on Transportation and Infrastructure.

By Mr. GEORGE MILLER of California:

H.R. 5330. A bill to provide coverage under the Railway Labor Act to employees of certain air and surface transportation entities; to the Committee on Transportation and Infrastructure.

By Mr. POMEROY (for himself and Ms. Kaptur):

H.R. 5331. A bill to promote energy production and conservation, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Agriculture, Resources, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROTHMAN:

H.R. 5332. A bill to authorize grants to carry out projects to provide education on preventing teen pregnancies, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROYCE (for himself, Mr. Sherman, Mr. Weller, Mr. Lantos, Ms. Ros-Lehtinen, Ms. Watson, Mr. Issa, Mr. Cardoza, Mr. Poe, Mr. McCotter, Mr. Wilson of South Carolina, Mr. Israel, and Ms. Bean):

H.R. 5333. A bill to reduce the threat of terrorists acquiring shoulder-fired missiles; to the Committee on International Relations.

By Mr. SWEENEY:

H.R. 5334. A bill to provide for low-interest disaster loans when a small business concern is affected by a small-scale disaster; to the Committee on Small Business.

By Mrs. JOHNSON of Connecticut:

H. Res. 802. A resolution encouraging all eligible Medicare beneficiaries who have not yet elected enroll in the new Medicare Part D benefit to review the available options and to determine whether enrollment in a Medicare prescription drug plan best meets their current and future needs for prescription drug coverage; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. FOXX:

H. Res. 803. A resolution providing for the concurrence by the House with amendments in the amendments of the Senate to H.R. 1499; considered and agreed to.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. Sullivan, Mr. Lipinski, Mr. Rohrabacher, Mr. Kennedy of Minnesota, Mr. McCotter, Mr. Wolf, Mr. Chabot, Mr. Souder, Ms. Bordallo, Mr. Hyde, and Mr. Radanovich):

H. Res. 804. A resolution condemning the unauthorized, inappropriate, and coerced ordination of Catholic bishops by the People's Republic of China; to the Committee on International Relations.

By Mr. TOM DAVIS of Virginia (for himself, Ms. Loretta Sanchez of California, and Ms. Zoe Lofgren of California):

H. Res. 807. A resolution endorsing reforms for freedom and democracy in Vietnam; to the Committee on International Relations.

By Mr. KELLER (for himself and Mr. McKeon):

H. Res. 808. A resolution expressing the sense of the House of Representatives in support of the goals of National One-Stop Month; to the Committee on Education and the Workforce.

By Ms. SLAUGHTER:

H. Res. 809. A resolution directing the Secretary of the Department of Homeland Security to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the Secretary's possession relating to any existing or previous agreement between the Department of Homeland Security and Shirlington Limousine and Transportation, Incorporated, of Arlington, Virginia; to the Committee on Homeland Security.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. SHERMAN introduced a bill (H.R. 5335) for the relief of Tarveen Kaur Anand; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 9: Mr. Rush, Ms. Millender-McDonald, Mr. Larson of Connecticut, Mr. Wilson of South Carolina, Mr. Shays, Mr. Holt, Mr. Keller, Mr. Hayes, Mr. Barrow, Mr. Forbes, Mrs. Maloney, Mr. Cardin, Mr. Waxman, Mr. Serrano, Mr. Davis of Florida, Ms. Wasserman Schultz, Mr. Higgins, Ms. Berkley, Mr. Peterson of Minnesota, Mr. Pence, Mr. Melancon, Mr. Lantos, Mr. Reyes, Mr. George Miller of California, Mr. Filner, Mr. Abercrombie, Mr. Udall of Colorado, Ms. Velázquez, Mr. Price of North Carolina, Mr. Etheridge, Mr. Israel, Mr.

KUCINICH, Mr. DAVIS of Tennessee, Mr. PALLONE, Mr. SCHIFF, Mr. KENNEDY of Rhode Island, Mr. RUPPERSBERGER, and Mr. DINGELL.

H.R. 49: Mrs. MALONEY.

H.R. 176: Mrs. MALONEY.

H.R. 198: Mr. MICHAUD and Mr. UDALL of Colorado.

H.R. 215: Mr. RAMSTAD.

H.R. 309: Ms. ZOE LOFGREN of California.

H.R. 408: Mr. BLUMENAUER.

H.R. 479: Mr. CRENSHAW.

H.R. 503: Ms. MILLENDER-MCDONALD, Ms. CORRINE BROWN of Florida, Mr. KELLER, and Mr. BACHUS.

H.R. 865: Mr. TOM DAVIS of Virginia and Mr. WALSH.

H.R. 910: Mr. CLEAVER.

H.R. 944: Mr. MATHESON.

H.R. 997: Mrs. JOHNSON of Connecticut.

H.R. 1105: Mrs. JONES of Ohio.

H.R. 1298: Mr. REYNOLDS.

H.R. 1333: Mr. LATHAM and Mr. WATT.

H.R. 1366: Ms. BERKLEY.

H.R. 1384: Mr. ISTOOK.

H.R. 1578: Mr. BLUNT.

H.R. 1588: Mr. BOSWELL.

H.R. 1709: Ms. MATSUI.

H.R. 1742: Mr. MCINTYRE.

H.R. 1898: Mr. FITZPATRICK of Pennsylvania.

H.R. 1955: Mr. MILLER of North Carolina, and Mr. FILNER.

H.R. 2051: Mr. CUMMINGS.

H.R. 2071: Mr. ALLEN and Mr. FILNER.

H.R. 2072: Mr. BOUCHER and Mr. DAVIS of Illinois.

H.R. 2076: Mr. RAHALL.

H.R. 2088: Ms. FOXX and Mr. ISTOOK.

H.R. 2230: Mr. REHBERG.

H.R. 2238: Mr. MICHAUD, Mr. LIPINSKI, and Mr. FARR.

H.R. 2343: Mr. BROWN of Ohio.

H.R. 2421: Mr. LARSEN of Washington and Mr. PASCRELL.

H.R. 2429: Ms. HOOLEY.

H.R. 2517: Mr. WYNN.

H.R. 2671: Mr. PASTOR.

H.R. 3022: Mr. LINCOLN DIAZ-BALART of Florida.

H.R. 3055: Ms. BALDWIN, Ms. KILPATRICK of Michigan, Mr. HASTINGS of Florida, Mr. HONDA, Mr. OWENS, and Mr. BISHOP of Georgia.

H.R. 3072: Mr. SERRANO.

H.R. 3151: Mr. MATHESON.

H.R. 3194: Mr. TOWNS.

H.R. 3319: Mr. COSTA.

H.R. 3323: Mr. KLINE.

H.R. 3352: Mr. WYNN.

H.R. 3385: Mrs. BONO, Mr. MARKEY, and Mr. CUMMINGS.

H.R. 3420: Mr. CROWLEY.

H.R. 3427: Mr. PETRI, Mr. HOLDEN, and Mr. FOSSELLA.

H.R. 3476: Mrs. JONES of Ohio and Mrs. WILSON of New Mexico.

H.R. 3478: Mr. KUCINICH.

H.R. 3547: Mr. DAVIS of Tennessee.

H.R. 3575: Ms. WASSERMAN SCHULTZ.

H.R. 3584: Mr. WEXLER.

H.R. 3628: Mr. HINOJOSA.

H.R. 3858: Mr. PALLONE and Mr. DOYLE.

H.R. 3861: Ms. WATERS and Mr. ANDREWS.

H.R. 4059: Mr. PASCRELL.

H.R. 4157: Mr. KIRK and Mrs. MILLER of Michigan.

H.R. 4158: Ms. CORRINE BROWN of Florida.

H.R. 4188: Mr. DEFAZIO and Ms. BERKLEY.

H.R. 4294: Mr. BAIRD.

H.R. 4341: Mr. MELANCON, Mr. NUNES, Mr. REYNOLDS, Mr. SHIMKUS, Mr. JINDAL, and Mr. HOSTETTLER.

H.R. 4347: Mr. RUSH and Ms. NORTON.

H.R. 4365: Miss MCMORRIS.

H.R. 4429: Mr. MCDERMOTT.

H.R. 4542: Mr. MURTHA and Mr. WELDON of Pennsylvania.

H.R. 4547: Mr. ISTOOK.

H.R. 4562: Mr. ALLEN.

H.R. 4613: Ms. CARSON and Ms. LORETTA SANCHEZ of California.

H.R. 4681: Mrs. BIGGERT, Mr. HULSHOF, and Mr. DOYLE.

H.R. 4695: Mr. CLAY and Mr. STARK.

H.R. 4703: Mr. WELDON of Florida.

H.R. 4705: Mr. FORD and Mr. BOEHLERT.

H.R. 4730: Mr. PRICE of Georgia.

H.R. 4753: Mr. MCDERMOTT.

H.R. 4761: Mr. MANZULLO.

H.R. 4767: Mr. BROWN of Ohio, Ms. ESHOO, Mr. BISHOP of Georgia, Mr. PITTS, Mr. YOUNG of Florida, and Mr. RAHALL.

H.R. 4790: Mr. CHABOT.

H.R. 4856: Mr. BROWN of Ohio and Mrs. MCCARTHY.

H.R. 4860: Mr. CARDIN.

H.R. 4894: Mr. DAVIS of Kentucky.

H.R. 4903: Mr. PALLONE.

H.R. 4946: Mr. TAYLOR of North Carolina and Ms. HERSETH.

H.R. 4992: Mr. DEFAZIO.

H.R. 4993: Mr. MICHAUD.

H.R. 5005: Mr. ISTOOK.

H.R. 5009: Mr. BONNER.

H.R. 5013: Mr. ISTOOK, Ms. FOXX, Mr. PETERSON of Minnesota, and Mr. BAKER.

H.R. 5014: Ms. JACKSON-LEE of Texas.

H.R. 5022: Mr. FILNER.

H.R. 5037: Mr. WICKER, Mr. MURPHY, Mr. SNYDER, Ms. MILLENDER-MCDONALD, Mr. SHUSTER, Mr. PENCE, Mr. MCCAUL of Texas, Mr. MCHUGH, Mr. LOBIONDO, Mr. POMEROY, Mr. ENGEL, Mr. BOYD, Ms. WATSON, Mr. MCINTYRE, Mr. GUTIERREZ, Mr. ROSS, Mr. MCGOVERN, Mrs. DRAKE, Mr. HERGER, Mr. CUMMINGS, Mr. RADANOVICH, Mr. PASCRELL, Mr. JEFFERSON, Mr. SCOTT of Georgia, Mrs. JONES of Ohio, Mr. HAYES, Mr. SOUDER, Mr. CANTOR, Mrs. SCHMIDT, Mr. MELANCON, and Mr. DENT.

H.R. 5052: Mr. STARK, Mr. PALLONE, Mr. ISRAEL, Mr. BERMAN, Mr. FILNER, and Ms. BERKLEY.

H.R. 5053: Mr. GOODE, Mr. RYAN of Ohio, Mr. SOUDER, Ms. NORTON, Mr. WHITFIELD, Mrs. NORTHUP, Mrs. BLACKBURN, Mr. DAVIS of Kentucky, Mr. MCCOTTER, and Mr. ROGERS of Kentucky.

H.R. 5102: Mr. LIPINSKI.

H.R. 5113: Mr. STARK and Mr. GEORGE MILLER of California.

H.R. 5126: Mrs. SCHMIDT, Mr. TOWNS, Mr. CASE, Mr. DAVIS of Kentucky, Mr. MATHESON, Mr. BASS, Mr. DICKS, Mrs. BONO, Mr. BOUCHER, Mr. UPTON, Mr. BILIRAKIS, Mr. PICKERING, Mr. GILLMOR, Mr. SHIMKUS, Mr. FERGUSON, Mrs. MYRICK, Mr. FOSSELLA, Mr. BUYER, and Mr. BURGESS.

H.R. 5134: Mr. FORD, Mr. MORAN of Kansas, and Mr. RAMSTAD.

H.R. 5143: Ms. LORETTA SANCHEZ of California, Mr. REICHERT, and Mr. JOHNSON of Illinois.

H.R. 5148: Mr. MORAN of Virginia, Mr. CUMMINGS, Mr. VAN HOLLEN, Mr. NADLER, Mr. CONYERS, Mr. GEORGE MILLER of California, Mr. WYNN, Mr. SCHIFF, Mr. KENNEDY of Rhode Island, Mr. GRIJALVA, Mr. MCNULTY, Mr. JEFFERSON, Ms. WOOLSEY, Mr. MCGOVERN, and Ms. ROYBAL-ALLARD.

H.R. 5159: Mr. MCNULTY, Mrs. CAPITO, Mr. ROGERS of Michigan, Mr. ABERCROMBIE, Mr. RANGEL, Mr. LIPINSKI, Mr. SESSIONS, and Mr. SALAZAR.

H.R. 5166: Mr. MARIO DIAZ-BALART of Florida, Mr. PRICE of North Carolina, Mr. BERRY, Mr. ISTOOK, Mr. DAVIS of Illinois, and Mr. PRICE of Georgia.

H.R. 5170: Mrs. MUSGRAVE, Mr. WICKER, Mr. HENSARLING, Mr. FEENEY, Mr. BURTON of Indiana, Mr. GARRETT of New Jersey, Mr. WELDON of Florida, and Mr. CHABOT.

H.R. 5171: Mr. UPTON, Mr. OTTER, and Mr. SIMPSON.

H.R. 5200: Mr. FORD, Mr. LEWIS of California, Mr. EVANS, Mr. BUTTERFIELD, Mr. ALEXANDER, Ms. HOOLEY, Mr. HOLDEN, Mr. RYAN of Ohio, Mr. TANNER, Mr. BLUMENAUER, Mr. GORDON, Mr. GOODE, Mr. PASTOR, Mr. SHAYS, and Mr. OXLEY.

H.R. 5201: Mr. MOORE of Kansas, Mr. LYNCH, Mr. GOODE, Mr. GERLACH, Mr. MCNULTY, Mr. SERRANO, Mr. HIGGINS, Mr. CLYBURN, Mrs. MCCARTHY, Mr. DOYLE, Ms. SOLIS, Mr. WALSH, and Mr. RAHALL.

H.R. 5204: Mr. MCNULTY, Mr. WYNN, Mr. STRICKLAND, Mr. MELANCON, Mr. CONYERS, and Mr. GORDON.

H.R. 5216: Mr. ACKERMAN, Mr. LEWIS of Georgia, and Mr. SKELTON.

H.R. 5220: Ms. HARRIS, Mr. MCCOTTER, Mr. ALEXANDER, and Mr. STRICKLAND.

H.R. 5230: Mr. TOWNS.

H.R. 5232: Mr. DENT, Mr. GERLACH, and Mr. HOLDEN.

H.R. 5252: Mr. CLAY, Mr. CROWLEY, Mr. WILSON of South Carolina, Mr. BAKER, Mr. OXLEY, Mr. BOYD, Mr. LEWIS of Kentucky, Mr. JEFFERSON, Mr. ALEXANDER, Mr. CLYBURN, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. BONNER.

H.R. 5255: Mr. HUNTER, Mr. POE, and Mr. GARY G. MILLER of California.

H.R. 5262: Mr. PAUL and Mr. FLAKE.

H.R. 5278: Mr. DENT, Mr. KING of New York, and Mr. NORWOOD.

H.R. 5279: Ms. SCHAKOWSKY.

H.R. 5293: Mr. MCKEON, Mr. REGULA, Mr. PETRI, Mr. PORTER, Miss MCMORRIS, Mr. FORTUÑO, and Mr. BOUSTANY.

H.R. 5304: Mr. ALEXANDER.

H.J. Res. 53: Mrs. MUSGRAVE and Mr. TANCREDO.

H.J. Res. 73: Ms. MATSUI.

H. Con. Res. 42: Mr. MARKEY.

H. Con. Res. 179: Mr. COSTELLO.

H. Con. Res. 254: Mr. PASCRELL.

H. Con. Res. 289: Mr. LIPINSKI.

H. Con. Res. 380: Mr. GOHMERT.

H. Res. 158: Mr. MILLER of Florida, Ms. ZOE LOFGREN of California, Mr. PORTER, Mr. MCDERMOTT, Mr. OLVER, Mr. EMANUEL, and Mr. PASCRELL.

H. Res. 490: Mr. MCCOTTER, Mr. JEFFERSON, and Mr. LYNCH.

H. Res. 498: Mr. BACA.

H. Res. 521: Mr. MARKEY, Ms. MATSUI, and Ms. SCHAKOWSKY.

H. Res. 526: Mrs. LOWEY.

H. Res. 608: Mr. ENGLISH of Pennsylvania.

H. Res. 723: Ms. BALDWIN, Mr. DENT, and Mr. ALLEN.

H. Res. 731: Mr. CARTER and Mr. BAKER.

H. Res. 759: Ms. NORTON, Mr. SANDERS, and Mr. BISHOP of Georgia.

H. Res. 773: Mr. ETHERIDGE, Mr. BURGESS, Mr. BERMAN, Mrs. LOWEY, and Mr. RAMSTAD.

H. Res. 777: Mr. LINCOLN DIAZ-BALART of Florida.

H. Res. 788: Mr. MCHUGH, Mr. MCNULTY, Mr. LOBIONDO, and Mr. MCCOTTER.

H. Res. 793: Mr. KENNEDY of Minnesota, Mr. ADERHOLT, Mr. MCHENRY, Mr. GINGREY, Mr. POE, Mr. DREIER, Mr. SAM JOHNSON of Texas, Mr. FORBES, and Mr. MILLER of Florida.

H. Res. 795: Mr. SAXTON, Mr. FOLEY, Mr. COLE of Oklahoma, Mr. PENCE, Mr. CHOCOLA, Mr. BARRETT of South Carolina, Ms. HART, Mr. CAMP, Mr. SULLIVAN, Mr. MCHENRY, Mr. SHUSTER, Miss MCMORRIS, Mr. KUHL of New York, Mr. PEARCE, Mr. BONNER, Mr. HAYES, and Mrs. KELLY.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 5289: Mr. BOREN.

AMENDMENTS

Under the clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 5122

OFFERED BY: MR. COLE OF OKLAHOMA

AMENDMENT NO. 1: At the end of section 346 (page 98, after line 11) insert the following new subsection:

(e) EXCEPTION FOR NON-LINE-OF-SIGHT CANNON SYSTEM.—This section does not apply with respect to the obligation of funds for systems development and demonstration of the non-line-of-sight cannon system.

EXTENSIONS OF REMARKS

IN RECOGNITION OF NORTHSIDE COLLEGE PREPARATORY HIGH SCHOOL

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. EMANUEL. Mr. Speaker, I rise today in proud recognition of Northside College Preparatory High School, recently selected by Newsweek Magazine as one of America's best high schools.

Northside College Preparatory High School, found in 1999, was the first new Chicago public school to be built in 20 years. This magnet school on the North Side of Chicago provides a well-rounded education to bring out the best in the exceptional young adults who fill its classrooms.

The school achieved the highest score in Illinois for 5 straight years from 2001–2005 on the Prairie State Achievement Exam. Last year, 415 students at Northside took 905 AP exams, with 83 percent scoring a three or better. It also has a great deal of National Merit, National Achievement, Hispanic, and Illinois state scholars. And in 2003, Northside won the division three National Academic Decathlon Championship.

Northside College Preparatory High School's exemplary academic instruction produces world-class graduates: 92 percent of the 2005 graduating class continued on to a 4-year institution. To equip students for a lifetime of success, the school partners with DePaul University, Northeastern Illinois University, North Park University; Mayer, Brown, Row & Maw; OWP&P Architects; and S&C Electric.

Mr. Speaker, Northside College Preparatory High School is a shining example of public education at its best. I am proud of the students, faculty, and families of the schools and I wish them continued success in the coming years.

TRIBUTE TO LA QUINTA HIGH SCHOOL

HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mrs. BONO. Mr. Speaker, I rise today to honor an exceptional educational institution in the 45th Congressional District of California, La Quinta High School. Through the hard work and commitment of a tremendously talented faculty and staff, La Quinta High School has been named among the top 600 high schools in the nation by Newsweek magazine.

La Quinta High School holds the 583th slot on a list of 1,000 of the top high schools in the United States of America. The high school was honored for the high number of students who participate in both International Baccalaureate and Advance Placement classes.

Under the leadership of Principle Donna Salazar, La Quinta High School has established a record of success in the community by fostering an environment where students are challenged to excel and meet their academic dreams. As the highest ranked school in Riverside County, the Newsweek results are a testament to the high quality of this academic establishment.

I am impressed by the openness of La Quinta High School to students wanting the opportunity to learn and to challenge their mind. With an ethically and socio-economically diverse student body, La Quinta High School is a model for schools around the state.

Thomas Jefferson said, "Educate and inform the whole mass of the people . . . They are the only sure reliance for the preservation of our liberty." Jefferson was a powerful advocate for freedom and his message of the importance of a knowledge-based population holds great significance for continuing prosperity of our nation.

An educated public begins with our children and La Quinta High School is fulfilling our founding father's vision by fostering an educational environment that challenges today's students and tomorrow's leaders, to reach their academic potential.

Mr. Speaker, I would like once again to pay tribute to La Quinta High School for this impressive achievement. I encourage my colleagues to join me in recognizing and celebrating this exceptional high school.

IN RECOGNITION OF BILL UTTER FORD

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. BURGESS. Mr. Speaker, I rise today to congratulate Bill Utter Ford for his years of service to North Texas.

Mr. Bill Utter came to Denton, Texas from Amarillo in 1956 when he purchased the local Ford dealership becoming the fifth Ford dealer in Denton. Over the years, the Denton Ford dealership under Mr. Utter grew to employ over 100 people and is now in it's 4th location since 1956.

But Mr. Utter is not known simply for bringing the all-American Ford Corporation to North Texas, he has been known for his generosity to many causes and organizations throughout the community.

Bill Utter, Sr., Bill Utter, Jr. and staff have served in important leadership positions in the Denton Community, including Denton Chamber of Commerce and the United Way of Denton County. They have also provided leadership with Ford Motor Company including service on the Ford Dealer Council. Nationally, Bill Utter Ford has won numerous community awards and Ford Motor Company Awards including Ford's Highest Honor, the Fort President's Award.

The Utter men, their legacy and their dealership Bill Utter Ford, have brought quality automobiles to North Texas but more important kindness and philanthropic hearts to the community. Their recognition on the national level has brought prominence and respect to the people of Denton. May their spirit of entrepreneurship and skills as leaders be an example to us all.

IN RECOGNITION OF LINCOLN PARK HIGH SCHOOL

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. EMANUEL. Mr. Speaker, I rise today in proud recognition of Lincoln Park High School, recently selected by Newsweek Magazine as one of America's best high schools.

Lincoln Park High School, formerly named Robert A. Waller High School, has served the students and families of Chicago's North Side for over 100 years. The students at Lincoln Park High School have established an impressive record of academic achievement. Eighty-seven percent of the school's 2004 graduates enrolled in a college or university. Lincoln Park High School has had the most National Merit Semi-Finalists out of all the Chicago Public Schools over the last 15 years.

In addition to its academic prowess, the school helps create well-balanced individuals through its active participation in community service through donating to schools in Mali, and working for the National Runaway Switchboard. These activities and experiences teach students the importance of academic achievement while also providing a balanced perspective on life that promotes responsibility, justice and social service.

Students at Lincoln Park High School enjoy the support of strong parent and alumni associations which take an active role in over 60 extra curricular activities and clubs. Community partnerships with institutions such as Children's Memorial Hospital and the Lincoln Park Zoo also provide learning opportunities outside of the classroom in a wide range of disciplines.

Mr. Speaker, Lincoln Park High School is a shining example of public education at its best. I am proud of the students, faculty and families of the schools and I wish them continued success in the coming years.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TRIBUTE TO JANICE AND RICHARD OLIPHANT

HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mrs. BONO. Mr. Speaker, I rise today to honor the outstanding contributions of two individuals in California's 45th Congressional District—Janice and Richard Oliphant. Jan and Dick are well-known throughout the Inland Empire for their commitment to bettering the community and their devotion to education. I am pleased to join the Indian Wells Rotary Club, which established the "Dick Oliphant Scholarship Endowment Fund," in recognizing Jan and Dick for their exemplary work in our community.

Since moving to the desert in 1962, Jan and Dick Oliphant have been valued members of our community. The time and effort these two individuals have devoted to the valley is highly commendable and will have a lasting impact for years to come.

As a leader in the construction and development business, Dick's projects, including designing golf courses, retirement communities, apartment complexes, and commercial and medical centers, have earned him international recognition, including some of the highest awards one can achieve in the building industry. Among his first projects in the desert was the development and construction of Palm City, later named the Palm Desert Country Club, which was California's first retirement community and winner of 21 National Awards.

Both Jan and Dick Oliphant are firm believers in giving back to their community and are known for their philanthropic work in Southern California, especially in the area of education. Their service in numerous nonprofit organizations and community service projects has made them invaluable assets to our region. Additionally, Dick has served over two years as an Indian Wells Planning Commissioner, six years as a councilman, two years as the vice mayor and eight years as mayor. He is the founding chairman of the Coachella Valley Economic Development Conference and State of the Valley, the founder and chairman of the Coachella Valley Economic Partnership, and the founding Chairman of the Lincoln Club of the Coachella Valley.

Jan and Dick have truly enhanced our community with their support of and involvement with education. Jan has served as president and founder of several parents clubs, including the Katherine Finchy Parents Club in Palm Springs and the John F. Kennedy Parents Club in Indio. Both Jan and Dick are actively involved on countless advisory boards and committees, truly extending themselves to promote education in the Coachella Valley.

For over sixteen years, Dick has been a member of the California State University, San Bernardino Advisory Board, and he is also a co-chair in fundraising for a public/private partnership with the California State University, San Bernardino, Palm Desert Campus. He has been named a "fellow" by the A. Gary Anderson School of Business at the University of Riverside, where he spent a year lecturing and counseling graduate students on campus. Furthermore, nearly every city in the Coachella Valley has designated a "Richard R. Oliphant Day" because of his extensive work on valley-wide issues. For their outstanding contributions, in 1996, Jan and Dick were named the "Distinguished Citizens of the Year" by the Boy Scouts of America.

Both Jan and Dick Oliphant have graciously offered their resources and services to the benefit of our community and are well-deserving of our praise. Devoted to their family and to each other, Jan and Dick are truly exemplary citizens, and I am honored by their friendship and to serve as their representative in the 45th Congressional District of California.

Mr. Speaker and colleagues, please join me in honoring and recognizing Jan and Dick Oliphant, for their unwavering dedication, integrity, and outstanding public service. Their energy and passion to build our community and to foster learning and education, continues to benefit Palm Desert and our entire community.

IN RECOGNITION OF THE GIRL SCOUTS OF AMERICA CROSS TIMBERS COUNCIL

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. BURGESS. Mr. Speaker, I rise today to congratulate the Girl Scouts of America for their 94 years of dedication to this country.

The Girl Scouts of America are celebrating their 94th anniversary which was founded by Juliette Gordon Low in 1912 in Savannah, Georgia. Since then, they have had a long and exceptional history of instilling young girls with confidence, courage, and integrity.

More than 3.8 million current Girl Scout members and 50 million veteran members will be partaking in this momentous celebration.

Girl scouting opens all kinds of doors for a young lady's future. This organization urges these girls to strive for higher goals than they could have ever possibly imagined. Hence, these young girls are on the way to becoming women that would make this world a better place.

In addition, I am thrilled to announce that the Cross Timbers Council, which serves my North Texas district, will be opening an additional office for the Girl Scouts so that they may better serve our community.

The Girl Scouts of America, their legacy and their purpose, have brought joy to North Texas but more important kindness and philanthropic hearts to the community. The Cross Timbers Girl Scouts have brought prominence and respect to the communities they serve in my district including Denton and Cooke counties. May spirit of perseverance and honor these young ladies bring be an example to us all.

HONORING LT. COLONEL RYAN YANTIS

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. EMANUEL. Mr. Speaker, I rise in recognition of Lt. Colonel Ryan Yantis of the U.S. Army for his important contributions to service members and civilians alike in his capacity as Director, U.S. Army Public Affairs, Midwest.

While Colonel Yantis has been helpful to me and my staff on countless occasions, his assistance with SPC Rene Douroux merits particular attention and gratitude.

I had the opportunity to meet SPC Rene Douroux on September 13, 2005 when he was in the middle of a 30-day leave from duties in Korea to his next assignment in Ft. Hood, Texas. Unable to go home to New Orleans in the wake of Hurricane Katrina, SPC Douroux was at an emergency facility set up in Chicago to assist those left homeless by the storm. SPC Douroux was distraught because he was unable to locate family members and had no idea whether his home was still standing. He was hoping to have some additional time to find his family, help settle them, and get his life in order.

Lt. Colonel Yantis responded compassionately, effectively and immediately to SPC Douroux's plight. Not only did Colonel Yantis arrange for SPC Douroux to have more time, but he also arranged for a compassionate reassignment to Ft. Polk, Louisiana. Colonel Yantis helped reduce the trauma facing this young man and his family as they undertake the difficult tasks of rebuilding their lives in the wake of Hurricane Katrina.

I offer my heartfelt thanks to Lt. Colonel Yantis for his service, and extend my best wishes to him in his future endeavors.

HONORING DOLLY PARTON

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mrs. BLACKBURN. Mr. Speaker, Dolly Parton is living proof that the American Dream is alive and kicking. She worked hard, harnessed her God given talent, and touched the lives of countless millions.

Not only is Dolly a great entertainer, she's a proven businesswoman and a philanthropist. She is the embodiment of a value my mama taught me—that you always work to give back more to your community than you take. And Dolly has given back so much.

Tennessee is proud of this Smoky Mountain daughter, and that's why we join the 2006 Southern Women in Public Service Conference to honor her with the Lindy Boggs Award. As the U.S. Representative who has the lucky fortune to represent Dolly in Congress, I want to take a moment to be certain my colleagues here in the House of Representatives know just how much she has given back to all of us.

Dolly has put the same passion and leadership she used to make it to the top in business into improving child literacy. In 1996, Dolly's vision led to the creation of the Imagination Library—a program that sends children books each month to help them improve their reading skills. What began in East Tennessee now includes over 600 communities and spans 41 states. There are hundreds of thousands of children across this country whose futures have been changed for the better because of her work.

We simply cannot put a value on the positive effect Dolly has had on these kids, their communities, and this country.

The Imagination Library is just one example of Dolly's work to help raise up others. Today we honor Dolly for her passion and her determination.

TRIBUTE TO NORTHWEST COLLEGIATE ACADEMY

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. ENGLISH of Pennsylvania. Mr. Speaker, today I rise to commend the Northwest Collegiate Academy's recent success at the 25th Annual United States Academic Decathlon, USAD, in San Antonio, TX.

The USAD is a national competition in which teams of nine students, three from each recognized academic level, compete in 10 separate academic subjects, including mathematics, language and literature, social science, economics, art, music, and science. Each team member has to compete in each of the 10 subjects and their combined scores determine the overall team winner.

Once again, the Northwest Collegiate Academy made Erie and all of western Pennsylvania proud by demonstrating the scholastic excellence of its students. The Academy's team cruised through this year's local and State competitions, winning all three of the local events and the final State wide competition. Along the way, individual team members won numerous awards for excellence in all of the academic subjects and the team as a whole often took all the awards for a given subject.

However, the team's outstanding run did not end at the State level. The team scored 38,992.7 points out of a possible 60,000 during the 3-day national competition in San Antonio. This showing earned the team a well deserved silver medal in competition. Furthermore, the team members continued to show their individual brilliance by winning awards for their proficiency in specific subject areas. Matthew Faytak earned six different awards at the competition, including a gold medal in art and a gold medal for being the highest overall scorer at the honors level. Joining him on the podium was Christina Radder who won the bronze medal in music and the bronze medal for being third highest overall scorer at the honors level. Both Matthew and Christina were also recognized for high scores in economics, mathematics or science, as were four other team members, Greg Nieder, Dan Juilfs, Shane Kelley, and Alexandra Talarico.

Mr. Speaker, I hope my fellow members will rise with me at this time and commend the nine members of the Northwest Collegiate Academy team, Matthew Faytak, Christina Radder, Alexandra Talarico, Shane Kelley, Greg Nieder, Caitlyn Pierce, Dan Juilfs, William Steinbaugh, and David Zielewski. I congratulate each of these students for all of their academic achievements and wish them continued success in their future endeavors.

HONORING DICK KAY

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. EMANUEL. Mr. Speaker, I rise today to recognize the long and distinguished career of my friend, Mr. Dick Kay, political editor, and host of the news show "City Desk." Mr. Kay will retire in June 2006, with the honor of having been the longest-serving reporter in the history of Chicago's WMAQ–Channel 5 TV.

With 46 years in the business, Dick Kay has unparrelled political experience, knowledge and perspective. He arrived at WMAQ–Channel 5 in 1968, initially working as a writer/producer but soon switching to reporting. He later became their political editor as well as the host of "City Desk," the Sunday morning public service program.

Over the years, Dick Kay has interviewed mayors, Governors, Congressmen, Senators, and countless other public leaders. Viewers have come to rely on his thoughtful yet fearless approach to covering politics and public policy.

Dick Kay's hard work and insightful reporting have been recognized by numerous awards over the years. Among others, Dick has received a Peabody Award—the highest honor in TV broadcasting—as well as 11 Emmys, a National Headliner award, and a Jacob Scher award for investigative reporting. In 2001, he was inducted into the Television Academy's Silver Circle Hall of Fame, which honors those who have made major contributions to Chicago broadcasting for 25 years or more.

In addition to his work as a reporter and editor, Dick was the longtime president of the local unit of the American Federation of Television and Radio Artists. In this capacity, Dick successfully persuaded Illinois legislators to ensure that on-air employees had the freedom to move to competing stations.

I am sure Dick's wife, children and grandchildren will be glad to enjoy more time with him. The rest of us will miss his hard-hitting investigative work, insightful commentary, and engaging Sunday morning discussions.

Mr. Speaker, I wish Dick and his family the best of luck during his retirement and throughout his future endeavors. Political reporting in Chicago will not be the same without Dick Kay, dean of Chicago political reporters.

INTRODUCTION OF INDIAN HEALTH CARE IMPROVEMENT ACT REAUTHORIZATION

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased today to introduce legislation to reauthorize the Indian Health Care Improvement Act Reauthorization (IHCIA) with my fellow colleagues.

The Indian Health Care Improvement Act (IHCIA) requires reauthorization. It became Public Law 94–437 in the 94th Congress (September 30, 1976), and has been amended seven times. The IHCIA provides for health care delivery to over 2 million American Indians and Alaska Natives. Congress enacted a one-year extension to extend the life of the Act through FY 2001 but efforts at further extensions were interrupted due to the events of 9/11. Appropriations for the Indian health have continued through authorization of the Snyder Act, a permanent law authorizing expenditures of funds for a variety of Indian programs, including health.

This bill responds to the changes that have occurred in the delivery of Indian Health services in the decade since the last reauthorization of the IHCIA. In this period, more than half of the tribes in the United States have exercised their rights under the Indian Self-Determination and Education Assistance Act to assume responsibility to carry out programs of the Indian Health Service (IHS) on their own behalf. This, along with improvements in the IHS direct operations, have led to hospitals being accredited by the Joint Commission on Accreditations of the Healthcare Organizations, and health delivery systems being tailored to expanded outpatient and home and community based services had become commonplace in the private sector. Medicare, Medicaid and other third party revenue were important to achieving these gains and are crucial for retaining them. Equally important is the need to reinforce the authority provided to tribal health programs under self-determination and self-governance to establish their own priorities and to determine the best way to respond to the specific needs of their tribal members.

Some highlights of the ways this bill addresses these changes:

Section 3. Declaration of Health Policy. Declares that it is the priority of the United States that the health status of American Indians and Alaska Natives should be raised by 2010 to the same level as is set for other Americans, instead of establishing lower thresholds as has previously been accepted, and establishes a policy requiring "meaningful consultations" with Indian tribes, tribal health organizations and urban Indian programs.

Section 4. Definitions. Modernizes current IHCIA definitions and makes them consistent with the Indian Self-Determination and Education Assistance Act. Definitions of "health promoting" and "disease prevention" are expanded to encompass the full scope of these activities as recommended by the World Health Organization. Includes a definition of "traditional health care practices" that reflects the value of Native health practices.

Title I, Indian Health, Human Resources, and Development. The purpose of this title is to increase, to the maximum extent feasible, the number of Indians entering the health professions and providing health services, and to assure an optimum supply of health professionals to the Indian Health programs and Urban Indian Organizations involved in the provision of health services to Indians.

Title II, Health Services. The purpose of this title is to establish programs that respond to the health needs of American Indians and Alaska Natives. For example, American Indians and Alaska Natives have a disproportionately high rate of diabetes (death rate for this disease is generally more than 300% of the rate of the U.S. population), so this title has a specific diabetes provision. It also includes the Indian Health Care Improvement Fund through which the Appropriation Act supply funds to eliminate health deficiencies and disparities in resources made available to American Indians and Alaska Native tribes and communities.

Title III, Facilities. The purpose of this title relates to the construction of health facilities including hospitals, clinics, and health stations necessary for staff quarters, and of sanitation facilities for Indian communities and homes.

Title IV, Access to Health Services. This title addresses payments to the IHS and tribes for services covered by the Social Security Act Health Care programs, and to enable Indian health programs to access reimbursement from third party collections.

Title V, Health Services for Urban Indians. This title establishes programs in urban centers to make health services more accessible to Indians who live in urban areas rather than on reservations or Alaska Native villages.

Title VI, Organizational Improvements. This title addresses the establishment of the IHS as an agency of the PHS (Public Health Service). It also authorizes the Secretary to establish an automated management information system and authorizes appropriations to carry out this title.

Title VII, Behavioral Health Programs. This title is revised from current law (which only addresses substance abuse programs) in order to focus on behavioral health. It combines all substance abuse, mental health and social service programs in one title and integrates these programs to enhance performance and efficiency.

Title VIII, Miscellaneous. This title addresses various topics including the Secretary's reporting of the progress made in meeting the objectives of this Act to Congress. It requires the Secretary to develop IHCIA regulations, describes the eligibility of California Indians for IHS, establishes a National Bipartisan Commission on Indian Health Care, and authorizes appropriations.

I urge my esteemed colleagues to act quickly to reauthorize the IHCIA to ensure we raise the health status of American Indians and Alaska Natives.

HONORING THE WINNERS OF THE 2006 CAPITOL HILL STOCK MARKET GAME

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. GORDON. Mr. Speaker, today I rise to recognize the outstanding achievements of three young men from Blackman High School in my hometown of Murfreesboro, Tennessee. Samuel Brace, Jeremy Crook, and Andy Michael beat out 433 teams from across the nation to win the 2006 Capitol Hill Stock Market Game.

I congratulate Sam, Jeremy, and Andy for their tremendous win, and I commend their accounting teacher, Ken Reed, for engaging the students in such an innovative and educational competition.

The Stock Market Game helps students learn about saving and investing by testing their skills with a hypothetical $100,000, which they invest in the U.S. stock markets. Sam, Jeremy, and Andy dominated the competition, holding on to the top spot for 8 of the 10 weeks. The students increased the value of their portfolio by an incredible 50 percent to finish the game with $150,263 and a $15,000 lead over their nearest competitor.

Today, the students and Mr. Reed are here in Washington, D.C., touring the nation's capital as their grand prize.

I congratulate all the participants from Blackman for the school's strong showing. A second group of students finished in fourth place, while a third team finished 20th overall. And again, I applaud Ken Reed, Samuel Brace, Jeremy Crook, and Andy Michael for their impressive win in this year's competition.

HONORING LIEUTENANT GENERAL DANIEL JAMES III ON THE OCCASION OF HIS RETIREMENT

HON. STEVE BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. BUYER. Mr. Speaker, June marks the retirement of a great leader in our military ranks, Lieutenant General Daniel James III. General James is a distinguished graduate of the University of Arizona's Reserve Officer Training Corps program. In June 1969, General James completed Undergraduate Pilot Training and was assigned to Cam Ranh Bay Air Base, South Vietnam, as a forward air controller and O–1 pilot. A command pilot with a demonstrated career of exceptionally meritorious service, General James has over 4,000 hours in fighter and trainer aircraft, two Distinguished Flying Crosses, and more than 500 combat hours. His distinguished flying career includes the T–39, T–37, T–38, O–1E, F–5E, F–4 (C, D, E) and F–16A aircraft.

General James has excelled at every level of service including squadron flight commander in the 182nd Tactical Fighter Squadron (Aggressor Squadron) at Nellis Air Force Base, Nevada, and commander of the 149th Operations Group, Kelly Air Force Base, Texas. In November 1995, General James was appointed by Governor George W. Bush as the Adjutant General of the State of Texas. A Texas native, he served in this capacity until being named as the Director, Air National Guard in June 2002.

His exceptionally meritorious service has resulted in not only recognition within traditional military circles, but within the civilian community as well. He has received a wide range of civilian awards; including the Garvey-Woodson Award, Black United Fund of Texas (1995), Outstanding Service Award, Texas STARBASE Executive Advisory Board (1995–1996), Benjamin D. Foulois First Flight Award, Air Force Association—Texas (1997), Central Texas Combined Federal Campaign Community Service Award, Texas (1997–1998), Honored Patriot Award, Selective Service System (1998 and 1999), Commendation for Military Service, Joint Session of the Texas Legislature (1999) and the Palmetto Patriot Award, South Carolina (1999). He has served as the Chairman of the Greater Austin Quality Council and on the Board of Directors of the Greater Austin Chamber of Commerce.

General James' military service culminates with his assignment as Director, Air National Guard, and Vice Chief, National Guard Bureau, Virginia, from June 3, 2002, until June 2, 2006. General James served during one of the most challenging periods of any previous director of the Air National Guard. His outstanding achievements and dynamic leadership and initiative resulted in the development of a bold strategy for Air National Guard relevance in the 21st Century. His VANGUARD Engagement Strategy was the impetus for Air National Guard transformation, ensuring it would remain "Ready, Reliable and Relevant . . . now more than ever." During his period as the Director, Air National Guard members flew over 200,000 sorties and more than 600,000 hours in support of the Global War on Terrorism, including well over 50 percent of the fighter, tanker and airlift sorties for Operation Noble Eagle while postured for Air Sovereignty Alert at 16 of 17 sites; provided almost one-third of the fighter sorties in Operation Enduring Freedom; provided over one-third of the fighter and tanker sorties for Operation Iraqi Freedom. Air National Guard crews supported 75 percent of the tanker sorties and over 60 percent of the airlift sorties in other theaters.

This service included humanitarian, disaster relief and civil support. The Air National Guard support to Hurricane Katrina was unprecedented. Over 3,000 sorties flown, more than 11,000 passengers evacuated and in excess of 11,000 tons of cargo was moved in a 4-day period. One thousand four hundred forty-three lifesaving rescues were directly attributed to ANG personnel and General James' leadership.

General James will retire and reside in Mount Vernon, Virginia, on June 2, 2006, with his wife, Mrs. Dana Marie James, and their son, Daniel Steven James.

CELEBRATING THE BIRTH OF MS. CHARLOTTE ALATHEA LLOYD

HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. PENCE. Mr. Speaker, today I am happy to congratulate Matt and Amy Lloyd of Bowie, MD, on the birth of their daughter, Charlotte Alathea Lloyd. Charlotte was born April 26, 2006 at 6:28 a.m., weighing 9 pounds, 1 ounce, and measuring 20½ inches long. Her name has special meaning for this family. "Charlotte" is a family name on the mother's side and means "womanly" or "feminine" and "Alathea" is the Greek word that means "truth." God has blessed this child with a loving home, wonderful parents, and all the freedoms we enjoy in these United States of America.

TRIBUTE TO SINAI TEMPLE'S CENTENNIAL

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. WAXMAN. Mr. Speaker, I ask my colleagues to join me in congratulating Sinai Temple of Los Angeles on celebrating its 100th year of service to the community. Established in 1906, Sinai Temple is part of the rich historic fabric of Jewish Los Angeles. First located at the corner of Valencia Street and 12th Place, it moved in 1956 to its current site at 10400 Wilshire Boulevard in Los Angeles. It is my privilege to represent Sinai Temple in Congress.

Sinai Temple is the oldest Conservative congregation west of the Mississippi. It boasts a membership of 1800 family members whose origins trace from Europe and the Middle East, making it one of the largest and most diverse congregations in the United States.

Under the leadership of its current Rabbi, David Wolpe, the synagogue has developed an impressive array of programs and services for the Jewish community in Los Angeles. One especially popular program is Friday Night Live, a social and spiritual Sabbath service drawing hundreds in the 21 to 39 age group. The monthly event has become a model for other communities and its success has now been replicated around the country.

Over the last 100 years, Sinai Temple has become an anchor for the Jewish community, serving its religious, spiritual, and educational needs. The synagogue's vision for its next 100 years is to create Sinai: A Center for Jewish Life and Learning dedicated to the entire Jewish community through excellence in religious, educational, and social programming.

I am delighted to recognize the Congregation's remarkable accomplishments and wish them continued success in their future endeavors. I ask my colleagues to join me in congratulating Sinai Temple on its first 100 years in Los Angeles.

ARMENIAN PLANE CRASH

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. PALLONE. Mr. Speaker, I rise today to express my sincere condolence to the families and friends of the passengers and crewmembers aboard Airbus Airliner A–320, which crashed last Wednesday morning off of Russia's Black Sea coast. Luckily, investigators do not suspect foul play or terrorism, stating the crash was due to stormy weather.

The plane disappeared from radar screens about four miles from shore. As it was heading for what seemed like an emergency landing at the Adler Airport near the Southern Russian resort city of Sochi at 2:15 a.m., it crashed into the sea, killing all 113 people on board, including six children. No passenger was wearing a life jacket, indicating they did not have sufficient warning to prepare for such a landing. According to Armavia airline officials, 26 Russians, one Ukrainian and one Georgian were among the passengers and crewmembers. The rest were Armenian citizens.

No human should suffer the type of pain that is brought about by this tragic loss of life. My thoughts and prayers are with the families and friends of the victims—may you find strength during these trying times.

RECOGNIZING THE SESQUICENTENNIAL OF THE FIRST CHRISTIAN CHURCH OF MONMOUTH, OR

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Ms. HOOLEY. Mr. Speaker, I rise today to recognize the First Christian Church of Monmouth. In the past 150 years, the members of this church have proven again and again the depth of their caring and giving, not just to their community, but to all those in need.

From 1850 to 1853 pioneers like Elijah Davidson, Ira F.M. Butler and others came to the Oregon Territory from their homes in Monmouth, Illinois—the inspiration for what became Monmouth, Oregon. These settlers, members of the Disciples of Christ Church, came to create a new community and school steeped in their religion and their values, tenets that they shared with the long history of pioneers going back to the beginnings of our nation. In 1856, Monmouth University (present-day Western Oregon University) was chartered, and it became the first home for the church.

Just as the buildings that house this faith community have changed and grown over the years, so has the church's congregation. Active in the community, their good works include a teen center for local youth as well as the home for the Monmouth chapter of Meals on Wheels. This congregation represents the heart of the community and the goodness in people which we should all strive to achieve.

I want to take this opportunity to honor this church for the efforts that they have made on behalf of the residents of Monmouth and students of Western Oregon University. On this, their sesquicentennial anniversary, I acknowledge and honor the First Christian Church of Monmouth for their service and dedication to their community.

TRIBUTE TO MS. JUDY GRUBER AND MR. ROBBIE GREENBLUM

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. CUELLAR. Mr. Speaker, I rise today to honor Ms. Judy Gruber and Mr. Robbie Greenblum for their community service to their religious community. They will be honored at the Annual L' Chaim celebration on May 22, 2006.

Judy Gruber is a longtime supporter and member of Chabad Lubavitch of south Texas. She has served on the Community Relations Council of the Jewish Federation and on the San Antonio Association for Jewish Education and Rekindling Tradition committees.

Robbie Greenblum is an immigration attorney in San Antonio, TX, and has been an ardent supporter of Chabad's outreach efforts in south Texas. He has been instrumental in organizing Chabad's Torah Study Group which has been ongoing for the past decade. He was a past chair of the Community Relations Council of Jewish Education and spearheaded the Latino and Black Jewish dialog programs.

Mr. Speaker, I am honored to have had this time to recognize Ms. Judy Gruber's and Mr. Robbie Greenblum's dedication to community service.

PAYING TRIBUTE TO JELINDO ANGELO "J.A." TIBERTI

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor the life of Jelindo Angelo "J.A." Tiberti, who died on Wednesday, May 3, 2006.

J.A. was a piller of the Las Vegas construction industry, patriarch of Tiberti construction and a civic leader. J.A. came to Las Vegas from California in 1941 with the U.S. Army Corps of Engineers to build the runway at what is now Nellis Air Force Base. He formed Waale, Camplan and Tiberti Construction Co. in 1947 and developed Bonanza Village on Bonanza Road, before venturing out on his own in 1950. Among his many prominent works in Las Vegas are the Las Vegas Club, Palace Station, Sunset Station, Club Bingo and the Gold Coast. He built schools, hospitals, and public buildings. Not only was he a great craftsman, he was also a benevolent member of society. J.A.'s charitable contributions include a $1 million donation to help create the UNLV College of Engineering in 1979, and he provided the funds to build Camp Potosi for the Boy Scouts Boulder Dam Area Council. He was also appointed to the Las

Vegas City Planning Commission in 1953 and served six consecutive 4-year terms. J.A. received a number of professional awards as well, such as the Southern Nevada Engineer of the Year award in 1972, and the State's Most Distinguished Nevadan in 1987.

Mr. Speaker, I am proud to honor the life of Jelindo Angelo "J.A." Tiberti. His professional success and philanthropic nature should serve as an example to us all, he will surely be missed by the community.

HONORING JUDITH POOR

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. RADANOVICH. Mr. Speaker, I rise to recognize posthumously Mrs. Judith Poor of Mariposa, CA, for her remarkable life and tireless dedication to her community and family. Her community gathered to celebrate her life on Sunday, April 23rd, in Mariposa.

A native of Texas, Judy was well-known in her community for her tremendous generosity and an unmistakable southern charm that was both delightful and genuine. Judy believed that her family was her top priority. As a wife, mother and grandmother, Judy led by example, showing that dedication to the family unit though participation in many family centered activities was an all-important foundation of the Poor Family.

Holding Texas close to her heart, Judy remained a devout Dallas Cowboys fan and enjoyed spending time with her husband, Rod, watching modified stock car races. In addition, she served as the circulation manager for her local newspaper for 8 years.

Judy Poor is survived by her husband, Rod; children and their families, Larry and Tisha Cullens, Diana Poor, Marty Poor, Christy Nicholson, Megan and Mandy Cullens, Larry Cullens III, Jennifer Poor, Travis and Randa Poor, Carina Stephens; siblings, Ava Jane Fisher, Jan Cromeans and David Hodnett.

Mr. Speaker, I rise to honor posthumously the life of Mrs. Judith Poor of Mariposa, CA. I urge my colleagues to join me in celebrating the life of Judy Poor.

TRIBUTE TO U.S. ARMY LIEUTENANT COLONEL PATRICK MULVIHILL

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. HUNTER. Mr. Speaker, I rise today to recognize California native and U.S. Army Lieutenant Colonel Patrick Mulvihill. Mr. Speaker, it is a pleasure for me to honor Colonel Mulvihill, who will soon be retiring from the Army after 25 years of distinguished service to our nation.

Colonel Mulvihill began his career with the Army in 1981 upon receiving an ROTC commission from the University of California, Davis. Since that time, he has been assigned to commands from California to Europe, serving as a Battalion S2, Assistant Brigade S2, Tactical Signals Intelligence Company Commander, Observer-Controller for the National Training Center, Instructor at Fort Huachuca, Assistant G2 in Europe, SFOR Intelligence Task Force Commander in Bosnia and the 66th MI Group S3.

In 2001, Colonel Mulvihill assumed command at the Joint Intelligence Training Activity Pacific, his current and final duty assignment. Colonel Mulvihill is known by those who have served beside him, as well as those he has commanded, as an Intelligence expert and a leader who has always put the welfare of our nation's soldiers, Marines, airmen and sailors before his own.

President Ronald Reagan once said, "I always believed in the importance of peace through strength. And the military is the provider of that strength. So we must equip them, train them and support them. But over the years, America's military leadership has brought us to even greater heights than we ever could imagine." Mr. Speaker, President Reagan was referring to leaders like Colonel Mulvihill, who embody the strength of our nation and remain our military's greatest asset.

As Chairman of the House Committee on Armed Services, I extend my deepest appreciation and gratitude to Colonel Mulvihill for his 25 years of dedicated military service. Mr. Speaker, I ask that my colleagues join me in saluting this American hero and wishing him and his family continued success in their future endeavors.

SENATE—*Wednesday, May 10, 2006*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God our rock, forgive us for deviating from Your will. Forgive us for careless work and half-finished projects. Forgive us for labors we have not yet begun because of procrastination. Forgive us for people we have hurt or disappointed. Forgive us for failing those who most need our help. Forgive us for the promises we have broken and the vows we have forgotten. Forgive the times we have disobeyed and grieved You.

Use Your lawmakers today as agents of reconciliation. Teach them to love You as You have loved them.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the majority leader or his designee and the second half of the time under the control of the Democratic leader or his designee.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we have set aside the first hour for a period of morning business to allow Senators to speak. Following that time, we will begin consideration of the small business health plans bill. Yesterday we invoked cloture on the motion to proceed and last night we reached the agreement to begin the bill this morning.

Chairman ENZI will be here to speak with Members about their amendments. We hope we can consider amendments related to the bill throughout today's session, and therefore I expect votes today. I ask Senators who have relevant amendments to come to the floor to speak to the two managers to see if they can reach an agreement to debate those amendments.

In addition, we have the Tax Relief Act conference report that was filed in the House yesterday. We will consider that conference report this week once it arrives from the House.

SMALL BUSINESS HEALTH PLANS

Mr. FRIST. Mr. President, I want to take this opportunity to paint the larger picture of why the small business health plans are so important to our Nation, to everyday Americans, and to the 46 million people who do not have health insurance today, and how it affects the cost of health care and thus the quality and access to health care.

Much of the discussion that has gone on and that will go on as we proceed with this bill centers on the fact that America is facing a health insurance crisis. It centers on the fact that health care premiums are growing. They are growing faster than individuals' wages or income, and this growing cost—skyrocketing cost—of premiums translates into a significant portion of the 46 million people who don't have insurance today—solely because of the price of the premiums of health insurance. I do think—in fact, I know—that is unacceptable in a country that is as prosperous as ours.

The medical impact and the impact on quality of life and life itself is embodied in the statistic that the Institute of Medicine reported in the fact that 18,000 Americans die prematurely each year because they don't have health insurance. A lot of people say why, because you eventually can get into a hospital, but it boils down to the fact that if you have some health insurance—just some health insurance—you do better than if you don't have health insurance. People can still go to emergency rooms whether they have health insurance, but entry into our system is much easier if you have health insurance.

So this is a big problem that troubles me as a Senator and as a physician, and it troubles and should trouble every American. That is why we are on this issue today.

About 60 percent of uninsured employees today work for small businesses. Unfortunately, these skyrocketing health insurance costs, coupled with very complicated State regulations, are pricing small businesses out of the health insurance market. They simply can't afford to buy insurance and to offer that insurance to their employees.

We hear a lot of statistics on the floor, we have already heard a lot, and you will hear them continually over the next couple of days as we address this issue. In the past 5 years, the cost of health insurance to companies has nearly doubled from roughly $4,200 per family—almost double—to $8,100. In 2005 alone, health care costs rose three times faster than inflation, and even faster for many small businesses. Consequently, the small firms, the small businesses are the ones that are hit the hardest.

Many of them are operating on a very narrow margin already. They have had to cut benefits and, in many cases, eliminate coverage altogether for their employees. Some of them have been forced to lay off workers because of the cost of health care. They simply can't sustain it; it eats into their profits and they can't stay in business. So it is no wonder that small businesses across America have said to us and have made it known that access to affordable health care is their No. 1 concern: access to affordable health care.

That is what this small business health insurance debate is all about. It is the guts, the thrust of the bill on the floor today. Small business owners want to take care of their employees and their families. They want to do everything they possibly can. Most small businesses are family affiliated, many of them family run, but it is becoming impossible to do in the face of increases that are so far greater than any margins they have, these double-digit increases in health insurance every year.

One survey reports that only 41 percent of firms with 9 employees or less can afford to offer health benefits, compared to 99 percent of large firms. That hurts the ability of small businesses to attract capable workers, to stay in business, to stay competitive in the larger marketplace. Unfortunately, the system is broken and small businesses are caught. They are stuck.

Eighteen hundred State mandates are choking the ability of the private sector to offer affordable choices, reasonable choices. We have to cut out the redtape. We have to streamline the process itself. We have to get rid of the waste and abuse in the system.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

We all know that small businesses are the engine of economic growth in our economy. These small businesses are where innovation occurs and these innovators create 60 to 80 percent of all new jobs nationwide. They generate more than 50 percent of the gross domestic product. In my home State of Tennessee, 97 percent of all businesses are small businesses. This aspect of affordable health care is their No. 1 concern.

It makes sense that if we want to expand health care coverage, if we want to diminish the number of uninsured, we need to start to at least make a major advance in an area where we know we can make a difference, and that is where the jobs are. That is why the Enzi-Nelson-Burns small business health insurance bill that we bring to the floor and will formally open debate on here in about an hour is so important.

I want to applaud Chairman ENZI for his tremendous work to pull people together on both sides of the aisle to address these issues. This bill represents the first real, major, solid step to end the small business health plan stalemate that has characterized this body in over a decade. Its purpose is to deliver meaningful reform for millions of Americans employed in the small business sector.

Under this plan, small business firms would be able to combine their negotiating power and to group that negotiating power in a way that purchasing clout can be used to purchase more affordable plans. By allowing that to happen, they could reduce the cost of health insurance by as much as $1,000 per employee, while reducing the number of uninsured, people who are uninsured today, by more than 1 million. The CBO recently estimated the Enzi-Nelson-Burns plan would increase Federal revenue by $3.3 billion between 2007 and 2016, while saving States an estimated $600 million in Medicaid spending during the same period.

I know this is a very important bill. I am delighted that we will begin on this bill in an hour, or a little over an hour from now. It will be a substantive debate and will go right to the heart of a major problem facing this country, and that is the uninsured. It will address the issues of cost, access, and quality. I encourage Members on both sides of the aisle to participate in this debate, to stay on the issues—we are talking about small business health reform—to not bring in extraneous issues, and with that pass a very important and substantive bill for the American people.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

HEALTH CARE REFORM

Mr. REID. Mr. President, the problem with the Enzi bill is laid out in great detail in a report filed by the minority of the HELP Committee. This is not a question of my not liking the bill, it is not a question of Democrats versus Republicans, it is a question of the bill not being good. It is not a good bill, as indicated by 41 attorneys general. Forty-one attorneys general have signed letters saying the Enzi bill is not good for their States. These attorneys general are from Democratic States and Republican States. Insurance commissioners from around the country have acknowledged that the bill is not a good bill. The bill is opposed by 206 different advocacy groups and health care organizations, disability groups, and professional organizations.

For example, we know that the American Association of Retired People opposes this legislation. I was able to speak to Mr. Novelli a couple of times about this bill while it was moving through the system, and AARP believes the bill is very hurtful to senior citizens, as well as the Small Business Majority, the National Health Council, and the Lance Armstrong Foundation. As I said, more than 200 different organizations think this legislation is bad for the American people.

I have been led to believe that when this bill is brought to the floor, the 30 hours doesn't expire postcloture on the motion to proceed until sometime this afternoon. We have agreed to go to the bill at an earlier time. But it is not going to give the people in our country the opportunity to move forward on progressive, strong legislation. We will be stuck with the Enzi bill, and AARP doesn't think it is going to go anyplace. The amendments will be controlled by Senator ENZI. If he likes the amendment, he will allow us to offer it. If he doesn't, he won't. I submit that is not the way we should move forward on legislation brought forward during Health Care Week dealing with health care reform.

There are many issues related to health care we need to deal with. There are issues that are so fundamental to what is going on in the country today, and we believe the proposal put forward by Senator LINCOLN from Arkansas, the ranking member of the Finance Committee, Senator BAUCUS, and of course a person who has worked very hard on this legislation for months, Senator DURBIN, should be the legislation we debate. But it will not be. We should have the opportunity to offer amendments relating to postponing the May 15 cutoff line of the eligibility for Medicare drug benefits. That is not going to be allowed.

We should be able to offer legislation dealing with the ability of Medicare to be competitive and bid for drugs at a lower price. That won't be able to be offered.

We should be able to offer an amendment dealing with stem cell research, giving hope to millions of Americans. We won't be able to do that. That is unfortunate.

Walking into the Chamber today, I was asked by someone: Tell us what you stand for. I think, rather than what I stand for, what we stand for as a minority, it is who we stand for. I think that is the direction we should be focusing: Who do we stand for?

There are lots of people we stand for. We stand for parents with no health care. We stand for those people with maladies who are crying out for some research on stem cells so we can move forward finding cures for these diseases—Alzheimer's, Parkinson's, diabetes.

We stand for children who are attending failing schools because the Bush administration refuses to put money into the schools that needs it. It is reported today that very soon there will be 10,000 schools in America that will be failing. I don't think that speaks well. Why are they failing? It is because of this Leave No Child Behind Act that the President pushed so hard.

We stand for the soccer mom who, today, someplace, is going to fill up her vehicle with gasoline and find the price is prohibitive. Rather than filling up her tank, she will fill it half full, enough to get through maybe the rest of this week, because the cost of gasoline is so high.

We stand for the high school graduates putting off being able to go to college because they simply can't afford the tuition. During the last 5½ years of this administration, college costs have gone up 40 percent. Student aid has been cut. Pell grants have been cut.

We stand for the guardsman who is concerned because he has been called back for the second tour of duty in Iraq. Reading the Washington Post today, I find that two Nevada soldiers were killed in Iraq yesterday, both from Las Vegas, a 46-year-old man and a 26-year-old man—killed yesterday.

We stand for the grandparents who are concerned about the debt this country is accumulating, recognizing their grandchildren will be forced to pay this debt. How big is the debt? During the 5½ years President Bush has been President, the national debt has almost doubled, now approaching $10 trillion. We just raised the debt ceiling to $9 trillion, and through some shuffling in the Republican-dominated House they have, in the last few days, raised that to $10 trillion.

We stand for senior citizens who are unable to have the proper medicine to take care of themselves.

The part that is so concerning is that we are doing nothing in this Congress to address the issues. There are editorials running around the country today talking about the majority, the

Republicans, not raising issues of any kind because the debate is one they know they can't win. We need to be focusing on the high cost of energy and high cost of education. We need to focus on global warming, and we are not. It is being ignored because in the minds in the White House, it doesn't exist. We need to focus on this staggering debt. Remember, during the last 3 years of the Clinton administration, we paid down the debt. We were spending less money than we were taking in. That is certainly not the case now.

We are going to have a so-called debate on health care this week, but it is a so-called debate. It is really not a debate because we are being prohibited from offering amendments of significance. We are going to be forced to focus only on the Enzi legislation, which is a flawed bill. It is so flawed that it took the minority in the HELP Committee about 250 pages to outline the problems with this legislation. Usually minority reports are very short. This one is not. It is not because the consequences of the Enzi bill are so significant. This report looks at every State and indicates how every State is hurt as a result of the Enzi legislation.

I look forward to maybe a change of heart. Maybe there will be the ability for us to offer amendments. That doesn't appear to be the case. I hope that it is the case, that we will be allowed to offer amendments. That is the way we should deal with Health Care Week and not be stymied at offering amendments to this legislation, amendments that would really help—help those people who need help, not only with the hope of curing dread diseases but with the hope of 46 million people in America who have no health insurance, the senior citizens who hope they will be able to get prescription drugs at a lower rate, but because of the Medicare bill passed by this Republican-dominated town, Medicare cannot even negotiate for lower prices. They have to go to Rite Aid and buy their drugs like everyone else. HMOs can negotiate to lower prices because the legislation was directed toward managed care, not those Medicare recipients who badly need help.

MORNING BUSINESS

The PRESIDENT pro tempore. There is now 30 minutes under the control of the majority leader or his designee.

Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, are we in morning business?

The PRESIDENT pro tempore. We are now in morning business for 30 minutes under the control of the majority leader or his designee.

Mr. CRAIG. I ask unanimous consent to speak for 10 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ENERGY

Mr. CRAIG. Mr. President, I come on the heels of the minority leader speaking about or at least attempting to define what he and his party believe in. I watched him struggle this morning to try to shape what they are versus what we are, and that is really what we heard discussed a few moments ago. But he kept going back to the issue of high energy costs and the soccer moms and their inability to fill their gas tanks today. So I am going to focus on that part of what he struggled to define this morning and speak to the realities that are out there and what has transpired over the last several decades as it relates to the inability of this country to produce energy and why that inability exists.

A couple of weeks ago, I came to the Senate floor to inform this Senate and awaken America to the reality that just 50 miles off the coast of Florida, China is drilling for oil—Not the United States but China. And the reason China is drilling for oil is that we have prohibited our own companies from the opportunity to drill in the northern Cuban zone, so that Cuba is now leasing out to other countries in the world except the United States.

Then I watched a rush to judgment on the other side as there was a flurry to say not only do we have to stop Cuba, we dare not let America, American companies, experts in deepwater drilling, experts in environmental soundness, ever drill in that region.

Today I wish to expand on that idea. I wish to talk about why America is in trouble today with energy and why that soccer mom is paying more at the gas pump today than she ever has. The answer is really right here. It happened right here in the Senate over the last several decades, starting in 1950.

From the 1800s to 1950, we were energy independent. We were the great producer of oil. But as folks came home from World War II and as our economy began to expand, we began to use more oil. Then, starting in the 1960s and 1970s, we began to say about oil: We need it, but we can't drill here and we can't drill there and we will drill elsewhere.

Here is our problem today, so clearly defined in a supply and demand environment in which we have become 60 percent dependent upon foreign countries to produce our energy for us. America now knows that. Two weeks ago, we watched the other side blame and blame again somebody, including this administration, for a failure to produce. But they failed to tell you what they had not done, had denied over the last two or three decades.

I went to the White House during the Clinton years and asked President Clinton to work with us, to floor what we call marginal wells in west Texas and Oklahoma so they could continue to produce. Why? Because oil was below $18 a barrel and there was no economy there. They couldn't make money and they were shutting the wells in. We said: Let's floor it and keep them producing.

We couldn't do it because of the politics of that Democratic administration. What happened? Those wells went off line. They were filled with concrete, and they stopped producing what would be a million barrels of oil a day into this market right now. So to the American consumer who is paying those high gas prices, you are lacking a million barrels a day into our markets by a Democratic administration that denied its happening. Darn it, that is a fact. That is reality.

What transpired during that other time? Let's go on to the next chart that talks about our failure to get certain things happening. The Presiding Officer knows all about ANWR. He knows all about Alaska and Alaskan production. It was Bill Clinton who vetoed, a decade ago, the ANWR bill which would have put upwards of 10 billion barrels into the market at about a million barrels a day. Let's do the math now. We shut in a million barrels a day in Texas and Oklahoma because of the politics of that administration, and then they vetoed ANWR at 10 billion or a million a day. That is 2 million barrels a day to which they said no. So the answer to the minority leader as to why the soccer moms are paying the highest price ever today for gas is quite simple. It is because they said no. They said no to stripper wells, they said no to ANWR.

Now let's talk about the rest of the story because what I am interested in is the reality of the "no" politics, the "no" production, the "no" refinement. That is the answer to our problem today. You saw it on the last chart, the chart of supply and demand and 60 percent dependency on foreign sources. We cannot even drill in our own hemisphere.

Then let's go to this map. I call it the no zone. Why is it called the no zone? Because you can't drill here and you can't drill here and you won't drill here and you can't drill here. Why? American politics today. It is the no-drill zone.

If we could drill in the no-drill zone, it is possible that we could find, through U.S. geological surveys already under way, 115 billion barrels of oil and a phenomenal amount of gas. But the answer is no. Who said no? They said no. Republicans didn't say no.

Let me talk about that for just a moment. President Bush comes to town. We meet over here in the leader's office. He says: My first priority is to allow the Vice President to assemble a group of the experts and put together a national energy policy. We have to get this country back into production. He said that as his first initiative. Five years later, after they kept saying no, last August we got a bill. We are beginning to produce. But this is still all "no." Mr. President, 115 billion barrels are outside the reach of the American consumer today, even though our technology is the best in the world and even though, after the worst natural disaster ever, we proved ourselves out in the gulf. In this little clean area right over here where we have not said no—at least the States of Texas and Louisiana didn't say no—we found out that wells went off line, rigs got blown off their foundations, but no oil was spilled. Why? Because of the phenomenal technology today and because of environmental rules and regulations that we have asked for and demanded compliance and received it from the major oil companies that drill in deepwater and the Outer Continental Shelf.

The reason I bring these issues today is quite simple: We have to quit saying no. The other side can demogog and they can try to blame, but the reality is here. The facts are here.

Let's run down the rest of the chart. We have said no to ANWR, no to OCS, no to 181 leasing, no drilling in the northern Cuba zone—at least American companies—while China drills in our backyard. American consumers need to know that the answer to their problem is not no. It is, yes, we can produce and, yes, we ought to produce and, yes, we ought to be energy independent and, yes, it ought to happen in our hemisphere, and, yes, we ought to be less dependent on foreign oil.

If we put all of those things together, America can be independent today. But you are not independent by saying no. And the answer has been no, no, no, no. That is why we ought to talk about the "no zone" and the naysayers and the minority who have said no for so long.

Reality is at hand. The American consumer is being squeezed at the gas pump like never before, and the answer still remains no. Americans are demanding that this be resolved. We are rushing to new production in all kinds of alternatives, but you do not get away by denying the obvious.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator's time has expired.

Mr. CRAIG. I thank the leader for that time.

I will conclude by simply saying 115 billion barrels of oil are denied because somebody—and it was over here—said no, and now we enter the "no zone." Americans do not believe it. Americans are going to demand a change, and we ought to be able to deliver.

I yield the floor.

Mr. NELSON of Florida. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator has no time to yield for a question.

Mr. NELSON of Florida. I thank the Presiding Officer. I will raise the questions in a speech later on. I thank the Chair.

Mr. WARNER. Mr. President, we want to accommodate colloques. If the request is to be asked and granted by the Chair, then I suggest the morning business hour for the Republican side be extended 10 minutes to accommodate that.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. How much time does the Senator require?

Mr. NELSON of Florida. I am not going to request time.

Mr. WARNER. Mr. President, at this time I seek the concurrence of the Presiding Officer to speak about 12 to 14 minutes regarding General Hayden.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF MICHAEL HAYDEN

Mr. WARNER. I have known this fine officer for some time. I worked with him, and I'm very pleased that the President of the United States has asked the Senate for its advice and consent on this important nomination.

Mr. President, our Nation is at war on two main battlefields—Iraq and Afghanistan. The national security apparatus of our country centers around the White House, the National Security Council there, the Secretary of State, the Secretary of Defense, the Secretary of Homeland Security and, most importantly, the new organization headed by John Negroponte, our national intelligence community.

It is imperative that this Nation receive as early as possible the replacement for Porter Goss to take over his position with the Central Intelligence Agency, and I hope that the hearings, which I believe will be scheduled, subject to Chairman Robert's views, early next week. Early next week there will be a very thorough investigation of this officer, and we, the Senate as a body, can conform General Hayden and move forward. This Senator, the Senator from Virginia, will give him the strongest support and as an ex officio member of the Intelligence Committee, I will participate in those hearings.

Before turning to General Hayden, though, I would like to say a few words about Porter Goss. Mr. President, I am privileged to know this fine public servant who, presumably, is going to step down here shortly and conclude, perhaps, maybe not, maybe another assignment some day, but he certainly has had a distinguished public record of service. He was at the CIA himself, and served thereafter in the Congress. That is when I first came to know him.

The Presiding Officer may recall that there was a time here, a dozen or so years ago, when, I remember, our good friend, Senator MOYNIHAN from New York, said, it is time to re-examine the CIA, and possibly abolish it. Well, I and others came to the forefront and did what we could to begin to put that debate into balance. And we successfully put in a bill, and Porter Goss in the other body put in a similar bill, to establish a commission to review the origins of the CIA, and see how it was an integral part of our intelligence system.

The late Les Aspen, the former Secretary of Defense, was the first chairman of that commission. He had an untimely death, and was succeed in that position by former Secretary of Defense Harold Brown, at that time also having finished his work in the Department of Defense. The Commission did an excellent job. I just point that out as a reference in history of how hard Porter Goss has fought throughout his career to preserve the integrity and the viability of the Central Intelligence Agency.

Now, we do not know, many of us, all the facts regarding this transition of positions. I personally hope to visit with Mr. Goss, and will do so prior to the hearings, so that I can understand his perspective more fully. But he did a lot of valuable work at that agency, notably he began to restore the focus of the agency to its principle function as it was established some 50 years ago, and that is the collection of human intelligence. So I say to Porter Goss, well done. And I say to General Hayden, you fill the shoes of a very able man, but you have a challenge of your own.

Now, there are several issues that have been brought up by the general's nomination, and I would like to address those issues. First, there is a question of surveillance. As the head of the NSA, the National Security Agency, General Hayden was in the business of collecting electronic signals from around the world, from emissions abroad. We will go into that very thoroughly during the course of the hearings. I think that debate I appropriate. But I wish to point out that a very important debate has proceeded on that issue on the Senate floor. It will continue for some time. And that is a debate over the legal ramifications, in other words, what are the origins of the power of the President to have directed this type of collection?

I do believe that you can separate the collection, really, into two parts. One, the value of the collected intelligence from abroad as a contribution to our overall security. We have established now, here in the Senate, a larger committee that is looking into that, and I am confident that there will be a unanimous view that the collection of this intelligence, thus far, has been an important contribution to this Nation's effort in the war on terrorism.

The other question, equally important, is the question of legality. Now, let me make it clear. In my visit with General Hayden yesterday, I said to him, "You're not a lawyer." He said, "No, I'm not a lawyer . . . I. General

Hayden, when instructed to initiate this program, carefully assessed all variety of legal opinions, and it was clear by those contributing the legal opinions, the Attorney General, the White House Counsel, and others, that I had the authority to do so. As a non-lawyer, I accepted their opinions, like all of us do every day in life. I accepted the opinions of our counsel, whether it be in private or public life."

So I believe that the Intelligence committee, as it sorts that out, will eventually find that, while we may not resolve—and I doubt in the context of this nomination we will in fact resolve—the very important questions of the legalities of this program, we will decide that General Hayden acted in accordance with prudence, and was guided by appropriate counsel. So I believe that that issue will not be an impediment to his nomination.

Next is a question of the fact that this distinguished officer has risen through the ranks to become a four-star general. I have been privileged, I say with a sense of humility, to work with the uniformed people of this country for close to a half a century, in one way or another. I had a very modest military career of my own, but particularly when I was Secretary of the Navy, I had the opportunity work with and assess the biographies and the careers of many officers with worked their way from the lowest ranks up to four-star ranked general and flag rank in the Navy and Marine Corps.

Now, I certainly say to the people of this country, that an individual who can withstand all of the rigor, all of the competition, to come from the very bottom to the very top is one who has been screened and thoroughly reviewed by many peer groups. And how proud this officer is to have succeeded to have gained four-star rank. I do not personally have any trouble with his retaining that rank in this capacity, if confirmed by the Senate to lead the CIA. The question is raised, though, legitimately. It should be a civilian running our intelligence. But my distinguished colleagues, I say to you, it is a civilian that runs the intelligence community: John Negroponte. He is now the top individual in charge of this magnificent intelligence system that this country has.

Yesterday, I visited with Secretary Rumsfeld on this issue on several occasions by phone, and he spoke publicly to the issue, as well. He endorses General Hayden. He said, General Hayden will report directly to John Negroponte, the head of the overall intelligence community. And in no way does Secretary Rumsfeld feel that the fact that General Hayden continues to wear this uniform should there be any impediment in the chain of command, or in the responsibilities or the direction that this officer will give to his responsibilities. So, again, I believe that issue will be resolved in the committee hearings.

In the work of the Intelligence Committee to review the credentials, the integrity, the character of this individual, I am confident that he will meet the highest standards of the office which he aspires to take over at the direction of the President. So that will be behind us.

Finally, I would like to say a little bit about the Central Intelligence Agency itself. It is in Virginia, and I am privileged, as a current Virginia Senator, as have my predecessors, to give a little special attention, to that Agency. When the new structure of the intelligence community was devised here on the floor, I was active in the debate, and I think, if I can say with some modesty, helped to preserve more and more of the functions of that agency which I felt should remain in that agency, and the CIA has survived that legislation, I believe, quite well.

There is still more to be done in finally convincing various persons, distinguished individuals in that Agency, that this is the way it is under the law, and this is the way we have got to conduct our business in the future. General Hayden can do that. He did it at NSA. He made a transformation of the thought process over there, and likewise he can do it here.

But it is interesting: who would be his deputy? Well, we don't know entirely for sure, but I would like to read part of a column in today's Washington Post by David Ignatius. I happen to know him. His father, coincidentally, was Secretary of the Navy just before the late Senator CHAFEE and joined that Secretariat. And he is an author of some distinction.

He points out that the current thinking, and I believe it to be correct, is that the transition in the CIA would be painful for General Hayden, I read from his article, but he's got a good choice for the second person in Mr. Stephen Kappes. And it is interesting about Mr. Kappes' career. I would like to read just a part of the column.

At the core of the intelligence puzzle is the CIA, whose very name is outdated. It is no longer the Central Intelligence Agency, coordinating the work of the community. That's the DNI's job now. In a sensible reorganization, the CIA should refocus on the specific mission for which it was created more than 50 years ago—gathering HUMINT, which is intelligence jargon for the secrets between someone's ears. The days when the CIA could be all things to all intelligence consumers are over. Today's CIA should be a truly secret intelligence service in which the job of analysts is to target operations. The all-source analysis that creates finished intelligence should be managed by the DNI.

Making this transition at the CIA will be painful, and Hayden is a good choice for the necessary surgery. As a feisty military officer, he's paradoxically the right person to fend off poaching by the Pentagon. By his own admission, Hayden doesn't know much about the CIA's operational work, but he does know how to modernize a big, hidebound bureaucracy. He did that at the National Security Agency—helping the wiretappers adapt to a new world of e-mail, fiber-optic cables and wireless phones. He made enemies at the NSA, but he was a successful change agent.

Hayden will have the ideal partner in Stephen Kappes, who is slated to be deputy director. Kappes is something of a legend at the agency: a charismatic ex-Marine who knows how to lead from the front. He punched all the tickets—fixing a broken Iranian operations group that had lost a string of agents, serving as chief of station in Moscow and as head of counterintelligence, and visiting Moammar Gaddafi and persuading him to give up his nuclear weapons program. Kappes' pitch to the Libyan leader is said to have been blunt, and irresistible: "You are the drowning man and I am the lifeguard."

And on it goes. It points out very carefully that in the eyes of the professionals at the Agency, this gentleman, Mr. Kappes, is a man of impeccable credential, one who resigned from the Agency rather than fire his deputy, and that is to his everlasting credit.

So I believe the morale at the Agency will be raised, Mr. President. It is a magnificent group of professionals. Our Nation should take pride in the quality of persons who fortunately are selected to serve in the CIA for generations. And I am proud and humbled to have a voice in representing so many of the officers at the CIA, who are my constituents. But I do so in knowing that this Agency is essential to our intelligence operations. This new leadership team of General Hayden and Mr. Kappes will take over and provide the strong direction that is needed to even strengthen the Agency, and to the extent that there has been any diminution in morale, I am confident this team will raise in a very short period of time.

Mr. President, I ask unanimous consent to have printed in the RECORD the full column from David Ignatius, and an excerpt from the official biography of General Hayden.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 10, 2006]

THE CIA'S MISSION POSSIBLE

(By David Ignatius)

Firing Porter Goss was the easy part. The challenge now is to complete the reorganization of U.S. intelligence so that the 16 spy agencies under Director of National Intelligence John Negroponte are fighting America's enemies rather than battling each other in bureaucratic turf wars.

But how to fit the pieces together? That's the quandary for Negroponte and Gen. Michael Hayden, the administration's nominee to succeed the miscast Goss. I suggest they take a careful look at the British model. The Brits have a basic division of labor: a small, elite Secret Intelligence Service (known as MI6) collects human intelligence: an interagency group known as the Joint Intelligence Committee analyzes that information for policymakers and tells the spies what to collect. When I look at Negroponte's organization chart, that's the model that I hope is emerging. If so, he's moving in the right direction.

At the core of the intelligence puzzle is the CIA, whose very name is outdated. It is no longer the Central Intelligence Agency, coordinating the work of the community. That's the DNI's job now. In a sensible reorganization, the CIA should refocus on the specific mission for which it was created more than 50 years ago—gathering HUMINT, which is intelligence jargon for the secrets between someone's ears. The days when the CIA could be all things to all intelligence consumers are over. Today's CIA should be a truly secret intelligence service in which the job of analysts is to target operations. The all-source analysis that creates finished intelligence should be managed by the DNI.

Making this transition at the CIA will be painful, and Hayden is a good choice for the necessary surgery. As a feisty military officer, he's paradoxically the right person to fend off poaching by the Pentagon. By his own admission, Hayden doesn't know much about the CIA's operational work, but he does know how to modernize a big, hidebound bureaucracy. He did that at the National Security Agency—helping the wiretappers adapt to a new world of e-mail, fiberoptic cables and wireless phones. He made enemies at the NSA, but he was a successful change agent.

Hayden will have the ideal partner in Stephen Kappes, who is slated to be deputy director. Kappes is something of a legend at the agency: a charismatic ex-Marine who knows how to lead from the front. He punched all the tickets—fixing a broken Iranian operations group that had lost a string of agents, serving as chief of station in Moscow and as head of counterintelligence, and visiting Moammar Gaddafi and persuading him to give up his nuclear weapons program. Kappes's pitch to the Libyan leader is said to have been blunt, and irresistible: You are the drowning man and I am the lifeguard.

Kappes is the CIA version of the ultimate stand-up guy. After achieving his dream of heading the Directorate of Operations, Kappes walked away from the job in late 2004 rather than fire his deputy, Mike Sulick, as demanded by one of the conservative hatchet men Goss had brought with him from Capitol Hill. A former agency officer remembers the reaction to Kappes's departure: "It was a devastating body blow, like someone has punched you in the solar plexus. The wind came out of the sails that day and it has never come back."

Kappes had a plan for reorganizing the Directorate of Operations when he left, and he's in a position to implement it now. It's said that he wants to create a far more nimble spy service—one that can attack terrorist groups and other targets around the world more aggressively. Today the CIA is still locked in a Cold War structure, with the same fixed array of directorates and geographical divisions. The agency is frantically hiring new case officers, but under the old structure there aren't "OCPs" (or overseas covered positions) ready for them, so many of the young recruits languish, "stacked up at headquarters like cordwood" in the phrase of one CIA insider.

CIA veterans say Kappes hopes to create an operations capability that's more like a flying squad—detached from headquarters and its layers of bureaucracy. If an al-Qaeda call surfaces on a remote island in the Philippines where the United States doesn't have an embassy or consulate, officers from Kappes's revamped spy service could grab a laptop and be on their way in hours.

Maybe it's time to say goodbye to those three spooky initials "CIA" and the bloated, barnacle-encrusted agency they represent. Let Negroponte move his shop to Langley and create a new elite analytical service there. Meanwhile, let the covert operatives slip away in the night to destinations unknown, where they can get to work stealing the secrets that will keep America safe.

BIOGRAPHY OF

U.S. AIR FORCE GENERAL MICHAEL V. HAYDEN

Gen. Michael V. Hayden is Principal Deputy Director of National Intelligence, Washington, D.C. Appointed by President George W. Bush, he is the first person to serve in this position. General Hayden is responsible for overseeing the day-to-day activities of the national intelligence program. He is the highest-ranking military intelligence officer in the armed forces.

General Hayden entered active duty in 1969 after earning a bachelor's degree in history in 1967 and a master's degree in modern American history in 1969, both from Duquesne University. He is a distinguished graduate of the university's ROTC program. General Hayden has served as Commander of the Air Intelligence Agency and as Director of the Joint Command and Control Warfare Center. He has been assigned to senior staff positions at the Pentagon, Headquarters U.S. European Command, National Security Council and the U.S. Embassy in the People's Republic of Bulgaria. The general has also served as Deputy Chief of Staff, United Nations Command and U.S. Forces Korea, Yongsan Army Garrison, South Korea. Prior to his current assignment, General Hayden was Director, National Security Agency, and Chief, Central Security Service, Fort George G. Meade, Md.

EDUCATION

1967 Bachelor of Arts degree in history, Duquesne University, Pittsburgh, Pa., 1969 Master's degree in modern American history, Duquesne University, 1975 Academic Instructor School, Maxwell Air Force Base, Ala., 1976 Squadron Officer School, Maxwell AFB, Ala., 1978 Air Command and Staff College, Maxwell AFB, Ala., 1980 Defense Intelligence School, Defense Intelligence Agency, Bolling AFB, D.C., 1983 Armed Forces Staff College, Norfolk, Va., 1983 Air War College, Maxwell AFB, Ala.

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Tennessee.

Mr. ALEXANDER. How much time remains?

The PRESIDING OFFICER. Five minutes.

ENGLISH UNITES

Mr. ALEXANDER. Mr. President, on Monday night, with unanimous support, the Senate passed resolution No. 458 that I sponsored, along with 12 other Senators, affirming that the Pledge of Allegiance and the National Anthem be said or sung in the language that unites us as one Nation, that language being English.

This was more than bipartisan. It was unanimous, with one dissent expressed on the other side. It should be virtually unanimous.

This is the land of immigrants. Almost all Americans know we need and must value our common language, which is English. Yet during the last week, the idea of a non-binding resolution expressing the Senate's thought that whenever we say the Pledge of Allegiance, sing the Star-Spangled Banner, take the oath of citizenship, that it ought to be in our common language, produced quite a little storm across the country. Some said we were restricting liberty.

But this not about what we are free to do; this is about what we ought to do at the opening of the Senate, at the opening of a ball game or Boy or Girl Scout troop meeting. As Americans, we are free to sing the Star-Spangled Banner in Swahili, we are free to say the Pledge of Allegiance in pig Latin, but that is not what we ought to do. And the Senate, by unanimous consent, said that on Monday night.

Some said this was disrespect for other languages. Nothing could be further from the truth. I believe our official documents ought to be in our common language. I have always favored, including when I was Education Secretary of this country, what I call "English plus." The luckiest among us are those who know more than one language, but one of those must be English. Children should learn it as quickly as possible if they want to succeed in the United States of America.

The real reason for the storm of reaction to the singing of the Star-Spangled Banner in a foreign language is that most Americans instinctively understand that while diversity is important, unity is more precious. That is why we pledge allegiance to the American flag rather than the flags of the countries from which our ancestors came. That is why most of our politics is about principles upon which we agree, principles found in our founding documents. That is why we give rights to individuals instead of to groups. That is why we honor our common language, English.

In Sunday's Washington Post, a Chilean-American playwright, a professor at Duke, said our country is well on its way to becoming a bilingual nation and that he thought we would endure just fine. I respectfully disagree. I think it would make it harder for us to endure. I think it would make us more a United Nations than the United States of America.

Now the Senate unanimously agrees. So does the mayor of Los Angeles, an Hispanic American. Antonio Villaraigosa said:

> I was offended by the idea of a national anthem in another language because for me the

> national anthem is something that deserves respect. Without question the vast majority of people in the United States were offended, as well. Our anthem should be spoken English.

So says New Mexico Governor Bill Richardson, a Hispanic American, who said on the "CBS Early Show" last week:

> I agree. The national anthem should be in English. Most immigrants want to become American. They want to learn English. They want to be part of the American mainstream.

Twelve cosponsoring Senators agree. Many Democrats in the House of Representatives have joined as cosponsors. Senator CONRAD from North Dakota spoke on this in the Senate last week and said:

> A common language is absolutely essential to our Nation. I look to our neighbors to the north [meaning Canada] and see incredible traumas they have been through because they are speaking in two different languages. My own strong belief is we ought to say the pledge in English and sing the national anthem in English.

Ramon Cisneros, the publisher of a Spanish language newspaper in Nashville, e-mailed me:

> Thank you for the resolution. Our common language as Americans is and will always be English. Our national symbol should always be said and sung in English.

We have worked hard to make English our common language, creating common schools, requiring new citizens to learn English to the eighth grade level. The Senate last week passed grants to help prospective citizens learn English. We welcome legal immigrants to this country. But we expect they will become American, that they will learn our common language, English, that they will learn our history, that they will subscribe to our values as found in the Declaration of Independence and Constitution, and when they became citizens, they will renounce allegiance to their former government and swear allegiance to our laws and Constitution. That is what holds us together as the United States of America.

So I am glad, in conclusion, that as the Senate stood together for our economic identity as Americans, it did it unanimously and passed our resolution affirming that statements of national unity, including the Pledge of Allegiance and the national anthem, should be said or sung in our common language, English.

The PRESIDING OFFICER. The Senator from Hawaii.

NATIVE HAWAIIAN GOVERNMENT ACT OF 2005

Mr. AKAKA. Mr. President, I rise today to talk about an issue of significant importance to the people of Hawaii, S. 147, the Native Hawaiian Government Reorganization Act of 2005. While opponents of this legislation have sought to characterize this issue as a Native versus non-Native issue, I am here to tell you that there is nothing further from the truth. This bill is important to all of the people of Hawaii.

Why? It is significant because it provides a process, a structured process, for the people of Hawaii to finally address longstanding issues resulting from a dark period in Hawaii's history, the overthrow of the Kingdom of Hawaii. The people of Hawaii are multicultural and we celebrate our diversity. At the same time, we all share a common respect and desire to preserve the culture and tradition of Hawaii's indigenous peoples, Native Hawaiians.

Despite this perceived harmony, there are issues stemming from the overthrow that we have not been able to address due to apprehension over the emotions that arise when these matters are discussed. There has been no structured process. Instead, there has been fear as to what the discussion would entail, causing people to avoid the issues. Such behavior has led to high levels of anger and frustration as well as misunderstandings between Native Hawaiians and non-Native Hawaiians.

As a young child, I was discouraged from speaking Hawaiian because I was told that it would not allow me to succeed in the Western world. My parents lived through the overthrow and endured the aftermath as a time when all things Hawaiian, including language, which they both spoke fluently, hula, custom, and tradition, were viewed as negative. I, therefore, was discouraged from speaking the language and practicing Hawaiian customs and traditions. I was the youngest of eight children. I remember as a young child sneaking to listen to my parents so that I could maintain my ability to understand the Hawaiian language. My experience mirrors that of my generation of Hawaiians.

While my generation learned to accept what was ingrained into us by our parents, my children have had the advantage of growing up during the Hawaiian renaissance, a period of revival for Hawaiian language, custom, and tradition. Benefitting from this revival are my grandchildren who can speak Hawaiian and know so much more about our history.

It is this generation, however, that is growing impatient with the lack of progress in efforts to resolve longstanding issues. It is this generation that does not understand why we have not resolved these matters. It is for this generation that I have written this bill to ensure that we have a way to address these emotional issues.

There are those who have tried to say that my bill will divide the people of Hawaii. As I have just explained, my bill goes a long way to unite the people of Hawaii by providing a structured process to deal with issues that have plagued us since 1893. The misguided efforts of my colleagues who seek to delay the Senate's consideration of this bill, however, may have a divisive effect on my state.

This bill is also important to the people of Hawaii because it affirms the dealings of Congress with Native Hawaiians since Hawaii's annexation in 1898. Congress has always treated Native Hawaiians as Hawaii's indigenous peoples, and therefore, as indigenous peoples of the United States. Federal policies towards Native Hawaiians have largely mirrored those pertaining to American Indian and Alaska Natives.

Congress has enacted over 160 statutes to address the conditions of Native Hawaiians including the Native Hawaiian Health Care Improvement Act, the Native Hawaiian Education Act, and the Native Hawaiian Home Ownership Act. The programs that have been established are administered by federal agencies such as the Departments of Health and Human Services, Education, Housing and Urban Development, and Labor. As you can imagine, these programs go a long way to benefit Native Hawaiians, but they also serve as an important source of employment and income for many, many people in Hawaii, including many non-Native Hawaiians. There are many Hawaii residents whose livelihoods depend on the continuation of these programs and services.

This, colleagues, is why this bill is important to the people of Hawaii. I ask all of you to respect our efforts by voting to bring this bill to the floor for consideration and for a vote.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, under the previous order, if I might inquire, the time is allocated to this side; is that correct?

The PRESIDING OFFICER. That is correct. Twenty-two minutes remains on the minority side.

Mr. NELSON of Florida. I thank the Presiding Officer.

Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Thank you, Mr. President.

HEALTH INSURANCE REFORM

Mr. NELSON of Florida. Mr. President, the underlying bill we are discussing is an attempt at a much needed reform of the health insurance system of this country.

If you wonder why there is the organization of health insurance in this country that we have, it is as a result of a historical accident. It was when all the veterans were coming home after World War II that employers, in order to get them to come and work for their company, would offer fringe benefits, one of those fringe benefits being health insurance. Therefore, a system developed in this country of organizing health insurance around an employer.

As time grew and things got more complicated, health insurance offered by an employer that was a large employer, with hundreds and thousands of employees, could offer a cheaper rate because of the principle of insurance: that is, you take the health risk, you spread it over the most number of lives, and therefore you bring down the per-unit cost or the cost to the individual for the health insurance premium. Because in a much larger group, you have young and old, you have sick and well; instead of a group being smaller and smaller—especially if it is a mom-and-pop store that wants to insure their employees—there are not many lives over which to spread that health risk, and therefore the cost of that health insurance is going to be so much more than on a large group.

That is why we have used the Federal Employees Health Benefits Plan as an example we should try to achieve. There are approximately 9 million people in that health insurance plan. So you have 9 million people over which to spread the health risk, and therefore you can bring down the per-unit cost. You can let it be private enterprise with the individual insurance companies competing for that business. And you give the consumer the choice: do they want a "Cadillac" policy with a lot of bells and whistles or do they want a "Chevrolet" policy, which is much more pared down?

Now, that is the ideal we ought to achieve, and that is what the Enzi bill is trying to achieve. The problem is that the Enzi bill has a fatal flaw; that is, there is no regulation of the insurance companies. That is the fatal flaw.

Now, I can inform the Senate, this Senator from Florida, prior to coming to the Senate, had the privilege—and I might say the toughest job in my entire adult life of public service—to be the elected insurance commissioner of the State of Florida. And through one crisis and another, you kind of, in that crucible, start to learn something about insurance. One of the things I learned is, if insurance companies are not regulated, then, guess what, insurance companies will want to insure the lower risk—in other words, the healthier people, the younger people who are not going to get sick—and if they do insure the sicker and the older, the price is going to go up through the roof.

You need a regulator to regulate the business of insurance, to protect the interest of the public. That is why, in the 1930s, the McCarran-Ferguson Act, passed by the U.S. Congress, left to the 50 States the regulation of insurance, and that is why departments of insurance are set up in most States—most of which, by the way, have an appointed insurance commissioner; very few States have an elected insurance commissioner—and they are there for the purpose of protecting the consumers of a product which is not a luxury and has now become a necessity. In the case of health insurance, we Americans look at it as almost something that is, if not a right, clearly something that is a necessity for the good health we all want to have.

So what is wrong with the Enzi bill? I can tell you, there is not a finer Senator than Senator ENZI. There is not a finer gentleman than Senator ENZI. So as I have talked to Senator ENZI about the deficiency of his bill, the fatal flaw—the idea of pooling is great, but when insurance companies are not regulated, as is the case in his bill, what is going to happen? The price is going to get jacked up. The group is going to get smaller and smaller. It is going to get older and older. It is going to get sicker and sicker. And the insurance premiums are going to continue to go up.

So I have talked to Senator ENZI, and I have said: Let's correct this deficiency by amending it so we impose what has been the delivery of insurance in this country since the 1930s; that is, the protection of the consumers with a regulator. But guess what. Senator ENZI is under the direction of the majority leadership, and the majority leadership says, in the consideration of this bill, they will not allow it to be amended.

Now, isn't the Senate the place where deliberation is to occur? And if this Senator from Florida, on the basis of his experience for 6 years as an insurance commissioner, can point out an improvement to the bill that otherwise, if passed and went into law, would do one thing: jack the rates up—exactly the opposite that all the small businesses that are advocating for this bill want; it would have the exact opposite result, it would jack the rates up—is it not the business of the Senate to deliberate, to consider amendments, to amend, to perfect, to improve, and then, hopefully, pass a much needed piece of legislation to give small business some relief from this accident of history that started at the end of World War II with the veterans coming home, organizing insurance around an employer?

Small business has it rough because small business cannot afford the cost of the insurance.

Now, another amendment that, of course, we would like to entertain happens to do with health insurance as well. But it has to do with senior citizens' health insurance; that is, Monday, May 15, is a deadline for senior citizens signing up under the new prescription drug benefit. Increasingly, senior citizens are anxious because they have this deadline they are being forced into.

Many of them—millions of them—not the ones who have automatically gone into the new program under the new law—I am talking about senior citizens who have to make a choice, knowing they are going to be penalized if, by Monday, they choose a plan, and then, if it is the wrong plan, it cannot be changed until the end of this year. So they are stuck. Or if they do not sign up for this plan by Monday, May 15, they are going to be penalized 1 percent a month. How many months is that between May and the end of the year? Six or seven. In other words, then, when they sign up, they are going to have to pay a 6- or 7-percent penalty. That is not right. We should not do that to our seniors.

All we could do is amend this bill. OK. Do not take my position, which gives them to the end of the year. Well, let's give them 2 or 3 or 4 months before the deadline comes. But the clock is ticking, and it is ticking down to next Monday, May 15.

I yield to the Senator.

Mr. KENNEDY. Mr. President, wasn't the Senator's impression that the prescription drug program was going to be a voluntary program? And for millions of people—or for hundreds of thousands in my State—people felt it was going to be a voluntary program. They were absolutely confused. We have 45 different programs with a wide variance in copays and deductibles with individuals on a formulary one day and off a formulary another day.

I would be interested as well if the Senator would comment on the General Accounting Office's report that I thought was rather devastating in terms of the ability of the CMS to be able to communicate to seniors about their options.

As I understand what the Senator from Florida is saying, millions of Americans thought the prescription drug program was voluntary, so they did not think they really had to get involved in it. Then, they might have heard they better sign up. Now they are increasingly conscious about the penalty and, at the same time, we have a General Accounting Office report that said the ability for our seniors to understand the prescription drug program is a real mystery.

How has that played out for the people in Florida whom you represent? How have the conclusions of that General Accounting Office report played out that said people would call up and they would get misinformation on the phone? There was confusion even among those who were supposed to be doing the briefings for seniors. The degree and the extent of confusion for seniors is because of the multiplicity of programs.

I would be interested in what the Senator's experience in Florida has been.

Mr. NELSON of Florida. The distinguished Senator from Massachusetts is exactly right. In my State of Florida, being one of the States that has the highest percentage of senior citizens, indeed, they have been confused, they have been bewildered, and they have been frightened. They are confused because there are 43 plans in Florida they are trying to choose amongst. They are frightened because they know if they choose the wrong plan that maybe does not have the drug they need, they are stuck until the end of the year to make a change into another plan or they are frightened because if they are paralyzed to the point they cannot make a decision by next Monday, then they know when they do make a decision, they are going to be penalized 6 or 7 percent on the premiums they are going to pay. Either way, they are going to get hit, through no fault of their own.

If only we would show some compassion here. As I said, as the Senator was coming to the floor, you do not have to take this Senator's position and delay it all the way to the end of the year. Why don't we get some compassion and delay it a few months so that, again, the groups that are out there that are trying to advise the seniors—one of the major concerns of the senior citizens is getting the health care they need; and prescription drugs today means so much to them, indeed, to us, as well, with regard to the quality of life we are privileged to have not compassionately extend this deadline a few months in order to give some relief?

Yet we come to the floor, we try to do that, and we are prohibited through a parliamentary procedure of filling the amendment tree so that we cannot offer these amendments, whether it be this one or the one I spoke about earlier which is to correct the deficiency of the Enzi bill and have some provision for regulation of insurance companies in health insurance.

Mr. KENNEDY. I understand the President is in his home State today. Given the track record of the administration and the mismanagement of the prescription drug program and the fact that there is genuine concern and confusion among seniors, what reason did the administration give you for not following your extremely reasonable, sound suggestion that could make a difference for seniors all over the country?

Mr. NELSON of Florida. I thank the distinguished Senator for his question. The answer is, I have asked representatives of the administration in two different committees this same question. The answer comes back, coldheartedly: We have a deadline. We have to enforce that deadline or people will not make a decision.

I understand the necessity of a deadline. The nature of human beings is that we often procrastinate. But there are compassionate exceptions that ought to be considered. This is one. Coming from a State, as I do, with a high percentage of our population made up of senior citizens, this certainly ought to be a compassionate exception.

Mr. DURBIN. Will the Senator yield for a question?

Mr. NELSON of Florida. I am happy to yield to the distinguished assistant minority leader.

Mr. DURBIN. I understand we are only about 5 days away from the deadline for people to sign up for Medicare prescription Part D. I know the Senator has joined me and others in suggesting this program could have been done differently, a lot fairer, a lot simpler, could have more competition so that seniors would have had even lower drug prices. Sadly, major parts of it were written by the pharmaceutical industry and by the insurance industry.

I know the Senator from Florida has spoken to many seniors, as I have, and knows that as they have tried to understand the program and sign up for it, some of them have been overwhelmed. In Illinois, there are over 45 different programs from which to choose. I talked to pharmacists, who are a good source of information, who tell me the seniors come in, throw up their hands, and say: What are we supposed to do?

I ask the Senator from Florida, when you reflect on the fact that there are some 35.8 million Medicare beneficiaries who have drug coverage, according to the administration, isn't it true that 70 percent of those people—more than 26 million—already had prescription drug coverage before this program was underway? And of the 16 million who previously did not have coverage, about 10 million or so have signed up. So we still have about 6 million of the 16 we were trying to sign up for drug coverage—sounds to me like a substantial percentage, 6 million—who have not signed up at this point, about 40 percent. They are facing a penalty.

Do I understand the Senator from Florida has joined with others, including myself, in legislation extending the deadline for signing up, also saying to the seniors: If you made a mistake in choosing a program, we will give you a makeover, a do over, so that you can change the program within 1 year without penalty? I ask the Senator to explain.

Mr. NELSON of Florida. The distinguished Senator from Illinois understands correctly. If the deadline were extended until the end of the year, the administration's own figures are that an additional 1 million-plus senior citizens would sign up of that group of 6 or 7 million. If that is a million seniors who would not suffer the economic hardship of an additional 6 or 7 percent penalty or the economic hardship of not being able to have the right drug they need because they signed up with a mistaken decision of a wrong formulary, then is that not worth it for the sake of the senior citizens to grant a compassionate extension?

Mr. DURBIN. I ask the Senator from Florida, does he believe, as I do, that if we would have allowed the Medicare Program to bargain with the drug companies to get, by bulk discount, the lowest prices for seniors, just the way the Veterans Administration does, that the end result would have been at least one kind of standard program, Medicare Program, with lower prices which other private companies could have competed with, if they chose? Wouldn't that have offered the lowest price to the seniors and one simple standard program to turn to if they had any doubts about the right choice?

Mr. NELSON of Florida. The Senator is correct. As a matter of fact, it is something the Federal Government has been doing for over two decades in the Veterans Administration. The Veterans Administration buys prescription drugs in bulk. As a result, the cost to veterans is $7 per month for their prescription drugs. Using the law of economics in the private free marketplace, buying drugs in bulk, you can negotiate the price down. But when this body passed the prescription drug bill 3 years ago, Medicare, the Federal Government, was prohibited from purchasing in bulk and negotiating the price down.

Mr. DURBIN. How much time remains, Mr. President?

The PRESIDING OFFICER. Less than 1 minute.

Mr. DURBIN. The administration has argued the reason they didn't let Medicare bargain down in bulk discounts is because they wanted the market to work its will. Am I correct in remembering that they also appropriated hundreds of billions of dollars to subsidize the insurance companies that were going to offer this? Is that kind of massive Federal subsidy consistent with free market economics?

Mr. NELSON of Florida. The Senator's point is not only correct, but it is so pointed that anyone who hears it should suddenly say: Ouch.

Mr. DURBIN. I thank the Senator.

Mr. NELSON of Florida. Mr. President, I yield the floor.

Mr. FRIST. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ISAKSON). Without objection, it is so ordered.

MORNING BUSINESS

Mr. BURR. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business until 2 p.m., with Senators permitted to speak for up to 10 minutes each; further, that this time be equally divided and upon the conclusion at 2 p.m. the Senate majority leader be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Madam President, as I understand, we are in a period of morning business.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator is correct.

HEALTH CARE WEEK

Mr. KENNEDY. Madam President, for those Americans who believe the Senate was going to have a debate this week on health care policy—and they have been watching the activities in the Senate this morning—they must be mystified about how and whether we are going to have a debate at all. We will know the answer to that at 2 o'clock, when the majority leader will address the Senate.

The best judgment now is, for all intents and purposes, that the debate on the issue of health care will be terminated through a parliamentary process that will be worked out, making it impossible to offer amendments to the underlying bill, which is the usual way of proceeding in the Senate. Instead of debate on health care, we will find that time will move on, there will be debate and discussion about some of the tax issues tomorrow and probably voting on cloture on the underlying Enzi legislation.

Let me point out how disappointed I am in this result. We are aware the leader said we were going to have a Health Care Week in early May, and we would have a chance to debate issues which relate to health care. Health care is a matter of enormous importance to families all over this country—we all know that. As Members of this Senate, we cannot go to our home States without being exposed to different aspects of the health care crisis. Certainly this is true more so today, perhaps, than in recent times. We are very disappointed that the Senate will not have the opportunity to address some of the underlying issues on health care.

We now have 46 million Americans who do not have health insurance. The total number of uninsured has been increasing by about a million a year over the period of the last 6 years. There is every indication that this increase in the number of uninsured is a phenomenon that is going to continue.

We know that in terms of the coverage, an increasing number of Americans are only a paycheck away from losing their health care insurance. They are very concerned about losing coverage, especially with all of the changes we see in terms of the economy and the challenges we are facing in terms of good jobs, good benefits, and health care protection.

For all of these reasons, Americans are concerned about losing health care insurance.

We have increased the total health care spending over 6 years from $1.3 trillion to $1.9 trillion. We are spending $600 billion more on health care and yet 6 million people have lost coverage. The numbers related to health are spending and the uninsured are going in the wrong direction. We have a growing number of uninsured, yet we are paying more in taxes and for the costs of health care. This does not make a great deal of sense. We ought to get about the business of trying to deal with the problem of decreasing numbers of insured Americans and increasing health care spending.

My State of Massachusetts has tried to get its arms around the problem of inadequate coverage of health are insurance, and I commend our leaders in Massachusetts for attempting to do that. We need to do that here in the Senate. Premiums have gone up 73 percent in the last 6 years. Wages have gone up approximately 13 percent. How do average working families possibly get ahead and afford the kind of health care they need when we see the costs of health care going right through the roof?

It is not just the costs of health care creating problems for working families. We know that working families are paying more in terms of gasoline, and they are paying more in terms of higher education. This last winter, in many instances my constituents were paying a great deal more on fuel assistance because of the rising costs of fuel. While costs are rising, wages are not.

All of these challenges are out there for Americans. Beyond this, we are in the age of the life sciences with new possibilities for breakthrough drugs in Alzheimer's and Parkinson's disease. If we had a break in terms of Alzheimer's disease and we were able act on that breakthrough, we would empty one-third of the nursing home beds in my home State of Massachusetts. There are profound implications in terms of the quality of life Americans people could live. Our influence could not only improve the quality of life for people in the United States but it could also influence the quality of life of people around the world. Though unimaginable, we have made reductions and cuts in NIH research at a time when we have splendid opportunities for breakthroughs in health care.

We thought we might have an opportunity to have a health care debate on stem cell research, an issue which led to legislation being passed in the House of Representatives. The legislation, which we believe a clear majority of this Senate favors, is now waiting on the calendar. I call it the legislation of hope—there are no guarantees about what stem cell research might be able to do in the future, but it will provide great hope for millions of families that have Parkinson's, Alzheimer's, spinal cord injuries, and so many other illnesses.

We should be able to do something that Senator NELSON from Florida has been talking about for weeks. Unless we take action, approximately 8 million American seniors will be paying more for prescription drugs if they do not file under the Medicare prescription Part D drug program in the next few days. We know most seniors are living on fixed incomes, and they will be paying hundreds of millions of dollars more if they do not file under Medicare Part D drug program. We have an opportunity to do something about this problem, but we are being blocked.

We are blocked on stem cell research. We are blocked on doing something for our senior citizens in terms of penalties related to the Medicare Part D drug program. We are blocked from perhaps changing our law and permitting our Medicare system to bargain with the pharmaceutical companies to get lower priced prescription drugs for our seniors as we do in the VA system. All of our seniors understand that Medicare should be able to negotiate lower prices for prescription drugs, but we are prohibited from doing that by law. There is virtual unanimity among the Democrats to change Medicare's ability to bargain for lower drug prices. Do we have an opportunity to do that? No, we cannot do that, either. We are prohibited from having that debate, having that discussion, having that vote which would mean so much to the quality of life of so many of our seniors, let alone the issues regarding the possibilities of reimportation of drugs, which has been an issue that many Members know can make a big difference in terms of availability of prescription drugs. However, we are not going to have that opportunity.

Finally, we are not even going to have the opportunity to see the small business proposal which has been prepared by Senator DURBIN and Senator LINCOLN which I strongly support. Their proposal can make a difference for small businesses. It helps small businesses retain health insurance for their workers and will provide incentives for those small businesses, the engine of the American economy, to bring people back into health care coverage. We ought to have the debate about Senator DURBIN and Senator LINCOLN's small business health plan proposal. Let the Senate make a judgment, a decision, about whether they favor, on the one hand, the proposal by Senators LINCOLN and DURBIN or, on the other hand, Senator ENZI. Let's have the votes and call it as we see it. But we are virtually prohibited from having that vote in the Senate.

Most Americans believed, when they elected their representatives, that they were going to come here, they were going to learn these issues, and they were going to tell their representatives what was on their minds. The Senators were going to learn the issues and then have a voice and a vote and try to move that process forward. Certainly that is what we all believe is our responsibility as elected officials. We thought we were going to have these debates and votes on health care this week, but we are not. I believe that this is a grave disappointment. It is an abdication of our leadership in the Senate on an issue which is of overwhelming importance—the quality of health care and the affordability of health care for the millions of American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, first I commend my colleague, Senator KENNEDY, for his leadership on this very important issue and all the many other issues on which he provides great leadership in the Senate.

I rise today to oppose this Senate bill, 1955. I believe it is well intentioned. I have the greatest respect for Senator ENZI and the role he is playing as chairman of the Committee on Health and Education, on which I am privileged to serve.

However, I also believe this particular proposal, S. 1955, is flawed and has many potential unintended consequences which could have a devastating impact on millions of Americans who currently have health insurance coverage. It is for that reason that I am a strong supporter of the alternative to which Senator KENNEDY referred; that is, the alternative Senators DURBIN and LINCOLN have put together which I will speak about in more detail in a minute.

I also suggest an alternative proposal that would bridge the gap between these two approaches and would build on the bipartisanship we clearly need in order to make any progress on health care issues in the remaining weeks of this Congress, which are diminishing rapidly, as all are well aware.

First and foremost, we need to keep in mind the important tenet that is referred to often when we talk about health care; that is, first, do no harm. That is what physicians are taught when they go to medical school. Clearly, that is something we should be taught when we come to the Senate.

One of the most significant concerns I have with this legislation that is pending in the Senate is that the language contains sweeping preemptions of literally hundreds of State insurance laws, not just for association plans or for the self-employed or even just for small businesses, but the legislation as presented to us preempts those State laws for large businesses as well.

Consequently, for the millions of people who currently have insurance coverage and count on consumer protections and benefits—including coverage of cancer screenings, diabetes treatment and supplies, immunizations, well-baby care, prenatal care or whatever benefits and protections their States require be included in insurance policies—that security is wiped out by S. 1955.

In short, the bill literally puts at risk the health security of millions of Americans by preempting longstanding State insurance laws to impose an untried, untested proposal throughout the country.

While I certainly do not disagree with the idea that there may be insurance laws and mandates that States have enacted that are not needed, I do think most often the mandates and the provisions that are adopted at the State level are adopted in response to real needs those State legislatures have perceived and real crises that have been pointed out in those States. As such, by preempting those consumer protections, there are real national goals that we all share that would be undermined.

For example, we have a national goal to improve immunization rates among children. So why should we backtrack and potentially undermine what the States have done to ensure that insurance plans offered in the individual States provide for coverage of a full set of immunizations for their children?

While a number of Senators have come to the Senate floor condemning various State mandates, who really thinks we should not be covering cancer screenings, as an example, and treatment and prevention or diabetes education and supplies?

Some will argue that the benevolent insurance industry would never fail to cover these items. But, in fact, there are insurance products for sale in this country in some States—for example, in Ohio—that do not cover diabetes supplies and education, precisely because there is no requirement they do it.

State insurance laws, including mandates or laws regarding market conduct of insurance plans, were passed because of real problems that were perceived in the insurance market. Consequently, it makes little sense to preempt literally hundreds of State laws overnight and to put all hope that insurers would have to offer businesses a plan offered to State employees in one of the five most populated States. That is what is touted as the guarantee of consumer protections.

As the bill now reads, if a plan fails to offer certain protections, and it is being offered to employees in one of these five most populated States by that State, then that is a minimum that is acceptable throughout the country with regard to all insurance plans. I do not see why the people of New Mexico or the people of any other State should be at the mercy of what one of the Governors of these large States decides to offer to that State's employees.

The five Governors are certainly respected public servants—Governor Schwarzenegger, Governor Bush, Governor Perry, Governor Pataki, and Governor Blagojevich—that is a mouthful, Madam President—but I do not see why any of those Governors should be able to lessen the protections that we provide to consumers in New Mexico.

If Governor Bush passes a barebones package in Florida, do all of the people of my State of New Mexico have to fear losing health benefits? That would be the effect of the pending legislation.

In fact, for rural States, a package in the five most populated States is very likely to fail to recognize the special challenges we have in rural communities. Let me give you one example.

In New Mexico, we have a mandate for access to psychologists. If you sell a health insurance policy in New Mexico, you have to cover access to psychologists. This was passed in response to the fact that our State leads the Nation in the number of suicides per capita. Also, there are very few psychiatrists who are located in areas outside of Albuquerque and Santa Fe, which is our more urban part of the State.

So our State leaders, in part due to the leadership of my colleague, Senator DOMENICI, have been making great strides with respect to mental health coverage and benefits in New Mexico. But that could be undermined by this pending legislation. Literally overnight, our State mandates could be preempted and replaced with the allowance that insurance companies could provide whatever benefits they desire or that any plan offered by the five most populous States in the country to their employees would be adequate in New Mexico.

I would note that even though 42 States have requirements that insurance plans offer access to psychologists, Florida does not, and may not, in their State employees' plan. Therefore, any insurer could adopt that plan and hundreds of thousands of people would lose access to mental health professionals in a State such as mine, New Mexico. This is one example of real regional or local issues that I believe are not adequately addressed in this bill.

Another simple but important example of a problem with the legislation is that most States require insurance plans to cover newborns and adopted children and adult disabled children. This bill would undermine such requirements. Why should the Senate undermine this critical coverage of some of our Nation's most vulnerable children?

Fundamentally, we should not be encouraging underinsurance and benefit insecurity among most Americans as part of a bill that is intended to increase health coverage among small businesses, but, unfortunately, that is the unintended consequence of S. 1955.

It is why literally hundreds of national and State-based organizations have come out in opposition to S. 1955, including the Nation's State health insurance commissioners and 41 of our States' attorneys general. All of these groups and individuals are opposing S. 1955 precisely because the legislation contains numerous provisions that, as the attorneys general write, "erode state oversight of health insurance plans and eliminate important consumer protections."

While some organizations have literally tried to claim that the attorneys general did not know what they were doing by taking the position they have taken. I was an attorney general of my State, and I can assure you those attorneys general knew exactly what they were doing when 41 of them joined together in a letter of opposition to S. 1955. They surely know a lot more about the laws of their States and the consequences of eroding insurance laws than some of the groups that are attempting to criticize them in this debate.

But even if you do not believe the attorneys general, the bill's text reads clearly it will "supercede any and all state laws" applicable to small business health plans as well as State laws regulating all other types of health insurance plans, not small business health plans, in six key areas: No. 1, mandated benefits; No. 2, rating requirements; No. 3, internal appeals; No. 4, rate and form filing; No. 5, market conduct reviews; and, No. 6, prompt payment of claims. So in all of those six areas, this legislation would override whatever the States have previously done.

So what are the consequences? As the attorneys general write:

> The point is that history has shown that eliminating state regulation of insurers has had extremely negative consequences for consumers, and there is no reason to exempt any insurer from the important consumer protections afforded by state regulation.

The sweeping nature of preemption of State laws and oversight is fairly breathtaking in this legislation. It is surprising to see how many of our colleagues, who are typically advocates for States rights, have embraced this legislation. It culminates with a provision in which insurance companies are afforded the right to sue States in Federal court.

The legislation, first of all, overturns and preempts this longstanding State authority over State insurance matters. Secondly, it imposes a new Federal system upon the States. Third, it declares States as nonadopted States if they do not conform their laws to the newly imposed Federal system. And, finally, it allows insurers to sue States in Federal court if they do not like the way the States are administering the federally imposed law.

Somewhere, it seems to me, the goal of the legislation has been lost. The stated goal was to give small businesses greater health insurance purchasing power and to reduce administrative costs in the purchase of health insurance. However, there are, in my opinion, far better approaches to achieving that goal than to gut State oversight of health insurance plans and to eliminate these important consumer protections.

For instance, eliminating the guarantee of coverage of insulin makes any insurance product meaningless to someone who has diabetes. As a result, I am a supporter—I know Senator KENNEDY indicated his strong support—and I also strongly support the legislation introduced by Senators DURBIN and LINCOLN precisely because it would address the affordability problems for businesses in the small group insurance market by giving them the ability to access a large purchasing pool which would be modeled on the successful Federal Employees Health Benefits Program, FEHBP. It would do so without eroding any of the consumer protections afforded people in State insurance laws and oversight.

Under this Durbin-Lincoln bill, small businesses would be allowed to band together in a large purchasing pool that would reduce premiums, reduce administrative costs, and give every small business and their employees a wide choice of plans. The amendment harnesses the power of market competition to bring down health care costs by using a proven negotiator that provides Federal employees across the Nation with access to affordable health care.

Let me make it very clear that we are not in any way affecting the health care coverage of Federal workers with this proposal, this Durbin-Lincoln proposal. Small businesses and their employees who choose to participate and buy their health care through this purchasing pool would be buying their health care through a separate pool—separate from Federal workers—but still a very large pool of small businesses around the country with 100 or fewer employees.

Last year, there were 249 private health insurance plans that participated and competed for the business of the FEHBP enrollees. This system would also benefit small employers. It would do so without undermining the benefits and coverage of large employers or the consumer protections that are afforded everyone under our State insurance laws.

What people fundamentally want from their insurance policy is something that is truly there when it is needed. Unfortunately, S. 1955 preempts that security and creates more unintended harm than good through an untested and unproven model of State preemption. In sharp contrast, this alternative that Senators DURBIN and LINCOLN—and I am proud to be a cosponsor—are proposing achieves the goals of helping small business in the underlying bill through a proven mechanism that each and every one of us and our staffs benefit from without upsetting the security that the health insurance marketplace provides to millions of Americans around the country.

There is also another alternative that I think is most promising for some type of health care reform in the reasonably near future in this Congress. This is bipartisan legislation that I was proud to join Senator VOINOVICH in introducing yesterday. This legislation, entitled the Health Partnership Act, is intended to move beyond the political gridlock we have in Washington on health care reform. I think that gridlock is, unfortunately, highlighted by the very debate we are having in the Senate this week.

Instead, the proposal Senator VOINOVICH and I have introduced sets us on a path toward finding solutions to affordable quality health care for all Americans by creating partnerships between the Federal Government and State and local governments and private payers and health care providers to implement some different and promising approaches to health care. In contrast to preempting State laws and solutions, the Health Partnership Act, which Senator VOINOVICH and I introduced yesterday, would provide for Federal funding and support to State reform efforts such as that recently enacted in the State of Massachusetts to reduce the number of uninsured, to reduce cost, and to improve the quality of health care. A Federalist approach to health reform, in sharp contrast to state preemption, would encourage a broad array of reform options that would be closely evaluated to see what is working and what is not.

Justice Brandeis is famous for his statement in 1932:

> It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.

The Health Partnership Act encourages this type of State-based innovation through a partnership rather than through preemption. This would help the entire Nation to better address both the policy and the politics of health care reform. As the debate before us underscores, there is not a consensus at the Federal level on any one approach. Instead of preempting State laws and innovation, we should be encouraging States to adopt a variety of approaches that may help us all better understand what does work and what does not. Rather than fighting to a standstill over whether the Enzi bill or the Durbin bill is the best approach. I would argue that the best solution would be to have a few States experiment with a model based on Senator ENZI's bill, if they chose to do so; other States experiment with a model based on the Durbin-Lincoln approach, if they chose to do so; and other States adopt alternative reforms such as those that have recently been passed by Massachusetts, Maine, New Mexico, New York, Illinois, Oregon, and Montana. This would also include encouraging reforms in local areas such as the three-share initiatives in a number of communities.

If given the opportunity—and there is still uncertainty about whether I will have that opportunity—I plan to offer an amendment that would give the States the choice between being covered by the Enzi model or being covered by the Durbin-Lincoln model for their small businesses. Therefore, the amendment would add the Durbin-Lincoln language to the Enzi bill with additional language that gives States the choice of deciding which approach to take.

If the proponents of S. 1955 are so confident that their approach is the best, let's let the States choose for themselves.

The PRESIDING OFFICER. By unanimous consent, it was agreed that each Senator would be limited to 10 minutes under morning business. The Senator has exceeded that time.

Mr. BINGAMAN. I ask unanimous consent that I be given an additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. From monitoring the various reform approaches that are taking place around the country, it is far more likely that we might learn from those efforts to actually find a mutual solution to the problem than to continue to have needless health care debates on the Senate floor. Just as States passed expansions of coverage for children prior to Federal enactment of the State Children's Health Insurance Act, we should once again let the States lead the way to reform. When the passions of this week die down and there appears to be nothing left standing, I hope people will take a serious look at the bipartisan legislation Senator VOINOVICH and I, Senators AKAKA and DEWINE have introduced. It is supported by groups such as the American Hospital Association, the American Medical Association, the National Association of Community Health Centers, and numerous other national and community-based organizations.

As speaker after speaker has noted, it is well past the appropriate time to act. I hope we can act and actually legislate in this area during this Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Madam President, many Members over the last several days have come to talk about health care, specifically the effects on small business. I know my colleague didn't mean it the way it sounded, that this was a "needless" debate about health policy. It is a very needed debate about health policy.

In North Carolina, 98 percent of the firms with employees are considered small business. Small business is who we are here to represent in this piece of legislation. Small business is the American business today that can't afford to offer health care as a benefit to its employees. Why? Because small business has few employees. They don't have the ability to negotiate in the volume that large corporations do.

Some have argued this is not a crisis. In North Carolina, we have 1.3 million uninsured North Carolinians; 900,000 of that 1.3 million are individuals in a family or on their own where an individual works full time. There is somebody in the family who works full time in that house, be it the individual or a family member, who would have the option to be insured under this bill, at least individually or, if not, under a family plan, and our uninsured population from North Carolina could go from 1.3 million to 400,000 with the passage of one piece of legislation.

This is not a needless debate. This is a needed debate. This is a population that today has two choices—nothing and nothing. Because an employer has found that health insurance is cost prohibitive. What is the employer's choice? I can provide you health care, but I can't stay in business. What good have we done for the employees, whether they are in North Carolina or anywhere else, if the option is, I can give you a benefit, but I can't keep you employed? This is to attempt to try to bring the same ability that big business has to small business, to negotiate as an association, as a group. This is the most natural thing I could think of that we could do to begin to relieve the pressure.

Does it solve health care? Absolutely not. It will take much more pressure from the American people for us to tackle the real structural changes needed in health care. But let me relate some stories from North Carolina and around the country. This comes from Hickory, NC. This woman owns a custom plumbing and heating business. She says she would like to be able to offer her employees and their families affordable health care coverage.

> As a parent and employer, I know the importance of having affordable insurance and the financial devastation that occurs when you have no coverage. Unfortunately, there has to be a tradeoff.

She says she only has one of two options to keep her doors open—either employees have no insurance or they don't have a livable wage.

Another one from an area in North Carolina, a small business owner has provided health insurance for his employees at no cost to them for the past 10 years. However, every 2 or 3 years he spends at least 2 months shopping for insurance because he knows that the rate increase is coming. We have all faced that. He would like to continue to provide insurance for his employees but he doesn't think he can hold out much longer.

Think about the employees. Think about the families.

This one is from Greenville, SC, a small business owner who says that providing health insurance is becoming unbearable for small businesses such as hers. She calls it a "hardship." She is a widow. She is self-employed. Her health insurance is an expense she can hardly afford. Similar to many of her employees, she has a $5,000 deductible, and her monthly premium consistently increases 35 to 40 percent every 6 months. This is unbearable. It is not something that she can stand, and it is not something that we should strap the American people with. But small business after small business, State by State, is faced with the same thing today: They can't buy with the effective tools that large corporations can.

We have spent over 30 hours debating whether we would even proceed to debate the bill. This is incredible. Now we are getting to a point where we will debate the bill and we will consider amendments. We may consider alternatives such as my colleague from Arkansas will discuss. But make no mistake, this is a very needed debate. This is not a needless debate about health policy. This is one that we have needed to have. We have needed to have a policy in place for years now. It is incredible to me that we could think that small business can continue to hold on just like the fingertips on a windowsill.

Across the country, the No. 1 issue facing small business today is the rising cost and the lack of access to quality health care. Earlier this week, we debated liability reform, something that is driving doctors out of the profession, that is affecting new medical students as they choose a specialty, where they are shying away from specialties like neurology, OB/GYN, things that to a population that is growing older and a population that we want to repopulate, as families decide to have children, are absolutely vital.

But we were denied the ability to proceed, denied the ability to go to a debate because people said we don't have a liability problem in America. Yet I gave a firsthand story about a friend of mine who is a nephrologist. I don't even know what that is. But he told me this: We are likely not to get sued. He told me that in the past 2 years his premium has gone up 300 percent. Some come to this floor, and they say this is not a crisis. We don't have a problem. Medical liability does not contribute to the rising cost of health care.

Any place in health care that experiences a 300-percent increase in a matter of years has an inflationary factor on everybody's health care. That is one example of a profession that is not the most likely to be sued, as are the OB/GYNs, the neurosurgeons. But we were denied the ability to move forward. It took us 30 hours to be able to debate the assets that we find in S. 1955. Is it perfect? No. Is it a carefully crafted piece of legislation that incorporates the State insurance commissioners who are in the business of regulating insurance products? Absolutely. It incorporates everything that everybody who sat around the table who had an interest in this said had to be there. Change one little piece, and now you have affected all the moving parts that exist.

What are we trying to do? We are trying to make sure that small business has the opportunity, if they choose, to provide for their employees' health care coverage. Anybody who would be against that, I can only assume that the only way they want to provide health care coverage is if the Government provides it.

I will tell everybody a story. I was elected to the House of Representatives 12 years ago. I worked for a small business, less than 50 employees. When I came here, I had an option of all the choices I could choose for insurance. I chose the company and the exact same plan that I had before in a company of 50 employees. What was the only difference in my health care coverage? It cost me $50 more a month to be a Federal employee and to have that health insurance. But there are some up here who suggest that the Federal Government should negotiate everybody's health insurance. From firsthand experience, the Federal Government is the last one I want negotiating anything for me. I would be willing to bet that my constituents feel the same way.

Ask the business owners I referred to if they want the Federal Government negotiating their health care policies. Absolutely not. They want the option of being able to offer health insurance. These employees today have two choices—nothing and nothing. This debate is very simple. It is about whether we are going to offer them something versus nothing. This is a debate that is well past due. It is a debate that has to be completed. I am not convinced today that this bill will find it to final passage. I think it will get blocked. I think it will be filibustered.

I think Members of this body will, in fact, block the consideration. In North Carolina, this will block 900,000 individuals who could have health insurance who, because somebody here decides we are not going to move forward, won't have that option. Their choices tomorrow will be nothing and nothing.

Health insurance costs are on a track to becoming the largest portion of an employer's total benefit package—more so than what employers are putting into retirement plans or 401(k)s.

Madam President, I am going to continue to come to this floor, and I am going to continue to talk about real people across this country, not just in North Carolina—the ones who have the horrors of no choices and cannot continue to afford the policies they have, the employers who really do want to offer their employees a benefit because it enables that employee to stay with them. I am going to continue to read these stories in hopes that my colleagues on the other side will understand that this is about real people, that for once maybe they will look at the human face of this issue and understand that there are casualties all across this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mrs. LINCOLN. Madam President, I, too, would like to echo the Senator from North Carolina, that this is a debate which is extremely critical. It is an issue which is—particularly from my standpoint—one that I get most consistently when I return home to Arkansas. I don't think the debate is whether it is a critical issue for us to discuss and come up with a solution; the critical question here is, Are we really doing our best? Are we really working hard to produce the best product we possibly can for the constituency that really needs us the most?

Small businesses are our No. 1 employer in Arkansas. They are the engine of our economy all across this great Nation. There is no doubt that they deserve the same quality of health care we have here as Members of Congress.

The Senator mentioned that, as he left small business and came to Washington, his premiums went up. The statistics show us that the premiums for Federal employees rise at a disproportionately lower percentage rate than the premiums rise in the small business market. We have seen drastic increases in the premiums in the small business market over the last several years. However, while we also, as Federal employees, have seen increases in our premiums, they have not been anything compared to the increases that have been seen in the small business marketplace. So there may have been some changes, but the point is that we have a good product that we enjoy as Members of Congress. The quality control on what we have is tremendous because we adhere to the State mandates and what States have seen in their States to be important to their constituency.

All States are different, but most of the States are consistent when it comes to things such as diabetes, maternity care, well baby care, immunization, cancer screening—things that have really made a difference not only in people's quality of life but also in terms of the cost of health care. States such as Connecticut actually cover anything—or mandate the coverage of Lyme disease because in Connecticut you actually see a prevalence of that. States have the choice. It is the State's right to be able to make sure that what their constituency wants in that product is going to be there. I believe that has worked very well. It is something we want to maintain. It is a quality control we enjoy, and there is no reason small businesses should not, also.

Madam President, I wish to comment and lend my voice to the fact that this is a critical debate, one about making sure we are providing for every other American out there, particularly in small businesses, the same opportunities and the quality of health care we enjoy.

I wish to address some of the issues that have been brought up in this debate that I have heard about the bill that I have worked hard on over the last 3 or 4 years—a bill Senator DURBIN and I helped each other put together after realizing what a great job the Federal Government had done in bringing the best of what Government can do in its oversight and the best of what private industry and competition in the marketplace can bring. It brings it to us as Federal employees and Members of Congress, and has for over 40 years, and it keeps down an administrative cost that is drastically lower than private plans out in the small business marketplace. At some point, it is somewhere around 25, or plus, percentage points lower in terms of administrative costs, which is practical in this day and age and something that is essential.

I applaud Senator ENZI in his effort and hard work at bringing about this issue and focusing on how important it is. I hope that the debate and our willingness to work to produce a good product is genuine and that we can actually do what is best for the American people and that we don't get caught up in a lot of the details of procedure here so that we miss the forest for the trees.

On the other side of the aisle, they have argued that our bill is just another costly Government program, which will cost taxpayers a ton of money. We are getting ready to spend a ton of money tomorrow in extending tax cuts that haven't even expired and don't expire for several years. We are going to spend a tremendous amount of money—$50 billion plus—on extending those tax cuts which don't even come up for expiration for another couple of years.

Here we have an opportunity to provide a tax cut to small business that could actually make an immediate impact on bringing down their cost of health insurance for themselves and their employees. This is kind of the first time I have ever noticed my colleagues on the other side, who all of a sudden don't want to provide a tax cut to small business because it costs. Yet we are going to have multiple tax cuts brought before us that come at a tremendous cost to the Government and to the deficit, and we don't even need them yet. Yet here is an opportunity to provide a direct tax cut, a credit, to small businesses to engage in the health care marketplace, encourage them to provide much needed health insurance for their employees, for themselves, and for the self-employed, and all of a sudden it is a cost that is just out of control. But if you look at that cost, it is amazing. It is maybe a third of the cost of the HSA that the President has been proposing. Yet we have the possibility and capacity under this plan to serve millions more Americans with health insurance—health insurance that is backed by the State mandate and the Office of Personnel Management, a proven negotiator, that negotiates for us, Members of Congress. So I just have a real problem with that argument.

The fact is that SEHBP won't create any new bureaucracy. Our plan will be run by the same agency that runs the health care program for all Federal employees and Members of Congress. The administrative costs are less than 1 percent. There is no new bureaucracy created. It already exists in the Office of Personnel Management. We might have to increase some of those people in that office, but we don't know what is going to happen at the Department of Labor, which is charged with implementing Senator ENZI's plan. There is no one in the Department of Labor who has ever done that. There is no part of that agency designed or created in order to do that. We would have to reinvent the wheel to provide a section of the Department of Labor that would be able to institute the Enzi bill.

In fact, most of the costs, as I have said, of our benefit plan for small businesses come in the form of a tax cut. So our costs are not administrative. We actually bring those down. Our costs are not an implementation. Our costs are providing the assistance to small business to actually get into the marketplace because we know that the more small businesses that get into the marketplace, the greater the pool.

I doubt there is anyone here who will argue with the fact that the real key to providing good, quality, low-cost, consistent health insurance is in the volume of the pool because we all want to make sure that competition in the marketplace is what is driving the issue here. When you have a larger pool to negotiate with private industry, you are going to be able to negotiate a better deal. It is a better deal for everybody.

Forty-six million Americans are not getting health insurance now. Disproportionately, the largest percentage of those 46 million are working in small businesses. They are not getting health insurance. Health insurance companies should love the idea of being able to increase their market share with those numbers of people. In fact, we have worked hard over the last 2 or 3 years with the insurance industry to make sure that what we were creating was improvement on what was already in existence other than the Federal plan.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mrs. LINCOLN. Madam President, I ask unanimous consent for an additional 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. LINCOLN. Madam President, I believe it is so important that we heed the words of most of our parents, I am sure, when we were growing up, and those are: If it is worth doing, it is worth doing right.

We enjoy, as Federal employees, an incredible opportunity to provide health insurance for ourselves and for our families which provides real, substantial quality. It is not something we buy into with the idea that we will never get sick; we buy into it knowing that maybe we are just one automobile accident or one chronic illness away from needing comprehensive health insurance.

The increases my colleague from North Carolina talked about in terms of the number of people who would be added, those are immediate and they are temporary. They are mostly young, healthy people. The fact is that if we don't include everybody and we don't make sure all of the different chronic illnesses that exist out there are going to be offered, those who are less healthy are going to be shut out, they will become more costly, and the first time one of those young individuals, healthy individuals, has an accident or reaches a chronic condition, they too are not going to be covered under this plan. So I hope we will heed the idea that it is important to do what is right.

We have an opportunity here, at no additional cost. We could eliminate it, if the other side doesn't want to provide a tax cut to small business, that is OK. But we should maintain the quality, and I hope my colleagues will join me in that.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Madam President, I was here about 15 minutes ago, and I learned one inevitable fact: this body is long on rhetoric and oftentimes short on results. In the case of health insurance and health coverage for the American people, we stand at a point in time when we have a chance to produce real results.

I have listened to the arguments over the last couple of days. In fact, I presided last night and got to listen to some of these negative arguments about S. 1955. I wish to try, in a positive way, to talk about the result that it affords and brings to the American people. I want to do it by, first of all, trying to establish credibility.

The reason I say that is, most of us come to the Chamber and speak oftentimes on subjects about which we have had few life experiences. Most of the Members—certainly a majority—have never really been in the private sector. Certainly, a lot have not been independent contractors. None of us right now are in the marketplace for health insurance in America.

For 33 years before coming to the Senate, I ran a small business. I had 200 employees but 800 independent contractors. My employees had medical benefits because we qualified under ERISA. My independent contractors, who were my salespeople, the assets of the company, because of Federal law and IRS treatment, were not allowed to be offered a benefit. They were subject to the free market, to buy spot insurance. They weren't the young and healthy. They were middle age, second- and third-career people, mostly women, and some men. They were very difficult people to cover in the spot market.

As a legislator during those 33 years, while I ran a small business, I did a ton of work on health care. In fact, I was the author of one of the State mandates in Georgia for direct access for dermatological coverage. I did so for a passionate reason: I am the survivor of a melanoma. My doctor caught it in time, and it was removed in time, and I am here today. I have great respect for that mandate for direct access.

As some of the people who have spoken—in fact, many on the other side have talked about the horrible thing this bill does by not including all of the mandates required of all of the States in this country. And the ads we see in some of the periodicals we read portend we are removing the possibility of people to have coverages that are mandated in their States. Let me address that and make the record straight.

Currently, in the United States, there are 109 mandated medical coverages in the 50 States and the District of Columbia. My State of Georgia has 39. This bill doesn't preclude any of those from being offered, but it doesn't mandate that they be offered, and it doesn't allow small businesses to associate across the Nation, form a large enough risk pool to be competitive in the marketplace and be able to compete and provide insurance to the American people who do not have insurance.

The first fantasy that has been purported as fact is that this bill takes away mandates. It doesn't take a mandate away from a single person who has it. What it does is give people who don't have any insurance at all the chance to get good, solid, basic health care, and when they get it, when they make their purchase decision, this requires they make that decision by being shown, at the same time they are presented with a basic policy, a policy that contains all the mandates contained in the five most populous States in the country. The consumer gets the choice that right now they do not have.

For the other side to allege we are taking away benefits, what we are doing is providing opportunity to folks who have no opportunity. I defy you to be 45 years old, a working carpenter with a wife and two kids, out in the marketplace trying to buy spot insurance. Can you buy it? Sure, if you want to pay $2,000, $2,500 a month, a price you can't afford to pay and put food on the table and shelter as well. So what do they do? They fly without coverage. When they get sick and they are really sick, they go to emergency rooms, and they end up raising the cost of health care to everybody, which raises the cost of health insurance to everybody.

What this bill does and what Chairman ENZI has done, which is the genius of it, it brings forth the ability of small businesses and people who cannot afford the coverage to go into the marketplace and buy health insurance.

On the mandate issue, there is no question that some of the insurance that will come out of this process will not include every mandate, maybe not all of the mandates, maybe not half the mandates. But what it will include is good, basic health care, and if a family that doesn't have good, basic health care coverage now all of a sudden has it, what happens? They start practicing better health. They start having more wellness. They start seeing physicians before they are sick rather than after they are sick and in pain. What happens is, we have more wellness, more preventive health care, and we have a lower cost of health care in this country to all the Americans who have coverage.

For the other side to say that what we are trying to do is take benefits away from people is disingenuous and wrong. We are trying to preserve the benefits of people in America, and to the 45 million who don't have any, we are trying to give them the opportunity.

For those who think the State knows best and therefore we ought to mandate they can't do this, they are denying choice of the most basic need in the United States of America, and that is the choice for a man and a woman and their children to be covered in the medical needs they have.

I can tell you that I spent most of my time running my business trying to make sure there was some access to affordable health care for those independent contractors to whom I could not legally provide it. Over the 20 years I ran the company, it became more and more difficult. And over those same 20 years, the cost of health insurance went higher, higher, and higher. It went higher because the mandates became more and more difficult to provide to those individuals, in part because of the State mandates as well.

This opens a new door. It opens hope and opportunity for 45 million Americans. It gives us the chance to cover maybe 11 million, maybe 12, maybe 13. Senator BURR thinks 900,000 in North Carolina. The number I have heard for Georgia is the same. But whatever the number, S. 1955 offers hope and opportunity for affordable health insurance and better health care to millions of Americans. It takes away mandates from no one and ensures that the customer always has the choice of buying the product and the coverage they want and they can afford.

Chairman ENZI and the committee have done a great service to the American people. It is time for this Senate to do great service to their constituents. Give them a chance to have access to affordable, accessible health insurance for the 45 million Americans who do not have it.

I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). Who yields time? The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, how much time do we have remaining on our side?

The PRESIDING OFFICER. There is 14 minutes, but each Senator has been allotted no more than 10 minutes.

Mr. LAUTENBERG. It is my understanding that there is no request for use of time on our side, so I ask unanimous consent that I be able to use all of the remaining time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, we are in the midst of Health Week. Apparently, during Health Week, we don't pass any of the bills the American people want but, rather, we schedule procedural votes.

Why aren't we taking up something such as stem cell research? That is what the American people want to see us do. There is such value in the use of stem cells for research and potential treatment of all types of diseases. Despite all the promises of stem cell research, we are not working on it this week. This week we are simply doing our political stuff: posturing for the next election.

There are other important health care issues besides stem cell research that we could be taking up; namely, Medicare. We should be discussing that on the floor of the Senate. We should be passing legislation to extend the Medicare enrollment date past May 15.

Right now, under the present Medicare drug plan, if you don't sign up by this coming Monday, you will be penalized permanently for signing up late.

Millions of Americans are having serious problems understanding this outrageously complex Medicare plan, but the administration, the President of the United States is saying: Hurry up and make the choice, we are not going to extend the enrollment date. It is insulated from what reality is. It is too bad.

In New Jersey, seniors have to choose among 45 plans offered by 19 providers, and we are saying rush, rush, rush. Most people can't get through the language, no less the dates and those requirements. But the administration is saying to my constituents that even though their health is at issue, they have to rush to a decision. It sounds like this is a deadline that nothing can move and, unfortunately, that is the truth coming from this administration.

If we want to talk about health initiatives, Republican health initiatives, let's talk about the one that is in place, this horrible new Medicare plan.

We have seen the Republican model of health care, and it is not pretty. In fact, many have called it a disaster. One need only pick up the local newspapers to see this disaster play out from Maui to Miami, from Portland, OR, to Portland, ME. The new Medicare drug plan is failing our seniors.

We see it demonstrated in this placard in the headlines: The Boston Globe:

> Many seniors say Medicare drug plan will not help them.

Newsday:

> Medicare guide is in need of Rx.

The New York Times:

> Drug plan enrollment opens amid confusion.

It goes through all of these well-known newspapers, showing the opinions they are hearing from their constituents.

How did we get there? This Medicare Part D Program is an example of the majority vision for the future of health care in our Nation. One thing that is pretty clear about Medicare Part D is that whoever wrote it was clearly not focusing on the health of our seniors, and if the goal were to help our seniors, there would not be this thing called the donut hole, a gap in coverage.

Many Americans have not heard about it or don't know what this coverage gap is. When I explain it to people listening at home, they are not even going to believe it. But it is true because I have heard about it when I address people all across our State.

The way the program works is that for many people, in the middle of the year when you have spent $2,250 on drugs, which is not a lot of money considering the drug use for preserving health and for prolonging life, their prescription drug coverage will stop at $2,250. They will not have any coverage, but they will still have to pay the premium.

What does that mean? It means that sometime in the summer or fall of this year, millions of Americans will walk into a pharmacy for their medication and the pharmacist is going to ask them for hundreds of dollars in payment. When the person says, Wait a minute, I have Medicare, the pharmacist will say: Yes, but you are in the donut hole, when you don't get any benefit until you reach spending over $5,100; so you will have to pay the full price now.

It makes no sense. It is hard to understand, but unfortunately it is true and it is happening. My office has been contacted by constituents who experience this problem, and we are trying to help them, but this is only the beginning.

Another senseless component of the Republican Medicare law is the prohibition that prevents Medicare—can you believe this—prevents Medicare from negotiating prices directly with the pharmaceutical companies. The VA permits that and the discounts are significant. But you can't do that in Medicare because the focus is to protect the companies rather than it is to protect the citizens.

I come from New Jersey, home of the world's leading drug companies. And I admire these companies. Their discoveries have saved the lives of untold millions of people. To be quite honest, they are often targets of unfair criticism. But I don't see any reason to prohibit Medicare from negotiating prices with these companies. Medicare, the largest health care system in the entire world, is prevented from negotiating with these companies. The Republican Medicare law prohibits Medicare from negotiating for a good price, and there is no valid reason for it.

When I talk with my constituents about this new Medicare law, all of them ask the same question: Why is this program so complicated? That is a good question. The program is complicated because the people who wrote it were not focused on helping seniors. Rather, they were focused on promoting ideology. The Republican ideology is now destroying Medicare because it is based on the need to privatize everything, outsource Medicare.

If the goal were to help seniors get their prescription drugs, the result would not be so complicated. We can't blame seniors and their families for being confused when we present them with the kind of complex picture they see.

The Democrats invented Medicare, and when it comes to serving the American people, running an effective Government, we do know how to do it. I think it is pretty obvious now in the wake of this Medicare mess and the bungled response to Hurricane Katrina that there is little ability to run our Government. It doesn't seem to work. Incompetence runs rampant.

Why can't they run a Government? Because they always want to farm out the hard work to the companies—Halliburton, the HMOs, and the list goes on and on. They even want to outsource our air traffic control system. Remember that fight? And that still looms in front of us. I will give you a real-world example of why the Republican insistence on privatizing Medicare is hurting America's seniors. In one of my local papers back in New Jersey, the Bergen Record, there was an article about a pharmacist who has been trying very hard under tough circumstances to help his customers with this new Medicare program. One of the customers needed a 25-milligram version of a drug because her doctor found that the 50-milligram pill was causing too many side effects. When the pharmacist filled the 25-milligram prescription, the Medicare drug plan, run by United Healthcare, said they will not cover the 25-milligram, the smaller milligram, version. It is hard to understand.

United Healthcare told the pharmacist to cut the 50-milligram pills in half. The pharmacist correctly told the insurance company that it was a sustained-release drug and cutting it in half would make the pill ineffective. After waiting for some time on hold with United Healthcare, the pharmacist was told the customer would have to go back to her doctor and ask the doctor to file an appeal with United Healthcare, looking for special permission to get the smaller dose of the pill.

That is what real seniors are going through every hour, every day under this drug program.

I want to talk about United Healthcare in particular. United Healthcare paid its CEO, William McGuire, $124 million last year. That is right. The CEO of United Healthcare made almost $124 million in 2005. Now, if they were making widgets, that would be all right. But they are supplying health care to seniors and having this man walk away with millions of dollars—when the people who need health care are paying for it—it is not right. Those people are paying for that kind of a salary, that kind of an asset base.

The seniors in my State are upset, while the real beneficiaries of the Republican Medicare bill are still paid these outrageous salaries. It doesn't make sense. It is a disgrace.

The question has been asked: Should we scrap this program and do a real Medicare drug benefit? Maybe. But I would say this to the American people: As long as the same group is running this Congress, you are going to see more of the same happening. All we have to do is look at the condition that we find ourselves in over in Iraq, not knowing whether we are going or whether we are staying, and lives are still being lost. The cost for that war is going to be somewhere around half a trillion dollars before this year is over, and we are funding it with supplementals that carry all kinds of pork-laden projects. The management is terrible.

Management of the environment is terrible, when we look at what is happening and we see that snowfields in Mount Kilimanjaro in Africa that were there since the beginning of time will no longer be there in a few years, when we see that Glacier National Park will soon not have a glacier there, having had glaciers there since the beginning of time. The glaciers are melting in front of our eyes. If you look at pictures of animals up in Alaska, such as the polar bear, they are scrawny. They don't have the body size they should have when they are not getting sufficient nourishment. There is nothing being done about that. There is nothing being done about global warming as the Earth that we live on gets warmer and as the threats of flooding all over the seacoast States and communities becomes more and more apparent. So there is a question of competency that we have to look at. It is certainly not reflected in this Medicare plan.

Although it is late, I wish the President would show some good heartedness and say: You know what, seniors of America, we are going to help you. We know you can't get through this Medicare drug plan in time, so what we are going to do is delay it a few months. What is the big deal? I don't get it. Instead of permitting people to adequately review these plans so they can understand what they are getting into, there is a push to sign up. It is one that I don't understand.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I understand we are in morning business?

The PRESIDING OFFICER. We are. That is correct.

SMALL BUSINESS HEALTH PLANS

Mr. ALLARD. Mr. President, I am going to speak under morning business on Senate bill 1955, the small business health plans legislation that is going to be before us shortly for formal debate. I come to the floor to talk about a piece of legislation that is important to my Colorado constituents. I would like to talk about the Health Insurance Marketplace Modernization Act, sometimes known as HIMMA.

This legislation, which is also known as the small business health plans bill, would allow for small businesses to come together to form a group which could then use their combined purchasing power to influence insurance companies for affordable health plans.

It has been suggested that those who serve in the Senate have no understanding of what small business folks are going through and that most of us have never been faced with the reality of having no health insurance and therefore don't understand the plight of the small businessman. I come to dispel that rumor. I am a former small businessman who couldn't afford the cost of health insurance for myself or for my employees.

My wife and I discussed options for ourselves and for our employees. Similar to many other small business owners across the country, we decided it would be better to raise our employees' rate of pay and allow them to purchase their own individual plans. My wife and I decided to begin setting aside our own savings account to pay for health care costs in case, for some reason or another, I had an incident or she had an incident where we needed to go to the hospital and thus needed health care coverage.

Being a veterinarian and lifting heavy dogs onto the exam table all the time, and not expecting the dog owner to pick up the other half of a giant breed such as a Great Dane, I ended up having back problems and had to have back surgery. I didn't have health insurance, but I paid for it myself out of my own pocket. Fortunately, my wife and I had the foresight to set aside a savings plan so that if something such as this did happen, we could pay for it. But it did set us back.

We were able to survive that particular incident. It was kind of an interesting thing, what happened to me when I went to go to the hospital. The administrators didn't want me to go into the hospital. The hospital would not let us in because we did not have health insurance. I said: Well, I will pay for it. When we got in there, I had the surgery, and I did very well, and I am very active today. The doctors did a great job on surgery. When we checked out of the hospital, the administrator said that they would reduce our costs by 20 percent because they did not have to deal with the paperwork and with the cost of having to process my claim. So much of the paperwork is driven by trying to protect the hospital, the doctors, and the administrators from frivolous lawsuits. That has been my personal experience.

I must admit I was disappointed when, earlier in the week, Members of the Senate chose to side with trial lawyers instead of women and children. And I was disappointed that Members of the Senate decided to support turning the medical profession into a cash cow for the legal profession instead of allowing for legitimate compensation.

Again, in a matter of minutes, we will be debating the small business health plans bill and another attempt to bring down the high cost of health care, specifically for working class families who are employed by small businesses that, similar to my own situation, cannot afford to provide health insurance for their employees.

I think it is important for us to focus this debate on at least giving small businesses the opportunity to make a choice on providing health care for themselves and for their employees. Currently, because of the prohibitive cost of health care coverage for their employees, many small business employers don't even have the option of offering coverage.

Some of my constituents have brought to my attention over the past few weeks their worries that because of the lack of insurance benefit mandates, they could lose important benefits such as diabetes services and supplies, and coverage of preventive services such as colorectal screenings and mammograms. These worries are unfounded. Today there are over 1,800 different State mandates for health care coverage, including different coverage mandates in different States for the same preventive care, services, and supplies. This huge variation in mandates has made it nearly impossible to provide standardized coverage on a national basis.

Additionally, the Government Accountability Office, which is an agency which helps to watch our dollars, has also found that the cost of mandates to a typical plan results in an increase between 5 and 22 percent. The Congressional Budget Office, another dollar-watching agency, estimates that for every 1 percent increase in insurance costs, a minimum of 200,000 Americans are left uninsured.

Facts suggest that things such as diabetes services and supplies and preventive services such as mammograms and colorectal screenings are usually covered by health plans, regardless of the State mandates. For example, the five most populous States require that diabetes care be covered. According to the American Diabetic Association and the GAO, only 4 out of 50 States do not require diabetic coverage.

The General Accounting Office also studied States that are not subject to mandated coverages of diabetic services and supplies. Despite not being subject to mandated requirements for coverage, several of the largest plans and many of the largest Fortune 500 companies provide comprehensive coverage for diabetes care.

This factual evidence also applies to preventive services such as cancer screening. The Government Accountability Office found that the majority of States that do not have mandates continue to provide coverage in a majority of their employer plans for cancer screening.

The bottom line is that the small business health plan bill makes logical sense. It will give small business owners what they want and what they need, and they will offer insurance coverage for their employees. It makes logical sense that plans covering preventive care will be offered because preventive care costs less in the long run. It makes logical sense that small business owners who currently cannot provide their employees with health care would purchase coverage because it is more affordable.

It is important to note at this point that a small business owner who buys health care coverage is also naturally subject to the same health care coverage that he provides his employees. Small business owners are pushing for health insurance coverage for themselves and their employees, which they otherwise could not afford. It is not logical that they would pay money for a plan that does not provide them with medical coverage. Also, the point of small business health plans is so that small businesses can join together to use joint collaboration to get their health care needs met.

I support the legislation because I support giving small businesses a choice. I support giving small businesses the opportunity for health care coverage that they currently do not receive. I support giving diabetics the opportunity for health care coverage, instead of leaving them completely without services and supplies. I support giving small business employees the opportunity for cancer screening and preventive care, instead of leaving them with nothing and no opportunity to provide health care for themselves and their families.

I urge my colleagues to support the small business health plans legislation, and I urge my colleagues to vote in favor of Senate bill 1955, the Health Insurance Marketplace Modernization Act. I urge my fellow Senators to give small businesses the opportunity to access health care for themselves and their employees.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I come to the Senate floor to speak about getting some long overdue help for small business men and women in Tennessee who have really been struggling to afford health insurance for themselves, their employees, and their families. We have an opportunity in this body to do something about it. This is not some abstract discussion we are having here; this is about something every single one of us hears—at least I know I hear it. Whether I go to Mountain City or Sevierville or Lexington or Memphis—wherever I go in Tennessee, a small business man or woman says to me: We cannot afford health care costs; we need some help.

We have some help. We have a proposal by Senator ENZI that will provide some help to small business men and women. Now is the time for us to act. Now is the time for the people of this country who are listening to this, who know we need this, to say to Senators: Let's go. Let's do this. Let's take the Enzi bill and reduce health care costs for small businesses across this country, and at the same time let's cut into the millions of Americans who are uninsured because the people for whom they work cannot afford to offer them health care insurance.

Here is the situation in Tennessee. We have well over 2 million people at work in Tennessee, and 97 percent of all businesses are what we would call small businesses. So that is whom we are talking about in our State—more than 2 million people who work, many of whom are working for companies that cannot afford to provide them health care insurance or are gradually reaching the point where they can't give them that benefit anymore. Increased health insurance costs are driving employers and families away from comprehensive coverage. Increased costs are taking away the opportunity for a working family in Tennessee to be able to work for a company that can offer a basic insurance policy that the family and the employer can afford. What we are doing this week is moving away from that situation. What we are doing in the Senate this week and next week is providing an opportunity to change that situation.

Dennis Akin runs the Wash Wizard car wash in Hendersonville, TN. We are not talking about big-time CEOs who make $350 million a year and fly corporate jets somewhere. We are talking about Dennis Akin who runs the Wash Wizard car wash in Hendersonville, TN, just outside of Nashville. This is what he says:

> I am currently providing health care for all my employees and their families. The cost at the present time is over $44,000 per year for 5 employees, up 28 percent from last year. The premiums have escalated at about that rate for the last several years, and twice I have had to drop to plans with lesser coverage to be able to pay the premiums.

Dennis Akin went on to say:

> We really need to be able to find some kind of relief or we'll have to reduce our benefit level to where the financial burden on my staff could be devastating. In a business as small as mine health care costs are my largest expense and there seems to be no end in sight.

According to the Kaiser Family Foundation, about a third of Tennessee firms with 50 or fewer employees offer health insurance to their employees. In contrast, 95 percent of Tennessee firms with 50 or more employees offer health insurance to their employees.

Our economy is not static. It changes all the time. Every year, we lose an estimated 5 to 8 percent of our jobs. That is a lot of jobs. That is between 100,000 and 150,000 jobs just in Tennessee. The good news is we have the strongest economy in the world and we are gaining more jobs than we lose. But where do those jobs come from? They don't primarily come from Federal Express or Eastman Chemical or the Aluminum Company of America or DuPont. We are glad to have all those great employers in Tennessee, but most of the new jobs come from the Wash Wizard car wash in Hendersonville, TN, and companies like that. These are new companies, small companies. They may be adding two or three employees a year. Currently, only a third of those firms, those firms with 50 or fewer, can afford to offer health insurance of any kind to their employees.

What does that mean? That means that most Tennesseans are simply left without any access to health care that they can afford because in our country, the way things are today, most people get their health insurance from their employer. Maybe that is not the way it should be. Maybe 10 years from now, we will be in a different sort of system. But since World War II, that has been the way it has been. By an accident of our history, most Americans get their health insurance at the place where they work.

What we are saying is, in States such as Tennessee, and all across this country, only a third of the people who work for small businesses—which is where 97 percent of the people work—can get a health care plan there. No wonder we have a lot uninsured people, and no wonder we have a lot of families worrying about the rising cost of health care.

The reason we are having this debate is the chairman has a bill that will fix that situation. It will lower health care costs for small businesses and help families be able to afford a basic health insurance plan. Every American ought to want that to succeed, and we need to pass this bill. We need to do this, and it is important for the American people to know that we intend to bring this to a vote in the next few days.

The discrepancy between what is available in the big companies and what is available in the small, independent companies is absolutely unfair. There is no reason for it.

Earlier this month, the National Federation of Independent Business, Tennessee's largest small business advocacy group, delivered 10,905 petitions in support of this bill signed by small business owners in Tennessee who want lower health care costs. We must make health insurance affordable for Tennessee's small business owners and for working families.

How will the Enzi bill help? When I say the Enzi bill, that is the chairman of the committee who has worked on this bill and who has been able to work through a lot of obstacles that prevented this from happening in the Senate before.

The Small Business Act—a fancy name is the Health Insurance Marketplace Modernization and Affordability Act—I, like Chairman ENZI, like to call it the Small Business Health Insurance Act. That is a pretty good name because that says what it does. Here is what it will do.

It will allow businesses and trade associations to band their members together and offer group health insurance coverage on a national or regional basis.

It will empower small business owners and give them the opportunity to choose a health plan that is best for their families and best for their employees. This bill will promote lower costs and greater access to health care. Lower cost means the employer can afford it. The plan itself, with the employee contribution—if the employee can afford it—being available means there will be more access to it. It will do that by, No. 1, permitting the creation of fully insured small business health plans; No. 2, creating more options in benefit design—in other words, you will have more choices; if you want this or this, if you can't afford that, you can try this—and, No. 3, it harmonizes insurance regulations across State lines while keeping States as the primary regulators.

I am a former Governor. I am for States rights. You often see me on the Senate floor asserting the principle of federalism. I believe strong States and strong communities are important for our country and that we ought not be constantly passing national solutions to problems without recognizing that.

But I believe the Enzi bill properly respects the principle of federalism. It protects State oversight. It protects State authority. I also believe it is important to have a level playing field for everyone in the market—and the bill does that as well.

A study prepared by the Milwaukee firm of Mercer Oliver Wyman for the National Small Business Association found that the Enzi bill would, one, reduce health insurance costs for small businesses by 12 percent, about $1,000 per employee, and reduce the number of uninsured and working families by 8 percent, approximately 1 million people nationwide would have basic health insurance who today don't have it.

This bill would cut the cost of health insurance for small businesses, which is 97 percent of where the people in my State work. That is No. 1. No. 2, it reduces the number of uninsured and working families by 1 million people across this country.

This is a piece of legislation worth passing. It actually does something for somebody. This is a rare opportunity to help small businesses. It is a real milestone moment, and Chairman ENZI is to be commended for getting the bill this far.

The House of Representatives has passed this legislation, on which the

Presiding Officer served, and I am sure he has voted for it three, four, or five times over in the House of Representatives. But then it gets over here to the Senate, and we have been in gridlock for 10 years on this issue. The House of Representatives has passed this legislation eight times, and for 10 years we haven't been able to find a way to say we are going to reduce the health care costs for small businesses by 12 percent and decrease the number of Americans who are uninsured, that we are going to give 1 million of them insurance. That was until Chairman ENZI set his sights on trying to unravel the stalemate. He did it. He got the small business community together with the insurance commissioners and the insurance companies all around one table to discuss how to make it work.

We need to take advantage of this rare opportunity to help the small business men and women in Tennessee and across this country to find affordable health insurance by passing this important legislation.

We have said on the Republican side that this is Health Week; that we have heard the American people; we know that there are uninsured Americans; and, we know that small businesspeople are struggling. They are struggling with the cost of runaway litigation. We are trying to stop that, but the other side of the aisle blocked that twice this week when we put up legislation that would have given mothers and babies a chance to be better served by OB/GYN doctors.

Who can be against that? The other side of the aisle was against it. They basically kept Tennessee mothers who are pregnant from having a chance to be served by OB/GYN doctors. Now they have to drive a long way to have their babies. Unfortunately, they are going to have to keep driving because the other side of the aisle said, no; you are not going to even be able to vote on that.

Now we have moved to the next issue that will help small business. If we couldn't this week help mothers who are about to have babies by giving them better access to health care, at the very least we can take the Enzi bill and pass it and say to the thousands and thousands of realtors, to the thousands and thousands of barbershops, gas stations, and say to Dennis Akin who runs the Wash Wizard car wash in Hendersonville, TN, we can say to the small businesses in Tennessee—which is 97 percent of all the businesses—we will cut your insurance costs by 12 percent, or at least give you that option, and to the people of this country we will increase by 1 million the number who are able to get insurance.

This legislation is a good piece of legislation to help lower the cost of health insurance. I hope very much that in the next several days we can pass it. The House has passed it eight times. We can at least pass it once, and then the American people will see that we hear them and we are doing the job they want us to do.

Thank you. I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. ALEXANDER. Mr. President, on behalf of the leader, I ask unanimous consent that at 2 p.m. the Senate extend morning business until 2:30 p.m. with the time equally divided between the majority and minority, and upon conclusion at 2:30 p.m. the majority leader be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I will yield myself such time as I might use.

Mr. President, as I mentioned earlier, we thought we would have a good opportunity to have a good, healthy debate on a range of different health policy issues. This was designated as Health Week. A number of our colleagues had some very important amendments—some that are extraordinarily timely—one by the Senator from Florida, Mr. NELSON, to address what is going to be effectively a new tax or fee on millions—the best estimate is 8 million of our senior citizens—who are not enrolled in the Medicare Part D Program. That will cost seniors hundreds of millions of dollars if that is not the addressed. We have a good opportunity to address that in the Senate.

We have the issues on stem cell research. That is enormously important legislation at the desk. The bill offers such extraordinary hope to millions who are affected by Parkinson's disease, Alzheimer's disease, diabetes, other genetic diseases. The possibilities are unlimited. I call it the hope bill because it offers so much hope. We thought we might have an opportunity to move forward on that. There are a clear majority of Senate Members who are for a good stem cell research program.

We have passed a good program in my own State of Massachusetts, Republicans and Democrats alike coming together, as we would on this legislation, but we are not going to be able to address that issue.

The whole issue about whether we give the Medicare system the ability to negotiate lower prices for prescription drugs that could benefit our seniors is something the VA does and it does very effectively. It saves millions and billions of dollars for our elderly people because of the ability to get a better price, which Medicare is prohibited from doing now. We believe we should at least have an opportunity to debate that issue and come to judgment on it. It can make a major difference. These are just several of the amendments out there.

I was looking forward to offering an amendment to the Enzi legislation that permits States to opt out of the Enzi proposal, if they so desired. It sounded to me that we had a vote on that issue in our Committee on Human Resources, and it was defeated. It seems to me we should give the State the option.

We have had at least a pretty good discussion of the underlying Enzi bill, which effectively means skyrocketing premiums for many if they are older or have had some illness in their families. I will get into that in greater detail. But we permit States to opt out. That was defeated. We ought to have an opportunity to vote on that in the Senate.

All this can be done. I know the proponents of the amendments would be willing to agree to very reasonable time limitations on this. However, we effectively are being told that is not going to be possible. We are going to have a take-it-or-leave-it approach. That is not the wise way to proceed. I certainly hope we are not going to have to be required to take it.

I will review some of the statements and comments made by some of those who have been in support of this legislation that need focus, attention, and some correction. Those who support the Enzi proposal are doing it enthusiastically, but I think it is worthwhile to put the facts out on the table. The facts are we have some 47 million Americans who do not have health insurance. The fact remains, as we have seen in the Congressional Budget Office, the Enzi proposal actually benefits some 600,000. That is 1 percent of the 45 million who are uninsured.

In my State of Massachusetts, the Democratic leadership, with Sal DiMasi and President Travaglini coming together with Governor Romney, have the goal of covering 95 percent, minimum. Most believe we will get to 98 percent of all the people in our State. It is a valuable undertaking.

We have a proposal with 45 million uninsured and we expect, according to the Congressional Budget Office, some 600,000 will be included. That is from the assessment on page 5 from CBO.

In terms of the firms themselves, the CBO has pointed out one-quarter of all the small business firms will actually pay more for their health benefits. Those that support it have neglected that. A quarter of all the firms under the Enzi bill will have to pay more.

That is not true with the Durbin-Lincoln proposal, and the Durbin-Lincoln proposal will cover millions—not 600,000—millions of small businesses.

These are some of the facts from CBO. The premium decrease, according to CBO, would be 2 percent to 3 percent, a one-time savings of only $80 to $120 for the average individual and $215 to $325 for a family plan. The cost is lesser benefits. If you are going to eliminate your cancer screening, your well-baby care, your help and support in terms of diabetes, if you are going to eliminate the mental health benefits, sure, you can get some reduction in premium. That is what they do. But in State after State, including mine, we have those protections. That is the savings, one-time savings, according to the Congressional Budget Office.

For those who want to have a good understanding of exactly what this bill does and what it does not do, I hope they will have a chance to review the CBO estimate and analysis because it is at odds with a great deal of what those who have been supporting the proposal have stated. Finally, the total savings on employer-sponsored coverage are two-tenths of a percent.

On the other hand, let me mention an excellent analysis that has been done by Alex Feldvebel, the deputy commissioner in New Hampshire and an expert on this type of health insurance issue. These are his comments, talking about the market relief. That is what we call the ratings. What is the swing in a particular State? States can vary the ratings in terms of the market.

In, Alaska 2.5 percent to 1; Arkansas 3.3 to 1; California, 1.2 to 1. If you are an older person, older worker, if your family has maybe had some illness, you can only vary the premiums 1.2 percent in the State of California. In my State, it is 3 percent, 3 to 1. There are a number of States, such as New York, where you cannot change it. You cannot vary it. Everyone is in the same boat, so to speak.

Now, in the Enzi proposal, listen to this regarding the ratings, the permitted rate variation under this small group market rules is extreme. The total permitted variation between the highest rate group and the lowest rate group for the same health benefit is 25.4 to 1, or 2,540 percent. If the lowest rate is paying $100 per month, the highest rate would pay 2,500 per month. If you are young and healthy and just out of school, they give you the physical, and you are an A-1 specimen, you get it for $100. But if your family has had some illness or sickness and maybe your company has dropped its health insurance, if you have to purchase this, you can pay $2,500. Think what that will do. That is obviously going to be prohibitive, and more and more people will be left out.

Here is how the variable comes out. Age, 500 percent. Gender, 25 percent, it should be saying, women, 25 percent. They are automatically, under these calculations in this bill, gender, will be paying a higher premium. This is the Enzi legislation. And the variance continues. If you are in a wellness program, you get a 5-percent benefit. If you come in with a whole group of very young people who are very healthy, you can get a 40-percent reduction, but if you are an older person with sickness, you are up to 500 percent. That is the variation.

That is not acceptable. We all know what is going do happen. That is going to be the incentives.

This legislation, on page 100, talks about the definition relating to the model "small group" and those who supported the legislation use the Model Small Group Rating Rules for the Small Employer Health Insurance Availability Model Act of 1993. It is interesting that the insurance commissioners have upgraded this review and study several times. Do you think we are dealing with the most recent publication? No. We are back to 1993. It is the insurance organization, the NAIC model, that basically has been rejected and repudiated by the State insurance commissioners.

All you have to do is read from your own insurance commissioners, and they ask: Why in the world would the Senate use an old model, when we have much more recent information, much more updated information? The reason is, if you use this, the profits for the insurance industry are going to be much higher.

We ought to understand that. The insurance commissioners themselves have effectively rejected this particular proposal.

If we go to page 110, we will see "Superseding of State Law."

> This part shall supersede any and all State laws . . .

This does not just say small business. This is about all State laws. Here it is, the clinical trials, cancer screening, diabetes, effectively preempt all the State laws, to and after the date relating to rating and in the small group insurance market.

It says to Massachusetts and to most of the States, if you have a benefit package, those are going to be preempted. That is what it says right there on page 110.

Page 110 actually is where it permits the fluctuation of the rating system. It talks about ratings. And that gives you the flexibility that I have mentioned. And then the preemption of State benefits is actually on page 119.

I would have thought, if we were serious about trying to do something for small business, we would have had the opportunity—Mr. President, how much time do I have left?

The PRESIDING OFFICER. The time under the control of the minority has now expired.

Mr. KENNEDY. My time has expired?

The PRESIDING OFFICER. Yes, the Senator's time has expired.

Mr. KENNEDY. I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, the debate we are having today on small business health plans is a debate that I hope will ultimately lead to a vote in the Senate on this legislation.

This bill, or something very similar to it, has passed the House of Representatives on eight—eight—different occasions. Small business health plans have passed the other body, the House of Representatives, on eight different occasions.

I believe if we were allowed to vote today on this legislation in the Senate, we would have a big majority vote—a decisive majority vote—because I believe a majority of Senators support the legislation that has been produced by the Health, Education, Labor, and Pensions Committee under the leadership of Chairman ENZI. I believe there is strong majority support for that in the Senate.

Unfortunately, what will happen today—and in the days ahead—is we will not get a chance to have that vote because our colleagues on the other side have decided again to filibuster this legislation, to block it from ultimately being voted on. That is unfortunate. It is unfortunate for, most importantly, the people across this country who do not have health insurance coverage.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. THUNE. I will not yield at this point. You had your time, Senator.

Mr. KENNEDY. I was wondering if you would yield for a question.

Mr. THUNE. I am not prepared to yield at this time. I will allow you to speak on your own time.

But the important point is that this particular legislation has not had an opportunity to be voted on in the Senate, legislation that would help small businesses in this country that currently cannot cover their employees, that currently have families of those employees without coverage.

In fact, if you ask small businesses today—and about 22.5 million of the 45 million uninsured in this country are employees of small businesses or are their families, and about another 15 million are self-employed in small businesses—the reason they cannot cover their employees is the cost.

What this legislation attempts to do is address the issue of cost, to make health insurance more affordable to more Americans, to small businesses, to their employees, to their families, to self-employed people in this country who currently do not have coverage because of the cost.

It is a very simple concept. It is a concept that has been passed eight times by the House of Representatives but never voted on in the Senate because of obstruction on the other side. They will not allow it to come to a vote. That is unfortunate because this is an issue the American people expect us to address.

So I hope when all is said and done, my colleagues on the other side—the Senator from Massachusetts has strong feelings on this particular issue, which he has articulated—have an opportunity to air those opinions, to debate this issue, but that, in the end, they let it be voted on.

Let's let this come to a vote. Let the will of the majority in the Senate decide one way or the other about whether we want to do something about the high cost of health care in this country to cover more people.

The Congressional Budget Office has said—the Senator from Massachusetts quoted the CBO—the Congressional Budget Office has said, if this legislation is enacted, almost a million more people in this country will be covered and, in fact, it will lead to lower insurance costs.

So it is a good deal for the people who are uninsured. It is a good deal for the small businesses that are trying to cover their employees. And I might add, it is a good deal for the taxpayers because the Congressional Budget Office has also said if this particular piece of legislation is enacted, the cost of Medicaid to the Federal Government will go down by almost $1 billion and the cost of Medicaid to State governments will go down by about $600 million.

Further, the Congressional Budget Office has also found that this will actually lead to higher revenues for the Federal Government. Why? Because when the small business cost of health care goes down, they are able to provide more benefits and more in the form of salaries to their employees. Those salaries and some of those benefits are taxable. Health insurance benefits are tax excluded in many cases. So those benefits and those additional salaries would be taxed at the marginal income tax rates, and it would generate, according to the Congressional Budget Office, an additional $3.3 billion over a 10-year period for the Federal coffers.

So we have a bill that covers more people, according to CBO, that lowers insurance rates, according to CBO, and that actually generates more revenue for the Federal Government. Yet we cannot vote on it. Why? Because our colleagues on the other side will not allow this legislation to be voted on.

I think the American people deserve and expect more from their elected leadership. As I said, the House of Representatives has voted eight times in support of this, with strong majorities. I believe there is a majority in the Senate in favor of this bill, if we could bring it to a vote today. Maybe we won't vote on it today. Maybe we would vote on it tomorrow or maybe we would vote on it next week, but let's vote on it.

Let's vote. That is what we are here for. Let's debate the issue, but let's vote. Let's not use the rules of the Senate to obstruct something that has clear majority support in the House, something that has been debated here but never voted on in the Senate because it has been blocked from final consideration.

Let me also say one other thing about this debate because there is a proposal that has been talked about some on the floor of the Senate, offered up by some of our colleagues on the other side, that is intended to respond to the Enzi legislation, the small business health plan legislation, that we are currently debating.

Interestingly enough, that particular piece of legislation offered by our colleagues on the other side is a Government-type approach to this issue. The CBO, the Congressional Budget Office, has found that the proposal they put forward actually costs the taxpayers $73 billion over a 10-year period.

So you have two bills. You have a bill that has been offered by Senator ENZI, the chairman of the HELP Committee, offered by the leadership on this side of the aisle, which lowers cost, which covers more people, which has been found to actually save the taxpayers money; and a bill that has been offered by our colleagues on the other side, at a cost to the taxpayers of $73 billion in additional tax dollars over a 10-year period.

Now, it seems to me, at least, that if you are a taxpayer, that bill is not a very good deal. It is also a proposal that leads to more redtape, more bureaucracy, more Government, at a time when we ought to be looking for ways to improve the market-based system we currently have in this country, by allowing our small businesses to take advantage of the leverage they could gain by joining larger groups.

The very simple principle behind this legislation, behind the Enzi bill, is to allow small businesses around this country and their employees to be part of a larger group, thereby driving down the cost of their insurance premiums.

Mr. DURBIN. Will the Senator yield for a question?

Mr. THUNE. I will not yield at the moment. We have a few minutes left on our time, and then the Senator from Illinois could use his time to speak.

Mr. DURBIN. Will the Senator yield for a question?

Mr. THUNE. Not at the moment. Thank you, though.

What I would simply say is, the bill offered by the Senator from Illinois and by his colleagues on the other side is, again, legislation that comes at a high cost to the taxpayers: $73 billion over a 10-year period.

So it is important, when we have this debate, that the people in this country who are following the debate have a clear understanding of what the differences are between the approaches that are being offered—the Enzi bill, the bill that is under consideration today, the small business health plans bill, and the bill offered by our colleagues on the other side—the differences in terms of their approach, one being a Government approach, one being a market-based approach, one actually being scored by the Congressional Budget Office as achieving savings for the Federal taxpayer, and one that clearly adds to the costs of the taxpayer by about $73 billion over a 10-year period.

This has been dubbed Health Week because we are debating health care legislation. Small business health plans is one component of that. We also tried, Monday, to get a vote on legislation that would allow for reforms in our medical malpractice system that would, hopefully, again, drive down the cost of covering people in this country. The high cost of medical malpractice insurance is driving OB/GYNs and other specialists and providers out of the profession, driving up the cost of health care in this country.

In fact, the Department of Health and Human Services, a couple years ago, did a study that suggested the cost of defensive medicine and the cost of the medical malpractice system we have in the country today is actually costing the taxpayers, under Medicaid, an additional $22.5 billion a year.

It is important we address these issues. I believe the American people want us to act. More importantly, they want us at least to vote. That is all I am simply saying. For those on the other side who have consistently resisted the enactment of these two pieces of legislation, that is fine. I understand that is part of this process, that we have a very open and free-flowing debate. That is part of the Senate. That is part of our democratic process we have here.

But when all is said and done, let's bring this to a vote so the people of this country, who expect action out of the Senate, at least know where their elected folks stand when it comes to the issue of small business and whether we are going to provide health care for the employees of small businesses across this country and whether we are going to do anything to address what I think is a very important economic issue to a majority of Americans: that is, this ever-rising, increasing cost of health care.

These two pieces of legislation—small business health care plans, S. 1955, offered by Senator ENZI, the chairman of the HELP Committee—and it is a bipartisan bill; it also has Democratic support, although not enough to stop a filibuster—and the medical malpractice reform legislation, which, again, there were two pieces of medical malpractice reform legislation voted on Monday—we were not able to get enough votes to stop a filibuster to invoke cloture—but, there again, I believe both pieces of legislation have majority support in the Senate and, clearly, have majority support in the House of Representatives.

They have already passed there repeatedly. Small businesses health plans have passed eight times in the House of Representatives. Medical malpractice reform has passed five times in the House of Representatives. That legislation has come to the floor of the Senate and has been blocked from receiving an up-and-down vote.

I think it is in the best interest of people across this country who are expecting Congress to act on the issue of health care and the high cost of health care. They want us to come up with solutions that respect and are in the best interest of the American taxpayer. I believe these two pieces of legislation accomplish that objective.

So I hope before this Health Week is over—and even if we have to push this into next week—we at least get a vote on the floor of the Senate that will enable us to take final action on a couple of pieces of legislation that have been lingering around here for way too long and deserve action by the Senate.

With that, Mr. President, I yield back the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

HEALTH INSURANCE MARKETPLACE MODERNIZATION AND AFFORDABILITY ACT OF 2006

The PRESIDING OFFICER. The Senate will proceed to the consideration of S. 1955, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1955) to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace.

The Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute.

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1955

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

[(a) Short Title.—This Act may be cited as the "Health Insurance Marketplace Modernization and Affordability Act of 2005".

[(b) Table of Contents.—The table of contents is as follows:

[Sec. 1. Short title and table of contents.

[TITLE I—SMALL BUSINESS HEALTH PLANS

[Sec. 101. Rules governing small business health plans.

[Sec. 102. Cooperation between Federal and State authorities.

[Sec. 103. Effective date and transitional and other rules.

[TITLE II—NEAR-TERM MARKET RELIEF

[Sec. 201. Near-term market relief.

[TITLE III—HARMONIZATION OF HEALTH INSURANCE LAWS

[Sec. 301. Health Insurance Regulatory Harmonization.

[TITLE I—SMALL BUSINESS HEALTH PLANS

[SEC. 101. RULES GOVERNING SMALL BUSINESS HEALTH PLANS.

[(a) In General.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

[“PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

[“SEC. 801. SMALL BUSINESS HEALTH PLANS.

[“(a) In General.—For purposes of this part, the term ‘small business health plan’ means a fully insured group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

[“(b) Sponsorship.—The sponsor of a group health plan is described in this subsection if such sponsor—

[“(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care;

[“(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership in the sponsor; and

[“(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

[Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

[“SEC. 802. CERTIFICATION OF SMALL BUSINESS HEALTH PLANS.

[“(a) In General.—Not later than 6 months after the date of enactment of this part, the applicable authority shall prescribe by interim final rule a procedure under which the applicable authority shall certify small business health plans which apply for certification as meeting the requirements of this part.

[“(b) Requirements Applicable to Certified Plans.—a small business health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

[“(c) Requirements for Continued Certification.—The applicable authority may provide by regulation for continued certification of small business health plans under this part. Such regulation shall provide for the revocation of a certification if the applicable authority finds that the small employer health plan involved is failing to comply with the requirements of this part.

[“(d) Class Certification for Fully Insured Plans.—The applicable authority shall establish a class certification procedure for small business health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such small business health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 806(a).

[“SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

[“(a) Sponsor.—The requirements of this subsection are met with respect to a small business health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

[“(b) Board of Trustees.—The requirements of this subsection are met with respect to a small business health plan if the following requirements are met:

[“(1) Fiscal control.—The plan is operated, pursuant to a plan document, by a board of trustees which pursuant to a trust agreement has complete fiscal control over the plan and which is responsible for all operations of the plan.

[“(2) Rules of operation and financial controls.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

[“(3) Rules governing relationship to participating employers and to contractors.—

[“(A) Board membership.—

[“(i) In general.—Except as provided in clauses (ii) and (iii), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

[“(ii) LIMITATION.—

[“(I) GENERAL RULE.—Except as provided in subclauses (II) and (III), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

[“(II) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

[“(III) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, subclause (I) shall not apply in the case of any service provider described in subclause (I) who is a provider of medical care under the plan.

[“(iii) CERTAIN PLANS EXCLUDED.—Clause (i) shall not apply to a small business health plan which is in existence on the date of the enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2005.

[“(B) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with insurers and service providers.

[“(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

[“(1) the requirements of subsection (a) and section 801(a) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

[“(2) the requirements of section 804(a)(1) shall be deemed met.

[The Secretary may by regulation define for purposes of this subsection the terms ‘franchiser’, ‘franchise network’, and ‘franchisee’.

[“SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

[“(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan—

[“(1) each participating employer must be—

[“(A) a member of the sponsor;

[“(B) the sponsor; or

[“(C) an affiliated member of the sponsor with respect to which the requirements of subsection (b) are met, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

[“(2) all individuals commencing coverage under the plan after certification under this part must be—

[“(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

[“(B) the beneficiaries of individuals described in subparagraph (A).

[“(b) COVERAGE OF PREVIOUSLY UNINSURED EMPLOYEES.—In the case of a small business health plan in existence on the date of the enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2005, an affiliated member of the sponsor of the plan may be offered coverage under the plan as a participating employer only if—

[“(1) the affiliated member was an affiliated member on the date of certification under this part; or

[“(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such small business health plan.

[“(c) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

[“(d) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to a small business health plan if—

[“(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

[“(2) upon request, any employer eligible to participate is furnished information regarding all coverage options available under the plan; and

[“(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

[“SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

[“(a) IN GENERAL.—The requirements of this section are met with respect to a small business health plan if the following requirements are met:

[“(1) CONTENTS OF GOVERNING INSTRUMENTS.—

[“(A) IN GENERAL.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

[“(i) provides that the board of directors serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)); and

[“(ii) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)).

[“(B) DESCRIPTION OF MATERIAL PROVISIONS.—The terms of the health insurance coverage (including the terms of any individual certificates that may be offered to individuals in connection with such coverage) describe the material benefit and rating, and other provisions set forth in this section and such material provisions are included in the summary plan description.

[“(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

[“(A) IN GENERAL.—The contribution rates for any participating small employer shall not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and shall not vary on the basis of the type of business or industry in which such employer is engaged.

[“(B) EFFECT OF TITLE.—Nothing in this title or any other provision of law shall be construed to preclude a health insurance issuer offering health insurance coverage in connection with a small business health plan, and at the request of such small business health plan, from—

[“(i) setting contribution rates for the small business health plan based on the claims experience of the plan so long as any variation in such rates complies with the requirements of clause (ii); or

[“(ii) varying contribution rates for participating employers in a small business health plan in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates, subject to the terms of part I of subtitle A of title XXIX of the Public Health Service Act (relating to rating requirements), as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2005.

[“(3) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation.

[“(b) ABILITY OF SMALL BUSINESS HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude a small business health plan or a health insurance issuer offering health insurance coverage in connection with a small business health plan, from exercising its sole discretion in selecting the specific benefits and services consisting of medical care to be included as benefits under such plan or coverage, except that such benefits and services must meet the terms and specifications of part II of subtitle A of title XXIX of the Public Health Service Act (relating to lower cost plans), as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2005, provided that, upon issuance by the Secretary of Health and Human Services of the List of Required Benefits as provided for in section 2922(a) of the Public Health Service Act, the required scope and application for each benefit or service listed in the List of Required Benefits shall be—

[“(1) if the domicile State mandates such benefit or service, the scope and application required by the domicile State; or

[“(2) if the domicile State does not mandate such benefit or service, the scope and application required by the non-domicile State that does require such benefit or service in which the greatest number of the small business health plan's participating employers are located.

[“(c) STATE LICENSURE AND INFORMATIONAL FILING.—

[“(1) DOMICILE STATE.—Coverage shall be issued to a small business health plan in the State in which the sponsor's principal place of business is located.

[“(2) NON-DOMICILE STATES.—With respect to a State (other than the domicile State) in which participating employers of a small business health plan are located, an insurer issuing coverage to such small business health plan shall not be required to obtain full licensure in such State, except that the insurer shall provide each State insurance commissioner (or applicable State authority) with an informational filing describing policies sold and other relevant information as may be requested by the applicable State authority.

["SEC. 806. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

["(a) Filing Fee.—Under the procedure prescribed pursuant to section 802(a), a small business health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to small business health plans.

["(b) Information to Be Included in Application for Certification.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority by regulation, at least the following information:

["(1) Identifying information.—The names and addresses of—

["(A) the sponsor; and

["(B) the members of the board of trustees of the plan.

["(2) States in which plan intends to do business.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

["(3) Bonding requirements.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

["(4) Plan documents.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

["(5) Agreements with service providers.—A copy of any agreements between the plan, health insurance issuer, and contract administrators and other service providers.

["(c) Filing Notice of Certification With States.—A certification granted under this part to a small business health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

["(d) Notice of Material Changes.—In the case of any small business health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

["SEC. 807. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

["A small business health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees, not less than 60 days before the proposed termination date—

["(1) provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

["(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

["(3) submits such plan in writing to the applicable authority.

[Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation.

["SEC. 808. DEFINITIONS AND RULES OF CONSTRUCTION.

["(a) Definitions.—For purposes of this part—

["(1) Affiliated member.—The term 'affiliated member' means, in connection with a sponsor—

["(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor,

["(B) in the case of a sponsor with members which consist of associations, a person who is a member of any such association and elects an affiliated status with the sponsor, or

["(C) in the case of a small business health plan in existence on the date of the enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2005, a person eligible to be a member of the sponsor or one of its member associations.

["(2) Applicable authority.—The term 'applicable authority' means the Secretary, except that, in connection with any exercise of the Secretary's authority with respect to which the Secretary is required under section 506(d) to consult with a State, such term means the Secretary, in consultation with such State.

["(3) Applicable State authority.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

["(4) Group health plan.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

["(5) Health insurance coverage.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

["(6) Health insurance issuer.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

["(7) Individual market.—

["(A) In general.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

["(B) Treatment of very small groups.—

["(i) In general.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

["(ii) State exception.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

["(8) Medical care.—The term 'medical care' has the meaning provided in section 733(a)(2).

["(9) Participating employer.—The term 'participating employer' means, in connection with a small business health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

["(10) Small employer.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, a small employer as defined in section 2791(e)(4).

["(b) Rule of Construction.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is a small business health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

["(1) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

["(2) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.".

[(b) Conforming Amendments to Preemption Rules.—

[(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

["(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of a small business health plan which is certified under part 8.".

[(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

[(A) in subsection (b)(4), by striking "Subsection (a)" and inserting "Subsections (a) and (d)";

[(B) in subsection (b)(5), by striking "subsection (a)" in subparagraph (A) and inserting "subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805", and by striking "subsection (a)" in subparagraph (B) and inserting "subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805";

[(C) by redesignating subsection (d) as subsection (e); and

[(D) by inserting after subsection (c) the following new subsection:

["(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude a health insurance issuer from offering health insurance coverage in connection with a small business health plan which is certified under part 8.

["(2) In any case in which health insurance coverage of any policy type is offered under a small business health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may establish rating and benefit requirements that would otherwise apply to such coverage, provided the requirements of section 805(a)(2)(B) and (b) (concerning small business health plan rating and benefits) are met.".

[(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

[(A) in clause (i)(II), by striking "and" at the end;

[(B) in clause (ii), by inserting "and which does not provide medical care (within the meaning of section 733(a)(2))," after "arrangement,", and by striking "title." and inserting "title, and"; and

[(C) by adding at the end the following new clause:

["(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.".

[(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended by striking "Nothing" and inserting "(1) Except as provided in paragraph (2), nothing".

[(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes a person serving as the sponsor of a small business health plan under part 8.".

[(d) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting "or part 8" after "this part".

[(e) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

["PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

["801. Small business health plans.
["802. Certification of small business health plans.
["803. Requirements relating to sponsors and boards of trustees.
["804. Participation and coverage requirements.
["805. Other requirements relating to plan documents, contribution rates, and benefit options.
["806. Requirements for application and related requirements.
["807. Notice requirements for voluntary termination.
["808. Definitions and rules of construction.".

[SEC. 102. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

[Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

["(d) CONSULTATION WITH STATES WITH RESPECT TO SMALL BUSINESS HEALTH PLANS.—

["(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to a small business health plan regarding the exercise of—

["(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

["(B) the Secretary's authority to certify small business health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

["(2) RECOGNITION OF DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular small business health plan, as the State with which consultation is required. In carrying out this paragraph such State shall be the domicile State, as defined in section 805(c).".

[SEC. 103. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

[(a) EFFECTIVE DATE.—The amendments made by this title shall take effect 1 year after the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this title within 1 year after the date of the enactment of this Act.

[(b) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

[(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 808(a)(2) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

[(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

[(B) the requirements of sections 801(a) and 803(a) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

[(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of trustees which—

[(i) is elected by the participating employers, with each employer having one vote; and

[(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

[(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

[(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

[The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement or at such time that the arrangement provides coverage to participants and beneficiaries in any State other than the States in which coverage is provided on such date of enactment.

[(2) DEFINITIONS.—For purposes of this subsection, the terms "group health plan", "medical care", and "participating employer" shall have the meanings provided in section 808 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an "small business health plan" shall be deemed a reference to an arrangement referred to in this subsection.

[TITLE II—NEAR-TERM MARKET RELIEF

[SEC. 201. NEAR-TERM MARKET RELIEF.

[The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

["TITLE XXIX—HEALTH CARE INSURANCE MARKETPLACE REFORM

["SEC. 2901. GENERAL INSURANCE DEFINITIONS.

["In this title, the terms 'health insurance coverage', 'health insurance issuer', 'group health plan', and 'individual health insurance' shall have the meanings given such terms in section 2791.

["Subtitle A—Near-Term Market Relief

["PART I—RATING REQUIREMENTS

["SEC. 2911. DEFINITIONS.

["In this part:

["(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted either the NAIC model rules or the National Interim Model Rating Rules in their entirety and as the exclusive laws of the State that relate to rating in the small group insurance market.

["(2) COMMISSION.—The term 'Commission' means the Harmonized Standards Commission established under section 2921.

["(3) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

["(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer small group health insurance coverage consistent with the National Interim Model Rating Rules in a nonadopting State;

["(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer small group health insurance coverage in that State consistent with the National Interim Model Rating Rules, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

["(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the National Interim Model Rating Rules and an affirmation that such Rules are included in the terms of such contract.

["(4) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in small group health insurance market.

["(5) NAIC MODEL RULES.—The term 'NAIC model rules' means the rating rules provided for in the 1992 Adopted Small Employer Health Insurance Availability Model Act of the National Association of Insurance Commissioners.

["(6) NATIONAL INTERIM MODEL RATING RULES.—The term 'National Interim Model Rating Rules' means the rules promulgated under section 2912(a).

["(7) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

["(8) SMALL GROUP INSURANCE MARKET.—The term 'small group insurance market' shall have the meaning given the term 'small group market' in section 2791(e)(5).

["(9) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

[“SEC. 2912. RATING RULES.

[“(a) National Interim Model Rating Rules.—Not later than 6 months after the date of enactment of this title, the Secretary, in consultation with the National Association of Insurance Commissioners, shall, through expedited rulemaking procedures, promulgate National Interim Model Rating Rules that shall be applicable to the small group insurance market in certain States until such time as the provisions of subtitle B become effective. Such Model Rules shall apply in States as provided for in this section beginning with the first plan year after the such Rules are promulgated.

[“(b) Utilization of NAIC Model Rules.—In promulgating the National Interim Model Rating Rules under subsection (a), the Secretary, except as otherwise provided in this subtitle, shall utilize the NAIC model rules regarding premium rating and premium variation.

[“(c) Transition in Certain States.—

[“(1) In general.—In promulgating the National Interim Model Rating Rules under subsection (a), the Secretary shall have discretion to modify the NAIC model rules in accordance with this subsection to the extent necessary to provide for a graduated transition, of not to exceed 3 years following the promulgation of such National Interim Rules, with respect to the application of such Rules to States.

[“(2) Initial premium variation.—

[“(A) In general.—Under the modified National Interim Model Rating Rules as provided for in paragraph (1), the premium variation provision of subparagraph (C) shall be applicable only with respect to small group policies issued in States which, on the date of enactment of this title, have in place premium rating band requirements that vary by less than 50 percent from the premium variation standards contained in subparagraph (C) with respect to the standards provided for under the NAIC model rules.

[“(B) Other states.—Health insurance coverage offered in a State that, on the date of enactment of this title, has in place premium rating band requirements that vary by more than 50 percent from the premium variation standards contained in subparagraph (C) shall be subject to such graduated transition schedules as may be provided by the Secretary pursuant to paragraph (1).

[“(C) Amount of variation.—The amount of a premium rating variation from the base premium rate due to health conditions of covered individuals under this subparagraph shall not exceed a factor of—

[“(i) +/- 25 percent upon the issuance of the policy involved; and

[“(ii) +/- 15 percent upon the renewal of the policy.

[“(3) Other transitional authority.—In developing the National Interim Model Rating Rules, the Secretary may also provide for the application of transitional standards in certain States with respect to the following:

[“(A) Independent rating classes for old and new business.

[“(B) Such additional transition standards as the Secretary may determine necessary for an effective transition.

[“SEC. 2913. APPLICATION AND PREEMPTION.

[“(a) Superseding of State Law.—

[“(1) In general.—This part shall supersede any and all State laws insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle) relate to rating in the small group insurance market as applied to an eligible insurer, or small group health insurance coverage issued by an eligible insurer, in a nonadopting State.

[“(2) Nonadopting states.—This part shall supersede any and all State laws of a nonadopting State insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle)—

[“(A) prohibit an eligible insurer from offering coverage consistent with the National Interim Model Rating Rules in a nonadopting State; or

[“(B) discriminate against or among eligible insurers offering health insurance coverage consistent with the National Interim Model Rating Rules in a nonadopting state.

[“(b) Savings Clause and Construction.—

[“(1) Nonapplication to adopting states.—Subsection (a) shall not apply with respect to adopting states.

[“(2) Nonapplication to certain insurers.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers that offer small group health insurance coverage in a nonadopting State.

[“(3) Nonapplication where obtaining relief under state law.—Subsection (a)(1) shall not apply to any State law in a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the terms of the small group health insurance coverage issued in the nonadopting State. In no case shall this paragraph, or any other provision of this title, be construed to create a cause of action on behalf of an individual or any other person under State law in connection with a group health plan that is subject to the Employee Retirement Income Security Act of 1974 or health insurance coverage issued in connection with such a plan.

[“(4) Nonapplication to enforce requirements relating to the national rule.—Subsection (a)(1) shall not apply to any State law in a nonadopting State to the extent necessary to provide the insurance department of the State (or other State agency) with the authority to enforce State law requirements relating to the National Interim Model Rating Rules that are not set forth in the terms of the small group health insurance coverage issued in a nonadopting State, in a manner that is consistent with the National Interim Model Rating Rules and that imposes no greater duties or obligations on health insurance issuers than the National Interim Model Rating Rules.

[“(5) Nonapplication to subsection (a)(2).—Paragraphs (3) and (4) shall not apply with respect to subsection (a)(2).

[“(6) No affect on preemption.—In no case shall this subsection be construed to affect the scope of the preemption provided for under the Employee Retirement Income Security Act of 1974.

[“(c) Effective Date.—This section shall apply beginning in the first plan year following the issuance of the final rules by the Secretary under the National Interim Model Rating Rules.

[“SEC. 2914. CIVIL ACTIONS AND JURISDICTION.

[“(a) In General.—The district courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

[“(b) Actions.—A health insurance issuer may bring an action in the district courts of the United States for injunctive or other equitable relief against a nonadopting State in connection with the application of a state law that violates this part.

[“(c) Violations of Section 2913.—In the case of a nonadopting State that is in violation of section 2913(a)(2), a health insurance issuer may bring an action in the district courts of the United States for damages against the nonadopting State and, if the health insurance issuer prevails in such action, the district court shall award the health insurance issuer its reasonable attorneys fees and costs.

[“SEC. 2915. SUNSET.

[“The National Interim Model Rating Rules shall remain in effect in a non-adopting State until such time as the harmonized national rating rules are promulgated and effective pursuant to part II. Upon such effective date, such harmonized rules shall supersede the National Rules.

[“PART II—LOWER COST PLANS

[“SEC. 2921. DEFINITIONS.

[“In this part:

[“(1) Adopting state.—The term ‘adopting State’ means a State that has enacted the State Benefit Compendium in its entirety and as the exclusive laws of the State that relate to benefit, service, and provider mandates in the group and individual insurance markets.

[“(2) Eligible insurer.—The term ‘eligible insurer’ means a health insurance issuer that is licensed in a nonadopting State and that—

[“(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer group health insurance coverage consistent with the State Benefit Compendium in a nonadopting State;

[“(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer group health insurance coverage in that State consistent with the State Benefit Compendium, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

[“(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer’s contract of the State Benefit Compendium and that adherence to the Compendium is included as a term of such contract.

[“(3) Health insurance coverage.—The term ‘health insurance coverage’ means any coverage issued in the group or individual health insurance markets.

[“(4) Nonadopting state.—The term ‘nonadopting State’ means a State that is not an adopting State.

[“(5) State benefit compendium.—The term ‘State Benefit Compendium’ means the Compendium issued under section 2922.

[“(6) State law.—The term ‘State law’ means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

[“SEC. 2922. OFFERING LOWER COST PLANS.

[“(a) List of Required Benefits.—Not later than 3 months after the date of enactment of this title, the Secretary shall issue by interim final rule a list (to be known as the ‘List of Required Benefits’) of the benefit, service, and provider mandates that are required to be provided by health insurance issuers in at least 45 States as a result of the application of State benefit, service, and provider mandate laws.

["(b) STATE BENEFIT COMPENDIUM.—

["(1) VARIANCE.—Not later than 12 months after the date of enactment of this title, the Secretary shall issue by interim final rule a compendium (to be known as the 'State Benefit Compendium') of harmonized descriptions of the benefit, service, and provider mandates identified under subsection (a). In developing the Compendium, with respect to differences in State mandate laws identified under subsection (a) relating to similar benefits, services, or providers, the Secretary shall review and define the scope and application of such State laws so that a common approach shall be applicable under such Compendium in a uniform manner. In making such determination, the Secretary shall adopt an approach reflective of the approach used by a plurality of the States requiring such benefit, service, or provider mandate.

["(2) EFFECT.—The State Benefit Compendium shall provide that any State benefit, service, and provider mandate law (enacted prior to or after the date of enactment of this title) other than those described in the Compendium shall not be binding on health insurance issuers in an adopting State.

["(3) IMPLEMENTATION.—The effective date of the State Benefit Compendium shall be the later of—

["(A) the date that is 12 months from the date of enactment of this title; or

["(B) such subsequent date on which the interim final rule for the State Benefit Compendium shall be issued.

["(c) NON-ASSOCIATION COVERAGE.—With respect to health insurers selling insurance to small employers (as defined in section 808(a)(10) of the Employee Retirement Income Security Act of 1974), in the event the Secretary fails to issue the State Benefit Compendium within 12 months of the date of enactment of this title, the required scope and application for each benefit or service listed in the List of Required Benefits shall, other than with respect to insurance issued to a Small Business Health Plan, be—

["(1) if the State in which the insurer issues a policy mandates such benefit or service, the scope and application required by such State; or

["(2) if the State in which the insurer issues a policy does not mandate such benefit or service, the scope and application required by such other State that does require such benefit or service in which the greatest number of the insurer's small employer policyholders are located.

["(d) UPDATING OF STATE BENEFIT COMPENDIUM.—Not later than 2 years after the date on which the Compendium is issued under subsection (b)(1), and every 2 years thereafter, the Secretary, applying the same methodology provided for in subsections (a) and (b)(1), in consultation with the National Association of Insurance Commissioners, shall update the Compendium. The Secretary shall issue the updated Compendium by regulation, and such updated Compendium shall be effective upon the first plan year following the issuance of such regulation.

["SEC. 2923. APPLICATION AND PREEMPTION.

["(a) SUPERSEDING OF STATE LAW.—

["(1) IN GENERAL.—This part shall supersede any and all State laws (whether enacted prior to or after the date of enactment of this title) insofar as such laws relate to benefit, service, or provider mandates in the health insurance market as applied to an eligible insurer, or health insurance coverage issued by an eligible insurer, in a nonadopting State.

["(2) NONADOPTING STATES.—This part shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as such laws—

["(A) prohibit an eligible insurer from offering coverage consistent with the State Benefit Compendium, as provided for in section 2922(a), in a nonadopting State; or

["(B) discriminate against or among eligible insurers offering or seeking to offer health insurance coverage consistent with the State Benefit Compendium in a nonadopting State.

["(b) SAVINGS CLAUSE AND CONSTRUCTION.—

["(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting States.

["(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

["(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not apply to any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the terms of the group health insurance coverage issued in a nonadopting State. In no case shall this paragraph, or any other provision of this title, be construed to create a cause of action on behalf of an individual or any other person under State law in connection with a group health plan that is subject to the Employee Retirement Income Security Act of 1974 or health insurance coverage issued in connection with such plan.

["(4) NONAPPLICATION TO ENFORCE REQUIREMENTS RELATING TO THE COMPENDIUM.—Subsection (a)(1) shall not apply to any State law in a nonadopting State to the extent necessary to provide the insurance department of the State (or other state agency) authority to enforce State law requirements relating to the State Benefit Compendium that are not set forth in the terms of the group health insurance coverage issued in a nonadopting State, in a manner that is consistent with the State Benefit Compendium and imposes no greater duties or obligations on health insurance issuers than the State Benefit Compendium.

["(5) NONAPPLICATION TO SUBSECTION (A)(2).—Paragraphs (3) and (4) shall not apply with respect to subsection (a)(2).

["(6) NO AFFECT ON PREEMPTION.—In no case shall this subsection be construed to affect the scope of the preemption provided for under the Employee Retirement Income Security Act of 1974.

["(c) EFFECTIVE DATE.—This section shall apply upon the first plan year following final issuance by the Secretary of the State Benefit Compendium.

["SEC. 2924. CIVIL ACTIONS AND JURISDICTION.

["(a) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

["(b) ACTIONS.—A health insurance issuer may bring an action in the district courts of the United States for injunctive or other equitable relief against a nonadopting State in connection with the application of a State law that violates this part.

["(c) VIOLATIONS OF SECTION 2923.—In the case of a nonadopting State that is in violation of section 2923(a)(2), a health insurance issuer may bring an action in the district courts of the United States for damages against the nonadopting State and, if the health insurance issuer prevails in such action, the district court shall award the health insurance issuer its reasonable attorneys fees and costs.".

[TITLE III—HARMONIZATION OF HEALTH INSURANCE LAWS

[SEC. 301. HEALTH INSURANCE REGULATORY HARMONIZATION.

[Title XXIX of the Public Health Service Act (as added by section 201) is amended by adding at the end the following:

["Subtitle B—Regulatory Harmonization

["SEC. 2931. DEFINITIONS.

["In this subtitle:

["(1) ACCESS.—The term 'access' means any requirements of State law that regulate the following elements of access:

["(A) Renewability of coverage.

["(B) Guaranteed issuance as provided for in title XXVII.

["(C) Guaranteed issue for individuals not eligible under subparagraph (B).

["(D) High risk pools.

["(E) Pre-existing conditions limitations.

["(2) ADOPTING STATE.—The term 'adopting State' means a State that has enacted the harmonized standards adopted under this subtitle in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

["(3) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

["(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the harmonized standards in a nonadopting State;

["(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer group health insurance coverage in that State consistent with the State Benefit Compendium, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

["(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description of the harmonized standards published pursuant to section 2932(g)(2) and an affirmation that such standards are a term of the contract.

["(4) HARMONIZED STANDARDS.—The term 'harmonized standards' means the standards adopted by the Secretary under section 2932(d).

["(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the health insurance market.

["(6) NONADOPTING STATE.—The term 'nonadopting State' means a State that fails to enact, within 2 years of the date in which final regulations are issued by the Secretary adopting the harmonized standards under this subtitle, the harmonized standards in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

["(7) PATIENT PROTECTIONS.—The term 'patient protections' means any requirement of State law that regulate the following elements of patient protections:

["(A) Internal appeals.

["(B) External appeals.

["(C) Direct access to providers.

["(D) Prompt payment of claims.

["(E) Utilization review.

["(F) Marketing standards.

["(8) PLURALITY REQUIREMENT.—The term 'plurality requirement' means the most common substantially similar requirements for elements within each area described in section 2932(b)(1).

["(9) RATING.—The term 'rating' means, at the time of issuance or renewal, requirements of State law the regulate the following elements of rating:

["(A) Limits on the types of variations in rates based on health status.

["(B) Limits on the types of variations in rates based on age and gender.

["(C) Limits on the types of variations in rates based on geography, industry and group size.

["(D) Periods of time during which rates are guaranteed.

["(E) The review and approval of rates.

["(F) The establishment of classes or blocks of business.

["(G) The use of actuarial justifications for rate variations.

["(10) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

["(11) SUBSTANTIALLY SIMILAR.—The term 'substantially similar' means a requirement of State law applicable to an element of an area identified in section 2932 that is similar in most material respects. Where the most common State action with respect to an element is to adopt no requirement for an element of an area identified in such section 2932, the plurality requirement shall be deemed to impose no requirements for such element.

["SEC. 2932. HARMONIZED STANDARDS.

["(a) COMMISSION.—

["(1) ESTABLISHMENT.—The Secretary, in consultation with the NAIC, shall establish the Commission on Health Insurance Standards Harmonization (referred to in this subtitle as the 'Commission') to develop recommendations that harmonize inconsistent State health insurance laws in accordance with the laws adopted in a plurality of the States.

["(2) COMPOSITION.—The Commission shall be composed of the following individuals to be appointed by the Secretary:

["(A) Two State insurance commissioners, of which one shall be a Democrat and one shall be a Republican, and of which one shall be designated as the chairperson and one shall be designated as the vice chairperson.

["(B) Two representatives of State government, one of which shall be a governor of a State and one of which shall be a State legislator, and one of which shall be a Democrat and one of which shall be a Republican.

["(C) Two representatives of employers, of which one shall represent small employers and one shall represent large employers.

["(D) Two representatives of health insurers, of which one shall represent insurers that offer coverage in all markets (including individual, small, and large markets), and one shall represent insurers that offer coverage in the small market.

["(E) Two representatives of consumer organizations.

["(F) Two representatives of insurance agents and brokers.

["(G) Two representatives of healthcare providers.

["(H) Two independent representatives of the American Academy of Actuaries who have familiarity with the actuarial methods applicable to health insurance.

["(I) One administrator of a qualified high risk pool.

["(3) TERMS.—The members of the Commission shall serve for the duration of the Commission. The Secretary shall fill vacancies in the Commission as needed and in a manner consistent with the composition described in paragraph (2).

["(b) DEVELOPMENT OF HARMONIZED STANDARDS.—

["(1) IN GENERAL.—In accordance with the process described in subsection (c), the Commission shall identify and recommend nationally harmonized standards for the small group health insurance market, the individual health insurance market, and the large group health insurance market that relate to the following areas:

["(A) Rating.

["(B) Access to coverage.

["(C) Patient protections.

["(2) RECOMMENDATIONS.—The Commission shall recommend separate harmonized standards with respect to each of the three insurance markets described in paragraph (1) and separate standards for each element of the areas described in subparagraph (A) through (C) of such paragraph within each such market. Notwithstanding the previous sentence, the Commission shall not recommend any harmonized standards that disrupt, expand, or duplicate the benefit, service, or provider mandate standards provided in the State Benefit Compendium pursuant to section 2922(a).

["(c) PROCESS FOR IDENTIFYING HARMONIZED STANDARDS.—

["(1) IN GENERAL.—The Commission shall develop recommendations to harmonize inconsistent State insurance laws with the laws adopted in a plurality of the States. In carrying out the previous sentence, the Commission shall review all State laws that regulate insurance in each of the insurance markets and areas described in subsection (b)(1) and identify the plurality requirement within each element of such areas. Such plurality requirement shall be the harmonized standard for such area in each such market.

["(2) CONSULTATION.—The Commission shall consult with the National Association of Insurance Commissioners in identifying the plurality requirements for each element within the area and in recommending the harmonized standards.

["(3) REVIEW OF FEDERAL LAWS.—The Commission shall review whether any Federal law imposes a requirement relating to the markets and areas described in subsection (b)(1). In such case, such Federal requirement shall be deemed the plurality requirement and the Commission shall recommend the Federal requirement as the harmonized standard for such elements.

["(d) RECOMMENDATIONS AND ADOPTION BY SECRETARY.—

["(1) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this title, the Commission shall recommend to the Secretary the adoption of the harmonized standards identified pursuant to subsection (c).

["(2) REGULATIONS.—Not later than 120 days after receipt of the Commission's recommendations under paragraph (1), the Secretary shall issue final regulations adopting the recommended harmonized standards. If the Secretary finds the recommended standards for an element of an area to be arbitrary and inconsistent with the plurality requirements of this section, the Secretary may issue a unique harmonized standard only for such element through the application of a process similar to the process set forth in subsection (c) and through the issuance of proposed and final regulations.

["(3) EFFECTIVE DATE.—The regulations issued by the Secretary under paragraph (2) shall be effective on the date that is 2 years after the date on which such regulations were issued.

["(e) TERMINATION.—The Commission shall terminate and be dissolved after making the recommendations to the Secretary pursuant to subsection (d)(1).

["(f) UPDATED HARMONIZED STANDARDS.—

["(1) IN GENERAL.—Not later than 2 years after the termination of the Commission under subsection (e), and every 2 years thereafter, the Secretary shall update the harmonized standards. Such updated standards shall be adopted in accordance with paragraph (2).

["(2) UPDATING OF STANDARDS.—

["(A) IN GENERAL.—The Secretary shall review all State laws that regulate insurance in each of the markets and elements of areas set forth in subsection (b)(1) and identify whether a plurality of States have adopted substantially similar requirements that differ from the harmonized standards adopted by the Secretary pursuant to subsection (d). In such case, the Secretary shall consider State laws that have been enacted with effective dates that are contingent upon adoption as a harmonized standard by the Secretary. Substantially similar requirements for each element within such area shall be considered to be an updated harmonized standard for such an area.

["(B) REPORT.—The Secretary shall request the National Association of Insurance Commissioners to issue a report to the Secretary every 2 years to assist the Secretary in identifying the updated harmonized standards under this paragraph. Nothing in this subparagraph shall be construed to prohibit the Secretary from issuing updated harmonized standards in the absence of such a report.

["(C) REGULATIONS.—The Secretary shall issue regulations adopting updated harmonized standards under this paragraph within 90 days of identifying such standards. Such regulations shall be effective beginning on the date that is 2 years after the date on which such regulations are issued.

["(g) PUBLICATION.—

["(1) LISTING.—The Secretary shall maintain an up to date listing of all harmonized standards adopted under this section on the Internet website of the Department of Health and Human Services.

["(2) SAMPLE CONTRACT LANGUAGE.—The Secretary shall publish on the Internet website of the Department of Health and Human Services sample contract language that incorporates the harmonized standards adopted under this section, which may be used by insurers seeking to qualify as an eligible insurer. The types of harmonized standards that shall be included in sample contract language are the standards that are relevant to the contractual bargain between the insurer and insured.

["(h) STATE ADOPTION AND ENFORCEMENT.—Not later than 2 years after the issuance by the Secretary of final regulations adopting harmonized standards under this section, the

States may adopt such harmonized standards (and become an adopting State) and, in which case, shall enforce the harmonized standards pursuant to State law.

[“SEC. 2933. APPLICATION AND PREEMPTION.

[“(a) Superseding of State Law.—

[“(1) In general.—The harmonized standards adopted under this subtitle shall supersede any and all State laws (whether enacted prior to or after the date of enactment of this title) insofar as such State laws relate to the areas of harmonized standards as applied to an eligible insurer, or health insurance coverage issued by a eligible insurer, in a nonadopting State.

[“(2) Nonadopting states.—This subtitle shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as they may—

[“(A) prohibit an eligible insurer from offering coverage consistent with the harmonized standards in the nonadopting State; or

[“(B) discriminate against or among eligible insurers offering or seeking to offer health insurance coverage consistent with the harmonized standards in the nonadopting State.

[“(b) Savings Clause and Construction.—

[“(1) Nonapplication to adopting states.—Subsection (a) shall not apply with respect to adopting States.

[“(2) Nonapplication to certain insurers.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

[“(3) Nonapplication where obtaining relief under state law.—Subsection (a)(1) shall not apply to any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the terms of the health insurance coverage issued in a nonadopting State. In no case shall this paragraph, or any other provision of this subtitle, be construed to permit a cause of action on behalf of an individual or any other person under State law in connection with a group health plan that is subject to the Employee Retirement Income Security Act of 1974 or health insurance coverage issued in connection with such plan.

[“(4) Nonapplication to enforce requirements relating to the compendium.—Subsection (a)(1) shall not apply to any State law in a nonadopting State to the extent necessary to provide the insurance department of the State (or other state agency) authority to enforce State law requirements relating to the harmonized standards that are not set forth in the terms of the health insurance coverage issued in a nonadopting State, in a manner that is consistent with the harmonized standards and imposes no greater duties or obligations on health insurance issuers than the harmonized standards.

[“(5) Nonapplication to subsection (a)(2).—Paragraphs (3) and (4) shall not apply with respect to subsection (a)(2).

[“(6) No affect on preemption.—In no case shall this subsection be construed to affect the scope of the preemption provided for under the Employee Retirement Income Security Act of 1974.

[“(c) Effective Date.—This section shall apply beginning on the date that is 2 years after the date on which final regulations are issued by the Secretary under this subtitle adopting the harmonized standards.

[“SEC. 2934. CIVIL ACTIONS AND JURISDICTION.

[“(a) In General.—The district courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this subtitle.

[“(b) Actions.—A health insurance issuer may bring an action in the district courts of the United States for injunctive or other equitable relief against a nonadopting State in connection with the application of a State law that violates this subtitle.

[“(c) Violations of Section 2933.—In the case of a nonadopting State that is in violation of section 2933(a)(2), a health insurance issuer may bring an action in the district courts of the United States for damages against the nonadopting State and, if the health insurance issuer prevails in such action, the district court shall award the health insurance issuer its reasonable attorneys fees and costs.

[“SEC. 2935. AUTHORIZATION OF APPROPRIATIONS.

[“There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.”.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; PURPOSE.

(a) Short Title.—This Act may be cited as the “Health Insurance Marketplace Modernization and Affordability Act of 2006”.

(b) Table of Contents.—The table of contents is as follows:

Sec. 1. Short title; table of contents; purposes.

TITLE I—SMALL BUSINESS HEALTH PLANS

Sec. 101. Rules governing small business health plans.

Sec. 102. Cooperation between Federal and State authorities.

Sec. 103. Effective date and transitional and other rules.

TITLE II—MARKET RELIEF

Sec. 201. Market relief.

TITLE III—HARMONIZATION OF HEALTH INSURANCE STANDARDS

Sec. 301. Health Insurance Standards Harmonization.

(c) Purposes.—It is the purpose of this Act to—

(1) make more affordable health insurance options available to small businesses, working families, and all Americans;

(2) assure effective State regulatory protection of the interests of health insurance consumers; and

(3) create a more efficient and affordable health insurance marketplace through collaborative development of uniform regulatory standards.

TITLE I—SMALL BUSINESS HEALTH PLANS

SEC. 101. RULES GOVERNING SMALL BUSINESS HEALTH PLANS.

(a) In General.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

“PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

“SEC. 801. SMALL BUSINESS HEALTH PLANS.

“(a) In General.—For purposes of this part, the term ‘small business health plan’ means a fully insured group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

“(b) Sponsorship.—The sponsor of a group health plan is described in this subsection if such sponsor—

“(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining medical care;

“(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership;

“(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation; and

“(4) does not condition membership on the basis of a minimum group size.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), (3), and (4) shall be deemed to be a sponsor described in this subsection.

“SEC. 802. CERTIFICATION OF SMALL BUSINESS HEALTH PLANS.

“(a) In General.—Not later than 6 months after the date of enactment of this part, the applicable authority shall prescribe by interim final rule a procedure under which the applicable authority shall certify small business health plans which apply for certification as meeting the requirements of this part.

“(b) Requirements Applicable to Certified Plans.—A small business health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

“(c) Requirements for Continued Certification.—The applicable authority may provide by regulation for continued certification of small business health plans under this part. Such regulation shall provide for the revocation of a certification if the applicable authority finds that the small business health plan involved is failing to comply with the requirements of this part.

“(d) Expedited and Deemed Certification.—

“(1) In general.—If the Secretary fails to act on an application for certification under this section within 90 days of receipt of such application, the applying small business health plan shall be deemed certified until such time as the Secretary may deny for cause the application for certification.

“(2) Civil penalty.—The Secretary may assess a civil penalty against the board of trustees and plan sponsor (jointly and severally) of a small business health plan that is deemed certified under paragraph (1) of up to $500,000 in the event the Secretary determines that the application for certification of such small business health plan was willfully or with gross negligence incomplete or inaccurate.

“SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

“(a) Sponsor.—The requirements of this subsection are met with respect to a small business health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

“(b) Board of Trustees.—The requirements of this subsection are met with respect to a small

business health plan if the following requirements are met:

"(1) FISCAL CONTROL.—The plan is operated, pursuant to a plan document, by a board of trustees which pursuant to a trust agreement has complete fiscal control over the plan and which is responsible for all operations of the plan.

"(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

"(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

"(A) BOARD MEMBERSHIP.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

"(ii) LIMITATION.—

"(I) GENERAL RULE.—Except as provided in subclauses (II) and (III), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

"(II) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

"(III) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, subclause (I) shall not apply in the case of any service provider described in subclause (I) who is a provider of medical care under the plan.

"(iii) CERTAIN PLANS EXCLUDED.—Clause (i) shall not apply to a small business health plan which is in existence on the date of the enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2006.

"(B) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with insurers.

"(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

"(1) the requirements of subsection (a) and section 801(a) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

"(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

"SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

"(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan—

"(1) each participating employer must be—

"(A) a member of the sponsor;

"(B) the sponsor; or

"(C) an affiliated member of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

"(2) all individuals commencing coverage under the plan after certification under this part must be—

"(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

"(B) the dependents of individuals described in subparagraph (A).

"(b) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

"(c) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to a small business health plan if—

"(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

"(2) information regarding all coverage options available under the plan is made readily available to any employer eligible to participate; and

"(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

"(a) IN GENERAL.—The requirements of this section are met with respect to a small business health plan if the following requirements are met:

"(1) CONTENTS OF GOVERNING INSTRUMENTS.—

"(A) IN GENERAL.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

"(i) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)); and

"(ii) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)).

"(B) DESCRIPTION OF MATERIAL PROVISIONS.—The terms of the health insurance coverage (including the terms of any individual certificates that may be offered to individuals in connection with such coverage) describe the material benefit and rating, and other provisions set forth in this section and such material provisions are included in the summary plan description.

"(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

"(A) IN GENERAL.—The contribution rates for any participating small employer shall not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and shall not vary on the basis of the type of business or industry in which such employer is engaged.

"(B) EFFECT OF TITLE.—Nothing in this title or any other provision of law shall be construed to preclude a health insurance issuer offering health insurance coverage in connection with a small business health plan, and at the request of such small business health plan, from—

"(i) setting contribution rates for the small business health plan based on the claims experience of the plan so long as any variation in such rates complies with the requirements of clause (ii), except that small business health plans shall not be subject to paragraphs (1)(A) and (3) of section 2911(b) of the Public Health Service Act; or

"(ii) varying contribution rates for participating employers in a small business health plan in a State to the extent that such rates could vary using the same methodology employed in such State for regulating small group premium rates, subject to the terms of part I of subtitle A of title XXIX of the Public Health Service Act (relating to rating requirements), as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2006.

"(3) EXCEPTIONS REGARDING SELF-EMPLOYED AND LARGE EMPLOYERS.—

"(A) SELF EMPLOYED.—

"(i) IN GENERAL.—Small business health plans with participating employers who are self-employed individuals (and their dependents) shall enroll such self-employed participating employers in accordance with rating rules that do not violate the rating rules for self-employed individuals in the State in which such self-employed participating employers are located.

"(ii) GUARANTEE ISSUE.—Small business health plans with participating employers who are self-employed individuals (and their dependents) may decline to guarantee issue to such participating employers in States in which guarantee issue is not otherwise required for the self-employed in that State.

"(B) LARGE EMPLOYERS.—Small business health plans with participating employers that are larger than small employers (as defined in section 808(a)(10)) shall enroll such large participating employers in accordance with rating rules that do not violate the rating rules for large employers in the State in which such large participating employers are located.

"(4) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation.

"(b) ABILITY OF SMALL BUSINESS HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude a small business health plan or a health insurance issuer offering health insurance coverage in connection with a small business health plan from exercising its sole discretion in selecting the specific benefits and services consisting of medical care to be included as benefits under such plan or coverage, except that such benefits and services must meet the terms and specifications of part II of subtitle A of title XXIX of the Public Health Service Act (relating to lower cost plans), as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2006.

"(c) DOMICILE AND NON-DOMICILE STATES.—

"(1) DOMICILE STATE.—Coverage shall be issued to a small business health plan in the State in which the sponsor's principal place of business is located.

"(2) NON-DOMICILE STATES.—With respect to a State (other than the domicile State) in which participating employers of a small business

health plan are located but in which the insurer of the small business health plan in the domicile State is not yet licensed, the following shall apply:

"(A) TEMPORARY PREEMPTION.—If, upon the expiration of the 90-day period following the submission of a licensure application by such insurer (that includes a certified copy of an approved licensure application as submitted by such insurer in the domicile State) to such State, such State has not approved or denied such application, such State's health insurance licensure laws shall be temporarily preempted and the insurer shall be permitted to operate in such State, subject to the following terms:

"(i) APPLICATION OF NON-DOMICILE STATE LAW.—Except with respect to licensure and with respect to the terms of subtitle A of title XXIX of the Public Health Service Act (relating to rating and benefits as added by the Health Insurance Marketplace Modernization and Affordability Act of 2006), the laws and authority of the non-domicile State shall remain in full force and effect.

"(ii) REVOCATION OF PREEMPTION.—The preemption of a non-domicile State's health insurance licensure laws pursuant to this subparagraph, shall be terminated upon the occurrence of either of the following:

"(I) APPROVAL OR DENIAL OF APPLICATION.—The approval of denial of an insurer's licensure application, following the laws and regulations of the non-domicile State with respect to licensure.

"(II) DETERMINATION OF MATERIAL VIOLATION.—A determination by a non-domicile State that an insurer operating in a non-domicile State pursuant to the preemption provided for in this subparagraph is in material violation of the insurance laws (other than licensure and with respect to the terms of subtitle A of title XXIX of the Public Health Service Act (relating to rating and benefits added by the Health Insurance Marketplace Modernization and Affordability Act of 2006)) of such State.

"(B) NO PROHIBITION ON PROMOTION.—Nothing in this paragraph shall be construed to prohibit a small business health plan or an insurer from promoting coverage prior to the expiration of the 90-day period provided for in subparagraph (A), except that no enrollment or collection of contributions shall occur before the expiration of such 90-day period.

"(C) LICENSURE.—Except with respect to the application of the temporary preemption provision of this paragraph, nothing in this part shall be construed to limit the requirement that insurers issuing coverage to small business health plans shall be licensed in each State in which the small business health plans operate.

"(D) SERVICING BY LICENSED INSURERS.—Notwithstanding subparagraph (C), the requirements of this subsection may also be satisfied if the participating employers of a small business health plan are serviced by a licensed insurer in that State, even where such insurer is not the insurer of such small business health plan in the State in which such small business health plan is domiciled.

"SEC. 806. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

"(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), a small business health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to small business health plans.

"(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority by regulation, at least the following information:

"(1) IDENTIFYING INFORMATION.—The names and addresses of—

"(A) the sponsor; and

"(B) the members of the board of trustees of the plan.

"(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

"(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

"(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

"(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan, health insurance issuer, and contract administrators and other service providers.

"(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to a small business health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which the small business health plans operate.

"(d) NOTICE OF MATERIAL CHANGES.—In the case of any small business health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

"SEC. 807. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

"A small business health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees, not less than 60 days before the proposed termination date—

"(1) provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

"(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

"(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation.

"SEC. 808. DEFINITIONS AND RULES OF CONSTRUCTION.

"(a) DEFINITIONS.—For purposes of this part—

"(1) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

"(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor, or

"(B) in the case of a sponsor with members which consist of associations, a person who is a member or employee of any such association and elects an affiliated status with the sponsor.

"(2) APPLICABLE AUTHORITY.—The term 'applicable authority' means the Secretary of Labor, except that, in connection with any exercise of the Secretary's authority with respect to which the Secretary is required under section 506(d) to consult with a State, such term means the Secretary, in consultation with such State.

"(3) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

"(4) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

"(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1), except that such term shall not include excepted benefits (as defined in section 733(c)).

"(6) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

"(7) INDIVIDUAL MARKET.—

"(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

"(B) TREATMENT OF VERY SMALL GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

"(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

"(8) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

"(9) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with a small business health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

"(10) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, a small employer as defined in section 2791(e)(4).

"(11) TRADE ASSOCIATION AND PROFESSIONAL ASSOCIATION.—The terms 'trade association' and 'professional association' mean an entity that meets the requirements of section 1.501(c)(6)-1 of title 26, Code of Federal Regulations (as in effect on the date of enactment of this Act).

"(b) RULE OF CONSTRUCTION.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is a small business health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

"(1) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

"(2) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

"(c) RENEWAL.—Notwithstanding any provision of law to the contrary, a participating employer in a small business health plan shall not be deemed to be a plan sponsor in applying requirements relating to coverage renewal.

"(d) HEALTH SAVINGS ACCOUNTS.—Nothing in this part shall be construed to inhibit the development of health savings accounts pursuant to section 223 of the Internal Revenue Code of 1986.".

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

"(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of a small business health plan which is certified under part 8.".

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking "Subsection (a)" and inserting "Subsections (a) and (d)";

(B) in subsection (b)(5), by striking "subsection (a)" in subparagraph (A) and inserting "subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805", and by striking "subsection (a)" in subparagraph (B) and inserting "subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805";

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

"(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude a health insurance issuer from offering health insurance coverage in connection with a small business health plan which is certified under part 8.

"(2) In any case in which health insurance coverage of any policy type is offered under a small business health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may establish rating and benefit requirements that would otherwise apply to such coverage, provided the requirements of subtitle A of title XXIX of the Public Health Service Act (as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2006) (concerning health plan rating and benefits) are met.".

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes a person serving as the sponsor of a small business health plan under part 8.".

(d) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting "or part 8" after "this part".

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

"PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

"801. Small business health plans.
"802. Certification of small business health plans.
"803. Requirements relating to sponsors and boards of trustees.
"804. Participation and coverage requirements.
"805. Other requirements relating to plan documents, contribution rates, and benefit options.
"806. Requirements for application and related requirements.
"807. Notice requirements for voluntary termination.
"808. Definitions and rules of construction.".

SEC. 102. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(d) CONSULTATION WITH STATES WITH RESPECT TO SMALL BUSINESS HEALTH PLANS.—

"(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to a small business health plan regarding the exercise of—

"(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

"(B) the Secretary's authority to certify small business health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

"(2) RECOGNITION OF DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular small business health plan, as the State with which consultation is required. In carrying out this paragraph such State shall be the domicile State, as defined in section 805(c).".

SEC. 103. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect 12 months after the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this title within 6 months after the date of the enactment of this Act.

(b) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 808(a)(2) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a) and 803(a) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of trustees which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement or at such time that the arrangement provides coverage to participants and beneficiaries in any State other than the States in which coverage is provided on such date of enactment.

(2) DEFINITIONS.—For purposes of this subsection, the terms "group health plan", "medical care", and "participating employer" shall have the meanings provided in section 808 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an "small business health plan" shall be deemed a reference to an arrangement referred to in this subsection.

TITLE II—MARKET RELIEF

SEC. 201. MARKET RELIEF.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

"TITLE XXIX—HEALTH CARE INSURANCE MARKETPLACE MODERNIZATION

"SEC. 2901. GENERAL INSURANCE DEFINITIONS.

"In this title, the terms 'health insurance coverage', 'health insurance issuer', 'group health plan', and 'individual health insurance' shall have the meanings given such terms in section 2791.

"Subtitle A—Market Relief

"PART I—RATING REQUIREMENTS

"SEC. 2911. DEFINITIONS.

"(a) GENERAL DEFINITIONS.—In this part:

"(1) ADOPTING STATE.—The term 'adopting State' means a State that, with respect to the small group market, has enacted either the Model Small Group Rating Rules or, if applicable to such State, the Transitional Model Small Group Rating Rules, each in their entirety and as the exclusive laws of the State that relate to rating in the small group insurance market.

"(2) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the insurance laws of such State.

"(3) BASE PREMIUM RATE.—The term 'base premium rate' means, for each class of business with respect to a rating period, the lowest premium rate charged or that could have been charged under a rating system for that class of business by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage

"(4) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a State and that—

"(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the Model Small Group Rating Rules or, as applicable, transitional small group rating rules in a State;

"(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer small group health insurance coverage in that State consistent with the Model Small Group Rating Rules, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency); and

"(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the Model Small Group Rating Rules and an affirmation that such Rules are included in the terms of such contract.

"(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the small group health insurance market, except that such term shall not include excepted benefits (as defined in section 2791(c)).

"(6) INDEX RATE.—The term 'index rate' means for each class of business with respect to the rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

"(7) MODEL SMALL GROUP RATING RULES.—The term ' Model Small Group Rating Rules' means the rules set forth in subsection (b).

"(8) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

"(9) SMALL GROUP INSURANCE MARKET.—The term 'small group insurance market' shall have the meaning given the term 'small group market' in section 2791(e)(5).

"(10) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"(b) DEFINITION RELATING TO MODEL SMALL GROUP RATING RULES.—The term 'Model Small Group Rating Rules' means adapted rating rules drawn from the Adopted Small Employer Health Insurance Availability Model Act of 1993 of the National Association of Insurance Commissioners consisting of the following:

"(1) PREMIUM RATES.—Premium rates for health benefit plans to which this title applies shall be subject to the following provisions relating to premiums:

"(A) INDEX RATE.—The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than 20 percent.

"(B) CLASS OF BUSINESSES.—With respect to a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage or the rates that could be charged to such employers under the rating system for that class of business, shall not vary from the index rate by more than 25 percent of the index rate under subparagraph (A).

"(C) INCREASES FOR NEW RATING PERIODS.—The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

"(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, except that such change shall not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers.

"(ii) Any adjustment, not to exceed 15 percent annually and adjusted pro rata for rating periods of less then 1 year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business involved.

"(iii) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

"(D) UNIFORM APPLICATION OF ADJUSTMENTS.—Adjustments in premium rates for claim experience, health status, or duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

"(E) USE OF INDUSTRY AS A CASE CHARACTERISTIC.—A small employer carrier may utilize industry as a case characteristic in establishing premium rates, so long as the highest rate factor associated with any industry classification does not exceed the lowest rate factor associated with any industry classification by more than 15 percent.

"(F) CONSISTENT APPLICATION OF FACTORS.—Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans.

"(G) TREATMENT OF PLANS AS HAVING SAME RATING PERIOD.—A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

"(H) RESTRICTED NETWORK PROVISIONS.—For purposes of this subsection, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain a similar provision if the restriction of benefits to network providers results in substantial differences in claims costs.

"(I) PROHIBITION ON USE OF CERTAIN CASE CHARACTERISTICS.—The small employer carrier shall not use case characteristics other than age, gender, industry, geographic area, family composition, group size, and participation in wellness programs without prior approval of the applicable State authority.

"(J) REQUIRE COMPLIANCE.—Premium rates for small business health benefit plans shall comply with the requirements of this subsection notwithstanding any assessments paid or payable by a small employer carrier as required by a State's small employer carrier reinsurance program.

"(2) ESTABLISHMENT OF SEPARATE CLASS OF BUSINESS.—Subject to paragraph (3), a small employer carrier may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative costs related to the following:

"(A) The small employer carrier uses more than one type of system for the marketing and sale of health benefit plans to small employers.

"(B) The small employer carrier has acquired a class of business from another small employer carrier.

"(C) The small employer carrier provides coverage to one or more association groups that meet the requirements of this title.

"(3) LIMITATION.—A small employer carrier may establish up to 9 separate classes of business under paragraph (2), excluding those classes of business related to association groups under this title.

"(4) ADDITIONAL GROUPINGS.—The applicable State authority may approve the establishment of additional distinct groupings by small employer carriers upon the submission of an application to the applicable State authority and a finding by the applicable State authority that such action would enhance the efficiency and fairness of the small employer insurance marketplace.

"(5) LIMITATION ON TRANSFERS.—A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration of coverage since issue.

"(6) SUSPENSION OF THE RULES.—The applicable State authority may suspend, for a specified period, the application of paragraph (1) to the premium rates applicable to one or more small employers included within a class of business of a small employer carrier for one or more rating periods upon a filing by the small employer carrier and a finding by the applicable State authority either that the suspension is reasonable when considering the financial condition of the small employer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

"SEC. 2912. RATING RULES.

"(a) IMPLEMENTATION OF MODEL SMALL GROUP RATING RULES.—Not later than 6 months after the enactment of this title, the Secretary shall promulgate regulations implementing the Model Small Group Rating Rules pursuant to section 2911(b).

"(b) TRANSITIONAL MODEL SMALL GROUP RATING RULES.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of this title and to the extent necessary to provide for a graduated transition to the Model Small Group Rating Rules, the Secretary, in consultation with the NAIC, shall promulgate Transitional Model Small Group Rating Rules in accordance with this subsection, which shall be applicable with respect to certain non-adopting States for a period of not to exceed 5 years from the date of the promulgation of the Model Small Group Rating Rules pursuant to subsection (a). After the expiration of such 5-year period, the transitional model small group rating rules shall expire, and the Model Small Group Rating Rules shall then apply with respect to all non-adopting States pursuant to the provisions of this part.

"(2) PREMIUM VARIATION DURING TRANSITION.—

"(A) TRANSITION STATES.—During the transition period described in paragraph (1), small group health insurance coverage offered in a non-adopting State that had in place premium rating band requirements or premium limits that varied by less than 12.5 percent from the index rate within a class of business on the date of enactment of this title, shall not be subject to the premium variation provision of section 2911(b)(1) of the Model Small Group Rating Rules and shall instead be subject to the Transitional Model Small Group Rating Rules as promulgated by the Secretary pursuant to paragraph (1).

"(B) NON-TRANSITION STATES.—During the transition period described in paragraph (1), and thereafter, small group health insurance coverage offered in a non-adopting State that had in place premium rating band requirements or premium limits that varied by more than 12.5 percent from the index rate within a class of business on the date of enactment of this title, shall not be subject to the Transitional Model Small Group Rating Rules as promulgated by the Secretary pursuant to paragraph (1), and instead shall be subject to the Model Small Group Rating Rules effective beginning with the first plan year or calendar year following the promulgation of such Rules, at the election of the eligible insurer.

"(3) TRANSITIONING OF OLD BUSINESS.—In developing the transitional model small group rating rules under paragraph (1), the Secretary shall, after consultation with the National Association of Insurance Commissioners and representatives of insurers operating in the small group health insurance market, promulgate special transition standards and timelines with respect to independent rating classes for old and new business, to the extent reasonably necessary to protect health insurance consumers and to ensure a stable and fair transition for old and new market entrants.

"(4) OTHER TRANSITIONAL AUTHORITY.—In developing the Transitional Model Small Group Rating Rules under paragraph (1), the Secretary shall provide for the application of the Transitional Model Small Group Rating Rules in transition States as the Secretary may determine necessary for a an effective transition.

"(c) MARKET RE-ENTRY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a health insurance issuer that has voluntarily withdrawn from providing coverage in the small group market prior to the date of enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2006 shall not be excluded from re-entering such market on a date that is more than 180 days after such date of enactment.

"(2) TERMINATION.—The provision of this subsection shall terminate on the date that is 24 months after the date of enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2006.

"SEC. 2913. APPLICATION AND PREEMPTION.

"(a) SUPERSEDING OF STATE LAW.—

"(1) IN GENERAL.—This part shall supersede any and all State laws of a non-adopting State insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle) relate to rating in the small group insurance market as applied to an eligible insurer, or small group health insurance coverage issued by an eligible insurer, including with respect to coverage issued to a small employer through a small business health plan, in a State.

"(2) NONADOPTING STATES.—This part shall supersede any and all State laws of a nonadopting State insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle)—

"(A) prohibit an eligible insurer from offering, marketing, or implementing small group health insurance coverage consistent with the Model Small Group Rating Rules or transitional model small group rating rules; or

"(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing small group health insurance coverage consistent with the Model Small Group Rating Rules or transitional model small group rating rules.

"(b) SAVINGS CLAUSE AND CONSTRUCTION.—

"(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting states.

"(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers that offer small group health insurance coverage in a nonadopting State.

"(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supercede any State law in a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the Model Small Group Rating Rules or transitional model small group rating rules.

"(4) NO EFFECT ON PREEMPTION.—In no case shall this part be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this part be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

"(c) EFFECTIVE DATE.—This section shall apply, at the election of the eligible insurer, beginning in the first plan year or the first calendar year following the issuance of the final rules by the Secretary under the Model Small Group Rating Rules or, as applicable, the Transitional Model Small Group Rating Rules, but in no event earlier than the date that is 12 months after the date of enactment of this title.

"SEC. 2914. CIVIL ACTIONS AND JURISDICTION.

"(a) IN GENERAL.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

"(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 2913.

"(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

"(d) EXPEDITED REVIEW.—

"(1) DISTRICT COURT.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

"(2) COURT OF APPEALS.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

"(e) STANDARD OF REVIEW.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

"SEC. 2915. ONGOING REVIEW.

"Not later than 5 years after the date on which the Model Small Group Rating Rules are issued under this part, and every 5 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners, shall prepare and submit to the appropriate committees of Congress a report that assesses the effect of the Model Small Group Rating Rules on access, cost, and market functioning in the small group market. Such report may, if the Secretary, in consultation with the National Association of Insurance Commissioners, determines such is appropriate for improving access, costs, and market functioning, contain legislative proposals for recommended modification to such Model Small Group Rating Rules.

"PART II—AFFORDABLE PLANS

"SEC. 2921. DEFINITIONS.

"In this part:

"(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted the Benefit Choice Standards in their entirety and as the exclusive laws of the State that relate to benefit, service, and provider mandates in the group and individual insurance markets.

"(2) BENEFIT CHOICE STANDARDS.—The term 'Benefit Choice Standards' means the Standards issued under section 2922.

"(3) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

"(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the Benefit Choice Standards in a nonadopting State;

"(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the Benefit Choice Standards, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

"(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the Benefit Choice Standards and that adherence to such Standards is included as a term of such contract.

"(4) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the group or individual health insurance markets, except that such term shall not include excepted benefits (as defined in section 2791(c)).

"(5) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

"(6) SMALL GROUP INSURANCE MARKET.—The term 'small group insurance market' shall have the meaning given the term 'small group market' in section 2791(e)(5).

"(7) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"SEC. 2922. OFFERING AFFORDABLE PLANS.

"(a) BENEFIT CHOICE OPTIONS.—

"(1) DEVELOPMENT.—Not later than 6 months after the date of enactment of this title, the Secretary shall issue, by interim final rule, Benefit Choice Standards that implement the standards provided for in this part.

"(2) BASIC OPTIONS.—The Benefit Choice Standards shall provide that a health insurance issuer in a State, may offer a coverage plan or plan in the small group market, individual market, large group market, or through a small business health plan, that does not comply with one or more mandates regarding covered benefits, services, or category of provider as may be in effect in such State with respect to such market or markets (either prior to or following the date of enactment of this title), if such issuer also offers in such market or markets an enhanced option as provided for in paragraph (3).

"(3) ENHANCED OPTION.—A health insurance issuer issuing a basic option as provided for in paragraph (2) shall also offer to purchasers (including, with respect to a small business health plan, the participating employers of such plan) an enhanced option, which shall at a minimum include such covered benefits, services, and categories of providers as are covered by a State

employee coverage plan in one of the 5 most populous States as are in effect in the calendar year in which such enhanced option is offered.

“(4) PUBLICATION OF BENEFITS.—Not later than 3 months after the date of enactment of this title, and on the first day of every calendar year thereafter, the Secretary shall publish in the Federal Register such covered benefits, services, and categories of providers covered in that calendar year by the State employee coverage plans in the 5 most populous States.

“(b) EFFECTIVE DATES.—

“(1) SMALL BUSINESS HEALTH PLANS.—With respect to health insurance provided to participating employers of small business health plans, the requirements of this part (concerning lower cost plans) shall apply beginning on the date that is 12 months after the date of enactment of this title.

“(2) NON-ASSOCIATION COVERAGE.—With respect to health insurance provided to groups or individuals other than participating employers of small business health plans, the requirements of this part shall apply beginning on the date that is 15 months after the date of enactment of this title.

“SEC. 2923. APPLICATION AND PREEMPTION.

“(a) SUPERSEDING OF STATE LAW.—

“(1) IN GENERAL.—This part shall supersede any and all State laws insofar as such laws relate to mandates relating to covered benefits, services, or categories of provider in the health insurance market as applied to an eligible insurer, or health insurance coverage issued by an eligible insurer, including with respect to coverage issued to a small business health plan, in a nonadopting State.

“(2) NONADOPTING STATES.—This part shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as such laws—

“(A) prohibit an eligible insurer from offering, marketing, or implementing health insurance coverage consistent with the Benefit Choice Standards, as provided for in section 2922(a); or

“(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing health insurance coverage consistent with the Benefit Choice Standards.

“(b) SAVINGS CLAUSE AND CONSTRUCTION.—

“(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting States.

“(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

“(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supercede any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the Benefit Choice Standards.

“(4) NO EFFECT ON PREEMPTION.—In no case shall this part be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this part be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

“SEC. 2924. CIVIL ACTIONS AND JURISDICTION.

“(a) IN GENERAL.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

“(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 2923.

“(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

“(d) EXPEDITED REVIEW.—

“(1) DISTRICT COURT.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

“(2) COURT OF APPEALS.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

“(e) STANDARD OF REVIEW.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

“SEC. 2925. RULES OF CONSTRUCTION.

“(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a health insurance issuer in an adopting State or an eligible insurer in a non-adopting State may amend its existing policies to be consistent with the terms of this subtitle (concerning rating and benefits).

“(b) HEALTH SAVINGS ACCOUNTS.—Nothing in this subtitle shall be construed to inhibit the development of health savings accounts pursuant to section 223 of the Internal Revenue Code of 1986.”.

TITLE III—HARMONIZATION OF HEALTH INSURANCE STANDARDS

SEC. 301. HEALTH INSURANCE STANDARDS HARMONIZATION.

Title XXIX of the Public Health Service Act (as added by section 201) is amended by adding at the end the following:

“Subtitle B—Standards Harmonization

“SEC. 2931. DEFINITIONS.

“In this subtitle:

“(1) ADOPTING STATE.—The term ‘adopting State’ means a State that has enacted the harmonized standards adopted under this subtitle in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

“(2) ELIGIBLE INSURER.—The term ‘eligible insurer’ means a health insurance issuer that is licensed in a nonadopting State and that—

“(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the harmonized standards in a nonadopting State;

“(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the harmonized standards published pursuant to section 2932(d), and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

“(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such health coverage) and filed with the State pursuant to subparagraph (B), a description of the harmonized standards published pursuant to section 2932(g)(2) and an affirmation that such standards are a term of the contract.

“(3) HARMONIZED STANDARDS.—The term ‘harmonized standards’ means the standards certified by the Secretary under section 2932(d).

“(4) HEALTH INSURANCE COVERAGE.—The term ‘health insurance coverage’ means any coverage issued in the health insurance market, except that such term shall not include excepted benefits (as defined in section 2791(c).

“(5) NONADOPTING STATE.—The term ‘nonadopting State’ means a State that fails to enact, within 18 months of the date on which the Secretary certifies the harmonized standards under this subtitle, the harmonized standards in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

“(6) STATE LAW.—The term ‘State law’ means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

“SEC. 2932. HARMONIZED STANDARDS.

“(a) BOARD.—

“(1) ESTABLISHMENT.—Not later than 3 months after the date of enactment of this title, the Secretary, in consultation with the NAIC, shall establish the Health Insurance Consensus Standards Board (referred to in this subtitle as the ‘Board’) to develop recommendations that harmonize inconsistent State health insurance laws in accordance with the procedures described in subsection (b).

“(2) COMPOSITION.—

“(A) IN GENERAL.—The Board shall be composed of the following voting members to be appointed by the Secretary after considering the recommendations of professional organizations representing the entities and constituencies described in this paragraph:

“(i) Four State insurance commissioners as recommended by the National Association of Insurance Commissioners, of which 2 shall be Democrats and 2 shall be Republicans, and of which one shall be designated as the chairperson and one shall be designated as the vice chairperson.

“(ii) Four representatives of State government, two of which shall be governors of States and two of which shall be State legislators, and two of which shall be Democrats and two of which shall be Republicans.

“(iii) Four representatives of health insurers, of which one shall represent insurers that offer coverage in the small group market, one shall represent insurers that offer coverage in the large group market, one shall represent insurers that offer coverage in the individual market, and one shall represent carriers operating in a regional market.

“(iv) Two representatives of insurance agents and brokers.

“(v) Two independent representatives of the American Academy of Actuaries who have familiarity with the actuarial methods applicable to health insurance.

“(B) EX OFFICIO MEMBER.—A representative of the Secretary shall serve as an ex officio member of the Board.

“(3) ADVISORY PANEL.—The Secretary shall establish an advisory panel to provide advice to

the Board, and shall appoint its members after considering the recommendations of professional organizations representing the entities and constituencies identified in this paragraph:

"(A) Two representatives of small business health plans.

"(B) Two representatives of employers, of which one shall represent small employers and one shall represent large employers.

"(C) Two representatives of consumer organizations.

"(D) Two representatives of health care providers.

"(4) QUALIFICATIONS.—The membership of the Board shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health plans, providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

"(5) ETHICAL DISCLOSURE.—The Secretary shall establish a system for public disclosure by members of the Board of financial and other potential conflicts of interest relating to such members. Members of the Board shall be treated as employees of Congress for purposes of applying title I of the Ethics in Government Act of 1978 (Public Law 95–521).

"(6) DIRECTOR AND STAFF.—Subject to such review as the Secretary deems necessary to assure the efficient administration of the Board, the chair and vice-chair of the Board may—

"(A) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Board (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

"(D) make advance, progress, and other payments which relate to the work of the Board;

"(E) provide transportation and subsistence for persons serving without compensation; and

"(F) prescribe such rules as it deems necessary with respect to the internal organization and operation of the Board.

"(7) TERMS.—The members of the Board shall serve for the duration of the Board. Vacancies in the Board shall be filled as needed in a manner consistent with the composition described in paragraph (2).

"(b) DEVELOPMENT OF HARMONIZED STANDARDS.—

"(1) IN GENERAL.—In accordance with the process described in subsection (c), the Board shall identify and recommend nationally harmonized standards for each of the following process categories:

"(A) FORM FILING AND RATE FILING.—Form and rate filing standards shall be established which promote speed to market and include the following defined areas for States that require such filings:

"(i) Procedures for form and rate filing pursuant to a streamlined administrative filing process.

"(ii) Timeframes for filings to be reviewed by a State if review is required before they are deemed approved.

"(iii) Timeframes for an eligible insurer to respond to State requests following its review.

"(iv) A process for an eligible insurer to self-certify.

"(v) State development of form and rate filing templates that include only non-preempted State law and Federal law requirements for eligible insurers with timely updates.

"(vi) Procedures for the resubmission of forms and rates.

"(vii) Disapproval rationale of a form or rate filing based on material omissions or violations of non-preempted State law or Federal law with violations cited and explained.

"(viii) For States that may require a hearing, a rationale for hearings based on violations of non-preempted State law or insurer requests.

"(B) MARKET CONDUCT REVIEW.—Market conduct review standards shall be developed which provide for the following:

"(i) Mandatory participation in national databases.

"(ii) The confidentiality of examination materials.

"(iii) The identification of the State agency with primary responsibility for examinations.

"(iv) Consultation and verification of complaint data with the eligible insurer prior to State actions.

"(v) Consistency of reporting requirements with the recordkeeping and administrative practices of the eligible insurer.

"(vi) Examinations that seek to correct material errors and harmful business practices rather than infrequent errors.

"(vii) Transparency and publishing of the State's examination standards.

"(viii) Coordination of market conduct analysis.

"(ix) Coordination and nonduplication between State examinations of the same eligible insurer.

"(x) Rationale and protocols to be met before a full examination is conducted.

"(xi) Requirements on examiners prior to beginning examinations such as budget planning and work plans.

"(xii) Consideration of methods to limit examiners' fees such as caps, competitive bidding, or other alternatives.

"(xiii) Reasonable fines and penalties for material errors and harmful business practices.

"(C) PROMPT PAYMENT OF CLAIMS.—The Board shall establish prompt payment standards for eligible insurers based on standards similar to those applicable to the Social Security Act as set forth in section 1842(c)(2) of such Act (42 U.S.C. 1395u(c)(2)). Such prompt payment standards shall be consistent with the timing and notice requirements of the claims procedure rules to be specified under subparagraph (D), and shall include appropriate exceptions such as for fraud, nonpayment of premiums, or late submission of claims.

"(D) INTERNAL REVIEW.—The Board shall establish standards for claims procedures for eligible insurers that are consistent with the requirements relating to initial claims for benefits and appeals of claims for benefits under the Employee Retirement Income Security Act of 1974 as set forth in section 503 of such Act (29 U.S.C. 1133) and the regulations thereunder.

"(2) RECOMMENDATIONS.—The Board shall recommend harmonized standards for each element of the categories described in subparagraph (A) through (D) of paragraph (1) within each such market. Notwithstanding the previous sentence, the Board shall not recommend any harmonized standards that disrupt, expand, or duplicate the benefit, service, or provider mandate standards provided in the Benefit Choice Standards pursuant to section 2922(a).

"(c) PROCESS FOR IDENTIFYING HARMONIZED STANDARDS.—

"(1) IN GENERAL.—The Board shall develop recommendations to harmonize inconsistent State insurance laws with respect to each of the process categories described in subparagraphs (A) through (D) of subsection (b)(1).

"(2) REQUIREMENTS.—In adopting standards under this section, the Board shall consider the following:

"(A) Any model acts or regulations of the National Association of Insurance Commissioners in each of the process categories described in subparagraphs (A) through (D) of subsection (b)(1).

"(B) Substantially similar standards followed by a plurality of States, as reflected in existing State laws, relating to the specific process categories described in subparagraphs (A) through (D) of subsection (b)(1).

"(C) Any Federal law requirement related to specific process categories described in subparagraphs (A) through (D) of subsection (b)(1).

"(D) In the case of the adoption of any standard that differs substantially from those referred to in subparagraphs (A), (B), or (C), the Board shall provide evidence to the Secretary that such standard is necessary to protect health insurance consumers or promote speed to market or administrative efficiency.

"(E) The criteria specified in clauses (i) through (iii) of subsection (d)(2)(B).

"(d) RECOMMENDATIONS AND CERTIFICATION BY SECRETARY.—

"(1) RECOMMENDATIONS.—Not later than 18 months after the date on which all members of the Board are selected under subsection (a), the Board shall recommend to the Secretary the certification of the harmonized standards identified pursuant to subsection (c).

"(2) CERTIFICATION.—

"(A) IN GENERAL.—Not later than 120 days after receipt of the Board's recommendations under paragraph (1), the Secretary shall certify the recommended harmonized standards as provided for in subparagraph (B), and issue such standards in the form of an interim final regulation.

"(B) CERTIFICATION PROCESS.—The Secretary shall establish a process for certifying the recommended harmonized standard, by category, as recommended by the Board under this section. Such process shall—

"(i) ensure that the certified standards for a particular process area achieve regulatory harmonization with respect to health plans on a national basis;

"(ii) ensure that the approved standards are the minimum necessary, with regard to substance and quantity of requirements, to protect health insurance consumers and maintain a competitive regulatory environment; and

"(iii) ensure that the approved standards will not limit the range of group health plan designs and insurance products, such as catastrophic coverage only plans, health savings accounts, and health maintenance organizations, that might otherwise be available to consumers.

"(3) EFFECTIVE DATE.—The standards certified by the Secretary under paragraph (2) shall be effective on the date that is 18 months after the date on which the Secretary certifies the harmonized standards.

"(e) TERMINATION.—The Board shall terminate and be dissolved after making the recommendations to the Secretary pursuant to subsection (d)(1).

"(f) ONGOING REVIEW.—Not earlier than 3 years after the termination of the Board under subsection (e), and not earlier than every 3 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners and the entities and constituencies represented on the Board and the Advisory Panel, shall prepare and submit to the appropriate committees of Congress a report that assesses the effect of the harmonized standards on access, cost, and health insurance market functioning. The Secretary may, based on such report and applying the process established for certification under subsection (d)(2)(B), in consultation with the National Association of Insurance Commissioners and the entities and constituencies represented on the Board and the

Advisory Panel, update the harmonized standards through notice and comment rulemaking.

"(g) PUBLICATION.—

"(1) LISTING.—The Secretary shall maintain an up to date listing of all harmonized standards certified under this section on the Internet website of the Department of Health and Human Services.

"(2) SAMPLE CONTRACT LANGUAGE.—The Secretary shall publish on the Internet website of the Department of Health and Human Services sample contract language that incorporates the harmonized standards certified under this section, which may be used by insurers seeking to qualify as an eligible insurer. The types of harmonized standards that shall be included in sample contract language are the standards that are relevant to the contractual bargain between the insurer and insured.

"(h) STATE ADOPTION AND ENFORCEMENT.—Not later than 18 months after the certification by the Secretary of harmonized standards under this section, the States may adopt such harmonized standards (and become an adopting State) and, in which case, shall enforce the harmonized standards pursuant to State law.

"SEC. 2933. APPLICATION AND PREEMPTION.

"(a) SUPERSEDING OF STATE LAW.—

"(1) IN GENERAL.—The harmonized standards certified under this subtitle shall supersede any and all State laws of a non-adopting State insofar as such State laws relate to the areas of harmonized standards as applied to an eligible insurer, or health insurance coverage issued by a eligible insurer, including with respect to coverage issued to a small business health plan, in a nonadopting State.

"(2) NONADOPTING STATES.—This subtitle shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as they may—

"(A) prohibit an eligible insurer from offering, marketing, or implementing health insurance coverage consistent with the harmonized standards; or

"(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing health insurance coverage consistent with the harmonized standards under this subtitle.

"(b) SAVINGS CLAUSE AND CONSTRUCTION.—

"(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting States.

"(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

"(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supercede any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the harmonized standards under this subtitle.

"(4) NO EFFECT ON PREEMPTION.—In no case shall this subtitle be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this subtitle be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

"(c) EFFECTIVE DATE.—This section shall apply beginning on the date that is 18 months after the date on harmonized standards are certified by the Secretary under this subtitle.

"SEC. 2934. CIVIL ACTIONS AND JURISDICTION.

"(a) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this subtitle.

"(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 2933.

"(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

"(d) EXPEDITED REVIEW.—

"(1) DISTRICT COURT.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

"(2) COURT OF APPEALS.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

"(e) STANDARD OF REVIEW.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

"SEC. 2935. AUTHORIZATION OF APPROPRIATIONS; RULE OF CONSTRUCTION.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

"(b) HEALTH SAVINGS ACCOUNTS.—Nothing in this subtitle shall be construed to inhibit the development of health savings accounts pursuant to section 223 of the Internal Revenue Code of 1986.".

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. With the authorization of the majority of the HELP Committee members, I ask that the committee substitute be modified with the changes that are at the desk.

The PRESIDING OFFICER. The substitute is so modified.

The committee amendment in the nature of a substitute, as modified, is as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Health Insurance Marketplace Modernization and Affordability Act of 2006".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents; purposes.

TITLE I—SMALL BUSINESS HEALTH PLANS

Sec. 101. Rules governing small business health plans.
Sec. 102. Cooperation between Federal and State authorities.
Sec. 103. Effective date and transitional and other rules.

TITLE II—MARKET RELIEF

Sec. 201. Market relief.

TITLE III—HARMONIZATION OF HEALTH INSURANCE STANDARDS

Sec. 301. Health Insurance Standards Harmonization.

(c) PURPOSES.—It is the purpose of this Act to—

(1) make more affordable health insurance options available to small businesses, working families, and all Americans;

(2) assure effective State regulatory protection of the interests of health insurance consumers; and

(3) create a more efficient and affordable health insurance marketplace through collaborative development of uniform regulatory standards.

TITLE I—SMALL BUSINESS HEALTH PLANS

SEC. 101. RULES GOVERNING SMALL BUSINESS HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

"PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

"SEC. 801. SMALL BUSINESS HEALTH PLANS.

"(a) IN GENERAL.—For purposes of this part, the term 'small business health plan' means a fully insured group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

"(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

"(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining medical care;

"(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership;

"(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation; and

"(4) does not condition membership on the basis of a minimum group size.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), (3), and (4) shall be deemed to be a sponsor described in this subsection.

"SEC. 802. CERTIFICATION OF SMALL BUSINESS HEALTH PLANS.

"(a) IN GENERAL.—Not later than 6 months after the date of enactment of this part, the applicable authority shall prescribe by interim final rule a procedure under which the applicable authority shall certify small business health plans which apply for certification as meeting the requirements of this part.

"(b) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—A small business health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

"(c) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation for continued certification of small business health plans under this part. Such regulation shall provide for the revocation of a certification if the applicable authority finds that the small business health plan involved is failing to comply with the requirements of this part.

"(d) EXPEDITED AND DEEMED CERTIFICATION.—

"(1) IN GENERAL.—If the Secretary fails to act on an application for certification under this section within 90 days of receipt of such application, the applying small business health plan shall be deemed certified until such time as the Secretary may deny for cause the application for certification.

"(2) CIVIL PENALTY.—The Secretary may assess a civil penalty against the board of trustees and plan sponsor (jointly and severally) of a small business health plan that is deemed certified under paragraph (1) of up to $500,000 in the event the Secretary determines that the application for certification of such small business health plan was willfully or with gross negligence incomplete or inaccurate.

"SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

"(a) SPONSOR.—The requirements of this subsection are met with respect to a small business health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

"(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to a small business health plan if the following requirements are met:

"(1) FISCAL CONTROL.—The plan is operated, pursuant to a plan document, by a board of trustees which pursuant to a trust agreement has complete fiscal control over the plan and which is responsible for all operations of the plan.

"(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

"(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

"(A) BOARD MEMBERSHIP.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

"(ii) LIMITATION.—

"(I) GENERAL RULE.—Except as provided in subclauses (II) and (III), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

"(II) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

"(III) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, subclause (I) shall not apply in the case of any service provider described in subclause (I) who is a provider of medical care under the plan.

"(iii) CERTAIN PLANS EXCLUDED.—Clause (i) shall not apply to a small business health plan which is in existence on the date of the enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2006.

"(B) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with insurers.

"(c) TREATMENT OF FRANCHISES.—In the case of a group health plan which is established and maintained by a franchiser for a franchisor or for its franchisees—

"(1) the requirements of subsection (a) and section 801(a) shall be deemed met if such requirements would otherwise be met if the franchisor were deemed to be the sponsor referred to in section 801(b) and each franchisee were deemed to be a member (of the sponsor) referred to in section 801(b); and

"(2) the requirements of section 804(a)(1) shall be deemed met.

For purposes of this subsection the terms 'franchisor' and 'franchisee' shall have the meanings given such terms for purposes of sections 436.2(a) through 436.2(c) of title 16, Code of Federal Regulations (including any such amendments to such regulation after the date of enactment of this part).

"SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

"(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan—

"(1) each participating employer must be—

"(A) a member of the sponsor;

"(B) the sponsor; or

"(C) an affiliated member of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

"(2) all individuals commencing coverage under the plan after certification under this part must be—

"(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

"(B) the dependents of individuals described in subparagraph (A).

"(b) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

"(c) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to a small business health plan if—

"(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

"(2) information regarding all coverage options available under the plan is made readily available to any employer eligible to participate; and

"(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

"(a) IN GENERAL.—The requirements of this section are met with respect to a small business health plan if the following requirements are met:

"(1) CONTENTS OF GOVERNING INSTRUMENTS.—

"(A) IN GENERAL.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

"(i) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)); and

"(ii) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)).

"(B) DESCRIPTION OF MATERIAL PROVISIONS.—The terms of the health insurance coverage (including the terms of any individual certificates that may be offered to individuals in connection with such coverage) describe the material benefit and rating, and other provisions set forth in this section and such material provisions are included in the summary plan description.

"(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

"(A) IN GENERAL.—The contribution rates for any participating small employer shall not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and shall not vary on the basis of the type of business or industry in which such employer is engaged, subject to subparagraph (B) and the terms of this title.

"(B) EFFECT OF TITLE.—Nothing in this title or any other provision of law shall be construed to preclude a health insurance issuer offering health insurance coverage in connection with a small business health plan that meets the requirements of this part, and at the request of such small business health plan, from—

"(i) setting contribution rates for the small business health plan based on the claims experience of the small business health plan so long as any variation in such rates for participating small employers complies with the requirements of clause (ii), except that small business health plans shall not be subject, in non-adopting states, to subparagraphs (A)(ii) and (C) of section 2912(a)(2) of the Public Health Service Act, and in adopting states, to any State law that would have the effect of imposing requirements as outlined in such subparagraphs (A)(ii) and (C); or

“(ii) varying contribution rates for participating small employers in a small business health plan in a State to the extent that such rates could vary using the same methodology employed in such State for regulating small group premium rates, subject to the terms of part I of subtitle A of title XXIX of the Public Health Service Act (relating to rating requirements), as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2006.

“(3) EXCEPTIONS REGARDING SELF-EMPLOYED AND LARGE EMPLOYERS.—

“(A) SELF EMPLOYED.—

“(i) IN GENERAL.—Small business health plans with participating employers who are self-employed individuals (and their dependents) shall enroll such self-employed participating employers in accordance with rating rules that do not violate the rating rules for self-employed individuals in the State in which such self-employed participating employers are located.

“(ii) GUARANTEE ISSUE.—Small business health plans with participating employers who are self-employed individuals (and their dependents) may decline to guarantee issue to such participating employers in States in which guarantee issue is not otherwise required for the self-employed in that State.

“(B) LARGE EMPLOYERS.—Small business health plans with participating employers that are larger than small employers (as defined in section 808(a)(10)) shall enroll such large participating employers in accordance with rating rules that do not violate the rating rules for large employers in the State in which such large participating employers are located.

“(4) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation.

“(b) ABILITY OF SMALL BUSINESS HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude a small business health plan or a health insurance issuer offering health insurance coverage in connection with a small business health plan from exercising its sole discretion in selecting the specific benefits and services consisting of medical care to be included as benefits under such plan or coverage, except that such benefits and services must meet the terms and specifications of part II of subtitle A of title XXIX of the Public Health Service Act (relating to lower cost plans), as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2006.

“(c) DOMICILE AND NON-DOMICILE STATES.—

“(1) DOMICILE STATE.—Coverage shall be issued to a small business health plan in the State in which the sponsor's principal place of business is located.

“(2) NON-DOMICILE STATES.—With respect to a State (other than the domicile State) in which participating employers of a small business health plan are located but in which the insurer of the small business health plan in the domicile State is not yet licensed, the following shall apply:

“(A) TEMPORARY PREEMPTION.—If, upon the expiration of the 90-day period following the submission of a licensure application by such insurer (that includes a certified copy of an approved licensure application as submitted by such insurer in the domicile State) to such State, such State has not approved or denied such application, such State's health insurance licensure laws shall be temporarily preempted and the insurer shall be permitted to operate in such State, subject to the following terms:

“(i) APPLICATION OF NON-DOMICILE STATE LAW.—Except with respect to licensure and with respect to the terms of subtitle A of title XXIX of the Public Health Service Act (relating to rating and benefits as added by the Health Insurance Marketplace Modernization and Affordability Act of 2006), the laws and authority of the non-domicile State shall remain in full force and effect.

“(ii) REVOCATION OF PREEMPTION.—The preemption of a non-domicile State's health insurance licensure laws pursuant to this subparagraph, shall be terminated upon the occurrence of either of the following:

“(I) APPROVAL OR DENIAL OF APPLICATION.—The approval of denial of an insurer's licensure application, following the laws and regulations of the non-domicile State with respect to licensure.

“(II) DETERMINATION OF MATERIAL VIOLATION.—A determination by a non-domicile State that an insurer operating in a non-domicile State pursuant to the preemption provided for in this subparagraph is in material violation of the insurance laws (other than licensure and with respect to the terms of subtitle A of title XXIX of the Public Health Service Act (relating to rating and benefits added by the Health Insurance Marketplace Modernization and Affordability Act of 2006)) of such State.

“(B) NO PROHIBITION ON PROMOTION.—Nothing in this paragraph shall be construed to prohibit a small business health plan or an insurer from promoting coverage prior to the expiration of the 90-day period provided for in subparagraph (A), except that no enrollment or collection of contributions shall occur before the expiration of such 90-day period.

“(C) LICENSURE.—Except with respect to the application of the temporary preemption provision of this paragraph, nothing in this part shall be construed to limit the requirement that insurers issuing coverage to small business health plans shall be licensed in each State in which the small business health plans operate.

“(D) SERVICING BY LICENSED INSURERS.—Notwithstanding subparagraph (C), the requirements of this subsection may also be satisfied if the participating employers of a small business health plan are serviced by a licensed insurer in that State, even where such insurer is not the insurer of such small business health plan in the State in which such small business health plan is domiciled.

“SEC. 806. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

“(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), a small business health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to small business health plans.

“(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority by regulation, at least the following information:

“(1) IDENTIFYING INFORMATION.—The names and addresses of—

“(A) the sponsor; and

“(B) the members of the board of trustees of the plan.

“(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

“(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

“(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

“(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan, health insurance issuer, and contract administrators and other service providers.

“(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to a small business health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which the small business health plans operate.

“(d) NOTICE OF MATERIAL CHANGES.—In the case of any small business health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

“SEC. 807. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

“A small business health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees, not less than 60 days before the proposed termination date—

“(1) provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

“(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

“(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation.

“SEC. 808. DEFINITIONS AND RULES OF CONSTRUCTION.

“(a) DEFINITIONS.—For purposes of this part—

“(1) AFFILIATED MEMBER.—The term ‘affiliated member’ means, in connection with a sponsor—

"(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor, or

"(B) in the case of a sponsor with members which consist of associations, a person who is a member or employee of any such association and elects an affiliated status with the sponsor.

"(2) APPLICABLE AUTHORITY.—The term 'applicable authority' means the Secretary of Labor, except that, in connection with any exercise of the Secretary's authority with respect to which the Secretary is required under section 506(d) to consult with a State, such term means the Secretary, in consultation with such State.

"(3) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

"(4) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

"(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1), except that such term shall not include excepted benefits (as defined in section 733(c)).

"(6) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

"(7) INDIVIDUAL MARKET.—

"(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

"(B) TREATMENT OF VERY SMALL GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

"(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

"(8) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

"(9) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with a small business health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

"(10) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, a small employer as defined in section 2791(e)(4).

"(11) TRADE ASSOCIATION AND PROFESSIONAL ASSOCIATION.—The terms 'trade association' and 'professional association' mean an entity that meets the requirements of section 1.501(c)(6)-1 of title 26, Code of Federal Regulations (as in effect on the date of enactment of this Act).

"(b) RULE OF CONSTRUCTION.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is a small business health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

"(1) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

"(2) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

"(c) RENEWAL.—Notwithstanding any provision of law to the contrary, a participating employer in a small business health plan shall not be deemed to be a plan sponsor in applying requirements relating to coverage renewal.

"(d) HEALTH SAVINGS ACCOUNTS.—Nothing in this part shall be construed to create any mandates for coverage of benefits for HSA-qualified health plans that would require reimbursements in violation of section 223(c)(2) of the Internal Revenue Code of 1986.".

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

"(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of a small business health plan which is certified under part 8.".

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking "Subsection (a)" and inserting "Subsections (a) and (d)";

(B) in subsection (b)(5), by striking "subsection (a)" in subparagraph (A) and inserting "subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805", and by striking "subsection (a)" in subparagraph (B) and inserting "subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805";

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

"(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude a health insurance issuer from offering health insurance coverage in connection with a small business health plan which is certified under part 8.

"(2) In any case in which health insurance coverage of any policy type is offered under a small business health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may establish rating and benefit requirements that would otherwise apply to such coverage, provided the requirements of subtitle A of title XXIX of the Public Health Service Act (as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2006) (concerning health plan rating and benefits) are met.".

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes a person serving as the sponsor of a small business health plan under part 8.".

(d) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting "or part 8" after "this part".

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

"PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

"801. Small business health plans.
"802. Certification of small business health plans.
"803. Requirements relating to sponsors and boards of trustees.
"804. Participation and coverage requirements.
"805. Other requirements relating to plan documents, contribution rates, and benefit options.
"806. Requirements for application and related requirements.
"807. Notice requirements for voluntary termination.
"808. Definitions and rules of construction.".

SEC. 102. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(d) CONSULTATION WITH STATES WITH RESPECT TO SMALL BUSINESS HEALTH PLANS.—

"(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to a small business health plan regarding the exercise of—

"(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

"(B) the Secretary's authority to certify small business health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

"(2) RECOGNITION OF DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular small business health plan, as the State with which consultation is required. In carrying out this paragraph such State shall be the domicile State, as defined in section 805(c).".

SEC. 103. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect 12 months after the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this title within 6 months after the date of the enactment of this Act.

(b) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 808(a)(2) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by

the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a) and 803(a) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of trustees which has control over the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement or at such time that the arrangement provides coverage to participants and beneficiaries in any State other than the States in which coverage is provided on such date of enactment.

(2) DEFINITIONS.—For purposes of this subsection, the terms "group health plan", "medical care", and "participating employer" shall have the meanings provided in section 808 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an "small business health plan" shall be deemed a reference to an arrangement referred to in this subsection.

TITLE II—MARKET RELIEF

SEC. 201. MARKET RELIEF.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

"TITLE XXIX—HEALTH CARE INSURANCE MARKETPLACE MODERNIZATION

"SEC. 2901. GENERAL INSURANCE DEFINITIONS.

"In this title, the terms 'health insurance coverage', 'health insurance issuer', 'group health plan', and 'individual health insurance' shall have the meanings given such terms in section 2791.

"Subtitle A—Market Relief

"PART I—RATING REQUIREMENTS

"SEC. 2911. DEFINITIONS.

"In this part:

"(1) ADOPTING STATE.—The term 'adopting State' means a State that, with respect to the small group market, has enacted small group rating rules that meet the minimum standards set forth in section 2912(a)(1) or, as applicable, transitional small group rating rules set forth in section 2912(b).

"(2) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the insurance laws of such State.

"(3) BASE PREMIUM RATE.—The term 'base premium rate' means, for each class of business with respect to a rating period, the lowest premium rate charged or that could have been charged under a rating system for that class of business by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage

"(4) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a State and that—

"(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the Model Small Group Rating Rules or, as applicable, transitional small group rating rules in a State;

"(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer small group health insurance coverage in that State consistent with the Model Small Group Rating Rules, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency); and

"(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the Model Small Group Rating Rules and an affirmation that such Rules are included in the terms of such contract.

"(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the small group health insurance market, except that such term shall not include excepted benefits (as defined in section 2791(c)).

"(6) INDEX RATE.—The term 'index rate' means for each class of business with respect to the rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

"(7) MODEL SMALL GROUP RATING RULES.—The term ' Model Small Group Rating Rules' means the rules set forth in section 2912(a)(2).

"(8) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

"(9) SMALL GROUP INSURANCE MARKET.—The term 'small group insurance market' shall have the meaning given the term 'small group market' in section 2791(e)(5).

"(10) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"(11) VARIATION LIMITS.—

"(A) COMPOSITE VARIATION LIMIT.—

"(i) IN GENERAL.—The term 'composite variation limit' means the total variation in premium rates charged by a health insurance issuer in the small group market as permitted under applicable State law based on the following factors or case characteristics:

"(I) Age.

"(II) Duration of coverage.

"(III) Claims experience.

"(IV) Health status.

"(ii) USE OF FACTORS.—With respect to the use of the factors described in clause (i) in setting premium rates, a health insurance issuer shall use one or both of the factors described in subclauses (I) or (IV) of such clause and may use the factors described in subclauses (II) or (III) of such clause.

"(B) TOTAL VARIATION LIMIT.—The term 'total variation limit' means the total variation in premium rates charged by a health insurance issuer in the small group market as permitted under applicable State law based on all factors and case characteristics (as described in section 2912(a)(1)).

"SEC. 2912. RATING RULES.

"(a) ESTABLISHMENT OF MINIMUM STANDARDS FOR PREMIUM VARIATIONS AND MODEL SMALL GROUP RATING RULES.—Not later than 6 months after the date of enactment of this title, the Secretary shall promulgate regulations establishing the following Minimum Standards and Model Small Group Rating Rules:

"(1) MINIMUM STANDARDS FOR PREMIUM VARIATIONS.—

"(A) COMPOSITE VARIATION LIMIT.—The composite variation limit shall not be less than 3:1.

"(B) TOTAL VARIATION LIMIT.—The total variation limit shall not be less than 5:1.

"(C) PROHIBITION ON USE OF CERTAIN CASE CHARACTERISTICS.—For purposes of this paragraph, in calculating the total variation limit, the State shall not use case characteristics other than those used in calculating the composite variation limit and industry, geographic area, group size, participation rate, class of business, and participation in wellness programs.

"(2) MODEL SMALL GROUP RATING RULES.—The following apply to an eligible insurer in a non-adopting State:

"(A) PREMIUM RATES.—Premium rates for small group health benefit plans to which this title applies shall comply with the following provisions relating to premiums, except as provided for under subsection (b):

"(i) VARIATION IN PREMIUM RATES.—The plan may not vary premium rates by more than the minimum standards provided for under paragraph (1).

"(ii) INDEX RATE.—The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than 20 percent, excluding those classes of business related to association groups under this title.

"(iii) CLASS OF BUSINESSES.—With respect to a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage or the rates that could be charged to such employers under the rating system for that class of business, shall not vary from the index rate by more than 25 percent of the index rate under clause (ii).

"(iv) INCREASES FOR NEW RATING PERIODS.—The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

"(I) The -percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, except that such change shall not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers.

"(II) Any adjustment, not to exceed 15 percent annually and adjusted pro rata for rating periods of less then 1 year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business involved.

‘‘(III) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

‘‘(v) UNIFORM APPLICATION OF ADJUSTMENTS.—Adjustments in premium rates for claim experience, health status, or duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

‘‘(vi) PROHIBITION ON USE OF CERTAIN CASE CHARACTERISTIC.—A small employer carrier shall not utilize case characteristics, other than those permitted under paragraph (1)(C), without the prior approval of the applicable State authority.

‘‘(vii) CONSISTENT APPLICATION OF FACTORS.—Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans.

‘‘(viii) TREATMENT OF PLANS AS HAVING SAME RATING PERIOD.—A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

‘‘(ix) REQUIRE COMPLIANCE.—Premium rates for small business health benefit plans shall comply with the requirements of this subsection notwithstanding any assessments paid or payable by a small employer carrier as required by a State's small employer carrier reinsurance program.

‘‘(B) ESTABLISHMENT OF SEPARATE CLASS OF BUSINESS.—Subject to subparagraph (C), a small employer carrier may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative costs related to the following:

‘‘(i) The small employer carrier uses more than one type of system for the marketing and sale of health benefit plans to small employers.

‘‘(ii) The small employer carrier has acquired a class of business from another small employer carrier.

‘‘(iii) The small employer carrier provides coverage to one or more association groups that meet the requirements of this title.

‘‘(C) LIMITATION.—A small employer carrier may establish up to 9 separate classes of business under subparagraph (B), excluding those classes of business related to association groups under this title.

‘‘(D) LIMITATION ON TRANSFERS.—A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration of coverage since issue.

‘‘(b) TRANSITIONAL MODEL SMALL GROUP RATING RULES.—

‘‘(1) IN GENERAL.—Not later than 6 months after the date of enactment of this title and to the extent necessary to provide for a graduated transition to the minimum standards for premium variation as provided for in subsection (a)(1), the Secretary, in consultation with the National Association of Insurance Commissioners (NAIC), shall promulgate State-specific transitional small group rating rules in accordance with this subsection, which shall be applicable with respect to non-adopting States and eligible insurers operating in such States for a period of not to exceed 3 years from the date of the promulgation of the minimum standards for premium variation pursuant to subsection (a).

‘‘(2) COMPLIANCE WITH TRANSITIONAL MODEL SMALL GROUP RATING RULES.—During the transition period described in paragraph (1), a State that, on the date of enactment of this title, has in effect a small group rating rules methodology that allows for a variation that is less than the variation provided for under subsection (a)(1) (concerning minimum standards for premium variation), shall be deemed to be an adopting State if the State complies with the transitional small group rating rules as promulgated by the Secretary pursuant to paragraph (1).

‘‘(3) TRANSITIONING OF OLD BUSINESS.—

‘‘(A) IN GENERAL.—In developing the transitional small group rating rules under paragraph (1), the Secretary shall, after consultation with the National Association of Insurance Commissioners and representatives of insurers operating in the small group health insurance market in non-adopting States, promulgate special transition standards with respect to independent rating classes for old and new business, to the extent reasonably necessary to protect health insurance consumers and to ensure a stable and fair transition for old and new market entrants.

‘‘(B) PERIOD FOR OPERATION OF INDEPENDENT RATING CLASSES.—In developing the special transition standards pursuant to subparagraph (A), the Secretary shall permit a carrier in a non-adopting State, at its option, to maintain independent rating classes for old and new business for a period of up to 5 years, with the commencement of such 5-year period to begin at such time, but not later than the date that is 3 years after the date of enactment of this title, as the carrier offers a book of business meeting the minimum standards for premium variation provided for in subsection (a)(1) or the transitional small group rating rules under paragraph (1).

‘‘(4) OTHER TRANSITIONAL AUTHORITY.—In developing the transitional small group rating rules under paragraph (1), the Secretary shall provide for the application of the transitional small group rating rules in transition States as the Secretary may determine necessary for a an effective transition.

‘‘(c) MARKET RE-ENTRY.—

‘‘(1) IN GENERAL.—Notwithstanding any other provision of law, a health insurance issuer that has voluntarily withdrawn from providing coverage in the small group market prior to the date of enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2006 shall not be excluded from re-entering such market on a date that is more than 180 days after such date of enactment.

‘‘(2) TERMINATION.—The provision of this subsection shall terminate on the date that is 24 months after the date of enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2006.

“SEC. 2913. APPLICATION AND PREEMPTION.

‘‘(a) SUPERSEDING OF STATE LAW.—

‘‘(1) IN GENERAL.—This part shall supersede any and all State laws of a non-adopting State insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle) relate to rating in the small group insurance market as applied to an eligible insurer, or small group health insurance coverage issued by an eligible insurer, including with respect to coverage issued to a small employer through a small business health plan, in a State.

‘‘(2) NONADOPTING STATES.—This part shall supersede any and all State laws of a non-adopting State insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle)—

‘‘(A) prohibit an eligible insurer from offering, marketing, or implementing small group health insurance coverage consistent with the Model Small Group Rating Rules or transitional model small group rating rules; or

‘‘(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing small group health insurance coverage consistent with the Model Small Group Rating Rules or transitional model small group rating rules.

‘‘(b) SAVINGS CLAUSE AND CONSTRUCTION.—

‘‘(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting states.

‘‘(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers that offer small group health insurance coverage in a nonadopting State.

‘‘(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supercede any State law in a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the Model Small Group Rating Rules or transitional model small group rating rules.

‘‘(4) NO EFFECT ON PREEMPTION.—In no case shall this part be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this part be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

‘‘(5) PREEMPTION LIMITED TO RATING.—Subsection (a) shall not preempt any State law that does not have a reference to or a connection with State rating rules that would otherwise apply to eligible insurers.

‘‘(c) EFFECTIVE DATE.—This section shall apply, at the election of the eligible insurer, beginning in the first plan year or the first calendar year following the issuance of the final rules by the Secretary under the Model Small Group Rating Rules or, as applicable, the Transitional Model Small Group Rating Rules, but in no event earlier than the date that is 12 months after the date of enactment of this title.

“SEC. 2914. CIVIL ACTIONS AND JURISDICTION.

‘‘(a) IN GENERAL.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

‘‘(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 2913.

‘‘(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting

State is located by the filing of a petition for review in such Court.

"(d) Expedited Review.—

"(1) District court.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

"(2) Court of appeals.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

"(e) Standard of Review.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

"SEC. 2915. ONGOING REVIEW.

"Not later than 5 years after the date on which the Model Small Group Rating Rules are issued under this part, and every 5 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners, shall prepare and submit to the appropriate committees of Congress a report that assesses the effect of the Model Small Group Rating Rules on access, cost, and market functioning in the small group market. Such report may, if the Secretary, in consultation with the National Association of Insurance Commissioners, determines such is appropriate for improving access, costs, and market functioning, contain legislative proposals for recommended modification to such Model Small Group Rating Rules.

"PART II—AFFORDABLE PLANS

"SEC. 2921. DEFINITIONS.

"In this part:

"(1) Adopting state.—The term 'adopting State' means a State that has enacted the Benefit Choice Standards in their entirety and as the exclusive laws of the State that relate to benefit, service, and provider mandates in the group and individual insurance markets.

"(2) Benefit choice standards.—The term 'Benefit Choice Standards' means the Standards issued under section 2922.

"(3) Eligible insurer.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

"(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the Benefit Choice Standards in a nonadopting State;

"(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the Benefit Choice Standards, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

"(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the Benefit Choice Standards and that adherence to such Standards is included as a term of such contract.

"(4) Health insurance coverage.—The term 'health insurance coverage' means any coverage issued in the group or individual health insurance markets, except that such term shall not include excepted benefits (as defined in section 2791(c)).

"(5) Nonadopting state.—The term 'nonadopting State' means a State that is not an adopting State.

"(6) Small group insurance market.—The term 'small group insurance market' shall have the meaning given the term 'small group market' in section 2791(e)(5).

"(7) State law.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"SEC. 2922. OFFERING AFFORDABLE PLANS.

"(a) Benefit Choice Options.—

"(1) Development.—Not later than 6 months after the date of enactment of this title, the Secretary shall issue, by interim final rule, Benefit Choice Standards that implement the standards provided for in this part.

"(2) Basic options.—The Benefit Choice Standards shall provide that a health insurance issuer in a State, may offer a coverage plan or plan in the small group market, individual market, large group market, or through a small business health plan, that does not comply with one or more mandates regarding covered benefits, services, or category of provider as may be in effect in such State with respect to such market or markets (either prior to or following the date of enactment of this title), if such issuer also offers in such market or markets an enhanced option as provided for in paragraph (3).

"(3) Enhanced option.—A health insurance issuer issuing a basic option as provided for in paragraph (2) shall also offer to purchasers (including, with respect to a small business health plan, the participating employers of such plan) an enhanced option, which shall at a minimum include such covered benefits, services, and categories of providers as are covered by a State employee coverage plan in one of the 5 most populous States as are in effect in the calendar year in which such enhanced option is offered.

"(4) Publication of benefits.—Not later than 3 months after the date of enactment of this title, and on the first day of every calendar year thereafter, the Secretary shall publish in the Federal Register such covered benefits, services, and categories of providers covered in that calendar year by the State employee coverage plans in the 5 most populous States.

"(b) Effective Dates.—

"(1) Small business health plans.—With respect to health insurance provided to participating employers of small business health plans, the requirements of this part (concerning lower cost plans) shall apply beginning on the date that is 12 months after the date of enactment of this title.

"(2) Non-association coverage.—With respect to health insurance provided to groups or individuals other than participating employers of small business health plans, the requirements of this part shall apply beginning on the date that is 15 months after the date of enactment of this title.

"SEC. 2923. APPLICATION AND PREEMPTION.

"(a) Superseding of State Law.—

"(1) In general.—This part shall supersede any and all State laws insofar as such laws relate to mandates relating to covered benefits, services, or categories of provider in the health insurance market as applied to an eligible insurer, or health insurance coverage issued by an eligible insurer, including with respect to coverage issued to a small business health plan, in a nonadopting State.

"(2) Nonadopting states.—This part shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as such laws—

"(A) prohibit an eligible insurer from offering, marketing, or implementing health insurance coverage consistent with the Benefit Choice Standards, as provided for in section 2922(a); or

"(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing health insurance coverage consistent with the Benefit Choice Standards.

"(b) Savings Clause and Construction.—

"(1) Nonapplication to adopting states.—Subsection (a) shall not apply with respect to adopting States.

"(2) Nonapplication to certain insurers.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

"(3) Nonapplication where obtaining relief under state law.—Subsection (a)(1) shall not supercede any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the Benefit Choice Standards.

"(4) No effect on preemption.—In no case shall this part be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this part be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

"(5) Preemption limited to benefits.—Subsection (a) shall not preempt any State law that does not have a reference to or a connection with State mandates regarding covered benefits, services, or categories of providers that would otherwise apply to eligible insurers.

"SEC. 2924. CIVIL ACTIONS AND JURISDICTION.

"(a) In General.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

"(b) Actions.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 2923.

"(c) Direct Filing in Court of Appeals.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

“(d) Expedited Review.—

“(1) District court.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

“(2) Court of appeals.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

“(e) Standard of Review.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

“SEC. 2925. RULES OF CONSTRUCTION.

“(a) In General.—Notwithstanding any other provision of Federal or State law, a health insurance issuer in an adopting State or an eligible insurer in a non-adopting State may amend its existing policies to be consistent with the terms of this subtitle (concerning rating and benefits).

“(b) Health Savings Accounts.—Nothing in this subtitle shall be construed to create any mandates for coverage of benefits for HSA-qualified health plans that would require reimbursements in violation of section 223(c)(2) of the Internal Revenue Code of 1986.”.

TITLE III—HARMONIZATION OF HEALTH INSURANCE STANDARDS

SEC. 301. HEALTH INSURANCE STANDARDS HARMONIZATION.

Title XXIX of the Public Health Service Act (as added by section 201) is amended by adding at the end the following:

“Subtitle B—Standards Harmonization

“SEC. 2931. DEFINITIONS.

“In this subtitle:

“(1) Adopting state.—The term ‘adopting State’ means a State that has enacted the harmonized standards adopted under this subtitle in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

“(2) Eligible insurer.—The term ‘eligible insurer’ means a health insurance issuer that is licensed in a nonadopting State and that—

“(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the harmonized standards in a nonadopting State;

“(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the harmonized standards published pursuant to section 2932(d), and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

“(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such health coverage) and filed with the State pursuant to subparagraph (B), a description of the harmonized standards published pursuant to section 2932(g)(2) and an affirmation that such standards are a term of the contract.

“(3) Harmonized standards.—The term ‘harmonized standards’ means the standards certified by the Secretary under section 2932(d).

“(4) Health insurance coverage.—The term ‘health insurance coverage’ means any coverage issued in the health insurance market, except that such term shall not include excepted benefits (as defined in section 2791(c).

“(5) Nonadopting state.—The term ‘nonadopting State’ means a State that fails to enact, within 18 months of the date on which the Secretary certifies the harmonized standards under this subtitle, the harmonized standards in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

“(6) State law.—The term ‘State law’ means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

“SEC. 2932. HARMONIZED STANDARDS.

“(a) Board.—

“(1) Establishment.—Not later than 3 months after the date of enactment of this title, the Secretary, in consultation with the NAIC, shall establish the Health Insurance Consensus Standards Board (referred to in this subtitle as the ‘Board’) to develop recommendations that harmonize inconsistent State health insurance laws in accordance with the procedures described in subsection (b).

“(2) Composition.—

“(A) In general.—The Board shall be composed of the following voting members to be appointed by the Secretary after considering the recommendations of professional organizations ‘representing the entities and constituencies described in this paragraph:

“(i) Four State insurance commissioners as recommended by the National Association of Insurance Commissioners, of which 2 shall be Democrats and 2 shall be Republicans, and of which one shall be designated as the chairperson and one shall be designated as the vice chairperson.

“(ii) Four representatives of State government, two of which shall be governors of States and two of which shall be State legislators, and two of which shall be Democrats and two of which shall be Republicans.

“(iii) Four representatives of health insurers, of which one shall represent insurers that offer coverage in the small group market, one shall represent insurers that offer coverage in the large group market, one shall represent insurers that offer coverage in the individual market, and one shall represent carriers operating in a regional market.

“(iv) Two representatives of insurance agents and brokers.

“(v) Two independent representatives of the American Academy of Actuaries who have familiarity with the actuarial methods applicable to health insurance.

“(B) Ex officio member.—A representative of the Secretary shall serve as an ex officio member of the Board.

“(3) Advisory panel.—The Secretary shall establish an advisory panel to provide advice to the Board, and shall appoint its members after considering the recommendations of professional organizations representing the entities and constituencies identified in this paragraph:

“(A) Two representatives of small business health plans.

“(B) Two representatives of employers, of which one shall represent small employers and one shall represent large employers.

“(C) Two representatives of consumer organizations.

“(D) Two representatives of health care providers.

“(4) Qualifications.—The membership of the Board shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health plans, providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

“(5) Ethical disclosure.—The Secretary shall establish a system for public disclosure by members of the Board of financial and other potential conflicts of interest relating to such members. Members of the Board shall be treated as employees of Congress for purposes of applying title I of the Ethics in Government Act of 1978 (Public Law 95-521).

“(6) Director and staff.—Subject to such review as the Secretary deems necessary to assure the efficient administration of the Board, the chair and vice-chair of the Board may—

“(A) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

“(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

“(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Board (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

“(D) make advance, progress, and other payments which relate to the work of the Board;

“(E) provide transportation and subsistence for persons serving without compensation; and

“(F) prescribe such rules as it deems necessary with respect to the internal organization and operation of the Board.

“(7) Terms.—The members of the Board shall serve for the duration of the Board. Vacancies in the Board shall be filled as needed in a manner consistent with the composition described in paragraph (2).

“(b) Development of Harmonized Standards.—

“(1) In general.—In accordance with the process described in subsection (c), the Board shall identify and recommend nationally harmonized standards for each of the following process categories:

“(A) Form filing and rate filing.—Form and rate filing standards shall be established which promote speed to market and include the following defined areas for States that require such filings:

"(i) Procedures for form and rate filing pursuant to a streamlined administrative filing process.

"(ii) Timeframes for filings to be reviewed by a State if review is required before they are deemed approved.

"(iii) Timeframes for an eligible insurer to respond to State requests following its review.

"(iv) A process for an eligible insurer to self-certify.

"(v) State development of form and rate filing templates that include only non-preempted State law and Federal law requirements for eligible insurers with timely updates.

"(vi) Procedures for the resubmission of forms and rates.

"(vii) Disapproval rationale of a form or rate filing based on material omissions or violations of non-preempted State law or Federal law with violations cited and explained.

"(viii) For States that may require a hearing, a rationale for hearings based on violations of non-preempted State law or insurer requests.

"(B) MARKET CONDUCT REVIEW.—Market conduct review standards shall be developed which provide for the following:

"(i) Mandatory participation in national databases.

"(ii) The confidentiality of examination materials.

"(iii) The identification of the State agency with primary responsibility for examinations.

"(iv) Consultation and verification of complaint data with the eligible insurer prior to State actions.

"(v) Consistency of reporting requirements with the recordkeeping and administrative practices of the eligible insurer.

"(vi) Examinations that seek to correct material errors and harmful business practices rather than infrequent errors.

"(vii) Transparency and publishing of the State's examination standards.

"(viii) Coordination of market conduct analysis.

"(ix) Coordination and nonduplication between State examinations of the same eligible insurer.

"(x) Rationale and protocols to be met before a full examination is conducted.

"(xi) Requirements on examiners prior to beginning examinations such as budget planning and work plans.

"(xii) Consideration of methods to limit examiners' fees such as caps, competitive bidding, or other alternatives.

"(xiii) Reasonable fines and penalties for material errors and harmful business practices.

"(C) PROMPT PAYMENT OF CLAIMS.—The Board shall establish prompt payment standards for eligible insurers based on standards similar to those applicable to the Social Security Act as set forth in section 1842(c)(2) of such Act (42 U.S.C. 1395u(c)(2)). Such prompt payment standards shall be consistent with the timing and notice requirements of the claims procedure rules to be specified under subparagraph (D), and shall include appropriate exceptions such as for fraud, nonpayment of premiums, or late submission of claims.

"(D) INTERNAL REVIEW.—The Board shall establish standards for claims procedures for eligible insurers that are consistent with the requirements relating to initial claims for benefits and appeals of claims for benefits under the Employee Retirement Income Security Act of 1974 as set forth in section 503 of such Act (29 U.S.C. 1133) and the regulations thereunder.

"(2) RECOMMENDATIONS.—The Board shall recommend harmonized standards for each element of the categories described in subparagraph (A) through (D) of paragraph (1) within each such market. Notwithstanding the previous sentence, the Board shall not recommend any harmonized standards that disrupt, expand, or duplicate the covered benefit, service, or category of provider mandate standards provided for in section 2922.

"(c) PROCESS FOR IDENTIFYING HARMONIZED STANDARDS.—

"(1) IN GENERAL.—The Board shall develop recommendations to harmonize inconsistent State insurance laws with respect to each of the process categories described in subparagraphs (A) through (D) of subsection (b)(1).

"(2) REQUIREMENTS.—In adopting standards under this section, the Board shall consider the following:

"(A) Any model acts or regulations of the National Association of Insurance Commissioners in each of the process categories described in subparagraphs (A) through (D) of subsection (b)(1).

"(B) Substantially similar standards followed by a plurality of States, as reflected in existing State laws, relating to the specific process categories described in subparagraphs (A) through (D) of subsection (b)(1).

"(C) Any Federal law requirement related to specific process categories described in subparagraphs (A) through (D) of subsection (b)(1).

"(D) In the case of the adoption of any standard that differs substantially from those referred to in subparagraphs (A), (B), or (C), the Board shall provide evidence to the Secretary that such standard is necessary to protect health insurance consumers or promote speed to market or administrative efficiency.

"(E) The criteria specified in clauses (i) through (iii) of subsection (d)(2)(B).

"(d) RECOMMENDATIONS AND CERTIFICATION BY SECRETARY.—

"(1) RECOMMENDATIONS.—Not later than 18 months after the date on which all members of the Board are selected under subsection (a), the Board shall recommend to the Secretary the certification of the harmonized standards identified pursuant to subsection (c).

"(2) CERTIFICATION.—

"(A) IN GENERAL.—Not later than 120 days after receipt of the Board's recommendations under paragraph (1), the Secretary shall certify the recommended harmonized standards as provided for in subparagraph (B), and issue such standards in the form of an interim final regulation.

"(B) CERTIFICATION PROCESS.—The Secretary shall establish a process for certifying the recommended harmonized standard, by category, as recommended by the Board under this section. Such process shall—

"(i) ensure that the certified standards for a particular process area achieve regulatory harmonization with respect to health plans on a national basis;

"(ii) ensure that the approved standards are the minimum necessary, with regard to substance and quantity of requirements, to protect health insurance consumers and maintain a competitive regulatory environment; and

"(iii) ensure that the approved standards will not limit the range of group health plan designs and insurance products, such as catastrophic coverage only plans, health savings accounts, and health maintenance organizations, that might otherwise be available to consumers.

"(3) EFFECTIVE DATE.—The standards certified by the Secretary under paragraph (2) shall be effective on the date that is 18 months after the date on which the Secretary certifies the harmonized standards.

"(e) TERMINATION.—The Board shall terminate and be dissolved after making the recommendations to the Secretary pursuant to subsection (d)(1).

"(f) ONGOING REVIEW.—Not earlier than 3 years after the termination of the Board under subsection (e), and not earlier than every 3 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners and the entities and constituencies represented on the Board and the Advisory Panel, shall prepare and submit to the appropriate committees of Congress a report that assesses the effect of the harmonized standards on access, cost, and health insurance market functioning. The Secretary may, based on such report and applying the process established for certification under subsection (d)(2)(B), in consultation with the National Association of Insurance Commissioners and the entities and constituencies represented on the Board and the Advisory Panel, update the harmonized standards through notice and comment rulemaking.

"(g) PUBLICATION.—

"(1) LISTING.—The Secretary shall maintain an up to date listing of all harmonized standards certified under this section on the Internet website of the Department of Health and Human Services.

"(2) SAMPLE CONTRACT LANGUAGE.—The Secretary shall publish on the Internet website of the Department of Health and Human Services sample contract language that incorporates the harmonized standards certified under this section, which may be used by insurers seeking to qualify as an eligible insurer. The types of harmonized standards that shall be included in sample contract language are the standards that are relevant to the contractual bargain between the insurer and insured.

"(h) STATE ADOPTION AND ENFORCEMENT.—Not later than 18 months after the certification by the Secretary of harmonized standards under this section, the States may adopt such harmonized standards (and become an adopting State) and, in which case, shall enforce the harmonized standards pursuant to State law.

"SEC. 2933. APPLICATION AND PREEMPTION.

"(a) SUPERSEDING OF STATE LAW.—

"(1) IN GENERAL.—The harmonized standards certified under this subtitle shall supersede any and all State laws of a non-adopting State insofar as such State laws relate to the areas of harmonized standards as applied to an eligible insurer, or health insurance coverage issued by a eligible insurer, including with respect to coverage issued to a small business health plan, in a nonadopting State.

"(2) NONADOPTING STATES.—This subtitle shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as they may—

"(A) prohibit an eligible insurer from offering, marketing, or implementing health insurance coverage consistent with the harmonized standards; or

"(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing health insurance coverage consistent with the harmonized standards under this subtitle.

"(b) SAVINGS CLAUSE AND CONSTRUCTION.—

"(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting States.

"(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

"(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supersede any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the harmonized standards under this subtitle.

"(4) NON-APPLICATION WHERE CONSISTENT WITH MARKET CONDUCT EXAMINATION HARMONIZED STANDARD.—Subsection (a)(1) shall not supersede any State law of a nonadopting State that relates to the harmonized standards issued under section 2932(b)(1)(B) to the extent that the State agency responsible for regulating insurance (or other applicable State agency) exercises its authority under State law consistent with the harmonized standards issued under section 2932(b)(1)(B).

"(5) NO EFFECT ON PREEMPTION.—In no case shall this subtitle be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this subtitle be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

"(6) PREEMPTION LIMITED TO HARMONIZED STANDARDS.—Subsection (a) shall not preempt any State law that does not have a reference to or a connection with State requirements for form and rate filing, market conduct reviews, prompt payment of claims, or internal reviews that would otherwise apply to eligible insurers.

"(c) EFFECTIVE DATE.—This section shall apply beginning on the date that is 18 months after the date on harmonized standards are certified by the Secretary under this subtitle.

"SEC. 2934. CIVIL ACTIONS AND JURISDICTION.

"(a) IN GENERAL.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this subtitle.

"(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 2933.

"(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

"(d) EXPEDITED REVIEW.—

"(1) DISTRICT COURT.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

"(2) COURT OF APPEALS.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

"(e) STANDARD OF REVIEW.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

"SEC. 2935. AUTHORIZATION OF APPROPRIATIONS; RULE OF CONSTRUCTION.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

"(b) HEALTH SAVINGS ACCOUNTS.—Nothing in this subtitle shall be construed to create any mandates for coverage of benefits for HSA-qualified health plans that would require reimbursements in violation of section 223(c)(2) of the Internal Revenue Code of 1986.".

AMENDMENT NO. 3886

Mr. FRIST. I send a first-degree amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] proposes an amendment No. 3886 to S. 1955, as modified.

Mr. FRIST. I ask unanimous consent that reading of the amendment be with dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the modified amendment add the following:

"This act shall become effective 1 day after enactment."

Mr. FRIST. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3887 TO AMENDMENT NO. 3886

Mr. FRIST. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 3887 to amendment No. 3886.

Mr. FRIST. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I haven't had an opportunity to see the amendment. I want to cooperate, but I would like to have reading of the amendment.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

In the amendment strike "1" day and insert "2" days.

Mr. KENNEDY. I have no objection to waiving the reading.

Mr. FRIST. Was that the second-degree amendment?

The PRESIDING OFFICER. The second-degree amendment has been read.

AMENDMENT NO. 3888 TO MOTION TO RECOMMIT

Mr. FRIST. I now move to recommit the bill to the HELP Committee, and I send that motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] moves to recommit the bill to the Committee on Health, Education, Labor, and Pensions with instructions to report back forthwith with the following:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Health Insurance Marketplace Modernization and Affordability Act of 2006".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents; purposes.

TITLE I—SMALL BUSINESS HEALTH PLANS

Sec. 101. Rules governing small business health plans.

Sec. 102. Cooperation between Federal and State authorities.

Sec. 103. Effective date and transitional and other rules.

TITLE II—MARKET RELIEF

Sec. 201. Market relief.

TITLE III—HARMONIZATION OF HEALTH INSURANCE STANDARDS

Sec. 301. Health Insurance Standards Harmonization.

(c) PURPOSES.—It is the purpose of this Act to—

(1) make more affordable health insurance options available to small businesses, working families, and all Americans;

(2) assure effective State regulatory protection of the interests of health insurance consumers; and

(3) create a more efficient and affordable health insurance marketplace through collaborative development of uniform regulatory standards.

TITLE I—SMALL BUSINESS HEALTH PLANS

SEC. 101. RULES GOVERNING SMALL BUSINESS HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

"PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

"SEC. 801. SMALL BUSINESS HEALTH PLANS.

"(a) IN GENERAL.—For purposes of this part, the term 'small business health plan' means a fully insured group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

"(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

"(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining medical care;

"(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership;

"(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation; and

"(4) does not condition membership on the basis of a minimum group size.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), (3), and (4) shall be deemed to be a sponsor described in this subsection.

"SEC. 802. CERTIFICATION OF SMALL BUSINESS HEALTH PLANS.

"(a) IN GENERAL.—Not later than 6 months after the date of enactment of this part, the applicable authority shall prescribe by interim final rule a procedure under which the applicable authority shall certify small business health plans which apply for certification as meeting the requirements of this part.

"(b) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—A small business health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

"(c) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation for continued certification of small business health plans under this part. Such regulation shall provide for the revocation of a certification if the applicable authority finds that the small business health plan involved is failing to comply with the requirements of this part.

"(d) EXPEDITED AND DEEMED CERTIFICATION.—

"(1) IN GENERAL.—If the Secretary fails to act on an application for certification under this section within 90 days of receipt of such application, the applying small business health plan shall be deemed certified until such time as the Secretary may deny for cause the application for certification.

"(2) CIVIL PENALTY.—The Secretary may assess a civil penalty against the board of trustees and plan sponsor (jointly and severally) of a small business health plan that is deemed certified under paragraph (1) of up to $500,000 in the event the Secretary determines that the application for certification of such small business health plan was willfully or with gross negligence incomplete or inaccurate.

"SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

"(a) SPONSOR.—The requirements of this subsection are met with respect to a small business health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

"(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to a small business health plan if the following requirements are met:

"(1) FISCAL CONTROL.—The plan is operated, pursuant to a plan document, by a board of trustees which pursuant to a trust agreement has complete fiscal control over the plan and which is responsible for all operations of the plan.

"(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

"(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

"(A) BOARD MEMBERSHIP.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

"(ii) LIMITATION.—

"(I) GENERAL RULE.—Except as provided in subclauses (II) and (III), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

"(II) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

"(III) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, subclause (I) shall not apply in the case of any service provider described in subclause (I) who is a provider of medical care under the plan.

"(iii) CERTAIN PLANS EXCLUDED.—Clause (i) shall not apply to a small business health plan which is in existence on the date of the enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2006.

"(B) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with insurers.

"(c) TREATMENT OF FRANCHISES.—In the case of a group health plan which is established and maintained by a franchiser for a franchisor or for its franchisees—

"(1) the requirements of subsection (a) and section 801(a) shall be deemed met if such requirements would otherwise be met if the franchisor were deemed to be the sponsor referred to in section 801(b) and each franchisee were deemed to be a member (of the sponsor) referred to in section 801(b); and

"(2) the requirements of section 804(a)(1) shall be deemed met.

For purposes of this subsection the terms 'franchisor' and 'franchisee' shall have the meanings given such terms for purposes of sections 436.2(a) through 436.2(c) of title 16, Code of Federal Regulations (including any such amendments to such regulation after the date of enactment of this part).

"SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

"(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan—

"(1) each participating employer must be—

"(A) a member of the sponsor;

"(B) the sponsor; or

"(C) an affiliated member of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

"(2) all individuals commencing coverage under the plan after certification under this part must be—

"(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

"(B) the dependents of individuals described in subparagraph (A).

"(b) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

"(c) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to a small business health plan if—

"(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

"(2) information regarding all coverage options available under the plan is made readily available to any employer eligible to participate; and

"(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

"(a) IN GENERAL.—The requirements of this section are met with respect to a small business health plan if the following requirements are met:

“(1) CONTENTS OF GOVERNING INSTRUMENTS.—

“(A) IN GENERAL.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

“(i) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)); and

“(ii) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)).

“(B) DESCRIPTION OF MATERIAL PROVISIONS.—The terms of the health insurance coverage (including the terms of any individual certificates that may be offered to individuals in connection with such coverage) describe the material benefit and rating, and other provisions set forth in this section and such material provisions are included in the summary plan description.

“(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

“(A) IN GENERAL.—The contribution rates for any participating small employer shall not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and shall not vary on the basis of the type of business or industry in which such employer is engaged, subject to subparagraph (B) and the terms of this title.

“(B) EFFECT OF TITLE.—Nothing in this title or any other provision of law shall be construed to preclude a health insurance issuer offering health insurance coverage in connection with a small business health plan that meets the requirements of this part, and at the request of such small business health plan, from—

“(i) setting contribution rates for the small business health plan based on the claims experience of the small business health plan so long as any variation in such rates for participating small employers complies with the requirements of clause (ii), except that small business health plans shall not be subject, in non-adopting states, to subparagraphs (A)(ii) and (C) of section 2912(a)(2) of the Public Health Service Act, and in adopting states, to any State law that would have the effect of imposing requirements as outlined in such subparagraphs (A)(ii) and (C); or

“(ii) varying contribution rates for participating small employers in a small business health plan in a State to the extent that such rates could vary using the same methodology employed in such State for regulating small group premium rates, subject to the terms of part I of subtitle A of title XXIX of the Public Health Service Act (relating to rating requirements), as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2006.

“(3) EXCEPTIONS REGARDING SELF-EMPLOYED AND LARGE EMPLOYERS.—

“(A) SELF EMPLOYED.—

“(i) IN GENERAL.—Small business health plans with participating employers who are self-employed individuals (and their dependents) shall enroll such self-employed participating employers in accordance with rating rules that do not violate the rating rules for self-employed individuals in the State in which such self-employed participating employers are located.

“(ii) GUARANTEE ISSUE.—Small business health plans with participating employers who are self-employed individuals (and their dependents) may decline to guarantee issue to such participating employers in States in which guarantee issue is not otherwise required for the self-employed in that State.

“(B) LARGE EMPLOYERS.—Small business health plans with participating employers that are larger than small employers (as defined in section 808(a)(10)) shall enroll such large participating employers in accordance with rating rules that do not violate the rating rules for large employers in the State in which such large participating employers are located.

“(4) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation.

“(b) ABILITY OF SMALL BUSINESS HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude a small business health plan or a health insurance issuer offering health insurance coverage in connection with a small business health plan from exercising its sole discretion in selecting the specific benefits and services consisting of medical care to be included as benefits under such plan or coverage, except that such benefits and services must meet the terms and specifications of part II of subtitle A of title XXIX of the Public Health Service Act (relating to lower cost plans), as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2006.

“(c) DOMICILE AND NON-DOMICILE STATES.—

“(1) DOMICILE STATE.—Coverage shall be issued to a small business health plan in the State in which the sponsor's principal place of business is located.

“(2) NON-DOMICILE STATES.—With respect to a State (other than the domicile State) in which participating employers of a small business health plan are located but in which the insurer of the small business health plan in the domicile State is not yet licensed, the following shall apply:

“(A) TEMPORARY PREEMPTION.—If, upon the expiration of the 90-day period following the submission of a licensure application by such insurer (that includes a certified copy of an approved licensure application as submitted by such insurer in the domicile State) to such State, such State has not approved or denied such application, such State's health insurance licensure laws shall be temporarily preempted and the insurer shall be permitted to operate in such State, subject to the following terms:

“(i) APPLICATION OF NON-DOMICILE STATE LAW.—Except with respect to licensure and with respect to the terms of subtitle A of title XXIX of the Public Health Service Act (relating to rating and benefits as added by the Health Insurance Marketplace Modernization and Affordability Act of 2006), the laws and authority of the non-domicile State shall remain in full force and effect.

“(ii) REVOCATION OF PREEMPTION.—The preemption of a non-domicile State's health insurance licensure laws pursuant to this subparagraph, shall be terminated upon the occurrence of either of the following:

“(I) APPROVAL OR DENIAL OF APPLICATION.—The approval of denial of an insurer's licensure application, following the laws and regulations of the non-domicile State with respect to licensure.

“(II) DETERMINATION OF MATERIAL VIOLATION.—A determination by a non-domicile State that an insurer operating in a non-domicile State pursuant to the preemption provided for in this subparagraph is in material violation of the insurance laws (other than licensure and with respect to the terms of subtitle A of title XXIX of the Public Health Service Act (relating to rating and benefits added by the Health Insurance Marketplace Modernization and Affordability Act of 2006)) of such State.

“(B) NO PROHIBITION ON PROMOTION.—Nothing in this paragraph shall be construed to prohibit a small business health plan or an insurer from promoting coverage prior to the expiration of the 90-day period provided for in subparagraph (A), except that no enrollment or collection of contributions shall occur before the expiration of such 90-day period.

“(C) LICENSURE.—Except with respect to the application of the temporary preemption provision of this paragraph, nothing in this part shall be construed to limit the requirement that insurers issuing coverage to small business health plans shall be licensed in each State in which the small business health plans operate.

“(D) SERVICING BY LICENSED INSURERS.—Notwithstanding subparagraph (C), the requirements of this subsection may also be satisfied if the participating employers of a small business health plan are serviced by a licensed insurer in that State, even where such insurer is not the insurer of such small business health plan in the State in which such small business health plan is domiciled.

“SEC. 806. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

“(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), a small business health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to small business health plans.

“(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority by regulation, at least the following information:

“(1) IDENTIFYING INFORMATION.—The names and addresses of—

“(A) the sponsor; and

“(B) the members of the board of trustees of the plan.

“(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

“(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

“(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

“(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan, health insurance issuer, and contract administrators and other service providers.

“(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to a small business health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which the small business health plans operate.

"(d) NOTICE OF MATERIAL CHANGES.—In the case of any small business health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

"SEC. 807. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

"A small business health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees, not less than 60 days before the proposed termination date—

"(1) provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

"(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

"(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation.

"SEC. 808. DEFINITIONS AND RULES OF CONSTRUCTION.

"(a) DEFINITIONS.—For purposes of this part—

"(1) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

"(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor, or

"(B) in the case of a sponsor with members which consist of associations, a person who is a member or employee of any such association and elects an affiliated status with the sponsor.

"(2) APPLICABLE AUTHORITY.—The term 'applicable authority' means the Secretary of Labor, except that, in connection with any exercise of the Secretary's authority with respect to which the Secretary is required under section 506(d) to consult with a State, such term means the Secretary, in consultation with such State.

"(3) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

"(4) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

"(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1), except that such term shall not include excepted benefits (as defined in section 733(c)).

"(6) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

"(7) INDIVIDUAL MARKET.—

"(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

"(B) TREATMENT OF VERY SMALL GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

"(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

"(8) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

"(9) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with a small business health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

"(10) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, a small employer as defined in section 2791(e)(4).

"(11) TRADE ASSOCIATION AND PROFESSIONAL ASSOCIATION.—The terms 'trade association' and 'professional association' mean an entity that meets the requirements of section 1.501(c)(6)-1 of title 26, Code of Federal Regulations (as in effect on the date of enactment of this Act).

"(b) RULE OF CONSTRUCTION.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is a small business health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

"(1) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

"(2) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

"(c) RENEWAL.—Notwithstanding any provision of law to the contrary, a participating employer in a small business health plan shall not be deemed to be a plan sponsor in applying requirements relating to coverage renewal.

"(d) HEALTH SAVINGS ACCOUNTS.—Nothing in this part shall be construed to create any mandates for coverage of benefits for HSA-qualified health plans that would require reimbursements in violation of section 223(c)(2) of the Internal Revenue Code of 1986.".

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

"(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of a small business health plan which is certified under part 8.".

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking "Subsection (a)" and inserting "Subsections (a) and (d)";

(B) in subsection (b)(5), by striking "subsection (a)" in subparagraph (A) and inserting "subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805", and by striking "subsection (a)" in subparagraph (B) and inserting "subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805";

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

"(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude a health insurance issuer from offering health insurance coverage in connection with a small business health plan which is certified under part 8.

"(2) In any case in which health insurance coverage of any policy type is offered under a small business health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may establish rating and benefit requirements that would otherwise apply to such coverage, provided the requirements of subtitle A of title XXIX of the Public Health Service Act (as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2006) (concerning health plan rating and benefits) are met.".

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes a person serving as the sponsor of a small business health plan under part 8.".

(d) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting "or part 8" after "this part".

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

"PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

"801. Small business health plans.
"802. Certification of small business health plans.
"803. Requirements relating to sponsors and boards of trustees.
"804. Participation and coverage requirements.
"805. Other requirements relating to plan documents, contribution rates, and benefit options.
"806. Requirements for application and related requirements.
"807. Notice requirements for voluntary termination.
"808. Definitions and rules of construction.".

SEC. 102. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(d) CONSULTATION WITH STATES WITH RESPECT TO SMALL BUSINESS HEALTH PLANS.—

"(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to a small business health plan regarding the exercise of—

"(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

"(B) the Secretary's authority to certify small business health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

"(2) RECOGNITION OF DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular small business health plan, as the State with which consultation is required. In carrying out this paragraph such State shall be the domicile State, as defined in section 805(c).".

SEC. 103. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect 12 months after the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this title within 6 months after the date of the enactment of this Act.

(b) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 808(a)(2) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a) and 803(a) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of trustees which has control over the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement or at such time that the arrangement provides coverage to participants and beneficiaries in any State other than the States in which coverage is provided on such date of enactment.

(2) DEFINITIONS.—For purposes of this subsection, the terms "group health plan", "medical care", and "participating employer" shall have the meanings provided in section 808 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an "small business health plan" shall be deemed a reference to an arrangement referred to in this subsection.

TITLE II—MARKET RELIEF

SEC. 201. MARKET RELIEF.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

"TITLE XXIX—HEALTH CARE INSURANCE MARKETPLACE MODERNIZATION

"SEC. 2901. GENERAL INSURANCE DEFINITIONS.

"In this title, the terms 'health insurance coverage', 'health insurance issuer', 'group health plan', and 'individual health insurance' shall have the meanings given such terms in section 2791.

"Subtitle A—Market Relief

"PART I—RATING REQUIREMENTS

"SEC. 2911. DEFINITIONS.

"In this part:

"(1) ADOPTING STATE.—The term 'adopting State' means a State that, with respect to the small group market, has enacted small group rating rules that meet the minimum standards set forth in section 2912(a)(1) or, as applicable, transitional small group rating rules set forth in section 2912(b).

"(2) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the insurance laws of such State.

"(3) BASE PREMIUM RATE.—The term 'base premium rate' means, for each class of business with respect to a rating period, the lowest premium rate charged or that could have been charged under a rating system for that class of business by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage

"(4) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a State and that—

"(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the Model Small Group Rating Rules or, as applicable, transitional small group rating rules in a State;

"(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer small group health insurance coverage in that State consistent with the Model Small Group Rating Rules, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency); and

"(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the Model Small Group Rating Rules and an affirmation that such Rules are included in the terms of such contract.

"(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the small group health insurance market, except that such term shall not include excepted benefits (as defined in section 2791(c)).

"(6) INDEX RATE.—The term 'index rate' means for each class of business with respect to the rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

"(7) MODEL SMALL GROUP RATING RULES.—The term 'Model Small Group Rating Rules' means the rules set forth in section 2912(a)(2).

"(8) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

"(9) SMALL GROUP INSURANCE MARKET.—The term 'small group insurance market' shall have the meaning given the term 'small group market' in section 2791(e)(5).

"(10) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"(11) VARIATION LIMITS.—

"(A) COMPOSITE VARIATION LIMIT.—

"(i) IN GENERAL.—The term 'composite variation limit' means the total variation in premium rates charged by a health insurance issuer in the small group market as permitted under applicable State law based on the following factors or case characteristics:

"(I) Age.

"(II) Duration of coverage.

"(III) Claims experience.

"(IV) Health status.

"(ii) USE OF FACTORS.—With respect to the use of the factors described in clause (i) in setting premium rates, a health insurance issuer shall use one or both of the factors described in subclauses (I) or (IV) of such clause and may use the factors described in subclauses (II) or (III) of such clause.

"(B) TOTAL VARIATION LIMIT.—The term 'total variation limit' means the total variation in premium rates charged by a health insurance issuer in the small group market as permitted under applicable State law based on all factors and case characteristics (as described in section 2912(a)(1)).

"SEC. 2912. RATING RULES.

"(a) ESTABLISHMENT OF MINIMUM STANDARDS FOR PREMIUM VARIATIONS AND MODEL SMALL GROUP RATING RULES.—Not later than 6 months after the date of enactment of this title, the Secretary shall promulgate regulations establishing the following Minimum Standards and Model Small Group Rating Rules:

"(1) MINIMUM STANDARDS FOR PREMIUM VARIATIONS.—

"(A) COMPOSITE VARIATION LIMIT.—The composite variation limit shall not be less than 3:1.

"(B) TOTAL VARIATION LIMIT.—The total variation limit shall not be less than 5:1.

"(C) PROHIBITION ON USE OF CERTAIN CASE CHARACTERISTICS.—For purposes of this paragraph, in calculating the total variation limit, the State shall not use case characteristics other than those used in calculating the composite variation limit and industry, geographic area, group size, participation rate, class of business, and participation in wellness programs.

"(2) MODEL SMALL GROUP RATING RULES.—The following apply to an eligible insurer in a non-adopting State:

"(A) PREMIUM RATES.—Premium rates for small group health benefit plans to which this title applies shall comply with the following provisions relating to premiums, except as provided for under subsection (b):

"(i) VARIATION IN PREMIUM RATES.—The plan may not vary premium rates by more than the minimum standards provided for under paragraph (1).

“(ii) INDEX RATE.—The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than 20 percent, excluding those classes of business related to association groups under this title.

“(iii) CLASS OF BUSINESSES.—With respect to a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage or the rates that could be charged to such employers under the rating system for that class of business, shall not vary from the index rate by more than 25 percent of the index rate under clause (ii).

“(iv) INCREASES FOR NEW RATING PERIODS.—The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

“(I) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, except that such change shall not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers.

“(II) Any adjustment, not to exceed 15 percent annually and adjusted pro rata for rating periods of less then 1 year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business involved.

“(III) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

“(v) UNIFORM APPLICATION OF ADJUSTMENTS.—Adjustments in premium rates for claim experience, health status, or duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

“(vi) PROHIBITION ON USE OF CERTAIN CASE CHARACTERISTIC.—A small employer carrier shall not utilize case characteristics, other than those permitted under paragraph (1)(C), without the prior approval of the applicable State authority.

“(vii) CONSISTENT APPLICATION OF FACTORS.—Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans.

“(viii) TREATMENT OF PLANS AS HAVING SAME RATING PERIOD.—A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

“(ix) REQUIRE COMPLIANCE.—Premium rates for small business health benefit plans shall comply with the requirements of this subsection notwithstanding any assessments paid or payable by a small employer carrier as required by a State's small employer carrier reinsurance program.

“(B) ESTABLISHMENT OF SEPARATE CLASS OF BUSINESS.—Subject to subparagraph (C), a small employer carrier may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative costs related to the following:

“(i) The small employer carrier uses more than one type of system for the marketing and sale of health benefit plans to small employers.

“(ii) The small employer carrier has acquired a class of business from another small employer carrier.

“(iii) The small employer carrier provides coverage to one or more association groups that meet the requirements of this title.

“(C) LIMITATION.—A small employer carrier may establish up to 9 separate classes of business under subparagraph (B), excluding those classes of business related to association groups under this title.

“(D) LIMITATION ON TRANSFERS.—A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration of coverage since issue.

“(b) TRANSITIONAL MODEL SMALL GROUP RATING RULES.—

“(1) IN GENERAL.—Not later than 6 months after the date of enactment of this title and to the extent necessary to provide for a graduated transition to the minimum standards for premium variation as provided for in subsection (a)(1), the Secretary, in consultation with the National Association of Insurance Commissioners (NAIC), shall promulgate State-specific transitional small group rating rules in accordance with this subsection, which shall be applicable with respect to non-adopting States and eligible insurers operating in such States for a period of not to exceed 3 years from the date of the promulgation of the minimum standards for premium variation pursuant to subsection (a).

“(2) COMPLIANCE WITH TRANSITIONAL MODEL SMALL GROUP RATING RULES.—During the transition period described in paragraph (1), a State that, on the date of enactment of this title, has in effect a small group rating rules methodology that allows for a variation that is less than the variation provided for under subsection (a)(1) (concerning minimum standards for premium variation), shall be deemed to be an adopting State if the State complies with the transitional small group rating rules as promulgated by the Secretary pursuant to paragraph (1).

“(3) TRANSITIONING OF OLD BUSINESS.—

“(A) IN GENERAL.—In developing the transitional small group rating rules under paragraph (1), the Secretary shall, after consultation with the National Association of Insurance Commissioners and representatives of insurers operating in the small group health insurance market in non-adopting States, promulgate special transition standards with respect to independent rating classes for old and new business, to the extent reasonably necessary to protect health insurance consumers and to ensure a stable and fair transition for old and new market entrants.

“(B) PERIOD FOR OPERATION OF INDEPENDENT RATING CLASSES.—In developing the special transition standards pursuant to subparagraph (A), the Secretary shall permit a carrier in a non-adopting State, at its option, to maintain independent rating classes for old and new business for a period of up to 5 years, with the commencement of such 5-year period to begin at such time, but not later than the date that is 3 years after the date of enactment of this title, as the carrier offers a book of business meeting the minimum standards for premium variation provided for in subsection (a)(1) or the transitional small group rating rules under paragraph (1).

“(4) OTHER TRANSITIONAL AUTHORITY.—In developing the transitional small group rating rules under paragraph (1), the Secretary shall provide for the application of the transitional small group rating rules in transition States as the Secretary may determine necessary for a an effective transition.

“(c) MARKET RE-ENTRY.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, a health insurance issuer that has voluntarily withdrawn from providing coverage in the small group market prior to the date of enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2006 shall not be excluded from re-entering such market on a date that is more than 180 days after such date of enactment.

“(2) TERMINATION.—The provision of this subsection shall terminate on the date that is 24 months after the date of enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2006.

“SEC. 2913. APPLICATION AND PREEMPTION.

“(a) SUPERSEDING OF STATE LAW.—

“(1) IN GENERAL.—This part shall supersede any and all State laws of a non-adopting State insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle) relate to rating in the small group insurance market as applied to an eligible insurer, or small group health insurance coverage issued by an eligible insurer, including with respect to coverage issued to a small employer through a small business health plan, in a State.

“(2) NONADOPTING STATES.—This part shall supersede any and all State laws of a nonadopting State insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle)—

“(A) prohibit an eligible insurer from offering, marketing, or implementing small group health insurance coverage consistent with the Model Small Group Rating Rules or transitional model small group rating rules; or

“(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing small group health insurance coverage consistent with the Model Small Group Rating Rules or transitional model small group rating rules.

“(b) SAVINGS CLAUSE AND CONSTRUCTION.—

“(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting states.

“(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers that offer small group health insurance coverage in a nonadopting State.

“(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supercede any State law in a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the Model Small Group Rating Rules or transitional model small group rating rules.

“(4) NO EFFECT ON PREEMPTION.—In no case shall this part be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this part be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

“(5) Preemption limited to rating.—Subsection (a) shall not preempt any State law that does not have a reference to or a connection with State rating rules that would otherwise apply to eligible insurers.

“(c) Effective Date.—This section shall apply, at the election of the eligible insurer, beginning in the first plan year or the first calendar year following the issuance of the final rules by the Secretary under the Model Small Group Rating Rules or, as applicable, the Transitional Model Small Group Rating Rules, but in no event earlier than the date that is 12 months after the date of enactment of this title.

“SEC. 2914. CIVIL ACTIONS AND JURISDICTION.

“(a) In General.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

“(b) Actions.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 2913.

“(c) Direct Filing in Court of Appeals.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

“(d) Expedited Review.—

“(1) District court.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

“(2) Court of appeals.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

“(e) Standard of Review.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

“SEC. 2915. ONGOING REVIEW.

“Not later than 5 years after the date on which the Model Small Group Rating Rules are issued under this part, and every 5 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners, shall prepare and submit to the appropriate committees of Congress a report that assesses the effect of the Model Small Group Rating Rules on access, cost, and market functioning in the small group market. Such report may, if the Secretary, in consultation with the National Association of Insurance Commissioners, determines such is appropriate for improving access, costs, and market functioning, contain legislative proposals for recommended modification to such Model Small Group Rating Rules.

“PART II—AFFORDABLE PLANS

“SEC. 2921. DEFINITIONS.

“In this part:

“(1) Adopting state.—The term ‘adopting State’ means a State that has enacted the Benefit Choice Standards in their entirety and as the exclusive laws of the State that relate to benefit, service, and provider mandates in the group and individual insurance markets.

“(2) Benefit choice standards.—The term ‘Benefit Choice Standards’ means the Standards issued under section 2922.

“(3) Eligible insurer.—The term ‘eligible insurer’ means a health insurance issuer that is licensed in a nonadopting State and that—

“(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the Benefit Choice Standards in a nonadopting State;

“(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the Benefit Choice Standards, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

“(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer’s contract of the Benefit Choice Standards and that adherence to such Standards is included as a term of such contract.

“(4) Health insurance coverage.—The term ‘health insurance coverage’ means any coverage issued in the group or individual health insurance markets, except that such term shall not include excepted benefits (as defined in section 2791(c)).

“(5) Nonadopting state.—The term ‘nonadopting State’ means a State that is not an adopting State.

“(6) Small group insurance market.—The term ‘small group insurance market’ shall have the meaning given the term ‘small group market’ in section 2791(e)(5).

“(7) State law.—The term ‘State law’ means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

“SEC. 2922. OFFERING AFFORDABLE PLANS.

“(a) Benefit Choice Options.—

“(1) Development.—Not later than 6 months after the date of enactment of this title, the Secretary shall issue, by interim final rule, Benefit Choice Standards that implement the standards provided for in this part.

“(2) Basic options.—The Benefit Choice Standards shall provide that a health insurance issuer in a State, may offer a coverage plan or plan in the small group market, individual market, large group market, or through a small business health plan, that does not comply with one or more mandates regarding covered benefits, services, or category of provider as may be in effect in such State with respect to such market or markets (either prior to or following the date of enactment of this title), if such issuer also offers in such market or markets an enhanced option as provided for in paragraph (3).

“(3) Enhanced option.—A health insurance issuer issuing a basic option as provided for in paragraph (2) shall also offer to purchasers (including, with respect to a small business health plan, the participating employers of such plan) an enhanced option, which shall at a minimum include such covered benefits, services, and categories of providers as are covered by a State employee coverage plan in one of the 5 most populous States as are in effect in the calendar year in which such enhanced option is offered.

“(4) Publication of benefits.—Not later than 3 months after the date of enactment of this title, and on the first day of every calendar year thereafter, the Secretary shall publish in the Federal Register such covered benefits, services, and categories of providers covered in that calendar year by the State employee coverage plans in the 5 most populous States.

“(b) Effective Dates.—

“(1) Small business health plans.—With respect to health insurance provided to participating employers of small business health plans, the requirements of this part (concerning lower cost plans) shall apply beginning on the date that is 12 months after the date of enactment of this title.

“(2) Non-association coverage.—With respect to health insurance provided to groups or individuals other than participating employers of small business health plans, the requirements of this part shall apply beginning on the date that is 15 months after the date of enactment of this title.

“SEC. 2923. APPLICATION AND PREEMPTION.

“(a) Superseding of State Law.—

“(1) In general.—This part shall supersede any and all State laws insofar as such laws relate to mandates relating to covered benefits, services, or categories of provider in the health insurance market as applied to an eligible insurer, or health insurance coverage issued by an eligible insurer, including with respect to coverage issued to a small business health plan, in a nonadopting State.

“(2) Nonadopting states.—This part shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as such laws—

“(A) prohibit an eligible insurer from offering, marketing, or implementing health insurance coverage consistent with the Benefit Choice Standards, as provided for in section 2922(a); or

“(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing health insurance coverage consistent with the Benefit Choice Standards.

“(b) Savings Clause and Construction.—

“(1) Nonapplication to adopting states.—Subsection (a) shall not apply with respect to adopting States.

“(2) Nonapplication to certain insurers.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

“(3) Nonapplication where obtaining relief under state law.—Subsection (a)(1) shall not supercede any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the Benefit Choice Standards.

"(4) NO EFFECT ON PREEMPTION.—In no case shall this part be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this part be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

"(5) PREEMPTION LIMITED TO BENEFITS.—Subsection (a) shall not preempt any State law that does not have a reference to or a connection with State mandates regarding covered benefits, services, or categories of providers that would otherwise apply to eligible insurers.

"SEC. 2924. CIVIL ACTIONS AND JURISDICTION.

"(a) IN GENERAL.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

"(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 2923.

"(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

"(d) EXPEDITED REVIEW.—

"(1) DISTRICT COURT.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

"(2) COURT OF APPEALS.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

"(e) STANDARD OF REVIEW.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

"SEC. 2925. RULES OF CONSTRUCTION.

"(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a health insurance issuer in an adopting State or an eligible insurer in a non-adopting State may amend its existing policies to be consistent with the terms of this subtitle (concerning rating and benefits).

"(b) HEALTH SAVINGS ACCOUNTS.—Nothing in this subtitle shall be construed to create any mandates for coverage of benefits for HSA-qualified health plans that would require reimbursements in violation of section 223(c)(2) of the Internal Revenue Code of 1986.".

TITLE III—HARMONIZATION OF HEALTH INSURANCE STANDARDS

SEC. 301. HEALTH INSURANCE STANDARDS HARMONIZATION.

Title XXIX of the Public Health Service Act (as added by section 201) is amended by adding at the end the following:

"Subtitle B—Standards Harmonization

"SEC. 2931. DEFINITIONS.

"In this subtitle:

"(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted the harmonized standards adopted under this subtitle in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

"(2) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

"(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the harmonized standards in a nonadopting State;

"(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the harmonized standards published pursuant to section 2932(d), and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

"(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such health coverage) and filed with the State pursuant to subparagraph (B), a description of the harmonized standards published pursuant to section 2932(g)(2) and an affirmation that such standards are a term of the contract.

"(3) HARMONIZED STANDARDS.—The term 'harmonized standards' means the standards certified by the Secretary under section 2932(d).

"(4) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the health insurance market, except that such term shall not include excepted benefits (as defined in section 2791(c).

"(5) NONADOPTING STATE.—The term 'nonadopting State' means a State that fails to enact, within 18 months of the date on which the Secretary certifies the harmonized standards under this subtitle, the harmonized standards in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

"(6) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"SEC. 2932. HARMONIZED STANDARDS.

"(a) BOARD.—

"(1) ESTABLISHMENT.—Not later than 3 months after the date of enactment of this title, the Secretary, in consultation with the NAIC, shall establish the Health Insurance Consensus Standards Board (referred to in this subtitle as the 'Board') to develop recommendations that harmonize inconsistent State health insurance laws in accordance with the procedures described in subsection (b).

"(2) COMPOSITION.—

"(A) IN GENERAL.—The Board shall be composed of the following voting members to be appointed by the Secretary after considering the recommendations of professional organizations representing the entities and constituencies described in this paragraph:

"(i) Four State insurance commissioners as recommended by the National Association of Insurance Commissioners, of which 2 shall be Democrats and 2 shall be Republicans, and of which one shall be designated as the chairperson and one shall be designated as the vice chairperson.

"(ii) Four representatives of State government, two of which shall be governors of States and two of which shall be State legislators, and two of which shall be Democrats and two of which shall be Republicans.

"(iii) Four representatives of health insurers, of which one shall represent insurers that offer coverage in the small group market, one shall represent insurers that offer coverage in the large group market, one shall represent insurers that offer coverage in the individual market, and one shall represent carriers operating in a regional market.

"(iv) Two representatives of insurance agents and brokers.

"(v) Two independent representatives of the American Academy of Actuaries who have familiarity with the actuarial methods applicable to health insurance.

"(B) EX OFFICIO MEMBER.—A representative of the Secretary shall serve as an ex officio member of the Board.

"(3) ADVISORY PANEL.—The Secretary shall establish an advisory panel to provide advice to the Board, and shall appoint its members after considering the recommendations of professional organizations representing the entities and constituencies identified in this paragraph:

"(A) Two representatives of small business health plans.

"(B) Two representatives of employers, of which one shall represent small employers and one shall represent large employers.

"(C) Two representatives of consumer organizations.

"(D) Two representatives of health care providers.

"(4) QUALIFICATIONS.—The membership of the Board shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health plans, providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

"(5) ETHICAL DISCLOSURE.—The Secretary shall establish a system for public disclosure by members of the Board of financial and other potential conflicts of interest relating to such members. Members of the Board shall be treated as employees of Congress for purposes of applying title I of the Ethics in Government Act of 1978 (Public Law 95–521).

"(6) DIRECTOR AND STAFF.—Subject to such review as the Secretary deems necessary to assure the efficient administration of the Board, the chair and vice-chair of the Board may—

"(A) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Board (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

"(D) make advance, progress, and other payments which relate to the work of the Board;

"(E) provide transportation and subsistence for persons serving without compensation; and

"(F) prescribe such rules as it deems necessary with respect to the internal organization and operation of the Board.

"(7) TERMS.—The members of the Board shall serve for the duration of the Board. Vacancies in the Board shall be filled as needed in a manner consistent with the composition described in paragraph (2).

"(b) DEVELOPMENT OF HARMONIZED STANDARDS.—

"(1) IN GENERAL.—In accordance with the process described in subsection (c), the Board shall identify and recommend nationally harmonized standards for each of the following process categories:

"(A) FORM FILING AND RATE FILING.—Form and rate filing standards shall be established which promote speed to market and include the following defined areas for States that require such filings:

"(i) Procedures for form and rate filing pursuant to a streamlined administrative filing process.

"(ii) Timeframes for filings to be reviewed by a State if review is required before they are deemed approved.

"(iii) Timeframes for an eligible insurer to respond to State requests following its review.

"(iv) A process for an eligible insurer to self-certify.

"(v) State development of form and rate filing templates that include only non-preempted State law and Federal law requirements for eligible insurers with timely updates.

"(vi) Procedures for the resubmission of forms and rates.

"(vii) Disapproval rationale of a form or rate filing based on material omissions or violations of non-preempted State law or Federal law with violations cited and explained.

"(viii) For States that may require a hearing, a rationale for hearings based on violations of non-preempted State law or insurer requests.

"(B) MARKET CONDUCT REVIEW.—Market conduct review standards shall be developed which provide for the following:

"(i) Mandatory participation in national databases.

"(ii) The confidentiality of examination materials.

"(iii) The identification of the State agency with primary responsibility for examinations.

"(iv) Consultation and verification of complaint data with the eligible insurer prior to State actions.

"(v) Consistency of reporting requirements with the recordkeeping and administrative practices of the eligible insurer.

"(vi) Examinations that seek to correct material errors and harmful business practices rather than infrequent errors.

"(vii) Transparency and publishing of the State's examination standards.

"(viii) Coordination of market conduct analysis.

"(ix) Coordination and nonduplication between State examinations of the same eligible insurer.

"(x) Rationale and protocols to be met before a full examination is conducted.

"(xi) Requirements on examiners prior to beginning examinations such as budget planning and work plans.

"(xii) Consideration of methods to limit examiners' fees such as caps, competitive bidding, or other alternatives.

"(xiii) Reasonable fines and penalties for material errors and harmful business practices.

"(C) PROMPT PAYMENT OF CLAIMS.—The Board shall establish prompt payment standards for eligible insurers based on standards similar to those applicable to the Social Security Act as set forth in section 1842(c)(2) of such Act (42 U.S.C. 1395u(c)(2)). Such prompt payment standards shall be consistent with the timing and notice requirements of the claims procedure rules to be specified under subparagraph (D), and shall include appropriate exceptions such as for fraud, nonpayment of premiums, or late submission of claims.

"(D) INTERNAL REVIEW.—The Board shall establish standards for claims procedures for eligible insurers that are consistent with the requirements relating to initial claims for benefits and appeals of claims for benefits under the Employee Retirement Income Security Act of 1974 as set forth in section 503 of such Act (29 U.S.C. 1133) and the regulations thereunder.

"(2) RECOMMENDATIONS.—The Board shall recommend harmonized standards for each element of the categories described in subparagraph (A) through (D) of paragraph (1) within each such market. Notwithstanding the previous sentence, the Board shall not recommend any harmonized standards that disrupt, expand, or duplicate the covered benefit, service, or category of provider mandate standards provided for in section 2922.

"(c) PROCESS FOR IDENTIFYING HARMONIZED STANDARDS.—

"(1) IN GENERAL.—The Board shall develop recommendations to harmonize inconsistent State insurance laws with respect to each of the process categories described in subparagraphs (A) through (D) of subsection (b)(1).

"(2) REQUIREMENTS.—In adopting standards under this section, the Board shall consider the following:

"(A) Any model acts or regulations of the National Association of Insurance Commissioners in each of the process categories described in subparagraphs (A) through (D) of subsection (b)(1).

"(B) Substantially similar standards followed by a plurality of States, as reflected in existing State laws, relating to the specific process categories described in subparagraphs (A) through (D) of subsection (b)(1).

"(C) Any Federal law requirement related to specific process categories described in subparagraphs (A) through (D) of subsection (b)(1).

"(D) In the case of the adoption of any standard that differs substantially from those referred to in subparagraphs (A), (B), or (C), the Board shall provide evidence to the Secretary that such standard is necessary to protect health insurance consumers or promote speed to market or administrative efficiency.

"(E) The criteria specified in clauses (i) through (iii) of subsection (d)(2)(B).

"(d) RECOMMENDATIONS AND CERTIFICATION BY SECRETARY.—

"(1) RECOMMENDATIONS.—Not later than 18 months after the date on which all members of the Board are selected under subsection (a), the Board shall recommend to the Secretary the certification of the harmonized standards identified pursuant to subsection (c).

"(2) CERTIFICATION.—

"(A) IN GENERAL.—Not later than 120 days after receipt of the Board's recommendations under paragraph (1), the Secretary shall certify the recommended harmonized standards as provided for in subparagraph (B), and issue such standards in the form of an interim final regulation.

"(B) CERTIFICATION PROCESS.—The Secretary shall establish a process for certifying the recommended harmonized standard, by category, as recommended by the Board under this section. Such process shall—

"(i) ensure that the certified standards for a particular process area achieve regulatory harmonization with respect to health plans on a national basis;

"(ii) ensure that the approved standards are the minimum necessary, with regard to substance and quantity of requirements, to protect health insurance consumers and maintain a competitive regulatory environment; and

"(iii) ensure that the approved standards will not limit the range of group health plan designs and insurance products, such as catastrophic coverage only plans, health savings accounts, and health maintenance organizations, that might otherwise be available to consumers.

"(3) EFFECTIVE DATE.—The standards certified by the Secretary under paragraph (2) shall be effective on the date that is 18 months after the date on which the Secretary certifies the harmonized standards.

"(e) TERMINATION.—The Board shall terminate and be dissolved after making the recommendations to the Secretary pursuant to subsection (d)(1).

"(f) ONGOING REVIEW.—Not earlier than 3 years after the termination of the Board under subsection (e), and not earlier than every 3 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners and the entities and constituencies represented on the Board and the Advisory Panel, shall prepare and submit to the appropriate committees of Congress a report that assesses the effect of the harmonized standards on access, cost, and health insurance market functioning. The Secretary may, based on such report and applying the process established for certification under subsection (d)(2)(B), in consultation with the National Association of Insurance Commissioners and the entities and constituencies represented on the Board and the Advisory Panel, update the harmonized standards through notice and comment rulemaking.

"(g) PUBLICATION.—

"(1) LISTING.—The Secretary shall maintain an up to date listing of all harmonized standards certified under this section on the Internet website of the Department of Health and Human Services.

"(2) SAMPLE CONTRACT LANGUAGE.—The Secretary shall publish on the Internet website of the Department of Health and Human Services sample contract language that incorporates the harmonized standards certified under this section, which may be used by insurers seeking to qualify as an eligible insurer. The types of harmonized standards that shall be included in sample contract language are the standards that are relevant to the contractual bargain between the insurer and insured.

“(h) State Adoption and Enforcement.—Not later than 18 months after the certification by the Secretary of harmonized standards under this section, the States may adopt such harmonized standards (and become an adopting State) and, in which case, shall enforce the harmonized standards pursuant to State law.

“SEC. 2933. APPLICATION AND PREEMPTION.

“(a) Superseding of State Law.—

“(1) In general.—The harmonized standards certified under this subtitle shall supersede any and all State laws of a non-adopting State insofar as such State laws relate to the areas of harmonized standards as applied to an eligible insurer, or health insurance coverage issued by a eligible insurer, including with respect to coverage issued to a small business health plan, in a nonadopting State.

“(2) Nonadopting states.—This subtitle shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as they may—

“(A) prohibit an eligible insurer from offering, marketing, or implementing health insurance coverage consistent with the harmonized standards; or

“(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing health insurance coverage consistent with the harmonized standards under this subtitle.

“(b) Savings Clause and Construction.—

“(1) Nonapplication to adopting states.—Subsection (a) shall not apply with respect to adopting States.

“(2) Nonapplication to certain insurers.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

“(3) Nonapplication where obtaining relief under state law.—Subsection (a)(1) shall not supersede any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the harmonized standards under this subtitle.

“(4) Non-application where consistent with market conduct examination harmonized standard.—Subsection (a)(1) shall not supersede any State law of a nonadopting State that relates to the harmonized standards issued under section 2932(b)(1)(B) to the extent that the State agency responsible for regulating insurance (or other applicable State agency) exercises its authority under State law consistent with the harmonized standards issued under section 2932(b)(1)(B).

“(5) No effect on preemption.—In no case shall this subtitle be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this subtitle be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

“(6) Preemption limited to harmonized standards.—Subsection (a) shall not preempt any State law that does not have a reference to or a connection with State requirements for form and rate filing, market conduct reviews, prompt payment of claims, or internal reviews that would otherwise apply to eligible insurers.

“(c) Effective Date.—This section shall apply beginning on the date that is 18 months and one day after the date on harmonized standards are certified by the Secretary under this subtitle.

“SEC. 2934. CIVIL ACTIONS AND JURISDICTION.

“(a) In General.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this subtitle.

“(b) Actions.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 2933.

“(c) Direct Filing in Court of Appeals.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

“(d) Expedited Review.—

“(1) District court.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

“(2) Court of appeals.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

“(e) Standard of Review.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

“SEC. 2935. AUTHORIZATION OF APPROPRIATIONS; RULE OF CONSTRUCTION.

“(a) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

“(b) Health Savings Accounts.—Nothing in this subtitle shall be construed to create any mandates for coverage of benefits for HSA-qualified health plans that would require reimbursements in violation of section 223(c)(2) of the Internal Revenue Code of 1986.”.

Mr. FRIST. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3889

Mr. FRIST. I send a first-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. Frist] proposes an amendment numbered 3889 to the instructions to the motion to recommit.

Mr. FRIST. I ask unanimous consent that reading of the amendment be dispensed with.

Mr. KENNEDY. Mr. President, until I have a chance to see the amendment, I will have to object.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

In the amendment strike the number “3” and insert the number “4”

Mr. KENNEDY. I withdraw my objection.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3890 TO AMENDMENT NO. 3889

Mr. FRIST. I now send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. Frist] proposes an amendment numbered 3890 to amendment No. 3889.

Mr. FRIST. I ask unanimous consent that reading of amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following;

“This act shall become effective 3 days after enactment.”

Mr. FRIST. Mr. President, let me summarize or attempt to summarize where we are in terms of what we just did and where we have been. After a 96-to-2 vote on invoking cloture on the motion to proceed, we have now finally proceeded to the small business health plans bill. We are now at a point that we can begin debating the substance of this bill.

Chairman Enzi is here and is ready for relevant amendments to come forward and be debated. He will have more to say on that shortly.

What is clear is that there have been attempts or suggestions that we use this bill as a Christmas tree for all sorts of amendments, as well intended as they might be, but amendments that don't relate to the underlying bill.

Earlier this week, we began to address and tried to address issues surrounding medical liability. We were unable to do so. We have now proceeded to the small business bill, and it is my intention to stay on that bill, with amendments related to the bill. This bill should have strong, bipartisan support. As it plays out, we will see how strong that bipartisan support may be.

Mr. DURBIN. Will the majority leader yield for a question?

Mr. FRIST. Yes.

Mr. DURBIN. I ask the majority leader to clarify something in his remarks. He referred to amendments as "Christmas tree amendments." There is one amendment on this side of the aisle that he supports on stem cell research. If this is Health Care Week, it would seem that this is a related issue. Does the majority leader characterize that amendment as a "Christmas tree amendment"?

Mr. FRIST. Mr. President, the issue of stem cells is a very important issue. As my colleague knows, I am very committed to addressing that particular issue.

What is very clear to me, as we started discussing health care on Friday of last week—and it is now Wednesday—is that we need to systematically take an issue, one by one, that is important to the American people, that I have clearly laid out, starting with medical liability, and then proceed to another medical liability bill and proceed to small business, without jumping to other important issues. There is a whole range of issues that affect cost, quality, research, and affect people's lives and affect access to health care. But the only way we are going to be able to address those in an intelligent, effective, step-wise way is to take them one at a time, like medical liability. We were unsuccessful there. We are now moving to small business and focusing on that. There will be amendments, and we welcome them. The chairman is here and ready to talk substance on those amendments. Let's dispose of those and stay on small business. Then we will go and look at a whole range of other issues on health care at an appropriate time.

My intention is to go step-wise through this, with relevant amendments. The chairman is willing to address that and address the issue of small business health plans. We have 46 million people out there who are uninsured today. This doesn't solve the problem, but it fits very nicely with allowing the people out there who don't have access to health care today, who work in small businesses, to have for the first time the opportunity to get the reasonable, affordable health care they simply don't have today. There are a million people—if we pass this bill and it is signed by the President—who are uninsured who will have the opportunity to have insurance.

Let me yield to our chairman because I do encourage our Members on both sides of the aisle to come forward so that we can have substantive debate on the small business health insurance issues out there, without trying—because I know the other side wants to address many other issues, as has been expressed over the last several days, which are their priorities that they want to put before small business health reform plans. But we are simply not going to do that.

Mr. KENNEDY. Well, Mr. President, I say with the greatest respect that it is kind of interesting that the majority leader presents a proposal to the Chamber on behalf of the human resources committee—and as we know, under the Senate rules, that is entirely appropriate—and then in the same breath he asks us to recommit the legislation back to the committee, after he has just spoken for the committee, which suggests that there is a parliamentary maneuver, which is now quite apparent to all of us, that we are not going to have the opportunity to even get a debate on small business assistance, because we have on this side of the aisle the Durbin legislation dealing with relief for small business which effectively we are precluded from having an opportunity to offer.

If I understand the last sentence of the leader, he said we are going to have to dispose of this and go this route before we consider any other amendments. As I understand it from our Democratic leader, we could have reduced those to four or five different amendments that deal with the emergency penalties that some 8 million seniors are going to pay on the prescription drug program, the issue of the ability of Medicare to be able to negotiate lower prices, and the stem cell issue, which my friend has commented on, and Senator HARKIN and Senator FEINSTEIN, and I know the Senator from Tennessee understands the full potential of this. But effectively, as I understand it, this is Wednesday at 3 o'clock; we were here Wednesday morning. I have been effectively here since 10 o'clock in the morning, and we have Wednesday and Thursday and a full week where we can deal with these issues.

It just is troubling to many of us, when we went through this whole argument a week or 10 days ago on the immigration issue, where we were listening to those on that side of the aisle say: Let's have some amendments. Now we hear from them that, no, we cannot. We want lots of amendments on that, but we refuse to have amendments on this.

I daresay that the Senate rules permit debate on different amendments. We have a set of rules out there. You can have an amendment in the first or second degree, and you can have ultimate judgments and decisions. I just want to mention at this time that the action that has been taken now by the leader is effectively going to foreclose an opportunity at this time, when we are having our health care debate, to debate either stem cell research or relief for our senior citizens, who will be paying the penalty because of the requirements of the prescription drug program. We will be denied an opportunity to consider reimportation or negotiation for lower prices. Those are effectively issues that I think most Americans can understand. Certainly these are issues which Members of this body are familiar with and not new issues. We have not been able to get an opportunity.

I certainly regret that is the case because I think, with all respect, as the CBO talks about, there are 48 million Americans without health insurance. According to CBO, this is going to help solve it for 600,000, where we have the option with the Durbin proposal to solve it for millions in small business. But we are denied that opportunity. It is difficult for me to follow that kind of rationale, but we are where we are. I regret that judgment and decision, but that is where we are.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I wish to comment a little bit on that. I think there is plenty of blame to go around for any delays that are happening around here. When we are talking about incorporating in this bill, which deals with small business health plans, an opportunity to give small businessmen a chance at negotiating in the market to bring down costs, with an alternative being proposed—when we are being asked to incorporate into this and put all the weight of the stem cell debate or drug reimportation or Medicare Part D on top of this as a full-blown debate, everybody in this body knows that any one of those would easily take up not just a full week but probably 3 weeks because there would be other kinds of motions and parliamentary objections and processes that would drag any one of those out for that time.

The difficulty with being able to debate anything around here is the length of time as a result of the right to offer any amendments that anybody wants on any topic. So we do make some efforts to try to keep them relevant. If we do cloture, then they are germane. Germane is a much tougher test, but relevant is not any health care idea in the whole world that could be amended and amended and amended and debated and have processes put in against it that would keep us from ever getting to a decision on small business health plans.

So we are trying to stay with small business health plans. I know Senators DURBIN and LINCOLN have an alternate approach. The alternate approach ought to be voted on, but the alternate approach should not be voted on to the exclusion of ever getting to a vote on this. So we don't want to have just one of them vote and one side feel very good because they got a vote for that one and the other side never gets to their vote. We are trying to find a way to make sure there are votes on both sides on the issues and that not just one side is taking the tough votes but that we do something so we can get to a conclusion for small business. Yes, we are trying to focus this on the problems of small business.

I would like to speak a little bit on the managers' amendment that is before us because there are some changes to the bill that I think the other side of the aisle will like. In most respects, this amendment corresponds very closely to the underlying bill reported out of the HELP Committee in March. It enables small businesses to pool together to save costs and increase access. It allows small business health plans and other plans to offer more affordable coverage options. It will also help streamline the current hodgepodge of health insurance regulation. However, the managers' amendment does make a number of new and important changes to the bill, most importantly in the area of premium rating.

Before I address the managers' amendment, I want to first emphasize, as I have throughout this debate, that I am eager to start sorting the amendments my colleagues might want to offer. As we start the amendment process, I look forward to debating all amendments from my colleagues on both sides of the aisle that are relevant—I mean relevant to the goal of more affordable health insurance for small business owners and their employees and their families.

I have reviewed some of the amendments Members have filed and want to offer. There are many that don't have any place on this bill and only serve to obstruct or delay passage of the bill—amendments addressing the energy efficiency of hybrid cars, Medicare benefits, hate crimes, and environmental air standards. They don't have any place on this bill. This bill is about health insurance for small business owners and their families and their employees and their families. I stand ready and willing to debate all relevant amendments to this bill.

For instance, Senator SNOWE will file an amendment on the issue of benefit mandates. Her amendment would ensure that benefits and services which have been mandated by a majority of States would continue to apply to small business health plans and other insurers. I know there is a lot of strong feeling on all sides of this issue, and I look forward to a lively and serious debate on it. I will have more to say about the Snowe amendment later.

For now, I will focus on what we have done in the managers' amendment to address the concerns raised by many Members of this Chamber. The main change we have made is related to how health insurance premiums are priced for small business. Most States do have rating laws. Those laws limit the amount of variation between premiums charged to different small businesses. Some States allow a great variation; some States allow very little variation.

During debate on this bill yesterday, I heard my Democratic colleagues make a number of speeches on this issue. They expressed their concern about how the bill, as reported from our committee, would affect the health insurance market in their States. They expressed concerns about how the rating rules in our bill might affect businesses with older workers or workers who have serious or chronic illnesses. I also heard these concerns in private conversations with a number of my colleagues over the past few weeks. I don't believe everybody should have to pay exactly the same amount for health insurance. Rules like that hurt young families and lower income workers. They get hurt because they get priced out of the affordable health insurance market.

But I have listened to my colleagues. I have also consulted with some of my colleagues on our committee and with Senator NELSON of Nebraska, who coauthored this bill with me. I value his perspective as a former State insurance commissioner. I also reviewed the bill Senators DURBIN and LINCOLN have offered. I have talked with experts in the insurance markets and insurance regulation, and they don't think the bill Senators DURBIN and LINCOLN have offered would create new and affordable options. In fact, some of those experts think that bill would make things worse, not better.

I will speak some other time in more detail on that. I prefer to go in the direction that we know can work. We know small business health plans will work because they worked in the past before the thicket of conflicting State laws made it too cumbersome to offer such plans.

Our committee heard testimony on this last year, but Senator NELSON and I looked at the Durbin-Lincoln bill anyway to see if there were some ideas we could harvest, some ideas we could incorporate.

After talking with Senator NELSON and my colleagues on the committee, we have developed an amendment that should address the concerns of most of my colleagues on the issue of rating.

The managers' amendment would do two things: First, it would permit States to limit the allowable variation in premiums to a much narrower ratio between the highest and the lowest rates as compared to the bill my committee originally reported.

Second, it would allow States to continue to require community rating of the health insurance policies. What that means is that the bill would allow States to prohibit small business health plans or insurance companies from using the health status of a group of workers as a factor in determining the group's premium.

If States want to allow health status as a factor, they can allow it; if they don't, they can disallow it. This means two things: First of all, most States would be unaffected by the new rating threshold of the managers' amendment. As a matter of fact, we estimate the rating provisions would have no impact on approximately 40 States. The vast majority of those States have reasonably competitive markets, although those markets would be even more competitive if we allow for the creation of small business health plans, allowing small business to band together across State lines to increase their leverage and to cut administrative costs. That is a huge factor.

Second, the managers' amendment preserves much of our original intent to create greater affordability for low-wage workers and for younger workers and their families, but it also allows States to retain reasonable limits on what high-risk groups can be charged. The managers' amendment sets a different threshold for allowable variation in premiums.

The new threshold is similar to the model act published by the National Association of Insurance Commissioners and updated in 2000, its most recent model, and it is what Senators DURBIN and LINCOLN used as the basis of their bill.

So under the managers' amendment, the States use community rating and could continue to use community rating. That means these States could still prohibit the use of health status as a rating factor as long as their system is adjusted to the point that it maintains affordability for low-wage workers and young people and families.

Under the managers' amendment, States would also be permitted to limit small business health plans and other insurers from setting rates that vary by more than a 5-to-1 ratio. In other words, the highest rate for a group in a particular insurance pool could not be more than five times the lowest rate. That would ensure that the insurance pool has a better and more stable balance of risks in the pool while ensuring meaningful limits on premiums for higher risk groups. This is an adjusted community rating standard used in the bill authored by Senators DURBIN and LINCOLN.

Again, just like the Durbin-Lincoln bill, the managers' amendment follows the most recent model from the National Association of Insurance Commissioners. The Durbin-Lincoln standard works out to the same 5-to-1 ratio between lowest and highest rating. So I hope my colleagues understand that here is an area where we have tried to strike a compromise, where we tried to work with them.

I should point out that most States don't use community rating. They use what is known as rating bands. These bands allow for a variety of factors to be used in setting premiums, including health status. We will allow States that use rating bands to continue to use rating bands. None of these States would be required to use community rating if they don't want to. They can continue to allow greater premium variation than the 5-to-1 ratio if they choose. It is a very important point.

The managers' amendment allows States to continue the use of two systems for rating health insurance policies. They can use either the community rating or what is known as rating bands. All the managers' amendment asks is that community-rated States follow the model set forth in the Durbin-Lincoln bill. At least if some reasonable variation in premiums is allowed, young families and lower wage workers may be able to find affordable policies. Of course, affordability would be enhanced if their State markets became competitive enough to attract small business health plans. So we are saying in 10 States it may not attract small business health plans.

I know the rating is extremely complex. This is a very difficult issue to talk about. I kind of enjoy it as an accountant. But the bottom line is very simple. First, we need to maintain a minimum level of affordability in how premiums are set across the country. Young families and lower wage workers in certain States deserve access to affordable health insurance and, therefore, affordable health care, and they deserve the ability to join together with other employees as part of a pool of small business workers through the association in their industries.

Ensuring that all the States have competitive health insurance markets will enable small business health plans to create truly national pools so they can maximize the full size of their membership as they negotiate for better benefits and for better prices.

This is a major area of compromise, and I hope my colleagues recognize it. We have taken a major concept from the bill authored by Senators DURBIN and LINCOLN and we have incorporated it in the managers' amendment. We have done this because Senator NELSON and I and the other cosponsors of the bill are working in good faith to find common ground.

While rating is the most significant issue that we revised in the managers' amendment, it is not the only one. For example, the managers' amendment includes several provisions to make it clear that the scope of the bill's preemption of State law is very narrowly tailored to only three areas. Those three areas are rating, as I have already discussed, benefits, to enable small business health plans to offer national benefit packages, and administrative functions, to reduce some unnecessary costs of health insurance regulation.

It has been a key priority for my Democratic cosponsor, Senator BEN NELSON, that State oversight authority be retained to the maximum extent possible. We have a few former State insurance commissioners in the Senate, and I know they share Senator NELSON's opinion on that. There are also a few former attorneys general in the Senate, and I have listened to them. I have also listened to some of our current attorneys general who have voiced their concerns recently.

I mention that some of their concerns refer more to the House-associated health plans bill, and it is important for people to know this is different from that bill.

We have listened and done these appropriate changes. We have added new provisions that make it very clear that this bill does not preempt, affect, or even disrupt traditional State authority regarding consumer protection, plan solvency, and insurance oversight. That stays with the State.

Most importantly, it would be crystal clear that the bill does not limit in any way a consumer's right to petition their State insurance commissioner or the State courts. That is a very important point. I want to repeat that. It should be crystal clear that it does not limit in any way a consumer's right to petition the State insurance commissioner or their State courts.

The managers' amendment before the Senate represents a significant effort to find common ground. It addresses the issue of rating, which is one of the two major concerns that Senator NELSON and I have heard from colleagues. Senator SNOWE's amendment with respect to State-mandated benefits is an attempt to address the other major concern.

So Members who have raised concerns about these two issues ought to see we are willing to work toward a compromise. There should be no reason we can't arrive at a solution over the next couple of days. Small business owners and working families I don't think are going to accept excuses.

The matter at hand is small business health plans. It is not stem cell research, it is not drug importation, and it is not Medicare. The matter at hand is about creating more affordable health insurance options for small business, and it is an issue that I think can be covered this week or a very small part of next week.

As a manager of this bill, I am willing to entertain any germane amendments. With the consent of my colleagues, I will even go further than that. I will consider relevant amendments. But stem cell research is not relevant to this bill. Drug importation is not relevant to this bill. Medicare is not relevant to this bill. What is relevant to this bill is amendments that address the 27 million Americans without health insurance who work for or depend on small businesses.

If my colleagues have amendments like that, Senator NELSON and I are more than willing to discuss them. Let's focus on the matter at hand. Let's take a meaningful step forward to give America's small business owners and working families more affordable health care.

In regard to some of the comments that have been made, as an accountant, I do remind my colleagues that this is not a case of subtraction. This insurance plan is addition. It will be bringing in newly insured people. When you go to the dry cleaners tonight to pick up your laundry, can you look that person in the eye and say: I don't think you deserve health insurance because you might not demand enough for yourself, so I saved you from yourself? Can you look them in the eye and say to the mom and pop running the business down the street from your home: You don't deserve health insurance either; you don't have it now, we're not going to make it more affordable for you; too bad, we had other things we wanted to discuss?

As you go home today, after you leave the Hill, think about the people around you, the regular people—the cab driver, the worker at the dry cleaner, the person in your neighborhood restaurant, all those people you may not notice who really make the world operate. Many of them don't have any insurance. Some may even own a little business just around the corner, be the owners of it, and still not be able to have insurance.

I am not talking about deluxe insurance, I am talking about any insurance. We are not talking about the employees at the big hotel chains or the big chain restaurants. We are not talking about the employees at Wal-Mart. We already said to them: You can form whatever benefits package you want. You don't have to answer to any State. You don't even have to have review or oversight by insurance commissioners. You don't have to meet any State requirements. We already said that to big business, and big business has done that. They haven't left out critical things. They said: Let's see, this is a competitive market. We have to be competitive. We want to have employees. And you know what, I think they included almost everything that has been talked about here. They did it because they wanted to compete.

Small business isn't any different. They need good employees. They want good employees. They know that if they are going to have good employees they have to do as much as they can afford.

Oh, yes, and when they are doing that, they can also pick up some insurance for themselves, and what they do for themselves, they do for their employees. We hear the estimates of how much this will or will not save. I would like to make a couple of comments on that. We have already seen that the big businesses, instead of paying 35 percent in administrative costs—35 percent—remember, each 1 percent of insurance costs drives 200,000 to 300,000 people out of the market. We are talking about 35 percent administrative costs. But those big businesses that we gave permission to do whatever they wanted to, theirs runs about 8 percent. Do you think they would be more competitive than the small businesses? What keeps the small businesses in business is their flexibility and how much less they make.

So I am not talking about deluxe insurance; I am talking about any insurance. Did you know that in several States there is only deluxe insurance? Did you know that in some States there may only be one insurance provider? Others have been driven out of the market. No, it hasn't been the competition that has driven them out; it could be well-meaning legislators wanting to make sure that everybody has everything they need.

There is a lot with our bodies that we ought to be doing on a regular basis. We ought to be taking care of our body like we take care of our car—well, maybe not like we take care of our car. But the way we usually take care of our body is similar to a rental car. We drive it until something goes wrong and then we take it into the shop. But there are regular services that we ought to provide for our own bodies, and we can do that.

The big companies get to do that tax deductible. It would be nice if the small businesses were able to do that tax deductible as well, and we can get into several of those issues later. We do have a plan here. We are willing to make modifications to it. We are willing to take relevant amendments. We do want to be sure that we get a vote on this bill, if we vote on an alternative measure. I think that is fair.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, let me say at the outset that I salute Senator ENZI from Wyoming. He has shown extraordinary leadership and political courage to bring this issue to the floor. The last time we had a serious conversation about health care for American families and businesses was in that one brief shining moment when the Democrats were in control and brought the Patients' Bill of Rights to the floor; otherwise, during the time that I have served in the Senate, we have run away from this issue. I salute Senator ENZI. Although I disagree with his bill, and I will explain why, I admire his political courage and vision to report a bill from his committee and bring the issue to the floor. I have said that before the press, I have said it at home, and I want to say it on the floor on the RECORD. Although we may disagree on approach, I respect him very much for being willing to bring this complex and politically controversial issue to the floor.

I think if you put it up for a vote as to when a week ends in America, we might not reach a consensus. There are some people who would argue: Why, a week ends on Friday night. That is the end of the week. Others say: No, a week ends on Sunday night. But what we have found is that Health Care Week in the Senate ends at 2:30 on Wednesday afternoon because that is when the Republican majority leader came to the floor and filled the tree, which means closed down amendments on the health care debate.

The Republican majority leader felt there were only two issues relevant to health care in America. The first was the issue of medical malpractice and preempting the States that traditionally regulate medical malpractice. For I believe the fourth time, Senator FRIST offered the medical malpractice bills at the beginning of the week, and they failed again, this time failing to even attract a majority of the Senators supporting either bill that he brought. Then the Senator moved to the health care issue before us: small business health insurance. Then the majority leader came today, having given us all of about a day and a half to consider this issue, and said that is the end of the story. No more amendments. We are not going to consider any other health care amendments in the bill before us. We are closing down the Senate when it comes to health care issues.

That is interesting because what the Republicans have done is to close down debate on stem cell research. Senator FRIST came to the floor and said: We don't want Christmas tree amendments. Christmas tree amendments—stem cell research. I don't know if Senator FRIST has been back in his State. I have. They have roundtable discussions about stem cell research. They sit at a table surrounded by men and women who have their hopes pinned on medical research, those who are suffering from juvenile diabetes and the serious problems that come with it—a mother who gets up several times during the course of the night to wake her young daughter and to test her blood to see if she needs insulin, if she needs to eat something; another family with a young man with Lou Gehrig's disease who has reached the point now where he cannot communicate. All he can do is sit in his wheelchair, this young man in his 20s, with tears rolling down his face, as his mother says: Senator, please, please do something about stem cell research. It may not save him, but it may save someone else. Parkinson's disease—to have my colleague and closest friend in Congress, Lane Evans, a young man stricken with Parkinson's, forced to end his congressional career, who had the strength to come to the floor last year in the House and beg for stem cell research and others suffering from Parkinson's and spinal cord injuries. Think of those people whose lives have been compromised and slowed down because of these injuries. All they want is a chance for a vote on stem cell research.

This President has prohibited stem cell research beyond a single line of available stem cells and has virtually closed it down as a Federal undertaking. We have decided, as a matter of Federal policy, that we will not do this research. We have been asking for over a year for a vote on the floor of the Senate on stem cell research. We were heartened when the Senate majority leader, Senator FRIST, came to the floor in July of last year and said: I may be switching my position, he said, but I am going to support stem cell research. It meant so much because we respect him, a heart transplant surgeon, a man with his medical credentials, to break from the President on this issue, on stem cell research and say he would join us in the fight. But how disheartening to hear today as the Senator from Wyoming and the Senator from Tennessee refer to debate on stem cell research as not relevant to health care. Not relevant. It may not be relevant to their lives, but it is relevant to the lives of thousands of Americans.

We in the Senate know what is at stake. If we don't bring this matter up for a vote this week on stem cell research, the chances of seeing the bill before the end of the year are slim to none. When we think of all of the families counting on us to step up for stem cell research. I want to ask you, Mr. President, isn't this worth a fight? Isn't this worth a fight on the floor of the Senate, to make sure that we get a vote this week on stem cell research, for the people who are counting on us, whose lives are compromised and broken because of disease and illness? Isn't this worth a fight in Health Care Week? Obviously, not on the other side of the aisle. They have declared stem cell research not relevant to Health Care Week.

And what else? They have decided that Medicare prescription Part D is not an important part of Health Care Week. Medicare prescription Part D, where some 9 million Americans in 5 days, if they don't sign up for this program, will face a lifetime penalty. Medicare prescription Part D is a program written by pharmaceutical companies and insurance companies, a program which has been one of the worst that has ever been dreamed up on Capitol Hill. When we want to take a few moments to fix some basics and take the penalty off seniors, the Republican leadership says, now, wait a minute. That is not relevant to a Health Care Week debate. Prescription drugs for 9 million seniors, that is not relevant to a health care debate.

Of course, we have heard Senator DORGAN of North Dakota repeatedly asking for the opportunity to reimport drugs into the United States so that people have a fighting chance to pay for the drugs that keep them alive. He has been stopped by the Bush administration. He has fought for this opportunity to bring this issue to the floor time and again and insists on it this week in Health Care Week, and the Republican leadership has said, affordable prescription drugs coming in from foreign countries is not relevant to Health Care Week.

So, Mr. President, I think you can understand why many of us come to the floor at this point disappointed. First, we were encouraged by Senator ENZI's decision to bring this matter forward, and then when Senator FRIST said we are going to make it not just the Enzi bill, it will be Health Care Week, we finally said: Here is our chance, a chance for all of the people who have been waiting on us and who have been counting on us. Well, that chance was snuffed out at 2:30 this afternoon with Senator FRIST's procedural motion. Health Care Week turned out to be too good to be true.

It is interesting as well when we consider the basic underlying issue of health insurance. Do you know what the two competing issues are on health insurance? It is very basic. I don't have to explain it to my colleagues in the Senate, and I will tell you why. The proposal that I and Senator BLANCHE LINCOLN have brought to the floor of the Senate to make available to every business across America is exactly the same health insurance that Members of Congress have. If it is good enough for Members of Congress, we think it is good enough for American families. But I listen as Senator ENZI and Republicans stand up and talk about what a terrible idea this would be, to offer to every American the same kind of health insurance that Members of Congress and Federal employees have. Well, if it is so bad, I wonder how many of them have decided not to sign up for it themselves. My guess is they have all signed up for it.

Do you know why it is so good? It is not a government plan. It is a plan administered by the Government at less than 1 percent administrative cost that offers private insurance plans to Federal employees and their families, retirees, and Members of Congress. Private insurance offered by the Government. It is so good that it has worked for 40 years.

Now we have the Republicans coming to the floor, Senator ENZI and others, saying what a terrible idea this is, the same health insurance that protects the Senator arguing against it. You have to ask yourself why, if it is so good for us, can't we offer it to American families? Instead, Senator ENZI has come forward with a plan which makes dramatic changes, not to the health insurance we might offer to the uninsured but in reducing protection, reducing coverage, and increasing costs for people who are already insured. If you thought to yourself for a moment, that is an interesting debate on health insurance, but I am not worried about it, I already have my plan, think twice, because the Enzi bill which he brings before us is going to make your health care less valuable, less protection, and more cost. That is the Enzi plan. That is unnecessary and unfair.

Let me tell you what two organizations have to say about Senator ENZI's proposal, his health insurance plan. You might expect I am going to read something that has some political ring to it. Who is this organization that Senator DURBIN is quoting? They must have some political agenda. I would like to quote from a letter, dated May 10—today—from the American Cancer Society. The American Cancer Society is hardly a political organization. How do they describe the Enzi bill before us?

> It is our view that the basic construct of this legislation is fatally flawed and therefore, we ask you to oppose it, regardless of the amendment process on the Senate floor. Consumers will be at the risk of losing important cancer-related protections such as guaranteed insurance coverage of colorectal cancer screening and clinical trial participation.

They go on to say:

> It is our view that the Enzi bill will not result in increased access to quality care for most people.

That is from the American Cancer Society.

Now let me go to another letter, and you decide whether this is a political organization. It is the American Diabetes Association. The American Diabetes Association believes that:

> The proposed approach in the Enzi bill is fundamentally flawed and must be opposed in all forms in order to protect your constituents with diabetes. Any preemption or weakening of State laws is a major threat to the well-being and lives of people with diabetes and should not be acceptable to the Senate.

And listen to these statistics: Every 24 hours, 4,100 people in America are diagnosed with diabetes—4,100 every 24 hours. There are 230 amputations from diabetes every day in America. There are 120 people entering end-stage kidney disease programs, and 55 people go blind every day from diabetes. We lose 613 Americans daily and 225,000 annually due to this epidemic. Diabetes continues to grow by more than 8 percent each year. And listen to this: One in three of our children will be diagnosed with diabetes in their lifetime—one in three of our children will be diagnosed with diabetes in their lifetime.

They go on to say:

> . . . we cannot allow for any loss of ground in this battle.

Signed by the chairman of the board and the chief executive officer. They say:

> Accordingly, we ask you to stand with us in full opposition to [the Enzi legislation], no matter which cosmetic changes may be proposed on the floor.

This is a stark and clear choice for the Members of the Senate, what we offer to small businesses and Americans presently uninsured: the same quality health insurance that protects our families as Members of Congress have or we offered them a watered down health insurance program that has been rejected by the American Cancer Society, the American Diabetes Association, the American Association of Retired Persons, the AFL/CIO, AMA, the American Nurses Association—I could go on for three pages of health groups in America that reject the Enzi approach because it will reduce coverage.

We know what the problem is. It has been a long time since we have even taken up this issue. During that period of time, we have seen the number of uninsured Americans grow from 37 million in 1993 to 46 million today—46 million uninsured Americans. But this is the wrong medicine. This Enzi bill will put the insurance companies, not the doctors, in charge of health care. People will be worse off, with less protection.

Yesterday, Senator KENNEDY and I went down to a press conference a few blocks from here. A beautiful young lady came up. She was from Cleveland, OH. She brought her guide dog with her and she told the story about how her diabetes, untreated, resulted in her blindness—young, beautiful lady. She said: I didn't have coverage for it in my health insurance, and as a result my life is much different. She said: I almost died. I am lucky to be alive and thankful to be alive. But when you talk about diabetes protection, you are talking about that young woman and others who could be just like her.

Another young woman came to speak to us and told us how she was a young mother, healthy as could be, but tired from raising those three little kids. Somebody suggested to her to get a mammogram. She thought about it because she had a history of breast cancer in her family, but she said to herself: How much is it going to cost?

They said: $250.

She said: We don't have that. I need $250 for my kids.

She said to her husband: Check the health insurance and see if it covers mammograms.

Her husband called her the next day and said: You can get the test the next day for free.

This beautiful young woman went to get a mammogram and learned within 24 hours that she had the earliest stage of breast cancer. They did a lumpectomy. She went through months of chemotherapy.

She said: I lost my hair, but I got through it all and I am here and I am alive and I am safe and I am going to be a mother for these kids for a long time to come.

So when we talk about cancer screening in health insurance, I don't think that is deluxe care. I don't think that is luxury care. I don't think that is going overboard. Whether it is prostate screening, colorectal screening, or mammograms, that is basic preventive medicine that saves lives and spares suffering and cuts the cost of health care.

Unfortunately, many of those benefits are casualties in the Enzi approach. As I travel around Illinois, health insurance is the No. 1 issue and has been for years for businesses large and small, labor unions, individuals, families, parents whose kids reach the age of 23 and they finally realize: They are not going to be under my policy. How are they going to be covered?

Between 1993 and 2003, annual premiums Americans paid for health insurance in that 10-year period increased by 79 percent. Employer contributions to their employee insurance increased by 90 percent. These premium increases make it tough for businesses to survive and offer health care protection.

Let be me give an example of one family I know, Jim and Carole Britton. They own the Express Personnel Services in my home town of Springfield, IL. They are good folks, good hardworking businesspeople. They have 24 employees. They pay 85 percent of their employees' premiums. They want to keep doing it. They really believe it is the right thing to do.

Like many small business owners they shop for a small business policy every year because premium costs keep going through the roof. They have been forced to raise the deductible to keep premiums manageable. Last year, the deductible doubled from $500 to $1,000. To save money, Jim and Carole offered a health savings account, which many on the other side of the aisle think is the salvation, a health savings account. I won't go into it in detail, but it is a perfect health insurance plan if you are wealthy and never expect to get sick. They offered it. One of their employees decided they would sign up for a health savings account. That employee now regrets the choice because his wife is pregnant and he wishes he had better, real health insurance coverage.

To those who say solving the health insurance problem is too complicated or too expensive, look beyond the obvious. We already have the Federal Employees Health Benefit Program. It has worked for 40 years for every Member of Congress and 8 million Federal workers. Small business owners and their employees deserve nothing less.

I, along with my colleague from Arkansas, Senator BLANCHE LINCOLN, have introduced legislation to give small businesses affordable choices among private health insurance plans and expanded access to coverage. We call it the Small Employers Health Benefits Plan. We presented it to Senator ENZI. It has been a while now, a few months ago, that we said to him: Take a look at it. You know what this plan is all about. You live with it. We all live with it. We love it. It is a wonderful plan that has competition and real choice from private insurance.

We didn't convince him. I am sorry we didn't. Maybe someday we will. We will keep working on it. But let me tell you why we think it is important, why there are many advantages to the Federal employees program model. This chart spells them out.

Nationwide availability. It covers Federal employees from one coast to the other. Young and old, rich and poor, black, white, and brown, healthy and sick, every Federal employee is covered by it.

Consumer choice. There are more than 278 private insurance companies that bid for this Federal employee coverage. For these private insurance companies, they believe this is a good deal, to get in a pool of people this large.

Group purchasing discounts for small employers: In our bill, we create one nationwide purchasing pool of small employers and self-employed people, which means they can fight for premium discounts just like the Federal Government.

Low administrative costs: Do you know what it costs the Government to run the health insurance program for 8 million Federal employees? Less than 1 percent a year. Some of these plans we are talking about that private businesses have to turn to charge 25 to 30 percent administrative costs each year. You wonder why the costs go up? They are making more money, charging for administration. We don't have the administrative overhead. We use private insurance plans already there.

There is strict oversight and regulation in the Federal Employees Health Benefit Program. We know it works. We like it so much that every single one of us is protected by it.

Two economists have examined our proposal, Dr. Len Nichols of the nonpartisan New America Foundation, and Dr. John Gruber, Ph.D. from MIT. They estimate that our bill could save small businesses between 27 percent and 37 percent on health care premium costs every year, just offering to these small businesses the same health insurance deal that Members of Congress and Federal employees currently receive.

That means Jim and Carole, whom I mentioned earlier, currently offering a policy for a family of four that costs $10,000 a year and paying $8,500 of the premium, could save anywhere from $3,000 to $3,100 as employers and $400 to $500 for each employee. That is before any tax credit, which we propose in our bill, for low-wage workers.

Under our plan, premiums would not be government subsidized, but employers will receive an annual tax credit for contributions made on behalf of workers making $25,000 or less per year.

There is a big debate in this town about tax cuts. If you read the morning paper, you may have noticed the chart on the front page of the Washington Post. The new tax cut proposal from the Bush administration, when it comes to capital gains and dividend incomes, is a very generous proposal to a very small group of Americans. Let me tell you what I mean.

If you are making less than $75,000 a year, the Bush tax cut proposal, warmly embraced by the Republican majority in the House and Senate, means about $100 a year in tax breaks. There is that old $100 check they wanted to give you last week for your gas bill. Here it comes again. That is your tax cut if you are making less than $75,000.

But the same Bush Republican tax cut proposal which will come through Congress now gives to those who are making $1 million a year in income almost $42,000 in tax cuts. I don't recall receiving a single letter from a millionaire saying: Would you please give me a tax cut?

They are insistent on it. We must do this. We have to give them a break. But when Senator LINCOLN and I suggest giving a tax cut to a business that offers health insurance to low-income employees: Oh, that is a terrible Federal subsidy. How could you consider doing that?

Senator THUNE from South Dakota came to the floor yesterday and said it was going to cost us $78 billion over 10 years. Today he came and said it would cost $73 billion. We are gaining some ground. But the bottom line is there is no estimate in that range, anywhere near that range. My challenge to my colleagues on both sides of the aisle, if you believe in tax cuts, why wouldn't you believe in tax cuts for small businesses that provide health insurance for their employees? Isn't that closer to the American dream than a $42,000 tax cut for somebody making $1 million a year? I think it is fairly clear. Obviously they don't.

There are more than 26 million Americans making less than $25,000 a year working in small businesses; 12 million, 40 percent of them, have no health insurance. Is it valuable for America that these people who get up and go to work every day in the small shops and small businesses across our country have health insurance.

I go around Illionis and talk to all kinds of different groups—downstate in my home area, small towns, rural areas, the big city of Chicago. Whenever I say to people: Wouldn't it be part of the American dream that every

American had health insurance, it never fails to get a round of applause. That is really an aspiration and a dream which many of us share. We can't reach that dream if we insist on giving tax cuts to millionaires who aren't asking for them and don't provide a helping hand to businesses that are doing the right thing, providing health insurance to low-wage employees.

The tax credit we propose would equal 25 percent of the cost to that business for self-only policies, 30 percent for employees who are either married or single with a child, and 25 percent for family policies. So if a family of four working for Jim and Carole in Springfield make less than $25,000 a year, there would be an additional savings of $1,874 to $2,172.

Under the Durbin-Lincoln bill, private insurance plans would compete to offer insurance to small businesses, just like they do in the Federal employees program. This chart shows the potential savings that come from the current system and what might occur under the Small Employers Health Benefit Program that Senator LINCOLN and I will offer. Currently, many of these businesses, like the one I described, pay 85 percent of insurance costs, so on a $10,000 policy they are paying $8,500.

Look at how it drops for family coverage under the plan we are proposing—to $3,230 for family coverage. It shows the dramatic savings for each business and the opportunity for them to offer real health care.

A lot of people say: Are you talking about a government insurance plan? Let me show you the choices that my wife, Loretta, and I had when it came to health insurance this year as Federal employees and Members of Congress. Look at these plans: There are 13 plans that we had to choose from as Federal employees.

I will tell you what happened to one of my employees. She chose a plan 1 year, didn't like the way they treated her, and when open enrollment came the following September she dropped them and picked up another plan. What a luxury, real competition. You don't treat me right, you don't get my business next year. It is like shopping for a car and having some real choices.

Most small businesses and most Americans have no real choices, so when we come up with this plan, the Federal employees model plan, and those on the other side of the aisle dismiss it as unrealistic, unfair, deluxe, it is exactly the same health insurance coverage they are living with right now.

If it is good enough for us, why isn't it good enough for the rest of America? That is the bottom line.

All Federal employees receive a booklet every year about the choices that are available for coverage. If you want to take an expensive plan, they will take more out of your paycheck. For the basic plan they take less.

I have a lot of young people on my staff. Krista Donahue, my staffer on this issue, gets up and swims every morning. She picks her health plan. She signed up for a very cheap HMO. My wife and I, maybe not in the same physical condition, sign up for more coverage. That is our choice.

That is everyone's choice in the Senate and the House of Representatives and throughout the Federal Government.

What is wrong with giving that choice to America? Senator ENZI's plan does not give that choice to America. This bill we are proposing has been supported by many groups. It isn't just a matter of Senator LINCOLN and I coming together.

Look at some of the groups that have endorsed the Lincoln-Durbin plan, or the Durbin-Lincoln plan, depending on whether you are from Arkansas or Illinois: The American Academy of Family Physicians, the American Academy of Pediatricians, the American Cancer Society, the American Medical Association, the American Osteopathic Association, the American Psychological Association, Consumers Union, Families USA, Federation of American Hospitals, International Chiropractors, March of Dimes, the National Association of Community Health Centers—the list goes on and on.

And the indication is that these men and women and groups that focus their professional lives on health care reject the Enzi approach which offers less coverage and less protection and believe, as I do, that the plan being offered to Federal employees should be offered to businesses across America.

Sadly, the Enzi plan will wipe out benefit requirements.

I will concede that what I am about to say may have changed somewhat in the managers' amendment. To his credit, as Senator ENZI has realized the weaknesses of his legislation, he has added more protection. If I am going to cite something that has been changed in the managers' amendment, I apologize and will stand corrected on the RECORD. But what I am about to read is based on our best knowledge of what was in the Enzi bill. Maybe it has been changed. I want to give the Senator a chance to correct me, if I misread it.

The Enzi bill will wipe out benefit requirements, including diabetes supplies, mental health coverage, cancer screening, maternity coverage, and child immunizations for 84 million Americans. That includes almost 4 million people in the State of Illinois. The number of Americans who will lose benefit protection under the Enzi plan, S. 1955, each one of these "stick" pictures represents 1 million Americans who will lose benefit protection. These are not people who currently have no health insurance. These are people who are gathered here and watching this and have health insurance who think they are part of this debate. Surprise. The Enzi bill has brought you into this debate. Your health insurance is about to be reduced in coverage. The things that you thought you had signed up for, the things that you had bargained for as part of your union that you believe were covered in your plan will be reduced. The coverage will be reduced by the Enzi bill.

His belief is, if we can just lower basic health insurance coverage to a lower level, we can say everybody has it. But what good is it to have health insurance if it isn't there when you need it?

That is the point he missed. If we miss the most basic things in terms of protecting Americans and then sit back and fold our arms and say: Well, we took care of that uninsured problem, sure, we took care of it until someone desperately needs health care and can't afford it because their health insurance plan doesn't cover it.

The idea behind Senator ENZI's bill is if you provide less benefits and less coverage and less protection, it should cost less. That is right. It is reasonable. But if the insurance doesn't cover your illness, if you are left exposed to paying for it out of your own packet, what are you going to do?

One of the ladies who came to our press conference yesterday is a perfect illustration. Her husband had bought a health insurance plan that he thought was a good one, one through an association. He even signed up for a chemotherapy rider on the plan because there had been a history of cancer in his family. Guess what happened. Sadly, he developed virulent lung cancer which required a lot of treatment. They went to their health insurance plan, and they said: We are glad we bought that rider.

Then, in the fine print, there was a limitation on how much they would pay. The poor man lived for years and died an agonizing death. His beautiful young wife from California was there yesterday. When he died, she was left with medical bills of $480,000.

Is that deluxe coverage—what we heard earlier—luxury coverage of health insurance? Would you want to find yourself and your family in a situation where you needed cancer therapy to survive and your plan didn't cover it?

Unfortunately, the Enzi bill moves in that direction, and it doesn't have it. All of the benefit cuts result in about 3 percent to 4 percent savings on premium costs. These are not expensive when they are spread across large populations. They are expensive when they are borne by one family. But if there are millions of people being covered, and a small percentage need it, you spread out the cost. That is what insurance is all about. It is a point that is missed in the Enzi legislation. That is not much of a savings—3 or 4 percent—when you are talking about diabetes, maternity coverage.

Maternity coverage. I know a little bit about that, being the father of three. I can tell you that one of the toughest moments in my life was as a law student—I got married in law school. Yes. We used to do that back in the old days. Loretta was pregnant. The baby came along and she had a serious health problem. We had no health insurance. We went to Children's Hospital in Washington. God bless them. They couldn't have treated us better. They finally said after a while: You are not going to be able to afford to pay this. DURBIN. You either sign up for welfare, which you can do because you don't have any income, but get ready to go bankrupt. You won't be able to pay these bills. There is one choice. There is another choice you can consider. You can go to a clinic for people who are uninsured.

Sure enough. I had to leave my law school and cut a class, drive out to Maryland, pick up my wife and our little baby girl and sit in a clinic for hours to get a doctor in rotation—never knowing who you would see and sure you would never see them again. They would ask you all the same questions. Let's go through the history again. You tell them over and over—you want to give them everything.

That is what life is like when you don't have health insurance.

When it comes to maternity care, you have to be careful. I will tell you why.

Twenty-five years ago when I was an attorney working in the Illinois State Senate, it came to our attention that there was a company selling health insurance in Illinois with maternity benefits, but when you read closely, the maternity benefits did not cover the newborn infant for the first 30 days of life. Do you know what that means? In our case, in my family's situation, a situation just like it, that sick baby dramatically in need of expensive care for the first 30 days wasn't covered. We put a provision in the Illinois State law which said you cannot offer maternity benefits saying you will pay for the delivery of a baby unless you cover that baby from the moment it is born. That is a requirement in law.

It makes sense, doesn't it? It would be wiped out as one of the State requirements under Senator ENZI's approach. You can buy maternity care. You may be on your own the first 30 days. Heaven forbid you are in a situation with a sick child—and I have been there. It is no fun at all. It took us years to pay those medical bills. We were glad to pay them, and they couldn't have been nicer waiting to be paid, but there were a lot of anxious moments when this father sat in that waiting room wondering if he would ever get to see a doctor for his little girl.

There was a study in the New England Journal of Medicine in the years after President Clinton required that the Federal Employees Health Benefits Program cover mental health benefits. I can't go to a town meeting in my State and mention mental health clinic benefits where I don't have the following occur. I can guarantee you that in any large group this will happen: I will say that health insurance ought to cover mental health benefits—and I think it should. Senator Paul Wellstone, that great champion, used to sit in that back row and stand and beg for health care to cover mental health benefits.

If you mention that at a town meeting in my State or any other State, do you know what happens when the meeting ends? Two or three people are going to wait for you. They will want to talk to you privately. It has happened time and again. They say: Senator, we have a teenage son with a serious mental health problem. We don't know where to turn. We can't get health insurance. There is no coverage for him.

Every time you mention mental health, you find that across America there are people in need of mental health benefits.

When it came to mental health benefits, it was one of the first casualties in the Enzi bill. About 42 States currently offer mental health benefits as part of their health insurance. And that State requirement would be wiped away in the Enzi bill.

Is that deluxe coverage? If you have a bipolar teenage son, a schizophrenic daughter, someone suffering from grave depression in your own household, is that deluxe and luxury coverage? I think it is basic. I think it is what we should be about in America: taking away the stigma of mental disease and offer mental health coverage.

We received letters from organizations such as the American Nurses Association—God bless them—the American Cancer Society, AARP, and the American Diabetes Association. They are all opposed to the Enzi watered-down approach.

In a letter to Congress, 41 attorneys general, including my own attorney general, Lisa Madigan, in Illinois, have publicly opposed this bill.

Another way the Bush-Enzi bill would make people worse off is that it sets Federal rules of how insurers can charge people. I will try to explain what I understand Senator ENZI just did.

Right now in America you can charge health insurance premiums based on a number of factors: Are you well? Are you sick? Are you young? Are you old? Where did you live? What is your injury?

You can be charged different health premiums depending on how you answer those questions. The disparity in health insurance premiums between well people and sick people can be 26 times as expensive for sick people as it is for well people.

There are nine States—most of them in New England, except for North Dakota and Oregon—that have community ratings, which means that everybody in the State of Massachusetts represented by my friend, Senator KERRY, is in the same pool, everybody just like the Federal employees pool. So everyone is charged the same premium, young and old, regardless of their medical history. Senator ENZI comes and says: We just want to change this slightly. We want to be able to say that you can charge five times as much for someone who is sick than someone who is well, even in States with community ratings—five times as much.

They tried that in New Hampshire a few years ago, increasing the premiums for sick people. They dropped their coverage, and 21,000 people were dropped. In a year New Hampshire dropped the plan, saying it is not a good idea. It wasn't a good idea in New Hampshire, and it is not a good idea in the Enzi bill.

That is what is being proposed. Let me show you a study. The Lewin Group, a nonpartisan actuarial firm, shows rates would rise dramatically for businesses with a higher number of older Americans or women of childbearing years.

This shows the average premiums for community-rated States, the average cost per contract. You can see this yellow line. What is happening because Senator ENZI is allowing this divergence and differing amounts of premiums to be charged, you can see a dramatic range of increase that could occur in any given State.

So there is no protection on the upside below 5 to 1. There could be a 5-to-1 difference in premiums charged the lowest rated person in the State to the highest rated person. It is a significant difference.

The Lewin study found that small businesses in strictly regulated States are currently paying the average of $7,738 per month for health insurance for their employees. Under the Enzi bill, businesses with a high number of older people or women of childbearing years would see their premiums increase to more than $20,000 a month, while companies that have a disproportionately high number of healthy, young people would see a decrease in their premiums to $3,096 a month.

Finally, the Bush-Enzi bill will not help the self-employed. Self-employed people are the worst off. They are forced to purchase insurance in the individual market which has the least amount of State oversight. The Enzi bill will take away what little protection self-employed people already have in benefit mandates, which means if you are on your own—you own your little business and looking for health insurance, and you at least know when you are offered a policy it has to provide the basic coverage that your State requires—Senator ENZI wipes that away. It will not give self-employed people a way to pool with larger businesses.

The Enzi bill prohibits self-employed people from being pooled with larger businesses, so they miss out on the discounts of the larger groups. Right now, we believe the realtors who are pushing the Enzi bill ought to step back and take a close look at that provision and ask themselves what percentage of the membership of realtors across America is self-employed. The coverage and protection is not there for you. This may sound good for their members until they take a look at the policy and there is no protection.

Individuals would be pooled with other individuals, so they may save on marketing costs, but they will be priced the same way they are today: individually. Under the Enzi bill, self-employed people can still be denied coverage if their State law permits it, and they can be charged exorbitant rates based on their health status, gender, age, or industry.

Diane Ladley of Aurora, IL, is self-employed and has a chronic condition called fibromyalgia, which causes chronic pain and fatigue. She has been denied insurance in the individual market. She is currently cutting her pills in half because she cannot afford them.

The Bush-Enzi bill will do nothing to help Diane. Even if she joins an association health plan, an insurer could deny her coverage. If she is offered coverage, insurers will still be able to exclude her current condition or charge an amount so high she could not afford it.

The Lincoln-Durbin bill would allow Diane to be pooled with other small businesses in one national pool. She would have access to the same negotiated discounts as all other small businesses in the pool.

We can make health insurance for small businesses more affordable without slashing benefits or charging people who need insurance even higher prices. My bill, with Senator LINCOLN, is an example of how it can be done. It is a reasonable approach.

I will come back to my starting point as I close my remarks because I know there are other Senators in the Senate waiting to speak. This is a matter of simple justice. If Members of the Senate and the House of Representatives take advantage of the Federal Employees Health Benefit Program because they believe it is fair and right for their families, why won't they offer that same opportunity to other Americans who need health insurance? Why should we give ourselves the status of a privileged class when it comes to health insurance? Why should we say that people across America shouldn't have the same protection our wives and our families have? We ought to offer them in good faith an approach that is the same as our own. If this health insurance we use is good enough for Members of Congress, it is good enough for American families.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Wyoming.

Mr. ENZI. Mr. President, I would like a chance to answer the 45 minutes of accusations that were made about my bill and also bring up a few things about the Durbin-Lincoln bill that I have not had a chance to talk about yet, but could I inquire how long the Senator from Massachusetts will speak?

Mr. KERRY. Not that long, maybe 15 minutes, something like that. Hard to say entirely.

Mr. ENZI. I almost hate to break the continuity of the debate when we are talking about some very specific things.

Mr. KERRY. I welcome it. It is not often a debate breaks out in the Senate anymore, so I am happy to welcome it. I ask, through the Presiding Officer, how long the Senator from Wyoming might think he would engage in debate?

Mr. ENZI. Probably about as long as it took Senator DURBIN to cover the fallacies and to boost his bill. I ask that I be the next to speaker after the Senator.

Mr. KERRY. I appreciate that. Maybe that will work because I will just add to some of the things the Senator will probably want to answer, and he can take it all in one bundle.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

A unanimous consent has been requested that Senator ENZI speak after the Senator. Without objection, it is so ordered.

Mr. KERRY. I thank the Chair, and I thank my colleague from Wyoming.

I listened carefully, and I hope a lot of other folks did, to the comments of the Senator from Illinois and from other colleagues in the Senate over the course of the last days.

I wish the Senate were engaging in this issue in a serious way that allows Members to debate the merits of individual approaches to small businesses being covered. Regrettably, that is not the choice of our friends on the other side of the aisle. What they have done is come in with a series of amendments, with second-degree amendments, and, in the language of the Senate, filled the legislative tree, which basically means blocked out the ability of Democrats to bring amendments, to have a real choice between plans as to how we approach small businesses. That is point No. 1. That is irrefutable and damaging to the prospects of trying to deal with the health care crisis we face.

Two years ago, when I was traveling the country as a candidate, no matter what State I went to, no matter what town or what size community or what the political definition of that community was, you always felt a profound sense of responsibility was thrown at you by the people you met from all walks of life.

I met people in town meeting halls, in VFW halls, in rope lines at rallies, in visits to factories, in visits to medium-sized businesses, large businesses. A whole bunch of folks would come up and tug at my sleeve, often with tears in their eyes, look at me, and say: Senator, you have to help us on health care. You have to do something to help us be able to afford health care. They would show me a photograph and say: Look, this is my sister, or this is my mom, and they would tell you about a loved one who could not afford the medicine they needed or who lost their health care when a factory shut down or when a business closed or moved overseas. The faces of those people stay with you forever. Their names do, too.

People—many of them Republicans, many of them conservative small businesspeople—were pleading not for a dumbing down of the system, not for an automatic reduction in coverage, but for a way to expand the ability to have the level of coverage they have today and be able to pay for it. They were looking wearily to this city for help.

I met an awful lot of poor folks who obviously do not have any health care, and the numbers are climbing. More importantly, there is a change in the fabric of our society. I met an awful lot of working Americans who are increasingly watching health care costs go up, education costs go up, energy costs go up, and their wages either stay the same or go down. That is not a sustainable equation in our country.

Increasingly, those workers are being pushed out of the middle class into the working poor or downward within the middle class itself. There isn't one of us who has not met a mother of a child who would describe situations in which she would make life choices for that child, about whether to let her kid play football or some other sport—hockey—because she was afraid she could not afford the medical care if her child broke a leg or somehow were injured.

I heard again and again stories from teachers who would tell me about kids who get no preventive care, they do not get routine exams. Schools have cut nurses, so you do not have a nurse in the school now to take care of someone.

I heard instance after instance of kids who had some form of acting-out in the classroom as a consequence of either an earache or some other chronic disorder. Some of them went to the doctor for the first time when they were 9, 10, 12 years old, and it was too late; they discovered they had a permanent hearing impairment as a consequence. I met the head of pediatrics in the State of Washington at an event we did in Seattle for children's health insurance who told me specifically of kids she had examined who had permanent hearing impairment, and now they will be in special needs education because we did not care enough to give them early intervention.

I met a lot of small business owners who would like to be able to provide their employees with health care but cannot afford it and who know the health care costs are so high that they are standing in the way of being able to hire more workers because they do not have the flexibility and the ability to be able to expand the business and try to cover people or pay even a portion of the health care.

In New Hampshire, I met a woman who had breast cancer. I got to know her pretty well. She told me how she had to keep working day after day right through her chemotherapy no matter how sick she felt because she was absolutely terrified of losing her family's health insurance if she did not show up for a day or two.

In Erie, PA, I met a man named Albert Barker who wonders how he is going to pay literally thousands of dollars in medical bills that he cannot afford. And after he suffered a heart attack and he underwent surgery, guess what. His employer just stopped his health coverage because it was too expensive because he had gotten sick. So they cut him off at the moment of need, and he was basically at that time facing bankruptcy as a consequence. His wife said at the time that she was reduced to hoping and praying that nothing else happened.

In Council Bluffs, IA, I met a woman named Myrtle Walck who at the time did not know what she would do if the price of medicine rose any higher—which it has—and she paid a huge chunk of her Social Security, which was not very big and was her only source of income, her Social Security check, to the drugstore every month just to cover the cost of her two daily prescriptions.

In Jacksonville, FL, Renee Harris, who owns a schoolbus company that was in her family for over 50 years, was forced to sell the company because she could no longer afford to insure her workers and felt compelled to want to be able to do so.

I heard daily about workers' fears of losing coverage because they either could not afford the higher premiums, the deductibles, the copays, or they thought their employers would drop the coverage altogether.

I talked to people who told me what it was like to live knowing they were one medicine bill, one hospital visit away from bankruptcy. That is the real world we are living in today. That is the real world the Senate ought to be debating. All of these problems are in our health care system today. Yet there is so little time devoted in this Congress to finding the common ground, to finding solutions to get something done for those people who want to believe we will do something to help them.

Instead, what do we have? We have a so-called Health Week in the Senate. This is Health Week so that Senators can come to the Senate and give speeches—not legislate but give speeches. We have speech after speech in a stalemate where the whole week is going to go by, and everyone knows what will happen at the end because we are not really legislating because we are not really here to solve problems. The people I have met deserve to have a Congress that insists on a real debate, really getting the job done.

In all the 22 years I have been here, this is one of those peculiarities of a moment in American history where the Senate is about as dysfunctional as it has been in that whole period of time. Serious efforts to try to deal with problems are just not on the table.

What are we going to have? We are going to have one up-or-down vote on a flawed bill with no chance for Democratic amendments. I know the Senator from Wyoming is going to argue it is a good bill—and we will go through some of those details in a minute, et cetera—but what we have been reduced to doing here is spending an awful lot of time trying to stop bad things from happening instead of putting the competent energy of a lot of people who think a lot about these issues, some of whom have extraordinary expertise, into trying to fix them and move toward a positive health care agenda for our Nation.

Right now, we are fighting to fix the devastating changes that have been forced on the Medicaid Program. We need to overturn the rules allowing increased cost sharing that has been imposed on families who cannot afford it. And we need to prevent new rules from tossing out the early periodic screening diagnosis and treatment protections for children on Medicaid.

Who wrote to the Congress and said: "Kids in America have enough coverage. We ought to cut out early periodic screening"? Every doctor you talk to worth their salt in this country will tell you what we need is more preventive care, wellness. We need to teach wellness in America. We need to be doing preventive care instead of treating people when they finally get sick, at a time when it is far more expensive than if we intervened early.

On diabetes alone, if we had diabetes screening for every person in America, you could probably save $50 billion. You would avoid a lot of amputations. You would avoid a lot of dialysis. And you could treat it in a far less expensive, more easy way. Are we talking about that here?

We also have to fix the Medicare prescription drug debacle and extend that May 15 deadline for signing up without penalties. Why? Because it has been confusing to seniors all across this country. Because the implementation has been exactly what a lot of people predicted. The result is a whole bunch of things that ought to be happening to reduce the cost for seniors are not happening.

A simple thing would be bulk purchasing to negotiate lower prices on prescription drugs. We ought to be simplifying the enrollment procedures. We ought to be making the benefit more comprehensive, by closing the gaps in coverage.

But the bottom line is, it would be a tragedy if all we did was try to stop these bad things from happening, when everybody knows we have a health care system that is increasingly in extremis, a health care system that is in crisis and imploding on itself in many ways.

This bill, I regret to say, because it deregulates in a selective way all of the insurance delivered in the States, is going to create chaos for people as States choose different offerings and the rules go out the window.

I might add, for a group of people who traditionally have come to the floor to defend States rights, they have, in the last years, proven themselves remarkably selective in where and when they want to protect those States rights because State after State across the country has passed a certain standard of health care. Why? Because they know it works. Because they know it reduces costs. Because they know it helps people have greater quality of care and a better quality of life. Instead, this bill is going to open up the opportunity for people to reduce the level of coverage for people.

There are a whole series of real health care initiatives that the Senate ought to be dealing with. I am convinced we can find an ethical way of dealing with the thorny issue—I recognize there are ethical considerations—but we could find, if we wanted to, an ethical way to deal with a host of in vitro embryos who, regrettably, are going to be discarded altogether, thrown out into the garbage and lost, rather than applied to the possibility of saving life. It seems to me there is a way to fully fund, in a limited way, the appropriate research of initiatives at the National Institutes of Health.

We also need to take up real legislation to get at the heart of racial and ethnic health disparities. We need to make it legal to import prescription drugs from Canada. We need to put medical decisions back in the hands of doctors and nurses and patients, not insurance company bureaucrats. We need to address the nursing shortage by fully funding all the programs under the Nurse Reinvestment Act that we fought so hard to enact.

We need mental health parity, which I heard the Senator from Illinois talk about. We need to address our growing childhood obesity problem which is going to increase the cost of health care all across the country. And we definitely need to reauthorize the State Child Health Insurance Program.

But this is Health Week, and we are going to have a Health Week on the floor of the Senate. It is not going to deal with any of those issues. It also avoids giving families and small businesses access to the same private health insurance that Members of Congress give themselves. I heard the Senator from Illinois talk about this.

I raised this all across the country in 2004. What is it about being a representative of the people, elected by the people to come here to represent the interests of the people, that empowers us to abuse that privilege by giving ourselves the best health care in the world, at less expense, with a nice Government match, bigger than what most businesses can afford, and we are not willing to allow that to happen all across the country? What kind of values does that represent for those who run around talking about values?

It seems to me we ought to stand up and make it clear that every single family's health care is as important as any Member's of Congress. We ought to be offering every single person the opportunity to at least buy into it. Why shouldn't they be able to buy into it and get the coverage? Why shouldn't we open up Medicare and let people who are 55 or older buy into Medicare early? That could happen, and a whole bunch of people would get coverage and we would reduce costs to America.

All you have to do is talk to any hospital administrator in America. First of all, they are dipping into their reserves. A lot of them are on the brink of bankruptcy. Many of them get refunded so late and with such difficulty, it is hard to plan and come up with a business plan for the hospital. Most importantly, none of them can afford the massive investments in technology that would, in and of themselves, reduce the cost of health care and raise the quality of life.

Something like 45,000 to 50,000 to 90,000 people a year die in hospitals because of medical error. And often, that medical error is the result of pain management or pain mismanagement. The VA has a terrific system. I have been in the VA hospitals. I have seen it. Why do they have the system? Because it is the VA. It is a Government health care plan, and the Government made certain they could invest in these pain management computerized systems. The result is, they have reduced the incidence of mistaken pharmaceuticals being taken, people getting the wrong medicine, getting too much, getting it at the wrong time, getting it even when they took it already—all of these kinds of things that happen.

This week, unfortunately, instead of bringing up a bill that would grant real relief to our small businesses, we are considering a bill that 41 attorneys general of the United States have written to say is bad policy and will only exacerbate the problems in States today. Why are we doing that? Attorneys general are looking at the regulatory process. They are looking at the overall ability of a State without regard, in many cases, to the politics of it but to the law and to the implementation of what happens. And 41 attorneys general have written to say this bill is going to exacerbate current troubles. I hope the Senator from Wyoming will address all of the concerns expressed in the letter of the attorneys general of the United States.

We have also seen the numbers. The Kaiser Family Foundation reports that the number of firms offering health benefits has declined from 69 percent in the year 2000 to 60 percent in 2005. Forty-seven percent of firms with fewer than 10 employees offer health insurance, compared to 90 percent of firms with 50 employees or more.

So everybody agrees something ought to be done. The problem is, the plan offered by the Republican leadership today is not going to help the small businesses to be able to gain coverage for their employees, unless, of course, they give up a whole set of things that currently they are covered for and then without regard to what the pricing is going to be for that. It is a wholesale deregulation of insurance markets. And a wholesale deregulation of insurance markets is, in fact, going to put consumers at risk. The studies show the approach we are being offered will, in fact, have a better chance of increasing the numbers of uninsured, rather than offering small businesses a lot of the relief they so desperately need.

The proponents argue prices are going to drop once we get rid of the benefit mandates created and enacted by State legislatures. Well, first of all, that claim, frankly, does not stand up. There are two separate studies that show benefit mandates are estimated to increase health premiums by a small total of about 3 to 5 percent. Juxtaposed against the annual double-digit premium increases that we have been seeing, it is clear a benefit mandate is not at the heart of the problem. If the benefit mandate is only a 3- to 5-percent increase, but we have been seeing double-digit increases over a period of time, something else has happened.

More importantly, why do we have mandates? What happened to the right of a State to make a decision, as Massachusetts has in the last weeks, that they want to make certain every person is going to be covered and to mandate a system by which businesses have agreed and the legislature has agreed they are going to fund it and people are going to be covered?

Now, the people who have often argued about the heavy unfunded mandate hand of the Government—the people who have most objected to the Federal solution for individual States—are now going to come in and literally give this great gift to some small businesses to be able to go out and do whatever they want and take away from States the ability to guarantee a quality of care for their citizens.

Forty-nine States have passed laws mandating that insurers cover mammography services because they are proven to save lives. Twenty-seven States have passed laws requiring cervical cancer screenings because too many women are dying as a result of poor detection. Forty-six States have passed laws requiring diabetes supplies to be covered because 20.8 million Americans are living with this disease and they have a basic need for care.

So the Senate is going to come in and say: Those mandates are not important. You do not have to do that anymore. And companies are going to be able to create this unbelievable morass of different offerings which are going to confuse and, I predict, infuriate the consumers of this country, just the way the prescription drug medicine Part D program has infuriated seniors across the country.

Now, the numbers I cited about cervical cancer and mammograms and screening, those are not just numbers in a report. We have seen, every day in Massachusetts, how those things make a difference.

Kirsten Paragona of Ipswich discovered, in a routine pap test, that she had developed stage 3 cervical cancer. She was 23 years old. And because that pap test was included as a mandatory benefit in her health plan, Kirsten is alive today, with a 2-year-old daughter, instead of living without a reproductive system.

For all those in the Senate who want to talk about a culture of life, that is a culture of life. And that is a culture of life worth fighting for.

And then there is Gracie Bieda Javier of Jamaica Plain. She lost her mother to breast cancer in 1987. Without mandated coverage for treatment, Gracie's mother was unable to afford the service. And now Gracie is dedicated to helping other women avoid her mother's fate. And because Massachusetts now requires mammography and treatment services, Gracie screens and treats more than 800 low-income women a year. That is because it is mandated.

What is going to happen when you open this up to so-called market forces? People who cannot afford it are really going to get hurt. In her own words: "[Gracie] could not think of a better way to honor [her] mother on Mother's Day than to make sure we maintain these lifesaving mammogram services."

I think she has it right. It saves lives.

Under this bill, 2.3 million people in Massachusetts alone will lose guaranteed health benefits. So what are we going to do? We are going to go back and tell them: Gee, the Senate, in all of its wisdom, deemed that these things that the State thought were important for you—they are not important for you. And the State does not have to provide them.

Typically, the great thing about a democracy is that if there is a better idea, people get to hear it and they get to perhaps choose it. They get to debate that kind of alternative on the Senate floor and engage in a debate on the merits of each of these approaches. What is so fundamentally frustrating about this week's discussion is that differing approaches are not really allowed to see the light of day except in speeches.

Frankly, there are a lot of ways we could approach the small business issue. Senator SNOWE and I have had hearings in the Small Business Committee. We have worked for a number of years to try to narrow down options on AHPs. A lot of people don't like them because of the mandate issue. We have tried to wrestle with how do you deal with the mandates and still lower costs. There actually is a way to open regional pooling for States and allow a State that doesn't want to lose its mandates to opt out. Why can't we have that discussion on the floor of the Senate? You could create pooling. You could create a regional effort to reduce costs. But you could allow people the right to also choose to hold onto the benefits they want, if they want, and not deprive the States of that option. There were a host of other ideas that we have been working on.

I regret enormously that all of the effort that went into those negotiations and discussions is not going to see the effort of real legislation by voting on those different amendments. We also had hearings which suggested a whole bunch of different ways which we could provide and help small businesses without doing harm to the system. None of that has been incorporated or is going to be incorporated here.

In 2004, I offered America a plan that would provide every single American the same health insurance enjoyed by Members of Congress. Since that time, Senator DURBIN and Senator LINCOLN have taken that idea and turned it into a bill that creates the Small Employers Health Benefits Program which he discussed. I am a sponsor of that. Under that bill, small businesses could join a national pool and could take advantage of the same Federal administrative functions and bargaining power that is enjoyed by 8 million Federal employees across the Nation. Why should we discriminate against them? Those small businesses could have the ability to pool, to come in and negotiate less expensive health care and provide better benefits to their people and do it with the same leverage that the 8 million Federal employees do. Most importantly, it would protect the State mandates that individual States have decided they want to put in.

Republicans argue that that alternative does not provide the savings that small business owners desperately need. The facts tell a different story. We all want savings. We have to reduce the burden of health care on small business. I understand that. That is why Senator SNOWE and I have been working to arrive at a way to do so. But experts predict that premium savings for participating small businesses could reach as high as 50 percent higher in the first 2 years, if it passes. It seems to me there is a way to approach this. If you go with the idea of Senator DURBIN and Senator LINCOLN, we would actually be able to reduce those costs by almost 50 percent.

If this week was actually an effort to provide relief to small businesses, we would be discussing all of the options to provide that relief. I don't think that coming up with a precooked, one-size-fits-all, one-ideology, one-approach, one-party plan is the way to help businesses. It seems to me that what is going to happen is, a lot of our small business owners and about 25 million uninsured Americans who work for them are going to get caught up in this political show of the week. It is obvious there is a partisan disagreement in what is keeping the Senate as divided and as incapable of doing real legislative effort. And that is a shame. It doesn't have to be that way, if we mapped out enough time and actually worked across the aisle to try to find the common ground. This is one of those issues where you have to put the politics aside. That is how you are going to win one for struggling entrepreneurs.

There are a couple of places we ought to be able to find that common ground pretty quickly. First, how about for children in America? The example I gave earlier of a mother who makes a decision about a child not playing a sport or a child who comes up with a permanent impairment is replicated tens of thousands of times over across the country. We have 11 million children who have no health insurance at all. Sure, if they get extremely sick, they will wind up being taken care of in a hospital and somebody will ultimately see them, if it isn't too late. But the fact is, by that early screening and by involving ourselves early in their lives, educators and medical experts tell us that kids who are properly fed, who have good nutritional practices as a consequence of their meeting with doctors and mothers, learning about those kinds of things, do 68 percent better in school and, in fact, reduces the cost in the long run because they begin to learn good health practices as a consequence of that exposure.

Why couldn't we be using Health Week to talk about the most fundamental value of all, which is caring for our children and providing every child in America with health insurance? You would reduce unnecessary hospitalizations by 22 percent, and you would replace expensive critical care and inexpensive preventative care. Obviously, we would do much better in the classroom and much better in families if that were the case. We are the richest Nation on the planet. Yet one in four kids in America goes without immunizations. One in three children with asthma don't get the medicine they need. It is unbelievable to me that there is as much talk about family values as we hear in the political dialog, such as it is in the country, but then you have 11 million children who don't have any health care, and the country is content to let it stand.

You could insure every single child in America for less than it costs to roll back the Bush tax cut for the wealthiest people. That is the choice. Every child in America could be covered with health insurance if people earning more than $1 million a year didn't have to get another tax cut. But Washington chooses the tax break for the few who don't need it instead of health care for the 11 million who need it desperately.

A 2005 Mason-Dixon poll found the following: 82 percent of respondents think that every child in America should be covered by a Federal health program, if their parents can't afford it; 90 percent of voters believe that 11 million uninsured children in America is a serious problem and Congress ought to address it and resolve it; 79 percent agree that it is our moral responsibility to ensure health care for every child and for the Federal Government to invest in such programs.

In addition, the poll found that when voters are presented with a description of Kids First, the specifics of the bill that would provide kids with health care, 75 percent of voters support it and support its passage by a margin of three to one. They have said overwhelmingly that providing health care to kids is more important than providing the next round of the tax cuts and making them permanent.

So Americans know what we need to do. There is no more pressing need than improving health care for our children. That is why nearly 25 national organizations representing over 20 million Americans have endorsed the Kids First proposal. When I first sent an e-mail telling people about the Kids First, within 2 days, over 20,000 parents phoned in with recordings of why the Kids First Health Program is important to their families. Let me share one or two of those with you.

Jennifer from Central Islip, NY, called in and said:

> I have a child who is on medication . . . that costs me $250 or more a month. I have children who can't go to the dentist. You know, it's the worst feeling in the world, as a mother, to know that in order to afford health care, you're not going to be able to afford the home you live in.

Jordan from Reading, PA, called in and said:

> Nalani . . . my 3-year-old . . . was born with cataracts . . . Eventually chances are she will be blind. Unfortunately, times are really hard in my house and we don't have health insurance and I can't afford to give her the surgery that will fix the problem that she has. I just can't imagine growing up knowing that there was a way that you could have helped. But because nobody thought you were important enough and because your parents didn't have enough money for health insurance . . . you went blind.

With calls like this, it is extraordinary to me that Congress continues to offer a blind eye to these cries for help. This program that is being offered, I regret to say, is only going to confound and confuse and make worse the current delivery of health care in America.

I yield the floor.

The PRESIDING OFFICER. Under the previous unanimous consent agreement, the Senator from Wyoming is recognized.

Mr. ENZI. That went a little longer than I anticipated. I have now listened for an hour and 25 minutes to the other side. I ask unanimous consent that our side have that kind of an opportunity.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. I have an office that is kind of interesting. It is Phil Gramm's old office. He retired from the Senate after several years of mentoring a number of us and was a real force around here. Occasionally, when I am sitting in my office, some phrases will come by that he used. I grab them and I put them in a jar. I figure I will never have an opportunity to use them. But I think today I will pick out of the jar again. He said: When the Democrats talk about health care, they want national health care. The ship of health, they do not care who steers it, as long as it wrecks, and we can have national health care. That is a little bit about what we are talking about today, that plus a combination of saying we are not going to let anybody out there have anything unless they can have everything. That would be nice. I would like for the people of this country to have better insurance than we in the Senate have. That would be my dream. I wish we could give them better insurance than we have.

Before I came to the Senate, I had better insurance than I have now. When the Democrats say that they want to open up the Federal employee health plans to everybody, they want everybody to have the same thing we have, they don't really mean that. They can't really mean that. I am willing to bet that if we were actually opening up that same pool and letting the Federal employee insurance be used by everybody in the country, the Federal employees would say: Whoa, not on my shift. The Federal unions would say: No, not on my shift. That is a closed pool. That isn't open to everybody. If it was open to everybody, it would be a whole different range of costs. And it is subsidized.

The Democratic alternative, S. 2382, is an open, voluntary pool purchasing agreement. That kind of an arrangement has failed nearly everywhere they have been tried. There is no evidence that they would succeed if they tried it now and would succeed where others have not. Many States have tried this. It is with very little success.

It may look like the Federal Employees Health Benefit Plan, but the Federal employees plan is a closed pool that provides premium support to all eligible individuals. The Democratic alternative is an open pool that would provide a tax subsidy to some of the eligible employers. In other words, it would be apples versus oranges.

A tax subsidy? Let's see, would everybody be able to get a tax subsidy for their health? No, you only get a tax subsidy if you buy the Durbin-Lincoln health plan, a one plan fits all for the United States.

Now, there was some discussion about whether it was $78 billion or $73 billion over 10 years. Let me tell you, they have never scored it, so they have no idea what it would cost. That is what some of the separate actuaries have looked at and said it would score. The Enzi-Nelson-Burns bill would reduce costs and increase coverage, and that is according to respected actuaries. No one can say for sure what that Democratic alternative would do—whether it is tens or hundreds of billions over 10 years.

The Durbin-Lincoln proposal eliminates the ability for national plans in that bill to offer uniform benefit packages. Why is that important? The plan I have put forth—the plan that has come out of committee—allows small businesses to work across State lines to form bigger pools so that they can negotiate effectively against the insurance companies. That is where the savings are. We talk about mandates a lot in here, but the savings come from the ability to have a uniform package so that people in adjoining States can all be bargaining for the same package and have a big enough pool to go up against the insurance companies to be sure they get a better price.

The national plan—the Durbin-Lincoln plan—would still have to meet the requirements of each and every State, even down to the specific particulars of each mandate. Did you know that there are currently 1,700 mandates in the United States? Did you know that those mandates are seldom the same from State to State? They may have the same title, but they are not the same. So how do you put together a package where you say you have to do all of them and be able to go across State boundaries to form bigger pools? You cannot. You would have to do 1,700 mandates if you wanted it to be uniform across the United States.

I need to tell you, too, that some of these mandates we are talking about are screenings. We heard about mammography over there. That is very important. I hope women get mammographies. But did you know that in Wyoming, we really emphasize at this time of year—and I will mention it because Mother's Day is coming up, and this is a huge program in Wyoming to encourage people to buy that for their mother for Mother's Day. It works well. People know exactly what they are buying and exactly how much it costs. It isn't one of many mandates that are in the package that they pay for even though they don't use it.

Somebody said that mandates only add 3 to 4 percent to the bill. No. In the State with the minimum amount in mandates, it adds 5 percent, up to Massachusetts, which adds 22 percent in mandates. Now, I am not suggesting that any of those mandates should not be done. The bill I worked on does set up the ability to have a basic plan. Would people necessarily do the basic plan? They can do the basic plan up to whatever they think is responsible coverage for the people in their association. That doesn't mean nothing; it means they can pick.

You get the impression here that if you allow a basic package, everybody in the country is going to jump on the basic package and say: I can really sock it to my employees; I don't have to provide them with anything anymore. That is not America, and that is particularly not small business America. In small business America, they know they need their employees. Of course, as somebody pointed out, sometimes the only employees are mom and pop. They would like to be insured if they could possibly afford it. So we have to find some way for them to be able to afford it. But this notion that just because there is a mandate out there, everybody will use it, and this notion that just because there is a mandate out there, if we don't require it, it will be dropped—you know, we allow big business in this country to do whatever they want. And do you know what. They provide those basic things.

Now, one of the things which has been mentioned is colorectal cancer screening. Again, the facts suggest that health plans cover important tests like this regardless of State mandate, so it is likely that small business health plans would cover them as well.

In 2004, the Government Accountability Office found that 20 States had laws mandating coverage of colorectal cancer screening tests, which are strongly recommended by the U.S. Preventive Services Task Force for people 50 years or older. Now, the GAO then surveyed 19 small employer plans in 10 of the States without laws mandating this coverage—without laws mandating that. This is an opportunity for those small businessmen, if they are the way they are accused of being here, to just drop it for everybody. Now, despite the absence of State mandates to cover colorectal cancer screening, all 19 small employer plans in those 10 States provided the benefit. Can you believe that? If you have been listening to the discussion this week, you would think they would just drop it. They didn't drop it. They said: Our employees are valuable, and we need to do whatever we can afford to to help them.

Now, how do we help them to afford it better? Let's see. If we could join up with all of the other realtors in the United States—incidentally, the realtors are coming to town next week to their regular annual meeting. As I understand it, 9,000 of them will be here next week, coming to a national convention. Oh, how I wish they would have come 1 week earlier. They could have explained their case. But we have a whole bunch of small businesses out there that really think it is important to be able to band together and get a better deal. It works.

Part of the discussion we have heard today has gone off on some other tangents. That is one of the reasons we are talking about relevant amendments. One of them that we went off on is prescription drug Part D and how, by Monday, people need to sign up for a plan. I really appreciate the coverage we have gotten to get that word out to people across America to make that decision this week. Make it this week. Don't have a penalty because you missed the deadline.

Now, for months I have listened to the Democrats say: This is terrible; this is confusing; this doesn't work; we need to do something different; we have to make it simpler for our seniors. Let's see. Let's just have one Federal plan for them to pick from. It sounds like Phil Gramm again, doesn't it? Ship of state wreck so we can have a national opportunity.

Let me tell you what happened. I was really worried about this prescription drug plan. Wyoming has such a small population—less than 500,000—and we keep hoping we will get off that mark. So far, we have never gotten a city big enough to kind of feed on itself and grow. I said that Wyoming just doesn't have any luck attracting businesses for competition, and we probably won't have any luck on prescription drugs, so I wanted to make sure there was an underlying thing that says if nobody is interested in Wyoming, the Federal Government will take care of it. Do you know what. Wyoming got 41 plans—41 of them. Competition works.

Now, that is what causes the confusion the Democrats keep talking about on prescription drugs. They say that there are too many plans out there for people to make a logical choice. That makes it confusing for seniors. If we infuriate them, we can really get them storming. They have done a pretty good job of that.

You know, I did town meetings, and I tried to help them out. Not only were they appreciative, but a whole bunch of people already signed up and were getting far more benefits than they ever dreamed of. I said: How were you able to make such a critical decision all by yourself? They said: There is this 800 number, and all I needed was to know my prescriptions and the dose and whether I want to buy them locally or do them by mail order, and I got a list of four plans that line up, line by line, that I can make a comparison on. So I know exactly what I am buying, what it is going to cost, and I know what it will be in the long run. How difficult is that?

Oh, but the telephone isn't your only opportunity. You can also go online. There is an online spot that will do the math for you, provide this same kind of list for you to make the comparison. I did it for my mom. Quite frankly, a lot of seniors are going to need help from their kids—kids who are young like me—and they will go through the process and find out how it works. There were things I had questions about, and I got ahold of Health and Human Services and got some changes to make it easier. At first, it looked as if you were signing up before you knew what you were buying, but they changed that so you could get the evaluation first.

Did you know that competition brought down the price by 25 percent even before the first person signed up? That is what those 41 companies who were competing did. Yes, the Democrats say: Wait a minute, there is this penalty and there are a whole bunch of people who don't need any drugs now, so they should not have to sign up now. That is not how insurance works. You buy insurance in case something happens to you. This is a Federal program, so we built in a benefit so that if you had something already happen to you, you can still get low-cost insurance.

In Wyoming, there is a package you can buy for $1.87 a month and avoid all penalties. It gives you assurance that you have coverage in a number of areas. And this is something that would only happen on the Federal level, too. If you come up with something that changes your whole drug prescription thing and it goes up dramatically, every November 15 to December 30 you can change plans. You can go to somebody who will provide all of the benefits you need—the cheapest possible plan. Again, you can have Medicare do the math for you.

So one-size-fits-all doesn't bring prices down. Competition brings prices down. I know that the dream of every person is not to have to sit down with every insurance agent and try to work out something or even understand what their package is. That is where the confusion in the Medicare prescription plan comes in—that possibility of having to sit down with 41 different insurance agents. How many evenings will that take you? There has to be simplification. The simplification we provide in the bill I have been talking about is the ability for your association to work across State lines, build a big pool that is competitive, and to be able to sit down and talk to all of those insurance agents so you can come up with the best possible plan for your association and to save administrative costs.

I am not talking about eliminating the mandate to save the 5 percent to 22 percent—although when they are doing those, they don't only use 25 percent of them, so maybe there is some consideration there. I am not worried about that part. That is not where the savings come in. The savings come in being able to negotiate in a competitive way and reduce administrative costs. Right now, a small businessman pays 35 percent in administrative costs. Big companies that do their own plans pay 8 percent. That is a pretty nice savings, especially if every 1 percent in costs brings 200,000 to 300,000 more people into the market. Let's find a way to bring them into the market. So 35 percent minus 8 percent is a 27-percent savings. Multiply that by 200,000 and see how many people it brings into the market.

We have small businessmen out there—22 million of them—who work in small businesses who are uninsured. That is counting the owners and the employees in the small businesses. We have another 5 million who are self-employed who are uninsured. That is 27 million people in whose lives we can make a difference because they can work through their associations to get better prices—not by eliminating mandates. They want those for their employees. They need those for their employees, to keep their employees; otherwise, they move on to bigger companies. Employees are the heart of the business, and small businessmen realize that more than big businessmen.

But there is another reason the Durbin bill won't work. He has taken away the ability of plans to form these uniform benefits on a national basis, like the national Federal employees plans can do.

So there is not going to be this national pooling because they are not going to be allowed to do what our Federal Employees Health Benefits Plan does because there would not be any insurers who would want to offer a national plan without the same freedom from State mandates that exists for national plans under—get this—the national plans under FEHBP, what we are proposing and what is referred to as the Enzi bill. I like to think about it as the small working peoples bill.

This bill would just create 50 State pools, no true national pools, and all of the 50 State pools will have all the other problems we cited. The Enzi-Nelson-Burns bill trusts small business owners to band together to negotiate for good benefits, while the Democratic alternative gives small business no say in the matter.

They say: The Federal Government is right again; we are going to do what the Federal Government does; oh, but we can't do what the Federal Government does or anything like what the Federal Government does, but that is what you have to settle for.

The Democratic alternative will create a new insurance pool that will operate under a different set of rules which creates the same opportunity for cherry-picking which is adverse selection that Democrats claim the House bill creates. You have to look because the Enzi-Nelson-Burns bill solves that. It solves that cherry-picking. It levels the playing field. It doesn't just grab the best customers from the insurance companies and move them over into the health plans. It allows the insurance companies to compete and also to reinsure, but they have to work with a bigger group.

The Democratic alternative sets up a dual Federal-State regulatory structure that would create confusion for consumers and participating insurers. I will probably cover that a little bit more later. I made a lot of notes on points I ought to cover.

There is one very important one. We were talking about childcare a while ago, and everybody considers childcare to be extremely important. We talked about newborn care. I think everybody considers newborn care to be extremely important. When they talk about eliminating mandates, they like to expand that well beyond what the bill ever allows.

There are requirements in States for who are covered persons. This doesn't change that one bit. Newborns who are covered are not touched—not now, not ever, no intention to do that. So if they are covered now, they will be covered then. It is the law.

I have several other people who would like to use a portion of this time that I just reserved a while ago. I yield time to Senator BURNS who has been very patient. I yield Senator BURNS 15 minutes.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I thank my friend from Wyoming, a man who lives south of the 45th parallel from our State, for the work he has done on this legislation.

We have been asked a lot of times what drives us on this legislation. I have been on the Small Business Committee now for three terms. We tried to pass an association health plan for the last 12 to 15 years. Even Senator Bumpers, the senior Senator from Arkansas back in those days, worked on a bill, and his own side wouldn't let him complete that exercise.

The landscape has changed a little bit, and the numbers we are getting now are much larger than they were, say, 10 years ago: 27 million working Americans are uninsured; 63 percent are either self-employed or work for a small business. For small businesses with 10 or fewer employees, 34 percent of those are uninsured. And for firms with 10 to 24 workers, 27 percent of them are uninsured.

Then I looked at my own State and looked at those numbers, and they are compelling numbers. In Montana, 60 percent of small businesses with fewer than 10 employees do not offer health insurance. That is a big number, 60 percent. Incidentally, most employers in Montana are small businesses. They make up the vast majority of our working force. They are people who run small firms that we typically think of as small business, but there is another small business—and some are a little bit bigger and can be defined as a big business—that we tend to overlook, and they are the people who live on farms and ranches across this country. They have the same desire and same needs for insurance coverage.

As I talk to my folks who live in rural Montana, ranch families simply cannot afford health insurance. Those who can, typically carry a high deductible catastrophic policy and then hope they will be able to weather the health care costs should tragedy strike. Consequently, many ranch families must work second jobs, and do, simply to get health insurance benefits.

Furthermore, very few farm and ranch owners provide their farm workers with health insurance. This isn't because they don't wish to provide that coverage. It is because providing such coverage is unaffordable. One ranch family my staff spoke with currently spends $2,000 a month for coverage of their family of four. As expensive as it is, they can't afford to go without the coverage as one of the members was in a ranch accident which confined him to a wheelchair for the rest of his life.

Consequently, these hard-working Americans are forced to rely on already burdened emergency rooms and health clinics. These small hospitals in rural Montana, some of which we define as critical access hospitals, could not have kept their doors open had it not been for a redefinition of critical access hospitals, telemedicine, and the ability for people to afford health insurance. I fear if we do not begin to seriously address this issue of the uninsured, particularly in rural areas, many of these small critical access facilities cannot survive.

I have heard their argument on the other side. Why would they put at peril health care facilities in rural America? And that is what they would be doing should we continue to do nothing. Therefore, the choice we must make this week could not be clearer. Do we prefer to give small business and individual proprietors the ability to offer their employees health benefits, or do we prefer to continue to limit their ability to offer benefits by Government regulations—mandates?

People like to have a choice. They don't want to go to the store and just buy one brand. It is an easy question for me to answer. The farmers and ranchers and small businesses of Montana—and Senator ENZI has almost the same makeup in his State as we have in our State. Agriculture plays a huge role in Wyoming and Montana. In fact, it contributes more to the GDP than any other industry. So it is not fair to those hard-working folks in rural areas to deny them the benefits that large corporations enjoy or unions and, yes, those of us who serve in this Senate. It is incumbent on us to get these business health plans in place, and now.

As we have no doubt heard, one of the major criticisms of the bill is it allows small business health plans to avoid State-enacted insurance mandates. I don't think that is quite accurate. Specifically, some of the loudest critics allege this bill will cut off coverage for mammograms, childhood immunizations, supplies, colorectal cancer screening, and many other procedures. It is not true. It just isn't true. To use a scare tactic does not do much to further the debate on how we should approach this particular problem.

Studies have shown that health care plans cover these and other services regardless of State mandates. Members of the Senate need look no further than their own health benefits package to know this is the case. Federal employee health benefits plans are not subject to State mandates. Yet these plans provide comprehensive coverage for these services and often provide better coverage than would be covered under most State mandates.

I don't like to see small business characterized as this is a way to save money at the expense of their employees. Small businesspeople are closer to their employees. They understand their responsibilities better than anybody in the world of commerce because they are small, they are a family. That is why the owner has to take the same policy as the employee. You wouldn't even have to mandate that.

I can remember I started a small business and it stayed that way. It wasn't planned, but it did. We insured our employees, and yet my wife and I carried no insurance, and we had a growing family at that time. We did it for economic reasons. But we had the responsibility to protect the folks who worked there.

Most plans cover essential services required by State mandates regardless of whether they are mandated. So why? Because it is not only good policy, but it is good business. For instance, plans generally cover breast cancer screenings regardless of State mandates because it is far cheaper than having to pay for a mastectomy. Plans generally cover screenings for colorectal cancer regardless of State mandates because it is far cheaper to catch it early. Plans cover diabetes treatment regardless of State mandates because it is far less expensive than having to pay for all the maladies that can come about if you are not treated, such as blindness and, yes, amputations.

It is far better to have childhood immunizations in your plan than pay for the more serious diseases that may develop if you are not immunized.

It just makes good sense if you want to keep the employee around and their family that you have grown to know because when you run a small business, it is a personal thing.

We have crafted this approach—and it is not a panacea to cure everything, but at least it is a step in the right direction to cover people who have no insurance today.

It is impossible for small business associations to offer uniform health insurance benefits packages affordably on a regional or national basis. It is hard. If we try to do anything around here, we try to pass legislation that is one size fits all. That is pretty tough to do. Circumstances in Maryland or Virginia are probably a little bit different than they are when you get west of the Mississippi River, especially in my State of Montana.

For instance, what is required for diabetes coverage in Montana is not the same as is required in the States of my friends from Idaho, North Dakota, South Dakota, and Wyoming. Thus, the association that offers benefits to small businesses in this region must adhere to the different mandates in each State. Having to fashion a plan to meet the mandates for each State drives up the cost. What we are trying to do is get our arms around the cost of it. It is impossible to offer a plan without first addressing cost. According to the nonpartisan Congressional Budget Office and the Government Accountability Office, these State-imposed benefit mandates raise the cost of insurance and cause countless Americans to go with no coverage at all.

Moreover, some of those mandates in certain States are for coverage procedures that the vast majority of Americans would not want and probably do not even know are offered. Acupuncture, for example, is a mandated benefit in some States. Some people may benefit from this service, but the vast majority of Americans do not. This is but one example of the hundreds and hundreds of mandates throughout this country for services many do not realize they are covered for and would not avail themselves of if they did. Yet the cost of covering this and other procedures is paid by everyone in that State due to those mandates.

It is a simple thing, insurance. I don't think I have heard it used on the floor since this debate got started. Simply put, when costs go up, coverages go down. It is a simple fact in the underwriting business.

So by allowing the businesses to band together and pool their resources, thereby giving them the same bargaining power large corporations enjoy, this bill, S. 1955, will lower cost and improve access for millions and millions of Americans who do not have it today. This bill will not create a perfect health plan for all Americans, but that is not what we are talking about. This bill will increase the number of Americans with health insurance. This body can debate endlessly on what the perfect health plan is, but that does little good for the employees of small businesses who currently have none at all. So the choice is clear: Do we increase the amount of working American families with health insurance or do we let partisanship rule the day, as it has for too many years? The American people need better and they deserve better, and this bill will give them better as we move it along.

S. 1955 will lower health costs. All the figures we see tell us that. More importantly, it will give many working Americans affordable health benefits, something they don't have today. My farmers, my ranchers, and the small businesses in small towns across America, which are the backbone of our economy, deserve the same rights as the Fortune 500 companies, unions, and yes, even us, the Government.

It is time to act, even though it may not be perfect. Perfection should never get in the way of doing something for small businesses and their employees.

I thank my friend from Wyoming for allowing me this time.

Mr. CORNYN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming controls the time.

Mr. ENZI. Mr. President, I thank the Senator from Montana. I thank him for all of the work he went through during the past year as we talked with the insurance companies sitting down with us and the insurance commissioners sitting down with us, trying to work out a plan. I appreciate the efforts of those two groups and all of the associations, and I will talk about those a little bit later.

At this time I yield 15 minutes to the Senator from Texas, Mr. CORNYN.

The PRESIDING OFFICER. The Senator from Texas is recognized for 15 minutes.

Mr. CORNYN. Mr. President, I wish to express my wholehearted support for the bill that the chairman of the HELP Committee, the Health, Education, Labor and Pensions Committee, the Senator from Wyoming, Senator ENZI, has shepherded so far through this process, this small business health plan bill. I think it presents an outstanding opportunity for the Senate to do what my constituents tell me they want every time I go back home and I talk to them, and that is to have access to good quality health care.

The fact is this bill will allow small businesses to band together on a national basis and give them the leverage they need to negotiate good terms with insurance companies for their small businesses and for their employees. This bill would let these insurers bypass some of the mandates that are well-intentioned but which have the impact of driving up the cost of health insurance for employers to the point where many people can't afford it.

In my State we have the unfortunate distinction of having one-quarter of the population without health insurance. What that means is that people end up going to the emergency room for their health care, which has a couple of unintended consequences: No. 1, it costs a whole lot more than it should to treat those conditions in places like a clinic or somewhere else where they could be treated on a nonemergency basis. No. 2, it has the consequence of causing emergency rooms to have to go on divert status, and that is when people come with true emergencies to those emergency rooms and they can't be seen because the emergency rooms are full of people who are going there for nonemergency care. It literally endangers the life and certainly the well-being of that individual who needs to be seen in an emergency room. So we have a broken health-care system that can be so inefficient and not serve the best interests of the American people.

What this bill does is provides a means for, as I said, small businesses to band together to increase their negotiating leverage. It is anticipated to be able to bring down the price of health insurance by about 12 percent, which will allow more and more people to gain access to health insurance so they don't have to go to the emergency room, so they have more choices, and so they have the peace of mind that comes with having that coverage in a way that allows them to enjoy the benefits that many of us have but which we take for granted.

We have an alternative that has been offered by Senator DURBIN and Senator

LINCOLN, and I think it serves a useful purpose, not because I agree with the alternative proposed, but what it does is it demonstrates the competing approaches or visions or principles between this side of the aisle and that side of the aisle when it comes to providing access to health care.

It has become increasingly apparent to me that while we share the goal of access to good quality health care on both sides of the aisle, we approach it in fundamentally different ways. For example, our side of the aisle—and this bill, I think, reflects the fact that we believe there ought to be something other than a government-run health care system; that private insurance companies offering competitive plans to individuals create consumer choice. It creates competition. And we know that competition creates better service and better prices for American consumers.

The alternative being offered is a command-and-control health care system operated by the Federal Government that is neither efficient nor does it offer the sort of choice and competition, lower price and better service that would be offered through private health insurance options. Indeed, I think our friends on the other side of the aisle have, if nothing else, been consistent in their approach to health care. They believe the Government ought to dictate health care choices for the American people, whether it has to do with CHIPS, the Children's Health Insurance Program, the Medicaid Program, the Medicare Program, or whether it is veterans health care. They believe the Federal Government knows best and that bureaucrats in Washington, DC ought to make the choices that I believe ought to be reserved for me and my family when it comes to what is best for us.

As I said, this is an issue I hear about all the time when I talk to my constituents. It is, in fact, the growing cost of health care and the unavailability of health care that is one of the greatest concerns of my constituents in Texas. Rising costs, systemic inefficiencies, barriers to access, and the increasing costs of coverage represent the challenge we have to confront and which this bill directly addresses.

I understand the difficulties that small businesses have in Texas when trying to obtain quality health care coverage for their employees at reasonable prices. One employee of a small business in Addison, TX, for example, had this to say about the disparity in coverage available to small versus big businesses:

> Our February 2006 renewal premium increased by nearly 40 percent. For a group of 4 insured with no major medical issues and no increases in plan benefits, this was difficult to understand. Our course of action was to look for affordable plans with fewer benefits, but that proved to be difficult and the results undesirable. Fortunately, one of our employees decided to waive coverage and join the policy offered by a large corporation that employs her husband. Her premium under our policy would have been $4,740 a year. The price to carry her on her husband's policy was only $700 a year. Now, that is a disparity. If adequate health coverage is to be provided to employees of small businesses, it is going to be vital that small businesses be allowed to pool their employees in order to maximize their leverage and in order to minimize the premiums to which they are now being subjected.

That is exactly why I support this legislation. Because it would allow associations such as trade, industry, professional, chambers of commerce, for other small business associations to offer fully insured health plans to small businesses. I am a proud cosponsor of this legislation, and I believe this bill is an important step toward making health insurance more available and affordable to more Americans.

I thank Chairman ENZI and his committee for their hard work in bringing this bill to the floor.

The goal of this bill is to reduce health care costs and expand access by creating small business plans. As I mentioned, a recent study indicated that the price of health insurance could literally be brought down as much as 12 percent and as many as an additional 1 million working Americans insured who currently are not insured and have no alternative but to go to the emergency room for their health care.

Recently, the Small Business Health Plan Coalition sent a letter signed by organizations that represent more than 12 million employers and 80 million workers. They wrote in support of this bill, saying it will:

> Provide workers employed in small businesses and the self-employed with access to Fortune 500-style health benefits now enjoyed by workers in corporate and labor union health plans.

This is a principle that resonates with the American people, and I must say that the American people have every right to be frustrated at Congress's unwillingness to step up and deal with this problem. And woe be it to those politicians who stand between the American people and their desire to see health coverage expanded and access increased. Almost 90 percent of voters, including 93 percent of Republicans and 86 percent of Democrats, in recent polls state that they favor allowing self-employed workers and small business employees to band together to negotiate lower insurance costs.

It is time for the Senate to act. In 2005 alone, health care costs rose three times faster than inflation—and even faster than that for many small businesses. Many small firms had to simply cut benefits or eliminate health care coverage entirely. Only 41 percent of firms with 9 or less employees offer health benefits, compared with 99 percent of larger firms.

We all know that small businesses are our Nation's chief job generator, our No. 1 job creator. They deserve to be treated fairly. But by themselves, these small firms and self-employed people have almost no leverage against insurance companies to try to negotiate fair prices and fair plans.

As it stands now, if they want to join other small employers and purchase insurance through national associations, they have to deal with an enormous array of State-level health insurance regulations and benefit mandates. It goes without saying that many of the mandates that are ordered by State legislators to be included in insurance policies in their States are passed with the best of intentions, but they have the unfortunate effect of raising the price of the insurance to the point where many people simply cannot afford it.

It makes no sense to say that everyone must have a Cadillac with all the bells and whistles when all some people want or can afford is a basic model of a similar vehicle. Big businesses, for the most part, do not have to deal with these regulations. The Congressional Budget Office and Government Accountability Office and others have found that State-imposed benefit mandates raise the cost of health insurance and, in effect, represent an unfunded mandate on employers.

Small business health plans will have a strong incentive to offer the best policies possible for their members. After all, that is what the competitive market is all about. Small businesses will have to compete with large businesses for employees. And when employees decide where they want to go to work, they will look at not only the salary they will be offered but the benefits that will be offered, including the health coverage that is available. This is simply a case of the market working and allowing individuals the maximum freedom to choose what is best for themselves and their families.

In order to remain competitive and attract a talented workforce, I believe small businesses would want to have the ability to offer high-quality health benefits, the same opportunity that large companies currently enjoy. Right now, small businesses effectively have the choice of offering expensive plans with all the required mandates, whether employees will actually even use those services or simply not offering insurance at all. That policy in my State is part of what has been responsible for 25 percent of the people of Texas not having health insurance. It must change.

This is not a complete panacea, but it will provide dramatically better and expanded coverage to the people of my State and the people across this country.

Under the Enzi bill, every small business owner will have the opportunity to choose a comprehensive plan, but they will also have other, more affordable, high-quality choices, too. This will improve access for millions of Americans who currently do not have any insurance at all. I believe this legislation is a good step in the right direction toward increasing the affordability and access to health care that all Americans deserve.

More can certainly be done, and I certainly believe that while this is an important step, we should not stop here. We should continue to increase the number of choices available to the American people—things like consumer-oriented health care, which provides greater transparency and provides information to consumers so they can determine where to go for their health care services based not only on price but based on outcomes—things like health savings plans, which would give people greater access and greater control over their health care decisions and allow them to determine how their health care dollars will be utilized rather than having to buy high-priced plans that contain attributes that they frankly don't need or don't want and which cost them additional money.

Certainly, more could be done, but I urge my colleagues today to support this important legislation because I think it represents a dramatic and long overdue improvement over the status quo.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

(Disturbance in the Visitors' Galleries)

The PRESIDING OFFICER. The Sergeant at Arms will restore order in the gallery.

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I do have several things I need to cover. I think I have another speaker or two on their way down. People are talking about being able to offer amendments. They can offer amendments. We want to have discussion, debate; we want to cover objections, answers, proposals on this bill, and we are willing to do anything that is relevant.

There has been a lot of talk about needing to talk about drug reimportation. That is important—at least a 3-week topic. Prescription drugs, that one best wait until after Monday until we see what the exact problem is before we do it. And stem cells, that is probably another 3-week debate.

It took us a year to be able to get this one to the floor so we could talk about small business health plans.

I need to make some comments in regard to a couple of the letters that were read earlier because I am aghast at what was in the letter. The American Cancer Society, as part of that, said: No matter what is done to the Enzi bill, don't vote for it.

That means that should we have an amendment that does everything that is done across the United States for cancer at the present time, they are still urging people to vote against it? It is a little early to say that. It is a little early to say there are not going to be any changes because we will have votes. It may require cloture in order to stay with germane ones instead of the ones that I mentioned and also to make sure—I want to have a vote on the Durbin-Lincoln bill. But I want to have a vote on my bill as well. I think we both ought to have them.

If we release the Durbin-Lincoln one for a vote now, then they can put all kinds of blockages on there so I can't ever get to a vote. And the only vote that we will have had will have been theirs.

We are trying to have some fairness, and so far we have not been able to get to that point.

Another one was the diabetes letter. Again, it said: No matter what you do to the Enzi bill, vote against it. That means, if we instituted every single thing that is being done for diabetes in any State in the Nation, they are still suggesting that they will vote against the bill? Wow. I mean, I have never run into anything such as that.

We looked at the diabetes thing and we said: How do we do this? Because out of the States that do it, there are no two that do it alike, so how do we get these agreements across State lines so they can pool into bigger pools and be able to negotiate against the insurance company so they can bring down rates through negotiation and they can bring down rates by eliminating administrative costs? We are not talking about bringing down rates by eliminating mandates. We are allowing them to have some flexibility in the mandates so they can come up with a common package, and I am sure that it would include that, just as I did the thing on colorectal cancer. All 19 places that they have been allowed to do that, they included that, even though it wasn't a mandate. They were excluded from that.

I also wanted to put into the RECORD an editorial from the Arkansas Democrat Gazette. It was in the "Opinion" section. It says:

> Ever face a really tough decision like where to attend college, or whether to take that new job, or should you go with the lasagna or the meatloaf for lunch? So you get out the yellow legal pad and make a list of the pros and cons, right? Well, maybe not for the meatloaf vs. lasagna bit. Some things are a simple gut decision.
>
> But it helps to compare and contrast. And it sure helped to compare and contrast the two bills now floating around the U.S. Senate to make it easier for small businesses to offer health-insurance to their employees. One bill is co-sponsored by Arkansas' senior Senator, Blanche Lincoln.
>
> You could find the comparison on page 2A of Wednesday's paper. There was Senate Bill 1955 (sponsored by Mike Enzi of Wyoming) on one side, and Senate Bill 2510 (Blanche's bill) on the other.
>
> Both sounded fairly similar.
>
> Both promised to make it simpler for businesses to band together and buy cheaper health insurance.
>
> Both promised to save businesses money and cover more folks.
>
> Then we got down to the bottom, to the very latest, biggest question, and, boyohboy, talk about a pro and a con.
>
> The question: What would it cost the Federal Government?
>
> The answers: Nothing for the Enzi Bill.
>
> For the Blanche bill, oh, somewhere in the ritzy neighborhood of between $50 billion and $73 billion over 10 years.
>
> When an estimate for new government spending has a margin of error of some twenty-three billion dollars, you know that new program is just gonna bleed money.
>
> What's worse, or at least as bad, is that Senator Lincoln's bill creates a national health program that'll be under the administration of the federal Office of Personnel Management.
>
> Translation: We the American Taxpayers will be in charge of the care and feeding of yet another bloated bureaucracy.
>
> Why? Why do we need another federal program under federal so-called management adhering not just to federal rules and regs but all the state rules and regs, too? (It gives us a headache just thinking about filling out those insurance forms.)
>
> We suppose it's because some politicians, who may have the best intentions in the world, can't imagine a health plan that doesn't have the government deciding what should and should not be offered at every single bureaucratic level. Thank goodness that isn't required of private employer plans. Can you imagine the red tape? Perish the pencil-pushing thought.
>
> Senator Enzi's proposal, unfortunately entitled the Health Insurance Marketplace Modernization and Affordability Act, takes a freer-market approach. His bill would let small businesses band together and get better deals on health insurance through trade associations.
>
> Now for the devilish detail: Senator Enzi's bill would be regulated by the feds but largely exempt from individual state mandates. The better to offer these plans nationwide and keep costs down.
>
> Remember, the idea is to help small business, not burden them with more state regulations.
>
> Besides, it's nothing new. Major companies like General Motors long have been granted exemptions from state laws regulating insurance—it's called an ERISA exemption, because they have employees all over the country. They couldn't very well insure their employees from sea to shining sea while abiding by every queer detail of every law in every state. Especially when employees move or get transferred and want to keep their insurance.
>
> But won't the absence of state regulations lower standards? Not if the small businesses offering the insurance want to keep their employees. It's in businesses' interest to have good health insurance for their workers, or their workers will go somewhere else. It's how the free market works.
>
> Think of these small-biz health plans like charter schools. They'd be free of, to quote Senator Enzi, "the current hodgepodge of varying state regulation." That way, small businesses across the country can band together and negotiate group health insurance on their terms. Which would be more affordable for the businesses, the employees and, unlike the Blanche bill, the taxpayers.

If we gotta have a federally regulated Small Business Health Plan, we sure don't need one as costly as Blanche Lincoln's. And, yes, we gotta have a Small Business, etc. Because what we've got now isn't working.

Look at the numbers: Of the more than 45 million uninsured Americans, 60 percent are employed by small businesses or are in some way dependent on those businesses. But it's getting harder for a small business to offer health plans because insurance premiums cost so much these days. Since 2000, the cost of health-care premiums for employers has gone up almost 60 percent, including some 11 percent in 2004 alone.

Pass the Enzi Bill and, according to a study by a Milwaukee consulting firm, small businesses would save 12 percent on health insurance premiums. Even more important, some 900,000 uninsured folks would finally get coverage.

Hey, sounds like a plan. Blanche Lincoln's bill, meanwhile, sounds like an expensive, bureaucratic pain in the pocketbook.

Mr. ENZI. I would like to have you see the small business organizations that are supporting the Enzi-Nelson bill. There are a couple of hundred of them here—12 million employers, 80 million workers.

I would like for you to see the small business organizations that are supporting the Durbin-Lincoln bill. Oh, there are two. OK.

I want to share a letter from the National Association of Insurance Commissioners as well. They are writing in response to our May 2 request for a review of S. 2510 Small Employers Health Benefits Program sponsored by Senators DURBIN and LINCOLN.

I ask unanimous consent the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAY 9, 2006.

Hon. MICHAEL B. ENZI,
Chair, Committee on Health, Education, Labor and Pensions, Washington, DC.

DEAR CHAIRMAN ENZI: We are writing in response to your May 2, 2006, request for our review of S. 2510, the Small Employers Health Benefits Program Act, sponsored by Senators Durbin and Lincoln.

The authors of S. 2510 sought the input of the NAIC when drafting their bill and we appreciate their willingness to work with and consider the views of insurance regulators. Like your bill, S. 1955, the Durbin/Lincoln bill does not include the option of self-funded association plans, instead requiring coverage to be purchased from carriers that are licensed in and regulated by the states. This is a significant improvement over association health plan legislation, such as S. 406. The bill would also preserve state rating rules and benefit mandates, thus maintaining state authority over health insurance regulatory policy.

We are concerned, however, about the practical impact this legislation would have. S. 2510 creates an unlevel playing field by requiring plans sold through the Small Employer Health Benefit Plan (SEHBP) to meet different rating standards than those required of plans not sold through the SEHBP. By setting different rules for different carriers, S. 2510 could create an unworkable market in some states.

For example, if state law allows carriers in the general market to charge small employers with healthier, younger workers significantly less, and the federal law requires carriers in the SEHBP to have only a modest variation in rates, the SEHBP carriers will be selected against. In fact, few carriers would want to participate in this program in states with such rating disparity.

S. 2510 does attempt to ameliorate this problem by providing subsidies for those that participate in the SEHBP. We agree that these subsidies will help, but they are not sufficient. We believe that states are best suited to establish rating rules for all carriers—creating two sets of rules would be harmful to the workings of the small group markets. This could also limit the ability of states to develop innovative programs to address the growing health care crisis.

Finally, both S. 2510 and S. 1955 will not affect the underlying and primary causes of skyrocketing health care costs that are making health insurance increasingly unaffordable for millions of Americans. However, we do applaud you and Senators Durbin and Lincoln for your efforts and we hope our dialogue will continue and yield real solutions.

Sincerely,

CATHERINE J. WEATHERFORD,
Executive Vice President and CEO;
ALESSANDRO IUPPA,
Superintendent of Insurance, State of Maine, NAIC President;
WALTER BELL,
Commissioner of Insurance, State of Alabama, NAIC President-Elect.

Mr. ENZI. The experts on S. 2510, the Durbin bill, from the National Association of Insurance Commissioners, write:

> S. 2510 creates an unlevel playing field . . . could create an unworkable market in some states. . . . Few carriers would want to participate in this program. . . .

Again, people can read the entire letter, and I am sure they will find that very enlightening. There is a lot more detail there.

Last, I ask unanimous consent to have a letter from the National Association of Health Underwriters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAY 10, 2006.

Hon. MICHAEL B. ENZI,
Chairman, Senate Health, Education, Labor and Pensions Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN ENZI: We're very pleased that the Senate will spend this week working on important health issues. The issues to be addressed are critical to the health of America.

One of the most important issues to be addressed this week is health insurance market reform under S. 1955. Our members work on a daily basis out in the real health insurance markets of America. We are in a unique position to be able to observe which markets work better than others and would like to commend everyone who has worked so hard on this legislation to produce an end product that will make health insurance more affordable for small employers. S. 1955, has been modeled to produce a competitive market and a level playing field. Markets with these characteristics are always the strongest and produce the most affordable products.

We are in particular pleased that reform did not go in the direction of S. 2510, Small Employers Health Benefits Program Act of 2006. Under the auspices of creating a more competitive environment, S. 2510 creates the worst kind of unlevel playing field by providing subsidies in the form of reinsurance and a risk corridor only to health plans offered in one purchasing vehicle within the small employer market. It is very important that all plans operating within a special market segment play by the same rules. This ensures the financial integrity of all market players and results in more product availability within that market. S. 2510 does just the opposite. The subsidies it provides are not available to plans that offer coverage in the small employer market outside the purchasing pool and it would provide a significant competitive advantage to carriers operating in the pool, versus those that offer coverage outside the pool. Under this anticompetition model, there would soon be very little choice outside the pool as carriers would be forced to exit a marketing environment where they could not possible operate competitively. This would force more and more people to purchase coverage within the pool, and the cost to government for the subsidies would increase even more.

There is, of course, a reason for the subsidies. Rating rules inside the pool would be considerably more restrictive than they are in the majority of states today, so the pool could not be competitive in many areas without the subsidies. And although the subsidies are for a limited period of time, the unlevel playing field created under this scenario would likely result in no other coverage being available outside the pool for consumers to select once the subsidies to plans operating inside the pool stopped and costs returned to a higher level. And although the subsidies would at that point stop, the rating structure and other mandate provisions inside the pool would continue and the cost of coverage would be predictably high. The ultimate result would be an increased number of people being priced out of coverage and ultimately, more, rather than fewer people would be uninsured.

We do appreciate the positive direction you've taken with S. 1955, and the extreme efforts you've taken to listen to everyone's concerns and respond in a reasonable way. My staff and I look forward to working with you toward achieving enactment of your bill. Please let us know how we can help.

Sincerely,

JANET TRAUTWEIN,
Executive Vice President and CEO.

Mr. ENZI. Again, it is a much more extensive letter. I hope people will take the time to read the RECORD, but it is from the National Association of Health Underwriters. These are the experts on health insurance. They look at this stuff all the time.

It says:

> "2510 creates the worst kind of unlevel playing field;" "the cost of coverage would be predictably high;" "an increased number of people being priced out of coverage;" and, "Bottom line: More rather than fewer people would be uninsured."

That is the National Association of Health Underwriters.

I wish to have some time to go over the good comments, too. But I have been joined on the floor by the majority whip. I will relinquish a few minutes for him to say a few words.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I thank my colleague from Wyoming. I congratulate him for a superb job in crafting this important measure to deal with what many of us think is one of the most pressing problems confronting our country. I have talked to a lot of people in my State, and right up there with gas prices today, they raise the issue of affordability of health insurance.

I have heard from workers who fear that their employer may have to cut back on their coverage. I have met with employers who are concerned that high health care costs prevent them from investing in their businesses and creating new jobs. It would be safe to say I am confident that most if not all of our colleagues have had similar experiences in their own States.

These are real concerns. In every sort of noon-time civic club engagement I have, this is the first thing people bring up. Health premiums have increased nearly three times the rate of inflation, and the percentage of employers offering health care benefits continues to decline.

This is a particular problem for our small employers and entrepreneurs. These are the people who create the majority of the new jobs in our country. Sixty percent of the working uninsured—those Americans who have jobs but don't have health insurance—are either self-employed or they are employed by small businesses.

The sad truth is, it is too darn expensive for many small businesses to provide health coverage to their employees in our country today.

There are a lot of reasons for this.

First, small businesses don't have as much negotiating clout with insurers when they are negotiating premiums as large businesses do. It makes sense. That leaves them stuck, of course, with higher costs.

Also, employees in small firms must absorb a larger share of their plan's administrative costs because there are fewer employees to share those costs.

Third, small businesses must typically purchase care in the uncompetitive, expensive, small group market.

Add all of these factors up and small business health care costs become too expensive for many small businesses to afford.

Small business, as we all know, is the engine that drives the American economy. We must allow them to band together so they can buy health insurance at lower costs so that our people and our economy can keep moving full speed ahead. I commend the HELP Committee for reporting a bill that will do just that.

Finally, I commend Chairman ENZI who has done a magnificent job in moving this legislation forward.

It addresses the unique challenges facing small businesses by allowing them to join together across State lines to offer insurance to their employees. This will give them the needed purchasing power to get a better deal on insurance policies.

Enacting the Health Insurance Marketplace Modernization and Affordability Act will address many of these problems all at once. It will reduce health care premiums. It will increase the number of Americans with insurance. It will reduce the Medicaid rolls. And, most importantly, while doing all of this, the bill will not increase the burden on the taxpayers.

That is not just my opinion; these are the findings of the nonpartisan experts at the Congressional Budget Office. Their cost estimate for S. 1955 shows that the bill will reduce health care premiums in the small group market by 2 to 3 percent. That is important because we know that with every 1-percent change in premiums, 200,000 to 300,000 Americans are able to afford insurance.

So do the math. According to the Congressional Budget Office estimates, 700,000 Americans who would be uninsured under current law—who are currently uninsured—would be covered under the Enzi proposal; 700,000 Americans who would be uninsured under current law, would be insured under Chairman ENZI's proposal.

By helping small businesses expand coverage for their employees, CBO estimates that 135,000 Americans, who without the Enzi bill would be on Medicaid, would now receive private insurance under the Enzi bill. Clearly, this is the way to go.

Most importantly, and unlike the Democrats' alternative, the bill accomplishes this without increasing the burden on the Federal taxpayers. In fact, the Enzi-Nelson bill will save the taxpayers $3 billion over the next 10 years. Nearly 1 million Americans get better health coverage, and the taxpayers will save the $3 billion I referred to over the next 10 years. This legislation is good, strong medicine.

My colleagues across the aisle have called the plight of small business a "distraction." But this situation that affects the economic engine of our country—the small businesses—is a real problem, not a distraction, and the problem is not getting better on its own. It ought to be addressed.

In 4 of the past 5 years, small businesses paid double-digit increases each year in health insurance premiums. At that rate, more and more employers will be forced to scale back or drop coverage altogether for their employees. The Enzi bill is the first step in righting that crisis.

Again, I commend the HELP Committee for reporting the bill that addresses the challenges facing small businesses.

I also note the tremendous contribution made throughout this process by Senator TALENT, who has been a tireless advocate for small business health plans during his tenure in the House and during his 4 years here in the Senate.

This is an important piece of legislation that will address a very significant problem facing many of our small businesses—the high cost of health insurance.

I urge our colleagues to vote to invoke cloture and to support the Enzi bill. It would be an important step in the right direction for Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I thank Senator McCONNELL. I appreciate all of his effort and help. I appreciate the Senator bringing up Senator TALENT. I need to mention Senator SNOWE as well. They were the original sponsors of associated health plans on this side. They asked for a hearing. We held a hearing. After the hearing, people on my committee were saying, Golly, this is a problem for small business. What can we do to solve it?

It was also obvious from the discussion that there were some difficulties with the true AHP approach which we modified in the meantime. That is how we got to the position we are now in.

Mr. McCONNELL. Mr. President, if the Senator will yield for one question. I have heard the Senator talk about the process by which he developed this legislation. Does he have any idea how many hours he spent consulting with the various entities across America that care about this and trying to move this legislation to this point?

Mr. ENZI. Mr. President, I don't have any idea. I spent a lot of hours and my staff people spent a lot more hours. Senator NELSON's staff and Senator BURNS' staff worked on this for so long that I actually thought maybe their staff people worked for me, too.

I was pleased spending days on end and sitting down, understanding all of the parts of this and getting it to work.

Another important part of this, Senator DURBIN asked me to talk to him about his plan. I made an appointment that same day and met with Senator DURBIN and Senator LINCOLN. We tried to work some of the principles which they had into this format. Eventually, we were kind of invited to leave by staff. We need to resolve more of that.

Mr. McCONNELL. Mr. President, I say to the chairman that this has been a laborious and meticulous effort on his part. He has headed this up, and he has led us in an extraordinary way, and I, on behalf of all Members of the Senate, commend him for this accomplishment.

Mr. ENZI. I thank the Senator.

Mr. President, as an accountant I have to remind people that this bill is not a case of subtraction. This insurance plan is an addition. It will bring additional insurance to people. There are 27 million people out there who are uninsured. This will bring a number of them into the market. It will also allow people who are already insured to increase the amount of insurance which they have because they will be able to save some dollars. I am sure they will put that back into insurance and into more benefits for people. So it is an addition, not a subtraction, and it will bring in newly insured people.

One of the things I ask people is, when you go to the dry cleaners tonight to pick up your laundry, can you look that person in the eye and say, I don't think you deserve health insurance because you might not demand enough for yourself? So I am going to save you from yourself. Can you say to the mom and pop who are running the business down the street from your home, You don't deserve health insurance?

As you go home today, as you leave the Hill, think about the people around you, the regular people, the cab driver, the worker at the dry cleaner, the person at the neighborhood restaurant, all of those people who often you may not notice, the real people who make the world operate. Many of them do not have any insurance. Some may even own the little business around the corner and still are not able to have insurance. We always assume that if people own a business, they make a lot of money. There are times that the employees make a lot more than the owner of the business. They always have to pay themselves last.

As Senator BURNS said, when he was in business he provided health care to his employees, but he couldn't afford it for himself and his wife. But you do that to keep employees. I am not talking about deluxe insurance, I am talking about any insurance.

When people get the kinds of screenings that they would like to have, or even get the screenings they would like to have, and then find out there is a problem, if they don't have any insurance, they can't get anything done unless they pay for it.

We are not talking about the employees at the big chain hotels or the big chain restaurants. We are not even talking about the employees at Wal-Mart. We already said to them you can form whatever kind of benefit package you want. You do not have to answer to any State. You don't have to have review or oversight by the insurance commissioners.

Those are all things we provide for in our bill. You don't have to meet any State requirement. So instead of 35-percent administrative costs, you only pay 8-percent administrative costs. I am not talking about deluxe insurance, I am talking about any insurance.

Right now in several States, there is only deluxe insurance. Did you know that in some States there may be only one insurance provider because others have been driven out of the market?

I hope people will take a close look at this bill. I hope the other side will offer some amendments which are relevant to this bill and let us work through the bill. I hope, if the only way we can maintain germaneness is through cloture, that they will join in cloture because there are thousands of businesses out there that need insurance. They need hope. They want to ensure their employees. Think about that—27 million uninsured.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, while he is still on the floor, I say to my colleague from Wyoming, I think from all of us, I thank him for taking an earlier position on the health plan bill that passed the House. In my view, and I think in the view of lot of us, it was badly flawed. Thanks for the Senator's efforts over an extended period of time, along with our colleague, Senator NELSON of Nebraska, to take that product and make it better, and for your willingness to work I think in conjunction with Senator SNOWE to improve on it further, to be responsive to the concerns that a lot of us are raising, I wanted to go on the record.

As I said yesterday—and I will say it in front of my colleague—I find that he and Senator NELSON of Nebraska are two of the most thoughtful Members we have in the Senate. It is a pleasure working with you.

One of the disappointments that I find around here is sometimes even when we appear to agree on things, it is hard to get anything done. In this case, there appears to be pretty good agreement that if we could somehow find a way to harness market forces, we could bring down health care costs for small business and their employees and find a way to pool the purchasing power of those small businesses and our employees could maybe bring down health care costs and get a better selection of options from which to choose.

There has been a fair amount of discussion today and the days leading up to this debate over mandated coverage that certain States offer. I will give an example of one State in our experience with respect to mandates.

Before I came here, in my last job I was Governor of Delaware for 8 years. Roughly 10 or 12 years ago we learned, to our alarm and dismay, that Delaware had the highest rate of cancer mortality in the country. We also learned at the same time that while we had the highest rate of cancer mortality in the country, we did not have the highest rate of cancer incidence. In fact, we were at number 20 or so.

We looked at those numbers and sort of scratched our head about them to figure out why we were No. 1 in cancer mortality—which is the last place you want to be—and number 20 or so with respect to the incidence of cancer.

We pulled in some people a lot smarter than me to look over those results and asked: What is going on here? Why the high cancer mortality number, particularly in light of the fact that cancer incidence is more like the middle of the pack?

After assessing the situation for a while, they said: We conclude—and we are fairly sure of this—the problem is, in your State, in Delaware, you do not do a very good job of early detection and treatment of cancer. If you want to bring down your cancer mortality number to be closer to your cancer incidence number, you have to do a better job of early detection and treatment.

We took that charge seriously. We went to work in three areas: The first of those, Delaware at the time, was one of the higher ranking States in terms of incidence of smoking, tobacco usage. We said one of the things we want to do is reduce the use of tobacco products. We decided to start with young people to reduce the likelihood young people will start smoking and continue to smoke. We made it more difficult for them to have access to tobacco products. We also reduced the opportunities for people to smoke indoors, an effort that continued under my successor.

The second thing we did was, with respect to expanding the opportunity for people to find a health care home by expanding opportunities for people to participate in Medicaid and the SCHIP Program for young children, partnership between the State of Delaware and the Federal Government as other States participated, too.

The third thing we decided to do was to say maybe we ought to have health insurance plans in our State offer as part of their package screening for certain kinds of cancer. For example, mammography screening for breast cancer, colorectal screening, cervical cancer screening, and a couple of others. We did all those things roughly 10 years or so ago. Every year we have had an opportunity to find out how we are doing with respect to cancer mortality and cancer incidence.

I have a chart. Delaware is small, so rather than use 1 year's numbers we look at 5 years. We have a 5-year rolling average. We went back to 1989 to 1993, when Delaware was No. 1 in cancer mortality. In the next 5-year period, 1990 to 1994, we were No. 1. In 1992 to 1996 we were No. 1, and so on. During the 1990s and into the decade we start out No. 1. We were the first State to ratify the constitution and our State slogan, which is "We are the first State." We like to think it is good to be first. This is one thing we do not want to be first in.

The State that was No. 1 in cancer mortality for too many years started to drop by 1997 when we fell down to No. 2, and we continued to drop so that by the year 2000 we were down to No. 5.

I am happy to report standing before the Senate today that in the most recent numbers which I think run up through 2003, we dropped out of the top 5. We might still be in the top 10, but we know we are not in the top 5, and certainly not No. 1. We are heading in the right direction. I will not be happy until we are No. 50.

I would like my colleagues to consider that all of our States are different. Delaware is different. Wyoming is different from Oklahoma. We all have different priorities. We had a real problem in Delaware. We still have a significant concern with respect to cancer mortality. We developed a good game plan and we implemented that game plan. And lo and behold, it is working. It is actually working. We want to make sure it continues to work.

Reducing cancer mortality is like the Navy guys changing the course of an aircraft carrier, turning an aircraft carrier. The same is true as we try to reduce cancer mortality. It is a slow process. It is not an easy process. It takes time. If you stick with it, you can turn aircraft carriers. You also can bring down cancer mortality numbers.

How does this relate to the debate today? It relates because an earlier version of the association health plan legislation passed by the House any number of times does not let us do in Delaware what has proven to be successful in reducing cancer mortality. Even with the efforts of Senator ENZI and Senator NELSON, as this bill came to the floor, it did not let us continue in Delaware requiring the screenings for mammography, screenings in colorectal, prostate, and cervical cancer. It does not help us do those things.

With the amendment that may be offered or suggested by Senator SNOWE, we can do some of this stuff, not all of it but we can do some of it. Particularly the breast cancer screenings would be allowed to continue, maybe one of the others.

The reason I bring this up, I want to keep in mind that States are different. What we have focused on in Delaware is what works—what works to reduce unemployment, what works to improve student outcomes, what works to get people off of welfare roles, what works in a variety of things. This is a multipronged approach that worked in reducing cancer mortality.

Let me talk more about the Enzi-Nelson preliminarily with respect to the Lincoln-Durbin proposal. They actually share some things in common, as I said earlier. They both say: Health care costs are a major problem in this country. They are a problem for little businesses; they are a problem for big businesses.

As we watch my generation aging and look to the future, when the boomers are in full retirement—and I might add, the generation of the Presiding Officer is in full retirement—we will see Medicare, Medicaid, and Social Security which today account for roughly 8 percent of gross domestic production, by the time our generation is in full retirement, 25 or 30 years, I am told that Medicare, Medicaid, and Social Security may well consume something like 16 percent of gross domestic production. The amount of spending for those three programs alone is roughly equal to 16 percent of our gross domestic production as a country.

If you look back over the history of our country, in the last 50 years or so we spend as a percentage of gross domestic product something like 18 or 19 percent of gross domestic production to run the whole Government. If we are looking at 25 years or 30 years down the line where we are spending 16 percent of gross domestic production just to run three programs, with nothing for the environment, nothing for housing, nothing for defense, nothing for homeland security, nothing for education, that is a scary prospect.

So the concerns we have about finding a way to constrain the growth of health care costs are not just a concern of small or large business but a great concern for those in the public sector who worry about how to continue to fund and offer benefits through Medicare and Medicaid.

Senator ENZI took a few minutes to talk about the Durbin-Lincoln proposal. The proposals are similar in a couple of respects: One, they say rising health care costs are a major concern. They are a concern not just for government, for big business, but a concern to small businesses.

Wouldn't it be great if we could find a way to somehow combine the purchasing power of a lot of small employers across the country and their employees, much as we do for Federal employees? All Federal employees do not work for one employer. We work for hundreds of agencies. The Senate is an agency. The House is an agency. We have the courts around here that are separate courts and agencies.

Throughout the country we are, in a way, sort of like small businesses. We talk about being three branches of Government, but we actually are, in a sense, small employers. There are big employers among us, bigger agencies, such as Defense, but there are a lot of small agencies that are much like a small employer.

What we have done to be able to constrain the growth of health care costs for Federal employees is to find a way, working with the Office of Personnel Management, to pool our purchasing power, to get a whole lot of health insurance products available to be offered to us, to give us the opportunity to shop among them and figure out what works for each of us best, what we can afford, the kind of benefits we are looking for, and then we can pick and choose. We end up with a great cross section of product to choose from. Given the kind of purchasing power we have, we are able to constrain the cost of coverage. We have to pay something, I think it is about 25 percent of the cost of our coverage. But it is, frankly, a lot lower premium than otherwise it would be if we did not have the purchasing power pool.

When you add active Federal employees and Federal retirees, you add in all the families, we are talking about a lot of people, maybe as many as 6, 7, 8 million people, and it gives us a chance to have a real impact on what is available in terms of coverage and how much that coverage is going to cost.

Senator ENZI raised a question about the cost of the Lincoln-Durbin plan. The Lincoln-Durbin plan is different from where it was initially introduced, as I understood it. There is a tax break in their plan from which the cost arises.

He mentioned the cost over 10 years as much as $50 or $60 billion. It is a tax cut for smaller businesses that offer coverage for their employees. The reason there is a cost associated with the Durbin-Lincoln plan is because of that tax cut. Ironically, some of my colleagues have suggested that is one of the few times they recall our Republican friends being opposed to a tax cut. I know there are tax cuts they are opposed to, but that is the reason there is this cost. It is considerable.

In the conversation we had earlier this afternoon, I was sharing with my friend, Senator ENZI, it involves Senator LINCOLN, myself, Senator SALAZAR of Colorado, and a number of folks from the business community who were gathered around just to have a good discussion about the problems we face in trying to look for some common ground.

I said to Senator ENZI when I came to the Senate a bit ago, we had a side bar conversation while another colleague was speaking. It is too bad that conversation we had with the business community in Senator LINCOLN's conference, too bad we did not have that 12 months ago or 12 weeks ago. He shared with me a conversation that occurred maybe 9 months or so ago that involved him and some of my colleagues on this subject.

Senator ENZI is good, as are Senators DURBIN and LINCOLN, in reaching out to the other side and trying to find common ground. We need to find common ground. I remain convinced I am one of the people who, like Senator ENZI, sees the glass half full even when it is almost dry. As to this issue today, I think the glass is at least half full.

I cannot help but think, given the good will on both sides, that if guys like me and gals like Senator LINCOLN and guys like Senators NELSON and ENZI and DURBIN put it in their minds, we could find a way to further reduce the differences between our respective proposals.

I do not know what is going to happen when we vote. I guess we are going to vote on cloture tomorrow, I am told. I am not sure what is going to happen. I don't know if the debate will basically continue or, because of that, sort of end for now. If it does, I hope the discussion actually will begin in earnest, and discussion, certainly, with the principals on both sides who have interests in this issue, and that out of that discussion we come to a more satisfactory resolution.

One of the problems we have on our side—and I think Senator ENZI has heard this before—is sometimes, even when we pass what we think is a pretty good bill in the Senate, and we go to conference with a much different bill from our friends in the House, when the conference is created between the House and the Senate, we, as Democrats, are not always full participants in those conferences, and what comes out at the end of the day does not look a whole lot like what we passed in the Senate, or at least not enough. That is going to be a concern. And I just need to say that.

But having said that, we will cast our votes tomorrow and see what happens with respect to them. But I would say to my friend Senator ENZI, my hope is that if we do not come to resolution and this is an issue that continues to be outstanding. It is too important just to let it die. I hope we will have an opportunity—whether it is tomorrow or next week or the weeks after that—to find a common ground and get something done.

Mr. President, I brought these charts. We might as well use them. Actually, I think for a guy from Delaware they are actually pretty interesting. I do not know what these numbers look like in Wyoming. But when you look at the leading causes of death in my State—this chart goes back to about, oh, Lord, a dozen years or so. In the early part of the 1990s, about 32 percent of the folks who died in our State died from heart disease, about 26 percent died from cancer, 6 percent died from strokes, 4 percent died from chronic lower respiratory disease, 4 percent died from accidents, and 3 percent died from diabetes, and 25 percent died from "all others."

Keep in mind, in the early 1990s, cancer was right around 26 percent, heart disease was 32 percent.

Let's see what it looked like a decade later. Heart disease was at 32 percent, now it is down to 29 percent; and cancer, which was at 26 percent, is now down to 24 percent. The rest are pretty much the same, although "all other" is gaining. In fact, "all other" is in first place now, whatever "all other" is.

We are real pleased to see the drop in the number of cancer deaths. Does that sound like a lot over a 10-year period of time, to drop from 26 percent down to 24 percent? It is not. But as I said earlier, it is a little bit like changing that aircraft carrier. The numbers have dropped. We are convinced we are doing something right, and we want to continue what seems to be working.

I have a couple of other charts, and then I will close. This is a chart that goes back to the beginning of the 1980s—1980 to 1984—and up to 2002. The red numbers are the cancer mortality rates for the country, and the numbers above are cancer mortality rates for Delaware, starting in the early 1980s and going to the early part of this decade.

As you can see, the gap by around 1990—the early 1990s—the gap right here, was pretty large, back here, but it is even larger here. That is when we started doing something different, changing up our game plan in Delaware. And we are still above the national average here, but it is about half of what it was a decade or so ago. So we are convinced we are on the right path.

One more chart. My staff thinks this is not a very good chart, and maybe it is not. I kind of like it. Let's see if I can get it straight. We look here at the percentage of the reduction in cancers. It dropped between the early 1990s and the early part of this decade. The mortality rate of all cancers in Delaware went down by about 13 percent—a drop in all cancers.

The cancer mortality rate in the United States during the same period went down about 7 or 8 percent. The drop in the lung cancer mortality rate in Delaware, over the last decade, was, again, by about 13 percent. In the country, it went down by about 5 percent, in this same period of time. Colorectal deaths went down in our State by over 15 percent over that 10-year period of time, and down about 12 percent in the country. Breast cancer deaths in Delaware went down, in the last decade or so, by about almost 20 percent. In the country, it went down by about 12 or 13 percent.

And for guys like us—Senator ENZI and my colleague, the Presiding Officer—this is a real attention getter. For prostate cancer, the mortality rate in our State, in the last decade, went down by almost 50 percent, in Delaware, as compared to the rest of the country, which was about half that, roughly 25 percent.

I think that is a pretty good chart, and I am glad it was made up for us to look at.

The point I want to make is, actually sometimes we have these mandates, along with other things I mentioned earlier, and some positive things do happen in our respective States. We are pleased with the progress we have made, and we have a long way to go in Delaware. We want to make sure we have the tools to be able to continue in that vein.

I have said my piece. I look forward to seeing how the smoke clears and what things will look like after tomorrow. We will just take it from there.

I yield back my time. Thank you, Mr. President.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Nevada.

Mr. ENSIGN. Mr. President, I will not be very long. I will be very brief. I want to speak about the bill that the Presiding Officer, the Senator from Wyoming, has brought forth from the HELP Committee.

I have the honor of serving with the chairman on the HELP Committee. I think he has done a great job crafting this bill, which will offer more people the ability to afford health insurance in America.

We have heard reports about how many uninsured Americans are in our country today. The fundamental point is that a lot of Americans simply cannot afford to buy health insurance. And, many uninsured Americans are employed by small businesses. I have built, owned, and operated two animal hospitals, veterinary hospitals. As a small business owner, it is very difficult to afford to buy health insurance, not only for yourself, but, obviously, for your employees. One of the reasons it is difficult to buy health insurance relates to purchasing power. When you have a small number of people, it is difficult to go to insurance companies and negotiate effectively for good prices. If you have 20 employees versus a company that has 20,000 employees, the company with 20,000 employees has a lot more buying power and, therefore, can negotiate prices down more effectively than the smaller company.

The bill before us today establishes small business health plans, which will allow small businesses, such as the veterinarians, the restaurant owners, and the physical therapists to band together through their associations, and negotiate for health care coverage at prices they can afford. What this means is that a lot of people who are currently uninsured can become part of the insurance market. There is also a side benefit for the people who already have health insurance. A lot of people who are currently uninsured are young, healthy people who happen to want some type of health insurance coverage. If we bring these individuals into the health insurance market, they will help spread out the risk, which lowers costs for everyone else.

Now, we have heard criticism from the other side of the aisle saying that we are not maintaining the mandates that a lot of States have put forward. Opponents say that some people are going to be without coverage for mammograms, cancer treatments, and other services.

These same people today have no health insurance coverage whatsoever—isn't basic coverage better than no coverage at all? We would love to offer and be able to afford to offer everyone every type of service possible. But the reality is that a lot of people cannot afford health insurance plans today because insurance coverage has become too expensive. One of the reasons for this is that small businesses cannot pool together across state lines. Another reason has to do with mandates.

We talk about a lot of different proposals that can lower the cost of health care for hard-working Americans. Everybody campaigns and tells their constituents: We have to do something about the high cost of health care. We must do something. Let's act.

We have an opportunity to act now in the Senate. There is a good bill before us. We need to act on this bill so that uninsured Americans can come into the insurance market.

This bill is estimated, by an actuarial firm, to lower the cost of health insurance for small employers by as much as 12 percent. This is a significant number. Every dollar you lower the cost of health insurance makes more and more people able to afford it.

It is time for us to enact legislation that is actually going to be good for the American people, a proposal that will allow more people to be able to afford health care coverage.

Mr. President, the bill before us today goes a long way toward making health insurance more affordable for small business owners and employees. I encourage this Senate to get behind this legislation. Let's move it forward, work out the legislative differences with the House, and send a bill to the President that will help Americans afford health care insurance today.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, first of all, thank you for taking my stead in the Chair this evening so I could participate in this debate. I have been in the Chair 2 hours and 30 minutes and have heard quite a range of things.

Health care is a problem that affects the whole country today. We are going to spend in our Nation $2.3 trillion this year. The largest amount of money we are going to spend on anything in our country, we are going to spend on health care, and one out of every three dollars we spend does not help anybody get well.

We ought to ask ourselves—with 45 million people truly not covered in an insurance product, with the cost of health care rising double digits every year, with the cost of drugs skyrocketing, with the cost of hospitalization, emergency care skyrocketing—how is it we are spending all this money, with $1 out of every $3 not helping somebody get well, and costs are going through the roof?

It is because we have some real structural problems. This bill is meant to address a small portion of that. It is not the end-all, answer-all to our problems in health care. We all realize that. But this is something we can do in the short term that will make available an opportunity for costs to be controlled in a small area of our economy that will have impact and will create accessibility.

I would say we all in this body want everybody to have access to health care. The question is, Who pays for it? Right now, in terms of Medicare, our grandchildren are paying for it because it ran a $120 billion deficit last year. In other words, we borrowed $120 billion to run Medicare last year because that is the amount of money we did not have coming in from Medicare premiums.

The whole question on how we address health care is going to be: How do we get a better system that will give more people access, that does not waste that $1 out of $3? That is what we have to be concerned with. We have the brains, we have the science, we have the facilities, but something is wrong. What is wrong is there is not a competitive system out there where we allocate scarce resources based on quality and value and price.

This bill will move a little bit in that direction. There are going to be a lot of areas where we move. The one thing I have heard from the other side that I agree with today is, we ought to be emphasizing prevention. I agree with that 100 percent.

We have 19 different agencies in the Federal Government that have something to do with prevention. We are going to be introducing a bill that pulls all those together into one and has a leader who is emphasizing prevention and what we can teach the American people about saving money, preventive health care. As grandma used to say: An ounce of prevention is worth a pound of cure. And it works every time.

We know we can prevent diabetes. We can stop 50 percent of diabetes just with education, but we don't have it. We are wasting resources and duplicating resources. We have opportunity costs from programs that are designed to do it and don't do it well. Others do it much better, but we are still funding the ones that don't do it well. There are lots of problems we have.

I want the American people to understand that the choice that has been outlined by those who oppose this bill today isn't a choice of whether we have to have mandates. It is a choice of somebody who has no care now, no mandate, versus getting some care. If we do our job on prevention, then we will be educating the American people. But the ultimate health care responsibility in this country isn't the Congress. It isn't the States. It is the individuals who make choices about what is going to impact their lives and what value they want on their health care. That is why HSAs, although they have been blocked, need to be expanded vastly. They need to be funded better. They need to have an application for chronic care, and they need to have a tax deductibility to bring you up to the level of that so that we put everybody's skin in the game, so you know you are going to make a choice based on what is valuable to you.

Everywhere else in this country, we have trusted markets to allocate scarce resources. We are a little timid about how they are doing it in oil, but the fact is, the market is scarce, and the price is up. As soon as either demand decreases or supply increases, the price will come back down, or some other form of energy is going to be there to supply it, such as agrifuels.

We have to trust the market to help us because we can't afford what we have promised. We can't afford what we promised in Medicaid, in Medicare. The money is not going to be there in 10 years. It is going to start winnowing away. So what are we to do? Continue to create a charade for the American people that says yes, we can, or start with one small step with this bill which offers availability through group purchasing, expanded purchasing power, lowering the overall risk to a million people? Why would we not want to do that?

Is it perfect? No. There isn't a bill we pass that is perfect. But this is a step in the right direction, although it does walk over some State mandates, I agree. But the problem is, Medicaid walks over State mandates every day. Medicare walks over State mandates every day. They set a mandate.

We have two choices in health care: the Government is going to run it all, or we go to the private sector where we really trust the market to allocate and protect those who need the help, those who can't help themselves. Those are the only two choices we have on health care. If you think we have problems now, wait until the Government runs it all.

I am a physician. I have practiced since 1983. That is 23 years. I have delivered 4,000 babies. I have done every kind of operation you can think of. I have seen a system decline based on how insurance has been applied to it and copying the mandates of the Federal Government. So we are in a mess on health care. Let's get out of the mess. Let's start with this, but let's don't stop there. Let's start with prevention. Let's make sure there is competition in the pharmaceutical industry. We don't have it.

As a practicing physician, there is no competition in the pharmaceutical industry. Drugs that do exactly the same thing and are priced the same way, nobody wants an increased market share. The Federal Trade Commission ought to be asking why. Why don't they want increased market share? I believe there is collusion on sharing of markets in the pharmaceutical industry so that they can keep the prices high. We need worldwide competition on pharmaceuticals. If we will do that, we will get a lot of bang for our buck.

There is even collusion when it comes to the generics. The FDA has created this wonderful system which enhances no competition for 6 months to 18 months for the first person who comes out with a generic. What is that all about? That is taking away from the market.

There are lots of problems, but this is a good start. It is not perfect. Is it as good as we can get? It probably is right now. But it starts us down the path on what we need to do to fix health care in this country. That is competition.

We need transparency. We have seen recently hospitals not wanting to give their rates, doctors not wanting to give rates, Medicare not wanting to publish rates. Why not? Let people know what they are supposed to be getting charged. Let's have a little open sunshine on the health care industry.

Let's talk about the 19 percent of every dollar that goes into the health insurance industry that never goes to help anybody get well. Let's talk about that. Let's create real competition in the health insurance industry. The more people get into it, the more competition we will have.

I thank the Senator for filling in for me so I could take the time to address the Senate. Our goal is making sure everybody has access to care and doing it in a way that our children can afford to pay for it because we are not paying for it today. We need to be mindful of that as we make those decisions. This bill starts with that.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURR. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COBURN). Without objection, it is so ordered.

Mr. BURR. Mr. President, as you spoke on this bill, you inspired me to come back over for another opportunity to talk. To put in context why we are here, you have to talk about where we have been this week. We started this week focused on exactly what you raised, and that was the inflation factors that go into health care.

On Monday, we were slated to consider two different proposals. One was a proposal that limited the liability that all medical professionals have, and we have seen liability premiums rise at a rate that is unsustainable for doctors across the country. That bill was quickly questioned as to whether we would bring it to the floor. Some argued that there was no need to; it is not a problem. We were forced to have a vote on whether we could proceed to consider the bill. We didn't vote on the bill. We didn't offer amendments on the bill. We had a vote on whether we could proceed, which requires 60 Members of the Senate to support. We didn't get 60 votes. The American people didn't get cost reductions because some in this body chose not to extend the privilege of debate and the voice of the American people in the amendment process into that bill.

We turned around and we introduced another bill. The bill's coverage applied to those specialists who are OB/GYNs; in other words, individuals who deliver babies, something that is vital in this country.

I know the Presiding Officer is, in fact, an OB/GYN. He delivers babies. He delivered babies throughout his career in the House of Representatives. He would leave the House, he would go home and deliver babies on the weekends so that he could keep his practice alive. He doesn't have the luxury now in the Senate. That is a shame because he was good.

There are communities all across this country that have lost their OB/GYNs, not because they became U.S. Senators but because they can't afford liability insurance anymore. They have been forced to leave rural America and go to urban America where they are under the umbrella of coverage of a large medical institution, in all likelihood affiliated with an academic institution.

What happened on Monday night when we took up liability limitations for those across this country who deliver babies? We didn't get the opportunity to debate it. We didn't get the opportunity to amend it. We had a motion we had to vote on to proceed. Because 60 Senators didn't agree to move forward, that died a quick death. Two bills that addressed substantive ways to cut the cost of health care died in a matter of 1 hour on the Senate floor because people didn't think it was important enough to address things that are inflationary to the cost of health care.

I said shortly after that I was going to come back to the floor because I thought it was important for my colleagues on the Senate floor and people in the gallery and across the country to hear real stories from real Americans.

In North Carolina, we have a lot of people who are suffering today because they lack insurance. So the third part of Health Care Week is to take up a bill that allows small businesses—really the heart and soul of America—to purchase as associations, as groups, to negotiate en masse because they don't get the luxury of the benefits of large corporations to leverage the cost of health insurance. For that reason, many small businesses today can't afford to provide health care and to keep the doors open of their businesses. So they choose to hire folks and to employ them and to pay them but not to extend health care benefits. Those are numbers that are counted in the national uninsured population.

In North Carolina, we have 671,000 small businesses. Small businesses make up 98 percent of the firms in North Carolina. Women-owned small businesses have increased 24 percent since 1997. Hispanic-owned small businesses have increased 24 percent since 1997; Black-owned small businesses, 31 percent; Asian small businesses, 74 percent. Are they any better off because of the categories they are in to provide health insurance for their employees? No, because they are caught in the same problem. They don't employ enough people to negotiate like the larger corporations.

In North Carolina, there are 1.3 million uninsured individuals, and 900,000 of those uninsured individuals are in families or on their own with one full-time worker. One full-time worker is in that house either with a family or is the individual in the house. The opportunity with this one bill is that we will have 900,000 people who potentially have the opportunity for the first time to be covered by health insurance.

Many run to this floor, and they talk about what we need to do as a Congress. They don't really mean we need to pass legislation that creates an affordable health care bill. What they mean is they would like for the Federal Government, through taxpayer funding, to produce a benefit we pay for for anybody who is without health care.

I think we have the right approach. The right approach is to make sure that small businesses can band together, that they can negotiate with the private insurance market, that they can offer a benefit, for the first time for many of them, to their employees, and the retention of their employees is better because that benefit is now extended.

Do you realize that the most expensive benefit that is offered by a business today is health care? It is not retirement, not any of the things that historically we have looked at. The health care benefit is the single most important thing.

I heard the Presiding Officer talk about the future and the fact that our children are the ones paying for Medicare today.

That is, in fact, right. Three things control our competitiveness in the world, and they are health care, energy, and labor. But I guarantee you, when we bring up energy, we are going to be blocked from proceeding because we will try to bring down gas prices and try to come up with things that bring stability in energy. Some would rather see nothing happen on the Senate floor.

I have an individual who is in the appraisal business in North Carolina who wrote to me and said that small businesses need help with insurance. That is in big letters. He says he is now paying $986 per month for his wife and himself. This is for only 60 percent coverage and a $2,500 deductible. He says he knows people with group insurance paying $600 for 80 percent coverage and a $250 deductible, and many of those have dental insurance as well. He said his policy provides none. "Please help me out."

This came from a store owner, and it says that as a small business owner, it is important to enable some economy of scale in allowing franchises to obtain more affordable health insurance.

The economies of scale is exactly what we are on the Senate floor to debate. I might add at this time that this debate really didn't start until several hours ago because on the third bill—this bill—we had to vote on a motion to proceed, which we won this time, and we had to delay some 30 hours before we could engage in the amendment process and general debate.

This comes from an individual from Hickory, NC. She said that as a parent and an employer, she knows the importance of having affordable insurance and the financial devastation that occurs when you have no coverage. Unfortunately, there has to be a tradeoff. She says she has only one of two options to keep her doors open: either her employees have no insurance or they receive a livable wage. When there are no viable alternatives for employers to purchase reasonably priced insurance, the losers are her employees.

What are we here debating? We are debating a change from today's policy. What is the choice employees of small business have today? It is a choice between nothing and nothing. That is unacceptable. That is why the chairman, Chairman ENZI, has worked so hard to carefully craft a bill that doesn't bypass those who are charged today with regulating insurance, every State insurance commissioner. But it incorporates them fully and allows products that can be created that, for once, are affordable. Sure, they don't have all the bells and whistles. They don't cover the full scope of coverage that every insurance product has today. But when your options are nothing and nothing, isn't it reasonable to believe that we can have a debate about creating something and nothing? Isn't that, in fact, why we are here?

In South Carolina, there is a textile company, a small business owner in Greenville who says that providing health insurance is becoming an unbearable hardship for small businesses such as hers. She is a widow, self-employed, and her health insurance is an expense she can hardly afford. Like many of her employees, she has a $5,000 deductible, and her monthly premium constantly increases 35 to 40 percent every 6 months. Most would say that is impossible, but I have her name and her address, I have the city in which she lives, and I have her company name. She wrote to me.

It is individuals who are turning to the U.S. Senate now. The House passed it. They are saying: Please produce something for us.

Here is one from Alabama. It is not all North Carolina. This is an owner of a nursing services company who said that the cost to cover one employee is $225 a month, and it is $617 for full family coverage, which is up 6 percent over last year. She recently lost a long-term employee to a larger company because that company could afford to pay 100 percent of the employee's health care costs. She thinks it is simply unfair that we don't do anything.

Janice is from Kentucky. She is the owner of an elevator company. She was hit with an astonishing 60-percent increase in health care premiums in 2002. There are a lot of similarities in the last letter. Some might have thought that is impossible. It is not.

Here is another one. Some of this increase in cost was passed down to employees because her company simply could not absorb all of the costs. If this trend continues, which she fully expects, they will have to drop the coverage she has provided for employees for years.

The writing is on the wall. We need to do something to relieve the pressure for small business in America or the uninsured rolls will increase. The rolls will not decrease because these small business owners cannot afford to continue to supply health care as a benefit.

Here is one from Mississippi. As a new small business owner in Mississippi, he finds it harder every day to make sense of why he pays three times as much for family health insurance as he paid when he worked in the same industry for a large company. He says there needs to be a way for his company to offer his employees similar high-value health insurance that he was offered when working with the big guys at a reasonable rate. Small businesses are at an immediate disadvantage simply because they are small, he said.

I talked earlier today about my election to the House of Representatives, when the Presiding Officer and I came in. I came from what I considered to be a small business, but it was over 50 people. We had adequate health care. I paid 25 percent, and the company paid 75 percent. I got to Washington as a Member of Congress. I found that my choices for health care increased in number, but I thought it was probably most prudent to choose, in fact, the same plan I had in the private sector, the same company, the same plan. I paid the same 25 percent, the Government paid the same 75 percent. What was the one difference? The one difference, now that I was part of 2 million people who worked for the Federal Government, was that my premium went up $50.

You see, there are some that will argue that the only way to solve the health care crisis in America is to have the Government take it over. If you want to solve small businesses' problems, let the Government negotiate a health care plan for them. Well, my experience with the Government negotiating health care is that it costs me more money. I would be willing to bet that most will find that to be the case. Incredibly, nobody is calling my office saying: I wish you guys would negotiate for me, or I wish the Government would take this over. Don't provide me choices, just give me one. I don't want to choose.

This is from Larry in Mississippi, who owns a small company. He has little buying power and few affordable options for health care. It is similar to what has happened in so many States, where one insurer controls more than 75 percent of the small-group market. This lack of competition resulted in an 80-percent increase in the last 2 years for his John Deere dealership.

I will tell you what, if there is anybody I would work hard for to find him a deal on health insurance, it is a John Deere dealership. He increased the deductible from $250 to $2,500. He says that if he doesn't receive relief soon, he will be forced to drop all insurance coverage or lose his business. So he has an option: He can close the door, and everybody who works for him would be out of business.

You see, we are here because today the choice that small businesses and their employees have is a choice between nothing and nothing. All we are here to do is to suggest that we engage in this bill and that we have an up-or-down vote about something. Nobody will see this as a silver bullet that solves the health care crisis, as the Presiding Officer said earlier. That will take a much more in-depth engagement, a much more difficult debate on the Senate floor. We really will bring in the experts as we try to provide the changes that are needed so our children have the same benefits we have. But it doesn't make me too optimistic if we cannot solve this simple thing that so many small businesses are experiencing today.

Here is one from Virginia, not too far from us. The owner of a small industrial service firm is facing a crisis trying to provide health insurance for employees. His small business, with 20 employees, has struggled for the past 10 years to provide a health benefit plan. He has been able to continue to provide this insurance only by reducing coverage, raising individual office fees, and asking his employees to pay a higher share of the monthly premium. Underwriting penalties for small groups and rising medical costs and increasing mandates from government are collectively squeezing his small business to the point where meaningful health coverage will simply not be affordable.

I thought our job was to try to bring more people under the umbrella of coverage. I thought that was the objective, to try to create new products, create more affordable products, make sure that health care is not just more affordable but more accessible.

Here we are on the Senate floor with one of the most carefully crafted bills I have ever seen—a bill that a group of actuaries from a well-respected firm found would reduce health insurance costs for small business by 12 percent in today's dollars. That is $1,000 per employee. Is somebody in this institution telling me that small business employees across the country don't want to save $1,000 or that they don't want to have the opportunity to have less of their out-of-pocket money go to health care coverage or that we should ignore a well-respected actuary?

By the way, the actuary also found that S. 1955 would reduce the number of workers who are uninsured by about 8 percent, or 1 million people. This would automatically bring a million people under the umbrella of coverage. That hits home to me because I have 1.3 million uninsured in North Carolina. I have 1.3 million uninsured individuals, and 17 percent of North Carolina's population is uninsured today; 16 percent are uninsured nationally in this country.

Do you realize that only 205,000 of those 1.3 million uninsured are part-time workers? There is this belief that that number includes all part-time workers. If we could just make sure Wal-Mart supplied health insurance, this would all be over. No. The majority of mine—1.1 million—in all likelihood work for small businesses. They are uninsured. And 900,000 of them certainly are in a family where they could have a chance at health care coverage if, in fact, we pass this bill.

The Congressional Budget Office has also looked at the bill, and they found similar numbers of newly uninsured Americans. If S. 1955 were signed into law, CBO estimates that nearly 750,000 more people would have private health insurance than under current law. I guess that is the key. I guess some don't want there to be private health insurance. When we leave the marketplace alone, when we set it up so it is fair, it is amazing what competition does.

As a gentleman from Mississippi said, when one company controls 75 percent, where is my negotiation point? We are talking about letting national associations band together. We are talking about potentially shopping for national coverage, with national firms, but letting the State insurance commissioner regulate the product. I am not sure there is a downside to that, unless the downside is that we have now brought more individuals under the umbrella of coverage and this issue begins to diminish from a standpoint of the politics that comes along with health care.

Mr. President, I am going to end for the evening. I will not end for the debate, though. I still continue to get letters into my office that are real stories about real people. I think many times real people are forgotten on the floor. We get so wrapped up in the debate of issues that we forget that everything we do here affects somebody in this country or in the world.

Each time we stop long enough—maybe this weekend; I am not sure we will finish this bill this week; I hope we do—we figure out who these uninsured are. Maybe everybody will take an opportunity to go to a small business if they haven't visited one in their State, and they can ask those small business owners: What is the health care market like for your employees? I have a feeling what they are going to hear is what I have shared with you from real businesses, real owners about real people who can't afford what is available to them today.

There are in North Carolina 671,000 small businesses that desperately want a choice of something. Today all they have is nothing versus nothing. Their employees have nothing or nothing. Not a very good choice.

I am glad we are on this bill. I am glad the 30 hours is over. I commend Chairman ENZI for legislation that is incredibly well crafted. It is focused exactly where it needs to be, and that is to make sure plans are not cherry-picking, to make sure that regardless of the money that is available, there is a health care option so an employer and their employees can decide whether it is, in fact, affordable.

At the end of the day, it is my hope that Members of this very historic institution will remember the folks back home who sent them here, that they will remember the next generation we are obligated to represent, that we have an obligation today to make sure individuals who want to be covered have an affordable option to be covered, to make sure we fix some of the problems so the next generation, our kids, don't fight the same challenges we fight today.

I am convinced this debate will continue, and at the end of the day, I am convinced the American people will win regardless of what the intent is of some in this institution.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DEMINT.) The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, something is wrong when 45 million Americans, 8 out of 10 of them in working families, cannot afford access to quality health insurance. This past weekend I met a woman in Des Moines who has been without health insurance for herself and her daughter since her husband died several years ago. She works hard as an administrative assistant in a small law office. She lives, like many Iowans, from paycheck to paycheck. She cannot afford private health insurance and she makes too much money to qualify for the State's Children's Health Insurance Program or Medicaid. This has consequences. She has not had any screenings or preventive care in years. Her daughter does not go to the doctor regularly, despite the fact that their family has a long history of diabetes and cancer. She knows she is at risk but cannot do anything about it. What happens to her if she gets sick?

Many people believe the United States has the best health care system in the world—the best treatments, the best medical technology, the best pharmaceuticals. But this is a cruel joke to the uninsured, including more than 8 million children, because they are forced to make do with substandard care or none at all. The result is a paradox. The United States has a world-class health care system, but we fall behind most industrialized countries when our general health outcomes are measured. In 2000, the World Health Organization ranked our health care system 37th in outcomes that our health system provides. Just this week, CNN reported a new study which found that the U.S. ranked next to last in infant mortality among industrialized countries.

Bear in mind again that health insurance is not just about seeing a doctor when you are sick; it is about prevention as well. If you have insurance, you are more likely to have a relationship with a doctor or health care specialist who knows you and your health history. You are more likely to have access to preventive care so that chronic disease can be prevented in the first place. Without health care coverage, minor illnesses turn into major ones and small incidents turn into chronic conditions. Once this happens, it becomes almost impossible to afford quality health insurance without restrictions on benefits.

That is why this debate is so important. This week we are considering a major overhaul of the insurance system in an effort to help provide health care coverage to small business owners and their employees. I applaud the goal, but this particular legislation before us now is sorely lacking and will not provide access to quality health care at affordable prices.

I oppose the bill before us for the following reasons:

First, the bill eliminates consumer protections found in current State regulations, including in Iowa. In Iowa, under the bill, 840,000 consumers would lose coverage for diabetes testing supplies and education, emergency services, mammography screenings, State mental health parity, and well child care. They would also lose guaranteed access to dentists, nurses, nurse practitioners, and other providers. Iowa does not have a laundry list of coverage services. Iowa State regulations guarantee quality insurance. But S. 1955 would do away with the compromises that were worked out at the State level to guarantee quality.

Secondly, the supporters of this bill argue that the bill would lower insurance premiums for small businesses. What they don't tell you is that it comes at a cost. Many people, especially those who are older and sicker, would see their insurance premiums increase under the legislation, even with the changes found in the managers' amendment. CBO found that insurers will charge significantly higher premiums to those who are sicker, older, and otherwise less favorable to insurance companies. They will do this in order to reduce health insurance premiums for small firms with workers who have relatively low expected costs for health care. Imagine the shock of business owners all across America, including many I have met with recently in Iowa, when they are billed for the first insurance premiums under the new bill.

So keep in mind, of course, you can always get cheaper insurance, but what does it cover, at what cost, and what are the premiums going to be for the person who is covered?

Third, and importantly, this bill would undermine State efforts to guarantee coverage for preventive services. As I have often said many times, we don't have a health care system in America, we have a sick care system. If you are sick, you get care. But we spend precious little money and we have very few incentives for keeping people out of the hospital, keeping them out of the doctors' offices, and keeping them healthy in the first place. This bill would make it worse. In short order, insurers would offer stripped-down policies that do not cover preventive services. The result would be the elimination, as I said, of cancer screenings, well child care, mental health services, access to certain physicians or nurses or other providers such as chiropractors, for example, who might give you good care and keep you from getting a chronic condition, something that might cause you to have an operation in the first place. So importantly, this would mean elimination of benefits for everyone, not just small business.

Americans should have access to quality, affordable health care coverage. Coverage that is stripped down is not sufficient, and we shouldn't settle for it. People's lives, their livelihoods, their ability to contribute to society will all be undermined if they are not healthy.

I met with small business leaders in Iowa. Of course they want relief from high insurance premiums or from not even being able to get policies at all for their workers. We all do. Small business is the backbone of my State. And they need—they need—to have some kind of insurance coverage for their workers. With regard to this bill, what I have said to them is, don't think it is this bill or nothing. I also ask them: Are you willing to lose access to quality health insurance? Just check with the American Cancer Society. We have cancer societies in our small towns and communities all over America. People who run small businesses contribute heavily to our local cancer societies. But here is what the American Cancer Society said:

> In one stroke, this bill would erase all that state legislatures have done to prevent and more effectively treat cancer by ensuring access to life-saving screenings for breast, colon, and prostate cancer, cancer specialists coverage for evidence based off label drug use, clinical trials, and proven smoking cessation services.

That is from the American Cancer Society about this bill.

I ask all my friends; I ask anyone who has had a history of cancer in their families: Would you want insurance that doesn't cover screenings for breast cancer or colon cancer or prostate cancer?

How about the American Diabetes Association. We know that diabetes is hitting people younger and younger all the time. We have to do something to prevent diabetes. But here is what the American Diabetes Association said about this bill:

> We must ask ourselves how people with diabetes will be able to pay for a disease that costs an average of $13,243 per person to manage. Unfortunately, it will be our emergency rooms and Medicaid system that are forced to pay.

I ask my friends who are diabetic or who have family members with diabetes: Would you want insurance that doesn't cover diabetes-related services?

Those are just two examples, but there are many others. So, again, it is not this bill or nothing. There is a better option out there that will guarantee coverage for these services and at the same time provide small business access to quality insurance.

One realistic solution that I support would be to give small businesses the option of joining a program modeled after the Federal Employees Health Benefits Program. That is the program that covers us here and we love it, believe me. All Senators, all Congressmen, Supreme Court Justices, all our Post Office people—anybody who has anything to do with the Federal Government belongs to the Federal Employees Health Benefit Program. It is great coverage. Why shouldn't small businesses have access to the same kind of program we have?

That is why I have joined with Senators DURBIN and LINCOLN to introduce S. 2510, the Small Business Health Benefits Plan. Here is why this bill is superior to the bill we have before us:

First, it would create a larger purchasing pool, a nationwide pool, rather than the fragmented pools that will be created under S. 1955. A national pool would reduce insurance rates for everyone.

A few years ago, before I came to this place, I sold insurance. There is a principle in insurance that we all know: The more people in the pool, the cheaper it is for everybody. It is one of the fundamental principles of insurance. The more people in the pool, cheaper it is for everyone. So you want a big pool when you are dealing with health care.

S. 1955, the bill before us, sets up thousands and thousands of small pools. But the Federal Employees Health Benefit Plan is one big pool. So if you have that national pool, insurers will be able to offer a range of plans such as we have now. Every year we have open season and I can choose from—I don't know, I didn't count last time—maybe about 18 different plans. But the Office of Personnel Management would negotiate the rates and benefits offered under the plans.

Should they do that? OPM has been negotiating with private plans for decades. They have consistently negotiated better rates for Federal employees than have been achieved in the non-Federal market.

All the Senators here, all those who love the free market system—you will hear speech after speech praising the free market system, but everyone here belongs to the Federal Employees Health Benefit Plan, and OPM is the one that manages the rates and negotiates the rates in these plans. As I said, they are better than anything that has ever been achieved in the non-Federal market.

Second, our bill offers a tax credit to small employers that would help offset the cost of premiums for employees if they make $25,000 a year or less. S. 1955 doesn't do this. There are no tax breaks for small businesses in S. 1955. There are more than 26 million Americans making $25,000 or less working in small businesses. Of those, 12 million, or 40 percent, are totally uninsured. That is what we want to get at.

I will be glad to go to any small business with those who are advocating S. 1955. We will take S. 2510 and we will take S. 1955, we will lay it out there and let the small business owner decide which one they would want to have. I would love to see that happen. I tell you I know what would happen: They would pick S. 2510, the one I am talking about, the one that would give them a tax break for covering and would provide quality insurance.

Third, our bill does not preempt State consumer protection laws. S. 1955, the bill before us, would do away with the guarantees I discussed, the guarantees of preventive services such as breast cancer screening, mammography, cancer, prostate screening, things such as that. By contrast, our bill would keep State insurance laws where they are. The insurance would cover mammograms, cervical cancer screening, diabetes testing supplies, immunizations, and on and on.

If you are a small businessperson and you happen to be watching this session and you are listening to my remarks, you are probably saying: Senator HARKIN, that all sounds good. Why don't you get S. 2510, the bill you are talking about, up for a vote?

Welcome to the unreal world of the Senate, when we are not allowed to do things such as that. We have S. 1955. The majority leader has, if you will pardon the expression, filled the tree. That is sort of gobbledygook around this place which means they have blocked us from offering any amendments, and then we are supposed to vote on cloture on the bill, which means debate comes to an end on the bill and you can't file anything that is not germane.

Tomorrow night we are going to be asked to vote for cloture on it? I am not going to vote for cloture on that. If you want to have an open Health Week here and you want to bring out S. 1955, leave it wide open so we can offer S. 2510 and we can have a debate on it and have up-or-down votes. I am all for that. I think the small business community in America ought to know that we are not being allowed to bring up our bill for amendment and discussion. I think our bill would pass. I think the small business community would support it.

But as I have understood, being out in Iowa last weekend and as I talked with small business owners, they have sort of been led to believe it is S. 1955 or nothing. And of course they will take S. 1955. If I thought that was all there was, I would probably take it, too. But that is not the option before us. We have better options than S. 1955. We have the option of S. 2510, the bill I spoke about, introduced by Senator DURBIN and Senator LINCOLN.

Again, it is unfortunate—not for us. It is not unfortunate for us. We have great health care coverage. We have great health care coverage. It is not unfortunate for us but unfortunate for the small business owners and the 25 million Americans who work for small businesses—12 million who do not have any insurance at all. This is what is unfortunate. It is unfortunate that this bill has been brought up in a way that makes it impossible for our side to amend it.

Besides getting a vote on our bill, I was prepared to offer a series of amendments that focused on preventive care. I think if we are going to have a Health Week and we are going to have a bill, I want to start focusing on preventive care. We know it saves money. But we can't do that, either.

Count me as one who will not vote for cloture on this bill tomorrow, but count me as one who wants to have an open debate and amendment on a health insurance program that will be beneficial to our small businesses. I am sorry we are not going to be able to do it now.

Again, we are supposed to have a Health Week. Yet tomorrow I guess we will take all day tomorrow talking about the tax reconciliation bill, and then we are not going to be here Friday. What kind of Health Week is this? What kind of Health Week is it when we are not allowed to offer amendments and debate preventive health care, offer a different bill for the one before us?

I think the small business owners of America now know what is going on. I have heard from some who basically have been supportive of S. 1955 and they are backing off of it. They are saying no, we would rather have your bill, we would rather have the one that provides us with some tax credits so we can go out and join a bigger pool like the Federal Employees Health Benefit Program; so we can join a big pool and we can have preventive services: we can have the State mandates that are there now that cover quality. They would rather have that bill.

But I am sorry we probably will not be able to get it done this year and I think, as I said, that is not just unfortunate for us—heck, we have the best health care coverage. We have great health care coverage. The health coverage we have ought to be available to every American out there.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, one of the difficulties around here is the process we have to use. Another one is that nobody listens to anybody's debate. We have covered this in some detail earlier today, that relevant amendments would be accepted. The Durbin-Lincoln bill ought to be voted on. But it should not be voted on and then S. 1955 precluded from getting a vote. That is one of the possibilities in the organization and the rules that we have around here, that we could wind up voting on that one and skipping the vote on S. 1955 and saying: Look, all these people voted against that: that means they don't like health care for small business. But they wouldn't have gotten to vote for the one that they might have liked.

I went through a number of the reasons why S. 2510 has some problems. I object to people saying we ought to give everybody the same health care the Senators have. We ought to give them better health care than the Senators have. The only problem is we can't do either of those things. The bill that is on the floor by Durbin-Lincoln doesn't do either of those things. It is a different plan that uses kind of the same structure so we build the same kind of bureaucracy, except a lot bigger bureaucracy to handle all the people in America, and it limits all of the pools to each State because they will have to meet all of the mandates of each of those States instead of what we have in the Federal plan which is a national level of mandates.

We have our own level of mandates. We don't go by what the States do. But that is not what is in that bill. In that bill they would still have to go State by State, and if you go State by State, you can't form the kinds of pools that we need to be able to have the clout to negotiate a better price and to bring around the administration.

People say you want to get rid of mandates so that will save money. No. Every experiment, every minilab that has happened out there where small business people have been given the opportunity to band together and to do something, they have covered those mandates. They didn't give those mandates up.

How do you save money with this thing? Small businesses pay 35 percent for their administration. Big business, which we already excluded from all mandates, we excluded them from Federal control, we excluded them from State oversight and consumer protection, which is in my bill—it still has the State oversight and consumer protection in there—we gave the big businesses the wave on all of those things. They still kept the mandates. But where they saved the money is in administration. It costs them 8 percent to administer their plans. So 35 percent minus 8 percent means they save 27 percent over what a small businessman will do. And every 1 percent we can save on insurance brings 200,000 to 300,000 people back into the market. That is why we want to have associations to be able to offer plans under

State consumer protection, under the insurance commissioner's oversight.

But with some kind of a blended plan, they can cross State lines and have a uniform package, and they can have a big enough group so they can negotiate. That is what 1955 is about. We need to have a vote on that as well.

As far as mandates, Senator SNOWE is putting in a bill that will cover those basic things people are talking about.

The letter that the Senator read from—the American Diabetes Association—I talked about that a little bit earlier today. One of the difficulties we had in trying to do something with diabetes is that 42 States—it may even be 47 States—are doing something with diabetes, but no two do it alike.

Again, how do you blend across State boundaries unless you can get some kind of basic package? I know they will cover diabetes. Under the Snowe amendment, they will for sure.

The distressing part of their letter was, no matter what changes are made to the Enzi bill, defeat it. That is not a very reasonable approach by any disease group. That means that if I have an amendment that said find out everything that is done for diabetes and do everything for diabetes that is done anywhere, they would still be suggesting voting against my bill. I don't think that is a reasonable approach by any group.

The American Cancer Society wrote pretty much the same letter and said pretty much the same thing.

We are not trying to subtract, we are trying to add. We want people who are uninsured to come into the market, and we want people who already have insurance to be able to get more and better insurance for the same dollar. That is what employers are able to afford. We are trying to come up with a system such as that.

The only thing about filling the tree—which I agree with the Senator is gobbledygook—the only thing with that is to stick to small business health insurance.

There are another dozen things on insurance and health care that we ought to be debating. Each of them would take about 3 weeks to debate. At this point in the season, we are not going to get 3 weeks to debate anything. I am lucky to put together a few days to be able to talk about this. I hope to make more progress on that.

I have been working hard with everybody to try to come up with some kind of mechanism that will work. That is where we are on the bill. If we could do the things that are relevant to this, or also germane after cloture, then we could stay on the bill a little longer and keep working on it. If we don't get cloture, we are probably done with this discussion for the whole year. That will probably be the end of health care for the year. People have to keep that in mind when they are voting on cloture.

Even individual mandates can be brought up one at a time and put into the thing, or at least be voted on. The desire is not to keep votes from happening but to stick to small business health plans.

These folks have been asking us for 15 years for a change and some way to handle it. They have been encouraged several times because eight times the House has passed the association health plan. That was very exciting for them. They said I think we can get it. It never made it out of committee on the Senate side because there are some problems with the basic plan that the House passed.

When I got this chairmanship, I said we are going to do something to change this. We are going to find out what the objections are and see if there isn't a way to get something done that will get relief for the small businessman. The insurance companies were convinced that we were going to do something, so they sat down with me. The insurance commissioners had concerns, and they have always been one of the stakeholders. They sat down with me, and they had their representatives sit down with us days on end to work on some kind of a compromise. This is one.

Nobody is raving about it except the small businesses because they see it as an answer—not the final answer, not the total answer, but an answer—that moves closer to what they can afford to do. Again, it isn't by cutting mandates.

Mr. HARKIN. Mr. President, will the Senator yield?

Mr. ENZI. Yes.

Mr. HARKIN. He is a gentleman, and a good friend. I know he is serious about this because he is a small business owner himself.

As I said earlier—and I want to make sure we are clear—that under this gobbledygook, the filling of the tree—no one understands what we are talking about out there—because of the way the bill is laid down, the majority leader, under the rules of the Senate, today offered amendments to the bill so that we can't offer amendments. There is no way we can now offer amendments. If cloture is invoked tomorrow, then we have 30 hours on the bill, and that tree could stay filled. So we can never offer an amendment to this bill. We would then have a final vote on S. 1955 without being able to offer any amendments. Is that not so?

Mr. ENZI. Not quite.

Mr. HARKIN. Inform me.

Mr. ENZI. Even during the course of today and any other debate we have on this bill, we have said if there is a relevant amendment, we would consider taking that up and voting on it. One exception we have on that is the difficulty with Durbin-Lincoln. If we vote on that, that might be the only vote we ever get because the other side can block any further votes from happening because you would have to have unanimous consent to have a vote. So we would be blocked from ever having a vote on our bill.

Mr. HARKIN. That is the problem with this whole cloture process. Why didn't we try to reach a time agreement and an agreement on how many amendments would be offered? As I understand it, our side was willing to do that. Then we would not have this problem of cloture where we are precluded then from offering amendments.

As the Senator pointed out, if S. 2510 is offered, I don't know what would happen after that. The Senator said it wouldn't be offered. This whole thing with the cloture has screwed up everything.

Mr. ENZI. No. I wasn't suggesting that S. 2510 would pass. I was saying that a lot of Democrats would vote for it and it would fail. Then there will be no further votes on it. You folks could all say we voted for small business and the Republicans didn't vote for small business. It would be because the Republicans wanted S. 1955 with a few amendments which can be offered by both sides. That would happen postcloture. The only thing that happens postcloture is amendments have to be germane. That means they actually would have to apply to the bill. The Durbin-Lincoln bill is germane. Many of the things people talked about would be germane. What wouldn't be germane are some of the long-term debates and things people would like to do, namely the stem cell debate which we are going to have a debate on. They promised a vote on it. We don't know how much debate there would be with that; prescription drugs, Part D, and those would not be germane to the bill. Each of those would take about 3 weeks to debate.

Mr. HARKIN. I say to my friend, I think if agreements were made with this side and the other side, we could agree on time limits and structures without having this on us.

I also say to my friend, I think we should take 3 weeks to debate health care. We have been wasting so much time around here doing nothing. Now tomorrow we have tax reconciliation. So my friend from Wyoming is getting a day cut out of his deal. I think we ought to take 3 weeks to debate health care around here. It wouldn't bother me any.

Mr. ENZI. The Senator certainly is not the only one. I would love to have a lot of time. We have had a lot of bills that came out of committee already that could be brought up. We have some more that are going to come out next Tuesday. A lot of those I think would pass here by unanimous consent. I would love to have some agreement. The Senator knows how hard it is to get 1 week around here. We spent 3 days getting cloture to proceed. That is to proceed; that wasn't to actually do any votes on the bill. So we were offered the moment, but between the two sides we didn't get the moment.

Mr. HARKIN. I ask my friend, what was the vote on the motion to proceed?

Mr. ENZI. It was 98 to 2.

Mr. HARKIN. Then there was no problem with that.

Mr. ENZI. If there was no problem with it, why did we have to wait 3 days to get the vote?

Mr. HARKIN. We didn't have to wait 3 days to get the vote.

Mr. ENZI. I am talking about time limits and that sort of thing. Those requests were made between leaders to come up with some tight time agreements. It is beyond my pay grade.

Mr. HARKIN. It is beyond my pay grade, too. I wasn't involved in that.

Mr. ENZI. There were a lot negotiations to try to stick to small business and have some kind of a mechanism where the votes from both sides could be done. But there was not any agreement on that, so we are stuck in this kind of a situation where small business may be penalized once again.

Mr. HARKIN. That is a shame.

Mr. ENZI. If we get cloture, we could have a lot of debate on the small business stuff, not all of other ones. If we could get in a situation where we started doing these things a little quicker, with more time agreements, some of the more difficult ones could probably get some floor time. I am for that.

Mr. HARKIN. If we get cloture, we have 30 hours. Every Senator gets one 1 to speak. That is putting handcuffs on people; 30 hours, run the clock out. One person can get up and offer an amendment and that could be the only amendment we would have for that 30 hours. That is the way things work under cloture. It is not a good way to proceed. I think that is why some of us are upset. We want to help small business. I think there is a fair debate to be had between S. 1955 and S. 2510, with amendments. But somehow we are told that we are going to do this in 1 week. Monday is shot. We didn't do anything Monday. We had two votes Monday night. Tuesday, Wednesday, and then Thursday, tomorrow, is tax reconciliation. Health Week is 2 days. I don't think that is fair to small business, either. I think it is worth taking a couple of weeks around here to do it, and to do it right.

I thank the Senator for yielding.

Mr. ENZI. I am with the Senator.

Yes, it would be nice if we could wrap up something for small business. I think there is a plan there. I think there is a way to get there. I don't think it is going to happen without the cooperation of both sides in either coming to some time agreements or passing cloture.

We will have to wait and see what happens. I would wait until the end of next week to have a vote on either of them as long as we can do amendments. And I am excited about doing amendments. There are always perfecting things. No bill is perfect when we finish it. Even after conference it is never perfect. But it is usually much better than when we started. We need to have that process.

I thank everyone for their participation today.

Mr. FEINGOLD. Mr. President, I wish to speak today about the Medicare Prescription Drug Program. I opposed the final version of the legislation that created the Part D drug benefit, the Medicare Modernization Act, because I believed that it would not provide adequate relief for Medicare beneficiaries. I was concerned about the structure of the program, and worried that it would negatively affect Wisconsinites and other Americans who must quickly and affordably access prescription drugs. I have been trying to fix some of these problems since the program was enacted, but supporters of the program have been unwilling to consider these reforms. Instead, they have allowed these problems to remain, and the results, since the benefit was implemented in January, have been disastrous.

I have heard from a number of Wisconsinites who found the prescription drug plan enrollment process exceedingly confusing. Many people had difficulty finding a plan that would cover their prescriptions, while others could not get through to Medicare representatives to ask questions about the enrollment process. There have been breakdowns in the entire information process, and these failures by the insurance companies and the Centers for Medicare and Medicaid Services have sometimes completely blocked beneficiaries from accessing essential medications such as insulin, antipsychotics, and even immunosuppressants.

We can't afford to wait any longer in improving the Part D program so that it can better serve its beneficiaries. We need to minimize the negative effects of Part D's implementation problems and high costs. As part of this effort, I strongly support S. 1841, Senator BILL NELSON's, Medicare Informed Choice Act. This plan would allow beneficiaries extra time to navigate this confusing system by extending the enrollment period through the end of 2006. In addition, it would allow a one-time penalty-free change of programs for beneficiaries who have made a mistake in choosing their prescription drug plan.

Supporters of the Medicare prescription drug benefit have touted it as the vehicle that would supply affordable, easily accessible prescription drugs for seniors. The program has so far fallen far short of that goal. The outcry that I have heard from pharmacists, beneficiaries, and health care providers over the past couple months makes clear that the implementation of the program has been a disaster. This program has not provided either affordable or easily accessed drugs to many Medicare beneficiaries. Instead it has presented providers and beneficiaries with frustration, confusion, expensive medications, and sometimes no medications at all. It is unacceptable for individuals to go without life saving medications. Yet this is what has been happening in Wisconsin and across the country since this program commenced.

Since the beginning of January, I have received panicked phone calls from people in my State saying they were unable to receive drugs that they had been routinely getting at their pharmacy every other month. At the same time as I was hearing from people suffering from pain because they did not receive their pain medications, I read press releases from the Centers for Medicare and Medicaid that expressed satisfaction with the launch of the program, and boasted of the millions of participants in the program. There may be millions participating in the program, but too many of them cannot receive their drugs and too many pharmacists are unable to comply with the complicated regulations in the program. CMS should be focusing its efforts on addressing this emergency rather than disseminating public relations messages.

I have written Secretary Leavitt and Dr. McClellan repeatedly to express my concerns about Medicare Part D, including the approaching deadline. I hope that the administration will soon realize that it cannot continue to ignore these problems or hope they go away on their own, and that significant changes in the program are needed to better serve beneficiaries. I think it is time that CMS remember who this plan is supposed to serve: the people, not the drug and insurance companies.

We cannot sustain a great nation if we do not care for our elderly, sick, disabled, and home-bound. These are the people this drug plan is supposed to be serving, but they have been dismally let down. Let us make a simple change to the drug plan that will provide immense help to this group—extend the May 15 deadline. I urge the majority leader to bring up S. 1841 for a vote before the deadline passes.

Mr. OBAMA. Mr. President, over the past year and a half, I have spent a few days every month holding townhall meetings around my home State of Illinois. I have now done almost 50 of these in cities and towns all over the State.

After I give a short presentation, I open the floor to questions from the audience. And without fail, one of the first questions asked at every townhall is about health care. Too many hard-working Americans can't afford their medical bills or health insurance premiums. Too many employers are finding it difficult to offer the coverage their employees need. And sadly, too many people in the world's wealthiest country have no insurance at all.

When Senator FRIST declared the second week in May as "Health Week," I naively assumed that maybe, just maybe, we would actually begin a real discussion about health care in the United States. I thought we would talk about serious and meaningful ways to address the health care problems faced by average Americans—important problems like: the 45 million Americans without health insurance; the worsening epidemic of chronic diseases, including asthma, obesity, and diabetes; the persistent and pervasive problems with patient safety and health care quality; or the status of emergency and pandemic avian flu preparedness.

I know that I am not the only Senator who has been disappointed. A number of my Democratic colleagues have mentioned other pressing, critical issues on the floor this week, including stem cells, the looming enrollment deadline for Medicare Part D, and drug importation.

Yet so far we have had only a sham discussion on medical malpractice, revisiting the same old bills that have been rejected in the past that do not represent any real attempt to compromise and find solutions to the problems that many of our doctors and patients face.

And now, the Senate has turned its attention to the Enzi small business health plan. I know that small businesses need help in providing health care coverage to their employees. Small businesses are paying the price for this Congress's refusal to seriously embrace comprehensive health care reform, to expand coverage and contain costs.

Yet this bill is not the solution, and it is not part of a solution. In fact, some have described it as the antisolution.

In my opinion, any health coverage reform bill that passes the Congress should meet, at a minimum, three criteria: First, it may sound crazy, but I think a health coverage bill should actually expand coverage. The Enzi bill has been estimated to expand coverage to less than 1 million of the 45 million uninsured Americans. This is laughable.

In fact, some States will actually see an increase in the number of uninsured. In New York, for instance, 28,000 people could lose their health insurance coverage because of this bill.

Second, a good health reform bill should ensure comprehensive, quality health care. Over 200 health professional and patient advocacy groups have expressed their opposition to this bill, because it will promote health plans that won't offer the basic health care services that we all depend upon and take for granted, such as maternity care, mental health services, diabetes care, dental care, and so forth.

I have rarely seen such a large number of groups come together as swiftly, as vociferously, and as united as these groups have been against this bill.

Third, a good health reform bill should have a positive effect on the health insurance market. Will the market be stabilized and strengthened, or will it be weakened and fragmented? Again, the Enzi bill does not pass muster. Over 40 attorneys general have expressed serious concerns about this bill's preemption of State protections and laws and its restrictions on State oversight and regulation.

This so-called health week makes a mockery of the efforts of those who are working to achieve real health care reform. While we in Congress are squandering precious time on this bill, our States are moving ahead, exerting leadership because Congress has failed to act.

Illinois is in the process of implementing a program called All Kids, which will ensure that every child in the State is covered by health insurance. And we all know that Massachusetts just passed a sweeping, universal health coverage bill, negotiated and passed in bipartisan fashion.

In contrast, the last major health insurance reform passed by Congress was in 1997, when the SCHIP program was created. Even though the number of uninsured has continued to rise, almost 10 years have gone by without a serious congressional effort to address this crisis.

This is wrong. The Durbin-Lincoln amendment, which I have cosponsored, is a good example of how we can meaningfully expand health coverage without sacrificing the quality of care received.

The central tenet of the amendment is that small business employees should have access to the same health insurance coverage that members of Congress and other Federal employees receive themselves.

The health care problems facing our country are serious ones, and the solutions will not be easy. But we need to have a serious debate about this issue—a debate that addresses the whole problem and isn't just about scoring political points in an election year.

The American people expect as much, and I hope this failed attempt at a "health week" is not the last chance we will have to talk about an issue that is the chief financial concern of millions upon millions of people in this country.

Mr. LEAHY. Mr. President, for all of the recent talk from the majority about up-or-down votes, and allegations of Democratic obstruction on amendments, I find it astounding that the Republican majority has locked up Senator ENZI's bill and will not allow amendments to be offered. We now face exactly the type of obstruction the majority has decried so loudly. On a bill for which Senator ENZI has urged full debate, the Republican majority has now decided the Senate and the American people we represent should not get the benefit of the full legislative process. For example, I am being prohibited from offering an amendment to help prevent medical malpractice insurers from bid rigging, price fixing, and other anticompetitive behavior that hurts doctors and patients. For another, we are prohibited from offering an amendment to extend the arbitrary deadline for seniors to sign up for prescription drug benefits without a penalty. Why not provide our seniors more time and assistance in examining the prescription drug provisions that have frustrated so many? Seniors did not grow up in the computer age and many are not trained accountants who can sift through the confusion. They should not be penalized by an arbitrary cutoff date which could easily be extended.

This week, the Senate has already refused to proceed to legislation that would have abridged our citizens' access to justice when they are injured by medical errors. Those bills purported to lower medical malpractice insurance costs when, in fact, it is not payouts that have led to rising insurance premiums. The Senate has done the right thing by rejecting these bills once again.

The debate that preceded the votes demonstrated that capping medical malpractice awards is not the way to lower insurance premiums, which we all agree are unfair to the men and women who devote their lives to the care of others. There can be no disagreement that exorbitant insurance costs make it harder for medical professionals to do their jobs. Health care providers, like all Americans, deserve fair treatment in the marketplace. We also know that the insurance marketplace is unique, because unlike other business interests, insurers are not subject to some of the most important Federal antitrust laws.

High malpractice insurance premiums are not the result of malpractice lawsuit verdicts. This myth has been repeatedly discredited. They are the result of investment decisions by the insurance companies and of business models geared toward ever-increasing profits. But an insurer that has made a bad investment, or that has experienced the same disappointments from Wall Street that so many Americans have, should not be able to recoup its losses from the doctors it insures. The insurance industry should have to bear the burdens of its own business model, just as the other businesses in the economy do.

High malpractice premiums for doctors can occur because there is nothing stopping insurers in a soft market from collectively raising rates and stifling competition. Any other business would be prohibited from this activity, and I have heard no arguments as to why the insurance industry should be treated differently. The insurance industry is special because it is exempt from most Federal antitrust laws. The McCarran-Ferguson Act permits insurance companies to operate without being subject to those laws, and our Nation's physicians and their patients have been the worse off for it. Using their exemption, insurers can collude to set rates, resulting in higher premiums than true competition would achieve—and because of this exemption, enforcement officials cannot investigate any such collusion. If Congress is serious about controlling rising premiums, we must objectively limit this broad exemption in the McCarran-Ferguson Act.

The amendment I wanted to propose modifies the McCarran-Ferguson Act with respect to medical malpractice insurance, and only for the most pernicious antitrust offenses: Price fixing, bid rigging, and market allocations. Only those anticompetitive practices that most certainly will affect premiums are addressed. I am hard pressed to imagine how anyone could object to a prohibition on insurance carriers' fixing prices or dividing territories.

After all, the rest of our Nation's industries manage either to abide by these laws or suffer the consequences. If medical malpractice insurers are certain that malpractice lawsuits drive their rates, then there should be no reason to object to bringing their business within the reach of the same Federal laws that apply to all others.

Many State insurance commissioners police the industry well within the power they are accorded in their own laws, and some States have antitrust laws of their own that could cover some anticompetitive activities in the insurance industry. My proposal, which I wanted to offer, is a scalpel, not a saw. It would not affect regulation of insurance by State insurance commissioners and other State regulators.

But there is no reason to perpetuate a system in which Federal enforcers are precluded from prosecuting the most harmful antitrust violations just because they are committed by insurance companies.

This amendment is a carefully tailored solution to one critical aspect of the problem of excessive medical malpractice insurance rates. I am sorry that I was stopped by the Republican leadership and could not offer this narrowly drawn legislation as a positive step towards improving the American health care system, which would help ensure that doctors and patients are treated fairly.

Mr. KENNEDY. Mr. President, the Senate is currently considering legislation proposed by Senator ENZI that would profoundly change health care coverage. The proposal has been modified from the version approved by our committee.

It is important for the Senate to understand fully the impact that this legislation would have on millions of Americans. I have requested an analysis of this modified proposal from Professor Mila Kofman of the Georgetown University Health Policy Institute.

I ask unanimous consent to have this analysis printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GEORGETOWN UNIVERSITY,
May 10, 2006.

SENATOR EDWARD KENNEDY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR KENNEDY: This is a response to your request for an analysis of the proposed rating structure in the Manager's Amendment to S. 1955. This also addresses your question on how the proposed amendment compares with the current NAIC model law on small group rating:.

In general, the proposed Manager's Amendment would not improve the bill. Under the new proposed rating structure there would be no new protections for consumers and a significant loss of existing state-based protections in the area of premiums. This loss of protections will adversely impact people with medical needs, older workers, and women of child-bearing years. This will also have a negative impact on "micro" groups (employers with fewer than 10 employees) because insurers will be allowed to charge these groups higher rates solely on the basis of the employer's size.

Here is a brief summary of how the proposed amendment would work:

Associations: The amendment clarifies that associations certified as small business health plans (by the U.S. Department of Labor under Title I of the bill) would enjoy a complete carve-out from small group rating state pools in both adopting and non-adopting states. Each certified association would be allowed to have their own premium rate not tied to the rest of the small group market. This would segment the small group market. Assuming associations attract healthy businesses (there are many ways that the bill would allow associations to "cherry-pick" healthy people), any restrictions on rates in the rest of the small group market would be undermined. Rates between association coverage and coverage outside the association could vary broadly. For a discussion of this, please see attached paper "Health Insurance Regulation by States and the Federal Government: A Review of Current Approaches and Proposals for Change."

In adopting states, the bill clarifies that premiums within an association may vary using the same standards that would apply in small group market (see discussion below). This would be at least 500 percent variation in rates for businesses covered by the association or if the state allows, variations in rates could be even greater.

In non-adopting states, it is unclear whether the rating standards in the bill would even apply. If they apply, then a variation in premiums of 500 percent would be allowed for businesses covered by an association (so some employers would pay 5 times more than others for the same coverage within an association).

Small group market: In adopting states, insurers are required to vary rates by at least 500 percent (called "total variation limit"). This means that states can allow insurers to have greater variations in rates. Using age, health, claims, and duration factors, variations of at least 300% are required. Note that insurers must use age, health, or both and may use duration and claims experience. The option is given to insurers. If a state wants to adopt this approach and become an "adopting state," it must allow insurers to use age and health. This requirement essentially eliminates community rating and adjusted community rating by allowing insurers to adjust rates based on health. Allowable factors included in the 500 percent minimum required variation are: industry, geography, group size, participation rate, class of business, and wellness programs. Note that gender is not listed. The bill is unclear whether gender rating is prohibited or is added to the 500 percent variation.

At renewal, the same rules would apply. This means that premiums may increase at least by 500 percent if a small business has high claims the year before.

In non-adopting states (generally states with greater protections for consumers), the language in the bill is ambiguous. The proposal says "The plan may not vary premium rates by more than 500 percent]." The term "plan" is not defined. If the term "plan" means an "insurer," then one possible interpretation is that premium variations are limited to 500 percent (if insurers chose to follow this new federal standard). What is clear, however, is that adjusted community rating and pure community rating would be preempted.

Renewal rates would limited to trend plus 15 percent to reflect claims of small business.

Importantly, in non-adopting states insurers would have a choice of whether to follow a state's existing laws or the new federal one. As a way of example, in DC, which has no rating laws, assuming DC chooses not to adopt the bill's rating structure and is therefore a non-adopting state. Insurers are not likely to use the rating restrictions in the bill.

The proposed rating structure varies significantly from the NAIC model law for small business health insurance premiums. By way of background, the National Association of Insurance Commissioners (NAIC) in the early 1990's adopted and since replaced a model law that provided for rate bands that permit premium variation up to 200 percent based on health status. The old model, which is the basis for the original bill, allowed further premium variation based on age, gender, industry, small business group size, geography, and family composition. Rates based on adjustments for these factors had to be actuarially justified but were not limited except for industry, which was limited to a 15 percent variation. The old NAIC model act permitted a wide variation in rates, allowing for a price difference of 26 to 1, or more. This means that for the same policy an insurer could charge a business or a person $100 per month or $2600 per month depending on risk and other factors. Higher rates under the model would be permitted as long as there was actuarial evidence to support wider variations.

Shortly after adopting its original model with rate bands, the NAIC replaced it with a model law for small groups that requires adjusted community rating, prohibiting premium surcharges based on health or other risk characteristics (like claims experience and durational rating). The current NAIC model act limits premium surcharges based on age to 200 percent; it prohibits insurers from varying small group premiums based on gender of people in the group or an employer's size. Today 12 states follow the current NAIC model act. Ten states require all insurers to use community rating or adjusted community rating for all small group policies. Two others, Michigan and Pennsylvania, require Blue Cross Blue Shield plans (their largest insurers) and HMOs to use adjusted community rating. The proposed amendment would preempt these state rating protections.

Please let me know if you need additional information. Thank you for the opportunity to address your questions.

Very truly yours,

MILA KOFMAN, J.D.,
Associate Research Professor.

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending modified substitute amendment to Calendar No. 417, S. 1955, Health Insurance Marketplace Modernization and Affordability Act of 2005.

Bill Frist, Johnny Isakson, Sam Brownback, John Thune, Thad Cochran, Wayne Allard, John Ensign, Richard Shelby, Larry Craig, Ted Stevens, John McCain, Lamar Alexander, Norm Coleman, Judd Gregg, John E. Sununu, Pat Roberts, Craig Thomas.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, I ask unanimous consent that on Thursday, May 11, immediately after the time for the two leaders, the Senate begin consideration of the conference report to accompany H.R. 4297, the Tax Relief Extension Reconciliation Act; provided further that 8 hours remain out of the statutory time limit and that it be equally divided. I further ask consent that following the vote on the adoption of the conference report, and notwithstanding rule XXII, there be 60 minutes of debate, equally divided, between the chairman and ranking member of the HELP Committee or their designees prior to a vote on the motion to invoke cloture on the modified substitute to S. 1955, the small business health plans bill, with no intervening action or debate, and the live quorum waived.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, may I inquire of the majority leader, at this point, are we closing down debate on this bill?

Mr. FRIST. Mr. President, through the Chair, on the small business reform bill, we will have 1 hour prior to the cloture vote. And during the day tomorrow, I expect people will be coming to the floor talking, as well, on small business health plans.

Mr. DURBIN. If I may ask through the Chair to the majority leader, as I understand the procedural position we are in, earlier today the majority leader filled the tree, as we say, to preclude any further amendments. And now, as I understand it, the majority leader has filed a cloture motion, which basically means we are going to bring this to a close without further amendments, without further debate, one up-or-down vote on cloture?

Mr. FRIST. That is correct. Someone could offer an amendment tomorrow prior to the cloture vote, if they so desire.

Mr. DURBIN. If I might ask the majority leader through the Chair. I asked earlier today if we would be allowed to bring up the stem cell research issue, which the majority leader has expressed his support of, and whether we could bring that up for a vote this week while we are on Health Care Week so we could address this issue of medical research.

I would like to ask the majority leader through the Chair if we could bring it up before cloture or after cloture?

Mr. FRIST. Mr. President, through the Chair, the interest in stem cells will be debated in the future, at a time that is mutually set by the Democratic leadership working with the Republican leadership. Stem cells can be discussed but will not be voted upon before this cloture motion.

Mr. DURBIN. I thank the majority leader.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINAL PASSAGE OF H.R. 4939

Mr. ENZI. Mr. President, I wanted to take this opportunity to discuss why I made the difficult decision to vote against H.R. 4939, the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery.

The United States is involved in operations overseas while dealing with natural disasters such as Hurricanes Katrina and Rita. On May 4, 2006, I voted against a $109 billion spending bill that was $17 billion more than what the President originally requested. Of course, on occasion, times call for emergency spending, but this bill goes far beyond what anyone would call emergency spending.

Many items in this bill do not constitute "emergency" spending. The bill would funnel millions of dollars to a road in Hawaii, millions of dollars in grants for research not related to emergencies, and still millions more to subsidize the volunteer work program AmeriCorps. Are these projects necessary? Possibly, but they are not an "emergency." These spending proposals should go through the annual authorization and appropriations process. Congress must tighten the definition of what qualifies as an emergency. The use of supplemental spending bills must be saved for the true emergencies. True emergency funding is being bogged down with nonessential projects that have no business being in an emergency supplemental spending bill.

We must not saddle our children, their children, and their children's children with debt that we incurred because we did not properly restrain our spending. My very first speech in the Senate Chamber was on the need for a balanced budget. In 1997, I said that the Federal Government must learn to live within its means. Without any restraint on spending, we are simply adding onto our Nation's enormous debt. Unfortunately, this is still true today.

I recently visited American troops stationed in Kuwait. I always have and will continue to support our troops. I appreciate the sacrifices they make and the sacrifices of the families, friends, businesses and communities they leave behind.

Our American service men and women should have the financial resources they need to fight this crucial war on terror. This bill should be about voting to provide financial stability that allows the U.S. Government to support our troops and our veterans into the future. It is unfortunate that other nonemergency spending projects made their way into an important bill that included vital funding for our troops. I wish that the Senate would have followed the President's proposal and only included funding for real emergencies.

HONORING OUR ARMED FORCES

LANCE CORPORAL STEPHEN R. BIXLER

Mr. LIEBERMAN. Mr. President, I rise today to pay tribute to LCpl Stephen R. Bixler of Suffield, CT.

Corporal Bixler, a member of the 2nd Reconnaissance Battalion, 2nd Marine Division, II Marine Expeditionary Force, Camp Lejeune, NC, was killed in action on May 4 while conducting combat operations against enemy forces in Anbar Province, Iraq. He was struck while on foot patrol by an improvised explosive device on his second tour of duty in Iraq. Corporal Bixler is fondly remembered as a quiet but strong leader with strength of character and self-assurance unusual for someone of his age. As an Eagle Scout and former senior patrol leader in his Boy Scout troop, Corporal Bixler enjoyed helping others. He joined the Marines shortly after graduating from Suffield High School in 2003 and served in Haiti prior to his tour in Iraq. He was well received and respected when he proudly visited his high school, where he had been admired as he excelled at academics and athletics, to talk to students about his experiences. He was a true patriot and defender of our great Nation's principles of freedom of justice. Corporal Bixler served as an example of the potent American spirit, which permeates this Nation's history.

I am both proud and grateful that we have the kind of defender exemplified by Corporal Bixler serving in the Persian Gulf. Our Nation extends its heartfelt condolences to his family. To his father, Richard, his mother, Linda, and sister, Sandra, we extend our profound gratitude for sharing this outstanding Marine with us, and we offer our prayers and support.

STAFF SERGEANT MARK WALL

Mr. GRASSLEY. Mr. President, I rise today to honor the life of a truly brave American who has passed away while defending our country. SSG Mark Wall died April 27, 2006, in Mosul, Iraq, where he was serving his country as part of Operation Iraqi Freedom. Staff Sergeant Wall was assigned to C Company, 2nd Battalion, 1st Infantry regiment in Fort Wainwright, AK. He was deployed to Iraq in August of 2005 and served near Mosul. I would like to extend my deepest sympathies to his parents, Arthur and Helen Wall, his two brothers and his sister.

Mark Wall graduated from Alden High School in 1997 where he participated in basketball, football, track, chorus, and band. He was a Boy Scout, attaining the rank of Eagle Scout in 1997. He also participated in 4-H, garden and photography projects, and FFA. Staff Sergeant Wall joined the Iowa National Guard in February of 1997. He attended classes at Ellsworth Community College studying agricultural business and worked as an electrician's helper before joining the Active-Duty Army in May of 2000.

I understand that Mark had a passion for the outdoors and took advantage of that passion while he was in Alaska, prospecting for gold, hiking, fishing, and skiing.

I would like to again give my condolences to the family of SSG Mark Wall. He served his country with pride and passion, and we are all saddened by his loss. I would like my colleagues in the Senate to take a moment and remember the life of Mark Wall and remember the tremendous sacrifice he gave for us and our great country.

SITUATION IN DARFUR

Mr. FEINGOLD. Mr. President, I join the American public and the international community in congratulating the signatories of the recent peace agreement signed in Abuja, Nigeria on May 5, 2006. I hope that this peace agreement marks a dramatic turning point in bringing about a solution to the genocidal conflict that has ravaged the Darfur region of Sudan. The administration deserves to be commended for getting the Sudanese government and the Sudan Liberation Army to the table and for maintaining a commitment to completing this peace process. This does not mean, however, that we or the international community can return to complacency, satisfied that we have done our part. Quite the contrary.

At this point, it is essential that the peace agreement be expanded to include those parties that have not yet signed. Those without a stake in the current political power and wealth sharing agreements will have few incentives to help build peace in the region, and will most likely be spoilers to the peace agreement. These parties must be encouraged to join and abide by the accord. Additionally, it is critical that the international community, working with the African Union, the United Nations, and regional partners, develop a comprehensive strategy to ensure that the peace agreement is implemented and adhered to by both the Government of Sudan and the Sudan Liberation Army. The Darfur region is facing an extremely fragile period. Now is the time to show international resolve for quelling the remaining instability throughout the region and for kick-starting all of the elements of the peace agreement. We must also move quickly to institute and strengthen mechanisms and systems to ensure that the parties to not backslide in to full-scale conflict.

In addition, we must strengthen the peacekeeping capabilities of the African Union and ensure that it has the capacity to help monitor and enforce the peace agreement. The African Union has worked hard to execute its broad and far-reaching mandate with limited resources and experience, and it will need support to be a contributor to establishing a lasting peace in the region. We must also work to introduce a United Nations peacekeeping mission into the region as quickly as possible. I applaud President Bush's decision to send Secretary Rice to the United Nations to seek a resolution authorizing a U.N. peacekeeping force in Darfur. I supported the recent amendment to the fiscal year 2006 emergency supplemental appropriations bill adding $60 million to fund a U.N. peacekeeping force in Darfur, matching similar legislation in the House. With this clear message of support from the U.S. Congress, it is now up to the administration to work with our friends and allies at the U.N. to reach agreement on a resolution authorizing a peacekeeping force, and exert robust diplomatic pressure on those who would try to block it.

We must not forget the massive humanitarian tragedy that is still unfolding. Even as the peace deal was being finalized, the U.N. World Food Program, WFP, announced that it would have to cut rations by over 50 percent in Darfur beginning in May. Many of the over 2 million refugees who have been forced from their homes and their livelihood are on the brink of starvation, and this already massive tragedy could yet take an even more devastating turn. Systematic gender-based violence against women and girls continues unabated and basic safety and security continue to be denied to Darfurians. Humanitarian organizations trying to work in the region face increasing difficulties in fulfilling their mission, and safe areas have diminished to unprecedented levels. The situation, in short, remains disastrous and the lives and well-being of millions hang in the balance. If anything, we must increase our efforts to protect the region most vulnerable, and to support Darfurians in this fragile period. Failure to do so could have a negative impact on the peace agreement.

Looking ahead to the implementation of the peace agreement and to establishing peace in the region, it will be critically important to address the crimes against humanity that have been committed, and to take a stand against the cycle of impunity and injustice that we have seen occur over the last 3 years. Those who commit crimes against humanity must know that the world is watching, and that they will be held accountable for their actions.

In conclusion, we have reasons to be optimistic. We must not ignore, however, the fact that now the hard work begins.

A MONTANA VISIT

Mr. BAUCUS. Mr. President, I am proud to rise today and announce a historic event in my home State. For only the second time in the history of Montana, our great State will welcome the President of Ireland. President Mary McAleese has displayed courage, intellect, determination, and passion as she has guided her country for nearly a decade. During this time her country has experienced unprecedented growth, quickly rising to the upper echelons of nations.

President McAleese will make an inaugural pilgrimage to a city whose history has been intimately tied with Ireland's for more than a century. In 1882, a lone Irish immigrant, driven by the work ethic instilled in his homeland and his desire to succeed, made a discovery that would forever change the face of Montana, the West, and America. The city was Butte, MT, and the man was Marcus Daly. Three hundred feet into the belly of the Earth, Daly set off an explosion that unearthed a revolution. Before his amazed eyes lay one of the riches veins of copper the world had every seen, and with it the unknowing hopes of millions of Irish immigrants.

Butte, and its neighbor to the northwest Anaconda, quickly became thriving metropolises turning these mining communities into a virtual mosaic of nationalities and ethnicities. When walking down the street, one could hear the chatter of Eastern Europeans, smell cooking from the Middle East, or view native dress from Scandinavia. But above all was the voice of the Irish. The Irish made Butte their own, easing their longing for their native Eire by molding the city to reflect the land from their past. The streets were vibrant with festivities straight from the homeland; these hard-working immigrants, ranging in professions from doctors to lawyers to miners and gandy dancers, populated this young bustling city and gave it the feel of an island thousands of miles away.

As the years passed, the pride of the Irish continued to ring strong, and with it the city of Butte. Butte quickly became the heart of Montana, and shaped the figures whose names would forever be remembered in the lore of our State. Names like Mike Mansfield and Burton Wheeler will be etched in the hearts and minds of Montanans for many years to come, and with them the tradition of the Irish.

Today, Butte remains a vibrant city, as the new generation of Irish-Americans listen to the whispers of their ancestors and continues to uphold the proud tradition of being Butte Irish. With the same values that turned this sleepy community into the heartbeat of the West, the people of Butte continue to thrive and the city remains as strong as the immigrants who first settled it.

As President McAleese is embraced by the spirit of this magnificent city and by the residents who carry on the proud tradition of hailing from Butte, I say: may the road rise to meet you, may the wind be always at your back, may the sun shine warm upon your face, the rains fall soft upon your fields and, until we meet again, may God hold you in the palm of His hand.

THE HONORABLE STEPHEN M. McNAMEE

Mr. KYL. Mr. President, it is with great pride that I rise today to honor a respected jurist and dedicated public servant upon the occasion of his stepping down as the Chief Judge of the United States District Court for the District of Arizona.

The Honorable Stephen M. McNamee earned his bachelor of arts in history from the University of Cincinnati in 1964. He received his master of arts degree in 1967 and his juris doctor degree in 1969 from the University of Arizona.

Judge McNamee began his professional career as an assistant U.S. attorney, a position he held from 1971 to 1985. During that time, he was chief of the civil division in Tucson, chief assistant U.S. attorney, and first assistant U.S. attorney.

In 1985, President Reagan appointed him U.S. attorney for the District of Arizona. He made prosecuting violent crime within the 21 Native American communities in Arizona a top priority, particularly the prosecution of those who victimize Native American children. He also implemented model collection procedures for fines and penalty assessments of Federal defendants—the source of funding for the entire Victims of Crime Act program. Additionally, he testified before congressional committees on behalf of the Department of Justice regarding a variety of issues from terrorist threats to the southwest border, to child abuse and neglect on Indian reservations, to theft of Indian artifacts from archeological sites, to the reauthorization of the Victims of Crimes Act of 1984. At the behest of Attorney General Richard Thornburgh, he helped organize the first major conference to bring together American and Mexican criminal justice officials.

In 1990, he was appointed to the Federal bench by President George H.W. Bush, and in that capacity he developed a similar program to bring Mexican and U.S. Federal judges together to learn about each other's processes and procedures. As the chief judge of the District of Arizona, Judge McNamee managed a burgeoning docket. Since 1999, the filing of criminal cases went up 80 percent and civil case filings went up 59 percent. Nevertheless, under his leadership, the number of cases pending for 3 years or more has declined nearly 20 percent.

Judge McNamee has been an active liaison to Congress for the Administrative Office of the United States Courts and the Federal judiciary. He was appointed to the board of directors of the Federal Judges Association and has served on several Ninth Circuit and District of Arizona committees addressing a wide range of issues, from capital cases to racial, religious, and ethnic fairness to security issues.

As a distinguished member of the community, Judge McNamee has been the recipient of almost two dozen international, national, and State commendations and awards. He exemplifies the highest standards that we have come to expect from our judiciary, and we thank him for his service.

GREEN MOUNTAIN COFFEE ROASTERS: TOP CORPORATE CITIZEN

Mr. LEAHY. Mr. President, it gives me great pleasure to congratulate Mr. Bob Stiller, president and chief executive officer, and the 600 employees of Green Mountain Coffee Roasters on their selection as the Nation's top corporate citizen by Business Ethics Magazine. In the best traditions of Vermont, Green Mountain Coffee Roasters is about more than making a profit—they are about fostering a strong commitment to corporate social responsibility.

Through the company's support of organizations like the Rainforest Alliance, a non profit dedicated to protecting ecosystems, and Coffee Kids, an international nonprofit seeking to improve the quality of life for children and families in coffee-growing communities, Green Mountain Coffee Roasters has been a pioneer in the fair trade coffee movement. The company has also taken its socially responsible mission into the halls of our government, when, in 2002, Green Mountain formed a joint alliance with the U.S. Agency for International Development aimed at improving the livelihoods for those in improvised coffee growing regions.

Green Mountain has maintained these strong corporate ethics while continuing to build a robust earnings record. In 2005, the company reported revenue of $161.5 million, with net income of $9 million, a 15-percent increase over the year prior. And in the first quarter of fiscal year 2006, Green Mountain's fair trade coffee represented 26-percent of total sales, an increase of 68-percent compared to the same period last year.

I commend this outstanding Vermont company and ask unanimous consent that the Business Ethics article naming Green Mountain Coffee Roasters as the Nation's top corporate citizen be printed in the RECORD, along with a recent editorial from the Burlington Free Press.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Business Ethics Magazine, Spring 2006]

100 BEST CORPORATE CITIZENS FOR 2006—CELEBRATING COMPANIES THAT EXCEL AT SERVING A VARIETY OF STAKEHOLDERS WELL

"We take them coffee picking, and they do some hand sorting of beans in the hot sun," says Winston Rost, Green Mountain Coffee Roaster's director of coffee appreciation, describing the annual trip he leads of a dozen employees, visiting coffee-growing cooperatives in Vera Cruz and Oaxaca, Mexico. With a newfound appreciation for how hard the work is, some roasters say they'll never spill another bean again, Rost adds. This kind of attention to the human element of business offers a hint at why Green Mountain Coffee of Waterbury, Vt., is No. 1 this year on the list of the 100 Best Corporate Citizens.

Since its founding in 1981, the company has been socially and environmentally active, "but it wasn't all that extensive or organized at first," recalls CEO Bob Stiller. Green Mountain upped the ante in 1989 when it formed an environmental committee and created a rainforest nut coffee to support the Rainforest Alliance, a non-profit dedicated to protecting ecosystems. The company has grown increasingly active in the countries where coffee is grown and has been a pioneer in the fair trade movement, which pays coffee growers stable, fair prices. But the biggest change came in the early 1990s when the company began sending its employees on trips to see where the coffee is grown. Many employees "said it changed their lives," Stiller adds.

Green Mountain, with 600 employees, saw 2005 revenue of $161.5 million with net income of $9 million, a 15 percent increase over the year prior. Since 1988, it has donated more than $500,000 to Coffee Kids, an international nonprofit seeking to improve the quality of life for children and families in coffee-growing communities. Through the Coffee Kids program, the company supports a micro-lending facility in Huatusco, Mexico and a sustainable sanitation system in Cosaulan, Mexico. It also has provided financial support to the FomCafe cooperative's quality control training program, which helps farmers earn higher profits for coffee.

In 2006 Green Mountain will release its first corporate responsibility report. "We are focusing on measurement so we can understand the economic and social impact of the company and create indices so we can better focus those efforts," Stiller says. "Just the process of getting all that information in one place is valuable," notes Michael Dupee, vice president of corporate social responsibility. "It makes you think about and gain insight into what's working and what's not, so even if you never published anything, it's worthwhile."

In 2004 the company expanded from one executive in social responsibility to three. Besides Dupee's position, there is a director of sustainable coffee and a vice president of environmental affairs. Some 45 percent of Green Mountain's coffee is purchased farmer-direct, which cuts out the share middle men take. And 20 percent of coffee sold is certified fair trade, which incorporates principles of environmental sustainability and respect for cultural identity, while guaranteeing growers minimums of $1.26 per pound when commodity prices might be far lower. Consumer interest in fair trade is growing, Stiller says, "because through their purchases they are wanting to make a difference in the lives of growers."

Efforts like these have earned Green Mountain a spot in the top 10 on Business Ethics' list for four years running. Its meticulous attention to corporate social responsibility conveys well what the 100 Best Corporate Citizens list is about. The best-managed firms today—in this era when societal expectations of business are rising—can no longer focus solely on stockholder return. Companies that aim to prosper over the long term also emphasize good jobs for employees, environmental sustainability, healthy community relations, and great products for customers.

Seeking to put numerical ratings on service to these various stakeholder groups, the 100 Best Corporate Citizens list uses data provided by KLD Research & Analytics of Boston. It employs statistical analysis to identify those major public U.S. companies that excel at serving a variety of stakeholders well, using eight measures of service: stockholders, community, governance, diversity, employees, environment, human rights, and product.

[From the Burlington Free Press, Apr. 29, 2006]

WATERBURY COFFEE FIRM DESERVES HIGH PRAISE

Vermont should take pride in the accomplishments of Green Mountain Coffee Roasters Inc., the Waterbury company named the nation's top corporate citizen by Business Ethics magazine.

For this company, which employs 600 people, the human dimension clearly matters. Employees, the local community and coffee workers in far-away places have benefited from Green Mountain Coffee's refreshing divergence from the standard of bottom-line business.

In its annual "100 Best Corporate Citizens," Business Ethics magazine praised Green Mountain Coffee for its corporate social responsibility, in particular its commitment to fair trade, a Free Press story said. Fair trade ensures coffee growers are paid fairly with a guaranteed minimum price. Sales of the company's fair trade coffee have done extremely well, especially with a lucrative deal signed last fall with McDonald's restaurants in the Northeast.

Not only are the company's ethics admirable, Green Mountain also makes money—a winning combination that other businesses should heed for long-term success.

Within the organization, employees receive a firsthand education on the product they handle. Every year, a group of U.S. workers travel to coffee-growing areas in Mexico to experience the hard labor of picking and sorting beans. According to the magazine's Web site, the annual trips have given these employees a real appreciation of the work done in Mexico. It can be a life-changing experience.

The magazine, which has compiled the corporate citizens' list for seven years, has included Green Mountain Coffee in four of those years, including a second place last year. Chittenden Corp. was the only other Vermont business on the list, coming in at 26th place. The bank also deserves recognition.

To compile the list, eight measures of service are considered by Business Ethics: stockholders, community, governance, diversity, employees, environment, human rights, and the product, the magazine's Web site said.

There are many companies in Vermont that take their social responsibilities seriously. In 1990, Vermont Businesses for Social Responsibility was created by a group of businesspeople who shared the belief that companies have a duty to their employees, the environment and their communities as well as to their stockholders. Last month, the organization named Green Mountain Power of Colchester its "Large Company Leader of the Year" for the company's socially responsible approach to business. It's an impressive award, and a rare one for a utility.

With companies like Green Mountain Coffee, Chittenden Corp., and Green Mountain Power in our midst, the bar has been set high for other companies in the state and across the country. Bravo to them for leading the way.

ADDITIONAL STATEMENTS

HONORING JANE HUNN

• Mr. BAYH. Mr. President, I rise today to pay tribute to a remarkable science teacher, Jane Hunn, from Tippecanoe Valley Middle School in Akron. Last week, Jane was honored with the 2005 Presidential Award for Excellence in Mathematics and Science Teaching, the Nation's highest honor for teaching in these fields.

Jane is the only winner from Indiana and one of just 100 middle and high school teachers nationwide to receive this prestigious award. This award is an extraordinary honor to Jane. It recognizes her hard work and dedication to her students and their academic achievement.

Now more than ever, education is the key to greater personal opportunity. Here in Washington, I have fought to ensure that education is available and accessible to all our Nation's students. However, the real, heroic work is done on the ground, in our schools, by teachers like Jane.

Jane has concentrated on including hands-on learning in her classroom as a way to challenge and inspire her students. In her own words, she "would much rather put the students in the active role of discoverers than be the fountain of knowledge. They really own their discoveries when they do activities and put together their own findings." By allowing them to take an active role in their own education, Jane has made science accessible to every student regardless of his or her learning ability.

Through countless hours of work both inside and outside the classroom, Jane has demonstrated her commitment to ensuring the success of future generations and to encouraging the curiosity and development of our Hoosier youth. I am sure that hundreds of Akron students both past and present, along with their families, join me in expressing my sincere gratitude for her efforts.

On behalf of the State of Indiana, I thank Jane for her dedication to her profession and our young people, and I am proud to enter her name in the CONGRESSIONAL RECORD of the Senate.•

AWARD TO DR. PHILIP GOLD

• Mrs. BOXER. Mr. President, today I rise to congratulate Dr. Philip Gold on receiving the Rabbi Norman F. Feldheym Award. The Rabbi Norman F. Feldheym Award was established to pay tribute to those members of Congregation Emanu El who have conspicuously and exceptionally reflected Rabbi Feldheym's qualities of love for and loyalty to the synagogue, service to the community, and the personal traits of humility, loving kindness, care, and love. Dr. Gold receives this award as part of the ceremonies marking the 115th anniversary of the founding of the congregation.

Dr. Philip M. Gold has been an extraordinarily devoted leader of Congregation Emanu El through his service as a member of its board of directors since 1990. He served as secretary, second vice-president, vice-president, and, from 2000 until 2002, he served as the president of the congregation.

During his remarkable tenure with Congregation Emanu El, Dr. Gold has masterfully guided it through a period of leadership change. He has been an inspirational leader of the congregation with a deep love for Judaism, participation in worship and education, and an exemplary commitment to Jewish values and their application to contemporary society.

In addition to his immense contributions to Congregation Emanu El, Dr. Gold is a highly respected physician and teacher, and he has been recognized by his colleagues as a leader in the field of medicine. He has served as the president of various medical organizations, and he has received numerous awards for his work and achievements.

As his family, colleagues, patients, and fellow congregants would attest, Dr. Philip M. Gold is a truly deserving recipient of an award that honors the importance of integrity, character, ethics, humility, and love for others. Throughout his life, Dr. Gold has consistently embodied the best ideals of human values.

I congratulate Dr. Philip M. Gold on receiving the Rabbi Norman F. Feldheym Award and wish him continued success in his future endeavors.•

100TH ANNIVERSARY OF NORTH AUGUSTA, SOUTH CAROLINA

• Mr. GRAHAM. Mr. President, I rise today to recognize the 100th anniversary of North Augusta, SC. Preceded by the settlements of Hamburg and Campbelltown, North Augusta was founded on the north bank of the Savannah River in 1892 by James U. Jackson, whose development company planned the city's original layout. Officially chartered a town on April 11, 1906, North Augusta remained small and mostly residential until the early 1950s when the Savannah River Site was built. Thereafter, the town tripled in size, becoming a city. During the next half century, as new subdivisions were constructed around the city, commercial development flourished. Today, North Augusta is known for its first-class recreational facilities, community league sports teams, and caring people. It is a city that prides itself on responsive government and a strong sense of community. With a healthy respect for its past, an emerging riverfront, and careful growth, the city's future is bright.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 10:22 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 83. An act to memorialize and honor the contribution of Chief Justice William H. Rehnquist.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. STEVENS).

At 11:33 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3829. An act to designate the Department of Veterans Affairs Medical Center in Muskogee, Oklahoma, as the Jack C. Montgomery Department of Veterans Affairs Medical Center.

H.R. 4204. An act to direct the Secretary of the Interior to transfer ownership of the American River Pump Station Project, and for other purposes.

H.R. 4902. An act to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

H.R. 4912. An act to amend section 242 of the National Housing Act to extend the exemption for critical hospitals under the FHA program for mortgage insurance for hospitals.

H.R. 5037. An act to amend titles 38 and 18, United States Code, to prohibit certain demonstrations at cemeteries under the control of the National Cemetery Administration and at Arlington National Cemetery, and for other purposes.

H.R. 5311. An act to establish the Upper Housatonic Valley National Heritage Area.

The message also announced that the House has passed the following bill, without amendment:

S. 1382. An act to require the Secretary of the Interior to accept the conveyance of certain land, to be held in trust for the benefit of Puyallup Indian tribe.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 1499) to amend the Internal Revenue Code of 1986 to allow members of the Armed Forces serving in a combat zone to make contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income, and for other purposes, with amendment.

At 6:19 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4297) to provide for reconciliation on the budget for fiscal year 2006.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3829. An act to designate the Department of Veterans Affairs Medical Center in Muskogee, Oklahoma, as the Jack C. Montgomery Department of Veterans Affairs Medical Center; to the Committee on Veterans' Affairs.

H.R. 4204. An act to direct the Secretary of the Interior to transfer ownership of the American River Pump Station Project, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4902. An act to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 4912. An act to amend section 242 of the National Housing Act to extend the exemption for critical access hospitals under the FHA program for mortgage insurance for hospitals; to the Committee on Banking, Housing, and Urban Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were, laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–292. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to funding fully the Select Michigan Agriculture Program through the United States Department of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE RESOLUTION NO. 181

Whereas, the Michigan Department of Agriculture introduced the Select Michigan campaign in the Grand Rapids area to encourage Michigan residents to purchase locally grown and produced foods. Recently expanded to the Detroit area, the program uses posters, banners, and stickers in Michigan grocery stores and farmers' markets to identify locally grown food products. Since 2001, the Select Michigan program has highlighted the numerous Michigan-grown products available in the state, including apples, asparagus, blueberries, cherries, chestnuts, corn, dry beans, honey, maple syrup, peaches, and strawberries; and

Whereas, access to fresh and nutritious food products is vital to the health and well-being of Michigan residents. Michigan farms, which are second in the nation in the diversity of agricultural products grown, provide residents with a wide variety of locally grown fruits and vegetables. Identifying and marketing these products to the local population enables residents to support Michigan's agricultural industry, which contributes significantly to Michigan's economic well-being. The impact of Michigan's agriculture on our economy is estimated to be $60.1 billion annually and growing; and

Whereas, in 2001, a one-time block grant of $3.75 million from the United States Department of Agriculture provided support to launch the Select Michigan program. The program is able to continue due to a unique funding partnership involving the private sector and the federal government. However, to ensure all Michigan residents have access to fresh and nutritious locally grown food products and allow the Select Michigan program to expand to encompass the state, full funding of this program by the federal government is necessary: Now, therefore, be it

Resolved, by the House of Representatives, That we memorialize the Congress of the United States to fund fully the Select Michigan agricultural program through the United States Department of Agriculture; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-293. A concurrent memorial adopted by the House of Representatives of the Legislature of the State of Arizona relative to enacting a 2007 Farm Bill that is supportive of the specialty crop industry; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE CONCURRENT MEMORIAL 2001

Whereas, the fruit, vegetable and tree nut production in the United States accounts for $35 billion in farmgate value, or 33 percent of farm cash receipts, and with the addition of nursery and greenhouse production, overall specialty crops account for 51 percent of farmgate value; and

Whereas, in Arizona, fruit, vegetable and tree nut production represents a $1 billion industry representing over 35 percent of Arizona's farm cash receipts; and

Whereas, the fruit, vegetable and tree nut industry is a critical and growing component of United States agriculture, deserving of full and equal consideration as other agricultural sectors in the Farm Bill; and

Whereas, the fruit, vegetable and tree nut industry does not seek direct program payments to growers, but rather places its emphasis on building the long-term competitiveness and sustainability of United States fruit and vegetable production; and

Whereas, government investment in the competitiveness and sustainability of the United States fruit and vegetable industry will produce a strong return on investment for all of America, not just farmers, by expanding access and availability of safe, wholesome, healthy and affordable fruits and vegetables. The Farm Bill will be a critical component in reaching the mandate of doubling fruit and vegetable consumption called for in the USDA/HHS 2005 Dietary Guidelines; and

Whereas, with the government's mandate that domestic producers meet the very highest standards in environmental regulation, labor and other areas comes the responsibility to help those producers achieve cost-effective compliance through government investment in this agriculture industry to create a fair, level playing field with international competitors who do not face the regulatory burdens of United States producers; and

Whereas, without appropriate assistance, United States fruit, vegetable and tree nut production will relocate to less restrictive foreign growing areas; and

Whereas, a thriving and competitive United States fruit, vegetable and tree nut industry will support strong growth in export markets and improve our agricultural balance of trade in order to realize the goal of increasing exports; and

Whereas, it is critical that federal policy and resources support efforts to remove the many existing international trade barriers that continue to block United States fruit, vegetable and tree nut exports. Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the United States Congress recognize the importance of the specialty crop industry in the development of the 2007 Farm Bill.

2. That the United States Congress support the priorities of the specialty crop industry in the 2007 Farm Bill.

3. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

POM-294. A joint resolution adopted by the Legislature of the State of Maine relative to memorializing the Secretary of the Navy to honor the gift of 1,000 acres known as the Brunswick Commons bestowed in 1719 by Pejepscot Proprietors to the Town of Brunswick forever and return it to the town at no cost; to the Committee on Armed Services.

JOINT RESOLUTION

We, your Memorialists, the Members of the One Hundred and Twenty-second Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the Honorable Gordon R. England, the Secretary of the Navy, as follows:

Whereas, nearly 300 years ago, in 1719, the Pejepscot Proprietors donated 1,000 acres of land in the township of Brunswick to be laid out as a "general perpetual commonage to ye town of Brunswick forever"; and

Whereas, the Town of Brunswick accepted the gift in 1774 and laid out the 1,000 acres that would come to be known as Brunswick Commons. In 1783 a deed was conveyed to the town selectmen, and the land became property of the town forever; and

Whereas, an 1816 survey was recommended by the Town Commons committee as the correct survey of the land, and in 1891 granite monuments were placed to mark the boundaries of the deeded land; and

Whereas, the Federal Government took the majority of Brunswick Commons to build the Brunswick Naval Air Station, which served this nation well during World War II. Five of the original granite markers of the Brunswick Commons are within the boundary of the current base; and

Whereas, the base was deactivated after World War II in 1946 and recommissioned in 1951 and has been active since that date, providing support to the United States military as a vital part of America's defense system; and

Whereas, Brunswick Naval Air Station was targeted for decommissioning in the latest round of federal base closings, with the direction that the base be sold to the highest bidder instead of returning the land to its original use as described by deed; and

Whereas, the original deed clearly meant for this land to be for the common good of the Town of Brunswick and, while the subsequent use of the land for Brunswick Naval Air Station was important for our national security, the Town of Brunswick and the people of Maine feel strongly that, since the Federal Government no longer has need of this land, it should be returned to its original source; and

Whereas, the Town of Brunswick declared in 1968 the full 1,000 acres of the Brunswick Commons to be an Historic Landmark, and the Town of Brunswick and the people of the State of Maine seek to make the original Brunswick Commons whole again, at no cost to the Town of Brunswick: Now, therefore, be it

Resolved, That We, your Memorialists, on behalf of the people we represent, respectfully urge and request that Secretary England do all in his power to see that the land deeded to the people of Brunswick be returned to the people of Brunswick at no cost, now that the Federal Government no longer wants this historical tract of land; and be it further

Resolved, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Gordon R. England, the Secretary of the Navy, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and each Member of the Maine Congressional Delegation.

POM-295. A resolution adopted by the Senate of the Legislature of the State of Hawaii relative to authorizing and appropriating funds to allow all members of the armed forces reserve component to access the TRICARE program; to the Committee on Armed Services.

SENATE RESOLUTION NO. 92

Whereas, Army National Guard members are fulfilling commitments in Iraq, Afghanistan, Bosnia, and the Sinai, with members of the Hawaii Army National Guard having recently served in Iraq and Afghanistan; and

Whereas, presently almost half of all service personnel deployed in Iraq are members of the reserve components of the United States armed forces, including members of the National Guard and Army, Navy, Air Force, and Marine Corps Reserves; and

Whereas under present law, for every ninety day period on active duty, a member of the reserve component receives one year of cost-share TRICARE health benefits if the member agrees to serve that year with a reserve component; and

Whereas, while well-intentioned, this measure does not go far enough to solve the problem of medical readiness that exists in the reserve component and can affect the mobilization and deployment of intact reserve component units; Now, therefore, be it

Resolved, By the Senate of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006, that the Congress of the United States is urged to authorize and appropriate funds to allow all members of the reserve component to access TRICARE health benefit coverage on a cost-share basis, without restrictions; and be it further

Resolved, That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of Defense, members of Hawaii's congressional delegation, the Governor, and the Adjutant General.

POM–296. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to amend the Stafford Act to allow the use of emergency funds under the Federal Emergency Management Agency for stabilization and restoration of barrier islands; to the Committee on Banking, Housing, and Urban Affairs.

House Concurrent Resolution No. 62

Whereas, the Stafford Act is the federal act which authorizes uses of federal emergency funds under the Federal Emergency Management Agency (FEMA), with such authorized uses including re-establishment of vital and necessary infrastructure such as utilities, roads, levees, and other hurricane protection structures, hospitals, and facilities needed to house public agencies responsible for necessary public services; and

Whereas, coastal communities are dependent on the protection that barrier islands provide from storms originating off the coast, including the winds and storm surges associated with storms; and

Whereas, the storms from which the barrier islands soften the blow for coastal communities are not only hurricanes but include severe thunderstorms, tropical storms, and of course, hurricanes; and

Whereas, stabilization and re-establishment of barrier islands is an essential infrastructure need for coastal communities in the same manner as re-establishment of electricity, water, sewerage, and roads; therefore, such work on barrier islands should qualify for use of emergency funds under the Stafford Act: Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to amend the Stafford Act to allow the use of emergency funds under the Federal Emergency Management Agency for stabilization and restoration of barrier islands; be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–297. A joint memorial adopted by the Legislature of the State of Washington relative to section 5 of the Marine Mammal Protection Act of 1972 being preserved to continue protecting Puget Sound for current and future citizens of Washington and the United States to enjoy; to the Committee on Commerce, Science, and Transportation.

House Joint Memorial 4031

Whereas, Puget Sound provides significant economic and natural resource benefits to the citizens of Washington and the United States; and

Whereas, the state of Washington has adopted an oil spill prevention program with a zero spills strategy to protect the natural beauty of and economic benefits provided by Puget Sound; and

Whereas, the national marine fisheries service has listed the orca whale, Puget Sound chinook salmon, and Hood Canal summer chum under the federal endangered species act, bringing the total number of species listed as threatened, endangered, or candidate species on state and federal lists to forty; and

Whereas, in 1977, Senator Warren Magnuson declared that: "The waters of Puget Sound, and the attendant resources, are indeed a major national environmental treasure. Puget Sound ought to be strictly protected; its resources ought not to be threatened. Since tanker accidents are directly related to the amount of tanker traffic, there should not be an expansion of traffic over what now presently exists.";

Whereas, the Magnuson Amendment has protected Puget Sound waters from oil spill risks for twenty-eight years by limiting the amount of oil delivered to Washington refineries by tanker to the quantity used by Washington consumers; and

Whereas, the Washington State Department of Ecology reported in 2004 that approximately six hundred tankers a year enter Washington waters, and additional tanker traffic would significantly increase the likelihood of oil spills in Puget Sound; and

Whereas, the Magnuson Amendment has effectively limited tankers headed for refineries at Anacortes and Cherry Point near Ferndale by prohibiting federal agencies from issuing permits for the construction or expansion of dock or related facilities unless that expansion was necessary to meet increased Washington state demand;

Now, therefore, Your Memorialists respectfully pray that section 5 of the Marine Mammal Protection Act of 1972 (33 U.S.C. Sec. 476) be preserved to continue protecting Puget Sound for current and future citizens of Washington and the United States to enjoy; be it

Resolved, That copies of this Memorial be immediately transmitted to the Honorable George W. Bush, President of the United States, the Secretary of the United States Department of Commerce, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM–298. A resolution adopted by the Senate of the Legislature of the State of Louisiana relative to enacting the "Domestic Energy Production through Offshore Exploration and Equitable Treatment of State Holdings Act of 2006"; to the Committee on Energy and Natural Resources.

Senate Resolution No. 19

Whereas, the state of Louisiana currently receives only a small percentage of royalties for oil and gas production in federal waters off the coast of Louisiana; and

Whereas, other states in the United States receive fifty percent of royalties for oil and gas production on federal lands; and

Whereas, this current policy creates an inequity and results in Louisiana not receiving its fair and equitable share of royalty payments; and

Whereas, Louisiana has a greater need than other states to protect its state, its citizens and its infrastructure from coastal erosion and the effects associated with such coastal erosion, such as the impacts from hurricanes and tropical storms; and

Whereas, prior to hurricanes Katrina and Rita, Louisiana accounted for thirty percent of the commercial fisheries production of the lower forty-eight states, and ranked second in the nation for recreational harvest of saltwater fish; and

Whereas, prior to hurricanes Katrina and Rita, Louisiana produced more than eighty percent of the nation's offshore oil and gas supply while providing billions of dollars each year to the Federal treasury; and

Whereas, the United States has consistently received the economic benefits from the coast of Louisiana without Louisiana receiving its fair share of these benefits; and

Whereas, H.R. 4761 will provide the state of Louisiana up to seventy-five percent of oil and gas royalties produced off the coast of Louisiana; and

Whereas, these monies generated by the enactment of H.R. 4761 will provide billions of dollars for Louisiana over the next few decades which can be used for coastal restoration and protection; and

Whereas, leaders throughout Louisiana from Congressman Bobby Jindal, who introduced the bill, to Governor Kathleen Blanco who endorsed it, have come forward to urge its passage: Therefore, be it

Resolved, That the Senate of the Legislature of Louisiana memorializes the Congress of the United States to enact H.R. 4761, the "Domestic Energy Production through Offshore Exploration and Equitable Treatment of State Holdings Act of 2006"; be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM–299. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to encouraging expansion of existing, or the construction of new petroleum refineries in the United States and to urging the petroleum industry to construct new refineries to meet our increasing energy needs; to the Committee on Energy and Natural Resources.

House Resolution No. 67

Whereas, the price of petroleum products has been rising out of control. Currently, the world crude oil price remains near 60 dollars a barrel, practically 30 dollars more than this time last year. Additionally, the national average price of regular gasoline is about 38 cents per gallon more than last year and diesel is almost 54 cents per gallon more than this time last year; and

Whereas, there has not been a new oil refinery built in the United States in nearly 30 years. Yet, in the intervening years, the total energy demand in the United States has grown by about 40 percent. According to the United States Energy Information Administration, the projected petroleum demand between 2003 and 2025 will increase by 30 percent. We need to plan for our future energy needs by incorporating new petroleum refineries into the United States' overall energy policy; and

Whereas, recent major investments in the Marathon Refinery located in the City of Detroit, Michigan's only refinery, will increase the output by about 28 percent, from 74,000 barrels per day to over 102,000 barrels per day. Securing Marathon's investment of $300 million was made possible through the collaborative efforts of Marathon, the city of Detroit, and the state of Michigan. Marathon's commitment to Michigan and the collaboration with the city and state to create a renaissance zone encompassing the refinery illustrates the type of creative solutions that can be used to promote the construction of new refineries; and

Whereas, constructing new refineries would also create new jobs and increase gasoline, fuels, and distillate output—all vital components of strengthening our economy.

Michigan is well placed to locate a new refinery due to our proximity with Canada, this country's largest source of imported petroleum. Moreover, Michigan's highly skilled labor force could adapt to employment in the refinery industry; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to establish a national energy policy that promotes the expansion of existing or construction of new petroleum refineries in the United States. We also urge the leaders of the petroleum industry to construct new refineries to meet our increasing energy needs; and be it further

Resolved, That it is our intention to work with local governments to identify appropriate locations for new refineries in Michigan communities that have a recognized commitment to job growth and this industry; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, the United States Environmental Protection Agency, the United States Department of Energy, the Michigan Petroleum Institute, and the American Petroleum Industries of Michigan.

POM–300. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to memorializing Congress to reauthorize the Abandoned Mine Reclamation Fund; to the Committee on Energy and Natural Resources.

House Resolution No. 382

Whereas, substantial coal mining has occurred in Pennsylvania for more than 130 years, and the industry has been a significant employer of our citizens for most of these years; and

Whereas, abandoned mines pose hazards in Pennsylvania of dangerous shafts, mountains of black waste, scarred landscapes, acidic drainages polluting more than 3,000 miles of our streams, and other hazards threatening human health and safety and depressing local economies; and

Whereas, at least 44 of Pennsylvania's 67 counties are affected by abandoned coal mines; and

Whereas, abandoned mines and abandoned mine lands create negative impacts on local economies by destroying recreational opportunities, lowering land values, leaving desolate communities once the mines are exhausted and ruining sites for further residential, forestry, commercial or agricultural uses; and

Whereas, reclamation of abandoned mine sites can add to the economy by creating jobs, increasing community pride, increasing property values, decreasing stress-related costs through streambased recreation, restoring the health of the environment and providing future sites for commercial or industrial endeavors; and

Whereas, Congress established the Abandoned Mine Reclamation Fund under Title IV of the Surface Mining Control and Reclamation Act of 1977 to reclaim areas abandoned before 1977 and the modern environmental standards requiring mine operators to reclaim their sites; and

Whereas, the Surface Mining Control and Reclamation Act of 1977 imposed on coal operators a fee of 35¢ per ton on surface I mined coal and 15¢ per ton on underground mined coal to provide a source of revenue for the Abandoned Mine Reclamation Fund to help finance the reclamation and remediation of lands mined prior to 1977; and

Whereas, the collection of fees on mined coal applied to the Abandoned Mine Reclamation Fund under Title IV of the Surface Mining Control and Reclamation Act of 1977 was set to expire on June 30, 2005, but is currently under extension to October 30, June 30, 2006; and

Whereas, Pennsylvania has relied upon the Abandoned Mine Reclamation Fund as a primary source of money to clean up toxic mine water in our water supplies, restore land, extinguish mine fires and eliminate other dangerous abandoned mine hazards: Now, therefore be it

Resolved (the Senate concurring), That the General Assembly of the Commonwealth of Pennsylvania memorialize the Congress of the United States to reauthorize the collection of fees on mined coal at the current levels to provide continued funding to the Abandoned Mine Reclamation Fund to address abandoned mine hazards, pollution and scarred landscapes in Pennsylvania and other States.

POM–301. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to immediately close the Mississippi River Gulf Outlet and to request that the Louisiana congressional delegation file the necessary legislation to accomplish this closure; to the Committee on Environment and Public Works.

House Concurrent Resolution No. 38

Whereas, the Mississippi River Gulf Outlet (MRGO), a seventy-six-mile-long, man-made navigational channel which connects the Gulf of Mexico to the Port of New Orleans, was authorized by the United States Congress under the Rivers and Harbors Act of 1956 as a channel with a surface width of six hundred fifty feet, a bottom width of five hundred feet, and a depth of thirty-six feet, and it opened in 1965; and

Whereas, since MRGO was completed, the United States Army Corps of Engineers estimates that the area has lost nearly three thousand two hundred acres of fresh and intermediate marsh, more than ten thousand three hundred acres of brackish marsh, four thousand-two hundred acres of saline marsh, and one thousand five hundred acres of cypress swamps and levee forests in addition to major habitat alterations due to saltwater intrusion from the loss of the marshes, which has resulted in dramatic declines in waterfowl and quadruped use of the marshes; and

Whereas, the costs of maintaining MRGO rise each year, with the cost of dredging now over twenty-five million dollars annually, or more than thirteen thousand dollars for each vessel-passage, in addition to the expenditure of millions for shoreline stabilization and marsh protection projects, with an anticipated cost increase of fifty-two percent between 1995 and 2005; and

Whereas, concerns about the environmental impact have increased through the years as evidenced by the fact that in 1998 the "Coast 2050 Report" contained closure of MRGO among the consensus recommendations, and the technical committee of the Coastal Wetland Planning, Preservation and Restoration Act Task Force listed closure as one of the highest-ranked strategies for coastal restoration; and

Whereas, in 1998 the St. Bernard Police Jury voted unanimously to request closure of the waterway because of fears that the dramatic loss of coastal wetlands and marshes caused by MRGO exposed the parish and the communities in the parish to much more severe impacts from the hurricanes and tropical storms that regularly occur in the Gulf of Mexico; and

Whereas, those concerns were echoed and amplified by scientists, engineers, and citizens throughout the region as reflected in requests from the Louisiana Legislature to congress in 1999 (SCR No. 266) and again in 2004 (HCR No. 35 and HCR No. 68) to close the waterway, and indeed, those concerns proved true in an extremely dramatic fashion on August 29, 2005, when Hurricane Katrina struck Louisiana's coast with a tidal surge well in excess of twenty feet; and

Whereas, there is a growing consensus that the flooding that occurred in St. Bernard Parish, New Orleans East, and the Lower Ninth Ward of New Orleans was a result of storm surge that flowed up MRGO to the point where it converges with the Intracoastal Waterway and that the confluence created a funnel that directed the storm surge into the New Orleans Industrial Canal, where it overtopped the levees along MRGO and the Industrial Canal and eventually breached the levees and flooded into the neighborhoods that lie close to those three waterways, resulting in more than eleven hundred deaths in the Greater New Orleans area, including one hundred twenty-eight deaths in St. Bernard Parish, destroying over twenty-four thousand homes, and rendering more than sixty-seven thousand residents of St. Bernard Parish and uncounted numbers in New Orleans East and the Lower Ninth Ward of New Orleans homeless, without possessions, and unemployed; and

Whereas, in addition to destroying homes, the flood waters washed away churches and other places of worship, schools, businesses, community centers, recreational facilities, utility and transportation infrastructure, in short the very fabric of society was decimated in these communities; and

Whereas, only three weeks later, on September 24, 2005, storm waters from Hurricane Rita surged up MRGO and caused additional flooding in St. Bernard Parish, New Orleans East, and the Lower Ninth Ward of New Orleans, exacerbating the traumatic losses in that area; and

Whereas, since the two hurricanes caused such widespread damage in St. Bernard Parish and New Orleans, congress has declined to appropriate further funds for dredging MRGO; and

Whereas, some engineers have opined that the current base along MRGO was damaged to the point that it will not support a Category 3 levee in the future; and

Whereas, the United States Army Corps of Engineers has stated that it has no authorization from congress to close the waterway or to fill the waterway to allow for the development of marshes and wetlands; and

Whereas, as the only entity which can authorize the waterway to be closed and which can enable the reestablishment of our essential coastal wetlands, the United States Congress must come to the aid of the citizens of Louisiana, particularly those of St. Bernard Parish and New Orleans by authorizing the immediate closure of MRGO; and

Whereas it is the responsibility of the Louisiana delegation to file the necessary legislation to accomplish the immediate closure of MRGO: Now, therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to immediately close the Mississippi River Gulf Outlet; and be it further

Resolved, That the Legislature of Louisiana does hereby urge and request the Louisiana congressional delegation to file the legislation necessary to accomplish this closure: and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–302. A resolution adopted by the Senate of the Legislature of the State of New Jersey relative to enacting the "Solid Waste Environmental Regulation Clarification Affecting Railroads Act of 2005"; to the Committee on Environment and Public Works.

SENATE RESOLUTION NO. 14

Whereas, a [conflict in] *provision of* Federal law [and policy] has resulted in the operation of certain solid wastehandling facilities located on railroad property to go unregulated; that certain Federal laws, notably the "Solid Waste Disposal Act," should apply to the operation of these facilities; that [, unfortunately,] a broad-reaching Federal railroad statute [forbids] *has been interpreted by some courts as forbidding* environmental regulatory agencies from overseeing the safe handling of trash at these sites; and that these unintended consequences require the attention of and swift action by the United States Congress in enacting S. 1607, the "Solid Waste Environmental Regulation Clarification Affecting Railroads Act of 2005"; and

Whereas, the Federal railroad law in question was enacted most recently in the "Interstate Commerce Commission Termination Act of 1995" to protect the operation of interstate rail service; that this law grants *literally* "exclusive" jurisdiction over rail transportation, and activities incident thereto, to the Federal Surface Transportation Board; that the Board is limited to only a passive role in ensuring that rail facilities are operated with minimal detriment to the public health and safety; and that these sites require active environmental regulation in the same manner that Federal and State environmental regulatory agencies regulate the operation of conventional solid waste handling, processing, transfer and disposal facilities; and

Whereas, the recent proliferation of solid waste rail transfer facilities has affected the ability of State and local governments in New Jersey and elsewhere to engage in environmentally sound long-term solid waste management planning and enforcement; and that, nevertheless, these agencies are still responsible for responding to accidents and incidents occurring at these facilities; and

Whereas, the [State] *New Jersey* Department of Environmental Protection (DEP) fined New York Susquehanna and Western (NYS&W) Railway Corporation $2.5 million for environmental violations associated with the operation of five solid waste transfer sites in North Bergen; that as a result, of seven investigations conducted from November 2004 to July 2005, DEP determined that NYS&W illegally operates five sites which load solid waste from trucks to rail cars; that one of the sites handles bulk shipments of soil and other State regulated waste associated with specific site remediation projects, while the remaining sites are open dumps that handle construction and demolition waste; and that DEP [cites] *cited* NYS&W with violating New Jersey's solid waste and air pollution laws at all five sites by loading solid and hazardous waste materials outdoors, failing to regularly clean areas in which solid waste is handled and failing to contain, collect and dispose of wastewater; and *that the District Court of New Jersey based on the Federal railroad law has temporarily restrained DEP from enforcing its solid waste regulations; and*

Whereas, in addition, DEP cited NYS&W for spilling hazardous waste, failing to contain litter and debris, and accumulating unprocessed waste in the area surrounding the facilities; that NYS&W also failed to control insects and rodents and emitted odor, dust and solid waste particles into the outdoor atmosphere in quantities resulting in air pollution; and that, notwithstanding the foregoing, *it has been argued that* Federal railroad law preempts enforcement actions such as this, even though the Surface Transportation Board has never [clarified whether it even has] *asserted* jurisdiction over the processing and sorting of solid waste at a rail facility; and

Whereas, constructing a transfer station in a former junkyard site in Elwood, a hamlet in Mullica Township, Atlantic County, a proposal by the Southern Railroad of New Jersey, is being resisted for health and safety reasons and challenged by the Pinelands Commission to respect requirements and protections accorded the Pinelands National Reserve under Federal and State statutes; and *the District Court of New Jersey has granted the State of New Jersey a preliminary injunction, ordering that the Pinelands Commission has jurisdiction over the proposed construction; and*

Whereas, the enactment of S. 1607 would ensure that Congress' intent was not to subvert the policies of the "Solid Waste Disposal Act" and other Federal and State environmental laws covering the handling of garbage; and that this bill's underlying purpose is to clarify that the true intent of Congress in passing the solid waste law and the "Interstate Commerce Commission Termination Act of 1995" is to ensure that these laws work in tandem to provide for a robust, environmentally responsible rail system: Now, therefore, be it

Resolved by the Senate of the State of New Jersey:

1. This Senate Resolution memorializes Congress to enact S. 1607, the "Solid Waste Environmental Regulation Clarification Affecting Railroads Act of 2005," in order to address the unregulated sorting and processing of waste materials at rail facilities.

2. Duly authenticated copies of this resolution, signed by the President of the Senate and attested by the Secretary thereof, shall be transmitted to the Vice President of the United States, the Speaker of the United States House of Representatives, the majority and minority leaders of the United States Senate and the United States House of Representatives, and each member of Congress elected from this State.

POM–303. A joint memorial adopted by the Legislature of the State of Washington relative to enacting the "Kidney Care Quality Improvement Act of 2005; to the Committee on Finance.

HOUSE JOINT MEMORIAL 4023

Whereas, four hundred thousand Americans have irreversible kidney failure, a condition called "End Stage Renal Disease" (ESRD). ESRD is fatal unless a patient receives either dialysis or kidney transplantation. Since transplantation is limited due to the shortage of donor organs, seventy-five percent of ESRD patients must undergo regular and on-going dialysis treatment for the rest of their lives. In Washington State approximately 16,000 residents have ESRD; and

Whereas, today's ESRD patients are older and sicker due primarily to the aging of the population, and the growing incidence of diabetes and high blood pressure, fueled by the obesity epidemic. ESRD disproportionately impacts African-American and Hispanic individuals; and

Whereas, most patients with ESRD lack access to education programs about their disease that would allow them to make informed choices about their treatment and learn important self-management skills to improve their quality of life; and

Whereas, according to the most recent data available, less than one percent of all ESRD patients use home dialysis because of the barriers patients face in accessing this option. Home dialysis can improve a patient's quality of life by allowing him or her to remain employed and participate in other activities that promote well-being; and

Whereas, there is no coordinated effort between federal and state governments, health care professionals, dialysis providers, educators, patient advocates to develop programs to identify members of high-risk populations and develop culturally appropriate community-based approaches for improving the treatment of chronic kidney disease, which would lead to fewer cases of ESRD; and

Whereas, since 1972, Congress made a commitment to ESRD patients by providing coverage for the lifesaving therapy and dialysis, through the Medicare program. Medicare provides for the care of approximately seventy-five percent of patients receiving dialysis. Improvements are needed to continue to ensure access to high quality treatment for ESRD patients. Better care for patients means a better quality of life, improved rehabilitation, fewer medications, and fewer hospitalizations; and

Whereas, the rate paid by Medicare for ESRD services is the only Medicare prospective payment system without an annual update mechanism to adjust for increases. This means providers must ask Congress for increases rather than relying on the Department of Health and Human Services to make routine, data-driven decisions on payment adequacy. In the past twelve years, there have been only two increases in the ESRD composite rate, totaling 3.6 percent, to cover inflation, new technologies, and other costs, such as nurses' salaries. When adjusted for inflation, the average Medicare payment for dialysis treatment has been reduced from $138 in 1973 to $38 in 2000. The program is no longer sustainable under the current reimbursement structure:

Now, therefore, your Memorialists respectfully request that the United States House of Representatives and the United States Senate enact H.R. 1298 and S. 635, known as the "Kidney Care Quality Act of 2005." The Act will modernize and update treatment of ESRD by adding Medicare coverage for kidney disease patient education services, improve the home dialysis benefit, and provide for an annual update for the Medicare ESRD composite rate. A demonstration project for an outcomes-based ESRD reimbursement system, as well as a study of barriers to accessing the home dialysis benefit, will lead to future improvements in delivery of care. A chronic kidney disease demonstration project will increase public awareness about the disease, with the goal of lowering the number of persons who will need kidney dialysis: Now, therefore, be it

Resolved, That copies of this Memorial be immediately transmitted to the Honorable

George W. Bush, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM-304. A joint memorial adopted by the Legislature of the State of Washington relative to the "Diabetes Self-Management Training Act"; to the Committee on Finance.

HOUSE JOINT MEMORIAL 4038

Whereas, diabetes is now widely recognized as one of the top public health threats facing our nation today and affects more than 18 million Americans. In 2002, diabetes accounted for 132 billion dollars in direct and indirect health care costs; and

Whereas, diabetes now affects nearly 1.4 million Washington residents: Over 298,000 people in Washington have been diagnosed with diabetes; over 126,000 people have undiagnosed diabetes; and over 963,000 people have prediabetes; and

Whereas, people who have diabetes need skills to manage their diabetes and skills to help them stay active in their lives. This training is central to diabetes prevention and care; and

Whereas, chronic disease self-management programs have a proven success rate, allowing persons with diabetes to better control their diabetes; and

Whereas, persons living with diabetes who are properly trained with self-management skills are better able to prevent the deadly complications of diabetes, which can include heart disease, stroke, blindness, lower extremity amputation, and kidney failure; and

Whereas, certified diabetes educators are highly trained multidisciplinary health care professionals dedicated to delivering quality diabetes self-management training; and

Whereas, evidence has shown that access to a certified diabetes educator improves the management of diabetes, a chronic illness that requries a high level of maintenance; and

Whereas, certified diabetes educators teach people with diabetes how to maintain the daily rigors of diet, exercise, meal planning, medication monitoring, healthy coping skills, and other factors necessary to control the disease; and

Whereas, certified diabetes educators are also on the front line of the efforts to promote prevention of diabetes; and

Whereas, Congress recognized the value of diabetes self-management training when it began covering the benefit in the Balanced Budget Act of 1997. At that time, most certified diabetes educators worked in a hospital setting and were able to bill Medicare for their services through the hospital's provider number. Unfortunately, during these tough economic times, hospitals are closing their diabetes education programs at a rate of two to five per month. This leaves diabetes educators without an avenue to provide or bill for diabetes education—services which are desperately needed to keep up with the growing number of people diagnosed with diabetes each day; and

Whereas, certified diabetes educators have received extensive training in diabetes management. They have met all criteria for initial certification, including a prerequisite qualifying professional credential in a specified health care profession, have professional practice experience in diabetes self-management training that includes one thousand hours of diabetes teaching, have passed a national examination offered by a certifying body recognized as entitled to grant certification to diabetes educators, and are required to renew the certification every five years;

Now, therefore, your Memorialists respectfully request that the United States House of Representatives and the United States Senate enact Senate Bill 626 and House Bill 3612, known as the "Diabetes Self-Management Training Act." The Act will increase access to diabetes care by adding certified diabetes educators to the current list of Medicare providers, thereby making certified diabetes educators billable providers: Now, therefore, be it

Resolved, That copies of this Memorial be immediately transmitted to the Honorable George W. Bush, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM-305. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to reviewing and considering eliminating provisions of law which reduce social security benefits for those receiving benefits from federal, state, or local government retirement systems; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 63

Whereas, the Congress of the United States has enacted both the Government Pension Offset (GPO), reducing the spousal and survivor social security benefit, and the Windfall Elimination Provision (WEP), reducing the earned social security benefit for persons who also receive federal, state, or local retirement; and

Whereas, the intent of congress in enacting the GPO and the WEP provisions was to address concerns that a public employee who had worked primarily in federal, state, and local government employment might receive a public pension in addition to the same social security benefit as a worker who had worked only in employment covered by social security throughout his career; and

Whereas, the purpose of congress in enacting these reduction provisions was to provide a disincentive for public employees to receive two pensions; and

Whereas, the GPO negatively affects a spouse or survivor receiving federal, state, or local government retirement benefits who would also be entitled to a social security benefit earned by a spouse; and

Whereas, the GPO formula reduces the spousal or survivor social security benefit by two-thirds of the amount of the federal, state, or local government retirement benefit received by the spouse or survivor, in many cases completely eliminating the social security benefit; and

Whereas, the WEP applies to those persons who have earned federal, state, or local government retirement benefits, in addition to working in covered employment and paying into the social security system; and

Whereas, the WEP reduces the earned social security benefit using an averaged indexed monthly earnings formula and may reduce social security benefits for such persons by as much as one-half of the uncovered public retirement benefits earned; and

Whereas, because of these calculation characteristics, the GPO and WEP have a disproportionately negative effect on employees working in lower-wage government jobs, like policemen, firefighters, teachers, and state employees; and

Whereas, these provisions also have a greater adverse effect on women than on men because of the gender differences in salary that continue to plague our nation; and

Whereas, Louisiana is making every effort to improve the quality of life of her citizens and to encourage them to live here lifelong: Now, therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to review the GPO and WEP social security benefit reductions and to consider eliminating them; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation and to the school boards of Beauregard, Calcasieu, Rapides, and Vernon parishes.

POM-306. A resolution adopted by the Senate of the Legislature of the State of Illinois relative to enacting a prescription drug benefit for senior citizens that is run by the Medicare program itself; to the Committee on Finance.

SENATE RESOLUTION NO. 630

Whereas, the Medicare prescription drug benefit enacted in 2003 took effect January 1, 2006, in the form of competing "Medicare Part D" plans sold by private insurance companies; and

Whereas, senior citizens are choosing from a wide array of private plans in each geographic area, with a confusing variety of designs and formularies; and

Whereas, the law states that a Medicare plan's formulary must cover just one brand-name drug and one generic drug in each therapeutic category—a minimal requirement that will make it difficult for an older person to find all the drugs he/she takes in a single plan; and

Whereas, the drug plans will be allowed to switch the drugs in their formularies on a regular basis, making it likely that many seniors will sign up for a plan that covers a drug they take, only to find out a few months later that the drug is no longer covered by their plan; and

Whereas, the drug plans will bargain with the drug companies for lower prices, but instead of being required to pass the discounts on to seniors, they will be allowed to use the savings for advertising and overhead costs, or to increase their profits; and

Whereas, private drug plans will be unable to bargain effectively, because the Medicare market will be divided among hundreds of plans, diminishing the negotiating power of the huge Medicare population; and

Whereas, a drug benefit that's run by the Medicare program itself, rather than private insurance, could be given the authority to negotiate prices on behalf of all 44 million beneficiaries—resulting in enormous buying power and the ability to get the lowest prices possible; and

Whereas, this was born out by a recent study conducted by Families USA (September 2005), which found that the lowest drug prices negotiated by the private sponsors of the 2004/2005 Medicare discount cards far exceeded the low prices routinely negotiated by the Department of Veterans Affairs on behalf of the nation's veteran population; and

Whereas, seniors would not only benefit by the lower prices of a Medicare-run drug plan, but many would find a Medicare choice much less confusing than having to choose the most appropriate plan from among the dozens being marketed by private insurers: Now, therefore, be it

Resolved, by the Senate of the Ninety-Fourth General Assembly of the State of Illinois, That we call upon the United States Congress to enact a drug benefit for senior citizens that is run by the Medicare program itself: and be it further

Resolved, That a copy of this resolution be sent to the President of the United States, each member of the Illinois Congressional delegation, the Speaker of the United States House of Representatives, and the President of the United States Senate.

POM–307. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Kentucky relative to supporting democracy in Ethiopia through foreign policy efforts; to the Committee on Foreign Relations.

RESOLUTION

A resolution to encourage the President and the United States Congress to support democracy in Ethiopia through foreign policy efforts.

Whereas, the people of Ethiopia have developed and nourished a proud and distinguished culture that has endured for more than three millennia; and

Whereas, Ethiopia and the United States have had a long and productive friendship for many years; and

Whereas, the hope for democratic institutions was created in Ethiopia following the 1991 overthrow of the Communist regime of Mengistu Haile Mariam by a group that became the Ethiopian People's Revolutionary Democratic Front (EPRDF), under the leadership of Prime Minister Meles Zenawi; and

Whereas, the ascendance of the EPRDF led instead to nondemocratic, one-party rule where democratic symbols such as a free press and elections are used but are manipulated by Meles's government for their own ends; and

Whereas, elections were held on May 15, 2005, and the turnout of voters was as high as an estimated ninety percent (90%), with voters waiting in line for up to seventeen (17) hours to cast their votes; and

Whereas, despite a large turnout of electors in which many voted for the main opposition party, the Coalition for Unity and Democracy (CUD), the EPRDF government quickly declared that it had been reelected to power; and

Whereas, facing protests from high schoolers and college students sympathetic with various oppositions parties, government security forces fired on the demonstrators, killing more than eighty (80) people and injuring more than one hundred (100) others; and

Whereas, Tesfaye Adane Tara, an opposition politician elected to parliament in the May elections was shot to death, allegedly by security forces; and

Whereas, human rights groups in Ethiopia alleged that more than three thousand (3,000) people were rounded up and detained following the violence in June of 2005, being held without charges and without constitutional protections of due process; and

Whereas, violence erupted again in early November of 2005; resulting in the death of at least forty-eight (48) people and injuries to hundreds of individuals, including women and children; and

Whereas, leaders of the opposition parties were once again detained and charged with treason, an offense punishable by death; and

Whereas, as many as twenty-five hundred (2,500) opposition supporters and some opposition party election observers were held in remote detention centers; and

Whereas, the Meles government has arrested numerous journalists and closed all independent newspapers in Ethiopia; and

Whereas, reports by Human Rights Watch indicate that the violence is not relegated just to the urban areas, but that checkpoints have been set up throughout the rural areas of the country, in the Oromia and Amhara regions where minority groups are prevalent and international observers are not located; and

Whereas, European Union election observers have condemned the 2005 election results as not meeting the international standard for genuine democratic elections and have reported undemocratic control of the media, a general climate of intimidation and human rights violations against opposition supporters, as well as first-hand accounts of the violence: and

Whereas, many Ethiopians still look to the Western democracies for their greatest hope, encouraging countries that donate foreign aid to intervene and place pressure on the Meles government to follow through with their promised democratic institutions and constitutional protections: and

Whereas, Britain suspended further aid to Ethiopia after the June violence; and

Whereas, members. of the United States Congress have called on the Bush Administration to condition any further economic and military assistance on substantial improvements in these matters; and

Whereas, House Resolution 4423, sponsored by Representative Christopher H. Smith, has been introduced in the United States House of Representatives and calls for the consolidation of security, human rights, democracy, and economic freedom in Ethiopia; Now, therefore, be it

Resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives urges the United States Congress to continue to encourage the formation of democratic institutions, multiparty participation, free elections, respect for fundamental human rights, and constitutional protections for all citizens in Ethiopia.

Section 2. The House of Representatives encourages the United States Congress to pass House Resolution 4423 as a means for encouraging appropriate action towards freedom and democracy in Ethiopia.

Section 3. The House of Representatives encourages the President and United States Department of State to use every possible means at their command to examine our country's foreign policies toward Ethiopia for ways to encourage democratic institutions, multiparty participation, free elections, respect for fundamental human rights, and constitutional protections for all citizens in Ethiopia.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable George W. Bush, 1600 Pennsylvania Avenue, Washington, D.C. 20500; the Honorable Richard Cheney, Vice President, 1600 Pennsylvania Avenue, Washington, D.C. 20500; the Honorable Condoleeza Rice, 2201 C Street, N.W., Washington, D.C. 20520; His Excellency Kassahun Ayele, Embassy of Ethiopia, 3506 International Drive, N.W., Washington, D.C. 20008; the Honorable Dennis Hastert, Speaker of the House of Representatives, 235 Cannon House Office Building, Washington, D.C. 20515; the Honorable Mitch McConnell, 361–A Russell Senate Office Building, Washington, D.C. 20510; the Honorable Jim Bunning, 316 Hart Senate Office Building, Washington, D.C. 20510; the Honorable Ben Chandler, 1504 Longworth House Office Building, Washington, D.C. 20515; the Honorable Geoff Davis, 1541 Longworth House Office Building, Washington, D.C. 20515; the Honorable Ron Lewis, 2418 Rayburn House Office Building, Washington, D.C. 20515; the Honorable Anne Northup, 2459 Rayburn House Office Building, Washington, D.C. 20515; the Honorable Harold Rogers, 2406 Rayburn House Office Building, Washington, D.C. 20515; the Honorable Ed Whitfield, 301 Cannon House Office Building, Washington, D.C. 20515.

POM–308. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to enacting legislation to provide additional funding for research in order to find a treatment and a cure for Amyotrophic Lateral Sclerosis; to the Committee on Health, Education, Labor, and Pensions.

HOUSE RESOLUTION NO. 616

Whereas, Amyotrophic Lateral Sclerosis (ALS) is better known as Lou Gehrig's disease; and

Whereas, ALS is a fatal neurodegenerative disease characterized by degeneration of cell bodies of the lower motor neurons in the gray matter of the anterior horns of the spinal cord; and

Whereas, The initial symptom of ALS is weakness of the skeletal muscles, especially those of the extremities; and

Whereas, as ALS progresses, the patient experiences difficulty in swallowing, talking and breathing; and

Whereas, ALS eventually causes muscles to atrophy, and the patient becomes a functional guadriplegic; and

Whereas, ALS does not affect a patient's mental capacity, so a patient remains alert and aware of the loss of motor functions and the inevitable outcome of continued deterioration and death; and

Whereas, ALS occurs in adulthood, most commonly between the ages of 40 and 70, with the peak age about 55, and affects men two to three times more often than women; and

Whereas, More than 5,600 new ALS patients are diagnosed annually; and

Whereas, It is estimated that 30,000 Americans may have ALS at any given time; and

Whereas, On average, patients diagnosed with ALS survive two to five years from the time of diagnosis: and

Whereas, Research indicates that military veterans are at a 50% or greater risk of developing ALS than those who have not served in the military; and

Whereas, ALS has no known cause, prevention or cure; and

Whereas, "Amyotrophic Lateral Sclerosis (ALS) Awareness Month" will increase public awareness of ALS patients' circumstances, acknowledge the terrible impact this disease has on patients and families and recognize the research for treatment and cure of ALS; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania recognize the month of May 2006 as "Amyotrophic Lateral Sclerosis (ALS) Awareness Month" in Pennsylvania; and be it further

Resolved, That the House of Representatives urge the President and Congress of the United States to enact legislation to provide additional funding for ALS research; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the Vice President of the United States, to the Speaker of the House of Representatives, to the members of Congress from Pennsylvania and to the United States Secretary of Health and Human Services.

POM-309. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to remove the TRIO programs Upward Bound and Talent Search from the list of programs to be eliminated in the 2007 budget and to memorialize congress to continue the funding of such programs; to the Committee on Health, Education, Labor, and Pensions.

HOUSE CONCURRENT RESOLUTION NO. 24

Whereas, the term "TRIO" was coined by the late 1960s in reference to a series of federal educational opportunity programs created as part of President Lyndon B. Johnson's "War on Poverty"; and

Whereas, funded under Title IV of the Higher Education Act of 1965, the TRIO programs have expanded and improved over the decades to provide a wide range of services to help students overcome class-related, social, and cultural barriers to higher education; and

Whereas, the president's 2007 budget proposal requests the nationwide elimination of two TRIO programs, Upward Bound and Talent Search; and

Whereas, Upward Bound, the goal of which is to increase the rates at which participants enroll in and graduate from postsecondary education institutions, provides vital support to participants in their preparation for college entrance, and serves high school students from low-income families, high school students from families in which neither parent holds a bachelor's degree, and low-income, first-generation military veterans who are preparing to enter postsecondary education; and

Whereas, Talent Search, the goal of which is to increase the number of young people from disadvantaged backgrounds who complete high school and enroll in the postsecondary educational institution of their choice, provides academic, career, and financial counseling to its participants and encourages them to graduate from high school and also serves high school dropouts by encouraging them to complete their education; and

Whereas, Upward Bound and Talent Search are two essential programs that provide crucial services to students, such as instruction in core curriculum subjects, academic advising, tutorial services, mentoring programs, assistance in completing college and financial aid applications, and support in preparing for college entrance exams; and

Whereas, it is in the best interest of the Nation's students that Upward Bound and Talent Search, two outstanding TRIO programs, be continued because they have made, and will continue to make, significant contributions toward the improvement of education in the nation and toward ensuring that as many students as possible receive every opportunity afforded by a quality education in the United States of America. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to remove the TRIO programs Upward Bound and Talent Search from the list of programs to be eliminated in the 2007 budget and does hereby memorialize congress to continue the funding of such programs. Be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-310. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to ensure that the Federal Emergency Management Agency and the United States Army Corps of Engineers break up large federal disaster recovery contracts in Louisiana so that small, locally owned businesses can compete for and be awarded such contracts; to the Committee on Homeland Security and Governmental Affairs.

HOUSE CONCURRENT RESOLUTION NO. 4

Whereas, Hurricanes Katrina and Rita struck the state of Louisiana causing severe flooding and damage to the southern part of the state that has threatened the safety and security of the citizens of the affected areas of the state of Louisiana; and

Whereas, the destruction caused by these devastating storms damaged public works, such as levees, bridges, and highways, and spread debris over a wide area of the southern part of the State; and

Whereas, the Federal Emergency Management Agency and the United States Army Corps of Engineers have control over a great percentage of the contracts to repair levees, remove debris, and provide for transportation of trailers and other important activities vital to the restoration and revitalization of the affected areas of Louisiana; and

Whereas, for the most part, these contracts have been awarded to large companies with the result being that small local companies have been shut out of the process; and

Whereas, it is likely that breaking up these large contracts would make it more likely that smaller businesses can be competitive in the bid process; and

Whereas, the awarding of contracts to smaller Louisiana businesses would help to jump start Louisiana post-Katrina economy and help the devastated areas and their people to quicken the pace of recovery. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to ensure that the Federal Emergency Management Agency and the United States Army Corps of Engineers break up large federal disaster recovery contracts in Louisiana so that small, locally owned businesses can compete for and be awarded such contracts. Be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-311. A resolution adopted by the Senate of the Legislature of the State of Illinois relative to supporting the Secure America and Orderly Immigration Act of 2005; to the Committee on the Judiciary.

SENATE RESOLUTION NO. 578

Whereas, the Secure America and Orderly Immigration Act of 2005 (S. 1033 and H.R. 2330) would require the Secretary of Homeland Security to develop and implement a National Strategy for Border Security, establish a H-5A essential worker visa program for low-skilled workers, and exempt immediate relatives of U.S. citizens from the annual cap on family-sponsored immigrant visas; and

Whereas, the United States House of Representatives passed H.R. 4437 that would criminalize the undocumented, their employers, and asylum-seekers alike, tear apart families, and needlessly devastate our economy; and

Whereas, the United States of America was founded by immigrants who traveled from around the world to seek a better life; and

Whereas, the United States has an undocumented population of 11 million immigrants, including half a million in Illinois; and

Whereas, Illinois immigrants fill key roles in our economy such as paying taxes, including contributions to Social Security that they cannot receive back, raising families, and contributing to our schools, churches, neighborhoods, and community; and

Whereas, our current immigration system contributes to long backlogs, labor abuses, countless deaths on the border, and vigilante violence and is in dire need of reform to meet the challenges of the 21st century; and

Whereas, any comprehensive reform must involve a path to citizenship for these hardworking immigrants, as well as reunification of families and a safe and orderly process for enabling willing immigrant workers to fill essential jobs in our economy and ensure full labor rights; and

Whereas, the immigration initiative severely punishes illegal employment practices while creating a path to earned permanent legal states for individuals who have been working in the United States, paying taxes, obeying the law, and learning English, and protecting workers by ensuring the right to change jobs, join a union, and report abusive employment situations; and

Whereas, modernizing our antiquated and dysfunctional immigration system will uphold our nation's basic values of fairness, equal opportunity, and respect for the law; therefore, be it

Resolved, by the Senate of the Ninety-Fourth General Assembly of the State of Illinois, That we urge the Illinois Congressional Delegation and all of Congress to support "The Secure America and Orderly Immigration Act of 2005" (S. 1033 and H.R. 2330), which allows every hardworking, law-abiding individual to achieve the American Dream; and be it further

Resolved, That copies of this resolution be delivered to the President of the United States, the President of the Senate, the Majority and Minority Leaders of the Senate, the Speaker of the House of Representatives, the Majority and Minority Leaders of the House of Representatives, and each member of the Illinois Congressional Delegation.

POM-312. A resolution adopted by the Senate of the Legislature of the State of Illinois relative to a private bill in the United States Congress that was introduced by Congressman BOBBY RUSH in September 2005 on behalf of the La Familia group; to the Committee on the Judiciary.

SENATE RESOLUTION NO. 523

Whereas, United States citizen children throughout Illinois and the nation are being separated from either their father or mother because of our broken immigration laws; this causes great emotional and financial harm to these children and violates the right to family unity; and

Whereas, the thirty-five families, which come from nearly all of the congressional districts in Illinois and are known as La Familia Latina Unida (La Familia), represent families separated, or threatened by the prospect of separation, by the broken immigration laws and regulations that span the

State of Illinois; these individuals are mothers or fathers of U.S. citizen children and are married, in most cases, to U.S. citizen spouses; the hardship claimed in each case is the hardship on these U.S. citizens that has occurred due to the separation or imminent separation of their families; and

Whereas, these thirty-five families, including their one hundred U.S. citizen children, have waged a courageous public campaign on their own behalf and on behalf of similarly affected families throughout the nation; the hardship faced by these families is both economic and emotional; and

Whereas, H.R. 3856, a private bill in the United States Congress, was introduced by Congressman BOBBY RUSH in September of this year on behalf of the La Familia group; this bill would confer legal status on the mothers or fathers of these families and allow for their permanent unification; and

Whereas, the immigration cases that are represented encompass a range of human and legal situations that will be highly instructive to the immigration debate in the U.S. Senate; in many of these cases, the individuals have presented themselves fully and completely through the process dictated and have been denied because of the rule that restricts travel to their country of origin in family emergencies, even though they have fully presented themselves in their required applications; and

Whereas, due to the difference in House and Senate rules relating to private bills, the introduction of a companion bill in the U.S. Senate will provide for the more immediate security of these families and allow them to continue their public testimony, a testimony vitally in the public interest in the midst of the upcoming debate over reform of immigration laws; and

Whereas, support for the private bill in the House and Senate does not represent support for any particular immigration reform bill; therefore, be it

Resolved, by the Senate of the Ninety-fourth General Assembly of the State of Illinois, That we strongly recommend passage of H.R. 3856 and the introduction of its companion in the U.S. Senate; and be it further

Resolved, That we encourage the United States Congress to take action on federal immigration reform, which would provide for family unification as part of part of comprehensive immigration reform; and be it further

Resolved, That suitable copies of this resolution be forwarded to the Speaker of the United States House of Representatives, the President pro tempore of the United States Senate, and to each member of the Illinois Congressional delegation.

POM-313. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to secure our nation's borders, identify and deport immigration violators, preclude automatic citizenship for children born of such violators, and revise the work visa program; to the Committee on the Judiciary.

HOUSE CONCURRENT RESOLUTION NO. 33

Whereas, we support legal immigration to our country and acknowledge the tremendous contributions made by legal immigrants throughout our history to our economy and society; and

Whereas, we must strengthen the Border Patrol to stop illegal crossing and must equip the Border patrol with the tools, technologies, structures, and sufficient force necessary to secure the border; and

Whereas, it is estimated that eleven million citizens of other countries have entered and currently remain in the United States in violation of applicable immigration and naturalization laws; and

Whereas, the ability of such persons to illegally enter and remain in the United States presents a grave risk to the security of the United States; and

Whereas, in many instances the resources of national, state, and local governmental entities are overburdened and depleted or exhausted by attempts to deal with and meet the needs of such persons after they illegally enter the United States; and

Whereas, border security and immigration law enforcement are critical elements in America's national security; and

Whereas, strengthening the capacity of law enforcement to apprehend persons entering our country illegally is essential to protecting the sovereignty of the United States; and

Whereas, immigration enforcement training needs to be provided to state and local law enforcement agencies to strengthen their enforcement of immigration laws; and

Whereas, withholding United States citizenship from children born to illegal aliens will remove another incentive to enter our country illegally; and

Whereas, all employers in the United States should be held responsible for hiring illegal aliens and be subjected to substantial fines for doing so; and

Whereas, working or residing illegally in our country must not establish welfare rights or benefits of any kind; and

Whereas, respect for the rule of law is a bedrock principle of our country, our culture, and our posterity; and

Whereas, elected leaders across the country are constantly and vigorously confronted with demands that appropriate legislative action be taken to address and resolve the problems of illegal immigration. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to provide appropriate authority and teams to accomplish the following:

(1) Effectively secure the borders of the United States against illegal immigration and all other illegal crossings, using our military if necessary.

(2) Identify all persons who are currently in the United States in violation of immigration and naturalization laws and arrange for their return to their country of origin as expeditiously as reasonably possible.

(3) Preclude automatic citizenship for children born in the United States to persons in the United States in violation of immigration and naturalization laws.

(4) After effectively closing our borders to illegal entry, revise our present work visa program to remove the means by which it is abused, requiring a reliable means of tracking entry and exit and continually verifying the identity and location of each such worker, and providing no amnesty or preference for those persons presently in the United States illegally. Be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America land to each member of the Louisiana congressional delegation.

POM-314. A resolution adopted by the Senate of the State of Michigan relative to providing funding to help states and local communities clean up and address the disastrous effects of clandestine methamphetamine labs; to the Committee on the Judiciary.

SENATE RESOLUTION NO. 101

Whereas, There is a meth epidemic in the United States, and it is having a devastating effect on our country. Meth abuse is causing social, economic, and environmental problems. Children residing in homes with meth labs live in danger and often suffer from neglect and abuse. Meth production costs citizens and governments millions of dollars for a variety of reasons, including law enforcement costs, drug treatment for offenders, cleanup of production sites, and placement of endangered children; and

Whereas, Meth labs leave behind a toxic mess of chemicals and pose a significant danger to communities. The manufacture of one pound of methamphetamine results in six pounds of waste. These wastes include corrosive liquids, acid vapors, heavy metals, solvents, and other harmful materials that can disfigure skin or cause death. Hazardous materials from meth labs are typically disposed of illegally and may cause severe damage to the environment; and

Whereas, Between 1992 and 2004, the number of clandestine meth lab-related cleanups increased from 394 to over 10,000 nationwide. The cost of cleaning up clandestine labs in FY 2004 was approximately $17.8 million; and

Whereas, States and local governments are bearing the burden of funding the cleanup efforts. Many local communities are finding and seizing meth labs. The lab sites remain dangerous to the public, however, because neither the state or the local community has adequate funding to clean them up; and

Whereas, The Combat Meth Act of 2005, which was recently signed into law as a part of the USA Patriot Improvement and Reauthorization Act of 2005, authorizes cleanup funding, but only for areas designated "Meth Hot Spots." The meth epidemic is a national crisis, however, and scores of states and local governments across the country are in dire need of funding to help clean up clandestine labs; now, therefore, be it

Resolved by the Senate, That we memorialize the United States Congress to provide funding for meth lab cleanup that is available to all states and local governments that are in the midst of the meth epidemic; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-315. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to increasing the penalties imposed upon a person who vandalizes a national war memorial; to the Committee on the Judiciary.

HOUSE RESOLUTION NO. 628

Whereas, The Civil War is the bloodiest and most tragic war in which this country has ever engaged, and indisputably its worst conflagration occurred July 1 through 3, 1863, in Gettysburg; and

Whereas, there were more than 52,000 human casualties during this three-day event, and nearly every Civil War unit for the North and for the South was engaged; and

Whereas, in the years following the war and continuing through the 1990s with the 1993 dedication of the Friend to Friend Memorial, war memorials have been erected by private donations, publicly dedicated and maintained by the National Park Service as testimony of the sacrifices made by those who fought at Gettysburg; and

Whereas, on February 15, 2006, three Civil War monuments on the Gettysburg Battlefield were vandalized heinously, one representing the 114th PVI Pennsylvania monument and two others representing New York and Massachusetts; and

Whereas, this vandalism demonstrates that present penalties are insufficient to deter such actions; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress of the United States to increase the minimum fines and other minimum penalties for vandalizing a national war memorial; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM-316. A resolution adopted by the Council of the Borough of Roselle Park, State of New Jersey relative to opposing New York/New Jersey/Philadelphia Metropolitan Airspace Redesign proposals of the Federal Aviation Administration; to the Committee on Commerce, Science, and Transportation.

POM-317. A resolution adopted by the Township Committee of the Township of Winfield, State of New Jersey relative to opposing New York/New Jersey/Philadelphia Metropolitan Airspace Redesign proposals of the Federal Aviation Administration; to the Committee on Commerce, Science, and Transportation.

POM-318. A resolution adopted by the Council of the City of Gretna, State of Louisiana relative to enacting the "Domestic Energy Production through Offshore Exploration and Equitable Treatment of State Holdings Act of 2006"; to the Committee on Energy and Natural Resources.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Mr. DOMENICI for the committee on Energy and Natural Resources.

*Dirk Kempthorne, of Idaho, to be Secretary of the Interior.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. VITTER:

S. 2774. A bill to ensure efficiency and fairness in the awarding of Federal contracts in connection with Hurricane Katrina and Hurricane Rita reconstruction efforts; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. HUTCHISON:

S. 2775. A bill to extend the temporary suspension of duty on electrical radio broadcast receivers not combined with a clock; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 2776. A bill to extend the temporary suspension of duty on electrical radio broadcast receivers combined with a clock; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 2777. A bill to extend the temporary suspension of duty on hand-held radio scanners; to the Committee on Finance.

By Mr. SCHUMER (for himself and Mr. Gregg):

S. 2778. A bill to suspend temporarily the duty on ethanol; to the Committee on Finance.

By Mr. INHOFE (for himself and Mr. Vitter):

S. 2779. A bill to amend titles 38 and 18, United States Code, to prohibit certain demonstrations at cemeteries under the control of the National Cemetery Administration and at Arlington National Cemetery, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. INHOFE (by request):

S. 2780. A bill to authorize the Administrator of the Environmental Protection Agency to advance cooperative conservation efforts, to reduce barriers to the formation and use of partnerships to enable Federal environmental stewardship agencies to meet the conservation goals and obligations of the agencies, to promote remediation of inactive and abandoned mines, and for other purposes; to the Committee on Environment and Public Works.

By Mr. INHOFE (for himself, Mr. Chafee, and Ms. Murkowski):

S. 2781. A bill to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works; to the Committee on Environment and Public Works.

By Mr. TALENT (for himself, Mr. Harkin, Mr. Bond, and Mr. Lugar):

S. 2782. A bill to establish the National Institute of Food and Agriculture, to provide funding for the support of fundamental agricultural research of the highest quality, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LEAHY (for himself, Mr. Frist, Mr. Reid, Mr. Biden, Mr. Durbin, Mr. Obama, Mr. Grassley, Mr. Cornyn, Mr. Brownback, Mr. Graham, Ms. Stabenow, Mr. Menendez, Mr. Allen, Ms. Cantwell, and Mr. Kyl):

S. Res. 472. A resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers; considered and agreed to.

By Ms. MURKOWSKI (for herself, Mr. Talent, and Mrs. Lincoln):

S. Res. 473. A resolution designating May 14, 2006, as "National Police Survivors Day"; considered and agreed to.

ADDITIONAL COSPONSORS

S. 333

At the request of Mr. Santorum, the name of the Senator from Rhode Island (Mr. Reed) was withdrawn as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 772

At the request of Mr. Cornyn, the name of the Senator from Idaho (Mr. Craig) was added as a cosponsor of S. 772, a bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

S. 2039

At the request of Mr. Durbin, the name of the Senator from Delaware (Mr. Biden) was added as a cosponsor of S. 2039, a bill to provide for loan repayment for prosecutors and public defenders.

S. 2388

At the request of Mr. Voinovich, the name of the Senator from Alaska (Ms. Murkowski) was added as a cosponsor of S. 2388, a bill to establish a National Commission on the Infrastructure of the United States.

S. 2424

At the request of Mr. Allen, the name of the Senator from Idaho (Mr. Craig) was added as a cosponsor of S. 2424, a bill to amend the Internal Revenue Code of 1986 to increase the contribution limits for health savings accounts, and for other purposes.

S. 2491

At the request of Mr. Cornyn, the name of the Senator from Idaho (Mr. Craig) was withdrawn as a cosponsor of S. 2491, a bill to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

At the request of Mr. Cornyn, the names of the Senator from Georgia (Mr. Isakson) and the Senator from Iowa (Mr. Grassley) were added as cosponsors of S. 2491, supra.

S. 2503

At the request of Mrs. Lincoln, the name of the Senator from Florida (Mr. Nelson) was added as a cosponsor of S. 2503, a bill to amend the Internal Revenue Code of 1986 to provide for an extension of the period of limitation to file claims for refunds on account of disability determinations by the Department of Veterans Affairs.

S. 2679

At the request of Mr. Talent, the name of the Senator from Ohio (Mr. DeWine) was added as a cosponsor of S. 2679, a bill to establish an Unsolved Crimes Section in the Civil Rights Division of the Department of Justice, and an Unsolved Civil Rights Crime Investigative Office in the Civil Rights Unit of the Federal Bureau of Investigation, and for other purposes.

S. 2694

At the request of Mr. Craig, the name of the Senator from Vermont

(Mr. JEFFORDS) was added as a cosponsor of S. 2694, a bill to amend title 38, United States Code, to remove certain limitation on attorney representation of claimants for veterans benefits in administrative proceedings before the Department of Veterans Affairs, and for other purposes.

S. 2748

At the request of Mr. BINGAMAN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2748, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to promote energy production and conservation, and for other purposes.

S. RES. 409

At the request of Mr. NELSON of Florida, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. Res. 409, a resolution supporting democracy, development, and stabilization in Haiti.

S. RES. 469

At the request of Mr. LIEBERMAN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. Res. 469, a resolution condemning the April 25, 2006, beating and intimidation of Cuban dissident Martha Beatriz Roque.

S. RES. 470

At the request of Mr. KERRY, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Res. 470, a resolution promoting a comprehensive political agreement in Iraq.

AMENDMENT NO. 3871

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of amendment No. 3871 intended to be proposed to S. 1955, a bill to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INHOFE (for himself, Mr. CHAFEE, and Ms. MURKOWSKI):

S. 2781. A bill to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, I rise today to introduce the Wastewater Treatment Works Security Act of 2006. I am pleased to be joined in this effort by Senator CHAFEE, the chairman of the Subcommittee on Fisheries, Wildlife and Water and Senator MURKOWSKI, an important and influential member of the Committee on Environment and Public Works, EPW. The bill being proposed is similar to legislation, S. 1039, that passed the Committee on Environment and Public Works last Congress on a strong bipartisan vote and a bill that passed the House of Representatives by a vote of 413 to 2. Unfortunately, some of my colleagues in the minority objected to bringing that important, bipartisan legislation to the floor. At an impasse with the close of the 108th Congress, I asked the Government Accountability Office to survey the wastewater community in order to determine what steps publicly owned treatment works. POTWs, had taken to assess their security and if need be, what steps they had taken to enhance security at their facilities.

In March 2006 we received GAO's report and the results confirm that the approach advocated by the House of Representatives and by the EPW Committee is the right approach. The Federal Government must work cooperatively with our counterparts at the state and local level to ensure our nation's infrastructure is secure. GAO found that without a federal requirement to do so, the overwhelming majority of the largest POTWs have conducted or are in the process of conducting vulnerability assessments. They did not need a heavy handed federal mandate to do the right thing. Of those who have not and do not plan to do a vulnerability assessment, a majority believed they had taken sufficient other security measures or believed that by updating their Emergency Response Plan the utility had a good understanding of its vulnerabilities.

While this is tremendous progress, it is important that all systems know what their vulnerabilities are and take steps to mitigate them. The legislation my colleagues Senator CHAFEE and Senator MURKOWSKI and I introduce today builds upon the good work already taking place by working in collaboration with the publicly owned treatment works. For the few systems remaining who have not done an assessment, our bill provides them an incentive to do so by authorizing funding. Further, once these systems have completed their assessments and certified to EPA that they have done so, they can join their colleagues in seeking grants to address some of the security problems identified in the assessments.

During Hurricane Katrina, we saw how important emergency response plans are and how valuable mutual aid agreements can be. Our bill allows funding for the development, expansion or upgrading of an emergency response plan as well as for the voluntary creation of a mutual aid agreement or participation in such an agreement.

The GAO also found that the majority facilities had actually made significant security improvements prior to the tragedy of September 11. Of the 206 who responded, 149 had vehicle gates; 174 had security fences; 160 had redundant power sources; 133 had redundant pumping devices or collection bypass systems. Following September 11, 138 facilities now have safeguards for onsite delivery of materials and 112 have additional site lighting. It is important for all of my colleagues to note how much progress these entities have taken to secure their facilities and protect their communities.

The use of chlorine has been a topic of discussion for years. Chlorine is by far the most effective disinfectant available and it is the least expensive. During these times of aging systems, growing Federal regulations and limited resources, cost is an important consideration. In its January 2005 report on security at wastewater utilities, the GAO estimated it would cost a utility $12.5 million to switch from chlorine to sodium hypochlorite. There are other considerations that must be considered as well, such as downstream effects of a chlorine alternative. For example, the switch from chlorine to chloramines in Washington, DC's drinking water system was found to cause lead to leach out of service pipes and into the faucets of homes and businesses. Thus, decisions about chlorine must be fully evaluated and must be site specific. Many POTWs are already undergoing these evaluations. After careful review of cost, technical feasibility and safety considerations, and without the presence of a Federal mandate on technology, 116 of the 206 largest POTWs do not use gaseous chlorine. According to the GAO report, another 20 plan to switch to a technology other than chlorine. To sum, nearly two-thirds of the nation's largest POTWs are not using chlorine. Those who continue to use chlorine have taken steps to ensure the chlorine is secure.

While the GAO report found significant steps were being taken at the nation's largest wastewater utilities, the Office also found an area very much in need of assistance. Each POTW has a collection system that consists of the pipes to carry wastewater from homes and businesses to the treatment works. These pipes are often large enough for an individual to stand in and they provide an underground roadway beneath most major cities. In its January 2005 report, 42 of the 50 experts on GAO's panel identified the collection system as the most vulnerable asset of a POTW. However, in discussions with engineers and utility managers, there remain many questions and obstacles on how to effectively secure a collection system. Therefore, our bill authorizes a research program to identify how a collection system could be used in a terrorist attack, how to identify potential chemicals or explosives that could be placed in a collection system and how best to mitigate against these risks. Finally, our legislation asks EPA to examine the various drinking water technologies to determine how affordable and effective each is.

As GAO found, POTWs are taking the critical steps necessary to secure their facilities and develop appropriate response mechanisms in the event of an attack or natural disaster. We at the Federal level must continue to work with them, not against them by imposing one-size-fits-all, heavyhanded unfunded Federal regulations. I hope my colleagues will join me in supporting this legislation and that we can finally enact wastewater security legislation.

By Mr. TALENT (for himself, Mr. HARKIN, Mr. BOND, and Mr. LUGAR):

S. 2782. A bill to establish the National Institute of Food and Agriculture, to provide funding for the support of fundamental agricultural research of the highest quality, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HARKIN. Mr. President, today, Senator TALENT and I, along with a group of our colleagues, are introducing the National Institute of Food and Agriculture Act of 2006. In the 2002 farm bill, a research, education and economics task force within the Department of Agriculture, USDA, was established to evaluate agricultural research. A key recommendation of this task force was to create a National Institute for Food and Agriculture, NIFA, within USDA in order to support fundamental agricultural research to ensure that American agriculture remains competitive now and in the future. This bill does exactly that. The NIFA would be a grant-making agency that funds food and agricultural research through a competitive, peer-reviewed process. These funds would be in addition to, not as a substitute for, current research programs at USDA's Agricultural Research Service, ARS, and Cooperative State Research, Education, and Extension Service, CSREES.

American agriculture must ensure that our Nation continues to produce safe and nutritious food for an increasing population. Other challenges in the areas of food and agriculture are problems we are facing right now: renewable energy, rural development, overweight and obesity, and environmental challenges. Investment in fundamental research remains our best hope to finding solutions to problems confronting American farmers and consumers of food and agriculture products now and in the future. Our Nation's investment in research has produced remarkable tangible results in the medical field, but food and agricultural research lags far behind. USDA's task force noted that the amount of funding designated for competitively awarded, peer-reviewed agricultural research grants is outpaced 100 to 1 by the National Institutes of Health. Our entire Nation is reaping the benefits of past agricultural research, but more can be done, and research will become much more important in the future as we face increased globalization and competition from foreign markets. Increasing our investment in food and agriculture research is a necessity for the future of America's food and agriculture industry and consumers alike. And that is why I support the National Institute of Food and Agriculture Act of 2006. I encourage my colleagues to do so too.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 472—COMMEMORATING AND ACKNOWLEDGING THE DEDICATION AND SACRIFICE MADE BY THE MEN AND WOMEN WHO HAVE LOST THEIR LIVES WHILE SERVING AS LAW ENFORCEMENT OFFICERS

Mr. LEAHY (for himself, Mr. FRIST, Mr. REID, Mr. BIDEN, Mr. DURBIN, Mr. OBAMA, Mr. GRASSLEY, Mr. CORNYN, Mr. BROWNBACK, Mr. GRAHAM, Ms. STABENOW, Mr. MENENDEZ, Mr. ALLEN, Ms. CANTWELL, and Mr. KYL) submitted the following resolution; which was considered and agreed to:

S. RES. 472

Whereas the well-being of all citizens of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 900,000 men and women, at great risk to their personal safety, presently serve their fellow citizens as guardians of peace;

Whereas peace officers are on the front lines in preserving the right of the children of the United States to receive an education in a crime-free environment, a right that is all too often threatened by the insidious fear caused by violence in schools;

Whereas 156 peace officers across the United States were killed in the line of duty during 2005, which is below the decade-long annual average of 167 deaths;

Whereas a number of factors contributed to this reduction in deaths, including—

(1) better equipment and increased use of bullet-resistant vests;

(2) improved training;

(3) longer prison terms for violent offenders; and

(4) advanced emergency medical care;

Whereas every other day, 1 out of every 16 peace officers is assaulted, 1 out of every 56 peace officers is injured, and 1 out of every 5,500 peace officers is killed in the line of duty somewhere in the United States; and

Whereas on May 15, 2006, more than 20,000 peace officers are expected to gather in Washington, D.C., to join with the families of their recently fallen comrades to honor those comrades and all others who went before them: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes May 15, 2006, as "Peace Officers Memorial Day", in honor of the Federal, State, and local officers that have been killed or disabled in the line of duty; and

(2) calls on the people of the United States to observe that day with appropriate ceremonies and respect.

SENATE RESOLUTION 473—DESIGNATING MAY 14, 2006, AS "NATIONAL POLICE SURVIVORS DAY"

Ms. MURKOWSKI (for herself, Mr. TALENT, and Mrs. LINCOLN) submitted the following resolution; which was considered and agreed to:

S. RES. 473

Whereas, in the United States, 1 law enforcement officer is killed every 53 hours, and between 140 and 160 law enforcement officers lose their lives in the line of duty each year;

Whereas, on May 14, 1983, on the eve of the 2nd annual National Peace Officers' Memorial Service, 10 widows of fallen law enforcement officers came together at dinner to discuss the lack of support for law enforcement survivors;

Whereas, exactly 1 year later, that discussion led to the formation of Concerns of Police Survivors, Inc. at the first annual National Police Survivors Seminar, which drew 110 law enforcement survivors from throughout the United States;

Whereas Concerns of Police Survivors, Inc. has grown to serve over 15,000 surviving families of fallen law enforcement officers by providing healing, love, and the opportunity for a renewed life;

Whereas Concerns of Police Survivors, Inc. and its 48 chapters throughout the United States—

(1) provide a program of peer support and counseling to law enforcement survivors for 365 days a year;

(2) helps survivors obtain the death benefits to which they are entitled; and

(3) sponsors scholarships for children and surviving spouses to pursue post-secondary education;

Whereas Concerns of Police Survivors, Inc. sponsors a year-round series of seminars, meetings and youth activities, including the National Police Survivors' Seminar during National Police Week, retreats for parents, spouses, siblings, and programs and summer activities for young and adolescent children;

Whereas Concerns of Police Survivors, Inc. helps law enforcement agencies cope with the loss of an officer by promoting the adoption of standardized policies and procedures for line-of-duty deaths; and

Whereas Concerns of Police Survivors, Inc. inspires the public to recognize the sacrifices made by law enforcement families by encouraging all citizens of the United States to tie a blue ribbon to their car antenna during National Police Week: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 14, 2006, as "National Police Survivors Day"; and

(2) calls on the people of the United States to observe National Police Survivors' Day with appropriate ceremonies to pay respect to—

(A) the survivors of the fallen heroes of law enforcement; and

(B) the fallen law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3874. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table.

SA 3875. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3876. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3877. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3878. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3879. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3880. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3881. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3882. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3883. Mr. VITTER (for himself and Mr. Graham) submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3884. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3885. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3886. Mr. FRIST proposed an amendment to the bill S. 1955, supra.

SA 3887. Mr. FRIST proposed an amendment to amendment SA 3886 proposed by Mr. FRIST to the bill S. 1955, supra.

SA 3888. Mr. FRIST proposed an amendment to the bill S. 1955, supra.

SA 3889. Mr. FRIST proposed an amendment to the bill S. 1955, supra.

SA 3890. Mr. FRIST proposed an amendment to amendment SA 3889 proposed by Mr. FRIST to the bill S. 1955, supra.

SA 3891. Ms. COLLINS (for herself and Ms. Murkowski) submitted an amendment intended to be proposed by her to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3892. Ms. COLLINS (for herself and Mr. Bingaman) submitted an amendment intended to be proposed by her to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3893. Ms. COLLINS (for herself and Mr. Feingold) submitted an amendment intended to be proposed by her to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3894. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3895. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3896. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3897. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3898. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3899. Mr. DURBIN (for himself, Mrs. Lincoln, Mr. Reid, Mr. Baucus, Mr. Kennedy, Mrs. Clinton, Mr. Kerry, Mr. Bingaman, Ms. Cantwell, Mr. Pryor, Mr. Harkin, Mr. Obama, Mr. Lautenberg, Mr. Schumer, Mr. Kohl, Mr. Lieberman, Mr. Dodd, Mr. Dayton, Mr. Johnson, Mr. Menendez, Mrs. Boxer, Mr. Nelson, of Florida, Ms. Mikulski, Ms. Stabenow, Mr. Carper, and Mr. Rockefeller) submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3900. Mr. CARPER (for himself and Mrs. Feinstein) submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3901. Mr. AKAKA (for himself and Mr. Obama) submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3902. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3903. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3904. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3905. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3906. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3907. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3908. Mr. BAUCUS (for himself and Mr. Coleman) submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3909. Mr. FEINGOLD (for himself and Mr. Graham) submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3910. Mr. FEINGOLD (for himself and Ms. Collins) submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3911. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3912. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3913. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3914. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3915. Mr. NELSON, of Florida (for himself and Ms. Snowe) submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3916. Mr. REID (for himself, Mrs. Clinton, Mrs. Murray, and Mr. Menendez) submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3917. Mr. BAUCUS (for himself and Mr. Reid) submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3918. Mr. DODD (for himself and Mr. Menendez) submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3919. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3920. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3921. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3922. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3923. Ms. STABENOW (for herself and Mr. Levin) submitted an amendment intended to be proposed by her to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3924. Ms. SNOWE (for herself, Mr. Byrd, Mr. Talent, and Mr. Domenici) submitted an amendment intended to be proposed by her to the bill S. 1955, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3874. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

In section 2932(b)(2) of the Public Health Service Act (as added by section 301 of the bill), strike the second sentence.

SA 3875. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

In section 103 of the bill, strike subsection (b).

SA 3876. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

In section 802 of the Employee Retirement Incomes Security Act of 1974 (as added by section 101(a) of the bill) strike subsection (d).

In section 103 of the bill, strike subsection (b).

SA 3877. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

In section 802 of the Employee Retirement Incomes Security Act of 1974 (as added by section 101(a) of the bill) strike subsection (d)(2).

Strike sections 2914, 2924, and 2934 of the Public Health Service Act (as added by sections 201 and 301 of the bill).

SA 3878. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

In section 802 of the Employee Retirement Incomes Security Act of 1974 (as added by section 101(a) of the bill) strike subsection (d).

SA 3879. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike sections 2912(b), 2913, 2914, 2923, 2924, 2933, and 2934 of the Public Health Service Act (as added by section 201 and amended by section 301 of the bill).

At the appropriate place in title XXIX of the Public Health Service Act (as added by section 201 and amended by section 301 of the bill), insert the following:

"SEC. 29 . PRESERVING STATE AUTHORITY OVER HEALTH INSURANCE.

"(a) FEDERAL RATING RULES.—

"(1) STATE OPTION TO ACCEPT OR REJECT.—A State may elect to adopt or reject the Model Small Group Rating Rules or the Transitional Small Group Rating Rules promulgated under section 2911(a).

"(2) NO FEDERAL PREEMPTION FOR NON-ADOPTING STATES.—In the case of any State that elects not to adopt the Model Small Group Rating Rules or the Transitional Small Group Rating Rules promulgated under section 2911(a), no provision of this Act shall be construed to—

"(A) preempt or supersede any law of such State; or

"(B) limit the ability of such State to enforce any State law with respect to health insurance coverage.

"(b) FEDERAL BENEFIT CHOICE STANDARDS.—

"(1) STATE OPTION TO ACCEPT OR REJECT.—A State may elect to adopt or reject the Benefit Choice Standards promulgated under section 2922(a).

"(2) NO FEDERAL PREEMPTION FOR NON-ADOPTING STATES.—In the case of any State that elects not to adopt the Benefit Choice Standards promulgated under section 2922(a), no provision of this Act shall be construed to—

"(A) preempt or supersede any law of such State; or

"(B) limit the ability of such State to enforce any State law with respect to health insurance coverage.

"(c) FEDERAL HARMONIZATION STANDARDS.—

"(1) STATE OPTION TO ACCEPT OR REJECT.—A State may elect to adopt or reject the harmonized standards certified by the Secretary under section 2932(d).

"(2) NO FEDERAL PREEMPTION FOR NON-ADOPTING STATES.—In the case of any State that elects not to adopt the harmonized standards certified by the Secretary under section 2932(d), no provision of this Act shall be construed to—

"(A) preempt or supersede any law of such State; or

"(B) limit the ability of such State to enforce any State law with respect to health insurance coverage.

SA 3880. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . LIMITATION ON APPLICATION OF CERTAIN PROVISIONS.

Notwithstanding any other provision of this Act (or an amendment made by this Act), any provision of this Act (or amendment) that has the effect of—

(1) increasing premiums for health insurance coverage for individuals with diabetes;

(2) permitting a health insurance issuer to deny coverage for medical items or services needed to treat, mitigate, or cure diabetes; or

(3) limiting the ability of a State to enforce State laws that prohibit premium increases or denials of coverage described in paragraphs (1) or (2);

shall not apply and shall not be enforced.

SA 3881. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON PARTICIPATION.

Notwithstanding any other provision of this Act (or an amendment made by this Act), participation in small business health plans shall be limited to small employers (as defined for purposes of part 8 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as added by section 101(a)).

SA 3882. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . MODIFICATION OF REFERENCE TO NAIC MODEL RULES.

Wherever in this Act (or an amendment made by this Act) there is a reference to the "Adopted Small Employer Health Insurance Availability Model Act of 1993 of the National Association of Insurance Commissioners" such reference shall be deemed to be the "Adopted Small Employer Health Insurance Availability Model Act of 2000 of the National Association of Insurance Commissioners".

SA 3883. Mr. VITTER (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GAO STUDY CONCERNING BENEFITS MANDATES.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Government Accountability Office shall complete a study, and submit to the Committee on Health, Education, Labor, and Pensions of the Senate, a report concerning certain health insurance benefits and services that are mandated by State laws and covered under small business health plans under this Act.

(b) PURPOSE.—The purpose of the study under subsection (a) shall be to compare benefits and services covered by small business health plans under this Act with benefits and services that are mandated by State laws.

(c) BENEFITS TO BE STUDIED.—For the purposes of this section, the benefits to be studies under the study under subsection (a) shall include—

(1) chiropractic coverage;

(2) mammography services;

(3) minimum hospital stays;

(4) secondary consultations for women who undergo mastectomies and lymph node dissections for breast cancer;

(5) bone density screenings;

(6) cervical cancer screenings;

(7) maternity care;

(8) well-baby care;

(9) immunizations;

(10) autism treatments and services;

(11) obesity coverage; and

(12) diabetes coverage.

(d) OTHER STUDY AREAS.—In conducting the study and submitting the report under subsection (a), the Government Accountability Office shall—

(1) consider the total number of small business health plans approved pursuant to this Act;

(2) include a summary of the 5 largest small business health plans, measured by the number of enrollees, which shall, with respect to each such plan, include—

(A) a list of all benefits covered;

(B) a list of States with residents covered under such plan; and

(C) a comparison of benefits covered under such plan with benefits mandated by the insurance laws of each State in which the plan is offered;

(3) for each of the benefits described in subsection (c), contain a list of the States that mandate such coverage; and

(4) for each of the benefits described in subsection (c), contain a description of the total number of small business health plans offering such benefit.

SA 3884. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . COUNTERFEIT-RESISTANT TECHNOLOGIES FOR PRESCRIPTION DRUGS.

(a) REQUIRED TECHNOLOGIES.—The Secretary of Health and Human Services shall require that the packaging of any prescription drug incorporate—

(1) radio frequency identification (RFID) tagging technology, or similar trace and track technologies that have an equivalent function;

(2) tamper-indicating technologies; and

(3) blister security packaging when possible.

(b) USE OF TECHNOLOGIES.—

(1) AUTHORIZED USES.—The Secretary shall require that technologies described in subsection (a)(1) be used exclusively to authenticate the pedigree of prescription drugs, including by—

(A) implementing inventory control;

(B) tracking and tracing prescription drugs;

(C) verifying shipment or receipt of prescription drugs;

(D) authenticating finished prescription drugs; and

(E) electronically authenticating the pedigree of prescription drugs.

(2) PRIVACY PROTECTION.—The Secretary shall prohibit technologies required by subsection (a)(1) from containing or transmitting any information that may be used to identify a health care practitioner or the prescription drug consumer.

(3) PROHIBITION AGAINST ADVERTISING.—The Secretary shall prohibit technologies required by subsection (a)(1) from containing or transmitting any advertisement or information about prescription drug indications or off-label prescription drug uses.

(c) RECOMMENDED TECHNOLOGIES.—The Secretary shall encourage the manufacturers and distributors of prescription drugs to incorporate into the packaging of such drugs, in addition to the technologies required under subsection (a), overt optically variable counterfeit-resistant technologies that—

(1) are visible to the naked eye, providing for visual identification of prescription drug authenticity without the need for readers, microscopes, lighting devices, or scanners;

(2) are similar to technologies used by the Bureau of Engraving and Printing to secure United States currency;

(3) are manufactured and distributed in a highly secure, tightly controlled environment; and

(4) incorporate additional layers of non-visible covert security features up to and including forensic capability.

(d) STANDARDS FOR PACKAGING.—

(1) MULTIPLE ELEMENTS.—For the purpose of making it more difficult to counterfeit the packaging of prescription drugs, the Secretary shall require manufacturers of prescription drugs to incorporate the technologies described in paragraphs (1), (2), and (3) of subsection (a), and shall encourage manufacturers and distributors of prescription drugs to incorporate the technologies described in subsection (c), into multiple elements of the physical packaging of the drugs, including—

(A) blister packs, shrink wrap, package labels, package seals, bottles, and boxes; and

(B) at the item level.

(2) LABELING OF SHIPPING CONTAINER.—Shipments of prescription drugs shall include a label on the shipping container that incorporates the technologies described in subsection (a)(1), so that members of the supply chain inspecting the packages will be able to determine the authenticity of the shipment. Chain of custody procedures shall apply to such labels and shall include procedures applicable to contractual agreements for the use and distribution of the labels, methods to audit the use of the labels, and database access for the relevant governmental agencies for audit or verification of the use and distribution of the labels.

(e) PENALTY.—A prescription drug is deemed to be misbranded for purposes of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) if the packaging or labeling of the drug is in violation of a requirement or prohibition applicable to the drug under subsection (a), (b), or (d).

(f) TRANSITIONAL PROVISIONS; EFFECTIVE DATES.—

(1) NATIONAL SPECIFIED LIST OF SUSCEPTIBLE PRESCRIPTION DRUGS.—

(A) INITIAL PUBLICATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register a list, to be known as the National Specified List of Susceptible Prescription Drugs, consisting of not less than 30 of the prescription drugs that are most frequently subject to counterfeiting in the United States (as determined by the Secretary).

(B) REVISION.—Not less than annually through the end of calendar year 2009, the Secretary shall review and, as appropriate, revise the National Specified List of Susceptible Prescription Drugs. The Secretary may not revise the List to include fewer than 30 prescription drugs.

(2) EFFECTIVE DATES.—The Secretary shall implement the requirements and prohibitions of subsections (a), (b), and (d)—

(A) with respect to prescription drugs on the National Specified List of Susceptible Prescription Drugs, beginning not later than the earlier of—

(i) 1 year after the initial publication of such List; or

(ii) December 31, 2007; and

(B) with respect to all prescription drugs, beginning not later than December 31, 2010.

(3) AUTHORIZED USES DURING TRANSITIONAL PERIOD.—In lieu of the requirements specified in subsection (b)(1), for the period beginning on the effective date applicable under paragraph (2)(A) and ending on the commencement of the effective date applicable under paragraph (2)(B), the Secretary shall require that technologies described in subsection (a)(1) be used exclusively to verify the authenticity of prescription drugs.

(g) DEFINITIONS.—In this Act:

(1) The term "pedigree"—

(A) means the history of each prior sale, purchase, or trade of the prescription drug involved to a distributor or retailer of the drug (including the date of the transaction and the names and addresses of all parties to the transaction); and

(B) excludes information about the sale, purchase, or trade of the drug to the drug consumer.

(2) The term "prescription drug" means a drug subject to section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)(1)).

(3) The term "Secretary" means the Secretary of Health and Human Services.

SA 3885. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —HEALTH RECORDS

SEC. ___01. SHORT TITLE.

This title may be cited as the "Independent Health Record Bank Act of 2006".

SEC. 02. PURPOSES.

It is the purpose of this title to provide for the establishment of a nationwide health information technology network to—

(1) improve healthcare quality, reduce medical errors, increase the efficiency of care, and advance the delivery of appropriate, evidence-based healthcare services;

(2) promotes the wellness, disease prevention, and management of chronic illnesses by increasing the availability and transparency of information related to the healthcare needs of an individual;

(3) ensure that appropriate information necessary to make medical decisions is available in a usable form at the time and in the location that the medical service involved is provided;

(4) produces greater value for healthcare expenditures by reducing healthcare costs

that result from inefficiency, medical errors, inappropriate care, and incomplete information;

(5) promotes a more effective marketplace, greater competition, greater systems analysis, increased choice, enhanced quality, and improved outcomes in healthcare services;

(6) improve the coordination of information and the provision of such services through an effective infrastructure for the secure and authorized exchange and use of healthcare information; and

(7) ensure that the confidentiality of individually identifiable health information of a patient is secure and protected.

SEC. ___03. DEFINITIONS.

In this title:

(1) Account.—The term "account" means an electronic health record of an individual contained in an independent health record bank.

(2) Electronic health record.—The term "electronic health record" means a longitudinal collection of personal health information concerning a single individual, entered or accepted by healthcare providers, and stored electronically.

(3) Healthcare entity.—The term "healthcare entity" includes healthcare consumers, providers, and payers, government agencies, pharmaceutical companies, laboratories, and research institutes.

(4) HIPAA.—The term "HIPAA" means the regulations under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

(5) Individually identifiable health information.—The term "individually identifiable health information" has the meaning given such term in section 1171(6) of the Social Security Act (42 U.S.C. 1320d(6)).

(6) Nonidentifiable health information.—The term "nonidentifiable health information" means any list, description or other grouping of consumer information (including publicly available information pertaining to them) that is derived without using personally identifiable information that is not publicly available.

(7) Partially identifiable health information.—The term "partially identifiable health information" means any list, description, or other grouping of consumer information (and publicly available information pertaining to them) derived using any personally identifiable information that is not publicly available.

(8) Protected health information.—The term "protected health information" shall have the meaning given such term for purposes of HIPAA.

(9) Secretary.—The term "Secretary" means the Secretary of Commerce.

SEC. 04. INDEPENDENT HEALTH RECORD BANKS.

(a) Purpose.—It is the purpose of this section to provide for the establishment of independent health record banks to achieve a savings of money and lives in the healthcare system through—

(1) the creation and storage of lifetime individual electronic health records for individuals that may contain health plan and debit card functionality and that serves the interests of all healthcare entities;

(2) the utilization of technological infrastructure with the goal of connecting health records to build a national health information network;

(3) the provision of health information data sets, within distinct authorization boundaries, based on usage needs, including—

(A) the sale of approved data for research and other consumer purposes as provided for under section 06(b);

(B) the provision of data for emergency healthcare as provided for under section ___06(c); and

(C) the provision of data for all other healthcare needs determined appropriate by the Secretary (in accordance with the protections provided for under section 06);

(4) the offering of incentives to employers that face rising employee health costs, to encourage employee participation in independent health record banks; and

(5) the creation of a source of tax-free income to support the operations of the independent health record banks, and, through revenue sharing, to provide incentives to independent health record bank account holders, healthcare providers, and fee payers to contribute health information.

(b) Establishment.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe standards for the establishment and certification of independent health record banks to carry out the purposes described in subsection (a).

(2) Requirement of non-profit entity.—The standards under paragraph (1) shall permit a non-profit entity to establish an independent health record bank as a cooperative entity that operates for the benefit and in the interests of the membership of the bank as a whole. Such bank shall be owned and controlled by its members.

(3) For-profit entities.—A for-profit entity may not participate in the establishment and operation of an independent health record bank, except to the extent that such entity is by contract employed to assist in carrying out the operations of the bank.

(4) Treatment as covered entity for purposes of HIPAA.—To the extent that an independent health record bank (or associated vendor) is engaged in transmitting protected health information, the bank shall be considered to be a covered entity for purposes of HIPAA with respect to such information.

(c) Membership.—

(1) In general.—To be eligible to be a member of an independent health record bank, an individual shall obtain or have obtained a product or service from a covered entity that is to be used primarily for personal, family, or household purposes, or that individual's legal representative.

(2) No limitation on membership.—Nothing in this subsection shall be construed to permit an independent health record bank to restrict membership.

(d) Rights Relating to Information in the Bank.—

(1) Individual consumers.—

(A) General right.—An individual who has a health record contained in an independent health record bank shall maintain ownership over the entire health record and shall have the right to review the contents of the record in its entirety at any time during the normal business operating hours of the bank.

(B) Additional information and limitation.—An individual described in subparagraph (A) may add personal health information to the health record of that individual, except that such individual shall not alter or falsify information that is entered into the health record by another healthcare entity. Such an individual shall have the right to propose an amendment to such information pursuant to standards prescribed by the Secretary relating to the correction of information contained in a health record.

(2) Other healthcare entities.—A healthcare entity (other than an individual) shall serve as the custodian of only that information that has been added by such entity to the health record of an individual that is maintained by an independent health record bank. Such entity may be permitted to have access to other specified information contained in such health record (including the entire record if appropriate) if such access is granted by the independent health record bank and the individual involved (pursuant to standards prescribed by the Secretary relating to access to information).

(e) Financing of Activities.—

(1) In general.—An independent health record bank may generate revenue to pay for the operations of the bank through—

(A) charging healthcare entities, including individual account holders, account fees for use of the bank;

(B) the sale of nonidentifiable and partially identifiable health information contained in the bank for research purposes (as provided for in section ___06(b)); and

(C) the conduct of any other activities determined appropriate by the Secretary.

(2) Sharing of revenue.—Revenue derived under paragraph (1)(B) shall be shared with independent health record bank account holders, and may be shared with healthcare providers and payers, in accordance with this title.

(3) Treatment of income.—For purposes of the Internal Revenue Code of 1986, any revenue described in this subsection shall not be included in gross income of any independent health record bank, independent health record bank account holder, healthcare provider, or payer described in this subsection.

SEC. ___05. HEALTHCARE CLEARINGHOUSE ACTIVITIES.

(a) Application of Section.—This section shall apply to an independent health record bank (and associated vendors) with respect to activities undertaken by such bank in operating as a health care clearinghouse (as such term is defined in section 1171(2) of the Social Security Act (42 U.S.C. 1329d(2)).

(b) Accreditation.—

(1) In general.—To be eligible to carry out clearinghouse activities under this section, an independent health record bank (and associated vendors performing clearinghouse functions) shall be accredited by a national standards development organization, utilizing the criteria described in paragraph (2), that is properly authenticated and registered with the Attorney General and the Federal Trade Commission pursuant to the provisions of the National Cooperation Research and Production Act of 1993 (15 U.S.C. 4301 et seq.).

(2) Criteria.—The criteria to be used by a national standards development organization in the accreditation of an independent health record bank under this section shall be designed to measure the competency, assets, practices, and procedures of the bank for purposes of conducting clearinghouse activities. Such criteria shall include—

(A) the technical capacity and electronic facilities of the bank for the receipt, transmission, and handling of electronic health information transactions;

(B) the ability of the bank to process transactions to which HIPAA applies;

(C) the backup and disaster recovery plans and capacity of the bank;

(D) the privacy practices, procedures, and employee training programs of the bank consistent with HIPAA; and

(E) the security practices, procedures, and employee training programs of the bank consistent with HIPAA, including compliance with the HIPAA security rule that protected health information must only be viewable by the intended recipient.

(3) EXISTING CLEARINGHOUSES.—An independent health record bank operated by an entity that has been certified under part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) as a health care clearinghouse prior to the date of enactment of this Act shall be considered to be accredited for purposes of paragraph (1).

(c) INFORMATION REQUIREMENT.—An independent health record bank acting as a health care clearinghouse under this section shall ensure that reporting services are provided to individual consumers in a manner that includes the provision of lists of individuals or organizations that have accessed the health record account of the consumer or to whom health information disclosures concerning the consumer have been made in accordance with the requirements of HIPAA.

SEC. ___06. AVAILABILITY AND USE OF HEALTHCARE INFORMATION IN BANK.

(a) GENERAL RULE.—Except as provided in this section, access to specified sections of, or an entire, electronic health record maintained by an independent health record bank concerning an individual shall only be provided with the prior authorization of the individual involved, as authenticated as provided for under the standards prescribed by the Secretary under section ___08.

(b) AVAILABILITY OF DATA FOR RESEARCH AND OTHER ACTIVITIES.—An independent health record bank may sell nonidentifiable and partially identifiable health information concerning and individual only if—

(1) the bank and the individual involved agree to the sale;

(2) the agreement provided for under paragraph (1) includes parameters with respect to the disclosure of information involved and a process for the authorization of the further disclosure of partially identifiable health information;

(3) the data involved is to be used for research or other activities only as provided for in the agreement under paragraph (1);

(4) the data involved does not identify the individual who is the subject of the data;

(5) the revenue to be derived from the sale of the data is collected by the bank and equally divided between the bank and the individual involved, except that revenue may also be distributed to healthcare providers and payers as incentives to contribute additional data to the bank; and

(6) the transaction otherwise meets the requirements and standards prescribed by the Secretary.

(c) AVAILABILITY OF DATA FOR EMERGENCY HEALTHCARE.—

(1) FINDINGS.—Congress finds that—

(A) given the size and nature of visits to emergency departments in the United States, readily available health data could make the difference between life and death; and

(B) due to the case mix and volume of patients treated, emergency departments are well positioned to provide data for public health surveillance, community risk assessment, research, education, training, quality improvement, and other uses.

(2) USE OF DATA.—An independent health record bank may permit healthcare providers to access, during an emergency department visit, a limited, authenticated data set concerning an individual for emergency response purposes without the prior consent of the individual. Such limited data may include—

(A) patient identification data, as determined appropriate by the individual involved;

(B) provider identification that includes the use of a unique provider identifiers as provided for in section 1173 of the Social Security Act (42 U.S.C. 1320d–2);

(C) payment data;

(D) arrival and first assessment data;

(E) data related to the individual's vitals, allergies, and medication history;

(F) data related to existing chronic problems and active clinical conditions of the individual; and

(G) data concerning physical examinations, procedures, results, and diagnosis data relating to the visit.

(d) EFFECT ON HIPAA.—Nothing in this title shall be construed to affect the scope, substance, or applicability of the part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) or HIPAA as such relates to individually identifiable health information maintained in an independent health record bank.

SEC. ___07. APPLICATION OF FEDERAL AND STATE SECURITY AND CONFIDENTIALITY STANDARDS.

(a) IN GENERAL.—Existing Federal security and confidentiality standards and State security and confidentiality laws shall apply to this title (and the amendments made by this title) until such time as Congress acts to amend such standards.

(b) PROVISION OF INFORMATION AND INFORMATIONAL PROVISION.—

(1) DESIGNATION OF AGENCY.—Each State with an independent health records bank operating in the State shall designate a State agency to be responsible for addressing complaints by residents of the State with respect to health records contained in the bank.

(2) PROVISION OF INFORMATION.—An independent health record bank operating in a State shall provide the State authority designated under paragraph (1) with an informational filing that describes the policies of the bank, the types of information sold by the bank, and other relevant information determined appropriate by such authority.

(3) INFORMATION.—An individual who has a health record maintained by an independent health record bank shall direct any concerns, problems, or questions related to such record directly to the appropriate State authority.

(c) DEFINITIONS.—For purposes of this section:

(1) STATE SECURITY AND CONFIDENTIALITY LAWS.—The term "State security and confidentiality laws" means State laws and regulations relating to the privacy and confidentiality of individually identifiable health information or to the security of such information.

(2) CURRENT FEDERAL SECURITY AND CONFIDENTIALITY STANDARDS.—The term "current Federal security and confidentiality standards" means the Federal privacy standards established pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note) and security standards established under section 1173(d) of the Social Security Act.

(3) STATE.—The term "State" has the meaning given such term when used in title XI of the Social Security Act, as provided under section 1101(a) of such Act (42 U.S.C. 1301(a)).

SEC. 08. REGULATORY OVERSIGHT.

(a) IN GENERAL.—In carrying out this title, the Secretary, acting through the Under Secretary for Technology or other appropriate official, shall—

(1) develop a program to certify entities to operate independent health record banks;

(2) provide assistance to encourage the growth of independent health record banks;

(3) track economic progress as it pertains to independent health records bank operators and individuals receiving non-taxable income with respect to accounts;

(4) conduct public education activities regarding the creation and usage of the independent health records banks;

(5) establish an interagency council under subsection (b) to develop standards for Federal security auditing for entities operating independent health record banks; and

(6) carry out any other activities determined appropriate by the Secretary.

(b) INTERAGENCY COUNCIL FOR SECURITY AUDITING.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Health and Human Services and other appropriate Federal officials, shall establish an interagency council to develop standards for Federal security auditing as it relates to data security, authentication, and authorization recommendations, and reviews of independent health record banks.

(2) DUTIES.—The interagency council established under paragraph (1) shall take into consideration the following factors when developing recommendations for security, authentication, and authorization of data in independent health record banks:

(A) The number and type of factors used for the exchange of protected health information.

(B) Requiring that individuals, who have health records that are maintained by the bank, be notified of a security breech with respect to such records, and any corrective action taken on behalf of the individual.

(C) Requiring that information sent to, or received from, an independent health record bank that has been designated as high-risk should be authenticated through the use of methods such as the periodic changing of passwords, the use of biometrics, the use of tokens or other technology as determined appropriate by the council.

(D) Recommendations for entities operating independent health record banks, including requiring analysis of the potential risk of health transaction security breeches based on set criteria.

(E) The conduct of audits of independent health record banks to ensure that they are in compliance with the requirements and standards established under this title.

(3) COMPLIANCE REPORT.—The interagency council established under this subsection shall annually submit to the Secretary a report on compliance by independent health record banks with the requirements and standard under this title. Such report shall be included in the report required under subsection (d).

(c) INTERAGENCY MEMORANDUM OF UNDERSTANDING.—The Secretary and the Secretary of Health and Human Services, and other Federal officials that may be impacted by this title, shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries or officials relating to the same matter over which 2 or more such Secretaries or officials have responsibility under this title are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries or officials in order to have coordinated enforcement strategy that avoids

duplication of enforcement efforts and assigns priorities in enforcement.

(d) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary, acting through the Under Secretary for Technology, shall submit to Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, a report that—

(1) describes individual owner or institution operator economic progress as achieved through independent health record bank usage and existing barriers to such usage;

(2) describes progress in security auditing as provided for by the interagency security council under subsection (b); and

(3) contains information on the other core responsibilities of the Secretary as described in subsection (a).

SEC. 09. PENALTIES FOR FRAUD AND ABUSE.

The penalties provided for in section 1177(b) of the Social Security Act (42 U.S.C. 1320d-6) shall apply to the wrongful disclosure of information collected, maintained, or made available by an independent health record bank under this title, including disclosures by any employees or associates of any such bank or other healthcare entity using or disclosing such information.

SEC. 10. TAX CREDIT FOR EMPLOYER-PROVIDED EMPLOYEE INDEPENDENT HEALTH RECORD BANK ACCOUNT FEES.

(a) ALLOWANCE OF CREDIT.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45N. EMPLOYER-PROVIDED EMPLOYEE INDEPENDENT HEALTH RECORD BANK ACCOUNT FEES.

"(a) DETERMINATION OF AMOUNT.—For purposes of section 38, the independent health record bank account investment credit determined under this section with respect to any taxpayer for any taxable year is an amount equal to the independent health record bank account investment provided by such taxpayer during the taxable year.

"(b) INDEPENDENT HEALTH RECORD BANK ACCOUNT INVESTMENT.—For purposes of this section, the term 'independent health record bank account investment' means, with respect to each employee of the taxpayer for any taxable year, an amount equal to the lesser of—

"(1) 50 percent of the cost for such employee to maintain an independent health record bank account paid by the taxpayer during the taxable year, or

"(2) $50.

"(c) INDEPENDENT HEALTH RECORD BANK ACCOUNT.—For purposes of this section, the term 'independent health record bank account' has the meaning given to the term 'account' under section 03(1) of the Independent Health Record Bank Act of 2006.

"(d) SPECIAL RULES.—No deduction or credit (other than under this section) shall be allowed under this chapter with respect to any expense which is taken into account under subsection (a) in determining the credit under this section.

"(e) REPORTS.—

"(1) IN GENERAL.—Each taxpayer shall make such reports to the Secretary and to employees of the taxpayer regarding—

"(A) independent health record bank account investments made with respect to such employee during any calendar year, and

"(B) such other information as the Secretary may require.

"(2) TIME FOR MAKING REPORTS.—The reports required by this subsection—

"(A) shall be filed at such time and in such manner as the Secretary prescribes, and

"(B) shall be furnished to employees—

"(i) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(ii) in such manner as the Secretary prescribes.

"(f) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section.

"(g) APPLICATION OF SECTION.—This section shall apply with respect to any independent health record bank account investments made by the taxpayer for the 5-taxable year period beginning with the first taxable year during which such investments are made by the taxpayer.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking "and" at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting ", plus", and by adding at the end the following new paragraph:

"(31) the independent health record bank account investment credit determined under section 45N(a).".

(c) CONFORMING AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 45N. Employer-provided employee independent health record bank account fees.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(e) ADDITIONAL INCENTIVE FOR CONSUMERS PARTICIPATING IN IHRB.—Revenue generated by an independent health record bank and received by an account holder, healthcare entity, or healthcare payer shall not be considered taxable income under the Internal Revenue Code of 1986.

SA 3886. Mr. FRIST proposed an amendment to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; as follows:

At the end of the modified amendment at the following;

"This act shall become effective 1 day after enactment."

SA 3887. Mr. FRIST proposed an amendment to amendment SA 3886 proposed by Mr. FRIST to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; as follows:

In the amendment strike "1" day and insert "2" days.

SA 3888. Mr. FRIST proposed an amendment to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Health Insurance Marketplace Modernization and Affordability Act of 2006".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents; purposes.

TITLE I—SMALL BUSINESS HEALTH PLANS

Sec. 101. Rules governing small business health plans.
Sec. 102. Cooperation between Federal and State authorities.
Sec. 103. Effective date and transitional and other rules.

TITLE II—MARKET RELIEF

Sec. 201. Market relief.

TITLE III—HARMONIZATION OF HEALTH INSURANCE STANDARDS

Sec. 301. Health Insurance Standards Harmonization.

(c) PURPOSES.—It is the purpose of this Act to—

(1) make more affordable health insurance options available to small businesses, working families, and all Americans;

(2) assure effective State regulatory protection of the interests of health insurance consumers; and

(3) create a more efficient and affordable health insurance marketplace through collaborative development of uniform regulatory standards.

TITLE I—SMALL BUSINESS HEALTH PLANS

SEC. 101. RULES GOVERNING SMALL BUSINESS HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

"PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

"SEC. 801. SMALL BUSINESS HEALTH PLANS.

"(a) IN GENERAL.—For purposes of this part, the term 'small business health plan' means a fully insured group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

"(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

"(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining medical care;

“(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership;

“(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation; and

“(4) does not condition membership on the basis of a minimum group size.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), (3), and (4) shall be deemed to be a sponsor described in this subsection.

“SEC. 802. CERTIFICATION OF SMALL BUSINESS HEALTH PLANS.

“(a) IN GENERAL.—Not later than 6 months after the date of enactment of this part, the applicable authority shall prescribe by interim final rule a procedure under which the applicable authority shall certify small business health plans which apply for certification as meeting the requirements of this part.

“(b) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—A small business health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

“(c) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation for continued certification of small business health plans under this part. Such regulation shall provide for the revocation of a certification if the applicable authority finds that the small business health plan involved is failing to comply with the requirements of this part.

“(d) EXPEDITED AND DEEMED CERTIFICATION.—

“(1) IN GENERAL.—If the Secretary fails to act on an application for certification under this section within 90 days of receipt of such application, the applying small business health plan shall be deemed certified until such time as the Secretary may deny for cause the application for certification.

“(2) CIVIL PENALTY.—The Secretary may assess a civil penalty against the board of trustees and plan sponsor (jointly and severally) of a small business health plan that is deemed certified under paragraph (1) of up to $500,000 in the event the Secretary determines that the application for certification of such small business health plan was willfully or with gross negligence incomplete or inaccurate.

“SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

“(a) SPONSOR.—The requirements of this subsection are met with respect to a small business health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

“(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to a small business health plan if the following requirements are met:

“(1) FISCAL CONTROL.—The plan is operated, pursuant to a plan document, by a board of trustees which pursuant to a trust agreement has complete fiscal control over the plan and which is responsible for all operations of the plan.

“(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

“(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

“(A) BOARD MEMBERSHIP.—

“(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

“(ii) LIMITATION.—

“(I) GENERAL RULE.—Except as provided in subclauses (II) and (III), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

“(II) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

“(III) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, subclause (I) shall not apply in the case of any service provider described in subclause (I) who is a provider of medical care under the plan.

“(iii) CERTAIN PLANS EXCLUDED.—Clause (i) shall not apply to a small business health plan which is in existence on the date of the enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2006.

“(B) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with insurers.

“(c) TREATMENT OF FRANCHISES.—In the case of a group health plan which is established and maintained by a franchiser for a franchisor or for its franchisees—

“(1) the requirements of subsection (a) and section 801(a) shall be deemed met if such requirements would otherwise be met if the franchisor were deemed to be the sponsor referred to in section 801(b) and each franchisee were deemed to be a member (of the sponsor) referred to in section 801(b); and

“(2) the requirements of section 804(a)(1) shall be deemed met.

For purposes of this subsection the terms ‘franchisor’ and ‘franchisee’ shall have the meanings given such terms for purposes of sections 436.2(a) through 436.2(c) of title 16, Code of Federal Regulations (including any such amendments to such regulation after the date of enactment of this part).

“SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

“(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan—

“(1) each participating employer must be—

“(A) a member of the sponsor;

“(B) the sponsor; or

“(C) an affiliated member of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

“(2) all individuals commencing coverage under the plan after certification under this part must be—

“(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

“(B) the dependents of individuals described in subparagraph (A).

“(b) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

“(c) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to a small business health plan if—

“(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

“(2) information regarding all coverage options available under the plan is made readily available to any employer eligible to participate; and

“(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

“SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

“(a) IN GENERAL.—The requirements of this section are met with respect to a small business health plan if the following requirements are met:

“(1) CONTENTS OF GOVERNING INSTRUMENTS.—

“(A) IN GENERAL.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

“(i) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)); and

“(ii) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)).

“(B) DESCRIPTION OF MATERIAL PROVISIONS.—The terms of the health insurance coverage (including the terms of any individual certificates that may be offered to individuals in connection with such coverage) describe the material benefit and rating, and other provisions set forth in this section and such material provisions are included in the summary plan description.

"(2) Contribution rates must be nondiscriminatory.—

"(A) In general.—The contribution rates for any participating small employer shall not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and shall not vary on the basis of the type of business or industry in which such employer is engaged, subject to subparagraph (B) and the terms of this title.

"(B) Effect of title.—Nothing in this title or any other provision of law shall be construed to preclude a health insurance issuer offering health insurance coverage in connection with a small business health plan that meets the requirements of this part, and at the request of such small business health plan, from—

"(i) setting contribution rates for the small business health plan based on the claims experience of the small business health plan so long as any variation in such rates for participating small employers complies with the requirements of clause (ii), except that small business health plans shall not be subject, in non-adopting states, to subparagraphs (A)(ii) and (C) of section 2912(a)(2) of the Public Health Service Act, and in adopting states, to any State law that would have the effect of imposing requirements as outlined in such subparagraphs (A)(ii) and (C); or

"(ii) varying contribution rates for participating small employers in a small business health plan in a State to the extent that such rates could vary using the same methodology employed in such State for regulating small group premium rates, subject to the terms of part I of subtitle A of title XXIX of the Public Health Service Act (relating to rating requirements), as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2006.

"(3) Exceptions regarding self-employed and large employers.—

"(A) Self employed.—

"(i) In general.—Small business health plans with participating employers who are self-employed individuals (and their dependents) shall enroll such self-employed participating employers in accordance with rating rules that do not violate the rating rules for self-employed individuals in the State in which such self-employed participating employers are located.

"(ii) Guarantee issue.—Small business health plans with participating employers who are self-employed individuals (and their dependents) may decline to guarantee issue to such participating employers in States in which guarantee issue is not otherwise required for the self-employed in that State.

"(B) Large employers.—Small business health plans with participating employers that are larger than small employers (as defined in section 808(a)(10)) shall enroll such large participating employers in accordance with rating rules that do not violate the rating rules for large employers in the State in which such large participating employers are located.

"(4) Regulatory requirements.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation.

"(b) Ability of Small Business Health Plans to Design Benefit Options.—Nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude a small business health plan or a health insurance issuer offering health insurance coverage in connection with a small business health plan from exercising its sole discretion in selecting the specific benefits and services consisting of medical care to be included as benefits under such plan or coverage, except that such benefits and services must meet the terms and specifications of part II of subtitle A of title XXIX of the Public Health Service Act (relating to lower cost plans), as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2006.

"(c) Domicile and Non-Domicile States.—

"(1) Domicile state.—Coverage shall be issued to a small business health plan in the State in which the sponsor's principal place of business is located.

"(2) Non-domicile states.—With respect to a State (other than the domicile State) in which participating employers of a small business health plan are located but in which the insurer of the small business health plan in the domicile State is not yet licensed, the following shall apply:

"(A) Temporary preemption.—If, upon the expiration of the 90-day period following the submission of a licensure application by such insurer (that includes a certified copy of an approved licensure application as submitted by such insurer in the domicile State) to such State, such State has not approved or denied such application, such State's health insurance licensure laws shall be temporarily preempted and the insurer shall be permitted to operate in such State, subject to the following terms:

"(i) Application of non-domicile state law.—Except with respect to licensure and with respect to the terms of subtitle A of title XXIX of the Public Health Service Act (relating to rating and benefits as added by the Health Insurance Marketplace Modernization and Affordability Act of 2006), the laws and authority of the non-domicile State shall remain in full force and effect.

"(ii) Revocation of preemption.—The preemption of a non-domicile State's health insurance licensure laws pursuant to this subparagraph, shall be terminated upon the occurrence of either of the following:

"(I) Approval or denial of application.—The approval of denial of an insurer's licensure application, following the laws and regulations of the non-domicile State with respect to licensure.

"(II) Determination of material violation.—A determination by a non-domicile State that an insurer operating in a non-domicile State pursuant to the preemption provided for in this subparagraph is in material violation of the insurance laws (other than licensure and with respect to the terms of subtitle A of title XXIX of the Public Health Service Act (relating to rating and benefits added by the Health Insurance Marketplace Modernization and Affordability Act of 2006)) of such State.

"(B) No prohibition on promotion.—Nothing in this paragraph shall be construed to prohibit a small business health plan or an insurer from promoting coverage prior to the expiration of the 90-day period provided for in subparagraph (A), except that no enrollment or collection of contributions shall occur before the expiration of such 90-day period.

"(C) Licensure.—Except with respect to the application of the temporary preemption provision of this paragraph, nothing in this part shall be construed to limit the requirement that insurers issuing coverage to small business health plans shall be licensed in each State in which the small business health plans operate.

"(D) Servicing by licensed insurers.—Notwithstanding subparagraph (C), the requirements of this subsection may also be satisfied if the participating employers of a small business health plan are serviced by a licensed insurer in that State, even where such insurer is not the insurer of such small business health plan in the State in which such small business health plan is domiciled.

"SEC. 806. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

"(a) Filing Fee.—Under the procedure prescribed pursuant to section 802(a), a small business health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to small business health plans.

"(b) Information to Be Included in Application for Certification.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority by regulation, at least the following information:

"(1) Identifying information.—The names and addresses of—

"(A) the sponsor; and

"(B) the members of the board of trustees of the plan.

"(2) States in which plan intends to do business.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

"(3) Bonding requirements.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

"(4) Plan documents.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

"(5) Agreements with service providers.—A copy of any agreements between the plan, health insurance issuer, and contract administrators and other service providers.

"(c) Filing Notice of Certification With States.—A certification granted under this part to a small business health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which the small business health plans operate.

"(d) Notice of Material Changes.—In the case of any small business health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

"SEC. 807. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

"A small business health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees, not less than 60 days before the proposed termination date—

"(1) provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

"(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

"(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation.

"SEC. 808. DEFINITIONS AND RULES OF CONSTRUCTION.

"(a) DEFINITIONS.—For purposes of this part—

"(1) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

"(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor, or

"(B) in the case of a sponsor with members which consist of associations, a person who is a member or employee of any such association and elects an affiliated status with the sponsor.

"(2) APPLICABLE AUTHORITY.—The term 'applicable authority' means the Secretary of Labor, except that, in connection with any exercise of the Secretary's authority with respect to which the Secretary is required under section 506(d) to consult with a State, such term means the Secretary, in consultation with such State.

"(3) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

"(4) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

"(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1), except that such term shall not include excepted benefits (as defined in section 733(c)).

"(6) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

"(7) INDIVIDUAL MARKET.—

"(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

"(B) TREATMENT OF VERY SMALL GROUPS.—

"(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

"(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

"(8) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

"(9) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with a small business health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

"(10) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, a small employer as defined in section 2791(e)(4).

"(11) TRADE ASSOCIATION AND PROFESSIONAL ASSOCIATION.—The terms 'trade association' and 'professional association' mean an entity that meets the requirements of section 1.501(c)(6)-1 of title 26, Code of Federal Regulations (as in effect on the date of enactment of this Act).

"(b) RULE OF CONSTRUCTION.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is a small business health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

"(1) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

"(2) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

"(c) RENEWAL.—Notwithstanding any provision of law to the contrary, a participating employer in a small business health plan shall not be deemed to be a plan sponsor in applying requirements relating to coverage renewal.

"(d) HEALTH SAVINGS ACCOUNTS.—Nothing in this part shall be construed to create any mandates for coverage of benefits for HSA-qualified health plans that would require reimbursements in violation of section 223(c)(2) of the Internal Revenue Code of 1986.".

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

"(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of a small business health plan which is certified under part 8.".

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking "Subsection (a)" and inserting "Subsections (a) and (d)";

(B) in subsection (b)(5), by striking "subsection (a)" in subparagraph (A) and inserting "subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805", and by striking "subsection (a)" in subparagraph (B) and inserting "subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805";

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

"(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude a health insurance issuer from offering health insurance coverage in connection with a small business health plan which is certified under part 8.

"(2) In any case in which health insurance coverage of any policy type is offered under a small business health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may establish rating and benefit requirements that would otherwise apply to such coverage, provided the requirements of subtitle A of title XXIX of the Public Health Service Act (as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2006) (concerning health plan rating and benefits) are met.".

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes a person serving as the sponsor of a small business health plan under part 8.".

(d) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting "or part 8" after "this part".

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

"PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

"801. Small business health plans.
"802. Certification of small business health plans.
"803. Requirements relating to sponsors and boards of trustees.
"804. Participation and coverage requirements.
"805. Other requirements relating to plan documents, contribution rates, and benefit options.
"806. Requirements for application and related requirements.
"807. Notice requirements for voluntary termination.
"808. Definitions and rules of construction.".

SEC. 102. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(d) CONSULTATION WITH STATES WITH RESPECT TO SMALL BUSINESS HEALTH PLANS.—

"(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to a small business health plan regarding the exercise of—

"(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

"(B) the Secretary's authority to certify small business health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

"(2) RECOGNITION OF DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular small business health plan, as the State with which consultation is required. In carrying out this paragraph such State shall be the domicile State, as defined in section 805(c).".

SEC. 103. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect 12 months after the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this title within 6 months after the date of the enactment of this Act.

(b) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 808(a)(2) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a) and 803(a) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of trustees which has control over the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement or at such time that the arrangement provides coverage to participants and beneficiaries in any State other than the States in which coverage is provided on such date of enactment.

(2) DEFINITIONS.—For purposes of this subsection, the terms "group health plan", "medical care", and "participating employer" shall have the meanings provided in section 808 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an "small business health plan" shall be deemed a reference to an arrangement referred to in this subsection.

TITLE II—MARKET RELIEF

SEC. 201. MARKET RELIEF.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

"TITLE XXIX—HEALTH CARE INSURANCE MARKETPLACE MODERNIZATION

"SEC. 2901. GENERAL INSURANCE DEFINITIONS.

"In this title, the terms 'health insurance coverage', 'health insurance issuer', 'group health plan', and 'individual health insurance' shall have the meanings given such terms in section 2791.

"Subtitle A—Market Relief

"PART I—RATING REQUIREMENTS

"SEC. 2911. DEFINITIONS.

"In this part:

"(1) ADOPTING STATE.—The term 'adopting State' means a State that, with respect to the small group market, has enacted small group rating rules that meet the minimum standards set forth in section 2912(a)(1) or, as applicable, transitional small group rating rules set forth in section 2912(b).

"(2) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the insurance laws of such State.

"(3) BASE PREMIUM RATE.—The term 'base premium rate' means, for each class of business with respect to a rating period, the lowest premium rate charged or that could have been charged under a rating system for that class of business by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage

"(4) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a State and that—

"(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the Model Small Group Rating Rules or, as applicable, transitional small group rating rules in a State;

"(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer small group health insurance coverage in that State consistent with the Model Small Group Rating Rules, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency); and

"(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the Model Small Group Rating Rules and an affirmation that such Rules are included in the terms of such contract.

"(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the small group health insurance market, except that such term shall not include excepted benefits (as defined in section 2791(c)).

"(6) INDEX RATE.—The term 'index rate' means for each class of business with respect to the rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

"(7) MODEL SMALL GROUP RATING RULES.—The term ' Model Small Group Rating Rules' means the rules set forth in section 2912(a)(2).

"(8) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

"(9) SMALL GROUP INSURANCE MARKET.—The term 'small group insurance market' shall have the meaning given the term 'small group market' in section 2791(e)(5).

"(10) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"(11) VARIATION LIMITS.—

"(A) COMPOSITE VARIATION LIMIT.—

"(i) IN GENERAL.—The term 'composite variation limit' means the total variation in premium rates charged by a health insurance issuer in the small group market as permitted under applicable State law based on the following factors or case characteristics:

"(I) Age.

"(II) Duration of coverage.

"(III) Claims experience.

"(IV) Health status.

"(ii) USE OF FACTORS.—With respect to the use of the factors described in clause (i) in setting premium rates, a health insurance issuer shall use one or both of the factors described in subclauses (I) or (IV) of such clause and may use the factors described in subclauses (II) or (III) of such clause.

"(B) TOTAL VARIATION LIMIT.—The term 'total variation limit' means the total variation in premium rates charged by a health insurance issuer in the small group market as permitted under applicable State law based on all factors and case characteristics (as described in section 2912(a)(1)).

"SEC. 2912. RATING RULES.

"(a) ESTABLISHMENT OF MINIMUM STANDARDS FOR PREMIUM VARIATIONS AND MODEL SMALL GROUP RATING RULES.—Not later than 6 months after the date of enactment of this title, the Secretary shall promulgate regulations establishing the following Minimum Standards and Model Small Group Rating Rules:

"(1) MINIMUM STANDARDS FOR PREMIUM VARIATIONS.—

"(A) COMPOSITE VARIATION LIMIT.—The composite variation limit shall not be less than 3:1.

"(B) TOTAL VARIATION LIMIT.—The total variation limit shall not be less than 5:1.

"(C) PROHIBITION ON USE OF CERTAIN CASE CHARACTERISTICS.—For purposes of this paragraph, in calculating the total variation limit, the State shall not use case characteristics other than those used in calculating the composite variation limit and industry, geographic area, group size, participation rate, class of business, and participation in wellness programs.

"(2) MODEL SMALL GROUP RATING RULES.—The following apply to an eligible insurer in a non-adopting State:

"(A) PREMIUM RATES.—Premium rates for small group health benefit plans to which this title applies shall comply with the following provisions relating to premiums, except as provided for under subsection (b):

"(i) VARIATION IN PREMIUM RATES.—The plan may not vary premium rates by more than the minimum standards provided for under paragraph (1).

"(ii) INDEX RATE.—The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than 20 percent, excluding those classes of business related to association groups under this title.

"(iii) CLASS OF BUSINESSES.—With respect to a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage or the rates that could be charged to such employers under the rating system for that class of business, shall not vary from the index rate by more than 25 percent of the index rate under clause (ii).

"(iv) INCREASES FOR NEW RATING PERIODS.—The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

"(I) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, except that such change shall not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers.

"(II) Any adjustment, not to exceed 15 percent annually and adjusted pro rata for rating periods of less then 1 year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business involved.

"(III) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

"(v) UNIFORM APPLICATION OF ADJUSTMENTS.—Adjustments in premium rates for claim experience, health status, or duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

"(vi) PROHIBITION ON USE OF CERTAIN CASE CHARACTERISTIC.—A small employer carrier shall not utilize case characteristics, other than those permitted under paragraph (1)(C), without the prior approval of the applicable State authority.

"(vii) CONSISTENT APPLICATION OF FACTORS.—Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans.

"(viii) TREATMENT OF PLANS AS HAVING SAME RATING PERIOD.—A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

"(ix) REQUIRE COMPLIANCE.—Premium rates for small business health benefit plans shall comply with the requirements of this subsection notwithstanding any assessments paid or payable by a small employer carrier as required by a State's small employer carrier reinsurance program.

"(B) ESTABLISHMENT OF SEPARATE CLASS OF BUSINESS.—Subject to subparagraph (C), a small employer carrier may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative costs related to the following:

"(i) The small employer carrier uses more than one type of system for the marketing and sale of health benefit plans to small employers.

"(ii) The small employer carrier has acquired a class of business from another small employer carrier.

"(iii) The small employer carrier provides coverage to one or more association groups that meet the requirements of this title.

"(C) LIMITATION.—A small employer carrier may establish up to 9 separate classes of business under subparagraph (B), excluding those classes of business related to association groups under this title.

"(D) LIMITATION ON TRANSFERS.—A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration of coverage since issue.

"(b) TRANSITIONAL MODEL SMALL GROUP RATING RULES.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of this title and to the extent necessary to provide for a graduated transition to the minimum standards for premium variation as provided for in subsection (a)(1), the Secretary, in consultation with the National Association of Insurance Commissioners (NAIC), shall promulgate State-specific transitional small group rating rules in accordance with this subsection, which shall be applicable with respect to non-adopting States and eligible insurers operating in such States for a period of not to exceed 3 years from the date of the promulgation of the minimum standards for premium variation pursuant to subsection (a).

"(2) COMPLIANCE WITH TRANSITIONAL MODEL SMALL GROUP RATING RULES.—During the transition period described in paragraph (1), a State that, on the date of enactment of this title, has in effect a small group rating rules methodology that allows for a variation that is less than the variation provided for under subsection (a)(1) (concerning minimum standards for premium variation), shall be deemed to be an adopting State if the State complies with the transitional small group rating rules as promulgated by the Secretary pursuant to paragraph (1).

"(3) TRANSITIONING OF OLD BUSINESS.—

"(A) IN GENERAL.—In developing the transitional small group rating rules under paragraph (1), the Secretary shall, after consultation with the National Association of Insurance Commissioners and representatives of insurers operating in the small group health insurance market in non-adopting States, promulgate special transition standards with respect to independent rating classes for old and new business, to the extent reasonably necessary to protect health insurance consumers and to ensure a stable and fair transition for old and new market entrants.

"(B) PERIOD FOR OPERATION OF INDEPENDENT RATING CLASSES.—In developing the special transition standards pursuant to subparagraph (A), the Secretary shall permit a carrier in a non-adopting State, at its option, to maintain independent rating classes for old and new business for a period of up to 5 years, with the commencement of such 5-year period to begin at such time, but not later than the date that is 3 years after the date of enactment of this title, as the carrier offers a book of business meeting the minimum standards for premium variation provided for in subsection (a)(1) or the transitional small group rating rules under paragraph (1).

"(4) OTHER TRANSITIONAL AUTHORITY.—In developing the transitional small group rating rules under paragraph (1), the Secretary shall provide for the application of the transitional small group rating rules in transition States as the Secretary may determine necessary for a an effective transition.

"(c) MARKET RE-ENTRY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a health insurance issuer that has voluntarily withdrawn from providing coverage in the small group market prior to the date of enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2006 shall not be excluded from re-entering such market on a date that is more than 180 days after such date of enactment.

"(2) TERMINATION.—The provision of this subsection shall terminate on the date that is 24 months after the date of enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2006.

"SEC. 2913. APPLICATION AND PREEMPTION.

"(a) SUPERSEDING OF STATE LAW.—

"(1) IN GENERAL.—This part shall supersede any and all State laws of a non-adopting State insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle) relate to rating in the small group insurance market as applied to an eligible insurer, or small group health insurance coverage issued by an eligible insurer, including with respect to coverage issued to a small employer through a small business health plan, in a State.

"(2) NONADOPTING STATES.—This part shall supersede any and all State laws of a nonadopting State insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle)—

"(A) prohibit an eligible insurer from offering, marketing, or implementing small group health insurance coverage consistent with the Model Small Group Rating Rules or transitional model small group rating rules; or

"(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing small group health insurance coverage consistent with the Model Small Group Rating Rules or transitional model small group rating rules.

"(b) SAVINGS CLAUSE AND CONSTRUCTION.—

"(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting states.

"(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers that offer small group health insurance coverage in a nonadopting State.

"(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supercede any State law in a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the Model Small Group Rating Rules or transitional model small group rating rules.

"(4) NO EFFECT ON PREEMPTION.—In no case shall this part be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this part be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

"(5) PREEMPTION LIMITED TO RATING.—Subsection (a) shall not preempt any State law that does not have a reference to or a connection with State rating rules that would otherwise apply to eligible insurers.

"(c) EFFECTIVE DATE.—This section shall apply, at the election of the eligible insurer, beginning in the first plan year or the first calendar year following the issuance of the final rules by the Secretary under the Model Small Group Rating Rules or, as applicable, the Transitional Model Small Group Rating Rules, but in no event earlier than the date that is 12 months after the date of enactment of this title.

"SEC. 2914. CIVIL ACTIONS AND JURISDICTION.

"(a) In General.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

"(b) Actions.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 2913.

"(c) Direct Filing in Court of Appeals.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

"(d) Expedited Review.—

"(1) District court.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

"(2) Court of appeals.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

"(e) Standard of Review.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

"SEC. 2915. ONGOING REVIEW.

"Not later than 5 years after the date on which the Model Small Group Rating Rules are issued under this part, and every 5 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners, shall prepare and submit to the appropriate committees of Congress a report that assesses the effect of the Model Small Group Rating Rules on access, cost, and market functioning in the small group market. Such report may, if the Secretary, in consultation with the National Association of Insurance Commissioners, determines such is appropriate for improving access, costs, and market functioning, contain legislative proposals for recommended modification to such Model Small Group Rating Rules.

"PART II—AFFORDABLE PLANS

"SEC. 2921. DEFINITIONS.

"In this part:

"(1) Adopting state.—The term 'adopting State' means a State that has enacted the Benefit Choice Standards in their entirety and as the exclusive laws of the State that relate to benefit, service, and provider mandates in the group and individual insurance markets.

"(2) Benefit choice standards.—The term 'Benefit Choice Standards' means the Standards issued under section 2922.

"(3) Eligible insurer.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

"(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the Benefit Choice Standards in a nonadopting State;

"(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the Benefit Choice Standards, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

"(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the Benefit Choice Standards and that adherence to such Standards is included as a term of such contract.

"(4) Health insurance coverage.—The term 'health insurance coverage' means any coverage issued in the group or individual health insurance markets, except that such term shall not include excepted benefits (as defined in section 2791(c)).

"(5) Nonadopting state.—The term 'nonadopting State' means a State that is not an adopting State.

"(6) Small group insurance market.—The term 'small group insurance market' shall have the meaning given the term 'small group market' in section 2791(e)(5).

"(7) State law.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"SEC. 2922. OFFERING AFFORDABLE PLANS.

"(a) Benefit Choice Options.—

"(1) Development.—Not later than 6 months after the date of enactment of this title, the Secretary shall issue, by interim final rule, Benefit Choice Standards that implement the standards provided for in this part.

"(2) Basic options.—The Benefit Choice Standards shall provide that a health insurance issuer in a State, may offer a coverage plan or plan in the small group market, individual market, large group market, or through a small business health plan, that does not comply with one or more mandates regarding covered benefits, services, or category of provider as may be in effect in such State with respect to such market or markets (either prior to or following the date of enactment of this title), if such issuer also offers in such market or markets an enhanced option as provided for in paragraph (3).

"(3) Enhanced option.—A health insurance issuer issuing a basic option as provided for in paragraph (2) shall also offer to purchasers (including, with respect to a small business health plan, the participating employers of such plan) an enhanced option, which shall at a minimum include such covered benefits, services, and categories of providers as are covered by a State employee coverage plan in one of the 5 most populous States as are in effect in the calendar year in which such enhanced option is offered.

"(4) Publication of benefits.—Not later than 3 months after the date of enactment of this title, and on the first day of every calendar year thereafter, the Secretary shall publish in the Federal Register such covered benefits, services, and categories of providers covered in that calendar year by the State employee coverage plans in the 5 most populous States.

"(b) Effective Dates.—

"(1) Small business health plans.—With respect to health insurance provided to participating employers of small business health plans, the requirements of this part (concerning lower cost plans) shall apply beginning on the date that is 12 months after the date of enactment of this title.

"(2) Non-association coverage.—With respect to health insurance provided to groups or individuals other than participating employers of small business health plans, the requirements of this part shall apply beginning on the date that is 15 months after the date of enactment of this title.

"SEC. 2923. APPLICATION AND PREEMPTION.

"(a) Superseding of State Law.—

"(1) In general.—This part shall supersede any and all State laws insofar as such laws relate to mandates relating to covered benefits, services, or categories of provider in the health insurance market as applied to an eligible insurer, or health insurance coverage issued by an eligible insurer, including with respect to coverage issued to a small business health plan, in a nonadopting State.

"(2) Nonadopting states.—This part shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as such laws—

"(A) prohibit an eligible insurer from offering, marketing, or implementing health insurance coverage consistent with the Benefit Choice Standards, as provided for in section 2922(a); or

"(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing health insurance coverage consistent with the Benefit Choice Standards.

"(b) Savings Clause and Construction.—

"(1) Nonapplication to adopting states.—Subsection (a) shall not apply with respect to adopting States.

"(2) Nonapplication to certain insurers.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

"(3) Nonapplication where obtaining relief under state law.—Subsection (a)(1) shall not supercede any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the Benefit Choice Standards.

"(4) No effect on preemption.—In no case shall this part be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this part be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

"(5) Preemption limited to benefits.—Subsection (a) shall not preempt any State law that does not have a reference to or a connection with State mandates regarding covered benefits, services, or categories of providers that would otherwise apply to eligible insurers.

"SEC. 2924. CIVIL ACTIONS AND JURISDICTION.

"(a) In General.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

"(b) Actions.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 2923.

"(c) Direct Filing in Court of Appeals.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

"(d) Expedited Review.—

"(1) District court.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

"(2) Court of appeals.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

"(e) Standard of Review.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

"SEC. 2925. RULES OF CONSTRUCTION.

"(a) In General.—Notwithstanding any other provision of Federal or State law, a health insurance issuer in an adopting State or an eligible insurer in a non-adopting State may amend its existing policies to be consistent with the terms of this subtitle (concerning rating and benefits).

"(b) Health Savings Accounts.—Nothing in this subtitle shall be construed to create any mandates for coverage of benefits for HSA-qualified health plans that would require reimbursements in violation of section 223(c)(2) of the Internal Revenue Code of 1986.".

TITLE III—HARMONIZATION OF HEALTH INSURANCE STANDARDS

SEC. 301. HEALTH INSURANCE STANDARDS HARMONIZATION.

Title XXIX of the Public Health Service Act (as added by section 201) is amended by adding at the end the following:

"Subtitle B—Standards Harmonization

"SEC. 2931. DEFINITIONS.

"In this subtitle:

"(1) Adopting state.—The term 'adopting State' means a State that has enacted the harmonized standards adopted under this subtitle in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

"(2) Eligible insurer.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

"(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the harmonized standards in a nonadopting State;

"(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the harmonized standards published pursuant to section 2932(d), and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

"(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such health coverage) and filed with the State pursuant to subparagraph (B), a description of the harmonized standards published pursuant to section 2932(g)(2) and an affirmation that such standards are a term of the contract.

"(3) Harmonized standards.—The term 'harmonized standards' means the standards certified by the Secretary under section 2932(d).

"(4) Health insurance coverage.—The term 'health insurance coverage' means any coverage issued in the health insurance market, except that such term shall not include excepted benefits (as defined in section 2791(c)).

"(5) Nonadopting state.—The term 'nonadopting State' means a State that fails to enact, within 18 months of the date on which the Secretary certifies the harmonized standards under this subtitle, the harmonized standards in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

"(6) State law.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"SEC. 2932. HARMONIZED STANDARDS.

"(a) Board.—

"(1) Establishment.—Not later than 3 months after the date of enactment of this title, the Secretary, in consultation with the NAIC, shall establish the Health Insurance Consensus Standards Board (referred to in this subtitle as the 'Board') to develop recommendations that harmonize inconsistent State health insurance laws in accordance with the procedures described in subsection (b).

"(2) Composition.—

"(A) In general.—The Board shall be composed of the following voting members to be appointed by the Secretary after considering the recommendations of professional organizations representing the entities and constituencies described in this paragraph:

"(i) Four State insurance commissioners as recommended by the National Association of Insurance Commissioners, of which 2 shall be Democrats and 2 shall be Republicans, and of which one shall be designated as the chairperson and one shall be designated as the vice chairperson.

"(ii) Four representatives of State government, two of which shall be governors of States and two of which shall be State legislators, and two of which shall be Democrats and two of which shall be Republicans.

"(iii) Four representatives of health insurers, of which one shall represent insurers that offer coverage in the small group market, one shall represent insurers that offer coverage in the large group market, one shall represent insurers that offer coverage in the individual market, and one shall represent carriers operating in a regional market.

"(iv) Two representatives of insurance agents and brokers.

"(v) Two independent representatives of the American Academy of Actuaries who have familiarity with the actuarial methods applicable to health insurance.

"(B) Ex officio member.—A representative of the Secretary shall serve as an ex officio member of the Board.

"(3) Advisory panel.—The Secretary shall establish an advisory panel to provide advice to the Board, and shall appoint its members after considering the recommendations of professional organizations representing the entities and constituencies identified in this paragraph:

"(A) Two representatives of small business health plans.

"(B) Two representatives of employers, of which one shall represent small employers and one shall represent large employers.

"(C) Two representatives of consumer organizations.

"(D) Two representatives of health care providers.

"(4) Qualifications.—The membership of the Board shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health plans, providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

"(5) Ethical disclosure.—The Secretary shall establish a system for public disclosure by members of the Board of financial and other potential conflicts of interest relating to such members. Members of the Board shall be treated as employees of Congress for purposes of applying title I of the Ethics in Government Act of 1978 (Public Law 95-521).

"(6) Director and staff.—Subject to such review as the Secretary deems necessary to assure the efficient administration of the Board, the chair and vice-chair of the Board may—

"(A) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Board (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

"(D) make advance, progress, and other payments which relate to the work of the Board;

"(E) provide transportation and subsistence for persons serving without compensation; and

"(F) prescribe such rules as it deems necessary with respect to the internal organization and operation of the Board.

"(7) TERMS.—The members of the Board shall serve for the duration of the Board. Vacancies in the Board shall be filled as needed in a manner consistent with the composition described in paragraph (2).

"(b) DEVELOPMENT OF HARMONIZED STANDARDS.—

"(1) IN GENERAL.—In accordance with the process described in subsection (c), the Board shall identify and recommend nationally harmonized standards for each of the following process categories:

"(A) FORM FILING AND RATE FILING.—Form and rate filing standards shall be established which promote speed to market and include the following defined areas for States that require such filings:

"(i) Procedures for form and rate filing pursuant to a streamlined administrative filing process.

"(ii) Timeframes for filings to be reviewed by a State if review is required before they are deemed approved.

"(iii) Timeframes for an eligible insurer to respond to State requests following its review.

"(iv) A process for an eligible insurer to self-certify.

"(v) State development of form and rate filing templates that include only non-preempted State law and Federal law requirements for eligible insurers with timely updates.

"(vi) Procedures for the resubmission of forms and rates.

"(vii) Disapproval rationale of a form or rate filing based on material omissions or violations of non-preempted State law or Federal law with violations cited and explained.

"(viii) For States that may require a hearing, a rationale for hearings based on violations of non-preempted State law or insurer requests.

"(B) MARKET CONDUCT REVIEW.—Market conduct review standards shall be developed which provide for the following:

"(i) Mandatory participation in national databases.

"(ii) The confidentiality of examination materials.

"(iii) The identification of the State agency with primary responsibility for examinations.

"(iv) Consultation and verification of complaint data with the eligible insurer prior to State actions.

"(v) Consistency of reporting requirements with the recordkeeping and administrative practices of the eligible insurer.

"(vi) Examinations that seek to correct material errors and harmful business practices rather than infrequent errors.

"(vii) Transparency and publishing of the State's examination standards.

"(viii) Coordination of market conduct analysis.

"(ix) Coordination and nonduplication between State examinations of the same eligible insurer.

"(x) Rationale and protocols to be met before a full examination is conducted.

"(xi) Requirements on examiners prior to beginning examinations such as budget planning and work plans.

"(xii) Consideration of methods to limit examiners' fees such as caps, competitive bidding, or other alternatives.

"(xiii) Reasonable fines and penalties for material errors and harmful business practices.

"(C) PROMPT PAYMENT OF CLAIMS.—The Board shall establish prompt payment standards for eligible insurers based on standards similar to those applicable to the Social Security Act as set forth in section 1842(c)(2) of such Act (42 U.S.C. 1395u(c)(2)). Such prompt payment standards shall be consistent with the timing and notice requirements of the claims procedure rules to be specified under subparagraph (D), and shall include appropriate exceptions such as for fraud, nonpayment of premiums, or late submission of claims.

"(D) INTERNAL REVIEW.—The Board shall establish standards for claims procedures for eligible insurers that are consistent with the requirements relating to initial claims for benefits and appeals of claims for benefits under the Employee Retirement Income Security Act of 1974 as set forth in section 503 of such Act (29 U.S.C. 1133) and the regulations thereunder.

"(2) RECOMMENDATIONS.—The Board shall recommend harmonized standards for each element of the categories described in subparagraph (A) through (D) of paragraph (1) within each such market. Notwithstanding the previous sentence, the Board shall not recommend any harmonized standards that disrupt, expand, or duplicate the covered benefit, service, or category of provider mandate standards provided for in section 2922.

"(c) PROCESS FOR IDENTIFYING HARMONIZED STANDARDS.—

"(1) IN GENERAL.—The Board shall develop recommendations to harmonize inconsistent State insurance laws with respect to each of the process categories described in subparagraphs (A) through (D) of subsection (b)(1).

"(2) REQUIREMENTS.—In adopting standards under this section, the Board shall consider the following:

"(A) Any model acts or regulations of the National Association of Insurance Commissioners in each of the process categories described in subparagraphs (A) through (D) of subsection (b)(1).

"(B) Substantially similar standards followed by a plurality of States, as reflected in existing State laws, relating to the specific process categories described in subparagraphs (A) through (D) of subsection (b)(1).

"(C) Any Federal law requirement related to specific process categories described in subparagraphs (A) through (D) of subsection (b)(1).

"(D) In the case of the adoption of any standard that differs substantially from those referred to in subparagraphs (A), (B), or (C), the Board shall provide evidence to the Secretary that such standard is necessary to protect health insurance consumers or promote speed to market or administrative efficiency.

"(E) The criteria specified in clauses (i) through (iii) of subsection (d)(2)(B).

"(d) RECOMMENDATIONS AND CERTIFICATION BY SECRETARY.—

"(1) RECOMMENDATIONS.—Not later than 18 months after the date on which all members of the Board are selected under subsection (a), the Board shall recommend to the Secretary the certification of the harmonized standards identified pursuant to subsection (c).

"(2) CERTIFICATION.—

"(A) IN GENERAL.—Not later than 120 days after receipt of the Board's recommendations under paragraph (1), the Secretary shall certify the recommended harmonized standards as provided for in subparagraph (B), and issue such standards in the form of an interim final regulation.

"(B) CERTIFICATION PROCESS.—The Secretary shall establish a process for certifying the recommended harmonized standard, by category, as recommended by the Board under this section. Such process shall—

"(i) ensure that the certified standards for a particular process area achieve regulatory harmonization with respect to health plans on a national basis;

"(ii) ensure that the approved standards are the minimum necessary, with regard to substance and quantity of requirements, to protect health insurance consumers and maintain a competitive regulatory environment; and

"(iii) ensure that the approved standards will not limit the range of group health plan designs and insurance products, such as catastrophic coverage only plans, health savings accounts, and health maintenance organizations, that might otherwise be available to consumers.

"(3) EFFECTIVE DATE.—The standards certified by the Secretary under paragraph (2) shall be effective on the date that is 18 months after the date on which the Secretary certifies the harmonized standards.

"(e) TERMINATION.—The Board shall terminate and be dissolved after making the recommendations to the Secretary pursuant to subsection (d)(1).

"(f) ONGOING REVIEW.—Not earlier than 3 years after the termination of the Board under subsection (e), and not earlier than every 3 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners and the entities and constituencies represented on the Board and the Advisory Panel, shall prepare and submit to the appropriate committees of Congress a report that assesses the effect of the harmonized standards on access, cost, and health insurance market functioning. The Secretary may, based on such report and applying the process established for certification under subsection (d)(2)(B), in consultation with the National Association of Insurance Commissioners and the entities and constituencies represented on the Board and the Advisory Panel, update the harmonized standards through notice and comment rulemaking.

"(g) PUBLICATION.—

"(1) LISTING.—The Secretary shall maintain an up to date listing of all harmonized standards certified under this section on the Internet website of the Department of Health and Human Services.

"(2) SAMPLE CONTRACT LANGUAGE.—The Secretary shall publish on the Internet website of the Department of Health and Human Services sample contract language that incorporates the harmonized standards certified under this section, which may be used by insurers seeking to qualify as an eligible insurer. The types of harmonized standards that shall be included in sample contract language are the standards that are relevant to the contractual bargain between the insurer and insured.

"(h) STATE ADOPTION AND ENFORCEMENT.—Not later than 18 months after the certification by the Secretary of harmonized standards under this section, the States may adopt such harmonized standards (and become an adopting State) and, in which case, shall enforce the harmonized standards pursuant to State law.

"SEC. 2933. APPLICATION AND PREEMPTION.

"(a) SUPERCEDING OF STATE LAW.—

"(1) IN GENERAL.—The harmonized standards certified under this subtitle shall supersede any and all State laws of a non-adopting State insofar as such State laws relate to the areas of harmonized standards as applied to an eligible insurer, or health insurance coverage issued by a eligible insurer, including with respect to coverage issued to a small business health plan, in a nonadopting State.

"(2) NONADOPTING STATES.—This subtitle shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as they may—

"(A) prohibit an eligible insurer from offering, marketing, or implementing health insurance coverage consistent with the harmonized standards; or

"(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing health insurance coverage consistent with the harmonized standards under this subtitle.

"(b) SAVINGS CLAUSE AND CONSTRUCTION.—

"(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting States.

"(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

"(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supersede any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the harmonized standards under this subtitle.

"(4) NON-APPLICATION WHERE CONSISTENT WITH MARKET CONDUCT EXAMINATION HARMONIZED STANDARD.—Subsection (a)(1) shall not supersede any State law of a nonadopting State that relates to the harmonized standards issued under section 2932(b)(1)(B) to the extent that the State agency responsible for regulating insurance (or other applicable State agency) exercises its authority under State law consistent with the harmonized standards issued under section 2932(b)(1)(B).

"(5) NO EFFECT ON PREEMPTION.—In no case shall this subtitle be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this subtitle be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

"(6) PREEMPTION LIMITED TO HARMONIZED STANDARDS.—Subsection (a) shall not preempt any State law that does not have a reference to or a connection with State requirements for form and rate filing, market conduct reviews, prompt payment of claims, or internal reviews that would otherwise apply to eligible insurers.

"(c) EFFECTIVE DATE.—This section shall apply beginning on the date that is 18 months and one day after the date on harmonized standards are certified by the Secretary under this subtitle.

"SEC. 2934. CIVIL ACTIONS AND JURISDICTION.

"(a) IN GENERAL.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this subtitle.

"(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 2933.

"(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

"(d) EXPEDITED REVIEW.—

"(1) DISTRICT COURT.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

"(2) COURT OF APPEALS.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

"(e) STANDARD OF REVIEW.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

"SEC. 2935. AUTHORIZATION OF APPROPRIATIONS; RULE OF CONSTRUCTION.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

"(b) HEALTH SAVINGS ACCOUNTS.—Nothing in this subtitle shall be construed to create any mandates for coverage of benefits for HSA-qualified health plans that would require reimbursements in violation of section 223(c)(2) of the Internal Revenue Code of 1986.".

SA 3889. Mr. FRIST proposed an amendment to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace: as follows:

In the amendment strike the number "3" and insert the number "4".

SA 3890. Mr. FRIST proposed an amendment to amendment SA 3889 proposed by Mr. FRIST to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; as follows:

At the end of the amendment add the following:

"This act shall become effective 3 days after enactment."

SA 3891. Ms. COLLINS (for herself and Ms. MURKOWSKI) submitted an amendment intended to be proposed by her to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace: which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . PROHIBITION ON DISCRIMINATION AGAINST HEALTH CARE PROVIDERS.

Notwithstanding any other provision of this Act (or an amendment made by this Act), a health insurance issuer to which this Act (or amendment) applies shall comply with applicable State laws that prohibit discrimination with respect to participation, reimbursement, or indemnification under a health plan or other health insurance coverage against any health care provider who is acting within the scope of that provider's license or certification under applicable State law.

SA 3892. Ms. COLLINS (for herself and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace: which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . DIABETES TREATMENT, EDUCATION, AND SUPPLIES.

Notwithstanding any other provision of this Act (or an amendment made by this Act), a health insurance issuer to which this Act (or amendment) applies shall comply with State laws that require coverage for diabetes treatment, education, supplies, and prescription drugs and biologics.

SA 3893. Ms. COLLINS (for herself and Mr. FEINGOLD) submitted an amendment intended to be proposed by her to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace: which was ordered to lie on the table: as follows:

At the appropriate place, insert the following:

SEC. . COVERAGE OF CERTAIN INJURIES SUSTAINED DURING LEGAL ACTIVITIES.

(a) ERISA.—Section 702(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1182(a)(3)) is amended—

(1) by striking "CONSTRUCTION.—For" and inserting the following: "SCOPE.—

"(A) WAITING PERIODS.—For"; and

(2) by adding at the end the following:

"(B) LIMITATION ON DENIAL OF BENEFITS.—For purposes of paragraph (2), a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not deny benefits otherwise provided under the plan or coverage for the treatment of an injury solely because such injury resulted from the participation of the individual in a legal mode of transportation or a legal recreational activity.".

(b) PHSA.—Section 2702(a)(3) of the Public Health Service Act (42 U.S.C. 300gg–1(a)(3)) is amended—

(1) by striking "CONSTRUCTION.—For" and inserting the following: "SCOPE.—

"(A) WAITING PERIODS.—For"; and

(2) by adding at the end the following:

"(B) LIMITATION ON DENIAL OF BENEFITS.—For purposes of paragraph (2), a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not deny benefits otherwise provided under the plan or coverage for the treatment of an injury solely because such injury resulted from the participation of the individual in a legal mode of transportation or a legal recreational activity.".

(c) INTERNAL REVENUE CODE.—Section 9802(a)(3) of the Internal Revenue Code of 1986 is amended—

(1) by striking "CONSTRUCTION.—For" and inserting the following: "SCOPE.—

"(A) WAITING PERIODS.—For"; and

(2) by adding at the end the following:

"(B) LIMITATION ON DENIAL OF BENEFITS.—For purposes of paragraph (2), a group health plan may not deny benefits otherwise provided under the plan for the treatment of an injury solely because such injury resulted from the participation of the individual in a legal mode of transportation or a legal recreational activity.".

SA 3894. Ms. LANDRIEU submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. WAIVERS UNDER TITLE XXVI OF THE PUBLIC HEALTH SERVICE ACT FOR LOUISIANA FOR FISCAL YEARS 2007 AND 2008.

(a) IN GENERAL.—For fiscal years 2007 and 2008, the Secretary of Health and Human Services shall waive the requirements of, with respect to Louisiana and any eligible metropolitan area in Louisiana, the following sections of the Public Health Service Act:

(1) Section 2611(b)(1) of such Act (42 U.S.C. 300ff–21(b)(1)).

(2) Section 2617(b)(6)(E) of such Act (42 U.S.C. 300ff–27(b)(6)(E)).

(3) Section 2617(d) of such Act (42 U.S.C. 300ff–27(d)).

(b) CONSEQUENCE OF WAIVER.—For fiscal years 2007 and 2008, the Secretary of Health and Human Services—

(1) may not prevent Louisiana or any eligible metropolitan area in Louisiana from receiving or utilizing, or both, funds granted or distributed, or both, pursuant to title XXVI of the Public Health Service Act (42 U.S.C. 300ff–11 et seq.) because of the failure of Louisiana or any eligible metropolitan area in Louisiana to comply with the requirements of the sections listed in paragraphs (1) through (3) of subsection (a);

(2) may not take action due to such noncompliance; and

(3) shall assess, evaluate, and review Louisiana or any eligible metropolitan area's eligibility for funds under such title XXVI as if Louisiana or such eligible metropolitan area had fully complied with the requirements of the sections listed in paragraphs (1) through (3) of subsection (a).

(c) SUNSET OF WAIVER.—The waiver authority provided under subsection (a) shall apply for fiscal years 2007 and 2008 only. For fiscal year 2009 and each succeeding fiscal year, Louisiana and any eligible metropolitan area in Louisiana shall comply with each of the applicable requirements under title XXVI of the Public Health Service Act (42 U.S.C. 300ff–11 et seq.).

SA 3895. Ms. LANDRIEU submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. ELIGIBILITY OF HOSPITALS INCURRING HURRICANE-RELATED DAMAGE AND LOSSES FOR STAFFORD ACT RELIEF AND ASSISTANCE.

(a) ELIGIBILITY OF HOSPITALS FOR RELIEF AND ASSISTANCE RELATED TO HURRICANES KATRINA AND RITA.—Notwithstanding sections 406(a)(1)(B) and 407(a)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(a)(1)(B) and 42 U.S.C. 5173(a)(2)) or any other provision of such Act, any hospital that is located in a State for which the President has issued a declaration of major disaster with respect to Hurricane Katrina or Hurricane Rita shall be eligible for relief and assistance under title IV of such Act on the same terms and conditions as a hospital that is a private nonprofit facility.

(b) LIMITATION ON USE OF CERTAIN FUNDS BY HOSPITALS.—Notwithstanding section 406(c)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)(2)(B)), any in lieu contributions elected by a hospital eligible for such contributions pursuant to a declaration of major disaster referred to in subsection (a) may be used by the person owning or operating the hospital only for the purposes specified in such section and only in—

(1) the parish or county in which the hospital is located or was located;

(2) a parish or county that is contiguous to the parish or county referred to in paragraph (1); or

(3) a parish or county that is not more than 3 parishes or counties away from the parish or county referred to in paragraph (1).

SA 3896. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Responsible Public Readiness and Emergency Preparedness Act".

SEC. 2. REPEAL.

The Public Readiness and Emergency Preparedness Act (division C of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109-148)) is repealed.

SEC. 3. NATIONAL BIODEFENSE INJURY COMPENSATION PROGRAM.

(a) ESTABLISHMENT.—Section 224 of the Public Health Service Act (42 U.S.C. 233) is amended by adding at the end the following:

"(q) BIODEFENSE INJURY COMPENSATION PROGRAM.—

"(1) ESTABLISHMENT.—There is established the Biodefense Injury Compensation Program (referred to in this subsection as the 'Compensation Program') under which compensation may be paid for death or any injury, illness, disability, or condition that is likely (based on best available evidence) to have been caused by the administration of a covered countermeasure to an individual pursuant to a declaration under subsection (p)(2).

"(2) ADMINISTRATION AND INTERPRETATION.—The statutory provisions governing the Compensation Program shall be administered and interpreted in consideration of the program goals described in paragraph (4)(B)(iii).

"(3) PROCEDURES AND STANDARDS.—The Secretary shall by regulation establish procedures and standards applicable to the Compensation Program that follow the procedures and standards applicable under the National Vaccine Injury Compensation Program established under section 2110, except that the regulations promulgated under this paragraph shall permit a person claiming injury or death related to the administration of any covered countermeasure to file either—

"(A) a civil action for relief under subsection (p); or

"(B) a petition for compensation under this subsection.

"(4) INJURY TABLE.—

"(A) INCLUSION.—For purposes of receiving compensation under the Compensation Program with respect to a countermeasure that is the subject of a declaration under subsection (p)(2), the Vaccine Injury Table under section 2114 shall be deemed to include death and the injuries, disabilities, illnesses, and conditions specified by the Secretary under subparagraph (B)(ii).

"(B) INJURIES, DISABILITIES, ILLNESSES, AND CONDITIONS.—

"(i) INSTITUTE OF MEDICINE.—Not later than 30 days after making a declaration described in subsection (p)(2), the Secretary shall enter into a contract with the Institute of Medicine, under which the Institute shall, within 180 days of the date on which the contract is entered into, and periodically thereafter as new information, including information derived from the monitoring of those who were administered the countermeasure, becomes available, provide its expert recommendations on the injuries, disabilities, illnesses, and conditions whose occurrence in one or more individuals are likely (based on best available evidence) to have been caused by the administration of a countermeasure that is the subject of the declaration.

"(ii) SPECIFICATION BY SECRETARY.—Not later than 30 days after the receipt of the expert recommendations described in clause (i), the Secretary shall, based on such recommendations, specify those injuries, disabilities, illnesses, and conditions deemed to be included in the Vaccine Injury Table under section 2114 for the purposes described in subparagraph (A).

"(iii) PROGRAM GOALS.—The Institute of Medicine, under the contract under clause (i), shall make such recommendations, the Secretary shall specify, under clause (ii), such injuries, disabilities, illnesses, and conditions, and claims under the Compensation Program under this subsection shall be processed and decided taking into account the following goals of such program:

"(I) To encourage persons to develop, manufacture, and distribute countermeasures, and to administer covered countermeasures to individuals, by limiting such persons' liability for damages related to death and such injuries, disabilities, illnesses, and conditions.

"(II) To encourage individuals to consent to the administration of a covered countermeasure by providing adequate and just compensation for damages related to death and such injuries, disabilities, illnesses, or conditions.

"(III) To provide individuals seeking compensation for damages related to the administration of a countermeasure with a non-adversarial administrative process for obtaining adequate and just compensation.

"(iv) USE OF BEST AVAILABLE EVIDENCE.—The Institute of Medicine, under the contract under clause (i), shall make such recommendations, the Secretary shall specify, under clause (ii), such injuries, disabilities, illnesses, and conditions, and claims under the Compensation Program under this subsection shall be processed and decided using the best available evidence, including information from adverse event reporting or other monitoring of those individuals who were administered the countermeasure, whether evidence from clinical trials or other scientific studies in humans is available.

"(v) APPLICATION OF SECTION 2115.—With respect to section 2115(a)(2) as applied for purposes of this subsection, an award for the estate of the deceased shall be—

"(I) if the deceased was under the age of 18, an amount equal to the amount that may be paid to a survivor or survivors as death benefits under the Public Safety Officers' Benefits Program under subpart 1 of part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.); or

"(II) if the deceased was 18 years of age or older, the greater of—

"(aa) the amount described in subclause (I); or

"(bb) the projected loss of employment income, except that the amount under this item may not exceed an amount equal to 400 percent of the amount that applies under item (aa).

"(vi) APPLICATION OF SECTION 2116.—Section 2116(b) shall apply to injuries, disabilities, illnesses, and conditions initially specified or revised by the Secretary under clause (ii), except that the exceptions contained in paragraphs (1) and (2) of such section shall not apply.

"(C) RULE OF CONSTRUCTION.—Section 13632 (a)(3) of Public Law 103–66 (107 Stat. 646) (making revisions by Secretary to the Vaccine Injury Table effective on the effective date of a corresponding tax) shall not be construed to apply to any revision to the Vaccine Injury Table made under regulations under this paragraph.

"(5) APPLICATION.—The Compensation Program applies to any death or injury, illness, disability, or condition that is likely (based on best available evidence) to have been caused by the administration of a covered countermeasure to an individual pursuant to a declaration under subsection (p)(2).

"(6) SPECIAL MASTERS.—

"(A) HIRING.—In accordance with section 2112, the judges of the United States Claims Court shall appoint a sufficient number of special masters to address claims for compensation under this subsection.

"(B) BUDGET AUTHORITY.—There are appropriated to carry out this subsection such sums as may be necessary for fiscal year 2006 and each fiscal year thereafter. This subparagraph constitutes budget authority in advance of appropriations and represents the obligation of the Federal Government.

"(7) COVERED COUNTERMEASURE.—For purposes of this subsection, the term 'covered countermeasure' has the meaning given to such term in subsection (p)(7)(A).

"(8) FUNDING.—Compensation made under the Compensation Program shall be made from the same source of funds as payments made under subsection (p).".

(b) EFFECTIVE DATE.—This section shall take effect as of November 25, 2002 (the date of enactment of the Homeland Security Act of 2002 (Pub. L. 107–296; 116 Stat. 2135)).

SEC. 4. INDEMNIFICATION FOR MANUFACTURERS AND HEALTH CARE PROFESSIONALS WHO ADMINISTER MEDICAL PRODUCTS NEEDED FOR BIODEFENSE.

Section 224(p) of the Public Health Service Act (42 U.S.C. 233(p)) is amended—

(1) in the subsection heading by striking "SMALLPOX";

(2) in paragraph (1), by striking "against smallpox";

(3) in paragraph (2)—

(A) in the paragraph heading, by striking "AGAINST SMALLPOX"; and

(B) in subparagraph (B), by striking clause (ii);

(4) by striking paragraph (3) and inserting the following:

"(3) EXCLUSIVITY; OFFSET.—

"(A) EXCLUSIVITY.—With respect to an individual to which this subsection applies, such individual may bring a claim for relief under—

"(i) this subsection;

"(ii) subsection (q); or

"(iii) part C.

"(B) ELECTION OF ALTERNATIVES.—An individual may only pursue one remedy under subparagraph (A) at any one time based on the same incident or series of incidents. An individual who elects to pursue the remedy under subsection (q) or part C may decline any compensation awarded with respect to such remedy and subsequently pursue the remedy provided for under this subsection. An individual who elects to pursue the remedy provided for under this subsection may not subsequently pursue the remedy provided for under subsection (q) or part C.

"(C) STATUTE OF LIMITATIONS.—For purposes of determining how much time has lapsed when applying statute of limitations requirements relating to remedies under subparagraph (A), any limitation of time for commencing an action, or filing an application, petition, or claim for such remedies, shall be deemed to have been suspended for the periods during which an individual pursues a remedy under such subparagraph.

"(D) OFFSET.—The value of all compensation and benefits provided under subsection (q) or part C of this title for an incident or series of incidents shall be offset against the amount of an award, compromise, or settlement of money damages in a claim or suit under this subsection based on the same incident or series of incidents.";

(5) in paragraph (6)—

(A) in subparagraph (A), by inserting "or under subsection (q) or part C" after "under this subsection"; and

(B) by redesignating subparagraph (B) as subparagraph (C);

(C) by inserting after subparagraph (A), the following:

"(B) GROSSLY NEGLIGENT, RECKLESS, OR ILLEGAL CONDUCT AND WILLFUL MISCONDUCT.—For purposes of subparagraph (A), grossly negligent, reckless, or illegal conduct or willful misconduct shall include the administration by a qualified person of a covered countermeasure to an individual who was not within a category of individuals covered by a declaration under subsection (p)(2) with respect to such countermeasure where the qualified person fails to have had reasonable grounds to believe such individual was within such a category."; and

(D) by adding at the end the following:

"(D) LIABILITY OF THE UNITED STATES.—The United States shall be liable under this subsection with respect to a claim arising out of the manufacture, distribution, or administration of a covered countermeasure regardless of whether—

"(i) the cause of action seeking compensation is alleged as negligence, strict liability, breach of warranty, failure to warn, or other action; or

"(ii) the covered countermeasure is designated as a qualified anti-terrorism technology under the SAFETY Act (6 U.S.C. 441 et seq.)."

"(E) GOVERNING LAW.—Notwithstanding the provisions of section 1346(b)(1) and chapter 171 of title 28, United States Code, as they relate to governing law, the liability of the United States as provided in this subsection shall be in accordance with the law of the place of injury.

"(F) MILITARY PERSONNEL AND UNITED STATES CITIZENS OVERSEAS.—

"(i) MILITARY PERSONNEL.—The liability of the United States as provided in this subsection shall extend to claims brought by United States military personnel.

"(ii) CLAIMS ARISING IN A FOREIGN COUNTRY.—Notwithstanding the provisions of section 2680(k) of title 28, United States Code, the liability of the United States as provided for in the subsection shall extend to claims based on injuries arising in a foreign country where the injured party is a member of the United States military, is the spouse or child of a member of the United States military, or is a United States citizen.

"(iii) GOVERNING LAW.—With regard to all claims brought under clause (ii), and notwithstanding the provisions of section 1346(b)(1) and chapter 171 of title 28, United States Code, and of subparagraph (C), as they relate to governing law, the liability of the United States as provided in this subsection shall be in accordance with the law of the claimant's domicile in the United States or most recent domicile with the United States."; and

(6) in paragraph (7)—

(A) by striking subparagraph (A) and inserting the following:

"(A) COVERED COUNTERMEASURE.—The term 'covered countermeasure', means—

"(i) a substance that is—

"(I)(aa) used to prevent or treat smallpox (including the vaccinia or another vaccine); or

"(bb) vaccinia immune globulin used to control or treat the adverse effects of vaccinia inoculation; and

"(II) specified in a declaration under paragraph (2); or

"(ii) a drug (as such term is defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act), biological product (as such term is defined in section 351(i) of this Act), or device (as such term is defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act) that—

"(I) the Secretary determines to be a priority (consistent with sections 302(2) and 304(a) of the Homeland Security Act of 2002) to treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent identified as a material threat under section 319F–2(c)(2)(A)(ii), or to treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device against such an agent;

"(II) is—

"(aa) authorized for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act, so long as the manufacturer of such drug, biological product, or device has—

"(AA) made all reasonable efforts to obtain applicable approval, clearance, or licensure; and

"(BB) cooperated fully with the requirements of the Secretary under such section 564; or

"(bb) approved or licensed solely pursuant to the regulations under subpart I of part 314 or under subpart H of part 601 of title 21, Code of Federal Regulations (as in effect on the date of enactment of the National Biodefense Act of 2005); and

"(III) is specified in a declaration under paragraph (2)."; and

(B) in subparagraph (B)—

(i) by striking clause (ii), and inserting the following:

"(ii) a health care entity, a State, or a political subdivision of a State under whose auspices such countermeasure was administered;" and

(vi) in clause (viii), by inserting before the period "if such individual performs a function for which a person described in clause (i), (ii), or (iv) is a covered person".

SA 3897. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare for All Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Medicare for all.
"TITLE XXII—MEDICARE FOR ALL
"Sec. 2201. Description of program.
"Sec. 2202. Eligibility, enrollment, and coverage.
"Sec. 2203. Benefits.
"Sec. 2204. Choice of coverage under private health care delivery systems.
"Sec. 2205. Medicare for All Trust Fund.
"Sec. 2206. Administration.
Sec. 3. Financing through employment tax.

SEC. 2. MEDICARE FOR ALL.

(a) ESTABLISHMENT OF PROGRAM.—The Social Security Act is amended by adding at the end the following:

"TITLE XXII—MEDICARE FOR ALL

"SEC. 2201. DESCRIPTION OF PROGRAM.

"The program under this title—

"(1) ensures that all Americans have high quality, affordable health care;

"(2) ensures that all Americans have access to health care as good as their Member of Congress receives; and

"(3) reduces the cost of health care and enhances American economic competitiveness in the global marketplace.

"SEC. 2202. ELIGIBILITY, ENROLLMENT, AND COVERAGE.

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—Each eligible individual is entitled to benefits under the program under this title.

"(2) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—For purposes of this title, the term 'eligible individual' means an individual who—

"(i) is—

"(I) a citizen of the United States; or

"(II) a person who is lawfully present in the United States; and

"(ii) is not eligible for benefits under part A or B of title XVIII.

"(B) LAWFULLY PRESENT.—For purposes of subparagraph (A)(i)(II), a person is lawfully present in the United States if such person—

"(i) is described in section 431 of Public Law 104–193;

"(ii) is described in section 103.12 of title 8, Code of Federal Regulations (as in effect as of the date of enactment of the Medicare for All Act);

"(iii) is eligible to apply for employment authorization from the Department of Homeland Security as listed in section 274a.12 of title 8, Code of Federal Regulations (as in effect as of the date of enactment of the Medicare for All Act); or

"(iv) is otherwise determined to be lawfully present in the United States under criteria established by the Secretary, in consultation with the Secretary of Homeland Security.

"(3) PHASE-IN OF ELIGIBILITY.—Under rules established by the Secretary, eligibility for benefits under this title shall be phased-in as follows:

"(A) During the first 5 years the program under this title is in operation, eligible individuals who are under 20 years of age or who are over 55 years of age are eligible for such benefits.

"(B) During the second 5 years the program under this title is in operation, eligible individuals who are under 30 years of age or who are over 45 years of age are eligible for such benefits.

"(C) All eligible individuals are eligible for such benefits beginning with the eleventh year in which the program under this title is in operation.

"(4) ENSURING THAT ELIGIBLE INDIVIDUALS DO NOT AGE-OUT OF PROGRAM.—For purposes of subparagraphs (A) and (B) of paragraph (3)—

"(A) the determination of whether an eligible individual meets the age requirements under such subparagraphs shall be made on the date of enrollment in the program under this title; and

"(B) such an individual's enrollment under such program may not be terminated because the individual no longer meets such age requirements.

"(b) AUTOMATIC ENROLLMENT.—

"(1) IN GENERAL.—The Secretary shall establish a process under which each eligible individual is deemed to be enrolled under the program under this title. Such process shall include the following:

"(A) Deemed enrollment of an eligible individual upon birth in the United States.

"(B) Enrollment of eligible individuals at the time of immigration into the United States.

"(2) ISSUANCE OF CARD.—The Secretary shall provide for issuance of an appropriate card for individuals entitled to benefits under the program under this title. Not later than the sixth year the program under this title is in operation, the Secretary shall ensure that each such card is linked securely, and with strong privacy protections, to an electronic health record for each such individual. In order to accomplish such linkage, the Secretary is authorized to award grants, issue contracts, alter reimbursement under the program under this title, or provide such other incentives as are reasonable and necessary.

"(c) COVERAGE.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall provide for coverage of benefits for items and services furnished on and after the date an individual is entitled to benefits under the program under this title.

"(2) INITIAL COVERAGE.—No coverage is available under the program under this title for items and services furnished before the date that is 18 months after the date of the enactment of the Medicare For All Act.

"(3) EXPIRATION OF COVERAGE.—An individual's coverage under the program under this title shall terminate as of the date the individual is no longer an eligible individual.

"(d) RELATION TO OTHER PROGRAMS.—

"(1) CONSTRUCTION.—

"(A) CONTINUED OPERATION OF PUBLIC PROGRAMS.—Nothing in this title shall be construed as requiring (or preventing) an individual who is entitled to benefits under the program under this title from obtaining benefits under any other public health care program to which the individual is entitled, including under a State Medicaid plan under title XIX, the State Children's Health Insurance Program under title XXI, a health program of the Department of Defense under chapter 55 of title 10, United States Code, a health program of the Department of Veterans Affairs under chapter 17 of title 38 of such Code, or a medical care program of the Indian Health Service or of a tribal organization.

"(B) CONTINUED OPERATION OF PRIVATE HEALTH INSURANCE.—Nothing in this title shall be construed as preventing an individual who is entitled to benefits under the program under this title from obtaining benefits that supplement or improve the benefits available under such program from any private health insurance plan or policy.

"(2) PRIMARY PAYOR; OTHER PUBLIC PROGRAMS PROVIDING WRAP AROUND BENEFITS.—The program under this title shall be primary payor to other public health care benefit programs and the benefits under such other public health care benefit programs shall supplement the benefits under the program under this title.

"SEC. 2203. BENEFITS.

"(a) Comprehensive Benefit Package.—The Secretary shall provide for benefits under the program under this title consistent with the following:

"(1) Medicare fee-for-service benefits.—The benefits include the full range and scope of benefits available under the original fee-for-service program under parts A and B of title XVIII.

"(2) Prescription drug coverage.—The benefits include coverage of prescription drugs at least as comprehensive as the prescription drug coverage offered as of January 1, 2006, under the Blue Cross/Blue Shield Standard Plan provided under the Federal employees health benefits program under chapter 89 of title 5, United States Code (in this title referred to as 'FEHBP'). Such coverage shall be administered in the same manner as other benefits under this section.

"(3) Inclusion of EPSDT.—The benefits include benefits for early and periodic screening, diagnostic, and treatment services (as defined in section 1905(r)) for individuals who are under the age of 21.

"(4) Parity in coverage of mental health benefits.—

"(A) In general.—There shall not be any treatment limitations or financial requirements with respect to the coverage of benefits for mental illnesses unless comparable treatment limitations or financial requirements are imposed on medical and surgical benefits. Nothing in this subparagraph shall be construed to require coverage for mental health benefits that are not medically necessary or to prohibit the appropriate medical management of such benefits.

"(B) Related definitions.—For purposes of this paragraph—

"(i) Financial requirements.—The term 'financial requirements' includes deductibles, coinsurance, co-payments, other cost-sharing, and limitations on the total amount that may be paid by an individual with respect to benefits and shall include the application of annual and lifetime limits.

"(ii) Mental health benefits.—The term 'mental health benefits' means benefits with respect to services for all categories of mental health conditions listed in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM IV–TR), or the most recent edition if different than the Fourth Edition, if such services are included as part of an authorized treatment plan that is in accordance with standard protocols and such services meet medical necessity criteria. Such term does not include benefits with respect to the treatment of substance abuse or chemical dependency.

"(iii) Treatment limitations.—The term 'treatment limitations' means limitations on the frequency of treatment, number of visits or days of coverage, or other similar limits on the duration or scope of treatment under the qualifying health benefit plan.

"(5) Preventive services.—The benefits shall include coverage of such additional preventive health care items and services as the Secretary shall specify, in consultation with the United States Preventive Services Task Force.

"(6) Home and community based services.—The benefits shall include coverage of home and community-based services described in section 1915(c)(4)(B).

"(7) Additional benefits.—The benefits shall include such additional benefits that the Secretary determines appropriate.

"(8) Revision.—Nothing in this subsection shall be construed as preventing the Secretary from improving the benefit package from time to time to account for changes in medical practice, new information from medical research, and other relevant developments in health science.

"(9) Adjustment authorized.—The Secretary shall, on a regular basis, evaluate whether adding any of the benefits described in paragraphs (1) through (7) is necessary or advisable to promote the health of beneficiaries under the program under title XVIII. The Secretary is authorized to improve the benefits available under such program, based upon such evaluation.

"(b) Cost-Sharing.—

"(1) In general.—Except as otherwise provided under this subsection or subsection (a)(4), with respect to the benefits described in subsection (a)(1), such benefits shall be subject to the cost-sharing (in the form of deductibles, coinsurance, and copayments) and premiums applicable under the program described in such subsection.

"(2) Prescription drug coverage.—With respect to the benefits described in subsection (a)(2), such benefits shall be subject to the cost-sharing (in the form of deductibles, coinsurance, and copayments) applicable under the plan described in such subsection.

"(3) Treatment of preventive and additional services.—With respect to benefits described in paragraphs (5) and (7) of subsection (a), such benefits shall be subject to cost-sharing (in the form of deductibles, coinsurance, and copayments) that is consistent (as determined by the Secretary) with the cost-sharing applicable under paragraph (1).

"(4) Treatment of EPSDT and home and community-based services.—With respect to benefits described in paragraphs (3) and (6) of subsection (a), such benefits shall be subject to nominal cost-sharing (in the form of deductibles, coinsurance, and copayments) that is consistent (as determined by the Secretary) with the cost-sharing applicable to such services under section 1916 (as in effect on January 1, 2006).

"(5) Reduction in cost-sharing for low-income individuals.—The Secretary shall provide for reduced cost-sharing for low-income individuals in a manner that is no less protective than the reduced cost-sharing for individuals under section 1902(a)(10)(E) (as in effect on January 1, 2006).

"(c) Freedom to Choose Your Own Doctor and Health Plan.—Except in the case of individuals who elect enrollment in a private health plan under section 2204, the provisions of section 1802 shall apply under this title.

"(d) Payment Schedule.—

"(1) In general.—The Secretary, with the assistance of the Medicare Payment Advisory Commission, shall develop and implement a payment schedule for benefits covered under the program under this title which are provided other than through private health plans. To the extent feasible, such payment schedule shall be consistent with comparable payment schedules and reimbursement methodologies applied to benefits provided under parts A and B of title XVIII, except, that with respect to the coverage of prescription drugs, the Secretary shall provide for payment in accordance with a payment schedule developed and implemented under the previous sentence.

"(2) Additional payments for quality.—The Secretary shall establish procedures to provide reimbursement in addition to the reimbursement under paragraph (1) to health care providers that achieve measures (as established by the Secretary in consultation with health care professionals and groups representing eligible individuals) of health care quality. The Secretary shall ensure that such measures include measures of appropriate use of health information technology.

"(e) Application of Beneficiary Protections.—The Secretary shall provide for protections of beneficiaries under the program under this title that are not less than the beneficiary protections provided under title XVIII, including appeal rights and limitations on balance billing.

"SEC. 2204. CHOICE OF COVERAGE UNDER PRIVATE HEALTH CARE DELIVERY SYSTEMS.

"(a) In General.—The Secretary shall provide a process for—

"(1) the offering of private health plans for the provision of benefits under the program under this title; and

"(2) the enrollment, disenrollment, termination, and change in enrollment of eligible individuals in such plans.

"(b) Offering of Private Health Plans.—

"(1) In general.—The Secretary shall enter into contracts with qualified entities for the offering of private health plans under the program under this title. In entering into such contracts the Secretary shall have the same authority that the Director of the Office of Personnel Management has with respect to health benefits plans under FEHBP.

"(2) Requirements.—The Secretary shall not enter into such a contract for the offering of a private health plan under the program under this title unless at least the following requirements are met:

"(A) Benefits as good as your Congressman gets.—Benefits under such plans are not less than the benefits offered to Members of Congress and Federal employees under FEHBP. Such plans may provide health benefits in addition to such required benefits and may impose a premium for the provision of benefits. Such plans may not provide for financial payments or rebates to enrollees.

"(B) Beneficiary protections.—Enrollees in such plans have beneficiary protections that are not less than the beneficiary protections applicable under this title to individuals not so enrolled and shall include beneficiary protections applicable under both FEHBP and part C of title XVIII.

"(C) Other administrative requirements.—The plans are subject to such requirements relating to licensure and solvency, protection against fraud and abuse, inspection, disclosure, periodic auditing, and administrative operations and efficiencies as the Secretary identifies, taking into account similar requirements under FEHBP and part C of title XVIII.

"(c) Annual Open Enrollment.—The process under subsection (a)(2) shall provide for an annual open enrollment period in which individuals may enroll, and change or terminate enrollment, in private health plans in a manner similar to that provided under FEHBP as of January 1, 2006.

"(d) Payment to Private Health Plans.—

"(1) In general.—In the case of an individual enrolled in a private health plan under this section for a month, the Secretary shall provide for payment of an amount equal to $\frac{1}{12}$ of the annual per capita amount (described in paragraph (2), as adjusted under paragraph (3)).

"(2) Annual per capita amount.—The annual per capita amount under this paragraph shall be the annual average per capita cost of providing benefits under the program under this title (including both individuals enrolled and not enrolled under private health plan), as computed by the Secretary based on rules similar to the rules described in section 1876(a)(4).

“(3) RISK-ADJUSTMENT.—In making payment under this subsection, the Secretary shall apply risk adjustment factors similar to those applied to payments to Medicare Advantage organizations under section 1853, except that the Secretary shall ensure that payments under this subsection are adjusted based on such factors to ensure that the health status of the enrollee is reflected in such adjusted payments, including adjusting for the difference between the health status of the enrollee and individuals receiving benefits under the program under this title who are not so enrolled. Payments under this subsection must, in aggregate, reflect such differences.

“(e) REQUIREMENTS FOR FEHBP CARRIERS.—Each contract entered into or renewed under section 8902 of title 5, United States Code, shall require the carrier to offer a plan under this section on similar terms and conditions to the plan offered by the carrier under FEHBP.

“SEC. 2205. MEDICARE FOR ALL TRUST FUND.

“(a) ESTABLISHMENT OF TRUST FUND.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the ‘Medicare for All Trust Fund’ (in this section referred to as the ‘Trust Fund’). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, such fund as provided in this part.

“(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Medicare for All Trust Fund, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to—

“(1) the taxes received in the Treasury under sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986;

“(2) such portion of the taxes received in the Treasury under section 3201 as are attributable to the rate specified in section 3101(c) of such Code;

“(3) such portion of the taxes received in the Treasury under section 3211 of such Code as are attributable to the sum of the rates specified in section 3101(c) and 3111(c) of such Code; and

“(4) such portion of the taxes received in the Treasury under section 3221 as are attributable to the rate specified in section 3111(c) of such Code.

The amounts appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in the preceding sentence, paid to or deposited into the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such sentence.

“(c) INCORPORATION OF PROVISIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), subsections (b) through (i) of section 1817 shall apply with respect to the Trust Fund and this title in the same manner as they apply with respect to the Federal Hospital Insurance Trust Fund and part A of title XVIII, respectively.

“(2) MISCELLANEOUS REFERENCES.—In applying provisions of section 1817 under paragraph (1)—

“(A) any reference in such section to ‘this part’ is construed to refer to this title;

“(B) any reference to taxes referred to in subsection (a) of such section shall be construed to refer to the taxes referred to in subsection (b) of this section; and

“(C) the Board of Trustees of the Medicare for All Trust Fund shall be the same as the Board of Trustees of the Federal Hospital Insurance Trust Fund.

“SEC. 2206. ADMINISTRATION.

“Except as otherwise provided in this title—

“(1) the Secretary shall enter into appropriate contracts with providers of services, other health care providers, and medicare administrative contractors, taking into account the types of contracts used under title XVIII with respect to such entities, to administer the program under this title;

“(2) benefits described in section 2203 that are payable under the program under this title to such individuals shall be paid in a manner specified by the Secretary (taking into account, and based to the greatest extent practicable upon, the manner in which they are provided under title XVIII); and

“(3) provider participation agreements under title XVIII shall apply to enrollees and benefits under the program under this title in the same manner as they apply to enrollees and benefits under the program under title XVIII.”.

(b) CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT PROVISIONS.—

(1) Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended—

(A) by striking “or the Federal Supplementary ” and inserting “the Federal Supplementary”; and

(B) by inserting “or the Medicare for All Trust Fund” after “such Trust Fund)”.

(2) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended by striking “and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII” and inserting “, the Federal Supplementary Medical Insurance Trust Fund established by title XVIII, and the Medicare for All Trust Fund established under title XXII”.

(c) MAINTENANCE OF MEDICAID ELIGIBILITY AND BENEFITS.—In order for a State to continue to be eligible for payments under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) the State may not reduce standards of eligibility or benefits provided under its State Medicaid plan under title XIX of the Social Security Act below such standards of eligibility and benefits in effect on the date of the enactment of this Act.

SEC. 3. FINANCING THROUGH EMPLOYMENT TAX.

(a) TAX ON EMPLOYEES.—Section 3101 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) MEDICARE FOR ALL.—In addition to other taxes, there is hereby imposed on the income of every individual a tax equal to 1.7 percent of the wages (as defined in section 3121(a)) received by him with respect to employment (as defined in section 3121(b)).”.

(b) TAX ON EMPLOYERS.—Section 3111 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) MEDICARE FOR ALL.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 7 percent of the wages (as defined in section 3121(a)) paid by him with respect to employment (as defined in section 3121(b)).”.

(c) TAX ON SELF-EMPLOYMENT.—Section 1401 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) MEDICARE FOR ALL.—In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to the applicable percent of the self-employment income for such taxable year. For purposes of the preceding sentence, the applicable percent is a percent equal to the sum of the percent described in section 3101(c) plus the percent described in section 3111(c).”.

(d) RAILROAD RETIREMENT TAX.—

(1) TAX ON EMPLOYEES.—Section 3201(a) of such Code is amended by striking “subsections (a) and (b) of section 3101” and inserting “subsections (a), (b), and (c) of section 3101”.

(2) TAX ON EMPLOYEE REPRESENTATIVES.—Section 3211(a) of such Code is amended by striking “subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111” and inserting “subsections (a), (b), and (c) of section 3101 and subsections (a), (b), and (c) of section 3111”.

(3) TAX ON EMPLOYERS.—Section 3221(a) of such Code is amended by striking “subsections (a) and (b) of section 3111” and inserting “subsections (a), (b), and (c) of section 3111”.

(4) DETERMINATION OF CONTRIBUTION BASE.—Clause (iii) of section 3231(e)(2)(A) is amended to read as follows:

“(iii) HOSPITAL INSURANCE AND MEDICARE FOR ALL TAXES.—Clause (i) shall not apply to—

“(I) so much of the rate applicable under section 3201(a) or 3221(a) as does not exceed the sum of the rates of tax in effect under subsections (b) and (c) of section 3101, and

“(II) so much of the rate applicable under section 3211(a) as does not exceed the sum of the rates of tax in effect under subsections (b) and (c) of section 1401.”.

(e) APPLICATION OF TAX TO FEDERAL, STATE, AND LOCAL EMPLOYMENT.—Paragraphs (1) and (2) of section 3121(u) and section 3125(a) of such Code are each amended by striking “sections 3101(b) and 3111(b)” and inserting “subsections (b) and (c) of section 3101 and subsections (b) and (c) of section 3111”.

(f) CONFORMING AMENDMENTS.—

(1) Section 1402(a)(12)(B) of such Code is amended by striking “subsections (a) and (b) of section 1401” and inserting “subsections (a), (b), and (c) of section 1401”.

(2) Section 3121(q) of such Code is amended by striking “subsections (a) and (b) of section 3111” and inserting “subsections (a), (b), and (c) of section 3111”.

(3) The last sentence of section 6051(a) of such Code is amended by striking “sections 3101(c) and 3111(c)” and inserting “sections 3101(d) and 3111(d)”.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid and self-employment income derived on or after January 1 of the year following the date of the enactment of this Act.

SA 3898. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE __—HEALTHY FAMILIES

SEC. 01. SHORT TITLE.

This title may be cited as the "Healthy Families Act".

SEC. __02. FINDINGS.

Congress makes the following findings:

(1) Working Americans need to take time off for their own health care needs or to perform essential caretaking responsibilities for a wide range of family members, including, among others, their children, spouse, parents, and parents-in-law, and other children and adults for whom they are caretakers.

(2) Health care needs include preventive health care, diagnostic procedures, medical treatment, and recovery in response to short- and long-term illnesses and injuries.

(3) Providing employees time off to tend to their own health care needs ensures that they will be healthier in the long run. Preventive care helps avoid illnesses and injuries and routine medical care helps detect illnesses early and shorten the duration of illnesses.

(4) When parents are available to care for their children who become sick, children recover faster, more serious illnesses are prevented, and children's overall mental and physical health are improved. Parents who cannot afford to miss work and must send children with a contagious illness to child care or school contribute to the high rate of infections in child care centers and schools.

(5) Providing paid sick leave improves public health by reducing infectious disease. Policies that make it easier for sick adults and children to be isolated at home reduce the spread of infectious disease.

(6) Routine medical care results in savings by decreasing medical costs by detecting and treating illness and injury early, decreasing the need for emergency care. These savings benefit public and private payers of health insurance, including private businesses.

(7) The provision of individual and family sick leave by large and small businesses, both here in the United States and elsewhere, demonstrates that policy solutions are both feasible and affordable in a competitive economy. Measures that ensure that employees are both in good health themselves and do not need to worry about unmet family health problems help businesses by promoting productivity and reducing employee turnover.

(8) The American Productivity Audit found that presenteeism—the practice of employees coming to work despite illness—costs $180,000,000,000 annually in lost productivity. Studies in the Journal of Occupational and Environmental Medicine, the Employee Benefit News, and the Harvard Business Review show that presenteeism is a larger productivity drain than either absenteeism or short-term disability.

(9) The absence of sick leave has forced Americans to make untenable choices between needed income and jobs on the one hand and caring for their own and their family's health on the other.

(10) The majority of middle income Americans lack paid leave for self-care or to care for a family member. Low-income Americans are significantly worse off. Of the poorest families (the lowest quartile), 76 percent lack regular sick leave. For families in the next 2 quartiles, 63 percent and 54 percent, respectively lack regular sick leave. Even in the highest income quartile, 40 percent of families lack regular sick leave. Less than ½ of workers who have paid sick leave can use it to care for ill children.

(11) It is in the national interest to ensure that Americans from all demographic groups can care for their own health and the health of their families while prospering at work.

(12) Due to the nature of the roles of men and women in society, the primary responsibility for family caretaking often falls on women, and such responsibility affects the working lives of women more than it affects the working lives of men.

(13) Although women are still primarily responsible for family caretaking, an increasing number of men are taking on caretaking obligations, and men who request leave time for caretaking purposes are often denied accommodation or penalized because of stereotypes that caretaking is only "women's work".

(14) Employers' reliance on persistent stereotypes about the "proper" roles of both men and women in the workplace and in the home—

(A) creates a cycle of discrimination that forces women to continue to assume the role of primary family caregiver; and

(B) fosters stereotypical views among employers about women's commitment to work and their value as employees.

(15) Employment standards that apply to only one gender have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

SEC. 03. PURPOSES.

The purposes of this title are—

(1) to ensure that all working Americans can address their own health needs and the health needs of their families by requiring employers to provide a minimum level of paid sick leave including leave for family care;

(2) to diminish public and private health care costs by enabling workers to seek early and routine medical care for themselves and their family members;

(3) to accomplish the purposes described in paragraphs (1) and (2) in a manner that is feasible for employers; and

(4) consistent with the provision of the 14th amendment to the Constitution relating to equal protection of the laws, and pursuant to Congress' power to enforce that provision under section 5 of that amendment—

(A) to accomplish the purposes described in paragraphs (1) and (2) in a manner that minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons on a gender-neutral basis; and

(B) to promote the goal of equal employment opportunity for women and men.

SEC. 04. DEFINITIONS.

In this title:

(1) CHILD.—The term "child" means a biological, foster, or adopted child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(2) EMPLOYEE.—The term "employee" means an individual—

(A) who is—

(i)(I) an employee (including an applicant), as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)), who is not covered under clause (v), including such an employee of the Library of Congress, except that a reference in such section to an employer shall be considered to be a reference to an employer described in clauses (i)(I) and (ii) of paragraph (3)(A); or

(II) an employee (including an applicant) of the Government Accountability Office;

(ii) a State employee (including an applicant) described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16c(a));

(iii) a covered employee (including an applicant), as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301);

(iv) a covered employee (including an applicant), as defined in section 411(c) of title 3, United States Code; or

(v) a Federal officer or employee (including an applicant) covered under subchapter V of chapter 63 of title 5, United States Code; and

(B) who works an average of at least 20 hours per week or, in the alternative, at least 1,000 hours per year.

(3) EMPLOYER.—

(A) IN GENERAL.—The term "employer" means a person who is—

(i)(I) a covered employer, as defined in subparagraph (B), who is not covered under subclause (V);

(II) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;

(III) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;

(IV) an employing office, as defined in section 411(c) of title 3, United States Code; or

(V) an employing agency covered under subchapter V of chapter 63 of title 5, United States Code; and

(ii) is engaged in commerce (including government), in the production of goods for commerce, or in an enterprise engaged in commerce (including government) or in the production of goods for commerce.

(B) COVERED EMPLOYER.—

(i) IN GENERAL.—In subparagraph (A)(i)(I), the term "covered employer"—

(I) means any person engaged in commerce or in any industry or activity affecting commerce who employs 15 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(II) includes—

(aa) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and

(bb) any successor in interest of an employer;

(III) includes any "public agency", as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)); and

(IV) includes the Government Accountability Office and the Library of Congress.

(ii) PUBLIC AGENCY.—For purposes of clause (i)(III), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

(iii) DEFINITIONS.—For purposes of this subparagraph:

(I) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any "industry affecting commerce", as defined in paragraphs (1) and (3) of section 501 of the Labor Management Relations Act, 1947 (29 U.S.C. 142(1) and (3)).

(II) EMPLOYEE.—The term "employee" has the same meaning given such term in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)).

(III) PERSON.—The term "person" has the same meaning given such term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(C) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

(4) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an "employee benefit plan", as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(5) HEALTH CARE PROVIDER.—The term "health care provider" means a provider who—

(A)(i) is a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(ii) is any other person determined by the Secretary to be capable of providing health care services; and

(B) is not employed by an employer for whom the provider issues certification under this title.

(6) PARENT.—The term "parent" means a biological, foster, or adoptive parent of an employee, a stepparent of an employee, or a legal guardian or other person who stood in loco parentis to an employee when the employee was a child.

(7) PRO RATA.—The term "pro rata", with respect to benefits offered to part-time employees, means the proportion of each of the benefits offered to full-time employees that are offered to part-time employees that, for each benefit, is equal to the ratio of part-time hours worked to full-time hours worked.

(8) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(9) SICK LEAVE.—The term "sick leave" means an increment of compensated leave provided by an employer to an employee as a benefit of employment for use by the employee during an absence from employment for any of the reasons described in paragraphs (1) through (3) of section _05(d).

(10) SPOUSE.—The term "spouse", with respect to an employee, has the meaning given such term by the marriage laws of the State in which the employee resides.

SEC. _05. PROVISION OF PAID SICK LEAVE.

(a) IN GENERAL.—An employer shall provide for each employee employed by the employer not less than—

(1) 7 days of sick leave with pay annually for employees working 30 or more hours per week; or

(2) a pro rata number of days or hours of sick leave with pay annually for employees working less than—

(A) 30 hours per week on a year-round basis; or

(B) 1,500 hours throughout the year involved.

(b) ACCRUAL.—

(1) PERIOD OF ACCRUAL.—Sick leave provided for under this section shall accrue as determined appropriate by the employer, but not on less than a quarterly basis.

(2) ACCUMULATION.—Accrued sick leave provided for under this section shall carry over from year to year, but this title shall not be construed to require an employer to permit an employee to accumulate more than 7 days of the sick leave.

(3) USE.—The sick leave may be used as accrued. The employer, at the discretion of the employer, may loan the sick leave to the employee in advance of accrual by such employee.

(c) CALCULATION.—

(1) LESS THAN A FULL WORKDAY.—Unless the employer and employee agree to designate otherwise, for periods of sick leave that are less than a normal workday, that leave shall be counted—

(A) on an hourly basis; or

(B) in the smallest increment that the employer's payroll system uses to account for absences or use of leave.

(2) VARIABLE SCHEDULE.—If the schedule of an employee varies from week to week, a weekly average of the hours worked over the 12-week period prior to the beginning of a sick leave period shall be used to calculate the employee's normal workweek for the purpose of determining the amount of sick leave to which the employee is entitled.

(d) USES.—Sick leave accrued under this section may be used by an employee for any of the following:

(1) An absence resulting from a physical or mental illness, injury, or medical condition of the employee.

(2) An absence resulting from obtaining professional medical diagnosis or care, or preventive medical care, for the employee subject to the requirement of subsection (e).

(3) An absence for the purpose of caring for a child, a parent, a spouse, or any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship, who—

(A) has any of the conditions or needs for diagnosis or care described in paragraph (1) or (2); and

(B) in the case of someone who is not a child, is otherwise in need of care.

(e) SCHEDULING.—An employee shall make a reasonable effort to schedule leave under paragraphs (2) and (3) of subsection (d) in a manner that does not unduly disrupt the operations of the employer.

(f) PROCEDURES.—

(1) IN GENERAL.—Paid sick leave shall be provided upon the oral or written request of an employee. Such request shall—

(A) include a reason for the absence involved and the expected duration of the leave;

(B) in a case in which the need for leave is foreseeable at least 7 days in advance of such leave, be provided at least 7 days in advance of such leave; and

(C) otherwise, be provided as soon as practicable after the employee is aware of the need for such leave.

(2) CERTIFICATION.—

(A) PROVISION.—

(i) IN GENERAL.—Subject to subparagraph (C), an employer may require that a request for leave be supported by a certification issued by the health care professional of the eligible employee or of an individual described in subsection (d)(3), as appropriate, if the leave period covers more than 3 consecutive workdays.

(ii) TIMELINESS.—The employee shall provide a copy of such certification to the employer in a timely manner, not later than 30 days after the first day of the leave. The employer shall not delay the commencement of the leave on the basis that the employer has not yet received the certification.

(B) SUFFICIENT CERTIFICATION.—

(i) IN GENERAL.—A certification provided under subparagraph (A) shall be sufficient if it states—

(I) the date on which the leave will be needed;

(II) the probable duration of the leave;

(III) the appropriate medical facts within the knowledge of the health care provider regarding the condition involved, subject to clause (ii); and

(IV)(aa) for purposes of leave under subsection (d)(1), a statement that leave from work is medically necessary;

(bb) for purposes of leave under subsection (d)(2), the dates on which testing for a medical diagnosis or care is expected to be given and the duration of such testing or care; and

(cc) for purposes of leave under subsection (d)(3), in the case of leave to care for someone who is not a child, a statement that care is needed for an individual described in such subsection, and an estimate of the amount of time that such care is needed for such individual.

(ii) LIMITATION.—In issuing a certification under subparagraph (A), a health care provider shall make reasonable efforts to limit the medical facts described in clause (i)(III) that are disclosed in the certification to the minimum necessary to establish a need for the employee to utilize paid sick leave.

(C) REGULATIONS.—Regulations prescribed under section 13 shall specify the manner in which an employee who does not have health insurance shall provide a certification for purposes of this paragraph.

(D) CONFIDENTIALITY AND NONDISCLOSURE.—

(i) PROTECTED HEALTH INFORMATION.—Nothing in this title shall be construed to require a health care provider to disclose information in violation of section 1177 of the Social Security Act (42 U.S.C. 1320d–6) or the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act (42 U.S.C. 1320d–2 note).

(ii) HEALTH INFORMATION RECORDS.—If an employer possesses health information about an employee or an employee's child, parent, spouse or other individual described in subsection (d)(3), such information shall—

(I) be maintained on a separate form and in a separate file from other personnel information;

(II) be treated as a confidential medical record; and

(III) not be disclosed except to the affected employee or with the permission of the affected employee.

(g) CURRENT LEAVE POLICIES.—

(1) EQUIVALENCY REQUIREMENT.—An employer with a leave policy providing paid leave options shall not be required to modify such policy, if such policy offers an employee the option, at the employee's discretion, to take paid sick leave that is at least equivalent to the sick leave described in paragraphs (1) and (2) of subsection (a) and subsection (d), or if the policy offers paid leave (in amounts equivalent to the amounts described in such paragraphs) for purposes that include the reasons described in subsection (d).

(2) NO ELIMINATION OR REDUCTION OF LEAVE.—An employer may not eliminate or reduce leave in existence on the date of enactment of this Act, regardless of the type of such leave, in order to comply with the provisions of this title.

SEC. 06. POSTING REQUIREMENT.

(a) IN GENERAL.—Each employer shall post and keep posted a notice, to be prepared or approved in accordance with procedures specified in regulations prescribed under section _13, setting forth excerpts from, or summaries of, the pertinent provisions of this title including—

(1) information describing leave available to employees under this title;

(2) information pertaining to the filing of an action under this title;

(3) the details of the notice requirement for foreseeable leave under section 05(f)(1)(B); and

(4) information that describes—

(A) the protections that an employee has in exercising rights under this title; and

(B) how the employee can contact the Secretary (or other appropriate authority as described in section _08) if any of the rights are violated.

(b) LOCATION.—The notice described under subsection (a) shall be posted—

(1) in conspicuous places on the premises of the employer, where notices to employees (including applicants) are customarily posted; or

(2) in employee handbooks.

(c) VIOLATION; PENALTY.—Any employer who willfully violates the posting requirements of this section shall be subject to a civil fine in an amount not to exceed $100 for each separate offense.

SEC. _07. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under this title.

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against (including retaliating against) any individual for opposing any practice made unlawful by this title, including—

(A) discharging or discriminating against (including retaliating against) any individual for exercising, or attempting to exercise, any right provided under this title;

(B) using the taking of sick leave under this title as a negative factor in an employment action, such as hiring, promotion, or a disciplinary action; or

(C) counting the sick leave under a no-fault attendance policy.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against (including retaliating against) any individual because such individual—

(1) has filed an action, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this title.

(c) CONSTRUCTION.—Nothing in this section shall be construed to state or imply that the scope of the activities prohibited by section 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2615) is less than the scope of the activities prohibited by this section.

SEC. 08. ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection:

(A) the term "employee" means an employee described in clause (i) or (ii) of section 04(2)(A); and

(B) the term "employer" means an employer described in subclause (I) or (II) of section _04(3)(A)(i).

(2) INVESTIGATIVE AUTHORITY.—

(A) IN GENERAL.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, the Secretary shall have, subject to subparagraph (C), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)), with respect to employees and employers.

(B) OBLIGATION TO KEEP AND PRESERVE RECORDS.—An employer shall make, keep, and preserve records pertaining to compliance with this title in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations prescribed by the Secretary.

(C) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary shall not require, under the authority of this paragraph, an employer to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge pursuant to paragraph (4).

(D) SUBPOENA AUTHORITY.—For the purposes of any investigation provided for in this paragraph, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

(3) CIVIL ACTION BY EMPLOYEES.—

(A) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in subparagraph (B) may be maintained against any employer in any Federal or State court of competent jurisdiction by one or more employees or their representative for and on behalf of—

(i) the employees; or

(ii) the employees and other employees similarly situated.

(B) LIABILITY.—Any employer who violates section 07 (including a violation relating to rights provided under section _05) shall be liable to any employee affected—

(i) for damages equal to—

(I) the amount of—

(aa) any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or

(bb) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation up to a sum equal to 7 days of wages or salary for the employee;

(II) the interest on the amount described in subclause (I) calculated at the prevailing rate; and

(III) an additional amount as liquidated damages; and

(ii) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(C) FEES AND COSTS.—The court in an action under this paragraph shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) ACTION BY THE SECRETARY.—

(A) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section _07 (including a violation relating to rights provided under section _05) in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(B) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in paragraph (3)(B)(i).

(C) SUMS RECOVERED.—Any sums recovered by the Secretary pursuant to subparagraph (B) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee affected. Any such sums not paid to an employee because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(5) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an action may be brought under paragraph (3), (4), or (6) not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(B) WILLFUL VIOLATION.—In the case of an action brought for a willful violation of section _07 (including a willful violation relating to rights provided under section 05), such action may be brought within 3 years of the date of the last event constituting the alleged violation for which such action is brought.

(C) COMMENCEMENT.—In determining when an action is commenced under paragraph (3), (4), or (6) for the purposes of this paragraph, it shall be considered to be commenced on the date when the complaint is filed.

(6) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

(A) to restrain violations of section 07 (including a violation relating to rights provided under section 05), including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to employees eligible under this title; or

(B) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(7) SOLICITOR OF LABOR.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under paragraph (4) or (6).

(8) GOVERNMENT ACCOUNTABILITY OFFICE AND LIBRARY OF CONGRESS.—Notwithstanding any other provision of this subsection, in the case of the Government Accountability Office and the Library of Congress, the authority of the Secretary of Labor under this subsection shall be exercised respectively by the Comptroller General of the United States and the Librarian of Congress.

(b) EMPLOYEES COVERED BY CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), or any person, alleging a violation of section 202(a)(1) of that Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies, and procedures this title provides to that Board, or any person, alleging an unlawful employment practice in violation of this title against an employee described in section _04(2)(A)(iii).

(c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Merit Systems Protection Board, or any person, alleging a violation of section 412(a)(1) of that title, shall be the powers, remedies, and procedures this title provides to the President, that Board, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section _04(2)(A)(iv).

(d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE 5, UNITED STATES CODE.—The powers, remedies, and procedures provided in title 5, United States Code, to an employing agency, provided in chapter 12 of that title to the Merit Systems Protection Board, or provided in that title to any person, alleging a violation of chapter 63 of that title, shall be the powers, remedies, and procedures this title provides to that agency, that Board, or any person, respectively, alleging an unlawful employment practice in violation of this title against an employee described in section _04(2)(A)(v).

SEC. 09. GAO STUDY.

(a) In General.—The Comptroller General of the United States shall conduct a study to determine the following:

(1) The number of days employees used paid sick leave including—

(A) the number of employees who used paid sick leave annually;

(B) both the number of consecutive days, and total days, employees used paid sick leave for their illnesses, or illnesses of—

(i) a child;

(ii) a spouse;

(iii) a parent; or

(iv) any other individual; and

(C) the number of employees who used paid sick leave for leave periods covering more than 3 consecutive workdays.

(2) Whether employees used paid sick leave to care for illnesses or conditions caused by domestic violence against the employees or their family members.

(3) The cost to employers of implementing paid sick leave policies.

(4) The benefits to employers of implementing the policies, including improvements in retention and absentee rates and productivity.

(5) The cost to employees of providing certification issued by a health care provider to obtain paid sick leave.

(6) The benefits of paid sick leave to employees and their family members.

(7) Whether the provision of paid sick leave has affected the ability of employees to care for their family members.

(8) Whether and in what way the provision of paid sick leave affected the ability of employees to provide for their health needs.

(9) Whether the provision of paid sick leave affected the ability of employees to sustain an adequate income while meeting health needs of the employees and their family members.

(10) Whether employers who administered paid sick leave policies prior to the date of enactment of this Act were affected by the provisions of this title.

(11) Whether other types of leave were affected by this title including whether this title affected—

(A) paid vacation leave;

(B) paid family or medical leave; or

(C) personal leave.

(12) Whether paid sick leave affected retention and turnover.

(13) Whether paid sick leave increased the use of less costly preventive medical care and lowered the use of emergency room care.

(14) Whether paid sick leave reduced the number of children sent to school when the children were sick.

(15) Whether paid sick leave reduced the costs of presenteeism for employers.

(b) Aggregating Data.—The data collected under paragraphs (1), (2), and (7) of subsection (a) shall be aggregated by gender, race, disability, earnings level, age, marital status, and family type, including parental status.

(c) Reports.—

(1) In general.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit a report to the appropriate committees of Congress concerning the results of the study conducted pursuant to subsection (a) and the data aggregated under subsection (b).

(2) Followup report.—Not later that 5 years after the date of enactment of this Act the Comptroller General of the United States shall prepare and submit a followup report to the appropriate committees of Congress concerning the results of the study conducted pursuant to subsection (a) and the data aggregated under subsection (b).

SEC. 10. EFFECT ON OTHER LAWS.

(a) Federal and State Antidiscrimination Laws.—Nothing in this title shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability.

(b) State and Local Laws.—Nothing in this title shall be construed to supersede any provision of any State or local law that provides greater paid sick leave or other leave rights than the rights established under this title.

SEC. _11. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) More Protective.—Nothing in this title shall be construed to diminish the obligation of an employer to comply with any contract, collective bargaining agreement, or any employment benefit program or plan that provides greater paid sick leave rights to employees than the rights established under this title.

(b) Less Protective.—The rights established for employees under this title shall not be diminished by any contract, collective bargaining agreement, or any employment benefit program or plan.

SEC. 12. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this title shall be construed to discourage employers from adopting or retaining leave policies more generous than policies that comply with the requirements of this title.

SEC. 13. REGULATIONS.

(a) In General.—

(1) Authority.—Except as provided in paragraph (2), not later than 120 days after the date of enactment of this Act, the Secretary shall prescribe such regulations as are necessary to carry out this title with respect to employees described in clause (i) or (ii) of section _04(2)(A).

(2) Government accountability office; library of congress.—The Comptroller General of the United States and the Librarian of Congress shall prescribe the regulations with respect to employees of the Government Accountability Office and the Library of Congress, respectively.

(b) Employees Covered by Congressional Accountability Act of 1995.—

(1) Authority.—Not later than 120 days after the date of enactment of this Act, the Board of Directors of the Office of Compliance shall prescribe (in accordance with section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384)) such regulations as are necessary to carry out this title with respect to employees described in section 04(2)(A)(iii).

(2) Agency regulations.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this title except insofar as the Board may determine, for good cause shown and stated together with the regulations prescribed under paragraph (1), that a modification of such regulations would be more effective for the implementation of the rights and protections involved under this section.

(c) Employees Covered by Chapter 5 of Title 3, United States Code.—

(1) Authority.—Not later than 120 days after the date of enactment of this Act, the President (or the designee of the President) shall prescribe such regulations as are necessary to carry out this title with respect to employees described in section _04(2)(A)(iv).

(2) Agency regulations.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this title except insofar as the President (or designee) may determine, for good cause shown and stated together with the regulations prescribed under paragraph (1), that a modification of such regulations would be more effective for the implementation of the rights and protections involved under this section.

(d) Employees Covered by Chapter 63 of Title 5, United States Code.—

(1) Authority.—Not later than 120 days after the date of enactment of this Act, the Director of the Office of Personnel Management shall prescribe such regulations as are necessary to carry out this title with respect to employees described in section 04(2)(A)(v).

(2) Agency regulations.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this title except insofar as the Director may determine, for good cause shown and stated together with the regulations prescribed under paragraph (1), that a modification of such regulations would be more effective for the implementation of the rights and protections involved under this section.

SEC. _14. EFFECTIVE DATES.

(a) In General.—This title shall take effect 1 year after the date of issuance of regulations under section _13(a)(1).

(b) Collective Bargaining Agreements.—In the case of a collective bargaining agreement in effect on the effective date prescribed by subsection (a), this title shall take effect on the earlier of—

(1) the date of the termination of such agreement; or

(2) the date that occurs 18 months after the date of issuance of regulations under section _13(a)(1).

SA 3899. Mr. DURBIN (for himself, Mrs. Lincoln, Mr. Reid, Mr. Baucus, Mr. Kennedy, Mrs. Clinton, Mr. Kerry, Mr. Bingaman, Ms. Cantwell, Mr. Pryor, Mr. Harkin, Mr. Obama, Mr. Lautenberg, Mr. Schumer, Mr. Kohl, Mr. Lieberman, Mr. Dodd, Mr. Dayton, Mr. Johnson, Mr. Menendez, Mrs. Boxer, Mr. Nelson of Florida, Ms. Mikulski, Ms. Stabenow, Mr. Carper, and Mr. Rockefeller) submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Employers Health Benefits Program Act of 2006".

SEC. 2. DEFINITIONS.

(a) In General.—In this Act, the terms "member of family", "health benefits plan", "carrier", "employee organizations", and "dependent" have the meanings given such terms in section 8901 of title 5, United States Code.

(b) OTHER TERMS.—In this Act:

(1) EMPLOYEE.—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)). Such term shall not include an employee of the Federal Government.

(2) EMPLOYER.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers who employed an average of at least 1 but not more than 100 employees on business days during the year preceding the date of application. Such term shall not include the Federal Government.

(3) HEALTH STATUS-RELATED FACTOR.—The term "health status-related factor" has the meaning given such term in section 2791(d)(9) of the Public Health Service Act (42 U.S.C. 300gg-91(d)(9)).

(4) OFFICE.—The term "Office" means the Office of Personnel Management.

(5) PARTICIPATING EMPLOYER.—The term "participating employer" means an employer that—

(A) elects to provide health insurance coverage under this Act to its employees; and

(B) is not offering other comprehensive health insurance coverage to such employees.

(c) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of subsection (b)(2):

(1) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

(2) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence for the full year prior to the date on which the employer applies to participate, the determination of whether such employer meets the requirements of subsection (b)(2) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the employer's first full year.

(3) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

(d) WAIVER AND CONTINUATION OF PARTICIPATION.—

(1) WAIVER.—The Office may waive the limitations relating to the size of an employer which may participate in the health insurance program established under this Act on a case by case basis if the Office determines that such employer makes a compelling case for such a waiver. In making determinations under this paragraph, the Office may consider the effects of the employment of temporary and seasonal workers and other factors.

(2) CONTINUATION OF PARTICIPATION.—An employer participating in the program under this Act that experiences an increase in the number of employees so that such employer has in excess of 100 employees, may not be excluded from participation solely as a result of such increase in employees.

(e) TREATMENT OF HEALTH BENEFITS PLAN AS GROUP HEALTH PLAN.—A health benefits plan offered under this Act shall be treated as a group health plan for purposes of applying the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) except to the extent that a provision of this Act expressly provides otherwise.

SEC. 3. HEALTH INSURANCE COVERAGE FOR NON-FEDERAL EMPLOYEES.

(a) ADMINISTRATION.—The Office shall administer a health insurance program for non-Federal employees and employers in accordance with this Act.

(b) REGULATIONS.—Except as provided under this Act, the Office shall prescribe regulations to apply the provisions of chapter 89 of title 5, United States Code, to the greatest extent practicable to participating carriers, employers, and employees covered under this Act.

(c) LIMITATIONS.—In no event shall the enactment of this Act result in—

(1) any increase in the level of individual or Federal Government contributions required under chapter 89 of title 5, United States Code, including copayments or deductibles;

(2) any decrease in the types of benefits offered under such chapter 89; or

(3) any other change that would adversely affect the coverage afforded under such chapter 89 to employees and annuitants and members of family under that chapter.

(d) ENROLLMENT.—The Office shall develop methods to facilitate enrollment under this Act, including the use of the Internet.

(e) CONTRACTS FOR ADMINISTRATION.—The Office may enter into contracts for the performance of appropriate administrative functions under this Act.

(f) SEPARATE RISK POOL.—In the administration of this Act, the Office shall ensure that covered employees under this Act are in a risk pool that is separate from the risk pool maintained for covered individuals under chapter 89 of title 5, United States Code.

(g) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to require a carrier that is participating in the program under chapter 89 of title 5, United States Code, to provide health benefits plan coverage under this Act.

SEC. 4. CONTRACT REQUIREMENT.

(a) IN GENERAL.—The Office may enter into contracts with qualified carriers offering health benefits plans of the type described in section 8903 or 8903a of title 5, United States Code, without regard to section 5 of title 41, United States Code, or other statutes requiring competitive bidding, to provide health insurance coverage to employees of participating employers under this Act. Each contract shall be for a uniform term of at least 1 year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. In entering into such contracts, the Office shall ensure that health benefits coverage is provided for individuals only, individuals with one or more children, married individuals without children, and married individuals with one or more children.

(b) ELIGIBILITY.—A carrier shall be eligible to enter into a contract under subsection (a) if such carrier—

(1) is licensed to offer health benefits plan coverage in each State in which the plan is offered; and

(2) meets such other requirements as determined appropriate by the Office.

(c) STATEMENT OF BENEFITS.—

(1) IN GENERAL.—Each contract under this Act shall contain a detailed statement of benefits offered and shall include information concerning such maximums, limitations, exclusions, and other definitions of benefits as the Office considers necessary or desirable.

(2) ENSURING A RANGE OF PLANS.—The Office shall ensure that a range of health benefits plans are available to participating employers under this Act.

(3) PARTICIPATING PLANS.—The Office shall not prohibit the offering of any health benefits plan to a participating employer if such plan is eligible to participate in the Federal Employees Health Benefits Program.

(4) NATIONWIDE PLAN.—With respect to all nationwide plans, the Office shall develop a benefit package that shall be offered in the case of a contract for a health benefit plan that is to be offered on a nationwide basis that meets all State benefit mandates.

(d) STANDARDS.—The minimum standards prescribed for health benefits plans under section 8902(e) of title 5, United States Code, and for carriers offering plans, shall apply to plans and carriers under this Act. Approval of a plan may be withdrawn by the Office only after notice and opportunity for hearing to the carrier concerned without regard to subchapter II of chapter 5 and chapter 7 of title 5, United States Code.

(e) CONVERSION.—

(1) IN GENERAL.—A contract may not be made or a plan approved under this section if the carrier under such contract or plan does not offer to each enrollee whose enrollment in the plan is ended, except by a cancellation of enrollment, a temporary extension of coverage during which the individual may exercise the option to convert, without evidence of good health, to a nongroup contract providing health benefits. An enrollee who exercises this option shall pay the full periodic charges of the nongroup contract.

(2) NONCANCELLABLE.—The benefits and coverage made available under paragraph (1) may not be canceled by the carrier except for fraud, over-insurance, or nonpayment of periodic charges.

(f) REQUIREMENT OF PAYMENT FOR OR PROVISION OF HEALTH SERVICE.—Each contract entered into under this Act shall require the carrier to agree to pay for or provide a health service or supply in an individual case if the Office finds that the employee, annuitant, family member, former spouse, or person having continued coverage under section 8905a of title 5, United States Code, is entitled thereto under the terms of the contract.

SEC. 5. ELIGIBILITY.

An individual shall be eligible to enroll in a plan under this Act if such individual—

(1) is an employee of an employer described in section 2(b)(2), or is a self employed individual as defined in section 401(c)(1)(B) of the Internal Revenue Code of 1986; and

(2) is not otherwise enrolled or eligible for enrollment in a plan under chapter 89 of title 5, United States Code.

SEC. 6. ALTERNATIVE CONDITIONS TO FEDERAL EMPLOYEE PLANS.

(a) TREATMENT OF EMPLOYEE.—For purposes of enrollment in a health benefits plan under this Act, an individual who had coverage under a health insurance plan and is not a qualified beneficiary as defined under section 4980B(g)(1) of the Internal Revenue Code of 1986 shall be treated in a similar manner as an individual who begins employment as an employee under chapter 89 of title 5, United States Code.

(b) PREEXISTING CONDITION EXCLUSIONS.—

(1) IN GENERAL.—Each contract under this Act may include a preexisting condition exclusion as defined under section 9801(b)(1) of the Internal Revenue Code of 1986.

(2) EXCLUSION PERIOD.—A preexisting condition exclusion under this subsection shall provide for coverage of a preexisting condition to begin not later than 6 months after

the date on which the coverage of the individual under a health benefits plan commences, reduced by the aggregate 1 day for each day that the individual was covered under a health insurance plan immediately preceding the date the individual submitted an application for coverage under this Act. This provision shall be applied notwithstanding the applicable provision for the reduction of the exclusion period provided for in section 701(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(a)(3)).

(c) RATES AND PREMIUMS.—

(1) IN GENERAL.—Rates charged and premiums paid for a health benefits plan under this Act—

(A) shall be determined in accordance with this subsection;

(B) may be annually adjusted subject to paragraph (3);

(C) shall be negotiated in the same manner as rates and premiums are negotiated under such chapter 89; and

(D) shall be adjusted to cover the administrative costs of the Office under this Act.

(2) DETERMINATIONS.—In determining rates and premiums under this Act, the following provisions shall apply:

(A) IN GENERAL.—A carrier that enters into a contract under this Act shall determine that amount of premiums to assess for coverage under a health benefits plan based on an community rate that may be annually adjusted—

(i) for the geographic area involved if the adjustment is based on geographical divisions that are not smaller than a metropolitan statistical area and the carrier provides evidence of geographic variation in cost of services;

(ii) based on whether such coverage is for an individual, two adults, one adult and one or more children, or a family: and

(iii) based on the age of covered individuals (subject to subparagraph (C)).

(B) LIMITATION.—Premium rates charged for coverage under this Act shall not vary based on health-status related factors, gender, class of business, or claims experience

(C) AGE ADJUSTMENTS.—

(i) IN GENERAL.—With respect to subparagraph (A)(iii), in making adjustments based on age, the Office shall establish no more than 5 age brackets to be used by the carrier in establishing rates. The rates for any age bracket may not vary by more than 50 percent above or below the community rate on the basis of attained age. Age-related premiums may not vary within age brackets.

(ii) AGE 65 AND OLDER.—With respect to subparagraph (A)(iii), a carrier may develop separate rates for covered individuals who are 65 years of age or older for whom medicare is the primary payor for health benefits coverage which is not covered under medicare.

"(3) READJUSTMENTS.—Any readjustment in rates charged or premiums paid for a health benefits plan under this Act shall be made in advance of the contract term in which they will apply and on a basis which, in the judgment of the Office, is consistent with the practice of the Office for the Federal Employees Health Benefits Program.

(d) TERMINATION AND REENROLLMENT.—If an individual who is enrolled in a health benefits plan under this Act terminates the enrollment, the individual shall not be eligible for reenrollment until the first open enrollment period following the expiration of 6 months after the date of such termination.

(e) CONTINUED APPLICABILITY OF STATE LAW.—

(1) HEALTH INSURANCE OR PLANS.—

(A) PLANS.—With respect to a contract entered into under this Act under which a carrier will offer health benefits plan coverage, State mandated benefit laws in effect in the State in which the plan is offered shall continue to apply.

(B) RATING RULES.—The rating requirements under subparagraphs (A) and (B) of subsection (c)(2) shall supercede State rating rules for qualified plans under this Act, except with respect to States that provide a rating variance with respect to age that is less than the Federal limit or that provide for some form of community rating.

(2) LIMITATION.—Nothing in this subsection shall be construed to preempt—

(A) any State or local law or regulation except those laws and regulations described in subparagraph (B) of paragraph (1);

(B) any State grievance, claims, and appeals procedure law, except to the extent that such law is preempted under section 514 of the Employee Retirement Income Security Act of 1974; and

(C) State network adequacy laws.

(f) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to limit the application of the service-charge system used by the Office for determining profits for participating carriers under chapter 89 of title 5, United States Code.

SEC. 7. ENCOURAGING PARTICIPATION BY CARRIERS THROUGH ADJUSTMENTS FOR RISK.

(a) APPLICATION OF RISK CORRIDORS.—

(1) IN GENERAL.—This section shall only apply to carriers with respect to health benefits plans offered under this Act during any of calendar years 2007 through 2009.

(2) NOTIFICATION OF COSTS UNDER THE PLAN.—In the case of a carrier that offers a health benefits plan under this Act in any of calendar years 2007 through 2009, the carrier shall notify the Office, before such date in the succeeding year as the Office specifies, of the total amount of costs incurred in providing benefits under the health benefits plan for the year involved and the portion of such costs that is attributable to administrative expenses.

(3) ALLOWABLE COSTS DEFINED.—For purposes of this section, the term "allowable costs" means, with respect to a health benefits plan offered by a carrier under this Act, for a year, the total amount of costs described in paragraph (2) for the plan and year, reduced by the portion of such costs attributable to administrative expenses incurred in providing the benefits described in such paragraph.

(b) ADJUSTMENT OF PAYMENT.—

(1) NO ADJUSTMENT IF ALLOWABLE COSTS WITHIN 3 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for a calendar year are at least 97 percent, but do not exceed 103 percent, of the target amount for the plan and year involved, there shall be no payment adjustment under this section for the plan and year.

(2) INCREASE IN PAYMENT IF ALLOWABLE COSTS ABOVE 103 PERCENT OF TARGET AMOUNT.—

(A) COSTS BETWEEN 103 AND 108 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for the year are greater than 103 percent, but not greater than 108 percent, of the target amount for the plan and year, the Office shall reimburse the carrier for such excess costs through payment to the carrier of an amount equal to 75 percent of the difference between such allowable costs and 103 percent of such target amount.

(B) COSTS ABOVE 108 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for the year are greater than 108 percent of the target amount for the plan and year, the Office shall reimburse the carrier for such excess costs through payment to the carrier in an amount equal to the sum of—

(i) 3.75 percent of such target amount; and

(ii) 90 percent of the difference between such allowable costs and 108 percent of such target amount.

(3) REDUCTION IN PAYMENT IF ALLOWABLE COSTS BELOW 97 PERCENT OF TARGET AMOUNT.—

(A) COSTS BETWEEN 92 AND 97 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for the year are less than 97 percent, but greater than or equal to 92 percent, of the target amount for the plan and year, the carrier shall be required to pay into the contingency reserve fund maintained under section 8909(b)(2) of title 5, United States Code, an amount equal to 75 percent of the difference between 97 percent of the target amount and such allowable costs.

(B) COSTS BELOW 92 PERCENT OF TARGET AMOUNT.—If the allowable costs for the carrier with respect to the health benefits plan involved for the year are less than 92 percent of the target amount for the plan and year, the carrier shall be required to pay into the stabilization fund under section 8909(b)(2) of title 5, United States Code, an amount equal to the sum of—

(i) 3.75 percent of such target amount; and

(ii) 90 percent of the difference between 92 percent of such target amount and such allowable costs.

(4) TARGET AMOUNT DESCRIBED.—

(A) IN GENERAL.—For purposes of this subsection, the term "target amount" means, with respect to a health benefits plan offered by a carrier under this Act in any of calendar years 2007 through 2011, an amount equal to—

(i) the total of the monthly premiums estimated by the carrier and approved by the Office to be paid for enrollees in the plan under this Act for the calendar year involved; reduced by

(ii) the amount of administrative expenses that the carrier estimates, and the Office approves, will be incurred by the carrier with respect to the plan for such calendar year.

(B) SUBMISSION OF TARGET AMOUNT.—Not later than December 31, 2006, and each December 31 thereafter through calendar year 2010, a carrier shall submit to the Office a description of the target amount for such carrier with respect to health benefits plans provided by the carrier under this Act.

(c) DISCLOSURE OF INFORMATION.—

(1) IN GENERAL.—Each contract under this Act shall provide—

(A) that a carrier offering a health benefits plan under this Act shall provide the Office with such information as the Office determines is necessary to carry out this subsection including the notification of costs under subsection (a)(2) and the target amount under subsection (b)(4)(B); and

(B) that the Office has the right to inspect and audit any books and records of the organization that pertain to the information regarding costs provided to the Office under such subsections.

(2) RESTRICTION ON USE OF INFORMATION.—Information disclosed or obtained pursuant to the provisions of this subsection may be used by officers, employees, and contractors of the Office only for the purposes of, and to

the extent necessary in. carrying out this section.

SEC. 8. ENCOURAGING PARTICIPATION BY CARRIERS THROUGH REINSURANCE.

(a) ESTABLISHMENT.—The Office shall establish a reinsurance fund to provide payments to carriers that experience one or more catastrophic claims during a year for health benefits provided to individuals enrolled in a health benefits plan under this Act.

(b) ELIGIBILITY FOR PAYMENTS.—To be eligible for a payment from the reinsurance fund for a plan year, a carrier under this Act shall submit to the Office an application that contains—

(1) a certification by the carrier that the carrier paid for at least one episode of care during the year for covered health benefits for an individual in an amount that is in excess of $50,000; and

(2) such other information determined appropriate by the Office.

(c) PAYMENT.—

(1) IN GENERAL.—The amount of a payment from the reinsurance fund to a carrier under this section for a catastrophic episode of care shall be determined by the Office but shall not exceed an amount equal to 80 percent of the applicable catastrophic claim amount.

(2) APPLICABLE CATASTROPHIC CLAIM AMOUNT.—For purposes of paragraph (1), the applicable catastrophic episode of care amount shall be equal to the difference between—

(A) the amount of the catastrophic claim; and

(B) $50,000.

(3) LIMITATION.—In determining the amount of a payment under paragraph (1), if the amount of the catastrophic claim exceeds the amount that would be paid for the healthcare items or services involved under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), the Office shall use the amount that would be paid under such title XVIII for purposes of paragraph (2)(A).

(d) DEFINITION.—In this section, the term "catastrophic claim" means a claim submitted to a carrier, by or on behalf of an enrollee in a health benefits plan under this Act, that is in excess of $50,000.

(e) TERMINATION OF FUND.—The reinsurance fund established under subsection (a) shall terminate on the date that is 2 years after the date on which the first contract period becomes effective under this Act.

SEC. 9. CONTINGENCY RESERVE FUND.

Beginning on October 1, 2010, the Office may use amounts appropriated under section 14(a) that remain unobligated to establish a contingency reserve fund to provide assistance to carriers offering health benefits plans under this Act that experience unanticipated financial hardships (as determined by the Office).

SEC. 10. EMPLOYER PARTICIPATION.

(a) REGULATIONS.—The Office shall prescribe regulations providing for employer participation under this Act, including the offering of health benefits plans under this Act to employees.

(b) ENROLLMENT AND OFFERING OF OTHER COVERAGE.—

(1) ENROLLMENT.—A participating employer shall ensure that each eligible employee has an opportunity to enroll in a plan under this Act.

(2) PROHIBITION ON OFFERING OTHER COMPREHENSIVE HEALTH BENEFIT COVERAGE.—A participating employer may not offer a health insurance plan providing comprehensive health benefit coverage to employees other than a health benefits plan that—

(A) meets the requirements described in section 4(a); and

(B) is offered only through the enrollment process established by the Office under section 3.

(3) OFFER OF SUPPLEMENTAL COVERAGE OPTIONS.—

(A) IN GENERAL.—A participating employer may offer supplementary coverage options to employees.

(B) DEFINITION.—In subparagraph (A), the term "supplementary coverage" means benefits described as "excepted benefits" under section 2791(c) of the Public Health Service Act (42 U.S.C. 300gg-91(c)).

(c) RULE OF CONSTRUCTION.—Except as provided in section 15, nothing in this Act shall be construed to require that an employer make premium contributions on behalf of employees.

SEC. 11. ADMINISTRATION THROUGH REGIONAL ADMINISTRATIVE ENTITIES.

(a) IN GENERAL.—In order to provide for the administration of the benefits under this Act with maximum efficiency and convenience for participating employers and health care providers and other individuals and entities providing services to such employers, the Office is authorized to enter into contracts with eligible entities to perform, on a regional basis, one or more of the following:

(1) Collect and maintain all information relating to individuals, families, and employers participating in the program under this Act in the region served.

(2) Receive, disburse, and account for payments of premiums to participating employers by individuals in the region served, and for payments by participating employers to carriers.

(3) Serve as a channel of communication between carriers, participating employers, and individuals relating to the administration of this Act.

(4) Otherwise carry out such activities for the administration of this Act, in such manner, as may be provided for in the contract entered into under this section.

(5) The processing of grievances and appeals.

(b) APPLICATION.—To be eligible to receive a contract under subsection (a), an entity shall prepare and submit to the Office an application at such time, in such manner, and containing such information as the Office may require.

(c) PROCESS.—

(1) COMPETITIVE BIDDING.—All contracts under this section shall be awarded through a competitive bidding process on a bi-annual basis.

(2) REQUIREMENT.—No contract shall be entered into with any entity under this section unless the Office finds that such entity will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as the Office finds pertinent.

(3) PUBLICATION OF STANDARDS AND CRITERIA.—The Office shall publish in the Federal Register standards and criteria for the efficient and effective performance of contract obligations under this section, and opportunity shall be provided for public comment prior to implementation. In establishing such standards and criteria, the Office shall provide for a system to measure an entity's performance of responsibilities.

(4) TERM.—Each contract under this section shall be for a term of at least 1 year, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term, except that the Office may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the entity involved as the Office may provide in regulations) if the Office finds that the entity has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the program established by this Act.

(d) TERMS OF CONTRACT.—A contract entered into under this section shall include—

(1) a description of the duties of the contracting entity;

(2) an assurance that the entity will furnish to the Office such timely information and reports as the Office determines appropriate;

(3) an assurance that the entity will maintain such records and afford such access thereto as the Office finds necessary to assure the correctness and verification of the information and reports under paragraph (2) and otherwise to carry out the purposes of this Act;

(4) an assurance that the entity shall comply with such confidentiality and privacy protection guidelines and procedures as the Office may require; and

(5) such other terms and conditions not inconsistent with this section as the Office may find necessary or appropriate.

SEC. 12. COORDINATION WITH SOCIAL SECURITY BENEFITS.

Benefits under this Act shall, with respect to an individual who is entitled to benefits under part A of title XVIII of the Social Security Act, be offered (for use in coordination with those medicare benefits) to the same extent and in the same manner as if coverage were under chapter 89 of title 5, United States Code.

SEC. 13. PUBLIC EDUCATION CAMPAIGN.

(a) IN GENERAL.—In carrying out this Act, the Office shall develop and implement an educational campaign to provide information to employers and the general public concerning the health insurance program developed under this Act.

(b) ANNUAL PROGRESS REPORTS.—Not later than 1 year and 2 years after the implementation of the campaign under subsection (a), the Office shall submit to the appropriate committees of Congress a report that describes the activities of the Office under subsection (a), including a determination by the office of the percentage of employers with knowledge of the health benefits programs provided for under this Act.

(c) PUBLIC EDUCATION CAMPAIGN.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2007 and 2008.

SEC. 14. APPROPRIATIONS.

There are authorized to be appropriated to the Office, such sums as may be necessary in each fiscal year for the development and administration of the program under this Act.

SEC. 15. REFUNDABLE CREDIT FOR SMALL BUSINESS EMPLOYEE HEALTH INSURANCE EXPENSES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and inserting after section 35 the following new section:

"SEC. 36. SMALL BUSINESS EMPLOYEE HEALTH INSURANCE EXPENSES.

"(a) DETERMINATION OF AMOUNT.—In the case of a qualified small employer, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of—

"(1) the expense amount described in subsection (b), and

"(2) the expense amount described in subsection (c), paid by the taxpayer during the taxable year.

"(b) Subsection (b) Expense Amount.—For purposes of this section—

"(1) In general.—The expense amount described in this subsection is the applicable percentage of the amount of qualified employee health insurance expenses of each qualified employee.

"(2) Applicable percentage.—For purposes of paragraph (1)—

"(A) In general.—The applicable percentage is equal to—

"(i) 25 percent in the case of self-only coverage,

"(ii) 35 percent in the case of family coverage (as defined in section 220(c)(5)), and

"(iii) 30 percent in the case of coverage for two adults or one adult and one or more children.

"(B) Bonus for payment of greater percentage of premiums.—The applicable percentage otherwise specified in subparagraph (A) shall be increased by 5 percentage points for each additional 10 percent of the qualified employee health insurance expenses of each qualified employee exceeding 60 percent which are paid by the qualified small employer.

"(c) Subsection (c) Expense Amount.—For purposes of this section—

"(1) In general.—The expense amount described in this subsection is, with respect to the first credit year of a qualified small employer which is an eligible employer, 10 percent of the qualified employee health insurance expenses of each qualified employee.

"(2) First credit year.—For purposes of paragraph (1), the term 'first credit year' means the taxable year which includes the date that the health insurance coverage to which the qualified employee health insurance expenses relate becomes effective.

"(d) Limitation Based on Wages.— With respect to a qualified employee whose wages at an annual rate during the taxable year exceed $25,000, the percentage which would (but for this section) be taken into account as the percentage for purposes of subsection (b)(2) or (c)(1) for the taxable year shall be reduced by an amount equal to the product of such percentage and the percentage that such qualified employee's wages in excess of $25,000 bears to $5,000.

"(e) Definitions.—For purposes of this section—

"(1) Qualified small employer.—The term 'qualified small employer' means any employer (as defined in section 2(b)(2) of the Small Employers Health Benefits Program Act of 2006) which—

"(A) is a participating employer (as defined in section 2(b)(5) of such Act),

"(B) pays or incurs at least 60 percent of the qualified employee health insurance expenses of each qualified employee for self-only coverage, and

"(C) pays or incurs at least 50 percent of the qualified employee health insurance expenses of each qualified employee for all other categories of coverage.

"(2) Qualified employee health insurance expenses.—

"(A) In general.—The term 'qualified employee health insurance expenses' means any amount paid by an employer for health insurance coverage under such Act to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) Exception for amounts paid under salary reduction arrangements.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(3) Qualified employee.—

"(A) Definition.—

"(i) In general.—The term 'qualified employee' means, with respect to any period, an employee (as defined in section 2(b)(1) of such Act) of an employer if the total amount of wages paid or incurred by such employer to such employee at an annual rate during the taxable year exceeds $5,000 but does not exceed $30,000.

"(ii) Annual adjustment.—For each taxable year after 2007, the dollar amounts specified for the preceding taxable year (after the application of this subparagraph) shall be increased by the same percentage as the average percentage increase in premiums under the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code for the calendar year in which such taxable year begins over the preceding calendar year.

"(B) Wages.—The term 'wages' has the meaning given such term by section 3121(a) (determined without regard to any dollar limitation contained in such section).

"(f) Certain Rules Made Applicable.—For purposes of this section, rules similar to the rules of section 52 shall apply.

"(g) Credits for Nonprofit Organizations.—Any credit which would be allowable under subsection (a) with respect to a qualified small business if such qualified small business were not exempt from tax under this chapter shall be treated as a credit allowable under this subpart to such qualified small business.".

(b) Conforming Amendments.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 36 of such Code".

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

"Sec. 36. Small business employee health insurance expenses.

"Sec. 37. Overpayments of tax.".

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2006.

SEC. 16. EFFECTIVE DATE.

Except as provided in section 10(e), this Act shall take effect on the date of enactment of this Act and shall apply to contracts that take effect with respect to calendar year 2007 and each calendar year thereafter.

SA 3900. Mr. CARPER (for himself and Mrs. Feinstein) submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . CANCER SCREENING.

(a) Findings.—Congress makes the following findings:

(1) About 1,400,000 new cases of cancer will be diagnosed in the United States in 2006.

(2) Medical costs, lost wages, and lost productivity due to cancer cost the United States and estimated $210,000,000,000 in 2005.

(3) In 2006, cancer will take the lives of 565,000 Americans, or about 1,500 people per day.

(4) About half of all new cancer cases can be prevented or detected earlier through screening.

(5) The 5 year survival rate for cancers of the breast, colon, rectum, cervix, prostate, oral cavity, and skin is currently about 86 percent, in part due to earlier diagnosis through screening. If these cancers were diagnosed at the earliest stage through regular cancer screenings, that survival rate could increase to 95 percent.

(b) Limitations.—Notwithstanding any other provision of this Act (or an amendment made by this Act), nothing in this Act (or amendment) shall be construed to permit a small business health plan to be offered in a State, or to permit the offering of any other health insurance coverage in such State, if the plan or coverage fails to comply with laws of the State that require coverage for cancer screening, including screening for breast, cervical, colorectal, prostate, lung, uterine, skin, colon, stomach, and other cancers.

SA 3901. Mr. AKAKA (for himself and Mr. Obama) submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REPEAL OF REQUIREMENT FOR DOCUMENTATION EVIDENCING CITIZENSHIP OR NATIONALITY AS A CONDITION FOR RECEIPT OF MEDICAL ASSISTANCE UNDER THE MEDICAID PROGRAM.

(a) Repeal.—Subsections (i)(22) and (x) of section 1903 of the Social Security Act (42 U.S.C. 1396b), as added by section 6036 of the Deficit Reduction Act of 2005, are each repealed.

(b) Conforming Amendments.—

(1) Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(A) in subsection (i)—

(i) in paragraph (20), by adding "or" after the semicolon at the end; and

(ii) in paragraph (21), by striking "; or" and inserting a period;

(B) by redesignating subsection (y), as added by section 6043(b) of the Deficit Reduction Act of 2005, as subsection (x); and

(C) by redesignating subsection (z), as added by section 6081(a) of the Deficit Reduction Act of 2005, as subsection (y).

(2) Subsection (c) of section 6036 of the Deficit Reduction Act of 2005 is repealed.

(c) Effective Date.—The repeals and amendments made by this section shall take effect as if included in the enactment of the Deficit Reduction Act of 2005.

SA 3902. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike title III.

SA 3903. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

TITLE —MISCELLANEOUS PROVISIONS

SEC. ___. GAO EVALUATION.

(a) In General.—Not later than 24 months after the date of enactment of this Act, the Government Accountability Office shall conduct a study, and submit to the appropriate committees of Congress a report, concerning the impact of this Act (and the amendments made by this Act) on the costs and quality of health care coverage.

(b) Repeal.—If the study and report under subsection (a) finds that the implementation of this Act (and amendments) does not result in a decrease in health care coverage costs or in an increase in access to such coverage, the provisions of this Act (and such amendments) shall be repealed effective on the date on which such report is submitted.

SA 3904. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON PREEMPTION.

Unless otherwise specifically provided for in this Act (or an amendment made by this Act), nothing in this Act (or amendment) shall be construed to preempt any State or local law related to health insurance.

SA 3905. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce the costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BENEFIT REVIEW PANEL ON HEALTH INSURANCE.

(a) Benefit Review Panel.—

(1) Establishment.—The Secretary of Health and Human Services (referred to in this section as the "Secretary"), in consultation with the National Association of Insurance Commissioners, shall establish the Benefit Review Panel on Health Insurance (referred to in this section as the "Panel") to develop recommendations that a Federal floor of benefit mandates be established from the current array of inconsistent State health insurance laws and in accordance with the laws adopted in a plurality of the States.

(2) Composition.—The Panel shall be composed of the following individuals appointed by the Secretary:

(A) Two State insurance commissioners, of which—

(i) 1 shall be a Democrat and 1 shall be a Republican; and

(ii) 1 shall be designated as the chairperson and 1 shall be designated as the vice-chairperson.

(B) Two representatives of State government, of which—

(i) 1 shall be a governor of a State and 1 shall be a State legislator; and

(ii) 1 shall be a Democrat and 1 shall be a Republican.

(C) Two representatives of employers, of which 1 shall represent small employers and 1 shall represent large employers.

(D) Two representatives of health insurers, of which 1 shall represent insurers that offer coverage in all markets (including individual, small, and large markets), and 1 shall represent insurers that offer coverage in the small market.

(E) Two representatives of consumer organizations.

(F) Two representatives of insurance agents and brokers.

(G) Two representatives of healthcare providers.

(H) Two independent representatives of the American Academy of Actuaries who have familiarity with the actuarial methods applicable to health insurance.

(I) One administrator of a qualified high risk pool.

(3) Terms.—The members of the Panel shall serve for the duration of the Panel. The Secretary shall fill vacancies in the Panel as needed and in a manner consistent with the composition described in paragraph (2).

(b) Development of a Federal Standard Benefit Package.—In accordance with the process described in subsection (c), the Panel shall identify and recommend a Federal standard benefit package of benefit mandates from among the current array of inconsistent State insurance laws.

(c) Process for Developing a Standard Federal Benefit Package.—

(1) In general.—In developing the standard benefit package recommendations described in subsection (b), the Panel shall—

(A) review all State laws that regulate insurance benefits; and

(B) develop recommendations to harmonize inconsistent State insurance laws with the laws adopted in a plurality of the States.

(2) Consultation.—The Panel shall consult with the National Association of Insurance Commissioners in identifying the benefit mandates of the States.

(d) Recommendations and Adoption by Secretary.—

(1) Recommendations.—Not later than 1 year after the date of enactment of this Act, the Panel shall recommend to the Secretary the adoption of the harmonized standards identified under subsection (c).

(2) Regulations.—Not later than 120 days after receipt of the Panel's recommendations under paragraph (1), the Secretary shall issue final regulations adopting such recommendations as the Federal standard benefit package. If the Secretary finds the recommended standards for an element of the standard benefit package to be arbitrary and inconsistent with the plurality requirements of this section, the Secretary may issue a unique standard only for such element, through a process similar to the process set forth in subsection (c) and through the issuance of proposed and final regulations.

(3) Effective date.—The regulations issued by the Secretary under paragraph (2) shall be effective on the date that is 2 years after the date on which such regulations were issued.

(e) Termination.—The Panel shall terminate and be dissolved after making the recommendations to the Secretary pursuant to subsection (d)(1).

(f) Updated Standard Benefit Package.—

(1) In general.—Not later than 2 years after the termination of the Panel under subsection (e), and every 2 years thereafter, the Secretary shall update the standard benefit package adopted under subsection (d)(2). Such updated standard benefit package shall be adopted in accordance with paragraph (2).

(2) Updated standard benefit package.—

(A) In general.—In order to update the standard benefit package in accordance with paragraph (1), the Secretary shall review all State laws that regulate insurance mandates and identify whether a plurality of States have adopted substantially similar requirements that differ from the standard benefit package adopted by the Secretary under subsection (d). In such case, the Secretary shall consider State laws that have been enacted with effective dates that are contingent upon adoption as a harmonized standard in the standard benefit package by the Secretary. Substantially similar requirements by different States shall be considered to be an updated harmonized standard.

(B) Report.—The Secretary shall request the National Association of Insurance Commissioners to issue a report to the Secretary every 2 years to assist the Secretary in identifying the updated benefit mandates of the States under this paragraph. Nothing in this subparagraph shall be construed to prohibit the Secretary from issuing updated standards in the absence of such a report.

(C) Regulations.—The Secretary shall issue regulations adopting the updated standard benefit package under this paragraph within 90 days of identifying the standards in need of updating. Such regulations shall be effective beginning on the date that is 2 years after the date on which such regulations are issued.

(g) Publication.—

(1) Listing.—The Secretary shall maintain an up-to-date listing of all harmonized standards in the standard benefit package adopted under this section on the Internet website of the Department of Health and Human Services.

(2) Sample contract language.—The Secretary shall publish, on the Internet website of the Department of Health and Human Services, sample contract language that incorporates the standard benefit package adopted under this section, which may be used by insurers seeking to qualify as an eligible insurer. The types of benefits that shall be included in such sample contract language are the standards that are relevant to the contractual bargain between the insurer and insured.

(h) State Adoption and Enforcement.—Not later than 2 years after the issuance by the Secretary of final regulations adopting the Federal standard benefit package under this section, the States may adopt such standard benefit package (and become an adopting State) and, in which case, shall enforce the harmonized standard benefit package pursuant to State law.

SA 3906. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce the costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. STATE OPT OUT.

(a) In General.—The provisions of this Act (and the amendments made by this Act) shall not apply with respect to a State if—

(1) the governor of such State certifies to the State legislature that the application of such provisions would have a detrimental effect on the residents of the State; and

(2) the State enacts legislation that provides that such provisions shall not apply in the State.

(b) Partial Opt Out.—A State may apply subsection with respect to all of the provisions of this Act (or amendments) or to select provisions.

SA 3907. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce the costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . LIMITATION ON APPLICATION OF CERTAIN PROVISIONS.

(a) In General.—Notwithstanding any other provision of this Act (or an amendment made by this Act), any provision of this Act (or amendment) that has the effect of—

(1) increasing the premiums paid by women of child bearing age for health insurance coverage;

(2) nullifying, superseding, or limiting the application of any State law that requires a health insurance issuer to provide coverage for maternity care or related pre- and postnatal care for women and their infants;

(3) limiting the ability of the State to enforce any law described in paragraph (2);

shall not apply and shall not be enforced.

(b) Limitation on Use of Gender in Setting Rates.—Notwithstanding any other provision of this Act (or an amendment made by this Act), a health insurance issuer that offers a small business health plan may not use gender as a characteristic in setting health insurance premium rates with respect to such plan.

SA 3908. Mr. BAUCUS (for himself and Mr. Coleman) submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . CLARIFICATION OF AVAILABILITY OF TARGETED CASE MANAGEMENT SERVICES UNDER MEDICAID.

(a) In General.—Section 1915(g) of the Social Security Act (42 U.S.C. 1396n(g)) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "subsection" and inserting "title";

(B) in subparagraph (A)—

(i) in clause (i)—

(I) by inserting "targeted" before "case"; and

(II) by inserting "that are furnished without regard to the requirements of section 1902(a)(1) and section 1902(a)(10)(B) to specific classes of individuals or to individuals who reside in specified areas and" after "means services"; and

(ii) in clause (iii), in the matter preceding subclause (I), by striking "Such term" and all that follows through "the following" and inserting "Except as provided in subparagraph (B), such term does not include the following activities with respect to the delivery of foster care services"; and

(C) by amending subparagraph (B) to read as follows:

"(B) Such term includes the activities described in subclauses (II) and (VIII) of subparagraph (A)(iii) in the case of an individual who is eligible for medical assistance under the State plan but who is not eligible for services or payments to be made on their behalf under part E of title IV.";

(2) in subparagraphs (A) and (B) of paragraph (3), by inserting "targeted" before "case management activity" each place it appears;

(3) in paragraph (4), by striking "only" and all that follows through the period and inserting "is available under this title for targeted case management services as furnished under the plan unless there are other third parties liable to pay for such services."; and

(4) by adding at the end the following new paragraph:

"(6) Nothing in this subsection shall be construed as limiting the responsibility of the program established under this title to—

"(A) pay for any item or service for which no other payor is legally liable;

"(B) treat other payors or providers as legally liable who have no enforceable responsibility to pay for any item or service; or

"(C) treat the availability of public funding for any item or service as creating a legal liability.".

(b) Conforming Amendment.—The heading for section 6052 of the Deficit Reduction Act of 2005 (Public Law 109–171, 120 Stat. 93) is amended to read as follows: "**clarification of availability of targeted case management services**".

(c) Effective Date.—The amendments made by this section shall take effect as if included in the enactment of, and the amendments to section 1915(g) of the Social Security Act made by, section 6052 of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 93).

SA 3909. Mr. FEINGOLD (for himself and Mr. Graham) submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce the costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —HEALTH REFORM

SEC. 01. SHORT TITLE.

This title may be cited as the "Reform Health Care Now Act".

SEC. 02. SENATE CONSIDERATION OF HEALTH CARE REFORM LEGISLATION.

(a) Introduction.—

(1) In general.—Not later than 30 calendar days after the commencement of the session of Congress that follows the date of enactment of this Act, the chair of the Senate Committee on Health, Education, Labor, and Pensions, the Chair of the Senate Committee on Finance, the Majority Leader of the Senate, and the Minority Leader of the Senate shall each introduce a bill to provide a significant increase in access to health care coverage for the people of the United States.

(2) Minority party.—These bills may be introduced by request and only 1 qualified bill may be introduced by each individual referred to in paragraph (1) within a Congress. If either committee chair fails to introduce the bill within the 30-day period, the ranking minority party member of the respective committee may instead introduce a bill that will qualify for the expedited procedure provided in this section.

(3) Qualified bill.—

(A) In general.—In order to qualify as a qualified bill—

(i) the title of the bill shall be "To reform the health care system of the United States and to provide insurance coverage for Americans.";

(ii) the bill shall reach the goal of providing health care coverage to 95 percent of Americans within 10 years; and

(iii) the bill shall be deficit neutral.

(B) Determination.—Whether or not a bill meets the criteria in subparagraph (A) shall be determined by the Chair of the Senate Budget Committee, relying on estimates of the Congressional Budget Office, subject to the final approval of the Senate.

(b) Referral.—

(1) Committee bills.—Upon introduction, the bill authored by the Chair of the Senate Committee on Finance shall be referred to that Committee and the bill introduced by the Chair of the Senate Committee on Health, Education, Labor, and Pensions shall be referred to that committee. If either committee has not reported the bill referred to it (or another qualified bill) by the end of a 60 calendar-day period beginning on the date of referral, the committee is, as of that date, automatically discharged from further consideration of the bill, and the bill is placed directly on the chamber's legislative calendar. In calculating the 60-day period, adjournments for more than 3 days are not counted.

(2) Leader bills.—The bills introduced by the Senate Majority Leader and the Senate Minority Leader shall, on introduction, be placed directly on the Senate Calendar of Business.

(c) Motion to Proceed.—

(1) In general.—On or after the third day following the committee report or discharge or upon a bill being placed on the calendar under subsection (b)(2), it shall be in order for any Member, after consultation with the Majority Leader, to move to proceed to the consideration of any qualified bill. Notice shall first be given before proceeding. This motion to proceed to the consideration of a bill can be offered by a Member only on the day after the calendar day on which the Member announces the Member's intention to offer it.

(2) Consideration.—The motion to proceed to a given qualified bill can be made even if a motion to the same effect has previously been rejected. No more than 3 such motions may be made, however, in any 1 congressional session.

(3) Privileged and nondebatable.—The motion to proceed is privileged, and all points of order against the motion to proceed to consideration and its consideration are waived. The motion is not debatable, is not amendable, and is not subject to a motion to postpone.

(4) No other business or reconsideration.—The motion is not subject to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or disagreed to is not in order.

(d) Consideration of Qualified Bill.—

(1) In general.—If the motion to proceed is adopted, the chamber shall immediately proceed to the consideration of a qualified bill without intervening motion, order, or other business, and the bill remains the unfinished business of the Senate until disposed of. A motion to limit debate is in order and is not debatable.

(2) Only business.—The qualified bill is not subject to a motion to postpone or a motion to proceed to the consideration of other business before the bill is disposed of.

(3) Relevant amendments.—Only relevant amendments may be offered to the bill.

SEC. 03. HOUSE CONSIDERATION OF HEALTH CARE REFORM LEGISLATION.

(a) Introduction.—

(1) In general.—Not later than 30 calendar days after the commencement of the session of Congress that follows the date of enactment of this Act, the chair of the House Committee on Energy and Commerce, the chair of the House Committee on Ways and Means, the Majority Leader of the House, and the Minority Leader of the House shall each introduce a bill to provide a significant increase in access to health care coverage for the people of the United States.

(2) Minority party.—These bills may be introduced by request and only 1 qualified bill may be introduced by each individual referred to in paragraph (1) within a Congress. If either committee chair fails to introduce the bill within the 30-day period, the ranking minority party member of the respective committee may, within the following 30 days, instead introduce a bill that will qualify for the expedited procedure provided in this section.

(3) Qualified bill.—

(A) In general.—To qualify for the expedited procedure under this section as a qualified bill, the bill shall—

(i) reach the goal of providing healthcare coverage to 95 percent of Americans within 10 years; and

(ii) be deficit neutral.

(B) Determination.—Whether or not a bill meets the criteria in subparagraph (A) shall be determined by the Speaker's ruling on a point of order based on a Congressional Budget Office estimate of the bill.

(b) Referral.—

(1) Committee bills.—Upon introduction, the bill authored by the Chair of the House Committee on Energy and Commerce shall be referred to that committee and the bill introduced by the Chair of the House Committee on Ways and Means shall be referred to that committee. If either committee has not reported the bill referred to it (or another qualified bill) by the end of 60 days of consideration beginning on the date of referral, the committee shall be automatically discharged from further consideration of the bill, and the bill shall be placed directly on the Calendar of the Whole House on the State of the Union. In calculating the 60-day period, adjournments for more than 3 days are not counted.

(2) Leader bills.—The bills introduced by the House Majority Leader and House Minority Leader will, on introduction, be placed directly on the Calendar of the Whole House on the State of the Union.

(c) Motion to Proceed.—

(1) In general.—On or after the third day following the committee report or discharge or upon a bill being placed on the calendar under subsection (b)(2), it shall be in order for any Member, after consultation with the Majority Leader, to move to proceed to the consideration of any qualified bill. Notice must first be given before proceeding. This motion to proceed to the consideration of a bill can be offered by a Member only on the day after the calendar day on which the Member announces the Member's intention to offer it.

(2) Consideration.—The motion to proceed to a given qualified bill can be made even if a motion to the same effect has previously been rejected. No more than 3 such motions may be made, however, in any 1 congressional session.

(3) Privileged and nondebatable.—The motion to proceed is privileged, and all points of order against the motion to proceed to consideration and its consideration are waived. The motion is not debatable, is not amendable, and is not subject to a motion to postpone.

(4) No other business or reconsideration.—The motion is not subject to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or disagreed to is not in order.

(d) Consideration of a Qualified Bill.—

(1) In general.—If the motion to proceed is adopted, the chamber will immediately proceed to the consideration of a qualified bill without intervening motion, order, or other business, and the bill remains the unfinished business of the House until disposed of.

(2) Committee of the whole.—The bill will be considered in the Committee of the Whole under the 5-minute rule, and the bill shall be considered as read and open for amendment at any time.

(3) Limit debate.—A motion to further limit debate is in order and is not debatable.

(4) Relevant amendments.—Only relevant amendments may be offered to the bill.

SA 3910. Mr. FEINGOLD (for himself and Ms. Collins) submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace: which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—HEALTH CARE PURCHASING COOPERATIVES

SEC. ___01. SHORT TITLE.

This title may be cited as the "Promoting Health Care Purchasing Cooperatives Act".

SEC. ___02. FINDINGS AND PURPOSE.

(a) Findings.—Congress makes the following findings:

(1) Health care spending in the United States has reached 15 percent of the Gross Domestic Product of the United States, yet 45,000,000 people, or 15.6 percent of the population, remains uninsured.

(2) After nearly a decade of manageable increases in commercial insurance premiums, many employers are now faced with consecutive years of double digit premium increases.

(3) Purchasing cooperatives owned by participating businesses are a proven method of achieving the bargaining power necessary to manage the cost and quality of employer-sponsored health plans and other employee benefits.

(4) The Employer Health Care Alliance Cooperative has provided its members with health care purchasing power through provider contracting, data collection, activities to enhance quality improvements in the health care community, and activities to promote employee health care consumerism.

(5) According to the National Business Coalition on Health, there are nearly 80 employer-led coalitions across the United States that collectively purchase health care, proactively challenge high costs and the inefficient delivery of health care, and share information on quality. These coalitions represent more than 10,000 employers.

(b) Purpose.—It is the purpose of this title to build off of successful local employer-led health insurance initiatives by improving the value of their employees' health care.

SEC. 03. GRANTS TO SELF INSURED BUSINESSES TO FORM HEALTH CARE COOPERATIVES.

(a) Authorization.—The Secretary of Health and Human Services (in this title referred to as the "Secretary"), acting through the Director of the Agency for Healthcare Research and Quality, is authorized to award grants to eligible groups that meet the criteria described in subsection (d), for the development of health care purchasing cooperatives. Such grants may be used to provide support for the professional staff of such cooperatives, and to obtain contracted services for planning, development, and implementation activities for establishing such health care purchasing cooperatives.

(b) Eligible Group Defined.—

(1) In general.—In this section, the term "eligible group" means a consortium of 2 or more self-insured employers, including agricultural producers, each of which are responsible for their own health insurance risk pool with respect to their employees.

(2) No transfer of risk.—Individual employers who are members of an eligible group may not transfer insurance risk to such group.

(c) Application.—An eligible group desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

(d) Criteria.—

(1) Feasibility study grants.—

(A) In general.—An eligible group may submit an application under subsection (c) for a grant to conduct a feasibility study concerning the establishment of a health insurance purchasing cooperative. The Secretary shall approve applications submitted under the preceding sentence if the study will consider the criteria described in paragraph (2).

(B) REPORT.—After completion of a feasibility study under a grant under this section, an eligible group shall submit to the Secretary a report describing the results of such study.

(2) GRANT CRITERIA.—The criteria described in this paragraph include the following with respect to the eligible group:

(A) The ability of the group to effectively pool the health care purchasing power of employers.

(B) The ability of the group to provide data to employers to enable such employers to make data-based decisions regarding their health plans.

(C) The ability of the group to drive quality improvement in the health care community.

(D) The ability of the group to promote health care consumerism through employee education, self-care, and comparative provider performance information.

(E) The ability of the group to meet any other criteria determined appropriate by the Secretary.

(e) COOPERATIVE GRANTS.—After the submission of a report by an eligible group under subsection (d)(1)(B), the Secretary shall determine whether to award the group a grant for the establishment of a cooperative under subsection (a). In making a determination under the preceding sentence, the Secretary shall consider the criteria described in subsection (d)(2) with respect to the group.

(f) COOPERATIVES.—

(1) IN GENERAL.—An eligible group awarded a grant under subsection (a) shall establish or expand a health insurance purchasing cooperative that shall—

(A) be a nonprofit organization;

(B) be wholly owned, and democratically governed by its member-employers;

(C) exist solely to serve the membership base;

(D) be governed by a board of directors that is democratically elected by the cooperative membership using a 1-member, 1-vote standard; and

(E) accept any new member in accordance with specific criteria, including a limitation on the number of members, determined by the Secretary.

(2) AUTHORIZED COOPERATIVE ACTIVITIES.—A cooperative established under paragraph (1) shall—

(A) assist the members of the cooperative in pooling their health care insurance purchasing power;

(B) provide data to improve the ability of the members of the cooperative to make data-based decisions regarding their health plans;

(C) conduct activities to enhance quality improvement in the health care community;

(D) work to promote health care consumerism through employee education, self-care, and comparative provider performance information; and

(E) conduct any other activities determined appropriate by the Secretary.

(g) REVIEW.—

(1) IN GENERAL.—Not later than 1 year after the date on which grants are awarded under this section, and every 2 years thereafter, the Secretary shall study programs funded by grants under this section and provide to the appropriate committees of Congress a report on the progress of such programs in improving the access of employees to quality, affordable health insurance.

(2) SLIDING SCALE FUNDING.—The Secretary shall use the information included in the report under paragraph (1) to establish a schedule for scaling back payments under this section with the goal of ensuring that programs funded with grants under this section are self sufficient within 10 years.

SEC. 04. GRANTS TO SMALL BUSINESSES TO FORM HEALTH CARE COOPERATIVES.

The Secretary shall carry out a grant program that is identical to the grant program provided in section ___03, except that an eligible group for a grant under this section shall be a consortium of 2 or more employers, including agricultural producers, each of which—

(1) have 99 employees or less; and

(2) are purchasers of health insurance (are not self-insured) for their employees.

SEC. ___05. AUTHORIZATION OF APPROPRIATIONS.

From the administrative funds provided to the Secretary, the Secretary may use not more than a total of $60,000,000 for fiscal years 2006 through 2015 to carry out this title.

SA 3911. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. APPLICATION TO SMALL EMPLOYERS.

Notwithstanding any other provision of this Act (or an amendment made by this Act), the provisions of this Act (and amendments) shall only apply to small employers (as defined in section 808(a)(10) of the Employee Retirement Income Security Act of 1974 (as added by section 101(a)) and including self-employed individuals) and health insurance coverage issued through small employers or to the employees of small employers (or self-employed individuals). Nothing in this Act (or an amendment made by this Act) shall be construed to preempt or supersede State laws relating to health insurance offered in the large group or individual markets or to limit the application of section 805(a)(3)(B) of the Employee Retirement Income Security Act of 1974 (as added by section 101(a)).

SA 3912. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON APPLICATION OF CERTAIN PROVISIONS.

Notwithstanding any other provision of this Act (or an amendment made by this Act), any provision of this Act (or amendment) that has the effect of—

(1) permitting a health insurance issuer to deny coverage for a preventive service that is recommended by the United States Preventive Services Task Force through a rating of "A" of "B"; or

(2) limiting the ability of a State to enforce State laws that require the coverage described in paragraph (1);

shall not apply and shall not be enforced.

SA 3913. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON APPLICATION OF CERTAIN PROVISIONS.

Notwithstanding any other provision of this Act (or an amendment made by this Act), any provision of this Act (or amendment) that has the effect of—

(1) permitting a health insurance issuer to deny coverage for screening for obesity in adults and intensive counseling and behavioral interventions to promote sustained weight loss for obese adults; or

(2) limiting the ability of a State to enforce State laws that require the coverage described in paragraph (1);

shall not apply and shall not be enforced.

SA 3914. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . PROMOTING CESSATION OF TOBACCO USE BY PREGNANT WOMEN UNDER THE MEDICAID PROGRAM.

(a) DROPPING EXCEPTION FROM MEDICAID PRESCRIPTION DRUG COVERAGE FOR TOBACCO CESSATION MEDICATIONS.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r–8(d)(2)) is amended—

(1) by striking subparagraph (E);

(2) by redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I), respectively; and

(3) in subparagraph (F) (as redesignated by paragraph (2)), by inserting before the period at the end the following: "except, in the case of a pregnant woman, agents approved by the Food and Drug Administration for purposes of promoting, and when used to promote, tobacco cessation".

(b) REQUIRING COVERAGE OF TOBACCO CESSATION COUNSELING SERVICES FOR PREGNANT WOMEN.—Section 1905 of the Social Security Act (42 U.S.C. 1396d(a)(4)) is amended—

(1) in subsection (a)(4)—

(A) by striking "and" before "(C)"; and

(B) by inserting before the semicolon at the end the following new subparagraph: ";

and (D) counseling for cessation of tobacco use (as defined in subsection (y)) for pregnant women''; and

(2) by adding at the end the following:

''(y)(1) For purposes of this title, the term 'counseling for cessation of tobacco use' means therapy and counseling for cessation of tobacco use for pregnant women who use tobacco products or who are being treated for tobacco use that is furnished—

''(A) by or under the supervision of a physician; or

''(B) by any other health care professional who—

''(i) is legally authorized to furnish such services under State law (or the State regulatory mechanism provided by State law) of the State in which the services are furnished; and

''(ii) is authorized to receive payment for other services under this title or is designated by the Secretary for this purpose.

''(2) Subject to paragraph (3), such term is limited to—

''(A) therapy and counseling services recommended in 'Treating Tobacco Use and Dependence: A Clinical Practice Guideline', published by the Public Health Service in June 2000, or any subsequent modification of such Guideline; and

''(B) such other therapy and counseling services that the Secretary recognizes to be effective.

''(3) Such term shall not include coverage for drugs or biologicals that are not otherwise covered under this title.''.

(c) Removal of Cost Sharing for Tobacco Cessation Counseling Services for Pregnant Women.—

(1) General cost sharing protections.—Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended in each of subsections (a)(2)(B) and (b)(2)(B) by inserting '', and counseling for cessation of tobacco use (as defined in section 1905(y))'' after ''complicate the pregnancy''.

(2) Alternative cost sharing.—Section 1916A(b)(3)(B)(iii) of such Act (42 U.S.C. 1396o–1(b)(3)(B)(iii)) is amended by inserting ''or to counseling for cessation of tobacco use (as defined in section 1905(y))'' after ''complicate the pregnancy''.

(d) Effective Date.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to services furnished on or after that date.

SA 3915. Mr. NELSON of Florida (for himself and Ms. Snowe) submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . PROTECTION FOR MEDICARE BENEFICIARIES WHO ENROLL IN THE PRESCRIPTION DRUG BENEFIT DURING 2006.

(a) In General.—Section 1851(e)(3)(B) of the Social Security Act (42 U.S.C. 1395w–21(e)(3)(B)) is amended—

(1) in clause (iii), by striking ''May 15, 2006'' and inserting ''December 31, 2006''; and

(2) by adding at the end the following new sentence:

''An individual making an election during the period beginning on November 15, 2006, and ending on December 15, 2006, shall specify whether the election is to be effective with respect to 2006 or with respect to 2007 (or both).''.

(b) One-Time Change of Plan Enrollment for Medicare Prescription Drug Benefit During All of 2006.—

(1) In general.—Section 1851(e) of the Social Security Act (42 U.S.C. 1395w–21(e)) is amended—

(A) in paragraph (2)(B)—

(i) in the heading, by striking ''**for first 6 months**'';

(ii) in clause (i), by striking ''the first 6 months of 2006,'' and all that follows through ''is a Medicare+Choice eligible individual,'' and inserting ''2006,''; and

(iii) in clause (ii), by inserting ''(other than during 2006)'' after ''paragraph (3)''; and

(B) in paragraph (4), by striking ''2006'' and inserting ''2007'' each place it appears.

(2) Conforming amendment.—Section 1860D–1(b)(1)(B)(iii) of the Social Security Act (42 U.S.C. 1395w–101(b)(1)(B)(iii)) is amended by striking ''subparagraphs (B) and (C) of paragraph (2)'' and inserting ''paragraph (2)(C)''.

(c) Effective Date.—The amendments made by this section shall take effect as if included in the enactment of section 101(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2071).

SA 3916. Mr. REID (for himself, Mrs. Clinton, Mrs. Murray, and Mr. Menendez) submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . LIMITATION ON APPLICATION OF CERTAIN PROVISIONS.

Notwithstanding any other provision of this Act (or an amendment made by this Act), any provision of this Act (or amendment) that has the effect of—

(1) permitting a health insurance issuer to deny, exclude, or restrict coverage for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration, and outpatient contraceptive services; or

(2) limiting the ability of a State to enforce State laws that prohibit denials, exclusions, or restrictions of coverage described in paragraph (1);

shall not apply and shall not be enforced.

SA 3917. Mr. BAUCUS (for himself and Mr. Reid) submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . ADDITIONAL FUNDING FOR ENROLLMENT ASSISTANCE.

(a) In General.—There are appropriated, to be transferred from the Federal Supplementary Medical Insurance Trust Fund, not to exceed $25,000,000 for the Centers for Medicare & Medicaid Services, for the purpose of ensuring that individuals have adequate access to impartial advice on and assistance enrolling in the prescription drug program under part D of title XVIII of the Social Security Act.

(b) Use of Funds.—Amounts provided under subsection (a) shall be used for the following purposes:

(1) Grants for state health insurance assistance programs.—To provide additional grants to States for State health insurance counseling programs (receiving assistance under section 4360 of the Omnibus Reconciliation Act of 1990) to broaden their capacity to—

(A) provide personal and impartial assistance to individuals seeking to enroll in a prescription drug plan or an MA–PD plan under such prescription drug program;

(B) educate and assist individuals in applying for a low-income subsidy under section 1860D–14 of such Act (42 U.S.C. 1395w–114); and

(C) assist individuals in accessing benefits under such a prescription drug plan or such an MA–PD plan once they are enrolled in a plan.

(2) Grants for innovative programs.—To provide grants to eligible States to support innovative programs that provide any of the services described in subparagraphs (A), (B), and (C) of paragraph (1).

(3) Promotion.—To widely promote and disseminate information about the existence of, and services provided by, State health insurance counseling programs.

(c) Administration.—

(1) SHIPs.—The amount of a grant under subsection (b)(1) from the total amount made available for such grants shall be based on the number of part D eligible individuals (as defined in section 1860D–1(a)(3)(A) of the Social Security Act (42 U.S.C. 1395w–101(a)(3))) residing in a rural area (as determined by the Administrator of the Centers for Medicare & Medicaid Services) relative to the total number of such individuals in each State, as estimated by the Administrator.

(2) Innovative programs.—A State is eligible for a grant under subsection (b)(2) if the percentage of part D eligible individuals (as so defined) with creditable prescription drug coverage (as defined in section 1860D–13(b)(4) of the Social Security Act (42 U.S.C. 1395w–113(b)(4))) in the State is below the national average.

(d) Availability.—Amounts provided under subsection (a) shall remain available—

(1) for obligation until December 31, 2008; and

(2) for expenditure until December 31, 2010.

SA 3918. Mr. DODD (for himself and Mr. Menendez) submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON APPLICATION OF CERTAIN PROVISIONS.

Notwithstanding any other provision of this Act (or an amendment made by this Act), any provision of this Act (or amendment) that has the effect of preempting any State law that requires health plans and health insurance issuers to cover services for beneficiaries or enrollees participating in clinical trials shall not apply and shall not be enforced.

SA 3919. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.   . LIMITATION ON APPLICATION OF CERTAIN PROVISIONS.

Notwithstanding any other provision of this Act (or an amendment made by this Act), any provision of this Act (or amendment) that has the effect of preempting any State law that requires health plans and health insurance issuers to provide coverage for services for newborns and children, including pediatric and well-child care, and immunizations shall not apply and shall not be enforced.

SA 3920. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.   . LIMITATION ON APPLICATION OF CERTAIN PROVISIONS.

Notwithstanding any other provision of this Act (or an amendment made by this Act), any provision of this Act (or amendment) that has the effect of permitting health insurance issuers to vary premiums based on health status shall not apply and shall not be enforced.

SA 3921. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after the enacting clause insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Pharmacy Consumer Protection Act" or the "Ryan Haight Act".

SEC. 2. INTERNET SALES OF PRESCRIPTION DRUGS.

(a) IN GENERAL.—Chapter 5 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 503A the following section:

"SEC. 503B. INTERNET SALES OF PRESCRIPTION DRUGS.

"(a) REQUIREMENTS REGARDING INFORMATION ON INTERNET SITE.—

"(1) IN GENERAL.—A person may not dispense a prescription drug pursuant to a sale of the drug by such person if—

"(A) the purchaser of the drug submitted the purchase order for the drug, or conducted any other part of the sales transaction for the drug, through an Internet site;

"(B) the person dispenses the drug to the purchaser by mailing or shipping the drug to the purchaser; and

"(C) such site, or any other Internet site used by such person for purposes of sales of a prescription drug, fails to meet each of the requirements specified in paragraph (2), other than a site or pages on a site that—

"(i) are not intended to be accessed by purchasers or prospective purchasers; or

"(ii) provide an Internet information location tool within the meaning of section 231(e)(5) of the Communications Act of 1934 (47 U.S.C. 231(e)(5)).

"(2) REQUIREMENTS.—With respect to an Internet site, the requirements referred to in subparagraph (C) of paragraph (1) for a person to whom such paragraph applies are as follows:

"(A) Each page of the site shall include either the following information or a link to a page that provides the following information:

"(i) The name of such person.

"(ii) Each State in which the person is authorized by law to dispense prescription drugs.

"(iii) The address and telephone number of each place of business of the person with respect to sales of prescription drugs through the Internet, other than a place of business that does not mail or ship prescription drugs to purchasers.

"(iv) The name of each individual who serves as a pharmacist for prescription drugs that are mailed or shipped pursuant to the site, and each State in which the individual is authorized by law to dispense prescription drugs.

"(v) If the person provides for medical consultations through the site for purposes of providing prescriptions, the name of each individual who provides such consultations; each State in which the individual is licensed or otherwise authorized by law to provide such consultations or practice medicine; and the type or types of health professions for which the individual holds such licenses or other authorizations.

"(B) A link to which paragraph (1) applies shall be displayed in a clear and prominent place and manner, and shall include in the caption for the link the words 'licensing and contact information'.

"(b) INTERNET SALES WITHOUT APPROPRIATE MEDICAL RELATIONSHIPS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a person may not dispense a prescription drug, or sell such a drug, if—

"(A) for purposes of such dispensing or sale, the purchaser communicated with the person through the Internet;

"(B) the patient for whom the drug was dispensed or purchased did not, when such communications began, have a prescription for the drug that is valid in the United States;

"(C) pursuant to such communications, the person provided for the involvement of a practitioner, or an individual represented by the person as a practitioner, and the practitioner or such individual issued a prescription for the drug that was purchased;

"(D) the person knew, or had reason to know, that the practitioner or the individual referred to in subparagraph (C) did not, when issuing the prescription, have a qualifying medical relationship with the patient; and

"(E) the person received payment for the dispensing or sale of the drug.

For purposes of subparagraph (E), payment is received if money or other valuable consideration is received.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

"(A) the dispensing or selling of a prescription drug pursuant to telemedicine practices sponsored by—

"(i) a hospital that has in effect a provider agreement under title XVIII of the Social Security Act (relating to the Medicare program); or

"(ii) a group practice that has not fewer than 100 physicians who have in effect provider agreements under such title; or

"(B) the dispensing or selling of a prescription drug pursuant to practices that promote the public health, as determined by the Secretary by regulation.

"(3) QUALIFYING MEDICAL RELATIONSHIP.—

"(A) IN GENERAL.—With respect to issuing a prescription for a drug for a patient, a practitioner has a qualifying medical relationship with the patient for purposes of this section if—

"(i) at least one in-person medical evaluation of the patient has been conducted by the practitioner; or

"(ii) the practitioner conducts a medical evaluation of the patient as a covering practitioner.

"(B) IN-PERSON MEDICAL EVALUATION.—A medical evaluation by a practitioner is an in-person medical evaluation for purposes of this section if the practitioner is in the physical presence of the patient as part of conducting the evaluation, without regard to whether portions of the evaluation are conducted by other health professionals.

"(C) COVERING PRACTITIONER.—With respect to a patient, a practitioner is a covering practitioner for purposes of this section if the practitioner conducts a medical evaluation of the patient at the request of a practitioner who has conducted at least one in-person medical evaluation of the patient and is temporarily unavailable to conduct the evaluation of the patient. A practitioner is a covering practitioner without regard to whether the practitioner has conducted any in-person medical evaluation of the patient involved.

"(4) RULES OF CONSTRUCTION.—

"(A) INDIVIDUALS REPRESENTED AS PRACTITIONERS.—A person who is not a practitioner (as defined in subsection (d)(1)) lacks legal capacity under this section to have a qualifying medical relationship with any patient.

"(B) STANDARD PRACTICE OF PHARMACY.—Paragraph (1) may not be construed as prohibiting any conduct that is a standard practice in the practice of pharmacy.

"(C) APPLICABILITY OF REQUIREMENTS.—Paragraph (3) may not be construed as having any applicability beyond this section, and does not affect any State law, or interpretation of State law, concerning the practice of medicine.

"(c) ACTIONS BY STATES.—

"(1) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that

State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice that violates section 301(l), the State may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such practice, to enforce compliance with such section (including a nationwide injunction), to obtain damages, restitution, or other compensation on behalf of residents of such State, to obtain reasonable attorneys fees and costs if the State prevails in the civil action, or to obtain such further and other relief as the court may deem appropriate.

"(2) NOTICE.—The State shall serve prior written notice of any civil action under paragraph (1) or (5)(B) upon the Secretary and provide the Secretary with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Secretary shall have the right—

"(A) to intervene in such action;

"(B) upon so intervening, to be heard on all matters arising therein; and

"(C) to file petitions for appeal.

"(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this chapter shall prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

"(5) ACTIONS BY OTHER STATE OFFICIALS.—

"(A) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

"(B) In addition to actions brought by an attorney general of a State under paragraph (1), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

"(d) GENERAL DEFINITIONS.—For purposes of this section:

"(1) The term 'practitioner' means a practitioner referred to in section 503(b)(1) with respect to issuing a written or oral prescription.

"(2) The term 'prescription drug' means a drug that is subject to section 503(b)(1).

"(3) The term 'qualifying medical relationship', with respect to a practitioner and a patient, has the meaning indicated for such term in subsection (b).

"(e) INTERNET-RELATED DEFINITIONS.—

"(1) IN GENERAL.—For purposes of this section:

"(A) The term 'Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the transmission control protocol/internet protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

"(B) The term 'link', with respect to the Internet, means one or more letters, words, numbers, symbols, or graphic items that appear on a page of an Internet site for the purpose of serving, when activated, as a method for executing an electronic command—

"(i) to move from viewing one portion of a page on such site to another portion of the page;

"(ii) to move from viewing one page on such site to another page on such site; or

"(iii) to move from viewing a page on one Internet site to a page on another Internet site.

"(C) The term 'page', with respect to the Internet, means a document or other file accessed at an Internet site.

"(D)(i) The terms 'site' and 'address', with respect to the Internet, mean a specific location on the Internet that is determined by Internet Protocol numbers. Such term includes the domain name, if any.

"(ii) The term 'domain name' means a method of representing an Internet address without direct reference to the Internet Protocol numbers for the address, including methods that use designations such as '.com', '.edu', '.gov', '.net', or '.org'.

"(iii) The term 'Internet Protocol numbers' includes any successor protocol for determining a specific location on the Internet.

"(2) AUTHORITY OF SECRETARY.—The Secretary may by regulation modify any definition under paragraph (1) to take into account changes in technology.

"(f) INTERACTIVE COMPUTER SERVICE; ADVERTISING.—No provider of an interactive computer service, as defined in section 230(f)(2) of the Communications Act of 1934 (47 U.S.C. 230(f)(2)), or of advertising services shall be liable under this section for dispensing or selling prescription drugs in violation of this section on account of another person's selling or dispensing such drugs, provided that the provider of the interactive computer service or of advertising services does not own or exercise corporate control over such person.".

(b) INCLUSION AS PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by inserting after paragraph (k) the following:

"(l) The dispensing or selling of a prescription drug in violation of section 503B.".

(c) INTERNET SALES OF PRESCRIPTION DRUGS; CONSIDERATION BY SECRETARY OF PRACTICES AND PROCEDURES FOR CERTIFICATION OF LEGITIMATE BUSINESSES.—In carrying out section 503B of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section), the Secretary of Health and Human Services shall take into consideration the practices and procedures of public or private entities that certify that businesses selling prescription drugs through Internet sites are legitimate businesses, including practices and procedures regarding disclosure formats and verification programs.

(d) REPORTS REGARDING INTERNET-RELATED VIOLATIONS OF STATE AND FEDERAL LAWS ON DISPENSING OF DRUGS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this subsection as the "Secretary") shall, pursuant to the submission of an application meeting the criteria of the Secretary, make an award of a grant or contract to the National Clearinghouse on Internet Prescribing (operated by the Federation of State Medical Boards) for the purpose of—

(A) identifying Internet sites that appear to be in violation of State or Federal laws concerning the dispensing of drugs;

(B) reporting such sites to State medical licensing boards and State pharmacy licensing boards, and to the Attorney General and the Secretary, for further investigation; and

(C) submitting, for each fiscal year for which the award under this subsection is made, a report to the Secretary describing investigations undertaken with respect to violations described in subparagraph (A).

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there is authorized to be appropriated $100,000 for each of the fiscal years 2006 through 2008.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) take effect upon the expiration of the 60-day period beginning on the date of the enactment of this Act, without regard to whether a final rule to implement such amendments has been promulgated by the Secretary of Health and Human Services under section 701(a) of the Federal Food, Drug, and Cosmetic Act. The preceding sentence may not be construed as affecting the authority of such Secretary to promulgate such a final rule.

SA 3922. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE —NATIONAL COMMISSION ON HEALTH CARE ACT

SEC. 1. SHORT TITLE.

This title may be cited as the "National Commission on Health Care Act".

SEC. ___2. FINDINGS.

Congress makes the following findings:

(1) Americans spent $1.9 trillion on health care in 2005, up from $1.4 trillion in 2001.

(2) While 174 million Americans were covered by employer-sponsored health insurance in 2004, rising health care costs to both employers and employees jeopardize the ability of employers and employees to maintain needed coverage.

(3) One in every 6 people in the United States, or approximately 46 million people lacked health insurance in 2004, and the number of uninsured individuals is expected to grow.

(4) The medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) provided health insurance to 41.7 million elderly and disabled Americans in 2004, while the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) provided health care for 55 million low-income children and their parents, pregnant women, and low-income elderly individuals in 2004. Federal and State government expenditures for both programs were approximately $606 billion in 2004.

SEC. 3. PURPOSE.

The purpose of this title is to establish a National Commission on Health Care to—

(1) examine and report on—

(A) the factors leading to the rising costs of health care for individuals and businesses participating in employer-based health insurance and the rising health care expenditures for public health care programs;

(B) the barriers that prevent individuals from securing adequate health care coverage; and

(C) the issues faced by people covered by public health care programs;

(2) ascertain, evaluate, and report on the evidence developed by all relevant Federal, State, and local governmental agencies regarding the facts and circumstances surrounding rising health care costs and the barriers to adequate insurance coverage;

(3) build upon the investigations of past and current entities by reviewing the findings, conclusions, and recommendations of—

(A) executive branch, congressional, or independent commission investigations into the issues of health care services or health care costs; and

(B) State and local entities that have developed innovative solutions to deal with the health care needs in their respective communities; and

(4) investigate and report to the President and the Congress on its findings, conclusions, and recommendations for policy solutions to the health care problems, including current private and public services and the lack of health care insurance for more than 45,800,0000 Americans.

SEC. ___4. ESTABLISHMENT.

There is established in the legislative branch the National Commission on Health Care (referred to in this title as the "Commission").

SEC. ___5. COMPOSITION OF COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as the chairperson of the Commission;

(2) 1 member shall be appointed jointly by the Majority Leader of the Senate and the Speaker of the House of Representatives, after consultation with the Minority Leader of the Senate and the Minority Leader of the House of Representatives, who shall serve as vice chairperson of the Commission;

(3) 2 members shall be appointed by the senior member of the Republican leadership of the Senate;

(4) 2 members shall be appointed by the senior member of the Democratic leadership of the Senate;

(5) 2 members shall be appointed by the senior member of the Republican leadership of the House of Representatives; and

(6) 2 members shall be appointed by the senior member of the Democratic leadership of the House of Representatives.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions or memberships as governmental service, health care services, health care administration, business, public administration, and research institutions or programs with health care emphasis.

(4) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed not later than May 15, 2006, or 60 days after the date of enactment of this title, whichever is later.

(5) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable after all members of the Commission are appointed.

(c) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairperson or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

SEC. ___6. FUNCTIONS OF COMMISSION.

(a) IN GENERAL.—The functions of the Commission are to—

(1) conduct a study that—

(A) investigates relevant facts and experiences relating to the problems within the sphere of health care, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(B) investigates relevant facts and circumstances relating to—

(i) the rising costs of health care;

(ii) the impact of the rising costs of health care on American businesses;

(iii) the provision of health care by State and local health care agencies;

(iv) the effects of increases in insurance premiums on health care coverage for businesses and individuals;

(v) the private health insurance industry;

(vi) the public health programs;

(vii) innovations and reforms necessary to increase the provision of affordable, quality health care to all Americans;

(viii) the role of congressional oversight and resource allocation; and

(ix) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from past legislative structuring of health care, coordination, management policies, and procedures of the Federal Government, and, when appropriate, State and local governments and nongovernmental entities, relative to administering, representing and implementing and receiving health care; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. ___7. POWERS OF COMMISSION.

(a) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission determines appropriate for the purposes of carrying out this title.

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided for in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. ___8. STAFF OF COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairperson of the Commission, in consultation with vice chairperson, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The staff director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of the detailee's regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. ___9. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) Travel Expenses.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 10. REPORTS OF COMMISSION; TERMINATION.

(a) Interim Reports.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) Final Report.—Not later than 12 months after the date of the enactment of this title, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) Termination.—

(1) In general.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) Administrative activities before termination.—The Commission may use the 60 day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

SEC. 11. FUNDING.

(a) Authorization of Appropriations.—There is authorized to be appropriated to carry out this title **$6,000,000**.

(b) Duration of Availability.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

SA 3923. Ms. STABENOW (for herself and Mr. Levin) submitted an amendment intended to be proposed by her to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce the costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —THREE-SHARE PROGRAM

SEC. ___01. THREE-SHARE PROGRAMS.

Title XXIX of the Public Health Service Act, as added by section 201, is amended by adding at the end the following:

"Subtitle C—Providing for the Uninsured

"SEC. 2941. THREE-SHARE PROGRAMS.

"(a) Pilot Programs.—The Secretary, acting through the Administrator, shall award grants under this section for the startup and operation of 25 eligible three-share pilot programs for a 5-year period.

"(b) Grants for Three-Share Programs.—

"(1) Establishment.—The Administrator may award grants to eligible entities—

"(A) to establish three-share programs;

"(B) to provide for contributions to the premiums assessed for coverage under a three-share program as provided for in subsection (c)(2)(B)(iii); and

"(C) to establish risk pools.

"(2) Three-share program plan.—Each entity desiring a grant under this subsection shall develop a plan for the establishment and operation of a three-share program that meets the requirements of paragraphs (2) and (3) of subsection (c).

"(3) Application.—Each entity desiring a grant under this subsection shall submit an application to the Administrator at such time, in such manner and containing such information as the Administrator may require, including—

"(A) the three-share program plan described in paragraph (2); and

"(B) an assurance that the eligible entity will—

"(i) determine a benefit package;

"(ii) recruit businesses and employees for the three-share program;

"(iii) build and manage a network of health providers or contract with an existing network or licensed insurance provider;

"(iv) manage all administrative needs; and

"(v) establish relationships among community, business, and provider interests.

"(4) Priority.—In awarding grants under this section the Administrator shall give priority to an applicant—

"(A) that is an existing three-share program;

"(B) that is an eligible three-share program that has demonstrated community support; or

"(C) that is located in a State with insurance laws and regulations that permit three-share program expansion.

"(c) Grant Eligibility.—

"(1) In general.—The Secretary, acting through the Administrator, shall promulgate regulations providing for the eligibility of three-share programs for participation in the pilot program under this section.

"(2) Three-share program requirements.—

"(A) In general.—To be determined to be an eligible three-share program for purposes of participation in the pilot program under this section a three-share program shall—

"(i) be either a non-profit or local governmental entity;

"(ii) define the region in which such program will provide services;

"(iii) have the capacity to carry out administrative functions of managing health plans, including monthly billings, verification/enrollment of eligible employers and employees, maintenance of membership rosters, development of member materials (such as handbooks and identification cards), customer service, and claims processing; and

"(iv) have demonstrated community involvement.

"(B) Payment.—To be eligible under paragraph (1), a three-share program shall pay the costs of services provided under subparagraph (A)(ii) by charging a monthly premium for each covered individual to be divided as follows:

"(i) Not more than 30 percent of such premium shall be paid by a qualified employee desiring coverage under the three-share program.

"(ii) Not more than 30 percent of such premium shall be paid by the qualified employer of such a qualified employee.

"(iii) At least 40 percent of such premium shall be paid from amounts provided under a grant under this section.

"(iv) Any remaining amount shall be paid by the three-share program from other public, private, or charitable sources.

"(C) Program flexibility.—A three-share program may set an income eligibility guideline for enrollment purposes.

"(3) Coverage.—

"(A) In general.—To be an eligible three-share program under this section, the three-share program shall provide at least the following benefits:

"(i) Physicians services.

"(ii) In-patient hospital services.

"(iii) Out-patient services.

"(iv) Emergency room visits.

"(v) Emergency ambulance services.

"(vi) Diagnostic lab fees and x-rays.

"(vii) Prescription drug benefits.

"(B) Limitation.—Nothing in subparagraph (A) shall be construed to require that a three-share program provide coverage for services performed outside the region described in paragraph (2)(A)(i).

"(C) Preexisting conditions.—A program described in subparagraph (A) shall not be an eligible three-share program under paragraph (1) if any individual can be excluded from coverage under such program because of a preexisting health condition.

"(d) Grants for Existing Three-Share Programs To Meet Certification Requirements.—

"(1) In general.—The Administrator may award grants to three-share programs that are operating on the date of enactment of this section.

"(2) Application.—Each eligible entity desiring a grant under this subsection shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator may require.

"(e) Application of State Laws.—Nothing in this section shall be construed to preempt State law.

"(f) Distressed Business Formula.—

"(1) In general.—Not later than 60 days after the date of enactment of this section, the Administrator of the Health Resources and Services Administration shall develop a formula to determine which businesses qualify as distressed businesses for purposes of this section.

"(2) Effect on insurance market.—Granting eligibility to a distressed business using the formula under paragraph (1) shall not interfere with the insurance market. Any business found to have reduced benefits to qualify as a distressed business under the formula under paragraph (1) shall not be eligible to be a three-share program for purposes of this section.

"(g) Definitions.—In this section:

"(1) Administrator.—The term 'Administrator' means the Administrator of the Health Resources and Services Administration.

"(2) Covered individual.—The term 'covered individual' means—

"(A) a qualified employee; or

"(B) a child under the age of 23 or a spouse of such qualified employee who—

"(i) lacks access to health care coverage through their employment or employer;

"(ii) lacks access to health coverage through a family member;

"(iii) is not eligible for coverage under the medicare program under title XVIII or the medicaid program under title XIX; and

"(iv) does not qualify for benefits under the State Children's Health Insurance Program under title XXI.

"(3) Distressed business.—The term 'distressed business' means a business that—

"(A) in light of economic hardship and rising health care premiums may be forced to discontinue or scale back its health care coverage; and

"(B) qualifies as a distressed business according to the formula under subsection (g).

"(4) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that meets the requirements of subsection (a)(2)(A).

"(5) QUALIFIED EMPLOYEE.—The term 'qualified employee' means any individual employed by a qualified employer who meets certain criteria including—

"(A) lacking access to health coverage through a family member or common law partner;

"(B) not being eligible for coverage under the medicare program under title XVIII or the medicaid program under title XIX; and

"(C) agreeing that the share of fees described in subsection (a)(2)(B)(i) shall be paid in the form of payroll deductions from the wages of such individual.

"(6) QUALIFIED EMPLOYER.—The term 'qualified employer' means an employer as defined in section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d)) who—

"(A) is a small business concern as defined in section 3(a) of the Small Business Act (15 U.S.C. 632);

"(B) is located in the region described in subsection (a)(2)(A)(i); and

"(C) has not contributed to the health care benefits of its employees for at least 12 months consecutively or currently provides insurance but is classified as a distressed business.

"(h) EVALUATION.—Not later than 90 days after the end of the 5-year period during which grants are available under this section, the Government Accountability Office shall submit to the Secretary and the appropriate committees of Congress a report concerning—

"(1) the effectiveness of the programs established under this section;

"(2) the number of individuals covered under such programs;

"(3) any resulting best practices; and

"(4) the level of community involvement.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2006 through 2011.".

SA 3924. Ms. SNOWE (for herself, Mr. BYRD, Mr. TALENT, and Mr. DOMENICI) submitted an amendment intended to be proposed by her to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

In part II of subtitle A of title XXIX of the Public Health Service Act, as added by section 201 of the amendment, strike all through section 2922 and insert the following:

"PART II—AFFORDABLE PLANS

"SEC. 2921. DEFINITIONS.

"In this part:

"(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted a law providing that small group and large group health insurers in such State may offer and sell products in accordance with the List of Required Benefits and the Terms of Application as provided for in section 2922(b)

"(2) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

"(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the List of Required Benefits and Terms of Application in a nonadopting State;

"(B) notifies the insurance department of a nonadopting State (or other applicable State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the List of Required Benefits and Terms of Application, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

"(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the List of Required Benefits and a description of the Terms of Application, including a description of the benefits to be provided, and that adherence to such standards is included as a term of such contract.

"(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the small group or large group health insurance markets, including with respect to small business health plans, except that such term shall not include excepted benefits (as defined in section 2791(c)).

"(4) LIST OF REQUIRED BENEFITS.—The term 'List of Required Benefits' means the List issued under section 2922(a).

"(5) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

"(6) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"(7) STATE PROVIDER FREEDOM OF CHOICE LAW.—The term 'State Provider Freedom of Choice Law' means a State law requiring that a health insurance issuer, with respect to health insurance coverage, not discriminate with respect to participation, reimbursement, or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law.

"(8) TERMS OF APPLICATION.—The term 'Terms of Application' means terms provided under section 2922(a).

"SEC. 2922. OFFERING AFFORDABLE PLANS.

"(a) LIST OF REQUIRED BENEFITS.—Not later than 3 months after the date of enactment of this title, the Secretary, in consultation with the National Association of Insurance Commissioners, shall issue by interim final rule a list (to be known as the 'List of Required Benefits') of covered benefits, services, or categories of providers that are required to be provided by health insurance issuers, in each of the small group and large group markets, in at least 26 States as a result of the application of State covered benefit, service, and category of provider mandate laws. With respect to plans sold to or through small business health plans, the List of Required Benefits applicable to the small group market shall apply.

"(b) TERMS OF APPLICATION.—

"(1) STATE WITH MANDATES.—With respect to a State that has a covered benefit, service, or category of provider mandate in effect that is covered under the List of Required Benefits under subsection (a), such State mandate shall, subject to paragraph (3) (concerning uniform application), apply to a coverage plan or plan in, as applicable, the small group or large group market or through a small business health plan in such State.

"(2) STATES WITHOUT MANDATES.—With respect to a State that does not have a covered benefit, service, or category of provider mandate in effect that is covered under the List of Required Benefits under subsection (a), such mandate shall not apply, as applicable, to a coverage plan or plan in the small group or large group market or through a small business health plan in such State.

"(3) UNIFORM APPLICATION OF LAWS.—

"(A) IN GENERAL.—With respect to a State described in paragraph (1), in applying a covered benefit, service, or category of provider mandate that is on the List of Required Benefits under subsection (a) the State shall permit a coverage plan or plan offered in the small group or large group market or through a small business health plan in such State to apply such benefit, service, or category of provider coverage in a manner consistent with the manner in which such coverage is applied under one of the three most heavily subscribed national health plans offered under the Federal Employee Health Benefits Program under chapter 89 of title 5, United States Code (as determined by the Secretary in consultation with the Director of the Office of Personnel Management), and consistent with the Publication of Benefit Applications under subsection (c). In the event a covered benefit, service, or category of provider appearing in the List of Required Benefits is not offered in one of the three most heavily subscribed national health plans offered under the Federal Employees Health Benefits Program, such covered benefit, service, or category of provider requirement shall be applied in a manner consistent with the manner in which such coverage is offered in the remaining most heavily subscribed plan of the remaining Federal Employees Health Benefits Program plans, as determined by the Secretary, in consultation with the Director of the Office of Personnel Management.

"(B) EXCEPTION REGARDING STATE PROVIDER FREEDOM OF CHOICE LAWS.—Notwithstanding subparagraph (A), in the event a category of provider mandate is included in the List of Covered Benefits, any State Provider Freedom of Choice Law (as defined in section 2921(7)) that is in effect in any State in which such category of provider mandate is in effect shall not be preempted, with respect to that category of provider, by this part.

"(c) PUBLICATION OF BENEFIT APPLICATIONS.—Not later than 3 months after the date of enactment of this title, and on the first day of every calendar year thereafter, the Secretary, in consultation with the Director of the Office of Personnel Management, shall publish in the Federal Register a description of such covered benefits, services, and categories of providers covered in that calendar year by each of the three most heavily subscribed nationally available Federal Employee Health Benefits Plan options which are also included on the List of Required Benefits.

"(d) EFFECTIVE DATES.—

"(1) SMALL BUSINESS HEALTH PLANS.—With respect to health insurance provided to participating employers of small business health plans, the requirements of this part (concerning lower cost plans) shall apply beginning on the date that is 12 months after the date of enactment of this title.

"(2) NON-ASSOCIATION COVERAGE.—With respect to health insurance provided to groups or individuals other than participating employers of small business health plans, the requirements of this part shall apply beginning on the date that is 15 months after the date of enactment of this title.

"(e) UPDATING OF LIST OF REQUIRED BENEFITS.—Not later than 2 years after the date on which the list of required benefits is issued under subsection (a), and every 2 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners, shall update the list based on changes in the laws and regulations of the States. The Secretary shall issue the updated list by regulation, and such updated list shall be effective upon the first plan year following the issuance of such regulation.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a full committee hearing during the session of the Senate on Wednesday, May 10, 2006 at 10 a.m. in SH-216, Hart Senate Office Building. The purpose of this hearing will be to review the implementation of the Sugar Provisions of the Farm Security and Rural Investment Act of 2002.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on May 10, 2006, at 5:45 p.m., in closed session for a discussion on the situation in Afghanistan.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, May 10 at 11:30 a.m. The purpose of this meeting is to consider the nomination of Dirk Kempthorne to be Secretary of the Interior.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, May 10, 2006, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony on "Fostering Permanence: Progress Achieved and Challenges Ahead for America's Child Welfare System".

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations authorized to meet during the session of the Senate on Wednesday, May 10, 2006, at 9:30 a.m. to hold a hearing on nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, May 10, 2006, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Economic Development in Indian Country.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 10, 2006 at 2:30 p.m. to hold a closed Business Meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing on "Modern Enforcement of the Voting Rights Act" on Wednesday, May 10, 2006, at 9:30 a.m. in Room 226 of the Dirksen Senate Office Building.

Witness List

Panel I: The Honorable Wan J. Kim, Assistant Attorney General for the Civil Rights Division, United States Department of Justice, Washington, DC.

Panel II: Robert B. McDuff, The Law Offices of Robert McDuff, Jackson, MS; Gregory Coleman, Weil Gotshall & Manges, Austin, TX; Natalie Landreth, Attorney, Native American Rights Fund (NARF), Anchorage, AK; Frank B. Strickland, Partner, Strickland Brockington Lewis, Atlanta, GA; Juan Cartagena, General Counsel, Community Service Society of New York, NY.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. ALEXANDER, Mr. President, I ask unanimous consent that the Subcommittee of Public Lands and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, May 10 at 2:30 p.m.

The purpose of the hearing is to receive testimony of the following bills: S. 906, to promote Wildland Firefighter Safety; S. 2003, to make permanent the authorization for Watershed Restoration and Enhancement Agreements; H.R. 585, to require Federal land managers to support, and to communicate, coordinate, and cooperate with, designated gateway communities, to improve the ability of gateway communities to participate in Federal land management planning conducted by the Forest Service and agencies of the Department of the Interior, and to respond to the impacts of the public use of the Federal lands administered by these agencies, and for other purposes; and H.R. 3981, to authorize the Secretary of Agriculture to carry out certain land exchanges involving small parcels of National Forest System land in the Tahoe National Forest in the State of California, and for other purposes.

The PRESIDING OFFICER. Without objection, it so ordered.

PRIVILEGES OF THE FLOOR

Mr. BURNS. Mr. President, I ask unanimous consent that privileges of the floor be granted to Mike Campbell, a fellow in my office, during the debate on S. 1955.

The PRESIDING OFFICER. Without objection, it is so ordered.

VITIATION OF ORDER WITH RESPECT TO S. 1042, S. 1043, S. 1044, AND S. 1045

Mr. FRIST. Mr. President, I ask unanimous consent that the order of November 15, 2005, with respect to S. 1042, S. 1043, S. 1044, and S. 1045 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING THE DEDICATION AND SACRIFICE OF LAW ENFORCEMENT OFFICERS

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 472 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 472) commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEAHY. Mr. President, I join in introducing a bipartisan resolution to designate May 15, 2006, as National Peace Officers Memorial Day.

This is the tenth year running that I have been involved in the introduction of this resolution to keep alive in the memory of all Americans the sacrifice and commitment of those law enforcement officers who lost their lives serving their communities. For 8 years I introduced this resolution with my old friend and our former colleague Senator Campbell, a former deputy sheriff who was a true leader on this issue. As a former prosecutor, I have witnessed firsthand the risks faced by law enforcement officers every day while they serve and protect our communities.

I also want to thank each of our Nation's law enforcement officers for their commitment to the safety and protection of their fellow citizens. They are the real-life heroes; too many of whom too often make the ultimate sacrifice. It is important to support and respect our state and local police officers and all of our first responders.

Currently, more than 850,000 men and women who guard our communities do so at great risk. Each year, one in 16 officers is assaulted, one in 56 officers is injured, and one in 5,214 officers is killed in the line of duty in the United States. After the hijacked planes hit the World Trade Center in New York City on September 11, 2001, 72 peace officers died while trying to ensure that their fellow citizens in those buildings got to safety. That act of terrorism resulted in the highest number of peace officers ever killed in a single incident in the history of our country, and is a tragic reminder of how important it is for the Congress to provide all of the resources necessary to protect officers in the line of duty.

In 2005, 156 law enforcement officers died while serving in the line of duty, well below the decade-long average of 169 deaths annually, and a major drop from 2001 when a total of 237 officers were killed. A number of factors contributed to this reduction including better equipment and the increased use of bullet-resistant vests, improved training and advanced emergency medical care. And, in total, more than 17,500 men and women have made the ultimate sacrifice.

In the 108th Congress, we shepherded into law a number of measures to make a difference in the lives of all police officers and the communities they serve. We improved the Justice Department's Public Safety Officers Benefits program by making law the Hometown Heroes Survivors Benefits Act, P.L. No. 108-182: which allows survivors of public safety officers who suffer fatal heart attacks or strokes while participating in nonroutine stressful or strenuous physical activities to qualify for Federal survivor benefits.

We also enacted the Campbell-Leahy Bulletproof Vest Partnership Grant Act, P.L. No. 108-372, which authorizes, now extended through 2009, appropriations for the Bulletproof Vest Partnership Grant Program. This program helps State, tribal and local jurisdictions purchase armor vests for use by law enforcement officers.

Incredibly, President Bush has proposed significant cuts to the bulletproof vest program in his fiscal year 2007 budget proposal, but I will work with other Senators to make sure the program is fully funded. Bulletproof vests have saved the lives of thousands of officers and are a fundamental line of defense that no officer should be without. I know I am not alone in calling for the Senate to fully fund the bulletproof vest program and I truly hope Senators will agree that it is critical that we provide the funding authorized for this program. Hundreds of thousands of police officers are counting on us.

The Law Enforcement Officers Safety Act, which Senator Campbell and I championed in the Senate, was signed into law, P.L. No: 108-277. This measure established national measures of uniformity and consistency to permit trained and certified on-duty, off-duty or retired law enforcement officers to carry concealed firearms in most situations so that they may respond immediately to crimes across State and other jurisdictional lines, as well as to protect themselves and their families from vindictive criminals.

National Peace Officers Memorial Day will provide the people of the United States with the opportunity to honor the extraordinary service and sacrifice given year after year by our police forces. More than 20,000 peace officers are expected to gather in Washington to join with the families of their fallen comrades. I hope all Senators will join me in honoring their service by passing this important bipartisan legislation.

Mr. KYL. Mr. President, I rise today in support of the resolution introduced by Senator LEAHY and others to recognize May 15, 2006, as "Peace Officers Memorial Day. Peace Officers work tirelessly to protect our society from criminals who would prey on the weak and innocent. They are the front line in a battle for justice and the rule of law. They often are unheralded heroes, whose simple act of going to work puts them in harm's way for our sake.

Tens of thousands of police officers were assaulted last year, and that number is likely to be similar this year. It is important that we take a moment to recognize the crucial service they provide.

Last year, 156 police officers were killed in the line of duty. Justice for the families of slain officers often comes slowly. I have introduced legislation that would speed up the process for the most hardened of criminals, those who murder police men and women. The Law Enforcement Officers' Protection Act would guarantee tough punishment for criminals who murder or assault police officers. Part of the legislation is named after Dr. John B. Jamison, a Coconino County, AZ Reserve Sheriffs Deputy who was slain while responding to a fellow deputy's call for assistance. The killer fired 30 rounds from an assault rifle into Deputy Jamison's car, killing him before he could reach for his gun or even unbuckle his seatbelt. He is survived by two children. State courts completed their review of the killer's conviction and sentence in 1985. Federal courts then delayed the case for an additional 15 years. One judge on the U.S. Court of Appeals for the Ninth Circuit even tried to postpone the killer's final execution date on the alleged basis that that killer was wrongfully denied Sate funds to investigate a rare neurological condition that his lawyer had learned of while watching television. Deputy Jamison's killer ultimately was executed in 2000—18 years after the crime occurred, and 15 years after Federal habeas corpus proceedings began.

So as we recognize the sacrifice that peace officers make to protect us every day—to protect the streets on which we drive to work, protect the neighborhoods where our children play, protect the stores where we shop, protect the very halls of government where I stand today—I urge my colleagues to help protect the peace officers and bring justice to the families of those who have given the ultimate sacrifice for the benefit of the rest of us.

Mr. FRIST. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 472) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 472

Whereas the well-being of all citizens of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 900,000 men and women, at great risk to their personal safety, presently serve their fellow citizens as guardians of peace;

Whereas peace officers are on the front lines in preserving the right of the children of the United States to receive an education in a crime-free environment, a right that is all too often threatened by the insidious fear caused by violence in schools;

Whereas 156 peace officers across the United States were killed in the line of duty during 2005, which is below the decade-long annual average of 167 deaths;

Whereas a number of factors contributed to this reduction in deaths, including—

(1) better equipment and increased use of bullet-resistant vests;

(2) improved training;

(3) longer prison terms for violent offenders; and

(4) advanced emergency medical care;

Whereas every other day, 1 out of every 16 peace officers is assaulted, 1 out of every 56 peace officers is injured, and 1 out of every 5,500 peace officers is killed in the line of duty somewhere in the United States; and

Whereas on May 15, 2006, more than 20,000 peace officers are expected to gather in Washington, D.C., to join with the families of their recently fallen comrades to honor those comrades and all others who went before them: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes May 15, 2006, as "Peace Officers Memorial Day", in honor of the Federal, State, and local officers that have been killed or disabled in the line of duty; and

(2) calls on the people of the United States to observe that day with appropriate ceremonies and respect.

NATIONAL POLICE SURVIVORS DAY

Mr. FRIST. I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 473 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 473) designating May 14, 2006, as National Police Survivors Day.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 473) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 473

Whereas the National Law Enforcement Officers Memorial in Judiciary Square of Washington, D.C., lists on its Wall of Remembrance the names of 17,535 Federal, State and local law enforcement officers who have died in the line of duty;

Whereas, in the United States, 1 law enforcement officer is killed every 53 hours, and between 140 and 160 law enforcement officers lose their lives in the line of duty each year;

Whereas, on May 14, 1983, on the eve of the 2nd annual National Peace Officers' Memorial Service, 10 widows of fallen law enforcement officers came together at dinner to discuss the lack of support for law enforcement survivors;

Whereas, exactly 1 year later, that discussion led to the formation of Concerns of Police Survivors, Inc. at the first annual National Police Survivors Seminar, which drew 110 law enforcement survivors from throughout the United States;

Whereas Concerns of Police Survivors, Inc. has grown to serve over 15,000 surviving families of fallen law enforcement officers by providing healing, love, and the opportunity for a renewed life;

Whereas Concerns of Police Survivors, Inc. and its 48 chapters throughout the United States—

(1) provide a program of peer support and counseling to law enforcement survivors for 365 days a year;

(2) helps survivors obtain the death benefits to which they are entitled; and

(3) sponsors scholarships for children and surviving spouses to pursue post-secondary education;

Whereas Concerns of Police Survivors, Inc. sponsors a year-round series of seminars, meetings and youth activities, including the National Police Survivors' Seminar during National Police Week, retreats for parents, spouses, siblings, and programs and summer activities for young and adolescent children;

Whereas Concerns of Police Survivors, Inc. helps law enforcement agencies cope with the loss of an officer by promoting the adoption of standardized policies and procedures for line-of-duty deaths; and

Whereas Concerns of Police Survivors, Inc. inspires the public to recognize the sacrifices made by law enforcement families by encouraging all citizens of the United States to tie a blue ribbon to their car antenna during National Police Week: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 14, 2006, as "National Police Survivors Day"; and

(2) calls on the people of the United States to observe National Police Survivors' Day with appropriate ceremonies to pay respect to—

(A) the survivors of the fallen heroes of law enforcement; and

(B) the fallen law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community.

HONORING THE NAACP ON THE OCCASION OF ITS 97TH ANNIVERSARY

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H. Con. Res. 335, and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 335) honoring and praising the National Association for the Advancement of Colored People on the occasion of its 97th anniversary.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mrs. CLINTON. Mr. President, I urge my colleagues to support H. Con. Res. 335, a concurrent resolution honoring and praising the National Association for the Advancement of Colored People for 97 years of championing the cause of equality in the United States.

At the dawn of the 20th century—almost 56 years after the end of the Civil War—African Americans were still denied the full rights of citizenship. African Americans were forced to endure the daily humiliation of economic exploitation and social segregation with almost no recourse. Racial tensions boiled over into riots and lynchings. It was at this critical juncture in our nation's history that a group of concerned citizens, answering freedom's call, gathered together to form the National Association for the Advancement of Colored People in New York City.

Since its founding, the NAACP has fought for the social, political, and economic equality of all Americans and has sought to eliminate racial discrimination. And the NAACP has never wavered from its commitment to nonviolence in achieving these goals.

In 1918, the NAACP successfully pressured President Wilson to publicly condemn lynching and continued to raise awareness about the horrific crime. In 1930, the NAACP began its long history of protesting judicial nominees who oppose the advancement of civil rights, with the successful defeat of John Parker to the Supreme Court. The NAACP fought for, and ultimately achieved, desegregation of the military and other federal government institutions. The NAACP was victorious in Buchanan vs. Warley, where the Supreme Court held that states cannot restrict and segregate residential districts. And of course, in the seminal case of Brown v. Board of Education, the NAACP successfully argued that the "separate, but equal" doctrine is unconstitutional, thereby making segregation in public schools illegal.

In the 1960s, the NAACP was a leader in the fight to eradicate Jim Crow laws and abolish segregation. And the NAACP was integral to the passage of the Civil Rights Act of 1957, 1960, and 1964, the Voting Rights Act of 1965, and the Fair Housing Rights Act.

In short, the NAACP has been a catalyst for social change in this country, winning landmark court decisions and advocating for civil rights laws that have walked our nation closer to the promise of equality envisioned in our Constitution.

Notwithstanding its powerful voice and extraordinary accomplishments, we must never forget that the NAACP works through the tireless efforts of its individual members, united around a common vision of justice and equality. During desperate times, legendary NAACP members such as Thurgood Marshall, Rosa Parks, and Medger Evars made historic stands in service of the movement of civil rights.

However, equally as important are the "everyday" contributions of organizers and activists. One example is Mary Burnett Talbert. Originally a teacher in Little Rock, AR. Talbert eventually moved with her husband to Buffalo, NY, where she received an advanced degree. An active member of her community, Talbert was one of the founders of the NAACP and later its director, vice president, and president. As director the NAACP's Anti-Lynching Campaign, Talbert traveled the Nation giving speeches to black and white audiences. She once wrote that "By her peculiar position the colored woman has gained clear powers of observation and judgment—exactly the sort of powers which are today peculiarly necessary to the building of an ideal country.'' With every public education campaign, every fight over a judicial nomination, and every lobbying effort to pass progressive legislation, the NAACP takes us one step closer to the "ideal country" that Mary Talbert envisioned.

While the NAACP's mission is to fight for the rights of African Americans, it has always been a multiracial and multicultural organization. Many of its founding members were white, including Oswald Garrison Villiard, Mary White Ovington, and Henry Moscowitz.

As we celebrate the accomplishments of the NAACP, we must also honor the values upon which it was founded, for there is much work left to be done, and the same tireless dedication and clarity of purpose will be required to continue onward.

Despite the last century of achievements, substantial racial disparities persist in educational achievement, access to health care, and economic prosperity. Hurricane Katrina highlighted the tragic and enduring link between race and poverty in our country, as well as emphasized our nation's failure to care for those among us least able to provide for themselves. We must continue vigilantly to guard against the resurgence of discriminatory practices that would deprive African Americans of the most fundamental right of democracy—the right to vote. We must continue to work to guarantee that every citizen is able to vote and that every vote is counted. And this summer, we must reauthorize the Voting Rights Act.

The NAACP has always stood ready to face these and other challenges. Ninety-seven years after a group of concerned citizens assembled in New York around the common goal of creating a more just society, the NAACP's half million members continue to lead Freedom's march.

For the battles it has fought, and for the battles it has yet to fight, our nation is forever in debt to the NAACP.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 335) was agreed to.

The preamble was agreed to.

EXECUTIVE CALENDAR

NOMINATION DISCHARGED

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the nomination of George McDade Staples, PN 1361, be discharged from the Foreign Relations Committee and placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, MAY 11, 2005

Mr. FRIST. Mr. President, when the Senate completes its business today, I ask unanimous consent that it stand in adjournment until 9:30 a.m. on Thursday, May 11. I further ask that, following the prayer and pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to the conference report to accompany H.R. 4297, the Tax Relief Extension Reconciliation Act, as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow we will turn to the tax reconciliation conference report under the agreement reached. There will be a maximum of 8 hours of debate prior to a vote on the conference report. I filed cloture on the pending substitute amendment to S. 1955, the small business health plan bill. That vote will occur following the tax relief act vote and sometime before closing remarks.

ORDER FOR ADJOURNMENT

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

Mr. DURBIN. Mr. President, I ask the majority leader if he would give me the option to make a closing statement, and that the Senate adjourn after that option is given.

Mr. FRIST. I have no objection to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

HEALTH CARE

Mr. DURBIN. Mr. President, what we have just seen happen is not surprising, but it is disappointing. Health Care Week has come to an end in the Senate on Wednesday evening. We have decided we don't have the time, interest, or inclination to take up other issues. It is a take-it-or-leave-it situation. If we do not accept the Enzi bill, S. 1955, now pending, nothing will be done on health care in the Senate.

It is no wonder to me the American people are cynical about this process. There are so many things we need to do. We are 5 days away from the deadline on Medicare prescription Part D. My best estimate is 50 percent of the people we had hoped would enroll have not done it. They are going to be penalized on May 15 up to 7 percent a year on their premium costs for the rest of their life. We have asked for an extension of time so they can make a choice. We have asked for an extension of time so seniors who have chosen the wrong plan can choose another plan without penalty. Those are not unreasonable. We ask for extensions for people who file income tax without questions asked. To give an extension to an elderly person struggling with 45 different choices for the right prescription drug program is not unreasonable. It would be compassionate. It is the decision of the Senate Republican leadership that we don't have the time or inclination to take up that issue.

I just asked the majority leader: What about stem cell research? Last July, he pledged support for stem cell research. The writing is on the wall: Another year will go by, and this Senate will not go on record on stem cell research.

While millions of Americans and their families are suffering from diseases that could be directly impacted by this research, the Senate doesn't have the time or the inclination to take up this issue. Is it any wonder that people are angry with the Congress as it is presently being conducted? Is it any wonder people are calling for significant change, not only in the direction of this country but in the policies we follow on Capitol Hill? We are going to break our necks to bring up a tax bill before we leave this week to give tax benefits and tax cuts to the wealthiest people in America. We have to get that done, but we don't have time to bring up stem cell research which could give hope and promise for cures and relief to millions of American families?

Where are our priorities? The priorities of this Republican-led Congress are priorities that do not reflect where America is today. The motions we have just heard do not reflect that. To suggest that we don't have time, for example, to even consider the reimportation of drugs so that people struggling with fixed incomes can afford the drugs they need to stay independent, be strong, stay alive—we don't have time for that. No, we have to get on to a tax cut—a tax cut. Let me tell you what the tax cut is.

The tax cut which the Republicans want to force through here before we leave this week—we have to break all records to make sure we get this done—is a tax cut that will mean for people making less than $75,000 a year about on average $100 in tax relief. The good old $100 check is coming back at you, America, if you make less than

$75,000 a year; that is your tax cut; be prepared, party on. But if you happen to be making $1 million a year, well, that is another story. This Republican tax cut, which they just have to have, means about $42,000 less in taxes paid by someone making $1 million a year.

No time for drugs imported from Canada for people on fixed incomes who can't afford what they need to stay alive, no time for stem cell research for the millions of families counting on us to push forward on medical research to find cures and relief, no time to deal with Medicare prescription Part D when 7 or 8 million Americans, senior citizens, are about to face penalties in 5 days, no time for that, but plenty of time for tax cuts. It tells the story. No wonder the people across this country and even 30 of the Republicans are saying it is time for a change on Capitol Hill. It is time for new leadership, new direction, and new values. If this is the best we can do, to come up with a tax cut for the wealthiest people in America and ignore the real needs of small business and the elderly, to ignore the real needs of those who are fighting for medical research to give them hope to live another day, it is a sad outcome.

I started this day by praising Senator ENZI and I will end it by doing the same. I respect him. I admire him. He brought an issue to the floor that is a tough one—health care in America. And this debate is long overdue. We have been waiting a long time to address an issue that troubles families and businesses across this Nation. I thank Senator ENZI for his leadership in bringing this to the floor. But I have to tell you, what has happened today procedurally on the floor gives no credit to that effort by Senator ENZI. Shutting down amendments, not even giving us a moment to raise these important issues, even with limited time and limited debate, is unfair. And what a contrast. What a contrast to the immigration bill where the Senator from Tennessee, the Republican majority leader, has argued that we need every possible amendment to be considered before it comes to a conclusion. Wide open; let everybody bring what they want, whether they are for the bill or against it. But when it comes to health care, when it comes to what counts, this man, who has made medicine his profession and his life before he came to the Senate, does not give us an opportunity to go into the issues that are so important to people across America. It is a sad outcome for America, it is a sad outcome for the Senate. This Senate appears to be not only risk averse but work averse, and that is a shame. It is time for a change.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 8:30 p.m., adjourned until Thursday, May 11, 2006, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 10, 2006:

THE JUDICIARY

NEIL M. GORSUCH, OF COLORADO, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT, VICE DAVID M. EBEL, RETIRED.

IN THE ARMY

THE FOLLOWING NAMED UNITED STATES ARMY RESERVE OFFICER FOR APPOINTMENT AS CHIEF, ARMY RESERVE AND APPOINTMENT TO THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 3038 AND 601:

To be lieutenant general

MAJ. GEN. JACK C. STULTZ, JR., 5861

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

MICHAEL E. BELCHER, 8361
JAMES COBELL III, 5140
DAVID A. PAULK, 1475
DAVID J. RANDLE, 8776

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

SHAWN M. CALLAHAN, 5336
ROSEMARIE J. CONN, 5832
ROBIN L. CSUTI, 3027
SANDRA K. HAIDVOGEL, 7658
PATRICIA B. MOORE, 4640
KAREN J. VIGNERON, 7863

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

PATRICK G. BYRNE, 8704
MAXIE Y. DAVIS, 6563
JUDIE A. HEINEMAN, 3532
SYNTHIA S. JONES, 4531
JOSEPH J. KINDER, 5775
MARK T. KOHLHEIM, 3515
JEFFREY P. LINK, 8389
NANCY A. NORTON, 3412
JOHN L. PAGONA, JR., 7316

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

LOUIS M. BORNO III, 1696
DANIEL J. CUFF, 9811
MARTIN W. DEPPE, 5533
SHANE G. GAHAGAN, 2882
ANDREW G. HARTIGAN, 9442
PAUL J. OVERSTREET, 7123
ROBERT S. ROOF, 2065
PAUL A. SOHL, 3404
ARTHUR M. STERRETT, JR., 3251
ERIC J. WATKISS, 2599

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

LEONARD M. ABBATIELLO, 8031
RAY A. CROSS, 9798
BRENT J. GRIFFIN, 3570
DOUGLAS J. GROSSMANN, 7433
BRETT C. HEIMBIGNER, 7471
JERRY L. JACOBSON, 7440
ERIC V. KRISTIN, 9464
BRUCE F. LOVELESS, 9975
ROBERT RUPP, 5393
JOHN B. STUBBS, 7584

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

STEVEN J. ASHWORTH, 5724
CARL A. BARKSDALE, 0884
RICHARD P. BODZIAK, 5546
JAMES E. BROKAW, 5965
CONNIE L. FRIZZELL, 2403
DIANE K. GRONEWOLD, 3247
GREGORY J. HAWS, 9509
KATHRYN M. K. HELMS, 3990
WILLIE L. METTS, 4530
ROY S. PETTY, 3384
EUGENE P. POTENTE, 6168

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

FRANK A. ARATA, 5206
CHARLES E. BAKER, JR., 1110
DAVID T. BISHOP, JR., 3147
MARK BRIDENSTINE, 0937
RONALD E. COOK, 0169
CHARLES A. DAVIS, 1996
ALEXANDER S. DESROCHES, 2995
JAMES P. DOWNEY, 2191
BRIAN B. GANNON, 2945
JON A. HILL, 1593
LLOYD H. JONES, 8073
TIMOTHY J. KELLY, 9804
WILLIAM C. KIESTLER, 5874
WARREN P. LUNDBLAD, 9017
PETER C. LYLE, 6330
TIMOTHY S. MATTINGLY, 3899
STEVE J. MCPHILLIPS, 4944
CHRIS D. MEYER, 1010
DAVID B. OSGOOD, 6139
PER E. PROVENCHER, 9757
JEFFERY S. RIEDEL, 6541
CHRISTOPHER D. SCOFIELD, 5941
FRANK A. SIMEI, JR., 1583
GEORGE M. SUTTON, 5801

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

JOHN W. V. AILES, 4208
HENRY D. ANGELINO, JR., 6927
JAMES N. BARATTA, 0115
ROBERT C. BARWIS, 2935
JOSEPH A. BAUKNECHT, 0079
JOSEPH W. BEADLES, 3706
JAMES R. BEAMISH, JR., 0692
MATTHEW S. BEAVER, 8495
JOSEPH J. BEEL, 0861
DON E. BERRY, JR., 6694
STEVEN H. BLAISDELL, 3845
GARY M. B. BOARDMAN, 1931
PATRICK J. BOHAN, 6204
GAIL M. BOVY, 4899
VINCENT C. BOWHERS, JR., 4410
LAURELL A. BRAULT, 1134
JOHN J. BRAUNSCHWEIG, 3658
DENNIS M. BROOKS, 8418
RICHARD A. BROWN, 3890
JAMES F. BUCKLEY, 5661
THOM W. BURKE, 8200
BABETTE B. BUSH, 0472
PATRICK W. BUTLER, 3230
ANDREW A. BUTTERFIELD, 2531
JAMES S. BYNUM, 9068
EDWARD J. CAMPBELL, 2080
DOUGLAS D. CARSTEN, 3479
MATTHEW J. CARTER, 2061
JAMES R. CASTLETON, 2779
DARYL L. CAUDLE, 9846
GARD J. CLARK, 6957
PETER J. CLARKE, 4127
PATRICK R. CLEARY III, 5728
JEFFREY W. CONNOR, 9845
ROBERT E. CONWAY, 7027
JEFFREY S. CORAN, 3219
MICHAEL J. CORRIGAN, 6610
KEVIN J. COUCH, 9405
MICHAEL J. COURY, 9127
JAMES T. COX, 4831
KYLE J. COZAD, 5693
RANDY B. CRITES, 1936
ANDREW F. CULLY, 4149
JAMES J. CUNHA, 5347
GREGORY P. CURTH, 0271
DOUGLAS L. CUTHBERT, 8995
ANGELA W. CYRUS, 4168
TODD H. DEGHETTO, 6322
CHARLES C. DENMAN II, 7868
MARC W. DENNO, 3432
STANTON W. DIETRICH, 0978
JEFFREY A. DODSON, 2894
DANIEL M. DONOVAN, 2887
SCOTT D. DUEKER, 4948
RICHARD J. EASON, 0145
STEWART G. ELLIOTT, 4362
CHARLES G. EMMERT, 3326
GEORGE T. FADOK, JR., 6309
THOMAS J. FASANELLO, JR., 9422
JOHN M. FIGUERRES, 5649
HAROLD T. FINK, 5122
DAVID T. FISHER, 0586
RICHARD T. FITE, 7464
WILLIAM A. FITZGERALD, 6136
MICHAEL J. FITZPATRICK, 4982
STEPHEN R. FOLEY, 0311

LISA M. FRANCHETTI, 1528
JEFFREY D. FREDERICK, 3688
DALE G. FULLER, 7081
LARRY S. GAGE, 6557
ERIC W. GARDNER, 0421
BRETT J. GENOBLE, 7631
RONALD M. GERO, JR., 6880
CHARLES M. GIBSON III, 6126
BAXTER A. GOODLY, 0017
HOLLY A. GRAF, 4923
MICHAEL R. GRAHAM, 5285
PAUL A. HAAS, 0567
HERBERT M. HADLEY, 1576
DAVID J. HAHN, 3136
RICHARD J. HALE, 4889
THOMAS V. HALLEY, JR., 2303
CATHERINE T. HANFT, 0781
PETER H. HANLON, 1348
MARKUS K. HANNAN, 3113
GENE F. HARR, 4127
EDWARD J. HARRINGTON, 6848
WAYNE J. HARRISON, 3324
TROY L. HART, 7161
EDWARD L. HASELL, 4377
JAMES D. HAUGEN, 8460
MIKE A. HAUMER, 9110
JOHN A. HEFTI, 7921
WILLIAM K. HENDERSON, 0594
ROGER H. HENZE, 2055
DAVID J. HERMAN, 8161
DIXON K. HICKS, 6484
MICHAEL S. HILL, 5120
MARCUS A. HITCHCOCK, 7268
DONALD D. HODGE, 5409
BRENDA M. HOLDENER, 1041
CHARLES T. HOLLINGSWORTH, 0355
STEVEN W. HOLMES, 7493
DALE E. HORAN, 5403
JEFFERY W. HOYLE, 5022
MARK A. HUBBARD, 6335
AARON C. JACOBS, 7385
PETER H. JEFFERSON, 2312
WILLIAM J. JENSEN, 6415
KEVIN R. JOHNSON, 5423
WILLIAM C. JOHNSON, 4531
DORIAN F. JONES, 3978
CHRISTOPHER J. KAISER, 3282
ROY J. KELLEY, 7512
STEVEN M. KELLY, 9570
KEVIN M. KENNEY, 1172
COLIN J. KILRAIN, 3609
ROY I. KITCHENER, 6963
JAMES R. KNAPP, 6427
ALEXANDER L. KRONGARD, 6638
STEPHEN C. KROTOW, 2719
ANTHONY L. KRUEGER, 9857
DAVID J. LANDESS, 2648
EDWARD D. LANGFORD, 0816
JOHN T. LAUER III, 5211
WILLIAM L. LAWLER, JR., 1314
ROBERT G. LINEBERRY, JR., 2017
JAMES T. LOEBLEIN, 7013
MATTHEW E. LOUGHLIN, 9382
JOHN P. LUSSIER, 4360
ANTHONY E. MARTIN, 4716
FRANCIS X. MARTIN, 0830
RICK A. MAY, 8433
THOMAS J. MCDONOUGH, JR., 8147
DAVID M. MCDUFFIE, 3998
DOUGLAS A. MCGOWEN, 4262
PAUL F. MCHALE, 9096
STEPHEN P. MCINERNEY, 0704
DANIEL T. MCNAMARA, 7070
THERESA O. MELCHER, 3753
DENNIS C. MIKESKA, 7927
JOHN MILEY, 5939
JOHN W. MOORE, 0539
WILL M. MOORE, JR., 5447
DAVID J. MORGAN, 9610
WILLIAM F. MOSK, 4532
THOMAS M. NEGUS, 9822
STEVEN G. NELSON, 8602
DONALD E. NEUBERT, JR., 4539
JACK S. NOEL II, 0359
JOHN P. NOLAN, 0856
WILLIAM J. NOLAN, 7448
THOMAS E. NOSENZO, 3315
JOHN S. ONEILL, 8263
HAMLIN A. ORTIZMARTY, 1069
GREGORY M. OTT, 6908
MICHAEL J. OTTINGER, 4727
TIM P. PANGONAS, 6261
ERIC A. PATTEN, 9489
ANDREW T. PAUL, 6320
TIMOTHY C. PEDERSEN, 8648
JOHN S. PERRY, JR., 3970
STEVEN L. PETTIT, 2686
PATRICK A. PIERCEY, 8978
RANDOLPH F. PIERSON, 0379
EVAN B. PIRITZ, 4703
PAUL S. POSEY, 7160
CLARK T. PRICE, JR., 4484
DAVID R. PRICE, 4917
MICHAEL V. PROSPERI, 5611
HUMBERTO L. QUINTANILLA, 3467
ROBERT W. RACOOSIN, 6119
RICHARD A. RAINER, JR., 9813
ROBERT D. RANDALL, JR., 6570
CHARLES S. RAUCH, 0785
THERESA M. REA, 8850
RONALD REIS, 0959
BRETT A. REISSENER, 9869
EDWIN J. RUFF, JR., 6960
BRADLEY S. RUSSELL, 9051
MICHAEL B. RYAN, 9906
DAVID A. SCHNELL, 4924
JOHN D. SCHOENECK, 1882
GARY R. SCHRAM, 2652
DAVID D. SCHWEIZER, 5972
GREGG G. SEARS, 6926
KENNETH E. SELIGA, 2619
PAUL J. SEVERS, 3091
JAMES R. SHOAF, 2007
PAUL A. SKARPNESS, 2949
THOMAS A. SLAIS, JR., 2360
ERIC S. SLEZAK, 4114
MICHAEL J. SLOTSKY, 5818
JEFFERY C. SMITH, 6380
DAVID A. SOLMS, 3706
THOMAS P. STANLEY, 7585
TROY A. STONER, 1524
CHARLES L. STUPPARD, 8252
ANTHONY W. SWAIN, 0124
DAVID R. SWAIN, 1578
ROBERT C. SWALLOW, 4015
KENNETH J. SZCZUBLEWSKI, 3761
TIMOTHY G. SZYMANSKI, 1733
MICHAEL P. TAYLOR, 5411
RALPH L. TINDAL III, 7856
PETER A. TOMCZAK, 6166
JEFFREY E. TRUSSLER, 5186
STEVEN S. VAHSEN, 5125
ROBERT M. VANCE, 7006
KARL J. VANDEUSEN, 8195
JAMES L. VANDIVER, 6375
MICHAEL S. VILAND, 3180
HANS T. WALSH, 9260
JASON WASHABAUGH, 5790
DOUGLAS E. WATERS, 9604
OAKLEY K. WATKINS III, 5825
MARK E. WEBER, 0173
MICHAEL B. WHETSTONE, 6809
KENNETH R. WHITESELL, 4855
JOSEPH B. WIEGAND, 4016
CHARLES F. WILLIAMS, 7086
GORDON C. WILLIAMS, 6135
KENNETH L. WILLIAMS, 2530
BRAD WILLIAMSON, 3948
RICKY L. WILLIAMSON, 7765
GARY M. WILSON, 1517
KRIS WINTER, 9960
CHARLES T. WOLF, 8768
ALPHONSO L. WOODS, 8215
LEWIN C. WRIGHT, 0297
CHARLES W. WYDLER, 3695
MARK S. YOUNG, 0672
GLENN W. ZEIDERS III, 0665

DISCHARGED NOMINATION

The Senate Committee on Foreign Relations was discharged from further consideration of the following nomination and the nomination was placed on the Executive Calendar:

GEORGE MCDADE STAPLES, OF KENTUCKY, TO BE DIRECTOR GENERAL OF THE FOREIGN SERVICE.

HOUSE OF REPRESENTATIVES—*Wednesday, May 10, 2006*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. CAMPBELL of California).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 10, 2006.

I hereby appoint the Honorable JOHN CAMPBELL to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Ross Thomson, Bammel Church of Christ, Houston, Texas, offered the following prayer:

Lord, as we gather in this city named for him, we remember George Washington's most precious possession: the keys always on his nightstand, the keys given to him by General Lafayette, the keys to the Bastille.

Lord, we thank You that, two centuries later, we still hold the keys of freedom. We are mindful that then and now, our greatest power is our ability to win hearts and minds; our greatest gift to mankind the inspiration of our ideas; our greatest influence that of moral persuasion.

Lord, You have allowed this Nation the honor of being freedom's first line of defense, and her last bastion of hope. Grant that we might live worthy of our calling and worthy of the hope of those who have gone before; that we in this place, might conduct ourselves with honor, courage and integrity, worthy of this great Republic, worthy of the sacrifices of its citizens. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Michigan (Mr. STUPAK) come forward and lead the House in the Pledge of Allegiance.

Mr. STUPAK led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING REVEREND ROSS THOMSON

(Mr. POE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POE. Mr. Speaker, Ross Thomson was born in Scotland in 1956. At the age of 4, his family moved to Toowoomba, Australia, where he was raised. While there, he became a Christian. In 1975, faith took his family to Salisbury, Rhodesia for mission work among the Shona tribe. He worked with his father, and would devote the rest of his life to saving souls.

Having lived the ministry for years, Ross moved to the United States to study. He obtained his bachelor and master's degree in theology from Harding University. He did further postgraduate work at Rice University.

In 1989 he married Christine, who is with us today, and moved his family to southeast Texas, Alice, Texas, where he preached for the Morningside Drive congregation.

He has preached for the Brooks Avenue Church of Christ in Raleigh, North Carolina, and Northlake Church of Christ in Atlanta, Georgia. Currently he is the pulpit minister for the 1,200 member Bammel Church of Christ in Houston.

Christine and Ross are blessed with three children, Joshua, Savannah and Justin.

It is clear Ross, with his proper Scottish background, was not born in Texas, but he got there as fast as he could. He became a U.S. citizen in 2002.

One of my favorite stories about Ross was his first trip to an American grocery story. The first place he went was a southern grocery store called Piggly Wiggly. Puzzled, he didn't quite understand that concept.

He has done much to preach the gospel of Jesus in Texas, and spends time in the people business. So today we welcome Ross here to the United States Congress, and appreciate his determination to practice and live the freedom of religion under the first amendment of the U.S. Constitution.

PRESCRIPTION DRUG BENEFIT

(Mrs. DRAKE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. DRAKE. Mr. Speaker, I rise today to thank our local partners in helping spread the word about the new prescription drug benefit. Southeastern Virginia Senior Services and Eastern Shore Senior Services have worked very diligently to sign people up and to spread information.

Many of our local pharmacists. I would like to thank them as well, have allowed people to drop off their information and return for a list of the plans that cover their drugs.

Remember, Medicare part D is a voluntary program. It is a private sector insurance plan with a reduced premium. Many seniors do not need to sign up at all because their coverage is as good or better than Medicare. That would include our Federal retirees, State retirees, military, and many private sector retirees.

For more information call 1-800-MEDICARE, or go online to www.medicare.gov or call senior services.

Sign up now and begin coverage in June. Otherwise you will have to wait until January to begin this new benefit. Join our over 30 million seniors and begin saving now.

TAX CUTS FOR THE WEALTHY

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, well, it is a big day inside the Beltway here, the long-anticipated Republican tax cuts are here, the fifth of the Bush Presidency. You would think with huge deficits maybe they would reconsider; but no, they are plowing ahead. Tonight, rivers of champagne will flow in corporate board rooms across America.

Under this bill, we will borrow $70 billion and immediately give $50 billion of it to wealthy investors. We will borrow $70 billion and give $50 billion to wealthy investors in big tax breaks to those who clip coupons off dividend-paying stocks and capital gains.

A person who earns $40,000 a year, they might get a $20 break under this bill. But those who earn $5 million, $82,000 off their tax bill. It is a great country. Yet Republicans couldn't find room in this bill for a tuition tax deduction. They had to bump that out. You know, these are tough times, people have to sacrifice; not the people in the board rooms and not the wealthy investors, but middle class America who want their kids to get an education. They couldn't fit it in the bill.

They are discriminating against wages and salary earners and favoring the investors with lower tax breaks. They are borrowing money and handing the bill to people who work for wages and salaries. I don't think that it is that they really hate wage and salary earners, they just favor the wealthy who fund their campaigns.

TACKLING THE NATION'S ENERGY POLICIES

(Mrs. KELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KELLY. Mr. Speaker, the high gas prices and energy costs that we are experiencing now demonstrate more than ever we have to increase the urgency of achieving U.S. oil independence from foreign sources of oil. Congress needs to work faster to develop new fuel choices and achieve fuel savings.

I am a cosponsor of the Fuel Choices for American Security Act. Our legislation initiates a plan to achieve U.S. oil savings of 2.5 million barrels per day by 2015. That is the amount of oil we currently import from the Middle East every day.

Our plan is committed to developing alternative energy courses and renewable fuels. It will create better market incentives to use the resources and technology already available here in America to develop new fuel choices and bring them to consumers faster.

As long as the U.S. dependence on foreign oil continues to increase, gas prices will continue to increase as well.

Looking backward and using high gas prices to launch political attacks gives us no solution to the Nation's energy problems. Political maneuvers are not an energy policy. Looking forward by passing this bipartisan legislation is the correct approach to implementing the initiatives we need to tackle the Nation's energy problems. Let us commit ourselves to the American consumer and not to politics.

AMT BECOMES ATM

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Mr. Speaker, nothing spells out the political cynicism and misplaced Republican priorities better than the tax bill we are about to vote upon. More assistance to the people in the top one-tenth of a percent whose burden has actually fallen 25 percent since Bush took office, the over-million-dollar crowd will get an additional $40,000 a year for the next 10 years.

But the Republican leadership and the Bush administration is playing Russian roulette with the alternative minimum tax and the 15.3 million families whose only sin is to pay taxes, pay their mortgage and raise their families. Every year more of them fall into a trap, and each year the Republican leadership fails to make a long-term fix a priority. They would rather play politics with the favored few.

This misguided priority is shameful, as Medicare and Medicaid deficits widen and the national debt increases. The alternative minimum tax, the AMT, has become an ATM to finance more tax cuts for people who need it least and put at risk 33 million American families who will fall into the AMT tax trap by 2010 when the house of cards comes crashing down.

AL QAEDA DISORGANIZATION

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, earlier this week the Associated Press reported from Baghdad that recently discovered al Qaeda and Iraq documents demonstrate that the terrorists are "concerned about disorganization within their cells in the capital area, with one extremist describing them as simply a 'daily annoyance' to the Iraqi government."

In one document, a terrorist complains that "the Americans and the Iraqi government forces 'were able to absorb our painful blows,' raise new 'recruits and 'take control of Baghdad as well as other areas, one after the other.' "

Another terrorist complained about "the strength of brothers in Baghdad and is based mostly on car bombs and groups of assassins lacking any organized military capabilities."

These documents demonstrate that courageous American troops and Iraqi security forces are breaking the will of the terrorists in Iraq to protect American families.

In conclusion, God bless our troops. We will never forget September 11.

GAS PRICES DIRECT RESULT OF FAILED POLICIES

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, today's record gas prices are the direct result of 5 years of failed policies by the Bush administration and this Republican Congress.

We seem to be more interested in giving still more tax breaks to oil executives than providing real relief to American consumers. Rather than proposing policies that would aggressively confront our energy challenges, Republicans are once again pushing to drill in ANWR. They neglect to say that drilling in ANWR would not be possible for another decade and would only provide about 6 months of oil for the American consumer.

House Republicans are also suggesting waiving environmental laws to encourage new refinery construction. But all of the major oil companies have already testified that environmental laws are not what is preventing them from building more refineries. It is more personally profitable to pay out lower-taxed-dividends than invest retained earnings in refineries.

So along with the silly $100 rebate, this is another proposal from House Republicans that will do nothing to reduce prices at the pump today. But the American consumer is beginning to realize it is time to try something new. It is time for a change in leadership.

□ 1015

MEXICO HARSHER ON ILLEGALS THAN U.S.

(Mr. KELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KELLER. Mr. Speaker, last week, street protests revealed a lot about the hypocrisy of Mexico. With a great deal of bluster and self-righteousness, the protestors objected to the House-approved border security bill.

They said it was "too harsh."

They said it was "draconian."

They said we shouldn't criminalize 11 million illegal immigrants.

They said we should, instead, give them amnesty and citizenship.

They waved their Mexican flags with great pride.

Well, a new study just released by the Law Library of Congress, reveals that Mexico itself is far harsher on illegal immigrants than the United States. For example, in Mexico, it is a felony punishable by 2 years in prison merely to be an illegal immigrant. In contrast to giving them citizenship, Mexico actually deported 250,000 illegal immigrants last year. Mexico even put their military soldiers on their southern border to stop illegals from going into Mexico from Guatemala.

Hypocrisy has crossed the border. It makes you wonder, were they protesting the wrong country last week?

ALLOW A VOTE ON THE PUMP ACT

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, this weekend I held four town hall meetings in my vast rural northern Michigan district. I put on over 700 miles as I traveled from small town to small town to meet with my constituents. The number one concern of my constituents was the extremely high price of gasoline.

My constituents can't afford to drive the distances necessary to go to and from work. My constituents know they cannot afford the $50 to fill their gas tank. My constituents know that my PUMP legislation, Prevent Unfair Manipulating of Prices, would end the speculation in the pricing of a barrel of oil. My constituents know the legislation would reduce the cost of a barrel of oil by $20 and would lower the cost of the gas at the pump by one-third.

We could do that today.

My constituents also know that President Bush and the rubber-stamp Republican-controlled Congress will not allow a vote on my legislation.

Mr. Speaker, let's lower gas prices today. Let's lower it by bringing forward the PUMP legislation for a vote in this House, and do the people's work instead of the oil companies' work.

PROGRESS BEING MADE IN IRAQ

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, this weekend I had the privilege of leading a delegation of Republicans and Democrats to Operation Iraqi Freedom, and despite what you see on television, there is a lot of good news in Iraq, thanks to American and coalition forces and the good people of Iraq.

We were in Mosul, the ancient site of the city of Nineva. And where Mosul, over a year ago, was inflamed with insurgent violence, today Mosul is secure, thanks to the 101st Airborne, but also thanks to a local Iraqi police chief who is leading 1,500 Iraqi police into the streets daily to capture insurgents.

We also met with the new Prime Minister, Nuri al-Maliki, who told us of his plans to appoint a cabinet maybe as soon as this week, a clear agenda for stabilizing his country. He greeted us with the words, "Welcome to a new Iraq."

It will be our hope and our prayer that the American people will stand with the good people of Iraq to see freedom's fruition in that ancient land.

NURSE LOAN FORGIVENESS ACT OF 2006

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, our country is facing an increasing nursing shortage. Currently, in California, we are one of the 30 States that faces significant shortages in full-time registered nurses. But by the year 2020, 44 States are expected to have significant nurse shortages. We are going to need more than 400,000 new nurses nationwide.

We need to take immediate action to recruit and retain nurses for our Nation's medical facilities and address this critical shortage.

Today I am introducing the Nurse Loan Forgiveness Act of 2006. This bill will help recruit and retain more nurses by providing financial incentives for students to enroll in and complete nursing programs. It would forgive up to $17,000 in Federal loans over a 5-year period for people who have been working for at least a year as a full-time registered nurse.

It is time for us to take action and to address this ongoing nursing shortage. I urge my colleagues to help me and cosponsor this bill.

LANCASTER COUNTY, PENNSYLVANIA, GENEROSITY

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I rise today to recognize the wonderful generosity of the people of my district, the Pennsylvania 16th. This generosity has been on full display in the aftermath of the hurricanes that hit our gulf coast last year.

The small Mississippi town of Pass Christian is roughly 1,200 miles from Lancaster County, but this hasn't stopped the people of Lancaster County, including many of the Amish community, from providing an outpouring of volunteer help to this devastated gulf coast town.

Organized through a group called Community Aid Relief Effort, dozens of Lancaster County residents have been traveling to the gulf coast every week since Katrina to help out with whatever was needed, and the results are showing. Debris has been cleared, damaged homes are being repaired and new homes are being built.

Mr. Speaker, while this outpouring of compassion warms my heart, it doesn't surprise me. The people of Lancaster County have a long tradition of helping those in need, and this is just the most recent example. I honor their efforts.

TAX POLICY BENEFITING TOP 1 PERCENT OF AMERICANS

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, some people say this is a do-nothing Congress. They are wrong. This is the rubber-stamp Congress. Every Member of the Republican side is right now looking through his office for where is his rubber stamp, because this is one of the days when they come over here and rubber-stamp the President's tax cuts.

The 13th page of the New York Times today carries the fact that the tax cut for the top 10 percent, 82 percent of the $69 billion goes to the top 10 percent.

Now, that is not do-nothing, that is just forgetting the other 90 percent in this country. And when a decent period has passed by, they are going to come out here and raise the debt limit again. That is in the paper today as well. They raised it in March, and they have given so much away and dug us so deep in debt that they are going to be out here doing it again.

There is nothing in what we will do today that is useful for anybody who is at the middle class or below. This is all for the top 10 percent. That is all these people are for. The time is coming for change in November.

CONTINUED TAX RELIEF NECESSARY

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, the evidence is crystal clear: 32 straight months of job growth, 5.3 million new jobs created since August of 2003, the stock market within sight of a record high and homeownership at an all-time high. These are all good things.

So how should we keep the good things going? Continue the policies that brought them about. The House should ensure that we build on this success by supporting the tax conference report. Positive action today will prevent, prevent, a tax hike on millions of hardworking American families and small businesses that would greatly harm our economy.

By extending the reduced rates on capital gains and dividends, all Americans, all Americans, will be able to plan for the future with a greater sense of stability.

Furthermore, we will extend alternative minimum tax relief for Americans. The AMT was created in the 1970s, and times were much different. Today, an unacceptable number of families are exposed to this unfair tax, and this needs to stop.

Mr. Speaker, the facts are crystal clear: The Republican progrowth economic policies adopted by this House and this Congress are leading the way, and I urge my colleagues on both sides of the aisle to put politics aside, vote for the American people, vote today to prevent a tax increase on millions of hardworking American families.

TAX BREAKS NOT WORKING FOR MIDDLE-CLASS AMERICANS

(Mr. BISHOP of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP of New York. Mr. Speaker, is there any doubt today that this administration's first priority continues to be tax cuts for the wealthiest at the expense of education, health care and homeland security, all of which are being cut to pay for these tax cuts?

We have been promised that extending dividend and capital gains cuts will create a rising tide that lifts all boats. But American families know that it takes so much more than a trickle-down effect for tax cuts to deliver relief from rising gas prices, soaring tuition and skyrocketing health costs.

If the tax cuts had performed as our friends on the other side of the aisle promised, an exploding economy would have offset these strains. Instead, we are now burdened with $400 billion deficits, $3 trillion in new debt since 2001, and deep cuts to hospitals, schools and law enforcement.

How can we possibly justify tax breaks for millionaires worth more than the entire amount President Bush requested for the Department of Education and more than twice his budget for the VA? The answer is that we can't. We just can't.

Instead, Americans who need our help the most must get in line and patiently wait for the Republicans' tax cuts to make any meaningful difference, if they ever do, in their daily struggle.

Mr. Speaker, middle-class Americans deserve much better.

MEDICARE PRESCRIPTION DRUG PROGRAM SAVES MONEY FOR SENIORS

(Mrs. MYRICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MYRICK. Mr. Speaker, to date, more than 30 million Americans have signed up for the new Medicare prescription drug program, and that is because it saves them money. An AARP survey found that almost 80 percent of those enrolled in the Medicare prescription drug plan say that the new benefit is meeting or exceeding their expectations. Seniors don't have to choose between prescription drugs and paying their bills or putting food on the table anymore.

And there is still time for seniors who are not currently enrolled to sign up for the program. They have until May 15th to sign up without any penalty.

They simply have to call 1-800-MEDICARE and ask about drug savings, and there will be someone there who will help to walk them through the process.

Again, the deadline to sign up with no penalties is May 15, so call and save today.

PROVIDE REAL TAX RELIEF FOR CONSUMERS AND REPEAT ENERGY TAX BREAKS

(Mr. CLEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEAVER. Mr. Speaker, how high do gas prices have to go before this administration is willing to break its ties with the oil and gas company CEOs? For 5 years now, the major oil companies have been bringing in record profits, while the pain at the pump has grown worse for average Americans.

Today, consumers are paying $3 a gallon. If you are making minimum wage, that means your first hour at work is used to buy 1½ gallons of gasoline for your car.

Major oil companies just reported $16 billion in profits for the first quarter alone, and the national response has been moral outrage. Yet last year they pushed through an energy bill that gave oil and gas companies an additional $20 billion in tax breaks and subsidies.

The problem is, those in charge here are not willing to have the courage to stand up and make things right.

TIME FOR ACTION ON ILLEGAL IMMIGRATION

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, one of my colleagues referenced the study from the Law Library of Congress entitled "Immigration Law Sanctions and Enforcement in Selected Foreign Countries." It evaluates the policies and the practices of Brazil, Egypt, Japan, Mexico, Sweden and Switzerland. The countries were selected specifically to provide a geographically and racially diverse group for comparison purposes.

What the study found is that strong enforcement of immigration law and tough sanctions can effectively reduce illegal immigration.

Mr. Speaker, it is of concern to us that we learned yesterday that the U.S. Government is releasing information on the Minutemen border patrols to the Mexican Government. It is very frustrating that our government would be both willing and able to release information to the Mexican Government on these patrols, yet unable to adequately deter illegal entry into this country.

Mr. Speaker, I want to see a border wall or technology improvements that will actually halt illegal border crossings. There is incredible consensus among Tennesseans that enough is enough on this issue. It is time for action.

DO-NOTHING CONGRESS REFUSING TO ADDRESS NEEDS OF AMERICANS

(Mr. BUTTERFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUTTERFIELD. Mr. Speaker, today is the 130th day of 2006. Guess how many of those days this House has been in session to address the needs of the American people? Twenty-nine. Twenty-nine. This is only the 29th voting day of the year here in the House of Representatives.

No wonder, Mr. Speaker, the American people have lost confidence in this Congress. The Republican majority would rather recess than tackle the tough issues of our day.

Or could it be that the Republicans are simply incapable of governing? House Republicans have yet to pass a budget for the upcoming fiscal year. Before the April recess, the House Republican leadership brought a bill to this floor, but was forced to pull it from consideration after determining that it would fail.

Regardless of whether or not Republicans are able to pick up enough Republican votes this week, the fact remains that they have presided over the largest fiscal collapse in American history. Five years ago they inherited record budget surpluses, and they have turned those into record deficits.

□ 1030

PORK BOOTLEGGERS

(Mr. McHENRY asked and was given permission to address the House for 1 minute.)

Mr. McHENRY. Mr. Speaker, some say we have no border security. The Associated Press reported that border authorities inspecting a car crossing into the United States from Mexico uncovered a food item in a strange place. Customs and Border Patrol officers searched the man's car, and they found two pounds of raw pork, oh, heaven forbid.

The meat was wrapped in foil inside two disposable diapers. Bringing in pork is prohibited because the "other white meat" can carry hog cholera. Some say we have no border security. Authorities seized these items and fined the man $250.

Mr. Speaker, you are telling me, this report tells me that the Border Patrol can stop 2 pounds of pork in a diaper from entering this country, but we can't stop $58 billion worth of illegal drugs and half a million illegals crossing the border each year?

This is crazy. We must fix this problem before people start smuggling themselves in diapers.

ENERGY POLICY IN AMERICA

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, today I rise in opposition to America's energy policy, which takes from the working class Americans and rewards rich oil companies. Under President Bush's plan more than $20 billion has been waived in royalty fees and more than $5 billion in giveaways to big oil-producing corporations.

Legislation considered by this body last week targeted our States and our communities as the culprits of high gas prices, rather than pointing a finger at oil companies who made more than $110 billion in profits in 2005 and $16 billion in the first 3 months of 2006.

But we know better. Just yesterday, the Environmental Council of States stated that they were not aware of any credible report that our States are denying or lagging behind on permitting of new refineries and the expansion of existing refineries. Documentation to the contrary has not been presented to our committee, Energy and Commerce Committee.

Rather than take on wealthy oil company executives, this administration and this body continue to delay real action to help working class families and small businesses.

I hope that we can resolve this issue soon.

MEDICARE ENROLLMENT

(Mr. BARRETT of South Carolina asked and was given permission to address the House for 1 minute.)

Mr. BARRETT of South Carolina. Mr. Speaker, on December 8, 2003, President Bush signed the Medicare Prescription Drug and Modernization Act of 2003 into law. While I may have a few differences with certain aspects of this legislation, we have come a long way since the bill first became law.

The Centers for Medicare and Medicaid Services have made great strides to make this implementation process as painless as possible. The first enrollment period for Medicare part D will end in just 5 days.

Over 27 million seniors across America now have coverage and are saving money on their prescription drugs. Currently, the State of South Carolina has over 438,000 people with prescription drug coverage. Almost 80,000 of those seniors are living in my district.

As the enrollment deadline of May 15 nears, I urge my constituents to call 1-800-MEDICARE with any questions. It is important to take an active roll in managing your own health care.

CONGRESS SHOULD EXTEND THE MAY 15 DEADLINE ON THE MEDICARE PRESCRIPTION DRUG PLAN

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, the pharmaceutical industry influenced the passage of a Medicare prescription drug plan last year. It is not great, it is just all we got. The deadline is May 15 for seniors to enroll in this program.

If seniors are not enrolled in 5 days, they will face a financial penalty each month for the rest of their lives. Since it took effect at the beginning of this year, the logical problems of implementing this plan have proved enormous. Seniors across the Nation have complained about the confusing number of plans to choose from and the change in prescription benefits each offers.

Research has shown that many of those who contact the Federal Government for help receive incorrect information or no information at all. It is no surprise then that millions of seniors have yet to select a drug plan.

Now with only 5 days to select the right plan or face a steep penalty, these seniors find themselves under pressure to make the best decision for their health and their pocketbook.

Mr. Speaker, serious health decisions require time and information. Our seniors deserve more.

MEDICARE PART D

(Ms. HART asked and was given permission to address the House for 1 minute.)

Ms. HART. Mr. Speaker, I rise today to call for a stop to the misleading and dishonest rhetoric from some political circles that has been used to purposefully scare seniors regarding the new prescription drug program that is available through Medicare. These hollow claims that it is too expensive for seniors or doesn't provide good coverage have been repeated by groups across the country.

These couldn't be farther from the truth. By every true measure, the new program is succeeding in its core mission of helping Medicare patients save money on their prescription drugs. Participation in the program has now exceeded its goal of enrolling 30 million by the conclusion of the first year, and it is only May.

In addition, since the beginning of March of this year, seniors have been enrolling in the prescription drug plan at the average rate of 416,000 seniors per week.

The overwhelming reason that so many Medicare recipients have now enrolled is simple. They are seeing real savings on the cost of their prescription drugs. The average senior who signs up for a plan will save more than $1,100 on their prescription drugs this year and low income seniors projected to save about $3,700; the average premium, only $25. Some in my State are paying just over $10.

Mr. Speaker, with so little time left to enroll, I encourage my colleagues help seniors enroll, not scare them.

FIVE DAYS FOR REPUBLICANS TO REJECT BUSH PRESCRIPTION DRUG TAX ON SENIORS

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Mr. Speaker, we must stand up for America's seniors. As this calendar shows, House Republicans have less than 1 week, only 5 days left to join Democrats in extending the period seniors have to sign up for private prescription drug plans. If this Congress refuses to act, millions of American seniors who have yet to choose a plan will be penalized with the Bush prescription drug tax that will stay with them for the rest of their lives. The Bush administration is trying to force American seniors to make a decision that will impact both their checkbooks and their health in the next 5 days.

Five million seniors have still not chosen a drug plan. But the Bush administration wants to scare all of these seniors into choosing a plan before May 15, regardless of whether or not they are comfortable or ready to sign up for a plan.

Mr. Speaker, it is time House Republicans declare independence from the White House. As we mark off another day, House Republicans must join us in taking action this week.

THE DEMOCRATS TRIED ON MEDICARE

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Mr. Speaker, you can't say the Democrats haven't tried their hardest. When it comes to the Medicare prescription drug benefit, they have complained, criticized and have held town hall meetings to encourage seniors not to sign up. Luckily for America's seniors, they have decided to listen to the facts instead of the negative spin.

Recently the Department of Health and Human Services reported that more than 30 million Medicare beneficiaries are now getting coverage and saving money on their prescription drugs. This surpasses their expectations of 28 to 30 million enrollees in the first year. I suppose adding to the Democrats' frustration are recent polls showing broad support for the new benefit, as well as amazing success stories of seniors who are now reaping big savings in their prescription drug costs.

For example, a recent AARP poll revealed that nearly 8 in 10, that is nearly 78 percent of those enrolled in a Medicare prescription drug plan, say the new benefit is either meeting or exceeding their expectations.

Mr. Speaker, perhaps if the Democrats put as much effort into encouraging, rather than discouraging seniors, we would have enrolled 30 million much sooner.

ENERGY CRISIS AND PRICES IN AMERICA

(Mrs. DAVIS of California asked and was given permission to address the House for 1 minute.)

Mrs. DAVIS of California. Mr. Speaker, in San Diego, the average price of regular unleaded gasoline is $3.43 a gallon, highlighting the expanding energy crisis in the country and fueling the frustration of many Americans. It is quite clear that the energy policies of President Bush and the Republican majority have failed.

The American people want Congress to come together and fix this crisis. House Democrats are energized in providing quick relief and long-term solutions. Democrats want to provide quick relief by expanding the Low Income Home Energy Assistance Program and expanding tax credits and grants to small businesses. We do this by repealing the $8 billion in Federal giveaways Republicans dished out to the oil and gas companies.

Democrats are committed to funding groundbreaking research and new technologies so that we can be independent of foreign oil by the year 2020. The energy policy of this administration and this majority is draining the wallets of Americans. It is time we implement a comprehensive energy policy that helps consumers and emphasizes alternate renewable energy.

MONSIGNOR EMILIO VALLINA

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to congratulate the Reverend Monsignor Emilio Vallina in celebration of his 54 years of service. As a servant of God, he has truly made a difference in the San Juan Bosco Church community in my congressional district of Miami, Florida.

San Juan Bosco Church is fortunate to have an individual who gives so generously of his time and energy to improve our area. It is the perseverance and compassion of people like Monsignor Vallina that help in the development of a stronger south Florida.

After fleeing the tyrannical Castro regime in 1961, Monsignor Emilio has dedicated himself to the teaching and the practice of the Catholic doctrine. His church in East Little Havana welcomes the poor immigrants, the homeless and the lonely.

Monsignor Emilio Vallina deserves commendation for his hard work and his continuous effort to improve the welfare of our community. May God continue to bless you, my friend, Monsignor Emilio Vallina.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CAMPBELL of California). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

H-PRIZE ACT OF 2006

Mr. INGLIS of South Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5143) to authorize the Secretary of Energy to establish monetary prizes for achievements in overcoming scientific and technical barriers associated with hydrogen energy, as amended.

The Clerk read as follows:

H.R. 5143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "H-Prize Act of 2006".

SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTERING ENTITY.—The term "administering entity" means the entity with which the Secretary enters into an agreement under section 3(c).

(2) DEPARTMENT.—The term "Department" means the Department of Energy.

(3) SECRETARY.—The term "Secretary" means the Secretary of Energy.

SEC. 3. PRIZE AUTHORITY.

(a) IN GENERAL.—The Secretary shall carry out a program to competitively award cash prizes only in conformity with this Act to advance the research, development, demonstration, and commercial application of hydrogen energy technologies.

(b) ADVERTISING AND SOLICITATION OF COMPETITORS.—

(1) ADVERTISING.—The Secretary shall widely advertise prize competitions to encourage broad participation, including by individuals, universities (including historically Black colleges and universities and other minority serving institutions), and large and small businesses (including businesses owned or controlled by socially and economically disadvantaged persons).

(2) ANNOUNCEMENT THROUGH FEDERAL REGISTER NOTICE.—The Secretary shall announce each prize competition by publishing a notice in the Federal Register. This notice shall include the subject of the competition, the duration of the competition, the eligibility requirements for participation in the competition, the process for participants to register for the competition, the amount of the prize, and the criteria for awarding the prize.

(c) ADMINISTERING THE COMPETITIONS.—The Secretary shall enter into an agreement with a private, nonprofit entity to administer the prize competitions, subject to the provisions of this Act. The duties of the administering entity under the agreement shall include—

(1) advertising prize competitions and their results;

(2) raising funds from private entities and individuals to pay for administrative costs and to contribute to cash prizes;

(3) working with the Secretary to develop the criteria for selecting winners in prize competitions, based on goals provided by the Secretary;

(4) determining, in consultation with the Secretary, the appropriate amount for each prize to be awarded;

(5) selecting judges in accordance with section 4(d), using criteria developed in consultation with the Secretary; and

(6) preventing the unauthorized use or disclosure of a registered participant's intellectual property, trade secrets, and confidential business information.

(d) FUNDING SOURCES.—Prizes under this Act shall consist of Federal appropriated funds and any funds provided by the administering entity (including funds raised pursuant to subsection (c)(2)) for such cash prizes. The Secretary may accept funds from other Federal agencies for such cash prizes. The Secretary may not give any special consideration to any private sector entity or individual in return for a donation to the administering entity.

(e) ANNOUNCEMENT OF PRIZES.—The Secretary may not issue a notice required by subsection (b)(2) until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by the administering entity. The Secretary may increase the amount of a prize after an initial announcement is made under subsection (b)(2) if—

(1) notice of the increase is provided in the same manner as the initial notice of the prize; and

(2) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by the administering entity.

(f) SUNSET.—The authority to announce prize competitions under this Act shall terminate on September 30, 2017.

SEC. 4. PRIZE CATEGORIES.

(a) CATEGORIES.—The Secretary shall establish prizes for—

(1) advancements in components or systems related to—

(A) hydrogen production;

(B) hydrogen storage;

(C) hydrogen distribution; and

(D) hydrogen utilization;

(2) prototypes of hydrogen-powered vehicles or other hydrogen-based products that best meet or exceed objective performance criteria, such as completion of a race over a certain distance or terrain or generation of energy at certain levels of efficiency; and

(3) transformational changes in technologies for the distribution or production of hydrogen that meet or exceed far-reaching objective criteria, which shall include minimal carbon emissions and which may include cost criteria designed to facilitate the eventual market success of a winning technology.

(b) AWARDS.—

(1) ADVANCEMENTS.—To the extent permitted under section 3(e), the prizes authorized under subsection (a)(1) shall be awarded biennially to the most significant advance made in each of the four subcategories described in subparagraphs (A) through (D) of subsection (a)(1) since the submission deadline of the previous prize competition in the same category under subsection (a)(1) or the date of enactment of this Act, whichever is

later, unless no such advance is significant enough to merit an award. No one such prize may exceed $1,000,000. If less than $4,000,000 is available for a prize competition under subsection (a)(1), the Secretary may omit one or more subcategories, reduce the amount of the prizes, or not hold a prize competition.

(2) PROTOTYPES.—To the extent permitted under section 3(e), prizes authorized under subsection (a)(2) shall be awarded biennially in alternate years from the prizes authorized under subsection (a)(1). The Secretary is authorized to award up to one prize in this category in each 2-year period. No such prize may exceed $4,000,000. If no registered participants meet the objective performance criteria established pursuant to subsection (c) for a competition under this paragraph, the Secretary shall not award a prize.

(3) TRANSFORMATIONAL TECHNOLOGIES.—To the extent permitted under section 3(e), the Secretary shall announce one prize competition authorized under subsection (a)(3) as soon after the date of enactment of this Act as is practicable. A prize offered under this paragraph shall be not less than $10,000,000, paid to the winner in a lump sum, and an additional amount paid to the winner as a match for each dollar of private funding raised by the winner for the hydrogen technology beginning on the date the winner was named. The match shall be provided for 3 years after the date the prize winner is named or until the full amount of the prize has been paid out, whichever occurs first. A prize winner may elect to have the match amount paid to another entity that is continuing the development of the winning technology. The Secretary shall announce the rules for receiving the match in the notice required by section 3(b)(2). The Secretary shall award a prize under this paragraph only when a registered participant has met the objective criteria established for the prize pursuant to subsection (c) and announced pursuant to section 3(b)(2). Not more than $10,000,000 in Federal funds may be used for the prize award under this paragraph. The administering entity shall seek to raise $40,000,000 toward the matching award under this paragraph.

(c) CRITERIA.—In establishing the criteria required by this Act, the Secretary shall consult with—

(1) the Department's Hydrogen Technical and Fuel Cell Advisory Committee;

(2) other Federal agencies, including the National Science Foundation; and

(3) private organizations, including professional societies, industry associations, and the National Academy of Sciences and the National Academy of Engineering.

(d) JUDGES.—For each prize competition, the Secretary shall assemble a panel of qualified judges to select the winner or winners on the basis of the criteria established under subsection (c). Judges for each prize competition shall include individuals from outside the Department, including from the private sector. A judge may not—

(1) have personal or financial interests in, or be an employee, officer, director, or agent of, any entity that is a registered participant in the prize competition for which he or she will serve as a judge; or

(2) have a familial or financial relationship with an individual who is a registered participant in the prize competition for which he or she will serve as a judge.

SEC. 5. ELIGIBILITY.

To be eligible to win a prize under this Act, an individual or entity—

(1) shall have complied with all the requirements in accordance with the Federal Register notice required under section 3(b)(2);

(2) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen of, or an alien lawfully admitted for permanent residence in, the United States; and

(3) shall not be a Federal entity, a Federal employee acting within the scope of his employment, or an employee of a national laboratory acting within the scope of his employment.

SEC. 6. INTELLECTUAL PROPERTY.

The Federal Government shall not, by virtue of offering or awarding a prize under this Act, be entitled to any intellectual property rights derived as a consequence of, or direct relation to, the participation by a registered participant in a competition authorized by this Act. This section shall not be construed to prevent the Federal Government from negotiating a license for the use of intellectual property developed for a prize competition under this Act.

SEC. 7. LIABILITY.

(a) WAIVER OF LIABILITY.—The Secretary may require registered participants to waive claims against the Federal Government and the administering entity (except claims for willful misconduct) for any injury, death, damage, or loss of property, revenue, or profits arising from the registered participants' participation in a competition under this Act. The Secretary shall give notice of any waiver required under this subsection in the notice required by section 3(b)(2). The Secretary may not require a registered participant to waive claims against the administering entity arising out of the unauthorized use or disclosure by the administering entity of the registered participant's intellectual property, trade secrets, or confidential business information.

(b) LIABILITY INSURANCE.—

(1) REQUIREMENTS.—Registered participants shall be required to obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by—

(A) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out in connection with participation in a competition under this Act; and

(B) the Federal Government for damage or loss to Government property resulting from such an activity.

(2) FEDERAL GOVERNMENT INSURED.—The Federal Government shall be named as an additional insured under a registered participant's insurance policy required under paragraph (1)(A), and registered participants shall be required to agree to indemnify the Federal Government against third party claims for damages arising from or related to competition activities.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) AWARDS.—There are authorized to be appropriated to the Secretary for the period encompassing fiscal years 2007 through 2016 for carrying out this Act—

(A) $20,000,000 for awards described in section (4)(a)(1);

(B) $20,000,000 for awards described in section 4(a)(2); and

(C) $10,000,000 for the award described in section 4(a)(3).

(2) ADMINISTRATION.—In addition to the amounts authorized in paragraph (1), there are authorized to be appropriated to the Secretary for each of fiscal years 2007 through 2016 $2,000,000 for the administrative costs of carrying out this Act.

(b) CARRYOVER OF FUNDS.—Funds appropriated for prize awards under this Act shall remain available until expended, and may be transferred, reprogrammed, or expended for other purposes only after the expiration of 10 fiscal years after the fiscal year for which the funds were originally appropriated. No provision in this Act permits obligation or payment of funds in violation of section 1341 of title 31 of the United States Code (commonly referred to as the Anti-Deficiency Act).

SEC. 9. NONSUBSTITUTION.

The programs created under this Act shall not be considered a substitute for Federal research and development programs.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from South Carolina (Mr. INGLIS) and the gentleman from Illinois (Mr. LIPINSKI) each will control 20 minutes.

The Chair recognizes the gentleman from South Carolina.

GENERAL LEAVE

Mr. INGLIS of South Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on H.R. 5143, as amended, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. INGLIS of South Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H-Prize, an exciting opportunity to do for hydrogen what the X Prize did for entrepreneurial space flight. First of all, it is important for us to get a handle on what our need is, why it is that we are aiming at hydrogen, why we must accelerate the drive for hydrogen.

□ 1045

Probably a picture is worth a thousand words. So here is a picture of a gas line in China. As you can see, if that is the future, our addiction to oil becomes a significant problem for us.

ExxonMobil predicts in their energy report at the end of last year that global energy demand will grow by 60 percent between now and 2030. The challenge, of course, for us in that is that that increase in global energy demand will necessitate a 40 percent increase in OPEC oil production. Even if they have got it, do we really want to be that much more dependent on countries in OPEC?

So the idea is to figure out a way to break our addiction to oil, to move away from this dependence that we are currently in.

The Ansari X PRIZE did for entrepreneurial space flight what the H-Prize can do for hydrogen. As you know, Burt Rattan's spaceship won, became the first private spaceship in commercial use and flew within 2 weeks successfully and back to the Earth. That is the idea; that is the model that we are using here in the H-Prize.

The H-Prize would basically set up three categories of prizes. The first is an every-other-year $1 million prize for breakthroughs in production, storage, distribution and utilization of hydrogen. Every other year, as well, we would issue a prize of $4 million for breakthroughs in prototypes. And then, within 10 years, a $10 million prize for the team that can transform from well to wheels essentially, or as one of our colleagues pointed out, from water to wheels, if you are thinking about splitting water to create hydrogen. That team that can do that transformation would win a $10 million prize, augmented, we hope, by up to $40 million worth of private money that would be added to the prize amount. That private money would be matched dollar for dollar to the venture capital that was raised by the team that does the transformation.

So it is a way of testing the teams' ability to get us all the way to the government's objective, which is not to declare a winner in a science project, but rather, to get all the way to the marketplace. So if a team can do it, if they can break us through to the hydrogen economy, they would get the $10 million, but then they would get a dollar-for-dollar match of up to $40 million if we can raise that private money for their venture capital. And so they would have $50 million to get to the marketplace.

Now, along the way, we have had helpful suggestions from various members of the committee and other Members not on the committee. And it is true that there are other competing technologies. For example, a breakthrough in better batteries could supplant hydrogen. Better solar cells could replace or win out in this race to the fuel of the future. Those, I see, as the three big competitors: hydrogen, solar cells and then better batteries.

What we hope to do in the H-Prize is incentivize the breakthroughs, the creativity that can get us to a hydrogen economy. Along the way I think I am hearing from other Members of Congress about possible other prizes that would incentivize perhaps solar or perhaps better battery technology.

I think it makes sense to have prizes because the beauty of prizes, as we heard from Peter Diamondes, the founder of the X Prize, is, of course, if nobody wins, you don't pay the prize money. So the government basically gets the research done for free until somebody meets the metrics of the prize, and then we award the prize money. So I am very supportive of other prizes.

It is also true that it has worked before. We have actually done prizes in the past. In fact, the transcontinental railroad essentially had some prizes in it, both dollar-per-mile for the railroad companies rewarded by the Congress, appropriations from this body, and also a great deal of land that was offered to the railroads if they could do this, if they could complete the transcontinental railroad.

And, of course, the thing that I think we all need to be aware of is that this was done in 6 years. The transcontinental railroad was begun in 1863, completed in 1869. And you know, there was a lot going on during that time period. In fact, there was the Civil War under way. But the United States, with the support of the U.S. Congress, united east and west within 6 years. We can, because we have done it before.

Now, in 1927 Charles Lindbergh won a prize for being the first to successfully go in a transcontinental flight across the Atlantic Ocean. That is a transatlantic flight over the Atlantic Ocean. And that prize incentivized him and caused him to go for it. There was a lot of risk involved in that, but he won it; and the face of aviation was changed because of it.

So I submit to my colleagues here today that hydrogen is not as far away as we think it is. When we hear people talking about 10, 20, 30 years away, particularly when they get into the 30 kind of time frame, most Americans start putting that way on the back burner and maybe even off of the stove. But it really is not that far away if we get with it.

And the final example I would use for that is when President Kennedy announced in 1961 his goal of getting to the Moon before the decade was out, we did it in 1969. Within 8 years, the mission was accomplished.

It is important to remember that that mission was accomplished using slide rules, not the computers that we have today. So with the capabilities we have today, there is every reason to believe we can break through if we would but just get with it. And I look forward to the debate from colleagues who will share this view that we can get there faster than we think.

Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5143, the H-Prize Act of 2006, an innovative, forward-thinking bill that will spur the application of American ingenuity toward securing our energy future. I applaud Mr. INGLIS for introducing this legislation, and I am proud to have joined him as a chief cosponsor of this bill.

Right now, every American is affected by high energy prices. Working families, small businesses and consumers across the country are feeling the pinch with no end in sight. People aren't just paying more to fill their gas tanks or when they pay for their heating bills for their home; they are paying more at the grocery store, on air travel and for many other daily expenses. Local economies are suffering as people spend more on fuel and less on consumer goods and travel.

The high prices also highlight the fact that the U.S. is too heavily dependent on fossil fuels that we import from unstable parts of the world. To protect our national security, we must become more energy secure.

As we explore ways to bring price relief and bolster our country's energy independence, one significant energy source has emerged as a potential solution, hydrogen fuel cells.

Hydrogen holds great promise to meet many of our future energy needs, and it addresses national security and our environmental concerns. Hydrogen is the simplest, most abundant element in the universe.

Hydrogen fuel cells have already been developed to power cars. Last week I had the opportunity to drive a hydrogen-powered car built by Honda. It did not drive much differently than any other car that we drive, a gasoline-powered car that we have right now, except for the silence of the engine, which I am used to, having driven a Ford Escape hybrid for a couple of years.

Although we do have this car that has been created, we could drive these few on the road, there are significant problems that must still be worked out before we can put a hydrogen car in every garage. For example, the weight of the fuel cells and batteries must be brought down. The range per fill-up must be extended. It is about 200 miles right now on the car that I drove. And most importantly, the price must be lowered very drastically. The car that I drove they told me cost about $1.5 million. So clearly, there are several significant technological advances that we must make. But these are within our reach.

And when these advances are made, hydrogen can fill critical energy needs beyond transportation. Hydrogen can also be used to heat and generate electricity for our homes. The future possibilities of this energy source are enormous.

By utilizing hydrogen, we can and will lessen our dependence on foreign fuels. Right now too much American time and resources are spent dealing with situations caused by our dependence on oil that we import from unstable countries. We must wean ourselves from these unpredictable energy sources while maintaining and strengthening our economy here at home. Hydrogen provides a way to achieve both.

The environmental benefits of hydrogen are also outstanding. When used as an energy source, hydrogen produces no emissions besides water. Zero polluting emissions, an amazing advance over the current sources of energy that we use.

H.R. 5143 seeks the development of needed advances in hydrogen technology by using our greatest national resource, our intelligent and creative workforce. To address our critical energy challenge we must bring our best and brightest to the task, and H-Prize does this.

An economy based on energy outside of fossil fuels is no longer implausible. But to get there, we must invest in research and development. Research grants are the basis of this process, but what we have is a responsibility to find creative and new ways to inspire researchers, business leaders, and our youth to solve the problems that society faces. The H-Prize will help expand the possibilities of hydrogen research, promoting people not normally involved in Federal research and development to explore avenues for a more secure energy future.

Hydrogen has the potential to reduce our Nation's dependence on foreign oil, improve our air quality and maintain our economic competitiveness. And the H-Prize will help take us there.

I thank Mr. INGLIS for his leadership on this important issue, and I am proud to have joined him in this effort. This legislation has involved much bipartisan cooperation on the Science Committee, which I appreciate, and it exemplifies the usual relationship on our committee under the leadership of Chairman BOEHLERT and Ranking Member GORDON.

I hope that we can continue this cooperation on other critical issues related to America's future technological competitiveness. We must work together to encourage the creative talents that have made our country the world leader in technology.

Mr. Speaker, I urge support of this legislation which will provide some of the encouragement that will better our Nation and the world.

I reserve the balance of my time.

Mr. INGLIS of South Carolina. Mr. Speaker, with great appreciation for his skill and efficiency in moving the H-Prize through the committee, I am very happy to yield 5 minutes to the distinguished chairman of the Science Committee, Mr. BOEHLERT.

Mr. BOEHLERT. Mr. Speaker, I rise in strong support of H.R. 5143. And I want to congratulate Chairman INGLIS for bringing forward this initiative and for pursuing it with both energy and open-mindedness.

This bill has moved swiftly through the Science Committee because Chairman INGLIS has been, at the same time, relentlessly focused on his objective and open to compromise. That is how you get things accomplished in this town. We need more Members more able to pair those traits.

The H-Prize this bill creates would similarly allow the government and the Nation to be both focused and open-minded in pursuit of the hydrogen economy.

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Establishing an H-Prize would encourage the Nation's most creative scientists and engineers and the public at large to focus on overcoming the many technical challenges that stand between us and a hydrogen economy.

At the same time, the H-Prize does not presume that any particular technological path will lead us to the hydrogen economy. The bill encourages any interested party to take on the technical risk needed to pursue their particular notion of how to improve their production, storage and distribution or use of hydrogen.

The National Academy of Sciences has encouraged the government to experiment with prizes for precisely this reason. Prizes can draw out new ideas from scientists and engineers who may not be willing or able to participate in traditional government research and development programs, while encouraging them, rather than the taxpayer, to assume the risk.

Congress has been following the academy's lead. For example, the NASA Authorization Act that was enacted last year created a prize program, and the space agency has been implementing it. All of these programs draw on several centuries of successfully using prizes to help spur technological development, from the prize to invent a way to measure longitude, a key to improving shipping, to the prize Charles Lindbergh won for his transatlantic flight. Our hope is that the H-Prize will result in a similar landmark achievement in the history of transportation.

I want to emphasize, though, that the prizes are just one tool we need to use to kick our Nation's addiction to oil.

Prizes need to be part of a balanced portfolio of measures to advance technology, a portfolio that needs to include regulations and tax incentives to create demand for new technologies, and traditional R&D programs to ensure a steady stream of work on a range of short and long-term technological questions.

Moreover, prizes are not the best tools to apply to all problems, but they are especially well suited to hydrogen, because we need to solve major long-term puzzles if the hydrogen economy is to become a reality. We need to elicit every possible idea from every quarter to do that, and we know it is going to take time to figure out what might work.

The bill structures the prize program to attack hydrogen questions in several ways: With biannual prizes for advancements to encouraging ongoing efforts and incremental progress, with biannual prizes for prototypes to encourage continuing work on integrating technologies as they develop, and with a grand prize to encourage work on the toughest show stopper, if you will, problems that could prevent us from using hydrogen as a fuel.

No one knows how all of this will turn out. That is the nature of research and the nature of a prize program. But we know that the potential benefits of hydrogen are worth the rather small investment required for a prize program. Hydrogen holds out the promise of becoming a clean, domestically produced fuel that could displace or even replace gasoline as the way we power our cars and trucks.

To achieve this, we still need to figure out how to affordably produce hydrogen using renewable energy, nuclear energy or coal with carbon dioxide sequestration, how to affordably store hydrogen on board a vehicle, how to make fuel cells and batteries more cheaply and have them operate more efficiently and how to distribute hydrogen economically.

That is a tall order, but it is exactly the kind of long-range effort we need. It is an effort that needs to be combined with proven short-range ways to reduce the use of gasoline like tighter fuel economy standards, which this House is likely to debate next week.

Mr. Speaker, I urge support for this bill, which was approved by the committee by voice vote. It is the right way to help see if we can radically change our energy future. Our dependence on foreign oil is a national security threat.

We have ways to use every weapon in our arsenal, and we need to use them to counter it.

Mr. LIPINSKI. Mr. Speaker, I yield 7 minutes to the gentleman from North Carolina (Mr. MILLER).

Mr. MILLER of North Carolina. Mr. Speaker, I support this legislation, but there is so much more that we need to be doing. In fact, there is so much more that we should have done already. The task before us, the urgent task before us, is to develop a practical, sustainable energy source or array of sources that will allow this Nation to be energy independent without busting the budget of middle class families just to go to work, to take the kids to school, to go to the grocery store.

We need practical, sustainable energy sources that do not emit the greenhouse gases that many scientists, really most scientists now fear will lead to catastrophic climate change, that will forever alter life on this planet, and we need practical, sustainable energy sources that will not so limit our options in foreign policy that we have to be uncritical friends to some of the most unattractive nations or governments in the world.

Mr. Speaker, we do need to pursue research into hydrogen, but we need an effort comparable to the effort during World War II, the Manhattan Project. We need an effort, to use Mr. INGLIS' analogy, like the effort that this Nation had in the 1960s to reach the Moon.

That is the effort we need to put behind developing alternative fuels and conservation technologies and to move those energy and conservation technologies into widespread commercial use.

I have sponsored legislation that Mr. BOEHLERT, the Chair of the Science Committee who spoke a moment ago, and Mr. MARKEY, my Democratic colleague, have introduced that would increase fuel efficiency requirements for cars and trucks to 33 miles a gallon by 2015.

Mr. Speaker, that goal can be achieved now with existing technologies, without any technological breakthrough. I feel almost embarrassed at how modest that bill is, how lacking in ambition that bill is. But even that the leadership of this House has not been willing to bring to the floor for debate and for a vote.

But, Mr. Speaker, in our hearing on hydrogen technology, in our hearing in the Science Committee on the H-Prize legislation, one of the witnesses said that we could achieve cars and trucks that average 100 miles a gallon in the relatively near future if we really put our minds to it.

Why on Earth are we not doing that? Why on Earth are we not acting with the urgency that our energy needs require?

Mr. Speaker, I am pleased that the President's budget this year did increase funding for research into sustainable energy sources. Mr. Speaker, I regret that the President's budget found much of that additional funding from cuts to energy efficiency efforts. We need to proceed on several fronts at one time. We need to proceed without bias, without preconception.

A hydrogen economy or hydrogen fuel cells may not be the winning technology. As several of the speakers have said already, there are huge obstacles to overcome. Yes, hydrogen is abundant, but not as hydrogen. We need to find hydrogen sources, and the present source of hydrogen is by stripping it out of other fuels. Yes, when hydrogen is combined with oxygen to produce energy, that is a clean technology, but stripping hydrogen from fuels now is not clean. It is a very dirty technology, and the usual source of fuels from which it is stripped are fossil fuels, not sustainable, renewable energy sources.

Mr. Speaker, hydrogen technology, to have a hydrogen fuel cell car in every driveway, would make useless the infrastructure we now have, the pipelines, the tanks, the pumps, to transport, to distribute a fuel that is liquid on the planet Earth, which hydrogen is not.

So let's proceed. Let's proceed to develop, to provide an incentive to the private sector to develop the kinds of technologies we are going to need if hydrogen fuel cells are ever to be a practical source of energy for us.

But let us proceed on several fronts. I hope this Congress will be back soon. I will vote for this bill today, but I hope that Congress will be back soon to consider other prizes for energy, other alternative energy sources, other prizes for energy conservation, and that this Congress gives the urgent attention to energy independence, to sustainable energy sources that we desperately need, that the middle class families now paying $3 a gallon desperately need.

Mr. INGLIS of South Carolina. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Pennsylvania (Mr. DENT), who is a cochair of the House Hydrogen and Fuel Cell Caucus.

Mr. DENT. Mr. Speaker, I thank Mr. INGLIS for his leadership on this very important issue.

Mr. Speaker, American economic success has been built on innovation and competition. By competing against one another to build a better mousetrap, so to speak, American entrepreneurs have developed many products, from early incandescent lights to the Model T automobile to sophisticated computer hardware and software products of today, that have certainly made our lives better and our quality of life better.

Today in an era of increasing fuel costs the drive to produce energy economically can be advanced through this same kind of innovation and competition. Fossil fuel technology was the impetus for 20th century industrial development, but today hydrogen holds out promise for being the driver of the economy of the future.

Of course, hydrogen is a fuel that can be produced domestically, thus limiting our dependence on foreign petroleum products. I mean, that is why I rise today in strong support of H.R. 5143, the H-Prize Act of 2006.

As a founding member of the bipartisan Hydrogen and Fuel Cell Caucus, along with Mr. INGLIS and Mr. WYNN and Mr. LARSON, I certainly applaud Congressman INGLIS' leadership on this issue.

I also wanted to point out, too, that in my district, headquartered, is the largest producer of hydrogen in the world, Air Products and Chemicals. They have told me on many occasions that they produce about 1.7 billion cubic feet of hydrogen per day, and they are producing that for refineries, for the U.S. Government, the electronics industries and other process industries.

But the bottom line is, they said that that 1.7 billion cubic feet is enough to power seven million cars, hydrogen cars on the roads. That is a lot of hydrogen, and we can do more.

The H-Prize Act, the H-Prize Act rewards those innovators and creative thinkers who develop innovative hydrogen technologies. It establishes four $1 million prizes, awarded every other year, to the best advances in hydrogen production, storage, distribution, and utilization. It authorizes an additional $1 million to that person or group that develops superior hydrogen-powered vehicles or other hydrogen-based products. It establishes a minimum lump sum of a $10 million prize award for the best transformational changes in technologies for the production and distribution of hydrogen.

Now, as I speak these words today some scientist or engineer is out there thinking of new ways to employ hydrogen technology to better address our needs. It is my hope that these prizes will serve as an incentive to those bright people as they push forward and develop these products and thereby help relieve us from our dependence on foreign energy.

Mr. Speaker, that is why I support this bill.

Mr. LIPINSKI. Mr. Speaker, we have no more speakers, and I reserve the balance of my time.

Mr. INGLIS of South Carolina. Mr. Speaker, I yield 2 minutes to my colleague from South Carolina (Mr. BARRETT), whose district has one of the keys to this hydrogen future, Savannah River National Lab.

Mr. BARRETT of South Carolina. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, today I rise in support of H.R. 5143, the H-Prize Act of 2006, and I want to thank the gentleman from South Carolina and my colleague for being such a strong proponent of hydrogen research in this ongoing energy debate.

Representative INGLIS is one of the leaders on this and I know personally I always turn to him when I need some help and advice. He is a cofounder of the House Hydrogen and Fuel Cell Caucus, a caucus dedicated to moving the country away from its dependence on foreign oil, and toward a hydrogen economy.

The need to reduce our dependence on foreign sources of energy is evident, Mr. Speaker. Our supply simply does not meet our ever growing demand, and we are paying the price at the gas pump every day in this country.

Further, our home State of South Carolina is poised to lead the Nation towards a hydrogen-based economy. The State's strong relationship with the automotive industry, Clemson's International Center for Automotive Research, ICAR, USC's expertise with hydrogen full cells, Aiken County's new hydrogen research laboratory, and the Savannah River site's future with hydrogen research are examples of what we are doing today for tomorrow.

Promoting the hydrogen economy will provide the missing component to our country's energy portfolio, effectively making a strong movement toward energy independence.

Public-private partnerships are a key component to accomplishing energy independence. There is no doubt that the private sector is the engine of growth and breeds innovation and ingenuity.

Mr. Speaker, I applaud Representative INGLIS for understanding the role the Federal Government has and not to come up with the idea or the science, but rather to provide incentives and promote an atmosphere that encourages such research to take place.

Mr. Speaker, I once again thank my good friend for introducing the H-Prize Act of 2006 and urge my colleagues to vote in favor of energy independence by supporting H.R. 5143.

Mr. LIPINSKI. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, again I would like to urge my colleagues to vote in favor of this bill.

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Our Nation's future depends on finding a solution to our critical energy needs.

America has always been at the forefront of technological breakthroughs. We have responded to great challenges, perhaps most famously John F. Kennedy's challenge to land a man on the Moon by the end of 1960s. And we have seen that prizes have a great effect to inspire technological advances. As Mr. INGLIS stated earlier, he talked about Charles Lindbergh, a prize was offered and Charles Lindbergh made that first solo flight across the Atlantic.

The X Prize was put out there and we had the team put together a private flight of a spaceship 100 kilometers above the Earth. Challenges and prizes help spark the imagination of scientists, engineers, and entrepreneurs who invest blood, sweat, tears and large sums of money to achieve a great goal. But perhaps the greatest role that the H-prize may serve is in spurring the imagination of our most valuable resource, our youth.

Back in the 1970s there was great interest in solar power as an alternative energy source. This was largely brought in by the OPEC crisis of the early 1970s, the high oil prices, just as we see today. So there is a great demand. We need something different and solar energy was the big thing that we were looking at.

In my 8th grade science fair project I examined solar energy. I was excited about the thought of moving beyond oil and moving to something that would make us more secure and something that would be clean. I read about it, and I moved forward; I did the science fair project.

Now, my science fair project in my own career as an engineer did not ever find that solution to an alternative energy source. And unfortunately it seemed that we got into the 1980s and what happened? We lost that interest. Interest waned in finding alternative energy.

We cannot afford to let that happen again. All the focus today on energy prices has probably helped to facilitate bringing this bill to the floor for consideration today. Unfortunately, we often only act during crises, which means we do not take the time to think big, to make big plans and to dream big. America has been built on big dreams and hard work. That is what has made America the greatest Nation on Earth. That is why we need to think big in changing the energy that we use today before it is too late, for our environment and for our security. The H-Prize will help in doing this.

Perhaps there is a student out there today whose imagination will be sparked by the H-Prize and he or she may become an engineer and some day help develop the much-needed answers to today's energy problems. I hope that that opportunity is out there today and this H-Prize provides that inspiration to them.

So I ask my colleagues to join me in supporting this bill today, and perhaps one day we will look back on this day when the House passed the H-Prize, look at it as a catalyst that led to a better, cleaner and more secure America and world.

Mr. Speaker, I yield back the balance of my time.

Mr. INGLIS of South Carolina. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, first I would like to thank Mr. LIPINSKI for his cooperative spirit and very helpful comments along the way. Mr. LIPINSKI is our chief cosponsor and someone who has improved the bill as it has worked its way through the process. Perhaps that is because of a pleasant personal relationship and also my respect for his expertise that made it easy for him to work with us, and I appreciate the work that he did to improve the bill.

Along the way we did make improvements through the committee process, and I appreciate the cooperative way that Mr. LIPINSKI and others on the Democratic side of the aisle worked with us in the committee. The result is a better bill and I am very appreciative of that.

Also, Mr. Speaker, I will introduce for the RECORD letters in support of the H-Prize from the National Hydrogen Association, the Hydrogen Advisory Council, the U.S. Fuel Cell Council, SAE International, Shell Hydrogen, BMW, General Motors, Air Products and Chemicals, Inc., Enertech Capital, Ion America, Tiax LLC, Protium Energy Technologies, and professors from USC Davis and Purdue.

Mr. Speaker, I would also like to recognize the great work of our folks on the committee, particularly David Goldston was extremely helpful in making all this happen. He works closely with Chairman BOEHLERT. I also want to thank Mr. GORDON and, again, Mr. LIPINSKI and other members of our staff that made it possible for us to get this quickly to the House floor.

Let me close with this: We have an opportunity to solve America's challenge in energy. It is a Republican problem. It is a Democratic problem. It is an American problem. The good news is, it can have an American solution.

This is an opportunity for a triple play. If we do this right, we can improve our national security by ending our dependence on foreign oil. We will still use foreign oil; of course, we will use oil for a long time, but we can move away from the dependent state that we are in now, dependent on places that are very unstable. So it is an opportunity to improve our national security.

It is also, secondly, an opportunity to create jobs and economic development, because if we can reinvent the car, imagine the jobs we can create.

And then, third, for the third part of the triple play is an opportunity to clean the air. Because whether it is an internal combustion engine, the way that BMW intends to do it, or a fuel cell, the way that General Motors intends to do it, the only emission out of the back of the car is water. We want to incentivize those breakthroughs.

There are some technological hurdles ahead, but with an H-Prize, with the incentive from the Federal Government and the support of the Federal Government saying we are going to do this, we are going to get there, I believe that we will summon the creativity of inventors and investors out there in America and around the world to try to win this prize, and in the process, America will win with a triple play.

Mr. Speaker, the letters I referred to previously are as follows:

HYDROGEN ADVISORY COUNCIL,
May 8, 2006.

Representative BOB INGLIS,
Cannon HOB,
Washington, DC.

DEAR CONGRESSMAN INGLIS: On behalf of the Hydrogen Advisory Council, I want to congratulate you on the movement of H.R. 5143, the H-Prize Act of 2006, through the House Science Committee. We look forward to working with your office in the near future to move this crucial legislation to the President's desk.

As you know, the U.S. spent almost $250 billion on oil in 2005 and 25 percent of America's trade deficit currently comes from importing oil. These staggering numbers combined with growing instability in the world's oil producing regions is very concerning, and the need for a domestic solution to the nation's future energy needs has never been more apparent.

We believe that the solution is hydrogen. Not only does hydrogen provide a clean and renewable source of energy for the U.S., it will help create thousands of new jobs and enhance our national security.

The H-Prize will help move the nation towards this goal. By incentivizing key breakthroughs in hydrogen technology, storage, production, and distribution, the H-Prize Act of 2006 will help speed the hydrogen economy to fruition. Furthermore, the H-Prize will do this in a fiscally responsible way by only awarding prize monies to technologies that reach set performance metrics and by leveraging a combination of federal dollars and private-sector investment without impeding natural market forces.

The Hydrogen Advisory Council fully supports the H-Prize Act of 2006 and will do all it can to assure its future passage and utilization. Thank you again for your continued leadership on hydrogen policy.

Cordially,

ROBERT S. WALKER,
Chairman, Hydrogen Advisory Council.

THE NATIONAL HYDROGEN ASSOCIATION,
May 9, 2006.

Hon. BOB INGLIS,
House of Representatives, Cannon House Office Building,
Washington, DC.

DEAR REPRESENTATIVE INGLIS: On behalf of the 102 members of the National Hydrogen Association (NHA), I would like to extend our hearty support for your H-Prize legislation, H.R. 5143. For over 17 years, we have been an association dedicated to pursuing the research, development and demonstration of hydrogen and fuel cell technologies, leading to a firm basis for establishing and growing a commercial Hydrogen Economy. We believe that this latest version of the bill will have an important affect upon how needed technical breakthroughs occur.

Your bill promises to generate the drama and excitement of genuine technological feats that might otherwise appear obscure. Above and beyond the steady, devoted work of those many scientists and engineers in our strong RD&D programs, we need to build a sense of excitement, of the high value of pursuing difficult tasks—something to dramatize our nation's willingness to invest in this future. Prizes motivate and inspire—if carefully focused, they can truly move technology ahead.

This is something powerful that the federal government can do together with industry, by rewarding imagination and creating the climate for the success of innovation. Whole new industries can be built around these ideas, and we can accelerate the pace of achieving them. Celebrate and accelerate—let's put the hydrogen economy on a faster track.

Sincerely,

JEFFREY A. SERFASS,
President.

U.S. FUEL CELL COUNCIL,
Washington, DC, May 8, 2006.

Hon. ROBERT INGLIS,
Cannon HOB,
Washington, DC.

DEAR CONGRESSMAN INGLIS: On behalf of the U.S. Fuel Cell Council, I am writing in support of the "H-Prize" Act of 2006 (H.R. 5143). The program proposed under this act represents a creative mechanism to encourage high-risk research and development that will help us commercialize fuel cell and hydrogen technologies. Additionally, the H-Prize will help increase public awareness—a necessary component to improve general education and outreach.

In 2003, President Bush and Congress challenged American industry, academia and other institutions to find new ways to reduce our dependence on foreign sources of energy based on hydrogen fuel cell technology.

Congress recognized the need to bolster federal involvement in developing these technologies last year when it passed the Energy Policy Act of 2005. It is our hope that Congress complements this achievement, passes the H-Prize, and funds both programs accordingly.

The U.S. Fuel Cell Council has long held that the development of fuel cell and hydrogen technologies need not be entirely supported by federal investments. That said, establishing an H-Prize can help leverage federal funding in a way that rewards results and compliments DoE objectives.

America is leading the drive to develop fuel cell and hydrogen technology; however, other countries are pursuing very aggressive programs that may soon rival our own. To that aim, we feel that the H-Prize can help America keep its competitive edge as we work to create a cleaner, more efficient and secure supply of energy.

Thank you for your leadership and consideration.

Sincerely,

ROBERT ROSE,
Executive Director.

SAE INTERNATIONAL,
Warrendale, PA, May 9, 2006.

Representative BOB INGLIS,
Fourth District,
South Carolina.

DEAR REPRESENTATIVE INGLIS: I am writing to strongly support the creation and implementation of the "H-Prize" Act of 2006, HR 5143. This Act, creating national prizes for breakthroughs in hydrogen production, distribution, storage and utilization, will greatly enhance the existing work being done in advanced automotive technology research and development and its supporting industries. Being that there is no clear industry consensus on automotive propulsion systems or their fuels for the future, it is clear that a need exists for longer term solutions that will provide energy independence for America, and hydrogen clearly can lead us toward that goal.

It is critically important that research and development activities increase so challenging issues can be resolved sooner than current progress permits, awareness to industry and the public is raised to a much higher level and that preparation for consumer acceptance is advanced beginning in the early phases of hydrogen technology development.

The "H-Prize" will support an important initiative toward our longer term goals by providing near term impetus to encourage innovations and solutions to the challenges posed, I urge you to support this important bill.

Sincerely,

DAVID L. AMATI, Ph.D.,
Director, Automotive Business and Automotive Headquarters.

SHELL HYDROGEN,
Houston, TX, May 9, 2006.

Hon. BOB INGLIS,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN INGLIS: I write to you today in support of H.R. 5143, the H-Prize Act of 2006. I would like to commend you for your leadership in introducing this legislation and recognize the members of the Science Committee for endorsing it as well. The creation of an H-Prize will further raise the profile of hydrogen on the national stage and demonstrate more direct and visible leadership from Congress on an important issue for the economy, the environment and from a national security perspective.

The goal of providing hydrogen as a fuel on a significant scale requires a coordinated undertaking within all levels of government, the automotive industry, and energy companies. The federal government has an important role in fostering technological innovation that has societal benefits—the creation of the Hydrogen Prize is an important step because a hydrogen economy will not emerge by virtue of technology alone. Any further developments will be a combination of technology, economics and policy decisions.

One of the strongest points in support of an H-Prize is the ability to stimulate involvement and innovation across a much broader community than is possible with DOE funding alone. For example, student competitions, universities, small labs, start-up companies, even folks in their garages can participate—which has been a hallmark of American ingenuity and competitiveness in so many other pioneering areas. An H-Prize can only accelerate commercialization and increase public awareness in support of the growing global market.

In closing, I would again like to voice my support of this legislation. It is imperative that we find innovative ways to realize the benefits of hydrogen as a clean, competitive and sustainable energy solution.

Sincerely,

PHILLIP T. BAXLEY,
President.

BMW OF NORTH AMERICA,
Woodcliff Lake, NJ, May 9, 2006.

Hon. BOB INGLIS,
House of Representatives, Cannon House Office Building,
Washington, DC.

DEAR REPRESENTATIVE INGLIS: The BMW Group enthusiastically supports the H-Prize Act of 2006 (H.R. 5143).

The BMW Group strongly believes that liquid hydrogen fueled internal combustion engines are a viable clean energy solution. They will also provide the level of driving dynamics that our customers expect. BMW continues to invest in hydrogen technology and to work with other companies and industries on the infrastructure issues that need to be solved in order to make the use of hydrogen a reality in the United States.

While BMW will compete aggressively to win the H-Prize, the award is more important than an individual corporate victory. It is time for everyone in the country—consumers, government leaders, and industry—to expand their horizons to find new and innovative ways to address energy and clean air issues. The answer will not come from one technology or one piece of legislation or regulation, but from providing incentives to let people explore a range of options to achieve the common objective. The H-Prize initiative supports the "can do" attitude that is such an important part of the American landscape.

Copies of this letter will be sent to the leadership of the House and the Science Committee urging them to support your effort.

Yours sincerely,

TOM PURVES,
President.

GENERAL MOTORS CORPORATION,
Washington, DC, May 9, 2006.

Hon. BOB INGLIS,
House of Representatives,
Washington, DC.

DEAR MR. INGLIS: General Motors is working aggressively to improve the efficiency of our vehicles through the application of new technologies like flex fuel vehicles and hybrid-electric drives. However, we believe that hydrogen fuel cells offer the opportunity to take a quantum leap in reducing our dependence on foreign oil, and the overall environmental impacts of vehicles. GM's goal is to design and validate a fuel-cell propulsion system for passenger vehicles by 2010 which is competitive with current internal combustion systems on durability and performance, and that ultimately can be built at scale affordably.

We believe that H.R. 5143, the H-Prize Act of 2006, could help us reach that goal, and help to hasten the transformation to a hydrogen economy. The bill would establish a series of prestigious, national prizes to attract the brightest entrepreneurs, scientists, and engineers to hydrogen research. Of particular importance, the bill would provide for up to four $1 million prizes biennially for the most significant breakthroughs in hydrogen storage, production, utilization, and distribution; and a biennial $4 million prize for the most successful prototype use of hydrogen.

Taken together, these prizes can help to attract the interest of new companies and researchers to fields relevant to the hydrogen economy. To ensure that this legislation does not have the unintended consequence of reducing the funding available to the Department of Energy's hydrogen and fuel cell programs, we urge you to consider designating the Department of Commerce, for example, to act as the administrating agency—in consultation with the DOE. However, this concern should not delay the House from moving quickly to pass the bill.

We urge the House to pass the H-Prize Act of 2006.

Sincerely,

KEN W. COLE,
Vice President, Government Relations.

AIR PRODUCTS AND CHEMICALS, INC.,
Allentown, PA, May 8, 2006.

Hon. ROBERT D. INGLIS,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE INGLIS: On behalf of Air Products and Chemicals, Inc., I would like to express our support for the "H-Prize" Act of 2006 (H.R. 5143). The program proposed under this act will be instrumental to encourage developments that could lead the United States from our financially draining dependence on foreign oil. Additionally, the projects will be crucial to build public awareness and acceptance of a hydrogen-based fuel economy within the United States.

As the world's leading producer of third-party hydrogen, we at Air Products live the reality of commercial hydrogen production, storage, and distribution—a world largely unnoticed by the general public. Air Products has been providing hydrogen to the U.S. Government, oil refiners, the electronics industry, and other process industries for decades; we currently produce and deliver over 1.7 billion cubic feet of hydrogen per day. This is enough hydrogen to keep 7 million cars on the road, today. We will bring on-stream an additional 240 million cubic feet per day of production in just the next several months, and more capacity will follow.

From our position in today's hydrogen economy, and as a U.S. company, Air Products sees a visible commitment from our federal government as an essential ingredient to accelerate the U.S. toward a more secure future. Our country has established itself as a leader in the hydrogen economy, a justifiable source of national pride that is greatly underappreciated. A critical element in keeping this lead is visible support from the federal government. Moreover, while hydrogen initiatives are advancing, the pace of development could be increased. The fiscally responsible nature of the "H-Prize" program will publicize the realities of hydrogen accomplishments, and encourage additional developments. Americans love a good competition.

We support and encourage the efforts of the federal government to work with industry and academia to drive the U.S. toward a larger-scale hydrogen economy. The "H-Prize" program could contribute greatly to recognize accomplishments that will improve our environment, enhance energy efficiency, and secure future energy supply needs. We look forward to helping to meet the growing clean energy needs of all Americans. Thank you for your consideration, and we trust that your colleagues will support the "H-Prize" initiative.

Sincerely,

THOMAS E. MUTCHLER,
General Manager—Integrated Businesses.

ENERTECH,
Wayne, PA, May 9, 2006.

Representative BOB INGLIS,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE INGLIS: I am writing in support of creation of the "H-Prize" act of 2006, H.R. 5143. This act, when implemented, will create a series of national prizes for the most significant breakthroughs in hydrogen production, distribution, storage, and utilization. I am particularly interested in the grand prize that enables a match of any venture capital raised by the grand prize winner. This may aid in the capitalization and commercialization of important new technologies, and lay the foundation for creation of new jobs and potentially enhance national security.

As a managing partner in one of the most established venture capital funds that has targeted energy and clean technologies, I have a strong interest in encouraging our emerging scientists and engineers to develop breakthrough technologies and solutions which may yield some of the most important venture capital investments ever made in this country.

There are numerous challenges that exist in the development of a viable hydrogen economy. They include: (1) the development of safe, light-weight, low-cost hydrogen storage for onboard vehicles and at refueling stations; (2) the development of inexpensive, durable, and efficient fuel cell systems for vehicle propulsion; and (3) the integration of this technology into the infrastructure and respective supply chains. All of these activities could benefit from a well-designed nationally sponsored competition.

I believe that a competition, as envisioned by the act, will have benefit for individual contributors, venture capitalists interested in the emerging energy technology space, and for the country at large. There is a wide gulf today in the beliefs about the timelines for the implementation of important technologies in the hydrogen arena. This competition may raise the interest, and attention of our scientific community, and enable the continued development of technologies that encounter the gulf between scientific advancement and the first steps towards commercialization.

The announcement of these awards should generate significant press and media interest, and will further raise the awareness among the nation's brightest students, scientists and engineers to this critically important area. We have a tremendous opportunity in this country to turn our attention to a critically important and fundamental need. This H-prize can help direct our best minds towards solving some of the most important energy challenges of our time. I encourage you and your colleagues to support this important bill. Thank you.

Sincerely,

BILL KINGSLEY,
Managing Partner.

ION AMERICA,
Sunnyvale, CA, May 9, 2006.

Hon. BOB INGLIS,
Washington, DC.

DEAR CONGRESSMAN INGLIS: I am writing in support of HR 5143. As the CEO of a leading fuel cell company dedicated to utilizing technology to address our Nation's energy problems. I applaud and support your efforts to create incentives for the private sector to achieve solutions that will help our country succeed in the 21st century.

As you know, 25 percent of America's trade deficit comes from importing oil and the U.S. spent around $250 billion on oil in 2005 alone. It's time to end our oil addiction and one way to achieve that goal is to begin to transition to a sustainable hydrogen economy. By transitioning to hydrogen, we can leapfrog debates on environment and climate change, create thousands of new high value jobs, and enhance national security. The "H-Prize" will help move the Nation towards this transition.

By providing for up to four $1 million prizes biennially for the most significant breakthroughs in hydrogen storage, production, utilization, and distribution; and a biennial $4 million prize for the most successful prototype use of hydrogen, this Act will truly make a difference.

The H-Prize will provide necessary federal leadership to incentivize private dollars without impeding market forces. As with many prizes in the past, the private-sector investment towards winning the prize is often many times the amount of the prize itself.

The H-Prize signals to those of us who are working in clean energy technology that the Federal government is a committed partner in our quest for energy security and a cleaner environment.

Best regards,

K.R. SRIDHAR,
CEO.

TIAX,
Cambridge, MA, May 9, 2006.

Representative BOB INGLIS,
Washington, DC.

DEAR REPRESENTATIVE INGLIS: TIAX LLC is pleased to offer our support of the "H-Prize" Act of 2006 (HR 5143) to establish a series of prestigious, national prizes that would attract leading entrepreneurs, scientists, and engineers into hydrogen research. We believe that the establishment of this prize would accelerate the development of the technologies required for the commercialization of hydrogen fueled vehicles.

The Act would provide up to four $1 million prizes biennially for the most significant breakthroughs in hydrogen storage, production, utilization, and distribution: and a biennial $4 million prize for the most successful prototype use of hydrogen.

TIAX is a leading technology development firm in Cambridge, Mass., with a history of supporting the efforts of DOE and industry in assessing the technologies needed to implement highly efficient hydrogen fuel cell vehicles, as well as other options for improving the fuel efficiency of our transportation system. Our experience in this field suggests that the H-Prize Act of 2006, while certainly not being a substitute for the DOE's current hydrogen program, would greatly help stimulate the creative thinking needed to address the multiple challenges associated with the use of hydrogen.

We believe that the H-Prize would generate significant interest among a wide range of academic institutions and small businesses to accelerate R&D in this complex field. Its existence would likewise emphasize the importance that Congress is placing on addressing our reliance on imported oil with its increasingly negative economic and national security implications.

Please feel free to contact me if I can be of any further assistance.

Best regards,

JOHN M. COLLINS,
President.

PROTIUM ENERGY TECHNOLOGIES,
Emmaus, PA, May 9, 2006.

Hon. BOB INGLIS,
House of Representatives,
Washington, DC.

DEAR CHAIRMAN INGLIS: I applaud you for introducing, and the House Science Committee for moving the H-Prize bill (H.R. 5143) forward for consideration by the full House. Thank you for your vision and leadership in trying to establish a prize program to encourage breakthrough developments in hydrogen technology.

As a hydrogen energy consultancy business owner, and as an individual who has focused his energies over the last 14 years on the development and advancement of hydrogen as an energy option, I can tell you that this legislation will play an extremely important role in accelerating the creation of new energy options for our Nation. That H-Prize Act by establishing a series of prestigious, national prizes will attract the brightest entrepreneurs, scientists, and engineers to hydrogen research. I also believe that the creation of these prizes will serve to invigorate interest on the part of our younger generation, in science and math education, and prepare them to tackle our critical energy supply issues.

The hydrogen economy is not as far away as many think. With key developments in hydrogen technology, we can make our country less dependent on oil and thus more secure; generate jobs and new industry by reinventing the way we power our economy while cleaning up the environment. The $11 million in annual appropriations authorized by this legislation is but a small investment in helping solve one of the major problems faced by society in the 21st century.

In addition to my private business endeavors, I have served voluntarily on numerous public initiatives to promote hydrogen as an energy carrier including serving as a trustee of the National Hydrogen Association (NHA) based in Washington, D.C. and have had the privilege of serving on the Board of Directors for over 10 years including as Chairman during 1997–1999. I respectfully refer you to my web site for more background, www.protiumenergy.com.

In closing I once again want to thank you for your consideration efforts in moving this idea forward and would wholeheartedly urge the House to pass this important supplement to the ongoing Department of Energy Hydrogen R&D program which must continue. My thanks to you and your colleagues for considering this request.

Sincerely,

VENKI RAMAN, PH.D.,
President, Protium Energy Technologies.

Mr. SOUDER. Mr. Speaker, I rise today in support of H.R. 5143, the H-Prize Act of 2006, a bill that represents a significant step towards our Country's energy independence.

The recent rise in gas prices has only magnified the United States' overwhelming reliance on oil. We cannot allow our economy to be held captive by nations such as Saudi Arabia and Venezuela, whose manipulation of the world oil market can cause massive price disruptions at home. Obviously, we need another way.

The forecasts of future high oil prices make possible other options, and to further transition our economy away from its dependence on foreign oil we must pursue all of them—nuclear, renewables such as ethanol and biodiesel, wind, solar—and expand our domestic oil supplies by drilling in ANWR and offshore. One of the most promising of these alternatives is hydrogen power. Hydrogen's huge advantage is that it can be created from virtually any energy source, both conventional or unconventional. Indeed, in my district a company is planning to build a "green hydrogen" plant that will use waste materials that often end up in landfills. Broadening the materials that can be used as primary energy sources increases our chances at reducing our energy imports from overseas. And furthermore, by lowering emissions of pollutants and greenhouse gases, hydrogen power is good for the environment, too.

By establishing a national prize competition for innovations in hydrogen power, the H-Prize Act will summon our Nation's best and brightest to the challenge of overcoming the technical hurdles that stand in the way of the hydrogen economy. Government initiatives are no match for the entrepreneurial power of the private sector to discover a way to make hydrogen a viable alternative to oil.

Mr. Speaker, I commend Messrs. INGLIS, LIPINSKI, and BOEHLERT for their hard work on this bill, and urge my colleagues to support it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, the need for hydrogen energy is vital in a time when our dependence on foreign oil is placing a heavy burden on our economy. H.R. 5143, the H-Prize Act of 2006 will establish a prize competition to encourage the development of breakthrough technologies that would make hydrogen a practical alternative to foreign oil in our transportation sector. Hydrogen holds out the promise of being a non-polluting fuel since water vapor is the only byproduct of consuming it.

Currently, much research is needed in order for hydrogen to be stored, economically distributed, and used efficiently in cars. In order to facilitate this research, prize programs such as this one encourage more work to be done on the matter without putting much money up front. Thus, monetary awards offered for hydrogen production, storage distribution and utilization creation of a working hydrogen vehicle prototype research are essential to promote research in these areas.

Private entities invest far more in research to win a prize than the government pays out in the prize reward. However, making this contest open to all people, especially minorities, women and disadvantaged enterprises, can help contribute significantly to these efforts.

Hydrogen technology seems ideal for a prize contest as long as it is advertised to a diverse segment of the population which includes minorities, women, small and disadvantaged businesses. Since, hydrogen technologies hold the promise of enormous reward, it is wise to encourage all to compete and provide them tools that assist in this area. At the end of the day, the Hydrogen Prize Act will help promote innovative results from a diverse community that will reduce technical and others barriers to the advancement of hydrogen technologies and the betterment of America.

Mr. WELDON of Florida. Mr. Speaker, I rise in strong support of this bill. For several years now, I have been supporting hydrogen research efforts at Kennedy Space Center and at the Florida Institute of Technology. We are making progress, but still have a long way to go if we are to utilize hydrogen as a common source of energy.

The H-Prize Act of 2006, which will advance the research, development, demonstration, and commercial application of hydrogen energy technologies, is a critical initiative in our national efforts to make hydrogen a viable energy alternative.

Hydrogen is a very promising source of energy that is both renewable and environmentally friendly. Most importantly, it is also an energy source that can be generated domestically without relying on imported energy products from unstable regions of the world.

I fully support the format for this initiative, which will award prizes based on the technologies developed. The prize format will save American taxpayers money as compared to the standard funding of research and development programs. Also, The cost to the American taxpayer from the H-Prize program is very minimal as compared to the returns that could be realized through a domestically renewable energy source.

By delivering feasible technologies in the areas of hydrogen production, storage, distribution, and utilization, the H-Prize program will solve the most problematic issues in making hydrogen a workable solution. In addition, the H-Prize program will advance the crucial efforts to develop prototypes of hydrogen-powered vehicles and, eventually, production vehicles.

Taken together, the technological advancements born out of the H-Prize program will deliver transformational changes to our energy and transportation sectors. Creative initiatives like the H-Prize will help us move toward energy independence.

Mr. INGLIS of South Carolina. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CONAWAY). The question is on the motion offered by the gentleman from South Carolina (Mr. INGLIS) that the House suspend the rules and pass the bill, H.R. 5143, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LIPINSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4297, TAX INCREASE PREVENTION AND RECONCILIATION ACT OF 2005

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 805 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 805

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 4297) to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 805 waives all points of order against the conference report and against its consideration. The resolution also provides that the conference report shall be considered as read.

Mr. Speaker, in 2001, 2003 and 2004, Congress enacted responsible tax relief to help create jobs, grow America's economy and allow workers, families and small businesses to keep more of their hard-earned money to save, invest and spend for their future. I believe individuals and families are best able to make these decisions, not the Federal Government.

These tax relief policies are clearly working, Mr. Speaker. Over the last 5 years, tax relief has helped spur economic and job growth. The economy has expanded for 18 consecutive quarters, reaching 4.8 percent growth in the first quarter of this year alone, and the forecast for continued growth is positive.

Since enacting tax relief, national unemployment has dropped over a full percentage point and is now down to 4.7 percent which is lower, Mr. Speaker, than the average of the 1960s, the 1970s, the 1980s and the 1990s. We have experienced 31 consecutive months of job growth, and during that time more than 5 million new jobs have been created.

The Department of the Treasury reported that Federal revenues for fiscal year 2005 totaled $2.15 trillion, the highest level ever; and the increase is 15 percent over last year, which amounts to over $320 billion this year alone. Homeownership is at nearly 70 percent, and the stock market is soaring. Yesterday, the Dow Jones Industrial Average surged within 85 points of its record high, which was reached in January of 2000. A new all-time high could happen any day now.

It is clear that encouraging investment leads to significant job growth which leads to a more prosperous America for America's working families.

The Tax Increase Prevention and Reconciliation conference report before us today protects families, small businesses and investors from tax increases and provides taxpayers with additional certainty. This certainty is vital to continued economic growth.

I would like to take this opportunity, Mr. Speaker, to highlight a few provisions in the conference report that allow small businesses to grow and hire more workers, encourage investment by extending capital gains and dividend income tax relief, and continued relief for millions of middle-income taxpayers from the alternative minimum tax.

Mr. Speaker, small businesses are the backbone of our economy, employing over half of all private sector employees, paying 45 percent of total U.S. private payroll, and generating 60 to 80 percent of net new jobs annually over the last decade.

In 2003, Congress allowed small businesses to keep more of their money through enhanced business expensing. It is vital that we extend tax relief to small business in order for them to grow and hire more workers. This conference report provides small businesses that tax relief.

The alternative minimum tax was originally enacted to ensure that all taxpayers, especially high-income taxpayers pay at least a minimum amount of Federal taxes. However, the alternative minimum tax is not indexed for inflation, and more and more middle-class families are adversely affected by this tax.

In 2001, 1.8 million taxpayers were subject to the alternative minimum tax. And it is estimated, over the next 5 years, 33 million, or one-third of all taxpayers, will be subject to this tax.

This conference report will extend the alternative minimum tax exemption levels through the end of 2006 and at a higher level than 2005. It also will allow taxpayers to claim nonrefundable personal tax credits such as dependent care credit, the credit for the elderly and disabled, and the credit for interest on certain home mortgages against the alternative minimum tax. This will help families continue to receive the full benefit of these tax credits.

This conference report extends reduced tax rates on capital gains and dividend income for an additional 2 years. This extension will continue to encourage investment by lowering the tax burden of 24 million families, including 7 million seniors who depend on dividend income to pay their bills.

□ 1130

Mr. Speaker, the Tax Increase Prevention and Reconciliation Act Conference Report before us today is part of a commitment we made to taxpayers last year when Congress passed a responsible budget that called for spending restraint, slowing the currently unsustainable growth of automatic spending programs and extending tax relief to families and small businesses.

However, let me be clear that this conference report is not our final commitment to taxpayers. Last year, the House and Senate approved extending additional tax provisions that are not part of this conference report, including State sales tax deductibility for those States that do not have an income tax.

I look forward to working with my colleagues to quickly bring a bill to the floor that will extend this important provision as well as others that have expired, such as tax incentives to enhance affordability of higher education and spur innovation in our country through research and development.

Mr. Speaker, I urge my colleagues to support House Resolution 805 and the underlying conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume, and I thank my good friend and namesake from the State of Washington for yielding me the time.

Mr. Speaker, I rise in strong opposition to this closed rule and the underlying legislation. At the outset, Mr. Speaker, let me just say that I truly do not question the motives of my Republican colleagues who genuinely believe, in my judgment, that the legislation they might pass later today will make for good public policy. I do not impugn their motives or question their determination regarding this issue, but I do quite frankly question their fiscal sanity.

It is my belief that cutting taxes to the tune of $70 billion at a time of war and staggering human needs is, well, just financially crazy for a governmental body.

Last week, we debated port security on the floor of this House, and I heard many of my Republican colleagues say that we did not have the money to inspect all incoming containers. Well, here apparently is some extra money for that purpose.

We hear almost daily from the President that the so-called war on terrorism costs a lot of money. In fact, we face emergency spending bills on a near monthly basis in this place. Maybe instead of having the Chinese bankroll us until they call in their chips we should use some of the $70 billion that we are prepared now to give to the wealthiest Americans.

Today's headlines in all three of the biggest papers in south Florida that is represented by Republicans and Democrats, half and half alike, those papers announced the need for more Federal dollars, not a curtailing of services which this bill will ultimately mandate.

The Miami Herald front page says, "Miami Dade 911 System Experiencing Difficulties." Maybe they could use a few of these $70 billion to help upgrade critical emergency communications in the Nation's eighth largest county.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS of Florida. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding and, Mr. Speaker, I think my friend makes an extraordinarily good and important point about the need to ensure that we have the resources that are necessary to fight the global war on terror and to make sure that we are able to meet all of these pressing demands that are there.

The point that I think needs to be made here, and I am going to make it in my remarks in just a few minutes, but when the gentleman was talking about it, it led me to come to my feet.

We have seen a surge in revenues to the Federal Treasury in the areas that we are talking about here, in the area of both capital gains and in dividends with that reduction that has taken place, and I know conventional wisdom in the earliest part of this decade was that if we cut taxes we would see a diminution in that flow of revenues, but between 2002 and 2004 we have seen a 79 percent increase in the flow of revenues to the Treasury because of the capital gains cut and a 35 percent increase because of the dividend cut.

So I think, though, my friend makes an excellent point about the need to make sure we reduce the deficit and have the resources to meet the pressing needs in the global war on terror and all, but the best way to do that is to keep the economy growing, and that is exactly what this package is doing.

I thank my friend for yielding.

Mr. HASTINGS of Florida. Mr. Speaker, I would respond to the chairman simply by saying that you ignore the fact that the deficits are sky high in this surge of revenue of which you speak, and the needs, I might add, of those that are most vulnerable in our society have not been reduced. The poor and the near poor are feeling the effects of us, and what we are really doing is we are taking care of the wealthiest people in our society. As a matter of fact, we fall in that category. Those of us that make $165,000 a year here, we are getting the benefit, and the people at the bottom that we are going to cut the services to are getting hurt.

Mr. DREIER. Mr. Speaker, if the gentleman will further yield, just to take each of the points my friend has mentioned, and I thank him for yielding to me on this.

First, if you look at this issue of the deficit, I do not know if my friend is aware of the fact that we last month saw a monthly budget surplus in the months of December and January, we actually saw a monthly budget surplus, more money coming in than was going out for that month. That is even though we have to deal with the war on terror, the war in Iraq, because of Hurricane Katrina and those very important needs which my friend has addressed so well.

Obviously, meeting the needs of those who are less fortunate is something that is important. I would argue that those in the upper income brackets are paying more, and it is not just my argument. It is actually the facts, and this was pointed out in an op-ed piece the other day.

Americans who are earning in excess of $200,000 a year saw nearly twice, actually more than twice, the amount in tax payments than all other Americans earning less than that, meaning that their payments to the Federal Government, even though they got this tax cut, they were paying more in taxes because of the economic growth that we have seen. Actually, it was nearly 20 percent, and so what has happened is the rich are paying more in tax payments to the Federal Government, and so they are not the great beneficiary of this.

Yes, they are encouraging more investment, but we have seen an increase in the Federal revenues.

Mr. HASTINGS of Florida. Mr. Speaker, reclaiming my time, I have been very generous in yielding, and I hope at some point in the future you will do likewise.

Mr. DREIER. Absolutely.

Mr. HASTINGS of Florida. Mr. Speaker, I hear you, but what you ignore is the fact that when President Bush took office we had a surplus in this Nation and now we have deficits. I mean, we cannot keep swiping the Chinese, Japanese, Saudi Arabian card to pay for the war. You cannot have guns and butter, and I think we have proved that more times than one in this Nation.

Insofar as your argument about the wealthiest paying more taxes, let me just give you today's Washington Post and the analysis that they put forward and just use as a "for example" someone making $40,000 to $50,000. Their average tax savings under this particular measure will be $46. That amounts to just a little bit more than a tank of gas if you ain't driving an SUV, but someone who makes $500,000 to $1 million gets $41,000. The persons, Jane Lunch Bucket and Joe Lunch Bucket, who are in the category of $20,000 to $30,000 get $9. They cannot even buy 3 gallons of gasoline.

The Palm Beach Post front page reads today, "Farm Workers Still Waiting on FEMA Aid," and I know that all too well from the calls in my office every day. So maybe some of my constituents in Bell Glade and Pahokee and Clewiston and South Bay and Canal Point might like to see a slice of this $70 billion kickback we are giving to the most well off in this country.

In the South Florida Sun-Sentinel, a large newspaper where CLAY SHAW and DEBBIE WASSERMAN SCHULTZ and I represent that area, are reports on a theft at a homeless shelter which led to $3,000 worth of spoiled food. So while we give roughly $42,000 tax cuts for those in the country making more than $1 million, a footnote right there: People making $1 million have not been flooding our offices with calls saying give me some more money. They are willing to share. But what we have gotten into is an argument here that seems to make it sound like we do not like rich people. All of us wish we were rich people, but what we are saying is that rich people have the same responsibility as all of us do in sharing and caring about the least of us in this society. People in south Florida and throughout this country are going to go hungry tonight while we go about our business here allegedly fixing their problem.

My Republican friends have and will continue to argue all today that these irresponsible tax cuts establish a strong economy and are necessary to continue this myth of growth. That is just plain old hocus-pocus, and the money that you talk about is funny money, phony money, because the deficit absorbs it any way you look at it economically.

Mr. Speaker, I beg to differ. Facts can be stubborn things, but I think we ought to discuss them anyway. Since this President began to work with this rubber-stamp Congress, 1 million more Americans are unemployed today than there were in January 2001.

Last night, I said to the chairman, if this economy is so good, why is it I feel so broke, and I make $165,000 a year, like every other Member of the House of Representatives, and am barely able to have minimum discretionary income.

5.4 million more Americans live in poverty today than they did 6 years ago, and 6 million more Americans are without health insurance. Some 45 million Americans in all are uninsured.

And these are things we should be proud of? These are signs of a strong economy? Where is the shame? Better yet, where is the decency to those that are the least among us in this society?

How dare we absorb resources to our wealthy selves and cut spending when people here and all over the world expect better of the United States of America.

Some of the same money could be used to take care of the impoverished conditions and the significant number of people that have been pushed into lower than middle class or you could argue intent to eliminate the middle class in this country.

Mr. Speaker, I recognize that others want to speak on this critical issue so I will not go on longer right now. I think, however, that the distinguished Senator in the other body, Ms. SNOWE from Maine, summed it up perfectly yesterday when criticizing this bill. After reflecting on the fact that the preponderance of the benefits of this bill go to upper income people, Senator SNOWE said simply, "It's a question of priorities."

Indeed, it is, Mr. Speaker. We should prioritize those Americans who have the greatest needs, not those who have the greatest wealth, and when I hear the rest of what my colleagues are going to say, they are going to say all the things we are going to do before we get out of here and go have our death grip fight in November about we are going to fix it for the poor. In the meantime, some more poor just got poorer and some more rich just got richer.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield as much time as he may consume to the gentleman from California (Mr. DREIER), the distinguished chairman of the Rules Committee.

Mr. DREIER. Mr. Speaker, I have to say that my friend in his opening remarks said that he did not question our motives, and I appreciate the fact he did not question our motives. He basically said he thought we were insane. He questioned our sanity. I understand that means slightly insane, but the fact is my friends on the other side of the aisle, Mr. Speaker, appear to be fearless in the face of the facts because the facts clearly are that no matter how you try to obfuscate it we are enjoying tremendous economic growth because of the tax cuts.

I am a proud Republican. I am a proud Republican, and by virtue of being a Republican I was born to cut taxes. I am proud of the fact that I was born to cut taxes because I believe that not only should people be able to keep more of their own hard-earned money, but I believe that cutting taxes is what generates the kind of economic growth that will allow us to deal with the extraordinarily pressing problems that my friend from Fort Lauderdale mentioned.

□ 1145

It is clear we want to do everything we can to help the underclass, the poor, those struggling to get onto the first rung of the economic ladder. There is no doubt about that. I do not believe we do anything at all to help those who are struggling by trying to penalize the job creators.

The founder of my party, Abraham Lincoln, said it best, although I guess he didn't actually say it, but he is always credited with saying that you can't pull up the wage earner by pulling down the wage payer.

So the standard old argument of class warfare, us versus them, is a tired, worn and failed argument. I believe we need to do everything we can to again look at the facts. The facts are that the first quarter of this year saw a 4.8 percent gross domestic product growth. Virtually unprecedented, very strong, bold, dynamic growth. We are going to see the Federal Reserve have a 250 basis point increase in interest rates. Why? Because they are making sure we do not go into inflation. I am not a proponent of seeing the 16th consecutive increase in rates, but the fact is we do have a growing economy.

As we look at those who are struggling to get onto the first rung of the economic ladder, it is very important to note that they are individuals who frankly are enjoying a higher standard of living than has been the case in the past.

Last night in the Rules Committee, Mr. HASTINGS and I engaged in a discussion on homeownership and the savings rate. We know it is regularly discussed that Americans are not huge savers. We do not have as high a savings rate as some other countries do, but when you look at the level of homeownership in this country, the highest level of minority homeownership that this Nation has ever seen, in excess of 50 percent of those in the minority community own their homes. On a nationwide basis, it is nearly 70 percent of the American people own their own homes. That is forced savings. As people pay down their mortgages, they are seeing their asset, their savings increased. Obviously as we see the increase in value of property, we are also seeing those savings increased. So that is taking place today.

And to the argument, Mr. Speaker, of this lack of revenues to the Treasury, as I said to my friend just a few minutes ago, during the month of April we actually saw a budget surplus. We saw a budget surplus for the month of April that has come about because of the economic growth that was put into place through these tax cuts.

Now we want to encourage investment. We hear Republicans and Democrats alike talk about the need to encourage investment. Frankly, one of the reasons that this measure is so critically important is that we look at the problem of uncertainty out there.

The reduction of the rate on capital gains and dividends to 15 percent is, if we do nothing, set to expire in 2008. What does that mean? It means there will be a tax increase that clearly will slow the economy if we do nothing. So what is it that we have found by making sure that we keep that rate low and extending it for at least 2 years? I and a majority of this House would like to make it permanent. Unfortunately, because of rules in the other body, we have not been able to make it permanent. But we need to make it permanent and at least extend it for these 2 years. Why? So the job creators out there can plan and save for the future, so they can make long-term investments that will create more jobs and opportunities for the American worker.

Mr. Speaker, if you look at what has happened, again we have seen an increase in the flow of revenues to the Treasury because of what it is that we have done here.

My friend raised concern about middle income Americans. That is one of the reasons that we addressed the so-called alternative minimum tax. The alternative minimum tax, because it was not indexed, is a tax that has not just hit the rich, but has hit middle income wage earners. That is exactly why we will be providing relief to millions and millions of middle income workers in this country with the AMT provisions included in this bill.

I think it is also important for us to note that there are some real specifics we can point to that we have seen by virtue of these tax cuts that were put into place.

In the early part of this decade, time and time again we heard our friends on the other side of the aisle say if you cut taxes the economy is going to go right into the tank and we will see the deficit go sky high when in fact the opposite has been the case in both instances. Between 2002 and 2004 we were able to see a 79 percent increase.

Mr. HASTINGS of Florida. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Florida.

Mr. HASTINGS of Florida. When you speak of the middle class, what is the income of the middle class?

Mr. DREIER. The income of the middle class, that is people earning $40,000 to $70,000 a year.

Mr. HASTINGS of Florida. If the chairman will continue to yield, in the calculations under the AMT as he proposes they will get between $9 and $14. That person in the middle class, how in the world is that helping them?

Mr. DREIER. Mr. Speaker, I thank the gentleman for his question. It is very clear that we are providing relief to middle income wage earners who would get no relief at all under the AMT provisions that our colleagues were very supportive of putting into effect in the past.

We are providing relief because we are seeing their standard of living increase. Obviously we have a lot of problems. Gasoline prices, we want to do everything we can to help us attain self-sufficiency by increasing refinery capacity, dealing with boutique fuels and other problems that are out there. But we have seen the standard of living for the American people improve dramatically because of these tax cuts.

As I was saying, we have seen a 79 percent increase in the flow of revenues to the Federal Treasury between 2002 and 2004 because of reducing that top rate on capital gains to 15 percent. Similarly, from the dividend tax relief we have seen a 35 percent increase.

Again, I would harken back to the arguments that were made in the early part of this decade when President Bush came forward and this Republican supported the notion of reducing taxes to increase economic growth, and the argument that was made was it would ruin us.

We know we have tremendous costs out there. We have costs like dealing with the war, and thank God we are seeing this week under Mr. Malicki's government a new cabinet go into place in Iraq. We are seeing progress there.

Similarly, if you look at the fact that we have tremendous costs related to Hurricane Katrina, unanticipated. We do have responsibilities there. And yes, as my friend from Fort Lauderdale said, it is essential that we do all we can to provide assistance to those who are truly in need and to help them get onto the economic ladder. That is why when you have a 4.7 percent unemployment rate, virtually full employment in this country, we are doing all that we can to find more opportunities, and that is what this measure is all about, and generating the kind of growth that will allow us to have the resources to meet these very pressing needs is essential as well.

If you don't vote for this bill, you are voting for a tax increase, you are voting for a tax increase on those middle income wage earners who are getting relief from AMT and on the job creators out there who are successful.

So I believe we have a win/win. I hope very much we will see Democrats join with Republicans to keep our economy growing, help us meet the pressing needs that are out there, and make sure we can have the kind of success for which the United States of America is known.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume and remind the chairman just one thing: I think everybody in America knows the difference between $9 and $42,000, and under the AMT provision, persons making $40,000–$50,000 get $9. Under the AMT provisions, people making between $500,000 and $1 million get $42,000. That is not rocket science. That is real money that is not going to middle class people.

Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Ms. SLAUGHTER), the ranking member of the Rules Committee, who can talk about industrial circumstances in her district.

Ms. SLAUGHTER. Mr. Speaker, let me first say something about the rising standard of living in America. We have lost over a million manufacturing jobs that were paying good wages with good futures, and many people employed in those jobs, lucky enough to find a second job, found on average they are making $9,000 less a year, plus little or no benefits.

There is no way in the world that can ever translate out to other than a falling of the standard of living in America. Sure, it is better for the guy who retired from Exxon with $400 million, but we are not in that class in Rochester.

Mr. Speaker, leadership is about choices. When this Republican leadership allows a bill to be debated on this House floor, they are in effect telling the American people that this is the most important challenge we face in America today. Why? Because they have chosen this over everything else.

I can tell you with certainty that if Democrats controlled the agenda in the House we would make different choices. Instead of passing yet another tax cut bill that benefits millionaires, billionaires and giant corporations, Democrats would be voting to raise the minimum wage. We would be leading the way to fix our broken health care system, or creating a comprehensive, consumer friendly energy policy.

Today, Democrats would be passing legislation that would ensure a degree of accountability, transparency, integrity and competence in this government, all of which have been missing far too long.

But today, for this leadership, none of these issues which affect the lives of hardworking Americans are as important as providing even more tax cuts for the super-rich, and indeed their record of failure on each of these items I have mentioned is a telling indicator of where their priorities really lie.

There is a widely used saying in the business world that I think is particularly salient this morning. It says the definition of insanity is doing the same thing over and over again and each time expecting a different result.

We have been down this road before and all one needs to do is look around to see exactly where it has taken us. For years this leadership has passed bills that have raised our deficits and increased our staggering debt. And while they give away big tax breaks for the wealthiest corporations in the world and provide more obscene tax relief for the wealthiest 1 percent of Americans, and the rest of America gets left behind holding the check, my friends on the other side will no doubt tell you that this will provide needed tax cuts for the working class and middle class, too. Isn't that what they always say?

But the facts, as usual, tell us a different story. Under this legislation the middle income households receive an average cut of $20, which is less than half a tank of gas.

According to the Brookings Institute which gives figures we use very often here, while 0.02 percent of the households, those with incomes over a million, would receive an average tax cut of $42,000, the bill represents a classic example of what economists call trickle-down economics. By cutting capital gains and dividend taxes and reducing the revenue that the Federal Government receives and redirecting it to the coffers of big business and the superwealthy, the majority tells us they are going to spur investment and create more jobs.

They told us the same thing in the 1980s, too, and it didn't work. Instead of investing that money in our economy, corporations and the super-rich sent our tax dollars overseas, along with our jobs. We ended up with out-of-control deficits and the largest debt in American history, superseded only by the debt we have today.

Ironically, the very man who originally labeled trickle-down theory as "voodoo economics," our current President's father, lost his own Presidency because of the stagnating economy and staggering debt that became the legacy of trickle-down economics in the 1980s.

So why would they be proposing that failed policy once again? Today's Washington Post may have the answer. It described what has truly befallen this majority: a "bankruptcy of ideas."

With Republicans, it is the same story again and again no matter the results. What they have given us, Mr. Speaker, is a commitment to a legacy of failure. The only difference is today the American people's eyes are wide open.

Mr. HASTINGS of Washington. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the chairman of the Rules Committee.

Mr. DREIER. Mr. Speaker, my friend from Pasco understands this very well, and he has done a great job of providing leadership on these economic growth issues.

Mr. Speaker, my friend from Rochester and my friend from Fort Lauderdale are two people for whom I have the highest regard. I really do. I enjoy working with them on the Rules Committee, and I just had the thrill of participating in the Canada-U.S. Interparliamentary Conference with my friend from Rochester, dealing with areas of concern as it relates to our neighbor to the north.

But I have to say, as I listen to the arguments that are being propounded by both of my friends from the other side of the aisle, they represent little more than what I describe as the ideological baggage of the past.

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Now, my friend from Rochester has just talked about the 1980s. It is true that we saw a tremendous increase in spending during the 1980s, a lot of increased spending in the area of national defense. And we saw the demise of the Soviet Union. The Cold War came to an end.

During the 1980s, Mr. Speaker, because of the 1981 Economic Recovery Tax Act, I think I am the only Member on the floor now who was here at that time, and I am very proud to have voted for that. We put into place across-the-board tax rate reductions, marginal rate reductions. And Mr. Speaker, what happened? We saw a doubling of the flow of revenues to the Federal Treasury during the 1980s.

People continue to try and rewrite the history of the 1980s, somehow implying that we saw the U.S. economy go right into the tank. We saw a surge in economic growth and a doubling in that flow of revenues to the Treasury. And so I think that this notion of class warfare, us versus them, is a tired, old, failed one.

Now, my friend just referred to the tax reduction that an American who is earning $40,000 will get juxtaposed to someone who is earning hundreds of thousands of dollars a year, who will get a $41,000 tax reduction. And he referred to the fact that someone will earn $40,000 and get a very small tax cut, and that person in the upper bracket will get a $41,000 tax cut.

I mean, I would ask my friend, does he advocate that the person earning $40,000 a year get a $41,000 tax cut?

Mr. HASTINGS of Florida. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Florida.

Mr. HASTINGS of Florida. Absolutely not.

Mr. DREIER. The point that I am making, Mr. Speaker, is the fact that if you look at someone who is paying taxes, you look at what their tax liability is, and again I get to the point that we raise that we have seen the American people who are earning in excess of $200,000 a year, Mr. Speaker, having a tax payment to the Federal Treasury that is twice that of all other taxpayers, twice that of all other taxpayers, the rate of growth of that.

And so I think that we need to realize it is the job creators who pay taxes and it is the job creators who, with tax relief, will be able to create more opportunity in this country to make sure that those who are less fortunate, those about whom my friend from Ft. Lauderdale and I are concerned.

And to somehow imply that there is not concern on this side of the aisle for those who are trying to have opportunity in this country is a preposterous argument. We care even more, I would argue, because we are the ones who are guaranteeing everything possible to provide them with opportunity will be met.

And so I say, Mr. Speaker, that we are in a position where this measure is going to allow investors to plan and save. It will provide a little certainty. And we need to remember that more than half of the American people, 91 million Americans, are today members of the investment class. One of the things we need to note is that many people who are earning $40–, $50–, $60,000 a year, in fact, the income for the median shareholder in this country is $65,000 a year, not considered to be very rich, but they will be the beneficiaries of keeping this capital gains rate and the dividend rate at 15 percent.

And so that is why, Mr. Speaker, I believe that this is a measure which is going to be beneficial all the way across the board.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume, in large measure to respond to the distinguished chairman from California, who is my friend.

The arguments that Chairman DREIER makes, among other things, are that Ms. SLAUGHTER's and my arguments are tired in the sense that from an ideological point of view, we somehow or another don't understand the dynamics of wage payers providing for wage earners.

Mr. Speaker, we don't have the time to go into every nuance of persons who make a lot of money. But a lot of people that make a lot of money that are going to benefit from this tax don't hire anybody because they don't own any businesses. They have been legatees. Some of them were born rich, and all they have ever had to do is invest. But some people were born poor and have never had an opportunity to get out of that.

In essence, I believe that most Americans are willing to share. Evidence the fact that until very recently, we have been the greatest givers to charity, not the government, but individuals, and that is small and large contributors to charity. We know that there are great moral standards in this country, and among them is the fact that we, as a community, care about each other.

But you cannot convince me that you have been good economic stewards of the revenue that has come into this country. And, Mr. Chairman, you can't have it both ways.

If, as some would argue, the distinguished late President Ronald Reagan's economic policies were successful, and they were successful, those, in part, would argue because of a reduction in taxes, and at that particular time, you argue everything that happened, and you somehow skip over the success of the 1990s, I question whether or not you are mindful that during that period of time taxes were increased.

I was here, you were here when Marjorie Margolis Mezvinsky walked down this aisle in tears and cast her vote and didn't come back here. But the economy in this country took off, and we had a dynamic surplus when Bill Clinton went out of office.

Now, I don't know how you account for the trickle down of Ronald Reagan and then the fact that there was the gap that you don't allow for. But I am asking you to, at the very least, allow for the success during the Clinton administration that nobody can deny. And you can't deny that when you came into power with this President, we had a surplus, and today we have deficits as far as the eye can see.

The American public will eventually understand that we are going to pay for this stuff. And you know where President Bush is going to be? He is going to be back at his ranch. He is going to be doing good things for America as a civilian in 2009 when the baby boomers hit and all of this stuff hits the fan.

Just one more thing. This chart reflects, and I ask you to refute it if you can, Mr. Chairman, that income in dollars, 2005, the average tax saving for people making 10,000 to 20,000 is $2; 20,000 to 30,000, $9; 30,000 to 40,000, $16; 40,000 to 50,000, $46; 75,000 to 100,000; $403, 100,000 to 200,000, $1,388; $1 million, $41,977.

Now, millionaires have a right to have all the money that they can. But if you ask them, I believe that they want to share it with the poor. I believe they want to see that other 50 percent who do not have affordable housing have affordable housing. I think they want to help to cure the problems of AIDS. I don't think that they want to see people pushed out into the streets in nursing homes. I don't think that they want to see the suffering that is going on in the insufferable triumvirate of inadequate jobs, inadequate education and inadequate housing.

There may be this big boom on Wall Street, but on Main Street, there is hell to pay.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS of Florida. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding. And my friend has made several very important points, Mr. Speaker. And let me just go back to his earlier argument about the Clinton years.

The gentleman is absolutely right. We saw a surge in economic growth during the Clinton Presidency. It was economic growth that actually began before he became President. Virtually every economist has acknowledged that economic growth.

Mr. HASTINGS of Florida. Reclaiming my time to ask a question. Are you saying that those tax cuts didn't help this country?

Mr. DREIER. The tax cuts, yes. The tax increases did not help the country.

Mr. HASTINGS of Florida. And are you saying that those tax increases that you voted against and I voted for did not cause this economy to boom?

If we use that argument, my mom used to say something to me that was really interesting. She said, All you all do is go up there and say that the other people did it if it is bad, and if it is good, you did it.

If you use the doctrine of relating back, then if Bush didn't cause the deficit and Clinton didn't cause the surplus, and former President Bush didn't cause anything, and Reagan caused the economy to take off, by that standard, George Washington did it. My goodness gracious, man. The 1990s were real.

Mr. DREIER. If the gentleman would yield, I was just building my argument to talk about the great policies of President Clinton.

Mr. HASTINGS of Florida. I yield to the chairman.

Mr. DREIER. I thank my friend for yielding.

And, Mr. Speaker, what I was arguing is the fact that the economic growth that we saw during the 1990s began before Bill Clinton became President. Virtually every economist has acknowledged that.

Now, in 1993, we saw the largest tax increase at that time in our Nation's history. It was put into place, and I voted against it. I said, I am a Republican and I was born to cut taxes. I am proud of the fact that I voted against that tax increase.

I will never forget, late one night, Bill Clinton, in giving a speech to business leaders in Houston, Texas, said that he believed that that tax increase in 1993 was too much. He said he raised taxes too much. He later regretted that. He said that his mother told him he shouldn't, when he was tired, give a speech like that.

But the fact is I believe the truth came out in that speech that he delivered in 1994. I don't remember exactly when it was. But the tax increase went into effect in 1993.

Then we need to look at what happened in the 1990s. A year after the largest tax increase was put into place by President Clinton, what happened? For the first time in four decades the body that, according to article I, section 7, of the U.S. Constitution has the responsibility for taxing and spending changed hands. And what happened? In 1994, we won our majority, 12 years ago. And we immediately began our quest to cut taxes.

Mr. HASTINGS of Florida. Reclaiming my time, Mr. Chairman.

Mr. DREIER. It was a joint effort with President Clinton is what I am saying.

Mr. HASTINGS of Florida. A joint effort speaking well for divided government, and the precursor to what is coming in November when doubtless we have divided government again.

Mr. DREIER. God forbid.

Mr. HASTINGS of Florida. And we have secured the deficit that you created, or maybe it was George Washington.

Mr. Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, this has been an absolutely fascinating exchange between my friend from Florida and the distinguished chairman of the Rules Committee, and I have been enjoying it. This is exactly, I think, what our Founders thought the House should be is a time to debate great ideas and come to conclusions and so forth.

Let me make a few points here that were made and just kind of, hopefully, put things into perspective.

I think this rule that will support the underlying bill is a very good rule. I think the underlying bill is a very good rule.

My friend from Florida talked several times about the deficit. I am concerned about the deficit too. But I think you have to put this into some sort of a historical perspective. Right after the war, Second World War, the percentage of the deficit as it related to GDP was extremely high. I think it was well in excess of 10 or maybe even 15 percent.

This year, according to CBO, the deficit as a percentage of GDP is 2.6 percent. To put that into perspective, during the 1980s it was in excess of 5 percent before the economy started to grow.

If we maintain this policy, and we certainly have a responsibility in this body to control the spending, not only discretionary spending, but mandatory spending, which we did last year in our budget resolution, and which we want to do again this year with our budget resolution, if we stay the course on that, the percentage of debt, as opposed to GDP, will be down to less than 2 percent. I think that is a trend in the right direction.

Mr. Speaker, I think this, as I mentioned, is a good rule. The underlying bill is a good rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. CONAWAY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

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GENERAL LEAVE

Mr. COLE of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on House Resolution 806.

The SPEAKER pro tempore (Mr. JINDAL). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 5122, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

Mr. COLE of Oklahoma. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 806 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 806

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5122) to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2007, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. After disposition of the amendments printed in the report of the Committee on Rules, the Committee of the Whole shall rise without motion. No further consideration of the bill shall be in order except pursuant to a subsequent order of the House.

The SPEAKER pro tempore. The gentleman from Oklahoma (Mr. COLE) is recognized for 1 hour.

Mr. COLE of Oklahoma. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from California (Ms. MATSUI), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, on Tuesday the Rules Committee met and reported a rule for consideration of the House report for H.R. 5122, the Fiscal Year 2007 National Defense Authorization Act.

Mr. Speaker, the rule is a structured rule. It provides 1 hour of general debate equally divided and controlled between the chairman and the ranking minority member of the Committee on Armed Services. It waives all points of order against consideration of the bill.

Additionally, it provides that the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read.

It waives all points of order against the amendment in the nature of a substitute recommended by the Committee on Armed Services and makes in order only those amendments printed in the Rules Committee report accompanying the resolution.

Furthermore, it provides that the amendments printed in the report accompanying the resolution may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

The rule waives all points of order against the amendments printed in the Rules Committee report, and the rule provides that after disposition of the amendments printed in the Rules Committee report, the Committee of the Whole shall rise without motion and no further consideration of the bill shall be in order except by a subsequent order of the House.

Mr. Speaker, today I rise in support of the rule for H.R. 5122 and the underlying legislation. This important legislation takes a number of dramatic steps to better the lives of our servicemen and women, increase our defense capabilities, and more aggressively conduct operations in the generational global war on terror that is now under way. It is a bill that fundamentally addresses many of the transformative challenges for the future and provides many of the interim steps to meet those challenges.

Mr. Speaker, as a member on leave from the House Armed Services Committee and a member of the Rules Committee, I firmly believe that this legislation takes the appropriate and necessary steps to better secure America's security and more successfully prosecute the war which we were drawn into on September 11, 2001.

To fully appreciate the significance of H.R. 5122, one most understand the four long-term challenges that we face in the 21st century security environment. Briefly put, these challenges are, first, responding to the dramatic procurement holiday we took in the 1990s; second, responding to the operational demands for the transformation of our forces; third, responding to the operational and strategic demands for increased end strength; fourth, shaping our military for a generational war, the global war on terror.

Mr. Speaker, these challenges are not options. They are requirements that the Armed Services Committee must address on a continuing basis. I am happy to report that there is a bipartisan agreement that the committee has done precisely that in H.R. 5122.

The gentleman from California, Chairman HUNTER, and the gentleman from Missouri, Ranking Member SKELTON, have worked in a good, bipartisan way to bring forward a legislative package that we may all be proud of. Now it is important that we collectively, as the House, support our deployed servicemen and women by supporting the underlying legislation.

Mr. Speaker, I firmly believe that this legislation responds in a dramatic way to all the long-term challenges that we face. Being specific, the underlying legislation increases the procurement accounts by approximately $9 billion over fiscal year 2006 and effectively replenishes several historically underfunded accounts.

Mr. Speaker, this legislation also takes dramatic steps forward in transforming the nature and the structure of our operational forces by funding the Brigade Combat Team conversions for the Army, addressing the needs of the Navy's future shipbuilding program and increasing the end strength of the Army by 30,000 soldiers and 5,000 Marines to the Marine Corps to better support the war on terror.

Moreover, Mr. Speaker, the underlying legislation takes dramatic steps to better ensure our long-term success in the global war on terror. Specifically, this legislation includes a $50 billion allocation of supplemental funding to support ongoing war-related costs and procurement of replacement equipment.

It significantly increases personnel protection efforts with respect to improvised explosive devices and authorizes support for shipyards to maintain the long-term operational success and stability of the shipping industry critical to all of our services.

Also, the underlying legislation supports troop morale and welfare by ensuring a 2.7 percent pay raise and blocks the Department of Defense's proposed TRICARE Prime and TRICARE Standard fee increases and zeroes out copayments for generic and formulary mail order prescriptions for military beneficiaries.

Mr. Speaker, over the next 2 days, we will hear arguments in favor of specific amendments that do not relate to our four long-term challenges, nor do they address the subject matter of the underlying legislation in any real way.

We will also hear arguments attacking the executive and our progress in the war on terror. Those discussions are appropriate, but they do not really relate to the purpose of this legislation.

I would caution those who would like to politicize the defense authorization bill that this legislation is absolutely essential to our servicemen and women deployed overseas in a wartime deployment. The operational situation will not change through continuing attacks on the choices that we collectively as the House have made in the past.

Our focus should be to advance our Nation's and our servicemen and women's interest by providing them with the tools they require to be successful. The underlying legislation does just that.

Mr. Speaker, additionally, some Members may want to engage in debate that is essentially tangential to the issue at hand. What we must remember is that this bill is a finely crafted piece of legislation that attempts to bridge the policy and political divide to do what is best for our servicemen and women.

Fundamentally this legislation moves us in the proper direction. No bill is perfect. However, this bill is a very good piece of legislation that increases our security, assists in prosecuting our global war on terror, protects our troops and enhances the lives of our servicemen and women.

Mr. Speaker, to that end I urge support for the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I thank the gentleman from Oklahoma for yielding me this time, and I yield myself such time as I may consume.

Mr. Speaker, the resolution we are now considering allows for general debate of the fiscal year 2007 defense authorization bill and also makes in order a limited number of amendments.

The annual defense authorization is one of the most critical bills Congress considers. It serves two roles. First, for national security, it is a blueprint to ensure our military has the resources and tools to meet any threat from abroad.

Second, and just as important, this bill provides for the men and women standing on the front lines of our Nation's defense. These men and women work tirelessly to protect this country. It gives me great pride to support the most professional and dedicated military in the world.

For all that we ask of them, these individuals, be they members of the Army, Navy, Air Force, Marine Corps, Reserves or National Guard, ask very little of us in return. What they ask is that we provide the equipment they need to get the job done, provide for them and provide for their family.

So, Mr. Speaker, it is with these two key points in mind, our national security and our duty to our troops, that many of us were dismayed by several of the President's proposals for the Defense Department.

Our National Guard is an important source of strength for this country, both overseas and here at home. Whether they are risking their lives in combat or overseas or bringing order to a stressful situation after a natural disaster, it is clear that our National Guard is worthy of our strong support. The twin challenges we faced this year with Iraq and Hurricane Katrina could not have made this point more clearly.

I would like to thank the committee for preserving our Guard strength despite the President's recommendation to Congress to reduce the strength of the Army and National Guard by 17,100 and the Air Guard by 5,000.

From California alone, about 9,100 of our National Guard soldiers have been called to active duty. Almost 3,800 are still deployed, and another 2,300 are expected to be called up. Among those who recently returned after an 18-month tour are 350 soldiers from the 1–184 and 174 members of the 2668th Transportation Company. Both groups are from my hometown of Sacramento. Weakening the Guard in this manner only serves to weaken our security.

The strains of our current force strengths are already evident: In Iraq, too many Guard and Reserve have borne a heavy burden, some with multiple tours of duty. At home, we must have a strong responsive Guard if we are to be prepared for future natural disasters. Louisiana, facing one of the Nation's worst natural disasters, found its response efforts further hamstrung when one-third of its National Guard was serving in Iraq.

I also appreciate the committee's decision to include $300 million for equipment for the National Guard. This is a strong acknowledgment of the very real impact the war in Iraq is having on the Guard, and it is a strong signal that to be prepared in the future current preparedness is essential.

At a time when we are relying so heavily on our Armed Forces, there was also an attempt to urge Congress to allow an increase in premiums and fees for the military's health care plan TRICARE. Thankfully, this bill contains no such ideas, and I applaud the committee's decision to work in a bipartisan fashion to meet the needs of our troops. However, I am deeply concerned about one recommendation made that the committee did accept. This proposal would result in increases in TRICARE prescription drug copays.

☐ 1230

If passed without further amendment, this legislation would double copays for generic drugs, and raises the costs of name-brand drugs 75 percent.

This potential increase in copays could be devastating to a young family. It is not enough to exempt mail orders from this hike. Our troops should have a guarantee that as they are serving on the front lines, their families back home are not presented with impossible choices because of financial hardship.

I mentioned the 2668th Transportation Company having recently returned from Iraq. During their deployment, I was privileged to sit down with the family members of these soldiers. They conveyed to me that for their family, the last thing the spouse serving overseas should be worrying about is whether their family is provided for.

The esteemed ranking member on the committee, Mr. SKELTON, proposed an amendment in committee which would have blocked these large copay increases. Unfortunately, it was narrowly defeated, by just two votes. I hope that the Rules Committee allows the Skelton amendment as part of a second rule on the floor tomorrow. Such an important change should be debated in the most open manner possible on the House floor.

I would also like to highlight an additional Democratic amendment that has not yet been made in order from Mr. ISRAEL. Today's military manual currently includes complete guidelines for the role of military chaplains, who play a critical role in the spiritual lives and health of our troops. Despite this, the underlying bill usurps that local control with language that the rear admiral in charge of Navy chaplains says will "degrade military chaplains use and effectiveness to the crew and commanding officer."

Mr. Speaker, I will include the letter from the Department of Navy for the RECORD.

If the language cannot be removed from the bill, the House should at least allow debate on Mr. ISRAEL's amendment. The language should be corrected so that it more closely mirrors current military manuals. I hope this amendment is made in order before we finish the bill.

As I conclude, I would like to commend the committee for their decision to authorize funds for the costs of the first 6 months of the wars in Iraq and Afghanistan in fiscal year 2007. This provision will allow Congress to resume its important oversight responsibility. Its inclusion is also an opportunity for this institution to discuss one of the largest issues facing this Nation, the war in Iraq. While we may all not agree, it is our duty as Members of Congress to discuss and debate our Iraq policy, as I know Ranking Member SKELTON has urged. I hope we may have more opportunity soon. With that in mind, this bill is an important first step.

Mr. Speaker, I include for the RECORD the letter from Rear Admiral Iasiello, Chief of Navy Chaplains.

DEPARTMENT OF THE NAVY,
Washington, DC, May 9, 2006.

Hon. STEVE ISRAEL,
House of Representatives,
Washington, DC.

DEAR MR. ISRAEL: In response to your inquiry regarding the Department of the Navy's position on Section 590 of H.R. 5122, the Department has concerns with the proposed language. It is the Department's position that the proposed section will lead to confusion, compromise, and loss of credibility of religious ministry and chaplains services for the men and women of the sea services.

The chaplain's role in the Navy is as naval officer, counselor and religious advisor. The chaplain is assigned to commands to help commanding officers administer their religious ministries program. The chaplain is a representative of his or her faith group and provides or facilitates for the religious needs of all members of the command. For this reason, it is essential that the chaplain possess the trust and respect of all the crew, not simply the members of his or her own faith group. The proposed language will alter this historic relationship and responsibility of chaplain's to their commanding officer and their crew.

Primarily I have three concerns with the proposed language:

The language ignores and negates the primary duties of the chaplain to support the religious needs of the entire crew and to be a faithful representative of the chaplains endorsing faith group. Current practice carefully balances establishment of religion with free exercise of the chaplain and crew's religion, by providing almost unlimited opportunity for the chaplain to pray according to his conscience and faith and providing safeguards where he or she cannot be forced to violate their conscience in all matters regarding religious ministry. It also ensures a commanding officer can balance religious needs and provide a non-coercive, non-denominational spiritual presence during command functions.

The proposed wording will compromise religious ministry for Sailors and Marines. By allowing chaplains to lead prayers in nearly all situations, potentially independent of the endorsing faith group and legitimate concerns of the command and crew, chaplains will be independent agents operating outside the military command structure. Commanders, who must ensure good order and discipline in their commands, will have no choice but to limit chaplain access to the crew to preserve such good order, discipline and morale. Commanders will have no choice but to limit chaplain access to the crew in order to ensure good order and discipline.

The proposed section will also lead to a loss of credibility for religious ministry and chaplains services to all military members. The U.S. military has always recognized that those given the high privilege of serving as chaplain do so with an obligation to meet the needs of all members of the command regardless of religious preference. It has made chaplains part of the command structure with recognized credibility. The proposed language opens opportunity to drive wedges into the Chaplain Corps due to the emphasis it puts on each chaplain doing that which is right in his or her own eyes. It also offers chaplains a role outside of the command structure, by offering him or her prerogative outside what the command needs for good order, discipline and morale.

This proposed legislation will, in the end, marginalize chaplains and degrade their use and effectiveness to the crew and the commanding officer.

Thank you for the opportunity to comment on this important issue and I appreciate the support you provide the fine men and women of the Department of the Navy.

Sincerely,

L.V. IASIELLO,
Rear Admiral, CRC, U.S. Navy
Chief of Navy Chaplains.

Mr. Speaker, I reserve the balance of my time.

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentlewoman for her recognition of the National Guard. I share her admiration and appreciation for that splendid service. I certainly appreciate her remarks and the bipartisan way in which we arrived at a common agreement on end strength, and also appreciate her praise for the committee's strong bipartisan work on TRICARE, while recognizing she would prefer to go a little bit further. But I think we certainly went much further in both those areas than the original administration proposal.

Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I rise today to express my strong support for this rule and the underlying legislation, H.R. 5122. I would like to commend Chairman HUNTER, Ranking Member SKELTON, my colleague on both the Rules Committee and the House Armed Services Committee, Mr. COLE, and thank him for this time: and all of the Members of the Armed Services Committee for their hard work on this legislation in support of our soldiers, sailors, airmen and marines who are bravely defending us at home and abroad.

Mr. Speaker, this bill does a remarkable job covering a wide scope of issues that are vitally important to our armed services, both active and Reserve components. It clearly meets the immediate needs of the warfighter. From a 2.7 percent across-the-board pay raise to an additional $50 billion to prosecute the war on terror, this legislation addresses the most pressing needs of our troops in a very trying time for America.

H.R. 5122 also recognizes the perils of cutting force numbers at a time when our troops are stretched thin by increasing both active duty personnel and National Guard end strength.

For our deployed soldiers, this legislation authorizes additional funding for their force protection and needs and support of Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom, to include up-armored Humvees, Humvee IED protection kits and gunner protection kits, and, perhaps most importantly, improvised explosive device jammers and state-of-the-art body armor to protect our brave men and women from roadside bombs.

Speaking on behalf of my district, Mr. Speaker, I am so grateful for the hard work of the House Armed Services Committee this year in authorizing funding for 20 F-22 Raptors, as well as conditionally approving the multiyear contract. Authorizing funding for the procurement of C-130Js and for the modernization of the C-5 will go a long way toward providing stability for our forces and ensuring that America maintains a modern airlift capability for the foreseeable future.

Finally, Mr. Speaker, I am especially appreciative for the efforts of Chairman HUNTER and subcommittee Chairman MCHUGH in listening to my concerns and addressing the needs of the families of our fallen soldiers.

Mr. Speaker, a brave young man from my district who heroically gave his life for our country, Sergeant Paul Saylor, from Bremen, Georgia, his family was not able to view his remains for a final time when his body was returned. With the help of Chairman HUNTER and Chairman MCHUGH, H.R. 5122 includes a provision requiring the Department of Defense to train health care professionals on the best practices for the preservation of remains following field combat death. With this provision, we are taking steps to ensure that we can honor the remains of our fallen heroes with the dignity and respect they and their families deserve.

Mr. Speaker, again, I would like to thank the chairman and the ranking member of the committee for their hard work, as well as my colleague, Mr. COLE. H.R. 5122 is a strong bill. We can be proud of it, and it deserves the unanimous support of this House.

Ms. MATSUI. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I rise to urge my colleagues on the Rules Committee to make in order my amendment to save Santa Rosa Island in the second rule. Santa Rosa Island is part of the Channel Islands National Park located in my district. This bill kicks the public off the island, which the public bought for $30 million in 1986.

The bill prohibits the Park Service from carrying out a court-ordered settlement to phase out and shut down the privately run, extremely lucrative trophy hunting operation on Santa Rosa Island, as ordered, by 2011 and requiring removal by that date of non-native deer and elk. This ridiculous provision has no place in a Defense bill. There have been no hearings, the Pentagon hasn't requested it, and the Park Service strongly opposes it.

Under this provision, the former owners of the island, who were already paid $30 million, will continue this money-making trophy hunting operation indefinitely. Since hunting basically closes the island to the public for 5 months a year, taxpayers will keep getting shortchanged.

In addition, the Park Service's plans to expand visitor services will be halted and the huge non-native herds will continue to threaten several endangered species on the island.

It remains unclear why this provision was even in the bill. The chairman has said it was to increase access to the island for veterans. But veterans can visit today, and the park superintendent has offered to work out any accessibility problems, if they are identified.

There is also a fuss about how this will protect the deer and elk from extermination. Nonsense. These privately owned animals are presently required to be removed from the island, not killed. And since when was an effort to keep hunting animals a strategy for protecting animal rights?

I have here a letter from many groups opposing this provision, including the Humane Society, which I will include as part of the RECORD.

Mr. Speaker, this provision is a travesty. It is an affront to all taxpaying Americans. That is why I hope the Rules Committee will make my amendment in order for the second rule. It will give us an opportunity for debate and the ability to strike this shameless provision and let all American taxpayers, including veterans, enjoy their own national park.

Mr. Speaker, I include the letter from the various groups opposing this provision for the RECORD:

MAY 10, 2006.

DEAR REPRESENTATIVE: On behalf of the millions of members represented by our organizations, we write to express our strong opposition to Section 1036 of the FY 2007 Defense Authorization Bill put forth by Representative Duncan Hunter concerning Santa Rosa Island, part ofthe Channel Islands National Park.

Section 1036 would counteract restoration efforts at the national park, as well as decrease public access to the park. The proposal represents a severe threat to the recovery and survival of 3 subspecies of the island fox that are each listed as endangered under the federal Endangered Species Act. This unique fox species is found nowhere else in the world and only 32 wild foxes currently exist on Santa Rosa Island. The proposal would undermine the immense amount of time and resources that have been spent to address the recovery needs of this species on the island.

The provision would close off a portion of the island to the public, and undermine a court ordered settlement that calls for the phase out of hunting on the island over the next five years. The current court settlement regarding hunting on Santa Rosa Island requires that Vail & Vickers Inc., which owned the island since 1902 and sold it to the National Park Service in 1986 for about $30 million, phase out deer and elk hunting by 2011. The hunting currently prohibits full public access to the park as portions open to hunting are closed to the public. Maintaining populations of non-native species for the expressed purpose of hunting is contrary to the intended purpose of the island as a national park.

In short, Section 1036 of the FY Defense Authorization Bill would undermine the ongoing and successful work to restore the island, including the recovery ofthe federally endangered Channel Island fox, and greatly reduce the accessibility and ultimate value of the Channel Islands National Park.

The National Park Service is strongly opposed to this provision and the Defense Department has not requested it. We strongly urge you to oppose this unnecessary provision that will harm both restoration and public access on one of our nation's crown jewels, the Channel Islands National Park.

Sincerely,

Kieran Suckling, *Policy Director, Center for Biological Diversity*; Mary Beth Beetham, *Director of Legislative Affairs, Defenders of Wildlife*; Liz Godfrey, *Program Director, Endangered Species Coalition*; Dr. C. Mark Rockwell, D.C., *Vice President, Conservation Northern California Council Federation of Fly Fishers*; Nancy Perry, *Vice President, Government Affairs, Humane Society of the United States*; David K. Garcelon, *President Institute for Wildlife Studies*; Karen Steur, *Vice President, Government Affairs, National Environmental Trust*; Blake Selzer, *Legislative Director, National Parks Conservation Association*; Emily Roberson, Ph.D., *Director, Native Plant Conservation Campaign*; Karen Wayland, *Legislative Director, Natural Resources Defense Council*; and Sara Barth, *California/Nevada Regional Director, The Wilderness Society*.

Mr. COLE of Oklahoma. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from California (Mr. HUNTER), the distinguished chairman of the House Armed Services Committee.

Mr. HUNTER. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I want to talk about this great bill, because it is an important bill for America.

Let me just lead by following my good colleague from California, Mrs. CAPPS, with the statement about Santa Rosa Island, which is a very small part of this bill. It is important that the gentlewoman knows that there was virtually one sentence in our Defense bill with respect to Santa Rosa Island. It doesn't prohibit anybody from enjoying the park or the transfer from taking place or the court-ordered operation or transfer from the private entity to the public entity to take place. It only says one thing: Don't exterminate the deer and elk that are on that island.

The court-ordered plan is to exterminate them, and a number of disabled veterans, if you would read the letter from the Paralyzed Veterans of America, would like to keep that population of deer and elk on the island after it comes over to government ownership. I think that is wise also, because the chronic wasting disease and brain disease in deer and elk is sweeping the western United States right now, and that herd that we have offshore on Santa Rosa Island could be a vital restocking resource if, in fact, we have chronic wasting disease rise to a pandemic proportion in the West.

It is a little, protected group of animals there. This is not any big deal in terms of stopping anybody from using that huge island. It just says, don't exterminate all the deer and elk, and the court order says to shoot the last of them from helicopters. We agreed with the Paralyzed Veterans of America that it would be nice to have a small herd there where veterans, disabled, paralyzed and others, could enjoy that resource.

Let me talk about this bill a little bit, because this is a tremendous bill and it has been put together on a bipartisan basis. I want to thank Mr. SKELTON for all the great work he did. I want to thank the Rules Committee.

This bill provides for the protection of our soldiers in theater, in the shooting wars we are engaged in right now in Afghanistan and Iraq and the global war against terror, and it also looks over the horizon and provides for new equipment, new trucks, tanks, ships, planes and new technology to protect our country.

On the force protection side especially, we put in over $100 million in additional money for jamming devices to handle roadside bombs. We put in new and improved armor. Our laboratories and the private sector are developing new technology all the time. We have new and improved armor, both in platforms and in body armor, that we are bringing to the field to try to give our troops more and more ballistic protection and protection from fragments. So we truly have a troop protection package in this bill that is going to be very important for everyone who cares about folks in uniform.

We also have some long-range proposals in this bill. For example, we think it is important to keep some of the stealth aircraft around for a while longer than the administration thought. Those great stealth aircraft, like the F–117s that did only a couple of percent of the missions in the first gulf operation, yet knocked out over 20 percent of the targets, that combination of stealth and precision munitions is a very, very important capability for the United States and we don't want to retire those birds too early.

We also feel that in this bill retiring our B–52 force to the degree that is recommended by the Air Force is not providing as much insurance as we need for deep strike capability, the capability to deliver precision munitions at great distances. So we have moved to protect more of those bombers from being retired. We think that is important, to keep them in place until we bring on the new bomber program.

We have a great package in here for people. I just thank my colleagues, Mr. COLE and Mr. GINGREY, who did such great work on this bill, and the Rules Committee and Mr. HASTINGS and all the others who really care about national security.

Thank you, gentleman, for the great work that you did, because we have in this bill expansion of medical benefits for our National Guard personnel and for their families.

We have lots of resources in this bill for quality of life, for housing. We have a 2.7 percent pay raise, which now means that we are a little bit under, and I heard this from Mr. GINGREY the other day and Mrs. MILLER, we have provided now in the last 5 years now right at a 30 percent increase in pay for the 2.5 million people that wear the uniform of the United States.

☐ 1245

Almost 30 percent. So we have been caring about the troops at the same time we are looking at the warfighting missions that we know are going to come to this country in the future.

So I want to thank all of the members of the Rules Committee for their hard work on this very important bill, and we hope to be able to get it up and down in the next 2 days and truly serve the people who serve America.

Ms. MATSUI. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Mr. Speaker, I want to congratulate both our ranking member and the Chair of the committee for the bill that they put together. This is a fair reauthorization bill.

Mr. Speaker, I do have some concern, though, that the bill does not do enough to address equipment shortages from our Reserve and National Guard units returning from Iraq and Afghanistan. Many of these units are forced to leave their equipment in the theater when they return home, and this has resulted in some Reserve and National Guard units having less than one-third of the equipment they had prior to being deployed.

Conservative estimates state that it would cost nearly $20 billion for National Guard and Reserves to re-equip to pre-Iraq war levels due to the extensive wear and the extreme conditions and loss of equipment in the theater.

Many areas of the gulf coast are prone to flooding, and with hurricane season less than a month away we need to make certain that the Guard and Reserve have the resources and the equipment necessary to response to natural disasters.

In June 2001, just days into the hurricane season, Tropical Storm Allison caused extensive flooding and damage in our congressional district, and the National Guard and Reserves were instrumental in providing assistance and rescue in high water.

We saw again last year when Katrina and Rita hit the gulf coast how important our Reserve and National Guard units are to natural disaster response. Congress needs to ensure that the equipment necessary to perform these duties is available if similar strikes occur.

Mr. Speaker, we must ensure not only that our troops have the necessary equipment to fight overseas, but that troops serving here at home have the equipment to protect Americans and respond to natural disasters.

Mr. COLE of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I would like to thank my friend and colleague on the Rules Committee, Mr. COLE from Oklahoma, for granting me the time to speak.

Mr. Speaker, I rise today in support of the rule and the underlying legislation. This is a fair rule providing for general debate and consideration of the amendments made in order.

The underlying legislation is one of the most important measures we consider each year. I congratulate the chairman and the ranking member of that committee for their good, hard work. The National Defense Authorization Act is a statement of our support for the troops, the various missions our military are carrying out, and support for the men and women serving in the military once they return from their service.

I have traveled to Iraq and Afghanistan on several occasions and have incredible memories from the discussions I have had with the young men and women serving in our Armed Forces. They are patriotic, capable and determined to complete the mission of spreading democracy throughout the Middle East. We are very proud of them and we must continue to provide them with the necessary equipment to continue this mission.

I am very proud of those West Virginians who serve in the Guard and Reserves who have repeatedly, over time, shown their commitment to our country.

First and foremost, we need to ensure that our troops are properly protected. I am especially pleased that this year's authorization includes additional funding for force protection needs in support of Operation Enduring Freedom, including state-of-the-art body armor for our troops and increased armor and better technology to protect our Humvees from the IEDs.

This legislation also provides for a 2.7 percent pay increase for members of the Armed Forces. While no monetary amount will ever cover the debt of gratitude owed them, this pay raise will help the members of our Armed Forces and their families with their everyday needs.

And finally, and very important to my constituency as well, this authorization blocks the Department of Defense proposed fee increases retirees must pay under the TRICARE standard health program and zeroes out copays for generic and formulary mail order prescriptions.

Mr. Speaker, we must continue to honor the commitment made to provide quality affordable health care to our young men and women serving in the military.

Mr. Speaker, I urge all of my colleagues to support this rule and the underlying legislation.

Ms. MATSUI. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I want to thank the gentlewoman for yielding, also for her leadership on the Rules Committee and on so many issues that we are addressing in this body.

Mr. Speaker, let me just say once again I rise in opposition to this misguided $513 billion defense authorization bill.

I ask you, Mr. Speaker, what does it say really about our national security priorities when this bill authorizes a $9.1 billion missile defense program that has consistently failed, will never protect us from terrorists, and continues to siphon funds from other critical security priorities that keep nuclear materials out of the hands of terrorists and protect our ports from terrorist attacks?

What does it say about our priorities when billions of taxpayer dollars are channeled to military contractors with little accountability or oversight for combating waste, fraud and abuse? What does it say when we have another bill that authorizes Cold War era weapons systems?

Mr. Speaker, what does it say about our priorities when Congress once again authorizes nearly $50 billion more for the unnecessary war in Iraq without any accountability, direction or a way out? Every additional day our troops remain in Iraq is an extra day that they feel the insurgency in terms of the attacks. That is why I joined with my friend and colleague, Mr. ALLEN from Maine, in offering an amendment to clearly put Congress on record stating that it is the policy of the United States not to have permanent military bases in Iraq.

This would take the target off of our troops' backs. Unfortunately this amendment was rejected, along with dozens of others which would have made this bill better. Yes, as the daughter of an Army officer, career Army officer, who consistently has supported our brave troops, I believe in a strong national defense, but this bill provides authorization for too many wasteful programs that fuel military contractors, does nothing to eliminate the waste, fraud and abuse at the Pentagon, and does very little, if you ask me, to put money into 21st century era national security needs that we need at this point rather than building in the continuation of Cold War era weapons systems.

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to point out simply for the record that this bill was reported out of committee by a 60–1 margin, a very strong bipartisan indication of support and appreciation for the main points in the bill.

As to the point on missile defense, I think the activities in Iran and certainly North Korea indicate that we would be prudent to think about developing missile defense. So I am very pleased with the bipartisan nature of this legislation. Frankly, I suspect most Members will vote for it in the end.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Speaker, I thank the gentleman for yielding me time. I thank all of the members of the Rules Committee for bringing the rule to the floor today.

As a member of the House Armed Services Committee, Mr. Speaker, I am extremely proud of the bill that we have brought to the floor here today, and I certainly want to congratulate and thank Chairman DUNCAN HUNTER as well for his outstanding leadership and his dedication to a strong national defense and particularly to our troops.

Mr. Speaker, one of the most important parts of this bill, I think, is that we do recognize that the most important asset in our entire arsenal is really not our incredible weapons or vehicles or ships, it is the men and women who bravely wear the uniform. That is why this bill has put such a strong focus once again on supporting our troops.

The bill will provide for an across-the-board increase of 2.7 percent in the base pay for our troops, as has been mentioned numerous times already. It blocks increases in fees for those who are enrolled in TRICARE prime and standard.

It also allows full TRICARE coverage for select Reserve personnel. It provides enhanced pharmacy services for nearly every military beneficiary. In addition, we forcefully attack the persistent problem of improvised explosive devices, or IEDs as they are commonly called, which have caused so many terrible problems for our troops.

The enemy knows that they cannot defeat our forces on the battlefield, so they are resorting to planting bombs along the roadside. This bill authorizes over $100 million for radio signal jamming devices to prevent the detonation of IEDs.

It also provides for another $100 million for 10 or more surveillance aircraft to patrol those areas where the IED activity is most deadly, and we must do certainly more to protect our troops from IEDs so that we can limit the amount, the number of casualties in battle. But in addition we need to learn better really how to defeat these terrible weapons, because, guess what, they could soon be finding their way to our streets here within our own borders in America.

The American people and our troops can rest assured that we understand the problem of IEDs, and with this bill, again, we are taking very forceful action to defeat them.

When we take the oath of office, we swear to uphold the Constitution of the United States, whose preamble actually requires for us to provide for the national defense. This bill not only allows us to live up to our constitutional responsibilities to provide for that defense, it ensures that our Armed Forces will remain the best trained, the best equipped and the most lethal fighting force the world has ever known.

Mr. Speaker, I urge my colleagues to support the rule and the underlying bill.

Ms. MATSUI. Mr. Speaker, I yield 2½ minutes to the gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, I was eating my lunch downstairs, and as a member of the committee I voted for this bill in committee, as did Mr. SKELTON, and I support the bill.

However, Mr. HUNTER's discussion of the provision about Channel Islands National Park, Santa Rosa Island, I thought was incomplete and gave an inaccurate picture of what the situation is. I agree with Mrs. CAPPS. This is a provision, section 1036(c) of the bill, that should never be in the defense bill. You read the one sentence. It has nothing to do with veterans. There is not the word "veterans" or "military" anywhere in the provision. This should have been a provision that was considered by the Resources Committee.

Having said that, this is the background on this situation. In 1902 a private family owned and took control of the Channel Islands. In 1986 they sold it to the National Park Service as part of the Channel Islands National Park for about $30 million and had an agreement that they could be on the island managing their own private herd of elk and deer for some period of time.

In the late 1990s there was litigation brought by the National Parks and Conservation Association, and a settlement was reached between the National Park Service, the family that owns the deer and the elk, and the National Parks and Conservation Association. Everyone agreed to this settlement that has been going on now for the last decade, that by December 31, 2011, there would be no more hunting on this island because the island is shut down, about 90 percent of it, 4 to 5 months of the year.

But here is the key point. Number one, this is a privately owned herd. It is the same as if Mr. COLE or Mr. SKELTON had a herd of cows. This herd of deer and elk is owned not by the government, not by the National Park Service, this herd is owned by a private group. It is not the government's business to decide what to do.

Second, there is not a plan, as was described by the Armed Services Committee chairman, to exterminate the herd. Here is what the plan is. And several months ago I talked to a member of the family. They love this herd. They have professionally managed this herd for years. They have trophy hunts on the island. Their intent is to move this herd off the island and find a place, they do not know where yet. I do not think, but to move it off of the island.

According to the settlement that was reached, it is what I call the Wiley Rogue provision, if there are a few animals that are left that the company is having trouble, that own it, they are having trouble trapping those animals, the National Park Service has agreed to share in half of the expense of getting those last few animals, including perhaps, perhaps, if necessary, the hiring of professional hunters or helicopters or something to get them. There is not a plan to exterminate this private herd. This is a privately owned herd. It is not up to the government to exterminate it. This provision is only to help this private company get these last few animals. That is only if necessary. This provision should not have been in the defense bill.

Mr. COLE of Oklahoma. Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I yield 2 minutes to the gentlemen from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise in support of the rule and H.R. 5122. I thank Chairman HUNTER and Ranking Member SKELTON for their exceptionally hard work on this bill.

□ 1300

This bill helps our men and women serving in the Armed Forces and makes investments to keep our military strong in the future.

Now, I supported this measure in the House Armed Services Committee because it contains a number of provisions to assist our service members and their families, as well as military retirees. It includes a 2.7 percent pay increase for military personnel. This is higher than what the DOD requested, and much-needed increases to end-strength numbers.

It blocks a controversial DOD recommendation as well to increase TRICARE fees and deductibles for military retirees and also extends TRICARE eligibility for reservists, two issues that have been very important to my constituents.

I thank the committee leadership for their efforts to accomplish all of these important goals.

Now, I am particularly pleased that H.R. 5122 addresses the current crisis in our submarine industrial base. Mr. Speaker, our Navy right now has no plans to develop a replacement for the *Virginia* class which I believe threatens to cause our design and engineering base to disappear. Now, if we lose design capability, we will do irreparable harm to our shipbuilding industry.

The bill also includes $400 million to expedite the construction schedule for the *Virginia* class so that we can start building two submarines per year as early as 2009. This is critically important. The submarines current shipbuilding plan would have our submarine fleet drop to dangerously low levels and this bill clearly states that we cannot allow that to happen.

I commend the chairman and ranking member for all those provisions. That is the good news.

The bad news, however, I remain troubled by provisions regarding fee increases for certain prescription drugs under the TRICARE program as well as controversial language regarding religious expression by military chaplains. I hope that we will be able to consider amendments tomorrow to address these topics.

But overall, however, the underlying bill addresses many urgent needs of our military, and I encourage my colleagues to support it.

Mr. COLE of Oklahoma. Mr. Speaker, I appreciate the gentleman from Rhode Island's bipartisan remarks about the legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I yield myself such time as I may consume to close.

Mr. Speaker, the bipartisan collaboration between Chairman HUNTER and

Ranking Member SKELTON has yielded a thoughtful, balanced defense authorization bill that seeks to meet our current and future defense needs. They should be commended for their hard work. However, there are still areas within this bill that can be improved. As we move to floor consideration, we have an opportunity to make this bipartisan bill even better.

Still pending before the Rules Committee are more than 90 amendments covering a host of critical issues. This includes Ranking Member SKELTON's proposal on TRICARE prescription drug copays and Mr. ISRAEL's correction to the guidelines for military chaplains.

Other amendments not yet allowed on the floor concern our Nation's Iraq policy, abuses of military contracting, and boosts to our critical nonproliferation initiatives.

It is my hope that when the Rules Committee reports out the second and final rule today these amendments will be made in order. Allowing these amendments to be debated on the floor will continue the committee's bipartisan precedent, something this body would benefit from, as well as show the issues addressed in this legislation, so critical to our Nation's well-being, the respect they deserve.

Mr. Speaker, I yield back the balance of my time.

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

In closing, I want to take this opportunity to remind our Members that this rule and the underlying legislation is not about us or our interests. It is fundamentally about the long-term interests of our Nation, the security and stability of our military, and the welfare of our deployed servicemen and women.

Mr. Speaker, no generation undertakes a war lightly. Certainly, the World War I and World War II generations and the Cold War generations did not do so, and it is clear that historically there is always dissent. That is good and it is American. However, the previous generations understood that if they were not firm in their commitment, unwavering in their support for the troops and sure in their convictions, America would be the worse for future generations.

Mr. Speaker, we face the very same challenges as these previous generations. Today is the day that we must support our forces to secure the peace for our progeny and to spread freedom around the globe.

Mr. Speaker, we are very fortunate at this particular moment in our history to have men like Chairman HUNTER and Ranking Member IKE SKELTON heading and cooperating so closely on this very important committee, one in which whatever our differences may be, we come together as Americans to support those Americans who defend our freedom and who put themselves in harm's way for our benefit.

Mr. Speaker, I would encourage my colleagues to support the rule and the underlying legislation. It is critical for America, for the cause of freedom, and for the success of the brave men and women who proudly wear the uniform of the United States.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. JINDAL). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. MATSUI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

H.R. 5143, by the yeas and nays;

H. Res. 805, by the yeas and nays;

H. Res. 806, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

H-PRIZE ACT OF 2006

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5143, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina (Mr. INGLIS) that the House suspend the rules and pass the bill, H.R. 5143, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 416, nays 6, answered "present" 1, not voting 9, as follows:

[Roll No. 131]

YEAS—416

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad

Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—6

Duncan
Flake
Foxx
Manzullo
Paul
Tancredo

ANSWERED "PRESENT"—1

Biggert

NOT VOTING—9

Cardoza
Evans
Gonzalez
Kennedy (RI)
Kirk
Meehan
Murphy
Osborne
Smith (WA)

☐ 1335

Mr. HYDE changed his vote from "nay" to "yea."

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4297, TAX INCREASE PREVENTION AND RECONCILIATION ACT OF 2005

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). The pending business is the vote on adoption of House Resolution 805 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 228, nays 194, not voting 10, as follows:

[Roll No. 132]

YEAS—228

Aderholt
Akin
Alexander
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—10

Bachus
Cardoza
Evans
Gonzalez
Kennedy (RI)
Meehan
Murphy
Nadler
Osborne
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1344

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 5122, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

The SPEAKER pro tempore. The pending business is the vote on adoption of House Resolution 806 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 351, nays 70, not voting 11, as follows:

[Roll No. 133]

YEAS—351

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Cardin
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Costa
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Issa
Istook
Jackson-Lee (TX)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Melancon
Mica
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—70

Abercrombie
Ackerman
Allen
Baird
Baldwin
Becerra
Blumenauer
Capuano
Conyers
Cooper
Costello
Davis (IL)
DeFazio
Delahunt
Dingell
Doggett
Fattah
Filner
Frank (MA)
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Holt
Inslee
Jackson (IL)
Jefferson
Kaptur
Kilpatrick (MI)
Kucinich
Lantos
Larson (CT)
Lee
Lynch
Markey
McDermott
McGovern
McKinney
McNulty
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Payne
Rangel
Sanders
Schakowsky
Serrano
Slaughter
Solis
Stark
Stupak
Taylor (MS)
Thompson (CA)
Tierney
Velázquez
Waters
Watson
Watt
Waxman
Woolsey
Wu

NOT VOTING—11

Cardoza
Evans
Gonzalez
Gordon
Kennedy (RI)
Lewis (GA)
Meehan
Murphy
Osborne
Reynolds
Smith (WA)

☐ 1353

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MURPHY. Mr. Speaker, I regret that I was unable to be present for the following rollcall votes today due to a death in the family. Had I been present, let the RECORD reflect that I would have voted "yea" on H.R. 5143, "yea" on House Resolution 805, and "yea" on House Resolution 806.

GENERAL LEAVE

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 5122.

The SPEAKER pro tempore (Mr. DANIEL E. LUNGREN of California). Is there objection to the request of the gentleman from California?

There was no objection.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 5122, pursuant to House Resolution 806, general debate shall not exceed 2 hours equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 806 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5122.

☐ 1355

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5122) to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2007, and for other purposes, with Mr. GINGREY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

Pursuant to the order of the House of today, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 60 minutes.

The Chair recognizes the gentleman from California.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Last week the Committee on Armed Services reported out a bill that very clearly reflects our steadfast support for our service members and their families, our deep appreciation for their many sacrifices, and the strong bipartisan spirit that characterizes this committee.

Passing with a committee vote of 60-1, the National Defense Authorization Act for Fiscal Year 2007 provides for both near and long-term military personnel and force structure requirements, and highlights the need for improvements in acquisition processes and cooperation among key Federal agencies.

Mr. Chairman, the legislation provides $512.9 billion for the Department of Defense and the security programs of the Department of Energy. We include a recommendation of active duty growth of 30,000 for the Army and 5,000 for the Marine Corps above the President's budget request.

We also include a supplemental bridge fund of some $50 billion to support our troops operating in Afghanistan, Iraq and other places in the global war on terrorism, and this, Mr. Chairman, is to provide for a seamless continuity in the waning calendar months of this year so that our troops continue to be well supplied before any supplementals in the following year.

Mr. Chairman, we appreciate the National Guard and Reserve, and we have provided for additional end strength up to 350,000, and we also have right now a series of other enhancements that are being looked at by the special commission chartered by this body and the other body and the President to address National Guard issues. We are going to be doing that. We are going to be getting their recommendations shortly, and those recommendations may be manifested in a bill to follow this one.

But this year, taking care of our troops and protecting our troops has been a real priority, and we have included additional money, in excess of $100 million, for jamming devices to handle roadside bombs. We have included additional money for greater armor in our platforms, better armor with our new technology in the body armor units that are issued so our Army and Marine Corps personnel, in fact all personnel who are stationed in this theater, and we are spending a lot of resources protecting our forces, protecting the troops.

Additionally, Mr. Chairman, we look over the horizon and we look at potential trouble spots around the world, security challenges over the next 5, 10, 15, 20 years, and we do a few other things, and our very able chairmen of the subcommittees are going to describe a lot of the things that we do with respect to equipment and personnel in detail. But we keep a little more insurance, perhaps, than the administration has in a couple of areas.

One is stealth attack aircraft. We used just a few percentage of these great F–117 stealth aircraft in the first gulf war, and yet they knocked out over 20 percent of the targets. This combination of stealth and precision munitions has been a very critical and important factor in the American security apparatus. We don't allow the Air Force to move so quickly to retire those stealth aircraft until we get others online.

We also retain a greater part of our bomber force. That has been the backbone of our deep strike for many, many years. We don't have a new bomber program right now and we don't want to let quite as many of those birds go before we are well embarked on this new bomber program.

□ 1400

As you move across the modernization spectrum, Mr. Chairman, our members have done an extraordinary job in putting together packages for our special operators, for our line troops, for our Guard and Reserve. We have also done some great things for people, for families.

We have extended TRICARE. We have completed this movement of coverage of TRICARE to our National Guard personnel. We have made prescription drugs more affordable. We have put an emphasis and an incentive on getting your medicine through the mail, because that is a much lower burden for the taxpayers of the United States and very convenient now for those recipients.

Mr. Chairman, we have great subcommittee chairmen and great ranking members. We are going to be recognizing them to tell us about this bill. I want to give my thanks to them and my special partner and friend, IKE SKELTON, who has put in countless hours leading on issues and developing issues and working to ensure that the people that wear the uniform of the United States have the very finest conditions and the very finest treatment for themselves and their family, and that America's defense remains the envy of the world.

I reserve the balance of my time, Mr. Chairman, with many thanks to all the committee, and all the staff, who helped to put this bill together.

Mr. SKELTON. Mr. Chairman, let me first begin by complimenting the chairman, DUNCAN HUNTER, as well as the subcommittee chairmen and ranking members. This is an excellent bill. I hope it will pass in due course by the substantial vote by this body. It authorizes $462.9 billion for defense programs.

It also authorizes a supplemental authorization for $50 billion that I believe we should go beyond budgeting for foreseeable war costs in a supplemental fund. We should do it the proper way because we know at least within the realm of possibility what they are, and we would authorize those programs and activities. However, it is being done this way, and we will make the most of it, and we are at least following what is correct by authorizing that $50 billion.

This also increases the end strength of the Army, Marines, protective vests, armored Humvees and additional equipment for the National Guard. Though it is still going to be shortchanged, we are making substantial steps in equipping the National Guard. I think that a supplemental does not go far enough in that regard.

The bill also reserves the administration's plan or reverts to the administration's plan with regard to the Army National Guard and it fully funds the end strength at the authorized level. The administration recommended authorizing the full amount of troops for the Army National Guard that are there now, but paying for that number only rather than for the full amount that it should. We changed that in this bill.

We also take a look at the area regarding the Persian Gulf, and it is so very, very important that we take a look at that area. The bill addresses important quality-of-life issues that are at the top of the agenda for members and their families, a 2.7 percent pay raise.

It also does what we should have done some time ago, preserves the retiree benefits by keeping health care premiums under TRICARE at their current levels.

With this bill we take steps to ensure that our troops have the best possible equipment. We take a step toward doing better in the Navy by fully funding the ship steaming days and adding an additional $400 million for advanced procurement for the Virginia class submarine; $300 million more for the National Guard equipment, including the prepositioned stocks.

The bill also includes important bipartisan initiatives to address the future challenges. It directs the Secretary of Defense to provide Congress with a report on the Department's 10-year strategy for addressing threats posed by Iran to our country and to international security. This is terribly important because Iran is on the horizon, and hopefully we can take a good look at this and see what the report from the Department of Defense will say, which specifically addresses Iran's nuclear activities and the destabilizing influence that country has on the entire Middle East. Given the great challenges posed by Iran, that is a very important provision.

The bill also takes the first step at enhancing interagency coordination so that the United States truly is able to engage in a full range of national powers and pursue our national interest.

A number of years ago we passed what is known as the Goldwater-Nichols bill, which created a jointness among the various services. We need one hundred-fold of the coordination between the agencies of our government so we can pursue the national interest far better than we are today. The left hand often does not know what the right hand is doing.

But even with all these positive steps, this bill would be improved by a number of amendments that I am hopeful, Mr. Chairman, the Rules Committee will make in order: My amendment to lower the increased retail pharmacy copay fees for military families; the amendments offered by Mr. HOYER, Mr. UDALL and Mr. GORDON on energy security; the amendment offered by Mr. ANDREWS and other colleagues to increase funding for nonproliferation programs. We are simply not doing enough to deal with the weapons of mass destruction threat.

The amendment by Mr. ISRAEL to require that chaplains demonstrate sensitivity, respect and tolerance towards service members of all faiths, that is terribly important.

Mr. Chairman, I sincerely hope that these amendments at the next go-round of the rules decisions will be made in order to make this bill all the better.

Mr. Chairman, let me take this opportunity to say a special thanks to JOEL HEFLEY and to LANE EVANS. JOEL HEFLEY, a subcommittee chairman for many years, LANE EVANS, ranking member of the Veterans' Affairs Committee, will be leaving us. This will be their last bill. We are so grateful for their tireless service through the years. We wish them all the best in the days ahead. We owe a special thanks to JOEL HEFLEY and LANE EVANS.

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, we are at a crossroads on a lot of our defense weapons systems. There is no one more capable or better trained to lead in these very important decisions than the gentleman from Pennsylvania (Mr. WELDON), who is the chairman of the Tactical Air and Land Forces Subcommittee.

Mr. Chairman, I yield the gentleman from Pennsylvania (Mr. WELDON) 6 minutes.

Mr. WELDON of Pennsylvania. Mr. Chairman, I thank my distinguished chairman and friend for yielding and thank the ranking member for his outstanding leadership, two great Americans.

You know, this city is filled with a rhetoric that we don't work well together, that we are at each other's throats, that we are partisan. This bill passed our committee with a vote of 61 to 1. This bill was done in a bipartisan way and has the support of members from both sides.

I am proud of the fact, Mr. Chairman, that my subcommittee, which has 28 members, for the 12th consecutive year had no votes, no votes or suggested votes that would split our party along or our committee along party lines. My good friend NEIL ABERCROMBIE, my ranking member, and I worked together. He had great ideas. I took his ideas and suggestions and made them a part of the bill.

I want to say to our colleagues in this body and our people around the country, the Congress is working, we are working well together. We are doing good things. Now some would say that we don't have the right thing in the Congress to change what the White House and the Pentagon gives us. Hogwash. That is our job. If we hadn't done our job, we would not have had the Predator armed. It was this Congress mandated back in 1996 that we arm the Predator. It was this Congress in the 1990s, when the Clinton administration didn't request increases for pay for the troops, that plussed up the funding for the pay for the troops.

It is our responsibility to make change, and we have done it. It was this committee that recommended we put the $25 billion up for the supplemental for the war. When the White House didn't want to do it, we led the effort, and everyone else followed.

Mr. Chairman, in this committee, in my mark we have increased $1.5 million for up-armoring Humvees. We have increased $200 million for tactical radios for the troops to use. We have increased to $69 million towards explosive jammers to allow our troops to be able to detonate these bombs before they are in the area or to make them not able to work.

We have increased technology that will reduce the weight of the equipment that our military officers and soldiers and officers have to wear when they are in combat situations in the theater of Iraq or in any place in the world.

This committee has also cut programs. There are some who say all we want to do is keep increasing defense spending. In my subcommittee alone, or our subcommittee, we cut $678 million from programs that we felt the contractors were requesting too many dollars or the services were not properly overseeing. We cut the Joint Strike Fighter Program, Future Combat Systems, even the Presidential helicopter, because as my friend pointed out, Mr. ABERCROMBIE, we want the President to be flying in a safe platform when that helicopter is ready to go.

We took that money and we added $276 million for M1s and Bradley fighting vehicles; $408 million for an additional alternate engine for the Joint Strike Fighter to continue competition. We put hundreds of millions of dollars into our Guard and Reserve troops.

The role that this committee played is an unbelievable role. It is the legitimate role that was thought of in advance by our Founding Fathers when they designed our Constitution, that we just do not rubber-stamp what the White House and the Pentagon tell us.

Mr. Chairman, this committee went through dozens and dozens of hearings. This chairman has had more briefings for us. In fact, Members of Congress walk around with their eyes partly closed because he has us up at 8:00 in the morning attending briefings and our markups and hearings go until late at night. The involvement of both our members from the other side and our members from this side produces a cooperative spirit where the resultant product, I think, is outstanding.

There may be some disagreements on floor. I can tell you, Mr. Chairman, I am so proud of the committee and the work that we did in delivering a 61–1 vote.

But it is not just about our troops. It is not just about giving them the best technology, the best training, the best equipment. We have also taken some bipartisan steps to increase the flexibility of using our cooperative threat reduction dollars, to go after those weapons of mass destruction, whether it is in North Korea or whether it is in Libya. In our bill in a joint bipartisan amendment with Mr. SPRATT, we have put language in providing flexibility for up to $30 million to be used by the Pentagon to go into these areas without having to go back for a reprogram request to allow us to immediately take action against these deposits of WMD when we find them.

We have also put into place the Nuclear Strategy Forum. We happen to think there should be a national debate on what the use of nuclear weapons should be in the 21st century. Again with bipartisan support, we have put together a team of the best thinkers, the best academics in America, who in a bipartisan and nonpartisan way will hold meetings and hearings on what should be our nuclear posture. Should we in fact reduce our nuclear arsenal? Should we in fact look at testing? Should we in fact look to an alternative type of technology away from nuclear weapons totally?

That is a part of this bill. So it is not just about weapons systems. It is about a comprehensive approach that will allow us to maintain security and, in the end, avoid war, which is the ultimate objective I have as long as I am going to be a Member of this institution.

We also reauthorized the EMP Commission. I want to pay particular accolades to ROSCOE BARTLETT, our colleague, who has been out front on that issue for a decade warning us of the threat from the use of electromatic pulse. We have put into place a panel. That panel has now been reauthorized and are advising us on how we can protect America's infrastructure and weapons systems.

Mr. Chairman, there is a personal priority in this bill to me because I am also vice chairman of the Homeland Security Committee and I work on behalf of the Nation's firefighters.

You know our firefighters are our domestic defenders. Our soldiers are international defenders. Much of the technology we developed for the soldiers has direct application to our firefighters, our paramedics and our first responders, but we haven't done a good job in transferring that technology, whether it is thermal imagers or whether it is GPS capability. We need to give our first responders the same kind of protection that we give to our warfighters. In this bill, again with the cooperation of members on both sides, we put in a specific provision that focuses on the need to immediately transfer technology developed by our military people and put it into use for our domestic defenders.

I ask our colleagues to vote "yes" on this important domestic bill.

Mr. Chairman, I have the honor of serving as the Vice Chairman of the Armed Services Committee and as the Chairman of the Tactical Air and Land Forces Subcommittee.

I, first of all, want to thank my distinguished chairman for the leadership he continues to provide across the wide range of issues that come before our committee. And similarly, I would like to express my admiration for the ranking member, for the leadership and expertise he brings to the committee. To the gentleman from Hawaii (Mr. ABERCROMBIE), my ranking member, I thank him. He is a great American and it is great to work with him.

We have a great committee. Yes, there are contentious issues, but they get debated, we vote, and then we move on. We address the vast majority of issues in a what is best for the troops and taxpayer, non-partisan way. I cannot tell the Members how proud I am to serve on this committee. Every day that I serve in this institution, I am happy that we work so well together. This committee, I think, sets the example for the entire Congress, demonstrating that we can all work together. I think the best evidence of that is, we again had a vote out of committee of 61 of the 62 members coming together. Where we had areas of disagreement, we have been able to work those out. This is a real credit and testimony to this Congress and those 62 members who are on this committee and to our Chairman.

Those of us in the Subcommittee have two priorities: to take care of the troops and to do our best to hold DOD accountable for its acquisition programs.

This committee did this year what we have done for the prior 2 years to support our personnel in Iraq and Afghanistan. We have held hearings at the subcommittee and full committee level, pushing the Pentagon's bureaucracy to get the best available equipment to our personnel as soon as it can be properly tested—body and vehicle armor; improvised explosive device jammers, unmanned aerial vehicles, small arms, night vision equipment, and so on. It was this committee that first called for additional funding to up-armor our Humvees and take care of the troops that were in harm's way. It was this committee that led the White House 2 years ago in getting that first $25 billion supplemental.

This bill makes big changes to programs and it makes seemingly small changes to programs that are yet very meaningful to the average soldier, sailor, marine, and airman. H.R. 5122 provides over $1.5 billion in additional funds to procure up-armor Humvees and body armor to protect our personnel. The bill provides over $200 million in additional funds to procure tactical handheld and small unit radios for ground forces, addressing urgent needs in Iraq. The bill also provides an additional $69.0 million to produce and deploy 10,000 man-portable improvised explosive device jammers that can address a full spectrum of threats in theater.

At the same time increased authorization is provided for small arms and small arms technologies. The basic infantryman or marine entering combat can be required to carry combat configured loads of ammunition and equipment, that combined, can exceed 90 pounds. The bill contains funding to advance technologies that can reduce this carrying load through advancements in lightweight components for existing small arms and caseless ammunition.

With our military personnel at risk each and every day, supporting those personnel by providing them the proper equipment is where our number one priority must continue to be. We cannot shortchange the current force for a promised future capability.

Our military is facing major financial challenges in upgrading tactical aircraft programs, shipbuilding programs, and space programs. And the Army in particular is facing a major budgetary challenge in trying to fund its Future Combat Systems Program—a $200 billion program; along with Modularity—a major restructuring and equipping of its combat brigade structure, a $52.5 billion program; and Reset, repairing and remanufacturing equipment returning from Iraq and Afghanistan, a $72.3 billion program.

The bill is about balancing the health and capability of the current force with the needs of future military capability.

Our concern with several programs is one of excess R&D and procurement concurrency. We have cut $678 million from the Pentagon's request in programs within the subcommittee's jurisdiction. Both the Joint Strike Fighter, F–35, and Presidential Helicopter Program, the VH–71, have been reduced by a total of $280 million because of our concerns that they are not meeting our "fly before buy" rule.

We make other changes that better balance current against promised future capabilities: $276 million has been added for M–1 tank and Bradley fighting vehicle upgrades. Instead of the Army paying $3 million per Bradley upgrade, if done at the minimum economic order quantity rate, the Army is paying $8 million per vehicle—2½ times what we should be paying. Instead of paying $5 million for an M–1 tank upgrade, the Army is paying $7.4 million a tank. Our $276 million recommended increase would fund the economic order quantity for each vehicle.

Finally, we seek to correct major last minute budget decisions by the Pentagon that seemingly make no sense whatsoever. An example is the alternate engine for the Joint Strike Fighter, the F–35. Congress has supported a competitive engine strategy for that program for the past ten years. The Pentagon proposes to terminate that program without having done any substantive analysis. It was a last minute decision to balance the books. We add back $408 million to maintain competition in the F–35 engine development program. The Subcommittee believes engine competition is an important ingredient in fielding an F–35 that is both capable and affordable.

In closing, I again want to thank my distinguished chairman and ranking members of the full committee and our subcommittee. This bill is deserving of a "yes" vote from every Member of this body.

□ 1415

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. ORTIZ).

Mr. ORTIZ. Mr. Chairman, I rise in support of this bill. I want to thank Chairman HUNTER and my ranking member, Mr. SKELTON, for their skills and leadership in addressing the military issues before us today. This bill provides for the needs of our troops and their families. I want to thank the staff also for their hard work and all they have done to get this bill out and get it on the floor today.

One of the most important parts of this bill is the attention given to the immediate readiness needs of our men and women in uniform. The bill takes action in addressing shortfalls in operations, training and maintenance, funding that the Department of Defense failed to address in their budget submission. Over $850 million is moved into vital functions, such as ship steaming days, pre-positioned stocks, depot maintenance and training.

As the ranking member on the Readiness Subcommittee, I have worked very closely with my good friend, Chairman HEFLEY, to address these shortfalls while balancing the need for our military to transform itself to maintain its standing as the world's premier fighting force. We hate to see Chairman HEFLEY leave, who has done a great job and who is retiring.

Thank you for your leadership and commitment in building housing for the families and all you have done for our troops. We will never forget what you have done.

Also leaving is another good friend that came to Congress with me, LANE EVANS, who did a heck of a job looking after the welfare of veterans on this committee.

I thank again Chairman HUNTER and Mr. SKELTON for bringing us to where we are today.

Vote for this bill.

Mr. HUNTER. Mr. Chairman, I yield 6 minutes to the gentleman from Colorado, JOEL HEFLEY, who has done remarkable work in this Readiness Subcommittee, which controls such a big portion of the defense bill. The gentleman is a great friend to everyone who wears a uniform and is probably the best rodeo cowboy who has ever served in this House.

Mr. HEFLEY. Mr. Chairman, I thank you very much. I thank you, Mr. HUNTER, Mr. SKELTON and Mr. ORTIZ for the very kind words. You kind of went over the top when you said I was the best rodeo cowboy. The truth is I was and still am a rodeo cowboy, still enter some charity rodeos, but if there has ever been a rodeo cowboy serving in this body, I would say that he probably is better than I am. But I appreciate the kind words and I appreciate your yielding me time.

The gentleman from California, our chairman, and the ranking member as well, there is no one in this body that has more of a heart for the soldiers, for the people who dedicate themselves to defending us, than these two gentlemen do, and I think this is exemplified in the bill that you have before you today.

I am very, very proud to endorse and support this bill, because it meets the needs of the men and women in uniform while protecting our national security, and I think we can be very proud of it.

I think also Mr. WELDON emphasized one thing that I think is important as an example, Mr. HUNTER, to our body here. So much of what we do in this body is for political advantage, one party, the other party, to get political advantage. This bill is truly a bipartisan bill. When you have 61–1, for crying out loud, it means that we sat down and tried to solve the problems that we solved. And we didn't solve them as Democrats or Republicans; we solved them as Members of Congress trying to do the right thing for our troops. I think we can be proud of the bill from that standpoint as well.

The gentleman from Texas (Mr. ORTIZ) and the other members of the Readiness Subcommittee and I worked very closely to examine the Department's funding for the military readiness, which includes $129.8 billion in operation and maintenance funds, as well as approximately $16.7 billion for military construction and implementation of the 2005 base closure and realignment round.

The actions we took this year balanced the current operations and maintenance needs of our Armed Forces with the need to transform our military into the force of tomorrow. We looked at the readiness levels of our military units, including the adequacy of training programs, the maintenance of equipment in theater and the service's ability to reset and recapitalize equipment that returns from war.

Our work led us to the conclusion that more needs to be done to support our core readiness needs, and, therefore, the bill before us today fully funds basic requirements such as ship operations, aircraft flying hours and depot maintenance.

The bill also requires the Army and Navy to fund these critical readiness requirements before embarking on costly modernization programs. This requirement is significant as it will ensure that transformation of the services does not come at the expense of today's military readiness.

It is also worth noting that this bill provides more than $10 billion for the construction of structures that range from child development centers to critical readiness facilities. I have seen many of the facilities where the servicemembers live and work, and I must say that these funds are badly needed. It is our responsibility to ensure that our servicemembers and their families live, work and play in modern and well-maintained facilities and homes. To do anything else threatens our Nation's ability to retain the best and the brightest people in the ranks of our military.

Several years ago, we began to look at where our servicemembers live and work, and in many cases it was third-world conditions, and we have been whacking away at this over the years to try to provide a decent place to live and work for everybody who wears the uniform.

Mr. Chairman, the bill before us is certainly worthy of our support, and I urge my colleagues to join me in voting for it.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Chairman, I thank Chairman HUNTER and Mr. SKELTON for the opportunity. I stand here today in support of the bill moving forward, but I have a caveat that I hope will be able to be addressed before we come to a final conclusion.

As the chairman knows, my original opposition was to what has been termed the "bridge fund"; upon reconsideration, I have become a strong advocate of it. For those not familiar with it, the bridge fund is a legitimate methodology for the authorizing committee to deal with the actual cost of deployments of our Armed Forces throughout the world.

Presently, the bridge fund will deal only with approximately 6 months' worth of costs associated, expenditures associated, with these deployments. As a result then we will have to take up yet another supplemental budget, probably just after the first of the year, within a month or so, and that will, in turn, find us dealing with other requests, other emergencies, that will be included in this so-called supplemental budget. It is not an emergency that we need funding for for our deployments overseas, but rather an admission and an acknowledgment of the true costs of these deployments overseas.

So, Mr. Chairman, I most certainly urge that we move the bill along and, at the same time, then take up this question of being straightforward and honest with the American people as to what the true costs are of our deployments and to see to it that the military does not have to cannibalize the existing budget and take us away from what I consider 100 percent support of the troops 50 percent of the time.

I believe, even though I am in opposition to much of what is the foundation for support, the irony in this is that those like myself who did not support the effort in Iraq as undertaken and have serious reservations about how the war is being conducted, the military action is being conducted in Afghanistan, are actually being sustained in our position; rather than finding support for those who originally were for the war in Iraq or think that we are doing the right thing in Afghanistan, that position is being undermined because we are not being straightforward with people as to what the true costs are.

There is a case of unease in the American public, I think, with regard to our present policies in Iraq and Afghanistan because we do not have a straightforward, honest approach with the American people as to what the costs are. I believe the American people will pay any costs to protect our security if they feel that we are being honest and straightforward about it.

We need to do that. We need to bring the bridge fund in our authorization up to the actual cost, and not undermine the good work that has been on this bill this year.

Mr. Chairman, as the ranking minority member of the Air and Land Forces Subcommittee of the HASC, I am pleased to support H.R. 5122. I also want to commend my chairman and partner on the Air and Land Forces Subcommittee, Congressman KURT WELDON, for his nonpartisan approach to our subcommittee's portion' of this bill.

The procurement and research portions of this bill that the Air and Land Forces Subcommittee oversees strikes an effective balance between getting our troops the equipment they need, ensuring that the equipment works, and ensuring that it is all acquired at a price the Nation can afford. Striking this balance is always difficult, but given the pressure on the DOD budget from the war in Iraq, this was an especially challenging year. I am pleased to support the procurement and research aspects of this bill as a good-government approach to making tough decisions when funds are limited.

This bill is a significant improvement over the procurement and research budget presented by the President in two critical ways. First, it is a more straightforward document that lays out what the committee decided the military's priorities should be, and what funding these priorities will actually cost. Second, it shifts funding from programs that are simply not working and moves those funds to programs that are working and are delivering effective equipment to the troops in the field today. With troops in combat the Congress has a non-negotiable obligation to weigh in heavily on the side of immediate and near-term needs of the military.

There are two programs that this bill takes some significant funding away from, and I want to address the committee's reasoning on these reductions, because they were both difficult decisions. The first is the Army's Future Combat System, which this bill cuts by $325 million.

I want to be clear that this is not a move to punish the Army. Everyone on this committee recognizes that the Army is carrying the heaviest burden in the wars in Iraq and Afghanistan in terms lives lost and dollars spent. Every member of this committee also wants to ensure we have an Army that is ready today and prepared for the challenges of the future. The problem is that the Army simply has too many bills to pay and not enough funding to cover all of them. Difficult choices had to be made.

The second program cut is to the VH–71 "Presidential Helicopter" program. This rather modest cut is based on the committee's concern that this program is being pushed too fast and is taking test and development risks that are clearly not appropriate and could be outright dangerous. I want to make it absolutely clear that the goal of this cut and some language in the bill is not to kill the program, or even scale back its size. Instead, it is a reflection of this committee's support for the principle of "fly before you buy" that must be followed, especially for a helicopter the President of the United States is going to fly in.

Given the demands of an ongoing war and the need to continue to buy and develop new equipment, this bill strikes an appropriate balance given the funding available.

Despite my support for the bill, I did want to caveat that support in one important aspect: the lack of an authorization in this bill for the full-year cost of the wars in Iraq and Afghanistan.

In each of the past two years, the Congress has put some of the funding for the wars in Iraq and Afghanistan through the normal authorization and appropriations process. The rest of the funding for the year, however, has come through very large supplemental appropriations bills that the Armed Services Committee has been unable to oversee properly.

I have supported all of the Defense authorization and Defense Appropriations bills done under our normal budget procedures since the war in Iraq began. Putting the money in the normal budget would be best, but the "bridge fund" mechanism in the legislation before us today is arguably a reasonable middle ground between funding purely through supplementals and the normal budget process. Chairman Hunter deserves credit for coming up with this more honest approach.

This year, for whatever reason, the Administration only requested $50 billion in additional funding in FY 2007 for the wars in Iraq and Afghanistan. This total is reflected in the bill as reported by the committee. During committee consideration of this bill, I had an amendment that sought to increase the amount of the bridge fund to $92 billion so that it would reflect the likely full-year cost of combat operations overseas. Unfortunately this amendment was voted down by the majority.

Having a more realistic full-year figure in this bill would have improved this legislation's relevance and honesty. The troops overseas and the American people deserve to know what our best estimate of the cost of these wars will be in 2007.

Continuing to rely on massive supplemental, so-called "emergency" spending bills to pay for the war is both dishonest and fiscally unsound. I believe that the American people are willing to sacrifice to get the troops the funds they need, but instead of asking all Americans to sacrifice we are instead using a budget shell game to hide the real cost of the war. This shell game also allows massive tax cuts for the wealthy during a war which we are borrowing money from other nations to pay for. Funding the war in this manner is saddling our children and grandchildren with a massive debt that they will have to payoff in the future.

Overall, the bill before us today is a good bill, but choosing to only authorize 6 months of funding for the troops in the field is like saying to them that the Congress supports you 100 percent for 50 percent of the year. I do not think that is the message that the House wants to send.

Mr. HUNTER. Mr. Chairman, the heart of this bill is the 2.5 million Americans that wear the uniform of the United States, and the subcommittee that oversees personnel issues and sets the pay raises and does personnel policy is headed by the gentleman from New York (Mr. MCHUGH). This is an enormous job, and he has done a great job. I yield the gentleman 6 minutes.

Mr. MCHUGH. Mr. Chairman, I thank the distinguished chairman for his kind comments and for the very generous allocation of time. I also want to thank my other colleagues who deferred to me to allow me to kind of go out of order because of another appointment I have. Gracious, as always.

Mr. Chairman, the chairman of the full committee is absolutely right. We have the honor on this subcommittee to deal really with what I think all of us believe are the very core issues of fielding any effective military, and that is caring for the men and women who proudly wear this uniform, of course, under our system voluntarily, and, equally important, ensuring that the kinds of programs that are necessary to take care of their loved ones, their families, as they deploy into such dangerous places as Iraq, Afghanistan, and the literally hundreds of other places across this planet in which our military and men and women serve today, protecting our freedoms, find themselves.

This is, as we have heard here, as is reflective of the entire committee, a truly bipartisan effort, and I want to thank, of course, the chairman of the full committee, the gentleman from California, for his amazing leadership in very, very difficult times; the support that he has so graciously acknowledged, and rightfully so, from the ranking member, the gentleman from Missouri, IKE SKELTON; and on the Personnel Subcommittee, for the support, for the leadership, for the guidance of our ranking member, the gentleman from Arkansas, Dr. Snyder.

It is tough in this day and age, as others, including the gentleman from Pennsylvania, have suggested, to put aside partisan politics at all times in this Nation's Capital, particularly in this, an even-numbered year. But if it is being done anywhere, it is being done most successfully, perhaps not perfectly, but most successfully on this Armed Services Committee, and I would argue, most strongly on this Personnel Subcommittee.

The name "personnel" can confuse some folks. It doesn't send a very clear message. But what we try to do is the best we possibly can, within limited resources, to care for those folks who have done such an amazing job.

We are all, very collectively, very proud of the fact that when members of this committee come and talk about the achievements, significant achievements, of this bill, they generally more often than not talk about the provisions that first started in this Personnel Subcommittee:

The pay increase, the eighth consecutive year that it exceeds the general average pay increase in the Employment Cost Index, and the help that that provides, closing the gap between the civilian and the military sectors, down to a low now of 4 percent should this pay increase proposal prevail;

The kinds of things we have done in trying to take the next logical step towards controlling and keeping the cost of the military health care system affordable, but not doing it in a way that immediately inflicts what I would argue and I think my colleagues would agree is unnecessary and excessive pain in terms of the hundreds of percent of increase in copay and in enrollment fees and such through the TRICARE program;

The efforts we have made, at great expense, by the way, to add to the military end strength, recognizing that the demands we have placed upon our men and women in uniform are so significant. And one of the challenges we face is to ensure that there are sufficient numbers in the military, in the uniform, to try to assure a better and reasonable level of operations and personnel tempo, so folks who are coming home from theaters like in Iraq and Afghanistan have time to recoup, have time to unwind and spend time with their families.

□ 1430

The only way that can be done is through a reasonable extension and expansion of the numbers that we authorize in terms of putting men and women into particularly the Army, the Guard, and, of course, the Marine Corps as well.

Casualty assistance programs, recognizing that we are in a time of war, that there are difficulties in terms of those programs, and we have to ensure that the remains of military personnel who give their all, their ultimate in times of combat or who die of noncombat-related injuries in the theater of combat are moved and dedicated and brought home by military-leased aircraft and are processed in a timely and a humane and a respectful way, and on and on and on.

This is just a good bill from top to bottom. I would certainly, with a sense of pride, suggest that the 61–1 vote I think clearly illustrates that in the personnel sections this is a truly beneficial and truly progressive bill.

Mr. Chairman, I would urge all of my colleagues to support it.

Mr. SKELTON. I yield such time as he may consume to the ranking member of the Personnel Subcommittee, the gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Chairman, I want to acknowledge the work that the ranking member has done on this bill, to work with Chairman HUNTER, also my Personnel Subcommittee chairman, Mr. MCHUGH, for the work that he has done on this bill. He has given a good summary of the provisions and our concern for our men and women in uniform and their families.

Mr. Chairman, you know, I hope while I rise today in support of this bill, we certainly did have disagreements on the committee, and there are Members who are not on the committee that want to have the opportunity to present their ideas also.

We have approved one rule today that has made eight amendments in order. I hope tonight when the Rules Committee meets that most of the other amendments that have been requested will also be made in order. It would be ironic if while we are supporting our men and women in uniform fighting for democracy in Afghanistan and Iraq that the winds of democracy would be denied on the House floor in the consideration of the remainder of this bill tomorrow.

Mr. Chairman, what I wanted to do is just take a minute of time here today and talk about a provision that is not in the bill. Chairman HUNTER has heard some of these discussions before. But I am one of those, I think there are a fair number now, that believe that we really need to do some work on the Montgomery GI bill.

And we have got some bureaucratic issues that we have to deal with here in the Congress. The GI bill for veterans, those who are in the active component, is handled by the Veterans' Committee. The GI bill for the Reserve component, our Guard and Reserve force, is handled by the Armed Services Committee, and because of that, the active component benefit has had some inflationary increase through the years. We have not done that same kind of thing on a comparable basis for the Reserve component.

We also have a very unfair situation now where a person who is in the Reserve component is activated, serves overseas in a war for 12 months or longer, comes back and their enlistment contract ends. If they do not reenlist and stay in the Guard or Reserve forces, they get no GI bill benefits.

That is just terribly unfair. I say that as someone who many years ago, when I was a young man, enlisted in Marine Corps for 2 years, spent 12 months and 20 days in Vietnam, came back, was discharged from the military and actually received, for my 21½ months of total Marine Corps service 45 months in the GI bill.

Now, we just do not treat our Reserve component forces fairly. They could have spent 18 months in a war zone, get out of the Reserve and get no GI bill benefit. We need to work on that. Chairman MCHUGH has committed himself to holding hearings on this issue. I know that Chairman BUYER on the Veterans' Committee is very interested in this issue. Somehow, Mr. Chairman, we have to get the sides together on this and work through some of these issues. I appreciate your interest.

Mr. HUNTER. Mr. Chairman, the Strategic Forces Subcommittee is extremely important to our country, and the gentleman from Alabama (Mr. EVERETT) does a wonderful job of overseeing this very important dimension of national security.

Mr. Chairman, I yield 6 minutes to the gentleman from Alabama (Mr. EVERETT).

Mr. EVERETT. Mr. Chairman, I thank Chairman HUNTER. I would also like to say that under his leadership we certainly have produced one of the most bipartisan bills in one of the areas that is most important to our national defense, and I appreciate his leadership.

Mr. Chairman, I also appreciate Mr. SKELTON, my friend who is ranking member. And also let me say that we had an extremely bipartisan markup in my subcommittee, and this subcommittee handles some of the most controversial, contentious, complex issues in the defense industry. We could not have had such a bipartisan markup had it not been for my good friend from Texas (Mr. REYES), who is my ranking member of that subcommittee.

So it was an extremely good markup, and as we have seen now, that markup was followed by the full committee markup where the bill passed 61–1.

I want to say a few things about the bill. The need for providing support to ongoing operations in Iraq and the war on terrorism have appropriately been the focus of much of the committee's work this year. It is also important to examine our Nation's strategic posture and our ability to maintain a strong national defense, capable of projecting a powerful and diversified global force.

I am proud that our bill provides investments in the Nation's long-term need for transforming the Nation's capabilities of our strategic forces, and I am also proud that near-term benefits for our Armed Forces deployed around the world protecting our Nation at home is included in this bill.

In the Missile Defense Agency, the bill before you adds $140 million to transition the Army's PAC–2 Patriot missile equipment to the PAC–3 configuration and funds upgrades to the Aegis ballistic defense system. These recommendations shift funds from longer term and less well-defined projects to near-term priorities.

In the area of military space, the bill makes adjustments to the budget request to address concerns about whether space program funds are executable in the year 2007. The bill also includes a provision to establish a Department of Defense Office of Operational Responsive Space to focus and advance the Nation's ability to provide on-demand space capabilities to global military operations.

Within the atomic energy defense activities, the bill funds the Department of Energy programs at the budget request. The bill also includes a provision that requires the Secretary of Energy and the Secretary of Defense to submit to Congress a plan for the transformation of the nuclear weapons complex and authorizes funds for infrastructure upgrades.

In addition, Mr. Chairman, this is a problem that I frankly had gotten tired of seeing come before the subcommittee, and that is the Mixed Oxide, or MOX, fuel fabrication facilities and the agreements that we were trying to have with the Russians. The mark includes information that would uphold the nonproliferation objectives of the committee to begin disposition of weapons grade plutonium in the U.S. The problem is that we do not see any movement among the Russians. For a couple of years now we have been faced with this. I have become frankly a little tired of seeing it come before the Congress when we have seen no movement from the Russians to do away with their plutonium nor to reach any agreement with us to do so.

So an amendment was offered by Mr. WILSON. I asked the staff to look at a way that we can do this. There is an amendment offered by Mr. WILSON to delink the U.S. disposition of its plutonium from that of the Russians. That is also included in the mark.

The bill also adds $40 million to other nuclear nonproliferation programs and $50 million to environmental cleanup activities.

Mr. Chairman, the committee's report addresses administrative objectives, unfunded military requirements, and Member priorities. This is a good bill, as I said earlier. We simply could not have gotten this bill through the committee without the strong help from my good friend, Mr. REYES from Texas, and also from the members of the committee, both the minority members and the majority members, who really worked hard, as I said, on some of the most complex, controversial issues that are included in the entire defense bill.

So I would ask Members to take a strong look at this bill. Much like the subcommittee, it passed out of the full committee on a 61–1 vote. It is a bipartisan bill.

Finally, let me just simply say that much of this was achieved by the extremely hard work in my subcommittee by both staffs on the minority and the majority side.

I urge this bill to be passed. It is a very good bill.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy in permitting me to speak on this.

Mr. Chairman, I rise to thank Chairman HUNTER and Ranking Member SKELTON for the real progress that this legislation represents for our men and women in uniform.

I think this is truly landmark legislation in this regard. I also deeply appreciate the work of the committee leadership in working with me to include section 311 to improve the management of our unexploded ordnance and munition response programs. This is going to pay dividends for our troops here at home.

In the long run it is going to save money for the taxpayers, and the more progress we make here we are going to develop technology and techniques that are going to make people safer around the world.

I do want to share a troubling story that came forth in my community this weekend of military recruitment abuse, a problem that frankly I thought was behind us.

An 18-year-old autistic high school student who, despite a clear disability, was recruited into the Army, in the calvary as a scout, despite the strong objection of his parents and in apparent violation of military rules.

After news media attention and our office intervened, the Army has recently back-pedaled. But this is an outrageous situation. I have heard from numerous sources that this young man was not even aware that we were fighting in Iraq when he was being recruited in and signed a contract to serve in the Army.

The evidence strongly suggests that the recruiters purposefully withheld information about his disability in order to circumvent the rules. This does not appear to be an isolated incident. Pentagon statistics show accusations of recruitment abuses are at record levels.

I have called upon the Secretary of Defense for an investigation at least in this situation, because we need to get to the bottom of it, and it is likely not just one isolated case around the country. To be the finest fighting force in the world, we must continue to demand the most rigorous standards of conduct at all ranks of the military, including recruiting.

Mr. Chairman, I hope that the Armed Services Committee will work with me as this bill moves forward to make sure that safeguards are in place to make sure what happened to this young student never happens again and, most important, to make sure the integrity of the people he would serve with are protected as well.

Thank you for your courtesy.

Mr. HUNTER. Mr. Chairman, I yield 4 minutes to the gentleman from Maryland (Mr. BARTLETT), who heads the Projection Forces Subcommittee, which oversees the construction of the platforms and our ships and our bomber forces and our airlift that projects American power around the world.

Mr. BARTLETT of Maryland. Mr. Chairman, I rise in strong support of H.R. 5122, a truly bipartisan bill that supports our troops.

As chairman of the Subcommittee on Projection Forces, I want to recognize the outstanding service rendered to our great Nation by our men and women in uniform around the globe here, meeting every challenge with true dedication and professionalism.

I also want to thank all Americans, especially the families of the deployed service members, for their unwavering support of our servicemen and women.

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I want to thank the gentleman from Mississippi (Mr. TAYLOR), ranking member of the Projection Forces Subcommittee, for his extraordinary partnership and support in completing this bill.

Thank you, sir, so very much. I express my sincere gratitude to all of my colleagues and staff on the subcommittee for their diligence, commitment and hard work. Further, I would like to recognize our chairman, Mr. HUNTER, and ranking member, Mr. SKELTON, for their continued exemplary leadership in bringing this year's National Defense Authorization Act to the floor with unwavering bipartisanship and clear focus to providing our military what it needs to accomplish its mission.

I am pleased to report that the National Defense Authorization Act that we consider today takes bold steps to ensure our Nation's continued ability to safeguard our national interests and, when necessary, project U.S. military power around the globe.

We have taken action to provide our troops with the capabilities they need to meet current and emerging threats. But we also have taken precautions to ensure that current capabilities are not permanently or prematurely retired to fund future replacement capabilities that are either undefined or unaffordable.

Some of the Projection Forces highlights in this bill include: a program to infuse our shipyards with leading-edge manufacturing technology and management systems to reduce shipbuilding costs and return our shipyards to global competitiveness; legislative provisions that will improve the Navy's ability to execute the 313-ship plan envisioned by the Chief of Naval Operations by setting cost limitations at Navy budget estimates for the LHA(R), CVN–21 and LPD–17 programs; force structure initiatives that set a minimum requirement for 48 attack submarines and 299 strategic airlift aircraft and limited retirements of KC–135E and B–52 aircraft; 400 million in advance procurement funds to begin construction of a second Virginia class submarine in fiscal year 2009; $300 million to procure three additional C–17 aircraft; and $200 million to accelerate the DDG–51 destroyer modernization program by 2 years.

While there is much more to do, the National Defense Authorization Act for fiscal year 2007 is an important step in strengthening the Armed Forces of the United States. I urge all of my colleagues to support this bill.

Mr. SKELTON. Mr. Chairman, I yield 7 minutes to the gentlewoman from Georgia (Ms. MCKINNEY), a member of the subcommittee.

Ms. MCKINNEY. Mr. Chairman, I anticipate today that mine will be one of the few votes against this bill, just as I cast the only dissenting vote on the bill in committee. I have submitted a thoroughgoing written statement of the reasons for my dissent.

President Theodore Roosevelt said, "To announce that there must be no criticism of the President, or that we are to stand by the President right or wrong, is not only unpatriotic and servile, but is morally treasonable to the American public."

The American public are expressing their criticism of our President and his war in opinion polls showing the President's approval rating is the lowest it has been during his tenure. But Congress continues to march in step with the President's war plans. The wars and military operations we are funding through this defense authorization act are based on a simple use of force authorization passed by this Congress in October of 2001, which was to have been linked to the provisions of the War Powers Act of 1973. Thus, it is Congress that paved the way for the disastrous war in Iraq, and Congress must accept that it too bears responsibility for this war.

No regular review of that authorization has taken place, which has been cited by the President to justify preemptive war, the creation of a dual legal system, military tribunals, imprisoning enemy combatants without due process, the abandonment of the Geneva Accords and U.N. principles relating to war, extralegal secret renditions involving illegal methods of interrogation, including torture, expanded secrecy and attacks on civil liberties at home.

Calls from the executive for ending the principle of separating military and civilian policing by rescinding the Posse Comitatus Act of 1878 should send a chill to all who value civil liberties. We are quick to honor our young men and women in uniform with words and medals, but do we honor them where it really counts, in the pocketbook? In the hospitals for amputees and third-degree burns? We must do a better job of representing the American people and our people in uniform.

Unchecked fraudulent recruitment, failed retention, violation of rights and regulations, stop-loss policies and overrotation, lack of adequate protection for combat troops, protection of rights of conscience, diminished medical care for troops and their families, decreases in veterans benefits, environmental damage done by the manufacture, storage and use of military weapons, falsified benefits and bonuses, and privatization of functions all remain inadequately addressed by the passage of this bill, and in some cases, they are worsened.

By passing this bill virtually without dissent, the Congress is effectively legitimizing these unprecedented actions of the executive.

As we enter a fourth year of war in Iraq, the level of violence in Iraq continues unabated. It is higher than it has been at any time since the U.S.-led invasion of March 2003. As we enter a fifth year in Afghanistan, there is renewed violence and the specter of another drawn-out war. Meanwhile, our military budget continues to grow to unprecedented levels along with the deficits it is creating.

We now have a larger and more lethal military force and a more expanded intelligence budget and consolidation than we did at the height of the Cold War. That threat has receded, but the threat of unconsolidated and ill-equipped terrorist groups has been used to expand the funding of huge corporate contracts for weapons and war while denying the human suffering and needs that face us.

According to Pentagon figures, we are spending $9 billion a month to wage wars in Iraq and Afghanistan. That comes to $300 million a day, $12.5 million an hour, over $200,000 a minute, and $3,500 a second.

After the Second World War, President Truman set up a commission to investigate war profiteering and the government asked that corporations plow their war profits back into social programs to help rebuild the postwar economy. But today, corporations are profiting from war and its related military activities as never before, with a green light from the White House to proceed, despite massive abuse, waste and corruption.

Our current military budget is larger than the budgets of every other major country in the world combined, both allies and perceived enemies. Our nuclear arsenal and other weapons systems are maintained and defended, while new systems with questionable utility are designed and promoted each year.

It is time for these wars to end and for alternative military budgets that reduce the waste on flawed weapons systems to be considered by this Congress. More diplomacy, less Pentagon waste on little or nonused weapons systems; less support for corrupt regimes in the developing world; more support for the judiciary and law-abiding regimes that respect human rights; and most of all, a global plan to eliminate poverty.

Those who commit acts of terrorism may not themselves be motivated by poverty, but they are able to thrive where they can exploit the hopes and dreams of the poor and the oppressed. As many have said, terrorism is a tactic, not an enemy. The victory over terrorism will not come through war, but through peace and prosperity.

Mr. HUNTER. Mr. Chairman, from the mountains of Afghanistan to the desert country of Iraq to the jungles of many hemispheres, Special Operations and Special Forces personnel in the U.S. military are cognizant of an individual in this House who works for them night and day, and that is JIM SAXTON, who is the chairman of the Terrorism and Special Operations Subcommittee, and I want to recognize the gentleman for 4 minutes.

Mr. SAXTON. Mr. Chairman, I want to thank my great friend, Chairman HUNTER, for yielding me time and for those very kind words.

Mr. Chairman, I rise in strong support of H.R. 5122, the National Defense Authorization Act for the Fiscal Year 2007. Last week, the Committee on Armed Services approved this bill by an overwhelming bipartisan vote which was, as has been said here before, 60–1. It is not that we do not have policy disagreements, but when it comes to the final vote on a great bill that supports the troops, Members of both parties come together and vote in a resounding, positive way.

Our committee well knows that we are a Nation at war, and that the brave young men and women of America who have volunteered for military service are in danger every day in Afghanistan and Iraq and in other places in the world. Those infantrymen who venture from the base and patrol the street are truly valorous, but all of those who are in the line of fire and even in the most secure bases, they take an occasional mortar or rocket attack. And for risking themselves in this way, this country says, "Thank you."

Yet, we are making progress. I was privileged just a few short weeks ago to be on the floor of the fledgling Iraqi Parliament as the government was formed. They have a long way to go. But as a veteran legislator myself, it definitely had the feel of a legitimate and promising legislative body.

As matters in Iraq progress, we have taken measures to ensure that our broader efforts in the war on terrorism are improved and reinforced. To that end, we have begun to explore ways to improve interagency coordination process and included several items to improve the capabilities of the Special Operations Command.

We included two legislative measures to improve Pentagon processes. One would provide for more effective test and evaluation procedures, bringing them into synch with the rapid acquisition authorities which have already been provided to DOD; and the other would speed the development of information technology systems, putting a 5-year limit on the development of new business systems.

We continue our successful initiative of last year to develop novel chemical and biological countermeasures, and have supported programs for the equally important medical research and development programs.

We continue our scrutiny of the Department's information technology programs, though not as severely as in past years. In fact, our recommended reductions are barely 1 percent of the requested $31 billion in IT budget requests.

The bill recommended by the committee recognizes that we remain a Nation at war, but builds upon our capability to fight a more protracted, global war against unseen adversaries, the difficult-to-pinpoint, but nonetheless deadly and real, war against the small number of truly evil terrorists who wish to cripple Western Civilization.

We do not like to think about it, but this war came upon us on September 11 and will come to us again if we do not persevere. The enemy is clever, growing desperate, and must be taken seriously by the American people. This bill will help our soldiers keep the enemy on the defensive.

In closing, Mr. Chairman, I want to express my appreciation to the members of the Terrorism Subcommittee who contributed to this bill, and particularly the ranking member, Mr. MEEHAN. This is an excellent bill, and I urge all Members to vote "yes" on H.R. 5122.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Chairman, I thank the gentleman from Missouri and congratulate him on his award that we announced on the floor yesterday.

Mr. Chairman, as the ranking member of the Strategic Forces Subcommittee, I rise in strong support of this bill and want to thank our chairman, Mr. HUNTER, and ranking member, Mr. SKELTON.

The Strategic Forces Subcommittee has jurisdiction over several complex and contentious issues, including ballistic missile defense and nuclear weapons. I want to recognize and thank our subcommittee chairman and my good friend from Alabama, Mr. EVERETT, for his leadership and all the effort that he puts into making this a truly bipartisan bill. I also want to thank the staff on both sides of the aisle for the truly great job they do and the tremendous work that goes into a bipartisan bill like this.

Sometimes we do not see eye to eye on every single matter, but I am pleased to report that this subcommittee reached bipartisan accord on several major issues.

In the short time that I have, I want to highlight three areas of bipartisan agreement: ballistic missile defense, conventional global strike capability, and operationally responsive space.

H.R. 5122 redistricts missile defense funding from longer-range programs, such as a multiple-kill vehicle, to near-term needs, such as buying upgrades for the Patriot and Aegis interceptors that can protect our servicemembers and allies today.

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While we might disagree about whether further adjustments or reductions are possible from within the $10.4 billion for missile defense programs, I commend the subcommittee chairman for this good-faith effort and great work on this bipartisan agreement. This bill clearly reflects a bipartisan desire to obtain effective missile defense capabilities aimed at defeating real threats.

The bill also slows down development of an advanced global strike capability using the Trident missile in a conventional capacity. While not precluding development of this capability, the subcommittee has concerns that basing a conventional Trident missile on a traditionally nuclear platform could lead to misinterpretation by both our friends and potential adversaries of a launch of a conventional missile. There are real strategic implications of pursuing this capability. We must ensure that we have done all we can to avoid the potential for conflict escalation through misinterpretation.

Finally, the bill as reported contains a $20 million add for operationally responsive space to encourage the Pentagon to pay more attention to the potential of smaller and less expensive satellites that might complement or supplement current expensive satellite systems designed for both military and intelligence purposes. We cannot expect small satellites to meet all mission requirements, but we need a more robust, focused effort to seriously explore their potential given the spiraling acquisition costs of our major satellite programs.

Mr. Chairman, there are differences in the way we approach some of these issues, but as we have seen this afternoon everyone gets an opportunity to express their views. Time does not permit me to describe in detail the rest of our subcommittee's mark and important issues, but I again want to thank our chairman, Mr. EVERETT, for his bipartisan leadership, our chairman of the committee and ranking member, and I commend this bill to my colleagues and hope that everyone will support this.

Mr. HUNTER. Mr. Chairman, I might add the gentleman who just spoke, the gentleman from Texas, has been to the warfighting theaters more than any other Member of either body in this Congress and we appreciate his great efforts.

Mr. Chairman, I yield 4 minutes to the gentleman from South Carolina (Mr. WILSON), who took the place of the great Floyd Spence, former chairman of this committee, and nobody has devoted more in terms of their personal effort toward national security or, in Mr. WILSON's case, more of their family members. The Wilson family wears the uniform of the United States.

Mr. WILSON of South Carolina. Mr. Chairman, thank you, and I appreciate your leadership and the cooperation of Ranking Member IKE SKELTON for developing the Defense Authorization Act. I am grateful that both of you have had family members as service members overseas in the global war on terrorism.

My support of this bill is as a Member of Congress, very proud to represent Fort Jackson, the Marine Air Station at Beaufort, Parris Island, the Beaufort Naval Hospital.

Additionally, I am very grateful to have a background as a veteran of the National Guard for 30 years, but I am particularly proud, as the chairman has referenced, that in August my fourth son will be serving in the military of the United States. So our family is very, very proud of what the military means in protecting American families.

Mr. Speaker, in 2000, leaders from Russia and the United States announced a strategic agreement designed to dispose of tons of surplus weapons grade plutonium by turning it into mixed oxide, MOX, fuel for use in existing commercial nuclear reactors.

After this agreement was announced, the Savannah River Site near Aiken, South Carolina, which is located in the district I represent and Representative GRESHAM BARRETT, was chosen to fulfill the U.S. side of this important mission. Throughout the past 6 years, our country has demonstrated that we are ready to move forward with our part of the nonproliferation agreement.

Last week, my colleagues on the committee, with the leadership of Chairman TERRY EVERETT, supported the amendment to delink the U.S. and Russia MOX programs to ensure that the pace of the Russia MOX program will not dictate the progress of the U.S. MOX program. Described by CQ Today as perhaps the most significant amendment adopted at Wednesday's markup, this provision enables SRS to immediately begin construction of a MOX facility. We remain confident that our progress will encourage Russia to proceed with the same momentum.

In addition to fulfilling our agreements to nuclear nonproliferation, this crucial piece of legislation will help create hundreds of jobs in South Carolina and Georgia. By passing the National Defense Authorization Act, Congress will continue to lead the effort to reduce our excess plutonium supply. I urge my colleagues to support passage.

In conclusion, God bless our troops, and we will never forget September 11.

Mr. SKELTON. Mr. Chairman, I yield 4 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, on the whole this is a good bill. I commend the ranking member and the chairman for the excellent work they have put into it, and I intend to support it.

This bill gives strong support to our troops in the field by continuing to give them the equipment they need and the compensation they deserve. In particular, due to an amendment that I offered, it provides for the waiver of premiums for those soldiers in combat, Iraq or Afghanistan, on $400,000 of Servicemen's Group Life Insurance, the maximum amount available to our troops, so that all of our troops in combat can take full advantage of what is available without being concerned about the cost. We put them there. The least we can do for them and their families is give them the security of more life insurance. This bill, I am happy to say, does just that.

On an issue closer to my domain, this bill adds $30 million to the cost of cleaning up some of the most radioactive waste in the country precariously stored in 51 steel tanks at the Savannah River Site in South Carolina. It also contains provisions that will allow work to begin on a facility to fabricate 34 tons of weapons grade plutonium into mixed oxide fuel.

In 2002, as a result of agreements with Russia, South Carolina agreed to accept 34 metric tons of plutonium at Savannah River Site to be fabricated into MOX fuel and burned in light water reactors. Russia agreed likewise to dispose of 34 tons of plutonium with a similar MOX fuel plant.

For 4 or 5 years, this agreement to move in parallel tracks was awaiting the outcome of disagreements and discussions of the liability for the plant. These were finally resolved last year only to find out that these were not Russia's only concerns, and now they have indicated a reluctance to pursue the parallel track of building a MOX fuel plant.

So this bill provides that South Carolina can proceed on its own on a separate track, subject to DOE's agreement of course, and subject to several conditions which have been imposed by the bill. One is that DOE certifies to us that they are still convinced that this is the best way to dispose of weapons grade plutonium. Secondly, DOE will have to indicate to us in a report that they have made adjustments and addressed the criticisms of this particular project, particularly its cost escalation, that were mentioned by the IG the last time they took a look at the project. Thirdly, we ask for a report on the disposition of off-spec plutonium, plutonium that cannot be processed into MOX fuel.

These provisions are important for South Carolina, but they also are important for our national security and nonproliferation and for the workers that will build and operate the MOX fuel plant.

Mr. Speaker, the Department of Energy has an important program called Megaports, which is to help foreign countries install radiation detection equipment so that we can interdict radioactive material in cargoes headed for the U.S. before they reach our shores. For some reason, the administration this year cut the program by $33 million. Many of us have argued for some time that we need to do a lot more to protect our ports.

This bill recognizes the gravity of that problem by authorizing an additional $15 million for the purchase of radiation detectors. By helping foreign countries bolster port and border detection, we help ourselves.

The bill contains one other notable provision on nuclear nonproliferation. The Global Threat Reduction Initiative is a comprehensive initiative to secure and remove high risk nuclear materials, many times in insecure places, from around the world, typically in research reactors. By working with the committee, we have been able to increase the GTRI budget by $20 million over the President's budget and allow the Department of Energy an additional $30 million of previously appropriated but as yet unobligated funds. This amounts to an almost 50 percent increase in funds available for this important program.

Lastly, Mr. Chairman, this bill contains important language which restricts spending on space-based missile defense interceptors. We now have five ballistic missile interceptor systems in various phases of development. I think it is important that we stick to our plan, that we keep focusing this system and that we bring further along these five systems before we start up another, particularly one with the complications that the space-based interceptor will entail.

All things considered, it is a good bill. I intend to support it. I commend those who have crafted it and helped bring it to the floor.

Mr. HUNTER. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. DAVIS), who brought his experience as an officer of the 82nd Airborne to the Armed Services Committee.

Mr. DAVIS of Kentucky. Mr. Chairman, I also thank the chairman. It is a privilege to serve on a committee chaired by a fellow Army Ranger.

Today, I rise in strong support of H.R. 5122 and to speak about a matter of importance to our men and women who serve in the Reserve component, in the National Guard and our Armed Forces. As a former enlisted soldier, West Point graduate and 11-year veteran of active duty, and serving a number of years in Reserve, this is an important issue and one of particular interest and concern to me.

The bill which we are considering today includes an important provision that will for the first time establish equity in the computation of retired disability pay for all servicemembers, regardless of whether they were serving in the active military, Reserve or National Guard.

I thank Chairman HUNTER and Personnel Subcommittee Chairman MCHUGH for their support of my amendment in committee which ensured inclusion of this vital amendment in today's legislation.

Earlier this year on one of my trips to Walter Reed Hospital, I visited a severely wounded member of the Kentucky Army National Guard from my district, Sergeant Carlos Farler of Tollesboro, Kentucky. I was stunned in talking with this great American, whose home is not far from mine, as he told me that his disability pay would be computed at a different level for Reservists and for Guardsmen than it is for active servicemembers who have the same wounds from the same battle.

After meeting Sergeant Farler, I researched how military disability and retirement pay is computed. I learned that this computation is often based on the years of service. Under current law, a Reservist gets credit only for the time he actually spends in uniform. For example, a soldier who has spent 13 years in the Kentucky National Guard may have only 4 years of service when his or her duty days are added up. With a 30 percent disability this soldier gets about 8 percent less disability retirement pay than their regular Army counterpart.

In other words, two personnel with identical disabilities, incurred in the same Iraqi fire fight, will end up with a different disability retirement benefit with the citizen soldier coming up short. A lifetime difference of 8 percent in disability pay can have a significant impact on a retiree's standard of living.

The amendment which I offered and which was accepted in committee will change the law so that the actual number of years spent in the Reserves will be used. Any servicemember who earns the Purple Heart for being wounded in action and who was medically retired as a result of that action will be entitled to the same compensation for his or her disability retirement pay as somebody serving in the regular military.

A bullet does not discriminate between an active and Reserve servicemember and neither should we. Now is the time to correct this long-standing inequity. With passage of today's bill, we will do so.

In closing, I thank Sergeant Farler for bringing this inequity to my attention and for his service to our Nation, and also, more importantly, to his fellow veterans in the Guard and Reserve, and again I thank Chairman HUNTER, Ranking Member SKELTON, Chairman MCHUGH for their support of this important provision to do right by America's soldiers, sailors, airmen and marines, truly making the regular Reserve and Guard forces one force to defend this Nation.

Mr. SKELTON. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Chairman, I rise in support of this bill. I want to commend all of my colleagues. In particular, I want to commend a former colleague, Congressman Sonny Montgomery, who is under the weather, who is probably watching, and we want him to know that all of us are thinking of him, and in this bill, in particular, I think Congressman Montgomery after his years of avidly serving the National Guard would be very pleased to know that a provision in this bill will extend to our Guardsmen and Reservists the exact same TRICARE benefits that are extended to the regular force. It is long overdue and I want to thank the chairman of the subcommittee, Chairman MCHUGH, and all the other people who helped make this happen.

I also want to mention on the TRICARE for retirees that there will be no increase in their copays. That is an issue of great importance to the people who have already served us. Great people and great nations keep their word, and we need to keep our word to them to keep their premiums low.

I would also like to commend my colleague JOEL HEFLEY. We are going to miss him very much. He has been a very honorable Member of this body. I think the committee did the right thing in naming the housing complex off of Fort Carson after him. He is going to be missed greatly.

Mr. Chairman, a couple of things in the limited time I have left that I would ask you to consider for the remaining time on this bill. First is the amendment by the gentleman from Virginia (Mr. TOM DAVIS) that would elevate the Chief of the National Guard Bureau to Joint Chiefs of Staff. There are over 400,000 National Guardsmen, and the events of the hurricane in south Mississippi last fall really convinced me that should there be an attack on the American homeland it is going to look a lot like Hurricane Katrina.

□ 1315

You are going to have a lack of electricity, food and water, no place even to put the bodies of the dead, and the National Guard did a magnificent job in responding to that. They will in all probability do a magnificent job should there be a terrorist event in this country.

But the person who should be at the table with the President in the event of that is the Chief of the National Guard. I would ask that the Members of this body be given an opportunity to vote on the Davis amendment.

Second is an amendment of my own that would provide that 100 percent of the wheeled vehicles in the Iraq and Afghanistan theaters that leave a base have an IED jammer. I voted to send those young men and women over there. We are now in the third year of this conflict. Well over half of all of the casualties, well over half of all deaths are caused by IEDs. Just as the Department early on did not think it was necessary for every soldier to have body armor, or every vehicle to be uparmored, I think the Department has been slow in seeing to it that every vehicle has an IED jammer. I would ask for a vote on that amendment. I think it is important.

I do not think any of us want to go to a funeral and tell the moms and dads that we are visiting that their son, their daughter, husband, brother happened to be in the last vehicle in Iraq that we failed to put a jammer on.

We are going to spend $10 billion this year on missile defense. We have not been attacked by a missile. Thousands of young Americans have died in Iraq. Half of those young Americans died as a result of IEDs. It is, unfortunately, the weapon of choice and, unfortunately, a very efficient weapon that our enemy is using. We need to take that weapon away from them, and the IED jammers can contribute to that. I ask for an opportunity for a vote on that amendment. It is in the best interest of our troops.

Again, this is a good bill and I encourage my colleagues to vote for it.

Mr. HUNTER. Mr. Chairman, I want to thank the gentleman who just spoke. I share his focus on IEDs, and we will work together.

Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina (Mr. HAYES), who represents so many great people in uniform in North Carolina and has spent so much time working for their quality of life and for their effectiveness on the battlefield, and also for all of the people who work in the defense industry so we can make sure when the American taxpayer pays for defense items, since we defend the free world, that those items are made by Americans and represent American jobs.

Mr. HAYES. Mr. Chairman, I thank Chairman HUNTER and I thank the minority member, Mr. SKELTON, for a truly outstanding piece of bipartisan work. This is all about the men and women in uniform. It reflects the commitment, the dedication, the timing and the absolute perseverance of two fine leaders in our committee in wholeheartedly supporting the incredible effort that our men and women in uniform are putting forward in winning the war on terrorism. I thank them for their hard work and support and their unanimous approval of this bill.

I am very proud to have Fort Bragg, the epicenter of the universe, home of Joint Special Operations Command, in my home district.

As we are all aware, Special Operations Forces, SOF, are playing an increasingly essential role as we continue to fight and, more importantly, win the war on terror. Due to their importance in winning this fight, the 2006 Quadrennial Defense Review called for a 15 percent increase in Special Operations Forces beginning in fiscal year 2007. This would increase Army Special Forces battalions by one-third, raise SEAL team manning, and grow Civil Affairs and Psychological Operations.

Some of the very best ways to begin growing the SOF force is to retain those highly trained individuals already serving under Special Operations and attract like-minded warriors to the command. That is why my provision requiring a DOD study on improving retention of special operators is so essential.

I would again like to thank Chairman HUNTER and Chairman SAXTON of our subcommittee for their support and for working with me on this, and supporting me by including it in the manager's amendment.

The report will give us better data on the cost and investment that goes into training and maintaining a special operator. It will include cost of training and how much has been invested in the average SOF operator after two deployments. It will also speak financially to the special operators who have accumulated over 48 months of hostile fire pay and the percentage who have accumulated over 60.

I will soon introduce a bill to provide a new retention incentive for Special Forces soldiers, and look forward to continuing to work with Chairman HUNTER and my colleagues on this critical national security issue.

As we look towards the future, winning the war on terror, securing the freedom for America and other like-minded folks around the world, I want to emphasize this is about every man and woman in uniform whom we are so proud of and appreciate for their service, and for their families' support, and we will continue to say prayers for their continued safety and success.

As we look forward to freedom, the shining city on the hill and the best days of America lying ahead, it is the men and women in uniform who protect, defend and make us proud to whom we should look and give thanks every night.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. UDALL).

Mr. UDALL of Colorado. Mr. Chairman, I rise in support of this bill. As a relatively new member of the Armed Services Committee, I am grateful to the ranking member, Mr. SKELTON, and Chairman HUNTER for working with me on parts of the bill that are particularly important for Colorado, including report language about the importance of the High Altitude Army Aviation Training Site, which is located in Eagle, Colorado, and its need for enough aircraft to fulfill its mission.

I am also grateful for the chairman's support of a provision to name a housing facility at Fort Carson, Colorado, in honor of Mr. HEFLEY, who as my colleagues know is retiring this year. During his 20 years of representing Colorado's Fifth District, Mr. HEFLEY has served with integrity and honor, and he has been a fair and effective lawmaker. I have learned a great deal from Mr. HEFLEY in my years in Congress, and along with everyone else here, I will miss him.

I am also pleased with many other provisions in the bill, including the extension of TRICARE coverage to all Reservists, the blocking of the proposed plan to raise certain TRICARE fees, the authorization of additional active duty Army and Army National Guard personnel, added funds for up-armored Humvees and IED jammers, and the 2.7 percent pay increase for military personnel, among other provisions.

I hope that the Rules Committee will allow debate on many important amendments not made in order in today's rule, including one I proposed that will bring us further towards our goal of energy independence, and therefore national security.

In conclusion, I think this is a good bill, a carefully drafted and bipartisan bill, and I urge its support.

Mr. HUNTER. Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I thank the ranking member for yielding me this time. I would like to thank all of my colleagues on the committee and the committee staff for their hard work on what I believe is a very good bill.

In particular, I would like to thank our Personnel Subcommittee chairman, Mr. MCHUGH, for working with me this year on several issues pertaining to sexual assault and harassment of military women, and Chairman EVERETT of the Strategic Forces Subcommittee for his cooperation in ensuring that we do not put technology ahead of policy in the realm of military space.

I am also very happy to report that this bill includes language to strengthen congressional oversight of detainees issues, particularly with regards to the issue of command responsibility. The Department of Defense wants to say that they are holding people accountable whenever detainee abuse occurs, but where does the ultimate responsibility lie?

A full 95 percent of the courts martial cases of detainee abuse involve the enlisted personnel. As of last month, only five officers had been criminally charged in connection with abuse cases, none of them above the rank of major, and I do not believe that that is command responsibility. It is clear that this committee and this Congress take the issue of detainee abuse seriously, but we cannot fool ourselves into thinking the problem is solved until this issue of command accountability has been effectively addressed.

Our work on detainee issues is far from over, but the language in this bill is definitely a step in the right direction.

The budget we received from the Department of Defense this year had many major flaws, misguided increases and out-of-pocket health care costs, severe cuts to National Guard funding, and other budgetary shell games that have sacrificed the well-being of our servicemembers to avoid the pain of cutting big ticket items, but this committee came together in a very bipartisan way to address these problems and we ended up with a bill that we are proud of. It is not a perfect bill and I hope that the next rule will allow for my colleagues' amendments that will make this bill even better.

Mr. HUNTER. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY), a former member of the Armed Services Committee, who is still very devoted to national security and exercises that role as a member of the Rules Committee.

Mr. GINGREY. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in strong support of the 2007 National Defense Authorization Act. I would like to thank all of the members of the Armed Services Committee for their hard work on this vital legislation, and I am especially appreciative for the efforts of Chairman HUNTER and the subcommittee chairman, Mr. MCHUGH, and of course the ranking member, Mr. SKELTON, in listening to the families of our fallen soldiers.

A brave young man from my district who heroically gave his life for our country, SGT Paul Saylor, was not able to be viewed for a final time upon being returned to his family. Sergeant Saylor's family is extremely patriotic in support of our troops and has worked tirelessly to ensure that other military families are able to gain closure when a family member dies in defense of our Nation.

H.R. 5122 includes, thanks to the chairman, a remains preservation provision which takes steps to ensure that we can honor our fallen heroes with the dignity and respect that they deserve.

Mr. Chairman, I would like to personally thank you, as well as the ranking member, Mr. SKELTON, and the subcommittee chairman, Mr. MCHUGH, for proving that one soldier and one family can truly make a difference. I urge support of the legislation.

Mr. SKELTON. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank my friend for his very gracious yielding of time.

I rise in support of a piece of legislation that I think deserves the support of each Member of this body. I thank Chairman HUNTER and Mr. SKELTON and the various subcommittee chairmen and members for their hard work on this bill.

My reasons for supporting this bill are both local and global. Locally, I would like to thank my friend and colleague, Mr. SAXTON, chairman of our subcommittee, for his excellent work, along with Mr. LOBIONDO, for inserting language which will put a stop to what I believe is an unwise and poorly thought out plan to dispose of the residue of VX nerve agent in the Delaware River adjoining our districts. I thank them for their leadership on that.

More globally, the role of the Armed Forces of the United States is to act in conjunction with our diplomatic and other leaders to shape the world in which we live so it is safer for our people.

□ 1530

And I think by any measure, this bill measures up to that very high standard. Most importantly, I am proud to support this bill because it significantly exceeds the pay increase for the people in uniform that was originally proposed.

The original proposal under the President's budget was for a 2.2 percent increase in the base pay of those who serve our country. I commend both the majority and minority for finding the right ways to alter that request and increase it to 2.7 percent, far more in line with pay raises being received by people in the private sector in lines of work that are obviously less risky and stressful for the defense of our country.

I also believe that this bill wisely invests in the information technologies and the intelligence gathering technologies that will serve us well in dealing with the asymmetric threats that our country faces and will surely face in the years ahead. I think this is a very positive foundation for the enactment of this bill.

I will say that I hope that the Rules Committee finds it within its purview to permit the full House to debate some other measures about shaping the environment in which we live, with specific reference to the question of limiting the proliferation of weapons of mass destruction. There is an amendment presently before the Rules Committee which speaks to that issue, which I would urge the Rules Committee to adopt so that we can have an argument about the best way to shape the future in which we find ourselves.

But I will say this. There is unanimity that the best way to shape that future is to recruit, retain, reward, equip and take care of the brave Americans who step forward to serve this country and their families. I am very pleased that this has not become a partisan issue, that Members on both sides of the aisle have worked very hard to try to a achieve that promise, the recognition of that promise for the people who serve.

So I am proud to support this bill because of what it does for the anonymous young Americans whose names we do not know usually, until something terrible happens to them. I hope that we never learn their names if that is the reason that we would hear them.

But what they will learn from us is that their compensation, the care for their families will improve as a result of this bill that we support today.

Mr. SKELTON. Mr. Chairman, may I ask, does the gentleman from California have additional speakers?

Mr. HUNTER. I would say to my good colleague, I have just one additional thing that I would like to mention about a provision in the bill. But outside of that, we are ready to wrap up the general debate. So I have got just maybe a minute or two.

Mr. SKELTON. Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I just wanted to say to my colleagues that this, the story of this global war against terror with the special focus in Iraq and Afghanistan, is a story of families. It is a story of enormous sacrifice, not just by the people that wear the uniform in the theater, but by their families back home, their moms, their dads, their wives, their husbands, their children.

And there is a particular family, the Holley family from San Diego, California, that brought an issue to the attention of the Armed Services Committee here over this last year when their great 101st Airborne Trooper, Matthew Holley, was killed in the Iraq theater. And they pointed out that in the present chain of transportation of our fallen heroes home, where they come through Dover, Delaware, and ultimately go to their final resting place at their particular hometown or community in America, that part of that chain of transportation has been carried out by commercial airlines. And despite the best wishes and the best efforts on the part of those people who operate the commercial airlines, the proper amount of respect, the extreme respect that should be afforded those fallen heroes is in some cases, has in some cases been lacking.

And that came to the attention of the Holley family. And they talked to me and to other members of the committee, and we looked at the issue and as a result of that, we have, in the law, in this bill or in the proposed law, some very clear and strong directives to the administration to utilize military aircraft in taking our fallen heroes from Dover, Delaware, from where they land on American shores, to the military base that is closest to their hometown, unless otherwise directed by the family, and to use those military aircraft and to accompany those fallen heroes with American military personnel, and to greet that military aircraft when it arrives at that military base closest to their hometown with an honor guard.

And so we have laid out very directive language, very clear language for the administration. And I want to thank John and Stacy, who really brought this to our attention in honor of their son, Matthew Holley. And I think that we have talked to the other body and I think that this will have clear support all the way through.

But this is an important part of this bill because part of this bill is about respect. And this particular provision is about respect for those people who have given that last full measure of devotion to our country.

Mr. Chairman, I yield back the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

I want to add one more word about this bill. It is an excellent bill, reflects the best of bipartisanship. I thank the chairman, DUNCAN HUNTER, all of the subcommittee chairmen and ranking members for the very, very hard work that they did. I certainly hope that we are able to return tomorrow with some amendments that need to be debated and discussed, including the prescription drug amendment that I have offered.

Mr. FOSSELLA. Mr. Chairman, today I rise in support of H.R. 5122, the 2007 Defense Reauthorization.

In February 2006, I introduced legislation that would allow military families to mail packages postage-free to their loved ones serving in Iraq and Afghanistan. With the help of Chairman HUNTER, Sub-Committee Chairman McHUGH, and Chairman TOM DAVIS, this legislation has been included in the underlying legislation we are currently debating.

I drafted the legislation in response to concerns expressed to me by many military families that it was becoming too costly for them to send regular care packages to their loved ones overseas. I heard story after story of families that were already finding it hard to make ends meet now having to spend as much as $1,500 a year to mail care packages. These packages bring a touch of home to our servicemembers—like pictures, cards and school projects from their children. But they also provide our military men and women with basic necessities like shampoo, powder, and phone cards.

In my district of Staten Island and Brooklyn, residents joined together and raised money to help military families send these packages over seas. I was inspired by the outpouring of support for our service men and women in Dyker Heights, Brooklyn, where postal service employees raised money to cover the postage for every package sent to our troops. On Staten Island, several groups dedicated to helping miltary families also raised money to help offset the cost of postage.

It was these acts of genorosity and partiotism that prompted me to introduce my legislation. And today, with the strong, bipartisan support of 133 of my colleagues, the House of Representatives will show our enduring support for our service men and women and their families.

It goes without saying that our servicemen and women are making enormous sacrifices fighting the War on Terrorism and defending freedom and liberty. They face great challenges under trying circumstances, and often without the benefit of basic necessities like blankets or toothpaste. It falls upon their families back home to get them these supplies and to cover the cost of shipping them overseas. This bill will help make life better for our soldiers and to ease the financial burden on those back home. It is a simple way to bring a touch of home to America's heroes overseas.

I urge my colleagues to support this bill and allow our military families an easier path to sending care packages to their loved ones.

Mr. NORWOOD. Mr. Chairman, I would like to thank Chairman HUNTER, Ranking Member SKELTON, and committee staff for including my legislation improving TRICARE dental coverage into this bill.

Currently, TRICARE will only pay for medically necessary dental work in a hospital if the condition has a medical component.

That means if a young child or disabled dependent has a serious dental condition and cannot be treated in the office, the general anesthesia costs get passed to the family.

As a former Army and private practice dentist, I can tell you that hospital dental care is medically necessary in limited cases, and that these costs are an unjust burden on military families.

This Authorization finally acknowledges that fact, and I urge its support.

Mr. SKELTON. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. KUHL of New York). All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 5122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2007".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.

Subtitle B—Army Programs

Sec. 111. Multiyear procurement authority for Family of Medium Tactical Vehicles.
Sec. 112. Multiyear procurement authority for MH–60R helicopters and mission equipment.
Sec. 113. Funding profile for Modular Force Initiative of the Army.
Sec. 114. Bridge to Future Networks program.

Subtitle C—Navy Programs

Sec. 121. Attack submarine force structure.
Sec. 122. Adherence to Navy cost estimates for CVN–21 class of aircraft carriers.
Sec. 123. Adherence to Navy cost estimates for LHA Replacement amphibious assault ship program.
Sec. 124. Adherence to Navy cost estimates for San Antonio (LPD–17) class amphibious ship program.
Sec. 125. Multiyear procurement authority for V–22 tiltrotor aircraft program.
Sec. 126. Quality control in procurement of ship critical safety items and related services.
Sec. 127. DD(X) Next-Generation Destroyer program.
Sec. 128. Sense of Congress that the Navy make greater use of nuclear-powered propulsion systems in its future fleet of surface combatants.

Subtitle D—Air Force Programs

Sec. 131. Requirement for B–52 force structure.
Sec. 132. Strategic airlift force structure.
Sec. 133. Limitation on retirement of U–2 aircraft.
Sec. 134. Multiyear procurement authority for F–22A Raptor fighter aircraft.
Sec. 135. Limitation on retirement of KC–135E aircraft during fiscal year 2007.
Sec. 136. Limitation on retirement of F-117A aircraft during fiscal year 2007.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Alternate engine for Joint Strike Fighter.

Sec. 212. Extension of authority to award prizes for advanced technology achievements.

Sec. 213. Extension of Defense Acquisition Challenge Program.

Sec. 214. Future Combat Systems milestone review.

Sec. 215. Independent cost analyses for Joint Strike Fighter engine program.

Sec. 216. Dedicated amounts for implementing or evaluating DD(X) and CVN–21 proposals under Defense Acquisition Challenge Program.

Subtitle C—Ballistic Missile Defense

Sec. 221. Fielding of ballistic missile defense capabilities.

Sec. 222. Limitation on use of funds for space-based interceptor.

Subtitle D—Other Matters

Sec. 231. Review of test and evaluation policies and practices to address emerging acquisition approaches.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.

Sec. 302. Working capital funds.

Sec. 303. Other Department of Defense Programs.

Subtitle B—Environmental Provisions

Sec. 311. Revision of requirement for unexploded ordnance program manager.

Sec. 312. Identification and monitoring of military munitions disposal sites in ocean waters extending from United States coast to outer boundary of outer Continental Shelf.

Sec. 313. Reimbursement of Environmental Protection Agency for certain costs in connection with Moses Lake Wellfield Superfund Site, Moses Lake, Washington.

Sec. 314. Funding of cooperative agreements under environmental restoration program.

Sec. 315. Analysis and report regarding contamination and remediation responsibility for Norwalk Defense Fuel Supply Point, Norwalk, California.

Subtitle C—Workplace and Depot Issues

Sec. 321. Extension of exclusion of certain expenditures from percentage limitation on contracting for depot-level maintenance.

Sec. 322. Minimum capital investment for Air Force depots.

Sec. 323. Extension of temporary authority for contractor performance of security guard functions.

Subtitle D—Reports

Sec. 331. Report on Nuclear Attack Submarine Depot Maintenance.

Sec. 332. Report on Navy Fleet Response Plan.

Sec. 333. Report on Navy surface ship rotational crew programs.

Sec. 334. Report on Army live-fire ranges in Hawaii.

Sec. 335. Comptroller General report on joint standards and protocols for access control systems at Department of Defense installations.

Sec. 336. Report on Personnel Security Investigations for Industry and National Industrial Security Program.

Subtitle E—Other Matters

Sec. 341. Department of Defense strategic policy on prepositioning of materiel and equipment.

Sec. 342. Authority to make Department of Defense horses available for adoption at end of useful working life.

Sec. 343. Sale and use of proceeds of recyclable munitions materials.

Sec. 344. Capital security cost sharing.

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SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.

For purposes of this Act, the term "congressional defense committees" has the meaning given that term in section 101(a)(16) of title 10, United States Code.

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Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2007 for procurement for the Army as follows:

(1) For aircraft, $3,714,783,000.

(2) For missiles, $1,490,898,000.

(3) For weapons and tracked combat vehicles, $2,335,004,000.

(4) For ammunition, $1,691,475,000.

(5) For other procurement, $6,970,079,000.

(6) For National Guard Equipment, $318,000,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2007 for procurement for the Navy as follows:

(1) For aircraft, $10,760,671,000.

(2) For weapons, including missiles and torpedoes, $2,517,020,000.

(3) For shipbuilding and conversion, $11,183,153,000.

(4) For other procurement, $5,042,766,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2007 for procurement for the Marine Corps in the amount of $1,223,813,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2007 for procurement of ammunition for the Navy and the Marine Corps in the amount of $758,793,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2007 for procurement for the Air Force as follows:

(1) For aircraft, $13,042,630,000.

(2) For ammunition, $1,076,749,000.

(3) For missiles, $4,171,495,000.

(4) For other procurement, $15,428,636,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2007 for Defense-wide procurement in the amount of $2,856,461,000.

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR FAMILY OF MEDIUM TACTICAL VEHICLES.

(a) AUTHORITY.—The Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract for the Family of Medium Tactical Vehicles (FMTV) program beginning with the fiscal year 2008 program year.

(b) CONTRACT REQUIREMENT.—Any multiyear contract or extension entered into under this section for procurement under the Family of Medium Tactical Vehicles program shall provide for incorporation of improvements in the areas of performance capability and survivability from lessons learned from operations involving the Global War on Terrorism (as well as from product improvement programs carried out for the Family of Medium Tactical Vehicles program)..

(c) LIMITATION ON TERM OF CONTRACT.—Notwithstanding subsection (k) of section 2306b of title 10, United States Code, a contract or extension under this section may not be for a period in excess of three program years.

SEC. 112. MULTIYEAR PROCUREMENT AUTHORITY FOR MH–60R HELICOPTERS AND MISSION EQUIPMENT.

(a) MH–60R HELICOPTER.—Subject to subsection (c), the Secretary of the Army, acting as executive agent for the Department of the Navy, may enter into a multiyear contract for the procurement of 144 MH–60R helicopters.

(b) MH–60R HELICOPTER MISSION EQUIPMENT.—Subject to subsection (c), the Secretary of the Army, acting as executive agent for the Department of the Navy, may enter into a multiyear contract for the procurement of MH–60R helicopter mission equipment for the helicopters covered by a multiyear contract under subsection (a).

(c) CONTRACT REQUIREMENTS.—Any multiyear contract under this section—

(1) shall be entered into in accordance with section 2306b of title 10, United States Code, and shall commence with the fiscal year 2007 program year; and

(2) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of appropriations for that purpose.

(d) COST LIMITATION.—The combined value for the contracts authorized by subsections (a) and (b) may not exceed $2,600,000,000, and the average unit cost per helicopter under those contracts may not exceed $37,790,000.

SEC. 113. FUNDING PROFILE FOR MODULAR FORCE INITIATIVE OF THE ARMY.

The Secretary of the Army shall set forth in the budget presentation materials of the Army submitted to Congress in support of the President's budget for any fiscal year after fiscal year 2007, and in other relevant materials submitted to Congress with respect to the budget of the Army for any such fiscal year, all amounts for procurement for the M1A2 Abrams tank System Enhancement Program (SEP) and for the Bradley A3 fighting vehicle as elements within the amounts requested for the Modular Force Initiative of the Army, in accordance with the report of the Army titled "The Army Modular Force Initiative", submitted to Congress in March 2006.

SEC. 114. BRIDGE TO FUTURE NETWORKS PROGRAM.

(a) LIMITATION ON FISCAL YEAR 2007 AMOUNT.—Of the amount authorized to be appropriated for the Army for fiscal year 2007 for Other Procurement, Army, that is available for the program of the Army designated as the Bridge to Future Networks, not more than 70 percent shall be made available for obligation until the Secretary of the Army submits to the congressional defense committees a report on that program that includes the matters specified in subsection (b).

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) An analysis of how the Joint Network Node (JNN) element of the Bridge to Future Networks program and the Warfighter Information Network-Tactical (WIN–T) program will fit together, including an analysis of whether there are opportunities to leverage technologies and equipment from the Joint Network Node program as part of the development of the Warfighter Information Network-Tactical program.

(2) A description of the extent to which components of the Joint Network Node and the Warfighter Information Network-Tactical programs could be used together as elements of a single tactical network.

(3) A description of the strategy of the Army for completing the systems engineering necessary to ensure the end-to-end interoperability of a single tactical network referred to in paragraph (2).

Subtitle C—Navy Programs

SEC. 121. ATTACK SUBMARINE FORCE STRUCTURE.

Section 5062 of title 10, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) The naval combat forces of the Navy shall include not less than 48 operational attack submarines. For purposes of this subsection, an operational attack submarine includes an attack submarine that is temporarily unavailable for worldwide deployment due to routine or scheduled maintenance or repair.".

SEC. 122. ADHERENCE TO NAVY COST ESTIMATES FOR CVN–21 CLASS OF AIRCRAFT CARRIERS.

(a) LIMITATION.—

(1) LEAD SHIP.—The total amount obligated or expended from funds appropriated or otherwise made available for Shipbuilding and Conversion, Navy, or for any other procurement account, for the aircraft carrier designated as CVN–21 may not exceed $10,500,000,000 (as adjusted pursuant to subsection (b)).

(2) FOLLOW-ON SHIPS.—The total amount obligated or expended from funds appropriated or otherwise made available for Shipbuilding and Conversion, Navy, or for any other procurement account, for the construction of any ship that is constructed in the CVN–21 class of aircraft carriers after the lead ship of that class may not exceed $8,100,000,000 (as adjusted pursuant to subsection (b)).

(b) ADJUSTMENT OF LIMITATION AMOUNT.—The Secretary of the Navy may adjust the *amount set forth in subsection (a) for any ship constructed in the CVN–21 class of aircraft carriers by the following:*

(1) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2006.

(2) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2006.

(3) The amounts of outfitting costs and post-delivery costs incurred for that ship.

(4) The amounts of increases or decreases in costs of that ship that are attributable to insertion of new technology into that ship, as compared to the technology baseline as it was defined in the approved acquisition program baseline estimate of December 2005.

(c) Limitation on Technology Insertion Cost Adjustment.—The Secretary of the Navy may use the authority under paragraph (4) of subsection (b) to adjust the amount set forth in subsection (a) for a ship referred to in that subsection with respect to insertion of new technology into that ship only if—

(1) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology would lower the life-cycle cost of the ship; or

(2) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology is required to meet an emerging threat and the Secretary of Defense certifies to those committees that such threat poses grave harm to national security.

(d) Written Notice of Change in Amount.—

(1) Requirement.—The Secretary of the Navy shall submit to the congressional defense committees each year, at the same time that the budget is submitted under section 1105(a) of title 31, United States Code, for the next fiscal year, written notice of any change in the amount set forth in subsection (a) during the preceding fiscal year that the Secretary has determined to be associated with a cost referred to in subsection (b).

(2) Effective date.—The requirement in paragraph (1) shall become effective with the budget request for the year of procurement of the first ship referred to in subsection (a).

SEC. 123. ADHERENCE TO NAVY COST ESTIMATES FOR LHA REPLACEMENT AMPHIBIOUS ASSAULT SHIP PROGRAM.

(a) Limitation.—The total amount obligated or expended from funds appropriated or otherwise made available for Shipbuilding and Conversion, Navy, or for any other procurement account, for procurement of any ship that is constructed under the LHA Replacement (LHA(R)) amphibious assault ship program may not exceed $2,813,600,000 (as adjusted pursuant to subsection (b)).

(b) Adjustment of Limitation Amount.—The Secretary of the Navy may adjust the amount set forth in subsection (a) for any ship constructed under the LHA Replacement amphibious assault ship program by the following:

(1) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2006.

(2) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2006.

(3) The amounts of outfitting costs and post-delivery costs incurred for that ship.

(4) The amounts of increases or decreases in costs of that ship that are attributable to insertion of new technology into that ship, as compared to the technology baseline as it was defined at the development stage referred to as Milestone B.

(c) Limitation on Technology Insertion Cost Adjustment.—The Secretary of the Navy may use the authority under paragraph (4) of subsection (b) to adjust the amount set forth in subsection (a) for a ship referred to in that subsection with respect to insertion of new technology into that ship only if—

(1) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology would lower the life-cycle cost of the ship; or

(2) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology is required to meet an emerging threat and the Secretary of Defense certifies to those committees that such threat poses grave harm to national security.

(d) Written Notice of Change in Amount.—

(1) Requirement.—The Secretary of the Navy shall submit to the congressional defense committees each year, at the same time that the budget is submitted under section 1105(a) of title 31, United States Code, for the next fiscal year, written notice of any change in the amount set forth in subsection (a) during the preceding fiscal year that the Secretary has determined to be associated with a cost referred to in subsection (b).

(2) Effective date.—The requirement in paragraph (1) shall become effective with the budget request for the year of procurement of the first ship referred to in subsection (a).

SEC. 124. ADHERENCE TO NAVY COST ESTIMATES FOR SAN ANTONIO (LPD-17) CLASS AMPHIBIOUS SHIP PROGRAM.

(a) Limitation.—

(1) Procurement cost.—The total amount obligated or expended from funds appropriated or otherwise made available for Shipbuilding and Conversion, Navy, or for any other procurement account, for the San Antonio-class amphibious ships designated as LPD–18, LPD–19, LPD–20, LPD–21, LPD–22, LPD–23, LPD–24, and LPD–25 may not exceed the amount for each such vessel specified in paragraph (2) (those specified amounts being the estimated total procurement end cost of those vessels, respectively, in the fiscal year 2007 budget):

(2) Specified cost limit by vessel.—The limitation under this subsection for each vessel specified in paragraph (1) is the following:

(A) For the LPD–18 ship, $1,111,310,000 (as adjusted pursuant to subsection (b)).

(B) For the LPD–19 ship, $1,137,400,000 (as adjusted pursuant to subsection (b)).

(C) For the LPD–20 ship, $1,004,600,000 (as adjusted pursuant to subsection (b)).

(D) For the LPD–21 ship, $1,126,966,000 (as adjusted pursuant to subsection (b)).

(E) For the LPD–22 ship, $1,246,736,000 (as adjusted pursuant to subsection (b)).

(F) For the LPD–23 ship, $1,191,230,000 (as adjusted pursuant to subsection (b)).

(G) For the LPD–24 ship, $1,333,001,000 (as adjusted pursuant to subsection (b)).

(H) For the LPD–25 ship, $1,671,800,000 (as adjusted pursuant to subsection (b)).

(b) Adjustment of Limitation Amounts.—The Secretary of the Navy may adjust the amount set forth in subsection (a) for any ship specified in that subsection by the following:

(1) The amounts of increases or decreases in costs attributable to economic inflation after September 30, 2006.

(2) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2006.

(3) The amounts of outfitting costs and post-delivery costs incurred for that ship.

(4) The amounts of increases or decreases in costs of that ship that are attributable to insertion of new technology into that ship, as compared to the technology built into the U.S.S. San Antonio (LPD–17), the lead ship of the LPD–17 class.

(c) Limitation on Technology Insertion Cost Adjustment.—The Secretary of the Navy may use the authority under paragraph (4) of subsection (b) to adjust the amount set forth in subsection (a) for any LPD–17 class ship with respect to insertion of new technology into that ship only if—

(1) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology would lower the life-cycle cost of the ship; or

(2) the Secretary determines, and certifies to the congressional defense committees, that insertion of the new technology is required to meet an emerging threat and the Secretary of Defense certifies to those committees that such threat poses grave harm to national security.

(d) Written Notice of Change in Amount.—

(1) Requirement.—The Secretary of the Navy shall submit to the congressional defense committees each year, at the same time that the budget is submitted under section 1105(a) of title 31, United States Code, for the next fiscal year, written notice of any change in the amount set forth in subsection (a) during the preceding fiscal year that the Secretary has determined to be associated with a cost referred to in subsection (b).

(2) Effective date.—The requirement in paragraph (1) shall become effective with the budget request for the year of procurement of the first ship referred to in subsection (a).

SEC. 125. MULTIYEAR PROCUREMENT AUTHORITY FOR V-22 TILTROTOR AIRCRAFT PROGRAM.

The Secretary of the Navy, in accordance with section 2306b of title 10, United States Code, and acting as executive agent for the Secretary of the Air Force and the commander of the United States Special Operations Command, may enter into a multiyear contract, beginning with the fiscal year 2008 program year, for procurement of V–22 tiltrotor aircraft. The total number of aircraft procured through a multiyear contract under this section may not exceed 211, of which not more than 185 may be in the MV–22 configuration and not more than 26 may be in the CV–22 configuration.

SEC. 126. QUALITY CONTROL IN PROCUREMENT OF SHIP CRITICAL SAFETY ITEMS AND RELATED SERVICES.

(a) In General.—

(1) Quality control policy.—Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 7317. Ship critical safety items and related services: quality control in procurement

“(a) Quality Control Policy.—The Secretary of Defense shall prescribe in regulations a quality control policy for the procurement of—

“(1) ship critical safety items; and

“(2) modifications, repair, and overhaul of ship critical safety items.

“(b) Content of Regulations.—The policy set forth in the regulations under subsection (a) shall include the following requirements:

“(1) That the head of the design control activity for ship critical safety items establish processes to identify and manage the procurement, modification, repair, and overhaul of ship critical safety items.

“(2) That the head of the contracting activity for a ship critical safety item enter into a contract for the procurement, modification, repair, or overhaul of such item only with a source that is on a qualified manufacturers list or is approved by the design control activity in accordance with section 2319 of this title.

“(3) That the ship critical safety items delivered, and the services performed with respect to ship critical safety items, meet all technical and quality requirements specified by the design control activity.

“(c) Definitions.—In this section:

"(1) The term 'ship critical safety item' means any part, assembly, or support equipment of a vessel that contains a critical characteristic the failure, malfunction, or absence of which may cause a catastrophic or critical failure resulting in loss or serious damage to the vessel or unacceptable risk of personal injury or loss of life.

"(2) The term 'design control activity', with respect to a ship critical safety item, means the systems command of a military department that is specifically responsible for ensuring the seaworthiness of a ship system or equipment in which the item is to be used.".

(2) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7317. Ship critical safety items and related services: quality control in procurement.".

(b) Conforming Amendments.—Section 2319 of title 10, United States Code, is amended—

(1) in subsection (c)(3), by inserting "or ship critical safety item" after "aviation critical safety item"; and

(2) In subsection (g)—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by inserting after paragraph (1) the following new paragraph (2):

"(2) The term 'ship critical safety item' has the meaning given that term in section 7317(c) of this title."; and

(C) in paragraph (3) (as redesignated)—

(i) by inserting "or a ship critical safety item" after "aviation critical safety item" the first place it appears; and

(ii) by inserting ", or the seaworthiness of a ship system or equipment," after "equipment".

SEC. 127. DD(X) NEXT-GENERATION DESTROYER PROGRAM.

(a) Funding Authorized.—Of the amount authorized to be appropriated by section 102(a)(3) for fiscal year 2007 for Shipbuilding and Conversion, Navy, $2,568,000,000 is available for the DD(X) Next-Generation Destroyer program.

(b) Contract Authority.—The Secretary of the Navy may enter into two contracts during fiscal year 2007 for the DD(X) Next-Generation Destroyer program. The contracts shall be entered into with two different shipbuilders. One such contract shall provide for procurement of a DD(X) Next-Generation destroyer, including detail design and construction. The other contract shall provide only for detail design of a DD(X) Next-Generation destroyer. The two contracts shall be awarded simultaneously.

SEC. 128. SENSE OF CONGRESS THAT THE NAVY MAKE GREATER USE OF NUCLEAR-POWERED PROPULSION SYSTEMS IN ITS FUTURE FLEET OF SURFACE COMBATANTS.

(a) Findings.—Congress makes the following findings:

(1) Securing and maintaining access to affordable and plentiful sources of energy is a vital national security interest for the United States.

(2) The Nation's dependence upon foreign oil is a threat to national security due to the inherently volatile nature of the global oil market and the political instability of some of the world's largest oil producing states.

(3) Given the recent increase in the cost of crude oil, which cannot realistically be expected to improve over the long term, other energy sources must be seriously considered.

(b) Sense of Congress.—In light of the findings in subsection (a), it is the sense of Congress that the Navy should make greater use of alternative technologies, including nuclear power, as a means of vessel propulsion for its future fleet of surface combatants.

Subtitle D—Air Force Programs

SEC. 131. REQUIREMENT FOR B-52 FORCE STRUCTURE.

(a) Requirement.—Before the date specified in subsection (b), the Secretary of the Air Force—

(1) may not retire any B-52 aircraft, other than the aircraft with tail number 61-0025; and

(2) shall maintain not less than 44 such aircraft as combat-coded aircraft.

(b) Termination.—For purposes of subsection (a), the date specified in this subsection is the earlier of—

(1) January 1, 2018; and

(2) the date as of which a long-range strike replacement aircraft with equal or greater capability than the B-52H model aircraft has attained initial operational capability status.

SEC. 132. STRATEGIC AIRLIFT FORCE STRUCTURE.

(a) Required Force Structure.—

(1) Minimum Number of Aircraft.—Effective October 1, 2008, the Secretary of the Air Force shall maintain a total aircraft inventory of strategic airlift aircraft of not less than 299 aircraft.

(2) Definitions.—For purposes of this subsection:

(A) The term "strategic airlift aircraft" means an aircraft that has a cargo capacity of at least 150,000 pounds and that is capable of transporting outsized cargo an unrefueled range of at least 2,400 nautical miles.

(B) The term "outsized cargo" means any single item of equipment that exceeds 1,090 inches in length, 117 inches in width, or 105 inches in height.

(b) Repeal of Limitation on Retirement of C-5 Aircraft.—Section 132 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1411) is repealed.

SEC. 133. LIMITATION ON RETIREMENT OF U-2 AIRCRAFT.

(a) Fiscal Year 2007.— The Secretary of the Air Force may not retire any U-2 aircraft of the Air Force in fiscal year 2007.

(b) Years After Fiscal Year 2007.—After fiscal year 2007, the Secretary of the Air Force may retire a U-2 aircraft only if the Secretary of Defense certifies to Congress that the U-2 intelligence, surveillance, and reconnaissance (ISR) capability provided by the U-2 aircraft no longer contributes to mitigating any gaps in ISR capabilities identified in the 2006 Quadrennial Defense Review. No action may be taken by the Department of Defense to retire (or to prepare to retire) any U-2 aircraft—

(1) before such a certification is submitted to Congress; or

(2) during the 60-day period beginning on the date on which such a certification is submitted.

SEC. 134. MULTIYEAR PROCUREMENT AUTHORITY FOR F-22A RAPTOR FIGHTER AIRCRAFT.

(a) Multiyear Authority.—The Secretary of the Air Force may enter into a multiyear contract for the procurement of up to 60 F-22A Raptor fighter aircraft beginning with the 2007 program year.

(b) Compliance With Law Applicable to Multiyear Contracts.—A contract under subsection (a) for the procurement of F-22A aircraft shall be entered into in accordance with section 2306b of title 10, United States Code, except that, notwithstanding subsection (k) of that section, such a contract may not be for a period in excess of three program years.

(c) Required Certifications.—In the case of a contract under subsection (a) for the procurement of F-22A aircraft, a certification under subsection (i)(1)(A) of section 2306b of title 10, United States Code, with respect to that contract may only be submitted if the certification includes an additional certification that each of the conditions specified in subsection (a) of that section has been satisfied with respect to that contract.

(d) Notice-and-Wait Requirement.—Upon submission to Congress of a certification referred to in subsection (c) with respect to a proposed contract under subsection (a) for the procurement of F-22A aircraft, the contract may then be entered into only after a period of 30 days has elapsed after the date of the submission of the certification.

SEC. 135. LIMITATION ON RETIREMENT OF KC-135E AIRCRAFT DURING FISCAL YEAR 2007.

(a) Limitation.—The number of KC-135E aircraft retired by the Secretary of the Air Force during fiscal year 2007 may not exceed 29.

(b) Treatment of Retired Aircraft.—The Secretary of the Air Force shall maintain each KC-135E aircraft that is retired by the Secretary after September 30, 2006, in a condition that would allow recall of that aircraft to future service in the Air Force Reserve, Air National Guard, or active forces aerial refueling force structure.

SEC. 136. LIMITATION ON RETIREMENT OF F-117A AIRCRAFT DURING FISCAL YEAR 2007.

(a) Limitation.—The number of F-117A aircraft retired by the Secretary of the Air Force during fiscal year 2007 may not exceed 10.

(b) Treatment of Retired Aircraft.—The Secretary of the Air Force shall maintain each F-117A aircraft that is retired by the Secretary after September 30, 2006, in a condition that would allow recall of that aircraft to future service.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Alternate engine for Joint Strike Fighter.
Sec. 212. Extension of authority to award prizes for advanced technology achievements.
Sec. 213. Extension of Defense Acquisition Challenge Program.
Sec. 214. Future Combat Systems milestone review.
Sec. 215. Independent cost analyses for Joint Strike Fighter engine program.
Sec. 216. Dedicated amounts for implementing or evaluating DD(X) and CVN-21 proposals under Defense Acquisition Challenge Program.

Subtitle C—Ballistic Missile Defense

Sec. 221. Fielding of ballistic missile defense capabilities.
Sec. 222. Limitation on use of funds for space-based interceptor.

Subtitle D—Other Matters

Sec. 231. Review of test and evaluation policies and practices to address emerging acquisition approaches.

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2007 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $10,932,209,000.

(2) For the Navy, $17,377,769,000.

(3) For the Air Force, $24,810,041,000.

(4) For Defense-wide activities, $20,944,559,000, of which $181,520,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECHNOLOGY.

(a) Fiscal Year 2007.—Of the amounts authorized to be appropriated by section 201,

$11,735,555,000 shall be available for the Defense Science and Technology Program, including basic research, applied research, and advanced technology development projects.

(b) Basic Research, Applied Research, and Advanced Technology Development Defined.—For purposes of this section, the term "basic research, applied research, and advanced technology development" means work funded in program elements for defense research and development under Department of Defense category 6.1, 6.2, or 6.3.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. ALTERNATE ENGINE FOR JOINT STRIKE FIGHTER.

Of the funds authorized to be appropriated for the Departments of the Navy and Air Force for the system development and demonstration program for the Joint Strike Fighter, not less than $408,000,000 shall be obligated for continued development of an alternate engine for the Joint Strike Fighter.

SEC. 212. EXTENSION OF AUTHORITY TO AWARD PRIZES FOR ADVANCED TECHNOLOGY ACHIEVEMENTS.

Section 2374a(f) of title 10, United States Code, is amended by striking "September 30, 2007" and inserting "September 30, 2010".

SEC. 213. EXTENSION OF DEFENSE ACQUISITION CHALLENGE PROGRAM.

(a) Extension.—Section 2359b of title 10, United States Code, is amended by striking subsection (j).

(b) Confidentiality.—Such section is further amended in subsection (g)—

(1) by amending the heading to read as follows: "Conflicts of Interest and Confidentiality.—"; and

(2) by inserting before the period at the end the following: "and that the identity of any person or activity submitting a challenge proposal is not disclosed outside the Federal Government without the consent of the person or activity".

SEC. 214. FUTURE COMBAT SYSTEMS MILESTONE REVIEW.

(a) Milestone Review Required.—After the preliminary design review of the Future Combat Systems program, but in no event later than the end of fiscal year 2008, the Secretary of Defense shall carry out a Defense Acquisition Board milestone review of the Future Combat Systems program. The milestone review shall include an assessment as to each of the following:

(1) Whether the warfighter's needs are valid and can be best met with the concept of the program.

(2) Whether the concept of the program can be developed and produced within existing resources.

(3) Whether the program should continue.

(b) Determinations To Be Made in Assessing Whether Program Should Continue.—In making the assessment required by subsection (a)(3), the Secretary shall make a determination with respect to each of the following:

(1) Whether each critical technology for the program is at least Technical Readiness Level 6.

(2) For each system and network component of the program, what the key design and technology risks are, based on System Functional Reviews, Preliminary Design Reviews, and Technical Readiness Levels.

(3) Whether actual demonstrations, rather than simulations, have shown that the concept of the program will work.

(4) Whether actual demonstrations, rather than plans, have shown that the software for the program is functional.

(5) What the cost estimate for the program is.

(6) What the affordability assessment for the program is, based on that cost estimate.

(c) Report.—The Secretary shall submit to the congressional defense committees a report on the findings and conclusions of the milestone review required by subsection (a). The report shall include, and display, each of the assessments required by subsection (a) and each of the determinations required by subsection (b).

(d) Restriction on Funds Effective Fiscal 2009.—For fiscal years beginning with 2009, the Secretary may not obligate any funds for the Future Combat Systems program until after the report required by subsection (c) is submitted.

SEC. 215. INDEPENDENT COST ANALYSES FOR JOINT STRIKE FIGHTER ENGINE PROGRAM.

(a) Independent Cost Analyses.—A comprehensive and detailed cost analysis of the Joint Strike Fighter engine program shall be independently performed by the Comptroller General and by the Secretary of Defense, acting through the Cost Analysis Improvement Group of the Office of the Secretary of Defense. The cost analysis shall cover—

(1) an alternative under which the aircraft are capable of using the F135 engine only;

(2) an alternative under which the aircraft are capable of using either the F135 engine or the F136 engine, and is carried out on a competitive basis; and

(3) any other alternative, whether competitive or sole source, that would reduce total life-cycle cost, improve program schedule, or both.

(b) Reports.—Not later than March 15, 2007, each official specified in subsection (a) shall independently submit to the congressional defense committees a report on the cost analysis carried out by that official under subsection (a). Each report shall include each of the following matters:

(1) The key assumptions used in carrying out the cost analysis.

(2) The methodology and techniques used in carrying out the cost analysis.

(3) For each alternative under subsection (a)—

(A) a comparison of the life-cycle costs, including costs in current and constant collars and a net-present-value analysis; and

(B) estimates of—

(i) supply, maintenance, and other operations manpower required to support the alternative;

(ii) the number of flight hours required to achieve engine maturity and in what year that is expected to be achieved; and

(iii) the total number of engines expected to be procured over the lifetime of the Joint Strike Fighter program.

(4) The acquisition strategies that were used for, and the experience with respect to cost, schedule, and performance under past acquisition programs for engines for tactical fighter aircraft, including the F–15, F–16, F–18, and F–22.

(5) A comparison of the experiences under past engine acquisition programs carried out on a sole-source basis, and those carried out on a competitive basis, with respect to performance, savings, maintainability, reliability, and technical innovation.

(6) Conclusions and recommendations.

(c) Certification by Comptroller General.—In submitting the report required by subsection (b), the Comptroller General shall also submit a certification as to whether the Comptroller General had access to sufficient information to enable the Comptroller General to make informed judgments on the matters required to be included in the report.

(d) Life-Cycle Costs Defined.—In this section, the term "life-cycle costs" includes those elements of cost that would be considered for a life-cycle cost analysis for a major defense acquisition program, such as procurement of engines, procurement of spare engines, and procurement of engine components and parts, and also includes good-faith estimates of routine engine costs, such as performance upgrades and component improvement, that historically have occurred in tactical fighter engine programs.

SEC. 216. DEDICATED AMOUNTS FOR IMPLEMENTING OR EVALUATING DD(X) AND CVN–21 PROPOSALS UNDER DEFENSE ACQUISITION CHALLENGE PROGRAM.

(a) Amounts Required.—Of the amounts appropriated pursuant to the authorization of appropriations in section 201(4) for research, development, test, and evaluation, Defense-wide, $4,000,000 shall be available only to implement or evaluate challenge proposals specified in subsection (b).

(b) Challenge Proposals Covered.—A challenge proposal referred to in subsection (a) is a proposal under the Defense Acquisition Challenge Program established by section 2359b of title 10, United States Code, that relates to—

(1) the DD(X) next-generation destroyer program; or

(2) the CVN–21 next-generation aircraft carrier program.

Subtitle C—Ballistic Missile Defense

SEC. 221. FIELDING OF BALLISTIC MISSILE DEFENSE CAPABILITIES.

Upon approval by the Secretary of Defense, funds authorized to be appropriated for fiscal years 2007 and 2008 for research, development, test, and evaluation for the Missile Defense Agency may be used for the development and fielding of ballistic missile defense capabilities.

SEC. 222. LIMITATION ON USE OF FUNDS FOR SPACE-BASED INTERCEPTOR.

(a) Limitation.—No funds appropriated or other wise made available to the Department of Defense may be obligated or expended for the testing or deployment of a space-based interceptor until 90 days after the date on which a report described in subsection (c) is submitted.

(b) Space-Based Interceptor Defined.—For purposes of this section, the term "space-based interceptor" means a kinetic or directed energy weapon that is stationed on a satellite or orbiting platform and that is intended to destroy another satellite in orbit or a ballistic missile launched from earth.

(c) Report.—A report described in this subsection is a report prepared by the Director of the Missile Defense Agency and submitted to the congressional defense committees containing the following:

(1) A description of the essential components of a proposed space-based interceptor system, including a description of how the system proposed would enhance or complement other missile defense systems.

(2) An estimate of the acquisition and life-cycle cost of the system described under paragraph (1), including lift cost and periodic replacement cost due to depreciation and attrition.

(3) An analysis of the vulnerability of such a system to counter-measures, including direct ascent and co-orbital interceptors, and an analysis of the functionality of such a system in the aftermath of a nuclear detonation in space.

(4) A projection of the foreign policy and national security implications of a space-based interceptor program, including the probable response of United States adversaries and United States allies.

Subtitle D—Other Matters

SEC. 231. REVIEW OF TEST AND EVALUATION POLICIES AND PRACTICES TO ADDRESS EMERGING ACQUISITION APPROACHES.

(a) Revision to Report Requirement.—Section 2399(b)(2)(B) of title 10, United States Code, is amended by striking "tested are effective and suitable for combat" and inserting the following: "tested—

"(i) are effective and suitable for combat in accordance with the users' standards for effectiveness and suitability as reflected in the requirements process; or

"(ii) are operationally acceptable under certain restricted conditions, as delineated by the Director.".

(b) REVIEW OF TEST AND EVALUATION POLICIES.—

(1) IN GENERAL.—The Under Secretary of Defense for Acquisition, Technology, and Logistics, in coordination with the Director of Operational Test and Evaluation and the Director of the Defense Test Resource Management Center, shall conduct a review of test and evaluation policies and practices of the Department of Defense and issue such new or revised guidance as may be necessary to address emerging acquisition approaches.

(2) ISSUES TO BE ADDRESSED.—The issues to be addressed by the Under Secretary in the review under paragraph (1) shall include, at a minimum, appropriate polices and practices for—

(A) ensuring the adequacy and the expediency of test and evaluation activities with regard to—

(i) items that are acquired pursuant to the rapid acquisition authority in section 806 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (10 U.S.C. 2302 note);

(ii) programs that are conducted pursuant to the spiral development authority in section 803 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (10 U.S.C. 2430 note) (or other authority for the conduct of incremental acquisition programs) ;

(iii) systems that are acquired pursuant to other emerging acquisition approaches, as approved by the Under Secretary; and

(iv) materiel that is not subject to the operational test and evaluation requirements in sections 2366 and 2399 of title 10, United States Code, but which may require limited operational test and evaluation for the purposes of ensuring the safety and realistic survivability of the materiel and the personnel using the materiel; and

(B) the appropriate use, if any, of operational test and evaluation resources to assess technology readiness levels for purposes of section 2366a of title 10, United States Code, and other applicable technology readiness requirements.

(c) INCLUSION OF TESTING NEEDS IN STRATEGIC PLAN.—The Director of the Defense Test Resource Management Center shall ensure that the strategic plan for Department of Defense test and evaluation resources required by section 196 of title 10, United States Code—

(1) reflects any testing needs of the Department of Defense that are identified in the review under paragraph (1); and

(2) includes an assessment of the test and evaluation facilities, resources, and budgets that will be required to meet such needs.

(d) REPORT.—Not later than nine months after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on the review conducted, and any new or revised guidance issued, pursuant to subsection (b).

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Other Department of Defense Programs.

Subtitle B—Environmental Provisions

Sec. 311. Revision of requirement for unexploded ordnance program manager.
Sec. 312. Identification and monitoring of military munitions disposal sites in ocean waters extending from United States coast to outer boundary of outer Continental Shelf.
Sec. 313. Reimbursement of Environmental Protection Agency for certain costs in connection with Moses Lake Wellfield Superfund Site, Moses Lake, Washington.
Sec. 314. Funding of cooperative agreements under environmental restoration program.
Sec. 315. Analysis and report regarding contamination and remediation responsibility for Norwalk Defense Fuel Supply Point, Norwalk, California.

Subtitle C—Workplace and Depot Issues

Sec. 321. Extension of exclusion of certain expenditures from percentage limitation on contracting for depot-level maintenance.
Sec. 322. Minimum capital investment for Air Force depots.
Sec. 323. Extension of temporary authority for contractor performance of security guard functions.

Subtitle D—Reports

Sec. 331. Report on Nuclear Attack Submarine Depot Maintenance.
Sec. 332. Report on Navy Fleet Response Plan.
Sec. 333. Report on Navy surface ship rotational crew programs.
Sec. 334. Report on Army live-fire ranges in Hawaii.
Sec. 335. Comptroller General report on joint standards and protocols for access control systems at Department of Defense installations.
Sec. 336. Report on Personnel Security Investigations for Industry and National Industrial Security Program.

Subtitle E—Other Matters

Sec. 341. Department of Defense strategic policy on prepositioning of materiel and equipment.
Sec. 342. Authority to make Department of Defense horses available for adoption at end of useful working life.
Sec. 343. Sale and use of proceeds of recyclable munitions materials.
Sec. 344. Capital security cost sharing.
Sec. 345. Prioritization of funds within Navy mission operations, ship maintenance, combat support forces, and weapons system support.
Sec. 346. Prioritization of funds within Army reconstitution and transformation.

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2007 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $24,920,735,000.

(2) For the Navy, $31,089,075,000.

(3) For the Marine Corps, $3,974,081,000.

(4) For the Air Force, $31,098,957,000.

(5) For Defense-wide activities, $19,876,763,000.

(6) For the Army Reserve, $2,300,102,000.

(7) For the Naval Reserve, $1,288,764,000.

(8) For the Marine Corps Reserve, $211,911,000.

(9) For the Air Force Reserve, $2,723,800,000.

(10) For the Army National Guard, $5,089,565,000.

(11) For the Air National Guard, $5,336,017,000.

(12) For the United States Court of Appeals for the Armed Forces, $11,721,000.

(13) For Environmental Restoration, Army, $413,794,000.

(14) For Environmental Restoration, Navy, $304,409,000.

(15) For Environmental Restoration, Air Force, $423,871,000.

(16) For Environmental Restoration, Defense-wide, $18,431,000.

(17) For Environmental Restoration, Formerly Used Defense Sites, $242,790,000.

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $63,204,000.

(19) For Cooperative Threat Reduction programs, $372,128,000.

(20) For the Overseas Contingency Operations Transfer Fund, $10,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2007 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $180,498,000.

(2) For the National Defense Sealift Fund, $1,138,732,000.

(3) For the Defense Working Capital Fund, Defense Commissary, $1,184,000,000.

SEC. 303. OTHER DEPARTMENT OF DEFENSE PROGRAMS.

(a) DEFENSE HEALTH PROGRAM.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2007 for expenses, not otherwise provided for, for the Defense Health Program, in the amount of $21,226,521,000, of which—

(1) $20,699,563,000 is for Operation and Maintenance;

(2) $130,603,000 is for Research, Development, Test, and Evaluation; and

(3) $396,355,000 is for Procurement.

(b) DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2007 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, in the amount of $926,890,000.

(c) DEFENSE INSPECTOR GENERAL.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2007 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense, in the amount of $216,297,000, of which—

(1) $214,897,000 is for Operation and Maintenance;

(2) $1,400,000 is for Procurement; and

(3) $0 is for Research, Development, Test, and Evaluation.

Subtitle B—Environmental Provisions

SEC. 311. REVISION OF REQUIREMENT FOR UNEXPLODED ORDNANCE PROGRAM MANAGER.

Section 2701(k) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "establish" and inserting "designate";

(B) by inserting "research," after "characterization,"; and

(C) by adding at the end the following: "The position of program manager shall be filled by—

"(A) in the case of an employee, an employee in a position that is equivalent to pay grade O-6 or above; or

"(B) in the case of a member of the armed forces, a commissioned officer of the Army, Navy, Air Force, or Marine Corps who is serving *in the grade of colonel, or in the case of the Navy, captain, or a higher grade."; and*

(2) by striking paragraph (2) and inserting the following:

"(2) The program manager shall report to the Deputy Under Secretary of Defense for Installations and Environment.".

SEC. 312. IDENTIFICATION AND MONITORING OF MILITARY MUNITIONS DISPOSAL SITES IN OCEAN WATERS EXTENDING FROM UNITED STATES COAST TO OUTER BOUNDARY OF OUTER CONTINENTAL SHELF.

(a) Identification of Military Munitions Disposal Sites.—

(1) Review of historical records.—The Secretary of Defense shall conduct a review of historical records to determine—

(A) the number and probable locations of sites where the Armed Forces disposed of military munitions within covered United States ocean waters;

(B) the size of the disposal sites; and

(C) the types and quantities of military munitions disposed of at the sites.

(2) Cooperation.—The Secretary shall request the assistance of the Coast Guard, the National Oceanic and Atmospheric Administration, and other relevant Federal agencies in conducting the review required by this subsection.

(3) Release of information.—The Secretary shall periodically release, but no less often than annually, information obtained during the review conducted under this subsection. The Secretary may withhold from public release information about the exact nature and location of a disposal site if the Secretary determines that the potential unauthorized retrieval of military munitions at the site could pose a significant threat to national defense or public safety.

(4) Reporting requirements.—The Secretary shall include the information obtained during a year through the review conducted under this subsection in the report submitted to Congress under section 2706(a) of title 10, United States Code, for the same year.

(b) Identification of Navigational and Safety Hazards.—

(1) Information for nautical charts and other navigational materials.—The Secretary shall share information obtained through the review conducted under subsection (a) with the Secretary of Commerce to assist the National Oceanic and Atmospheric Administration in preparing nautical charts and other navigational materials for covered United States ocean waters to identify known or probable hazards from disposed military munitions.

(2) Information for users.—The Secretary shall continue activities to inform potentially affected users of the ocean environment, and particularly fishing operations, of the possible hazards from contact with military munitions and the proper methods to mitigate such hazards.

(c) Research.—

(1) In general.—The Secretary shall conduct research on the effects of military munitions disposed of in covered United States ocean waters.

(2) Specified research efforts.—The research conducted under this subsection shall include the following:

(A) The sampling and analysis of ocean waters and seabeds at or adjacent to the military munitions disposal sites selected by the Secretary under paragraph (4).

(B) The investigation into the long-term effects of seawater exposure on military munitions, particularly chemical munitions.

(C) The development of effective safety measures when dealing with military munitions disposed of in seawater.

(3) Research methods.—In conducting research under this subsection, the Secretary may make grants to, and enter into cooperative agreements with, qualified research entities, as determined by the Secretary.

(4) Research locations.—In conducting research under this subsection, the Secretary shall ensure that the sampling, analysis, and investigations are conducted at reasonably representative sites applying factors such as depth, water temperature, nature of the military munitions present, and relative proximity to shore populations. The Secretary shall select at least two representative sites from each of the following areas:

(A) Along the Atlantic coast.

(B) Along the Pacific coast (including the coast of Alaska).

(C) Off the shore of the Hawaiian Islands.

(d) Monitoring.—If research conducted under subsection (c) at a military munitions disposal site indicates that the disposed military munitions have caused or may be causing contamination of ocean waters or seabeds, the Secretary shall institute appropriate monitoring mechanisms at that site to recognize and track the potential release of contamination into the ocean waters from military munitions.

(e) Definitions.—In this Act:

(1) The term "coast line" has the same meaning given that term in section 2 of the Submerged Lands Act (43 U.S.C. 1301).

(2) The term "covered United States ocean waters" means that part of the ocean extending from the coast line to the outer boundary of the outer Continental Shelf.

(3) The term "military munitions" has the same meaning given that term in section 101(e) of title 10, United States Code.

(4) The term "outer Continental Shelf" has the same meaning given that term in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(5) The term "Secretary" means the Secretary of Defense.

SEC. 313. REIMBURSEMENT OF ENVIRONMENTAL PROTECTION AGENCY FOR CERTAIN COSTS IN CONNECTION WITH MOSES LAKE WELLFIELD SUPERFUND SITE, MOSES LAKE, WASHINGTON.

(a) Authority to Reimburse.—Using funds described in subsection (b), the Secretary of Defense may transfer not more than $111,114.03 to the Moses Lake Wellfield Superfund Site 10–6J Special Account to reimburse the Environmental Protection Agency for the costs incurred by the Environmental Protection Agency in overseeing a remedial investigation and feasibility study performed by the Department of the Army under the Defense Environmental Restoration Program at the former Larson Air Force Base, Moses Lake Wellfield Superfund Site, Moses Lake, Washington. This reimbursement is provided for in the March 1999 interagency agreement entered into by the Department of the Army and the Environmental Protection Agency for the Moses Lake Wellfield Superfund Site.

(b) Source of Funds.—Any payment under subsection (a) shall be made using funds authorized to be appropriated by section 301(17) for operation and maintenance for Environmental Restoration, Formerly Used Defense Sites.

SEC. 314. FUNDING OF COOPERATIVE AGREEMENTS UNDER ENVIRONMENTAL RESTORATION PROGRAM.

Section 2701(d)(2) of title 10, United States Code, is amended by adding at the end the following new sentence: "This two-year limitation does not apply to an agreement funded using amounts in the Department of Defense Base Closure Account 1990 or the Department of Defense Base Closure Account 2005 established under sections 2906 and 2906A of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).".

SEC. 315. ANALYSIS AND REPORT REGARDING CONTAMINATION AND REMEDIATION RESPONSIBILITY FOR NORWALK DEFENSE FUEL SUPPLY POINT, NORWALK, CALIFORNIA.

(a) Analysis Required.—The Secretary of the Air Force shall conduct a comprehensive analysis on the contamination and remediation costs of the Norwalk Defense Fuel Supply Point in Norwalk, California. As part of the analysis, the Secretary shall—

(1) characterize the contamination at the Norwalk Defense Fuel Supply Point;

(2) prepare a plan for the remediation of the Norwalk Defense Fuel Supply Point;

(3) prepare an estimate of anticipated costs to responsible parties;

(4) prepare a timeline for implementation and completion of the remediation at the Norwalk Defense Fuel Supply Point;

(5) describe the status of efforts to reach an allocation agreement of responsibility for remediation of the Norwalk Defense Fuel Supply Point with all entities that have contributed to the contamination of the property; and

(6) prepare a plan for removal or conveyance of infrastructure at the Norwalk Defense Fuel Supply Point, including costs and responsibility for those costs of elements of that plan.

(b) Report Required.—Not later than January 30, 2007, the Secretary shall submit to Congress a report containing the results of the analysis conducted under subsection (a) and addressing each of the matters specified in paragraphs (1) through (6) of such subsection.

(c) Conveyance Requirements.—The Secretary shall not convey property by public auction at the Norwalk Defense Fuel Supply Point before such time as the Secretary has—

(1) pursued a fair market transfer of the property to the City of Norwalk, California, taking into consideration all contamination of the property;

(2) submitted the report required by subsection (b); and

(3) submitted an additional report to Congress explaining the efforts undertaken by the Secretary to reach agreement with the City on the sale of the property, including the reasons that those efforts were not successful, and 30-days have elapsed after this report is submitted.

Subtitle C—Workplace and Depot Issues

SEC. 321. EXTENSION OF EXCLUSION OF CERTAIN EXPENDITURES FROM PERCENTAGE LIMITATION ON CONTRACTING FOR DEPOT-LEVEL MAINTENANCE.

Section 2474(f)(1) of title 10, United States Code, is amended by striking "fiscal years 2003 through 2009" and inserting "fiscal years 2003 through 2014".

SEC. 322. MINIMUM CAPITAL INVESTMENT FOR AIR FORCE DEPOTS.

(a) Investment Required.—Chapter 803 of title 10, United States Code, is amended by adding at the end the following new section:

"§8025. Minimum capital investment in Air Force depots

"(a) Minimum Investment Requirement.—Each fiscal year, the Secretary of the Air Force shall invest in the capital budgets of the depots of the Air Force a total amount equal to not less than six percent of the total combined revenue of all the depots of the Air Force for the preceding fiscal year.

"(b) Waiver.—The Secretary of the Air Force may waive the requirement under subsection (a) if the Secretary determines that the waiver is necessary for reasons of national security and notifies the congressional defense committees.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"8025. Minimum capital investment for Air Force depots.".

(c) EFFECTIVE DATE.—Section 8025 of title 10, United States Code, shall apply with respect to fiscal years beginning after the date of the enactment of this Act.

SEC. 323. EXTENSION OF TEMPORARY AUTHORITY FOR CONTRACTOR PERFORMANCE OF SECURITY GUARD FUNCTIONS.

(a) ONE-YEAR EXTENSION.—Section 332(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) is amended by striking "September 30, 2007" both places it appears and inserting "September 30, 2008".

(b) REPORT ON CONTRACTOR PERFORMANCE OF SECURITY-GUARD FUNCTIONS.—Not later than February 1, 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, a report on contractor performance of security guard functions under section 332 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314). The report shall include the following:

(1) An explanation of progress made toward implementing each of the seven recommendations in the Comptroller General report entitled "Contract Security Guards: Army's Guard Program Requires Greater Oversight and Reassessment of Acquisition Approach" (GAO–06–284).

(2) An assessment, taking into considerations the observations made by the GAO on the report of the Department of Defense of November 2005 that is entitled "Department of Defense Installation Security Guard Requirement Assessment and Plan", of the following:

(A) The cost-effectiveness of using contractors rather than Department of Defense employees to perform security-guard functions.

(B) The performance of contractors employed as security guards compared with the performance of military personnel who have served as security guards.

(C) Specific results of on-site visits made by officials designated by the Secretary of Defense to military installations using contractors to perform security-guard functions.

(c) CONTRACT LIMITATION.—No contract may be entered into under section 332 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) after September 30, 2007, until the report required under subsection (b) is submitted.

Subtitle D—Reports

SEC. 331. REPORT ON NUCLEAR ATTACK SUBMARINE DEPOT MAINTENANCE.

(a) REPORT REQUIRED.—Not later than February 1, 2007, the Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing the criteria used when a nuclear attack submarine is sent to a facility other than a facility located within 200 miles of the homeport of the submarine for maintenance described in subsection (d) when there is a public or private facility located within 200 miles of the homeport at which the maintenance required could be conducted.

(b) CONTENTS OF REPORT.—The report required under subsection (a) shall include the following:

(1) An assessment of the cost of housing for the crew of the submarine.

(2) The costs associated with traveling to the homeport of the submarine for official duty.

(3) The treatment of crew time while the submarine is undergoing nondeployed maintenance work away from the homeport.

(4) An assessment of the effect that maintenance conducted away from the homeport of a submarine has on the families of the members stationed on that submarine.

(5) An analysis of the retention of officers and enlisted members stationed on the submarine.

(6) An analysis of the use of fixed maintenance crews or semi-permanent engineering crews for maintenance availabilities that exceed 13 months.

(c) RESTRICTION ON MAINTENANCE AWAY FROM HOMEPORT.—

(1) RESTRICTION.—During fiscal year 2007, the Secretary of the Navy may not conduct maintenance described in subsection (d) on a nuclear attack submarine at a facility other than a facility located within 200 miles of the homeport of that submarine if there is a public or private facility located within 200 miles of the homeport at which the maintenance required could be conducted without adversely affecting operational deployment schedules.

(2) NOTIFICATION REQUIRED.—Not later than five days before maintenance restricted under paragraph (1) is conducted due to operation deployment schedules, the Secretary of the Navy shall provide to the congressional defense committees written notice of the maintenance that is to be conducted and the justification for conducting that maintenance.

(d) COVERED MAINTENANCE.—Maintenance described in this subsection is any of the following:

(1) Maintenance referred to as selected restricted availability maintenance.

(2) Maintenance referred to as preinactivation restricted availability maintenance.

(3) Maintenance referred to as extended selected restricted availability maintenance.

(4) Maintenance referred to as interim dry dock availabilities.

SEC. 332. REPORT ON NAVY FLEET RESPONSE PLAN.

(a) REPORT REQUIRED.—Not later than December 1, 2006, the Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the program of the Navy referred to as the Fleet Response Plan. The report shall include the following:

(1) A directive that provides guidance for the conduct of the Plan and standardizes terms and definitions.

(2) Performance measures for evaluation of the Plan.

(3) Costs and resources needed to achieve objectives of the Plan.

(4) Operational tests, exercises, war games, experiments, and deployments used to test performance.

(5) A collection and synthesis of lessons learned from the implementation of the Plan as of the date on which the report is submitted.

(6) Evaluation of each of the following with respect to each ship participating in the Plan:

(A) Combat Readiness.

(B) Ship material condition.

(C) Number of maintenance deficiencies.

(D) Amount of maintenance accomplished while underway.

(E) Amount of maintenance accomplished at pier dockings.

(F) Number of voyage repairs during each deployment.

(G) Combat skills training requirements accomplished during a deployment and at the home station.

(H) Professional development training requirements accomplished during a deployment and at home station.

(I) Crew retention statistics.

(7) Any proposed changes to the Surface Force Training Manual

(8) The amount of funding required to effectively implement the operations and maintenance requirements of the Plan and the effect of providing funding in an amount less than that amount.

(9) Any recommendations of the Secretary of the Navy with respect to expanding the Plan to include Expeditionary Strike Groups.

(b) COMPTROLLER GENERAL REPORT.—Not later than March 15, 2007, the Comptroller General shall submit to the congressional defense committees a report containing a review of the Navy report required under subsection (a). The report shall include the following:

(1) An examination of the management approaches of the Navy in implementing the Fleet Response Plan.

(2) An assessment of the adequacy of Navy directives and guidance with respect to maintenance and training requirements and procedures.

(3) An analysis and assessment of the adequacy of the Navy's test, exercises, and evaluation criteria.

(4) An evaluation of Navy data on aircraft carriers, destroyers, and cruisers that participated in the Fleet Response Plan with respect to readiness, response time, and availability for routine or unforeseen deployments.

(5) An assessment of the Navy's progress in identifying the amount of funding required to effectively implement the operations and maintenance requirements of the Fleet Response Plan and the effect of providing funding in an amount less than that amount.

(6) Any recommendations of the Comptroller General with respect to expanding the Fleet Response Plan to include Expeditionary Strike Groups.

(c) POSTPONEMENT OF EXPANSION.—The Secretary of the Navy may not expand the implementation of the Fleet Response Plan beyond the Carrier Strike Groups until October 1, 2007.

SEC. 333. REPORT ON NAVY SURFACE SHIP ROTATIONAL CREW PROGRAMS.

(a) REPORT REQUIRED.—Not later than April 1, 2007, the Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the ship rotational crew experiment referred to in subsection (c)(1). The report shall include the following:

(1) A comparison between the three destroyers participating in that experiment and destroyers not participating in the experiment that takes into consideration each of the following:

(A) Cost-effectiveness, including a comparison of travel and per diem expenses, maintenance costs, and other costs.

(B) Maintenance procedures, impacts, and deficiencies, including the number and characterization of maintenance deficiencies, the extent of voyage repairs, post-deployment assessments of the material condition of the ships, and the extent to which work levels were maintained.

(C) Mission training requirements.

(D) Professional development requirements and opportunities.

(E) Liberty port of call opportunities.

(F) Movement and transportation of crew.

(G) Inventory and property accountability.

(H) Policies and procedures for assigning billets for rotating crews.

(I) Crew retention statistics.

(J) Readiness and mission capability data.

(2) Results from surveys administered or focus groups held to obtain representative views from commanding officers, officers, and enlisted members on the effects of rotational crew experiments on quality of life, training, professional development, maintenance, mission effectiveness, and other issues.

(3) The extent to which standard policies and procedures were developed and used for participating ships.

(4) Lessons learned from the destroyer experiment.

(5) An assessment from the combatant commanders on the crew mission performance when deployed.

(6) An assessment from the commander of the Fleet Forces Command on the material condition, maintenance, and crew training of each participating ship.

(7) Any recommendations of the Secretary of the Navy with respect to the extension of the ship rotational crew experiment or the implementation of the experiment for other surface vessels.

(b) Postponement of Implementation.—The Secretary of the Navy may not begin implementation of any new surface ship rotational crew experiment or program during the period beginning on the date of the enactment of this Act and ending on October 1, 2009.

(c) Treatment of Existing Experiments.—

(1) Destroyer experiment.—Not later than January 1, 2007, the Secretary of the Navy shall terminate the existing ship rotational crew experiment involving the U.S.S. Gonzalez (DDG–66), the U.S.S. Stout (DDG–55), and the U.S.S. Laboon (DDG–58) that is known as the "sea swap".

(2) Patrol coastal class ship experiment.—The Secretary of the Navy may continue the existing ship rotational crew program that is currently in use by overseas-based Patrol Coastal class ships.

(d) Comptroller General Report.—Not later than July 15, 2007, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the ship rotational crew experiment referred to in subsection (c)(1). The report shall include the following:

(1) A review of the report submitted by the Secretary of the Navy under subsection (a) and an assessment of the extent to which the Secretary fully addressed costs, quality of life, training, maintenance, and mission effectiveness, and other relevant issues in that report.

(2) An assessment of the extent to which the Secretary established and applied a comprehensive framework for assessing the use of ship rotational crew experiments, including formal objectives, metrics, and methodology for assessing the cost-effectiveness of such experiments.

(3) An assessment of the extent to which the Secretary established effective guidance for the use of ship rotational crew experiments.

(4) Lessons learned from recent ship rotational crew experiments and an assessment of the extent to which the Navy systematically collects and shares lessons learned.

(e) Congressional Budget Office Report.—Not later than July 15, 2007, the Director of the Congressional Budget Office shall submit a report to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives on the long-term implications of the use of crew rotation on Navy ships on the degree of forward presence provided by Navy ships. The report shall include the following:

(1) An analysis of different approaches to crew rotation and the degree of forward presence each approach would provide.

(2) A comparison of the degree of forward presence provided by the fleet under the long-term shipbuilding plan of the Navy with and without the widespread use of crew rotation.

(3) The long-term benefits and costs of using crew rotation on Navy ships.

SEC. 334. REPORT ON ARMY LIVE-FIRE RANGES IN HAWAII.

Not later than March 1, 2007, the Secretary of the Army shall submit to Congress a report on the adequacy of the live-fire ranges of the Army in the State of Hawaii with respect to current and future training requirements. The report shall include the following:

(1) An evaluation of the capacity of the existing live-fire ranges to meet the training requirements of the Army, including the training requirements of Stryker Brigade Combat Teams.

(2) A description of any existing plan to modify or expand any range in Hawaii for the purpose of meeting anticipated live-fire training requirements.

(3) A description of the current live-fire restrictions at the Makua Valley range and the effect of these restrictions on unit readiness.

(4) Cost and schedule estimates for the construction of new ranges or the modification of existing ranges that are necessary to support future training requirements if existing restrictions on training at the Makua Valley range remain in place.

SEC. 335. COMPTROLLER GENERAL REPORT ON JOINT STANDARDS AND PROTOCOLS FOR ACCESS CONTROL SYSTEMS AT DEPARTMENT OF DEFENSE INSTALLATIONS.

(a) Report Required.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the assessment of the Comptroller General of—

(1) the extent to which consistency exists in standards, protocols, and procedures for access control across installations of the Department of Defense; and

(2) whether the establishment of joint standards and protocols for access control at such installations would be likely to—

(A) address any need of the Department identified by the Comptroller General; or

(B) improve access control across the installations by providing greater consistency and improved force protection.

(b) Issues to Be Assessed.—In conducting the assessment required by subsection (a), the Comptroller General shall assess the extent to which each installation of the Department of Defense has or would benefit from having an access control system with the ability to—

(1) electronically check any identification card issued by any Federal agency or any State or local government within the United States, including any identification card of a visitor to the installation who is a citizen or legal resident of the United States;

(2) verify that an identification card used to obtain access to the installation was legitimately issued and has not been reported lost or stolen;

(3) check on a real-time basis all relevant watch lists maintained by the Government, including terrorist watch lists and lists of persons wanted by State, local, or Federal law enforcement authorities;

(4) maintain a log of individuals seeking access to the installation and of individuals who are denied access to the installation; and

(5) exchange information with any installation with a system that complies with the joint standards and protocols.

SEC. 336. REPORT ON PERSONNEL SECURITY INVESTIGATIONS FOR INDUSTRY AND NATIONAL INDUSTRIAL SECURITY PROGRAM.

(a) Reports Required.—Not later than 90 days after the date of the enactment of this Act and every six months thereafter, the Secretary of Defense shall submit to the congressional defense committees, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives, a report on the future requirements of the Department of Defense with respect to the Personnel Security Investigations for Industry and the National Industrial Security Program of the Defense Security Service.

(b) Contents of Reports.—

(1) Initial report.—The initial report required under subsection (a) shall include each of the following:

(A) The number of personnel security clearance investigations conducted during the period beginning on October 1, 1999, and ending on September 30, 2006.

(B) The number of each type of security clearance granted during that period.

(C) The unit cost to the Department of Defense of each security clearance granted during that period.

(D) The amount of any fee or surcharge paid to the Office of Personnel Management as a result of conducting a personnel security clearance investigation.

(E) A description of the procedures used by the Secretary of Defense to estimate the number of personnel security clearance investigations to be conducted during a fiscal year.

(F) A description of any effect of delays and backlogs in the personnel security clearance investigation process on the national security of the United States.

(G) A description of any effect of delays and backlogs in the personnel security clearance investigation process on the defense industrial base assets of the United States.

(H) A plan developed by the Secretary of Defense to reduce such delays and backlogs.

(I) A plan developed by the Secretary of Defense to adequately fund the personnel security clearance investigation process.

(J) A plan developed by the Secretary of Defense to establish a more stable and effective Personnel Security Investigations Program.

(K) A plan developed by the Secretary of Defense to involve external sources, including defense contractors, in the plans of the Secretary of Defense under subparagraphs (H), (I), and (J).

(2) Subsequent reports.—Each report required to be submitted under subsection (a) after the submission of the initial report shall include each of the following:

(A) The funding requirements of the personnel security clearance investigation program and ability of the Secretary of Defense to fund the program.

(B) The size of the personnel security clearance investigation process backlog.

(C) The length of the average delay for an individual case pending in the personnel security clearance investigation process.

(D) Any progress made by the Secretary of Defense during the six months preceding the date on which the report is submitted toward implementing planned changes in the personnel security clearance investigation process.

(E) A determination certified by the Secretary of Defense of whether the personnel security clearance investigation process has improved during the six months preceding the date on which the report is submitted.

(c) Comptroller General Report.—As soon as practicable after the Secretary of Defense submits the initial report required under subsection (a), the Comptroller General shall submit a report to Congress that contains a review of such initial report.

(d) Sense of Congress on Improving the Personnel Security Investigations Program.—

(1) Findings.—Congress finds the following:

(A) Since fiscal year 2000, the General Accountability Office has listed the Personnel Security Investigations Program of the Department of Defense as a systemic weakness that affects more than one component of the Department and may jeopardize the operations of the Department.

(B) In 2005, the Government Accountability Office designated the Personnel Security Investigations Program as a high-risk area because delays by the Program in issuing security clearances can affect national security.

(C) In 2005, the Government Accountability Office found that the Department of Defense continues to face sizeable security clearance backlogs.

(D) The Government Accountability Office also reported in 2005 that security clearance

delays increase national security risks, delay the start of classified work, hamper employers from hiring the best qualified workers, and increase the cost to the Government of national security-related contracts.

(E) These security clearance backlogs and delays continue in 2006, and have brought the security clearance program to a reported standstill.

(2) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the delays and backlogs associated with the Personnel Security Investigations Program threaten the national security of the United States and key defense industrial assets; and

(B) the Secretary of Defense should take such steps as are necessary to eliminate the backlogs of applications for security clearance and the delays associated with the security clearance application process and make systemic improvements to the Personnel Security Investigations Program.

Subtitle E—Other Matters

SEC. 341. DEPARTMENT OF DEFENSE STRATEGIC POLICY ON PREPOSITIONING OF MATERIEL AND EQUIPMENT.

(a) STRATEGIC POLICY REQUIRED.—Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§2229. Strategic policy on prepositioning of materiel and equipment

"(a) POLICY REQUIRED.—The Secretary of Defense shall maintain a strategic policy on the programs of the Department of Defense for the prepositioning of materiel and equipment. Such policy shall take into account national security threats, strategic mobility, and service requirements.

"(b) LIMITATION OF DIVERSION OF PREPOSITIONED MATERIEL.—The Secretary of a military department may not divert materiel or equipment from prepositioned stocks except—

"(1) in accordance with a change made by the Secretary of Defense to the policy maintained under subsection (a); or

"(2) for the purpose of supporting a contingency operation.

"(c) CONGRESSIONAL NOTIFICATION.—The Secretary of Defense may not implement or change the policy required under subsection (a) until the Secretary submits to the congressional defense committees a report describing the policy or change to the policy.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2229. Strategic policy on prepositioning of materiel and equipment.".

(c) DEADLINE FOR ESTABLISHMENT OF POLICY.—

(1) DEADLINE.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall establish the strategic policy on the programs of the Department of Defense for the prepositioning of materiel and equipment required under section 2229 of title 10, United States Code, as added by subsection (a).

(2) LIMITATION ON DIVERSION OF PREPOSITIONED MATERIEL.—During the period beginning on the date of the enactment of this Act and ending on the date on which the Secretary of Defense submits the report required under section 2229(c) of title 10, United States Code, on the policy established under paragraph (1), the Secretary of a military department may not divert materiel or equipment from prepositioned stocks except for the purpose of supporting a contingency operation.

SEC. 342. AUTHORITY TO MAKE DEPARTMENT OF DEFENSE HORSES AVAILABLE FOR ADOPTION AT END OF USEFUL WORKING LIFE.

(a) INCLUSION OF DEPARTMENT OF DEFENSE HORSES IN EXISTING AUTHORITY.—Section 2583 of title 10, United States Code, is amended—

(1) in the section heading, by striking "**working dogs**" and inserting "**animals**";

(2) by striking "working" each place it appears;

(3) by striking "dog" and "dogs" each place they appear and inserting "animal" and "animals", respectively;

(4) by striking "dog's" in paragraphs (1) and (2) of subsection (a) and inserting "animal's";

(5) by striking "a dog's adoptability" in subsection (b) and inserting "the adoptability of the animal"; and

(6) by adding at the end the following new subsection:

"(g) MILITARY ANIMAL DEFINED.—In this section, the term 'military animal' means the following:

"(1) A military working dog.

"(2) A horse owned by the Department of Defense.".

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 153 of such title is amended to read as follows:

"2583. Military animals: transfer and adoption at end of useful working life.".

SEC. 343. SALE AND USE OF PROCEEDS OF RECYCLABLE MUNITIONS MATERIALS.

(a) ESTABLISHMENT OF PROGRAM.—Chapter 443 of title 10, United States Code, is amended by adding at the end the following new section:

"§4690. Recyclable munitions materials: sale; use of proceeds

"(a) AUTHORITY FOR PROGRAM.—Notwithstanding section 2577 of this title, the Secretary of the Army may carry out a program to sell recyclable munitions materials resulting from the demilitarization of conventional military munitions without regard to chapter 5 of title 40 and use any proceeds in accordance with subsection (c).

"(b) METHOD OF SALE.—The Secretary shall use competitive procedures to sell recyclable munitions materials under this section in accordance with Federal procurement laws and regulations.

"(c) PROCEEDS.—(1) Proceeds from the sale of recyclable munitions materials under this section shall be credited to an account that is specified as being for Army ammunition demilitarization from funds made available for the procurement of ammunition, to be available only for reclamation, recycling, and reuse of conventional military munitions (including research and development and equipment purchased for such purpose).

"(2) Amounts credited under this subsection shall be available for obligation for the fiscal year during which the funds are so credited and for three subsequent fiscal years.

"(d) REGULATIONS.—The Secretary shall prescribe regulations to carry out the program established under this section. Such regulations shall be consistent and in compliance with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and the regulations implementing that Act.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4690. Recyclable munitions materials: sale; use of proceeds.".

SEC. 344. CAPITAL SECURITY COST SHARING.

(a) RECONCILIATION REQUIRED.—For each fiscal year, the Secretary of Defense shall reconcile (1) the estimate of overseas presence of the Secretary of Defense under subsection (b) for that fiscal year, with (2) the determination of the Secretary of State under section 604(e)(1) of the Secure Embassy Construction and Counterterrorism Act of 1999 (22 U.S.C. 4865 note) of the total overseas presence of the Department of Defense for that fiscal year.

(b) ANNUAL ESTIMATE OF OVERSEAS PRESENCE.—Not later than February 1 of each year, the Secretary of Defense shall submit to the congressional defense committees an estimate of the total number of Department of Defense overseas personnel subject to chief of mission authority pursuant to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) during the fiscal year that begins on October 1 of that year.

SEC. 345. PRIORITIZATION OF FUNDS WITHIN NAVY MISSION OPERATIONS, SHIP MAINTENANCE, COMBAT SUPPORT FORCES, AND WEAPONS SYSTEM SUPPORT.

(a) IN GENERAL.—The Secretary of the Navy shall take such steps as necessary through the planning, programming, budgeting, and execution systems of the Department of the Navy to ensure that financial resources are provided for each fiscal year as necessary to enable the Navy to fund the following requirements of the Navy for that fiscal year:

(1) 100 percent of the requirements for steaming days per quarter for deployed ship operations.

(2) 100 percent of the requirements for steaming days per quarter for non-deployed ship operations.

(3) 100 percent of the projected ship and air depot maintenance.

(b) LIMITATION OF FUNDS FOR NAVY EXPEDITIONARY COMBAT COMMAND.—Of the funds appropriated for the Department of Navy for any fiscal year after fiscal year 2006, no operation and maintenance funds may be expended for the Navy Expeditionary Combat Command until the funding priorities in subsection (a) are met for that fiscal year.

(c) ANNUAL REPORT.—The Secretary of Navy shall submit to the congressional defense committees an annual report, to be submitted each year with the annual operation and maintenance justification of estimates material for the next fiscal year, that certifies that the requirements in subsection (a) are satisfied for the fiscal year for which that material is submitted.

SEC. 346. PRIORITIZATION OF FUNDS WITHIN ARMY RECONSTITUTION AND TRANSFORMATION.

(a) IN GENERAL.—The Secretary of the Army shall take such steps as necessary through the planning, programming, budgeting, and execution systems of the Department of the Army to ensure that financial resources are provided for each fiscal year as necessary to enable the Army to meet its requirements in that fiscal year for each of the following:

(1) The repair, recapitalization, and replacement of equipment used in the Global War on Terrorism, based on implementation of requirements based on a cost estimate for such purposes of at least $72,300,000,000 over the period of the five fiscal years beginning with fiscal year 2008.

(2) The fulfillment of equipment requirements of units transforming to modularity in accordance with ,the Modular Force Initiative report submitted to Congress in March 2006, based on implementation of requirements based on a cost estimate for such purposes of $47,600,000,000 over the period of the five fiscal years beginning with fiscal year 2008.

(3) The reconstitution of equipment and materiel in prepositioned stocks by 2012 in accordance with requirements under the Army Prepositioned Stocks Strategy 2012 or a subsequent strategy implemented under the guidelines in section 2229 of title 10, United States Code.

(b) ANNUAL REPORT.—The Secretary of the Army shall submit to the congressional defense committees an annual report, until the requirements of subsection (a) have been met, setting forth the progress toward meeting those requirements. Any information required to be included in the report concerning funding priorities under paragraph (1) or (2) of subsection (a) shall be itemized by active duty component and reserve component. The report for any year *shall be submitted at the time the budget of the President for the next fiscal year is submitted to Congress. Each such report shall include the following:*

(1) A complete itemization of the requirements for the funding priorities in subsection (a), including an itemization for all types of modular brigades for both active and reserve components.

(2) A list of any shortfalls that exist between available funding, equipment, supplies, and industrial capacity and required funding, equipment, supplies, and industrial capacity in accordance with the funding priorities in subsection (a).

(3) A list of the requirements for the funding priorities in subsection (a) that the Army has included in the budget for that fiscal year, including a detailed listing of the type, quantity, and cost of the equipment the Army plans to repair, recapitalize, or procure, set forth by appropriations account and Army component.

(4) An assessment of the progress made during that fiscal year toward meeting the overall requirements of the funding priorities in subsection (a).

(5) A description of how the Army defines costs associated with modularity versus the costs associated with modernizing equipment platforms and repairing, recapitalizing, and replacing equipment used during the global war on terrorism.

(6) The results of Army assessments of modular force capabilities, including lessons learned from existing modular units and any modifications that have been made to modularity.

(7) The assessment of each of the Chief of the National Guard Bureau and the Chief of the Army Reserve of each of the items described in paragraphs (1) through (6).

(c) LIMITATION ON FUNDS FOR FUTURE COMBAT SYSTEMS.—Of the funds appropriated for the Army for any fiscal year after fiscal year 2007, not more than $2,850,000,000 may be expended for the Future Combat Systems until the funding priorities in subsection (a) are met for that fiscal year.

(d) USE OF EXCESS FUNDS FOR FUTURE COMBAT SYSTEMS.—Any funds appropriated for the Future Combat Systems for any fiscal year not expended in accordance with subsection (c) shall be used for programs specified in subsection (a).

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent active duty end strength minimum levels.
Sec. 403. Additional authority for increases of Army and Marine Corps active duty end strengths for fiscal years 2008 and 2009.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the reserve components.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2007 limitation on number of non-dual status technicians.
Sec. 415. Maximum number of reserve personnel authorized to be on active duty for operational support.

Subtitle C—Authorization of Appropriations

Sec. 421. Military personnel.
Sec. 422. Armed Forces Retirement Home.

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

(a) IN GENERAL.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 2007, as follows:

(1) The Army, 512,400.

(2) The Navy, 340,700.

(3) The Marine Corps, 180,000.

(4) The Air Force, 334,200.

(b) LIMITATION.—

(1) ARMY.—The authorized strength for the Army provided in paragraph (1) of subsection (a) for active duty personnel for fiscal year 2007 is subject to the condition that costs of active duty personnel of the Army for that fiscal year in excess of 482,400 shall be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation.

(2) MARINE CORPS.—The authorized strength for the Marine Corps provided in paragraph (3) of subsection (a) for active duty personnel for fiscal year 2007 is subject to the condition that costs of active duty personnel of the Marine Corps for that fiscal year in excess of 175,000 shall be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation.

SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.

Section 691(b) of title 10, United States Code, is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) For the Army, 504,400.

"(2) For the Navy, 340,700.

"(3) For the Marine Corps, 180,000.

"(4) For the Air Force, 334,200.".

SEC. 403. ADDITIONAL AUTHORITY FOR INCREASES OF ARMY AND MARINE CORPS ACTIVE DUTY END STRENGTHS FOR FISCAL YEARS 2008 AND 2009.

Effective October 1, 2007, the text of section 403 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1863) is amended to read as follows:

"(a) AUTHORITY.—

"(1) ARMY.—For each of fiscal years 2008 and 2009, the Secretary of Defense may, as the Secretary determines necessary for the purposes specified in paragraph (3), establish the active-duty end strength for the Army at a number greater than the number otherwise authorized by law up to the number equal to the fiscal-year 2007 baseline plus 20,000.

"(2) MARINE CORPS.—For each of fiscal years 2008 and 2009, the Secretary of Defense may, as the Secretary determines necessary for the purposes specified in paragraph (3), establish the active-duty end strength for the Marine Corps at a number greater than the number otherwise authorized by law up to the number equal to the fiscal-year 2007 baseline plus 4,000.

"(3) PURPOSE OF INCREASES.—The purposes for which increases may be made in Army and Marine Corps active duty end strengths under paragraphs (1) and (2) are—

"(A) to support operational missions; and

"(B) to achieve transformational reorganization objectives, including objectives for increased numbers of combat brigades and battalions, increased unit manning, force stabilization and shaping, and rebalancing of the active and reserve component forces.

"(4) FISCAL-YEAR 2007 BASELINE.—In this subsection, the term 'fiscal-year 2007 baseline', with respect to the Army and Marine Corps, means the active-duty end strength authorized for those services in section 401 of the National Defense Authorization Act for Fiscal Year 2007.

"(5) ACTIVE-DUTY END STRENGTH.—In this subsection, the term 'active-duty end strength' means the strength for active-duty personnel of one of the Armed Forces as of the last day of a fiscal year.

"(b) RELATIONSHIP TO PRESIDENTIAL WAIVER AUTHORITY.—Nothing in this section shall be construed to limit the President's authority under section 123a of title 10, United States Code, to waive any statutory end strength in a time of war or national emergency.

"(c) RELATIONSHIP TO OTHER VARIANCE AUTHORITY.—The authority under subsection (a) is in addition to the authority to vary authorized end strengths that is provided in subsections (e) and (f) of section 115 of title 10, United States Code.

"(d) BUDGET TREATMENT.—

"(1) FISCAL YEAR 2008 BUDGET.—The budget for the Department of Defense for fiscal year 2008 as submitted to Congress shall comply, with respect to funding, with subsections (c) and (d) of section 691 of title 10, United States Code.

"(2) OTHER INCREASES.—If the Secretary of Defense plans to increase the Army or Marine Corps active duty end strength for a fiscal year under subsection (a), then the budget for the Department of Defense for that fiscal year as submitted to Congress shall include the amounts necessary for funding that active duty end strength in excess of the fiscal year 2007 active duty end strength authorized for that service under section 401 of the National Defense Authorization Act for Fiscal Year 2007.".

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2007, as follows:

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 200,000.

(3) The Navy Reserve, 71,300.

(4) The Marine Corps Reserve, 39,600.

(5) The Air National Guard of the United States, 107,000.

(6) The Air Force Reserve, 74,900.

(7) The Coast Guard Reserve, 10,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2007, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 28,165.

(2) The Army Reserve, 15,416.

(3) The Navy Reserve, 12,564.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 13,291.

(6) The Air Force Reserve, 2,707.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2007 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 7,912.

(2) For the Army National Guard of the United States, 27,615.

(3) For the Air Force Reserve, 10,124.

(4) For the Air National Guard of the United States, 23,255.

SEC. 414. FISCAL YEAR 2007 LIMITATION ON NUMBER OF NON-DUAL STATUS TECHNICIANS.

(a) LIMITATIONS.—

(1) NATIONAL GUARD.—Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2007, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600

(B) For the Air National Guard of the United States, 350.

(2) ARMY RESERVE.—The number of non-dual status technicians employed by the Army Reserve as of September 30, 2007, may not exceed 595.

(3) AIR FORCE RESERVE.—The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2007, may not exceed 90.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term "non-dual status technician" has the meaning given that term in section 10217(a) of title 10, United States Code.

SEC. 415. MAXIMUM NUMBER OF RESERVE PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY FOR OPERATIONAL SUPPORT.

During fiscal year 2007, the maximum number of members of the reserve components of the Armed Forces who may be serving at any time on full-time operational support duty under section 115(b) of title 10, United States Code, is the following:

(1) The Army National Guard of the United States, 17,000.

(2) The Army Reserve, 13,000.

(3) The Navy Reserve, 6,200.

(4) The Marine Corps Reserve, 3,000.

(5) The Air National Guard of the United States, 16,000.

(6) The Air Force Reserve, 14,000.

Subtitle C—Authorization of Appropriations

SEC. 421. MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2007 a total of $109,820,468,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2007.

SEC. 422. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2007 from the Armed Forces Retirement Home Trust Fund the sum of $54,846,000 for the operation of the Armed Forces Retirement Home.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy
Sec. 501. Authorized strength of Navy Reserve flag officers.
Sec. 502. Standardization of grade of senior dental officer of the Air Force with that of senior dental officer of the Army.
Sec. 503. Management of chief warrant officers.
Sec. 504. Reduction in time-in-grade requirement for promotion to captain in the Army, Air Force, and Marine Corps and lieutenant in the Navy.
Sec. 505. Military status of officers serving in certain Intelligence Community positions.
Subtitle B—Reserve Component Management
Sec. 511. Revisions to reserve call-up authority.
Sec. 512. Military retirement credit for certain service by National Guard members performed while in a State duty status immediately after the terrorist attacks of September 11, 2001.
Sec. 513. Report on private-sector promotion and constructive termination of members of the reserve components called or ordered to active service.
Subtitle C—Education and Training
Sec. 521. Authority to permit members who participate in the guaranteed reserve forces duty scholarship program to participate in the health professions scholarship program and serve on active duty.
Sec. 522. Junior Reserve Officers' Training Corps instruction eligibility expansion.
Sec. 523. Authority for United States Military Academy and United States Air Force Academy permanent military professors to assume command positions while on periods of sabbatical.
Sec. 524. Expansion of service academy exchange programs with foreign military academies.
Sec. 525. Review of legal status of Junior ROTC program.
Subtitle D—General Service Authorities
Sec. 531. Test of utility of test preparation guides and education programs in enhancing recruit candidate performance on the Armed Services Vocational Aptitude Battery (ASVAB) and Armed Forces Qualification Test (AFQT).
Sec. 532. Nondisclosure of selection board proceedings.
Sec. 533. Report on extent of provision of timely notice of long-term deployments.
Subtitle E—Authorities Relating to Guard and Reserve Duty
Sec. 541. Title 10 definition of Active Guard and Reserve duty.
Sec. 542. Authority for Active Guard and Reserve duties to include support of operational missions assigned to the reserve components and instruction and training of active-duty personnel.
Sec. 543. Governor's authority to order members to Active Guard and Reserve duty.
Sec. 544. National Guard officers authority to command.
Sec. 545. Expansion of operations of civil support teams.
Subtitle F—Decorations and Awards
Sec. 551. Authority for presentation of Medal of Honor Flag to living Medal of Honor recipients and to living primary next-of-kin of deceased Medal of Honor recipients.
Sec. 552. Cold War Victory Medal.
Sec. 553. Posthumous award of Purple Heart for prisoners of war who die in or due to captivity.
Sec. 554. Advancement on the retired list of certain decorated retired Navy and Marine Corps officers.
Sec. 555. Report on Department of Defense process for awarding decorations.
Subtitle G—Matters Relating to Casualties
Sec. 561. Criteria for removal of member from temporary disability retired list.
Sec. 562. Department of Defense computer/electronic accommodations program for severely wounded members.
Sec. 563. Transportation of remains of casualties dying in a theater of combat operations.
Sec. 564. Annual budget display of funds for POW/MIA activities of Department of Defense.
Subtitle H—Assistance to Local Educational Agencies for Defense Dependents Education
Sec. 571. Continuation of authority to assist local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 572. Enrollment in defense dependents' education system of dependents of foreign military members assigned to Supreme Headquarters Allied Powers, Europe.
Subtitle I—Postal Benefits
Sec. 575. Postal benefits program for members of the Armed Forces.
Sec. 576. Funding.
Sec. 577. Duration.
Subtitle J—Other Matters
Sec. 581. Reduction in Department of Defense accrual contributions to Department of Defense Military Retirement Fund.
Sec. 582. Dental Corps of the Bureau of Medicine and Surgery.
Sec. 583. Permanent authority for presentation of recognition items for recruitment and retention purposes.
Sec. 584. Report on feasibility of establishment of Military Entrance Processing Command station on Guam.
Sec. 585. Persons authorized to administer enlistment and appointment oaths.
Sec. 586. Repeal of requirement for periodic Department of Defense Inspector General assessments of voting assistance compliance at military installations.
Sec. 587. Physical evaluation boards.
Sec. 588. Department of Labor transitional assistance program.
Sec. 589. Revision in Government contributions to Medicare-Eligible Retiree Health Care Fund.
Sec. 590. Military chaplains.
Sec. 591. Report on personnel requirements for airborne assets identified as Low-Density, High-Demand Airborne Assets.
Sec. 592. Entrepreneurial Service Members Empowerment Task Force.
Sec. 593. Comptroller General report on military conscientious objectors.
Sec. 594. Commission on the National Guard and Reserves.

Subtitle A—Officer Personnel Policy

SEC. 501. AUTHORIZED STRENGTH OF NAVY RESERVE FLAG OFFICERS.

(a) SIMPLIFICATION OF COUNTING OF NAVY RESERVE FLAG OFFICERS.—Subsection (c) of section 12004 of title 10, United States Code, is amended to read as follows:

"(c) The authorized strength of the Navy under subsection (a) is exclusive of officers counted under section 526 of this title.".

(b) CONFORMING AMENDMENT.—Subsection (d) of such section is amended by striking "of those" and inserting "of officers".

SEC. 502. STANDARDIZATION OF GRADE OF SENIOR DENTAL OFFICER OF THE AIR FORCE WITH THAT OF SENIOR DENTAL OFFICER OF THE ARMY.

(a) AIR FORCE ASSISTANT SURGEON GENERAL FOR DENTAL SERVICES.—Section 8081 of title 10, United States Code, is amended by striking "brigadier general" in the second sentence and inserting "major general".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the occurrence of the next vacancy in the position of Assistant Surgeon General for Dental Services in the Air Force that occurs after the date of the enactment of this Act or, if earlier, on the date of the appointment to the grade of major general of the officer who is the incumbent in that position on the date of the enactment of the Act.

SEC. 503. MANAGEMENT OF CHIEF WARRANT OFFICERS.

(a) RETENTION OF CHIEF WARRANT OFFICERS, W-4, WHO HAVE TWICE FAILED OF SELECTION FOR PROMOTION.—Section 580(e)(1) of title 10, United States Code, is amended by striking "continued on active duty if" and all that follows and inserting "continued on active duty if—

"(A) in the case of a warrant officer in the grade of chief warrant officer, W–2, or chief warrant officer, W–3, the warrant officer is selected for continuation on active duty by a selection board convened under section 573(c) of this title; and

"(B) in the case of a warrant officer in the grade of chief warrant officer, W–4, the warrant officer is selected for continuation on active duty by the Secretary concerned under such procedures as the Secretary may prescribe.".

(b) MANDATORY RETIREMENT FOR LENGTH OF SERVICE.—Section 1305(a) of such title is amended—

(1) by striking "(1) Except as" and all the follows through "W–5)" and inserting "A regular warrant officer";

(2) by inserting "as a warrant officer" after "years of active service";

(3) by inserting "the date on which" after "60 days after"; and

(4) by striking paragraph (2).

SEC. 504. REDUCTION IN TIME-IN-GRADE REQUIREMENT FOR PROMOTION TO CAPTAIN IN THE ARMY, AIR FORCE, AND MARINE CORPS AND LIEUTENANT IN THE NAVY.

Section 619(a)(1) of title 10, United States Code, is amended by striking "he has completed" in the matter preceding subparagraph (A) and all that follows through the period at the end of subparagraph (B) and inserting "the officer has completed 18 months of service in the grade in which the officer holds a permanent appointment".

SEC. 505. MILITARY STATUS OF OFFICERS SERVING IN CERTAIN INTELLIGENCE COMMUNITY POSITIONS.

(a) CLARIFICATION OF MILITARY STATUS.—Section 528 of title 10, United States Code, is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) MILITARY STATUS.—An officer of the armed forces, while serving in a position covered by this section—

"(1) shall not be subject to supervision or control by the Secretary of Defense or any other officer or employee of the Department of Defense, except as directed by the Secretary of Defense concerning reassignment from such position; and

"(2) may not exercise, by reason of the officer's status as an officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law.

"(b) DIRECTOR AND DEPUTY DIRECTOR OF CIA.—When the position of Director or Deputy Director of the Central Intelligence Agency is held by an officer of the armed forces, the officer serving in that position, while so serving, shall be excluded from the limitations in sections 525 and 526 of this title. However, if both such positions are held by an officer of the armed forces, only one such officer may be excluded from those limitation while so serving."; and

(2) by adding at the end the following new subsections:

"(e) EFFECT OF APPOINTMENT.—Except as provided in subsection (a), the appointment or assignment of an officer of the armed forces to a position covered by this section shall not affect—

"(1) the status, position, rank, or grade of such officer in the armed forces; or

"(2) any emolument, perquisite, right, privilege, or benefit incident to or arising out of such status, position, rank, or grade.

"(f) MILITARY PAY AND ALLOWANCES.—An officer of the armed forces on active duty who is appointed or assigned to a position covered by this section shall, while serving in such position and while remaining on active duty, continue to receive military pay and allowances and shall not receive the pay prescribed for such position. Funds from which such military pay and allowances are paid to such officer while so serving shall be reimbursed from funds available to the Director of the Central Intelligence Agency (for an officer serving in a position within the Central Intelligence Agency) or from funds available to the Director of National Intelligence (for an officer serving in a position within the Office of the Director of National Intelligence).

"(g) COVERED POSITIONS.—The positions covered by this section are the positions specified in subsections (b) and (c) and the positions designated under subsection (d).".

(b) CLERICAL AMENDMENTS.—

(1) The heading of such section is amended to read as follows:

"§ 528. Officers serving in certain intelligence positions: military status; exclusion from distribution and strength limitations; pay and allowances".

(2) The table of sections at the beginning of chapter 32 of such title is amended to read as follows:

"528. Officers serving in certain intelligence positions: military status; exclusion from distribution and strength limitations; pay and allowances.".

Subtitle B—Reserve Component Management

SEC. 511. REVISIONS TO RESERVE CALL-UP AUTHORITY.

(a) MAXIMUM NUMBER OF DAYS.—Subsection (a) of section 12304 of title 10, United States Code, is amended by striking "270 days" and inserting "365."

(b) SUPPORT FOR DISASTERS.—Such section is further amended—

(1) in subsection (b)—

(A) by striking "or" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(3) a serious natural or manmade disaster, accident, or catastrophe that occurs in the United States, its territories and possessions, or Puerto Rico."; and

(2) in subsection (c)(1)—

(A) by striking "title or," and inserting "title,"; and

(B) by striking ", to provide" and all that follows through the end and inserting a period.

(c) FAIR TREATMENT.—Such section is further amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection (i):

"(i) CONSIDERATIONS FOR INVOLUNTARY ORDER TO ACTIVE DUTY.—(1) In determining which members of the Selected Reserve and Individual Ready Reserve will be ordered to duty without their consent under this section, appropriate consideration shall be given to—

"(A) the length and nature of previous service, to assure such sharing of exposure to hazards as the national security and military requirements will reasonably allow;

"(B) family responsibilities; and

"(C) employment necessary to maintain the national health, safety, or interest.

"(2) The Secretary of Defense shall prescribe such policies and procedures as the Secretary considers necessary to carry out this subsection.".

SEC. 512. MILITARY RETIREMENT CREDIT FOR CERTAIN SERVICE BY NATIONAL GUARD MEMBERS PERFORMED WHILE IN A STATE DUTY STATUS IMMEDIATELY AFTER THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001.

Subsection (c) of section 514 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3232) is amended by adding at the end the following new paragraph:

"(3) In the State of New Jersey: Bergen, Hudson, Union, and Middlesex.".

SEC. 513. REPORT ON PRIVATE-SECTOR PROMOTION AND CONSTRUCTIVE TERMINATION OF MEMBERS OF THE RESERVE COMPONENTS CALLED OR ORDERED TO ACTIVE SERVICE.

(a) REPORT REQUIRED.—Not later than March 1, 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the promotion and constructive termination by private-sector employers of members of the reserve components called or ordered to active service.

(b) COLLECTION OF INFORMATION.—The Secretary of Defense shall base the report required under subsection (a) on information submitted voluntarily by members of the reserve components.

(c) CONSTRUCTIVE TERMINATION.—In this section, the term "constructive termination" means the voluntary resignation of an employee because of working conditions the employee finds unbearable.

Subtitle C—Education and Training

SEC. 521. AUTHORITY TO PERMIT MEMBERS WHO PARTICIPATE IN THE GUARANTEED RESERVE FORCES DUTY SCHOLARSHIP PROGRAM TO PARTICIPATE IN THE HEALTH PROFESSIONS SCHOLARSHIP PROGRAM AND SERVE ON ACTIVE DUTY.

Paragraph (3) of section 2107a(b) of title 10, United States Code, is amended—

(1) by inserting "or a cadet or former cadet under this section who signs an agreement under section 2122 of this title," after "military junior college,"; and

(2) by inserting ", or former cadet," after "consent of the cadet" and after "submitted by the cadet".

SEC. 522. JUNIOR RESERVE OFFICERS' TRAINING CORPS INSTRUCTION ELIGIBILITY EXPANSION.

Section 2031 of title 10, United States Code, is amended—

(1) in subsection (d)(1), by inserting "who are receiving retired or retainer pay," after "Fleet Marine Corps Reserve,"; and

(2) by adding at the end the following new subsection (e):

"(e) Instead of, or in addition to, the detailing of active-duty officers and noncommissioned officers under subsection (c)(1), and the employment of retired officers and noncommissioned officers and members of the Fleet Reserve or Fleet Marine Corps Reserve under subsection (d), the Secretary of the military department concerned may authorize qualified institutions to employ as administrators and instructors in the program, retired officers and noncommissioned officers who qualify for retired pay for nonregular service under the provisions of chapter 1223 of this title but for being under the age specified in section 12731(a)(1) of this title for eligibility for such retired pay, whose qualifications are approved by the Secretary and the institution concerned, and who request such employment, subject to the following:

"(1) The compensation package for officers and noncommissioned officers employed under this subsection shall not be coupled with either active duty pay or retired pay, but instead shall be at a rate contracted individually and determined by the Secretary of the military department concerned. The Secretary may pay the institution an amount the Secretary determined to be appropriate, but the amount may not be more than the amount that would be paid on behalf of an equivalent retiree or member of the Fleet Reserve or Fleet Marine Corps Reserve under the provisions of subsection (d)(1). The Secretary may continue to pay individuals employed under this subsection pre-determined compensation packages, even after they reach the age of 60. Payments by the Secretary concerned under this paragraph shall be made from funds appropriated for that purpose.

"(2) Such a retired member is not, while so employed, considered to be on active duty or inactive duty training for any purpose.".

SEC. 523. AUTHORITY FOR UNITED STATES MILITARY ACADEMY AND UNITED STATES AIR FORCE ACADEMY PERMANENT MILITARY PROFESSORS TO ASSUME COMMAND POSITIONS WHILE ON PERIODS OF SABBATICAL.

(a) UNITED STATES MILITARY ACADEMY.—Section 4334(d) of title 10, United States Code, is amended—

(1) by striking "permanent professors and the";

(2) by striking "exercise" and inserting "exercises"; and

(3) by adding at the end the following new sentence: "The permanent professors exercise command only in the academic department of the Academy and, at the discretion of the Secretary of the Army, within Army units to which they are assigned.".

(b) UNITED STATES AIR FORCE ACADEMY.—Section 9334(b) of such title is amended—

(1) by striking "permanent professors and the"; and

(2) by striking "exercise" and inserting "exercises"; and

(3) by adding at the end the following new sentence: "The permanent professors exercise command only in the academic department of the Academy and, at the discretion of the Secretary of the Air Force, within Air Force units to which they are assigned.".

SEC. 524. EXPANSION OF SERVICE ACADEMY EXCHANGE PROGRAMS WITH FOREIGN MILITARY ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—

(1) NUMBER OF PARTICIPANTS IN EXCHANGE PROGRAM.—Subsection (b) of section 4345 of title 10, United States Code, is amended by striking "24" and inserting "100".

(2) COSTS AND EXPENSES.—Subsection (c) of such section is amended—

(A) by striking "for the Academy" in paragraph (3) and all that follows in that paragraph and inserting "for the Academy and such additional funds as may be available to the Academy from a source other than appropriated funds to support cultural immersion, regional awareness, or foreign language training activities in connection with the exchange program."; and

(B) by adding at the end the following new paragraph:

"(4) Expenditures in support of the exchange program from funds appropriated for the Academy may not exceed $1,000,000 during any fiscal year.".

(b) UNITED STATES NAVAL ACADEMY.—

(1) NUMBER OF PARTICIPANTS IN EXCHANGE PROGRAM.—Subsection (b) of section 6957a of title 10, United States Code, is amended by striking "24" and inserting "100".

(2) COSTS AND EXPENSES.—Subsection (c) of such section is amended—

(A) by striking "for the Academy" in paragraph (3) and all that follows in that paragraph and inserting "for the Academy and such additional funds as may be available to the Academy from a source other than appropriated funds to support cultural immersion, regional awareness, or foreign language training activities in connection with the exchange program."; and

(B) by adding at the end the following new paragraph:

"(4) Expenditures in support of the exchange program from funds appropriated for the Naval Academy may not exceed $1,000,000 during any fiscal year.".

(c) UNITED STATES AIR FORCE ACADEMY.—

(1) NUMBER OF PARTICIPANTS IN EXCHANGE PROGRAM.—Subsection (b) of section 9345 of title 10, United States Code, is amended by striking "24" and inserting "100".

(2) COSTS AND EXPENSES.—Subsection (c) of such section is amended—

(A) by striking "for the Academy" in paragraph (3) and all that follows in that paragraph and inserting "for the Academy and such additional funds as may be available to the Academy from a source other than appropriated funds to support cultural immersion, regional awareness, or foreign language training activities in connection with the exchange program."; and

(B) by adding at the end the following new paragraph:

"(4) Expenditures in support of the exchange program from funds appropriated for the Academy may not exceed $1,000,000 during any fiscal year.".

(d) EFFECTIVE DATES.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act. The amendments made by subsections (b) and (c) shall take effect on October 1, 2008.

SEC. 525. REVIEW OF LEGAL STATUS OF JUNIOR ROTC PROGRAM.

(a) REVIEW.—The Secretary of Defense shall conduct a review of the 1976 legal opinion issued by the General Counsel of the Department of Defense regarding instruction of non-host unit students participating in Junior Reserve Officers' Training Corps programs. The review shall consider whether changes to law after the issuance of that opinion allow in certain circumstances for the arrangement for assignment of instructors that provides for the travel of an instructor from one educational institution to another once during the regular school day for the purposes of the Junior Reserve Officers' Training Corps program as an authorized arrangement that enhances administrative efficiency in the management of the program. If the Secretary, as a result of the review, determines that such authority is not available, the Secretary should also consider whether such authority should be available and whether there should be authority to waive the restrictions under certain circumstances.

(b) REPORT.—The Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of the review not later than 180 days after the date of the enactment of this Act.

(c) INTERIM AUTHORITY.—A current institution that has more than 70 students and is providing support to another educational institutional with more than 70 students and has been providing for the assignment of instructors from one school to the other may continue to provide such support until 180 days following receipt of the report under subsection (b).

Subtitle D—General Service Authorities

SEC. 531. TEST OF UTILITY OF TEST PREPARATION GUIDES AND EDUCATION PROGRAMS IN ENHANCING RECRUIT CANDIDATE PERFORMANCE ON THE ARMED SERVICES VOCATIONAL APTITUDE BATTERY (ASVAB) AND ARMED FORCES QUALIFICATION TEST (AFQT).

(a) REQUIREMENT FOR TEST.—The Secretary of Defense shall conduct a test of the utility of commercially available test preparation guides and education programs designed to assist recruit candidates achieve scores on military recruit qualification testing that better reflect the full potential of those recruit candidates in terms of aptitude and mental category. The test shall be conducted through the Secretaries of the Army, Navy and Air Force.

(b) ASSESSMENT OF COMMERCIALLY AVAILABLE GUIDES AND PROGRAMS.—The test shall assess commercially available test preparation guides and education programs designed to enhance test performance. The test preparation guides assessed shall test both written formats and self-paced computer-assisted programs. Education programs assessed may test both self-study textbook and computer-assisted courses and instructor-led courses.

(c) OBJECTIVES.—The objectives of the test are to determine the following:

(1) The degree to which test preparation assistance degrades test reliability and accuracy.

(2) The degree to which test preparation assistance allows more accurate testing of skill aptitudes and mental capability.

(3) The degree to which test preparation assistance allows individuals to achieve higher scores without sacrificing reliability and accuracy.

(4) What role is recommended for test preparation assistance in military recruiting.

(d) CONTROL GROUP.—As part of the test, the Secretary shall identify a population of recruit candidates who will not receive test preparation assistance and will serve as a control group for the test. Data from recruit candidates participating in the test and data from recruit candidates in the control group shall be compared in terms of both (1) test performance, and (2) subsequent duty performance in training and unit settings following entry on active duty.

(e) NUMBER OF PARTICIPANTS.—The Secretary shall provide test preparation assistance to a minimum of 2,000 recruit candidates and shall identify an equal number to be established as the control group population.

(f) DURATION OF TEST.—The Secretary shall begin the test not later than nine months after the date of the enactment of this Act. The test shall identify participants over a one-year period from the start of the test and shall assess duty performance for each participant for 18 months following entry on active duty. The last participant shall be identified, but other participants may not be identified.

(g) REPORT ON FINDINGS.—Not later than six months after completion of the duty performance assessment of the last identified participant in the test, the Secretary of Defense shall submit to the Committee on Armed Services in the Senate and the Committee on Armed Services of the House of Representatives a report providing the findings of the Secretary with respect to each of the objectives specified in subsection (c) and the Secretary's recommendations.

SEC. 532. NONDISCLOSURE OF SELECTION BOARD PROCEEDINGS.

(a) ACTIVE-DUTY SELECTION BOARD PROCEEDINGS.—

(1) EXTENSION TO ALL ACTIVE-DUTY BOARDS.—Chapter 36 of title 10, United States Code, is amended by inserting after section 613 the following new section:

"§613a. Nondisclosure of board proceedings

"(a) NONDISCLOSURE.—The proceedings of a selection board convened under section 611 this title may not be disclosed to any person not a member of the board.

"(b) PROHIBITED USES OF BOARD RECORDS.—The discussions and deliberations of such a selection board and any written or documentary record of such discussions and deliberations—

"(1) are immune from legal process;

"(2) may not be admitted as evidence; and

"(3) may not be used for any purpose in any action, suit, or judicial or administrative proceeding without the consent of the Secretary of the military department concerned.

"(c) APPLICABILITY.—The section shall apply with respect to the proceedings of all selection boards convened under section 611 of this title, including selection boards convened before the date of the enactment of this section.".

(2) CONFORMING AMENDMENT.—Section 618 of such title is amended by striking subsection (f).

(b) RESERVE SELECTION BOARD PROCEEDINGS.—Section 14104 of such title is amended to read as follows:

"§14104. Nondisclosure of board proceedings

"(a) NONDISCLOSURE.—The proceedings of a selection board convened under section 14101of this title may not be disclosed to any person not a member of the board.

"(b) PROHIBITED USES OF BOARD RECORDS.—The discussions and deliberations of such a selection board and any written or documentary record of such discussions and deliberations—

"(1) are immune from legal process;

"(2) may not be admitted as evidence; and

"(3) may not be used for any purpose in any action, suit, or judicial or administrative proceeding without the consent of the Secretary of the military department concerned.

"(c) APPLICABILITY.—The section shall apply with respect to the proceedings of all selection boards convened under section 14101 of this title, including selection boards convened before the date of the enactment of this section.".

(c) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of subchapter I of chapter 36 of such title is amended by inserting after the item relating to section 613 the following new item:

"14104. Nondisclosure of board proceedings.".

(2) The item relating to section 14104 in the table of sections at the beginning of chapter 1403 of such title is amended to read as follows:

"14104. Nondisclosure of board proceedings.".

SEC. 533. REPORT ON EXTENT OF PROVISION OF TIMELY NOTICE OF LONG-TERM DEPLOYMENTS.

Not later than March 1, 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the number of members of the Armed Forces (shown by service and within each service by reserve component and active component) who, since September 11, 2001, have not received at least 30 days notice (in the form of an official order) before a deployment that will last 180 days or more. With respect to members of the reserve components, the report shall describe the degree of compliance (or noncompliance) with Department of Defense policy concerning the amount of notice to be provided before long-term mobilizations or deployments.

Subtitle E—Authorities Relating to Guard and Reserve Duty

SEC. 541. TITLE 10 DEFINITION OF ACTIVE GUARD AND RESERVE DUTY.

Section 101 of title 10, United States Code, is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

"(16) The term 'Active Guard and Reserve' means a member of a reserve component who is on active duty pursuant to section 12301(d) of this title or, if a member of the Army National Guard or Air National Guard, is on full-time National Guard duty pursuant to section 502(f) of title 32, and who is performing Active Guard and Reserve duty."; and

(2) in paragraph (6)(A) of subsection (d)—

(A) by striking "or full-time National Guard duty" after "means active duty"; and

(B) by striking ", pursuant to an order to active duty or full-time National Guard duty" and inserting "pursuant to an order to full-time National Guard duty,".

SEC. 542. AUTHORITY FOR ACTIVE GUARD AND RESERVE DUTIES TO INCLUDE SUPPORT OF OPERATIONAL MISSIONS ASSIGNED TO THE RESERVE COMPONENTS AND INSTRUCTION AND TRAINING OF ACTIVE-DUTY PERSONNEL.

(a) AGR DUTY UNDER TITLE 10.—Subsections (a) and (b) of section 12310 of title 10, United States Code, are amended to read as follows:

"(a) AUTHORITY.—(1) The Secretary concerned may order a member of a reserve component under the Secretary's jurisdiction to active duty pursuant to section 12301(d) of this title to perform Active Guard and Reserve duty organizing, administering, recruiting, instructing, or training the reserve components.

"(2) A Reserve ordered to active duty under paragraph (1) shall be ordered in the Reserve's reserve grade. While so serving, the Reserve continues to be eligible for promotion as a Reserve, if otherwise qualified.

"(b) DUTIES.—A Reserve on active duty under subsection (a) may perform the following duties in addition to (and not in lieu of) the Reserve's primary Active Guard and Reserve duties described in subsection (a)(1):

"(1) Supporting operations or missions assigned in whole or in part to the reserve components.

"(2) Supporting operations or missions performed or to be performed by—

"(A) a unit composed of elements from more than one component of the same armed force; or

"(B) a joint forces unit that includes—

"(i) one or more reserve component units; or

"(ii) a member of a reserve component whose reserve component assignment is in a position in an element of the joint forces unit.

"(3) Advising the Secretary of Defense, the Secretaries of the military departments, the Joint Chiefs of Staff, and the commanders of the unified combatant command regarding reserve component matters.

"(4) Instructing or training in the United States or the Commonwealth of Puerto Rico or possessions of the United States of—

"(A) active-duty members of the armed forces;

"(B) members of foreign military forces (under the same authorities and restrictions applicable to active-duty members providing such instruction or training);

"(C) Department of Defense contractor personnel; or

"(D) Department of Defense civilian employees.".

(b) MILITARY TECHNICIANS UNDER TITLE 10.—Section 10216(a) of such title is amended—

(1) in paragraph (1)(C), by striking "administration and" and inserting "organizing, administering, instructing, or"; and

(2) by adding at the end the following new paragraph:

"(3) A military technician (dual status) who is employed under section 3101 of title 5 may perform the following duties in addition to (and not in lieu of) those primary duties described in paragraph (1):

"(A) Supporting operations or missions assigned in whole or in part to the technician's unit;

"(B) Supporting operations or missions performed or to be performed by—

"(i) a unit composed of elements from more than one component of the technician's armed force; or

"(ii) a joint forces unit that includes—

"(I) one or more units of the technician's component; or

"(II) a member of the technician's component whose reserve component assignment is in a position in an element of the joint forces unit.

"(C) Instructing or training in the United States or the Commonwealth of Puerto Rico or possessions of the United States of—

"(i) active-duty members of the armed forces;

"(ii) members of foreign military forces (under the same authorities and restrictions applicable to active-duty members providing such instruction or training);

"(iii) Department of Defense contractor personnel; or

"(iv) Department of Defense civilian employees.".

(c) NATIONAL GUARD TITLE 32 TRAINING DUTY.—Section 502(f) of title 32, United States Code, title is amended—

(1) by inserting "(1)" before "Under regulations";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) by striking the last sentence and inserting the following:

"(2) The training or duty ordered to be performed under paragraph (1) may include the following:

"(A) Support of operations or missions undertaken by the member's unit at the request of the President or Secretary of Defense.

"(B) Support of training operations and training missions assigned in whole or in part to the National Guard by the Secretary concerned, but only to the extent that such training missions and training operations—

"(i) are performed in the territorial limits of the United States, its territories and possessions, the District of Columbia, and the Commonwealth of Puerto Rico; and

"(ii) are only to instruct active duty military, foreign military (under the same authorities and restrictions applicable to active duty troops), Department of Defense contractor personnel, or Department of Defense civilian employees.

"(3) Duty without pay shall be considered for all purposes as if it were duty with pay.".

(d) NATIONAL GUARD TECHNICIANS UNDER TITLE 32.—Section 709(a) of title 32, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "administration and" and inserting "organizing, administering, instructing, or"; and

(B) by striking "and" at the end of such paragraph;

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) the performance of the following duties in addition to (and not in lieu of) those duties described by paragraphs (1) and (2):

"(A) Support of operations or missions undertaken by the technician's unit at the request of the President or the Secretary of Defense.

"(B) Support of Federal training operations or Federal training missions assigned in whole or in part to the technician's unit.

"(C) Instructing or training in the United States or the Commonwealth of Puerto Rico or possessions of the United States of—

"(i) active-duty members of the armed forces;

"(ii) members of foreign military forces (under the same authorities and restrictions applicable to active-duty members providing such instruction or training);

"(iii) Department of Defense contractor personnel; or

"(iv) Department of Defense civilian employees.".

(e) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"328. Active Guard and Reserve duty: Governor's authority.".

SEC. 543. GOVERNOR'S AUTHORITY TO ORDER MEMBERS TO ACTIVE GUARD AND RESERVE DUTY.

(a) IN GENERAL.—Chapter 3 of title 32, United States Code, is amended by adding at the end the following new section:

"§328. Active Guard and Reserve duty: Governor's authority

"(a) AUTHORITY.—The Governor of a State or the Commonwealth of Puerto Rico, Guam, or the Virgin Islands, or the commanding general of the District of Columbia National Guard, as the case may be, with the consent of the Secretary concerned, may order a member of the National Guard to perform Active Guard and Reserve duty, as defined by section 101(d)(6) of title 10, pursuant to section 502(f) of this title.

"(b) DUTIES.—A member of the National Guard performing duty under subsection (a) may perform the following duties in addition to (and not in lieu of) that member's primary Active Guard and Reserve duties of organizing, administering, recruiting, instructing, and training the reserve components:

"(1) Support of operations or missions undertaken by the member's unit at the request of the President or the Secretary of Defense.

"(2) Support of training operations and training missions assigned in whole or in part by the Secretary concerned to the National Guard, but only to the extent that such training operation and training missions—

"(A) are performed in the territorial limits of the United States, its territories and possessions, and the Commonwealth of Puerto Rico; and

"(B) are only to instruct—

"(i) active-duty members of the armed forces;

"(ii) members of foreign military forces (under the same authorities and restrictions applicable to active-duty members providing such instruction or training);

"(iii) Department of Defense contractor personnel; or

"(iv) Department of Defense civilian employees.".

SEC. 544. NATIONAL GUARD OFFICERS AUTHORITY TO COMMAND.

Section 325 of title 32, United States Code, is amended—

(1) in subsection (a)(2), by striking "in command of a National Guard unit";

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) ADVANCE AUTHORIZATION AND CONSENT.—The President and Governor of the State or Commonwealth of Puerto Rico, Guam, or the Virgin Islands, or the commanding general of the District of Columbia National Guard, as the case may be, respectively, may give the authorization and consent required by subsection (a)(2), in advance, for the purpose of establishing the succession of command of a unit."; and

(4) by adding at the end the following new subsection:

"(d) NATIONAL GUARD DUTIES.—An officer who is not relieved from duty in the National Guard while serving on active duty pursuant to subsection (a)(2) may perform any duty authorized to be performed by the laws of that officer's State or the laws of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or the District of Columbia, as the case may be, to be performed by the National Guard without regard to the limitations imposed by section 1385 of title 18.".

SEC. 545. EXPANSION OF OPERATIONS OF CIVIL SUPPORT TEAMS.

(a) IN GENERAL.—Section 12310(c) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "involving—" and inserting "involving any of the following:"; and

(B) by striking subparagraphs (A) and (B) and inserting the following:

"(A) The use or threatened use of a weapon of mass destruction (as defined in section 12304(i)(2) of this title) in the United States.

"(B) A terrorist attack or threatened terrorist attack in the United States that results, or could result, in catastrophic loss of life or property.

"(C) The intentional or unintentional release of nuclear, biological, radiological, or toxic or poisonous chemical materials in the United States that results, or could result, in catastrophic loss of life or property.

"(D) A natural or manmade disaster in the United States that results in, or could result in, catastrophic loss of life or property.";

(2) by amending paragraph (3) to read as follows:

"(3) A Reserve may perform duty described in paragraph (1) only while assigned to a reserve component weapons of mass destruction civil support team."; and

(3) by adding at the end the following new paragraph:

"(7) In this subsection, the term 'United States' includes the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking the subsection heading and inserting "OPERATIONS RELATING TO DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION AND TERRORIST ATTACKS.—";

(2) in paragraph (5), by striking "rapid assessment element team" and inserting "weapons of mass destruction civil support team"; and

(3) in paragraph (6)—

(A) in the matter preceding subparagraph (A), by striking "paragraph (3)" and inserting "paragraphs (1) and (3)"; and

(B) in subparagraph (B), by striking "paragraph (3)(B)" and inserting "paragraph (3)".

Subtitle F—Decorations and Awards

SEC. 551. AUTHORITY FOR PRESENTATION OF MEDAL OF HONOR FLAG TO LIVING MEDAL OF HONOR RECIPIENTS AND TO LIVING PRIMARY NEXT-OF-KIN OF DECEASED MEDAL OF HONOR RECIPIENTS.

(a) ARMY.—Section 3755 of title 10, United States Code, is amended—

(1) by striking "after October 23, 2002"; and

(2) by adding at the end the following new sentence: "In the case of a posthumous presentation of the medal, the flag shall be presented to the person to whom the medal is presented".

(b) NAVY.—Section 6257 of such title is amended—

(1) by striking "after October 23, 2002"; and

(2) by adding at the end the following new sentence: "In the case of a posthumous presentation of the medal, the flag shall be presented to the person to whom the medal is presented".

(c) AIR FORCE.—Section 8755 of such title is amended—

(1) by striking "after October 23, 2002"; and

(2) by adding at the end the following new sentence: "In the case of a posthumous presentation of the medal, the flag shall be presented to the person to whom the medal is presented".

(d) COAST GUARD.—Section 505 of title 14, United States Code, is amended—

(1) by striking "after October 23, 2002"; and

(2) by adding at the end the following new sentence: "In the case of a posthumous presentation of the medal, the flag shall be presented to the person to whom the medal is presented".

(e) PRESENTATION OF FLAG FOR PRIOR RECIPIENTS OF MEDAL OF HONOR.—

(1) LIVING RECIPIENTS.—The President shall provide for the presentation of the Medal of Honor Flag as expeditiously as possible after the date of the enactment of this Act to each living recipient of the Medal of Honor who was awarded the Medal of Honor before that date.

(2) SURVIVORS OF DECEASED RECIPIENTS.—The President shall provide for posthumous presentation of the Medal of Honor Flag, upon written application therefor, to the primary next of kin of any recipient of the Medal of Honor who was awarded the Medal of Honor before the date of the enactment of this Act and who is deceased as of such date (or who dies after such date and before the presentation required by paragraph (1)). For purposes of this paragraph, the primary next-of-kin is the person who would be entitled to receive the award of the Medal of Honor for such deceased individual if the award were being made posthumously at the time of the presentation of the Medal of Honor Flag.

(3) MEDAL OF HONOR FLAG.—In this subsection, the term "Medal of Honor Flag" means the flag designated under section 903 of title 36, United States Code.

SEC. 552. COLD WAR VICTORY MEDAL.

(a) AUTHORITY.—Chapter 57 of title 10, United States Code, is amended by adding at the end the following new section:

"§1135. Cold War Victory Medal

"(a) MEDAL AUTHORIZED.—The Secretary concerned shall issue a service medal, to be known as the 'Cold War Victory Medal', to persons eligible to receive the medal under subsection (b). The Cold War Victory Medal shall be of an appropriate design approved by the Secretary of Defense, with ribbons, lapel pins, and other appurtenances.

"(b) ELIGIBLE PERSONS.—The following persons are eligible to receive the Cold War Victory Medal:

"(1) A person who—

"(A) performed active duty or inactive duty training as an enlisted member during the Cold War;

"(B) completed the person's initial term of enlistment or, if discharged before completion of such initial term of enlistment, was honorably discharged after completion of not less than 180 days of service on active duty; and

"(C) has not received a discharge less favorable than an honorable discharge or a release from active duty with a characterization of service less favorable than honorable.

"(2) A person who—

"(A) performed active duty or inactive duty training as a commissioned officer or warrant officer during the Cold War;

"(B) completed the person's initial service obligation as an officer or, if discharged or separated before completion of such initial service obligation, was honorably discharged after completion of not less than 180 days of service on active duty; and

"(C) has not been released from active duty with a characterization of service less favorable than honorable and has not received a discharge or separation less favorable than an honorable discharge.

"(c) ONE AWARD AUTHORIZED.—Not more than one Cold War Victory Medal may be issued to any person.

"(d) Issuance to Representative of Deceased.—If a person described in subsection (b) dies before being issued the Cold War Victory Medal, the medal shall be issued to the person's representative, as designated by the Secretary concerned.

"(e) Replacement.—Under regulations prescribed by the Secretary concerned, a Cold War Victory Medal that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced without charge.

"(f) Application for Medal.—The Cold War Victory Medal shall be issued upon receipt by the Secretary concerned of an application for such medal, submitted in accordance with such regulations as the Secretary prescribes.

"(g) Uniform Regulations.—The Secretary of Defense shall ensure that regulations prescribed by the Secretaries of the military departments under this section are uniform so far as is practicable.

"(h) Definition.—In this section, the term 'Cold War' means the period beginning on September 2, 1945, and ending at the end of December 26, 1991.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1135. Cold War Victory Medal.".

SEC. 553. POSTHUMOUS AWARD OF PURPLE HEART FOR PRISONERS OF WAR WHO DIE IN OR DUE TO CAPTIVITY.

(a) Deceased POWs Not Otherwise Eligible for Purple Heart.—Chapter 57 of title 10, United States Code, is amended by adding after section 1135, as added by section 552(a), the following new section:

"§1136. Purple Heart: posthumous award for prisoners of war or former prisoners of war dying in or due to captivity

"(a) For purposes of the award of the Purple Heart, the Secretary concerned shall treat a death described in subsection (b) in the same manner as the death of a member of the armed forces in action as the result of an act of an enemy of the United States.

"(b) A death described in this subsection is either of the following:

"(1) The death of a member of the armed forces who dies in captivity under circumstances establishing eligibility for the prisoner-of-war medal under section 1128 of this title but under circumstances not otherwise establishing eligibility for the Purple Heart.

"(2) The death of a member or former member of the armed forces who following captivity as a prisoner of war is issued the prisoner-of-war medal under section 1128 of this title and who dies due to a disease or disability that was incurred during that captivity, unless the member or former member received a Purple Heart due to the injury or conditions resulting in that disease or disability.

"(c) The Secretary of Defense shall prescribe regulations for determining eligibility for the Purple Heart under this section. Such regulations shall include criteria for the determination under paragraph (2) of subsection (b) of whether a death is due to a disease or disability incurred while a prisoner of war.

"(d) This section applies to any member of the armed forces who is held as a prisoner of war after December 7, 1941. ".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1135, as added by section 552(b), the following new item:

"1136. Purple Heart: posthumous award for prisoners of war or former prisoners of war dying in or due to captivity.".

(c) Retroactive Awards.—In the case of a member or former member of the Armed Forces covered by section 1135 of title 10, United States Code, whose death is before the date of the enactment of this Act, the Secretary concerned shall award the Purple Heart under that section upon receipt of an application that is made to the Secretary in such manner, and containing such information, as the Secretary requires.

SEC. 554. ADVANCEMENT ON THE RETIRED LIST OF CERTAIN DECORATED RETIRED NAVY AND MARINE CORPS OFFICERS.

(a) Advancement on Retired List.—The Secretary of the Navy shall, upon receipt of a qualifying application, advance on the retired list of the Navy or Marine Corps, as applicable, any retired officer of the Navy or Marine Corps described in subsection (b). Each such officer shall be advanced to the next higher grade above the officer's retired grade as of the day before the date of the enactment of this Act.

(b) Covered Officers.—Subsection (a) applies to any retired officer of the Navy or Marine Corps—

(1) who was eligible to retire before November 1, 1959, but who retired on or after that date; and

(2) who, under the provisions of law in effect before November 1, 1959, would have been eligible, by reason of having been specifically commended for performance of duty in actual combat, to have been retired in the next higher grade if the officer had retired before that date.

(c) Qualifying Application.—A qualifying application is an application from an officer described in subsection (b) or, in the case of a deceased officer, the surviving spouse or another immediate family member (as determined by the Secretary) of the officer, that—

(1) requests advancement on the retired list under this section; and

(2) provides such information as the Secretary may require.

(d) Effect of Advancement on Retired List.—The advancement of an officer on the retired list pursuant to subsection (a) shall not affect—

(1) in the case of a retired office who is living as of the date of the enactment of this Act, the retired pay or other benefits of the officer or the grade in which the officer could be ordered or recalled to active duty; and

(2) any benefit to which any other person is or may become entitled based upon the officer's service.

SEC. 555. REPORT ON DEPARTMENT OF DEFENSE PROCESS FOR AWARDING DECORATIONS.

(a) Review.— The Secretary of Defense shall conduct a review of the policy, procedures, and processes of the military departments for awarding decorations to members of the Armed Forces.

(b) Time Periods.—As part of the review, the Secretary shall determine how long the award process takes—

(1) from the time a recommendation for the award of a decoration is submitted until the time the award of the decoration is approved; and

(2) from the time award of a decoration is approved until the time when the decoration is presented to the recipient.

(c) Reserve Components.—In conducting the review, the Secretary shall ensure that the timeliness of the awards process for members of the reserve components is the same or similar as that for members of the active components.

(d) Report.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the Secretary's findings as a result of the review under subsection (a), together with a plan for implementing whatever changes are determined to be appropriate to the process for awarding decorations in order to ensure that decorations are awarded in a timely manner, to the extent practicable.

Subtitle G—Matters Relating to Casualties

SEC. 561. CRITERIA FOR REMOVAL OF MEMBER FROM TEMPORARY DISABILITY RETIRED LIST.

(a) Criteria.—Section 1210(e) of title 10, United States Code, is amended by inserting "of a permanent nature and stable and is" after "physical disability".

(b) Effective Date.—The amendment made by subsection (a) shall apply to any case received for consideration by a physical evaluation board after the date of the enactment of this Act.

SEC. 562. DEPARTMENT OF DEFENSE COMPUTER/ELECTRONIC ACCOMMODATIONS PROGRAM FOR SEVERELY WOUNDED MEMBERS.

(a) In General.—Chapter 58 of title 10, United States Code, is amended by inserting after section 1150 the following new section:

"§1151. Severely wounded members: assistive technology and services

"(a) Authority.—The Secretary of Defense may provide assistive technology, assistive technology devices, and assistive technology services, as those terms are defined in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002), to a member of the armed forces who has sustained a severe or debilitating illness or injury while serving in support of a contingency operation.

"(b) Duration and Provision of Technology and Services.—The Secretary may provide technology and services authorized by subsection (a) for an indefinite period, without regard to whether the person assisted continues to be a member of the armed forces.

"(c) Authority to Allow Retention of Devices, etc.—Upon the separation from active service of a member who has been provided assistance as specified in subsection (a), the Secretary may allow the member to retain any assistive technology, device, or service provided to the member before the member's separation.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1150 the following new item:

"1151. Severely wounded members: assistive technology and services.".

SEC. 563. TRANSPORTATION OF REMAINS OF CASUALTIES DYING IN A THEATER OF COMBAT OPERATIONS.

(a) In General.—The Secretary concerned shall provide transportation of the remains of a member of the Armed Forces who dies in a combat theater of operations and whose remains are returned to the United States through the mortuary facility at Dover Air Force Base, Delaware, in accordance with section 1482(a)(8) of title 10, United States Code, and this section.

(b) Escort.—The Secretary concerned shall ensure that such remains are escorted under that section at all times by at least one person, who shall be a member of the Armed Forces of appropriate grade.

(c) Air Transportation From Dover AFB.—

(1) Use of military aircraft.—If transportation of remains described in subsection (a) from Dover Air Force Base to the escorted remains destination includes transportation by aircraft, such transportation by aircraft (unless otherwise directed by the next-of-kin) shall be made by military aircraft or military-contracted aircraft to the military airfield that is closest to the escorted remains destination. In the case of any such flight, the exclusive mission of the flight shall be the transportation of those remains.

(2) Escorted remains destination.—In this subsection, the term "escorted remains destination" means the place to which remains are to be transported pursuant to section 1482(a)(8) of title 10, United States Code.

(d) Honor Guard Escort.—In a case of the transportation of remains covered by subsection (a), there shall be a military escort (in addition to the escort under subsection (b)) that either travels with the remains from Dover Air Force Base or meets the remains at the place to which transportation by air (or by rail or motor vehicle, if applicable) is made. Such escort shall be of sufficient number to transfer the casket containing the remains from the aircraft (or other means of transportation to that place) to a hearse for local transportation. Such escort shall remain with the remains until the remains are delivered to the next-of-kin. Such escort shall consist of members of the Armed Forces on active duty or in the Ready Reserve.

SEC. 564. ANNUAL BUDGET DISPLAY OF FUNDS FOR POW/MIA ACTIVITIES OF DEPARTMENT OF DEFENSE.

(a) Consolidated Budget Justification.—Chapter 9 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 234. POW/MIA activities: display of budget information

"(a) Submission With Annual Budget Justification Documents.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for a fiscal year, a consolidated budget justification display, in classified and unclassified form, that covers all programs and activities of Department of Defense POW/MIA accounting and recovery organizations.

"(b) Requirements for Budget Display.—The budget display under subsection (a) for a fiscal year shall include the following for each such organization:

"(1) The amount, by appropriation and functional area, originally requested by that organization for that fiscal year, with the supporting narrative describing the rationale for the requested funding level.

"(2) A summary of actual or estimated expenditures by that organization for the fiscal year during which the budget is submitted and for the fiscal year preceding that year.

"(3) The amount in the budget for that organization.

"(4) A detailed explanation of any inconsistencies between the amount originally requested by the organization (shown pursuant to paragraph (1)) and the amount in the budget for that organization (shown pursuant to paragraph (3)).

"(5) The budget estimate for that organization for the next five fiscal years after the fiscal year for which the budget is submitted.

"(c) Department of Defense POW/MIA Accounting and Recovery Organizations.—In this section, the term 'Department of Defense POW/MIA accounting and recovery organization' means any of the following (and any successor organization):

"(1) The Defense Prisoner of War/Missing Personnel Office (DPMO).

"(2) The Joint POW/MIA Accounting Command (JPAC).

"(3) The Armed Forces DNA Identification Laboratory (AFDIL).

"(4) The Life Sciences Equipment Laboratory (LSEL) of the Air Force.

"(5) Any other element of the Department of Defense the mission of which (as designated by the Secretary of Defense) involves the accounting for and recovery of members of the armed forces who are missing in action or prisoners of war or who are unaccounted for.

"(d) Other Definitions.—In this section:

"(1) The term 'budget', with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

"(2) The term 'defense budget materials', with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"234. POW/MIA activities: display of budget information.".

Subtitle H—Assistance to Local Educational Agencies for Defense Dependents Education

SEC. 571. CONTINUATION OF AUTHORITY TO ASSIST LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) Assistance to Schools With Significant Numbers of Military Dependent Students.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $50,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (a) of section 572 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3271; 20 U.S.C. 7703b).

(b) Assistance to Schools With Enrollment Changes Due to Base Closures, Force Structure Changes, or Force Relocations.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $15,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (b) of such section 572.

(c) Local Educational Agency Defined.—In this section, the term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 572. ENROLLMENT IN DEFENSE DEPENDENTS' EDUCATION SYSTEM OF DEPENDENTS OF FOREIGN MILITARY MEMBERS ASSIGNED TO SUPREME HEADQUARTERS ALLIED POWERS, EUROPE.

Section 1404A of the Defense Dependents' Education Act of 1978 (20 U.S.C. 923a) is amended—

(1) in subsection (a)—

(A) by striking "of the children" and inserting "of—

"(1) the children";

(B) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(2) the children of a foreign military member assigned to the Supreme Headquarters Allied Powers, Europe, but only in a school of the defense dependents' education system in Mons, Belgium."; and

(2) by adding at the end the following new subsection:

"(c) Special Rules Regarding Enrollment of Dependents of Foreign Military Members Assigned to Supreme Headquarters Allied Powers, Europe.—(1) In the regulations required by subsection (a), the Secretary shall prescribe a methodology based on the estimated total number of dependents of sponsors under section 1414(2) enrolled in schools of the defense dependents' education system in Mons, Belgium, to determine the number of children described in paragraph (2) of subsection (a) who will be authorized to enroll under such subsection.

"(2) If the number of children described in paragraph (2) of subsection (a) who seek enrollment in schools of the defense dependents' education system in Mons, Belgium, exceeds the number authorized by the Secretary under paragraph (1), the Secretary may enroll the additional children on a space-available, tuition-free basis notwithstanding section 1404(d)(2).".

Subtitle I—Postal Benefits

SEC. 575. POSTAL BENEFITS PROGRAM FOR MEMBERS OF THE ARMED FORCES.

(a) In General.—The Secretary of Defense, in consultation with the United States Postal Service, shall provide for a program under which postal benefits shall be provided to qualified individuals in accordance with this subtitle.

(b) Qualified Individual.—For purposes of this subtitle, the term "qualified individual" means an individual—

(1) who is a member of the Armed Forces on active duty (as defined in section 101 of title 10, United States Code); and

(2) who is—

(A) serving in Iraq or Afghanistan; or

(B) hospitalized at a facility under the jurisdiction of the Armed Forces as a result of a disease or injury incurred as a result of service in Iraq or Afghanistan.

(c) Postal Benefits Described.—

(1) In general.—The postal benefits provided under this subtitle shall consist of such coupons or other similar evidence of credit (whether in printed, electronic, or other format, and hereinafter in this subtitle referred to as "vouchers") as the Secretary of Defense (in consultation with the Postal Service) shall determine, entitling the bearer or user to make qualified mailings free of postage.

(2) Qualified mailing.—For purposes of this subtitle, the term "qualified mailing" means the mailing of any mail matter which—

(A) is described in subparagraph (A), (B), (C), or (D) of paragraph (3);

(B) is sent from within an area served by a United States post office; and

(C) is addressed to a qualified individual.

(3) Mail matter described.—The mail matter described in this paragraph is—

(A) any letter mail not exceeding 13 ounces in weight and having the character of personal correspondence;

(B) any sound- or video-recorded communications not exceeding 15 pounds in weight and having the character of personal correspondence;

(C) any ground parcel not exceeding 15 pounds in weight; and

(D) any bound printed matter not exceeding 15 pounds in weight.

(4) Limitations.—

(A) Number.—An individual shall be eligible for one voucher for each month in which such individual is a qualified individual.

(B) Use.—Any such voucher may not be used—

(i) for more than a single qualified mailing; or

(ii) after the earlier of—

(I) the expiration date of such voucher, as designated by the Secretary of Defense; or

(II) the last day of the one-year period referred to in section 577.

(5) Coordination rule.—Postal benefits under this subtitle shall be in addition to, and not in lieu of, any reduced rates of postage or other similar benefits which might otherwise be available by or under law, including any rates of postage resulting from the application of section 3401(b) of title 39, United States Code.

(d) Regulations.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense (in consultation with the Postal Service) shall prescribe any regulations necessary to carry out this subtitle, including—

(1) procedures by which vouchers will be provided or made available (including measures to allow vouchers to reach, in a timely manner, the

persons selected by qualified individuals to use the vouchers); and

(2) procedures to ensure that the number of vouchers provided or made available with respect to any qualified individual complies with subsection (c)(4)(A).

SEC. 576. FUNDING.

(a) In General.—Funding for the expenses incurred by the Department of Defense for any fiscal year in providing postal benefits under this subtitle shall be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriations.

(b) Transfers to Postal Service.—

(1) Based on estimates.—The Secretary of Defense shall transfer to the Postal Service, out of any amount so appropriated and in advance of each calendar quarter during which postal benefits under this subtitle may be used, an amount equal to the amount of postal benefits that the Secretary of Defense estimates will be used during such quarter, reduced or increased (as the case may be) by any amounts by which the Secretary finds that a determination under this subtitle for a prior quarter was greater than or less than the amount finally determined for such quarter.

(2) Based on final determination.—A final determination of the amount necessary to correct any previous determination under this section, and any transfer of amounts between the Postal Service and the Department of Defense based on that final determination, shall be made not later than six months after the end of the one-year period referred to in section 577.

(c) Consultation Required.—All estimates and determinations under this section of the amount of postal benefits under this subtitle used in any period shall be made by the Secretary of Defense in consultation with the Postal Service.

SEC. 577. DURATION.

The postal benefits under this subtitle shall apply with respect to mail matter sent during the one-year period beginning on the date on which the regulations under section 575(d) take effect.

Subtitle J—Other Matters

SEC. 581. REDUCTION IN DEPARTMENT OF DEFENSE ACCRUAL CONTRIBUTIONS TO DEPARTMENT OF DEFENSE MILITARY RETIREMENT FUND.

(a) Determination of Contributions to the Fund.—

(1) Calculation of annual Department of Defense contribution.—Subsection (b)(1) of section 1465 of title 10, United States Code, is amended—

(A) in subparagraph (A)(ii), by striking "to members of " and all that follows and inserting "for active duty (other than the Coast Guard) and for full-time National Guard duty (other than full-time National Guard duty for training only), but excluding any duty that would be excluded for active-duty end strength purposes by section 115(i) of this title.''; and

(B) in subparagraph (B)(ii)—

(i) by striking ''Ready Reserve'' and inserting "Selected Reserve''; and

(ii) by striking ''Coast Guard and other than members on full-time National Guard duty other than for training) who are'' and inserting "Coast Guard) for service''.

(2) Quadrennial actuarial valuation.—Subsection (c)(1) of such section is amended —

(A) in subparagraph (A), by striking ''for members of the armed forces'' and all that follows through ''for training only)'' and inserting "for active duty (other than the Coast Guard) and for full-time National Guard duty (other than full-time National Guard duty for training only), but excluding any duty that would be excluded for active-duty end strength purposes by section 115(i) of this title''; and

(B) in subparagraph (B)—

(i) by striking ''Ready Reserve'' and inserting ''Selected Reserve''; and

(ii) by striking ''Coast Guard and other than members on full-time National Guard duty other than for training) who are'' and inserting ''Coast Guard) for service''.

(b) Payments Into the Fund.—Section 1466(a) of such title is amended—

(1) in paragraph (1)(B), by striking ''by members'' and all that follows and inserting ''for active duty (other than the Coast Guard) and for full-time National Guard duty (other than full-time National Guard duty for training only), but excluding any duty that would be excluded for active-duty end strength purposes by section 115(i) of this title''; and

(2) in paragraph (2)(B)—

(A) by striking ''Ready'' and inserting ''Selected''; and

(B) by striking ''Coast Guard and other than members on full-time National Guard duty other than for training) who are'' and inserting ''Coast Guard) for service''.

SEC. 582. DENTAL CORPS OF THE BUREAU OF MEDICINE AND SURGERY.

(a) Deletion of References to Dental Division.—Section 5138 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking the first sentence; and

(B) by striking ''Dental Division'' and inserting ''Dental Corps'' in the second sentence;

(2) in subsection (b), by striking ''Dental Division'' and inserting ''Dental Corps'';

(3) in subsection (c)—

(A) by striking ''so'' in the first sentence;

(B) by striking '', that all such'' in the first sentence and all that follows through ''Dental Division''; and

(C) by striking the second sentence.; and

(b) Functions of Chief of Dental Corps.—Subsection (d) of such section is amended to read as follows:

''(d) The Chief of the Dental Corps shall serve as the advisor to the Surgeon General on all matters relating directly to dentistry, including professional standards and policies for dental practice.''.

(c) Clerical Amendments.—

(1) The heading of such section is amended to read as follows:

"§ 5138. Bureau of Medicine and Surgery: Dental Corps; Chief".

(2) The item relating to section 5138 in the table of sections at the beginning of chapter 513 of such title is amended to read as follows:

''5138. Bureau of Medicine and Surgery: Dental Corps: Chief.''.

SEC. 583. PERMANENT AUTHORITY FOR PRESENTATION OF RECOGNITION ITEMS FOR RECRUITMENT AND RETENTION PURPOSES.

Section 2261 of title 10, United States Code, is amended by striking subsection (d).

SEC. 584. REPORT ON FEASIBILITY OF ESTABLISHMENT OF MILITARY ENTRANCE PROCESSING COMMAND STATION ON GUAM.

(a) Review.—The Secretary of Defense shall review the feasibility and cost effectiveness of establishing on Guam a station of the Military Entrance Processing Command to process new recruits for the Armed Forces who are drawn from the western Pacific region. For the purposes of the review, the cost effectiveness of establishing such a facility on Guam shall be measured, in part, against the system in effect in early 2006 of using Hawaii and other locations for the processing of new recruits from Guam and other locations in the western Pacific region.

(b) Report.—Not later than June 1, 2007, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report providing the results of the study under subsection (a).

SEC. 585. PERSONS AUTHORIZED TO ADMINISTER ENLISTMENT AND APPOINTMENT OATHS.

(a) Enlistment Oath.—Section 502 of title 10, United States Code, is amended—

(1) by inserting ''(a) Enlistment Oath.—'' before ''Each person enlisting'';

(2) by striking the last sentence; and

(3) by adding at the end the following:

''(b) Who May Administer.—The oath may be taken before the President, the Vice-President, the Secretary of Defense, any commissioned officer, or any other person designated under regulations prescribed by the Secretary of Defense.''.

(b) Oaths Generally.—Section 1031 of such title is amended by striking ''Any commissioned officer of any component of an armed force, whether or not on active duty, may administer any oath'' and inserting ''The President, the Vice-President, the Secretary of Defense, any commissioned officer, and any other person designated under regulations prescribed by the Secretary of Defense may administer any oath''.

SEC. 586. REPEAL OF REQUIREMENT FOR PERIODIC DEPARTMENT OF DEFENSE INSPECTOR GENERAL ASSESSMENTS OF VOTING ASSISTANCE COMPLIANCE AT MILITARY INSTALLATIONS.

(a) Repeal of Duplicative Assessment Requirement.—Section 1566 of title 10, United States Code, is amended by striking subsection (d).

(b) Repeal of Expired Provision.—Subsection (g)(2) of such section is amended by striking the last sentence.

SEC. 587. PHYSICAL EVALUATION BOARDS.

(a) In General.—

(1) Procedural requirements.—Chapter 61 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1222. Physical evaluation boards

''(a) Response to Applications and Appeals.—The Secretary of each military department shall ensure, in the case of any member of the armed forces appearing before a physical evaluation board under that Secretary's supervision, that documents announcing a decision of the board in the case convey the findings and conclusions of the board in an orderly and itemized fashion with specific attention to each issue presented by the member in regard to that member's case. The requirement under the preceding sentence applies to a case both during initial consideration and upon subsequent consideration due to appeal by the member or other circumstance.

''(b) Liaison Officer (PEBLO) Requirements and Training.—(1) The Secretary of Defense shall prescribe regulations establishing —

''(A) a requirement for the Secretary of each military department to make available to members of the armed forces appearing before physical evaluation boards operated by that Secretary employees, designated as physical evaluation board liaison officers, to provide advice, counsel, and general information to such members on the operation of physical evaluation boards operated by that Secretary; and

''(B) standards and guidelines concerning the training of such physical evaluation board liaison officers.

''(2) The Secretary shall assess compliance by the Secretary of each military department with physical evaluation board liaison officer requirements and training standards and guidelines at least once every three years.

''(c) Standardized Staff Training and Operations.—(1) The Secretary of Defense shall prescribe regulations on standards and guidelines concerning the physical evaluation board operated by each of the Secretaries of the military departments with regard to—

"(A) assignment and training of staff;

"(B) operating procedures; and

"(C) consistency and timeliness of board decisions.

"(2) The Secretary shall assess compliance with standards and guidelines prescribed under paragraph (1) by each physical evaluation board at least once every three years.".

(2) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1222. Physical evaluation boards.".

(b) Effective Date.—Section 1222 of title 10, United States Code, as added by subsection (a), shall apply with respect to decisions rendered on cases commenced more than 120 days after the date of the enactment of this Act.

SEC. 588. DEPARTMENT OF LABOR TRANSITIONAL ASSISTANCE PROGRAM.

(a) Required Participation for Certain Members.—Subsection (c) of section 1144 of title 10, United States Code, is amended to read as follows:

"(c) Participation.—(1) Except as provided in paragraph (2), the Secretary of Defense shall require participation by members of the armed forces eligible for assistance under the program carried out under this section.

"(2) The Secretary of Defense need not require, but shall encourage and otherwise promote, participation in the program by the following members described in paragraph (1):

"(A) A member who has previously participated in the program.

"(B) A member who, upon discharge or release from active duty, is returning to—

"(i) a position of employment; or

"(ii) pursuit of an academic degree or other educational or occupational training objective that the members was pursuing when called or ordered to such active duty.

"(3) Members of the armed forces eligible for assistance under this section include—

"(A) members of the reserve components being separated from service on active duty for a period of more than 30 days; and

"(B) members of the National Guard being separated from full-time National Guard duty.

"(4) The Secretary concerned shall ensure that commanders of members who are required to be provided assistance under this section authorize the members to be provided such assistance during duty time.".

(b) Required Updating of Materials.—Such section is further amended by adding at the end the following new subsection:

"(e) Updating of Materials.—The Secretary concerned shall, on a continuing basis, update the content of the materials used by the National Veterans Training Institute of the Department of Labor and the Secretary's other materials that provide direct training support to personnel who carry out the program established in this section.".

SEC. 589. REVISION IN GOVERNMENT CONTRIBUTIONS TO MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND.

(a) Medicare Eligible Retiree Health Care Fund.—Section 1111 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "of the Department of Defense";

(2) in subsection (b), by adding at the end of the following new paragraph:

"(5) The term 'members of the uniformed services on active duty' does not include a cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy or a midshipman at the United States Naval Academy."; and

(3) in the last sentence of subsection (c)—

(A) by striking "Secretary of Defense" and inserting "Secretary of the Treasury"; and

(B) by striking "section 1116(a)" and inserting "section 1116 of this title".

(b) Determination of Contributions to the Fund.—Section 1115 of such title is amended—

(1) in the last sentence of subsection (a)—

(A) by inserting "by the Secretary of the Treasury" after "Contributions to the Fund"; and

(B) by striking "section 1116(c)" and inserting "section 1116(a)(1)".

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking the first sentence and inserting the following: "The Secretary of the Treasury, based on data provided by the Secretary of Defense, shall determine, before the beginning of each fiscal year, the amount that the Secretary of the Treasury shall contribute to the Fund during that fiscal year under section 1116(a)(2) of this title.";

(B) in paragraph (1)(B), by inserting before the period at the end the following: ", but excluding any member who would be excluded for active-duty end strength purposes by section 115(I) of this title"; and

(C) in paragraph (2)(B)—

(I) by striking "Ready Reserve" and inserting "Selected Reserve"; and

(ii) by striking "(other than members on full-time National Guard duty other than for training)"; and

(3) in subsection (c)—

(A) in paragraph (1)(A), by inserting before the semicolon the following: ", but excluding any member who would be excluded for active-duty end strength purposes by section 115(I) of this title";

(B) in paragraph (1)(B)—

(I) by striking "Ready Reserve" and inserting "Selected Reserve"; and

(ii) by striking "(other than members on full-time National Guard duty other than for training)"; and

(C) in paragraph (5), by inserting after "(5)" the following new sentence: "The Secretary of Defense, before the beginning of each fiscal year, shall promptly provide data to the Secretary of the Treasury regarding the actuarial valuations conducted under this subsection that would affect the contributions of the Secretary of the Treasury to the Fund for that fiscal year.".

(c) Payments Into the Fund.—Section 1116 of such title is amended—

(1) in the matter in subsection (a) preceding paragraph (1)—

(A) by striking "after September 30, 2005"; and

(B) by striking "Treasury—" and inserting "Treasury the following:";

(2) by redesignating paragraph (2) of subsection (a) as paragraph (3);

(3) by striking paragraph (1) of subsection (a) and inserting the following:

"(1) The amount determined to be required as the contribution to the Fund under subsection (a) of section 1115 of this title.

"(2) The amount determined to be required as the contribution to the Fund under subsection (b) of section 1115 of this title.";

(4) in paragraph (3) of subsection (a) (as redesignated by paragraph (2)), by capitalizing the first letter of the first word;

(5) by transferring paragraphs (3), (4), and (5) of subsection (b) to the end of subsection (a) and redesignating those paragraphs as paragraphs (4), (5), and (6), respectively; and

(6) by striking subsection (b) (as amended by paragraph (5)) and subsections (c) and (d) and inserting the following new subsection (b):

"(b) No funds authorized or appropriated to the Department of Defense may be used to fund, or otherwise provide for, the payments required by this section.".

(d) Effective Date.—The amendments made by this section shall take effect with respect to payments under chapter 56 of title 10, United States Code, beginning with fiscal year 2008.

SEC. 590. MILITARY CHAPLAINS.

(a) United States Army.—Section 3547 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Each chaplain shall have the prerogative to pray according to the dictates of the chaplain's own conscience, except as must be limited by military necessity, with any such limitation being imposed in the least restrictive manner feasible.".

(b) United States Military Academy.—Section 4337 of such title is amended—

(1) by inserting "(a)" before "There"; and

(2) by adding at the end the following new subsection:

"(b) The Chaplain shall have the prerogative to pray according to the dictates of the Chaplain's conscience, except as must be limited by military necessity, with any such limitation being imposed in the least restrictive manner feasible.".

(c) United States Navy and Marine Corps.—Section 6031 of such title is amended by adding at the end the following new subsection:

"(d) Each chaplain shall have the prerogative to pray according to the dictates of the chaplain's own conscience, except as must be limited by military necessity, with any such limitation being imposed in the least restrictive manner feasible.".

(d) United States Air Force.—Section 8547 of such title is amended by adding at the end the following new subsection:

"(c) Each chaplain shall have the prerogative to pray according to the dictates of the chaplain's own conscience, except as must be limited by military necessity, with any such limitation being imposed in the least restrictive manner feasible.".

(e) United States Air Force Academy.—Section 9337 of such title is amended—

(1) by inserting "(a)" before "There"; and

(2) by adding at the end the following new subsection:

"(b) The Chaplain shall have the prerogative to pray according to the dictates of the Chaplain's conscience, except as must be limited by military necessity, with any such limitation being imposed in the least restrictive manner feasible.".

SEC. 591. REPORT ON PERSONNEL REQUIREMENTS FOR AIRBORNE ASSETS IDENTIFIED AS LOW-DENSITY, HIGH-DEMAND AIRBORNE ASSETS.

(a) Report Required.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on personnel requirements for airborne assets identified as Low-Density, High-Demand Airborne Assets based on combatant commander requirements to conduct and sustain operations for the global war on terrorism.

(b) Matter To Be Included.—The report shall include the following for each airborne asset identified as a Low-Density, High-Demand Airborne Asset:

(1) The numbers of operations and maintenance crews to meet tasking contemplated to conduct operations for the global war on terrorism.

(2) The current numbers of operations and maintenance crews.

(3) If applicable, shortages of operations and maintenance crews.

(4) Whether such shortages are addressed in the future-years defense program.

(5) Whether end-strength increases are required to meet any such shortages.

(6) Costs of personnel needed to address shortfalls.

(7) If applicable, the number and types of equipment needed to address training shortfalls.

SEC. 592. ENTREPRENEURIAL SERVICE MEMBERS EMPOWERMENT TASK FORCE.

(a) Establishment.—The Secretary of Defense, in coordination with the Administrator of the Small Business Administration, shall establish a task force to provide timely input to the Secretary and the Administrator with respect to—

(1) measures that would improve the programs and activities of the Department and the Administration that are designed to address the economic concerns, as well as the business challenges and opportunities, of entrepreneurial service members; and

(2) measures that would improve the coordination of the programs and activities relating to entrepreneurial service members conducted by—

(A) the National Committee for Employer Support of the National Guard and Reserve;

(B) Veterans Business Outreach Centers;

(C) Federal procurement entities; and

(D) any other elements within, or affiliates of, the Department of Defense or the Small Business Administration.

(b) Plan.—The task force shall develop within 90 days after its first meeting, and revise as appropriate thereafter, a plan for carrying out the duty under subsection (a).

(c) Consultation.—In carrying out the duty under subsection (a), the task force shall consult with appropriate Federal, State, and local agencies and appropriate elements of the private sector, including academic institutions and industry representatives.

(d) Composition.—

(1) Co-chairs.—The task force shall have two co-chairs, one an officer or employee of the Department of Defense assigned by the Secretary, and one an officer or employee of the Small Business Administration assigned by the Administrator. The initial assignments shall be made within 60 days after the date of the enactment of this Act.

(2) Other members.—The Secretary, in coordination with the Administrator, shall appoint the remaining task force members, numbering not less than 8 and not more than 15. The selections shall be made within 120 days after the date of the enactment of this Act. The Secretary, in coordination with the Administrator, shall ensure that the task force includes individuals from both public service and the private sector, and that each of the following groups is represented on the task force:

(A) Entrepreneurial service members who are owners of small businesses.

(B) Small businesses that employ entrepreneurial service members as essential employees.

(C) Associations that further the interests of small businesses, members of the reserve components of the Armed Forces, or both.

(D) Any other entities that the Secretary, in coordination with the Administrator, considers appropriate.

(3) Compensation.—An individual serving as a member of the task force shall not receive compensation by reason of that service.

(e) Meetings.—

(1) Frequency.—The task force shall meet not less frequently than twice per year. The initial meeting shall be held within 150 days after the date of the enactment of this Act.

(2) Quorum.—A majority of the members of the task force shall constitute a quorum.

(f) Reports.—The task force shall provide to the Secretary and the Administrator not only the minutes of each meeting, but also a report of its findings and recommendations, should there be any, within 90 days of each meeting. Not later than 60 days after the receipt of such a report—

(1) the Secretary shall submit a copy of the report to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate; and

(2) the Administrator shall submit a copy of the report to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate.

(g) Detail of Certain Federal Employees.—The Secretary may detail an officer or employee of the Department of Defense, and the Administrator may detail an officer or employee of the Small Business Administration, to the task force without additional reimbursement and without interruption or loss of civil status or privilege.

(h) Expenses.—The Department of Defense and the Small Business Administration shall share equally in the cost of supporting the task force.

(i) Definition.—In this section, the term "entrepreneurial service member" means an individual who is both—

(1) an actual or prospective owner of, or an essential employee of, a small business; and

(2) a member of a reserve component of the Armed Forces.

(j) Termination.—The task force shall terminate September 30, 2009.

SEC. 593. COMPTROLLER GENERAL REPORT ON MILITARY CONSCIENTIOUS OBJECTORS.

(a) Report Required.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report concerning the frequency and consequences of members of the Armed Forces claiming status as a military conscientious objector between January 1, 1989, and December 31, 2006.

(b) Content of Report.—The report shall specifically address the following:

(1) The number of all applications for status as a military conscientious objector, even if the application was not acted on or other discharge given, broken down by military branch, including the Coast Guard, and regular and reserve components.

(2) Number of discharges or reassignments given.

(3) The process used to consider applications, including average time frame and any reassignment to non-combatant duties while claim pending.

(4) Reasons for approval or disapproval of applications.

(5) Any difference in benefits upon discharge as a military conscientious objector compared to other discharges.

(6) The effect of stop loss provisions in First Gulf War and currently, cancellation of orders to combat or rear attachment duty while claim pending.

(7) Pre-war statistical comparisons.

SEC. 594. COMMISSION ON THE NATIONAL GUARD AND RESERVES.

(a) Six-Month Extension of Commission.—Subsection (f)(2) of section 513 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1882) is amended by striking "one year" and inserting "18 months".

(b) Additional Matters to Be Reviewed by Commission.—The Commission on the National Guard and Reserves shall include among the matters it studies (in addition to the matters specified in subsection (c) of such section 513) the following:

(1) Provisions of H.R. 5200, 109th Congress.—The advisability and feasibility of implementing the provisions of H.R. 5200 of the 109th Congress, as introduced in the House of Representatives on April 26, 2006.

(2) Chief of National Guard Bureau.—As an alternative to implementation of the provisions of the bill specified in paragraph (1) that provide for the Chief of the National Guard Bureau to be a member of the Joint Chiefs of Staff and to hold the grade of general, the advisability and feasibility of providing for the Chief of the National Guard Bureau to hold the grade of general in the performance of the current duties of that office.

(3) National Guard Equipment and Funding Requirements.—The adequacy of the Department of Defense processes for defining the equipment and funding necessary for the National Guard to conduct both its responsibilities under title 10, United States Code, and its responsibilities under title 32, United States Code, including homeland defense and related homeland missions, including as part of such study—

(A) consideration of the extent to which those processes should be developed taking into consideration the views of the Chief of the National Guard Bureau, as well as the views of the 54 Adjutant Generals and the views of the Chiefs of the Army National Guard and the Air Guard; and

(B) whether there should be an improved means by which National Guard equipment requirements are validated by the Joint Chiefs of Staff and are considered for funding by the Secretaries of the Army and Air Force.

(c) Priority Review and Report.—

(1) Priority review.—The Commission on the National Guard and Reserves shall carry out its study of the matters specified in paragraphs (1) and (2) of subsection (b) on a priority basis, with a higher priority for matters under those paragraphs relating to the grade and functions of the Chief of the National Guard Bureau.

(2) Report.—In addition to the reports required under subsection (f) of section 513 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1882), the Commission shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives an interim report, not later than March 1, 2007, specifically on the matters covered by paragraph (1). In such report, the Commission shall set forth its findings and any recommendations it considers appropriate with respect to those matters.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Increase in basic pay for fiscal year 2007.
Sec. 602. Targeted increase in basic pay rates.
Sec. 603. Conforming change in general and flag officer pay cap to reflect increase in pay cap for Senior Executive Service personnel.
Sec. 604. Availability of second basic allowance for housing for certain reserve component or retired members serving in support of contingency operations.
Sec. 605. Extension of temporary continuation of housing allowance for dependents of members dying on active duty to spouses who are also members.
Sec. 606. Clarification of effective date of prohibition on compensation for correspondence courses.
Sec. 607. Payment of full premium for coverage under Servicemembers' Group Life Insurance program during service in Operation Enduring Freedom or Operation Iraqi Freedom.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. Extension of certain bonus and special pay authorities for reserve forces.

Sec. 612. Extension of bonus and special pay authorities for health care professionals.
Sec. 613. Extension of special pay and bonus authorities for nuclear officers.
Sec. 614. Extension of other bonus, special pay, and separation pay authorities.
Sec. 615. Expansion of eligibility of dental officers for additional special pay.
Sec. 616. Increase in maximum annual rate of special pay for Selected Reserve health care professionals in critically short wartime specialties.
Sec. 617. Authority to provide lump sum payment of nuclear officer incentive pay.
Sec. 618. Increase in maximum amount of nuclear career accession bonus.
Sec. 619. Increase in maximum amount of incentive bonus for transfer between armed forces.
Sec. 620. Clarification regarding members of the Army eligible for bonus for referring other persons for enlistment in the Army.
Sec. 621. Pilot program for recruitment bonus for critical health care specialties.
Sec. 622. Enhancement of temporary program of voluntary separation pay and benefits.
Sec. 623. Additional authorities and incentives to encourage retired members and reserve component members to volunteer to serve on active duty in high-demand, low-density assignments.

Subtitle C—Travel and Transportation Allowances

Sec. 631. Authority to pay costs associated with delivery of motor vehicle to storage location selected by member and subsequent removal of vehicle.
Sec. 632. Transportation of additional motor vehicle of members on change of permanent station to or from nonforeign areas outside the continental United States.
Sec. 633. Travel and transportation allowances for transportation of family members incident to illness or injury of members.

Subtitle D—Retired Pay and Survivor Benefits

Sec. 641. Military Survivor Benefit Plan beneficiaries under insurable interest coverage.
Sec. 642. Retroactive payment of additional death gratuity for certain members not previously covered.
Sec. 643. Equity in computation of disability retired pay for reserve component members wounded in action.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

Sec. 651. Treatment of price surcharges of tobacco products and certain other merchandise sold at commissary stores.
Sec. 652. Limitation on use of Department of Defense lease authority to undermine commissaries and exchanges and other morale, welfare, and recreation programs and nonappropriated fund instrumentalities.
Sec. 653. Use of nonappropriated funds to supplement or replace appropriated funds for construction of facilities of exchange stores system and other nonappropriated fund instrumentalities, military lodging facilities, and community facilities.
Sec. 654. Report on cost effectiveness of purchasing commercial insurance for commissary and exchange facilities and facilities of other morale, welfare, and recreation programs and nonappropriated fund instrumentalities.

Subtitle F—Other Matters

Sec. 661. Repeal of annual reporting requirement regarding effects of recruitment and retention initiatives.
Sec. 662. Pilot project regarding providing golf carts accessible for disabled persons at military golf courses.
Sec. 663. Enhanced authority to remit or cancel indebtedness of members of the Armed Forces incurred on active duty.

Subtitle A—Pay and Allowances

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2007.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2007 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 2007, the rates of monthly basic pay for members of the uniformed services are increased by 2.7 percent.

SEC. 602. TARGETED INCREASE IN BASIC PAY RATES.

Effective on April 1, 2007, the rates of monthly basic pay for members of the uniformed services within each pay grade are as follows:

COMMISSIONED OFFICERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26
O-10[2]	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$13,725.90	$13,793.10	$14,079.90	$14,579.70
O-9	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	12,005.10	12,177.60	12,427.80	12,863.70
O-8	8,494.20	8,772.60	8,957.10	9,008.70	9,239.10	9,624.00	9,713.40	10,079.10	10,183.80	10,498.80	10,954.20	11,374.50	11,655.00	11,655.00	11,655.00
O-7	7,058.40	7,386.00	7,538.10	7,658.40	7,876.80	8,092.20	8,341.80	8,590.80	8,840.40	9,624.00	10,286.10	10,286.10	10,286.10	10,286.10	10,338.30
O-6	5,231.40	5,747.40	6,124.50	6,124.50	6,147.60	6,411.30	6,446.10	6,446.10	6,812.40	7,460.10	7,840.20	8,220.00	8,436.30	8,655.00	9,080.10
O-5	4,361.10	4,912.80	5,253.00	5,316.90	5,529.00	5,656.20	5,935.20	6,140.10	6,404.40	6,809.70	7,002.30	7,192.80	7,409.10	7,409.10	7,409.10
O-4	3,762.90	4,356.00	4,646.40	4,711.50	4,981.20	5,270.40	5,630.10	5,911.20	6,105.90	6,217.80	6,282.90	6,282.90	6,282.90	6,282.90	6,282.90
O-3[3]	3,308.40	3,750.60	4,048.20	4,413.60	4,624.50	4,856.70	5,007.00	5,253.90	5,382.30	5,382.30	5,382.30	5,382.30	5,382.30	5,382.30	5,382.30
O-2[3]	2,858.10	3,255.60	3,749.70	3,876.30	3,956.10	3,956.10	3,956.10	3,956.10	3,956.10	3,956.10	3,956.10	3,956.10	3,956.10	3,956.10	3,956.10
O-1[3]	2,481.30	2,582.40	3,121.80	3,121.80	3,121.80	3,121.80	3,121.80	3,121.80	3,121.80	3,121.80	3,121.80	3,121.80	3,121.80	3,121.80	3,121.80

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for commissioned oficers in pay grades 0–7 through 0–10 may not exceed the rate of pay for level II of the Executive Schedule and the actual rate of basic pay for all other officers may not exceed the rate of pay for level V of the Executive Schedule.

[2] *Subject to the preceding footnote, while serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, Commandant of the Coast Guard, or commander of a unified or specified combatant command (as defined in section 161(c) of title 10, United States Code, basic pay for this grade is $16,037.40, regardless of cumulative years of service computed under section 205 of title 37, United States Code.*

[3] *This table does not apply to commissioned officers in pay grade O–1, O–2, or O–3 who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.*

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–3E	$0.00	$0.00	$0.00	$4,413.60	$4,624.50
O–2E	0.00	0.00	0.00	3,876.30	3,956.10
O–1E	0.00	0.00	0.00	3,121.80	3,333.90
	Over 8	Over 10	Over 12	Over 14	Over 16
0–3E	$4,856.70	$5,007.00	$5,253.90	$5,462.10	$5,581.20
0–2E	4,082.10	4,294.20	4,458.90.	4,581.00	4,581.00
0–1E	3,456.90	3,582.90	3,706.80	3,876.30	3,876.30
	Over 18	Over 20	Over 22	Over 24	Over 26
0–3E	$5,743.80	$5,743.80	$5,743.80	$5,743.80	$5,743.80
0–2E	4,581.00	4,581.00	4,581.00	4,581.00	4,581.00
0–1E	3,876.30	3,876.30	3,876.30	3,876.30	3,876.30

WARRANT OFFICERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W–5	$0.00	$0.00	$0.00	$0.00	$0.00
W–4	3,418.80	3,677.70	3,783.60	3,887.40	4,066.20
W–3	3,122.10	3,252.30	3,385.50	3,429.60	3,569.40
W–2	2,762.70	3023.40	3,104.40	3,159.90	3,338.70
W–1	2,425.20	2,685.00	2,756.40	2,904.30	3,080.10
	Over 8	Over 10	Over 12	Over 14	Over 16
W–5	$0.00	$0.00	$0.00	$0.00	$0.00
W–4	4,242.90	4,422.30	4,691.40	4,927.80	5152.80
W–3	3,843.90	4,130.10	4,265.40	4,421.40	4,582.20
W–2	3,616.80	3,754.80	3,890.70	4,056.60	4,186.20
W–1	3,337.80	3,458.40	3,627.00	3,792.90	3,922.80
	Over 18	Over 20	Over 22	Over 24	Over 26
W–5	$0.00	$6,078.30	$6,386.10	$6,615.60	$6,869.70
W–4	5,336.40	5,516.10	5,779.50	5,995.80	6,242.70
W–3	4,870.50	5,065.80	5,181.90	5,306.40	5,475.30
W–2	4,303.80	4,444.20	4,536.90	4,611.30	4,611.30
W–1	4,042.80	4,188.90	4,188.90	4,188.90	4,188.90

[1] *Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for warrant officers may not exceed the rate of pay for level V of the Executive Schedule.*

ENLISTED MEMBERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E-9[2]	$0.00	$0.00	$0.00	$0.00	$0.00
E-8	0.00	0.00	0.00	0.00	0.00
E-7	2,350.50	2,565.60	2,663.70	2,794.20	2,895.60
E-6	2,033.10	2,236.80	2,335.80	2,431.50	2,531.70
E-5	1,863.00	1,987.50	2,083.50	2,181.90	2,335.20
E-4	1,707.90	1,795.20	1,892.40	1,988.10	2,073.00
E-3	1,541.70	1,638.90	1,737.60	1,737.60	1,737.60
E-2	1,465.80	1,465.80	1,465.80	1,465.80	1,465.80
E-1[3]	1,308.00	1,308.00	1,308.00	1,308.00	1,308.00
	Over 8	Over 10	Over 12	Over 14	Over 16
E-9[2]	$0.00	$4,130.70	$4,224.30	$4,342.50	$4,481.40
E-8	3,381.30	3,531.00	3,623.70	3,734.40	3,854.70
E-7	3,070.20	3,168.30	3,326.70	3,471.00	3,569.70
E-6	2,757.60	2,845.20	3,000.00	3,051.90	3,089.70
E-5	2,483.70	2,613.90	2,630.10	2,630.10	2,630.10
E-4	2,073.00	2,073.00	2,073.00	2,073.00	2,073.00
E-3	1,737.60	1,737.60	1,737.60	1,737.60	1,737.60
E-2	1,465.80	1,465.80	1,465.80	1,465.80	1,465.80
E-1[3]	1,308.00	1,308.00	1,308.00	1,308.00	1,308.00
	Over 18	Over 20	Over 22	Over 24	Over 26
E-9[2]	$4,620.90	$4,845.30	$5,034.60	$5,234.70	$5,539.50
E-8	4,071.60	4,181.40	4,368.60	4,472.40	4,727.70
E-7	3,674.40	3,715.50	3,852.00	3,944.40	4,224.60
E-6	3,133.50	3,133.50	3,133.50	3,133.50	3,133.50
E-5	2,630.10	2,630.10	2,630.10	2,630.10	2,630.10

ENLISTED MEMBERS[1]—Continued

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E–4	2,073.00	2,073.00	2,073.00	2,073.00	2,073.00
E–3	1,737.60	1,737.60	1,737.60	1,737.60	1,737.60
E–2	1,465.80	1,465.80	1,465.80	1,465.80	1,465.80
E–1 [3]	1,308.00	1,308.00	1,308.00	1,308.00	1,308.00

[1] Notwithstanding the pay rates specified in this table, the actual basic pay for enlisted members may not exceed the rate of pay for level V of the Executive Schedule.

[2] Subject to the preceding footnote, the rate of basic pay for an enlisted member in this grade while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, Master Chief Petty Officer of the Coast Guard, or Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Statff is $6,675.00, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[3] In the case of members in pay grade E-1 who have served less than 4 months on active duty, the rate of basic pay is $1,209.90.

SEC. 603. CONFORMING CHANGE IN GENERAL AND FLAG OFFICER PAY CAP TO REFLECT INCREASE IN PAY CAP FOR SENIOR EXECUTIVE SERVICE PERSONNEL.

(a) INCREASE.—Section 203(a)(2) of title 37, United States Code, is amended by striking "level III of the Executive Schedule" and inserting "level II of the Executive Schedule".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 2006.

SEC. 604. AVAILABILITY OF SECOND BASIC ALLOWANCE FOR HOUSING FOR CERTAIN RESERVE COMPONENT OR RETIRED MEMBERS SERVING IN SUPPORT OF CONTINGENCY OPERATIONS.

Section 403(g) of title 37, United States Code, is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Secretary concerned may provide a basic allowance for housing to a member described in paragraph (1) at a monthly rate equal to the rate of the basic allowance for housing established under subsection (b) or the overseas basic allowance for housing established under subsection (c), whichever applies to the location at which the member is serving, for members in the same grade at that location without dependents. The member may receive both a basic allowance for housing under paragraph (1) and under this paragraph for the same month, but may not receive the portion of the allowance authorized under section 404 of this title, if any, for lodging expenses if a basic allowance for housing is provided under this paragraph."; and

(3) in paragraph (3), as so redesignated, by striking "Paragraph (1)" and inserting "Paragraphs (1) and (2)".

SEC. 605. EXTENSION OF TEMPORARY CONTINUATION OF HOUSING ALLOWANCE FOR DEPENDENTS OF MEMBERS DYING ON ACTIVE DUTY TO SPOUSES WHO ARE ALSO MEMBERS.

(a) EXTENSION.—Section 403(l) of title 37, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) An allowance may be paid under paragraph (2) to the spouse of the deceased member even though the spouse is also a member of the uniformed services. The allowance paid under such paragraph is in addition to any other pay and allowances to which the spouse is entitled as a member.".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendments made by subsection (a) shall take effect on October 1, 2006.

(2) TRANSITIONAL RULE.—After October 1, 2006, the Secretary of Defense, and the Secretary of Homeland Security in the case of the Coast Guard, may pay the allowance authorized by section 403(l)(2) of title 37, United States Code, to a member of the uniformed services who is the spouse of a member who died on active duty during the one-year period ending on that date, except that the payment of the allowance must terminate within 365 days after the date of the member's death.

SEC. 606. CLARIFICATION OF EFFECTIVE DATE OF PROHIBITION ON COMPENSATION FOR CORRESPONDENCE COURSES.

Section 206(d) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(3) The prohibition in paragraph (1), including the prohibition as it relates to a member of the National Guard while not in Federal service, applies to—

"(A) any work or study performed on or after September 7, 1962, unless that work or study is specifically covered by the exception in paragraph (2); and

"(B) any claim based on that work or study arising after that date.".

SEC. 607. PAYMENT OF FULL PREMIUM FOR COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE PROGRAM DURING SERVICE IN OPERATION ENDURING FREEDOM OR OPERATION IRAQI FREEDOM.

(a) ENHANCED ALLOWANCE TO COVER SGLI DEDUCTIONS.—Subsection (a)(1) of section 437 of title 37, United States Code, is amended by striking "for the first $150,000" and all that follows through "of such title" and inserting "for the amount of Servicemembers' Group Life Insurance coverage held by the member under section 1967 of such title".

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (a)—

(A) by striking "(1)" before "in the case of"; and

(B) by striking paragraph (2);

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b) and in paragraph (2) of that subsection by striking "coverage amount specified in subsection (a)(1) or in effect pursuant to subsection (b)," and inserting "maximum coverage amount available for such insurance,".

(c) CLERICAL AMENDMENTS.—The heading for such section, and the item relating to such section in the table of sections at the beginning of chapter 7 of such title, are each amended by striking the fourth and fifth words.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act and shall apply with respect to service by members of the Armed Forces in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom for months beginning on or after that date.

(e) FUNDING SOURCE.—Of the amounts authorized to be appropriated to the Department of Defense for military personnel accounts as emergency supplemental appropriations for fiscal years 2006 and 2007 to provide funds for additional costs due to Operation Iraqi Freedom and Operation Enduring Freedom, $31,000,000 shall be available to cover the additional costs incurred to implement the amendments made by this section.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(g) of title 37, United States Code, is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(b) SELECTED RESERVE AFFILIATION OR ENLISTMENT BONUS.—Section 308c(i) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(c) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(d) READY RESERVE ENLISTMENT BONUS FOR PERSONS WITHOUT PRIOR SERVICE.—Section 308g(h)(2) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(e) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS FOR PERSONS WITH PRIOR SERVICE.—Section 308h(e) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(f) SELECTED RESERVE ENLISTMENT BONUS FOR PERSONS WITH PRIOR SERVICE.—Section 308i(f) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

SEC. 612. EXTENSION OF BONUS AND SPECIAL PAY AUTHORITIES FOR HEALTH CARE PROFESSIONALS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31,' 2006" and inserting "December 31, 2007".

(b) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of such title is amended by striking "January 1, 2007" and inserting "January 1, 2008".

(c) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(d) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(e) SPECIAL PAY FOR SELECTED RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(e) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(f) ACCESSION BONUS FOR DENTAL OFFICERS.—Section 302h(a)(1) of such title is amended by *striking "December 31, 2006" and inserting "December 31, 2007".*

(g) ACCESSION BONUS FOR PHARMACY OFFICERS.—Section 302j(a) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

SEC. 613. EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

(a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

SEC. 614. EXTENSION OF OTHER BONUS, SPECIAL PAY, AND SEPARATION PAY AUTHORITIES.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(b) ASSIGNMENT INCENTIVE PAY.—Section 307a(g) of such title is amended by striking "December 31, 2007" and inserting "December 31, 2008".

(c) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(d) ENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 309(e) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(e) RETENTION BONUS FOR MEMBERS WITH CRITICAL MILITARY SKILLS.—Section 323(i) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(f) ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Section 324(g) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(g) MILITARY OCCUPATIONAL SPECIALTY CONVERSION INCENTIVE BONUS.—Section 326(g) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

(h) TRANSFER BETWEEN ARMED FORCES INCENTIVE BONUS.—Section 327(h) of such title is amended by striking "December 31, 2006" and inserting "December 31, 2007".

SEC. 615. EXPANSION OF ELIGIBILITY OF DENTAL OFFICERS FOR ADDITIONAL SPECIAL PAY.

(a) REPEAL OF INTERNSHIP AND RESIDENCY EXCEPTION.—Section 302b(a)(4) of title 37, United States Code, is amended by striking the first sentence and inserting the following new sentence: "An officer who is entitled to variable special pay under paragraph (2) or (3) is also entitled to additional special pay for any 12-month period during which an agreement executed under subsection (b) is in effect with respect to the officer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 2006.

SEC. 616. INCREASE IN MAXIMUM ANNUAL RATE OF SPECIAL PAY FOR SELECTED RESERVE HEALTH CARE PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.

(a) INCREASE.—Section 302g(a) of title 37, United States Code, is amended by striking "$10,000" and inserting "$25,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2006.

SEC. 617. AUTHORITY TO PROVIDE LUMP SUM PAYMENT OF NUCLEAR OFFICER INCENTIVE PAY.

(a) LUMP SUM PAYMENT OPTION.—Subsection (a) of section 312 of title 37, United States Code, is amended in the matter after paragraph (3)—

(1) by striking "in equal annual installments" and inserting "in a single lump-sum or in annual installments of equal or different amounts"; and

(2) by striking "with the number of installments being equal to the number of years covered by the contract plus one" and inserting "and, if the special pay will be paid in annual installments, the number of installments may not exceed the number of years covered by the agreement plus one".

(b) CLERICAL AND CONFORMING AMENDMENTS.—Such section is further amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(2) in subsection (a)—

(A) by striking "an officer" in the matter before paragraph (1) and inserting "the Secretary may pay special pay under subsection (b) to an officer";

(B) by striking the semicolon at the end of paragraph (3) and inserting a period;

(C) by striking "may, upon" and all that follows through "The Secretary of the Navy shall" and inserting the following:

"(b) PAYMENT AMOUNT; PAYMENT OPTIONS.—(1) The total amount paid to an officer under an agreement under subsection (a) or (e)(1) may not exceed $30,000 for each year of the active-service agreement. Amounts paid under the agreement are in addition to all other compensation to which the officer is entitled.

"(2) The Secretary shall";

(D) by striking "Upon acceptance of the agreement by the Secretary or his designee" and inserting the following:

"(3) Upon acceptance of an agreement under subsection (a) or (e)(1) by the Secretary ";

(E) by striking "The Secretary (or his designee)" and inserting the following:

"(4) The Secretary";

(3) in subsection (c), as redesignated by paragraph (1), by striking "subsection (a) or subsection (d)(1)" and inserting "subsection (b) or (e)(1)"; and

(4) in the first sentence of subsection (e)(1), as redesignated by paragraph (1)—

(A) by striking "such subsection" and inserting "subsection (b)"; and

(B) by striking "that subsection" and inserting "this subsection".

(c) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by inserting "SPECIAL PAY AUTHORIZED; ELIGIBILITY.—" after "(a)";

(2) in subsection (c), as redesignated by subsection (b)(1), by inserting "REPAYMENT.—" after "(c)";

(3) in subsection (d), as redesignated by subsection (b)(1), by inserting "RELATION TO SERVICE OBLIGATION.—" after "(d)";

(4) in subsection (e), as redesignated by subsection (b)(1), by inserting "NEW AGREEMENT.—" after "(e)"; and

(5) in subsection (f), as redesignated by subsection (b)(1), by inserting "DURATION OF AUTHORITY.—" after "(f)".

SEC. 618. INCREASE IN MAXIMUM AMOUNT OF NUCLEAR CAREER ACCESSION BONUS.

(a) INCREASE.—Section 312b(a)(1) of title 37, United States Code, is amended by striking "$20,000" and inserting "$30,000".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 2006.

SEC. 619. INCREASE IN MAXIMUM AMOUNT OF INCENTIVE BONUS FOR TRANSFER BETWEEN ARMED FORCES.

(a) INCREASE.—Section 327(d)(1) of title 37, United States Code, is amended by striking "$2,500" and inserting "$10,000".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 2006.

SEC. 620. CLARIFICATION REGARDING MEMBERS OF THE ARMY ELIGIBLE FOR BONUS FOR REFERRING OTHER PERSONS FOR ENLISTMENT IN THE ARMY.

Section 645(a) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3310) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary";

(2) by striking ", whether in the regular component of the Army or in the Army National Guard or Army Reserve," and inserting "described in paragraph (2)"; and

(3) by adding at the end the following new paragraph:

"(2) MEMBERS ELIGIBLE FOR BONUS.—Subject to subsection (c), the following members of the Army are eligible for a referral bonus under this section:

"(A) A member in the regular component of the Army.

"(B) A member of the Army National Guard.

"(C) A member of the Army Reserve.

"(D) A member of the Army in a retired status, including a member under 60 years of age who, but for age, would be eligible for retired pay.".

SEC. 621. PILOT PROGRAM FOR RECRUITMENT BONUS FOR CRITICAL HEALTH CARE SPECIALTIES.

(a) PILOT PROGRAM.—Section 2121 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) The Secretary of Defense may carry out a pilot program for payment of a recruitment incentive bonus to increase participation in the program. The Secretary shall prescribe regulations specifying the amount and terms of the bonus. The bonus shall be used to improve recruitment for critical health care specialties. A bonus under the pilot program shall be in addition to the stipend under subsection (d).

"(2) The amount prescribed under paragraph (1) for the bonus under the pilot program shall be determined by the Secretary.

"(3) The scope of the pilot program shall be limited to no more than 100 total participants in no more than five critical medical specialties. The program shall last no more than two years, beginning on the earlier of the date the first participant is selected or January 1, 2010. ".

(b) REPORTS.—The Secretary of Defense shall prepare a mid-term report and a final report on the findings and recommendations resulting from the pilot program. The Secretary shall submit those reports to the Committees on Armed Services of the Senate and the House of Representatives.

SEC. 622. ENHANCEMENT OF TEMPORARY PROGRAM OF VOLUNTARY SEPARATION PAY AND BENEFITS.

(a) ONE-YEAR EXTENSION OF AUTHORITY.—Section 1175a(k)(1) of title 10, United States Code, is amended by striking "December 31, 2008," and inserting "December 31, 2009".

(b) EXPANSION OF ELIGIBLE MEMBERS.—Section 643 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3306) is amended by striking subsection (b).

SEC. 623. ADDITIONAL AUTHORITIES AND INCENTIVES TO ENCOURAGE RETIRED MEMBERS AND RESERVE COMPONENT MEMBERS TO VOLUNTEER TO SERVE ON ACTIVE DUTY IN HIGH-DEMAND, LOW-DENSITY ASSIGNMENTS.

(a) AUTHORITY TO OFFER INCENTIVE BONUS.—Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

"§329. Incentive bonus: retired members and reserve component members volunteering for high-demand, low-density assignments

"(a) INCENTIVE BONUS AUTHORIZED.—The Secretary of Defense may pay a bonus under this section to a retired member or former member of the Army, Navy, Air Force, or Marine Corps or to a member of a reserve component of the Army, Navy, Air Force, or Marine Corps (who is not otherwise serving on active duty) who executes a written agreement to serve on active duty for a period specified in the agreement in an assignment intended to alleviate a high-demand, low-density military capability or in any other specialty designated by the Secretary as critical to meet wartime or peacetime requirements.

"(b) MAXIMUM AMOUNT OF BONUS.—A bonus under subsection (a) and any incentive developed under subsection (d) may not exceed $50,000.

"(c) METHODS OF PAYMENT.—At the election of the Secretary, a bonus under subsection (a) and any incentive developed under subsection (d) shall be paid or provided—

"(1) when the member commences service on active duty; or

"(2) in annual installments in such amounts as may be determined by the Secretary.

"(d) DEVELOPMENT OF ADDITIONAL INCENTIVES.—(1) The Secretary may develop and provide to members referred to in subsection (a) additional incentives to encourage such members to return to active duty in assignments intended to alleviate a high-demand, low-density military capability or in others specialties designated by the Secretary as critical to meet wartime or peacetime requirements.

"(2) The provision of any incentive developed under this subsection shall be subject to an agreement, as required for bonuses under subsection (a).

"(3) Not later than 30 days before first offering any incentive developed under this subsection, the Secretary shall submit to the congressional defense committees a report that contains a description of that incentive and an explanation why a bonus under subsection (a) or other pay and allowances are not sufficient to alleviate the high-demand, low-density military capability or otherwise fill critical military specialties.

"(e) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—A bonus or other incentive paid or provided to a member under this section is in addition to any other pay and allowances to which the member is entitled.

"(f) REPAYMENT.—A member who does not complete the period of active duty specified in the agreement executed under subsection (a) or (d) shall be subject to the repayment provisions of section 303a(e) of this title.

"(g) HIGH-DEMAND, LOW-DENSITY ASSIGNMENT DEFINED.—In this section, the term 'high-demand, low-density military capability' means a combat, combat support or service support capability, unit, system, or occupational specialty that the Secretary determines has funding, equipment, or personnel levels that are substantially below the levels required to fully meet or sustain actual or expected operational requirements set by regional commanders.

"(h) REGULATIONS.—The Secretary of Defense may prescribe such regulations as the Secretary considers necessary to carry out this section.

"(i) TERMINATION OF AUTHORITY.—No agreement under subsection (a) or (d) may be entered into after December 31, 2010.".

(b) TEMPORARY AUTHORITY TO ORDER RETIRED MEMBERS TO ACTIVE DUTY IN HIGH-DEMAND, LOW-DENSITY ASSIGNMENTS.—Section 688a of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking the first sentence and inserting the following new sentence: "The Secretary of a military department may order to active duty a retired member who agrees to serve on active duty in an assignment intended to alleviate a high-demand, low-density military capability or in any other specialty designated by the Secretary as critical to meet wartime or peacetime requirements."; and

(B) in the second sentence, by striking "officer" both places it appears and inserting "member";

(2) in subsection (b), by striking "an officer" and inserting "a member";

(3) in subsection (c), by striking "500 officers" and inserting "1,000 members";

(4) in subsection (d), by striking "officer" and inserting "member";

(5) in subsection (e), by striking "Officers" and inserting "Retired members";

(6) in subsection (f)—

(A) by striking "An officer" and inserting "A retired member"; and

(B) by striking "September 30, 2008" and inserting "December 31, 2010"; and

(7) by adding at the end the following new subsection:

"(g) HIGH-DEMAND, LOW-DENSITY ASSIGNMENT DEFINED.—In this section, the term 'high-demand, low-density military capability' means a combat, combat support or service support capability, unit, system, or occupational specialty that the Secretary of Defense determines has funding, equipment, or personnel levels that are substantially below the levels required to fully meet or sustain actual or expected operational requirements set by regional commanders.".

(c) CLERICAL AMENDMENTS.—

(1) TITLE 37.—The table of sections at the beginning of chapter 5 of title 37, United States Code, is amended by adding at the end the following new item:

"329. Incentive bonus: retired members and reserve component members volunteering for high-demand, low-density assignments.".

(2) TITLE 10.—(A) The heading of section 688a of title 10, United States Code, is amended to read as follows:

"§688a. Retired members: temporary authority to order to active duty in high-demand, low-density assignments".

(B) The table of sections at the beginning of chapter 39 of such title is amended by striking the item relating to section 688a and inserting the following new item:

"688a. Retired members: temporary authority to order to active duty in high-demand, low-density assignments.".

(d) EFFECTIVE DATE.—No agreement may be entered into under section 329 of title 37, United States Code, as added by subsection (a), before October 1, 2006.

(e) LIMITATION ON FISCAL YEAR 2007 OBLIGATIONS.—During fiscal year 2007, obligations incurred under section 329 of title 37, United States Code, as added by subsection (a), to provide bonuses or other incentives to retired members and former members of the Army, Navy, Air Force, or Marine Corps or to members of the reserve components of the Army, Navy, Air Force, and Marine Corps may not exceed $5,000,000.

Subtitle C—Travel and Transportation Allowances

SEC. 631. AUTHORITY TO PAY COSTS ASSOCIATED WITH DELIVERY OF MOTOR VEHICLE TO STORAGE LOCATION SELECTED BY MEMBER AND SUBSEQUENT REMOVAL OF VEHICLE.

Subsection (b) of section 2634 of title 10, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) If a member elects to have a motor vehicle described in subsection (a) stored at a location other than a storage location approved by the Secretary concerned, the delivery and removal costs described in paragraph (3) are the only costs that may be paid by the Secretary. The delivery or removal costs paid by the Secretary under this paragraph may not exceed the total cost that would have been incurred by the United States had the storage location approved by the Secretary been used to store the motor vehicle. The United States is not responsible for any costs associated with the actual storage of the motor vehicle at the unapproved location.".

SEC. 632. TRANSPORTATION OF ADDITIONAL MOTOR VEHICLE OF MEMBERS ON CHANGE OF PERMANENT STATION TO OR FROM NONFOREIGN AREAS OUTSIDE THE CONTINENTAL UNITED STATES.

(a) AUTHORITY TO TRANSPORT ADDITIONAL MOTOR VEHICLE.—Subsection (a) of section 2634 of title 10, United States Code, is amended—

(1) by striking the sentence following paragraph (4);

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by inserting "(1)" after "(a)"; and

(4) by adding at the end the following new paragraph:

"(2) One additional motor vehicle of a member (or a dependent of the member) may be transported as provided in paragraph (1) if—

"(A) the member is ordered to make a change of permanent station to or from a nonforeign area outside the continental United States and the member has at least one dependent of driving age who will use the motor vehicle; or

"(B) the Secretary concerned determines that a replacement for the motor vehicle transported under paragraph (1) is necessary for reasons beyond the control of the member and is in the interest of the United States and the Secretary approves the transportation in advance.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Such subsection is further amended—

(1) by striking "his dependents" and inserting "a dependent of the member";

(2) by striking "him" and inserting "the member";

(3) by striking "his)" and inserting "the member)";

(4) by striking "his new" and inserting "the member's new"; and

(5) in paragraph (1)(C), as redesignated by subsection (a), by striking "clauses (1) and (2)" and inserting "subparagraphs (A) and (B)".

(c) EFFECTIVE DATE.—Paragraph (2)(A) of subsection (a) of section 2634 of title 10, United States Code, as added by subsection (a)(4), shall apply with respect to orders issued on or after the date of the enactment of this Act for members of the Armed Forces to make a change of permanent station to or from nonforeign areas outside the continental United States.

SEC. 633. TRAVEL AND TRANSPORTATION ALLOWANCES FOR TRANSPORTATION OF FAMILY MEMBERS INCIDENT TO ILLNESS OR INJURY OF MEMBERS.

Section 411h(b)(1) of title 37, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) a person related to the member as described in subparagraph (A), (B), (C), or (D) who is also a member of the uniformed services.".

Subtitle D—Retired Pay and Survivor Benefits

SEC. 641. MILITARY SURVIVOR BENEFIT PLAN BENEFICIARIES UNDER INSURABLE INTEREST COVERAGE.

(a) Authority to Elect New Beneficiary.—Section 1448(b)(1) of title 10, United States Code, is amended—

(1) by inserting "or under subparagraph (G) of this paragraph" in the second sentence of subparagraph (E) before the period at the end; and

(2) by adding at the end the following new subparagraph:

"(G) Election of new beneficiary upon death of previous beneficiary.—

"(i) Authority for election.—If the reason for discontinuation in the Plan is the death of the beneficiary, the participant in the Plan may elect a new beneficiary. Any such beneficiary must be a natural person with an insurable interest in the participant. Such an election may be made only during the 180-day period beginning on the date of the death of the previous beneficiary.

"(ii) Procedures.—Such an election shall be in writing, signed by the participant, and made in such form and manner as the Secretary concerned may prescribe. Such an election shall be effective the first day of the first month following the month in which the election is received by the Secretary.

"(iii) Vitiation of election by participant who dies within two years of election.—If a person providing an annuity under a election under clause (i) dies before the end of the two-year period beginning on the effective date of the election—

"(I) the election is vitiated; and

"(II) the amount by which the person's retired pay was reduced under section 1452 of this title that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the vitiated election if the deceased person had died after the end of such two-year period.".

(b) Change in Premium for Coverage of New Beneficiary.—Section 1452(c) of such title is amended by adding at the end the following new paragraph:

"(5) Rule for designation of new insurable interest beneficiary following death of original beneficiary.—The Secretary of Defense shall prescribe in regulations premiums which a participant making an election under section 1448(b)(1)(G) of this title shall be required to pay for participating in the Plan pursuant to that election. The total amount of the premiums to be paid by a participant under the regulations shall be equal to the sum of the following:

"(A) The total additional amount by which the retired pay of the participant would have been reduced before the effective date of the election if the original beneficiary (i) had not died and had been covered under the Plan through the date of the election, and (ii) had been the same number of years younger than the participant (if any) as the new beneficiary designated under the election.

"(B) Interest on the amounts by which the retired pay of the participant would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable.

"(C) Any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.".

(c) Transition.—

(1) Transition period.—In the case of a participant in the Survivor Benefit Plan who made a covered insurable-interest election (as defined in paragraph (2)) and whose designated beneficiary under that election dies before the date of the enactment of this Act or during the 18-month period beginning on such date, the time period applicable for purposes of the limitation in the third sentence of subparagraph (G)(i) of section 1448(b)(1) of title 10, United States Code, as added by subsection (a), shall be the two-year period beginning on the date of the enactment of this Act (rather than the 180-day period specified in that sentence).

(2) Covered insurable-interest elections.—For purposes of paragraph (1), a covered insurable-interest election is an election under section 1448(b)(1) of title 10, United States Code, made before the date of the enactment of this Act, or during the 18-month period beginning on such date, by a participant in the Survivor Benefit Plan to provide an annuity under that plan to a natural person with an insurable interest in that person.

(3) Survivor benefit plan.—For purposes of this subsection, the term "Survivor Benefit Plan" means the program under subchapter II of chapter 73 of title 10, United States Code.

SEC. 642. RETROACTIVE PAYMENT OF ADDITIONAL DEATH GRATUITY FOR CERTAIN MEMBERS NOT PREVIOUSLY COVERED.

(a) Specification of Additional Members Covered.—Section 1478(d)(2) of title 10, United States Code, is amended by striking "May 11, 2005" and inserting "August 31, 2005".

(b) Funding.—Amounts for payments under section 1478(d) of title 10, United States Code, as amended by subsection (a), with respect to deaths during the period beginning on May 12, 2005, and ending on August 31, 2005, may be derived from appropriations available to for the Department of Defense for fiscal year 2006 or fiscal year 2007.

SEC. 643. EQUITY IN COMPUTATION OF DISABILITY RETIRED PAY FOR RESERVE COMPONENT MEMBERS WOUNDED IN ACTION.

Section 1208(b) of title 10, United States Code, is amended by adding at the end the following new sentence: "However, in the case of such a member who is retired under this chapter, or whose name is placed on the temporary disability retired list under this chapter, because of a disability incurred after the date of the enactment of this sentence for which the member is awarded the Purple Heart, the member shall be credited, for the purposes of this chapter, with the number of years of service that would be counted if computing the member's years of service under section 12732 of this title.".

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

SEC. 651. TREATMENT OF PRICE SURCHARGES OF TOBACCO PRODUCTS AND CERTAIN OTHER MERCHANDISE SOLD AT COMMISSARY STORES.

(a) Merchandise Procured From Exchanges.—Subsection (c)(3) of section 2484 of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(3)";

(2) by striking "Subsections" and inserting "Except as provided in subparagraph (B), subsections"; and

(3) by adding at the end the following new subparagraph:

"(B) When a military exchange is the vendor of tobacco products or other merchandise authorized for sale in a commissary store under paragraph (1), any revenue above the cost of procuring the merchandise shall be allocated as if the revenue were a uniform sales price surcharge described in subsection (d).".

(b) Merchandise Treated as Noncommissary Store Inventory.—Subsection (g) of such section is amended—

(1) by inserting "(1)" before "Notwithstanding";

(2) by striking "Subsections" and inserting "Except as provided in paragraph (2), subsections"; and

(3) by adding at the end the following new paragraph:

"(2) When tobacco products are authorized for sale in a commissary store as noncommissary store inventory, any revenue above the cost of procuring the tobacco products shall be allocated as if the revenue were a uniform sales price surcharge described in subsection (d).".

SEC. 652. LIMITATION ON USE OF DEPARTMENT OF DEFENSE LEASE AUTHORITY TO UNDERMINE COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE, AND RECREATION PROGRAMS AND NONAPPROPRIATED FUND INSTRUMENTALITIES.

Section 2667(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) Except in the case of a lease under this subsection, a lease of real property may not be entered into under this section to fascilitate the establishment or operation of an ancillary supporting facility (as defined in section 2871 of this title) if, as determined by the Secretary concerned, the facility is to be used for providing merchandise or services in direct competition with—

"(A) the Army and Air Force Exchange Service;

"(B) the Navy Exchange Service Command;

"(C) a Marine Corps exchange;

"(D) the Defense Commissary Agency; or

"(E) any nonappropriated fund activity of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.".

SEC. 653. USE OF NONAPPROPRIATED FUNDS TO SUPPLEMENT OR REPLACE APPROPRIATED FUNDS FOR CONSTRUCTION OF FACILITIES OF EXCHANGE STORES SYSTEM AND OTHER NONAPPROPRIATED FUND INSTRUMENTALITIES, MILITARY LODGING FACILITIES, AND COMMUNITY FACILITIES.

(a) In General.—Subchapter III of chapter 147 of title 10, United States Code, is amended by inserting after section 2491c the following new section:

"§ 2491d. Use of nonappropriated funds to supplement or replace appropriated funds for construction of facilities of exchange stores system and other nonappropriated fund instrumentalities, military lodging facilities, and community facilities

"(a) Use of Nonappropriated Funds.—The Secretary of Defense may authorize the use of nonappropriated funds in lieu of or to supplement funds appropriated to the Department of Defense for the construction of the following:

"(1) Facilities of the exchange stores system and other revenue-generating facilities operated by nonappropriated fund instrumentalities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.

"(2) Facilities of other nonappropriated fund instrumentalities of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.

"(3) Military lodging facilities used to provide temporary lodging to authorized members of the armed forces, including temporary duty lodging, permanent change of station lodging, recreational lodging, and military treatment facility lodging.

"(4) Community facilities intended to supplement mission activities, such as military museums and service academy extra-curricular activities, or to facilitate private organizations or enterprises, such as financial services, memorials, and thrift shop facilities, on military installations.

"(b) USE CRITERIA.—The Secretary of Defense may prescribe by regulation the criteria under which nonappropriated funds may be used under subsection (a).

"(c) CONGRESSIONAL NOTIFICATION.—When a decision is made to use nonappropriated funds under subsection (a), the Secretary of Defense shall submit a report to the congressional defense committees containing the reasons for using nonappropriated funds in lieu of or to supplement appropriated funds and the amount of nonappropriated funds to be used. The nonappropriated funds may be used only after the end of the 21-day period beginning on the date the report is received by such committees or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2491c the end the following new item:

"2491d. Use of nonappropriated funds to supplement or replace appropriated funds for construction of facilities of exchange stores system and other nonappropriated fund instrumentalities, military lodging facilities, and community facilities.".

SEC. 654. REPORT ON COST EFFECTIVENESS OF PURCHASING COMMERCIAL INSURANCE FOR COMMISSARY AND EXCHANGE FACILITIES AND FACILITIES OF OTHER MORALE, WELFARE, AND RECREATION PROGRAMS AND NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) REPORT REQUIRED.—Not later than July 31, 2007, the Secretary of Defense shall submit to Congress a report evaluating the cost effectiveness of the Defense Commissary Agency and the nonappropriated fund activities specified in subsection (b) purchasing commercial insurance to protect financial interests in facilities operated by the Defense Commissary Agency or those nonappropriated fund activities.

(b) COVERED NONAPPROPRIATED FUND ACTIVITIES.—The report shall apply with respect to—

(1) the Army and Air Force Exchange Service;

(2) the Navy Exchange Service Command;

(3) a Marine Corps exchange; and

(4) any nonappropriated fund activity of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.

Subtitle F—Other Matters

SEC. 661. REPEAL OF ANNUAL REPORTING REQUIREMENT REGARDING EFFECTS OF RECRUITMENT AND RETENTION INITIATIVES.

(a) REPEAL.—Section 1015 of title 37, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19 of title 37, United States Code, is amended by striking the item relating to section 1015.

SEC. 662. PILOT PROJECT REGARDING PROVIDING GOLF CARTS ACCESSIBLE FOR DISABLED PERSONS AT MILITARY GOLF COURSES.

(a) PILOT PROJECT REQUIRED.—The Secretary of Defense shall conduct a pilot project at not less than three military golf courses to evaluate the cost effectiveness and utility of making available at military golf courses golf carts that are accessible for disabled persons authorized to use such courses and the demand among disabled persons authorized to use such courses for accessible golf carts. The Secretary shall provide at least two accessible golf carts at each pilot project location.

(b) PILOT PROJECT LOCATIONS.—The military golf courses selected to participate in the pilot project shall be geographically dispersed, except that one of the military golf courses shall be in the Washington metropolitan area.

(c) DURATION.—The Secretary shall conduct the pilot project for a minimum of one year.

(d) REPORT REQUIRED.—Not later than 180 days after the conclusion of the pilot project, the Secretary shall submit a report to Congress containing the results of the project and such recommendations as the Secretary considers appropriate regarding providing golf carts accessible to disabled persons.

SEC. 663. ENHANCED AUTHORITY TO REMIT OR CANCEL INDEBTEDNESS OF MEMBERS OF THE ARMED FORCES INCURRED ON ACTIVE DUTY.

(a) PERIOD OF EXERCISE OF SERVICE SECRETARY AUTHORITY AFTER SEPARATION FROM ACTIVE DUTY.—Sections 4837(b), 6161(b), and 9837(b) of title 10, United States Code, are each amended by striking "one-year period" each place it appears and inserting "five-year period".

(b) TWO-YEAR EXTENSION OF ENHANCED AUTHORITY.—Subsections (a)(3), (b)(3), and (c)(3) of section 683 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3322) are amended by striking "December 31, 2007" in the first sentence and inserting "December 31, 2009".

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—TRICARE Program Improvements

Sec. 701. TRICARE coverage for forensic examination following sexual assault or domestic violence.
Sec. 702. Authorization of anesthesia and other costs for dental care for children and certain other patients.
Sec. 703. Improvements to descriptions of cancer screening.
Sec. 704. Prohibition on increases in certain health care costs for members of the uniformed services.
Sec. 705. Services of mental health counselors.
Sec. 706. Demonstration project on coverage of selected over-the-counter medications under the pharmacy benefit program.
Sec. 707. Requirement to reimburse certain travel expenses of certain beneficiaries covered by TRICARE for life.
Sec. 708. Inflation adjustment of differential payments to children's hospitals participating in TRICARE program.
Sec. 709. Expanded eligibility of Selected Reserve members under TRICARE program.
Sec. 710. Extension to TRICARE of medicare prohibition of financial incentives not to enroll in group health plan.

Subtitle B—Studies and Reports

Sec. 711. Department of Defense task force on the future of military health care.
Sec. 712. Study and plan relating to chiropractic health care services.
Sec. 713. Comptroller General study and report on Defense Health Program.
Sec. 714. Transfer of custody of the Air Force Health Study assets to Medical Follow-up Agency.
Sec. 715. Study on allowing dependents of activated members of Reserve Components to retain civilian health care coverage.

Subtitle C—Other Matters

Sec. 721. Costs of incentive payments to employees for TRICARE enrollment made unallowable for contractors.
Sec. 722. Requirement for military medical personnel to be trained in preservation of remains.

Subtitle D—Pharmacy Benefits Program Improvements

Sec. 731. TRICARE pharmacy program cost-share requirements.

Subtitle A—TRICARE Program Improvements

SEC. 701. TRICARE COVERAGE FOR FORENSIC EXAMINATION FOLLOWING SEXUAL ASSAULT OR DOMESTIC VIOLENCE.

Section 1079(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(17) Forensic examinations following a sexual assault or domestic violence may be provided.".

SEC. 702. AUTHORIZATION OF ANESTHESIA AND OTHER COSTS FOR DENTAL CARE FOR CHILDREN AND CERTAIN OTHER PATIENTS.

Section 1079(a)(1) of title 10, United States Code, is amended to read as follows:

"(1) With respect to dental care—

"(A) except as provided in subparagraph (B), only that care required as a necessary adjunct to medical or surgical treatment may be provided; and

"(B) in connection with dental treatment for patients with developmental, mental, or physical disabilities or for pediatric patients age 5 or under, only institutional and anesthesia services may be provided.".

SEC. 703. IMPROVEMENTS TO DESCRIPTIONS OF CANCER SCREENING.

(a) TERMS RELATED TO PRIMARY AND PREVENTIVE HEALTH CARE SERVICES FOR WOMEN.—Section 1074d(b) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "Papanicolaou tests (pap smear)" and inserting "Cervical cancer screening"; and

(2) in paragraph (2), by striking "Breast examinations and mammography" and inserting "Breast cancer screening".

(b) TERMS RELATED TO CONTRACTS FOR MEDICAL CARE FOR SPOUSES AND CHILDREN.—Section 1079(a)(2) of such title is amended—

(1) in the matter preceding subparagraph (A), by striking "the schedule of pap smears and mammograms" and inserting "the schedule and method of breast and cervical cancer screenings"; and

(2) in subparagraph (B), by striking "pap smears and mammograms or" and inserting "cervical, breast,".

SEC. 704. PROHIBITION ON INCREASES IN CERTAIN HEALTH CARE COSTS FOR MEMBERS OF THE UNIFORMED SERVICES.

(a) PROHIBITION ON INCREASE IN CHARGES UNDER CONTRACTS FOR MEDICAL CARE.—Section 1097(e) of title 10, United States Code, is amended by adding at the end the following: "A premium, deductible, copayment, or other charge prescribed , by the Secretary under this subsection may not be increased during the period beginning on April 1, 2006, and ending on December 31, 2007.".

(b) PROHIBITION ON INCREASE IN CHARGES FOR INPATIENT CARE.—Section 1086(b)(3) of title 10, United States Code, is amended by inserting after "charges for inpatient care" the following: ", except that in no case may the charges for inpatient care for a patient exceed $535 per day during the period beginning on April 1, 2006, and ending on December 31, 2007.".

(c) PROHIBITION ON INCREASE IN PREMIUMS UNDER TRICARE COVERAGE FOR CERTAIN MEMBERS IN THE SELECTED RESERVE.—Section 1076d(d)(3) of title 10, United States Code, is amended by adding at the end the following: "During the period beginning on April 1, 2006, and ending on December 31, 2007, the monthly amount of the premium may not be increased above the amount in effect for the month of March 2006.".

(d) PROHIBITION ON INCREASE IN PREMIUMS UNDER TRICARE COVERAGE FOR MEMBERS OF THE READY RESERVE.—Section 1076b(e)(3) of title 10, United States Code, is amended by adding at the end the following: "During the period beginning on April 1, 2006, and ending on December 31, 2007, the monthly amount of a premium under paragraph (2) may not be increased above the amount in effect for the first month health care is provided under this section as amended by Public Law 109–163.".

SEC. 705. SERVICES OF MENTAL HEALTH COUNSELORS.

(a) REIMBURSEMENT OF MENTAL HEALTH COUNSELORS UNDER TRICARE.—

(1) REIMBURSEMENT UNDER TRICARE.—Section 1079(a)(8) of title 10, United States Code, is amended—

(A) by inserting "or licensed or certified mental health counselors" after "certified marriage and family therapists" both places it appears; and

(B) by inserting "or licensed or certified mental health counselors" after "that the therapists."

(2) AUTHORITY TO ASSESS MEDICAL OR PSYCHOLOGICAL NECESSITY OF SERVICE OR SUPPLY.—Section 1079(a)(13) of such title is amended by inserting ", licensed or certified mental health counselor, " after "certified marriage and family therapist".

(b) SERVICES OF MENTAL HEALTH COUNSELORS.—

(1) AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS.—Section 704(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2799; 10 U.S.C. 1091 note) is amended by inserting "mental health counselors," after "psychologists,".

(2) APPLICABILITY OF LICENSURE REQUIREMENT FOR HEALTH-CARE PROFESSIONALS.—Section 1094 (e)(2) of title 10, United States Code, is amended by inserting "mental health counselor," after "psychologist,".

SEC. 706. DEMONSTRATION PROJECT ON COVERAGE OF SELECTED OVER-THE-COUNTER MEDICATIONS UNDER THE PHARMACY BENEFIT PROGRAM.

(a) REQUIREMENT TO CONDUCT DEMONSTRATION.—The Secretary of Defense shall conduct a demonstration project under section 1092 of title 10, United States Code, to allow particular over-the-counter medications to be included on the uniform formulary under section 1074g of such title.

(b) ELEMENTS OF DEMONSTRATION PROJECT.—

(1) INCLUSION OF CERTAIN OVER-THE-COUNTER MEDICATIONS.—As part of the demonstration project, the Secretary shall modify uniform formulary specifications under section 1074g(a)(2) of such title to include on the uniform formulary any pharmaceutical agent that does not require a prescription (commonly referred to as an over-the-counter medication) if the Pharmacy and Therapeutics Committee finds that the over-the-counter medication is a clinically effective and cost-effective alternative to a pharmaceutical agent that requires a prescription. If the Pharmacy and Therapeutics Committee makes such a finding, the over-the-counter medication shall be considered to be in the same therapeutic class of pharmaceutical agents that the agent requiring a prescription is in, and to the same extent as any agent in the class that requires a prescription. Such an over-the-counter medication shall be made available to a beneficiary through the demonstration program only if the medication is in place of a pharmaceutical agent requiring a prescription and the beneficiary has a prescription for that pharmaceutical agent.

(2) CONDUCT THROUGH MILITARY FACILITIES, RETAIL PHARMACIES, OR MAIL ORDER PROGRAM.—The Secretary shall conduct the demonstration project through at least two of the means described in subparagraph (E) of section 1074g(a)(2) through which over-the-counter medications are provided and may conduct the demonstration project throughout the entire pharmacy benefits program or at a limited number of sites. If the project is conducted at a limited number of sites, the number of sites shall be not less than five in each TRICARE region for each of the two means described in such subparagraph (E).

(3) PERIOD OF DEMONSTRATION.—The Secretary shall provide for conducting the demonstration project for a period of time necessary to evaluate the feasibility and cost effectiveness of the demonstration. Such period shall be at least as long as the period covered by pharmacy contracts in existence on the date of the enactment of this Act (including any extensions of the contracts), or five years, whichever is shorter.

(4) IMPLEMENTATION DEADLINE.— Implementation of the demonstration project shall begin not later than May 1, 2007.

(c) REPORT.—Not later than 60 days before the end of the demonstration project, the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on the demonstration project. The report shall contain an evaluation by the Secretary of the costs and benefits of the project, and recommendations on whether permanent authority should be provided to cover over-the-counter medications under the pharmacy benefits program.

(d) CONTINUATION OF DEMONSTRATION PROJECT.—If the Secretary recommends in the report under subsection (c) that permanent authority should be provided, the Secretary may continue the demonstration project for up to one year after submitting the report.

SEC. 707. REQUIREMENT TO REIMBURSE CERTAIN TRAVEL EXPENSES OF CERTAIN BENEFICIARIES COVERED BY TRICARE FOR LIFE.

(a) REQUIREMENT.—Section 1074i of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) TRICARE FOR LIFE BENEFICIARIES.—

"(1) An eligible TRICARE for Life beneficiary shall be provided reimbursement for travel expenses to a military medical treatment facility if—

"(A) the purpose of the travel is for a follow-up appointment for medical treatment of a condition of the beneficiary; and

"(B) the initial appointment for medical treatment of the condition was at the same facility.

"(2) Reimbursement under this subsection shall, as nearly as practicable, be under the same terms and conditions, and shall be at the same rate, as apply to beneficiary travel reimbursement provided under subsection (a), except that reimbursement shall be provided—

"(A) for no more than 3 follow-up appointments; and

"(B) only if adequate follow-up medical treatment, as determined under the TRICARE program, cannot be obtained within 100 miles of the residence of the beneficiary.

"(3) In this subsection, the term 'eligible TRICARE for Life beneficiary' means a person—

"(A) who is eligible for health benefits under section 1086 of this title by reason of subsection (d)(2)(A) of that section;

"(B) who attained age 65 after an initial appointment for medical treatment at a military medical treatment facility; and

"(C) who resides more than 100 miles from the military medical treatment facility and was referred to such facility for treatment by a specialty care provider.".

(b) EFFECTIVE DATE.—Subsection (c) of section 1074i of title 10, United States Code, as added by subsection (a), shall apply with respect to beneficiaries who attain age 65 after the date of the enactment of this Act.

SEC. 708. INFLATION ADJUSTMENT OF DIFFERENTIAL PAYMENTS TO CHILDREN'S HOSPITALS PARTICIPATING IN TRICARE PROGRAM.

(a) ANNUAL INFLATION ADJUSTMENT.—Beginning in fiscal year 2007, the Secretary of Defense shall annually adjust for inflation the TRICARE children's hospital differential payment rate. The adjustment for a fiscal year shall be the same as the applicable percentage increase defined under section 1886(d)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(B)(i)) for that fiscal year for hospitals located in large urban areas.

(b) TRICARE CHILDREN'S HOSPITAL DIFFERENTIAL PAYMENT RATE.—In this section, the term "TRICARE children's hospital differential payment rate" means the differential payment rate by the Department of Defense to children's hospitals for health care services for dependent children of members of the uniformed services under the TRICARE program.

SEC. 709. EXPANDED ELIGIBILITY OF SELECTED RESERVE MEMBERS UNDER TRICARE PROGRAM.

(a) GENERAL ELIGIBILITY.—Subsection (a) of section 1076d of title 10, United States Code, is amended—

(1) by striking "(a) ELIGIBILITY.—A member" and inserting "(a) ELIGIBILITY.—(1) Except as provided in paragraph (2), a member";

(2) by striking "after the member completes" and all that follows through "one or more whole years following such date"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) does not apply to a member who is enrolled, or is eligible to enroll, in a health benefits plan under chapter 89 of title 5.".

(b) CONDITION FOR TERMINATION OF ELIGIBILITY.—Subsection (b) of such section is amended—

(1) by striking "(b) PERIOD OF COVERAGE.—(1) TRICARE Standard" and all that follows through "(4) Eligibility" and inserting "(b) TERMINATION OF ELIGIBILITY UPON TERMINATION OF SERVICE.—Eligibility"; and

(2) by striking paragraph (5).

(c) CONFORMING AMENDMENTS.—

(1) Such section is further amended—

(A) by striking subsection (e);

(B) by redesignating subsection (g) as subsection (e) and transferring such subsection within such section so as to appear following subsection (d); and

(C) by striking paragraph (3) of subsection (f).

(2) The heading for such section is amended to read as follows:

***"§1076d. TRICARE program: TRICARE standard coverage for members of the Selected Reserve"**.*

(d) REPEAL OF OBSOLETE PROVISION.—Section 1076b of title 10, United States Code, is repealed.

(e) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 55 of title 10, United States Code, is amended—

(1) by striking the item relating to section 1076b; and

(2) by striking the item relating to section 1076d and inserting the following:

"1076d. TRICARE program: TRICARE Standard coverage for members of the Selected Reserve.".

(f) SAVINGS PROVISION.—Enrollments in TRICARE Standard that are in effect on the day before the date of the enactment of this Act under section 1076d of title 10, United States Code, as in effect on such day, shall be continued until terminated after such day under such section 1076d as amended by this section.

(g) Effective Date.—The Secretary of Defense shall ensure that health care under TRICARE Standard is provided under section 1076d of title 10, United States Code, as amended by this section, beginning not later than October 1, 2007.

SEC. 710. EXTENSION TO TRICARE OF MEDICARE PROHIBITION OF FINANCIAL INCENTIVES NOT TO ENROLL IN GROUP HEALTH PLAN.

(a) In General.—Section 1097b of title 10, United States Code, is amended by redesignating subsection (c) as subsection (d) and by adding the following after subsection (b):

"(c) Prohibition of Financial Incentives not to Enroll in a Group Health Plan.—(1) Except as provided in this subsection, the provisions of section 1862(b)(3)(C) of the Social Security Act shall apply with respect to financial or other incentives for an individual eligible for benefits under section 1086 of this title not to enroll (or to terminate enrollment) under a health plan which would (in the case of such enrollment) be a primary plan under sections 1079(j)(1) and 1086(g) of this title in the same manner as such section 1862(b)(3)(C) applies to financial or other incentives for an individual entitled to benefits under title XVIII of the Social Security Act not to enroll (or to terminate enrollment) under a group health plan or a large group health plan which would (in the case of enrollment) be a primary plan (as defined in section 1862(b)(2)(A) of such Act).

"(2)(A) The Secretary of Defense may by regulation adopt such exceptions to the prohibition referenced and applied under paragraph (1) as the Secretary deems appropriate and such paragraph (1) shall be implemented taking into account the adoption of such exceptions.

"(B) The Secretary of Defense and the Secretary of Health and Human Services are authorized to enter into agreements for carrying out this subsection. Any such agreement shall provide that any expenses incurred by the Secretary of Health and Human Services pertaining to carrying out this subsection shall be reimbursed by the Secretary of Defense.

"(C) Authorities of the Inspector General of the Department of Defense shall be available for oversight and investigations of responsibilities of employers and other entities under this subsection.

"(D) Information obtained under section 1095(k) of this title may be used in carrying out this subsection in the same manner as information obtained under section 1862(b)(5) may be used in carrying out section 1862(b).

"(E) Any amounts collected in carrying out paragraph (1) shall be handled in accordance with section 1079a of this title.

"(3) In addition to any penalty applied under the authority of paragraph (1), the Secretary of Defense may by regulation provide that repeated violations by an employer or other entity of the prohibition referenced and applied under paragraph (1) are grounds for exclusion of the employer or other entity from any contract or subcontract to provide goods or services to, or any financial assistance from, the Department of Defense.".

(b) Conforming Amendment.—Section 1095(k)(5) of such title is amended by striking "and 1086(d)" and inserting ", 1086(d), and 1097b(c)".

(c) Effective Date.—The amendments made by this section shall take effect January 1, 2008.

Subtitle B—Studies and Reports

SEC. 711. DEPARTMENT OF DEFENSE TASK FORCE ON THE FUTURE OF MILITARY HEALTH CARE.

(a) Requirement to Establish.—The Secretary of Defense shall establish within the Department of Defense a task force to examine matters relating to the future of military health care.

(b) Composition.—

(1) Members.—The task force shall consist of not more than 14 members appointed by the Secretary of Defense from among individuals described in paragraph (2) who have demonstrated expertise in the area of health care programs and costs.

(2) Range of members.—The individuals appointed to the task force shall include—

(A) at least one member of each of the Medical Departments of the Army, Navy, and Air Force;

(B) a number of persons from outside the Department of Defense equal to the total number of personnel from within the Department of Defense (whether members of the Armed Forces or civilian personnel) who are appointed to the task force;

(C) persons who have experience in—

(i) health care actuarial forecasting;

(ii) health care program development;

(iii) health care budget management;

(iv) evidence-based medicine;

(v) health care performance measurement;

(vi) health care quality improvement; and

(vii) academic institute research in health care services;

(D) at least one member from the Institute of Medicine;

(E) at least one member from the Defense Business Board; and

(F) at least one representative from a military or veterans service organization who has experience in health care.

(3) Individuals appointed outside the Department of Defense.—

(A) Individuals appointed to the task force from outside the Department of Defense may include officers or employees of other departments or agencies of the Federal Government, officers or employees of State and local governments, or individuals from the private sector.

(B) Individuals appointed to the task force from outside the Department of Defense shall include—

(i) an officer or employee of the Department of Veterans Affairs; and

(ii) an officer or employee of the Department of Health and Human Services.

(4) Deadline for appointment.—All appointments of individuals to the task force shall be made not later than 90 days after the date of the enactment of this Act.

(5) Co-chairs of task force.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of Defense at the time of appointment from among the Department of Defense personnel appointed to the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by members so appointed.

(c) Assessment and Recommendations on the Future of Military Health Care.—

(1) In general.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary a report containing an assessment of, and recommendations for, sustaining the military health care services being provided to members of the Armed Forces, retirees, and their families.

(2) Utilization of other efforts.—In preparing the report, the task force shall take into consideration the findings and recommendation included in the Healthcare for Military Retirees Task Group of the Defense Business Board, previous Government Accountability Office reports, studies and reviews by the Assistant Secretary of Defense for Health Affairs, and any other studies or research conducted by organizations regarding improvements to sustain the military health care system.

(3) Elements.—The assessment and recommendations (including recommendations for legislative or administrative action) shall include measures to improve the following:

(A) Wellness initiatives and disease management programs of the Department of Defense, including health risk tracking and the use of rewards for wellness.

(B) Education programs focused on prevention awareness and patient-initiated health care.

(C) The ability to account for the true and accurate cost of health care in the military health system.

(D) Alternative health care initiatives to manage patient behavior and costs.

(E) The appropriate command and control structure within the Department of Defense and the Armed Forces to manage the military health system.

(F) The adequacy of the military health care procurement system, including methods to streamline existing procurement activities.

(G) The appropriate mix of military and civilian personnel to meet future readiness and high-quality health care service requirements.

(H) The beneficiary and Government cost sharing structure required to sustain the military health benefits over the long term.

(I) Programs focused on managing the health care needs of Medicare-eligible military beneficiaries.

(J) Efficient and cost effective contracts for health care services, including performance-based requirements for health care provider reimbursement.

(c) Administrative Matters.—

(1) Compensation.—Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be treated for purposes of section 3161 of title 5, United States Code, as having been appointed under subsection (b) of such section.

(2) Oversight.—The Under Secretary of Defense for Personnel and Readiness shall oversee the activities of the task force.

(3) Administrative support.—The Washington Headquarters Services of the Department of Defense shall provide the task force with personnel, facilities, and other administrative support as necessary for the performance of the duties of the task force.

(4) Access to facilities.—The Under Secretary of Defense for Personnel and Readiness shall, in coordination with the Secretaries of the military departments, ensure appropriate access by the task force to military installations and facilities for purposes of the discharge of the duties of the task force.

(e) Report.—

(1) In general.—The task force shall submit to the Secretary of Defense a report on its activities under this section. The report shall include—

(A) a description of the activities of the task force;

(B) the assessment and recommendations required by subsection (c); and

(C) such other matters relating to the activities of the task force that the task force considers appropriate.

(2) Transmittal to Congress.—Not later than 90 days after receipt of the report under paragraph (1), the Secretary shall transmit the report to the Committees on Armed Services of the Senate and the House of Representatives. The Secretary may include in the transmittal such comments on the report as the Secretary considers appropriate.

(f) Plan Required.—Not later than 6 months after receipt of the report from the task force under subsection (e)(1), the Secretary of Defense

shall develop a plan based on the recommendations of the task force and submit the plan to the Committees on Armed Services of the Senate and the House of Representatives.

(g) Termination.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to Congress under subsection (e)(2).

SEC. 712. STUDY AND PLAN RELATING TO CHIROPRACTIC HEALTH CARE SERVICES.

(a) Study Required.—

(1) Groups covered.—The Secretary of Defense shall conduct a study of providing chiropractic health care services and benefits to the following groups:

(A) All members of the uniformed services on active duty and entitled to care under section 1074(a) of title 10, United States Code.

(B) All members described in subparagraph (A) and their eligible dependents, and all members of reserve components of the uniformed services and their eligible dependents.

(C) All members or former members of the uniformed services who are entitled to retired or retainer pay or equivalent pay and their eligible dependents.

(2) Matters examined.—

(A) For each group listed in subparagraphs (A), (B), and (C) of paragraph (1), the study shall examine the following with respect to chiropractic health care services and benefits:

(i) The cost of providing such services and benefits.

(ii) The feasibility of providing such services and benefits.

(iii) An assessment of the health care benefits of providing such services and benefits.

(iv) An estimate of the potential cost savings of providing such services and benefits in lieu of other medical services.

(v) The identification of existing and planned health care infrastructure, including personnel, equipment, and facilities, to accommodate the provision of chiropractic health care services.

(B) For the members of the group listed in subparagraph (A) of paragraph (1), the study shall examine the effects of providing chiropractic health care services and benefits—

(i) on the readiness of such members; and

(ii) on the acceleration of the return to duty of such members following an identified injury or other malady that can be appropriately treated with chiropractic health care services.

(3) Space available costs.—The study shall also include a detailed analysis of the projected costs of providing chiropractic health care services on a space available basis in the military treatment facilities currently providing chiropractic care under section 702 of the Floyd D. Spence National Defense Authorization Act of Fiscal Year 2001 (as enacted by Public Law 106–398; 10 U.S.C. 1092 note).

(4) Eligible dependents defined.—In this section, the term "eligible dependent" has the meaning given that term in section 1076a(k) of title 10, United States Code.

(b) Plan Required.—Not later than March 31, 2007, the Secretary of Defense shall revise the plan required under section 702 of the Floyd D. Spence National Defense Authorization Act of Fiscal Year 2001 (as enacted by Public Law 106–398; 10 U.S.C. 1092 note), including a detailed analysis of the projected costs, to provide chiropractic health care services and benefits as a permanent part of the Defense Health Program (including the TRICARE program) as required under that section.

(c) Report Required.—Not later than March 31, 2007, the Secretary of Defense shall submit a report on the study required under subsection (a), together with the plan required under subsection (b), to the Committees on Armed Services of the Senate and the House of Representatives.

SEC. 713. COMPTROLLER GENERAL STUDY AND REPORT ON DEFENSE HEALTH PROGRAM.

(a) Study Required.—The Comptroller General, in cooperation with the Congressional Budget Office, shall conduct a study of the projected cost savings to the Defense Health Program included in the fiscal year 2007 budget request.

(b) Elements.—The study required by subsection (a) shall include the following:

(1) An evaluation of the rationale for calculations made by the Department of Defense for the portion of total health care costs paid by beneficiaries in 1995 and in 2005, including issues such as—

(A) the rationale for the Department's stated costs of providing the benefit in 1995 and in 2005;

(B) the basis for the Department's calculations of increases in cost between 1995 and 2005; and

(C) the amounts paid by beneficiaries for health care in 1995 and 2005.

(2) An evaluation of the rationale for calculations and assumptions made by the Department of Defense for the estimated savings associated with the implementation of its cost share increases.

(3) A review of the annual rate of medical inflation of the Department of Defense and how it compares with the annual rates of increase in health care premiums in the Federal Employee Health Benefit Program and other health care programs as well as other health care indexes for the past 5 years.

(4) An assessment of the rationale for the cost share increase amounts made by the Department of Defense.

(c) Independent Experts.—To ensure the availability of appropriate expertise in addressing the elements of the study required under this section, the Comptroller General may use independent experts, such as actuaries, if needed.

(d) Report.—The Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the study required by subsection (a) not later than June 1, 2007.

SEC. 714. TRANSFER OF CUSTODY OF THE AIR FORCE HEALTH STUDY ASSETS TO MEDICAL FOLLOW-UP AGENCY.

(a) Transfer.—

(1) Notification of participants.—The Secretary of the Air Force shall notify the participants of the Air Force Health Study that the study as currently constituted is ending as of September 30, 2006. In consultation with the Medical Follow-up Agency (in this section referred to as the "Agency") of the Institute of Medicine of the National Academy of Sciences, the Secretary of the Air Force shall request the written consent of the participants to transfer their data and biological specimens to the Agency during fiscal year 2007 and written consent for the Agency to maintain the data and specimens and make them available for additional studies.

(2) Completion of transfer.—Custodianship of the Air Force Health Study shall be completely transferred to the Agency on or before September 30, 2007. Assets to be transferred shall include electronic data files and biological specimens of all the study participants.

(3) Copies to archives.—The Air Force shall send paper copies of all study documents to the National Archives.

(b) Report on Transfer.—

(1) Requirement.—Not later than 30 days after completion of the transfer of the assets of the Air Force Health Study under subsection (a), the Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the transfer.

(2) Matters covered.—At a minimum, the report shall include information on the number of study participants whose data and biological specimens were not transferred, the efforts that were taken to contact such participants, and the reasons why the transfer of their data and specimens did not occur.

(c) Disposition of Assets Not Transferred.—The Secretary of the Air Force may not destroy any data or biological specimens not transferred under subsection (a) until the expiration of the one-year period following submission of the report under subsection (b).

(d) Funding.—

(1) Costs of transfer.—The Secretary of Defense shall make available to the Air Force $850,000 for preparation, transfer of the assets of the Air Force Health Study and shipment of data and specimens to the Medical Follow-up Agency and the National Archives during fiscal year 2007 from amounts available from the Department of Defense for that year. The Secretary of Defense is authorized to transfer the freezers and other physical assets assigned to the Air Force Health Study to the Agency without charge.

(2) Costs of collaboration.—The Secretary of Defense may reimburse the National Academy of Sciences up to $200,000 for costs of the Medical Follow-up Agency to collaborate with the Air Force in the transfer and receipt of the assets of the Air Force Health Study to the Agency during fiscal year 2007 from amounts available from the Department of Defense for that year.

SEC. 715. STUDY ON ALLOWING DEPENDENTS OF ACTIVATED MEMBERS OF RESERVE COMPONENTS TO RETAIN CIVILIAN HEALTH CARE COVERAGE.

(a) Study Requirement.—The Secretary of Defense shall conduct a study on the feasibility of allowing family members of members of the Reserve Components who are called or ordered to active duty to continue health care coverage under a civilian health care program and provide reimbursement for such health care.

(b) Elements.—The study required by subsection (a) shall include the following:

(1) An assessment of the number of military dependents with special health care needs (such as ongoing chemotherapy or physical therapy) who would benefit from continued coverage under the member's civilian health care plan instead of enrolling in the TRICARE program.

(2) An assessment of the feasibility of providing reimbursement to the member or the sponsor of the civilian health coverage.

(3) A recommendation on the appropriate rate of reimbursement for civilian employers or members.

(4) The feasibility of including dependents who do not have access to health care providers that accept payment under the TRICARE program (such as those in rural areas).

(c) Report Required.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the study required under subsection (a).

Subtitle C—Other Matters

SEC. 721. COSTS OF INCENTIVE PAYMENTS TO EMPLOYEES FOR TRICARE ENROLLMENT MADE UNALLOWABLE FOR CONTRACTORS.

(a) Defense Contracts.—Section 2324(e)(1) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(Q) Costs incurred by a contractor for incentive payments to employees to encourage enrollment in the TRICARE program under chapter 55 of this title or any other Government-sponsored health care program, except that this subparagraph does not apply to such costs incurred by a contractor performing a contract to which any of the following applies:

"(i) The Services Contract Act of 1965 (41 U.S.C. 351 et seq.).

"(ii) Any other law or labor agreement that requires a company to compensate its employees for health care whether or not the employee participates in a company health plan.".

(b) CIVILIAN AGENCY CONTRACTS.—Section 306(e)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256(e)(1)) is amended by adding at the end the following new subparagraph:

"(P) Costs incurred by a contractor for incentive payments to employees to encourage enrollment in the TRICARE program under chapter 55 of title 10, United States Code, or any other Government-sponsored health care program, except that this subparagraph does not apply to such costs incurred by a contractor performing a contract to which any of the following applies:

"(i) The Services Contract Act of 1965 (41 U.S.C. 351 et seq.).

"(ii) Any other law or labor agreement that requires a company to compensate its employees for health care whether or not the employee participates in a company health plan.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contracts entered into after the date occurring 180 days after the date of the enactment of this Act.

SEC. 722. REQUIREMENT FOR MILITARY MEDICAL PERSONNEL TO BE TRAINED IN PRESERVATION OF REMAINS.

(a) REQUIREMENT.—The Secretary of Defense shall develop a program requiring each military department to include training in the preservation of remains for health care professionals under the department's jurisdiction. The training shall be provided before a health care professional is deployed into a theater of operation and periodically thereafter as determined necessary for refresher training.

(b) MATTERS COVERED BY TRAINING.—The training shall include, at a minimum—

(1) best practices and procedures for the preservation of the remains of a member of the Armed Forces after death, taking into account the needs, sensitivities, and potential wishes of the family of the decedent, including the return of the remains to the family in the best possible condition; and

(2) practical case studies to illustrate the objectives of paragraph (1) and provide a real world perspective.

(c) HEALTH CARE PROFESSIONAL.—In this section, the term "health care professional" means a physician, dentist, clinical psychologist, nurse, nurse practitioner, or physician assistant and any other person providing direct patient care as may be designated by the Secretary of Defense in regulations.

Subtitle D—Pharmacy Benefits Program Improvements

SEC. 731. TRICARE PHARMACY PROGRAM COST-SHARE REQUIREMENTS.

Paragraph (6) of section 1074g(a) of title 10, United States Code, is amended to read as follows:

"(6)(A) The Secretary, in regulations prescribed under subsection (g), may establish cost-sharing requirements (which may be established as a percentage or fixed dollar amount) under the pharmacy benefits program for generic, formulary, and nonformulary agents.

"(B)(i) With respect to agents available through the national mail-order pharmacy program, the Secretary of Defense may not establish requirements for cost sharing for generic and formulary agents that are in excess of cost sharing requirements for generic and formulary agents available through facilities of the uniformed services.

"(ii) With respect to agents available through retail pharmacies, the Secretary of Defense may not establish cost sharing in excess of—

"(I) $6 for generic agents;

"(II) $16 for formulary agents; and

"(III) $22 for nonformulary agents.

"(iii) The cost sharing requirements of this subparagraph shall be in effect during the period beginning 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2007 and ending on December 31, 2007.".

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Provisions Relating to Major Defense Acquisition Programs

Sec. 801. Requirements Management Certification Training Program.
Sec. 802. Additional requirements relating to technical data rights.
Sec. 803. Study and report on revisions to Selected Acquisition Report requirements.
Sec. 804. Quarterly updates on implementation of acquisition reform in the Department of Defense.
Sec. 805. Establishment of defense challenge process for critical cost growth threshold breaches in major defense acquisition programs.
Sec. 806. Market research required for major defense acquisition programs before proceeding to Milestone B.

Subtitle B—Acquisition Policy and Management

Sec. 811. Applicability of statutory executive compensation cap made prospective.
Sec. 812. Prohibition on procurement from beneficiaries of foreign subsidies.
Sec. 813. Time-certain development for Department of Defense information technology business systems.
Sec. 814. Establishment of Panel on Contracting Integrity.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

Sec. 821. Extension of special temporary contract closeout authority.
Sec. 822. Limitation on contracts for the acquisition of certain services.
Sec. 823. Use of Federal supply schedules by State and local governments for goods and services for recovery from natural disasters, terrorism, or nuclear, biological, chemical, or radiological attack.
Sec. 824. Waivers to extend task order contracts for advisory and assistance services.
Sec. 825. Enhanced access for small business.
Sec. 826. Procurement goal for Hispanic-serving institutions.
Sec. 827. Prohibition on defense contractors requiring licenses or fees for use of military likenesses and designations.

Subtitle D—United States Defense Industrial Base Provisions

Sec. 831. Protection of strategic materials critical to national security.
Sec. 832. Strategic Materials Protection Board.

Subtitle A—Provisions Relating to Major Defense Acquisition Programs

SEC. 801. REQUIREMENTS MANAGEMENT CERTIFICATION TRAINING PROGRAM.

(a) TRAINING PROGRAM.—

(1) REQUIREMENT.—The Under Secretary of Defense for Acquisition, Technology, and Logistics, in consultation with the Defense Acquisition University, shall develop a training program to certify civilian and military personnel of the Department of Defense with responsibility for generating requirements for major defense acquisition programs (as defined in section 2430 of title 10, United States Code).

(2) COMPETENCY AND OTHER REQUIREMENTS.—The Under Secretary shall establish competency requirements for the personnel undergoing the training program. The Under Secretary shall define the target population for such training program by identifying which civilian and military personnel should have responsibility for generating requirements. The Under Secretary also may establish other training programs for personnel not subject to chapter 87 of title 10, United States Code, and who contribute significantly to other types of acquisitions by the Department of Defense.

(3) MATTERS COVERED.—At a minimum, the training program shall, with respect to a major defense acquisition program—

(A) provide instruction on the interrelationship among the requirements generation process, the budget process, and the acquisition process within the Department of Defense for such a program;

(B) stress the importance of generating requirements for such a program that result in joint applications to the maximum extent possible;

(C) provide instruction on the effects of introducing new requirements for such a program—

(i) both before and after the commencement of system development and demonstration; and

(ii) during initial operational test and evaluation;

(D) ensure that requirements for such a program are derived primarily from capability shortfalls in the program identified by a commander of a combatant command;

(E) ensure that requirements for such a program are informed by a sound analysis of alternatives, by realistic technical assessments based on technology readiness levels, and by fiscal guidance, including consultation with production engineers on the cost, schedule and technical feasibility of the requirements;

(F) ensure that, for the introduction of any changes to requirements for such a program, an engineering feasibility assessment that weighs technology readiness, integration, cost, and schedule impacts is conducted after Milestone B approval at the latest, and before Milestone B approval to the maximum extent practicable;

(G) stress the importance of introducing requirements for such a program that are technologically mature, feasible, and achievable without schedule risk; and

(H) stress the importance of stable requirements for such a program to provide the baseline for successful execution of the program.

(4) AVAILABILITY.—The training program shall be made available on the Internet to ensure the widest dissemination possible.

(b) APPLICABILITY.—Effective on and after September 30, 2007, a member of the Armed Forces or an employee of the Department of Defense with authority to generate requirements for a major defense acquisition program may not continue to participate in the requirements generation process unless the member or employee successfully completes the certification training program developed under this section.

SEC. 802. ADDITIONAL REQUIREMENTS RELATING TO TECHNICAL DATA RIGHTS.

(a) ADDITIONAL REQUIREMENTS RELATING TO TECHNICAL DATA RIGHTS .—Section 2320 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) ADDITIONAL REGULATIONS.—(1) Regulations prescribed under subsection (a) shall ensure, at a minimum, that—

"(A) in the case of a major system that is developed exclusively with Federal funds, in part with Federal funds and in part at private expense, or exclusively at private expense, rights are acquired in full by the United States to technical data necessary to support competition for contracts required for sustainment of the system; and

"(B) any contract for a major system includes price and delivery options for acquiring, at any point during the life cycle of the system, major elements of technical data not acquired at the time of initial contract award.

"(2) Regulations prescribed under subsection (a) also shall establish a standard for acquiring rights in technical data that supports the purchase of data rights appropriate to minimize life cycle costs.

"(3) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall ensure that members of the acquisition workforce working with any contract in an amount greater than $5,000,000 and involving the acquisition of rights in technical data be provided information and formal training sufficient to carry out the regulations prescribed under subsection (a) to implement this subsection.".

(b) Regulations.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall revise regulations under section 2320 of title 10, United States Code, to implement subsection (e) of such section (as added by this section).

SEC. 803. STUDY AND REPORT ON REVISIONS TO SELECTED ACQUISITION REPORT REQUIREMENTS.

(a) Study Requirement.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics in coordination with the service acquisition executives of each military department, shall conduct a study on revisions to requirements relating to Selected Acquisition Reports, as set forth in section 2432 of title 10, United States Code.

(b) Matters Covered.—The study required under subsection (a) shall—

(1) focus on incorporating into the Selected Acquisition Report those elements of program progress that the Department of Defense considers most relevant to evaluating the performance and progress of major defense acquisition programs, with particular reference to the cost estimates and program schedule established when a major defense acquisition program receives Milestone B approval; and

(2) include any recommendations to eliminate elements of the Selected Acquisition Report that the Department believes are no longer needed (other than the elimination of any unit cost information).

(c) Report.—Not later than March 1, 2007, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study, including such recommendations as the Secretary considers appropriate.

SEC. 804. QUARTERLY UPDATES ON IMPLEMENTATION OF ACQUISITION REFORM IN THE DEPARTMENT OF DEFENSE.

(a) Quarterly Updates Requirement.—Not later than 45 days after the date of the enactment of this Act, and on the first day of each calendar quarter thereafter, the Secretary of Defense shall provide an update to the Committees on Armed Services of the Senate and the House of Representatives on the implementation of plans to reform the acquisition system in the Department of Defense.

(b) Matters Covered.—Each update provided under subsection (a) shall cover the implementation of reforms of the processes for acquisition, including generation of requirements, award of contracts, and financial management. At a minimum, the updates shall take into account the recommendations made by the following:

(1) The Defense Acquisition Performance Assessment Panel.

(2) The Defense Science Board Summer Study on Transformation, issued in February 2006.

(3) The Beyond Goldwater-Nichols Study of the Center for Strategic and International Studies.

(4) The Quadrennial Defense Review, issued February 6, 2006.

(5) The Committee Defense Review of the Committee on Armed Services of the House of Representatives (when available).

(c) Recommendations.—Each report submitted under subsection (a) shall include such recommendations as the Secretary considers appropriate, and implementation plans for the recommendations.

(d) Termination of Report Requirement.—The requirement to submit reports under subsection (a) shall terminate on the first day of the calendar quarter following the first calendar quarter in which the Selected Acquisition Report submitted to Congress under section 2432 of title 10, United States Code, does not indicate that there has been an increase by a percentage equal to or greater than the significant cost growth threshold or the critical cost growth threshold in any major defense acquisition program (as such thresholds are defined in section 2433(a) of such title).

SEC. 805. ESTABLISHMENT OF DEFENSE CHALLENGE PROCESS FOR CRITICAL COST GROWTH THRESHOLD BREACHES IN MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) Preliminary Evaluation of Challenge Proposals for Critical Cost Breaches.—

(1) Submission of challenge proposals.—Section 2359b(c)) of title 10, United States Code, is amended—

(A) in paragraph (1), by striking "Panel," and all that follows through the end and inserting the following: "Panel—

"(A) through the unsolicited proposal process;

"(B) in response to a broad agency announcement; or

"(C) in response to a solicitation issued as a result of a critical cost growth threshold breach (as defined in paragraph (4)).";

(B) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (7), and (8), respectively;

(C) by inserting after paragraph (3) the following new paragraph (4):

"(4)(A) If the program acquisition unit cost or procurement unit cost of a major defense acquisition program increases by a percentage equal to or greater than the critical cost growth threshold for the program, as determined by the Secretary concerned under section 2433(d) of this title (in this section referred to as a 'critical cost growth threshold breach'), the Under Secretary shall issue a solicitation for challenge proposals that would result in improvements in affordability of the program. The solicitation shall specifically identify (i) the cost and schedule variances, and (ii) the design, engineering, manufacturing, or technology integration issues, contributing to the breach.

"(B) A solicitation referred to in subparagraph (A) shall be made public before the end of the 14-day period beginning on the day the Selected Acquisition Report containing the information described in section 2433(g) of this title is required to be submitted under section 2432(f) of this title.

"(C) A solicitation referred to in subparagraph (A) shall require any challenge proposals responding to the solicitation to be submitted within 30 days after the date of issuance of the solicitation.";

(D) in paragraph (5) (as so redesignated) in the matter preceding subparagraph (A)—

(i) by striking "or submitted" and inserting "submitted"; and

(ii) by inserting after "paragraph (2)," the following: "or submitted in response to a solicitation issued as a result of a critical cost growth threshold breach"; and

(E) by inserting after paragraph (5) (as so redesignated) the following new paragraph (6):

"(6) A panel shall complete a preliminary evaluation of challenge proposals submitted in response to a solicitation issued as a result of a critical cost growth threshold breach before the end of the 60-day period beginning on the day the Selected Acquisition Report referred to in paragraph (4)(B) is submitted to Congress and shall inform the Secretary of Defense of the results of the evaluation to aid in the completion of the Secretary's certification under section 2433(e)(2)(B) of this title.".

(b) Action Upon Favorable Full Review and Evaluation of Challenge Proposals for Critical Cost Breaches.—Section 2359b(e) of such title is amended by adding at the end the following new paragraph:

"(3) In the case of a challenge proposal referred to in paragraph (1) that was submitted in response to a solicitation issued as a result of a critical cost growth threshold breach, the costs of the proposal shall be borne by the major defense acquisition program with respect to which the breach occurred.".

(c) Action Upon Unfavorable Full Review and Evaluation of Challenge Proposals for Critical Cost Breaches.—Section 2359b of such title, as amended by section 213, is further amended—

(1) by redesignating subsections (f), (g), (h), and (i) as subsections (g), (h), (i), and (j), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) Action Upon Unfavorable Full Review and Evaluation of Critical Cost Breach Solicitations.—In the case of a challenge proposal that was submitted in response to a solicitation issued as a result of a critical cost growth threshold breach and that is not determined under a full review and evaluation to satisfy each of the criteria specified in subsection (c)(5), the following provisions apply:

"(1) The office carrying out the full review and evaluation shall provide to the Panel that conducted the preliminary evaluation a statement containing a summary of the rationale for the unfavorable evaluation.

"(2) If the Panel disagrees with the rationale provided under paragraph (1), the Panel may return the challenge proposal to the office for further consideration.

"(3) The full review and evaluation, including a further consideration of the review and evaluation under paragraph (2), shall be completed not later than the expiration of the 60-day period beginning on the date of completion of the preliminary evaluation of the proposal by a Panel under subsection (c).

"(4) After a full review and evaluation of all such challenge proposals submitted for such review and evaluation are completed, including further consideration under paragraph (2), the Under Secretary shall submit to the congressional defense committees a report containing a list of each challenge proposal with an unfavorable evaluation, including an identification of each such challenge proposal returned to an office for further consideration, and a detailed rationale for the unfavorable evaluations upon both initial and further consideration (if any). Such report shall be submitted not later than the expiration of the 60-day period beginning on the date of completion of the last preliminary evaluation of the proposals by a Panel under subsection (c).".

(d) Amendments to Unit Cost Reports Provisions.—

(1) Additional assessment required upon breach of critical cost growth threshold.—Section 2433(e)(2)(A) of title 10, United States Code, is amended—

(A) by striking "and" at the end of clause (ii);

(B) by inserting "and" at the end of clause (iii); and

(C) by adding at the end the following new clause:

"(iv) the availability of components, subsystems, or systems that may result in near-term improvements in affordability of the program, as identified under the Defense Acquisition Challenge Program through a solicitation issued pursuant to section 2359b(c)(1)(C) of this title;".

(2) ADDITIONAL CERTIFICATION REQUIRED UPON BREACH OF CRITICAL COST GROWTH THRESHOLD.—Section 2433(e)(2)(B) of such title is amended—

(A) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(B) by inserting after clause (ii) the following new clause (iii):

"(iii) the Panel conducting preliminary evaluation of challenge proposals submitted in response to the solicitation issued under the Defense Acquisition Challenge Program pursuant to section 2359b(c)(1)(C) of this title has identified no promising proposals meriting full review and evaluation;".

(3) ADDITIONAL INFORMATION IN CERTAIN REPORT REQUIRED.—Section 2433(g)(1)(P)(vi) of such title is amended by inserting after "of the program" the following: "and design, engineering, manufacturing, or technology integration issues".

(e) ADDITIONAL CONFORMING AMENDMENTS.—Section 2359b of such title is further amended—

(1) in subsection (c)(8), as redesignated by subsection (a), by striking "paragraph (4)" and inserting "paragraph (5)";

(2) in subsection (d)(1), by striking "subsection (c)(6)" and inserting "subsection (c)(8)";

(3) in subsection (d)(2), by striking "subsection (c)(4)" and inserting "subsection (c)(5)"; and

(4) in subsection (e)(1), by striking "subsection (c)(4)" and inserting "subsection (c)(5)".

SEC. 806. MARKET RESEARCH REQUIRED FOR MAJOR DEFENSE ACQUISITION PROGRAMS BEFORE PROCEEDING TO MILESTONE B.

Section 2366a(a) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1) through (7) as paragraphs (2) through (8), respectively; and

(2) by inserting before paragraph (2) (as so redesignated) the following new paragraph (1):

"(1) market research has been conducted prior to technology development to reduce duplication of existing technology and products;".

Subtitle B—Acquisition Policy and Management

SEC. 811. APPLICABILITY OF STATUTORY EXECUTIVE COMPENSATION CAP MADE PROSPECTIVE.

(a) PROSPECTIVE APPLICABILITY OF EXECUTIVE COMPENSATION CAP.—Section 808(e)(2) of Public Law 105–85 (41 U.S.C. 435 note; 111 Stat. 1838) is amended by striking "before, on," and inserting "on".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if included in Public Law 105–85 as enacted.

SEC. 812. PROHIBITION ON PROCUREMENT FROM BENEFICIARIES OF FOREIGN SUBSIDIES.

(a) PROHIBITION.—The Secretary of Defense may not enter into a contract for the procurement of goods or services from any foreign person to which the government of a foreign country that is a member of the World Trade Organization has provided a subsidy if—

(1) the United States has requested consultations with that foreign country under the Agreement on Subsidies and Countervailing Measures on the basis that the subsidy is a prohibited subsidy under that Agreement; and

(2) either—

(A) the issue before the World Trade Organization has not been resolved; or

(B) the World Trade Organization has ruled that the subsidy provided by the foreign country is a prohibited subsidy under the Agreement on Subsidies and Countervailing Measures.

(b) JOINT VENTURES.—The prohibition under subsection (a) with respect to a foreign person also applies to any joint venture, cooperative organization, partnership, or contracting team of which that foreign person is a member.

(c) SUBCONTRACTS AND TASK ORDERS.—The prohibition under subsection (a) with respect to a contract also applies to any subcontracts at any tier entered into under the contract and any task orders at any tier issued under the contract.

(d) DEFINITIONS.—In this section:

(1) The term "Agreement on Subsidies and Countervailing Measures" means the agreement described in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3501(d)(12)).

(2) The term "foreign person" means—

(A) an individual who is not a United States person or an alien lawfully admitted for permanent residence into the United States; or

(B) a corporation, partnership, or other nongovernmental entity which is not a United States person.

(3) The term "United States person" means—

(A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States; and

(B) a corporation or other legal entity which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons described in subparagraph (A) own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity.

(e) APPLICABILITY.—

(1) PROGRAMS WITH MILESTONE B APPROVAL NOT COVERED.—The prohibition under subsection (a) shall not apply to any contract under a major defense acquisition program that has received Milestone B approval as of the date of the enactment of this Act.

(2) DEFINITIONS.—In this subsection:

(A) The term "major defense acquisition program" means a Department of Defense acquisition program that is a major defense acquisition program for purposes of section 2430 of title 10, United States Code.

(B) The term "Milestone B approval" has the meaning provided that term in section 2366(e)(7) of such title.

SEC. 813. TIME-CERTAIN DEVELOPMENT FOR DEPARTMENT OF DEFENSE INFORMATION TECHNOLOGY BUSINESS SYSTEMS.

(a) MILESTONE A LIMITATION.—The Department of Defense executive or entity that is the milestone decision authority for an information system described in subsection (c) may not provide Milestone A approval for the system unless, as part of the decision process for such approval, that authority determines that the system will achieve initial operational capability within five years of such approval.

(b) INITIAL OPERATIONAL CAPABILITY LIMITATION.—Funds appropriated or otherwise available to the Department of Defense may not be obligated or expended for an information system described in subsection (c) if the system, having received Milestone A approval, has not achieved initial operational capability within five years of the date of such approval.

(c) COVERED SYSTEMS.—An information system described in this subsection is any Department of Defense information technology business system that is not a national security system, as defined in 3542(b)(2) of title 44, United States Code.

(d) APPLICABILITY TO EXISTING PROGRAMS.—

(1) WAIVER AUTHORITY FOR EXISTING PROGRAMS IN DEVELOPMENT.—The Secretary of Defense may waive the applicability of subsection (b) in the case of a program described in subsection (c) that as of the date of the enactment of this Act has received Milestone A approval but has not as of such date achieved initial operational capability.

(2) INAPPLICABILITY TO PROGRAMS THROUGH DEVELOPMENT.—This section does not apply to an information system that achieved initial operational capability before the date of the enactment of this Act.

(e) DEFINITIONS.—In this section:

(1) MILESTONE DECISION AUTHORITY.—The term "milestone decision authority" has the meaning given that term in Department of Defense Instruction 5000.2, dated May 12, 2003.

(2) MILESTONE A.—The term "Milestone A" has the meaning given that term in Department of Defense Instruction 5000.2, dated May 12, 2003.

SEC. 814. ESTABLISHMENT OF PANEL ON CONTRACTING INTEGRITY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Defense shall establish a panel to be known as the "Panel on Contracting Integrity".

(2) COMPOSITION.—The panel shall be composed of the following:

(A) The Deputy Secretary of Defense, who shall be the chairman of the panel.

(B) The service acquisition executive of each military department.

(C) The Inspector General of the Department of Defense.

(D) The Director of the Defense Logistics Agency.

(E) The Director of the Defense Contract Management Agency.

(F) The Director of the Defense Contract Audit Agency.

(G) Such other members as determined appropriate by the Secretary of Defense.

(b) DUTIES.—In addition to other matters assigned to it by the Secretary of Defense, the panel shall—

(1) conduct reviews of progress made by the Department of Defense to eliminate areas of vulnerability of the defense contracting system that allow fraud, waste, and abuse to occur;

(2) review the report by the Comptroller General required by section 841 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3389), relating to areas of vulnerability of Department of Defense contracts to fraud, waste, and abuse; and

(3) recommend changes in law, regulations, and policy that it determines necessary to eliminate such areas of vulnerability.

(c) MEETINGS.—The panel shall meet as determined necessary by the Secretary of Defense but not less often than once every six months.

(d) REPORT.—

(1) REQUIREMENT.—The panel shall prepare and submit to the congressional defense committees an annual report on its activities. The report shall contain a summary of its findings and recommendations for the year covered by the report.

(2) FIRST REPORT.—The first report under this subsection shall be submitted not later than 180 days after the date of the enactment of this Act and shall contain an examination of the current structure in the Department of Defense for personnel accountability relating to the contracting system and recommendations for any changes needed to the system of administrative safeguards and disciplinary actions to ensure accountability at the appropriate level for any violations of appropriate standards of behavior in contracting.

Subtitle C—Amendments to General Contracting Authorities, Procedures, and Limitations

SEC. 821. EXTENSION OF SPECIAL TEMPORARY CONTRACT CLOSEOUT AUTHORITY.

Section 804 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law

108-136; 117 Stat. 1541) is amended in subsection (d) by striking "September 30, 2006" and inserting "September 30, 2007".

SEC. 822. LIMITATION ON CONTRACTS FOR THE ACQUISITION OF CERTAIN SERVICES.

(a) LIMITATION.—Except as provided in subsection (b), the Secretary of Defense may not enter into a contract for covered services if the amount of the contract—

(1) exceeds 75 percent of the estimated value of any asset required for the provision of services under the contract, as of the date on which contract performance begins; or

(2) exceeds $150,000,000 in payments over the life of the contract assuming all options to extend the contract are exercised.

(b) WAIVER.—The Secretary of Defense may waive subsection (a) with respect to a contract for covered services if the Secretary—

(1) determines that a waiver is necessary for national security purposes; and

(2) provides to the congressional defense committees an economic analysis as described in subsection (c) at least 30 days before the waiver takes effect.

(c) ECONOMIC ANALYSIS.—The economic analysis provided under subsection (b) shall include, at a minimum, the following:

(1) A clear explanation of the need for the contract for covered services.

(2) An examination of at least two alternatives for fulfilling the requirements that the contract is meant to fulfill, including the following with respect to each alternative:

(A) A rationale for including the alternative.

(B) A cost estimate of the alternative and an analysis of the quality of each cost estimate.

(C) A discussion of the benefits to be realized from the alternative.

(D) A best value determination of each alternative and a detailed explanation of the lifecycle cost calculations used in the determination.

(d) COVERED SERVICES.—The limitation in subsection (a) applies to any contract for the following types of services:

(1) Operation, maintenance, or support of facilities or installations, or construction of facilities needed for performing the contract.

(2) Maintenance or modification of aircraft, ships, vehicles, or other highly complex military equipment, or the provision of aircraft, ships, vehicles, or other highly complex military equipment needed for performing the contract.

(3) Specialized training necessitating high quality instructor skills (for example, pilot and air crew members; foreign language training).

(4) Base services (for example, ground maintenance, in-plane refueling; bus transportation; refuse collection and disposal).

SEC. 823. USE OF FEDERAL SUPPLY SCHEDULES BY STATE AND LOCAL GOVERNMENTS FOR GOODS AND SERVICES FOR RECOVERY FROM NATURAL DISASTERS, TERRORISM, OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

(a) AUTHORITY TO USE SUPPLY SCHEDULES FOR CERTAIN GOODS AND SERVICES.—Section 502 of title 40, United States Code, is amended by adding at the end the following new subsection:

"(d) USE OF SUPPLY SCHEDULES FOR CERTAIN GOODS AND SERVICES.—

"(1) IN GENERAL.—The Administrator may provide for the use by State or local governments of Federal supply schedules of the General Services Administration for goods or services that are to be used to facilitate recovery from a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or to facilitate recovery from terrorism or nuclear, biological, chemical, or radiological attack.

"(2) DETERMINATION BY SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall determine which goods and services qualify as goods and services described in paragraph (1) before the Administrator provides for the use of the Federal supply schedule relating to such goods and services.

"(3) VOLUNTARY USE.—In the case of the use by a State or local government of a Federal supply schedule pursuant to paragraph (1), participation by a firm that sells to the Federal Government through the supply schedule shall be voluntary with respect to a sale to the State or local government through such supply schedule.

"(4) DEFINITIONS.—The definitions in subsection (c)(3) shall apply for purposes of this subsection.".

(b) PROCEDURES.—Not later than 30 days after the date of the enactment of this Act, the Administrator of General Services shall establish procedures to implement section 502(d) of title 40, United States Code (as added by subsection (a)).

SEC. 824. WAIVERS TO EXTEND TASK ORDER CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) DEFENSE CONTRACTS.—Section 2304b(b) of title 10, United States Code, is amended—

(1) by inserting "(1)" before "The period";

(2) by inserting before the period the following: "or a waiver is issued under paragraph (2)"; and

(3) by adding at the end the following new paragraph:

"(2) The head of an agency may issue a waiver to extend a task order contract entered into under this section for a period not exceeding 10 years, through five one-year options, if the head of the agency determines in writing—

"(A) that the contract provides engineering or technical services of such a unique and substantial technical nature that award of a new contract would be harmful to the continuity of the program for which the services are performed;

"(B) that award of a new contract would create a large disruption in services provided to the Department of Defense; and

"(C) the Department of Defense would endure program risk during critical program stages due to loss of program corporate knowledge of ongoing program activities.".

(b) CIVILIAN AGENCY CONTRACTS.—Section 303I(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253i) is amended—

(1) by inserting "(1)" before "The period";

(2) by inserting before the period the following: "or a waiver is issued under paragraph (2)"; and

(3) by adding at the end the following new paragraph:

"(2) An executive agency may issue a waiver to extend a task order contract entered into under this section for a period not exceeding 10 years, through five one-year options, if the head of the agency determines in writing—

"(A) that the contract provides engineering or technical services of such a unique and substantial technical nature that award of a new contract would be harmful to the continuity of the program for which the services are performed;

"(B) that award of a new contract would create a large disruption in services provided to the executive agency; and

"(C) the executive agency would endure program risk during critical program stages due to loss of program corporate knowledge of ongoing program activities.".

(c) REPORT.—Not later than April 1, 2007, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on advisory and assistance services. The report shall include the following information:

(1) The methods used by the Department of Defense to identify a contract as an advisory and assistance services contract, as defined in section 2304b of title 10, United States Code.

(2) The number of such contracts awarded by the Department during the five-year period preceding the date of enactment of this Act.

(3) The average annual expenditures by the Department for such contracts.

(4) The average length of such contracts.

(5) The number of such contracts recompeted and awarded to the previous award winner.

(6) The number of contractors performing such contracts that previously qualified as a small business but no longer qualify as a small business for a recompetition.

(7) The number of such contracts required for a period of greater than five years and a justification of why those services are required for greater than five years, including the rationale for not performing the services inside the Department of Defense.

(8) The percentage of such contracts awarded by the Department during the five-year period preceding the date of the enactment of this Act for assistance in the introduction and transfer of engineering and technical knowledge for fielded systems, equipment, and components.

(9) The actions taken by the Department to prevent organizational conflicts of interest in the use of such contracts.

(d) PROHIBITION ON USE OF AUTHORITY BY DEPARTMENT OF DEFENSE IF REPORT NOT SUBMITTED.—The head of an agency may not issue a waiver under 2304b(b)(2) of title 10, United States Code, as added by subsection (a), if the report required by subsection (c) is not submitted by the date set forth in that subsection.

SEC. 825. ENHANCED ACCESS FOR SMALL BUSINESS.

Section 9(a) of the Contract Disputes Act of 1978 (41 U.S.C. 608) is amended by striking the period at the end of the first sentence and inserting the following: "or, in the case of a small business concern (as defined in the Small Business Act and regulations under that Act), $150,000 or less.".

SEC. 826. PROCUREMENT GOAL FOR HISPANIC-SERVING INSTITUTIONS.

Section 2323 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) Hispanic-serving institutions, as designated by the Department of Education.";

(2) in subsection (a)(2)—

(A) by inserting after "historically Black colleges and universities" the following: ", Hispanic-serving institutions,"; and

(B) by inserting after "such colleges and universities" the following: "and institutions";

(3) in subsection (c)(1), by inserting after "historically Black colleges and universities" the following: ", Hispanic-serving institutions,"; and

(4) in subsection (c)(3), by inserting after "historically Black colleges and universities" the following: ", to Hispanic-serving institutions,".

SEC. 827. PROHIBITION ON DEFENSE CONTRACTORS REQUIRING LICENSES OR FEES FOR USE OF MILITARY LIKENESSES AND DESIGNATIONS.

The Secretary of Defense shall require that any contract entered into or renewed by the Department of Defense include a provision prohibiting the contractor from requiring toy and hobby manufacturers, distributors, or merchants to obtain licenses from or pay fees to the contractor for the use of military likenesses or designations on items provided under the contract.

Subtitle D—United States Defense Industrial Base Provisions

SEC. 831. PROTECTION OF STRATEGIC MATERIALS CRITICAL TO NATIONAL SECURITY.

(a) Requirement to Buy From American Sources.—

(1) In general.—Chapter 148 of title 10, United States Code, is amended by inserting after section 2533a the following new section:

"§ 2533b. Requirement to buy strategic materials critical to national security from American sources; exceptions

"(a) Requirement.—Except as provided in subsections (c) through (h), funds appropriated or otherwise available to the Department of Defense may not be used for the procurement of an item described in subsection (b) if the item is not reprocessed, reused, or produced in the United States.

"(b) Covered Items.—An item referred to in subsection (a) is any of the following:

"(1) A specialty metal.

"(2) An item critical to national security, as determined by the Strategic Materials Protection Board.

"(c) Availability Exception.—Subsection (a) does not apply to the extent that the Secretary of Defense or the Secretary of the military department concerned determines that satisfactory quality and sufficient quantity of any item described in subsection (b) cannot be procured as and when needed.

"(d) Exception for Certain Procurements.—Subsection (a) does not apply to the following:

"(1) Procurements outside the United States in support of combat operations or in support of contingency operations.

"(2) Procurements by vessels in foreign waters for use of the item.

"(3) Procurements for which the use of procedures other than competitive procedures has been approved on the basis of section 2304(c)(2) of this title, relating to unusual and compelling urgency of need.

"(e) Exception Relating to Agreements With Foreign Governments.—Subsection (a) does not preclude the procurement of an item described in subsection (b) if—

"(1) the procurement is necessary—

"(A) to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements; or

"(B) in furtherance of agreements with foreign governments in which both such governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country;

"(2) any such agreement with a foreign government complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with section 2457 of this title; and

"(3) the item is grown, produced, or manufactured in the United States or in the country from which it is procured.

"(f) Exception for Commissaries, Exchanges, and Other Nonappropriated Fund Instrumentalities.—Subsection (a) does not apply to items purchased for resale purposes in commissaries, exchanges, and nonappropriated fund instrumentalities operated by the Department of Defense.

"(g) Exception for Small Purchases.—Subsection (a) does not apply to procurements in amounts not greater than the simplified acquisition threshold referred to in section 2304(g) of this title.

"(h) Applicability to Procurements of Commercial Items.—This section applies to procurements of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

"(i) Applicability to Subcontracts.—This section applies to subcontracts at any tier under a prime contract.

"(j) Applicability to Noncompliant Components.—A procurement subject to subsection (a) shall not be considered to be in compliance with subsection (a) if noncompliant components are delivered under the procurement without charge to the Federal Government. In this subsection, the term 'noncompliant component' means a component that is not reprocessed, reused, or produced in the United States.

"(k) Specialty Metal Defined.—In this section, the term 'specialty metal' means any of the following:

"(1) Steel—

"(A) with a maximum alloy content exceeding one or more of the following limits: manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent; or

"(B) containing more than 0.25 percent of any of the following elements: aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, or vanadium.

"(2) Metal alloys consisting of nickel, iron-nickel, and cobalt base alloys containing a total of other alloying metals (except iron) in excess of 10 percent.

"(3) Titanium and titanium alloys.

"(4) Zirconium and zirconium base alloys.

"(5) A metal determined by the Strategic Materials Protection Board (established under section 187 of this title) to be a specialty metal critical to national security.

"(l) Additional Definitions.—In this section:

"(1) The term 'United States' includes possessions of the United States.

"(2) The term 'micropurchase' means a procurement in an amount not greater than the micropurchase threshold, as defined by section 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428).

"(3) The term 'component' has the meaning provided in section 4 of such Act (41 U.S.C. 403).".

(2) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2533b. Requirement to buy strategic materials critical to national security from American sources; exceptions.".

(3) Conforming amendments.—Section 2533a of title 10, United States Code, is amended—

(A) by striking paragraph (2) of subsection (b);

(B) in subsection (c), by striking "or specialty metals (including stainless steel flatware)"; and

(C) in subsection (e)—

(i) by striking "SPECIALTY METALS AND" in the heading; and

(ii) by striking "specialty metals or".

(4) Effective dates.—

(A) Section 2533b of title 10, United States Code, as added by paragraph (1), shall apply with respect to contracts entered into after the date occurring 30 days after the date of the enactment of this Act.

(B) The amendments made by paragraph (3) shall take effect on the date occurring 30 days after the date of the enactment of this Act.

(b) One-Time Inadvertent Micropurchase Waiver of Specialty Metals Domestic Source Requirement.—

(1) Notice of noncompliance.—In the case of a contract with the Department of Defense in effect before the date of the enactment of this Act with respect to which the contracting officer for the contract determines the contractor is not in compliance with section 2533a of title 10, United States Code (as in effect before such date of enactment) with respect to specialty metals, the contracting officer shall—

(A) post a notice on FedBizOpps.gov that the contractor is not in compliance with such section;

(B) notify the contractor (and any subcontractor under the prime contract that is also noncompliant) in writing that the contractor (or subcontractor) is not in compliance with such section; and

(C) require the contractor and any subcontractor notified under subparagraph (B) to submit to the contracting officer a compliance plan for becoming compliant with such section.

(2) Waiver authority.—In the case of a contract described in paragraph (1), the contracting officer for the contract may waive the applicability to the contract of section 2533a of title 10, United States Code (as in effect before such date of enactment) with respect to specialty metals if—

(A) the procurement is a micropurchase of components (whether in a prime contract or a subcontract under such contract) and the aggregate value of all such procurements in the prime contract and all the subcontracts under such contract does not exceed 1 percent of the amount of the contract or $100,000, whichever is less;

(B) the contracting officer determines in writing that the contractor was and continues to be inadvertently not in compliance with such section with respect to such metals and the contractor has submitted a compliance plan under paragraph (1)(C); and

(C) the Secretary of the military department concerned approves the waiver.

(3) Notice.—Not later than 15 days after a contracting officer makes a determination under paragraph (2)(B) with respect to a contract, the contracting officer shall post a notice on FedBizOpps.gov that a waiver has been granted for the contract under this subsection. The notice shall include information about the applicability of section 1001 of title 18, United States Code (relating to criminal penalties for false statements).

(4) Challenge period.—

(A) During the 15-day period beginning on the date of the posting of a notice of a waiver under paragraph (3) for a contract (in this subsection referred to as the "challenge period"), the contracting officer shall accept challenges submitted with respect to the contract.

(B) For purposes of this paragraph, a challenge, with respect to a contract for which a waiver has been granted under this subsection, is a submission of information by an entity (referred to as a "challenger" in this section) stating that the challenger can provide the specialty metals needed for performance of the contract and can certify in writing that the metals are reprocessed, reused, or produced in the United States. The information shall be submitted to the contracting officer in such form and manner as may be prescribed by the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(5) Determination by contracting officer.—During the 15-day period beginning on the day after the end of the challenge period with respect to a contract, if any challenge has been submitted to the contracting officer, the contracting officer shall make a determination regarding whether the challenger can provide the specialty metals for the components concerned in sufficient quantity, of satisfactory quality, within a reasonable time, and at a cost that is not unreasonable.

(6) Rescission of waiver.—(A) Except as provided in subparagraph (B), if the determination under paragraph (5) is in the affirmative, the contracting officer shall—

(i) rescind the waiver granted with respect to the contract under this subsection; and

(ii) require the contractor to comply with subsection (a) by purchasing specialty metals from the challenger.

(B) If the contracting officer makes a determination in the affirmative under paragraph (5) with respect to two or more challengers, the contracting officer shall select or require the contractor to select, in such manner as the contracting officer considers appropriate, the challenger to provide specialty metals under the contract.

(7) DEFINITIONS.—In this subsection:

(A) The term "micropurchase" means a procurement in an amount not greater than the micropurchase threshold, as defined by section 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428).

(B) The term "component" has the meaning provided in section 4 of such Act (41 U.S.C. 403).

(C) The term "FedBizOpps.gov" means the website maintained by the General Services Administration known as FedBizOpps.gov (or any successor site).

(8) TERMINATION OF WAIVER AUTHORITY.—A contracting officer may exercise the waiver authority under this subsection only after the date of the enactment of this Act and before July 1, 2008.

SEC. 832. STRATEGIC MATERIALS PROTECTION BOARD.

(a) IN GENERAL.—Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section:

"§187. Strategic Materials Protection Board

"(a) ESTABLISHMENT.—(1) The Secretary of Defense shall establish a Strategic Materials Protection Board.

"(2) The Board shall be composed of the following:

"(A) The Secretary of Defense, who shall be the chairman of the Board.

"(B) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

"(C) The Under Secretary of Defense for Intelligence.

"(D) The Secretary of the Army.

"(E) The Secretary of the Navy.

"(F) The Secretary of the Air Force.

"(b) DUTIES.—In addition to other matters assigned to it by the Secretary of Defense, the Board shall—

"(1) determine the need to provide a long term domestic supply of items designated as critical to national security to ensure that national defense needs are met;

"(2) analyze the risk associated with each item designated as critical to national security and the affect on national defense that the nonavailability of such item from a domestic source would have;

"(3) recommend a strategy to the President to ensure the domestic availability of items designated as critical to national security;

"(4) recommend such other strategies to the President as the Board considers appropriate to strengthen the industrial base with respect to items critical to national security; and

"(5) publish, not less frequently than once every two years, in the Federal Register a list of items determined to be critical to national security, including a list of specialty metals determined to be critical to national security for purposes of section 2533b of this title (and referred to in section 2533b(l)((1)(5) of such title).

"(c) MEETINGS.—The Board shall meet as determined necessary by the Secretary of Defense but not less frequently than once every two years to—

"(1) determine and publish a list of items critical to national security as described in subsection (b)(5); and

"(2) review items previously determined by the Board to be critical to national security, including specialty metals critical to national security for purposes of section 2533b of this title, to determine the appropriateness of their continuing classification as critical to national security.

"(d) REPORTS.—After each meeting of the Board, the Board shall prepare and submit to Congress a report containing the results of the meeting and such recommendations as the Board determines appropriate.

"(e) REMOVAL OF ITEMS FROM LIST.—The Board may not remove from the list referred to in subsection (b)(5) an item previously determined to be critical to national security by the Board until a period of 30 days expires after the Board submits to the congressional defense committees a written notification of the removal.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"187. Strategic Materials Protection Board.".

(c) FIRST MEETING OF BOARD.—The first meeting of the Strategic Materials Protection Board, established by section 187 of title 10, United States Code (as added by paragraph (1)) shall be not later than 180 days after the date of the enactment of this Act.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Department of Defense Management

Sec. 901. Standardization of statutory references to "national security system" within laws applicable to Department of Defense.
Sec. 902. Correction of reference to predecessor of Defense Information Systems Agency.
Sec. 903. Addition to membership of specified council.
Sec. 904. Consolidation and standardization of authorities relating to Department of Defense Regional Centers for Security Studies.
Sec. 905. Redesignation of the Department of the Navy as the Department of the Navy and Marine Corps.

Subtitle B—Space Activities

Sec. 911. Designation of successor organizations for the disestablished Interagency Global Positioning Executive Board.
Sec. 912. Extension of authority for pilot program for provision of space surveillance network services to non-United States Government entities.
Sec. 913. Operationally Responsive Space.

Subtitle C—Chemical Demilitarization Program

Sec. 921. Transfer to Secretary of the Army of responsibility for Assembled Chemical Weapons Alternatives Program.
Sec. 922. Comptroller General review of cost-benefit analysis of off-site versus on-site treatment and disposal of hydrolysate derived from neutralization of VX nerve gas at Newport Chemical Depot, Indiana.
Sec. 923. Sense of Congress regarding the safe and expeditious disposal of chemical weapons.

Subtitle D—Intelligence-Related Matters

Sec. 931. Repeal of termination of authority of Secretary of Defense to engage in commercial activities as security for intelligence collection activities abroad.

Subtitle A—Department of Defense Management

SEC. 901. STANDARDIZATION OF STATUTORY REFERENCES TO "NATIONAL SECURITY SYSTEM" WITHIN LAWS APPLICABLE TO DEPARTMENT OF DEFENSE.

(a) DEFENSE BUSINESS SYSTEMS.—Section 2222(j)(6) of title 10, United States Code, is amended by striking "in section 2315 of this title" and inserting "in section 3542(b)(2) of title 44".

(b) CHIEF INFORMATION OFFICER RESPONSIBILITIES.—Section 2223(c)(3) of such title is amended by striking "section 11103 of title 40" and inserting "section 3542(b)(2) of title 44".

(c) PROCUREMENT OF AUTOMATIC DATA PROCESSING EQUIPMENT AND SERVICES.—The text of section 2315 of such title is amended to read as follows:

"For purposes of subtitle III of title 40, the term 'national security system', with respect to a telecommunications and information system operated by the Department of Defense, has the meaning given that term by section 3542(b)(2) of title 44.".

SEC. 902. CORRECTION OF REFERENCE TO PREDECESSOR OF DEFENSE INFORMATION SYSTEMS AGENCY.

Paragraph (1) of section 193(f) of title 10, United States Code, is amended to read as follows:

"(1) The Defense Information Systems Agency.".

SEC. 903. ADDITION TO MEMBERSHIP OF SPECIFIED COUNCIL.

Section 179(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) The commander of the United States Strategic Command.".

SEC. 904. CONSOLIDATION AND STANDARDIZATION OF AUTHORITIES RELATING TO DEPARTMENT OF DEFENSE REGIONAL CENTERS FOR SECURITY STUDIES.

(a) BASIC AUTHORITIES FOR REGIONAL CENTERS.—

(1) IN GENERAL.—Section 184 of title 10, United States Code, is amended to read as follows:

"§184. Regional Centers for Security Studies

"(a) IN GENERAL.—The Secretary of Defense shall administer the Department of Defense Regional Centers for Security Studies in accordance with this section as international venues for bilateral and multilateral research, communication, and exchange of ideas involving military and civilian participants.

"(b) REGIONAL CENTERS SPECIFIED.—(1) A Department of Defense Regional Center for Security Studies is a Department of Defense institution that—

"(A) is operated, and designated as such, by the Secretary of Defense for the study of security issues relating to a specified geographic region of the world; and

"(B) serves as a forum for bilateral and multilateral research, communication, and exchange of ideas involving military and civilian participants.

"(2) The Department of Defense Regional Centers for Security Studies are the following:

"(A) The George C. Marshall European Center for Security Studies, established in 1993 and located in Garmisch-Partenkirchen, Germany.

"(B) The Asia-Pacific Center for Security Studies, established in 1995 and located in Honolulu, Hawaii.

"(C) The Center for Hemispheric Defense Studies, established in 1997 and located in Washington, D.C.

"(D) The Africa Center for Strategic Studies, established in 1999 and located in Washington, D.C.

"(E) The Near East South Asia Center for Strategic Studies, established in 2000 and located in Washington, D.C.

"(3) No institution or element of the Department of Defense may be designated as a Department of Defense Regional Center for Security Studies for purposes of this section, other than the institutions specified in paragraph (2), except as specifically provided by law after the date of the enactment of this section.

"(c) REGULATIONS.—The administration of the Regional Centers under this section shall be carried out under regulations prescribed by the Secretary.

"(d) PARTICIPATION.—Participants in activities of the Regional Centers may include United States military and civilian personnel, governmental and nongovernmental personnel, and foreign military and civilian, governmental and nongovernmental personnel.

"(e) EMPLOYMENT AND COMPENSATION OF FACULTY.—At each Regional Center, the Secretary may, subject to appropriations—

"(1) employ a Director, a Deputy Director, and as many civilians as professors, instructors, and lecturers as the Secretary considers necessary; and

"(2) prescribe the compensation of such persons, in accordance with Federal guidelines.

"(f) PAYMENT OF COSTS.—(1) Participation in activities of a Regional Center shall be on a reimbursable basis (or by payment in advance), except in a case in which reimbursement is waived in accordance with paragraph (3).

"(2) For a foreign national participant, payment of costs may be made by the participant, the participant's own government, by a Department or agency of the United States other than the Department of Defense, or by a gift or donation on behalf of one or more Regional Centers accepted under section 2611 of this title on behalf of the participant's government.

"(3) The Secretary of Defense may waive reimbursement of the costs of activities of the Regional Centers for foreign military officers and foreign defense and security civilian government officials from a developing country if the Secretary determines that attendance of such personnel without reimbursement is in the national security interest of the United States. Costs for which reimbursement is waived pursuant to this paragraph shall be paid from appropriations available to the Regional Centers.

"(4) Funds accepted for the payment of costs shall be credited to the appropriation then currently available to the Department of Defense for the Regional Center that incurred the costs. Funds so credited shall be merged with the appropriation to which credited and shall be available to that Regional Center for the same purposes and same period as the appropriation with which merged.

"(5) Funds available for the payment of personnel expenses under the Latin American cooperation authority set forth in section 1050 of this title are also available for the costs of the operation of the Center for Hemispheric Defense Studies.

"(g) SUPPORT TO OTHER AGENCIES.—The Director of a Regional Center may enter into agreements with the Secretaries of the military departments, the heads of the Defense Agencies, and, with the concurrence of the Secretary of Defense, the heads of other Federal departments and agencies for the provision of services by that Regional Center under this section. Any such participating department and agency shall transfer to the Regional Center funds to pay the full costs of the services received.

"(h) ANNUAL REPORT.—Not later than February 1 of each year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the operation of the Regional Centers for security studies during the preceding fiscal year. The annual report shall include, for each Regional Center, the following information:

"(1) The status and objectives of the center.

"(2) The budget of the center, including the costs of operating the center.

"(3) A description of the extent of the international participation in the programs of the center, including the costs incurred by the United States for the participation of each foreign nation.

"(4) A description of the foreign gifts and donations, if any, accepted under section 2611 of this title.".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"184. Regional Centers for Security Studies.".

(b) CONFORMING AMENDMENTS.—

(1) EMPLOYMENT AND COMPENSATION AUTHORITY FOR CIVILIAN FACULTY.—Section 1595 of title 10, United States Code, is amended—

(A) in subsection (c)—

(i) by striking paragraphs (3) and (5); and

(ii) by redesignating paragraphs (4) and (6) as paragraphs (3) and (4), respectively; and

(B) by striking subsection (e).

(2) STATUS OF CENTER FOR HEMISPHERIC DEFENSE STUDIES.—Section 2165 of title 10, United States Code, is amended—

(A) in subsection (b)—

(i) by striking paragraph (6); and

(ii) by redesignating paragraph (7) as paragraph (6); and

(B) by striking subsection (c).

SEC. 905. REDESIGNATION OF THE DEPARTMENT OF THE NAVY AS THE DEPARTMENT OF THE NAVY AND MARINE CORPS.

(a) REDESIGNATION OF MILITARY DEPARTMENT.—The military department designated as the Department of the Navy is redesignated as the Department of the Navy and Marine Corps.

(b) REDESIGNATION OF SECRETARY AND OTHER STATUTORY OFFICES.—

(1) SECRETARY.—The position of the Secretary of the Navy is redesignated as the Secretary of the Navy and Marine Corps.

(2) OTHER STATUTORY OFFICES.—The positions of the Under Secretary of the Navy, the four Assistant Secretaries of the Navy, and the General Counsel of the Department of the Navy are redesignated as the Under Secretary of the Navy and Marine Corps, the Assistant Secretaries of the Navy and Marine Corps, and the General Counsel of the Department of the Navy and Marine Corps, respectively.

(c) CONFORMING AMENDMENTS TO TITLE 10, UNITED STATES CODE.—

(1) DEFINITION OF "MILITARY DEPARTMENT".—Paragraph (8) of section 101(a) of title 10, United States Code, is amended to read as follows:

"(8) The term 'military department' means the Department of the Army, the Department of the Navy and Marine Corps, and the Department of the Air Force.".

(2) ORGANIZATION OF DEPARTMENT.—The text of section 5011 of such title is amended to read as follows: "The Department of the Navy and Marine Corps is separately organized under the Secretary of the Navy and Marine Corps.".

(3) POSITION OF SECRETARY.—Section 5013(a)(1) of such title is amended by striking "There is a Secretary of the Navy" and inserting "There is a Secretary of the Navy and Marine Corps".

(4) CHAPTER HEADINGS.—

(A) The heading of chapter 503 of such title is amended to read as follows:

"CHAPTER 503—DEPARTMENT OF THE NAVY AND MARINE CORPS".

(B) The heading of chapter 507 of such title is amended to read as follows:

"CHAPTER 507—COMPOSITION OF THE DEPARTMENT OF THE NAVY AND MARINE CORPS".

(5) OTHER AMENDMENTS.—

(A) Title 10, United States Code, is amended by striking "Department of the Navy" and "Secretary of the Navy" each place they appear other than as specified in paragraphs (1), (2), (3), and (4) (including in section headings, subsection captions, tables of chapters, and tables of sections) and inserting "Department of the Navy and Marine Corps" and "Secretary of the Navy and Marine Corps", respectively, in each case with the matter inserted to be in the same typeface and typestyle as the matter stricken.

(B)(i) Sections 5013(f), 5014(b)(2), 5016(a), 5017(2), 5032(a), and 5042(a) of such title are amended by striking "Assistant Secretaries of the Navy" and inserting "Assistant Secretaries of the Navy and Marine Corps".

(ii) The heading of section 5016 of such title, and the item relating to such section in the table of sections at the beginning of chapter 503 of such title, are each amended by inserting "and Marine Corps" after "of the Navy", with the matter inserted in each case to be in the same typeface and typestyle as the matter amended.

(d) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended by striking "Department of the Navy" and "Secretary of the Navy" each place they appear and inserting "Department of the Navy and Marine Corps" and "Secretary of the Navy and Marine Corps", respectively.

(e) OTHER REFERENCES.—Any reference in any law other than in title 10 or title 37, United States Code, or in any regulation, document, record, or other paper of the United States, to the Department of the Navy shall be considered to be a reference to the Department of the Navy and Marine Corps. Any such reference to an office specified in subsection (b)(2) shall be considered to be a reference to that office as redesignated by that subsection.

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

Subtitle B—Space Activities

SEC. 911. DESIGNATION OF SUCCESSOR ORGANIZATIONS FOR THE DISESTABLISHED INTERAGENCY GLOBAL POSITIONING EXECUTIVE BOARD.

(a) SUCCESSOR ORGANIZATIONS.— Section 8 of the Commercial Space Transportation Competitiveness Act of 2000 (10 U.S.C. 2281 note) is amended by striking "by Congress" and all that follows and inserting "for the functions and activities of the following organizations established pursuant to the national security presidential directive issued December 8, 2004 (and any successor organization, to the extent the successor organization performs the functions of the specified organization):

"(1) The interagency committee known as the National Space-Based Positioning, Navigation, and Timing Executive Committee.

"(2) The support office for the committee specified in paragraph (1) known as the National Space-Based Positioning, Navigation, and Timing Coordination Office.

"(3) The Federal advisory committee known as the National Space-Based Positioning, Navigation, and Timing Advisory Board.".

(b) CLARIFICATION.—Such section is further amended by striking "interagency funding" and inserting "multi-agency funding".

SEC. 912. EXTENSION OF AUTHORITY FOR PILOT PROGRAM FOR PROVISION OF SPACE SURVEILLANCE NETWORK SERVICES TO NON-UNITED STATES GOVERNMENT ENTITIES.

Section 2274(i) of title 10, United States Code, is amended by striking "shall be conducted" and all that follows and inserting "may be conducted through September 30, 2009.".

SEC. 913. OPERATIONALLY RESPONSIVE SPACE.

(a) OPERATIONALLY RESPONSIVE SPACE PROGRAM OFFICE.—

(1) ESTABLISHMENT OF OFFICE.—Section 2273a of title 10, United States Code, is amended to read as follows:

"§2273a. Operationally Responsive Space Program Office

"(a) ESTABLISHMENT OF OFFICE.—(1) The Secretary of Defense shall establish within the Department of Defense an office to be known as the Operationally Responsive Space Program Office.

"(2) The head of the Office shall be the official in the Department of Defense who is designated by the Secretary of Defense as the Department of Defense Executive Agent for Space.

"(b) MISSION.—The mission of the Office shall be to contribute to the development of low-cost, rapid reaction payloads, spacelift, and launch control capabilities in order to fulfill joint military operational requirements for on-demand space support or reconstitution. The Office shall manage the program element required under subsection (g).

"(c) ORGANIZATION.—The Office shall be organized into integrated and co-located elements that include the following:

"(1) A science and technology section, which shall perform the functions specified in subsection (d).

"(2) An operations section, which shall perform the functions specified in subsection (e).

"(3) An acquisition section, which shall perform the functions specified in subsection (f).

"(d) SCIENCE AND TECHNOLOGY.—As directed by the head of the Office, the science and technology section shall pursue innovative approaches to the development of capabilities for operationally responsive space through basic and applied research focused on (but not limited to) payloads, bus, and launch equipment.

"(e) OPERATIONS.—As directed by the head of the Office, the operations section shall serve as the primary intermediary between the Office and the combatant commands in order to—

"(1) ascertain the needs of the warfighter; and

"(2) integrate operationally responsive space capabilities into—

"(A) operations plans of the combatant commands;

"(B) techniques, tactics, and procedures of the military departments; and

"(C) military exercises, demonstrations, and war games.

"(f) ACQUISITION.—(1) As directed by the head of the Office, the acquisition section shall undertake the acquisition of systems necessary to integrate, sustain, and launch assets for operationally responsive space.

"(2) In the case of any system or subsystem to be acquired by the Office, the acquisition may be carried out only after the commander of the United States Strategic Command has validated the system requirements for the system or subsystem to be acquired.

"(3) The commander of the United States Strategic Command shall participate in the approval of any acquisition program initiated by the Office.

"(g) REQUIRED PROGRAM ELEMENT.—(1) The Secretary of Defense shall ensure that, within budget program elements for space programs of the Department of Defense—

"(A) that there is a separate, dedicated program element for operationally responsive national security payloads and buses of the Department of Defense for space satellites; and

"(B) that programs and activities for such payloads and buses are planned, programmed, and budgeted for through that program element.

"(2) In this subsection, the term 'operationally responsive', with respect to a national security payload and bus for a space satellite, means an experimental or operational payload and bus with a weight not in excess of 5,000 pounds that—

"(A) can be developed and acquired within 18 months after authority to proceed with development is granted; and

"(B) is responsive to requirements for capabilities at the operational and tactical levels of warfare.".

(2) CLERICAL AMENDMENT.—The item relating to that section in the table of sections at the beginning of chapter 135 of such title is amended to read as follows:

"2273a. Operationally Responsive Space Program Office.".

(b) PLAN FOR OPERATIONALLY RESPONSIVE SPACE.—

(1) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a plan for the acquisition by the Department of Defense of capabilities for operationally responsive space to support the warfighter.

(2) ELEMENTS.—The plan required by paragraph (1) shall include the following:

(A) An identification of the capabilities required by the Department to fulfill the mission of the Department with respect to operationally responsive space.

(B) An identification of the roles and missions of each military department, Defense Agency, and other component or element of the Department of Defense for the fulfillment of the mission of the Department with respect to operationally responsive space.

(C) A description of the chain of command and reporting structure of the Operationally Responsive Space Program Office established under section 2273a of title 10, United States Code, as amended by subsection (a).

(D) A description of the classification of information required for that Office in order to ensure that the Office carries out its responsibilities in a proper and efficient manner.

(E) A description of the acquisition policies and procedures applicable to that Office, including a description of any legislative or administrative action necessary to provide the Office additional acquisition authority to carry out its responsibilities.

(F) A complete schedule for the implementation of the plan.

(G) The funding required to implement the plan over the course of the future-years defense program under section 221 of title 10, United States Code, in effect as of the submission of the plan.

(3) DEFINITION.—In this subsection, the term "operationally responsive space" means the development and launch of space assets upon demand in a low-cost manner.

Subtitle C—Chemical Demilitarization Program

SEC. 921. TRANSFER TO SECRETARY OF THE ARMY OF RESPONSIBILITY FOR ASSEMBLED CHEMICAL WEAPONS ALTERNATIVES PROGRAM.

Effective January 1, 2007, the text of section 142 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 1521 note) is amended to read as follows:

"(a) PROGRAM MANAGEMENT.—(1) The program manager for the Assembled Chemical Weapons Alternatives program shall report to the Secretary of the Army.

"(2) The Secretary of the Army shall provide for that program to be managed as part of the management organization within the Department of the Army specified in section 1412(e) of Public Law 99–145 (50 U.S.C. 1521(e)).

"(b) CONTINUED IMPLEMENTATION OF PREVIOUSLY SELECTED ALTERNATIVE TECHNOLOGIES.—(1) In carrying out the destruction of lethal chemical munitions at Pueblo Chemical Depot, Colorado, the Secretary of the Army shall continue to implement fully the alternative technology for such destruction at that depot selected by the Under Secretary of Defense for Acquisition, Technology, and Logistics on July 16, 2002.

"(2) In carrying out the destruction of lethal chemical munitions at Blue Grass Army Depot, Kentucky, the Secretary of the Army shall continue to implement fully the alternative technology for such destruction at that depot selected by the Under Secretary of Defense for Acquisition, Technology, and Logistics on February 3, 2003.".

SEC. 922. COMPTROLLER GENERAL REVIEW OF COST-BENEFIT ANALYSIS OF OFF-SITE VERSUS ON-SITE TREATMENT AND DISPOSAL OF HYDROLYSATE DERIVED FROM NEUTRALIZATION OF VX NERVE GAS AT NEWPORT CHEMICAL DEPOT, INDIANA.

(a) REVIEW REQUIRED.—Not later than December 1, 2006, the Comptroller General shall submit to Congress a report containing a review of the cost-benefit analysis prepared by the Secretary of the Army entitled "Cost-Benefit Analysis of Off-Site Versus On-Site Treatment and Disposal of Newport Caustic Hydrolysate" and dated April 24, 2006.

(b) CONTENT OF REVIEW.—In conducting the review under subsection (a), the Comptroller General shall consider and assess at a minimum the following matters:

(1) The adequacy of the rationale contained in the cost-benefit analysis referred to in subsection (a) in dismissing five of the eight technologies for hydrolysate treatment directed for consideration on page 116 of the the Report of the Committee on Armed Services of the House of Representatives on H.R. 1815 (House Report 109–89).

(2) The rationale for the failure of the Secretary of the Army to consider other technical solutions, such as constructing a wastewater disposal system at the Newport Chemical Depot.

(3) The adequacy of the cost-benefit analysis presented for the three technologies considered.

(c) DELAY PENDING REPORT.—The Secretary of the Army shall not proceed with any action to transport or relocate neutralized bulk nerve agent (other than those small quantities necessary for laboratory evaluation of the disposal process) from the Newport Chemical Depot until—

(1) the report required by subsection (a) is submitted, and

(2) a period of 60 days expires after the submission of the report.

SEC. 923. SENSE OF CONGRESS REGARDING THE SAFE AND EXPEDITIOUS DISPOSAL OF CHEMICAL WEAPONS.

(a) FINDINGS.—Congress makes the following findings:

(1) The disposal of chemical weapons needs to be accomplished as safely and expeditiously as possible.

(2) It is apparent, however, that any disposal method for chemical weapons that involves the transportation of chemical munitions or processed chemical munitions is difficult to implement

(b) SENSE OF CONGRESS.—In light of these findings, it is the sense of Congress that, when chemical munitions or processed chemical munitions are proposed for treatment or disposal at a location remote from the location where the munitions are stored—

(1) the method of actually selecting the disposal location should be free from political interference; and

(2) a process like that used for selecting and approving military installations for closure or realignment should be considered.

Subtitle D—Intelligence-Related Matters

SEC. 931. REPEAL OF TERMINATION OF AUTHORITY OF SECRETARY OF DEFENSE TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES ABROAD.

Section 431(a) of title 10, United States Code, is amended by striking the last sentence.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters
Sec. 1001. General transfer authority.
Sec. 1002. Authorization of supplemental appropriations for fiscal year 2006.
Sec. 1003. Increase in fiscal year 2006 general transfer authority.
Sec. 1004. United States contribution to NATO common-funded budgets in fiscal year 2007.
Sec. 1005. Report on budgeting for fluctuations in fuel cost rates.
Sec. 1006. Reduction in authorizations due to savings resulting from lower-than-expected inflation.
Subtitle B—Policy Relating to Vessels and Shipyards
Sec. 1011. Transfer of naval vessels to foreign nations based upon vessel class.
Sec. 1012. Overhaul, repair, and maintenance of vessels in foreign shipyards.
Sec. 1013. Report on options for future lease arrangement for Guam Shipyard.
Sec. 1014. Shipbuilding Industrial Base Improvement Program.
Sec. 1015. Transfer of operational control of certain patrol coastal ships to Coast Guard.
Sec. 1016. Limitation on leasing of foreign-built vessels.
Sec. 1017. Overhaul, repair, and maintenance of vessels carrying Department of Defense cargo.
Sec. 1018. Riding gang member documentation requirement.
Subtitle C—Counter-Drug Activities
Sec. 1021. Restatement in title 10, United States Code, and revision of Department of Defense authority to provide support for counter-drug activities of Federal, State, local, and foreign law enforcement agencies.
Sec. 1022. Restatement in title 10, United States Code, and revision of Department of Defense authority to provide support for counter-drug activities of certain foreign governments.
Sec. 1023. Extension of authority to support unified counterdrug and counterterrorism campaign in Colombia.
Sec. 1024. Continuation of reporting requirement regarding Department of Defense expenditures to support foreign counter-drug activities.
Sec. 1025. Report on interagency counter-narcotics plan for Afghanistan and South and Central Asian regions.
Subtitle D—Other Matters
Sec. 1031. Revision to authorities relating to Commission on the implementation of the New Strategic Posture of the United States.
Sec. 1032. Enhancement to authority to pay rewards for assistance in combating terrorism.
Sec. 1033. Report on assessment process of Chairman of the Joint Chiefs of Staff relating to Global War on Terrorism.
Sec. 1034. Presidential report on improving interagency support for United States 21st century national security missions.
Sec. 1035. Quarterly reports on implementation of 2006 Quadrennial Defense Review Report.
Sec. 1036. Increased hunting and fishing opportunities for members of the Armed Forces, retired members, and disabled veterans.
Sec. 1037. Technical and clerical amendments.
Sec. 1038. Database of emergency response capabilities.
Sec. 1039. Information on certain criminal investigations and prosecutions.
Sec. 1040. Date for final report of EMP Commission.

Subtitle A—Financial Matters

SEC. 1001. GENERAL TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—

(1) AUTHORITY.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2007 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) LIMITATION.—The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $3,750,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2006.

Amounts authorized to be appropriated to the Department of Defense and the Department of Energy for fiscal year 2006 in the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased by a supplemental appropriation or decreased by a rescission, or both, or are increased by a transfer of funds, pursuant to an emergency supplemental appropriations Act for 2006.

SEC. 1003. INCREASE IN FISCAL YEAR 2006 GENERAL TRANSFER AUTHORITY.

Section 1001(a)(2) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3418) is amended by striking "$3,500,000,000" and inserting "$3,750,000,000".

SEC. 1004. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2007.

(a) FISCAL YEAR 2007 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2007 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2006, of funds appropriated for fiscal years before fiscal year 2007 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $797,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), $310,277,000 for the Military Budget.

(d) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

SEC. 1005. REPORT ON BUDGETING FOR FLUCTUATIONS IN FUEL COST RATES.

(a) SECRETARY OF DEFENSE REPORT.—

(1) REPORT ON BUDGETING FOR FUEL COST FLUCTUATIONS.—Not later than January 15, 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the fuel rate and cost projection used in the annual Department of Defense budget presentation.

(2) MATTERS TO BE INCLUDED.—In the report under paragraph (1), the Secretary shall—

(A) identify alternative approaches for selecting fuel rates that would produce more realistic estimates of amounts required to be appropriated or otherwise made available for the Department of Defense to accommodate fuel rate fluctuations;

(B) discuss the advantages and disadvantages of each approach identified pursuant to subparagraph (A); and

(C) identify the Secretary's preferred approach among the alternative identified pursuant to subparagraph (A) and provide the Secretary's rationale for preferring that approach.

(3) IDENTIFICATION OF ALTERNATIVE APPROACHES.—In identifying alternative approaches pursuant to paragraph (2)(A), the Secretary shall examine—

(A) approaches used by other Federal departments and agencies; and

(B) the feasibility of using private economic forecasting.

(b) COMPTROLLER GENERAL REVIEW AND REPORT.—The Comptroller General shall review the report under subsection (a), including the basis for the Secretary's conclusions stated in the report, and shall submit, not later than March 15, 2007, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of that review.

SEC. 1006. REDUCTION IN AUTHORIZATIONS DUE TO SAVINGS RESULTING FROM LOWER-THAN-EXPECTED INFLATION.

(a) REDUCTION.—The total amount authorized to be appropriated by titles I, II, and III is the *amount equal to the sum of the separate amounts authorized to be appropriated by those titles reduced by $1,583,000,000.*

(b) SOURCE OF SAVINGS.—Reduction required in order to comply with subsection (a) shall be derived from savings resulting from lower-than-expected inflation.

(c) ALLOCATION OF REDUCTION.—The Secretary of Defense shall allocate the reduction required by subsection (a) among the amounts authorized to be appropriated for accounts in title I, II, and III to reflect the extent to which net savings from lower-than-expected inflation are allocable to amounts authorized to be appropriated to those accounts.

Subtitle B—Policy Relating to Vessels and Shipyards

SEC. 1011. TRANSFER OF NAVAL VESSELS TO FOREIGN NATIONS BASED UPON VESSEL CLASS.

Section 7307(a) of title 10, United States Code, is amended—

(1) by striking "disposition of that vessel is approved" and inserting "disposal of that vessel, or of a vessel of the class of that vessel, is authorized"; and

(2) by adding at the end the following new sentences: "In the case of an authorization by law for the disposal of such a vessel that names a specific vessel as being authorized for such disposal, the Secretary of Defense may substitute another vessel of the same class, if the vessel substituted has virtually identical capabilites as the named vessel. In the case of an authorization by law for the disposal of vessels of a specified class, the Secretary may dispose of vessels of that class pursuant to that authorization only in the number of such vessels specified in that law as being authorized for disposal.".

SEC. 1012. OVERHAUL, REPAIR, AND MAINTENANCE OF VESSELS IN FOREIGN SHIPYARDS.

(a) IN GENERAL.—Section 7310 of title 10, United States Code, is amended to read as follows:

"§7310. Overhaul, repair, etc. of vessels in foreign shipyards

"(a) IN GENERAL.—A vessel covered by this section the homeport of which is in the United States may not be overhauled, repaired, or maintained in a shipyard outside the United States, other than in the case of emergency voyage repairs.

"(b) COVERED VESSELS.—(1) Vessels covered by this section are the following:

"(A) Any naval vessel.

"(B) Any other vessel under the jurisdiction of the Secretary of the Navy, including any vessel under the jurisdiction of the Military Sealift Command that is owned or chartered by the United States.

"(2)(A) Notwithstanding paragraph (1), a naval vessel or other vessel certified by the Secretary of the Navy that is deployed conducting special mission operations is not subject to this section.

"(B) The Secretary of the Navy shall submit to the congressional defense committees each year a written certification of those vessels that are excluded from this section. The certification shall be submitted each year with the annual submission of the Navy budget justification materials.

"(c) CERTAIN VESSELS TO BE CONSIDERED TO BE HOMEPORTED IN UNITED STATES.—In the case of a vessel that does not have a designated homeport, the vessel shall be considered to have a homeport in the United States for the purposes of this section if any of the following applies to the vessel during the preceding 12-month period:

"(1) The vessel has operated within 1,400 nautical miles of the United States.

"(2) The vessel has returned to the United States more than two times.

"(3) The vessel has made a port call or return to the United States that exceeded seven days.

"(d) VESSEL CHANGING HOMEPORTS.—(1) In the case of a vessel covered by this section the homeport of which is not in the United States, the Secretary of the Navy may not during the 15-month period preceding the planned reassignment of the vessel to a homeport in the United States begin any work for the overhaul, repair, or maintenance of the vessel that is scheduled to be for a period of more than six months

"(2) In the case of a vessel covered by this section the homeport of which is in the United States, the Secretary of the Navy shall—

"(A) not less than 60 days before designating a homeport for that vessel at a location outside the United States, submit to Congress notification in writing of the intent to designate a homeport for that vessel outside the United States, together with the reasons for that designation; and

"(B) during the 15-month period preceding the planned reassignment of the vessel to a homeport not in the United States, perform in the United States any work for the overhaul, repair, or maintenance of the vessel that is scheduled—

"(i) to begin during the 15-month period; and

"(ii) to be for a period of more than six months.

"(e) DEFINITIONS.—In this section:

"(1)(A) The term 'emergency voyage repair' means the following:

"(i) Repairs on mission-essential or safety-essential items that are needed for a vessel to deploy, to continue on a deployment, or to comply with regulatory requirements.

"(ii) Standard maintenance, but only to the extent that such maintenance is absolutely necessary to ensure machinery and equipment operational reliability or to comply with regulatory requirements.

"(iii) Repair or maintenance that is not executed with a contract request for proposal.

"(B) Such term does not include corrective maintenance actions that may be deferred until the next scheduled regular overhaul and dry docking availability at a shipyard in the Unites States without degrading operational readiness, habitability standards, or personnel safety or adversely affecting regulatory compliance.

"(2) The term 'United States', when used in a geographic sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands.".

(b) EFFECTIVE DATE.—Subsection (c) of section 7310 of title 10, United States Code, as amended by subsection (a), shall take effect on October 1, 2006, or the date of the enactment of this Act, whichever is later, and shall apply only with respect to events specified in paragraphs (1), (2), and (3) of that subsection occurring on or after that effective date.

(c) LIMITATION ON APPLICATION TO VESSEL OPERATING UNDER EXISTING CHARTER.—This section does not affect the application of section 7310 of title 10, United States Code, to a vessel operating under a charter to the United States in effect on the date of the enactment of this Act, unless such charter is terminated or renewed after such date of enactment.

SEC. 1013. REPORT ON OPTIONS FOR FUTURE LEASE ARRANGEMENT FOR GUAM SHIPYARD.

(a) REPORT REQUIRED.— Not later than December 15, 2006, the Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Service of the House of Representatives a report describing the options available with respect to the Guam Shipyard in Santa Rita, Guam.

(b) CONTENTS OF REPORT.—The report required under subsection (a) shall include the following:

(1) An evaluation of the performance of the entities that, as of the date of the enactment of this Act, are the lessee and operators of the Guam Shipyard under the terms of the lease in effect on the date of the enactment of this Act.

(2) An evaluation of each of the following options with respect to the Guam Shipyard lease:

(A) Terminating the remaining term of the lease and issuing a new 25 year lease with the same entity.

(B) Terminating the remaining term of the lease with respect to the approximately 73 acres within the Guam Shipyard that are required for mission requirements and leaving the remaining term of the lease in effect with respect to the approximately 27 acres within the Facility that are not required for mission requirements.

(C) Terminating the remaining term of the lease and negotiating a new use arrangement with a different lessee or operator. The new use arrangement options shall include:

(i) Government-owned and government-operated facility.

(ii) Government-owned and contractor-operated facility.

(iii) Government-leased property for contractor-owned and contractor-operated facility.

(c) OPTIONS FOR NEW USE ARRANGEMENTS.—In evaluating the options under subsection (b)(2)(C), the Secretary of the Navy shall include an evaluation of each of the following:

(1) The anticipated future military vessel repair and workload on Guam in relation to the 2006 Quadrennial Defense Review, issued on February 6, 2006, pursuant to section 118 of title 10, United States Code.

(2) The anticipated military vessel repair and workload attributable to vessels comprising the Maritime Prepositioning Ship Squadron Three.

(3) The anticipated military vessel repair and workload due to a change in section 7310 of title 10, United States Code, that would designate Guam as a United States homeport facility.

(4) The expected workload if the submarine tender the U.S.S. Frank Cable (AS–40) is decommissioned.

(5) The estimated reacquisition costs of transferred Government property.

(6) Costs to improve floating dry dock mooring certification and required nuclear certification for the floating dry dock designated as AFDB–8 to conduct the following maintenance:

(A) Dry-docking selected restricted availabilities and mid-term availability for attack submarines.

(B) Dry-docking phased maintenance availabilities for amphibious vessels, including to amphibious assault ships, dock landing ships, and amphibious transport dock ships.

(C) Dry-docking phased maintenance availabilities for surface combatants, including cruisers, destroyers, and frigates.

(7) Commercial opportunities for development to expand commercial ship repair and general industrial services, given anti-terrorism force protection requirements at the current facility.

(8) Estimates from three contractors for the maintenance and repair costs associated with executing a multiship, multioption contract that would generate a minimum 60,000 manday commitment for the Department of the Navy and Military Sealift Command vessels.

(9) A projection of the maintenance and repair costs associated with executing a minimum 60,000 mandays for the Department of the Navy and Military Sealift Command vessels as a Government-owned and Government-operated Navy ship repair facility.

(d) INPUT FROM CONTRACTORS.—In evaluating the options under clauses (ii) and (iii) of subsection (b)(2)(C) for the purposes of paragraphs (1), (2), and (3) of subsection (c), the Secretary of the Navy shall seek input from at least three contractors on the viability of operations based

on the projected workload fiscal years 2008 through 2013.

(e) Recommendations.—The Secretary of the Navy shall include in the report the following:

(1) The recommendations of the Secretary with respect to continuation of the existing Guam Shipyard lease based on evaluations conducted pursuant to subsection (b)(1).

(2) The option under subsection (b)(2) that the Secretary recommends for fiscal year 2008.

(f) GAO Report.—Not later than March 1, 2007, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Service of the House of Representatives a report evaluating the report submitted by the Secretary of the Navy under subsection (a). The report shall include the option under subsection (b)(2) that the Secretary recommends for fiscal year 2008.

(g) Support for National Strategic Objectives.—For fiscal year 2007, the Secretary of the Navy, under the authority of section 2304(c)(3) of title 10, United States Code, and section 6.302-3(a)(2)(i) of the Federal Acquisition Regulation, shall award contracts to the Guam Shipyard in amounts equal to the average amount of the mandays contracts awarded to the Guam Shipyard for fiscal years 1998 through 2006 for the purpose of maintaining the industrial base in case of a national emergency or to achieve industrial mobilization.

SEC. 1014. SHIPBUILDING INDUSTRIAL BASE IMPROVEMENT PROGRAM.

(a) Program for United States Private Shipyards.—The Secretary of the Navy shall establish a program, to be known as the Shipbuilding Industrial Base Improvement Program, under which the Secretary—

(1) shall make grants to qualified applicants to facilitate the development of innovative design and production technologies and processes for naval vessel construction and the development of modernized shipbuilding infrastructure; and

(2) shall provide loan guarantees for qualifying shipyards to facilitate the acquisition by such shipyards of technologies, processes, and infrastructure to improve their productivity and cost effectiveness.

(b) Purposes of Program.—The purposes of the program established under subsection (a) are—

(1) to improve the efficiency and cost-effectiveness of the construction of naval vessels for the United States;

(2) to enhance the quality of naval vessel construction; and

(3) to promote the international competitiveness of United States shipyards for the construction of commercial ships and naval ships intended for sale to foreign governments.

(c) Selection of Grant Recipients.—

(1) Application for development funding.—An entity requesting a grant under subsection (a)(1) to develop new design or production technologies or processes for naval vessels or to improve shipbuilding infrastructure shall submit to the Secretary of the Navy an application that describes the proposal of the entity and provides evidence of its capability to develop one or more of the following:

(A) Numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology designed to improve shipbuilding and related industrial productivity.

(B) Novel techniques and processes designed to improve shipbuilding quality, productivity, and practice on a broad and sustained basis, including in such areas as engineering design, quality assurance, concurrent engineering, continuous process production technology, employee skills enhancement, and management of customers and suppliers.

(C) Technology, techniques, and processes appropriate to enhancing the productivity of shipyard infrastructure.

(2) Selection .—From applications submitted under paragraph (1), the Secretary of the Navy shall select entities to receive funds under subsection (a)(1) based on their ability to research and develop innovative technologies, processes, and infrastructure to alleviate areas of shipyard construction inefficiencies as determined through the assessment described in subsection (f).

(d) Matching Requirement for Grants.—

(1) Federal funding.—Except as provided in paragraph (2), Federal funds from a grant under subsection (a)(1) for any purpose shall not exceed 75 percent of the total cost.

(2) Exceptions.—

(A) Small projects.—Paragraph (1) shall not apply to grants under this section for standalone projects costing not more than $25,000. The amount under this subparagraph shall be indexed to the consumer price index and modified each fiscal year after the annual publication of the consumer price index.

(B) Reduction in matching requirement.—If the Secretary of the Navy determines that a proposed project merits support and cannot be undertaken without a higher percentage of Federal financial assistance, the Secretary may award a grant for such project with a lesser matching requirement than is described in paragraph (1).

(e) Loan Guarantees for Shipyard Use of Developed Technologies, Processes, and Infrastructure.—

(1) In general.—Upon making a determination that a technology, a process, or an infrastructure improvement (whether developed using a grant under subsection (a)(1), through the National Shipbuilding Research Program, or otherwise) will improve the productivity and cost-effectiveness of naval vessel construction, the Secretary of the Navy may provide a loan guarantee under subsection (a)(2) for a qualifying shipyard to facilitate the purchase by such shipyard of such technology, process, or infrastructure improvement.

(2) Payment of cost of loan guarantee.—The cost of a guarantee under this subsection shall be paid for with amounts made available in appropriations Acts.

(3) Percentage limitation; term.—A loan guarantee under this subsection may apply—

(A) to up to 87.5 percent of the loan principal; and

(B) for a term of up to 30 years.

(4) Authorities, procedures, requirements, and restrictions.—The Secretary of the Navy, subject to the other provisions of this section—

(A) in implementing this section, may exercise authorities that are similar to the authorities available to the Secretary of Transportation under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), with respect to loan guarantees under that title; and

(B) may establish such additional requirements for loan guarantees under this section as the Secretary determines to be necessary to minimize the cost of such guarantees.

(5) Limitation on total amount of loan guarantees.—The total amount of loans for which guarantees are provided under this subsection may not exceed $1,000,000,000.

(6) Definitions.—In this subsection:

(A) Qualifying shipyard.—The term "qualifying shipyard", with respect to a loan guarantee under this section, means a shipyard that, over the three years preceding the year in which the loan guarantee is made, derived less than 40 percent of its revenue either directly or indirectly from United States Government contracts.

(B) Cost.—The term "cost", with respect to a loan guarantee under this section, has the meaning given that term in section 502 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 661a), with cost for that purpose calculated assuming that the borrowing entity receives no revenue directly or indirectly from United States Government contracts.

(7) Termination of authority.—The authority of the Secretary of the Navy to provide loan guarantees under this subsection expires at the close of September 30, 2011.

(f) Assessments of Naval Vessel Construction Inefficiencies.—

(1) Periodic assessments required.—The Secretary of the Navy shall conduct, in the third quarter of each fiscal year or as often as necessary, an assessment of the following aspects of naval vessel construction to determine where and to what extent inefficiencies exist and to what extent innovative design and production technologies, processes, and infrastructure can be developed to alleviate such inefficiencies:

(A) Program design, engineering, and production engineering.

(B) Organization and operating systems.

(C) Steelwork production.

(D) Ship construction and outfitting.

(2) Consideration of prior assessments.—In making the assessments required by paragraph (1), the Secretary shall take into consideration the results of—

(A) the study of the cost effectiveness of the ship construction program of the Navy required by section 1014 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2041); and

(B) the assessment of the United States naval shipbuilding industry required by section 254 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3180).

(g) Availability of Funds.—

(1) Authority subject to availability of appropriations.—The authority of the Secretary of the Navy to make grants and provide loan guarantees under this section for any fiscal year is subject to the availability of appropriations for that purpose.

(2) Fiscal year 2007.—Of the amount authorized to be appropriated pursuant to section 201(2) for research, development, test, and evaluation for the Navy for fiscal year 2007—

(A) $50,000,000 shall be available to the Secretary of the Navy only to make grants under this section; and

(B) $50,000,000 shall be available only for the cost (as defined in subsection (e)(6)(B)) of loan guarantees under this section.

(h) Identification in Budget of Annual Amount for Support of NSRP Activities.—Amounts in the budget of the President for any fiscal year for research, development, test, and evaluation for the Navy that are intended to be made available for the National Shipbuilding Research Program shall be separately identified and set forth in budget justification materials submitted to Congress for that fiscal year in support of that budget.

(i) Definition of Shipyard.—In this section, the term "shipyard" means a private shipyard located in the United States the business of which includes the construction, repair, and maintenance of United States naval vessels.

SEC. 1015. TRANSFER OF OPERATIONAL CONTROL OF CERTAIN PATROL COASTAL SHIPS TO COAST GUARD.

Not later than September 30, 2008, the Secretary of the Navy shall enter into an agreement with the Commandant of the Coast Guard for the transfer by the Secretary of the Navy to the Coast Guard of operational control of not less than five 179-foot Cyclone-class patrol coastal *ships for a period extending at least through September 30, 2012.*

SEC. 1016. LIMITATION ON LEASING OF FOREIGN-BUILT VESSELS.

(a) In General.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2401a the following new section:

"§2401b. Limitation on lease of foreign-built vessels

"(a) Limitation.—The Secretary of a military department may not make a contract for a lease or charter of a vessel for a term of more than 24 months (including all options to renew or extend the contract) if the hull, or a component of the hull and superstructure of the vessel, is constructed in a foreign shipyard.

"(b) Presidential Waiver for National Security Interest.—(1) The President may authorize exceptions to the limitation in subsection (a) when the President determines that it is in the national security interest of the United States to do so.

"(2) The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date on which the notice of the determination is received by Congress.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2401a the following new item:

"2401b. Limitation on lease of foreign-built vessels.".

(b) Effective Date.—Section 2401b of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into after the date of the enactment of this Act.

SEC. 1017. OVERHAUL, REPAIR, AND MAINTENANCE OF VESSELS CARRYING DEPARTMENT OF DEFENSE CARGO.

The Secretary of Defense may not award any contract for the carriage by vessel of cargo for the Department of Defense, unless the contract includes a requirement under which the contractor shall—

(1) ensure that all overhaul, repair, and maintenance performed on the vessel during the period of the contract is performed in a shipyard located in the United States; or

(2) report to the Secretary every fiscal year quarter all overhaul, repair, and maintenance performed on the vessel in a shipyard located outside the United States during the period covered by the report.

SEC. 1018. RIDING GANG MEMBER DOCUMENTATION REQUIREMENT.

(a) Requirement.—The Secretary of Defense may not award any charter of a vessel for the Department of Defense, or contract for the carriage of cargo by vessel for the Department of Defense, unless the charter or contract, respectively, requires that each riding gang member that performs any work on the vessel during the effective period of the charter or contract holds a merchant mariner's document issued under chapter 73 of title 46, United States Code.

(b) Riding Gang Member Defined.—In this section the term "riding gang member" means an individual who—

(1) does not perform—

(A) watchstanding, automated engine room duty watch, or personnel safety functions; or

(B) cargo handling functions, including any activity relating to the loading or unloading of cargo, the operation of cargo-related equipment (whether or not integral to the vessel), and the handling of mooring lines on the dock when the vessel is made fast or let go;

(2) does not serve as part of the crew complement required under section 8101 of title 46, United States Code;

(3) is not a member of the steward's department; and

(4) is not a citizen or temporary or permanent resident of a country designated by the United States as a sponsor of terrorism or any other country that the Secretary of Defense, in consultation with the Secretary of State and the heads of other appropriate United States agencies, determines to be a security threat to the United States.

(c) Limitations on Application.—

(1) Vessel operating under existing charter or contract.—This section does not apply with respect to a vessel operating under a charter or contract in effect on the date of the enactment of this section, unless such charter or contract is renewed after such date of enactment.

(2) Exemptions by secretary of defense.—

(A) In general.—The Secretary of Defense may issue regulations that exempt a riding gang member from subsection (a) for the performance of specific technical work on original equipment of a vessel.

(B) Background check.—Such regulations shall include a requirement that a riding gang member must pass a background check before performing work under such an exemption.

Subtitle C—Counter-Drug Activities

SEC. 1021. RESTATEMENT IN TITLE 10, UNITED STATES CODE, AND REVISION OF DEPARTMENT OF DEFENSE AUTHORITY TO PROVIDE SUPPORT FOR COUNTER-DRUG ACTIVITIES OF FEDERAL, STATE, LOCAL, AND FOREIGN LAW ENFORCEMENT AGENCIES.

(a) Restatement and Revision of Authority.—Chapter 18 of title 10, United States Code, is amended by adding at the end a new section 383 consisting of—

(1) a heading as follows:

***"§383. Support for counter-drug activities: Federal, State, local, and foreign law enforcement agencies"**; and*

(2) a text consisting of the text of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note), revised as follows:

(A) In subsection (a), by replacing "During fiscal years 2002 through 2006, the" with "The".

(B) In subsection (e), by replacing "section 376 of title 10, United States Code," with "section 376 of this title,".

(C) In subsection (f), by deleting the parenthetical phrase beginning "(including training" and ending "1564))".

(D) In subsection (g)—

(i) in paragraph (1), by replacing "chapter 18, United States Code" with "this chapter"; and

(ii) in paragraph (2), by replacing "title 10, United States Code" with "this title".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"383. Support for counter-drug activities: Federal, State, local, and foreign law enforcement agencies.".

(c) Repeal of Fiscal Year 1991 Authority.—Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note) is repealed.

SEC. 1022. RESTATEMENT IN TITLE 10, UNITED STATES CODE, AND REVISION OF DEPARTMENT OF DEFENSE AUTHORITY TO PROVIDE SUPPORT FOR COUNTER-DRUG ACTIVITIES OF CERTAIN FOREIGN GOVERNMENTS.

(a) Restatement and Revision of Authority.—Chapter 18 of title 10, United States Code, is amended by inserting after section 383, as added by section 1021, a new section 384 consisting of—

(1) a heading as follows:

***"§384. Support for counter-drug activities: foreign governments"**; and*

(2) a text consisting of the text of section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881), revised as follows:

(A) In subsection (a)(2)—

(i) by deleting the first sentence; and

(ii) by replacing "the governments" with "those governments".

(B) In subsection (b), by adding at the end the following new paragraphs:

"(10) The Government of Azerbaijan.

"(11) The Government of Kazakhstan.

"(12) The Government of Kyrgyzstan.

"(13) The Government of Guatemala.

"(14) The Government of Belize.

"(15) The Government of Panama.".

(C) In subsection (c), by replacing paragraphs (1), (2), and (3) with the following new paragraphs:

"(1) The transfer of nonlethal protective and utility personnel equipment.

"(2) The transfer of the following nonlethal specialized equipment:

"(A) Navigation equipment.

"(B) Secure and nonsecure communications equipment.

"(C) Photo equipment.

"(D) Radar equipment.

"(E) Night vision systems.

"(3) The transfer of nonlethal components, accessories, attachments, parts (including ground support equipment), firmware, and software and repair equipment related to the equipment specified in paragraph (2).

"(4) The transfer of patrol boats, vehicles, and aircraft and detection, interception, monitoring and testing equipment.

"(5) The maintenance and repair or upgrade of equipment of the government that is used for counter-drug activities.

"(6) For fiscal years 2007 and 2008, for the Government of Afghanistan only, individual and crew-served weapons of 50 caliber or less and ammunition for such weapons for counternarcotics security forces.".

(D) In subsection (d), by replacing "the provisions of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note)" with "section 383 of this title".

(E) By replacing subsection (e) with the following new subsection (e):

"(e) Limitation on Obligations.—Amounts made available to carry out this section shall remain available until expended, except that the total amount obligated and expended under this section may not exceed $40,000,000 during fiscal year 2006 or $60,000,000 during fiscal year 2007 or fiscal year 2008.".

(F) In subsection (f), by replacing paragraphs (3) and (4) with the following new paragraph:

"(3) For purposes of this subsection and subsection (h), the term 'congressional committees' means the following:

"(A) The Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate.

"(B) The Committee on Armed Services, the Committee on Appropriations, and the Committee on International Relations of the House of Representatives.".

(G) In subsection (g)(1), by replacing "United States Armed Forces" with "armed forces".

(H) In subsection (h)—

(i) in the first sentence, by replacing "prepare for fiscal year 2004 (and revise as necessary for subsequent fiscal years) a counter-drug plan" with "submit to the congressional committees not later than December 31 of each fiscal year a counter-drug plan for the next fiscal year"; and

(ii) by adding at the end the following new paragraph:.

"(10) A copy of the certification required by subsection (f)(1) with respect to the government.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section

383, as added by section 1021, the following new item:

"384. Support for counter-drug activities: foreign governments.".

(c) Repeal of Fiscal Year 1998 Authority.—Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1881) is repealed.

SEC. 1023. EXTENSION OF AUTHORITY TO SUPPORT UNIFIED COUNTERDRUG AND COUNTERTERRORISM CAMPAIGN IN COLOMBIA.

Section 1021 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2042) is amended—

(1) in subsection (a)(1), by striking "and 2006" and inserting "through 2008"; and

(2) in subsection (c), by striking "and 2006" and inserting "through 2008".

SEC. 1024. CONTINUATION OF REPORTING REQUIREMENT REGARDING DEPARTMENT OF DEFENSE EXPENDITURES TO SUPPORT FOREIGN COUNTERDRUG ACTIVITIES.

(a) Additional Report Required.—Section 1022 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–255), as amended by section 1022 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1215) and section 1021 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3426), is further amended by inserting "and February 15, 2007," after "April 15, 2006,".

(b) Form of Report and Additional Information Required.—Such section is further amended—

(1) in the first sentence, by inserting ", in both classified and unclassified form," after "report"; and

(2) in paragraph (2), by inserting before the period at the end the following: "and the amount of funds provided for each type of counter-drug activity assisted".

SEC. 1025. REPORT ON INTERAGENCY COUNTERNARCOTICS PLAN FOR AFGHANISTAN AND SOUTH AND CENTRAL ASIAN REGIONS.

(a) Report Required.—Not later than December 31, 2006, the Secretary of Defense shall submit to the congressional defense committees a report updating the interagency counter-narcotics implementation plan for Afghanistan and the South and Central Asian regions, including Turkmenistan, Uzbekistan, Tajikistan, Kyrgyzstan, Kazakhstan, Iran, Azerbaijan, Pakistan, India, and China, originally prepared pursuant to section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881).

(b) Consultation.—The report under this section shall be prepared in consultation with the Secretary of State, the Administrator of the Agency for International Development, and the Director of the Drug Enforcement Administration.

(c) Matters To Be Included.—The report shall include the following for each foreign government covered by the report:

(1) A consideration of what activities should be reallocated among the United States and the foreign government based on the capabilities of each department and agency involved.

(2) Any measures necessary to clarify the legal authority required to complete the mission and the measures necessary for the United States to successfully complete its counter-narcotics efforts in Afghanistan and the South and Central Asian regions.

(3) Current and proposed United States funding to support counter-narcotics activities of the foreign government.

Subtitle D—Other Matters

SEC. 1031. REVISION TO AUTHORITIES RELATING TO COMMISSION ON THE IMPLEMENTATION OF THE NEW STRATEGIC POSTURE OF THE UNITED STATES.

Section 1051 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3431) is amended—

(1) in subsections (b)(1)(E) and (b)(2)(B), by striking "though 2008" and inserting "through 2025";

(2) in subsection (c)(1), by striking "Not later than June 30, 2007" and inserting "Not later than 18 months after the date of the Commission's first meeting"; and

(3) in subsection (f), by striking "July 30, 2007" and inserting "60 days after the date of the submission of its report".

SEC. 1032. ENHANCEMENT TO AUTHORITY TO PAY REWARDS FOR ASSISTANCE IN COMBATING TERRORISM.

(a) Increase in Delegation Limitation.—Paragraph (2) of section 127b(c) of title 10, United States Code, is amended by striking "$2,500" and inserting "$10,000".

(b) Expansion of Senior Officers to Whom Combatant Commander Authority May Be Delegated.—Such paragraph is further amended—

(1) by inserting after "deputy commander" the following: ", or to the commander of a command directly subordinate to that commander,"; and

(2) by adding at the end the following new sentence: "Such a delegation may be made to the commander of a command directly subordinate to the commander of a combatant command only with the approval of the Secretary of Defense, the Deputy Secretary of Defense, or an Under Secretary of Defense designated by the Secretary.".

SEC. 1033. REPORT ON ASSESSMENT PROCESS OF CHAIRMAN OF THE JOINT CHIEFS OF STAFF RELATING TO GLOBAL WAR ON TERRORISM.

Not later than March 1, 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the findings of the semiannual assessment process relating to the Global War on Terrorism that is described in the annex to the National Military Strategic Plan for the War on Terrorism, issued by the Secretary of Defense on February 1, 2006, that is designated as the Implementation and Assessment Annex (Annex R).

SEC. 1034. PRESIDENTIAL REPORT ON IMPROVING INTERAGENCY SUPPORT FOR UNITED STATES 21ST CENTURY NATIONAL SECURITY MISSIONS.

(a) Report Required.—Not later than February 1, 2007, the President shall submit to Congress a report on building interagency capacity and enhancing the integration of civilian capabilities of the executive branch with the capabilities of the Armed Forces as required to achieve United States national security goals and objectives. To the maximum extent practicable, the report shall be unclassified, with a classified annex if necessary.

(b) Report Elements.—The report under subsection (a) shall include the following:

(1) An assessment of the capabilities required within the executive branch (other than the Armed Forces) to achieve the full spectrum of United States national security goals and objectives, to defend United States national security interests, and, in particular, to coordinate with the efforts of elements of the Armed Forces where deployed, including at least in the following areas:

(A) Organizations and organizational structure.

(B) Planning and assessment capabilities.

(C) Information sharing policies, practices, and systems.

(D) Leadership issues, including command and control of forces and personnel in the field.

(E) Personnel policies and systems, including recruiting, retention, training, education, promotion, awards, employment, deployment, and retirement.

(F) Acquisition authorities.

(2) The criteria and considerations used to evaluate progress in each of the areas specified in paragraph (1) towards building and integrating the interagency capacities required to achieve United States national security goals and objectives.

(3) Recommendations for specific legislative proposals that would improve interagency capacity and enhance the integration of civilian capabilities with the capabilities of deployed elements of the Armed Forces for each of the areas specified in paragraph (1).

SEC. 1035. QUARTERLY REPORTS ON IMPLEMENTATION OF 2006 QUADRENNIAL DEFENSE REVIEW REPORT.

(a) Reports Required.—Not later than 30 days after the end of each fiscal-year quarter, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the implementation of recommendations described in the Department of Defense 2006 Quadrennial Defense Review Report.

(b) Contents of Reports.—Each quarterly report under subsection (a) shall, at a minimum—

(1) describe the processes and procedures established by the Secretary of Defense to examine the various recommendations referred to in subsection (a);

(2) discuss implementation plans and strategies for each area highlighted by the Quadrennial Defense Review Report;

(3) provide relevant information about the status of such implementation; and

(4) indicate changes in the Secretary's assessment of the defense strategies or capabilities required since the publication of the 2006 Quadrennial Defense Review Report.

(c) Initial Report.—The first report under subsection (a) shall be submitted not later than January 31, 2007.

(d) Expiration of Requirement.—The reporting requirement in subsection (a) shall terminate upon the earlier of the following:

(1) The date of the publication of the next Quadrennial Defense Review Report after the date of the enactment of this Act pursuant to section 118 of title 10, United States Code.

(2) The date of transmission of a written notification by the Secretary of Defense to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives that implementation of the recommendations of the 2006 Quadrennial Defense Review is complete.

SEC. 1036. INCREASED HUNTING AND FISHING OPPORTUNITIES FOR MEMBERS OF THE ARMED FORCES, RETIRED MEMBERS, AND DISABLED VETERANS.

(a) Access for Members, Retired Members, and Disabled Veterans.—Consistent with section 2671 of title 10, United States Code, and using such funds as are made available for this purpose, the Secretary of Defense shall ensure that members of the Armed Forces, retired members, disabled veterans, and persons assisting disabled veterans are able to utilize lands under the jurisdiction of the Department of Defense that are available for hunting or fishing.

(b) Assessment.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report containing the results of an assessment of those lands under the jurisdiction of the Department of Defense and suitable for hunting or fishing and describing the actions necessary—

(1) to further increase the acreage made available to members of the Armed Forces, retired members, disabled veterans, and persons assisting disabled veterans for hunting and fishing; and

(2) to make that acreage more accessible to disabled veterans.

(c) RECREATIONAL ACTIVITIES ON SANTA ROSA ISLAND.—The Secretary of the Interior shall immediately cease the plan, approved in the settlement agreement for case number 96–7412 WJR and case number 97–4098 WJR, to exterminate the deer and elk on Santa Rosa Island, Channel Islands, California, by helicopter and shall not exterminate or nearly exterminate the deer and elk.

SEC. 1037. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 1406(i)(3)(B)(vi) is amended by striking "Advisor for" and inserting "Advisor to".

(2) Section 2105 is amended by striking by adding a period at the end of the last sentence.

(3) Section 2703(h) is amended by striking "subsection" in the first sentence and inserting "section".

(b) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 210(c)(6) is amended by striking "Advisor for" and inserting "Advisor to".

(2) Section 308g(h) is amended by striking the second period at the end.

(3) Section 308j is amended by striking subsection (g) and inserting the following new subsection:

"(g) REPAYMENT.—A person who enters into an agreement under this section and receives all or part of the bonus under the agreement, but who does not accept a commission or an appointment as an officer or does not commence to participate or does not satisfactorily participate in the Selected Reserve for the total period of service specified in the agreement, shall be subject to the repayment provisions of section 303a(e) of this title.".

(4) Section 414(c) is amended by striking ", or the Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff" before the period at the end.

(c) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006.—Effective as of January 6, 2006, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) is amended as follows:

(1) Section 608(b) (119 Stat. 3289) is amended—

(A) in paragraph (1), by striking "the first sentence" and inserting "the second sentence"; and

(B) in paragraph (2), by striking "the second sentence" and inserting "the third sentence".

(2) Section 683 (119 Stat. 3322) is amended—

(A) in subsection (a)(3), by striking "section 4873" and inserting "section 4837";

(B) in subsetion (c)(3), by striking "section 9873" and inserting "section 9837".

(C) in subsection (b)(2)—

(i) by striking "by striking the penultimate word." and inserting "to read as follows:"; and

(ii) by adding at the end the following:

"6161. Settlement of accounts: remission or cancellation of indebtedness of members.".

(3) Section 685(a) (119 Stat. 3325) is amended by striking "Advisor for" both places it appears and inserting "Advisor to".

(4) Section 687(a)(2) (119 Stat. 3327) is amended by striking "subsection (a)" and inserting "subsection (e)".

(5) Section 687(b)(15) (119 Stat. 3330) is amended—

(A) by striking "Subsection (d)" and inserting "Subsection (e)"; and

(B) in the matter inserted by that section, by striking "(d) REPAYMENT.—" and inserting "(e) REPAYMENT.—".

SEC. 1038. DATABASE OF EMERGENCY RESPONSE CAPABILITIES.

The Secretary of Defense shall ensure that a database of emergency response capabilities is maintained by the Department of Defense that includes the following:

(1) The types of capabilities that each State's National Guard will likely provide in response to domestic natural and manmade disasters, both to their home States and under State-to-State mutual assistance agreements.

(2) The types of capabilities that the Department of Defense will likely provide in order to fulfill Department of Defense responsibilities to provide support under the National Response Plan's 15 Emergency Support Functions, as well as identification of the units that provide those capabilities.

SEC. 1039. INFORMATION ON CERTAIN CRIMINAL INVESTIGATIONS AND PROSECUTIONS.

(a) ANNUAL REPORT.—Subsection (c) of section 1093 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2070) is amended—

(1) in paragraph (1)—

(A) by inserting ", or any prosecution on account of," after "Notice of any investigation into"; and

(B) by inserting before the period at the end the following: ", and, as to any such criminal investigation or prosecution described in this paragraph, a detailed and comprehensive description of such investigation or prosecution and any resulting judicial or nonjudicial punishment or other disciplinary action"; and

(2) by adding at the end the following new paragraph:

"(3) Information about any officer nominated for command, or nominated for promotion or appointment to a position requiring the advice and consent of the Senate, who has been subject to any investigation into, or prosecution of, a violation of international obligations or laws of the United States regarding the treatment of individuals detained by the United States Armed Forces or by a person providing services to the Department of Defense on a contractual basis, if the inclusion of such information in the report will not compromise any ongoing criminal or administrative investigation or prosecution, and including the following:

"(A) A description of any allegation of detainee death, torture or abuse.

"(B) The status of any investigation or prosecution.

"(C) Any judicial or nonjudicial punishment or other disciplinary action.".

(b) NOMINATION INFORMATION.—Such section is further amended by adding at the end the following new subsection:

"(f) NOMINATIONS.—Information described in paragraph (3) of subsection (c), in addition to being included in the annual report under that subsection, shall be submitted to the Committee of Armed Services of the Senate and the Committee on Armed Services of the House of Representatives on a regular, timely basis in advance of any nomination described in that paragraph.".

SEC. 1040. DATE FOR FINAL REPORT OF EMP COMMISSION.

(a) REVISED DEADLINE FOR SUBMISSION OF FINAL REPORT.—The final report of the EMP Commission shall be submitted to Congress not later than the end of the 18-month period beginning on the date of the commission's first meeting after being reestablished pursuant to section 1052 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3434) (rather than the date prescribed in section 1403(a) of the Commisssion Charter).

(b) DEFINITIONS.—For purposes of this section:

(1) EMP COMMISSION.—The term "EMP Commission" means the Commission to Assess the Threat to the United States from Electromagnetic Pulse (EMP) Attack Commission, established pursuant to title XIV of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A-345 et seq.) and reestablished pursuant to section 1052 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3434).

(2) COMMISSION CHARTER.—The term "Commission charter" means title XIV of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A-345 et seq.), as amended by section 1052 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3434).

TITLE XI—CIVILIAN PERSONNEL MATTERS

Sec. 1101. Increase in authorized number of defense intelligence senior executive service employees.
Sec. 1102. Authority for Department of Defense to pay full replacement value for personal property claims of civilians.
Sec. 1103. Accrual of annual leave for members of the uniformed services performing dual employment.
Sec. 1104. Death gratuity authorized for Federal employees.

SEC. 1101. INCREASE IN AUTHORIZED NUMBER OF DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE EMPLOYEES.

Section 1606(a) of title 10, United States Code, is amended by striking "594" and inserting "644".

SEC. 1102. AUTHORITY FOR DEPARTMENT OF DEFENSE TO PAY FULL REPLACEMENT VALUE FOR PERSONAL PROPERTY CLAIMS OF CIVILIANS.

Section 2636a(a) of title 10, United States Code, is amended by striking "of baggage and household effects for members of the armed forces at Government expense" and inserting "at Government expense of baggage and household effects for members of the armed forces or civilian employees of the Department of Defense (or both)".

SEC. 1103. ACCRUAL OF ANNUAL LEAVE FOR MEMBERS OF THE UNIFORMED SERVICES PERFORMING DUAL EMPLOYMENT.

Section 5534a of title 5, United States Code, is amended by adding at the end the following new sentence: "Such a member also is entitled to accrue annual leave with pay in the manner specified in section 6303(a) of this title for a retired member of a uniformed service.".

SEC. 1104. DEATH GRATUITY AUTHORIZED FOR FEDERAL EMPLOYEES.

(a) DEATH GRATUITY AUTHORIZED.—Chapter 81 of title 5, United States Code, is amended by inserting after section 8102 the following new section:

"§8102a. Death gratuity

"(a) DEATH GRATUITY AUTHORIZED.—The United States shall pay a death gratuity of $100,000 to or for the survivor prescribed by subsection (d) immediately upon receiving official notification of the death of an employee who dies of injuries incurred in connection with the employee's service with an Armed Force in a contingency operation, or who dies of injuries incurred in connection with a terrorist incident occurring during the employee's service with an Armed Force.

"(b) RETROACTIVE PAYMENT IN CERTAIN CASES.—With respect to an employee who dies on or after October 7, 2001, as a result of wounds, injuries, or illnesses incurred in the performance of duty in the theater of operations of Operation Enduring Freedom or Operation Iraqi Freedom, subsection (a) also shall apply.

"(c) OTHER BENEFITS.—The death gratuity payable under this section is in addition to any death benefits otherwise provided for in law.

"(d) ELIGIBLE SURVIVORS.—

"(1) A death gratuity payable upon the death of a person covered by subsection (a) shall be paid to or for the living survivor highest on the following list:

"(A) The employee's surviving spouse.

"(B) The employee's children, as prescribed by paragraph (2), in equal shares.

"(C) If designated by the employee, any one or more of the following persons:

"(i) The employee's parents or persons in loco parentis, as prescribed by paragraph (3).

"(ii) The employee's brothers.

"(iii) The employee's sisters.

"(D) The employee's parents or persons in loco parentis, as prescribed by paragraph (3), in equal shares.

"(E) The employee's brothers and sisters in equal shares.

Subparagraphs (C) and (E) of this paragraph include brothers and sisters of the half blood and those through adoption.

"(2) Paragraph (1)(B) applies, without regard to age or marital status, to—

"(A) legitimate children;

"(B) adopted children;

"(C) stepchildren who were a part of the decedent's household at the time of death;

"(D) illegitimate children of a female decedent; and

"(E) illegitimate children of a male decedent—

"(i) who have been acknowledged in writing signed by the decedent;

"(ii) who have been judicially determined, before the decedent's death, to be his children;

"(iii) who have been otherwise proved, by evidence satisfactory to the employing agency, to be children of the decedent; or

"(iv) to whose support the decedent had been judicially ordered to contribute.

"(3) Subparagraphs (C) and (D) of paragraph (1), so far as they apply to parents and persons in loco parentis, include fathers and mothers through adoption, and persons who stood in loco parentis to the decedent for a period of not less than one year at any time before the decedent became an employee. However, only one father and one mother, or their counterparts in loco parentis, may be recognized in any case, and preference shall be given to those who exercised a parental relationship on the date, or most nearly before the date, on which the decedent became an employee.

"(4) If an eligible survivor dies before he receives the death gratuity, it shall be paid to the living survivor next in the order prescribed by paragraph (1).

"(e) DEFINITIONS.—The term 'contingency operation' has the meaning given to that term in section 1482a(c) of title 10, United States Code.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 81 of such title is amended by inserting after the item relating to section 8102 the following new item:

"8102a. Death gratuity.".

TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

Subtitle A—Assistance and Training

Sec. 1201. Logistic support for allied forces participating in combined operations.
Sec. 1202. Temporary authority to use acquisition and cross-servicing agreements to lend certain military equipment to foreign forces in Iraq and Afghanistan for personnel protection and survivability.
Sec. 1203. Recodification and revision to law relating to Department of Defense humanitarian demining assistance.
Sec. 1204. Enhancements to Regional Defense Combating Terrorism Fellowship Program.
Sec. 1205. Capstone overseas field studies trips to People's Republic of China and Republic of China on Taiwan.
Sec. 1206. Military educational exchanges between senior officers and officials of the United States and Taiwan.

Subtitle B—Nonproliferation Matters and Countries of Concern

Sec. 1211. Procurement restrictions against foreign persons that transfer certain defense articles and services to the People's Republic of China.

Subtitle C—Other Matters

Sec. 1221. Execution of the President's policy to make available to Taiwan diesel electric submarines.

Subtitle A—Assistance and Training

SEC. 1201. LOGISTIC SUPPORT FOR ALLIED FORCES PARTICIPATING IN COMBINED OPERATIONS.

(a) AUTHORITY.—Chapter 3 of title 10, United States Code, is amended by inserting after section 127b the following new section:

"§ 127c. Allied forces participating in combined operations: authority to provide logistic support, supplies, and services

"(a) AUTHORITY.—Subject to subsections (b) and (c), the Secretary of Defense may provide logistic support, supplies, and services to allied forces participating in a combined operation with the armed forces. Provision of such support, supplies, and services to the forces of an allied nation may be made only with the concurrence of the Secretary of State.

"(b) LIMITATIONS.—The authority provided by subsection (a) may be used only—

"(1) in accordance with the Arms Export Control Act and other export control laws of the United States; and

"(2) for a combined operation—

"(A) that is carried out during active hostilities or as part of a contingency operation or a noncombat operation (including an operation in support of the provision of humanitarian or foreign disaster assistance, a country stabilization operation, or a peacekeeping operation under chapter VI or VII of the Charter of the United Nations); and

"(B) in a case in which the Secretary of Defense determines that the allied forces to be provided logistic support, supplies, and services (i) are essential to the success of the combined operation, and (ii) would not be able to participate in the combined operation but for the provision of such logistic support, supplies, and services by the Secretary.

"(c) LIMITATION ON VALUE.—The value of logistic support, supplies, and services provided under this section in any fiscal year may not exceed $100,000,000.

"(d) DEFINITION.—In this section, the term 'logistic support, supplies, and services' has the meaning given that term in section 2350(1) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 127b the following new item:

"127c. Allied forces participating in combined operations: authority to provide logistic support, supplies, and services.".

SEC. 1202. TEMPORARY AUTHORITY TO USE ACQUISITION AND CROSS-SERVICING AGREEMENTS TO LEND CERTAIN MILITARY EQUIPMENT TO FOREIGN FORCES IN IRAQ AND AFGHANISTAN FOR PERSONNEL PROTECTION AND SURVIVABILITY.

(a) AUTHORITY.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), the Secretary of Defense may treat covered military equipment as logistic support, supplies, and services under subchapter I of chapter 138 of title 10, United States Code, for the purpose of providing for the use of such equipment by military forces of a nation participating in combined operations with the United States in Iraq or Afghanistan.

(2) REQUIRED DETERMINATIONS.—Equipment may be provided to the military forces of a nation under the authority of this section only upon—

(A) a determination by the Secretary of Defense that the United States forces in the combined operation have no unfilled requirements for that equipment; and

(B) a determination by the Secretary of Defense, with the concurrence of the Secretary of State, that it is in the national security interest of the United States to provide for the use of such equipment by the military forces of that nation under this section.

(3) LIMITATION ON USE OF EQUIPMENT.—Equipment provided to the military forces of a nation under the authority of this section may be used by those forces only in Iraq or Afghanistan and only for personnel protection or to aid in the personnel survivability of those forces.

(4) LIMITATION ON DURATION OF PROVISION OF EQUIPMENT.—Equipment provided to the military forces of a nation under the authority of this section may be used by the military forces of that nation for not longer than one year.

(b) SEMIANNUAL REPORTS TO CONGRESSIONAL COMMITTEES.—

(1) USE OF AUTHORITY DURING FIRST SIX MONTHS OF FISCAL YEAR.—If the authority provided in subsection (a) is exercised during the first six months of a fiscal year, the Secretary of Defense shall submit to the specified congressional committees a report on that exercise of such authority not later than the following April 30.

(2) USE OF AUTHORITY DURING SECOND SIX MONTHS OF FISCAL YEAR.—If the authority provided in subsection (a) is exercised during the second six months of a fiscal year, the Secretary of Defense shall submit to the specified congressional committees a report on that exercise of such authority not later than the following October 30.

(3) CONTENT.—Each report under paragraph (1) or (2) shall include, with respect to each exercise of the authority provided in subsection (a) during the period covered by the report, the following:

(A) A description of the basis for the determination of the Secretary of Defense that it is in the national security interests of the United States to provide for the use of covered military equipment in the manner authorized in subsection (a).

(B) Identification of each foreign force that receives such equipment.

(C) A description of the type, quantity, and value of the equipment provided to each foreign force that receives such equipment.

(D) A description of the terms and duration of the provision of the equipment to each foreign force that receives such equipment.

(4) COORDINATION.—Each report under paragraph (1) or (2) shall be prepared in coordination with the Secretary of State.

(c) LIMITATIONS ON PROVISION OF MILITARY EQUIPMENT.—The provision of military equipment under this section is subject to the provisions of the Arms Export Control Act (22 U.S.C.

2751 et seq.) and of any other export control process under laws relating to the transfer of military equipment and technology to foreign nations.

(d) DEFINITIONS.—In this section:

(1) The term "covered military equipment" means items designated as significant military equipment in categories I, II, III, and VII of the United States Munitions List under section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)).

(2) The term "specified congressional committees" means—

(A) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Armed Services and the Committee on International Relations of the House of Representatives.

(e) EXPIRATION.—The authority to provide military equipment to the military forces of a foreign nation under this section expires on September 30, 2008.

SEC. 1203. RECODIFICATION AND REVISION TO LAW RELATING TO DEPARTMENT OF DEFENSE HUMANITARIAN DEMINING ASSISTANCE.

(a) REPEAL.—Section 401 of title 10, United States Code, is amended—

(1) in subsection (a), by striking paragraph (4);

(2) in subsection (b)—

(A) by striking "(1)" after "(b)"; and

(B) by striking paragraph (2);

(3) in subsection (c), by striking paragraphs (2) and (3); and

(4) in subsection (e), by striking paragraph (5).

(b) RECODIFICATION AND REVISION.—

(1) IN GENERAL.—Chapter 20 of such title is amended by adding at the end the following new section:

"§407. Humanitarian demining assistance: authority; limitations

"(a) AUTHORITY.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may carry out humanitarian demining assistance in conjunction with authorized military operations of the armed forces in a country if the Secretary concerned determines that the assistance will promote either—

"(A) the security interests of both the United States and the country in which the activities are to be carried out; or

"(B) the specific operational readiness skills of the members of the armed forces who participate in the activities.

"(2) Humanitarian demining assistance under this section shall complement, and may not duplicate, any other form of social or economic assistance which may be provided to the country concerned by any other department or agency of the United States.

"(3) The Secretary of Defense shall ensure that no member of the armed forces, while providing humanitarian demining assistance under this section—

"(A) engages in the physical detection, lifting, or destroying of landmines or other explosive remnants of war (unless the member does so for the concurrent purpose of supporting a United States military operation); or

"(B) provides such assistance as part of a military operation that does not involve the armed forces.

"(b) LIMITATIONS.—(1) Humanitarian demining assistance may not be provided under this section unless the Secretary of State specifically approves the provision of such assistance.

"(2) Any authority provided under any other provision of law to provide humanitarian demining assistance to a foreign country shall be carried out in accordance with, and subject to, the limitations prescribed in this section.

"(c) EXPENSES.—(1) Expenses incurred as a direct result of providing humanitarian demining assistance under this section to a foreign country shall be paid for out of funds specifically appropriated for the purpose of the provision by the Department of Defense of overseas humanitarian assistance.

"(2) Expenses covered by paragraph (1) include the following:

"(A) Travel, transportation, and subsistence expenses of Department of Defense personnel providing such assistance.

"(B) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or supporting humanitarian demining activities, including any nonlethal, individual, or small-team equipment or supplies for clearing landmines or other explosive remnants of war that are to be transferred or otherwise furnished to a foreign country in furtherance of the provision of assistance under this section.

"(3) The cost of equipment, services, and supplies provided in any fiscal year under this section may not exceed $10,000,000.

"(d) ANNUAL REPORT.—The Secretary of Defense shall include in the annual report under section 401 of this title a separate discussion of activities carried out under this section during the preceding fiscal year, including—

"(1) a list of the countries in which humanitarian demining assistance was carried out during the preceding fiscal year; and

"(2) the amount expended in carrying out such assistance in each such country during the preceding fiscal year.

"(e) HUMANITARIAN DEMINING ASSISTANCE DEFINED.—In this section, the term 'humanitarian demining assistance' means detection and clearance of landmines and other explosive remnants of war, including activities related to the furnishing of education, training, and technical assistance with respect to the detection and clearance of landmines and other explosive remnants of war.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"407. Humanitarian demining assistance: authority; limitations.".

SEC. 1204. ENHANCEMENTS TO REGIONAL DEFENSE COMBATING TERRORISM FELLOWSHIP PROGRAM.

(a) AUTHORIZED PURPOSES.—Subsection (a) of section 2249c of title 10, United States Code, is amended by striking "associated with" and all that follows and inserting: "associated with the education and training of foreign military officers, ministry of defense officials, or security officials at military or civilian educational institutions, regional centers, conferences, seminars, or other training programs conducted under the Regional Defense Combating Terrorism Fellowship Program. Costs for which payment may be made under this section include the costs of transportation and travel and subsistence costs.".

(b) ANNUAL LIMITATION ON AMOUNT OBLIGATED.—Subsection (b) of such section is amended by striking "$20,000,000" and inserting "$25,000,000".

(c) EXPENDITURES ACROSS FISCAL YEARS.—Such section is further amended by adding at the end the following new subsection:

"(d) OBLIGATION OF FUNDS ACROSS FISCAL YEARS.—Funds made available for a fiscal year may be obligated for the total cost of an education or training program conducted under subsection (a) that begins in that fiscal year, including a program that begins in that fiscal year and ends in the next fiscal year, so long as the duration of the program does not exceed one year.".

(d) CLERICAL AMENDMENTS.—

(1) REFERENCE TO PROGRAM.—Subsection (c)(3) of such section is amended by striking "Regional Defense Counterterrorism Fellowship Program" and inserting "program referred to in subsection (a)"

(2) SECTION HEADING.—The heading of such section is amended to read as follows:

"§2249c. Regional Defense Combating Terrorism Fellowship Program: authority to use appropriated funds for costs associated with education and training of foreign officials".

(3) TABLE OF SECTIONS.—The item relating to such section in the table of sections at the beginning of subchapter I of chapter 134 of such title is amended to read as follows

"2249c. Regional Defense Combating Terrorism Fellowship Program: authority to use appropriated funds for costs associated with education and training of foreign officials.".

SEC. 1205. CAPSTONE OVERSEAS FIELD STUDIES TRIPS TO PEOPLE'S REPUBLIC OF CHINA AND REPUBLIC OF CHINA ON TAIWAN.

Section 2153 of title 10, United States Code, is amended by adding at the end of the following new subsection:

"(c) OVERSEAS FIELD STUDIES TO CHINA AND TAIWAN.—The Secretary of Defense shall direct the National Defense University to ensure that visits to China and Taiwan are an integral part of the field study programs conducted by the university as part of the military education course carried out pursuant to subsection (a) and that such field study programs include annually at least one class field study trip to the People's Republic of China and at least one class field study trip to the Republic of China on Taiwan.".

SEC. 1206. MILITARY EDUCATIONAL EXCHANGES BETWEEN SENIOR OFFICERS AND OFFICIALS OF THE UNITED STATES AND TAIWAN.

(a) DEFENSE EXCHANGES.—The Secretary of Defense shall undertake a program of senior military officer and senior official exchanges with Taiwan designed to improve Taiwan's defenses against the People's Liberation Army of the People's Republic of China.

(b) EXCHANGES DESCRIBED.—For purposes of this section, the term "exchange" means an activity, exercise, event, or observation opportunity between Armed Forces personnel or Department of Defense officials of the United States and armed forces personnel and officials of Taiwan.

(c) FOCUS OF EXCHANGES.—The senior military officer and senior official exchanges undertaken pursuant to subsection (a) shall include exchanges focused on the following, especially as they relate to defending Taiwan against potential submarine attack and potential missile attack:

(1) Threat analysis
(2) Military doctrine
(3) Force planning
(4) Logistical support
(5) Intelligence collection and analysis
(6) Operational tactics, techniques, and procedures.

(d) CIVIL-MILITARY AFFAIRS.—The senior military officer and senior official exchanges undertaken pursuant to subsection (a) shall include activities and exercises focused on civil-military relations, including parliamentary relations.

(e) LOCATION OF EXCHANGES.—The senior military officer and senior official exchanges undertaken pursuant to subsection (a) shall be conducted in both the United States and Taiwan.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "senior military officer" means a general or flag officer of the Armed Forces on active duty.

(2) The term "senior official" means a civilian official of the Department of Defense at the level of Deputy Assistant Secretary or above.

Subtitle B—Nonproliferation Matters and Countries of Concern

SEC. 1211. PROCUREMENT RESTRICTIONS AGAINST FOREIGN PERSONS THAT TRANSFER CERTAIN DEFENSE ARTICLES AND SERVICES TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) DECLARATION OF POLICY.—Congress declares that it is the policy of the United States to deny the People's Republic of China such defense goods and defense technology that could be used to threaten the United States or undermine the security of Taiwan or the stability of the Western Pacific region.

(b) PROCUREMENT SANCTION.—(1) The Secretary of Defense may not procure, by contract or otherwise, any goods or services from—

(A) any foreign person the Secretary of Defense determines has, with actual knowledge, on or after the date of the enactment of this Act, exported, transferred, or otherwise provided to governmental or nongovernmental entities of the People's Republic of China any item or class of items on the United States Munitions List (or any item or class of items that are identical, substantially identical, or directly competitive to an item or class of items on the United States Munitions List); or

(B) any foreign person the Secretary of Defense determines—

(i) is a successor entity to a person referred to in paragraph (1):

(ii) is a parent or subsidiary of a person referred to in paragraph (1); or

(iii) is an affiliate of a person referred to in paragraph (1) if that affiliate is controlled in fact by such person.

(2) The prohibition under paragraph (1) with respect to a foreign person shall last for a period of five years after a determination is made by the Secretary of Defense with respect to that person under paragraph (1)(A).

(c) PUBLIC AVAILABILITY OF LIST OF SANCTIONED PERSONS.—(1) The Secretary of Defense shall annually publish in the Federal Register a current list of any foreign persons sanctioned under subsection (b). The removal of foreign persons from, and the addition of foreign persons to, the list shall also be published.

(2) The Secretary shall maintain the list published under paragraph (1) on the internet website of the Department of Defense.

(c) REMOVAL FROM LIST OF SANCTIONED PERSONS.—The Secretary of Defense may remove a person from the list of sanctioned persons referred to in subsection (c) only after the five-year prohibition period imposed under subsection (b) with respect to the person has expired.

(d) EXCEPTIONS.—(1) Subsection (b) shall not apply

(A) to contracts, or subcontracts under such contracts, in existence on the date of the enactment of this Act, including options under such contracts;

(B) if the Secretary of Defense determines in writing that the person to which the sanctions would otherwise be applied is a sole source supplier of the goods or services being procured, that the goods or services are essential, and that alternative sources are not readily or reasonably available;

(C) in the case of a contract for routine servicing and maintenance, if the Secretary of Defense determines in writing alternative sources for performing the contract are not readily or reasonably available; or

(D) if the Secretary of Defense determines in writing that goods or services proposed to be procured under the contract are essential to the national security of the United States.

(2) Determinations under paragraph (1) shall be published in the Federal Register.

(f) DEFINITIONS.—In this section:

(1) The term "foreign person" has the meaning given the term in section 14 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note).

(2) The term "United States Munitions List" means the list referred to in section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778 (a)(1)).

Subtitle C—Other Matters

SEC. 1221. EXECUTION OF THE PRESIDENT'S POLICY TO MAKE AVAILABLE TO TAIWAN DIESEL ELECTRIC SUBMARINES.

(a) FINDINGS.—Congress makes the following findings:

(1) It is the policy of the United States under the Taiwan Relations Act of 1979 to "make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability".

(2) In April 2001, the President of the United States approved for sale eight diesel electric submarines to the Republic of China on Taiwan.

(3) The buildup of attack submarines by the People's Republic of China threatens the stability in the Taiwan Strait and longstanding United States national security interests in the Western Pacific.

(4) Taiwan has a legitimate defense need for diesel electric submarines.

(5) The sale of diesel electric submarines to Taiwan supports stability in the Taiwan Strait and Western Pacific.

(6) The Legislative Yuan of the Republic of China on Taiwan should make every effort to support the President of Taiwan to fund the acquisition of diesel electric submarines from the United States.

(7) The sale of diesel electric submarines to Taiwan is beneficial to the health and wellbeing of the United States shipbuilding industrial base and, therefore, United States national security.

(b) POLICY OF THE UNITED STATES.—It shall be the policy of the United States to make available to Taiwan plans and options for design work and construction work on future diesel electric submarines under the United States foreign military sales process. The availability of such design work and construction work shall be made in a manner consistent with United States national disclosure policy and is subject to the provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.) and any other export control law of the United States.

(c) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the present and future efforts of the Department of the Navy to execute the policy of the President to sell diesel electric submarines to the Republic of China on Taiwan. The report shall include the following:

(1) Ongoing activities by the Navy International Programs Office, in consultation with the Defense Security and Cooperation Agency, to make the Government of Taiwan aware of available Foreign Military Sales options.

(2) Future activities planned by the Navy International Programs Office, in consultation with the Defense Security and Cooperation Agency, to make the Government of Taiwan aware of available Foreign Military Sales options to acquire diesel electric submarines from the United States.

(d) DEFINITIONS.—In this section:

(1) The term "design work" means the process by which a submarine is designed.

(2) The term "construction work" means the process by which a submarine is constructed.

(3) The term "activities" means all interactions between the Government of the United States and the Government of Taiwan.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Temporary authority to waive limitation on funding for chemical weapons destruction facility in Russia.
Sec. 1304. National Academy of Sciences study.

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2007 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2007 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $372,128,000 authorized to be appropriated to the Department of Defense for fiscal year 2007 in section 301(19) for Cooperative Threat Reduction programs, the following amount may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $76,985,000.

(2) For nuclear weapons storage security in Russia, $87,100,000.

(3) For nuclear weapons transportation security in Russia, $33,000,000.

(4) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $37,486,000.

(5) For biological weapons proliferation prevention in the former Soviet Union, $68,357,000.

(6) For chemical weapons destruction in Russia, $42,700,000.

(7) For defense and military contacts, $8,000,000.

(8) For activities designated as Other Assessments/Administrative Support, $18,500,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2007 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (8) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2007 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2007 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) NOTICE-AND-WAIT REQUIRED.—An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) RESTRICTION.—The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (6) through (8) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

SEC. 1303. TEMPORARY AUTHORITY TO WAIVE LIMITATION ON FUNDING FOR CHEMICAL WEAPONS DESTRUCTION FACILITY IN RUSSIA.

Section 1303 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2094; 22 U.S.C. 5952 note) is amended—

(1) in subsection (b), by striking "shall expire on December 31, 2006, and no waiver shall remain in effect after that date" and inserting "shall expire upon completion of the Chemical Weapons Destruction Facility currently under construction at Shchuch'ye in the Russian Federation, and no waiver shall remain in effect after that date"; and

(2) by adding at the end the following new subsection:

"(c) REPORT.—Not later than 30 days after completion of the facility referred to in subsection (b), the Secretary of Defense shall submit to Congress a written notification that specifies the date of completion.".

SEC. 1304. NATIONAL ACADEMY OF SCIENCES STUDY.

(a) STUDY REQUIRED.—The Secretary of Defense shall enter into an arrangement with the National Academy of Sciences under which the Academy shall carry out a study to analyze lessons learned, past and present challenges, and possible options in effectively managing and facilitating threat reduction and nonproliferation projects under the Cooperative Threat Reduction program. The study shall cover all existing Cooperative Threat Reduction projects for securing or eliminating nuclear, chemical, and biological weapons and related systems in the states of the former Soviet Union.

(b) REPORT.—Not later than December 31, 2007, the Secretary shall submit to Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the study carried out under subsection (a). The report shall include a review and evaluation of each of the following matters:

(1) Project management.

(2) Interagency interaction concerning threat reduction and nonproliferation projects of other Federal departments or agencies.

(3) Public outreach and community involvement.

(4) Cooperation of Russia and of other states of the former Soviet Union (including site access, visa approval, and contractor support).

(5) Legal frameworks.

(6) Transparency.

(7) Adequacy of funding from the United States and any Cooperative Threat Reduction program partner.

(8) Interaction with threat reduction and nonproliferation projects of Global Partnership countries.

(c) FUNDING.—Of the amounts made available pursuant to the authorization of appropriations in section 301(19) for Cooperative Threat Reduction programs, not more than $2,000,000 shall be available only to carry out this section.

TITLE XIV—HOMELAND DEFENSE TECHNOLOGY TRANSFER

Sec. 1401. Short title.
Sec. 1402. Findings.
Sec. 1403. Creation of Homeland Defense Technology Transfer Consortium.

SEC. 1401. SHORT TITLE.

This title may be cited as the "Homeland Defense Technology Transfer Act of 2006".

SEC. 1402. FINDINGS.

Congress finds the following:

(1) The Federal Government funds billions of dollars for research each year that has the potential to meet the needs of Federal, State, and local first responders, yet examples of successful technology transitions are few and far between.

(2) Congress has made repeated efforts to authorize the Department of Defense to effectively transfer its technologies to Federal, State, and local first responders. However, while progress has been made in implementing these authorities, this process can be significantly improved.

(3) Although the Department of Defense Strategy for Homeland Defense and Civil Support calls for active participation in an interagency process that improves interoperability and compatibility with public safety technologies and initiatives, greater participation is needed to ensure that all technologies used by the Department of Defense in their homeland defense mission are interoperable and compatible with standards being developed for public safety technologies.

(4) Even when technologies with promise have been identified, additional research and development efforts are needed to adapt these technologies into readily available, affordable products. No program with a sense of urgency to quickly produce results exists to bridge this gap.

(5) Tragedies such as Hurricanes Katrina and Rita demonstrate the need for prompt, decisive action by Congress to solve a problem that has eluded attempts by the Department of Defense to solve.

(6) Legislation is needed to codify the process for effectively moving and adapting needed technologies from the Department of Defense to Federal, State, and local first responders so that the lives of the American public and emergency responders are protected to the maximum extent possible.

SEC. 1403. CREATION OF HOMELAND DEFENSE TECHNOLOGY TRANSFER CONSORTIUM.

(a) AUTHORIZATION OF CONSORTIUM.—In order to improve the speed and effectiveness of identifying, evaluating, deploying, and transferring to Federal, State, and local first responders technology items and equipment in support of homeland security as required by section 1401 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 50 U.S.C. 2312 note) and work towards interoperability and compatibility of inter-agency homeland defense and security technologies, it is urgent that the technology adaptation and transfer process be consistent within the Department of Defense. Towards that end, the Secretary of Defense is authorized to create a Homeland Defense Technology Transfer Consortium.

(b) COMPOSITION OF CONSORTIUM.—To contribute to the rapid development and adoption of new technologies needed to ensure the safety of the United States public and the welfare of emergency service providers, the Homeland Defense Technology Transfer Consortium shall be composed of—

(1) organizations and entities working with the Department of Defense;

(2) Federal, State, and local first responders; and

(3) other relevant Federal agencies with established expertise in identifying, assessing, testing, evaluating, and training emergency response and other public safety entities.

(c) AUTHORITIES OF CONSORTIUM.—

(1) PROCESS IMPROVEMENTS.—The Homeland Defense Technology Transfer Consortium shall systematize—

(A) the process for the identification, assessment, adaptation, and transition of defense technologies that have the potential to enhance public safety and improve homeland security, thereby assisting the Department of Defense in meeting its statutory obligation to identify, evaluate, deploy, and transfer to Federal, State, and local first responders technology items and equipment of homeland security; and

(B) the process of coordinating and acting as liaison on behalf of the Department of Defense with other Federal agencies as appropriate to collect and prioritize Federal, State, and local first responder technology requirements already gathered by those entities.

(2) FUNDING RECOMMENDATIONS.—The Consortium shall submit recommendations to the Secretary of Defense for funding for the development, adaptation, test and evaluation, or other needed activities for any technology identified under paragraph (1) with a high potential to benefit Federal, State, and local first responders.

(3) TECHNOLOGY INTEGRATION.—The Consortium may assist in the integration of new technologies into appropriate first responder training exercises to maximize their rapid adoption as well as disseminating best practices in the profession.

(4) INTEROPERABILITY AND COMPATIBILITY.—The Consortium, under the direction of the Secretary of Defense, shall act as liaison with relevant Federal agencies, as well as Federal, State, and local first responders where appropriate, to work towards ensuring that technologies used by the Department of Defense in its homeland defense mission are interoperable and compatible with standards being developed for technologies used by Federal, State, and local first responders.

(d) ANNUAL REPORT OF THE CONSORTIUM.—The Homeland Defense Technology Transfer Consortium shall submit to the President and Congress an annual report on its activities. Each report shall include, at a minimum—

(1) a listing of specific Department of Defense and related technologies it has identified that appear to meet needs of Federal, State, and local first responders;

(2) the results of any tests and evaluations conducted on particular technologies, except that no company proprietary information may be disclosed in the report;

(3) a listing of any recommendations the Consortium has made to the Department of Defense that developmental, adaptive, test and evaluation, or other funding be provided related to the development and deployment of technologies identified by the Consortium of particular interest for meeting the needs of emergency response providers;

(4) a listing of any technology development activities undertaken under the authorities of subsection (c);

(5) a listing of any technologies that have been subsequently used by Federal, State, and local first responders as a result of activities of the Consortium; and

(6) any recommendations determined appropriate by the Consortium on barriers to the prompt deployment of technologies needed by Federal, State, and local first responders.

(e) ANNUAL REPORT BY THE SECRETARY OF DEFENSE.—The Secretary of Defense shall submit to the President and Congress an annual report on activities the Department of Defense has taken to identify, test and evaluate, or develop technologies with application to Federal, State, and local first responders. Each report shall include, at a minimum, a description of the activities the Department of Defense has taken pursuant to recommendations of the Homeland Defense Technology Transfer Consortium, including activities to fund development or testing and evaluation of technologies created under programs of the Department.

(f) Authorization of Appropriations.—There is authorized to be appropriated $2,500,000 for the Department of Defense Office of Homeland Defense to fund the activities of the Homeland Defense Technology Transfer Consortium in each of fiscal years 2007 and 2008, for carrying out the duties of the Consortium under this section.

TITLE XV—AUTHORIZATION FOR INCREASED COSTS DUE TO OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

Sec. 1501. Purpose.
Sec. 1502. Army procurement.
Sec. 1503. Navy and Marine Corps procurement.
Sec. 1504. Air Force procurement.
Sec. 1505. Defense-wide activities procurement.
Sec. 1506. Research, development, test and evaluation.
Sec. 1507. Operation and maintenance.
Sec. 1508. Defense Health Program.
Sec. 1509. Classified programs.
Sec. 1510. Military personnel.
Sec. 1511. Treatment as additional authorizations.
Sec. 1512. Transfer authority.
Sec. 1513. Availability of funds.

SEC. 1501. PURPOSE.

The purpose of this title is to authorize estimated future emergency supplemental appropriations for the Department of Defense for fiscal year 2007 to provide funds for additional costs due to Operation Iraqi Freedom and Operation Enduring Freedom.

SEC. 1502. ARMY PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2007 for procurement accounts of the Army in amounts as follows:

(1) For aircraft procurement, $232,400,000.

(2) For ammunition procurement, $328,341,000.

(3) For weapons and tracked combat vehicles procurement, $1,029,672,000.

(4) For other procurement, $2,183,430,000.

SEC. 1503. NAVY AND MARINE CORPS PROCUREMENT.

(a) Navy.—Funds are hereby authorized to be appropriated for fiscal year 2007 for procurement accounts for the Navy in amounts as follows:

(1) For weapons procurement, $131,400,000.

(2) For other procurement, $44,700,000.

(b) Marine Corps.—Funds are hereby authorized to be appropriated for fiscal year 2007 for the procurement account for the Marine Corps in the amount of $636,125,000.

(c) Navy and Marine Corps Ammunition.—Funds are hereby authorized to be appropriated for fiscal year 2007 for the procurement account for ammunition for the Navy and the Marine Corps in the amount of $143,150,000.

SEC. 1504. AIR FORCE PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2007 for procurement accounts for the Air Force in amounts as follows:

(1) For aircraft procurement, $201,550,000.

(2) For missile procurement, $32,650,000.

(3) For other procurement, $62,650,000.

SEC. 1505. DEFENSE-WIDE ACTIVITIES PROCUREMENT.

Funds are hereby authorized to be appropriated for fiscal year 2007 for the procurement account for Defense-wide in the amount of $140,200,000.

SEC. 1506. RESEARCH, DEVELOPMENT, TEST AND EVALUATION.

Funds are hereby authorized to be appropriated for fiscal year 2007 for the use of the Department of Defense for research, development, test and evaluation as follows:

(1) For the Army, $25,500,000.

(2) For Defense-wide activities, $5,000,000.

(3) For the Air Force, $7,000,000.

SEC. 1507. OPERATION AND MAINTENANCE.

Funds are hereby authorized to be appropriated for fiscal year 2007 for the use of the Armed Forces for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $22,396,986,000.

(2) For the Navy, $1,834,560,000.

(3) For the Marine Corps, $1,485,920,000.

(4) For the Air Force, $2,822,998,000.

(5) For Defense-wide activities, $3,377,402,000.

(6) For the Army National Guard, $50,000,000.

(7) For the Air National Guard, $15,400,000.

SEC. 1508. DEFENSE HEALTH PROGRAM.

Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2007 for expenses, not otherwise provided for, the Defense Health Program, in the amount of $950,200,000 for operation and maintenance.

SEC. 1509. CLASSIFIED PROGRAMS.

Funds are hereby authorized to be appropriated to the Department of Defense for fiscal year 2007 for Classified Programs, in the amount of $2,500,000,000.

SEC. 1510. MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel accounts for fiscal year 2007 a total of $9,362,766,000.

SEC. 1511. TREATMENT AS ADDITIONAL AUTHORIZATIONS.

The amounts authorized to be appropriated by this title are in addition to amounts otherwise authorized to be appropriated by this Act.

SEC. 1512. TRANSFER AUTHORITY.

(a) Authority to Transfer Authorizations.—

(1) Authority.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this title for fiscal year 2007 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) Limitation.—The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $3,000,000,000. The transfer authority provided in this section is in addition to any other transfer authority available to the Secretary of Defense.

(b) Limitations.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred;

(2) may not be used to provide authority for an item that has been denied authorization by Congress; and

(3) may not be combined with the authority under section 1001.

(c) Effect on Authorization Amounts.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) Notice to Congress.—A transfer may be made under the authority of this section only after the Secretary of Defense—

(1) consults with the chairmen and ranking members of the congressional defense committees with respect to the proposed transfer; and

(2) after such consultation, notifies those committees in writing of the proposed transfer not less than five days before the transfer is made.

SEC. 1513. AVAILABILITY OF FUNDS.

Funds in this title shall be made available for obligation to the Army, Navy, Marine Corps, Air Force, and Defense-wide components by the end of the second quarter of fiscal year 2007.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Joel Hefley Military Construction Authorization Act for Fiscal Year 2007".

TITLE I—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Authorization of appropriations, Army.

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) Inside the United States.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	*Installation or Location*	*Amount*
Alabama	*Redstone Arsenal*	*$4,300,000*
Alaska	*Fort Richardson*	*$70,656,000*
California	*Fort Irwin*	*$18,200,000*
Colorado	*Fort Carson*	*$30,800,000*
Georgia	*Fort Gillem*	*$15,000,000*
	Fort Stewart/Hunter Army Air Field	*$95,300,000*
Hawaii	*Schofield Barracks*	*$54,500,000*
Kansas	*Fort Leavenworth*	*$23,200,000*
	Fort Riley	*$37,200,000*
Kentucky	*Blue Grass Army Depot*	*$3,500,000*
	Fort Campbell	*$123,500,000*
Louisiana	*Fort Polk*	*$6,100,000*
Maryland	*Fort Detrick*	*$12,400,000*
Missouri	*Fort Leonard Wood*	*$27,600,000*
New Jersey	*Picatinny Arsenal*	*$9,900,000*
New York	*Fort Drum*	*$218,600,000*

***Army: Inside the United States**—Continued*

State	Installation or Location	Amount
North Carolina	Fort Bragg	$89,000,000
	Sunny Point Military Ocean Terminal	$46,000,000
Oklahoma	McAlester Army Ammunition Plant	$3,050,000
Texas	Corpus Christi Army Depot	$12,200,000
	Fort Bliss	$8,200,000
	Fort Hood	$93,000,000
Utah	Dugway Proving Ground	$14,400,000
Virginia	Fort Lee	$4,150,000
Washington	Fort Lewis	$502,600,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or Location	Amount
Germany	Grafenwoehr	$157,632,000
	Vilseck	$19,000,000
Italy	Vicenza	$223,000,000
Japan	Camp Hansen	$7,150,000
Korea	Camp Humphreys	$77,000,000
	Yongpyong	$7,400,000

(c) UNSPECIFIED WORLDWIDE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(3), the Secretary of the Army may acquire real property and carry out military construction projects for unspecified installations or locations in the amount set forth in the following table:

Army: Unspecified Worldwide

Location	Installation or Location	Amount
	Unspecified Worldwide	$34,800,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amounts set forth in the following table:

Army: Family Housing

State	Installation or Location	Units	Amount
Alaska	Fort Richardson	162	$70,000,000
	Fort Wainwright	234	$132,000,000
Arizona	Fort Huachuca	119	$32,000,000
Arkansas	Pine Bluff Arsensal	10	$2,900,000
Wisconsin	Fort McCoy	13	$4,900,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $16,332,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(6)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $320,659,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2006, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $3,389,046,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $1,217,356,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $491,182,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2101(c), $34,800,000.

(4) For .unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $23,930,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $220,830,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $578,791,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $674,657,000.

(7) For the construction of increment 2 of a barracks complex at Fort Drum, New York, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3485), $16,500,000.

(8) For the construction of increment 2 of a barracks complex for the 2nd Brigade at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3485), $31,000,000.

(9) For the construction of increment 2 of a barracks complex for the 3nd Brigade at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3485), $50,000,000.

(10) For the construction of increment 2 of a barracks complex for divisional artillery at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3485), $37,000,000.

(11) For the construction of increment 2 of a defense access road at Fort Belvoir, Virginia, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3486), $13,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

(2) $306,000,000 (the balance of the amount authorized under section 2101(a) for construction of a brigade complex for Fort Lewis, Washington).

TITLE II—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.

Sec. 2203. Improvements to military family housing units.
Sec. 2204. Authorization of appropriations, Navy.
Sec. 2205. Modification of authority to carry out certain fiscal year 2004 and 2005 projects.

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or Location	Amount
Arizona	Marine Corps Air Station, Yuma	$5,966,000
California	Marine Corps Air Station, Camp Pendleton	$6,412,000
	Marine Corps Air Station, Miramar	$2,968,000
	Marine Corps Base, Camp Pendleton	$106,142,000
	Marine Corps Base, Twentynine Palms	$27,217,000
	Naval Air Station, North Island	$21,535,000
	Naval Support Activity, Monterey	$7,380,000
Connecticut	Naval Submarine Base, New London	$9,580,000
Florida	Naval Air Station, Pensacola	$13,486,000
Georgia	Marine Corps Logistics Base, Albany	$70,540,000
	Naval Submarine Base, Kings Bay	$20,282,000
Hawaii	Naval Base, Pearl Harbor	$48,338,000
	Naval Magazine, Pearl Harbor	$6,010,000
Indiana	Naval Support Activity, Crane	$6,730,000
Maryland	Naval Air Station, Patuxent River	$16,316,000
	National Maritime Intelligence Center, Suitland	$67,939,000
North Carolina	Marine Corps Air Station, Cherry Point	$2,790,000
	Marine Corps Air Station, New River	$21,500,000
	Marine Corps Base, Camp Lejeune	$160,904,000
South Carolina	Marine Corps Air Station, Beaufort	$25,575,000
Virginia	Marine Corps Base, Quantico	$30,628,000
	Naval Shipyard, Norfolk	$34,952,000
	Naval Station, Norfolk	$12,062,000
	Naval Support Activity, Norfolk	$41,712,000
Washington	Naval Base, Kitsap	$17,617,000
	Naval Air Station, Whidbey Island	$67,303,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or Location	Amount
Diego Garcia	Diego Garcia	$37,473,000
Italy	Naval Air Station, Sigonella	$13,051,000

(c) UNSPECIFIED WORLDWIDE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(3), the Secretary of the Navy may acquire real property and carry out military construction projects for unspecified installations or locations in the amount set forth in the following table:

Navy: Unspecified Worldwide

Location	Project	Amount
	Helicopter Support Facility	$12,185,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(6)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, in the number of units, and in the amounts set forth in the following table:

Navy: Family Housing

Location	Installation	Units	Amount
California	Marine Corps Log. Base, Barstow	74	$27,851,000
Guam	Naval Station, Guam	176	$98,174,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(6)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $2,785,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(6)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $180,146,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2006, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,037,953,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $764,572,000,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $50,524,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2201(c), $12,185,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $8,939,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $72,857,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $308,956,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $509,126,000.

(7) For the construction of increment 2 of a reclamation and conveyance project for Marine Corps Base, Camp Pendleton, California, authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $33,290,000.

(8) For the construction of increment 2 of a helicopter hangar replacement at Naval Air Station, Jacksonville, Florida, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3489), $43,250,000.

(9) For the construction of increment 2 of recruit training barracks infrastructure upgrades at Recruit Training Command, Great Lakes, Illinois, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $23,589,000.

(10) For the construction of increment 2 of a field house at the United States Naval Academy, Annapolis, Maryland, authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $21,685,000.

(11) For the construction of increment 2 of the replacement of Ship Repair Pier 3 at Naval Station, Norfolk, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $30,939,000.

(12) For the construction of increment 2 of an addition to Hockmuth Hall, Marine Corps Base, Quantico, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $10,159,000.

(13) For the construction of increment 2 of wharf upgrades at Naval Station Guam, Marianas Islands, authorized by section 2201(b) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $29,772,000.

(14) For the construction of increment 2 of wharf upgrades at Yokosuka, Japan, authorized by section 2201(b) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $44,360,000.

(15) For the construction of increment 2 of bachelor quarters at Naval Station, Everett, Washington, authorized by section 2201(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3490), $20,917,000.

(16) For the construction of increment 3 of the limited area production and storage complex at Strategic Weapons Facility Pacific, Bangor, Washington, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), as amended by section 2206 of this Act, $14,274,000.

(17) For the construction of the next increment of the outlaying landing field facilities at Washington County, North Carolina, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), as amended by section 2205(a) of this Act, $7,926,000.

(18) For the construction of increment 4 of pier 11 replacement at Naval Station, Norfolk, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), $30,633,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

(2) $56,159,000 (the balance of the amount authorized under section 2201(a) for construction of an addition to the National Maritime Intelligence Center, Suitland, Maryland).

(3) $31,153,000 (the balance of the amount authorized under section 2201(a) to recapitalize Hangar 5 at Naval Air Station, Whidbey Island, Washington).

SEC. 2205. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2004 AND 2005 PROJECTS.

(a) FISCAL YEAR 2004 INSIDE THE UNITED STATES PROJECT.—

(1) MODIFICATION.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), as amended by section 2205 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109-163; 119 Stat. 3492), is amended—

(A) at the end of the items relating to North Carolina, by inserting a new item entitled "Navy Outlying Landing Field, Washington County" in the amount of "$193,260,000";

(B) by striking the item relating to Various Locations, CONUS; and

(C) by striking the amount identified as the total in the amount column and inserting "$1,489,424,000".

(2) CONFORMING AMENDMENTS.—Section 2204(b)(6) of that Act (117 Stat. 1706) is amended—

(A) by striking "$28,750,000" and inserting "$165,650,000"; and

(B) by striking "outlying landing field facilities, various locations in the continental United States" and inserting "an outlying landing field in Washington County, North Carolina".

(b) FISCAL YEAR 2005 INSIDE THE UNITED STATES PROJECT.—

(1) MODIFICATION.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2105), as amended by section 2206 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3493), is amended—

(A) by striking the item relating to Navy Outlying Landing Field, Washington County, North Carolina; and

(B) by striking the amount identified as the total in the amount column and inserting "$825,479,000".

(2) CONFORMING AMENDMENTS.—Section 2204 of that Act (118 Stat. 2107), as amended by section 2206 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3493), is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "$752,927,000" and inserting "722,927,000"; and

(ii) by adding at the end the following new paragraph:

"(10) For the construction of increment 2 of the Navy outlying landing field in Washington County, North Carolina, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1704), as amended by section 2205(a) of the Military Construction Authorization Act for Fiscal Year 2007, $30,000,000."; and

(B) in subsection (b), by striking paragraph (3).

TITLE III—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Authorization of appropriations, Air Force.

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or Location	Amount
Alaska	Eielson Air Force Base	$38,300,000
	Elmendorf Air Force Base	$56,100,000
Arizona	Davis-Monthan Air Force Base	$11,800,000
Arkansas	Little Rock Air Force Base	$9,800,000
California	Beale Air Force Base	$28,000,000
	Travis Air Force Base	$73,900,000
Colorado	Buckley Air Force Base	$10,700,000
	Peterson Air Force Base	$4,900,000
	Schriever Air Force Base	$21,000,000
Delaware	Dover Air Force Base	$26,400,000
Florida	Eglin Air Force Base	$30,350,000
	Hurlburt Field	$32,950,000
	MacDill Air Force Base	$71,000,000
	Tyndall Air Force Base	$8,200,000
Georgia	Robins Air Force Base	$45,600,000
Hawaii	Hickam Air Force Base	$28,538,000
Illinois	Scott Air Force Base	$20,000,000
Kansas	McConnell Air Force Base	$3,875,000
Kentucky	Fort Knox	$3,500,000

Air Force: Inside the United States—Continued

State	Installation or Location	Amount
Montana	Malmstrom Air Force Base	$5,700,000
Nevada	Indian Springs Auxiliary Field	$19,923,000
New Jersey	McGuire Air Force Base	$28,500,000
Oklahoma	Altus Air Force Base	$1,500,000
	Tinker Air Force Base	$5,700,000
South Carolina	Shaw Air Force Base	$31,500,000
South Dakota	Ellsworth Air Force Base	$3,000,000
Texas	Fort Bliss	$8,500,000
	Lackland Air Force Base	$13,200,000
	Laughlin Air Force Base	$12,600,000
	Sheppard Air Force Base	$7,000,000
Utah	Hill Air Force Base	$53,400,000
Virginia	Langley Air Force Base	$57,700,000
Washington	Fairchild Air Force Base	$4,250,000
Wyoming	Francis E. Warren Air Force Base	$11,000,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or Location	Amount
Germany	Ramstein Air Base	$53,150,000
Guam	Andersen Air Base	$80,800,000
Korea	Kunsan Air Base	$46,700,000
	Osan Air Base	$2,156,000

(c) UNSPECIFIED WORLDWIDE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(3), the Secretary of the Air Force may acquire real property and carry out military construction projects for unspecified installations or locations in the amount set forth in the following table:

Air Force: Unspecified Worldwide

Location	Installation or Location	Amount
	Unspecified Worldwide	$35,677,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations or locations, in the number of units, and in the amounts set forth in the following table:

Air Force: Family Housing

State or Country	Installation or Location	Units	Amount
Alaska	Eielson Air Force Base	129	$87,414,000
Idaho	Mountain Home Air Force Base	457	$107,800,000
Missouri	Whiteman Air Force Base	116	$39,270,000
Montana	Malmstrom Air Force Base	193	$140,252,000
North Carolina	Seymour Johnson Air Force Base	56	$22,956,000
North Dakota	Minot Air Force Base	575	$171,188,000
Texas	Dyess Air Force Base	199	$49,215,000
Germany	Ramstein Air Base	101	$59,488,000
	Spangdahlem Air Base	60	$39,294,000
United Kingdom	Royal Air Force Lakenheath	74	$35,282,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $13,202,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $403,777,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2006, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $3,157,882,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $818,386,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $182,806,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2301(c), $35,677,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $15,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $97,504,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $1,169,138,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $755,071,000.

(7) For the construction of increment 2 of the C–17 maintenance complex at Elmendorf Air Force Base, Alaska, authorized by section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3494), $30,000,000.

(8) For the construction of increment 2 of the main base runway at Edwards Air Force Base, California, authorized by section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3494), $31,000,000.

(9) For the construction of increment 2 of the CENTCOM Joint Intelligence Center at MacDill Air Force Base, Florida, authorized by section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3494), $23,300,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this

Act may not exceed the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

TITLE IV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.

Sec. 2402. Family housing.

Sec. 2403. Energy conservation projects.

Sec. 2404. Authorized base closure and realignment activities funded through Department of Defense Base Closure Account 2005.

Sec. 2405. Authorization of appropriations, Defense Agencies.

Sec. 2406. Modification of authority to carry out certain fiscal year 2006 projects.

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations inside the United States, and in the amounts, set forth in the following tables:

Defense Education Activity

State	Installation or Location	Amount
Kentucky	Fort Knox	$18,108,000

Defense Logistics Agency

State	Installation or Location	Amount
Arizona	Marine Corps Air Station, Yuma	$8,715,000
California	Beale Air Force Base	$9,000,000
Pennsylvania	Defense Distribution Depot, New Cumberland	$8,900,000
Viginia	Fort Belvoir	$5,500,000
Washington	Naval Air Station, Whidbey Island	$26,000,000

National Security Agency

State	Installation or Location	Amount
Maryland	Fort Meade	$4,517,000

Special Operations Command

State	Installation or Location	Amount
California	Marine Corps Base, Camp Pendleton	$24,400,000
Colorado	Fort Carson	$26,100,000
Florida	Hurlburt Field	$14,482,000
	MacDill Air Force Base	$27,300,000
Kentucky	Fort Campbell	$24,500,000
Mississippi	Stennis Space Center	$10,200,000
North Carolina	Fort Bragg	$67,044,000
	Marine Corps Base, Camp Lejeune	$51,600,000
Virginia	Naval Air Base, Little Creek	$22,000,000

TRICARE Management Activity

State	Installation or Location	Amount
Alaska	Fort Richardson	$37,200,000
California	Fort Irwin	$6,050,000
Florida	MacDill Air Force Base	$92,000,000
	Naval Hospital, Jacksonville	$16,000,000
Hawaii	Naval Base, Pearl Harbor	$7,700,000
Illinois	Naval Hospital, Great Lakes	$20,000,000
Maryland	Fort Detrick	$550,000,000
New York	Fort Drum	$9,700,000
Texas	Fort Hood	$18,000,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations or locations outside the United States, and in the amounts, set forth in the following tables:

Defense Education Activity

Country	Installation or Location	Amount
Italy	Vicenza	$47,210,000
Korea	Osan Air Base	$4,589,000
Spain	Naval Station, Rota	$23,948,000

Defense Logistics Agency

Country or Possession	Installation or Location	Amount
Japan	Okinawa	$5,000,000
Wake Island		$2,600,000

Special Operations Command

Country	Installation or Location	Amount
Qatar	Al Udeid AB	$44,500,000

TRICARE Management Activity

Country	Installation or Location	Amount
Italy	Vicenza	$52,000,000

SEC. 2402. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(9)(A), the Secretary of Defense may construct or acquire family housing units (including land acquisition and supporting facilities) at the location, in the number of units, and in the amount set forth in the following table:

Defense Logistics Agency: Family Housing

State	Location	Units	Amount
Virginia	Richmond International Airport	25	$7,840,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(9)(A), the Secretary of Defense may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $200,000.

SEC. 2403. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(6), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of $55,000,000.

SEC. 2404. AUTHORIZED BASE CLOSURE AND REALIGNMENT ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.

(a) AUTHORIZED ACTIVITIES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(8), the Secretary of Defense may carry out base closure and realignment activities, including real property acquisition and military construction projects, as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of such Act, in the amount of $5,902,723,000.

(b) CONFORMING AMENDMENTS TO FISCAL YEAR 2006 AUTHORIZATIONS.—

(1) AUTHORIZED ACTIVITIES.—Title XXIV of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3496) is amended by adding at the end the following new section:

"SEC. 2404. AUTHORIZED BASE CLOSURE AND REALIGNMENT ACTIVITIES FUNDED THROUGH DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.

"Using amounts appropriated pursuant to the authorization of appropriations in section 2403(a)(7), the Secretary of Defense may carry out base closure and realignment activities, including real property acquisition and military construction projects, as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of such Act, in the amount of $2,035,466,000.".

(2) AUTHORIZATION OF APPROPRIATIONS AND LIMITATIONS.—Section 2403 of that Act (119 Stat. 3499) is amended—

(A) in subsection (a)(7)—

(i) by striking "as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note)" and inserting "authorized by section 2404 of this Act"; and

(ii) by striking "section 2906 of such Act" and inserting "section 2906A of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note)";

(B) by redesignating subsection (c) as subsection (d); and

(C) by inserting after subsection (b) the following new subsection (c):

"(c) LIMITATION ON TOTAL COST OF BASE CLOSURE AND REALIGNMENT ACTIVITIES.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all base closure and realignment activities, including real property acquisition and military construction projects, carried out under section 2404 of this Act may not exceed the sum of the following:

"(1) The total amount authorized to be appropriated under subsection (a)(7).

"(2) $531,000,000 (the balance of the amount authorized under section 2404 for base closure and realignment activities).".

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2006, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $7,160,356,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $537,616,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $163,197,000.

(3) For unspecified minor military construction projects under section 2805 of title 10, United States Code, $21,672,000.

(4) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $172,950,000.

(6) For energy conservation projects authorized by section 2403 of this Act, $55,000,000.

(7) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and funded through the Department of Defense Base Closure Account 1990 established by section 2906 of such Act, $191,220,000.

(8) For base closure and realignment activities authorized by section 2404 of this Act and funded through the Department of Defense Base Closure Account 2005 established by section 2906A of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $5,236,223,000.

(9) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $8,808,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $48,506,000.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $2,500,000

(10) For the construction of increment 2 of the regional security operations center at Augusta, Georgia, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3497), as amended by section 2406 of this Act, $87,118,000.

(11) For the construction of increment 2 of the regional security operations center at Kunia, Hawaii, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3497), $47,016,000.

(12) For the construction of increment 2 of the classified material conversion facility at Fort Meade, Maryland, authorized by section 2401(a) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3497), $11,151,000.

(13) For the construction of increment 2 of an operations building, Royal Air Force Menwith Hill Station, United Kingdom, authorized by section 2401(b) of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3498), as amended by section 2406 of this Act, $46,386,000.

(14) For the construction of the second increment of certain base closure and realignment activities authorized by section 2404 of the Military Construction Authorization Act of Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3500), as added by section 2404(b) of this Act, $390,000,000.

(15) For the construction of increment 7 of a munitions demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act of 2002 (division B of Public Law 107–107; 115 Stat. 1298), and section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $89,157,000.

(16) For the construction of increment 8 of a munitions demilitarization facility at Pueblo Chemical Activity, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839), and section 2407 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $41,836,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $46,400,000 (the balance of the amount authorized under section 2401(a) for construction of a health clinic at MacDill Air Force Base, Florida).

(3) $521,000,000 (the balance of the amount authorized under section 2401(a) for stage 1 of the replacement of the Army Medical Research Institute of Infectious Diseases at Fort Detrick, Maryland).

(c) Limitation on Total Cost of Base Closure and Realignment Activities.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all base closure and realignment activities, including real property acquisition and military construction projects, carried out under section 2404(a) of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under subsection (a)(8).

(2) $666,500,000 (the balance of the amount authorized under section 2404(a) for base closure and realignment activities).

(d) Notice and Wait Requirement Applicable to Obligation of Funds for Base Closure and Realignment Activities.—Funds appropriated pursuant to the authorization of appropriations in subsection (a)(8) may not be obligated until—

(1) a period of 21 days has expired following the date on which the Secretary of Defense submits to the congressional defense committees a report describing the specific programs, projects, and activities for which the funds are to be obligated; or

(2) if over sooner, a period of 14 days has expired following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of title 10, United States Code.

SEC. 2406. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2006 PROJECTS.

(a) Modification of Inside the United States National Security Agency Projects.—The table relating to the National Security Agency in subsection (a) of section 2401 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3497) is amended—

(1) in the item relating to Augusta, Georgia, by striking "$61,466,000" in the amount column and inserting "$340,836,000"; and

(2) in the item relating to Kunia, Hawaii, by striking "$305,000,000" in the amount column and inserting "$350,490,000".

(b) Modification of Outside the United States National Security Agency Project.—The table relating to the National Security Agency in subsection (b) of such section (119 Stat. 3498) is amended in the item relating to Menwith Hill, United Kingdom, by striking "$86,354,000" in the amount column and inserting "$87,752,000".

(c) Conforming Amendments.—Section 2403(b) of that Act (119 Stat. 3500) is amended—

(1) in paragraph (2), by striking "$12,500,000" and inserting "$291,870,000";

(2) in paragraph (3), by striking "$256,034,000" and inserting "$301,524,000"; and

(3) in paragraph (5), by striking "$44,657,000" and inserting "$46,055,000".

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects.
Sec. 2502. Authorization of appropriations, NATO.

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2006, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of $200,985,000.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2006, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), in the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $518,403,000; and

(B) for the Army Reserve, $169,487,000.

(2) For the Department of the Navy, for the Navy Reserve and Marine Corps Reserve, $55,158,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $212,788,000; and

(B) for the Air Force Reserve, $56,836,000.

TITLE VII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.
Sec. 2702. Effective date.

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) Expiration of Authorizations After Three Years.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2009; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2010.

(b) Exception.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2009; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2010 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI of this Act shall take effect on the later of—

(1) October 1, 2006; or

(2) the date of the enactment of this Act.

TITLE VIII—MILITARY CONSTRUCTION GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Increase in maximum annual amount authorized to be obligated for emergency military construction.
Sec. 2802. Applicability of local comparability of room pattern and floor area requirements to construction, acquisition, and improvement to military unaccompanied housing.
Sec. 2803. Authority to use proceeds from sale of military family housing to support military housing privatization initiative.
Sec. 2804. Repeal of special requirement for military construction contracts on Guam.
Sec. 2805. Congressional notification of cancellation ceiling for Department of Defense energy savings performance contracts.
Sec. 2806. Expansion of authority to convey property at military installations to support military construction.
Sec. 2807. Pilot projects for acquisition or construction of military unaccompanied housing.
Sec. 2808. Consideration of alternative and more efficient uses for general officer and flag officer quarters in excess of 6,000 square feet.
Sec. 2809. Repeal of temporary minor military construction program.
Sec. 2810. One-year extension of temporary, limited authority to use operation and maintenance funds for construction projects outside the United States.

Subtitle B—Real Property and Facilities Administration

Sec. 2821. Consolidation of Department of Defense authorities regarding granting of easements for rights-of-way.
Sec. 2822. Authority to grant restrictive easements in connection with land conveyances.
Sec. 2823. Maximum term of leases for structures and real property relating to structures in foreign countries needed for purposes other than family housing.
Sec. 2824. Consolidation of laws relating to transfer of Department of Defense real property within the department and to other Federal agencies.
Sec. 2825. Congressional notice requirements in advance of acquisition of land by condemnation for military purposes.

Subtitle C—Base Closure and Realignment

Sec. 2831. Treatment of lease proceeds from military installations approved for closure or realignment after January 1, 2005.

Subtitle D—Land Conveyances

Sec. 2841. Land conveyance, Naval Air Station, Barbers Point, Hawaii.

Sec. 2842. Modification of land acquisition authority, Perquimans County, North Carolina.

Sec. 2843. Land conveyance, Radford Army Ammunition Plant, Pulaski County, Virginia.

Subtitle E—Other Matters

Sec. 2851. Availability of community planning assistance relating to encroachment of civilian communities on military facilities used for training by the Armed Forces.

Sec. 2852. Prohibitions against making certain military airfields or facilities available for use by civil aircraft.

Sec. 2853. Naming housing facility at Fort Carson, Colorado, in honor of Joel Hefley, a member of the House of Representatives.

Sec. 2854. Naming Navy and Marine Corps Reserve Center at Rock Island, Illinois, in honor of Lane Evans, a member of the House of Representatives.

Sec. 2855. Naming of research laboratory at Air Force Rome Research Site, Rome, New York, in honor of Sherwood L. Boehlert, a member of the House of Representatives.

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. INCREASE IN MAXIMUM ANNUAL AMOUNT AUTHORIZED TO BE OBLIGATED FOR EMERGENCY MILITARY CONSTRUCTION.

Section 2803(c)(1) of title 10, United States Code, is amended by striking "$45,000,000" and inserting "$60,000,000".

SEC. 2802. APPLICABILITY OF LOCAL COMPARABILITY OF ROOM PATTERN AND FLOOR AREA REQUIREMENTS TO CONSTRUCTION, ACQUISITION, AND IMPROVEMENT TO MILITARY UNACCOMPANIED HOUSING.

(a) Application to Military Unaccompanied Housing.—Section 2826 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "or military unaccompanied housing" after "military family housing" the first place it appears; and

(B) by striking "military family housing" the second place it appears and inserting "such housing"; and

(2) in subsection (b)—

(A) by striking "Requests for Authority for Military Family Housing" and inserting "Information on Net Floor Areas of Proposed Units";

(B) in paragraph (1)—

(i) by inserting "or military unaccompanied housing" after "military family housing" the first place it appears; and

(ii) by striking "military family housing" the second place it appears and inserting "such housing"; and

(C) in paragraph (2), by striking "military family housing unit" and inserting "unit of military family housing or military unaccompanied housing".

(b) Waiver Authority.—Such section is further amended by adding at the end the following new subsection:

"(c) Waiver Authority.—The Secretary concerned may waive the requirements of subsection (a) in the case of the construction, acquisition, or improvement of military unaccompanied housing on a case-by-case basis. The Secretary shall include the reasons for the waiver in the request submitted to Congress for authority to carry out the construction, acquisition, or improvement project.".

(c) Clerical Amendments.—

(1) Section heading.—The heading of such section is amended to read as follows:

"§ 2826. Local comparability of room patterns and floor areas".

(2) Table of sections.—The table of sections at the beginning of subchapter II of chapter 169 of such title is amended by striking the item relating to section 2826 and inserting the following new item:

"2826. Local comparability of room patterns and floor areas.".

(d) Repeal of Superseded Provision.—

(1) Repeal.—Section 2856 of such title is repealed.

(2) Clerical amendment.—The table of sections at the beginning of subchapter III of chapter 169 of such title is amended by striking the item relating to section 2856.

(e) Conforming Amendments Regarding Alternative Acquisition and Improvement Authority.—Section 2880(b) of such title is amended—

(1) by striking "(1)";

(2) by inserting "or military unaccompanied housing" after "military family housing"; and

(3) by striking paragraph (2).

SEC. 2803. AUTHORITY TO USE PROCEEDS FROM SALE OF MILITARY FAMILY HOUSING TO SUPPORT MILITARY HOUSING PRIVATIZATION INITIATIVE.

(a) Transfer Flexibility.—Section 2831 of title 10, United States Code, is amended—

(1) in subsection (b), by striking "There" and inserting "Except as provided in subsection (e), there";

(2) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(3) by inserting after subsection (d) the following new subsection (e):

"(e) Authority to Transfer Certain Proceeds to Support Military Housing Privatization Initiative.—(1) The Secretary concerned may transfer family housing proceeds referred to in subsection (b)(3) to the Department of Defense Family Housing Improvement Fund established under section 2883(a)(1) of this title.

"(2) A transfer of proceeds under paragraph (1) may be made only after the end of the 30-day period beginning on the date the Secretary concerned submits written notice of, and justification for, the transfer to the appropriate committees of Congress or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided in an electronic medium pursuant to section 480 of this title.".

(b) Stylistic Amendments.—Such section is further amended—

(1) in subsection (a), by inserting "Establishment.—" after "(a)";

(2) in subsection (b), by inserting "Credits to Account.—" after "(b)";

(3) in subsection (c), by inserting "Availability of Amounts in Account.—" after "(c)"; and

(4) in subsection (d), by inserting "Use of Account.—" after "(d)".

(c) Conforming Amendment.—Section 2883(c)(1) of such title is amended by adding at the end the following new subparagraph:

"(G) Proceeds of the handling and the disposal of family housing of a military department that the Secretary concerned transfers to that Fund pursuant to section 2831(e) of this title.".

SEC. 2804. REPEAL OF SPECIAL REQUIREMENT FOR MILITARY CONSTRUCTION CONTRACTS ON GUAM.

(a) Repeal.—Section 2864 of title 10, United States Code, is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of subchapter III of chapter 169 of such title is amended by striking the item relating to section 2864.

SEC. 2805. CONGRESSIONAL NOTIFICATION OF CANCELLATION CEILING FOR DEPARTMENT OF DEFENSE ENERGY SAVINGS PERFORMANCE CONTRACTS.

Section 2865 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) Congressional Notification of Cancellation Ceiling for Energy Savings Performance Contracts.—When a decision is made to award an energy savings performance contract that contains a clause setting forth a cancellation ceiling in excess of $7,000,000, the Secretary of Defense shall submit to the appropriate committees of Congress written notification of the proposed contract and of the proposed cancellation ceiling for the contract. The notification shall include the justification for the proposed cancellation ceiling. The contract may then be awarded only after the end of the 30-day period beginning on the date the notification is received by such committees or, if earlier, the end of the 15-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.".

SEC. 2806. EXPANSION OF AUTHORITY TO CONVEY PROPERTY AT MILITARY INSTALLATIONS TO SUPPORT MILITARY CONSTRUCTION.

(a) Inclusion of All Military Installations.—Subsection (a) of section 2869 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" before "The Secretary concerned";

(3) by striking "located on a military installation that is closed or realigned under a base closure law" and inserting "described in paragraph (2)"; and

(4) by adding at the end the following new paragraph:

"(2) Paragraph (1) applies with respect to real property under the jurisdiction of the Secretary concerned that—

"(A) is located on a military installation that is closed or realigned under a base closure law; or

"(B) is determined to be excess to the needs of the Department of Defense.".

(b) Use of Authority to Support Agreements to Limit Encroachments.—Subparagraph (A) of paragraph (1) of subsection (a) of such section, as redesignated and amended by subsection (a), is further amended by striking "land acquisition" and inserting "land acquisition, including a land acquisition under an agreement entered into under section 2684a of this title to limit encroachments and other constraints on military training, testing, and operations".

(c) Advance Notice of Use of Authority; Content of Notice.—Subsection (d) of such section is amended—

(1) in paragraph (1), by striking "closed or realigned under the base closure laws is to be conveyed" and inserting "is proposed for conveyance";

(2) by striking paragraph (2) and inserting the following new paragraph:

"(2) The Secretary concerned may not enter into an agreement under subsection (a) for the conveyance of real property until—

"(A) the Secretary submits to Congress notice of the conveyance, including—

"(i) a description of the military construction project, land acquisition, military family housing, or military unaccompanied housing to be carried out under the agreement in exchange for the conveyance of the property; and

"(ii) the amount of any payment to be made under subsection (b) or under section 2684a(d) of this title to equalize the fair market values of the property to be conveyed and the military construction project, land acquisition, military family housing, or military unaccompanied housing to be carried out under the agreement in exchange for the conveyance of the property; and

"(B) a period of 21 days has elapsed from the date of receipt of the notice or, if over sooner, a period of 14 days has elapsed from the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title.".

(d) DEPOSIT AND USE OF FUNDS.—Subsection (e) of such section is amended to read as follows:

"(e) DEPOSIT AND USE OF FUNDS.—(1) The Secretary concerned shall deposit funds received under subsection (b) in the appropriation 'Foreign Currency Fluctuations, Construction, Defense'.

"(2) The funds deposited under paragraph (1) shall be available, in such amounts as provided in appropriation Acts, for the purpose of paying increased costs of overseas military construction and family housing construction or improvement associated with unfavorable fluctuations in currency exchange rates. The use of such funds for this purpose does not relieve the Secretary concerned from the duty to provide advance notice to Congress under section 2853(c) of this title whenever the Secretary approves an increase in the cost of an overseas project under such section.".

(e) ANNUAL REPORTS; EFFECT OF FAILURE TO SUBMIT.—Subsection (f) of such section is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) in subparagraph (C), as so redesignated, by inserting before the period at the end the following: "and of excess real property at military installations";

(3) by striking "(f)" and all that follows through "the following:" and inserting the following:

"(f) ANNUAL REPORTS; EFFECT OF FAILURE TO SUBMIT.—(1) Not later than March 15 of each year, the Secretary of Defense shall submit to Congress a report detailing the following:"; and

(4) by adding at the end the following new paragraph:

"(2) If the report for a year is not submitted to Congress by the date specified in paragraph (1), the Secretary concerned may not enter into an agreement under subsection (a) after that date for the conveyance of real property until the date on which the report is finally submitted.".

(f) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

"§2869. Conveyance of property at military installations to support military construction or limit encroachment".

(2) TABLE OF SECTIONS.—The table of sections at the beginning of subchapter III of chapter 169 of such title is amended by striking the item relating to section 2869 and inserting the following new item:

"2869. Conveyance of property at military installations to support military construction or limit encroachment.".

(g) CONFORMING AMENDMENTS TO DEPARTMENT OF DEFENSE HOUSING FUNDS.—Section 2883(c) of such title is amended—

(1) in paragraph (1), by striking subparagraph (F); and

(2) in paragraph (2), by striking subparagraph (F).

(h) CONFORMING AMENDMENTS TO AUTHORITY TO LIMIT ENCROACHMENTS.—Subsection (d)(3) of section 2684a of such title is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(2) in subparagraph (C), as so redesignated, by striking "in the sharing of acquisition costs of real property, or an interest in real property, under paragraph (1)(B)" and inserting "under subparagraph (A), either through the contribution of funds or excess real property, or both,"; and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) In lieu of or in addition to making a monetary contribution toward the cost of acquiring a parcel of real property, or an interest therein, pursuant to an agreement under this section, the Secretary concerned may convey, using the authority provided by section 2869 of this title, real property described in subsection (a)(2) of such section.".

SEC. 2807. PILOT PROJECTS FOR ACQUISITION OR CONSTRUCTION OF MILITARY UNACCOMPANIED HOUSING.

(a) EXTENSION OF AUTHORITY TO CARRY OUT PILOT PROJECTS.—Subsection (f) of section 2881a of title 10, United States Code, is amended by striking "2007" and inserting "2011".

(b) AUTHORIZED PROJECTS.—Subsection (a) of such section is amended by striking "three pilot projects" and inserting "six pilot projects".

(c) NOTIFICATION OF FUNDING TRANSFERS.—Subsection (d)(2) of such section is amended by striking "90 days prior notification" and inserting "45 days prior notification, or 30 days if the notification is provided in an electronic medium pursuant to section 480 of this title,".

(d) REPORT SUBMISSION.—Subsection (e)(2) of such section is amended by striking the second sentence and inserting the following new sentence: "The Secretary may then issue the contract solicitation or offer the conveyance or lease after the end of the 45-day period beginning on the date the report is received by the appropriate committees of Congress or, if earlier, the end of the 30-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.".

SEC. 2808. CONSIDERATION OF ALTERNATIVE AND MORE EFFICIENT USES FOR GENERAL OFFICER AND FLAG OFFICER QUARTERS IN EXCESS OF 6,000 SQUARE FEET.

(a) REPORTING REQUIREMENTS.—Paragraph (1) of subsection (f) of section 2831 of title 10, United States Code, as redesignated by section 2803(a)(2), is amended—

(1) in subparagraph (A), by striking "and" at the end of the subparagraph;

(2) in subparagraph (B)—

(A) by striking "so identified" and inserting "identified under subparagraph (A)"; and

(B) by striking the period at the end of the subparagraph and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(C) identifying each family housing unit in excess of 6,000 square feet used, or intended for use, as quarters for a general officer or flag officer;

"(D) for each family housing unit identified under subparagraph (C), specifying any alternative and more efficient use to which the unit could be converted (which would include any costs necessary to convert the unit) and containing an explanation of the reasons why the unit is not being converted to the alternative use; and

"(E) for each family housing unit identified under subparagraph (C) for which costs under subparagraph (A) or new construction costs are anticipated to exceed $100,000 in the next fiscal year, specifying any alternative use to which the unit could be converted (which would include any costs necessary to convert the unit) and an estimate of the costs to demolish and rebuild the unit to private sector standards.".

(b) CONFORMING AMENDMENT.—The heading of such subsection is amended by striking "COST OF".

SEC. 2809. REPEAL OF TEMPORARY MINOR MILITARY CONSTRUCTION PROGRAM.

Section 2810 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3509) is repealed.

SEC. 2810. ONE-YEAR EXTENSION OF TEMPORARY, LIMITED AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR CONSTRUCTION PROJECTS OUTSIDE THE UNITED STATES.

Section 2808(a) of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723), as amended by section 2810 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2128) and section 2809 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3508), is further amended by striking "and 2006" and inserting "through 2007".

Subtitle B—Real Property and Facilities Administration

SEC. 2821. CONSOLIDATION OF DEPARTMENT OF DEFENSE AUTHORITIES REGARDING GRANTING OF EASEMENTS FOR RIGHTS-OF-WAY.

(a) CONSOLIDATION.—Subsection (a) of section 2668 of title 10, United States Code, is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "he" both places it appears and inserting "the Secretary"; and

(B) by striking "his control, to a State, Commonwealth, or possession, or political subdivision thereof, or to a citizen, association, partnership, or corporation of a State, Commonwealth, or possession," and inserting "the Secretary's control";

(2) in paragraph (2), by striking "oil pipe lines" and inserting "gas, water, sewer, and oil pipe lines"; and

(3) in paragraph (13), by striking "he considers advisable, except a purpose covered by section 2669 of this title" and inserting "the Secretary considers advisable".

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by inserting "AUTHORIZED TYPES OF EASEMENTS.—" after "(a)";

(2) in subsection (b), by inserting "LIMITATION ON SIZE OF EASEMENT.—" after "(b)";

(3) in subsection (c), by inserting "TERMINATION.—" after "(c)";

(4) in subsection (d), by inserting "NOTICE TO DEPARTMENT OF THE INTERIOR.—" after "(d)"; and

(5) in subsection (e), by inserting "DISPOSITION OF CONSIDERATION.—" after "(e)".

(c) CONFORMING REPEAL.—Section 2669 of such title is repealed.

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 159 of such title is amended by striking the item related to section 2669.

SEC. 2822. AUTHORITY TO GRANT RESTRICTIVE EASEMENTS IN CONNECTION WITH LAND CONVEYANCES.

(a) RESTRICTIVE EASEMENTS.—Chapter 159 of title 10, United States Code, is amended by inserting after section 2668 the following new section:

"§2668a. Restrictive easements: granting easement in connection with land conveyances

"(a) AUTHORITY TO INCLUDE RESTRICTIVE EASEMENT.—In connection with the conveyance of real property by the Secretary concerned under any provision of law, the Secretary concerned may grant an easement restricting future uses of the conveyed real property for a conservation purpose consistent with section

170(h)(4)(A)(iv) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(4)(A)(iv)).

"(b) AUTHORIZED RECIPIENTS.—An easement under subsection (a) may be granted only to a State or local government or a qualified organization, as that term is used in section 170(h) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)).

"(c) LIMITATION ON USE OF CONSERVATION EASEMENTS.—An easement under subsection (a) may not be granted unless—

"(1) the Secretary concerned determines that the conservation purpose to be promoted by the easement cannot be effectively achieved through the application of State law by the State or a local government;

"(2) the Secretary consults with the local government whose jurisdiction encompasses the property regarding the grant of the easement; and

"(3) the Secretary can give or assign to a third party the responsibility for monitoring and enforcing the easement.

"(d) ACREAGE LIMITATION.—No easement granted under this section may include more land than is necessary for the easement.

"(e) TERMS AND CONDITIONS.—The grant of an easement under this section shall be subject to such terms and conditions as the Secretary considers advisable.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2668 the following new item:

"2668a. Restrictive easements: granting easement in connection with land conveyances.".

SEC. 2823. MAXIMUM TERM OF LEASES FOR STRUCTURES AND REAL PROPERTY RELATING TO STRUCTURES IN FOREIGN COUNTRIES NEEDED FOR PURPOSES OTHER THAN FAMILY HOUSING.

Section 2675(a) of title 10, United States Code, is amended by striking "five years" and inserting "10 years".

SEC. 2824. CONSOLIDATION OF LAWS RELATING TO TRANSFER OF DEPARTMENT OF DEFENSE REAL PROPERTY WITHIN THE DEPARTMENT AND TO OTHER FEDERAL AGENCIES.

(a) INCLUSION OF TRANSFER AUTHORITY BETWEEN ARMED FORCES.—Section 2696 of title 10, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting before subsection (b), as so redesignated, the following new subsection:

"(a) TRANSFERS BETWEEN ARMED FORCES.—If either of the Secretaries concerned requests it and the other approves, real property may be transferred, without compensation, from one armed force to another. Section 2571(d) of this title shall apply to the transfer of real property under this subsection.".

(b) INCLUSION OF DEPARTMENT OF JUSTICE PROGRAM.—The text of section 2693 of such title is amended—

(1) by redesignating paragraphs (1), (2), and (3) of subsection (a) as subparagraphs (A), (B), and (C), respectively;

(2) by redesignating paragraphs (1) and (2) of subsection (b) as subparagraphs (A) and (B), respectively, and in such subparagraph (B), as so redesignated, by striking "this section" and inserting "paragraph (1)";

(3) by striking "(a) Except as provided in subsection (b)" and inserting "(f) DEPARTMENT OF JUSTICE CORRECTIONAL OPTIONS PROGRAM.—(1) Except as provided in paragraph (2)";

(4) by striking "(b) The provisions of this section" and inserting "(2) Paragraph (1)"; and

(5) by transferring the text, as so redesignated and amended, to appear as a new subsection (f) at the end of section 2696 of such title.

(c) CONFORMING AMENDMENTS.—

(1) SECTION 2571.—Section 2571(a) of such title is amended by striking "and real estate".

(2) SECTION 2693.—Section 2693 of such title is repealed.

(3) SECTION 2696.—Section 2696 of such title is amended—

(A) in subsection (b), as redesignated by subsection (a)(1), by striking "SCREENING REQUIREMENT.—" and inserting "SCREENING REQUIREMENTS FOR ADDITIONAL FEDERAL USE.—";

(B) in subsection (c)(1), as redesignated by subsection (a)(1), by striking "subsection (a)" in the first sentence and inserting "subsection (b)";

(C) in subsection (d), by striking "subsection (b)(1)" and inserting "subsection (c)(1)"; and

(D) in subsection (e), by striking "this section" and inserting "subsection (b)".

(d) CLERICAL AMENDMENTS.—

(1) SECTION 2571.—(A) The heading of section 2571 of such title is amended to read as follows:

"§2571. Interchange of supplies and services".

(B) The table of sections at the beginning of chapter 153 of such title is amended by striking the item relating to section 2571 and inserting the following new item:

"2571. Interchange of supplies and services.".

(2) SECTIONS 2693 AND 2696.—(A) The heading of section 2696 of such title is amended to read as follows:

"§2696. Transfers and disposals: interchange among armed forces and screening requirements for other Federal use".

(B) The table of sections at the beginning of chapter 159 of such title is amended—

(i) by striking the item relating to section 2693; and

(ii) by striking the item relating to section 2696 and inserting the following new item:

"2696. Transfers and disposals: interchange among armed forces and screening requirements for other Federal use.".

SEC. 2825. CONGRESSIONAL NOTICE REQUIREMENTS IN ADVANCE OF ACQUISITION OF LAND BY CONDEMNATION FOR MILITARY PURPOSES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense, when acquiring land for military purposes, should make every effort to do so by means of purchases from willing sellers and should employ condemnation, eminent domain, or seizure procedures only as a measure of last resort in cases of compelling national security requirements.

(b) CONGRESSIONAL NOTICE.—Section 2663(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) Before using condemnation, eminent domain, or seizure procedures to acquire any interest in land, including land for temporary use, under this subsection, the Secretary of Defense or the Secretary of the military department concerned shall submit to the congressional defense committees a report that includes certification that the Secretary has made every effort to acquire the property without use of such procedures, explains the compelling requirements for the acquisition and why alternative acquisition strategies, such as purchases of easements, are inadequate, and describes the property for which the procedures will be employed. Proceedings may be brought with respect to the land only after the end of the 14-day period beginning on the date on which the report is received by the committees or, if over sooner, a period of 10 days elapses from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.".

Subtitle C—Base Closure and Realignment

SEC. 2831. TREATMENT OF LEASE PROCEEDS FROM MILITARY INSTALLATIONS APPROVED FOR CLOSURE OR REALIGNMENT AFTER JANUARY 1, 2005.

Paragraph (5) of section 2667(d) of title 10, United States Code, is amended to read as follows:

"(5) Money rentals received by the United States from a lease under subsection (f) at a military installation to be closed or realigned under a base closure law shall be deposited—

"(A) into the account established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), if the installation was approved for closure or realignment before January 1, 2005; or

"(B) into the account established under section 2906A(a) of such Act, if the installation was approved for closure or realignment after January 1, 2005.".

Subtitle D—Land Conveyances

SEC. 2841. LAND CONVEYANCE, NAVAL AIR STATION, BARBERS POINT, HAWAII.

(a) CONVEYANCE OF PROPERTY.—Not later than September 30, 2008, the Secretary of the Navy shall convey, by sale, lease, or a combination thereof, to any public or private person or entity outside the Department of Defense certain parcels of real property, including any improvements thereon, consisting of approximately 499 acres located at the former Naval Air Station, Barbers Point, Oahu, Hawaii, that are subject to the Ford Island Master Development Agreement developed pursuant to section 2814(a)(2) of title 10, United States Code, for the purpose of promoting the beneficial development of the real property.

(b) USE OF EXISTING AUTHORITY.—To implement subsection (a), the Secretary may utilize the special conveyance and lease authorities provided to the Secretary by subsections (b) and (c) of section 2814 of title 10, United States Code, for the purpose of developing or facilitating the development of Ford Island, Hawaii.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2842. MODIFICATION OF LAND ACQUISITION AUTHORITY, PERQUIMANS COUNTY, NORTH CAROLINA.

Section 2846 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1320), as amended by section 2865 of the Military Construction Authorization Act for Fiscal Year 2005 (division B of Public Law 108–375; 118 Stat. 2149) is further amended by striking "840 acres" and inserting "1,540 acres".

SEC. 2843. LAND CONVEYANCE, RADFORD ARMY AMMUNITION PLANT, PULASKI COUNTY, VIRGINIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Department of Veterans' Services of the Commonwealth of Virginia (in this section referred to as the "Department") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 85 acres at the Radford Army Ammunition Plant in Pulaski County, Virginia, for the purpose of permitting the Department to establish and operate a State-run cemetery for veterans of the Armed Forces.

(b) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Department to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Department in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Department.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Subtitle E—Other Matters

SEC. 2851. AVAILABILITY OF COMMUNITY PLANNING ASSISTANCE RELATING TO ENCROACHMENT OF CIVILIAN COMMUNITIES ON MILITARY FACILITIES USED FOR TRAINING BY THE ARMED FORCES.

Section 2391(d)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: "For purposes of subsection (b)(1)(D), the term 'military installation' includes a military facility owned and operated by any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, or the Virgin Islands, even though the facility is not under the jurisdiction of the Department of Defense, if the Secretary of Defense determines that the military facility is subject to significant use for training by the armed forces.".

SEC. 2852. PROHIBITIONS AGAINST MAKING CERTAIN MILITARY AIRFIELDS OR FACILITIES AVAILABLE FOR USE BY CIVIL AIRCRAFT.

(a) PROHIBITIONS.—The Secretary of the Navy may not enter into any agreement concerning a military installation specified in subsection (b) that would—

(1) authorize civil aircraft to regularly use an airfield or any other property at the installation;

(2) convey any real property at the installation, including any airfield at the installation, for the purpose of permitting the use of the property by civil aircraft.

(b) COVERED INSTALLATIONS.—The prohibitions in subsection (a) apply with respect to the following military installations:

(1) Marine Corps Air Station, Camp Pendleton, California.

(2) Marine Corps Air Station, Miramar, California.

(3) Marine Corps Base, Camp Pendleton, California.

(4) Naval Air Station, North Island, California.

(c) REPEAL OF EXISTING LIMITED PROHIBITION.—Section 2894 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 592) is repealed.

SEC. 2853. NAMING HOUSING FACILITY AT FORT CARSON, COLORADO, IN HONOR OF JOEL HEFLEY, A MEMBER OF THE HOUSE OF REPRESENTATIVES.

(a) FINDINGS.—Congress makes the following findings:

(1) Representative Joel Hefley was elected to represent Colorado's 5th Congressional district in 1986 and has served in the House of Representatives since that time with distinction, class, integrity, and honor.

(2) Representative Hefley has served on the Committee on Armed Services of the House of Representatives for 18 years, including service as Chairman of the Subcommittee on Military Installations and Facilities from 1995 through 2000 and, since 2001, as Chairman of the Subcommittee on Readiness.

(3) Representative Hefley's colleagues know him to be a fair and effective lawmaker who works for the national interest while never forgetting his Western roots.

(4) Representative Hefley's efforts on the Committee on Armed Services have been instrumental to the military value of, and quality of life at, installations in the State of Colorado, including Fort Carson, Cheyenne Mountain, Peterson Air Force Base, Schriever Air Force Base, Buckley Air Force Base, and the United States Air Force Academy.

(5) Representative Hefley was a leader in efforts to retain and expand Fort Carson as an essential part of the national defense system during the Defense Base Closure and Realignment process.

(6) Representative Hefley has consistently advocated for providing members of the Armed Forces and their families with quality, safe, and affordable housing and supportive communities.

(7) Representative Hefley spearheaded the Military Housing Privatization Initiative to eliminate inadequate housing on military installations, with the first pilot program located at Fort Carson.

(8) Representative Hefley's leadership on the Military Housing Privatization Initiative has allowed for the privatization of more than 121,000 units of military family housing, which brought meaningful improvements to living conditions for thousands of members of the Armed Forces and their spouses and children at installations throughout the United States.

(9) It is fitting and proper that an appropriate military family housing area or structure at Fort Carson be designated in honor of Representative Hefley, and it is further appropriate that division B of this Act, which authorizes funds for fiscal year 2007 for military construction projects, land acquisition, and family housing projects and facilities, be designated in honor of Representative Hefley.

(b) DESIGNATION.—The Secretary of the Army shall designate one of the military family housing areas or facilities constructed for Fort Carson, Colorado, using the authority provided by subchapter IV of chapter 169 of title 10, United States Code, as the "Joel Hefley Village".

SEC. 2854. NAMING NAVY AND MARINE CORPS RESERVE CENTER AT ROCK ISLAND, ILLINOIS, IN HONOR OF LANE EVANS, A MEMBER OF THE HOUSE OF REPRESENTATIVES.

(a) FINDINGS.—Congress makes the following findings:

(1) Representative Lane Evans was elected to the House of Representatives in 1982 and is now in his 12th term representing the people of Illinois' 17th Congressional district.

(2) As a member of the Committee on Armed Services of the House of Representatives, Representative Evans has worked to bring common sense priorities to defense spending and strengthen the military's conventional readiness.

(3) Representative Evans has been a tireless advocate for military veterans, ensuring that veterans receive the medical care they need and advocating for individuals suffering from post-traumatic stress disorder and Gulf War Syndrome.

(4) Representative Evans' efforts to improve the transition of individuals from military service to the care of the Department of Veterans Affairs will continue to benefit generations of veterans long into the future.

(5) Representative Evans is credited with bringing new services to veterans living in his Congressional district, including outpatient clinics in the Quad Cities and Quincy and the Quad-Cities Vet Center.

(6) Representative Evans has worked with local leaders to promote the Rock Island Arsenal and has seen it win new jobs and missions through his support.

(7) In honor of his service in the Marine Corps and to his district and the United States, it is fitting and proper that the Navy and Marine Corps Reserve Center at Rock Island Arsenal be named in honor of Representative Evans.

(b) DESIGNATION.—The Navy and Marine Corps Reserve Center at Rock Island Arsenal, Illinois, shall be known and designated as the "Lane Evans Navy and Marine Corps Reserve Center". Any reference in a law, map, regulation, document, paper, or other record of the United States to the Navy and Marine Corps Reserve Center at Rock Island Arsenal shall be deemed to be a reference to the Lane Evans Navy and Marine Corps Reserve Center.

SEC. 2855. NAMING OF RESEARCH LABORATORY AT AIR FORCE ROME RESEARCH SITE, ROME, NEW YORK, IN HONOR OF SHERWOOD L. BOEHLERT, A MEMBER OF THE HOUSE OF REPRESENTATIVES.

The new laboratory building at the Air Force Rome Research Site, Rome, New York, shall be known and designated as the "Sherwood L. Boehlert Engineering Center". Any reference in a law, map, regulation, document, paper, or other record of the United States to such laboratory facility shall be deemed to be a reference to the Sherwood L. Boehlert Engineering Center.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

Sec. 3101. National Nuclear Security Administration.
Sec. 3102. Defense environmental cleanup.
Sec. 3103. Other defense activities.
Sec. 3104. Defense nuclear waste disposal.

Subtitle B—Program Authorizations, Restrictions, and Limitations

Sec. 3111. Plan for transformation of National Nuclear Security Administration nuclear weapons complex.
Sec. 3112. Extension of Facilities and Infrastructure Recapitalization Program.
Sec. 3113. Utilization of contributions to Global Threat Reduction Initiative.
Sec. 3114. Utilization of contributions to Second Line of Defense program.

Sec. 3115. Two-year extension of authority for appointment of certain scientific, engineering, and technical personnel.
Sec. 3116. National Academy of Sciences study of quantification of margins and uncertainty methodology for assessing and certifying the safety and reliability of the nuclear stockpile.
Sec. 3117. Consolidation of counterintelligence programs of Department of Energy and National Nuclear Security Administration.

Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2007 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $9,265,811,000 to be allocated as follows:

(1) For weapons activities, $6,467,889,000.

(2) For defense nuclear nonproliferation activities, $1,616,213,000.

(3) For naval reactors, $795,133,000.

(4) For the Office of the Administrator for Nuclear Security, $386,576,000.

(b) Authorization of New Plant Projects.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out the following new plant projects:

(1) For weapons activities:

Project 07–D–140, project engineering and design, various locations, $4,977,000.

Project 07–D–220, Radioactive Liquid Waste Treatment Facility upgrade, Los Alamos National Laboratory, $14,828,000.

Project 07–D–253, TA–1 Heating Systems Modernization, Facilities and Infrastructure Recapitalization Program, $14,500,000.

(2) For defense nuclear nonproliferation activities:

Project 07–SC–05, Physical Sciences Facility, Pacific Northwest National Laboratory, $4,220,000.

(3) For naval reactors:

Project 07–D–190, project engineering and design, Materials Research Technology Complex, $1,485,000.

SEC. 3102. DEFENSE ENVIRONMENTAL CLEANUP.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2007 for defense environmental cleanup activities in carrying out programs necessary for national security in the amount of $5,440,312,000.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2007 for other defense activities in carrying out programs necessary for national security in the amount of $717,788,000.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2007 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $388,080,000.

Subtitle B—Program Authorizations, Restrictions, and Limitations

SEC. 3111. PLAN FOR TRANSFORMATION OF NATIONAL NUCLEAR SECURITY ADMINISTRATION NUCLEAR WEAPONS COMPLEX.

(a) Plan Required.—Subtitle A of title XLII of the Atomic Energy Defense Act (division D of Public Law 107–314) is amended by inserting after section 4213 (50 U.S.C. 2533) the following new section:

"SEC. 4214. PLAN FOR TRANSFORMATION OF NATIONAL NUCLEAR SECURITY ADMINISTRATION NUCLEAR WEAPONS COMPLEX.

"(a) Plan Required.—The Secretary of Energy and the Secretary of Defense shall develop a plan to transform the nuclear weapons complex so as to achieve a responsive infrastructure by 2030. The plan shall be designed to accomplish the following objectives:

"(1) To maintain the safety, reliability, and security of the United States nuclear weapons stockpile.

"(2) To continue Stockpile Life Extension Programs that the Nuclear Weapons Council considers necessary.

"(3) To prepare to produce replacement warheads under the Reliable Replacement Warhead program at a rate necessary to meet future stockpile requirements, commencing with a first production unit in 2012 and achieving steady-state production using modern manufacturing processes by 2025.

"(4) To eliminate, within the nuclear weapons complex, duplication of production capability except to the extent required to ensure the safety, reliability, and security of the stockpile.

"(5) To maintain the current philosophy within the national security laboratories of peer review of nuclear weapons designs while eliminating duplication of laboratory capabilities except to the extent required to ensure the safety, reliability, and security of the stockpile.

"(6) To maintain the national security mission, and in particular the science-based Stockpile Stewardship Program, as the primary mission of the national security laboratories while optimizing the work-for-others activities of those laboratories to support other national security objectives in fields such as intelligence and homeland security.

"(7) To consolidate to the maximum extent practicable, and to provide for the ultimate disposition of, special nuclear material throughout the nuclear weapons complex, with the ultimate goal of eliminating Category I and II special nuclear material from the national security laboratories no later than March 1, 2010, so as to further reduce the footprint of the nuclear weapons complex, reduce security costs, and reduce transportation costs for special nuclear material.

"(8) To employ a risk-based approach to ensure compliance with Design Basis Threat security requirements.

"(9) To expeditiously dismantle inactive nuclear weapons to reduce the size of the stockpile to the lowest level required by the Nuclear Weapons Council.

"(10) To operate the nuclear weapons complex in a more cost-effective manner.

"(b) Report.—Not later than February 1, 2007, the Secretary of Energy and Secretary of Defense shall submit to the congressional defense committees a report on the transformation plan required by subsection (a). The report shall address each of the objectives required by subsection (c) and also include each of the following:

"(1) A comprehensive list of the capabilities, facilities, and project staffing that the National Nuclear Security Administration will need to have in place at the nuclear weapons complex as of 2030 to meet the requirements of the transformation plan.

"(2) a comprehensive list of the capabilities and facilities that the National Nuclear Security Administration currently has in place at the nuclear weapons complex that will not be needed as of 2030 to meet the requirements of the transformation plan.

"(3) A plan for implementing the transformation plan, including a schedule with incremental milestones.

"(c) Consultation.—The Secretary of Energy and the Secretary of Defense shall develop the transformation plan required by subsection (a) in consultation with the Nuclear Weapons Council.

"(d) Definition.—In this section, the term 'national security laboratory' has the meaning given such term in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471).".

(b) Inclusion in Future-Years Nuclear Security Program.—Section 3253 of the National Nuclear Security Administration Act (50 U.S.C. 2453) is amended in subsection (b) by adding at the end the following new paragraph:

"(5) A statement of proposed budget authority, estimated expenditures, and proposed appropriations necessary to support the programs required to implement the plan to transform the nuclear weapons complex under section 4214 of the Atomic Energy Defense Act, together with a detailed description of how the funds identified for each program element specified pursuant to paragraph (1) in the budget for the Administration for each fiscal year during that five-fiscal-year period will help ensure that those programs are implemented. The statement shall assume year-to-year funding profiles that account for increases only for projected inflation.".

SEC. 3112. EXTENSION OF FACILITIES AND INFRASTRUCTURE RECAPITALIZATION PROGRAM.

Section 3114 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 50 U.S.C. 2453 note), as amended by section 3113 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2160), is amended—

(1) in subsection (a)(3)(F), by striking "2011" and inserting "2013"; and

(2) in subsection (b), by striking "2011" and inserting "2013".

SEC. 3113. UTILIZATION OF CONTRIBUTIONS TO GLOBAL THREAT REDUCTION INITIATIVE.

Section 3132 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2166; 50 U.S.C. 2569) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by adding after subsection (e) the following new subsection:

"(f) Participation by Other Governments and Organizations.—

"(1) In General.—The Secretary of Energy may, with the concurrence of the Secretary of State, enter into one or more agreements with any person (including a foreign government, international organization, or multinational entity) that the Secretary of Energy considers appropriate under which the person contributes funds for purposes of the program under this section.

"(2) Retention and Use of Amounts.—The Secretary of Energy may retain and use amounts contributed under an agreement under paragraph (1) for purposes of the program under this section. Amounts so contributed shall be retained in a separate fund established in the Treasury for such purposes and shall be available until expended, without further appropriation, for such purposes.".

SEC. 3114. UTILIZATION OF CONTRIBUTIONS TO SECOND LINE OF DEFENSE PROGRAM.

(a) In General.—The Secretary of Energy may, with the concurrence of the Secretary of State, enter into one or more agreements with any person (including a foreign government, international organization, or multinational entity) that the Secretary of Energy considers appropriate under which the person contributes funds for purposes of the Second Line of Defense program of the National Nuclear Security Administration.

(b) RETENTION AND USE OF AMOUNTS.—The Secretary of Energy may retain and use amounts contributed under an agreement under subsection (a) for purposes of the Second Line of Defense program. Amounts so contributed shall be retained in a separate fund established in the Treasury for such purposes and shall be available until expended, without further appropriation, for such purposes.

(c) TERMINATION OF AUTHORITY.—The authority to accept contributions under subsection (a) terminates December 31, 2013.

SEC. 3115. TWO-YEAR EXTENSION OF AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

Section 4601(c)(1) of the Atomic Energy Defense Act (50 U.S.C. 2701(c)(1)) is amended by striking "September 30, 2006" and inserting "September 30, 2008".

SEC. 3116. NATIONAL ACADEMY OF SCIENCES STUDY OF QUANTIFICATION OF MARGINS AND UNCERTAINTY METHODOLOGY FOR ASSESSING AND CERTIFYING THE SAFETY AND RELIABILITY OF THE NUCLEAR STOCKPILE.

(a) STUDY REQUIRED.—The Secretary of Energy shall, as soon as practicable and no later than 120 days after the date of the enactment of this Act, enter into an arrangement with the National Research Council of the National Academy of Sciences for the Council to carry out a study of the quantification of margins and uncertainty methodology used by the national security laboratories for assessing and certifying the safety and reliability of the nuclear stockpile.

(b) MATTERS INCLUDED.—The study required by subsection (a) shall evaluate the following:

(1) The use of the quantification of margins and uncertainty methodology by the national security laboratories, including underlying assumptions of weapons performance and the ability of modeling and simulation tools to predict nuclear explosive package characteristics.

(2) The manner in which that methodology is used to conduct the annual assessments of the nuclear weapons stockpile.

(3) How the use of that methodology compares and contrasts between the national security laboratories.

(4) The process by which conflicts between the national security laboratories in the application of that methodology are resolved.

(5) An assessment of whether the application of the quantification of margins and uncertainty used for annual assessments and certification of the nuclear weapons stockpile can be applied to the planned Reliable Replacement Warhead program so as to carry out the objective of that program to reduce the likelihood of the resumption of underground testing of nuclear weapons.

(c) REPORT.—

(1) IN GENERAL.—Not later than one year after the date on which the arrangement required by subsection (a) is entered into, the National Research Council shall submit to the Secretary of Energy and the congressional committees specified in paragraph (2), a report on the study that addresses the matters listed in subsection (b) and any other matters considered by the National Research Council to be relevant to the use of the quantification of margins and uncertainty methodology in assessing the current or future nuclear weapons stockpile.

(2) SPECIFIED COMMITTEES.—The congressional committees referred to in paragraph (1) are the following:

(A) The Committee on Armed Services of the Senate.

(B) The Committee on Armed Services of the House of Representatives.

(d) PROVISION OF INFORMATION.—The Secretary of Energy shall, in a timely manner, make available to the National Research Council all information that the National Research Council considers necessary to carry out its responsibilities under this section.

(e) FUNDING.—Of the amounts made available to the Department of Energy pursuant to the authorization of appropriations in section 3101, $2,000,000 shall be available only for carrying out the study required by this section.

SEC. 3117. CONSOLIDATION OF COUNTERINTELLIGENCE PROGRAMS OF DEPARTMENT OF ENERGY AND NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) TRANSFER OF FUNCTIONS.—The functions, personnel, funds, assets, and other resources of the Office of Defense Nuclear Counterintelligence of the National Nuclear Security Administration are transferred to the Secretary of Energy, to be administered (except to any extent otherwise directed by the Secretary) by the Director of the Office of Counterintelligence of the Department of Energy.

(b) NNSA COUNTERINTELLIGENCE OFFICE ABOLISHED.—

(1) IN GENERAL.—Section 3232 of the National Nuclear Security Administration Act (50 U.S.C. 3232) is amended—

(A) by amending the heading to read as follows:

"SEC. 3232. OFFICE OF DEFENSE NUCLEAR SECURITY.";

(B) by striking subsection (a) and inserting the following new subsection (a):

"(a) ESTABLISHMENT.—There is within the Administration an Office of Defense Nuclear Security, headed by a Chief appointed by the Secretary of Energy. The Administrator shall recommend to the Secretary suitable candidates for such position.";

(C) by striking subsection (b); and

(D) by redesignating subsection (c) as subsection (b).

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of the National Nuclear Security Administration Act is amended by striking the item relating to section 3232 and inserting the following new item:

"Sec. 3232. Office of Defense Nuclear Security.".

(c) COUNTERINTELLIGENCE PROGRAMS AT NNSA FACILITIES.—Section 3233 of the National Nuclear Security Administration Act (50 U.S.C. 2423) is amended—

(1) in each of subsections (a) and (b), by striking "The Administrator shall" and inserting "The Secretary of Energy shall"; and

(2) in subsection (b), by striking "Office of Defense Nuclear Counterintelligence" and inserting "Office of Counterintelligence of the Department of Energy".

(d) STATUS OF NNSA INTELLIGENCE AND COUNTERINTELLIGENCE PERSONNEL.—Section 3220 of the National Nuclear Security Administration Act (50 U.S.C. 2410) is amended by adding at the end the following new subsection:

"(e) STATUS OF INTELLIGENCE AND COUNTERINTELLIGENCE PERSONNEL.—Notwithstanding the restrictions of subsections (a) and (b), each officer or employee of the Administration, or of a contractor of the Administration, who is carrying out activities related to intelligence or counterintelligence shall, in carrying out those activities, be subject to the authority, direction, and control of the Secretary of Energy or the Secretary's delegate.".

(e) SERVICE FROM WHICH DOE INTELLIGENCE DIRECTOR AND COUNTERINTELLIGENCE DIRECTOR APPOINTED.—Section 215(b)(1) (42 U.S.C. 7144b(b)(1)) and section 216(b)(1) (42 U.S.C. 7144c(b)(1)) of the Department of Energy Organization Act are each amended by striking "which shall be a position in the Senior Executive Service" and inserting "who shall be an employee in the Senior Executive Service, the Senior Intelligence Service, the Senior National Intelligence Service, or any other Service that the Secretary, in coordination with the Director of National Intelligence, considers appropriate".

(f) INTELLIGENCE EXECUTIVE COMMITTEE; BUDGET FOR INTELLIGENCE AND COUNTERINTELLIGENCE.—Section 214 of the Department of Energy Organization Act (42 U.S.C. 7144a) is amended—

(1) by inserting "(a)" before "The Secretary shall be responsible"; and

(2) by adding at the end the following:

"(b)(1) There is within the Department an Intelligence Executive Committee. The Committee shall consist of the Deputy Secretary of Energy, who shall chair the Committee, and each Under Secretary of Energy.

"(2) The Committee shall be staffed by the Director of the Office of Intelligence and the Director of the Office of Counterintelligence.

"(3) The Secretary shall use the Committee to assist in developing and promulgating the counterintelligence and intelligence policies, requirements, and priorities of the Department.

"(c) In the budget justification materials submitted to Congress in support of each budget submitted by the President to Congress under title 31, United States Code, the amounts requested for the Department for intelligence functions and the amounts requested for the Department for counterintelligence functions shall each be specified in appropriately classified individual, dedicated program elements. Within the amounts requested for counterintelligence functions, the amounts requested for the National Nuclear Security Administration shall be specified separately from the amounts requested for other elements of the Department.".

(g) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Department of Energy shall submit to Congress a report on the implementation of this section and of the amendments required by this section. The report shall include the Inspector General's evaluation of that implementation.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 2007, $22,260,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Authorized uses of National Defense Stockpile funds.

Sec. 3302. Revisions to required receipt objectives for previously authorized disposals from National Defense Stockpile.

SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2007, the National Defense Stockpile Manager may obligate up to $52,132,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3302. REVISIONS TO REQUIRED RECEIPT OBJECTIVES FOR PREVIOUSLY AUTHORIZED DISPOSALS FROM NATIONAL DEFENSE STOCKPILE.

(a) FISCAL YEAR 1999 DISPOSAL AUTHORITY.—Section 3303(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 98d note), as amended by section 3302 of the Ronald W. Reagan National Defense Authorization Act for Year 2005 (Public Law 108–375; 118 Stat. 2193) and section 3302 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3545), is amended—

(1) by striking "and" at the end of paragraph (5); and

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) $1,365,000,000 by the end of fiscal year 2014.".

(b) FISCAL YEAR 1998 DISPOSAL AUTHORITY.—Section 3305(a)(5) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 50 U.S.C. 98d note), as amended by section 3305 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1390), is amended by striking "2006" and inserting "2008".

(c) FISCAL YEAR 1997 DISPOSAL AUTHORITY.—Section 3303 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 50 U.S.C. 98d note), as amended by section 3402(f) of the National Defense Authorization Act for Year 2000 (Public Law 106–65; 113 Stat. 973) and section 3304(c) of the National Defense Authorization Act for 2002 (Public Law 107–107; 115 Stat. 1390), is amended—

(1) in subsection (a), by striking paragraph (2) and inserting the following new paragraph (2):

"(2) $720,000,000 during the 12-fiscal year period ending September 30, 2008."; and

(2) in subsection (b)(2), by striking "the 10-fiscal year period" and inserting "the period".

TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT.—There are hereby authorized to be appropriated to the Secretary of Energy $18,810,000 for fiscal year 2007 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

TITLE XXXV—MARITIME ADMINISTRATION

SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2007.

Funds are hereby authorized to be appropriated for fiscal year 2007, to be available without fiscal year limitation if so provided in appropriations Acts, for the use of the Department of Transportation for the Maritime Administration as follows:

(1) For expenses necessary for operations and training activities, $138,647,000, of which $19,500,000 shall be available only for paying reimbursement under section 3517 of the Maritime Security Act of 2003 (46 U.S.C. 53101 note).

(2) For expenses to dispose of obsolete vessels in the National Defense Reserve Fleet, including provision of assistance under section 7 of Public Law 92–402, $25,740,000.

SEC. 3502. LIMITATION ON TRANSFER OF MARITIME SECURITY FLEET OPERATING AGREEMENTS.

Section 53105(e) of title 46, United States Code, is amended—

(1) by inserting "(1) IN GENERAL.—" before the first sentence;

(2) by moving paragraph (1) (as designated by the amendment made by paragraph (1) of this subsection) so as to appear immediately below the heading for such subsection, and 2 ems to the right; and

(3) by adding at the end the following:

"(2) LIMITATION.—The Secretary of Defense may not approve under paragraph (1) transfer of an operating agreement to a person that is not a citizen of the United States under section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802), unless the Secretary of Defense determines that there is no person who is a citizen under such section and is interested in obtaining the operating agreement for a vessel that is otherwise eligible to be included in the Fleet under section 53102(b).".

SEC. 3503. APPLICABILITY TO CERTAIN MARITIME ADMINISTRATION VESSELS OF LIMITATIONS ON OVERHAUL, REPAIR, AND MAINTENANCE OF VESSELS IN FOREIGN SHIPYARDS.

Section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744) is amended by inserting after subsection (c) the following:

"(d) APPLICABILITY OF LIMITATIONS ON OVERHAUL, REPAIR, AND MAINTENANCE IN FOREIGN SHIPYARDS.—

"(1) APPLICATION OF LIMITATION.—The provisions of section 7310 of title 10, United States Code, shall apply to vessels specified in subsection (b), and to the Secretary of Transportation with respect to those vessels, in the same manner as those provisions apply to vessels specified in subsection (b) of such section, and to the Secretary of the Navy, respectively.

"(2) COVERED VESSELS.—Vessels specified in this paragraph are vessels maintained by the Secretary of Transportation in support of the Department of Defense, including any vessel assigned by the Secretary of Transportation to the Ready Reserve Force that is owned by the United States.".

SEC. 3504. VESSEL TRANSFER AUTHORITY.

The Secretary of Transportation may transfer or otherwise make available without reimbursement to any other department a vessel under the jurisdiction of the Department of Transportation, upon request by the Secretary of the department that receives the vessel.

SEC. 3505. UNITED STATES MERCHANT MARINE ACADEMY GRADUATES: ALTERNATE SERVICE REQUIREMENTS.

(a) SERVICE ON ACTIVE DUTY.—Section 1303(e) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295b(e)) is amended by adding at the end the following:

"(6)(A) An individual who for the 5-year period following graduation from the Academy, serves as a commissioned officer on active duty in an armed force of the United States or as a commissioned officer in the National Oceanic and Atmospheric Administration shall be excused from the requirements of subparagraphs (C), (D), and (E) of paragraph (1).

"(B) The Secretary may modify or waive any of the terms and conditions set forth in paragraph (1) through the imposition of alternative service requirements.".

(b) APPLICATION.—Paragraph (6) of section 1303(e) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295b(e)), as added by this subsection, applies only to an individual who enrolls as a cadet at the United States Merchant Marine Academy, and signs an agreement under section paragraph (1) of that section, after the date of the enactment of this Act.

SEC. 3506. UNITED STATES MERCHANT MARINE ACADEMY GRADUATES: SERVICE OBLIGATION PERFORMANCE REPORTING REQUIREMENT.

(a) IN GENERAL.—Section 1303(e) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295b(e)) is further amended by adding at the end the following:

"(7)(A) Subject to any otherwise applicable restrictions on disclosure in section 552a of title 5, United States Code, the Secretary of Defense or the Secretary of the department in which the Coast Guard is operating, and the Administrator of the National Oceanic and Atmospheric Administration—

"(i) shall report the status of obligated service of an individual graduate of the Academy upon request of the Secretary; and

"(ii) may, in their discretion, notify the Secretary of any failure of the graduate to perform the graduate's duties, either on active duty or in the Ready Reserve component of their respective service, or as a commissioned officer of the National Oceanic and Atmospheric Administration, respectively.

"(B) A report or notice under subparagraph (A) shall identify any graduate determined to have failed to comply with service obligation requirements and provide all required information as to why such graduate failed to comply.

"(C) Upon receipt of such a report or notice, such graduate may be considered to be in default of the graduate's service obligations by the Secretary, and subject to all remedies the Secretary may have with respect to such a default.".

(b) APPLICATION.—The amendment made by this section does not apply with respect to an agreement entered into under section 1303(e) of the Merchant Marine Act, 1936 (46 U.S.C. 1295b(e)) before the date of the enactment of this Act.

SEC. 3507. TEMPORARY AUTHORITY TO TRANSFER OBSOLETE COMBATANT VESSELS TO NAVY FOR DISPOSAL.

The Secretary of Transportation shall, subject to the availability of appropriations and consistent with section 1535 of title 31, United States Code, popularly known as the Economy Act, transfer to the Secretary of the Navy during fiscal year 2006 for disposal by the Navy, no fewer than 6 combatant vessels in the nonretention fleet of the Maritime Administration that are acceptable to the Secretary of the Navy.

SEC. 3508. TEMPORARY REQUIREMENT TO MAINTAIN READY RESERVE FORCE.

(a) REPORT TO CONGRESS.—The Secretary of Defense, in consultation with the Secretary of Transportation, shall submit to Congress by not later than March 1, 2007, a report describing a five-year plan for maintaining the capability of the Ready Reserve Force of the National Defense Reserve Fleet necessary to support Department of Defense wartime missions and support to civil authority missions.

(b) REQUIREMENT TO MAINTAIN THE READY RESERVE FORCE AT CURRENT STRENGTH.—The Secretary of Transportation shall maintain 58 vessels in the Ready Reserve Force of the National Defense Reserve Fleet until the end of the 45-day period beginning on the date the report required under subsection (a) is submitted to Congress.

The Acting CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 109–459. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to an amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 printed in House Report 109-459 offered by Mr. HUNTER:

At the end of subtitle B of title I (page 22, after line 21), insert the following new section:

SEC. 115. FUNDING FOR CALL FOR FIRE TRAINER/JOINT FIRES AND EFFECTS TRAINER SYSTEM.

(a) IN GENERAL.—The amount provided in section 101(5) for Other Procurement, Army, is hereby increased by $4,000,000, to be available for a Call for Fire Trainer II/Joint Fires and Effects Trainer System (JFETS) under Line 161 Training Devices, Nonsystem (NA0100).

(b) OFFSET.—The amount provided in section 201(1) for Research, Development, Test, and Evaluation, Army, is hereby reduced by $4,000,000, to be derived from the Joint Tactical Radio System account (Program Element 0604280A).

At the end of title I (page 40, after line 23), insert the following new section:

SEC. 1___. AIR FORCE PROGRAM.

(a) SCIENCE ENGINEERING LAB DATA INTEGRATION.—The amount provided in section 103 for Other Procurement, Air Force, is hereby increased by $6,000,000, to be available for Science Engineering Lab Data Integration (SELDI) at the Ogden Air Logistics Center, Utah.

(b) OFFSET.—The amount provided in section 201(4) for Research, Development, Test, and Evaluation, Defense-wide, is hereby reduced by $6,000,000, to be derived from Information and Communications Technology (Program Element 0602301E).

At the end of section 346 (page 98, after line 11) insert the following new subsection:

(e) EXCEPTION FOR NON-LINE-OF-SIGHT CANNON SYSTEM.—This section does not apply with respect to the obligation of funds for systems development and demonstration of the non-line-of-sight cannon system.

At the end of subtitle D of title VI (page 229, after line 16), insert the following new section:

SEC. 6xx. STUDY ON RETENTION OF MEMBERS OF THE ARMED FORCES WITHIN SPECIAL OPERATIONS COMMAND.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on means to improve retention of members of the Armed Forces who have a special operations forces designation. The report shall include the following:

(1) The effect on retention of such members if special pays were included in the computation of retired pay for those members with a minimum of 48 months of Hostile Fire Pay (consecutive or nonconsecutive) at the time of retirement.

(2) Information on the cost of training of members of the Armed Forces who have a special operations forces designation, with such information displayed separately for each such designation and shown as aggregate costs of training for such members at the 4-year, 8-year, 12-year, 16-year, and 20-year points of service.

(3) A statement, in the case of members of the Armed Forces with a special operations forces designation who have been deployed at least twice, of the average amount spent on special operations unique training, both predeployment and during deployment.

(4) For each component of the United States Special Operations Command, an estimate of when the assigned strength of that component will be not less than 90 percent of the authorized strength of that component, taking into account anticipated growth that is mentioned in the most recent Quadrennial Defense Review.

(5) The average amount of time a member of the Armed Forces with a special operations forces designation is deployed to areas that warrant Hostile Fire Pay.

(6) The percentage of members of the Armed Forces with a special operations forces designation who have accumulated over 48 months of Hostile Fire Pay and the percentage who have accumulated over 60 months of such pay.

Strike section 662 (page 235, line 20, through page 236, line 18) and insert the following new section:

SEC. 662. PILOT PROJECT FOR PROVISION OF GOLF CARTS ACCESSIBLE FOR DISABLED PERSONS AT MILITARY GOLF COURSES.

(a) PILOT PROJECT REQUIRED.—The Secretary of Defense shall conduct a pilot project at a significant number of military golf courses, to be selected by the Secretary, for the purpose of developing—

(1) an implementation strategy to make available, as soon as practicable at all military golf courses in the United States, an adequate supply of golf carts that are accessible for disabled persons authorized to use such courses; and

(2) a Department-wide campaign to increase the awareness among such disabled persons of the availability of accessible golf carts and to promote the use of military golf courses by such disabled persons.

(b) REQUIRED NUMBER OF ACCESSIBLE GOLF CARTS.— The Secretary shall provide at least two accessible golf carts at each pilot project location.

(c) PILOT PROJECT LOCATIONS.—The military golf courses selected to participate in the pilot project shall be geographically dispersed, except that at least one of the military golf courses shall be in the Washington metropolitan area. The Secretary may not select a military golf course to participate in the pilot project if that military golf course already has golf carts that are accessible for disabled persons.

(d) DEPARTMENT OF DEFENSE HEALTH CARE AWARENESS.—Military medical treatment facilities shall provide information to patients about the pilot project and the availability of accessible golf carts at military golf courses participating in the pilot project and at other military golf courses that already provide accessible golf carts.

(e) DURATION.—The Secretary shall conduct the pilot project for a minimum of one year.

(f) REPORT REQUIRED.—Not later than 180 days after the conclusion of the pilot project, the Secretary shall submit a report to Congress containing the results of the project and the recommendations of the Secretary regarding how to make an adequate supply of accessible golf carts available at all military golf courses in the United States.

Page 241, line 6, strike "December 31, 2007" and insert "October 1, 2007".

Page 249, line 12, strike "Section" and insert "Effective October 1, 2007, section".

Page 249, line 14, strike "The" and insert "Effective October 1, 2007, the".

At the end of subtitle D of title XXVIII (page 504, after line 7), insert the following new section:

SEC. 28   . LAND CONVEYANCE, NORTH HILLS ARMY RESERVE CENTER, ALLISON PARK, PENNSYLVANIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the North Allegheny School District (in this section referred to as the "School District") all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 11.15 acres and containing the North Hills Army Reserve Center in Allison Park, Pennsylvania, for the purpose of permitting the School District to use the property for educational and recreational purposes and for parking facilities related thereto.

(b) CONSIDERATION.—The Secretary may waive any requirement for consideration in connection with the conveyance under subsection (a) if the Secretary determines that, were the conveyance of the property to be made under subchapter III of chapter 5 of title 40, United States Code, for the same purpose specified in subsection (a), the conveyance could be made without consideration.

(c) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purposes of the conveyance specified in such subsection, all right, title, and interest in and to all or any portion of the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the School District to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the School District in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the School District.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Strike sections 2853, 2854, and 2855 (page 506, line 1, through page 510, line 16).

The Acting CHAIRMAN. Pursuant to House Resolution 806, the gentleman from California (Mr. HUNTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. HUNTER. Mr. Chairman, this is a manager's amendment that has been worked out with both sides. And briefly, Mr. Chairman, this adds a section to add $4 million for the call of the fire trainer/joint fires and effects trainer with an offset of $4 million from the Joint Tactical Radio System.

It adds a section to add $6 million to the Air Force Science Engineering Lab Data Integration with an offset of $6 million from IT, PE 0602301E.

It adds an exception for the non-line-of-sight cannon system from the requirement in section 346, subsection C.

It adds a section requiring the Secretary of Defense to submit a report on means to improve retention of members of the Special Operations Forces.

It strikes and replaces section 662 requiring the Secretary of Defense to conduct a pilot project for disabled persons accessible golf carts at military golf courses that allows our disabled personnel and wounded personnel to be able to participate in golf.

It incorporates a technical correction to the TRICARE effective dates in section 704 and 709 of the bill. It adds a section conveying Army Reserve Center land in Allison Park, Pennsylvania, to the local school districts; and it strikes sections 2853, 2854, 2855.

Mr. Chairman, I reserve the balance of my time.

Mr. ANDREWS. Mr. Chairman, even though we are not in opposition, I ask unanimous consent to claim the time.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ANDREWS. Mr. Chairman, I yield back the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HUNTER).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. ANDREWS

Mr. ANDREWS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 printed in House Report 109–459 offered by Mr. ANDREWS:

In section 312, insert after subsection (d) (page 63, after line 9) the following new subsection (e) (and redesignate existing subsection (e) as subsection (f)):

(e) EPIDEMIOLOGICAL STUDY ON HUMAN POPULATIONS.—The Secretary shall conduct an epidemiological study on human populations in the vicinity of military munitions disposal sites within covered United States ocean waters for the purpose of determining whether people have been affected by the presence of military munitions in these waters. The Secretary shall include the results of the study in the report referred to in subsection (a)(4).

The Acting CHAIRMAN. Pursuant to House Resolution 806, the gentleman from New Jersey (Mr. ANDREWS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, it surprised me to know, a little over a year ago to find that rather significant quantities of chemical weapons and the residue of chemical weapons had been dumped off the Atlantic coast at 19 different sites.

Now, it is important to understand that this dumping took place before an international treaty prohibited such dumping, so the United States was not in violation of any of its international obligations. And it is important to understand that much of this dumping took place at a time when our own Federal and State laws were either lax or nonexistent with respect to the handling of such materials.

The purpose of my amendment is most definitely not to point out any wrongdoing by the Department of Defense or the services. However, it is the purpose of my amendment to do something about the problem and finding out about the scope of the problem. We are talking here about arsenic, mustard gas, other very serious and very lethal substances which have been disposed of off of our coast over a period which dates back as far as World War I and went into the early part of the 1970s.

Now, what to do about this question requires a calm, factual analysis. Frankly, there would be one reaction that would say, well, we should just go find where the stuff is and dig it up and do something with it. I am not an expert in this field, but I am enough of an expert to know that that kind of hasty reaction might do a lot more harm than good. So the bill already contains some extensive reporting requirements which requires the Department of Defense to tell us where such dump sites are, how long these various chemical weapons and residues have been there.

My amendment adds one more requirement. It calls for the Department of Defense to do an epidemiological study of the impact, if any, on human health that has resulted from the disposal of these weapons over the years. The amendment does not prescribe a particular method of the study. It does not limit or expand any of the areas of inquiry.

It says to the Department of Defense, use your best scientific judgment and produce for us epidemiological studies that will answer the question as to whether there has been any measurable adverse impact on human health as a result of these dumping practices that took place from the early part of the 20th century until the 1970s.

The purpose of this study would then be to give us the facts that we need to determine the best course of action to protect human health.

Now, that may be to simply leave the status quo as it is. It may be to enact some measures that would preclude people from going to these areas of the sea. It may necessitate some removal. I think it is very important though that we approach this problem based upon the best scientific evidence of the impact on human health and not based upon any reaction that is based upon fear or ignorance.

So I would ask that the Members of the House support this amendment so that we may get these facts in front of us and deal with disposing of any threat to humanity that may exist.

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Madam Chairman, I reserve the balance of my time.

Mr. WILSON of South Carolina. Madam Chairman, although I am not opposed to the amendment, I request unanimous consent to claim the time in opposition.

The Acting CHAIRMAN (Mrs. BIGGERT). Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. WILSON of South Carolina. I am very happy to join with my colleague from New Jersey, and I share the same surprise as he that the accepted means of disposal of military munitions was to dump them off the coast.

I appreciate your efforts. I appreciate the efforts of our colleague, Congressman ABERCROMBIE of Hawaii, to raise this issue. I know personally that I had the privilege of growing up in Charleston, South Carolina, right on the coast. I now represent many beautiful and pristine communities along the south Atlantic coast.

These are areas crucial for homebuilding, which is the basis of our society. I want to do all I can to promote the homebuilding industry, the ability of people from New Jersey in particular to come down and visit some very beautiful resort areas of South Carolina.

Mr. ANDREWS. If the gentleman would yield, I would actually prefer that he rephrase that so that the South Carolinians visit the New Jersey coast, which is obviously a superior vacation spot.

Mr. WILSON of South Carolina. We can share this together, because I have visited the shores of New Jersey and I invite you to visit the beaches of South Carolina. This is so important.

In addition, I would like to point out that what you are proposing indeed would provide valuable information concerning the situation of military munitions disposal. It is really reassuring to know now how we have modern disposal methods.

My oldest son served for a year in Iraq. He had been trained for munitions collection and ultimate destruction of munitions. It is done now, obviously, with the intent of protecting the environment of the country in which they are located and to protect our troops, protect American families.

Madam Chairman, I yield back the balance of my time.

Mr. ANDREWS. Madam Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. All time having expired, the question is on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. ANDREWS

Mr. ANDREWS. Madam Chairman, on behalf of my friend from California, I offer her amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 printed in House Report 109–459 offered by Mr. ANDREWS:

Add at the end of title VII the following new section:

SEC. 7___. LIMITING RESTRICTION OF USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES TO PERFORM ABORTIONS TO FACILITIES IN THE UNITED STATES.

Section 1093(b) of title 10, United States Code, is amended by inserting "in the United States" after "Defense".

The Acting CHAIRMAN. Pursuant to House Resolution 806, the gentleman from New Jersey (Mr. ANDREWS) and the gentleman from Kansas (Mr. RYUN) each will control 10 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. ANDREWS. Madam Chairman, I yield as much time as she should consume to the author of the amendment, my friend from California.

Mrs. DAVIS of California. Madam Chairman, in his first appearance as our Commander in Chief, President Bush told servicemembers at Fort Stewart, you deserve a military that treats you and your families with respect. Well, I couldn't agree more.

Today we are considering how the defense bill can demonstrate our respect for the people who serve in uniform by providing for their equipment, their training and their well-being. Together with my colleagues today, I am offering an amendment to lift the current ban on abortion services in overseas military hospitals.

Under current law, women serving our country overseas have to return home to the U.S. for medical services after obtaining permission from their commanding officer and finding space on military transport. Their only other option is venturing out to a hospital in a foreign country.

Madam Chair, I believe we can do better. I would just like to clarify a few points about this amendment. No Federal funds would be used for those procedures. Women would use their own funds, and that would include overhead costs as well, for overhead costs. This amendment affects only U.S. military facilities overseas in countries where abortion is legal, and it also observes the refusal clauses and will not force providers to perform abortions.

Madam Chair, women serving in uniform are fighting to protect our freedom and our rights. Yet these women do not receive the protection of the Constitution they so ably defend. Even for those who don't require this service, the presence of this ban sends a demoralizing message. I believe we can do better.

Today, I have heard Chairman HUNTER and certainly Mr. MCHUGH and others who have spoken so eloquently about how this bill incorporates important military personnel issues. I support this bill, and I support the work that went into it. I support the compassion and the passion of my colleagues on the House Armed Services Committee.

But I do believe, Madam Chair, that if we don't lift this ban we continue to make women serving in uniform, who face the intimate, most personal issue, we continue to make these women invisible to us.

Madam Chair, I reserve the balance of my time and look forward to my colleagues' comments.

The Acting CHAIRMAN. Without objection, the gentlewoman from California (Mrs. DAVIS) will control the time in favor of the amendment.

There was no objection.

Mr. RYUN of Kansas. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I strongly oppose this amendment. Allowing self-funded abortions would simply turn our military hospitals overseas into abortion clinics.

Proponents of this amendment often claim that female servicemembers and dependents overseas are denied equal access to health care, effectively putting their life and health in harm's way. This is simply not true. If a woman chooses to have an abortion, abortion clinics are accessible overseas. If a woman prefers to have an abortion in the United States, that is available to her under current law as well.

Furthermore, these installations already offer self-funded abortions when the life of the mother is in danger or when the pregnancy is as a result of rape or incest.

There is no demonstrated need for expanding abortion access. Furthermore, this amendment does not seek to address operational requirements or to ensure access through entitlement. What it does, however, is unnecessarily insert a politically divisive issue into the defense authorization process.

Although this amendment is presented as providing for solely self-funded abortions, the fact is that American taxpayers will be forced to pay for the use of military facilities, the procurement of additional equipment needed to perform abortions, and the use of military personnel to perform abortions. Even if an additional equipment fee is charged to the patient, it cannot possibly account for all the expenses involved.

Military hospitals or military doctors signed up to save the lives of dedicated servicemen and women, not to end the lives of babies. It would be wrong for Congress to pressure or coerce these doctors into performing a procedure they morally object to.

I ask my colleagues to vote against turning military hospitals into abortion clinics and vote against this amendment.

Madam Chairman, I reserve the balance of my time.

Mrs. DAVIS of California. Madam Chairman, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. I thank the gentlewoman for yielding.

Madam Chair, I was proud to serve on the Armed Services Committee for 6 years. I have supported this amendment since I first offered it in 1997. I salute my California sisters, Mrs. DAVIS and Ms. SANCHEZ, who have ably taken up the cause.

I became a grandmother for the first time this year. I surely hope that before my granddaughter is old enough to serve in the military this amendment will become law.

Madam Chair, over 200,000 women serve in the U.S. military and approximately 12,000 currently serve in Iraq and Afghanistan. These women are flying helicopters and fighter aircraft. They are driving support vehicles, patrolling bomb ridden highways and shouldering weapons. They serve as an example and an inspiration to the women they meet around the world, and they break down stereotypes held by many men. Yet in some critical ways, women in the military are treated as second class citizens by their own government.

Under current law a servicewoman stationed abroad cannot obtain a safe, legal procedure to terminate a pregnancy in a U.S. military health facility. Instead, she must either take medical leave to return to the U.S. or gamble with a foreign hospital and face the prospect of language barriers, unfamiliar cultural expectations and vastly different standards of medical care. This is wrong.

Let me be perfectly clear. The amendment does not force military doctors to perform abortions, nor does it require any taxpayer dollars. What it does, however, is give servicewomen and female military dependents stationed abroad the same constitutional rights as women living here.

When an individual puts on the uniform of the U.S. Armed Forces, she or he accepts the profound responsibility of defending our Nation and protecting our cherished freedoms. A woman who puts her life on the line to defend the fundamental rights of all Americans should not be deprived of her own fundamental right to choose. Vote for the Davis-Harman-Sanchez amendment.

Mr. RYUN of Kansas. Madam Chairman, I yield 1 minute to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Madam Chairman, I rise today in opposition to the Davis amendment, which authorizes military doctors to perform abortions at military overseas hospitals. This policy was rejected every year for the last 10 years, and I look forward once more to voting against it.

Current law was signed by President Clinton in 1996 and bans the use of military facilities for abortions except in the case of incest, rape or where the life of the mother is at risk.

Rest assured, women in the military do have access to the elective medical procedures they want. Therefore, this debate is not about a woman's right to obtain treatment. This debate is about maintaining the principal mission of military medical centers to heal and to protect human life.

Madam Chair, this amendment overturns this mission and turns these facilities into abortion clinics at the American taxpayer's expense.

I, for one, will not support the use of Federal funds or military hospitals to promote or to perform abortions.

Mrs. DAVIS of California. Madam Chairman, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. I want to thank the gentlewoman for yielding and for her leadership. I rise in strong support of this amendment.

It would lift the ban on privately funded abortion care at overseas military bases where abortion is legal. Currently servicewomen or women military dependents are forbidden from using their own personal funds to obtain an abortion if they are stationed overseas.

Enacting this amendment will put an end to this discriminatory policy against the 350,000 women in our military who are serving our country each and every day. We must ensure that servicewomen overseas are guaranteed their legal right to access comprehensive health care services. We must demand that servicewomen overseas can obtain the same quality and range of medical care available to them in the United States.

We must protect those who risk their lives each and every day to protect their country. Let us reject this administration's ongoing politically motivated war on women and let's start by adopting this important commonsense amendment.

I urge my colleagues to vote "yes" on the Davis-Harman-Sanchez amendment and provide our servicewomen with access to their constitutionally protected right to choose.

Mr. RYUN of Kansas. Madam Chair, I yield 1½ minutes to the gentlewoman from North Carolina (Ms. FOXX).

Ms. FOXX. I thank the gentleman from Kansas.

Madam Chairman, I rise in strong opposition to the Davis amendment. Military treatment centers, which are dedicated to healing, nurturing and saving lives, should not be forced into the business of ending lives. This amendment, plain and simple, turns these facilities into abortion clinics by repealing a prolife provision, a prolife provision which was signed into law by President Clinton as part of the National Defense Authorization Act in 1996.

This amendment contradicts fundamental U.S. military values such as honor, courage and taking responsibility for one's own actions. We believe that life begins at conception and that it is sacred. As Members of Congress, we should do all we can to protect life. That is what our military hospitals are doing.

Instead, while we stand here today, opportunist pro-abortion Members are once again belittling and devaluing the sanctity of human life. If this inappropriate amendment were adopted, not only would taxpayers' hard-earned dollars be used to perform abortions on demand on our military bases, but our military medical personnel would be forced to perform abortions against their will.

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Instead of equipping our armed services personnel with the tools needed to operate and treat wounded or ill troops and defend America, this amendment would mandate that our military personnel perform abortions and kill human fetuses. This is unacceptable.

This amendment must be rejected today, just as it has been in the past five Congresses. I urge my colleagues to join me in protecting human life by voting against the Davis amendment.

Mrs. DAVIS of California. Madam Chairman, I yield 1 minute to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Madam Chairman, American women have a constitutional right to choice as guaranteed by the right to privacy. However, our servicewomen and the wives and daughters of our servicemembers are denied this basic right when stationed at military installations overseas. This amendment guarantees that women who selflessly pledge to defend our Constitution at all costs are afforded the same rights that they fight to uphold.

Current law allows women stationed overseas to access abortion services on a military base only after an act of rape or incest or when her life is in danger. It is bad enough that victims of rape or incest have to pay for these procedures out of their own pocket. But as American women, it is unconscionable that they cannot access the same safe, clean and legal reproductive services available to women here the United States, even if they are paying for it themselves.

Are we really asking these brave and noble women, who are ready to make the ultimate sacrifice, to relinquish the same rights that they fight so valiantly to uphold and defend?

I encourage my colleagues to stand with our servicewomen as they put their lives on the line. Lift the ban on privately funded abortions and support this amendment.

Mr. RYUN of Kansas. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise today in very strong opposition to this amendment. I voted against this amendment in the House Armed Services Committee just last week where it was overwhelmingly defeated, and I intend to vote against it today as well.

The health care professionals who serve our brave men and women in uniform in the military health system are dedicated to preserving life, and I have visited many military hospitals and witnessed the heroic efforts to preserve the lives of those wounded in battle, and we honor their service, we honor their dedication.

This amendment would allow these great lifesaving medical facilities to be used as abortion clinics, and abortion is not the mission of the military health system. The mission is to save lives, not destroy innocent human lives.

Mr. Chairman, I applaud the great service and the sacrifice of the dedicated health care professionals serving our military. These men and women face great challenges in healing those who have been wounded in battle, and through their efforts we have seen dramatic drops in the number of troops who die from these wounds. Their efforts have truly been heroic.

Let them continue to focus on saving the lives of our men and women in uniform, and not taking the most innocent of human lives.

I urge my colleagues to defeat this amendment.

Mrs. DAVIS of California. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I rise in support of the Davis amendment which would lift the ban on personally funded abortion care provided at overseas military bases.

Since over 200,000 women serve overseas in military bases and are denied the right under Roe v. Wade to terminate a pregnancy, we need this legislation. This legislation would restore the right of a female service member who has been stationed overseas to use their own funds to obtain an abortion as they would be able to do if they were back home.

I urge adoption of this amendment. And I speak adamantly against our present policy that while allowing women who have been raped or been impregnated by a family member or whose life is in danger because of an unhealthy pregnancy to have an abortion, they have to pay for it themselves. That is wrong.

While we are not addressing this issue today at least we can move forward with the Davis amendment.

Mr. RYUN of Kansas. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Chairman, I thank the gentleman from Kansas for his leadership on this issue.

First and foremost, I stand against this amendment because it authorizes the destruction of innocent human life, the most innocent, the most defenseless, the voiceless in our society.

We talk about the fact that the cost will be provided by a private individual. Not true. This authorizes prolife Americans to have to underwrite the cost of building the facilities, training the physicians, training the nurses, equipping the facilities. Underwriting the cost will be borne by prolife Americans.

Requiring military hospitals to perform elective abortions exposes the physicians, the nurses, the military personnel to move against their own personal convictions of life in many cases. Imagine a full colonel directing, giving military orders, to a young major who is prolife, a prolife doctor who is a major, giving him military orders to perform an abortion. His military career would be over.

The Most Reverend Edwin O'Brien, Archbishop for Military Services, said, "Military hospitals have an outstanding record of saving life even in the most challenging times and conditions. Their commitment extends to the smallest of human beings. Please allow them to continue abiding by these values."

I stand by those Americans, those prolife Americans, who do not want to underwrite and have our prolife dollars going to military hospitals. I stand by those prolife doctors and nurses who don't want to be given military orders to perform an abortion.

Mrs. DAVIS of California. Mr. Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I rise in strong support of this amendment. This amendment is about treating the women who serve our country in the United States military fairly and with respect.

Current law forbids female military personnel from obtaining abortions using their own funds from overseas military hospitals. This amendment allows U.S. servicewomen access to reproductive health care abroad, just as they would receive at home.

A male member of the armed services needing medical attention receives the best, and all his medical needs are covered. But a female member needing a specific medical procedure must return to the United States, often at great expense, or go to a foreign hospital, which may be unsanitary and dangerous. This is absolutely wrong and unfair.

No taxpayer money would be used to fund any abortions. The servicewomen themselves would pay for their own care. The amendment would simply lift the ban on privately funded abortion care in U.S. military hospitals.

Right now, many women are overseas protecting our constitutional rights. We should protect their constitutional rights by passing this amendment.

Mr. RYUN of Kansas. Mr. Chairman, at this time, I am pleased to yield 1 minute to the gentleman from Nebraska (Mr. FORTENBERRY).

Mr. FORTENBERRY. Mr. Chairman, thank you for this opportunity to join my colleagues in challenging this amendment which has been defeated by the full House for 10 consecutive years.

The core purpose of our military hospitals is to care for servicemen and women, particularly those who are wounded in the line of duty defending our country.

U.S. taxpayers should not be forced by the government to have their hard-earned funds used for the taking of innocent human lives. They should continue to have the free choice to say "no" to funding abortions.

The U.S. military health care facilities overseas witness more than their fair share of violence. Military health care personnel understand that the Hippocratic Oath is a solemn commitment to heal and nurture life. Let's not abandon this legacy and force our constituents to foot the bill.

Women deserve better than abortion. As a people, we should strive to be a just and loving society that does not abandon persons to the choice for abortion, particularly at taxpayer expense, but helps women even through the most difficult circumstances.

Mrs. DAVIS of California. Mr. Chairman, I have one more speaker and will close. I reserve the balance of my time.

Mr. RYUN of Kansas. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. FRANKS).

Mr. FRANKS of Arizona. Mr. Chairman, first and foremost, America is an ideal, and that ideal is that all of us are created equal and endowed by our Creator with certain inalienable rights, and the first one of those is the right to live. Our men and women across the centuries have fought and died to uphold that ideal.

Now, suddenly, to turn the hospitals that we set forth to deal with their needs overseas into abortion clinics abrogates everything that they fought and died for. It is an undermining of everything that America is.

Our foundation is to be able to look to people across the world and say that in America, life, liberty and the pursuit of happiness, life, liberty and property, these basic rights are something that we will protect.

I hear the other side often using terms like "safe," "legal," "clean," but it ignores one absolute reality, and that is that every time an abortion takes place, a nameless little baby dies a lonely, tragic death, a mother is never the same, and everything that child might have brought to humanity is lost forever.

God help us not to turn our military hospitals into abortion clinics, and to stain the very foundations of this Nation with the blood of our own children.

Mrs. DAVIS of California. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I will be happy to yield back some of that time to the distinguished proponent of this amendment. I thank her for her leadership, and the leadership of Ms. HARMAN and Ms. SANCHEZ.

Mr. Chairman, I simply want to say that this is a question certainly of the flag and the Declaration of Independence and the rights of all Americans. But what it says is that the men and women of the United States military have equality, the equal rights to good health care and health procedures all over the world, wherever they serve.

This is a good amendment. I associate myself with this amendment, and I ask that you vote for the men and women of the United States military and allow this amendment by Mrs. DAVIS, Ms. HARMAN, Ms. SANCHEZ, to support the women of the United States military to have equal access to good health care and to be able to secure appropriate procedures regarding their female surgical needs at overseer military facilities.

Mr. RYUN of Kansas. Mr. Chairman, I yield the balance of my time from this side to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Chairman. I thank my friend for yielding.

Mr. Chairman, the Davis amendment seeks to turn our military hospitals into abortion mills. With all due respect to my friend and colleague from

California, the amendment will result in babies being brutally killed by abortion, and women will be harmed and prolife Americans will be forced to facilitate and subsidize the slaughter of innocent children.

Abortion is violence against children, Mr. Chairman, and it harms women. Some methods including dismembering and ripping apart the fragile bodies of these children. Other methods include chemical poison. RU–486, a baby pesticide that was rushed to approval by the Clinton administration bypassing safety protocals along the way isn't just lethal to babies; it kills women as well. It is poison. Several women have died after taking RU–486.

Mr. Chairman, one of the methods depicted to my left is the D&E method. It is a common later-term method of abortion in which the arms and the legs and the torso of the baby are painfully hacked into pieces. The Davis amendment, make no mistake about it, would authorize this kind of child abuse.

Mr. Chairman, we can't allow that to happen. We can't kill babies like this. With all due respect to my friend, this is child abuse and it harms women. Vote against the Davis amendment.

Mr. Chairman, I thank my friend for yielding me time, and I thank him for his affirming the inherent value and dignity of both mothers and children.

Mr. Chairman, 90 percent of the hospitals in the United States today refuse to abort unborn children, and the trend is for hospitals to divest themselves of this violence against children.

Yet as hospitals in our country repudiate abortion, because abortion kills, the Davis amendment seeks to turn our overseas military hospitals into abortion mills. With all due respect to the gentlewoman from California, the amendment she offers will result in babies being brutally killed by abortion. It will harm women, and it will force pro-life Americans to facilitate and subsidize the slaughter of innocent children.

Abortion is violence against children and it harms women. Some methods of abortion dismember and rip apart the fragile little bodies of children. Other methods chemically poison kids. RU–486—a baby pesticide that was rushed to FDA approval by the Clinton Administration by waiving numerous safety protocols including the use of Subchapter H—isn't just lethal to babies, but has killed several women. It is poison. Abortion has turned children's bodies into burned corpses, the direct result of the caustic effect of the chemicals.

Now we know as well, Mr. Chairman, from science and from medicine that due to the nerve cell development, unborn children from at least 20 weeks onward, and most likely even earlier, feel excruciating pain. They feel pain, two to four times more pain than you and I would feel from the same assault. So abortion mills aren't just child killing mills—but they are torture chambers as well.

One of those methods depicted to my left on this poster board, the D and E method, it is a common, later-term method of abortion, in which the arms and the legs and the torso are painfully hacked into pieces. The Davis amendment would authorize this child abuse in military hospitals. We can't let that happen.

Finally, Mr. Speaker, Dr. Alveda King, niece of the late Dr. Martin Luther King, has said, "How can the dream survive if we murder the children?"

Dr. King, who has had two abortions herself, but is now pro-life and bravely speaks out, says, "We can no longer sit idly by and allow this horrible spirit of murder to cut down and cut away our unborn. This is the day to choose life." Dr. King goes on to say, "We must allow our babies to live. If the dream of Dr. Martin Luther King is to live, our babies must live."

There is nothing benign or nurturing or curing about abortion. It is violence against children. It dismembers them. It chemically poisons them.

Vote down the Davis amendment.

Mrs. DAVIS of California. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as we consider this amendment today, I want to urge my colleagues to reflect on the following: We ask women to serve in the military. We trust women in the military to secure our safety. We ask women to put their lives at risk for our freedoms. They have saved many lives as they have gone to war for us.

So I ask you, ladies and gentlemen, let us not turn our backs on the women in uniform in our country.

The Acting CHAIRMAN (Mr. CULBERSON). All time having expired on this debate, the question is on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mrs. DAVIS of California. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Jersey will be postponed.

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AMENDMENT NO. 4 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 printed in House Report 109–459 offered by Ms. JACKSON-LEE of Texas:

Page 117, after line 6, add the following new subparagraph (B) (and redesignate existing subparagraphs (B) and (C) accordingly):

"(B) the frequency of assignments during service career;".

The Acting CHAIRMAN. Pursuant to House Resolution 806, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the chairman and ranking member of a committee that really protects the lives of our soldiers on the front line and their families.

Mr. Chairman, I hope today that my colleagues will join me in a bipartisan effort to give a gift to our soldiers' families. I understand the gravity of this bill, both in the consequences that these provisions will have on our ability to protect and defend ourselves at home and abroad as well as the debate and consideration of which our colleagues on the Armed Services Committee engage to do this good job on behalf of the men and women of the Armed Forces.

For this particular reason, I would like to call attention to a clarification that is needed when providing for fair treatment of members in the Selected Reserve and Individual Ready Reserve. Members of the Individual Ready Reserve are former enlisted soldiers and officers who have some military service obligation remaining but who choose not to fulfill it in the Guard or Reserve.

Unlike members of the National Guard or Reserve, Individual Reserves do not perform regularly scheduled training and receive no pay unless they are called up.

Mr. SKELTON. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, let me compliment the gentlewoman on this amendment. It eminently makes sense. It adds the words that the frequency of assignments during service career as one of the several factors that the Secretary of Defense should consider in calling Selected Reservists to active duty.

I think it is well done. As you know, a good number of them have been asked on a frequent basis to serve, when in truth and fact, if they look at the records closely, they might not very well have called those particular people. It just requires them to consider and take a good look at it. I compliment the gentlewoman.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I reserve the balance of my time.

Mrs. DRAKE. Mr. Chairman, although I am not opposed to the amendment, I request unanimous consent to claim the time in opposition.

The Acting CHAIRMAN. Without objection, the gentlewoman's request is so ordered.

There was no objection.

Mrs. DRAKE. Mr. Chairman, section 511 of the underlying bill establishes several factors that should be considered when deciding whether a member of the Selected Reserve should be involuntarily mobilized under what is known as Presidential Select Reserve.

These factors include length and nature of previous service and family responsibilities. This amendment adds an additional category, frequency of assignments throughout a career.

For the last 15 years, the members of the Reserve components have responded magnificently when mobilized. They have answered the Nation's call repeatedly in Desert Storm, Kosovo, Afghanistan, Iraq and other places. So smoothly have these mobilizations gone that it is sometimes easy to forget that each time the orders went out jobs were set aside, lives were disrupted and dreams were put on hold.

This amendment recognizes the fact that Reservists have been repeatedly mobilized and that as long as they remain members of the Reserve components they will be subject to future mobilizations. The decision to involuntarily mobilize members of the Selected Reserves should never be taken lightly, and the commitment and dedication of these men and women should never be unfairly tasked.

This amendment recognizes these ideals. I commend the gentlewoman from Texas for offering it. Mr. Chairman, I support this amendment and ask my colleagues to do the same.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentlewoman for her kind support. Might I just say that in joining in a bipartisan manner, I am pleased that this provision recognizes and takes into account the fact that a Reservist and a National Guard member needs the support and love of his or her family, or that the needs of a family and a home are highly valued by our military and our country.

The inclusion of this passage and this language in the bill affirms and asserts the fact that we are a Nation of morals and honorable decision makers. The length and nature of previous service also should have a large part in the consideration of recalling a Reservist back to duty.

The bill specifies that this provision is to share any exposure to harmful materials in order to stay within the reasonable limits of national security and military standards. Therefore, the frequency of assignment is also an important question, and the fact that we are clarifying it today and instilling and including that in the bill is going to give Reservists and National Guard families a great deal of celebration.

Let me tell you a very pointed story. One constituent from Houston who was born in Texas, has lived his whole life in Texas, called because he was confused and concerned, not because he did not love his country, not because he did not enjoy serving, but he wanted to try and understand the fact that he was redeployed three times in a 4-year period, a man who has a family, had a job, and of course we know it was mentally and emotionally draining and of course heart-breaking to leave his family.

Therefore, this amendment will help the many Reservists and families and the National Guard families all over America. Serving your country is noble, honorable and generates pride in one's self and one's country. Re-serving your country is no less noble. That is the constituency we serve today. Yet it can damage morale, particularly if the individual is not career military, if we do not take into consideration the frequency of their service.

I thank my colleagues, and I ask my colleagues to support this amendment on behalf of the military families all over America, Re-reservists and National Guard who will benefit from understanding their plight and their situation.

Mr. Chairman, I appreciate the opportunity today to offer an amendment to the National Defense Reauthorization Act that clarifies the factors that must be taken into consideration when recalling a reservist to service to include the frequency of assignment over the duration of a reservist's career.

I understand the gravity of this bill, both in the consequences that these provisions will have on our ability to protect and defend ourselves at home and abroad, as well as the debate and consideration in which our colleagues on the Armed Services Committee engaged.

For this particular reason, I would like to call attention to a clarification that is needed when providing for fair treatment of members in the Selected Reserve and Individual Ready Reserve.

Members of the Individual Ready Reserve are former enlisted soldiers and officers who have some military service obligation remaining but who chose not to fulfill it in the Guard or Reserve. Unlike members of the National Guard and Reserve, individual reservists do not perform regularly scheduled training and receive no pay unless they are called up.

Forty percent of American troops in Iraq are from National Guard and Reserve units. For many, the financial sacrifices are great. Many lose the salaries they were earning in the private sector, and their families are struggling to pay bills. 57 percent of National Guard members and reservists have cited too many activations and/or deployments as a reason to leave the military, and 66 percent of Guard members and reservists express that they are likely to continue in the Guard or Reserve.

In the case where it is necessary for these reserves to be recalled to duty without their consent, the bill currently provides for appropriate consideration to be given to the length and nature of previous service, family responsibilities, and employment necessary to maintain the national health, safety, or interest.

I am pleased that this provision recognizes and takes into account the fact that a reservist needs the support and love of his or her family, or that the needs of a family and a home are highly valued by our military. The inclusion of this passage in the bill affirms and asserts the fact that we are a nation of moral and honorable decision-makers.

The length and nature of previous service also should have a large part in the consideration of recalling a reservist back to duty. The bill specifies that this provision is to share any exposure to harmful materials in order to stay within the reasonable limits of national security and military standards.

Related to this, however, is the fact that the frequency of assignment must also be taken into consideration. As we have seen, our reservists are brave citizens and soldiers who have willingly traveled to the other side of the world to defend their homeland. If these were career military we were talking about, I do not think that frequency should necessarily be considered.

However, we must take the occurrence, and not just the length of time, of previous service into account when recalling reservists. One tour of four years is substantially different than four tours of one year. I am not making a qualitative or quantitative judgment, or that one reservist should be preferred over another.

One constituent from Houston, who was born in Texas and has lived his whole life in Texas, called because he was confused and concerned that the 4 years he served over a 6 year time span would not be recognized by the military as he thought it should be. His three separate deployments were mentally and emotionally heartbreaking, and I heard his point clearly: His situation should be considered as dissimilar to an individual who had been deployed once and served 4 non-interrupted years.

The number of times an individual has been deployed must be included when recalling a reservist to duty, just as are family responsibilities, previous length and nature of service, and employment consequences.

Serving your country is noble, honorable, and generates pride in oneself and one's country. Re-serving your country is no less noble, yet can damage morale, particularly if the individual is not career military.

I urge my colleagues to support this measure.

Mr. Chairman, I yield back the balance of my time.

Mrs. DRAKE. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

This is a bipartisan amendment that is supported by Members on both sides. In order to give our Reservist families a moment of celebration, I would like the yeas and nays so that they can see the vote on the floor in support of Reservists and National Guard families.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas will be postponed.

AMENDMENT NO. 5 OFFERED BY MR. TANNER

Mr. TANNER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 printed in House Report 109–459 offered by Mr. TANNER:

At the end of subtitle D of title V (page 131, after line 20), add the following new section:

SEC. 534. REPORT ON USING SIX-MONTH DEPLOYMENTS FOR OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Army should continue to further evaluate and consider—

(1) the potential benefits of converting to six-month overseas deployments for members of the Army, including members of the Army National Guard and the Army Reserve, in connection with Operation Enduring Freedom and Operation Iraqi Freedom; and

(2) the potential impacts of such reduced deployment periods on morale, recruiting, retention, readiness, and the conduct of military operations.

(b) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report containing—

(1) the results of any surveys conducted with soldiers and their dependents by the Department of the Army regarding the proposal to reduce deployment times for members of the Army in connection with Operation Enduring Freedom and Operation Iraqi Freedom to a maximum of six months;

(2) potential plans for the Department to implement such reduced deployment times;

(3) a discussion of potential benefits associated with implementation of such reduced deployment times, such as improved members and family morale and increased recruiting and retention; and

(4) a discussion of potential drawbacks associated with implementation of such reduced deployment times, such as impacts on readiness, the conduct of operations, and forecasted additional costs.

The Acting CHAIRMAN. Pursuant to House Resolution 806, the gentleman from Tennessee (Mr. TANNER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. TANNER. Mr. Chairman, the Army has been talking about adjusting the length of deployment in some manner, and there has been ongoing discussions about that with the Army Chief of Staff and others, and this amendment merely asks the Secretary of the Army to give to the Congress a report on the relative pros and cons, what they are finding out and what they intend to do within I believe it is 90 days of the date this amendment passes.

Mr. Chairman, I would urge acceptance of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mrs. DRAKE. Mr. Chairman, although I am not opposed to the amendment, I request unanimous consent to claim the time in opposition.

The Acting CHAIRMAN. Without objection, the gentlewoman's request is so ordered.

There was no objection.

Mrs. DRAKE. Mr. Chairman, I rise in support of the amendment. I thank the gentleman for his amendment and for the opportunity to evaluate the length of time served.

Mr. Chairman, I urge all of my colleagues to support the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. TANNER. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. TANNER).

The amendment was agreed to.

Mrs. DRAKE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. FRANKS of Arizona) having assumed the chair, Mr. CULBERSON, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5122) to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2007, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 4297, TAX INCREASE PREVENTION AND RECONCILIATION ACT OF 2005

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 805, I call up the conference report on the bill (H.R. 4297) to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 805, the conference report is considered read.

(For conference report and statement, see proceedings of the House of May 9, 2006, at page 7395).

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

The Chair recognizes the gentleman from California.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that the House is finally able to take up the conference report. The last time the House visited the Reconciliation Act of 2005 was in December of last year. The minority was very much concerned about dealing with the alternative minimum tax problem facing millions of American taxpayers.

We were also concerned, primarily on this side of the aisle, with making sure that the economy continued its robust growth. I am very pleased to announce today that there should be near unanimous support on the other side of the aisle for this reconciliation agreement.

When we offered the alternative minimum tax outside of reconciliation, we got 414 votes for providing that alternative minimum tax relief outside of reconciliation.

Subsequent to the House passing the reconciliation measure, my friends on the other side of the aisle offered, not once but twice, motions to instruct to require the conference to place in the reconciliation measure alternative minimum tax repeal.

It is my pleasure to announce today that the wishes of my friends on the other side of the aisle have been granted. The alternative minimum tax, in the most comprehensive way ever offered, is part of this package; because it is so comprehensive, that more than 15 million Americans will not pay the alternative minimum tax once this bill becomes law in 2006, and that, in addition, more than 2 million taxpayers will not have any liability because of this bill. Because of its comprehensive nature, this is the only opportunity for Members of the House to vote to provide alternative minimum tax relief to taxpayers.

□ 1630

And so I look forward to having my colleagues join me since we have provided in the reconciliation package what they have voted for and have asked for.

I am also pleased to announce to my friends on both side of the aisle that this measure also contains a provision which extends one of the primary stimulus factors in the economy, and that is the ability to pay only a 15 percent tax on dividends for investing in the economy and 15 percent on capital gains for taking a risk opportunity in the economy.

I will say for those items that were in both the House and the Senate bills that are not part of this package, we are working on an additional important tax relief package which will provide that opportunity. And I know my colleagues on the other sides of the aisle, especially those who represent the States that will see the greatest relief under the alternative minimum tax, those Members who represent the States of California, New York, Florida, Pennsylvania, Massachusetts, New Jersey, they will be pleased to note that a "yes" vote on this reconciliation measure provides the tax relief and, I might underscore, the only opportunity for tax relief on the alternative minimum tax measure.

I might say in the reverse, that if a Member does not vote for this measure, they are, in essence, then voting to raise taxes on more than 15 million Americans.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, well, the Republicans are coming. The Republicans are coming. The Republicans are coming with relief for the alternative minimum tax. It is the same way they were coming to give our older people prescription drugs. Work through the maze, and at the end of it we will give you a penalty. The Republicans are coming in order to balance the budget, but we just have to borrow more money from China and around the world.

Just how gullible do you think that the American people can be? I can imagine now in November my colleagues, Republicans, running around with a sign, "I am from the Republican Congress. I am here to help you."

You cannot believe it. If you want the alternative minimum tax the way they are offering it, wherever the conference was, you have to swallow with that a tax bill, a tax cut bill that costs over $40 billion. And this only would help a fraction of 1 percent of the wealthiest Americans in the world.

So if you want equity and fair play, which they refuse to give in the House for the alternative minimum tax, all you have to do is hold your nose and let them continue to give the tax cut to their rich friends and then tell you this is the last chance that the train of equity is coming through your neighborhood.

Well, it is not the last time, because we have a motion to recommit to tell the conferees to take care of those 81 million people that are caught up in this tax hookup which they should not be and to drop the rest of it and to let you try to do something with the deficit.

So let's focus not on the fact that this is the last train in town to help, but Democrats are on the way to really help by knocking off the tax cuts that no one is asking for except the administration and K Street, and concentrate on what we are here for.

And so it just seems to me that you should not frighten people to join some HMO and hold back their drugs and you should not frighten people that you are not going to get relief from the alternative minimum tax unless you buy the whole package, which is an additional $50 billion of unfair, undeserved tax cuts for the wealthy.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do want to make a slight correction on a factual basis. The gentleman from New York knows full well, in the reconciliation package the single largest item is the alternative minimum tax relief.

Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH), a member of the committee.

Mr. HAYWORTH. Mr. Speaker, I think my colleague from California, the chairman of the Ways and Means Committee, for this time and as always. I listened with interest to my good friend from New York, and I think it illustrates some very real differences.

Tax relief should not be partisan. And part of what we actually do here in the people's House is practice the art of the possible. And so before this House today we have much-needed tax relief.

The alternative minimum tax, or AMT, has become Uncle Sam's ATM. Too much, too often have we seen the Federal Government reach into the pockets of middle-income taxpayers, and with this legislation today, we put a stop to using the AMT as Uncle Sam's ATM. That is something that the American people want to see.

And there is other thoughtful tax relief here because, in stark contrast to the bleak picture painted by my friends on the other side of the aisle, we understand that there is no reason to penalize people who succeed. By extending the 15 percent rate on dividend and capital gains taxes through 2010 and extending the increased small business expensing through 2009, we are not punishing people for succeeding. That is vital.

Is it important to Wall Street? Yeah, Mr. Speaker, it is important to Wall Street. But it is important to Main Street and it is important to your street, Mr. Speaker, every street in this Union, every neighborhood, because it helps to generate wealth and investment and that is what we are about here.

I ask the House to adopt this legislation.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. STARK), a senior member of the Ways and Means Committee and a hardworking member.

Mr. STARK. Mr. Speaker, I would like to thank the distinguished gentleman from New York for yielding me time.

This $70 billion sham defrauds the working class to line the pockets of the super-wealthy friends of the Republican Party. Taxpayers with incomes of over $10 million will have received on average $500,000 from the Republican capital gains and dividend cuts, and hardworking Americans making under $50,000 have average tax savings of $10: $500,000 if you are rich; $10 if you are just getting along.

Capital gains and dividend tax breaks benefit the rich, not the working class. Here is a chart that indicates how this money is distributed: $20 to the average middle-income household, $42,000 to those making over a million bucks.

You can see here we have taken care, the Republicans have taken care, of Members of Congress, they gave us $1,388, at least for those who are only working in the public trough. Not bad.

But this bill wastes $70 billion on millionaires that could be used to improve people's lives. With that $70 billion, $39 billion in unnecessary cuts to Medicaid which hurts the health care of children, disabled and the poor could be restored. We could fund the President's great bragging rights to the No Child Left Behind with $9 billion and provide health insurance for every child in this country for $20 billion, and there might even be a few bucks left over to decrease the deficit.

So you have here, amidst all the cute rhetoric on the other side, voodoo economics at its most ridiculous and radical extreme and moral reprehensibility that gives $100,000 to millionaires, but takes health care away from families earning less than $16,000 a year. Vote "no."

Mr. Speaker, I rise today in strong opposition to the Republican tax reconciliation conference report. I'd like to say it was an honor to sit on the conference committee, but this backroom deal was cut without any input from House Democratic conferees. The predictable result is a Republican agreement that benefits millionaires at the expense of working families.

You don't have to dig far into this bill to realize it helps the rich get richer, while doing little for hard working American families. The extended dividends and cap gains tax breaks didn't even expire until 2008, but Republicans wanted to reward their rich campaign donors before the November elections. As a result, people making over $10 million get an average capital gains and dividends tax breaks of about $500,000 a year. These cuts give families making under $50,000 a whopping $10 tax cut. It is clear where the Republican priorities lie.

Some will say that other tax cuts in this bill help the working class. The facts don't support that argument. Families struggling to get by on less than $20,000 a year get only $2 in average tax breaks from this bill. Average middle income households only get $20. Where could all these tax cuts go? The answer is simple, those making over $1.6 million—the top 0.1 percent of all taxpayers—get $82,000 a year in tax breaks from President Bush and their Republican friends in Congress.

In sum, this tax reconciliation bill is a $70 billion boondoggle for America's wealthiest taxpayers. Wouldn't it make a little more sense to spend this money to help people in need? We could easily eliminate the entire $39 billion in cuts Republicans made last fall to programs like Medicaid, student loans and food stamps. That would leave us $31 billion to fully fund Bush's No Child Left Behind education plan and provide every child in the country with health insurance. There might even be some money left over to help decrease the budget deficit mess Bush has gotten us in.

It is clear this bill benefits the rich at the expense of the working class, but that isn't the whole story. Just as Bush lied about weapons of mass destruction to lead us into the quagmire in Iraq, Congressional Republicans are lying about the true cost of this legislation. This bill pays for the tax cuts for the wealthy by actually raising some taxes in the short-term. Many of the so-called "revenue raisers" in the bill will actually end up being huge tax breaks in future years. One specific provision allows people to cash out traditional IRAs and convert them into Roth IRAs. This raises revenue in the first few years, but will cost up to $1 billion dollars a year starting in 2013. Who benefits most from this future tax break? You guessed it . . . families making over $150,000 a year.

Regardless of what some may say, tax cuts for the wealthy do not generate economic growth, jobs or increased wages. The only people that win under the Republican reconciliation plan are the millionaires who receive all the tax breaks. It is immoral to give a millionaire an extra $100,000 while we're taking Medicaid benefits away from a family of three making under $15,750.

I urge all my colleagues to stand up for the working class and vote against these irresponsible and immoral tax breaks for the rich.

Mr. THOMAS. Mr. Speaker. I yield myself 1 minute.

What the gentleman just quoted was indeed on the front page of The Washington Post today and it comes from the Tax Policy Center. Of course, what he did not bother to do is tell you other material that has come from the very same Tax Policy Center.

Because in 2001 we took millions of people off of the tax rolls. and so for the first time many people making $10,000 to $20,000 do not pay any taxes. And what the Tax Policy Center said was, the top 50 percent pay 97 percent of all Federal income taxes.

We are good, but when we remove people from the tax rolls who do not pay any taxes, how would they expect to get money back? That is, of course, the other side of the story, and it comes from the very same center that the gentleman just quoted.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HERGER), a valued member of the Ways and Means Committee.

Mr. HERGER. Mr. Speaker. I rise in strong support of the tax relief before us. Of the major provisions of the tax reconciliation, two particularly stand out as encouraging economic expansion and continued job creation: the 2-year extension of the current 5 percent capital gains and dividend rates and the continuation of section 179 expensing limits.

I have long supported enhanced small business expensing through legislation. and I am pleased this provision was included in the final bill. Studies show that a majority of small firms benefit from expensing, helping to speed up cost recovery on new investment, contributing to small business growth. Since small businesses provide roughly two-thirds of new job creation in the United States, such growth translates into new jobs for Americans.

I have also heard from northern California seniors about the importance of capital gains and dividends to their retirement income, and they are not alone. Future tax rates on investment earnings affect the decisions that families and businesses make today. Extending the lower rates for capital gains and dividends provides tax certainty, helping to boost investment. For proof, we need look no further than today's Dow Jones Industrial Average, again reaching historic highs.

According to a Wall Street Journal piece from a few days ago, capital gains tax Federal receipts rose 79 percent after the new rates went into effect in 2003; dividend tax receipts rose 35 percent. This is further evidence that the lower rates actually produce increased revenues.

Mr. Speaker, I urge everyone's support.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman said the Wall Street Journal says we are doing well. The Main Street Journal says people are going into bankruptcy. They are losing their pensions: they are losing their health insurance. It depends on what paper you read.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN), an outstanding member of the Ways and Means Committee.

Mr. LEVIN. Mr. Speaker, two quick comments.

Mr. THOMAS, when you say that the people taken off the rolls a few years ago do not pay any taxes—you did, twice you said that.

Mr. THOMAS. Mr. Speaker, will the gentleman yield on my time?

Mr. LEVIN. Yes. Mr. Speaker.

Mr. THOMAS. If, in fact, I said taxes, I obviously meant income taxes, and I appreciate the gentleman's bringing that point to me. And I would like the record corrected to say, they do not pay income taxes.

Mr. LEVIN. Okay. I hope in the future Republicans who keep on saying they do not pay taxes will not say that anymore.

Mr. THOMAS. Mr. Speaker, will the gentleman yield on my time?

Mr. LEVIN. Yes, Mr. Speaker.

Mr. THOMAS. I do appreciate having you around making sure that everyone understands that what we did in 2001 was take millions of people off of the income tax rolls.

Mr. LEVIN. Right, and they continue to pay all kinds of taxes, and indeed they are paying taxes compared to what very wealthy people are not overall paying.

Mr. THOMAS. Mr. Speaker, will the gentleman yield on my time?

Mr. LEVIN. Let me just finish.

Look, another point, we have voted, we Democrats, two or three times on the AMT. We voted two or three times. You are Johnnie-Come-Latelys. So now what you say is, vote for a bill that has that in it, but has these provisions on dividend and capital gains.

As Mr. STARK said, essentially you are bringing a tax bill here that has caviar for the very wealthy and mostly crumbs for most everybody else. That is what you are doing, and the chart shows it: a household, 50- to 75,000, $110; a household from $500,000 to $1 million, $5,500: and more than $1 million, $41,000.

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I read in an editorial a few days ago in the Post, "While the income of the families in the middle fifth of society has grown 12 percent since 1980, the income of the top 10 percent has grown 67 percent, and the income of the top 1 percent has more than doubled. In short, the rich have grown a whole lot richer."

So what you are doing here is giving this immense tax break to a relatively few very wealthy people, and you are combining it tomorrow with a budget bill, according to your own language, and I quote, "the debt limit will be increased from $8.965 trillion to $9.618 trillion in an increase of $653 billion" under your proposal.

So you are saying give the very wealthy, making $1 million or more, 45 percent of this tax bill, while you are increasing tomorrow the national debt by over $653 billion.

If your great tax policies have brought such great economic growth, why is the debt limit being raised $653 billion?

Mr. THOMAS. Mr. Speaker, how is the time distributed at this point?

The SPEAKER pro tempore (Mr. CULBERSON). The gentleman from California (Mr. THOMAS) has 20 minutes remaining, and the gentleman from New York (Mr. RANGEL) has 24 minutes remaining.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN), a senior member, hardworking member, in the Ways and Means Committee.

Mr. CARDIN. Mr. Speaker, let me speak on behalf of our children and our grandchildren.

Mr. LEVIN pointed out our national debt, the actual debt now is $8.3 trillion, $28,000 per person in this country. What we have is a birth tax, and we are adding to that birth tax.

This bill, as advertised, adds another $70 billion or $69 billion to the debt, but when you look at it, it is much higher because we are using gimmicks again. We remove the income ceiling on Roth IRAs, and we count that as a revenue gain of $6 billion when we know, in fact, it will lose revenue for the Treasury to the tune of $1.3 trillion a year.

So we are using gimmicks and we are going deeper and deeper into debt. We are doing this for what? Why do we not have offsets?

You look at the extension of dividend exclusion, the dividend exclusion does not end until 2008. Why do we not work out a program to pay for these extensions?

We tell our students they have got to pay more for their college education, and that we are not going to provide the relief because we do not have the money.

We tell our veterans we cannot provide the health care that we promised them because we do not have the money in the budget; but the tax cuts, that do not expire until 2008, we can put in this bill, knowing full well it is going to add to the deficit of the Nation.

Where is fiscal responsibility? Why are we not looking after our children and grandchildren? Why are we adding more debt to what they are going to have to pay? We could have a responsible bill that deals with the alternative minimum tax, that deals with selective inequity that we have in the Tax Code, and we could pay for every dime of that tax cut, as we should, so we do not add to the deficit of the Nation.

In the last 5 years, we have accumulated more debt held by foreign countries of U.S. debt than in the first 225-year history of America. It is a matter of national security that we pay our bills.

This bill moves in the wrong direction. I urge my colleagues to reject it.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2½ minutes to the gentleman from Pennsylvania (Mr. ENGLISH).

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I thank the gentleman for his superb work in conference. I rise on behalf of this conference report because I stand here today on behalf of the next generation.

We have heard some rhetoric on the other side, but the fact remains, the next generation needs new jobs. The next generation needs economic growth, and it is fairly clear, contrary to the rhetoric on the other side, economic growth helps the working class. It is the key to social justice, and ultimately, it is the solution to our deficit.

We need to leave in place the current tax policies that are working, that have been so successful in creating the fastest growth in 20 years, 138,000 jobs created last month, 18 consecutive quarters of growth averaging 3.2 percent. Our trading partners for the most part cannot match that. We are doing it because we have put in place clear growth incentives, including the right rate on capital gains and the right tax treatment of dividends.

The other side wants to repeal those reforms. The other side wants, as usual, to raise taxes. The other side wants to talk about revenues that, if these tax rates went up, probably would not be realized. There is an absurdity to the tax policy as advocated on the other side that schedules a capital gains hike, that schedules a phaseout of the proper tax treatment of dividends, and puts in place all sorts of distortions that ultimately will reduce the effectiveness of the market.

What we need to do is continue our commitment to economic growth and send a clear message to national markets that we are going to continue the tax treatments, the tax policies, that have yielded these economic benefits.

Let us pass this legislation. Let us extend for 2 more years the tax treatment of capital gains. Let us continue our commitment to economic growth.

May I add, as I was listening to the comments of the speaker from Michigan, he was mentioning the other taxes that people pay, other than the income tax; and he should have noted that those are their Social Security and Medicare contributions. For the most part, those taxes are a process of earning benefits.

It is fairly clear that the Republican majority has taken thousands of families off of the Federal income tax rolls to their permanent benefit.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

I do not know what kind of water they drink on the other side of the aisle, but back where I come from, you get a check that tells you how much you have earned and how much is deducted, and what is deducted is a tax and what you take home is net. So you can call it payroll, you can call it income tax, but a tax is a tax is a tax.

Mr. Speaker, I yield 2 minutes to the gentleman from the State of Washington (Mr. McDERMOTT), an outstanding member of the Ways and Means Committee.

Mr. McDERMOTT. Mr. Speaker, the Republican rubber-stamp Congress is in session. Republicans are going to rubber stamp the last act of the budget. The first act was in December when the Republicans took from the poor, the disadvantaged and the foster kids, the people on food stamps and students trying to get a student loan.

The Republicans emptied one Christmas stocking, but they thought it would be unseemly to immediately give it to the rich right in front of the poor. So they waited and they waited and they waited, and finally, today, they think the people have forgotten and gone to sleep. So they are going to give it to the rich.

The party of 1 percent is going to get a reward. The millionaires are going to get a windfall for which they did nothing except attend fund-raisers. Every millionaire will get a windfall of $41,000. The average American makes exactly that during a year. He will get $16. Millionaires, $41,000; ordinary people, $16.

Those are real numbers, no matter what they say, and that means it is reward the rich, ignore the poor. That is the Republican rubber stamp of the President's views on the world.

They say it will increase savings. The savings rate in this country is zero. In fact, it is less than zero. Ninety-nine percent of the people in this country are not better off, only the 1 percent who get the rubber stamp today; and the rest of America is forced to choose between filling the gas tank and putting food in the refrigerator.

Now, they all brought their rubber stamps today, but what they have not told you, and I will enter into the RECORD at this point the article from The Washington Post from May 9.

[From washingtonpost.com, May 9, 2006]

ANOTHER POSSIBLE BUMP TO THE DEBT CEILING

(By Jonathan Weisman and Shailagh Murray)

A $2.7 trillion budget plan pending before the House would raise the federal debt ceiling to nearly $10 trillion, less than two months after Congress last raised the federal government's borrowing limit.

The provision--buried on page 121 of the 151-page budget blueprint—serves as a backdrop to congressional action this week. House leaders hope to try once again to pass a budget plan for fiscal 2007, a month after a revolt by House Republican moderates and Appropriations Committee members forced leaders to pull the plan.

Leaders also hope to pass a package of tax-cut extensions that would cost the Treasury $70 billion over the next five years. They would then turn Thursday to a $513 billion defense policy bill that would block President Bush's request to raise health-care fees and co-payments for service members and their families.

In recent days, Congress has received some good news on the budget front. A surge of tax revenues this spring, sparked by economic growth, prompted the Congressional Budget Office last Thursday to revise its 2006 deficit forecast from around $370 billion to as low as $300 billion. But the federal debt keeps climbing because of continued deficit spending and the government's insatiable borrowing from the Social Security trust fund. With passage of the budget, the House will have raised the federal borrowing limit by an additional $653 billion, to $9.62 trillion. It would be the fifth debt-ceiling increase in recent years, after boosts of $450 billion in 2002, a record $984 billion in 2003, $800 billion in 2004 and $653 billion in March. When Bush took office, the statutory borrowing limit stood at $5.95 trillion.

Democrats will harp on those statistics not only in the budget debate but also when the House takes up tax legislation expected to finally emerge from House-Senate negotiations today. The legislation would extend for two years the deep cuts to tax rates on dividends and capital gains that Congress approved in 2003. It would also slow for one year the expansion of the alternative minimum tax, a parallel income tax system designed to hit affluent but increasingly pinching the middle class.

Although the debate will be rancorous, the tax measure is expected to pass by a comfortable margin. The budget vote will be closer. House leaders had to pull the budget plan from the floor in April, after moderate Republicans balked at planned cuts to health and education programs and appropriators objected to limits on home district pet projects—known as earmarks—and a provision that would limit emergency spending for natural disasters to about $14 3 billion a year.

Appropriators have come on board, Appropriations Committee spokesman John Scofield said. GOP leaders and committee chairman Jerry Lewis (R-Calif.) tried to win moderate support last week by cutting $4 billion from the president's defense spending request and adding that money to labor, health and education programs. But some moderates are still holding out.

"I expect they do not have the votes right now," said Rep. Michael N. Castle (R-Del.), a leader of the balking moderates. "Could they get the votes by the end of the week? I'd give it a 50–50 chance."

GOP HEALTH-CARE REDUX

It's "health week" in the Senate, but don't expect any big policy cures. Republicans are seeking to pass legislation that would restrict malpractice awards and encourage insurance pools among small businesses. The three bills are GOP perennials that in the past have met with staunch opposition by Democrats and interest groups. Given the high stakes of the midterm election year, the prospects this week don't look any brighter. Two of the bills, both aimed at limiting medical malpractice jury awards, stalled in the Senate last night after failing to gain enough votes to overcome Democratic-led procedural hurdles.

The first measure, sponsored by Sen. John Ensign (R-Nev.), would allow up to $750,000 for non-economic damages and unlimited economic damages. A patient could recover up to $250,000 from a health-care provider and up to two health-care institutions each for a total of $750,000. The bill also would guarantee timely resolution of claims by mandating that health-care lawsuits are filed within three years of the date of injury, establish standards for expert witnesses and limit attorneys' fees. The second measure would target lawsuits against obstetric and gynecological providers and was sponsored by Sen. Rick Santorum (R-Pa.), whose wife won $175,000 in damages in a malpractice case against a chiropractor. Democrats mocked the bills as a gimmick designed to rally conservative voters and appease doctors and insurance companies. "This is not a serious attempt," said Sen. Edward M. Kennedy (D-Mass.).

The third bill up this week, offered by Sen. Mike Enzi (R-Wyo.), would allow business and trade association to band their members together and offer group health coverage on a national or regional basis. Opponents warn that it would set the "barest of bare bones standards for benefits," as one Democratic press release put it, undercutting requirements to cover cancer screening, well-baby care, immunization, access to specialists and other services.

They are going to raise the debt limit as the icing on this cake. They are still giving it away faster than it is coming in.

So when they bring the budget out here, if they ever have the guts to bring a budget out here, we are 7 months into a new year and you have no budget, they are going to raise the debt limit. So watch them. Just remember, this is the rubber stamp and the President's view.

Vote "no."

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

I heard my colleague say a tax is a tax is a tax. Everyone knows a consumption tax buys you a fish for a day; an investment buys a fishing pole and bait, and you eat for a lifetime.

A tax is not a tax is not a tax. Capital gains, dividends are a fishing pole and bait. The kind of taxes they go for is a fish.

Eat for a day or eat for a lifetime. Our taxes provide a lifetime of benefits.

Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Colorado (Mr. BEAUPREZ), a valued member of the Ways and Means Committee.

Mr. BEAUPREZ. Mr. Speaker, I thank the chairman of the committee and applaud him for bringing this legislation to the floor. It has made a difference in real American lives and the folks that we all represent.

I want to talk about one of those, Mr. Speaker. Her name is Linda Jones. Linda Jones operates two rental facilities in Westminster, Colorado, called Area Rent-Alls, just little equipment rentals like we have in all of our neighborhoods back in our districts.

She utilized section 179 expensing that is so much a part of this legislation that we are bringing in today, and in 2003, she bought $57,000 worth of new equipment. Somebody had to manufacture that equipment. Somebody had to retail that equipment. Somebody had to deliver it to a store. That is jobs.

From that, she saved $7,360 in expense. She applied that $7,360 to the health care costs for her employees. Health care costs were very much on the rise; she used the tax savings to benefit her workers in her shop.

The next year, she bought $64,000 of additional equipment and used the savings for the same thing, to buy down the increase in health care costs that she experienced on behalf of her employees.

Here is what she says: "The availability of section 179 motivates me to continue to grow my business and is a key component within my business plan. My goal is to build my rental businesses of two more rental stores into one new location. The goal is achievable in a more reasonable time frame only because of the availability of section 179. It is a vital part of my planning for the future and ensuring a bright and profitable future for my rental business and my employees."

It works for real, live Americans. It creates jobs and makes those with jobs lives much better and more secure.

I thank the chairman again.

Mr. RANGEL. Mr. Speaker, I am glad to yield 2 minutes to the gentleman from Georgia (Mr. LEWIS), the conscience of the Congress, from the Ways and Means Committee.

Mr. LEWIS of Georgia. Mr. Speaker, there is a time when a politician must put politics aside. There is a time when we must stand up and meet our moral obligation as servants of the people.

Millions of Americans are struggling today. They work hard. They are just trying to make ends meet. They are trying to make a way out of no way, and they are looking to Congress for a little bit of light, a little bit of hope after a hard day's work.

They do not want a handout; they just want a fair shake. But with this tax bill, we have abandoned our responsibility to the people who elected us.

☐ 1700

We have shut the door in their faces. We have told them there is no room in the inn.

In this bill, you cut off the orphaned, the old, the poor, the weak, and the sick. In this bill, you cut Medicaid, Medicare, veterans benefits and housing programs all in the name of financial discipline.

Then how can we in good conscience pass a tax bill that helps the rich get richer and drives millions of our citizens into financial despair? We are asking the poor and the middle class to sacrifice. Shouldn't the rich sacrifice, too?

Where is the mercy, where is the compassion, where is the fairness? Our tax policy should be fair.

I ask you, Mr. Speaker, is it right to have a tax bill that saves hardworking American families only $10 a year while millionaires save thousands and thousands? With $10 you cannot even fill a tank full of gas. You can't pay the light bill. You can't put food on the table or clothes on your children's backs.

Mr. Speaker, this bill is not right. It is not fair. It is not just. It demonstrates shameful disregard for the people of this Nation. As a Nation and as a people and as a Congress, we must do better and we can do better. I ask my colleagues to vote against this tax bill.

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. WELLER), a member of the Ways and Means Committee.

Mr. WELLER. Mr. Speaker, this legislation is all about jobs. Two years ago, almost 3 years ago in 2003, this Congress worked with the President. We lowered taxes for Americans. We lowered taxes for small business. We knew it was time to encourage investment and creation of jobs. Frankly, it worked. Over 5 million new jobs were created. Unemployment today is at 4.7 percent, lower than the average of the 1970s, lower than the average of the 1980s, and lower than the average of the 1990s. This economy is growing.

My friends on the other side of the aisle say now is a good time to raise taxes. We should cut off that policy that was helping families and small business. So the question is who benefits when we put the breaks on the alternative minimum tax and cut capital gains and cut dividends? Small business does. 25 million small businesses; 28 million families benefit on average by reduction of almost $990 under 2006 tax returns. And 8.5 million of those beneficiaries are seniors who are going to be able to keep $1,144 on average. Think about that.

If the Democrats succeed in raising taxes, 28 million families will see an average increase on their taxes of $990 this year, thanks to the Democrats' efforts to increase taxes. This policy has worked in creating jobs. This policy has worked to help regular people keep more of what they earn. While Democrats want to raise taxes, let us help working families and let us help small businesses by continuing to keep their tax burden lower than what the Democrats want. I urge an "aye" vote.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. NEAL), an outstanding member of the Ways and Means Committee.

Mr. NEAL of Massachusetts. Mr. Speaker, the gentleman from Arizona said earlier we ought not to penalize success. What they are asking you to do today is to subsidize that success on the backs of working Americans. We are stuck in this situation because of what they did at the end of last year. Their own Members said their cuts were too draconian and hurt too many families, but it allowed them to manipulate the rules so that we find ourselves back here today.

Let us talk about who gets what when this debate concludes. The average American family is going to get $20 with the Republican tax cut. By the way, this is the sixth and seventh tax cut while we are fighting two wars. Where is your conscience when they do not have body armor, they do not have the equipment they need in Iraq where they serve us so honorably while you cut taxes for Wall Street at the expense of Main Street?

Let us talk about that $42,000 that millionaires are going to get with the Republican tax cut and what it means. Think about what you could do with that for student aid, which they trimmed last year; as they cut Medicare, what you could do with that $42,000. They are giving it back to the investors, and where I live $42,000 is annual income for thousands of families. They are giving it back to millionaires with their tax cuts. And $42,000 is what we pay an enlisted soldier with 3 years of experience, and they are giving the $42,000 back to millionaires.

$42,000 as they cut Medicaid, $42,000 as they argue that it is okay to trim Medicare. It is $20 for those of you who go to work every day in America. You know what that means with this administration and this Congress, that is 6 gallons of gasoline. Where does it all end with their tax cuts?

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART), a very valued member of the Ways and Means Committee.

Ms. HART. Mr. Speaker, I thank the gentleman for the opportunity to speak in favor of H.R. 4297, the Tax Increase Prevention and Reconciliation Act. The title is exactly what this bill will do.

It is important for us to complete our work on this legislation today so we can keep our economy growing in the positive direction that it has been moving in since we cut taxes. Interesting enough, though, those opposed will also oppose reductions in our spending, making it very difficult to make sense in making their argument. They want to increase spending, and somehow I guess that means we are going to have to increase taxes. The results say we need to keep taxes low.

First, the extension of the enhanced expensing for small business will continue to provide incentives for small businesses to expand and create more jobs.

Second, extending the lower rates on capital gains and dividends for 2 more years will free up additional capital that fuels the economic growth that we have experienced over the last 3 years.

The American economy has rebounded strongly over the past 3 years with an average growth rate of 3.9 percent. In the first quarter of this year, the growth rate is nearly 5 percent. This growth has translated into job creation, with over 5 million jobs created since August of 2003, and reducing the national unemployment rate to 4.7 percent.

Where I live in western Pennsylvania, we are always the last to see the economic growth, until recently. Recent articles in the Pittsburgh Post Gazette and our Democrat State Department of Labor have admitted that Pittsburghers are finding jobs. A Labor Department analyst, Michele Heister, called the latest trend encouraging, and we are showing signs of recovery.

The truth is we need to keep taxes low. The truth is we need to keep money in the hands of entrepreneurs who are the job creators. The truth is the policy that those on the other side of the aisle advocate will kill our economy and cause job loss. I encourage my colleagues to support the good, sound economic policy in this legislation.

Mr. RANGEL. Mr. Speaker, I yield 2½ minutes to the gentleman from Maryland (Mr. HOYER), our outstanding minority whip.

Mr. HOYER. Mr. Speaker, the first plank of the Contract With America was fiscal responsibility. No political promise has ever been so broken as that one.

Mr. Speaker, this blatantly unfair and grossly irresponsible legislation represents the last gasp of the Republican Party's failed economic policies which have only caused greater disparity in America and driven our Nation into the fiscal ditch over the last 5½ years.

Today, our Republican friends are desperate to pass this conference report because they realize after November the party is over. Make no mistake, Mr. and Mrs. America, about what this legislation means to you. According to the Urban Institute-Brookings Institution Tax Policy Center, if you are among the 0.02 of households making $1 million a year, you get a tax cut of $42,000. If you are struggling to make ends meet, earning between $10,000-$20,000, you get $2 a year. If you are firmly in the middle with household incomes between $75,000-$100,000, you get about $400 a year, or $4.75 per week, enough to purchase about 3 gallons of gasoline.

Yesterday Republican Senator OLYMPIA SNOWE of Maine stated, "The preponderance of these revenues will go to upper income people, people who make a million dollars or more. It is a question of priorities." Priorities, indeed.

Four months ago congressional Republicans slashed $39 billion from student loans, Medicaid and Medicare and child support enforcement. And today, 5.4 million more Americans live in poverty than when President Bush took office, and 6 million more are without health insurance. Real median household incomes are down $1,670, and still, Republicans want to give millionaires a new Lexus.

This conference report is a continuation of 5½ years of the most irresponsible fiscal policies in the history of our country. I urge my colleagues to vote against this legislation. Stand up for our country, stand up for our children, stand up for our grandchildren. Vote "no."

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Florida (Mr. SHAW), a senior member of the Ways and Means Committee.

Mr. SHAW. Mr. Speaker, I think what we are seeing here is a basic difference between the two political parties.

Ten years ago almost to the date I stood in this well, as well as Members from the other side of the aisle coming to this floor to speak, and the subject at that time was welfare reform. And what split us at that time, what split us was because the Republicans had faith in the human spirit. We heard time after time, speaker after speaker came to that podium right over there to my right and said women and children were going to be sleeping on grates. The reason is you had no faith in the human spirit. You had no faith that those that were poor wanted to do better.

As a result, we created jobs. We created many, many jobs. Now you are showing that same skepticism with regard to what is going to happen if you let people keep more of their own money.

Nearly 60 percent of those who are going to benefit by the capital gains rate being at 15 percent and also the dividend. tax on dividends at 15 percent, almost 60 percent earn incomes under $100,000. And what are these people doing, what is happening? They are reinvesting it in American business because they believe in the capitalistic system. It is working. We have one of the lowest unemployment rates in the entire world. The rate of 4.7 percent is lower than it was throughout the 1970s, 1980s and 1990s.

When I first came to Congress 26 years ago, we thought between 5 and 6 percent was a target for full employment. We have shattered that myth. Now it is 4.7. Why? Because we have faith in the system of capitalism which we embrace through this bill. People will reinvest their money. Where does it go? It creates jobs.

The gentleman from Georgia was talking about putting clothes on the backs of the children. Yes, is there any prouder way to do it than through a job? A real job? We have created a tremendous number of jobs through the tax rates that we have put in place.

This is a fair bill. This is a bill that is going to benefit all Americans. It will raise all ships.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT), a hardworking member of the Ways and Means Committee.

Mr. DOGGETT. Mr. Speaker, some folks really do get all of the breaks, and I am not talking about winning the lottery. The lobbyists are winning. The very wealthiest few in this country continue to hit the jackpot with their Republican friends controlling Washington.

The tax breaks in this bill will ensure that the ever-growing gap between the rich and the poor in America continues growing.

□ 1715

And our deficit will keep growing, also, imposing a greater and greater burden on our children and on our grandchildren.

The Republicans say that further tax breaks are a necessity, and I guess they are right. With gas prices skyrocketing, the occupation of Iraq showing no end and poll numbers nosediving, more tax breaks for the wealthiest few are what Republican supporters view as a political necessity.

They are right. It is a jobs bill. It is their jobs that it is a bill about. They will pay any price with your children and grandchildren's tax dollars to cling to power up here.

The administration can't capture Osama Bin Laden. It can't meet the prescription needs of our seniors. It can't agree on what to do about immigrants. About the only issue around on which they can reach any agreement is more tax breaks for the privileged few.

Yes, President Clinton did sign an end to welfare as we know it, but corporate welfare has never had a better friend than this Republican caucus. Never mind that they have to borrow money from all to give tax breaks to a few. Never mind that this is the first time in recorded history that a country has embarked on a war by saying to some people, you must die for your country, and to others, you must stuff your pocket with more tax breaks. Some shared sacrifice.

A "no" vote today is a vote for fiscal responsibility. It is a vote for long-term stability over short-term gimmicks. A "no" vote is a step forward in freeing our children from the burdens of today's Republican excesses.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Maryland.

Mr. HOYER. Our Republican friends have talked a lot about jobs. Under the Clinton administration, we created 216,000 jobs per month. Under the Bush plan we have created 21,000, on average, per month.

Mr. THOMAS. Mr. Speaker, I yield myself 30 seconds to engage in a colloquy with the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, the deduction of State and local sales taxes is extremely important to my constituents and those in States that do not have an income tax.

Do you expect to present a bill to extend this crucial deduction soon?

Mr. THOMAS. I will tell my colleague that in my opening remarks I indicated that there were provisions that passed both the House and the Senate in the reconciliation packages that are not part of this bill. We are working currently on this next bill. Clearly, the State and local tax deduction will be a part of it, and we will move it to the floor as soon as possible.

Mr. RANGEL. Yeah, that next bill will probably be $100 billion.

Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY), an outstanding member of the Ways and Means Committee.

Mr. POMEROY. Mr. Speaker, the majority Members have said this is all about jobs. No, it's not. It's all about debt.

Let me tell you something that you are not going to hear from a single proponent for this tax cut. The passage of it is going to necessitate raising the borrowing limit for our country yet another time because we are spiraling into further red ink under their reckless fiscal policy.

Look at the record. June 2002, they raised the debt. May 2003, they raised the debt. November 2004, they raised the debt. March of this year, they raised the debt. And do you know what we have now discovered? In their budget documents that will be presented on this floor this week or next, they are going to raise the debt again. They just raised it in March, now they are going to raise it again.

The record of this President will be that 42 Presidents left this country with a debt of $5.6 trillion, and under the watch of President George W. Bush, that debt will double.

This could not be happening at a worse time. Seventy-eight million Americans are going to retire next decade. The draw on Social Security and Medicare will begin. And yet we are saddling those that will follow in our country with this staggering debt even while we have the entitlement obligations to meet.

This feeding frenzy of more tax cuts, deeper fiscal imbalance, more borrowing, yet another borrowing, has got to stop. We are leaving our children with a legacy of debt they will never get out of.

Do you know any family whose approach to retirement is to blow everything they have got, expecting fully that the children are going to take care of their debts, pay their medical bills, give them income to live on in retirement? Of course not. Families take care of their children. This Congress is selling our children short by saddling them with unending debt.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Speaker, just today one leading national newspaper reported the Federal revenue has gone up 11.2 percent in the first 7 months of this fiscal year over last year, three times the rate of inflation. The tax cuts enacted under Chairman THOMAS' leadership have strengthened the economy so much that not only has Federal revenue gone way up, but growth was 4.8 percent the first quarter, and unemployment is at a very low 4.7 percent.

Now, as to the deficit and the debt that some on the other side have mentioned, they are too high. But those on the other side attack us continually for not spending enough on every program out there. Well, you can't have it both ways. You can't continually enact big increases in spending and lower the debt at the same time.

But the best way, the best thing we can do is to keep lowering taxes so we can keep improving our economy. And I commend Chairman THOMAS and his staff, and I thank the gentleman for giving me this time.

And I rise in strong support and urge support for this conference report.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES), who makes outstanding contributions to the Ways and Means Committee.

Mrs. JONES of Ohio. Mr. Speaker, I thank the ranking member for the opportunity to be heard.

I was sitting in my chair over there, and people kept complimenting me today about this scarf that is about Save the Children. And I started thinking, you know, when I was a little girl we used to play this game called "What Time Is It, Mr. Wolf" And Mr. Wolf would say, "1:00."

And we would go on and you say, "Well, what time is it, Mr. Wolf?" And he would say, "2:00."

And then next was, "Well, what time is it, Mr. Wolf?" And then he would say, "It's time to eat you up."

And that is what I am thinking about with this legislation. What time is it?

It ought to be time for our children to know that we would expend money to improve opportunities for education.

It ought to be time for us to take money and tell seniors you don't have to sign up on May 15; you sign up when you get ready, but we are going to ensure you that you have a prescription drug benefit.

It ought to be time to tell children across the country that we are going to extend deductions for classroom expenses for teachers.

It ought to be time that we would extend deduction of tuition and related expenses for students.

It ought to be time that we tell companies that we are going to provide them an R&D, or research and development, tax credit.

It ought to be time for us to tell working families that we are going to cover the AMT and remove it from the situation.

But, instead, when we ask, "What time is it, Mr. Wolf?" his response is that we are going to make sure that the top 1 percent get a tax deduction.

And one of my colleagues said, "You ought to have faith in the human spirit." When I say, "What time is it, Mr. Wolf?" I am afraid that there is no human spirit left out here, because if there was human spirit in the House of Representatives, we would not even be debating this issue today.

What time is it, Mr. Wolf?

Well, today we are going to deal with some tax reductions, and when we ask. Well, why not the AMT for a longer period of time? Oh, we are going to do that in the next tax bill. And the appearance they want to give to the world is that each month we are going to do a tax bill reduction.

Instead of "What time is it, Mr. Wolf?" I am going to take care of the children.

Mr. THOMAS. Mr. Speaker, I yield to the gentleman from Michigan (Mr. CAMP) for a revision and extension remark.

Mr. CAMP of Michigan. Mr. Speaker, I rise in favor of the Tax Increase Prevention and Reconciliation Act.

By approving this Conference Report, the House of Representatives is sending another strong signal to American taxpayers that Republicans want to lock in tax relief and continue the economic recovery. The U.S. economy has grown for 18 consecutive quarters and the unemployment rate is at 4.7 percent—a rate lower than the average of the 1960s, 1970s, 1980s, and 1990s. Workers are taking home more money with paychecks growing at 4.1 percent in the last 12 months, the fastest pace since 1998.

Despite high gas prices, disposable income has increased, business investment continues to advance, retail sales are up and consumer confidence is rising. Interestingly too, the U.S. unemployment rate is lower than that of Canada, France, Germany, Italy, and the United Kingdom. Congress must continue to pursue tax policies that are responsible for this outstanding economic activity. In my view, the tax cuts the Republicans have passed since 2001 are largely responsible for this economic expansion.

This bill could not have come at a better time. Extending the 15 percent rate on capital gains and dividends to 2010 is important to do today. Investors want assurances that their money will not be subject to large tax increases only a few years from now. By extending cap gains and dividend relief Congress is sending a strong signal to the markets that economic growth will continue into the next decade. For taxpayers, market growth means businesses will continue to spend and create jobs.

The Conference Report also shields millions of taxpayers from the onerous AMT, provides small businesses with enhanced expensing limits, and contains international tax provisions that aim to increase the competitiveness of U.S. firms. The Conference Report accomplishes all this while staying within our current budget limits.

The House should pass this measure now and protect millions of Americans from unfair tax increases.

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Speaker, first of all, I would like to thank the chairman for his leadership in bringing this bill to the floor. It is a monumental task, and I want to congratulate him on its completion.

I rise in support of the Tax Relief Extension and Reconciliation Act of 2005. And there is no question that today is a great day for American families, and despite how much Republican policies translate into a stronger economy, what we hear today from our friends on the other side of the aisle is continued talk of the tired language of tax and spend and their insistence on engaging in class warfare.

But let's take a look at the facts: 5.4 million jobs have been created since the enactment of these rate cuts; unemployment is at $4.7 percent. These cuts have spurred spectacular economic growth. And as far as the assertion that we are aggravating the debt limit, the facts are. revenues are up 14 percent this year and receipts this year have far outstripped the growth in outlays.

And what about those, and who are they, that benefit from these rate cuts? Sixty percent of American families who benefit from these cuts make under $100,000 a year. So clearly, the assertion that there is some type of unfairness or a class-based argument is simply absurd. Wage payers and wage earners alike have benefited from these rate cuts.

And I would like to respond to one of the speakers on the other side who says, how dare Americans want to stuff their pockets with tax cuts.

I would ask, Mr. Speaker, whose money is it anyway? It is the taxpayers' money. It is their money that goes into their pockets.

We must act now, Mr. Speaker. We must not leave American families in limbo wondering whether their taxes will go up. Delaying the extension of these cuts only serves to punish taxpayers who count on us to provide certainty in fiscal policy and to respect the temptation to engage in class warfare.

Mr. RANGEL. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois (Mr. EMANUEL), an outstanding, valued member of our Ways and Means Committee.

Mr. EMANUEL. Mr. Speaker, it's deja vu all over again. Another windfall for the wealthy while everybody else gets to work for a living. By my count, this Congress has now financed three wars with four tax cuts. How else do you get $300 billion in annual deficits, $3 trillion in new debt accumulated in just 4 years and a budget that raises the debt ceiling to $10 trillion?

Middle-class families care about gas prices. They care about the war in Iraq that has now cost $450 billion. Health care costs are up 58 percent. College tuition, 38 percent. The median income in this country has dropped 2.3 percent.

So what's the number one priority for the Republican Congress? None of the above. The top 1 percent, whose average income is $5.3 million, will save an average of $82,000 under this bill. Those who make $1 million or more will get $42,000 in tax cuts. But the middle-class families, who work hard and play by the rules in this country, will get $20. That is the epitome of the wrong-headed priorities and fiscal insanity.

But there is more. This Congress has come up with yet another tax shelter for the wealthy when it comes to savings. The Wall Street Journal last week, here is their headline, "Wealthier Taxpayers to Gain." If you make a six-figure income, your retirement prospects may be getting a boost, while for 55 percent of the country, all they have is Social Security. But for the wealthiest people in this country, we are giving them a boost to help save, while other people have no retirement savings.

It is coming up to Mothers Day. Sometimes I wonder what your mother thinks you are doing here on the floor. People working, people dying in Iraq fighting for this country. And what do we do? We have three wars, one in Afghanistan, one in Iraq, good men and women of our country fighting. And we are going to give another tax cut to the wealthiest 1 percent.

Mr. Speaker, the defining characteristic of this Congress is its shameless devotion to the special interests. Instead of working to extend the middle-class AMT relief for another year, for more than just 1 year, they also snuck in a provision to exempt certain overseas income for active financing to businesses to the tune of $5 billion.

What did we not do? Extension of key middle-class tax incentives for higher education, for hiring welfare recipients and for offsetting aggressive State and local sales taxes, not to mention the research and development, R&D, tax credit that is so critical for our innovation, our technology and manufacturing.

Mr. Speaker, to govern is to choose. And leadership is about priorities. This Congress has made the wrong choice. It is time for a new direction, a new set of priorities.

☐ 1730

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. REYNOLDS), a member of the Ways and Means Committee.

Mr. REYNOLDS. Mr. Speaker, I had prepared remarks talking about the fact that so many people said we couldn't, absolutely couldn't do a middle class tax break for 2006 on AMT. We absolutely couldn't put that withholding the tax rates for 2 more years on capital gains and on dividends, and some might have even forgotten that expensing for small business section 179 allows an extension of the opportunity to have an additional 2 years of expensing of $100,000 on small business.

So when I listened to my colleague from the other side of the aisle put forth the politics of the party of "no," what he failed to say and what we saw on the weekend talk shows, the Democratic Party stands for more taxes and bigger government. He was quick to outline the things he would like to see Federal Government spend, but he didn't tell you it is going to come from a tax increase.

There is no comparison. If you cannot support this legislation today to continue middle class tax cuts for the AMT and to help businesses continue the economy that has the strength that we have seen and strength for quarter after quarter after quarter, it was a clear message from the financial markets and Wall Street and businesses across Main Street U.S.A. today, give us continuity of knowing that we have the opportunity of having both dividends and capital gains as part of our planning. More importantly, fit in expenses so we can plan the small businesses that we can write 100 grand off.

Maybe the Democratic Party has been out of touch with mainstream businesses across our country because that is a clear message they asked us to get done. Chairman THOMAS and the conferees have completed that work. I urge passage of this legislation today because it is going to give a break to middle class America.

Mr. Speaker, as the lead sponsor of the House's middle-class AMT relief bill—which has been incorporated into the legislation before us today—I rise in strong support of this conference report.

For months now, we've heard our friends on the other side of the aisle tell us that we must choose between extending the lower rates on investments and the need to extend essential middle-class AMT relief. For months, they've said we can't do both. And for months, the party or no has offered no solutions and no fresh ideas—just slash and burn attacks on the Republican majority.

But today, Mr. Speaker, our majority is moving and with our positive agenda on behalf of America's hardworking taxpayers.

With regard to the AMT, many in this chamber will recall that the House passed my Stealth Tax Relief Act late last year by an overwhelming, bipartisan vote of 414 to 4. That legislation would prevent this stealth tax from sneaking up on millions of unsuspecting middle-class taxpayers by extending the temporary AMT relief for one additional year.

I would remind my colleagues that the stealth tax was never intended to hit the middle class. It was originally enacted in 1969 to prevent a small percentage of taxpayers with very high incomes from paying little or no Federal income tax. However, because the AMT was never adjusted for inflation, it is now threatening more and more middle class taxpayers each year as they climb the income ladder.

While Congress must certainly continue to work toward a permanent solution on this critical issue, our immediate task is clear. America's middle class deserves to have its temporary AMT relief extended, and I am very pleased that my legislation serves as a centerpiece of today's conference report.

I am also pleased that the conference agreement includes an extension of the lower rates for capital gains and dividends. This is an important priority not just for the ever-growing investor class—which includes millions of seniors and other middle-class Americans—but for our economy as a whole.

Thanks in large part to these lower rates on investments, tax revenues have been streaming into the Federal Treasury at a record pace. And these lower rates—which are particularly important to the economy of my home state of New York—have helped keep our Nation's economy strong and our domestic job base growing.

Mr. Speaker, I commend Chairman THOMAS and the other conferees for their efforts to ensure that these critical priorities are addressed, and I urge my colleagues to support this much-needed tax relief with a strong, bipartisan vote.

Mr. RANGEL. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, for those who say that we will not have an opportunity to vote for a fair alternative minimum tax, I would like to share with you that on the motion to recommit that we give instructions that we will have an opportunity to do that. Why are the Republicans so excited about enacting the cuts and interest rates and capital gains taxes for something that does not expire when 17 million, 18 million people need help? I don't know, but they want to give this $50 billion tax cut to people who are not screaming for it.

Where are they going to get the money? They are going to borrow the money in order to give the tax cuts, so that on our motion to recommit we set aside these tax cuts for the rich and concentrate on the middle class. This is really where your vote should be counted. Do you want to deal where 50 percent of this tax cut is going to the top 1 percent of the country, or are you really concerned with the alternative minimum tax that we Democrats have been advocating for the last few years that these people were not supposed to be caught up in this, and so we don't want them caught up in this. We don't pay for it, we borrow money to do it. It is paid for.

It just seems to me that as we talk about the economy booming, that as we go home, I hope we talk with the people that worked in the factory. The increase that we have had in job creation, 50 percent of it has been an expansion in government jobs. I am certain that this is not what the other side is so proud of. But as you walk the street and ask the people that work every day that are concerned about their pensions, concerned about their health care, the Delta pilots on strike, our automobile industry in jeopardy, why don't you ask these people about this great economic boom that you are talking about, and now you got to promise them more.

I am glad that we have come to this time in this session that we can distinguish between Republicans and Democrats and we can see the difference between us. I think what you are saying if you give these enormous tax cuts to the richest people, sooner or later it will leak down to the people who are working on the jobs.

I can understand how some people do not believe that a Medicare tax or that a Social Security tax is a tax. You may call it a fish, you may call it a fishing pole. But when people work every day and they know what their salary really is and they see what they take home, they think what is taken out is a tax.

Maybe in November we will see who is right and who is wrong. Meanwhile, this is an opportunity for America to distinguish do we borrow money for tax cuts and do we cut those people off that are relying on Medicaid and Medicare and reduce their services that we are supposed to give them. I think this is a classic case as we see more and more poor people becoming poor statistically and more of the rich people getting rich and more of the middle class people losing that status, and the people know who they are.

If the old folks really think that they have gotten a fair shake by the other side, well, then, they can be heard. They have an opportunity to be heard. But right now what we are talking about is fairness, we are talking about equity, we are talking about services. Clearly, we are talking about $70 billion or at least $50 billion of that going to the richest people that we have in this country.

The AMT should have been handled separately, and we hope that the motion to recommit will carry, and therefore we would see what honest Americans really believe as to where the relief is going to be.

The biggest fault that we have probably on our side is that we don't rub shoulders with the billionaires and millionaires that you are doing this for. But we do work for the American people. We do know what they want, and I have not received one letter from people asking me to give more relief in that upper income tax bracket. I, for one, refuse to wait for this to leak down and be able to help the middle class people that made this great republic the great country that it is.

People who work hard every day, not just cutting coupons to make this country great, people who volunteer to fight this great war, which we are paying $500 billion a month, these are the people we should be supporting and not the richest of the rich that make no sacrifice at all.

Mr. Speaker, I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Speaker, the tax relief that the Republicans have passed has now helped to create over 5 million new jobs. But if Democrats succeed with their huge automatic tax increase, you start to lose those jobs. Let me tell you about a few of them.

Hugh Dublin owns East Texas Right of Way in Tennessee Colony, Texas. In the past 3 years his company has grown from two full-time employees and four part-timers to adding an additional four employees. Why? Because of tax relief.

The Democrats now want to raise taxes on Hugh Dublin and his small business. They want to replace his employees' paychecks with welfare checks. This is their idea of compassion.

Eddie Alexander owns Triple S Electric in Henderson County, Texas. For the past 3 years, he worked alone with one part-time helper. Since the passage of the President's economic growth plan he has had to hire two more workers just to keep up. But the Democrats now want to raise taxes on Eddie Alexander in his small business, replacing his employees' paychecks with welfare checks. This is their idea of compassion. The Republican idea is more jobs, hope and opportunity.

Mr. THOMAS. Mr. Speaker, I yield myself the remainder of my time.

The gentleman from Illinois wanted to know why we aren't going to be voting on the research and development tax credit, on State sales tax provision, the work opportunity tax credit or the assistance to teachers for out-of-pocket expenses, money for paying for items in the classroom. My answer to the gentleman from Illinois is that he should look forward shortly for an opportunity to vote on that measure. My hope is, based on the statement, at least the feeling I got out of the statement that he made, that he would be anxious to vote "yes" on that measure. We will provide him an opportunity to do that.

Gee, I don't know. We had AMT outside of reconciliation, and we got all kinds of complaints about how it should be inside reconciliation. We put it inside reconciliation, and we get all kinds of complaints about the fact that it is inside reconciliation.

Our colleague from Ohio said, what time is it, Mr. Wolf? I will tell her what time it is. It is time to act. This is the measure that provides alternative minimum tax to American taxpayers. It is time to act.

If you vote "yes," you are in favor of that relief. If you vote "no," you are not. What time is it, Mr. Wolf? It is time to quit wolfing. It is time to vote. A "yes" vote provides relief.

Mr. ETHERIDGE. Mr. Speaker, I rise today to voice my opposition to H.R. 4297. I have long supported responsible tax reform, but this bill is the opposite of responsible policy. The Republicans in Congress have once again failed to provide the American people with a fair, common-sense tax reform bill. Instead, they are trying to promote a bill that hides its deficiencies behind gimmicks and trickery. But the American people will not be duped.

North Carolina taxpayers struggle to provide for their families, educate their children, and still save enough for retirement, without having the extra burden of high taxes, an intrusive IRS, or a complicated tax code.

The median household income of the people in North Carolina's Second Congressional District is about $36,000. If this bill passes, their savings would be a whole $16—less than half a tank of gas in the family minivan.

Under this Republican Congress, the national debt per person is currently $28,000. And this bill would give my constituents $16. Instead of adopting a bill that would increase the burden on our children and grandchildren, we need a common-sense solution that would return fairness to our tax system.

Under Republican rule in Washington, we have witnessed the most dramatic fiscal reversal in our nation's history. Our budget surpluses have been wasted, and our nation suffers under ever-growing budget deficits and increasing federal debt. This debt crisis is the direct result of the irresponsible tax schemes the Republican Congress have enacted.

The people of North Carolina's Second District elected me to help chart a common-sense, prudent course for the country. I pledged to represent my constituents by paying down the national debt; saving Social Security and Medicare funds for older Americans, and investing our country's resources into education, health care and other initiatives that enable people to improve their lives. H.R. 4297 is inconsistent with these goals; therefore, I oppose the bill.

Mr. FARR. Mr. Speaker, with today's vote on the "Tax Relief Act of 2005" (H.R. 4297) conference report, the Congressional Republican Leadership is planning, once again, to give huge tax cuts to the wealthiest one percent of Americans, while leaving 99 percent of Americans with little to no tax relief, a federal government hamstrung by deficits and a future generation saddled with monstrous debt.

I would like to insert into the record a chart from the Tax Policy Center that outlines how much Americans would actually save under this bill. These numbers clearly spell out the priorities of this Republican Leadership:

HOW MUCH WOULD YOU SAVE UNDER THE PLAN?

Income, in 2005 dollars	Average tax savings
$10,000–20,000	$2
$20,000–30,000	9
$30,000–40,000	16
$40,000–50,000	46
$50,000–75,000	110
$75,000–100,000	403
$100,000–200,000	1,388
$200,000–500,000	4,499
$500,000–1 million	5,562
More than $1 million	41,977

SOURCE: Tax Policy Center.

As legislators, we have to remember that tax cuts are part of the larger federal budget picture. We have access to a range of tax and budget policy tools, and we have to use these tools, along with common sense, to support and grow all sectors of our national economy.

Today, I tried to reestablish American values and priorities for our Nation's veterans while addressing some of the most egregious problems created by the Republican budget and tax policy. During the House Appropriations Committee debate on the FY07 funding bill for Military Quality of Life programs and Veterans, I offered an amendment that would have rolled back part of President Bush's tax cuts for millionaires. Specifically my amendment would have reduced the tax cut for taxpayers making over $1 million annually by a mere 4.5%, reducing their tax cut from $114,172 to $109,025. The savings would have provided more funding for mental health care and prosthetics devices for veterans of the Iraq war, increased the number of VA nursing home beds and added health care coverage for Priority 8 veterans. Unfortunately, the amendment failed on a party line vote.

The one Middle Class tax issue the Republicans should have addressed, but didn't, is the Alternative Minimum Tax (AMT). Their "fix" is only for one year. Without a serious, long-term AMT fix, the Administration and Congressional Republicans are leaving middle and upper middle income Americans in financial limbo. Democrats want real AMT reform.

Republicans have passed sham AMT reform. We all need to work together to promote a progressive tax system that Americans deserve.

Mr. MARKEY. Mr. Speaker, I rise in opposition to this bill.

With this bill we are now engaged in the second phase of "The Republican ReCONciliation Game." That's exactly what it is—a giant Con Game.

In February, the Con Game began with the Republicans' cutting nearly $40 billion in benefits for the most vulnerable in our society:

They cut $12 billion from student loan programs to help kids go to college.

They cut $6.4 billion from Medicare and made elderly beneficiaries pay higher premiums for their health care.

And they cut $6.9 billion from Medicaid which helps the poorest and sickest children and families in our country get healthcare.

And then they tried to turn to the second part of the Con Game, where the Republicans turn over that money that they got from cutting programs for the poor to the Ways and Means Committee to give all of that money away to their millionaire friends.

But in February when they tried for the first time to give this money to millionaires there was a public outcry because people understood that the Republicans were taking from the poor and giving to the rich. So the Republicans had to pull the bill and wait for the public to forget.

So now, three months later, the Republicans are hoping that the American public has forgotten about all of those cuts they made. They are hoping the American public won't remember that the Republicans cut Medicare and Medicaid and student loans in order to give more to their fat cat friends.

This bill favors the wealthy so dramatically that the average American family making $40,000–$50,000 a year will get $46, which is about enough for one tank of gas.

But if you make over a $1 million a year, you will get about $42,000. That's enough to buy a luxury Hummer 3 and still have $10,000 left over for the gas!

It is immoral to take medicine away from the poor, elderly and disabled so that millionaires can buy Hummers.

Vote to reject this con game and vote "no" on this shortsighted, fiscally irresponsible and immoral legislation.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in strong opposition to the tax reconciliation conference report, H.R. 4297, that will cost $70 billion over ten years and provides little to no tax relief for working American families. With continued job outsourcing, cuts to pensions, health and retirement benefits, and a deficit crisis, the American people deserve targeted tax relief, they deserve better than this bill.

Today is yet another missed opportunity by the Republican-controlled Congress to provide real tax relief to working families. This tax package is disingenuous and reckless. For example, for the wealthiest among us, this bill would extend the capital gains and dividends tax cut set to expire in 2008 for an additional 2 years through 2010. While on the other hand, the bill would only provide a one-year extension in relief for the Alternative Minimum Tax (AMT) that affects an estimated 18.9 million middle-class taxpayers and already expired in 2005.

Originally intended to ensure the wealthy taxpayers paid their fair share, the AMT has become a tax on the middle-class. Without adjustments for inflation like the federal income tax, the AMT targets a growing number of people each year. Those most affected by the AMT are taxpayers in states like my home state of Connecticut with high property taxes, high local and state income taxes, and high sales taxes. These taxpayers are middle-class families: the engineer at Pratt & Whitney, the assistant school principal at your child's elementary school, the real estate agent, the architect, the restaurant general manager, or the policy underwriter working at any number of the insurance companies located in Hartford.

What are the priorities of this Republican-controlled House? Consider this, under the Bush dividends and capital gains tax cut, taxpayers making more than $10 million a year will receive approximately $500,000 annually in tax savings. ExxonMobil's retiring CEO, Lee Raymond will receive approximately $2.5 million in tax relief for his stock investments, while the average American family making less than $50,000 will receive an average of $10 in relief a year, which barely covers the cost of 3 gallons of gas.

This conference agreement also drops three provisions in the Senate bill that would have rolled back nearly $5.4 billion over ten years in unneeded tax breaks and loopholes for the oil industry. Last week, I offered a motion to instruct house conferees to adopt these provisions because they reflected the common sense that Americans should not be getting hit by high prices twice—once at the pump and once again by seeing their tax dollars given away to an industry enjoying unprecedented levels of profit. House Republicans, and this conference agreement, rejected this simple idea in favor on continuing this Congress' misguided record of subsidizing the bottom line of oil companies and executives rather than providing real energy relief for the American people.

I am voting against this tax package because it is another example of the party of the few ignoring the majority of Americans and taking care of only the wealthiest taxpayers. I am not opposed to tax cuts. In fact, I've voted 6 times to expand tax relief and protect middle-class families from the growing reach of the AMT in the 109th Congress. The American people deserve better. Instead of helping more Americans help themselves and ensure that as a country, we move forward together, this bill will continue the Republican's record in the House to benefit the wealthiest among us and leave the majority of Americans behind.

Mr. DINGELL. Mr. Speaker, I rise in opposition to this ill-advised, ill-conceived, poorly calculated, and deeply regressive tax bill for the same reasons that I rose to oppose the tax cuts of 2001 and the yearly effort by this Congress to make them permanent every year since their approval.

I oppose them for a host of reasons. I oppose them because they are leaving our children and grandchildren with trillions, I say that again, trillions of dollars of liabilities owned by the Chinese, the Saudis, the Indians, and the Europeans. We are literally mortgaging the prosperity of today's children to the fickle nature of our competitors and rivals.

I oppose them because it has forced our military to go into battle without proper body armor on our troops—soldiers who largely come from families that do not benefit from these tax cuts—and without blast shields on our Humvees.

I oppose them because it shifts the tax burden from those who benefit the most from the success of America, to those who are desperately trying to realize their American dream. In fact, Mr. Speaker, the poorest workers under this legislation will end up with a total tax savings of two dollars while those who earn $1,000,000 or more will pocket a generous $42,000.

But this distribution isn't just unfair to the working poor; it is deeply unjust to the middle class. Families who earn from $75,000 to $100,000 will only receive a dollar a day of tax relief—not even close enough to cancel out the higher interest rates on credit cards and student loans that are resulting because of our persistent budget deficits.

Finally, I am opposed to this legislation because it excuses this Congress from the tough decisions that a future Congress and a future President are going to have to make. We all know that the Alternative Minimum Tax is going to hit the middle class hard and to fix it will cost hundreds of billions of dollars. But rather than addressing it, we are asking the Congress of 2012 to take care of our mess. We know that the retirement of the Baby Boomers is going to force massive concessions in our budget, but again, our message is to leave it to tomorrow. Let someone else clean up our mess.

Well, I hate to say, with this Congress and this President I am not surprised we are asking someone else to take responsibility for yet another mess.

Mr. HOLT. Mr. Speaker, I rise in opposition to the tax reconciliation bill. Today's tax budget reconciliation bill will give the average American family an average of $10 per year from the extension of this tax benefit, or about enough to cover 3 gallons of gas. They will receive no benefit from the extension until 2009. Despite the popular GOP rhetoric about the large percentage of Americans that benefit from the rate reduction, the average American family's share of the total tax cut is approximately 2 percent.

Taxpayers with annual incomes greater than $10 million will receive approximately $500,000 in tax reductions per year.

While I do believe we need to create a fix to the Alternative Minimum Tax problem, today's bill just pushes off the problem by another year. I have voted numerous times in favor of AMT relief far larger than the provisions included in the conference report. The conference report has limited relief that only applies in 2006, but protects dividend and capital gains benefits through the close of 2010.

We are paying for this $70 billion tax cut by deep cuts of $39 billion over 5 years in programs like Medicaid and child support enforcement. The other $31 billion will be added to the debt.

Medicare funding was cut by $6.4 billion; the social security index by $732 million. In

New Jersey alone three thousand mothers will be dropped from the Women, Infants, and Children (WIC) program, which helps mothers care for their babies before and after birth. Four hundred children in New Jersey currently attending Head Start will be cut out of this important childhood education and development program. More than 3,200 low-income and disabled people will be cut from Section 8 housing vouchers, all in New Jersey alone.

They have also made a college education more expensive. Cuts—more than $12.76 billion—to federal student financial aid were made by increasing rates that students pay, charging students more fees on their loans, and reductions in subsidies to lenders. This is the largest cut in history in student loans. The result will be nearly $8 billion in new charges that will raise the cost of college loans—through new fees and higher interest—for millions of American students and families who borrow to pay for college. For the typical student borrower, already saddled with $17,500 in debt, these new fees and higher interest charges could cost up to $5,800. Once again, New Jersey families were hit—over 125,000 college students in New Jersey will be affected.

Today's tax bill cuts $70 billion in taxes and the reconciliation bill cut $39 billion in spending, so how will the other $31 billion be made up? By adding to our national debt, putting the burden on our children and grandchildren. According to the Treasury Department, major foreign holdings of U.S. Treasury securities total $2.18 trillion. Currently, China is the world's second-largest buyer, exceeded only by Japan. Furthermore, China's purchases of U.S. government securities have exploded by more than 211 percent since the beginning of 2001 and now total $311 billion.

This situation is dangerous because it is a major way that we are funding the federal government—by selling our debt to the Chinese. In 1980, 17 percent of the federal debt held by the public was in foreign hands. By 2006, 45 percent of the debt held by the public was owned overseas. Unfortunately, this trend seems to be increasing rapidly. During the past year, approximately 90 percent of the debt we have accumulated has been purchased by foreign banks, individuals and governments.

The high level of foreign holdings of U.S. securities could have a debilitating impact on our economy and foreign policy. If China threatened to sell large volumes of U.S. Treasury securities, it could easily fuel higher inflation and put pressure on the Federal Reserve to increase interest rates, putting our economy at risk for a large-scale recession.

Mr. Speaker, I ask my colleagues to oppose this tax reconciliation bill, because we can do better.

Mr. LANGEVIN. Mr. Speaker, today I rise in opposition to H.R. 4297, the Tax Reconciliation Conference Report. This gimmick-laden piece of legislation will require taxpayers to borrow another $70 billion so that the wealthiest Americans can keep their taxes low in 2009 and 2010. What kind of priorities favor the wealthy in the future over working families today? We can ill afford the continued "tax cut and spend" mentality that has marked the House during the last few years. Without a change in fiscal policy, future generations will be buried under a mountain of debt created by the Republican Congress.

H.R. 4297 includes a 2-year extension of the capital gains and dividend tax cuts, which are not scheduled to expire until 2008. Nearly half of these tax cuts will go directly into the pockets of the 1 in 500 taxpayers who earn more than $1 million per year. The contrast is stark: those who earn between $40,000 and $50,000 will see an average tax cut of $46, while those earning more than $1 million will save an average of $42,000 in taxes. More egregiously, those earning over $10 million will receive an average $500,000 tax cut per year.

Regardless of what the Republicans claim, this legislation disproportionately favors the wealthiest Americans. For taxpayers earning less than $100,000 per year, only 1 out of 7 benefit from the dividend tax reduction, and only 1 out of 20 benefit from the capital gains tax cut.

Under this legislation, an additional 20 million middle class families will have their taxes raised in 2007 thanks to the Alternative Minimum Tax (AMT). Congress had an opportunity to exempt the middle class from this complicated tax that was created to prevent a very small group of high income families from avoiding income tax altogether. Unfortunately, H.R. 4297 only offers a band aid to this massive problem, and more and more middle class families will have their taxes raised in the future because this Congress chose to cut taxes for multimillionaires instead.

In addition, I am disappointed that unlike an early version of H.R. 4297, this bill does not include the extension of the Research and Development Tax Credit, which expired in December. I am a cosponsor of a bill to make the Research and Development Tax Credit permanent, as it keeps American companies competitive and provides a strong incentive for businesses to invest in the future and create jobs.

This year, we have a projected deficit of more than $330 billion. We will spend billions more in Iraq and Afghanistan, as well as rebuilding the Gulf Coast in the wake of Hurricanes Katrina, Rita, and Wilma.

We simply cannot afford all of these emergency expenses while cutting taxes for the richest Americans.

I urge my colleagues to join me in rejecting the conference report and supporting responsible tax policies that benefit all Americans, not just the wealthiest.

Mr. Speaker, our Nation's fiscal house is not in order. The tax portion of the budget reconciliation bill, which we are considering today, does absolutely nothing to fix that.

Congressional leaders and the President should go back to the drawing board and create a budget plan that more adequately balances the interests of the American people. When President George H.W. Bush faced a similar budget crisis, he had the courage to create a bipartisan budget summit and to implement needed fiscal constraints. America is better for it, and I hope that our leaders today will follow that example.

I have no quarrel with providing a substantial tax cut for middle class Americans. That is why I have consistently supported legislation to eliminate the marriage tax penalty, to abolish the federal estate tax, and to allow persons to contribute more to their retirement savings. But, like with federal spending allocations, tax cuts must be paid for in the budget. In this case, they are not.

The budget reconciliation bill contains more tax cuts than spending cuts and plunges our country deeper into debt. This is fiscally irresponsible and gives the short shrift to our children and grandchildren who will be forced to pick up the tab for such out of control budgeting.

At a time when America is embarking on a prolonged and costly war on terrorism and is waging a war against insurgents in Iraq, I am convinced that this bill would make it far more difficult to meet the defense and homeland security needs of our Nation, while keeping Social Security and Medicare on sound fiscal footing.

I hope my colleagues will abandon this reckless budgeting style and embrace a more common sense approach to drafting a budget. Reinstating the effective pay-as-you-go (PAYGO) rules, long championed by conservative House Democrats, that helped create the budget surplus of the 1990s would be a good place to start.

Mr. UDALL of Colorado. Mr. Speaker, I cannot support this conference report.

As I noted before, this conference report—like the House-passed bill—is only part of a brew based on the Republican leadership's budget recipe.

Last year, they put the first ingredients into the mixing bowl in the form of a bill to cut more than $50 billion over five years from Medicaid, student loans, and many other programs of great importance to millions of Americans. Then, with the original version of this bill, they added a compound of a few good things tainted by such unwholesome provisions as the premature extension of preferential rates for dividends and capital gains.

The result was a full-bodied one-two punch that might have been intoxicating to some but was sure to leave us all with a bad budgetary headache and stick future generations with paying the tab.

So, when it originally came to the House floor, I voted against it but held out some hope that a conference with the Senate would result in a bill that deserved enactment. Unfortunately, that did not occur and instead we have before us a conference report that perhaps is a little better than the House-passed bill but shares its basic flaws.

The centerpiece of the conference report, like that of the House-passed bill, is an extension of the reduced tax rates on capital gains and dividends, even though those rates are not scheduled to change until 2008.

This is not only unnecessary, I think it is not good policy—and neither is letting lapse better tax provisions such as the research and development tax credit, the education tax deduction to help students go to college, tax deductions for teacher's classroom expenses, and the deduction of state and local sales taxes. All of these have been omitted from the conference report.

It is true that the conference report addresses the need to remove the threat of alternative minimum tax (AMT) liability from millions of middle-income American families. But it provides only a one-year respite.

And, worst of all, enacting the conference report will result in adding at least another $70 billion onto the deficit, while the long-term budget costs are masked by a change in the rules for Individual Retirement Accounts that may increase revenue in the short term but will greatly worsen the long-term budget picture.

Questionable at any time, that kind of increase in the deficit—meaning an increase in the national debt—is even worse now, when America is at war and when President Bush and the Republican Congress have taken us from paying off our debts to a projected deficit of $3.3 trillion. Over the last 5 years, the Federal Government has had to borrow more than $1 trillion—much of it from foreign governments—which is more than the total it borrowed over the preceding two centuries. This is a sorry record, and this conference report will make it worse.

So, Mr. Speaker, count me out. I thought the original recipe was wrong. I did not vote for the original House bill and I cannot vote for this conference report.

That doesn't mean I am opposed to tax relief. That's why I voted for the motion to recommit, which would have shielded middle-income families from the AMT without adding to the deficit. Unfortunately, the Republican leadership insists on rejecting that in favor of its own recipe. I fear the result will be half-baked and leave a bitter aftertaste.

Mr. VAN HOLLEN. Mr. Speaker, I rise today to support providing much needed relief from the alternative minimum tax, but oppose those provisions providing special tax breaks for the wealthiest. I am disappointed that important legislation to help the American middle class is tied to an irresponsible tax giveaway to the wealthiest among us. The dividends tax break would help only 1 in 7 families making under $100,000 a year. The capital gains tax break affects only 1 in 20 such families. In a time of massive deficits, we should not be passing such unnecessary tax cuts. It is unfortunate that an important tax break—the AMT—is tied into this bill. While I support the AMT fix, I strongly object to the crass political ploy of attaching it to a tax break that disproportionately benefits the very wealthiest among us.

The original purpose of the AMT was to ensure that taxpayers with high incomes would not take advantage of loopholes in the tax code and pay little or no income tax. However, because the AMT is not adjusted for inflation, it will penalize middle income families. The IRS calls this tax the "Number 1 most serious problem" facing taxpayers. We must extend AMT relief to ensure that middle class families do not face the burden of this complicated and expensive tax. That is why I am encouraging my colleagues to vote for the Democratic substitute. The substitute would eliminate AMT liability for individuals whose income is less than $125,000 and for couples whose income is less than $250,000. It is simpler, broader relief, and we can pay for it by restricting tax shelters.

But an extension is only a temporary fix. We must amend the AMT to accomplish its original purpose rather than unfairly penalize millions of taxpayers. If we do not make serious changes, the AMT will affect nearly 35 million taxpayers in 2010. An extension is a good first step, but we should continue to work on policies to make the tax structure sensible and fair.

Ms. LEE. Mr. Speaker, I rise in opposition to H.R. 4297. This legislation would give big benefits to millionaires, billionaires and giant corporations while the average American suffers under record high energy costs and again gets stuck with the bill.

Mr. Speaker, we should not increase the burden on our children and our grandchildren with this administration's record deficits just to make another 70 billion dollar gift that will line the pockets of the wealthiest few. Let's not extend tax rates that would encourage oil company executives to continue gouging record profits from every hard working American.

Mr. Speaker, we need to rethink our priorities. Instead of another 70 billion dollars for the super rich, why not provide health care for millions of children, provide housing for the neglected victims of Katrina or improve the education of the countless students that this administration has left so far behind? Is this Republican Congress so busy returning profits to the wealthy, that it has forgotten the families who have done all the hard work?

I encourage members to remember the American families that are the back bone of our nation and our economy and vote "no" on this bill.

Mr. EDWARDS. Mr. Speaker, I rise today to speak out on our nation's dire fiscal situation. How can it be that at a time of war, when we are cutting $735 million from the defense health care budget and facing the largest deficits in our Nation's history and an $8.3 trillion national debt, this Congress decides to prioritize million dollar tax breaks to Big Oil Company CEOs instead?

Because of the tax cut legislation passed out of the House, the former CEO of Exxon Mobil, Lee Raymond, will take home an extra $2.5 million dollars in dividend income each year on top of his $400 million retirement package and the $144,000 he made each day when he was Exxon Mobil's CEO. Tell me how that is possibly fair to the middle class worker who is paying $3 a gallon to fill up his car, or to the student who has to find a third job in order to pay off her student loans. The truth is it isn't fair, Mr. Speaker, and Americans everywhere know it.

The average middle class family could not afford to buy one meal for their family with the money they will save from this tax cut, but Lee Raymond gets $2.5 million?

I urge my colleagues to take a serious look at our nation's fiscal priorities as we continue down this road of fiscal irresponsibility. We owe it to our children and grandchildren, to leave them a legacy of economic stability, not one of debts and deficits. We should show them that we care about their future by not squandering away more money we don't have to pay for irresponsible tax cuts benefiting only Big Oil Company CEOs like Lee Raymond.

It's past time to focus on the true priorities of the American people.

Mrs. MALONEY. Mr. Speaker, I rise today in strong opposition to the tax reconciliation conference report, H.R. 4297, that will cost $70 billion over 10 years and provides little to no tax relief for working American families. Today is yet another missed opportunity by the Republican-controlled Congress to provide real tax relief to working families. For example, this bill would extend the capital gains and dividends tax cut set to expire in 2008 for an additional 2 years through 2010. While on the other hand, the bill would only provide a 1-year extension in relief for the Alternative Minimum Tax (AMT) that affects an estimated 15 million middle-class taxpayers and already expired in 2005.

Originally intended to ensure the wealthy taxpayers paid their fair share, the AMT has become a tax on the middle-class. Without adjustments for inflation like the federal income tax, the AMT targets a growing number of people each year. Those most affected by the AMT are taxpayers in States like my home State of New York, with high property taxes, high local and state income taxes, and high sales taxes. These taxpayers are middle-class families. Instead of taking this opportunity to pass real AMT reform, the House Republicans have chosen to barely patch this problem without providing any real relief for working families.

Making matters worse, this conference agreement also drops three provisions in the Senate bill that would have rolled back nearly $5.4 billion over 10 years in unneeded tax breaks and loopholes for the oil industry. This is truly unbelievable when we see oil companies earning record profits and consumer paying record prices.

I wish this Congress could get their priorities straight and pass real AMT reform and provide leadership for true fiscal responsibility.

Mr. MOORE of Kansas. Mr. Speaker, I rise today to express my opposition to the conference report on H.R. 4297, the FY06 tax reconciliation bill.

As I stated in December 2005, when I voted against the House tax reconciliation bill, I do not oppose tax cuts, and in a more stable fiscal climate I would support reduced tax rates for capital gains and dividend income. What I do oppose is borrowing money to pay for tax cuts, particularly for tax cuts that do not expire for another 3 years. According to the Joint Committee on Taxation, the conference report before us today would cost approximately $91 billion over the next 10 years, and would raise taxes by approximately $22 billion over the same period. Considering the state of our current fiscal situation, this conference report would do more harm than good at this time.

In 2001, I was one of only 28 House Democrats to vote for President Bush's 2001 tax cuts that reduced marginal income tax rates. Since 2001, however, our country's fiscal condition has dramatically reversed course. In 2001, the Congressional Budget Office [CBO] predicted that the 10-year budget surplus would be $5.6 trillion. That projected 10-year surplus of $5.6 trillion has deteriorated into a projected $3.9 trillion deficit during the same period. In FY 2005, the Federal Government ran a budget deficit of $319 billion, the third largest deficit in our Nation's history.

Further, on February 17, 2004, the national debt of the United States exceeded $7 trillion for the first time in our Nation's history. On October 21, 2005, the national debt of the United States exceeded $8 trillion for the first time in our Nation's history. That is an increase of $1 trillion in our national debt over the last 2 years. It took our country 193 years, from 1787 to 1980, to accumulate an additional $1 trillion in debt.

Unfortunately, our national debt is only getting worse. When I voted against the House tax reconciliation bill in December, our national debt was $8.1 trillion. Today, our national debt is $8.4 trillion, an increase of $300 billion in only 5 months. An $8.4 trillion national debt comes down to approximately $28,000 per person in our country. That is simply unacceptable.

Mr. Speaker, the conference report on H.R. 4297 extends several tax cut measures, including reduced rates for capital gains and dividend income and relief from the alternative minimum tax, that I support and would vote for in a balanced, revenue neutral measure. I would also support several provisions, including the above-the-line deduction for higher education and classroom expenses and the research and development credit, that were included in the House tax reconciliation bill and are not included in this conference report. I hope that extensions of these provisions in the tax code will be included in a future tax measure this year.

Further, while the conference report includes multiyear extensions of lowered capital gains and dividend tax rates, it includes only a one-year extension of relief from the alternative minimum tax [AMT]. I strongly support AMT relief, and voted for H.R. 4096, the Stealth Tax Relief Act, on December 7, 2005, which extended AMT relief and indexed it for inflation. The AMT is the most significant looming tax concern for middle-class American families; if AMT relief is allowed to lapse, the number of taxpayers subject to the AMT will increase from 3 million in 2004 to 21 million this year. The Congressional Budget Office estimates that extending AMT relief and indexing it for inflation would reduce Federal revenue by $191 billion over the next 5 years. This is an immediate problem that Congress and the administration need to work together to fix in a responsible, bipartisan, and long-term manner, before millions of Americans are hit with large, unexpected tax increases.

Mr. Speaker, I will continue to work with my colleagues in both parties to advance commonsense, bipartisan approaches to solving our country's fiscal problems. I urge my colleagues on both sides of the aisle to act as soon as possible, in a fiscally sound way, to prevent serious consequences for current and future generations.

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ADERHOLT). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlemen opposed to the conference report?

Mr. RANGEL. Yes, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Rangel moves to recommit the conference report on the bill (H.R. 4297) to the committee of conference with instructions to the managers on the part of the House to report back on or before May 17, 2006, a new conference report which—

(1) includes the maximum amount of relief for individuals from the alternative minimum tax permitted within the scope of conference,

(2) does not include any extension of the lower tax rate on dividends and capital gains that would otherwise terminate at the close of 2008, and

(3) to the maximum extent possible within the scope of conference, will neither increase the Federal budget deficit nor increase the amount of the debt subject to the public debt limit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. RANGEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of the adoption of the conference report.

The vote was taken by electronic device, and there were—yeas 190, nays 239, not voting 4, as follows:

[Roll No. 134]

YEAS—190

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NAYS—239

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costello
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus

Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—4

Cardoza
Evans
Kennedy (RI)
Smith (WA)

☐ 1808

Messrs. McCOTTER, PEARCE, CASTLE, REYNOLDS, KIRK, BARTON of Texas and MARCHANT changed their vote from "yea" to "nay."

Mr. ABERCROMBIE changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. ADERHOLT). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WICKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 244, noes 185, not voting 4, as follows:

[Roll No. 135]

AYES—244

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—185

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—4

Cardoza
Evans
Kennedy (RI)
Smith (WA)

☐ 1816

Mr. CLEAVER changed his vote from "aye" to "no."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

The SPEAKER pro tempore. Pursuant to House Resolution 806 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5122.

☐ 1817

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5122) to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2007, and for other purposes, with Mr. DUNCAN (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose earlier today, amendment No. 5 printed in House Report 109–459 by the gentleman from Tennessee (Mr. TANNER) had been disposed of.

AMENDMENT NO. 3 OFFERED BY MR. ANDREWS

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New Jersey (Mr. ANDREWS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 191, noes 237, not voting 4, as follows:

[Roll No. 136]

AYES—191

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bass
Bean
Becerra
Berkley
Berman
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bono
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Capito
Capps
Capuano
Cardin
Carnahan
Carson
Case
Castle
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell
Doggett
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foley
Ford
Frank (MA)
Frelinghuysen
Gilchrest
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kelly
Kilpatrick (MI)
Kind
Kirk
Kolbe
Kucinich
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren, Zoe
Lowey
Maloney
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Pryce (OH)
Ramstad
Rangel
Reyes
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Simmons
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—237

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Boren
Boustany
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costello
Crenshaw
Cubin
Cuellar
Culberson
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Doyle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kuhl (NY)
LaHood
Langevin
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Putnam
Radanovich
Rahall
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—4

Cardoza
Evans
Kennedy (RI)
Smith (WA)

☐ 1834

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 6 OFFERED BY MR. FRANKS OF ARIZONA

Mr. FRANKS of Arizona. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN (Mr. DUNCAN). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 printed in House Report 109–459 offered by Mr. FRANKS of Arizona:

At the end of title XII (page 419, after line 7), insert the following new section:

SEC. 12___. HUMANITARIAN SUPPORT FOR IRAQI CHILDREN IN URGENT NEED OF MEDICAL CARE.

(a) FINDINGS.—Congress makes the following findings:

(1) The Secretary of Defense has discretionary authority to permit space-available travel on military aircraft for various reasons, including humanitarian purposes.

(2) Recently, 110 Iraqi children journeyed 22 hours by bus from Baghdad, Iraq, to Amman, Jordan, for urgently needed oral/facial surgery. While traveling, armed insurgents stopped and boarded the children's bus, raising serious questions about the safety of further travel by ground.

(3) Pursuant to the Secretary's discretionary authority referred to in paragraph (1), the Secretary authorized the Iraqi children to travel on military aircraft for their return trip from Amman to Baghdad.

(4) The Secretary is to be commended for his initiative in providing for the safe return of these children to Iraq by military aircraft.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should continue to provide space-available travel on military aircraft for humanitarian reasons to Iraqi children who would otherwise have no means available to seek urgently needed medical care such as that provided by a humanitarian organization in Amman, Jordan.

(c) FUNDING SUPPORT.—Within the amount provided in section 301 for Operation and Maintenance, Defense-wide—

(1) $1,000,000 shall be available only for Department of Defense support of the Peace Through Health Care Initiative; and

(2) the amount provided for Budget Activity 4 is reduced by $1,000,000.

MODIFICATION TO AMENDMENT NO. 6 OFFERED BY MR. FRANKS OF ARIZONA

Mr. FRANKS of Arizona. Mr. Chairman, I have a modification to my amendment at the desk, and I ask unanimous consent that my amendment be considered in accordance with this modification.

The Acting CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 6 printed in House Report 109-459 offered by Mr. FRANKS of Arizona:

In the text proposed to be inserted by the amendment, insert "due to operational unobligated balances" before the period at the end.

Mr. FRANKS of Arizona (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Acting CHAIRMAN. Without objection, the modification is agreed to.

There was no objection.

The Acting CHAIRMAN. Pursuant to House Resolution 806, the gentleman from Arizona (Mr. FRANKS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. FRANKS of Arizona. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer an amendment that will provide funds for a critical component in our Nation's effort to win the hearts and minds of Iraqis and others in the global fight for freedom and democracy.

For 25 years, groups like Operation Smile have sent teams of volunteer surgeons and medical personnel throughout the world to provide medical treatment and surgery to children suffering from facial injuries, cleft palates and other facial deformities.

Last year, I had the wonderful opportunity to travel to Jordan to take part in the first mission of the Iraq Initiative of Operation Smile. I was able to observe the indescribable joy of families as the lives of over 50 Iraqi children were transformed.

Mr. Chairman, it is difficult to describe how moving such an experience really is. It made clear absolutely to me the vital role these efforts play in our Nation's diplomatic efforts.

Recently, the Secretary of Defense exercised his discretionary authority to permit space available travel on military aircraft in order to safely return 110 Iraqi children to Baghdad from Amman where they had undergone urgently needed oral and facial surgeries. This intervention was deemed necessary and appropriate because armed insurgents had stopped and boarded the children's buses when they were traveling to Amman, raising serious questions about the safety of undertaking the return trip by ground.

Mr. Chairman, such activities are vital to our efforts in Iraq. Not only are many young children receiving critical, life-changing reconstructive surgeries, Iraqi physicians are also being trained so that even more children can be helped. This helps the Iraqi people understand that our war is with the terrorists and not with the Iraqi people.

Mr. Chairman, Americans have a genuine and abiding compassion for their fellow human beings, and if our diplomatic efforts and our military efforts in other Nations are to truly succeed, compassion must always be a centerpiece of those efforts. Groups such as Operation Smile provide a clear, tangible demonstration of such compassion. They put a smile on the face of freedom and our Nation's commitment to liberty in Iraq and the world over.

I truly believe these efforts save American lives by helping to win the peace, and I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. ISRAEL. Mr. Chairman, I ask unanimous consent to claim the time in opposition to the amendment, although we do not oppose it.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from New York.

There was no objection.

Mr. ISRAEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of the gentleman's amendment. The amendment would provide $1 million for the Peace Through Healthcare Initiative to provide humanitarian assistance for critically ill Iraqi children.

Mr. Chairman, it is well known that nothing aids the international reputation of our country, and particularly our image in the developing world, as much as our humanitarian and our relief efforts. Following the aid we provided after the recent disasters of the tsunami in Indonesia and the earthquake in Pakistan, polls in both countries showed a significant increase in those who viewed America favorably. Yet humanitarian relief is more than just a tool of international politics. It is exactly who we are.

Americans are the most generous people in the world. We give more to charity each year than any other nation. We are just and we do not hold a people guilty for the sins of their leadership.

Mr. Chairman, health care in Iraq is in a perilous state, but time and time again American servicemembers in the field, warriors and medics, and American hospitals and doctors back home have gone out of their way to help those in need. I have read numerous cases of Iraqi children being medivaced out of the country in order to receive first class medical treatment for everything from cleft palate to congenital heart disease.

Mr. Chairman, I know that the gentleman has heard these stories as well, and we both recall one case of the chief of police in the southern Iraqi province of Wasit. He worked hand-in-hand with our troops every day, putting his own life at risk. And then, one night, he turned to his American advisers and said, "My son is dying of leukemia and the road to Baghdad is too unsafe for me to drive him to a good hospital."

Within 24 hours, the child and his mother were helicoptered to Baghdad. The child was treated there by U.S. Army medics in the International Zone and airlifted to Jordan.

In Jordan, very sadly, Mr. Chairman, the child passed away, but with tears in his eyes, the chief of police turned to his American friends only days later and said, "I will never forget what you have done for me."

That, Mr. Chairman, is what this amendment is about. It is about doing the right thing for innocent children. It is about making friends and building relationships with the people of Iraq and all for only $1 million.

That is why, Mr. Chairman, I urge my colleagues to support the gentleman's amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANKS of Arizona. Mr. Chairman, I would just thank the gentleman for his kind words and support. I now yield such time as he may consume to the gentleman from California (Mr. HUNTER), the distinguished chairman of the Armed Services Committee.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding, and I want to reinforce and echo the very eloquent words of the gentleman from New York (Mr. ISRAEL).

I listened to the gentleman from Arizona (Mr. FRANKS) when he brought in Operation Smile, and I saw the pictures and I listened to his description of how important this is. This is part of the American ripple. It is part of the effect that those 138,000 ambassadors in desert camouflage uniforms have in that theater on a human basis, on a personal basis.

If the gentleman would just tell us, because I thought this was the neatest part of your presentation when you brought Operation Smile in, the effects of this operation, because you had these kids with cleft palates. I saw the pictures of their fathers and mothers with their children after the operation. If the gentleman could describe that, I think we would all appreciate it.

Mr. FRANKS of Arizona. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Arizona.

Mr. FRANKS of Arizona. Mr. Chairman, thank you.

I guess the only way I can describe this, Mr. Chairman, is as they begin to create these surgeries, as they begin to pull the child's lip together with a giant hole in the center of his face or her face, it not only seems to pull a face together, it seems to pull a life together. If you understand the significance of going through life with an uncorrected cleft palate or cleft lip, this is to also take the child out of an emotional darkness that is almost impossible to describe.

The ultimate impact to these families is one that is emotional beyond words. When you hand the child back to the mother or the father, there is a wailing and a moved feeling that they express that, again, is just beyond my ability to describe.

But it does have I think an effect, as I said, of putting a smiling face on the face of freedom, and I just am so grateful that this is something that we can do together as a House and that while we may have differences on a lot of our policies throughout the world, the one thing remains that America is a noble Nation and we are committed to making sure that all of God's children, as it were, have an opportunity to lay hold on this miracle of life and to live as meaningful as they can possibly can, and I appreciate the support that is demonstrated for the amendment.

Thank you, Mr. Chairman.

Mr. ISRAEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have no additional speakers on our side. So I would close by again thanking the chairman and the gentleman for his leadership and agreeing with them that nobility is a bipartisan virtue.

Mr. Chairman, I yield back the balance of my time.

Mr. FRANKS of Arizona. Mr. Chairman, I yield myself such time as I may consume.

I am not sure what else I can add to this except to just simply express that we are not only changing the lives of children in the profoundest sense, but we are letting our soldiers in different parts of the world demonstrate their own compassion to these children as they are a part of the logistical process of making this real.

I would just suggest to you that the bottom line is that this is a diplomatic effort, a medical diplomacy, that is in the best interests of America. It saves Americans lives, and it transform the lives of all the children.

Mr. Chairman, I yield back my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. FRANKS), as modified.

The amendment, as modified, was agreed to.

☐ 1845

AMENDMENT NO. 7 OFFERED BY MR. SIMMONS

Mr. SIMMONS. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN (Mr. DUNCAN). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 printed in House Report 109-459 offered by Mr. SIMMONS:

At the end of title X (page 393, after line 23), insert the following new section:

SEC. 10___. AUTHORIZATION TO EXPIRE CLEARANCES REVOKED.

(a) PROHIBITION ON EXPIRED CLEARANCES.—No security clearance granted by the Department of Defense that has been requested to be renewed, based on a requirement for periodic reinvestigation, shall be permitted to expire until the Secretary of Defense certifies to the congressional defense committees and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives that—

(1) the Defense Security Service has continued to accept industry requests for new personnel security clearances and periodic reinvestigations; and

(2) the Defense Security Service has fully funded its requirement for fiscal year 2007 security clearances and taken steps to eliminate its backlog of requests for security clearance and periodic investigations by September 20, 2008.

(b) EXCEPTION TO PROHIBITION.—The prohibition in subsection (a) shall not apply if the Secretary of Defense determines that sufficient cause exists to revoke a security clearance, that has been requested to be renewed, based on other requirements of law or Department of Defense policy or regulations.

(c) DURATION OF PROHIBITION.—The prohibition on expired clearances authorized by this section expires on September 30, 2008.

(d) RULE OF CONSTRUCTION.—Nothing in this section alters the process in effect as of the date of the enactment of this Act for security clearances and periodic investigations.

(e) DEFINITION.—In this section, the term "backlog" means the body of industry requests for new personnel security clearances and periodic reinvestigations that have not yet been completed or that have not yet been opened for investigation.

(f) REPORTS.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report detailing the actions required by subsection (a)(2) no later than September 30, 2007. A final report shall be submitted no later than September 30, 2008.

The Acting CHAIRMAN. Pursuant to House Resolution 806, the gentleman from Connecticut (Mr. SIMMONS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Connecticut.

Mr. SIMMONS. Mr. Chairman, I yield myself such time as I may consume.

First, I would like to commend Chairman HUNTER and Mr. BARTLETT, as well as Mr. SKELTON and Mr. TAYLOR for their leadership and vision on this bill. This bill is particularly historic with respect to the shipbuilding programs that it supports.

But I am rising today, Mr. Chairman, to offer a bipartisan amendment that would protect our industrial base workers from losing their jobs because of the failure of our Federal bureaucracy to process security clearances and periodic updates. Last month, without warning or notice to Congress, the Defense Security Service stopped processing security clearance background checks and periodic updates for defense contractor workers.

What makes this most frustrating is the fact that the Department of Defense said it had fixed the security clearance problems last year when it transferred responsibility for these investigations to the Office of Personnel Management. Many of us who have defense workers in our district questioned DSS on that point, but they were emphatic that OPM could get the job done.

Well, Mr. Chairman, they were wrong. We cannot allow their failure to result in cleared defense workers losing their jobs.

Very simply, this amendment would prevent the Department of Defense from firing workers whose security clearance may have expired through no fault of their own. It does not change the security clearance process or prevent the Department from revoking security clearances for reasons other than the backlog, but it does protect our workers who currently have clearances that simply need to be updated.

Those already at work eventually need renewals to stay on the job, and there are thousands of shipyard workers in my district and elsewhere across the country who need clearances updated to design and build the best ships in the world. But we must give these defense workers peace of mind that they won't be out on the street because of a botched job in the bowels of the Pentagon.

Our amendment has support from both sides of the aisle as well as from numerous national security organizations, and I include for the RECORD a list of these associations. I urge my colleagues to support the Simmons-Davis-Davis amendment to keep American defense workers at work.

SECURITY CLEARANCE COALITION SUPPORTS SIMMONS/DAVIS AMENDMENT TO H.R. 5122

The associations listed below have joined in coalition to work to address the significant problems their members encounter negotiating the security granting process. All of the problems that this process has experienced for the last several years were severely compounded when the Defense Security Service placed a moratorium on the acceptance of new security clearance applications and applications for periodic reinvestigations at the end of April.

The coalition supports the Simmons/Davis amendment as a positive first step toward reversing the impact of this decision and to mitigating its impact. While the ability to attract, hire and retain qualified personnel who are able to get a clearance has been greatly impacted, this proposal will at least assure those that currently employed and holding a clearance that their job will not be impacted because of their inability to submit an application for reinvestigation.

The actions by DSS are symptomatic of the chronic problems found in the Federal government's security granting process. We hope that Congress will act to mitigate the impact of this action by adopting the Simmons/Davis amendment. It is also our hope that Congress will recognize the need to overhaul the entire clearance granting process and work with this coalition and others to bring about a more enlightened and 21st Century approach to providing trusted personnel to meet our National Security needs.

Please vote yes in support of the Simmons/Davis Amendment.

Aerospace Industries Association
Armed Forces Communications and Electronics Association
Contract Services Association
Information Technology Association of America
Intelligence and National Security Alliance
National Defense Industrial Association
Professional Services Council

Mr. Chairman, I reserve the balance of my time.

Mr. BUTTERFIELD. Mr. Chairman, I ask unanimous consent to claim the time in opposition even though I support the amendment.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. BUTTERFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is critical that our Department of Defense provides clearances to the right people to get access to the right information so they can do their jobs in support of our troops. Access to classified information should be need driven rather than budget driven.

For this reason, I urge my colleagues to support the amendment. I want to thank the gentleman for bringing this amendment forward. It is a fair amendment, and I ask and urge its adoption.

Mr. Chairman, I yield back the balance of my time.

Mr. SIMMONS. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise today in strong support of the Simmons-Davis-Davis amendment in the defense authorization bill.

This amendment will safeguard national security and ensure fiscal responsibility by preventing the security clearances of defense contractors from expiring until the Department of Defense resumes processing their requests for security clearance investigations and fully funds its personnel security clearance program for fiscal year 2007. I urge all of my colleagues to support this amendment.

On Friday, April 28, I discovered DOD's security clearance processing arm, the Defense Security Service, was imposing a moratorium on all requests for private sector security clearance investigations. DSS reported that it experienced a massive spike in the number of clearance requests and that it didn't have the resources to handle this spike. DSS, therefore, decided to just turn off the spigot. This is, frankly, unacceptable. It is an unacceptable solution to what should have been a very foreseeable problem.

I will be chairing a Government Reform Committee hearing on May 17 to examine this issue in more detail. In the meantime we cannot put defense contractors that need to review employees' clearances in the position of having to choose between firing their employees or granting uncleared personnel access to classified materials and facilities.

The government spends billions of dollars each year on defense contracts requiring workers with security clearances to do the work. If contractors are unable to find enough cleared personnel who have access to classified information, the cost of these contracts increases dramatically. Simply supply and demand, not enough people with the clearance, too much work to do, and the taxpayers are then forced to pick up the tab and our national security suffers.

Therefore, I rise in strong support of the Simmons-Davis-Davis amendment to prevent the Department of Defense from revoking expiring security clearances until DOD is able to get a handle on the current crisis and resume processing requests for security clearance investigations in a timely and efficient manner.

This amendment does not fix the problem, but it keeps it from getting worse. It is an important issue for national security and fiscal responsibility. I urge my colleagues to support this important amendment.

Mr. SIMMONS. Mr. Chairman, I yield myself the balance of my time, and thank the chairman and my colleagues from across the aisle for bringing fairness and peace of mind to our defense workers.

Mrs. JO ANN DAVIS of Virginia. Mr. Chairman, I rise today in strong support of this amendment that I am offering with my colleagues from Connecticut and Virginia.

As we continue to fight the Global War on Terror, the Department of Defense must adapt to meet the challenges posed by this new kind of war. I believe that it is our responsibility in Congress to exercise proper oversight and direction of our military, and the recent developments regarding the processing of security clearances deserve the attention of this body.

In our post 9/11 world, the need for precise and timely security clearance processing has never been more important. The demand for clearances of all types and levels continues to increase, yet our budgets and our processes are not up to date.

I represent thousands of workers in my district who rely on their security clearance to perform their jobs, from the shipbuilders in Newport News to the thousands of uniformed service members and contractors that are working to support our national defense. In fact, I've heard from a lot of them in the last few weeks. Our amendment will temporarily prohibit the Department of Defense's authority to expire clearances that have requested renewal until September 30, 2008, unless certain criteria are met. I firmly believe that we should not be penalizing our military and contracting community because the Department cannot adequately estimate or budget its future security clearance requirements.

Additionally, I'm pleased that a separate amendment offered by Congressman SIMMONS and myself was included in the underlying legislation that is before the House today. The provision requires the Department to submit a series of reports on their progress in solving these problems, and I believe this is an important step in our congressional oversight of this extremely vital program for our national defense. I want to thank Chairman HUNTER for working with me on this issue.

I urge my colleagues to vote in favor of our amendment.

Mr. SIMMONS. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. All time for debate has expired.

The question is on the amendment offered by the gentleman from Connecticut (Mr. SIMMONS).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. GUTKNECHT

Mr. GUTKNECHT. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 printed in House Report 109–459 offered by Mr. GUTKNECHT:

At the end of subtitle B of title VI (page 220, after line 8), add the following new section:

SEC. 624. ELIMINATION OF INEQUITY IN ELIGIBILITY AND PROVISION OF ASSIGNMENT INCENTIVE PAY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Army should promptly correct the pay inequity in the provision of assignment incentive pay under section 307a of title 37, United States Code, to members of the Army National Guard and the Army Reserve serving on active duty in Afghanistan and Iraq that arose from the disparite treatment between—

(1) those members who previously served under a call or order to active duty under section 12302 of title 10, United States Code, and who are eligible for assignment incentive pay; and

(2) those members who previously served under a call or order to active duty under section 12304 of such title and who are currently ineligible for assignment incentive pay.

(b) REPORT REQUIRED.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report—

(1) specifying the number of members of the Army National Guard and the Army Reserve adversely affected by the disparate treatment afforded to members who previously served under a call or order to active duty under section 12304 of title 10, United States Code, in determining eligibility for assignment incentive pay; and

(2) containing proposed remedies or courses of action to correct this inequity, including allowing time served during a call or order to active duty under such section 12304 to count toward the time needed to qualify for assignment incentive pay.

The Acting CHAIRMAN. Pursuant to House Resolution 806, the gentleman from Minnesota (Mr. GUTKNECHT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota.

Mr. GUTKNECHT. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I will try to make this as simple as I can. We have one of the largest deployments right now of National Guardsmen from the State of Minnesota since World War II. It has created a disparity.

Back in January, members of the 1st Platoon Bravo Company asked my office to help with a pay problem. It just so happens that most of them were called up to serve in the Balkans back in 2003. Part of them were called up under a Presidential Reserve Call Up, and others were called up under a Partial Mobilization.

What this has led to is a discrepancy in how much they may be eligible for in terms of what we used to describe as combat pay. The bottom line is that about 400 members of the Minnesota National Guard, who will be doing the same duty as the other members of the National Guard in Iraq, will not be eligible for roughly $7,000 in incentive pay. This is an inequity. It is unfair, and it is something that we in Congress can and should do something about.

I want to thank the chairman of the committee and the ranking member and the staff as well. We have been working with them for several weeks and they have been extremely helpful on this matter. Hopefully tonight we can adopt this amendment and send a clear message to the Pentagon that this inequity needs to be resolved and it needs to be resolved soon.

Mr. Chairman, I reserve the balance of my time.

Mr. SNYDER. Mr. Chairman, I ask unanimous consent to claim the time in opposition, although I do not oppose the amendment and I am unaware of anyone on our side of the aisle who opposes this amendment.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. SNYDER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think this is a very straightforward amendment supported by the entire Minnesota delegation. My understanding is it expresses very clearly that we expect people who perform equally for their government are meant to be treated equally. I also ask for the study and I support the amendment, as does this side of the aisle.

Mr. Chairman, I reserve the balance of my time.

Mr. GUTKNECHT. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I yield 1½ minutes to the gentleman from Minnesota (Mr. KLINE).

Mr. KLINE. Mr. Chairman, I thank Mr. GUTKNECHT for his leadership on this issue and for yielding me this time.

I rise today in strong support of this amendment. In my 25 years of military service, sadly I have witnessed other examples of pay discrepancies. It is unfortunate that even today such issues arise, but I am pleased to be in a position now to help solve this problem.

In a true sign of their dedication to duty and camaraderie, many members of the 34th Brigade Combat Team volunteered to join their fellow Guardsmen in Iraq despite having previously deployed to Bosnia and Kosovo. I was disappointed to hear that many of these dedicated citizen-soldiers were denied incentive pay simply because of the administrative mechanism used to mobilize them. This is not the way we as a nation should treat those who have volunteered to serve.

Mr. GUTKNECHT and I promptly engaged the House Armed Services Committee professional staff to help solve this problem. As a member of the House Military Personnel Subcommittee, I was gratified by the staff's prompt action, and I would like to thank them as well as Chairman MCHUGH and Chairman HUNTER for their efforts.

I would also like to commend the entire Minnesota delegation for their strong support in both the House and Senate.

This past week, my staff delivered a letter signed by the entire delegation to the Department of Defense requesting their assistance in resolving this inequity, and I will include a copy of the letter for the RECORD.

This amendment is a fitting addition to that initial effort, and it is my hope it will help spur the resolution of this significant problem. I urge my colleagues to support this amendment.

CONGRESS OF THE UNITED STATES,
Washington, DC, May 4, 2006.
Hon. THOMAS F. HALL,
Assistant Secretary of Defense for Reserve Affairs, Washington, DC.

DEAR SECRETARY HALL: We are writing to request a review and adjustment of the current policy regarding Assignment Incentive Pay (AIP). Several activated members of the Minnesota National Guard (MNNG), now deployed to Iraq, recently brought to our attention a pay technicality that makes the distribution of AIP inequitable. Specifically, under current finance rules, the soldiers who previously deployed and served in Kosovo are eligible for AIP, whereas the soldiers who previously deployed and served in Bosnia are not. We believe these soldiers, whether having served in Kosovo or in Bosnia, should be treated equally for purposes of AIP eligibility.

After consulting with House Armed Services Committee staff, we conclude that this would best be treated as a Department of Defense (DOD) policy matter. There appears to be nothing in the law that would preclude DOD from modifying the technical eligibility criteria, making these soldiers, and others like them, eligible for AIP.

Enclosed please find the letter we received from the MNNG soldiers who brought this matter to our attention. Also enclosed is a letter from Major General Larry W. Shellito, Adjutant General of the MNNG. General Shellito's letter supports our view that a change to current policy regarding AIP is needed.

After an initial review of this issue, we would request an update from your office. If you have any questions, please do not hesitate to contact Fred Chesbro in Congressman John Kline's office at (202) 225–2271.

Sincerely,

John Kline; Martin Olav Sabo; James L. Oberstar; Collin C. Peterson; Jim Ramstad; Mark Kennedy; Mark Dayton; Gil Gutknecht; Betty McCollum; Norm Coleman.

Enclosures.

JANUARY 27, 2006.

DEAR CONGRESSMAN RAMSTAD: We are soldiers in the Minnesota National Guard currently in Mississippi training to go to Iraq, and we have a concern we hope you can help us with.

As you know, for some of us, this is not our first deployment; many of us also went to Bosnia or Kosovo in 2003–2004. Because of our prior deploymemt those of us that went to Bosnia or Kosovo had to sign a volunteer form to go on the OIF rotation we have been tasked with. But, here comes the problem, there is a type or pay called COTTAD that is specific to soldiers who have been recently deployed. The guys who went to Bosnia are not going to receive this pay; however, the soldiers that went to Kosovo are going to receive this pay. We feet that anyone who volunteered to go to Iraq after recently going on a separate deployment are entitled to that extra pay, and should not be discriminated based on where and when they were deployed before.

Being deployed is a hardship. We take time off from our family and friends, many of us are trying to finish our civilian educations or advance our civilian careers, and we have put all that on hold and volunteered for this rotation. Now, because of what best we can tell is a technicality, we will not be receiving a substantial amount of pay. This affects a lot more soldiers than those that signed this letter; hundreds are affected by this. But we, unfortunately, do not have the time to have them all sign this letter. However, I believe that most would have the same viewpoint as we do.

Congressman, we would appreciate any help you can give us. If you have time can you please respond to us and let us know if there is anything you can do. Thank you for taking the time to read this.

1ST PLATOON BRAVO COMPANY CREWS.

CONGRESS OF THE UNITED STATES,
House of Representatives, March 24, 2006.
Interested Soldiers from 1st Platoon,
Company B, 2nd Battalion, 136th CAB 1 BCT, 2490 25th SF, Camp Shelby, MS 39407 (ATTN: B Co. 1SG)

DEAR SOLDIERS: Thank you very much for taking the time to write to me. While it is always good to hear from fellow Minnesotans, it is especially meaningful to hear from members of the Minnesota Army National Guard. I appreciate that you brought to my attention the issue of compensating Soldiers who, like you, are mobilized in support of the Global War on Terrorism.

In response to your request, I've asked my staff to research the current law and to provide me with possible recommendations taking into account your special circumstances. I believe it is particularly important to provide fair and equitable pay and benefits to all members of our armed services, active and reserve components alike.

Please know that I am very proud of you and I applaud each of you for stepping forward and volunteering to serve our State and Nation during these challenging times.

Sincerely,

JOHN KLINE,
Member of Congress.

DEPARTMENT OF THE ARMY,
Saint Paul, Minnesota, March 13, 2006.
Hon. JOHN KLINE,
Representative in Congress, Burnsville, MN.

DEAR CONGRESSMAN KLINE: Thank you for your inquiry of March 10, 2006 raising concerns regarding the compensation of Soldiers mobilized for deployment in support of the Global War on Terrorism. Your issues were researched by Colonel Greg Langley, Mobilization and Readiness Officer for the Joint Force Headquarters in Minnesota. Detailed below is an explanation of the different categories of mobilization and what qualifies a Soldier for the entitlement to the Assignment Incentive Pay requested by the Soldiers in their letter of January 27, 2006. In their letter they referred to Assignment Incentive Pay as "pay called COTTAD".

Within federal law there are different types of authority to mobilize the Reserve Components (RC). The two types of authority pertaining to this matter are Title 10, USC 12302, called Partial Mobilization (PM) Authority and Title 10 USC 12304, referred to as Presidential Reserve Callup (PRC). Since President Bush signed Executive Order 13223 on September 14, 2001 authorizing partial mobilization of the reserve components, Minnesota Soldiers have been mobilized under the provisions of both Partial Mobilization Authority and Presidential Reserve Call-up Authority, depending upon the needs of the Army.

The Soldiers from 1st Platoon, Company B, 2nd Battalion, 136th Infantry who wrote to you were previously mobilized in July 2003 and sent to Bosnia as part of Stabilization Force (SFOR) 14. The Army mobilized those Soldiers using Title 10, USC 12304, PRC. The maximum length of this types of mobilization is 270 days and most of these Soldiers returned from the mission and left active duty in March or April of 2004. Each Soldier's individual record may have a different release from active duty date based on their flight back to the United States and the length of time out-processing at Ft. McCoy, WI.

Other Soldiers from the same organization, 2nd Battalion, 136th Infantry, mobilized in October 2003 and went to Kosovo as part of KFOR 5B. These Soldiers mobilized for a period of 365 days, which exceeds the time limit on PRC and therefore the Army mobilized these Soldiers using Title 10, UCS 12302, PM authority. Partial Mobilization authority has a maximum time limit of 730 days. The KFOR Soldiers returned to the United States in the August or September 2004 time period.

Another provision of federal law impacting on this situation is Title 10, USC 12302 (b), whereby all members of the RC must receive fair treatment when being considered for recall to duty without their consent. Secretary of Defense Rumsfeld has directed he will personally approve or disapprove any member of RC who has previously been involuntarily mobilized under either PM or PRC since September 11, 2001. All of the Soldiers writing to you on January 27, 2006 were asked to volunteer for remobilization during their Soldier Readiness Processing in Minnesota during the June through September 2006 time period and did sign a Volunteer/Waiver Certificate. Soldiers not signing the Volunteer/Waiver Certificate were removed from this current mobilization.

The maximum length of Partial Mobilization for any RC Soldier is 730 days. The mission length of the mobilization for the Soldiers in the 1st Brigade Combat Team is 608 days, ending in May and June 2007. No RC Soldier is required to serve more than 730 days of PM time under this current Executive Order 13223. Any Minnesota Soldier who served in Kosovo has already accrued a previous PM period of approximately 330 to 360 days, depending on their return flight and out-processing time. When added together the 608 days on this current mission, plus at least 330 days from the previous Kosovo mission, the Soldier's mobilization time exceeds the maximum of 730 days. Soldiers in this situation, in addition to volunteering to be remobilized, had to volunteer to serve beyond the 730th day in a different portion of federal law called Contingency Temporary Tour of Active Duty (COTTAD), which is Title 10, USC 12301 (d).

Soldiers mobilized to go to Bosnia previously served under the provisions of Title 10, USC 12304, not 12302. Service time in Title 10, USC 12304 by law, does not apply toward an RC Soldier's 730 days of PM (Title 10, USC 12302) time. When they mobilized for this current mission under the provisions of Title 10, USC 12302, they still had 730 days remaining on their PM mobilization clock. They will never reach the 731st day of mobilization since this mission will end in approximately 608 days. Therefore, their signing a Volunteer/Waiver Certificate agreeing to be remobilized is all that is required by the Army.

The provisions of federal law creating Assignment Incentive Pay (AIP) recognized the hardship of prolonged periods of mobilization on RC Soldiers. When Congress passed the law they included Soldiers accruing 730 days of PM (12302) mobilization time and volunteering under the provisions of Title 10, USC 12301 (d) to remain on duty past 730 days with their unit to finish their current mission as qualifying for AIP. Congress omitted PRC (12304) mobilization time as counting toward the 730-day maximum a Soldier can accrue before being required to volunteer for COTTAD (12301 (d)).

This situation was explained to the Soldiers from 1st Platoon, Company B, 2nd Battalion, 136th Infantry who previously mobilized for the Bosnia mission under the PRC (12304) mobilization authority prior to their signing of the required Volunteer/Waiver Certificate. None of these Soldiers will reach the 730th day of PM authority on this current mission and will not serve under the COTTAD provisions of Title 10, USC 12302 (d).

We believe any mobilization should count towards qualifying for AIP. Soldiers sent to Bosnia served under the same conditions as their fellow Soldiers who went to Kosovo. They underwent the same hardships caused by separation from family and civilian employer. However, we have no options to grant AIP to the soldiers who previously mobilized under PRC (12304) until they have also served 730 days under PM authority.

The solution to this problem is for Congress to change the federal law authorizing AIP and include previous mobilization under either authority, PM (12302) or PRC (12304), as counting on the Soldier's mobilization clock to reach 730 days, after which the Soldier may volunteer to remain on mission in COTTAD (12301 (d)) status and earn AIP.

I hope this information from Colonel Langley is helpful to you. Please be assured we will continue to do everything we can to provide Soldiers with the necessary information to make informed decisions about remobilization and their entitlements. It is always my pleasure to respond to the concerns of our Congressional delegation regarding Soldiers of the Minnesota National Guard.

Sincerely,

LARRY W. SHELLITO,
Major General, Minnesota Army National Guard, The Adjutant General.

Mr. SNYDER. Mr. Chairman, I support this amendment, and I yield back the balance of my time.

Mr. GUTKNECHT. Mr. Chairman, I yield 30 seconds to the gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Mr. Chairman, I rise in strong support of this amendment. I had the honor to serve 4 years on active duty in the U.S. Army and over 30 years as a member of the U.S. Army Reserve, and as somebody who has commanded troops who have deployed, there is nothing more demoralizing to get unequal pay for equal duty.

To support a resolution that provides for equity for our Guard and Reserve is very important. I thank the gentleman for his amendment.

Mr. GUTKNECHT. Mr. Chairman, I yield 1½ minutes to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Chairman, I rise today in strong support of this amendment offered by my good friend, Mr. GUTKNECHT. This amendment fixes a pay disparity currently affecting almost 400 Minnesota National Guard, men and women, serving in Iraq. These members of the 1st Platoon Bravo Company were previously on active duty in 2003, some in Bosnia and some in Kosovo, and I was pleased to be able to visit them with Mr. GUTKNECHT.

However, unlike the soldiers that served in Kosovo, the Bosnia contingent is not eligible for the extra $1.000 a month incentive pay based on the circumstances of their mobilization.

This technicality will cost these soldiers and their families up to $7,000. That is simply unfair and must be corrected. That is why I support this amendment which directs the Army to fix this disparity so those who have equally sacrificed for their country receive equality of pay.

Again, I thank Mr. GUTKNECHT for his leadership on this issue.

☐ 1900

Mr. GUTKNECHT. Mr. Chairman, I will be very brief.

I want to thank my colleagues from Minnesota for helping to resolve this inequity. I want to thank the gentleman from Connecticut and my colleagues from Arkansas.

In the big picture, when we were talking about spending hundreds of billions of dollars, $7.000 for these families does not seem like a lot of money in the big picture. But to those families, $7,000 is extremely important. So I appreciate your support tonight to make certain that we have equity and create a solution for this problem that is fair to all of the folks who are proudly serving us in uniform wherever in the world, but particularly in Iraq.

Mr. PETERSON of Minnesota. Mr. Chairman, I rise today to support the Gutknecht amendment along with my fellow MN Colleagues.

In January these soldiers wrote to me and every member of the MN delegation asking for help. And I believe as their representatives we have an obligation to address their concerns.

This amendment will correct a technicality that is affecting 400 Minnesota National Guardsmen who are now serving in Iraq. And who knows how many other hundreds or even thousands of reservists all over the country have fallen victim to a similar technicality .

Most of these soldiers had previously served on active duty in 2003, some in Bosnia and the others in Kosovo. The two groups were activated by different orders and now both of these groups are activated together under the same order in Iraq.

The soldiers who served in Bosnia are not eligible for the extra $1,000 per month in incentive pay because their tours cannot be added together due to a mere technicality.

This issue is about fairness. Unless something is done to change this Army policy, these soldiers and their families will lose out on $6,000 to $7,000 in extra pay. They are making a huge sacrifice for our country and this is the least we can and should do for these men and women.

Mr. RAMSTAD. Mr. Chairman, I rise today in strong support of this important amendment, which seeks to end a pay disparity for our brave men and women who are serving in harm's way.

Today, Mr. Chairman, Minnesota National Guard troops are serving in the War on Terror in Afghanistan and Iraq, with more than 3,000 citizen soldiers recently called to service in support of Operation Iraqi Freedom.

As my colleague has previously explained, at least 400 of these 3,000 Minnesotans in Iraq will not be receiving the same pay as many others in their unit.

These are troops who have now bravely served our country in two foreign theaters. These troops not only deserve our utmost respect and gratitude, they also deserve their full compensation for their service and sacrifice.

Mr. Chairman, the Minnesota National Guard truly represents the very best of duty, honor and country. I join the people of the Third Congressional District in thanking our Guard members for their selfless service.

And I'd like to thank my colleague from Minnesota for sponsoring this important amendment and thank all my colleagues from the Minnesota delegation for cosponsoring the amendment and working to end this pay disparity.

I urge my colleagues to support this important amendment.

Mr. GUTKNECHT. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. DUNCAN). All time for debate having expired, the question is on the amendment offered by the gentleman from Minnesota (Mr. GUTKNECHT).

The amendment was agreed to.

The Acting CHAIRMAN. No further amendment being in order, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. INGLIS of South Carolina) having assumed the chair, Mr. DUNCAN, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5122) to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2007, and for other purposes, had come to no resolution thereon.

REQUEST FOR REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4200

Mrs. JACKSON-LEE of Texas. Mr. Speaker, I ask unanimous consent to remove myself as a cosponsor from H.R. 4200.

The SPEAKER pro tempore. Because H.R. 4200 has been placed on the Union Calendar, pursuant to clause 7 of rule XII the gentlewoman's request may not be entertained.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record vote on the postponed question will be taken tomorrow.

ENCOURAGING ALL ELIGIBLE MEDICARE BENEFICIARIES TO REVIEW AVAILABLE OPTIONS TO DETERMINE WHETHER ENROLLMENT IN A MEDICARE PRESCRIPTION DRUG PLAN BEST MEETS THEIR NEEDS FOR PRESCRIPTION DRUG COVERAGE

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 802) encouraging all eligible Medicare beneficiaries who have not yet elected enroll in the new Medicare Part D benefit to review the available options and to determine whether enrollment in a Medicare prescription drug plan best meets their current and future needs for prescription drug coverage.

The Clerk read as follows:

H. RES. 802

Whereas Medicare now offers a prescription drug benefit for its beneficiaries, known as Medicare Part D;

Whereas more than 35,900,000 Medicare eligible individuals are receiving prescription drug coverage, of which there are more than 27,000,000, including a substantial number of low-income and minority beneficiaries, receiving coverage through the new benefit;

Whereas 8,100,000 beneficiaries have enrolled in stand alone Medicare prescription drug plans;

Whereas estimates indicate that the average beneficiary will save more than $1,100 this year alone by enrolling in a Medicare prescription drug plan;

Whereas the average monthly premium for enrolling in a Medicare prescription drug plan is now just $25 per month, which is far below the initial estimate of $37 per month;

Whereas recent surveys of Medicare beneficiaries enrolled in Medicare prescription drug plans indicate that beneficiaries are satisfied with their coverage;

Whereas advocacy groups including the AARP, National Alliance for Hispanic Health, the National Medical Association, and the National Council on Aging have all sponsored enrollment events designed to encourage eligible beneficiaries to enroll in Medicare prescription drug plans;

Whereas Area Agencies on Aging, State Health Insurance Programs (SHIPs), and other local and community organizations are available to provide seniors with assistance and answer their questions about how to select the Medicare prescription drug plan that best meets their needs;

Whereas pharmacists are on the front line in delivering prescriptions to Medicare beneficiaries and continue to be instrumental in providing valuable information and assistance about the new benefit;

Whereas in recent months Members of Congress have hosted hundreds of events and the Secretary of Health and Human Services, the Administrator of the Centers for Medicare & Medicaid Services, and other Administration officials have sponsored thousands of outreach and enrollment events, to educate seniors regarding the new prescription drug benefit;

Whereas the deadline for enrollment in the new prescription drug plan without being subject to any late enrollment penalty is May 15, 2006; and

Whereas editorial writers and opinion leaders across the nation have recognized the importance of an enrollment deadline because it encourages beneficiaries to make a decision about enrolling: Now, therefore, be it

Resolved, That the House of Representatives encourages all Medicare beneficiaries who are not yet enrolled in Part D to review carefully all of the options that are available to them and to determine whether enrollment in a Medicare prescription drug plan best meets their current and future needs for prescription drug coverage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. DEAL of Georgia. Mr. Speaker, I would ask unanimous consent that the gentlewoman from Connecticut (Mrs. JOHNSON) be allowed to control 10 minutes of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to discuss something of great importance to all Medicare beneficiaries. As my colleagues are no doubt aware, on January 1 of this year, prescription drug coverage for our seniors became more than just something we talked about in this body. It became a reality for every single person eligible for Medicare.

This legislation accomplished a very important thing. It helped millions of senior citizens save thousands of dollars on their prescription drugs.

For years, before enactment of this new benefit, we heard the horror stories of our seniors having to choose between groceries or their medicines, or having to cut their pills in half, all because they just couldn't afford their prescription drugs. Well, now, all those beneficiaries have the option to have good drug coverage and have the quality of life that we wish for all of our American seniors.

As of today, we have nearly 37 million Medicare beneficiaries with drug coverage. This is an outstanding number. The unparalleled effort to get this brand-new change to Medicare up and running and get people enrolled has truly been incredible. However, there are still individuals who have not yet signed up, and we want to make sure that they are aware of this new benefit and can examine the options available to them, and can and will make a decision as to whether or not to sign up.

We have to remember, though, that this is a voluntary benefit. If a beneficiary chooses not to enroll, then that is his or her choice. However, we will ensure that all seniors have the information available to them to make such an informed decision.

We are on the verge of an important date in the implementation of the new Medicare prescription drug benefit. The initial enrollment period for drug coverage ends at midnight, May 15. All beneficiaries who have not signed up for this new benefit will need to make a choice. If there is a Medicare prescription drug plan out there that will save you money on your prescriptions, I would urge these seniors to sign up before May 15 in order to avoid paying a penalty. Like Medicare part B, if a beneficiary fails to enroll in part D during their initial eligibility period, then they may have to pay a penalty.

Even if you are a Medicare beneficiary who doesn't have any prescription medicines right now, I urge you to consider signing up. You can't wait until you have had an automobile accident to buy automobile insurance. And if you are eligible today and can save money, then I urge you to sign up before the open enrollment period ends.

Local outreach efforts and enrollment events are being continued across the country, and the capacity is in place to help callers who phone to 1-800-Medicare. People with Medicare can join a Medicare drug plan through the mail, by phone or over the Web now through May 15 of 2006. All completed applications postmarked on May 15 must be processed.

I urge all my colleagues to help their constituents to examine all the options available to them. We can't afford to let the opportunity to save thousands of dollars on prescription medicines pass even one of our seniors by.

I encourage, therefore, my colleagues to adopt this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to yield half of my time to the gentleman from California (Mr. STARK).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 2¼ minutes.

Here are the facts. They aren't pretty. It is the evening of May 10. That means there are three working days left until the part D enrollment deadline.

If you are one of the more than 5 million Medicare beneficiaries who lack coverage and you are not on Medicaid, this deadline is binding on you.

Unless you enroll by the 15th, you face a late penalty that increases each month until you do enroll. Your next enrollment opportunity isn't until November, but the penalty rises anyway.

When and if you do enroll, the accumulated penalty will be added to your monthly part D premium. Most beneficiaries who sign up in November will pay a 7 percent penalty for as long as they have coverage.

Why should seniors be tied to the original deadline when the part D program missed its own deadline?

Part D was supposed to be up and running by January 1. Unless you believe that mass confusion, major computer glitches, daily bad press, hit-or-miss consumer assistance qualifies as up and running, then part D was not up and running by January 1 or February 1 or March 1. It is barely up and running now.

Why are Medicare enrollees being pressured into a drug plan? Where is the line between pressure and coercion? And what right does the Federal Government have to let the drug industry and the insurance industry, and what right does the President have and the Republican leadership in Congress have to let the drug companies and the insurance industry write this bill, pass in the middle of the night and then penalize seniors when they are confused by this bill? If some seniors are wary of enrolling, who can blame them?

Aided by a less than hospitable Web site, a blizzard of insurance company marketing materials, an overburdened Medicare hotline, seniors are being asked to choose a drug plan that they simply can't understand, that no one can understand very well.

State and local agencies trying to help Medicare beneficiaries, including my office and the office of Mr. GREEN and Mr. ALLEN and Mr. STARK and Mr. McDERMOTT, are doing the best we can. But navigating part D hasn't been easy for any of us.

There are 400,000 Medicare beneficiaries in my State who have not signed up. They shouldn't be pressured. They shouldn't be penalized. Seniors didn't ask the Republican majority to bypass Medicare and build a drug coverage obstacle course. Seniors didn't ask the Republican majority to let the drug companies write the bill and let the HMOs shape Medicare policy. That was this body's decision. That was the President's decision, based on huge numbers of HMO and drug company contributions. Seniors have to live with it. Giving them time is the least that we can do.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman from Georgia for yielding time to the members of the Ways and Means Committee Health Subcommittee.

Well, there you have it, folks. There it is. Almost 90 percent of seniors have drug coverage today, more than ever before in America's history, and thanks to Medicare part D and its 10,000 grass-roots partners who have reached into communities across our country to provide personal, face-to-face advice to millions of seniors on signing up.

In Connecticut, 75 percent of our Hispanic seniors are signed up; 69 percent of our African American seniors are signed up; 65 percent of our Asian American seniors have signed up because, for the very first time ever, Medicare has partnered with people right in their local communities to give them the help, support, advice, to make their own choice about Medicare, which Medicare part D plan helped them do.

And you know what? Poll after poll shows how seniors are happy with the benefits provided by these plans. AARP, the largest organization representing seniors, found that eight out of ten seniors enrolled in the program said that it met or exceeded their expectations. A Kaiser Family Foundation poll found that three out of four seniors enrolled in a Medicare D plan are satisfied with their plan and are not having trouble getting the drugs they need.

Seniors are signing up and they are liking it. Why? Because it saves them money. It saves them lots of money. It saves some couples $4–, $5,000 a year.

Why are they signing up? Because it protects them from dangerous, adverse drug interactions. They have never had that protection before.

Why are they signing up? Because it protects them from catastrophic drug costs. They have never had that protection before. They have never had that financial security before.

When Gail Glazewski from Cheshire, Connecticut, found out that her part D drug program was going to save her $2,000 a year, she just let out a whoop of glee and said, I am the happiest senior citizen in town. Gail is one of the millions of seniors that the New York Times reported last month as Medicare's satisfied customers. The newspaper said, They are not vocal, they are not organized, but they are saving hundreds, and in some cases, thousands of dollars for our seniors.

The only sad note has been the dedication of some to scaring our seniors. It is not uncommon to have a senior tell me how complicated the program is, how unfair it is, how wrong that I worked so hard to pass it, only to come back and tell me later, after they went to the choices counselor, as I proposed, how easy it turned out to be, and how much money they were saving.

You know, nothing has moved me more than some of the seniors who have come to me after these counseling sessions with the buses that CMS has provided, with the State counselors, with the local people, and as one said, she said, you know, I was sad when I came here. This is the difference between my staying in my home and having to give up my home.

□ 1915

So this is a big step forward for Medicare. It is a dramatic change. It is really exciting to see how people have come forward and signed up. We have a few more days, and the message is sign up, sign up, sign up. It not only saves you money, it gives you health protection and financial protection. You have never before had access to through Medicare.

Mr. Speaker, I rise today to offer a resolution urging seniors to sign up for a Medicare drug benefit plan before the deadline. Why? Because it will save you money on prescription drugs, protect you from harmful drug interactions, and cover 95 percent of your costs if your personal expenditures exceed $3,600. Medicare Part D will fundamentally, improve our seniors' health and financial security.

The Medicare momentum we're witnessing is undeniable. Of the 42 million seniors in Medicare, 9 million have drug coverage, either through TRICARE, FEHBP, or as active employees, and do not need to enroll. The 33 million remaining, includes 28 million seniors that are now benefiting from the program. Of the 5 million remaining another 1 million are expected to sign up before the deadline and another 2 million seniors, that qualify for extra help, can continue to sign-up throughout the year. So at this point it looks like 40 million of the 42 million seniors in Medicare will enjoy prescription drug coverage or can sign up for it at any point during the year.

A truly remarkable fact and it is due to the spectacular commitment of over 10,000 grassroots organizations that in partnership with CMS, have been conducting face-to-face enrollment of seniors. CMS and its 10,000 grassroots partners are conducting more than 1,800 enrollment events across the country each week, right up until the May 15th enrollment deadline. Additionally, CMS has increased resources to keep the wait times down and beneficiary support up at 1–800–MEDICARE and the Medicare.gov website.

And these seniors and the disabled are filling more than 93 million prescriptions a month—an average of 3 million a day. As important, once enrolled in the program seniors are happy with the benefits provided. AARP, the largest organization representing seniors found that 8 out of 10 seniors enrolled in the program said that it met or exceeded their expectations. A Kaiser Family Foundation poll finds that 3 out of 4 seniors enrolled in a Medicare drug plan are satisfied with their plan and are not having trouble getting the drugs they need. Seniors are giving this new benefit their stamp of approval!

But this is a major change in the Medicare program and it is not surprising that there have been implementation pitfalls along the way as we heard from GAO and other witnesses at our subcommittee hearing. Because CMS has aggressively taken ownership of these implementation problems, most of the problems were addressed within the first two months of the year. For some, the solutions have been agreed to and implementation is now proceeding as states submit their bills. Once the program is free to focus on the delivery of benefits to our seniors, we will, I'm sure, identify refinements that need to be made with either CMS' contracting standards or the law.

But at this point, the enrollment numbers and survey after survey attest to the tremendous value of the Medicare drug benefit. The real story is that seniors across the country are saving money!

For example, seniors like Gail Glazewski from Cheshire, CT are saving $2,000 a year who described herself with glee as "the happiest senior citizen in town when I realized how much I was going to save!" That is the real story of the Medicare prescription drug benefit and it is being repeated all around the country. Gail is one of the millions of seniors that the New York Times reported about last month as "Medicare's Satisfied Customers." The newspaper said "they are not vocal, they are not organized," but they are saving hundreds and in some cases thousands.

The only sad note has been the dedication of some to scaring our seniors. It's not uncommon to have a senior tell me how complicated the program is, how unfair, how wrong I was to work so hard to pass it—only to admit that they haven't tried to sign-up—and only to say after we help them—that it wasn't hard and look at the money I'm saving.

When I travel around my district, I meet senior after senior who has signed up and is saving money and each day help seniors sign up and save. As we approach the end of the enrollment period, I urge every senior to sign up, save money, and protect yourself against catastrophic costs and harmful drug interactions.

There are still seniors that have questions about the program and haven't enrolled. It's natural to have questions with a change this big. But every senior—especially those without drug coverage—should assess the drugs they take and talk to a counselor at 1–800–MEDICARE, at one of the many hotlines states are operating, or at their local senior center or agency on aging. They should not let questions about this program dissuade them from saving money like so many of their friends, family and neighbors are.

This brings me to my final point. Some are urging delay of the deadline for signing up. Unfortunately, too often these are the same Members who use scare tactics to discourage beneficiaries from signing up early. All programs have deadlines. Shame on them! We must enforce the deadline so the plans can deliver! We need to let the system work so any needed refinements needed be addressed promptly.

For years Members of Congress have talked about adding prescription drug benefits to Medicare. But today—right now—a Medicare prescription drug benefit is a reality. Thirty million seniors are benefiting from it, including 8 million who had no drug coverage before. That is a great, historic achievement for both the health and financial well-being of our seniors.

I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. STARK. Mr. Speaker, I would like to address a parliamentary inquiry to the Chair.

Is this motion amendable?

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). No, it is not.

Mr. STARK. Mr. Speaker, second parliamentary inquiry. Is it possible for the gentlewoman from Connecticut, the author of the amendment, to withdraw the motion, accept a friendly amendment to urge the administration to move the May 15 enrollment deadline to the end of the year, thereby enabling another 1 million people to enroll and saving 7 million people from extra penalties, and then reoffer the motion to suspend the rules and pass this resolution?

The SPEAKER pro tempore. The motion would be permitted to specify whatever text might be proposed for adoption by the House.

Mr. STARK. Mr. Speaker, that is the question.

I would therefore, Mr. Speaker, like to address a question to the author of the bill. Would she be willing, as you have said, she has the clear authority to withdraw her motion, amend it so that 1 million Americans would have extra time to sign up and save the money and then resubmit it to the House. Then I am sure we will all support her resolution.

I would be glad to yield to the gentlewoman from Connecticut if she would care to respond.

Mrs. JOHNSON of Connecticut. I would be happy to respond. Actuaries estimate things differently. The CMS actuaries estimate that 1.1 million won't sign up if we move the deadline. In other words, they will lose the pressure they have today to sign up by May 15 and the total will be lower, not higher.

Mr. STARK. Mr. Speaker, I thank the gentlewoman for her response. I would like to note that the gentlewoman, Mrs. JOHNSON from the Fifth District of Connecticut, having the clear opportunity to afford millions of Americans the extra time to sign up for this marvelous program has declined to do it. In doing so, she has condemned probably 7 million people to paying an extra 7 to 10 percent on their premiums for the rest of their lives.

If this plan is so good, then my question would be why the gentlewoman from Connecticut, who is refusing to extend the time for these seniors, why they are doing that. It just amazes me, Mr. Speaker, that if the plan is good why they would try to deny this. The extra million people that the Congressional Budget Office tells us would sign up and for the great savings that would come it would cost an extra maybe $100 million.

But out of a $1 trillion bill that would seem to me to be a paltry amount and it would save 7.5 million seniors from this additional Republican tax on their Medicare benefits. I just wanted to know clearly that it is Mrs. JOHNSON, the author of this, who refuses to allow us to vote on the opportunity to extend the deadline for those many millions of Americans who haven't been able to participate.

I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume. Actually, Mrs. JOHNSON is not the author of the resolution. I believe I am. I would have the same response because I find it somewhat interesting that the gentleman from California who, according to my statistics, says 83 percent of his seniors who have signed up for the program, who I believe voted against the inception of the program to begin with, and who has repeatedly said how bad the program is, would now say we need to give more time to sign up for a program that he doesn't like to start with. There is something basically inconsistent.

If we had seen as much effort on the other side to encourage seniors to sign up as we have seen to discourage them from doing so, perhaps we would have had a higher percentage rate. He is to be commended because 83 percent is a very good rate. I commend the citizens of his congressional district for having the foresight to be able to take advantage of this great opportunity.

I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. GENE GREEN), who has pointed out the problems in this program with the drug industry and all but has been a leader in trying to fix it.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in support of the resolution and thank my colleague from Ohio for all eligible beneficiaries to enroll in part D before Monday's deadline. Last night our office did hold two enrollment workshops to help seniors in our district navigate the Medicare Web site to choose a plan that best suits their needs.

Large numbers could not choose a plan because of the confusion that they had, even though they walked out with the principal versions from our volunteers who worked the Internet.

I didn't vote for the Medicare Modernization Act, and we could have provided seniors with a more comprehensive and less confusing benefit. But make no mistake, I want every Medicare beneficiary to get the most out of what benefit Congress did pass. That is the reason I support the resolution. What I question, however, is the House Leadership's decision to schedule this particular bill.

We could be spending time on legislation to actually fix the problems associated with part D. We could consider legislation to reduce the price of the drugs by allowing Medicare to negotiate with the pharmaceutical companies. That was a question my seniors had at the workshop.

We should also consider legislation to extend an open enrollment period and give beneficiaries a one-time chance this year to change plans if they decide to instead of discussing ways to improving the clearly flawed plan, which does nothing substantive for our seniors.

Also, my colleague from Connecticut talks about CMS actuaries. These are the same actuaries I think that told us this plan was going to cost 400 billion. Now we know with the money we may spend on it we could actually give seniors a quality plan without so much confusion.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Washington State (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, the Medicare prescription drug benefit plan is doing a bad job, and it is doing a worse job of helping those who need the help most. I was down in the lunchroom in the Longworth Building, and one of the cashiers stopped me and said can you explain to me how this works? She said, I figured out what it is going to cost me to join, and I can save more money by going to Costco. My drugs will cost less in Costco. If you added it all up, I am going to be better off staying out of the program and buying my drugs at Costco.

Now, this program was faulty in its inception, and of the millions of people on Medicare who still haven't signed up, 85 percent of them are poor enough to qualify for the low income subsidy. When this bill was in the Ways and Means Committee, we offered the opportunity to the chairman to sign up these poor people at the beginning, automatically, because they are low income. We know what their income is. They are not going to get rich all of a sudden. But, no, we are going to let them flop around out there trying to figure out this complicated program.

Now, how could we have let it happen? Well, haven't the Republicans been telling us that the Medicare drug benefit was intended to help those most in need, those eligible for low income subsidy?

They turned down, the author of this turned down tonight Mr. STARK's offer to rewrite this thing and get all these people in.

But that is not what really went on here. Just encouraging people or threatening or, as the gentleman from the Energy and Commerce Committee says, keeping the pressure on old people is not sufficient. That is not humane public policy. You ought to be ashamed of saying something like that. We want to pressure.

My mother is 96 years old. I don't need you pressuring my mother on this drug plan if she can't figure it out. Now the low income beneficiaries are twice as likely to have health problems, mental problems or live in a nursing home. Many have difficulty with English. You can't just stand out here and say, hey, folks, sign up, sign up. They can't figure out what to do.

You have made it so complicated so that they wouldn't sign up. That is what you did. You wanted the ones who were most needy to be unable to figure out how the plan would work so they could be left out.

Now, just to show what a warm heart you have, you slap a 7 percent penalty on them for the rest of their life. You say to them, if you don't sign up by the 15th of May, you can't sign up for 6 months, and it is going to cost you 1 percent a month for every month you don't sign up. That kind of loving treatment is, in my view, exactly what this program does not need.

It is a mess, this is a bad resolution. We will all probably, you know, vote for it. But when you let the drug companies write the bill, it was never meant to work for ordinary people.

The program needs time to find these people and help them.

Blindly adhering to the May 15th deadline, just five days away, dramatically penalizes many seniors who have not signed up.

This program has been a mess from the start.

If Republicans are serious about helping seniors, we must extend the deadline for enrolling, remove the penalties for not signing up, and streamline the procedures, so that our most distinguished citizens can actually understand this.

Just because Republicans let big drug companies help write the legislation doesn't mean we are helpless to take action.

Republicans were wrong about the real cost of this program. Now they are wrong when they say they want to help seniors.

An artificial deadline won't help seniors. A real prescription drug benefit will.

Mr. STARK. Mr. Speaker, I ask unanimous consent to yield the additional time I may control back to Mr. BROWN.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I recognize myself for 1½ minutes.

I do find it really quite remarkable that my colleagues from the other side of the aisle, who spent literally months scaring seniors away from signing up for this benefit, claiming it was too complex, claiming it was this and that. I can't tell you how many seniors I had call my office saying oh, I cannot do this, it is too hard.

Then when we show them they say, oh, it is not so hard. Fifty-four percent of the people who signed up signed up themselves. The tools provided made it not so hard.

Yet colleague after colleague, and I read it in the paper and I saw it, spent their entire time and effort scaring seniors, shameful behavior for elected officials.

Of course, now we come to the end and they want to extend the deadline. They should have been out there the last few weeks saying sign up, sign up.

Let me tell you, I can't tell you how many we helped. I would just like to remind you that your own bill had an earlier deadline than the bill we are dealing with. So let us pull together, get everybody to sign up. Then let us let the plans deliver the goods.

You who said this was complicated ought to be the first one who wants these plans to have some time to deliver the services to the seniors who signed up, the 90 percent, the seniors who signed up, so we can make sure that the plans will run according to Hoyle, according to their promises, that they will deliver, and that we can know whether there is any fine-tuning that needs to be done before the next round of sign-ups.

I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, the difference may have been our legislation was written by senior advocates while theirs was written by the drug companies and the HMOs.

I yield 2 minutes to my friend from Maine (Mr. ALLEN), who has fought to make this program work way better than the drug companies and the insurance companies designed it to.

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding. Mr. Speaker, there is no amount of public relations spin or resolutions which can cover up the frustration that people felt in the beginning.

People in my office, on this side of the aisle, all of us, were trying to help people sign up because we knew that this bill would help some of our constituents. This is one area where we agree. There are some people who are helped by this legislation. Not surprising, we are moving over half a trillion dollars into this program over 10 years, billions and billions of dollars in excess funds to the pharmaceutical companies, billions and billions of dollars in excess funds to the insurance companies, but it is absolutely true. Seniors do get some of it.

But the problem with this legislation is, from the beginning, confusion, inability of people to understand the program. The frustration has been just remarkable.

The problem here today is that the people who have not signed up for this program are often the people who need the drug assistance the most.

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They are the ones who are not signing up.

Nationally, only about 1.7 million of the 7.2 million low income seniors are actually receiving the low income subsidies that this legislation should provide. That is what is happening in Maine. We have 6,000 low income residents who have been in the State Pharmaceutical Assistance Program, and, as of today, we still don't have word from CMS that these people are eligible to receive the low income subsidy, so they are not getting the coverage they need.

What is wrong with some additional time? Why slam the door on these people, make them pay this Bush prescription drug tax for the rest of their lives? Why not give them the extra time and do this program right? That is what we ought to be doing, so the people who need the coverage the most can get it.

One final comment: The gentlewoman from Connecticut said millions have signed up. Many of those millions didn't sign up at all. They were automatically enrolled.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me clarify a statement that Mr. McDERMOTT attributed to me about keeping the pressure on senior citizens. I did not say that. The New York Times said that.

He said he had a 96-year-old mother who is confused. I have a 99-year-old mother. I am sure he was like me, a good son, who helped his mother figure out what is the plan that was best for her, and she signed up and she is very happy with it.

He also alluded, as did the last speaker, to low income seniors who are under a deadline. CMS has made it very clear if they are entitled to the low income subsidy, that the deadline will not apply and they will take care of that problem. So the problem is a nonexistent one.

Mr. Speaker, I yield 3 minutes to my colleague, the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Georgia for yielding.

Mr. Speaker, today I rise in strong support of House Resolution 802, encouraging America's seniors to take a serious look at the new prescription drug benefit under Medicare. There is less than one week left before the May 15 deadline, and I want to encourage all seniors to take this hard and thoughtful look to find the program that best fits their needs.

There are more than 37 million seniors enjoying the benefit of prescription drug coverage, and I want to share with you some the success stories I have heard from the great state of Georgia.

Mary and Jerry O'Brien of Cobb County sent me an e-mail highlighting their success with Medicare part D. Mr. O'Brien wrote, "I went to Medicare.gov and I found a comparison of various programs. I chose one for my wife for $70 a month which has no deductible. We had no prescription insurance before and find Medicare part D to be very effective. We saved enough on the first prescriptions to pay for two months of premiums. I realize the program got off to a shaky start, but as far as I am concerned, it is now working well."

Mae Thacker of Kingston, Georgia, and her husband had heard the Medicare benefit was too difficult and wouldn't save them any money. But after learning a little about the program and enrolling, Mae was sold on Medicare part D. She was paying $781 a month for her drugs. Now, Mr. Speaker, with the Medicare part D plan she pays only $178 a month, saving $600 each and every month.

Mr. Speaker, I can go on and on highlighting the success stories I have heard from the Eleventh District, but I will just mention quickly an additional two.

Lola Squires of Cedartown lives on a fixed income and she qualified for the low income supplement. Last year, her monthly drug bill was $1,016. However, when she got on Medicare part D, she is now paying, guess what, $27 a month, saving more than $900 per month on her medications.

Cornelia Kinnebrew of Rome was paying more than $700 a month. Now, with the new drug plan, she pays only $37 a month, saving $600.

So, Mr. Speaker, America's seniors should not take my word for it, but listen to their peers and hear what this program is doing for them. Medicare part D is worth looking into. Take the time to call 1–800–Medicare and find out what plan works best for you and your needs, and do it today.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, I must tell you that I agree and have been talking to my seniors that they need to, and I quote, "review carefully all the options that are available to them and determine whether enrollment in a Medicare prescription drug plan best meets their needs."

I have had over 30 town hall meetings since this bill has been enacted, and at these meetings I have had people from our Office on Aging to help seniors go through the different options to make a decision whether they need or they don't need to join a plan and which plan they should join.

But, Mr. Speaker, the problem is, the information that was made available to them when this bill was passed was wrong. The information is extremely confusing. In my State we have 47 or 48 different plans with deductibles that range by great numbers, and it is very difficult for my constituents to understand this bill.

I have gotten e-mails from people in Maryland who tell me the bill is very confusing, and they should at least be allowed more time to make a decision. I got e-mails saying that this one constituent is going to make a decision, but he is not sure whether it is right or wrong because he needed more time and he doesn't have that time.

So, Mr. Speaker, yes, we want our constituents to make the right decision, and we urge them to focus in on making the right decision, but it is absolutely wrong that we are not extending the May 15 deadline. Our constituents need more time, and we certainly shouldn't be imposing a lifetime penalty because a senior perhaps makes the wrong decision in part because of our failure to get the right information to our constituents.

Mr. Speaker, I would have hoped that we would be using the time now to correct this bill. This bill is structurally flawed. We need to make this a real benefit within Medicare. We need to take on the cost of prescription drugs. We need to deal with the coordination of the benefits with retiree benefits so that retirement plans don't terminate retirees' prescription drug coverage. We need to do all that.

We need to cover drugs that aren't covered today. I could tell you of a person in my district, Barbara Waters, who had her drugs for epilepsy covered before this bill was passed, and now it is not covered because it is under a class of drugs not covered under Medicare. We need to correct that. There is a whole group of organizations that are urging us to correct the bill.

So I appreciate the fact that we have a resolution on the floor urging seniors to focus on what is in their best interests under the law we passed, but what we should be doing is having a bill on the floor giving our seniors more time, eliminating this penalty and then correcting the mistakes that we made when we passed this bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentlewoman from Connecticut for yielding and the gentleman from Georgia for his leadership on this issue.

I want to tell the story about Bennie and Katheryn, real people in Vidalia, Georgia. This is a couple who was paying $2,200 a month for their prescription drug bill. One of my staffers happened to be related to them and heard about it, and he went over there and sat down with them on all their drug needs and went over the website. He did not make a recommendation, but he showed them the information and they made their own choice. Now their total drug cost has gone from $2,200 a month to $104 a month, a 95 percent savings.

When they saw stuff like that, they did not believe it was possible, because they too had heard some of the rhetoric, some of the angry, some of the bitter rhetoric that comes out of Washington, D.C., and they thought, well, there is no way. But, in fact they are enjoying it now, and they need that extra income just like so many other millions of seniors do around the country.

Mr. Speaker, I heard former Secretary of Health and Human Services Tommy Thompson say that when Gladys starts talking to Mabel, this thing will really take hold. And, indeed, that is the truth. My office has had 48 workshops helping people decide which program works for them. Maybe it doesn't work for them, because I am always quick to say, it might not be the best thing for everybody. That is part of what a public offering is. Sometimes it works, sometimes it doesn't. But it works for most people. It is about a 50 percent to 60 percent savings for most people. Bennie got a 95 percent savings. Not everybody is going to get that.

But the interesting thing is that Gladys is talking to Mabel, because my friend GIL GUTKNECHT always quotes Ronald Reagan in saying that markets are more powerful than armies. In this case we have an army of people saying this is a horrible program that should be thrown away, thrown out; it is bad, it is wicked, it is the Republicans up to no good.

But look at the market. In my district, with my 48 workshops, our market penetration is about 70 percent right now. The interesting thing is one of my colleagues who is not in favor of this bill has about the same penetration, and he hasn't held one workshop.

That is one the ironies of it. I thought I am going to go out as a salesperson and really wave the flag and tell everybody how great it is. I am irrelevant. The market is more powerful than the army, the army for it or the army against it. The market is selling this thing, not the Republican Party, not the Democrat Party, wherever they may stand on it at the moment.

The reality is the seniors like it, and the reality is our seniors need it, because so many of them were having to choose between food on their table and prescription drugs.

My mom, who takes Tamoxifen from now on for the rest of her life, and my dad who has diabetes and their friends, they have some choices. Not everybody is going to sign up for it, but everybody is aware that the program is out there.

I will close with a quote from my good friend from Minnesota, who had voted against this bill. He said he has moved from being an atheist to an agnostic, but pretty soon he is going to be a holy roller and a believer like everybody else, because markets are stronger than armies.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Chicago, Illinois (Ms. SCHAKOWSKY), who has been fighting in her district to explain this bill and to improve it.

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, there are times that I wonder whether my colleagues on the other side of the aisle live in a different reality from the rest of us. This resolution encourages senior citizens and persons with disabilities to carefully review all the part D private plan options before them and determine whether to purchase a policy.

We all want senior citizens and disabled people to make informed choices, and we have been helping them, but the reality is there is no way that the millions of beneficiaries who have not enrolled are going to be able to do that in the next 5 days.

The Republican resolution completely ignores the complicated mess that the Republican Congress created in part D. It ignores the fact that current HHS Secretary Leavitt's parents, who he helped, got it wrong and had to change plans.

It ignores the Kaiser Family Foundation report that nearly half of all citizens don't know about the May 15 deadline or the lifetime financial punishment they will face if they miss it, permanent higher premiums as long as they live.

It ignores the GAO report that the Medicare hotline gave inaccurate or inadequate information on which was the best plan to 60 percent of the callers.

It ignores the fact that independent counselors are inundated and unable to provide unbiased advice to sort out the dozens of private plans available.

It ignores the Family USA Report that three out of four low income seniors have not signed up.

It ignores the fact that half of the seniors who didn't have drug coverage last year still don't have it today. That is 10 million people.

It ignores the fact that yesterday's CNN poll said that 47 percent of seniors said the part D program isn't working.

As hard as the Republicans may work to ignore reality, the real reality out there for most people, it won't go away. And the pressure should not be on older and disabled Americans to act over the next 5 days. It should be on the Republican majority to extend the deadline and fix this mess.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

In spite of the doom and gloom, I am pleased to say to Ms. SCHAKOWSKY that in her State of Illinois, 72 percent of her seniors feel it is a good idea and have signed up. I think that is a good percentage.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. DEAL of Georgia. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I am confused by that. Are you saying 72 percent chose to sign up of those eligible?

Mr. DEAL of Georgia. Seventy-two percent of those eligible are on the program, yes.

Mr. BROWN of Ohio. I am confused. Did they choose to sign up, or were some forced to sign up from Medicaid?

Mr. DEAL of Georgia. Surely as our ranking member on the the Health Subcommittee, you know on dual eligibles they are signed up under the program, as the law provides. So dual eligibles are included.

Mr. Speaker, I will reclaim my time. The gentleman has more time remaining than I do. I will be glad to debate him on his time.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BURGESS).

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Mr. BURGESS. Mr. Speaker, I thank the chairman of the Subcommittee on Health and Chairwoman JOHNSON for bringing this important bill to the floor of Congress this evening.

Mr. Speaker, we have heard some talk about how complicated the program is and how confusing it is. I would like to just take a moment to point out that if you have a couple of things at your disposal it is not that confusing at all. And if you will put your prescriptions in one hand and in the other hand your Medicare card, and then call 1–800 Medicare, the people at the other end can help you with choosing the right prescription drug coverage for you.

Yes, there are a lot of plans. In my State of Texas, there are 20 different drug plans that have a variety of different permutations, and 36 different prescription drug options are out there.

But if you approach it from cost, coverage and convenience, look at how much the cost is, if that is your most important driver, look at the coverage of the medicines provided, if that is your most important driver, or if you want to get mail order or your mom-and-pop pharmacy down the street, if that is the most important thing, make that the issue that becomes the top of the list, and then cost, coverage and convenience.

You can go through with their Plan Finder tool on the Web site, www.medicare.gov, or again 1–800 Medicare, have your prescriptions ready so you know what you are taking and the dosage you are taking, and they will help you with that.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The gentleman from Ohio (Mr. BROWN) has 4 minutes remaining, and the gentlewoman from Connecticut (Mrs. JOHNSON) has ½ minute remaining, and the gentleman from Georgia (Mr. DEAL) has ½ minute remaining.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to follow what Dr. BURGESS says, but GAO says 60 percent of the calls to 1–800 Medicare they have given out wrong information, and I wish our government would get organized before they penalize seniors for not being organized.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Madison, Wisconsin (Ms. BALDWIN), who has worked hard to make this bill written by the drug companies a better bill, a better law.

Ms. BALDWIN. Mr. Speaker, it has really been clear from day one that the Medicare part D prescription drug program was planned with the best interests of drug companies and insurance companies but not seniors in mind.

This plan was wrongfully conceived, and then poorly implemented so that seniors had to struggle to understand a confusing mass of plans, prices and protocols.

As we approach the deadline by which seniors must enroll in a plan or be faced forever more with a financial penalty, it is obvious that we need a new prescription for progress.

Just last week, a GAO report found that the information about the part D benefit provided by CMS through the hotline and handbooks and their Web site was full of errors. We should not penalize seniors for a poorly designed program which was poorly implemented.

Mr. Speaker, we must change this deadline now and allow seniors adequate time to study their options and choose the drug plan that best fits their needs. Instead of passing this meaningless resolution, we should pass legislation to extend the deadline and truly help seniors.

Mr. BROWN of Ohio. Mr. Speaker, may I ask my friend their plans?

Mr. DEAL of Georgia. Mr. Speaker, I believe I have 30 seconds remaining, and I would have the right to close. I would reserve it with no other speakers that I intend to use.

Mrs. JOHNSON of Connecticut. I have 30 seconds remaining. I will be the last speaker before you.

Mr. BROWN of Ohio. I would like to be the next to last speaker under the rules. So whichever of you wants to go.

Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, my friends on the other side are confused. First of all, they know that most of the seniors that they speak of have been automatically enrolled through Medicaid. But they also know that only 55 percent know that the deadline is May 15 and only 53 percent know the lifetime penalty.

Mr. Speaker, I have tried to make lemonade out of lemons. For the last 2 months, I have had those enrollment meetings, and in those meetings I have found the confusion and as well the 1–800 number does not work.

Mr. Speaker, I will have a meeting on May 15, the morning of May 15. I will open up the opportunity for seniors to enroll on the spot. But the contractor that has been hired by HHS only has three computers for my constituents to use, drawing on the City of Houston.

So what I say is do not waste time on this resolution that I do support, extend the deadline and end the penalty, and do not pressure senior citizens with frail health conditions. Do not pressure low income seniors. This is not the opportunity to pressure seniors. This is an opportunity to provide for the Medicare prescription of all seniors eligible to enroll.

Mr. Speaker, I would ask, extend the deadline past May 15 and end the lifetime penalty for our seniors. They deserve our respect and appreciation.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me just correct a few facts on this record, because for those watching this debate I want them to understand two things. First of all, all low income seniors can continue to enroll without penalty. That is just a fact. No low income senior has an enrollment deadline.

Secondly, this GAO report that was referred to earlier, it actually says that CMS's help line accurately and completely answered callers' questions two-thirds of the time. They go on to say that CMS provided accurate and complete responses to calls about beneficiaries' eligibility for help 90 percent of the time.

So we have worked hard. We have done well. Seniors are signing up and saving money.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would correct my friend from Connecticut. Not all low income seniors can enroll without penalty, only some low income seniors can enroll without penalty. I hear her bragging that two-thirds of the time, two-thirds of the time you call 1–800 Medicare you get correct information.

That means one-third of the time you do not. So we are not penalizing the administration for not being able to get this law up and running correctly. Nobody has lost their job over that. But we are going to penalize seniors who have not made up their mind because of this confusing law, because they were getting wrong information from the 1–800 Medicare number that we talk about on the floor.

We are going to charge seniors as much as a 7 percent penalty for the rest of their lives if they do not get this together by November.

Mr. Speaker, a Republican pharmacist in my district said to me, he said, "President Bush might as well have handed a blank legal pad to the drug industry and said write this new Medicare law."

Congress and the President wrote a confusing plan at the behest of the HMOs and the drug companies, and then Congress and the President are saying that seniors should have to pay a penalty, seniors in Cincinnati and Dayton and Columbus and Toledo and Mansfield and Chillicothe and all over my State and all over Connecticut and all over Georgia and all over Minnesota have to pay a penalty because the drug industry and the HMOs and those lobbyists in Washington got this Congress to write a law like that. That hardly seems fair.

Mr. Speaker, I would just ask my friends on the other side of the aisle, please ask President Bush to extend this deadline so seniors do not have to pay a penalty for this very confusing new drug law.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself the balance of our time.

Mr. Speaker, this has indeed been an interesting debate. Here we are having people who did not vote for the bill who for 40 years controlled this House and kept saying to seniors, we are going to provide you with a drug benefit and never delivered.

The Republicans delivered. They did not like the bill. They still do not like the bill. Now they say they do not want a deadline, but the bill that they drafted had a March 1 cutoff with penalties following that.

Ours is more generous than that. The purpose of today's debate is to simply remind seniors, this is a voluntary program. If you want to sign up you should do so before May 15.

The confusion, yes, there is confusion because there are a lot of choices out there. Our friends on the other side of the aisle said this will not work and nobody will have any choices. The truth of the matter is, there probably are maybe too many choices, but it is better to have choices than none at all.

Mr. DINGELL. Mr. Speaker, rather than bringing legislation to the House floor that would actually help senior citizens get the prescription drugs they need and address some of the problems that they are having with the new drug benefit, the Republican leadership has brought forward an "advertisement" in the form of a meaningless resolution that does nothing, absolutely nothing, to make it easier for seniors to enroll in the prescription drug plan.

Instead, they are encouraging our constituents to beat an artificial deadline and enroll in these plans without having accurate information to prevent them from enrolling in a plan that does not meet their needs.

The independent Government watchdog agency, the Government Accountability Office, recently reported that a good deal of the information that Medicare is providing on this new drug benefit is wrong or incomprehensible to the average beneficiary. For example, Medicare representatives gave an incorrect answer 60 percent of the time when they were asked to help a beneficiary find the lowest-cost plan to enroll in.

These findings also point to larger problems. Because of inaccurate, complicated, or confusing information, seniors have not been given a fair shake. Why is the House not addressing these matters?

We should be here today voting on a bill to extend the May 15 deadline and helping seniors avoid an unfair and unnecessary penalty. Instead, we have a meaningless resolution encouraging seniors to do exactly what they have been doing, which is to evaluate their options. I encourage that—so I will support the resolution. But we should be doing much more to help seniors.

Mr. PEARCE. Mr. Speaker, I rise today to thank the Gentlewoman from Connecticut for bringing this resolution forward today. In my district, almost 70,000 Medicare beneficiaries have obtained prescription drug coverage, which constitutes 72 percent of the number of Medicare beneficiaries who live there.

My staff and I are proud to have contributed to this achievement. We have held numerous town hall meetings across Southern New Mexico to help seniors sign up for this critical new benefit. We have also trained others to provide this assistance—creating a multiplier effect regarding the amount of help that is available to our seniors. And we continue to urge seniors to contact our offices if they need help as the May 15 deadline approaches.

Every senior should immediately check their enrollment status in order to ensure they are enrolled in the Medicare Part D benefit. I also encourage everyone who has a parent or grandparent who is eligible for Medicare to call them and check their status. Seniors must sign up before May 15 to receive the best benefits at the lowest cost.

The phone numbers and addresses for my district offices are listed on my website at www.pearce.house.gov. Several additional resources also exist that can assist New Mexicans in choosing and enrolling in a plan. Medicare beneficiaries and their family members with questions about Medicare drug coverage can call 1–800–MEDICARE (1–800–633–4227) or visit www.medicare.gov. They can also obtain help from local community organizations, pharmacists, senior centers, area agencies on aging and groups like AARP.

No senior should go another day without this coverage and we in Congress have a responsibility to stand with them and help them get that coverage today.

Mr. SAM JOHNSON of Texas. Mr. Speaker, there are millions of Americans benefiting from the new Part D Drug Program.

Many people overlook that fact, though. I'm pretty tired of hearing the same old story from nay-sayers . . . that people could get their drugs cheaper, "If only the Government had the ability to negotiate lower prices."

I'll tell you what—That's just not true. People love to tout the V.A. system as an example of successful government negotiation.

But did you know that only 13 of the top 33 prescribed drugs for seniors are on the V.A. formulary?

Heck, a negotiated price doesn't help you much if you can't get the drug you need.

For years, P.B.M.'s have been negotiating prices for millions of Americans—and now they are getting the job done for medicare beneficiaries.

Some plans are able to offer prices lower than Internet wholesalers, lower than Canadian prices.

The beneficiaries, the States, and the taxpayers are all benefiting from these lower prices.

I encourage a yes vote on the resolution and thank the gentlelady from Connecticut for her tireless—and persistent—efforts on this issue.

Mr. CUMMINGS. Mr. Speaker, I rise in support of the resolution and to call for an extension of the May 15th deadline to allow our Nation's seniors more time to enroll in the Medicare Part D Prescription Drug program.

While I support the resolution sponsored by Representative NANCY JOHNSON, I believe that seniors need more than just encouragement to enroll in Medicare Part D. They need time—time to figure out their myriad of choices under this new benefit.

Mr. Speaker, seniors do not need an extension of the arbitrary May 15th deadline because they don't know the deadline is fast approaching. They need time because the benefit is so complicated.

They need time because the prescription drug benefit is not a direct add-on to Medicare centrally administered through CMS—which is what seniors and Democrats wanted, but a labyrinth of private companies, premiums, deductibles, co-payments, formularies, and pharmacy access that varies widely from plan to plan. In fact, in most states, beneficiaries have a choice of more than 36 drug plans.

They need time because the Medicare Modernization Act passed in the wee hours of the morning by the slimmest of margins in the 108th Congress, protects the interests of big pharmaceutical companies at the expense of our seniors by not allowing the Secretary of HHS to negotiate the best price for lifesaving drugs for our seniors.

They need time because they have to figure out how much their choice will cost them and whether or not they're in or out of the doughnut hole.

They need time because a recent GAG Report indicates that 60 percent of callers to the CMS regarding this benefit were given inadequate and incomplete information.

They need time because they face a maze of options provided by private insurance and pharmaceutical companies, entities which stand to reap great profit windfall that were placed in the bill by those who received enormous benefit from these industries.

Mr. Speaker, private companies wanted to be in this business, but they didn't want to risk losing any money. So the law was specifically designed to maximize profits and ensure the participation of many private plans. That is why the choice of providers is plentiful, collective bargaining power is non-existent, and the confusion to seniors is so great. It is truly by design.

Assuring that seniors have access to a high-quality and affordable prescription drug plan has been a top priority for me and my Democratic colleagues.

When seniors tell me that they must cut their pills in half or skip meals just to pay for the medicines they need, it breaks my heart. The injustice of this incenses me.

So despite its flaws, this benefit may provide relief to some seniors. That is why I have been holding town halls in my district to provide information to hundreds of seniors about this benefit since sign-up began. That is how I know first-hand that even months later that the plethora of plans is confusing and the various components of the benefit are still not clear to many.

I am convinced that there is a better way. That is why I am a cosponsor of the Medicare

Prescription Drug Savings and Choices Act, H.R. 752 introduced by Representative BERRY and H.R. 5263, recently introduced by Representative DONNA CHRISTENSEN. These bills would extend the enrollment period and provide immediate fixes to the Medicare Part D benefit.

However, the will to make these changes for the benefit of our seniors by the Republican leaders in the House and Administration does not exist.

Given this fact, while the federal legislation that authorized these plans is far from perfect, until a more comprehensive and more affordable prescription drug plan becomes available, I urge seniors to research your options.

Seniors who do not already have prescription drug coverage should consider enrolling in a Medicare Part D plan of their choice before the May 15, 2006 deadline.

Seniors who already have prescription drug coverage should check with their existing plan and consider whether a change in insurance is in their best interest before May 15, 2006.

The May 15 deadline is less than one week away.

There could be serious consequences for seniors if you delay, resulting in an unfair 7 percent lifetime premium penalty.

The consequences of not making a choice are dire, so I urge seniors to make a choice before May 15, 2006 about Medicare Part D.

Mr. Speaker, our Nation's seniors deserve comprehensive and affordable prescription drug coverage through the Medicare benefit.

Making this a reality should be our goal for the future. In the meantime, let's extend the deadline and fix the flaws of the Medicare Part D program for our seniors. They deserve no less.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and agree to the resolution, H. Res. 802.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DEAL of Georgia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PRESCRIPTION DRUG DEADLINE

Mr. GEORGE MILLER of California. Mr. Speaker, I ask unanimous consent to take her place since she is not here.

The SPEAKER pro tempore. Without objection, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

There was no objection.

Mr. GEORGE MILLER of California. Mr. Speaker, today I rise to talk about a serious issue facing America's seniors, an issue that was just debated prior on the floor, the upcoming deadline for enrolling in the new Medicare prescription drug program.

I, like many of my colleagues, have held forums around our congressional districts to try and encourage the senior citizens to enroll in the program and to try and help explain it with the help of advisers from Medicare, from the Kaiser health care organization in my district, from the county health care offices and many others to explain the process of enrolling, the benefits, and what the seniors need to get together to do that.

But the problem is that time is going to run out on many of these seniors. There is just 5 days left to enroll in the program or face the possibility of a lifetime penalty. Most seniors do not fully understand the nature of that penalty, that that penalty will be assessed on the value of the average premium paid, and it will be assessed for the rest of the time that the senior is enrolled in the program.

It is a serious and a harsh penalty for those who may not be able to sign up, because they simply failed to understand the program and need additional time. We have been pressing the Congress and the President and the Republicans in this House to extend the enrollment deadline and to waive the penalty for the first year to give people enough time to understand the confusing and complicated program.

Instead the Republicans have brought up this resolution that was just passed here that encourages the beneficiaries not yet enrolled to enroll in the drug plan and to review carefully all of the options available to them.

Many have been trying to do that and have not been able to do it successfully to completion. I do not believe that they should be punished for that. We are talking about individuals who in many cases have other disabilities, other problems, health care problems, and it is not easy to wade through these options that confuse many of them.

This resolution does not do anything to help those individuals avoid the lifetime penalties. It does not give the Federal Government the power to negotiate in bulk for the drug companies and for lower prescription prices.

Instead of passing this resolution, I would have hoped that the Republicans would have brought forth a provision to provide real help to the beneficiaries by giving them more time to review carefully all of the options that are available and delaying the deadline until May 31.

Why, you ask, is this necessary? On April 26, USA Today reported less than 3 weeks remain for most Medicare beneficiaries to sign up for the prescription drug coverage without penalties, but nearly half the Nation's seniors do not know it.

The fact is that many beneficiaries are still unaware of the deadlines and the penalties, highlighting the fact that more time is needed. But even those who know about the deadlines and penalties are having a hard time with this confusing law. A new GAO report found that many beneficiaries are receiving inadequate, incorrect information from the Medicare hotline that many of us have been encouraging them to call to help them enroll.

It has been inadequate help to them and seniors should not be punished for that reason. The Wall Street Journal reported just a couple of days ago that the Federal investigators from the GAO posing as senior citizens found that the Medicare operators routinely failed to give callers accurate and complete information about the government's new drug benefit.

□ 2000

Investigators said that about one-third of their calls resulted in faulty responses or no response at all because of disconnected calls. This is not an atmosphere which should lead to the punishment of senior citizens who are making a good-faith effort to reach Medicare, to reach for the enrollment, to understand the program and make the decision for themselves or a member of their families on a timely basis.

Based upon a new analysis, there are probably about nine million beneficiaries with little or no drug coverage who still have failed to sign up. According to the nonpartisan CBO, delaying the deadline to December 31 would save more than 7 million beneficiaries from a lifetime of higher monthly premiums.

If the Republicans were truly interested in fulfilling the program that they designed, then they ought to extend the deadline so that senior citizens that we represent can have an opportunity to enroll and put off that penalty.

So I would hope—there is still time between now and the 15th. I would hope that now that they have passed this resolution, we would bring out legislation to provide an extension of time for seniors who are in fact acting in good faith.

The suggestion has not been made that seniors are trying to dodge the obligation. We know why there is a penalty. Eventually you want them all to sign up so people do not selectively enroll and cherry-pick and make the program more complex. But the indication is not that seniors are refusing or trying to dodge the program. The indication is that many are still reaching out in good faith to sign up for the program and to understand the program, but they just have not been successfully able to do that.

It seems to me that is not what a government should be doing is punishing people going through the process in good faith, but simply have not been able to negotiate it.

AN IDEA WHOSE TIME HAS COME

Mr. GUTKNECHT. Mr. Speaker, I request unanimous consent that I be allowed to claim the time of the gentleman from North Carolina (Mr. JONES).

The SPEAKER pro tempore. Without objection, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

There was no objection.

Mr. GUTKNECHT. Mr. Speaker, I rise on the House floor tonight to talk about something that I think is one of the big solutions that we need to pursue here in the United States. And I would like to, first of all, talk about this first chart; and hopefully, Members can see it back in their offices. But this is a chart of the imports of petroleum as we have seen it from 1984 until 2005.

Back in 1984, we were importing less than 5.5 million barrels of oil a day; today, that number is over 13.5. In fact, I should say in 2005 it was about 13.5 million barrels a day. This is a scary chart because the direction is heading in the wrong direction.

Let's put some numbers on this. I am told that by this summer with $70-a-barrel oil, we will be spending about a billion dollars a day to buy oil from countries, in many cases who are not particularly friendly to the United States. This is a serious problem. It is a challenge to our economic security and it is a challenge to our national security.

Now, renewable fuels are only part of the solution. I voted to increase the CAFE standards. I think conservation is an important part of solving our energy problems here in the United States. I believe in developing other kinds of energy. I voted consistently to develop the oil and the natural gas which we know is up in Alaska. I voted to expand the many uses of other energies.

But, Mr. Speaker, one of the things that we have not talked enough about, in my opinion, is our ability to grow more of our own energy. And so tonight I want to talk about renewable energy in general and ethanol in particular because I think there is huge misunderstanding, and it is not just among Members of Congress and the general public, it is among many of the policymakers even in the Department of Energy.

Mr. Speaker, there is still a misunderstanding about how much it costs to produce ethanol. In fact, we had a hearing of the Science Committee about 6 months ago. We had three top energy experts who testified before the committee. I asked all of them, I said, How much does it cost to produce a gallon of ethanol? Well, they started to look at their watches and their shoes and it was clear they did not want to answer the question.

Well, I said, make a guess. And the low guess, and these are energy experts, the low guess among those three experts was $2 a gallon. The high estimate was $3 a gallon. And I said, Would it surprise you to know that we are actually producing ethanol in Minnesota for less than $1.20 a gallon? In fact, some of the plants at that time with lower natural gas prices were actually producing ethanol for about $1 a gallon.

Today, with corn at about $2 is a bushel and with oil at about $70 a barrel, the cost right now to produce a gallon of ethanol at an efficient plant in the upper Midwest is about $1.20 a gallon. Gasoline, on the other hand, right now costs about $2.10 a gallon for unleaded gas.

Now, I have to be clear, though, and we want to be fair in this discussion. You do not get as many Btus, British Thermal Units, out of a gallon of ethanol as you do a gallon of unleaded gasoline. In fact, it is about 20 to 25 percent less. So you get less energy out of a gallon, partly because ethanol is 35 percent oxygen. That is good, though, because it means it burns much cleaner than gasoline.

Ethanol is better for our environment. It is better for our economy because that billion dollars a day that we may be spending this summer we are sending to countries that in some respects do not like us, and in worst cases they may be using part of that oil revenue to actually fund the terrorists.

The beauty of producing energy here in the United States, clean-burning ethanol in the United States, is that all of that money stays here in America where it recycles through our own economy. A new plant, for example, recently opened just west of Mankato, Minnesota, in the little town of Lake Crystal, Minnesota, and they told us they will be employing, on average, 42 workers in that plant, and the average starting wage will be somewhere over $16 an hour plus benefits. These are good jobs that help our own economy right here in the United States.

But the point really needs to be made, not only is it better for our economy, it is better for our environment, but it is actually cheaper. So some people say, well, if it is better for the economy, if it is better for the environment and it is cheaper, why is more of it not available?

Well, the answer is simply this. The oil companies do not make any money on ethanol. I am not here to say that the oil companies are evil, but right now they have a 98 percent market share, maybe a little less than 98 percent market share. They are not interested in giving away market share to ethanol, which is why I have introduced a bill called 10 By 10. And what it says, and I believe that success leaves clues, and what it says is that by 2010, 10 percent of our gasoline supply should be renewable energy. It is an idea whose time has come.

TEACHERS MAKE A DIFFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. ETHERIDGE) is recognized for 5 minutes.

Mr. ETHERIDGE. Mr. Speaker, this evening I come to the floor to remind my colleagues, just today we passed a tax bill that cuts taxes. In the next several weeks we will be back on this floor talking about the money for education. Unfortunately, we will be reducing our investment in education.

Tonight, though, I want to share with you a statement relating to our teachers. I was a great privilege on Saturday evening to speak to our State PTA in North Carolina; and they shared this story, and I want to share it with my colleagues because I think it ought to remind all of us what is important about the job we do, what is important here in America. Because too many times we get caught up in what people make and how much money they get, and today this Congress did just that. And let me share it with you.

Some dinner guests were sitting around the table discussing life. One man, a wealthy CEO, decided to explain the problem with education. He argued, What is a kid going to learn from someone who decided his best option in life was to become a teacher? He reminded the other dinner guests that it is true what they say about teachers. Those who can, do; those who cannot, teach.

To corroborate what he said, he turned to another guest. You are a teacher, Susan. Be honest. What do you make?

Susan, who had a reputation of being honest' and frank, replied, You want to know what I make? I make kids work harder than they ever thought they could. I can make a C-plus feel like a Congressional Medal of Honor winner. And I can make an A-minus feel like a slap in the face if the student did not do his or her best. I can make kids sit through 40 minutes of study hall in absolute silence. I can make parents tremble in fear when I call home.

You want to know what I make? I make kids wonder. I make them question. I make them criticize. I make them apologize and mean it. I make them write and I make them read, read, read. I make them spell definitely beautiful, definitely beautiful, definitely beautiful over and over and over again until they will never misspell either of those words again.

I make them show all their work in math and hide it all on their final drafts in English. I make them understand that if you have the brains, then follow your heart. And if someone ever tries to judge you by what you make, you pay them no attention.

You want to know what I make? I make a difference.

Mr. Speaker, God bless all those who go into the classroom every day and make a difference, not because they are paid, but because they care about the future of this great country.

CLIMATE CHANGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. GILCHREST) is recognized for 5 minutes.

Mr. GILCHREST. Mr. Speaker, I would like to talk for 5 minutes on this issue known as climate change. Are humans affecting the climate or is it the natural influence of natural variabilities?

Mr. Speaker, if people will look back into their middle school and high school years, they will remember their silence class, their geography class, maybe their geology class, and they learned that the planet Earth over millions of years varied in its climate. Sometimes we had very warm periods and sometimes we had very cold periods. Sometimes the tropics were as far north as Canada and sometimes ice ages covered much of North America. But the point is, what do we remember about the details and the facts on how they occurred?

I think maybe Jay Leno should ask that question in a "Jay Walking" exercise, "What do you know about climate change?" Well, in past eons of times, tens of thousands of years ago, millions of years ago there were very few human beings on the planet and those human beings were not burning fossil fuel.

Today we have six billion people on planet Earth and many of those people are burning coal, natural gas, oil, gasoline. They are burning for their energy sources fossil fuel. And the fossil fuel that we are burning in the modern era of time is putting more greenhouse gasses into the atmosphere in decades than the natural variabilities of planet Earth locked up over millions of years.

Why is fossil fuel important when we are looking at the issue of climate change or global warming? When you burn fossil fuel it puts into the atmosphere a gas known as CO or carbon dioxide. Carbon dioxide is the chief element, the chief gas, in the atmosphere that controls climate, that controls the heat balance. We call this the "greenhouse effect." Sunlight comes in, but because of COG, some of it cannot be radiated out so we have had a pretty good of balance of climate on the planet, at least for the last few thousand years.

Now, how much COG is in the atmosphere that has this huge effect on the climate?

□ 2015

Less than 1 percent of the atmosphere is made up of carbon dioxide. Way less than 1 percent of the atmosphere is made up of carbon dioxide, but it has a huge effect. So you can see that any variability in carbon dioxide will have quite severe consequences on the planet.

How much CO_2 was in the atmosphere 10,000 years ago, at the very edge of the end of that Ice Age? Ten thousand years ago, there were 180 parts per million of carbon dioxide in the atmosphere. Thousands of years later, with a warming trend, a natural warming trend on the planet, almost 10,000 years later, it was 280 parts per million.

Two hundred years ago on the planet, during the early American days, there were 80 parts per million CO_2 in the atmosphere. One hundred years ago, that increased by a small fraction; 100 years ago, there were 290 parts per million of CO_2 in the atmosphere. Now, this sounds like a lot of calculations and a lot of numbers. 100 years ago, 290 parts per million, heat balanced because of CO_2. One hundred years later, now, we are talking about 100 percentage points, 100 parts per million difference over 10,000 years.

What happened in the last 100 years? We are at 380 parts per million in the last 100 years. What normally would take 10,000 years to happen in a natural variation, variability, fluctuation, we did in 100 years. The estimate will be, by the year 2050, we are likely to be over 500 parts per million. That means we have had more of a dramatic increase in CO_2 that controls the climate in 100 years than happened 5 million years ago.

The Earth is warming because of the increase in CO_2 because of the burning of fossil fuel. The hottest years on record have happened since the 1980s. The major institutions of science in the United States have concluded that the matter of climate change is settled. Human activity is having an influence on the planet.

ASIAN PACIFIC AMERICAN HERITAGE MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) is recognized for 5 minutes.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I am here today to join my colleagues and the Nation in recognizing May as Asian Pacific American Month, a time to celebrate the numerous contributions that Asian Americans and Pacific Islanders have made to American life.

But first, I would like to recognize and congratulate my colleague, the gentleman from California (Mr. HONDA). As the Chair of the Congressional Asian Pacific American Caucus, Congressman HONDA has worked tirelessly to highlight the contributions of the Asian Pacific American community.

Congressman HONDA's leadership emphasizes the importance of diversity, cultural education, and awareness of the many beautiful cultures and heritages that are woven into the fabric of our country.

Thank you, Congressman HONDA, for your dedication and your passion.

May was chosen to commemorate the immigration of the first Japanese to the United States on May 7, 1843, and to mark the anniversary of the completion of the transcontinental railroad on May 10, 1869. The majority of the workers who laid the tracks were Chinese immigrants.

Asian Pacific American Heritage Month is celebrated with community festivals, government-sponsored activities, and educational activities for students. Currently, 15 million Asian Pacific Americans live in the United States.

With more than 25 Asian and Pacific Islander groups with different languages and unique histories, including Taiwanese, Vietnamese, Chinese, Filipinos, Indian, Pakistani, Korean, Japanese, and Bangladeshi, Asian Pacific American Heritage Month highlights the diversity that makes up our great Nation.

As an American Jew, I am proud to say that Asians and Jews have a unique and celebrated history of partnership and community. Asian Americans have developed many thriving communities in California and New York City, for example, where there are also a large number of Jewish communities.

Our cultural similarities and major emphasis on family and education present a variety of opportunities for cooperation between the communities, including community organizing, mutual support and political advocacy.

Asian Americans have impacted our Nation in several distinct ways: in science and technology; arts and media; and business and social work.

Approximately 1.1 million Asian Americans and Pacific Islanders own small businesses in the United States. Additionally, Asian Pacific Americans have served bravely in the United States Armed Forces, and more than 300,000 Asian Americans and Pacific Islanders are veterans.

The theme for this year's Asian Pacific American Heritage Month is "Dreams and Challenges of Asian Pacific Americans." Throughout the month of May, this theme serves as a reminder that while this community has made several strides, many Asian and Pacific Americans face economic and societal challenges.

Affordable health care and education are among those challenges that all Americans, including Asian Pacific Americans, face. It is estimated that more than 2 million Asian Americans and Pacific Islanders currently have no health insurance, a figure that is far too large.

We must focus on policies that will provide all Americans the opportunity to prosper in our great country.

Throughout the month of May, Mr. Speaker, I ask all Americans to join me in raising awareness of this growing community as we celebrate together Asian Pacific American Heritage Month.

30 SOMETHING WORKING GROUP

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEK of Florida. Mr. Speaker, it is an honor to come before the House once again.

I would like to thank my colleagues, DEBBIE WASSERMAN SCHULTZ, and also my good friends from the great State of Massachusetts, Mr. BILL DELAHUNT. I am so glad Mr. DELAHUNT is here.

We were talking earlier. I had to chuckle there for a minute because Mr. DELAHUNT always takes the opportunity and the privilege to share with us the printed word, and it is good to have him here. Mr. RYAN will be joining us a little later, Mr. Speaker.

If I could just take a moment here, Mr. Speaker, to let the Members know that the great debate took place here on this floor, a number of amendments were proposed, to make sure that we pass a budget that is just and fair for every American. But I must bring to the Members' attention, because I think Members do not realize what is happening, or if they do realize what is happening, I want to make sure that it is in the RECORD that they know.

We talk about debt a lot in our 30 Something Working Group, and talking about debt and doing something about debt are two different things.

The Republican majority continues to spend in a record-breaking way that is bankrupting this country and changing the philosophy of this country, which is pay-as-you-go.

Democrats, we are the only party in this House that can say that we balanced the budget. We have actually done it. We have actually had surpluses as far as the eye can see.

Republicans can only talk about, well, we would like to cut it in half and we would like to cut it back a quarter or what have you; but I just want to make sure that folks understand that there was an article written on Tuesday of this week entitled, Another Possible Bump to the Debt Ceiling, $2.7 trillion budget plan pending before the House would raise the Federal debt ceiling by nearly 10 trillion less than 2 months after the Congress last raised the Federal debt borrowing limit. The provision is buried on page 121 of a 151-page blueprint. It serves as the backdrop for congressional action this week.

I think it is important, Mr. Speaker, and I usually have my letters here from the Secretary of the Treasury, but I think it is important that the American people and the Members of this House understand that what they are doing to this country, record-breaking debt.

I just want to make sure before we start off, and then I am going to be kind of quiet here tonight because I know that we have a lot to share. It is almost too much to share, Mr. Speaker, but I just want to share this with the Members one more time.

We are talking about who are we borrowing from. We are borrowing from Japan at $682.8 billion; China, $249.8 billion; the UK, $223.2 billion; the Caribbean, $115.3 billion; Taiwan, $71.3 billion; OPEC nations, including Saudi Arabia and a number of nations that we have issues with, $67.8 billion; Germany, $65.7 billion; Korea, $66.5 billion; Canada, $53.8 billion and climbing.

If we do not stop this Republican majority from continuing to raise this debt ceiling and burying it within the Federal budget on what they believe their Members have to vote for, and this budget vote has been postponed and postponed and postponed, not because, Mr. Speaker, the Republican majority did not have time to deal with it; they just did not want to do to their constituents what the majority wants them to do.

As long as we are here and we have breath in our bodies, we are going to share with the Members of this House that we will not allow this to be a "back room with the lights off in the middle of the night" proposition for the American people that they do not have any choices in, but the special interests do.

I just in closing, again, history making, this is not the KENDRICK MEEK report, DEBBIE WASSERMAN SCHULTZ, BILL DELAHUNT or TIM RYAN report. This is facts, not fiction. The U.S. Department of the Treasury backs this up: $1.01 trillion borrowed in 224 years, since 1776 to the year 2000, versus $1.05 trillion that was borrowed from 2001 to 2005 and counting from the President and the Republican majority Congress.

We are saying that we want to pay as we go. We are saying that we want to make sure that we are fiscally responsible. And we are saying that we are not going to allow the Republican majority to be able to have these countries look at America in a different way than they were prior to this administration and prior to this Republican Congress.

Mr. Speaker, I yield to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Speaker, thank you.

It is so great to be here with my 30 Something colleagues once again; and just to take off from where you left off, we try to help illuminate things during our hours and underscore for the American people, Mr. Speaker, what is really going on inside this Chamber and inside this Capitol and the debt, the colossal debt, that we are literally caving in under.

Mr. DELAHUNT. Just like that.

Ms. WASSERMAN SCHULTZ. Just like our poster here, the colossal debt that we are caving in under that Mr. MEEK just described.

Sometimes it is hard to get your arms around, or mind around, what 1 billion is. One billion is a very big number. So we took the time to analyze or break down for folks the things that are analogous to 1 billion, and let me just walk people through that, Mr. Speaker, and this might be helpful for you, Mr. Speaker, as well.

The question is, how much is $1 billion really. Well, for example, 1 billion hours ago, humans were making their first tools in the Stone Age. One billion seconds ago, it was 1975 and the last American troops had pulled out of Vietnam.

Gee, I guess we sort of wish we were 20 years in the future and we could be saying that about the troops in Iraq, but I digress.

One billion minutes ago, it was 104 A.D. and the Chinese had first invented paper, and $1 billion ago in Republican terms, Mr. Speaker, that was only 3 hours and 32 minutes at the rate that our government spends money.

So when you talk about people who live paycheck to paycheck, people who are struggling to make ends meet, people who are desperately trying to not live off of their credit cards, it does not appear to matter to the Republican leadership here, Mr. Speaker.

☐ 2030

My colleagues, it really is astonishing to me. I have only been here 14 months. Both of you are more senior than me, but I am really surprised that some people actually believe what the Republican leadership says when they say they are the party of less government and more fiscal responsibility. Is an $8 trillion debt fiscally responsible? Is being in debt to OPEC responsible? I mean, where is the fiscal responsibility in that?

Mr. DELAHUNT. Mr. Speaker, if I can, I ran across a column in one of the publications that circulates throughout here on Capitol Hill. It was actually in the Roll Call newspaper. It was this past Monday when it was published.

The headline is entitled, "GOP Banking on Economy."

You know, it is no secret that a growing majority of the American people believe that the country is headed in the wrong direction. The last poll that I saw just recently exceeded 70 percent of the American people believe that the country is going in the wrong direction. I happen to share that particular view.

It seems to perplex some of our friends and colleagues on the Republican side of the aisle that while the economy in terms of macro statistics is growing, that they are receiving no political benefit. I noted that the House majority whip from Missouri, who happens to be a friend of mine and someone for whom I have great respect, had this to say, "I spend a lot of time wondering about this myself. Why is it that with this incredibly strong economy people do not embrace the economy with the same kind of confidence that everything indicates that they should." That is what the House majority whip ROY BLUNT said in an interviewed taped by C-SPAN this past weekend.

Let me offer my own explanation.

It is because the benefit of the booming economy is extremely limited. The vast majority of Americans are not benefiting from the economic growth that is occurring in our country. I think that is reflected in what happened here today in terms of the debate about the new tax cuts that are being proposed, Mr. Speaker, by our Republican colleagues and friends.

Let me just cite some interesting statistics. If you earn between $20,000 and $30,000, the benefit that you will receive from the tax cut that applies to dividends and capital gains amounts to $9 on the average. So as a result of today's work by this Bush Congress, if you earn between $20,000 and $30,000 you received a tax break of $9.

If you earn between $50,000 and $75,000, you got a tax break of $110. But, Mr. Speaker, if you earned more than $1 million, you get a check from Uncle Sam as a tax refund of $42,000. Let us just reflect on that for a moment. Who is benefiting from the policies of the Bush administration and the Bush administration Congress? Let me put this in other words, in different terms.

If you took what happened here today, what this Congress did today, 77 percent of American families, families now, had their taxes reduced by $30. That is 77 percent of American families had their tax bill reduced by $30 at the same time, Mr. RYAN, Mr. MEEK, Mr. Speaker, 0.02 percent of American families got a tax break of $42,000.

So what is happening? What we are doing is we are creating an America that is beginning to look like a banana republic. It would appear that those that have and really have, not just have a lot but have a stupendous amount of wealth, are receiving a totally disproportionate share of the prosperity that the country seems to be enjoying. But 77 percent are getting $30.

And to stop and think today, that tax cut, Mr. Speaker, amounted to $70 billion. And you know what, Mr. Speaker, to give that 0.02 percent $42,000, we are going to borrow, we are going to borrow that $70 billion and we are going to borrow it from China, from OPEC, from Japan, from Korea, and from Canada.

We are going to borrow, and you know what, Mr. Speaker? We are going to add to that deficit, and that is why people who are Republicans and conservative Republicans, like our former colleague Pat Toomey, who is the President of the Club for Growth, is saying things like this in the Philadelphia Inquirer, "There is a very high level of frustration and disappointment among rank-and-file Republicans when they see a Republican-controlled Congress engaging in an obscene level of wasteful spending, and it is really coming home to roost."

Mr. MEEK of Florida. He says more, right?

Mr. DELAHUNT. Yes. That is not all he said, Mr. Speaker.

Again, this is Mr. Toomey, President of Club for Growth, a conservative advocacy group, who served in this Congress, Mr. Speaker, and this is what he is saying about the Republican Congress: "Republicans have abandoned the principles of limited government and fiscal discipline that historically have united Republicans and energized the Republican base. Too many Republicans have gotten too comfortable in office."

That is what Pat Toomey, a former colleague, a member of this Congress a short time ago, is now saying about the Bush Congress.

Mr. RYAN of Ohio. Mr. Speaker, I agree with the gentleman and I agree with former Congressman Toomey. As you made the point about the wealthiest, the millionaires getting $42,000 back and the missed priorities and the schoolteacher in Ohio who is making $35,000 or $40,000 and getting just a few dollars back, we are not saying that the wealthy person does not make a certain contribution to society because they do. Make profits and make money, we want you to. But there is just as much value to our society by the teacher.

Mr. DELAHUNT. We are saying let us be fair. Fairness here.

Mr. RYAN of Ohio. And who actually needs the tax cut is that person who is a home health care aide, driving around, and the gas prices are high and everything else.

Mr. DELAHUNT talked about borrowing the money to do this and who we are borrowing it from. This is from 2001 to 2005, of the $1.18 trillion in debt that the Bush presidency, the Bush House and Bush Senate racked up, $1.16 trillion of the $1.18 trillion came from foreign nations. We are not even borrowing the money from National Citibank or some bank in our own country, we are borrowing this money from the Chinese government or the Japanese government. That at the end of the day makes us weak.

I want to show one more chart here. This is the public debt held by China. It has quadrupled under Bush. It was $62 billion in 2000, and it is $257 billion in 2005.

Mr. DELAHUNT. Mr. Speaker, if the gentleman would yield, I asked this today in a hearing in the International Relations Committee of Secretary Zoellick, and he indicated that now the debt is $262 billion that is owed by the United States Government to the Chinese.

Mr. RYAN of Ohio. And so if you are sitting in a community in Ohio or in the industrial Midwest or in New England or somewhere across this country where the jobs you have are being lost to China, and then you know that your government at the same time is borrowing money from China, and the Chinese government is using that money to undermine American business in the United States of America and we continue to borrow it, and that is just in the past year or so, another $5 billion has been borrowed from the Chinese. This is going on again and again.

The reason I bring this up is today we expanded this. We increased this even more. The $42,000 that we are going to give a millionaire, we do not have it.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I think we are going to need to do these charts on dry erase boards from now on because it changes so rapidly and in the wrong direction that we are wasting public resources by printing them on unchangeable paper.

Mr. RYAN of Ohio. Right. The money we pay in interest every year, $230 billion a year, we pay in interest on the debt. That is interest on the debt. Compared to education and homeland security and veterans, this is the number we are paying on interest. This is reckless spending. This is a Congress that has run away with the checkbook. They are taking the country off a cliff financially without any regard for what this is costing future generations.

This group started to talk about optimism and what the future was going to look like.

Mr. MEEK of Florida. Mr. Speaker, I cannot help but take this rubber stamp out. How did we get to where we are right now? It is not because of good policy making. It was not good policy making. It was because the Republican Congress, Mr. Speaker, has said, Mr. President, whatever you want, regardless of how bad it may make our fiscal situation in this country, we are willing to endorse it.

□ 2045

Today, in the Washington Post, folks want to talk about, if they think Mr.

DELAHUNT just came up with these numbers, go on to Washingtonpost.com and they are right here, as it relates to what you will get if this budget passes the way the Republican administration wants it to pass.

And I think it is important that people realize that it is not the people that you send here to Washington, D.C., to represent you; it is the White House. Still, the Republican Congress is saying, even at low approval ratings, Mr. President, we are with you all the way. Whatever you want, we are willing to rubber-stamp it and we are willing to follow your lead, even if it is in the wrong direction, even if gas prices are higher now, even if we are borrowing record breaking, we are making history in borrowing $1.05 trillion and counting from foreign nations, that is okay.

Even if it comes down to us defending a special oil deal, and then we had it turn around on you, but even at the beginning, allowing it to happen, we are with you all the way, Mr. President, whatever you say, we are going to rubber-stamp it.

So I think it is important, when you think of this Republican majority, Mr. Speaker, and I think when a number of our Members look in the mirror, especially on the other side of the aisle, a rubber stamp has to be somewhere in the background because that is what has happened, and that is what has got us in the situation that we are in now, and the American people see it, crystal clear.

This is not a Democratic issue. I am going to yield to you in one second. This is not a Democratic issue. You can't blame the Democrats on what the present situation is.

Mr. Speaker, I always say that bipartisanship is based on the leadership of the institution. The leadership of the institution has not allowed bipartisanship in policy-making, in the financial situation, or even making sure that we just work in harmony here on the major issues.

That has not happened, and that is the reason why, Mr. DELAHUNT, Mr. RYAN, and Ms. WASSERMAN SCHULTZ, the American people are hanging the failures of fiscal responsibility around the neck of the Republican majority and the White House, because they are in the same boat and they are rubber-stamping one another as they carry this country into further debt.

I yield.

Ms. WASSERMAN SCHULTZ. You know, Mr. MEEK, I can understand why you would have trouble seeing past that giant rubber stamp. That is simply because this Chamber, through the Republican caucus and their Republican leadership, have been engulfed by the rubber stamp.

You know, had our bobble-head Republican not turned up missing, we would be able to use that as yet another example of why you continually have these policies that are put forward by the Republican leadership, as rubber-stamped by the Republican majority, because their heads only move in one direction. I guess there is no hinge in this direction, only, yes, absolutely, we are glad to do whatever you say, anything you want, Mr. Speaker.

I mean, it is just unbelievable. Fourteen months here and, "No, sorry, my conscience won't allow me to do that" is just not part of their vocabulary. And like I said, the joints just don't seem to work in this direction as they do for the Democrats.

Now, you know, what makes matters worse about all of the things that we have been talking about, about the debt and the deficit and the bobble-head, rubber-stamp Republican majority that we have here, is that there are consequences. This stuff matters. It matters in real people's lives.

And what the Republican leadership would have you believe, especially in recent days, their new thing now is that the economy is doing great. Now, obviously they are now trying to shift to a new frame and help everybody understand that in spite of an $8 trillion deficit, in spite of the colossal debt that we are in to foreign countries across this globe, in spite of the fact that we have disproportionate trade deficits with many, many countries, Americans are doing great.

Really? Really?

Okay, well, let's examine that. I have here what the consequences actually are. We came up with a top ten list that describes the consequences of Republican economic policies. Since they raised the subject, they have brought it up recently and said, everything is rosy, red rosy, and so let's just take a walk down memory lane here in terms of what is really going on in the United States of America.

Number 10. I am Danielle Letterman this evening. Number 10, we have a projected surplus of $5.6 trillion that has vanished. It was replaced by a deficit in 2004 of $413 billion, which is the largest in our Nation's history, and a deficit of $318 billion in 2005, an almost $3.5 trillion deficit over the next 10 years.

Number 9. The Bush administration is the administration with the greatest average annual decline in household income. We are talking real people here. Since Bush took office, household income has declined by $1,670.

Mr. RYAN of Ohio. Just to make a point. We heard a lot today, and I know I heard on the floor today a lot about how, as you said, the economy was doing great and how incomes were up. I think we have some facts that say otherwise.

Ms. WASSERMAN SCHULTZ. We are talking third-party validators here. This is not stuff we are making up. This is not the Debbie Wasserman Schultz encyclopedia.

Mr. DELAHUNT. I think it is very important. I think that Number 9 explains the reason why the majority whip is perplexed, because what is clear to me is that the economy, if you were a student of economics and took a look at the macro view and saw growth, why the people aren't responding appropriately.

The reality is that the economy, Mr. Speaker, is superb. It is outstanding. It is phenomenal, if you are in the top 1 percent of the American population, Mr. Speaker.

Mr. RYAN of Ohio. And I would suggest that the President's approval rating wouldn't be at 31 or 32 percent if the economy was going great.

Ms. WASSERMAN SCHULTZ. If people thought everything was as rosy as they would describe.

Mr. RYAN of Ohio. Exactly.

I yield for Number 8.

Ms. WASSERMAN SCHULTZ. Number 8, 45.8 million Americans have no health insurance at all, 6 million more than in 2000.

Now, if things were getting better, that number would be, oh, I don't know, smaller, Mr. Speaker, not bigger, smaller. And you have, since then the cost of health insurance has risen nearly 59 percent. Yet workers' wages have only increased by 12 percent.

Now, we all do different things in our lives every day. We go to the supermarket. I am out on the soccer field or at dance class or on airplanes back and forth.

I am sitting next to a couple, a middle-aged couple, on the plane the other day from Tennessee. Not exactly a bastion of liberalism. They are from Tennessee. And do you know what they wanted to talk to me about when they found out I was a Member of Congress? What were we going to do about the cost of health care?

They owned a small business. They employed quite a number, 75 people. They employed 75 people and he literally said, the husband, the husband and wife team literally told me that within the next couple of years, if health care costs continue to go in this direction as they have since 2000, they would probably have to close their business. I mean, that is how bad it was getting.

So the garbage that the Republican leadership and this administration are trying to feed the American people, you know, that 31 percent, that number, I would expect would continue.

Mr. RYAN of Ohio. And it is a tough argument to make to say, when someone's struggling to say, no, no, you are really doing okay. Wait, no I am not. I have got to tell you it is kind of hard right now. No, I am telling you, you are really doing fine.

Mr. DELAHUNT. The economy grew.

Mr. RYAN of Ohio. I realize you are racking up credit card debt. I realize you can't afford to put gas in your tank.

Mr. DELAHUNT. And by the way, Mr. RYAN, it was interesting tonight on

ABC News, for the 16th straight meeting of the Federal Reserve, interest rates were raised.

You know what that means, Mr. Speaker? That means that if you have an adjustable rate mortgage on your home, you are paying more money. You are paying more than that $30 that this Republican Congress refunded to 77 percent of American families today. You are paying a lot more. And the reason is that because of the reckless spending that Pat Toomey refers to here, because of the reckless spending, you are jacking up interest rates, Mr. Speaker.

The majority party in this House, in this Senate, is complicit with the White House in terms of hidden costs like mortgage interest, like credit card interest. A while back it was 11 percent on your credit card. You know what it is today, Mr. Speaker? Today, the average interest rate on your credit card, it is 16 percent. You think that is a savings for the American people? You wonder what's wrong.

And Ms. WASSERMAN SCHULTZ tells us that the median income for a family in this country has actually declined. And you think the economy is good?

Ms. WASSERMAN SCHULTZ. Mr. DELAHUNT, I guess they follow the philosophy and the idea that if you say it enough times, people will believe it. Maybe if you say it enough times, actually our governor, it must be in the genes, also subscribes to that theory in Florida, and really believes that if you say something enough times, then it will come true.

Mr. MEEK of Florida. Number 7?

Ms. WASSERMAN SCHULTZ. Yes, Number 7. Thirty-seven million Americans are living in poverty. We have a 12.7 percent poverty rate, which is on the rise, and 5.4 million people have fallen into poverty since the beginning of the Bush administration, 5.4 million people.

You know, if they are going to talk about who is doing better, it is the wealthiest that are doing better. Their income is on the rise. Their life is getting better. Their lives are improving and their outlook is more rosy. The poor are getting poorer.

Number 6.

Mr. DELAHUNT. Ms. WASSERMAN SCHULTZ, please just don't say it is the poor. It is not the poor. It is the middle class.

Ms. WASSERMAN SCHULTZ. You are right.

Mr. DELAHUNT. It is even the relatively affluent. They are not doing anywhere near as well as the top 1 percent.

Ms. WASSERMAN SCHULTZ. Mr. DELAHUNT, when I have to pay $56 to fill up the gas tank in my minivan, believe me, you are right. It is not just the poor.

Mr. DELAHUNT. It is hurting the middle class.

Mr. RYAN of Ohio. And I would like to make a comment here, because that is, and I think that is the epitome of what this outfit is all about. It is always that, well, there is going to be a certain segment of our society that is poor. And you know what, it is tough to be in the middle class. And you know what, we can't come up with an alternative energy source. You know, well, conservation is a good personal virtue, but it is not a good, you know, public policy.

You know, this is not leadership. We should be trying to fix these problems, not just say, okay, we accept them. We accept 5.4 million people going into poverty in the last 5 years under the Bush administration. And when you look at who, you know, what? Mr. MEEK, I want you to look at this. This picture epitomizes, Mr. DELAHUNT, because the President is holding the hand of one of the most powerful Saudi leaders in the world.

Mr. MEEK of Florida. The Saudi king.

Mr. RYAN of Ohio. The king. And I want this President to come hold the hand of somebody in my district. Go hold the hand of one of the 5.4 million people that just slipped into poverty.

This man doesn't need his hand held. But we have got a lot of people in the country that need a little help, and not a handout, a hand up, an opportunity to succeed.

I yield for Number 6.

Mr. MEEK of Florida. Mr. RYAN, Ms. WASSERMAN SCHULTZ, it takes $53 to fill up an F-10 pickup truck. I mean, we have folks that are doing this on the credit card, Mr. Speaker, and guess what, after a couple of months of that, $50-some-odd, some folks' average balance that they have is $1,200 on a credit card. Soon they are not going to be able to do that, and they are going to be in the same situation this country is in, in debt.

Mr. DELAHUNT. And they are paying 16 percent on that credit card bill.

Mr. RYAN of Ohio. And not be able to go on a hunting trip, not be able to go on a fishing trip, not be able to go on some kind of family vacation.

Ms. WASSERMAN SCHULTZ. Not be able to get to work. How do people who are living paycheck to paycheck factor in $53, $56 into their weekly budget? And we have shown those charts, before too, and we can again. When your bottom line gas tank, filling-the-gas-tank cost goes from $20-something to $50-something every time you fill up, and people who have to drive any distance, I mean, we are from an urban community, a suburban community, as are both of you.

□ 2100

You just cannot zip around these communities in 2 seconds. You have to drive to get to most places. We are going to get to a point where people will lose their jobs because they will not be able to get to their jobs.

Mr. RYAN, let us just digress for a second and show what is going on.

Mr. RYAN of Ohio. I think this is very important when you ask why people are slipping into poverty.

Ms. WASSERMAN SCHULTZ. These are the consequences.

Mr. RYAN of Ohio. This is exactly right. This is a consequence of some faulty leadership in the Nation's capital. Oil companies profits in 2002, $34 billion. This is BP, Shell, Chevron, the whole bit. It gradually went up, in 2005, $113 billion in profits.

Now, something is wrong with the structure of our society when the oil companies are reaping $113 billion in profits and we have 5.4 million people slipping into poverty. We have college tuition costs doubling all over the country, Mr. DELAHUNT. We have a structure here that is just not working for the people any more.

Mr. DELAHUNT. You forgot one thing, Mr. RYAN.

Mr. RYAN of Ohio. Is that in addition to the $113 billion in profit, and three times, triple what it was 4 years ago? The American taxpayers, those that would be overhearing our conversation tonight, are subsidizing those same oil companies to the tune of about $16.3 billion.

So let us be clear. Out of the 100, not only is this outfit here, these oil companies getting $113 billion, our friend is saying, corporate welfare from this Republican-led institution, gave these guys $16.3 billion of taxpayer money.

Mr. DELAHUNT. What do we get? Do you know what we get? We get a price of gasoline per gallon that cost $1.45 4 years ago. We now can buy it for $3.25. That is what we get.

Mr. MEEK of Florida. Mr. DELAHUNT, that is the reason why we know it made number 6 on this chart. We want to make sure that we know it went to number 5. I want to make sure we believe in third-party validators here.

I just pulled this out of my notebook here because I want to make sure while we are talking about this, Mr. Speaker, Washington Post, November 16, 2005, page 1. White House documents showed that executives from big oil companies met with Vice President DICK CHENEY, Energy Task Force 2001, something long suspected by environmentalists but denied recently as of November, 2005.

Last week, industry officials testified before Congress. The document obtained this week by the Washington Post shows that officials from Exxon Mobil Corporation, Conoco, before the merger with Phillips, Shell Oil Company, and BP of America met in a White House complex with Cheney aides who were developing a national energy policy, parts of which became law, and parts which are still being debated.

Ms. WASSERMAN SCHULTZ. There is no end in sight. No end in sight to the rising gas prices. What will happen with number 7, where we have a 12.7 percent poverty rate that is on the rise and 5.4 million more people who have fallen into poverty. That number is going to get bigger. It is costs like these that send people into poverty.

You have number 6 here that talks about the Consumer Confidence Board's index. Its expectation index is the lowest it has been in 3 years.

Number 5, Congressional Republicans defeated a Democratic amendment recently to increase the minimum wage from $5.15 to $7.25. If the minimum wage kept pace with inflation, it would be $8.88 right now. It hasn't been increased since 1997. That is 9 years ago. 9 years?

I mean, if you are a person who is living on the minimum wage, struggling to pay, to fill your gas tank, struggling to put food on the table, you have no health insurance, do you really want the Bush administration and the Republican leadership to tell you how great the economy is? Do you believe them?

Mr. RYAN of Ohio. That is an insult. The more I think about it, that is a real insult.

Ms. WASSERMAN SCHULTZ. It is a slap in the face, and, really, a bigger and bigger percentage of the population is being engulfed by the struggle just to make ends meet.

Let us go to number 4.

Mr. RYAN of Ohio. You know what, it would be nice to represent a district where the economy is going great, would it not? Yes, it is going great. Look around, everybody is having a nice time. That will be great. Fortunately, I think in most districts that is not the case.

Ms. WASSERMAN SCHULTZ. Maybe they live in an alternative universe, bizarre world.

Mr. RYAN of Ohio. Maybe this is a supernatural thing.

Ms. WASSERMAN SCHULTZ. I know, maybe they watch Star Trek.

Mr. RYAN of Ohio. Maybe it is supernatural. That is what we all know.

Ms. WASSERMAN SCHULTZ. Maybe it is.

Mr. DELAHUNT. I think this is fascinating, as you go through this litany of consequences of, you know, Bush, Republican, neoconservative economic policies.

I think what we see here, the cumulative effect in the aggregate of all of these policies is the erosion of the middle class in this country. Debbie, you are correct. More and more people are getting closer to falling into that poverty.

The middle class, if this reckless spending, policies that advantage only the extremely wealthy continue in this country, we won't have a middle class. We will look like some banana republic in Central America.

This is the reality that we face. I think we can all agree that without a healthy vibrant middle class our very democracy is at risk.

Mr. RYAN of Ohio. How about the common good?

Ms. WASSERMAN SCHULTZ. Oh, please.

Mr. RYAN of Ohio. How about the common good? How about the good of everybody where everybody contributes and everybody benefits. The common good. Rising tide lifts all boats, Mr. Delahunt. Everybody benefits from our economic policy, not this stuff.

How is this good for society? The guy in the pickup truck is paying $57 to fill up gas tanks and the oil companies are making $113 billion in profits, 5.4 million are following into poverty, tuition costs triple. Health care is up how many percent above the rate of increase in wages?

All of these things say that this Republican Congress and Republican administration is about a very small group of people. All we are making the argument more here is we are America. We are a family.

Where is the American family, Ms. Wasserman Schultz? Let us start worrying about all of us. Because if we lose a couple, it is bad for everybody.

I yield to my friend.

Ms. WASSERMAN SCHULTZ. Mr. Ryan, I think I have figured it out. You have broken the code. The Republicans are the party of the cavernous abyss. They don't mind sending people right off the cliff into it, whether it is expanding poverty, sinking job growth, increasing the number of uninsured by millions each year.

The party of the cavernous abyss is the party that created this Medicare prescription drug program with another cavernous abyss that senior citizens fall into just after they spend a little amount of money on their prescription drugs. So you have to ask where the American family is. They are engulfed by the Republican cavernous abyss.

Number 4, I think we are on now. Yes, number 4. There are now 1.3 million more unemployed private sector workers than there were in January of 2001, the beginning of the party of the cavernous abyss. The long-term unemployment rate, which is people who are unemployed for more than 26 weeks, has nearly doubled since that time.

This is the rosy economy that we are living in, Mr. Meek. This is how great we are doing.

Mr. DELAHUNT. But the economy is growing, Ms. Wasserman Schultz, the economy is growing.

Ms. WASSERMAN SCHULTZ. The economy is growing so well that we have number 3, in which the Bush administration, it has become clear, has the slowest job growth of any administration in over 70 years. Since January of 2001, 2.9 million manufacturing jobs have been lost. That is entire towns in Mr. Ryan's district.

Mr. DELAHUNT. But the economy is growing. But the economy has grown.

Ms. WASSERMAN SCHULTZ. Rosy, rosy. Things are rosy, rosy. Number 2, since President Bush took office the economy that is rosy, rosy has posted only 15 months of job gains of 150,000 or more. That is since he took office, that is in 6 years. That is the number of jobs needed to keep up with the population growth. So we are not talking about anything to write home to talk about.

Finally, number 1 of the top 10 worst consequences of Republican economic policies, 7.2 million Americans remain unemployed today with an additional 4.2 million who want a job, but are not counted among the unemployed because they have been looking so long they get taken off the rolls. The economy is rosy.

Mr. RYAN of Ohio. Let us do better.

Mr. DELAHUNT. But the economy is growing.

Mr. RYAN of Ohio. Let us do better. Let us implement some of these ideas that we have. Let us implement some of this innovation agenda where we are going to have broadband in every household, Mr. Delahunt. That will create a whole new class of people that will understand how to benefit from the Internet.

Let's have the research and development tax credit that the Democrats have in our innovation agenda. Let's make sure we get the real security going so we can make sure that we have the proper energy process, the proper energy plan for the United States of America.

Why is it still going to be energy independent and the United States of America still gambling in this game that we have in the Middle East? It's a big game that we are losing. Everybody is losing. It leads to the war on terrorism. It leads to these tremendous profits at the cost of average people, Mr. Delahunt. It is polluting the environment.

We have all kinds of problems because we refuse to say, we want to be a leader in alternative energies in the world. Brazil is doing it, why can't we? Why is there a magnetic levitation train in Shanghai that goes 270 miles an hour and not in the United States, Mr. Delahunt?

Quite frankly, I think this President and this Congress has given our generation, the 30-something generation, a pretty raw deal. You know, you think about it, we are going to have more debt. We are going to have a dirtier environment. We have got higher tuition costs. We have got more debt, higher credit card rates, higher interest rates, less control, because we borrowed so much money from all of these foreign countries. What legacy are you leaving to the next generation, which is what we originally started coming to this floor for?

It is terrible. That is poor leadership. I don't care if you are a Democrat or you are a Republican. That is poor leadership. You left the country worse off than you found it. That is not the American way. That is not the American dream. Give us a chance, Mr. Speaker. Put us in coach. I mean, God, we couldn't do any worse. We have ideas to unleash the potential of this country and move the country forward.

Mr. MEEK.

Mr. MEEK of Florida. I just have something to share, but I am willing to yield to my colleagues. Mr. DELAHUNT, I know that you had, you had your glasses out, I know that you wanted to share something with us.

Mr. DELAHUNT. I think just to underscore, Mr. Speaker, what we are talking about here tonight is the overall Republican economic policy that favors the top 1 percent of the American people.

Mr. RYAN of Ohio. It doesn't work.

Mr. DELAHUNT. I think we have made our case. Can I just give you one more statistic?

Mr. RYAN of Ohio. You can do whatever you want.

Mr. DELAHUNT. Back in 1991.

Mr. RYAN of Ohio. 1991?

Mr. DELAHUNT. Give me just a minute. Back in 1991, the top 1 percent of the American people, the population, top 1 percent, owned 38 percent of the corporate wealth in this country. One percent in 1991 owned 38 percent of the corporate wealth in this country.

□ 2115

Today, today, the top 1 percent of the American population in terms of wealth owns 58 percent of the corporate wealth.

Let me suggest it is more than just an economic policy that is creating this economic divide in this country that is truly making us a class society that is dangerous for democracy. It is more than that. It has, I would submit, no moral underpinning.

There is no basis in morality for this level of disparity of wealth and income among Americans. This is economic Darwinism. This is, as you said so eloquently, Mr. RYAN, not what America is about. This doesn't reflect the social compact that we all adhere to as Americans, where we encourage individual initiative, but at the same time, recognize mutual responsibilities and a willingness to share.

This is not sharing. This is just, I don't want to use the word "immoral," but it doesn't have, I would suggest, the kind of moral underpinning that reflects American values.

Mr. RYAN of Ohio. And I would like to make a point, because as the oil companies reap these profits, and again I am not saying for you not to make profits, but not at the expense of everyone else in society.

So I want to make this point: The oil companies benefit a great deal from the public, from what the taxpayers support, A, point number one, the $16.3 billion in corporate welfare that they are getting from the public tax dollars that is going to them. So they can't say they don't benefit from the public.

But their product is sold on roads that are funded by the taxpayer. Those roads are protected by the taxpayer, paved by the taxpayer, secured by the taxpayer. The ports in which the oil comes in and out of our country, all funded by the taxpayers. The Coast Guard, by the taxpayers. The military, the over $400 billion budget that we have here that we spend on our military that goes to protect the transportation lines and the oceans, and as the ships start distributing this all over the world, that is protected by the taxpayer.

So all we are arguing here, Mr. Speaker, is that the taxpayer has an interest; and when this company and this certain industry benefits so much from the public tax dollars, they should be responsive to the public in these instances.

I would be happy to yield to any one of you to wrap up this brilliant discussion. I am going to yield to Debbie.

Ms. WASSERMAN SCHULTZ. Thank you.

The only thing I want to add to tie a ribbon on this whole discussion is that what we have all noticed, whether we are in our districts with our constituents or talking to people across the country, when we interact with them, is that people have reached the breaking point. They don't buy it. They don't buy the garbage that is being fed to them by this administration that the economy is rosy, that everything is going well, that everything is hunky-dory.

They are falling off the cliff into the Republican cavernous abyss, and they are tired of it, and they want to have the Democrats or someone other than the people who are taking them in this direction that they no longer are willing to go, to fix it. Even their former House Speaker Newt Gingrich said that they are seen by the country as being in charge of a government that can't function.

Mr. DELAHUNT. Newt Gingrich, former Republican Speaker of this House.

Ms. WASSERMAN SCHULTZ. It is time to move this country in a new direction and restore America's confidence in their government. We know we have a plan that we can do that.

Mr. RYAN of Ohio. Mr. Speaker, as we go through this tonight, the 30 Something's two key third-party validators are the former Speaker of the House Newt Gingrich and former Congressman Pat Toomey, now president of the Club for Growth, both saying that there is out-of-control spending, out-of-control government, dysfunctional, and the American people know that.

Any Members who would like to come to our Web site, www.housedemocrats.gov/30Something, www.housedemocrats.gov/30Something.

Mr. MEEK of Florida. Also, Mr. RYAN, I want to share with the Members, Mr. Speaker, that all of the charts tonight will be on that Web site, on the 30 Something front page.

Also, I would like to share with the Members that Ranking Member GEORGE MILLER and also U.S. Senator DICK DURBIN put forth a proposal to reverse the raid on student loans. Earlier this year, as you know, $12 billion was cut out of the Federal student loan program in order to help finance tax breaks for the wealthiest Americans.

This proposal will roll that back and cut in half interest rates from 6.8 percent to 3.4 percent. And it has to be done sooner rather than later. If not, it will be a financial burden after July 1 for so many kids that want to go to college. They will actually qualify, but kids will be priced out and not be able to make it to college.

Of course, this wouldn't be a discussion if the Democrats were in control, but we hope that we can work in a bipartisan way to change that.

Mr. Speaker, I would like to thank all of my colleagues who joined us here tonight on the floor and thank the Democratic leadership for the hour.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair has shown lenience toward the rather informal pattern by which Members have been claiming and yielding and reclaiming the time controlled by the gentleman from Florida. But Members should bear in mind that the Official Reports of Debate cannot be expected to transcribe two Members simultaneously.

Members should not participate in debate by interjection and should not expect to have the reporter transcribe remarks that are uttered when not properly under recognition.

THE CONTINUED MISDIRECTION OF THE COUNTRY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Missouri (Mr. CARNAHAN) is recognized for 60 minutes.

Mr. CARNAHAN. Mr. Speaker, I am glad to be here in the House tonight and be joined by some of our colleagues in the freshman Democratic class that was elected in 2004.

I believe my colleague, Congresswoman DEBBIE WASSERMAN SCHULTZ from Florida, is going to stay on and talk with us a little bit tonight, and we expect to be joined by some other of our colleagues to talk about the continued direction of our country and, in particular, this budget and tax plan that has been put before this Congress by President Bush and congressional Republicans.

I really want to rise and express my deep, deep concern about this budget. The cuts in programs across the board, no other word can be given, but they are staggering. This budget does not provide for the average American. It continues to line the pockets of the wealthiest Americans.

Like so many of the President's priorities, this budget is a misplaced opportunity to actually effect positive change for our citizens. I would like to draw particular attention to the energy provisions in this budget.

Last week, the AP reported that the average cost of a gallon of regular, unleaded gasoline was $2.92, up 35 cents from just a month ago. Moreover, U.S. drivers are now paying about 14 percent more to fill their tanks than just 1 year ago. Recent polls show that over 65 percent of Americans are suffering from financial hardship due to rising gas prices. But we don't need a poll to tell us that when we fill our tanks.

DEBBIE, you told us earlier, like many of us, we go to fill up our tank of gas, and it is nothing to pay $50 or more to fill our tank of gas, just to do our routine chores and drive around town where we live.

Ms. WASSERMAN SCHULTZ. And the astronomical increase we have had in gas prices, which affects everyday Americans every single day, has just been unbelievable.

Actually, Mr. CARNAHAN, we have a chart that illustrates those drastic increases, that is being brought over right now, that I think would be helpful; because I am a visual person, and graphically depicting some of these significant problems is really helpful.

Mr. CARNAHAN. I have to add, by the way, you have great graphs.

Ms. WASSERMAN SCHULTZ. Thank you.

Mr. CARNAHAN. And I loved your top ten.

Ms. WASSERMAN SCHULTZ. We have good graph-makers among our staff.

You talk about summer gas prices. Just look at the difference over the years since the Republicans have been in charge.

In 2002, Mr. CARNAHAN, the average price of a gallon of gas was $1.39; that was the summer of 2002. Then you go to the summer of 2003, it was $1.57. 2004, $1.90. Move over to the summer of just last year, $2.37. And then this April, just last month, we hit $2.91. Now, most of us in the last several weeks have all paid over $3 in most communities across America.

So this is the reality of the rosy Republican economy that they have been describing and painting for us over the last several days.

Mr. CARNAHAN. It certainly is. And we have all had the stark awakening as we fill our tanks each week.

I am reminded, as you were talking about President Bush, in his State of the Union Address in this very Chamber, he told the Nation that our country was addicted to oil. He also said that this administration was committed to reducing our dependence on foreign oil. But then the very next day, the President's own Energy Secretary was back-pedaling on the President's promises.

The President's solution in his budget was to end our dependence on foreign oil with just paltry, really crumbs, from our budget. Our budget is a document that sets our national priorities, and a mere $130 million was set aside for all, for all renewable energy programs.

Not only is this increase in renewable energy programs insufficient, the President proposed to eliminate research on other renewables, including geothermal and hydropower.

As reported in the Atlanta Journal Constitution in February, the total proposed increase in clean energy research is equal to just 7 percent of ExxonMobil's profit for the fourth quarter of 2005. So while big oil companies are recording record profits, the Bush administration is showing limited increases in funding for renewable energy. In fact, his budget would not get renewable energy efficiency back even to where it was at the end of the Clinton administration, this at a time when gas prices are squeezing the American families.

President Bush's budget should reflect the needs of all Americans. It should be a budget that supports programs to end independence from oil and not one that encourages it. The energy provisions in this budget do not meet the needs of our country, and this budget should be defeated.

I am pleased to be joined here tonight by my good friend and colleague and fellow Missourian, EMANUEL CLEAVER.

Mr. CLEAVER. It is good to be here. We were sworn in together to this Congress, and I have often been asked, what has surprised you the most?

In fact, today, a group of students from the Bloch School of Business at the University of Missouri in Kansas City was here, the Bloch School named after Henry Bloch, the founder H&R Block, who is a Kansas Citian; and the question they asked was, what has surprised you the most?

Having served as mayor of Kansas City for two terms, I have seen a lot in the political environment. So they were obviously wanting me to describe what I saw here as opposed to and what was different from what I saw as mayor.

The number one issue I always report is the incivility. I don't think any of us who were sworn into the 109th Congress expected the incivility to be at the level that we have witnessed.

I have gone to some of the long-time Members of Congress from the Democrat side and asked, for example, when we were in the majority, did we do mean-spirited things? Did we leave the vote open for 3 hours? Did we lock the door to keep people out from the other side?

□ 2130

And they said, we did shamefully some things. We never left the vote open for 3 hours. We never locked out people from a markup. And I cannot tell you how upset I became to find out last year, that just before Christmas, many of us sat here all night for a vote on the defense bill, and the American public probably does not know that there is not a single human being on planet Earth who read the bill, because the bill actually was a compilation from a number of committees. And so while there may have been one group familiar with one part of the budget, there was nobody, no group familiar with the entire budget. And I sat on the front row, and I actually fell asleep about 6 a.m. and I got up and I said, I am not going to vote for this.

And then a number of my colleagues came over and said, yeah, this is wrong, they should not have done it. But you have to vote for it because if you do not vote for it, they will send e-mails throughout your district saying that you were opposed to the troops, you were against supporting the troops in Afghanistan and Iraq.

And I said, will they do things like that? And so I wondered if they were overstating it. I voted for it like most Members of Congress. And then 1 week later, e-mails were sent all over the State of Missouri, in fact I received a phone call from a constituent in Congressman CARNAHAN's district because I voted against a bill to protect the symbols of Christmas.

I could not believe that the Congress of the United States, the 109th Congress, with $4 billion being spent every month in Iraq, with No Child Left Behind not receiving full funding within my State, and in Congressman CARNAHAN's State there have been 97,000 people kicked off Medicaid. When you consider the fact that we do not have an energy policy in this country, at least not one that makes sense, I could not understand why the Congress of the United States needed to protect Christmas. As if, you know Christmas was in danger, and if we did not vote, if the people in here did not vote, Christmas was not going to occur.

And so I voted against it, because I thought it was ridiculous then. I think it is ridiculous now. I have a master's degree in theology and never read anything which would suggest that God needed the help of the 109th Congress.

But it gives you an idea about the civility or lack thereof. And so it causes me a great deal of pain to see many of the things that are occurring. I do not want to suggest that we do not have some people on our side who may also from time to time contribute to the vitriol that I see. The difference, of course, is our vitriol means very little because we do not have the power and the ability to bring legislation up.

And so when I go home and tell people, they say, well, why do you not introduce a bill to do such and such? And I said, you do not understand. I can introduce 1,000 bills. If I introduced a bill that would cure cancer, it would never get a hearing. And it is always a surprise for the public to hear that because they do not understand that you cannot introduce legislation no matter how great the merit, if you are not with the majority party.

Mr. CARNAHAN. We have also been joined by our colleague, Congresswoman SCHWARTZ from Pennsylvania. And welcome. It is great for you to be with us tonight.

Ms. SCHWARTZ of Pennsylvania. Thank you. I appreciate the opportunity. As my colleagues know, I am a Member of the Budget Committee. I serve on that committee in an effort to, both of course, understand the budget and the decisions that we make in this Congress on behalf of the country, on behalf of American families, and hoping to speak up on behalf of American families and their priorities.

I was particularly interested in coming out this evening to talk on the perspective as a new Member of Congress. I came from the State Senate. As for most State Senates in this country, the States have to balance their budget. We have to make decisions, and we have to decide the priorities. We cannot spend money we do not have.

And so as a State Senator, those were difficult choices we often made, in how to do that. And certainly as a Member of this freshman class, I recognize that many of us come with broad perspectives and experiences that we bring. Some of us come from State legislatures, many of us do, so we have that experience in how to make those decisions in our priorities.

Some came from running small businesses and being mayors, being on city councils, being in county government, again tough choices that we have to make. And I think on the eve of what we expect tomorrow, the Republicans to bring their proposal before us and ask for a vote on it, I think it is a time for us to use our perspective as new Members of Congress coming maybe even closer than some of our other colleagues from hearing the concerns of our constituents, of the families, of the seniors, of even the kids in our districts, certainly of our local governments.

And to be able to really ask some of the tough questions of this budget, to be able to say, and I think we should all be thinking about, if I could just lay out a few, and then maybe you want to add some of your comments and thoughts about this.

I think we do have to think about the budget at the time when we do decide on our priorities, when we do think about what is important to us as Americans, and how we should best use our taxpayer dollars. And so as we face this decision tomorrow, certainly I think we have to talk about and think about does this Republican budget value fiscal discipline? Is it honest budgeting?

Did the Republican leadership make those tough choices needed to balance the budget to pay down the debt, to be able to use those resources really well? The answer I would say on that score is no.

This Republican budget continues the borrow and spend policies that we have seen certainly in the 2 years that we have been here. It certainly does not balance the Federal Government's checkbook. And it does, in fact, run a new deficit to this coming year of $348 billion of new deficit to add to the debt that of course is already at $8 trillion and that we know we will pass along to our children and grandchildren.

Second, does this Republican budget value our shared economic future? Does it do some of the things that I think we have heard about already this evening? Are we making the wise investments in education, in workforce development, in some of the energy discussions that you were having already, and whether we, in fact, are investing in alternative fuels and renewable fuels and really reducing our reliance on foreign oil so we can be competitive in a global marketplace?

Again, the Republican budget does not do this. It cuts funding in education and renewable energy initiatives and in fact impedes some of the concerns that we have on health care and education.

Third, I would just say two more, then I am going to yield to my colleagues. But to say that this Republican budget, we have to ask does this Republican budget value enhanced security and a strong defense? In fact, does it provide for the men and women who have served this country in Iraq and Afghanistan and in previous wars? And the answer is no, it does not.

It cuts veterans health care, and it does not, we are concerned, does not provide for the troops in the field the way it should. So we are looking at a cut of $6 billion in veterans health care.

And our ability to make sure that our current homeland security is as strong as it needs to be? Again, we have had numerous debates on the floor of Congress. But this budget does not meet all that we know that we should be doing so that we can assure our constituents and our families that in fact they are secure at home.

And finally I would say, does this Republican budget, is it based on, in fact, sound and fair tax policies? Does it recognize the priorities of everyday Americans? And the fact that again this Republican budget is relying on what is the major goal, it seems to me, of the other side of the aisle, and that is to provide tax cuts to the wealthiest Americans.

That seems to be their singular purpose, and all else flows from that. When in fact, there are so many, as I point out, issues and concerns. We, in fact, need to make sure, because the tax cuts that they are looking at really benefit, and 90 percent of the tax cuts go to the wealthiest Americans.

Is that really what we want to be doing in this country at this particular time with this kind of debt in this country and with this kind of growing deficit? So I would say this budget fails on so many levels to meet fiscal discipline, to meet the priorities of American families, for us to be able to go home and say, we came here to fight for our constituents, for everyday Americans, and does this budget do it?

And I think the answer has to be that it does not, that we can do better, that we must do better, and we must put forward the needs of American families. I would be happy to add on what I think we ought to be doing, because you should know, and of course as you know the Democrats put forward a Democratic alternative on the Budget Committee.

I was part of crafting that. I am proud to say that I have done it. And what we have done is to be able to say that we can live within our means, we can, in fact, meet our obligations, and we can, in fact, build a budget that begins to pay down the debt, the enormous debt that this country is in, at the same time making the important investments that we need for the future in this country.

So that is our obligation to me as a Member of Congress of what we bring as freshmen. It seems funny to call ourselves freshmen. You are experienced people who have brought a lot to our first tenure here.

But the fact is that we should draw on these experiences that we have had in the private sector and in other areas of the public sector to say that we know that we have to make these tough choices, and we should, and we should do so in a way that is fiscally responsible, that in fact we can say proudly to our constituents, to our children, to our grandchildren that in fact we have done right in making the right investments, and, in fact, we have done so in a fiscally disciplined way.

It would be wonderful to be voting on that kind of budget tomorrow. But, unfortunately, it is unlikely that we will have that opportunity, at least for the majority budget that is going to be presented to us.

Mr. CARNAHAN. Thank you. I just want to say I am so proud to be one of the new Democrats in the House and be here with you all tonight.

I was listening to you and thinking about our freshman class, and particularly the Democrats involved. Almost all of them came from prior experience in the State government, in the State legislatures, like Congresswoman SCHWARTZ, and I know Congresswoman WASSERMAN SCHULTZ was also in the State legislature, and Congressman CLEAVER was Mayor in Kansas City, a lot of experience.

And we all had to work with our State and local budgets and be fiscally responsible, the same way that many of our American families have to be with their household budgets. And the way that priorities have been set in this budget are so skewed from what the average people in this country need.

And probably one of the best examples of that is the energy bill that we passed. And I know all of us voted against it here on the floor tonight. At a time when we provided $14 billion in tax breaks to the big oil companies, and weeks later, just weeks later, they announced the biggest profits in the history of the world. And now we see the prices at the pump, we continue to pay. Again, very, very misplaced priorities.

Ms. SCHWARTZ of Pennsylvania. In fact, we are often asked, how would we find additional resources in a budget? And you make a good point, that there are, in fact, expenditures that we would not make, that we would choose to use in different ways.

And certainly, the subsidies that we offered, that the Republicans pushed through for the oil industry at a time when there were record profits, we are talking about $113 billion profits for the oil industry last year, and that is not revenue, that is profits.

$36 billion just for Exxon Mobil. It is really sort of an extraordinary sum. But there are other ways that we would also cut. We would not spend some of the dollars that they have. There are enormous subsidies given to the HMOs for the Medicare prescription drug benefit.

That has been talked about a good bit, too. Should we continue those subsidies for the HMOs rather than making sure that more of our seniors have access to prescription drugs and in fact reduce the cost of that program to Government? Is that the choice we make?

We are looking at tax loopholes that still incentivize companies to ship their jobs overseas. What about closing those loopholes, bringing those dollars home, investing that in workforce development, for example?

Or a favorite of ours on the Budget Committee is the fact that there are in fact billions of dollars of tax revenue that is not collected in this country. And there is an interesting report recently that suggests as much as $350 billion is not collected from people who owe taxes to this government.

If we went out and just got 10 or 20 percent of that, you are talking about $35 or $70 billion that we then could use, that would go to some of the priorities that we are talking about. That is the kind of way we would be more fiscally responsible in drawing on money that is being spent now, that could be spent in a better way for everyday Americans to be able to meet their responsibilities and their goals for themselves, their families and for our country.

Ms. WASSERMAN SCHULTZ. You are absolutely right. One of the other elements of our alternative budget plan would embrace once again, as was the policy during the Clinton administration and when Democrats controlled the United States Congress, was the concept of PAYGO.

□ 2145

That is, I know, with you as a member of the Budget Committee and Mr. SPRATT as the ranking member, is an idea that our Democratic Members have championed as a part of our alternative. And we have done that on a number of occasions and attempted to get the Republicans to go along with us and the concept of PAYGO.

PAYGO is very simple. We came from States, and in our State legislatures you have to operate in the black. Just like people who are members of their families, they struggle not to have to go into debt, not to have to live paycheck to paycheck and not to have to go into massive credit card debt.

Unfortunately, the Republican leadership here does not subscribe to that philosophy, and that is evidenced by their rejection of pay-as-you-go rules whereby we would not spend more than we have.

On March 17 of last year, Mr. SPRATT, our ranking member on the Budget Committee, offered a substitute amendment to the 2006 budget resolution that failed 165 to 264, no Republicans supporting pay-as-you-go legislation. And we have the rollcall indicating that we were supportive.

Again, Mr. SPRATT offered another amendment dealing with PAYGO that would have reestablished PAYGO, 224 Republicans voting "no," none voting "yes," and it failed, to 232. So we have certainly tried. It is not for our lack of trying to make sure that we restore some fiscal discipline here.

The thing that has been the most frustrating for me as a new Member of Congress, and I am sure it is a frustration you have faced, is that the Republicans try to lead people to believe that they are the party of fiscal responsibility. Yet, I am someone who believes that actions have to back up words and talk is cheap, and that seems to be all that they have been about since I have gotten here.

Ms. SCHWARTZ of Pennsylvania. It was interesting in the Budget Committee when we talked about the principle that you are talking about, that we should know where the revenues are coming from if we are going to spend money. That is really what we are talking about.

It is basically being unable to meet their obligations. It is knowing where that money is coming from. Of course, we do budget not just for next year, but we budget out 5 years. We used to budget to 10 years. But we do see those kinds of numbers so we can anticipate what we think might be happening.

And what was interesting about that discussion in the Budget Committee is that there, in fact, is some interest, I think, on the other side of the aisle in doing this. They understand as well that, I think some of them do know, of course, they would not let that pass, but in fact I think if we really, truly could sit down in a bipartisan way and say, look, we have a responsibility to do this in a way that does not create a debt we do not even have any way of repaying at this point.

The Republicans have, of course, taken certain things off budget. That means, of course, that let's not really consider what the cost to Katrina is, for example; the real cost of the war in Iraq and Afghanistan in which some estimates in the budget this year have been $50 billion when we know that it could well get up to $400 billion.

Well, if you know that, we have to be straight with the American people. We have to be able to say, this is what we know it is going to cost us. How are we going to have the revenues to support that? Where is it going to come from? Let's have that as a serious discussion and let's make the hard choices we have to make.

We know we want to support our troops. We want to make sure that they have all the equipment they need. That has been a discussion. Of course, we will support the troops in that. But let's be real about what it will cost us and let's be honest with the American people about how we will do that.

I think there is some interest on the other side of the aisle, but in fact if we do that, there is no way they could go ahead with the kind of budget that we will be faced with tomorrow because it does not reveal all that we need to know about what our obligations are.

And as you point out, for American families who struggle every day to figure out how do they pay, we talk about gasoline prices. That throws budgets into a real problem when you have budgeted really tight.

It is not a problem to budget really tight if you do not have any contingency, if you are not really honest with yourself that there will be an expense next month. But in fact we are making it harder on American families by not being honest with them.

And we are making it harder on them by not bringing down gasoline prices. We are making it harder on them by not helping their kids going to college. We are making it harder on them by not allowing ways for us to be sure that their business can pay for health insurance.

You can almost name any issue and we are making it harder on American families when in fact it does not have to be that way.

Mr. CLEAVER. May I inquire of the gentlewoman from Pennsylvania. Congressman CARNAHAN and I are from Missouri. We are in the middle of the country and we are not prone to extremes, so we believe you are supposed to balance the budget. Congressman CARNAHAN's father was the Governor twice in the State of Missouri; he balanced the budget. I had to do the same as Mayor of Kansas City.

In fact, there is a State law in Missouri that you must balance your budgets. There is no such thing as you did not do it this year. You must balance the budget.

Ms. SCHWARTZ of Pennsylvania. I think that is true in all of our States.

Mr. CLEAVER. Maybe as a member of the Budget Committee you can help me understand why the money for the gulf coast reconstruction and the money for Iraq was not budgeted. I mean, we do not have two of the most costly items in the U.S. budget factored in, and as a new Member that troubles me.

It would trouble the American public if they knew. You mean you do not put in the cost of the war in Iraq? You mean you do not add in the budget the rebuilding of the most devastated region in the history of the United States? Well, how are we going to do it?

So maybe you could address that.

Ms. SCHWARTZ of Pennsylvania. There is an explanation. I cannot necessarily and I do not want to make explanations about why it was done this year. I will talk about that for a minute.

The fact is that it is reasonable for us to say that there is going to be an emergency that happens in this country that we cannot budget for. Katrina is an example. We could not have anticipated that a year ahead of time there would be an emergency as catastrophic as Katrina and the devastation it caused in the gulf States. And I have been there and many of you have been there to see the devastation.

So that is why we allow for a process that we can have a supplemental appropriations. We get an emergency appropriation, as it is called; and that is appropriate because we need to act quickly. We need to act appropriately to help Americans.

We have done it to help people in other countries as well.

That is certainly true in time of war as well. If you go to war, you did not anticipate going to war. Then you have an emergency appropriation, a supplemental is what we call it, and that is appropriate.

What is less understandable and I think that you make clear is what about a year later? What about 2 years later? Why cannot we anticipate at least in a better way what in fact the costs will be to clean up in Katrina? If we are wrong, we might need to do a supplemental.

But now to not say we are in Iraq. There is a cost; we know what it is costing us every week. We know what it is costing us every month to put $50 billion in when all the estimations are that it will be at least $200, probably $300 billion at least. It is really just not being honest about what it is going to cost us in the future.

For Katrina, again let's decide what we can accommodate to pay for and what we should. And if we have to stretch, then we have an obligation. As you point out, all of us have had to balance budgets. We should have to balance a budget here. We should be able to say, where should that money come from? Where does it come from? Are we asking Americans to all kick in? Are we going to sell Katrina bonds or something?

I am throwing out ideas. Maybe there are ways we can sit down and say, okay, we do not have all the money for this. How can we do it in a way that is fair to the American people, is fair to people of different incomes? Maybe ask them to join in and be helpful as so many Americans did after Katrina, the number of dollars we got from charities, people wanted to help dramatically.

There are ways for us to do this in a way that does not put our country into fiscal difficulties, and in fact respects the kind of budgeting that we should be doing in this country.

Mr. CARNAHAN. If I could interject and amplify on that, I think the process has been very disingenuous when we do know we are going to have ongoing expenses for disaster relief, ongoing expenses for the ongoing efforts in fighting terrorism overseas. And it really, I think, is an effort to separate those questions from really making proper budget choices, and do we want to have more tax cuts for the wealthy and pay for that versus the cost of rebuilding the gulf? Or paying for our military or our education or our Medicare program?

I think that really is kind of an accounting gimmick that we have seen throughout this process, to play down a lot of those serious expenses, but also to water down the quality of the debate.

Ms. SCHWARTZ of Pennsylvania. I appreciate those comments. I think there are some, the term "gimmick" is one that I am almost reluctant to use. My staff and I discussed whether we should talk about some of these gimmicks because it is such a serious process we are in.

What we do matters in the lives of American families. I take it seriously. I know we all do. But the fact is, this is at least an accounting gimmick, if nothing else, in not recognizing some of the very serious expenses that we know we have and we have an obligation to meet.

And again, just as in American families, we need to figure out how to do it. And if we cannot do it, we need to say that too. So in some of these situations, we are not going to say "no." So we should in fact meet the obligations.

Again, the example came up about veterans' health care. And I think we all go home. We all want to be respectful of our veterans, but whether in fact we fund veterans' health care or not really matters in each and every one of their lives. It is not so much about the rhetoric we have at home. It is really about what we do in this budget that allows them to get the health care that they need.

I see that our colleague has a chart he may want to talk about in terms of the national debt and the deficit and the national debt that it has led to.

Mr. CLEAVER. As I raised the question earlier, my concern was and I knew we would eventually get to this point, was that the money that we do not budget we borrow. And most Americans are outraged over the U.S. debt which is rising even as we speak here tonight.

When we borrow the money for the rehabilitation of the gulf coast and the ongoing conflict in Afghanistan and Iraq, we are borrowing those dollars. And right now we owe Japan $683 billion. And then next to them we owe China $249 billion.

We even owe OPEC $67 billion. And at a time when we are talking about reducing our dependence on foreign oil, it does not make sense to me. I am from the middle of the country so there are some things maybe I do not understand. It does not make sense to me that we are talking about reducing our dependence on foreign oil while at the same time borrowing more money from OPEC.

There is a scripture, Proverbs 22:7 which says that the borrower is always at the whim of the lender. And when we are talking about owing OPEC $67 billion, I am not sure that we are in any kind of position to be influential with folks to whom we owe billions of dollars.

And the debt continues to rise with even our neighbor to the north, Canada. And most Americans cannot understand that debt because we have to pay our bills each month. And with the gasoline prices reaching $3 a gallon it means that someone who is earning minimum wage, $5.15, works the first hour of their week to buy $1\frac{7}{10}$ gallons of gasoline. That is obscene.

And so it means that the first day they work, the first day they work of a 5-day work week, 7 hours of that, of that first day goes to fill up that tank of gas at the minimum wage of $5.15, which means that wages are not keeping up with the cost of living. And so it continues to roll on when you look at the average price per gallon today which is just under $3; and of course in many cities on the East Coast it has already reached $3 a gallon, and people are hemorrhaging with this kind of gasoline cost.

I think it is absolutely obscene that the gasoline cost is rising at this level while, as my colleague, Congressman CARNAHAN mentioned earlier, the oil barons are reaping the largest profits in history. He said of the world; I think it is of the galaxy. No corporate institution has ever earned that kind of profit.

☐ 2200

That becomes even more obscene when you add to that the fact that the CEO of one of the major companies has a retirement package that almost equals $400 million.

Ms. WASSERMAN SCHULTZ. What makes that more obscene is that the energy bill that Mr. CARNAHAN referred to at the beginning of our hour highlighted the fact that not only did the oil companies make universal record profits. Let us take it beyond the galaxy, we gave away our rights to collect revenue from them in exchange for the drilling rights.

I mean, what so many people do not realize is that the government owns the land underneath where the drilling takes place, whether it is in the gulf or whether it is on land. The United States Government owns that property, and we give the oil companies the right to drill there in exchange for tax revenue and fees. In that legislation last summer, we forgave all of those fees. We gave it to them for free.

Then a few weeks later they are making universal, history making, record, earth shattering profits and now people are paying more than $3 a gallon for gas, and we gave them our gas rights, our oil rights. It is unbelievable.

Mr. CARNAHAN. Mr. Speaker, the cynicism is layer upon layer, but here is the other cynical part of this. They are also using, the Republicans and the Bush administration, this as an excuse to say, well, now, we need to go drill in Alaska, in wilderness areas, and now we need to drill offshore in many of our reserved areas off our States along our coast.

Those would not be available for years. They are a small fraction of production that we need, and if we would just channel that money back into true, aggressive investing in research and getting transitioned to a new economy with alternative fuel, ethanol, biodiesel fuels that we can grow and produce in the Midwest, instead of depending on the Middle East, our economy would be so much stronger. It would produce jobs. It would be a cleaner environment, and it would truly lessen our dependence on foreign oil.

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, if the gentleman would yield, what is interesting, I think that something I learned more about, oh, the last year is how close we are to really being able to, in terms of scale up, if you will, the use of some of the biofuels and some of the alternative fuels. So I think something one would say, most of us would say how far is that; will it take years and years?

Well, for most of us in my area, we are seeing ethanol being finally introduced as a mixture, probably 5 percent of our gasoline. We know that we can make it 15 percent, 20 percent. There is even an E–85. We can have 85 percent of the gallon be ethanol which we produce in this country by growing corn, and it has been taking longer to get from the middle part of the country to the East Coast. We have to bring some of the ethanol, but in fact it is coming. We need to make it happen much faster.

There needs to be incentives to make that happen. I think it will happen as consumers make more demands to make sure that that happens because in fact we do want more fuel efficiency. We want cleaner fuel, and we want less reliance on foreign oil because there is, as the gentleman from Missouri (Mr. CLEAVER) pointed out, it is also creating a dynamic internationally that is not really very helpful to us as we look towards a more peaceful and stable world.

So that, in fact, we could be doing much more, and this budget cuts, rather than adds, to the initiatives that have actually been making these biofuels and the research and technology and using the innovation in this country to be able to push forward much, much more quickly.

I think that Americans want to see the price of gasoline go down. It works for their pocketbooks, but they also understand that they want to know, well, where is it going? If it is going to just keep going up, how can I make this work?

I am proposing this as Democrats. I introduced a $250 million initiative that we could have put in or maybe even should be more money, but it is much more money than this budget proposes, and really pushing forward on renewables and research and development and more fuel efficient vehicles and more fuel efficient cars.

So there is a lot of things that can go into all of this. In fact, we are there already. We are really close to making it happen. We will be looking at American innovation and moving forward and not just borrowing and spending, which is really what this budget puts forward, and putting an enormous debt on our children and grandchildren.

Mr. CARNAHAN. It is really exciting that we not only have the ability to grow the corn, to produce ethanol, and soybeans, to produce biodiesel, but we also have our auto industry retooling, and I want to yield to my friend Congressman CLEAVER to tell about some exciting things happening in his area in Kansas City.

Mr. CLEAVER. Mr. Speaker, the Ford plant in Kansas City is now in mass production of a hybrid, which they are placing on the market because there is hopefully going to be a great demand, and we think that in the middle of the country it makes perfect sense for us to manufacture hybrids because, after all, we produce the agricultural products that were mentioned earlier that can be used for E–85.

We probably are in a situation now where we need to look at the situation with oil as a security issue. It is an issue that digs deeply into the pocketbooks of most Americans, but in addition, it is a security issue, and it is a security issue because the people of the United States, I am sure, do not want to owe this kind of money to China or OPEC or any of the other countries, for that matter, and so we need to think about this issue.

Gasoline is an international commodity, and I think with the increased use of gasoline by China and India it is going to drive the demand up, and so the price of gasoline, in all probability, is going to rise.

However, the Congress of the United States ought to get serious about trying to address this problem in the long run. I introduced a bill today that would require all Members of Congress when their lease expires on an MRA, the Members Representation Account, the money we get to run our offices, that when the lease expires on their automobiles, that they would have to lease or could lease only automobiles that are energy efficient as defined by the GSA.

Now, the reason I have done this is because people are poking fun at Congress. The numbers in terms of our approval rating is always down, and one of the reasons is they think we are hypocrites. I mean, we talk about energy on the floor. We talk about it when we go home with press conferences, but then they look at us and see us driving big SUVs and it does not click. It is the thing that troubles us.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, if the gentleman will yield, only to clarify who the hypocrites are, because if you separate where the Democrats' voting record is on energy and making sure that we focus on alternative energy like in our Innovation

Agenda we rolled out in November, which includes an ironclad commitment that when we take control of this Chamber that we will within 10 years wean ourselves off of foreign oil and become energy independent. So the hypocrisy exists on the other side of the aisle. So I just want to make sure whose hypocrisy we are talking about.

Mr. CLEAVER. Mr. Speaker, I think that the whole energy issue is quite convoluted because we are never able to address the issues that we want the American public to benefit from because there are always little tricks.

For example, LIHEAP was placed in the energy bill last year, which is money for low-income individuals to get assistance in their heating costs, and so that is placed in there. So that, if you vote against it, it means that you are against poor people, and of course I voted against it because at some point I came to the conclusion that I had to be faithful to who I am. I am not voting for any of those things anymore, where they do what we call the "got you" legislation, and I am not voting for that anymore because the American public ends up suffering every time we do that.

But the question that I think is going to be raised here is will Congress make the decision to allow legislation to surface that would require that they give up gas guzzlers when they use government money to do the lease. Now, this is not private vehicles, but what the public may not know is many Members of Congress legitimately will lease automobiles. They can only lease them for 2 years because we are only here for 2 years, and then we must go up for reelection. So we are saying that when the lease expires, if you really believe in energy efficiency, then let us make sure that the public can see us as ones who are embracing what we are preaching. It is a horrible, horrible thing to advocate in a commercial that people should drink Coca-Cola and then people visit your home and you have Pepsi.

So I think one of the things Congress must do, it is a moral thing I believe to stand up and say we are going to drive energy efficient cars. It gives us the right then to begin to talk to the public about some legitimate sacrifices that all of us are going to have to make.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, we have been talking about energy supplies and the cost of a tank of gas and how difficult it has been for Americans to deal with those increases, and another equally important issue is how people are going to continue to be able to educate their children from their youngest age all the way through higher education.

One of the things I think it is important for us to highlight tonight is the devastating budget cuts that this Republican budget puts forward in terms of the public education needs that we have.

Literally, the Republican House budget resolution would make the biggest cut, and I think I am right, correct me if I am wrong, the biggest cuts to the Department of Education in 23 years. I guess the only thing that would be worse would be when they proposed to completely eliminate the Department of Education, but they are not doing that. They simply have the biggest cut in 23 years.

The budget resolution cuts next year's Department of Education budget by $2.2 billion, with a B, below this year's funding level. It matches the President's budget cuts in his budget proposal dollar for dollar. Rather than increase education funding, both of the budgets, the Republican leadership's budget and the President's, grossly underfund education, social services and training programs. They cut those programs $4.6 billion below the amount needed to maintain current services. They eliminate completely 42 different education programs, not ones that people would think are not necessary anymore, but things like vocational education, safe and drug free school State grants, a college readiness program for low income students and both parts of the Federal Perkins loan program. It is just really unbelievable. You talked about priorities. This is where the Republicans priorities are compared to where we are as Democrats.

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, the gentlewoman makes an important point, and I think one of the ways to help Americans understand what this really means to them because these numbers are very big, it is sort of hard to say, well, you cut $1 billion here, $1 billion there, how does that matter in the lives of our constituents?

The other day I met with some of the school superintendents in my district, and they told me, I will say all things are really new, but they were pleading with me because they said we want to be held accountable. We want our teachers, our schools to perform at the highest levels possible. So the concept of No Child Left Behind, in fact, we support it, as do I, but the fact that they are not getting the funding for that that the government promised to them, again it is about meeting our promises, about meeting our obligations to our children.

If we said we will not leave any child behind, but then walk away, then we have, in fact, left them behind, and this is what is happening. For Americans who have children in schools, they know what that means. They are being challenged without additional resources, and it also means to all of us that our local and State taxes are likely to go up to make up for the difference.

What we have done is pass along the burden to our State and local governments, and in fact Americans are going to have to pay for it one way or the other.

I will just mention two other areas because I know I hear this a lot, and I am sure you do as well in education, and that is special education. I know when I served in the State Senate, I was the Democratic Chair of the Education Committee for a number of years. I served on the State Board of Education. We heard over and over again that there were remarkable new ways to educate children with many different needs.

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More children are being identified with early childhood learning disabilities. In fact, early intervention is making an enormous difference in their being successful in school. Then, of course, there are some of the very seriously challenged students. When we passed the original legislation, not we, we weren't there then, we freshmen, but when the original legislation was passed, it was called IDEA, but when the special education legislation was passed, the Federal Government said, You know what, we want you to educate every child regardless of what their needs are and to challenge them to be the best they can be. And we are going to pick up 40 percent of the cost. Regardless of what it costs, we will pick up 40 percent. Well, they never have.

So what does that mean? Right now the Federal Government is paying about 17 percent of that cost, not even half of what was promised years ago. So what that means is that local school districts are picking up the tab. States are picking up the tab. What we ought to be doing is meeting our commitments, meeting our obligations and being honest and straightforward with the American people, that this is what we promised to do, it is what you want us to do, it is what we should be doing.

Last, you point out a college education. We talked about families already being stretched, but we are at a time when we know our young people and increasingly older people who also are being retrained or reeducated need to go to college. Sometimes it is a community college, sometimes it is a postsecondary technical college, sometimes it is a 4-year university. But the fact is that we need to be sure that the best and brightest in this country have access to higher education. And we know we are competing not just with our neighboring States or our neighboring communities or even countries who used to be our trading partners, we are just a global economy, a global marketplace, and our young people have to be prepared.

Yet what this budget does is, in fact, cut the Federal grants that so many people relied on to do their college education. So we are saying it is going to even be harder at a time when our young people should be going to college, for you to be able to go to college, be successful and to be able to not be in so much debt when you come out of college.

So, yes, could we do these things? That is what I get asked. Could we do these? The answer is, of course we could, if in fact we recognize that it is our priority, that we were honest about what kind of dollars we needed and we made it a priority in our budget instead of something else. Again, the Democratic alternative that will be available tomorrow does that.

So, again, I hope that my constituents, your constituents understand that we come again as first-term Members with a real interest, maybe that is not strong enough, but a demand for us to do it better, to do it right, to meet these obligations and to do it this year as a beginning because we can't wait any longer. Whether it is on education, on higher education, whether it is on energy, whether it is on paying down the debt. These are things we have to start working on, on security, health care. We could go on for hours. Fortunately we are limited, from our viewers' point of view, to an hour. But the fact is that we have so many opportunities for us to be building that future for Americans, American children, American families. This budget simply doesn't do it. It is why we should reject it.

Mr. CLEAVER. If the gentlewoman would yield, I found some money and I want to announce it right now to the world. If we rescind the tax cuts for individuals with an adjusted gross income in excess of $200,000, the revenue effect of that would be $24.5 billion in fiscal year 2007 and over 5 years it would be $137 billion. The tax cuts that this Congress gave in 2001 and 2003 disproportionately benefited the wealthiest people of the Nation. At the same time we have been unable to increase the minimum wage from $5.15. And we are giving tax cuts to the wealthiest people in the country. The tax cuts that were given would allow the wealthiest Americans with 46.8 percent of the tax benefits proposed in the President's fiscal 2007 budget and extended from 2001 and 2003, it would benefit 4.1 percent of the taxpayers of this country. People who are going to get up early in the morning to drive to their job and most of the money they earn that day is to buy gasoline are not going to be thinking kindly of what is happening to them.

There is a tsunami of frustration rolling across America. People are frustrated with what they see going on here. It is revealed in the polling data that is coming in from every polling source. It is bipartisan. Newspapers, whether they are the conservative Washington Post or the progressive New York Times are coming up with the same numbers, and that is the people of this country are frustrated. Incivility continues. We don't attack issues. We attack people. We don't try to come together and sit down and try to figure out ways in which we can help this country. We lock the doors. We lock people out of meetings. We won't allow a discussion or a debate on issues that are critically important to this Nation.

Ms. WASSERMAN SCHULTZ. Mr. CLEAVER, they do those things. It is the Republicans that do those things. I just want to point that out. When you are using "we," that includes us and we don't do that.

Mr. CLEAVER. That is absolutely correct. The reason that I used "we" and it is a dangerous use of the word "we," is that what many people see coming out of this body, they attribute to all of us when the truth of the matter is we don't have, we, those of us on this side, don't have the capacity because we are the minority, to effect the kinds of changes that I think we need to effect.

And so the tsunami of frustration continues to roll across America. Something needs to be done. If not, I think that we are headed dangerously toward a number of crises, some of which this Nation has never ever experienced before.

Ms. SCHWARTZ of Pennsylvania. Your comments, I think, do speak to the frustrations we hear from Americans. But I hope that as we end this evening's discussion, we can also leave with the understanding that Americans, I hope, will feel hopeful. Because, in fact, you point out that if we use common sense, if we use our political will, if we sit down to work out these issues, we could do that. I think that is what the American people expect of us and it is also something that I think as freshmen we are offering back, that we want to be able to say we can do this, we want to do it, we want to be able to tackle these problems and we want all of the best ideas, and there are so many out there, to be able to offer the American people the secure Nation that they want, the opportunities for their children economically and educationally and the kind of hope for the future that they all want.

MEDICARE PART D

The SPEAKER pro tempore (Mr. FITZPATRICK of Pennsylvania). Under the Speaker's announced policy of January 4, 2005, the gentleman from Georgia (Mr. GINGREY) is recognized for 60 minutes as the designee of the majority leader.

Mr. GINGREY. Mr. Speaker, it is a pleasure to take this hour designated by the Speaker, by the leadership, we refer to it as the leadership hour, and to take an opportunity to talk about things that are important to this majority, are important, indeed, to the American people and that is what we are going to do during this hour.

We are going to talk about the Medicare part D prescription drug benefit. But I want to digress for just a minute, Mr. Speaker. Our colleagues on the other side of the aisle just spent the better part of an hour talking about the budget. During the course of that colloquy, we heard the word "hypocrisy" used a number of times. I want to address this just for a moment, because the hypocrisy, of course, is to suggest that the tax cuts that this administration and this Republican majority have enacted and just today continued those tax cuts, refused to let the other side of the aisle in this body raise taxes on the American people.

They spent a good deal of time talking about the fact that the rich get the biggest tax break. Well, the hypocrisy of that argument, Mr. Speaker, is that the rich, if you call someone with an adjusted gross income of $75,000 a year rich, then so be it. But these are the people that are paying most of the taxes. These are the people that are paying at the 39.6 marginal rate, the highest rate. So for them in any across-the-board tax cut, and indeed that is exactly what this is, every taxpayer saves money. But those that are paying the most in taxes with an across-the-board cut, Mr. Speaker, are quite naturally on a dollar amount, not a percentage amount but on a dollar amount, are going to get the biggest tax break. Of course they are.

But what is that enabling them to do, the small business men and women in this country who create probably 75 percent of the jobs? It is to grow their businesses, because of the opportunity to rapidly depreciate for capital improvements and bricks and mortar and putting in a new product line in their business, to hire some of these people who today because of their unemployment are not paying any taxes.

It is really hard, I think, and I think my colleagues understand this, the American people understand it, it is really pretty hard to get a tax refund when you are not paying any taxes. But indeed we do that, too. The child tax credit, increasing them from $600 to $1,000. Those are refundable tax credits that are going to people who indeed are not paying any taxes.

Mr. Speaker, again, as I said at the outset, what we are talking about tonight has got to be one of the most important things that we have done for the American people since Medicare was first passed when I was a freshman medical student in 1965, where there was a part A, the hospital part; a part B, the doctor part; but no part D, the drug part. For many years, I am going to say probably within 5 years of the passage of that bill, people were starting to wonder why we didn't have that benefit of prescription drugs when more and more of these wonder drugs, whether we are talking about pharmaceuticals or antibiotics or whether we are talking about beta blockers for heart disease and high blood pressure and irregular heart rhythms, whether we are talking about oral, by-mouth chemotherapy. And we realized, of course, it wasn't just surgery, cutting something out, a diseased organ, that we really need to put our emphasis on, it is preventive health care and allowing people to be able to afford to get prescription drugs to lower the blood sugar, to prevent the ravages of diabetes, such as losing your limb or having your kidneys fail and going on renal dialysis and maybe eventually needing a kidney transplant. Or to treat high blood pressure, a condition which for a long time has no symptoms, absolutely no symptoms. It is incipient. We use that word. A person could end up in the emergency room having already had a stroke before anybody knew that they had high blood pressure. Or talk about coronary artery disease which most people have in adult life. And until we realized that elevated cholesterol and certain type lipids in the blood stream is what caused those plaques to form in those coronary arteries that supply blood, and oxygen, of course, to the heart muscle, when we finally realized that if we could lower cholesterol and lipids in the body, that we could prevent heart disease, coronary artery disease, heart attacks, and not have to resort to what we know, of course, today as bypass surgery. It is such a compassionate thing to prevent these diseases rather than to treat them when people are really, really in danger of sudden death or a stroke.

That is what this is all about. That is what this Republican leadership, President Bush, has delivered to the American people, a promise that other Congresses have made.

□ 2230

I can assure you that work was done on this in the past, but former Presidents, former administrations, former Congresses just failed to deliver.

And so we are very proud to stand here tonight and talk about this wonderful addition to Medicare, the part D prescription drug part. It is optional. It is just like part B, Mr. Speaker: a person doesn't have to sign up for it.

Yes, it is premium based. There is a monthly premium often deducted from the Social Security check of those who can afford it. And those who cannot afford it, it is not going to cost them anything.

The low-income seniors who qualify for the Medicare supplement on this wonderful program, for them, they pay no deductible, they pay no monthly premium. There is no gap in the coverage. They have catastrophic coverage, and the only cost may be $1 for a month's supply of a generic drug, or up to $5 for a month's supply of a brand name drug.

There are approximately 42.7 current Medicare beneficiaries in this country today. And, Mr. Speaker and my colleagues, I want to draw your attention to my first slide because this really shows you the success that we have had in this 6-month opportunity, starting November 15 through upcoming, in 6 days, May 15. Of those almost 43 million Medicare beneficiaries, most of them, because of age 65, possibly 5 or 6 million because of a disability at a younger age—look at this, Mr. Speaker—37 million seniors now have prescription drug coverage under Medicare part D, 37 million.

Now, we want to get this up to 40 million in the next 6 days. And that is really why I am here tonight, to get this message out to let those few stragglers, if you will, in regard to signing up, to do everything we can. And we will do that back in our districts. We have been doing it. In fact, I have been working on that, talking about trying to get that message out for over 2 years, when we first passed this Medicare Modernization Prescription Drug Act in November of 2003, a very proud moment for this physician-Member, by the way, to support such a wonderful program.

But now we have got the latest count, 37 million, and that is, I think, a fantastic achievement in this first sign-up period.

Why is it so important? Well, seniors, if you can see on this next slide, Mr. Speaker, my colleagues, seniors are saving an average of $1,100 a year with Medicare prescription drug coverage. Maybe more importantly, though, that is average for the 37 million that are signed up. But maybe more importantly, the low-income seniors are saving an average of $3,700 a year. $3,700 a year, that is a lot of money.

Mr. Speaker, in regard to that number that I just shared with my colleagues, $3,700 a year for those low-income seniors, and that is why we are pushing so hard in these next 6 days.

Of the 6 million, I said 37 million have signed up out of almost 43 million. Of those 6 million that haven't, we are estimating, pretty accurately, that close to 3 million of those are low income. They qualify for this subsidy, and some of them, as I say, their only cost of these lifesaving prescriptions would be a $1 copay. And so it is very important, most important that we get the word out to them in these next few days, and to get them signed up, because this is literally a Godsend.

It is a no-brainer. And for whatever reason, maybe they have heard some of the disingenuous, well, downright, you know, they talked about the H word in their hour just a few minutes ago, hypocrisy from the other side. Regrettably, I feel that that is part of the reason why the most needy, 3 million of them, have missed the opportunity thus far, but we are determined to get the word out to them. That is the compassionate thing to do and we are doing it.

Proof of the pudding, Mr. Speaker. More than a million seniors have enrolled in Medicare part D just since April. I am talking about a 2-week period. So we are talking about almost 500,000 people have signed up just in the last 2½ weeks. So we are getting the word out, and thank God, our seniors are responding.

Well, how is the program working for those that may have signed up on November 15, 2005, and immediately, January 1, 2006, started getting their prescriptions with a prescription drug benefit? Before that, of course, we know that the seniors, probably the only group of patients that go to the drug store, went to the drug store and had to pay sticker price. They weren't getting any deals, and nobody negotiated any discount for them because of volume buying.

It was just like going to buy a new automobile and paying that price on the windshield that we refer to as sticker price. Most people don't have to do that. But that is what the seniors were doing. Well, really, that is what some were doing. A lot were just too embarrassed to even go into the drug store knowing that they couldn't afford to pay even half that amount.

But what has happened since January 1 over this 5-month period? Well, 90, and I want to call my colleagues' attention to this next slide. I know the printing is a little small, but look closely because these numbers are very telling. Ninety-one percent of seniors say their plan is convenient to use at their pharmacy.

And I want to thank our pharmacists, too, by the way, especially our independent pharmacists because a lot of times it is just them and maybe a clerk up front, and yet they are spending the time to explain; and I know it is at significant cost to their bottom line. And I think that they are to be commended because they have helped make this program a success, and we are committed to continuing to work with them.

I know, Mr. Speaker, in my district, I have met just within the last 10 days with some good personal friends who are independent pharmacists, and they are bringing some concerns to us. There is still some heartburn on their part, and I understand that, and we are going to continue to work with them because of the great work that they have done for us.

Going back to the slide, 90 percent say that they know how their plan works and they know how to use it. Eighty-five percent say their plan covers all the medicines they need. And nearly 80 percent are happy with the amount of coverage they have, and this is so important, they would recommend their plan to others.

I don't want to miss this opportunity to say, my colleagues, and I am sure on both sides of the aisle, you have had similar experiences. My mom, God bless my mom. I am thinking about her of course a lot this week because of Mother's Day coming up on Sunday. But the greatest Mother's Day gift that I gave to her, Mom is 88 years old, I don't think she would mind me telling that because she looks like she is 68, and if it wasn't for a couple of gimpy knees, she would still be out on the golf course.

But I sat down with Mom a couple of months ago and we went through this. It was a little bit time consuming, maybe a little bit more confusing than I thought or she thought it would be. But she is saving about $1,200 a year now. And this is what we are talking about, real, real savings.

Mom's very happy with the program. She picked her own drug store, very close by her home in Aiken, South Carolina, and she didn't have to change a thing and is very pleased with the program.

Listen to what some of the senior organizations are saying about this program today. And, Mr. Speaker, I remember during the debate, and of course we got accused of passing this bill in the dark of night; I would say to my colleagues in regard to that, we started the debate late in the afternoon and we were determined to get our work done, so we ended up on final passage, yes, in the dark of night. But had we started our debate in the dark of night, we would have passed this bill in the bright sunshine of the afternoon. That is just the way the clock works.

I look at my job, Mr. Speaker, as a 24/7 job, and I am not a clock-watcher, just like I wasn't when I practiced medicine and delivered babies before coming to this body. People were always coming to me saying, don't all babies come in the middle of the night? And I said, well, no. But it seems that way because the patient either comes in in the middle of the night and ends up delivering in the daytime or comes in in the daytime and ends up delivering in the middle of the night.

We delivered this baby in the middle of the night, but a beautiful, beautiful baby it was and is.

And the other side criticized that great senior organization known as the AARP, of which I have been a member for, started at age 50, I won't tell you how many years. I don't want to tell my age because my wife says that will tell her age.

But they were so mad, so mad that this organization, AARP, with 37 million seniors as part of that group, had the audacity to support a Republican bill.

Look what the AARP says today, Mr. Speaker. With the Medicare drug program, more older Americans than ever before have access to affordable prescription drugs.

The focus right now needs to be on helping people, not playing politics. Discouraging enrollment is a disservice to the millions who could be saving money on prescription drug bills. That's a quote from the president and CEO of the AARP, Bill Novelli. And I know Mr. Novelli, and my colleagues on both sides of the aisle know him and know that he doesn't play politics. He is just stating the facts. No hypocrisy here, Mr. Speaker.

Well, I am not a regular reader of the New York Times, maybe the Washington Times. The New York Times is not known as a bastion of conservatism. But listen to what they say: "The Medicare drug benefit's success depends heavily on getting lots of healthy people to sign up so that their premiums can help subsidize medicine for the chronically ill. The May 15 deadline should serve as a useful product to force fence-sitters to make a decision." Now, that is a New York Times editorial, April 3, 2006.

Mr. Speaker, when we were debating, we had this resolution, Nancy Johnson, the distinguished chairwoman of the Health Subcommittee of Ways and Means, put forward a resolution this evening encouraging all Members of this body to work hard over this next week to get people signed up. But the other side continues to try to put up a fence to be obstructionist to say, you know, don't sign up, and criticizing us for encouraging them to sign up, saying that we are cruel, that we are going to enact a penalty if they don't.

Well, Mr. Speaker, the fact is, a lot of people, good people, good seniors are just like this senior. They have a tendency to procrastinate.

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If it was not for the April 15 deadline, I would never get my tax return in. Even with that, if there is an opportunity to extend it without significant penalty, I am going to take that opportunity. I have done that probably every year for the last 10 or so, waiting until absolutely until the last minute when really I had the facts, I had the information, and I needed to go ahead and get that done. But I just kind of put it off until the last minute. That is why we have a deadline. It is not to be cruel or to be coercing or forcing anybody to do anything.

But, clearly, we anticipate that because of that deadline, and kind of a wake-up call to people, that 1.6 million more will sign up between now and next Monday. That is what that is all about. The New York Times certainly understands that. I can't understand why our colleagues on the other side of the aisle who probably, most of whom read that newspaper every day, it is kind of maybe sort of biblical for them. They can't understand that, or maybe they missed that particular article.

Listen to what the St. Petersburg Times said. Here is good news. Without exception, every senior I saw on the way out of the Gulfport Senior Center, that is in St. Petersburg, was happy or relieved.

Carolyn Toliver, Dallas Texas Area on Aging. Carolyn Toliver, the benefits counseling coordinator at the Dallas Area Agency on Aging says she is not phased by the prospect of a last-minute surge. She even admits to wishing for one. I hope we are overrun, she said. This is a generous benefit. I don't want anyone to miss out on it.

Here, again, from the New York Times editorial pages, it says many seniors are clearly saving money on drugs purchases. I quote, complaints and call waiting times are diminishing and many previously uninsured patients are clearly saving money on drug purchases. That was in The New York Times, an article entitled Medicare Drug Challenges. It was an editorial, actually, on April 3rd of this year.

Mr. Speaker, the news indeed, is good despite, again, a lot of negativism on the other side. There were a number of things that were suggested when the opposition for this program was so strong. But today, as I pointed out at the outset, 37 million have signed up.

Listen to this breakdown, because this is important too: 8.9 million enrolled in the stand-alone prescription drug plan, almost 9 million, 5.9 million are enrolled some Medicare Advantage. That is the program that used to be Medicare+Choice, but because of Medicare modernization, Mr. Speaker, it is much, much improved. Almost 6 million of the so-called dual eligibles, those people that because of their low-income and age were eligible not only for Medicare but Medicaid.

Almost 7 million retirees are enrolled in a Medicare retiree subsidy. That is a supplemental plan that includes prescription drug coverage. There are still people that had the option, and I think is real important for us to remember that nobody is forced into Medicare part D. If they have got something that is just as good if not better, then we have encouraged them to stay in those programs. They are.

Then, of course, there are 3.5 million that are covered under Federal retiree coverage, 1.9 million are could have had under TRICARE, 1.6 million are covered through the Federal employee health benefit plan, and then 5.8 million Medicare beneficiaries have some alternative source of what we referred to as credible prescription drug coverage.

Some examples of that, Mr. Speaker, would be like Veterans Affairs, people are getting their medication. They are 65, they are on Medicare, they are eligible, part A and part B. But as far as the prescription drug part, they are utilizing the Veterans Administration. There are about 3.2 million that are using the VA. There are probably at least 100,000 that are getting their prescriptions through the Indian Health Service.

There are maybe another half a million who are still working at age 65 and older, and they have a health insurance program that includes prescription drugs. Even though they are eligible for Medicare, they opt for those programs.

If those programs, we call them credible programs, if they are just as good or better than the part D, and then something happens to one of those plans, maybe the premium is raised, maybe the copay is raised. Maybe the things that are covered are lessened. The coverage is not as good. Then a senior, and this is important information, this question is asked almost every time I have a town hall meeting, then if they want to switch into Medicare part D, that can be done, Mr. Speaker, without any penalty, without any penalty whatsoever. That kind of brings me to a point that I think is very important to make.

Our friends on the other side keep saying that we are going to enact a 7 percent Medicare tax. That is the 1 percent per month additional premium that seniors have to pay if they miss the deadline. They say that we are imposing that tax, that Medicare tax, on those who can least afford it.

Now, here again, the H word that I referred to earlier, this time is not hypocrisy, this time it is honesty and lack of. Because the fact is that there will be no penalty for anyone, those almost 3 million that we think are low income and have not signed up yet, we are going to continue to look for them. We are going to continue to talk to them in every way we can, print out, print media, television spots, town hall meetings by Members, hopefully on both sides of the aisle, to get them signed up beyond May 15, if they miss a deadline with absolutely no penalty.

There will be a penalty for those others who are blessed with more assets, more resources, more income, who failed to sign up for whatever reason. But I guess the majority of those just would be simple procrastination. They will have to pay that penalty.

So we are doing, I think, and that 37 million represents 87 percent of Medicare beneficiaries we think will get to 90 percent by Monday. For the first year of a program, and, indeed, the first of 6-month opportunity to sign up, that ain't too shabby.

I think that as these that don't sign up that miss the deadline, realize, and, of course, they are not going to be able to get into the program until the next sign up period, which is November 15 of this year through December 31. Even though they are going to be faced with a 7 percent additional premium, they are going to come in.

I think we are going to be approaching the high 90s, just like the optional program part B that covers doctor care and outpatient surgery and outpatient testing. That is such a good program that, of course, was enacted in 1965. A lot of people back then said, oh, that is too confusing. I am not sure I want to do that.

Well, you look, Mr. Speaker, my colleagues today, when people turn 65, there is no question because they have the history of the success of part B. The same thing is going to happen with part D.

We are making great progress, and my own State of Georgia, I would be remiss if I didn't give a little statistic on that. But we, in the State of Georgia, overall, are approaching a 90 percent signup rate. We have total people in Georgia now with prescription drug coverage on the Medicaid, 785,000 and growing.

Mr. Speaker, I wanted to take a few minutes and talk about some of the things that we have heard during the debate on this program. One of the things that keeps coming up is this issue of drug reimportation, of being able to buy medications either over the Internet, mail order from another country, particularly Canada, or to actually, if you live on the northern border to actually go across the border and buy prescription drugs and get them a lot cheaper than they were in this country.

Before we came forward in November of 2003 with this program, that is what people were having to do. The seniors literally were being forced to do something that was not approved by the secretary of HHS, the Secretary under President Clinton, the Secretary under George H. W. Bush, because there was some concern about safety, about packaging and contamination and bioterrorism.

But, nevertheless, people were doing that, taking a chance and buying those medications because they were saving. But listen to what's happened since this program started January 1st of this year. This is from an article in a newspaper in Minnesota, which is one of those border States by the way.

While enrollment in the Medicare drug benefit rose by 9 percent, sales of low-cost Canadian drugs last month fell by 52 percent.

Why do you think that happened, my fellow colleagues? It happened because all of a sudden seniors were realizing now they were able to get their medication from their corner druggist right down the street at almost as low, maybe even as low or lower than what they were paying in going across the border and buying prescription drugs and taking a risk with their health.

So while I was concerned, and I think that if this program was not working, that I would tend to agree with some of my colleagues who want to say, well, it ought to be legal to buy drugs from Canada. I think that we have negated the need for that with this program. That is what I hope we would accomplish. Indeed we have.

There was just another thing, Mr. Speaker, that I want to talk about too, that is the pharmaceutical drug discount program. Our pharmaceutical industry is a profitable industry. They get lambasted a lot by the other side of the aisle, about making too much profits and that sort of thing.

But I don't ever hear them commending the pharmaceutical industry because of the compassion that they have shown with their prescription drug discount program, not just for low-income seniors, but for low-income everybody. They literally are giving away prescription drugs to people who meet certain criteria. Maybe they are not eligible for Medicaid in the State in which they live because they make a little bit too much, or maybe they have a few too many assets.

But the pharmaceutical companies, and each one's programs, is a little bit different. But, you know, let's say somebody is on Lipitor or on Pravachol or on Prevocet or on one of these expensive medications. They are literally getting those drugs for free.

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Some people that signed up for the Medicare part D have been concerned because if they reach the donut hole and have to pay a lot out of their pocket, they feel like maybe they are in a program that is costing them more money because they had to come off of those pharmaceutical prescription drug discount programs.

Well, the Inspector General had confused the pharmaceutical companies a little bit, and there was some concern about these programs and if they could legally continue. I want to tell you that Members of this body, I think really on both sides of the aisle, went to CMS, talked with the Inspector General and said, you know, that is not right. We need to let these companies continue to do that.

Listen to what the result of that effort was, Mr. Speaker: Drug makers can continue assistance programs for seniors. HHS secretary Mike Leavitt: "This is excellent news. In a legal opinion that could help many thousands of Medicare beneficiaries, drug manufacturers were told Tuesday," that was a couple of week ago, Mr. Speaker, "that they can continue giving free medicine to poor people even if they are enrolled for the new drug benefit."

Each year, large drug companies routinely give millions of free prescriptions to the poor. However, most of the drug companies had said that they would discontinue this practice for senior citizens now that they could get coverage through Medicare.

We have reversed that. As Secretary Leavitt said, and I will give a quote here, "this is excellent news for the many people with Medicare who have relied on these valuable patient assistance programs."

The bottom line is a senior now can enjoy both the advantage of being on a Medicare part D prescription drug program and also the benefit when they get to the point where they otherwise would have to pay the full price at somewhat of a discount out of their own pocket, then the pharmaceutical companies can come in and fill that gap. A great program.

Mr. Speaker, I wanted to take some time to talk about individual cases. I think a lot of times my colleagues, we talk and tell facts and try to make our points, but I don't think anything does that better than what we refer to as anecdotal evidence. In other words, real live situations, people that give their testimonial.

Listen to some of these. Mae Thacker of Kingston, Georgia, that is in the Eleventh District, my district in Bartow County, northwest of Atlanta. May was paying $781 a month for her medications. That is a lot of money. She had heard Medicare part D wouldn't save her any money and wasn't worth her time.

That is sad, because that is the kind of rhetoric that far too many seniors have been hearing over the last couple of years.

But its detractors were wrong. Mae learned about the program and she enrolled. She enrolled. And, guess what? With Medicare part D, Mae Thacker now pays only $178 a month. $781 a month with no Medicare part D; $178 a month with it. Total savings, my colleagues, $600 a month. That means I think that Mae Thacker can now pay her utility bill, buy her groceries, have a roof over her head and afford to get those prescription drugs that can save her life.

Here is another. This is an e-mail that I received again from the Eleventh District of Georgia. Jerry O'Brien, Cobb County, my home county for the last 30 years. Here is what Jerry says. "I went to Medicare.gov, www.medicare.gov, and I found a comparison of various programs. I chose one for my wife at a premium of $70 a month, but no deductible.

The deductible, I think everybody knows, cannot be more than $250 a month for Medicare to approve that as a prescription drug plan. It can't be more than $250 a month, but it can be less. Jerry found one by going to the website that had no deductible and a $70 a month premium.

Jerry goes on to say, "We had no prescription insurance before and find Medicare part D to be very effective. We saved enough on the first prescriptions to pay for two months of the premiums." So the first prescriptions they saved $140.

"I realize the program got off to a shaky start, but as far as I am concerned, it is now working well." Jerry O'Brien, Cobb County, Georgia.

Let's go out to Colorado, about as far as you can get in this country from Georgia, heading out west. Lyda. Lyda B lives in Colorado Springs, Colorado. Lyda had no prescription drug coverage and she was paying $1,200 a year for her medications. She found out she was eligible for extra help as a low income senior.

Remember we talked about those, and really that has been the major emphasis of my discussion tonight, about how important it is to get to those 3 million here in the next 6 days. We are going to get close. We are going to get close.

She found out she was eligible for the extra help, and, thank goodness, Lyda enrolled in a plan for her, not only no deductible, but no monthly premium. There is a premium, but Medicare pays for that because she qualifies because of low income and low assets.

With Medicare Part D, Lyda now pays only $3 per prescription, saving her hundreds of dollars a month. Just think about that. $3 a prescription. A prescription would be a month's supply. If she were on one drug, then she is paying $36 a year. If she were on two, it would be $72 a year. If it were three, it would be just over $100. Compared to $1,200? A great deal for Lyda. Thank God she has taken advantage of it.

Mr. Speaker, here is another. I don't have but about 15 minutes left, but I probably could spend 2 hours sharing these testimonials. Fern from Peabody, Massachusetts, she was paying $2,100 a year for medications. With Medicare Part D, Fern now pays only $660 a year. She says the savings are worth the time, and the enrollment process was not confusing or complicated.

There is lots of help. The health insurance assistance programs in all 50 States, they are called different things, I think it is Georgia Cares in the State of Georgia, but this organization, plus all these senior organizations that volunteer their time at senior centers, maybe at your local library, the pharmacist in the drugstores, particularly the chain drugstores, CVS, Walgreens, Eckards, they have something called Medicare Tuesdays, Medicare Part D Tuesdays, where a pharmacist, instead of being behind a counter, there is one behind the counter filling prescriptions, but there is another one dedicated all day long to just sitting there and welcoming seniors to come in and let them explain the program to them and give them some options and help them get through the little confusion to get signed up.

These are just a few of the stories. I particularly wanted to, Mr. Speaker, talk about a lady in Polk County, one of my favorite counties in my district. Lola Squires of Polk County was paying $1,016 a month for her medications. As a widow on a fixed income, she often had to choose between buying food and buying medicine. With Medicare Part D, Lola now pays only $27 a month and her savings are almost $1,000 a month, $989.

Well, the whole point is the initial enrollment period ends May 15, Monday. Again, we want to say to those 5½, 6 million not signed up, sign up now to avoid the premium increase penalties. There will be no, and I repeat, no premium increase penalties on the low income. It is important that I say that over and over again, because the other side is suggesting just the opposite, and it is flat out not true.

The way to do it, www.medicare.gov, or just pick up the telephone and dial 1–800–Medicare. Log on or call 24 hours a day, 7 days a week, for personalized assistance with Medicare Part D. The amount of personnel has been beefed up tremendously in this last 6 weeks so when you dial that number the wait time probably is not going to be more than 45 seconds.

We are making the effort, and we will continue to make the effort, because it is the right and compassionate thing to do, Mr. Speaker.

I would just like to say in conclusion, we fuss and fight a lot around here, my colleagues. We all know that. Sometimes we embellish a little bit the arguments we make. And sometimes, very usually in a very honest way, we have differences of opinion on legislation and amendments and how you can make a bill a little bit better. We try to always not let the perfect get in the way and destroy the good. And that is the typical process.

But in something like this, I think that even though when we passed this bill, so-called in the wee hours of the night in November of 2003, there was bipartisan support. There was a lot of rhetoric back and forth, but in the final analysis there was bipartisan support.

It is time for the losing side, if you will, to get over that, to put that behind them, and not to continue to be obstructionists in a program that is a God-send for so many of our seniors and an absolute no-brainer as to whether or not they should sign up.

Back then, 2 years ago, you saw Members come to the well and symbolically tear up their AARP card because that organization had the nerve to support a Republican program, or to take that prescription drug discount card, that transitional program, remember my colleagues, where low income seniors got a $600 credit towards the purchase of each of those drugs, for 2 years, $1,200 real money before we got this program up and running January 6? Our colleagues on the other side of the aisle were saying, tear up those cards.

Well, that is all history. That is all water over the dam, regrettable. But it is definitely time for us to say to our colleagues, put that behind you. It is an election year. We know that. We can fight and fuss over other things. We can try to create wedge issues and play "gotcha" and make the other side look bad, and hope we can on our side keep the majority and on your side gain it. That is fine. That is fair. That is what this process is all about.

But in a program like this, where we are talking about needy seniors, let's don't play politics with it at all. Let's do the right thing, and the right thing is to get out there, Members, on both sides of the aisle. When you come home late tomorrow night or early Friday morning, have a town hall meeting on Friday, maybe one on Saturday and one on Monday, and tell the seniors, even if you don't think this program is what it should have been and you could have presented a better program, let them know that there is a good benefit here and they need to sign up for it.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. COLE of Oklahoma (during the Special Order of Mr. GINGREY), from the Committee on Rules, submitted a privileged report (Rept. No. 109–460) on the resolution (H. Res. 810) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 5122, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

Mr. COLE of Oklahoma (during the Special Order of Mr. GINGREY), from the Committee on Rules, submitted a privileged report (Rept. No. 109–461) on the resolution (H. Res. 811) providing for consideration of the bill (H.R. 5122) to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2007, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROWN of Ohio) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY, for 5 minutes, today.

Mr. ETHERIDGE, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. ALLEN, for 5 minutes, today.

Mr. SNYDER, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Ms. WASSERMAN SCHULTZ, for 5 minutes, today.

(The following Members (at the request of Mr. BURGESS) to revise and extend their remarks and include extraneous material:)

Mrs. BIGGERT, for 5 minutes, today.

Ms. GINNY BROWN-WAITE of Florida, for 5 minutes, today.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1382.—An act to require the Secretary of the Interior to accept the conveyance of certain land, to be held in trust for the benefit of the Puyallup Indian tribe.

ADJOURNMENT

Mr. GINGREY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 15 minutes p.m.), the House adjourned until tomorrow, Thursday, May 11, 2006, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7385. A letter from the Acting Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Oil and Gas and Sulphur Operations in the Outer Continental Shelf — Incident Reporting Requirements (RIN: 1010-AC57) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7386. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS), 30 CFR 250 Subpart A, General — Data Release and Definitions (RIN: 1010-AC99) received April 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7387. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Northeastern United States; Atlantic Mackeral, Squid, and Butterfish Fisheries; Closure of the Quarter II Fishery for Loligo Squid [Docket No. 051209329-5329-01; I.D. 041406A] received May 3, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7388. A letter from the Director, Regulations & Disclosure Law, Customs and Border Division, Department of Homeland Security, transmitting the Department's final rule — Establishment of Port of Entry at New River Valley, Virginia, and Termination of the User-Fee Status of New River Valley Airport [USCBP-2005-0030; CBP Dec. 06-10] received April 17, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7389. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Rates for Pilotage on the Great Lakes [USCG-2002-11288] (RIN: 1625-AA38 (Formerly RIN: 2115-AG30) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7390. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; China Basin, San Francisco, CA [CGD11-05-020] (RIN: 1625-AA09) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7391. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: GICW MM60 to GICW MM90, Longbeach, MS to Biloxi, MS [COTP Mobile-05-020] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7392. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: GICW MM90 to GICW MM128, Pascagoula, MS to Dauphin Island Bridge [COTP Mobile-05-021] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7393. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: GICW MM128 to GICW MM155, Mobile, AL to Gulf Shores, AL [COTP Mobile-05-022] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7394. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; GICW MM155 to GICW MM225 Orange Beach, AL to Santa Rosa Island, FL [COTP Mobile-05-023] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7395. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; GICW MM225 to GICW MM350 Santa Rosa Beach, FL to Aucilla River, FL [COTP Mobile-05-024] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7396. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lower Mississippi River, Mile Marker 430.0 to the Entrance of the Southwest Pass Safety Fairway, LA [COTP New Orleans-05-029] (RIN:

1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7397. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ohio River, Miles 603.0 to 604.0, Louisville, KY [COTP Ohio Valley 05-010] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7398. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ohio River, Mile Marker 918.5 to 932.0, Paducah, KY [COTP Ohio Valley-05-012] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7399. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Allegheny and Ohio Rivers Surrounding the Point, Pittsburgh, Pennsylvania [COTP Pittsburgh-05-012] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7400. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ohio River Mile Marker 42.9 to Mile Marker 43.3, Chester, West Virginia [COTP Pittsburgh-05-013] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7401. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ohio River Mile Marker 66.1 to Mile Marker 66.5, Weirton, West Virginia [COTP Pittsburgh-05-014] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7402. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Allegheny River Mile Marker 0.0 to Mile Marker 0.7, Pittsburgh, Pennsylvania [COTP Pittsburgh-05-015] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7403. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sabine River, Orange, TX [COTP Port Arthur-05-012] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7404. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-05-110] (RIN: 1625-AA87) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7405. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Upper Mississippi River Mile Marker 282.0 to Mile Marker 284.0, Louisiana, MO [COTP St. Louis-05-010] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7406. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Fair St. Louis 2005, Upper Mississippi River Mile Marker 179.2 to Mile Marker 180.0, St. Louis, MO [COTP St. Louis-05-012] (RIN: 1625-AA87) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7407. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Upper Mississippi River Mile Marker 614.8 to Mile Marker 615.2, Guttenburg, IA [COTP St. Louis-05-013] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7408. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Missouri River Mile Marker 28.2 to Mile Marker 28.8, St. Charles, MO [COTP St. Louis-05-014] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7409. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Upper Mississippi River Mile Marker 482.2 to Mile Marker 482.8, Davenport, IA [COTP St. Louis-05-015] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7410. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Illinois River Mile Marker 179.7 to Mile Marker 180.3, Chillicothe, IL [COTP St. Louis-05-016] (RIN: 1625-AA00) received March 16, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7411. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Weather Takeoff Minimums; Miscellaneous Amendments [Docket No. 30475; Amdt. 3150] received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7412. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30476; Amdt. 3151] received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7413. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30479; Amdt. No. 3153] received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7414. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30481; Amdt. No. 3155] received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7415. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The Cessna Aircraft Company Models 208 and 208B Airplanes [Docket No. FAA-2006-23648; Directorate Identifier 2006-CE-07-AD; Amendment 39-14514; AD 2006-06-06] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7416. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc Models RB211 Trent 768-60, Trent 772-60, and Trent 772B-60 Turbofan Engines [Docket No. FAA-2006-23605; Directorate Identifier 2005-NE-48-AD; Amendment 39-14500; AD 2006-05-03] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7417. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. FAA-2006-24110; Directorate Identifier 2006-NM-020-AD; Amendment 39-14508; AD 2006-05-11] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7418. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 720 and 720B Series Airplanes [Docket No. FAA-2006-24162; Directorate Identifier 2006-NM-031-AD; Amendment 39-14513; AD 2006-06-05] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7419. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757-200 and -300 Series Airplanes [Docket No. FAA-2005-23282; Directorate Identifier 2005-NM-210-AD; Amendment 39-14496; AD 2006-04-14] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7420. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-200F, 747-200C, 747-400, 747-400D, and 747-400F Series Airplanes [Docket No. FAA-2005-22526; Directorate Identifier 2005-NM-008-AD; Amendment 39-14499; AD 2006-05-02] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7421. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF34 Series Turbofan Engines [Docket No. 2000-NE-42-AD; Amendment 39-14501; AD 2006-05-04] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7422. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747SP, 747SR, 747-100, -100B, -100B SUD, -200B, -200C, -200F, and -300 Series Airplanes [Docket No. 2001-NM-213-AD; Amendment 39-14479; AD 2006-03-15] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7423. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; MT-Propeller Entwicklung GmbH Propellers [Docket No. FAA-2005-20856; Directorate Identifier 2004-NE-25-AD; Amendment 39-14502; AD 2006-05-05] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7424. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 777-200 Series Airplanes [Docket No. FAA-2005-23357; Directorate Identifier 2005-NM-207-AD; Amendment 39-14505; AD 2006-05-08] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7425. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Model Avro 146-RJ Airplanes [Docket No. FAA-23477; Directorate Identifier 2005-NM-181-AD; Amendment 39-14507; AD 2006-05-10] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7426. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-200C, -200F, -400, -400D, and -400F Series Airplanes [Docket No. FAA-2005-23196; Directorate Identifier 2005-NM-187-AD; Amendment 39-14506; AD 2006-05-09] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7427. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747 Airplanes [Docket No. FAA-2005-22715; Directorate Identifier 2005-NM-108-AD; Amendment 39-14503; AD 2006-05-06] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7428. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Aerospatiale Model ATR42-300 and -320 Airplanes [Docket No. FAA-2005-20220; Directorate Identifier 2004-NM-152-AD; Amendment 39-14504; AD 2006-05-07] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7429. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model SA-365N, SA-365N1, AS-365N2, and SA-366G1 Helicopters [Docket No. FAA-2005-23159; Directorate Identifier 2005-SW-10-AD; Amendment 39-14510; AD 2006-06-02] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7430. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model EC 155B and B1 Helicopters [Docket No. FAA-2005-22697; Directorate Identifier 2004-SW-46-AD; Amendment 39-14509; AD 2006-06-01] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7431. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cessna Model 500, 501, 550, S550, 551, and 560 Airplanes [Docket No. FAA-2005-20970; Directorate Identifier 2004-NM-53-AD; Amendment 39-14511; AD 2006-06-03] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7432. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-9-10, -20, -30, -40 and -50 Series Airplanes, and Model DC-9-81 (MD-81), and DC-9-82 (MD-82) Airplanes [Docket No. FAA-2005-221221; Directorate Identifier 2004-NM-128-AD; Amendment 39-14512; AD 2006-06-04] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7433. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 Airplanes; and Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP Airplanes [Docket No. FAA-2005-23283; Directorate Identifier 2005-NM-185-AD; Amendment 39-14483; AD 2006-04-02] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7434. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF34-1A, -3A, -3A1, -3A2, -3B, and -3B1 Series Turbofan Engines [Docket No. FAA-2004-18648; Directorate Identifer 2004-NE-26-AD; Amendment 39-14494; AD 2006-04-12] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PUTNAM: Committee on Rules. House Resolution 810. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 109–460). Referred to the House Calendar.

Mr. COLE of Oklahoma: Committee on Rules. House Resolution 811. Resolution providing for further consideration of the bill (H.R. 5122) to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2007, and for other purposes (Rept. 109–461). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. PRICE of Georgia (for himself and Mr. Kline):

H.R. 5336. A bill to amend title XVIII of the Social Security Act to suspend the Medicare prescription drug late enrollment penalty during 2006; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLUNT (for himself, Ms. Pryce of Ohio, Mrs. Maloney, Mr. Crowley, Mr. King of New York, Mr. Hoekstra, Mr. Barton of Texas, Mr. Smith of Texas, Mr. Young of Alaska, Mr. Manzullo, Mr. Reynolds, Mr. Baker, Mr. Bachus, Mr. Ney, Mrs. Kelly, Mr. Foley, Mr. Fossella, Mrs. Biggert, Mrs. Myrick, Mr. Doolittle, Ms. Harris, Mr. Shays, and Mr. McCotter):

H.R. 5337. A bill to ensure national security while promoting foreign investment and the creation and maintenance of jobs, to reform the process by which such investments are examined for any effect they may have on national security, to establish the Committee on Foreign Investment in the United States, and for other purposes; to the Committee on Financial Services, and in addition to the Committees on Energy and Commerce, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CLEAVER:

H.R. 5338. A bill to prohibit the use of amounts in a Members' Representational Allowance to provide any vehicle which does not use alternative fuels; to the Committee on House Administration.

By Ms. LEE (for herself and Mr. Serrano):

H.R. 5339. A bill to confirm the jurisdiction of the Consumer Product Safety Commission with respect to releasing systems on residential window bars and to establish a consumer product safety standard ensuring that all such bars include a quick-release mechanism; to the Committee on Energy and Commerce, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KIND:

H.R. 5340. A bill to promote Department of the Interior efforts to provide a scientific basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin, and for other purposes; to the Committee on Resources.

By Mr. BACHUS (for himself, Mr. Frank of Massachusetts, Mr. Hensarling, Mr. Moore of Kansas, Mr. Renzi, Mrs. Maloney, Mr. Davis of Kentucky, Mr. Davis of Alabama, Mr. Shays, Ms. Hooley, Mr. Jones of North Carolina, Mr. Matheson, Mrs. Biggert, Mr. Hinojosa, Mr. Garrett of New Jersey, Ms. Wasserman Schultz, Mr. Neugebauer, Mr. Clay, and Mrs. McCarthy):

H.R. 5341. A bill to amend section 5313 of title 31, United States Code, to reform certain requirements for reporting cash transactions, and for other purposes; to the Committee on Financial Services.

By Mr. FOSSELLA:

H.R. 5342. A bill to prohibit certain agency actions regarding the use of certain electronic devices onboard air born commercial airlines; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOHMERT:

H.R. 5343. A bill to protect State and Federal judges by clarifying that Federal judicial immunity covers all acts undertaken by judges pursuant to legal authority; to the Committee on the Judiciary.

By Ms. HOOLEY:

H.R. 5344. A bill to amend the Richard B. Russell National School Lunch Act to improve the summer food service program for children; to the Committee on Education and the Workforce.

By Mr. MATHESON (for himself and Mr. RENZI):

H.R. 5345. A bill to require ratings labels on video games and to prohibit the sales and rentals of adult-rated video games to minors; to the Committee on Energy and Commerce.

By Mr. MORAN of Kansas (for himself, Mr. UDALL of Colorado, and Mr. FORTENBERRY):

H.R. 5346. A bill to amend the Solid Waste Disposal Act to establish a program to provide reimbursement for the installation of alternative energy refueling systems; to the Committee on Energy and Commerce.

By Mr. SHAYS (for himself, Ms. WATERS, Mr. LEACH, Mr. WATT, Mr. DAVIS of Alabama, Mr. LEWIS of Georgia, Mr. FORD, Mr. WEXLER, Mrs. CHRISTENSEN, Mr. EVANS, Mr. GUTIERREZ, Mr. CUMMINGS, Mr. BOEHLERT, Mr. SCOTT of Georgia, Mr. OWENS, Mr. MEEKS of New York, Mr. PAYNE, Mr. KUCINICH, Mr. MILLER of North Carolina, Mr. COOPER, Mrs. JOHNSON of Connecticut, Mrs. MALONEY, Mr. UPTON, Ms. KAPTUR, Mr. CONYERS, and Mr. HOLT):

H.R. 5347. A bill to reauthorize the HOPE VI program for revitalization of public housing projects; to the Committee on Financial Services.

By Mr. STARK (for himself, Mr. RANGEL, Mr. LEWIS of Georgia, Mr. EMANUEL, and Mr. ENGEL):

H.R. 5348. A bill to amend title XVIII of the Social Security Act to restore financial stability to Medicare anesthesiology teaching programs for resident physicians; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TANCREDO (for himself and Ms. LORETTA SANCHEZ of California):

H.R. 5349. A bill to amend the Higher Education Act of 1965 to establish a student loan forgiveness program for nurses; to the Committee on Education and the Workforce.

By Mr. UDALL of New Mexico:

H.R. 5350. A bill to amend the Federal Deposit Insurance Act and the Truth in Lending Act to prohibit federally insured institutions from engaging in high-cost payday loans, to expand protections for consumers in connection with the making of such loans by uninsured entities, and for other purposes; to the Committee on Financial Services.

By Mr. MEEKS of New York (for himself and Mr. MCNULTY):

H. Res. 812. A resolution expressing gratitude to Mrs. Deloris Jordan and the James Jordan Foundation for improving the lives of inner city youth in the United States and initiating a public-private collaborative to establish a women and children's hospital in Nairobi, Kenya, and supporting the current Nairobi Women's Hospital for its dedication and commitment to the residents of Nairobi; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 226: Mr. OXLEY.

H.R. 378: Mr. HASTINGS of Florida and Mr. JEFFERSON.

H.R. 503: Mr. LINCOLN DIAZ-BALART of Florida.

H.R. 550: Mrs. TAUSCHER.

H.R. 559: Mr. KILDEE, Mr. PALLONE, and Ms. MATSUI.

H.R. 583: Ms. NORTON and Mrs. LOWEY.

H.R. 633: Mr. UDALL of Colorado.

H.R. 807: Mr. BOSWELL.

H.R. 808: Mr. LEWIS of Kentucky.

H.R. 819: Mrs. CAPITO and Mr. PENCE.

H.R. 891: Mr. BURGESS.

H.R. 916: Mr. JONES of North Carolina and Mr. CASE.

H.R. 964: Mr. CLAY.

H.R. 997: Mr. SIMPSON.

H.R. 1070: Mr. BARTON of Texas.

H.R. 1217: Ms. KAPTUR.

H.R. 1227: Mr. UPTON and Mr. BOYD.

H.R. 1264: Mr. ENGEL.

H.R. 1298: Ms. WOOLSEY and Mr. HEFLEY.

H.R. 1306: Mr. MCHENRY, Mr. MICA, Mr. SULLIVAN, and Mr. JINDAL.

H.R. 1415: Mr. MORAN of Virginia.

H.R. 1425: Mr. WAXMAN, Mr. PALLONE, Ms. CORRINE BROWN of Florida, Mr. MORAN of Virginia, and Mr. GERLACH.

H.R. 1426: Mr. FILNER.

H.R. 1504: Mr. RUPPERSBERGER.

H.R. 1522: Mr. NEAL of Massachusetts.

H.R. 1621: Mr. LEVIN, Mr. DICKS, and Mr. GRIJALVA.

H.R. 1709: Mr. FORD.

H.R. 1933: Mr. BOREN.

H.R. 2178: Ms. SCHAKOWSKY and Mr. THOMPSON of California.

H.R. 2231: Mr. RYAN of Wisconsin, Mr. LARSON of Connecticut, Mr. ISSA, Mrs. NAPOLITANO, Mr. LEWIS of Georgia, Mr. PORTER, Mr. BUTTERFIELD, Mr. KANJORSKI, Mr. LINCOLN DIAZ-BALART of Florida, Ms. DELAURO, Mr. ROTHMAN, Mr. NUNES, Mr. FOLEY, Mr. STARK, Mr. CHABOT, Ms. ROYBAL-ALLARD, Mr. DAVIS of Tennessee, and Mr. RAHALL.

H.R. 2234: Mr. HOYER.

H.R. 2238: Mr. MOLLOHAN, Mr. MCHUGH, and Mrs. CAPITO.

H.R. 2323: Ms. ZOE LOFGREN of California.

H.R. 2376: Mrs. BONO.

H.R. 2429: Mr. DEFAZIO.

H.R. 2533: Mr. THOMPSON of Mississippi, Mr. CANNON, and Mr. NUSSLE.

H.R. 2635: Mr. LANGEVIN.

H.R. 2828: Mr. DELAHUNT.

H.R. 2943: Mr. UDALL of Colorado.

H.R. 2962: Mr. HOLT.

H.R. 3011: Mr. WOLF.

H.R. 3159: Mr. EVANS.

H.R. 3183: Ms. SCHAKOWSKY.

H.R. 3385: Mr. REHBERG.

H.R. 3547: Mr. MEEKS of New York.

H.R. 3559: Mr. BOREN, Mr. SHAYS, Mr. GONZALEZ, Mr. EDWARDS, Ms. MCCOLLUM of Minnesota, Mr. MCKEON, Ms. KAPTUR, and Mr. ABERCROMBIE.

H.R. 3859: Mr. SHAYS.

H.R. 3861: Ms. NORTON and Mr. CUELLAR.

H.R. 3949: Mrs. JO ANN DAVIS of Virginia.

H.R. 3964: Ms. SCHAKOWSKY.

H.R. 4063: Mr. GORDON.

H.R. 4157: Mr. MARCHANT.

H.R. 4166: Mr. FORD.

H.R. 4188: Mr. MEEKS of New York.

H.R. 4222: Mr. JEFFERSON.

H.R. 4381: Mr. CHANDLER, Mr. MCCAUL of Texas, Mr. MCCOTTER, Mr. COLE of Oklahoma, Ms. JACKSON-LEE of Texas, Mr. ORTIZ, Mrs. KELLY, and Mr. KING of New York.

H.R. 4384: Mrs. JOHNSON of Connecticut, Mr. WEXLER, Mr. PETERSON of Minnesota, Mr. CASE, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 4434: Mr. MCCOTTER.

H.R. 4435: Mr. MCCOTTER.

H.R. 4527: Mr. BISHOP of Georgia.

H.R. 4551: Mr. MARCHANT.

H.R. 4596: Mr. MCCOTTER.

H.R. 4600: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 4621: Mr. SIMMONS and Mr. BARTLETT of Maryland.

H.R. 4681: Mrs. WILSON of New Mexico and Mr. SCOTT of Virginia.

H.R. 4703: Mr. FOSSELLA.

H.R. 4710: Mr. CASE.

H.R. 4715: Mr. RENZI.

H.R. 4725: Mr. CONAWAY and Mrs. CUBIN.

H.R. 4730: Mr. ENGLISH of Pennsylvania.

H.R. 4736: Mr. BASS.

H.R. 4751: Mr. BASS, Mr. GERLACH, Ms. LORETTA SANCHEZ of California, and Mr. DENT

H.R. 4753: Mr. CONYERS.

H.R. 4761: Mr. FORTENBERRY, Mr. GILLMOR, Mr. GARY G. MILLER of California, and Mr. BISHOP of Utah.

H.R. 4472: Ms. FOXX and Mr. MCHENRY.

H.R. 4777: Mr. UPTON, Mr. BERRY, Mr. BROWN of South Carolina, Mr. CRAMER, Mrs. CUBIN, FOLEY, Ms. GRANGER, Mr. HALL, Mr. HULSHOF, Mr. LEWIS of Kentucky, Mr. SCOTT of Georgia, Mr. TAYLOR of North Carolina, and Mr. THORNBERRY.

H.R. 4810: Mr. GARRETT of New Jersey.

H.R. 4867: Mr. MOORE of Kansas.

H.R. 4894: Mr. FRELINGHUYSEN and Mr. WELLER.

H.R. 4922: Mr. MARCHANT.

H.R. 4932: Mr. SHERMAN, Mr. KUHL of New York, and Mr. BOUCHER.

H.R. 4949: Mr. FERGUSON.

H.R. 4960: Mr. FERGUSON.

H.R. 5013: Mr. SOUDER.

H.R. 5035: Mr. VAN HOLLEN.

H.R. 5051: Mrs. JOHNSON of Conecticut, Ms. SCHAKOWSKY, and Ms. WOOLSEY.

H.R. 5055: Mrs. MALONEY.

H.R. 5058: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 5106: Mr. GERLACH, Mr. GRIJALVA, Mr. OWENS, Mr. GUTIERREZ, Mr. PAYNE, Mr. SCOTT of Virginia, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GENE GREEN of Texas, Mr. DOGGETT, Mr. WEXLER, and Ms. VELÁZQUEZ.

H.R. 5113: Mr. BAIRD.

H.R. 5116: Mrs. MALONEY and Mr. MORAN of Virginia.

H.R. 5129: Mr. KLINE and Mr. SODREL.

H.R. 5134: Mr. GORDON, Mr. MOORE of Kansas, Mr. ROSS, Mr. RAHALL, Mr. CARDIN, Mr. SNYDER, and Mr. BARTLETT of Maryland.

H.R. 5139: Mr. FITZPATRICK of Pennsylvania.

H.R. 5140: Mr. RUPPERSBERGER.

H.R. 5159: Ms. BERKLEY, Mr. BLUMENAUER, Mrs. BONO, Mr. BOOZMAN, Mr. CANTOR, Mr. CROWLEY, MR. DEAL of Georgia, Mr. ENGLISH of Pennsylvania, Mr. GINGREY, Mr. GOHMERT, Mr. HAYWORTH, Mr. KUCINICH, Mr. GARY G. MILLER of California, Mr. OTTER, Mr. POMEROY, Ms. PRYCE of Ohio, Ms. ROS-LEHTINEN, Ms. SCHAKOWSKY, Mrs. SCHMIDT, Mr. WALDEN of Oregon, Mr. WOLF, Mr. MARIO DIAZ-BALART of Florida, Mr. MARSHALL, and Mr. HOEKSTRA.

H.R. 5170: Mr. GALLEGLY, Mr. BASS, Mrs. CUBIN, Mrs. BLACKBURN, and Mr. FITZPATRICK of Pennsylvania.

H.R. 5171: Mrs. SCHMIDT and Mr. OXLEY.

H.R. 5173: Mr. RENZI.

H.R. 5177: Mr. MURTHA, Ms. HART, Mr. HOLDEN, and Mr. RAHALL.

H.R. 5201: Mr. MICHAUD, Mr. UDALL of Colorado, Mr. MURTHA, Mr. CUELLAR, Mr. SPRATT, Mr. GONZALEZ, Mr. SMITH of Washington, Mr. FRANK of Massachusetts, Mr. FERGUSON, Mr. THOMPSON of California, Mr. STUPAK, Mr. VAN HOLLEN, Mr. CARDOZA, Mr. PLATTS, Mr. DOGGETT, and Ms. LEE.

H.R. 5224: Mr. JOHNSON of Illinois.

H.R. 5230: Mr. BISHOP of Utah.

H.R. 5232: Ms. SCHWARTZ of Pennsylvania.

H.R. 5234: Mr. WEXLER and Mr. GORDON.

H.R. 5244: Mr. BERMAN, Mr. SCHIFF, and Ms. LINDA T. SÁNCHEZ of California.

H.R. 5246: Mr. CANTOR, Mrs. MYRICK, Mr. GENE GREEN of Texas, Mr. JINDAL, Mr. MCKEON, Mr. FILNER, Mr. TIBERI, Mr. LEACH, Mr. BARROW, Mr. MCCAUL of Texas, Mr. JENKINS, Mr. BONNER, Mr. BOSWELL, Mr. GERLACH, Mr. MATHESON, Mr. PRICE of Georgia, Mrs. MALONEY, Mr. POE, Mr. WELDON of Florida, Mr. PICKERING, Mr. NEAL of Massachusetts, Mr. CLEAVER, Mr. FORD, Mr. SCOTT of Georgia, Mr. GOODE, Mr. FOLEY, Mr. HAYWORTH, Mr. RAMSTAD, Mr. SPRATT, Mr. LINCOLN DIAZ-BALART of Florida, Mr. BACHUS, Mr. THOMPSON of Mississippi, Mr. BONILLA, Mr. PAUL, Mr. MARIO DIAZ-BALART of Florida, Mr. MICHAUD, and Mr. CULBERSON.

H.R. 5278: Mr. GERLACH, Mr. SOUDER, and Mr. ENGLISH of Pennsylvania.

H.R. 5291: Mr. KUHL of New York, Mrs. MILLER of Michigan, Mrs. BIGGERT, Mr. WELDON of Pennsylvania, Mr. DAVIS of Kentucky, Mr. ENGLISH of Pennsylvania, Mr. FRELINGHUYSEN, Mr. FITZPATRICK of Pennsylvania, and Mr. WELLER.

H.R. 5292: Mr. FEENEY and Mr. HASTINGS of Florida.

H.R. 5313: Mr. WELLER and Mr. ENGLISH of Pennsylvania.

H.R. 5315: Mr. SANDERS.

H.R. 5316: Mr. BOOZMAN, Mr. SALAZAR, and Mr. MARCHANT.

H.R. 5319: Mr. KUHL of New York and Mr. SHAYS.

H.R. 5333: Mr. HYDE.

H. Con Res. 42: Mr. PAUL.

H. Con. Res. 106: Mr. WELLER.

H. Con. Res. 323: Ms. BERKLEY.

H. Con. Res. 346: Mr. BILIRAKIS and Mr. TANCREDO.

H. Con. Res. 348: Mr. CONYERS.

H. Con. Res. 367: Mr. CASTLE, Mr. GOODLATTE, and Mrs. JO ANN DAVIS of Virginia.

H. Con. Res. 368: Ms PRYCE of Ohio.

H. Con. Res. 380: Mr. COBLE, Mrs. BLACKBURN, and Mr. WEXLER.

H. Con. Res. 395: Mr. LARSEN of Washington.

H. Con. Res. 397: Mr. HYDE.

H. Res. 222: Ms. HARRIS.

H. Res. 566: Mr. FILNER.

H. Res. 765: Mrs. JONES of Ohio.

H. Res. 773: Mr. SAM JOHNSON of Texas and Mr. BISHOP of New York.

H. Res. 776: Mr. BISHOP of Utah.

H. Res. 780: Mr. BERMAN.

H. Res. 784: Mr. MILLER of North Carolina, Ms. MCCOLLUM of Minnesota, and Mrs. MALONEY.

H. Res. 785: Mr. BROWN of Ohio and Mrs. CAPPS.

H. Res. 792: Mr. RANGEL and Mr. FALEOMAVAEGA.

H. Res. 795: Mr. LAHOOD, Mr. ROGERS of Michigan, and Ms. HARRIS.

PETITIONS, ETC.

Under clause 3 of rule XII,

115. The SPEAKER presented a petition of the Missouri River Township Democratic Club, Missouri, relative to a Resolution to Impeach President George W. Bush and Vice President Richard Cheney: to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

TRIBUTE TO JOHN M. EVANS

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. MORAN. Mr. Speaker, today I pay tribute to John M. Evans—one of our Federal Government's finest public servants and a long time resident of the Commonwealth of Virginia. This March he retired from an exceptionally distinguished career of service to his country. He has served our nation as a career civil servant for over 33 years. He has been an exceptional leader and has played a key rôle in ensuring effective financial management for the Department of Defense. It gives me pride to have the opportunity to honor him today for his tremendous accomplishments.

Mr. Evans began his career with the Navy in the financial management field working for various field activities. He progressed to a management position in the Military Traffic Management Command at the Department of Defense where he had responsibility for Personnel and Administration.

Mr. Evans first served in the Department of Defense Comptroller office as a senior budget analyst for a number of major Department of Defense-wide programs, including the DoD Family Housing Program, the DoD Real Property Maintenance Program, Navy Military Construction, and DoD Depot Maintenance.

Mr. Evans also served as the Director for Revolving Funds beginning in April of 2000. While Director, he was responsible for financial management oversight for all DoD revolving and working capital funds, including the Defense Working Capital funds.

Since 2001, Mr. Evans was the Director for Operations. As Director, Mr. Evans was responsible for the Department's Operations and Maintenance appropriations, including programs that support the global war on terror and the Department's homeland security functions.

Senior leaders, both in the Congress and the Department of Defense, have benefited from Mr. Evans' experience, outstanding leadership, and distinguished performance. His efforts have enabled our nation's leaders to make the most effective use of defense resources to ensure America's military strength. On behalf of my colleagues, I thank him for his service to our country and wish him well on his retirement.

WE THE PEOPLE . . . THE CITIZEN AND CONSTITUTION

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. BLUMENAUER. Mr. Speaker, the future of this country is rooted in not just respect for, but understanding the U.S. Constitution. This past weekend more than 1,200 students from across the United States will visit Washington, DC to compete in the national finals of the "We the People . . . The Citizen and the Constitution" competition. This outstanding program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights.

I am proud to announce that 36 students from Grant High School in my congressional district represented the State of Oregon in this national event. These young scholars have worked diligently to reach the national finals and, through their experience, have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy. My neighborhood school has won the State Championship four times in the last six years. Last year they placed second in the nation.

The three-day national competition is modeled after hearings in the United States Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students' testimony is followed by a period of questioning by the judges who probe the depth of their understanding and ability to apply their constitutional knowledge.

Congratulations to Luis Alvarez, Austin Arias, Amelia Bell, Sukey Bernard, Thomas Brant, Becca Carlson, Max Chester, David Cooper, Hopi Costello, Hallie Craddock, Emma Dobbins, Yata Doe, Thomas Dudrey, Theo Erde-Wollheim, Arjav Ezekiel, Elena Fairley, Lauren Faulkner, Hannah Fisher, Laule'a Gorden-Kuehn, Ethan Gross, Phylicia Haggerty, Jennifer Hatton, Thomas Johnson, Austin Knutson, Joe Piucci, Jesse Poquette, Evan Pulvers, Max Schober, Lydia Sheehey, Emily Short, Kyle Sias, Katie Singleton, Natalie Stoll, David Streckert, Laura Yount, Ben Zarov and teacher Matt Campeau on placing number four in the country. They represent the future leaders of our nation and Oregon is proud of them.

PAYING TRIBUTE TO DON ENGLISH

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor the life of Don English, who died Tuesday April 18, 2006.

Don was the man behind many of the iconic photographs of Las Vegas taken over the last four decades. Many of his photos shot over the last 40 years went out on the wire services, and he was even awarded the Life Magazine picture of the week. Don's reputation was such that he was the only photographer allowed in at Frank Sinatra's wedding to Mia Farrow. And he was one of the few that were able to shoot Elvis's wedding to Priscilla Anne Beaulieu at the Aladdin in 1967.

His ingenuity helped perpetuate the public's fascination with Las Vegas for decades, and his images will continue to be admired by people around the world for decades to come. He was truly one of the unsung heroes behind the development of Las Vegas.

Mr. Speaker, I am proud to honor the life and career of Don English. His contributions to Las Vegas commercial development and public image are immeasurable. He will be surely missed.

RECOGNIZING THE PRINCE WILLIAM COUNTY DEPARTMENT OF FIRE AND RESCUE'S 40-YEAR ANNIVERSARY

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to pay tribute to the Prince William County Department of Fire and Rescue as it celebrates its 40th anniversary.

Since its inception in 1966, the Prince William County Department of Fire and Rescue has achieved great success. Through a combination of career and volunteer workers, the department has provided high quality fire, medical, emergency, environmental, and support services.

In my experiences with the department, I have seen its unwavering dedication to the Prince William County community as well as its uniformed and civilian employees' strong values of unity, performance, and personalized delivery.

The department employees' dedication does not stop at Prince William County's borders. In the aftermath of September 11, 2001, they joined their colleagues from neighboring jurisdictions to provide continual service during that time of crisis. Additionally, I have been witness to their selfless commitment to safety and humanitarian efforts across the nation, such as during the recent Katrina disaster.

I am confident that the core principles, which Prince William County Department of Fire and Rescue continually display, will allow the department to continue to excel in the years to come.

Mr. Speaker, in closing, I would like to take this opportunity to thank all the men and women who serve in the Prince William County Department of Fire and Rescue. Their efforts, made on behalf of the citizens of Prince William County, are selfless acts of heroism and truly merit our highest praise. I ask my

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

colleagues to join me in applauding this group of remarkable citizens and congratulate their department's 40-year anniversary.

TRIBUTE TO BRONX COMMUNITY COLLEGE'S 28TH ANNUAL HALL OF FAME 10K RUN

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. SERRANO. Mr. Speaker, it is with joy that I rise today to once again pay tribute to Bronx Community College, which will hold its 28th Annual Hall of Fame 10K Run on Saturday, May 6, 2006.

The Hall of Fame 10K Run was founded in 1978 by Bronx Community College's third president, Dr. Roscoe C. Brown. Its mission is to highlight the Hall of Fame for Great Americans, a national institution dedicated to those who have helped to make America the nation that it is today.

One of the Bronx's most anticipated yearly events, the race contributes to a strong sense of community within the Bronx and helps to promote healthy living by placing emphasis on physical fitness and achieving athletic goals.

The tradition continues under the leadership of President Carolyn G. Williams, the first woman president of Bronx Community College. Dr. Williams has endorsed and follows the commitment made by Dr. Brown to promote physical well-being as well as higher education.

As one who has run the Hall of Fame 10K Run, I can attest that the excitement it generates brings the entire borough together. It is a celebration and affirmation of life. I am happy that more than 400 people will share this experience this year—one that will surely change many of their lives forever. I salute the hundreds of joyful people who will run along the Grand Concourse, University Avenue and West 181st Street and savor the variety of celebrations. There is no better way to see our wonderful Bronx community.

I am also pleased to note that the Annual Run is also joined by a 2 Mile Fitness Walk which allows for as many people as possible, regardless of their athletic ability, to get involved and support the Hall of Fame.

Mr. Speaker, I ask that my colleagues join me in recognizing the individuals and participants who are making the Bronx Community College's 28th Annual Hall of Fame Run possible.

IN SUPPORT OF NATIONAL TEACHER DAY

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. HIGGINS. Mr. Speaker, I rise today in strong support of National Teacher Day. I thank the National Education Association (NEA) for sponsoring National Teacher Day in honor of the teachers who work around the clock to help students develop the skills they need to succeed in life.

This year's National Teacher Day theme, "Great Teachers Make Great Public Schools," recognizes the instrumental role that teachers play in making sure that every child receives a quality education. In recent years, especially with increased global competition, there has been an emphasis on the need to improve our schools and to ensure that every class is taught by high quality teachers. Fortunately, today's public school teachers are the most educated, most experienced ever. The percentage of teachers with a master's degree has more than doubled since 1961 from 23 to 57 percent, and more than 75 percent of all teachers sharpen their skills by participating in professional development related to their grade or subject area. Nine out of 10 teachers only teach subjects in their licensed subject area.

American school teachers work tirelessly to educate our Nation's students. Many of these teachers work out of crumbling old buildings, teach overcrowded classrooms and do the best they can with outdated materials and little access to technology; additionally, they are paid a salary that reflects neither their great worth nor their ability. For the benefit of children, these dedicated individuals spend an average of 50 hours per week and spend an average of $443 per year of their own money on class supplies even though the average starting salary for teachers is only $31,704 per year.

Confronted with a difficult job, school teachers rise to the challenge and I am grateful for today's opportunity to honor them. Unfortunately, this day is also bittersweet because as we recognize the achievements of America's teachers we must also remember the shortcomings of this Congress in failing to help them meet the mandates of No Child Left Behind (NCLB).

The No Child Left Behind Act was passed with the greatest of intentions, but major funding shortfalls have plagued school districts and handcuffed teachers, leaving them focused on federally mandated testing standards and on demonstrating adequate yearly progress (AYP) without providing them with the funding necessary to help students achieve. If this year's budget is passed as is, it would leave NCLB, an initiative that this Administration spearheaded, with $15.4 billion less than authorized levels, bringing the total amount that has been shortchanged from the program to over $55 billion. In a recent survey, NEA member-teachers cited "working to increase funding for public schools" as their top priority. As teachers work to make American schools great, it is a shame that this Congress has failed to fulfill its responsibility and continues to hold schools accountable to these unfunded mandates.

Today, I urge my colleagues to honor the work of America's teachers not just in word or through events, but by committing to fully fund NCLB so that our teachers can succeed in their mission of making sure every child receives a quality education.

PAYING TRIBUTE TO JOHN P. McFADDEN

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor the 85th birthday of John Patrick McFadden, and the anniversary of the McFadden Insurance Agency, which John started 25 years ago.

John McFadden was born July 23, 1921 in Butte, Montana. Born to Irish immigrants, John was educated in a one room school house in Boulder City, Nevada, where the family resided while John's father worked construction on the Hoover Dam. John later attended Las Vegas High School, and graduated in 1940. In 1942, after the start of World War II, John joined the United States Navy. He went to boot camp in San Diego, California, and after completing his training he was assigned to the destroyer minelayer, the USS *Shea* out of Lido Beach, New York. On May 5, 1945, the ship was struck by a Japanese kamikaze plane off the shores of Okinawa, Japan. Two-thirds of the crew of the destroyer were killed and many more wounded; John's injuries were also significant, having sustained 13 pieces of shrapnel in his left leg, severing a nerve and leaving the outside of his foot numb. His right leg, rear end, and head were also full of shrapnel. The shrapnel in his head caused temporary blindness, but after treatment in Saipan, his sight returned. John was not able to return to active duty and was honorably discharged.

In 1951, John was hired at Mercury, Nevada now known as the Nevada Test Site, to set up warehousing in both Camp 1 and Camp 3. In 1953 he was asked to go to Saudi Arabia to work in warehousing and supply and aided the building of dormitories and air strips for the U.S. Air Force, which were used by our country in Operation Desert Storm. During his tenure in Saudi Arabia, he met his wife, Rose. John and Rose subsequently moved back to Las Vegas and were married in 1957.

John trained to be an insurance adjuster, handling property claims, and with a partner formed Key Adjustment Company. He later agreed to manage Horsey Insurance, which later became Harrington-Horsey Insurance. In 1981, after managing the agency for 17 years he decided to form his own agency, now known as McFadden Insurance. This agency is now in its 25th year. During his years with the agency John served as the President of the Nevada Independent Insurance Agents for 2 years, and then served 2 terms as the State National Director for the Nevada Association. He was named "Man of the Year" by the Nevada Independent Insurance Agents in 1986. Even on the eve of his 85th birthday, he has no plans to quit working, and still comes into the office and continues to be a vital asset to the agency.

Mr. Speaker, I am proud to honor John P. McFadden for his heroic service to America and for his personal and professional successes.

COMMEMORATING THE MOUNT VERNON YACHT CLUB'S 50TH ANNUAL COMMISSIONING DAY CEREMONIES

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to congratulate the Mount Vernon Yacht Club on its 50th annual Commissioning Day.

The Mount Vernon Yacht Club was founded in 1956 to offer a variety of social and water-based activities to family members who live in the Historic Mount Vernon area. The clubhouse and marina facility are located where Dogue Creek joins the Potomac River. The club hosts many official and unofficial social and service-oriented events throughout the year. In season, it supports an active swim team, a power fleet, and a sail fleet. The club actively contributes to the boating community by serving as the home base of two Coast Guard Auxiliary Power Squadrons. It hosts meetings of local Coast Guard, County Police and Emergency Responders for Homeland Security training and communications drills.

In closing, Mr. Speaker, I congratulate the Mount Vernon Yacht Club on it's proud history of promoting safe boating, the sport of sailing, and camaraderie among members of the Mount Vernon Yacht Club through it's activities of organized club racing. On the occasion of this 50th annual Commissioning Day, I ask my colleagues to join me in acknowledging this outstanding and distinguished organization.

TRIBUTE TO MONROE BASKETBALL PROGRAM

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to the undefeated national basketball champion Monroe College Lady Mustangs. On Saturday, March 18, the Lady Mustangs (36–0) beat Mohawk Valley Community College (MVCC) 100–70 to become 2006 National Junior College Athletic Association, Division III National Champions. Monroe's men's team, led by Coach Jeff Brustad, also had a successful season, compiling a record of 35–5 and finishing 8th in the national tournament.

There is an old saying: "Everyone has the desire to win, but only champions have the desire to prepare." Under the outstanding leadership of Coach Seth Goodman, the Lady Mustangs worked tirelessly in the off-season to prepare themselves physically and mentally for the season ahead. Their dedication and unrivaled work ethic helped to ensure that their third consecutive appearance in the tournament was a charm.

The Lady Mustangs earned Monroe's first ever national championship in athletics with a tenacious defense and potent offense, a combination that worked for them all season long. Although the tournament was played in front of MVCC's hometown fans in Utica, New York, the Lady Mustangs were not intimidated—they promptly quieted the crowd with stifling defense, holding their opponents to only 2 points for the first seven minutes of the game.

Mr. Speaker, the success that these young ladies enjoyed on the court is not only a reflection of their skills with a basketball, but more importantly, a reflection of their character. To reach the level of competition that they have achieved, one must acquire certain qualities that will not only help in sports but in life as well; qualities such as discipline, patience, and perseverance. While I am excited that they have proved to be champions on the court, I am more excited to know that they have developed the skills necessary for them to become champions in life.

I want to compliment everyone associated with Monroe College Women's and Men's Basketball for the courage and class they exhibited throughout the entire season. Athletics is about much more than winning. It is about learning how to work with others to overcome adversity. The men's and women's basketball programs have shown that they have learned this valuable lesson. I am very proud of Monroe Basketball for the great strides it has made in the pursuit of excellence. May these programs continue to serve as an example of what heights can be reached when you combine patience, hard work, and dedication.

For their strong work ethic and mental toughness on and off the court, I ask my colleagues to join me in paying tribute to the Monroe Lady Mustangs for winning the 2006 NJCAA, Division III National Championship and to congratulate the Monroe Men's team for an impressive run at the national title.

TRIBUTE TO HENRY WEILER

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. HIGGINS. Mr. Speaker, I rise today to honor Henry Weiler for his many years of public service to Chautauqua County.

Mr. Weiler served two terms as county clerk and has continued to work as a part-time court office assistant in the Supreme and County courts. Mr. Weiler was recently honored at the Chautauqua County's annual Law Day celebration for his many years of service to the courts.

Mr. Weiler, as been very active in his community as well. He is involved with the County Historical Society, the American Legion, the Jamestown Harmony Express Barbershop Singers and the local Masonic Lodges. His involvement in the community has helped maintain organizations that strive to improve the quality of life for the citizens of his community.

Mr. Weiler's public service and community involvement has been an inspiration, that is why, Mr. Speaker, I rise to honor him today.

PAYING TRIBUTE TO GERALD BURKIN AND LYNN MAYERS-GERRY

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Gerald Burkin and Lynn Mayers-Gerry who are American Medical Response "Star of Life" recipients.

The American Medical Response "Star of Life" is a special program. Its sole purpose is to publicly recognize and celebrate the achievements of all people working in the selfless and heroic world of ambulance service providers. The "Star of Life" Program seeks to honor outstanding individuals as a thank you for the service, sacrifice and inspiration they bring to all of us.

Gerald and Lynn are heroes in many ways, they have both served as mentors to new employees and have promoted positive changes in the local health care community. Gerald and Lynn have also risked their own safety in the line of duty. While Gerald, Lynn, and an intern were setting up some warning devices, another vehicle struck Gerald and Lynn and they both sustained serious injuries. Even pinned between the ambulance and the vehicle, they maintained contact with the dispatch center via radio and cell phone.

Mr. Speaker, I am proud to honor Gerald Burkin and Lynn Mayers-Gerry for their being awarded the American Medical Response "Star of Life". Gerald and Lynn are also to be commended for their sense of duty and dedication to improving the local health care community. I wish to congratulate and thank them both.

HONORING THE LIFE OF CAPTAIN BRIAN LETENDRE

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor the life of Marine Captain Brian Letendre, one of the true heroes of today's ongoing war against terrorism, and to recognize his service to our Nation.

Captain Letendre was born in California at Stanford University Hospital, but was raised all of his life in Woodbridge, VA. In 1996, Captain Letendre graduated from Potomac High School where he was an exceptional student and captain of the varsity soccer team.

Captain Letendre received his degree in Computer Science from Milligan College, where he met his future wife, Autumn Crane. Captain Letendre then attended Basic Officer School and the Infantry Officer's Course in Quantico, VA. After completing these schools, he and Autumn were married. Captain Letendre was then assigned to the First Battalion, Second Marine Regiment, Second Marine Division. He quickly embarked on a six-month deployment to Okinawa, Japan as an infantry platoon commander, and after returning to the United States briefly, was assigned to Guantanamo Bay, Cuba to provide security and guard the terrorist prisoners being held there.

Captain Letendre's battalion was then deployed in support of Operation Iraqi Freedom. His battalion fought their way north into Iraq after crossing the Kuwait border and were heavily engaged in combat, particularly at the infamous battle of An Nasiriyah during the early days of the liberation. Captain Letendre was decorated with the Navy and Marine Corps Commendation Medal with a Combat "V" for valor, for his heroic actions during combat operations.

Captain Letendre's wife, Autumn, gave birth to their son Dillon the day before Captain Letendre crossed the line of departure into battle. A year after returning from combat, Captain Letendre was assigned to the Marine Forces Reserve's Inspector and Instructor Staff, 1st Battalion, 25th Marine Regiment, 4th Marine Division, Plainville, Connecticut. He was promoted to the rank of Captain on January 1, 2005.

After two years serving stateside, Captain Letendre bravely and selflessly volunteered to join a newly formed elite 11-man unit that was designed to advise and instruct an Iraqi Battalion in combat operations. Tragically, on May 3, 2006, while conducting combat operations against enemy forces in the Al Anbar province of Iraq, Captain Letendre gave his last full measure for our Nation when he was killed in action by a suicide vehicle borne improvised explosive device. His valor and service cost him his life, but his sacrifice will have provided freedom from tyranny and oppression for many around the world.

Captain Letendre's hard work and perseverance contributed greatly to his unit's successes and placed him among many of the great heroes and citizens that have paid the ultimate price for their country. Throughout his career, Captain Letendre earned a series of awards that testify to the dedication and devotion he held for his fellow Marines, the Marine Corps, and his country. These awards include: the Navy and Marine Corps Commendation Medal with a Combat "V"; the Purple Heart; the Combat Action Ribbon; the Army Achievement Medal; the Global War on Terrorism Expeditionary Medal; the Global War on Terrorism Service Medal; the Iraqi Campaign Medal; the Presidential Unit Citation (Navy); the Joint Meritorious Unit Award; the National Defense Service Medal; the Sea Service Deployment Ribbon (3rd Award); the Navy Unit Commendation as well as the expert pistol badge and sharpshooter rifle badge. He was also a graduate of the Survival, Escape, Resistance, and Evasion (SERE) School and was a Green Belt Martial Arts Instructor.

Several times throughout his life, Captain Letendre could have chosen the easier or more comfortable path, but he didn't. He felt a call to something much greater than himself at an early age and followed his heart to where he felt he could help make this world a better place. Because of men like him, this world is safer and more stable, and that is why he is a true hero.

In an e-mail two days before his death, he wrote that he missed his wife and son dearly, but was proud to be over there serving the country. Captain Letendre was an exceptional Marine officer, but most importantly he was a wonderful and caring father, husband, brother, son, and friend to many. And that is how he will be remembered.

Mr. Speaker, I call upon my colleagues to remember in our minds and in our hearts the bravery and sacrifice of Captain Brian Letendre, as well as that of all the men and women of the armed services who honorably protect the American people.

SENIOR MENTAL HEALTH ACCESS IMPROVEMENT ACT

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mrs. CUBIN. Mr. Speaker, the shortage of mental health professionals in rural areas has contributed to disproportionally high rates of depression and suicide. In my home State of Wyoming, the suicide rate is twice the national average. Wyoming's seniors in particular are seriously underserved, in part because they have limited options under the Medicare program.

Currently, the only mental health providers allowed to be reimbursed by Medicare are psychiatrists, psychologists, social workers, and clinical nurse specialists. In some communities, however, there may only be a marriage and family therapist (MFT) or licensed professional counselor (LPC) available.

The bill I am introducing today will give seniors more options for mental health care by allowing MFTs and LPCs to provide Medicare services at the same reimbursement rates as social workers. MFTs and LPCs are as qualified and able as other mental health providers covered by Medicare, and should be treated accordingly.

Under the Senior Mental Health Access Improvement Act, MFTs and LPCs would be able to provide outpatient psychotherapy and inpatient hospital services. It also allows them to provide Medicare services in Skilled Nurses Facilities, rural health clinics and hospice programs.

We still have a long way to go in improving access to medical care in rural areas like Wyoming. Getting our seniors the mental health care they need is an important step in the right direction.

PAYING TRIBUTE TO LIEUTENANT WILLIAM "BILL" BROWN

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Lieutenant William "Bill" Brown for his over 21 years of dedicated service with the Boulder City police force.

Bill has truly acted in all capacities in the Boulder City Police Department. Having started as a "beat cop" of the street he rose through the ranks to serve as fill-in chief. Greatly respected by the community and his fellow officers, Bill was an asset to the department and performed his duties with skill and professionalism. He was so well respected by his fellow citizens that he was often called while off duty for advice and counsel.

Mr. Speaker, I am proud to honor the career of Lieutenant William "Bill" Brown. He epitomized what it is to be a community oriented public servant. Bill's dedication to his fellow officers and the community as a whole truly reflect the best of how First Responders serve. I wish him the best in his retirement.

TRIBUTE TO NATIONAL TEACHER DAY

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. HONDA. Mr. Speaker, I rise today to join with my fellow Americans and my colleagues in Congress to celebrate one of the most honorable and significant professions. National Teacher Day is an opportunity for us to recognize the extraordinary effort of our Nation's educators and reflect on the profound impact of their work.

As a former teacher and school administrator, I am particularly aware of the challenges that educators face, such as overcrowded and under funded schools. Teachers are more highly educated than ever and bring a higher level of expertise to their work than their predecessors. The majority of American teachers have at least one advanced degree and 49 percent have at least 15 years of experience in the classroom. Teacher salaries, however, have not increased commensurate with greater teaching experience and higher levels of education.

Low salaries and general discontent with working conditions drive capable, experienced teachers out of the profession, and by 2014, schools nationwide will need another 3.9 million teachers. The numbers of male teachers and teachers of color does not reflect gender and racial trends in the general population. An increase in salaries for all teachers, as well as better recruitment and retention policies for minority and male teachers may help to rectify this problem.

I hope that National Teacher Day will serve as a reminder to Americans of the crucial role that teachers play in our society. It is imperative that we increase funding for education and make teacher's salaries commensurate with their experience, education, and hard work. Teachers help to shape future generations, and they deserve both our respect and our continuing support. Please join me in thanking them on this special day.

RECOGNIZING BOULDER CITY HIGH SCHOOL VARSITY CHEERLEADING SQUAD

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor the Boulder City High School Varsity

Cheerleading Squad for their win at the Inaugural Silver State Spirit Championship this past March.

The championship consisted of four divisions: 1A through 4A, and teams in each division performed a three minute routine judged on originality, appearance, smiling, difficulty, precision and recovery. This event is the only State high school cheerleading championship offered in Nevada.

The members of the Boulder City High School Varsity Cheerleading Squad are to be commended for their success and hard work. Cheerleading is a rather unique athletic event, whereas most high school sports compete in only one season, cheerleading encompasses two. Their time and dedication is reflected in their success.

Mr. Speaker, I am proud to honor the Boulder City High School Varsity Cheerleading Squad for their win at the Silver State Spirit Championship. I applaud them for their victory and wish them the best in future seasons.

TRIBUTE TO DR. CHARLIE POWELL ALBURY

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. MEEK of Florida. Mr. Speaker, I want to take this opportunity to pay tribute to Dr. Charlie Powell Albury of Miami, Florida on her installation as the 40th Imperial Commandress of the Imperial Court, Daughters of Isis, Prince Hall Affiliated.

On Saturday, May 13, 2006 this great leader will be honored at the Signature Grand Ballroom in Ft. Lauderdale, Florida by friends and members of the organization to mark the assumption of her new responsibilities. She came up through the ranks of this 25,000-member charitable organization since she joined it in 1970. It has now grown to 226 Shrine Temples and 200 Courts of the Daughters of Isis, who serve as its women's auxiliary. Various temples and courts abound throughout the continental United States, Canada, Germany, Italy, England, Spain, Japan, Korea, Guam, Thailand, Panama and the Bahamas.

The group that Dr. Albury will spearhead is both a charitable and social organization whose members have long been dedicated to fostering civic, economic and educational development. Formally organized on August 24, 1910, the Court's Daughters of Isis stresses the development of leaders while encouraging health awareness among youth and adults and the establishment of a network of services for the disabled and senior citizens. The group also recognizes and celebrates the historic achievements of African-American women who have exerted great influence and served as exemplary models for generations of leaders in communities throughout the world. One of its better-known projects targets teenage mothers, high school and college students, who participate in ongoing activities for educational opportunities and career planning.

While its programs are focused on education and academic scholarships, the Imperial Court also ensures health education and mentoring for the leaders of tomorrow through the donation of book bags and school supplies for adopted schools and future members of the Daughters of Isis. Its many members have become permanent fixtures in volunteering their time and effort during the annual College Fund/United Negro College Fund Scholarship Campaigns, Health and Medical Research, American Cancer Society, Mental Retardation, the NAACP and other nationwide efforts benefiting various communities. Consistent with its philosophy of stewardship, this organization has supported many underprivileged people throughout the world.

Dr. Albury served for almost 28 years both as an appointed and elected national officer. She is truly a social-service pioneer and leader, for she has buttressed a rejuvenation of the Imperial Court's Daughters of Isis. For her indefatigable work, she has been cited in the Book of Life of the Black Archives Foundation and in the "Who's Who in the South and Southwest, as well as in the World." Accolades from professional, civic, religious and governmental agencies are both numerous, and well-deserved.

With Dr. Charlie Powell Albury's formal inauguration this Saturday, I join her countless admirers, and colleagues and members of her Imperial Court's Daughters of Isis, in celebrating this historic event. I commend her courageous vision and pragmatic approach to helping others, for she and the organization she leads evokes in simple but noble terms our spirit of hope and optimism in the great American spirit.

TRIBUTE TO THE 50TH ANNIVERSARY OF THE FLINT OLYMPIAN GAMES

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. KILDEE. Mr. Speaker, I ask the House of Representatives to join me in congratulating the Flint Olympian Games as it celebrates 50 years of promoting physical fitness and sportsmanship. Events commemorating this anniversary will be held throughout the summer in my hometown of Flint, Michigan.

Conceived 50 years ago as a finale to the summer athletic program for Flint students, the Games have grown into a community wide experience. Frank Manley and the Flint School District Community Education Directors held the first planning meeting to organize the Games in 1956. The following year 1500 students participated in 6 sports. Today the Games involve 11,000 contestants active in 22 sports. Encompassing the entire family the Games have become a tradition among generations of Flint residents.

The opening ceremonies will be held on July 11 at Flint Central High School followed by a fitness walk and field day. The competitions will commence on that date and continue through July 22 at locations scattered throughout the community. An awards dinner will be held on July 27 to honor the participants and volunteers that have organized and sponsored this event. The amateur athletes will go on to participate in the 49th annual CANUSA Games. The CANUSA Games is a competition held between the residents of Flint and its sister city, Hamilton, Ontario, Canada. The CANUSA Games foster goodwill between the citizens of both communities. Held on alternate years in each community, this year the CANUSA Games will take place in Flint on August 11, 12 and 13. For many of the participants this is their first exposure to persons from another country.

In addition to the actual sports competitions, the organizers have also planned a banquet to be held in June and a golf outing for July. The 50th Flint Olympian Games Celebration is a joint celebration sponsored by the Flint Community Schools, Citizens Blue Ribbon Committee, Greater Flint Olympian-CANUSA Association, City of Flint, the Ruth Mott Foundation and the Charles Stewart Mott Foundation. The 50th Anniversary Games will be dedicated to the founders, Mr. and Mrs. Charles Stewart Mott and Mr. and Mrs. Frank Manley.

Mr. Speaker, please join me in applauding the dedication of the many volunteers and contestants that come together each year in the atmosphere of camaraderie to promote the ideals of sportsmanship, physical well being and friendly competition. Their vision of families playing and working together to accomplish goals is to be commended.

PAYING TRIBUTE TO EARL AND MILDRED BURRIS

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Earl and Mildred Burris for 70 years of marriage.

Earl and Mildred were married in 1936, and over the course of 70 years have raised a family that now includes two children, five grandchildren, and seven great grand children. Earl and Mildred's marriage dates back to the days when Franklin Roosevelt was in the White House, and the Berlin Olympic Games preceding Hitler's march through Europe. During their time together, they have witnessed such historic events as the landing on the moon and the construction and destruction of the Berlin Wall.

They raised their children in an age where they did things together as a family and instilled in them the values of service, community, and charity. In 1990, the couple moved to Boulder City, Nevada. Since that time Earl has been very active in water-related citizens committees, and both Earl and Mildred have been active in the church.

Mr. Speaker, I am proud to honor Earl and Mildred Burris for their 70 years of marriage. Their commitment to each other is admirable, and should serve as a lesson to us all. I commend and congratulate them, and wish them many more anniversaries together.

HONORING OFFICER SCOTT SEVERNS

HON. CHRIS CHOCOLA

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. CHOCOLA. Mr. Speaker, today I rise with a solemn heart to honor a hero. On Friday, April 21, 2006 Cpl. Scott Severns of the South Bend Police Department was shot during an attempted robbery. He succumbed to his wounds and passed early Sunday morning.

I have heard it said that at times like these, we should not focus on how someone dies, but on how they lived, but how Cpl. Severns died was a testament to how he lived. When two would-be robbers approached Cpl. Severns and a female companion, brandished a gun, and threatened them, Cpl. Severns instinctively stepped in between the gunman and his friend. Character like this cannot be taught through a police academy course, and it is not issued to every officer after their swearing in. This type of valor can only come from an individual with the heart of a hero.

We oftentimes do not take enough time to appreciate the sacrifice that law enforcement officers make every single day so that we can live in safety. It is easy for us to go about our daily lives without a thought about those that stand in between us and those that would try to hurt us.

Cpl. Severns's sacrifices from the moment he first put on his uniform, until his tragic, premature end, exemplify the best of American law enforcement.

Mr. Speaker, we would be remiss if we did not take this time to honor his service, remember his sacrifice, and mourn his passing.

TRIBUTE TO CINCO DE MAYO

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. BACA. Mr. Speaker, I rise today to pay tribute to the Mexican patriots who gave their lives to fight valiantly and successfully against an overwhelming French Army on May 5, 1862.

This is the week of Cinco de Mayo, a time to celebrate the courage and bravery of Mexican Americans and of all those who have fought for the freedoms of self-governance.

By celebrating Cinco de Mayo we honor the history of democracy in North America and remind ourselves that though our nation is made up of many diverse people and cultures, we all share a commitment to democratic freedom.

Last year this House passed Concurrent Resolution 44, a bill that recognizes the historical significance of the Mexican holiday of Cinco de Mayo.

Today, along with the other members of the Congressional Hispanic Caucus, I have called on the Senate Judiciary Committee to take up this resolution and pass it.

Many celebrate this day with festivals, singing, and dancing. But this day is more than a party. It is a celebration of cultural pride and the respect for the rights of all people. And the Senate should celebrate this day by passing H. Con. Res. 44.

HONORING SMURFIT-STONE'S SAFETY RECORD OF ONE MILLION WORK HOURS WITH NO INJURIES

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. BONNER. Mr. Speaker, today I rise to pay tribute to the Smurfit-Stone Containerboard Mill for achieving the admirable safety record of one million work hours without a recordable injury of any kind.

The Smurfit-Stone Containerboard Mill is an economically vital contributor to both the city of Brewton, and the state of Alabama. They are also the largest producer of containerboard products in North America with 18 mills. The mill has been in operation since 1957, and employs 583 people.

Smurfit-Stone is the industry's leading integrated manufacturer of paper-based packaging products. However, it is only when a manufacturer provides a safe work environment for its employees that the company becomes the corporate neighbor that we all admire and respect. This is only the fourth time this milestone has been reached by paper mills in North America.

It is my sincere hope that the Smurfit-Stone Containerboard Mill will continue to set highly commendable examples for others in their industry, and I rise today to congratulate the employees and managers for the contributions they have made toward the betterment of Alabama.

RECOGNIZING THE 200TH ANNIVERSARY OF THE BALTIMORE BASILICA

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. CUMMINGS. Mr. Speaker, I rise today to commemorate the 200th anniversary of America's first cathedral, the historic and beautiful Baltimore Basilica. Officially known as the Basilica of the National Shrine of the Assumption of the Blessed Virgin Mary, this magnificent cathedral, built from 1806 to 1821, stands as a symbol of the beginning of the Catholic Church in America, and the religious freedoms embodied in our Constitution.

For over a century until the Revolutionary War, Catholics in America were a devoted but persecuted minority. After the Constitution was adopted, the Catholic Church embarked on the construction of a cathedral to celebrate their faith and their new-found right to worship freely.

Under the guidance of the future first archbishop of America, John Carroll, a hill above the Baltimore Inner Harbor was selected in 1806 as the site for the cathedral. After hearing about the proposed church, Benjamin Harry Latrobe volunteered his services as chief architect. Latrobe, the architect of the United States Capitol, is considered the father of American architecture and is responsible for what is now considered one of the world's most impressive buildings of the 19th century.

In addition to its structural magnificence, the cathedral has fulfilled its place as one of the most historically significant churches in the world. Two-thirds of all American Catholic dioceses can claim their roots at the Baltimore Basilica, and three Plenary Councils guiding the Catholic Church's role in the expanding United States were held within its walls. The Basilica continued to embrace progressive ideals throughout the years by, for example, including the first order of African-American nuns in its convent.

As we do today, the Baltimore Basilica has been honored on many occasions for its greatness. In 1937, Pope Pius XI raised the cathedral to the rank of a Minor Basilica. In 1972 it was declared a National Landmark and then in 1993 a National Shrine. The Basilica has also been greatly honored by the visits of His Holiness Pope John Paul II in 1995 and Mother Teresa of Calcutta in 1996.

Mr. Speaker, for the past two centuries, the Baltimore Basilica has stood as a beacon of hope and religious freedom. An architectural masterpiece built by two great visionaries, the Basilica continues to be "a shining citadel" of faith and hope for Maryland and the United States.

HONORING CHERYL NIX, SOUTH BEND SCHOOL CORPORATION TEACHER OF THE YEAR

HON. CHRIS CHOCOLA

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. CHOCOLA. Mr. Speaker, today I rise to honor Cheryl Nix who was recently honored as the South Bend School Corporation's Teacher of the Year.

Cheryl is a math teacher at LaSalle Intermediate Academy in South Bend, Indiana and has been a teacher in South Bend for 29 years. She began her teaching career in 1976 at Monroe Primary School in South Bend teaching deaf and hearing-impaired children. She has been married 26 years and, in addition to teaching her students, she also has a full-time teaching job as a mother of two children.

Her 29 years of dedication and excellence in one of our Nation's most important professions deserves our honor and our respect. We don't spend enough time highlighting the great things that are happening every day in our schools.

It has been said many times, and will always be true, that our children are our future. Their education is the key to making sure that they have the proper tools to succeed when it is their turn to steer the ship of this Nation. As long as teachers such as Cheryl Nix are entrusted with that responsibility, I have confidence that our future as a Nation will be bright.

PATARA: THE ORIGINS OF AMERICAN DEMOCRACY, 1800 YEARS AND 7000 MILES AWAY

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. STEARNS. Mr. Speaker, the city of Patara in Turkey sports a fantastic beach that sprawls for more than 11 miles. It recently rated number one, on the London Sunday Times' list of the world's best beaches. But Patara is worth our attention for more than sand and surf. An archeological team led by Akdeniz University Professors Fahri Isik and Havva Iskan Isik recently unearthed an ancient parliament building in Patara—the meeting place of the first federal republic in recorded human history. The building, called the Bouletarion, housed at least twenty-three city-states of the Lycian League, which existed along the Mediterranean coast of Turkey from about 167 BC until 400 AD.

The Lycian League's republican governing system, utilizing proportional representation, was unparalleled in the ancient world, and fascinated the pioneering intellectuals of the Enlightenment, particularly Montesquieu. Depending on the size of the member cities, each elected one, two or three representatives to the Lycian parliament. When cities were too small, two or three banded together to share one representative vote. The six largest cities in the League had the right to three votes. The parliament elected a president, called the "Lycearch," which at various times served as the League's religious, military, and political leader. Although it is contested, there is evidence to suggest that women could be and in fact were Lycearch.

In Book IX of Montesquieu's Spirit of the Law, after charting the highs and lows of the earliest republics, he stresses the utility of a confederacy. He cites the Lycian League as an example: "It is unlikely that states that associate will be of the same size and have equal power. . . . If one had to propose a model of a fine federal republic, I would choose the republic of Lycia."

Montesquieu's interest in the Lycian way of government would prove central to our founding. Thanks to his writings, in the debates about our own Constitution, Alexander Hamilton and James Madison cited the Lycian League as a model for our own system of government.

As well, in literal linkage, the semi-circular configuration of seats in this House of Representatives is exactly the same seating arrangement as in the Bouletarion in Patara. The Bouletarion's throne-like perch, where the elected Lycearch sat, is much the same as the seat of the Speaker of the House of Representatives.

On June 30, 1787, at the Constitutional Convention in Philadelphia, James Madison appealed to the delegates' understanding of the Lycian League. The Convention had just rejected the "New Jersey Plan", which called for a rather modest revision of our nation's first constitutional framework, the failed Articles of Confederation. The delegates resolved to come up with a new constitution, but had few notions in common of how it should proceed.

A delegate from Connecticut, Oliver Ellsworth, had just finished arguing for the Articles of Confederation's principle that every state should be equal in the national arena. He specifically asked, "Where is or was a confederation ever formed, where equality of voices was not a fundamental principle?"

James Madison replied that the Lycian League was different, according representation in reflection of actual size. His Virginia plan provided for a bicameral legislature, with both houses' representation based on states' population. He eventually had to accept a compromise, with a people's house of proportional representation, our House of Representatives, in tandem with a Senate of equal state representation.

Hamilton and Madison also cited the Lycian League in defense of representative democracy. While direct rule usually resulted in either tyranny or anarchy, the two founders felt that delegation of authority to elected representatives would allow the government to function properly.

In addition, the Lycian League was. used in defense of individual rights and a strong national government, two notions the original Articles of Confederation conspicuously avoided. In Federalist number 15, Hamilton called the Articles' avoidance of individual rights in favor of state rights the "radical vice" of our nation's first governing system.

The ideas and debates of our founding fathers may seem archaic to our modem times, but we face questions of federalism every day in this Congress. A federalist system of government divides power between a central authority (the federal government) and constituent political units (the states and localities). The delineation of that power comes into question particularly often on the Energy & Commerce Committee, of which I am a Subcommittee Chairman, whether we are debating the proper authority over electricity transmission across state lines., the regulation of hazardous waste, or the transmission of information through our telecommunications infrastructure.

Meanwhile, whether we are helping Iraq and other Middle Eastern countries develop representative democratic systems, or providing advice to the burgeoning democracies of post-Soviet Eastern Europe, we effectively reenact the Constitutional Convention's debates about the Lycian League and the nature of democracy around the world. We are doing what we can to help spread freedom and democracy, in our own image. Unfortunately, while it is relatively easy to conceive of the best model of government—as our founding fathers did, and Montesquieu did before them—the diversity of the real world, in geography, ethnicity, religion, and history, makes applying that best model quite difficult in practice.

The British archeologist George Bean highlighted some of the unique features of the Lycian League—features not dissimilar to our own country's: "Among the various races of Anatolia, the Lycians always. held a distinctive place. Locked away in .their mountainous country, they had a fierce love of freedom and independence, and resisted strongly all attempts at outside domination; they were the last in Asia Minor to be incorporated as a province into the Roman Empire."

Our experience so far in guiding the nascent democracy in Iraq should certainly illustrate that representative democracy may not be perfectly replicable, at least overnight.

Fifteen years ago, all a visitor to Patara would have noticed were the tops of a few old stones. Today, the excavations at Patara have unearthed the remains of an entire city. The archeological team has rescued numerous buildings and items from the sand and scrub brush, besides the Bouletarion parliament building, including: a large necropolis; a Roman bath; a sizeable semicircular theater; a sprawling main avenue leading to the market square; a Byzantine basilica (one of 22 churches once packed into Patara); one of the world's oldest lighthouses; and a fortified wall.

I would encourage everyone to visit Patara, for its beauty and for its archeological significance. The excavation site is 10–15 minutes from the glorious beach, and will be opened to the public in 2007. While we wait, one of Turkey's largest museums, the Antalya Archaeological Museum, displays many of the finds from Patara and the surrounding area.

We owe a great debt to Turkey's Ministry of Culture and the Akdeniz University in Antalya for their dedication of time and money to bringing the ancient ruins of Patara out of the dust and back into our lives.

In closing, I would like to thank: Dr. Gul Isin, Associated Professor of Archeology at Akdeniz Antalya in Turkey, who has been diligently working with Dr. Fahri Isik and Dr. Havva Iskan Isik to uncover the mysteries of the Patara site; Professor James W. Muller of the University of Alaska, Anchorage, who dissected how the Lycian League impacted the founding fathers; and the American Friends of Turkey, the Friends of Patara, and former Representatives Stephen Solarz and Robert Livingston, who graciously introduced me to the archeological findings at Patara, and the important work of Professors Isin and Miller.

INTRODUCTION OF THE EXPRESS CARRIER FAIRNESS ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. GEORGE MILLER of California. Mr. Speaker, in late 1996, a rider was included in the Federal Aviation Administration reauthorization that erodes the rights of American workers. Without even holding hearings on the matter, a single company was able to insert language in a conference report to make it harder for its workers to exercise their right to organize. Specifically, Federal Express wanted to prevent its truckers in Pennsylvania from organizing.

This goes beyond any special interest giveaway, to a major erosion of collective bargaining rights. Congress passed a specific provision in an airways bill to prevent a specific unit of truckers from organizing. The right to organize, to freely associate, is a fundamental, internationally recognized human right. There is an assault on the working class in this country; one that aims to curtail the right to collectively bargain whenever possible. This rider was one such blow to workers.

Prior to the passage of that amendment, truckers at Federal Express were allowed to organize under the rules of the National Labor Relations Act NLRA, and the airline component of the company was covered by the Railway Labor Act RLA. The main difference between the guidelines under these different laws is that the NLRA allows workers to organize in local bargaining units. The RLA, however, would require that the bargaining unit be nationwide, making it much more difficult for workers to communicate with each other enough to form a union.

The bill I introduce today modifies the "express carrier" language in the RLA so that there is consistency in the industry. Specifically, this bill provides that only the employees of an express carrier involved with the aircraft—the airman, aircraft maintenance technicians and airline dispatchers—would have to comply with the RLA. It would be consistent to allow those workers who are directly involved with the air cargo operation of such a company to be treated like their counterparts in the air carrier business. The remaining and likely larger portion of the workforce in such a company would then fall under the jurisdiction of the NLRA with their peers in the rest of their industry.

We need to have standards that are fair. Some employers are trying to do the right thing for workers. They should still be competitive in the industry. There are many ways employers can tilt the playing field, but in such a competitive marketplace, federal law should not be manipulated to provide special favors for employers seeking to deny workers' rights.

Workers must be able to work together to raise their standards of living. That means the ability to decide for themselves whether or not they want to collectively bargain. It is only fair for us to conclude that people doing similar work should be governed under the same federal laws.

HONORING LAURIE RICHARDSON

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. GIBBONS. Mr. Speaker, on behalf of the state of Nevada, I would like to congratulate Mrs. Laurie Richardson of Henderson, Nevada for her achievement and recognition as Mother of the Year by the American Mothers Inc. (AMI). While all 50 states are represented, as well as Puerto Rico, this is their 51st award and the first one that has been awarded to a resident of Nevada since the state's chapter began in the 1940's.

While this award recognizes her only as a mother, Mrs. Richardson is also a distinguished singer in a Grammy award-winning choir, a grandmother of nine, an advocate for children with special needs, and a dynamic guest speaker for special education issues. Mrs. Richardson has volunteered with various school districts for over 29 years before recently becoming a full-time child advocate.

While also raising three of her own children, Mrs. Richardson has opened her home and her heart to raise four foster children as well. Upon her reception of this distinguished award, Mrs. Richardson will represent AMI for the next calendar year as she advocates the importance of motherhood around the country.

Mrs. Richardson has not only set a benchmark for mothers throughout this country, but she is also a great example for all Nevada families. Mrs. Richardson's dedication to children is truly inspirational. As a Representative of Nevada, I am very proud to have her as a part of my community. I commend and congratulate her for this great achievement.

A PULITZER FOR THELONIOUS MONK

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. CONYERS. Mr. Speaker, I rise today to recognize the legendary jazz pianist Thelonious Monk. In April, the 90th annual Pulitzer Prizes were announced and Monk was selected to receive a posthumous Award "for a body of distinguished and innovative musical composition that has had a significant and enduring impact on the evolution of jazz."

Every few generations there are people who come along that change the way we look at the world, for musical enthusiasts Monk is one of these individuals. Tom Carter, President of the Thelonious Monk Institute of Jazz, put it quite succinctly when he recently said that Monk's ". . . unique sound and creative spirit revolutionized the music and transcends generations." Thelonious' piano playing and compositions were truly revolutionary and they helped bridge the gap from bebop to modern jazz.

Thelonious Sphere Monk (1917–1982) was one of the architects of bebop and his impact as a composer and pianist has had a profound influence on every genre of music.

Monk was born in Rocky Mount, North Carolina, but his parents, Barbara Batts and Thelonious Monk, soon moved the family to New York City. Monk began piano lessons as a young child and by the age of 13 he had won the weekly amateur contest at the Apollo Theater so many times that he was barred from entering. At the age of 19, Monk joined the house band at Minton's Playhouse in Harlem, where along with Charlie Parker, Dizzy Gillespie, and a handful of other players, he developed the style of jazz that came to be known as bebop. Monk's compositions, among them "'Round Midnight," were the canvasses over which these legendary soloists expressed their musical ideas.

In 1947, Monk made his first recordings as a leader for Blue Note. These albums are some of the earliest documents of his unique compositional and improvisational style, both of which employed unusual repetition of phrases, an offbeat use of space, and joyfully dissonant sounds. In the decades that followed, Monk played on recordings with Miles Davis, Charlie Parker, and Sonny Rollins and recorded as a leader for Prestige Records and later for Riverside Records. Brilliant Corners and Thelonious Monk with John Coltrane were two of the albums from this period that brought Monk international attention as a pianist and composer.

In 1957, the Thelonious Monk Quartet, which included John Coltrane, began a regular gig at the Five Spot. The group's performances were hugely successful and received the highest critical praise. Over the next few years, Monk toured the United States and Europe and made some of his most influential recordings. In 1964, Thelonious Monk appeared on the cover of Time magazine, an honor that has been bestowed on only three other jazz musicians. By this time, Monk was a favorite at jazz festivals around the world, where he performed with his quartet, which included long-time associate Charlie Rouse. In the early '70s he discontinued touring and recording and appeared only on rare occasions at Lincoln Center, Carnegie Hall and the Newport Jazz Festival.

Thelonious passed away on February 5, 1982. His more than 70 compositions are classics which continue to inspire artists in all forms of music. In his lifetime he received numerous awards and continues to be honored posthumously. The Smithsonian Institution has immortalized his work with an archive of his music. In addition, the U.S. Postal Service issued a stamp in his honor. A feature documentary on Monk's life, Straight, No Chaser, was released to critical acclaim. Monk's integrity, originality, and unique approach set a standard that is a shining example for all who strive for musical excellence.

Monk is the first jazz musician and composer to receive the honor since 1999, when a Special Citation was awarded to Duke Ellington on the centennial of his birth. In addition to Ellington and Monk, only three other jazz composers have been recipients of the Pulitzer: George Gershwin, Scott Joplin, and Wynton Marsalis.

TRIBUTE TO KENNETH TENORE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. HOYER. Mr. Speaker, America lost one of its finest scientists this week. And I lost both a constituent and a dear friend.

Kenneth Tenore, a coastal ecologist from Hollywood, Maryland, died of acute pancreatitis Sunday at University of Maryland Medical Center. He was 63.

I had the privilege of working with Ken in his role as director of the University of Maryland Center for Environmental Science's Chesapeake Biological Laboratory on Solomons Island.

Ken's work made an invaluable contribution to the health and vibrancy of the Chesapeake Bay, and his leadership brought together marine scientists from around the world to bolster the health of coastal waterways.

While at Solomons, he led collaborative research programs involving marine scientists from the United States, the Galicia region of Spain and Portugal.

His frequent visits to both countries have helped build strong scientific relationships that endure today.

At the time of his death, he was leading the Navigator Project, an international effort supported by the National Science Foundation and the Luso-American Foundation, to characterize and compare the ecology of coastal seas around the world.

Ken's efforts while serving the University of Maryland, my alma mater, reflect a man deeply committed to preserving the Earth for future generations.

While Ken was passionate about advancing technology to make new discoveries in his discipline, he was also a man that followed a higher moral code—even teaching a science and ethics course at the University of Notre Dame.

Father Eman McMullin, a retired Notre Dame professor said of Ken: "He was an inspirational teacher who had a strong feeling for the philosophical and ethical issues in science."

Among his tremendous accomplishments, Ken founded and directed the Alliance for Coastal Technologies, a partnership of research institutions, environmental managers, and industry representatives which foster sensor technologies for use in monitoring coastal environments.

Ken leaves behind a sister, Dr. Elizabeth J. Tenore, a brother, Louis James Tenore, and a nephew, Louis James Tenore Jr.

Ken's life touched so many around the world: family, friends, and colleagues. I was privileged to know him.

On behalf of the Fifth Congressional District, I want to extend my sympathies to his family and join the scores of others in honoring his life's work.

PERSONAL EXPLANATION

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. ANDREWS. Mr. Speaker, I regret that I missed three votes on May 9th, 2006. Had I been present I would have voted "yes" on H.R. 1499 (the Heroes Earned Retirement Opportunities Act); "yes" on H.R. 5037 (the Respect for America's Fallen Heroes Act) and "yes" on H.R. 3829 (the Jack C. Montgomery Department of Veterans Affairs Medical Center Designation Act).

NATIONAL TEACHER DAY

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. ORTIZ. Mr. Speaker, I rise to honor all teachers today on National Teacher Day. I want to thank teachers everywhere for their devotion to children and a better tomorrow.

Teachers are our greatest public servants; they spend their lives educating our young people and shaping our Nation for tomorrow. Education is the key to success in life, and teachers make a lasting impact in the lives of their students.

Even as we thank our teachers for the invaluable work they do, there are proposals to cut funding from numerous educational programs, including GEAR–UP and the Elementary and Secondary School Counseling Program. Education should be one of our top funding priorities; talking about it does not help the teachers and students who desperately need promises fulfilled.

An education provides today's children with valuable and necessary skills to lead a productive life in tomorrow's society. Education makes children less dependent upon others and opens doors to better jobs and career possibilities. Education is the silver bullet to improve this Nation's standing worldwide . . . and our teachers know that.

I have supported teachers and their efforts to provide quality education to our children, and will always continue to do that. I fought for Texas teachers' Social Security benefits by advocating the amendment to the Teacher Social Security Protection Act that protected them. I have fought to protect those benefits that ensure better salaries for teachers across the Nation such as grants to pay off student loans and funding for Teach for America. Still, we must all do more to show our continued appreciation for our Nation's leading role models.

Today, let us remember the essence of why teachers are our most important public servants. There is a story about a dinner conversation with a puffed up CEO who demeaned a teacher at the table by asking: "What's a kid going to learn from someone who decided his best option in life was to become a teacher? What do you make?"

The teacher smiled a contented smile, and enlightened her dinner companions: "I make kids work harder than they ever thought they could. I make kids enjoy learning. I make them dream, wonder, question, criticize, apologize (and mean it) . . . I make them write, work, and discover. I make them responsible. I make them achieve. You want to know what I make? I make a difference. What was it again you make?"

Amen . . . teachers make a difference in every single life they touch, and today I thank each teacher for the work they do and the lives they change every day.

THE PASSING OF EARL WOODS

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Ms. WATSON. Mr. Speaker, it is with great sadness that I learned of the passing of Earl Woods, the father of golfing legend Tiger Woods, of cancer.

Earl Woods was a father, coach, and mentor to Tiger Woods. There is no doubt that the world would not now have the opportunity to witness the genius of Tiger Woods on a golf course without the input from Earl Woods. Theirs was a father-son match made in heaven.

Earl Woods was the driving force in the development of Tiger Woods as not only a golf player but human being. Almost before Tiger could walk, his father had acclimated him to the game of golf. According to one account, Earl would hit golf balls in the garage on a makeshift range with Tiger watching him from his high chair. Earl later recounted that Tiger, at the tender age of 9 months, first demonstrated to him his incredible potential as a golf player.

Mr. Speaker, Earl Woods is a model of fatherhood. He supported, nurtured, and literally raised Tiger Woods to the heights of the golfing world. I am particularly struck by the close relationship Earl Woods had with his son.

When you hear so many professional athletes thanking or saying hello to their mothers after a television interview, it was refreshing to hear Tiger mention both his father and mother.

IN RECOGNITION OF MRS. LEA ANN PITCHER

HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. CLEAVER. Mr. Speaker, I rise today to congratulate Mrs. Lea Ann Pitcher as being named one of the most 'Outstanding Mathematics Teachers in the United States' by The Presidential Award for Excellence. This award was established in 1983 by an Act of Congress and is administered for the White House by the National Science Foundation. Offered every other year to high school teachers, only two teachers per state are bestowed this great honor. Recognizing only the most exceptional teachers from across the United States, this awards' program is designed to honor teachers for their ingenious contributions to the classroom and to their profession. Mrs. Pitcher personifies excellence both in the classroom and as a professional. "Awardees serve as an example for their colleagues, inspiration to their communities, and leaders in the quality of mathematics and science." As a high school math teacher, Mr. Pitcher does just that.

Mrs. Pitcher's work at Lee's Summit Senior High School is exemplary. She educates our children in one of the areas we need strengthening the most—mathematics. After a decade as a pharmacist, she left to pursue teaching. Her students respect and rely on her knowledge; her peers emulate her dedication and teaching practices of using debate and discussion in math; and I know that Principal Faulkenberry considers her to be one of the school's greatest assets. She has truly touched our community and changed the lives of students in Lee's Summit throughout her 11 years as an educator. As a longtime resident, she has shown her dedication to our community, her students, and education throughout her long career as a teacher in the Greater Kansas City Area, having worked at both Hickman Mills High School and Lee's Summit High School.

Mr. Speaker, please join me today, May 9, 2006, on National Teacher Day, in thanking Mrs. Lea Ann Pitcher for her unyielding commitment to education, but more importantly, thank her for her significant contributions to the students of Lee's Summit Senior High School in Missouri's Fifth Congressional District. This year's theme of National Teacher Day is "Great Teachers Make Great Public Schools" and is a fitting description of Mrs. Pitcher's contribution to our society. Rarely do people touch the lives of students and communities in a way that will follow them forever. I want to thank her again for her outstanding work and her extraordinary commitment to the Lee's Summit students. As one former recipient of the Presidential Award exclaimed, "I think of this as the Nobel Prize of my profession." Mrs. Pitcher has truly attained the highest honor in her field. This accolade is something to celebrate because it recognizes someone to emulate. I urge my colleagues of the 109th Congress to please join me in congratulating Mrs. Lea Ann Pitcher on her well-deserved recognition.

TOWARDS A RULE BASED INTERNATIONAL SOCIETY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. CONYERS. Mr. Speaker, I rise to call my colleagues' attention to an alarming, but accurate portrayal of where the Bush Administration has been taking America. This survey shows how they have dragged down the United States from its traditional leadership in international law and peace-keeping institutions and turned America into a worldwide pariah for flouting the rule of law. In the latest issue of the "New York Review of Books," scholar Brian Urquhart reviews the work of three authors. Their common theme is the damage done by the Bush/Cheney doctrines to the world's peacekeeping structure. As Urquhart notes, they have "brushed aside fifty years of international law in the name of the "global war on terrorism." A pioneer of international peace-keeping and a former U.N. Undersecretary General, Urquhart is well-placed to summarize the Bush Administration's disdain for the rule of law, or as he puts it: "the ideological opposition of the Bush Administration, both to vital treaties and to international institutions."

One of the authors reviewed, Phillipe Sands, a professor and veteran international lawyer, has provided a history of how modern governments like the United States have alternated between weaving a stronger fabric of international law, and at other times taking actions that unraveled it. Sands has made especially invaluable contributions to our understanding of how President Bush and Prime Minister Blair secretly plotted to drag both nations into war with Iraq. For this I salute him.

Last spring, the British press published classified minutes of a series of 2002 secret meetings between Prime Minister Tony Blair and his senior national security advisors about planning for war in Iraq. They were originally described in Sands' book, The Lawless World, (before the press published the full texts.) These "Downing Street Memos" revealed the cynical deceit on which those plans were based. After meeting with their U.S. counterparts in the spring and summer of 2002, the British officials advised Blair that the case for war was "thin;" that the White House was hatching plans to create an artificial justification for attacking Iraq; and that Bush reluctantly agreed to go back to the U.N. but only to precipitate a basis for war, not to avoid it. The memos also revealed that Bush had secretly decided to go to war by the summer of 2002, although he publicly insisted for months thereafter that he was undecided and war was his "last resort." The clearest "smoking gun" of all was the memo by Britain's highest intelligence official who had met with his U.S. counterparts and warned that "the intelligence and facts were being fixed around the policy" by the Bush Administration. My request for answers from the Administration about these charges met with silence.

I also convened an informal hearing at which several experts discussed the importance of these and other revelations in the Downing Street Memos. Most of the mainstream press pooh-poohed them and echoed the White House mantra that they presented little new about the lack of grounds for war. Faced with their failure to be more skeptical of the White House claims before the war, the media seemed reluctant to read the real significance of the memos, or they simply missed the point. Obviously by last spring, the truth about WMD and alleged links between Saddam and Al Qaeda were well known. The momentous disclosure in these Memos, however was their hard evidence of all the false statements and manipulation of intelligence that the President and other officials intentionally and cynically had made before the war to the Congress and the American people. Fortunately a number of columnists, magazines and blogs, not blinkered by their performance before the war, did acknowledge the importance of the revelations Professor Sands had first provided.

Most disturbing were press reports earlier this year, again based on Professor Sand's revelations. They quoted a memo marked "extremely sensitive" by, David Manning, Blair's top foreign affairs advisor about Blair's January 2003 meeting with Bush. Bush reportedly said he would attack Iraq whether or not WMD were found or the U.N. Security Council passed a second resolution. The memo recorded that Bush also suggested provoking war by flying American U2 reconnaissance planes with aircraft plane cover, and painted with U.N. insignia, over Iraq, so that when Iraq fired on it that would be a breach of U.N. resolutions. My call for a Special Counsel to investigate this astounding revelation also went unheeded.

I commend the entire article by Brian Urquhart to my colleague's attention.

[From The New York Review, May 11, 2006]

THE OUTLAW WORLD

(By Brian Urquhart)

"A rule-based international society" may seem a lackluster phrase, but it describes, for those who wish organized life on this planet to survive in a decent form, the most important of all the long-term international objectives mankind can have. That international law has already been formulated to deal with a wide range of human activities is one of the great, if often unappreciated, achievements of the years since World War II. Yet the obstacles to its being effective are enormous. We all know that international law is often challenged by the caprices and diverging interests of national politics and that it still lacks the authority of national law. With a few important exceptions, international law remains unenforceable: when it collides with the sovereign interests or the ambitions of states, it is often ignored or rejected. It is still far from being the respected foundation of a reliable international system.

In the first years of the new millennium, and especially after the terrorist attacks of September 11, the development of international law has encountered an unexpected and formidable obstacle—the ideological opposition of the Bush administration, both to vital treaties and to international institutions. This attitude culminated in the 2003 invasion of Iraq without the specific authorization of the UN Security Council, and without allowing UN inspectors to complete their work. Prisoners captured by the US were denied the protection of the Geneva Conventions and were often treated brutally. It is therefore no surprise that the three very different books under review all end by deploring the United States' war for regime change in Iraq and the illegal abuses that have accompanied it.

It is ironic that such widespread criticism should be incurred by the US. From the Permanent Court of International Justice in The Hague, the Covenant of the League of Nations, and the Charter of the United Nations to the Universal Declaration of Human Rights and many UN conventions, the US has done more than any other country to develop and strengthen both the concept and the substance of international law. It is nothing less than disastrous that a United States administration should have chosen to show disrespect for the international legal system and weaken it at a time when the challenges facing the planet demand more urgently than ever the discipline of a strong and respected worldwide system of law. Those challenges include globalization at almost every level of human society, the deeply troubling evidence of climate change, and the linked threats of international terrorism and proliferating weapons of mass destruction. It is true that the United States remains broadly committed to the international rules on trade of the World Trade Organization and NAFTA, rules that are important to the United States not least because they protect the rights of US investors and intellectual property rights.

Philippe Sands is a practicing international lawyer and professor in London. Having been involved in many cases before the International Court of Justice in The Hague, he took part in the effort to deny Augusto Pinochet immunity in the UK and has represented the British detainees at Guantánamo.

Along with the other books under review, Sands's Lawless World provides a disturbing picture of the state of international law and the part, at times visionary, at other times destructive, that the US had in its development. Sands indicts the United States, with Tony Blair's complicity, for abandoning its commitment to the post-World War II legal and institutional arrangements that both countries, more than anyone else, had put in place. "I am not starry-eyed about international law," Sands writes. "I recognize that it has frequently failed millions around the world and will continue to do so. But do recent events justify a wholesale change of approach?"

Before World War II, governments could act more or less as they wished in international affairs, provided they had the power to do so. This situation began to change radically when Roosevelt and Churchill proclaimed the Atlantic Charter on a battleship off the coast of Newfoundland on August 14, 1941, at a time when Nazi Germany appeared to be decisively winning the European war. This first sketch of the UN Charter and the international system that was to regulate the postwar world was based on three simple but revolutionary principles. First, states would recognize the obligation to refrain from the use of force in their international relations, and would resort to force only in self-defense or when authorized to do so by the international community—later to be represented by the UN Security Council. Second, they would maintain and respect the "inherent dignity" and "equal and inalienable rights" of all members of the human family. Third, they would promote economic liberalization and progress through free trade and other means.

The Atlantic Charter marked the beginning of the long process that led to the establishment of the UN, the various UN specialized agencies, the World Bank and the International Monetary Fund, the General Agreement on Tariffs and Trade (which after forty-five years became the World Trade Organization), and the 1948 Universal Declaration of Human Rights (in Sands's words "arguably the single most important international instrument ever negotiated"), as well as the Geneva Conventions of 1949 and 1977.

Further steps toward establishing an international institutional and legal order continued with the 1957 International Atomic Energy Agency in Vienna, which has now become an important monitoring and inspection agency; the Nuclear Non-Proliferation Treaty and other arms control conventions; environmental law and institutions; and now the International Criminal Court, and the beginning of a system of legal obligations for states related to the prevention and suppression of international terrorism.

Throughout Lawless World Sands's main preoccupation is the damage that current United States policies and actions may do to the respect for international law and its authority, both of which may be decisive in dealing effectively with the global challenges that lie ahead. His concern is well justified. As he notes, the 1997 manifesto of the neoconservative organization Project for the New American Century, signed by such people as Dick Cheney, Paul Wolfowitz, Donald Rumsfeld, and Scooter Libby, proclaimed that the detention of Augusto Pinochet, the new International Criminal Court, and the Kyoto Protocol on global warming were all threats to American security. John Bolton, now United States ambassador at the UN, said at the time that treaties were simply political acts and "not legally binding." Richard Perle declared publicly in April 2003 that the war in Iraq provided an opportunity to refashion international law and undermine the United Nations.

Sands is particularly concerned about the frenzied opposition of the Bush administration to the new International Criminal Court, which has been accepted by one hundred other nations and is now investigating the current genocide in Darfur. The Bush administration, he writes, is using the ICC as "a useful stalking horse for a broader attack on international law and the constraints which it may place on hegemonic power."

As for the rejection of the Kyoto Protocol, Sands recalls with nostalgia that in 1970, another Republican president, Richard Nixon, signed into law the National Environmental Policy Act, the world's first comprehensive attempt to protect the environment. The UN Charter makes no mention of rules governing the environment. Nixon vigorously supported an environmental program within the UN, and just before the UN's first global conference on the environment in Stockholm in 1972, he proposed a World Heritage Trust to protect regions of such unique worldwide value that they should be treated as part of the heritage of all mankind. The United States was also a leader in adopting the first measures, taken under the Reagan administration in the 1980s, to counteract the depletion of the ozone layer; it did so against the opposition of European governments that were worried about possible unfavorable economic consequences.

Since 1990, when the report of the UN's International Panel on Climate Change revealed a deadly potential threat to islands and other low-lying regions that clearly called for a timely global response, Sands himself has been deeply involved in such issues. He makes it clear that short-term economic considerations have so far taken precedence over the enormous long-term risks involved in doing too little about climate change.

As he points out, the United States and OPEC initially opposed an international convention on climate change or any timetables to reduce and stabilize the emission of greenhouse gases. A preliminary convention, in a very modest form, came into force in 1994. In 1997 the Kyoto Protocol marked a real commitment to action and provided a basis for more far-reaching measures. In signing it, President Clinton praised the protocol as a major step forward. Sands writes that Clinton was then informed somewhat mystifyingly by former Secretary of Defense Dick Cheney and a number of other Regan and Bush officials that the protocol would "hamstring" American military operations and undermine American sovereignty. The Bush administration soon "unsigned" the Kyoto Protocol, claiming among other reasons that the scientific verdict on global warming was not yet in. Alone of all industrialized states, the United States and Australia have not ratified the protocol. Whatever its defects in not adequately controlling emissions from the large Asian economies, it remains an essential preliminary step toward limiting climate change.

The invasion of Iraq that started in March 2003 arouses Sands's deepest objections to what he sees as an unwarranted assault on international law. The invasion itself, without benefit of Security Council authorization, was a blow to the essential basic principle contained in Article 2.4 of the UN Charter, which reads:

"All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."

Sands is equally concerned with the violation of international laws in connection with the conduct of the war. In the Guantańamo prison hundreds of alleged "killers," "terrorists," or "unlawful combatants," as they have been variously designated by the United States, have been deliberately put, he writes, into a "legal black hole," from which most of them are unlikely to emerge anytime soon. The basic principle of habeas corpus has seldom if ever taken such a beating at the hands of a leading democracy. The atrocities at Abu Ghraib and elsewhere are plainly in violation of the Geneva Conventions and the UN Convention against Torture. They also set a terrible precedent for the future treatment of captured Americans.

The 1899 Hague Convention, which puts limits on methods of interrogation of prisoners of war; the four 1949 Geneva Conventions, which deal, among many other matters, with treatment of prisoners; and Article 75 of the Geneva Protocol I of 1977 mean, in Sands's judgment, that "no person can ever fall outside the scope of minimum legal protections" against violence, torture, threats of torture, outrages against personal dignity including humiliating and degrading treatment, and any form of indecent assault. This list certainly describes what happened in Abu Ghraib and other prisons.

Of course these rules have often been violated by other states, but the United States, since 2001, is unique in claiming, in the words of Deputy Assistant Attorney General John Yoo in 2002, "What the Administration is trying to do is create a new legal regime." This was also presumably the basic notion behind Bush's proclaiming the right to resort unilaterally to preventive war as part of his new national security strategy. To minimize legal constraints on the United States and to extract information from prisoners, Alberto Gonzales, then White House general counsel and now attorney general of the United States, urged the President to declare that the Geneva Convention III of 1949 did not apply to al-Qaeda or the Taliban. "This new paradigm," Gonzales wrote in January 2002, "renders obsolete Geneva's strict limitations on questioning of enemy prisoners and renders quaint some of its provisions. . . ."

Although Guantańamo, because it was not in US territory, was chosen partly to avoid such interference, from time to time the US judiciary has tried to stem the administration's flood of expedient revisionism. A federal judge halted the first hearing, after nearly three years, before a special military commission established to try non-American Guantánamo prisoners. He did so on the grounds that the proceedings lacked the basic elements of a fair trial and violated the Geneva Conventions.

Sands is particularly good at picking, from an amazing wealth of material, quotations that capture the eerie atmosphere of the Bush administration in the midst of a war of choice and an unprecedented assault on international law. On the Guantánamo inmates, for example, he quotes Cheney as saying, "They're living in the tropics. They're well fed. They've got everything they could possibly want."

Sands's discussion of the period preceding the second Iraq war are particularly interesting in charting Bush's relatively unobstructed path to war as compared with Tony Blair's far more difficult one. Sands shows that both leaders engaged in much dissembling and tinkering with the truth. He describes the content of the so-called "Downing Street memo," which caused a considerable stir on both sides of the Atlantic when it was later published in full in the London Sunday Times and in these pages.

On March 27, 2006, The New York Times reported on another "extremely sensitive" British memo describing Bush and Blair's private two-hour meeting in the Oval Office in January 2003, of which several highlights were first published in the later edition of Sands's book. The sometimes bizarre quality of these talks make one long for the publication of the full five-page text. Bush apparently suggested provoking a confrontation with Saddam Hussein by painting a US surveillance plane in UN colors in the hope of drawing Iraqi fire. The basic theme of the meeting was Bush's determination to go to war in early March regardless of Security Council resolutions, the findings of UN inspectors, or anything else.

About the performance of the UN Security Council concerning Iraq, Sands concludes:

"The simple fact is that the great majority of states who sat on the Security Council in March 2003 did not consider that the circumstances, as they were then known to be, could justify the use of force. History has shown that they were right and that the US and Britain were wrong. No WMD have been found. It could be said that the UN system worked. No amount of bullying by two permanent members could buy the votes they wanted."

He could have added that had the inspections been allowed to continue, war probably could have been avoided, with all credit being given to the US for putting the necessary pressure on Saddam Hussein. Instead, the ostensible reason for the US invasion was changed from the alleged threat of WMDs to regime change. Moreover, as Hans Blix reminded the Security Council after inspectors had reached preliminary conclusions about the absence of WMDs, "international inspections and monitoring systems were to stay in place."

Michael Byers states that the objective of his book is to "provide the interested non-lawyer with a readily comprehensible overview of the law governing the use of force in international affairs." Clear and informative, his account is particularly valuable at a time when there is a worldwide debate, arising largely from the Iraq situation—but also relevant to the genocide in Darfur—about the circumstances in which it is legally appropriate for one country to use force against another or for international intervention on humanitarian grounds.

Byers's discussion of self-defense, the justifying condition for the unilateral use of force in the UN Charter, takes up more than half his book. He goes back to the case of the steamship Caroline, which was hired in 1837 by a private militia to ferry men and supplies across the Niagara River to support a Canadian rebellion against the British. The British set the ship on fire and floated it over Niagara Falls, later claiming that they did so in self-defense and that their action was justified on political grounds. When the dispute was finally, and amicably, settled in 1842, the American secretary of state, Daniel Webster, conceded that the use of force in self-defense could sometimes be justified as a matter of necessity, but that nothing "unreasonable or excessive" could be done in self-defense.

These criteria—"necessity and proportionality"—were widely accepted as the requirements of a new international legal right to self-defense. Byers emphasizes the importance of this precedent as showing that a country could defend itself without declaring war, and that peace could be maintained even when the right to self-defense was exercised; he traces the development of this concept up to the present time.

The United Nations was the first international organization to combine in its charter the three main rules for maintaining peace: prohibition on the use of force in international affairs (Article 2.4); a provision for the use of force by the Security Council against threats to the peace and acts of aggression (Chapter VII); and an exception for the use of force by governments in self-defense (in Article 51). But the plea of self-defense, as Byers shows, can be complex when it involves forceful action beyond a nation's own territory.

For example, in 1976 an Air France plane with many Israeli passengers aboard was hijacked by Palestinians and taken to Entebbe in Uganda, where non-Jewish passengers were released. Facing a deadline for meeting the hijackers' demand for the release of fifty-three Palestinian terrorists, an Israeli commando team, led by Jonathan Netanyahu, killed the hijackers, rescued the Israeli hostages, and flew them back to Israel. Netanyahu himself was killed. This action is now credited as a precedent for extending the right of self-defense to protecting nationals abroad.

In April 1993 an attempt to assassinate former President George H. W. Bush in Kuwait was thwarted by the discovery of a sophisticated car bomb. When Iraq's involvement in this attempt was established, President Clinton ordered the destruction of Saddam Hussein's Military Intelligence Headquarters in Baghdad by twenty-three Tomahawk missiles. The Security Council did not censure this action, although the use of force without Council authorization was condemned by the Arab League.

The Council did not even consider President Clinton's response to the destruction by terrorists of the U.S. embassies in Tanzania and Kenya when he fired seventy-nine Tomahawk missiles at al-Qaeda training camps in Afghanistan and also at a pharmaceutical plant in Sudan suspected of making chemical weapons for terrorists. Moreover, by authorizing the U.S.-led operation against the Taliban in Afghanistan after September 11, the Security Council also set a precedent for using force against a state harboring terrorists, provided that the terrorists had previously attacked the state concerned.

On the even more controversial question of preemptive self-defense, Byers cites the case of Israel's 1981 attack on Iraq's French-built Osirak nuclear reactor, which the Council unanimously condemned as a grave breach of international law. Byers writes that George W. Bush's policy claiming the right of the United States to use unilateral, preemptive force—widely considered a dangerous example that other states may try to emulate—clearly violates the common-sense criteria of the Caroline case for self-defense. He believes that such a policy as Bush's, if maintained, could even serve as an incentive to some states to try to acquire a nuclear deterrent in self-defense. He quotes the response of the UN Secretary-General's High-Level Panel on Threats, Challenges and Change to Bush's claim of the right of preemptive self-defense:

". . . In a world full of perceived potential threats, the risk to the global order and the norm of nonintervention on which it continues to be based is simply too great for the legality of unilateral preventive action, as distinct from collectively endorsed action, to be accepted. Allowing one to so act is to allow all."

Byers then examines the current legal status of the relatively recent issue of humanitarian intervention and the obligation to protect populations in distress, even from the actions of their own governments. One of the most important decisions of the UN Summit Meeting of September 2005 was to give a general, although highly qualified, approval to such interventions. But as Byers points out, while Kofi Annan reiterates that the "security situation in Darfur continues to deteriorate and the moral case for action is overwhelming," the Security Council has so far agreed only to deploying a UN peacekeeping force later this year to take over from the existing African Union force, a move strongly opposed by the Sudanese government. The Council has also, as mentioned above, referred the Darfur case to the International Criminal Court.

Byers's closing chapters on the protection of civilians and prisoners of war, and on the various UN international tribunals, are characterized by mounting frustration at the US administration's contemptuous attitude toward international law and legal institutions. Of the Bush administration's obsessive hostility toward the recently established International Criminal Court he writes:

"Only the United States has actively endeavoured to undermine the court. With troops in more than 140 countries, a propensity to intervene under dubious legal circumstances, and interpretations of the laws of war that sometimes differ from those of other states, the single superpower feels vulnerable to international mechanisms for enforcing international criminal law. Whereas the Clinton Administration sought to negotiate protections against the abuse of international procedures into the statutes of the tribunals it helped to create, the Bush Administration has adopted an entirely hostile stance. . . .

"Since coming to office, President Bush has 'un-signed' the ICC statute, pressured the UN Security Council into temporarily exempting US forces from the Court's jurisdiction, and obtained more than ninety bilateral treaties committing individual countries not to surrender US citizens to The Hague. Bush has even signed legislation that authorizes him to use military force to secure the release of any US service member detained by the ICC. The law is popularly known as 'The Hague Invasion Act.'"

Since under the present ICC statute it is virtually impossible that the Court would detain a US soldier, this exceptional—even paranoid—brand of US exceptionalism can only add to the frustration of the nations seeking a fair and workable international legal system.

When the UN Preparatory Commission was setting up the world organization in London in the fall of 1945, the European colonial powers could sometimes scarcely contain their resentment of what they saw as the self-righteous attitude of the US delegation toward European colonialism and its abolition. Their resentment occasionally took the form of rather feeble allusions to the fate of American Indians; but I cannot recall a single reference to America's many efforts at regime change in the fairly recent past. These actions are the subject of the first part of Overthrow, Stephen Kinzer's wonderful chronicle of America's interventions in foreign countries.

Kinzer describes three periods' of American intervention: first the "Imperial Era" between 1893 and 1910 (in Hawaii, the Philippines, Cuba, Puerto Rico, Nicaragua, and Honduras); second, the "Covert Action period" between 1953 and 1973 (in Iran, Guatemala, South Vietnam, and Chile); and third, the "Invasions" since 1983 (in Grenada, Panama, Afghanistan, and Iraq). The original announced aim was to help anti-colonial patriots to achieve success, as in Cuba and the Philippines; and then, to the patriots' surprise, the U.S. would establish an authoritarian protectorate. The reasons for doing so were usually presented as extending the advantages of American democratic principles and protecting U.S. security. In practice, as Kinzer shows, the principal aims were to establish the right of U.S. business to act as it wished, to satisfy a new national ambition for expansion, and to add to the strength of the U.S. economy.

Kinzer quotes a letter from John L. Stevens, the American minister in Honolulu, on January 16, 1893, to Captain Gilbert Wiltse, the commander of the cruiser *Boston*. He comments, "Its single sentence is a dry classic of diplomatic mendacity, full of motifs that Americans would hear often in the century to come." The letter reads:

"In view of the existing critical circumstances in Honolulu, indicating an inadequate legal force, I request you to land marines and sailors from the ship under your command for the protection of the United States legation and the United States consulate, and to secure the safety of American life and property."

That, effectively, was the end of the courageous Queen Liliuokalani's resistance to the American annexation of Hawaii.

Although there were impassioned opponents of such actions in the United States, William James among them. Kinzer shows that the expansionist mood of the 1890s was already producing justifications that sound all too familiar today. American presidents and military officers, then as now, said they were intervening in struggles of "good and evil" for humanity's sake and had God's guidance in doing so. "The parallels between McKinley's invasion of the Philippines and Bush's invasion of Iraq were startling." Kinzer writes:

"Both presidents sought economic as well as political advantage for the United States. Both were also motivated by a deep belief that the United States has a sacred mission to spread its form of government to faraway countries. Neither doubted that the people who lived in those countries would welcome Americans as liberators. Neither anticipated that he would have to fight a long counterinsurgency war to subdue nationalist rebels. Early in the twenty-first century, ten decades after the United States invaded the Philippines and a few years after it invaded Iraq, those two countries were among the most volatile and unstable in all of Asia."

Kinzer's book is particularly enlightening about the consequences of such unilateral interventions. He writes:

"If it were possible to control the course of world events by deposing foreign governments, the United States would be unchallenged. It has deposed far more of them than any other modern nation. The stories of what has happened in the aftermath of these operations, however, make clear that Americans do not know what to do with countries after removing their leaders. They easily succumb to the temptation to stage coups or invasions but turn quickly away when the countries where they intervene fall into misery and repression."

Brushing aside fifty years of international law in the name of the "global war on terrorism" is a bad idea for everyone, including the United States. Violating global rules undermines both America's authority and standing and its long-term strategic interests. An already globalized and interdependent world cannot permit a return to a situation where each nation is entirely free to act as it wishes.

To use Sands's words, the United States, like other countries, badly needs international agreements and international cooperation to promote and protect its own interests, and cooperation requires rules. The conclusion seems plain: the United States should reengage in respecting and developing the rule-based system that it largely initiated after World War II and which has for many years served it well.

Such an approach could certainly not have worse consequences than the recent attempt to abandon the idea of international restraint and go it alone.Some US administrations have vigorously supported international regulation in the past. On April 1, 2005, Secretary of State Condoleezza Rice told the annual meeting of the American Society of International Law that the US "has been and will continue to be the world's strongest voice for the development and defense of international legal norms." She added that America "has historically been the key player in negotiating treaties and setting up international mechanisms for the peaceful resolution of disputes." As Sands comments, "These are important words, but they remain just that."

A more down-to-earth perception of the situation was expressed in May 2004 by US Senate Foreign Relations Committee Chairman Richard Lugar, who was speaking of the U.S. Senate's delay of some ten years in acceding to the Law of the Sea Treaty, a delay largely caused by those Americans who have argued that the treaty restricts the exploration and exploitation of the seabed. Lugar posed the question that the US has still to face:

"If we cannot get beyond political paralysis in a case where the coalition of American supporters is so comprehensive, there is little reason to think that any multi lateral solution to any international problem is likely to be accepted within the US policy-making structure."

HONORING THE ACHIEVEMENT OF MR. LESTER (LES) WILLIAMS

HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. CLEAVER. Mr. Speaker, I proudly rise today to pay tribute to Mr. Lester (Les) Williams for his recognition as "Labor's Representative of the Year for 2006" by Labor's Educational and Political Club Independent (LEPCI). He is President, Business Manager, and Member of the Executive Board of Construction and General Laborers' Local Union Number 264. As the eighth recipient of this prestigious award, Les joins an elite list of other dedicated and deserving individuals. His unwavering resolve to the betterment of the Kansas City community and its workers is the reason for this recognition and celebration.

Les is a political activist and humanitarian whose legacy continues to enrich the lives of all Kansas Citians. His dedication and commitment to the Labor Movement has spanned 38 years. In July 1985, Les was elected Vice President, Executive Board Member, and Field Representative of Construction & General Laborers Local Union No. 264. In May 1988, he was elected to his current positions of President, Executive Board Member, and Field Representative of Construction & General Laborers Local Union No. 264.

Les's reputation as a leader extends beyond the borders of the Fifth Congressional District of Missouri. He serves as President of Western Missouri & Kansas Laborers' District Council, Vice President of the Greater Kansas City AFL–CIO, Chairman of the Greater Kansas City Laborers' Pension Fund, Secretary of the Greater Kansas City Laborers' Health & Welfare Fund, Chairman of the Board of Trustees of the Greater Kansas City Laborers' Training Fund, and as Secretary of the MO-KAN CISAP Fund. Mr. Williams is a member of the Executive Committee Board of the African American Caucus for the Midwest Region of the Laborers' International Union of America and also serves on the Executive Committee of the United Way and is Vice Chairman of Working Families Friend. He is also very active in Democratic politics, serving on the Executive Committee Board for the Missouri Democratic Party.

Born in Kansas City, Missouri, in 1948, Les completed his elementary and secondary education in the Kansas City, Missouri, school district, a graduate of Manual High & Technical Vocational High School. Les is a proud father and husband, having been married to his wife, Judy, for 39 years.

Mr. Speaker, please join me in expressing our heartfelt gratitude to Mr. Les Williams for his relentless efforts in protecting and assisting the rights of others, while extending the labor movement, not only within the boundaries of the Fifth Congressional District, but within the United States and the entire global community. He represents the best in all of us. I urge my colleagues of the 109th Congress to please join me in congratulating Les on being honored as "Labor's Representative of the Year for 2006."

HONORING MAYOR RONDELL STEWART OF INDEPENDENCE, MISSOURI

HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 2006

Mr. CLEAVER. Mr. Speaker, I proudly rise today to pay tribute to Mayor Ron Stewart, the arbitrator, peace maker and enthusiastic Mayor for the City of Independence, Missouri. After providing 12 years of planned economic advancement and growth for the city of Independence, Mayor Stewart has decided to retire.

For 45 years Ron Stewart has made Independence a safer and more productive city. He begah his career at the City on the Independence Police Force where he served for 31 years. He cultivated an appreciation and understanding of the City and its problems. Upon retirement he was encouraged to run for the Independence City Council and won. Two years later he ran for Mayor. The citizens of Independence elected Ron Stewart every time he ran for office. The All American City appreciates and enjoys every positive objective initiated by Ron Stewart aimed at building a brilliant future while preserving a rich heritage.

During his three terms as Mayor he stimulated vibrant economic growth by working with public and private entities, and community organizations. He made it a priority to work closely with the Independence Chamber of Commerce, built partnerships with neighboring cities, championed relationships between state and federal elected officials, and strengthened international relationships with Sister City Higashimurayamam, Japan.

The Mayor persuaded the City of Independence to pass a sales tax to repair a debilitating infrastructure. As a result of his leadership, streets continue to be repaired and built, a critical Storm Water Control problem has been rectified through increased maintenance and repair, the City's water supply system has been upgraded, electrical supply increased, and a nonfunctioning Parks Department now serves the city with new facilities, programs and refreshed parks.

His honors and awards are numerous and include the United States Department of Transportation, Appreciation for Distinguished Leadership Award, 2000; The Jackson County Inter-Agency Council, Community Service Award, 1999; The Jackson County Historical Society Award for Service, 1998; Chamber of Commerce, Distinguished Citizen Award, 1996; Kentucky State Police, Division of Department of Public Safety Award, 1966. He is a member of the F.O.P Lodge 1; National FBI Academy, Masonic Blue Lodge 76, Ararat Shrine, South Independence Optimist Club; American Legion Post 21; Fraternal Order of Eagles; Moose Lodge Rotary and the Lions Club.

The citizens of Independence know Ron Stewart as a no-nonsense type of guy whose integrity has brought trust. He appreciates his life's treasures that include his family and his wife Marilyn who has been by his side for more than 46 years. He is a musician that enjoys singing and playing his steel guitar in his band, "Country by Choice". He rode into public service as a young Independence motor cycle patrol officer and continues to enjoy riding on his Harley-Davidson. His departing documentary was a video that followed the Mayor on his Harley-Davidson as he recounted his proudest accomplishments throughout the city.

Mr. Speaker, I ask that you and our colleagues in the House join me in saluting the Mayor of Independence, Ron Stewart, for his leadership and many accomplishments for the City of Independence, Missouri. We wish him the very best as Mayor Stewart leaves public office with a song in his heart and time to explore on his Harley. Thank you, Ron Stewart for choosing to serve. You elevated Independence, Missouri to an All-American City.

RECOGNIZING SHANE DANIEL

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Shane Daniel of Liberty, Missouri. He has spent many hours of study and preparation as a member of the Liberty High School Science Bowl Team. After numerous competitions and a victory in the regional competition, the Liberty High School Science Bowl Team earned a spot to compete in the 2006 National Science Bowl Competition in Washington, DC.

As one of America's best and brightest, Shane has been an accomplished student. As a student who loves competition, Shane is a member of the Varsity Scholar Bowl team, Future Business Leaders of America, and the cross-country team. He enjoys studying physics, chemistry, and mathematics, hoping to attend the University of Chicago to study in the sciences.

Mr. Speaker, I proudly ask you to join me in recognizing Shane Daniel, an outstanding student from Liberty, Missouri. As a top student who is committed to science and mathematics, Shane will certainly have a bright and fulfilling future. I commend him for his achievements and I am honored to represent him in the United States Congress.

IN SPECIAL RECOGNITION OF TRAVIS S.C. ROOT ON HIS APPOINTMENT TO ATTEND THE UNITED STATES AIR FORCE ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District, I am happy to announce that Travis S.C. Root of Norwalk, OH, has been offered an appointment to attend the United States Air Force Academy at Colorado Springs, CO.

Travis's offer of appointment poises him to attend the United States Air Force Academy this fall with the incoming cadet class of 2010. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Travis brings an enormous amount of leadership, service, and dedication to the incoming class of Air Force cadets. While attending Norwalk High School in Norwalk, OH, Travis attained a grade point average which placed him near the top of his class. While a gifted athlete, Travis has maintained the highest standards of excellence in his academics, choosing to enroll and excel in advanced placement classes throughout high school. Travis has been a member of the Honor Roll, the Academic Challenge Team, and the Key Club.

Outside the classroom, Travis has distinguished himself as an excellent student-athlete by earning varsity letters in football, swimming and track. Travis's dedication and service to the community and his peers has proven his ability to excel among the leaders at the Air Force Academy. I have no doubt that Travis will take the lessons of his student leadership with him to the United States Air Force Academy.

Mr. Speaker, I ask my colleagues to join me in congratulating Travis S.C. Root on his appointment to the United States Air Force Academy at Colorado Springs. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Travis will do very well during his career at the United States Air Force Academy and I ask my colleagues to join me in wishing him well as he begins his service to the Nation.

IN HONOR OF CHARLOTTE CREWS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Charlotte Crews, upon her retirement as center director of the Barton Center of Lakewood, whose dedication and devotion to the residents of the Barton Center has brought joy and energy to their lives for more than two decades.

Mrs. Crews began volunteering at the Barton Center nearly 21 years ago. Though busy with family and her own job at a local insurance company, Mrs. Crews made time to prepare meals, and she also utilized her creative theatrical talent and experience by writing and directing countless performances and shows at the center. Her husband, Curt, was program director at the time, and she also volunteered as his assistant. In 1995, she was offered the position of center director. As center director for 11 years, Mrs. Crews went above and beyond the usual call of duty. Her care and compassion for the elderly and disabled residents of the center was equally matched by her energetic drive and dedication that focused on enriching their lives.

Mrs. Crews worked overtime to cook dinner for more than 100 people for the monthly dinner show. She set the menu, shopped, cooked and served the food. She also continued to channel her talents by writing, producing and directing the annual staff show. Additionally, she created a small grocery called the Corner Store, located in the building, for residents unable to leave the center. Mrs. Crews added a computer to the center, created several new programs for residents, and initiated a successful fundraising plan, known as the Annual Campaign. Moreover, Mrs. Crews' approachable demeanor and great sense of humor easily drew others to her, and her presence brightened the spirits of residents, staff and volunteers.

Mr. Speaker and colleagues, please join me in honor, recognition and gratitude to Charlotte Crews, for her unwavering dedication, generous heart, expansive talent and true sense of giving that has framed her presence at the Barton Center for the past 21 years. Her achievements are numerous, yet her most significant accomplishment is the love and compassion that she shared with the most frail citizens of our society—bringing them joy, great care and hope, and the foundation of friendship that Mrs. Crews created has raised the lives of every resident at Barton Center, and has strengthened our entire community.

TRIBUTE TO U.S. ARMY SERGEANT PIERRE A. RAYMOND

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. MEEHAN. Mr. Speaker, I rise today to honor a true hero, Army Sergeant Pierre A. Raymond, who gave his life in service to our country.

Sergeant Raymond was a resident of Lawrence, MA, and was deployed with the brave men and women serving in our armed forces as part of Operation: Iraqi Freedom II. David was in Iraq just one week before sustaining fatal injuries from an explosion that ripped through his barracks in Ramadi, Iraq. He died five days later on September 20, 2005, surrounded by his family in the Landstuhl Regional Medical Center in Landstuhl, Germany.

Pierre was preparing to celebrate his 29th birthday in early October. He looked forward to returning to his family and his girlfriend, with whom he had lived before deployment, and was planning to finish a college degree in psychology. His friends and family recall his playful nature and his wonderful laughter. He was courageous to the end. Even as he lay wounded in his hospital bed, he is reported to have been talking and joking with doctors and nurses and was in good spirits. Friends and family also remember David's passion for cars and his talent for repairing them—a technical ability that served him well as an Army mechanic maintaining Bradley Fighting Vehicles in the Army Reserve's 228th Forward Support Battalion, 28th Infantry Division. His zest for life should be an inspiration to us all.

Pierre graduated from Salem High School in New Hampshire in 1994, and joined the Army in 1998, serving for thirteen months in Bosnia as a member of the U.N. peacekeeping force before being discharged in 2001. As a member of the Individual Ready Reserve, he was recalled in June of 2005 to serve in Iraq. While he was overseas, he called his family every morning. In his final hours, they joined him at his bedside in Germany, and his mother accompanied him on his journey home to the United States after his tragic death.

Pierre's family is proud of him for the supreme sacrifice he made on behalf of his country. He will always be remembered for his kindness, enthusiasm, his faith, and his desire for peace. He will be sorely missed.

I have now requested that an American flag be flown over our United States Capitol in memory of Sergeant Pierre Raymond to honor his brave service to our country. This flag will be delivered to his family. Pierre died fighting for the country he loved, alongside comrades he respected and with the family he adored, forever in his heart. Our nation is humbled and grateful for his sacrifice.

Mr. Speaker, we should all take a moment to recognize Sergeant Pierre A. Raymond, United States Army, who gave his life in service to his country.

THANKING JAMES S. MURPHY FOR HIS SERVICE TO THE HOUSE

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. EHLERS. Mr. Speaker, on the occasion of his retirement at the end of May 2006, I rise to thank Mr. James S. (Jim) Murphy for his 29 years of outstanding service to the United States House of Representatives.

Jim began his career with the House on October 11, 1977, and served in positions within the Office of the Clerk and the Finance office of the Chief Administrative Officer. As a Team Leader within the Office of Financial Counseling, he provided financial assistance and guidance to all Member and Committee offices including monitoring and projecting available fund balances and ensuring expenditures comply with both House and Committee rules and regulations.

Jim has provided financial guidance to every entity of the House, assuring that House staff and vendors are paid accurately. His passionate customer service and tireless commitment to the countless House staff members who have worked with him will be deeply missed.

On behalf of the entire House community, I extend congratulations to Jim for his many years of dedication and contributions to the financial management of the House. We wish Jim many wonderful years enjoying his retirement.

RECOGNIZING JOHN AHLFIELD

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize John Ahlfield of Liberty, Missouri. He has spent many hours of study and preparation as a member of the Liberty High School Science Bowl Team. After numerous competitions and a victory in the regional competition, the Liberty High School Science Bowl Team earned a spot to compete in the 2006 National Science Bowl Competition in Washington, D.C.

As one of America's best and brightest, John has been an accomplished student. He is a member of Serteens and the National Honor Society. He joined the Liberty Scholar Bowl Team as a sophomore, then became a Varsity member and captain his junior year. Among his favorite subjects are science and mathematics and he hopes to pursue a degree in chemical engineering after graduating from Liberty High School.

Mr. Speaker, I proudly ask you to join me in recognizing John Ahlfield, an outstanding student from Liberty, Missouri. As a top student who is committed to science and mathematics, John will certainly have a bright and fulfilling future. I commend him for his achievements and I am honored to represent him in the United States Congress.

IN SPECIAL RECOGNITION OF PETER D. GUZOWSKI ON HIS APPOINTMENT TO ATTEND THE UNITED STATES AIR FORCE ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Peter D. Guzowski of Tiffin, Ohio has been offered an appointment to attend the United States Air Force Academy at Colorado Springs, Colorado.

Peter's offer of appointment poises him to attend the United States Air Force Academy this fall with the incoming cadet class of 2010. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer.

Peter brings an enormous amount of leadership, service, and dedication to the incoming class of Air Force cadets. While attending Tiffin Columbian High School in Tiffin, Ohio, Peter attained a grade point average which placed him near the top of his class. While a gifted athlete, Peter has maintained the highest standards of excellence in his academics, choosing to enroll and excel in Advanced Placement classes throughout high school. Peter has been a member of the National Honor Society, Honor Roll and has earned awards and accolades as a scholar and an athlete.

Outside the classroom, Peter has distinguished himself as an excellent student-athlete by earning letters in varsity tennis and golf where he served as the captain of his varsity team. He has also remained involved in his community by coaching youth basketball and serving as an altar server. Peter's dedication and service to the community and his peers has proven his ability to excel among the leaders at the United States Air Force Academy. I have no doubt that Peter will take the lessons of his student leadership with him to the United States Air Force Academy.

Mr. Speaker, I ask my colleagues to join me in congratulating Peter D. Guzowski on his appointment to the United States Air Force Academy at Colorado Springs. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Peter will do very well during his career at the United States Air Force Academy and I ask my colleagues to join me in wishing him well as he begins his service to the Nation.

IN HONOR OF THE 90TH ANNIVERSARY OF THE LAKEWOOD LIBRARY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Lakewood Library, as we join in celebration of their 90th Anniversary.

For the past nine decades, the library, located on Detroit Avenue, has served as a vital source of learning, entertainment and enlightenment for residents of all ages, at no cost or low cost. Founded in 1916, the Lakewood Library has evolved over the years from a small space where books were exchanged, to a peaceful haven of energy where information and ideas are exchanged, learning flourishes and computer technology is presented on the cutting edge.

The Lakewood Library lends out thousands of books, and CD's every year, and also lends its rooms to community organizations where members gather on a regular basis. The Library offers programs for children, adults and seniors, literary programs, workshops, community volunteer programs and a variety of family entertainment programs and classes, including reading circles and the visual arts.

Mr. Speaker and Colleagues, please join me in honor and recognition of staff, administrators, volunteers and visitors, past and present, of the Lakewood Library. The library's collection of books, resources, historical documentation and advanced technology, offered free to the public, is a priceless component that continues to shape our culture, broaden our horizons and raise our collective and individual dreams into the light of reality—through imagination, discovery and learning, with every turn of the page.

H.R. 4975, THE SO-CALLED "LOBBYING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006"

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. MOORE of Kansas. Mr. Speaker, on Wednesday, May 3, 2006, I voted against final passage of H.R. 4975, making changes to congressional ethics procedures and campaign finance laws.

As a member of Congress first elected to the HOUSE OF REPRESENTATIVES in 1998, I have supported and continue to support efforts to reduce the influence of money in politics because I believe that public cynicism is eating away at voter participation, causing citizens to tune out discussions of very serious issues, and turning a whole generation of young people away from our political system as a means of social change. There is a national crisis of confidence in our political system because of the influence of money in the legislative process. The American people share a widely held belief that special interests, lobbyists, and the very wealthiest campaign contributors wield too much influence in government.

Unfortunately, these concerns have been warranted, as recent scandals have come to light involving, among others, the transgressions of former Rep. Randy "Duke" Cunningham and lobbyist Jack Abramoff. For this reason, I joined as an original cosponsor of H.R. 4682, the Honest Government and Open Leadership Act. This legislation, among other things, takes steps to ban all gifts, including meals, tickets, entertainment and travel, from lobbyists and non-governmental organizations that retain or employ lobbyists; requires Members to pay full charter costs when using corporate jets for official travel; and establishes a new Office of Public Integrity under the Inspector General of the House.

H.R. 4975 falls short in all of these areas and instead chooses to maintain the status quo. Furthermore, the final rule reported out of the Rules Committee did not allow for the consideration of amendments on the House floor that would have addressed these concerns. Instead, the Rule included H.R. 513, controversial campaign finance legislation that would limit the ability of the public to mobilize voters and to hold incumbents accountable for the very misconduct that this bill purports to change. This kind of closed door process is indicative of the problems we are now experiencing in Congress.

Public office is a public trust. All elected officials and their staffs must conduct the public's business in public view and in a manner that is above reproach. Congress must take real steps to improve congressional ethics standards and to make congressional procedures more open and accountable to all Americans.

TRIBUTE TO U.S. MARINE LANCE CORPORAL NICKOLAS D. SCHIAVONI

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. MEEHAN. Mr. Speaker, I rise today to honor a true hero, Marine Lance Corporal Nickolas D. Schiavoni, who gave his life in service to our country.

Lance Corporal Schiavoni lived in my district in Haverhill, and was deployed with the brave men and women serving in our armed forces as part of Operation: Iraqi Freedom. Nickolas died tragically on November 15, 2005 when a suicide, vehicle-borne, improvised explosive device was detonated while he was conducting combat operations against enemy forces near Al Karmah, Iraq during Operation Steel Curtain. He was twenty-six years old.

Nickolas leaves behind his beloved wife Gina, and two young children, Marissa and Alex. He is also survived by his mother, Stephany Kern, his grandfather, David Swartz, and his sister, Vanessa Schiavoni. Nickolas treasured his time with his family and was very fond of their time together at his mother's home in Westerly, Rhode Island.

Nickolas served in Iraq with the 2nd Battalion, 2nd Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force, based in Camp Lejeune, N.C. He was serving on his second tour of duty in Iraq when he was killed. He was very proud to be a Marine.

Nickolas' family is proud of him, not just for the supreme sacrifice he paid on behalf of his country, but for the honor he brought to them as a Marine. He strove to protect his family and his country. His courage will not be soon forgotten.

I have now requested that an American flag be flown over our United States Capitol in memory of Lance Corporal Nickolas Schiavoni to honor his brave service to our country. This flag will be delivered to his family. Nickolas died fighting for the country he loved, alongside comrades he respected and with the family he adored, forever in his heart. Our nation is humbled and grateful for his sacrifice.

Mr. Speaker, we should all take a moment to recognize Lance Corporal Nickolas D. Schiavoni, United States Marine Corps, who gave his life in service to his country.

THANKING MRS. ESTELLE JONES FOR HER SERVICE TO THE HOUSE

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. EHLERS. Mr. Speaker, on the occasion of her retirement in June 2006, I rise to thank Mrs. Estelle Jones for 29 years of outstanding service to the U.S. House of Representatives.

Throughout the years Estelle has made significant contributions managing the employee benefit programs for the U.S. House of Representatives and providing oversight to the processing of staff employee benefits for the U.S. House of Representatives. She began her career at the House on June 15, 1977, as an Employee Benefits Clerk in the Office of Personnel and Benefits, Office of Finance, under the Office of the Clerk. In January 1980, she assumed the title of Personnel Control Clerk, supervising the paperwork flow of the Employee Benefits Clerk. Estelle later accepted the position of Benefits Counselor, remaining with the Office of Personnel and Benefits. On December 1, 1987, she was promoted to Assistant Supervisor for the Office of Personnel and Benefits until November 12, 1995, when she accepted the appointment as Director of the Office of Personnel and Benefits, Human Resources for the Chief Administrative Officer. As Director of Personnel and Benefits, Estelle also served as the House Benefits Officer for both Health Benefits and Retirement with the Office of Personnel Management. She had the overall responsibility for the quality, accuracy and timeliness of submissions of all benefits records to OPM. She has provided many years of employee benefit support and guidance to the countless House staff members who have worked in this great institution throughout the last 29 years.

On behalf of the entire House community, I extend congratulations to Estelle for her many years of dedication and outstanding contributions to the U.S. House of Representatives. We wish Estelle many wonderful years in fulfilling her retirement dreams with her husband, Jack, and her children, Justin and Stephanie.

RECOGNIZING STEPHANIE HULL

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Stephanie Hull of Liberty, Missouri. She has spent many hours of study and preparation as a member of the Liberty High School Science Bowl Team. After numerous competitions and a victory in the regional competition, the Liberty High School Science Bowl Team earned a spot to compete in the 2006 National Science Bowl Competition in Washington, D.C.

As one of America's best and brightest, Stephanie has been an accomplished student. A very active student, she participates in Scholar Bowl, Orchestra, National Honor society, Model UN, Debate, the National Forensic League, her church youth group, and the Senior Girl Scouts. Stephanie would like to become a doctor and is interested in attending UMKC or the University of Chicago.

Mr. Speaker, I proudly ask you to join me in recognizing Stephanie Hull, an outstanding student from Liberty, Missouri. As a top student who is committed to science and mathematics, Stephanie will certainly have a bright and fulfilling future. I commend her for her achievements and I am honored to represent her in the United States Congress.

IN SPECIAL RECOGNITION OF KEIL J. MILLER ON IS APPOINTMENT TO ATTEND THE UNITED STATES NAVY ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Keil J. Miller of Napoleon, Ohio has been offered an appointment to attend the United States Naval Academy in Annapolis, Maryland.

Keil's offer of appointment poises him to attend the United States Naval Academy this fall with the incoming midshipmen class of 2010. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Keil brings an enormous amount of leadership, service, and dedication to the incoming class at the Naval Academy. While attending Napoleon High School in Napoleon, Ohio, Keil attained a grade point average which placed him near the top of his class. While a gifted athlete, Keil has maintained the highest standards of excellence in his academics, choosing to enroll and excel in Advanced Placement classes throughout high school. Keil has been a member of the Honor Roll, the Drama and German Club and has earned numerous awards and accolades as a scholar and an athlete.

Outside the classroom, Joshua has distinguished himself as an excellent student-athlete by earning varsity letters in track and football where he served as the captain of his varsity team. He has also remained involved in his community by serving as a camp counselor for a youth football program and as an active participant in Big Brothers/Big Sisters. Keil's dedication and service to the community and his peers has proven his ability to excel among the leaders at the Naval Academy. I have no doubt that Keil will take the lessons of his student leadership with him to Annapolis.

Mr. Speaker, I ask my colleagues to join me in congratulating Keil J. Miller on his appointment to the United States Naval Academy. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Keil will do very well during his career at the Naval Academy and I ask my colleagues to join me in wishing him well as he begins his service to the nation.

IN HONOR OF RICHARD ZEAGER AS HE CELEBRATES HIS 90TH BIRTHDAY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Richard Zeager as he celebrates his 90th birthday. Richard worked hard throughout his life, served his country and raised a family. His accomplishments and contributions to his community are worthy of recognition.

Mr. Zeager was born on May 14, 1916, at home in Rocky River, Ohio, where he would spend the rest of his life serving his community and country. Much of his childhood was spent working and playing with his four siblings. After receiving his diploma from Rocky River High School in 1934, Richard worked a number of jobs as a gardener, hunter, fisherman, and truck driver and worked in the PepsiCola factory in Cleveland. Mr. Zeager found a career as a warehouse manager at Lifetime Cookware, where he worked for 52 years, just retiring last year.

In 1942, Richard answered the call of duty to fight for America during World War II. As a decorated Sergeant of the 7th Airdrome Squadron of the 13th Air Force Division, Richard served as an Aircraft Electrical Specialist. From 1942–45 he served in the Philippines, Guadalcanal, and New Guinea. Since his return home in 1945, Richard became an active member of the VFW in Rocky River, where he was a past commander, and also a member of the American Legion in Bay Village. He participated in parades and veteran reunions for his squadron, continuing close friendships with his fellow soldiers. Richard enjoys sharing his stories from the war with his family and friends. Besides his involvement with the VFW, he is also a member of the Danish Brotherhood Lodge where he continues the traditions of his heritage.

After his honorable service in World War II, Richard married Edna Klavon in March 1946. Throughout their 57-year marriage they had 3 sons, Terry, Stanley, and Edward. Richard and Edna also were loving and supportive grandparents to their six grandchildren. Besides spending time with family, Richard is an avid stamp and coin collector.

Mr. Speaker and Colleagues, please join me in honor and recognition of Richard Zeager on his 90th birthday. His contribution to his community, family, and country are irreplaceable and we are ever grateful for his service.

CONGRATULATING WE THE PEOPLE KANSAS CLASS ON RECEIVING MOUNTAIN/PLAINS STATES REGIONAL AWARD AT NATIONAL COMPETITION ON THE CONSTITUTION

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. MOORE of Kansas. Mr. Speaker, from April 29 to May 1, 2006, approximately 1,200 students from across the country participated in the national finals competition of We the People: The Citizen and the Constitution, the most extensive educational program in the country developed specifically to educate young people about the U.S. Constitution and Bill of Rights. I am pleased to announce that Saint Thomas Aquinas High School from Overland Park, Kansas received the Mountain/Plains States Regional Award in the competition. The We the People program is administered by the Center for Civic Education and funded by the U.S. Department of Education by act of Congress.

The We the People national finals is a three-day academic competition that simulates a congressional hearing in which the students testify before a panel of judges on constitutional topics. Students demonstrate their knowledge and understanding of constitutional principles as they evaluate, take, and defend positions on relevant historical and contemporary issues. Among the questions students responded to in the competition includes: Is judicial review essential for the functioning of our American constitutional democracy? Explain and justify your position.

Mr. Speaker, I'm proud of these outstanding students from Saint Thomas Aquinas High School: Danny Akright, Carrie Brand, Rob Conard, Andrew Conde, John Darnell, Evan Daugharthy, Kelsey Gustafson, Ben Haefele, Anthony Halling, Steve Hengeli, Jennifer Kinkade, Sarah Kuhlmann, Sinom Longhi, Christy Millweard, Evan Pederson, Sarah Potter, Patrick Short, Caitlin Thornbrugh, Jenny Timmons, Patrick Trouba, and Paul Wooten.

I also wish to commend the teacher of the class, Spencer Clark, who was responsible for preparing the student class for the national finals competition. Also worthy of special recognition are Lynn Stanley, the state coordinator and Ken Thomas, the district coordinator, who are among those responsible for implementing the We the People program in my district.

Mr. Speaker and my colleagues in the House, please join me in congratulating these young constitutional experts for their outstanding achievement.

RECOGNIZING RYAN STANDER

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Ryan Stander of Liberty, Missouri. He has spent many hours of study and preparation as a member of the Liberty High School Science Bowl Team. After numerous competitions and a victory in the regional competition, the Liberty High School Science Bowl Team earned a spot to compete in the 2006 National Science Bowl Competition in Washington, D.C.

As one of America's best and brightest, Ryan has been an accomplished student. This years entry in the National Science Bowl was his second entry in the national tournament. Ryan is very involved as a member of the Liberty Scholar Bowl team, Science Knowledge Bowl, National Honor Society, Young Democrats, and Serteens. After graduation, Ryan will attend Truman State University in the fall to major in history and political science.

Mr. Speaker, I proudly ask you to join me in recognizing Ryan Stander, an outstanding student from Liberty, Missouri. As a top student who is committed to science and mathematics, Ryan will certainly have a bright and fulfilling future. I commend him for his achievements and I am honored to represent him in the United States Congress.

IN SPECIAL RECOGNITION OF JOSHUA R. MINTON ON HIS APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY AT WEST POINT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Joshua R. Minton of North Baltimore, Ohio has been offered an appointment to attend the United States Military Academy at West Point, New York.

Joshua's offer of appointment poises him to attend the United States Military Academy this fall with the incoming cadet class of 2010. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer. Truly, it is one of the most challenging and rewarding undertakings of their lives.

Joshua brings an enormous amount of leadership, service, and dedication to the incoming class of West Point cadets. While attending Elmwood High School in Bloomdale, Ohio, Joshua attained a grade point average which placed him near the top of his class. While a gifted athlete, Joshua has maintained the highest standards of excellence in his academics, choosing to enroll and excel in Advanced Placement classes throughout high school. Joshua has been a member of the National Honor Society, the Honor Roll and has earned numerous awards and accolades as a scholar and an athlete.

Outside the classroom, Joshua has distinguished himself as an excellent student-athlete. On the fields of competition, he has earned varsity letters in basketball and football where he served as the captain of the varsity team. Joshua's dedication and service to the community and his peers has proven his ability to excel among the leaders at West Point. I have no doubt that Joshua will take the lessons of his student leadership with him to West Point.

Mr. Speaker, I ask my colleagues to join me in congratulating Joshua R. Minton on his appointment to the United States Military Academy at West Point. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Joshua will do very well during his career at West Point and I ask my colleagues to join me in wishing him well as he begins his service to the Nation.

IN HONOR AND REMEMBRANCE OF MIKE ZAPPONE, SR.

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Mike Zappone, Sr., beloved husband, father, successful restaurateur and friend. Mr. Zappone, Senior leaves behind a legacy that reflects his joy for life, love for his family and dedication to his community.

Mr. Zappone was born and raised in Cleveland, OH. He learned early on the lessons of family unity, hard work and team work, as his father died at a young age, leaving his mother with a large family to raise. Shortly after graduating from John Marshall High School, Mr. Zappone joined his older brother, Tony Zappone, in the restaurant business.

Tony Zappone operated Tony's Diner for nearly 30 years, until his death in 1977. Mike Zappone opened his first restaurant in Kamms Corners in the 1950s, then in 1962, he opened up the Original 13 Colonies restaurant, located in the Holiday Inn on Brookpark Road. Mr. Zappone took over Tony's Diner when his brother passed away, and later opened up the highly popular Mr. Z's.

For decades, both brothers were successfully involved in the ownership and operation of nearly 20 local and out-of-State restaurants. Their signature establishments were Tony's Diner and Mr. Z's, cultural landmarks that provided a welcoming atmosphere where anyone could enjoy a great meal and lively conversation. Both Tony's Diner and Mr. Z's frequently set the stage for people from all walks of life—from politicians to steelworkers, to business owners and every profession in between, to discover and debate the neighborhood news of the day.

Mr. Speaker and colleagues, please join me in honor, remembrance and gratitude of my dear friend, Mike Zappone, Sr., whose kindness, integrity and goodwill defined his character and framed his life. I offer my condolences to his wife Jeanne; his sons, Michael, Junior and John; his four grandchildren; and his extended family and friends. His friendly smile, joyful spirit and kind heart will live on within the hearts of his family, friends and every patron, young and old, whose day was made brighter while gathered at the table of Tony's Diner or Mr. Z's, including my own.

TRIBUTE TO PETALUMA CHAMBER OF COMMERCE

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Ms. WOOLSEY. Mr. Speaker, I rise today to honor the Petaluma Chamber of Commerce on the occasion of its 100th anniversary celebration. The chamber has been serving my hometown of Petaluma, CA, since it was first launched on February 6, 1906, with 79 members.

Many of these early members bore names still remembered in Petaluma today, including J.E. Olmstead, publisher of the newspaper, and Rodney Putnam who was related to future mayor and first female Sonoma County Supervisor Helen Putnam.

One of the key characters in the chamber's early years was Bert Kerrigan who was hired in 1918 to promote the city. It is thanks to Kerrigan that I was able to participate in Petaluma's 25th Annual Butter and Eggs Day Parade this year.

After evaluating the local business situation, Kerrigan decided the town needed to push its poultry industry; he traveled to Washington, DC, to establish National Egg Day and coined the slogan "The World's Egg Basket." He then performed various publicity stunts—flying an airplane over San Francisco to drop flyers, parking a huge egg basket in front of the St. Francis Hotel with attractive women, the "Slick Chicks," to be photographed, and forming the precursor to today's parade, "Egg Day," which was held at night.

Under the current leadership of CEO Onita Pellegrini, the chamber has been thriving and currently has over 900 members. In fact, I, too, was a member when I ran my business in Petaluma from 1980 to 1991. The chamber recently relocated to the historic Great Petaluma Mill Building in the heart of downtown. The group still actively promotes the city's businesses and advocates with city government for smart growth principles that maintain the community feeling that has been Petaluma's hallmark.

Mr. Speaker, the Petaluma Chamber of Commerce continues to represent the diversity of the city from its agricultural roots to its small businesses to its new high tech companies. I cut my political teeth as a member of the

Petaluma City Council, and I know the good work that they do. Congratulations to everyone in the chamber on this centennial milestone.

RECOGNIZING AMMON SARVER

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Ammon Sarver of Liberty, MO. He has spent many hours of study and preparation as a member of the Liberty High School Science Bowl Team. After numerous competitions and a victory in the regional competition, the Liberty High School Science Bowl Team earned a spot to compete in the 2006 National Science Bowl Competition in Washington, DC.

As one of America's best and brightest, Ammon has been an accomplished student. As an active member of his church and in scouting, Ammon is very involved in the community. In school, he is a member of the National Honor Society and enjoys mathematics, physics, and chemistry. He plans on going on a mission for his church after graduation and then attending college to study in math or science.

Mr. Speaker, I proudly ask you to join me in recognizing Ammon Sarver, an outstanding student from Liberty, MO. As a top student who is committed to science and mathematics, Ammon will certainly have a bright and fulfilling future. I commend him for his achievements and I am honored to represent him in the United States Congress.

SPECIAL RECOGNITION OF JOSHUA R. FLAGE ON HIS APPOINTMENT TO ATTEND THE UNITED STATES NAVAL ACADEMY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that Joshua R. Flage of Wayne, Ohio, has been offered an appointment to attend the U.S. Naval Academy in Annapolis, Maryland.

Joshua's offer of appointment poises him to attend the U.S. Naval Academy this fall with the incoming midshipmen class of 2010. Attending one of our Nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer.

Joshua brings an enormous amount of leadership, service, and dedication to the incoming class at the Naval Academy. While attending Wellsville High School in Wellsville, Ohio, Joshua attained a grade point average which placed him at the top of his class. While a gifted athlete, Joshua has maintained the highest standards of excellence in his academics, choosing to enroll and excel in Advanced Placement classes throughout high school. In addition to being a delegate to Buckeye Boys' State, Joshua has been a member of the National Honor Society and Student Council.

Outside the classroom, Joshua has distinguished himself as an excellent student-athlete. On the fields of competition, Joshua earned varsity letters in swimming and track. He was named captain of the varsity swimming team and co-captain of the varsity football team. Upon completion of high school, Joshua continued his education at the Hargrave Military Academy in Chatham, Virginia. Joshua's dedication and service to the community and his peers has proven his ability to excel among the leaders at the Naval Academy. I have no doubt that Joshua will take the lessons of his student leadership with him to Annapolis.

Mr. Speaker, I ask my colleagues to join me in congratulating Joshua R. Flage on his appointment to the U.S. Naval Academy. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Joshua will do very well during his career at the Naval Academy and I ask my colleagues to join me in wishing him well as he begins his service to the Nation.

TRIBUTE TO THE GENERAL FRELINGHUYSEN CHAPTER OF THE DAUGHTERS OF THE AMERICAN REVOLUTION

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor The General Frelinghuysen Chapter of the Daughters of the American Revolution. On May 10, 2006, the General Frelinghuysen Chapter of the "Daughters of the American Revolution will be celebrating their 110th anniversary.

In 1896, sixteen ladies formed the General Frelinghuysen Chapter of the Daughters of the American Revolution with Mrs. E.E. Batcheller as the first Regent. The Chapter was named for a native of Somerset County who held the highest military rank in the state, that of Major General and Commander-in-Chief of New Jersey and Pennsylvania state troops under George Washington—Frederick Frelinghuysen. He was born at the First Dutch Reformed Church Parsonage at Somerville, then Raritan, New Jersey, on April 13, 1753. He was sent to Continental Congress in 1775 and was later a United States Senator. He fought at the Battles of Trenton and Monmouth. He is buried in the Weston cemetery, which is maintained by the Chapter.

Through the years, this chapter has been a very hardworking group of ladies who held their meetings first in various members' homes in the Somerville area, later at the Wallace House, and then at the Old Dutch Parsonage. The gavel used by the Chapter was made from a locust tree grown on the grounds of the home of General Frelinghuysen at Millstone, New Jersey.

Restoring the Wallace House was one of the major projects early in the chapter's history. Former members also contributed to the Continental Hall in Washington, D.C., including a chair presented by Senator Frelinghuysen in honor of his mother, Victoria, in 1927. In 1932, a 103 year old painting, painted by Elizabeth Frelinghuysen when she was 13 years old, was presented to the chapter and placed on display in the Wallace House.

Also in 1896, it became known that a real live daughter was to become a member of the chapter: Miss Elizabeth McIlroy, daughter of William McIlroy, a Soldier of the American Revolution. She lived to be more than 100 years old, but died soon after having been made a member of the Chapter.

In 1932, U.S. Senator Joseph S. Frelinghuysen made a gift of the Old Dutch Parsonage to the General Frelinghuysen Chapter. The Old Dutch Parsonage was built by the Reverend John Frelinghuysen in 1751, of bricks brought from Holland. The first class of the Theological Seminary of Rutgers University was held in this building. When the railroad was being put through, the Frelinghuysen family saved the parsonage from being demolished by moving it a short distance to its present site. In 1947, the Old Dutch Parsonage was deeded to the State of New Jersey as a historic shrine, as was the Wallace House.

In 1995, The General Frelinghuysen Chapter merged with the Old White House Chapter to become the Old White House-General Frelinghuysen Chapter. Philanthropic works, in addition to caring for the Wallace House and The Old Dutch Parsonage, have included providing scholarships to students of local high schools who have demonstrated knowledge and insight concerning historic events, supporting Native Americans, placing markers along Washington's line of march from Princeton to Morristown (after the Battle of Princeton), and contributions of books to the Somerville Public Library, the Library of Memorial Continental Hall in Washington and to the New Jersey Historical Society.

The objectives of the General Frelinghuysen Chapter of the Daughters of the American Revolution continue to be: To perpetuate the memory and spirit of the men and women who achieved American Independence, and To promote as an object of primary importance, institutions for the general diffusion of knowledge, and To cherish, maintain, and extend the institution of American freedom, to foster true patriotism and love of country, and to aid in securing for mankind all the blessings of Liberty.

Mr. Speaker, I urge you and my colleagues to join me in congratulating the members of the General Frelinghuysen Chapter of the Daughters of the American Revolution on the 110th anniversary of the chapter and for their continuing good works.

CONGRATULATIONS TO THE LIBERTY CHRISTIAN SCHOOL BOYS TRACK AND FIELD TAPPS STATE TITLE

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. BURGESS. Mr. Speaker, I rise today to recognize the superior performance of the Liberty Christian School Warriors' Boys Track and Field team for their second consecutive Texas Association of Private and Parochial Schools, TAPPS, State title.

The Warriors totaled 150 points at Hart-Patterson Athletic Complex in Waco, TX easily winning the TAPPS 5A crown over second-place Midland Christian with 82.50.

After the first day's field events, things looked just as dark as the weather forecast for Liberty, as the Warriors trailed Dallas Christian by five points. With the weather holding despite the prediction of thunderstorms in Waco, the Warriors came back strong on the track, and dominated the medal stand, shattering the state record of 3:24.45 in the 4 x 440-yard relay with 3:22.70 and also winning the 4 x l00-meter relay in 43.49 and taking third in the 4 x 200 in 1:31.20.

This victory was a combined effort and would not have been possible if it was not for the incredible sense of teamwork put forth by all athletes.

I extend my sincere congratulations to the principal, coaches, teachers and members of the Liberty Christian School Boys Track and Field Team. The team showed true that value of sportsmanship then victory. I am honored to serve as their U.S. Representative in Congress.

RECOGNIZING NICHOLAS A. SERROQUE FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GRAVES. Mr. Speaker I proudly pause to recognize Nicholas A. Serroque, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America and in earning the most prestigious award of Eagle Scout.

Nicholas has been very active with his troop, participating in many Scout activities. Over the many years Nicholas has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Nicholas A. Serroque for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

IN SPECIAL RECOGNITION OF JAMES D. McKINNEY ON HIS APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY AT WEST POINT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young man from Ohio's Fifth Congressional District. I am happy to announce that James D. McKinney of Bowling Green, Ohio has been offered an appointment to attend the United States Military Academy at West Point, New York.

James' offer of appointment poises him to attend the United States Military Academy this fall with the incoming cadet class of 2010. Attending one of our nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer.

James brings an enormous amount of leadership, service, and dedication to the incoming class of West Point cadets. While attending Bowling Green High School in Bowling Green, Ohio, James attained a grade point average which placed him near the top of his class. While a gifted athlete, James has maintained the highest standards of excellence in his academics, choosing to enroll and excel in Advanced Placement classes throughout high school. James has obtained the rank of Eagle Scout, has been a delegate to Buckeye Boys' State and president of his school's Model United Nations Club.

Outside the classroom, James has distinguished himself as an accomplished student-athlete by actively participating in fencing and cycling. He has also remained active in his community by volunteering to assist his local Meals on Wheels program. Upon completion of high school, James continued his education at Washington and Lee University in Lexington, Virginia. I have no doubt that James will employ the lessons of his student leadership as he excels among the leaders at West Point.

Mr. Speaker, I ask my colleagues to join me in congratulating James D. McKinney on his appointment to the United States Military Academy at West Point. Our service academies offer the finest military training and education available anywhere in the world. I am sure that James will do very well during his career at West Point and I ask my colleagues to join me in wishing him well as he begins his service to the nation.

TRIBUTE TO COLONEL RICHARD SIMCOCK

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. HUNTER. Mr. Speaker, I rise today to honor and pay tribute to Colonel Richard Simcock, the United States Marine Corps Liaison Officer to the U.S. House of Representatives. Colonel Simcock has faithfully served in this capacity since May 2004 and he will soon be accepting command of the 6th Marine Regiment at Camp Lejeune, North Carolina.

Through his assignment as the Marine Corps Liaison Officer to the House, Colonel Simcock has been an invaluable link between Members of Congress and the Marine Corps. He has coordinated and accompanied congressional delegations to places such as Iraq and Afghanistan, organized and contributed to meetings between Members of Congress and key leaders of the Marine Corps, and worked to ensure that Members are kept fully informed of the programs vital to the Corps' operability.

As Chairman of the House Armed Services Committee, I have worked directly with Colonel Simcock on many Committee-related issues. We have come to rely on his candid illustrations and knowledge of the Marine Corps and, over the last two years, Colonel Simcock has been an important part of our efforts to identify the priorities and address the challenges facing the Corps.

Mr. Speaker, the men and women of the Marine Corps have been called to action and tasked with confronting unconventional adversaries in the operational theaters of the global war on terrorism. In Iraq, they are fighting courageously and continue to provide developing security forces with quality instruction and training. However, as the Marines have adjusted and developed new tactics to successfully combat the Iraqi insurgency, Congress has responded by ensuring these brave men and women have the operating and protective equipment necessary to accomplish their mission. In doing so, we have utilized the insight of Colonel Simcock and his ability to open effective communication channels between Congress and the Marine Corps.

Colonel Simcock is greatly respected as an officer and leader who possesses a deep and abiding passion for what it means to be a Marine: unquestionable devotion to duty; impeccable integrity; and sound character. His efforts will have a long lasting impression on the Marine Corps and I know he will serve the 6th Marine Regiment with the same level of dedication and selflessness he demonstrated while serving this House.

Mr. Speaker, it is with the greatest sense of appreciation that I salute Colonel Simcock for his tireless work and outstanding leadership on such important issues and I wish both him and his wife, Mary, continued success in their future endeavors.

THIRTIETH ANNIVERSARY OF THE FOUNDING OF THE MOSCOW HELSINKI GROUP

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. SMITH of New Jersey. Mr. Speaker, 17 years ago, my dear friend and colleague, Rep. FRANK WOLF, and I traveled to the Soviet Union, to visit the notorious Perm Labor Camp

No. 37, located in the shadows of the Ural Mountains. There were three camps in the Perm labor camp complex that had been set up specifically in 1972 for political prisoners and others whom Moscow considered "especially dangerous." Fortunately, by the time of our visit many of the incarcerated had been released and by 1991 the camp had emptied out completely in the closing chapter of the USSR. As Co-Chairman of the Helsinki Commission, I can vividly recall that glimpse into life in the Soviet GULag, both a memorable and sobering experience.

I mention that trip because Friday of this week, May 12, will mark the 30th anniversary of the founding of the Moscow Helsinki Group, a leading human rights organization devoted to monitoring the Kremlin's adherence to the Helsinki Final Act of 1975. The Helsinki Final Act was signed by the United States, Canada and thirty-three European countries, including the Soviet Union. While much of this document was focused on military security, economics and trade, there were important provisions on human rights and humanitarian issues, such as freedom of conscience and family reunification, which the Soviet Government and the other signatories promised to uphold.

At a May 12, 1976, Moscow press conference organized by Nobel Peace Prize Laureate Dr. Andrei Sakharov, the Moscow Helsinki Group announced that it would collect information and publish reports on implementation of the Helsinki Accords by the Soviet Government. The initiator of this effort was Dr. Yuri Orlov, a physicist who had already been repressed by the Kremlin and the KGB for his human rights activism. Orlov was joined by ten other founding members; with time others joined in the group.

As might be expected, the Soviet Government did not welcome this initiative. Members were threatened by the KGB, imprisoned, exiled or forced to emigrate. The Soviet press went into full-scale attack mode, accusing the Moscow Helsinki Group of being subversive and charging that some members were on the payroll of foreign intelligence services. I might mention that a thinly veiled version of this canard against the group was recently resurrected by a representative of the KGB's successor, the FSB, on national television.

Arrests of members of the Moscow Group began within a year of its founding. In 1978, Dr. Orlov himself was sentenced to 7 years labor camp and 5 years internal exile. In 1986, he was brought back to Moscow, put on a plane and deported to the United States in exchange for a Soviet spy. Other Moscow Helsinki Group members found themselves at the notorious Perm Labor Camp complex that I mentioned earlier. For his criticism of the 1979 Soviet invasion of Afghanistan, Dr. Sakharov was exiled to the closed city of Gorky beginning in January 1980. His wife and Moscow Helsinki Group member, Dr. Elena Bonner, joined him there in 1984 after having been convicted of "anti-Soviet agitation and propaganda." Founding member Anatoly Marchenko died while on a hunger strike at Chistopol Prison in December 1986,

By the end of 1982, less than 7 years after the group's founding, it appeared that the KGB and the Soviet Government had triumphed over the small band of idealists who pressed their leaders to live up to the promises made at Helsinki. With only three members at liberty and those under intense KGB pressure, the Moscow Helsinki Group was forced to suspend its activities. By 1986, only one member of the group, Naum Meiman, continued to meet with foreign visitors and Western correspondents. Meiman's wife, Irina, died of brain cancer after waiting years for Soviet authorities to give her permission to leave the Soviet Union for specialized treatment abroad, a reminder of the personal costs to human rights activists and their families under a cruel regime.

But the Helsinki spirit lived on. In the West, supporters and sympathizers demonstrated on behalf on imprisoned Helsinki Monitors. The cases of imprisoned or exiled Helsinki Monitors were often raised at diplomatic meetings between the United States and the Soviet authorities. In the Soviet Union itself, enlightened leaders began to understand that repressive governments may squelch the voices of dissenters for a time, but their message will heard by other means.

And on February 14, 1987, less than 5 years after the Moscow Helsinki group was forced to suspend its activities, a small item in "Izvestiya" announced the possibility of certain prisoners being released from labor camp. It was the beginning of the end for the repressive Soviet system.

In July 1989, the Moscow Helsinki Group was reestablished by several longtime human rights activists: Larisa Bogoraz, Sergey Kovalev, Viatcheslav Bakhmin, Alexey Smirnov, Lev Timofeev, and Boris Zolotukhin. Today, Ludmilla Alexeyeva, who had been exiled to the United States by Soviet authorities for her earlier work, now chairs this respected organization.

Mr. Speaker, 30 years after its founding and 15 years after the collapse of the Soviet Union, the re-established Moscow Helsinki Group remains active in speaking out in defense of human rights, civil society, and rule of law in Russia. I congratulate the members of the Moscow Helsinki Group for their achievements in the past and pledge my support for their vital ongoing work.

RECOGNIZING JARED GOEDE

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GRAVES. Mr. Speaker, I proudly rise to recognize Jared Goede of Kansas City, Missouri. Jared will be honored with the Billy Mitchell Award and Second Lieutenant Bars as a member of the Platte Valley Civil Air Patrol. He has been a member of the Civil Air Patrol since 2004 and has been involved in the color guard since 2005.

As a member of the community, Jared has been active in 4–H, the North Kansas City High School Scholar Bowl Team, the American Heartland Theatre, and his church. Additionally, he has pursued many academic activities outside of his regular schoolwork. He has studied at Truman State University's Joseph Baldwin Academy for Eminent Young Scholars, studied hydrodynamics at a Westminster College summer camp, and participated in the Students in Academically Gifted Education program through the North Kansas City School District.

Jared has already enlisted into the United States Army Reserves as a Civil Affairs Specialist. Upon graduating from North Kansas City High School in May of 2006, Jared will enter boot camp in June of 2006 and then defer his active duty status until he completes his college studies. He has been accepted to Missouri Western State University and plans to major in History and participate in the Reserve Officer Training Corps program.

Mr. Speaker, I proudly ask you to join me in recognizing Jared Goede, an outstanding student from Kansas City, Missouri. His commitment to the community and desire to serve his country should be commended. I would like to express my gratitude to him for his achievements and I am honored to represent him in the United States Congress.

IN SPECIAL RECOGNITION OF DEBORAH J. ALMY ON HER APPOINTMENT TO ATTEND THE UNITED STATES MILITARY ACADEMY AT WEST POINT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GILLMOR. Mr. Speaker, it is my great pleasure to pay special tribute to an outstanding young woman from Ohio's Fifth Congressional District. I am happy to announce that Deborah J. Almy of Tiffin, Ohio has been offered an appointment to attend the United States Military Academy at West Point, New York.

Deborah's offer of appointment poises her to attend the United States Military Academy this fall with the incoming cadet class of 2010. Attending one of our nation's military academies is an invaluable experience that offers a world-class education and demands the very best that these young men and women have to offer.

Deborah brings an enormous amount of leadership, service, and dedication to the incoming class of West Point cadets. While attending Tiffin Columbian High School in Tiffin, Ohio, Deborah has attained a grade point average which places her near the top of her class. While a gifted athlete, Deborah has maintained the highest standards of excellence in her academics, choosing to enroll and excel in Advanced Placement classes throughout high school. Deborah has been a member of the Honor Roll, the High School Choir and has earned awards and accolades as a scholar and an athlete.

Outside the classroom, Deborah has distinguished herself as an excellent student-athlete by earning letters in both varsity soccer and basketball. She has also remained involved in her community by serving as a teacher's aide and as a volunteer for her Church's nursery. I have no doubt that Deborah will employ the lessons of her student leadership as she excels among the leaders at West Point.

Deborah's dedication and service to the community and her peers has proven her ability to excel among the leaders at West Point. I have no doubt that Deborah will take the lessons of her student leadership with her to West Point.

Mr. Speaker, I ask my colleagues to join me in congratulating Deborah J. Almy on her appointment to the United States Military Academy at West Point. Our service academies offer the finest military training and education available anywhere in the world. I am sure that Deborah will do very well during her career at West Point and I ask my colleagues to join me in wishing her well as she begins her service to the nation.

RECOGNIZING KRISTIN VENZIAN

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GRAVES. Mr. Speaker, I proudly rise to recognize Kristin Venzian of Parkville, Missouri. Kristin will be honored with the Billy Mitchell Award and Second Lieutenant Bars as a member of the Platte Valley Civil Air Patrol. As a member of the Civil Air Patrol, she has been moving swiftly through the ranks and is a member of the first string color guard, participating in various local events as a member of the team that won the Missouri State Color Guard Championship this year.

Kristin is a very active member of her school and the community. She received the President's Volunteer Service Award in 2005 and founded Kids Celebrate Soldiers, a foundation that sends thank you cards from children around the United States to American soldiers overseas. In school she is a member of the National Honor Society, the South Boulevard Singers, French Club, Teenage Republican Club, and a Captain on the Girls Cross Country squad.

After graduating from Park Hill South High School, Kristin hopes to enter the Air Force Academy and pursue a degree in Aeronautical Engineering with a specialty in engines. For many years she remains focused on becoming a pilot and serving in the Air Force throughout her career.

Mr. Speaker, I proudly ask you to join me in recognizing Kristin Venzian, an outstanding student from Parkville, Missouri. Her commitment to the community and desire to serve her country should be commended. I would like to express my gratitude to her for her achievements and I am honored to represent her in the United States Congress.

TRIBUTE TO CINCO DE MAYO

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today in honor of Cinco de Mayo. Cinco de Mayo is not only a celebration of the victory of a small Mexican militia over the Napoleonic French forces at the Battle of Puebla in 1862, but also the commemoration of the friendship and goodwill that exists between the United States and Mexico to this day.

Following the Mexican War of Independence, Mexico found itself heavily indebted to Spain, France, and England. England and Spain quickly settled their debts, but Napoleon saw this as an opportunity to expand his empire and reclaim a portion of the New World.

France invaded Mexico in Veracruz, but was stopped from gaining passage to the Nations seed of government in Mexico City by General Ignacio Seguin Zaragoza and his small militia. Napoleon; however, would not be deterred. He sent 30,000 more troops and began a three month siege of Puebla, who finally surrendered and eventually took Mexico City. Napoleon appointed his cousin Ferdinand Maximilian of Austria as Emperor of Mexico. He was in power from 1864 until 1867 when the United States was able to provide assistance to Mexico after the conclusion of the Civil War and helped Mexico expel the French. Shortly after the French expulsion Maximilian was executed in Mexico.

Cinco de Mayo commemorates the Battle of Pueblo in 1862 where General Ignacio Seguin Zaragoza and his small militia valiantly prevented the invasion of Mexico. This brave group of 4,500 men was able to prevent 6,500 French soldiers from marching on to Mexico City.

Mexico, and more recently, the United States both celebrate Cinco de Mayo. It represents a victory for the Mexican people and the beginning of a wonderful diplomatic relationship between the United States and Mexico that is not simply intertwined geographically but also culturally.

As a Texan I have an added respect for General Ignacio Sequin Zaragoza. He was born near the town of Goliad, Texas on March 24, 1829. A ten foot stature honoring General Zaragoza was dedicated in Goliad, Texas as a gift from the Governor of Puebla, Mexico.

IN MEMORY OF CORPORAL RICHARD PRICE WALLER

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Ms. GRANGER. Mr. Speaker, I rise today to honor the courage of a young hero from my district. On April 7, 2006, the Department of Defense declared that Corporal Richard Price Waller (United States Marines, Company C, 1st Battalion, 1st Marine Regiment, 1st Marine Division) was killed in the line of duty while conducting combat operations against enemy forces in the Al Anbar Province of Iraq.

Corporal Waller, who was known as "Ricky" by family and friends, had dreamed since he was a young boy of following in the footsteps of a number of relatives who have served in the U.S. military over the last nine decades. Soon after graduating from Fort Worth's Western Hills High School in 2002, Ricky realized his ambition and joined the Marines. After boot camp, Ricky was assigned to Company C where he excelled and became a platoon leader who earned the nickname "The Motivator."

Ricky's dedication to protecting freedom and winning peace around the world was demonstrated in his unconditional devotion to duty. He was serving on his third tour of duty in Iraq when he was killed. Despite the dangers and sacrifice that Ricky faced in Iraq, he had informed his family that he planned to re-enlist with the Marines in the fall.

Ricky's family is also to be commended for urging other young men and women to take heart in the life of Corporal Waller who lived "for God, family and country, with love for all and with no regrets."

The American people know the sacrifices Ricky, like many other soldiers, made to his country and his memory will not be in vain. I am proud to honor Corporal Waller's service to the State of Texas and to the United States of America. He will not be forgotten.

TRIBUTE TO PASTOR DAVID L. EVERSON, SR.

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. PAUL. Mr. Speaker, I am pleased to pay tribute to my constituent, Pastor David L. Everson, Sr. A pastor for over 26 years, David Everson has spent the last seven years serving at the First Union Baptist Church in Galveston, Texas. During his time in Galveston, Pastor Everson has worked tirelessly to help his congregation, and all residents of Galveston. Pastor Everson's efforts have improved the lives of many Texans.

For example, Pastor Everson has been given an identification badge by the University of Texas Medical Branch (UTMB), one of Texas's most respected hospitals, so he may visit with, extend compassion to, and pray with and for people receiving treatment at UTMB and their families. Pastor Everson has also been given a badge by the Galveston Police Department in recognition of his work against drug abuse.

Education is an area of particular concern to Pastor Everson. In order to ensure his neighbors have access to adult education services, Pastor Everson initiated the First Union Baptist Church Community Center. Pastor Everson also regularly meets with local school board members and networks with other ministers to ensure all the children in Galveston receive a quality education. Pastor Everson is always willing to mentor any young person in his congregation, and he regularly visits local schools to provide support for the young people of Galveston.

Pastor Everson is always available to counsel and assist any members of his congregation with any problems they are having, or with any projects on which they are working. Even with his busy schedule, Pastor Everson still makes time to brighten the lives of his congregation. For example, in order to ensure senior citizens who are members of his congregation continue to enjoy a fulfilling social life, Pastor Everson takes them out for lunch and dinner, paying for their meals out of his own pocket.

In recognition of Pastor Everson's numerous good works, some members of his congregation have launched an effort to have Sunday, May 21, 2006 deemed Pastor David L. Everson, Sr. day. I am pleased to take this opportunity to pay tribute to Pastor Everson and thank him for all his good works.

RECOGNIZING THE SHARED HISTORY OF SLAVERY OF FRANCE AND THE UNITED STATES

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. OWENS. Mr. Speaker, the African slave trade stands out in the annals of world history as one of the greatest crimes ever committed against humanity. It is important that we institutionalize every possible reminder of this horrible chapter in our civilization.

I want to take this opportunity to commend the French Republic and the work of Madame Christiane Taubira for setting May 10th as an annual national day in France to remember its role in slavery and the slave trade.

On the afternoon of the 23rd of May 1848, Africans and their New World descendants enslaved by France were set free. That was 45 years after the Louisiana Purchase of 1803, when France sold most of its territory in the Americas to the fledgling USA, and 15 years before President Abraham Lincoln's Emancipation Proclamation of 1863.

Madame Christiane Taubira is a member of the French parliament, representing her native Guiana in South America. She is also an economist. On May 10th, 2001 Madame Taubira successfully proposed French legislation that thereafter declared slavery a crime against humanity, making France the first country in the world to make this declaration.

Madame Taubira's work in France complements the work of Professor Gwendolyn Midlo Hall here in the United States. Not only is Dr. Hall a distinguished historian, she is also a New Orleans, Louisiana native.

Hurricane Katrina's devastation in the Gulf Coast region has given an urgency and importance to the work of both Professor Hall and Madame Taubira.

Our active understanding and appreciation of the French and American culture and history of New Orleans and Louisiana, as part of the Gulf Coast, will help the people of the region as they restore and rebuild their community over the coming months, years and decades. We cannot honor a unique community and its people without honoring its history that has grown over four centuries from both French and American roots.

RECOGNITION OF MR. EDWARD KERBEYKIAN

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. ROTHMAN. Mr. Speaker, I rise to recognize Mr. Edward Kerbeykian, a resident of Tenafly, New Jersey, for his devoted service to Hekemian & Co., Inc. as a senior staff member for 55 years.

Mr. Kerbeykian currently serves as Hekemian & Co.'s Senior Vice President. Since 1950, he has made many meaningful contributions to the company. During this time period, he has also been a dedicated member of the Hackensack, New Jersey business community and served in leadership positions of the Hackensack Lions Club for nearly fifty years and the Chamber of Commerce for more than 20 years. In fact, he was even given the nickname, "Mr. Main Street" because of his contributions to the early stages of the development of Main Street in Hackensack.

Mr. Kerbeykian, who is of Armenian descent, has been a devoted member of the Sts. Vartanantz Armenian Apostolic Church in Ridgefield, New Jersey and was involved, years ago, in the Armenian Folk Dance Society of New York. He is a devoted husband to Shirlee, wonderful father to Craig, who also holds a leadership position at Hekemian & Co., and the late Jeffrey Kerbeykian, a prominent New York City architect, and a loving grandfather of six.

Today, I would like to recognize Edward Kerbeykian's leadership at Hekemian & Co., for more than half a century and the many contributions he has made to this company as well as to the community of Hackensack, the County of Bergen and Northern New Jersey.

HONORING ARTHUR KUBIC, PRINCIPAL OF JOHN C. DORE ELEMENTARY SCHOOL

HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. LIPINSKI. Mr. Speaker, I rise today to Honor Arthur Kubic, Principal of John C. Dore Elementary School in Chicago, Illinois. Principal Kubic recently announced his retirement following a career lasting nearly four decades.

Arthur Kubic was born and raised in the City of Chicago. He attended St. Simon the Apostle School and Thomas Kelly High School in Chicago's Southwest Side. He began his teaching career in 1968 after graduating from Northern Illinois University, and in 1977 he earned his Master's Degree from Roosevelt University.

Arthur Kubic, a champion for the hearing-impaired, taught sign language for twenty-five years in the Adult Education Department at Morton Community College in Cicero, Illinois.

In 1990, Arthur Kubic became the principal of Dore School. Since that time, he launched full-time kindergarten classes and the Full Inclusion Program which teaches students with disabilities in regular-education classes with their peers. His efforts on behalf of the children of Chicago Public Schools are truly appreciated.

I ask my colleagues to join me today in recognizing the many achievements of Principal Arthur Kubic. It is my honor to acknowledge Arthur Kubic for his outstanding leadership and commitment to public service, in the City Chicago and the Third Congressional District of Illinois.

HONORING THE 60TH ANNIVERSARY OF VFW POST 63

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in honoring the 60th anniversary of the Veterans of Foreign Wars Post 6368 in Dupo, Illinois.

The Veterans of Foreign Wars (VFW) of the United States traces its roots back to 1899. That year, veterans of both the Spanish-American War and the Philippine Insurrection founded local organizations to secure rights and benefits for their veterans. In Columbus, Ohio, Spanish-American War veterans founded the American Veterans of Foreign Service and in Denver, Colorado, Philippine veterans organized the Colorado Society, Army of the Philippines. In 1913, both organizations merged to form the present Veterans of Foreign Wars organization.

The VFW is known the world over for their service not only to veterans, but to all people. They are considered to be one of the most active forces in the pursuit of services for and recognition of veterans at a national level. The efforts of the VFW resulted in the creation of the House Veterans Committee, the WWI bonus, the national Veterans Day holiday, various GI bills, the creation of a cabinet-level office of Veterans Affairs and support on many veterans' health issues. The VFW is active in disaster relief and also provides information to citizens about our national flag. You cannot mention the VFW without mentioning their "buddy poppy" program which raises funds for veterans' homes.

VFW Post 6368 was chartered in 1946 with 52 charter members and was named the Sugar Loaf Memorial VFW Post. Currently, of the 52 original members, three are still with the Post; Robert Schneeberger, Stan Parrin and John Fischer. Post 6368 is very active in the community and provides many services and support to our area veterans, such as raising funds for homeless vets, money for the National Children's Home, and the Veterans Relief Fund. The Post also donates funds and supports the Dupo Senior High School Junior ROTC program.

Mr. Speaker, I ask my colleagues to join me in congratulating the men and women of VFW Post 6368 both past and present on 60 years of serving veterans and the people of Southwestern Illinois.

PAYING TRIBUTE TO ARGU

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Argu, an artist of remarkable skill who has contributed greatly to the community.

Argu, a self taught artist, was born in Mexico City, and has gained far reaching recognition for his works depicting Mexican culture and history. Argu most recent work is the Centennial Mural, titled "A Rose in the Desert", honoring Las Vegas' centennial. This mural, the only mural on a city of Las Vegas facility, is also one of the largest in the city. "A Rose in the Desert" joins more that 100 centennial murals, and serves as an icon in the community.

Argu moved to Las Vegas several years ago from New Mexico, and, in that time, has significantly contributed to the artisan community. His style is described as "hypr-realist", uses varieties of technique and has a broad range of inspirations. His unique style has earned him extensive acclaim and his works are showcased throughout Southern Nevada.

Mr. Speaker, I am proud to honor Argu for his artistic prowess and considerable contributions to the community. He is truly a master, and his works both inspire and impress his audience. I wish him continued success and look forward to seeing his future works.

RECOGNIZING JANET HENDERSON

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. PICKERING. Mr. Speaker, Mississippi will miss a 36-year presence in our education community with the retirement of Janet Henderson. Janet will conclude her role as Starkville School District assistant superintendent next month after serving in that capacity for 8 years. She has previously served as both as a teacher and a principal in Mississippi. Her legacy of teaching can be seen daily in Mississippi in the lives of her students who now have families of their own.

With a bachelor's of science degree in elementary education, a master's degree in elementary education, and a doctorate in education leadership—all from Mississippi State University—Janet is a tribute to Mississippi's educational system. She has been Teacher of the Year, has earned the Mississippi Association of Women in Educational Leadership Award, selected as Ward Fellow for the Harvard Principal Institute, inducted into the Starkville Area Chamber of Commerce Education Hall of Fame, and was named the Southern Association of Colleges and Schools Mississippi Distinguished Educator.

Mr. Speaker, I hope Congress joins me in recognizing the public service of Janet Henderson. Her dedication to leadership, professional development, and teacher training will leave a strong imprint on our educators for years to come. Her colleagues and students alike will remember her and I recognize and honor her work today. Mississippi has been blessed by her work and life.

CELEBRATING THE LIFE OF CANON FREDRICK B. WILLIAMS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. RANGEL. Mr. Speaker, I rise to celebrate the life of a bold moral voice in Harlem, the Rev. Frederick B. Williams. He gave his life to the cause of righteousness and justice. He ministered and worked in my Congressional district on behalf of the destitute and poor. He also spoke courageously concerning national and international social-political issues which captured the attention of the world.

Canon Williams served as Pastor Emeritus of the Episcopal Church of the Intercession in Harlem, New York. As the IXth Vicar and XIVth Rector he launched the first religious center in the United States addressing the HIV-AIDS crisis. This program provided crucial care and advocated for those inflicted with the disease through a concrete programmatic approach. He led the way in opening up dialogue to discuss and grapple with HIV-AIDS at a time when it was not popular. In 1993 Canon Williams was able to galvanize black clergy to step up to the challenge. He said, "What has changed is that all of us know, or will know in the next 12 months, someone who has died of AIDS." He helped to raise broad awareness of HIV-AIDS and initiated a movement to educate and respond decisively to the crisis.

Canon Williams was founder and chairman of Harlem Congregations for Community Improvement which developed over 2,000 units of new and rehabilitated housing in Harlem, which still stands as the largest in the history of New York City. His community efforts as chair also included 40 commercial spaces and Harlem's first large supermarket. He also opened the doors of Intercession Church to the Boys Choir of Harlem which gave them their first home. Additionally, he led the renovation of Jackie Robinson Park at 145th Street and Bradhurst Avenue.

He was widely known for his passion for the arts. Since 1973 he served as chairman of trustee of numerous major African-American performing arts group in New York City. Among other committees, he served on the Rockefeller Foundation; member of Board of Advisors, New York City Landmarks Conservancy; Black Alumni of Pratt Institute advisory council; Trustee of the African Activists' Archive Project, Inc. and served as chair of the National Clergy Advisory Committee of Harlem Week of Prayer. He was also an advisor to Archbishop Emeritus Desmond Tutu of South Africa.

Mr. Speaker, I am forever indebted to Rev. Canon Frederick B. Williams for his dedication and commitment to public service through ministry in my Congressional district.

CELEBRATING THE LIFE OF CANON FREDERICK B. WILLIAMS

Canon Williams is the Pastor Emeritus of the Episcopal Church of the Intercession in Harlem, New York, where he has served 1972—2005 as the IXth Vicar and XIVth Rector. This institution is one of the first religious centers in the United States to initiate a programmatic response to the HIV-AIDS crisis.

He serves as the Chairman of the Board of the Interfaith, Ecumenical, Harlem Congregations for Community Improvement, Inc. (HCCI) and is a key member of the leadership team that has developed over 2,000 units of new and rehabilitated housing in Harlem, the largest such undertaking in the history of New York City.

Recognized as a true "Patron of the Arts," Canon Williams served, since 1973, as chairman of trustee of almost every major African-American performing arts group in New York City. He is a Trustee of The Rockefeller Foundation; member of the Board of Advisors, New York City Landmarks Conservancy; Black Alumni of Pratt Institute advisory council; Trustee of the African Activists' Archive Project, Inc. and served for 10 years as Chair of the National Clergy Advisory Committee of the renowned Harlem Week of Prayer (the Balm in Gilead, Inc.). He is an advisor to Archbishop Emeritus Desmond Tutu of South Africa whom he represents on the board of Directors of PEACEJAM, Inc. an international peace education program for youth headquartered in Denver, Colo., and sponsored by 14 Nobel Peace Prize laureates, has been a visiting professor at the Episcopal Divinity School, Cambridge Massachusetts, the General Theological Seminary, New York City; and guest lecturer at several American and international institutions of higher learning. He has preached on six of the earths' seven continents and is the founder of the International Conference on Afro-Anglicanism.

PAYING TRIBUTE TO ZELVIN "ZEL" LOWMAN

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Zelvin "Zel" Lowman, who died February 28, 2006. Mr. Lowman was a former Nevada Legislator who held office between 1967 and 1977 and served as the Majority Leader and Chairman of several committees.

In the early 1950s, he and his young family moved to Las Vegas where he began work at a company that would become Nevada Power Company. He had a long career at Nevada Power and retired in 1978 as director of public relations. He later worked in real estate as a broker-salesman at Mary Lowman Realty and served as court administrator for the 8th Judicial District of Nevada. Mr. Lowman was a dedicated husband and father, always interested in his children's education and activities. This led him to a lifetime of community service. He was most proud of his work with the Boy Scouts of America, Las Vegas Area Council. He was a 50-year member of the council. He served as chairman of the board and almost every other voluntary position in the council.

Mr. Lowman was always active in youth and education arenas. He was a perennial moderator of the Sun Youth Forum. During the decade of the 1960s, he was presented the Heart Award of the Local Variety Club and was given the Meritorious Service Award of the Secondary School Principals for outstanding service to education. In 1993, an elementary school was named Zel Lowman Elementary for his service to youth.

Mr. Speaker, I am proud to honor Zelvin "Zel" Lowman for his extraordinary career and exemplary service to the community. His death is a profound loss to the community and he will be greatly missed.

RECOGNIZING JAMES CRUDUP

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. PICKERING. Mr. Speaker, each year, the University of Michigan medical school in Ann Arbor honors the chief resident with the outstanding record for research in surgery with the James W. Crudup Award. James Crudup of Forest, Mississippi has no medical license, no medical degree, and no college degree. But he had the intellect and the determination to learn and achieve, and along the way he trained some of this Nation's finest surgeons and helped to pioneer microsurgery.

James Crudup was born in central Mississippi during the Depression. His mother was a midwife and his father hauled wood. He learned to work driving a tractor and then a truck. After serving in the Army, he returned to Scott County, Mississippi in 1946 to finish his education at Scott County Training School. He married and he and his wife moved near Detroit where he drove a truck for a brick company. The brick company ran into some trouble and James looked for a new job—what he found changed the lives of countless doctors and patients for years to come.

He went to work with his brother Jonas at the medical school morgue. He cleaned surgical instruments used on animals to instruct surgeons and perfect techniques including organ transplants. He began practicing himself on animal bodies on their way to be incinerated. He borrowed medical books and learned terms and practices. The doctor who ran the lab discovered this and watched with wonder as he performed advanced and complex surgical procedures. Soon, residents came to see James to learn their lessons and he became a legend on campus.

When Dr. Sherman Silber wanted to study transplant rejections and use rats as subjects, James designed and fashioned the previously unengineered instruments needed. Silber has said that he and James "basically pioneered microsurgery together."

Mr. Speaker, today James Crudup is retired. He lives humbly in Forest, Mississippi. His story is not well known but those of us who have heard it want to recognize him for his contributions to our Nation's medical heritage, as well as his gift to the American spirit. James is one of those hard working heroes who move through their life blessing others, contributing to society and making this a better country for his service. I hope Congress joins me in applauding and recognizing his contributions to medicine and the well being of doctors and patients alike.

GENERAL ANTHONY ZINNI: HIS VISION FOR NATIONAL SECURITY BRING STABILITY WHERE THERE IS INSTABILITY THAT IS THE BATTLE FOR PEACE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. RANGEL. Mr. Speaker, I rise to honor General Anthony Zinni for his courage and for his vision for Peace and to insert into the CONGRESSIONAL RECORD an article published in the Washington Post on April 10, 2006, entitled "A General with an Alternative Vision." His recently published book with Tony Koltz is entitled The Battle for Peace: A Frontline Vision of America's Power and Purpose. I am pleased General Zinni is now an author of his third book. I am especially pleased that this third book is available now at this time in our country's history when General Zinni's ideas and leadership are so sorely needed.

The Washington Post calls General Zinni a "General with an Alternative Vision." It is that alternative vision which I want to celebrate in this RECORD. Because General Zinni has a vision for America he is able to set out specific strategic goals he believes would achieve his vision for America. According to General Zinni, this Nation's purpose and most important strategic goal is to bring stability wherever there is instability. It is his belief that stability should be the centerpiece of the Nation's national security policy and the most important purpose of the U.S. government. As Michael Abramowitz, National Editor of the Washington Post put it in this article, Zinni's view of "job number one" for the U.S. government as "Wresting order out of a chaotic world." The remarkable part of this vision and purpose for American and its part in the battle for peace is that it is a combat hardened veteran and diplomat who has had the vision. War and a near-death experience in Vietnam; listening to the rationale for the loss of 60,000 Americans in Vietnam and hearing similarities in the rationales given for going to war in Iraq and a promise he made himself as he lay dying in Vietnam to always speak the General Zinni has envisioned it, is who General Zinni is and the events that have shaped his life.

Upon graduating from Villanova University in 1965, Anthony Zinni was commissioned a second lieutenant in the Marine Corps. Sent to Vietnam in 1967 as a Infantry Battalion Advisor to the Vietnamese Marine Corp, he returned as a company commander where he suffered life threatening wounds, taking three rounds from an AK–47 in the chest and back.

From 1997 to 2000, he was Commander in Chief of the U.S. Central Command, in charge of all American troops in the Middle East. That was the same job held by Gen. Norman Schwarzkopf before him, and Gen. Tommy Franks after him. Following his retirement, he was selected by the President Bush to one of the highest diplomatic posts in the administration, special envoy to the Middle East. General Zinni has 40 years serving his country as a marine and as a diplomat. He is widely respected. He is known for his candor.

General Zinni supported the Bush-Cheney ticket in 2000 but broke with the administration on the issue of going to war in Iraq. He spoke out in print and on television against an invasion of Iraq. In his first book, Battle Ready written with co-author Tom Clancy, Gen. Zinni wrote that he saw true dereliction, negligence and irresponsibility in the lead up to the war as well as lying, incompetence and corruption. He was especially critical of the insufficient number of forces and lack of planning for the invasion. He voiced his criticism on the CBS program 60 Minutes. He blamed the war on the civilian leadership at the Pentagon. General Zinni characterized the Iraq war as one the generals did not want but the civilians at the pentagon wanted.

In his new book, The Battle for Peace: A Frontline Vision of American's Power and Purpose General Zinni has in fact become a visionary. I have long searched for a visionary for our beleaguered military. Our forces are stretched dangerously thin in Iraq, a war based on lies from President Bush, Vice President CHENEY, Secretary Rice and others in the Administration who deliberately sold the war as a "product" to the Congress and the American people. I have looked back on General Zinni's statements on 60 Minutes and as quoted in The Washington Post. In an article by Thomas E. Ricks in the December 23 2003, issue of The Washington Post General Zinni was quoted stating: "Iraq is in serious danger of coming apart because of lack of planning, underestimating the task and buying into a flawed strategy," he says. "The longer we stubbornly resist admitting the mistakes and not altering our approach, the harder it will be to pull this chestnut out of the fire." Ricks wrote: "Zinni long has worried that there are worse outcomes possible in Iraq than having Saddam Hussein in power—such as eliminating him in such a way that Iraq will become a new haven for terrorism in the Middle East." Again, Zinni was quoted:

"I think a weakened, fragmented, chaotic Iraq, which could happen if this isn't done carefully, is more dangerous in the long run than a contained Saddam is now," he told reporters in 1998. "I don't think these questions have been thought through or answered."

We know now Gen. Zinni's words were prescient. That is why it is so important we listen to him now when he talks about the use of our military in the future and the goal of our national security policy. Although General Zinni remains a strong critic of the Bush Administration, this book The Battle for Peace is not a screed against the administration, but it is a condemnation of its war policies and its use of the military. But what is best about the book is that it contains a positive plan for real national security. He remains a strong critic of the Bush Administration. In fact, in The Battle for Peace, General Zinni offers a vision of national security policy and national purpose that is the complete opposite of those stated by President Bush. In doing so, General Zinni offers the harshest and truest criticism of President Bush's most recent rationale for his misbegotten Iraq war. There is no talk in Zinni's book of bringing "freedom to the people of the world because all men and women deserve to be free." There is no talk of making democracies so they will become our allies." Instead Gen. Zinni gives pragmatic and realistic ideas and plans for stabilizing any nation-state or country that is about to destabilize.

In his book Zinni writes: "The real threats do not come from military forces or violent attacks; they do not come from a nation-state or hostile non-state entity. They do not derive from an ideology (not even from a radical, West-hating, violent brand of Islam). The real new threats come from Instability. Instability and the chaos it generates can spark large and dangerous changes anywhere in the land."

General Zinni believes that the most urgent problem facing the country is the problem posed by dysfunctional countries or those in danger of becoming dysfunctional. These countries, Afghanistan, Pakistan, Iraq, are the breeding grounds for the radicals and terrorists who hate the United States and want to attack us.

But, General Zinni believes we cannot rely only on the military to solve the problems we face from these countries. He believes we use the military in ways that alienate other countries. Most importantly, General Zinni, a military veteran and retired General believes we should better organize U.S. agencies to respond to droughts, famines and civil wars and other sources of instability before they metastasize into situations that require military force. He advocates for an interdepartmental team drawn from relevant agencies to watch for tensions and other signs of instability and a deployable force of civilians to handle recovery and reconstruction in war zones.

I view General Zinni's statement of what he believes should be this nation's purpose and plan for national security to be a direct refutation of President Bush's often stated depiction of our "enemy" the one driven by an evil ideology who "lurks" everywhere and must be fought "over there," as well as General Zinni's strong statement that it is the business of the U.S. to bring stability where there is chaos is a reality based statement of what our national purpose should be.

General Zinni was one of the generals who endorsed President Bush in 2000. It is clear now that he would take the country in an entirely different direction on national security than the path the President is on. That is in sync with the American people who also believe the President is taking the country in the wrong direction.

[From the Washington Post, Apr. 10, 2006]

A GENERAL WITH AN ALTERNATIVE VISION

(By Michael Abramowitz)

Well into his new book, Gen. Tony Zinni lists what he thinks ought to be the nation's strategic goals. They include, among other things, keeping regions and countries stable; making unstable countries stable; and working with regional partners to address unstable conditions. For Zinni, stability is the lodestar of modem national security policy. Wresting order out of a chaotic world is the mission he sees as job number one for the U.S. government.

"The real threats do not come from military forces or violent attacks; they do not come from a nation-state or hostile non-state entity. They do not derive from an ideology (not even from a radical, West-hating, violent brand of Islam)," Zinni writes. "The real new threats come from Instability. Instability and the chaos it generates can spark large and dangerous changes anywhere in the land."

Notably absent from Zinni's list is any mention of spreading democracy and freedom, among the goals articulated recently by the White House in its National Security Strategy, often with soaring, idealistic rhetoric. The document states: "The United States possesses unprecedented—and unequaled—strength and influence in the world. Sustained by faith in the principles of liberty, and the value of a free society, this position comes with unparalleled responsibilities, obligations, and opportunity. The great strength of this nation must be used to promote a balance of power that favors freedom."

Zinni's contrast in tone and emphasis seems purposeful. With "The Battle for Peace," the retired Marine general has set out to present an alternative vision of the national interest to the one espoused by President Bush. It is a less ambitious, more incrementalist vision. If adopted by the Democrats, his dry, bureaucratic approach may lack for popular appeal. Yet might it bring about a more rational alignment of our national purpose with our fiscal and military resources? That is the implicit question raised in this slender volume by one of the nation's most prominent military voices.

Zinni is a combat veteran whose experience in Vietnam brought him three rounds from an AK–47 and a near-death experience. Before retiring, Zinni served as chief of the military's Central Command, which oversees operations in the Middle East and South Asia, a post that brought him into direct contact with many of the region's leading political and military figures and a firsthand experience in the most challenging foreign policy questions facing the United States. He was one of a raft of former generals who endorsed Bush for president in 2000, but he has since broken with the administration over what he sees as its ill-thought-out adventurism in Iraq. Zinni was against the war before it was popular to be so.

Those hoping for an intemperate screed against Bush's policies, however, will be disappointed. Zinni writes soberly and, largely, without invective. Although he disapproves of what he considers Bush's excessive faith in military power and the imprudence of the Iraq invasion, he does not frontally attack the administration. But by the end of this book, it is clear Zinni would have us move into a radically different direction on national security matters.

Zinni believes far too little thought and attention are being paid to the management of what, as he describes it, is the most urgent issue facing the country—how to manage the problems posed by dysfunctional countries or those that are in danger of becoming dysfunctional. Those countries, such as Afghanistan, Pakistan, Iraq, are the breeding grounds for the radicals and terrorists who hate the United States and want to attack us.

Yet as Zinni tells it, we have expertise in only one tool—military force—for dealing with these countries, and we too often use our power in ways that alienate other societies. He offers a variety of proposals to better organize U.S. agencies to respond to droughts, famines, civil wars and other sources of instability before they metastasize into situations that require military force. He wants an interdepartmental team drawn from relevant agencies to watch for tensions and other signs of instability and a deployable force of civilians to handle recovery and reconstruction in war zones.

This is not an easy book to read. Even with the help of a professional writer, there is a fair amount of jargon in here, and the structure of the book is a bit mysterious. Zinni veers between interesting accounts of his involvement in various crises—such as the effort to aid the Iraqi Kurds after the Persian Gulf War—and his analysis of the shortcomings in U.S. grand strategy and how we are organized to deal with the threats of the 21st century. It is hard to judge whether his proposals would amount to more than a reshuffling of the bureaucratic deck.

Still, Zinni is an interesting man, and he has a lot of interesting things to say about the dangers of pursuing our current course in foreign policy. He is a distinctly non-ideological man in an era when ideology is running rampant both home and abroad. He seems to be saying that the world is full of problems that can be better managed if only we had more competent U.S. leadership, different bureaucracies and less idealism from our leaders. The premise is debatable, but the next president may decide to give it a go.

PAYING TRIBUTE TO LEAH BRYANT

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Mrs. Leah Bryant as she retires from the Southwest Homebuilding Industry after 28 years in the business.

Leah Bryant began her tenure in the homebuilding industry in 1978 as a loan expediter for Lewis Homes in Las Vegas. Since then Leah has distinguished herself as a prominent and respected leader in her trade during her 28 years with KB and Lewis Homes. Leah was known for her contributions in the areas of quality assurance and customer service.

Leah was the regional general manager for KB Home's Southwest region, which includes Las Vegas, Phoenix, and Tucson. In 2004, her region delivered nearly 7,000 homes. Leah was the driving force behind the companywide satisfaction initiatives of 2003 and 2004, and launched and directed the company's Customer Satisfaction Task Force which has helped the company achieve the No. 3 ranking in 2004 by the J.D. Power and Associates customer satisfaction survey of home builders.

Leah has served as President of the Las Vegas division of KB Home, which is the largest homebuilder in Southern Nevada and was an active member of the board of directors of the Southern Nevada Home Builders Association. Her leadership earned her a spot on Nevada Business Magazine's Women to Watch list. In her retirement, she plans to continue living in Las Vegas, and devoting herself to family and personal activities.

Mr. Speaker, I am honored to recognize Leah Bryant on the floor of the House. I commend her for her contributions to the homebuilding industry and thank her for her service to southern Nevada.

REMEMBERING KENT SILLS

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. PICKERING. Mr. Speaker, all of Mississippi recently lost a musical legacy who impacted thousands of high school and college students over a 40-year career in education. Dr. Kent Sills—"Doc"—passed away on May 3 in Starkville, Mississippi. His obituary in the Starkville Daily News recounts his achievements:

> Dr. Sills began his teaching career as band director at Lumberton High School in 1956 before accepting a similar position at Clarksdale High School in 1961. He joined the faculty at Mississippi State University in 1967 as assistant director of bands and in 1983 was appointed as only the sixth director in the band's 100-year storied history. He served as director of bands and professor of music education at Mississippi State until his retirement in 1999.
>
> While at Mississippi State, he founded the MSU Stage Band (1967), established the MSU Jazz Band Festival, the MSU Junior High Band Festival, and directed the "Famous Maroon Band" at MSU football and basketball games.
>
> Dr. Sills also served as the manager and director of the Mississippi Lions All-State High School Band from 1983 until 1997. Under his leadership the Lions Band won seven international championships and never finished lower than second place in any competition, performing in Asia, Australia and across North America.
>
> A graduate of Kosciusko High School, Dr. Sills held a bachelor of music education degree (1956) and master of education degree (1959) from the University of Southern Mississippi. He also held a master of music degree (1967) and doctor of arts degree (1977) from the University of Mississippi.
>
> In 1996, he was awarded as "Outstanding Contributor to Bands to the State of Mississippi" by Phi Beta Mu, and in 2000 was selected for the Mississippi Bandmasters Hall of Fame.
>
> From 1954 through 1960, Dr. Sills traveled throughout the country performing with his popular swing band "Kent Sills and His Southernaires." He also was a veteran of the U.S. Army and performed with the U.S. Army Reserve Band. Throughout his career, he served as an adjudicator and conductor at numerous band festivals and clinics.

The Daily News' editor Brian Hawkins shared some of his personal experiences with Doc.

> If you ask any band alumnus to share memories of Doc, the floodgates open. There are just THAT many stories to share, and so many of them leave us in stitches every time.
>
> In fact, one year in the early 1990s, a T-shirt with a top 10 list of "Doc-isms" was developed by some individual members and was sold to many in the band. Here are just a few:
>
> "It's not ya-ya time"—This meant that we needed to quit messing around and get down to business in rehearsal.
>
> "You know, somebody somewhere loves that child"—This was heard frequently when Doc had to correct someone individually in rehearsal. It often broke any tension that may have arisen from the mistake.
>
> "Don't be dumb, cause when you're dumb, you're showing me, the band and the whole world that you just don't care"—In other words, get your head in the game and pay attention to what you're doing.
>
> "You play when we all play"—This was meant to discourage any showboating or individual playing when the full band or a designated section was not playing.
>
> There are countless "Doc-isms," some a bit more colorful than others.
>
> One thing was certain, though, Doc had a wicked sense of humor. Not a rehearsal went by where the entire band didn't have at least one good laugh.
>
> But that was Doc. He loved life, he loved music and he loved his students.

Hawkins continued:

> I know without a doubt that God has a special place for him in heaven and that he's already there as I write this.
>
> Even now, I can imagine the majestic music of the hosts on high filling the expanse anew under the baton of heaven's newest bandleader. And what glorious music it is.

Mr. Speaker, so many prayers are with Kent's family: his wife, Nora; his son Allen; and his grandchildren Hannah and Tyler. Their family is a pillar of the Starkville community where Nora is the organist at their church. Dr. Kent Sills is a music icon in Mississippi, at Mississippi State University, and in Starkville. I hope Congress joins me today in saluting and remembering this amazing and talented life and person.

IN TRIBUTE TO THE WORK OF ANA PEIERA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. RANGEL. Mr. Speaker, I rise in celebration of the life and work of Ana Peiera. Ana Peiera championed the cause of the poor and disadvantaged of New York City. She courageously led the cause of housing for the neediest and most vulnerable and dedicated her life to virtues that are admirable and noble. She certainly exemplified Jesus' admonition stated in Matthew 25:40 to devote one's life to serve "the least of these." She indeed has left an indelible print on the landscape of New York City.

Her advocacy work led her to found the Heritage Health & Housing and Community Services organization which serviced many of New York City's poor. She was loved in a variety of circles, especially within social action and social service professional networks. Jorge Abreui, the acting executive director of the Heritage Health & Housing, stated "She was a multifaceted social worker, who greatly influenced the construction of a safety net to care for this City's neediest—especially in the Harlem, Washington Heights and South Bronx districts of New York."

Mr. Speaker, I am grateful for all of the hard work Ana engaged in during her life in my Congressional district. However, her legacy stretches beyond borders to the hearts of those persons who need homes and who are challenged by the likes of poverty, mental illness, AIDS and drug addiction. Ana became a voice for the voiceless in New York City; those who live at the margins of society had a platform through Ana to voice their needs.

She implemented and fought for comprehensive programs to adequately address the needs of the underserved. She was never known to dodge even the most difficult cases and prided in the opportunity to conquer the giants of poverty and homelessness. She believed that her life could reach even the most destitute who found themselves in the grips of calamity and deprivation. Through 24-hour/7 days a week comprehensive programs she managed to wrestle those individuals away from the strong grips of poverty and lack.

Before starting Heritage Housing she worked in New York City Housing authority. From 1972 to 1978 she was the District Supervisor for Community Services. From 1969 to 1972, she was Director of the Senior Advocacy Services in the Bronx. She provided leadership in a host of other capacities that all centered on addressing the needs of the poor.

Mr. Speaker, I would like to enter into the CONGRESSIONAL RECORD an article titled, "Memorial Tribute to Ana Peiera" featured in CARIBNEWS on May 2, 2006, highlighting the achievements of Ana Peiera.

> MEMORIAL TRIBUTE TO ANA PEREIRA
>
> TIRELESS FOUNDER DEDICATED LIFE WORK TO NEW YORK CITY'S NEEDIEST
>
> On Thursday, April 27, 2006, elected officials; health, housing and social service professionals; family and friends will join Heritage Health and Housing to celebrate the life of one if its founders, Ana Pereira. The former Executive Director, who championed housing for New York City's neediest, will be memorialized at a special ceremony at Aaron Davis Hall from 4 p.m.–6 p.m. The ceremony, hosted by WHCR-FM radio personality, Jeanne Parnell Habersham, will conclude with a special reception.
>
> "Ana Pereira was a beloved figure in New York City's social action circles", stated Jorge Abreui, Heritage Health & Housing acting Executive Director. "She was a multifaceted social worker, who greatly influenced the construction of a safety net to care for this City's neediest—especially in the Harlem, Washington Heights and South Bronx districts of New York. Her legacy lies in the care of persons who needed homes, and suffered from mental illness, addiction, AIDS, poverty, and the accompanying deprivation typically evident in the lives of many of her consumers of service. I knew her for 21 years, and worked with her for 18 of those years, crafting programs, fighting for, and winning services for the underserved".
>
> Under Ms. Pereira's supervision, Heritage Housing and Community Services developed a reputation as an agency willing to take on the most difficult cases and help individuals transform their lives through programs providing a full continuum of care, from 24-hour/7-days-a-week supervision to semi-independent living. Working with the mentally ill, substance abusers, individuals with HIV/AIDS, the homeless and ex-offenders, the Agency, through Ms. Pereira's strong, personal leadership, helped its clients achieve independence and become contributing members of their communities.
>
> Prior to starting Heritage Housing and Community Services, Ms. Pereira worked in various capacities for the New York City Housing Authority.
>
> From 1972 to 1978, she was a District Supervisor for Community Services and managed

a District office responsible for community services in 35 different housing developments. At the time, she was responsible for agency budgets totaling $25 million. From 1969 to 1972, she was Director of the Senior Advocacy Services in the Bronx, responsible for training and supervising case workers who provided services for homebound elderly.

In effort to keep her legacy alive, the Board of Directors and staff of Heritage Health and Housing established The Ana Pereira Memorial Endowment Fund 416 West 127th Street, New York New York 10027. From deep in the heart of Harlem to the Banks of the South Bronx, Ana will be missed but never forgotten.

PAYING TRIBUTE TO KAREN KNISLEY

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Karen Knisley for her 30 years of service to the Boulder City Hospital and for her being granted Emeritus Board Member Status to the hospital.

Karen was born in California to Ray L. Knisley, a Nevada Legislator, and Florence Richardson Knisley. At a young age she moved to Beowawe, Nevada and has spent the majority of her life in the state. Karen has held a variety of jobs beginning with her early years; she voluntarily worked with the Boulder City Fire Department and later she was hired by Boulder City Hospital to work in Radiology. Karen has also been active in a variety of community service projects and was active in many organizations. She has served as both a corresponding Secretary and Trustee for the Boulder City Library, as well as on the Boulder City Chamber of Commerce. Karen has also served as a member of the Boulder City Long Range Planning Committee as Chairman of the ByLaws Committee, and was a Boulder City Hospital Trustee and Co-Chairman. Karen retired from Boulder City Hospital's Board of Trustees in December 2005.

Karen has served her community continuously throughout her life and Boulder City Hospital has been privileged to benefit from her knowledge and service for the past thirty years. For her years of dedicated service, Karen was recently granted Emeritus Board Member Status to Boulder City Hospital.

Mr. Speaker, I am proud to honor Karen Knisley for years of service to the Boulder City Hospital and the Boulder City community. Her efforts in both professional and private life are to be commended, and we all thank her for her service.

TRIBUTE TO NORMAN AND MARLYN SCHEFFEL

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. TANCREDO. Mr. Speaker, I rise today to honor two great Americans, Norman and Marlyn Scheffel of Parker, Colorado. Norman and Marlyn are long-time champions of public involvement in the democratic process.

Norman and Marlyn have attended precinct caucuses ever since they moved to Parker, in 1973. Norman currently serves as a district captain overseeing five precincts.

The Scheffel's have always been active in the community. Marlyn has volunteered with Bible studies and has run programs to watch children so that mothers could have a day off.

The Scheffel's decades of dedication to grassroots politics is so legendary that they were the focus of a recent news story in the Rocky Mountain News.

Americans should look at Norman and Marlyn as examples of how everyday Americans should be engaged in the political process. I thank them for their commitment to America and wish them all the best in the future.

INTRODUCTION OF THE FEDERAL PAYDAY LOAN CONSUMER PROTECTION AMENDMENTS OF 2006

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to introduce the Federal Payday Loan Consumer Protection Amendments of 2006. This legislation prohibits federally insured institutions from engaging in high-cost payday loans and expands protections for consumers in connection with making these loans by uninsured entities.

It is well known that payday lending is a rapidly expanding form of high-cost, short-term credit. Studies indicate that the average annual percentage rate on payday loans ranges from 390 to 780 percent for a two-week loan. Let me repeat that: the average annual percentage rate on payday loans ranges from 390 to 780 percent. Additionally, typical payday loan customers take out between eight and twelve loans per year from a single lender.

I believe lending that fails to assess a borrowers ability to repay, that requires consumers to write checks on insufficient funds and that encourages perpetual debt is unacceptable. However, many of the laws pertaining to payday lenders are dealt with at the State level. One area, however, where the Federal Government has an important role to play is with what are known as "rent-a-banks." Rent-a-banks are banks that partner with payday lenders to make single-payment and installment loans. These arrangements are designed to allow payday lenders to evade small loan laws in their respective States.

As such, my bill prohibits insured financial institutions from making payday loans, either directly or indirectly. It prohibits them from making loans to other lenders so that they can, in turn, make, refinance, or extend payday loans. In addition to prohibiting rent-a-banks, my legislation seeks to ensure that those individuals who choose to take out a loan with a high interest rate know that they are doing so. Consumers should be aware that they are borrowing with an unusually high interest rate. My legislation requires the Federal Reserve System to conduct a study to determine the most effective way to require all credit applications that have an annual percentage rate higher than thirty-six percent to include a high-interest warning label.

Last year, despite my opposition, Congress passed the Bankruptcy Abuse Prevention and Consumer Protection Act, which only addressed the personal responsibility of debtors. While I fully concede that individuals must take greater responsibility for their debt, I also feel that the lending industry should be held accountable for targeting those individuals who are unable to pay off their debts. We must address both irresponsible borrowers and lenders to stop the cycle of debt that has enveloped many Americans.

I urge my colleagues to support this legislation.

HONORING ALAN SELTZER FOR 17 YEARS OF SERVICE TO SANTA BARBARA COUNTY

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mrs. CAPPS. Mr. Speaker, today I rise to pay tribute to a dedicated public servant and friend, Alan Seltzer, upon his retirement from Santa Barbara County.

Alan has served the people of Santa Barbara County well during his employment in the County Counsel's office, where he most recently served as Chief Assistant County Counsel. During his tenure with the county, Alan Seltzer worked on a multitude of issues and projects but he managed to carve time out of his busy schedule to have some fun. Mr. Seltzer served as pitcher for the Air Pollution Control District's softball team in a fiercely competitive adult softball league in Santa Barbara. At one point, he dressed up as a charcoal briquette for Santa Barbara's quirky and offbeat Summer Solstice parade.

His enthusiasm for the job and for the County of Santa Barbara is what makes Alan such an effective attorney. He has worked tirelessly on endangered species issues, which are plentiful on the Central Coast, including the establishment of open space conservation areas. He has been an extremely successful facilitator in bringing all stakeholders together to find solutions on many tough issues. One especially important focus for Alan was the regulation of development of the Gaviota coast, a pristine coastal region of open space north of Santa Barbara. Mr. Seltzer also worked on collaborative efforts to save native oak trees in the Santa Ynez valley, in addition to spending a great deal of time trying to save wetlands throughout Santa Barbara county.

I am pleased to honor Alan Seltzer for all of his hard work on issues that are important to so many of us on the Central Coast. His dedication to environmental protection and sound land use policy are exemplary and deserving of recognition. Alan, I wish you the best in the future and thank you for your service to this community.

J.K. GALBRAITH'S TOWERING SPIRIT

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. FRANK of Massachusetts. Mr. Speaker, the recent death of John Kenneth Galbraith brought to a close one of the truly great careers in both the intellectual and political history of our country. As an economist, as a teacher, as a writer, as a creative public official, and drawing on all of these and more, as a tough-minded and effective activist for social justice, John Kenneth Galbraith made enormous contributions to the quality of life in America.

Appropriately, he was memorialized in the Washington Post recently by one of his most important comrades in arms, Arthur Schlesinger Jr., who shared with Ken Galbraith not just a friendship, but the effective pursuit of the roles I have just described, substituting of course Arthur Schlesinger's historical work for Ken Galbraith's economic contributions.

Drawing on their collaboration on so many issues over more than 60 years, Arthur Schlesinger concisely and deftly reminds us in his essay of what citizenship in a democracy is at its best. I ask that this article be printed here.

J.K. GALBRAITH'S TOWERING SPIRIT

(By Arthur Schlesinger Jr.)

Edmund Burke once made a famous prediction. "The age of chivalry is gone. That of sophists, economists and calculators has succeeded and the glory of Europe is extinguished forever." Some years later Thomas Carlyle disdained economists as professors "of the dismal science." The profession has indeed done little since to disprove Carlyle and to refute Burke. But neither Burke nor Carlyle foresaw John Kenneth Galbraith.

In the first place, Galbraith was the tallest economist in the world. That reinforced the boldness with which he confronted the establishment and its "conventional wisdom." Salvation, Galbraith argued, lies in the subversion of the conventional wisdom by the gradual encroachment of disquieting thought. "The emancipation of belief," he writes, "is the most formidable of the tasks of reform, the one on which all else depends." He was the republic's most valuable subversive.

His skills were not confined to economics. He was a diplomat, politician, bureaucrat, satirist, novelist, journalist, art collector, and man of the world and wit, and he took disarming delight in each role. I met him as a Washington bureaucrat during World War II. We discovered that both of us were born on Oct. 15, 9 years apart, and we became grown men who were, in height, 13 inches apart. The convergence of thought—I do not remember a disagreement—is the only compelling argument for astrology that I know.

His brilliant deployment of subversive weapons—irony, satire, laughter—did not always please the more sedate members of his profession. But it vastly pleased the rest of us. Ken used the whiplash phrase and the sardonic thrust for several purposes: to reconnect academic economics, walled off in mathematical equations, with human and social reality; to rebuke the apostles of selfishness and greed; and to give the neglected, the abused and the insulted of our world a better break in life.

He challenged the national conscience with a series of thoughtful books, provocative interviews, merry rejoinders and lethal wisecracks. The Bush presidency led Ken to muse aloud that it had caused him to think thoughts that he never thought himself capable of thinking. I asked, "For example?" Ken replied, "I begin to long for Ronald Reagan."

Galbraith was never less than opinionated, and his opinions were often deflationary and sometimes devastating. He was the master of the unconventional wisdom. How, in view of his elegant unmasking of pomposity, hypocrisy and shame, can we account for the broad and indeed ecumenical range of his friends and fans—stretching from left to right; from tall to short; from Bill Buckley to Arthur Schlesinger (and Ken more or less induced the last two characters to be fond of each other)?

Within this tall fellow bristling with opinions there resided a rare kindness of heart and generosity of spirit. In Mr. Dooley's phrase, Ken not only afflicted the comfortable but comforted the afflicted. In a quiet way, without fanfare, he helped more people, promoted more noble causes, sustained more fragile spirits than almost any of us have known, giving of himself and his substance with grace and concern. Underneath his joy in combat, he was a do-gooder in the dark of night. There is another reason why Ken was so generally loved—his wife of 69 years, Catherine Atwater. Kitty was an intrepid lady, having stood up to Ken for more than half a century. Together they created a welcoming household.

John Kenneth Galbraith has left us, and the sum of human valor, wit, irreverence, sympathy, compassion and courage has badly diminished when we need them most.

IN RECOGNITION OF JOSEPH GARCIA SACA

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. CARDOZA. Mr. Speaker, it is with the greatest respect and admiration that I rise today to honor the late Mr. Joseph Garcia Saca. Joe was not only an endearing member of our community in Merced County, California, but he was a beloved member of my family. He was a very special and well respected man to many people, known for his gift of conversation, unwavering faith and positive approach to life. At the age of 84, Joseph Garcia Saca passed away on Thursday, May 4, 2006.

Joe, a longtime resident of the Atwater/Winton area of Merced County, was born to the late John and Adeline Saca in Pico, Azores on August 11, 1921. At the age of 7, Joe arrived in the United States with his mother and late brother John. In the years that followed, Joe attended Fruitland Grammar School in Winton, met his wife Laura Maciel and married on May 14, 1944.

To describe Joe's life as anything less than amazing would not suffice. Throughout his 84 blessed years, he participated in many successful business ventures throughout Merced County. He owned and operated the Arena Grocery Store in Livingston and was also a successful almond rancher for many years. In the 1950's Joe put his natural talent as a gifted conversationalist to work as a local talk show host for KYOS. In 1952, Joe established what would become his most memorable business—Kathy's Tot Shop in Atwater. Named after his daughter, the children's apparel store grew up with Kathy. Years later it was renamed to Kathy's Deb U Teens and specialized in teen clothing, and then in its last years it was simply Kathy's, selling women's wear until it was sold in 1977.

Throughout his life, Joe was involved in many community organizations and activities. He held the position of past President of the Atwater Pentecost Association and the Atwater Chamber of Commerce, was a member of the Lion's Club and Knights of Columbus. He dedicated many hours of service as President of the St. Anthony's Parent's Club and in countless volunteer positions for St. Anthony's Church. He has certainly left behind a legacy of community service that is to be admired and followed.

Joe is survived by his wife Laura with whom he shared 62 years of fulfilling happiness, and his three wonderful children and their spouses: Kathy and Wayne Jansen, Ron and Kathy Saca and Alan Saca. Known as "Papa," Joe adored his grandchildren Laurie Havel and her husband Richard, Kori Lynn Jansen and Allyson, Gigi and Caroline Saca, and his only great grandchild Tyler Havel.

Mr. Speaker, it is my distinct honor and privilege to join my family and community in honoring the memory my dear cousin, Joseph Garcia Saca. He will be greatly missed by all.

IN COMMEMORATION OF THE NATIONAL WETLANDS LANDOWNER STEWARDSHIP AWARD TO THE HIGEL FAMILY FROM THE ENVIRONMENTAL LAW INSTITUTE

HON. JOHN T. SALAZAR

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. SALAZAR. Mr. Speaker, I rise today to congratulate the Higel family of Alamosa, Colorado, as the honored recipient of the National Wetlands Landowner Stewardship Award from the Environmental Law Institute.

This award, specifically for conservation in Wetlands areas, recognizes the Higel family's commitment to conservation while maintaining sustainable agricultural conditions in the same area. The values the Higel's are being honored for are values all of us strive for in farming at any level. These values include a healthy thriving relationship between people and the ground that allows food to be produced on the land and a respect for the important habitat qualities and wetlands necessary for abundant wildlife.

Recently the Higel family sold over 1,000 acres of their ranch land to the Colorado Division of Wildlife in order to create the Higel State Wildlife Area. This exchange opens part of the Rio Grande River corridor and its wetlands to the public for wildlife viewing and hunting. The Higel's are also currently working with Ducks Unlimited to protect their adjacent acreage through conservation easements. This hard work is done all while promoting optimal wildlife habitat and a viable ranching operation. The Higel's effort is a model that farmers and ranchers nationwide should look to for how to manage their operations in a way that also protects nature. The dedication they have shown to the land and the environment is tremendous and I am proud that they have led by example. Their leadership in showing that ranchers can engage in both conservation and agriculture practices will be recognized today by myself and by the Environmental Law Institute. The real reward will be seen by the next generation of Coloradans who will be able to enjoy the wildlife area donated and created by the Higel family.

I am proud to represent the Higel family and their outstanding land stewardship in Colorado's Third District. I urge my colleagues to join me today in recognizing the Higel family for receiving this award.

TRIBUTE TO UNIVERSITY SYNAGOGUE

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. WAXMAN. Mr. Speaker, Congresswoman LINDA SÁNCHEZ and I ask our colleagues to join us in recognizing the honorees at the 2006 University Synagogue "Heroes Among US" dinner being held on June 7, 2006.

Located in Brentwood, California, University Synagogue is an important religious center for the Los Angeles Jewish community. Each year the synagogue honors individuals who make remarkable contributions to University Synagogue and the community. We are delighted to recognize this year's honorees.

Susan Corwin is being named the University Synagogue Volunteer of the Year. Susan initiated a Mitzvah Corps program at University Synagogue in 2002. She has nurtured the program to include a Bikkur Holim component for visiting the sick, outreach to new parents, Shabbat Shuttle, Caring Callers and Rosh Hashanah Remembrance. She has also helped launch support groups, including the Fifth Commandment Group, Parents of Special Needs Children, the Gay and Lesbian Social Outreach and the newly formed Cancer Survivors Network. Together with her able committee chairs, Susan has built a network of caring congregants who are reaching out to a wide range of community members.

Susan also sits on the Board of Jewish Family Service for Gramercy Shelter, the Miracle Project and is the Regional Representative on the Jewish Family Concerns Committee for the Union for Reform Judaism. She considers her greatest accomplishments as being the mother of her soon-to-become Bar Mitzvah son, Joshua, along with her 15-year marriage to her husband Scott.

Richard Weintraub is being named the Educator Honoree. He has a longstanding history of working with and on behalf of youth. He was the Director of the Youth and the Administration of Justice Project for the Mayor of Los Angeles, President of the California Council on Children and Youth and Supervisor of the Dare Plus Program, an after school program for at-risk youth.

At University Synagogue Richard has been a Religious School Confirmation and Post-Confirmation teacher, as well as at Temple Judea and Wilshire Boulevard Temple, for more than 30 years. His work with teens has won him the admiration of the students and parents who participate in his programs.

In August 2000, Sheriff Lee Baca selected Richard to serve as Los Angeles County Sheriff's Department Director of Training. In this capacity, he is responsible for overseeing all training including Court Services, Custody Training, Professional Staff and Leadership Development and Los Angeles Sheriff Development University.

Los Angeles City Council member Bill Rosendahl is being named the Community Honoree. Bill was elected in May 2005 to represent the 11th District, which includes the communities of Brentwood, Del Rey, Mar Vista, Marina del Rey, Pacific Palisades, Palms, Playa del Rey, Playa Vista, West Los Angeles and Westchester.

FINANCIAL NET WORTH

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. SENSENBRENNER. Mr. Speaker, through the following statement, I am making my financial net worth as of March 31, 2006, a matter of public record. I have filed similar statements for each of the 27 preceding years I have served in the Congress.

ASSETS

Real property	Value
Single family residence at 609 Ft. Williams Parkway, City of Alexandria, Virginia, at assessed valuation. (Assessed at $1,494,100). Ratio of assessed to market value: 100% (Unencumbered)	$1,494,100.00
Condominium at N76 W14726 North Point Drive, Village of Menomonee Falls, Waukesha County, Wisconsin, at assessor's estimated market value. (Unencumbered)	140,600.00
Undivided 25/44ths interest in single family residence at N52 W32654 Maple Lane, Village of Chenequa, Waukesha County, Wisconsin, at 25/44ths of assessor's estimated market value of $1,475,000.	838,068.18
Total Real Property	$2,346,228.18

2006 DISCLOSURE

Common and Preferred Stock	No. of shares	$ per share	Value
Abbott Laboratories, Inc.	12200	42.64	520,208.00
Allstate Corporation	370	52.14	19,291.80
American Telephone & Telegraph	2830.2473	27.04	76,529.89
JP Morgan Chase	4539	41.53	188,504.67
Bell South Corp.	1484.0878	34.60	51,349.44
Benton County Mining Company	333	0.00	0.00
BP PLC	3604	69.77	251,451.08
Centerpoint Energy	300	12.15	3,645.00
Chenequa Country Club Realty Co.	1	0.00	0.00
Comcast	423	26.53	11,222.19
Darden Restaurants, Inc.	1440	41.01	59,054.40
Delphi Automotive	212	0.64	135.68
Dunn & Bradstreet, Inc.	2500	75.32	188,300.00
E.I. DuPont de Nemours Corp.	1200	42.51	51,012.00
Eastman Chemical Co.	270	51.27	13,842.90
Eastman Kodak	1080	28.92	31,233.60
El Paso Energy	150	12.21	1,831.50
Exxon Mobil Corp.	9728	61.12	594,575.36
Gartner Group	651	13.95	9,081.45
General Electric Co.	15600	34.65	540,540.00
General Mills, Inc.	2280	50.61	115,390.80
General Motors Corp.	304	21.06	6,402.24
Halliburton Company	2000	74.30	148,600.00
Hospira	1220	39.33	47,982.60
Imation Corp.	99	43.12	4,268.88
IMS Health	5000	25.80	129,000.00
Kellogg Corp.	3200	44.18	141,376.00
Kimberly-Clark Corp.	10735	58.18	624,562.30
Lucent Technologies	696	3.09	2,150.64
Merck & Co., Inc.	34078	35.61	1,213,517.58
3M Company	2000	75.69	151,380.00
Medco Health	4109	57.59	236,637.31
Monsanto Corporation	1426.1575	84.44	120,424.74
Moody's	2500	70.85	177,125.00
Morgan Stanley/Dean Whitter	312	63.62	19,849.44
NCR Corp.	68	42.00	2,856.00
Neenah Paper Co.	462	33.10	15,292.20
Newell Rubbermaid	1676	25.58	42,872.08
JP Morgan Liquid Assets Money Mkt	338.51	1.00	338.51
Pactiv Corp.	200	24.64	4,928.00

2006 DISCLOSURE—Continued

Common and Preferred Stock	No. of shares	$ per share	Value
PG&E Corp.	175	39.39	6.893.25
Pfizer	22211	25.20	559,717.20
Qwest	571	6.83	3,899.93
Reliant Energy	300	10.50	3,150.00
RH Donnelly Corp.	500	58.20	29.100.00
Sandusky Voting Trust	26	1.10	28.60
Solutia	1672	0.36	601.92
Tenneco Automotive	182	21.92	3,989.44
Unisys, Inc.	167	6.92	1.155.64
US Bank Corp.	3081	30.57	94.186.17
Verizon	1313.4958	34.49	45.302.47
Vodaphone Airtouch	370	21.37	7.906.90
Weenergies (Wisconsin Energy)	1022	40.28	41.166.16
Total Common & Preferred Stocks and Bonds			$6.613.860.95

Life Insurance Policies	Face $	Surrender $
Northwestern Mutual #4378000	12,000	70,274.50
Northwestern Mutual #4574061	30.000	168,875.31
Massachusetts Mutual #4116575	10,000	10,944.07
Massachusetts Mutual #4228344	100,000	269,151.65
American General Life Ins. #5–1607059L	175,000	39,810.38
Total Life Insurance Policies		$559,055.91

Bank & Savings & Loan Accounts	Balance
Bank One, Milwaukee, N.A., checking account	$67.010.23
Bank One, Milwaukee, N.A., preferred savings	33.619.36
M&I Lake Country Bank, Hartland, WI, checking account	12.358.14
M&I Lake Country Bank, Hartland, WI, savings	366.15
Burke & Herbert Bank, Alexandria, VA, checking account	1,081.42
JP Morgan, IRA accounts	107,343.48
Total Bank & Savings & Loan Accounts	$221,778.78

Miscellaneous	Value
1994 Cadillac Deville—retail value	$4,250.00
1989 Cadillac Fleetwood—retail value	2,600.00
1996 Buick Regal—retail value	3,450.00
1991 Buick Century automobile—retail value	1,800.00
Office furniture & equipment (estimated)	1,000.00
Furniture, clothing & personal property (estimated)	170.000.00
Stamp collection (estimated)	90,000.00
Interest in Wisconsin retirement fund	329.041.41
Deposits in Congressional Retirement Fund	152,728.17
Deposits in Federal Thrift Savings Plan	243,511.60
Traveller's checks	7.218.96
17 ft. Boston Whaler boat & 70 hp Johnson outboard motor (estimated)	7,500.00
20 ft. Pontoon boat & 40 hp Mercury outboard motor	13.500.00
Total Miscellaneous	$1,026.600.14
Total Assets	$10,767,523.96

Liabilities	Amount
None	
Total Liabilities	$0.00
Net Worth	$10.767.523.96

Statement of 2005 Taxes Paid	Amount
Federal income tax	$109.434.00
Wisconsin income tax	29,432.00
Menomonee Falls, WI property tax	2,281.56
Chenequa, WI property tax	23,161.82
Alexandria, VA property tax	11,718.00

I further declare that I am trustee of a trust established under the will of my late father, Frank James Sensenbrenner, Sr., for the benefit of my sister, Margaret A. Sensenbrenner, and of my two sons, F. James Sensenbrenner, III, and Robert Alan Sensenbrenner. I am further the direct beneficiary of five trusts, but have no control over the assets of either trust. My wife, Cheryl Warren Sensenbrenner, and I are trustees of separate trusts established for the benefit of each son.

Also, I am neither an officer nor a director of any corporation organized under the laws of the State of Wisconsin or of any other state or foreign country.

HONORING LESLIE STEVENS ON THE COMPLETION OF HER INTERNSHIP

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GORDON. Mr. Speaker, I rise today to recognize the many contributions Leslie Stevens has made while interning in my Washington, D.C., office. Leslie, a native of Harriman, Tennessee, has been a wonderful addition to the office and a great servant to the constituents of Tennessee's Sixth Congressional District.

Last December, Leslie graduated from my alma mater, Middle Tennessee State University, with a degree in political science. Her love of the subject is evident through her eagerness to experience all aspects of government and her desire to read just about anything related to politics.

Though she is still young, Leslie already has first-hand knowledge of both the state and federal levels of government. She has learned the inner workings of the General Assembly as a legislative intern for the Tennessee Board of Regents. And during her time in Washington, she has attended briefings, addressed constituent concerns and provided visitors from Tennessee with an up-close look at the U.S. Capitol.

I hope Leslie enjoyed her internship as much as my staff and I have enjoyed her help in the office. I wish her all the best in the future.

INTRODUCING THE CLEAR ACT

HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. CLEAVER. Mr. Speaker, the CLEAR Act will position the U.S. House of Representatives as a body of serious advocates for a national consciousness of energy efficiency. As the House entertains a plethora of energy-related bills, the U.S. public will surely come to recognize the need to move toward purchasing automobiles that use renewable fuels and alternative sources of energy such as hydrogen and electricity.

This legislation would prohibit the use of funds from Members' Representational Allowances to provide for any vehicle which does not use alternative fuels. With the price of a gallon of gasoline skyrocketing past 3 dollars, the need to end America's dependency on foreign oil is essential to homeland security and a stable energy supply. New technologies using alternative resources like ethanol, hydrogen and electricity give us the opportunity to reach energy independence. The CLEAR Act will show Americans that their elected officials in Congress are serious about the use of alternate sources of energy and compatible vehicles.

The public would much rather see a sermon than hear one. Surely Congress cannot sell the American public on the need to abandon its gas guzzlers when they observe Members of Congress proudly driving them.

Congress has far more power and persuasion with the public than polls suggest. By approving a bill that essentially says, "Look at us and do likewise," the public will certainly take notice and follow our example.

COMMENDING MOREHOUSE COLLEGE TRIO PROGRAM GRADUATES

HON. CHARLIE NORWOOD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. NORWOOD. Mr. Speaker, I am here today to commemorate the good work of the Morehouse College TRiO Programs, specifically the Student Support Services—SSS—and Robert C. McNair Scholars programs.

Morehouse is not in my district, although it was founded in my district, and I am well aware of the fine work the institution does. It is one of only three all male colleges or universities in the country, and the only one with the distinction of being historically black.

Every year, 500 men leave the familiar gates of Morehouse to enter graduate schools across the country, the board rooms of Wall Street, and even the hallowed halls of our congressional office buildings. However, much of this would not be possible if it were not for the services provided by SSS and the McNair programs.

SSS at Morehouse services 175 students each year. These are often students from low income families or first generation college students. The nurturing environment these students receive is one of the many reasons why SSS is so successful in helping with the College's retention rate.

In addition, SSS provides academic, professional, and financial counseling for students throughout their matriculation as well as financial aid assistance and help with graduate school navigation. There is even some direct financial assistance for students who are Federal Pell Grant recipients.

The McNair Program, named in honor of engineer, scientist, and Challenger astronaut Robert E. McNair, serves a smaller student population of 23 each year. The goal of this program is to increase the number of doctoral candidates from underrepresented backgrounds. This program prepares undergraduate students for the world of vigorous research that doctorial studies require. Therefore, not only does Morehouse work closely with these students during their undergraduate years, but it also tracks the students' progress until successful completion of higher education degrees.

One of the major advantages of these programs is the mentoring the participants receive. Here they are off in college, many are the first to do so in their families, and they get the chance to receive guidance and assistance from professionals who want them to succeed. What more could a student ask for?

Therefore, Mr. Speaker, I want to commend the good work the professionals at Morehouse SSS and McNair Programs do. Among them are Dr. Ruby Bird, Malcolm Williams, and Michael Maxwell. I also want to congratulate all the Men of Morehouse that will become Morehouse Men on May 14th, 2006, with special acknowledgement of those who took advantage of the assets Morehouse TRiO Programs have to offer.

HONORING THE 2006 STATE CHAMPION BOLINGBROOK HIGH SCHOOL GIRLS VARSITY BASKETBALL TEAM

HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mrs. BIGGERT. Mr. Speaker, it is with great pleasure that I rise today to congratulate the Bolingbrook High School Girls' Varsity Basketball Team on capturing the 2006 Illinois Class AA Girls' Basketball State Championship.

On March 4, 2006, the Bolingbrook Raiders beat the Althoff High School Crusaders 45–34 in the state championship game. Not only did this give the Bolingbrook Girls' Varsity Basketball team its first state championship, but it provided Bolingbrook High School with its first ever state championship in any sport.

It's not often that Congress passes a law that makes a big difference in the lives of young people—especially in the lives of young girls. But that's exactly what happened in 1972, when Title IX was enacted, allowing girls and young women to participate in sports just like the boys and young men.

When many of my colleagues and I were in high school, girls were only allowed to play half court basketball. Why did they only let us play on half of the court? Well, they thought we were too weak and delicate and that running across the full court might exhaust us or affect our health.

As they say, we've come a long way, and the Bolingbrook High School Girls' Varsity Basketball Team is a great example of that. Not only are they excellent basketball players, but I'm sure that they could teach many young men a thing or two about the sport.

Today, our hats are off to the Bolingbrook Raiders for their great athleticism, team spirit, hard work, dedication, and the example they set for girls and women everywhere.

Once again, congratulations to girls of the Bolingbrook High School Varsity Basketball Team on winning the Illinois state championship. We wish them the best of luck in their future endeavors.

KATHERINE OSENBACH

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GERLACH. Mr. Speaker, I rise today to honor Katherine Osenbach for being inducted into the Da Vinci Discovery Center of Science and Technology's Hall of Fame.

The Da Vinci Discovery Center of Science and Technology honors outstanding teachers and high school students who excel in science and technology. This year, Katherine Osenbach of Allentown Central Catholic High School will receive this honor and recognition during the May 16, 2006 awards ceremony.

A senior in high school, Katherine, has already decided to pursue a career as a scientific researcher in the fields of biology and physics. She is well on her way to achieving her goal. She has participated in such events as the Pennsylvania Junior Academy of Science and in numerous independent research projects, including one titled "Does Mozart Motivate the Mind?" She has also acquired hands-on experience and completed such tasks as helping a veterinarian extract a horse's tooth and collecting samples for local water sources. Additionally, Katherine has participated in the National Youth Leadership Forum on Medicine in Boston and worked on an atomic fusion research project at the Massachusetts Institute of Technology. Katherine does not only excel in science, but she is also an accomplished musician, a recipient of the Girl Scout Gold Award, a National Merit Scholarship semi-finalist, and vice president of her school's National Honor Society chapter. She will be attending the University of Scranton in the fall and will pursue a degree in biology.

Mr. Speaker, I ask that my colleagues join me today in honoring Katherine Osenbach of Allentown Central Catholic High School as she is inducted into the Da Vinci Discovery Center of Science and Technology's Hall of Fame.

H.R. 4681, THE PALESTINIAN ANTI-TERRORISM ACT OF 2006

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. McDERMOTT. Mr. Speaker, it is not very often that JIM McDERMOTT rises to support this President, but that is precisely what I am doing now. The President does not want his hands tied by H.R. 4681. I completely agree. It was taken off the calendar today, and it ought to stay off the calendar.

H.R. 4681, the Palestinian Anti-Terrorism Act of 2006, will not make Israel safer, will not meet the urgent humanitarian needs of the Palestinian people, and will not give our diplomats the tools they need to help find a path to peace in the Mideast.

For all of these reasons, I oppose it, and I urge my colleagues to reconsider. I believe in diplomacy as a means to correct injustice around the world. I believe gifted diplomats can accomplish as much with words and deeds as the military can with guns and soldiers.

There is no question that the United States must take all appropriate steps to ensure that terrorists like Hamas are denied access to our financial aid. Hamas is responsible for the deaths of hundreds of innocent Israelis before coming to power.

Since then, they have neither renounced violence nor recognized Israel. This is unacceptable.

By all means, we must deny Hamas dollars that would buy hatred, but we must remember that Hamas and the Palestinian people are not one and the same.

Even as we deny any and all assistance to Hamas, we must not hurt those Palestinians who are working for peace. If we fail to support them, I have no doubt that Israel will pay the ultimate price: more instability in the West Bank and Gaza, more desperation, and more terrorism.

America's leadership is on the line in the Middle East, and more instability is something we need to avoid. We still have 130,000 American soldiers in harm's way in Iraq; we can't afford to make any more poor choices related to that region. But, that's what we will do if we pass this bill.

It doesn't make sense for the United States to limit political and economic aid to moderates, like Palestinian Authority President Mahmoud Abbas.

He and others have met our requirements by recognizing Israel, renouncing violence and terrorism against Israel, and accepting all previously signed Israeli-Palestinian agreements. What happens if we turn our back on leaders trying to heal a millennium of hate?

And what can we expect if we turn our backs on the real and growing humanitarian needs of the Palestinian people? It doesn't make sense to put restrictions on funding the NGOs that provide the Palestinian people with hospitals and schools.

As a medical doctor, I am gravely concerned about the fate of millions of innocent Palestinians who rely on international aid for food, health care, and for developing their economy and businesses.

Recent news reports say that international sanctions are preventing hospitals in Gaza from providing dialysis machines for patients, and they may not be able to supply immunizations to children.

The World Health Organization sees a "rapid decline of the public health system . . . towards a possible collapse." This bill will only make the already dire situation even worse. As a doctor I took an oath to heal. As a nation, we took an oath to lead.

Allowing innocent Palestinians to go hungry, while denying them medical treatment cannot possibly correct injustice, or lead to peace.

Passing this bill will be seen as anti-Palestinian, and the resulting chaos and animosity can only threaten the relative calm that Israel has seen in recent months.

Many of the Israeli leaders I've spoken to, think this bill goes too far by punishing all Palestinians, not just Hamas. They understand that a radicalized population will show more support for Hamas, not less.

During a recent trip to Israel and the Palestinian territories, I saw how both sides deeply yearn for peace. And I saw firsthand how they need the United States to do all it can to help them make peace.

The Palestinian Anti-Terrorism Act will make this task enormously difficult.

The harsh restrictions, and cutting off contacts with moderate Palestinians, will severely complicate our ability to assume an active role in helping both sides resolve the conflict.

If we cannot engage with moderates, and those trying to develop the Palestinian economy and build civil society, we forfeit our ability to nurture and strengthen the positive elements in Palestine.

The President and State Department must have the utmost flexibility to help moderate Palestinians, to quickly get economic and humanitarian aid to places that need it, like hospitals and health clinics, and helps prevent the resumption of terrorism.

We need to isolate and weaken Hamas, and hopefully their tenure at the head of the PA will be a short one. But if we cannot distinguish between Hamas and the majority of the Palestinian people, we cannot possibly expect to have a role in creating what comes next.

Israelis and Palestinians realize that in the end, their fates are tied. It's time to help the majorities on both sides reach their mutual goal—a peaceful two-state solution—rather than standing in the way by punishing one side.

While the bill has been pulled from the calendar, that's only temporary. I urge the majority to leave it off the table indefinitely.

Give our State Department an opportunity to nurture peace, or we will surely have to ask our military to counter more terrorism.

CONGRATULATING DENVER HARBOR SENIOR CITIZENS, INC. ON 25 YEARS OF SERVICE

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today to congratulate Denver Harbor Senior Citizens, Inc. on twenty-five years of service to the senior citizens of Denver Harbor, Texas. Since its founding in June of 1980, Denver Harbor Senior Citizens has provided an outlet for seniors in our area to get together on a regular basis, socialize, and maintain meaningful friendships.

On any given weekday, the Denver Harbor Recreation Complex is visited by a large group of active senior citizens. Many gather in groups to play dominoes, bingo, or Loteria, a traditional Mexican game. While the games often bring out some good-natured competition among the players, everyone enjoys the camaraderie and laughter that the group activities provide.

Without doubt, Denver Harbor Senior Citizens, Inc. is one of the most active senior centers in Harris County. In addition to the programs provided in the new and beautiful Denver Harbor Recreation Complex, the group sponsors numerous senior outings and trips to Austin and other areas within the State of Texas, where the members can recall the Texas history lessons we all learned as schoolchildren.

Denver Harbor Senior Citizens also provides hot meals for its members, an invaluable service ensuring that senior citizens have well-balanced meals. As we age, the importance of nutrition cannot be underestimated and is critical to our good health. This group has taken that principle to heart and has put in place the benefits and services that keep our senior citizens active and healthy—in body, mind and spirit.

On May 19, 2006, Denver Harbor Senior Citizens will officially celebrate its twenty-fifth anniversary with a dinner reception and dance at the Denver Harbor Recreation Complex.

I would like to extend to this group my heartfelt congratulations and thanks for twenty-five years of dedication to Denver Harbor's senior citizens and wish them all the best in the future.

HONORING HARRY "BUS" YOURELL

HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. LIPINSKI. Mr. Speaker, I rise today to honor Harry "Bus" Yourell of Oak Lawn, Illinois, Commissioner of the Metropolitan Water Reclamation District who is retiring after a long and distinguished career in the private and public sector.

Mr. Yourell served admirably in the United States Marine Corps during World War II earning the Bronze Star, the Purple Heart, the Asiatic Pacific Medal with three stars, and the Presidential Unit Citation Award.

Born on February 19, 1919, in Hammond, Indiana, Yourell moved to Oak Lawn in 1956. He raised three children with his wife and established a popular Oak Lawn restaurant named "Bus' Drive-in" and was engaged in the insurance brokerage business.

Harry "Bus" Yourell served with excellence in community and civic affairs by participating in the Heart Fund, the Boy Scouts, the Lions Club, the Elks Club, the Holy Name Society, Rotary, American Legion Post 757, VFW Post 5220, and Catholic War Veterans.

He is a loyal and active Democrat who served his party as President of the Worth Township Regular Democrats for three years, was elected delegate to the 1964 State Nomination Convention, was six times elected Democratic Committeeman of Worth Township, was a member of the Cook County Democratic Central Committee, and was elected delegate to the Democratic National Convention in 1968.

Yourell served nine terms as an elected member of the Illinois House of Representatives, where he served as Chairman of the Counties and Townships Committee, Chairman of the Joint Committee on Administrative Procedures, Chairman of the Election Laws Commission, Chairman of the County Problems Commission, and was a member of the Executive Committee, the Cities and Villages Committee, the Financing of Education Commission, and the C-Selm Pollution Control Commission.

As an Illinois State Representative was chief sponsor of bills to raise the drinking age to 21 and to create the Joint Committee on Administrative Procedures; he also sponsored legislation creating one of the toughest narcotic bails in the nation, banning look-alike drugs, and the consolidated election law.

Citizens of our state who serve with distinction deserve to be recognized and honored for their accomplishments; therefore, it is my honor to recognize Harry "Bus" Yourell for his dedication and service to his family, friends, community, and country. I wish him all the best in his retirement and future endeavors.

CELEBRATING THE 135TH ANNIVERSARY OF THE PHOENIX ELEMENTARY SCHOOL DISTRICT #1

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 2006

Mr. PASTOR. Mr. Speaker, I rise before you today to bring attention to the 135th Anniversary of the Phoenix Elementary School District #1, which is in the heart of my district and celebrates its 135th birthday on May 15. Steeped in heritage and tradition, the district is in the heart of Phoenix and dedicated to the total development of every kindergarten through eighth grade student enrolled by setting high expectations for each child and fostering academic leadership. The district has demonstrated its ability to adapt to the times while keeping students needs' at the forefront.

The history of Phoenix Elementary School District #1 began in 1871, when it was created by the Arizona Legislative Assembly, acting upon a school bill presented by Arizona's third governor, Anson P. K. Safford. At the time, this free public school system had neither a schoolhouse, books or teachers. Twenty students attended class in the county courthouse.

By 1873, a one room adobe structure, named "Little Adobe," had been built with public funds, and Mr. W.A. Glover was hired to teach for $100 per month. The school was 600-square feet and located in what is now downtown Phoenix. The District was formed 10 years before the city of Phoenix was even incorporated.

Just after it began operations, schools were closed from 1883 until 1885 due to a smallpox epidemic. Student enrollment was 374. By 1913, the district had expanded to nine schools and 4,860 students. In 1920, Kenilworth School opened, offering great relief to the overcrowded district. Sens. Barry Goldwater and Paul Fannin enrolled in Kenilworth that year. In 1957, a new school was named after the only living Arizonan to be awarded the Congressional Medal of Honor: Silvestre Herrera. Early in the 1960s the exodus from city to suburbs began in earnest. Inner-city dwellers were on a modest socio-economic level, thus qualifying the district for federal funding including support for both Title I and Title II. The decade began with 25 schools and burgeoning classes. A Spanish language program also was added at Heard and Grand Avenue schools. The late 1960s brought on concerns about the lack of Mexican-Americans working in the district. Soon, Mr. Louis P. Rodriguez was named principal of Grant School and Mr. Adam Diaz was declared the elected Trustee of the Board.

From 1970 on, the District's enrollment began to show a steady decline due to commercial rezoning of property. Despite parent protests, other schools closed for safety reasons. Peak attendance of almost 12,000 pupils in 1953 was a thing of the past. By the 1970s, attendance dropped to about 7,000. Phoenix Elementary used this period as a time of innovation to improve programs for pupils. A student pilot breakfast program, Extended Day Kindergarten and a Parent Involvement Aide Program were implemented. Some were cited as national models.

By 2002, 15 schools were operating in the district. Under the current leadership of Superintendent Dr. Georgina Takemoto, all the district's schools are rated Performing or above by Arizona Standards. Four schools—Kenilworth, Magnet Traditional, Herrera and Lowell—have been dubbed A+ Schools of Excellence, an award given by non-profit Arizona Educational Foundation. Signature schools that specialize in dual language, performing arts, environmental science, electronic journalism, biotech and visual arts enhance the curriculums. Other newer programs include Academic Enrichment from 7 a.m. to 6 p.m. for students of working parents; health, dental and asthma clinics; registered nursing staffs; parent classes; and social and community workers.

As the district grew, then declined in enrollment, and now expects to see some growth on the horizon, it has experienced many changes and adapted to meet the needs of its students. I applaud the Phoenix Elementary School District #1 for its leadership and innovation in serving our children. For these reasons, I ask my colleagues to join me on congratulating the district on the occasion of its 135th Anniversary.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 11, 2006 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 12

10 a.m.
Foreign Relations
To hold hearings to examine the nominations of Anne E. Derse, of Maryland, to be Ambassador to the Republic of Azerbaijan, and William B. Taylor, Jr., of Virginia, to be Ambassador to Ukraine.
SD–419

MAY 15

2:30 p.m.
Energy and Natural Resources
To hold hearings to examine the implementation of the Energy Policy Act of 2005's electricity reliability provisions.
SD–366

MAY 16

9:30 a.m.
Judiciary
To hold hearings to examine the continuing need for Section 5 pre-clearance requirements of the Voting Rights Act.
SD–226

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the nominations of James Lambright, of Missouri, to be President of the Export-Import Bank of the United States, Armando J. Bucelo, Jr., and Todd S. Farha, both of Florida, each to be a Director of the Securities Investor Protection Corporation, Jon T. Rymer, of Tennessee, to be Inspector General, Federal Deposit Insurance Corporation, John W. Cox, of Texas, to be Chief Financial Officer, Department of Housing and Urban Development, and William Hardiman, of Michigan, to be a Member of the Board of Directors of the National Institute of Building Sciences.
SD–538

Commerce, Science, and Transportation
To hold hearings to examine Transportation Worker Identification Credential.
SD–562

Energy and Natural Resources
To hold hearings to examine the status of Yucca Mountain Repository Project within the Office of Civilian Radioactive Waste Management at the Department of Energy.
SD–366

Health, Education, Labor, and Pensions
Retirement Security and Aging Subcommittee
To hold hearings to examine naturally occurring retirement communities.
SD–430

2 p.m.
Banking, Housing, and Urban Affairs
Securities and Investment Subcommittee
To hold hearings to examine the role of hedge funds in U.S. capital markets.
SD–538

2:30 p.m.
Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine S. 1686, to amend the Constitution Heritage Act of 1988 to provide for the operation of the National Constitution Center, S. 2417 and H.R. 4192, bills to authorize the Secretary of the Interior to designate the President William Jefferson Clinton Birthplace home in Hope, Arkansas, as a National Historic Site and unit of the National Park System, S. 2419 and H.R. 4882, bills to ensure the proper remembrance of Vietnam veterans and the Vietnam War by providing a deadline for the designation of a visitor center for the Vietnam Veterans Memorial, S. 2568, to amend the National Trails System Act to designate the Captain John Smith Chesapeake National Historic Trail, S. 2627, to amend the Act of August 21, 1935, to extend the authorization for the National Park System Advisory Board, and S. Res. 468, supporting the continued administration of Channel Islands National Park, including Santa Rosa Island, in accordance with the laws (including regulations) and policies of the National Park Service.
SD–366

3 p.m.
Judiciary
To hold hearings to examine the continuing need for Section 203 provisions of the Voting Rights Act, for limited English proficient voters.
SD–226

MAY 17

9:30 a.m.
Environment and Public Works
To hold hearings to examine the nominations of Dale Klein, of Texas, to be Member of the Nuclear Regulatory Commission, and Molly A. O'Neill, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.
SD–628

Indian Affairs
To hold an oversight hearing to examine Indian youth suicide.
SR–485

Judiciary
To hold hearings to examine understanding the benefits and cost of Section 5 pre-clearance requirements of the Voting Rights Act.
SD–226

10 a.m.
Finance
To hold hearings to examine physician-owned specialty hospitals.
SD–215

Health, Education, Labor, and Pensions
To hold hearings to examine the proposed Ryan White Modernization Act of 2006, proposed Mine Safety and Health Act of 2006, proposed Older Americans Act Amendments of 2006, S.

860, to amend the National Assessment of Educational Progress Authorization Act to require State academic assessments of student achievement in United States history and civics, and the nominations of Jerry Gayle Bridges, of Virginia, to be Chief Financial Officer, and Vince J. Juaristi, of Virginia, to be a Member of the Board of Directors, both of the Corporation for National and Community Service, Harry R. Hoglander, of Massachusetts, and Peter W. Tredick, of California, each to be a Member of the National Mediation Board, J. C. A. Stagg, of Virginia, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation, Kent D. Talbert, of Virginia, to be General Counsel, Department of Education, and Horace A. Thompson, of Mississippi, to be a Member of the Occupational Safety and Health Review Commission.
SD–430

Homeland Security and Governmental Affairs
To hold hearings to examine the nomination of Robert J. Portman, of Ohio, to be Director of the Office of Management and Budget.
SD–342

Commerce, Science, and Transportation
Technology, Innovation, and Competitiveness Subcommittee
To hold hearings to examine accelerating the adoption of health information technology.
Room to be announced

10:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the United States Department of Agriculture Rural Utilities Service Broadband Program.
SR–328A

2 p.m.
Commission on Security and Cooperation in Europe
To hold hearings to examine the role of the Office for Democratic Institutions and Human Rights relating to advancing the human dimension in the OSCE, focusing on the Office for Democratic Institutions and Human Rights and its role in monitoring elections in OSCE countries.
SD–226

2:30 p.m.
Homeland Security and Governmental Affairs
Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee
To resume hearings to examine the Federal government's security clearance process, focusing on the progress of the Office of Personnel Management in implementing a plan to address the long-standing backlog of security clearance investigations, including the next steps by the Office of Management and Budget, and the recent halt by the Defense Security Service in processing government contractor security clearances.
SD–342

MAY 18

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the report to Congress on International Economic and Exchange Rate Policies.
SD–538

10 a.m.
Commerce, Science, and Transportation
To hold hearings to examine S. 2686, to amend the Communications Act of 1934 and for other purposes.
SH–216

2:30 p.m.
Commerce, Science, and Transportation
Business meeting to markup the proposed innovation bill.
SD–562

MAY 23

10 a.m.
Commerce, Science, and Transportation
To hold hearings to examine price gouging related to gas prices.
SD–562

MAY 24

10:30 a.m.
Appropriations
Legislative Branch Subcommittee
To resume hearings to examine the progress of construction on the Capitol Visitor Center.
SD–138

2:30 p.m.
Commerce, Science, and Transportation
Disaster Prevention and Prediction Subcommittee
To hold hearings to examine 2006 hurricane forecast and at-risk cities.
SD–562

MAY 25

9:30 a.m.
Indian Affairs
To hold an oversight hearing to examine Indian education.
SR–485

10 a.m.
Commerce, Science, and Transportation
To resume hearings to examine S. 2686, to amend the Communications Act of 1934 and for other purposes.
SD–106

Veterans' Affairs
To hold hearings to examine pending benefits related legislation.
SR–418

2:30 p.m.
Commerce, Science, and Transportation
To hold hearings to examine Pacific Salmon Treaty.
SD–562

JUNE 8

10 a.m.
Commerce, Science, and Transportation
Business meeting to markup S. 2686, to amend the Communications Act of 1934 and for other purposes.
SH–216

JUNE 14

10 a.m.
Commerce, Science, and Transportation
Technology, Innovation, and Competitiveness Subcommittee
To hold hearings to examine alternative energy technologies.
Room to be announced

JUNE 15

10:30 a.m.
Commerce, Science, and Transportation
Fisheries and Coast Guard Subcommittee
To hold hearings to examine the Coast Guard budget.
SD–562

HOUSE OF REPRESENTATIVES—*Thursday, May 11, 2006*

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

You, Lord God, are before us as the radiance of the stars. One bright beam of Your spirit can illumine the mind and heart of any human. And so You call some of Your people to lead others through the difficult times of any dark day and become light to the nations.

Be with the Members of the House of Representatives today. They have great aspirations for achieving what is good for this Nation and desires to formulate laws and policies that will strengthen the Union. But temper their hopes with sincere humility before one another and before the people who truly govern.

To achieve justice is to live rightly in Your sight and simply accomplish Your Holy Will. To legislate for others does not ask for scholarship, but rather the boldness to act out of the wisdom that comes from a compassionate heart.

For You alone, Lord, are the fulfillment of the law and all the prophets, now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida (Mr. KELLER) come forward and lead the House in the Pledge of Allegiance.

Mr. KELLER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

> H. Con. Res. 335. Concurrent resolution honoring and praising the National Association for the Advancement of Colored People on the occasion of its 97th anniversary.

The message also announced that pursuant to Public Law 106–170, the Chair, on behalf of the Majority Leader, after consultation with the Ranking Member of the Senate on Finance, announces the appointment of the following individual to serve as a member of the Ticket to Work and Work Incentives Advisory Panel: Katie Beckett of Iowa.

The message also announced that pursuant to Public Law 68–541, as amended by Public Law 102–246, the Chair, on behalf of the Majority Leader, in consultation with the Democratic Leader, appoints John Medveckis, of Pennsylvania, as a member of the Library of Congress Trust Fund Board for a term of five years.

PARLIAMENTARY INQUIRY

Mr. SNYDER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman from Arkansas may state his inquiry.

Mr. SNYDER. Mr. Speaker, under the rules that are adopted for action in the House today, a very restrictive rule was adopted by the Rules Committee not allowing certain amendments in order, including an amendment by the senior-most Democrat on the House Armed Services Committee, Mr. SKELTON, the number two man in our leadership, Mr. HOYER, and others.

Under the rules of the House, I know that rule can be modified by the Rules Committee if it meets again. May it also be modified by unanimous consent as this day progresses to allow other amendments to be considered during the defense bill by this great Nation during a time of war?

The SPEAKER. The House by unanimous consent could modify the rule governing consideration of the bill.

Mr. SNYDER. Thank you, Mr. Speaker. I hope that occurs fairly early this morning.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. There will be five 1-minute speeches on each side.

LONE STAR VOICE: DIANNE ROWLAND

(Mr. POE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POE. Mr. Speaker, Dianne Rowland of Houston has written me about the illegal invasion into the United States. She writes, "I just heard that the Border Patrol is providing information to the Mexican Government on the location of the Minutemen. Obviously, the Mexican Government then relays that information to the illegals, since Mexico wants to transfer their problems to us.

"Stop the spying and reporting on the Minutemen. During World War II, would we have notified Japan or the Germans where we had Civil Air Patrol stations? I think not. This isn't any different, only we don't yet have a declared war with Mexico. However, it is apparent that we do have a war between the government and the American people.

"Leave the Minutemen alone. They are the only people I trust on the border. They are providing a service free of charge and doing a job that you, the government, can't do and refuse to do. They are not breaking any laws, but feeding information to Mexico should be against the law."

Mr. Speaker, is our government at war with our own country? This Nation has the obligation to protect our borders, and those who play the role of Benedict Arnold and help Mexico to illegally invade the United States should be held publicly accountable and dealt with by the American public. And that's just the way it is.

WALL STREET IGNORES MAIN STREET

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, the Dow Jones will hit a record and the Nation's economists will be doing their hosannas, but who profits when factories and businesses are closed in the United States and cheap goods made by no-rights, no-benefits, low-wage Chinese workers flood our markets?

We have an $804 billion trade deficit. Hello?

Since 1982, $4.5 trillion in assets have been transferred from American to foreign owners. Hello?

Wall Street thumps their golden tub for the Wal-Marts and the cigarette-peddling Altrias while record numbers of Americans are laid off, file bankruptcy, lose their homes, their health care benefits, their retirement and savings, and in some cases, their families. Why do we celebrate Wall Street when Wall Street does not celebrate Main Street?

Wall Street makes a killing while gas prices soar, health care costs skyrocket, and food prices increase. We

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

need a new way to measure our economy, as in how many people are working at good-paying jobs and have job security, and how many have health and retirement benefits.

Let us create economic progress for all in America, not just for a privileged few.

AMNESTY IS NOT THE ANSWER

(Mr. KELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KELLER. Mr. Speaker, the most controversial issue in this illegal immigration debate is amnesty. Opponents say it rewards illegal behavior. Supporters say it is not amnesty because they pay a $2,000 fine. Who is right?

Well, consider this analogy. Somebody robs a bank and gets away with $1 million. Our government tells him he can keep the money, but we expect him to pay a $2,000 fine.

Now apply that to illegal immigration. A person breaks our laws by sneaking across the border. They then commit a felony by using a fake Social Security card to get a job. Our government tells them they won't be prosecuted; rather, they can remain in this country and apply for citizenship as long as they pay a $2,000 fine.

In both cases, the bank robber and the illegal alien get to retain the benefit of their illegal behavior merely by paying a small fine. Common sense and history tell you that rewarding illegal behavior will only encourage more of it. After granting amnesty to illegals 20 years ago, we have gone from 3 million illegals to 11 million illegals. Our government has been fooled once by this amnesty argument, let us not be fooled again.

□ 1015

McALLEN-EDINBURG-PHARR REGION OF TEXAS

(Mr. HINOJOSA asked and was given permission to address the House for 1 minute.)

Mr. HINOJOSA. Mr. Speaker, this week, the business periodical INC.com named the McAllen-Edinburg-Pharr region in my congressional district in Texas as its second hottest mid-size metropolitan area in the country.

When I first came to Congress nearly 10 years ago, this area was one of the poorest, economically deprived and most neglected regions of the country. It was plagued with three decades of double digit unemployment rates. I made it one of my primary goals to help curb these trends, and I am thankful to have seen that dream come true in 2006.

Today, the area is booming. The population has increased by 48 percent in 10 years. Creation of new jobs is up substantially, and the unemployment rate is now below 8 percent. Children are graduating from high school and accessing higher education, and more students are seeking advanced college degrees. I have seen the increase in Federal resources, investments in human capital and infrastructure. Thanks to business investment, job training programs and open markets, McAllen, Edinburg, and Pharr are models of achievement for the rest of the country.

The successes experienced in this region are the results of a collaborative effort by community leaders and a tremendous amount of hard work.

I congratulate all those involved in so many of the projects, conversations and planning that we had along the way. We must continue our collaborative efforts to improve the quality of life in South Texas.

OUR THRIVING ECONOMY

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, yesterday, House Republicans took action to block tax increases on working families, seniors and small businesses by voting to pass the Tax Increase Prevention and Reconciliation Act of 2005. It was an honor to join my colleagues in working to help every American family keep more of their hard-earned money. After all, Republicans know that individual households know how to spend their own money much better than the Federal Government does.

Tax relief, along with other pro-growth policies, is helping the U.S. economy grow at a fiery pace. Recently, the U.S. Department of Commerce reported that the U.S. gross domestic product, GDP, grew 4.8 percent in the first quarter of this year. Our economy has created more than 5 million good-paying jobs since August 2003, and the unemployment is lower than the average of the 1960s, 1970s, 1980s, and 1990s.

Despite the Democrats' efforts to paint a gloomy picture, Americans are reaping the benefits of our tax cuts and are thoroughly enjoying the success of our economic boom.

GAO PTSD REPORT RELEASE

(Mr. MICHAUD asked and was given permission to address the House for 1 minute.)

Mr. MICHAUD. Mr. Speaker, I rise to make my colleagues aware of a GAO study being released today.

GAO studied services at the Department of Defense and the VA to help identify and treat veterans of Operations Enduring and Iraqi Freedom who may be at risk for Post-Traumatic Stress Disorder.

GAO found only 22 percent of personnel who were at risk for PTSD were referred by DOD providers for further evaluation.

When 78 percent who were at risk do not get referrals, then this is clear the assessment system is not working. Health assessment and reassessment are absolutely the right thing to do, and I applaud DOD for these programs.

But if we are not confident that those who need further evaluation will actually receive it, what purpose does it serve?

We need early assessment, diagnosis and counseling to prevent the effects of PTSD. This Congress needs to press both DOD and VA to do a better job in helping veterans with PTSD and other mental health issues.

HONORING NORFOLK'S TOP COPS

(Mrs. DRAKE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. DRAKE. Today, the Fraternal Order of Police will honor two of Norfolk's own as part of their annual ceremony honoring the Nation's "top cops." Investigators Judy Hash and Earl Killmon will be recognized for their contributions in disrupting a violent drug ring and bringing a suspected cop killer to justice. What began as an investigation into the murder of a North Carolina police chief during a routine traffic stop quickly began to provide leads to individuals distributing cocaine, marijuana and ecstasy and committing acts of violence stretching over State lines.

After a 2-year investigation and thousands of man-hours on the part of Investigators Hash and Killmon, 14 drug- and violence-related arrests have been made and a cop killer now sits behind bars.

It is a privilege for me to honor the accomplishments of these outstanding members of my hometown police force on the House floor today. Because of their dedicated service of these two top cops and thousands of police officers throughout our Nation, our streets are safer for our families. For that we are all eternally grateful.

EXTENDING THE MEDICARE PART D DEADLINE

(Mr. BISHOP of New York asked and was given permission to address the House for 1 minute.)

Mr. BISHOP of New York. Mr. Speaker, with only 5 days before the deadline to sign up for the Medicare drug benefit, only 9 percent of eligible New Yorkers have voluntarily signed up for it.

Why such low enrollment? Could it be that seniors have to choose among 47 plans that keep changing? It is a daunting task to tackle a moving target.

Could it be that a third of the calls answered by Medicare operators result in inaccurate information or none at all? Could there be a more clear-cut case for extending the sign-up deadline?

Clearly, the President disagrees. To him, the "D" in part D stands for "deadline." But he is not a senior or a disabled American who needs and deserves more time and for whom "D" stands for disaster.

After holding dozens of town hall meetings over the past 6 months, I join with my colleagues today in calling upon the Republicans to extend the deadline, penalty free, through the end of the year.

For nine of 10 eligible New Yorkers who haven't chosen a plan yet, but must pick from among 47 plans, another 6 months will go a long way toward helping them choose a plan that is right for them.

REPUBLICANS CREATE OPPORTUNITIES

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, since 2003, the Bush tax cuts have helped all Americans by creating over 5.2 million jobs, reducing the unemployment rate to the lowest average in three decades, and growing the economy at a record pace. Thanks to the Home Builders Association, there is record homeownership.

Although Democrats have seen American families benefit from lower taxes, they continue to obstruct opportunities. Yesterday, House Democrats stuck to their tax-and-spend strategy.

When the House considered the tax reductions yesterday, 185 Democrats voted against this critical legislation. By voting against this bill, they clearly signaled their support for raising taxes on American families, American small businesses, and American investors.

Fortunately, House Republicans voted for this legislation so that Americans, not the Federal Government, have control over their hard-earned incomes. By passing this bill, we have helped create and ensure that our economy continues to grow, creating opportunities.

In conclusion, God bless our troops, and we will never forget September 11.

VIETNAM HUMAN RIGHTS DAY

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to highlight the ongoing struggle for freedom and democracy in Vietnam. As we observe Vietnam Human Rights Day, it is clear that the struggle is far from over.

The most basic freedoms we enjoy, the freedom of speech, the freedom of the press, the freedom of assembly, the freedom of religion, these are not available in Vietnam.

Last month, 116 Vietnamese citizens signed an "Appeal For Freedom of Political Association," and 118 citizens signed a Manifesto on Democracy and Freedom For Vietnam.

But the government crackdown began almost immediately with raids, detainments, harassment, and abuse. Those who signed these documents placed themselves and their families and their friends at a great risk for a greater good.

What a compelling reminder that while the freedoms we enjoy are not universal, the thirst for freedom most certainly is.

I urge my colleagues to speak out on behalf of these brave men and women who continue to fight for the very basic human liberty through peaceful and nonviolent methods.

MOTION TO ADJOURN

Mr. SNYDER. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the motion to adjourn offered by the gentleman from Arkansas (Mr. SNYDER).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SNYDER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 31, nays 366, not voting 35, as follows:

[Roll No. 137]

YEAS—31

Allen
Baird
Brown, Corrine
Capuano
Clay
Crowley
Doggett
Filner
Frank (MA)
Grijalva
Hastings (FL)
Honda
Jackson-Lee (TX)
Johnson, E. B.
Lowey
McDermott
Miller, George
Nadler
Napolitano
Neal (MA)
Obey
Otter
Sánchez, Linda T.
Sanchez, Loretta
Schakowsky
Stark
Taylor (MS)
Towns
Wasserman Schultz
Waters
Waxman

NAYS—366

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Baca
Bachus
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Cardin
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Doyle
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holt
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Lynch
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McKeon
McKinney
McMorris
McNulty
Meehan
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanders
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Sodrel
Solis

Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wu
Young (FL)

NOT VOTING—35

Andrews
Burton (IN)
Cardoza
Conyers
Cubin
Delahunt
Dingell
Drake
English (PA)
Evans
Ford
Hinchey
Holden
Hyde
Jefferson
Johnson (IL)
Kennedy (RI)
Lipinski
Mack
McIntyre
Meek (FL)
Moran (VA)
Murphy
Oxley
Radanovich
Rush
Saxton
Smith (TX)
Souder
Velázquez
Wexler
Wolf
Woolsey
Wynn
Young (AK)

□ 1052

Messrs. SULLIVAN, KELLER, MELANCON, KUCINICH, RUPPERSBERGER, BUTTERFIELD, POE, GINGREY and Ms. CARSON of Indiana changed their vote from "yea" to "nay."

Mr. HONDA and Mr. CROWLEY changed their vote from "nay" to "yea."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. JOHNSON of Illinois. Mr. Speaker, on rollcall No. 137 I was unavoidably detained. Had I been present, I would have voted "nay."

Mr. MURPHY. Mr. Speaker, I was unavoidably detained prior to rollcall 137 this morning and was not able to vote. Had I been present, let the Record reflect that I would have voted "nay" on rollcall 137.

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 5122, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

Mr. COLE of Oklahoma. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 811 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 811

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for further consideration of the bill (H.R. 5122) to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2007, and for other purposes.

Sec. 2. (a) Notwithstanding clause 11 of rule XVIII, no further amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution and amendments en bloc described in section 3 of this resolution.

(b) Each amendment printed in the report of the Committee on Rules shall be considered only in the order printed in the report (except as specified in section 4 of this resolution), may be offered only be a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment (except that the chairman and ranking minority member of the Committee on Armed Services each may offer one pro forma amendment for the purpose of further debate on any pending amendment), and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

(c) All points of order against amendments printed in the report of the Committee on Rules or amendments en bloc described in section 3 of this resolution are waived.

Sec. 3. It shall be in order at any time for the chairman of the Committee on Armed Services or his designee to offer amendments en bloc consisting of amendments printed in the report of the Committee on Rules accompanying this resolution not earlier disposed of. Amendments en bloc offered pursuant to this section shall be considered as read, shall be debatable for 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The original proponent of an amendment included in such amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc.

Sec. 4. The Chairman of the Committee of the Whole may recognize for consideration of any amendment printed in the report of the Committee on Rules accompanying this resolution out of the order printed, but not sooner than 30 minutes after the chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect.

Sec. 5. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Oklahoma (Mr. Cole) is recognized for 1 hour.

Mr. COLE of Oklahoma. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. Slaughter), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. COLE of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days to revise and extend their remarks, and to insert tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. COLE of Oklahoma. Mr. Speaker, on Wednesday, the Rules Committee met and reported a second rule for consideration of the House Report for H.R. 5122, the Fiscal Year 2007 National Defense Authorization Act.

Mr. Speaker, this rule is a structured rule and provides for further consideration of the bill, H.R. 5122. It makes in order only those amendments printed in the Rules Committee report accompanying the resolution and amendments en bloc described in section 3 of the resolution.

The rule provides that amendments printed in the report shall be considered only in the order printed in the report, except as specified in section 4 of the resolution, may be offered only by a Member designated in the report, and shall be considered as read.

It provides that each amendment printed in the report shall be debatable for the time specified in the report, equally divided and controlled by a proponent and an opponent, shall not be subject to amendment, except that the chairman and ranking minority member of the Committee on Armed Services each may offer one pro forma amendment for the purpose of further debate on any pending amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

Mr. Speaker, the rule waives all points of order against amendments printed in the report and those amendments en bloc as described in section 3 of the resolution. Additionally, it authorizes the chairman of the Committee on Armed Services, or his designee, to offer amendments en bloc consisting of amendments printed in the Rules Committee report not earlier disposed of, which shall be considered as read, shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services or their designees, and shall not be subject to amendment or demand for division of the question in the House or the Committee of the Whole.

□ 1100

The rule provides that the original proponent of an amendment included in such amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc.

The rule also allows the Chairman of the Committee of the Whole to recognize for consideration any amendment printed in the report out of the order printed, but not sooner than 30 minutes after the Chairman of the Armed Services Committee or his designee announces from the floor a request to that effect. Lastly, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, today I rise in support of this rule and the underlying legislation. Yesterday, I believe we had a good discussion about the importance of the underlying legislation, and the rule passed overwhelmingly. The same facts that were true yesterday remain so today.

Mr. Speaker, I am particularly proud about the way the rules for the fiscal year 2007 National Defense Authorization Act have been structured. Let's have a minute to review the facts here. The underlying legislation had broad bipartisan agreement, passing the committee by a vote of 60–1.

Between the subcommittee and the full committee, the Armed Services Committee passed 75 amendments, 36 of those by Republican authors, 38 by Democrats, and one bipartisan amendment. Out of the 100 amendments submitted to the Rules Committee, we made 31 in order, 15 Republican, 13 Democrats and two bipartisan.

In addition, six amendments were incorporated into the manager's amendment.

Today, we may well hear that the amendment process was arbitrary and unfair, but the facts do not support the claims. This legislation proceeded through regular order. We will have a vigorous discussion today, and the amendments in order will allow either side to improve and perfect the defense authorization further.

As usual, minority rights are protected by allowing a motion to recommit with or without instructions. This process has been open, thorough and fair. While not every amendment was made in order, all were considered. Only nine of the 60-odd amendments that were not included were actually raised by the minority for consideration in the Rules Committee.

Mr. Speaker, yesterday I spoke about the importance of four long-term challenges relating to national security and how this bill addresses them. Additionally, I drew attention to the fact that our deployed servicemen and women rely on this legislation to directly support their efforts in our Global War on Terror.

Nothing said today will change these facts. Today is really the day we should be focused on uniting as Americans and supporting our troops in the field. No one piece of legislation is ever perfect. Today is no exception. But today we have a very good piece of legislation that was crafted in a bipartisan way through regular order.

At the end of this debate, the House will have considered over 30 percent of all submitted amendments on the floor. The others were previously considered at the committee level. There are no irregularities here.

While we will no doubt have some spirited disagreements on some amendments, including some not brought to the floor, this bill is, at its core, an example of bipartisan cooperation and consensus.

The Members of the minority who serve on the House Armed Services Committee have praised the committee chairman, the gentleman from California (Mr. HUNTER) for its inclusiveness and have said that the legislation we are considering today deserves to pass. When all is said and done, it will pass by an overwhelming bipartisan majority. That is something in which this House, the American people and, more importantly, our men and women in uniform can take pride.

Mr. Speaker, realizing the facts surrounding the fiscal year 2007 National Defense Authorization Act, I urge the support of the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, listening to my colleague's remarks, he certainly made it clear how proud he was of the bipartisanship in that committee. And so should we all be.

But all bipartisanship ended when this came to the Rules Committee. Of course it was an overwhelming vote. They have nine members, we have four. The tragedy here is that major amendments that Democrats wanted were not allowed to be heard today, very important things that we want to do.

For example, the ranking member, Mr. SKELTON, was denied an amendment. The minority whip, Mr. HOYER, was denied an amendment. And so, Mr. Speaker, through you, I want to ask Mr. COLE if he will grant me a unanimous consent request so that I can amend H. Res. 811 and add several important Democratic amendments not allowed under this restrictive rule.

Mr. Speaker, as you know, when Speaker HASTERT was in the chair, he said by unanimous consent that we can easily do this. The amendments we want to add back are: A Skelton amendment that helps military families with prescription drug costs; an Israel amendment that calls for religious sensitivity by our military chaplains; an important Hoyer amendment on alternative energy; a Capps amendment to be able to defend her district against a nongermane provision in the bill; and a McGovern amendment to close down the School of the Americas.

I ask if he will yield me that time.

The SPEAKER pro tempore. Does the gentleman from Oklahoma yield to the gentlewoman from New York for the purpose of a unanimous consent request?

Mr. COLE of Oklahoma. No. Mr. Speaker, I do not. Those matters can be dealt with on a motion to recommit.

MOTION TO ADJOURN

Ms. SLAUGHTER. Then because of the unfairness of this and the importance of this, and because this country is at war, and because you have shut out major debate on this bill, I move the House do now adjourn.

The SPEAKER pro tempore. The gentlewoman reserves her time. A motion to adjourn is not debatable.

The question is on the motion to adjourn offered by the gentlewoman from New York (Ms. SLAUGHTER).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 68, noes 336, answered "present" 1, not voting 27, as follows:

[Roll No. 138]

AYES—68

Ackerman
Allen
Baird
Berkley
Berman
Berry
Blumenauer
Boehlert
Brown, Corrine
Capps
Capuano
Carson
Case
Clay
Cleaver
Conyers
Costa
Crowley
DeGette
Delahunt
Dingell
Doggett
Engel
Filner
Frank (MA)
Grijalva
Hastings (FL)
Honda
Israel
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Lantos
Larsen (WA)
Lee
Lewis (GA)
Lowey
Lynch
Maloney
Markey
McDermott
McNulty
Miller (NC)
Miller, George
Nadler
Napolitano
Neal (MA)
Obey
Olver
Otter
Owens
Pascrell
Pastor
Pelosi
Rush
Sabo
Sánchez, Linda T.
Schakowsky
Slaughter
Solis
Stupak
Taylor (MS)
Towns
Velázquez
Wasserman Schultz
Waters
Watson
Waxman

NOES—336

Abercrombie
Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Cardin
Carnahan
Carter
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costello
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fossella
Foxx

Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Issa
Jackson (IL)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Pallone
Paul
Payne
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sanders
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Skelton
Smith (NJ)
Smith (WA)
Snyder
Sodrel
Spratt
Stark
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Watt
Weiner
Weldon (PA)
Weller
Westmoreland
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Lipinski

NOT VOTING—27

Buyer
Cardoza
Davis (IL)
DeLay
Evans
Feeney
Ford
Fortenberry
Hinchey
Hyde
Istook
Jefferson
Kennedy (RI)
Knollenberg
Mack
Moran (VA)
Oxley
Pombo
Sanchez, Loretta
Saxton
Simpson
Smith (TX)
Souder
Weldon (FL)
Whitfield
Woolsey
Wynn

☐ 1128

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. KNOLLENBERG. Mr. Speaker, on rollcall No. 138 I was unavoidably detained. Had I been present, I would have voted "no."

Mr. FORTENBERRY. Mr. Speaker, on rollcall no. 138 I was unavoidably detained. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. HYDE. Mr. Speaker, on May 11, 2006, I was absent for the following procedural votes. Had I been present, I would have voted:

Rollcall No. 137, on motion to adjourn, "nay";

Rollcall No. 138, on motion to adjourn, "nay."

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 5122, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

The SPEAKER pro tempore. The Chair would remind Members that Mr. COLE of Oklahoma has 24 minutes remaining and Ms. SLAUGHTER of New York has 28 minutes remaining.

Ms. SLAUGHTER. Mr. Speaker. I yield myself such time as I may consume.

Mr. Speaker, every day the thousands of men and women who are based in the United States and elsewhere protect our borders, defend our national security, and ensure our peace of mind. Many of them have been deployed around the world, to Iraq and elsewhere. They have performed their duties with honor and I want them to know that we have the highest regard and respect for them.

☐ 1130

The men and women of our Armed Forces have entered into a sacred covenant with this Nation. They have pledged to place their lives on the line for us, and in return, we have promised to give them the tools they need to fulfill their promise and the respect worthy of someone willing to make the ultimate sacrifice for this country.

The underlying legislation for this rule represents the embodiment of our commitment to the troops, and while I know the overall bill enjoys bipartisan support, including mine, I must point out that this morning I believe the leadership of this body has betrayed that covenant.

It seems that just 1 week after passing a so-called reform bill with no teeth, the majority is back to their same old tricks, arrogantly preventing debate and consideration of critical measures that improve the bill and the lives of the people serving this Nation.

They even prevented the distinguished ranking member of the Armed Services Committee, Mr. SKELTON, from offering an amendment to his own defense bill. The Skelton amendment would have prevented the copays for medication for our military and their families from going up, which they will if this bill is passed without the Skelton amendment, but the Republican leadership refused to make it in order.

For those Americans who are not familiar with the Rules Committee, and I expect that is most of them, and how it works, what that effectively means is that a select few in the Republican leadership have decided what the entire Congress and the entire Nation and what the men and women in uniform will get. They decided that on their own, without even a vote on the House floor, without the debate and consideration of this full body.

Given the rhetoric we hear on this floor every day about the troops and how important they are, I feel compelled to ask my friends in the majority to justify how in less than 24 hours after they approved $70 billion in tax cuts for the wealthy, how they could refuse to allow us to even consider a measure to improve the health care of our troops and their families. We owe our troops more respect than this.

It is for similar reasons that many of my Democratic colleagues and I are concerned with section 590 of this bill. The section removes a long-standing requirement in our military code that requires chaplains to exhibit a level of tolerance, compassion and understanding towards the religious diversity of the soldiers to whom they administer counsel. Can you imagine that, Mr. Speaker? We are taking away the idea that they should serve with tolerance, compassion and understanding; it was too inflammatory.

I should say, Mr. Speaker, that I am confident our chaplains have both the sense and the respect for their fellow soldiers to do this and to do it willingly. But why would this majority lower that standard and expect anything less from our chaplains, as they clearly do?

We have soldiers of every faith and no faith fighting for us under the American flag. They all deserve our respect, particularly in moments of great despair or need. Is this majority so arrogant as to suggest that they should micromanage how a chaplain administers faith on a battlefield? I can think of few things more offensive or absurd.

My friend, Mr. ISRAEL, offered an amendment to the bill that would have corrected the problem, restoring the requirement that all chaplains demonstrate sensitivity, respect and tolerance, but Mr. ISRAEL's amendment was tossed out the window, along with common sense on this issue. It has been forbidden by the leadership from even being considered on the floor today.

As was an amendment from Representatives TIERNEY and LEACH which would have established a Truman-like commission, which we have been trying for 2 years to do, one designed to ferret out corruption and incompetence in our military contracting; and for some reason, the majority of this House does not want to look where all that money is missing in Iraq.

Despite the fact that the same measure has passed the House numerous times, and despite the fact that it is the clear will of this body that this commission be created and despite the fact that the word "incompetence" has become the most apt description of this administration, a select few in this leadership made these decisions for all of us that we would not even consider that amendment today, an amendment which, were it enacted, would allow us to go looking for the $9 billion in taxpayer money that this administration has literally lost in the war in Iraq.

There are many more amendments to this bill that the leadership refused to allow us to consider today, and because they are making decisions for all of us and for the American people without their consent, they decided we would not be allowed to consider Mr. MARKEY's amendment which would prevent your tax dollars from being used to torture people in the name of the United States of America. I know that makes all of us proud that we are saying that we are going to go ahead and allow torture.

I never thought I would see the day in this country when we would compromise our core values so horribly, and to do so without our consent is unconscionable.

The question my fellow Americans should be asking themselves is "why." Why will the Republican leadership not allow the free flow of ideas that are supposed to be the hallmark of our government?

I think we are all beginning to see how the rigidity of their agenda, the narrow focus of their concern and their obsession with control are not only damaging their own political future, but are deeply damaging the Nation.

Even though the complicated challenges we face no longer seem to fit the Republicans' narrow set of solutions, they march onward in lockstep with their unyielding and ineffective agenda, but reality seems to be playing out much differently than their program allows for.

Tax cuts for the rich cannot save the world and it cannot save Americans. Preventing Americans from talking about an idea does not make it go away, and the ends do not always justify the means. Democrats and the rest of America have already opened their eyes to these realities. Why does the Republican leadership not open theirs?

Mr. Speaker, I reserve the balance of my time.

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

I want to begin, if I may quickly, by reminding my friends on the other side of the aisle the basic nature of this bill.

It was a very bipartisan bill. It was universally praised as being bipartisan by Members of both parties. In particular, Chairman HUNTER was singled out for operating inclusively, in a bipartisan manner.

There were 88 amendments offered in the House Committee on Armed Services. Seventy-five of those passed. Of those passed, 38 were Democrats, 36 were Republican, one was bipartisan. There were over 100 amendments submitted to the Rules Committee. Of those, 31 were made in order, an additional six were dealt with in the manager's amendment. Only eight amendments were brought up for reconsideration in the Rules Committee by the minority.

Now, I understand that not everybody is pleased with every aspect of the bill, but to characterize the bill as anything other than bipartisan, and bipartisan in process, I think is to not recognize the nature of the process we have gone through.

With respect to Mr. SKELTON's amendment, nobody in this House, I can assure you, respects Mr. SKELTON more than I do. I have served with him on his committee. I publicly praised him yesterday, and that praise is fully and well deserved. He is one of the distinguished Members of our body.

I do point out his amendment was, in fact, considered in the House Committee on Armed Services. It did fail. There were bipartisan members for it and bipartisan against it, although it was largely a party-line vote.

At some point you have to ask yourself, why do we have committees, if not to make these decision? When a matter is dealt with fully by a committee, who are well-versed in it, I think that should carry heavy weight in determining whether or not we move on and consider a particular amendment on the floor; and in this case, I think that was thoroughly vetted and thoroughly discussed although, of course, my friends still have the opportunity to include that provision in a motion to recommit.

Let me conclude by just quickly going on and going through some of the things that were included in TRICARE.

Under the bill that was fashioned by our distinguished chairman and ranking member, working in a bipartisan fashion in the House Armed Services Committee, H.R. 5122 will prohibit until December 31, 2007, the Department of Defense's ability to increase TRICARE Prime, Standard and TRICARE Reserve Select cost shares.

H.R. 5122 calls for an independent analysis to determine the appropriate cost-sharing formula for the TRICARE program.

H.R. 5122 zeros out the costs for generic and formulary prescriptions for participants in the TRICARE pharmacy and mail order program.

H.R. 5122 also adds $735 million to the Defense Health Program to restore funding cuts included in the DOD budget request in anticipation of increased beneficiary cost shares which, as mentioned, H.R. 5122 prohibits.

H.R. 5122 includes TRICARE coverage for forensic examinations following sexual assaults and domestic violence.

H.R. 5122 provides TRICARE coverage for anesthesia and hospital costs for dental care provided to young children and to mentally or physically challenged beneficiaries.

I say this simply to make the point that we have had several years, frankly, where this committee has worked diligently to improve the TRICARE system to enhance the benefits available to our men and women.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. HUNTER), the distinguished chairman of the Armed Services Committee.

Mr. HUNTER. Mr. Speaker, I want to thank the gentleman from Oklahoma for his great work on behalf of the men and women who wear the uniform and for his work on this bill, and all the members for the work on this bill.

I just say to my great colleague from Missouri (Mr. SKELTON), we did put this bill together in a bipartisan fashion, and we did entertain this amendment in the House Committee on the Armed Services. And the point is that we came out of the committee with a very carefully crafted bill in which we are trying to incentivize military families to use mail order; and so we took down the cost of mail order pharmaceuticals to guess what, zero; both generic and formulary drugs down to zero. They do not pay a dime.

Now they win when they get these prescriptions through the mail, and the taxpayers win because the costs are much less. That means you do not even have the cost of transportation to go down to pick up that particular prescription. So we took those down to zero.

The other thing we did that was a remarkable thing, that really completed this transition of recognizing the National Guard, is we moved the availability of TRICARE not just to National Guardsmen, who heretofore were given TRICARE for an extended period of time before they mobilized and for an extended period of time after they mobilized, but we then moved it to all National Guardsmen who are drilling reservists, all National Guardsmen, and with only a copayment of 28 percent of the costs.

So this is a monumental bill that has moved billions of dollars of medical benefits to these great people who wear the uniform of the United States.

Let me just say to my colleagues, this is a bipartisan bill. The gentleman from Oklahoma is absolutely right. We did all the right things, and that is why it passed by a vote of 60–1.

No one has more respect for the gentleman from Missouri than myself. We did consider his amendment in the committee, and the provision that his amendment dealt with is a part of this balance of trying to move people to buy their pharmaceuticals through the mail, because if they buy them through the mail, it does not cost them a dime. For that reason, I think the committee bill is an excellent bill.

It is tough to get to less than zero, and I would hope that everyone would simply support this bill, let us move ahead, let us get it to conference, and let us do the right thing for the men and women who wear the uniform.

I thank the gentleman for yielding.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER), the minority whip.

Mr. HOYER. Mr. Speaker, I thank the gentlewoman from New York.

Mr. Speaker, this morning I want to express my deep disappointment that the Rules Committee declined to make my amendment concerning one of the most vital national security issues facing our Nation, our continued dependence on foreign sources of oil, in order.

As Jim Woolsey, the former CIA director, stated, "The future of our economic and national security is more than ever coupled to our energy policy." That is why I believe this amendment would have been so appropriate on this bill.

Let me stress, the amendment that I offered, along with Congressman BART GORDON as well as MARK UDALL, who is on the floor with us right now, was decidedly nonpartisan. It was not offered in an attempt to gain short-term political advantage. It was offered in an attempt to encourage this body to focus on the national security implications of our continued addiction to oil, of which the President spoke in his State of the Union, and to suggest practical methods to address that addiction.

Let me add, when I testified before the Rules Committee on Tuesday, I was pleased with the serious discussion of this amendment, as well as the virtually unanimous support of the concept of this amendment. There was no opposition stated by any member of the committee on either side of the aisle.

In short, this amendment called for three things. First, it would have authorized $250 million for the Advanced Research Projects Agency-Energy, or ARPA–E, within the Department of Energy.

□ 1145

ARPA–E would encourage and support our best and brightest researchers and scientists to develop cutting-edge technology necessary to make America energy independent.

Second, the amendment would have required the Secretary of Defense, in consultation with the Secretary of Energy and the Director of National Intelligence, to study and report to Congress on the national security implications of our increasing demand for foreign oil.

Finally, the amendment would have increased the funds available for the Defense Energy Support Center which buys and manages oil and other energy supplies for the military service, the largest user of petroleum in our country.

It also would have increased the funds available for the Advanced Power Technology Office which promotes the increased use of fuel cells, electric hybrids and hydrogen for military and homeland defense vehicles and equipment.

These proposals would have been paid for by shifting more than $300 million in excess funds from the $9.1 billion proposed for ballistic missile defense programs. I refer to them as "excess" because the staff says they cannot be spent in fiscal year 2007.

Let me conclude by saying that it is imperative that the Members address this vital issue. I am pleased that Mr. SKELTON, Mr. SPRATT and other members were supportive.

Energy independence must be addressed in a serious, thoughtful manner. When we put our minds to something, in my opinion, Americans can solve any of the problems that confront them. Now, more than ever, we must focus on addressing our addiction to foreign sources of oil.

I want to say in closing that I deeply regret that this important issue was not allowed to come to the floor. I understand that portions of this, only a portion, was considered in the committee, but surely the issue of addiction to petroleum products, which our President has talked about, is worthy of bringing to this floor, and I urge that it be done.

I oppose this rule because I believe it has been restrictive to the detriment of our national security and democracy in this House.

Mr. COLE of Oklahoma. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, let me say to my good friend who just spoke and talked about the need to shore up energy supplies for our country, I agree with him totally. And I agree with the idea that we should not have to rely on that lifeline of petroleum coming out of the Middle East, which has security ramifications.

Let me say to my friend that opening up a piece of land that is as big as a third of the United States, that is, Alaska, a third of the size of the continental United States, would go a long way toward doing that. The amount of petroleum that we could be getting from one of our own States within our own boundaries without having to depend on that lifeline would accrue to the national security.

I say to the gentleman, I think it is a sad thing that the majority of his party has not seen fit to do that. We are pursuing lots of alternative forms of energy, but one problem with this particular amendment is, it would take the money out of missile defense. I know the gentleman is worried about the prospect of ballistic missiles that are being tested by countries in the Middle East, that are being tested to ranges that will include Israel, for example, and at some point, certain locations in the United States.

So there are two aspects to these amendments. One is what you do; and the other is where you pull the money from. The other part of that story is where you pull the money from.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Maryland.

Mr. HOYER. We had a very thoughtful discussion about what you have raised as alternative sources of energy in our own country, or alternative sources for petroleum products in our own country. A full discussion, I think that is a worthy discussion.

I do not think the amendment that I offered in any way negates that discussion or negates the importance of having that debate. I agree with the gentleman.

With respect to the source of funding, the staff discussed it. We believe in the $9.1 million in 2007 this sum cannot be spent because of practical reasons, as the gentleman probably knows, and I think his staff agrees because we worked with his staff and with Mr. SKELTON and Mr. SPRATT to ensure that we were not undermining because as you know, I have been supportive of the defense system.

We believe this is such a critical issue. And as I said, the President raised the addiction. We have to transfer not only the price that the consumer is paying, which is affected by the lack of alternatives to petroleum products, and therefore, those producers of petroleum products throughout the world have us as a captive consumer and we do not have price flexibility, but also in terms of the price at the pump for our consumers.

So both from a national security standpoint and an economic standpoint, I think this was the way to go.

Mr. HUNTER. Mr. Speaker, reclaiming my time, I think that is a thoughtful statement. I think that what we have seen, regrettably, from the gentleman's party, from the Democrat side, has been a series of "noes" to initiatives that would have increased the supply of petroleum.

The amount of increase in petroleum that we have undertaken in the last 4 or 5 years would have, by the projections I have seen, have been made up by oil which could have come from, for example, Alaska which is a third of the size of the United States.

So when the gentleman's party effectively closed down Alaska for supplying petroleum, a large piece of Alaska for supplying petroleum from the northern sector, that deprived us of an enormous supply of petroleum which would have had a direct effect on the price at the pump.

Further, the gentleman knows it takes about 10 years to permit a refinery. The gentleman is an expert in this. The gentleman knows the way we get low prices in this country for any commodity is competition.

That means if you are baking bread on one side of the street for $2 a loaf, and I come across from the other side of the street and I can bake it for a buck a loaf, I win and the consumers win. If you takes you 10 years to get a permit for your bakery, you never get into the competition and the price of bread never comes down.

And if it takes you 10 years to permit a refinery because of environmental restrictions that the Democratic Party will not let go of, you never see that oil coming on line and you never see that competition from another refinery. It is a debate.

But on the point of funding, the idea that you can just harvest a third of a billion dollars out of missile defense and that is not going to have any effect on the program because you think that money is not needed right now, we will have other parts of the program, the missile defense program, that needs more money. As the gentleman knows, when you have hundreds of programs, some of them need money, some of them can give up money at any given time.

The idea that this missile defense, which is necessary to protect both our troops in theater, who have been fired upon and killed in some cases by low-end ballistic missiles, like the Scuds that were used against us in the first Gulf War, and countries like Israel that need to have defense that see their neighbors right now developing ballistic missiles that will come in high and fast into those countries; the idea of forcing our Members to choose between defending their troops and having a new technological program on petroleum innovations, in my estimation, this is something that is a subject for judgment. We have exercised our judgment.

I think we have done a good job in the committee. I think we have put together a good bill in the committee. It passed out 60–1. I think that is testament to the fact that we have a balanced package and we need to move forward.

Mr. HAYES. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from North Carolina.

Mr. HAYES. Mr. Speaker, I thank the gentleman for yielding.

I would like to add the additional point on the committee's bipartisan and very enthusiastic and aggressive effort to do everything we could for the troops, the advantage to the position on drugs. Not only is the copay zero on mail order drugs, but when you get your pharmaceuticals through the mail, the recipient can get a 90-day supply instead of a 30-day supply. So there are several advantages there.

Again, it is a reflection of Mr. SKELTON's, Mr. HUNTER's, and the committee's desire in a bipartisan fashion to do everything that we possibly and reasonably can for the troops.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services and a hero of mine.

Mr. SKELTON. Mr. Speaker, my fellow Missourian, Mark Twain, once said, "The more you explain it to me, the more I don't understand it." And that is where we are on this rule; in particular not allowing some amendments, including my amendment which would be very helpful to the families of those in uniform, to be in order. Thus, I rise in strong opposition to the rule.

Let me speak about my amendment first. It reduces the copay of the servicemembers and their families for prescription drugs. Currently, there is a $3 copay charge for generic drugs and a $9 copay for name-brand drugs. Under the bill, it zeros out mail-order orders, which is fine in some cases, but increases the generic drugs to $6, and increases name brand to $16.

You have to say that is not a lot, but if you are a corporal with three children that get sick and you have to multiply the $16 times one or two or three times when you have serious illness in your family, it is going to cost an awful lot more. That is why it is important that we do our very best to take care of the troops.

This is not brain surgery. This is helping the troops in some small, positive, decent way.

And, you know, this amendment was not made in order.

I have to compliment the bipartisanship of the base bill. I am proud of it. Chairman HUNTER did a good job in working on that, and we worked our will on some of the amendments, including the one I offered.

It only lost by two votes, 28 for it and 30 against it. What is wrong with taking that measure up on the floor of the House of Representatives and letting us work our will for the troops, for the young people, particularly for that private first class, that sergeant, that corporal that might have a family that needs help?

You say, well, they can do it by mail order.

If your child is really sick or has the flu or it is over a long weekend, you are not going to get anything by mail order. You are going to go down to the drugstore and you are going to pay through the nose, just as this bill is requiring.

All we want to do is help the young folks; this is a way we can do it. And if the amendment is voted down, the will of the House has worked its way. I would do my best to convince every Member of this body to vote for it.

So I think what we need to do is to go back to the Rules Committee and ask them to allow the Skelton amendment to be made in order.

There are other amendments that should have been looked at. Mr. ISRAEL has one that deals with chaplains that is very, very evenhanded. Mr. HOYER has one, as well as Mr. UDALL and Mr. MCGOVERN and some other Members, regarding energy, that should be looked at.

But I speak mainly in favor of my proposal. Rather than charging additional money to these young troops should they have a sick child or a sick spouse, let us reduce it back to where it was. That is not difficult. In the process say, hey, thank you for the job you are doing rather than let us stick you for a few more dollars to pay to the drug companies. That is not right.

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That is not right. That is not the way we want to treat these young folks. Let us do all we can to help them. And this is one way. Let us at least vote on it. I will speak in favor of it. I would hope that many people on the other side of the aisle would not only speak for it, but would vote for it. It is a good amendment. I dare you to put it on the calendar for us to vote. That is what we need to do so we can say fully and fairly to the young folks, we have done our best for you.

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

If I may, again, I want to thank my good friend from Missouri. There is nobody who cares more about men and women that wear the uniform of the United States than Mr. SKELTON.

I do wish to point out again the amendment was considered by the full House Armed Services Committee. It did not succeed.

I also want to point out again we made considerable progress in TRICARE, many millions of dollars spent.

And, finally, something which maybe many Members may not be aware of because they don't serve on that committee, active duty family members actually get most of their prescriptions free from military hospitals. Only 11 percent of prescriptions are obtained through a TRICARE retail pharmacy. So we are really not talking about a great deal of money. And we have a study authorized in this legislation under way to look at what the appropriate distribution of the cost of these types of items should be. I actually think the House Armed Services Committee has gone a very long way in trying to address this very, very important issue; and I have no doubt we will revisit it next year.

Mr. Speaker, I yield 1 minute to my good friend, the chairman of the House Armed Services Committee, Mr. HUNTER.

Mr. HUNTER. Mr. Speaker, I just wanted to, once again, echo my great respect for my partner on this committee, the gentleman from Missouri (Mr. SKELTON), and just offer that one thing we have done in this package is to take down the cost of pharmaceutical drugs to zero for those enlisted families if they simply get them through the mail; and they can now get a 90-day supply rather than a 30-day supply, and that is what we are trying to incentivize them to do. It is better for them. They have got no cost of transportation to go pick up their medicine, and it is better for the taxpayers. And that is the direction that we are trying to take our military families.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), a member of the Rules Committee.

Mr. McGOVERN. Mr. Speaker, last night, once again, the majority on the Rules Committee had an opportunity to demonstrate that this House is capable of debating the many important issues relevant to the defense authorization bill. But once again, they turned their backs to a full and open debate.

Once again, the majority on the Rules Committee had an opportunity to demonstrate that Members of the minority and their concerns will be treated with respect. But once again, the majority on the Rules Committee showed that courtesy, respect, and collegiality are not part of their vocabulary.

Mr. Speaker, when a bill has a provision that directly affects another Member's district and that Member wishes to offer an amendment to debate the consequences of such a provision, simple courtesy requires that the amendment should be made in order. Yet last night, the gentlewoman from California, Congresswoman CAPPS, was denied her right to speak and act on behalf of her constituents and to have her amendment made in order to strike from the bill the section that prohibits the National Park Service from carrying out the 1997 court-ordered settlement that stops trophy hunting on Santa Rosa Island.

Twice the distinguished chairman of the Armed Services Committee was asked whether he had any problems with Mrs. CAPPS offering her amendment, and he said he did not.

I respect the chairman of the Armed Services Committee, and I appreciate the work that he and the ranking member, Mr. SKELTON, have done together. But if the chairman had no objection, and I have the transcript here, then why did the Rules Committee have an objection to this?

Of the 100 amendments submitted to the Rules Committee for consideration, scarcely a third of those were allowed to be debated under yesterday's rule and this rule. This morning, this rule makes 23 amendments in order, 10 of which are bipartisan amendments or offered by Democrats; and of those 10, four simply seek reports or studies.

Meanwhile, as we have heard, the Rules Committee denied the ranking member of the House Armed Services Committee, the most honorable and most distinguished congressman, IKE SKELTON, the right to debate the only amendment he submitted to the Rules Committee. That amendment would have let this House debate whether or not to reduce drug copayments for military families.

What a horrific show of disrespect, not only to Mr. SKELTON, but to our military families who sacrifice every single day for our Nation. It is wrong.

And if Republicans want to increase drug copayments for our military families, then make your case. But on our side of the aisle we believe the opposite, and at least there should have been a debate and a vote on this matter.

If Members want to know what is wrong with this House, why civility has been lost in this House, why this House can no longer be described in any sense of the word a deliberative body, you only have to look at the rule for the defense authorization bill.

The majority picks and chooses what will be debated, ignores substantive amendments, and rejects even the ranking member the right to offer important amendments.

In addition to rejecting the amendments offered by Ranking Member SKELTON and Congresswoman CAPPS, the majority of the Rules Committee decided this House isn't the place to debate accountability in Iraq, again denying debate on a bipartisan amendment submitted by Mr. TIERNEY to establish a Truman Commission on Iraq.

It has decided that this is not the place to debate nonproliferation issues. A bipartisan amendment was denied that was coordinated by Mr. ANDREWS; that this isn't the place to talk about alternative energy resources and research and the applications within the military. They denied Mr. HOYER and Mr. UDALL their amendments.

This is not the place, according to the majority of the Rules Committee to talk about religious tolerance. They denied the amendment by Mr. ISRAEL.

Or this is not the place to talk about torture. They denied an amendment by Mr. MARKEY.

These are not frivolous matters, Mr. Speaker. They are profound matters affecting our national defense and the health and the safety of our military personnel and their families. We read and we hear about them every day in the news. We are asked about these issues by our constituents, and this House should have had an opportunity to openly debate each one of them.

But not in this House. Not under this leadership.

So I urge my colleagues to reject this rule. Let us have a genuine debate on one of the few bills that comes before this House where all of these amendments are germane. Let us return democracy to the U.S. House of Representatives.

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

I just wish to quickly point out, again, the record which seems to get lost in the rhetoric: 88 amendments considered in the House Armed Services Committee, 75 accepted; 100 amendments dealt with by the Rules Committee, 31 brought to the floor; six others dealt with during the manager's amendment.

If my friends had their way, it wouldn't matter how many times amendments were defeated along the way. Every single one would come to the floor of the House of Representatives. If we were going to operate that way, we simply could do away with the committee system all together and simply operate by Committee of the Whole. I don't think that makes good sense.

So we are very pleased with the manner in which this bill has been dealt with. Members of both sides have regarded it as a very bipartisan piece of legislation. I will make a prediction it is going to pass with an overwhelmingly bipartisan vote.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, let me take just a moment to say to my friend from Oklahoma that when the Democrats were in charge here we would take up to 2 weeks in the Rules Committee looking at the defense bill which was almost always open because we all recognized the importance and that is where we spend the money. We didn't rush bills out the door in those days, and I long for them.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I rise in strong opposition to this rule.

Yesterday, I spoke about a provision in the defense bill that has nothing to do with helping our troops and everything to do with congressional hubris.

This provision would kick the public off Santa Rosa Island, a part of the Channel Islands National Park.

Mr. SNYDER and I have an amendment to strike that provision, but the Republicans on the Rules Committee have decided the House just won't vote on it.

This provision affects a national park in my congressional district. There have been no hearings on it. DOD didn't ask for it. Park Service flat out opposes it.

Yet, it is in the bill with no discussion, no opportunity to let the House decide whether it is a good idea or not to kick taxpayers off the land that they spent $30 million for.

I can only assume the Republican leadership is afraid to have a debate on this. And I don't blame them, in a sense. This provision is a travesty. They should be embarrassed.

They might have to explain why the public should be kicked off this island so a privately run, extremely lucrative trophy-hunting operation can continue in a national park.

This all started when the chairman of the committee said he was driving down the highway, saw the island, thought that hunting in the national park was a good idea.

End of debate.

He first defended his proposal as a way to help veterans hunt. When that didn't fly, it was to protect the animals.

Mr. Speaker, this absurd provision is indefensible, and a vote on it should win; and that is why there will be no vote on it.

So as Members consider how to vote on this rule, I would ask them to think about the national parks in their district and offer them this advice: don't let the chairman take a drive in your district; he might come up with better uses than letting the public visit their own national park, and then you would be down here in my place trying to keep our national parks open.

I oppose this rule. I ask the House to vote "no" and save itself from this embarrassment.

Mr. COLE of Oklahoma. Mr. Speaker, just for the record, I would love to have the chairman take a drive in my district any day. We have Fort Sill Army Post, Tinker Air Force Base, and he loves soldiers, so that is fine by me.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from California (Mr. THOMPSON), a Vietnam veteran and Purple Heart recipient.

Mr. THOMPSON of California. Mr. Speaker and Members, it is not only disappointing but it is truly mystifying to me to know why it is the amendment that I offered would not be made in order. I think everybody is in agreement that we need to do everything that we possibly can to better protect the men and women who are serving in uniform in Iraq.

Everybody knows that the insurgent attacks are up in Iraq. They are up from last year. They are up from the year before. And the fact that those who recruit those insurgents can claim that we are there as occupiers to control the flow of Iraqi oil is a very powerful recruitment tool.

My amendment merely is a sense of Congress that says we are not there to control the Iraqi oil. Let's send a strong message to those who are subject to recruitment. Let's send a strong message to all of those who think that this is oil motivated. Let's let them know that we are not there for the oil.

Why would anyone on the Republican side of the aisle have a problem with sending that message? We need to send it. We need to send it now.

We need to go back and fix this bill to be able to consider, not only my amendment, but the other good amendments that were before us. And we need to make sure that everybody knows it is not about the oil, and do everything we can to protect our men and women serving in uniform.

Mr. COLE of Oklahoma. Mr. Speaker, I simply point out to my friends on the other side of the aisle that all of these matters can be dealt with in a motion to recommit. I would invite them to do that.

I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Colorado (Mr. UDALL).

Mr. UDALL of Colorado. Mr. Speaker, I also rise in opposition to this rule. As the ranking member pointed out, let us debate and vote on the Skelton, Andrews, Israel, Hoyer, Gordon and Udall amendments.

Earlier, the chairman and the ranking member had an important discussion about oil production. It was a legitimate debate. But the purpose of the Hoyer amendment is to focus on alternative fuel production.

We all share support for the missile defense program. But it is the largest single weapons research and development program in the DOD at $10 billion. We are asking for $63 million to include an alternative fuels production initiative in the Department of Defense so that we can move closer to energy independence. Energy independence equals energy security. That means national security.

Mr. Speaker, I can think of nothing more important to us today than breaking our addiction to foreign oil and making sure that we are secure in the long run, and the American people understand the importance of this initiative.

Let's reject this rule and include these important amendments in the debate that is forthcoming, give the whole House a chance to vote and express its will.

Mr. Speaker, I rise to voice my strong objection to this rule. This was the second chance for the Rules Committee Republicans to get it right, but they got it wrong again.

The rule allows debate on some important amendments but leaves out the most crucial ones. The rule essentially prevents an airing of key issues—and consequently reflects poorly on this body and does a disservice to the American people.

In his testimony before the Rules Committee, Armed Services Committee Ranking Member SKELTON expressed strong support for a number of amendments that would strengthen the bill (and strengthen real security for all Americans.)

Among them were his own, an amendment to lower the increased retail pharmacy co-payment fees for military families; an amendment offered by Mr. ANDREWS and others to increase funding for nonproliferation programs; and an amendment by Mr. ISRAEL to require that chaplains demonstrate sensitivity, respect, and tolerance toward servicemembers of all faiths. None of these amendments was made in order.

Mr. SKELTON also expressed strong support for an amendment on energy security that I offered and a similar one that I offered with my colleagues Mr. HOYER and Mr. GORDON.

But even as Americans struggle to afford near-record high gas prices, Republicans refused to allow debate on these amendments to increase funding for alternative fuels programs at the Department of Defense. America's addiction to oil from any source means that our security is vulnerable and will continue to be until we have the vision to look beyond the oil wells. I'm very disappointed that the Republican leadership doesn't see this as a priority.

Another amendment not made in order was one offered by Mrs. CAPPS and Mr. SNYDER to strike language in the bill prohibiting the National Park Service from carrying out a 1997 court-ordered settlement agreement that requires the shutdown of a private trophy hunting operation on Santa Rosa Island, part of the Channel Islands National Park. There have been no hearings on this issue, the National Park Service is opposed to it, and DoD has not requested it. The Republican leadership should have allowed debate on this amendment.

Many more amendments worthy of House consideration were not made in order. This means that the bill we will debate today on the House floor will not address some of the key challenges affecting our military and our policies in Iraq and Afghanistan.

Mr. Speaker, this rule stifles debate, and I cannot support it.

Mr. COLE of Oklahoma. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, this is the most pathetic rule since I have been here, and I am not the only one who believes this. Last weekend I was on a walk. I met an old friend of mine who told me his son, as we were speaking, was landing in Mosul, Iraq with the United States Army. And my friend and his wife were raising their grandson, a 2-year-old because this soldier is a single parent.

And while he is over there fighting with courage, this House doesn't have the courage to debate Iraq. And every single amendment that was offered that would offer a strategic vision that questions George Bush's decisions in Iraq was denied.

□ 1215

The Abercrombie amendment to say we should have some plan to leave by 2010, denied. The Cardin amendment to have some plan, denied.

This House basically today has said it is only going to do one thing and that America should do only one thing, and that is trust the eminent judgment of President George Bush, who is apparently infallible, unquestionable, and nothing that this U.S. Congress should challenge.

My friend begs to differ, whose son landed in Mosul. This House should challenge George Bush on Iraq. We should have a debate on it. We should not ignore it. While our soldiers have courage enough to fight, we ought to have courage enough to fight George Bush's misguided policies in Iraq.

Mr. COLE of Oklahoma. Mr. Speaker, it is good to see my good friend from Washington again. We actually visited Iraq together. I know how strongly he feels about this issue. I respect that. I would also point out, though, that we have discussed Iraq on many occasions in this House. We have in the past, we will in the future.

In addition to that, again I just wanted to remind my friends of the simple numbers: 88 amendments considered by the House Armed Services Committee, 75 accepted, about evenly split; 100 amendments proposed to the Rules Committee, 31 accepted, 6 considered or incorporated in the manager's amendment. Frankly, all the other matters where folks are disappointed or have a different point of view can be dealt with in a motion to recommit. I suspect they will be.

The reality is, we have had a very bipartisan process. We agree on 98 or 99 percent of the issues that will be incorporated, I suspect, on the final vote.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentleman from New York (Mr. ISRAEL).

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind persons in the gallery that they are guests of the House of Representatives and that it is inappropriate under the rules of the House to show either approval or disapproval of speeches given on the House floor.

Mr. ISRAEL. Mr. Speaker, I don't think I need 1½ minutes to make my point. I think this is rather clear and rather simple.

I was in Iraq about 3 weeks ago when a bipartisan delegation was sent to urge the leaders of the Iraq Government to show respect and tolerance for their different faiths and create a unity government.

This rule explicitly rejects respect and tolerance for servicemembers of different faiths in our own military. I offered an amendment that sought common ground, that preserved in its entirety every single word that the majority had in with respect to allowing and ensuring the right of military chaplains to pray in accordance with the dictates of their conscience.

Every word of the Republican language was in, and then I added this simple statement, "and shall behave with sensitivity, respect, and tolerance towards servicemembers of all faiths."

Who could be against sensitivity, respect and tolerance to servicemembers of all faiths? The Rules Committee majority, which wouldn't even allow us to debate my amendment, which wouldn't even allow us to vote on that amendment.

Who could be against national security that depends on unit cohesion and allowing our local commanders to make fundamental personnel decisions and ensure good order and discipline? The Rules Committee majority, which wouldn't even allow us to debate that amendment or listen to those military guidelines.

People talk a good game around here about family values. But when it comes time to vote on family values, they won't vote on family values in our military. They talk a good game about a strong military and security, but when the time comes, won't listen to our commanders.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. ISRAEL. I yield to the gentleman from Missouri.

Mr. SKELTON. I commend the gentleman for his effort. I can think of no faith that would disagree with the wording that you have proposed. I think it is just too bad that it was not allowed to be put in order, because I think it would have received more than a substantial vote in this House.

Mr. ISRAEL. I thank the gentleman.

I will remind my colleagues that every faith talks about the importance of respect and tolerance for one another. Unfortunately, this Congress has chosen to reject those values by not even allowing us to discuss them when it comes to our own military.

Mr. COLE of Oklahoma. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from California (Mr. HUNTER), the chairman of the Armed Services Committee.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding. No one has more respect for the gentleman from New York than I. I just want to remind my colleagues that we had a vote on the gentleman's amendment in committee, and we did put it in, and it was an amendment to a provision that we put into the bill that was, I thought, an excellent provision; I think, most members of the committee agreed.

I think that is reflected by the 60-1 vote that ultimately discharged the bill, agreed with, that was what it said, that chaplains of all faiths, all faiths, would be allowed to pray according to the dictates of their own conscience.

Now, I know you can add a word or two or a comma or a change of phrase, and the effect of a small group of words can have 60 different interpretations by various members of the committee.

But the provision that we left with, because I think there has been a concern that we have commanders, I think there is concern that chaplains be allowed to pray according to the dictates of their own conscience. We asserted in a positive statement that they would be able to do that.

That was something I think most members agreed with. In fact, they did agree with it on a bipartisan basis. The gentleman offered a change to that, and that was rejected. So I just want my colleagues to know that we thought, and I think today, that a statement that says that all chaplains, no matter what faith, are able to pray according to the dictates of their own conscience. It is a statement of fairness and serves the military well.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, the 9/11 Commission said that a quantity of highly enriched uranium about the size of a grapefruit, if it were used to make a bomb that could be put in a van that could be driven into lower Manhattan, could level lower Manhattan by a nuclear weapon.

Where you would you find this enriched uranium?

There are 106 reactors in the former Soviet Union that use highly enriched uranium. Forty-two of them are being converted to the kind of uranium that can't be used to make a bomb. Sixty-four of them are still in operation today. Sixty-four of them are still a potential source of that bomb that could level lower Manhattan.

We had an amendment that said for every $1,000 we are going to spend on the ballistic missile defense program, let us take $3 out of every $1,000 and spend it on cleaning up and shutting down those 64 reactors in the former Soviet Union. Do you think we should or not?

This House won't get to make that decision because this amendment is not in order. If you ever need a reason to oppose this rule, there is your reason.

Mr. COLE of Oklahoma. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time.

May I inquire if my colleague has more?

Mr. COLE of Oklahoma. No, I am prepared to close.

PARLIAMENTARY INQUIRY

Mr. SNYDER. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. SNYDER. Mr. Speaker, under the rules of the House, as I understand it, yesterday Mrs. DAVIS of California's amendment under consideration of the defense bill was in order, even though it had been considered in committee.

I assume that there was no rule prohibiting the consideration of that amendment yesterday: is that correct?

The SPEAKER pro tempore. The gentleman is correct.

Mr. SNYDER. And so when we hear this discussion today, we have heard it now with Mr. SKELTON's amendment, we have heard it with Mr. ISRAEL's amendment, that because they were considered in the House Armed Services Committee, there is no rule prohibiting their consideration during consideration of the bill on the House floor today; is that correct?

The SPEAKER pro tempore. The gentleman is correct. That is a matter for debate on the rule, as to how it proposes to treat particular proposed amendments.

Mr. SNYDER. Further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. SNYDER. The suggestion has been made that these amendments that have not been made in order for debate and discussion today be put in the form of a motion to recommit. Under the rules of the House, whatever motion to recommit is offered, is it accurate to say that there will be 5 minutes allotted to the proponent of that motion to recommit?

The SPEAKER pro tempore. The gentleman is correct. The standing rules provide for 5 minutes of debate in support of a motion that includes instructions.

Mr. SNYDER. So if the decision is made by our side to try to combine 10 amendments that have been denied discussion on this floor today into a motion to recommit, that would work out to an average of 30 seconds to discuss nuclear proliferation, 30 seconds to discuss the pharmacy amendment, 30 seconds to discuss the policy of chaplains.

Is that an accurate description of the rules of the House, Mr. Speaker?

The SPEAKER pro tempore. While the Chair can't engage hypothetical questions, the gentleman is correct that there are 5 minutes of debate in support of a motion to recommit.

Mr. SNYDER. Mr. Speaker, I appreciate your patience and conduct today.

Ms. SLAUGHTER. Mr. Speaker, I will be asking Members to vote "no" on the previous question. If the previous question is defeated, I will amend the rule to allow the House to consider the Skelton amendment on prescription drug copayments for members of the military and their families.

This amendment was offered in the Rules Committee last night, but was defeated on a 4–8 straight party line vote.

I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Mr. Speaker, the amendment seeks to reduce proposed increases in copayments for military families back to current cost shares.

As the war in Iraq drags on and on, we continue to ask more and more of the brave men and women who serve in our military. They are asked to sacrifice everything, from their own lives to the health and livelihoods of their families. These families are already struggling paycheck to paycheck just to make ends meet.

Maybe the increase in the copayments don't seem like much to the wealthy Americans who were rewarded by Republicans yesterday with a hefty five-figure tax break but, they sure make a significant break in the budgets of low- and moderate-income families with children.

Mr. Speaker, not only is Ranking Member SKELTON one of the most distinguished and respected Members of the House, he is also an expert on military personnel. To deny him the opportunity to even offer this responsible amendment is simply outrageous. Even those who don't support his amendment ought to have the courage to vote whether or not to help our soldiers and their families pay for medicine.

I want to emphasize that a "no" vote will not block the defense authorization bill and will not affect any of the other amendments that are in order under this rule, but a "no" vote will allow us to debate and vote on the Skelton amendment.

Vote "no" on the previous question.

Mr. Speaker, I yield back the balance of my time.

Mr. COLE of Oklahoma. Mr. Speaker, we have had a good chance to debate the issues in the process today. After this debate, I am convinced that the process worked as it should. There can be no debating the basic facts. The House Armed Services Committee considered 88 amendments: 75 of those amendments, 38 Democrat, 36 Republican, one bipartisan, were incorporated into the legislation.

The House Rules Committee received over 100 amendments; 31 of those were made in order. They were about evenly balanced between the two parties. An additional six were incorporated into the manager's amendment. Numerous minority amendments were accepted and moved through regular order. The ranking members of the subcommittees and the full House Armed Services Committee all support the underlying legislation.

Ultimately, there can be no dispute that the process followed for this legislation was fully the regular order. It was fair and protected minority rights.

I think that we should focus, as we come to the conclusion of this debate, on what unites us instead of what divides us. The fact is that we agree on both sides of the House with 97 or 98 percent of what is in the actual legislation.

This is actually a model of bipartisan cooperation, a consensus, despite some of the rhetoric that we have here today. To that end, Mr. Speaker, I urge support for the rule and the underlying legislation.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in strong opposition to this rule for consideration of H.R. 5122, the Fiscal Year 2007 National Defense Authorization Act.

There is no doubt that the bill before us today authorizes critical funding and programs for our troops, our Nation, and my home state of Connecticut. It authorizes billions for weapons systems vital to our Nation's security, such as the F–22A, Joint Strike Fighter and C–17 aircraft. It provides critical health care access to our National Guard and reserve by expanding their access to the TRICARE program and rejecting most of the Pentagon's proposed hike in TRICARE fees. For our men and women in Iraq, it authorizes billions for IED protection, body armor, up-armored Humvees and other equipment that will help keep them safe.

By most accounts, this bill appears to have been considered in a bipartisan manner by the House Armed Services Committee. Protecting and providing for our men and women in uniform is one of our most important duties as elected representatives. It should not and must not be a partisan issue.

It is therefore unfortunate that this bill has been brought to the floor by the majority leadership under a restrictive rule that prevents the House to considering several important and pragmatic amendments offered by Democrats that would have greatly contributed to our debate and this bill.

Today we are not allowed to consider the amendment by the ranking member of the Armed Services Committee, Mr. SKELTON, which would have blocked a provision increasing pharmacy cost-share fees for our troops, their families, and military retirees. While rejecting most of the President's proposed fee increases for TRICARE, this bill increases the co-pay for generic drugs from $3 to $9, and the co-pay for brand name drugs from $6 to

$16. These proposed increases may not amount to much on paper, but they add up to real money for a military family relying on their TRICARE coverage for their health care and prescription drug needs.

The last thing we should be doing in this bill is increasing the burdens placed on military families at a time when their loved ones are being routinely and repeatedly deployed abroad. Getting by is hard enough these days for these families, and increasing the costs for their health care is unacceptable. Despite wide opposition to TRICARE fee increases, a handful of Republicans on the rules committee last night denied this House the opportunity to consider the Skelton amendment on its merits and allow a straight up or down vote.

In addition, this rule blocks consideration of several other measures that address critical aspects of our national security. For example, an amendment that would have addressed the security implications of our dependence on foreign oil by expanding resources for the development of alternative energy sources, such as fuel cells, at the Defense and Energy departments was blocked. An amendment establishing a Truman Commission-style committee to investigate billions in contract abuses in Iraq will not see the light of day on the floor. A provision that would help to restore our reputation in the world by denying the use of taxpayer funds for the use of torture will not be debated. Finally, an important proposal to increase funding for one of our most critical national security challenges—the proliferation of nuclear weapons—was denied consideration today.

Mr. Speaker, the national security challenges we face today, and will face in the future, are simply too important to be left subject to partisan politics. It is unfortunate that this rule fails to reflect the cooperation and bipartisanship on these issues that our troops and our nation expect and deserve.

The material previously referred to by Ms. SLAUGHTER is as follows:

Previous Question on H. Res. 811 Rule for H.R. 5122, FY07 Department of Defense Authorization

At the end of the resolution, add the following:

"SEC. 6. Notwithstanding any other provision of this resolution the amendment specified in section 7 shall be in order as though printed after the amendment numbered 23 in the report of the Committee on Rules if offered by Representative SKELTON of Missouri or a designee. That amendment shall be debatable for 60 minutes equally divided and controlled by the proponent and an opponent.

SEC. 7. The amendment referred to in section 6 is as follows:

Amendment to H.R. 5122, as Reported, Offered by Mr. Skelton of Missouri

In section 731 (relating to TRICARE pharmacy program cost-share requirements), insert before "Paragraph (6)(A)" the following: "(a) COST-SHARE REQUIREMENTS.—".

In such section, add at the end the following:

(b) REFUND OF PHARMACY COSTS.—

(1) AUTHORITY.—The Secretary of Defense may pay an eligible covered beneficiary a refund, subject to the availability of appropriations for such refunds, consisting of the difference between—

(A) the amount the beneficiary pays for costs incurred during fiscal year 2007 under cost-sharing requirements established by the Secretary under section 1074g(6)(A)(B)(ii) of title 10, United States Code, as amended by subsection (a); and

(B) the amount the beneficiary would have paid during such fiscal year if the cost sharing with respect to agents available through retail pharmacies were $3 for generic agents and $9 for formulary agents.

(2) COSTS COVERED.—The refunds under paragraph (1) are available only for costs incurred by eligible covered beneficiaries during fiscal year 2007.

(3) ELIGIBLE COVERED BENEFICIARY.—In this section, the term "eligible covered beneficiary" has the meaning provided in section 1074g(f) of title 10, United States Code.

(4) REGULATIONS.—The Secretary shall prescribe regulations to implement this subsection not later than October 1, 2006.

(c) FUNDING.—Of the amounts authorized to be appropriated under title XV of this Act, $290,000,000 is authorized for the purposes of the refund authorized under subsection (b)(1).

The Vote on the Previous Question: What It Really Means

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution * * * [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule * * * When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Mr. COLE of Oklahoma. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 223, nays 192, not voting 17, as follows:

[Roll No. 139]

YEAS—223

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cantor
Capito
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly

Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Petri
Pickering
Pitts
Platts
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wolf
Young (AK)
Young (FL)

NAYS—192

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Filner
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—17

Abercrombie
Cannon
Cardoza
Carter
Evans
Fattah
Ford
Jefferson
Kennedy (RI)
Moore (WI)
Peterson (PA)
Poe
Smith (TX)
Tauscher
Westmoreland
Wilson (SC)
Wu

☐ 1252

Messrs. BERMAN, WYNN and BLUMENAUER changed their vote from "yea" to "nay."

Mr. KING of New York changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated against:

Ms. MOORE of Wisconsin. Mr. Speaker, on rollcall No. 139. I was unavoidably detained. Had I been present, I would have voted "no."

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 226, noes 195, not voting 11, as follows:

[Roll No. 140]

AYES—226

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—195

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)

Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman
Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—11

Abercrombie
Cardoza
Carter
Evans
Ford
Frelinghuysen
Jefferson
Kennedy (RI)
Peterson (PA)
Smith (TX)
Wu

□ 1308

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 5122.

The SPEAKER pro tempore (Mr. KUHL of New York). Is there objection to the request of the gentleman from California?

There was no objection.

NOTICE TO ALTER ORDER OF CONSIDERATION OF AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 5122, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

Mr. HUNTER. Mr. Speaker, pursuant to section 4 of House Resolution 811, as the chairman of the Armed Services Committee, I request that during further consideration of H.R. 5122 in the Committee of the Whole, and following consideration of en bloc packages numbers one and two, the following amendments be considered in the following order:

Amendment No. 8 printed in House Report 109–461;

Amendment No. 15 printed in House Report 109–461;

Amendment No. 16 printed in House Report 109–461;

Amendment No. 6 printed in House Report 109–461;

Amendment No. 7 printed in House Report 109–461;

Amendment No. 9 printed in House Report 109–461;

Amendment No. 13 printed in House Report 109–461;

Amendment No. 10 printed in House Report 109–461;

Amendment No. 22 printed in House Report 109–461;

Amendment No. 18 printed in House Report 109–461;

Amendment No. 11 printed in House Report 109–461;

Amendment No. 12 printed in House Report 109–461;

Amendment No. 14 printed in House Report 109–461;

Amendment No. 23 printed in House Report 109–461;

Amendment No. 21 printed in House Report 109–461.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

The SPEAKER pro tempore. Pursuant to House Resolution 811 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5122.

□ 1310

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5122) to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2007, and for other purposes, with Mr. LATOURETTE (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose on Wednesday, May 10, 2006, amendment No. 8 printed in House Report 109–459 by the gentleman from Minnesota (Mr. GUTKNECHT) had been disposed of and the request for a recorded vote on amendment No. 4 printed in that report by the gentlewoman from Texas (Ms. JACKSON-LEE) had been postponed.

Pursuant to House Resolution 811, no further amendment to the committee amendment shall be in order except those printed in House Report 109–461 and amendments en bloc described in section 3 of that resolution.

Each amendment printed in the report shall be offered only in the order printed in the report, except as specified in section 4 of the resolution, may be offered only by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, except that the chairman and ranking minority member of the Committee on Armed Services each may offer one pro forma amendment for the purpose of further debate on any pending amendment, and shall not be subject to a demand for division of the question.

It shall be in order at any time for the chairman of the Committee on Armed Services or his designee to offer amendments en bloc consisting of amendments printed in the report not earlier disposed of. Amendments en bloc shall be considered read, shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The original proponent of an amendment included in amendments en bloc may insert a statement in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc.

The Chairman of the Committee of the Whole may recognize for consideration of any amendment printed in the report out of the order printed, but not sooner than 30 minutes after the chairman of the Committee on Armed Services or a designee announces from the floor a request to that effect.

AMENDMENTS EN BLOC OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer amendments en bloc.

The Acting CHAIRMAN. The Clerk will designate the amendments en bloc.

Amendments en bloc offered by Mr. HUNTER printed in House Report 109–461 consisting of amendment No. 1; amendment No. 2; amendment No. 4; and amendment No. 19.

AMENDMENT NO. 1 OFFERED BY MR. BACA

The text of the amendment is as follows:

At the end of subtitle B of title III (page 67, after line 8), add the following new section:

SEC. 316. REPORT REGARDING SCOPE OF PERCHLORATE CONTAMINATION AT FORMERLY USED DEFENSE SITES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing the results of a study of the scope of perchlorate contamination at Formerly Used Defense Sites. As part of the report, the Secretary shall identify the military installations or contractors that may have stored perchlorate or products containing perchlorate.

AMENDMENT NO. 2 OFFERED BY MR. CASTLE

The text of the amendment is as follows:

At the end of subtitle C of title VIII (page 295, after line 20), insert the following new section:

SEC. 815. AWARD AND INCENTIVE FEE CONTRACT STANDARDS.

(a) REQUIREMENT TO DEVELOP AND ISSUE STANDARDS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall develop and issue—

(1) standards that link award and incentive fees to desired program outcomes, such as meeting cost, schedule, and capability goals;

(2) standards that identify the appropriate approving official level involved in awarding new contracts utilizing award and incentive fees;

(3) guidance on when the use of rollover is appropriate in terms of new contracts utilizing award and incentive fees;

(4) performance measures to evaluate the effectiveness of award and incentive fees as a tool for improving contractor performance and achieving desired program outcomes; and

(5) guidance for the development of a mechanism to capture award and incentive fee data and to share proven award and incentive fee strategies with appropriate contracting and program officials at the Department of Defense.

(b) DEFINITION.—In this section, the term "rollover" means the process of moving unearned available award and incentive fees from one evaluation period to a subsequent evaluation period, thereby providing the contractor with an additional opportunity to earn that previously unearned award or incentive fee.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the status and effectiveness of developing the standards required under subsection (a) for award and incentive fee contracts.

(d) SENSE OF CONGRESS.—It is the sense of Congress that award and incentive fees should be used to motivate excellent contractor performance and that such fees should not be awarded for below-satisfactory performance.

AMENDMENT NO. 4 OFFERED BY MR. TOM DAVIS OF VIRGINIA

The text of the amendment is as follows:

At the end of subtitle B of title XXVIII (page 499, after line 15), add the following new section:

SEC. 2826. DEFENSE ACCESS ROAD PROGRAM.

Section 2837 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3522) is amended—

(1) in subsection (a), by inserting "and transit systems" after "that roads"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (1); and

(B) by striking paragraph (2) and inserting the following new paragraphs:

"(2) to determine whether the existing surface transportation infrastructure, including roads and transit at each installation identified under paragraph (1) is adequate to support the increased traffic associated with the increase in the number of defense personnel described in that paragraph; and

"(3) to determine whether the defense access road program adequately considers the complete range of surface transportation options, including roads and other means of transit, necessary to support the national defense.".

AMENDMENT NO. 19 OFFERED BY MR. SCHIFF

The text of the amendment is as follows:

At the end of title X (page 393, after line 23), add the following new section:

SEC. 1041. REPORT ON DEPARTMENT OF DEFENSE RESPONSE TO THREAT POSED BY IMPROVISED EXPLOSIVE DEVICES.

(a) REPORT REQUIRED.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report regarding the status of the threat posed by improvised explosive devices (in the section referred to as "IEDs") and describing efforts being undertaken to defeat this threat. Supplemental reports shall be submitted every 90 days thereafter to account for every incident involving the detonation or discovery of an IED since the previous report was submitted. Reports shall be transmitted in an unclassified manner with a classified annex, if necessary.

(b) JOINT IED DEFEAT ORGANIZATION AND RELATED OFFICES.—The reports required by subsection (a) shall provide the following information regarding the Joint IED Defeat Organization and all other offices within the Department of Defense and the military departments that are focused on countering IEDs:

(1) The number of people assigned to the Joint IED Defeat Organization and the related offices.

(2) The major locations to which personnel are assigned and organizational structure.

(3) The projected budget of the Joint IED Defeat Organization and the related offices.

(4) The level of funding required for administrative costs.

(c) EXISTING THREAT AND COUNTER MEASURES.—The reports required by subsection (a) shall include the following information regarding the threat posed by IEDs and the countermeasures employed to defeat those threats:

(1) The number of IEDs being encountered by United States and allied military personnel, including general trends in tactics and technology used by the enemy.

(2) Passive countermeasures employed and their success rates.

(3) Active countermeasures employed and their success rates.

(4) Any evidence of assistance by foreign countries or other entities not directly involved in fighting United States and allied forces in Iraq and Afghanistan.

(5) A list and summary of data collected and reports generated by the Department of Defense and the Armed Forces on counter-IED efforts in Iraq and Afghanistan and other fronts in the Global War on Terrorism.

(d) RESEARCH, DEVELOPMENT, TESTING, AND EVALUATION OF NEW COUNTERMEASURES.—The reports required by subsection (a) shall include the following information regarding research, development, testing, and evaluation of new active and passive countermeasures and impediments to those efforts:

(1) The status of any and all efforts within the Department of Defense and the Armed Forces to research, develop, test, and evaluate passive countermeasures and active countermeasures and to speed their introduction into units currently deployed overseas.

(2) Impediments to swift introduction of promising new active countermeasures.

(e) INTERDICTION EFFORTS.—To the extent not previously covered in another section of the reports required by subsection (a), the reports shall identify any and all other offices within the Department of Defense or the Armed Forces that are focused on interdicting IEDs, together with the personnel and funding requirements specified in subsection (b) and the success of such efforts. For purposes of this subsection, interdiction includes the development of intelligence regarding persons and locations involved in the manufacture or deployment of IEDs and subsequent action against those persons or locations, including efforts to prevent IED emplacement.

The Acting CHAIRMAN. Pursuant to House Resolution 811, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 10 minutes.

The Chair recognizes the gentleman from California.

Mr. HUNTER. Mr. Chairman, Mr. BACA's amendment requires the Department of Defense to study the scope of perchlorate contamination at formerly utilized defense sites.

Mr. CASTLE's amendment implements GAO's recommendations to cut down and award an incentive fee spending waste by requiring the Department to develop a strategy for linking incentives to specific outcomes such as meeting costs, schedule and capability goals. It also establishes guidance for improving the effectiveness of award and incentive fees, and ensures that appropriate approving officials are overseeing these decisions. The Department would be required to report to Congress on the status and effectiveness of these new standards.

☐ 1315

The amendment offered by Mr. DAVIS is the defense access road amendment; and this program, which is known as the DAR program, currently allows DOD to pay for road projects made necessary by DOD actions, and this amendment would allow DOD to consider transit projects as part of DAR as well.

Mr. SCHIFF's amendment directs the Secretary of Defense to submit to Congress a series of regular reports on the threat to American personnel posed by IEDs, improvised explosive devices, as well as action being taken to interdict IEDs and to develop more effective active and passive countermeasures. The first report would be due 30 days after enactment, the subsequent reports every 90 days thereafter. Reports would be unclassified, with a classified annex if necessary.

Mr. Chairman, the committee supports these amendments, and let me just say with respect to the last amendment, that the committee works every day on the IED issue, and we communicate with DOD every day on operations and on the development of the countermeasure systems that we are currently undertaking to rush to the battlefield. So I very much appreciate the gentleman's concern. I think that IEDs, and I am sure he shares this concern, are an instrument of choice now by terrorists, and this is probably the most compelling challenge facing us in the warfighting theaters and in the global war against terror right now.

We work this issue every single day. We have got a new package of equipment that we are moving out, and we have added $109 million to this countermeasure fund this year. We are going to try to move that up, even if we have to move money out of the various services, and we are going to work this problem every day. So I invite the gentleman to work with us and work with our staff, and I think these reports will be value added to the process. I thank the gentleman from California for his work.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I rise in support of this en bloc amendment, and I yield 2 minutes to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Chairman, I want to thank the chairman and the ranking member for working with me on this amendment, and I in particular want to thank you for all of your diligence in making sure that we have the best equipment and that the Pentagon is doing everything else possible to interdict and to defend against these improvised explosive devices.

We have all been to the funerals of our constituents that were lost in Iraq and Afghanistan. Most of them have been lost through improvised explosive devices. I think it is the number one cause of American deaths in Iraq, and I think three out of the four families that I have gotten to know that have lost loved ones in Iraq were killed by IEDs. They have been responsible for 38 percent of all U.S. deaths in Iraq, including those from non-hostile causes, for every month since May of 2005. Through Sunday, IEDs caused 790 American deaths in Iraq, representing a third of all U.S. fatalities since the start of the war.

Clearly, the Iraqi insurgents have learned to adapt to U.S. defensive measures by using bigger, more sophisticated and better concealed bombs. In the first few months of the insurgency, IEDs were often little more than crude pipe bombs that used old-fashioned wire detonators. Now they are sometimes made with multiple artillery shells, Iranian explosives, and rocket propellant. Gone are the days of wire detonators that were easy to spot. IEDs are now detonated by cell phones or a garage door opener and other devices. They range in size from massive explosives capable of destroying 5-ton vehicles to precision-shaped charges that tear through armored vehicles.

IEDs have also become, unfortunately, a greater problem in Afghanistan where, according to analysts, Taliban and al Qaeda forces have been studying the lessons learned by the insurgents in Iraq. Over the past several months, American and NATO forces have been the victim of roadside bombs that previously we had just seen in Iraq.

So, Mr. Chairman, to the chairman of the committee and the ranking member, I very much look forward to working with you on this issue. I appreciate your willingness to work on this amendment.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

I thank the gentleman for his contribution, and let me just lay out some of things that we are doing because I think this area is so important for us. Included in the base bill, the gentleman from Missouri and myself and our great members of the committee on both sides of the aisle worked out, we added $109.7 million for jammers. Jammers are very important in this IED business because these improvised explosive devices are largely detonated remotely.

As the gentleman knows, few of them, some of them, are detonated by wires that are connected to detonators, and you may have an insurgent hiding 20, 30, 40, 50 yards from the roadside or from the dismounted U.S. military unit and he detonates it with a clacker or a detonation device in the style that has been utilized by militaries up to the last several years ago.

The other detonation device, and one that is now the device of choice, is a remote detonation, and that detonation allows a person, the insurgent, to be many yards away, far away from the particular avenue that he is ambushing. In many cases, he does not even need to have a weapon. He may be lost in a crowd, and he waits for a convoy to line up on a particular lamp post or other object, and he blows this device, which may be a 152-millimeter artillery round by using this remote detonation capability. Without getting into the classified areas, there are a number of remote detonation capabilities, and what we are trying to do is to direct our countermeasures to be able to jam those detonations.

So we have put a lot of extra money in. The administration has a lot of money in, but we have put in more. We have been working on equipment packages with them, and the key is to move this stuff through the training ranges here, the testing ranges, quickly into the field; and I can assure the gentleman we are really going to be working on this. So I thank him so much for his focus on this important area, and we will work together.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. BACA).

Mr. BACA. Mr. Chairman, first of all, I would like to thank the gentleman from California (Mr. HUNTER) and, of course, the gentleman from Missouri (Mr. SKELTON) too, as well, and I would like to also thank Congressman DREIER, Congressman LEWIS, and Congressman POMBO in helping us work with this simple amendment that basically asks the Department of Defense to require a study of the perchlorate contamination at formerly utilized defense sites, otherwise known as FUDS.

The amendment also requires an assessment of what military installations or contractors have stored perchlorate. This study will help us have a national understanding of this problem that has so far been seen in our region.

Southern California, the Bay Area, Massachusetts, Michigan, New Hampshire, are only a few of the regions affected. Is this happening in your State?

Cities and counties across the country are closing their groundwater wells due to perchlorate contamination. From most accounts, 90 percent of perchlorate in water comes from a Federal source, primarily from former military sites and other Department of Defense installations.

This volatile organic compound is a rocket fuel additive that has been found to be harmful to thyroid function. 319 groundwater wells are impacted in California alone, with 78 of them in my district; and 186 sources in San Diego, Riverside, and Orange Counties have been impacted.

Several States throughout the county are now waking to a similar problem and are also seeing similar effects in their areas.

Perchlorate does not just affect the drinking water supply, but our food supplies as well. So it does affect supplies. It has been reported in lettuce in the Imperial Valley which relies on the Colorado River for irrigation, and perchlorate has been found in milk.

Hardworking families living in the United States with large military and aerospace facilities are not at fault and should not have to pay for a federally created problem.

Many communities cannot afford costly toxic cleanups, and the alternative is no better. Cities are being forced to raise water rates to outrageous levels, forgo dust control on highways to meet clean air requirements, and to truck in water from other regions.

For the 43rd Congressional District of California and many other districts throughout the country, the Federal Government needs to step up and take responsibility. That is basically what we are asking is just the Federal Government to take responsibility and do a study.

We need to fully understand the scope of the problems so we can protect our children and protect the elderly from this dangerous health risk.

The House of Representatives has already twice passed a bill I introduced, H.R. 18, the Southern California Ground Remediation Act, which authorized $50 million for groundwater remediation, including perchlorate. Meanwhile, the Senate has not allowed this bill to become law. It is clear my colleagues in the House support this measure.

But our communities cannot wait any longer. That is why I have introduced this amendment to study the perchlorate contamination legacy from FUDS. This is required to advance the body of research already under way.

Ultimately, we must remember that this is a federally created problem; and, hence, the solution must be Federal as well.

Mr. HUNTER. Mr. Chairman, I just want to say to my colleague from California that he has brought an excellent amendment to the floor here, and this is certainly something that does require action, justifies action by the Federal Government, and we totally support his amendment on this side.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise to offer this amendment to help States all across the Nation deal with the dynamic affects of BRAC can have on their local communities. In my district alone we will incur the single largest loss and gain in the most recent round of BRAC. We will have roughly 23,000 positions vacated out of DoD leased space in Arlington, Virginia and roughly the same number of jobs added to Fort Belvoir, Virginia.

While we give warm welcome to the additional jobs coming to Fort Belvoir we must ensure that we are able to continue to observe our smart growth principles. The transportation infrastructure in the vicinity of Fort Belvoir/Southern Alexandria sector is already overburdened and inadequate. It is important that DoD has a wide array of tools at its disposal in order to work with our local community to help absorb the affects of such a massive growth.

The Defense Access Road (DAR) program currently allows DoD to pay for road projects made necessary by DoD actions. My amendment would simply allow DoD to consider transit projects as part of the Defense Access Road program as well. It does not force DoD to enforce a blanket policy because I know each community has its own specific needs and a one size fits all is simply not appropriate. Some communities could use more roads and others could use buses.

Mr. Chairman, I know my district was not the only one effected by BRAC. My amendment is important to every State across the Nation that was affected by BRAC or any other DoD action that will significantly impact their local communities. I have already received a call from the North Carolina's Governor's office supporting this effort.

Mr. Chairman, in closing I would like to thank Chairman HUNTER, Senator WARNER, and JIM MORAN for working with me to make this amendment a reality. I urge an "aye" vote.

Mr. HUNTER. Mr Chairman. I yield back the balance of our time.

Mr. SKELTON. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from California (Mr. HUNTER).

The amendments en bloc were agreed to.

AMENDMENTS EN BLOC OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer amendments en bloc.

The Acting CHAIRMAN. The Clerk will designate the amendments en bloc.

Amendments en bloc offered by Mr. HUNTER printed in House Report 109–461 consisting of amendment No. 3; amendment No. 5; amendment No. 17; and amendment No. 20.

AMENDMENT NO. 3 OFFERED BY MR. CHABOT

The text of the amendment is as follows:

At the end of subtitle D of title VI (page 229, after line 16), insert the following new section:

SEC. 644. SENSE OF CONGRESS CONCERNING ELIGIBILITY OF CERTAIN ADDITIONAL DEPENDENT CHILDREN FOR ANNUITIES UNDER MILITARY SURVIVOR BENEFIT PLAN.

It is the sense of Congress that eligibility for a surviving child annuity in lieu of a surviving spouse annuity under the military Survivor Benefit Plan for a child of a member of the Armed Forces dying while on active duty should be extended so as to cover children of members dying after October 7, 2001 (the beginning of Operation Enduring Freedom), rather than only children of members dying after November 23, 2003.

AMENDMENT NO. 5 OFFERED BY MR. TOM DAVIS OF VIRGINIA

The text of the amendment is as follows:

At the end of subtitle D of title XXVIII (page 504, after line 7), add the following new section:

SEC. 2844. MODIFICATIONS TO LAND CONVEYANCE AUTHORITY, ENGINEERING PROVING GROUND, FORT BELVOIR, VIRGINIA.

(a) CONSTRUCTION OF SECURITY BARRIER.—Section 2836 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1314), as amended by section 2846 of the Military Construction Authorization Act for Fiscal Year 2006 (division B of Public Law 109–163; 119 Stat. 3527), is further amended—

(1) in subsection (b)(4), by striking "$3,880,000" and inserting "$4,880,000"; and

(2) in subsection (d)—

(A) in paragraph (1), by inserting after "Virginia," the following: "and the construction of a security barrier, as applicable,"; and

(B) in paragraph (2), by inserting after "Building 191" the following: "and the construction of a security barrier, as applicable".

(b) AUTHORITY TO ENTER INTO ALTERNATIVE AGREEMENT FOR DESIGN AND CONSTRUCTION OF FAIRFAX COUNTY PARKWAY PORTION.—Such section 2836 is further amended—

(1) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) except as provided in subsection (f), design and construct, at its expense and for public benefit, the portion of the Fairfax County Parkway through the Engineer Proving Ground (in this section referred to as the 'Parkway portion');"; and

(B) in paragraph (2), by inserting after "C514" the following: ", RW-214 (in this section referred to as 'Parkway project')";

(2) by redesignating subsection (f) as subsection (g);

(3) by inserting after subsection (e) the following new subsection:

"(f) ALTERNATE AGREEMENT FOR CONSTRUCTION OF ROAD.—(1) The Secretary of the Army may, in connection with the conveyance authorized under subsection (a), enter into an agreement with the Commonwealth providing for the design and construction by the Department of the Army or the United States Department of Transportation of the Parkway portion and other portions of the Fairfax County Parkway off the Engineer Proving Ground that are necessary to complete the Parkway project (in this subsection referred to as the 'alternate agreement') if the Secretary determines that the alternate agreement is in the best interests of the United States to support the permanent relocation of additional military and civilian personnel at Fort Belvoir pursuant to decisions made as part of the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(2) If the Secretary of Defense certifies that the Parkway portion is important to the national defense pursuant to section 210 of title 23, United States Code, the Secretary of the Army may enter into an agreement with the Secretary of Transportation to carry out the alternate agreement under the Defense Access Road Program.

"(3) The Commonwealth shall pay to the Secretary of the Army the costs of the design and construction of the Parkway portion and any other portions of the Fairfax County Parkway off the Engineer Proving Ground designed and constructed under the alternate agreement. The Secretary shall apply such payment to the design and construction provided for in the alternate agreement.

"(4) Using the authorities available to the Secretary under chapter 160 of title 10, United States Code, and funds deposited in the Environmental Restoration Account, Army, established by section 2703(a) of such title and appropriated for this purpose, the Secretary may carry out environmental restoration activities on real property under the jurisdiction of the Secretary in support of the construction of the Parkway portion.

"(5) The alternate agreement shall be subject to the following conditions:

"(A) The Commonwealth shall acquire and retain all necessary right, title, and interest in any real property not under the jurisdiction of the Secretary that is necessary for construction of the Parkway portion or for construction of any other portions of the Fairfax County Parkway off the Engineer Proving Ground that will be constructed under the alternate agreement, and shall grant to the United States all necessary access to and use of such property for such construction.

"(B) The Secretary shall receive consideration from the Commonwealth as required in subsections (b)(2), (b)(3), and (b)(4) and shall carry out the acceptance and disposition of funds in accordance with subsection (d).

"(6) The design of the Parkway portion under the alternate agreement shall be subject to the approval of the Secretary and the Commonwealth in accordance with the Virginia Department of Transportation Approved Plan, dated June 15, 2004, Project #R000-029-249, PE-108, C-514, RW-214. For each phase of the design and construction of the Parkway portion under the alternate agreement, the Secretary may—

"(A) accept funds from the Commonwealth; or

"(B) transfer funds received from the Commonwealth to the United States Department of Transportation.

"(7) Upon completion of the construction of the Parkway portion and any other portions of the Fairfax County Parkway off the Engineer Proving Ground required under the alternate agreement, the Secretary shall carry out the conveyance under subsection (a). As a condition of such conveyance carried out under the alternate agreement, the Secretary shall receive a written commitment, in a form satisfactory to the Secretary, that the Commonwealth agrees to accept all responsibility for the costs of operation and maintenance of the Parkway portion upon conveyance to the Commonwealth of such real property."; and

(4) in subsection (g), as redesignated by paragraph (2), by inserting "or the alternate agreement authorized under subsection (f)" after "conveyance under subsection (a)".

AMENDMENT NO. 17 OFFERED BY MR. RYAN OF OHIO

The text of the amendment is as follows:

At the end of subtitle C of title II (page 50, after line 23), insert the following new section:

SEC. 2__. HIGH ALTITUDE AIR SHIP PROGRAM.

Within the amount provided in section 201 for Research, Development, Test, and Evaluation, Air Force—

(1) $5,000,000 is available for the High Altitude Air Ship Program; and

(2) the amount provided for the Space Based Space Surveillance System is reduced by $5,000,000.

AMENDMENT NO. 20 OFFERED BY MS. SLAUGHTER

The text of the amendment is as follows:

At the end of title V (page 193, after line 20), insert the following new section:

SEC. 5xx. INCLUSION IN ANNUAL DEPARTMENT OF DEFENSE REPORT ON SEXUAL ASSAULTS OF INFORMATION ON RESULTS OF DISCIPLINARY ACTIONS.

Section 577(f)(2)(B) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1927) is amended by inserting before the period at the end the following: "and the results of the disciplinary action".

The Acting CHAIRMAN. Pursuant to House Resolution 811, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 10 minutes.

The Chair recognizes the gentleman from California.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume. Let me offer the description of the amendments.

Mr. CHABOT's amendment expresses a sense of Congress that the spouses of armed services members who have died between October 7, 2001, and November 23, 2003, should be permitted to have the option of assigning their SBP payments, their survivor payments, to their children.

Mr. DAVIS' amendment is another defense access road amendment. This amendment would allow DOD to consider transit projects, as well, as part of the DAR, the Defense Access Road program.

Mr. RYAN of Ohio's amendment authorizes $5 million for the High Altitude Airship program. The HAA is designed to be an uninhabited, long-endurance, platform for carrying forward-based sensors and a wide range of other BMD payloads that will enable continuous over-horizon communication. It would also provide wide-area surveillance and protection without interruption or the risk associated with manned aircraft. The offsets are $5 million from the Space Based Space Surveillance program, and this is another tool for sensor and surveillance capability.

The amendment offered by Ms. SLAUGHTER requires the Department of Defense to include the number of disciplinary actions as part of the annual report on sexual assault in the military.

So those are brief definitions or descriptions of these amendments.

Mr. Chairman, I reserve the balance of our time.

Mr. SKELTON. Mr. Chairman, I yield myself such time as I may consume.

Let me say I support this second en bloc series of amendments on behalf of my colleagues, in particular Mr. RYAN and Ms. SLAUGHTER, who have amendments within this en bloc package.

Mr. RYAN's amendment in this adds money for High Altitude Airship, and it moves it to the Air Force.

Ms. SLAUGHTER's amendment includes the number of disciplinary actions as part of the annual report on sexual assaults within the military.

Those as well as the others, Mr. CHABOT's and Mr. DAVIS' amendments, do meet with our support and approval and I intend to support them, and I urge my colleagues to do the same.

Mr. Chairman, I reserve the balance of my time.

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Mr. HUNTER. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Chairman, I thank Chairman HUNTER for his hard work, not just this year but over the years working on behalf of our men and women in uniform who serve us so well all around the globe. He, of course, is a Vietnam veteran himself and has seen action and knows exactly what he is talking about. I commend him for his work in this area.

In November of 2003, President Bush signed into law the National Defense Authorization Act of 2004. This legislation allowed spouses of active duty personnel killed after November 23, 2003, the option of signing their military survivor benefit plan, the SBP payments, over to their child or children so they could receive the payment without being subject to SBP dependency indemnity compensation, or DIC, the offset.

Unfortunately, this option is not currently available to spouses of soldiers killed from the time period beginning October 7, 2001, which was the start of operations in Iraq and Afghanistan, until November 23, 2003, when the legislation was actually passed. There are approximately 400 families who are adversely affected by this glaring omission.

One such family who lives in my district is Shauna Moore and her 3-year-old daughter, Hannah. Their loving husband and father, Army Sergeant Benjamin Moore, was fatally shot during a rifle-training exercise at Fort Hood, Texas, in February, 2003, while preparing for deployment to Iraq. It is through these unfortunate circumstances that I have had the chance to meet and talk with Shauna Moore and hear her story.

So today I am offering an amendment that expresses the sense of Congress that the widows and widowers of these 400 brave American soldiers who gave their lives in defense of our freedoms do not remain the forgotten few.

If accepted, I am hopeful that this amendment is the start of a process by which we may allow these 400 spouses and their families to obtain the option of assigning their SBP payments to their children, just as those whose spouses died after November 23, 2003, have been given the opportunity to do.

I believe this is the least we can do for families and people like Shauna and Hannah Moore who have already had to deal with the tragedy of losing a loved one. They should not be penalized solely because their loved one made the ultimate sacrifice protecting our country after the start of the Afghanistan and Iraq wars but before November 23, 2003, when that particular legislation passed. These are 400 families that should not be forgotten. I believe my colleagues will support this.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. CHABOT. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I want to thank the gentleman for bringing this to our attention. There are no more important citizens than those who defend our freedom and carry our flag; and right there with them are their family members.

I think this is an excellent amendment, and the committee supports it fully.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise to offer this amendment in an attempt to resolve deadlocked negotiations between the State of Virginia and the Army. For years now, the completion of the Fairfax County Parkway, a major parkway in my district, has been held hostage to complications with building through the Engineering Proving Ground. The Engineering Proving Ground was a former military airfield which has environmental concerns that are inherent of its history.

Empirical data has shown the Engineering Proving Ground is suitable for road construction. My amendment simply allows the State of Virginia and the Army the authority they need to negotiate a sensible and environmentally sound solution to complete the parkway. It allows the Army to enter into a special agreement with the State of Virginia. This agreement would authorize the State of Virginia to fund projects on the Engineering Proving Ground while allowing the Army to maintain control of the project.

I was Chairman of the Fairfax County Board back when we completed the largest section of the Fairfax County Parkway and was proud to see the road come to near completion. However, a number of years have gone by since and it is truly frustrating to all northern Virginians not to have the small portion of the parkway through the Engineering Proving Ground completed at this time.

In addition, due to the most recent round of BRAC, Northern Virginia will gain over 23,000 jobs in the Fort Belvoir area. This is equivalent to gaining four major bases—was the single largest BRAC addition in the country. Completing the Fairfax County Parkway is a critical step in setting the infrastructure we need to help assuage the welcome, but massive growth.

In closing I would like to thank Chairman HUNTER, Senator WARNER, and JIM MORAN for working with me to make this amendment a reality. I urge an aye vote.

Mr. CASTLE. Mr. Chairman, I rise to offer a simple, but much needed amendment to the legislation before us today.

In an effort to encourage defense contractors to perform at the highest level possible, the Department of Defense often gives its contractors the opportunity to collectively earn billions of dollars through monetary incentives known as award and incentive fees.

Unfortunately, the Department's acquisition process has at times run into problems such as dramatic cost increases, late deliveries, and significant performance shortfalls—wasting billions of dollars in critical funding.

Last month, the Government Accountability Office (GAO) reported that the Pentagon's current award and incentive fee practices do not hold contractors accountable for achieving desired outcomes and routinely undermine efforts to motivate contractor performance.

In its study, GAO noted that the Department regularly gives defense contractors multiple opportunities to earn incentive fees for work that at times only meets minimum standards and has wasted billions of dollars as a result of this incredibly flawed process.

The Pentagon has concurred with GAO's recommendations for improving this system, and while the Department's acknowledgment of the problem is an important step forward, the effectiveness of these changes will ultimately be determined by how well GAO's recommendations are implemented.

My amendment would ensure Congress performs appropriate oversight and would require the Department to develop a strategy for linking incentives to specific outcomes. such as meeting cost, schedule, and capability goals. It would also makes certain that appropriate approving officials are overseeing these decisions.

Cost increases and business management weaknesses damage our government's ability to provide our men and women in the military with the resources that keep us safe.

While we obviously have a lot of work ahead of us to improve the efficiency of military spending, I believe this amendment is a simple way to make certain that award and incentive fees are being used to maximize our return on investment and provide American soldiers with vital capabilities at the best value for the taxpayer.

Ms. SLAUGHTER. Mr. Chairman, I am pleased to have the opportunity to offer this very important amendment requiring the Department of Defense (DoD) to provide the results of all disciplinary actions in their annual report on sexual assault.

As part of the DoD Authorization bill in FY 2004, the DoD is required to submit annual reports on sexual assaults involving members of the Armed Forces.

This past March, DoD issued its second annual report. The military criminal investigation organizations received nearly 2,400 reports of alleged cases of sexual assault involving members of the Armed Forces—a significant increase from 1,700 cases reported in 2004.

Of the nearly 2,400 allegations, less than 1,400 cases were actually investigated—91 received non-judicial punishments, 18 were discharged in lieu of court-martial, 62 had administrative actions taken against them, and 79 offenders had been court-martialed.

However, while this annual report has been helpful in presenting the full scope of this growing problem, it fails to provide a complete understanding of how sexual assault cases are prosecuted in the military.

It does not include the results of all disciplinary actions, including Article 15s and convictions. For example, of the 79 courts-martial issued in 2006, we have no idea how many resulted in convictions.

Mr. Chairman, DoD's response to sexual assault in the military deserves more scrutiny. And as Members of Congress, it is our responsibility to provide this oversight.

In order for us to effectively address this serious problem, evaluations must be based on facts and statistics.

By including the results of all disciplinary actions in the annual report, we will have a more complete, transparent understanding of how DoD is addressing the problem of sexual assault in military.

We owe it to the men and women in uniform defending our freedom to ensure that justice is served when they find themselves victims of sexual assault.

I want to thank the Chairman for working with me on this amendment, and I urge my colleagues to support its passage.

Mr. BROWN of Ohio. Mr. Chairman, today, the House will consider an amendment offered by Congressman TIM RYAN, who represents the city of Akron, Ohio with me.

The Ryan amendment will restore $5 million in the 2007 Defense Authorization bill for the High Altitude Airship (HAA) Program. The HAA is being built at the Lockheed Martin Airdock in Akron.

The HAA is an unmanned lightweight vehicle, which will operate above the jet stream to deliver continuous over-horizon communication. In position, an airship will survey a 600-mile diameter area without the risks associated with manned aircrafts.

The HAA will be used for missile defense, but also to provide border surveillance and emergency communication tools to improve homeland security.

This project is expected to create close to 100 jobs, protect more than 500 current jobs, and bring some $130 million in technology development investments to the Akron area.

I am proud to support the HAA Program. It positions Summit County at the heart of the development of this national security technology and will strengthen Ohio's economic base.

Though I wish the House Armed Services Committee had authorized full funding for the HAA, the Ryan amendment provides an opportunity to keep this critical initiative moving forward.

I appreciate the Chairman's support in this effort and urge all of my colleagues to join me in voting for the Ryan amendment.

Mr. SKELTON. Mr. Chairman, I yield back the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. All time for debate has expired.

The question is on the second set of amendments en bloc offered by the gentleman from California (Mr. HUNTER).

The amendments en bloc were agreed to.

AMENDMENT NO. 6 OFFERED BY MR. DENT

Mr. DENT. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 printed in House Report 109–461 offered by Mr. DENT:

Page 427, line 14, insert ", in coordination with the Secretary of Homeland Security," after "Secretary of Defense".

Page 427, line 15, insert "–Homeland Security" after "Homeland Defense".

Page 427, line 21, insert "–Homeland Security" after "Homeland Defense".

Page 427, after line 24, insert the following new paragraph (2) (and redesignate existing paragraphs accordingly):

(2) the Department of Homeland Security;

Page 428, line 7, insert "–Homeland Security" after "Defense".

Page 428, line 19, insert "and the Department of Homeland Security" after "Defense".

Page 429, line 1, insert "and the Secretary of Homeland Security" after "Defense".

Page 429, line 13, insert "and in coordination with the Secretary of Homeland Security" after "Defense".

Page 429, line 22, insert "–Homeland Security" after "Homeland Defense".

Page 430, line 10, insert "or the Department of Homeland Security" after "Defense".

Page 431, line 4, insert ", in coordination with the Secretary of Homeland Security," after "Secretary of Defense".

Page 431, line 11, insert "–Homeland Security" after "Homeland Defense".

Page 431, line 18, insert "–Homeland Security" after "Homeland Defense"

The Acting CHAIRMAN. Pursuant to House Resolution 811 the gentleman from Pennsylvania (Mr. DENT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, I yield myself such time as I may consume.

First, I thank Chairman HUNTER and the ranking member, Mr. SKELTON, for their leadership on this very important piece of legislation.

I rise today to offer an amendment to title XIV to H.R. 5122 that would ensure that the Department of Defense and the Department of Homeland Security work together as part of a homeland defense-homeland security technology transfer consortium to facilitate the transfer of viable DOD technologies in order to enhance the homeland security capabilities of Federal, State, and local first responders.

The Department of Defense has been a leading developer of technology for years, and some of the innovations it has pioneered may have outstanding homeland security applications. These types of technologies include: unmanned aerial vehicles. UAVs; ground sensors which help authorities monitor activities over vast expanses of terrain; biometric identification technologies which can assist in the creation of tamper-proof identity cards; radiological detectors which can monitor the transport of nuclear and other potentially dangerous materials; and sophisticated surveillance equipment, examples of which include night vision goggles and microwave and infrared imaging gear.

While these technologies have been helpful to our warfighters overseas, the Federal, State and local agencies charged with protecting us here at home could also make good use of these kinds of products. Unfortunately, the process of transferring these technologies from the military to the civilian sector has been a bit slow.

As a member of the Homeland Security Committee, I would like first responders and other appropriate authorities to have quicker access to and to make good use of these technologies.

Accordingly, my amendment would provide for the creation of a homeland defense-homeland security technology transfer consortium that would facilitate this transfer. It specifically calls for the inclusion of the Department of Homeland Security, which is already in the process of developing and utilizing many of these technologies that I have just described.

Within this consortium, it also brings State and local first responders into the deliberative process. The consortium will be involved in integrating new technologies into appropriate first responder exercises, in promoting interoperability, and, of course, in identifying and developing those defense technologies that have the most promising applications for homeland security.

By facilitating these kinds of transfers, Federal, State, and local agencies can work better together and can function more efficiently and the homeland can be safer.

I thank Chairman HUNTER and the ranking member, Mr. SKELTON, for their leadership on this issue.

Mr. Chairman, I reserve the balance of my time.

Mr. REYES. Mr. Chairman, I ask unanimous consent to claim the time in opposition, even though I am not opposed to the amendment as stated.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. REYES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as a veteran of 26½ years of working with the Border Patrol, I understand and appreciate the necessity of Mr. DENT's amendment that requires close cooperation between the Secretary of Defense and the Secretary of the Department of Homeland Security.

More than ever today, post-9/11 and with the many different challenges that we face with the potential of another strike against our country, it is critical, it is imperative that we continue to urge both the Department of Defense and the Department of Homeland Security to do as much as possible to cooperate, share information, and provide a unified front and protection for our country.

This is a way of ensuring that we codify that cooperation by expressly putting it into the legislation that this cooperation take place. It is critical. It is vital; and based on my experience where there has been a tremendous amount of cooperation traditionally between the Department of Defense and agencies such as the Border Patrol, for Border Patrol operations on the border itself, I believe that this is a good amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DENT. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. HUNTER), the distinguished chairman of the Committee on Armed Services.

Mr. HUNTER. Mr. Chairman, it is especially appropriate to be able to follow the gentleman from El Paso, Mr. REYES, who was in my estimation the greatest Border Patrol chief in the history of our country. He did a tremendous job under very challenging odds.

I remember working with him long before he became a Representative in the most southern areas of Texas and then ultimately up in the El Paso area. One thing that challenged him and challenged us in San Diego in more recent times was tunneling. Of course, detection of tunnels is something that the military engages in every now and then, and that is a good example of candidate technologies for sharing of technology between DOD and the Department of Homeland Security.

Likewise, surveillance sensors, it has always been a pleasure to go down with the gentleman from El Paso, go down to his district with Joint Task Force 6 and look at that interaction. And I really appreciate Mr. DENT coming up with this amendment that will move to mesh these technologies and make sure that when the American taxpayers pay for the development of something that will accrue to the benefit of our security, that it gets shared and gets moved across what is sometimes kind of a bright line between the military and the Department of Homeland Security.

You have done a great job and thank you for bringing this amendment to our attention. We support it fully.

Mr. DENT. Mr. Chairman, I yield myself such time as I may consume.

I thank everybody involved for their support for this amendment. Its interdisciplinary approach is most appropriate. This transfer technology consortium is long overdue. As has been stated several times already, there is so much technology coming out of the Department of Defense that needs to be shared with the homeland security. Of course, this will also make its way down to our first responders, State and local first responders.

Mr. REYES. Mr. Chairman, I yield myself such time as I may consume.

Building on the comments of my good friend and my chairman, I can attest to all of the cooperation, having spent 26½ years in the Border Patrol, to all of the cooperation since the creation of Joint Task Force 6, which was headquartered in my district, now Joint Task Force North. The number of projects and programs that the Department of Defense provides support to both State, local, and Federal agencies, and in specific consortium projects such as building roads, building infrastructure support such as strategic fencing in certain parts of the border area, that greatly acts as a barrier and as a force multiplier for our Border Patrol agents.

So there are many, many things that the Department of Defense is doing and has done that provide that kind of support to the Department of Homeland Security, formerly Border Patrol and INS.

I know in the next amendment we are going to be debating the issue of giving the Secretary the flexibility to send troops on the border, and I just want to state here in anticipation of leading the debate on that issue, as a Member that represents a border district, we do not need troops on the border. Sufficient support is already coming from the Department of Defense. The reality of this is there are other things that I will address at that time that we could be doing and that we should have done as a result of the law that we passed in 1986.

Mr. Chairman, I appreciate the opportunity to support Mr. DENT in his amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. DENT. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. All time for debate has expired.

The question is on the amendment offered by the gentleman from Pennsylvania (Mr. DENT).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. GOODE

Mr. GOODE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 printed in House Report 109–461 offered by Mr. GOODE:

At the end of subtitle C of title X (page , after line), add the following new section:

SEC. 1026. ASSIGNMENT OF MEMBERS OF THE ARMED FORCES TO ASSIST BUREAU OF CUSTOMS AND BORDER PROTECTION AND UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT.

(a) Assignment Authority of Secretary of Defense.—Chapter 18 of title 10, United States Code, is amended by inserting after section 374 the following new section:

“§ 374a. Assignment of members to assist border patrol and control

“(a) Assignment Authorized.—Upon submission of a request consistent with subsection (b), the Secretary of Defense may assign members of the Army, Navy, Air Force, and Marine Corps to assist the Bureau of Customs and Border Protection and the United States Immigration and Customs Enforcement of the Department of Homeland Security—

“(1) in preventing the entry of terrorists, drug traffickers, and illegal aliens into the United States; and

“(2) in the inspection of cargo, vehicles, and aircraft at points of entry into the United States to prevent the entry of weapons of mass destruction, components of weapons of mass destruction, prohibited narcotics or drugs, or other terrorist or drug trafficking items.

“(b) Request for Assignment.—The assignment of members under subsection (a) may occur only if—

“(1) the assignment is at the request of the Secretary of Homeland Security; and

“(2) the request is accompanied by a certification by the Secretary of Homeland Security that the assignment of members pursuant to the request is necessary to respond to a threat to national security posed by the entry into the United States of terrorists, drug traffickers, or illegal aliens.

“(c) Training Program Required.—The Secretary of Homeland Security and the Secretary of Defense, shall establish a training program to ensure that members receive general instruction regarding issues affecting law enforcement in the border areas in which the members may perform duties under an assignment under subsection (a). A member may not be deployed at a border location pursuant to an assignment under subsection (a) until the member has successfully completed the training program.

“(d) Conditions of Use.—(1) Whenever a member who is assigned under subsection (a) to assist the Bureau of Customs and Border Protection or the United States Immigration and Customs Enforcement is performing duties pursuant to the assignment, a civilian law enforcement officer from the agency concerned shall accompany the member.

“(2) Nothing in this section shall be construed to—

“(A) authorize a member assigned under subsection (a) to conduct a search, seizure, or other similar law enforcement activity or to make an arrest; and

“(B) supersede section 1385 of title 18 (popularly known as the ‘Posse Comitatus Act’).

“(e) Establishment of Ongoing Joint Task Forces.—(1) The Secretary of Homeland Security may establish ongoing joint task forces if the Secretary of Homeland Security determines that the joint task force, and the assignment of members to the joint task force, is necessary to respond to a threat to national security posed by the entry into the United States of terrorists, drug traffickers, or illegal aliens.

“(2) If established, the joint task force shall fully comply with the standards as set forth in this section.

“(f) Notification Requirements.—The Secretary of Homeland Security shall provide to the Governor of the State in which members are to be deployed pursuant to an assignment under subsection (a) and to local governments in the deployment area notification of the deployment of the members to assist the Department of Homeland Security under this section and the types of tasks to be performed by the members.

“(g) Reimbursement Requirement.—Section 377 of this title shall apply in the case of members assigned under subsection (a).”.

(b) Commencement of Training Program.—The training program required by subsection (c) of section 374a of title 10, United States Code, shall be established as soon as practicable after the date of the enactment of this Act.

(c) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 374 the following new item:

“374a. Assignment of members to assist border patrol and control”.

The Acting CHAIRMAN. Pursuant to House Resolution 811, the gentleman from Virginia (Mr. Goode) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

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Mr. GOODE. This is an amendment that we have addressed in the past. This amendment would authorize but not mandate the Secretary of the Department of Homeland Security, working with the Secretary of the Department of Defense, to utilize troops, if necessary, to protect our borders in peace time in a nonemergency situation.

The gentleman from Texas, who had a long and distinguished career with the Border Patrol, indicates that we don't need troops on the border now. I would certainly say that the massive invasion from Mexico into this country on a daily basis that reaches thousands upon thousands in numbers day after day and month after month and year after year, we need something. And just having this authority, in my opinion, would enhance our border security so that it could be utilized in peace time in a nonemergency situation to supplement the Border Patrol and other efforts to secure our borders.

I reserve the balance of my time.

Mr. REYES. Mr. Chairman, I rise in opposition to the Goode amendment.

The Acting CHAIRMAN. The gentleman from Texas is recognized for 5 minutes.

Mr. REYES. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, this is the amendment that I rise in opposition to that I was talking about in the previous conversation. Every year we debate this issue, irrespective of the cooperation that is ongoing, has been ongoing for many, many years from the Department of Defense, that provides technical expertise, that provides construction support, that provides technical support, that provides, even on a limited basis, operational specialized support on that border.

The reality of this amendment is that it is very expensive. It provides authority to the Department of Defense that already exists with the President of the United States should an emergency come up or an emergency exist. It is a bad idea because we need trained, experienced professionals on that border. That border is way too dangerous for us to be sending troops that are trained primarily for combat into a law enforcement situation, understanding that that capability is in reserve, because the President of the United States has that authority.

So I would hope that we would stop bringing these kinds of amendments, because they really are not useful and are counterproductive to our enforcement presence on the border.

I reserve the balance of my time.

Mr. GOODE. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. Hayworth).

Mr. HAYWORTH. Mr. Chairman, I appreciate the difference of opinion in the people's House. I listened with great interest to my friend from Texas. Indeed, when this question was before the House on prior occasions, at least a couple of times in my time in this Congress, I sided with my friend from Texas.

And yet, we have been overtaken by current events and a literal admonition from the Constitution of the United States, article IV, section 4: “The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion.”

Mr. Chairman, my colleagues, regrettably, in my home State of Arizona, especially along the width and breadth of our southern border, our Nation is being invaded. And not only is it those coming to our country illegally seeking work, the sad fact is, according to the Department of Homeland Security, in the year 2004, 650 people from nations of a “national security interest” to the United States, in other words, enemies of this Nation, at least 650, crossed the border illegally.

It has been documented in my State that nightly between 6,000 and 6,500 attempt to gain illegal access to the United States of America. Some within that group are people who intend our Nation harm.

People say we are in a nonemergency situation. Mr. Chairman, my colleagues, I say quite the opposite is true. I say, and I believe Members of this House and the American Nation as a whole understand, that in many areas, our borders, sectors of our borders, have essentially devolved into de facto war zones.

“Yes” to this amendment. “Yes” to dealing with this emergency. “Yes” to our military on the border. “Yes” to stopping this invasion.

Mr. REYES. Mr. Chairman, I yield 1 minute to my friend and former sheriff, who represents a border district, Congressman ORTIZ.

Mr. ORTIZ. Mr. Chairman, this is very simple. The Department of Defense says, Goode amendment, we don't need it.

Under present law, the Homeland Security Secretary can call the Secretary of Defense and state that, you know, he needs troops. It is very, very simple because under existing law, it says he can request of the Secretary of Defense assistance from the Armed Forces.

In fact, in 2002, the Secretary of Defense authorized such support on a reimbursable basis to organizations formerly components of the Department of Justice and Department of the Treasury and currently components of the Department of Homeland Security. So why do we want something else that we don't need?

Not only that, do you know that they will have to spend more money that the Department of Defense doesn't have to train?

Oppose this amendment, and when we come to the wall I would just hate for one day for the President of Mexico to come down and say, Mr. President, tear down this wall.

Our servicemen/women are spread too thin. This is never a good idea, but certainly not in a time of war . . . to put soldiers in a new, civilian role . . . which has previously resulted in accidental deaths.

This damages our readiness.

I have been a law enforcement officer, and served in the Army. We are talking about two vastly different things—protecting the borders—and using the military in law enforcement.

This new war includes a host of fronts, including law enforcement for domestic interests related to terrorists who try to cross our borders.

I've led efforts for more border security: our investment should be in Border Patrol officers and detention beds to hold the OTMs—Other Than Mexicans—we now routinely release into the general population.

Even if we caught every single illegal immigrant crossing our border, we would still have no place to hold them, and we would be forced to release them—as we are doing now.

We should be focused on the need for professional law enforcement officers/intelligence associated with knowing who is coming across our borders . . . and providing funds to hold them.

Mr. GOODE. Mr. Chairman, I yield myself 30 seconds.

In response to what the gentleman from Texas was saying, we are talking about the authorization for troops to be on the border in nonemergency situations. If you allow troops on the border in nonemergency situations, you will see lawsuits, litigations and potential for liability for anything that happens along the border involving those troops.

We need to secure America and authorize troops in peace time in nonemergency situations along the border.

Mr. REYES. Mr. Chairman, it is now my pleasure to yield 1 minute to my colleague from Laredo, Congressman CUELLAR, also representing a border district.

Mr. CUELLAR. Mr. Chairman, I respectfully disagree with Mr. GOODE. I understand why he wants to protect the border, but being from the border, I understand that the military already provides technical support, construction of roads, clearing of brush; but they do have a very different mission from the Border Patrol.

What we need to do is keep in mind that the Border Patrol's mission is to enforce immigration law. What we need is a smart, tough, border security policy, not the military, and certainly not a wall, but more technology and more Border Patrol agents.

Being from the border, I understand what we need to work on, and I would ask the House to please consider the Members from the border that do live there and live there on a daily basis.

Mr. GOODE. Mr. Chair, I yield myself the remaining time.

There can be no question that in this country, at this time, we have a huge problem along the southern border. As the Congressman from Arizona indicated, we are being massively invaded every day by hundreds and thousands of persons. Drug smugglers are among this number. Persons from terrorist countries are among this number. We need to use every tool we possibly can to address this situation. We need to authorize troops on the border in peace time, and we need some rough and tough people down there to get this situation straight because it is certainly not straight today.

Stand up for preserving the integrity of the United States of America and vote "yes" for troops on the border.

Mr. REYES. Mr. Chairman, it is very clear, every year we come to the floor and we talk tough about putting troops on the border. It is expensive. The Department of Defense already has that authority. The President can direct it at any time based on whatever situation he is made aware of.

One of the things that I would like to tell my colleagues is that we are often here talking about issues and about problems and providing solutions. One of the things, an observation that I will make about us is that oftentimes we are very hypocritical about the things that we say versus the things that we do in the people's House.

In 1986, we passed employer sanctions to address the pull factor in the issue of illegal immigration and immigration reform. This Congress failed to fund employer sanctions, failed to fund the very vehicle that would have addressed the pull factor.

For the last 10 years that I have been in Congress, we have been debating troops on the border. I would say to my good friend from West Virginia, my good friend from Arizona, my good friend from California, if we are interested in controlling the border, if we are truly interested in doing a good job for the American people, then let's fund employer sanctions. And short of that, let's fund H.R. 98, which gives us a fraud-proof Social Security card and a system where employers would be accountable. You would eliminate the pull factor. We wouldn't need to have this useless debate on troops on the border.

Vote "no" on the Goode amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. GOODE).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. REYES. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia will be postponed.

AMENDMENT NO. 15 OFFERED BY MS. MILLENDER-MC DONALD

Ms. MILLENDER-McDONALD. Mr. Chairman, I offer an amendment.

The Acting Chairman: The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 15 printed in House Report No. 109-461 offered by Ms. MILLENDER-McDONALD:

At the end of title X (page 393, after line 23), insert the following new section:

SEC. ___. DETERMINATION OF DEPARTMENT OF DEFENSE INTRATHEATER AND INTERTHEATER AIRLIFT AND SEALIFT MOBILITY REQUIREMENTS.

(a) DETERMINATION OF REQUIREMENTS.—The Secretary of Defense, as part of the 2006 Mobility Capabilities Study, shall determine Department of Defense mobility requirements as follows:

(1) The Secretary shall determine intratheater and intertheater airlift mobility requirements and intratheater and intertheater sealift mobility requirements (all stated in terms of million ton miles per day) for executing each scenario that was modeled in the 2005 Mobility Capabilities Study and each scenario that is modeled in the 2006 Mobility Capabilities Study.

(2) The Secretary shall determine intratheater and intertheater airlift mobility requirements and intratheater and intertheater sealift mobility requirements (all stated in terms of million ton miles per day) for executing the National Military Strategy with a low acceptable level of risk, with a medium acceptable level of risk, and with a high acceptable level of risk, for each of the following:

(A) Major combat operations.

(B) The Global War on Terrorism.

(C) Baseline security posture operations.

(D) Homeland defense and civil support operations.

(E) Special operations missions.

(F) Global strike missions.

(G) Strategic nuclear missions.

(b) REPORT.—Not later than February 1, 2007, the Secretary of Defense shall submit to the congressional defense committees a report providing the mobility requirements determined pursuant to subsection (a). The report shall set forth each mobility requirement specified in paragraph (1) or (2) of that subsection.

(c) MOBILITY CAPABILITIES STUDIES.—For purposes of this section:

(1) The term "2006 Mobility Capabilities Study" means the studies conducted by the Secretary of Defense and the Joint Staff during 2006 as a follow-on to the 2005 Mobility Capabilities Study.

(2) The term "2005 Mobility Capabilities Study" means the comprehensive Mobility Capabilities Study completed in December 2005 and conducted through the Office of Program Analysis and Evaluation of the Department of Defense to assess mobility needs for all aspects of the National Defense Strategy.

The Acting CHAIRMAN. Pursuant to House Resolution 811, the gentlewoman from California (Ms. MILLENDER-MCDONALD) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. MILLENDER-MCDONALD. Mr. Chairman, I rise today to ask support of my colleagues for this amendment that I am offering which calls for the Secretary of Defense to include as part of the 2006 update of the Mobility Capability study, a comprehensive analysis of future air lift and sea lift mobility requirements.

This study would examine both the strategic and intratheater mobility requirements with full consideration of all aspects of the national security strategy, and will analyze low, medium, and high risk alternatives.

The new analysis will be delivered to Congress by February 4, 2007.

One would ask why this study is important. There has not been a study that examines our Nation's air lift requirements since prior to 9/11.

□ 1400

Contrary to past mobility studies, the most recent study analyzed only the capabilities of the current programmed airlift fleet, but it did not analyze the Nation's airlift requirements. There is a big difference between studying capabilities and studying requirements when prescribing future airlift force level recommendations.

DOD's definition of a military requirement is an established need justifying the timely allocations of resources to achieve a capability to accomplish approved military objectives, missions or tasks, all called operational requirements. Now translated into layman's terms, this means one cannot effectively allocate resources to achieve a given capability, in this case airlift resources, without first knowing what the requirement is.

In 2001, our airlift fleet requirements were at 54.5 million ton-miles per day. The question that this study asks and seeks to have answered is, what is the quantitative yardstick that describes the required airlift needs. Is 54.5 million ton-miles per day enough airlift? Do we need more? The mobility capability study alone does not give us this needed information.

As we are all aware, there have been significantly more requirements pressed upon our airlift fleet over the past 5 years. The world we live in has changed a great deal. For example, we know our Nation has been attacked by terrorists. We are engaged in an ongoing global war on terrorism. Hurricane Katrina had ravaged the gulf coast region, and we have repeatedly been summoned to help with global humanitarian efforts, particularly natural disasters such as the tsunami and earthquakes. All of these occurrences have called upon our Nation's airlift resources.

Furthermore, what concerns me the most is that there does not appear to be a comprehensive approach to addressing our Nation's future airlift demands.

Last February, the Pentagon released the Quadrennial Defense Review, QDR, the 20-year blueprint of our Defense Department needs and projections. Specifically, the QDR recommended the ability to swiftly defeat two adversaries in overlapping military campaigns with the option of overthrowing a hostile government in one.

However, in the 2001 strategy, the U.S. military was to be capable of conducting operations in four regions abroad, Europe, the Middle East, the Asian littoral and Northeast Asia. But the new plan states that the past 4 years demonstrated the need for U.S. forces to operate around the globe and not only in these four regions.

Whatever that scenario is, Mr. Chairman, clearly we need more air cargo planes, and we know this by experience too. Take the C–17, an air cargo plane, for example. This air cargo plane is being flown over 167 percent over the normal hours scheduled to deliver supplies to the war theaters where most planes cannot land, as well as the many humanitarian missions in which our country is engaged.

Since 9/11/01, the C–17 has flown 59 percent or about 358,000 additional miles more than was originally scheduled. The C–17 has been on the front line of the war in Iraq and Afghanistan. Eighty percent of our airlift missions in these battlefronts are done by the C–17.

Finally, Mr. Chairman, after only 15 years in commission, the C–17 fleet just recently reached its 1 millionth flying hour. The C–17, though, is just one example, but it is an excellent one and an excellent example of how much our Nation is relying on our airlift fleet.

This study will provide a basis for determining the future of our Nation's airlift fleet. This is about providing our military with the tools to succeed, and it is about fiscal responsibility, and most importantly, it is about national security.

I ask my colleagues to support this important amendment.

I reserve the balance of my time.

Mr. SAXTON. Mr. Chairman, I rise to claim time in opposition to the amendment, even though I am not in opposition to the amendment.

The Acting CHAIRMAN (Mr. BONILLA). Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. SAXTON. Mr. Chairman, I rise in strong support of the amendment of the gentlewoman from California, and I commend her for her thoughtfulness for bringing this matter to the House in the form of an amendment.

This amendment will allow proper congressional oversight for the mobility system to ensure that our Nation's future force structure and capabilities will be able to meet the well-defined requirements that certainly exist, existed prior to September 11, 2001, and certainly exist to an even greater extent today.

Over the past few month, there have been significant changes in the Department of the Air Force's position on the necessity of purchasing additional C–17 aircraft beyond the currently contracted 180. Senior leaders of the Department of Defense have stated requirements ranging from 187 to more than 222 C–17 aircraft in the fleet.

However, the last comprehensive analysis of mobility requirements was released 5 years ago, prior to 9/11, when the global war on terror had commenced.

The underlying bill, H.R. 5122, includes provisions to authorize funding for an additional three C–17 aircraft, allow for the retirement of the 1960s vintage C–5A fleet, that has rarely lived up to its operational expectations, and set a minimum floor of 299 for strategic airlift aircraft, which is a necessity and a necessary first step in meeting our Nation's growing airlift requirements.

This amendment, directing the mobility requirements study, will enhance our ability to identify the correct future actions needed to support our Nation's airlift missions capability.

Therefore, Mr. Chairman, I fully support this amendment, and I urge all of my colleagues to do the same.

I would yield to the gentleman from California (Mr. CALVERT).

Mr. CALVERT. Mr. Chairman, I thank the gentleman for yielding me time.

I certainly want to support the gentlewoman's amendment also. Representative MILLENDER-MCDONALD's amendment is certainly one on which we should all agree. This is something that needs to be clearly defined and stated, that airlift and sealift requirements to ensure our Nation's future mobility force structure capabilities are able to meet future needs.

In this war, 70 percent of the cargo missions have been flown by C–17s.

That is a 60 percent increase over the military's own prewar anticipated usage of the plane. In addition to military uses, C–17s have been used in humanitarian efforts to bring food and supplies to victims of Hurricane Katrina and to the Far East disasters there last year.

Senior leaders at the DOD can't seem to find clearly the exact number of C–17s required. The Chief of Staff of the Air Force states 187 TRANSCOM and Air Mobility Commander stated 200 C–17s are required. The former TRANSCOM commander, General Handy, whom I respect immensely, stated that 225 C–17s are required.

In addition to senior leaders of DOD, the Defense Science Board, in a report dated September 2005, raised concerns about the adequacy of the Pentagon's organic and strategic sealift and aerial tankers.

Therefore, I support this amendment so we can get on to fulfill our congressional oversight responsibility and ensure that our mobility system adequately supports current and future force structure requirements.

Mr. SAXTON. I reserve the balance of my time.

Ms. MILLENDER-McDONALD. Mr. Chairman, I just want to say that this comprehensive analysis is critically needed for our military might, for our strength in doing those things that are asked of us with the airlift cargo; and it is not only fiscally responsible, but it is national security.

I ask support for the amendment.

Mr. Chairman, I yield back the remainder of my time.

Mr. SAXTON. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. All time having expired, the question is on the amendment offered by the gentlewoman from California (Ms. MILLENDER-MCDONALD).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MR. GOHMERT

Mr. GOHMERT. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 printed in House Report 109–461 offered by Mr. GOHMERT:

At the end of subtitle D of title XXVIII (page 504, after line 7), add the following new section:

SEC. 2844. SENSE OF CONGRESS REGARDING LAND CONVEYANCE INVOLVING ARMY RESERVE CENTER, MARSHALL, TEXAS.

It is the sense of Congress that the Secretary of the Army should consider the feasibility of conveying the Army Reserve Center at 1209 Pinecrest Drive East in Marshall, Texas, to the Marshall-Harrison County Veterans Association for the purpose of assisting the efforts of the Association in erecting a veterans memorial, creating a park, and establishing a museum recognizing and honoring the sacrifices and accomplishments of veterans of the Armed Forces.

The Acting CHAIRMAN. Pursuant to House Resolution 811, the gentleman from Texas (Mr. GOHMERT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. GOHMERT. Mr. Chairman, this is a simple amendment that expresses simply a sense of Congress that the Secretary of the Army should consider conveying the U.S. Army Reserve Center in Marshall, Texas, to the Marshall-Harrison County Veterans Association for the purpose of erecting a veterans memorial, creating a park, and converting the present building to a veterans museum to recognize and honor the accomplishments of our Armed Forces.

I have received letters, phone calls and personal visits about such a project. Harrison County, back in the 1990s, had closed a huge Army facility. There were thousands of people that lost jobs, and now BRAC has recommended closing a reserve center there.

This is not trying to undo the BRAC process whatsoever. BRAC is already closing the reserve center. What this will do is allow them to transfer this.

We have a letter from the Army indicating this should be surplus, less than 3 acres. This will allow them to have a veterans museum, a veterans center, a place veterans can go, many of whom will never have the opportunity to come here to Washington, D.C., to see the museums and see the memorials. And it will give them a chance there in East Texas where there have already been so many jobs lost because of BRAC.

This is a bipartisan issue in the county. There are Democrats and Republicans both that are urging and pushing for this, and I was proud to go ahead and bring this amendment as a sense of Congress to urge that this is something that could be done. It will help the community in an area there in east Texas.

Recruiting is up, recruiting is going well, but it further emphasizes and will give an opportunity to emphasize the importance of valor, duty, honor, country.

I would like to thank Chairman HUNTER and his committee for their hard work on this bill that will undoubtedly benefit our Armed Forces. I would ask that this amendment also be added to the bill to assist those folks there in Harrison County.

Mr. Chairman, I yield back the balance of my time.

Mr. ORTIZ. Mr. Chairman, I rise to claim the time in opposition to the amendment; however, I do not intend to vote against the amendment.

The Acting CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. ORTIZ. I think this is a good amendment and we accept the amendment, Mr. Chairman.

I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GOHMERT).

The amendment was agreed to.

Mr. HUNTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have a colloquy with the gentlewoman from Colorado (Mrs. MUSGRAVE). I would yield to the gentlewoman for purposes of the colloquy.

Mrs. MUSGRAVE. Mr. Chairman, I have recently become aware that the Army is considering expansion of the Pinon Canyon Maneuver Area in Colorado. I have two concerns about this expansion plan.

First, the Army hasn't been responsive to my questions about their plans. Second, I am troubled that the Army may use eminent domain or unfriendly condemnation to acquire property in that area.

You are probably aware that I offered an amendment for today's debate that would help the farmers and ranchers in my area get information about this and would limit the powers of eminent domain, but the Rules Committee did not make that amendment in order and we can't debate it.

But I would appreciate, Mr. Chairman, your assistance in getting information on this proposal by the Army.

□ 1415

I am very disappointed in the lack of response, and I hope the chairman can use the power of your committee to assist me and the rest of the Colorado delegation in this matter. Remarkably, when my office called the Army on this, they said it was "an academic discussion." Thus, they refused to provide any details at all.

Mr. Chairman, I would appreciate your thoughts on this matter.

Mr. HUNTER. Mr. Chairman, will the gentlewoman yield?

Mrs. MUSGRAVE. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I appreciate the gentlewoman's concerns. First, I strongly believe that DOD should make every effort to acquire property through fair-market value purchases from willing sellers. The use of eminent domain or unfriendly condemnation should only be used as a measure of last resort in cases of compelling national security requirements.

So I would be very pleased to work with the gentlewoman as a representative of the farmers and ranchers surrounding Pinon Canyon to ensure that the Army does not use eminent domain before exhausting all other options.

Secondly, I would note that the defense bill before us today contains a provision that makes sure that Congress has oversight of DOD plans to use eminent domain, as its application is a matter of great concern to all of us.

Finally, I would be happy to work with the Colorado delegation to talk to the Army and ensure that they are very forthcoming in discussing plans for the expansion of Pinon Canyon. Having a good relationship with our communities is an important obligation of the armed services, and they should certainly sit down with their elected representatives and discuss their plans and any issues that will concern the community.

I will be happy to help the gentlewoman on this issue.

Mrs. MUSGRAVE. Reclaiming my time, I thank the chairman for your commitment to work on this issue, and I look forward to working with you.

AMENDMENT NO. 9 OFFERED BY MS. HOOLEY

Ms. HOOLEY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 printed in House Report 109-461 offered by Ms. HOOLEY:

At the end of subtitle C of title III (page 70, after line 16), add the following new section:

SEC. 324. ARMY NATIONAL GUARD AUTHORITY TO CONTRACT AND MANAGE CH-47 HELICOPTER RESET.

The Army and the National Guard Bureau are authorized to contract with a United States contractor to perform the RESET of the CH-47 helicopters assigned to the Nevada and Oregon National Guard in order to reduce the non-operational rate of their CH-47 fleet. Costs, completion time, and maintenance capabilities shall be the major considerations in the process used by the Army and National Guard Bureau in selecting the contractor to perform the RESET activity.

AMENDMENT NO. 9, AS MODIFIED, OFFERED BY MS. HOOLEY

Ms. HOOLEY. Mr. Chairman, I ask unanimous consent that my amendment be considered in accordance with this modification.

The Acting CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

The amendment as modified is as follows:

At the end of subtitle C of title III (page 70, after line 16), add the following new section:

SEC. 324. REPORT ON CH-47 HELICOPTER RESET.

Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a report that outlines the plan of the Army to reset all CH-47 aircraft in the active and reserve components. The Secretary shall include in the report a description of the plan, the timeline, and the costs for the reset of those aircraft.

Ms. HOOLEY (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The Acting CHAIRMAN. Without objection, the modification is accepted, and, without objection, the amendment is considered as read.

There was no objection.

The Acting CHAIRMAN. The gentlewoman from Oregon is recognized for 5 minutes.

Ms. HOOLEY. Mr. Chairman, I rise today in support of this amendment, which has the support of all of my colleagues in the Oregon delegation. Our amendment, as agreed to by the chairman and the ranking member, would require the Secretary of the Army to supply Congress with a report no later than 60 days from the enactment of this act that outlines the Army's plan regarding the receipt of all CH-47 aircraft in the active and Reserve components.

I would like the record to reflect that it is my intent that this report should include a description of the Army's plan, timeline and the cost for the reset of those aircraft. I also believe that the Secretary should include the status of the current backlog and the options that currently exist to accelerate the reset program.

I want to thank Chairman HUNTER and Ranking Member SKELTON for working with us on this important issue to address our concerns. I look forward to working with them in the future to address the problems and obstacles that I anticipate will be identified in the Secretary's report regarding the reset program.

Mr. Chairman, I yield such time as he may consume to my colleague, the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate my colleague permitting me to speak on this. As she indicated, this is a bipartisan amendment sponsored by the entire Oregon House delegation.

Our interest is making sure that the men and women in our armed services have access to the best possible equipment. Currently, the efforts that have been under way overseas and at home have put a great deal of stress and strain. We have had people in the Northwest explain to us opportunities that they think are available to both save money and to improve opportunities to make sure that the equipment is recycled, brought up to par as quickly and as efficiently as possible. I think having a report from the Secretary of the Army in this fashion will help spotlight this opportunity.

We are confident that we will see real opportunities to save money while we improve the equipment that our men and women are dealing with. I appreciate the cooperation both from the Oregon delegation and from the staff on the minority and the majority in helping move forward so we have got some good information. I express my appreciation to the Chair and to the ranking member.

Mr. HUNTER. Mr. Chairman, will the gentlewoman yield?

Ms. HOOLEY. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I want to thank the gentleman and the gentlewoman for their contribution here, and just assure them we are very interested in making sure that this equipment, some of which has been wearing out pretty quickly in the desert sand in the warfighting theaters, is maintained in excellent condition, both with our great in-house resources and our depots and with the private sector, so we use all of our resources in the U.S. to make sure we have got good, sound platforms.

The committee has no objection to the amendment. We thank you for adding it to the base bill.

Mr. BLUMENAUER. Mr. Chairman, if the gentlewoman will yield further, to the extent any time is available, I appreciate the chairman's words and for emphasizing that we want to be able to take advantage of the resources where they are. Whether they are the folks we have right now in the armed services or the private sector, the goal is to do the best job possible with the resources. We appreciate your cooperation and your words of support.

Mr. DEFAZIO. Mr. Chairman, I just want to say a few words about a compromise amendment that my colleagues and I in the Oregon delegation negotiated with the leadership of the House Armed Services Committee.

Our amendment requires the Army to send a report to Congress within 60 days of enactment of this bill regarding the Chinook helicopter Reset program. The Reset program repairs and restores helicopters to their precombat deployment condition. The report requires the Army to explain its plan to reset all active duty and reserve component helicopters, including the timeline and cost for doing so.

The reason my colleagues and I offered our original amendment is because of a dangerous situation facing the Oregon National Guard. The Oregon National Guard is authorized to have six Chinook helicopters. One was destroyed on a mission. One is too old and will be turned in to the Pentagon. The other four need to go through reset after being deployed to combat zones.

Timely repairs and rehabilitation are essential to ensuring the Oregon National Guard has the equipment necessary for responding to public safety threats, including forest fires, as well as other state emergencies, homeland defense, and proficiency training.

Unfortunately, timely repairs are not happening today. Due to the influx of aircraft returning from overseas and in need of repair, the Army depots that generally perform this work are overstretched. As I understand it, the average time to get a helicopter repaired and returned to a unit is six months or longer.

I haven't seen the speech yet, but I've been told that Major General Pillsbury of the Army Materiel Command recently gave a speech at a conference lamenting how far behind the Army is on the Chinook RESET program.

According to a letter from the Army in March 2006, the Oregon National Guard will not get its helicopters back until November 2006. During the interim period, the Oregon National Guard will have to do without, which puts Oregon residents at-risk. That is not acceptable.

Congress, the Army and the National Guard Bureau must find a solution to this problem. One logical solution is for the Army to allow the Oregon National Guard to contract with a local private sector helicopter maintenance provider in order to help alleviate the backlog that would otherwise keep its Chinooks grounded for the next several months. One company in Oregon, Columbia Helicopters, believes it could get two Chinooks through the reset process by July, several months sooner than the Army. Such private sector involvement in the reset program is not unprecedented. Last year, the Army awarded Boeing a $40 million-plus contract to refurbish Apache helicopters under the reset program. And, Columbia Helicopters has already done this type of work for the Nevada National Guard, which had some discretionary money it spent on getting its helicopters repaired.

Letters in support of this public-private concept have been sent to the Army since February from myself, the Oregon National Guard, the Nevada National Guard, Governor Kulongoski of Oregon, Governor Kenny Guinn of Nevada, Senators SMITH, WYDEN, ENSIGN and REID, and Reps. HOOLEY, WU and WALDEN. Yet, the Army has not taken any action to expedite the reset of the Oregon helicopters.

Our amendment today puts the Army on notice that Congress is interested in this issue and is concerned about growing repair burden and backlog. Congress needs to ensure accountability by the Army for timely repairs. This amendment is a first step. I will continue to work with my colleagues in Oregon and on the committee to try to get the Army to step up and ensure the National Guard is adequately equipped and able to carry out its missions year-round.

Mr. WU. Mr. Chairman, I rise in support of the Hooley-DeFazio-Wu-Blumenauer-Walden amendment to H.R. 5122, the Defense Authorization Act for FY2007. Our National Guard has been stretched to its limit these past few years, and without the timely return of equipment and aircraft to their home units, the Guard's mission is in jeopardy of being severely compromised. The Oregon Guard has performed outstandingly in the Middle East and I commend them for their courage and fortitude.

Equipment, especially aircraft, needs thorough and vigorous refurbishment when they arrive back from combat. Unfortunately, limited options and a sprawling procurement bureaucracy have created a backlog for equipment resets. By keeping the options limited, we are doing a disservice to the Guard by not returning their core assets in a timely manner.

I support this amendment because this issue cannot wait any longer and needs to be addressed now. Every day that the Guard has to wait for an aircraft is another day where they cannot perform their mission. The Guard is ready to do their duty, now we must be willing to fight for their needs. I am pleased to join my colleagues in the Oregon delegation in sponsoring this important measure.

Ms. HOOLEY. I yield back the balance of my time.

The Acting CHAIRMAN. Is there further debate or discussion on this amendment?

The question is on the amendment offered by the gentlewoman from Oregon (Ms. HOOLEY), as modified.

The amendment, as modified, was agreed to.

AMENDMENT NO. 13 OFFERED BY MR. MCDERMOTT

Mr. MCDERMOTT. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 printed in House Report 109–461 offered by Mr. MCDERMOTT:

At the end of subtitle B of title VII (page 268, after line 9), add the following new section:

SEC. 716. STUDY OF HEALTH EFFECTS OF EXPOSURE TO DEPLETED URANIUM.

(a) STUDY.—The Secretary of Defense, in consultation with the Secretary for Veterans Affairs and the Secretary of Health and Human Services, shall conduct a comprehensive study of the health effects of exposure to depleted uranium munitions on uranium-exposed soldiers and on children of uranium-exposed soldiers who were born after the exposure of the uranium-exposed soldiers to depleted uranium.

(b) URANIUM-EXPOSED SOLDIERS.—In this section, the term "uranium-exposed soldiers" means a member or former member of the Armed Forces who handled, came in contact with, or had the likelihood of contact with depleted uranium munitions while on active duty, including members and former members who—

(1) were exposed to smoke from fires resulting from the burning of vehicles containing depleted uranium munitions or fires at depots at which depleted uranium munitions were stored;

(2) worked within environments containing depleted uranium dust or residues from depleted uranium munitions;

(3) were within a structure or vehicle while it was struck by a depleted uranium munition;

(4) climbed on or entered equipment or structures struck by a depleted uranium munition; or

(5) were medical personnel who provided initial treatment to members of the Armed Forces described in paragraph (1), (2), (3), or (4).

The Acting CHAIRMAN. Pursuant to House Resolution 811, the gentleman from Washington (Mr. MCDERMOTT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Washington.

Mr. MCDERMOTT. Mr. Chairman, I rise to protect and defend the U.S. soldiers who protect and defend us. I urge the House to pass my amendment calling for a comprehensive study on possible health effects on soldiers from exposure to depleted uranium.

I am a medical doctor. Like every doctor, I took an oath to use all my knowledge and skill to heal the sick. I was trained to listen to the patient and to use science, not conjecture, to make a diagnosis. I have been listening to soldiers, and I am greatly troubled.

We need to do a study on the effects of depleted uranium. My amendment includes a comprehensive study of the effects on our soldiers from exposure to DU, and also includes the children of our soldiers born after exposure.

I recognize there have been a number of studies done on this exposure, but they do not answer all the questions. There has been no comprehensive study of cancer rates in relationship to DU exposure in gulf war veterans.

The VA has a volunteer medical DU follow-up program that has been tracking about 60 veterans who signed themselves up for the study. These veterans were all friendly fire victims who have DU imbedded in their body, and I am heartened that the VA has been keeping track of them. But 60 veterans is not enough to catch cancers that have a rate of one in 1,000. This sample is not large enough to be statistically reliable.

There are about 900 gulf war veterans who have had level one or level two exposure to DU. We should be studying all of them and keeping track of all their health. There has been no comprehensive study of the Gulf War Syndrome in relation to exposure to DU. No definitive cause has been established for Gulf War Syndrome.

Presently, between 150,000 and 200,000 soldiers who served in Gulf War I could have Gulf War Syndrome. We need to study the possible relationship between depleted uranium and Gulf War Syndrome. Any link between these two or other negative health effects has not been conclusively established or refuted.

I urge my colleagues on both sides to stand with me and protect and defend the soldiers whom we send out to protect and defend us.

For me, this is a personal, not a political, quest. My professional life turned from medicine to politics after my service in the United States Navy during the 1960s when I treated combat soldiers returning from Vietnam. Back then, the Pentagon denied that Agent Orange posed any threat to soldiers who were exposed. Decades later, the truth began to emerge. Agent Orange harmed our soldiers; it made thousands sick and some died.

During all those years of denial, we stood by and did nothing while our soldiers suffered, and for me there can be no more Agent Orange. We have to think of that in terms of this DU. If DU poses no danger, we need to prove it statistfcally and with independent, scientific studies. If DU harms our soldiers, we all need to know it and act quickly, as any doctor would, to use all of our power to heal the sick. We owe our soldiers a full measure of the truth, wherever that leads us.

Mr. Chairman, I urge my colleagues to pass this amendment.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Is there a Member rising in opposition to the amendment?

Mr. EVERETT. Mr. Chairman, we do not oppose the amendment.

Mr. SHAYS. Mr. Chairman, I appreciate the consideration of this amendment, which I believe is very reasonable and will help ensure our government is taking proper steps to protect the health of our troops.

Like many heavy metals such as lead, depleted uranium is harmful when the resulting particles from a burned round are inhaled or ingested.

The use of these munitions, however, also provides a significant advantage to our soldiers because they have the speed, mass, and physical properties to penetrate exceptionally well against highly armored targets.

Mr. McDERMOTT. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. McDERMOTT).

The amendment was agreed to.

AMENDMENT NO. 22 OFFERED BY MR. TIERNEY

Mr. TIERNEY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 printed in House Report 109-461 offered by Mr. TIERNEY:

At the end of subtitle C of title II (page 50, after line 23), insert the following new section:

SEC. 223. RESTRUCTURING OF MISSILE DEFENSE PROGRAMS.

(a) DEPLOYMENT LIMITATIONS.—The Secretary of Defense may not deploy—

(1) any Ground-Based Midcourse Defense systems beyond the authorized systems at Fort Greeley, Alaska, and Vandenberg Air Force Base, California; or

(2) any space-based interceptors.

(b) BOOST-PHASE DEFENSES.—No funds available to the Department of Defense may be obligated for deployment of any boost-phase defense system.

(c) FUNDING REDUCTION AND PROGRAM TERMINATIONS.—The amount provided in section 201(4) for research, development, test, and evaluation for the Defense Agencies is reduced by $4,747,000,000, to be derived from amounts for the Missile Defense Agency as follows:

(1) $595,000,000 from termination of the Airborne Laser program.

(2) $500,000,000 from termination of additional AEGIS Ballistic Missile Defense activities.

(3) $286,000,000 from termination of the Kinetic Energy Interceptor program.

(4) $360,000,000 from termination of the Space Surveillance and Tracking System.

(5) $56,000,000 from termination of the European Site.

(6) $2,500,000,000 from termination of Additional Ground-Based Midcourse Deployment.

(7) $450,000,000 from reduction of programs designated as Other MDA RDT&E Activities.

The Acting CHAIRMAN. Pursuant to House Resolution 811, the gentleman from Massachusetts (Mr. TIERNEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. TIERNEY. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I have an amendment that would adopt the recommendation of the Congressional Budget Office to restructure our missile defense programs, specifically, the Ground-based Midcourse Defense System. The amendment would instruct the Secretary of Defense not to deploy any Ground-based Midcourse Defense System beyond the authorized systems that are now at Fort Greeley, Alaska and, the Vandenberg Air Force Base in California or any space-based interceptors of intercontinental ballistic missiles.

It would reduce funding for the research, development, test and evaluation for the defense agencies by $4,747,000,000.

Under the Congressional Budget Office's "evolutionary alternative," the Department of Defense would fund the capabilities planned for the Ground-based Midcourse Defense System through 2007.

□ 1430

Money would continue to be provided to pursue upgrades to the elements of the ground-based missile defense initial defense capability, would continue testing its components and would explore other missile defense concepts.

But the savings on the midcourse missile defense under the Congressional Budget Office alternative would total $29 billion on a Department of Defense-wide basis through 2007.

I commend to my colleagues no less than seven reports released in the last 2 months critical of various aspects of the ballistic missile system, and I will introduce copies for the RECORD. Two of them are from the General Accountability Office, two from the Department of Defense's own Inspector General's Office, one from the Congressional Research Office, one from the Congressional Budget Office and one from the Pentagon's own Director of Operational Test and Evaluation.

All of them raise doubts about the feasibility of missile defense. And as a group they offer a damning indictment of the missile defense system that supposedly, but not actually offers the United States an initial defense capability.

The Center for Defense Information states in its analysis, changes are imperative. If the Missile Defense Agency continues in the same vein it has been, the United States will see itself saddled with a missile defense system that costs tens of billions, possibly hundreds of billions of dollars, yet provides no actual defense.

What is more, by diverting that money to an unfeasible system, the United States will miss out on the protection it could be getting from weapons systems that actually work.

Mr. Chairman, the moneys are important, of course, but having a false sense of security is dangerous. And not investing these moneys in needed security systems, systems to protect our space and domestic assets and for homeland security risk is criminally negligent.

The General Accountability reports note that if the Pentagon does not move away from its spiral development or acquisition policy where a system's progress is never held to any sort of accountability, has no defined parameters, the Department of Defense will continue to start more programs for more money and create the next set of case studies for future defense reform reviews.

Fielding systems that still are in early developmental cycles, rushing them into the field where they have very serious problems with every component, that is a recipe for disaster. Immature technologies are not perfected, integration of the systems is not happening, testing in real-life scenarios is lacking, information assurance controls that were built to the network are sadly out of date.

This report shows poor quality control, unreasonable, in fact outrageous, cost growth, and schedule slips and inferior performance.

AN "F" FOR MISSILE DEFENSE: HOW SEVEN GOVERNMENT REPORTS IN TWO MONTHS ILLUSTRATE THE NEED FOR MISSILE DEFENSE TO CHANGE ITS WAYS

(By Victoria Samson, CDI Research Analyst)

A certain amount of optimism is required to successfully guide a weapon system through its development to completion. However, at a certain point, reality needs to poke through so that program and service officials can make relatively objective assessments. Is it working? Is it going to work? Is it staying on budget and schedule? If not, can it get back on track? And finally, the most difficult question to ask of a program: Should it continue?

The multi-faceted missile defense program, currently the Pentagon's golden child, has effectively avoided any and all tough questions. Over $92 billion has been spent on missile defense systems since the Ronald Reagan administration, to little avail. While the architecture still has not been finalized, the Missile Defense Agency (MDA) envisions a system of systems, where there are ground-, sea-, and air-based interceptors supported by a yet-to-be-built satellite system, new X-band radars that are still being put in place, and a command and control system that is not secure to outside interference.

President George W. Bush announced in December 2002 that, within two years, the United States would have deployed an initial missile defense system that could defend the United States against a limited ICBM attack. With that pressure from above, MDA focused its efforts on the fielding interceptors in Alaska and California the Ground-based Midcourse Defense (GMD) system. As of writing, 13 interceptors have been emplaced in missile silos. As well, MDA is working on a sea-based interceptor that is carried on the Aegis ship, a sea-based X-band radar that is slowly floating to its home port in Alaska, a giant command and control module based out of Colorado, a satellite network that could track enemy missiles as they approach the U.S. homeland, and systems that are geared toward providing defense against shorter-range ballistic missiles (Theater High Altitude Area Defense system, or THAAD, and the Patriot Advanced Capability PAC–3 system). In the long run, MDA is building a modified Boeing 747 airplane that would carry lasers in its nose and kinetic kill vehicles which theoretically could obliterate multiple targets.

MDA has been entrusted with a great deal of responsibility. It has not lived up to its tasks. In the past two months, no less than seven reports have been released that were critical of various aspects of the Ballistic Missile Defense System (BMDS). For clarity's sake, this analysis will focus largely on MDA's flagship program, the GMD system, whose existence is used to falsely claim that the United States has an initial defensive capability against ICBMs. And to head off allegations of bias, it must be noted that these reports were written by non-partisan government agencies. Two reports by the Government Accountability Office (GAO), two from the Defense Department (DOD)'s own Inspector General's office, and reports by the Congressional Research Service (CRS), Congressional Budgetary Office "(CBO), and the Pentagon's Director, Operational Test & Evaluation (DOT&E) all raise doubts about the feasibility of missile defense. As a group, they offer a damning indictment of the missile defense system that supposedly offers the United States an initial defensive capability.

OVERSHOOTING COST GOALS, FALLING SHORT OF PLANNED ACHIEVEMENTS

Missile defense programs have featured prominently in two recent reports by the GAO. The first, "Assessment of Selected Major Weapons Programs," examines the cost growth of many Pentagon weapon systems. It notes, "DOD often exceeds development cost estimates by approximately 30 to 40 percent and experiences cuts in planned quantities, missed deadlines, and performance shortfalls." The GAO points out, "Programs consistently move forward with unrealistic cost and schedule estimates, use immature technologies in launching product development, and fail to solidify design and manufacturing processes at appropriate points in development." The missile defense system prides itself on its "spiral development" or acquisition policy that is constantly evolving, under which a system's progress is never held to strictly defined parameters.

"Programs consistently move forward with unrealistic cost and schedule estimates, use immature technologies in launching product development, and fail to solidify design and manufacturing processes at appropriate points in development."

The GAO takes this type of acquisition policy to task. In fact, David Walker, comptroller-general of the United States, warns that if the Pentagon doesn't move away from it, DOD "will continue to start more programs than it can finish, produce less capability for more money, and create the next set of case studies for future defense reform reviews."

The Missile Defense Agency (MDA) has argued that the missile defense program needs the flexibility of spiral development to allow it to mold itself to future threats and to incorporate lessons learned while testing. Why other Pentagon programs somehow manage to hold themselves accountable and still meet evolving threats is never discussed by MDA officials. Instead, MDA promotes the idea that all possible missile defense candidate technologies will be put through their paces, and eventually testing will prove the winners and losers. Again, MDA has never stated at which point it will definitively decide to drop a flagging program. The closest it has come is in giving one of its programs (Airborne Laser) what it calls "knowledge parameters," in an attempt to prove to critics that, despite outward appearances, there is indeed progress toward development.

Another key part of spiral development is that weapon systems will be fielded when they are still early in their development cycles. The intent is that they can continue to grow and presumably advance while providing some sort of military utility. What ends up happening is that systems—the Ground-based Midcourse Defense (GMD) system most noticeably—are rushed out into the field even when there are very serious problems with their components... or indeed, are crucial elements to their architecture still lacking. For example, the GMD interceptor suffered a flight test failure in February 2005 due to poor quality control by its contractor for the arm that holds the missile up in its silo. In testimony to the Senate Armed Services Committee on April 4, 2006, Obering acknowledged this problem and stated that this component would be replaced on the interceptors that have already been fielded. Nonetheless, the $40 million missile as originally designed continues to be built at a rate of one every two months or so.

The GAO notes that weapon systems development programs progress much better and keep costs lower if technology is allowed to mature before being brought into a developmental or initial operating system. GAO observes that program acquisition unit costs for programs with mature technologies increase by less than one percent over original cost estimates, while the program acquisition unit costs for programs with immature technologies increase by 27 percent over the first full estimate.

The report goes on to review various weapon systems to assess their level of technological maturity and cost growth.

The GMD system's "concurrent testing and fielding efforts may lead to additional design changes," warns the GAO, and the program's "prime contract could overrun its target cost by as much as $1.5 billion. Boeing, GMD's prime contractor, has already overrun its budget by $600 million as a result of quality control issues. As what seems to be the standard for missile defense, program officials differ from outsiders about the program: while program officials rate GMD's needed 10 technologies as mature, the GAO differs, stating that "four have not been demonstrated in an operational environment and we believe that they cannot be considered fully mature." And since the GAO's last assessment of GMD, the program's planned budget through fiscal year 2009 (FY 09) has risen by $2.9 billion, or 11.2 percent.

GMD's cost growth is bad enough, but as it turns out, the United States is paying more and getting less than anticipated. In another GAO report, the title says it all: "Missile Defense Agency Fields Initial Capability but Falls Short of Original Goals." MDA's accelerated development of the GMD program in order to reach an initial capability by the end of 2004 caused the agency to run over that portion of its budget by $1 billion. For FY 05, GMD contractors had exceeded anticipated costs by 25 percent. The GAO also took to task the forced reliance by MDA upon spiral development "[I]t allowed the GMD program to concurrently mature technology, complete design activities, and produce and field assets before end-to-end testing of the system—all at the expense of cost, quantity, and performance goals."

In addition, for the initial defensive capability stated as the goal of the rapid fielding of the overall missile defense network, MDA fell quite short of what it had hoped to have accomplished. "Compared to its original goals set in 2003, MDA fielded 10 fewer GMD interceptors than planned, two fewer radars, 11 fewer Aegis BMD missiles, and six fewer Aegis ships," lists the GAO report. The United States has officially fielded elements of the ballistic missile defense system architecture, but these are really token efforts. Even if the systems had proved themselves during testing and development—which they have not—and even if they had all their needed components at the ready—which they do not—this system would be a feeble shadow of what planners had hoped for.

Spiral development "allowed the GMD program to concurrently mature technology, complete design activities, and produce and field assets before end-to-end testing of the system—all at the expense of cost, quantity, and performance goals."

Another result of rushing the missile defense elements out into the field is that workmanship has been shoddy, at best. Poor quality control has been listed time and again as an explanation for cost growth, schedule slips, and inferior performance. The GAO report explains, "According to MDA's own audits, the interceptor's design requirements were unclear and sometimes incomplete, design changes were poorly controlled, and the interceptor's design resulted in uncertain reliability and service life." The GMD interceptor was not tested to ensure its parts could withstand the harsh environment in space—which could result in catastrophic failures after launch as the interceptors are supposed to impact their targets outside the Earth's atmosphere. Further, the failures of two recent flight tests—IFT-10 and IFT-14—were due to poor quality control procedures. The development of some parts for the GMD interceptor has been so careless that, according to the GAO, the parts in question would have to be replaced and thus "the interceptors will be removed from their silos." Neither GAO nor MDA, has yet to explain at what cost such repairs will have to be made.

Unfortunately, cost growth, schedule slips, and faulty parts are not specific to missile defense programs. One can see that easily in every branch of the Pentagon. Where the missile defense program differs is in the extent of autonomy and decision-making freedom given to MDA officials managing the various pieces of the program. Given the pressure they were under from President George W. Bush's December 2002 announcement that an initial capability would be in place by the end of 2004, managers decided that the development and fielding process required a speedier schedule to meet that deadline. As a result, the GAO recounts, "MDA officials told us that because the agency was directed to field a capability earlier than planned, it accepted additional risks."

The agency was able to accelerate fielding because MDA officials have been given unprecedented liberties with acquisition planning and scheduling. They are further allowed to shift around funding from one program element to another as they see fit, under special rules set up by DOD. According to the GAO, "Compared with other DOD programs, MDA has greater latitude to make changes to the BMDS [Ballistic Missile Defense Program] program without seeking the approval of high-level acquisition executives outside the program." Because of this flexibility, while MDA does inform Congress and DOD of funding rearrangements, accountability is practically nil; instead, its version of it has "thus become broadly applied as to mean delivering some capability within funding allocations."

MDA is also free of requirements that all other major DOD acquisition programs must undertake in regards to establishing baseline estimates of cost, performance and schedule. If other programs slip in meeting those predetermined requirements, Pentagon and/or service managers must alert Congress. If any program sees cost growth up to a certain amount in one quarter, it is considered to have suffered a so-called Nunn-McCurdy breach, which means DOD must alert Congress of the problem. If the cost growth is over 25 percent in a single quarter, DOD then must overhaul and justify the offending program. The Ballistic Missile Defense System, however, is exempt from these requirements. MDA officials have much more flexible baselines for their programs. MDA can avoid having to report programs' quarterly cost growth simply by changing cost goals and estimates. Also, MDA has the responsibility of deciding when it will alert Congress to schedule slips or cost growths, since "there are no criteria to identify which variations are significant enough to report. Instead, MDA's Director, by statute, has the discretion to determine which variations will be reported."

MDA officials do not have to hold themselves accountable to any particular standard or report if certain achievements have not been met. And Congress has, up to now, refrained from complaining about its lack of oversight over the $10 billion dollar a year MDA budget.

Up to now, the only "achievements" reported by MDA have been the flight test failures. The MDA has even stopped announcing when it has emplaced new interceptors at missile silos in Alaska and California. Ostensibly, this is because of operational security needs, but in actuality, it is more likely a move designed to avoid bad press as testing and deployment goes forward.

NETWORK SECURITY AND SYSTEMS ENGINEERING: FIGMENTS OF MDA'S IMAGINATION

The Pentagon Inspector General's (IG) office came out with two reports this winter that illustrate how every aspect of the Ballistic Missile Defense System has seen sloppy work indicative of low standards of oversight.

The first report reveals that the communications network linking the various radars, infrastructure, and elements of the GMD system, is extremely limited. The IG's office noted that the security documents in place for the system "did not properly reflect current operations;" furthermore, MDA officials "had not fully implemented information assurance controls required to protect the integrity, availability, and confidentiality of the information in the [GMD] communications network."

Because of this, "MDA officials may not be able to reduce the risk and extent of harm resulting from misuse or unauthorized access to or modification of information of the GCN [GMD Communications Network] and ensure the continuity of the system in the event of a disruption." That is to say, network security is lacking. So now, in addition to worrying about whether the rudimentary system now deployed would launch and target threatening missiles effectively in the event of an emergency, planners have to head off the possibility that some bored teenager could hack into the system and disrupt it at a key moment.

A draft version of this report recommended, "MDA and contractor officials should immediately cease operation of the system."

The security procedures for the GMD Communications Network were completely bungled, as the IG report indicates. For one, "[C]ontingency plans and system rules of behavior had not been prepared to assist users." Group passwords were used to access the unencrypted communications system, even though individual passwords were required. Documentation for the unencrypted system had the encrypted system's security concept (defined in the document as "a description of the GCN security requirements and the resources needed to meet those requirements"), while the encrypted system's documentation didn't contain any security concepts. Explains the IG's office, "This oversight occurred because the encrypted equipment and the unencrypted equipment were developed by two separate contractors [respectively, Boeing and Northrop Grumman], who were not following a common set of procedures for preparing documentation."

The few information assurance controls that were built for the network were sadly out of date. The network was created by program officials to conform to "Department of Defense Trusted Computer System Evaluation Criteria," a document that is dated Dec. 26, 1985. This old set of criteria was used instead of a more recent set of required criteria, found in: "Missile Assurance Categories (MAC) Levels for Missile Defense Agency (MDA) Systems and Networks," dated Aug. 20, 2004.

It would appear that network security was a low priority for MDA, as the Communication Network's first information assurance officer wasn't brought on board until June 2005, long after the system had been in development—indeed, after GMD had been declared to have reached an initial defensive capability. No one was in charge of making sure the contractors working on system had appropriate levels of security clearance or were fully aware of their responsibilities regarding network security.

The IG's office was so alarmed at the absence of network security practices that a draft version of its report recommended that until fixes were in place, "MDA and contractor officials should immediately cease operation of the system." While this recommendation did not make it into the final draft, it signifies the gravity of MDA's lack of planning.

An interesting coda to this report was how the Pentagon reacted once news of it hit the press. Federal Computer Weekly ran a story on it March 16, 2006. By the following Monday, the IG's office had taken the relevant report off of its website, with only this as explanation: "The Missile Defense Agency requested that we remove this report from our web site pending a security review." The report is now marked "For Official Use Only."

Another report by the Pentagon's IG office raised concerns about another aspect of how the overall BMDS system's various components would function together. According to it, "The Missile Defense Agency had not completed a systems engineering plan or planned fully for system sustainment. Therefore, the Missile Defense Agency is at risk of not successfully developing an integrated ballistic missile defense system." Systems engineering, the process of making sure a developing weapon system meets the capabilities required of it and ensuring it becomes operational, is a key in making certain that ideas on the drawing board end up in the final product. In a complicated architecture such as missile defense that has interceptors and control stations on the ground, in the air, and on the sea, involves numerous radar and satellite networks, and dips in and out of various Pentagon services and commands, systems engineering would be imperative to guarantee that the various elements would smoothly work together as planned.

Its failure to provide a systems engineering plan is partially due to the fact that MDA didn't follow instructions. But, as seems to be often the case, the problem also can be traced to the order speeding up initial deployment. According to the IG office's report, "Another cause was that MDA was tasked with designing a single integrated system from a group of preexisting acquisition programs and fielding a missile defense capability quickly. As a result, the BMDS ability to develop and integrate the elements into a system that meets U.S. requirements is at risk." Furthermore, "because MDA was rushing to field an initial BMDS capability, it had not fully planned for system sustainment." System sustainment is described in the document as "a support program that meets operational support performance requirements and sustains the system in the most cost-effective manner." This conclusion is not surprising, as "cost-effective" and "missile defense" are rarely used in the same sentence.

"Missile Defense Agency is at risk of not successfully developing an integrated ballistic missile defense system."

MDA also ducked creating a comprehensive Logistics Support Plan, as it should have and was legally obligated to do. According to the IG office's report, instead, "each element is responsible for planning the following eight logistics-support-related areas: supply; equipment; packing, handling, storing, and transportation; facilities; computer resources; technical data; maintenance planning; and manpower and personnel. Sounds like a recipe for overlaps, gaps, and confusion.

FLAT LEARNING CURVE

While missile defense's spiral development is a phenomenon of the Bush administration, the United States has been working for decades on the capabilities being sought. A recent CRS report pointed out that the kinetic energy kill vehicle for the GMD system has predecessors dating back to the administration of Ronald Reagan. While CRS typically strives not to come down on one side or another of the issue, the report does make some revealing statements. It sums, "The data on the U.S. flight test effort to develop a national missile defense (NMD) system is mixed and ambiguous. There is no recognizable pattern to explain this record nor is there conclusive evidence of a learning curve over more than two decades of developmental testing."

With four long-range kinetic energy intercept efforts attempted since Reagan's 1983 "Star Wars" speech—Homing Overlay Experiment (HOE), Exoatmospheric Reentry Interceptor Subsystem (ERIS), NMD, and GMD—there should be some sort of body of knowledge being built about how these systems work that could be drawn upon as needed. The CRS report acknowledges that the systems under development at various times were different, but it reasons, "[T]hey were built on the limited successes of their predecessors."

"The data on the U.S. flight test effort to develop a national missile defense (NMD) system is mixed and ambiguous. There is no recognizable pattern to explain this record nor is there conclusive evidence of a learning curve over more than two decades of developmental testing."

Examining flight test intercept attempts since the 1980s for these long-range systems, the CRS dryly notes "the mostly unsuccessfully history of the effort." Additionally, it highlights the absence of "conclusive evidence of a learning curve, such as increased success over time relative to the first tests of the concept 20 years ago." Given that in the near past, flight testing has slowed down and suffered from a rash of quality control problems, it would seem that MDA definitely has not learned which processes would help aid the development of the GMD system. This is not to say that progress has not been made. However, with this administration's insistence on reinventing the wheel when it comes to major weapons acquisition strategies, there seems to be quite a lot of institutional knowledge regarding development that is being ignored.

CRS is unable to answer the two major questions about GMD. It terms the possibility of eventually developing a workable version of anything with that sort of capability as "ambiguous at this juncture." And it stoutly refuses to speculate as to whether GMD would work in an emergency, equivocating, "Currently, there is insufficient empirical data to support a clear answer."

ANOTHER GUARDED ASSESSMENT

Another report which is subtly skeptical about the reported initial defensive capability of the GMD system is the January 2006 DOT&E report. This most recent version of the annual assessment of the previous fiscal year's activities and achievements for various Pentagon weapon systems came out studiously cautious about the program.

Highlighting GMD's flight test failures, when the interceptor rocket failed to leave the launch pad in both cases, the DOT&E report still inexplicably claims, "Developmental testing to date indicates that the GMD system may have some inherent defensive capability against a limited missile attack." But this is a downgrade from the previous year's assessment of GMD, which had said it "should have some limited capability."

"Flight tests still lack operational realism. This will remain the case over the next year."

At any rate, the DOT&E report does support other critiques of GMD. It explains the flight test failures as a result of "Quality, workmanship, and inadequate ground testing." Across the board, GMD quality control has been appalling, a turn of events that is surprising given the political spotlight shining on the system. Whether this deficiency in quality control is primarily the result of the insufficient oversight or a natural byproduct of fast-forwarded fielding is hard to determine. Either way, it is an area that should require the immediate attention of MDA leadership and program managers.

The DOT&E report echoes claims made by many critics in warning, "Flight tests still lack operational realism. This will remain the case over the next year." Moreover, "Robust testing is limited by the immaturity of some components." This can all be interpreted as dubiousness about GMD's flight test program and assertions that the interceptors' effectiveness in defending the United States against missile attack can be extrapolated from the meager successes it has achieved to date. As the DOT&E report comments, "The lack of flight test validation data for the simulations that support the ground testing limits confidence in assessments of defensive capabilities." Modeling and simulation can only do so much: after a certain point, actual flight tests must be held to determine the reliability of the GMD system. Such tests also must include scenarios that mimic the real-world situations in which the GMD system could conceivably be used. Otherwise, it will continue to be impossible to judge the potential effectiveness of GMD as it is now being developed.

The consistent delays of scheduled tests (or cancellation of them, as was the case when MDA was rushing to meet the 2004 initial deployment deadline) means that chances to learn about the GMD system are being missed. Each $100 million flight test truly is a valuable learning experience for all involved. The DOT&E report observes, "[O]ptimistic estimates for the development and integration of a GMD capability result in frequent 'fact-of-life' changes to the test schedules." Wishing for a capability cannot create one. Missile defense has long been distanced from reality and this would be a prime example of the result.

DOUBLING IN SEVEN YEARS

Looking to the future, expenditure on missile defense will double in seven years if the current rate is maintained. A recent CBO report examined spending on major weapon systems and offered transformational and evolutionary alternatives. The former would be options that "place more emphasis on acquiring the advanced weapons and capabilities that DOD associates with military transformation," while the latter would be a chance to "forgo those advanced systems and instead pursue upgrades to current capabilities."

"[I]f, however, costs grow as they have historically, pursuing the programs included in CBO's missile defense projection will cost an additional $3 billion a year, on average, peaking at about $19 billion in 2013."

Missile defense, given the tremendous size of its budget (over $11 billion for missile defense-related programs in the FY 07 budget request), was one of the programs chosen for further scrutiny. The CBO had to guess as to the makeup of missile defense's eventual architecture, as missile defense has been excused from the normal Pentagon routine of having to establish clearly defined cost, growth, and performance parameters.

Even with this limitation, CBO prognosticates that missile defense expenditure will reach its crest of $15 billion by 2013, after which it would slowly decline once the programs enter their operational stages. Yet the CBO admits it could be higher: "[I]f, however, costs grow as they have historically, pursuing the programs included in CBO's missile defense projection will cost an additional $3 billion a year, on average, peaking at about $19 billion in 2013."

This is not the only possibility for missile defense spending. The CBO's evolutionary alternative consists of, "DOD would deploy no additional ground-, sea-, air-, or space-based missile defenses beyond those already in place. Continuing efforts would be confined solely to research and testing of missile defense concepts."

With all that objective government agencies have written about missile defense's frailties and weaknesses, redirecting the MDA's emphasis toward working with the technology that it has and ensuring that it works properly makes a dangerous amount of sense. But with the politicization of the program and the prominence given to showing some sort of capability in the field, it seems unlikely that this administration would take this sensible tack. However, it remains as a potent option that the next administration should keep in mind.

TAKING OFF THE ROSE-COLORED GLASSES

Throughout these reports, several common themes emerge. Unrealistic assumptions were made about the pace of missile defense development. In fact, the overarching policy of using spiral development seems to have backfired on MDA, as it slowed progress instead of quickening the pace of development.

The decision by the president to rush the GMD program's fielding created ripple effects that are still being discovered. It inculcated a rushed attitude, where contractors felt that quality control could be ignored just as long as the 2004 deadline was met. Accordingly, GMD has suffered a rush to failure that has put what would be a laughable system in the field . . . if there weren't policymakers who falsely believe that it can be depended upon to provide defense of the United States.

Another consequence of the heavy White House pressure is that MDA has been exempted of most reporting obligations. In theory, this was done to give MDA the freedom to explore every technological approach possible in the hopes that it would soon be able to whittle down choices to a manageable few. It has done the opposite. Programs fail to produce results, run over budget, and delay interminably—but are not killed. Yet because there was no baseline that MDA had to create for the programs, there is a great deal of difficulty in trying to measure what could be termed progress.

MDA's flexibility in accounting requirements has spilled over into how it holds itself accountable. Last year's flight test failures should have been a wake-up call to the agency. After the second test failure in a row, MDA halted GMD's flight test program while it held investigations. An independent review team was created to determine the cause of the failures and what practices would allow for a successful launch. It had five key recommendations for the GMD flight test program. According to the presentation given to Obering in March 2005, MDA should: "Establish a More Rigorous Flight Readiness Certification Process [with the subcategory of Make 'Test as you fly, fly as you test' the standard]; Strengthen Systems Engineering; "Perform additional ground-based qualification testing as a requirement for flight testing; "Hold contractor functional organizations accountable for supporting prime contract management; Assure that the GMD program is executable." While these are solid recommendations, the primary cause of the flight test failures—the rush to deploy—is played down.

A Mission Readiness Task Force was also created to review the preparation leading up to the GMD flight tests, and a Director of Mission Readiness was established. The first director was Adm. Kathleen Paige, who had been program director of the Aegis ballistic missile defense system. She retired in November 2005 and it is unclear as to whether she was replaced.

At any rate, MDA's operating mode, despite having created these task forces, has not in any real way changed.

What becomes apparent from reading these seven reports is that changes are imperative. If MDA continues in the same vein it has been, the United States will see itself saddled with a missile defense system that costs tens of billions, possibly hundreds of billions, of dollars, yet provides no actual defense. What's more, by diverting that money to an unfeasible system, the United States will miss out on the protection it could be getting from weapon systems that actually work. An honest assessment of the overall architecture is required before more time and funding is lost.

Mr. EVERETT. Mr. Chairman, I claim the time in opposition, and I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment because it would have a great negative impact on national security by severely curtailing or terminating programs that protect our country against rogue nations.

Simply put, now is not the time to gut our missile defense programs by slashing the Missile Defense Agency's budget in half, given the threats posed by such countries as North Korea and Iran.

This amendment would freeze in place both ground-based and the Aegis midcourse defense capabilities prior to finishing what we started with the Fort Greeley, Alaska, GMD installation. We have had tremendous success with the Aegis program. Six of the seven last intercept tests have been hits. Why in the world would you stop this now?

In addition, this amendment would kill the Airborne Laser and Kinetic Energy Interceptor boost phase defense programs, just when both promises are approaching significant milestones in 2008.

General Cartwright, Commander of STRATCOM, has repeatedly told me how important it is to stay the course with the Airborne Laser Programs, whose directed energy capability is of a critical importance to the Department of Defense. This amendment would kill the ABL program after more than $3 billion has been invested. It would be a tremendous waste of taxpayers' money not to go ahead and follow through with the ABL program to see how well it works.

The amendment cites the Congressional Budget Office report on long-term implications of current defense plans and alternatives. Let me repeat, "and alternatives." The evolutionary alternative in this CBO report is neither a recommendation nor an endorsement by CBO of cutting MDA programs. This report simply looked at the impact of future defense budgets, of alternative options to meet hypothetical, hypothetical spending targets. The CBO, and this was confirmed this today by my staff, does not endorse or support this proposal. It was merely another option as part of funding a "what if" drill, an academic situation, if you will.

This amendment could drastically cut the budget of our missile defense. While we all understand the missile defense architecture is complicated and costly, long term, it is crucial in today's world if we will continue our primary national defense into the future.

There will never be a time to cut investments in our Nation's protection. That is what this does. I strongly encourage my colleagues to vote against this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. TIERNEY. Mr. Chairman, I yield 2 minutes to the gentlemen from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Chairman, the Missile Defense Agency has before it really an impossible task. Our current missile system programs have not worked, and wishing will not help it to overcome the physics. The tests have failed repeatedly. It has been confused by decoys, faced numerous testing troubles, and despite spending over $100 billion over the years, we have failed to develop a working system.

Mr. TIERNEY referred to the seven separate reports that are critical of various aspects of this program. Our amendment is not just pulled out of a hat, it focuses this program down to allow the Missile Defense Agency to work in those areas where it can make progress. The programs have gotten so far out in front of the basic facts that it is time to focus this down.

You know, our colleagues say they do not want to shortchange our national defense, but I can assure you that cutting wasteful programs does not shortchange our national defense. Seven separate reports by independent agencies here say that aspects of this program are wasteful. They simply are not working. It is time to focus it down.

You know, one of the craziest ideas I have ever heard is that we should deploy this missile defense system as a way to test it. I cannot think of any aspect of your life, any aspect of military preparedness, any aspect of business or industry where you work that way. It should be thoroughly tested before it is deployed. And to deploy something like this is worse than a waste.

To deploy a flawed system, well, simple strategic analysis tells us that a provocative yet permeable defense is destabilizing and weakens the security of all Americans.

The idea that we have sunk lots of cost is the argument that keeps coming back. That is one of the worst fallacies in human reasoning. We need to stop throwing good money after bad and focus this program down.

Mr. EVERETT. Mr. Chairman, before I yield to my friends on the other side, let me say that the gentleman is probably not aware of a missile which was deployed before it was finally finished, which the Israelis used.

Mr. Chairman, I yield 45 seconds to the gentleman from Texas (Mr. REYES) who is on the Intel Committee and also on the Strategic Forces Committee that handles missile defense.

Mr. REYES. I thank the gentlemen for yielding.

Mr. Chairman, I rise in opposition to this amendment in support of the committee's efforts to obtain effective and fully tested missile defense capabilities aimed at defeating real threats.

Today is not a time to be cutting funds from this critical program. I am particularly concerned about the restrictions the amendment would impose on the Aegis and THAAD theatre defense systems, because just this morning a THAAD interceptor was successfully launched against a simulated target.

Mr. Chairman, we cannot afford to slow down this important theater defense program. I urge my colleagues to support this committee's bipartisan approach and to defeat this amendment.

Mr. Chairman, I rise in opposition to the amendment and in support of the Committee's efforts to obtain effective, fully-tested missile defense capabilities aimed at defeating real threats.

H.R. 5122 redirects missile defense funding from longer range programs—such as the multiple kill vehicle—to near term needs, such as buying upgrades for the Patriot and Aegis interceptors that can protect our service members and allies today. It also places restrictions on developing improvements to the ground-based midcourse defense system until after it successfully intercepts two operationally realistic warheads, and it prevents any development of space-based interceptors.

While we might disagree about whether further adjustments or reductions are possible, I commend the subcommittee chairman for this good-faith effort to develop a bipartisan approach to missile defense.

The amendment before us today goes too far in radically restructuring missile defense programs. It would essentially freeze our missile defense capabilities at their current level and it would terminate numerous programs before we obtain useful information about whether they can improve our defenses against missiles launched by a rogue nation.

I am particularly concerned about the restrictions the amendment would impose on the Aegis and THAAD theatre defense systems. Just this morning a THAAD interceptor was successfully launched against a simulated target. We cannot afford to slow down this important theatre defense program.

I urge my colleagues to support the Committee's bipartisan approach and to defeat this amendment.

Mr. EVERETT. Mr. Chairman, let me now yield any time remaining to the gentleman from Alabama (Mr. CRAMER) who is also very knowledgable about missile defense and also on the Intel Committee and the Appropriations Committee.

Mr. CRAMER. I thank my colleague from Alabama and also my colleague from Texas.

Mr. Chairman, I rise in strong opposition to the Tierney-Holt Amendment. I do so reluctantly, because I respect the two gentlemen, and we serve on the House Intelligence Committee together as well.

This amendment would reduce the Missile Defense Agency's $9.38 billion roughly by half. And now is not the time to do that, to say the least. We have been involved in sensitive briefings lately on the Appropriations Committee and the House Intelligence Committee that talk about the threats that we have got to invest our technology in.

In 2005, there were 60 launches that involved short-range ballistic missiles, 10 involved medium- and intermediate-range missiles, and about 10 involved long-range ballistic missiles. We have already invested heavily in several key programs to defend against this threat, and the programs are just now providing the kind of technology that has got to be refined in order to defend us.

We have got sensitive intelligence issues, sensitive defense issues against this country. The negative impacts that this amendment now would have on the budget cuts would be drastic.

I urge my colleagues to oppose this amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. TIERNEY).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. TIERNEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts will be postponed.

AMENDMENT NO. 10 OFFERED BY MR. HOSTETTLER

Mr. HOSTETTLER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 printed in House Report 109–461 offered by Mr. HOSTETTLER:

At the end of subtitle C of title V (page 126, after line 12), insert the following new section:

SEC. . SPECIAL OPERATIONS FELLOWSHIPS.

(a) FELLOWSHIPS.—The Secretary of Defense shall prescribe regulations under which the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict may award a fellowship to an eligible person, as described in subsection (b), in a discipline determined by the Assistant Secretary. The authority to award any amount of funds to any person as a fellowship under this section is subject to the availability of funds for that purpose.

(b) ELIGIBLE PERSON.—A person eligible for a fellowship under this section is a citizen or national of the United States who is enrolled in or is eligible to enroll in a program of education leading toward the completion of a masters degree or a doctoral degree.

(c) FELLOWSHIP REQUIREMENTS.—

(1) DOCTORAL DEGREE STUDENTS.—The recipient of a fellowship who is a student enrolled in a program of education leading toward the completion of a doctoral degree shall agree to prepare a doctoral dissertation in a subject area with military relevance that is approved by the Assistant Secretary.

(2) MASTERS DEGREE STUDENTS.—The recipient of a fellowship who is a student enrolled in a program of education leading toward the completion of a masters degree shall agree to concentrate the masters degree on a subject area with military relevance that is approved by the Assistant Secretary.

(d) REGULATIONS.—The regulations required to be prescribed under this section shall include each of the following:

(1) The criteria for the award of fellowships under this section.

(2) The procedure for selecting recipients of such fellowships.

(3) The basis for determining the amount a fellowship recipient will receive.

(4) The total amount that may be used to award fellowships during an academic year.

The Acting CHAIRMAN. Pursuant to House Resolution 811, the gentleman from Indiana (Mr. HOSTETTLER) and a Member opposed each will control 5 minutes.

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN. Before the Chair recognizes the gentleman from Indiana, the Chair would ask anyone with a cell phone in the Chamber to turn it off.

The Acting CHAIRMAN. The Chair recognizes the gentlemen from Indiana.

Mr. HOSTETTLER. Mr. Chairman, Special Operations Forces have played an increasingly important role in our wars against nonstate actors. Therefore, I believe we need to encourage our Nation's best and brightest military scholars to focus on the scholarly research needs of our special operators.

Mr. Chairman, I believe this new fellowship program will nurture and cultivate the kind of academic scholarship that will help our special operators gain an even greater upper hand against our Nation's adversaries. We supply them with the best weapons in the world. We must, as well, see to it that they benefit from the research of some of our Nation's best scholars.

If enacted into law, my amendment would authorize the Secretary of Defense to prescribe regulations under which the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict will award a fellowship to an eligible person, as described in the legislation, in a discipline determined by the Assistant Secretary.

The authority to award any amount of funds to any person as a fellowship under this section is subject to the availability of funds for this purpose.

Mr. Chairman, I believe it is important that we give our men and women in uniform all of the tools necessary to fight and win our Nation's wars overwhelmingly. And one way to do that is to give them access to the best scholarship available in their respective fields.

Mr. Chairman, I yield back the balance of my time.

Mr. ANDREWS. Mr. Chairman, I rise to claim the time in opposition, although I will not oppose the amendment.

The Acting CHAIRMAN. Without objection, the gentleman from New Jersey is recognized for 5 minutes.

There was no objection.

Mr. ANDREWS. In fact, I rise to support the amendment. The asymmetric threats that are based by our country today require a complex set of skills to successfully address those threats. Certainly the men and women of our Special Forces possess many of those skills. They do a fabulous job.

And it is our job to try to assist them and facilitate them in their work. The gentleman from Indiana's amendment, I think, gives these American heroes one more tool, one more opportunity to excel.

Asymmetric warfare certainly involves the use of force and the use of strategy on the battlefield. But it also solves intimate knowledge of sociology, language, history, physics, and perhaps other disciplines that go well beyond that.

☐ 1445

Our ranking member of the full committee, Mr. SKELTON, has been a leading voice for military education throughout his time here. We think this amendment is consistent with Mr. SKELTON's devotion to that principle.

We want our Special Forces men and women not simply to be physically prepared, technologically armed and equipped but to have the intellectual tools necessary to do their job and defend the country. We believe this amendment serves those values well. We are pleased to support it.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. BONILLA). The question is on the amendment offered by the gentleman from Indiana (Mr. HOSTETTLER).

The amendment was agreed to.

AMENDMENTS EN BLOC OFFERED BY MR. HUNTER

Mr. HUNTER. Mr. Chairman, I offer amendments en bloc.

The Acting CHAIRMAN. The Clerk will designate the amendments en bloc.

Amendments en bloc offered by Mr. HUNTER printed in House Report 109–461 consisting of amendment No. 18; amendment No. 11; amendment No. 12; and amendment No. 14.

AMENDMENT NO. 18 OFFERED BY MS. SCHAKOWSKY

The text of the amendment is as follows:

At the end of subtitle B of title VIII (page 295, after line 20), add the following new section:

SEC. 815. OVERSIGHT AND ACCOUNTABILITY OF CONTRACTOR PERSONNEL.

(a) REPORT AND REQUIREMENTS RELATING TO CONTRACTS TO BE PERFORMED IN IRAQ AND AFGHANISTAN.—

(1) INSPECTOR GENERAL REPORT.—Not later than March 1, 2007, the Inspector General of the Department of Defense shall submit to Congress a report on overcharges discovered by the Inspector General under contracts entered into by the Department for work to be performed in Iraq and Afghanistan.

(2) ASSIGNMENT OF SUFFICIENT CONTRACTING OFFICERS.—The Under Secretary of Defense for Acquisition, Logistics, and Technology shall ensure that sufficient contracting officers are assigned to oversee and monitor contracts entered into by the Department of Defense for work to be performed in Iraq and Afghanistan.

(b) REQUIREMENTS RELATING TO EMPLOYEES OF DEFENSE CONTRACTORS OPERATING OUTSIDE THE UNITED STATES.—

(1) BACKGROUND CHECKS.—The Secretary of Defense shall implement a policy for conducting comprehensive background checks

on foreign nationals hired by contractors (and subcontractors at any tier) of the Department of Defense operating outside the United States. The type of background check included in such policy shall be suitable for employment screening and shall, at a minimum, include a determination of whether the potential employee is on a terrorist watch list or has a criminal record. The policy shall provide for completing such background checks as quickly as possible.

(2) PROHIBITION ON HIRING CERTAIN EMPLOYEES.—A contractor (or subcontractor at any tier) of the Department of Defense operating outside the United States may not hire any person—

(A) who has been convicted of a violent felony; or

(B) who is determined by the Secretary of Defense to have committed acts inconsistent with the policy of the Department of Defense on human rights.

(c) REPORT AND APPLICABILITY OF DEFENSE INSTRUCTION RELATING TO CONTRACTOR PERSONNEL AUTHORIZED TO ACCOMPANY THE ARMED FORCES.—

(1) REPORT ON IMPLEMENTATION OF INSTRUCTION.—The Secretary of Defense shall submit to Congress a report on the Department of Defense instruction described in paragraph (3). The report shall include information on the status of the implementation of the instruction, how the instruction is being enforced, and the effectiveness of the instruction.

(2) REQUIREMENT TO APPLY TO CONTRACTS.—The Department of Defense instruction described in paragraph (3) shall apply to—

(A) contracts entered into by the Department of Defense after the date of the enactment of this Act;

(B) task orders issued after the date of the enactment of this Act under contracts in existence on the date of enactment of this Act; and

(C) contracts in existence on the date of the enactment of this Act with respect to which an option to extend the contract is exercised after such date.

(3) INSTRUCTION DESCRIBED.—The instruction referred to in this subsection is Department of Defense Instruction Number 3020.14, titled "Contractor Personnel Authorized to Accompany the United States Armed Forces".

AMENDMENT NO. 11 OFFERED BY MR. JINDAL

The text of the amendment is as follows:

At the end of title X (page 393, after line 23), add the following new section:

SEC. 1041. DEPARTMENT OF DEFENSE OPERATIONAL PLANS FOR ARMED FORCES SUPPORT FOR CIVIL AUTHORITIES.

The Secretary of Defense, in coordination with the Secretary of Homeland Security and State governments, shall develop detailed operational plans regarding the use of the Armed Forces to support activities of civil authorities, known as Defense Support to Civil Authorities missions. These plans shall specifically address response options to hurricanes, wildfires, earthquakes, pandemic, and other natural disasters.

AMENDMENT NO. 12 OFFERED BY MR. LEWIS OF KENTUCKY

The text of the amendment is as follows:

At the end of title VI (page 237, after line 8), add the following new section:

SEC. 664. PHASED RECOVERY OF OVERPAYMENTS OF PAY MADE TO MEMBERS OF THE UNIFORMED SERVICES.

(a) PHASE RECOVERY REQUIRED; MAXIMUM MONTHLY INSTALLMENT.—Subsection (c) of section 1007 of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(3) If the indebtedness of a member of the uniformed services to the United States is due to the overpayment of pay or allowances to the member through no fault of the member, the amount of the overpayment shall be recovered in monthly installments. The amount deducted from the pay of the member for a month to recover the overpayment amount may not exceed 20 percent of the member's pay for that month.".

(b) RECOVERY DELAY FOR INJURED MEMBERS.—Such subsection is further amended by inserting after paragraph (3), as added by subsection (a), the following new paragraph:

"(4) If a member of the uniformed services is injured or wounded under the circumstances described in section 310(a)(2)(C) of this title or, while in the line of duty, incurs a wound, injury, or illness in a combat operation or combat zone designated by the Secretary of Defense, any overpayment of pay or allowances made to the member while the member recovers from the wound, injury, or illness may not be deducted from the member's pay until after the end of the 90-day period beginning on the date on which the member is notified of the overpayment.".

(c) CONFORMING AMENDMENTS.—Such subsection is further amended—

(1) by inserting "(1)" before "Under regulations";

(2) by striking "his pay" both places it appears and inserting "the member's pay";

(3) by striking "However, after" and inserting the following:

"(2) After"; and

(4) by inserting "by a member of the uniformed services" after "actually received".

AMENDMENT NO. 14 OFFERED BY MR. MICA

The text of the amendment is as follows:

At the end of title VI (page 237, after line 8), insert the following new section:

SEC. 6___. SENSE OF CONGRESS CALLING FOR PAYMENT TO WORLD WAR II VETERANS WHO SURVIVED BATAAN DEATH MARCH.

(a) IN GENERAL.—It is the sense of Congress that—

(1) there should be paid to each living Battan Death March survivor an amount that is $4 for each day of captivity during World War II, compounded annually at a 3 percent annual rate of interest; and

(2) in the case of a Battan Death March survivor who is deceased and who has an unremarried surviving spouse, such a payment should be made to that surviving spouse.

(b) BATAAN DEATH MARCH SURVIVOR.—In this section, the term "Bataan Death March survivor" means an individual who as a member of the Armed Forces during World War II was captured on the peninsula of Bataan or island of Corregidor in the territory of the Philippines by Japanese forces and participated in and survived the Bataan Death March.

The Acting CHAIRMAN. Pursuant to House Resolution 811, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 10 minutes.

The Chair recognizes the gentleman from California.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Speaker, in the Schakowsky amendment, the gentlewoman from Illinois provides for additional oversight and accountability of Department of Defense contractors deployed in Iraq and Afghanistan. It would make retroactive DOD regulations for contractors issued in October 2005 on previously issued contracts upon any extension brought about by an option.

It would implement a policy for conducting comprehensive background checks on foreign nationals hired by contractors operating outside of the U.S. and would also require a DOD Inspector General report on contractor overcharges and require that there are sufficient contracting officers assigned to oversee and monitor contracts in Iraq and Afghanistan.

The amendment offered by Mr. JINDAL would require the Secretary of Defense in coordination with the Secretary of Homeland Security and State governments to develop detailed operational plans regarding the use of the Armed Forces to support activities of civil authorities known as Defense Support to Civil Authorities Missions.

The amendment that is offered by Mr. LEWIS of Kentucky would provide that no more than 20 percent of a uniformed servicemember's paycheck can be garnished in a single pay period to recover overpayments that have occurred through no fault of the servicemember. That was always my contention.

It would also provide a 90-day grace period before overpayment recovery can begin from servicemembers who are wounded or injured or who incur an illness in a combat operation or combat zone.

Finally, the Mica amendment offered by the gentleman from Florida expresses the sense of Congress that the Department of Defense should provide compensation to American veterans who are captured while in service to the United States Armed Forces on the peninsula of Bataan or the island of Corregidor, survived the Bataan Death March during World War II and have not received previous compensation provided to other prisoners of war.

I might just say about that amendment, Mr. Chairman, these great Americans came back and met with many of us over the last several years, these great survivors of the Bataan Death March. And many of them, according to their testimony, were taken by ship after the death march in which many of them were killed, bayoneted, decapitated, otherwise killed; they were taken to Japan and in many cases were turned over to Japanese industry, including companies that are corporate giants today like Matsui and Mitsubishi. And these Japanese corporations took the Americans as slaves from the Japanese Government. They turned them over to them as POWs. And they put them in slave labor operations, in many cases involving mines, for example, that were considered to be unsafe for Japanese workers. They would push the Americans into those mines.

I can recall some of the Americans testifying when they came back and met with us on the Hill about the brutality that took place. The time one of our great survivors of the Bataan Death March from California had a rock fall on him in a cave-in in this unsafe mine that they were working in as slaves to these corporations, and his leg was crushed by a rock. And an American doctor who was also a POW operated on that Bataan Death March survivor with a single rusty razor blade and the anesthetic was to have the biggest guy in the POW camp knock him out before they did the operation, and then they used maggots to clean the wound. And that great American was back here testifying a couple of years ago to the U.S. Congress.

Those POWs sought redress from the corporations which had used them as slaves in their operations saying we want to be paid for this work that we performed as slave labor. The corporations resisted this mightily in a series of lawsuits. And I thought it was sad that the U.S. Government intervened on the opposite side, on the other side from the American POWs, claiming that the treaty that was signed after the war essentially eliminated any rights on behalf of the POWs other than the one dollar a day that they received as compensation for their POW status.

So those great Americans did not win. They ultimately faced summary judgments in American courts and received no compensation from these massive corporations. In fact, some of the biggest corporations in the world which when they enslaved these Americans were not nationalized by the Japanese Government, but in fact remain private corporations and developed a lot of their operations or carried on a lot of their operations using American slave labor.

So the lawsuits were quashed and these Americans, those that still survive, never got any redress. So I would just say that Mr. MICA's amendment particularly struck a cord with this member of the Armed Services Committee, and I would recommend that all these amendments be supported.

Mr. Chairman, I reserve the balance of my time.

Mr. SKELTON. Mr. Chairman, I yield 4 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Chairman, I thank the gentleman for yielding me time. I want to begin by thanking Chairman HUNTER and Ranking Member SKELTON and their Armed Service Committee staffs for working with me to bring this amendment dealing with private military contractors to the floor. I really appreciate your help and that of your staff.

My amendment would provide for additional oversight and accountability of the Defense Department contractors deployed in Iraq and Afghanistan. Contractors compose the second largest force in Iraq after the U.S. military. This amendment does not attempt to make any statement on the decision to use contractors or about the wars in Iraq or Afghanistan.

Now that we are more than 3 years into the war in Iraq, this amendment is intended to give Members of Congress new tools so that we can exercise our oversight responsibilities on what has become a major component of our military and to clarify the role of contractors. We can all acknowledge that military contractors should require the same stringent accountability and oversight standards as the U.S. military. After all, private contractors often served side by side with our brave troops, and these same United States troops are often tasked to protect our contractors who are paid with billions of U.S. taxpayer dollars.

This amendment would help to provide increased accountability and oversight for our Defense Department contractors by, first, implementing a policy for conducting comprehensive background checks on foreign nationals hired by our contractors. We want to know who these individuals are and what their backgrounds are and if they are suitable for that role. It also prohibits the hiring of any person that has been convicted of a violent crime or a human rights violation.

Second, this amendment makes retroactive new Department of Defense rules for contractors on contracts that are already in existence or on any contract extension. For example, it makes perfectly clear that combatant commanders are in charge. It outlines carefully that relationship between combatant commanders and contractors so that there is a structure of command or part of the chain of command. The combatant commander decides whether or not they carry a gun, what uniform they would wear and that they have to respond to the combatant commander.

It also would say that anyone that is a contractor or an employee of a contractor must obey the laws of the host country, of international law and U.S. law.

Third, it requires a Department of Defense Inspector General report on contractor overcharges, requires that there are sufficient contracting officers assigned to monitor contracts in Iraq and Afghanistan.

I hope that in the future I can continue to work with Chairman HUNTER and Ranking Member SKELTON to address additional oversight issues regarding the use of military contractors. I also hope we will continue to consider the impact that utilizing contractors has on our military. And I would also like to consider additional means to make it easier for Members of Congress to see Defense Department contracts so we can better monitor them for signs of waste, fraud and abuse.

Again, I thank Chairman HUNTER and Ranking Member SKELTON. I appreciate your support and attention to this important issue.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kentucky (Mr. LEWIS).

Mr. LEWIS of Kentucky. Mr. Chairman, I want to thank Chairman HUNTER for his leadership in bringing this legislation before us today.

I am proud to support the bill which reflects the superior commitment to all of those defending the freedom of our Nation. I am certainly appreciative of being able to offer this amendment.

It is a little known fact in the civilian world that when a soldier is accidentally overpaid as a result of a military pay system error, the sum can be recouped in the form of a zero sum paycheck also known as "no pay due."

This is a problem long acknowledged by America's military community and service organizations and has been documented by numerous news organizations including ABC News, Army Times, and service organization publications.

Overpayments occur when the military's pay and personnel systems which are currently neither automated nor integrated with one another, do not accurately reflect a soldier's current status and are distressingly common when pay grade assignment or geographical changes are involved. Furthermore, while overcompensation can occur in small amounts over time, the full amount can be recouped by garnishing large portions of entire paychecks when over payment is detected.

The immediate and often unexpected financial burden this places on military families is in many cases overwhelming. Perhaps most disturbing is the common occurrence of "no pay due" for wounded soldiers. System failure to recognize cessation of combat pay or other allowances often results in continued compensation which then results in garnishment when the system catches up, all at a time when a wounded soldier's family is most vulnerable.

My amendment simply requires that no more than 20 percent of a soldier's paycheck can be garnished in one pay period to recover overpayment resulting from system error. It would also institute a 90-day grace period before recovery of overpayments can begin for wounded soldiers. This will ensure that families are not blind-sided by recovery of debt incurred as no fault of their own and often with no knowledge.

I ask for my colleagues to support this amendment which carries no cost and which does not seek to absolve debt, but merely to ease its recovery for our military families already serving so selflessly in defense of this Nation. I hope you will join me in lifting the burden of no pay due. Thank you. Our soldiers and their families deserve better.

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PARLIAMENTARY INQUIRY

Mr. WELDON of Pennsylvania. Mr. Chairman, parliamentary inquiry. Is it in order to ask unanimous consent for an additional 2 minutes beyond what has been allotted?

The Acting CHAIRMAN (Mr. LAHOOD). The Chair may entertain such request on terms congruent with the order of the House; that is, with the time divided equally between the sides.

Mr. WELDON of Pennsylvania. Mr. Chairman, I ask unanimous consent to enlarge the debate for both sides by 4 minutes.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana (Mr. JINDAL).

Mr. JINDAL. Mr. Chairman, I, too, want to thank Chairman HUNTER, the staff and members of the committee for their very good work on this bill.

I rise to offer an amendment. The National Guard and active duty military troops and assets deployed since Hurricanes Katrina and Rita constituted one of the Nation's largest domestic deployments of military assets since the Civil War. The National Guard and active duty military response saved lives, provided urgent food, water, shelter and medical care to many hurricane victims.

The deployment of National Guard forces before active duty troops is consistent with current U.S. Department of Defense strategy for homeland defense and civil support, which relies on the National Guard in the first instance for civil support.

However, in the wake of these particular hurricanes, Federal and State officials lacked coordination and consideration of requests for National Guard and active duty troop deployments. Local, State and Federal offices had differing perceptions of the number of Federal troops that would be arriving and the appropriate command structure for all troops, causing confusion and diverting attention from response activities.

This amendment requires the Secretary of Defense, in coordination with the Secretary of Homeland Security and State governments, to develop detailed operational plans regarding the use of Armed Forces to support activities of civil authorities in response to a catastrophic disaster.

The amendment works to significantly strengthen the response options to hurricanes, wildfires, earthquakes, pandemic, and other natural disasters.

My amendment is consistent with the findings and recommendations from both the Select Bipartisan Committee to Investigate the Preparation for Response to Hurricane Katrina and the report from the Senate Committee on Homeland Security and Government Affairs, and it builds upon provisions in the base bill, which require DOD to maintain real-time capability assessments of responsibilities under the National Response Plan.

Mr. WELDON of Pennsylvania. Mr. Chairman, I am proud to yield 2 minutes to the distinguished gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Chairman, I thank the chairman.

The defense authorization bill is one of the most important measures we take before the Congress because it sets the policy for the Department of Defense.

The purpose of the amendment that I have offered and has graciously been included in this en bloc amendment is to recognize the service and sacrifice and make that part of our policy to again realize what took place with the victims of the Bataan Death March during World War II. This amendment also expresses the sense of Congress that the Department of Defense should seek to provide compensation to the remaining survivors.

Those captured in the Bataan Death March spent an average of 3.5 years in captivity in Japanese prison camps and forced labor factories. Chairman HUNTER described some of the torture and forced labor.

In order to compensate for the torture, malnutrition and forced labor they endured, the survivors should be provided at least what was then set forth, which is $4 a day for the time spent in captivity, and the bill provides for some compounded annual interest. Even private contractors who were captured and imprisoned received $60 per day. They were, indeed, victims of torture and injustice and unfairness.

This amendment is important for Congress to recognize the unbelievable sacrifices of our soldiers who defended our Nation and fought in the Philippines.

Very few survivors of the Bataan Death March are still alive today. In fact, one reason I got involved in this is because of a local veteran by the name of Sam Moody, and Sam passed away since I undertook his request. There are only about 900 survivors and widows. So it is not really the money. It is also the policy that we set here today.

Mr. SKELTON. Mr. Chairman, I yield back the balance of my time.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield back my time.

The Acting CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from California (Mr. HUNTER).

The amendments en bloc were agreed to.

AMENDMENT NO. 23 OFFERED BY MR. WELDON OF PENNSYLVANIA

Mr. WELDON of Pennsylvania. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 23 printed in House Report 109-461 offered by Mr. WELDON of Pennsylvania:

At the end of title XII (page 419, after line 7), insert the following new section:

SEC. 12 . SENSE OF CONGRESS CONCERNING COOPERATION WITH RUSSIA ON ISSUES PERTAINING TO MISSILE DEFENSE.

It is the sense of Congress that—

(1) cooperation between the United States and Russia with regard to missile defense is in the interest of the United States;

(2) there does not exist strong enough engagement between the United States and Russia with respect to missile defense cooperating;

(3) the United States should explore innovative and nontraditional means of cooperation with Russia on issues pertaining to missile defense; and

(4) as part of such an effort, the Secretary of Defense should consider the possibilities for United States-Russian cooperation with respect to missile defense through—

(A) the testing of specific elements of the detection and tracking equipment of the Missile Defense Agency of the United States Department of Defense through the use of Russian target missiles; and

(B) the provision of early warning radar to the Missile Defense Agency by the use of Russian radar data.

The Acting CHAIRMAN. Pursuant to House Resolution 811, the gentleman from Pennsylvania (Mr. WELDON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment out of a sense of frustration. I was the prime author of the missile defense legislation in 1998, with our friend JOHN SPRATT, that passed the House with a veto-proof margin calling for a moving forward on missile defense. At the time of that debate and leading the debate, I said to our colleagues, as I committed to the Russians, that we would do joint missile defense in cooperation so as not to create any feeling that we were trying to achieve a strategic advantage over them.

In fact, the weekend before the vote, I took Don Rumsfeld, Jim Woolsey and Bill Schneider to Moscow, along with several of my colleagues from the other side of the aisle, to reassure the Russians that this was not about scoring a strategic advantage.

Unfortunately, Mr. Chairman, 2 years ago, this administration cancelled the only remaining program with the Russians on missile defense. That program, entitled RAMOS, had been attempted to be cancelled back in the 1990s, and Senator LEVIN joined with us in blocking that cancellation. By canceling the RAMOS program, we have sent a terrible signal to the Russian military and to their government at a time when we need to reinforce strategic cooperation with Russia.

I would argue that there is no country that could assist us in dealing with both North Korea and Iran more than Russia at this point in time, but continuing to send mixed signals like the cancellation of our cooperation on missile defense is entirely taking us in the wrong direction.

Now, General Obering, who is in charge of our Missile Defense Agency, agrees with me. In fact, he had negotiated a contract over a year ago with the Russian General Balyuevsky to gain joint cooperation on missile defense. It was the policy office of the Secretary of Defense that cancelled that contract that had been negotiated by General Obering. To me, that was absolutely outrageous and wrong, but yet, it has still not been corrected.

Mr. Chairman, this amendment is simply designed to lay down a marker to this administration that we do have a need to work together with our Russian counterparts. They have assets that we can use. They have large, phased radar systems that can assist us in areas of the world that we cannot cover. They have the ability to provide targeting opportunities for us. They also have very sophisticated theater systems, including the S–400, the S–500 and the S–600, that we can work on jointly with them to learn the technologies and the techniques that the Russians have employed with their missile defense systems.

So, Mr. Chairman, I offer this amendment as a signal from the Congress, hopefully with bipartisan support, to the Pentagon and to the White House to get back on track, to do what the Congress mandated when we passed the Missile Defense Act back in 1998, and to begin and renew our cooperation, as General Obering has called for, with the Russians on missile defense cooperation, both at the theater level and at the strategic level.

I would ask that our colleagues on the other side would see fit to join with us in having this amendment be included as a part of our defense authorization bill.

Mr. SKELTON. Mr. Chairman, I claim time on this and I would add that I support it. I compliment the gentleman from Pennsylvania, and I certainly think it is an excellent amendment.

Mr. Chairman, I yield back my time.

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield back my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WELDON).

The amendment was agreed to.

AMENDMENT NO. 21 OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 21 printed in House Report 109–461 offered by Mr. TAYLOR of Mississippi:

At the end of title X (page 393, after line 23), insert the following new section:

SEC. 10 . REQUIREMENT THAT ALL MILITARY WHEELED VEHICLES USED IN IRAQ AND AFGHANISTAN OUTSIDE OF MILITARY COMPOUNDS BE EQUIPPED WITH EFFECTIVE IMPROVISED EXPLOSIVE DEVICE (IED) JAMMERS.

(a) REQUIREMENT.—The Secretary of Defense shall take such steps as necessary to ensure that by the end of fiscal year 2007 all United States military wheeled vehicles used in Iraq and Afghanistan outside of military compounds are equipped with effective Improvised Explosive Device (IED) jammers.

(b) FUNDING.—The Secretary shall carry out subsection (a) using funds provided pursuant to authorizations of appropriations in title XV.

(c) REPORT.—Not later than December 15, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the cost and timeline to complete compliance with the requirement in subsection (a) that by the end of fiscal year 2007 each vehicle described in that subsection be equipped with an effective Improvised Explosive Device jammer.

MODIFICATION TO AMENDMENT NO. 21 OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I have a modification to my amendment at the desk.

The Acting CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 21 printed in House Report 109–461 offered by Mr. TAYLOR of Mississippi:

At the end of the amendment, add the following:

Strike section 1 (page 2, lines 1 through 3) and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "G. V. 'Sonny' Montgomery National Defense Authorization Act for Fiscal Year 2007".

The Acting CHAIRMAN. Without objection, the modification is agreed to.

There was no objection.

The Acting CHAIRMAN. Pursuant to House Resolution 811, the gentleman from Mississippi (Mr. TAYLOR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Chairman, the modification, that the majority was so kind to agree to, would name this year's defense bill after one of the finest gentlemen to ever serve in this body, a former soldier, a statesman from the State of Mississippi, Sonny Montgomery, and the author of the Montgomery GI bill.

The bill does a lot of things this year that I think Sonny would be very proud of, particularly extending the TRICARE privileges to guardsmen and reservists, and since we are told that former Congressman Montgomery is under the weather, we hope that he is aware of what we are doing today because, again, I cannot think of anyone in our Nation who has done more to advance the Guard and Reserve than Sonny Montgomery.

He caught a heck of a lot of heat from people when he used his friendship with then-President Bush to have the Guard and Reserve called up for the first Gulf War. The decision he made then, the decision President Bush made then, was absolutely the right decision, and it has led to the one-force policy that our Nation enjoys today.

So, again, I want to thank the majority for working with me on that.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I certainly applaud your addition to your amendment. Sonny Montgomery was such a good friend when I first came to the House of Representatives. He, of course, was a senior member of the Armed Services Committee, gave guidance and advice; and I had the opportunity to be on the Personnel Subcommittee when his bill, later known as the Sonny Montgomery GI bill, came through, and I had the opportunity to work on an amendment at the subcommittee level, as a matter of fact.

He was a true gentleman's gentleman, a real inspiration to those of us that worked with him, a credit to the House, a credit to the military, a credit to the National Guard, most of all a credit to our Nation. So it is certainly fitting and proper that you should name this measure after G.V. "Sonny" Montgomery.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding, and I will be brief.

But I just want to say about Sonny Montgomery. I miss Sonny Montgomery. I can still see him in the House Chamber, and I can see him in the Armed Services Committee where he sat with us, and I can see him walking into the prayer breakfast.

I am not a regular, but I happened to be there that morning, and he walked in when Floyd Spence was having a double lung operation. Sonny would read the casualty roll, just like a soldier, and he said I have got news about Floyd and a hush fell over the breakfast. There were about 30 Members there, Democrat and Republicans, and we thought he would tell us that Floyd Spence had passed away.

Sonny did kind of a double-take at his notes, and he said Floyd just got married. Apparently, he had gotten married coming out of this double lung transplant operation a few minutes afterwards, and lived many happy years after that.

But Sonny Montgomery was a spark of life in this Chamber. He was a great representative for the tradition of the military, Mr. National Guard. There is no question in the world you could posit to Sonny Montgomery and no statement you could make as a witness before the Armed Services Committee that it would not evoke from Sonny Montgomery, what would this mean for the National Guard? I do not care what the issue was, he managed to turn it into a Guard question.

What a great, great American. He served in World War II and had that great feeling for our military, and he is in tough shape right now.

But I have seen the gentleman's amendment to make this the Sonny Montgomery bill. How fitting and appropriate that we do that. Sonny is still alive, and I know that we usually do this for Members that have passed on; but Sonny is still alive and I say, good, and let us do this. And I thank the gentleman from Mississippi for bringing this up.

Mr. WELDON of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Pennsylvania.

Mr. WELDON of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding, and I want to thank our colleagues and particularly Mr. TAYLOR and the chairman and ranking member for this tribute to our good friend, Sonny Montgomery.

When I first came to Congress as a junior Member, it was Sonny Montgomery who kind of took the freshman Members under his wing from both parties and kind of taught us the ropes of how to work on the committee in a bipartisan manner.

Sonny Montgomery is, in fact, a statesman. He was the kind of leader on defense and security issues that everyone followed and rallied around.

Time and again, we had bills where leadership, under both Democrat administrations and Republican administrations, would want clean bills with no significant amendments. It was always Sonny Montgomery with his Guard and Reserve package that would ensure at least one amendment, and usually it was strong bipartisan votes because of his commitment, as Chairman HUNTER has outlined, to our Guard and Reserve.

The Acting CHAIRMAN. The time of the gentleman from Mississippi (Mr. TAYLOR) has expired.

□ 1515

The Acting CHAIRMAN (Mr. LAHOOD). Does the gentleman from Missouri (Mr. SKELTON) seek 5 minutes in opposition?

Mr. SKELTON. Yes, Mr. Chairman.

The Acting CHAIRMAN. The gentleman from Missouri is recognized for 5 minutes.

Mr. SKELTON. I yield to the gentleman from Pennsylvania.

Mr. WELDON of Pennsylvania. Mr. Chairman, Sonny Montgomery also was the individual who authored the Montgomery GI bill and is responsible for the education of our young people.

So many have used that bill to go on to school, and it has had such a positive impact on the men and women that have served this country that Sonny's name is known by people far and wide in this Nation, not just because of his commitment to the Guard and Reserve, but to the continuing educational needs of our young people.

I had the pleasure of accompanying Sonny on my first codel to North Korea. He led the delegation into South Korea. We drove up to the DMZ. Sonny led the official delegation to bring back the first remains of Americans from the Korean War. He handled that responsibility with a great deal of pride and responsibility, as Sonny Montgomery did on a continuing and frequent basis in representing this Nation and our President, in receiving the first remains of American prisoners that had been found by the North Korean Government.

I would just add my name to the list of all our colleagues who have such high regard for Sonny Montgomery. He is a statesman, and the gentleman has done a great job in making sure that this bill is a lasting legacy to Sonny Montgomery's leadership.

Mr. SKELTON. Mr. Chairman, I yield the balance of my time to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Chairman, I would like to thank my colleagues for their kind words about Sonny Montgomery. I would also like to remind my colleagues that the underlying amendment calls for telling the Department of Defense that by the end of fiscal year 2007, the Secretary of Defense will develop a plan to equip every wheeled vehicle that leaves a compound in Iraq or Afghanistan with an IED jammer.

Mr. Chairman, I voted for the use of force in Iraq and therefore I share in the responsibility for the death of every young person and every not-so-young person who has been maimed over there. It is a very unfortunate tactic by our enemies to use improvised explosive devices that are remote detonated, which have resulted in over half of the casualties and injuries of Americans over there.

Technology exists to jam the signal that triggers that charge. Many of our vehicles in Iraq have these jammers, but not all. Just as we would never dream of sending a helicopter out that does not have protection from missiles, or dream of sending a C–130 to land at Baghdad or Balad that did not have an antimissile defense, we as a nation should not dream of sending one Humvee or one truck outside of a compound that does not have the technology to jam that signal and protect the troops on board.

I have been to most of the funerals of the south Mississippians who have died in this war, and I have visited most of the soldiers at Walter Reed who have been injured. In every instance they were either killed or injured by an IED, and I regret to say, in every instance the vehicle they were traveling in did not have a jammer.

We are the world's greatest nation. We are going to spend $10 billion this year on national missile defense and we have not been attacked by a missile, and yet every day we are having young Americans killed by IEDs. I think it is time we tell the Department of Defense that we as a Congress want to see that every single vehicle in Iraq is protected, every single soldier, airman, Marine, every single Navy personnel who is traveling in these vehicles is being protected.

I welcome the comments of the chairman of the committee, and I very much welcome his support of this amendment.

Mr. SKELTON. Mr. Chairman, I yield back the balance of my time.

Mr. HUNTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to thank the gentleman from Mississippi on two counts, first for his offering the amendment on behalf of Sonny Montgomery, and secondly, for this IED amendment.

I just want to tell the gentleman that we have just tested today a new equipment package that has great potential, that we should be able to move into theater that hopefully will be able to be used in dismounted form and mounted form and that could be used on virtually every vehicle that moves out of base camp or out of forward bases.

I think this is absolutely the number one causation of casualties in the theater in Iraq and Afghanistan. Now that the IED has become the weapon of choice for insurgents, it is going to be used in other battlefields around the world. So our ability, our agility to move new technology through the process quickly and get it fielded is paramount, and this amendment helps to do that.

I want to thank the gentleman for the value he has added to the bill by offering this amendment.

The Acting CHAIRMAN. All time for debate has expired.

The question is on the amendment offered by the gentleman from Mississippi (Mr. TAYLOR), as modified.

The amendment, as modified, was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment No. 8 by Mr. GOODE of Virginia.

Amendment No. 22 by Mr. TIERNEY of Massachusetts.

Amendment No. 4 by Ms. JACKSON-LEE of Texas.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 8 OFFERED BY MR. GOODE

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. GOODE) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 252, noes 171, not voting 9, as follows:

[Roll No. 141]

AYES—252

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chandler
Chocola
Coble
Cole (OK)
Conaway
Cooper
Costello
Cramer
Crenshaw
Cubin
Culberson
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Emerson
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hooley
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Knollenberg
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (KY)
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Sodrel
Souder
Spratt
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Tiahrt
Tiberi
Turner
Udall (CO)
Upton
Walden (OR)
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—171

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Clay
Cleaver
Clyburn
Conyers
Costa
Crowley
Cuellar
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Ehlers
Emanuel
Engel
Eshoo
Farr
Fattah
Filner
Flake
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Hastings (WA)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick (MI)
Kline
Kolbe
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (WI)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Price (NC)
Putnam
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Rush
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Thornberry
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOT VOTING—9

Cardoza
Evans
Ford
Garrett (NJ)
Johnson (IL)
Kennedy (RI)
Owens
Reichert
Smith (TX)

□ 1546

Ms. BEAN, Mr. WYNN and Mr. FLAKE changed their vote from "aye" to "no."

Messrs. KIND, RUPPERSBERGER, CONAWAY, and RAHALL changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. JOHNSON of Illinois, Mr. Chairman, on rollcall No. 141 I was inadvertently detained. Had I been present, I would have voted "aye."

AMENDMENT NO. 22 OFFERED BY MR. TIERNEY

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. TIERNEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 124, noes 301, not voting 7, as follows:

[Roll No. 142]

AYES—124

Abercrombie
Ackerman
Allen
Baird
Baldwin
Becerra
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Brown (OH)
Brown, Corrine
Capps
Cardin
Carson
Castle
Clay
Cleaver
Conyers
Costello
Crowley
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Doggett
Doyle
Duncan
Ehlers
Engel
Farr
Fattah
Filner
Frank (MA)
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Holt
Honda
Hooley
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Lantos
Leach
Lee
Lewis (GA)
Lofgren, Zoe
Lowey
Maloney
Markey
Matheson
Matsui
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore (WI)
Moran (VA)
Nadler

Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Paul
Payne
Pelosi
Price (NC)
Rahall
Rangel
Roybal-Allard
Rush
Sabo
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Shays
Sherman
Slaughter
Solis
Stark
Strickland
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—301

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capuano
Carnahan
Carter
Case
Chabot
Chandler
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Cramer
Crenshaw
Cuellar
Culberson
Davis (AL)
Davis (CA)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Drake
Dreier
Edwards
Emanuel
Emerson
English (PA)
Eshoo
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Meeks (NY)
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pascrell
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Cardoza
Cubin
Evans
Ford
Garrett (NJ)
Kennedy (RI)
Smith (TX)

☐ 1557

Messrs. TAYLOR of North Carolina, CAPUANO and PASCRELL changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. BOEHNER was allowed to speak out of order.)

LEGISLATIVE PROGRAM

Mr. BOEHNER. Mr. Chairman, this series of votes that we are in will be the last votes of the day and the week. As many of you know, there was some chance that the budget would come to the floor tonight. We made a lot of progress today. I am very optimistic that we will get there, but we are not there today. I just wanted all the Members to know what the plans were.

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN. Without objection, 5-minute voting will continue.

There was no objection.

AMENDMENT NO. 4 OFFERED BY MS. JACKSON-LEE OF TEXAS

The Acting CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

> Amendment No. 4 printed in House Report 109–459 offered by Ms. JACKSON-LEE of Texas:
>
> Page 117, after line 6, add the following new subparagraph (B) (and redesignate existing subparagraphs (B) and (C) accordingly):
>
> "(B) the frequency of assignments during service career;".

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 415, noes 9, not voting 8, as follows:

[Roll No. 143]

AYES—415

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Calvert
Camp (MI)
Campbell (CA)
Cantor
Capito
Capps
Capuano
Cardin
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary

Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—9

Bonilla
Buyer
Cannon
DeLay
Hoekstra
Johnson, Sam
Linder
Oxley
Pearce

NOT VOTING—8

Cardoza
Evans
Ford
Garrett (NJ)
Green, Al
Kennedy (RI)
Owens
Smith (TX)

☐ 1608

Mr. PENCE changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN. The Chair understands that amendment No. 16 will not be offered.

Mr. STARK. Mr. Chairman, I rise in opposition to this Defense Authorization Bill, H.R. 5122. Only a few months after ruthlessly slashing $40 billion in health care, education and job training benefits for working Americans, the Republicans have shamelessly brought forth a Defense Authorization bill that wastefully spends taxpayer dollars and does nothing to make this country any safer.

This bill clearly demonstrates that this Republican Congress has a habitual problem of fiscal mismanagement. This legislation spends billions on the development of ineffective or duplicative weapons systems that pad the pockets of big defense contractors. In turn, these defense contractors thank their Republican sugar daddies by filling their campaign coffers.

H.R. 5122 wastefully authorizes $9.3 billion on pie-in-the-sky Star Wars missile defense, a $184 million increase over President Bush's request and $2 billion more than the current level of spending. Rather than allocate billions for a Cold War weapon system that will never work, Republicans in Congress should address the real security threat posed by weapons that can easily be delivered or smuggled into America in a suitcase or container.

The bill provides additional funding to build ships that the Navy has not requested and does not need. The Republican legislation also allocates nearly $46 billion for 20 F/A–22 Raptors, $1.4 billion more than President Bush requested and $2.9 billion more than is currently spent. Yet these planes were initially justified as necessary to compete with a new generation of Soviet fighters that no longer exists.

Since the collapse of the Russian air force, there is no nation that has, or is planning to have, fighter jets as dominant as those the U.S. Air Force currently employs in combat. In Iraq, Kosovo and Afghanistan, the Air Force has demonstrated the superiority of existing U.S. planes. In addition, the GAO recently reported that the costs of the F/A–22 Raptors have ballooned to $1.3 billion more than was budgeted for by the Air Force. Where does accountability begin?

H.R. 5122 does not require the President to provide an exit strategy out of Iraq. Even after spending $315 billion on a misguided Iraq War, the Bush Administration has no clue on how to resolve the situation or an idea of how to get American soldiers out of the conflict.

It is time to stop giving the President a blank check to fight an aimless war. The only thing that the $50 billion outlay in this bill guarantees is that the U.S. will be in Iraq longer than is necessary and that more American soldiers and Iraqi civilians will die without just cause.

I am also very concerned that certain members of Congress have decided to support chaplains who want to push their own religious agenda rather than the military's commitment to religious tolerance. When chaplains join the military, they accept a duty to serve the military's mission in addition to their mission to God. In providing spiritual guidance to our soldiers, chaplains should never carry out their duty in a manner that divides or alienates soldiers of different faiths. Chaplains who press ahead with their own agenda ahead of the military's mission threaten the cohesiveness of military units and the effectiveness of our soldiers in carrying out their duties.

I urge my colleagues to vote against this wasteful and irresponsible bill. It is time we had a defense budget that lives within its means, stops wasting hard earned tax dollars on useless weapon systems, and accounts for what is truly required in Iraq.

Mr. LATHAM. Mr. Chairman, I rise in strong support of H.R. 5122. I would first like to thank the Chairman for including an important provision helping to provide access to health care for our Guard and Reserve members. This provision will, for the first time, allow all drilling Guard and Reserve members to purchase health coverage through TRICARE, the military's health care system. The provision will treat all of our citizen-soldiers equally, regardless of whether or not they were previously deployed.

This is an issue dear to my heart. Over a year ago, I introduced legislation in the House that provided the basis for the provision we find in the bill today. During my visits to Iraq, I had the opportunity to visit with U.S. soldiers serving there, including many Iowans. When I asked what I could do to help them, the overwhelming response I received was, 'Don't worry about us, but please do something to help our families at home, who are dealing with the fact that we are separated from them every day.' In my conversations with these soldiers and my constituents in Iowa, it became clear that our Guard and Reserve soldiers wanted—and needed—access to better health care for them and their families.

We know that today, 40 percent of our enlisted Guard and Reserve soldiers and their families are uninsured. For soldiers who are deployed, family members receive temporary coverage under TRICARE. This coverage ends some time after they return, depending on the length of the deployment. Families that had health coverage prior to a deployment may be subject to waiting periods or exclusions for preexisting conditions when they try to return to civilian coverage. They are burdened with switching between TRICARE and private insurance, along with different hospital and physician networks.

This is an unacceptable situation for our Guard and Reserve soldiers, who are almost certain to be sent to serve in Iraq and Afghanistan, if they have not done so already. Guard and Reserve soldiers currently make up almost half of our forces serving in those locations. Yet they cannot purchase the same health coverage that full time soldiers access for free. The Federal Employees Benefit Program (FEHBP) covers part time civilian Federal employees if they agree to pay increased premiums. At a minimum we owe our citizen-soldiers the same access to health care with a cost sharing arrangement.

Clearly the role of our Guard and Reserve forces has been transformed to play a central part in providing for the national defense. The greater requirements for sacrifice and service placed on the Guard and Reserve must be matched with greater commitment to them on our part.

We owe it to our citizen-soldiers to provide them with access to affordable health care. Providing TRICARE access during all phases of service will provide an important tool to bolster recruitment, retention, family morale and overall readiness for the Guard and Reserve.

I strongly urge my colleagues to support this bill.

Mr. SIMMONS. Mr. Chairman, I rise today in support of H.R. 5122, a bill to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2007, and for other purposes. This important legislation was made possible thanks to the leadership of House Armed Services Committee Chairman DUNCAN HUNTER of California and Projection Forces Subcommittee Chairman ROSCOE G. BARTLETT of Maryland. These leaders have taken a long and hard look at how best to fulfill our national security needs, and they have led the committee into action. This is nowhere more evident and important than in the House's shipbuilding budget.

This defense bill is nothing short of historic; it marks a turning point in Congress' view of the United States Submarine Force and our undersea fleet's role in the Global War on Terror and beyond. The House has validated what many of us have long known: that our submarine fleet is the backbone of our Navy's efforts in the Global War on Terror, and that it is critical to deterring aggression by potential adversaries.

H.R. 5122 accelerates production of Virginia Class submarines to help the Navy meet its stated requirement of 48 ships. Without adding funding for two submarines per year starting in 2009, the U.S. submarine fleet will eventually drop to 40 or less, presenting our fighting forces with an unacceptable level of risk. It would be irresponsible to set a force level requirement and then miss that goal by some 20 percent. That is why this bill also requires the Department of Defense to maintain a submarine fleet of 48 ships, consistent with the Navy's stated needs. Shame on Congress should it ever turn its back on our Nation's naval requirements, especially in a time of war.

Article one, section eight of the United States Constitution states that "Congress shall provide and maintain a Navy." Our republic's charter document does not vest this authority with any other body—not the President, not the Department of Defense, and not special interests. Congress must ultimately take responsibility for a hollow Navy, and it is Congress that must answer to the American people if our sailors fail for lack of material support. Today, I am proud to say that this body has acted honorably and ably to execute this charge.

Mr. Chairman, history tells us that we cannot wait for danger to find us. There is a growing threat across the Pacific that we simply cannot ignore. 70 years ago, with the leadership of another House chairman, Congressman Carl Vinson, Congress funded our shipbuilding accounts at a level that prepared us for the turmoil of World War II. Had this body not taken action years before the conflict, the Untied States Navy would not have had the capability to stand up to fascism overseas. In fact, in the first 18 months after Pearl Harbor, the U.S. had barely enough carriers to hold the line, let alone project power in the Pacific. At one point in November 1942, only two carriers were operational in that vast ocean. We can only imagine the outcome had Chairman Vinson chose inaction instead of resolve.

Today, we must look forward with the lessons of our past. We must imagine our future if we let our Navy's submarine force atrophy at a time when its missions are only growing. We must try to envision what will come to pass if the U.S. Navy cannot check a near peer in the Pacific Ocean because it is overstretched and under-equipped. As we consider the current and future threats to our Nation, I am thankful that we have Members of the Armed Services Committee willing to act in the spirit of Chairman Vinson.

So, Mr. Chairman, I rise in support of the H.R. 5122 knowing that this bill represents a giant step toward facing the threats of today and tomorrow. We have won the first battle to supply this great Nation with the Navy it requires.

Mr. HUNTER. Mr. Chairman, I submit the following letters for the CONGRESSIONAL RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, May 9, 2006.

Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services,
Washington, DC.

DEAR CHAIRMAN HUNTER: On May 5, 2006, the Committee on Armed Services ordered reported H.R. 5122, the National Defense Authorization Act for Fiscal Year 2007. As ordered reported by the Committee on Armed Services, this legislation contains a number of provisions that fall within the, jurisdiction of the Committee on Energy and Commerce. These provisions include the following:

Sec. 312. Munitions Disposal in Ocean Waters

Sec. 313. Reimbursement for Moses Lake

Sec. 314. Funding of Cooperative Agreements

Sec. 2917. [Now Sec 2822]—Restrictive Easements

Sec. 3111. Plan for transformation of National Nuclear Security Administration nuclear weapons complex

Sec. 3112. Extension of Facilities and Infrastructure Recapitalization Program

Sec. 3115. Two-year extension of authority for appointment of certain scientific, engineering, and technical personnel

Sec. 3117. Consolidation of counterintelligence programs of Department of Energy and National Nuclear Security Administration

Recognizing your interest in bringing this legislation before the House expeditiously, the Committee on Energy and Commerce agrees not to seek a sequential referral of the bill. By the being not to seek a sequential referral, the Committee on Energy and Commerce does not waive its jurisdiction over these provisions or any other provisions of the bill that may fall within its jurisdiction. In addition, the Committee on Energy and Commerce reserves its right to seek conferees on any provisions within its jurisdiction which are considered in the House-Senate conference, and asks for your support in being accorded such conferees.

I request that you include this letter and your response as part of the report on H.R. 5122 and as part of the CONGRESSIONAL RECORD during consideration of this bill by the House.

Sincerely,

JOE BARTON,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, May 5, 2006.

Hon. DUNCAN HUNTER,
Chairman, House Committee on Armed Services,
Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the bill H.R. 5122, The National Defense Authorization Act for Fiscal Year 2007. There are certain provisions in the legislation which fall within the Rule X jurisdiction of the Committee on International Relations.

In the interest of permitting your Committee to proceed expeditiously to floor consideration of this important bill, I am willing to waive this Committee's right to sequential referral. I do so with the understanding that by waiving consideration of the bill the Committee on International Relations does not waive any future jurisdictional claim over the subject matters contained in the bill which fall within its Rule X jurisdiction. I request that you urge the Speaker to name Members of this Committee to any conference committee which is named to consider any such provisions.

Please place this letter into the Committee report on H.R. 5122 and into the CONGRESSIONAL RECORD during consideration of the measure on the House floor. Thank you for the cooperative spirit in which you have worked regarding this matter and others between our respective committees.

With best wishes,

Sincerely,

HENRY J. HYDE,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC, May 4, 2006.

Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services,
Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Science Committee in matters being considered in H.R. 5122, the "National Defense Authorization Act for Fiscal Year 2007." I appreciate you working with me in your development of H.R. 5122, particularly with respect to Section 911, Designation of Successor Organizations for the Disestablished Interagency Global Positioning Executive Board.

The Science Committee acknowledges the importance of H.R. 5122 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over Section 911 and other provisions of the bill, I agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forgo a sequential referral waives, reduces or otherwise affects the jurisdiction of the Science Committee, and that a copy of this letter and of your response will be included in the Committee report and in the CONGRESSIONAL RECORD when the bill is considered on the House Floor.

The Science Committee also expects that you will support our request to be conferees on any provisions over which we have jurisdiction during any House-Senate conference on this legislation.

Thank you for your attention to this matter.

Sincerely,

SHERWOOD BOEHLERT,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, May 4, 2006.

Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services,
Washington, DC.

DEAR MR. CHAIRMAN. I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in matters being considered in H.R. 5122, the National Defense Authorization Act for Fiscal Year 2007.

Our Committee recognizes the importance of H.R. 5122 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over the bill, I do not intend to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Transportation and Infrastructure Committee, and that a copy of this letter and of your response acknowledging our jurisdictional interest will be included in the Committee Report and as part of the CONGRESSIONAL RECORD during consideration of this bill by the House.

The Committee on Transportation and Infrastructure also asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House-Senate conference.

Thank you for your cooperation in this matter.

Sincerely,

DON YOUNG,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 3, 2006.

Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services, Washington, DC.

DEAR CHAIRMAN HUNTER: H.R. 5122, the "National Defense Authorization Act for Fiscal Year 2007," contains provisions that implicate the rule X jurisdiction of the Committee on Judiciary. However, in recognition of the desire to expedite consideration of this legislation, the Committee hereby waives consideration of the bill.

The Committee on Judiciary takes this action with the understanding that by forgoing consideration of H.R. 5122, the Committee does not waive any jurisdiction over subject matter contained in this or similar legislation. The Committee also reserves the right to seek appointment to any House-Senate conference on this legislation and requests your support if such a request is made. Finally, I would appreciate your inclusion of this letter in the CONGRESSIONAL RECORD during consideration of H.R. 5122 on the House floor. Thank you for your attention to these matters.

Sincerely,

F. JAMES SENSENBRENNER, JR.,
Chairman.

HOUSE OF REPRESENTATIVES, PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, May 1, 2006.

Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services, Washington, DC.

DEAR MR. CHAIRMAN: I write to confirm our mutual understanding regarding H.R. 5122, the Defense Authorization Act for Fiscal Year 2007. This legislation contains subject matter within the jurisdiction of the Permanent Select Committee on Intelligence. However, in order to expedite floor consideration of this important legislation, the Committee waives consideration of the bill.

The Permanent Select Committee on Intelligence takes this action with the understanding that the Committee's jurisdictional interests over this and similar legislation are in no way diminished or altered. I also wish to confirm our mutual agreement that the transfer of the Office of Defense Nuclear Counterintelligence of the National Nuclear Security Administration in no way impairs or affects the Permanent Select Committee on Intelligence's jurisdiction over intelligence activities of National Intelligence Program components of the Department of Energy, including those carried out by this Office.

The Committee also reserves the right to seek appointment to any House-Senate conference on this legislation and requests your support if such a request is made. Finally, I would appreciate your including this letter in the Congressional Record during consideration of H.R. 5122 on the House floor. Thank you for your attention to these matters.

Sincerely,

PETER HOEKSTRA,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, May 10, 2006.

Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services, Washington, DC.

DEAR MR. DUNCAN On May 5, 2006, the Committee on Armed Services ordered reported H.R. 5122, the National Defense Authorization Act for Fiscal Year 2007. Thank you for working closely with the Committee on Government Reform on those matters within the Committee's jurisdiction. I am writing to confirm our mutual understanding with respect to the consideration of H.R. 5122.

In the interest of expediting the House's consideration of H.R. 5122, the Committee on Government Reform did not request a sequential referral of the bill. However, the Committee did so only with the understanding that this procedural route would not prejudice the Committee's jurisdictional interest and prerogatives in this bill or similar legislation.

I respectfully request your support for the appointment of outside conferees from the Committee on Government Reform should H.R. 5122 or a similar Senate bill be considered in conference with the Senate. Finally, I request that you include our exchange of letters on this matter in the Armed Services Committee Report on H.R. 5122 and in the CONGRESSIONAL RECORD during consideration of this bill on the House floor. Thank you for your attention to these matters.

Sincerely,

TOM DAVIS,
Chairman.

Mr. UDALL of Colorado. Mr. Chairman, I rise in support of this bill. As a relatively new Member of the Armed Services Committee, I am grateful to Chairman HUNTER and Ranking Member SKELTON for working with me on a number of provisions in the bill that are important to Colorado.

The bill includes language that highlights the importance of the High Altitude Aviation Training Site (HAATS) in Eagle, CO and its need for enough aircraft to fulfill its mission. HAATS is the primary site for training military aviators on operations in hostile, high altitude, and power-limited environments under all seasonal weather conditions, such as Afghanistan.

As a result of language I had included in the Defense Authorization bill last year, the Army National Guard pledged to provide two Blackhawks to HAATS, but I'm told HAATS needs five Blackhawks in order to sustain training requirements. The language included in this bill asks for the number and type of helicopters that are needed to provide the training necessary to sustain our war strategies and asks for an evaluation of the accident rates for deployed Army helicopter pilots who received high altitude training and those who did not receive such training. I think this information will further underscore HAATS' critical mission and the reason it needs more aircraft.

Second, I worked with committee chairman Representative DUNCAN HUNTER (R–CA) to include language in the bill to name a housing facility at Fort Carson in honor of my friend Representative JOEL HEFLEY, who is retiring at the end of the year. In his 20 years representing Colorado's 5th Congressional district, JOEL has served with integrity and honor and has been a fair and effective lawmaker. I have learned a great deal from JOEL in my years in Congress, and I will miss his good company and collegiality.

I also supported an amendment offered by Representative HEFLEY that requires the Defense Department to report to Congress that it has made every effort to acquire property from willing sellers before using eminent domain to expand Fort Carson's maneuvering site in Pinyon Canyon. Along with other members of the Colorado delegation, I will be watching these developments carefully.

Finally, I'm pleased that the bill includes $3.1 million for the Air Sovereignty Alert Crew Quarters facility at Buckley Air Force Base. Currently, the crews are housed in modular trailers on the edge of the alert aircraft-parking apron, which do not comply with prescribed procedures identified by safety and Air Force Fire Protection instructions. These funds will enable Colorado's Air National Guard to build a facility to help aircrew perform their mission—supporting Homeland Defense capabilities throughout the United States—which was established in response to post 9/11 national strategy requirements.

I am also pleased with many other provisions in the bill. H.R. 5122 includes a provision I advocated to permanently authorize and fund the Freedom Salute Campaign and Welcome Home Warriors Program, an awards and appreciation program for troops returning from duty in Iraq and Afghanistan. This program is a small but significant way for us to show our appreciation for the service and sacrifice of our men and women in uniform and their families, and is also helpful for retaining these dedicated men and women in our Armed Forces.

There are also many broad provisions in the bill that benefit our troops. An important one extends Tricare coverage to all Reservists, something Democrats on the Committee fought for last year with limited success. So I'm very pleased that the bill expands this benefit and underscores the importance of providing the same set of services to all our servicemen' and women. The bill also blocks the proposed plan to raise certain Tricare fees. It raises the end-strength of the Army and Marine Corps by 30,000 and 5,000 respectively, thereby helping to ease the strain on our troops, and fully funds end-strength of the Army National Guard. I'm also glad that the bill includes provisions to increase recruiting and retention incentives, provides a 2.7% pay raise for members of the armed forces, and increases funding for up-armed Humvees and IED jammers.

Also important—especially at this time of budget tightening—is the bill's focus on reining in costs of major procurement programs, particularly the Future Combat Systems and other programs that have relied on immature technology. The bill requires the Army to fully fund its maintenance, modular conversion and prepositioned war stocks or face a cap of $2.85 billion on FCS. Funding in excess of the cap would be transferred to reset equipment costs and modularity. H.R. 5122 also redirects missile defense funding from longer range programs to near-term needs, such as buying upgrades for the Patriot and Aegis interceptors that can protect our service members and allies today. It also places restrictions on developing improvements to the ground-based midcourse defense system until after it successfully intercepts two operationally realistic warheads.

On a less positive note, Rules Committee Republicans denied Members of the House the opportunity to debate a number of key amendments which would have improved this bill. Among them was one offered by Ranking Member SKELTON, which would lower the increased retail pharmacy co-payment fees for military families; an amendment offered by Mr. ANDREWS and others to increase funding for nonproliferation programs; and an amendment by Mr. ISRAEL to require that chaplains demonstrate "sensitivity, respect, and tolerance" toward servicemembers of all faiths.

Another amendment not made in order was one offered by Mrs. CAPPS and Mr. SNYDER to strike language in the bill prohibiting the National Park Service from carrying out a 1997 court-ordered settlement agreement that requires the shutdown of a private trophy hunting operation on Santa Rosa Island, part of the Channel Islands National Park. There have been no hearings on this issue, the National Park Service is opposed to it, and the Defense Department has not requested it. The Republican leadership should have allowed debate on this amendment, and I will work with my colleagues to see that conferees on the bill strike this language.

The Rules Committee Republicans also refused to allow debate on an amendment on energy security that I offered and a similar one that I offered with my colleagues Mr. HOYER and Mr. GORDON. Even as Americans struggle to afford near-record high gas prices, Republicans rejected these amendments to increase funding for alternative fuels programs at the Department of Defense. America's addiction to oil from any source means that our security is vulnerable and will continue to be until we have the vision to look beyond the gas pump. I'm very disappointed that the Republican leadership doesn't see this as a priority.

I'm also disappointed that the leadership and the Rules Committee did not provide for any debate on the prosecution of the war in Iraq and Afghanistan.

On the whole, however, the bill we are considering today does a good job of balancing the need to sustain our current warfighting abilities with the need to prepare for the next threat to our national security. It is critical that we are able to meet the operational demands of today even as we continue to prepare our men and women in uniform to be the best trained and equipped force in the world.

Mr. Chairman, this is not a perfect bill. And the process under which it was debated on the floor was not all that it should have been. But overall, this is a good bill, a carefully drafted and bipartisan bill, and I urge its support.

Mr. JOHNSON of Illinois. Mr. Chairman, I rise today to express regret for my absence during roll call vote 141. I was on the floor, but was unable to record a vote on an amendment offered by my colleague VIRGIL GOODE during consideration of H.R. 5122, the National Defense Authorization Act for Fiscal Year 2007. However I want to make it clear that I intended to vote 'aye' for I am a strong supporter of this amendment.

Representative GOODE's amendment authorizes the Secretary of Defense to assign members of the armed forces to assist the Department of Homeland Security in the performance of border protection functions. Securing our borders against terrorists, drug traffickers and illegal aliens is of great importance to our national security. I would like to point out that I voted for this exact same amendment last year when Representative GOODE offered it during consideration of the National Defense Authorization Act for Fiscal Year 2006.

I am a strong supporter of H.R. 5122, the National Defense Authorization Ad for Fiscal Year 2007 and I voted for its final passage. Again, I apologize for being unable to cast my vote on the Goode amendment and I am pleased this important amendment made it into the final bill which I supported.

Mr. GARRETT of New Jersey. Mr. Chairman, like many proud parents this spring, I will be attending with my family the joyous occasion of watching my oldest daughter graduate high school. Unfortunately, due to this, I regret to inform you that I will be unable to participate in afternoon votes on Thursday, May 11, 2006.

I wish to submit the following statement as to my position on the National Defense Authorization Act for Fiscal Year 2007 that I am proud to support and would have given a strong yeah vote had personal matters not called my away from our nation's capital.

I commend this body, including the Chairman of the House Armed Services Committee, for their work on crafting this authorization for our Department of Defense that will protect our troops as they ensure for the safety and security of Americans and our allies at home and abroad.

The men and women serving and who have served in our armed forces are true American heroes. We must do what we can to give them the tools to win the War on Terrorism and win it safely.

My heart and prayers go out to all who risk so much defending our liberties and freedoms. I wish all a safe and speedy return home to their friends and families.

Ms. BORDALLO. Mr. Chairman, I rise today in strong support of H.R. 5122, the National Defense Authorization Act for Fiscal Year 2007. As my colleagues have stated, this bill includes so many provisions important to our national security and to the fighting men and women who serve our great nation in uniform. Many of them are deployed in combat zones around the world today. I have visited servicemembers in Iraq seven times now and my commitment, like the commitment of this Congress, remains to do everything necessary to provide the heroes sacrificing for our country with the resources they need to fight, to win, and to survive. We continue our important commitment to their quality of life including to their families with this bill.

I take this opportunity to thank Chairman HUNTER and Ranking Member SKELTON for the work that they and their staff members have done to include within this bill provisions important to the people of Guam and to servicemembers who serve on Guam.

For many years leaders on Guam have worked to grow the capability and capacity of the Guam Shipyard, an asset recognized to be of "vital strategic importance" to the Pacific Fleet. We learned over the past year that twice as many vessels in support of our Navy are repaired in foreign shipyards in the Pacific, particularly in Singapore, than are repaired in Guam. We also learned that Apra Harbor in Guam is treated as a foreign harbor although Guam and its shipyard are properly treated as a U.S. location. This bill includes important language to remedy these conflicts. I am deeply grateful to members of the committee staff who traveled to Guam and Hawaii in January of this year to review this issue. I am also grateful to the many members of this committee who have visited Guam, including our colleague from Maryland, ROSCOE BARTLETT, and our colleague from Mississippi, GENE TAYLOR. Both Members visited the Guam Shipyard in March of this year and learned first-hand of the value the facility offers to the U.S. Navy.

In rewriting Section 7310 of Title 10, the Committee on Armed Services has made clear that Guam, including Apra Harbor, is fully and properly a U.S. location, and has further made clear that foreign ship repair for reasons of cost alone is unacceptable, particularly when shipyards like the Guam Shipyard are underutilized. Our first commitment must be to sustaining and growing the ship repair industry in America even if such endeavor costs slightly more money. We cannot depend on foreign yards or harbors in time of war for safety, security, reliability and availability. We must therefore remain committed to America's ship repair industry by ensuring stable work, and by extension, the stability of skilled workforce that is the backbone of the ship repair industry. On Guam this is especially true given that the Guam Shipyard represents a particularly important asset because of its strategic forward location. This bill makes a commitment to the Guam Shipyard and its skilled workers whom the people of Guam are so proud. This is a reflection of the great value these workers offer to the Pacific Fleet and to our national security. It is also a reflection of this Congress' unwillingness to outsource our national security. Finally, the language in this bill regarding ship repair is a reflection of the recently released Quadrennial Defense Review which indicates the growing strategic importance of the Pacific with increased Naval activity in the Pacific and therefore the likelihood of increased demands on facilities like the Guam Shipyard.

Mr. Chairman, I would also like to note that this bill requires a comprehensive study on the future of the Guam Shipyard. It is important that the Navy fully evaluate, during this time of change, how best to utilize, manage and grow the asset that is the Guam Shipyard. The report required by this bill is a responsible measure that ensures that the future of the Guam Shipyard is coordinated with the future of our Navy's national security needs in the Pacific.

Also included within this bill is an important provision that makes a commitment to our active duty servicemembers and their families. I worked closely with the committee and with military advocacy groups to secure inclusion of a measure to authorize servicemembers assigned to non-foreign areas outside the continental United States, areas that include Guam and Alaska, to ship a second personally owned vehicle to and from these locations upon assignment. This measure has long been sought by our active duty servicemembers. In an era when we say that we retain the family not just the servicemember, we have now passed a provision focused on the family. With military spouses pursuing their own careers and families venturing off bases for community activities, school commitments, and so much more, one car families are simply impractical—they are a thing of the past. Servicemembers assigned to non-foreign overseas areas, unlike their CONUS counterparts, are permitted to bring only one vehicle with them to their new duty station at DOD expense. This created a situation in which many servicemembers had to hastily sell a car prior to reassignment, usually at a loss, only to buy a new car on arrival at their new duty location, again at a loss. This activity as repeated upon assignment back to a CONUS location. This practice placed an unacceptable burden on military families. I am pleased that this Congress has made a commitment to end this inequity. I know this provision is broadly supported by active duty servicemembers and further has the support of The Military Coalition. I hope that this provision will be accepted in conference and remain in the final bill.

Mr. Chairman, a third provision in this bill is important to Guam and to a recently reached agreement between the United States and Japan. This bill repeals a measure added in law some years ago to prohibit the hiring of foreign labor to work on military construction projects on Guam. Next year $209 million in military construction projects are authorized by this bill to take place on Guam. Over the next ten years $10.3 billion in military construction will be undertaken on Guam. The concern is now whether Guam can deliver the workforce necessary to accomplish these goals on this short timeline, not whether Guam's workforce is being supplanted or bypassed by foreign labor. Therefore, this authorization bill offers the opportunity to repeal this restrictive provision. Its inclusion will ensure contractors on Guam will be able to access the labor market needed for them to compete for and complete government contracts for military construction in the future. Additionally, without the ability to meet the upcoming workforce demands, there is some concern that agreements recently made with the Government of Japan for relocating Marines from Okinawa to Guam on a set timeline would not be able to be realized according to the envisioned, desired, and agreed upon schedule. Ensuring the availability of a workforce necessary to accomplish the construction required for Marines to move to Guam from Okinawa is an important part of meeting both the workforce demand on Guam and United States international commitments.

I have also worked to provide relief to military retirees residing on Guam whom have been disadvantaged by a Department of Defense interpretation of standing law. Retirees on Guam are only able to participate in TRICARE Standard due to the unavailability of TRICARE Prime on Guam. Retirees on Guam were previously reimbursed for travel they were required to make to Hawaii or elsewhere for specialty medical care otherwise available on Guam. Now, in light of a change in policy some 16 months ago and unfavorable DOD interpretation of TRICARE laws, when a retiree is referred by their TRICARE health provider off-island to receive specialty care that is unavailable on Guam a retiree must pay "out of pocket" for their travel expenses. Travel from Guam to Hawaii is costly and this creates a large and unfair burden on Guam's retirees. Additionally, this situation results in inequitable treatment for the veteran communities on Guam. A retiree, having served at least 20 years in the military, cannot receive reimbursement for travel necessary to receive medical care available only off of Guam. However, a veteran receiving care from the Department of Veterans Affairs referred for off-island care is reimbursed for his or her travel expenses.

I have raised this issue with the Department of Defense several times and continue to work with DOD for an equitable solution. Retirees on Guam deserve some relief. While this bill contains provisions important to the TRICARE system for members of the military community, it does not specifically address the outstanding issue for retirees on Guam. I will continue to work to resolve this issue. I filed an amendment to this bill with the Committee on Rules that would have provided some relief to retirees. This amendment was unfortunately not made in order and cannot be considered on the floor today. This amendment sought to provide an interim solution. It proposed to give retirees the ability to travel on military aircraft on a space available basis to and from the location of their referred healthcare at an increased priority level. Retirees are currently in the lowest priority category for space available travel. I will continue to work with the Department of Defense on this issue.

Finally, the island of Guam has a robust military recruiting program and many Chamorros and Guam residents join the Armed Services. In fact, Guam has a higher per capita service rate in the Guard and Reserve than any other U.S. location. However, for quite some time, these men and women have had to travel to Hawaii to process their enlistments at a Military Entrance Processing Station (MEPS). Included in this bill is language requiring the USMEPCOM to study the feasibility of establishing a MEPS station on Guam. The burden of processing each recruit through Hawaii significantly extends the time period for processing a recruit and adds additional cost for travel expenses. It is my hope that this review will lead to the re-establishment of a MEPS station on Guam responsive to Guam's Guard and Reserve and to U.S. active duty recruiters. I believe this would also reduce costs of processing a recruit and expedite enlistment.

I was pleased to work with the committee leadership to amend a current requirement in this legislation in such a way to require the Department of Defense to more closely evaluate the transformation it is undertaking of the National Guard and Reserve. It is important that the Department of Defense study closely how it will execute and fund Guard and Reserve transformation, including evaluating budgeting of the costs for equipment repair, transfer and procurement as well as an evaluation of the timeline the transformation will prove achievable. I have long advocated for full parity between active duty and Guard and Reserve forces. Transformation is an aggressive plan to achieve this parity although with significant reorganization of brigades and units within the reserve elements. The task, the cost and the risks must be fully evaluated to ensure transformation is achieved and that it is done in a way that makes our Guard and Reserve forces, who have shouldered so much of the burden in the war on terror, a better force. This transformation promise cannot be yet another in a long line of unfulfilled promises by the active duty components to their reserve counterparts.

Thank you, Mr. Chairman. I urge adoption of H.R. 5122.

Mr. PAUL. Mr. Chairman, I rise in opposition to this enormous defense authorization bill. At $512.9 billion, this defense authorization is $2.7 billion more than the president's request.

What concerns me most about this authorization, however, is that it seems to focus more on defending other nations than on defending the United States. U.S. troops are based in more than 100 countries overseas, in many cases guarding foreign borders and ports while our own borders and ports remain almost completely unguarded.

The hundreds of billions of dollars spent overseas by this bill will do very little to defend the United States against attack. In fact, our interventionist foreign policy that is funded to a good degree by this bill actually makes the United States less popular overseas and may even unintentionally make the United States more of a terrorist target. At any rate, it definitely makes us less secure.

This bill sends overseas hundreds of millions of dollars in foreign aid. For example, this bill will send almost $400 million as aid to Russia. Additionally, the bill will send $200 million to help build additional NATO bases overseas, even though the Cold War has been over for more than 15 years.

This legislation will send almost two billion American taxpayer dollars to Central and South America in the hopes that the production of drugs overseas will be curtailed. We do know that much of the money spent on Plan Colombia and similar programs over the past few years has not made much of a dent on drug cultivation, but that much of it is likely being skimmed off by corrupt leaders overseas. There must be a better—and less expensive—way to deal with this problem than sending this much money overseas.

The bill also opens the door for more military interventionism overseas, directing the Pentagon to report to Congress on any current or planned U.S. military activities in support of peacekeeping missions of U.N. or NATO forces in Sudan.

Mr. Chairman, as a Vietnam-era U.S. Air Force veteran, I am in favor of a strong defense of the United States. I believe we need to focus on our own homeland security rather than spending half a trillion dollars on policies and programs that will not make Americans more safe, but may well have the opposite effect. We need to re-focus our defense priorities on the United States, on our own borders and our ports.

Mr. MCKEON. Mr. Chairman, I rise to express my support for the National Defense Authorization Act for Fiscal Year 2007. Chairman DUNCAN HUNTER and the Ranking Member, Mr. SKELTON worked together in a bipartisan manner to produce a bill that places the highest importance on our war fighters. The brave men and women who wear the uniform of our armed services deserve nothing less than our support, and I am proud that this bill demonstrates our commitment to them.

This bipartisan bill provides our military with improved capabilities and resources to carry out the important missions that we have asked of them. By increasing the pay for all members of the armed forces, this important bill recognizes the sacrifice and dedication of the men and women who serve our country.

This bill also adds funds to better equip our soldiers both in Operation Iraqi Freedom and Operation Enduring Freedom. By providing increased amounts for up-armored Humvees, improvised explosive device (IED) jammers and state-of-the-art body armor, the House bill recognizes the changing nature of current conflicts, and places a high value on the protection of our soldiers.

I am also pleased that bill includes language which works toward ensuring that there is no capability gap in aerial intelligence gathering or strike force as the Air Force moves toward more modern and unmanned air vehicles. It is important that we do not lose valuable military assets currently provided by the U–2 or F–117 before there is an operational alternative.

I strongly urge my colleagues to support the passage of this bill.

The Acting CHAIRMAN. There being no other amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. LAHOOD, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5122) to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2007, and for other purposes, pursuant to House Resolution 811, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SALAZAR

Mr. SALAZAR. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SALAZAR. I am opposed to the bill in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Salazar moves to recommit the bill H.R. 5122 to the Committee on Armed Services with instructions to report the same back to the House promptly with an amendment to the bill that inserts the text of H.R. 808, to repeal the offset from surviving spouse annuities under the military Survivor Benefit Plan for amounts paid by the Secretary of Veterans Affairs as dependency and indemnity compensation, as introduced in the House on February 15, 2005.

The SPEAKER pro tempore. The gentleman from Colorado is recognized for 5 minutes in support of his motion to recommit.

Mr. SALAZAR. Mr. Speaker, I stand here before you today in support of our troops and their families. This motion to recommit would send H.R. 5122 back to the Armed Services Committee with instructions to bring the bill back to the whole House with the addition of H.R. 808.

I commend my friend Mr. BROWN from South Carolina for introducing H.R. 808, a bill which now has 202 cosponsors, including myself. This bill would end the practice of penalizing surviving spouses of those who have died as a result of service-connected injuries.

Mr. Speaker, the Military Families Tax affects over 50,000 families in the country. It is an unjust burden on those whose spouses served the Nation in defense of our freedom. I commend those families and call upon this House to vote an end to the unfair tax on survivor compensation.

Right now, if a soldier dies, their spouse will have the amount of the Survivor Benefit Plan reduced by the amount they received from the VA as dependency and indemnity compensation. For the loss of a loved one, we penalize spouses with a $993 month reduction in their compensation. Our soldiers families do not deserve to be treated this way, and all of us should continue to fight until we can right this wrong.

I offered an amendment last year to the defense authorization bill that would have eliminated this unjust provision, but we denied a debate. The other body chose to include SBP relief, but the defense conferees failed to adopt it, and we were again denied the opportunity to fix this problem.

In November, my good friend, Mr. EDWARDS from Texas, started a discharge petition to bring H.R. 808 to the floor. That petition now has 168 signatories. Today, I ask my colleagues as fellow Americans to stand up for military widows.

Let us make a statement here today that the Military Families Tax is unjust, unfair and un-American.

□ 1615

Mr. Speaker, we should send this bill back to the committee and demand that they ease the burden on our military families. America can do better to provide for the families of our Nation's military heroes. I urge my colleagues to vote "yes" on this motion to recommit.

Mr. Speaker, I yield to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, yesterday this House passed a tax bill that will give Lee Raymond, the just-retired CEO of ExxonMobil, a $2 million dividend tax break, a $2 million tax break for someone who was just given a $398 million retirement benefit package.

That tax bill will cost $70 billion. $22 billion of that money will go to benefit those, such as Mr. Raymond, who are making over $1 million a year. Surely if we could give Mr. Raymond a $2 million tax break yesterday, then today, right now with one vote, we can afford to give military widows a chance to keep their $933 a month in survivor benefits from the Veterans Administration

The question is, whose side are we on? Mr. Raymond, a retired, overpaid executive from ExxonMobil, or some of the 50,000 surviving beneficiaries and family members, widows, of those who spent a lifetime serving our country?

Mr. Raymond made more income in 1 week than most military families make in an entire lifetime of service to our country. Surely compassionate conservatism does not mean saying "yes" to Mr. Raymond's tax break yesterday, but "no" to treating our military widows decently today.

I urge the 80 Republican colleagues of mine who cosponsored this legislation to back up your cosponsorship with your vote on this motion to recommit.

Let us stand up for the military families of this country.

Mr. SALAZAR. Mr. Speaker, I yield back the balance of my time.

Mr. HUNTER. Mr. Speaker, I claim the time in opposition.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. HUNTER. I yield to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I want to thank our chairman, and I want to talk to the Members here to sadly inform them that our friend, Sonny

Montgomery is struggling in the last moments of his life. And I want to thank the chairman and the ranking member, Mr. SKELTON from Missouri, for very appropriately and very fittingly naming this the G.V. "Sonny" Montgomery Defense Authorization Bill.

As you all know, Sonny Montgomery served in Congress for 30 years. For 14 years he was chairman of the Veterans Committee. His name and his legacy and his service are very rich and very deep, as he passed the G.V. "Sonny" Montgomery GI bill.

If you go back home to Mississippi, you see the G.V. "Sonny" Montgomery VA Hospital and National Guard complex. He was Mr. Veteran and he was Mr. National Guard, and he contributed greatly to the force that we have today and to the men and women who serve; and most importantly, he was an example to all of us of the best of this institution of civility, of common ground, of bipartisanship, of supporting the men and women that serve in our Nation's military.

He has been my friend, and he has been my example. And so, Mr. Chairman, I want to thank you for naming this the G.V. "Sonny" Montgomery Defense Authorization Bill.

Mr. Speaker, he was also the spiritual leader of the House, always calling us to prayer and to remember those in need, those that were sick, and those that were facing challenges. Mr. Speaker, I ask this body to pray for Sonny Montgomery. May God have mercy on him, his life, and his legacy.

Thank you, Mr. Chairman.

Mr. HUNTER. I thank the gentlemen from Mississippi. I am going to miss Sonny Montgomery, with that great smile that illuminated this House and all of our lives.

Ladies and gentlemen, this defense bill passed the committee by a vote of 60-1. It did that because we listened. My great partner on the committee, IKE SKELTON, and I and all of our subcommittee chairmen and ranking members listened to all of the members, worked all of the issues that connect your constituents with you, with all of our troops around the world.

This is our connection, this defense bill, that provides for the policies that run their lives while they are in the military, that provide for the quality of life for their families back home, that provides for the tools that they need to undertake this dangerous mission in this war against terror.

This is your connection. And let me tell you, the theme of the bill this year was troop protection. And to those ends, we moved over $100 million into new jammer capability for IEDs, lots of money, lots of additional money for armored platforms, lots of new technology for body armor for our soldiers, our sailors, our airmen, our Marines. At the same time, for our National Guardsmen, we completed this transition, even when they are not mobilized, for TRICARE, for our health care program. We did great things.

And for those people who have fallen, I want to remind you that last year we moved up that benefit, and it should have been done a long time ago, to half a million dollars in cash for the families of our fallen heroes so that they could carry on their lives.

This bill is your connection to the troops. We did a good job. And I would ask you to trust us, to trust the members of this committee. And with all due respect to the gentlemen who just offered this amendment, you will notice there was no motion to recommit offered by a member of the committee, and that is because this is a good bill. It does a good job. It gives the tools to the troops in this war against terrorism that they need.

Vote against this motion to recommit. Vote for the bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SALAZAR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on passage of H.R. 5122, if ordered, and on the motion to suspend with respect to H. Res. 802.

The vote was taken by electronic device, and there were—ayes 202, noes 220, not voting 10, as follows:

[Roll No. 144]

AYES—202

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOES—220

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pearce

Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—10

Cardoza
Evans
Garrett (NJ)
Kennedy (MN)
Kennedy (RI)
McKinney
Meeks (NY)
Smith (NJ)
Smith (TX)
Van Hollen

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1637

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. VAN HOLLEN. Mr. Speaker, I was unavoidably detained. Had I been present, I would have voted "aye."

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HUNTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 396, noes 31, not voting 5, as follows:

[Roll No. 145]

AYES—396

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Cardin
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—31

Baldwin
Capps
Capuano
Conyers
Frank (MA)
Grijalva
Holt
Honda
Inslee
Jackson (IL)
Kilpatrick (MI)
Kucinich
Lee
Lewis (GA)
Markey
McDermott
McKinney
Miller, George
Moore (WI)
Olver
Owens
Paul
Payne
Schakowsky
Serrano
Stark
Tierney
Velázquez
Waters
Watt
Woolsey

NOT VOTING—5

Cardoza
Evans
Garrett (NJ)
Kennedy (RI)
Smith (TX)

□ 1645

Ms. KILPATRICK of Michigan changed her vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.".

A motion to reconsider was laid on the table.

Stated for:

Mr. CARDOZA. Mr. Speaker, I regret that I was unable to be present for the following rollcall vote today due to a death in the family. Had I been present, I would have voted "aye" on H.R. 5122 (the National Defense Authorization Act).

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5122, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5122, the Clerk be authorized to correct section numbers, punctuation, cross-references, and the table of contents, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, and that the Clerk be authorized to make the additional technical corrections which are at the desk.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will resume.

There was no objection.

ENCOURAGING ALL ELIGIBLE MEDICARE BENEFICIARIES TO REVIEW AVAILABLE OPTIONS TO DETERMINE WHETHER ENROLLMENT IN A MEDICARE PRESCRIPTION DRUG PLAN BEST MEETS THEIR NEEDS FOR PRESCRIPTION DRUG COVERAGE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 802.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and agree to the resolution, H. Res. 802, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 406, nays 0, answered "present" 4, not voting 22, as follows:

[Roll No. 146]

YEAS—406

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

ANSWERED "PRESENT"—4

McDermott
Miller, George
Schakowsky
Stark

NOT VOTING—22

Brown-Waite, Ginny
Cardoza
Eshoo
Evans
Filner
Ford
Gallegly
Garrett (NJ)
Keller
Kennedy (RI)
King (NY)
LaHood
Larson (CT)
Leach
McHugh
Meek (FL)
Neal (MA)
Neugebauer
Reichert
Skelton
Slaughter
Smith (TX)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1654

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: "Encouraging all eligible Medicare beneficiaries who have not yet elected to enroll in the new Medicare Part D benefit to review the available options and to determine whether enrollment in a Medicare prescription drug plan best meets their current and future needs for prescription drug coverage".

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I would like to inquire of the distinguished majority leader the schedule for the week to come, and I yield to my friend from Ohio (Mr. BOEHNER).

Mr. BOEHNER. I thank my colleague for yielding.

Next week, Mr. Speaker, the House will convene on Tuesday at 12:30 for morning hour and 2 p.m. for legislative business. We will consider measures under suspension of the rules. A list of those bills will be sent to Members' offices by the end of the week. Any votes called on those measures will be rolled until 6:30 p.m. on Tuesday.

On Wednesday and the balance of the week, the House will likely consider the Ag, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, which I anticipate will be scheduled for Wednesday, subject to change.

We will deal with the Department of the Interior, Environment and Related Agencies Appropriations Act, and the Military Quality of Life and Veterans Affairs Appropriations Act.

The House will also consider H.R. 4200, the Forest Emergency Recovery and Research Act. The Committee on Resources, Ag, and Transportation and Infrastructure have all completed action on that bill.

In addition to these bills, I continue to hope that we are able to bring a budget resolution to the floor. A lot of progress was made today, but that is an issue that I am hopeful we can deal with next week.

Mr. HOYER. I thank the gentleman for that information. He has now said both initially and again about the budget. You have indicated there will be votes on Friday, obviously.

Mr. BOEHNER. I am very sure that next week there will be votes on Friday.

Mr. HOYER. So no doubt in your mind about that?

Mr. BOEHNER. With three appropriations bills and several other bills, and the possibility of doing the budget, we will have our hands full.

Mr. HOYER. I thank you for that. On the energy bills, do you expect any energy-related legislation on the floor next week, refinery siting, for example?

Mr. BOEHNER. It is not likely we will have any energy bills up next week, but there are a number of energy bills that are in the pipeline with regard to the possibility of drilling in ANWR, the CAFE bill continues to move along, and the refinery legislation that did not receive a two-thirds vote under suspension is likely to be back in some form.

Mr. HOYER. I thank the gentleman for that information. The telecom bill which was reported out of committee, I know it is not on this calendar for the coming week. Could you tell us your expectations of when that might be scheduled?

Mr. BOEHNER. After that bill came out of the Energy and Commerce Committee, the Judiciary Committee filed a request for a referral on that bill. It has been under consideration this week with the Parliamentarians, and we are hopeful that we will have an answer from the Parliamentarians about this jurisdiction which is holding up the consideration of the bill.

Mr. HOYER. Reclaiming my time, would it be your expectation then, once the Parliamentarians make their judgment, that the bill will then be referred to the Judiciary Committee, if that was their judgment, so that it might be some time before that bill came to the floor? I yield to my friend.

Mr. BOEHNER. It depends on the ruling of the Parliamentarians; and until they rule whether there is a jurisdictional claim or not, there is not much that we can do.

Mr. HOYER. All right. Thank you very much for that.

The Voting Rights Act reauthorization, quite clearly that got overwhelming bipartisan support. I know the chairman has worked very hard on that. MEL WATT and other members of the Judiciary Committee have worked very hard on that. Can you tell me when you expect that to come to the floor?

I yield to my friend.

Mr. BOEHNER. I have talked to Chairman SENSENBRENNER and others about the bill. We don't have it scheduled as yet, but we are hopeful that it will be coming to the floor in the near future.

Mr. HOYER. If the budget does come to the floor next week, would you bring it in the early part of the week or the latter part of the week; do you know? I know you have had some hard work on this. I understand that.

Mr. BOEHNER. As I have indicated, when we think we have the votes to pass the budget, we will bring it up, sooner rather than later, I hope.

□ 1700

Mr. HOYER. That is such a pragmatic approach, and I thank the gentleman for that information.

Mr. Leader, I don't want to end the week on an unhappy note, but you and I had discussions in these colloquies the last 2 weeks in a row. After the tax reconciliation bill was reported out, I asked Mr. RANGEL had he been included in the conferences in any meaningful way. It was his view that he had not. You had made assurances that would happen; I don't mean that you could guarantee that it would happen.

I will tell my friend that the ranking member of the committee does not believe there was meaningful participation by the minority in the consideration of that bill which obviously was a bill of some significant import.

I yield to my friend.

Mr. BOEHNER. I thank my friend for yielding. You and I did have a conversation about participation. The conversation was centered around the pension reform bill, only because I am a conferee on the pension bill. What happens in other committees and some of these conferences, they all have their own style and own way of doing their conferences. I understand the gentleman's concern, but that was not the reference that I was making when you and I were having a discussion about the pension bill.

Mr. HOYER. Reclaiming my time, and I accept the gentleman's explanation. It was my thought that we were talking about both conferences that were then pending. I raised both conferences, but I take the gentleman at his word, he has always been truthful with me, that he was referring to the pension conference. I understand that.

I also understand that he is not in control of everything any more than we are on this side. But I will again reiterate, Mr. Leader, your experience and your performance in terms of dealing in a bipartisan way has been different than some, and we appreciate your view on this.

Whether it is the pension conference or any other conference, particularly bills of significance, we would hope that you would use your good offices to encourage and frankly request that the Chairs of the conferences make sure that the minority is included. After all, as I have said, we represent about 125 million people in this country, maybe more than that, and they should not be excluded.

I yield to my friend.

Mr. BOEHNER. I thank the gentleman for yielding, and I appreciate your concern. As the gentleman is well aware, these conferences that occur between the House and Senate trying to resolve the differences in these bills are sometimes dealt with by the majority. I saw it when I was a minority Member of the House. I understand the gentleman's concern.

I will urge my colleagues, my chairmen, to be more open. I share the gentleman's view that we all have a role to play in this institution and having people at the table gives usually a much better product and everyone has a right to voice their approval or disapproval of the actions that the conference is taking.

Mr. HOYER. I thank the gentleman. I think we certainly agree on that.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore (Mr. PRICE of Georgia). Is there objection to the request of the gentleman from Ohio?

There was no objection.

HOUR OF MEETING ON TOMORROW, ADJOURNMENT FROM FRIDAY, MAY 12, 2006, TO MONDAY, MAY 15, 2006, AND HOUR OF MEETING ON TUESDAY, MAY 16, 2006

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. tomorrow; that when the House adjourns on that day, it adjourn to meet at 2 p.m. on Monday next, and further, when the House adjourns on that day, it adjourn to meet at 12:30 p.m. on Tuesday, May 16, 2006, for morning hour debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMENDMENT PROCESS FOR H.R. 4200, FOREST EMERGENCY RECOVERY AND RESEARCH ACT

Mr. BISHOP of Utah. Mr. Speaker, the Committee on Rules may meet the week of May 15 to grant a rule which could limit the amendment process for floor consideration of H.R. 4200, the Forest Emergency Recovery and Research Act. The bill was ordered reported by both the Committee on Resources and the Committee on Agriculture.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation to the Committee on Rules in room H–312 of the Capitol by 2 p.m. on Tuesday, May 16, 2006. Members should draft their amendments to the amendment in the nature of a substitute to H.R. 4200 which will be printed in the CONGRESSIONAL RECORD and available on the Web sites of both the Committee on Resources and the Committee on Rules by tomorrow. The amendment in the nature of a substitute consists of the text of the bill ordered reported by the Committee on Agriculture with additional language for section 404 of the bill negotiated between the Committee on Agriculture and the Committee on Transportation and Infrastructure.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

APPOINTMENT OF HONORABLE MAC THORNBERRY AND HONORABLE JOHN CAMPBELL TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH MAY 16, 2006

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 11, 2006.

I hereby appoint the Honorable MAC THORNBERRY and the Honorable JOHN CAMPBELL to act as Speaker pro tempore to sign enrolled bills and joint resolutions through May 16, 2006.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointments are approved.

There was no objection.

WISHING MOTHERS HAPPY MOTHER'S DAY

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to take this opportunity just a few days before Mother's Day to wish America's mothers a very happy Mother's Day.

We realize that mothers play so many different roles in our Nation. They are our soldiers, our factory workers, lawyers and doctor and office workers. They are also the workers that make America work; and, of course, our mothers come in all shapes, sizes, religions and of course with enormous diversity.

I wish for them a great and wonderful Mother's Day, and I hope as we plan our future in this Congress we realize that working women or mothers that stay at home care about their children, and that the work we will do will reflect on the goodness of our mothers, whether they are our extended mothers, mothers related to us by blood relationship, or mothers who have simply nourished us.

And might I simply pay tribute to my own late aunt, Valrie Bennett, and my own mother, Ivalita Jackson. For this reason, I think the reasons that mothers are always mothers, it is important to wish them a very happy Mother's Day. To the mothers of the Nation, happy Mother's Day.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

VOICE OF AMERICA

Mr. POE. Mr. Speaker, I ask unanimous consent to claim the time of Mr. JONES.

The SPEAKER pro tempore. Without objection, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

There was no objection.

Mr. POE. Mr. Speaker, the American people expect action regarding the porous borders of the United States. They expect and deserve leadership. Here is what some Americans are saying about our porous borders in correspondence they have sent to me.

Terrence Griffin from Spring, Texas, writes, "I am angry and fed up with the inaction and lack of leadership for immigration reform. Vote 'no' on amnesty. Illegal means illegal. Secure the borders first. We as Americans feel like thrown away stepchildren. I am taught that charity begins at home. America looks weak and reckless when it chooses to secure the borders of other nations, feed people of other nations and protect other nations when America is left unprotected, unsafe and unsecure."

Mr. Speaker, Mr. and Mrs. William Wainscott in Dayton, Texas, write, "Vote against amnesty and providing social services which are supported by the taxpayers. This has gone too long and too far. Our government law enforcement officials look the other way while our country is being invaded by people who choose to violate and disregard our system, that system being of legal entry and immigration. These illegals represent a major burden on taxpayers. They not only take away low-paying jobs, they take away good jobs. I should know. It is extremely difficult for an American citizen to get a job in the construction field because of the number of illegals getting reference in hiring. I speak from experience as a welder and a fitter. Because of preferential hiring practices of construction companies, the American has to look elsewhere for his employment."

Tracy Blackburn in Spring, Texas, writes, "A Los Angeles attorney brought into the case last week by the Mexican Consul General's office in Phoenix plans to file another motion claiming Maricopa County Attorney officials are violating State and Federal law because supposedly it is the Federal Government's job to control illegal immigration. Well, why is the Mexican Consul General able to use a local lawyer to try to prevent enforcement of American law? They are not U.S. citizens, what gives these people these rights? I am fed up with the illegal trespassers coming in here and demanding rights that they obviously do not have."

I also received a correspondence from a high school student from Humble, Texas. Jack writes to me, "I just wanted to express to you my feelings as part of the generation that will soon be voting. Though it is hard to get our voices out, as we are immediately hushed under the complaints of racism, many of my classmates, whether they are white, black or Hispanic, feel that the restriction of illegal immigrants is obviously a necessary action."

Further, Mr. Speaker, I have received correspondence from Richard of Houston. He says, "As Texans, we are on the front lines of this illegal invasion. If we fail to act, the future of our children, the next generation of Texans, is obviously at risk. I urge you to take all possible measures available, including support of local border law enforcement agencies, with the Texas National Guard to stop the threat to security and to our economy. Texans have always stood tall in the face of threats to our State and Nation. Because of the failure of national leadership, it is now this generation of Texans' turn to defend our land."

I have also received correspondence from Patricia in Houston. She says, "I am writing to let you know how I feel about the immigration issue. We have laws in effect that are not enforced. The illegal immigrants are breaking the law. They come over here and they do not want to melt into the melting pot of people. Please vote to shut down our borders and build a wall. I will even go down there and volunteer to help build that wall if necessary. You might be surprised how many people would volunteer to help build such a wall. And how dare people compare themselves to the immigrants that were our ancestors. They wanted to be Americans. They even changed their names to be more American. These people are taking Texas back one baby at a time and we are just allowing them. Most Americans, specifically those on the border States, feel that we need to close the border but are afraid of being called a racist. It has nothing to do with race, it has everything to do with the law."

Finally, Mr. Speaker, I received several cases of bricks from an individual down in Texas. With the cases of bricks that he has sent me this letter, "I am sending you these bricks in support of an increase in the border security of the United States. These bricks should give you a start in building a wall. The American public demands some solutions to our open borders. A comprehensive border plan must include a security wall in some places, better technology, more funding of personnel for Border Patrol, and overall increased security presence on the southern border. When our borders are secure, then we can discuss the aspects of illegal immigration issues. We are tired of open borders, uncontrolled immigration, terrorist infiltration, criminal alien gangs, and all of the other horrors that arise due to our defenseless borders and unenforced immigration laws."

Mr. Speaker, the voice of America continues to cry out for us to enforce the rule of law, protect the dignity and safety of the American people. Government's number one job is public safety, and public safety starts at the border.

We have an obligation to stop the illegal invasion and stop the colonization of our country and homeland by foreign nations. Failure to do so will result in America being lost to foreign nations without even firing a shot.

And that's just the way it is.

HONORING THOSE WHO MADE THE ULTIMATE SACRIFICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, it is an important duty of all of us who serve here to pay respect, to express our gratitude, to join in the sorrow of those and their families who are serving this Nation in a time of war. I have tried very hard to do that whenever the occasion occurred. I have attended funerals of young men who were killed, and in one case a man not so young.

I was pleased on Saturday to attend a welcoming home ceremony for one young man who returned. I attended a ceremony to see off a group of Guardsmen.

The merits of the war are irrelevant when it comes to honoring and expressing our gratitude to those who have served.

□ 1715

Having said that, I want to say that I deeply regretted that yesterday, Tuesday rather, I felt called upon to vote against a bill that was presented here under the suspension of the rules which allowed for no serious debate and zero chance of amendment, a bill which in part protected veterans' funerals from the disruption that they have encountered. And it is true that a particularly contemptible group of bigots are harassing people at some funerals. And we have every right and under the Constitution the power to stop it.

Sadly, a badly overdrafted bill was brought forth with no chance for us to amend it. And I do not think we honor our veterans by failing to honor our Constitution. So I had to vote against the bill. Part of the bill, if it had been in part, if we could have amended it down, I would have proudly supported, the part that would have said you cannot have a demonstration in which any individual is willfully making or assisting in the making of any noise that disturbs or tends to disturb the peace or good order of the funeral, memorial service or ceremony on a military cemetery. But the bill went before that.

The bill says that for 60 minutes before a funeral and 60 minutes after, within 500 feet of the cemetery, you can't hold up a sign that might be offensive to people. You can't picket. It doesn't just say noise. It says diversion, and it defines it, any picketing, the display of any placard, banner, flag or similar device.

When we had an outrageous effort to intimidate a Danish newspaper because they exercised the right of free press and published cartoons of the Prophet Mohammed, which many Muslims found offensive, some people, apologists for this outrageous behavior against the newspaper, said, well, you know it is free speech. But free speech has to be respectful. Free speech has to be within limits.

No, it does not. Free speech is not respectful speech. Indeed, the American Constitution, the principle of free speech precisely protects the right of despicable people to be obnoxious. If you don't believe in that, you don't believe in free speech.

In fact, the particular group of vicious people who have been disrupting the funerals have as their major goal getting rid of people like me, gay men and lesbians. They particularly hate us. But I will not allow their bigotry against me and the reaction against that to be used to reduce the protections of our Constitution.

The parts of this bill that say that if you try to disrupt a funeral you are going to be prevented, they are fine. But telling people that 60 minutes before or after a funeral, within 500 feet of a national cemetery, they can't picket or hold up a banner, that is not free speech. That is not what we fight for.

I have defended previously the right of the Nazis to march in Skokie, to the great horror of victims of the Holocaust, or survivors of the Holocaust.

I told the Muslims who tried to coerce the Danish press that no matter how offensive they found that cartoon, freedom of expression meant that no government should stop you from being offensive.

Disrupting a funeral, of course you should not do that. We should not allow ourselves, through restrictive legislative procedures, to act against an admitted evil, the disruption of those ceremonies, in ways that could undermine the Constitution.

So I hope this will come back from the Senate in a form I can vote for. I would have voted for part of this bill; but I cannot, no matter how despicable the bigots who are defaming this Nation and disrupting cemeteries, I will not allow their behavior to be used as an excuse for undermining the right of other people in other places to hold signs. People holding signs within 200 feet of a cemetery, a half hour after a funeral that some people find offensive, that is free speech. And the way to counter that is to counter that. So I regret very much, in fact, Mr. Speaker, and I don't mean to look for sympathy here. I had an operation here last week. I had a stent, and I was supposed to return early Tuesday to have the stent removed. I delayed my return because I wanted to attend this funeral of the young man who was killed. Obviously, the discomfort of my stent was nothing to what people face who are in Iraq. But I simply want to testify that I will do everything I can to continue to honor these people, but that does not require us to demean the first amendment to the Constitution.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL NURSES WEEK

Mr. GINGREY. Mr. Speaker, I ask unanimous consent to speak out of turn for 5 minutes.

The SPEAKER pro tempore. Without objection, the gentleman from Georgia is recognized for 5 minutes.

There was no objection.

Mr. GINGREY. Mr. Speaker, I rise in support of America's nurses, and I want to bring my colleagues' attention to the fact that this is National Nurses Week.

As a physician for nearly 30 years, I certainly know the importance of nurses to our Nation's health care system, and I can say without hesitation that nurses are the glue that holds our hospitals and our health care system together. They are literally on the front lines of health care, and they are the faces our patients see day in and day out.

Our Nation is facing a critical shortage in the nursing profession, Mr. Speaker. As Americans grow older and live longer, our health care system will be stretched even further to accommodate new demands. And in order for us to continue to deliver high-quality health care in this country, we will need increasing numbers of health care providers and especially registered nurses.

According to the latest projections from the U.S. Bureau of Labor Statistics published in February of 2004, more than one million new and replacement nurses will be needed by the year 2012.

The importance of quality and trusted nurses is best illustrated by my telling you about two of them who are particularly special in my life. When I was a practicing OB-GYN physician in Marietta, Georgia, Lynn Olmstead was a wonderfully gifted nurse who worked with me for 20 loyal and dedicated years.

Lynn is a graduate of Michigan State University, a Spartan, as is her husband, Ken. She had worked in labor and delivery at Wellstar Kennestone Hospital in Marietta, Georgia, in my district for 10 years; and I had an opportunity to see her and her compassion and working with patients in the wee hours of the morning and was very, very fortunate that she agreed to come and work in my office and where she spent the next 20 years, as I said, working so compassionately with patients and helping me, in fact, make right decisions a lot of the times. And I remain dedicated and grateful to Lynn for that service that she gave to me and our patients at Marietta OB-GYN Affiliates.

The other nurse, Mr. Speaker, is my daughter-in-law, Emily House Gingrey. Emily is a graduate of the University of Georgia. She recently, after making a decision a couple or 3 years ago to go back to school and get her registered nursing degree from Georgia Baptist School of Nursing, now works at the Northside Hospital in Atlanta in the neonatal intensive care unit, taking care of the most fragile, not just premature babies, but what we know as immature babies, those less than 2,500 grams.

And I see Emily as she is beginning her career in that most important area of neonatal intensive care, providing life, really, to these very fragile babies that might possibly not make it in this world without the dedication of young nurses like Emily House Gingrey, the wife of my son, Billy.

So it is with a great deal of pleasure, Mr. Speaker, to take just these few minutes this evening to pay tribute to all nurses, and I rise today to applaud the profession of nursing and encourage young Americans to consider this noble work as a future career.

IRAQ AND THE FY07 DEFENSE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, this Congress had a great opportunity today to pass a defense authorization bill that is good for the American people, a bill that reflects the very best of American values. Foremost among those values is our desire for peace, our capacity for global leadership, and our compassion for the people of the world. We could have reflected those values by utilizing the defense bill as a means of voicing our opposition to prolong the war in Iraq. The Rules Committee, however, prevented me from offering just such an amendment to the defense authorization bill.

My amendment expressed the sense of the Congress regarding the war in Iraq in two parts. First, it instructs the President, the Commander in Chief of the United States Armed Forces, to develop a plan to bring the members of the U.S. Armed Forces home from Iraq and to bring the plan to the congressional defense committees.

It is clear that we need to begin the process of bringing our troops home because, among many other reasons, the presence of nearly 150,000 American troops in Iraq is an obvious rallying point for dissatisfied people in the Arab world, making the situation in Iraq worse and not making the U.S. any more secure.

The second part of my amendment describes how the United States should support Iraq once our troops have come home. The amendment directs the United States to engage the international community, including the U.N. and NATO, to establish a multinational interim security force for Iraq. The U.N.'s Department of Peacekeeping Operations actually is particularly well suited to this task.

Next we would have shifted our role from that of Iraq's military occupier to its reconstruction partner. By working with the Iraqi people to rebuild their economic and physical infrastructure, we can give Iraq back to the Iraqis and help to create Iraqi jobs and Iraqi security.

Finally, my amendment urged the President to involve the United Nations in establishing an international peace commission comprised of members of the global community who have experience in international conflict resolution so that they would oversee Iraq's post-war reconciliation process, beginning Iraq's long road to recovery after years of sanctions and war.

The House should have been able to debate the importance of ending the war while we helped to stabilize this war-torn nation. Unfortunately, this Congress had other priorities, priorities like authorizing another $50 billion to continue a devastating war in Iraq that has already taken the lives of more than 2,400 American soldiers, countless tens of thousands of innocent Iraqi civilians, and forever shattered the lives of another 16,000 injured and wounded American troops.

Priorities like authorizing another $10 billion, that is billion with a "B," on a still unproven missile defense system that can't stop the greatest threat we face, nuclear weapons in the hands of terrorists, and has never even been able to stop the missiles it is designed to destroy.

It is beyond dispute that this administration, in tandem with the Republican Congress, has been, to put it mildly, less than fiscally responsible.

Earlier this month I introduced new legislation called the Commonsense Budget Act of 2006 that finally put some sanity back into the Nation's fiscal policy. This bill already has the support of almost 40 cosponsors.

The Commonsense Budget Act would trim $60 billion in waste from the Pentagon budget and put it to work on behalf of the people and programs that truly strengthen America.

These programs include $10 billion for the modernization of every public school, $12 billion for health insurance for every child in America, $10 billion to invest in renewable energy and energy efficiency programs, $13 billion to feed the hungry, $5 billion to improve homeland security, and $5 billion to start the reduction of our deficit.

We need to change the way we think about national security, Mr. Speaker. The return on the investments I have proposed as part of the Commonsense Budget Act will benefit the entire society, and they won't cost us a dime more than we currently spend on our bloated national defense.

Any change in budget priorities, though, has to go hand in hand with change in policy on the ground. The very first of those needs to be an end to the war in Iraq. For the sake of our soldiers, their families and our national security, it is time to bring our troops home.

□ 1730

BUSH ADMINISTRATION TAX CUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, well, with little notice or fanfare, a modest tax benefit for families who are struggling to help their kids get a higher education expired this year. It was what is called an above-the-line deduction, up to $4,000 towards tuition could become an above-the-line deduction.

Now for a family with $40,000, $50,000 income, that would be worth about 1,000 bucks off their taxes, not insignificant when they are straining on that income to try and help their child get an education, get ahead, realize the American dream.

But the Republican majority, being the fiscal conservatives they are, said it was too expensive. We could not afford to renew this modest tax benefit for middle income families to give them a little help with tuition for their kids. Now, well and good.

When you see their budget that they have pulled from the floor for the third time in 3 weeks, they are going to pass a budget, probably next week, that will have America borrowing $1.4 billion a day, a lot of it from foreign sources.

It will have a lot of us borrowing from this year's Social Security surplus, $193 billion, and spending it on other things other than Social Security, in part to give tax cuts to wealthy Americans. Also buried in their budget is the fifth increase in the debt limit in 5 years. Fiscal conservatives that they are, they are hiding it in the middle of their budget because they don't want people to see it, another $600 billion increase in the debt limit to nearly $10 trillion.

That is quite an achievement. Nearly doubling the national debt in 5 years is something that they could write home about, but they don't want the people at home to know. So I can understand their concerns.

But, wait a minute, oh, no. We just passed a bill to give $70 billion in tax breaks to wealthy investors. Now, where is that money going to come from? Oh, well, they say tax breaks pay for themselves, especially when you give the money to rich people.

This particular piece of work extends a tax break that wasn't going to expire until 2008. The college tuition deduction has already expired. Middle income families can't get it next year, but wealthy investors were worried that starting in 2009 or 2010 they might have to pay the same percentage of their investment earnings, their unearned income, as people who work for a living.

The Republicans said that would just destroy the economy of America. Those investors are the heart blood of our country, not the people who work and build the country; no, they have got to pay higher rates of taxes, but the people who can invest for a living.

What does their $70 billion tax break do? Well, someone who earns $5.3 million, $82,000 tax relief. They really need it too at $5.3 million, hard making ends meet. You know, their Hummer, 3 bucks a gallon of gas for their Hummer too. Well, maybe it is a limousine driven by a chauffeur, but who knows.

How about the retired CEO of ExxonMobil, $400 million, that is what he got, just retired. Well, this bill gives him an extra $2 million off his tax bill. It was going to be hard for him to maintain his lifestyle in retirement with only $400 million in retirement. So the Republicans feel that working people should borrow $2 million to give to him an additional little tax benefit.

But for a family earning a good income, 75,000 bucks, it is worth $110 a year. So the family that earns $75,000 is going to get up to $110 tax benefit under this. But the retired CEO of ExxonMobil is going to get $2 million, and the family who earns wages and salary at $75,000 is going to pay to retire the debt, because we are borrowing the money to give to the wealthy investors.

How stupid do they think the American people are? How profligate and shameless the Republicans are to do this sort of thing. Help the families who are trying to have their kids get it. That is the next generation of earners. You cannot even extend them a modest tax benefit, but you can shower money on the wealthiest among us, those who need it least.

It is time for new priorities in this Congress. It is time for fiscal responsibility. It is time to give a little bit of a helping hand to middle income and working America and let the rich help carry their fair share of the load.

FIRST ROBOTICS COMPETITION

Mr. LANGEVIN. Mr. Speaker, I ask unanimous consent to speak out of order.

The SPEAKER pro tempore. Without objection, the gentleman from Rhode Island (Mr. LANGEVIN) is recognized for 5 minutes.

There was no objection.

Mr. LANGEVIN. Mr. Speaker, I had the honor and privilege of attending the 15th annual FIRST Robotics Competition in Atlanta, Georgia at the end of April. I watched teams from both the United States and foreign countries take part in contests using robots that they built with the help of professionals.

While the winning teams were given awards, the primary goal of this competition was to help high school age students discover how interesting and rewarding the areas of math and science can be. As far as I am concerned, all of the students that participated are winners.

Seeing these brilliant students in person inspired me to join my friend and colleague, Congressman CHARLIE BASS on the floor tonight to share the important lessons and insights that we gained from our experience. I am excited to hear what my colleague has to say this evening as well.

Well, For Inflation and Recognition of Science and Technology, or, FIRST as it is known, was founded by my friend Dean Kamen, who is a brilliant inventor with a social conscience. Among his many distinguished achievements, he has invented the first wearable drug infusion pump, the first portable insulin pump, the Segway scooter and the IBOT wheelchair. His real passion, however, is inspiring younger generations and getting them excited about science and technology.

In pursuit of this goal, FIRST uses partnership between businesses, educational institutions and governments. Through FIRST's many programs, students learn the value of teamwork and sportsmanship and have the opportunity to pair up with mentors in their desired field. FIRST also gives students a chance to apply for scholarship awards so they may pursue these schools skills at the college level.

Now the success of this program can be seen by the fact that since 1992, the FIRST Robotics Competition has grown from 28 teams to over 1,000 today. The goal of this organization is one that I have supported since I first cochaired a special legislative commission as a state representative to get young people interested in math and science in Rhode Island.

Now, as many of our colleagues have acknowledged, these are areas that our younger generations are not getting involved in sufficient numbers. This is detrimental to our country in the long run, not only for our reputation as innovators, but also for our national security.

Now, the argument that inadequate research in education systems pose a threat to our national security was made in a 2001 report, the Road Map for National Security: Imperative for Change.

Now, this was issued by the U.S. Commission on National Security, better known as the Hart-Rudman Commission. The report stated American national leadership must understand these deficiencies as threats to national security. Now, if we do not invest heavily and wisely in rebuilding these two core threats, America will be incapable of maintaining its global position long into the 21st century.

This is why I encouraged my fellow members to learn more about the FIRST program. It gets students in their district involved.

It is our job, not only to protect our country, but to inspire the next generation and maintain our status as the world leaders in research and innovation. With programs like FIRST, I am optimistic about the future, Mr. Speaker.

So I would like to congratulate all the teams that participated in the FIRST Robotics Competition and especially the three teams from Rhode Island, La Salle Academy, Middletown High School and Tolman High School, for a job well done. May they all have continued success in their future endeavors.

I would also like to take this opportunity to thank my friend, Dean Kamen, the mentors and everyone who organized the FIRST robotics competition. I congratulate all of them and wish them well.

FIFTEENTH ANNUAL FIRST ROBOTICS COMPETITION

Mr. BASS. Mr. Speaker, I ask unanimous consent to claim Mr. NORWOOD's time.

The SPEAKER pro tempore. Without objection, the gentleman from New Hampshire (Mr. BASS) is recognized for 5 minutes.

There was no objection.

Mr. BASS. Mr. Speaker, following on my friend of Rhode Island, I had the pleasure of joining him and you, Mr. Speaker, in Atlanta a week and a half ago to witness the 15th international FIRST Competition. It was truly an extraordinary experience. There were 1,133 teams represented there, 904 of them were returning teams, and 229 new teams there.

Let me explain, as my friend from Rhode Island talked about how this works. What happens is a mentor or a company or a small businessman or anybody outside an engineer, outside of a school system, will go to a school, a high school and say they want to start a FIRST team there.

You get together a group of kids, the kinds of kids that you might not see on the football field or the baseball field, the kind of kid who might not be the biggest, most popular person in the school. You get together with them, and you tell them about how you could build a robot, go to a competition, win that competition, go to a regional, go to the nationals and really do something that is exciting.

This foundation was started by, as my friend from Rhode Island said, Dean Kamen, a constituent of mine from New Hampshire. Dean Kamen didn't get a college degree. He spent quite a bit of time in college, but he used the skills that were available to him to learn, what was important to learn in order to become successful, a business person, an inventor, an entrepreneur, and obviously an engineer and a physicist.

His dream is not only to be successful in his own life but to be able to communicate that kind of success to kids who may not have the kind of advantages that many of us enjoy. So he put together this organization which he called FIRST. It is designed to give kids, many of whom come from disadvantaged school systems and disadvantaged neighborhoods, and are from families that may have problems, but to give these kids the excitement that one gets from baseball or from football or from other sports, and, indeed, he succeeded.

My friend from Rhode Island went to the Boston regionals and saw how excited these children were, as I did, when I went to the regional in Manchester, New Hampshire, with their team screaming for them in the audience and the robots competing against one another in a ring with referees dressed in stripes judging them.

They handed out over 2,000 awards to these kids nationally this year. Dean Kamen himself made a beautiful clock out of Plexiglass, a beautiful grandfather clock that is given each year to the winner.

Indeed, Dean is a great entrepreneur, a great businessman, and he has brought a lot of great products to society. But his real passion in the world, I believe, is bringing education and excitement in engineering and physics to children.

Now you may ask, is this just the work of one individual and one person's dream? Well, back in 2002, the FIRST Foundation contracted with Brandeis University to do a study about what happens to their graduates. Here are some of their conclusions, key conclusions.

Participants in the FIRST program were more likely to attend college than an average high school graduate. Eighty-nine percent of the FIRST competition alumni attended college. That compares with a 65 percent national average. Once at college, a high proportion of FIRST alumni took courses at internships that were related to math, science, technology. Eighty-seven percent took a math course in college. Seventy-eight took at least one science course. That compares with a 66 percent average in these fields.

Perhaps the most striking finding is that 41 percent of the alumni that went to FIRST actually ended up majoring in engineering in college. Their educational aspirations were well above the national average; 78 percent of the FIRST alumni reported they expected to earn a graduate degree versus 58 percent among college students nationally.

FIRST alumni were more likely to pursue careers in science, technology and engineering. Compared to students in a comparison group, 45 percent versus 20 percent. FIRST alumni also reported continuing involvement in their communities. FIRST alumni were more than twice as likely to report volunteering in the community in the past years than were students in the matched comparison group, 71 percent versus 30 percent. Site visits indicate also that a variety of positive public impact in schools, including new classes, improve school spirit and other great benefits.

My friends, this is a wonderful program that is in its fifteenth year now, has handed out almost $8 million in scholarships, has business, educational institutions and students working together for science and education.

☐ 1745

It is a great partnership. I have two challenges: I want my colleagues to get involved in their first regionals, and I want the first participants to contact their Members of Congress and get them involved. This is a great program that is good for America and good for education.

NSA DATABASE OF AMERICANS' PHONE CALLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. UDALL) is recognized for 5 minutes.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to discuss the news reports released today that the National Security Agency has been collecting telephone data on tens of millions of Americans. With these news reports, we have discovered that the NSA, in conjunction with some of our country's largest telecommunications providers, now has a database with the phone records of millions of Americans.

While the creation of this database does not involve the NSA listening to or recording our conversations, the agency now has detailed records of calls people have made to business associates, to maybe a family physician, to friends, to family. This program is a significant violation of the privacy of all Americans.

Unfortunately, this is not the first time the administration has had the National Security Agency spy on Americans. We discovered just this past December that the President had authorized the NSA to spy domestically. While we still do not have much information on the domestic spying program, we know that hundreds, possibly thousands, of Americans had their telephone conversations and e-mails monitored.

President Bush asserts that he authorized the NSA only to intercept the international communications of people with known links to al Qaeda and related terrorist organizations. Yet we find out months later that during the same period of time, the NSA has been creating the largest database ever assembled, with information from millions of people. We can hardly say that millions of people here in the United States whose privacy has been invaded have suspected ties to terrorism.

The President did this yet again without seeking warrants. This administration has long sought to extend its power and authority at every available opportunity, and this is no exception. If the administration truly needed these phone records, they could have, at the very least, obtained warrants from the FISA court.

The fourth amendment clearly states: "The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated, and no warrant shall issue, but upon probable cause, supported by oath or affirmation."

I strongly believe that gathering information on millions of American citizens without first obtaining warrants or any judicial oversight clearly violates this core principle of our Constitution.

I have to ask, where is the oversight? A program of this magnitude must be considered by Congress. While the President has stated that appropriate

Members of Congress have been briefed on intelligence activities, this does not constitute oversight. Congress should hold hearings, question witnesses about the program, and consider its legality. Congress needs to step up and exercise its proper oversight responsibility, something it has failed to do for 5 years. At a minimum, the oversight committees must make a determination on the legality of this program.

Mr. Speaker, I have no doubt that the administration will contend that questioning the existence of this database is undermining our Nation's security efforts. It is essential that the President must have the best possible intelligence to protect our Nation, and he must be able to gather this intelligence. However, this has to be done in accordance with our Constitution, the bedrock of our Nation.

Despite what this administration would have us believe, securing our Nation from all enemies, both foreign and domestic, can be achieved without violations of our constitutional freedoms.

CONTINUED VIOLATION OF AMERICANS' PRIVACY BY ILLEGAL SPYING CANNOT BE TOLERATED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. INSLEE) is recognized for 5 minutes.

Mr. INSLEE. Mr. Speaker, the continued violation of Americans' privacy by illegal spying cannot be tolerated. Today we found that this administration is building a database of millions of Americans' phone calls to know who we called and who called us. This is a privacy right that needs to be protected and respected, and we have now seen multiple violations of this principle where illegal spying has occurred.

The U.S. Congress must hold hearings. It must stop illegal spying. I will be offering an amendment on the defense appropriations bill to assure that no taxpayer money can be used for illegal spying to violate the privacy rights of Americans.

The excuse we may hear from the administration is that, no, these conversations may not be taped. But who Americans called is a privacy right and is protected by the law, and who calls us is a privacy right and it is protected by the law. It is protected by section 222 of the Communications Act, it is protected by the fourth amendment to the United States Constitution, and it is protected by the common sense of the American people that we ought to protect our privacy and democracy at the same time we are protecting our security. And both can be protected.

The fact of the matter is that the FISA law builds in the ability of the Federal Government to in fact crack down on terrorism, something we all want to do. We want to have an aggressive program of electronic eavesdropping on al Qaeda and other terrorists, but we want to make sure that that is done within the law on the simple proposition that when the Federal Government does electronic eavesdropping, there is another set of eyes overseeing that program: our judges, our judicial system.

What the law demands and Americans demand and the Constitution demands is that there is a review through the warrant process so that a warrant is obtained when this eavesdropping occurs. And if there is not time for that, under the FISA law, warrants can be obtained 72 hours thereafter retroactively.

So what we are saying, and I think the broad swath of the millions of Americans who have to know tonight, is that somewhere in this country there is a database sitting with your records that belong to you that is subject to your privacy that has now been violated by the Federal Government, without any review whatsoever by a judge and without review whatsoever and oversight of the United States Congress. That is wrong, and it has simply got to stop.

The U.S. Congress has an obligation. It is an obligation to stand up to an administration that refuses to abide by the law. This is a precious thing, democracy; and democracy is most precious when it is threatened. When we are currently involved in a war, it is most important to rise to the protection of our privacy.

We have been involved in these fights for our privacy now for some period of time. We have fought to protect the private records of our cell phone records from being sold to telemarketers; we have fought to prevent our tax records being sold to other people who will market to us; and now we need to fight to make sure there is a review and a warrant given before, or at least after, our phone records are put into some master database with the privacy of millions of Americans violated.

The reason we found out about this today is that the journalists have reported on this. Unfortunately, the administration has not been forthcoming to tell the U.S. Congress what they have been doing; and the U.S. Congress, the folks elected by people from 435 districts in 50 States, ought to have access to this information so that there can be oversight. There is not a review of this.

In conclusion, Mr. Speaker, the U.S. Congress needs to stand up and be counted, stand up and be counted for the privacy rights of America, to stop the violation of privacy that we have in our phone records. Who we called and who called us is a private matter. It ought to be protected, and we are going to ensure that it is.

DOING BETTER FOR THE AMERICAN PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, earlier today I took the opportunity to wish all of our mothers a very happy Mother's Day. Might I include my colleagues and their relatives, the staff of this House and this Congress, because this is an opportunity for us to simply say thank you, thank you to the many mothers who work every single day, whether in the home or outside the home. Whether they are your mom because they are related, or because they have just simply given you a greater opportunity in life, they deserve a thank you.

Might I also offer my appreciation to the moms who are on the front lines in Iraq and Afghanistan and serving in the United States military.

This is an opportunity, Mr. Speaker, to kind of recount where we are in this Congress and to ensure that we really are working on the kind of legislative agenda that really helps our families.

I guess I would argue somewhat with the statement that we have worked as hard as we should have worked. For example, the tax reconciliation bill gives most of the benefit to the richest of Americans. If you make a certain amount, if you are a hard-working single mom, you might even get the minimal $9 tax break. I know we can do better.

Then let me say as we look to the United States military, we should remember that they are on the front lines so that we might be free. I am very proud today that, almost unanimously, this Congress passed by 415–9 an amendment that I offered to the defense authorization bill that will say happy Mother's Day to all the Reserve and National Guard families, because the amendment provides a clarifying feature, and that feature is that we will take into consideration the number of deployments one has had before further utilization of that particular soldier is enacted. We will take into consideration how many deployments there have been.

I have heard from Reserve families all around the Nation, and particularly in my district, that they have been redeployed one time, two times, three times. Yes, they are patriotic; but it is necessary to be considerate of the families, of the disruption in their income, and, of course, the children.

So I hope as this defense authorization bill makes its way to conference, that this provision that considers the number of times soldiers have been deployed in order to make the determination whether to deploy again will help our families stay together.

Of course, we know as well that pending is a deadline for the enrollment in

Medicare part D. I have said to my colleagues that they know that I did not support the legislation that created a "donut hole," where seniors would have a certain coverage, and then all of a sudden mothers and fathers and others would drop into a donut hole.

But May 15 is the deadline. We will hold a massive citywide Medicare enrollment day in the city of Houston in the Communication Workers Hall on Jefferson. We are asking all of the citywide groups and organizations and adult children and others to bring their seniors to this place, because we will have almost an all-day registration. Eleven computers will be there for you starting at 11 a.m., and we will keep it open as long as necessary so that we can enroll those low-income seniors, some 55 percent who do not know that May 15 is the deadline.

To those of you who may be listening, let's make Mother's Day just a little bit sweeter and ask that senior citizen whether or not they have been enrolled over 65 in Medicare part D. Remember, if it is not extended by the President, and I am going to ask the President by letter today to extend it by executive order, if it is not extended, you will have a lifetime penalty of 1 percent, 1 percent, which is a lot of money, for your lifetime, if you do not enroll by May 15, 2006.

I hope, as I started out, that we will wish a happy Mother's Day to America's mothers and others around the world; and I hope that we will not only give them wishes, but we will also give them action.

I believe the amendment that has clarified when you go back into duty based upon a consideration of how many times you have gone is a gift to our mothers and the families of Reservists all over America. But we can give a further gift by making the kinds of tax laws that benefit hard-working Americans and increasing the minimum wage.

Then finally we can do something that is important, cease the divisive debate on immigration and recognize that immigration is a part of America's fabric. We have a system of laws which we can follow. Amnesty is not the question here, because we are not talking about amnesty. We are talking about earned access to legalization, where those who are undocumented would get online and be able to begin to gain access to legalization. The same individuals who are on the front lines of Iraq who are not citizens, their families would have the opportunity to be documented. We can also provide job training from the fees that immigrants will pay to earn access to legalization.

Mr. Speaker, I simply say, we have it in our power to make Mother's Day every day and make mothers happy by having the legislative agenda that gives a better quality of life for all Americans.

Again, happy Mother's Day to all the mothers.

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MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4297) "An Act to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.".

OUR TROOPS IN IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes as the designee of the majority leader.

Mr. KING of Iowa. Mr. Speaker, I appreciate the privilege to address you, Mr. Speaker, and this House Chamber. I do rise in support, and I wish to associate with the remarks of the gentlewoman from Texas (Ms. JACKSON-LEE) who brought up that Mother's Day is coming up, and we need to honor our mothers. They are the source of a lot of the good things about the world. They are the things that civilize us men, I would point out.

And I certainly give my greetings to all mothers and look forward to the day that we formally celebrate that glorious day. A source of compassion and understanding and nurturement, all of the things I will never be in my life are wrapped up in motherhood.

Mr. Speaker, I did come here to speak about a different subject matter, Mr. Speaker. Before I get to the subject of Iraq and the broader war on terror, I feel compelled to address the issue of the National Security Administration and their data mining operations that came to light today in a publication.

I am alarmed in the verbal messages that come around this Chamber, alarmed that there could be that kind of an operation going on in this country.

Before I react, though, Mr. Speaker, I think it is imperative and incumbent upon all of us to step back, to take a good look at the facts, and not run forward with an uninformed response. I concur with the first instincts of the gentlemen from New Mexico and also the gentleman from Washington that spoke on the issue of the data mining of the National Security Administration.

I serve on the Judiciary Committee where we had at least 12 and perhaps 13 hearings on the PATRIOT Act, renewed the PATRIOT Act. We put some insurances in the PATRIOT Act. In a couple of the sections, we set them up with a sunset so that we will be able to go back and review those issues in a shorter period of time to make sure that we are protecting the rights and the privacy of Americans.

Mr. Speaker, when I look at this issue and again, from the sense of alarm that there would be that kind of a potential intrusion into the private lives of Americans. And I would dig a little bit deeper and say this data mining, with the little bit of information that we have at this point, does not look into the details of Americans, and no one is alleging that it does except for the remarks made here in this Chamber, Mr. Speaker.

And it does not, according to the administration, collect any names of anyone, it does not collect any addresses, it does not listen to any telephone calls. None of those things, according to the administration's response at least, and worthy of verification I would add, takes place unless the FISA court is aware of that and unless it happens to be a communication from a domestic call within the United States from or to a caller in a foreign country, and even then the interest would be in al-Qaeda, as the President made clear.

So data mining is a little bit different. It is clear that, you know, it depends on how you define the invasion of privacy. And the allegation was made here, Mr. Speaker, that the administration, and through the NSA's data mining, that the privacy was invaded. That is a direct quote from the gentlemen from New Mexico.

Well, the definition of the privacy, I think, needs to be clearer before America comes to the conclusion as to whether that privacy was invaded. Now, if it has not been, if no phone calls have been listened to, if none have been recorded, if there were no names, and if there were no addresses that were recorded, if it were just the telephone numbers, and if the telephone numbers were data mined and run through a database to sort out, to see if those numbers also were the numbers that were known phone numbers of suspected terrorists, if that was the indicator that would cause the National Security Administration then to go to the FISA court and ask for a warrant, to perhaps listen in on some of these phone calls, it might have been discovered through the data mining process. That is how I understand this to be.

This is how the administration defends their actions. This is how I hope the facts emerge as we listen more closely to this situation. But I am concerned, Mr. Speaker, I think it is important for Congress to take a real close look at this. And I will be one of the people who will be making these requests to take a close look at it.

Mr. Speaker, I am not willing to go out here and make the allegation that there is a tremendous invasion of the privacy of millions of Americans until I know that factually that is the case.

The administration would need, in order to get a FISA court warrant, probable cause, as the gentlemen from New Mexico stated. And the gathering of information beyond simply an indexing of a phone number that might link to known al-Qaeda phone numbers or suspected al-Qaeda phone numbers, as the administration's position on all of the fervor they have gone with this.

So let's take a deep breath, America. Let's count to 10, America. Let's get the facts in front of us. Let's get a sense of what is actually going on before such time as we would leap to a conclusion.

But I want to announce that I am focused on this and I am concerned about this. And I also would point out that in a hearing before the Judiciary Committee, the Attorney General, General Gonzalez, was asked the question as to whether there were any telephone conversations that were being listened into, domestic calls within the United States without a FISA warrant or without a warrant of any kind.

That answer that he gave that day I recall not to have been a very concise, precise or clear answer. And I intend to look up the CONGRESSIONAL RECORD to determine that answer that was given by Attorney General Gonzalez and see how that comports with this story that came out in the news today of which we will be looking more carefully into.

Just looking at calling patterns of phone numbers, I am not certain that that does rise to the level of invasion of privacy. America will decide that, Mr. Speaker. And we will draw some conclusions ourselves when we get the facts together.

But I would add also, that the White House would not confirm or deny the existence of such a program. I will not draw a conclusion either, Mr. Speaker, as to what that might indicate. But I would point out that perhaps the architect of this plan, the person who was in charge at NSA during the period of time that this data mining was initiated and developed, and certainly during the time of its activity, if indeed it did take place, was General Michael Hayden, General Michael Hayden who has been appointed to be the next Director of the CIA.

And we know that there is friction between the CIA and the White House, and that there is political ideology conflicts going on between the CIA and the White House, and that the appointment of General Hayden, an outsider, a military officer, to come into the CIA to be the Director of the CIA and hopefully to clean up some of the activities within the CIA that have undermined the foreign policy of the President of the United States of America, might just be the reason why there was such a timely leak of this information.

Mr. Speaker, I pose that question to America as perhaps being more important or at least a question that needs to be raised to a high level of importance, alongside the importance of the privacy of the American people.

We will get to the bottom of this, Mr. Speaker. And I will join others in asking these questions and asking for the factual information so that we can draw a conclusion here in the Congress, and that the conclusion in this Congress by right and ought to reflect the conclusions of the well-informed American public. That is the path that we need to go down, Mr. Speaker.

I thank you for your indulgence. I shift then over to the subject matter that I came here to talk about on this floor, and that is the subject of the effort of our great, dedicated, well-trained, well-disciplined, well-performing and well-equipped military of the United States of America.

The effort that they are giving worldwide, globally in this global effort on terror, this global effort that was enjoined against our will on September 11, 2001. And the President went to Ground Zero in New York with a bullhorn and made it clear that we were going to take on this enemy wherever they might be.

And he said, if you are harboring terrorists, you are a terrorist, if you are aiding and abetting terrorists, you are a terrorist. If you are on the side of the terrorists, you are against the side of freedom, and we will identify our enemies as such.

And within months, the Commander in Chief dispatched troops into Afghanistan, a nation of 25 million people, a nation that had never had a free election on that soil ever in the history of the world. A nation that the Khyber Pass was renowned as being a place where you could never send military through there without them being ambushed and shot down, that no nation in the world, including the very powerful Soviet Union, could ever invade and occupy for any period of time a nation like Afghanistan.

And that a military, we were advised that a military effort in Afghanistan would be a failure. And I remember the voices of the people over on this side of the aisle, Mr. Speaker, and they advised America that it would be a defeated effort to presume to go into Afghanistan since all nations throughout all of history had failed in that country because of the rough terrain, because of the tribalism, because of a tenacity of the people there to always reject any outsiders, no matter what kind of good will might come to Afghanistan.

But the Taliban had taken over Afghanistan. And they had been harboring terrorists. They had been harboring al-Qaeda, and they had allowed al-Qaeda to get established on Afghanistan and on the border with Pakistan.

And this al-Qaeda was the worst venom in a very venomous regime there. The Taliban had taken over essentially all of Afghanistan. They has been blowing up the religious symbols and statutes in Afghanistan, trying to wipe out anything that challenged them. They rejected Buddhism, they rejected Christianity.

Afghanistan was one of the few countries in the world, Mr. Speaker, where the life expectancy of the women in Afghanistan was less than the life expectancy of the men, even though the men were the ones that were continually in combat taking on the bullets and the bombs and the missiles and the artillery.

Still, they were so brutal with their women in Afghanistan that their life expectancy was less than that of the men. And the children did not fare much better, Mr. Speaker. Girls could not go to school. The lack of freedom, the lack of an economy had devolved down into barely a survival mode, with a Draconian Islamic cleric regime in place called the Taliban, one of the darkest regimes ever in the history of the world.

But our Commander in Chief saw differently. He got good advice from his military advisers. He took the advice of the military advisers, accepted that. In a period of within a couple of months of September 11, dispatched our troops into Afghanistan, where they joined up with the Northern Alliance.

In a matter of months they swept through Afghanistan, wiped out the Taliban and enabled a free government to be established there. And free elections were held on that soil for the first time ever in the history of the world. That provided the 25 million Afghanis the gratitude of the coalition forces and the United States military. No small feat.

And as that fantastic feat unfolded, the critics from the other side of this aisle, and the liberals throughout America, slowly were muzzled by the success of the operations in Afghanistan. Slowly muzzled, Mr. Speaker, because they came to the realization that it was such a resounding success in all facets of it, from the military perspective, from the security perspective, from establishing a free government having successful elections, and establishing an economy that is now starting to grow and become stable in Afghanistan, from building infrastructure, sewer, water, wells, roads, schools, girls going to school, women voting. The freedom that you see in the eyes of people that are looking out through a burka that had never had the chance to do that before, was an astonishing success that again had not taken place on that place in the globe ever in the history of the world, thanks to the bravery and the courage of our Commander in Chief.

His vision, his courage, his ability to discern the advice that came from his Secretary of Defense, from his military staff, from the Joint Chiefs of Staff, to be able to discern that advice, select the best advice and then act upon that and send an appropriate number of troops with appropriate tactical support with appropriate equipment to be able to initiate and carry out and complete a successful operation in Afghanistan.

And I would point out, Mr. Speaker, that his critics have been muzzled on that issue, even though logistically, population-wise, the degree of difficulty in Afghanistan is greater than the degree the difficulty in Iraq from a military perspective.

The critics have been muzzled because of the resounding success. Slowly their voices have been squelched one after another after another. I point out, Mr. Speaker, that the logistics and the population in Iraq, substantially easier from the military's perspective than the war in Afghanistan, the critics said the same things before the beginning of the operation.

They have not quite been muzzled yet, but one of the people that is helping in that cause is here to join us this evening. That is the gentlewoman from Tennessee who stands up for freedom and free enterprise and our American military, and is there every time they need her and many times comes without even bothering to call, stands up for America on the floor and in committee, and in every facet of her life.

Mr. Speaker, I am proud to share some time here on the floor. I am proud to yield to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I thank the gentleman from Iowa for his leadership on this issue, and how much we appreciate that leadership.

Mr. Speaker, you know, I stand tonight for our men and women in uniform. And in my district, the men and women and families at Fort Campbell, and also our Guardsmen and our Reservists, and all of those that are deployed, how much we appreciate their sacrifice, how much we appreciate, Mr. Speaker, the great work that they do in order to be able to be certain that we preserve freedom, that we have the ability for children in this Nation to know that they are going to grow up in freedom.

□ 1815

This is so those children will have the ability to dream big dreams, to look at the future with hope, with the expectancy of opportunities that will come their way.

We do thank our men and women in uniform. And I thank them. I thank this House today that approved a bill that will allow for a pay raise for our military. We are grateful for that and for the actions of this body.

I am so pleased to join you tonight as we turn our thoughts to Iraq and what is happening in Afghanistan because those are centers and they are battles in the war on terror. The war on terror is a global war. When we talk about the war on terror, we are not talking about one specific place or one specific battle. The global war on terror is something that is localized right now in Iraq; but we do know that while this is the battleground of today, while Afghanistan is the battleground, while the Middle East is the breeding ground for much of the terrorism that has been disbursed all across the globe, we know that we have to look at this as a global war.

We have to know that this is going to be a long war. We have been told that by our leaders. We have been attacked. We know that we were attacked for two full decades before we stopped looking at terrorism as an act of civil disobedience and we started responding to terrorism as an act of war.

That seemed to all come to a head when we looked at Iraq, when we had a very evil dictator who continued to defy U.N. resolutions, who continued to just repeatedly snub the U.N. and snub the free world and say, I can be the bully of the region if I want to. And that came to an end after September 11.

We commend our men and women in uniform that have gone there to set free, to set free a people, to begin stamping out terrorism and to be certain that we are standing up, democracy and partners in democracy that will yield a peace dividend for our children and our grandchildren.

I appreciate that the gentleman from Iowa took a few moments to talk about some of the women in Iraq and some of the women that have fought so valiantly for freedom and for democracy and for liberty.

I have had the opportunity to work with our Iraqi Women's Caucus and work with our Department of State, and stepped forward and helped to mentor some of these women as they take those baby steps and then as they lead in putting democracy in place.

You know, it is so amazing to talk to them and to read the e-mails that they send to us as we seek to encourage them and their work and their efforts. Some of the stories that they have told about atrocities that they have lived through, how they watched the vicious nature of Saddam's henchmen and how they would brutalize people, brutalize families, and how these women have lived through that and have moved forward to take that leadership role and to step forward and say, Do not leave us now. Do not leave us now. We are on the right track. And we know it looks messy, and we know it is going to be a long process and we know this is not easy, but do not leave us.

Mr. Speaker, I cannot help but think when I have these conversations with these women and when I see some of them, maybe they are missing a finger, maybe there is something that is wrong, maybe they have suffered pain and torture and agony and you can see it in their faces and you can see it in their bodies, but in their spirit what you hear is the desire to be certain that they have their shot at freedom. That is what they want. They want the opportunity to live freely, to enjoy the benefits of freedom. And I think that we have to keep that in mind as we move forward.

One of the things we repeatedly hear and, of course, I know the gentleman from Iowa is like me, we all want to see our troops come home, come home victorious, and we would like to have them all come home, but I think we have to keep in mind that there is not going to be one specific event or one announced time where we say, all right, the work is done, because this is a work in progress. It is a work in progress, and we have seen tremendous progress. We have seen some tremendous stepping back. We have seen some failures, but we are seeing progress. And we are going to continue to see progress take place.

We have seen the elections in January of 2005, all the way to the election in December of 2005. We have watched the formation of a new government, and now we can look forward as they are putting in place a permanent government. This is not a provisional government. There is a government that will rule in that country. They will govern. They will be making the laws, setting the laws, and at the same time we are watching the Iraqi security forces train, develop the competencies that they need in order to secure their nation and begin to stand up and take charge.

It is exciting to see that type of progress take place. It is exciting to see progress in Afghanistan. It is exciting to see that there is that hope there, and it raises our concerns we have about the rest of the Middle East, about Iran, about the areas that surround there. And you know, Mr. Speaker, I think we have to keep in mind why we do this, why we are there, why we are rooting out terrorism, why we have rooted out a brutal dictator. Why we do this is because if we are fighting there, we are not going to have to be fighting that over here. How very important for us to keep that in mind.

Taking this battle to them, right there in the Middle East, in that breeding ground of terrorism, taking the battle there helps us to do our best to keep this Nation secure, to allow us to continue to be a trustee of this great and wonderful legacy that we call freedom.

I want to thank the gentleman from Iowa for yielding. I want to thank him for his excellent work that he continues to do to speak out to support our men and women in uniform and to support our troops with the good work that they are doing and always his good words in protecting the cause of freedom.

With that, I yield back to the gentleman.

Mr. KING of Iowa. I thank the gentlewoman from Tennessee for her presentation here, Mr. Speaker. It is always with great gratitude that I have the privilege to share some floor time and address this Chamber.

Mr. Speaker, picking up on the remarks made by the gentlewoman from Tennessee (Mrs. BLACKBURN), several things pop to mind as I listened to her discussion. One of them is passing the DOD authorization bill here a little more than an hour ago. It is encouraging to see that we come together with that kind of unity in supporting our military here. A few dissenters I would say, but the core of this Chamber does support our military, and that was evident today.

I would also like to compliment Chairman HUNTER, who did an excellent job of putting the bill together. He brought into play a number of interests and was able to work this out in a fashion that I think demonstrates the unity of the American people as voiced through the United States Congress.

One of the elements in that bill that we did not discuss is a directive in the bill that will ensure that the military chaplains can pray reflective of their faith, reflective of their consciences; and that they will not be told by the ACLU or any other anti-faith group out there that may want to interfere with their relationship between God and our soldiers as reflected between them by our chaplains.

When this bill gets to the President's desk, our chaplains will be protected to operate and to pray consistent with their faith, consistent with their consciences, consistent with their duty as they always have until this more enlightened era, as some might call it, when they began to interfere with the faith relationships. We put our soldiers on the battlefield and we ask them to put their lives on the line for us. The least we can do is let them worship in the fashion that they would prefer.

That is one of those constitutional guarantees. We can go overboard in trying to make sure we sanitize our religion to the point where no one is offended. In fact, I think that is a major mistake in the approach to many of the issues that we have, the idea that somehow we can move through this society and make progress without offending anyone. No, there are people who are grievance experts in America and around the world who will be offended no matter what you do. And if you keep backing up and backing up, they just bring their line of offense to follow you back to some point where you get your back against the wall when you cannot retreat anymore and they will still be offended when you cannot back up anymore.

Then what do you do? It is pretty difficult to step back and plant your foot and fight, Mr. Speaker. I submit that we have to draw a line consistent with our moral values, our religious values, our constitutional values and stand up for those principles that we hold dear, but also stand up for the principles that have made the United States of America a great Nation.

Some of those principles of course are on the line right now around the globe. They are on the line in Afghanistan where the President committed troops in the fall of 2001, and successfully I might add. The critics have been muzzled. And yet before Mrs. BLACKBURN took to the floor I had taken this, Mr. Speaker, up to the point where we made the decision in this Congress to endorse the President's authority to go into military operations in Iraq, and I point out the similarities between Iraq and Afghanistan: 25 million people in each of those two countries; both of them being Arab countries. Muslim countries. And some might argue about the Arab-ness about the Afghanis, but Muslim countries certainly. Those similarities. Fair amounts of desert in each. Far more mountains in Afghanistan than there are in Iraq, but similar-size countries, countries without large economies, countries that had not made a lot of progress in the last 35 or more years.

One country was ruled by the Taliban and the other was ruled by Saddam Hussein. Who is to say which is worse. The Taliban did random violence and intimidation and pushed that country back into the Stone Age, sometimes one person at a time, small groups at a time. They turned their soccer fields into execution fields where they executed women in front of a crowd.

□ 1830

It is a brutal thing going on in Afghanistan, but the brutality in Iraq was not quite so obvious. It was not submitted to us so much on the media because those things took place behind the scenes, but Saddam Hussein, the tyrant that he was and tyrant that he is, was committing atrocities against his own people.

The rate of those atrocities can be calculated a number of different ways. The lowest number that I come up with is that he was killing his own people at a rate of something just less than 100 a day. The highest number that I come up with is that he was killing his own people something over 200 per day, but however it is calculated, and if you want to figure the lowest average versus the highest average, and these are numbers that come off the Web pages designed to show how many Iraqis have suffered, it is not a pro-administration Web page by any means, but it is the only numbers we really have about the levels of Iraqi civilians that have died since the liberation of Iraq that began in March of 2003.

By any measure, Mr. Speaker, when one measures the loss of American life, plus the loss of Iraqi troops who are on our side fighting for their freedom, plus the loss of civilian Iraqis, however one measures those fatalities, those killed in action, those casualties that resulted in death, and then one calculates the loss of Iraqi lives under Saddam, that loss of Iraqi life under Saddam was far greater than the loss in lives during any operation or any period of time that one wants to select as broader than a few minutes during the whole period of the operation during 3 years in Iraq.

Saddam's killing of his own people, add up all of those numbers and subtract the lives that have been sacrificed in Iraq that have gotten them to this point of freedom, and there are still, by any measure, at least 100,000 Iraqis who are alive today because of coalition forces, because of our American military, because of the effort of the Iraqi people to step up and defend themselves.

This effort that is ongoing in Iraq is more than the function of our daily casualties, more than the function of the daily casualties of Iraqi military and Iraqi civilians. What we see are bombing in the street. We see the news media that is there. It is as if Al Jazeera gets called whenever there is going to be a bomb detonated and they can be there to turn on their movie cameras and record the videos of what is going on for the level of violence in Iraq.

Now, I think it is too high, and I pray that we can get this violence reduced and get Americans out of the line of fire so they are not taking on the casualties. I also pray that the Iraqis who are taking more casualties than Americans are and other coalition forces will be able to quell this violence, but however we measure this, the loss of American lives, plus the loss of Iraqi military, lives of people that are allied with us, plus the loss of innocent civilian lives that we see on television every day as the bombs detonate, still result in a massive net saving of Iraqi lives because Saddam Hussein was so brutal to his own people.

There are not mass graves that are now filling with bodies in Iraq like they were during the Saddam regime. Those things have stopped. The level of violence that is there in Iraq and Iraqi civilians are taking this violence and those killed are far greater than Iraqi military who are taking more casualties than the American soldiers who are taking more casualties than the balance of the coalition forces. That is how that rank order of loss goes, tragic as it is.

But if we look at the real circumstances in Iraq, and we ask the question, how can anybody live in that country with daily constant bombings and people being killed every day in the course of going to the barber or going to the store or walking down the street or driving through the intersection or going to school or getting on a bus or lining up to volunteer for the police force or for the Iraqi military or even for the rarest of occasions, I am allowing even going to vote, how can they tolerate that level of violence in their country?

Well, what is the level of violence in Iraq? And so I looked up those numbers, and it turns out that the annual fatalities due to that kind of violence, due to violent deaths in Iraq, the same way we measure violent death in the United States, by a form of murder, first and second degree murder and manslaughter, that kind of violence in Iraq is a rate of just a little over 27 per 100,000 people. So you can multiply that across the 25 plus million people that are there and come up with that number, now 27 for 100,000 people.

How does that compare then being an average civilian Iraqi compared to other places in the world where a civilian has a risk of dying a violent death on any given day? I looked up the statistics for Washington, D.C. I live here part time and part time in Iowa. My wife lives here part time and part time in Iowa. It turns out the risk to me, more important than to me, the risk to my wife Marilyn for being on the streets in Washington, D.C., is almost twice as high here as a civilian in Washington, D.C., as it is to be an average civilian in Iraq. Twenty-seven times per 100,000 in Iraq as civilians due to violent death, and the number here in Washington, D.C., is 45 per 100,000 here, not quite twice as high but significantly higher than Iraq.

So what would it be in some other places around the country? Well, let us see. Detroit, not one of the safer cities but a little safer than Washington, D.C. That number is 41 per 100,000 compared to 27 per 100,000 in Iraq. So it is significantly safer to be an average citizen in Iraq than it is is to be an average citizen in Detroit, Michigan.

If we took a look at where would be the most dangerous place in America, that would be down in New Orleans before Katrina. Before Katrina in New Orleans, the violent loss of life there was 54 per 100,000, and I will say that is statistically twice as dangerous to be a citizen in New Orleans as far as taking the risk of violent death, murder, manslaughter, than it is to be hit by a bomb or a murderer over in Iraq itself.

So that puts it into perspective for us on how dangerous it is in Iraq. I have been both places within the last few months, and I think it is important for us to take a look statistically because what we do not have is the news media sensationalizing the violence in New Orleans or the violence in Washington, D.C., or the violence in Detroit. That is the difference, Mr. Speaker. We do not have the news media sensationalizing. So America gets this sense that it is an intolerable level of violence in Iraq and that it cannot be quelled.

Some Members of this Congress declare, as the junior senator declared from Iowa, that there is a civil war going on in Iraq, and I would submit that if there is a civil war going on in Iraq, if that were to happen, we would know it. It is not what is going on there today. A civil war would be defined as when the uniformed military of Iraq, the 254,000 strong now that are in the field taking the fight to the insurgents and to the enemy, when they choose up sides and start to shoot at each other, Mr. Speaker, there will be a message that there might be a war that has begun in Iraq. Until that happens, they are not choosing up sides.

We have Sunni and Shi'as and Kurds all wearing the same uniform, all defending the same flag, all defending the new free Iraq, all defending the new government that has been established there, the new government that has now finally been formed and been put in place with a cabinet that soon will be approved perhaps by the parliament, and they will be launched upon the political solution of this.

But the violence in Iraq is nowhere near the level that the news media would have us believe, but it is very much sensationalized.

And how does it compare, the violence of an average citizen in Iraq, to maybe a Nation like Colombia or Honduras? Well, it is significantly more dangerous to go to either one of those two countries than it is to go to Iraq. The murder level in Honduras is nine times that of the United States. So it is significantly safer to be a regular citizen in Iraq, again, than it would to be a regular citizen in places like Colombia or Honduras or let alone Swaziland where that country has the highest murder rate in the world at 88 per 100,000 people. So to go visit Swaziland and walk around on the streets in a country like that, you can divide 27 into 88 about as well as I can, Mr. Speaker. It is not quite four times as dangerous, but 3.5, 3.6 times more dangerous to go visit Swaziland. Reading the news media, you could do a Google search and have difficulty finding such a statistic.

I would submit also, Mr. Speaker, that we had some choices. The President had some choices, and engaging in the liberation of Afghanistan was an excellent choice because it took the habitat that bred the Taliban and supported al Qaeda, that habitat that bred terror, erased that habitat, cleaned it up and established a new habitat there. If you want to think about this from an environmentalist perspective, there was an environment that bred the kind of terror that came to visit us on September 11 and had attacked us for 20 years and attacked many of the countries around the world and continues to do so at a far lesser scale than it would be otherwise.

The habitat that was there bred terror. The habitat that replaces it breeds freedom. That is the Bush doctrine. That is the vision that was put in place within 2 months of September 11 when our military was ordered into Afghanistan, when the people over on this side said it cannot be done, that our troops would be bogged down, but it has been a resounding success.

That same approach, with that same philosophy, the Bush doctrine of erasing the habitat that breeds terror and replacing it with a habitat that is a free habitat that grows freedom was brought to bear in Iraq, and I will point out that many of the same advisers that had advised President Bush in Afghanistan advised President Bush in Iraq. Some of the same tactics that were used in Afghanistan were used in Iraq, but the same thought process, the same evaluation, the same willingness to take risk, measure risk, make sure that we had the resources that were necessary to complete the operation was all considered.

To argue that the President did not listen to the right people in Iraq, none of the people that argued against the President's decision-making are willing to endorse that he listened to the right people for going into Afghanistan. They simply do not talk about that operation, as if the global war on terror only has one front, only has one battlefield, and only had one conclusion or one way to conclude it and one way to do so, and that in retrospect for them would be send a half a million troops in there, not 150,000 or 167,000 or 168,000 troops in there to do this operation.

The President sent enough troops to do the job that was in front of them. He used the best information he had at the time. He knew who to listen to before he went into Afghanistan. He listened to a lot of the same people going into Iraq. Tommy Franks has not stepped forward and said, oops, I wish I had another 350,000 troops. I would submit, Mr. Speaker, that another 350,000 troops in Iraq would have taken so long to mobilize, and the cost of mobilization and the difficulty of doing such a thing would also put more of our troops in harm's way.

I would point out that if one looks back statistically, that if you are going to stand up a military, when you put young men and women in the same place where you have machines that move fast and are heavy and instruments that are designed to deal death and destruction, as our military is designed to do, there will be accidents and you will lose people due to accident that are not combat fatalities.

In fact, one out of every five fatalities in Iraq has been a noncombat fatality, the result of an accident, but those accidents take place whether it is a civilian on the streets of America or whether it is a military wearing the uniform on a base somewhere where we never hear about that accident. If we add up the loss of American lives as a price to be ready, because those accidents that take place in training they take place on the base, the in-uniform accidents, if we add them up for the period of time between Desert Storm and Operation Iraqi Freedom, there were 5,000 Americans who gave their life to this country for our freedom as a price to be ready to take on the enemy. We mourn them as well as we mourn the soldiers who we lost in combat. They all paid the price for freedom, and we need to take advantage of this freedom and exercise this freedom and defend this freedom here the same way they defended it overseas for us.

But those loss of lives are still hard when it is a family that gives up a son or a daughter due to a price to be ready as opposed to the price to be engaged in combat. All need to be honored, all need to be respected, and of course, we add an extra level of honor to those who went into the line of fire for our freedom.

But the price remains as a price paid to be readied. There has been a price paid due to accidents in Iraq, as well as loss of life due to combat, but there is freedom there in Iraq. They held three elections in the year 2005, all successful, and they said it could not be done. They said that the violence would be so great that we could not open the polling booths and allow Iraqis to come to the polls and vote, but they did, Mr. Speaker, and each election the number of Iraqis went up, not down.

□ 1845

The smiling Iraqis with the purple fingers coming out of polling places, those numbers got greater and greater. As that happened, we were transitioning from the military security phase of Operation Iraqi Freedom to the political phase. And now we are into this political phase full blown, full bore. The Iraqi people have established their prime minister, their president and their speaker of their new parliament along with names that have been presented to their cabinet. That cabinet is endorsed by a majority of the parliament. They will be up and running.

When they are seated at the United Nations, they will be the most sovereign and most representative Arab nation in the world, the Nation that reflects the will of their own people far greater than any others.

We often think of the United Nations as an organization that is the democracy for the world. It is a voice of all of these nations, and the ambassadors from the countries represent the voices of the citizens of the country that they come from. That is not the truth. The truth is that there are some democratic countries that come to the United Nations, that appoint an ambassador to go to the United Nations to speak the will of the people. That is some of the countries.

Then there are the other countries that are significantly different. These are the ones that come from the dictators and tyrants who do not allow their own people to have a voice, but they send their ambassador to the United Nations and they have a voice there, a voice equally weighted to the voice of the ambassadors who actually represent a free people.

Mr. Speaker, I would submit that the Iraqi ambassador soon to be named to the United Nations will be a voice of a free Arab people, and that is a significant improvement, a significant change from the way it was in the past 3½ years ago. And, in fact, that ambassador will stand out in the United Nations hopefully as a beacon of freedom to the Arab people. And hopefully this freedom that is emerging in Iraq as we speak will be the freedom that becomes contagious and emanates across the borders to the other countries of the Middle East in such a fashion that they will stand up and say I want my freedom, too. I will celebrate when that day comes, but that would be the next phase of the Bush doctrine. That phase where the President understands that the clarion call of freedom calls all people, and that freedom is the right of every person and the future of every nation.

It may not be in this year or this decade or in this generation. It may not be in my lifetime, but it is inevitable that the yearning for freedom will bring every country to a level of freedom over time. I believe, as they say in the Arab world, it is God's will that we arrive at that point.

The alternative that the President had, given the challenges in front of him after September 11 was we could have looked at this from a law enforcement perspective, as did the previous administration. But the President chose to take the battle to the enemy in Afghanistan with a model for that country almost a mirror image of Iraq. If an approach to Afghanistan was wise, and the same approach to Iraq was not wise, I wish the people on the other side of the aisle and the critics of that effort would stand and tell me those distinctions. I can give distinctions, but it is Monday morning quarterbacking now. We must complete this task.

If we should pull out of Iraq, if that should happen, the effects on the future of the United States of America and the free world and the global war on terror would be catastrophic in their magnitude. The message that would be sent to the rest of the world would be that the United States does not stick with its commitment to go in and liberate. The message that came from Muqtada al-Sadr, when I was there on one of my visits a couple of years ago when he said if we keep attacking Americans, they will leave Iraq the same way they left Vietnam, the same way that they left Mogadishu and the same way that they left Lebanon. That is what I heard in live real-time out of the voice of Muqtada al-Sadr.

In fact, I took the trouble to put it in a poster, Mr. Speaker. I would point out that I heard this as I was visiting in Kuwait City watching Al Jazeera TV. He made the statement that if we keep attacking Americans, they will leave Iraq the same way they left Vietnam, the same way they left Lebanon, and the same way they left Mogadishu.

That message gets through to our enemy. They understand that the United States, if we do not stick to a mission, a subsequent military and American civilians will pay the price for not sticking to that mission for a generation or more after the fact.

There are those who add to this argument and who add fuel to this fire. Here would be an example. This is the senior Senator from Massachusetts who said that this was a war made up in Texas, this whole thing was a fraud, and Iraq is George Bush's Vietnam, which is really my point.

This message out of the mouth of this senior Senator from Massachusetts went through the satellite versions of television and within seconds, in fact at the speed of light, can emerge on the other end in the Middle East directly into the ears of Muqtada al-Sadr and Zawahiri and Zarqawi and Osama bin Laden, and you name the leaders over there who are committed to killing people who are not like them. They believe that is the path to their salvation. They are encouraged by these kinds of messages. It cost the lives of American soldiers.

We must stand together and complete this task. If we fail to do so, our only alternative will be to retreat back to the shores of the United States of America, fortify everything that we have that we want to protect, that we hold dear, guard every bus stop, guard every school and hospital, and guard every restaurant. They do that in Israel. If you go down the streets of Israel, the military are required when they are out on the street to carry their gun. They guard everything, and still their women and children, their families are blown to bits by terrorists who are committed to killing them for some religious reason I will never understand. That is our alternative here in America if we do not complete this task in Iraq.

Some of the things that we have done to provide stability in Iraq are demonstrated on this poster. The yellow spots here and the green dots, those are initiated and I believe they are completed operations of construction projects. Yes, the green is completed operations. The yellow are projects that are in progress.

As I traveled around, I was down in Basra in the south and on up to Kirkuk in the north, and I have been around the Mosul area as well, these projects are all things that American taxpayer dollars have invested to upgrade the infrastructure that is there. That includes water, sewers, hospitals, roads, all kind of structure that are designed to add some stability to the country of Iraq that in the last 38 years, aside from coalition forces and the dollars that have been committed into the country since the liberation, had not made significant progress.

Now there is progress being made in the country. There is more progress that needs to be made before our troops can come home victorious, to quote the gentlewoman from Tennessee some moments ago.

I will submit that we have to stick with this task. We do not have an alternative except to succeed, and we are on the path of success. It is a long, hard slog, as the Secretary of Defense, Mr. Rumsfeld, has pointed out. He has been realistic and upfront and candid in his positions that he has taken. I think he has taken on a yeoman's task to reorganize our military at the same time we are involved in a conflict overseas. But the alternative is not acceptable, and that would be not to reorganize our military at a time when we need to be lighter, quicker, faster and still stronger than we were before.

I have met with the Secretary of the Army who has laid out this plan for me, and I am impressed with the level of organization and level of discipline that they have provided. And I am impressed that Secretary Rumsfeld has gone down this path and has seen the vision and directed that it take place in the reorganization of our military.

I am not surprised though, Mr. Speaker, that some of the generals who were steeped in the old way of thinking and who maybe have a little different approach might be a little disgruntled. We have about six generals that have spoken up. That means there are some 9,000 who have not spoken against the Secretary of Defense. I think it was untimely of them to do so. It did not help this cause for them. I think that if they had stepped back and taken a look at it from the perspective of the long-term best interest of America, they might not have taken these issues to the public because their voice echoes across through satellite TV, picked up by Al Jazeera, spread through the ears of al Qaeda and Osama bin Laden and Zarqawi and Zawahiri and al-Sadr who is maybe on the side of the government of Iraq and doing business there. It does not help to send the message of dissent.

If you have a message of dissent, take it to the White House. They will close the door on the Roosevelt Room or perhaps in the Oval Office and you can have your say and it will be considered. But to have your say and say it to our enemy at the same time you might convey that disagreement to the President of the United States through the media is not a constructive way to fight a war. If this goes on, it will be one of the reasons why democracies have a difficult time in succeeding.

I point out that the country I live in is a constitutional republic, and I am glad it is. I look forward to the day our military comes home victorious. I do not know how soon that might be. But I would point out that the previous administration sent troops to Kosovo and gave a time frame at which time they would be deployed back to the United States, and that time frame was 1 year. It has been well over 10 years since those troops were deployed to Kosovo, and we still have troops there.

I am not raising an issue about that except to say we cannot give a drop-dead deadline for our troops to leave Iraq. That empowers the enemy and allows the enemy to prepare for the day when they can emerge from their holes in the ground, having accumulated their military supplies, and then descend upon the less-equipped people that are there defending the country.

That idea that has taken place in a resolution over in the other body, joined in by the junior Senator from Iowa, is the wrong idea at the wrong place at the wrong time. The right idea and the right message is we will be there, Iraq, as long as you need us. We are going to encourage you to get out of the nest and fly. You are doing a good job so far under difficult circumstances and your fighting spirit is there. The judicial branch is there. Saddam Hussein needs to be tried. You need to get done with the trial. You need to accumulate a record for the Iraqi people so they understand the history that is going on within the country of Iraq. The era of Saddam Hussein must be recorded. When it is recorded, it will be fine with me if justice is served and an appropriate punishment should he be found guilty is made consistent with Iraqi law. And I am advised that there is only one penalty that is provided for an individual who might be found guilty of crimes against humanity and that punishment is death. I believe that is too gentle a penalty for someone who may have committed crimes of that magnitude, but it is the one that they have and it is all that we would have in this country as well.

Mr. Speaker, I urge this body to stand with our military, to stand with their mission, make the point that you cannot be for our military and against their mission. We cannot ask people to put their lives on the line and say you should not be doing this, I am against your mission, but I support you. I will send you some warm socks and an MRE and something cold to drink. I am for you, troops, but you shouldn't be there. That is wrong.

If you are not for the mission, you are not for the troops. You cannot ask them to put their lives on the line for you and be opposed to their mission. They are one and the same. You support the troops and you support their mission all together, not separately. You do not get to choose one or the other. It is a fallacy in the argument.

I stand with the troops and the mission. I am committed to seeing this thing through to the end. We owe that to our brave soldiers and Marines who have given their lives for the freedom of the Iraqi people, for the safety and security of the American people, that have taken the fight to the enemy globally overseas, who all of them volunteered to go over there. All of them volunteered to face the enemy. They knew they were taking a risk. God bless them for it, Mr. Speaker, and God bless our soldiers and our Marines in their effort, and God bless the United States of America.

OUR NATION'S SECURITY

The SPEAKER pro tempore (Mr. CAMPBELL of California). Under the Speaker's announced policy of January 4, 2005, the gentleman from California (Mr. SCHIFF) is recognized for 60 minutes as the designee of the minority leader.

Mr. SCHIFF. Mr. Speaker, the single most important function of the Congress is to ensure our Nation's security. Since the time of the Revolutionary War when the Continental Congress directed the efforts of our fledgling Nation to free itself from British rule, the legislative branch has made the security of our Nation a priority.

Bipartisanship has been at the center of America's national security policymaking for much of our history.

☐ 1900

In standing behind our Armed Forces and standing up for our diplomatic priorities, in supporting the Intelligence Community, and in supporting the President in times of crisis, Congress has often spoken with one voice. This unanimity was never stronger than the aftermath of the September 11 attacks on the World Trade Center and the Pentagon.

When President Bush addressed Congress and the Nation on September 20, there were no Democrats or Republicans in this Chamber. There were only Americans. That unity extended around the world to friends and foes alike.

In London, 2 days after the attacks, Queen Elizabeth ordered the Coldstream Guards to play the Star Spangled Banner at the changing of the guard at Buckingham Palace, the first time a foreign anthem had been played at that ceremony.

In Paris, the newspaper Le Monde ran an editorial on September 12 that was entitled simply, "We Are All Americans."

In the wake of the attacks, NATO invoked for the first time in its history, article 5 of the NATO charter, declaring an attack on the United States to be an attack on the alliance.

As American military assets rushed towards Afghanistan in preparation for the invasion that would topple the Taliban regime. NATO Airborne Warning and Control System, AWACs air craft patrolled American skies in round-the-clock patrol to protect us.

Four and a half years later, this national and international unity seems quaint. Here at home, our country is now bitterly divided. Our States are red or they are blue. Our communities are divided too. Americans don't even get their news from the same place anymore. Many Republicans only watch Fox, and many Democrats will only watch. well. anything else.

Overseas, we are isolated. Where America was seen as a victim in the wake of 9/11, in the capitals of even some of our closest allies we are now too often viewed as an aggressor. American troops are fighting and dying in Iraq while many of our closest friends sit on the sidelines refusing to provide even promised economic support.

The policies of the current administration and majority in Congress have not only squandered domestic unity and international goodwill; they have poorly managed the war on terror and failed to adequately improve our security here at home. Even as we spend $1 billion a week in Iraq. basic security at home remains underfunded. And as we shall hear from my friend and colleague, CHRIS VAN HOLLEN, Afghanistan is in danger of slipping back into the grip of the Taliban.

In the days after September 11, the President vowed to capture Osama bin Laden, dead or alive. and that we would smoke al Qaeda out of their caves. Tragically, Mr. Speaker, Osama is still very much alive, and the inability of the pre-eminent super-power to capture him is as dangerous as it is emblematic of the need for a new strategy in the war on terror.

Tonight I have a message for the American people: the Democrats have a plan to win the war on terror. Our plan is tough, it is smart, and it is comprehensive. This plan is part of an overall effort to reconfigure America's security for the 21st century, a plan that we call Real Security.

Several week ago, Members of our party from both the House and the Senate unveiled a comprehensive blueprint to better protect America and to restore our Nation's position of international leadership. Our plan. Real Security. was devised with the assistance of a broad range of experts, former military officers, retired diplomats. law enforcement personnel, homeland security experts, and others who helped identify key areas where current policies have failed and where new ones were needed.

In a series of six Special Order hours in the evening, my colleagues and I have been sharing with the American people our vision for a more secure America. The plan has five pillars. and each of our Special Order hours has been addressing them in turn.

The first is building a military for the 21st century. The second is winning the war on terrorism. The third is securing our homeland. The fourth is a way forward in Iraq. And the fifth is achieving energy independence for America.

Two weeks ago, we discussed the first pillar of our plan, building a military for the 21st century. This would involve rebuilding a state-of-the-art military, making sure that we have the world's best equipment and training, providing accurate intelligence and a strategy for success, providing a GI bill of rights for the 21st century, and strengthening the National Guard.

In future weeks we will address Homeland Security. In the wake of 9/11, there have been numerous commissions and investigations at the Federal, State, and local levels as well as a multitude of private studies. All of them have pointed to the broad systemic and other flaws in our homeland security programs.

Almost 2 years ago. the independent bipartisan 9/11 Commission published its report, but most of its recommendations have yet to be implemented.

The Homeland Security plan will implement the 9/11 Commission recommendations. We will screen all containers and cargo. We will safeguard nuclear and chemical plants. We will prohibit the outsourcing at ports, airports and mass transportation to foreign interests. We will train and equip first responders, and we will invest in public health to safeguard Americans.

We will also be discussing a new course in Iraq that will ensure that 2006 is a year of significant transition to full Iraqi sovereignty, with the Iraqis assuming primary responsibility for securing and governing their country with a responsible redeployment of U.S. forces. Democrats will insist that Iraqis make the political compromises necessary to unite their country and defeat the insurgency, promote regional diplomacy, and strongly encourage our allies in other nations to play a constructive role.

Our security will remain threatened as long as we remain dependent on Middle Eastern oil. The fifth pillar and the one with the most far-reaching ramifications for our country and the world is to achieve energy independence for America by 2020. This will involve eliminating reliance on Middle Eastern oil, increasing the production of alternative fuels in America, promoting hybrid and flex fuel vehicle technologies, and manufacturing and enhancing the energy efficiency and conservation incentives.

The pillar of Real Security that we are going to address tonight is in many ways at the center of all of these issues. Since 9/11, the war on terrorism, specifically radical Islamic terrorism, has affected our entire conduct of national security policy. Unfortunately, there is a clear consensus among most experts that we need a new strategy to win the war on terror.

Tonight. I would like to introduce you to our plan. When Democrats are in charge, we will finish the job by eliminating Osama bin Laden, by destroying terrorist networks like al Qaeda, by finishing work in Afghanistan and ending the threat posed by the Taliban. We will double the size of our Special Forces, increase our human intelligence capabilities, and ensure our intelligence is free from political pressure. We will eliminate terrorist breeding grounds by combating the economic, social, and political conditions that allow extremism to thrive; lead international efforts to uphold and defend human rights; and renew longstanding alliances that have advanced our national security objectives.

We will secure by 2010 loose nuclear materials that terrorists could use to build nuclear weapons or dirty bombs. And we will redouble efforts to stop nuclear weapons development in Iran and North Korea.

Our first priority is to eliminate Osama bin Laden and destroy al Qaeda and its other terrorist networks. Who would have imagined on September 11 that after more than 4½ years, the man responsible, the mastermind of the greatest single loss of American life in a single attack. Osama bin Laden, would still be at large? And now, in fact, al Qaeda has morphed into a worldwide amalgam of discrete cells that are even more difficult to track down.

Under Real Security, Democrats will use all of the tools at our disposal, military, intelligence. diplomatic, legal, to fight terrorism. To destroy al Qaeda and other terrorists on the ground, we will double the size of our Special Forces.

Special Forces were instrumental in working with local Afghan forces to drive the Taliban from Afghanistan, and they are uniquely suited to counter insurgency and counter terrorist operations. Unfortunately, many of the Special Forces units that were working to build a new Afghanistan were diverted to Iraq and replaced with less versatile troops.

Building a military for the 21st century begins with an acknowledgment that we are in a new era that has a set of challenges and threats distinct from those we faced during the Cold War. In this new world, we need a military that is highly mobile, self-sustaining, and capable of operating in small units.

On the one hand, our ability to use air power has extended our global reach and allows us to engage enemies without large numbers of ground troops being employed, as was the case in Kosovo and Afghanistan.

On the other hand, the war on terror, ongoing operations in Iraq, and the increasing need for American forces to play a stabilizing role as peacekeepers and peace enforcers demands the sustained commitment of American forces. Special Forces units are mobile, lethal, adaptable, and trained to work with indigenous forces, a key to winning against insurgencies and terrorists who are expert at portraying Americans as infidels bent on destroying Islam, undermining local societies and local customs and culture.

But even the best military cannot obtain its objectives without good, sound intelligence. In many respects, 9/11 was a failure of intelligence. Agencies that should have been sharing information with each other could not or would not, and tantalizing, vital threads were left unconnected. This failure was followed by the deplorable failure of our intelligence on Iraq's weapons of mass destruction in which dissenting voices within the intelligence community were stifled, and group think took hold and steered analysis.

The U.S. intelligence community is made up of some of America's brightest minds and most dedicated servants, but these talented individuals are working harder and harder just to maintain a status quo that is increasingly irrelevant to the new challenges presented by weapons of mass destruction.

America's enemies today are different from those we faced during the Cold War and pose far more complex threats to our national and international security. We have more numerous and diverse intelligence targets today, with dozens of national and hundreds of non-state entities able to strike a devastating blow to our territory and our economic interests.

Furthermore, the weapons that pose the greatest dangers to our strategic and economic interests are difficult to detect and even harder to counteract. Both the 9/11 Commission and the Silbermann-Robb Commission advocated sweeping reforms of the intelligence community to streamline procedures and facilitate better flows of information and analysis. Both commissions identified resistance to change as the greatest obstacle to better intelligence for senior policymakers.

What we need is an intelligence community that is flexible, able to respond quickly and effectively to an ever-shifting environment and to the rapid pace of today's technological changes. The dispatch of Porter Goss as CIA director indicates that these changes at the agency have still not been undertaken. The coordination we need is still not present in our intelligence community.

The Intelligence Reform Bill that Congress passed in 2004 created a new Director of National Intelligence, but gave the office only ambiguous authorities to carry out its broad responsibilities. The challenges faced by the DNI are myriad, building better human intelligence networks, improving the quality of analysis produced by the 15 agencies under its control and rebuilding the morale of a community that has been badly shaken by 9/11, by Iraq and which continues to this day.

Even as the DNI, the Director of National Intelligence, struggles to control numerous organizations with separate missions and cultures, he needs to preserve a diversity of analysis and a community-wide culture that encourages structured debate among agencies and analysts over the interpretation of information while cooperating in a common purpose with a shared strategic vision.

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For too long, the demands for current intelligence have presented the intelligence community from adopting a broader strategic perspective. Such an approach is essential for developing long-term plans, for penetrating today's difficult targets, and identifying political and social trends, shaping tomorrow's threats.

Perhaps the most important piece of our plan is a commitment to eliminate terrorist breeding grounds. Terrorists who attacked this country on September 11 emerged from a part of the world where oppression often finds its outlet in jihadi extremism and hatred of the West, especially the United States.

After the 9/11 attack, the President and other senior administration officials vowed to "drain the swamp" that birthed al Qaeda and other radical Islamists. Despite this boast, the administration has done little to combat the social, economic and political conditions that allow extremism to thrive.

Under Real Security, Democrats will fight terrorism, not only militarily, but also by leading international efforts to eradicate poverty, universalize education and provide economic opportunity for those who now provide such a fertile ground for the recruitment of suicide bombers.

We will also renew the long-standing alliances that have advanced our national security objectives for more than a century. We will encourage the growth of civil society, democracy and free-market economics in the Middle East. Extremism thrives and spreads in countries where brittle, autocratic regimes jealously guard wealth and political power while the vast majority of its citizens languish in poverty.

For example, despite the Arab's world vast oil wealth and its rich cultural history, the region has languished in large part because its leaders refuse to enact the liberalization necessary to release the power of hundreds of millions of people. We will use the power of diplomacy and economic aid much more consistently and effectively to bring about real meaningful change that allows for the growth of political, secular institutions. As we have seen in too many cases in recent years, millions of Arabs face the choice between secular, authoritarianism and theocratic rule by religious extremists.

Strong diplomatic relations are essential to America's security. As Madeleine Albright, who served as Secretary of State under President Clinton, has said, diplomacy is our first line of defense. During the last several years, we have failed to use this essential tool of American power wisely, and it has cost us dearly. Democrats will again make human rights central to our conduct of national security, living up to our values, even as we make ourselves safer.

In a few minutes, I will address in specific terms the threat posed by loose nuclear materials and the lethargy at which we are trying to secure those materials.

But before I do, I want to introduce my friend and colleague, CHRIS VAN HOLLEN of Maryland, to share his thoughts on the dangers posed, in particular in Afghanistan, but also his thoughts on intelligence reform and on the Democrats' Real Security Plan.

I yield to the gentleman from Maryland.

Mr. VAN HOLLEN. Well, let me thank my colleague from California (Mr. SCHIFF) on his leadership on national security issues and helping to lay out the Democratic national security plan, and thank him for taking us back to 9/11/2001 and the new security challenges that posed for our country, indeed for many others around the world, and reminding all of us that at that time the American people rallied behind the President and the Congress and said we need to take action against al Qaeda, we need to take action against the Taliban.

This body, the United States Congress, was united, Republicans and Democrats alike, in taking that action, toppling the Taliban government, and working to try and root out al Qaeda and find Osama bin Laden. Indeed, as Mr. SCHIFF mentioned, the international community rallied behind us as well.

So let us go back to that point in time and see what has been done. If you look at the recent trip that President Bush took to Afghanistan and

India, Pakistan last March, it was a reminder to all of us that was probably, number one, the closest he will ever get to the man who masterminded those attacks on September 11th, on the United States, Osama bin Laden, who is believed to be hiding in Pakistan along the very rugged Afghan-Pakistan border. It was a reminder that we have not accomplished our mission of destroying Bin Laden and al Qaeda.

We all recall back in May of 2003 aboard the aircraft carrier, the USS *Lincoln*, when the President unveiled a big banner that said, "Mission accomplished."

Well, before that time, before the unveiling of that banner, there had been 138 American troops who died in Iraq, 542 wounded. Since declaring "Mission accomplished" aboard the aircraft carrier, there have been 2,405 American troops dead and over 17,000 wounded. As we all know, the situation in Iraq continues to be a very difficult one.

But certainly that "Mission accomplished" banner could not have applied to the main objective we had after September 11, 2001, to destroy the al Qaeda network and capture, destroy the person at the top of that network, Osama bin Laden, and fulfilling that mission. Preventing a resurgence of the Taliban will depend on the actions that we take today and in the months ahead in Afghanistan. This is no time for us to be reducing our commitment in Afghanistan.

At the very time the President was in Afghanistan last March, the Director of U.S. Defense Intelligence, General Michael Maples, was testifying before the Congress, and he testified that the Taliban insurgency is growing and will increase this spring, presenting a greater threat to the Afghan central government's expansion of authority than at any point since late 2001.

Under these circumstances, the plan, the current plan in place to replace 2,500 U.S. troops in southern Afghanistan later this summer with contingents of Canadian, Dutch, British, Romanian and Australian troops should be considered. We welcome having those additional troops there, but given the intensifying Taliban insurgency, we should consider whether or not those new forces should augment and supplement the forces we have there and not replace them. Replacing them could send exactly the wrong signal to the people of Afghanistan and to Osama bin Laden and al Qaeda. Now, it is hard to ignore the fact that the Taliban has stepped up its operations recently.

Last year, attacks by the Taliban and other anti-government troops jumped by 20 percent, according to the Defense Intelligence Agency. Suicide bombings increased almost fourfold, and strikes with improvised explosive devices, which is a tactic imported from Iraq, doubled last year.

The main battlegrounds in this insurgency are in the provinces of Qandahar, Oruzgan, Helmand and Zabol, the Pashtun areas that form the Taliban stronghold in southern Afghanistan. And as recently as January 10 of this year, Mullah Mohammad Omar, who was the Taliban leader, who was born in southern Afghanistan and forged a very close tie with Bin Laden, rejected a call to reconcile with the new government of President Hamid Karzai and publicly exhorted his followers to fight.

It appears from all indications that his followers have been listening. The Assistant Administrator of USAID told Congress earlier this year about the deaths that have been taking place in many of the provinces and the attacks, school teachers killed. As a result, 200 schools in Qandahar and 165 support schools in the province of Helmand closed for security reasons, and on and on. February was a deadly month, and March and April.

In May, earlier this month, The New York Times wrote an article, headline, Taliban Threat Is Said to Grow in Afghan South. I am just going to read a few excerpts. The Taliban and al Qaeda are everywhere, a shopkeeper told the commander of American forces in Afghanistan. He said it is all right in the city, but if you go outside the city, they are everywhere, and the people have to support them. They have no choice.

The article goes on to note that the fact that American troops are pulling out of southern Afghanistan in the coming months and handing matters over to NATO peacekeepers, who have repeatedly stated they are not going to fight terrorists, has given a lift to the insurgents and increased the fears of Afghans.

I think it is very important that we not send a signal that we are reducing our commitment to the people of Afghanistan and to the fight against al Qaeda and Osama bin Laden. But stopping that action is going to require forceful action, stopping that violence and stopping the Taliban attacks.

Until now, the NATO forces have been stationed in relatively quiet areas. Their role has been primarily limited to peacekeeping rather than combat operations, and there are real questions about whether they will be able to engage the Taliban as aggressively as U.S. forces there.

It is also likely that the withdrawal of these 2,500 U.S. forces from Afghanistan will weaken our ability to put pressure on the Pakistan government to cooperate with us in trying to track down al Qaeda elements in Pakistan. We know that Pakistan Interservices Intelligence Agency has historically had a very cosy relationship with the Taliban. Many in the Afghan government, if you talk to them, doubt Pakistan's commitment to denying the sanctuary to Taliban fighters along the Afghan-Pakistan border. So we should be careful about the signals that we send.

Afghanistan's stability depends on strengthening the central government, developing the economy and limiting the booming opium trade there. Progress on these fronts requires that the Taliban be neutralized and security improved.

It has been said now from a number of Afghan leaders that the anticipated withdrawal of some of the U.S. forces has already caused some local leaders to hedge their bets with respect to the Taliban and figure if we are not going to be protected by U.S. forces, maybe we ought to bet on the Taliban being the future here. That is a very, very dangerous thing indeed.

It is important for us to remember that the Taliban came to power in Afghanistan in the chaos that followed the Soviet Union's withdrawal from that country, and the subsequent U.S. disengagement and lack of interest in the region.

With the Bush administration and much of political Washington focused on Iraq, many Afghan leaders worry whether the reduction in our forces there signals a lack of commitment and a signal that we will again lose sight of Afghanistan. We do so at our peril because we need to remember, as my colleague reminded us, that the September 11 attacks, September 11, 2001, did not come from Iraq. They were from Afghanistan. That raises a very serious question about how we came to be in Iraq and raises the question of failure of intelligence.

I think it is important to note that whether or not you were for taking military action in Iraq or against military action in Iraq, we all should be in favor of getting the intelligence information right. It is especially important in this time when we are trying to disrupt terrorist networks.

The fact of the matter is the President told the American people we were taking action in Iraq for two reasons. He said, there are weapons of mass destruction there, and he said that there was a connection between Saddam Hussein and al Qaeda. Well, we know now that both of those statements proved false. It is important, going forward, that we get the intelligence right.

One of the essential components of the Constitution of our country is a system of checks and balances, making it clear that every branch of government has an obligation to take the responsible actions within its own sphere. Unfortunately, this Congress, especially this United States House of Representatives, has failed to exercise that responsibility. Instead of being a check on the executive branch, we have been a blank check for this administration. Instead of being a balance, we have been a rubber stamp.

The result of that failure of oversight has been to allow the mistakes and failures of this administration in the area of intelligence gathering to continue, because if you don't pay attention to failure, if you look aside from failure, if you ignore failure, you are going to get more failure.

One of the greatest failures, of course, has been the failure of this Congress to hold the administration accountable for its failures to gather intelligence information and for its abuse of the use of intelligence.

Now, every administration, Republican or Democrat, is entitled to have its own policies. But they are not entitled to their own facts. Facts are stubborn things.

In the war on terror it is critical that we gather good intelligence information. We need to base our policy on the facts, not decide to make up the facts based on our policy.

Now, we should all agree that we don't want to put our troops in harm's way because we don't have adequate intelligence. We shouldn't sort of make up the facts in a way that leads to those consequences.

But in the lead-up to the war in Iraq, many in the administration ignored those professional voices within the executive branch, the civil servants, who had been there for years, have years of experience, who got it right.

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For example, the professionals in the Bureau of Intelligence Research at the State Department and the professionals at the Department of Energy said these aluminum tubes were not evidence of a nuclear weapons program in Iraq; they were evidence of a rockets program. Yet their information, their input, was relegated to a footnote, because people did not want to see beyond the world as they wanted to see it to justify their own policy decisions.

Those intelligence failures have consequences. Not just immediate consequences for our military and our Armed Forces; they also undermine our credibility around the world and are coming back to haunt us.

Secretary of State Colin Powell, we all remember when he went before the United Nations. He had his charts; he had his displays. He said to the world, Iraq is developing weapons of mass destruction, in fact, has weapons of mass destruction. They did not. Secretary Powell has acknowledged that was one of the low points of his career.

Contrast that to the Cuban missile crisis, when our ambassador to the United Nations, Adlai Stevenson, showed the world satellite photos that the Soviets were putting missiles in Cuba. The Soviets had been denying it, but they couldn't deny it in the face of those facts and that evidence. It was a high point for credibility at the U.N. Our display there was a low point.

The problem is not just that we look bad. The problem is it is hard to make back lost credibility. As we go to the U.N., as we go to international partners around the world now and talk about the situation in Iran, we talk about the situation in North Korea, we talk about the situation and threats elsewhere in the world, people remember what we said before, and even the President, President Bush, has acknowledged that we face increased skepticism as a result of our failures of intelligence. Those have serious, serious consequences.

There is a lot more that can be done in the intelligence area, and I think tonight we should talk about some of the missteps that were made and how we intend to correct those missteps going forward. But I think we should all agree, Republicans and Democrats alike, that getting the intelligence information right is essential to our national security. We need to allow the professionals with the experience to call the facts as they see them, not how any administration would like to see them to justify a certain policy.

I yield back to my colleague from California as we continue this discussion about how we think that this Congress can do a much better job of enhancing the national security of this country.

Mr. SCHIFF. I thank the gentleman for all of his leadership on these issues and the superb work he has done to improve the Nation's security.

You mentioned the growing problems and growing threats we are experiencing with IEDs, with suicide bombings in Afghanistan. I have had a chance to visit our troops there a couple of times.

I was very struck by what one of the soldiers I talked with said during my first visit. He said, You know, we all feel we are in the third front of a two front war, Iraq being the first, then the war on terror, and Afghanistan being the forgotten war. We have Americans fighting and dying there, unfortunately, all the time. For those that are on the ground, Afghanistan is very much the first front. Given the origin of the attacks of 9/11, it really is the first front in the war on terror. Given the presence of Osama bin Laden somewhere in the mountainous regions between Afghanistan and Pakistan, that is the central front on the war on terror.

I want to touch on some of the last two planks of our war on terror plan, and then I would like to come back to some of the comments you made on the lack of oversight in this body, because I think your remarks are right on the money, and it is really an institutional abdication of this Congress not to do its job of oversight.

Under Real Security, we will confront the prospect, the specter, the danger of nuclear terrorism by greatly accelerating the pace at which we are securing nuclear material that can be used to make a nuclear weapon or a dirty bomb, by eliminating loose nuclear material by 2010. We will also redouble our efforts to stop nuclear weapons development in Iran and North Korea.

While Democrats understand that no option can be taken off the table, we are committed to muscular diplomacy as the best option for curbing Pyongyang and Tehran's nuclear ambitions.

Osama bin Laden once termed the acquisition of weapons of mass destruction a religious duty. Intelligence officials have warned that al Qaeda and other radical Islamists are committed to obtaining a nuclear weapon and using it against the United States.

A number of experts feel if we fail to change course, an act of nuclear terrorism is only a matter of time. They are equally united in the conviction that we can avert such an attack by taking a series of steps to prevent nuclear material from falling into the hands of terrorists.

The President has repeatedly called the prospect of a nuclear attack by terrorists the greatest national security threat facing the United States. However, the administration's lackluster efforts to prevent terrorists from acquiring WMD demonstrate a failure of leadership. In fact, the 9/11 Commission Public Discourse Project gave the administration a D grade in this area on its December 2005 report card.

The Democratic Real Security plan commits to an aggressive effort to secure by 2010 loose nuclear material that terrorists could use to build nuclear bombs or dirty bombs. The Democratic approach to prevent terrorists from acquiring WMD is tough and smart. It uses our resources and know-how to make weapons material and capabilities secure and to deter countries from building weapons in the first place.

In many cases, we know where there are nuclear and chemical facilities and materials that aren't adequately protected. Around the world, there are hundreds of tons of weapons grade nuclear material without the level of security we have established for our own nuclear material. This material is spread across hundreds of sites in dozens of countries. We must lock down these materials before they fall into the wrong hands.

But we are moving very slowly. At current rates of progress, it could take us decades to secure materials that could be used in a nuclear attack, a nuclear terrorist attack on the United States. We can do better. To do anything less is grossly negligent with our Nation's future.

A comprehensive strategy to prevent terrorists from acquiring weapons of mass destruction has several parts. It involves securing nuclear material around the world to a gold standard and actually removing nuclear material from the most vulnerable sites. It involves detecting and defeating efforts to smuggle nuclear material and technologies. It involves strengthening the international community's efforts to prevent the proliferation of nuclear weapons.

To protect Americans as fully as we can, we must work in a global partnership to keep these weapons away from terrorists and governments that would use them against us. The United States can't be everywhere, can't catch every violation or pay for every inspection. Illegal weapons networks now span the globe, and our partnerships to stop them must be equally global. We need other nations to help do this hard, expensive work and help communicate the benefits of playing by the rules and the consequences when the rules are broken.

We need our allies to share in the burden of global security. To get our allies' support, Democrats will press to include the security of nuclear material in the agenda and diplomatic efforts at the very highest levels. Without the necessary leadership, cooperation negotiated by mid-level bureaucrats will be limited to the slow pace of the last decade.

In addition, Democrats will work with the international atomic watchdog group, the IAEA, to develop comprehensive gold standards for the security of nuclear material and assure that other nations have the ability and will to implement these standards. The international community has demonstrated its support for this approach through U.N. resolution 2004. It will require American leadership to translate this vision into action.

Here in our government, Democrats will demand interagency cooperation and program innovation to accelerate progress on combating loose nukes.

There are several Federal programs working to secure nuclear material that do not interact well with each other. Further coordination will improve the best use of resources and the sharing of best practices.

The President has not charged the Federal bureaucracy with creating fresh and innovative programs to secure nuclear material, and business as usual or modest increases in funding to limited programs will not reach the goal of securing all bomb-making material by 2010.

We must also move quickly to secure the global supply chain. Millions of containers move around the world every year containing the goods that we need. However, they are also an easy target for terrorists to smuggle WMD material. Under the Real Security plan, every container shipped to the United States will be scanned at the point of origin.

Despite the urgency of this global threat, the administration and majority have not taken action commensurate with the threat. On more than one occasion, legislation has been introduced by Democrats to provide real security, but has been blocked.

An amendment by Representative OBEY would have provided an additional $2.5 billion for homeland security, including substantial support for nuclear nonproliferation activities, but it was blocked by the majority. An amendment offered by Representative MARKEY to scan all shipping containers was also blocked. Legislation that I introduced to require the screening of cargo on commercial planes, on passenger jets, commercial cargo on passenger jets was also denied a hearing. The administration and majority have failed to translate the urgency of preventing WMD and nuclear terrorism into action. This must change.

After the attacks of September 11, senior officials repeatedly asserted that we had failed to prevent the attacks because of a failure of imagination. This was the central finding of the 9/11 Commission.

We know about the danger of nuclear terrorism. We are in a race with terrorists who are actively seeking nuclear weapons. The choice is ours: accept the present failure of leadership and risk a nuclear disaster, or take action to prevent it. When one considers the consequences, the choice is really no choice at all.

But I would like to turn now to an issue that was raised by my colleague from Maryland, and that is the role that we have in this body to provide oversight, oversight of the security of our troops overseas.

Today I offered an amendment to the defense department authorization that requires periodic reports on our efforts to disable, to interdict, and to destroy these improvised explosive devices that are claiming the lives of so many Americans.

I have lost at least four of my constituents in Iraq, most of them from improvised explosive devices. I am not satisfied that we are doing all we can to up-armor our vehicles, to provide the state-of-the-art body and side armor that will keep our troops alive. I am not satisfied that we are acting swiftly enough to deploy these technologies that are being developed to jam and otherwise disable these improvised explosive devices.

My constituents would be willing to line up around the block to work in a factory overnight around the clock to produce these materials to protect our troops. There is no lack of a willingness to serve. There is no lack of a willingness to sacrifice among the American people. But they have to be asked, and we in Congress have to provide the leadership to make sure that we are doing everything we can to provide the protection of our troops.

We also have to make sure we are doing our oversight in this body, to make sure that we have the intelligence agencies doing the work to protect us, and, at the same time that we protect our Constitution.

My friend from Maryland makes the point that administrations and majorities can choose their own policies, but they can't choose their own facts. I would add to that, Mr. VAN HOLLEN, they can't choose their own Constitution either. We all operate under the same Constitution. It is a Constitution that has served us very well. It is a Constitution that has allowed us to adapt to the changing needs of the Nation and its people and to the emerging threats facing the country.

As one of our justices said some time ago, the Constitution is not a suicide pact. It doesn't prevent us from taking the steps we need to protect the country. But it does do an awfully important job of making sure, at the same time, that we protect our civil liberties.

I, like my colleague, have been very concerned that some of the NSA programs which could be done under the oversight of the FISA court, and in my view are legally required to be done under the oversight of the FISA court, are not being done with court review.

Today there was yet another revelation of a broader NSA program that may be obtaining information about tens of thousands, perhaps millions, of calls within the United States, a program that probably until news leaks today, Americans and Members of this body were unaware of.

□ 1945

Now certainly there is a need for confidentiality. But at the same time in this body, in classified hearings, there is a need for oversight. And we have not been willing to do it. There has been an allergy by the majority to do the oversight, to make sure that the limits on the executive go beyond the mere good faith of the executive.

When the Attorney General testified in the Judiciary Committee, I asked him what were the limits of the authority as Commander in Chief? Could they bug purely domestic calls without court approval? And the Attorney General said, well, he would not rule it out.

If that is the case, then what is the limiting principle? It is nothing other than the good faith of the executive, and that is not the limiting principle of our Constitution.

I would be delighted to yield to my colleagues the gentlemen from Maryland.

Mr. VAN HOLLEN. Mr. Speaker, I thank my colleague from California in his leadership on these issues. We both serve on the Judiciary Committee. And we know the revelations about the domestic wiretapping program came out back in December. And as of today, we have not had a single hearing in the House Judiciary Committee devoted specifically to that issue.

And whether people are for it or against it or undecided, we have an obligation as a separate branch of government to do our oversight, to get the facts, to ask the hard questions. And that committee has been AWOL on this issue, just as it has been, this Congress has been on so many other issues.

And I am very pleased that my colleague pointed out in the 9/11 Commission's sort of final report card they issued last November with respect to the issue of nuclear nonproliferation. They did give this Congress and the Bush administration a big fat D. D on that effort.

My colleague from California has been active in proposing different ideas for how we can strengthen those, but this Congress has not moved ahead. I just want to cite from that report card where it says. "Countering the greatest threat to America's security is still not the top national security priority of the President and the Congress."

What is that top priority, they say? A maximum effort by the U.S. Government to secure WMD. The fact of the matter is, we know after 9/11 that the most toxic combination of all would be some terrorist group getting their hands on weapons of mass destruction and the consequences to the people of our country.

We are getting a D on that. We can do a lot better. That same report card gives this Congress a D in another area, an area we have been talking about. Under the category of congressional and administrative reform, there is a subcategory, intelligence oversight reform.

Grade D. We would be embarrassed if our children brought back Ds from school, and yet Congress gets a D for this. And it is important to point out in this area, this is an area entirely under the control of the leadership in Congress. The Republican leadership could decide today to fix this.

This one has nothing to do with the administration. This has to do with decisions that can be made tomorrow by this Republican leadership. They have decided not to do it. Apparently a D is acceptable to them. And I think it is important to go back to the consequences of that failure of oversight.

Now, we know in the lead-up to the Iraq war the failures of intelligence. The former Director of CIA, George Tenet, very decent guy, said it is a "slam dunk case" that there are weapons of mass destruction.

Well, what happened? Well, first the President awarded him the Presidential Medal of Freedom. The guys in intelligence and research in the State Department who got it right, they have never gotten any recognition. And then what happened?

Mr. SCHIFF. If I can interject, Mr. VAN HOLLEN. Prior to the vote on the authorization to use force, several of us were invited to the White House to sit down with Mr. Tenet. I was most concerned about the nuclear program, Iraq's nuclear program, about the evidence that you discussed a moment earlier.

And I asked Mr. Tenet and then head of the NSA, our now Secretary of State, Condoleezza Rice, how confident were they in the intelligence on Iraq's nuclear program? On a scale of 1–10, how confident were they?

They were a 10. They were supremely confident. And they were supremely wrong. And as you very well point out, this has had the most enormous of consequences in terms of this Congress making a decision to go to war, in terms of our credibility vis-a-vis Iran now.

When we talk about oversight, the lack of oversight has these most far reaching consequences.

Mr. VAN HOLLEN. Mr. Speaker, that is exactly right. Very serious consequences for the American people. And that is why it was surprising. I must say, that after George Tenet left the CIA as Director, that the administration decided to replace him with Mr. Porter Goss. Now Mr. Goss is a very decent, well-meaning person. But the fact of the matter is he was the chairman of the House Intelligence Committee at a time when this House failed to ask the hard questions and failed to do its oversight job. It accepted what the administration told them at face value, and it was a rubber stamp when it came to taking the administration's word on intelligence.

And yet he was the one they decided to make the head of Central Intelligence. And he brought with him some of the members of his committee staff. He brought his staff director and some of the other people who were very politically close to him, including his staff director, Patrick Murry.

And what was the result of that? Well, I think it is important to take us back to, this is what happened right after that appointment at the CIA. And I am reading from a Post story back from November 2004.

The deputy director of the CIA resigned yesterday after a series of confrontations over the past week between senior operations officials and CIA Director Porter Goss's new chief of staff that have left the agency in turmoil, according to several current and former CIA officials.

John McLaughlin, a 32-year CIA veteran who was Acting Director for 2 months this summer until Goss took over, resigned after warning Goss that Goss's top aide, former Capitol Hill staffer Patrick Murry, was treating senior officials disrespectfully and risked widespread resignations.

The day after this, the story says, the agency official who oversees foreign operations, Deputy Director of Operations Stephen Kappes, tendered his resignation after a confrontation with Murry.

It goes on to say, it is the worst roiling I have ever heard of, said one former senior official with knowledge of the events. There is confusion throughout the ranks and an extraordinary loss of morale and incentive.

That was the result of the Goss appointment at the CIA. Now, we see that Goss is being pushed out. And they are trying to bring back the guy, Kappes, in fact it looks like he will be coming back, that Goss's chief of staff essentially pushed out. He got in a confrontation and Kappes said, the person with great experience said. I am out of here.

But a recent Post article of today, looking back on this period, said, former and current intelligence officers say Goss never had a strategic plan for improving spying on terrorist networks.

I think it is also important to note another recent development with respect to people who were brought in at the top of the CIA, because another one of those people was a gentleman by the name of Kyle "Dusty" Foggo. It says, and I am quoting from a very recent Washington Post story, other Goss lieutenants at the agency also appear to be on the way out following Goss, who resigned Friday.

Kyle "Dusty" Foggo, brought in by Goss as the CIA's Executive Director, number 3 official, announced to agency staff in an e-mail yesterday he plans to resign as well.

The FBI said it is investigating whether Foggo steered contracts to a friend, Brent R. Wilkes. People may recognize that name, Wilkes. He is the defense contractor who got caught up in the Duke Cunningham bribery scandal that we all know about and is an example of what is wrong in this House.

So these people who are at the CIA were appointed by this administration. I do not think it gives people confidence to know that the same people who appointed Michael Brown as the head of FEMA were the people who made these appointments to the CIA, an agency the American people depend on to gather good intelligence for our security.

And yet we have been a rubber stamp in that area. And the 9/11 Commission report continues to give us a D. And this Congress deserves a D because the Republican leadership has not done anything. Until we get our act together with respect to conducting serious oversight in the intelligence area, we are going to continue to get policies that are not based on fact, but instead policies that are based on the world as people would like to see them, not the world as it really is.

In this day and age, we need people who are clear-eyed and can see the world as it is, because that is necessary for our national security.

I yield.

Mr. SCHIFF. Mr. Speaker, I thank my colleague. I was struck, and perhaps you were too, as some of the networks pointed out with the near identity of language that the President used in describing his proposed nominee, General Hayden, for the post of Director of the CIA, saying that he was the right man at the right time for the right job, which was merely identical to what he said about Porter Goss a year and a half earlier, which kind of begged the question about what time he was referring to today. Is his proposed nominee the right man at the time a year and a half ago, or the right man right now when the last right man is being pushed out the door?

But I suspect what it means is that during the last 18 months the agency has been adrift and that we are not much farther ahead than we were a year and a half ago in assimilating our intelligence agencies and coordinating them and improving the quality of our human intelligence which was identified as such a glaring weakness within our overall intelligence capability.

But getting back to the consequences of all of this, the consequences of Congress' lack of oversight. When we talk about Congress being in the dark about this new NSA program, for example, the problem is that without someone being able to review whether these programs make sense, whether they are getting the results we need, we may be expending enormous sums of money and manpower and time and energy in fishing expeditions that lead us nowhere.

Even if they were within the confines of the Constitution, which is a substantial enough question, that does not mean that they are actually effective. We may have mountains of data about domestic calls to the United States that is of little or no value except to raise the anxiety of the American people that their privacy is being eroded.

There would be nothing worse than the erosion of our privacy without any commensurate benefit to the national security. But unless we do our oversight, it is impossible for us to know. And, unfortunately, I think that dearth of oversight has allowed these intelligence reforms to drift along or, worse, allowed the coordination of intelligence to degenerate over the last year and a half.

Mr. VAN HOLLEN. Mr. Speaker, that is right. If I can just say to my colleague, you know this Congress was relatively quick when the 9/11 Commission recommended changes to the executive branch, in redesigning our national security review apparatus. We have the Director of National Intelligence now, Mr. Negroponte, and trying to change around the oversight within the administration, even though it is important to remember that the Bush administration originally resisted that reform and fought the reform. They realized that when the 9/11 Commission on a bipartisan basis came out in favor of that recommendation that change would have to be made.

□ 2000

But here in the Republican-led Congress they have not done anything to address the 9/11 Commission's recommendations with respect to oversight. And I think everybody understands that at a time when we are trying to identify terrorists who are trying to do harm to our country and respond against them, it is absolutely essential that we get it right. It is important that we get it right for our military men and women. It is important that we get it right for the American people. It is important that we get it right for our own credibility.

In order for us to do that, we know we have to expand our abilities in human intelligence gathering overseas. You need to have people who know more foreign languages. It is a shift in paradigm somewhat. And what is absolutely clear is that this administration has not had that paradigm shift when it comes to intelligence. Certainly the leadership in this House of Representatives has not had a paradigm shift, because they have not supported the bipartisan recommendations of the 9/11 Commission with respect to the issue of oversight. And so unless we do something, we are going to be caught with our lenses looking one way when the danger to this country sneaks up from another direction.

We need to get it right. We need this oversight. It is like a board of directors that decides to go on vacation for four years and not pay any attention to the company. That board of directors would be sued for malpractice by the stockholders if something went wrong. We know some things are not going right and you have got to hold people accountable. And when you reward people who fail to punish or ignore people who get it right, you have got a recipe for failure. We need a recipe for success.

Mr. SCHIFF. That is very well put, and we have seen the consequences of our intelligence failures. They manifest. We have seen the consequences of our diplomatic failures as we are seeing in abundance now with Iran where we just had a terrible setback in our efforts to mobilize the international communities to deal with Iran's weapons program.

We have seen the consequences in our failure to stop North Korea from proliferating. But I am confident with our Real Security plan we can reverse the decline in our own national security, and I want to thank the gentleman from Maryland again for all of his great work and for joining this Special Order hour.

Mr. VAN HOLLEN. I thank my colleague from California.

THE OFFICIAL TRUTH SQUAD

The SPEAKER pro tempore (Mr. REICHERT). Under the Speaker's announced policy of January 4, 2005, the gentlewoman from North Carolina (Ms. FOXX) is recognized for 60 minutes.

Ms. FOXX. Mr. Speaker, if all the American people listened to the Democrats and what they say here night after night, day after day on the floor, you would think that we lived in the worst country in the world.

It is just amazing to me that people are risking their lives every day to get into this country when you hear what they have to say, because from their perspective all Republicans are evil. All Republicans are liars. All Republicans are no good, and this is the worst place in the world to be living. And yet we have one of the best economies that the country has ever had, and as I said, people are risking their lives every day to get into this country. I think because it is the greatest country in the world. And frankly, I think that it is not good for this country, for our colleagues to constantly, constantly be saying negative things about it.

We are not perfect. Nobody is perfect. The President is not perfect. No Member of Congress is perfect. No elected official is perfect. But we certainly do work hard trying to have a good country where the basic instincts of the people are good and people are trying to do good for their neighbor as well as for their country. And frankly, I get a little tired of it and I know a lot of my constituents tell me that they are tired of it too.

I want to come here tonight and talk a little bit about positive things. I think that while we can all acknowledge that we are not perfect and the country is not perfect, we do not have to dwell on the negative all the time. And I want to talk a little bit about our economy tonight and some other things relating to the economy and the impact that actions of the President and the Republican Congress have had on the economy.

I am going to put up one chart to start with because I want to keep with our theme that a group of us have come up with so that we can present the truth. The Truth Squad is here tonight. Just part of the Truth Squad is here, but we are going to try to keep our record of getting out the truth to the American people.

The economy is strong and it is continuing to grow; 138,000 jobs were created last month alone. That is April 2006. In the past 12 months, 2 million new jobs have been created; and since August of 2003, more than 5.2 million jobs have been created. Our unemployment rate is 4.7 percent, lower than the average of the 1960s, 1970s, 1980s and 1990s. The GDP grew at a strong 4.8 percent annual rate in the first quarter of this year. This follows economic growth of 3.5 percent in 2005. the fastest rate of any major industrialized nation.

Over the past 12 months. employment increased in 48 States and four States set record-low unemployment rates.

Now, our colleagues on the other side would say. well, you know, yeah, there are new jobs being created. but they are not good jobs. They are just service jobs: they are no good. So I thought I would share a little bit about where those jobs are.

Between May 2003 and March 2006. job growth in key sectors, the five key sectors, in transportation. 197,000 new jobs: in the financial area. 294.000 jobs; in construction. 808.000 jobs; in education and health services. 1.039.000 jobs: in professional and business services, 1,288.000 jobs.

Now, those do not sound like bad jobs to me. And they must not be real bad jobs since our unemployment rate is only 4.7 percent. It must mean that Americans like those jobs pretty well because they are taking them.

Now, our tax policies, Republican tax policies, have spurred this economic momentum. Republicans have reduced income taxes for every American who pays income taxes. Republicans doubled the child tax credit. reduced the marriage penalty, cut taxes on capital gains and dividend. created incentives for small businesses to purchase new equipment and hire new workers, and put the death tax on the path to extinction. Together this tax relief has left $880 billion in the hands of American workers and businesses.

Now I have said this before. there is an easy explanation or easy definition for the difference between Democrats and Republicans. Democrats think that the government knows how to spend your money better than you know how to spend your money. Republicans believe that you know how to spend your money better than the government knows how to spend it. We do not want to take any more of your money than we absolutely have to to do the things that Americans cannot do for themselves. The Democrats want to take all of your money.

If you listened to their leader this weekend, she talked about no deficit, no deficit if Democrats were in charge. But when pressed to say how she would get rid of the deficit, she really could not quite bring herself to say raise taxes, but the commentators pointed out that is the only way you can keep spending and do away with the deficit, and especially spend more as they have said on this floor they want to do and in committees. They want to spend billions more dollars. and all that would do would be to add to the deficit.

Now, I want to share a chart that shows some information about what Americans pay in taxes because, as I mentioned. the tax cuts benefit all Americans. Let me put this one up first. I will start at the lower-income levels. The top 20 percent of people in this country pay 87 percent of all Federal income taxes. And if you look at the chart. people who make between 10 and $20,000 a year get a rebate of $686. They do not pay anything in taxes. In fact, people earning more are actually giving some of their money to these people in the form of a rebate. mostly earned income tax credit.

People making between 20 and $30.000 get a rebate of $183. People earning between 30 and 40,000 pay approximately $1.000 a year in taxes. People earning between 75 and 100,000 pay approximately $7.500 in taxes.

Now let's look at the higher incomes. People making between 100 and $200,000 pay almost $16.000 in income taxes. People who make more than a million dollars pay $609.670 in taxes. So as I said earlier. the top 20 percent pay 87 percent of all Federal income taxes.

This information is very widely understood and produced so it is not something Republicans are making up. These are the facts. again. coming from the Truth Squad. But if the Democrats in Congress had had their way. they would have let tax relief expire.

Earlier this week we were able to extend the tax relief that had been put in place 3 years ago because we know that cutting those taxes is what is going to keep our economy going forward. And we did not want to see a tax hike on all Americans. Middle Americans would have been hit with that tax hike as well as all other Americans. But the Democrats all voted against that bill. or most of them voted against the bill, I think we did pick up a few. but they understand what this is all about.

They understand that the economy depends on you having more of your money in your hands and not the government having that money. But they do not want to vote for tax cuts because they want to keep their mantra going that all we are doing is giving tax cuts to the rich. Well. it is the wealthier people that are paying the taxes and the people who are not paying any taxes are not going to get those tax cuts. They will wind up, probably many of them, getting more in rebates.

Well. early on Saturday morning. I got up and turned on the TV and I heard the last few minutes of the "Neil Cavuto Show" and it really struck a nerve with me. something that I had been thinking about that was going on in this country, and he presented some information that I want to share with you tonight as well as some information from a study being done. that has been done by a very well respected organization in this country.

Neil Cavuto called it "the greatest story never told." He talked about how this very. very positive economic news is not getting out and not being presented to the American public by and large by the news media.

Now. we know that some of our news media do give us fair and balanced reporting. However. some of our media has failed to share the good news with the American public. And so people depend. they are working hard. They are doing their jobs. They are depending on hearing what is going on in the country and forming their opinions from it. But our economy is humming along under this Republican Congress and the leadership of President Bush, but the American people are not hearing that. They are hearing a very slanted story that affects what they think about the economy.

So despite one of the strongest economies in recent history and last month we collected the largest amount of money in revenue, the second highest that has ever been reported and collected in this country. that did not get reported very well. Neil Cavuto said this weekend this quote: "I think it's the greatest story never told: an economy that is humming but most in the media insist we are bumming."

Many in the media would report that "only" 138,000 new jobs were created last month. Well, 138.000, that is a whole lot of jobs. I do not understand why some in the media continually put qualifiers like "only" in front of such an accomplishment.

You know. I have spoken before on the floor about the importance of language. Our language is very, very important. It governs our perception of things. When we have done our best to try to cut spending here, we have been merely trying to cut the rate of spending and the rate of increases. but the Democrats say we are engaging in massive budget cuts.

Another example I could use is just the words "unemployment rate" or "employment rate."

□ 2015

We talk all the time about the unemployment rate. Our unemployment rate right now is about 4.7 percent. So the employment rate is 95.3 percent. Again. you get the perception if you are always putting the emphasis on the negative, then that is what you are going to think about. but our employment rate is 95.3 percent.

I want to give you some other examples of the way some in the media try to influence the way we think about things through the use of their language.

When is the last time that you have heard the media follow the statistic about our unemployment rate with the phrase that I used earlier. lower than the unemployment rate of the 1960s. 1970s. 1980s and 1990s? You almost never hear that in the media, and you will never hear again an employment rate of 95.3 percent because that sounds way too positive.

Now, I am not the only one who is concerned about this issue. As I listened to Mr. Cavuto this weekend. and it was very, very early in the morning when I heard it, but it really struck a nerve for me. I was thinking back to the comparison of the way many in the media compared things that were happening in the Clinton presidency with what is being said now.

I do not have a whole lot of real positive things to say about the Clinton presidency, but during parts of his time in office, our economy was strong and, in many ways, similar to the economic surge we are experiencing today.

However, I seem to remember that during the Clinton presidency, the good news about the economy was everywhere, often shouted from the rooftops by the media to anyone who would listen.

Now, during the Bush presidency, the economy is just as strong and, in some cases, even stronger, but many in the media are nowhere to be seen.

I am not the only one, again, who has noticed the difference in coverage between the Clinton days and today.

The Media Research Center is the largest media watchdog organization in America. It was formed in 1987, and it has made media bias a household term, tracking it and printing the compiled evidence daily. The founder and president of the Media Research Center is Brent Bozell, a nationally syndicated writer whose work appears in publications such as the Wall Street Journal, the Washington Post, the Washington Times, the New York Post, the LA Times and the National Review.

So let me talk a little bit about one economy and two spins. In a recent report, the MRC compared economic conditions during the Clinton presidency and the Bush spit. Amazing: Economic conditions portrayed as positive during Clinton were presented as negative for Bush. For example, economic growth under President Clinton averaged 2.2 percent; under President Bush, 3.7 percent.

Many in the media have given President Bush consistently negative press about perceived poor job creation and unemployment, especially in the summer of 2004, but their reports were overwhelmingly positive when President Clinton ran for reelection in the summer of 1996 under similar circumstances.

Let me give you some highlights of the report. Clinton, good; Bush, bad. Stories about jobs during Bill Clinton's reelection campaign were positive 85 percent of the time, more than six times as often as they were for Bush, despite similar economic data. Reporters praised the Clinton unemployment rate of 5.6 percent as low, but they downplayed a 5.4 percent rate under Bush and called job growth anemic.

Now, let me repeat that. The unemployment rate in 2004, when President Bush was running for reelection, was 5.4 percent, lower than the unemployment rate was under President Clinton when he was running for reelection, but many in the media portrayed the unemployment rate under President Bush as something a lot worse than it was under President Clinton.

How do they make good news become bad news? Under Bush, reporters presented good economic data as bad news stories by minimizing positive achievements and emphasizing people who might be out of work or regions of the United States that were still "struggling." The opposite approach was taken under President Clinton. Then, reporters explained away a 2/10ths of 1 percent rise in unemployment as minor.

The media's slanted scorecard is presented in a chart in Brent Bozell's report on this. In 1996, they did a list of the stories for Mr. Clinton. Positive stories: On ABC, 4; CBS, 6; CNN, 3; NBC 4; New York Times, 12; Washington Post, 6. These are positive stories. Negative stories: ABC, 1; CBS, 0; CNN, 3; NBC 0; New York Times, 1; Washington Post, 1. A total of 35 positive stories, 6 negative ones.

Now, President Bush in 2004, positive stories: ABC, 1; CBS, 0; CNN, 1; NBC, 1; New York Times, 1; Washington Post, 2. Six positive stories. Negative stories about President Bush and the economy: ABC, 6; CBS, 7; CNN, 4; NBC, 4; New York Times, 10, Washington Post, 7. A total of 38, a flip-flop. Actually, more negative stories in 2004 when the economy is actually better off than it was in 1996. Thirty-eight negatives for President Bush, six positives. Thirty-five positives for President Clinton, six negatives.

I am a former college professor and president and sort of teacher all my life. So I always like to look for the data when you can get it. Again, my gut was telling me this, and I think the American people see this, but it is always great when you have got the data to back up what you are thinking about.

While the business press reflected the strong economy, much of mainstream media coverage of employment did not. The reporting under Clinton was overwhelmingly positive. For Bush, it was overwhelmingly negative. Eighty-five percent of the stories portrayed the economy under Clinton in a good light. Only 13 percent of the stories gave the employment situation under Bush the same treatment.

Many in the media commenting about employment and job growth during the Bush reelection campaign tell the whole story. They used terms like "poor," "stalled," "struggling," or "lackluster."

Comments during the similar time period during the Clinton presidency were the exact opposite. Many in the media instead used terms like "showing its muscle," "encouraging," "surprisingly strong" and "impressive, but not excessive."

I have come to the floor many times and talked about, again, the importance of language in our country. To everybody, actually, language is very important, and in many ways, we are not as precise with our language in this country as some other languages are, but I think it is important that we point out the bias that occurs in much of our media about what is happening in the economy.

It is one of the reasons why the Truth Squad has been so concerned about getting out the truth. We realized that we have challenges presented to us. Not only do our colleagues misrepresent the facts, but we have many in the media where a lot of Americans get their information about the economy and form their opinions are being presented negative kind of information.

Now, I want to give a couple of more charts to show some other positive things that are occurring in the economy that have been put together by members of the Truth Squad.

Since the President signed the Jobs and Growth Act in May 2003, this is an example of how the GDP has gone up. Again, that is a result of our having cut taxes, letting people keep more of their money. It works to cut taxes. Again, if you listen to our colleagues on the other side of the aisle, you would think that cutting taxes is the beginning of Armageddon, but cutting taxes is what helps make this economy grow. If the government has your money to spend, it is not investing it. It is spending the money. It is not an investment. People do the investments in the private sector, not in the government.

Again, this chart shows when the President signed the Jobs and Growth Act and what happened with unemployment. We see unemployment going down. We see job growth going up and going up significantly. This is not a small little line going up here. This is major in terms of what we have seen, the job growth, in this country since we cut taxes, and I am really proud that Republicans have understood that and voted this week to extend many of those tax cuts.

What we need to do now is to work to get the death tax made permanent. We heard a lot from businesspeople this week about that. They can then plan their lives, plan for investments, plan to know what they are going to be able to do, so that businesses can stay in the families. That is one of the biggest challenges still facing us, and if we can get the Senate to understand more about economics and what that means to us, then hopefully we will make that permanent.

Now, let me give you a couple of other charts. Again, we can tie this very directly to the Jobs and Growth Act, and you can see how that spurred business investment and how that went up. This is before President Bush came into office. You can see that the economy was beginning to slow down, and then, of course, we had 9/11 and we saw investments go down. Once we got the tax cuts made, we see investment going up, and that is what we needed to do in this country to get the economy growing.

The last one shows revenue growth and what we project revenue growth to be in the next 5 years. We expect it to grow at the rate of 5.3 percent in the next 5 years. The President has promised that he would cut the deficit in half by 2009, and we think we can do even better than that, especially with the revenue that came in last month, the second highest amount in the history of this country.

So cutting taxes spurs growth in the economy. That is the economic lesson here, and it is the facts. We can point to it. We can see it, and I think it is, again, very, very unfortunate that it is so difficult to get that message out to the American people, but I can promise you that there is a group of us that is going to continue to do that, despite the fact that our colleagues are always shouting gloom and doom and the fact that many in the media do not want you to know that there are a lot of positive things happening in this country and many of them are related to the tax cuts that the Republicans have put into place.

□ 2030

30 SOMETHING WORKING GROUP

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes.

Mr. MEEK of Florida. Mr. Speaker, it is an honor once again being before the House. We would like to thank the Democratic leader for allowing us to have the time on the floor here, NANCY PELOSI; and Mr. STENY HOYER, who is our Democratic whip; Mr. JAMES CLYBURN; Mr. JOHN LARSON, Mr. JAMES CLYBURN, the chairman of our caucus; Mr. LARSON, who is our vice chair. Once again to come to the floor to share not only Democratic ideas but American ideas, to help push this country forward. Also, to point out some of the issues that are being thrown upon the American people by the Republican majority and their lack of working with the Democratic side of the aisle to bring about good policies for our country.

Tonight I am joined by my good friend from Ohio, Mr. TIM RYAN, who is a great American. That is just not by my standards but by the people in his district and many people throughout the country.

Mr. Speaker, I think it is important to be able to identify or point out the fact that once again this week the Republican majority tried to pass an unjust budget on the backs of the American people. Well, due to the fact that we, those of us on this side of the aisle and hopefully a couple of the Republicans on the majority side is saying no, saying no to the fact that we are here every day at the highest level that we can be without Members being absent from the floor to make sure that we vote en bloc against this Republican budget, that we will set America back versus moving it forward.

I think also there are some Members on the majority side that understand by casting a positive vote for this unjust budget that was supposed to have been passed by April 15, they know that if they vote in the affirmative for that budget that they may very well be making a career decision. The American people are watching this process daily and they have been made aware of what is going on here under the Capitol dome due to the fact of the lack of governance on their behalf. I encourage the American people to continue to pay attention.

Tonight, Mr. RYAN and I will attempt to share with the American people and with Members of Congress, mainly Members of Congress, of their responsibility to have the backing of the American people and not the special interests. This budget that the Republican Congress passed long ago to bring to the floor out of committee, if it was so great, it would have been passed by now. It is very, very important that we share this with the Members, if we had the opportunity or were given the opportunity to have some positive input into this budget, that maybe, just maybe, we would have passed the budget and we wouldn't have appropriation bills moving through the process without a budget.

Right now, appropriation bills are being heard in committee and will be heard in committee for the next 3 weeks, but without a passed budget. I think it is important that Members and the American people pay very close attention to how the Republican-controlled 109th Congress, be it House, Senate or White House, continues, even under the light of a 22 percent approval rating by the American people, and, in the White House, a 31 percent approval rating by the American people based on the White House and 22 percent here in Congress. Still, Republican leaders are trying to shove this budget down the throats of the American people.

I yield to my friend from Ohio.

Mr. RYAN of Ohio. Just to clarify and add on to what you said, the process down in Washington is that we pass a budget, broad outlines with specific numbers to say, Department of Defense can spend this much, Health and Human Services this much, Education this much. It is all broken down, just like a family budget. And then after you get the budget, then you start divvying up the money as to where it is going to go and which program based on the revenue that you take in.

What is happening now is that the Republican majority has not passed a budget, but yet next week they are going to come and start writing the checks. Checks for what? They are going to start the process of spending the money without a budget. I know there are many families at home and this Republican Congress that came in in 1994 talked a lot about, it is like a family budget. And what does the family do? Well, the family needs a budget and they need to live within their means. This Republican Congress, the bobblehead Congress that says "yes" to everything President Bush wants, continues to go down the road of undisciplined spending.

Some people, Mr. Speaker, may say, well, TIM RYAN from Ohio and KENDRICK MEEK from Florida are just talking again. This isn't us. It is not just us talking about it. It is not just the Democrats. I want to get our third-party validators up and running early here tonight.

Mr. MEEK of Florida. Why not?

Mr. RYAN of Ohio. This is Pat Toomey, President of Club for Growth, a conservative advocacy group. He was one of the most conservative Members of Congress for many years here, I believe, all through the nineties.

Here is Pat Toomey in the Philadelphia Inquirer last Monday:

"Republicans have abandoned the principles of limited government and fiscal discipline that historically have united Republicans and energized the Republican base. Too many Republicans have gotten too comfortable in office."

That is Pat Toomey. That is not TIM RYAN. That is not KENDRICK MEEK.

Mr. Toomey went on to say:

"There is a very high level of frustration and disappointment among rank-and-file Republicans when they see a Republican-controlled Congress engaging in an obscene level of wasteful spending."

We see it day in and day out: $9 billion in Iraq, nobody knows where it is; $16.3 billion, corporate subsidies to the oil companies; $16.3 billion of public tax money that hardworking citizens sent down here, the Republican Congress took that money and gave $16.3 billion of it to the energy companies. Wasteful spending, corporate welfare, time and time and time and time again. The family budget would not allow for money just to be spent. You ask yourselves, where did it go?

Former House Speaker Newt Gingrich, another third-party validator, talking about the Republicans. This was at the end of March:

"They are seen by the country as being in charge of a government that can't function."

That is not me. That is Newt Gingrich, the father who gave birth to the Republican revolution. When Newt Gingrich is saying this, when Pat Toomey is saying this, we have a real problem in our country.

What Democrats have tried to do, Mr. Speaker, time and time and time again is implement rules of the House that will constrain spending by saying, if you want to spend money, you either need to cut it from a program that we currently have or you need to raise the revenue somewhere, but it has got to be budget neutral. It is called PAYGO, pay-as-you-go. We have tried to do this.

Mr. SPRATT, the ranking member on the Budget Committee, tried to offer an amendment, rollcall number 87, on March 17, 2005. Not one Republican voted for it. Again, this is rules that we can put in place here that won't allow you to spend more money than you have. Or if you are going to spend it, you have got to get it from somewhere. Democrats offered an amendment here. Mr. SPRATT offered a substitute amendment again on March 25, 2004. Republicans shot it down. Charlie Stenholm when he was here tried to do it. DENNIS MOORE of Kansas tried to do it. Time and time and time again, Mr. Speaker, the Democrats want to put these fiscal restraints in place. So it doesn't matter if there is a Republican Congress or a Democratic Congress, the rules are in place. These rules were in place all throughout the nineties. That is why we had surplus money. That is why we made the targeted investments, focused in certain areas that yield results, that yield tax money.

Investments in education, you get a good return on that. We had a study done at the University of Akron, Mr. Speaker, a few years back, this was on State tax money in Ohio, but when the State spent $1 on tax money that went towards higher education, they got $2 back in taxes. Education is a great investment. Let's make this investment. Let's invest and do it in a way that we can get a good return on our money down the line. But today the Republican Congress has just been tied up in knots with the special interests, the oil companies, the energy companies, the health care industry. Time and time again they are given public tax dollars in the form of corporate welfare. Stop the corporate welfare. Stop the corporate welfare and let's move forward.

But I want to say that it is not me, Mr. Speaker. It is not me. It is Pat Toomey. It is Newt Gingrich. It is a lot of the conservatives, or some of the conservatives that are still left on the Republican side. All we want to do is get this country back together. Because where we are getting the money, because we are running deficits, how do you plug the hole? You got to go borrow it. The Republican Congress continues to borrow from the Chinese government, from the Japanese government, from OPEC countries.

This is really happening. This is one of the K Street fairy tales. This is like a K Street fairy tale. The Republican majority is borrowing money. As we run these deficits and they give millionaires tax cuts, $42,000 they are going to give them more next year. As they do that and we run these huge budget deficits, we can't fill the gap, so this Republican Congress and this Republican President, they are going to OPEC to borrow money from OPEC to help plug the hole. Can you imagine? It is like you are making it up. It is another K Street fairy tale that we have here. Running huge deficits. Gas is $3 a gallon. You not only give the oil companies $16.3 billion in corporate subsidies, but you also borrow money from OPEC countries to help plug the deficit because you are giving tax cuts to millionaires.

Now, I am not opposed to giving middle class people a tax cut. I am not opposed to giving a small business a tax cut. But I am against giving a millionaire $42,000 back when you are fighting two wars, your average people are struggling, tuition costs have doubled in the last 5 years, and you are giving Bill Gates another tax cut? That just doesn't make any sense. I don't care what your party affiliation is. That is irresponsible. That is irresponsible governing. And until we get the Republican Congress out and the Democratic Congress in, we are not going to be able to fix this thing, because we have tried. Mr. SPRATT has tried. Mr. SABO has tried. We have all tried.

But, Mr. MEEK, as you know, we are having a very difficult time doing it.

Mr. MEEK of Florida. When we start talking about what Republicans are saying, prominent Republicans, the chart that you had up with Newt Gingrich saying being they are seen by the country as being in charge of a government that can't function, number one, Mr. Speaker, he is saying "they." "They" means he is separating himself and he no longer knows the Republican Congress that he gave birth to and that he was the Speaker of. I guess all along the game plan was when we get really in the majority, let's get some years down the road that people forget about the Contract with America, and we will start catering to the special interests. What is so unfortunate here is that the fiscal irresponsibility that has taken place in this Chamber, in the committee rooms down the hall, Mr. Speaker, across the hall, in the White House, has taken this country in a direction that it has never been in in the history of the Republic.

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I am not talking about in the 108th Congress or the 107th Congress or the 93rd Congress. I am saying in the history of the Republic, this Republican Congress and the President have taken us down the road.

Now, I just want to say this to my colleagues, those that are Republicans and the one Independent that we do have here. This is not a local, Democratic club. This is the U.S. Congress. And we are here to share fact and not fiction, because we believe that the American people should be leveled with. And we also believe that they deserve a government that is going to represent them, not represent the individuals on K Street.

Let me explain K Street. Mr. RYAN mentioned K Street fairy tales of what is actually happening. The Republican majority embraced a program called the K Street Project. And in this K Street Project, it was a system of individuals on K Street contributing to Republican campaigns. And it was a pay-to-play philosophy. And I still feel that it is a pay-to-play philosophy, because they are getting what they want. The oil companies are getting what they want out of this Congress, not the American people. Other special interest groups are getting what they want out of this Congress and not the American people. If the American people were getting what they wanted out of this Congress, Mr. Speaker, Congress would not be rated and viewed by the American people with a 22 percent approval rating.

Members come to the floor and talk about the President of these United States at a 31 or 30 percent approval rating. We are here, we vote here every day; and the Republican Congress, this Congress that is led by Republicans are at a 22 percent approval rating. So that means that there is a super-majority of the Americans that are not agreeing with this majority. But, still, Members, the Republican majority is still going down the line of fiscal irresponsibility. They are irresponsible. Irresponsible.

Now, let me just say this. Some may say that is a heavy charge there, Mr. RYAN. Well, it is nothing like the printed word. This is not my stationery; this is the U.S. Department of the Treasury. Let me put up my Treasury Secretary's picture here, Mr. Snow, who I think is a decent man. He is just doing his job. He is the accountant for the United States of America. He lets us know pretty much when we are headed down a dark path. And at the end of the tunnel it is actually a train and it is not sunlight.

Here is a letter that he wrote December 29 of 2005. Now, let us think, on the 29th, Mr. RYAN, I was back in my district in Miami with family and friends. Actually, that was a couple of days, maybe 4 days, it was 4 days after Christmas, the birth of Jesus Christ, a very religious time for many religions. As a matter of fact, Kwanzaa is being celebrated during this time.

But Secretary Snow found himself in his office on this day. And he wrote a letter to the majority whip in the U.S. Senate saying that, in essence, he is saying that this letter is to inform you that we must raise the statutory debt limit, or we will be unable to continue to finance government operations.

Okay. When you get a letter on the 29th, the end of the year, saying hello, excuse me, I'm sorry, we don't have enough money to run the company. You have to raise the debt limit.

Now, Mr. Speaker, I want to make sure the Members understand what I am saying. Raising the debt limit means that you have not done a good job of being stewards of the taxpayer dollars.

That is not the only letter, Mr. RYAN. Just in case we didn't hear the Secretary, he turns around on February 16. Mr. SPRATT wants to know what's going on, who is the ranking member on the Budget Committee. I got this letter that you wrote on the 29th. I mean, we were on recess and all, and you were here in Washington writing this letter. Tell me more.

He goes on. On December 29 I wrote to Congress regarding the need to increase the statutory debt limit. Because the debt limit has not been raised, I must inform the Congress, pursuant to 5 U.S. Code, that, in my determination, that by the reason the public debt limit is not raised, I will be unable to fully invest in the government security investment fund that is called the G fund of the Federal Employee Retirement System in a special interest-bearing account.

Now, let me just say this. Again, a letter by Secretary Snow, appointed by the President of the United States, confirmed by the U.S. Senate, wrote a letter saying we are in trouble. Mr. Speaker, I wish that was the only letter, but it is not. Here's another letter on the 6th of March. Again, I am notifying you, and he gives his reason why he is notifying, that I have determined that the debt insurance suspension period will be on March 6 and last until March 26. During this debt insurance suspension period, the Treasury Department will suspend additional investment of the amount credited to what we call the G fund again. But he is saying that we are not in fiscal good standing at this point. He is saying that he is going to have to suspend.

Mr. RYAN, he is saying that he will suspend it on March 6 of 2006, and he wrote the letter on March 6, 2006.

So the Secretary, Mr. Speaker, waited till the last day to inform the Congress, you know, I have already written you two letters. You are embarrassed to raise the debt limit because it will let the American people know that you are not governing.

Now, if we worked in a bipartisan way, Mr. Speaker, maybe, just maybe I wouldn't be able to come to the floor and say that this is a product from the Republican majority, but it is.

Bipartisanship can only be allowed if the leadership allows it. The Republican leadership has shut out the Democratic voices in this Congress and shut out the one Independent voice we have here in this Congress. So now, for Members that come to the floor and start saying, well the Democrats this, that and the other, we are not in the majority. We cannot bring a bill to the floor. We cannot stop this Republican majority and this out-of-control spending.

One other point, Mr. RYAN. I will take Secretary Snow down for now. Again, Mr. Speaker, you all have seen this chart before. 224 years of 42 Presidents, prior to President Bush, borrowed from foreign countries $1.01 trillion. That is 224 years. That is a long time; 224 years? That is at least four or five generations, if not more of my family personally. Was only able to borrow $1.01 trillion. The President, and the Republican Congress that we have a picture here of, in 4 years, from 2001 to 2005, and this chart will be updated, from 2001 to 2005, have borrowed from foreign nations $1.055 trillion. They have beat out 224 years of history, Great Depression, World War I, World War II, Vietnam, Korea, you name it, bad economic times, good economic times, they have beat out natural disasters. They have beat out 42 Presidents, Democrat and Republican, Mr. RYAN, $1.01 trillion. 42 Presidents. That is all they could muster up. But we give this Republican Congress and President Bush the gavel, $1.05 trillion in 4 years, just 4 years. How does that shake out? Well, who is investing in America now? Who is owning a part of the American apple pie? Who will continue to own, if this Republican budget, Mr. Speaker, is passed, who will get even more of the American apple pie?

Mr. RYAN of Ohio. As you are going into that, it is very important, just a day ago, we passed, the Republican Congress, passed another tax cut that will give a millionaire $42,000 back, okay? Money that we don't have we are going to go out and we are going to borrow it and you will tell us from who, to pay for the tax cut. And in 2003, Mr. MEEK, if you made $10 million a year, you got $1 million back in taxes. You made $10 million, you got $1 million back. We don't have it to give you.

We are political people. I mean, we are Members of Congress and we are public servants, okay? I would love to go to my constituents and say, I am going to give all of you a tax cut. And the really rich ones who may donate to my campaign, I am going to give you a big tax cut, real big. You made $10 million last year. I am going to give you $1 million back. I would love to do that. Everybody would love to do that, Mr. Speaker. We can't afford to do that. We can't afford to go borrow money from a foreign country and give it to someone who made $10 million last year so they could have a tax cut. And the old argument that they are going to take that money and invest it in the United States, that doesn't exist. They are going to get the money and invest it in Asia. They are going to invest it in funds, invest it in other countries. I yield back to my good friend.

Mr. MEEK of Florida. Thank you for yielding back, Mr. RYAN. Let me just point out real quickly: we will start out with the big one here. People look at Japan; they look at the United States. They say how could a country that size invest in the United States of America $682.8 billion. Japan? American apple pie. They have a big piece of it. China, Red China, Mr. RYAN. Communist China, Mr. RYAN and Mr. Speaker: 249.8 billion of the American apple pie. I know that makes our World War II veterans feel pretty comfortable right about now. And I am saying that in a way that I know that they are highly upset at the point that Japan can come back and own so much of the American apple pie, and not because of their doing but because of the irresponsible spending on the Republican majority side. I am just calling it what it is, Mr. Speaker, because like some folks say, it is what it is, Mr. RYAN.

The U.K., $223.2 billion of the American apple pie. Caribbean nations. Many of us go to vacation. I represent a lot of folks from the Caribbean. But guess what, they own $115.3 billion of the American apple pie, buying our debt. Our debt. Historic debt that we have given them in the last 4 years. And I am going to explain that a little further, Mr. RYAN, because I think people need to understand that prior to this Republican Congress and President Bush being elected, there were surpluses. That means that folks were projecting, not a deficit, but money left over for things that we need to tackle. Yes, we need a middle-class tax cut. Yes, we need to shore up Social Security. Yes, we need to have a health care plan so that businesses don't have to ask people to be on Medicaid to pay for their health care on the backs of the American people.

No, this Republican Congress and the President opted to give it to millionaires. I don't know how many times I can say that. Millionaires. It is not what I am saying. You can pick up the paper and find out what is happening up here. Taiwan, $71.3 billion of the American apple pie that has been sold away because of irresponsible policies. Canada, $53.8 billion. Korea, again, my veterans, $66.5 billion.

Meanwhile, under the Republican budget, Mr. RYAN, veterans are going to be paying a higher copayment, thank you, a la the Republican majority, that is saying that we are for you. Germany, $65.7 billion. Again, our veterans. OPEC nations. This is very interesting, Mr. RYAN, and it is actually covering my State of Florida and Georgia and South Carolina. OPEC nations.

Who are they? I mean, these are the nations that are in charge of all the oil. Iraq is in that, owning some of our debt. Iraq. We are spending all kinds of money in Iraq, but guess what? They have enough time to own some of our debt. Iran. Iran. Oh, my goodness. Is this the country, Mr. RYAN, that we are concerned about, that Israel is concerned about and many of our friends in the Middle East that are trying to bring about democracy we are concerned about? You have a number of the United Arab Emirates, again, nations that we are concerned about as relates to Dubai, port deals. There are a number of countries that are here that we are bringing into question.

Let me just, Mr. Speaker, let the Members take a look at this map. Empty without the debt on it. I think it is important that Members understand that Democrats, we are the only party in this House that has actually balanced the budget.

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People can talk about it. They can write great studies about it. But until you do it, you don't know what it takes. Obviously, based on those letters from Secretary Snow, and based on the fact that the Republican Congress has taken pride in endorsing everything that the President has said, we want to give millionaires a tax break and give middle class people a $10 tax break or a $50 tax break. Done.

We want to give oil companies, as a matter of fact, I read this last night, I think it is important and I am going to read it again, since I passed by a gas station today and it was $3.07 right here in Washington, DC.

This is a Washington Post article dated November 16 of 2005. The White House documents show that executives from big oil companies met with Vice President CHENEY's energy task force in 2001, something long suspected by environmentalists but denied, as of November, 2005, last week, by industry officials testifying before Congress.

The document obtained by the Washington Post shows that officials from ExxonMobil, also from Phillips and Shell Oil Company and BP of America met in the White House complex with Vice President CHENEY's aides in developing a national energy policy, parts of which became law, parts of which are still debated in Congress.

I rest my case on that. Again, Republican Congress said, energy bill, Mr. President, so shall it be written, so shall it be done, without a question asked.

Do you want to go down to the whole issue of what is happening with our seniors now, prescription drugs? So shall it be written, so shall it be done; propane, from the Republican Congress, we will do it because you told us to do it. All this debt that I have right here, under this stamp, Mr. President, do you want to raise the debt limit, okay, fine, we are right with you. Let us raise the debt limit on the back of Americans.

Meanwhile, I must add, that when we look at raising the debt limit they are cutting student aid to students to be able to be our workforce in the future and to be able to afford a college education. I am glad to announce that this is actually a bill proposed by Democrats here in this House. This is not a Democratic proposal, this is an American proposal.

I believe that Americans are sick and tired of being sick and tired. This is legislation that is now filed by Representative MILLER here in this House and also from Senator DICK DURBIN in the Senate reversing the rate on student loans or student aid. The bill cuts interest rates from 6.8 percent to 3.4 percent for students, with subsidized loans, which can go to students with the most financial need and move it from 8.5 percent to 4.25 percent for parents starting July of this year.

This is legislation that is filed now. Earlier this year, in the Republican budget earlier this year a Republican-led Congress cut $12 billion out of the Federal student loan program in order to finance tax breaks for the wealthiest Americans.

Mr. RYAN, I am just going to go to this page, and I am going to yield to you, sir.

Yesterday, reading is fundamental. I blew it up because I thought it was important for me to come to the floor and share with Members because there are to be some Members come this November that will say I don't know what was going on. Do you think they hoodwinked me on this? Here is a copy of the paper right here if you have it on their desk.

This is the way the cover looks. Republicans Reaches Deal on Tax Cuts. What does that mean, Mr. RYAN? I will tell you what that means. That means that for Americans that make between $10,000 and $20.000 a year, the average tax savings will be $2. That means for those that are making $20- to $30,000 a year, that means that their average tax break will be $9; $30,000 to $40,000, $16. $40,000 to $50,000, $46; $50,000 to $75,000 a year, household income, $403; $100,000 to $200,000, $1,388; $200,000 to 500,000, $4,599; $500,000 to $1 million, $5,562; and those that are making more than $1 million will receive $41,977.

Who has whose back? People that I represent, I can tell you right now, very few. I can probably count on both hands and maybe one foot that are making more than $1 million that will celebrate the $41,977 tax break.

Meanwhile, guess what? We have men and women that are at war in Iraq. We have men and women that are in Afghanistan right now, and we have companies trying to figure out how they are going to provide health care for their employees. Meanwhile, we have the Republican Congress here saying everything is fine. What are you talking about?

I yield, Mr. RYAN.

Mr. RYAN of Ohio. The thing is, my friend, we don't have the money to give a millionaire a tax cut. We have had 5.4 million people slip into poverty since President Bush took over. We have middle class families struggling with gas, fuel costs, energy costs, tuition costs, health care costs. We have got a lot of issues for middle class people, lower class people, people who are slipping into poverty, living paycheck to paycheck. It is so irresponsible to give someone who makes millions of dollars a year a tax cut, it just doesn't make any sense.

I said it before, Mr. Speaker, I would love to go to the folks that I know that make millions of dollars a year and say I am going to give you a tax cut. You could put a little more Italian marble in your home. But that is not just reality.

We represent the public. We get paid by the taxpayer. We represent 700,000 people apiece. We need to start talking about the common good, decisions that could be made down here that benefit everybody. Ask everybody in the country to contribute. Wealthy, middle class, poor, everyone is going to have to contribute something, but everyone will benefit them. A rising tide does lift all boats.

Right now, this tide is not lifting everyone up. It is lifting a very small group of people that continue to make money and profits after profits after profits.

I think profits are great. I think they are super. But when the oil companies are making $113 billion, almost up $80 billion from 2002 and everyone is struggling and the Republican Congress gifts the oil industry $16.3 billion in public money, something is wrong there. I think the structure has broken down. I think you are absolutely right. We don't have the money to do this, not only don't have the money, we are neglecting our priorities in education, health care, reform. Let's think about this for a second.

Government is not working, and I showed the quote from Newt Gingrich, when he said the Republican Congress is perceived by the country as running a government that cannot function.

When you look at what happened with Katrina, and the inadequate response from FEMA, when you look at the war, losing $9 billion, losing $9 billion and nobody knows where it is. When you look at what is happening, all the struggles for body armor and up-armored Humvees, we fought for tooth and nail for years to make sure that the troops had that equipment that they didn't have out of the gate. The lack of preparation, the lack of an exit strategy, the lack of recognition of a long-term strategy in Iraq and in the region, these are colossal mistakes.

These aren't boo-boos, these are big-time mistakes that, quite frankly, I get frustrated because I think what have you dealt to my generation? This is kind of personal and may be a little bit selfish. But what are you leaving this next generation? We started this 30-Something group to talk about issues facing our generation and 20s and 30 somethings.

Look at what is being left to us to fix. I mean, I do not know how long I am going to be in government. I don't know how long you were going to be in government.

But we are going to spend the better part of our lives trying to fix the colossal mistakes that this President and this Republican Congress have made. Budgets, lack of fiscal discipline, the war, lack of investment in education.

When you look at what the Democrats want to do, when you look at what we want to do. One is balance the budget, put in these PAYGO rules to make sure that we can only spend money that we actually have and stop borrowing money from all these foreign interests, Democrats have been trying to do that for years. We did it in the 1990s and it worked.

We want to do it again and get the country back on the right path. We want to invest in innovation. Our innovation plan has every household getting broadband technology in the next 5 years so that everyone in our society can compete within this global economy against 1.3 billion Chinese workers, again over 1 billion workers from India, against Ireland, who is just going gangbusters. Their economy is just going gangbusters. We want to be able to compete against these people.

If we don't make the proper investments, we won't be able to do it. We are going to have a plan that we will invest into the Pell Grant. We will cut student loans in half to try to relieve some of the pressure from middle America, from middle income families. This is something that we need to do. We have a responsibility to do it.

I want to make a point, because I believe if we unleash the potential of the American people, that we will be able to address some of these problems. I can't be convinced that we can't solve the energy problem. I just can't believe it.

I am so glad that this President and this Congress weren't around during World War II, weren't around when we were trying to go to the Moon, because there would never have been that challenge. We can do this. Let us unleash the potential of the American people.

The different philosophy here is that our Republican friends want to think that if they give a tax cut to millionaires that will trickle down and somehow help middle America. It is not working. It is not working.

Rich people keep getting richer, middle class people keep struggling and falling behind. More people keep slipping into poverty, 5.4 million more people have slipped into poverty since President Bush became president, 5.4 million people. That is a drain on Nation's resources. Invest in those people, get them broadband technology, make sure they have adequate health care, make sure they have an opportunity to go to college, and you will see the potential of this country unleashed.

It is just frustrating as we talk on the floor and off the floor about a lot of these issues about the challenges that our generation is going to face down the line. You can't tell me that we can't be a competitive country, because I just don't believe it. The Republican philosophy is saying we hope that maybe one day it works its way down, the tax cuts to millionaires work their way down to the middle class. We hope one day that happens.

What the Democratic plan is just to invest into the American people, everyone. We want businesses to do well. We want middle class to do well. We want rich people to do well, we want poor people to do well. This is America. This is the American family. This isn't just your family and your family and everyone separate and nothing ever connects. That is not what made America great.

What made America great is our policies coming out of World War II. Our policies in the 1960s, we are about the common good.

I know that we don't need those same policies. We know as Democrats that it needs to be different because it is a different world. It is not what would Johnson do, what would Kennedy do or what did Johnson do, what did Kennedy, what did Roosevelt do?

□ 2115

It is not about what they did, it is about what would those great leaders do today?

I believe that the Democrats have this plan, with our innovation agenda, with our real security agenda that reduces our dependence on foreign oil. We are just so entangled in this oil mess. Let's stop.

Let's invest in the American people, Mr. MEEK. We will come up with an alternative energy source, bio-diesel, hydrogen, ethanol, sugar. We'll figure this out. But unleash the potential of the American people. We will do this and create another great surge in the middle class of the United States of America, and everything then will take care of itself; pensions, wages, health care. Everything else will take care of itself, because we are going to unleash the potential of the country.

I believe it just takes leadership to do that, and we haven't been getting much leadership here. It is really a lack of leadership that has put the country in the position it is.

When times change, when circumstances change, you have to change. Unfortunately, this President and this Congress, no matter what the facts are, stay focused on tax cuts for millionaires and let's hope that that solves all the problems.

We are starting to see now with this increase in interest rates, 16 times, what a terrible problem this is going to be; higher credit card rates, higher mortgages, cars, everything else. You are going to pay more money. So even if you do get a little bit out of the tax cut, if you are a middle class American getting 30 bucks back, gone. That is gone, eaten up with higher interest rates.

Mr. MEEK of Florida. Thank you, Mr. RYAN. I think it is important for us to identify, you mentioned our real security plan, Democratic homeland security plan, balanced budget plan. We have actually done it. We know how to do it. We have experience there.

Mr. RYAN of Ohio. In 1993, my friend, not one Republican vote.

Mr. MEEK of Florida. Not one Republican vote in passing the Democratic balanced budget plan. Mr. Speaker, that is fact, not fiction.

Mr. RYAN of Ohio. I am not saying that to brag. The Republicans could do it. They just don't. We have done it. And it is not being a braggart, but it was Clinton as President and it was a Democratic House and it was a Democratic Senate. And out of the House, not one Republican vote to balance that budget. It led to 20 million new jobs. Mr. MEEK, in the United States, the greatest economic expansion in the history of the country. So we have proof. As you said, we know how to do this stuff, and we are asking for a shot to try to do it again.

Mr. MEEK of Florida. The energy plan, Mr. Speaker, it is ready to go. The bottom line is we offer these plans and amendments, we offer these plans here on the floor.

Mr. RYAN mentioned something, Mr. Speaker, that I want to just make sure that Members are clear on, crystal clear.

Mr. RYAN of Ohio. Clear?

Mr. MEEK of Florida. Crystal clear, Mr. RYAN, that we don't just come to the floor, Mr. Speaker, to talk about Republicans, what they are not doing or what they are doing to the American people versus for the American people. We actually fight in the Rules Committee that is on the third floor of this Capitol to beg the committee, I think it is really heavily weighted, I think it is like 14 Republicans on that committee, or 14 or 12 Republicans, versus 7 Democrats. So that means that two or three Republicans can have a cold and they still prevail and are making sure they keep control of this House and what comes to this floor. So much for bipartisanship. The Rules Committee sets the rules, Members, on what comes to the floor and what doesn't come to the floor.

This is what we were able to muster up. Ranking Member JOHN SPRATT from South Carolina offered a substitute amendment to pay-as-you-go. Now, this means pay-as-you-go. That means that if you are going to spend, you have to identify where you are going to get the money from. Can I have that chart again.

I am not talking about any of this business of borrowing from Japan, from China, from OPEC nations or any of these countries that are out there. I don't blame these countries, don't get me wrong. I don't blame them for getting a piece of the American apple pie. I just wish more Americans could get a piece of the American apple pie.

JOHN SPRATT put forth an amendment on House Concurrent Resolution 95, the 2006 budget resolution. It failed with 165 voting for it, 264 voting against it. All Republicans voted against it. 228 Republicans voted against it. All Democrats voted for it. Again, that is Rollcall No. 87, and that happened on March 17, 2005.

The same Member, ranking member JOHN SPRATT from South Carolina, a Democrat, a good Member of this House, substitute amendment to House Concurrent Resolution 393, 2005 budget resolution. Republicans voted against this, not one Republican voted for pay-as-you-go, which was the responsible way to get us out of the pockets of these foreign nations. The vote was 224-0 from Republicans. Mr. RYAN, Mr. Speaker, not one Republican.

Mr. RYAN, I will yield to you in a minute. I want to get this chart again. I think it is important. I can't bring this chart up enough, Mr. Speaker. We are trying to make this so.

If a Member can e-mail us or bump into us in the hall or a staffer or someone from the majority budget office or the minority office can come to us and explain to us how we can break this down further. 224 years, $1.01 trillion from foreign nations. Four years, 4 years, Mr. RYAN, $1.05 trillion since President Bush has been President and the Republican Congress has been working with the President, 4 years from 2001 to 2005.

These are not my numbers, Mr. Speaker, this is the U.S. Department of Treasury numbers. These are not my numbers. So this means that the Republican Congress knows this. You know how I know they know it? Because we tell them night after night. You know how I know they know it? Because we were here last night with the same chart. They voted against this PAYGO resolution twice. I can even go further back to show committee votes on partisan lines of voting against it.

So this means only one thing, Mr. Speaker and Mr. RYAN, that the Republican Congress is wearing this stamp with pride, that they are willing to rubber stamp anything that the President of the United States sends into this Chamber. I am saying the Republican Congress on that side of the aisle, because the history and the facts are there. This is fact and not fiction, Mr. RYAN.

I am hoping. Some days I wake up and I say, you know, I wish the situation this country is in, and when I see my children, my 9-year-old and my 11-year-old and look at their burden, they are going to look back, Mr. Speaker, and say there are some people on this floor that fought for their future and the future of America.

White, black, Hispanic, Anglo, American Indian, whatever the situation may be, we are giving them a fixed debt. And if you are a Republican, you have to have a problem with this. If you are a Democrat, you have got to have a problem with this. If you are an independent, you have to have a problem with this. If you are an American, you must have a problem with this, because it is weakening the financial standing of this country.

Meanwhile, back at the ranch here in Congress, we have got folks telling the oil companies, don't worry about it. We have your back. As long as we have the K Street Project going on, as long as you keep what we need to stay in control, we have your back.

Mr. RYAN, I just want to say this, when I give it to you, sir, I want to make sure you have the last word before we close out, but I want to make sure your constituents, that you share with the Members of this House what happened in Ohio.

Mr. Speaker, I want to say it here on the floor, because I want to make sure my Republican colleagues when they come down to vote on a PAYGO amendment again, that they think about this.

There was a race in Ohio, Mr. RYAN, and I want you to talk about it, and I want you to tell the Members of the House what happened, what happened with the write-in candidate that got more votes and the number of candidates on the ballot.

So, Mr. RYAN, with that, I want to yield to you, sir, so you can close this out.

Mr. RYAN of Ohio. I appreciate that. I think you made a lot of points. I think one of the things that you mentioned is that we come down here every night. I have got to tell you, you know, you mentioned the race in which our Democratic write in candidate got more write-in votes than all of the Republicans combined, and the Democrat was in the three-way primary. It is unbelievable, because of the energy with which I think a lot of people in this country are willing to go to the polls and make some kind of changes.

But I am tired of coming down here and talking about this. I will be honest with you, Mr. Speaker. I want this fixed. I want an opportunity for us to put the PAYGO rules in place, to make the tough decisions. We get paid to make these tough decisions. Let's make them.

I mean, come on. You know what frustrates me? And it hit me as you pulled out the PAYGO chart. Zero Republicans voted for the PAYGO rules to be put in place. Of the millions of times we have actually tried to put them through, amendments and on the floor and motions to recommit and everything else, all of these different times that we have tried to do this, zero Republicans. But now they are having trouble passing the budget.

Well, maybe if they would have put these procedures in place, these constraints in place, we wouldn't have the problems. We don't even have a budget yet. It is May. It is the middle of May. The law says you are supposed to have it by April 15. So all of this is happening.

I think, Mr. MEEK, as we begin to wrap up here, that everything is happening in secrecy, under the dome, on Pennsylvania Avenue, with K Street. When you look at these K Street fairy tales that you just can't believe, it is the environmental meeting, everything is done in secret. A lot of the consumer groups and conservation groups are saying you are meeting with the oil companies and the oil companies are going to write this. They say no, no, no, no, and oil executives come before the Senate. Coincidentally, the Republican Senate does not swear them in to a hearing. Unbelievable.

They all say, "We weren't there. We don't know anything about it." Then we find out a few weeks ago they were all there. The White House memo comes out that they were there, all done in secrecy. Look at the energy policy we have. It is atrocious. Come on. Everyone knows it doesn't work. Go to the gas pump. We don't have to explain it.

Look at the war, all done in secrecy. Nobody is allowed in, not a lot of debate. The information, intelligence, everything is in secret, cherry-picking intelligence and all of this other stuff, all done in secret. Look at the end result. $9 billion lost, no exit strategy. We are not greeted as liberators. We are not able to use the oil money for reconstruction. All the promises made haven't happened. Terrible.

Look at the Medicare bill. Same thing. All done in secret. The numbers were wrong that they gave to the Congress about how much it was going to cost.

Then we find out today, Mr. MEEK, and I hate to end on this because we don't have a lot of time to talk about it, we find out now that the National Security Agency is secretly monitoring phone calls of the American people.

This is the largest database ever assembled in the world, monitoring the phone calls of American citizens.

Now, give me a break. Enough of the secrecy, enough of the mismanagement, enough of the incompetence. Let's get the Democrats back in so we can implement some of these ideas that we have.

Thank you, Mr. Speaker, for allowing us to be here. I would also like to thank the staff who is here who stays late with us many nights.

Mr. MEEK of Florida. Just very quickly, Mr. Speaker, I know we have a minute left, I just want to say this, that it is important that we thank the Democratic leader and the Democratic leadership for allowing us to be here tonight.

Mr. RYAN, the web site that you gave out, www.housedemocrats.gov/30Something, all of the charts you have seen here tonight and throughout the week, the Members can pull that down off of the web site, Mr. Speaker.

TIME RUNNING OUT TO SIGN UP FOR MEDICARE PART D

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Under a previous order of the House, the gentlewoman from Florida (Ms. CORRINE BROWN) is recognized for 5 minutes.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I want to commend the 30-Something Group for their leadership.

□ 2130

I come to the floor to remind all of the seniors that Monday, May 15, is the drop-dead date for signing up for Medicare part D. I am very concerned that over 15 million Americans have not signed up.

Congressman MEEK, may I ask you a question? Do you know why Monday, May 15, is the drop-dead date to sign up?

Mr. MEEK of Florida. Well, it is set by the legislation passed by the Republican majority. And after that, Americans will be penalized.

Ms. CORRINE BROWN of Florida. Mr. Speaker, Americans are going to be penalized. I have been elected for 25 years. And this is the first time I have ever heard of being penalized until the day you die. I mean, it is ludicrous that we, the House of Representatives passed a bill that was so complicated and confusing, and gave you a time period of less than 5 months to sign up. And then if you do not sign up, you are going to be penalized until death.

I know in Florida we have 41 different plans. And it is very confusing. Seniors should have an opportunity to take their time and to select a plan that best meets their needs.

Now, Mr. MEEK, do you know why in the law the Secretary does not have the authority to negotiate the price of drugs? Do you know why Americans pay 50 percent more than people in Canada?

Mr. MEEK of Florida. Well, that was set forth by the Republican Congress. Many Democrats on this side, the super majority, voted against that measure.

Furthermore, this Government agency has found that even during this 5-month period that seniors were given the wrong information from the White House, the recommendation to go on those websites and call these numbers, the wrong information was given on the plan.

But better yet, they are still held responsible to this date. That is going to happen on Monday. And they will be penalized from this point on.

Ms. CORRINE BROWN of Florida. Mr. Speaker, you know in Florida, we have over 1 million people who have not signed up. And nationwide it is over 15 million people.

Now, I do not understand why the President with an executive order cannot be Presidential and extend the date or do away with the penalties.

People should not be held accountable for a program that is complicated and confusing. I have a cousin that is a Ph.D. graduate from the University of Miami, a principal for 30 years, and had to go to Social Security to get someone to help and assist to make the right decision because it is very, very complicated.

Mr. Speaker, I am asking seniors, please sign up—but there is no reason why this program, a program that is so needed, I voted against it because it was bloated, can you imagine, supposedly fiscally responsible Republicans coming up with a program that is billions of dollars, costing more than it needs to, and the money is going to the pharmaceutical companies.

The money is going to the industry, and not to the people that we need to be serving. It is a shame that in this people's House that we are not doing the work of the people.

Mr. Speaker, I am calling on the Members of this body and I am calling on the President so we can make it retroactive. Let us not punish seniors for our incompetency.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. KENNEDY of Rhode Island (at the request of Ms. PELOSI) for the week of May 8.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. FRANK of Massachusetts, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. ALLEN, for 5 minutes, today.

Mr. RUSH, for 5 minutes, today.

Mr. INSLEE, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

Mr. UDALL of New Mexico, for 5 minutes, today.

(The following Members (at the request of Mr. POE) to revise and extend their remarks and include extraneous material:)

Mr. GINGREY, for 5 minutes, today.

Ms. GINNY BROWN-WAITE of Florida, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, May 16, 17, 18, and 19.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

BILLS PRESENTED TO THE PRESIDENT

Karen L. Haas, Clerk of the House reports that on May 11, 2006, she presented to the President of the United States, for his approval, the following bill.

H.J. Res 83. To memorialize and honor the contribution of Chief Justice William H. Rehnquist.

ADJOURNMENT

Ms. CORRINE BROWN of Florida. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 35 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, May 12, 2006, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7435. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communication Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Lancaster, Pickerington, and Westerville, Ohio) [MB Docket No. 03-238; RM-10820] (File No. BPH-20040108ALM) received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7436. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Fernandina Beach and Yulee, Florida) [MB Docket No. 05-240; RM-11261] received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7437. A letter from the Special Assistant to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Bend and Prineville, Oregon) [MB Docket No. 03-78; RM-10684] received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7438. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Cuney, Texas) [MB Docket No. 05-33; RM-10756] received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7439. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Port Isabel, Texas) [MB Docket No. 04-274; RM-11016] received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7440. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Cuba and Knoxville, Illinois) [MB Docket No. 05-118; RM-11183; RM-11301; RM-11302] received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7441. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Tomahawk, WI) [MB Docket No. 04-202; RM-10985]; (Waynoka, OK) [MB Docket No. 04-271; RM-11013]; (Wasco, CA) [MB Docket No. 04-272; RM-11014]; (Richland Springs, TX) [MB Docket No. 04-273; RM-11015]; (Hermitage AR) [MB Docket No. 04-431; RM-11115] received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7442. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (New Harmony, Indiana and West Salem, Illinois) [MB Docket No. 04-341; RM-10779; RM-11110] received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7443. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Otter Creek, Florida) [MB Docket No. 05-54; RM-11151] received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7444. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), FM Table of Allotments, FM Broadcast Stations. (Matagorda, Texas) [MB Docket No. 04-215; RM-10993] received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7445. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Okeene, Oklahoma) [MB Docket No. 05-296; RM-11289] received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7446. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Grand Portage, Minnesota) [MB Docket No. 04-432; RM-11121] received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7447. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Harrisburg, LA) [MB Docket No. 04-266; RM-11005]; (Mecca, CA) [MB Docket No. 04-267; RM-11008]; (Taos, NM) [MB Docket No. 04-268; RM-11009]; (San Joaquin, CA) [MB Docket No. 04-269; RM-11010]; (Rosepine, LA) [MB Docket No. 04-270; RM-11012] received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7448. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Bairoil and Sinclair, Wyoming) [MB Docket No. 05-117] received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7449. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")—received March 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7450. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule—New Animal Drugs; Adamantane and Neuraminidase Inhibitor Anti-influenza Drugs; Extralabel Animal Drug Use; Order of Prohibition [Docket No. 2006N-0106] received April 4, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7451. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule—Medical Devices; Immunology and Microbiology Devices; Classification of Reagents for Detection of Specific Novel Influenza A Viruses [Docket No. 2006N-0100] received May 1, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7452. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Scott City Municipal Airport, KS [Docket No. FAA-2006-23896; Airspace Docket No. 06-ACE-2] received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7453. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Gothenburg, Quinn Field, NE [Docket No. 23545; Airspace Docket No. 06-ACE-1] received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7454. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Enroute Domestic Airspace Area, Vandenberg AFB, CA. [Docket No. FAA-2005-23271; Airspace Docket No. 05-AWP-15] (RIN: 2120-AA66) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7455. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of the St. Louis Class B Airspace Area: MO [Docket No. FAA-2005-22509; Airspace Docket No. 03-AWA-2] (RIN: 2120-AA64) received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7456. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Beatrice, NE [Docket No. FAA-2005-23375; Airspace Docket No. 05-ACE-35] received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7457. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E5 Airspace; David City, NE [Docket No. FAA-2005-23374; Airspace Docket No. 05-ACE-34] received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7458. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of the St. Louis Class B Airspace Area: MO [Docket No. FAA-2005-22509; Airspace Docket No. 03-AWA-2] (RIN: 2120-AA64) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7459. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Sand Point, AK [Docket No. FAA-2005-23026; Airspace Docket No. 05-AAL-39] received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7460. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of the Norton Sound Law, Woody Island Law and 1234L Offshore Airspace Areas, AK [Docket No. FAA-2005-22024; Airspace Docket No. 05-AAL-38] (RIN: 2120-AA66) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7461. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Scott City Municipal Airport, KS [Docket No. FAA-2006-23896; Airspace Docket No. 06-ACE-2] received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7462. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendments to Colored Federal Airways; AK [Docket No. FAA-2005-23081; Airspace Docket No. 05-AAI-31] (RIN: 2120-AA66) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7463. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Nicholasville, KY [Docket No. FAA-2005-23075; Airspace Docket No. 05-ASO-12] received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7464. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Enroute Domestic Airspace Area, Vandeberg AFB, CA [Docket No. FAA-2005-23271; Airspace Docket No. 05-AWP-15] (RIN: 2120-AA66) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7465. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-8-33, DC-8-51, DC-8-53, DC-8-55, DC-8F-54, DC-8F-55, DC-8-63, DC-8-62F, DC-8-63F, DC-8-71, DC-8-73, DC-8-71F, DC-8-72F, and DC-8-73F Airplanes [Docket No. FAA-2005-22425; Directorate Identifier 2005-NM-066-AD; Amendment 39-14468; AD 2006-03-04] (RIN: 2120-AA64) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7466. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 Airplanes and Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP Airplanes [Docket No. 2003-NM-271-AD; Amendment 39-14470; AD 2006-03-06] (RIN: 2120-AA64) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7467. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A330-200 and -300 Series Airplanes, A340-200 and -300 Series Airplanes, and A340-541 and -642 Airplanes [Docket No. FAA-2005-21702; Directorate Identifier 2005-NM-024-AD; Amendment 39-14473; AD 2006-03-09] (RIN: 2120-AA64) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7468. A letter from the Program Analsyt, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Short Brothers Model SD3-60 SHERPA, SD3-SHERPA, and SD3-60 Airplanes [Docket No. FAA-2005-22875; Directorate Identifier 2005-NM-179-AD; Amendment 39-14469; AD 2006-03-05] (RIN: 2120-AA64) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7469. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aero Advantage ADV200 Series (Part Numbers ADV211CC and ADV212CW) Vacuum Pumps [Docket No. FAA-2005-20440; Directorate Identifier 2005-CE-05-AD; Amendment 39-14472; AD 2006-03-08] (RIN: 2120-AA64) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7470. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Hamburger Flagzeugbau GmbH Model HFB 320 HANSA Airplanes [Docket No. FAA-2005-22401; Directorate Identifier 2004-NM-93-AD; Amendment 39-14480; AD 2006-03-16] (RIN: 2120-AA64) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7471. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Airplanes [Docket No. FAA-2005-22748; Directorate Identifier 2005-NM-127-AD; Amendment 39-14471; AD 2006-03-07] (RIN: 2120-AA64) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7472. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A318-100 and A319-100 Series Airplanes; A320-111 Airplanes; A320-200 Series Airplanes; and A321-100 and A321-200 Series Airplanes [Docket No. FAA-2005-22528; Directorate Identifier 2005-NM-125-AD; Amendment 39-14474; AD 2006-03-10] (RIN: 2120-AA64) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7473. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-10-10, DC-10-10F, DC-10-15, DC-10-30, DC-10-30F, (KC-10A and KDC-10), DC-10-40, DC-10-40F, MD-10-10F, MD-10-30F, MD-11, and MD-11F Airplanes [Docket No. FAA-2005-22503; Directorate Identifier 2005-NM-062-AD; Amendment 39-14477; AD 2006-03-13] (RIN: 2120-AA64) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7474. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce plc RB211 Trent 500 Series Turbofan Engines [Docket No. FAA-2005-23279; Directorate Identifier 2005-NE-44-AD; Amendment 39-14478; AD 2006-03-14] (RIN: 2120-AA64) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7475. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737-100, -200, -200C, -300, -400, and -500 Series Airplanes [Docket No. FAA-2005-20354; Directorate Identifier 2004-NM-166-AD; Amendment 39-14476; AD 2006-03-12] (RIN: 2120-AA64) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7476. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Polskie Zaklady Lotnicze Spolka zo.o. Model PZL M26 01 Airplanes [Docket No. FAA-2006-23733; Directorate Identifier 2006-CE-09-AD; Amendment 39-14481; AD 2006-03-17] (RIN: 2120-AA64) received March 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7477. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Weighted Average Interest Rate Update [Notice 2006-39] received April 7, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7478. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Taxation of Fringe Benefits (Rev. Rul. 2006-13) received March 29, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7479. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Transition Relief Regarding the Application of Section 409A(b) to Nonqualifed Deferred Compensation Plans [Notice 2006-33] received March 22, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7480. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Last-in, First-out Inventories (Rev. Rul. 2006-15) received March 22, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7481. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Revocation of Qualified Intermediary Branch Rule [Notice 2006-35] received March 22, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7482. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2006-22) received March 22, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7483. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Administrative, Procedural, and Miscellaneous (Rev. Rul. 2006-17) received March 22, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7484. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—GO Zone Resident Population Estimates [Notice 2006-21] received March 22, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee on International Relations. H.R. 4681. A bill to promote the development of democratic institutions in areas under the administrative control of the Palestinian Authority, and for other purposes; with an amendment (Rept. 109–462 Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 or rule XII the following action was taken by the Speaker:

H.R. 4681. Referral to the Committees on the Judiciary and Financial Services extended for a period ending not later than May 15, 2006.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. REICHERT (for himself, Mr. PASCRELL, Mr. MCCAUL of Texas, Mr. ETHERIDGE, Mr. KING of New York, Mr. THOMPSON of Mississippi, Mr. SHAYS, Ms. LORETTA SANCHEZ of California, Mr. DANIEL E. LUNGREN of California, Ms. HARMAN, Mr. SIMMONS, Mrs. CHRISTENSEN, Mr. ROGERS of Alabama, Mr. LANGEVIN, Mr. PEARCE, Ms. GINNY BROWN-WAITE of Florida, Mr. BUTTERFIELD, Mr. ROGERS of Kentucky, Mr. SWEENEY, Mr. MCHENRY, Miss MCMORRIS, Mr. FORTENBERRY, Mr. SCHWARZ of Michigan, Mr. CARTER, and Mr. MEEK of Florida):

H.R. 5351. A bill to amend the Homeland Security Act of 2002 to establish a Directorate of Emergency Management, to codify certain existing functions of the Department of Homeland Security, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Homeland Security, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MANZULLO:

H.R. 5352. A bill to reauthorize programs to assist small business concerns, and for other purposes; to the Committee on Small Business.

By Mr. FLAKE (for himself, Mr. BASS, and Mrs. MUSGRAVE):

H.R. 5353. A bill to permit United States companies to participate in the exploration for and the extraction of hydrocarbon resources from any portion of a foreign maritime exclusive economic zone that is contiguous to the exclusive economic zone of the United States, and for other purposes; to the Committee on International Relations.

By Mr. BOUSTANY (for himself, Mr. MCKEON, Mr. MARCHANT, Mr. POE, Mr. ALEXANDER, and Mr. SAM JOHNSON of Texas):

H.R. 5354. A bill to authorize the Secretary of Education to extend the period during which a State educational agency or local educational agency may obligate temporary emergency impact aid for elementary and secondary school students displaced by Hurricane Katrina or Hurricane Rita, and for other purposes; to the Committee on Education and the Workforce.

By Ms. HART:

H.R. 5355. A bill to amend the Internal Revenue Code of 1986 to allow a credit against tax for volunteer firefighters; to the Committee on Ways and Means.

By Mr. MCCAUL of Texas (for himself, Mr. BOEHLERT, Mr. SMITH of Texas, Mr. CALVERT, Mr. EHLERS, Mrs. BIGGERT, Mr. INGLIS of South Carolina, and Mr. SCHWARZ of Michigan):

H.R. 5356. A bill to authorize the National Science Foundation and the Department of Energy Office of Science to provide grants to early career researchers to establish innovative research programs and integrate education and research, and for other purposes; to the Committee on Science.

By Mr. MCCAUL of Texas (for himself, Mr. BOEHLERT, Mr. SMITH of Texas, Mr. CALVERT, Mr. EHLERS, Mrs. BIGGERT, Mr. INGLIS of South Carolina, and Mr. SCHWARZ of Michigan):

H.R. 5357. A bill to authorize the National Science Foundation and the research, development, demonstration, and commercial application programs of the Department of Energy to provide grants to early career researchers to conduct high-risk, high-return research in areas relevant to industry; to the Committee on Science.

By Mr. SCHWARZ of Michigan (for himself, Mr. BOEHLERT, Mr. SMITH of Texas, Mr. CALVERT, Mr. EHLERS, Mrs. BIGGERT, Mr. INGLIS of South Carolina, and Mr. MCCAUL of Texas):

H.R. 5358. A bill to authorize programs relating to science, mathematics, engineering, and technology education at the National Science Foundation and the Department of Energy Office of Science, and for other purposes; to the Committee on Science.

By Mr. BARTON of Texas:

H.R. 5359. A bill to amend the automobile fuel economy provisions of title 49, United States Code, to authorize the Secretary of Transportation to set fuel economy standards for passenger automobiles based on one or more vehicle attributes; to the Committee on Energy and Commerce.

By Mr. BARTON of Texas (by request):

H.R. 5360. A bill to enhance the management and disposal of spent nuclear fuel and high-level radioactive waste, to assure protection of public health and safety, to ensure the territorial integrity and security of the repository at Yucca Mountain, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Resources, Transportation and Infrastructure, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BERMAN (for himself and Mrs. BONO):

H.R. 5361. A bill to harmonize rate setting standards for copyright licenses under sections 112 and 114 of title 17, United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. GEORGE MILLER of California (for himself, Mr. RANGEL, Mr. DINGELL, Mr. ANDREWS, Mr. LEVIN, Mr. STARK, Mr. CARDIN, Mr. BROWN of Ohio, Mr. POMEROY, Mr. STRICKLAND, Mr. MCDERMOTT, and Ms. BEAN):

H.R. 5362. A bill to ensure the equitable provision of pension and medical benefits to Department of Energy contractor employees; to the Committee on Education and the Workforce.

By Mr. LUCAS:

H.R. 5363. A bill to provide assistance to agricultural producers for crop and livestock losses resulting from recent, catastrophic natural disasters, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. BALDWIN (for herself, Mr. GEORGE MILLER of California, Mr. WEXLER, Mr. OWENS, Mr. CONYERS, Mr. GRIJALVA, Mr. FRANK of Massachusetts, Ms. JACKSON-LEE of Texas, Mr. HASTINGS of Florida, Mrs. CAPPS, Mr. PAYNE, Mrs. MALONEY, Mrs. CHRISTENSEN, Mr. KUCINICH, Mr. AL GREEN of Texas, Mr. CROWLEY, Mr. SERRANO, Mr. LEWIS of Georgia, Ms. CARSON, Mr. KILDEE, and Ms. SCHAKOWSKY):

H.R. 5364. A bill to amend the Family and Medical Leave Act of 1993 to eliminate an hours of service requirement for benefits under that Act; to the Committee on Education and the Workforce, and in addition to the Committees on Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOUCHER (for himself and Mr. DINGELL):

H.R. 5365. A bill to provide for the establishment of a Strategic Refinery Reserve; to the Committee on Energy and Commerce.

By Mr. DAVIS of Illinois (for himself, Mr. WAXMAN, Mr. PORTER, Ms. NORTON, Mr. CUMMINGS, Mr. OWENS, Mr. HOYER, Mr. WYNN, and Mr. VAN HOLLEN):

H.R. 5366. A bill to provide for a demonstration project to enhance the ability of Federal agencies to continue to operate during an extended emergency situation, and for other purposes; to the Committee on Government Reform.

By Mr. EMANUEL (for himself, Mr. MORAN of Virginia, and Mr. JEFFERSON):

H.R. 5367. A bill to amend the Internal Revenue Code of 1986 to require broker reporting of customer's basis in securities transactions, and for other purposes; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. SIMMONS, and Mr. WELDON of Pennsylvania):

H.R. 5368. A bill to amend the Internal Revenue Code of 1986 to provide for small business tax incentives, to amend the Fair Labor Standards Act of 1938 to increase the minimum wage and to increase the exemption for annual gross volume of sales made or business done by an enterprise, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FERGUSON (for himself, Mr. ENGLISH of Pennsylvania, Mr. RUSH, and Mr. THOMPSON of California):

H.R. 5369. A bill to amend title XVIII of the Social Security Act to improve payments under the Medicare clinical laboratory fee schedule; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FORTENBERRY:

H.R. 5370. A bill to amend the Clean Air Act to require that gasoline contain at least 15 billion gallons of renewable fuel by the year 2012, and for other purposes; to the Committee on Energy and Commerce.

By Ms. HARMAN (for herself, Mr. CONYERS, Mr. HASTINGS of Florida, Mr. BOSWELL, Mr. REYES, Mr. CRAMER, Ms. ESHOO, Mr. RUPPERSBERGER, Mr. BOUCHER, Mr. NADLER, Mr. SCOTT of Virginia, Ms. ZOE LOFGREN of California, Ms. JACKSON-LEE of Texas, Mr. WEXLER, and Ms. HOOLEY):

H.R. 5371. A bill to reiterate that the Foreign Intelligence Surveillance Act of 1978 and title 18, United States Code, are the exclusive means by which domestic electronic surveillance may be conducted, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HERSETH (for herself, Mr. Etheridge, Ms. Pelosi, Mr. Peterson of Minnesota, Mr. Delahunt, Ms. Kaptur, Mr. Inslee, Mr. Pomeroy, Mr. Holden, Mr. Ford, Mr. Salazar, Mr. Kind, Ms. DeLauro, and Ms. McCollum of Minnesota):

H.R. 5372. A bill to promote the increased utilization of domestically produced, renewable, biobased motor vehicle fuel supplies and the increased manufacture of flexible-fuel vehicles in the United States, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Agriculture, Science, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HINOJOSA (for himself and Mr. Rahall):

H.R. 5373. A bill to promote the development of affordable, quality rental housing in rural areas for low-income households; to the Committee on Financial Services.

By Mr. LINDER:

H.R. 5374. A bill to amend the Federal Election Campaign Act of 1971 to ban soft money, and for other purposes; to the Committee on House Administration.

By Mr. DANIEL E. LUNGREN of California (for himself and Mr. Costa):

H.R. 5375. A bill to provide incentives to reduce dependence on foreign oil; to the Committee on Ways and Means, and in addition to the Committees on Science, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. McKINNEY:

H.R. 5376. A bill to require nationals of the United States that employ individuals in a foreign country to provide full transparency and disclosure in all their operations; to the Committee on International Relations.

By Ms. McKINNEY:

H.R. 5377. A bill to require nationals of the United States that employ more than 20 persons in a foreign country to implement a Corporate Code of Conduct with respect to the employment of those persons, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Government Reform, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. McKINNEY:

H.R. 5378. A bill to amend the Internal Revenue Code of 1986 to reduce by 50 percent certain tax benefits allowable to profitable large corporations which make certain workforce reductions; to the Committee on Ways and Means, and in addition to the Committees on International Relations, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MUSGRAVE:

H.R. 5379. A bill to authorize the Secretary of the Army to acquire land for expansion of Pinon Canyon Maneuver Site, subject to certain conditions; to the Committee on Armed Services.

By Mr. POMEROY (for himself, Mr. Osborne, and Ms. Herseth):

H.R. 5380. A bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Agriculture, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SAXTON (for himself and Mr. Kind):

H.R. 5381. A bill to establish a volunteer program and promote community partnerships for the benefit of national fish hatcheries and fisheries program offices; to the Committee on Resources.

By Mr. SMITH of New Jersey (for himself, Mr. McIntyre, Mr. McCotter, Mr. Lantos, Mr. Pitts, Mr. Burton of Indiana, and Mrs. Jo Ann Davis of Virginia):

H.R. 5382. A bill to promote the development of democratic institutions and full respect for human rights in the countries of Central Asia; to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UDALL of Colorado (for himself, Mr. Stupak, Mr. Ryan of Ohio, Ms. Carson, Mr. Grijalva, Mrs. Christensen, and Mr. Case):

H.R. 5383. A bill to amend the Consumer Credit Protection Act to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes; to the Committee on Financial Services.

By Mr. BURTON of Indiana (for himself, Mr. Calvert, Mr. Chabot, Mr. Coble, Mr. Davis of Florida, Mr. Tom Davis of Virginia, Mr. Gallegly, Ms. Granger, Ms. Harris, Mr. Issa, Mr. Kirk, Mr. Mack, Mr. Mica, Mr. McCaul of Texas, Mr. McCotter, Mrs. Myrick, Mr. Pence, Mr. Rogers of Michigan, Mr. Rohrabacher, Ms. Ros-Lehtinen, Mr. Smith of New Jersey, Mr. Souder, Mr. Weller, and Mr. Wilson of South Carolina):

H. Con. Res. 400. Concurrent resolution expressing the sense of Congress that the Government of Venezuela should actively support strategies for ensuring secure airport facilities that meet international certifications to prevent trafficking of controlled substances, narcotics, and laundered money; to the Committee on International Relations.

By Mrs. NAPOLITANO (for herself, Mr. Murphy, and Mr. Kennedy of Rhode Island):

H. Con. Res. 401. Concurrent resolution supporting the goals and ideals of Mental Health Month, and for other purposes; to the Committee on Energy and Commerce.

By Ms. WATERS:

H. Res. 813. A resolution honoring Reverend John Deron Johnson, pastor of Phillips Temple Christian Methodist Episcopal Church in Los Angeles, California, for his long history of work, commitment, and love for the Church and the South Los Angeles community, and extending the appreciation of the House of Representatives on the occasion of the Anniversary Celebration held in his honor; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 9: Ms. Zoe Lofgren of California, Mr. Berman, Mr. Kennedy of Minnesota, Ms. Schwartz of Pennsylvania, Ms. Woolsey, Mr. Issa, Mr. English of Pennsylvania, Mrs. Wilson of New Mexico, Mr. Green of Wisconsin, Mr. Frank of Massachusetts, Mr. Kildee, Mr. Brown of Ohio, Mr. Allen, Mr. Brady of Pennsylvania, Mr. Delahunt, and Mr. Grijalva.

H.R. 268: Mr. Hayworth.

H.R. 303: Mrs. Cubin.

H.R. 305: Mr. Hayworth.

H.R. 389: Mrs. Johnson of Connecticut.

H.R. 408: Mr. Young of Alaska.

H.R. 414: Mr. Boustany, Mr. Rahall, Mr. Neugebauer, Ms. Hart, and Mr. Melancon.

H.R. 500: Mr. Pickering.

H.R. 503: Ms. Norton.

H.R. 552: Mr. McKeon.

H.R. 559: Mr. Peterson of Minnesota.

H.R. 699: Mrs. Bono.

H.R. 857: Mr. Foley.

H.R. 933: Mr. Salazar.

H.R. 998: Mr. Inslee.

H.R. 1016: Mr. Shimkus.

H.R. 1108: Mr. Conyers and Mr. McIntyre.

H.R. 1120: Mr. Bilirakis.

H.R. 1177: Mr. Boozman.

H.R. 1249: Mr. Osborne and Mr. Davis of Tennessee.

H.R. 1275: Mr. Ruppersberger.

H.R. 1366: Mr. Ross.

H.R. 1370: Mr. Pence and Mr. Franks of Arizona.

H.R. 1425: Mr. Gonzalez and Mr. Bartlett of Maryland.

H.R. 1462: Mr. Jenkins.

H.R. 1545: Mr. Tiahrt, Mr. Thompson of Mississippi, and Mr. Rehberg.

H.R. 1554: Mr. Wolf and Mr. Goode.

H.R. 1575: Ms. Norton.

H.R. 1578: Mr. Upton.

H.R. 1582: Mr. Rahall and Mr. Udall of Colorado.

H.R. 1583: Mr. Dicks.

H.R. 1704: Mrs. Schmidt.

H.R. 1748: Mr. Souder.

H.R. 1791: Mrs. Bono.

H.R. 1994: Ms. Schakowsky and Mr. Payne.

H.R. 2000: Mr. Wexler.

H.R. 2014: Mr. Porter.

H.R. 2089: Mr. King of New York.

H.R. 2178: Mr. McGovern and Mr. McIntyre.

H.R. 2357: Mr. Young of Alaska.

H.R. 2386: Mr. Norwood.

H.R. 2421: Mr. Ford and Mrs. Emerson.

H.R. 2561: Mr. Souder.

H.R. 2694: Mr. Davis of Illinois.

H.R. 2828, Ms. Woolsey.

H.R. 2861: Mr. McCaul of Texas.

H.R. 3006: Mr. Shays, Mrs. Maloney, Mr. Davis of Illinois, Mr. Udall of Colorado, and Mr. Bishop of New York.

H.R. 3080: Mr. Franks of Arizona.

H.R. 3098: Ms. Berkley.

H.R. 3138: Mr. Van Hollen.

H.R. 3198: Mr. Becerra.

H.R. 3385: Mr. Hall.

H.R. 3427: Mrs. Lowey and Mr. Nadler.

H.R. 3471: Mr. Frank of Massachusetts.

H.R. 3555: Ms. Matsui, Mr. Moore of Kansas, Ms. Wasserman Schultz, Mr. George Miller of California, Mr. Sanders, and Mrs. Maloney.

H.R. 3584: Mr. Smith of Washington.

H.R. 3616: Mr. Bishop of Georgia.

H.R. 3628: Mr. Wamp.

H.R. 3644: Mr. Faleomavaega.

H.R. 3753: Mr. STEARNS.

H.R. 3883: Mr. NEUGEBAUER.

H.R. 3957: Ms. WATERS.

H.R. 4021: Mr. CARDIN.

H.R. 4033: Mr. LARSON of Connecticut.

H.R. 4050: Mr. SABO.

H.R. 4188: Mr. MORAN of Virginia.

H.R. 4228: Mr. MICHAUD.

H.R. 4291: Mr. ACKERMAN.

H.R. 4318: Mr. GARY G. MILLER of California.

H.R. 4411: Mr. SOUDER.

H.R. 4550: Mr. TOWNS.

H.R. 4551: Mr. SOUDER.

H.R. 4574: Mr. WOLF, Mr. FALEOMAVAEGA, Mr. SMITH of Washington, Mr. EVANS, Mr. STRICKLAND, Mr. BISHOP of Georgia, Mr. REYES, Mr. SCHIFF, Mrs. NAPOLITANO, and Mrs. CAPPS.

H.R. 4580: Mr. CALVERT.

H.R. 4597: Mr. PAUL.

H.R. 4673: Mr. DELAHUNT.

H.R. 4703: Ms. SCHWARTZ of Pennsylvania and Mr. KLINE.

H.R. 4712: Mr. BRADY of Pennsylvania and Mr. BROWN of Ohio.

H.R. 4720: Mr. LANTOS, Mr. NUNES, Ms. LINDA T. SÁNCHEZ of California, Mr. DANIEL E. LUNGREN of California, and Mr. HERGER.

H.R. 4726: Mr. PORTER.

H.R. 4739: Mr. HOLDEN.

H.R. 4755: Ms. ROS-LEHTINEN.

H.R. 4857: Mr. RENZI and Mr. HERGER.

H.R. 4859: Mr. MCCAUL of Texas and Mr. MCHENRY.

H.R. 4894: Mr. PLATTS and Mr. WOLF.

H.R. 4901: Mr. WEXLER.

H.R. 4974: Mr. MARCHANT, Mr. SAM JOHNSON of Texas, Mr. HALL, and Mr. CONAWAY.

H.R. 4980: Mr. ROTHMAN.

H.R. 5005: Mr. KLINE and Mr. FEENEY.

H.R. 5015: Mr. SHAYS.

H.R. 5018: Mr. JINDAL.

H.R. 5035: Mr. NADLER and Mr. CROWLEY.

H.R. 5063: Ms. SCHAKOWSKY.

H.R. 5072: Mr. CANNON.

H.R. 5087: Mr. CONYERS and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 5099: Mr. THOMPSON of Mississippi.

H.R. 5113: Mr. SCOTT of Virginia, Mr. VAN HOLLEN, Mr. HIGGINS, Ms. KILPATRICK of Michigan, and Mr. MICHAUD.

H.R. 5120: Mr. HYDE.

H.R. 5121: Mr. MARCHANT, Mr. CLAY, Mrs. DRAKE, Mr. MILLER of North Carolina, Mr. LINCOLN DIAZ-BALART of Florida, Mr. ENGLISH of Pennsylvania, Mr. MARIO DIAZ-BALART of Florida, Mr. MCKEON, Mr. DREIER, Mr. CALVERT, Mr. RADANOVICH, Mr. CAMPBELL of California, and Mr. ROHRABACHER.

H.R. 5150: Mr. FRANK of Massachusetts.

H.R. 5159: Ms. GINNY BROWN-WAITE of Florida, Ms. SCHWARTZ of Pennsylvania, Mrs. TAUSCHER, Mr. SMITH of Washington, Mr. BRADY of Pennsylvania, Mr. STUPAK, Mr. CAPUANO, Mr. SCHIFF, Mr. LANGEVIN, Mr. ORTIZ, Mr. SCOTT of Georgia, Mr. RUPPERSBERGER, Mr. HOLDEN, Mr. KANJORSKI, and Mr. SABO.

H.R. 5160: Mr. MCHUGH.

H.R. 5170: Mr. DANIEL E. LUNGREN of California and Mr. DEAL of Georgia.

H.R. 5201: Mr. SANDERS, Ms. HOOLEY, Mr. BUTTERFIELD, Mr. NEAL of Massachusetts, Mr. BOUCHER, Mr. HINOJOSA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ORTIZ, Mr. REYES, Mr. EDWARDS, Mrs. JONES of Ohio, Mr. FOLEY, Mr. BISHOP of Utah, Mr. SHERWOOD, and Mr. MCINTYRE.

H.R. 5203: Mr. SOUDER.

H.R. 5206: Ms. BERKLEY, Mr. MCHUGH, Ms. HART, Mr. ISSA, Ms. ZOE LOFGREN of California, Mr. BISHOP of New York, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 5225: Mr. OLVER.

H.R. 5230: Mr. BARRETT of South Carolina, Mr. BARTLETT of Maryland, and Mr. SOUDER.

H.R. 5231: Mrs. DRAKE.

H.R. 5234: Mr. STARK.

H.R. 5236: Mr. MICHAUD and Mr. CONYERS.

H.R. 5252: Mr. SPRATT, Mr. EVERETT, Mr. BROWN of South Carolina, Mr. HASTINGS of Florida, Mr. FOLEY, Mr. MEEK of Florida, Mr. MILLER of Florida, Mr. WEXLER, Mr. WICKER, Mr. MARIO DIAZ-BALART of Florida, Mr. FEENEY, and Mr. ROGERS of Alabama.

H.R. 5264: Mr. MORAN of Virginia and Mr. KENNEDY of Minnesota.

H.R. 5273: Mr. DOYLE, Ms. SCHAKOWSKY, Mr. GEORGE MILLER of California, Mr. BROWN of Ohio, Mr. SANDERS, Mr. FRANK of Massachusetts, and Ms. LEE.

H.R. 5289: Mr. LAHOOD.

H.R. 5291: Mr. WOLF, Mr. FOSSELLA, and Mr. PLATTS.

H.R. 5293: Mr. GEORGE MILLER of California and Mr. SOUDER.

H.R. 5315: Mr. FORD and Mr. PETERSON of Minnesota.

H.R. 5316: Mr. BONILLA.

H.R. 5319: Mrs. BIGGERT, Mr. MCCAUL of Texas, Mr. PLATTS, Mr. WELLER, Mr. SESSIONS, Mr. PORTER, and Mr. SHIMKUS.

H.R. 5333: Mr. WEXLER, Mrs. MCCARTHY, and Mr. SIMMONS.

H.R. 5336: Mr. SCHWARZ of Michigan, Mr. GOODE, and Mr. MCCAUL of Texas.

H. Con. Res. 336: Mr. LEACH.

H. Con. Res. 346: Mr. MARCHANT.

H. Con. Res. 348: Mr. FILNER, Mr. MCNULTY, and Mr. KUCINICH.

H. Con. Res. 391: Mr. FILNER and Mr. MCNULTY.

H. Res. 316: Ms. HERSETH.

H. Res. 723: Ms. WOOLSEY.

H. Res. 760: Mr. BISHOP of New York, Mr. DAVIS of Florida, Mr. HOLT, and Ms. SCHAKOWSKY.

H. Res. 773: Mr. HALL, Mr. SOUDER, and Ms. SCHWARTZ of Pennsylvania.

H. Res. 784: Mr. CONYERS.

H. Res. 785: Mr. HINOJOSA, Mr. MCNULTY, Mrs. BONO, Mr. ALEXANDER, Mr. PALLONE, Mr. BILIRAKIS, Mr. CASTLE, Mr. HOLT, and Mr. HINCHEY.

H. Res. 786: Mrs. KELLY and Mr. ENGLISH of Pennsylvania.

H. Res. 788: Mr. HOYER.

H. Res. 793: Mr. ROGERS of Alabama, Mr. GARY G. MILLER of California, Mr. AKIN, Mr. GOODE, and Mr. SODREL.

H. Res. 799: Mr. ROYCE, Ms. WATSON, Mr. MCCOTTER, and Mr. BERMAN.

SENATE—*Thursday, May 11, 2006*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The PRESIDENT pro tempore. Today's prayer will be offered by the Reverend Dr. Guy Prentiss Waters of Belhaven College, Jackson, MS.

The guest Chaplain offered the following prayer:

Let us pray:

Almighty God. You are infinitely wise, holy, and just. You are the one who has made us and the one who sustains us. Our conscience bears witness to Your righteous love.

We acknowledge that in Your providence You dispose of and govern over all things. You are the ruler of nations and You have appointed civil government for Your glory and the good of human beings.

We thank You for the work of civil government and acknowledge that those entrusted with this high responsibility stand under You. Be pleased to bless the work of our Senators this day. We would not presume upon Your blessing but ask that You might show mercy so that their work would be for this Nation's good and for Your glory.

Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

TAX INCREASE PREVENTION AND RECONCILIATION ACT OF 2005—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 4297, which the clerk will report.

The legislative clerk read as follows:

The committee of conference of the disagreeing votes on the two Houses on the amendment of the House to the bill (H.R. 4297), to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006, having met, have agreed that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDENT pro tempore. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of May 9, 2006.)

The PRESIDENT pro tempore. Under the previous order, there are 8 hours of debate equally divided on the conference report.

RECOGNITION OF THE MAJORITY LEADER

The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, in a moment, we will begin consideration of the conference report to accompany the Tax Relief Act. Our order from last night provides for up to 8 hours of debate from the statutory limit. The chairman and ranking member of the Finance Committee will be on the floor throughout the day to yield some of that time to Senators to speak. I hope we will not need the entire 8 hours and that we could yield back some of that time and vote a little earlier today. We will see how we are progressing in the early afternoon and alert Members if that is possible and, indeed, I hope that it will be.

Following the vote on the adoption of the Tax Relief conference report, we will have up to 1 hour of debate before the vote on invoking cloture on the small business health plans bill. If cloture is invoked on the small business health plans bill, then we would stay on that bill until we complete it. I hope the Senate will invoke cloture on the bill and will not miss the opportunity to help our small businesses provide more affordable health care benefits to their employees and families.

We have two important votes this afternoon. We will alert Senators as to the timing when we get a better idea of the amount of debate that is needed.

UNANIMOUS CONSENT AGREEMENT—S. 2611

Mr. FRIST. Mr. President, I ask unanimous consent that unless cloture is invoked on the pending substitute to S. 1955, on Monday, May 15, at a time to be determined by the majority leader after consultation with the Democratic leader, the Senate proceed to the consideration of S. 2611, the immigration bill. I further ask that when the Senate agrees to a request for a conference or the Senate requests a conference on this bill and the Chair is authorized to appoint conferees on the part of the Senate, the ratio of conferees be 14 to 12; provided further that from that ratio, the first 7 Republican Senators from the Judiciary Committee and the first 5 Democratic Senators from the Judiciary Committee be conferees; finally, I ask unanimous consent that the majority leader select the final 7 from the majority side and the Democratic leader select the final 7 for the minority side.

Before the Chair rules, I wish to be clear that the two leaders anticipate full session days on this bill, with a considerable number of amendments debated and voted on each day. We intend to allow amendments to come forward and to be voted on in an efficient way. This is a comprehensive immigration bill, and therefore it is important for Senators to have adequate time to have their amendments considered.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The minority leader is recognized.

IMMIGRATION

Mr. REID. Mr. President, this is one of the rare times that we have been able to move forward on a bipartisan basis. The procedural aspects of this immigration debate are over with. The two leaders want a comprehensive immigration reform bill. What is going to be in it? I don't know and the Republican leader doesn't know. But, Mr. President, this is going to take a lot of hard work.

I want to extend to the majority leader my appreciation and my acknowledgment of the difficulty of arriving at this point. It has been very hard for both of us. And as the time went on after the Easter recess, it didn't get easier, it got harder. But I do believe that this is what the Senate is about, and we can move forward in a way that I think the country will acknowledge. There is a lot of hard work to be done, but we can do it well.

I receive my fair share of criticism, as does the Republican leader. But I want everyone to know we try very hard to move things along. It is not easy with the political atmosphere we find in the country today, but we have done this on this bill, and it has been extremely difficult. I don't want to sound like poor me, but that has been pretty hard to do. I will always remember the difficulties we have had, but also things such as this, as we know, in life bring people closer together. I think the majority leader and I have had—if we have talked about this bill once, we have talked about it 25 times. I have nothing but admiration for the Republican leader for arranging things so we can be at this spot today.

Mr. FRIST. Mr. President, what the Democratic leader and I have laid out is a way to get onto this bill, and as you can tell, both of us have been working in good faith on various issues that have been raised on the floor. We both appreciate our colleagues' patience in arriving at this point. We both anticipate a lot of challenging times over the period which will begin, in all likelihood, on Monday on what we all know is a very difficult bill.

The process that has been laid out is one that we both feel is very fair and will give the opportunity for the will of the Senate to express itself on a difficult issue to which there are not very many clear-cut answers. So I look forward to beginning that debate in the very near future, and I look forward to having dignified debate, debate that under the leadership of the two managers will need to be efficient, effective, and fair, but we will need to keep moving through that debate in order to allow the Senate's will, through amendment and voting on those amendments, to be reflected.

MODIFICATION TO UNANIMOUS CONSENT AGREEMENT—S. 2611

Mr. FRIST. Mr. President, I modify the unanimous consent request so that it is clear that it is applicable to S. 2611 or a House bill in which we conference using the language of S. 2611.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

IMMIGRATION

Mr. REID. Mr. President, I also want the RECORD to be spread with the fact that this is not a time for anyone to claim victory. Certainly, in this process, I didn't get everything I wanted. I think the majority leader didn't get everything he wanted. But in the legislative process, building consensus is the art of compromise.

I look back to the days when I tried cases. I found some of the best settlements were those where basically both sides were kind of unhappy about it, and I think that is what we have gotten. I certainly feel that this is a fair compromise procedurally with these intricate rules we have in the Senate. This is going to work well.

I also want to repeat what the majority leader said. This is going to take a lot of work. We have a lot of amendments. This is not a two- or three-amendment bill. There are a lot of amendments. People on both sides of the aisle have been waiting for weeks to offer amendments. We are going to have to work our way through these. It is going to take a lot of cooperation.

There may come a time during this debate that the managers are going to have to move to table some of these amendments. I hope we can arrange for time on these amendments. If we can't, we will do what has to be done in the Senate and move forward as expeditiously as we can. People have strong feelings about this bill on both sides of the aisle. But I feel very good that we have a road forward, and I believe we will complete this legislation and have, for the American people, comprehensive immigration reform that deals with security, deals with the guest worker program, deals with the people who are undocumented, and also will deal with a better way of enforcing employer sanctions.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. FRIST. Mr. President, I will close by saying it is important we finish this bill before the Memorial Day recess. I have said that several times in my statements over the last couple of weeks, and I think in my discussions with the Democratic leader, we both agree that once we start this bill, we will stay on the bill until we complete it.

Mr. GRASSLEY. Mr. President, am I right that we are prepared to proceed to the text of the conference reconciliation report?

The PRESIDENT pro tempore. The Senator is correct. That is the pending business. There are 8 hours equally divided.

Mr. GRASSLEY. Mr. President, before I explain what is in the conference report, I want to make clear what the tax policy is we are talking about. For 90 percent of the legislation that is before us, we are talking about maintaining existing tax policy as it has been, either from the 2001 Tax Reduction Act or the 2003 Tax Reduction Act. The reason I want to take some time to explain that—and that is not part of my explanation of the conference report—is because the public listening in and/or my colleagues are going to be confused over the words "tax cuts." For 90 percent of this legislation, we are not cutting anybody's tax bill. What we are trying to do because of sunset is we are maintaining for the next year, or in some cases the next 5 years, existing tax policy. So I don't want anybody to come over and say we are cutting taxes.

If we don't pass this legislation in the year 2006, or in some cases in the years 2009 and 2010, people are going to get an automatic increase of taxes without a vote of Congress. So we are talking about maintaining existing tax policy. The reason we are talking about maintaining tax policy would be for two reasons. In the case of dividend and capital gains tax policy, the tax policy we adopted in 2003 is the reason we have created 5.2 million jobs.

That is why the economy is rolling. I know the public is listening. When they pay $3 for gas, the $3 for gas blinds them to the fact that we had 4.8 percent growth last quarter. It blinds them to the fact that we have 4.7 percent unemployment, which is practically full employment, and some economists would tell you it is full employment, or that we have a low inflation rate.

It seems that when my constituents, and probably constituents in every State, see high gasoline prices, that is all that is on their mind. I don't blame them because I put gasoline in my car—I don't have some driver do it, I put it in myself—and I know what the price of gasoline is. I know a lot of my constituents go out of the same convenience stores I do with a bottle of water. Bottled water, if you buy it in these small containers, you are paying about $8 a gallon for water and never complaining about the cost for water but complaining about $2.63 gas that you can buy in Des Moines, IA, this very weekend.

We are talking with regard to capital gains as maintaining existing tax policy. Just so everybody understands, we are not cutting anybody's taxes below what they are today. We are maintaining existing tax policy. But if we didn't take the action we are taking today, taxes would automatically go up in these areas by 33 percent, and for low-income people, who have zero capital tax gains, they go up—what would that be? One hundred percent. If they are not paying taxes today and they start paying taxes at the rate everybody else pays, it is a 100-percent increase in taxes.

I don't know why people would argue with us, when we have a zero capital gains for lower income people, that you would want to tax lower income people. But if we do not continue this tax policy, that is the case.

I wish to emphasize again what Chairman Greenspan has said about the 2003 tax policy we are continuing today, and that is that it is responsible for the economic recovery we have had of 18 quarters of economic growth and 5.2 million jobs being created.

The other part of the bill is to continue tax policy existing since 2001. That existing tax policy is that 22 million Americans—well, no, I better say it this way. That tax policy since 2001 has been that when we reduce people's taxes here on the one hand, we are not going to take it away from them on the other hand by having them hit by the alternative minimum tax. I am going to explain this in greater detail, but up front, a good part of this bill is to maintain the policy Senator BAUCUS and I have had in place since 2001 of holding people harmless from the alternative minimum tax. In other words, if you get a tax decrease here, we are not going to have the same people pay a tax over here on the alternative minimum tax.

As far as the alternative minimum tax is concerned, I think the best policy is what we did in the late 1990s when this body sent to President Clinton a bill to repeal the alternative minimum tax, and he vetoed it. I don't know how many Democrats we are going to have condemning us for not doing more on the alternative minimum tax. What more could you do than what we did in 1999 and repeal a very bad tax policy, the alternative minimum tax? And a Democratic President vetoed it. But they will probably be the ones complaining and crying the most because we are not doing more.

What we are talking about here today is maintaining present tax policy through this reconciliation bill for roughly 90 percent of it. Ten percent of it would be some change in tax policy. If people want details on that, I will be glad to go into that.

Maybe another thing I ought to explain—and it is more personal because I am going to be the chief negotiator for the Senate on this bill because I am chairman of the Senate Finance Committee—I have negotiated for a long period of time with Chairman THOMAS, and everything has worked out fine as compromises have to work out fine, and I think I have done a very good job of protecting the Senate's position.

Let me remind everybody, all of my colleagues, particularly Republicans, particularly about a telephone call from the President on the Thursday before we began our Easter break—the exact date I don't have in mind—and in meetings with the leader and the Speaker and all this, we were just very anxious to get something done before Easter. At that point, the position of the House was that we were not going to have hold harmless on AMT. Consequently, I didn't agree to this agreement. I believe I probably disappointed a lot of my colleagues and the leader and the Speaker and the President of the United States because I just didn't, how would you say, surrender to a House position that we were doing too much on AMT.

Our policy since 2001 has been hold harmless, and I believe that is what we passed three times on the floor of the Senate: in November last year, January this year, February of this year, as the Democrats made us go through three periods of 3 days of debate on the same tax bill that ended up passing by a bipartisan majority of somewhere between 64 and 67. So it has been the policy of the Senate since 2001, reaffirmed by three votes of this body in the last 6 months, to hold harmless.

I didn't believe I was doing 66 Senators a favor by agreeing to something which would have 3.5 million—let's say more accurately 2.5 to 3 million taxpayers being hit by the alternative minimum tax out of the 22 million to whom I have already referred. So it took a little longer, and here we are—what, May 11, 1 month later than when it originally happened. But we have hold harmless in this bill. Hold harmless is in this bill.

Everything is going smoothly between Chairman THOMAS and me. Nobody is going to believe that because if you read the papers, we are always at each other's throat. You know, those characterizations are entirely wrong. He has strong convictions about tax policy, and he is the negotiator for the U.S. House of Representatives. He has a right to stand firmly for their positions, but I have a responsibility to stand firmly for the Senate position, with the understanding that someplace there are some compromises. I guess enough said on that point.

I have mentioned, in summation, before I go into explanation about the conference report, and this is the third time, but it cannot be said too many times because I don't know how many times you are going to hear today—in fact, we ought to count how many times we are going to say we are cutting taxes, we are cutting taxes, we are cutting taxes. Would you keep track of that for me? I want to hear how many times that is used. We are not cutting anybody's tax. Maybe we ought be cutting people's taxes, but we are not. We are maintaining existing tax policy as expressed by this body in the 2001 and 2003 tax bill so 22 million Americans don't get hit by the alternative minimum tax and so that we have incentives for investment and taxes don't go up, and capital gains and dividends, without a vote of the people in 2009 and 2010; so that we keep the incentives Chairman Greenspan said are the reason we are having the economic recovery we have had for 18 quarters, creating 5.2 million jobs, 4.8 percent economic growth, 4.7 percent unemployment, et cetera.

We have moved to the final step in the tax reconciliation process to which I have already referred that we dealt with three times and probably 3 days each time during November, January, and February. We have an agreement of the conferees from the House and Senate on a conference report. The basic objective of this conference was to produce a conference report that will pass both the Senate and the House and be sent to the President.

To achieve that objective, we needed to focus our efforts on a true bipartisan, bicameral compromise. As I said and will probably say again today—but you have heard me say it over the last 3 months to my colleague and friend, Senator BAUCUS—a compromise must be bicameral. Likewise, I said to Chairman THOMAS of the House and to House conferees that the compromise should be bipartisan.

In the Senate, we passed a reconciliation bill for the second time but the contents of the bill for a third time, on February 2, with a bipartisan vote that included 66 Senators. So that obviously includes a vast number of Democrats.

My preference was to continue working in conference to produce a bipartisan compromise that could pass in the Senate. Unfortunately, I doubt if we will get 66 votes for this conference report. But I am very hopeful that we will pick up some Democratic votes.

Going into conference, everybody knew that the House bill and the Senate bill were significantly different. The centerpiece of the House bill was a 2-year extension of the 15-percent maximum tax rate on dividends and capital gains and the zero percent tax rate that will apply to taxpayers in the lowest two tax brackets. Such an extension would continue the bipartisan tax policy enacted in 2003, a policy which has been vital to our economy's recovery and continued growth.

The centerpiece of the Senate bill was a 1-year extension and modification of the alternative minimum tax hold-harmless provisions. This provision would keep 15 million American families from being hit by the stealth tax. The AMT is a stealth tax because you really never know when you are going to be hit by it. Hitting Americans with such a stealth tax, the alternative minimum tax, is wrong. So, as I said before, the AMT should be abolished. It is not abolished. We did vote to abolish it in the late 1990s, but President Clinton vetoed that. So here we are, since 2001, working in a bipartisan way to do what we call hold harmless.

As I said at that particular time, my highest priority was to make sure we kept our promise to make certain that no additional taxpayers are brought into the AMT system on an annual basis, and that is the purpose of the Senate's hold-harmless provision on alternative minimum tax.

I will expand on that notion for a moment and be somewhat repeating myself from my extemporaneous remarks, but exactly 5 years ago today, May 11, 2001, Senator BAUCUS and I announced the bipartisan deal that became the basis for historic 2001 bipartisan tax relief legislation. I say historic because taxes were as high as they had ever been in the history of the country as a percentage of the gross national product.

When newly elected President Bush released his budget for that first year in 2001, his tax relief plan did not contain a general hold harmless on the alternative minimum tax, and the House passed a bill that did not have hold harmless provisions for the alternative minimum tax. When Senator BAUCUS and I were negotiating the bipartisan plan, we agreed on that bedrock principle of hold harmless—hold harmless on AMT so no new people would get hit with it. Because they got a tax decrease over here, we should not take their taxes away over here.

We agreed to make sure the AMT would not take the tax relief we were providing. This is how we came up with the concept we refer to as hold harmless. To me, it goes to a fundamental principle of transparency in government: Don't promise taxpayers relief that you know they are not going to really get.

Some of my friends on this side of the aisle—meaning Republicans—rightly complain about doubletalk on alternative minimum tax that we hear from Members on the other side. Democratic Members, the Senators from so-called blue States. You remember the blue-red map in Presidential elections of 2000 and 2004? Blue States generally go for Democratic candidates for President, red States go for Republican candidates for President.

I am going to refer to the blue States which are those that generally vote Democratic. Senators from these States are generally hostile to the tax relief we have provided in 2001 and provided again in 2003, and seem to be sympathetic to tax hikes. They take this position despite the fact that their constituents in these blue States, and represented for the most part by Democratic Senators, tend to bear the highest per capita Federal tax burden. The hostility of these Members seems to grow to a white-hot intensity when anybody above, say, $100.000 in income benefits from any tax relief package.

It has always been a strange disconnect to those of us on this Republican side of the aisle because that intensity—and at times what appears to be outright anger—seems to grow as the States' shade of blue grows much darker. Ironically, the per capita income, living costs, and Federal tax burdens tend to rise as the shade of the State tends to get a darker blue. The implication appears to be that constituents in these blue States should be happy to bear this high tax burden as their Senators fight against tax relief for them. In fact, Members from blue States seem to have no limit to the level of Federal taxes they believe folks in their States should bear. Taxes can never be too high, goes the rationale, as long as we keep growing the public's dependence on more Federal programs.

When Members on the Republican side hear demagoguery on taxes emanating from Members from blue States on a daily basis that we shouldn't have tax cuts for high-income people, they ask, Why do these folks then seem to change their mind when we are talking about the alternative minimum tax? As you tend to get intense debate that we ought to do something about the alternative minimum tax from the same Senators who are complaining because we are giving too much tax relief to high-income people in their various States, and the AMT happens to most dramatically impact taxpayers between $100,000 and $500,000. How is this any different from other forms of tax relief? They are hot and heavy to have the AMT which helps their taxpayers in blue States, but they are not hot and heavy to have tax relief in the first instance when you vote to reduce tax rates.

If I go to some extent talking about this contradiction, it is a contradiction that affects and bothers a lot of people on the Republican side of the aisle. It is an argument we do not understand. Frankly, it is a sentiment I have to overcome in my caucuses as I argue for the AMT and for tax relief; and I have had to argue this contradiction particularly with my House counterparts as we go to conference to negotiate differences between the House and Senate and try to explain to them why we need to do a hold-harmless provision on AMT.

I had people from the other body who would say, What is wrong with having an alternative minimum tax hit people in blue States who are in the high bracket because their Senators are arguing we shouldn't reduce the tax rates in the first place? It is a very difficult thing to argue that sort of contradiction. I think it would help me a lot if they would get off this kick.

I want to take a chart on the AMT and explain some of what we are talking about. This chart will show the alternative minimum tax hold-harmless benefits that have always been the bedrock of our tax bill since 2001 because it is something Senator BAUCUS and I agreed on to be our tax policy, how the hold harmless benefits taxpayers everywhere but is especially important in the blue States.

We don't have a map with blue States versus red States. But the chart you are looking at, and which I need to explain, is based upon 2003 return data because it is the most up-to-date data we have. But projecting out the numbers, we think it would be entirely possible and intellectually honest to double the 2003 figures. As a rule of thumb, I am going to do that as I explain California being a blue State with 2 million taxpayers: Texas, not a blue State, a red State, but 1.2 million: Florida, a blue State, 900,000 taxpayers affected if we don't do something about the alternative minimum tax as we have it in this legislation; Illinois, a blue State, 848,000; New York, a blue State, 822.000; Pennsylvania, 694,000; Michigan, 640,000; New Jersey, 632,000; Virginia, 568,000; and Massachusetts, 490.000.

I go to this length because Senators, particularly on the Democratic side of the aisle, might think about voting against this bill: that in all these States so many hundreds of thousands of people are going to be hit by the alternative minimum tax if you do not help us get this bill passed. Those are people who were not hit in 2005 but who will be hit when they file on 2006 income.

The bottom line is in blue States versus red States implications shouldn't decide this issue. As you can see, there are plenty of red States affected as well as blue States. Again, that shouldn't matter. We ought to do the right thing—and the right thing would be to pass this bill and continue the hold-harmless policy Senator BAUCUS and I have led the Senate through in the 2001 and 2003 tax bills, and also on the Senate consideration of hold harmless in this conference report.

Senator BAUCUS and I understood that when we took resources in the Finance Committee package to make sure that for at least 5 years this broad-based tax relief we promised will not be undermined by the alternative minimum tax.

Moving on, this conference agreement also contains some loophole closures and tax-shelter-fighting provisions that raise revenue. There are two reasons to raise revenue. The most important one is when we have tax shelters that allow people to cheat on their income tax and when we have loopholes that don't make sense, they ought to be closed as a matter of fairness to all taxpayers. But they also raise some revenue. We need some revenue in this bill to offset some provisions of this bill so we didn't exceed the $70 billion reconciliation instructions of Congress for us in the Finance Committee.

The House bill, however, didn't contain any revenue raisers. Although we didn't come back with all the loophole closures, especially clarification of something that needs to be done with the economic substance doctrine defined, and the House conferees very much oppose any change in that, we did make some headway on loophole closings and closing tax shelter abuse.

Let me go back to economic substance. My argument for it: It raises a lot of revenue. But we have had several courts that have instructed Congress—and courts cannot make Congress do anything we don't want to do—to define economic substance. By defining it, it brings in some revenue.

I don't understand why it shouldn't be defined. My feeling is there are a lot of K Street lobbyists and maybe a lot of lobbyists who aren't on K Street who benefit from the loopholes that can stretch economic substance in the Tax Code.

The Senate bill and the House bill that went to conference also shared some similarities. Both bills sought to extend and extend and in some cases modify certain provisions that expire at the end of 2005—provisions such as the research and development credit, increase small business expense, cost recovery for leasehold improvements, the savers credit, or better said, the small savers credit; the deduction for State and local sales tax in those States that is not particularly valuable to those States that don't have a State income tax; the qualified tuition deduction for college; and teachers' classroom expense deductions. Local teachers who spend money out of their own pockets to bring tools to the classroom can deduct that from their income tax.

A true bicameral compromise would merge both bills in a way that takes care of these common extenders which

I mentioned, and many more I did not mention.

Second, it accommodates the centerpieces of each bill which, as I have explained this morning, are the AMT hold-harmless provisions on the one hand and the extension of the dividends and capital gains tax provisions as they now exist, not cutting capital gains and dividend taxes below what they are presently, and providing as much tax relief as possible by using appropriate revenue-raising measures.

We ended up with cornerstones of each bill in this conference report and made progress on some of the revenue raisers, meaning loophole closings, and tax shelter abuse closings. The extenders for the most part—I guess almost entirely—will be addressed in another vehicle. They are not part of this conference report. We have compromised and agreed on that point. We also agreed to resolve key Senate priorities in the extender vehicle.

Can I tell Members exactly what is going to be in that vehicle? I can't because we are still negotiating. What I can tell Members is we had good preliminary negotiations and I feel we have a solid foundation to come to a fair compromise on these issues. The final determination of those key Senate priorities will depend upon the vehicle that we will go with and other parts of the agreement when it is finalized.

After laying out the basic structure of the conference agreement and the Senate's key provision, AMT hold harmless, I want to talk about the parts of the agreement the House needed.

The dividend and capital gains provisions in the House bill were met by strong opposition from the other side.

A principal argument against this policy made over and over again by the Democrats is that it is simply a tax cut for high-income people. I use the words "tax cut," and that brings me to emphasize once again that if anybody says we are cutting taxes, we are maintaining existing tax policy for an additional number of years. Without doing that, then, we would get an automatic increase in taxes basically undercutting what Chairman Greenspan has said about the goose that laid the golden egg—the tax policy we adopted in 2003 being responsible for the 18 quarters of economic growth which we have had.

In support of their claim, Democrats cite distorted statistics that include taxpayers who don't receive dividends or capital gains. They fail to take into account the zero percent rate for lower income taxpayers in 2008 and ignore the size of the overall income tax liability that taxpayers bear.

My analysis of 2005 data that I received from the Joint Committee on Taxation shows that lower income taxpayers actually have more at stake than higher income taxpayers. The Joint Committee on Taxation is not a Republican or Democratic operation. These are professional people who spend whatever time they are in public service on this committee becoming experts on the Tax Code, the economic implications of tax policy, and whether it is good or bad for the economy, whether it brings in more or less money to the Federal Treasury. These are not people wearing a Republican hat or a Democratic hat. My quoting of their statistics ought to have a great deal of credibility because they are professional people.

This is 2005 data received from the Joint Committee on Taxation showing lower income taxpayers actually have more at stake than higher income taxpayers. Of course, I don't mean to speak in absolute dollar amounts because I cannot say that, but I can say in percentage advantage to various income classes that lower income taxpayers have more at stake than higher income taxpayers. It is common sense for me to say that because higher income taxpayers receive higher tax cuts measured in dollar terms, quite simply, because they pay more taxes to begin with. But the extension of the lower rates on dividends and capital gains will give lower income taxpayers greater tax savings as a percentage of their total tax liability.

I will refer to a couple of charts that summarize tax savings as a percentage of total income tax liability of average gross income levels. The chart illustrates the dividend tax savings as a percentage of the total tax liability for those who benefit from the reduced rates. The savings percentages include 2008 savings, when the tax rate for lower income taxpayers drops to zero percent. That we will continue, then, for an additional period of time. That is the rate we are talking about extending.

Based on my staff's analysis of the Joint Committee on Taxation data, taxpayers with adjusted gross income of less than $50,000 will save 7.6 percent of their total income tax bills and seniors will save 17.1 percent. Those making more than $200,000 will save a lot less as a percentage of their taxes paid, at 2.2 percent.

Opponents of this policy want to persecute these taxpayers—I point to those earning $200,000 and over—by taking back their 2.2 percent savings.

At the same time, they would punish these taxpayers, those under $50,000 at the lower income level, by taking away their 7.6 percent savings and punish the seniors in the same tax bracket by taking away their 17.1 percent savings.

One cannot help but wonder, as we are all concerned about senior citizens having a decent opportunity to have a greater retirement, one that is comfortable as when they worked, with a chance to keep their tax savings at what they are right now, and not raise them or lower them anymore—but raise their taxes by 17.1 percent?

This chart illustrates the relative savings from reduced capital gains taxes across the alternative minimum tax levels. Now, here again, extending the lower tax rates will give a bigger percentage reduction in their tax bill for taxpayers making less than $50,000. Opponents of this policy want to persecute these taxpayers earning $200,000 and over by taking back their 7.6 percent savings. But that also has a negative impact, then, upon lower income people, people making $50,000 and under, by taking away their 10.2 percent savings. And they would punish senior citizens in that same tax bracket of $50,000 and under, by taking away their 13.2 percent savings.

Extending this tax policy, not cutting taxes but extending existing tax policy, will provide meaningful tax savings to taxpayers across the income spectrum. Lower income taxpayers will save more than higher income taxpayers when measured as a percentage of total tax liability.

Extending the lower rates will allow millions of Americans to keep more of their money to spend or add to their savings through reinvestment in the economy rather than give it to those in Government to spend for them.

Those on the other side describe the capital gains and the dividends provisions as applying to only a few high-income taxpayers. The reality is reflected in the following chart. Take a look at capital gains. I will not go through every State, but in the State of California, 839,616 families and individual taxpayers report capital gains. If you take a look at the dividend statistic in California, 2,053,398 families and individual taxpayers report dividends.

I will not take time to go through all of these, but if you think the economy growing at 4.8 percent, as Chairman Greenspan says, is because of the tax policies of 2003, and we have the economy growing, why would you want to hit these families with a big tax increase on capital gains and dividends? Two million more families in California is only one State. Why would you want to hit them again? It seems to me in California you would want to keep the economy growing, as we want to keep the economy growing in Iowa.

We know that 7.5 million families and individuals across the country with capital gains are not all millionaires, obviously. We know that 19 million families and individuals across the country with dividends are not millionaires. These numbers are based on 2003 IRS data.

The Joint Tax Committee estimates for 2005 over 21 million returns will report dividends savings and 6 million of the returns will be filed by senior citizens. Nearly 12 million returns will report capital gains tax savings with almost 4 million people who are senior citizens. These families and individuals are not millionaires.

Yet to listen to some on the other side, all of these people are wealthy. That false assertion is going to be repeated time and time and time again. That false assertion in itself is their justification for opposing this conference report, putting in jeopardy what Chairman Greenspan said is a reason for economic recovery, therefore putting in jeopardy economic recovery and taxing all of these people when this sunsets by taxes going up automatically, because there will not be a vote of Congress, by an increase of 33 percent. It does not make sense.

To sum up, my goal for this conference was to produce a true bipartisan bicameral compromise with both bills. A compromise should accommodate the centerpiece of each bill, meaning the House bill and the Senate bill. That includes the AMT relief in the Senate bill and the dividends and capital gains relief in the House bill, take care of common extenders and maximize tax relief by using appropriate revenue-raising measures. This bill contains the cornerstone of each body's bill. It is conditioned upon an agreement between the Ways and Means and Committee and Finance to process the extenders and other issues on later vehicles. I believe the conference agreement and collateral agreement on extenders is a fair outcome of the House and Senate.

To make everything relatively clear, I did not make up my mind to sign this conference report until we had 6 hours of negotiations with the House of Representatives last Friday. Even though we had an agreement on reconciliation, I wanted to make sure there was some understanding on what we were going to have in the follow-on bill, everything that could not be included in the conference report. As I said, it is somewhat under negotiation, but I am satisfied we have enough of an agreement that I can come back and say the things that the Senate, for the most part, is concerned about, that are very basic to our economic growth, will be included in a bill that will come before the Senate shortly.

I yield the floor.

UNANIMOUS CONSENT AGREEMENT—S. 1955

Mr. BAUCUS. Madam President, in consultation with the chairman of the committee, I ask consent that the filing deadline for the second-degree amendments to S. 1955 occur at 3 p.m. today.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. BAUCUS. Madam President, I begin by commending my good friend, the chairman of the Committee on Finance. He is a great American. People in Iowa are very lucky to have him representing them. I know of no finer man in the Senate.

I know Senator GRASSLEY sought to defend the Senate's position in the conference committee. He is a proud man, too. He wanted to do what is right in defending the Senate's position, but I regret the conference committee could not end up more like the Senate product because the conference before the Senate today is much different than the bill that passed the Senate. It is so different that I am raising questions as to how much of the Senate bill we have in the conference.

This past Saturday, Lillian Asplund died. Ms. Asplund was the last American survivor of the 1912 sinking of the Titanic. She was the last survivor with actual memories of the event. Ms. Asplund's life reminds us that people make choices, and those choices can have significant consequences. Just as much, the bill before the Senate today reflects choices. Those choices will have significant consequences.

Shortly after midnight on that cold morning of April 15, 1912, passengers started evacuating that doomed ship. At the beginning, women and children went first. But it was not long before that rule gave way. Soon it became clear that the privileged went into the rescue boats first.

About that time, the most extraordinary thing happened: Some of those privileged and wealthy passengers decided to give up their place in line. They decided to let others go first. Benjamin Guggenheim, the son of the colossally wealthy mining magnet, sipped brandy and smoked cigars in a deck chair while the ship went down.

Today, on this bill, we see no such valor, we see no such sacrifice. Rather, in this bill, ideological wants push their way to the front of the line, ahead of America's needs.

At the end of last year, 16,000 American businesses lost their tax incentive to create high-paying research jobs for American-based workers. But relief for them did not make it into this bill.

At the end of last year, millions of school teachers lost a small but significant tax break for classroom supplies they purchase out of pocket. But relief for them did not make it into this bill.

At the end of last year, millions of middle-income American families with kids in college lost the ability to deduct tuition costs. But relief for them did not make it into this bill.

These provisions—what some people call the popular "tax extenders"—were given second-class status. They did not make it into the lifeboat. And to what did these popular, already-expired tax provisions have to give way? Well, the first-class passenger on this ship is a tax break for investors, where not one dollar will be used until January 1, 2009.

I think it is important to remind ourselves of that. Not one dollar of cap gains and dividend tax breaks will be utilized by anyone until January 1, 2009. That is several years from now.

But some will say this tax break for 2009 is desperately needed today—Why? they say—to provide certainty. You might as well just call this tax bill, the 2009 Tax Increase Prevention Act, because it does just that: it prevents tax increases for the most well-off in the future, in 2009. This bill chose to prevent a tax increase in 2009, rather than prevent tax increases in 2006.

For the millions of families, teachers, businesses, and workers out there who lost their tax benefits on January 1 of this year, there is no tax increase prevention in this act. There is no "tax increase prevention act" for the so-called second-class citizens.

I do not call them second class at all. They are Americans. They are teachers. They are people working in research and development. They are families and kids trying to pay tuition costs. There is no relief for them. All of those provisions expired at the end of last year. Here we are, well into 2006, and they are not in this bill. Middle-American provisions are not in this bill. No. Rather, what is in this bill is for 2009, a tax break for 2009 for investors.

Well, some will also say: Oh, don't worry. Other tax legislation may be, might be, should be coming soon. Yes, and the check is in the mail.

Some will say these 2009 cuts on capital gains and dividend income will benefit all Americans, and you will see a blizzard of statistics and quotes to try to substantiate that point, including the chart you recently saw from my good friend from Iowa. Actually, that is not a Joint Tax Committee chart. That is a chart based upon the Finance Committee staff with Joint Tax Committee statistics. And that chart, frankly, does not accurately portray the facts. Many commentators who have commented on that chart have pointed out the discrepancies in it.

I am not going to get into this tit for tat, back and forth as to whose statistics are better. But I will say this, it defies common sense to argue that a tax break that takes effect in 2009 for the high-income Americans somehow benefits middle-income and lower income Americans more than the most wealthy. That totally defies logic. Someone can come up with a set of statistics to try to make that point but it is patently absurd.

Some will say these 2009 tax cuts, as I say, will benefit all Americans, and you will see statistics, but that is not the fact.

I decided to go to the source. I represent Montana. The more than 900,000 residents of Montana are my employers, so I asked the Montana Department of Revenue where the benefit of these tax cuts would go. Well, of course, not everyone in Montana has this type of investment income.

So the Montana Department of Revenue told me that just 400 households in Montana would receive an average benefit of $14.000 from the capital gains tax cut in 2009. Roughly, 90 percent of the households in Montana would get almost zero benefit from the capital gains cut. Ninety percent: almost zero benefit.

With these numbers, it is very hard for me to understand why this 2009 tax break is urgent, while Montana teachers and families with kids in college who lost their tax break last December must wait for the next rescue boat, whenever it may or may not occur.

Of course. I am very pleased that protection is in the bill from the alternative minimum tax. I am pleased that conferees included the full Senate-passed version.

Some may recall, it was a struggle to get that in the Senate-passed version last November. The original version, and the version that came out of committee, did not include a full hold harmless from the alternative minimum tax. Those versions would have left 600,000 more families paying that tax. We fought to improve the Senate bill to be a true hold harmless. And we succeeded in doing so before the bill finally left the Senate. That version is retained today. This protection from the alternative minimum tax will protect almost 17 million families across our country, including about 45,000 in Montana. The Montana tax collector tells me that AMT protection will help about a quarter of all households in Montana with incomes between $45,000 and $80,000. That group might have otherwise seen an average tax increase of $1,700.

Unfortunately, there is little else in this bill to be proud of. Working families have been left behind. Congress has chosen ideological wants over America's needs.

The Senate-passed bill did the tax business the Congress needed to do this year. I am proud of that bill. In contrast, the bill before us leaves much work undone. As a result, the deficit will probably be larger because the conferees made the choices they did.

I will have more to say about the fiscal effects of this bill. In the end, those effects may be the real iceberg. The fiscal effects of this policy may be the real disaster. Madam President, I urge my colleagues to reject the choice made by this conference. I urge my colleagues to vote against leaving those families and teachers and workers behind. I urge my colleagues to reject this disastrous bill.

One other point, Madam President, is this: The conferees had a choice. Basically, we did one thing we had to do. I should not say "we" because I was not on the conference. I was not allowed to be a member of the conference. But while the conferees did do something that was good—that is, make sure the taxpayers do not have to pay the alternative minimum tax—they had another choice, and the choice basically is this: Do they enact a tax break that does not take effect until 2009, for investors, or do they include provisions such as the research and development tax credit, the WOTC, the work opportunity tax credit, the tuition tax deduction, and the teachers deduction, which expired last year? Do they enact those and extend those for this year so people will still know research and development is important this year?

Again, the choice is: On the one hand, enact a provision that does not take effect until 2009 for investors or, instead of doing that, because that can be postponed for a couple years—we are not yet in 2009—extend the provisions which expired last year. These are provisions that American business and industry and innovators are desperately depending on—that is, the research and experimentation tax credit—to help America be competitive in the world. Or they could have included provisions that parents paying for college tuition can count on, teachers can count on for the supplies and so forth. All of these expired last year.

So again, the choice is: a 2009 tax break or help maintain those provisions which expired last year. That is basically what all this comes down to. That is the choice that was before the conferees. And the conferees chose the former, the 2009 extension—it does not take effect for a few more years—for the most well-off, at the expense of American businesses, their companies, and universities that are so depending on the research and experimentation tax credit. And, at the expense of teachers who so clearly today depend upon that little extra help for classroom supplies, at the expense of kids and families who so need that tuition deduction.

That was the choice that was made. And the choice, as I said, was ideological wants of a few at the expense of America's needs. That is basically what is before us today. That is why I think it makes sense not to adopt this conference report.

Madam President, our country is in a battle. It is a competitive battle with the rest of the world—China, India, Eastern European countries. There are so many countries that are so excited about their future, and they are trying to increase their economic position. I take my hat off to them. They are trying very hard, and they are doing a great job. Certainly, businesses in China and India are.

We have to meet that challenge. And it is a great opportunity for us. But to meet that challenge, we have to start today thinking strategically, thinking longer term. What does that mean? That means much more attention on education, a lot more attention on education, so we have the best and the brightest in America who can design the products we can utilize here, with high-paying jobs here, and export those products overseas.

Also, there is so much we have to do. We have to stop thinking short term in this country, in this Congress, in this administration and start laying the foundation for the long term.

Now, some will say: Well, we need, in 2009, to extend, for 2 more years, the dividend and capital gains tax cut because that is good for America. I have to say, I have lots of arguments and statements by very reputable people who say that is not the case. Let me refer to a couple of them.

Let's take the Federal Reserve. Let's talk about the stock market. Federal Reserve economists recently compared key U.S. stocks, which would benefit from the 2003 tax cuts, to other investments, which would not. What did they conclude? What did Federal Reserve economists conclude:

> We fail to find much, if any, imprint of the dividend tax cut news on the value of the aggregate stock market.

That is the conclusion of Federal Reserve economists. The Congressional Research Service agrees. What do they say?

> Any stock market effects represent temporary windfalls to holders of current stocks and are simply a manifestation of the income effects of the tax cuts; these wealth effects should not be considered as an additional stimulus. . . . Recent studies finding that dividends had increased substantially have been used to argue that the tax cut induced private savings. This evidence does not appear robust. . . .

There are lots of comments—lots. And I might say: Why is the economy doing pretty well today? The proponents of this conference report would like to say: Oh, it is because of the other tax cuts. The stock market went up dramatically more before those tax cuts went into effect. And since those tax cuts went into effect, the stock market has not done so well.

I might also point out that the economy is doing well now. Why? Read this morning's paper. There was a big, long article asking: Why is the economy doing so well? And what does this morning's paper say? What are the conclusions, basically? It is because of strong, aggregate demand—where? China, India—for commodities, for oil, for gas, for coal, for uranium. That is what I think has kept basically demand strong. It is, also, frankly, a major propellant for the economy today. It is not the dividends and capital gains tax cut. That is a ruse. I am not going to go into it any more than that because I know subsequent speakers will have a blizzard of statistics to argue the opposite.

It kind of gets me to another point. When the rooster crows, does that cause the Sun to come up? Does it? I don't think so. Did the dividend and capital gains tax cuts cause the great economy we have? Not necessarily. You have to ask yourself what is the real cause. The real cause is the underlying demand from other countries which are buying so many commodities. That is one reason why the price of oil is so high today, and that is what is causing the market to go up. That is what is causing the economy to be strong.

We have to ask ourselves: That is today; what about tomorrow? What about next year, 2 or 3 years from now? These tax breaks are also going to make the deficit and debt much worse. We want to be strong tomorrow. By tomorrow, I mean the next few months, the next, couple 3 years. We want the stock market to be high during that period. We want demand and wages to be high.

That will happen the more we focus on the basics today. The basics again are education, research, and development so that we start strategically to plan for our kids and grandkids. The conference report before us decides against that. This report says: No, forget the basics. Forget teachers, forget research and development. Even though those provisions expired last year, we won't do anything about them. Rather, we are going to pass this provision which costs so much money in this budget and doesn't take effect for 3 more years. That is not a choice most Americans would want us to make.

I notice Senators BINGAMAN and DODD have been waiting to address the Senate. I would like to inquire through the Chair whether the Republican side has a speaker who wishes to speak. If not, I yield 10 minutes to Senator BINGAMAN, to be followed by 15 minutes to Senator DODD. I ask unanimous consent for that. That is 10 minutes to Senator BINGAMAN and 15 minutes to Senator DODD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I thank my colleague, Senator BAUCUS, for his leadership and for yielding me time to make a few points. I know my colleague from Connecticut is here, ready to make some additional points. I will try to be brief.

I wanted to point out some of the reasons why I am strongly opposed to this reconciliation bill. I don't think it is responsible for us go forward with debt financing of another tax cut for the wealthiest while, as I see it, we are ignoring the need to reduce the deficit. We are ignoring many of the country's other needs. We are not following through on earlier efforts we made to create an energy plan for the country. I want to focus on that since I have been involved in some of the legislation that put that plan in place.

A few weeks ago, the majority held a press conference announcing a variety of initiatives to deal with our energy problems. One of them, of course, was to have a $100 check that would be sent to each taxpayer. The public reaction was pretty swift. It was pretty clear that the public thought this was a gimmick. They thought this was irresponsible, particularly given the size of the deficit. The majority essentially decided, then, that that was not a part of their energy plan with which they wanted to proceed.

Now they are bringing to the floor a tax bill which does virtually nothing for most of these people who previously were in line to get the $100 tax rebate. The question is probably coming back to some of these people now that if we can afford to give the kind of tax relief that is provided for in this bill to those who are better off, those who are wealthier, maybe we should go ahead and send $100 to everyone, sort of as a consolation prize, so that they, too, can participate in this tax-cutting effort. We ought to think of this in the context of what we have been doing in the last few weeks around here.

It is estimated that in my State of New Mexico, there are about 18 percent who will, in fact, receive any benefit at all from the reconciliation bill before the Senate. If we look specifically at the bottom 60 percent of working New Mexico families, their average tax cut is $15. In contrast, the top 5 percent in my State would get 64 percent of the tax cut. This is at a time when the price of gasoline is very high, the price of educating a family's children is very high, and when the price of health care is extremely high. Obviously, there is a ring of unfairness about the allocation of these tax benefits which strikes everybody.

I wanted to talk a minute about the provisions related to energy. An important part of the Energy bill we passed last year was to provide tax incentives that would move us away from dependence on foreign oil. We passed a variety of those. Let me put up a chart that lists a few. Of course, there was an R&D tax credit which has already expired. There was an electricity from alternative fuels tax credit. There was a home energy efficiency tax credit, where you would get a credit if you wanted to put a solar heating system on your house, for example. There was a credit for fuel cells for microturbines, an electric car tax credit, clean renewable energy bonds, a hybrid vehicle credit. We put a lot of those in the law. Unfortunately, because of the fiscal situation of the country, we said: They are going to expire at the end of 2007.

That date is approaching. Frankly, the way we wrote it, we said: You cannot get the tax credit we are writing into law unless you have put your project, you have built it and put it into service prior to the expiration of the tax credit. Well, the expiration of the tax credit is about 18 to 19 months away. A lot of people are beginning to say: Wait a minute. Let's hold off on any additional investment in alternative energy. We can't proceed with the wind farm, the solar power installation because these tax credits are going away.

We ought to be addressing that. Instead, we are saying: Let's add a couple years, out to 2011, to the tax provisions that assist the most wealthy. That is misplaced priorities.

It is important that the Congress try to follow through on what we did last year. We have a very short attention span in the Congress. Two weeks ago, everyone was holding press conferences about how we are going to solve our energy problems. Here we are now, using up any ability we have to extend the tax credits that were part of the solution to our energy problem down the road. We need to think about that, and I hope we will.

Let me talk about one other issue that I believe is so egregious, it needs to be focused on before the vote on this conference report. This came to my attention, quite frankly, when I was getting a cup of coffee this morning. I said good morning to one of the people who works in one of our offices here, a friend of mine. And she said: Good morning. Another beautiful day in the land of make believe.

I thought, that sounds right. And I started questioning, as I was going back to my office, exactly why we all agree that this is the land of make believe, this Congress, this Capitol Hill is the land of make believe. Then it became clear to me when I focused on this provision. Under current rules in the Senate, we can't consider this bill as a reconciliation bill under special procedures, if it, in fact, would make the deficit worse outside the budget window. That means after 2010, outside the 5-year period. It is clear to everyone who is willing to look at it that this bill does add to the deficit after 2010. But the folks who put this bill together have found a very ingenious offset which they claim will allow them to extend these tax cuts for the wealthiest without, in fact, adding to that deficit outside the budget window.

You ask: What is that ingenious offset? The ingenious offset is a provision that allows couples with incomes over $160,000 to convert their individual retirement accounts from regular conventional accounts into Roth IRAs and pay whatever tax is due in accomplishing that which would be some tax. Of course, once they have made that conversion from the IRA to the Roth IRA, then they have paid any tax that is due, and any future earnings on those funds is protected from any future obligation. That is why, when we wrote the Roth IRA into law, we made provision and said: We are only going to give this kind of a tax benefit to people whose incomes are not too high. If a couple has over $160,000 in income, they are not eligible for a Roth IRA. That was what we determined. We said: Of course, you can't convert a regular IRA into a Roth IRA if your income is too high.

In this bill we are saying that is no longer the case. In this bill we are saying: If you are Bill Gates or Warren Buffett or whoever you are, if you have a regular IRA, you are welcome to and encouraged to convert it into a Roth IRA, pay whatever tax is due. And then, of course, from then on there is no tax due. Why would we stick this in? This is another tax break for the wealthiest. Why would we stick this in? We stick it in because it results in some additional revenue coming into the Federal treasury over the first 3 years that it is in effect. So while people are making these conversions and paying the tax they have to to make those conversions, the Treasury is earning money. And we can use that money to offset the large deficit increase that otherwise would be occurring after this budgetary window, so to speak.

Of course, after the Federal Treasury receives that revenue for 3 years, it starts losing revenue because of this very provision. As our Vice President would say: It loses revenue big time after that. So we will lose $4.5 billion in revenue over the 10-year period and substantially more in the future after that. So who benefits from this offset provision that was put into this conference report? I will tell you who benefits from it: 99.4 percent of the benefit goes to the top quintile of income.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator has used the 10 minutes that was yielded to him.

Mr. BINGAMAN. I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Let me conclude by saying that there are many reasons why people should vote against this reconciliation bill. It is bad fiscal policy. It is bad priorities as far as what extensions we ought to be focused on at this time, if we can afford extensions. It also has in it some of these provisions that are bad policy and egregious in the effect they have. I hope my colleagues will reject the bill when it does come to final vote.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut is recognized for 15 minutes.

Mr. DODD. Mr. President, I begin by thanking my friend and colleague from Iowa, chairman of the Finance Committee, and the Senator from Montana for the hard work they and their staffs put in on this legislation. These are not easy bills to deal with, either in this Chamber or the other. And getting through conference always poses a trying time for everyone. Regardless of what positions we take on the final product they present to us, we have a great deal of respect for the work they do. I commend my colleague from New Mexico, as well, for his fine comments this morning regarding this legislation.

It is sort of a nasty day in Washington weather-wise. I was noticing this morning a lot of our constituents from around the country are in the building to see their Nation's Capitol. We have a lot of students, a lot of people with families, and graduating classes that have come to Washington. I was trying to think how I might explain to these younger people, if asked—and I will be meeting with various student groups from my State of Connecticut later today—the $8.4 trillion in our Nation's debt.

What is $8.4 trillion? That is a big number. That is the size of our national debt as we gather here this day in May of 2006. The way I thought I could possibly explain it would be like this: Since they are in this building today, if these students would stand on the steps of the Capitol and hand out one-hundred-dollar bills, a one-hundred-dollar bill every single second, 24 hours a day, 7 days a week, for the next 2,635 years, you would equal $8.4 trillion—a one-hundred-dollar bill every second, 24 hours a day, 7 days a week, for the next 2,600 years. That is the level the debt has reached in the last 5 years under this administration and in this Congress. That is a staggering amount of money.

So when somebody says to you: What is $8.4 trillion, explain it to them in simple terms. I will hand out a one-hundred-dollar-bill every second for the next 2,600 years, every single day of the week, every minute of the day, and that is the national debt.

Now we are about to add $70 billion to that without paying for it. And the benefits don't even go to the average citizen. Quite frankly, very few of them get much at all. In fact, the middle 20 percent of income earners will get an average tax benefit of only $20. That doesn't even fill a car's gas tank today. Go to your local gas station and try to put $20 worth of gas in your car and find out how much you get. That is your tax break.

If you fall into the $35,000-to-$65,000 range of income, that is what you get out of this bill. So the benefits are very small and we're not paying for the bill, so it adds to the deficit and the national debt—which is already staggeringly high. Frankly, we are disregarding very important priorities that we ought to be considering. With all due respect—and I know the managers tried their darnedest to get a better bill, and I know both of the gentlemen—this bill should be rejected. I don't know how we go back to our constituencies and explain that the fiscal irresponsibility of this Congress and this administration should dictate that we ought to allow our national debt to grow to the extent that it is growing.

So my hope is that when the vote occurs, our colleagues, Democrats and Republicans, would say no to this; that we should go back and try again. This is not a good bill, and it will do a great disservice to our country.

What are we going to use the money for? Where is it going? We intend to use this money—this $70 billion that we are going to put on a credit card—by the way, of that $8.4 trillion, who do you think holds about a quarter of that mortgage? It is not held in America; $2 trillion of that debt is being held offshore in some countries that don't necessarily have the best interests of our country at heart. They are holding that mortgage, and we are going to give them $70 billion more, more than likely, or a good part of it, to be held offshore.

We have young men and women serving in uniform in Iraq and Afghanistan who are putting their lives on the line. Are we going to pay for that? Of course not. Are we providing for the veterans who have come home who we know need significant help in health care? No. Are we going to invest in education? How many times do you have to read that we need to do a better job in education in our country if America is going to be able to compete in the 21st century? But no. Research and development? No. How about alternative fuels so that we are less dependent on foreign sources of energy? No. Or infrastructure? There is not a person anywhere who won't warn you that our roads, highways, sewage systems, and water systems are collapsing in many places, and we are doing nothing about replacing or maintaining them. None of this bill goes for that at all.

Under this bill, mainstream Americans—the middle 20 percent of income earners—will get an average tax cut of $20. I suspect that a lot of the people we saw arriving in our Nation's Capitol, walking the halls, would fall into that category. They are going to get about a $20 break in this bill. I won't go down this complete chart. But if you make less than $10,000, of course, you get no tax break. If you make $10,000 to $20,000, you get $2. If you are in the $20,000 to $30,000 category, you get $9. If you make $30,000 to $40,000, you get $16 in a tax break in this bill. If you make $40,000 to $50,000, you get $46. If you are in the $50,000 to $75,000 range, it is $110. I will jump ahead. If you are in the two-tenths of 1 percent of the population of this country that makes more than $1 million, you get a $41,977 tax break.

I don't agree with some of my colleagues and others who talk about a sort of class warfare, pitting those in the middle against those who make a lot of the money. I represent one of the most affluent States in the country on a per capita income basis. Connecticut is always listed near the top on per capita income. I have a sizable part of my constituency that do well financially and would benefit under this bill. As I stand here today, I will tell you that the majority of those people who do well in my State think this bill is a bad idea. They are not calling and writing and e-mailing and demanding that this bill be signed into law. They understand fiscal responsibility. They think it is a mistake for us to go deeper and deeper into debt, and to deliver little or no benefit for anyone other than those with incomes of over $1 million.

There are 146,000 people in this country in the top one-tenth of one percent of income earners, who make more than $5 million a year on average. They get an $82,000 tax break under this bill; 146,000 people get an $82,000 tax break. How many of those people do you think actually need that tax break to make the kind of investments that the supporters of the bill envision? A tiny fraction, if any, would admit that this bill has any merit when it comes to growing our economy. I do know that a small percentage of our population gets a windfall here. The average citizen gets little or nothing.

We are not making the kinds of investments in our country that we ought to be making, and we are going deeper and deeper into debt. We in this generation are going to have an awful lot of explaining to do to coming generations, as to why we left such a mess on their doorstep as we go off into retirement and they are left trying to figure out how to pay these bills.

My colleague from North Dakota, and others, when we considered the bill on the floor, offered amendments to pay for these provisions. We lost them on party-line votes, pretty much. If you want to have a $70 billion tax break, pay for it, we said, but we lost. Pay-as-you-go proposals were made on this side of the aisle. They were rejected by the other side. Of course, we come back from the conference report with the House and the bill gets even worse.

Let me you show what happened. Senator BINGAMAN of New Mexico did this eloquently. Let me explain it again because it shows you the sort of fantasy world in which people are living. We have all kinds of priorities we need to address in the tax code, some of which were part of this bill when it went over from the Senate—provisions that provided for research and development tax incentives, electricity from cleaner fuels, energy-efficient home tax credits, solar investment, electric car credits, and so forth—reflecting what we are hearing from constituents: Do something about the dependency on foreign oil and the rising price of gasoline. That is what our constituents are asking us to do for the future. But we go to a conference and come back and we dump provisions like the R&D tax credit from the bill and fail to address the pressing energy issues. This bill addresses none of those priorities. Under previous legislation, we've taken care of estate tax relief and top marginal tax relief up until 2010. And now in this bill, we have, of course, capital gains and dividend tax relief in this bill, which have 2 more years on them. They are not going out of date in the next few months, or even the next year. Why not wait and see whether you really think you need to extend them further? Instead, we dump the very provisions to which the American people think we ought to pay attention, not to mention putting non-pressing capital gains and dividends tax benefits ahead of all these other items I talked about that the American people think are important.

So the R&D tax credit is gone. A chance to address the Alternative Minimum Tax for a more meaningful length of time is gone. How about the provisions for kids in college that allow their parents a deduction for tuition expenses? That got dropped from the bill. How many Americans would like tax relief when they are looking at the rising cost of a college education? It is very important to us as a country that those of you in the middle-income category in this country can afford to send your kids to college. We provided for that in the bill, and it got dumped in order to take care of the top two-tenths of 1 percent of income earners. Those were some of the ideas that we thought were important to send over to the other body.

As I mentioned, my colleague from North Dakota offered the amendment that would have paid for these tax cuts, but it was rejected.

Mr. President, I find this terribly disappointing. I wonder if anyone is listening at all. I am not suggesting that all of the wisdom in the world resides in one corner of this Chamber or the other. But I don't know how, when the debt is mounting at the rate it is, with debt being held offshore by countries who don't necessarily have our interests at heart, we are not investing in things that we ought to be investing in to make our country better prepared for the 21st century: how we are squandering our ability to prepare for the great challenges we will face economically in the 21st century. In the midst of all of that, we turn around and take up a tax bill costing $70 billion, which is unpaid for, the overwhelming majority of which goes to those who, frankly, don't need it or want it. And we do this at the expense of everything else we should be doing in our country.

Again, we are adding to that $8.4 trillion in debt. When you want to explain it back home, just say if you give away a one-hundred-dollar bill every second of every day for 2,600 years, you will get that number. How do you explain that in 5 years we have accumulated so large a portion of that debt, yet we are adding to it today with this irresponsible piece of legislation?

I urge my colleagues to reject this conference report when we have a vote later today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, first, I will respond to some of the things that Senator BAUCUS brought up in his opening statement. He complimented me in our working through this, and I always have a good working relationship with Senator BAUCUS. And 90 percent of the time, or maybe more, he and I are on the same side of the fence. I remind people in the Senate that on three occasions, in November and January and February, we were on the same side of the fence on this issue.

The difference between us now is related to the extension of the capital gains and dividend tax credit that was not in the Senate bill at that particular time. And since it is not in the conference report, that is one of the reasons he and I are on separate sides of the fence.

I will respond to some of the points he made on extenders because they are not in the conference report. Senator BAUCUS's criticism is right that they are not in this bill. They are, however, covered in a collateral agreement between tax-writing committees and congressional leadership. And on a document basis for my saying that we will be dealing with those, even though they are not in the conference report, I ask unanimous consent to have printed in the RECORD a joint statement on a collateral extenders agreement, that they will be in a follow-on piece of legislation that ought to be before the Senate very quickly. These are not in dispute between the House and Senate. This is a product under negotiation, but these issues are no longer under negotiation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hon. CHUCK GRASSLEY,
Chairman,
Committee on Finance.

Today a majority of conferees signed the conference report on H.R. 4297, the Tax Increase Prevention and Reconciliation Act of 2005, and filed it with the House floor. Sen. Chuck Grassley, chairman of the Committee on Finance, and chairman of the conference committee, made the following comment on the conference report. A detailed summary of the conference agreement follows.

STATEMENT OF CHAIRMAN CHUCK GRASSLEY, SENATE COMMITTEE ON FINANCE

CONFERENCE REPORT ON H.R. 4297, THE TAX INCREASE PREVENTION AND RECONCILIATION ACT OF 2005, TUESDAY, MAY 9, 2006

The tax relief laws extended in this conference report are working to strengthen the economy and protect millions of families from footing a higher tax bill because of the Alternative Minimum Tax. Rolling back these widely-applicable tax relief measurea would hurt the economy and mean less take-home pay for hard-working taxpayers. By acting on this tax reconciliation conference report, Congress will assist small businesses, encourage the kind of investment that creates jobs and makes our economy grow, and ensure more fair tax treatment for middle-income families who would otherwise be left to pay a tax intended for wealthy individuals. Ultimately, these temporary fixes need to become permanent law if Congress is serious about promoting economic growth and tax fairness.

In addition to the tax reconciliation conference report, Chairman Thomas and I have an understanding about how other expiring tax provisions will be extended in a second tax bill, including relief for college students paying tuition, teachers buying supplies for their classrooms, and the research and development of innovative ideas that benefit our society. The items in this second tax relief bill reflect additional tax policy priorities for both Republicans and Democrats in Congress, and I look forward to congressional action on the legislation as soon as possible.

Mr. GRASSLEY. Mr. President, on Senator BAUCUS's criticism of the charts that I used, let me say that the charts reflect the data of the Committee on Joint Taxation. I explained how the Committee on Joint Taxation is a professional group, not a Republican group or a Democrat group. They are paid by the taxpayers of this country to be experts on tax policy. I challenge many of my critics, and the sympathetic ears that these critics have in the east coast media, to also use the joint tax data because in a lot of the presentations already, and today, we are going to hear statistics that don't come from the green eyeshade people who have no political ax to grind in the Joint Tax Committee but, quite frankly, come from liberal think tanks who do have a political ax to grind.

I ask Democrats to use Joint Tax Committee data. I think my friends on the other side have an issue with the perspective of the charts. The charts I used earlier take into account the tax savings taxpayers enjoy relative to their tax burden. Democrats tend to look only at the tax benefit. They ignore the taxes people pay. That is where there is a very real difference. It is philosophical. The charts I used are accurate.

On the number of taxpayers by State, the source is the Internal Revenue Service, not a conservative or liberal think tank.

Finally, on the need to do an extension now, just ask folks in the market whether this decision to extend the capital gains and dividend tax provisions ought to be done now or in the year 2008. We hear that it is very important to have a long-term tax policy if you are going to encourage investment, and that is why we are extending this now at this particular time.

I would also like to refer to some comments that were made by the Senator from New Mexico. He spoke about the impact of one of our offsets for policy long term, speaking about the Roth IRA being the wrong kind of policy to put in this bill.

It is interesting to hear my friends on the other side criticize the Roth IRA conversion provisions in the conference report. One would be led to believe that this protaxpayer provision is somehow an evil Republican idea that the Democrats have never seen before. But I am afraid that my friends on the other side of the aisle have a short-term memory. They are giving this Finance Committee chairman and my Republican colleagues too much credit.

I wish I could take credit for what is called the Roth IRA. Maybe it could be called the Grassley IRA. But I can't. There is another Finance Committee chairman, not a Republican, who first laid out the exact IRA conversion proposal that is in the conference report we are going to vote on today.

Way back in 1991, there was a chairman of the Finance Committee, a famous Senator from Texas, by the name of Lloyd Bentsen. He introduced the identical provision as part of what they called the Tax Fairness and Savings Incentive Act of 1991. If the Roth IRA—later named the Roth IRA—was tax fairness in 1991 when the Democrats wrote it, it is tax fairness in 2006 as it comes back in a conference report.

Chairman Bentsen's bill would have allowed all taxpayers, regardless of income, to convert amounts from traditional IRAs into the new Roth-styled IRA account that he also proposed. In fact, the only difference between Democratic Chairman Bentsen's original proposal and the provision in the conference report is Chairman Bentsen's bill would have given taxpayers 4 years to pay tax on converted amounts compared to the shorter 2-year period under the provisions in this conference report.

But some may ask: Was Chairman Bentsen just a lone Democratic voice in the wilderness on this issue without support from fellow Democrats at that time in 1991? Not surprising to those of us who had the honor of serving with Senator Bentsen, it wasn't just his idea. His bill was introduced with 13 Democrats as original cosponsors, and it has a prominent list of Democratic cosponsors, many of whom are still serving with us in the Senate today. In fact, I can point to my good friend from Montana, Senator BAUCUS, as one of the original cosponsors of Chairman Bentsen's bill. Let me name some others: AKAKA, DODD, INOUYE, LIEBERMAN, MIKULSKI, and Senator PRYOR's father was also an original cosponsor. So this is not a new idea, nor is it a Republican idea. It is an idea which has had bipartisan support in the Finance Committee and the Senate for the past 15 years, ever since Chairman Bentsen first proposed it. Indeed, the Bentsen bill was just the beginning of a long bipartisan history of this provision. So why today is there not bipartisanship on this issue?

In the next Congress, after Senator Bentsen became Treasury Secretary under President Clinton, the bill was introduced. Senator Roth—who would, of course, later become Finance Committee chairman—introduced Senator Bentsen's former bill, including the proposal that would become known as the Roth IRA conversion proposal. Senator Roth introduced this bill with a bipartisan list of 57 original cosponsors, 24 of whom were Democrats.

In the next Congress, Senator Roth reintroduced his bipartisan legislation with 52 cosponsors, and 18 Democrats were cosponsors of that bill, including Minority Leader REID and Senator KERRY. It was a good proposal for the Democrats then. So why is it not a good proposal today?

Democrats say they are concerned about the budget deficit, but we all know our deficit was much larger as a percentage of GDP in the early 1990s than it is today. The real question is, Do my Democratic friends really oppose this protaxpayer provision that merely creates a level playing field when it comes to access to retirement plans or do they only have this objection because the provision is part of a progrowth tax relief bill that the Democratic leadership has decided to oppose today?

The bipartisan history of this concept didn't stop when Democratic Chairman Bentsen became Secretary of the Treasury. Roth IRAs became law in the Tax Relief Act of 1997. The Senate version of that legislation allowed all taxpayers to convert traditional IRAs to Roth IRAs, the same as the conference report before us this very day.

That bill passed the Senate—now listen, that bill passed the Senate. The exact thing we are doing today passed the Senate by an overwhelming 80-to-18 bipartisan vote.

When an income limit was placed on Roth IRA conversions during the conference negotiations in the 1997 act, the Senate came back the very next year in the IRS Restructuring and Reform Act and again showed bipartisan support for expanding the eligibility for Roth IRA conversions. Expanded Roth IRA conversion eligibility was part of the Senate bill which passed unanimously 97 to 0. So obviously Democrats voted for it then. It was also included in the final conference report which passed the Senate 96 to 2.

I hope this makes it very clear that this isn't a provision which came out of thin air. This isn't a Republican proposal. This isn't a budget gimmick. This is a provision which Democrats have long supported. This is a provision which was proposed by a Democratic chairman of this committee. This is a bipartisan provision. And most importantly, it is a good provision. Good policy makes good politics. It is a protaxpayer provision. This is a provision which means all Americans have access to the same retirement plans. This is a provision which brings in real revenue to the Federal Government. This is a provision which will increase tax compliance in an area in which there is much room for improvement. This is a provision which rewards those who work hard, pay their taxes, and do what we need to do more of: save for retirement. That is why it has such a long history of bipartisan support. It also is why it is a very good part of this conference report.

I would think people on the other side of the aisle would be ashamed of damaging the very good image Senator Bentsen had as a U.S. Senator, as a Democrat, as chairman of the Finance Committee. Why don't they honor his reputation as a Senator and vote for provisions he had that are in this conference report rather than being so partisan?

Mr. President, my friend from Montana referred to a report published by Federal Reserve staff, and I would like to make a few comments on that.

The report compares U.S. and European stock values during brief periods of time before and after the lower rates were announced in late 2002 and enacted in 2003. Since U.S. and European stock values moved together, the report concludes that the lower rates had no effect on the aggregate market value of U.S. stocks.

The report was written by members of the Federal Reserve staff. It does not represent the views of the Federal Reserve itself. In fact, Chairman Alan Greenspan has repeatedly testified before the Congress that lower rates on dividends and capital gains represents good tax policy, and Ben Bernanke has cautioned that not extending the rates soon could negatively impact the economy.

I am not an economist, but it seems to me that the analysis of these Fed staffers is overly simplistic for at least four reasons:

First, the analysis covers a very short period of time—2 months surrounding the President's proposal in January 2003 and 4 months surrounding enactment of the reduced rates in May 2003. Looking at such a short period of time, the Fed staffers only tried to determine if the news of the tax cut had an effect on the U.S. market. Now, I am a believer in the efficient capital markets theory to some degree, but it can't be that simple. Surely, the broader, longer term benefits of these lower rates on the economy should be considered more than simply the news of their enactment.

Second, the analysis essentially assumes away all other factors during that short period of time could affect U.S. markets and European markets differently. It is hard for me to understand how this assumption could be valid. If that was true, then why would anyone consider investing in European stocks as a diversification strategy?

There is a multitude of factors that would seem to affect the U.S. and European markets differently, given how complex the U.S. and European economies are. The Wall Street Journal article that described this report noted a few things that "might have contributed to a rise in European stocks or a drop in the U.S. market during the review periods":

In the U.S., some companies reported weaker than expected earnings, while some European firms reported strong earnings;

There was a terrorist bombing in Saudi Arabia that "rattled" the U.S. market;

There were concerns about the weak dollar.

Third, the analysis assumes that the impending war in Iraq would affect U.S. and European stocks equally. Again, I am not an economist, but I find this assumption hard to believe.

Fourth, the Fed staffers' analysis does nothing to convince me that taxing something less doesn't make it worth more. It is common sense that people value assets based on how much those assets put in their pockets on an after-tax basis. So if the Government taxes certain investments less, it makes those investments worth more, relative to other investments. Of course, there are many other factors besides tax policy that affect investment value. But we should do what we can in terms of tax policy to promote economic growth.

The Wall Street article concludes with a quote from Michael Thompson, director of research at Thomson Financial, that "attributing stock market gains to one isolated factor risks being 'intellectually dishonest' ". It would be just as intellectually dishonest to point at this simplistic study as a reason to raise taxes on dividends and capital gains.

Mr. President, my friend from Montana criticized the charts I showed earlier that showed how lower income taxpayers, relative to their tax burden, have more at risk than higher income taxpayers. In light of Senator BAUCUS' criticism of those charts, I want to go into detail regarding how the statistics were calculated by my Finance Committee staff.

To get a clear picture of the relative benefits of this tax policy, I have taken another step in the distributional analysis.

I looked at the size of the tax benefits in relation to the total tax liabilities that these taxpayers bear.

The results of this analysis show that, among taxpayers who benefit from this tax policy, those with less than $50,000 of AGI benefit more from this tax policy, especially when the lower income tax rate drops from 5 percent to zero percent.

According to the JCT data, 6.3 million tax returns with adjusted gross income of less than $50,000 benefited from the reduced tax rates on dividends.

The aggregate total income tax liability of these taxpayers was $12.4 billion, which is an average of $1,968 per tax return.

In 2005, the lower tax rates on dividends saved these taxpayers $600 million in the aggregate at an average of $95 per return.

In 2008, if we assume the same data, the elimination of dividend taxes for lower income families will save them an additional $350 million, which is an average of $56 per return.

In total, this tax policy will save $950 million, or an average of $151 per tax return.

That produces a savings of 7.6 percent for these taxpayers.

Tax returns with more than $200,000 in adjusted gross income would save $6.5 billion in the aggregate, or an average of $2,964.

These numbers, of course, are much bigger than the savings numbers for the less than $50,000 of AGI category. But these numbers represent only 2.2 percent of this group's total tax liability.

The estimates for capital gains show that 3.6 million tax returns with under $50,000 of AGI will report a savings of $680 million from lower tax rates on capital gains, or an average of $189 each, producing a 10.2-percent tax savings.

Those with $200,000 or more in AGI will save $13.7 billion in the aggregate or $11,421 each on average. To be sure, these dollar numbers are much higher than the less than $50,000 group, but as a percentage of total tax liability, it is only 7.6 percent, lower than the savings of the less than $50,000 group.

And what about seniors?

2.4 million tax returns filed by seniors with adjusted gross income of less than $50,000 benefited from the reduced tax rates on dividends.

The aggregate total income tax liability of these taxpayers was $4.4 billion, which is an average of $1,833 per tax return.

In 2005, the lower tax rates on dividends saved these seniors $500 million in the aggregate at an average of $208 per return.

In 2008, if we assume the same data, the elimination of dividend taxes for lower income seniors will save them an additional $250 million, which is an average of $104 per return.

In total, this tax policy will save seniors $750 million or an average of $312 per tax return.

That produces a savings of 17.1 percent for these taxpayers.

Four hundred thousand tax returns for seniors with more than $200,000 in adjusted gross income would save $2.7 billion in the aggregate, or an average of $6.775 each, representing a 5.7-percent savings.

The estimates for capital gains show that 1.5 million tax returns will be filed by seniors with under $50.000 of AGI, reporting a savings of $305 million from lower tax rates on capital gains or an average of $204, producing a 13.2-percent tax saving.

Seniors with $200,000 or more in AGI will save almost 3.8 billion in the aggregate or $12.633 on average representing a 10-percent savings.

Now, I have a couple charts that summarize the tax savings as a percentage of total income tax liability across AGI levels.

This chart illustrates the relative savings from reduced dividend taxes across AGI levels.

Opponents of this policy want to persecute these taxpayers by taking back their 2.2 percent savings.

But at the same time they will punish these taxpayers by taking away their 7.6 percent savings.

And they will punish these seniors by taking away their 17.1 percent savings.

This chart illustrates the relative savings from reduced capital gains taxes across AGI levels.

Opponents of this policy want to persecute these taxpayers by taking back their 7.6 percent savings.

But at the same time they will punish these taxpayers by taking away their 10.2 percent savings.

And they will punish these seniors by taking away their 13.2 percent savings.

As this data shows, the tax policy enacted by Congress in 2003 to lower taxes on dividends and capital gains has provided meaningful benefits to taxpayers across the income spectrum, not just the rich.

In fact, lower income taxpayers will save more than higher income taxpayers when measured as a percentage of total tax liability.

These lower rates have allowed millions of taxpayers to keep more money in their pockets to spend or add to their savings through reinvestment in the economy, rather than give it to the Federal Government to spend.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Mr. President, I am so appreciative of Senator GRASSLEY coming to the floor to set the record straight. It is so difficult to sit back in our offices and watch the debate and hear our Democratic colleagues distort so many facts. I would like to straighten out a little bit of the record myself. Unfortunately, the Wall Street Journal this week, along with a lot of other publications, has also tried to set the record straight.

I hear my Democratic colleagues saying the President and the tax package has been a great benefit to the wealthy and hurt the poor. But since the tax cuts of 2001 and 2003, the tax burden has actually shifted more to the wealthy. The percentage of Federal taxes paid by those with incomes of $200.000 and above has risen 40.5 percent to 46.6 percent. In fact, today, out of 100 Americans, the wealthiest 3 are now paying close to the same amount, about half of the total taxes as the other 97 Americans.

We have shifted the tax burden more to the wealthy. The richest income group pays the largest share of tax burden than at any time in the last 30 years, with the exception of the late 1990s. The record is clear.

The record is also clear that this tax package and economic growth package is not for the rich. It is for the people who need jobs in this country. It is for the little guys, the 5 million people who have gotten jobs because of our economic growth.

Those who say this tax cut is increasing the deficit need to look at the expanded tax revenues last month alone, the second highest tax revenue in history because of this economic boom.

Those who are focusing on this tax rescission package and saying we should not be keeping the tax rate the same low rate for capital gains and dividends need to know that half of Americans now own stocks. They are savers and investors. Our goal as a nation should be to try to make every American a saver and investor. In fact, if some of the Democrats had voted with us just a few weeks ago, we could have stopped spending the Social Security retirement funds of Americans and made every American a saver and investor. The number of people owning stocks in America has risen, more than doubled since 1983 when it was about 40 million, and now it is over 90 million, and we have seen incredible growth.

My colleagues also need to know the statistics of those who do own stock. They are not just rich Americans; they are retired Americans. They are people with incomes below $50.000, about a third of them below $50.000. So the facts just need to be straightened out.

I think we also need to take our Democratic colleagues to task on things they have said about this economic package and what the real facts are.

This chart shows a Democratic contention here that the Republican budget will undermine potential GDP and hurt economic growth. You can go back to 2001 when the first package passed and see the GDP growth consistent over the years. We can also go to a quote Democrats had on this floor which said: "The President has put us on a fiscal course that means lower employment." Here we see from this chart that employment continues to go up in this country.

Let's put up a couple more charts quickly. The Democrats said the Republican budget will crowd out private sector investment. But since these tax cuts took effect, private sector investment has grown at one of the fastest rates in recent years.

Another quote from the Democrats: "The Republican budget will raise equilibrium real estate rates." The interest rates have continued to fall with the housing boom across the country. Ownership has grown.

The facts are, frankly, indisputable. I agree with Senator GRASSLEY. It is a shame for folks to come down and distort the reality of what is happening and what we are doing to help the American people at every level. One out of every two households in America is earning stock, and allowing them to keep more of what they are earning through those stocks only makes common sense.

Mr. President, I yield to Senator LOTT, who I think would like to continue to set the record straight.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I ask unanimous consent to get an agreement for the lineup of speakers over the next several minutes. It has been cleared by both managers here in the Senate.

I ask unanimous consent that the next speakers come up in this order: Since Senator DEMINT has finished, next would be 5 minutes for Senator HUTCHISON, to be followed by 15 minutes for Senator SCHUMER, to be followed by 10 minutes for myself, followed by 15 minutes for Senator WYDEN after I finish speaking, and then Senator ENZI would come next, to be followed by Senator BOXER for 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LOTT. We did not indicate a time amount for Senator ENZI. We were not able to confirm exactly how much time he would need. I think part of it would depend on how the rest of the time goes.

Mr. President, on behalf of hardworking American people, I am pleased to rise today in support of picking up this very important Tax Increase Prevention Act. I have been looking forward to this for almost a year now, and finally we have reached the magic moment. I believe we are waiting for Senator HUTCHISON to arrive. While she is on her way, let me just put in the RECORD at this point the timeline of what has transpired.

First of all, the tax reconciliation legislation passed the Senate Finance Committee on November 15, 2005. The Senate then passed the tax reconciliation bill 64 to 33, a very strong bipartisan vote. On December 8, 2005, the House passed the bill 234 to 197.

Along the way, there were many hurdles thrown up, delays, and obstruction. In fact, instead of going to conference, because of the fact that the

Senate had acted first, we actually had to bring it back to the floor of the Senate and go through the process again.

On February 2 of this year, 2006, the Senate repassed the tax reconciliation bill by a vote of 66 to 31, again bipartisan, actually an increased number. Then on February 14, the Senate completed action on the debate, 10 hours of motions to instruct conferees with a mini vote-arama. But we completed our work, and conferees were appointed on February 18. Now here we are with a conference report and a bill that clearly is needed to prevent a tax increase on working Americans.

I just wanted to get the timeline in the RECORD, and then I will have some further comments, following the next two speakers, about the substance. At this time, I believe we are lined up for Senator HUTCHISON for 5 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mrs. HUTCHISON. Mr. President, I appreciate the opportunity to speak on this very important legislation. I thank Senator GRASSLEY and Senator BAUCUS for bringing us this bill. It was hard-fought. Tax cuts always are. There are always those who will say: Oh, this only helps the rich. There are always those who will say: This is going to increase the deficit. Let's talk about what this bill in fact does.

This is a bill which will continue the tax cuts we passed in 2001 and 2003, the tax cuts that have spurred the growth in our economy, that have created jobs, the tax cuts that caused the stock market to immediately turn from being stagnant or worse to being on the brink of record highs for the history of the stock market. If we don't pass the extensions that are in the bill before us today, it would be like telling Wall Street and telling the investors: We are going to increase your taxes; we are reserving that right. That would immediately put a freeze on this economy, and it would stop the incredible prosperity we are seeing in our economy today.

We can look at what has happened to our economy since September 11, 2001, when our tourism industry was severely impacted and our entire airline industry was shut down. Commerce was affected. We had a huge hit to our economy in 2001. Then we have had the war on terror, trying to keep terrorists who attacked our country in 2001 from being able to come back and hurt Americans again, and that has caused us to have to spend billions of dollars more. Then we were hit with Katrina, the worst hurricane in dollar damage in the history of our country, and Rita following that. We have had huge hits on our economy. Now we have gasoline prices and energy prices that are going through the roof. But our economy is strong. Our economy is strong for several reasons, one of which is that we have kept taxes low, particularly on dividends and capital gains.

So when someone says these are tax cuts for the rich, the fact is these are tax cuts for small business. These are tax cuts which have allowed them to start hiring people again and have spurred our economy to new highs. With this bill, we will prevent the egregious reach of the alternative minimum tax on our middle class by extending the higher exemption levels we approved last year. We also make an incredible investment incentive for the younger people in our country with the ability to convert Traditional IRAs to Roth IRAs.

If I were only 35 years old, I would be so excited because I would know that under the provisions of this bill I could provide for my own retirement security through the use of the Roth IRA. The Roth IRA has been limited in use with a salary cap of $100,000 for conversions. If you make more than that, you can not convert from a Traditional IRA to a Roth IRA, which allows you to put money in and then earn interest tax free until your retirement, and you can take it out tax free. That is a nest egg which could make every American self-sufficient because you can just put in the $3,000 or $4,000 every year, and once it is in there it is tax free, expanding its scope, interest rates going back into the pot, and then you can take it out without paying taxes. The traditional IRAs are not that way; you do have to pay taxes. This bill allows people who have started a Traditional IRA to convert it to a Roth IRA without income limitations. That is going to help the young people of our country because any of them, if they are working or if they are married, will be able to do this.

Tax cuts have created 5 million new jobs since they were last passed in 2003.

Mr. President, I hope we will pass this bill: It is a good bill for our country, a good bill for our economy, and it is going to put money in the pockets of the people who are earning it instead of sending it to the Federal Government.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I ask unanimous consent that I be ceded 15 minutes from our side's time.

The PRESIDING OFFICER. The Senator is already recognized under the previous unanimous consent agreement for 15 minutes.

Mr. SCHUMER. Mr. President, everyone here knows we are going to vote on a $70 billion reconciliation bill later today, and it is far different from the bipartisan bill that originally passed the Senate. I would like all of America to please pay attention to this bill because if anything ever showed the differences between the two parties, this is it. We want to help the middle class; they want to help the richest people in America who are doing very well already. That is the fundamental difference between the bill that left the Senate with bipartisan support and the new bill that is coming back.

My good friend from Texas said: Help the people who earn it. Far too much of this bill goes to the people who make over $1 million a year; far too much. If there were no harm to the middle class, that would be great. But too many provisions that affect the middle class are hurt, and the one that I am going to focus on is one of the best provisions we have passed under this new President, and that is making tuition tax deductible for people whose incomes go up to about $150,000. That is gone. That is not extended for 1 new year or 2 new years; it is gone. And in its place are tax benefits for the wealthy and, worst of all, the removal of $5.1 billion of tax increases on the oil companies which are making record profits. No one likes to tax anybody, but I ask America: Oil companies or middle-class students? Whom do you pick? The leadership, the Republicans, and the President chose the oil companies. Democrats choose middle-class students struggling for college.

It is not just this issue. That is a metaphor for why Americans are looking for change. That is a metaphor for what they finally understand—that the trickle-down economics, which gives the overwhelming benefit of the tax cuts to the wealthy with a few crumbs for the middle class, doesn't work anymore.

Politics is a tough and tricky business, but sometimes you get handed an issue that is so crystal-clear, you want to make sure everybody knows about it. And this tax bill so perfectly shows the Republican majority's misplaced priorities that I think the American people are going to see it the way most of my colleagues and I see it. This bill shows the true colors of the Republican Party, which is far more interested in helping the very wealthy—God bless them—than hard-working middle-class Americans.

Make no mistake about it. There is a choice. There is a choice. You can't do both. And when people on the other side of the aisle, whether they are up for reelection this year or not, vote against our proposals and vote for this tax bill, they will be taking away from the middle class one of the best benefits we have given the middle class in recent years.

Let me talk a little bit about this issue. Several months ago, the Senate passed its version of the tax bill with 66 votes, 17 Democrats, myself among them. Our bill contained AMT relief, which this bill does, but it also contained college tuition. The extender package, including a 4-year extension of college tuition deductibility, which I was proud to author, was in the Senate bill, but because, again, the White House, the House leadership, and Senate leadership said: No, no, no, big oil comes above middle class students, it is gone. To refresh everyone's memory, since our Republican conferees seem to have forgotten, the 2001 tax cut contained a provision that made college tuition deductible for the first time. The deduction, modeled on a bill I championed with Senators SNOWE, BIDEN, SMITH, BAYH, and DURBIN—bipartisan—allowed middle-class families to deduct $3,000 from their tax return and that deduction was raised to $4,000 a year in 2004.

Last year, single filers who made up to $65,000 and joint filers with income up to $130,000 qualified for the full deduction, and there was also a smaller $2,000 deduction for those with higher incomes.

For the first time, the middle class would get some relief. You know, we help the poor go to college. We help the working poor go to college with Federal grants. That is a great thing. But in every one of our States, middle-class people came to us and said: What about us? I may make $70,000 or $80,000 or $90,000 a year, but I can't afford tuition. We finally came to their aid. It is gone. It is gone because the other side wanted to extend tax cuts that are already there in the outyears for capital gains and dividends.

I am all for reducing the tax on capital gains and dividends, but it is there already. And the cavalier attitude—do something for 2009 and 2010 and take away something from the middle class this year—again, bespeaks volumes as to why the American people are turning away from the majority and the President and turning to us. I have consistently worked with my colleagues to try to expand the deduction. But as I said, this deduction is not in the report.

The conference report is also interesting for what it includes that was not in the Senate version, as I mentioned: the 2003 tax cuts on dividends and capital gains for those earning $1 million a year. We did not include those in the Senate version because the Senate believed that those tax cuts that have already expired, such as the tuition deduction, should take priority over tax cuts that are not scheduled to expire for 3 more years.

I offered a resolution with Senator MENENDEZ, a sense of the Senate, and got 73 votes. There will probably be 20 people who voted for that resolution saying support college tuition, not extend dividend and interest income deductions which go to the very wealthy, that are already on the books, and they are going to flip-flop when they vote for this bill.

Some of my other colleagues are going to speak of the distributional inequities, but I want to speak of the real choices we have with tuition, even assuming that it was a good idea to extend the capital gains and dividends tax cut. As I said, I believe that those taxes should be reduced. I do believe they create growth. But there was another alternative, because in the Senate bill was $5.1 billion which changed the accounting and created revenues from big oil. Again, that was taken out. If it had been kept in, we could have had the dividend cut, we could have had the capital gains cut, we could have had the AMT cut, and we could have saved the tuition deductibility for middle-class students.

So the choice was clear: Big oil or middle-class students. The other party couldn't help itself. They had to side with big oil. That they are going to live with, certainly, through the 2006 elections.

Do you think half of America would choose big oil over college student tax deductions? Do you think a quarter of America would choose that? Do you think 5 percent of America would choose that? Absolutely not. But as in the past, my colleagues on the other side of the aisle think they are insulated from the argument. They think by saying "tax cuts," no one can show which tax cuts they have chosen over others. It is not true anymore. The tuition deductibility is a tax cut just like the other tax cuts in this bill, and it is not there anymore.

The oil provisions should have stayed in. The first related to an accounting method that the oil companies use. Along with Senator SNOWE, I added a provision that disallowed the oil companies from using LIFO, which means when the costs of your inputs are rising—in other words, the price of oil—using LIFO allows the oil companies to make their income appear lower than it is so they pay less tax; and oil costs are rising. So this would have simply restored some equity and made sure they paid a fair amount of tax. But the President and the Republican leadership hated this one because they have to protect big oil above the interests of middle-class students.

The Senate passed our provisions with 66 votes, and I suppose the conferees thought that in the dark of night they could put them back.

There was a third provision added by my colleague from Oregon, Senator WYDEN, in addition to the two that I offered—one with LIFO and one with profits they make overseas. They didn't put that one back either. President Bush actually spoke out against it a few weeks ago.

So the bottom line is simple, and there is an amazing coincidence. What was the cost of the oil tax breaks? It was $5.1 billion. What would be the cost of extending tuition deductibility for 3 years to middle-class people? It would be $5.1 billion.

America, whom do you choose? If you choose big oil, continue to vote for the other side. If you choose students, vote for us. This bill could have had the exact same provisions in it with all of the arguments made by others about needing the capital gains and dividends tax cuts, if simply the other side had the guts to tell big oil you are still going to make record profits, but we are not going to allow you this extra $5.1 billion. Instead, they are telling hard-working, middle-class families who are struggling to pay tuition: Tough luck. The oil companies come first.

This is a sad day for the middle class. It is a sad day for those of us who know that a college education is crucial for the future for America to stay No. 1. It is a sad day when this Senate turns its back on the interests of others. The Republican majority will try to spin this bill as a boon to the middle class. The facts show it is not true, and we are not going to let them get away with it anymore. Democrats are not afraid to face these issues because we know there are choices. When we convey the choices to the American people, we are confident they will decide we need new leadership in Congress and the White House. We need change. Because a party that once heralded itself as friends of the middle class has turned its back on that middle class for the special interests.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I am delighted to be here and be able to respond to some of the comments we heard from the Senator from New York. I do agree with him—up to a point. I agree that this bill shows the stark differences between the two parties. One is for tax increases, that is the Democrats, and one is for preventing tax increases and supporting tax relief for all Americans—working Americans, middle-class Americans, and seniors who depend on dividends and capital gains to be able to support themselves in their retirement.

My colleagues on the other side often say: Oh, yes, we are for middle-class tax cuts. But, in fact, when they get a chance to vote on them, they almost always vote against them, or at least the majority of them. Yes, this is a good example of the difference in the two parties. As a matter of fact, the Senator from New York knows quite well that we are going to have a follow-on tax bill that is very close to being completed, and it has already been announced by the distinguished chairman of the Finance Committee that it will include the relief for college students paying tuition. We are going to have that. It is almost as if he thinks that because it is not in this reconciliation tax increase prevention bill, it is gone, it will not happen. I will tell you right here and now, it will happen. It will happen soon. I have the press release from Senator GRASSLEY, announcing that has already been agreed to.

I do find it interesting, too, that Senator SCHUMER, while he talks about how wonderful this tuition tax deduction is, when it was first passed in the bipartisan 2001 tax bill, he voted no. He voted no on the bill that had it in there. Now it is the most wonderful thing he has ever seen.

You know, there is a little positioning going on, on both sides. I understand that. But I think we need to look at the substance of what we are dealing with and what the impact is going to be. I do want to emphasize this point again, too. Our senior citizens are very dependent on the income they get from capital gains and also from dividends. If we allow the tax on that to go way up, back to where it was, they will feel it as much or more than anybody. So we need to be sure that we know what the true impact is going to be if we do not stop these tax increases from occurring.

With regard to the oil provisions, no final decision has been made on that. That will be considered and will be a part of the next bill, frankly. I think some of those provisions that were in the earlier bill should stay in there, personally, but we are going to work through that. But I want to go over some questions and some details of what is in the bill. I wonder, do the Democrats oppose the centerpiece of the bill, which is a $34 billion provision to ensure that the alternative minimum tax does not hit more than 15 million middle-income families this year? I thought this was something they felt passionately about. You know, we have to take action to stop the unintended consequences of the alternative minimum tax, AMT—$34 billion. This is only a $70 billion bill, and about half of it would go, clearly, to these middle-income people.

Do they oppose exempting Americans with incomes up to $62,550 from the onerous AMT? Do they oppose quadrupling small business expensing, which allows small businesses to write off up to $100,000 a year in the cost of new equipment?

There are two provisions there that, combined, take over half the bill, that clearly help middle-income taxpayers avoid the AMT and help small businesses that keep creating the jobs and moving the economy.

It prevents a tax increase for small businesses of over $7 billion from being foisted on this very important part of our economy.

What do they oppose? Do they oppose the progrowth policy of taxing capital gains and dividends at 15 percent? Or at 5 percent—get this now—5 percent for individuals in the 10- or 15-percent tax brackets? If we don't stop these tax increases, you are going to see a significant tax increase for individuals in the 10- and 15-percent tax brackets. Do they oppose that?

Contrary to the Democratic mantra, these tax cuts affect individuals at every income level. If anybody accuses my State, after being devastated by Hurricane Katrina, of being a wealthy State—we are trying to join the Union and move up in our economic status. Yet, in my home State, over 150,000 taxpayers will see a tax increase if we don't extend the 15-percent tax rate on dividends. Nearly 120,000 taxpayers will face a tax increase if we don't extend the rate on capital gains.

That is IRS data. That is not something I put together with a pencil and a piece of paper.

The average tax increase will be nearly $200 per person per year. That is significant.

I was explaining to my own daughter this very morning about how this bill is important to her. She doesn't have a lot of capital gains. She has some dividends—not much but she is in that category which is significantly impacted by the AMT if we don't pass this bill.

I understand. I guess it is a political season and taking positions.

I don't believe Democrats oppose anything in this bill. In fact, the Senator from New York said: Well, yes, many people I guess in New York are concerned about the impact of a tax increase on capital gains and dividends. It is just that he doesn't like this one. If not this, what? If not now, when? This needs to be done. What has been the impact of these tax cuts? The economy has continued to grow astronomically in spite of all the major cataclysmic events we have been dealing with; creating jobs; the American dream at the highest it has ever been; and the number of American people who own their homes. Almost 70 percent of Americans own their homes. Yet we clearly show from the nonpartisan Congressional Budget Office that we have had a greatly higher unanticipated increase in the revenue from capital gains than we would have had otherwise.

Do we want to kill the goose that laid the golden egg?

I don't understand why the American people are still not aware that there are so many goods things happening in the economy. Unemployment is at 4.7 percent, which is caused by 5 million new jobs being created since 2003. The gross domestic product is 4.8 percent—I was astounded by that growth—in the last quarter. Overall, household wealth is at an all-time high, reaching $51.1 trillion. Income is rising, and inflation remains in check. Lastly, but perhaps most critically, Federal revenues grew by 14 percent in 2005, reaching a record $2.15 trillion.

The problem with the deficit is not insufficient revenue. It is coming in. It is coming in because Presidents and Members of Congress—Presidents such as Kennedy and Reagan—knew that if you cut taxes in the right way, you get important revenue. There are those who still want to deny that, but history and the statistics speak for themselves.

I think this is a good bill. It is a relatively narrow bill in terms of portions included in it. We only have about five major things, and a few little smaller points included in this bill. We are not finished. We are going to have the follow-on bill. I want to keep the economy growing. I want to do the right thing. This is the right thing to do.

I am delighted to be here to speak in behalf of this legislation and to explain what is in it and to question some of the allegations that are being made about what is in it or what is not in it. This is good for the American people because it will be good for the American economy.

I don't understand this class warfare stuff that is always going on. If you cut taxes for people who actually pay taxes, you automatically get less. When are we ever going to grow up and get over that?

I think it is good legislation. I am pleased to be here and support it. I urge my colleagues to vote for it. It will pass, and we will go to the follow-on bill which will have a number of other very important provisions, and perhaps it will be part of what we do with regard to guaranteeing people's security and their pensions for the future, also.

I do not know if I have any time remaining. If I don't, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before he leaves the floor, I wish to say to the distinguished Senator from Mississippi that I am certainly not interested in class warfare. But what I am interested in is giving all Americans a fair chance to accumulate wealth. This legislation doesn't do that, and that is why I am opposed to it.

My sense is that everybody in our country wants to do well. Everybody aspires to be well off. Everybody wants to be able to get ahead. Yet that is not possible in many respects because of our Tax Code.

The American people just finished the annual ordeal of doing their taxes. This spring, Warren Buffet, the second wealthiest person in the United States, paid a lower tax rate than his receptionist. But under this bill, that receptionist isn't going to get much of anything.

Senator LOTT made a point with respect to the next tax bill. We are going to have another bill, Senator LOTT said. But the bottom line is the oil companies get their boost in this bill today. What Senator LOTT and others have said is maybe sometime down the road we will start talking about middle-class folks.

I think we have to give everybody in this country the chance to accumulate wealth. We have to do more than hand out gusher giveaways to a fortunate few.

That is why I have introduced the Fair Flat Tax Act that gives everybody in our country the opportunity to accumulate wealth.

So we are clear on this oil issue. I want the Senate to understand some of the history of it.

On November 9, 2005, the CEOs of the major oil companies came to a joint Senate hearing of the Energy and Commerce Committees. I asked them then—it had never been asked in a public forum—whether they agreed with the President's statement that "with $55 oil we don't need incentives for oil and gas companies to explore." The CEOs of ExxonMobil, Chevron, Conoco, Phillips, and BP-Shell for the first time agreed that the tax breaks which had been provided in the Energy bill weren't necessary.

Having heard that statement, I said I want to begin, on a bipartisan basis, to start working with colleagues in the Finance Committee to scale back these tax breaks that, to his credit, the President of the United States said aren't even necessary. I began to work with the distinguished Senator from Montana, Senator BAUCUS, and the Chair of our committee, Senator GRASSLEY, to try to start rolling back those tax breaks. It was a very modest step that was taken. Our committee repealed one of the tax breaks that dealt with what are called geological and geophysical drilling expenses. But we got it passed, and for the first time in 20 years, the Senate Finance Committee—I think Senator LOTT was even there that day—a tax break that the oil companies had gotten was taken away. Repealing that tax break would have saved about $1 billion. It certainly is not everything that is needed to deal with these exploding deficits but a solid step in the right direction.

You then have a conference between the Senate and the House. At a time of record profits, at a time of record prices, this bipartisan amendment to make a modest reduction in the kind of tax breaks that the President said are not needed when oil is over $55 a barrel pretty much disappeared. It was cut by more than 50 percent.

I say to my good friend from Mississippi that I can't accept a double standard where the oil companies get their tax breaks today—they get them right now—and yet, the Senate will come back and maybe sometime down the road start talking about relief for the middle class.

I want to work with the Senator from Mississippi. He and I have worked together on many occasions. That was why I felt that the bipartisan agreement I got in the original Senate bill was so important. But what I can't accept is a double standard, where you have the gusher giveaways today on the oil side and then we hear—as we heard on the floor of the Senate—we will come back with another bill at a another time and maybe at that point we can talk about tax relief for middle-class folks.

Another comment was made that I want to highlight about former President Ronald Reagan who, of course, is revered and respected by all. The last thing President Reagan did, to his credit, in the tax area is he worked with colleagues on both sides of the aisle, with former Senator from New Jersey, Bill Bradley; the former chair of the Ways and Mean Committee in the House, Dan Rostenkowski, on overhauling the Tax Code.

One of the steps that they agreed on is we were not going to hit the cops who walk the beat with a higher tax rate than somebody who is out investing, say, in Google stock.

We had a bipartisan agreement back in 1986 that we weren't going to discriminate against wages. We weren't in this country going to say that the people who work hard and play by the rules and make their money from wages are going to get hammered.

What the Senator from Mississippi said I found very interesting with respect to Ronald Reagan because what Ronald Reagan embraced in 1986 is exactly what I am calling for in my Fair Flat Tax Act. That is an approach that says we are in it together. We are all going to be able to accumulate wealth. Everybody is going to have a chance to get ahead. Everybody who aspires for a better life for themselves and their families would have an opportunity to do it under the Fair Flat Tax Act.

They sure don't under this bill with those oil gusher giveaways right now.

We have been told that sometime in the future, we will come back to talk about middle-class folks, and we will have a discussion about their needs and what they hope for their families sometime. This is one other area where, again, I have a little bit of a difference of opinion with my friend from Mississippi. He has talked about the fact that corporate profits are up, revenue is coming in. Of course, we are glad to see all of that. But the reality today is this is the first time in decades when corporate profits are up and productivity is up—both trends we like to see—that middle-class people are seeing their wages stagnant. The middle-class folks are not enjoying the fruits of these benefits of additional revenue. Again, I want our corporations to do well. I want to see the incredible improvements in productivity. What I think every Member of the Senate ought to be talking about is that not all Americans are in a position to enjoy these developments. That is why any time when I go home and have a community meeting, almost all of the issues raised by my constituents have the second word "bill." They ask about their gas bill or medical bill or mortgage bill or tax bill.

That is why I want to work with Senator LOTT on a bipartisan basis so that when we have an expansion of corporate profits, when we see an increase in productivity, the middle-class person can get ahead as well. We are not seeing that today.

In fact, the Federal Reserve said the other day that, for all practical purposes, over the last 5 years, the net worth of middle-class folks has hardly moved. What I want to do is what Ronald Reagan and Bill Bradley and others did back in 1986—make changes in the Tax Code so that everybody has the opportunity to accumulate wealth.

I wrote a bill, the Fair Flat Tax Act, which does that.

In fact, I am saying this to Senator LOTT because I would love having a chance to work with him.

I took the same brackets that Ronald Reagan did. I chose the exact same tax brackets that Ronald Reagan did for my Fair Flat Tax Act. It is an indication that if we can have a bipartisan effort, as we saw two decades ago before the 14,000 changes in the Tax Code since 1986, we could see once again Democrats and Republicans coming together to continue the trend toward expanded corporate profits and corporate productivity, but we would not be leaving the middle-class person behind.

That is what is so unfortunate about what has happened. My proposal allows us to save about $100 billion over the next 5 years. By contrast, the tax legislation before the Senate increases the deficit with more tax cuts that aren't paid for.

In terms of tax compliance, you can go to my web site, wyden.senate.com to see my simplified 1040. People at Money Magazine were able to complete this form in just 15 minutes. But this year, Americans spent more complying with the Tax Code than the government has spent on higher education. Is that what we want? Is that our vision of tax reform? I don't think so.

I think we want to build on the kind of bipartisan effort we had in 1986. We had a revered Republican President, Ronald Reagan, who has been cited on the floor today, coming together with Democrats in both the Senate and the House. We were able to do something that allowed us to grow the economy and also let middle-class folks get ahead.

Is it right that the cops who guard this wonderful institution pay a higher tax rate on their wages than Warren Buffett does as the second wealthiest person in our country? I don't want to soak anyone. I want everyone to be able to get ahead. I want everyone to be able to accumulate wealth.

What we have been told under this tax bill is that the oil companies get theirs today, but we will have some other day, some other time, some other opportunity to talk about the interests of the middle class. That is not fair to the people of this country. We have said we are all in it together. We should not have a double standard with the powerful getting theirs today and working families having to wait for another time. That is not right.

While we are, for example, putting a little patch on the alternative minimum tax in this legislation, and I am glad to see that—the crushing costs of this tax are not being addressed. My fair flat tax legislation abolishes the alternative minimum tax altogether. That is what we ought to do before we see this thing ramp up and up and up, engulfing millions of middle-class folks who end up having to pay their taxes twice.

I will wrap up with one last point. In this legislation, as we look at the tax cuts being offered in the bill to a fortunate few, we are seeing in the legislation that those who have crafted the bill are taking the very money Senator BAUCUS and I have sought in order to keep rural schools open, something Senator LOTT and a number of colleagues on the other side have been with us on a bipartisan basis. Senator BAUCUS and I asked, are we going to sell off hundreds of thousands of acres of our public lands in order to pay for the rural schools? We did not think that made any sense. So we said we are going to go to the drawing board. We are going to come up with an alternative. We did that. We said we were going to keep money from going to tax dodgers, make sure they paid what was owed, and to make sure the federal government honors our commitments to rural schools, rural schools in Oregon, in Mississippi, and all across the country.

It is possible, as Ronald Reagan and Democrats did in 1986, to make the Tax Code simpler, flatter, and fairer, and allow us to grow our economy and do right by the middle class. The legislation I have introduced, the Fair Flat Tax Act, is a starting point for the debate. We ought to understand, certainly on the Committee on Finance where I have the honor to serve with Senator LOTT, that there is a lot of give and take in a tax debate.

What I do know is the bill that the Senate will be voting on before too long does not give all Americans the opportunity to accumulate wealth. That is why I must oppose it.

I yield the floor.

Mr. LOTT. Mr. President, we had an order lined up. Senator ENZI cannot be here at this time so we have agreed to go with Senator BOXER, who is here. She is ready to proceed at this time. We have some other speakers who will be here momentarily and we will get this lined up.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, thank you very much.

Do I have a specific time associated with my remarks?

Mr. LOTT. We locked in 5 minutes.

Mrs. BOXER. Could I make it 8 minutes?

Mr. LOTT. I ask consent the Senator from California will be allowed to speak for 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, when I look at the distribution chart showing who benefits from the bill before the Senate, my question is, whose side are we on, anyway? I hope the answer to that question is, the majority of the American people.

When we look at this chart, what we find is we are on the side of not even 1 percent of the American people. We are on the side of those earning over $1 million a year. That is who gets the benefits of this bill.

According to The Urban Institute-Brookings Tax Policy Center, we see that the average tax cut of those over $1 million is $41,977 a year in this bill. The benefit of this tax break is essentially more than what some middle class Americans earn all year.

Then we have an additional number from the Center for Budget and Policy Priorities. Their chart shows if you earn over $1.6 million, this Republican tax bill will get you back $82,000 each and every year. Well, what is someone who earns, say, $40,000 getting back? Forty-six dollars—not even enough in some cases to fill up a gas tank.

Whose side is this Republican Senate on? If this were a time when we did not have deficits and we did not have debt, it would be one thing. I still would oppose this bill. I would rather give the benefits to those in the middle. I would rather give the benefits to those who were struggling with the high cost of gas. I would rather give the benefits to those who are struggling to send their children to college.

By the way, in this particular bill, the college tuition tax deduction, so popular with middle-class families, was not included. The Republicans took it out in order to help the wealthiest Americans and, by the way, big oil. Big oil gets big tax breaks in this bill, $5 billion strong.

Here we have a circumstance where the millionaires and the oil companies win and middle-class America and working-class America, 99 percent plus, lose.

No wonder there is change in the air. People are saying, Enough is enough. Colleagues, we can say enough is enough today by voting down this ill-conceived, unfair bill that punishes most Americans, except for big oil and the very wealthiest few.

Yes, there is a one-year fix to the alternative minimum tax in here. For that, I am grateful. Yet, still, that good fix is far outweighed when you look at the distribution tables. You can see who gets the benefits. Twenty dollars for regular working and middle-class American families is the average tax cut; $20 a year, while people making over $1.6 million get up to $82,000 a year.

This is America. This country is great because we believe in our middle class. We know our working people are the engine of our economy and the pride of our Nation, yet we have a table that shows that the middle class is not only forgotten, they are made fools of in this bill.

Yes, there is a fix to the AMT. Good. Outside of that, we have a situation where those who have, get more; those who have a lot, get even more; and the oil companies that have been manipulating supply and hurting the American people get a tremendous amount.

That is how the tax break for big oil works.

See if you can follow me. They set the rules governing oil company profits so that if an oil company buys a lot of oil at a low price, say, $40 a barrel, and then they sell that oil at $70 a barrel, they get to pretend that they bought the oil at $70 too. You would think the difference between $40 and $70 would be their profit and what they would owe taxes on.

But under this bill, no, no, no. Their profits, and tax liabilities, are calculated on the price of oil on the day they sell the oil. So if they buy oil at $40 a barrel and sell it at $70, they do not pay any taxes on it because they are allowed to claim their costs are the same as their revenues—$70 a barrel. It is a giveaway to big oil, which is having the most unbelievable record profits, which we believe are manipulating supply, and which gives their CEOs a $400 million bonus package. This is what this Republican bill does. How they can even bring it to the Senate with a straight face is beyond me. But they have brought it to the Senate. I ask those moderate Republicans to join us and send a message that it is time to change. It is time to look at our middle-class families in California and all across this country and stand on their side—those struggling with the gas crisis, those struggling with health care, those struggling with college tuition.

This is a day when we ask the question, Whose side are we on? I hope the answer is, we are not on the side of the winners in this chart. The winners are the wealthiest among us and the oil companies.

Again, if this were a different time, if we did not have raging deficits, which we have had since this President took office, if we did not have a debt that is going so high that this Senate has to vote in the dead of night to raise the debt ceiling, if we were not in a terrible war that is killing our soldiers, with no end in sight and no plan in sight, that would be a different story, and we could say a rising tide lifts all boats, and we will give everyone a break. But those are not the times in which we live.

At the end of the day, the gimmicks that are used to pay for the tax breaks are just so many gimmicks because we know by putting the wealthiest in the Roth IRAs, there is an initial flush of money coming in, but at the end of the day the earnings in the Roth accounts are not taxable and will cost us billions of dollars in lost revenues. This bill will drive up our debt and deficits.

In closing, a recent NBC-Wall Street Journal poll asked Americans their top concerns. Do you think that Americans said, I want to give tax breaks to the oil companies? I want to give tax breaks to those earning $1.6 million a year? No, they said their top concerns were rising gas prices, Iran's nuclear ambitions, immigration, civil disorder in Iraq, the Bush administration leaking national security information, and Enron-style corruption.

What do we give them today, the American people? We give them everything they do not want, rewarding big oil and rewarding those who have not asked to be helped. They are doing fine. The people earning over $1.6 million a year are doing just fine.

We are giving the American people more deficits. We are giving them more debt. We are not helping middle-class families solve the problems of the raging costs of college tuition and the raging costs of gas prices. I hope we vote no on this bill. It is a bad bill.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, as acting manager, let me get some agreement on time so Senators can plan accordingly. I ask unanimous consent the following Senators be able to speak in this order: Senator GREGG for 15 minutes; Senator FEINSTEIN to follow Senator GREGG for 15 minutes; Senator THOMAS is next, for 15 minutes; and Senator REED for 15 minutes.

Mrs. FEINSTEIN. Reserving the right to object, Mr. President, could I ask a question?

Mrs. BOXER. Could the Senator repeat that?

Mr. LOTT. Mr. President, I apologize for not having my microphone on earlier. We are trying to lock in the next three speakers. Senator GREGG will have the next 15 minutes, to be followed by the Senator from California for 15 minutes.

Mrs. BOXER. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Hampshire is recognized for 15 minutes.

Mr. GREGG. Mr. President, I appreciate the Senator from Mississippi granting me this time on this very important piece of legislation.

I want to pick up on the statement made by the junior Senator from California. What are we giving the American people? We are giving them jobs. We are giving them the opportunity to get good jobs in a thriving, growing economy as a result of good policy in the area of tax law.

We came out of an extraordinarily serious recession, the largest bubble in the history of the world, the Internet bubble—bigger than the tulip bubble, bigger than the South Seas bubble—which occurred at the beginning of 2000. It collapsed, which should have thrown us into a deep recession.

We followed that bubble with a huge disruption of our lives, the loss of human life, which was unbelievable and horrific, as a result of 9/11, but also it had a dramatic impact on our economy.

Those two factors alone should have led to a fairly significant, deep and painful recession. Why didn't they? They did not because this President and this Republican Congress put in place tax policy which allowed Americans who wanted to be entrepreneurial to go out and invest, take risk—which is the American way—and, as a result, create jobs.

The facts are incontrovertible. This chart shows it. This is the period during which we had the Internet bubble and the 9/11 attacks. In 2003, we reduced the taxes on productivity in this country and gave people an incentive to go out and earn more, take risk, and create jobs. As a result, we are seeing a dramatic increase in economic activity and in jobs.

Mr. President, 5.3 million jobs have been created since these tax cuts were put in place—5.3 million jobs in those 32 months. Look at this green line on the chart. Those are all new jobs coming into the economy as a result of the tax cuts. There has been a massive explosion in economic activity as a result of these tax cuts.

Now, the other side of the aisle will have you believe that the only people who benefited from these tax cuts were the wealthy. Well, all these people who got jobs benefited from these tax cuts. More importantly, the American Government benefitted from these tax cuts because our revenues have climbed dramatically as a result of these tax cuts.

The reason that has happened is because assets which had been locked up for years are now being used to create better investments and more productivity. In fact, revenues from income taxes have gone up by 10 percent. They have grown by 10 percent in the last 6 months. Revenues from corporate activity have gone up by 26 percent. This is all a function of putting in place tax rates which essentially said to Americans: You go out and invest. You go out and take risk. You go out and create jobs. And we will say we will benefit your efforts by giving you an incentive to do that.

Now, the essence of this whole effort is embedded in this tax bill, and that is the setting of a reasonable tax rate on capital gains and dividends. There is a psychology which is out there, which is human nature: If you say to a person: We are going to take 70 percent of your income, they are not going to have a lot of reason to go out and make an extra dollar because the Government is going to take their money. But if you say to someone: We are going to take 30 percent of your income, then that person has a bigger incentive to go out and work.

The same is true for capital investment. If you say to somebody, if you sell that asset you have, we are going to tax you at 30 percent, that person has very little incentive to go out and sell that asset. But if you say to that person, if you sell that asset, we are going to tax you at 15 percent, then that person has a reason to go out and sell that asset, and take that money and do two things. First, they reinvest it so it is being used more productively and generates more economic activity and probably creates more jobs, but, secondly, by selling that asset, they actually end up paying taxes, taxes which they did not otherwise and would not have otherwise paid.

If you own some stock or a piece of land or a farm or any asset which is a capital asset, you do not have to sell it, you do not have to generate tax revenue to the Federal Government. That is what was happening. A lot of people were sitting on those assets. But by cutting the capital gains rate, we essentially created an atmosphere out there where people started to turn over those assets. As a result of turning over those assets, they created more productivity in our economy.

In fact, we are now at the highest level of productivity that our economy has experienced in the post-World War II period. That additional productivity has created more jobs so that more Americans are working. Mr. President, 5.3 million more Americans are working than were working back in 2003 when these tax cuts began. Equally important, the revenues to the Federal Government have jumped dramatically.

In fact, they have jumped so dramatically in capital gains that they have outstripped the estimates by $30 billion each year over the last 2 years. The CBO had originally estimated that we would have about $49 billion of capital gains income in 2005. Well, we got $75 billion. They estimated, in 2006, we would have about $54 billion. We have gotten about $81 billion. That is $60 billion of new revenue that was generated by cutting the capital gains rate to something that was reasonable and caused people to go out an convert capital assets—whether it is stocks or land or businesses—convert those assets, sell them, pay taxes, and reinvest in a way which would actually create more jobs and more economic activity in the economy.

So this concept that cutting capital gains rates somehow benefits the rich cannot be defended on the facts. What it benefits is the American Treasury.

the Government's Treasury. What it benefits are the people who have gotten all these jobs, these 5 million new jobs.

Now, another chart over there that was used by the other side said: Well, the tax benefit flows to the top 10 percent of the income brackets. Well, that is because the top 10 percent of the income brackets pay most of the taxes. In fact, if you have income over $185,000, that is where 65 percent of the taxes come from. Those are the folks with the highest income, those are the folks paying the most taxes. That is the way it should be. And now they are actually paying a lot more taxes than they were before this tax cut because they are generating activity which is taxable.

Before the tax cut, when capital gains was so high, they sat on it. But now, because there is an incentive for them to go out and convert those assets, they are actually paying more in taxes than they were paying before. So the argument that the high-end taxpayer, the high-end income individual is benefiting disproportionately from this simply flies in the face of the facts. They are paying more in taxes. More revenue is coming in from those people than ever before. And a higher percentage, in fact, of Federal revenues now comes from those individuals than ever before. And they are, most importantly—and this is the point that the other side seems to miss completely because they subscribe to the 1930s "old left" theory of economic policy—these people create jobs, and the bottom line is, good jobs.

That is what they are creating in our economy by going out and taking assets, which were locked down, which were in a less-productive atmosphere, and moving them over to assets which are more productive and creating more opportunity for people to generate jobs.

It always amazes me that this concept completely escapes our friends on the other side of the aisle. But this also translates into investment growth. It is ironic that both of these two charts show the exact same thing. And business investment has expanded dramatically. When did it begin to expand? In 2003, when we made these tax cuts. Job creation has expanded dramatically. When did it begin to expand? In 2003, when we made these tax cuts. These are not chance events. These increases in jobs and business activity are a direct function of the fact that we have created a fairer tax climate, where people are willing to be more aggressive, take more risk, be more entrepreneurial, and, as a result, create more jobs.

And to at this point take the position we should go back to the old tax rates, which would essentially double—double—we are not talking about a little bit. We are talking about doubling. The position of the other side of the aisle is, they want to double the tax rate on capital investment, on risk takers, on entrepreneurs, the people who create the jobs in our society.

To take that position now, in the middle of this recovery, which has been historic in nature, in that we are now at historic levels of productivity—we have had 32 months of expansion. We have more people working today in America than at any time in our history. To take the position we would put this huge, damp cloth on top of this economic expansion in the name of populous tax policy, which has been proved wrong over and over again, ever since it was conceived in the 1930s, as the way to generate revenues—back in the 1930s and 1940s, the policies of the left were that you generated more revenues by raising taxes dramatically. And we had a 90-percent tax rate at one point in this country. Then, we had a 70-percent tax rate in this country.

Then, along came a gentleman who, ironically, understood this did not work but, also ironically, came from the other side of the aisle. His name was John F. Kennedy. And he, as President, cut the tax rates because he believed the high tax rates were disincentivizing the American spirit to be productive. He cut rates. And what happened? Revenues went up. And all the people from the left said: Oh, my God, this can't be happening. This must be an aberration. It was not an aberration. It should have put a stake through the policies of the old left, but it did not.

So then along came Ronald Reagan, who said: Hey, it worked for John Kennedy. I will try it. He cut rates. And what happened? Revenues did not go down. They went up.

And then along came President Bush, and he said: John Kennedy and Ronald Reagan were right. The way you generate revenues is you create an incentive for economic activity, you create an incentive for people to go out and invest, and you create more jobs. More jobs translate into more taxpayers. As a result, you generate more revenues to the Federal Government. So he put in place his tax cuts in 2003.

The facts are incontrovertible. The numbers are coming in at a dramatic rate. We are seeing a 14-percent increase in revenues to the Federal Treasury. Last year, it was the largest single increase in our history in dollar terms; with 11 percent through the first 6 months of this year. It is probably going to be even higher before we finish the year.

The practical effect of this is these new revenues, these additional revenues have been generated by a lower tax rate, a fairer tax rate. And they are assisting us in reducing the deficit. In fact, the deficit is coming down precipitously as a result of these additional revenues. And people are getting more jobs because this economy is vibrant and strong as a result of these tax rates.

You would think after this approach to tax policy has been proven by three major initiatives by three Presidents, being from both parties, in three different decades, the other side of the aisle would look in the mirror in the morning and say: Listen, the policies of the 1930s and 1940s—which were taught to us as a result of the outgrowth of the theory that if you constantly raise taxes, you generate more revenues—those policies have been proven wrong. They have been proven wrong by President John Kennedy. They have been proven wrong by President Ronald Reagan. And they have been proven wrong by President George W. Bush.

Human nature tells you they are wrong. If you give a person a reason to go out and be productive by putting a lower tax burden on them, a fair tax burden—we are not saying no taxes, we are talking about a fair tax burden. It is obviously not a tax burden that is at zero because we actually have high-income individuals in this country actually paying more in taxes today than they did prior to the tax cuts, significantly more, and also they are bearing a larger percentage of the burden of taxes today than they did before the tax cuts. It is a fairer way to approach tax policy. As a result of that fairer way, you generate more income, more economic growth, and that leads to more jobs, which is the purpose of our efforts.

This bill is a critical piece of legislation.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator has used 15 minutes.

Mr. GREGG. It is a critical piece of legislation that we should endorse, embrace, and recognize that by its passage, we will continue to give the American people the opportunity to be in a vibrant, growing economy where jobs will be created, not lost.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I believe I am recognized for 15 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mrs. FEINSTEIN. I thank the Chair.

Madam President, I don't think any single bill or issue more delineates the difference between the Democratic and Republican Parties today than this bill and the issues it contains.

I would like to respond to the Senator from New Hampshire. He talked about how good this was for job creation. Under the Clinton administration, 23 million new jobs were created. So far, 2.6 million jobs have been created under President Bush. Take a look at the difference between the two in jobs and also in debt. These are the early years of Clinton, up to 1997. Look at the blue. That is all surplus: $69 billion, $126 billion, $236 billion, $128 billion. These are the years under George

Bush, the deficit: $158 billion, $378 billion, $412 billion, $318 billion, and $350 billion. So far, the tax cuts have cost $1.9 trillion.

I believe this conference report reflects misplaced priorities. It exacerbates an already serious deficit. It certainly exacerbates the national debt. And most importantly, it is certainly not equitable.

At a time when most American families are struggling to meet the rising cost of living, we should be taking constructive steps to provide targeted tax relief to those who need it most. We are not doing that. You would think this package of tax cuts might take steps to alleviate some of the financial strain. Instead, the bill offers no benefit to middle-class and low-income households. These provisions have been removed in favor of billions of dollars of additional tax cuts for the wealthiest Americans. Unfortunately, this conference report does not resemble the bill that left the Senate earlier.

Today, Americans deal with record gas prices. It is $3.40 a gallon in some areas in California. The conference committee chose not to require more from big oil companies, even as corporate profits hit a record $1.35 trillion last year, now accounting for the largest share of national income in 40 years. The conferees decided not to do anything to affect the oil companies, the special incentives and tax breaks they get. Instead, middle-class families were left to bear the brunt of these decisions.

Rather than providing millions of Americans with the necessary extended relief, the lion's share of this bill—$50 billion over the next 10 years—is devoted to extending reduced rates for capital gains and dividend tax breaks. I have never had anyone in the business community come up to me and say: You have to lower capital gains. What they have said to me is that it doesn't make much difference, certainly not dividend tax breaks. Unlike the AMT fix, these rates were not scheduled to expire this year or even the next. Why are we doing it now? We are doing it now only to make the future bleaker. More than 75 percent of the capital gains and dividend tax breaks have served Americans earning more than $200,000.

The Senator from New Hampshire says how great these are for the average person. No, they aren't. They are good for the very wealthy, for the individual who makes more than $200,000 a year. That is 75 percent of the benefit. The average millionaire will receive a $42,000 tax cut from capital gains and dividends alone in 2005. Meanwhile, the average taxpayer, earning less than $75,000—that is three quarters of the taxpayers—receives only $13. So three quarters of the tax-paying population of America receives only $13, while the individual earning over $200,000 has a huge tax break. This is unfair. It is irresponsible. It is not without consequences.

The Federal budget deficit will be at least $300 billion this year. The national debt is soaring. We have fewer resources available for critical domestic priorities.

Under President Clinton, we had 4 years of budget surplus. When he left office, we had a projected 10-year surplus of $5.6 trillion. What is interesting to me is, the two parties have switched. The Republicans are not the deficit hawks; the Democrats have become the deficit hawks. The Republicans have become the big spenders, and this bill clearly identifies that.

The economic policies of the last 5 years have produced a catastrophic turnaround. Record budget surpluses have given way to record deficits projected at $1.6 trillion over the next decade. The full impact of this administration's fiscal policies remains clouded. This President has broken with his predecessors by submitting only 5-year budgets. Why? Think about it, especially after we were presented with the traditional 10-year numbers during the President's first year in office. I will tell you why I think he is doing it, and that is to hide the fact that these tax cuts explode in the out years. They create enormous problems for the future. The result is a wall of debt.

Over the next 10 years, the debt is projected to reach $12 trillion. In this year alone, our national debt is slated to increase by $654 billion. More startling is the fact that the national debt is currently at 66 percent of our gross domestic product. I heard someone make a speech the other day and say it was 2 percent of GDP, "don't worry about it." So we went and got the CBO figures. It is 66 percent of GDP; worry about it.

The total debt equates to roughly $30,000 owned by every man, woman, and child in America. This is really troubling to anyone who runs a household or runs a business. You would have your house repossessed if you ran your books this way. You would lose your business if you ran your books this way.

When all costs are included, the tax breaks for the wealthiest Americans will cost almost $2 trillion over the next decade. When you combine the cost of the tax cuts with spending on the war in Iraq—currently totaling $370 billion—the inevitable result is the programs that matter most are squeezed.

Let me explain that. This chart takes 2 years, 2005 and 2015. It looks at everything the Federal Government spends. It is deceptive to look just at the budget. The budget does not reflect what we spend in entirety. The fact is, entitlements—Social Security, Medicare, Medicaid, veterans' benefits—are 53.5 percent of what the Federal Government spent in 2005. Interest on the debt alone was $184 billion. That is 7.4 percent. So 60.4 percent of everything the Federal Government spent in 2005 was not budgeted and cannot be controlled. What is left? Forty percent of total spending. There is 20.1 percent for defense—not likely to be cut much in view of the circumstances of the war on terror—and non-defense discretionary, which is everything else, at 18.9 percent of what the Federal Government spent in 2005. That is a fact.

So because the only thing you can cut is discretionary defense and other discretionary spending, these tax policies mean the only thing you can do is cut every program that matters to the American people. Fewer cops on the street, down 15,000. Every nutrition and supplemental aid to seniors is cut. Less for highways, interior, and agriculture. That is what you have to cut. That is it. And that is what these tax cuts, when they explode exponentially at the end of the 10-year period, will do. They will create an enormous problem for the future.

If you add interest on the debt and go to the year 2015, 70 percent of everything the Federal Government spends will not be controllable—it will increase 10 percent from 2005 to 70 percent in 2015. Defense discretionary will be reduced to 15 percent and non-defense discretionary to 13.7 percent. That is the projected inevitable trend of what we are doing here today.

Let me talk about some of the cuts: Food stamps for poor people, $272 million; COPS Program, $407 billion or 15,000 fewer officers nationwide; job training, $55 million. Education, the President's signature program, No Child Left Behind, will be underfunded this year by more than $12 billion, and $39 billion since it was enacted. That is the impact forced by passing a bill like this. No wonder people look at No Child Left Behind and say: "Yes, we like the standards, yes, we want to strive for excellence, but you have to provide the money that was assured when the bill was signed." The fact is, it is $39 billion underfunded since that bill was signed.

So we are shortchanging our Nation, and it isn't worth the tax cut for millionaires. I have never had a millionaire—and I would defy any Member of this body to identify one—come before me and say: "You know, I really need a tax cut. I really need that additional $140,000 a year these tax cuts provide for me." I challenge anyone to bring a name forward of someone who said that because I don't believe they need it at all.

I have supported tax cuts in the proper context. Let me tell what you that context is. It is a balanced budget and a projected surplus. That is the time to cut taxes for people, when you can say: "We have balanced the budget and we are in surplus." That was true when the first tax cut went through. The budget was in surplus. The projected surplus was $5.6 trillion over 10 years. That is when the first tax cut was made. This is the difference between the two parties. The Republicans cut taxes even when the red ink is great.

Cut out the revenues, force the squeezing of Government. That means you have to cut transportation, and agriculture, and cops, and aid to seniors and virtually every other program, because you cannot cut entitlements. You cannot cut interest on the debt. We are in a war and unlikely to cut defense. So you have to cut everything else.

That is where we are going and it is only going to get worse in the future. The fact of the matter is that we don't have to make these tax cuts permanent at this time. There is only one reason they are in this bill. I don't believe it is for jobs. Clinton balanced the budget and produced 23 million jobs. This administration produced 2.6 million jobs. That is a pittance in comparison, and it is tax cut after tax cut. And when we finish here, we will be faced with an estate tax cut that will take hundreds of billions of dollars out of this revenue stream. So if there are any cops left, you can be sure they will be gone. If there are any food stamps left, they will have to be cut.

Those are the choices this forces. It is wrong, it is immoral and, I think, long term, it is a disaster for this Nation.

Bottom line: I urge my colleagues to vote no on this conference bill.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Madam President, we had speakers lined up under the unanimous consent agreement, but they have not been able to reach the floor yet. If Senator THOMAS shows up or Senator REED of Rhode Island, I will yield. I understand that perhaps Senator AKAKA is on the way.

While we are waiting, I found the remarks of the Senator from California very interesting, as they always are. I found her chart particularly interesting. When you talk about the situation of the Federal budget and the deficits, I think the chart showed where the problem is. I appreciate being able to refer to it.

The problem is that entitlement spending will go from 53 percent to 63 percent of the entire Federal budget over the next 10 years. Entitlements are going to eat the entire Federal budget, yes. We are getting squeezed in the nondefense discretionary area, but it is because of the entitlements. We all say that these are untouchable. Are they? We need reform in these programs—in Medicaid, Medicare, Social Security—so we can control the spiraling costs they are putting on the Federal budget.

There are those who say let's just raise taxes and we will have more money for all of these programs. No. I think that is going the wrong way. Certainly, we don't want to raise taxes on middle-class Americans. This bill would give relief, through the alternative minimum tax changes, of $38 billion to people in that middle-income area. Don't we want to help them?

Small business expensing. We want to help small businesses. We heard the Senator from New Hampshire talk about the growth in jobs creation. So we want to encourage that. That is why this bill would provide some additional tax relief, or at least prevent tax increases on small business men and women. That is why we want the alternative minimum tax to be dealt with because so many people are going to be hit with AMT, when nobody wanted that or anticipated that.

If we don't pass this bill, then middle-income America is going to be hit with this very unfair alternative minimum tax. We can deal with entitlements, but we have not been able to get the political courage to do so. Then, of course, the idea I have heard two or three times today is that President Clinton had a balanced budget during the latter part of his administration. Well, I was there. I remember what happened on the balanced budget. I remember the very difficult negotiations. I remember that we did have reform which he eventually signed. He didn't want to. We had welfare reform and he signed it. We had tax cuts to encourage growth in the economy, coupled with a reduction in Federal budget spending. He signed it. The Congress had a lot to do with that. I think he deserves credit. He was on the seat and he signed the bills. But I remember it was the Congress that drove that debate, and I am very proud of that period because I was in the leadership at that time and for 4 years, we had balanced budgets and a surplus, proving that it can be done. But you have to have both. You have to control spending, reform entitlements, and you have to cut taxes in a way that will create jobs.

I still have a novel idea. I think that people who should get tax cuts are the people who pay taxes, and to have some percentage that reflects that makes a big difference. Some people say, well, we won't give but $100 to somebody who makes $30,000 or $40,000 a year. It is not nearly as important to somebody who makes $200,000 who gets a $1,000 tax cut. But the fact is that you get tax cuts proportionate to what you pay. The people at the lower levels will get a tax cut; it won't be as big dollarwise as somebody who makes more because percentagewise, of what they do in terms of creating jobs, there is no comparison. It is part of the old class warfare that we always go through here.

If you tax the people who are producing jobs and paying the bulk of the taxes, they will change their behavior and they will quit creating jobs and paying taxes, and we will have less revenue. We are trying to encourage continued growth in the economy.

With that, I see Senator REED from Rhode Island has arrived. I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Madam President, I rise in opposition to this tax reconciliation conference report. At a time when we are all already shouldering a large budget deficit and fighting a war, this is an irresponsible fiscal policy. At a time when economic growth is mainly showing up in the bottom lines of companies, ordinary Americans are struggling with stagnating real wages and incomes. This is not the approach to take. Yet, we are debating a tax cut whose benefits go overwhelmingly to those who are so well off that they don't have to worry, as ordinary people do, about what they will have to give up to pay for the next tank of gas or to heat their homes.

Supporters of the tax cut in this reconciliation package, including the President, argue that those tax cuts have produced a robust economic recovery and extending them is necessary to keep the economy growing. Some of them even claim that the tax revenues bring in enough revenue to pay for themselves. These arguments are self-contradictory, where they are not downright wrong.

At the time the tax cuts in this package were originally passed, the economy was mired in an economic slump and they were sold as a means to jump-start the economy. If the administration is right that the economy is now growing strongly, extending them is unnecessary. If those of us who believe there are still problems with this economic recovery are right, we would be throwing good money after bad to extend tax cuts that have been ineffective.

Responsible economists, at the time of these original tax cuts, pointed out that these particular tax cuts were very poorly designed to produce the job-creating stimulus the economy needed in the short run, and that they would be harmful in the long run by adding to the budget deficit. They were right.

Economic growth, job creation, and investment have been weak by the standards of past recoveries. At this point in the recovery from the 1990–1991 recession, the economy had created 4.8 million more jobs than have been created in this recovery.

Make no mistake, this tax cut will be paid for by borrowing and adding to the long-run structural budget deficit, and it will depress the growth in the American standard of living.

If the tax cuts pay for themselves, where are the revenues? Federal tax revenues as a share of the economy declined in each of the first 4 years of this administration, reaching a 45-year low in 2004. As the economy recovered, it was natural for revenues to rise. But despite that growth, Federal revenues were still below their historical average level last year.

Some have pointed to the higher than expected capital gains realization as evidence that the tax cuts pay for themselves. Yet, in a recent letter to Finance Committee Chairman GRASSLEY, the CBO concluded: "After examining the historical record, including that for 2004, we cannot conclude that the unexplained increase (in capital gains realizations) is attributable to the change in the capital gains tax rates. Volatility in gains can stem from other factors, such as changes in asset values, investor decisions, or broader economic trends."

Past history suggests that the timing of capital gains realization does respond to tax rates. We saw this in 1986 when realizations doubled from the previous year as investors took advantage of lower tax rates. Today, many investors are choosing to realize gains now while tax rates are low. This increases revenues today, but this is just tax revenue borrowed from the future. In recent testimony before the Joint Economic Committee, Federal Reserve Chairman Bernanke noted:

> There are a lot of factors affecting both the increase in the stock market and realizations. And one of the issues here is the question as to whether or not some realizations are taking place today which otherwise might have taken place in the future. And so, in that sense, the increase in tax revenue is reflecting a one-time gain, as opposed to a permanent gain.

It is clear that over the long term tax cuts do not pay for themselves. Former Federal Reserve Chairman Greenspan said in testimony before the House Budget Committee:

> It is very rare and few economists believe that you can cut taxes and you will get the same amount of revenue. . . . When you cut taxes, you gain some revenue back. We don't know exactly what this is, but it's not small, but it's also not 70 percent or anything like that.

Former Chairman of the Council of Economic Advisers, Gregory Mankiw, wrote in his macroeconomic textbook that there is "no credible evidence" that tax cuts pay for themselves, and that an economist who makes such a claim is a "snake oil salesman who is trying to sell a miracle cure."

I believe he was an adviser to the Republican President. The reconciliation bill is full of one-time gimmicks that take money from the future and leave major issues unaddressed. The one-year AMT fix costs $33 billion, but we will be back here next year to pass another fix that could cost an additional $40 billion for another 1-year solution. The AMT is a trillion dollar problem that the administration refuses to permanently correct.

The IRA provision is another gimmick that raises revenues now at the cost of greater revenue losses in the future. Why provide another tax-favored saving opportunity to the well off who are already able to save on their own? With all the gimmicks and front loading of future revenues, we should rename this bill "the future tax increase for working Americans reconciliation act," because that is what we will need to happen to pay for these tax cuts for the wealthy.

Reconciliation was designed to enforce fiscal responsibility. It was designed to force us to make tough choices that emphasize our national priorities. Instead, what we now have is an unprecedented bifurcation of the reconciliation process that is full of gimmicks to pay for unwise tax cuts for those who need it the least, and poor decisions that ignore our needs to invest more in hard-working families.

The bill before us today has made an utter mockery out of the budget process and has turned it on its head. Once again, the legislation before us is about choices and missed opportunities. We have real crises and issues that we must confront as a nation, and we are again missing the opportunity of addressing them by squandering millions of dollars on cuts that are unnecessary. It is critical that we deal with energy, and it should be at the top of our agenda.

The fiscal strains caused by record high gas prices hurt workers and the economy. The average household will spend 75 percent more in gasoline costs this year than in 2001 and yet this tax reconciliation bill continues to give more tax breaks to large oil companies that have reported record profits in the past year, at the expense of Americans everywhere.

In March of this year, Lee Raymond, CEO of Exxon, testified before the Judiciary Committee that they didn't need the recent tax cuts provided in the Energy Policy Act of the 2005. When the most profitable companies in the world tell you they don't need tax cuts and you have more than a dozen tax cuts that have expired for millions of teachers, working families, and students, I believe the right decision is to help those who are in need and not these huge companies.

Last November, the Senate passed a tax reconciliation bill which scaled back some of the tax incentives for the major oil and gas companies. Many in the industry noted that these provisions would have little, if any, impact on supply and demand. In essence, the bill took back some revenue from unnecessary tax cuts for the most profitable companies. However, these reasonable proposals were eliminated from the conference report before us today.

Why was that done? Because, of all the provisions in this bill, President Bush threatened to veto this entire bill if it included the LIFO revenue raiser, which is a provision that would have eliminated for one year a favorable method of accounting for the big oil companies. When it comes to making the most profitable companies pay their fair share, the administration threatens to veto the legislation.

These specific oil and gas provisions which were included in the Senate-passed tax reconciliation would have raised $5 billion. This money could have been invested in fully funding energy efficiency and renewable energy programs in the Energy Policy Act. The money could have also been better invested in programs such as LIHEAP and the Weatherization Assistance Program to help reduce the energy burden of working families who are disproportionately impacted by these rising prices. These are the first steps in reducing our demand for fossil fuels and are currently our Nation's best means of addressing a secure energy future.

Ultimately, this bill will be a drain on national savings, and our children and grandchildren will pay the price. These tax cuts have not contributed to raising national savings. The personal savings rate which these tax cuts were presumably designed to stimulate has been going down and is now negative. On average, people are spending more than their current income. To be sure, soaring corporate profits and retained earnings have boosted the business part of private savings, but this is offset by budget deficits which these tax cuts will only increase.

We no longer have the fiscal discipline we had in the 1990s which allowed for a monetary policy that encouraged investment and long-term growth. The President's large and persistent budget deficits have led to an ever-widening trade deficit that forces us to borrow vast amounts from abroad and puts us at risk of a major financial collapse if foreign lenders suddenly stop accepting our IOUs.

Even assuming we can avoid an international financial crisis, continued budget and trade deficits will be a drag on the growth of our standard of living and leave us ill-prepared to deal with the effects of the retirement of the baby boom generation. Strong investment, financed by our own national savings, not foreign borrowing, is the foundation for strong and sustained economic growth and rising living standards.

We desperately need to bring our fiscal house in order, and today's bill only takes us further away from meeting that goal.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, it is very unfortunate that when it comes to issues of taxes that we see hand-wringing and we read editorials about who is receiving the benefits of a reduction in taxes or, in this case, who is going to have to face an increase in taxes because that is what this is all about, preventing an automatic increase in taxes if we don't do anything.

With the AMT, the alternative minimum tax, it is going to hit millions of families next year if we don't do something. We are going to have an increase in capital gains and dividends in a couple years if we don't take action today on this bill.

We should think of this as a question of who is going to see an increase in taxes. That is why the title of this bill is so on point. The title of the bill is the "Tax Increase Prevention and Reconciliation Act," and the key part of those many words is "tax increase prevention." That is the key part of the title. That is what this bill is all about. This is not about cutting taxes further. How many times have we heard the words "cutting taxes" used on the floor of this body?

What we are doing in this bill is making sure that people don't get an automatic tax increase because of sunset, and because Congress doesn't have guts enough to vote for a tax increase, they can stop legislation like this and have a tax increase and never have to be on record in favor of the tax increase. But we are not cutting taxes. We are keeping the same tax policy that we had in the 2003 tax bill, in the case of dividends, and we are keeping the same tax policy in the case of the alternative minimum tax that we had in the tax bill since Senator BAUCUS and I negotiated that tax bill in 2001—in other words, to hold harmless 22 million more people who are not going to be paying that tax on 2006 income who didn't have to pay it on 2005 income.

I would like to discuss some of the points on this matter that I hope will help keep the feet of people on the other side of the aisle, and maybe a couple on our side of the aisle, on the ground.

Let's start with the basic fact that thanks to the tax cuts we have enacted during the Bush administration, we have now removed millions of people from the Federal income tax rolls. Millions of hard-working families now do not have to pay any Federal income tax and, as my colleagues know, many of these families can get benefits from what is called the earned-income tax credit which serves the purpose of offsetting some payroll taxes low-income people pay.

Let me make it very clear. If you are bad-mouthing the tax policies of 2001 and 2003 in this administration, are you saying that it was wrong to take millions of low-income people who previously had to pay some income tax off the rolls? They probably couldn't afford to pay a little amount of income tax, and they are no longer paying income tax. It just shocks me that I would hear people bad-mouthing that tax policy that was adopted in 2001 which, quite frankly, is a continuation of some tax policy that was adopted in other tax bills in previous years.

That is a fact of life. Thanks to our tax cuts, millions of low-income families and individuals no longer pay Federal income tax. Yet people love to pull their hair about the fact that we are not giving tax cuts to these same low-income people. It is a fact of life that we all looked at. This kind of talk stops me right in my tracks. It reminds me of city folk who start to farm, plant soybeans, and wonder why they are not going to get a corn crop.

It is this way: If you don't pay Federal income tax—and remember, we just took lots of people, millions of people, off the Federal income tax rolls who don't pay Federal income tax—if you don't pay it, it is pretty hard to cut your income taxes. If you don't plant corn, you are not going to get a corn crop.

Again, this bill is focused on preventing tax increases, not cutting taxes. So anybody on the other side of the aisle who says we are cutting taxes for this group or that group doesn't know what they are talking about because what we are doing is continuing existing tax policy. If they want to go back and argue that tax policy adopted in 2001 and 2003 is wrong, that we cut taxes way back then, that is an intellectually honest argument. But don't say we are cutting taxes in this tax bill because we are not cutting taxes anymore. We are keeping the tax policy where it has been.

I find it particularly interesting that we hear from the other side of the aisle that we should have done just the alternative minimum tax in this bill and not done provisions for capital gains and dividends. Often, these folks arguing this way are the same folks who are wearing their hair shirt ragged on this issue of who is going to get tax benefits.

Interestingly, the Tax Policy Center, which is so often cited by newspapers and Members, shows that if we had just done capital gains and dividends and not done the alternative minimum tax, that would have provided more tax relief for low-income families and individuals. Let me make sure my colleagues understand that point. By including capital gains and dividends, this bill provides more tax benefits to low-income families and individuals than if we had just done the alternative minimum tax.

So I suggest to those who think they should only do the alternative minimum tax, they should hang up their hair shirt. We all know the reality is that capital gains and dividends are encouraging investors, new businesses, and as a result we get 5.2 million new jobs. We get 4.8 percent economic growth in the last quarter—18 quarters in a row of growth. I don't say that; Chairman Greenspan says that the tax cuts are responsible for turning the economy around and having this growth.

Let me further say that Chairman Greenspan has always had a great deal of credibility, and he still does. If he says it is better, then I say it. But if we can both say it, we are both right.

You create new jobs, new businesses. It is absolutely wrong to state that low-income families are not seeing benefits. They are seeing the benefits of these tax policies previously enacted by these 5.3 million new jobs created, and they will see these benefits in the future with more new jobs being created.

This has helped Americans at all levels. It is reported that the percentage of Americans earning more than $50,000 a year rose from 40.8 percent of the population to 44.2 percent of the population in just 2 years. While inflation is a factor—it is a very low inflation rate—that still reflects real gain.

To reduce all of this to a spreadsheet of who benefits directly from taxes is an easy game, and it is a good tool of demagoguery. The truth is that all Americans will benefit from a strong, growing, robust economy that will continue when we pass this bill because these policies are working today, and if we continue these tax policies, they are going to continue to grow the economy, producing new jobs and, more importantly, better jobs.

I would like to focus on this issue of who is paying the taxes in this country because that argument vexes me when I hear it demagoged. I ask unanimous consent to have printed in the RECORD an editorial from the Wall Street Journal last week that says: "How to Soak the Rich (the George Bush Way)."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOW TO SOAK THE RICH (THE GEORGE BUSH WAY)

(By Stephen Moore)

With the House and Senate preparing to vote on extending George W. Bush's investment tax cuts, it's no surprise the cries against "tax giveaways to the rich" grow increasingly shrill. Just yesterday Senate Minority Leader Harry Reid charged that the Bush tax plan "offers next to nothing to average Americans while giving away the store to multi-millionaires" and then fumed that it will "do much more for ExxonMobil board members than it will do for ExxonMobil customers."

Oh really. New IRS data released last month tell a very different story: In the aftermath of the Bush investment tax cuts, the federal income tax burden has substantially shifted onto the backs of the wealthy. Between 2002 and 2004, tax payments by those with adjusted gross incomes (AGI) of more than $200,000 a year, which is roughly 3% of taxpayers, increased by 19.4%—more than double the 9.3% increase for all other taxpayers.

Between 2001 and 2004 (the most recent data), the percentage of federal income taxes paid by those with $200,000 incomes and above has risen to 46.6% from 40.5%. In other words, out of every 100 Americans, the wealthiest three are now paying close to the same amount in taxes as the other 97 combined. The richest income group pays a larger share of the tax burden than at anytime in the last 30 years with the exception of the late 1990s—right before the artificially inflated high tech bubble burst.

Millionaires paid more, too. The tax share paid by Americans with an income above $1 million a year rose to 17.8% in 2003 from 16.9% in 2002, the year before the capital gains and dividend tax cuts.

The most astounding result from the IRS data is the deluge of revenues from the very taxes that were cuts in 2003: capital gains and dividends. As shown in the nearby chart, capital gains receipts from 2002–04 have climbed by 79% after the reduction in the tax rate from 20% to 15%. Dividend tax receipts are up 35% from 2002 to 2004, even though the taxable rate fell from 39.6% to 15%. This is as clear evidence of a Laffer Curve effect as one will find: Lower rates produced increased revenues.

What explains this surge in tax revenue, especially at the high end of the income scale? The main factor at play here is the robust economic expansion, which has led to real income gains for most tax filers. Higher incomes mean higher tax payments. Between 2001 and 2004, the percentage of Americans with an income of more than $200,000 rose from 12.0% to 14.2%. The percentage of Americans earning more than $50,000 a year rose from 40.8% to 44.2%—and that's just in two years. While these statistics are not inflation-adjusted by the IRS, price rises were relatively modest during these years, so adjusting wouldn't alter much.

We can already hear the left objecting that the rich are paying more taxes simply because they have hoarded all the income gains, while the middle class and poor wallow in economic quicksand. But, again, the IRS data tell a more upbeat story of widespread financial gains for American families. The slice of the total income pie captured by the richest 1%, 5% and 10% of Americans is lower today than in the last years of the Clinton administration.

So how can the media contort these statistics to conclude that the Bush tax cuts only benefited the affluent? The New York Times claims that the richest 0.1% got 5,000 times the tax benefit than those with less than $50,000 of income. That figure can only be true if one assumes that there were no economic benefits from the tax cuts whatsoever; and that lower taxes on income, capital gains and dividends resulted in no changes in the real economy—not the value of stocks, not business spending, not employment, not capital flows into the U.S., not corporate dividend payments, not venture capital funding—nothing. The underlying assumption of this static analysis is that tax cuts don't work and that incentives don't matter.

Of course, in the real world, financial incentives through tax policy changes matter a great deal in altering economic behavior. And we now have the evidence to confirm that the latest round of tax cuts worked—five million new jobs, a 25% increase in business spending, 4% real economic growth for three years and a $4 trillion gain in net wealth. So now the very class-warfare groups who, three years ago, swore that the tax cuts would tank the economy rather than revive it, pretend that this robust expansion would have happened without the investment tax cuts. Many Democrats on Capitol Hill recite this fairy tale over and over.

One final footnote to this story: Just last week, the Department of the Treasury released its tax receipt data for March 2006. Tax collections for the past 12 months have exploded by 14.4%. We are now on course for a two-year increase in tax revenues of at least $500 billion, the largest two-year increase in tax revenue collections after adjusting for inflation ever recorded. So why are the leftists complaining so much? George Bush's tax rate cuts have been among the most successful policies to soak the rich in American history.

Mr. GRASSLEY. Mr. President, I will highlight a few points from this editorial that is based on Internal Revenue Service data. After the tax cuts passed by Congress and signed by President Bush, the Federal income tax burden substantially shifts as a greater burden to the wealthy. Well, that must be a shock to people on the other side of the aisle. It says that after the tax cuts passed by Congress and signed by President Bush, the Federal income tax burden substantially shifted as a greater burden to the wealthy. It cites these statistics: Between 2001 and 2004, the percentage of Federal income taxes paid by those with incomes of over $200,000 a year and above has risen from 40.5 percent to 46.5 percent. The tax share paid by millionaires has risen, with Americans with incomes over $1 million going from 16.9 percent to 17.8 percent in 1 year, from 2002 to 2003.

And what have we gotten from the tax cuts in capital gains and dividends? Not only has it sparked the economy, as Chairman Greenspan gives it credit for doing, but in response to the cuts in capital gains and dividends, we haven't seen revenues from capital gains and dividends go down as part of our overall revenues. But the Wall Street Journal editorial states that capital gains receipts have increased 79 percent after the cut in capital gains and dividend tax receipts have gone up 35 percent.

We are seeing all this with the bottom line being that tax revenues have been increasing at an incredible rate. The Secretary of the Treasury noted in a press conference with me that we have seen double-digit increases in tax receipts in the last 2 years—hundreds of billions of dollars of taxes coming in. And I think I remember the figures that the Secretary of the Treasury gave. But first of all, before I give those figures, let me say there may be some people listening who think if you increase tax rates, you increase revenue coming into the Federal Treasury. Then there are people who believe that if you cut tax rates, you are going to cut revenue coming into the Federal Treasury. We are in an era where we are cutting tax rates, 2001 through 2003, and the surprise is—and this is probably a shock to some people—we had $274 billion more coming into the Federal Treasury in 2005 than in 2004. And with the continuation of that policy, right now, we have $137 billion more coming into the Federal Treasury than we anticipated in a 6-month estimate at this point in this fiscal year.

So it is working. That is why the title of this article that I am submitting is: "How to Soak the Rich (the George Bush Way)."

Mr. President, there are studies that go around that say you can get marginal tax rates too high; that people that have some means are going to decide they are only going to pay so much money into the Federal Treasury. Then you know what they do? Instead of choosing productive activity to make money and pay more taxes, they decide: I am not going to pay any more. They choose leisure and do nothing, or do less. But when you reduce marginal tax rates, there is something about the wealthy: They are greedy. They are going to take advantage of the opportunity, and they are going to invest, make more money, pay more taxes and, in the process, create more jobs. That is what is happening in this economy today.

My hope is that my colleagues will see past the editorials and the rhetoric that make fun of what we are trying to do because they are too stupid to read the studies which show that you can lower taxes and have more revenue come in and recognize the reality that the wealthy are paying the greater tax, which happens when you reduce taxes, you increase revenue, because they are done choosing leisure and then they have incentives for productivity. Also, I hope my colleagues realize that low-income families have seen their Federal income taxes reduced as well, as best evidenced by those who are no longer on the rolls, or additionally what Senator BAUCUS and I got in the 2001 tax bill: The 10-percent rate. And people over here are bad-mouthing the 2001 tax cut. Do you want to do away with the 10-percent rate? Do you want to let that sunset in 2010 because you don't have guts enough to vote for a tax increase? Do you want it to go into place automatically and have a 50-percent increase in the tax rate of low-income people? It doesn't sound to me like you are very populace when you say things such as that.

The tax cuts have benefited all Americans by giving us a strong and growing economy, creating new jobs, 18 quarters of economic growth, 5.2 million jobs. We need to keep this economy going, and the way to help that along is not to increase taxes on middle-income people by voting against this bill that prevents 22 million middle-income people from being hit with the alternative minimum tax and to not increase taxes on those who invest in new or growing businesses that create new jobs. This bill is about preventing a major tax increase. A tax increase will hurt the economy. Don't take my word for it, take Chairman Greenspan's word for it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, the chairman of the Finance Committee is a very good friend, and I know him as a good friend and a very passionate person who takes his work very seriously and is a hard worker in this body. I want him and the body to know that I do appreciate his good work. In this body we know that many of the bills offered are not perfect. We know there are many bills that are of concern to Members of this body and for those they represent.

Mr. President, once again, we are faced with a tax package that represents misplaced priorities, and that is not in line with the views of a majority of Americans, including taxpayers in my State of Hawaii. My constituents are calling for fairness in tax treatment, and they are not getting it in this tax package.

The $70 billion tax reconciliation conference report before us puts tax cuts for the richest in this country above tax relief for the middle class. It leaves out real solutions for real pocketbook issues for middle America, like the gas price crunch that has many families in a bind. It is outright fiscally irresponsible in an era when annual federal deficits exceed $300 billion, and uses budget gimmicks and timing shifts to mask its true costs. There are other choices that my colleagues and I would have made, and did make when we passed the Senate version of this bill, such as extending the Research and Development and Work Opportunity Tax Credit, but, once again, we were simply shut out of meaningful input into the conference committee process.

My constituents will not appreciate the inequities in this conference report. The measure provides an estimated annual tax cut of $42,000 for those making more than $1 million. For the top one-tenth of one percent of households in this country whose incomes exceed $1.6 million, tax cuts will average more than $82,000. Roth IRA changes would benefit those taxpayers who make $100,000 or more, meaning that more than 99 percent of the benefit would go to the top 20 percent income group. In contrast, Mr. President, the average tax reduction for middle-income families would be $20. Only five percent of benefits would go to those earning annual incomes of $75,000 or less.

What does this mean for those who are left out of this package? Not a single taxpayer can deduct state or local sales taxes from their 2006 federal taxes. School teachers who purchase classroom supplies out of their own funds—and I remember doing this when I was a teacher, and my teachers doing this often when I was a principal—will pay higher taxes this year. Families paying college tuition will be unable to deduct that tuition from their taxes this year. Employers will not receive a tax credit for people hired from welfare to work, so fewer will be hired. The research and development tax credit will not be available this year to businesses working hard on innovations to allow America to remain competitive in global markets. And, as the Ranking Member for the Homeland Security and Governmental Affairs subcommittee with jurisdiction over D.C., I must protest the non-inclusion of certain tax incentives for the District of Columbia.

Large oil corporations are taken care of in this package, while people in Hawaii and many others across the country continue to see their household budgets squeezed by high gas prices. This week, according to the AAA Daily Fuel Gauge, the average price for the nation is $2.88 a gallon for regular unleaded. The average price in my state of Hawaii where most supplies are imported is a whopping $3.40 per gallon for regular unleaded, and this number is steeper on the neighbor islands. I really feel for my constituents who have long commutes, such as those going from Wahiawa or Nanakuli to downtown Honolulu, Kona to Hilo on the Big Island, or Lahaina to Kihei on Maui, whose household budgets leave little room for excess costs. Hawaii's average price a year ago was almost a dollar lower per gallon, at $2.51 for regular unleaded. You can see what this has done to household expenses in my state and across the country. This tax package presented an opportunity to send a message to big oil. Instead, it fails to adequately curtail existing tax benefits for big oil—benefits that business leaders in the industry say they do not need—and includes pared back provisions such as a measure that eliminates exploration expensing. In the meantime, protections for those buying hybrid vehicles were weakened. The conference report does not respond to the current crisis at the gas pumps in a meaningful way.

For all of these reasons, Mr. President, I oppose this tax reconciliation conference report. We are once again burning the candle at both ends—shrinking revenues while absorbing tremendous ongoing costs for our military operations, efforts to combat terrorism, and relief for hurricane victims. This package comes at the wrong time and fails to deliver on promises of fairness to the American people.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. CARPER. I believe under a unanimous consent agreement the Senator from North Dakota is to be recognized next, and as soon as he is prepared to take control of the floor, I will be happy to yield to him. But until then, if I could have a moment or two, I would appreciate it.

The PRESIDING OFFICER. There is no unanimous consent agreement currently in operation, so the Senator has been recognized.

Mr. CARPER. I appreciate the Senator from North Carolina giving me a minute or two.

Mr. President, earlier this year I had an opportunity to vote on a tax bill. The tax legislation I voted for, not once but twice, provided for renewing—extending the investment tax credit. We needed to do that. It expired. It called for extending for a 2-year period of time the fix to the alternative minimum tax. We needed to do that. It has expired. It called for renewing and extending the college tuition deduction. We need to do that. It has expired. We paid for doing all of those things in ways that would not make the budget deficit grow larger.

Today, as we take up this legislation and consider its passage, it includes nothing about relief for those people who are now paying the alternative minimum tax who should not be; there is nothing to extend the research and development tax credit, and we should be; and, frankly, it doesn't do anything about restoring the college tuition deduction, and we ought to be doing that as well.

What we do is go down the road a couple of years and say that the 15 percent tax on capital gains and on dividend income, we are going to extend it for 2 years beyond December 31, 2008. Yet we are not addressing the stuff that needs to be addressed, the tax provisions that need to be addressed right now.

What makes today's proposal all the more galling is, in order to pay for this tax bill we use a gimmick. I thought I had seen everything. I have never seen anything quite as cynical as this, where we actually pay for a tax cut with a tax cut. Some of us have heard the old saying, "no pain, no gain." Around here, in this Congress, and, frankly, with this administration, instead of our slogan being "no pain, no gain," it really ought to be "short-term gain and long-term pain" because what we are doing is stealing revenues beyond the year 2015 in order to pay for a tax cut that will largely help people who honestly don't need a huge tax cut.

I don't know that this makes a whole lot of sense. It doesn't pass what I call the commonsense test back in Delaware. "Short-term gain, long-term pain" is not as catchy, I suppose, as "no pain, no gain," but I tell you that is what the watchword of the day is around here. It is wrong. We ought not to do it. I will be voting against this tax bill as a result.

I thank the Senator from North Dakota for sharing this time. I yield.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I want to thank my very able colleague from Delaware, Senator CARPER. I always enjoy listening to him and his perspective on these issues. I think he is somebody who is rock solid on this issue of fiscal responsibility. I am hopeful at some point very soon we will get serious about restoring fiscal discipline to this country. We are headed for the cliff, and we are headed at a very rapid rate. So I again thank my colleague from Delaware, Senator CARPER.

I have said publicly before, and I believe it, that I have never seen this city, this institution, the White House, more disconnected from reality than we are at the current time. Let me just put in perspective where I see that we are and where we are headed.

This chart shows the fiscal failures of this administration. He inherited a surplus of $128 billion in 2001, and by his second year in office he had us in the ditch, right back in the deficit ditch that we dug out of: $158 billion of red ink in 2002.

Then the deficits really exploded to almost $400 billion in 2003, over $400 billion in 2004. We saw somewhat of an improvement in 2005 to about $320 billion. Now it is going back the other way. We now estimate the deficit will be in the range of $325 billion this year.

Far more serious is what is happening to the growth of the debt because the deficit, while it is projected to go up $325 billion this year, here is the projection on the debt. The debt is now estimated to be increasing by over $600 billion this year.

Put that in perspective. At the end of the first year of this Presidency we had a gross debt of the country of $5.8 trillion. In 1 year under the President's plan—this year we are going to add another $600 billion to the debt. That is an absolutely unsustainable course.

Now the President comes to us and says what we need to do is make all the tax cuts permanent. Let's dig the hole deeper. Here is what the President's proposal would do. In the first 5 years—see, this is a little like hitting the iceberg. You know, most of the iceberg is underwater. Most of the President's tax cut is hidden from view because it is outside the 5-year budget window. The President only shows 5 years. Why? Maybe it is because he doesn't want to show where all this is headed. But here is the revenue loss as you go forward. The cost of these tax cuts absolutely explode.

This is at a time when the debt is exploding. Remember what the President told us when we adopted this fiscal course? He told the country he was going to have maximum paydown of the debt. Do you remember that? He was going to pay off all the debt that was available to be paid off. Now we can go back and check the record and see what actually happened, and here is what actually happened. This is what has happened to the national debt under this President's watch. There is no pay down of debt. The debt is exploding.

As I indicated, it was $5.8 trillion after his first year in office. We don't hold him responsible for the first year because we were operating under another fiscal plan. But look at what has happened since. The debt has skyrocketed. At the end of this year it will be $8.6 trillion. This President has already added $3 trillion to the national debt.

Under the budget plan that is over in the House of Representatives and here, it is going to go up another $3 trillion. They will have more than doubled the debt of this country.

Perhaps most stunning is how much of this debt is being financed by foreigners. This chart shows it took all these Presidents, 42 Presidents, 224 years, to run up $1 trillion of debt held by foreigners. This President has more than doubled that amount in just 5 years. This President has trumped all these Presidents combined, in terms of running up foreign debt. U.S. debt held by foreigners. That is truly a stunning achievement.

This morning in the Budget Committee we were interviewing Mr. Portman, who has been nominated to head the Office of Management and Budget. One of my colleagues said: The performance of this administration on fiscal affairs has been extraordinary. And I agree. It has been—extraordinarily bad. No other President has come close to this record of running up debt, debt on top of debt. He will have doubled the debt of this country, and he has already more than doubled U.S. debt held by foreign countries.

Our Republican colleagues say: Don't worry. If you cut taxes you get more money. The only problem with that is we are now able to examine the record. We are now able to go back and look at what happened since they started down this policy road, and here it is. The numbers do not lie.

In the year 2000, we had over $2 trillion of revenue. The President came into office and said he had an idea, he was going to cut, and cut massively, taxes, and we would get more revenue. Let's look. Did we get more revenue? In 2001, the revenue went down to under $2 trillion. The next year it went down some more. It went down to $1.85 trillion. How about the next year, did it go up then? No. It went down some more. In 2003, we went down to $1.78 trillion.

In 2004—how about this, now, 4 years later, was the revenue up to where it had been in 2000? No, not even close.

What is this talk, you cut taxes and you raise more revenue? The only problem with that is it hasn't worked. It didn't work. We didn't get back to the 2000 level of revenue until 2005.

It is even more clear for revenue as a share of gross domestic product, which is what economists say we should use so that we are taking out the effects of inflation and growth. What do we see? The President came into office in 2000, revenue was 20.9 percent of GDP. Look what happened. This is what happened on the revenue side of the equation. It absolutely collapsed, most of this because of the tax cuts. So in 2004 we were down to 16.3 percent of GDP, revenue of the Federal Government. That was the lowest it has been since 1959.

Now we have had an uptick, but we are still way below where we were. We are also well below where they said we would be back in 2001. If you go back to 2001 and see what their estimates were of what revenue would be in 2006, this is what they said. In January of 2001, they said: When we get to 2006, we will have $2.7 trillion of revenue.

Here is what we see—not $2.7 trillion but far short of that, $2.3 trillion. Maybe we are going to have something a little bit better than that, maybe even 10 percent better, but still way short of what they projected.

Now our Republican colleagues come out with this plan. It's breathtaking that, when already we can't pay our bills, we are adding dramatically to the debt. Their answer? Spend more money. We just approved more than $100 billion of additional spending that was off-budget—and cut the revenue some more, cut the revenue $70 billion, and that is just step 1. They are going to come out here with some more tax bills and cut it even more. So their answer is dig the hole deeper. They are saying: America, you are going to get a big tax cut. It is your money.

Let's examine that statement: It is your money. I agree with that. All of this is the people's money. That is exactly right. But, you know, to give this tax cut—because we are running deficits, there is no money to give back. This money is all being borrowed. It is being borrowed largely from the Japanese and the Chinese. So let's think about what we are doing. We can't pay our bills so the President says let's have a big tax cut, reduce our revenue even more, and we have to borrow it.

Increasingly, we borrow the money from the Chinese and the Japanese. So we are going to borrow the money from the Chinese and the Japanese to give people a tax cut and here, who is going to get it? Those who earn from $10.000 to $20,000 are going to get an average tax savings of how much? Two dollars. That will certainly be helpful to them. Those earning $20.000 to $30.000 are going to get $9. Those earning from $30.000 to $40.000 are going to get $16. Those earning between $40.000 and $50.000 are going to get $46. Those earning from $50,000 to $75,000 are going to get $110.

Let's go to the other end, those earning more than $1 million. They are going to get $42,000. And where are they going to get it from? They are going to get it from borrowing from the Chinese and the Japanese—and the British and the Caribbean banking centers and the

South Koreans and every other country in the world that we can borrow money from. Does this make any sense?

Let's see. We can't pay our bills now, so what is the answer? The administration says: Spend a bunch more money. They wanted $92 billion off-budget additional spending, and by the way, cut the revenue some more so that the hole gets deeper.

Where are you going to get the money? We don't have the money. So we are going to have to borrow the money. Who are we going to borrow the money from? From the Chinese and the Japanese so we can give those earning more than $1 million a year a $42,000 tax cut, so we can give those earning $10,000 to $20,000 a year $2. That way they can say everybody is getting something. As amusing as it might be, it is also serious and it is leading us down a path that is, in my judgment, a complete disaster.

The tax bill that is before us also leaves out things that we typically extend year to year that would normally be included in this legislation. But our friends on the other side said, No, it is much more important to give these big breaks to those who are at the very highest part of the income level in our country. We are going to leave out the R&D tax cut, which might actually help strengthen our country for the future. We are going to leave out tuition deduction, which will help families afford tuition so we can better educate them. That is left out. The sales tax deduction is left out for States that have sales tax and people deduct what they pay in sales tax. The work opportunity and welfare-to-work credit is left out. The savers credit—and we have negative individual savings in our country—they leave out that credit. That is an interesting idea. Leasehold and restaurant improvements is left out. Teacher classroom expenses is left out. The new market tax credit is left out. Our friends last year labeled this whole plan the deficit reduction plan.

Let us look at what they have done. They reduce spending $39 billion over 5 years. They did not actually reduce spending. Spending, of course, is going up dramatically; it is not going down.

They reduced the rate of growth theoretically over 5 years by $39 billion. But then they turned right around and in this bill cut the taxes $70 billion.

When you put the two together, there is no deficit reduction. The deficit increases. Instead of labeling it the "deficit reduction bill," they should have called it the "deficit increase bill."

They are not done yet because we all know they are going to come with a second tax package outside of reconciliation and add another $30 billion or $40 billion of revenue reduction.

On top of it all, they have used the series of budget gimmicks to make room for these additional tax cuts. They count short-term savings from the revenue-losing Roth IRA provision. That gains about $6 billion in the near term but loses $36 billion over a longer period. They concocted this as a way to make the numbers work at least for a moment.

They sunset small business expensing provision, they have a 5-year delay on the implementation of withholding on Government contracts, and they have a timing shift for corporate estimated payments—gimmicks on top of gimmicks to make something look like something it is not. That is an old Washington tradition.

Perhaps the most egregious is the Roth gimmick, counting short-term savings for something that is a long-term loser.

There is a quote from the Washington Post:

> One measure would allow upper-income savers with a traditional Individual Retirement Account to pay taxes on the account's investment gains and then roll over some of the balance into a Roth IRA, where the money can be withdrawn tax free upon retirement. The provision would raise about $6.4 billion over 10 years, seemingly keeping the size of the tax-cutting package down. But over the next 5 years, it would cost the Government $36 billion, according to the Urban Institute Tax Policy Center. This is the kind of shell game that gets us deeper into trouble.

If you look at it, just visually, what they are doing with business expensing, 2006, 2007, 2008, and 2009, it is $100,000. What do they do? They drop it dramatically by 75 percent to make it look as though somehow this whole package fits within the $70 billion. It is, frankly, a giant fraud.

Here is what our Comptroller General said about the current fiscal path. He says:

> Continuing on this unsustainable fiscal path will gradually erode, if not suddenly, damage our economy, our standard of living, and ultimately, our national security.

That is what is at stake here. Ultimately, that is what is at stake here—the economic security of our Nation, the national security of our country. And our friends are playing fast and loose with the long-term security of America—doubling the national debt over a very short period of time, doubling the amount of money that we will owe foreign investors, utterly unsustainable. None of it adds up.

What are the consequences? Here are the consequences. Here is what the Federal Reserve has been doing to interest rates. Interest rates—up, up, up, up, and up—16 rate increases. Why? Because they are desperately afraid of the inflation that comes when you borrow massive amounts of money and you spend more than you take in. They are very worried about a country that is going add $600 billion to the national debt this year and run a trade deficit of another $700 billion—unprecedented in our Nation's history.

Our friends on the other side say the economy is doing well. Is it doing well? Here is what has happened to real median household income. It has declined 4 straight years. Real median income is down, down. That is not success. When we compare this economic recovery with the previous nine economic recoveries since World War II, here is what we find. This dotted red line is what has happened in the nine previous recoveries on business investment. The black line is the recovery. What you see is we are 45 percent lower than the average of the nine previous recoveries since World War II. That is not economic strength. That is an economic plan that is not working.

It is not just true in business investment; it is also true in job creation. Again, the dotted red line shows what has happened in the average of nine recessions since World War II. The black line is the recovery. You can see that we are 6.5 million private sector jobs short of the average recovery since World War II.

Something is wrong. I submit that one of the things wrong with this massive debt is we are loading on this economy the biggest increase in debt in the history of our country—and it just keeps on coming.

Our colleagues on the other side have abandoned fiscal responsibility completely. They have decided to put it on the charge card, send a bill to our kids and our grandkids, and they have done it at the worst possible time. They have done it before the baby boomers retire.

This is the sweet spot in the budget cycle. These are the good times. What is going to happen when the baby boomers start to retire? The baby boomers are not a projection; they are a reality. They are going retire, and they are going to be eligible for Social Security and Medicare, and we can't pay our bills now. What is going to happen when they begin to retire?

Let me tell you that the logic of what our colleagues on the other side of the aisle are doing is to force this country into a situation in which they have to shred Social Security and Medicare in order to keep this country from bankruptcy. That is the logic of where they are taking our country. It is a disastrous fiscal direction.

I hope very much that our colleagues will say no to this, say no and get us back on the course of fiscal responsibility.

I ask unanimous consent that a description of a provision, which is extraneous pursuant to the Byrd rule, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROVISIONS OF CONFERENCE REPORT TO ACCOMPANY H.R. 4297, TAX RECONCILIATION ACT OF 2005 WHICH ARE EXTRANEOUS PURSUANT TO THE BYRD RULE

[Senate Budget Committee Democratic Staff]

Provision	Violation(s) of Sec. 313(b)(1)(A–F)	Description of Provision
Sec. 512	Sec. 313(b)(1)(E) of the Congressional Budget Act of 1974. Net revenue decrease in every year beyond FY 2010 exceeds savings from other provisions in each of those years.	Roth IRA conversion provisions.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the Washington Post printed on its front page yesterday a chart that was intended to show that the tax benefits in this tax bill go disproportionately to the super rich. The information was based on a study by the Tax Policy Center, along with the Center on Budget and Policy Priorities that has made no secret of its opposition to the tax relief included in this conference agreement. So there is a biased view.

I have had an opportunity to dig into the details of how that particular study was conducted. But if it is like similar analyses, the reported dollar savings statistics don't tell the whole story, and for three reasons:

First, it includes all households, even those that do not file tax returns or don't owe any tax liability, and even those that have a negative tax liability because they receive refundable credits.

In analyzing the distribution of the tax cut, it makes more sense to look at who actually receives the benefits as opposed to what they do. In other words, why include people who don't pay any taxes in the first place?

Second, the statistics in that study did not take into account the fact that the tax rates on dividends and capital gains for those in the bottom two income tax brackets drop to zero percent in 2008. That is that rate we are extending.

Third, and most importantly, the statistics are not shown in the context of the total income tax burden that these taxpayers bear. It is common sense that income tax cuts can only go to people who pay income tax.

Let me repeat that because I think the other side wants to ignore that:

Income tax cuts can only go to people who pay income taxes.

The value of the tax cut should be measured then not only in absolute dollar terms but also in relationship to the total income tax liability.

This conference agreement before us has two centerpieces, the alternative minimum tax hold harmless, which passed the Senate with 66 votes. The extension of lower tax rates on dividends and capital gains is the second provision.

If we applied the logic of including all tax returns in the various income groups and compare the AMT and dividend and capital gains tax savings to the total income liability borne by those groups in the aggregate, we can see that all of these groups receive meaningful benefits.

That is what the chart before us says. This chart was prepared by my Finance Committee staff, but it is based upon analysis of data provided by the Joint Committee on Taxation, not some liberal think tank that has its own ax to grind. The Joint Committee on Taxation is not Republican or Democratic—they are professional tax people who just study taxes up and down, and their economic impact.

As the statistics from the Joint Committee on Taxation show, all of these income groups receive meaningful benefits from this conference agreement.

In fact, the biggest beneficiaries are those in the $100,000 to $200,000 and $200,000 to the $500,000 AGI categories. The $100,000 to $200,000 and the $200,000 to $500,000 category.

The reason that shows up on the chart that way is not because of the reduced rates on dividends and capital gains that the other side is complaining about; it is because of the alternative minimum tax, the hold-harmless provisions that I fought to get completely the way the Senate had included them in this conference report.

Of course, it is strongly supported by the same folks who strongly oppose this conference agreement because of the extension of lower rates on dividends and capital gains, which I point out benefits low-income taxpayers more than the AMT relief—as we can see on the chart, $50,000 and under and the $50,000 to $100,000 category.

The core of this conference agreement is the alternative minimum tax hold harmless, which is the Senate position I fought hard for in conference. The other main provision is the extension of the lower rates on dividends and capital gains in combination with two provisions providing meaningful income tax savings to Americans across the income spectrum, not just the rich. These savings will prevent over 15 million Americans from being hit by the stealth AMT tax and allow those taxpayers and millions more to keep more money in their pockets to spend in the economy, adding to savings rather than sending money here for Members of Congress to spend.

Let me remind people of something brought home to me when I held a town meeting in Iowa. I never have anyone come in and say they are undertaxed, but I sure have plenty of people come in and say that Congress is wasting a lot of money. So every time we have a tax bill, people are complaining because we are not taxing more to reduce the deficit, and higher tax rates do not bring in more revenue. The people crying about that are the very same ones who are voting all the time to increase expenditures whenever they get an opportunity.

I also address one of the important measures in this bill, the tax gap. Last January, 2005, the Joint Committee on Taxation provided a report on possible options to improve tax compliance. This report suggested that one of the key ways to deal with the tax gap is to impose withholding on certain payments made by government entities. The joint committee report stated:

> The lack of a withholding mechanism on nonwage payments leads to substantial underpayment of tax each year and has long been identified as contributing to the tax gap.

And a further quote:

> Payments made by the Federal government and State and local governments represent a significant amount of those annual payments that are not subject to withholding. Imposing withholding on nonwage payments made by the Federal government and State and local governments would improve taxpayer compliance, reduce the tax gap, and promote fairness.

The problems of government contractors not paying tax has been a subject of very good oversight of the Committee on Governmental Affairs, particularly led by Senators COLEMAN and LEVIN, as well as the Government Accountability Office. The findings of the Government Accountability Office report in June of 2005 show that over 33,000 contractors owed over $3 billion in unpaid Federal taxes as of September 30, 2004. Clearly, there is a serious problem. Fortunately, there is broad bipartisan support for a solution proposed by Joint Tax of a 3-percent withholding on government payments.

I think it important that my colleagues recall that this basic, same reform was included in an amendment offered by the ranking member of the Budget Committee on November 17, 2005. That was vote No. 330. This amendment, which included this provision, was supported by all but two of the Members of the other side of the aisle.

I am pleased that there is wide recognition of the need for this reform and that this is not a partisan question. However, I do anticipate that some Senators will want to make an argument that we should have implemented this reform much earlier.

Several points on that issue. This is a real break from previous practice and will require changes in business as usual by Federal, State, and local governments. It is for these reasons that the Joint Tax Committee recommended at a minimum there should be a 6- to 18-month delay before implementation.

It was unfortunate that the amendment from the ranking member of the Committee on the Budget did not allow for this time period for governments to prepare for this new requirement. In fact, rather than giving the time allowed as recommended by the Joint Committee on Taxation, the provision was actually retrospective. However, I understand firsthand the difficulties of trying to deal with revenue issues in a specific year, so the author of the amendment has my sympathy.

We chose to go beyond the period recommended by the Joint Tax Committee and give governments and contractors additional time to prepare for this new withholding requirement. Allowing for additional time was a point that brought greater comfort to conferees in considering this new legislation. Additional time would give Congress an opportunity to hear from parties. It may be possible that after the dialog, we will be able to move up the effective year to begin this important provision dealing with the tax gap.

Let me be clear. This is a measure which has bipartisan support. That is very positive. We need to work on a bipartisan basis to deal with the tax gap. This is a good first step. The only question, then, is possibly one of timing. I have erred on allowing government and the contractors to fully prepare for this new requirement and for the Treasury to issue regulations that will give guidance allowing for a smooth start.

I also take a moment to respond to something that was said this morning by my friend from Oregon, Senator WYDEN, a member of the Senate Committee on Finance. He is up on tax legislation most of the time. His earlier comments about his provision to eliminate energy bill tax incentives for major oil companies needs an explanation that I don't think he is aware of.

In November of 2005, he offered an amendment in the Committee on Finance to eliminate the tax break known as G&G for geological and geophysical costs that major oil companies received in the Energy bill. His provision is in this conference report. I went to the conference with his provision, and I came out of conference with his provision intact.

In addition, we actually improved the original Senate amendment and increased the amount of tax revenue that is going to be raised over the 5-year period. The provision of my friend from Oregon resulted in a $101 million Federal tax benefits savings for the 5-year budget window this bill covers. Through conference negotiations, we managed to find a way to actually increase the revenue raised over 5 years from that $101 million up to $160 million, and we still respected the concerns in the original Senate bill.

Another point I make is that the original proposal filed by my friend from Oregon actually lost $88 million in Government taxes the first year. In other words, the way the original amendment worked, it actually gave major oil companies an $88 million tax benefit, and under the reconciliation rules, that would not work. We had to change the formula so that the provision raised tax revenue of $160 million over all 5 years of the budget resolution.

I want the record to reflect that I upheld my part of that bargain. This conference report holds up its part of the bargain on that provision. The major oil companies only received one tax benefit in the Energy Policy Act of 2005. This conference report removes the tax benefit the major oil companies received from the G&G tax incentive.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I like my colleague from Iowa. We work together on a lot of things. But I know he will give me room to disagree today.

I disagree very strongly about the philosophy, the approach, and the legislative initiative that is in the Senate. I was thinking about legislating. We do not have legislative reviews, like movies do. In movie reviews, you can get a sense of what is going to happen, and maybe someone will have made a judgment about it.

I have a review from "Groundhog Day." I don't know if anyone here has seen "Groundhog Day," but it is about a weatherman who goes to cover Groundhog Day to determine how much additional winter will exist, and then he goes back to his hotel room. Every morning, the alarm rings at 6 o'clock and the same day starts over again. He simply cannot get out of it. That was the movie "Groundhog Day." The review for it said that Phil Conners is an egocentric weatherman who annually covers a Groundhog Day celebration in a small Pennsylvania town. Phil finds himself reliving Groundhog Day over and over, which makes him realize he has to change his ways.

So this is like Groundhog Day in the Senate. We are reliving over and over and over the ability of the majority party to cure whatever ails America with another big tax cut that goes largely to upper-income Americans.

We have a big deficit that is out of control. We are deep in debt, choking on debt. What is the solution? Cut the revenue. What kind of solution? How do you cut the revenue? Cut the revenue for the top folks. The big guys. The big shots. Because the little folks do not pay taxes, we are told. Oh really?

Well, there are lots of taxes people pay. There are payroll taxes. That is a proportional tax. The person at the lowest end of the economic ladder pays the same percentage in payroll taxes as the person at the very top. Yet we are told, somehow, that these people at the bottom do not pay taxes. Therefore, when we construct an income tax rebate or an income tax cut, sure, most of it has to go to the upper income folks.

Here is a description of where most of the tax cuts have gone in this bill. This is from the Tax Policy Center. It says that if you are somewhere between zero and $20,000 in income, you are going to get a $3 tax cut—not $2, not $4, but $3. So just get ready, that is one gallon of gasoline you will get. But if you have over $1 million in income, you in this conference report which is brought to the Senate today, boy, you ought to get ready to celebrate. You will get a $42,766 tax cut on average. Someone says here is a check for $42,000. All we know is that you have a lot of money, you are at the top of the scale, but you will get $42,000 and the person over here is going to get $3.

Let me read something that comes from a fellow whom I like. He is one of the wealthiest people in our country. His name is Warren Buffett. Warren Buffett wrote a piece for the Washington Post a few years ago. Here is the op-ed piece by the second richest man in the world. Here is what he says about the tax cuts in the Congress. He talks about himself and the receptionist in his office. He wrote this op-ed piece when the majority party was proposing that there be a zero tax rate on investment income, dividends, and the like.

He said:

> Now, the Senate says dividends should be tax free to recipients.

I admit this bill does not make them tax free. It takes dividends to the low tax rate of 15 percent and keeps them there.

> Now the Senate says dividends should be tax free to recipients. Suppose this measure goes through and the directors of my company therefore decide to pay $1 billion in dividends next year. Since I own 31 percent of my company, I would receive $131 million in additional income. I wouldn't owe another penny in Federal tax. My tax rate would plunge to 3 percent—

He is talking about his income——

> while my receptionist would still be paying 30 percent.

So here are comments from the world's second richest man who is taking a look at the strategy for tax cutting by the majority party, saying—and he said it in another venue—if this is class war, my side is winning, and I don't need these tax cuts.

But that is exactly what is happening because there is a belief here that somehow our economy works when you put something in at the top and it filters down. We have heard of this "trickle down" for a long time. But that is what is at root here, the "trickle-down" economics. I had a guy once tell me: I have heard of this trickle down for 10 years now, and I ain't even damp yet. But that is because he did not earn a lot of money and he was not getting big tax cuts.

Well, let me describe what is not in this legislation. At a time when we have very significant budget deficits—everybody here should understand the country is off track. We are seriously off track. We are going to load up and burden our kids and grandkids with all this debt at a time when we just passed a $109 billion emergency supplemental bill that was not paid for, to fund military operations in Iraq and Afghanistan, to pay for Hurricane Katrina relief, and so on.

Just following that, we bring to the floor of the Senate another massive tax cut. Groundhog Day: Do it again and again and again. It will cure every ill, we are told.

What doesn't this legislation have? Let me give you an example of what it does not have. It does not have any provisions that should have been in the bill that would attempt to get the taxes owed by U.S. multinational companies that park their earnings offshore or use tax-haven countries to avoid paying their taxes on income they earned in this country.

Let me give you an example of that. I have used this many times on the floor of the Senate. This is compliments of David Evans, an enterprising reporter for Bloomberg. This is a picture of a five-story building on Church Street in the Cayman Islands. This is home to 12,748 companies.

Let me say that again because it is important. This little white building called the Ugland House in the Cayman Islands—a tax haven country—is home to 12,748 companies.

Now, do they live there? No. No. That is just their mailing address set up by a lawyer. For what purpose? So they can run income through it to avoid paying taxes. It is a sham. In the nature of an old spaghetti western, you would think the sheriff would get on his horse and ride right into the canyon after these folks. It is unbelievable what is going on. Now we believe the proposal that would shut this down would raise about $15 billion over 10 years. It is not in here.

I will give you another example. In addition to the Ugland House, where companies run the income—incidentally, in many cases, these are the same companies that moved their jobs to China, sell their product in America, and run the income through the Cayman Islands so they do not have to pay taxes; and the same companies that next week will be here saying: Yes, I moved my jobs over to China. And I also want to, through the back door, bring cheap labor in through a different source. That is another story for another debate next week, perhaps.

But in addition to the Ugland House and 12,000 companies perpetrating a myth that this is home for tax purposes, we see U.S. companies moving their jobs overseas and the Joint Committee on Taxation says we are losing $1.2 billion a year subsidizing and providing tax breaks to these very companies that are closing their American manufacturing plants and moving their jobs to China or Indonesia or Sri Lanka or Bangladesh or elsewhere.

People will say: I don't believe that. That can't possibly be happening. Yes, it is happening. We actually have this pernicious tax break in tax law that says to a company: This is a global world, a global economy. Shut your American plant, fire your American workers, move your jobs to China, sell your product back into the United States, and we will give you a big, fat tax break.

Should that tax loophole be closed and maybe raise a little money? I have tried four times on the floor of the Senate to close it. Four times I have lost that vote. It is nearly unbelievable.

In the broader case of fiscal policy, there is no philosophy that I can understand—economic philosophy or political philosophy—that would justify at this moment deciding what America needs most is to reduce its revenues, especially by benefiting the highest income earners at a time when we are choking on debt.

I have said before, and I say it with some amount of jest, I guess, that there was a time when the majority party here in this Congress—the party that controls the White House, controls the House and the Senate—could be relied upon for a couple of things. Conservatives were conservative.

In my little town of 300 people, I knew what a conservative was. I could see them. I could see it operate day to day. I could see the way they behaved in our town. You could count on them for something, always. I always kidded, they wore gray suits like bankers, they wore wire-rimmed glass, and they looked as though they had just eaten a lemon—very serious. The one thing you could count on was, they would stand up for fiscal policy that says: We demand balance. Balance your budgets. Save for the future. Conservative values. That is what they always gave to our country, always gave to our communities, State legislatures: the philosophy of staying on track, balancing your budget, decent fiscal policy.

It is gone. It is absolutely gone. Proposed increases in the Federal debt of gigantic proportions, tax cuts coming to the floor when we are choking on debt, bills coming to the floor saying: Let's spend $109 billion more. And, by the way, don't worry, we don't have to pay for it. Just declare it an emergency. Where on Earth is the conservatism that used to be involved in fiscal policy construct? It does not exist.

Some of us understand, I think, that this is off track, and we have a responsibility to put it on track. Ronald Reagan used to ask the question: If not us, who? If not now, when? If not us, who is going to do this? We are elected to do this. It is our responsibility to look truth in the eye and decide: This is unsustainable. We can't continue on this track. If we don't do it now, when will we do it? Next month? Next year? I don't think so.

This is the kind of Groundhog Day of fiscal policy: every time we come to the floor and turn to another chapter in this book, the next chapter says: It does not matter what is wrong with us, what we need is to cut taxes, and we need to cut them for the top folks. If you earn $1 million or more a year, you get a $42,000 refund check. If you earn $10,000 or $20,000 a year, you get $2 or $3.

I am saying that is not what I think is going to cure what ails America. We need a strong fiscal policy that recognizes our responsibilities, one that is fair, and one that stares truth in the eye and says: This cannot continue. This current fiscal policy is off track. We have a responsibility—yes, we do; Republicans and Democrats, conservatives and liberals, this President and this Congress—now. It is us, and it is now. That is the answer.

We have this responsibility, and I hope we act sooner rather than later. For that reason, I will not vote for this legislation. This legislation is, in my judgment, poorly constructed, provides all the benefits in the wrong direction. But, secondly, and even more importantly, it seems to me the worst step you could make at this point is to send a signal to the folks who are watching this country's economy, saying: Yes, we are way off base. We are about $1.4 trillion, just in the last 12 months, off track—about $650 billion in additional borrowing on the fiscal policy side, and a $700 billion deficit on the trade side, added together is almost $1.4 trillion in the red—and the signal we are going to send to people is: We are not serious about that. What we want to do is cut revenues.

I am telling you, people watching this—the bond markets, the investors—worldwide will say: This is not a Congress that is serious about addressing this country's problems.

America deserves better than that, in my judgment. That is why I cannot vote for this legislation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

HEALTH INSURANCE MARKETPLACE MODERNIZATION AND AFFORDABILITY ACT

Mr. BYRD. Mr. President, today the Senate debates S. 1955, the Health Insurance Marketplace Modernization and Affordability Act. Now, health care is a very complicated subject. The issue of health care involves life-or-death decisions for millions upon millions of Americans who lack even the basic access to affordable health care.

The reality is that health care costs are skyrocketing, and the number of individuals with access to medical insurance is diminishing. That is unacceptable. The harsh reality is that 45 million Americans have no health care coverage, including 275,000 West Virginians.

That is 275,000 West Virginians who cannot take even the most basic steps to ensure that their health and their lives are not in jeopardy. That is 275,000 West Virginians who may be unaware that an illness or a disease is preparing to spread unabated throughout their bodies.

Today, technology enables doctors to discover and treat diseases faster than ever before, and, in many cases, cure these diseases before their effects are irreversible. It is unacceptable—unacceptable—that more and more Americans cannot take advantage of new technological tools to discover problems early. It is past time to do something for these citizens.

The current health care crisis hits small businesses especially hard. Small businesses often pay the highest rates for health care benefits because they lack the power to negotiate with big insurance companies. One innovative solution is for small businesses to be able to join together—join together—to ensure that their employees have access to affordable health care.

That is why Senator OLYMPIA SNOWE and I have introduced the Small Business Health Fairness Act of 2005. The purpose of this bill is to enable small businesses in West Virginia and around the country, like corner grocery stores, like the little store my wife and I had once upon a time, restaurants, and hardware stores, to offer health care coverage for their workers.

Hard-working Americans employed by these businesses deserve affordable health care. A waitress working the night shift to provide for her child is every bit as deserving of health care benefits as the CEO of the largest corporation. A clerk in a family store should not be priced out of basic health care coverage simply because he works for a small business. There are 275,000 stories like this in West Virginia, and the Federal Government should be taking actions to help these people.

While I agree in part with the goals of the bill before us, there are important differences between the bill offered by Senator SNOWE and myself and the Enzi bill. The Snowe-Byrd bill, unlike the bill proposed by the very distinguished Senator from Wyoming, Mr. ENZI, does not preempt State law by erasing all preventative health tests and treatments. These mandates are the core medical services which are already part of many existing health plans.

The amendment I am cosponsoring, with the very able Senator from Maine, proposes to simply put some of the safeguards back that were eliminated by the Enzi bill. Our amendment provides small business workers with guaranteed access to the most important health care screening and services. It is imperative to include procedures guaranteed to catch diseases before the damage can be done. Our amendment guarantees patient access to procedures such as mammography screenings and screenings for prostate and cervical cancers. It is necessary in my State of West Virginia to make sure that diabetics have access to the supplies they need to regulate their blood sugar levels and to allow for maternity stays to assure the well-being of both mother and child after childbirth. Basic requirements such as these are essential keys to the health of all Americans, including those who work for small businesses. That is why Senator OLYMPIA SNOWE and I want to offer this amendment. Why prohibit such lifesaving tests? These are basic questions I am asking. Why offer half a loaf to small business employees?

I never ceased to be amazed by the medical advancements that have occurred during my lifetime. It is absolutely amazing, unbelievable, these advances that have occurred—penicillin, modern X-ray machines, laser surgery, CAT scans, PET scans. Each day, every day doctors and researchers make critical discoveries and develop new technologies that help people to enjoy longer and healthier lives. And still, too many of our people are unable to take advantage of such advancements. They cannot afford to do so because they lack insurance. We have a moral obligation to find ways to help families gain access to lifesaving medical care. Millions without health care insurance go through life hoping, praying that they will not get sick or will not face a catastrophic medical complication. Living a life free from worries about health care coverage should not be a privilege. It ought to be a guarantee in this country.

While Senator SNOWE's and my amendment could vastly improve vital coverage currently left out of the Enzi proposal, unfortunately, it looks as though the Senate will not have the opportunity to even vote on the amendment. Our bipartisan amendment, offered to better the bill before us, will never be allowed—ever—a vote in this Chamber. This is not the way the Senate should conduct its business. Purposefully blocking and disregarding amendments on an issue as vital as affordable health care does a disservice—I say again, a disservice—to our people and to this institution. The Snowe-Byrd amendment would make an important improvement to the bill before us.

Why employ a legislative maneuver that blocks attempts to improve health care options for small businesses and for their employees? Why? Why? Instead of blocking important amendments, the Senate ought to get to work on improving health care for the 45 million Americans, including 275,000 West Virginians, without health insurance. The lack of affordable health care in this country has reached crisis proportions. Why is that? Why is the Senate cutting off debate?

We should be working together in this Senate to find ways to help our people afford health care insurance. We should be discussing the May 15 enrollment deadline in the new Medicare Part D Program. Why can we not have a vote on extending this deadline? Why, I ask, and I ask and I ask again, why, after hearing from millions of the Nation's senior citizens and their worries about the deadline, are we not even talking about their concerns? My office has received hundreds of calls from concerned senior citizens. This is a pressing issue that requires our attention. Yet due to the actions of the leadership, the Senate is being held hostage. To what? To a deadline. Our senior citizens, whose sweat and blood helped to make our Nation great, are now being told that time is up for them. They must choose a health plan immediately or face financial penalties.

Because of the complexity of the new Medicare Part D Program, it is only right that our senior citizens be given time to understand their options and make informed decisions when selecting drug coverage. But instead, our elderly citizens are being told to hurry up or face penalties. That is just not good enough for the greatest country on Earth. Where is the compassion that our country is so known for? What is so almighty sacred about Monday, May 15?

It is unbelievable that important improvements to the Enzi bill will probably never receive a vote. It is a disservice to the small business employees and owners who deserve relief from the health care crunch. It is absolutely ridiculous that the Senate will not be permitted to consider pressing health issues for our senior citizens, the people who have worked so hard for so many years to build this great country.

I urge Senators to reject this process by which we are being gagged and denied a vote on these critical health care issues.

I yield the floor. I thank all Senators.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I have been watching the interesting debate for some time. Of course, it is interesting and there is a great deal involved. Fortunately, we are having a debate. However, it seems to me that much of it has been very complicated. Some have had charts and details. It occurs to me that basically it is a broader issue than that, one that frankly divides the two sides of the aisle. We have had deficits that are larger than they ought to be. They were brought about by events such as September 11 and Katrina and those kinds of things. Just like in your family and your business, you have to go back and do something about it. However, this is one of those decisions that defines the direction we want to take in this country.

Choices are before us all the time. From time to time, we have hard decisions to make that are quite broad. I think those of us on this side of the aisle are interested in trying to have a strong economy, one that provides jobs and growth in the economy, and we are doing that. That is a good thing. I think at the same time we are looking for a Government that is smaller and less expensive and that spends less. To do that, of course, we want to have less taxes so the money can be invested in the economy and jobs can be created. That is precisely what we are seeking to do.

The other point of view—I understand it, but I don't agree with it—is that we need to basically spend more and, therefore, you need more taxes. You would have more Government involved in more and more things. You get down to a broad decision, and that is where we are. I know every detail is a little different; on this issue it is here and that issue it is there, but you have to kind of put them together in the overall picture and see where we are going.

I guess I have tried to kind of avoid some of the details but to look at what I think the broad directions are in the votes we are having today. Do you want less Government, with more emphasis on the private sector, more emphasis on job development, more emphasis on less taxes, and more involvement with the growth of the economy or do you want more Government, with more spending and more taxes? That is the issue. I think it is fairly simple.

I know there are a lot of details and arguments and I know people have different ideas about it. But the fact is that the other side of the aisle has been for more taxes and spending. We have tried to reduce taxes on this side and, hopefully, we will be able to reduce the size of Government and do something about the deficits, not by more taxes but by less spending. That is our decision. I think it is fairly simple. I certainly encourage our effort. This is not to reduce taxes; it is continuing reductions that we have had in place that have supplemented and strengthened the economy. It is pretty clear.

The deficit talk that we have heard and seen on the charts—that has gone on for several years. Yes, we need to do something about that and reduce spending. I am for that. I am encouraged that we can hold down taxes rather than letting them go back up again, so that we have more jobs, a better economy, and we can operate in that fashion. I hope that we are able to continue this reduction.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, a few days ago, at Lincoln Center in New York City, illusionist David Blaine completed a week in a water-filled bubble. He then got himself chained up, got rid of his air hose, and tried to escape from the chains, while setting a world record for holding one's breath underwater. His goal was to hold his breath for 9 minutes.

His feat was impressive. But he failed. After 7 minutes, he had to be let out of the remaining chains. He had to be rescued.

This bill also contains an illusion. This bill's illusion is paying for tax cuts with further tax cuts. Like Mr. Blaine's illusion, this bill's illusion also fails.

I give Mr. Blaine a lot of credit. He does his illusions in full view of the public—an open water bubble in the middle of New York City.

The tax bill does its illusions in the dark—outside the budget window.

Some of those viewing Mr. Blaine in New York City thought he had a lot of chutzpah to try his feat. The sponsors of this tax bill also have a lot of chutzpah if they think they can balance one set of tax cuts with another set of tax cuts—and call that fiscal responsibility.

Mr. Blaine called his stunt "Drowned Alive." That also a fitting name for what this bill would do to the American taxpayer.

I am talking about section 512 of this bill. That section would remove the income limits on conversions from traditional IRAs to Roth IRAs, effective in 2010. Under this provision, all who convert their IRA accounts in 2010 get a tax break—2-year averaging of the taxable amount of the conversion, with payments to be made in 2011 and 2012.

Why does the bill contort these changes into 2010 through 2012? There is an easy explanation. The conferees wanted to raise money in 2011 through 2013. They needed money on those years to help cover the cost of extending capital gains and dividends cuts. And they needed to cover those costs to avoid a point of order under the Byrd Rule. So a 2010 effective date and the funneling of transfers into 2010 serve a clear purpose.

The sleight of hand is that a provision that loses money—billions of dollars a year—in years beyond the budget window are made to pass muster as a revenue offset provision. The illusion is to call this provision a revenue raiser.

How does this provision raise revenue? It encourages taxpayers who earn more than $100,000 a year to transfer traditional IRA balances into a Roth account. These taxpayers would pay taxes in the short run on traditional IRA balances and get tax-free investment income later.

Take for example a taxpayer with an IRA holder who makes $120,000 and is covered by an employer-sponsored retirement plan. Say that this taxpayer contributes to a traditional IRA. Under current law, the contributions would not be deductible. At retirement, the taxpayer would pay ordinary income taxes on the invstment earnings—what tax advisers call "the inside buildup." But the original contributions would be returned tax-free. They would be what tax advisers call "basis" in the account.

In 2010, say that the taxpayer takes advantage of the new law we create today and converted the traditional IRA to a Roth IRA. In 2011 and 2012, the taxpayer would pay taxes on 50 percent of the investment earnings that were in the account. At retirement, the taxpayer could withdraw any additional buildup in the account tax free.

So the provision would raise revenue by taxing the conversion in 2011 and 2012. Then the provision would lose revenue when withdrawals were made from the account in the future.

The provision would thus borrow from our children. The conferees felt a need for revenue in 2011 and 2012 to pay for a 2-year extension of the capital gains and dividends cuts. So this bill would take the revenues from the future and claim them now.

The philosophy of this bill is: Let's just spend it now. Let our children figure out how to replace the revenue that would have been collected 10 or 20 or 30 years from now.

How much revenue would this provision take from our children? The Joint Tax Committee's revenue estimates show losses of more than $1 billion in 2014, 1.2 billion in 2015. To get a good idea of the longer-term losses, we asked the Joint Tax Committee to provide us with an estimate for the same provision, but effective in 2006 instead of 2010, so we could confirm that there will be revenue losses further down the road.

Under the joint tax rules, you have to ask them for it beginning this year because they can provide the estimates. If you ask them beginning in later years, under their rules, they will not do the math. We asked them to do the math and we asked if it went into effect this year.

Mr. President, I ask unanimous consent that the Joint Tax Committee's response appear at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
LONGWORTH HOUSE OFFICE BUILDING,
Washington, DC, May 9, 2006.

MEMORANDUM

To: Pat Heck, Judy Miller, and Ryan Abraham
From: Thomas A. Barthold
Subject: Revenue Estimate

This memorandum is in response to your request dated May 3, 2006, for a revenue estimate of your proposal to eliminate the income limitation on conversions from a traditional IRA to a Roth IRA. Under your proposal, any amount otherwise required to be includible in income as a result of a conversion that occurs in 2006 may be included in income in equal installments in 2007 and 2008. Your proposal would be effective for taxable years beginning after December 31, 2005.

We estimate that your proposal would have the following effect on Federal fiscal year budget receipts:

FISCAL YEARS

[Billions of dollars]

Item	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2006–10	2006–15
Eliminate the income limitation on Roth IRA conversions; taxpayers can elect to have amounts converted in 2006 included in income in equal installments in 2007 and 2008	−0.1	1.8	3.4	1.0	−1.1	−1.5	−1.7	−1.9	−2.1	−2.3	5.0	−4.5

Mr. BAUCUS. The Joint Tax Committee estimated that the pattern of increasing revenue losses continues, growing about $200 million a year. So by 2020, the loss would be over $2 billion a year. That extrapolates to $3 billion a year by 2030. In other words, this bill would take $2 to $3 billion from our children, every year, to pay for a 2-year extension of capital gains and dividends rate tax cuts, which we know would not go into effect until January 1, 2009.

That troubles me, and it should trouble all my colleagues.

The conferees made bad choices in putting this conference report together. American workers need an extension of the Saver's Credit that expires after 2006, but get an extension of a capital gains and dividends cut that does not expire until 2009. And the bill purports to pay for those tax cuts for with a Roth IRA conversion provision that starts losing revenue by 2014 and has losses that balloon outside the budget window.

There are so many reasons to vote against this report. The use of a tax cut to allegedly pay for another tax cut is just one symptom of a seemingly irresistible urge to put wants before needs. I encourage my Colleagues to join me in voting for setting the right priorities. I urge them to vote against this conference report.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I spoke this morning about the bipartisanship and the origination of the idea behind the Roth IRA conversions, and how Senator Bentsen was the inventor of that idea, and how it had such broad bipartisan support. I supported it. It also had bipartisan support when Senator Roth introduced the bill. It had passed the Senate so many times by big, bipartisan margins.

We hear people on the other side of the aisle badmouthing an idea of one of the most esteemed Members of their party in the history of the Senate, Senator Bentsen of Texas, who was chairman of this committee in 1991, 1992, and was going to be chairman in 1993 and 1994, but he became Secretary of the Treasury. Now all of a sudden it becomes partisan that we are including that idea in this legislation. I don't understand it.

I have this response to what was said. I heard my friend on the other side try to argue that the provisions in the conference report that will allow taxpayers to make Roth IRA conversions is a budget gimmick. Was it a gimmick when Senator Bentsen introduced it? It is not a gimmick. Nothing could be further from the truth.

The Roth IRA conversion provision generates real Federal revenue. In fact, the nonpartisan Joint Committee on Taxation estimates that the provision will generate $6.4 billion in Federal revenues over the next 10 years. This is a provision with longstanding bipartisan support in the Senate.

The Democrats have also tried to argue that the Roth IRA conversion provision will actually make the Federal deficit worse in the long term. That, too, is not true. Roth IRA conversions merely change the timing of when individuals must pay tax on their retirement savings, accelerating tax payments in the case of those who convert. It does not result in a net change in Federal revenues over any long-term period.

In addition, critics choose to ignore a reverse effect of the various retirement savings incentives. Because congressional budget estimates are done on a 10-year basis, these estimates ignore distant revenue gains as well as losses. Because tax incentives for retirement savings basically and typically are front-loaded, the 10-year budget estimates generally reflect only large losses of Federal revenue. These estimates ignore the fact that the Federal Government will recoup the tax on that money and the associated investment gains when it is distributed later in retirement.

From a budgetary standpoint, the Roth IRA conversion provision only balances out a small part of this effect. If anything, this provision has the potential to actually increase receipts over a long period of time because it will lead to higher tax compliance as folks voluntarily pay their tax up front.

This provision brings in real money into the Treasury, it is good, and, most importantly, it is bipartisan—or I guess it used to be bipartisan. Today it is very partisan, and that is something I don't understand. How could you as Democrats be for something over the 1990s and not be for it now? Is it because maybe the Republicans are in the majority? It just doesn't make sense.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I wish to call attention to a saying that is kicked around here quite often: When you are in a hole, quit digging.

We are approaching $10 trillion in debt, and the majority—and I respond to my friend and colleague for whom I have great respect, the Senator from Iowa, the chairman of the Finance Committee—is not dealing in a typically bipartisan fashion when conferences are held without the minority being invited to participate.

There is, in case no one noticed, a Republican majority Senate, a Republican majority House, and the White House is occupied by a Republican President. It is fair to say that what we see happening reflects directly the will of the majority.

As we look at approaching $10 trillion in debt—and we just approved it; it is going up to $9 trillion—the majority wants to continue the lifespan of the Bush tax cuts to add another $70 billion to our debt. I find it incredible.

None of us have an exclusivity of knowledge—none of us. One can argue about whether an additional tax cut has value in increasing revenues, about where that money is spent when it gets into the hands of those who get the largest part of it.

There is another side to this that I think deserves examination, and that is we have done the tax cut thing, and where are we? We are deeper in debt.

There is a song that goes: The harder I work, what do I get? I get deeper in debt.

When I see that we just increased the debt limit and we are about to push up against it pretty closely, we now want to add another $70 billion to our debt, I think it is a subject for fair debate, whether it is good for business or isn't.

I come from the business world, and I ran a very successful company. The company I started with two other friends now employs 40,000.

We have ideas that have been thought out, and I think this is a fair place to express them.

I know the other side of the aisle likes to say these are tax cuts to help everyday people, but I want to do a reality check. Those who earn over $1 million a year get 22 percent of the tax breaks in this bill. That is a very small percentage of the wage earners in this country.

Millionaires get an average tax cut of almost $42 thousand—41,977, to be precise—while those earning from $40,000 to $50,000—I want to point this out, millionaires get an average tax cut of about $42,000, while those earning from $40,000 to $50,000 a year get an average tax cut of $46.

I got some gas the other day and one tankful cost over $60. When you get an average tax cut of $46, my advice to those who get it is: Don't spend it all in one place; $46, distribute it around; maybe buy a little boat or something so you have some fun with it.

The last time we complained about unfair tax cuts such as this, one of our Republican colleagues actually accused us of "persecuting millionaires." Alas, what a pity, that we should be so biased in our statements.

If Republicans were more concerned about helping the middle class in this country, we would all be better off—all of us. The best idea we have seen from the majority recently was to give everyone $100 to help with soaring gasoline costs. Maybe that ought to be accompanied by a statement that says if you go to Las Vegas or buy a lottery ticket, perhaps you can really hit it big. Mr. President, $100, how do you use that? We now know how little $100 is, and the offer is offensive, so offensive that it was quickly withdrawn when people said: This doesn't make any sense. What do we do for people? Giving them a $100 gift certificate, if I can call it that.

Gas prices are out of control, wages are stagnant, more and more working people are losing their health insurance, and the Republican side of the aisle is admonishing us about persecuting millionaires.

I know some people who made money in their lifetime. I know if you want to buy a particular airplane, a G–5, that you have to wait 2 to 3 years to get it delivered. It costs $30 million. If you want to add some amenities, it can get up to $40 million. But there are so many people wanting to buy them, you have to wait years to get delivery. Yachts that are over 150 feet, that is a 2-year wait.

It looks like there is plenty of use for that $42,000 tax break.

President Bush and the Republican majority in Congress have lost all sense of fiscal discipline. When the President took office in 2001, he inherited a rosy fiscal picture, a better one almost than any President in history. We had a $236 billion budget surplus. We thought we would pay off the entire national debt by the end of President Bush's first term. But now we are on a track to double our national debt by 2011.

President Bush holds the Nation's credit card. We are the bank, and he keeps asking us to raise his credit limit, also commonly called the debt ceiling. In 2002, Republicans raised the debt ceiling by $450 billion, and in 2003, they raised the debt ceiling again by a record $984 billion. And despite the earlier admonition, in 2004, they dug the hole deeper by adding another $800 billion to the debt ceiling. When will this stop?

Then just 2 months ago, they squeezed through another $781 billion increase in the debt ceiling. So now we will owe the Chinese and other countries this money as we beg them to buy our bonds.

These numbers are so large that it is hard to relate to them. I think that is exactly what President Bush and Republican colleagues are counting on.

By adding nearly $4 trillion to our debt, we add a bill to every American of over $13,000 that has to be paid off in the future. Your kids, my kids, everyone's kids will have to pay it back with interest. It is time to get serious about fixing our Nation's financial condition. We can't continue to run record-setting budget deficits year after year, and we can't keep increasing our debt like it doesn't have to be paid off by future families and wage earners.

President Bush and the majority in Congress are doing long-term harm to our economy, to our standing in the world just by throwing more money at people who don't need it or, in many cases, don't even want it.

We have to stop conducting ourselves like the proverbial drunken sailor, like the guy in Las Vegas who is about to bet the family farm on the turn of a wheel. We should not be passing our endless debt on to our children and as the legacy for our grandchildren. I hope we will see votes against this irresponsible tax bill. I hope people on the other side of the aisle—and we can agree that maybe we ought to take a deep breath, step back, and not just casually increase the debt limit while we fight to give the millionaires an average $42,000 tax break. It is really something when we think about it.

Tax cuts for millionaires. We could send 1.9 million children to preschool. This tax cut that is designated to go to the millionaires could be used to give health care to 8.7 million uninsured children. Is that a better thing to do, I ask you, than to give those who make over $1 million a year another $46,000? I would rather give the health care to 8.7 million uninsured children. I can tell you one thing: There are no children of those who stand here who are without health care—not one. But there are hundreds of thousands of children—millions, I should say—who are uninsured; 8.3 million uninsured children.

Tax cuts for millionaires could send 2.8 million young people to college. Tax breaks for big oil, as we have given to them, could keep college tuition tax deductible for 6.4 million students and their families. We give tax cuts for millionaire investors instead of tax credits to help poor people save.

I hope we will stop passing along endless debt to our children and our grandchildren. Our legacy would best be shown as an indication that we want this country to be stronger domestically. We want our country to be stronger when it comes to military engagements, and we are failing that—failing that. If you read the papers—contrary to what I heard from our Secretary of Defense the other day about how everything is OK and we have enough people to do what we want to do—recruiting is way down and under pressure. So I think it would be a good idea if we got together at this point and said: OK, let's agree that our legacy to our children is going to be eliminating or reducing the debt that we are placing on their shoulders. And instead saying: If you want to go to college, you don't have to end your college career with a debt of $50,000 or $60,000 or, in some cases, much more. If we want to leave a real legacy, something of value to our children, then we have to say we want an Earth that is free of contaminants in the air that our kids breathe. We want to stop global warming. Some on the other side say it is a hoax, global warming. Ice floes are coming off of Antarctica. I was there and visited Antarctica and the South Pole. You can find there chunks of ice floating that are bigger than some States. Kilimanjaro is about to see the last of the snow that has been there since time immemorial. Glacier Park is soon to be without glaciers. What does it take? Those are the items of legacy that we ought to be talking about.

We want the air to be better so that when children are growing up, they are free from asthma attacks on their respiratory system. If we want to give our kids something to be grateful for, let's clean up the waters that surround us and make sure that we are not going to be overflooding lands across this globe.

with global warming creating melting seas.

I hope we will be able to muster the courage to say: Don't increase this national debt any more than we already have done, and don't give tax breaks to millionaires who don't need or want the money—$42,000 in tax breaks if you have a $1 million income. That is a pretty sizable bite. I don't think it is fair to say that Democrats are too stupid to see the advantage of these tax breaks.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority whip is recognized.

Mr. MCCONNELL. Mr. President, in spite of unprecedented shocks to our economy, terrorist attacks, corporate accounting scandals, rising energy prices, and natural disasters, our economy is incredibly strong. It is not an accident that our economy is so strong; it is a byproduct of policies proposed by President Bush and the Republican Congress that encourage Americans to work hard, keep more of their own money, and invest in the economy.

Let's look at the facts. One of the most important components of this Tax Increase Prevention Act that Congress initially passed in May of 2003 was the tax relief on capital gains and dividends. Since enactment of that important tax-reduction measure back in 2003, we have seen absolutely remarkable economic growth and job creation. More Americans are working than ever before, the economy has created over 5.2 million jobs since August of 2003, and we have witnessed 32 straight months of job growth.

Take a look at this chart. It is no accident. The red lines going down represent job growth as late as early 2003, and then we acted with the tax relief package in 2003. There was a very dramatic turnaround in job growth beginning in August 2003, and it continues through today—5.2 million new jobs since we got the tax burden down on the American people. Americans are willing to invest more now because they will be able to keep more of those earnings.

Unemployment remains very low, at 4.7 percent. Of course, we will not rest until every American who wants a job has one. But the fact is that the current low, low rate of 4.7 percent is lower than the average unemployment rate of the 1960s, the 1970s, or the 1980s. It is even lower than the average rate in the 1990s, which our Democratic colleagues would have you believe is the golden period of economic progress.

From the time since the tax cuts to the beginning of this year, which is the latest period for which we have numbers available, America has created more jobs than the European Union-15 and Japan combined.

Let me repeat that. From the time since the tax cuts to the beginning of this year, the American economy has created more jobs than the European Union-15 and Japan combined.

Economic growth remains strong. The economy grew at a rate of 4.8 percent in the first quarter of 2006.

Businesses are investing in our economy because of the 2003 tax cuts. This chart shows that business investment has increased for 10 consecutive quarters, averaging 9 percent growth over that period.

Americans are willing to invest more because they will be able to keep more of these earnings. The stock market is up more than 3,100 points since May of 2003. It has gone from 8,454 on May 1 of 2003 to 11,639 on May 10 of this year, nearly a 37-percent increase in the stock market since we originally acted in 2003 to get the tax burden down on the American people. It is not only good news to Wall Street, but really good news to the folks with pensions and savings on Main Street.

Americans have more money in their pockets. Their real after-tax income is up 8.2 percent since President Bush took office. Over the past year, it is up 2.2 percent.

Consumer confidence is at a 4-year high—a 4-year high.

We cut the tax rate on capital gains, and tax revenues from capital gains have increased from $58 billion in 2002 to $78 billion in 2005. Tax collections are up 14 percent over the past 12 months, even though we have reduced taxes. By the way, revenue is up for State governments as well as a result of this booming economy.

We must never forget that Government does not create growth; entrepreneurs, risk-takers, and hard-working Americans create growth.

However, Government, through its tax, spending, and regulatory policies, obviously can establish an environment that strangles growth or allows it to flourish.

This body, by lowering taxes in 2003, is making growth flourish. These policies have been a resounding success—a resounding success—and the Senate clearly needs to extend them to project this booming economy into the future.

We ought to reject efforts from the other side of the aisle to reverse this course and increase taxes by $70 billion on the American people. Clearly, that is a bad idea.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. Mr. President.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I am happy to be here in strong support of a bill that I guess I was somewhat responsible for in giving its title to: the Tax Increase Prevention Act. We first called this a jobs or growth package or something such as that, but that is not what it is. Taxes are going to go up if we don't extend these provisions to allow people to keep more of their own money, to not have the alternative minimum tax kick in that is going to affect over 350,000 taxpayers in the Commonwealth of Pennsylvania. They will have to start paying the alternative minimum tax. As an AMT payer myself, I can tell you: You don't want to pay this tax. This isn't fair for increasingly average-income people who, if we don't fix it today, will now be thrown into this alternative minimum tax situation which will cost them thousands of dollars in their tax bill. We stop that from happening. The problem doesn't go away, though. We need to continue to work on this to make sure we don't have this problem into the future.

The second thing we do is capital gains and dividends. Capital gains and dividends is a vital part of the growth that we have seen in our economy. Since we passed them, we have seen 5.3 million new jobs. We just heard the Senator from New Jersey talk about how the benefits of capital gains and dividends all go to these high-income individuals. What he forgot to mention was the 5.3 million people who have jobs today in large measure because of the tax policy that we put in place in 2001 and 2003. So while they may get a small financial benefit—although every financial benefit, depending on your income level, is a benefit—the fact of the matter is, in many of these cases, over 5 million cases, they have a job, and they have a job paying at 20 percent above the average compensation of most jobs in America. So these are good jobs. These are jobs that are family-sustaining jobs, and these are jobs I am sure these 5.3 million people—net new jobs that we have—are very happy to have.

I will tell you what. I bet if we polled all of those folks who received those jobs in the last few years, they would be happy to have someone who created that job, who had a tax incentive to grow their business so that they could, in fact, invest to make that job possible for them. They are very happy to have someone who had a tax break because of a capital gains rate reduction or a dividend rate reduction or the AMT not being in place or the marginal rates being lower or having an expense of capital equipment as a small business. Those folks would be very happy to get these jobs, from 2003 to today, I am sure, to allow that tax break to be in place so they could have the job in the first place.

That is what we are talking about. We are talking about growing the economy by investing in small businesses, by investing in people who are creating economic activity, who are creating jobs, who are building wealth, who are creating a better economy for all of us. When we passed this legislation in 2003, the unemployment rate was 6.1 percent. It is now 4.7 percent. In Pennsylvania, it is below that. We have had a great run, as Senator McCONNELL talked about. The stock market is at all-time highs. That doesn't just mean wealth for people who own stocks and trade. We are talking about pension funds; pension funds which were on the brink and are still having problems. But can you imagine what we would be debating in the pension reform bill that we are trying to pass if we had the market at 20 or 30 percent below where it is today. A lot more pension funds would be in trouble. A lot more folks would not have the savings they have to be able to enjoy their retirement.

A lot of good things have happened because of the tax policy we have put in place.

Let's talk about the deficit. The Senator from New Jersey—I love to hear people get up on the other side of the aisle and gnash their teeth and woe, how terrible it is about these huge deficits—I mean huge deficits—when we are talking about letting people keep their money. But when it comes to spending their money, we never hear a word about deficits on the other side of the aisle. Never. We went through the process of a budget, and amendment after amendment, billions after billions after billions, hundreds of billions of dollars of amendments were offered on the other side of the aisle to spend more money, to increase the deficit by spending more money and not one word about how bad the deficit is. No. If Washington spends it, if the bureaucracy spends it, if we are growing the size of government, we are OK with bigger deficits. We only have a problem with deficits if we let you keep your money. Then there is a problem. This is the kind of misguided economic policy which the American public thankfully has rejected time and time again.

I am very proud to be here today to say I am on the side of the taxpayer. I am on the side of the people who are the middle-income folks today and who are not going to see their taxes go up this year because of the alternative minimum tax. They are going to see capital gains and dividends policy extended for a couple more years so we can continue to see growth in our financial markets, more responsibility in the corporate board room, the kind of benefit to the average taxpayer where 28.1 percent of Pennsylvania tax returns claimed income from dividends. Over half of that money came from returns—over half of those returns have an average adjusted gross income of under $50,000.

We are looking at, not high-income people claiming dividend income but a lot of my seniors—and I don't have a lot of high-income seniors as a percentage compared to some of the other States where folks retire in the South. We have a lot of moderate- and low-income seniors, and that dividend income is a big deal. Not having to pay those taxes—it may only be $40 or $50 to the Senator from New Jersey, who doesn't have to worry about $40 or $50, but there are a lot of folks who worry about $40 or $50.

I hear complaints all the time from the other side of the aisle: When it comes to prescription drugs we can't have a $2 copay or a $3 copay. It has to be a $1 copay or something like that. Or we can't increase it by a dollar or two. Then they throw off $50 in a tax break as if it means nothing. Again, the idea if it is Government, it is OK; if it is letting people keep their money, it is not OK. It is OK in the minds of most people to have the people who earn the money, who made the investment, be able to keep the investment, get the fruits of their labor or wise investment, and be able to keep as much of it as possible. That is what this bill does.

I am proud of the fact we have been able to make this happen. We have not concluded the exercise. We have more work to do on the tax side. I have been a staunch advocate of making sure that we do something this year to help our charities. Over the past 25 years we have seen charitable giving go down from 2.5 percent of GDP to under 1 percent. That is not to say we are not a generous country, but the bottom line is we are not giving as much as we have in the past. I think part of that is the tax structure that we have. We need to create more incentives for folks to give to those who are helping millions of people across this country in need. The charitable giving package I continue to fight for in the followup tax bill that is coming along, we need to get that done. It is something vitally important.

There are several other issues we are working on in that second bill that, in the interest of time, I will not go into. But I will tell you there is more work to be done. This is a good start. This is a solid start on a package of legislation that is going to stop taxes from going up. This is not a tax reduction, this is a tax increase prevention, and that is the least we should do at a time when we want to keep this economy growing.

I yield the floor.

Mr. HATCH. Mr. President, I rise today to applaud the conferees for successfully concluding the negotiations and giving us a tax reconciliation bill that I believe fixes glaring problems that would otherwise punish millions of American families. The provisions in the conference report before us today will also help to perpetuate the strong growth our economy has experienced over the last 3 years that has created millions of jobs for Americans. I want to exhort my colleagues to give their support to the conferees' efforts and vote for the passage of this conference report.

One major problem the conference report addresses is the fact that the alternative minimum tax is due to hit tens of millions of American households this year had it not been temporarily fixed. The "fix" provided in the bill before us is by necessity only a 1 year "Band-Aid," so our tax writers will have to address this issue once again next year. Without this provision over 18 million households would unexpectedly find themselves bereft of deductions and facing a higher tax bill.

The alternative minimum tax is Exhibit A for the law of unintended consequences in the tax world. Originally created as a response to news reports that a few millionaires were using available deductions to not pay any taxes at all, this provision, which is essentially a parallel tax system to our "normal" tax system, is on pace to snare tens of millions of households in just a few years unless repealed or reformed permanently. It is only the projection of major revenues from this tax that keeps us from discarding it completely.

The alternative minimum tax is an especially pernicious tax for Utahns, as it unduly burdens large families by disallowing the exemptions for dependent children. A family of six earning $90,000 a year pays enough taxes as it is without us taking away their exemptions.

While the fix of the alternative minimum tax is welcome, I believe the most important provision in the reconciliation bill is the extension of the lower tax rate on dividends and capital gains to 2010. This provision has proven to be a boon for economic growth since it was added to the code in 2003.

The revenue cost of this lower rate has been very slight we collected more tax revenue from dividends and capital gains last year than we did in 2002, the year before we reduced the tax rate. In fact, total Federal revenue growth has been simply tremendous the past 2 years as the economy has taken off. Revenue grew more than 14.5 percent last year and is growing at more than 11 percent this fiscal year, well above the predictions made by CBO.

The benefits of the lower tax rates on dividends and capital gains has been higher economic growth. The way it works is simple: a lower tax on investment income means that investors get a higher return from their investments, thus spurring them to save more. Greater savings means that firms find there is more money available for them to use to increase production and improve the productivity of their workers, both of which ultimately lead to an increase in economic growth.

Moreover, the money invested is used more effectively with a lower tax on capital gains. Capital is not locked up in long-term investments held in order to avoid paying the tax. As a result, capital flows to the most productive investments, and economic growth is maximized. A vibrant, dynamic economy benefits from flexibility, both in the labor market and the capital market. Our 4.7 percent unemployment rate and 2 million jobs created in the past year, on top of a total of 5.2 million new jobs created since August of 2003, testify to the strength of our labor market. The $52 trillion of net wealth in this country, which increased by 8 percent last year, is a manifestation of the strength of our capital market. The Dow Jones Industrial Average is also nearing its all-time high, in no small part due to the tax policies of this country.

The benefits of economic growth are in ample abundance in Utah, where the current unemployment rate is just 3.4 percent, while wages increased last year by nearly 4 percent.

I am also pleased to see the extension of the small business expensing provision, which has been very important to business investment in this country. Another important provision included in the conference report is the 2-year extension of the active financing exemption under subpart F, which allows many of our U.S.-based multinational firms to remain competitive with their foreign counterparts.

We need to remember that taxes are only a means to an end. Ultimately, a primary goal of the government needs to be to ensure the continued prosperity of its citizens, and our Tax Code should be constructed with that purpose in mind. Our Tax Code is by no means perfect; and I could litter this discussion with references to the hundreds of exceptions, exemptions, credits, ill-advised deductions, dubious penalties, and needless complexities that should not be in there. But fixing the myriad imperfections of the tax code is a task for a later Congress and was not the assignment of the conference committee. What they did accomplish was figure out a way for us to keep a provision that has been a boon to our economy for another 2 years. I fervently hope that by the time this provision is next due to expire, or even before then, that my colleagues can see how important it is to have a Tax Code that encourages saving and investment. A lower tax rate on dividends and capital gains is a modest step towards that goal, and one that has cost us little or no revenue in return.

At a time of growing prosperity, it is important to continue with the policies that have contributed to that prosperity, and that is exactly what this bill has done. I urge my colleagues to support its passage.

The PRESIDING OFFICER. Who yields time? The Senator from South Dakota.

Mr. THUNE. Mr. President, in probably a few minutes we are going to be voting on whether to extend the tax relief that was passed by this Congress in 2001 and 2003, and thereby give the markets in this economy some certainty about what the rules are going to be. Frankly, that is something that investors need to know. They need to know for tax consequence purposes whether Congress is going to be changing the law, whether Congress is going to be raising taxes.

I think there is probably no better issue that illustrates the differences in philosophy between the two political parties in the Senate than does this one because it is the question of who spends the money. Do the American people spend the money? Do the taxpayers in the country get to spend their own money? Or do they send it to Washington, DC, so the politicians can spend it?

You have heard a lot of debate from both sides on this issue. If you look at the statistics, it is pretty clear that beginning in 2003—of course, there were tax cuts in 2001 and then subsequent tax cuts in 2003—the economy has behaved in a remarkable way. That proves, once again, that the lessons of history have a tendency to repeat themselves.

If you go back clear to the 1920s under President Harding when you cut taxes, when you cut marginal tax rates, you get not less revenue but you get more government revenue. It happened in the 1920s under President Harding, it happened in the 1960s under President Kennedy, it happened in the 1980s under President Reagan, and it is happening today.

If you look at the U.S. economy today, again in the first quarter of this year, there is 4.8 percent growth, the fastest rate in 2.5 years. The economy has been growing for 17 straight quarters. The average growth rate last year was 3.5 percent. There were 211,000 jobs created in March, 2.1 million jobs in the last 12 months, and more than 5.2 million jobs since August of 2003.

The unemployment rate has fallen to 4.7 percent, lower than the average of the last three decades, and led by strong home values and a steadily rising stock market; household wealth is at an all-time high, reaching $52.1 trillion in the fourth quarter of 2005; home ownership remains very close to its all-time high, more than 69 percent reached in early 2005.

As I said earlier, the ironic thing about this is the assumption that is made by many on the other side. You go back to 2003. The Democratic leader said:

> The tax cuts didn't work to stimulate the economy during the Reagan years and they are not working now.

That was the suggestion made in 2003 by our colleagues on the other side. Yet, again, the facts have borne out a very different story. That story is an incredible response to the tax relief, a growing economy, record numbers of jobs, and ironically—people might think this is counterintuitive—when you cut marginal tax rates, when you cut capital gains rates, you get not less Government revenue, you get more.

That is exactly what we have seen here. The Government revenues between 2004 and 2005 increased $274 billion, a 14-percent increase in Government revenues between 2004 and 2005. Between 2005 and 2006, the first 8 months that we are measuring for this year, Government revenues are up 11 percent, another $137 billion over the baseline of what was projected previously.

So when you add that up, the fact that we are creating jobs, growing the economy, raising more revenue for the Government not less, we have again unemployment at an all-time low. And how do our colleagues on the other side want to reward that? With a big, fat tax increase because essentially if we don't extend these tax cuts. What we will in effect be doing is raising taxes; marginal tax rates will go back up, capital gains tax rates will go back up, dividend tax rates will go back up, and you will see higher taxes which have the opposite effect of what we want to see happen. We have stimulated the economy. It is growing, it is expanding, and rather than continue on that path by extending these tax cuts and allowing the economy to continue to expand and grow and create jobs, the Democrats, rather, would allow the tax cuts to expire thereby raising tax rates and mess with what is a very good thing in the economy right now.

That is the opposite of what we ought to be doing. We ought to be extending these tax cuts. We ought to be giving people in this country an opportunity to take their realizations, to pay taxes, continue to invest, and continue to grow the economy and create jobs. There are provisions that have expired or will soon expire, including the expensing for business equipment purchases for small businesses, relief from the alternative minimum tax—which is catching more and more middle-income taxpayers in this country—and, of course, lowering tax rates on dividends and capital gains.

Ironically, contrary to the arguments that have been made by the other side, if you look at who benefits from the tax relief—I am just going to use one example, dividend tax relief—those making under $50,000 a year see their taxes cut 7.6 percent. Seniors in this country see their taxes cut by 17.1 percent. Those making over $200,000, the so-called rich in this country, as has been argued by the other side, realize a 2.2-percent tax cut.

Where do the dividends tax relief benefits go? To people making under $50,000, to seniors across this country. We have a lot in both of those categories in my State of South Dakota, people who are making under $50,000, and a high proportion of seniors in my State who will benefit from this tax relief.

It seems to me, at least, that when we have this vote in a few minutes, if we want to do right by the American people—and, again, we want to assert what is a fundamental principle that at least I think most of us on this side of the aisle adhere to, and that is the American public is better and the American economy is better, frankly, if individuals across this country, taxpayers in this country, are making their own decisions about how to spend their own money for their families, for themselves, for their communities, rather than sending that money to Washington, DC, and having the Government and politicians in Washington decide how to spend it.

That I think probably points out as well as anything else in this debate that we are having today the difference in philosophy between those of us on this side of the aisle who want to extend the tax relief that was enacted in 2001 and 2003 and those who want to allow that tax relief to expire, thereby creating a huge, massive tax increase on the American people at a time when the economy is growing, creating jobs, expanding at a record level.

I hope today when the vote comes that we will have a strong vote in favor of growing this economy and creating additional jobs for Americans and allowing people in this country to keep more of what they earn and spend it on their own priorities, rather than sending it to Washington, DC, and allowing the politicians to spend it.

I yield the remainder of my time.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Idaho.

Mr. CRAIG. Mr. President, I am pleased to see the tax reconciliation conference report before the Senate today. I commend the conferees' hard work and perseverance in reaching a compromise on this bill. I know it was no easy task.

Americans have been asking for tax relief, and now is the time that we give it to them. Lower taxes on capital gains and dividends—and higher alternative minimum tax exemption amounts—will assist America's small businesses, encourage the kind of investment that creates jobs and makes our economy grow, and ensure fairer tax treatment for middle-income families who would otherwise be left footing the bill for a tax intended for the wealthy.

These policies have a proven record of success. Since Republican progrowth tax policies were enacted in 2003, the economy has grown at an unprecedented rate, over 5.3 million jobs have been created, tax revenues are surging, and household wealth is at an all time high. We must extend, not end, this trend and the conference report we have before us, in part, does that.

When the original tax reconciliation bill came before the Senate, I voted against it. I did so because it contained a windfall profits tax provision which would have imposed an additional $4.923 billion tax on the energy industry alone. I voted "no" because the bill that was supposed to provide tax relief actually raised taxes. I was pleased to see and commend the conferees for stripping the windfall profits tax provision out of the bill.

I am going to vote for this bill. The majority of it contains the kind of tax relief essential to creating jobs and growing our economy. But I stand before you today to register my opposition to the addition of an expanded withholding provision—a near $7 billion tax increase in a bill that claims in its title to prevent tax increases: The Tax Increase Prevention and Reconciliation Act of 2005. That title is misleading.

The provision requires withholding on payments to any person—including small businesses—providing goods and services to the Federal, State, and local governments. The rate of withholding is 3 percent on all payments, meaning that if contract payments were made quarter-annually, 12 percent of the total contract value—some undoubtedly in the hundreds of millions—would be withheld from the contractor, kept by the Government interest-free for up to 15 months.

Proponents of this provision say it simply closes the "tax gap" and assists in collecting Federal taxes that are already owed. To say that the expansion of withholding requirements is anything other than a significant shift in U.S. tax policy is misleading.

Withholding has not always been around. Federal income tax withholding came into being during World War II, as the need for increased tax collections arose. When Federal income tax withholding became mandatory in 1943, tax collections jumped from $7.3 billion in 1939 to a whopping $43 billion in 1945. That's an increase of $35.7 billion in 4 years.

In congressional hearings on the issue, Congressmen spoke candidly of the revenues that needed to be "fried out of the taxpayers." There was no doubt in the minds of lawmakers that the result of withholding would be an increase in the tax burden on the public. However, it was wartime and the proposal was sold as a patriotic one. What is our reason now?

Some say it is to improve compliance by "closing a tax loophole" that allows some taxpayers to avoid their tax obligations. There is no such "loophole"—the IRS has simply failed to do its job of collecting and aims to shift this responsibility elsewhere.

Information reporting requirements are already in place to assist the IRS in its collection duties. Government entities are specifically required to make an information return, reporting payments to corporations as well as individuals.

Moreover, every head of every Federal executive agency that enters into contracts must file an information return reporting the contractor's name, address, date of contract action, amount to be paid to the contractor, and other information.

Expanding withholding would now not only have the Federal Government spend taxpayers' dollars, but it would make taxpayers bear the burden and costs of collecting them too.

And the cost of this provision is high—nearly $7 billion over 10 years. This offset is not without strings, and it is not free. As portions of individuals and small businesses' income are withheld for as long as 15 months, cash flows will drop and opportunities to invest will go down. These expenses will result in a higher cost of business.

Withholding is the ultimate hidden tax. When taxpayers no longer see the money that is withheld from their paychecks, the cost of government becomes obscured. And with Government spending what it is right now, transparency is what we need.

This is not the last time you will be hearing about this from me or the taxpayers. This provision will not simply go by unnoticed. In fact, the same type of withholding was tried on dividends and interest in 1982. Public opposition was so profound that it was repealed less than 1 year later. Although I will vote today to extend essential tax relief, I will work to do the same before this tax increase takes effect in 2011. I will work to give more meaning to the phrase in the bill's title: "Tax Increase Prevention."

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, this bill should be a billboard for the corruption of the public interest in Washington. It is a disgrace, it is an abomination, and it should be rejected by the Senate.

Last year, when this body passed a version of this legislation, I voted for it, principally because it included my amendment requiring corporate executives to pay their fair share of taxes when they use their company planes for their personal use. That is a matter of simple tax fairness. When all other Americans take vacations, they pay for their air travel on commercial airlines with their after-tax income. Yet when some of this country's wealthiest people, corporate executives, take vacations on their company planes, they fly for free and they pay almost no taxes on the actual value of that special employment benefit. My amendment would have raised $44 million in Federal revenues during the next 10 years, all of it coming from some of the very richest Americans, all of it coming from the end of their tax avoidance scheme.

What happened to my amendment, which was adopted by the full Senate on a unanimous voice vote? It was stripped from this conference report by the House-Senate conference committee which is controlled by the Republican majority in both bodies. It was done behind closed doors with no explanation and, thus, once again the greedy, a few rich and powerful Americans, have prevailed over the best interests of everyone else.

No wonder so many working Americans have lost their faith and trust in this Congress and in this President. Under their control, the rich get richer and everyone else gets poorer. And the national interest is betrayed behind the closed doors of a conference committee.

Stripping out my amendment is unfortunately only the beginning of the terrible abuses in this conference report. According to the nonpartisan Tax Policy Center, someone in this country who earns between $20,000 and $30,000 a year will receive an average of $9 in tax cuts from this bill. Someone earning $40,000 to $50,000 a year will get an average $46 tax reduction. But the very wealthiest Americans with incomes over $1 million a year will get an average tax cut of almost $42,000 every year.

Let us reverse those numbers since some of my colleagues are trying to portray our failure to pass this as a tax increase. Conversely, if that were to be the case, someone who makes between $20,000 and $30,000 a year would receive by their words an average of $9 a year tax increase. Someone earning between $40,000 and $50,000 a year would get on average a $46 tax increase. But the very wealthiest Americans, those with incomes of over $1 million a year, would get an average tax increase of about $42,000 every year. That is what progressive taxes are about.

Over half of this $70 billion which they want to reduce in Federal revenues, almost $40 billion of that will go to the richest 4 percent of American taxpayers. By doing so, the rest of this country will go deeper and deeper into public debt. Last year's combined Federal budget deficit was $318 billion. All Federal revenue, including the surplus in the Social Security trust fund thus amounted to only 87 percent of all Federal expenditures.

If you set aside the Social Security surplus, put it in a lockbox that so many people, including myself and the President, campaigned on in the year 2000, that surplus which this administration is squandering every year entirely on current consumption, then last year's so-called on-budget deficit for the Federal Government was $483 billion. That meant all Federal revenue set aside totaled only three-fourths of Federal expenditures.

That occurred during an expanding economy. It will continue this year, according to the President's own projections, during an expanding economy.

According again to the President's own budget forecast, this revenue shortfall of one-fourth of total expenditures will continue over each of the next 5 years. This even assumes the continuation of a relatively good economy.

By contrast, in the fiscal year 2000, which is the last fiscal year of the Clinton administration, non-Social Security revenues totaled 106 percent of on-budget expenditures.

In other words, we were in a budget surplus—there was a budget surplus projected every year for the next 10 years—and now those revenues total only three-fourths of expenditures, which means that, starting in 2001, President Bush and his supporters in Congress have destroyed the fiscal integrity of the Federal Government by recklessly cutting taxes, which primarily benefits the rich and powerful, while increasing Federal spending in every cycle one of those years, which caused the bipartisan or nonpartisan Concord Coalition, headed by the former Secretary of Commerce under President Richard Nixon, to call this administration the "most reckless" administration in the history of this country in its fiscal policy.

This tax bill will further feed that greed of the richest and most powerful Americans and it will weaken our country. Any sensible American understands that if their income is $30,000 a year and they are spending $40,000 a year, that is an unsustainable imbalance. Borrowing the difference only postpones the day of reckoning and makes that future reckoning more painful and difficult.

Any farmer or small business person knows if their annual income is $150,000 and their annual expenditures are $200,000, they too will go deeper into debt every year and eventually face bankruptcy. That basic law of economics also applies to governments and nations. It may take longer to exhaust the wealth of a country with our resources, but that will eventually happen unless we change our course.

This tax bill provides more tax favors to those who need them the least while increasing our future deficits and putting additional financial burdens on our children and grandchildren who will ultimately face those days of reckoning for this fiscal hedonism.

What is most disgusting about this spectacle is that the people in Washington who are responsible for it, the people in the Bush administration and in the majority of this Congress, know what they are doing. They know—or at least they should know—the future damage they are inflicting on this country. They just know that they can get away with it. They know when those days of reckoning arrive, when this great and strong nation has exhausted its ability to borrow from the rest of the world, when it has been reduced to being the largest debtor nation in the history of the world, it will be other people's nightmare—certainly another President's. And they can hope to avoid that future blame by now avoiding being responsible.

They have had plenty of help. These tax handouts don't happen by accident. They are heavily lobbied for by the people who benefit from them. They are the same people who benefitted most from the 2001 tax cuts and the 2002 tax cuts and the 2003 tax cuts. But more is never enough. Greed cannot be satisfied by feeding it more. That greed will eventually destroy this country, if it continues.

There used to be an ethic in this Nation that when you made more money, you paid more taxes. Now the obsession of individuals and of corporations is to make more money but pay less taxes, or pay no taxes, or even get tax rebates. The annual report of a major corporation recently noted proudly that it had paid no U.S. taxes in three of its previous five years although it had been profitable during all five of those years. The chief executive officer of that corporation then is now the Secretary of the U.S. Treasury. He is advocating lower taxes, and even eliminating taxes on unearned income, corporate dividends, and capital gains. He was quoted as saying:

> It was as if a light switch has been thrown on. Rarely has a piece of public policy been so effective, with the effects so evident and immediate.

Reduce the rate on unearned income, dividends, and capital gains.

There is a noted economist, not a partisan on the other side, but the chief economist of Lehman Brothers Investment Bank, who said in contrast you might credit the cuts with providing a little bit of a jump-start, but they believe the main reason the economy has done so well has more to do with the corporate sector starting to spend some of their record profits.

Former Secretary of the Treasury Robert Rubin, under President Clinton, who presided over this period of economic expansion in the 1990s when they balanced the Federal budget, said:

> We had very good markets in the 90's, before all of these tax cuts went into effect.

My colleagues on the other side are claiming that those tax giveaways back in 2003 are responsible for the modest economic expansion that benefitted some Americans while leaving many other Americans worse off than they were before. Most of the tax cuts that they are touting were actually passed and took effect in 2001, and they certainly were not bragging about continuing recession in 2001, 2002, and most of 2003.

Since then, our country's economy has improved, thank goodness, and they want us to believe that this cycle is as sure as the sun is setting and would not have occurred without their tax cuts for the rich and for the superrich. And they claim the economic growth in this country will not continue if we don't extend those tax cuts, which are not even scheduled to expire until the end of 2008, through 2009 and 2010.

In fact, their priority is such that they will set aside such measures as tax credits for research and development, which this country does need, a real and far more effective fix to the alternative minimum tax, which is part of the Senate bill which I voted in favor of. Those have to be set aside, postponed, delayed, or take no effect at all so they can extend the lower rate on dividends and capital gains the years 2009 and 2010.

Talk about the wrong priorities. Talk about destroying ethics in this country, that people who make more money, who are more privileged, more fortunate than anybody else on this planet, virtually in the history of the world, should not have to pay their fair share of taxes to keep this country strong and provide sufficient revenues to the Federal Government, to balance our budget, to be responsible, to pay our own way, which we are certainly capable of doing, and leave this country in a sound financial state to those in this country now and to those who will follow in 10 or 15 years.

I hope the people who are alive then and facing those consequences will look back and review the transcripts of this debate today. I hope they will ask themselves, Why is it that people today in responsible positions cut taxes for the very wealthiest, most privileged, and politically powerful people in this country and added $70 billion to the debt we inherited, that we have to pay in addition to the hundreds of billions of dollars more they are adding every year to that deficit and to the national debt? They are going to say it was wrong; they are going to say it was misguided; and they are going to wonder how it could be that responsible people could have failed to foresee the consequence of this selfishness and cater to the greed of those out there who want these cuts and won't be sated until they get more and more and more.

If they are working hard, as most Americans do today, they are going to ask themselves, Why is it that I struggle to pay my fair share of taxes, most of which are withheld and never in my pocket to begin with? Why am I paying higher tax rates from my earned income, from the sweat of my brow hour after hour, than the very wealthiest people in the country? People in many cases don't even earn that much. Who are the beneficiaries—as I have been, and as others of my family have been in my previous generations of success—who are not even willing to pay a tax rate similar to those who earn their income by their daily toil? It is fundamentally wrong. It is fundamentally wrong, what is happening in this country. It is making the rich richer, making average Americans poorer and more tax averse. The cumulative result is that revenues are three-fourths of expenditures, unsustainable, and a fiscally dangerous proposition from which we will suffer the consequences, the pain, for years to come.

Mr. KENNEDY. Mr. President, budget reconciliation is a process adopted by Congress nearly three decades ago to facilitate the passage of legislation to reduce the deficit and to help bring the Federal budget into balance. But in recent years, under the Republican majority, that process has been repeatedly abused to enact more and more tax cuts for the wealthy that make the budget deficit even larger.

Now, they are trying to do it again, in spite of the urgent problems facing the Nation, from the ongoing war in Iraq to the devastating hurricane damage along the gulf coast that has not yet been repaired. President Bush's policies have already added $3 trillion to the national debt in the last 5 years. Yet he is still proposing more of the same, more tax cuts benefiting the wealthiest among us.

The audacity of the Bush administration and their congressional allies truly knows no limit. First, the Republican majority cuts spending on Medicaid and other important Government programs for people in need by nearly $40 billion. They claim we have to do it to reduce the deficit. Then they bring this outrageous tax bill to the floor, a bill that will cut taxes by far more than the savings in spending from the programs cuts. The net result will be a substantial increase in the budget deficit—exactly the opposite of what the reconciliation process is supposed to accomplish. Billions of dollars will go from programs that assist low-income families and senior citizens into the pockets of the already wealthy. It takes from those with the least and gives to those with the most. It is a breathtaking Republican scam on the Nation that can only further discredit this Congress in the eyes of the people.

From day one, the Republican plan has been to use this reconciliation process to push through a cut in the tax rate on capital gains and dividend income. These are tax cuts that overwhelmingly benefit the richest Americans, with approximately half the tax benefits going to millionaires. Leading Republicans have repeatedly made it clear that their top priority was extending capital gains and dividend tax breaks, and that is exactly what they did in this conference report. No matter the cost and no matter what needs go unmet, the GOP is intent on delivering these tax breaks to their wealthy supporters.

What is the real cost of these capital gains and dividend tax cuts? The Republicans claim the cost of these provisions is $20 billion; the real cost of extending the lower rates for another 2 years is $50 billion. This tax break is particularly unfair because over 75 percent of capital gains and dividend income goes to taxpayers with incomes over $200,000 a year. Over half of all capital gains and dividends—54 percent—go to taxpayers with incomes over $1 million a year. The average millionaire will save over $42,000 a year from these tax breaks on capital gains and dividend income. By contrast, the average family earning $50,000 a year will save $46 in taxes.

As a result of this shameful Republican let-them-eat-cake proposal, millions of working families will pay a substantially higher tax rate on their wages than wealthy taxpayers pay on their investment income. What could be more unfair? Republicans are penalizing hard work, not rewarding it. They are giving a preference to unearned income over earned income.

The Republicans cynically claim that capital gains and dividend income deserve special treatment because they will stimulate investment. The facts do not substantiate that claim. The stock market grew much more rapidly in the 1990s than since the rates on capital gains and dividend income were cut in 2003. The overall health of the economy has much more to do with financial stability than special tax breaks for the rich. More tax cuts that America cannot afford will hurt the economy, not help it.

As if the capital gains and dividend tax breaks were not enough, the conferees created another new tax break for the wealthy that was not contained in either the Senate or the House bill. After 2010, the bill will allow high-income taxpayers to have retirement accounts where unlimited amounts of interest, dividends, and capital gains income that they receive would be totally tax free. This will have an enormous long-term cost, taking billions of dollars each year out of the Treasury.

The Republican conferees also made sure that multinational corporations got their piece of the pie. More than $5 billion in tax breaks were added to the bill for companies doing business overseas, a further incentive for these corporations to invest abroad rather than in the United States. They also took care of the oil industry. The Senate bill would have eliminated several special tax loopholes that big oil uses to avoid paying taxes on its substantial profits, including questionable accounting gimmicks that will cost the Government over $4 billion in lost tax revenue. However, those loophole-closing provisions were removed in conference. The Republicans made sure that the oil companies will get to keep their tax loopholes.

There are some very important tax provisions that we should be addressing in this bill, but the Republicans threw them overboard:

The alternative minimum tax was never intended to apply to middle-class families, and they deserve tax relief. However, this bill's AMT relief is provided only through 2006, while capital gains and dividend tax breaks are extended through 2010. What about AMT relief for 2007? Shouldn't that be a higher priority than capital gains and dividend tax breaks for 2010?

The research and development tax credit is critical to our international competitiveness and should be retained. However, the R&D credit was taken out of this bill to make more room for their tax breaks for the rich.

The deduction for college tuition is vital to millions of middle-class families struggling to afford a college education for their children. But it obviously was not very important to the Republican conferees. They took it out of this bill.

They also removed the savers credit, designed to help low- and moderate-income families build a nest egg for their future. Those families will just have to make do with less.

The priorities of this Republican Congress are truly scandalous.

The financial mismanagement of the Bush administration has weakened our economy and placed our children's financial wellbeing in peril. The national debt has risen to an all-time high of nearly $9 trillion. Under President Bush, our country has borrowed more from foreign governments and foreign financial institutions than in the prior 200 years combined. We are losing control of our Nation's future, and all the Republicans offer is more of the same. More and more tax breaks further enriching the already wealthy, while working families are left to struggle on their own in an increasingly harsh economy.

If we are honest about reducing the deficit and strengthening the economy, we need to stop lavishing tax breaks on the rich and start investing in the health and well-being of all families. These families are being squeezed unmercifully between stagnant wages and ever-increasing costs for the basic necessities of life. The cost of health insurance is up 56 percent in the last 5 years. Gasoline is up 75 percent. College tuition is up 46 percent. Housing is up 57 percent. The list goes on and on, up and up—and paychecks are buying less each year. The dollars that go to pay for more tax breaks for the rich are dollars that could be used to help these families. Instead, this Republican budget plan turns a blind eye to their problems.

The economic trends are very disturbing for any who are willing to look at them objectively. The gap between rich and poor has been widening in recent years. Thirty-seven million Americans now live in poverty, up 19 percent during the Bush administration. One in five American children lives in poverty. Thirteen million children go to bed hungry each night. Wages remain stagnant while inflation drags more and more families below the poverty line. Long-term unemployment is at historic highs.

The Republican majority has abandoned our Nation's working families. They cut the programs that these families depend on, while granting the wealthy even more tax breaks. The American people deserve better; and in November they will insist on a new Congress that truly shares their values and cares about their needs.

Mr. OBAMA. Mr. President, I rise today to speak in opposition to the tax reconciliation conference report.

The Federal Government is the rare institution that can spend money it just doesn't have. We spend and we spend and when we don't take in enough to cover the bill, we just borrow from China and Japan and keep on spending.

Families would go bankrupt if they managed their budgets this way. Businesses would shut down. Most mayors and Governors would be thrown in jail. And yet Washington operates as if we can continue to get away with more of the same.

The reality is, we can't. To do so simply passes the burden to our children and grandchildren, while keeping us in debt to our major economic competitors.

By standard accounting rules, our Federal deficit last year rose to $760 billion, a figure that now makes our national debt more than $8.4 trillion.

Think of it this way: last year, the Federal Government spent more than it took in by about $2,500 for every single man, woman, and child in America. And that is on top of each household's $75,000 share of our national debt. That is a credit card bill and a second mortgage that most Americans didn't even know they had.

What is worse is that even these figures don't tell the full picture. The rising demands on Medicare and Social Security over the next 35 years will swallow up the Federal budget unless we adjust either the amount that is paid into the two trust funds or the amount that is paid out.

Sadly, there may be too much partisan rancor right now to address these long-term challenges. But, at the very least, what we can do right now is to stop making things worse. This bill doesn't do that. This bill makes things worse—much worse.

The $70 billion pricetag is just the start. Because we know that that number is just a gimmick to push this through—and we know that more tax cuts are coming in another bill that will push the real cost closer to $150 billion in new deficits.

But the most offensive part of this bill isn't even the pricetag. The most offensive part is where this tax relief is going. Because this money's not going to the working Americans who are already having trouble paying their medical bills and tuition bills and their mortgage payments and their taxes. Those middle-class Americans will get an average of $20 from this tax bill. Twenty dollars.

On the other hand, if you make more than a million dollars, well, this is the bill for you—because you will get an average of $42,000 in tax cuts—$42,000 in tax cuts for millionaires.

This bill is out of touch with the country's priorities. It makes the wrong choice for Americans over and over again. It makes America more vulnerable financially at a time when we need to be stronger. It enshrines tax breaks for oil companies yet leaves out the deduction of college tuition. It creates a huge tax break for wealthy savings yet leaves out the saver's credit to help moderate-income households save for retirement. It privileges the high incomes of wealthy investors yet leaves out tax credits that help employers hire people off welfare. It rushes to address the demands of big corporations out in 2009 yet fails to shield middle-class families from the outdated alternative minimum tax even through 2007.

Given our country's precarious budgetary situation, now is not the time for a $70 billion tax cut that will only push us deeper into debt. Before we embark on an expensive package of tax cuts or new spending initiatives—no matter how meritorious—we should insist upon sensible pay-as-you-go rules so that tax cuts and new spending are paid for today rather than passed along to our children and grandchildren.

You know, this place never ceases to amaze me. It amazes me that at this time in our country's history—a time when so many Americans are struggling to get by; a time when so many have lost faith in the idea of a government that looks out for their interests and upholds their values; a time when we continue to mortgage our future to bankers in China; at a time when all this is going on—we are debating a $70 billion tax bill that will give the wealthiest one-tenth of 1 percent of all Americans a tax cut that is more than 4 thousand times larger than most middle-class Americans will get.

If you are wondering why our approval ratings are in the tank, take another look at this bill. This is a bill that is neither responsible, nor fair, nor honest. It is not worthy of the people who sent us here, and it certainly doesn't help them. And so I urge my colleagues to vote against the conference report on tax reconciliation.

Mr. FEINGOLD Mr. President, this country needs meaningful health care reform. I believe that health care is a fundamental right, and I believe that this right should not be compromised, nor should the quality of the insurance offered to Americans be compromised. Far too many of our constituents lack health coverage, and we should be acting to address that problem today. In fact, we should have addressed that problem long ago.

Unfortunately, it has become clear that in this current political environment Congress will not discuss ways to provide health care coverage to all Americans. In fact, we find ourselves debating legislation today that will set back our efforts to provide adequate coverage to Americans.

The Health Insurance Marketplace Modernization Act would allow the preemption of State insurance mandates that were put into place to protect people from plans that would otherwise drop coverage of medically necessary services. Insurance regulation is an issue that has traditionally been under the jurisdiction of the States. As a former State legislator, I appreciate the hard work that is done on the State level to tailor these laws to State residents, and I think that it is shameful to undo all of this hard work and subvert States' rights in this area.

States rights are not my only concern about this legislation. This preemption could have a very dangerous impact on individuals and families. It could result in health insurance policyholders no longer having access to numerous services including mammograms, mental health care, and newborn baby care. And these are not simply my concerns—I have heard from thousands of chiropractors, podiatrists, optometrists, and mental health providers in the State of Wisconsin, all of them concerned about losing provider mandates in the State. The people of Wisconsin believe that they should have access to comprehensive health insurance, but this legislation would reverse the progress that Wisconsin has made in ensuring adequate health coverage for its citizens. Wisconsin is not the only State—many States would lose mandates under this legislation. This bill would essentially provide underinsurance for Americans, and this isn't what Americans want or deserve.

In addition, this bill would cause fragmentation in the health insurance market, which would make it even more difficult for sick individuals to obtain health insurance. Without adequate regulation, insurance plans offered under this new scheme would be able to attract healthy low-risk individuals, leaving higher concentrations of sick individuals in traditional health plans that operate within State laws. This could drive up the costs in these traditional health care plans, potentially making insurance unaffordable for their policyholders.

Supporters of this bill are right about one thing, small businesses are facing enormous challenges in offering health insurance to employees. Health care costs have skyrocketed along with health insurance premiums, and it is difficult for small businesses to stay competitive without being able to afford insurance for employees. I have been hearing about this problem firsthand for years from small business-owners who attend my listening sessions and tell me that they want to provide insurance for their employees, but they are getting squeezed financially. They are looking for help from the Federal Government, and I regret that they are instead being offered a badly flawed bill.

Small businesses owners and their employees should have access to high-quality health insurance, and I introduced legislation with Senator COLLINS that would help provide this for small businesses. Our legislation would avoid the problems of S. 1955 while still allowing associations and small businesses to pool their members so as to negotiate lower insurance premiums. This bill, the Promoting Health Care Purchasing Cooperative Act, would establish grant programs to help both large and small businesses form group purchasing cooperatives within the framework of existing State regulation. This legislation provides an alternative to the legislation we are debating that would not preempt State mandates and that works within the existing framework in the States. But this legislation certainly isn't the magic bullet that can address the entirety of the problems within the health care system.

We need to find a comprehensive solution to the problems with our Nation's health care. Almost 46 million Americans are currently uninsured, and millions more underinsured. This number has been climbing steadily for 20 years. People who fall into the category of the uninsured are seven times more likely to seek care in an emergency room. They are less likely to receive preventative care, and they are more likely to die as a result. The effects of uninsurance are not limited to individuals and families without coverage—each one of us deals with the consequences.

By not taking action on providing affordable insurance for people in our country, we are putting our future physical and economic health at stake. America's survival rate for newborn babies ranks near the bottom among industrialized nations, better only than Latvia. Our other health outcomes for most segments of the population are poorer than outcomes in other industrialized nations. Additionally, our businesses are having difficulty competing in the global market with businesses in countries that have universal health care. The combination of problems is clearly taking its toll on our country's future.

While we face these looming problems of poor health and access into the health care system, we devote more of our economy to health care than any other developed nation. In real dollars, we spend more on health care than the entirety of England's GDP. Despite this incredible spending, our country is still looking at astounding numbers of uninsured people, and Congress continues to do nothing.

The only thing worse than doing nothing is pretending to do something, and that is what this Republican-designated Health Week amounts to. We have been given 1 week only 1 week to discuss the staggering problems facing the health care system in this country. We have been presented with legislation that ignores or exacerbates the real problems we face. And we have been shut out of the opportunity to offer amendments. If we are going to finally debate health care, as we must, we should engage in a real debate, a debate that gives health care the attention it deserves, instead of debating a bill that Republican leadership probably expects will not even be passed into law. Let's talk about real answers for real people. Let's talk about true health care reform.

I was pleased to be joined by the Senator from South Carolina, Mr. GRAHAM, in introducing legislation that requires Congress to act on health care reform. Our legislation would force Congress to finally address this issue. It requires Congress to discuss, debate, and consider universal health care bills within the first 90 days of the session following enactment of the bill. This bill does not prejudge what particular health care reform measure should be debated. There are many worthy proposals that would qualify for consideration, and this bill does not dictate policy. This simply requires Congress to act. The American people want action, the States want action, and it is time that we answered their call.

Instead of avoiding the issue or offering dead-end solutions, we should enact health care reform legislation that harnesses the talent and ingenuity of Americans to come up with new solutions. That is why I advocate a State-based approach to health care reform, which allows States to experiment with ways to enhance access to health care for their citizens. This approach takes advantage of America's greatest resources—its mind-power and diversity—to bring our country closer to the goal of realizing a working health care system with universal coverage. If the Federal Government helped States enact changes in the health care system, then I believe we would see our political logjam around health care begin to loosen.

We are already seeing States move ahead of the Federal Government on covering the uninsured. Massachusetts recently passed into law a plan to require health insurance for residents. In Wisconsin there has been discussion of expanding health insurance coverage in the State. I think the Federal Government should be working to encourage these innovative initiatives.

States could be creative in the State resources they use to expand health care coverage. For example, a State could use personal or employer mandates for coverage, use State tax incentives, create a single-payer system or even join with neighboring States to offer a regional health care plan.

This approach would guarantee universal health care but still leave room for the flexibility and creativity that is necessary to ensure that everyone has access to good, affordable coverage.

Why don't we use this so-called Health Week to discuss meaningful legislation like the approach I have discussed, rather than simply bringing partisan bills to the floor that won't move? It is time for the government to step up and fulfill its duty to make sure that the benefits of our Nation's health care system can be enjoyed by all Americans. I urge my colleagues to act.

I yield the floor.

UNANIMOUS CONSENT REQUEST—S. 1955

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I am here to propound a unanimous consent request. I want to make sure when we have the cloture vote tonight, that after cloture we are assured we can still have a vote on the Durbin-Lincoln bill as well as S. 1955.

I ask unanimous consent that if cloture is invoked on the substitute amendment, notwithstanding rule XXII, it be in order for the Senate to consider the Durbin-Lincoln substitute amendment, which is the text of S. 2510; provided further that the pending amendments be temporarily set aside immediately after cloture is invoked and the Senate proceed to the Durbin-Lincoln amendment.

I further ask that following 2 hours of debate, equally divided in the usual form, the Senate proceed to a vote in relation to the amendment, with no other amendments in order prior to that vote.

Mr. DURBIN. Reserving the right to object, I thank the chairman of the committee for being so thoughtful as to include the substitute as a possible vote after cloture.

I ask the Senator if he would consider including stem cell research, which we have been waiting for for a year. Senator FRIST has promised he would bring it before the Senate.

There are millions of Americans suffering from afflictions such as diabetes, Alzheimer's, Parkinson's, Lou Gehrig's disease, and spinal cord injuries who are counting on us. Will the chairman of the HELP Committee, as part of Health Care Week, amend his unanimous consent request to include a vote, after an adequate debate, on stem cell research?

Mr. ENZI. Our purpose is to get a vote on small business health plans of some form. You proposed a small business health plan. I proposed a small business health plan. I would like for both of them to be able to get a vote so that small business can get something out of this session.

We have already been promised there will be a debate on stem cells and a vote on stem cells. I heard some of the discussion last night about the three votes that will be taken on that issue. I am pretty sure that will be covered. It would be difficult to amend onto this bill because it is a totally different subject. We need to do something for small business. This allows your small business plan and my small business plan to be considered and to get a vote.

Mr. DURBIN. Reserving the right to object, then let me ask the chairman of the HELP Committee, since we are just 4 days away from the deadline on Medicare prescription Part D, and 6 or 7 million Americans—seniors, many of whom are in precarious physical and health conditions—have been unable or have not signed up for the program and 4 days from now will face a lifetime penalty for failing to sign up, will the chairman of the committee, understanding the critical importance and urgency of this issue, amend his unanimous consent request so that we can consider this before the deadline to make certain these seniors are held harmless and have a chance to change their plans in the next year?

He can understand if stem cell research is promised months from now, and I hope we will reach it, this is something which is time-sensitive and urgent to millions of Americans. Will the Senator amend his unanimous consent request?

Mr. ENZI. I appreciate the request and the emphasis of making a decision by Monday. I hope millions of people across the United States are using all of the different mechanisms—the volunteers, the phone numbers, the Internet—to get to a very simple result, having Medicare do the math so they can make that decision.

Deadlines are a marvelous thing. I operate on deadlines. So to do it before Monday would probably preclude a lot of people from making that decision and will give people the impression that we will move the deadline now, move the deadline next time, move the deadline next time. That won't get people signed up. We have time to move the deadline after the deadline if that seems to be a major concern—I am sure there is a major concern—but to move it beforehand and not to put the pressure on it would be a huge mistake.

That falls under the Committee on Finance, not under the HELP Committee, not under HELP, and the Finance Committee has to make those determinations to bring that forward. It would not be possible to put that in this amendment.

Again, we are trying to keep it a small business health plan so that small business can have a chance for the first time in 12 years to have something done for them.

Mr. DURBIN. Reserving the right to object, I would like to say as follows: On behalf of 9 million seniors in this country who face a lifetime penalty in 4 days because they failed to sign up for this confusing prescription Part D program that has been created by this administration, and on behalf of millions of Americans who ask me every chance they get: When will you possibly bring up this issue of stem cell research so we can have the medical research to spare people from suffering and death, and on behalf of those millions of Americans who will not have a chance during this Health Care Week to even have their issue considered by the Republican majority in the Senate, I am sorry that I must object.

The PRESIDING OFFICER. The objection is heard.

Mr. ENZI. It would do me no good to change the unanimous consent, so we have 2 more hours of debate or have germane amendments available to your bill?

Mr. DURBIN. If the Senator is asking me a question, I have given him two other requests. There are others, such as reimportation of drugs.

This was supposed to be Health Care Week. The majority leader started with medical malpractice and then went to your bill and does not want to talk about anything else. How can we miss this opportunity? The Senator from Wyoming knows these opportunities are few and far between. If we do not seize this moment and take up these issues, we will not reach them this year and people will be left penalized and still waiting for Congress to act.

Mr. ENZI. And there is only one opportunity to talk about small business. I have been trying to expand that opportunity as much as possible. That is why I propounded this unanimous consent, so that it could be absolutely clear that both methods of taking care of small business would be done. I am sorry the other side is not willing to do that.

Mr. SANTORUM. Will the Senator from Wyoming yield for a question?

Mr. ENZI. Yes.

Mr. SANTORUM. Is the Senator from Wyoming aware we have had votes on the extension of the May 15 deadline at least on two occasions or more? Has the Senate already voted on this issue repeatedly?

Mr. ENZI. Yes, it has.

Mr. SANTORUM. So what the Senator from Illinois is asking is to have another vote after the Senate has already, on more than one occasion, voted it down. So it is not that we have not discussed that issue. We have discussed that issue in the past, and the Senator does not like the decision of the Senate, but that does not mean we have not debated that issue.

The second issue on which I wish to ask a question is the stem cell issue. I think you said this, but I want to make it very clear. Is the leader not in discussion right now with the Democratic leader on setting up a framework to bring up stem cell? And did not the leader say that he would bring this issue to the Senate, and he gave a commitment, and isn't his intention—hasn't he stated it clearly—that he will bring this issue to the Senate in a timely manner before the end of this session?

Mr. ENZI. I have been next to conversations but not a part of the conversation where that was absolutely the case. I have heard speeches in the Senate where that absolutely was the case. I know there are three different proposals that will be voted on and debated in regard to that, so it is something which will be covered this session.

Mr. SANTORUM. And the third issue on which the Senator says we have to have a vote is the importation of drugs. Have we not debated that issue repeatedly in the Senate, and the position the Senator from Illinois has taken has repeatedly failed; is that not the case?

Mr. ENZI. Over a period of years, that has been debated and voted on here, and it has been voted down.

Mr. SANTORUM. I ask the Senator from Wyoming, have we ever debated and brought to the Senate small business health plan reform for the opportunity of small businesses to be able to get insurance for their employees, to take care of one of the biggest problems Members on both sides of the aisle have talked about, which is the rate of uninsured in this country? Have we ever debated this issue in your bill, in the Senate?

Mr. ENZI. It has not been debated in the Senate before. The House has done it for the past 12 years. They passed it eight times, but we have never done it on the Senate side. It has not made it out of committee before.

Mr. SANTORUM. Let me understand, if I am correct, the Senator from Illinois is objecting to moving forward with a bill that has never been considered, that has support, I assume, from both sides of the aisle, that is important from the standpoint of insuring more people; and the reason he does not want to let that go forward is to bring up two issues that have repeatedly been brought up in the Senate, including this session of Congress, and he has been defeated on, and a third issue which the majority leader has already said he would give time for. That is his reason for objecting to this unanimous consent?

Mr. ENZI. That is the reason that was given.

All I am asking is that we do something for small business. I know they were concerned about getting a vote on the Durbin-Lincoln amendment. I tried to make any concessions I possibly could to get that vote postcloture so that we would both be able to get a vote on the two bills and do something for small business. We can weed out what will work for small business. We can do additional amendments. There are actually unlimited amendments that can be done to S. 1955 that the other side could use to improve that, if they so desire. What we do is have 30 hours of debate and then a vote-arama on any issues remaining and a final vote on whether small business has anything different.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, let me correct my colleague from the State of Pennsylvania who has misstated a fact which I am sure has escaped his attention; that is, on February 2, this year, there was, in fact, a vote on this Medicare prescription Part D. The vote was propounded by the Senator from Florida, Mr. NELSON. It was under the debate on the budget and needed 60 votes, but 52 Senators voted in favor, including, obviously, Republican Senators. So his statement earlier that it has never passed in the Senate is not correct.

It is correct that he voted against giving relief to seniors who failed to sign up in time on May 15. That is reflected in the RECORD. I want to make sure that is clear for the record.

I also say when it comes to this issue, we have been told repeatedly regarding this wonderful program that the seniors would figure it out and all sign up. It turns out half of them have not. It is too complicated. It is too difficult. We have been trying to give the seniors some relief from the possible penalty they will face. I don't know whether it is because of the embarrassment that the program is so complicated, but for whatever reason the Republican majority has not allowed this.

Mr. SANTORUM. Will the Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. SANTORUM. Does the Senator from Illinois recall what the estimates were as to how many seniors would sign by the date of May 15?

Mr. DURBIN. Whose estimates?

Mr. SANTORUM. By the Congressional Budget Office, which scores the bill.

Mr. DURBIN. No.

Mr. SANTORUM. Between 28 and 30 million.

Does the Senator from Illinois know how many have signed up?

Mr. DURBIN. The Senator is very carefully avoiding the obvious; that is, the vast majority of seniors already have prescription drug coverage. What we are trying to do is bring into coverage those who do not have it, and more than half of them have not signed up for the program. So he is comparing numbers here that do not work.

I will reclaim my time because I would like to speak to the tax reconciliation bill. But before I do, the way to deal with this issue on small business health insurance is on behalf of the leader to sit down and decide what amendments will be in order and to move forward. But that is not the way we do business in the Senate. It is a confrontation strategy.

The Republican majority brings a bill to the Senate, fills the tree so no amendments can be offered, and then files cloture, which stops debate. So we cannot have this conversation. We cannot offer other amendments.

Why would the Republican majority leader want to avoid a vote on stem cell research? Because Members on the Republican side of the aisle up for reelection are nervous about this vote. They have said they oppose stem cell research, and they know a majority of the people in their states favor stem cell research and they do not know what to do. They want to avoid the pain. They do not want to face the votes.

I remind them what my former colleague from Oklahoma, Mike Synar, used to say: If you don't want to fight fires, don't be a firefighter. If you don't want to cast controversial votes, don't run for the Senate. That is what this is all about. You have to face the music and face the voters.

The Senator from Tennessee, the majority leader, is trying to protect and insulate his Senators from a delicate and difficult political vote. I am afraid he is going to have to answer to the millions of people across America who believe that stem cell research is critically important to a nation that counts on medical research to deal with our future.

One out of three of our children alive today will be diagnosed with diabetes. If we can do medical research with stem cells to save and spare those children, why don't we do it? We know what Parkinson's is doing to so many healthy people—cutting their lives short, compromising their ability. Alzheimer's is rampant. We have situations with Lou Gehrig's disease, spinal cord injuries.

All of these could be addressed with stem cell research. And despite the fact that the Senate majority leader has said he favors this research, he refuses to call it to the floor. That is not fair. It is not fair to the families who count on us.

If this President has decided we are going to prohibit medical research, we should have a voice in that decision. The people should have a voice in that decision through their Senators. And because the Senate majority leader wants to protect his Members from a tough vote, a controversial vote, he does not want to bring this to the floor. That is unfortunate—unfortunate for the Senate, more unfortunate for the people who count on us.

Let me tell you what we did have time to do this week. Before we left, we found time to do something critically important. We found time to make sure we are dealing with the tax cuts being proposed by the Republican majority.

What are those tax cuts worth to average Americans? Well, if you happen to make about $75,000 a year or less, they are worth $110.

Do you remember when the Republican majority said, we will solve the gasoline price crisis by sending every American a check for $100, and they were laughed out of Washington? Here they come again. Here comes the Republican tax cut for working families across America—$110. Thank you so much. It almost will buy two tankfuls of gas. That is their idea of helping working middle-income families.

But look down here on this chart. Look at the people who are making more than $1 million a year. Do you know what the tax cut is worth to them? It is $42,000. I will tell you this, there are 17,000 people in the State of Illinois, in the State I am proud to represent, who make more than $1 million a year. Do you know how many have written to me and said: "Please, I need a tax cut for $42,000"? None. Not one. Do you know why? They are doing quite well, thank you.

Mr. President, $42,000 more a year for them is money, perhaps, for another purchase of something to make their lifestyle even more comfortable, or to put it in their savings, or put it in investment, but they do not need it to get by.

The people making $75,000 a year could use a real tax cut. But this bill that is before us has removed one of the tax provisions that would help working families across America. It is the tax provision which said that working families can deduct the cost of college education expenses for their kids. Think about that. Working families, some who have a first-generation son or daughter in a college, got a helping hand from our Tax Code to pay for the cost of college education. And you know it is going up. Kids come out of college today with more and more debt.

And to the families that want to help them, we said: We will give you a helping hand in the Tax Code. But guess what. When the Republicans met in conference, they eliminated that provision. They took out the tax cut for these working families for college education so they could put in a tax cut of $42,000 for people making $1 million a year.

Well, let me tell you what it means in real terms. When you look at the average family across America, it means the tax cut is worth $16. You could not fill up a gas tank unless you were driving, perhaps, a motorcycle. Mr. President, $16—that is the average tax cut across America.

The gentleman whose picture I have here is Mr. Lee Raymond, the retiring CEO of ExxonMobil. Do you remember his retirement gift from ExxonMobil? After totaling up the largest profits in the history of the company, they gave him—not a gold ring, not an engraved plaque—they gave him $400 million as a retirement gift for leaving ExxonMobil. And there is better news coming. This bill will give Mr. Raymond an additional $2.5 million tax cut. There is a guy who really needs it—really needs it—$400 million, and he did not even have to buy a Powerball ticket. And now the Republicans say: Come on. Give the guy a break. Give him a tax cut.

What is wrong with this picture? What is wrong with this picture is that the tax cuts are not only unfair, they are building a wall of debt. The legacy of the Bush administration will be the biggest increase in the debt of America in our history.

Look at this chart. When this President took office, our national debt ceiling was $5.8 trillion. By this year it is up to $8.6 trillion. The mortgage on America has grown faster under this President than any other President in our history, and more than a third of the responsibility is the President's tax cuts. Do you know why? He is the first President in the history of the United States of America to ever cut taxes in the midst of a war—the first.

Why didn't other Presidents cut taxes in the middle of a war? It did not make sense. Along comes a war that costs you $2 billion a week, and you are going to cut taxes? Don't you know that is going to drive your country into debt? This President should know that. Our Republican colleagues should know that. But they are ignoring it.

And as we are debating this bill, do you know why we are moving on it so fast? We got word this week that they are going to have to raise the debt ceiling again. We just raised it a few weeks ago. We are going to have to raise the mortgage on America again because the fiscal policies of the Bush administration have failed so utterly.

Well, we have time to do this. We do not have time to debate stem cell research. We do not have time to have a real Health Care Week. But we have time to pile debt on our kids. That is what this is all about.

If you want to know the foreign-held debt of America, take a look at this chart. Who are the mortgage bankers for America? Japan, No. 1, with $673 billion; China, No. 2, with $265 billion; and the list goes on. We have to borrow money from foreign countries to float our debt. They loan us money so we can keep going and give tax cuts to the wealthiest people in America, knowing full well that any of these foreign countries could turn on us tomorrow and say, "We are sick and tired of the dollar. We are moving to the Euro or some other standard," and our economy would be paralyzed as a result of it.

It is the height of irresponsibility—height of irresponsibility—for us to drive this Nation so deeply into debt, particularly from a party that used to pride itself on being a fiscally conservative party. He is the first President to raise taxes in the midst of a war, giving tax cuts to the wealthiest people in this Nation, piling debt on children to the point we have never seen in our history, and borrowing money from foreign governments at a rate we have never seen.

This chart indicates that in the history of the United States, before George W. Bush was elected President, 42 other men held the Presidency. In that entire 224-year period of time, in the history of the United States, all of the previous Presidents borrowed $1.01 trillion in foreign-held debt for America—$1.01 trillion. This President, in 5 years, has borrowed $1.22 trillion. That is more than double the foreign-held debt.

Is America safer and more secure because of this? Of course not. And you know what the impact of this is. Remember the debate over Dubai Ports? More and more of these countries awash in dollars they have loaned us are now coming into the United States to invest. They are becoming a bigger part of our economy. So it is not just debt for our children; it is squandering our economic future. And that is a priority that this Republican majority wants to move to today.

When you consider who wins and who loses in Washington, it is very clear. Big oil wins with this bill, and not just Mr. Raymond who got a $2.5 million tax break. Two Senate provisions would have collected nearly $6 billion from oil and gas companies such as ExxonMobil, Chevron, and ConocoPhillips. The Republican majority took them out of the bill. At a time when the oil companies are experiencing the greatest profits in their history, the Republican majority has decided this is not the time to tax them, this is not the time to ask them to give back to America. So they stripped out the tax provisions on big oil.

The lobbyists for the financial service companies did very well, too. Citigroup, GE, and JPMorgan will be able to delay paying taxes on profits they make overseas. What is it worth to them? It is worth $4.8 billion. Why are we providing tax giveaways to companies to keep their profits overseas? Why is our Tax Code rewarding conduct that ships jobs overseas? The Republican majority thinks this makes as much sense as giving tax cuts to people who make $1 million a year.

Who are the losers? Well, every American is going to end up losing because our national debt is going to grow dramatically because of this irresponsible fiscal policy.

This bill, sadly, will not allow Americans to deduct State and local sales taxes. School teachers who buy their classroom supplies have lost their deduction. Families paying college tuition will not be able to deduct the tuition from their taxes. Fewer people will be hired from welfare to work. Businesses working to do research and develop new technologies will not get the tax credits they have had. These are only some of the losers.

But the real losers are the American kids. The kids are going to have to pay for this: $2 trillion that the Bush tax cuts have added to the debt of America—$2 trillion.

Our national deficit is expected to exceed $11 trillion within 5 years. The money we are spending today is not free, no matter how much we pretend it is. Someday we are going to have to pay for it. I should say someday our children will have to pay for it.

So this President—the first in history to cut taxes in the midst of a war, the first President to amass a wall of debt larger than every other President before him when it comes to foreign debt, the first President in history to create a $9 trillion IOU for our kids to pay—is going to have his chance in a few moments with his bill that he so dearly believes in. And you will find that his party will stand behind him.

The President's popularity is not at a high point. Obviously, the Republican Senators believe the way to win the next election is to keep digging the deficit hole deeper. What we are witnessing here is not a debate about tax policy. It is the death rattle of a failed Bush economic policy.

I would say to my friends on the other side of the aisle, I admire your consistency. You stick with the program even though the debt has become unbearable. You stick with it even when conservatives in your own party can no longer explain what your party stands for. You stick with it when we are in a war that costs us $2 billion a week. You stick with it even though we have become indebted further and further to foreign countries, which, if they called in the debt, would make life miserable for this entire Nation. At least you are consistent.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I would also say, we know what the other side believes in. We know they believe in higher taxes. We know they believe in more Government spending. We have seen amendment after amendment come here.

I cannot believe I hear again, repeatedly, from the other side of the aisle the woe and complaint about deficits when it comes to letting people keep their money, but no concern about deficits when it comes to spending and increasing the size of Government.

I want to correct the Senator from Illinois on a couple of points he made with respect to the Medicare Program. He said I was wrong when I said the Nelson amendment lost. He said it got 52 votes. Well, a motion to waive the Budget Act requires 60 votes. Fifty-two is less than 60. It lost. I want to make sure the Record is clear that I was correct and, in fact, the amendment did lose.

I also want to make sure the Record is clear when it comes to low-income eligible seniors signing up for Medicare. The Senator from Illinois said more than half the people who need to go out and sign up for Medicare have not done so. The bottom line is, my understanding is, according to the HHS News of May 10, 2006, a total of 37 million seniors have signed up for the Medicare prescription drug coverage, of a total of around 44 million to 45 million seniors. Now, that does not look like half to me. It looks like a lot more than half have signed up, and a very small percentage have not.

As far as low-income individuals, 10 million of the 13 million have signed up for the program. And those who have not signed up and do not sign up by May 15 will not be penalized. They will suffer no penalty. So if you are a low-income individual, you will not suffer a penalty.

So let's understand now, 37 million have signed up, and there are 3 more million who, if they do not sign up, will not receive a penalty. So you have 40 million people who either signed up or will not receive a penalty for not signing up, which leaves about 4 million people who will receive a penalty if, in fact, they do not sign up.

Again, there were still, as of this number, 5 days. And as we have seen with other programs—just like as with Congress, we wait until the last minute to do things—we will probably see, and I think we are evidencing, there will be a number of people who will come in and sign up.

The other thing is, believe it or not—I know this is hard for some to believe—some people do not want the program. Some people do not want to participate in a Government program. They are very happy to not participate. They are very happy to purchase their prescriptions on their own.

I know that might come as a shock to some, but there are people who don't like to participate in Government programs, who don't participate in a whole variety of programs the Federal Government offers. As we know, with Medicaid there are lots of people who do not participate. With Medicare, there are people who do not participate, even though they can. It has nothing do with complexity, when you have that high a percentage, much higher than was anticipated by all of those who looked at this, including the Congressional Budget Office. And if you look at the satisfaction of people who have been in the program, more than three-quarters of the people surveyed said they are happy with the benefit. So let's get the facts right.

The reason the Democratic whip objected to Senator ENZI's request to move to a vote on cloture allowing the Durbin-Lincoln amendment was because they don't want to move to cloture. They don't want to pass small business health plans. They don't want to make this happen for small businesses because of another ideology they stick to. That is, they want a big Government-run health care system, and they don't want us to cover other people. I appreciate their sticking to their ideology, even though it has been proven to be a failure in every other country where it has been used and is not popular with the American public.

Mr. FEINGOLD. Mr. President, I will oppose H.R. 4297. It fails in nearly every aspect to justify enactment, but among the biggest of its defects is that it adds $70 billion to our already mounting deficits. The last thing we should be doing is adding to the burden already facing our children and grandchildren.

What are we getting in exchange for this fiscal recklessness? Are we addressing some urgent tax need? Perhaps this bill finally gives us the kind of reform of the alternative minimum tax that is so clearly needed. No, we get another 1-year patch on the AMT problem, and that is it. This bill does nothing further to fix the AMT because the real tax agenda in this bill is to enact dividend and capital gains tax cuts of dubious merit, and which do not take effect for 2 years.

Two years, Mr. President. We are running up a $70 billion credit card tab, and handing it over to our kids to pay, just so we will have a tax cut that takes effect in 2 years.

Worse, the body is once again abusing the reconciliation process in order to shield these questionable tax cuts from the kind of scrutiny they so clearly need. Make no mistake: This bill would never pass without this abusive use of reconciliation. The benefits of this bill are grossly skewed to the most well off. The Center on Budget and Policy Priorities notes that this tax bill provides middle-income households with an average tax cut of $20, about the price of two medium sized pizzas. By contrast, households with incomes over $1 million will get an average tax cut of $42,000, the price of a Lexus. Altogether, more than half of the benefits from this bill will go to the top 3 percent of households, those making $200,000 or more.

Moreover, in order to squeeze those questionable tax cuts into the limited space afforded by the reconciliation maneuver, the conferees have resorted to an outrageous bookkeeping gimmick which shifts revenues that would have been collected in the future to the current budget window. The Roth IRA conversion provisions permit individuals with incomes over $110,000 and married couples with incomes over $160,000 to shift savings into tax sheltered Roth IRAs. The net result is to spend revenues from future budgets to shoehorn through grossly unbalanced tax cuts now. The Center on Budget and Policy priorities notes that by 2050, the Roth IRA provision, which is being used as a temporary revenue enhancer, will actually reduce revenues by $14 billion in present value terms.

As I have had to note too many times, when we choose to spend on current consumption—through appropriated accounts, mandatory spending, or tax cuts—without paying for that spending, we are robbing our children of their own choices. When we spend on our wants, by cutting taxes or through government programs, without paying for those decisions, we are saddling our children and even grandchildren with debts that they must pay from their tax dollars and their hard work.

That is exactly what this bill does. The Roth IRA maneuver, along with the billions in pure deficit spending contained in this bill, comes out of our children's wallets. By digging the deficit ditch even deeper, and by spending future revenues on tax cuts today, we are adding even more debt to the bill with which we are passing on to our children and even grandchildren. As a result, our children will have to forego program benefits or pay higher taxes.

This tax bill is an abuse of the reconciliation process, a process designed to reduce the deficit not aggravate it. The tax policy it encompasses is fiscally reckless and economically regressive. And this legislation fails to address a tax problem that is truly urgent, the mounting problems with the alternative minimum tax. The Senate should reject this bill.

Mrs. MURRAY. Mr. President, with their latest tax plan, Republicans are showing once again that they care more about giving tax breaks to millionaires than helping working families.

Republicans said this week would be health care week. While it is insulting to devote only 1 week to such a critical issue, it's even more troubling that Republicans pulled the plug on health care week in favor of even more tax breaks for the rich. This tax bill and the Senate's failure to help families with the soaring cost of health care are further proof that Republicans have the wrong priorities.

If we want to make America strong again, we need to invest here at home. Today middle-class families throughout Washington State and the country are struggling to pay for the skyrocketing costs of gas, college tuition, and health care. Instead of helping these hardworking families, Republicans have once again decided to leave the middle class behind.

While I am pleased that this bill includes a 1-year patch for the alternative minimum tax, there is not much else to be pleased about in this bill. According to the Tax Policy Center, this tax bill would provide middle income families an average tax cut of just $20, while millionaires would get an average tax cut of $42,000. Rather than extending the middle-class tax cuts that have already expired or will expire at the end of the year, Republicans have again turned their backs on the middle class. The Republican bill also denies families in my home State the ability to deduct their State sales taxes. It blocks teachers from deducting the cost of classroom expenses they pay out of their own pockets. It denies businesses access to the research and development tax credit which I helped extend in September 2004.

On its own, this bill has the wrong priorities, but when you look at the bigger picture a more disturbing pattern is clear. This tax bill is the second part of last year's budget resolution. The first part of the budget resolution, which was enacted in February, cut $39 billion from important areas like health care and education. When we passed that bill, we were told that the bill was necessary to reduce the deficit. Yet today we are presented with a tax bill that in fact increases the deficit by $30 billion and adds to our massive debt.

We need a tax system that is fiscally responsible, helps business grow, and provides maximum relief to the middle class, but this bill achieves none of this. Instead it takes out a loan against our children's future and adds to the deficit. This tax bill makes it more difficult for us to address other important priorities like homeland security, paying for the war in Iraq, our nation's infrastructure, health care, and education. This is the wrong tax plan, at the wrong time, for the wrong reasons.

Mr. LEVIN. Mr. President, this tax reconciliation conference report before us today sets a new standard for irresponsibility. It is a huge giveaway to the wealthiest among us that is papered over by a disingenuous effort to increase short-term revenues at a great long-term cost. Like so many of the bills we have considered recently, this conference report fails to invest in our Nation's priorities while driving us deeper and deeper into debt.

Perhaps the most outrageous aspect of this bill is how deeply unfair it is. According to the Tax Policy Center, 87 percent of the benefits of this bill would flow to the 14 percent of households with incomes above $100,000; 55 percent of the benefits would go those with incomes above $200,000; and households earning more than $1 million a year, which account for only 0.2 percent of all households, would receive 22 percent of the benefits of these tax cuts.

In contrast, the three-quarters of American households with incomes below $75,000 would receive just 5 percent of the benefits. And the 60 percent of households with incomes below $50,000 would receive less than 2 percent of all benefits. Approximately three-quarters of Michigan taxpayers would receive no benefit at all from the bill's most expensive provision an extension of the capital gains and dividends tax cuts.

The inequities in this bill are even more glaring when you look at the actual dollars. The average tax cut for the middle 20 percent of households would be just $20, while the top one percent would get $13,800. For those with incomes above $1 million, the average tax cut would be $42,000.

What is even more brazen about this bill is that, with an outrageous accounting gimmick, it purports to pay for a portion of these tax cuts for the wealthy by giving even more tax cuts to the wealthy. Proponents of extending the capital gains and dividends tax cuts had to find a way around a Senate rule that says a reconciliation bill may not increase long-term deficits. One way would have been for 60 senators to vote to waive the rule, but it was not likely that there would be 60 votes for this expensive and inequitable proposal. Instead, proponents have resorted to a devious circumvention of this rule by pretending to offset the long-term costs with a provision that will increase revenue in the short-term before turning into a sea of red ink in later years.

Right now, individuals with incomes above $110,000 and couples with incomes above $160,000 cannot contribute to a Roth IRA. Furthermore, only those with incomes over $100,000 are prohibited from converting traditional IRAs to Roth IRAs. This bill would lift both of those caps beginning in 2010, meaning that a large number of high-income households will convert their traditional IRAs to Roth IRAs because funds in a Roth IRA are tax free when withdrawn in retirement. As taxes are paid on the funds being contributed to Roth IRAs, the Treasury will see an increase in revenues over a few years, but the Treasury will lose revenues on investment gains for years down the line.

The Joint Committee on Taxation, the Congressional Research Service, and other nonpartisan experts agree that this proposal will ultimately result in a significant net revenue loss, even once interest is taken into account.

So how did a revenue-loser get dressed up as a revenue-raiser in this bill? As a rule, official Joint Committee on Taxation estimates do not look past the next 10 years, so if the decrease in revenues doesn't occur before 2017, it doesn't show up in the Joint Committee's estimate. Thus, for purposes of the Senate's rules, it is as though it doesn't happen. But in the real world, it will happen. This is a transparent gimmick, designed to indulge this Congress's addiction to irresponsible spending.

We owe it to our children and grandchildren not to continue building up this massive debt. Today, each American citizen's share of the debt is almost $28,000, and that will rise to more than $39,000 by 2016. Paying off this debt will require either extraordinary tax increases or significant cuts in critical areas such as defense or Social Security. Tragically, it will mean that an increasing number of taxpayer dollars will be spent not on moving America forward but simply on treading water by making interest payments to our creditors, most of whom are foreign countries.

One of the few bright spots in the bill that the Senate passed last November was the meaningful antitax shelter provisions. Sadly, even these have now been dropped from this conference report. House Republicans once again rejected the economic substance provision that the Senate has passed many times and that would prohibit abusive tax shelters that have no economic purpose other than tax avoidance. The Senate bill also included an amendment that Senator COLEMAN and I pushed for that would increase penalties on those who promote abusive tax shelter schemes and the banks, law firms and others that aid and abet in these complex shenanigans. Dropping these provisions is a disappointment that only benefits powerful special interests.

Finally, this bill misses yet another opportunity by failing to limit any of the unnecessary tax breaks currently enjoyed by major oil companies which are reaping record profits. In fact, the conference committee struck one of few provisions in the Senate bill that might have helped. The Senate bill had a provision that would have allowed taxpayers caught by the AMT to still enjoy the benefit of the consumer tax credits allowed for the purchase of hybrid and other alternative vehicles. Unfortunately, this provision, too, was omitted in conference.

Although the overwhelming majority of this bill is completely misguided, I do support one positive provision in it—extending for 1 year the patch that prevents middle income families from being slapped with the alternative minimum tax. The AMT was originally created to make sure that the wealthiest Americans paid at least a minimum amount of tax. Because the AMT is not indexed to inflation, however, it is affecting many more taxpayers today. At a time when median family income is falling, middle-income families need all of the help they can get, and they certainly don't need to be socked with an unintended tax increase.

Unfortunately, this bill provides the AMT fix for only 1 year. It makes no sense to extend the capital gains and dividend tax cuts to 2010 and give AMT relief only through the end of 2006. We all know that the reason this bill does not offer longer AMT relief is because the fix so expensive—$33 billion for just 1-year. Knowing that we'll need to do a similar fix to cover future years and leaving the fix out to mask the real costs of the Bush policies, makes this costly bill all the more irresponsible. Finding a more permanent fix for AMT is a cost that we all know is coming, and we should not continue to ignore it in our fiscal policies.

Not only do we need to provide AMT relief for years past 2006, but we also need to pay for it. When the Senate originally considered its version of this bill, many of us supported an alternative package offered by Senator CONRAD. That package would have paid for extending all of the tax cuts that expired at the end of 2005, including AMT relief and the important R&D tax credit. It would have raised this needed revenue by closing many loopholes in our current tax system, including one that allows oil companies to avoid taxation on foreign operations. Unfortunately, Senator CONRAD's amendment was defeated on a nearly partyline vote of 44 to 52.

As a result of these many misplaced priorities, the bill before us today is an irresponsible giveaway to powerful industries and the wealthiest among us that will drive us deeper into the deficit ditch. And it uses outrageous shenanigans to hide its true cost. We do need to fix the AMT, but we also need fiscal responsibility, and we need policies that will build economic security for all Americans, not just those at the top who are already very secure economically.

Lower and middle-income families are getting squeezed from all sides, with the costs of essentials like gas, health insurance, and education going through the roof. And, as we have seen in Michigan, our Nation is hemorrhaging manufacturing jobs, and median family income is falling. We need to be investing in our people and in our future, but this bill would take a giant step backward. The tax cuts for the wealthy in this bill are totally out of whack with what America needs right now, and I will vote against this irresponsible conference report.

Mr. SARBANES. Mr. President, we have before us more of the same—tax reconciliation legislation that further undermines our underlying fiscal health while providing extraordinary, generous benefits for the very wealthy but little relief for hard-working, hard-pressed, middle-class Americans. As an editorial in today's New York Times says pointedly, "There's nothing in it for most Americans, and yet all Americans will pay its cost. . . ."

The Republican conferees who produced this conference report made a series of critical choices. Rather than providing tax relief for millions of middle-class Americans, they have given most of the $70 billion to the wealthy few.

Rather than extending critical tax provisions that expired at the end of last year—like the research and development tax credit, the college tuition deduction, and the credit for teachers who use their own money for classroom expenses—they have extended tax cuts for the wealthy, which do not expire until 2009. Rather than finding ways to help Americans address the tremendous prices at the gas pumps, they have allowed the big oil companies to continue enjoying their large tax breaks and Government giveaways. Rather than charting a course to fiscal responsibility a change in direction long overdue they have presented us with a bill whose $70 billion in tax cuts will only add to the already-massive Federal deficit, and whose budgetary gimmicks will cost the country billions of additional dollars in the years to come. Among the most egregious of the gimmicks is the provision allowing wealthy taxpayers to contribute more to their Roth retirement accounts. While it provides revenue at this time to offset the costs of the bill's other tax cuts for the wealthy in the near term, it will cost billions and billions of dollars in lost revenue in the future, and this cost will be borne by future generations of working Americans.

An editorial in this morning's Washington Post sums up this legislation succinctly: "Budgetary dishonesty, distributional unfairness, fiscal irresponsibility," adding "by now the words are so familiar, it can be hard to appreciate how damaging this fiscal course will be."

Again and again, the administration points to figures on the growth in the economy that mask the clear, deeply disturbing underlying trends that show the income gap widening. Just the title of an article that appeared in the March 27th Wall Street Journal tells the story: "Wages Fail to Keep Pace With Productivity Increases, Aggravating Income Inequality."

Indeed, while the wealthy are getting richer, the incomes of the middle class and the poor have been steadily declining. There is an abundance of evidence on this point. As a New York Times editorial, entitled "Barely Staying Afloat," noted yesterday, more than 37 million Americans now live below the poverty line, and an additional 54 million live between the poverty line and double the poverty line the so-called "near poor." The Washington Post, in another editorial this past Sunday, reported that real income of families in the middle 20 percent has grown only 12 percent since 1980, while the incomes of those in the top 10th have grown an astonishing 67 percent. Those who are fortunate enough to find themselves in the top 1 percent have seen their incomes more than double.

The bill before us reinforces this trend, delivering handsome benefits to the very wealthy, while providing precious little for middle- and lower-class Americans. According to a report recently released by the joint Brookings-Urban Institute Tax Policy Center, approximately 87 percent of this bill's benefits will go to the 14 percent of households with incomes above $100,000, while 55 percent of the benefits will go to the 3 percent of those with incomes over $200,000. While millionaires represent only two-tenths of 1 percent of our population, they will receive 22 percent of this bill's largesse. In terms of real dollars, families in the middle 20 percent of income will receive an average of only $20 in benefits from this bill. In stark contrast, those in the top 1 percent will receive an average of $13,800. Even more troubling, those with an income of over $1 million will benefit by an average of $42,000. This means that millionaires will receive on average 2,100 times as much from this bill as those in the middle 20 percent of society.

Not only are these tax cuts skewed to the wealthiest among us, they further skew the fiscal dilemma that the Nation now confronts. When President Bush took office in 2001, the Federal budget was in surplus for the third consecutive year. In 1998, the Federal Government had reported its first surplus in the budget since the 1960s, and surpluses of $5.6 trillion were projected over a period of 10 years. This very strong fiscal situation put the Nation in a position to pay down the large national debt that had been accumulated as we moved through the 1980s and into the 1990s. Instead President Bush squandered the projected surpluses by instituting irresponsible and reckless tax cuts. When the history of this period is written, the fiscal policy of this administration will be regarded as a gross irresponsibility.

When the President submitted his first budget proposal, he asserted: "We can proceed with tax relief without fear of budget deficits, even if the economy softens." The following year, 2002, with the budget already in deficit, the President called for yet another tax cut, promising that "our budget will run a deficit that will be small and short term." In fact, the President's budget in that year confidently asserted that the deficits would be so short term that by this year 2006 the budget would be back in surplus.

In fact, exactly the opposite has happened. Consistent with the irresponsible fiscal policy that this President has pursued, we have run deficits each and every year since 2001. We went from a surplus of $128 billion in 2001 to a deficit $158 billion in 2002 a swing of $286 billion. The deficit rose to $378 billion in 2003, rose again in 2004 to $413 billion, fell slightly in 2005 to $319 billion, and is now projected to go back up again in 2006 to $371 billion. Far from being small and short term, these deficits are at record levels. Every year, the goal of returning to fiscal balance recedes, as administration policies drive us deeper into debt.

Much of this debt is held by foreign lenders, and that amount is growing all the time. At the end of fiscal year 2001, 31 percent of the outstanding Federal Government debt was held by foreign lenders. Over the succeeding 4 years, borrowing from abroad accounted for more than 80 percent of the increase in our Government debt. So as we have seen the debt rise, the proportion of that debt held by foreign lenders has risen at a much more rapid rate. As our borrowing abroad increases, a shift has also occurred from private to Government lenders.

If foreign lenders continue to buy 80 percent of new Federal debt, the Federal Government will owe more than half of the debt to foreign lenders by 2011. In other words, as Blanche DuBois says in Tennessee Williams' play "A Streetcar Named Desire," we will be dependent on "the kindness of strangers.

I opposed the President's tax plan as unfair and irresponsible at the time the budget was in surplus, and I oppose the legislation before us today. It is unfair and it is irresponsible, and I urge my colleagues to vote against it.

Mr. VOINOVICH. Mr. President, I rise to speak on the reconciliation bill that is before the Senate.

There are three reasons we should oppose the tax cuts that are currently before the Senate, as well as tax cuts that may come before the Senate in the near future:

No. 1, we do not need these tax cuts; No. 2, we cannot afford these tax cuts; and

No. 3, we should be working on tax reform rather than enacting tax cuts in a piece-meal fashion.

Mr. President, we do not need these tax cuts now. In short, the economy is already growing. The Nation's gross domestic product grew by over 4 percent in both 2003 and 2004 and 3.5 percent in 2005. In the first quarter of 2006, it was reported that the economy grew at 4.8 percent. Additionally, unemployment has dropped from 6.6 percent to the current 4.7 percent.

The stock markets have regained their strength over time. In fact, proponents of tax cuts point to the stock market as an indicator of the Nation's economic growth and have stated that if tax cuts are not made permanent, we threaten to send our stock market, and consequently the economy, into a tailspin. The growth in the stock market may have coincided with the enactment of certain tax cuts, but as the Wall Street Journal reported, "A group of Federal Reserve Board economists concludes that the tax cut, which slashed the dividend-income tax on stocks to 15 percent from about 30-38 percent, was a dud when it came to boosting the stock market when it was announced and passed in 2003."

Moreover, I would argue there are other factors, arguably much larger in scope and importance, which played into the market's, as well as the Nation's economic growth. A rational individual would conclude that the historic lows in interest rates played a large role not only in providing cheap capital for business expansion but also to spur the housing market. As former-Chairman of the Federal Reserve Alan Greenspan indicated, there are factors outside the control of the Federal Government that have led to long-term growth, including the boon in productivity fueled by technology as well as the relative strength of the world economy.

I do not doubt that tax cuts have some effect on the economy. In fact, some may point out that I supported two of the largest tax cuts to be enacted in American history, the tax cuts in 2001 and 2003. In both of these instances I looked at the facts that were before me and came to the conclusion that supporting these tax cuts was the right policy decision. But they were the right policy decision for two distinctly different reasons.

In 2001, our Nation was facing a starkly different fiscal picture than what we have today. At that time, the 10-year surplus was estimated to be $5.6 trillion. There was a surplus on the table, and Congress was faced with two choices: spend the money or give it back to the taxpayer. I chose to get that money off the table and out of Washington so it could not be spent, but I made this decision based on the premise of using the surplus as a three-legged stool: providing tax cuts, paying down the debt, and controlling spending.

On June 7, 2001, the President signed the Economic Growth and Tax Relief Reconciliation Act. I voted for this bill, which reduced the individual income tax rates that apply to taxable income, increased the child tax credit to $1,000 and extended it to smaller families, addressed the "marriage penalty," phased out the Federal estate tax over the period 2002-2010, provided a temporary reduction in the alternative minimum tax, and provided some savings incentives and child care credits.

In 2003, our Nation faced a very different scenario. The country was still reeling from September 11, fighting the war against terror and trying to rebound from corporate accounting scandals. We needed stimulative medicine to ensure that the economy did not sink further into the doldrums. While I supported these tax cuts, I fought to ensure that the amount was the right balance between needed stimulus and taking the deficit into consideration. I joined Senators OLYMPIA SNOWE, JOHN BREAU, and MAX BAUCUS to get the $350 billion that was eventually enacted.

On May 28, 2003, the President signed the Jobs and Growth Tax Relief Reconciliation Act into law. We accelerated the cuts from the 2001 tax bill such as the individual income tax cuts, the child tax credit and the marriage penalty relief. We also extended the alternative minimum tax, AMT, again and reduce the rate on both dividends and capital gains to 15 percent for higher tax brackets and 5 percent for those in the lower tax brackets.

Mr. President, the world has changed again. Just as the decisions I made in 2001 and 2003 were not made in a static environment, I now look at the economic outlook facing our Nation, as well as the ongoing needs I know this government will have to fund.

The second reason we should not move forward on tax cuts is that we cannot afford them. Our fiscal health is in dire straits. In the simplest terms, the Federal Government continues to spend more than it takes in. In case anyone has forgotten, the deficit for Fiscal Year 2005 was $318 billion. This was the third highest deficit in our Nation's history. The first and second largest deficits occurred Fiscal Year 2003 and Fiscal Year 2004.

When I came to the Senate in 1999, the national debt stood at $5.6 trillion. The national debt now stands at $8.4 trillion, an increase of about 50 percent. As a percentage of gross domestic product, GDP, our national debt has grown from being 58 percent of GDP at the end of 2000 to an estimated 66.1 percent of GDP by the end of 2006.

In fact, the debt continues to grow so quickly that the House of Representative's Fiscal Year 2007 budget resolution is reported to contain a provision that would raise the Federal debt ceiling to nearly $10 trillion. This is less than 2 months after Congress was forced to raise the debt ceiling from the previous ceiling.

According to the reports from Medicare and Social Security trustees, the trust funds for these programs will be exhausted even earlier than previously thought. According to the most recent trustees' report, the cost of Social Security and Medicare will grow from nearly 7.4 percent of the economy today to 12.7 percent by 2030, consuming approximately not just 60 percent as predicted by the administration but 70 percent of all Federal revenues, crowding out all other discretionary spending and some other mandatory programs.

I am for entitlement reform. Senator GREGG took the first step last year with the deficit reduction bill of 2005. I voted for that bill. We need to do more to reform entitlements. No matter which way you look at it, entitlement programs coupled with an ever increasing national debt are staring down on our children and grandchildren.

Some Members believe that the solution is to grow the economy out of the problem, that by cutting taxes permanently the economy will eventually raise enough revenue to offset any current losses to the U.S. Treasury. I respectfully disagree with that assertion. I do not believe that in the current situation our country faces, we can continue to spend more than we take in.

In November 2005, former Federal Reserve Chairman Alan Greenspan testified before the Joint Economic Committee and told Congress:

> We should not be cutting taxes by borrowing. We do not have the capability of having both productive tax cuts, and large expenditure increases, and presume that the deficit doesn't matter.

That is exactly what we have been doing the last several years.

I have said many times on this floor that our major problem is we are unwilling to pay for or go without what we want to get done. We have been willing, time and time again, to put the cost of our current spending on the credit cards of our children and grandchildren. To be candid and fair, we have had no choice in much of the spending since September 11. The Federal Government had to rebuild after September 11. We have made the decision to increase security for the homeland. We have to fund the war in Iraq and Afghanistan. And we have to rebuild after the devastation of dealing with Hurricanes Katrina and Rita.

What we should be doing is spending our time on tax reform. The Tax Code has nearly universal disapproval for its complexity and magnitude. As the one who amended and pushed for the creation of the task force on tax reform in 2003 and 2004, I was delighted when the President said, in his 2004 convention acceptance speech, he would move forward with tax reform. We all know that fundamental tax reform is critical, and as we consider these and future tax provisions, it becomes more and more clear we need to overhaul our tax code.

I simply cannot understand why some of my colleagues want to make so many provisions of the current tax code permanent or add new tax cuts when we very well may be eliminating precisely the same provisions as part of fundamental tax reform. No homeowner would remodel their kitchen and bathroom right before tearing down the house to build a newer and better one.

Frankly, one of the measures in the reconciliation bill I do have sympathy for and that is the patch for the AMT. Like the Sword of Damocles, it hangs over Congress's head nearly annually as it threatens to swallow more middle-class taxpayers. We do need to fix the AMT. Unfortunately, every year we move forward with a piece-meal tax policy, we delay action on permanently fixing the AMT, which will cost over $500 billion. When will we wake up and face the music on AMT?

Additionally, simplifying the code to make it more fair and honest could, by some estimates, save taxpayers over $265 billion in costs associated with preparing their taxes. That would be a real tax reduction, and it would not cost the Treasury one darn dime. It would be a tax cut that would guarantee that people are paying their fair share and would bring more money into the Federal Treasury.

According to the Tax Foundation, we lose about 22 cents of every dollar of income tax collected in compliance costs. That amount adds up to the combined budgets of the Departments of Education, Homeland Security, Justice, Treasury, Labor, Transportation, Veterans Affairs, Health and Human Services, and NASA.

Mr. President, the bottom line is we do not need less revenue, we need more revenue. As a recent Wall Street Journal article states, "federal taxes amounted to 17.5 percent of gross domestic product, up from a modern low of 16.3 percent in 2004, but well below the high of nearly 21 percent in 2000 . . . keeping the tax burden low will be difficult. Last year, the federal government's spending exceeded its tax take by about $318 billion. And the retirement of the baby-boom generation starting in 2011 could cause spending on big-ticket federal retirement programs to jump." I could not have stated it better myself except I would utilize the on-budget deficit. In other words, if you exclude the Social Security surplus, money that I believe should be utilized for its intended purpose rather than funding the government, the deficit was actually almost $492 billion. This number is even worse if we took the Department of Treasury's accrual number for FY2005, which was a deficit of $760 billion.

I know this is controversial to state, but if you look at the extraordinary and unexpected costs that we have with the war on terror, homeland security costs, and rebuilding after Hurricanes Katrina and Rita, the logical thing that one would think about is to ask for a temporary tax increase to pay for them today. Instead, we are saying we will let our children and grandchildren take care of these costs.

The people who are sacrificing today in this country are those who have lost men and women in the war against terror. The people who have sacrificed today are the ones who have come back without their arms and legs, thousands of them. They are making the sacrifice. The question I ask is, what sacrifice are we making?

The simple fact is that we can not have it all—we need to set priorities and make hard choices—otherwise our children will end up paying for it. Anyone in the know who is watching us has got to wonder about our character, our intellectual honesty, our concern about our national security, our Nation's competitiveness in the global marketplace now and in the future, and last but not least, our "don't-give-a-darn" attitude about the standard of living and quality of life of our children and grandchildren.

The simple fact is we cannot have it all. We need to set priorities and make hard choices; otherwise, our children will end up paying for it.

Mr. JOHNSON. Mr. President, today I wanted to talk briefly about the current debate on S. 1955 and what is supposed to be Health Week in the Senate. It was my hope and the hope of many of my colleagues that this week would bring about changes to improve health care for South Dakotans and all Americans. This week should have provided an opportunity to debate many important and critical issues, but unfortunately the direction being taken is anything but productive and meaningful.

A real Health Week would be about many things, including addressing problems with the Medicare Part D Program. In recent months, I have held several meetings in my home State with seniors, advocates, pharmacists, and other health providers about the program. What I have heard over and over again is that the benefit is not only confusing for beneficiaries but also often not adequately address prescription drug costs. It has also been unrealistically demanding on pharmacists and other health care providers, literally threatening community pharmacists' abilities to keep their doors open.

While the administration continues to tout their estimated number of beneficiaries enrolled in Part D, the reality in small towns across South Dakota paints a very different picture. Supporters of the Part D Program have marketed the low-income benefit as one of the most important and beneficial aspects of the program. While I did not support the bill that is now law because I believe its basic structure is flawed, I have always conceded that the low-income provisions will help those seniors in need, and we should be doing what we can to make sure seniors who are eligible are informed about their choices.

Unfortunately, the administration has done a poor job of ensuring that those most likely to see a benefit from the program are actually enrolled. In my State, there are 29,000 beneficiaries eligible for the low-income benefit, and according to a recent estimate by Families USA, only 9 percent of individuals have been enrolled. These are everyday South Dakotans with limited resources and support and they need help.

Part of the problem is that the program is just too complicated and not being administered effectively. Just last week, the Government Accountability Office released a report that indicated that when beneficiaries contact the Centers for Medicare and Medicaid services, only 41 percent of questions are answered correctly regarding which plans are the least expensive and most appropriate for them. This is simply unacceptable, and frankly all of my colleagues should be outraged by this statistic. This is a problem that must be addressed, and during this time of debate on health care, we should be working toward enacting changes that will make things better.

Meanwhile, the clock keeps ticking toward the deadline for enrolling in the program. After May 15, only 5 days from now, seniors will suffer a penalty for late enrollment. CMS cannot even answer questions correctly—questions that are essential in order to help seniors select a drug plan that works for them, but the administration insists on penalizing seniors for delaying their decision regarding participation. All this time, drug companies and insurance companies continue to see the checks roll in. Negotiating lower drug prices under Medicare Part D, extending the enrollment for the program, and making the program be more accountable to seniors—these are the things we should be dealing with right now and what Health Week should be about.

Health Week should also be about passing embryonic stem cell research legislation that will create a path toward cures for many diseases plaguing our society. It is hard to believe that on May 24, it will have been 1 year since the House passed its bill, the Stem Cell Research Enhancement Act of 2005 or H.R. 810.

I am strongly in favor allowing a closely monitored and controlled stem cell research effort to go forward using frozen fertilized embryos that would otherwise be incinerated as medical waste, and I am a cosponsor of S. 471 which was introduced by Senator SPECTER and is cosponsored by 41 of my colleagues here in the Senate.

I believe these cells, which are created by the hundreds of thousands at fertility clinics, would be better used to advance medical research that holds great promise for curing or preventing some of the world's worst diseases, as well as repairing spinal cord and other injuries. This type of research is overwhelmingly supported by the American public and by a broad range of health, science, and disease advocacy groups.

I have met with and heard from hundreds if not thousands of South Dakotans and their families, encouraging me to support vital, life-giving research, including embryonic stem cell research, and I agree. My values and my faith tell me to support lifesaving research which will provide cures and therapies for devastating illnesses such as diabetes and Parkinson's disease. The majority leader has indicated in the past that he will allow an up-or-down vote on stem cell research on the Senate floor, and it is unfortunate that my colleagues on the other side of the aisle will not permit us to move forward, right now, on this issue.

A real Health Week would also be about promoting a health insurance proposal that does help small business, but does so in such a way that protects consumers and does not infringe on State rights to regulate the health insurance market. The Health Insurance Marketplace Modernization Act or S. 1955 would make health care coverage more affordable in many cases but would do so at the expense of providing meaningful coverage to consumers.

South Dakota has mandated that insurance companies that want to offer plans in the State must provide some basic services including diabetic supplies and education, mammography screening, mental health parity, and prostate cancer screenings. My State also requires that insurers provide access to certain types of providers including nurse midwives, nurse anesthetists, optometrists, osteopaths, chiropractors, podiatrists, psychologists, and social workers. S. 1955 will allow insurers to come into South Dakota and provide bare bones coverage that preempts these State mandates. South Dakota deserves to determine what basic care and coverage must be provided to our citizens, and S. 1955 would take away that right.

To gain this exemption, all an insurer has to do is offer a plan that is similar to one offered to State employees in one of the five most populous States. Now some have stated that the availability of this so called enhanced option will ensure access to services that States have mandated, but this is simply not true. The alternative plan does not have to be affordable or comprehensive and could be a high-deductible health plan that provides virtually no preventive care. That means no dental screenings, no prostate cancer screening, no access to nurse practitioners.

The Small Employers Health Benefits Program or SEHBP Act provides a strong alternative to the Enzi approach making coverage more affordable for small businesses and providing individuals with the same type of insurance offered to members of Congress and other Federal employees. This proposal is based on the successful Federal Employees Health Benefits Program which provides health coverage to millions of Federal employees, retirees, and their families and does so with very low administrative costs.

While this alternative does provide an opportunity for small businesses to obtain coverage for their employees, it does so without jeopardizing the basic coverage currently ensured by South Dakota's health insurance laws.

It provides a tax credit to small businesses and ensures that State consumer protection laws are kept in place. According to the most recently available data from the Small Business Administration, in South Dakota 19,750 businesses fall in this category, employing 136,560 people. The legislation also will provide for grant participation waivers to businesses with more than 100 employees under some circumstances.

The SEHBP approach is supported by groups such as Families USA, the American Academy of Family Physicians, American Medical Association, Consumers Union, and the National Partnership of Women and Families.

We need to address the complex health care issues facing our Nation today, but we need to do so in a way that moves us forward. I believe, as do literally hundreds of organizations, including the AARP, American Cancer Society, and the American Academy of Pediatrics, that S. 1955 is wrong for small businesses and their employees. I oppose this bill and will continue to fight for adequate health care access in South Dakota.

Mr. KOHL. Mr. President, I rise in opposition to the tax reconciliation conference report before us. We cannot afford it, and we don't need it. Even more distressing, it benefits overwhelmingly those with incomes greater than $1 million at the expense of middle-income families, of our ability to protect and defend our Nation and of our fiscal bottom line.

We cannot afford adding $70 billion to the burgeoning deficit. Months ago, my colleagues voted to cut programs such as Medicaid and child support—programs that directly serve low-income families and the elderly. They did this in the name of deficit reduction. Yet today, those same Senators will vote to add $70 billion to the deficit.

We don't need the majority of this bill. The centerpiece of that $70 billion is an extension of the tax breaks on capital gains and dividend income. My colleagues have argued that this will prevent a tax increase, but we all know such an increase is not imminent. The cut on capital gains and dividends will not expire until 2008; this legislation extends it from 2008 to 2010.

This legislation puts the needs of everyday Americans behind the luxury of an unnecessary tax break. Families making $50,000 a year or less will see an average of $20—half a tank of gas—in benefits from this bill. But those with incomes of more than $1 million will get back an average of $42,000, enough to buy a new SUV.

The needs of everyday Americans are ignored by this legislation. Businesses are ignored as the bill fails to extend the expired research and development tax credit. It overlooks the needs of students trying to pay for college by not extending the expired deduction for higher-education tuition expenses. It ignores our teachers, by failing to extend the expired deduction for their classroom expenses.

Let's set aside extending tax cuts that don't expire for 2 years in favor of extending those that expire now. Let's not go on a $70 billion spending spree in the face of record levels of Federal deficit and debt. Let's not use our limited revenues to enrich those that need the least at the expense of those who need the most. Finally, let's send a message to the American people about where our priorities lie.

Mr. HARKIN. Mr. President, if you want to know why this Republican-controlled Congress's approval rating has plunged to 22 percent and why President Bush's approval rating is an equally dismal 31 percent, exhibit A is this reckless, irresponsible tax reconciliation bill.

Let's consider the context in which the Republicans are pushing this latest giveaway of $70 billion, all of which will be added to the deficit and national debt:

The Republicans are ramming through these new tax breaks despite the fact that they we are facing a deficit, this year, in excess of $300 billion a year despite the fact that they have run up $2 trillion in new debt since President Bush took office, despite the fact that they are trying to raise the debt limit to an astonishing $10 trillion, despite the fact that we are spending $10 billion a month on their endless wars in Iraq and Afghanistan and despite the fact that they have increased spending by 25 percent in just 5 years' time.

The level of irresponsibility here is just breathtaking. There is nothing conservative about handing out $2 trillion in tax breaks over 5 years and passing the bill to our children and grandchildren. Rather than providing for our children's education, health, and well-being, this bill will provide them with another huge dose of our debt.

That is plain, old-fashioned recklessness and irresponsibility. It is simply shameful.

In his State of the Union speech 3 years ago, President Bush made this statement: We will not deny, we will not ignore, we will not pass along our problems to other Congresses, to other presidents, and other generations.

But that is exactly what this new tax-break bill will do. It will add to the $2 trillion in new debt that President Bush is passing on to other generations. It will deliberately create a fiscal time bomb set to detonate on January 1, 2011, which a future President and future Congress will somehow have to defuse. And it will result in higher interest rates in the years ahead—indeed, interest rates are already rising rapidly.

This morning's New York Times runs two editorials that are dead on. One editorial is titled, The Republican Agenda for 2006: Tax Cuts for a Favored Few. The second editorial is titled, The Republican Agenda for 2006: Tax Increases for Everyone Else.

This bill is one of the most cynical giveaways to the wealthy we have seen. If this bill were entirely in effect this year, taxpayers making more than $1 million a year would be getting an average tax cut of more than $40,000 this year, enough to buy a new Mercedes. Taxpayers with middle incomes will get an average tax cut that may pay for a tank of gas or tow, for many it will be less than that.

According to the Brookings Tax Policy Center, assuming that all of major tax provisions were put into place this year, taxpayers making more than $200,000 a year will get seven-eights of the benefits in this reconciliation bill. Taxpayers in the lower 60 percent of the income scale—average working Americans—will get only 1 percent of the benefits in this bill—1 percent. This is simply outrageous.

But the cynicism does not stop there. The Republican tax conferees glued this package together with the worst kind of gimmickry. In order to stuff more tax breaks into this bill, they deliberately designed it in such a way as keep the revenues just within the $70 billion limit over 5 years. But they did it in a way that will drain countless billions of dollars from the Treasury in the decades beyond the budget window.

How did they do this? They put in provisions to encourage the wealthy to convert their 401(k) plans and regular IRAs into Roth IRAs, which, itself, will be a bonanza for the rich. As one newspaper put it, this morning:

> This is what passes for fairness in Washington these days: a big windfall for the wealthy to "pay for" another tax cut for the wealthy.

The core of this bill is an extension of the 15 percent tax on capital gains from 2008 to 2010. To make this possible, the tax-writers jettisoned two very useful provisions that help ordinary Americans. They did not extend the work opportunity tax credit, which creates incentives to provide job training for the more difficult to employ in our society, and they did not extend the research and development tax credit, which promotes improvements in our efficiency and the development of new products. Those provisions have already expired.

Because this bill costs more than the $70 billion allowed, offsets were needed. Did the tax writers cut the billions in excessive tax breaks going to the oil companies—provisions such as the last in first out rule on their overseas operations? Even the oil company executives have said they don't need this. After all, Exxon made $36 billion last year. Exxon payed its CEO more than $140,000 a day. But the tax-writers didn't touch this tax break for the oil companies which had been in the Senate bill.

Republicans claim that their endless tax cuts have created a strong economy, and that the tax cuts will almost pay for themselves by creating new revenue. This is the old supply-side economic theory—you know, the idea that the best way to feed the sparrows is to give an extra big bag of oats to the horse. The first President Bush got it right; he called it "voodoo economics."

The truth is that current economic growth and job creation during this recovery are well below normal, and they are well below the levels we saw when President Clinton was doing what was necessary to balance the budget.

Let's look at this economy. Business investment always recovers after a recession. But, by historical standards, we have seen a sluggish recovery in business investment. In the past 5 years, business investment has grown 65 percent more slowly than the average for all recoveries since World War II. In the early 1990s, George H.W. Bush and Bill Clinton signed significant tax increases into law in order to balance the budget. But business investment was far greater during that period.

In addition, job creation during this recovery has been anemic, at best. Last Friday, the administration ballyhooed the fact that 138,000 jobs were created in April. The cheerleaders didn't mention that 138,000 new jobs is not even enough to keep pace with population growth. And it is less than half of the job creation we experienced, month after month, under President Clinton. Remember, he dared to raise taxes on the wealthy in order to balance the budget, and the resulting economic boom created more millionaires than any recovery in history.

When President Bush passed his third round of tax breaks in 2003, he claimed that it would create 5.5 million new jobs by the end of 2004. That was when Congress cut the tax rate on dividends and capital gains, which the current bill would extend. That bill did not create the promised 5.5 million new jobs. Job growth was only 2.4 million, less then the norm without tax cuts. Over the past 19 quarters since the recession, the growth in employment has been consistently below normal. Meanwhile, incomes of workers have not kept up with inflation.

We have seen the same disappointing results in terms of gross domestic product. Since the end of the last recession, GDP growth has been less then the average GDP growth following recessions since World War II.

And what about the Republicans' argument that tax cuts largely pay for themselves? Are they kidding? They have passed $2 trillion in tax cuts over the last 5 years. And, over that same period of time, the national debt has increased by—you guessed it—$2 trillion.

Yes, we are seeing an increase in revenues at the moment, as one would expect during a recovery. But our revenue estimates are actually below the levels predicted by the Congressional Budget Office in early 2003, before we passed the capital gains and dividend tax breaks we are rushing to extend today.

And let me make one more point about these tax breaks on capital gains and dividends. Over and over again, our friends on the other side of the aisle claim that middle-income families are big beneficiaries of these breaks. Yes, but the typical middle-income taxpayer gains a $20 cut here and a $100 cut there. But the lion's share of the benefits go to you know who. Half of the benefits go to those making more than $200,000 a year. When we just look at the cut in the capital gains and dividends rate: over half of those benefits go to those making over a million a year and over 93 percent of those benefits go to those making over $100,000 a year, according to a table just released by the Joint Tax Committee.

This reconciliation bill gives $70 billion that we do not have, overwhelmingly to people who don't need it; and it passes the resulting debt to people who haven't even been born yet. This bill is reckless. It is irresponsible. And it is shameful.

I urge my colleagues to defeat this conference report so we can substitute a responsible bill—a bill that is progressively paid for, that prevents the alternative minimum tax from penalizing middle-income taxpayers, and that extends job training and the R&D tax credit.

Mr. KERRY. Mr. President, today we are debating a $70 billion tax reconciliation bill and the centerpiece of this bill is a provision to extend the lower tax rates on capital gains and dividends that do not expire until the end of 2008. I cannot support this bill for many reasons. It abuses the budget reconciliation process in order to provide an extension of tax cuts to those with incomes above a million dollars rather than addressing tax issues in a fiscally responsible manner.

This bill is the third and final piece of a flawed budget strategy that does not put us on a path towards deficit reduction. The first piece was the spending bill that cut $40 billion, with most of those cuts hitting those who need our help the most. The second piece was a $781-billion increase in the debt ceiling, which will bring the total to $3 trillion under this administration's watch. If you combine these three bills, the result is a $30 billion increase in the deficit and record level debt.

The conference report does not reflect the tax bill passed by the Senate. Back in November during the Senate Finance markup, I did not support the bill even though it did not include capital gains and dividends tax relief. I was concerned that the bill would come back from the House with this tax relief and that it would substantially increase the deficit in future years. The conference agreement does what I expected and it is even worse than I initially imagined.

The only reason this bill is before us is to extend the lower rate on capital gains and dividends. These lower rates do not even expire until the end of 2008. We have repeatedly heard how American families have benefited from this tax cut and that half of American households now have some investment income. We do not hear the entire side of the story. Even though about half of American households own stock, two-fifths of this stock is held in retirement accounts in which capital gains and dividends earned are not subject to taxation, and thus do not benefit from the lower rates on capital gains. According to the Federal Reserve Bank's Survey of Consumer Finance, only 17 percent of the households in the bottom 60 percent own stock and the average value is $52,000. This accounts for 9 percent of all taxable stock. Households in the top 1 percent own 29 percent of all taxable stock and 84 percent of these households own taxable stock with an average value of nearly $2 million.

These tax cuts are skewed towards the wealthy because they have more capital gains and dividends income than the average family. For those with incomes under $100,000, capital gains and dividend income accounts for 1.4 percent of their total income, but for those with incomes over $1 million, capital gains and dividends account for 31.4 percent of their income. According to the Urban-Brookings Tax Policy Center, those with income over $1 million will receive an average tax cut of $32,000 in 2009, whereas those with incomes below $50,000 will only receive an average tax cut of $11.

Not only will upper-income individuals benefit from this provision, they will benefit from a new provision that was added during the conference. This provision removes the income limits for converting from traditional individual retirement accounts—IRAs—to a Roth IRA. This provision was added to meet requirements of the budget rules, but don't be fooled, this provision is a gimmick. It is ironic that this gimmick is being used to solve a budget issue—it is being added to solve the budget issue of the capital gains and dividend provision having a $30 billion cost in the second 5 years of the bill. The Roth IRA provision does solve this budget problem, but this provision will add to the deficit. It raises revenue initially because contributions to Roth IRAs are not deductible, but it loses revenue because earnings in these accounts accumulate tax free.

Only households with income over $100,000 would benefit from the easing the restrictions on rollovers to Roth IRA accounts. The Tax Policy Center estimates that the 99.1 percent of the benefits of this provision will go to those in the top 20 percent of households with average incomes of $189,863. I have to admit that it is clever to offset one tax cut with another tax cut that only benefits families in the upper-income limits. This provision highlights how this bill makes a hypocrisy of the budget process.

As I said before, there are several budget gimmicks used in this bill to mask its real price tag of the bill and its total impact on the deficit. All this is being done just so the lower rates on the capital gains and dividends can be extended for another two years.

Many of those in the majority will argue that the lower rates on capital gains and dividends are needed to sustain economic growth. It is hard to prove that these tax cuts are the cause of recent economic growth. Prior to the enactment of these tax cuts, there were significant factors in support of an economic recovery. The President's Council of Economic Advisors was predicting a significant increase in employment growth starting in 2003 without the enactment of additional tax cuts. The rationale for cutting the tax on capital gains and dividends income is that it stimulates investment, but there is no solid data to support this conclusion. The stock market did much better during the 1990s when we had a higher tax rate on capital gains than it has done since the rates were cut in 2003.

Proponents argue that these cuts encourage a great deal of selling by investors, so much so that they pay for themselves. However, in a letter to Finance Committee Chairman GRASSLEY, the Congressional Budget Office found that, "[I]ncreases might suggest a large behavioral response to the tax rate cut—except that realizations also increased by 45 percent in 1996, before the rate cut. Thus changes in realizations are not necessarily the result of changes in taxes; other factors matter as well." CBO explained that asset values, investor decisions, and other economic conditions can influence capital gains realizations just as much.

CBO not only examined the year following the 2003 tax cuts, but they dug even deeper and did a historical analysis of capital gains cuts. The CBO experts found that, "[a]fter examining the historical record, including that for 2004, we cannot conclude that the unexplained increase [in realizations] is attributable to the change in the capital gains tax rates." CBO concluded that much of the volatility in capital gains realizations "seems unrelated to changes in the capital gains tax rates."

However, the majority seems to think that the cutting taxes on capital gains and dividends is a priority and that debt financed tax cuts reflects sound economic policy. I disagree and believe that this bill chooses the wrong priorities. It fails to extend tax breaks that expired at the end of 2005. The research and development tax credit that is used to help businesses with innovative and groundbreaking research expired at the end of 2005.

This bill does not help families with the cost of college tuition. Due to the deepest cuts in student aid in more than a decade, loans will increase by an average of $5,800. At the end of 2005, a tax provision that provides a deduction for college expenses expired. This bill chooses not to extend this tax cut.

This bill does address the individual alternative minimum tax—AMT—for 2006, but not for 2007. The conference report reflects the Senate language that is based on an amendment that I offered with Senator WYDEN. This AMT provision will prevent any new taxpayers from being impacted by the AMT in 2006 that were not impacted by the AMT in 2005. It is important that we address the individual AMT, and it can be done in a way that does not increase the deficit.

The individual AMT was created in 1969 to address the 155 individual taxpayers with incomes exceeding $200,000 who paid no federal income tax in 1966. Then, it applied to a tiny minority of households. But it is rapidly growing from 155 taxpayers in 1969, to 1 million in 1999 to almost 29 million by 2010. It now affects families with incomes well below $200,000. By the end of the decade, repealing the AMT will cost more than repealing the regular income tax.

In 1998, we began to notice that something was happening that was unintended—the AMT was beginning to encroach on middle class taxpayers. At that time, the AMT was expected to impact over 17 million taxpayers in 2010. The AMT problem resulted because the regular tax system is indexed for inflation, while the personal exemptions, standard, deduction, and AMT are not. Under the AMT, exemption amounts and the tax brackets remain constant. This has the perverse consequence of punishing taxpayers for the mere fact that their incomes rose due to inflation. The AMT has another perverse consequence. It punishes families for having children. The more children a family has, the lower the income necessary to trigger the AMT.

As we debated the Economic Growth and Tax Relief Reconciliation Act of 2001, I stressed the fact that the legislation would result in more individuals being impacted by the AMT and that not addressing the AMT hid the real cost of the tax cuts. This holds true today. A choice was made in 2001 to provide more tax cuts to those with incomes of over a million dollars rather than addressing a looming tax problem for the middle class. The Economic Growth and Tax Relief Reconciliation Act of 2001 did include a small adjustment to the AMT, but it was not enough. We knew at the time that the number of taxpayers subject to the AMT would continue to rise steadily. The combination of lower tax cuts and a minor adjustment to the AMT would cause the AMT to explode.

Each year that we wait to tackle the AMT, more taxpayers are impacted and the cost of addressing it only increases. We missed an opportunity in 2001 to address the AMT. Repeatedly, the AMT has been pushed aside to give priority to making the tax cuts for the wealthiest Americans permanent. So often we hear that the bulk of the tax cuts assist the average American family. This is ironic because by 2010, the AMT will take back 21.5 percent of the promised tax breaks for individuals making between $75,000 and $100,000 per year and 47 percent from individuals making between $100,000 and $200,000. However, households with annual income over $1,000,000 will only lose 9.2 percent of the tax cuts.

Instead of addressing the AMT for next year, this bill chooses to extend the lower rates for capital gains and dividends for 2009 and 2010. This bill ignores the fact that we will have to address the AMT for 2007. Without Congressional action, the AMT will impact 23 million taxpayers. To prevent additional taxpayers from being impacted by the AMT in 2007, the exemption amount will need to be increased at a cost of $48.3 billion. We need to address the AMT in a fiscally responsible manner before we extend tax breaks that do not expire until the end of 2008.

Furthermore, this bill chooses to provide tax breaks to the oil and gas industry. The Energy Policy Act of 2005 contained $2.6 billion over 10 years in tax breaks for oil and gas companies. Recently, President Bush said:

> Record oil prices and large cash flows also mean that Congress has got to understand that these energy companies don't need unnecessary tax breaks like the write-offs of certain geological and geophysical expenditures, or the use of taxpayers' money to subsidize energy companies' research into deep water drilling. I'm looking forward to Congress to take about $2 billion of these tax breaks out of the budget over a 10-year period of time. Cash flows are up. Taxpayers don't need to be paying for certain of these expenses on behalf of the energy companies.

Not long ago, we heard the top oil executives testify before Congress that they do not need the tax breaks either.

At a time when the world's largest energy companies are reaping record-setting profits, this bill chooses to only scale back one of the new tax breaks for oil companies. Integrated oil companies will still receive benefit of a provision to expense their geological and geophysical expenditures. The provision only scales the tax break back by $189 million. The Senate bill included three provisions that address the tax breaks of large oil and gas companies, totaling $5 billion. This bill chooses not to include these provisions. Recently, I introduced legislation to address tax breaks provided to the oil and gas companies that would repeal over $28 billion in tax breaks for this industry.

It is embarrassing that this bill keeps in place tax breaks that are not needed by this industry while at the same time providing lavish benefits to oil and gas executives. An executive who makes $400 million a year does not need tax breaks. Executives rewarded with exorbitant amounts of stock options will be able to sell their stock and benefit from the lower tax rate on capital gains. It simply does not makes sense to provide a $42,000 tax break for millionaires when the average American family has seen a $1,950 increase in their cost of gas.

During this debate, we have heard that this bill does not provide tax cuts, that it is just a continuation of tax policy, but it is a continuation of a reckless tax policy. According to the Tax Policy Center, 87 percent of the benefits of the conference agreement go to the 14 percent of households with incomes above $100,000. The top 0.2 percent of households, those earning over a million a year would receive 22 percent of the benefits of this conference report. Those earning over $1 million will receive a $42,000 a year tax cut while the average tax cut for the 20 percent of households in the middle of the income spectrum would be just $20.

We should not continue a tax policy that helps those who do not need our help. While American families are struggling with the costs of health insurance, college education, and gas tax prices, it is not the time to extend tax cuts that only help a small percentage of elite taxpayers. Last quarter, the economy grew 4.8 percent, but wages only grew 0.7 percent. Middle-class families are not feeling confident about the economy. These families are not experiencing the 4.8 percent growth of the economy. They are worried about their economic future. They are living paycheck to paycheck. With the continuing cost of the wars in Iraq and Afghanistan, it is not the time to extend debt financed tax cuts. We could have a very different bill before us that would extend the tax cuts that help families with the cost of the education, address the AMT for next year, and help businesses with the cost of research. Instead, we have a continuation of a tax policy that contributed to the broadening disparity between the rich and the poor.

We are going through this process today, just so one provision in the bill can be passed—the extension of the dividends and capital gains cuts. These cuts expire at the end of 2008.

We do not need to make a farce out of the reconciliation process. We can do better and we should reject this bill and take up a bipartisan bill that helps all American families.

Mr. LIEBERMAN. Mr. President, I rise in opposition to this tax reconciliation conference report. It is a financially bizarre hodgepodge of misplaced priorities, missed opportunities and misguided economics.

Not only is there nothing in this package that helps average American families, whose incomes are stagnant, the Republican majority let programs expire that helped ease the financial burdens of working families.

Instead, this Republican bill showers tax breaks on the Nation's wealthiest, who don't need the help, the oil industry, which is enjoying record profits, and explodes the debt, placing a hidden tax on our children and grandchildren.

This bill is so bad you look at it and wonder: What were they thinking?

For instance, under this tax package the oil industry gets tax breaks worth $5.1 billion, while eliminating tax incentives on hybrid cars, solar energy panels and other energy conservation measures that would help lessen our dependence on foreign oil.

What were they thinking?

The capital gains and dividend tax cut extensions overwhelmingly favor households taking in more than $1 million a year. Middle income households get a tax savings of about $20 a year, while millionaires get a break of somewhere between $42,000 and $82,000.

What were they thinking?

I have supported capital gains relief as a way to stimulate investment, innovation and job creation. But this bill offers that relief at a time when we're running a massive Federal deficit and does next to nothing for anybody other than the wealthiest taxpayers.

Look at what's missing from this bill: The State and local sales tax deduction, the college tuition deduction, the welfare to work tax credit that encouraged employers to lower welfare roles by creating jobs; and the research and development tax credit that helped spur the innovation we need to compete in the global economy.

What were they thinking?

This bill does provide a one-year fix to keep middle-income Americans from falling into the alternative minimum tax trap. But even that is not enough. We need to fix the AMT Problem once and for all.

A famed economic thinker named Marx—Groucho not Karl—once said: "Money frees you from doing things you dislike. Since I dislike doing nearly everything, money is handy."

Groucho may have summed up the Republican approach to fiscal policy: They avoid doing the things they dislike—like facing hard financial truths and making tough fiscal decisions—and just keep showering money we don't have on wealthy people and oil companies who don't need it and then pass the bill off to our children who can't afford it.

At least Groucho was joking about how he spent his own money. We're stealing our children's. And that's no joke.

Mr. President, we must come to grips with the exploding deficits. We can't keep cutting taxes, increasing spending and pretend there are no consequences. There are. And it will be our children who will face the reckoning. And on that day they will look back at us in anger and cry: What were they thinking!

I yield the floor.

Mr. BAUCUS. Mr. President, I would like to enter into the RECORD some information I just received from the Joint Committee on Taxation. I asked them to provide me with information on who benefits from the capital gains and dividends tax cuts.

According to the Joint Committee on Taxation, 84 percent of the capital gains tax cut goes to individuals earning $200,000 or more. And also according to the Joint Committee on Taxation, 2 percent goes to households earning less than $50,000.

Additionally, for the dividends tax cut, 63 percent of the tax savings goes to individuals with annual income of $200,000 or more. And only 6 percent goes to taxpayers earning $50,000 and under.

I hope this information will help clarify some of the debate on the floor today. Again, these numbers are directly from the Joint Committee on Taxation with no interpretation.

I ask unanimous consent that this information be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABULATION OF CAPITAL GAINS TAXED AT 5% AND 15% RATES, ALL TAXPAYERS—CALENDAR YEAR 2005

Adjusted gross income[1]	Capital gains taxed at 5% rate			Capital gains taxed at 15% rate			Total: Capital gains taxed at 5% or 15% rate		
	Returns	Amounts	Tax savings	Returns	Amounts	Tax savings	Returns	Amounts	Tax savings
	Millions	$ billions	$ billions	Millions	$ billions	$ billions	Millions	$ billions	$ billions
Less than $10,000	(2)	(3)	(3)	....	....	....	(2)	(3)	(3)
$10,000 to $20,000	0.7	1.0	(3)	....	....	....	0.7	1.0	(3)
$20,000 to $30,000	0.9	2.0	0.1	....	....	....	0.9	2.0	0.1
$30,000 to $40,000	1.0	2.3	0.1	(2)	(3)	(3)	1.0	2.3	0.1
$40,000 to $50,000	0.7	2.3	0.1	0.3	0.4	(3)	1.0	2.7	0.1
$50,000 to $75,000	1.6	6.0	0.2	0.8	2.3	0.1	2.4	8.3	0.4
$75,000 to $100,000	0.9	5.1	0.2	1.2	4.4	0.2	1.9	9.5	0.4
$100,000 to $200,000	0.3	6.1	0.2	2.5	25.4	1.3	2.6	31.6	1.5
$200,000 and over	0.1	4.1	0.1	1.2	262.5	13.3	1.2	266.6	13.5
Total, all taxpayers	6.3	28.9	1.0	6.1	295.1	15.0	11.7	324.0	16.1

[1] Excludes dependent returns and returns with negative AGI.

[2] Less than 50,000.

[3] Less than $50 million.

TABULATION OF QUALIFIED DIVIDENDS TAXED AT 5% AND 15% RATES, ALL TAXPAYERS—CALENDAR YEAR 2005

Adjusted gross income[1]	Qualified dividends taxed at 5% rate			Qualified dividends taxed at 15% rate			Total: Qualified dividends taxed at 4% or 15% rate		
	Returns	Amounts	Tax savings	Returns	Amounts	Tax savings	Returns	Amounts	TAx savings
	Millions	$ billions	$ billions	Millions	$ billions	$ billions	Millions	$ billions	$ billions
Less than $10,000	0.1	(3)	(3)	....	....	....	0.1	(3)	(3)
$10,000 to $20,000	1.1	1.1	0.1	....	....	....	1.1	1.1	0.1
$20,000 to $30,000	1.5	1.7	0.1	....	....	....	1.5	1.7	0.1
$30,000 to $40,000	1.7	2.3	0.2	0.1	(3)	(3)	1.8	2.4	0.2
$40,000 to $50,000	1.2	1.9	0.2	0.8	0.8	0.1	1.9	2.6	0.2
$50,000 to $75,000	2.7	4.0	0.4	1.6	2.8	0.3	4.3	6.8	0.7
$75,000 to $100,000	1.3	2.7	0.3	2.4	4.1	0.4	3.5	6.8	0.7
$100,000 to $200,000	0.1	1.2	0.1	4.7	15.3	1.7	4.8	16.5	1.8
$200,000 and over	(2)	0.4	(3)	2.2	42.9	6.4	2.2	43.2	6.5
Total, all taxpayers	9.7	15.3	1.3	11.9	65.8	8.9	21.1	81.1	10.3

[1] Excludes dependent returns and returns with negative AGI.

[2] Less than 50,000.

[3] Less than $50 million.

Mr. BAUCUS. Mr. President, I want to talk now about the rules of the Senate. With this bill, the majority has once again abused the process. With this bill, the majority has once again shown its disrespect for the rule of law.

Mr. President, I have served in the Congress for 32 years. I have served in the Senate for 28 years. I am continually grateful to my employers, the people of the State of Montana, for giving me this opportunity.

I was in the Congress in 1975, when the Budget Committee reported the very first budget resolution. I was in the Senate in the early 1980s, when the Budget Committee reported its first budget reconciliation bill. I have seen this process change. And the Majority is changing this process again today.

Mr. President, this bill comes before us today under the extraordinary procedures that we call budget reconciliation. This is a process that bypasses the normal Senate rules.

Under the normal Senate rules, Senators may debate legislation at length. Under budget reconciliation, this bill is subject to a strict time limit.

Under the normal Senate rules, and rule XXII, it takes the affirmative vote of 60 Senators to cut off debate. Under budget reconciliation, a simple majority will determine the outcome of this bill.

The Senate chose early on to limit the power to use budget reconciliation. The Senate saw early on that this power could be subject to abuse.

Thus, starting in 1985, the Senate adopted the Byrd Rule against extraneous matter in reconciliation bills. This important rule was named after the dean of the Senate, the Senior Senator from West Virginia. The Senate enacted this rule to ensure that the majority did not abuse the budget reconciliation process to cover extraneous matters.

From 1985 through 1996, that meant that budget reconciliation bills could not worsen the deficit. Then, in 1996, the current majority chose to overturn that understanding of the rule. And in 1996, the current majority began the process of using reconciliation for legislation that worsens the Nation's fiscal balance. That choice is at the root of much of the fiscal debacle that we see today.

But at least one vital part of the Byrd rule remains. One part of the Byrd rule so explicitly prohibits worsening the deficit that the majority has not yet been able to write it out of the books. One part continues to prohibit including in reconciliation provisions that would cause a committee's entire work product to worsen the deficit in years beyond those covered by the reconciliation instructions. That part is section 313(b)(1)(E) of the Congressional Budget Act.

I believe that, today, the majority is taking another step down the road of abusing the reconciliation process. I believe that today the majority is willfully ignoring the application of that rule. And I thus believe that today the majority is once again cheapening the rule of law.

My complaint lies with the Roth IRA provision that I discussed earlier. As I noted, that provision will worsen the deficit by increasing amounts into the future. But because the majority chooses not to recognize this fact, I am left with no procedural recourse.

I'll try to demonstrate my point through a series of steps.

First, let me take the hypothetical case of a budget reconciliation bill that contained just the Roth IRA provisions in this bill but effective in 2006. That is the case for which the Joint Tax Committee has provided the revenue estimates that I discussed earlier. For the sake of simplicity, I ask unanimous consent that the Joint Tax Committee estimates be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXHIBIT 1

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, May 9, 2006.

MEMORANDUM

To: Pat Heck, Judy Miller, and Ryan Abraham

From: Thomas A. Barthold

Subject: Revenue Estimate

This memorandum is in response to your request dated May 3, 2006, for a revenue estimate of your proposal to eliminate the income limitation on conversions from a traditional to a Roth IRA. Under your proposal, any amount otherwise required to be includible in income as a result of a conversion that occurs in 2006 may be included in income in equal installments in 2007 and 2008.

Your proposal would be effective for taxable years beginning after December 31, 2005.

We estimate that your proposal would have the following effect on Federal fiscal year budget receipts:

FISCAL YEARS

[Billions of dollars]

Item	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2006–10	2006–15
Eliminate the income limitation on Roth IRA conversions; taxpayers can elect to have amounts converted in 2006 included in income in equal installments in 2007 and 2008.	−0.1	1.8	3.4	1.0	−1.1	−1.5	−1.7	−1.9	−2.1	−2.3	5.0	−4.5

Mr. BAUCUS. In summary, it shows a provision that begins with revenue increases but then shows revenue losses. Specifically, it shows revenue losses of $1.1 billion in year 5, $1.5 billion in year 6, $1.7 billion in year 7, $1.9 billion in year 8, $2.1 billion in year 9, and $2.3 billion in year 10.

Now, if this provision were the only provision in a budget reconciliation bill covering years 2006 through 2010, it would plainly violate section 313(b)(1)(E) of the Congressional Budget Act because of its revenue losses in the out years.

This is of course a simplistic analysis. There are other provisions in the bill before us. The question then arises whether those other provisions raise more revenue than the Roth IRA provision loses.

My Finance Committee staff have taken the Joint Tax Committee estimates for these other provisions—all the revenue raisers—and projected their current rate of growth into the future. The results are shown in another table, which I ask unanimous consent be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROJECT REVENUE EFFECTS OF THE TAX RECONCILIATION BILL

[Estimates by the Finance Committee Democratic Staff]

Raiser #	2011	2012	2013	2014	2015	Projections 2016	2017	2018	2019	2020
1	31	33	35	38	41	44	47	50	53	56
2	3	3	3	3	3	3	3	3	3	3
3	10	3	4	6	6	6	6	6	6	6
4	3	3	3	3	3	3	3	3	3	3
5	12	12	15	15	16	17	18	19	20	21
6	44	46	49	52	54	56	58	60	62	64
7	209	224	241	259	279	299	319	339	359	379
8	204	242	260	298	349	400	451	502	553	604
9	6,079	215	220	228	235	242	249	256	263	270
10	2,541	4,929	1,756	(1,080)	(1,267)	(1,500)	(1,700)	(1,900)	(2,100)	(2,300)
11	18	9	5	2	1					
12	24	26	28	29	31	33	35	37	39	41
13	228	234	239	254	268	282	296	310	324	338
14	46	53	62	69	75	81	87	93	99	105
Total	9,452	6,032	2,920	176	94	(34)	(128)	(222)	(316)	(410)

Mr. BAUCUS. This analysis shows that the provisions of this bill will worsen the deficit by $34 million in 2016, $128 million in 2017, $222 million in 2018, $316 million in 2019, and $410 million in 2020.

Now, if the appropriate authorities advised the Chair that the bill before us had the revenue effects described in this table, and the Roth IRA provisions caused the deficit to worsen in these by years by the amounts that I have cited, even when taken together with all the other provisions in this bill, once again, the Roth IRA provision would violate the Byrd rule.

Thus, if one does some rather simple arithmetic, one can readily see that the Roth IRA provisions in this bill would worsen the deficit in the out years. And doing that rather simple arithmetic would render the Roth IRA provisions out of order.

The problem is that my staff's estimates, and even the estimates of the Joint Tax Committee and the Congressional Budget Office, are not authoritative. Under the Budget Act, the Chair is required to turn to the Budget Committee for revenue estimates.

The problem is, for whatever reason, the Budget Committee majority has chosen not to do this rather simple arithmetic. The Budget Committee majority has chosen not to see the fiscal consequences of this bill.

It is not as though these fiscal consequences are somehow obscure. It should come as little surprise that one tax cut will not pay for another tax cut. But the Budget Committee majority chooses not to see.

It is not as though the Budget Committee cannot look into the future. The Budget Committee majority has complained of out year costs involving spending to help the victims of asbestos, for example. But when it comes to these tax cuts, the Budget Committee majority chooses not to see.

It is not as though the Budget Committee cannot recognize a budget gimmick when it sees one. The Budget Committee majority has complained of shifts from one year to another in the highway bill, for example. The Roth IRA provision before us today is the mother of all such shifts. But the Budget Committee majority chooses simply not to see.

Thus, Mr. President, I see this case as another abuse of the process. I see this case as another instance of disregard for the rules of the Senate. I see this case as another case of disrespect for the rule of law.

In 1996, this majority abused the reconciliation process by applying it to legislation to worsen the deficit. Last year, this majority abused the Senate rules by threatening to eliminate the right to extended debate through what folks call "the nuclear option." And today, this majority adds another chapter to that history of abuse of power, by simply choosing not to see violations of the rule when they are there staring us all in the face.

I find it curious that the same majority that cried so loudly about "the rule of law" in the impeachment of President Clinton today once again shows such little respect for the rule of law right here in the Senate. For this disrespect for the rule of law is not about private morality. This disrespect for the rule of law is about the exercise of power.

There is a word for disrespect for the rule of law in the exercise of power. It is called tyranny.

And that, Mr. President, is another reason to vote against this conference report.

Mr. President, I must say that I was surprised to see such a complicated and controversial provision in the conference agreement. I am referring to the provision to repeal the grandfather clause that was enacted by the American Jobs Creation Act of 2004, as part of the repeal of the old FSC/ETI regime. Further, this provision was not in the Senate or the House bill.

What is most surprising, though, is that it may not have been necessary in addition to maybe not being prudent.

This provision purports to end a dispute with the European Union over these long standing tax incentives. But the EU said it was willing to accept the remaining time on the 2-year transition period, and the grandfathering of leasing contracts. The only provision that the European Union is totally against is the grandfather clause for sales contracts. The European Union stated as much in a letter just last week where they said they wanted to work out a negotiated settlement.

So the question has to be asked: Why does this bill go beyond the European Union's concessions? In an attempt to increase the revenue raised by this bill, the bill eliminates binding contract relief for both lease and sales contracts.

In every step of the way during the last 7 years of this dispute, Congress has worked closely amongst tax and trade experts and alongside business to minimize the harm any new regime might entail. But not here. No hearings, no deliberations, ignoring a concession by the other side and game over.

It is interesting to reflect on the long history of this provision. Both the extraterritorial income and the Foreign Sales Corporation, or FSC, regimes offered exclusions for export income. The Jobs Act repealed the extraterritorial income exclusion provisions and provided transition rules to phase out the tax benefits. The Jobs Act also provided a grandfather clause which allowed certain contracts to continue to receive the extraterritorial income exclusion.

For the past two decades, the U.S. provided export-related tax benefits under the foreign sales corporation regime. In early 2000, the World Trade Organization found that the regime was a prohibited export subsidy under the relevant WTO agreements. Congress then repealed the foreign sales corporation provisions and enacted a new regime, the extraterritorial income regime, or ETI.

From its inception, the European Union has doubted the validity of this regime. The European Union lodged a complaint with the World Trade Organization. It argued that the provision was an export subsidy in violation of World Trade Organization agreements.

The World Trade Organization agreed with the European Union in August of 2001. An appellate body upheld the finding in January 2002. The World Trade Organization later ruled that the European Union could impose $4.03 billion in sanctions on its imports from the United States. Congress immediately began work to fix the problem. There were several hearings that lead to a number of bills attempting to either repeal or modify the exclusion provisions.

The Jobs Act repealed the extraterritorial income regime for transactions after December 31, 2004. It provided a transition rule that phased out the tax benefits over a 2-year period. Taxpayers could retain 100 percent of their exclusion benefits for transactions prior to 2005, 80 percent for transactions during 2005, and 60 percent for transactions during 2006. For transactions after 2006, a taxpayer would not have any income exclusion benefits.

The Jobs Act also provided that a contract in effect prior to September 17, 2003, would still be awarded exclusion benefits for the duration of the contract. This is what we call the binding contract relief. The purpose behind transition rules was to provide a soft landing to corporations. To give corporations time to adjust to the change in tax policy.

Prior to September 17, 2003, companies relied on the extraterritorial income tax benefits when they entered contracts. The binding contract relief protected U.S. companies where the company might otherwise be substantially harmed by the loss of the tax benefit. Eliminating the grandfather clause eliminates certainty for these U.S. companies.

We shouldn't blindly accept a provision that was not part of the Senate nor the House bill. We shouldn't blindly accept a provision that repeals a provision that took years to develop. We shouldn't blindly accept a provision that goes beyond what is required. I urge my colleagues to vote down this bill.

Mr. President, we have had a very interesting debate today. As I expected, it was a real battle of statistics and charts.

Again, I would like to thank my good friend, the chairman of the Finance Committee. I know that Senator GRASSLEY fought hard to defend the Senate position in the conference committee. And I think the vote in favor might have been overwhelming if he had been successful in bringing back that Senate bill rather than the bill we have today.

But I look forward to working with him and battling side-by-side to deliver that promised second bill. And that brings me back to what I spoke of this morning: there is a substantial amount of work undone.

Despite $70 billion spent on tax cuts today, there are millions of teachers, families with kids in college, businesses that want to conduct important research or hire the hard-to-employ that will not see one dollar of the benefits handed out today.

It is true that this conference report made tough choices. Those choices were tough on teachers, tough on families, tough on businesses. Hopefully, their relief boat will be coming soon.

Until then, though, I will be voting against this bill that made the wrong choices—putting 2009 tax cuts before 2006 tax cuts, and putting ideological wants before America's needs.

I hope that the next bill will be a bipartisan product. I am sure if it is, that it will enjoy broad support in this Senate and across the country. I look forward to working on that bill.

Mr. President, I want to take a moment to thank the individuals who worked so hard on this legislation.

First, I thank my good friend Senator GRASSLEY, the chairman of the Finance Committee, for his leadership on this bill. I also appreciate the hard work and cooperation of his staff, especially Kolan Davis, Mark Prater, Dean Zerbe, Elizabeth Paris, Christy Mistr, John O'Neill, Chris Javens, Cathy Barre, Anne Freeman, Grant Menke, and Nick Wyatt.

Second, I thank the staff of the Joint Committee on Taxation and Senate legislative counsel for their service.

Finally, I thank my staff for their tireless effort and dedication, including Russ Sullivan, Bill Dauster, Pat Heck, Melissa Mueller, Jonathan Selib, Judy Miller, Rebecca Baxter, Ryan Abraham, Carol Guthrie, and Brianne Rogers.

I also thank our dedicated fellows, Mary Baker, Stuart Sirkin, Thomas Louthan, Tiffany Smith, Laura Kellams, Caroline Ulbrich, Margaret Hathaway, and Robin Burgess. I also thank our law clerk, Christal Edwards.

I thank our hardworking interns Zachary Henderson, Lesley Meeker, Lauren Shields, Britt Sandler, Jordan Murray, and Andreas Datsopoulos.

WAGE LIMITATION

Mr. BAUCUS. Mr. President, I would like to engage in a brief colloquy with the distinguished chairman of the Finance Committee, Senator GRASSLEY, regarding changes to the section 199 wage limitation. The conference report attempts to better target the application of the wage limitation by counting only those wages that are "properly allocable to domestic production gross receipts."

This change may have unintended consequences for certain industries. In some industries, many workers, particularly those with specialized expertise, provide services as independent contractors or through their own businesses. In such cases, service payments to these workers are not treated as wages under the current wage limitation.

When section 199 was first created, some of the impacted industries requested that we adopt a rule to count these payments for services in determining the wage limitation. The request was dropped because we addressed their issue indirectly by allowing them to use a broader wage base for calculating the limitation. By eliminating this "headroom," we are resurrecting a problem for these industries.

These industries are doing exactly what section 199 was meant to encourage. They are creating high-quality manufacturing and production jobs and contributing substantially to our Nation's economy and trade. I am hopeful that we will reexamine this issue and take the steps necessary to ensure that these industries are not adversely and unduly affected.

Mr. GRASSLEY. I appreciate my distinguished colleague from Montana, Senator BAUCUS, raising this concern. I can assure him that the changes made to the section 199 wage limitation were intended to target the incentive to domestic production activities. If these changes unduly harm the types of industries he has raised in a way that is inconsistent with this intent, I would be happy to consider revisiting this issue in future legislation.

Mr. BAUCUS. I want to thank the distinguished chairman of the Finance Committee for this clarification and his willingness to work with me to address this important problem.

Ms. COLLINS. Mr. President, the Senate is now considering H.R. 4297, the tax reconciliation conference report. This bill contains several important tax relief provisions, including relief from the alternative minimum tax, extended expensing provisions for small businesses, and a 2-year extension of the 15 percent tax rate on dividends and capital gains. I will be voting for this bill in order to block tax increases that would be harmful to our economy and to our citizens.

According to the latest data that I have seen, more than 100 million American taxpayers benefit from the various tax reductions that we have passed since 2001. In Maine, 100,000 taxpayers have benefited from the lower capital gains and dividends tax rate, and about 25,500 Maine taxpayers have benefited from AMT relief.

The 5-year cost of this reconciliation package is just under $70 billion. Of this amount, nearly half—$33.4 billion will go to provide an additional year of relief from the alternative minimum tax. The AMT was originally enacted to ensure that all taxpayers, especially high-income taxpayers, paid at least a minimum amount of Federal taxes. But the AMT is not indexed for inflation, and because of this flaw, each year a larger number of middle-income Americans find themselves subject to this "stealth tax." In fact, without the relief provided in this bill, the number of taxpayers subject to the AMT will increase to 20 million in 2006, up from just 3 million in 2004.

I believe it is essential to protect middle-income families from the AMT "stealth tax." I also believe that the 15 percent capital gains and dividends tax rates have proven their effectiveness and ought to be extended.

When I voted to support lower capital gains and dividends taxes in 2003, my hope was that this tax policy would help lift our economy out of recession and restore the healthy growth we need to create good jobs and opportunity for Americans. Since that tax relief became law, our economy has grown at nearly 4 percent per year, and over 5 million new jobs have been created. The unemployment rate has dropped to 4.7 percent—beneath the average of the past three decades.

I am aware of the ongoing debate among economists over whether, and to what extent, tax cuts can "pay for themselves." Whatever one thinks of that debate, I cannot help but note how far off the estimated cost of this tax relief was. The year before this tax relief became law, the Federal Government received $49 billion in revenues through the capital gains tax—at the 20 percent rate. The Joint Tax Committee predicted that reducing the rate to 15 percent would reduce revenues by $3 billion from 2003 to 2005. But, in fact, capital gains tax revenues jumped instead—to $71 billion in 2004, and $80 billion last year—all paid at the lower 15 percent rate.

To me, the vote on this bill is not about settling a debate among economists. My focus is on finding the right tax policy to help keep our economy healthy, and growing. It is only with strong economic growth that our Nation will be able to meet the needs we currently face—needs that will only become more urgent as our society ages.

Many in this Chamber, and many of my constituents, are concerned about our growing national debt. I share this concern. That is why I have been a consistent supporter of the pay-go rules throughout my tenure in the Senate. But I continue to be struck by the difference that even a small change in our economy's growth rate can make to the deficit and to the revenues we need to support critical social programs. According to the Congressional Budget Office, a change of just one tenth of 1 percent in the GDP growth rate over a 10-year period would change revenues by $224 billion and spending by $48 billion, for a total net impact of $272 billion on the deficit.

The actual growth rate we have experienced since 2003 has been higher by at least two-tenths of 1 percent than CBO predicted before the 15 percent tax rate was enacted. In light of the fact that CBO estimates that a 0.1 percent change can have a net impact of $272 billion on the deficit, it is so important to maintain policies that maintain a healthy growth rate.

For all of these reasons, I will be supporting the tax reconciliation bill.

Mr. KYL. Mr. President, as one of the three Senate conferees on this legislation, I want to take a moment to explain why this legislation is so important to our Nation's continued economic growth.

The centerpiece of this conference agreement is the extension of the 15 percent investment tax rate for 2 more years, through 2010. Under this rate structure, lower income taxpayers will have dividends and capital gains taxed at a 5-percent rate through 2007, and in 2008–2010 will have them taxed at a zero rate. Taxpayers who fall above the 15-percent income tax bracket will have their dividends and capital gains taxed at a 15-percent rate through 2010. As the lead sponsor of the Republican leadership bill, S. 7, to make the lower investment rates permanent, I am pleased we were able to extend these rates to give investors certainty that they will not face a tax increase in the near term.

The reason I have worked so hard to extend these lower rates is because the policy has worked exactly as we intended it when we enacted the rates in 2003. In 2003, we suggested that by reducing the marginal rate imposed on investment earnings we would give investors an incentive to put more of their money at work in the markets. At that time, following the tech-bubble bursting and the terrorist attacks of September 11, investors had been very reluctant to put their hard-earned money at risk in the markets. But by reducing the marginal tax rate on investment income, the tax penalty imposed on the additional investment earnings the reward for taking on additional risk is smaller, and thus makes the risk more attractive. When investors get to keep more of their reward, they are encouraged to invest more; with more investment, businesses have an easier time attracting the capital they need to expand, create new goods and services, and also create more jobs. All of this additional economic activity creates economic growth.

Critics argue that most of the benefit of the lower rates flows to the wealthiest taxpayers, but they fail to acknowledge that millions of low- and middle-income taxpayers receive dividends and capital gains and will benefit from the lower rates. Research by the Joint Committee on Taxation and the Finance Committee has found that lower income taxpayers will save more than higher income taxpayers, when the savings are measured as a percentage of total tax liability, thanks to the lower rates, especially the 5 percent and zero rates. The savings are even more pronounced for seniors. In 2008–2010, seniors with adjusted gross incomes of $50,000 and under will see their tax liability reduced by 17.1 percent as a result of the lower tax rates for dividends. In contrast, seniors with income over $200,000 will see their tax liability cut by only 5.7 percent. All taxpayers with incomes of $200,000 and up will see their tax liability reduced by just 2.2 percent as a result of the dividend tax rates.

The sheer numbers of taxpayers who benefit from these policies is equally impressive. More than 19 million taxpayers claimed dividend income in 2003 and more than 7 million reported capital gains. More than 315,000 Arizona taxpayers reported taxable dividends in 2003 and more than 127,000 Arizona families reported capital gains in 2003. More than 38 percent of Arizona tax filers who reported dividend income in 2003 had incomes under $50,000; 73.1 percent had incomes under $100,000. Of those reporting capital gains, 35.1 percent had incomes under $50,000 and 68.8 percent had incomes under $100,000.

In addition to benefiting millions of taxpayers, the lower rates have encouraged investment in our growing economy. The economy expanded at a 4.8-percent annual rate in the first quarter of 2006. This follows economic growth of 3.5 percent in 2005 the fastest rate of any major industrialized nation. Moreover, the economy has created about 2 million jobs over the past 12 months and more than 5.2 million jobs since August 2003. The unemployment rate is 4.7 percent—this is lower than the average of the 1960s, 1970s, 1980s, and 1990s.

Productivity increased at a strong annual rate of 3.2 percent in the first quarter of 2006. Productivity is a key factor to increasing standards of living. Hourly compensation rose at a 5.7 percent rate in the first quarter—more than twice as much as in the previous quarter. The Conference Board index of consumer confidence increased in April to its highest level in almost 4 years. Industrial production rose at a 4.5-percent annual rate in the first quarter. The stock market hovers near its all-time high. Our economy is booming, and it is due in large part to the tax policies we enacted in 2003.

Another argument we hear about this bill is that we cannot afford it. I don't think we can afford to not pass this bill. The growing economy that has resulted from these tax policies has led to a surge of revenue flowing into the Treasury. According to the Congressional Budget Office, "Monthly Budget Review" released on May 4, 2006, "the 2006 deficit will be significantly less" than was predicted, even assuming enactment of the supplemental and the tax reconciliation agreement. Revenues for April 2006 were 14 percent higher than revenues for April 2005. Government estimators had predicted that the reduction in capital gains rates that was enacted in 2003 would cost the Federal Government $27 billion in lost revenues for 2004, but CBO now reports that the lower rates actually brought in an additional $26 billion in revenue. So instead of costing $27 billion, the lower rates actually made $26 billion for the Treasury.

I heard that this morning Ambassador Portman, in his nomination hearing to be the new Director of the Office of Management and Budget, told the Budget Committee that revenues flowing into the Federal Treasury will reach their post-World War II average of about 18 percent of GDP as early as this year. That means Congress must make the 2001 and 2003 tax cuts permanent just to avoid taking historic amounts of revenue out of the economy. Clearly, the American people are not undertaxed.

I want to mention briefly some of the other important provisions of this reconciliation agreement. It extends the AMT "patch" through 2006, thus keeping 15.3 million taxpaying families out of the alternative minimum tax. I am a cosponsor of Senator BAUCUS's legislation to repeal the AMT, S. 1103, and, as chairman of the Subcommittee on Taxation and IRS Oversight, I held a hearing last year that looked into the burdens of the AMT.

I am proud that we were also able to address some problems in the international section of our Tax Code in this agreement. The conference agreement provides "look through treatment" for 3 years for certain payments between related controlled-foreign corporations. I am the sponsor of legislation, S. 750, to provide this treatment permanently. Today's economy is different from the environment that existed when our foreign tax rules were introduced in the 1960s. Enacting the "CFC Look-Through" provision will simplify business structures for U.S. multinational companies and make it easier for them to compete with foreign companies.

The conference agreement also includes an extension of the "active financing income" exception, which I actively sought in the conference negotiations. I am a cosponsor of legislation to make this exception permanent, S. 1159. Active financial services income banking income, leasing transactions and other financial transactions that is earned overseas has an exception under law that allows deferral until the funds are repatriated to the U.S. parent, but it expires at the end of 2006. The conference agreement extends the exception through 2008.

The conference agreement extends the current thresholds for small businesses to expense equipment purchases through 2009. Under current law the increased thresholds were due to expire after 2007. Expensing makes it more cost-effective for small business owners to grow their businesses by purchasing new machines and other equipment; extending the provision through 2009 enables businesses to better plan for such investments.

Finally, the conference agreement eliminates the income restrictions on the ability of taxpayers to convert a regular IRA into a Roth IRA in 2010. Under current law, families with incomes over $100,000 cannot convert a regular IRA into a Roth. Allowing the conversion will help families save for retirement because Roth IRAs are made up of aftertax money, and all appreciation in the accounts is withdrawn tax free. We ought not double-tax savings, especially when we need to encourage young people to do more to plan for their own retirements.

I thank Chairman GRASSLEY for being so supportive of my efforts to extend the investment tax rate for 2 more years and for all of his hard work as chairman of this conference. Through his efforts we were able to put together a tax reconciliation agreement that prevents tax increases on millions of Americans and that will keep our economy growing strong well into the future.

Mr. CHAMBLISS. Mr. President, I support the conference report to accompany H.R. 4297, the Tax Increase Prevention and Reconciliation Act of 2005. I wish to commend Chairman GRASSLEY and the House/Senate conferees for forging an important package to ensure continued economic vitality which was spurred by commonsense tax cuts enacted under the leadership of President George W. Bush.

The conference report, which has already passed the House of Representatives by a vote of 244 to 185, will help small businesses, farmers, and working American taxpayers. Most significantly, the conference report: Extends for 2 years the capital gains and dividend tax rate reductions; increases the exemption threshold for the alternative minimum tax, meaning that fewer working Americans will be subjected to this hidden and creeping tax increase; increases important expensing for small businesses; eliminates the income limits on conversions to Roth individual retirement accounts; accelerates the application of $20 million capital expenditure limitation on tax-exempt State and local bonds used to finance private business manufacturing or the acquisition of land and equipment by certain farmers.

The editorial board of the Wall Street Journal has correctly pointed out that the President's tax cuts and lower rates on dividends and capital gains has resulted in an increase in revenue of $137 billion, 11.2 percent, as reflected in the Treasury's monthly budget report for May. This is more than triple the rate of inflation and is in addition to the $274 billion, or a 14.6 percent increase, in Federal revenues for all of fiscal 2005, which ended September 30.

Passage of this measure is essential to continue America's extraordinary economic expansion to benefit all Americans.

Mr. GREGG. Mr. President, pursuant to section 313(c) of the Congressional Budget Act of 1974, I submit for the RECORD a list of material in the conference agreement on H.R. 4297 considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of section 313. The inclusion or exclusion of material on the following list does not constitute a determination of extraneousness by the Presiding Officer of the Senate.

To the best of my knowledge, H.R. 4297, the Tax Increase Prevention and Reconciliation Act of 2005, contains no material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of section 313 of the Congressional Budget Act of 1974.

Mr. SMITH. Mr. President, I had first like to thank Chairman GRASSLEY for all of his hard work and leadership on the tax reconciliation bill. He represented the Senate well during sometimes difficult negotiations on this bill. Because Chairman GRASSLEY stuck to his principles, we have a better bill today.

I am very pleased to vote today for the Tax Increase Prevention and Reconciliation Act of 2005. Enactment of this bill is beneficial for all Americans. It will help America sustain its economic strength and allow all Americans to keep more of their hard earned money in their own wallets.

One of the key provisions of the tax reconciliation bill extends the tax cuts on dividends and capital gains through 2010. We've heard a lot of chatter in the media, and frankly from the other side of the aisle, that the investment tax cuts only benefit the wealthy. However, that's simply not the case. The investment tax cuts benefit all Americans—even those in the lowest income brackets.

Let's just look at the hard facts. Out of the nearly 20 million Americans who reported taxable dividends in 2003, more than 36 percent made less than $50,000—and more than 70 percent made less than $100,000. Similarly, of the 7 million who reported taxable capital gains, more than one-third were taxpayers with income of less than $50,000 and two-thirds were taxpayers with income of less than $100,000.

We find the same trends in my home State of Oregon. Over 60 percent of Oregon families claiming income from dividends made less than $75,000—and 20 percent made $30,000 or less. Middle income Oregonians also benefit from the lower capital gains rate. Almost three-fourths of Oregonians claiming capital gains income made less than $100,000—and a fourth had income under $30,000.

Beyond putting money back into Americans' wallets, the recent tax cuts, including the investment tax cuts, have played a major role in strengthening our economy—and enactment of the tax reconciliation bill will assist in continuing this growth. According to virtually every economic indicator, the U.S. economy is thriving. Our economy grew at a 4.8-percent rate in the first 3 months of 2006, the fastest pace in the last three years. This follows economic growth of 3.5 percent in 2005, which was faster than any other major industrialized nation. In addition, we have an unemployment rate of 4.7 percent, which is below the average rate for each of the past four decades.

The recent tax cuts also have helped strengthen Oregon's economy. Although our economy still lags behind the Nation, Oregon's unemployment rate has fallen to 5.5 percent from 6.2 percent 1 year ago.

Another important component of this bill is the AMT relief. The original purpose of the AMT was to ensure that taxpayers with substantial income could not avoid tax liability by using exclusions, deductions and credits. However, because the AMT was never indexed for inflation, an increasing number of middle-income families have become subject to the tax. Thanks to this bill about 15 million middle-income Americans will not be subject to the AMT in 2006.

Finally, I am very pleased that two issues that I have worked on legislatively were included in the tax reconciliation bill.

First, in line with my bill, the American Veterans Homeownership Act of 2005, Oregon's qualified veterans' mortgage bond program will be expanded. Under current law, Oregon can issue tax-exempt bonds, the proceeds of which can be used to finance mortgage loans to veterans. However, due to current limitations, veterans of Operation Iraqi Freedom, Operation Enduring Freedom, Kosovo, Bosnia, Haiti, Somalia and the 1991 Persian Gulf War are not eligible. The tax reconciliation bill eliminates this limitation allowing more veterans to take advantage of these low-cost home loans.

In addition, the tax reconciliation bill extends for 2 years the increased amount that small businesses may expense. Although this provision doesn't go as far as my proposal in the Tax Depreciation, Modernization, and Simplification Act of 2005, which would make small business expensing permanent, it is a good first step. Small businesses are the heart of our economy. This important provision encourages investment by small businesses—and provides administrative simplification.

I urge all of my colleagues to support this important legislation.

Mr. ALEXANDER. Mr. President, I offer my support for the Tax Increase Prevention and Reconciliation Act of 2005 conference report, which will prevent a tax increase on millions of Americans and keep our economy growing.

This bill could also be called the Job Creation and Economic Growth Act. In the nearly 3 years since we cut taxes on dividends and capital gains in 2003, the U.S. economy has experienced significant growth. We've had 32 straight months of job growth. More than 5.3 million jobs have been created since August 2003. The Nation's unemployment rate is 4.7 percent—the lowest in nearly 5 years, and lower than the averages of the last four decades. More Americans are working today than ever before, and they have more opportunities for better jobs.

Business investment is up. The stock market is up. And construction spending, home building and household wealth levels are at all-time highs. These factors illustrate families in Tennessee and across America are benefiting from the progrowth tax policies initiated by the President and Congress.

This legislation will continue those pro-growth policies. It includes an extension of lower rates on dividends and capital gains. More than 425,000 Tennesseans—including seniors and lower-income workers—will benefit from these lower rates, with an average tax benefit of $989 per year. More than one third of these Tennesseans are families earning $50,000 or less. I am glad the Senate is passing this bill to keep their taxes from going up.

The bill also include a one-year extension of a provision that will keep the alternative minimum tax, AMT, from hitting nearly 150,000 Tennesseans when they file their taxes for 2006. The AMT was originally passed to ensure that wealthy Americans paid their fair share of taxes. Without a change in the law, the number of Americans subject to the AMT would have jumped from 4 million in 2005 to 19 million in 2006, eventually growing to nearly 52 million by 2015. So by including AMT relief in this legislation, we've prevented millions of Americans from having to pay higher taxes.

This legislation also provides tax relief to our small business owners by allowing them to continue to expense certain amounts of equipment they purchase. This gives our small business owners greater flexibility to buy the necessary items they need to expand and improve their businesses—which is particularly important in Tennessee, where 97 percent of all businesses are small businesses.

This legislation also includes a provision to help songwriters in Nashville and throughout the country. Under current law, these songwriters have to pay a tax rate of 35 percent for any sale of their music catalogues or collected works. The tax rate on these sales will now be taxed at the capital gains rate of 15 percent. Now songwriters who sell their work will be able to treat it the same as the sale of any other business. Many songwriters earn modest incomes, so this change will make a big difference in their lives.

The way Congress can keep our economy strong is by keeping taxes low, exercising fiscal discipline and controlling the growth of Federal spending. This Tax Increase Prevention and Reconciliation Act of 2005 is an important step in that direction, and I look forward to working with my colleagues on other measures to promote economic growth and fiscal responsibility.

Mr. REID. How much time remains on this side?

The PRESIDING OFFICER. Six minutes.

Mr. REID. I thank the Chair.

Mr. President, the headlines glared yesterday from Bloomberg News: "Republicans Set Aside Middle-Income Tax Cuts to Focus on the Rich." Those are not my words. They are the words of Bloomberg News. It is a headline they chose to describe the Republican tax reconciliation bill, and it is 100 percent correct: "Republicans Set Aside Middle-Income Tax Cuts to Focus on the Rich."

This bill is a big gift to the wealthiest of the wealthy and an even bigger burden to future generations of Americans. It was bad legislation when it left the Senate, and it is a lot worse now that it has returned. To think, with gas prices still on the rise—the average price in Nevada is about $3.08 a gallon—46 million Americans with no health insurance, students literally worrying about whether their parents can afford to send them to college, with the debt at $8.2 trillion, the majority has sent us a bill that does nothing to help any of the people about whom I spoke. In fact, for many Americans, it makes life far worse by presenting them with a tax increase. The choices the Republicans made in producing this legislation are very revealing. Remember the headline: "Republicans Set Aside Middle-Income Tax Cuts to Focus on the Rich."

Three bad choices were made in this bill. They chose millionaires and billionaires over the middle class. For 5 years, the Republican majority has handed out billions of dollars in tax breaks and perks to the wealthy elite at the expense of everyone else.

This bill is no different. It extends $21 billion in tax breaks for capital gains and dividends over the next 5 years, a tax break that overwhelmingly benefits the wealthy. It ignores provisions that could have helped families in Nevada and all across the country today. For example, the sales tax deduction, some States pay a lot of sales tax. This was not extended, even though it provides tax fairness for taxpayers in nonincome tax States. This provision, the sales tax deduction, expired. Why would a State such as Nevada that has no income tax be penalized? Because the majority wanted the wealthiest of the wealthy to get a tax break.

The tuition deduction was not extended, even though it helps families pay for the high cost of college and the provision expired at the end of last year. During the 5 years that George Bush has been President, college tuition costs have gone up over 30 percent.

Something simple, the teacher school supply deduction, not a lot of money but what a symbol. Teachers in Nevada and around the country pay out of their own pockets for supplies that the school district can't afford to give them. This little deduction helped thousands and thousands of teachers with a deduction for the school supplies they paid for themselves out of their own pockets. It is not in here because it may take a little bit away from the billionaires. Remember the headline from Bloomberg News: "Republicans Set Aside Middle-Income Tax Cuts to Focus on the Rich."

What is in this bill are tax breaks on capital gains and dividends. An analysis in yesterday's New York Times shows how unfair these tax cuts are. According to the newspaper, the 2003 tax cut for those with $10 million or more of income was one half of $1 million—$500,000. For those with a meager income of $1 million a year, the average tax cut was $41,400. In contrast, the average capital gains and dividends tax cut for those whose income was up to $50,000 was $10. So if you make more than $10 million, you get half a million; $1 million, $40,000 plus; anything less than that, 10 bucks. That says it all about this tax reconciliation.

Choice No. 2: Republicans wrongly ignore America's fiscal security. I always thought the Republicans were the party of fiscal integrity. That has been blown sky high as being a false impression. On the same day a month or so ago, we passed a bill increasing the deficit by billions and billions of dollars, and on the same day, we increased the debt ceiling up to $9 trillion. But that is not enough. We understand the House is bringing one over here that increases the debt ceiling to more than $10 trillion.

Given all the rhetoric from the other side in recent weeks about the need to get the Federal Government's fiscal house in order, you would think our Republican friends would come forward with a fiscally responsible bill. I heard one Republican Senator say: We had the budget bill and Democrats offered amendments to increase spending.

I will now use leader time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Any amendment we offered to increase spending, we had some unique thing in this modern Republican world. What was so unique? We had an offset for it. We found savings someplace else in this massive budget to pay for what we wanted. Remember, during the last 3 years Bill Clinton was President, we spent less money than we brought in. We brought down the national debt by a half a trillion dollars. But not this Republican Congress and this Republican President. Now it is red ink as far as one can see.

Instead of real fiscal discipline, all the majority has given us is gimmicks that actually make the problem worse. They purport to offset the cost of the tax cuts for capital gains and dividends. But as reported in the Washington Post yesterday, these offsets are nothing but cheap tricks.

> One measure would allow upper income savers with a traditional individual retirement account to pay taxes on the account's investment gains and then roll over some of the balance into a Roth IRA, where the money can be withdrawn tax-free upon retirement. The provision would raise about $6.4 billion over 10 years, seemingly keeping the size of the tax-cutting package down. But over the next 35 years, it would cost the [federal] government $36 billion, according to the Urban Institute.

Think about that. A gimmick to let people think that this was a good thing for the American people because it was raising revenue. It was only about $30 billion short. It is a shell game, and it is a wrong choice for America.

Choice 3: This bill, if you can imagine, is still lavishing tax breaks on the oil companies. As we speak, ExxonMobil—we know they made $34 billion, which is the most any company has ever made in history—as we speak, ExxonMobil has $34 billion in cash. We are giving them more tax breaks? We have these oil companies, as my friend from Oregon said, which are marinating in oil. They cannot make enough money because there is no way they can make enough. But they made $34 billion last year, and that is the most money made in the history of our Republic.

On the other hand, we have middle-class families who have paid for these profits and they are sick and tired of being squeezed at the gas pump.

Who did the Bush Republicans choose? Big oil companies. Their big oil friends. This is the most oil-friendly administration in the history of our country. President Bush had an oil company. Vice President CHENEY worked for an oil company. The Secretary of State was on the board of directors of Chevron. They liked her so much they named a tanker after her. Secretary of Commerce Evans? Oil.

This reconciliation bill kept in place billions of giveaways for big oil, even though the industry is doing well enough to send a CEO into retirement—and there is a dispute as to how much he made when he retired, whether it is $400 million or $670 million. It was a lot of money.

Once again, this is the wrong choice for America. I oppose this bill. It caters to an elite group of wealthy Americans at the expense of the middle class, those with the greatest needs, and future generations. We need a new direction. This legislation won't do it.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, I will be brief, and we will be voting shortly. We know that keeping taxes low spurs economic growth and that results in the creation of jobs. Twice in the last 4 years, this Congress passed major tax relief bills. Together these laws have cut taxes for nearly 100 million Americans, spurred a period of energetic economic growth, improved our overall budgetary climate, and it has encouraged businesses to invest in their future. When you put all that together, it has created jobs.

Indeed, since the 2003 tax relief progrowth package, our economy has added 5.3 million new jobs. We have seen unemployment rates fall down to record lows, where today it is remarkable that it is lower than the average of the 1970s and the 1980s and the average of the 1990s, at 4.7 percent. We have enjoyed 18 consecutive quarters of robust growth.

You know, those are the statistics, and that is what we see, what is reported. What really results is that individual lives and families are leading more productive lives, with a higher quality of life. The creation of jobs affects families.

The centerpiece of that 2003 bill was the reduced tax rate on capital gains and dividends. It did other things, but that was the heart of the bill. As we argued then, and what history as clearly shown, is that keeping taxes low promotes tax revenue, what comes into our Government.

In January, the Congressional Budget Office found that the tax cuts on capital gains and dividends resulted in the Government collecting an additional $26 billion in revenue in 2004 and 2005. This year, revenues will be 29 percent higher than they were in 2003. In fact, the Treasury Department just reported yesterday that this year's tax revenues were the second highest in American history, giving the country a sizable surplus for the month.

Mr. President, we hear about who is advantaged by this particular piece of legislation. A majority of households now own stock. A lot of people may question that. The matter is that the majority of households in this country own stock. Almost half of all income tax returns that report capital gains on dividends—the returns that were reported—came from households that have an adjusted gross income of less than $50,000. Of all of the tax returns that report capital gains on dividends, over half of those are reported from households making less than $50,000. It is hard to argue that cutting capital gains taxes benefits only the rich.

Chairman GRASSLEY, Senator KYL, Congressman THOMAS, and all who have participated in this bill, have delivered for the American people and have participated in a progrowth policy legislative agenda that will create jobs. The provisions will continue to strengthen our economy, which is growing, and help provide a stable and inviting environment for small businesses to continue to grow and invest and create jobs.

Keeping these taxes low helps Americans find and create those jobs that we know improve the quality of life for all Americans. Keeping taxes low helps Americans support families and makes America a great place to do business. We will keep taxes low so that we can keep this great country of ours strong and growing.

Last night, the House voted to pass the tax reconciliation conference report and send it to the Senate for action.

I want to applaud the House and Senate conferees for working hard to maintain the 2003 tax cuts that have boosted the economy and grown jobs.

Here on the Senate floor, the Republican majority will work hard to keep up the momentum and resist efforts to raise America's taxes.

I expect that some on the other side will continue to oppose low taxes. They've supported billions of dollars of new taxes since they lost control of the Senate in 2002. Rarely have they met a tax hike they don't like. But we can't let their anti-growth plans win the day.

If they get their way, nearly 7.5 million families and individuals will see their capital gains taxes go up. Twenty million will see taxes on their stock dividends rise, as well.

In my home State of Tennessee nearly 150,000 families and individuals will see their taxes increase if the current alternative minimum tax relief expires this year.

More than 425,000 families and individuals will see their dividend tax rates rise from as little as 0 percent to as much as 35 percent after 2008. Of these taxpayers, roughly 135,000 low-income taxpayers, many of them senior citizens, reported dividend income in 2003.

When it comes to capital gains, nearly 325,000 families and individuals will see their capital-gains tax rates increase from as little as 0 percent to 20 percent after 2008. Of these taxpayers, more than 100,000 low-income individuals, including retirees, reported capital gains in 2003.

The other side says only the rich benefit from tax cuts. But as the taxpayers in my home State demonstrate, the 2003 tax cuts benefited hard working families across the income scale.

Opposing the 2003 tax cuts will hurt these families and hurts America's economic strength.

I urge the minority leader to reject obstructionism and allow swift passage of this legislation.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. FRIST. Mr. President, I yield back all time on our side.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the conference report to accompany H.R. 4297.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Pennsylvania (Mr. SPECTER).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 118 Leg.]

YEAS—54

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (FL)
Nelson (NE)
Pryor
Roberts
Santorum
Sessions
Shelby
Smith
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Warner

NAYS—44

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Menendez
Mikulski
Murray
Obama
Reed
Reid
Salazar
Sarbanes
Schumer
Snowe
Stabenow
Voinovich
Wyden

NOT VOTING—2

Rockefeller
Specter

The conference report was agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. AKAKA. Mr. President, too many in our country are uninsured or unable to afford health care. For those with coverage, costs continue to rise as insurance premiums and copayment increases make it more difficult to continue to access health care. We must take steps to increase health insurance coverage and expand access to affordable health care, but we must not do so in a manner which will undermine existing coverage and leave consumers without adequate protections and benefit mandates.

I appreciate the efforts of my colleague from Wyoming, Senator ENZI, to expand access to employees through his bill, S. 1955, the Health Insurance Marketplace Modernization and Affordability Act. However, the preemption of State laws will have negative impacts on consumers. Existing State benefit requirements ensure consumers are protected against the cost of illness and provided coverage to preventive services at earlier stages for the better likelihood of favorable treatment. AARP, the American Diabetes Association, and the American Cancer Society, a sample of the many health care related organizations opposed to the legislation, believe that the bill "could remove critical consumer protections pertaining to rating and benefits as well as reduce broad access to the services necessary to continue producing better outcomes for those with cancer, diabetes, and other chronic illnesses."

Health care organizations are not alone in their opposition to this legislation. Attorney generals across the country, including Attorney General Mark Bennett in Hawaii, are opposed to S. 1955 because it would cause health insurance consumers to lose important state protections.

We must act to make health care more affordable. An alternative to S. 1955 is S. 2510, the Small Employers Health Benefits Program Act. This legislation would help improve access to insurance without bypassing State consumer protections. The legislation would also provide a tax credit to make health coverage more affordable.

In addition, we need to enact reforms to ensure generic competition for name brand prescription drugs. The legitimate patent protection period needs to be respected, but we need to make sure that generic prescription drugs get to market in a timely manner and that name brand drug companies cannot simply pay generic drug companies to not make a drug. Greater use of generic drugs will help slow the increase in health care costs without reducing access.

Unfortunately, the majority in the current Congress have made it more difficult to access health care. For example, the Deficit Reduction Act contained a provision which will require individuals applying or reapplying for Medicaid to verify their citizenship through additional documentation requirements. For most native-born citizens, these new requirements will most likely mean that they will have to show a U.S. passport or birth certificate. These requirements will create barriers to health care, are unnecessary, and will be an administrative nightmare to implement.

One in 12 U.S. born adults, who earn incomes of less than $25,000, report they do not have a U.S. passport or birth certificate in their possession. Also, more than 10 percent of U.S.-born parents, with incomes below $25,000, do not have a birth certificate or passport for at least one of their children. An estimated 3.2 to 4.6 million U.S.-born citizens may have their Medicaid coverage threatened simply because they do not have a passport or birth certificate readily available. Many others will also have difficulty in securing these documents, such as Native Americans born in home settings, Hurricane Katrina survivors, and homeless individuals.

Having to acquire a birth certificate or a passport before seeking treatment will create an additional barrier to care. Some beneficiaries may not be able to afford the financial cost or time investment associated with obtaining a birth certificate or passport. The costs vary by State and can be as much as $23 to get a birth certificate or $97 for a passport. Taking the time and obtaining the necessary transportation to acquire the birth certificate or a passport, particularly in rural areas where public transportation may not exist, creates a hardship for Medicaid beneficiaries.

Further compounding the hardship is the failure to provide an exemption from the new requirements for individuals suffering from mental or physical disabilities. Those suffering from diseases such as Alzheimer's may lose their Medicaid coverage because they may not have or be able to easily obtain a passport or birth certificate.

It is likely these documentation requirements will prevent beneficiaries who are otherwise eligible for Medicaid to enroll in the program. This will result in more uninsured Americans, an increased burden on our health care providers, and the delay of treatment for needed health care.

I have introduced legislation, S. 2305, to repeal the additional documentation requirements to ensure that Medicaid beneficiaries are not unfairly denied access to care by these burdensome and unneeded requirements. I had hoped that I would be able to offer my bill as an amendment to the pending legislation. However, the majority has taken action that will prevent this from occurring on S. 1955.

We also need to improve and simplify the Medicare prescription drug benefit so that all seniors are able to obtain all of the medications that they need. We must correct the mistakes of the Medicare Prescription Drug, Improvement, and Modernization Act and fulfill the promise to seniors that the Federal Government will help beneficiaries get the drugs they need. We also need to extend the deadline so that seniors are not unfairly penalized if they need more time to figure out which plan is right for them.

Another important Medicare issue are provider reimbursements. Rising costs, difficulty in recruiting and retaining staff members, and declining reimbursement rates make it necessary to make improvements in Medicare reimbursements to ensure that Medicare beneficiaries have access to health care services. We must increase Medicare reimbursements for service providers so that they can continue to afford to treat Medicare beneficiaries.

Another issue that should be addressed during Health Care Week is stem cell legislation. I am a proud cosponsor of S. 471, introduced by Senators SPECTER and HARKIN, which would authorize Federal funding for research on stem cells derived from embryos donated from in vitro fertilization. Unless this legislation is enacted, these embryos will likely be destroyed if they are not donated for research. This bill also would institute strong ethical guidelines for this research. The House companion measure is pending consideration in the Senate. We must pass this bill so that researchers may move forward on ethical, federally funded research projects that develop better treatments for those suffering from diseases such as diabetes and Parkinson's.

Mr. President, I am afraid that this will be a Health Week only in terms of rhetoric because we are not able to offer amendments to address the pressing health needs of this country. Instead of working together to find common solutions to better meet the health care needs of our country, the majority party has simply offered up legislation that is flawed and refuses to work with us in a meaningful way on this issue.

HEALTH INSURANCE MARKETPLACE MODERNIZATION AND AFFORDABILITY ACT OF 2006—Resumed

The PRESIDING OFFICER. The Senate will proceed to the consideration of S. 1955 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1955) to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and of the health insurance marketplace.

Pending:

Frist amendment No. 3886 (to S. 1955 (committee substitute) as modified), to establish the enactment date.

Frist amendment No. 3887 (to amendment No. 3886), to change the enactment date.

Motion to recommit the bill to the Committee on Health, Education, Labor and Pensions, with instructions to report back forthwith, with Frist amendment No. 3888, in the nature of a substitute.

Frist amendment No. 3889 (to the instructions of the motion to recommit), to change the enactment date.

Frist amendment No. 3890 (to amendment No. 3889), to provide for the enactment date.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes of debate equally divided between the Senator from Wyoming, Mr. ENZI, and the Senator from Massachusetts, Mr. KENNEDY, or his designee.

Who yields time?

Mr. FRIST. Mr. President, we have a lot going on on the floor, and we are going to have one more vote today, and it will be up to an hour from now. But what we would like to clarify is who needs to speak from our side. Chairman ENZI is right here. Do we have anybody on our side? I know Chairman ENZI will be speaking. Is there anybody else from our side?

I ask the Democratic leader through the Chair who will be speaking on their side.

Mr. REID. Mr. President, the only request for time I have at the present time is for the Senator from Arkansas, Senator LINCOLN, for 7 minutes. Is there anyone who wishes to speak? Senator KENNEDY wants 10 minutes. Senator DURBIN may request time, I think 7 minutes for Senator DURBIN. No for Senator DURBIN. So 7 and 10, 17 minutes over here.

Mr. FRIST. Mr. President, I ask our chairman approximately how much time we would need. What we want to do is try to get the time down as far as we can. We have a number of people who have plans that they need to make, and we would like to vote as quickly as we can, but we want adequate time to speak.

Mr. President, through the Chair, I ask the Democratic leader, would it be agreeable that we have a unanimous consent request propounded that we vote at 10 minutes after 6, the time equally divided between now and then?

Mr. REID. Does that give us our 17 minutes? I ask to amend the request to 17 minutes on each side.

Mr. FRIST. So to restate, I ask unanimous consent for 17 minutes on either side, so the vote will be at approximately 14 minutes after 6 o'clock.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Arkansas is recognized.

Mrs. LINCOLN. Mr. President, I was so excited when we came to work this week with the opportunity to focus our Nation and the debate of this body toward health, the health of our Nation, the health of our people, and the health of our businesses, the fabric of this country, the fabric of our Nation. It is such an important thing for so many of us—certainly, each of us in our own families. I have small children and aging parents.

All of us have responsibilities in our own lives and responsibilities to our constituencies. We have different constituencies such as the elderly who live in our communities and the small businesses that are striving hard to keep our economy going; children, and those with chronic diseases and illnesses who desperately need to make sure that the coverage they have is sufficient for what they may have or may not have, but want to make sure that they are protected against in case, unfortunately, something might happen.

So as we came to the Senate this week to talk about health and how we could make health a very real part of the discussion in this Nation, a real part of what it meant to our economy and to our people and the quality of life, the real value of who we are as Americans, I was excited. Yet I saw so much of it cut short. The discussion that started on Monday ended with a line in the sand that said: My way or the highway, not let's work a deal and let's figure out what will make health care real in this Nation and sustainable and that will make sense in our communities. Then we moved to talking about how we deal with small businesses. To me, the most important thing we can do for our small businesses is to make available to them affordable, accessible health care but quality health care, the same kind of benefits that we ourselves as Members of Congress are blessed enough to be able to experience for our families and for ourselves.

As we proceeded into this debate, way too much of the debate centered around not what we could work hard to do that was right but what people wanted. Then, all of a sudden, we leave abruptly this incredibly important debate.

We leave behind this incredibly important debate to talk about a tax bill for tax cuts that don't even expire until January of 2009, instead of looking at something real and new, such as a new tax cut for small businesses to engage in the health insurance marketplace for their employees and for themselves or looking at how we could extend tax cuts that had expired, such as research and development and for education and tuition and so many more things that have been productive in our economy and in our communities. We go through this debate, and we come back now to finalize debate on the health care of our Nation. And what have we done? We have missed an opportunity to say to our seniors they are important enough that we are going to extend a deadline, a deadline that means so much for them to be able to take the time and the opportunity to understand this new prescription drug component of Medicare that we have passed.

I voted for it, Mr. President, and I want it desperately to work. I have been out in the field in Arkansas, and I have made sure I met with seniors. We have hosted meetings and tried to educate, but there simply has not been time enough to get to the complexity of what is offered out there. We look back at what efforts have been made. The GAO has reported that one-third of seniors' calls to Medicare operators resulted in flawed or no information. Think about that for a moment. One in three seniors who called CMS for help were given bad or no information. Now those seniors must make difficult, sound decisions about their health care by Monday of next week. I wish we had been given the opportunity to make a difference in that.

I wish we had the ability to make the difference for small businesses, offering them again the same opportunity we have, to enjoy quality health insurance at a low cost, with many choices for the variety of Federal employees who work in this great Nation. We can do the same. We could allow employers and small businesses and self-employed individuals—think about that, a one-man shop—to reap the benefits of group purchasing power and streamlined administrative costs as well as access to more plan choices.

The proposal we had looked to present would create all of that, without any new bureaucracy. How about not reinventing the wheel? For once, we in Government would use something that was time tested for 40 years, has a 1-percent administrative cost, that we could implement for small businesses and bring to them again the same quality of product we enjoy as Members of Congress.

On top of that, we could have incentivized it and brought them a new tax cut, a new tax benefit in order to be able to invest in themselves and in their employees and provide the kind of health care they deserve.

It is hard for me to believe that we have missed all of those opportunities: to be progressive, to be thoughtful, to invest in our country, to make sure we are taking care of the fabric of this Nation and who we are.

About 53 million Americans work for businesses with less than 100 employees. That pool is bigger than the Medicare population, which is about 42 million. Think of what we could do in offering those small businesses that type of a pool, to be able to bring down their costs, increase their choices, and maintain the quality they have demanded, the types of services they may need now or that they may need in the future, whether it is diabetes or cancer screening, making sure that immunization and child well care are all in there. We had an opportunity to do this and many things and we have missed that opportunity.

Working families and small businesses need help. Our seniors need help. Our community providers need help.

Mr. President, I ask for an additional minute.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 10 minutes.

Mrs. LINCOLN. Thank you, Mr. President. I encourage my colleagues to look at the missed opportunities and pull together to make a difference for the people of this country.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, as many of you are aware, I am a former insurance commissioner from

Nebraska. For several years, I served as the head of the National Association of Insurance Commissioners and spent most of my adult working life, except for Government service here and in the State house, in the insurance business. I do not propose that I can propound I am an expert, but I do think I have some experience in this field.

I know you have heard from small businesses in your States. The average cost of health care premiums has doubled in 5 years for small businesses. Everywhere I have gone around the State of Nebraska, every small business owner I have spoken to has told me the same story: We either can't afford or we can't find health care coverage for our workers. We are very concerned about that. What can you do to find a solution?

They pushed me toward the House version of the associated health plans. I couldn't support that unregulated form of self-insurance for the promoting of insurance on an association basis. I couldn't support it. There was no guaranteed fund protection, no requirement for the filing of forms—nothing. I could not support it.

I also knew the status quo where there are now more mandated coverages in several States than people can afford, so the status quo continues to add to the problem, creating more and more uninsureds. We now have gone to the total of 40 to 45 million uninsured, and the number continues to grow.

I am pleased that the Senate is finally debating the problem. We all recognize it is here and it needs to be solved. I agree with my colleague from Arkansas that we need to spend time on this. We just disagree on how to get there.

More time is important, but I can tell you right now that the chairman of the committee, Senator ENZI, has spent more time listening and listening and acting on suggestions than I have ever seen happen in this body. We could probably spend more time, but I think that is what it is about, that is what a cloture vote is about, spending more time rather than cutting it off at this point in the discussion. I believe we were starting to make progress in finding the solution when Senator ENZI and I and our staffs began to talk with one another about how we might solve the problem of having an uninsured plan with an insured plan with regulatory oversight, but cutting out the unnecessary cost to reduce overhead expense, therefore reducing the cost of the premiums, making it more available and more affordable to the employees and to the owners.

I didn't want to create an adverse playing field between association health care plans and the small group market. The traditional AHP bill gave a rating and mandate advantage to association plans that resulted in adverse selection and an unlevel playing field. The proposed SBHP legislation has eliminated this unfair playing field by including rules to prevent these problematic practices and at the same time requiring all insuring entities to abide by the same regulations.

Therefore, there is more than a modicum of State regulation associated with this plan—on a financial solvency basis, on a rating basis, and fairness as to the practices that could be provided.

Unlike AHPs, SBHPs must be fully insured and marketed by State-licensed insurance companies. The insuring entities must meet the capital and solvency requirements within each State they operate, comply with the consumer protection laws in each State, pay the applicable premium taxes, and be part of any assessments associated with high risk pools and/or guarantee funds. As a former State insurance commissioner, keeping State regulation involved in this process was important to me because I know the value of State insurance regulation.

Competition will return to the small group market when we move forward with this legislation. The market will expand. There will be more opportunities today than ever before when this passes. The rates will be in competition as well. Everybody will benefit.

There are those who have suggested that this is not in the best interests of some special interest groups. Senator ENZI and I and our staffs have met with these individuals and in some cases we have made the changes that would take away the concerns they have, but they still oppose the bill.

It seems to me what we need to do is refine this legislation after a cloture vote and listen to the proposals that will be brought up. If there are better ideas out there, I know this body will find them. But to close it off at this point in time is to say no to small business. It is to say we don't care enough to move forward, to consider other proposals, but we simply are going to close debate.

I hardly ever vote to avoid moving forward and I am not going to vote against it now. I am going to vote to go to cloture so we can get a chance, if we get 60 votes. I would hate to see us be four or five or six votes short of that process because I think there is too much at stake for our small businesses, too much at stake for us not to be able to find solutions. I am afraid if we don't move forward and debate it fully and see what we can do on the floor of the Senate, it will carry over into another year.

I have been here long enough to know when somebody says we will do it next year, you can't always count on next year coming. I think it is important we move this forward.

I yield the floor.

Ms. COLLINS. Mr. President, the Senate has spent much of this week debating S. 1955, the Health Insurance Marketplace Modernization and Affordability Act of 2006. I commend my good friend and colleague from Wyoming for all of his hard work on this legislation, which is intended to make health insurance more affordable for small businesses by allowing them to join together to purchase association-based small business health plans. Despite my support for the goal of this bill, I think its approach is fundamentally flawed. Let me explain my concerns.

One of my top priorities in the Senate has been to expand access to affordable health care for all Americans. There are still far too many Americans without health insurance or with woefully inadequate coverage. As many as 46 million Americans are uninsured, and millions more are underinsured.

Since most Americans get their health insurance through the workplace, it is a common assumption that people without health insurance are unemployed. The fact is, however, that as many as 83 percent of Americans who do not have health insurance are in a family with a worker.

Uninsured working Americans are most often employees of small businesses. In fact, some 63 percent of uninsured workers either work for a small firm or are self-employed. Taking a look at the problems faced by small businesses is, therefore, a good place to start as we attempt to reduce the numbers of uninsured.

Small businesses want to provide quality health insurance for their employees, but the cost is often just too high. So I am totally in agreement with the underlying goal of this legislation, which is to make health insurance more affordable for small businesses and their employees. To that end, I have introduced bipartisan legislation to help employers cope with rising costs by creating new tax credits for small businesses to make health insurance more affordable and by providing grants to States to assist with the development and operation of small employer purchasing cooperatives to increase the clout of small businesses in their negotiations with insurers.

I do, however, have a number of very real concerns about S. 1955, as it was reported out of the Senate HELP Committee.

First, the legislation preempts the States' traditional authority to regulate insurance and allows not just small business health plans but all health insurers to exclude important benefits like cancer screenings, mental health coverage, and diabetes care that currently are guaranteed under many State laws.

States have had the primary responsibility for the regulation of health insurance since the 1940s, and based on my experience in overseeing the Maine Bureau of Insurance for five years, I believe that States have generally done a good job of responding to the needs and concerns of their citizens.

As the founder and cochair of the Senate Diabetes Caucus, I also am all too aware of the tremendous emotional and economic toll that this devastating disease takes on an estimated 21 million Americans and their families. I am particularly concerned that the bill would preempt as many as 46 State laws guaranteeing coverage for the medications, equipment, services, and supplies that people with diabetes need to manage their disease and prevent costly and potentially deadly complications.

This simply is penny wise and pound foolish. Diabetes currently costs our Nation more than $132 billion annually. Eighty percent of those costs are due to the complications associated with diabetes—complications that, absent a cure, can only be prevented through prevention and proper management of the disease. If cloture is invoked, I will be offering an amendment with Senators BINGAMAN and DOMENICI to preserve State laws requiring coverage for comprehensive diabetes care. Both the American Diabetes Association and the Juvenile Diabetes Research Foundation have endorsed our amendment.

I am also concerned that the bill would preempt State rating rules and establish a new national standard. Proponents of the legislation contend that the application of this new national standard may not cause much disruption in many states. In Maine, however, which uses modified community rating, it could alter the market substantially.

In fact, the nonpartisan Congressional Budget Office, CBO, estimates that one-quarter of all small businesses will actually pay higher premiums if this bill is passed. It is therefore likely that many small employers in Maine—particularly those with an older workforce—will wind up paying more, and in some cases substantially more, under this bill.

This bill is no panacea, even for those small employers who will see savings. The CBO estimates that health care premiums will only average about 2 to 3 percent lower if S. 1955 is passed. Many small business owners have been told that the bill will cut their costs by from 12 to 20 percent. Even those employers who do see savings are likely to be disappointed that they are not as great as they had been led to believe.

Finally, I am concerned that the bill, as reported by the committee, could allow health plans to exclude a class of health care providers, solely on the basis of their license or certification, restricting patients' access to qualified health professionals. This is a particularly important issue in rural areas like Maine, where there may not be a sufficient supply of physicians to provide the care that the health plan has promised to cover.

For example, virtually all health plans cover medically necessary primary care services. Many rural Americans use a physician assistant or nurse practitioner as their primary care provider because there simply isn't an adequate supply of physicians where they live. In these areas, if a plan only covers primary care services offered by a physician, patients will either have to drive great distances to receive the care they need or pay out of pocket for services that are supposed to be covered benefits.

If cloture is invoked, I will be offering an amendment to maintain the application of all existing State laws prohibiting health insurers from discriminating against health providers who are acting within their scope of practice under State law, solely on the basis of their license or certification.

Mr. President, I do plan to vote for cloture. Congress should be taking action to make health insurance more affordable for small businesses, and I believe that this debate should go forward.

I do not, however, believe that we need to preempt the good work that States have done in the area of patient's rights and protections in order to help our small businesses. I would, therefore, oppose the current bill on final passage unless it is substantially changed.

Mr. DOMENICI. Mr. President, I rise today to support affordable, adequate and accessible health insurance. We have a bill before the Senate, S. 1955, the Health Insurance Marketplace Modernization Affordability Act of 2006. Chairman ENZI has worked very hard on this bill for many months now and I believe that it will help small business people who are struggling to afford health insurance for themselves, their employees, and their families. I hope that the Senate will pass this bill because the time for Congress to take action on this issue is long overdue.

Most people in the U.S. who have health insurance obtain it through their employer or through a family member's employer as a workplace benefit. Small employers however are far less likely than larger employers to provide health insurance to their workers. In my home state of New Mexico, I am embarrassed to say that almost 25 percent of the citizens do not have health care. This is the second highest rate of uninsured in the country. Furthermore, there are approximately 143,909 small businesses in New Mexico, and of these small businesses, only about 37 percent of firms with fewer than 50 employees offer health insurance. For much smaller firms with five or less employees, the numbers are even more staggering; fewer than 50 percent of firms offer health insurance. This is unacceptable. Working people deserve better.

The current realities of the insurance market make it much more difficult for a small business people to secure quality, affordable insurance. I believe that by allowing small businesses to band together, as this bill does, that economy of scale will be created and small businesses will be able to leverage their larger purchasing power to lower their health care costs. This would hopefully enable more employers to afford such coverage and ideally reduce the number of small firm workers without health insurance. It is a real first step to providing more access in a market where small business is currently struggling.

Over the past few weeks, I have heard from many advocacy groups who are concerned with the way in which this bill addresses State benefit mandates. I understand these concerns and agree that widely accepted critical protections for patients must be preserved in any legislation the Senate ultimately adopts. That is why I have joined together with Senators SNOWE, BYRD, and TALENT to offer an amendment that would require small business health plans to comply with the benefits adopted by a majority of States. This amendment says if 26 States mandate it, than a small business health plan must comply with it. This amendment is a good and workable compromise that alleviates one of my primary concerns with the small business health plan bill. This compromise will help ensure that millions of Americans will continue to receive health care coverage for most areas, including mammograms, diabetes care and mental illnesses. It is vitally important that we pass a bill that will bring health insurance to employees of small businesses who currently are not covered without consequently diminishing coverage already offered in other areas. This amendment should make it easier for us to do so.

It is time for the Senate to take action on this issue. The House of Representatives has passed this type of legislation multiple times. The American people are tired of excuses and they are tired of the status quo. They want to see change for the better. I again thank my colleague, Senator ENZI, the chairman of the HELP Committee for his hard work on this important issue. I have long said that something needs to be done to address the problem of the uninsured, and I have also said that I support the idea of legislation aimed at helping small business. I sincerely hope that the Senate will pass a bill that will allow small businesses to afford insurance for their employees.

Mr. LEVIN. Mr. President, I take a brief moment to explain why I will be voting against cloture on S. 1955. The availability and affordability of health care is one of the most important issues that we can debate this year in Congress. As was highlighted during the recent "Cover the Uninsured

Week," the United States spends more on health care than any other nation, yet we still have almost 46 million uninsured Americans. This means that over 18 percent of Americans are uninsured and that there are 9 million children in our country without health insurance.

The Senate's response to this health care crisis, however, has been sorely lacking. The majority leader called this week health week and scheduled debate on three bills that would do little or nothing to assist the Nation's uninsured. The first two bills were medical liability bills that did not even achieve a majority of votes in the Senate. I have stated many times that I believe any meaningful tort reform should be enacted on the state level and voted accordingly. The third bill is S. 1955, and I would like to take this opportunity to explain my reservations about the bill.

The concept of S. 1955 is to allow small business or trade associations to pool together in an effort to purchase health insurance at affordable costs. These new health plans would cross state lines and therefore be eligible to bypass the state coverage and solvency mandates that apply to health plans offered by larger employers.

S. 1955 is a well intentioned bill. Senators ENZI and NELSON and their staffs have spent many hours meeting with all sides involved in this important debate. This effort to bring everyone to the table resulted in a bill that improved upon previous small business health plan bills referred to as "association health plans." However, S. 1955 still falls short.

I have several concerns about S. 1955. First, I am concerned that this bill could reduce access to critical benefits. S. 1955 replaces state benefit requirements with a new standard that would allow insurers and small business health plans to offer "basic" benefit plans, which would not have to include state-required benefits as long as they also make available an "enhanced" benefit plan, which would be equivalent to one of the benefit plans offered to state employees in one of the five most populous states. However, this new standard is meaningless since those coverage options are likely to include a high deductible/low coverage plan that would afford little protection to consumers who need health care, whether due to illness or age.

Currently, insurance rating rules and the regulation and approval of insurance plans are by done by state insurance commissioners. Most state insurance commissioners are elected officials charged with making sure a state's market is based on rates that are fair and equitable to all based on state law. In my home State of Michigan, we have few benefit mandates, but those mandates are important to the populations that are protected. Some of the benefits that would no longer be required to be covered for Michigan citizens include hospice care, newborn coverage, access to obstetrician/gynecologist, access to pediatrician and diabetic drugs and prevention of diabetes programs. By some estimates, this could affect over 2.7 million people in Michigan. This pattern could be repeated in states across the country. My concern about this is shared by many Governors, State Attorney Generals and State Insurance Commissioners, who have written the Senate to express their reservations about this bill.

A second concern I have about S. 1955 regards rate setting rules. This legislation would create a new system allowing for insurers to vary premiums based upon, among other factors, health status and age. S. 1955 would wipe out state-based protections against discrimination. This would affect older Americans and others such as groups with large numbers of women, small businesses with fewer workers, and higher risk industries.

Finally, I am concerned that S. 1995 would increase the potential for fraud and abuse. This concern is the basis for the recent letter to the Senate from 41 State Attorney Generals expressing opposition to this bill. S. 1955 will potentially erode state oversight of health insurance plans and eliminate consumer protections in the areas of mandated benefits and internal grievance procedures. The bill provides no additional authority or resources to enforce the new Federal standards created within it. This is eerily reminiscent to me of an experience our country had in the 1970's with Multiple Employer Welfare Arrangements or MEWAs. MEWAs were then exempted from state regulatory insurance requirements, and the result was that almost 400,000 Americans were left with more than $123 million in unpaid health insurance claims.

Yesterday, the majority leader used a procedural tactic to prevent Democrats from offering meaningful amendments to this bill which could have improved it. One such amendment would have been the Democrat substitute to use the Federal Employee Health Benefit Plan as a model pool to allow for lower health care costs for small businesses. I would have liked to have had the opportunity to also debate other health care issues as well such as extending the Medicare Part D enrollment deadline, lifting the Federal restrictions on stem cell research and other efforts regarding the nation's 46 million uninsured.

Health care costs are rising too quickly, and I am sympathetic to the plight of small businesses. As a senior member of the Senate Small Business and Entrepreneurship Committee, I often hear from small business constituents of mine about annual double digit health premium increases. However, rising health care costs are not unique to small businesses—it is an untenable situation shared by most Americans—and this bill takes the wrong approach to solving this problem. For all of these reasons, there is strong opposition to this bill from many state leaders, and from a coalition of more than 200 organizations, including the AARP, the National Partnership for Families and Women and Families USA.

At a minimum, we needed the chance to improve this bill. I cannot support cloture to end debate and restrict amendments on this legislation.

Mr. REED. Mr. President, I would like to comment on the legislation the majority has brought forward during what it has dubbed Health Week and on health care more broadly.

While I do not support this legislation as drafted, I commend Senator ENZI for attempting to address the important issue of health insurance for small businesses.

As of 2004, over 45 million Americans were uninsured. Unfortunately, these numbers continue to rise with each passing year as more and more employers cease offering coverage to their employees. In Rhode Island, the percentage of companies offering health insurance coverage declined from 80 percent in 1999 to 68 percent in 2005. In my State, a small business is more likely to drop coverage because of the prohibitive cost.

While some employers have stopped offering coverage altogether, others have struggled to keep up with escalating costs. Since 2000, premiums for family coverage have increased by 73 percent compared to an inflation growth of 14 percent and a wage growth of 15 percent over the same period.

Health insurance affordability not only affects employee satisfaction, it also has a direct impact on a company's competitiveness.

We need to address these issues, but S. 1955 is not the answer. It decreases cost by changing rating structures, allowing cherry-picking of healthy individuals, and offering plans with very few benefits.

S. 1955 would amend the Employee Retirement Income Security Act of 1974 (ERISA) to allow for the creation of small business health plans, SBHPs, sponsored by business or trade associations that would, like self-insured plans, be exempt from State laws. As was the case with legislation proposing the creation of association health plans, AHPs, a considerable number of health care experts have expressed concerns that this legislation would exempt SBHPs from important State regulations that protect consumers, guarantee access to coverage and treatment, and ensure financial solvency. Millions of Americans could lose coverage for such important care as screening for breast, cervical, colorectal, and prostate cancer; well-child care and immunizations; emergency services; mental health; and diabetes supplies and education.

I have serious concerns that this legislation could weaken the already fragile insurance market we currently have in the United States. States have worked diligently to craft insurance regulations that reflect their individual needs. They have developed rating systems and mandated benefits to best protect their citizens.

This bill will affect not only health insurance for small businesses but also health insurance for all markets. In a letter to the chairman and ranking member of the Health, Education, Labor, and Pensions HELP Committee, the Rhode Island health insurance commissioner expressed his strong concerns about how S. 1955 would affect the State's health insurance regulatory system, its ability to hold health plans accountable, and develop solutions particular to our Sate. I will ask that the text of this letter be printed in the RECORD.

I have serious concerns about the health insurance that would be offered under this legislation. If insurance does not offer adequate coverage, it is insurance in name only. It is of little use if you can't afford it or access it when you need it.

A recent program on PBS' NOW focused on what it termed "junk insurance plans" and profiled two particular cases where the insurance was really no insurance at all, leaving couples who had faithfully paid premiums with astronomical medical bills. In one case, the insurance plan sold was marketed through an association for the self-employed.

It is important to try to address the problem of the uninsured, but we need to be sure that it is being done in a sensible and thoughtful manner.

While Senator ENZI has taken a great deal of time to meet with a variety of stakeholders in drafting this legislation, there have been no hearings on the bill, even though my colleagues and I on the HELP Committee requested such hearings. Moreover, 41 attorneys general have signed a letter in opposition to S. 1955; 19 State insurance commissioners and State departments responsible for insurance regulation have written letters opposing this legislation.

There are better options. The Lincoln-Durbin proposal would be more effective in curbing health care costs and expanding coverage, as well as help small businesses and their employees. It would create the Small Employers Health Benefits Program SEHBP and provide tax breaks for employers that offer financial assistance for insurance premiums to low-income employees. SEHBP is based on the Federal Employee Health Benefits Program and would extend the purchasing power of the Federal Government to small businesses that choose to participate. In addition, SEHBP enrollees in local plans would enjoy an array of coverage options, while at the same time benefiting from State consumer protections.

I filed three straightforward, commonsense amendments to guarantee more comprehensive coverage, to preserve State authority, and to make sure SBHPs actually reduce costs. I first proposed these amendments during the HELP Committee consideration of this bill. The first amendment would create a commission to establish a Federal floor of benefit mandates in accordance with the laws adopted in a plurality of the States, which would preserve some of the critical benefits currently mandated by Rhode Island and other States. The second amendment would limit the preemption of State laws by clarifying that unless specifically provided for, nothing in S. 1955 would override any State or local law related to health insurance. The third amendment requires the Government Accountability Office GAO to evaluate the program 24 months after its implementation, and if there is no evidence of a decrease in cost or increase in access to health care, the program would be terminated.

I am disappointed that the majority is not allowing us to engage in a full and fair debate on these and other amendments in the absence of a broad agreement on the bill.

Earlier this year, we saw the implementation of another program that was not well thought out and was fraught with problems as a result. Many of the problems with the Medicare Part D prescription drug benefit could have been averted. This crisis was anticipated for some time by independent researchers and advocates for Medicare beneficiaries, yet the Republican-controlled Congress repeatedly blocked remedies and continues to do so. Working to improve the Medicare drug plan is not even on the agenda for Health Week.

I did not support the Medicare Modernization Act because I felt the benefit was insufficient and the emphasis on a privately administered program made it excessively complex for beneficiaries. This plan imposes penalties for those enrolled to change plans but allows the plans to change the prescriptions they cover at will. Millions of retirees faced with choosing among a large number of private drug plans struggled with different rules, lists of covered drugs, and premiums. Many who are eligible to sign up have avoided doing so all together.

The problems have been so widespread that more than 20 States, including Rhode Island, had to step in to pay drug claims that should have been paid by the Federal Medicare Program. At least two dozen States have taken emergency action to help low-income individuals who could not get their medications under the program, and States spent many millions of dollars on this assistance.

Since its launch on January 1, doctors and pharmacists have complained that many drugs theoretically covered by the new Medicare drug benefit are not readily available due to the insurers' restrictions and requirements. Many pharmacists can't keep track of the plans' myriad policies and procedures and doctors say the diverse requirements are onerous and can delay or deny access to needed medications.

The May 15 deadline for enrollment in Part D is looming. We should be taking action to extend the deadline and improve Part D during this sole week the majority has dedicated to so-called health care reform. Let's put America's Medicare beneficiaries first.

Another issue that is imperative for us to address is stem cell research. Last May, the House passed the Stem Cell Research Enhancement Act, H.R. 810, by a wide margin. We heard Senator FRIST last summer announce that he agrees with lifting the stem cell ban, but we have not seen any movement on this issue.

President Bush's policy limits Federal funding of embryonic stem cell research in practice to 22 stem cell lines that have been in existence since 2001, and these lines are unsuitable for research. In recent years, we have seen amazing medical breakthroughs thanks to a dedication to research. HIV disease, which was a virtual death sentence just over a decade ago, has become for many a chronic disease. The 5-year survival rate for childhood acute lymphoblastic leukemia is approximately 85 percent, a dramatic increase because of new lifesaving treatments.

I hope to be able to stand on this Senate floor a few years from now asking for support for new research and highlighting the advancements that have been made in the treatment of spinal cord victims, children with diabetes, and those with Parkinson's because of embryonic stem cell research. The Senate should be marking the 1-year anniversary of the House passage of H.R. 810 by having a vote on the bill. We have an obligation not only to those stricken with these devastating conditions but to the family and friends who care for them. H.R. 810 opens the door to medical research that could unlock the mystery behind many of these devastating diseases while ensuring strong ethical and scientific oversight.

I share Senator ENZI's desire to stem the rising costs of health insurance, which pose a challenge to many, including our Nation's small businesses and self-employed individuals. While Congress should certainly do more to address this matter and expand coverage to those who currently lack it, S.

1955 would have little impact on these crucial needs.

There are other equally critical health issues facing millions of Americans. In addition to Medicare and stem cell research, we should be considering legislation to expand health insurance coverage to every child in this country, legislation to strengthen our public health system, and legislation to ensure an adequate number of nurses and other health professionals to care for our aging Nation. While the majority is stunting this week's debate, it is my hope that the Senate will actually take the time and find a way to work together to have a serious debate on important health care issues this year.

I ask unanimous consent that the before-mentioned letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

March 13, 2006.

Hon. MICHAEL B. ENZI,
Chair, Committee on Health, Education, Labor, and Pensions, U.S. Senate, Washington, DC.
Hon. EDWARD KENNEDY,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN ENZI AND SENATOR KENNEDY: I am writing to express my strong concerns Senate Bill 1955, and to ask that it not be passed.

Context: Rhode Island has a strong history of active health insurance regulation. In 1996, the state passed broad managed care regulations regarding utilization review, member rights and appeals and health plan oversight. These provided protections which were later duplicated in other states. In 2000, the state overhauled its small group rating laws to bring more equity between large group and small group rates. In 2004, the legislature created a first-in-the-nation cabinet-level health insurance commissioner role, to (in part) "direct health plans towards policies that promote the public good through increased access, and improved efficiency and quality".

The results speak for themselves, Rhode Island has one of the lowest rates of uninsurance in the country, lower medical costs than its neighbors, high health plan satisfaction measures, excellent scores in HEDIS and public health performance measures, and nationally recognized innovations in health care quality measurement and health care information technology innovation. Studies by my office indicate that rating forms have closed the health insurance price gap between large and small employers.

Effect: In spite of recent amendments, the proposed bill would put all this in jeopardy by eliminating the ability of states to bring together stakeholders to develop local solutions to the problems of affordable health insurances for small businesses.

Specifically: Imposing national underwriting rules and coverage standards for small businesses creates 1 local instability in pricing and hinders innovation. States should be allowed to develop programs for affordable health insurance products and pricing, and then learn from one another. Just this year, small business health insurance reform bills have been introduced by both Democrats and Republicans in the RI legislature that call for crafting new affordable health plans, subsidizing their purchase through reinsurance mechanisms and promoting price transparency. These innovative programs would not be possible under this bill.

The bill weakens health plan accountability. Health care is delivered locally. It is intrinsically tied to public health and important community institutions. Health insurers need to be held accountable by local entities for their actions in states—for the incentives created by their payment mechanisms, for their support of local community health activities and state-wide health policy. Bill 1955, in spite of recent clarifications regarding the role of insurance commissioners, would make it harder for national health plans to be answerable to their local stake holders. It would usurp public authority and place it with large national insurers, who would be accountable to no one.

The bill does not address the real problem. The fundamental health policy challenge facing the U.S. is the effect of rising medical costs on the number of uninsured. As both of you have noted, we need to move beyond underwriting and cost shifting solutions to addressing the underlying utilization drivers. This is best accomplished through local experimentation and accountable insurers—both of which are weakened by this measure. Mass group purchasing—which this attempts to create—will not result in informed purchasers driving system change, but a one-size-fits-all approach which cedes power to national insurers.

As witnessed by the efforts of the sponsors with the National Association of Insurance Commissioners, much good work has gone into amending this bill. Unfortunately, major concerns remain. The bill in its current form fails to address the critical issues states and communities face in developing an affordable, sustainable health care system that works for employees in small businesses. To accomplish this, we need accountable health plans, not association health plans.

Sincerely,
CHRISTOPHER F. KOLLER,
Health Insurance Commissioner,
State of Rhode Island.

Mrs. FEINSTEIN. Mr. President, I rise today to speak about my concern for the 6.6 million uninsured individuals in California and the impact the Enzi Small Business Health Insurance bill, S. 1955, will have on both the uninsured and the insured in my State.

While the goal of this legislation is one I agree with—finding a solution to lower health insurance costs and greater access to health insurance for small business owners and their employees—I have serious concerns about the fundamental shift toward insurance deregulation and bare bones insurance coverage under the Enzi bill.

It is my understanding that some changes have been made in the substitute amendment to the Enzi bill but that those changes do very little to change the fact that this bill will result in a loss of covered benefits and an increase in costs for older, sicker workers.

While I respect the position of small businesses that support this legislation, I simply cannot support a proposal that I believe would result in higher costs for older, sicker workers and would result in a loss of covered benefits my State fought hard to guarantee.

My concerns are shared by a wide range of people.

It was also the conclusion of the nonpartisan Congressional Budget Office, 41 State attorneys general including the attorney general of California, 13 Governors, the California State insurance commissioner, the California Public Employees' Retirement System and countless national organizations such as the AARP, the American Medical Association, the American Cancer Society, and many more.

California has one of the most comprehensive set of required insurance benefits in the country. A partial list includes: Coverage of routine patient care costs of cancer clinical trials; coverage of breast, prostate, cervical, colorectal and other cancer screening; coverage of breast cancer screening, diagnosis and treatment, including prosthetic devices and reconstructive surgery; the right to a second opinion when requested by insured individual or health professional treating an insured individual; minimum maternity hospital stay; coverage of equipment, supplies, including prescriptions, and management of diabetes; coverage of alcoholism and drug abuse treatment; coverage of blood lead screening; coverage of contraceptives approved by the FDA; coverage of services related to diagnosis, treatment and appropriate management of osteoporosis; coverage of domestic partners and coverage of infertility treatment.

The legislation before us sets a ceiling, not a floor for insurance coverage of vital services. Amendments that have been discussed such as creating a 26-State benefit mandate threshold are a ceiling, not a floor.

The reality is that any attempt to "harmonize" State benefit mandates will likely result in harm to Californians.

Just like legislation passed by the House last March called the National Uniformity for Food Act which I strongly oppose, this legislation preempts States rights.

California voters and elected officials have determined what they think is best for the State and this legislation override the will of Californians whether they work for a small business or large one.

I am also concerned about the impact this bill will have on premiums for small business employees. California has rules to protect premium adjustments from increasing year to year beyond 10 percent.

And in California, insurance companies may set premium rates for employees based on only three risk factors: age, family composition, and geographic region.

Under this bill, not only will employees be subject to rating based on additional factors such as the size of business, gender and type of business, but

California's age and geographic region limitations are preempted.

The new rating factors in the bill disadvantage certain small businesses and they disadvantage businesses with a high proportion of women of childbearing age.

I find it deeply troubling that Senators on both sides of the aisle have been denied the opportunity to vote on amendments to address the problems with this legislation.

I would like to address another healthcare issue that I have been deeply concerned about and that is stem cells.

The Senate has spent a week dedicated to health care and yet, the majority leader has not scheduled a vote on embryonic stem cell legislation.

It has been 8 years—1998—since I introduced one of the first bills dealing with the ethical issues around stem cell research.

It is almost one year—May 24—since the House passed the Castle-DeGette bill.

It has been 9 months—July 29—since the majority leader shocked the Senate and announced his support for stem cell legislation.

But no bill has been passed by the Senate.

What we have learned over that period is that the more than seventy lines the President said were available when he set his policy in August 2001 are down to just over twenty.

Those approximately twenty lines are contaminated with mouse feeder lines and they are old. They are of no therapeutic value.

We need more lines if we are going to untie the hands of researchers so they can do the research needed to learn about the biology of diseases, the restoration and repair of damaged tissue, and the development of treatment therapies.

Time and time again researchers say they need more embryonic stem cell lines.

But, the leadership of the Senate and White House won't listen. They would rather obstruct the work of scientists who want to work with embryonic stem cells. The result is scientists moving to other countries to do their work.

The time to act is now. The price of inaction goes up every day.

Since this fight began, we have lost Christopher Reeve on October 10, 2004, Dana Reeve on March 6, 2006, 4 million Americans to cancer, 1.8 million Americans to diabetes, and 144,000 Americans to Parkinson's.

I have heard opponents of embryonic stem cell research talk about the promise of adult stem cell research. No one I know is arguing that we shouldn't pursue adult stem cell research. That's why the Senate passed the cord blood bill unanimously last year.

But, we must not fund this research to the exclusion of embryonic stem cells.

There is no question that this country needs an effective stem cell policy—both to provide Federal funding for viable stem cell lines and to provide Federal ethical guidelines.

It is simply appalling that here we have a week dedicated to a debate on health care and the leadership of the Senate has not scheduled a vote on the Castle-DeGette, embryonic stem cell bill.

I personally believe this week should be renamed the "week of missed opportunities" instead of "health week".

Instead of addressing problems associated with the Medicare drug benefit such as the amendment I filed to the pending legislation to protect seniors from insurance plans who may decide to end coverage of drugs they said they'd cover when the senior enrolled in the plan, we are doing nothing.

Instead of allowing the Federal Government to use its bulk purchasing power to negotiate with drug companies to provide lower prices for seniors, we are doing nothing.

Instead of addressing the fact that millions of confused seniors will face a penalty in Medicare forever if they are eligible and don't sign up for the drug program by this Monday, we are doing nothing.

And yet we will have a cloture vote on a bill that will leave millions of Californians without a guaranteed access to cancer screenings and treatment, diabetes coverage, the right to a second medical opinion if they request it, among many others.

All of those protections will be lost, and Senators will have been denied without the opportunity to vote on any amendments to address the problems associated with this legislation.

It is a shame that the leadership of the Senate has allowed this week to become one of missed opportunities when we have bills such as the Castle-DeGette embryonic stem cell bill that have passed the House and are sitting at the President's desk waiting to be taken up and passed by the Senate.

Mr. SALAZAR. Mr. President, access to affordable, quality health care is on the minds of virtually every American. As I travel across my State of Colorado and this nation, people urge me and my colleagues in Congress to solve our health care crisis. I rise today to again add my voice to the millions calling for meaningful, comprehensive health care reform—reform that allows Americans to get the health care that they need; reform that will stop the crippling effect that the rising costs of health care has on our citizens, businesses and economy.

Last year, Senator MCCAIN and I introduced the National Commission on Health Care Act, S. 2007. Its purpose is simple and bold—to fix our broken health care system.

The need to reform our health care system could not be more compelling. An astounding 46 million Americans lack health insurance. They come from every community, every walk of life, and every race and ethnic group. But the most telling part about them is that they come from working families who struggle to put food on their tables and pay their bills. They live in constant fear of getting sick. When they get sick, they often go without medical care and get sicker.

For those fortunate enough to have health insurance, the picture is also grim. Health insurance premiums for family coverage have risen by over 59 percent since 2000, with the average annual premiums for employer-sponsored family coverage costing nearly $11,000. Rising premiums place working families at risk of joining the ranks of the uninsured.

Rising health care coverage has also threatened the ability of American businesses to maintain insurance coverage for their employees and compete on a global level.

Congress must act now to reform our system. We need much more than a week of gimmicks or piecemeal bills. We need comprehensive reform. S. 2007 reflects that need. The act creates a bipartisan commission of 10 elder states men and women. I want to stress that this is a bipartisan commission. Our health care crisis is not a Democratic or Republican problem. It is a national problem that we must solve together.

The members will conduct a thorough investigation into our health care system, building on the work of others to comprehensively look at availability, affordability, quality and costs relating to our health care system. It will look at the uninsured, the small business insurance market, the increases in premiums and health care costs, and the problems that businesses face in maintaining insurance coverage.

The commission will study our government programs and the private health insurance industry. And, most importantly, the commission will develop comprehensive proposals and recommendations to actually solve problems associated with our Nation's health care system. It is not enough to chip away at the problem by enacting policies related to one aspect of our health care system. We need a comprehensive study and comprehensive solutions.

The National Commission on Health Care will not duplicate the very important work that has already been done by other commissions and think tanks. What it will do is study the proposals from a comprehensive perspective, engage business, labor, health care, consumer, insurance and other groups to develop workable policies that if enacted will solve the crisis we face today.

I look forward to working with my colleagues on both sides of the aisle to pass the Commission Act to reform our broken health care system.

Mr. President, I want to take a few minutes to talk about the Medicare prescription drug program. I want to talk about the need to extend the deadline for seniors and people with disabilities and I want to talk about the rural, independent pharmacies that have suffered because of implementation problems with the drug program.

I was not a member of this esteemed body when the Medicare Modernization Act creating this program was enacted. I therefore have no political stake in defending or criticizing the drug program. I have every interest, however, in making sure that the program is properly implemented and that our seniors and people with disabilities have adequate time and accurate resources with which to make decisions about what plans best meet their health care needs. I strongly support Senator BILL NELSON's legislation extending the deadline for seniors and people with disabilities to enroll in the program. I want to thank Senator BILL NELSON for his commitment to ensure that seniors and people with disabilities have adequate time and accurate information to make wise decisions about their prescription drug insurance.

In less than 1 week, seniors will face the deadline for enrollment in the prescription drug program. For many seniors and their family members, selecting an appropriate prescription plan is a difficult and challenging endeavor. I know firsthand how time-consuming and difficult it is to navigate through the various plans to select the plan that meets the needs of an individual senior.

Several weeks ago, I helped my 82-year-old mother select a prescription drug program. In Colorado, there are over 42 plans to choose from—each covering different drugs or formularies as they are known, each with different monthly premiums; each with different copayments, each with different drug prices, and each with different participating pharmacies. I speak from experience—the process is daunting.

My offices have been helping many Coloradans with questions on Medicare prescription drug program. Often, individuals have called my office in exasperation, trying to find a friendly voice to help them through this process. My staff has assisted these individuals. However, many seniors continue to put off signing up for the program because they are confused and nervous. In Colorado, there are still over 100,000 individuals who are eligible to enroll in the plans who have not. Coloradans consistently tell me that they need more time to make sure they review reliable accurate information to select the right plan. They should have that time.

The complexity of the plans and the importance of the choice that seniors and the disabled must make dictate that we allow them more time to make these important decisions regarding their health. Beyond the complexity of the program, seniors and people with disabilities need more time because of the government's own inability to provide reliable information and available help to navigate the choices they are being asked to make.

Just this month the Government Accountability Office released a report that highlighted the government's own shortcomings with respect to the implementation of the drug benefit. The report highlighted that the Medicare help-lines were not providing accurate information for beneficiaries with questions about enrollment. Posing as seniors and senior advocates, the GAO made calls to the Medicare help-line with questions about how the program works. Astonishingly, the GAO often could not get through to an operator!

When the GAO staff did finally get through to an operator, the information specialists often could not answer their questions about the drug benefit, could not help them with questions about specific plans, and could not provide the detailed information that seniors need to enroll. If the government that administers this program could not provide timely, adequate information to beneficiaries, how can we hold them to an artificial deadline? Our seniors and people with disabilities deserve better. They certainly do not deserve to be penalized.

Individuals who miss the approaching deadline will not have an opportunity to enroll until November. In turn, they will face increased premiums and copays. And these costs increase the longer the individual waits. Seniors should not be punished for the government's inability to provide them with information with which to make a choice regarding their health. We need to help our seniors in this process, by giving them the time and resources needed to make the best decision for them.

I also want to speak in support of Senator LAUTENBERG's Pharmacists Medicare Relief Act of 2006 to modify the Medicare drug benefit to allow pharmacies to get timely payment from prescription drug plans. As we all know, pharmacies operating in rural towns and communities, like my hometown in Colorado, are important components of the community's already fragile health care delivery system. Because rural residents tend to be older and have more chronic conditions, pharmacy services to rural residents are particularly important.

The Medicare drug program has threatened the very survival of some rural pharmacies because of the manner in which the plans pay the pharmacies. These pharmacies must pay their wholesalers on a weekly or biweekly basis. Unfortunately, the prescription drug plans reimburse the pharmacies every 6 weeks. The discrepancy in payment has seriously affected the business of many pharmacies, and particularly pharmacies in rural communities.

Fortunately, there is a simple fix: require the plans to reimburse the pharmacies every 14 days. That is exactly what Senator LAUTENBERG's legislation will do. This legislation would require the plans to pay pharmacists within 14 days if the claims are submitted electronically, and 30 days if the claims are submitted by paper. The legislation also prohibits plans from cobranding Medicare beneficiaries eligibility cards—which means that it bans brands or names of pharmacies from being printed on the prescription drug cards, so that large pharmacies cannot use this advertising advantage at the expense of small operations.

These simple fixes will enable pharmacies in rural areas to continue to serve beneficiaries. Our rural pharmacies and the seniors and disabled people they serve deserve our best efforts to correct problems with the drug benefit plan to enhance health care delivery. I urge my colleagues to support this small but very important fix.

One thing that we can all agree on is that our health care system is in crisis, and that crisis is harming health care providers and patients who need health care services. It is clear that we need real reform. The time for enacting piecemeal legislation that chips away at the massive health care problems is over. Our healthcare crisis will persist long after this healthcare week in the Senate is over. I pledge to put partisanship aside and work with all of my colleagues toward real health care solutions.

Mr. MENENDEZ. Mr. President, while Republicans proclaim this week as Health Week on the Senate floor, it is quite the contrary in the homes of millions of American families. Today, 46 million Americans have no health insurance at all. And 1.3 million New Jerseyans have no health insurance. Another 16 million or more Americans are underinsured, meaning that they have insurance, but still do not have access to the care they need. Complicating matters even more is the fact that the average cost of family health coverage—$10,880—now exceeds annual earnings for a minimum-wage earner.

So what does the Senate majority propose to do to solve the problem? Nothing more than dust off the old playbook and make another run at the same old play. They propose a medical malpractice bill that has been defeated over and over again, that does not even really reduce costs for providers or patients, and in the process actually reduces remedies for patients. They propose a bill claiming to help small businesses, but it actually hurts patients by removing existing coverage and protections and exacerbates the problem of the underinsured.

So at the end of Health Week in the Senate, all we have to show the American people is more of the same—the same 46 million with no insurance, the same 16 million people with inadequate insurance, and the same families working 40 hours a week to earn a living for their family but still unable to afford quality health care for them.

Instead of leading us down a dead-end road, as Republicans have done this week, we should be on the expressway to real health care solutions—legislation such as the Stem Cell Research Enhancement Act, legislation to extend the enrollment deadline for the new Medicare Part D drug benefit, legislation to provide real solutions to the large and growing number of uninsured Americans, and legislation to address long-term care needs that will only become more pressing as the baby boom generation ages.

The Republican proposals being considered this week never even received a hearing or a vote in their committees of jurisdiction and were destined to fail from the beginning. Is this really all the majority party plans to address regarding the endless needs of our health care system? I believe we can and must do better.

First, Alzheimer's disease does not boast a party affiliation. Neither does cancer or diabetes or Parkinson's disease. Yet, potential cures to these debilitating and fatal diseases are being ensnared in political wrangling, posturing, and obstruction.

Today, almost 35 years after President Nixon declared war on cancer, the Federal Government and Washington Republicans remain AWOL in the fight against this fatal illness and a host of other debilitating diseases. While we have made great strides in researching potential vaccines and cures, our colleagues on the other side of the aisle choose to tie our researchers hands.

The bottom line is this: When your life—or the life of a loved one—is on the line, you never give up and you never limit your options—never. You never lose faith, and you pursue every option, every sliver of hope, of finding a cure.

This issue is about more than statistics, it is about more than numbers on a fact sheet. These are real people. These are families. These are mothers and fathers, sons and daughters, aunts and uncles. These diseases cut through race, age, religion, country, and political affiliation. We all suffer, which is why we must move beyond the usual partisan posturing and fight for expanding research.

I had the opportunity to vote on this stem cell legislation in the House of Representatives, where we had broad, bipartisan support. And I believe that same bipartisan support exists in the Senate, which makes it even more difficult to understand why we cannot come together and do something meaningful for those who are suffering.

We have an opportunity to do what is right, and the majority has again let that opportunity pass them by. This bill means so much more than ending restrictions placed on stem cell research. This bill means hope for the individuals challenged and fighting to live a life with dignity.

Stem cell research has vast potential for curing diseases, alleviating suffering, and saving lives. I know my colleagues recognize the enormous potential of this research too, and it is time to clear the way for discovering new cures and therapies and bring this bill to a vote.

Another thing we cannot ignore is the fast approaching deadline for seniors to enroll in a Medicare prescription drug benefit without being penalized. We need to stand up for our seniors and extend the deadline so that our seniors have time to choose the plan that is right for them.

When the Federal Government rolled out the new benefit, and it did not go as planned, States such as New Jersey stepped up to the plate and provided emergency drug coverage to seniors and people with disabilities in need. Now the Federal Government has a responsibility to recognize its shortcomings and give our seniors a chance to enroll without having to pay the price for the Federal Government's mistakes.

And the concerns go beyond just seniors' drug benefits. There is also a grave concern that seniors and people with disabilities may lose access to their local neighborhood pharmacies. Almost any senior will tell you that they rely on their local pharmacist to help them when they have complications with their drugs—whether it is interactions between drugs or problems getting their medications.

I recently heard from Adolph Gonzalez and Alan Garcia who run the North Bergen Pharmacy, which has been open and serving its customers for the past 21 years. Unfortunately, since prescription drug plans are not paying their claims in a timely fashion, pharmacies such as this one are dipping into their line of credit, taking out loans and scrambling to stay afloat. Unless things change, pharmacies such as the one in North Bergen, NJ, are going to be forced to close their doors.

I introduced legislation to address problems with the Medicare Part D drug benefit and so have many of my colleagues. All of us recognize that unless we start making important changes to improve the program, seniors are going to see lapses in their care. We must be committed to making sure that all Americans have a comprehensive drug benefit that allows them to take the medication prescribed by their doctors, provides them the information and flexibility to pick a plan that works best for them without being penalized, and allows them to continue visiting their local pharmacy.

Unfortunately, the majority party is not going to allow us the opportunity to improve the Medicare Part D prescription drug benefit this week. Our fight for seniors is one we are going to continue, but one that has been overlooked this week in the U.S. Senate.

Second, the unproductive nature of this week is most insulting to the 46 million people across the country who have no health insurance at all—1.3 million in New Jersey alone. No American family should be forced to skip a trip to the doctor because they fear it will also mean an unfortunate trip to the bank.

That is why I strongly support initiatives that will help small businesses afford meaningful health insurance for themselves and their employees; increase coverage for uninsured parents by extending the State Children's Health Insurance Program, SCHIP; and help Americans nearing retirement buy into Medicare—programs that have proven successful in reducing the uninsured and providing access to quality coverage.

In addition, I introduced the Health Care COSTS Act, which will help hardworking Americans afford their health insurance when they are between jobs by providing an "advanceable" tax credit for half the cost of COBRA premiums. As I mentioned earlier, the average cost of a family health plan exceeds a full year's earnings for a minimum-wage worker, so there is no way most families can afford to continue to purchase coverage if they lose their job and have to find another.

Instead of debating a bill that will preempt the important New Jersey State coverage protections—including coverage of cervical cancer screening, contraceptives, home health care, mammography screening, mental health parity, and prostate cancer screening, to name a few—and protection against age discrimination in setting premiums, the Enzi bill takes the high bar of health insurance for New Jersey, and lowers it to a dangerously low level that strips away the coverage our State fought so hard to get.

The choice before us this week—the Enzi bill or nothing—is a false choice. This policy will result in reduced access to important health benefits and substantially increase premiums for people who need coverage most. It will allow insurance companies to cherry-pick the most profitable patients and punish those who need coverage most. It will allow companies to discriminate against older, sicker patients by charging them 3 exhorbitant premiums for the care they get. It will pit young versus old, the healthy versus the sick. These are false choices, and we should not allow the majority to force us into making them.

What we should be doing is considering a bill that preserves State benefits and prevents such cherry-picking. By offering small businesses access to the Federal Employees Health Benefits Program, which has provided extensive benefit choices at affordable prices to me, my colleagues, and all Federal employees for decades, we can do just that.

By pooling small businesses across America into one risk and purchasing pool like the Federal Employees Health Benefits Plan, the new Small Employees Health Benefit Plan will allow employers to reap the benefits of group purchasing power and streamlined administrative costs, as well as access to more plan choices. That is why I support the Lincoln-Durbin alternative. Unfortunately, the Republican leadership has refused to let us have a full debate and up-or-down vote on this proposal.

Finally, the challenge of caring for our aging population will only increase as the baby boom generation grows older and our life expectancy increases. We need to work now to address the challenges of providing affordable long-term care, encourage future retirees to plan for their own long-term care, and strengthen our existing programs to address this growing need.

I have introduced legislation to do just that. This week we should be supporting legislation that helps all families afford to care for the ones they love while also preparing for their own long-term care needs.

While I am disappointed in the partisan nature of this week's debate, it makes my commitment to fighting for the health and well-being of all Americans that much stronger. I call on my colleagues to finally make the health care priorities of the America people the health care priorities of the Senate.

No longer should we avoid a vote on stem cell research, a vote on improving the Medicare Part D prescription drug benefit, a vote for a real solution to solve the issue of the uninsured, and a vote to help our growing senior population age with dignity. At the end of so-called Health Week in the Senate, we will have accomplished nothing for the millions of Amerians who are uninsured or underinsured and struggling every day to provide health care for their families.

Mr. BAUCUS. Mr. President, I rise today in support of the State Health Insurance Assistance Program. I filed amendment No. 2917 to increase resources for this important initiative.

The State Health Insurance Assistance program, known as SHIP, provides one-on-one counseling and assistance to people with Medicare and their families. Congress created the program in 1990 so that Medicare beneficiaries could obtain free, unbiased and personal assistance with their health benefits. Today, SHIPs operate in all 50 States, Washington, DC, and the territories.

Over the last 2 years, SHIPs have had the formidable task of helping Americans understand the new Medicare prescription drug benefit. In all States, SHIPs enlisted the help of thousands of volunteers—over 11,000 nationally—for a massive public outreach campaign.

SHIP counselors and volunteers—like Bobbie Roberts and Sue Bailey in Billings, MT.—conducted public education programs at senior centers, hospitals, assisted-living facilities, libraries, and other public venues. They answered questions via telephone and in face-to-face sessions. And they spent countless hours helping Medicare beneficiaries choose and enroll in a drug plan that best meets their needs.

These folks deserve our thanks. They are truly unsung heroes who have helped make the drug benefit a reality for millions of people with Medicare.

And they did all this on a shoe-string budget.

The Centers for Medicare and Medicaid Services, CMS, operates the Medicare Program. As such, CMS is responsible for providing funding to the SHIP. But last year, in the midst of the largest Medicare expansion ever, CMS provided SHIPs just $32 million to carry out their important work. Thirty-two million dollars sounds like a lot of money. But when you think about the workload the SHIPs faced, it is not much. In fact, that $32 million translates to only 70 cents per Medicare beneficiary. A five-county region in Montana about the size of Delaware received about $8,500 in SHIP funds for the entire year. That is not enough. I believe that the lack of sufficient resources for SHIPs goes a long way toward explaining why enrollment in the drug program continues to lag.

I might also note that the $32 million CMS provided to SHIPs pales in comparison to the roughly $300 million CMS spent promoting the new drug benefit. That $300 million went to programs like the toll-free 1–800 Medicare hotline.

Last week the nonpartisan Government Accountability Office, GAO, Congress's investigative arm—found major flaws with the Medicare hotline. GAO found that the Medicare hotline failed to give seniors correct information on one key question—which plan offered the lowest costs for individuals taking a given set of drugs—almost 60 percent of the time.

And what about some of the other funding devoted to promoting the drug benefit? CMS spent some of the funds on a bus tour. In 2003 CMS spent $600,000 to promote Medicare with a blimp at football games. And other funding went to Ketchum Communications, which produced simulated news reports on the drug program. In 2004, the GAO found that these videos violated the government ban on publicity and propaganda.

We can do better. We can promote the drug benefit in more cost-effective ways by appropriately funding SHIPs. Recent findings from the Medicare Payment Advisory Commission underscore this assertion. A recent study by MedPAC suggests that only 1 in 5 people used the Medicare hotline and only 1 in 10 used the Medicare Web site to make decisions about their Medicare drug coverage.

And even though this year's enrollment deadline is almost upon us, the hard work is not over. Enrollment in the Medicare drug benefit is still too low in many States. In Montana, 40 percent of people with Medicare still don't have any form of drug coverage. A study released yesterday by Families USA estimates that most people who haven't signed up have low income and would qualify for the extra help that Congress included in the drug benefit.

We need to increase SHIP funding to help meet challenges that lie ahead. My amendment would provide $25 million for States to expand their SHIP activities. Funds also would be available for innovative programs in States where Medicare drug coverage is low. And funds would be available to CMS to promote the existence and services of SHIPs.

As the new program evolves, many people with Medicare and their families will have even greater need for a reliable source of impartial advice. And more needs to be done to help low-income people enroll. Many of us voted for the drug benefit because we believed it would help people who need help the most. Let's make that happen in every community in every State. Let's devote resources to a program that works. Let's help thousands of volunteers help our seniors. Let's increase vital resources for the State Health Insurance Assistance Program.

Ms. MIKULSKI. Mr. President, I rise today to support America's small businesses. I know how important small businesses are to the health of the economy and to the communities that they serve. I know that small businesses are struggling to provide health care for their workers. We should move to offer small businesses reasonable solutions. I commend Senator ENZI for tackling such a tough issue, but this bill would ultimately end up increasing the cost of health care coverage for those that need it most.

We need to be talking about improving health care for all Americans at any age and making the care more affordable for patients, as well as employers. American families are feeling stressed and strained, facing the ballooning cost of health care. Health care coverage is one of the most important issues facing Americans who are worried they will lose coverage, and won't be able to afford the care they need.

It is true having health insurance is crucial but it cannot be just any health care packet; it must be a comprehensive packet. One of the big problems with Senator ENZI's bill is allowing insurance companies, instead of State-elected legislators who speak for their constituents, decide the benefits that consumers should have when they purchase health care.

The benefits I am most concerned about protecting are preventive services. There is a reason that so many of these benefits mandated by States are preventive service—they wouldn't have been included otherwise. There is a reason Maryland guarantees access to mammography—insurers were not covering it. There is a reason that diabetic equipment and supplies are a guaranteed benefit—beneficiaries were complaining that they couldn't get the supplies covered.

Imagine being diagnosed with diabetes—there are in fact 21 million Americans who have received just this diagnosis. Then imagine being told you must carefully check your blood sugar to keep your disease in control—but your insurance company won't pay for this? The American Diabetes Association estimates that it costs $13.243 for every patient to manage their disease. This is what health insurance is for. Most States have recognized the importance of guaranteeing coverage for diabetes supplies and education and have passed laws that provide this coverage to residents in State-regulated health plans. We must not undo what these States have identified as important covered services.

And what about mammograms? Breast cancer is the most common cancer among women, accounting for nearly one of every three cancers diagnosed in the United States. Over 40,000 deaths from breast cancer are anticipated this year alone. Screening and early detection are critical for decreasing the mortality rates of breast cancer. Our reduction in cancer mortality depends on the increased use of mammography screenings for early detection of this disease.

I have worked hard in Congress to ensure women have access to quality mammogram care. I authored the Mammography Quality Standards Act, MQSA, over 10 years ago. This improved the quality of mammograms by setting federal safety and quality standards for mammography facilities. This includes personnel, equipment and operating procedures. Before MQSA became law, there was a patchwork of standards for mammography in this country. Radiation levels used on patients varied widely, equipment was shoddy, and physicians often didn't have proper training. I went to work in Congress to set national standards, helping to make mammograms a more safe and reliable tool for detecting breast cancer.

My own State of Maryland is one of the many States that mandates insurers provide mammography screening. We know this saves lives. Maryland also mandates insurers provide coverage for breast cancer patients who participate in clinical trials, so we can work toward a cure for breast cancer.

Covering services that prevent health conditions is not only sound health policy, it is sound fiscal policy. By finding and treating diseases early we will save the U.S. taxpayers millions of dollars. In fact, it is the only real way to really decrease the cost of health care in this country.

Knowing how important health insurance coverage is for small businesses, I have joined 26 of my Senate colleagues to support the Small Employers Health Benefits Program, SEHBP, which gives small businesses affordable choices among private health insurance plans and expands access to health care coverage for their employees. The SEHBP would allow small businesses across America to band together for lower health care prices by pooling their purchasing power and spreading their risk over a large number of participants. Employers would qualify for an annual tax credit to partially offset contributions on behalf of low-income employees.

I came to the Senate to change lives and save lives. We need to guarantee that more Americans have access to services that prevent and treat chronic illness. Unfortunately, S. 1955 will not do this and in fact this bill will compromise the coverage people already have. I will continue to work toward a solution for affordable health care for patients and employers. I will fight to make a difference. Together, we can change lives.

The PRESIDING OFFICER. Who yields time?

Mr. ENZI. I reserve the remainder of the time.

Mr. KENNEDY. Mr. President, I believe we have 10 minutes. I yield 5 minutes to the Senator from Connecticut and I will yield myself the remaining time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleague from Massachusetts and very quickly say to our good friend from Wyoming as well. I appreciate his interest in the subject matter and his concern about it. I want to point out to our colleagues why I am terribly disappointed with the procedures we have been confronted with this evening dealing with this legislation.

In committee we spent quite a bit of time and had some rather close votes, tie votes on a number of amendments that were not adopted to the underlying bill.

I raise two issues here in the very short time we have remaining. First is the process itself. This is the Senate. This Chamber historically is the place where debate occurs. To have a process here this evening on an issue where we have dedicated the entire week to health care and then to basically lock out any amendments that might be offered to this proposal runs contrary to the very essence of this body.

Whether or not you are impressed with the substance of this bill, if you believe the Senate ought to be heard on a variety of issues relating to the subject matter—when the amendment tree has been entirely filled, then obviously we are dealing with a process that ought not to be. Even if you are supportive of the bill, it seems to me the Senate ought to be a place where we can offer amendments, have healthy debate over a reasonable time, and then come to closure on the subject matter.

I am terribly disappointed. I know there are relevant issues and irrelevant issues. Members wanted to talk about things such as extending the time on the Medicare proposal. It is going to expire on May 15. That is not an unreasonable proposal, in a Health Care Week, when you are debating these subject matters. My colleagues wanted to talk about prescription drugs, to spend an hour or two out of the entire week to debate whether we ought to have a different proposal regarding prescription drugs. I don't think that is asking too much of this body, for one small debate about an issue that is so important to people. Even amendments designed to help small business would have been prohibited from being offered here as a result of this process. I am terribly disappointed that we are not going to have a chance to talk about this bill in a broader context where Members could bring their ideas to the debate.

The second issue deals with the substance itself. My colleagues ought to take note. The key word here is preempts, because this bill preempts our States—each and every one of us—from having the kind of health care benefits that have been debated and discussed and adopted by our respective States. We each have unique problems. I mentioned earlier this week in this debate, Lyme disease is a huge issue in my State. It originated and was discovered in the town of Lyme, CT. I live 2 miles away from Lyme, CT. People in my State are deeply worried about that issue. So the State of Connecticut in its wisdom adopted as part of its health care plan a requirement that insurance cover Lyme disease.

I recognize that may not be an issue in the State of some other Member. But we ought to allow Connecticut and every other of the 49 States to decide how they can best serve their constituents, their people, when it comes to health care coverage. This bill preempts my State from deciding whether they can cover certain problems that are unique to my part of the country.

And second, of course, we preempt the States when it comes to setting any kind of rating rules. That is a critical issue because even if you have a comprehensive plan, if you allow the industry to price those products way beyond the reach of the average person, then de facto they are eliminated. So we preempt them on what they can cover and we preempt the States from determining what the prices ought to be for the insurance products that will be sold.

I point out to my colleagues, not a single Governor has supported this bill. Not a single attorney general, not a single insurance commissioner. Over 200 health care organizations have said this bill is flawed and it ought not to be approved.

We are urging our colleagues to reject this proposal. Listen, if you will, to what a business organization in my State had to say about this bill. The Connecticut Business and Industry Association represents 5,000 small businesses in the State of Connecticut. They said:

> We believe that in Connecticut federally certified AHPs would destabilize the small business insurance marketplace, erode carefully crafted consumer protections and raise premium rates for small businesses with older workforces and those that employ people with chronic illnesses or disabilities.

That is a business organization representing 5,000 small employers. This is not an organization that says those words lightly.

For those reasons, for process and procedure, as well as preempting state benefits and rating rules, this bill ought to be rejected. I urge my colleagues to do so.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I understand we have 5 minutes. Will the Chair let me know when I have 30 seconds remaining, please.

I want to pay tribute to my two colleagues who are in support of this, Senator ENZI and Senator NELSON. Senator ENZI and I, and Democrats on our committee and Republicans alike, have worked very long and hard on a whole range of different issues.

We have made important progress. We are going to continue to do so, but we take exception on this issue.

I commend the staff as well for all of their good work and help and assistance.

Senator NELSON, who has been enormously concerned about the problems of small business, has talked about this issue with me and, I know, with other Members here on different occasions. He was such a strong voice when we were considering the Patients Bill of Rights legislation. I always enjoy working with him, although we have a different position on this issue.

We are in the last few minutes of this debate and discussion. In these last few minutes, I want to join with those who have expressed a certain amount of frustration in being unable to address maybe a handful of different health care issues that I find are of concern to the people of my State. In traveling around the country, people are concerned about the prescription drug program. They are concerned about the high cost of prescription drugs. They are concerned about the problems small business has. But we do not believe the proposed solution that has been advanced by Senators ENZI and NELSON is really the best way. We have had a brief debate over this proposal and over an alternative way that we think would be more comprehensive, more realistic, and more expansive than reaching the 1 percent or 2 percent of those who are uninsured and who, according to the Congressional Budget Office, will be covered under the Enzi proposal.

The reasons the insurance commissioners have serious reservations, the reasons the Governors and the attorneys general have taken exception to this legislation, are very important and have been stated again and again; first is this bill's effective preemption of a number of the very important benefits that my State of Massachusetts and a great number of the States in this country have been willing to write into law, to provide protections for their citizens. These protections are in the area of cancer, in the area of cancer screening, in the area of mental health, in the area of diabetes, and well-baby care. State laws have effectively been preempted. The people of my State will no longer be assured of those kinds of protections, if this legislation passes.

The second point, which has been raised again and again, is the question of raising premiums. In the legislation we refer to this as rating. In the initial Enzi proposal, it would have been possible to have a 25-fold variation in the cost of insurance premiums—from $100 to $2,500—based upon your age, your past health history, or that of your family. We know what would happen.

When you allow such variation, you are denying people an effective health insurance program. That is what Blue Cross-Blue Shield says in Massachusetts, my own State. They basically say that younger people will be able to have insurance, but the older people and families who have had health care challenges will be knocked off, unable to afford it.

What will happen? These people will go to the public health clinics, with the State having to pick up the cost. That is what Blue Cross-Blue Shield in my State says. This proposal is a shifting of the cost.

In this very excellent letter, which I will ask to have printed in the RECORD, Blue Cross-Blue Shield in my State has been ranked among the top five plans in the Nation by U.S. News & World Report.

In this letter, Blue Cross-Blue Shield warns us about preempting the State regulations of rating and benefit requirements. They say do not do this. It will have a bad effect on our seniors. It will increase the number of uninsured and transfer the costs back to the public. The taxpayers will pick it up.

We believe Blue Cross-Blue Shield and the other organizations that have been identified are correct. This bill should not pass at this time. We are prepared to work with the Senators from Wyoming and Nebraska to try to deal with these health care challenges.

I ask unanimous consent to have the aforementioned letter printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BLUE CROSS BLUE SHIELD
OF MASSACHUSETTS,
May 10, 2006.

Hon. EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KENNEDY: On behalf of Blue Cross Blue Shield of Massachusetts, I am writing to express our opposition to S. 1955 ("the Health Insurance Marketplace Modernization Act"). The legislation being considered by the United States Senate will completely undermine the historic health care achievements made by Massachusetts for which you played a critical role.

At Blue Cross Blue Shield of Massachusetts, we are committed to providing access to affordable, quality health care to the citizens of Massachusetts. With over 2.9 million members, we are proud to be ranked among the top five health plans in the nation by U.S. News & World Report and the National Committee for Quality Assurance.

As you know, S. 1955 preempts state regulations as to rating and benefit requirements. In so doing, it seriously destabilizes the small group market nationally and critically disrupts states, like Massachusetts, that utilize community rating. Under Enzi, medical underwriting is permitted as are premium surcharges based on age, gender, geography and group size. In Massachusetts, older and sicker individuals will face increased premiums, as will the self-employed and smaller businesses.

Despite its intended goal, the Enzi legislation will actually lead to a rise in the uninsured in Massachusetts as older, sicker workers lose coverage. According to a recent study by the Lewin Group, there will be an increase of over 37,000 uninsured in Massachusetts with an associated rise in uncompensated care costs of over $8 million. Needless to say, this places a further strain on our health centers, community hospitals, urban medical centers as they see increased uninsured and unhealthy individuals.

The Enzi legislation takes a completely different tact to increasing access to affordable insurance than the Massachusetts health reform bill. The Massachusetts approach seeks to pool risk and optimize coverage to benefit the community. S. 1955 would lower costs for individual groups by basing their rate on their own particular risk and minimizing coverage. The Enzi approach may serve to increase access to young and healthy small groups but does so at the expense of older and sicker populations. From a philosophical and practical standpoint, the two approaches cannot coexist.

The impossible dream, to which you so eloquently spoke, of quality health care that will truly be available and affordable for each and every man, woman, and child in our state, will become just that—impossible—if S. 1955 is allowed to pass.

We thank you for your ongoing efforts for our shared goals of ensuring access to affordable, quality health care to the citizens of the nation and our state of Massachusetts and urge you to continue to vigorously oppose S. 1955 so that it fails in the Senate.

As always, please do not hesitate to contact me.

Sincerely,

CLEVE L. KILLINGSWORTH.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Wyoming.

Mr. ENZI. Mr. President, actions speak louder than words. People are going to have a chance in a little while to show some action for small business. Once in a while there is a moment when you have a chance to make a difference.

Today, most of the Democrats appear to be willing to sacrifice that moment to make a statement. They are saying we cannot give small business anything until we have votes on stem cells, until we have votes on prescription drugs, until we have votes on drug importation, and to heck with the small businesses. What kind of an attitude is that?

The Democrats' argument is: We are going to deny small business anything until we get them everything. Of course, they are promising everything in their bill.

Let us get this clear. The Democrats care so much about families employed by small business that they are willing to keep them from having any insurance until they find a way to provide everything they think they need. Spare me the care. We have a lot of smokescreens. One of the smokescreens is the process did not allow them to have votes.

I asked unanimous consent a little while ago, and I said I will guarantee you a vote on Durbin-Lincoln. I will guarantee you debate on Durbin-Lincoln. I will let that happen right after cloture.

The reason that has to happen is because of the process of the Senate; otherwise, they only get a vote and they still block me from getting a vote on this bill that has been worked out with the insurance commissioners, and with the associations.

That is a smokescreen. There is going to be a vote on whether we care to debate some more on small business. There can be amendments after cloture. Amendments will allow you to cover everything that has been mentioned over here, whether it is ratings or whether it is mandates.

Let me tell you that mandates is another smokescreen. Where this has been done inside States, the companies that had the right not to have mandates, it covers the ones that you mentioned. This is about being able to have enough opportunity to expand across State lines where there are 1,800 different mandates. You have to be able to get them together so that small businesses can go together across State lines and gather a big enough pool to effectively negotiate against insurance companies.

Yes, there are some insurance companies that are writing letters saying: Do not let them do this. There is a profit motive. I can't blame them for that. But what the small businesspeople are really asking for on that is the same thing that big businesses have. We already excluded big business from all of the mandates and the oversight by States. We are not going that far.

We even have some provisions in there, and I am sure with some amendments there would be some mandates in there. Here is where the savings come in for these small businesses. I am extremely excited about this.

The cost for administration for a small business policy is about 35 percent. If you check with Wal-Mart, which is excluded from everything and gets to have their own plan, their cost of administration is 8 percent. The savings are in the administration. That is 27 percent which they save.

For every 1 percent of savings, insurance brings in 200,000 to 300,000 people into the market.

There are 27 million uninsured small businesspeople and employees out there. They are like families.

I was talking to Senator HARKIN. He was telling me about a small businessman he knows. These small businesses are kind of interesting. They go to church with the same people who work for them. They go to watch baseball with the same people who work for them. Their kids are in the same little league. They go to the same organizations. And this small businessman said: I have to tell them that I can't afford the insurance anymore. And I still want to live with them. I want my family to have insurance, but that is not going to happen.

This is an opportunity to make a difference, to offer amendments to perfect the bill in whatever way the majority of people think needs to be done. Anything else is a smokescreen.

I gave them an opportunity to vote on Durbin-Lincoln. I gave them an opportunity to vote on this, but it was an assurance that we would get to vote on both, so small business would get a vote. There is going to be a vote on small business.

There are hundreds of people around the Capitol right now who are with small business who are saying: We need the opportunity to have a better health care plan. Some of them will get insurance for the first time; some will get a better health insurance plan.

As an accountant, I have to remind you that this is not a case of subtraction. This insurance plan is an addition. We are bringing in newly insured people. Anybody who votes against cloture needs to go to their dry cleaners tonight to pick up their laundry and look that person in the eye and say: I do not think you deserve health insurance because you might not demand enough for yourself. So you know what? I saved you from yourself. Can you say that to the mom and pop running the business down the street from your home? Can you say that they do not deserve health insurance? As you go home today after you leave the Hill, think about the people around you, the regular people—the cab driver, the worker at the dry cleaners, the person in the neighborhood restaurant, all of those people you may not notice who really make the world operate. Many of them do not have any insurance. Some may even own that little restaurant around the corner and still not be able to afford the insurance. I am not talking about deluxe insurance; I am talking about any insurance.

So please overlook the smokescreen and vote to have some more debate and amendments and a vote on a small business health plan.

I yield the floor and yield the remainder of my time.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture on the pending modified substitute amendment to Calendar No. 417, S. 1955, Health Insurance Marketplace Modernization and Affordability Act of 2005.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending modified substitute amendment to Calendar No. 417, S. 1955, Health Insurance Marketplace Modernization and Affordability Act of 2006.

Bill Frist, Johnny Isakson, Sam Brownback, John Thune, Thad Cochran, Wayne Allard, John Ensign, Richard Shelby, Larry Craig, Ted Stevens, John McCain, Lamar Alexander, Norm Coleman, Judd Gregg, John E. Sununu, Pat Roberts, Craig Thomas.

The PRESIDING OFFICER. By unanimous consent the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the modified substitute amendment to Calendar No. 417, S. 1955, the Health Insurance Marketplace Modernization and Affordability Act of 2005 shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Pennsylvania (Mr. SPECTER).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 55, nays 43, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—55

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Landrieu
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—43

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Menendez
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—2

Rockefeller
Specter

The PRESIDING OFFICER. On this vote, the yeas are 55. the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. McCONNELL. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. McCONNELL. Mr. President. I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

The Senator from Wyoming.

Mr. ENZI. Mr. President. I thank the Senator from Hawaii for his kindness.

SMALL BUSINESS HEALTH PLANS BILL

Mr. ENZI. I want to thank everybody who has been involved in the debate on small business over the last several days. I thank Senator NELSON for the hours he and his staff put in working with me on this bill, along with Senator BURNS and his staff. I have said several times that our staffs worked in the same room with the same people from the different coalitions, including the insurance companies and the insurance commissioners, for so long that I thought some of them must be related. I really wasn't sure which ones were from whose staff anymore, either, because they were all working this important issue together. Obviously, we have some more work to do. but I am pleased with the vote we got.

I am disappointed that we didn't get the 60 and couldn't continue the debate right now, that we couldn't have amendments right now and for the next several days, resulting in a vote-arama that would have put the best possible face on it that we could from the Senate. I talked to Senator KENNEDY before and promised I would preconference it with the House before we did anything because this is a very critical bill. But this is the first time the Senate has gotten it to a cloture vote. We will only get it to cloture by working with people and getting some agreement. I am hoping we can bring this back up yet this year. I know there are small businesses that are going to be asking, pleading, begging that it be brought up again this year. Perhaps we can work some changes in the meantime that might make a difference and get us over that 60-vote margin. It is a little tougher in the Senate to pass than in the House because they only have to have a mere majority. We have to have that 60 percent which is a little bit tougher.

Senator KENNEDY and I have worked together on a lot of bills. I appreciate the courtesy he gave in committee. We had 68 amendments. We finished the work in two half days. That is probably a record around here for any committee which does show some cooperation. I am just sorry we didn't get to do the amendments like we did in committee, probably many of the same ones we had in committee. I guess my strategy was that those votes might put it over the top here and bring a few people in. I didn't know there would be such strong resentment built up by this time.

Of course, I am extremely disappointed with the cancer society and the diabetes society because I have never seen a letter that said, I don't care what you do, vote against this bill. That means if we had done the Cadillac of diabetes care and put it in the bill, they were still suggesting that people vote against it. That is unconscionable on behalf of the people that have diabetes or the people who have cancer. Both letters said the same thing. It was truly a disappointment to me.

I know some opposition was built for this bill. The insurance companies said they would be neutral. I noticed there was a little unneutrality there. But the small businessmen will be coming to town. They will be talking to people and expecting us to do something. I hope we can continue to do so.

There are a whole list of people I need to thank, but I will defer for the moment for some others to speak and come back and do that later.

I appreciate the fact that we were able to have a cloture vote.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I see the principal cosponsor on his feet. If he might indulge me for a moment, I want to give assurance to the small businesses and families of this country, we are not going away. We are all very strongly committed to getting decent, quality health care for all Americans. Today, we avoided taking a step backward. But we have heard the very eloquent statement of the Senator, my friend from Wyoming, who said he believes we missed an important opportunity to step forward. What I hope Americans will understand is that we have worked very closely together. We are committed to working closely together. We are going to try to find common ground in this area.

I again thank Senator ENZI for his leadership on health issues. I look forward to trying to find common ground on health care and other areas. I am grateful to him for all his courtesies.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President. I thank the distinguished cochair of the committee for his courtesies.

Naturally, I am disappointed with the outcome of the vote. Instead of thinking of it as a setback, I want to think of it as a step forward, because it is the first time since I came to the Senate that we have had a serious debate about the accessability and affordability of health care for small businesses.

I thank Senator ENZI for his great work. It has been a pleasure working directly with him. Not only is he tireless, he certainly is willing to listen to other people and has shown a great capacity to listen and to act on good advice. I thank him for that. He was able to bring together groups that had been on opposing sides for years. Through his leadership, this bill was brought to the floor.

I also thank his staff. I appreciate all the assistance they have given me as we have developed this legislation. They are true professionals: Steve Northrup and Andrew Patzman have devoted hours to researching and drafting the legislation and have so diligently reached out to my side of the aisle for suggestions, I now think of them as my satellite staff.

I also thank Katherine McGuire, who has been instrumental in guiding us through this process, and Brittany Moore, who has coordinated all of our information.

Particularly, I thank Senator KENNEDY for his gracious and agreeable manner in disagreeing on the substance of an issue. It is typical of his approach to the Senate. Especially I thank his staff: David Bowen, Stacey Sachs, and Brian Hickey from the Democratic Policy Committee. They have kept us on our toes.

The staff of the leadership offices also has been helpful. I thank Jay Khosla, a newcomer, and Liz Hall, a veteran, for their help. And particularly I thank my staff, both Kim Zimmerman and Amy Tejral, and others who have worked so hard to get us to this point.

Even though not all of my colleagues on this side of the aisle agree that this bill is the right answer for small businesses, I know and respect the fact that they want to find a solution. We all in the Senate want to find a solution, something that will deal with the availability and affordability of health care for small businesses and their employees. I am tonight encouraged that with this discussion, we will be able to move together and work together to find a common solution. Sometimes right after disagreement, there is a solution that is achieved.

I thank my colleagues on this side of the aisle for their willingness to listen and my friends for their votes.

The PRESIDING OFFICER. The Democratic whip.

Mr. DURBIN. Mr. President, let me join in thanking all Members who have been engaged in the debate. Although it did not result in the passage of a bill, I hope we did make progress.

First, let me congratulate again Senator ENZI for showing the courage to bring this matter to the floor. Very few Senators have done that. He did not succeed at this moment, but I believe his determination and the respect we all have for him will lead to a victory at another day, and I hope to be part of it. He showed himself to be genuine, committed to this issue. The small businesses who have entrusted him with this assignment couldn't have picked a better Senator. I would say the same for my colleague from Nebraska, Mr. NELSON. His knowledge extends back to his tenure as insurance commissioner as well as Governor. He certainly understands this issue better than most. I thank both of them for the personal commitment they made to this issue.

I also thank my colleague Senator BLANCHE LINCOLN. She and I worked together on this bill, and I couldn't have had a better partner. BLANCHE is down to earth. She understands these complicated issues and explains them the way the average person can understand them.

This is a matter I have been thinking about for a long time. I didn't come up with this notion in just the last few weeks. In fact, it has been months now since I invited Senator ENZI and many others to come to my office and listen as we explained what our concept was in hopes that we might work toward common ground. We weren't able to do that this time, but I hope we will the next time. I genuinely hope that those who want to engage in this important debate will have a similar starting point to our bill.

The first and obvious question that anyone should ask is: Senator, why do you propose health insurance for the rest of America that you wouldn't buy yourself? The health insurance we have as Members of Congress is the same health insurance Federal employees have, 8 million of them nationwide. My dream was to take that kind of group of 8 million diverse people who work for small businesses and create the same mechanism, the same pool so they could enjoy the same protection, the same benefits I have and my family has and the Members of the Senate have. If this health insurance is good enough for a Member of Congress, it is good enough for any American family. It should be our starting point.

Senator ENZI raised an important question. Why did so many health groups oppose his legislation? Some of them stridently opposed it. He mentioned two, the American Cancer Society, the American Diabetes Association. The reason they felt so strongly was that the legislation proposed on the other side eliminated the protections being offered by States for important cancer screening, for mental health care. Some 42 States cover mental illness, and the Enzi bill would have eliminated that coverage. When it comes to diabetes, it is true that at some point he could have offered diabetes coverage, but they are concerned that if this is a moving target, it could change tomorrow. That is why we have to get back to where we are as Senators, Congressmen, and Federal employees. We know what we are going to have. We know our protection. We can buy it. Shouldn't every American have that confidence and that peace of mind?

That is the starting point. The starting point is not reducing the protections and guarantees in coverage to such a low level that it leaves families exposed to medical ruin if the bills go too high. We should strike a balance which says that these preventive procedures, these screening procedures, this basic health insurance is what every American should have. It is much like a minimum wage. What we are talking about is the minimum guarantees of health insurance across America.

I know there are some things that are too expensive for us ever to cover in every health insurance plan, and we wouldn't suggest those. But if we have coverage for 8 million Federal employees with basic protection, why wouldn't we offer that to every American family? That should be our starting point. Then let's figure how we can work together with small business and with the health community to strike the right balance so the bill we produce will be one of which we will be proud.

Again, I thank Senator ENZI. I didn't believe we would ever have this debate on the Senate floor. I had almost given up hope. But because of his dogged determination, his skill and dedication, he brought us together for this week. It is not the end of the debate. I believe it is the beginning. I hope it ends with passage of a bill for small businesses across America and will bring us closer to the goal of universal health insurance coverage for every single American. I think we can achieve that goal if we work together in a bipartisan fashion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I had intended to present a list of people who worked for me, but a question was asked. I assume it was rhetorical, but I can't let it pass. The question—to me, I assume—was, why offer what you wouldn't buy for yourself for others?

If I were in small business—and I was—and I was faced with rising health costs—and I was—I would have been happy to have been able to buy this insurance for my employees. There is a whole different level of living out there. It is called small business. We usually think if you are in small business, you are making lots of money. A lot of times the employees are making more than the bosses. The bosses buy insurance because that is how they insure their family and they get a group. That helps them, too. But when you have a group, that means that the people in the group get exactly the same insurance you do. You don't get the same package as the Senate.

I will admit that the Senate has a pretty nice package. I would also like to tell you, though, that when I was in small business, when I was in the accounting business, I had a better package than I have in the Senate. So it is available out there. It costs a lot of money. I was trying to find some way to bring that cost down.

On your bill that you would have liked for everybody in America to have—the same thing as the Federal employees—it didn't get there. I would have been happy to have had a vote on that and had that debate. I offered you that opportunity. I wish you would have taken me up on it. We would have had cloture. We would have had a vote on your bill, and we would have had a vote on my bill. That is all it took. It just took a few more votes and we would have had the 60, and small business would have had some resolution tonight that they are not going to have.

You have to remember that everybody isn't living at the same level out there, and we have to watch out for those small businessmen because they are the ones who are taking care of the backbone needs of this country every single day.

I apologize for going on with a little bit more debate. I thank the Senator from Hawaii. I do need to express some thanks because there are a couple people here that are on this list that I have to keep away from ledges and high buildings yet tonight. They have devoted their life for about the last year and 5 months to this, every day that they possibly could, and through the nights and the weekends, and we came up with this bill, working with some unusual groups. I particularly have to thank Andrew Patzman for his patience, ingenuity, capability, and his constant work. Of course, Steve Northrop probably helped a lot on that because he has a fine sense of humor and an extremely quick wit. That helped us out in a lot of those situations where we were trying to pull everything together after a long time.

I thank Katherine McGuire, who is the director of the Health, Education, Labor and Pensions Committee. While we are doing this, we are also trying to do the pensions conference and a whole bunch of other things. I don't know of anybody who has the capability that she has to juggle as many things at one time as she does and still do a great job of being a mother. I have some really good people.

I could go through a whole list and mention Flip McConnaughy, my Chief of Staff, who held everything together for all of the Wyoming issues and my Wyoming staff. I will just mention some of these other people more quickly. The same kind of thanks to them, and I know what they have done to help out. Brittany, Tod Spangler, Craig Orfield, Ryan Taylor; and then from Senator GREGG's staff, Conwell Smith and David Fisher; from Senator TALENT's staff, Faith Cristol; from Senator SNOWE's staff, Alex Hecht and Wes Coulam; from Senator BEN NELSON's staff, Kim Zimmerman and Amy Terrell; from Senator ISAKSON's staff, Brittany Espy; from Senator HATCH's staff, Pattie DeLoatche and Roger Johns; from legislative counsel, Bill Baird has just done tremendous work with us; from Senator FRIST's staff, the leader, Elizabeth Hall and May Khosla and Charlotte Ivancic; from Senator ENSIGN's staff, Michelle Spence; from Senator MCCONNELL's staff, Scott Raab and Laura Pemberton; from Senator BURR's staff, Jenny Hansen; from Senator ALEXANDER's staff, Page Kranbuhl; from Senator ROBERTS' staff, Jennifer Swenson; from Senator DEWINE's staff, Melissa Atkinson and Karla Carpenter.

That is a whole group of people who have spent days, nights, and weekends working on this bill and making it possible to put together what we have.

I know they are dedicated to it and they will continue to work and we will work across the aisle and look forward to getting something done for small business. I know small business will be asking—perhaps even demanding—but there is a need out there. I hope everybody will recognize that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT OF 2005

Mr. AKAKA. Mr. President, I rise once again to discuss legislation I have introduced to extend the federal policy of self-governance and self-determination to Hawaii's indigenous peoples. S. 147 would provide parity in the federal policies towards indigenous peoples in the 50 states, to include American Indians, Alaska Natives, and Native Hawaiians.

To understand the importance of this legislation, one must understand Hawaii's history. Despite the fact that the Congress passed P.L. 103–150, the Apology Resolution, which recites Hawaii's history, many of my colleagues are unaware of our history. Let me provide some context of what we have experienced so that you might better understand the importance of this bill to my state.

Captain James Cook landed in Hawaii in 1778. Prior to Western contact, Native Hawaiians lived in an advanced society that was steeped in science. Native Hawaiians honored their land and environment, and therefore developed methods of irrigation, agriculture, aquaculture, navigation, medicine, fishing and other forms of subsistence whereby the land and sea were efficiently used without waste or damage. Respect for the environment and for others formed the basis of their culture and tradition.

The immediate and brutal decline of the Native Hawaiian population was the most obvious result of contact with the West. Between Cook's arrival and 1820, disease, famine, and war killed more than half of the Native Hawaiian population. This devastating population loss was accompanied by cultural, economic, and psychological destruction.

By the middle of the 19th century, the islands' small non-native population had come to wield an influence far in excess of its size. Westerners sought to limit the absolute power of the Hawaiian king over their legal rights and to implement property law so that they could accumulate and control land.

The mutual interests of Americans living in Hawaii and the United States became increasingly clear as the 19th century progressed. American merchants and planters in Hawaii wanted access to mainland markets and protection from European and Asian domination. The United States developed a military and economic interest in placing Hawaii within its sphere of influence. In 1826, the United States and Hawaii entered into the first of the four treaties the two nations signed during the 19th century.

The Kingdom of Hawaii, which began in 1810 under the leadership of King Kamehameha the first, continued until 1893 when it was overthrown with the help of the United States. The overthrow of the Kingdom is easily the most poignant part of Hawaii's history. Opponents of the bill have characterized the overthrow as the fault of Hawaii's last reigning monarch, Queen Lili'uokalani. Nothing could be further from the truth.

America's already ascendant political influence in Hawaii was heightened by the prolonged sugar boom. Sugar planters were eager to eliminate the United States' tariff on their exports to California and Oregon. The 1875 Convention on Commercial Reciprocity, eliminated the American tariff on sugar from Hawaii and virtually all tariffs that Hawaii had placed on American products. It also prohibited Hawaii from giving political, economic, or territorial preferences to any other foreign power. It also provided the United States with the right to establish a military base at Pearl Harbor.

The business community, backed by the non-native military group, the Honolulu Rifles, forced the prime minister's resignation and the enactment of a new constitution. The new constitution—often referred to as the Bayonet Constitution—reduced the King to a figure of minor importance. It extended the right to vote to Western males whether or not they were citizens of the Hawaiian Kingdom. It disenfranchised almost all native voters by giving only residents with a specified income level or amount of property, the right to vote for members of the House of Nobles. The representatives of propertied Westerners took control of the legislature. The Bayonet constitution has been characterized as bringing democracy to Hawaii by opponents to S. 147. The constitution was not about democracy—it was about a shift in power to business owners from natives.

On January 14, 1893, the Queen was prepared to promulgate a new constitution, restoring the sovereign's control over the House of Nobles and limiting the franchise to Hawaiian subjects. She was, however, forced to withdraw her proposed constitution. Despite the Queen's apparent acquiescence, a Committee of Public Safety was formed to overthrow the Kingdom.

On January 16, 1893, at the order of U.S. Minister John Stevens, American Marines marched through Honolulu, to a building known as Arion Hall, located near both the government building and the Hawaiian palace. The next day, local revolutionaries seized the government building and demanded that Queen Lili'uokalani abdicate. Stevens immediately recognized the rebels' provisional government and placed it under the United States' protection.

I was deeply saddened by allegations made by opponents of this legislation that the overthrow was done to maintain democratic principles over a despotic monarch. As you can tell by the history I just shared, our Queen was trying to restore the Kingdom to its native peoples after Western influence had so greatly diminished the rights of the native peoples in Hawaii. Colleagues, I want to ensure that you understand our true history and the bravery and courage of our Queen, who abdicated her throne after seeing U.S. Marines marching through the streets of Honolulu. She did so to save her people.

Mr. President, I also want to discuss the diversity of Hawaii's people. As I've said before, we celebrate our diversity as the sharing of our cultures, traditions, and languages; it is what makes us so special in Hawaii. Our diversity unifies us.

Colleagues, I want you to know that during the period of the Kingdom, many people traveled through and to Hawaii. In 1832, records indicate that there were 400 foreigners in Hawaii. Starting in 1852, sugar plantations began to recruit foreign workers to Hawaii. They included Chinese, Portuguese, Japanese, and Filipino workers. While many of these workers were temporary and returned to their homelands, a number of them stayed in Hawaii and have embraced the culture and traditions of Hawaii's indigenous peoples.

The opponents of this legislation first tried to represent this issue as a native vs. non-native issue. They failed to understand how we celebrate diversity in my home State and how so many embrace all things Hawaiian whether or not they can trace their lineage back to the aboriginal, indigenous peoples of Hawaii. The opponents also fail to understand the tremendous respect the people of Hawaii have for Native Hawaiian culture and the fact that the average person is not threatened by the idea of Native Hawaiians having recognition. The people of Hawaii understand that the preservation of rights for Native Hawaiians does not happen to their detriment.

The opponents of this legislation have tried to spread misinformation about the bill to lead non-Hawaiians to believe that their rights will be taken away if the bill is passed. This is not true. In the days to come I will elaborate more. Today, however, I wanted to share Hawaii's history and to explain the celebration of diversity and of multiculturalism in my home state. I am proud of my constituents—proud of their many cultures and traditions—and the fact that they are secure enough in their heritage to be able to support parity in federal policies for Native Hawaiians.

I ask my colleagues to join me in helping to do what is right, what is just for Native Hawaiians.

I look forward to the support that I will receive from my colleagues.

Thank you, Mr. President, for this opportunity to tell you about my history.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX INCREASE PREVENTION ACT

Mr. McCONNELL. Mr. President, we have had a very good week in the Senate. We had an opportunity to pass the Tax Increase Prevention Act an hour or so ago, which is going to make an important difference not only in the lives of a great number of individual Americans, but also it will be very critical in continuing this robust economy that America currently enjoys.

I commend Members of the Senate for stepping to the plate and passing this very important measure, and particular congratulations go to Chairman CHUCK GRASSLEY of the Finance Committee for his tenacious pursuit of this very important piece of legislation.

REAUTHORIZATION OF THE SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF 2000

Mr. SMITH. Mr. President, I rise today to engage in a colloquy with the majority leader, the Senator from Tennessee, regarding the reauthorization of the Secure Rural Schools and Community Self-Determination Act of 2000. This program is critical to bridge the gap in my State and others between what was, what is, and what will be the management direction of Federal forests. For nearly 100 years, counties across the country have shared in the productivity of Federal lands. They have received 25 percent of revenues derived from commercial activity on Forest Service lands, and under a separate statute—50 percent of BLM revenues derived from the O & C lands of western Oregon. In areas that are dominated by Federal forests, these revenues also dominate county government budgets—budgets that pay for public schools, road maintenance and public safety.

This issue is not one of permanently replacing forest productivity with a Government check. While I am a lead proponent of the safety net, which was not intended to be permanent, I have also tried very hard to restore common sense, predictability and productivity to the management of Federal forests. These lands are both ecological and economic assets that must be treated better.

Unfortunately, that day has not yet arrived. That is why we created a safety net in 2000. That is why we also passed the Healthy Forests Restoration Act. That is why we must consider dealing with postcatastrophic event legislation, why we must continue funding the Forest Service and BLM forest management programs and do the other things that are needed to create real jobs in the woods and return viability to rural communities.

Again, the day when forests are ecologically and economically sustainable has not yet arrived. What has arrived is an impending disaster if the county payments safety net is not extended. Oregon counties are not alone facing the hard times. Places such as Clearwater County, ID; Chelan County, WA; and Siskiyou County, CA, will also be devastated by failure to make a short-term extension of the Secure Rural Schools Act.

A commitment from the majority leader to work with me to identify offsets for an extension of the Secure Rural Schools Act will embolden our efforts and reassure rural counties in my State that this issue is of the utmost importance to the Senate.

Mr. FRIST. I thank the Senator from Oregon for his dedication to his State and all States that have been affected by the downturn in Federal timber receipts. He has been in close contact with me, the assistant majority leader and the chairman of the Senate Finance Committee communicating the significance and urgency of his cause. I commit to him to address the needs of rural counties and schools in Oregon and elsewhere. Working with the committees of jurisdiction, I commit to a thorough search for funding offsets so that these critical rural education programs can continue to serve the youth of those communities.

Mr. GRASSLEY. I am aware of Senator SMITH's concerns and pledge to work with him within the Finance Committee's jurisdiction, especially in the area of tax-exempt financing, to find the resources to assist the hard-hit areas to which he refers.

Mr. SMITH. I appreciate the commitment of the Senator from Tennessee to help identify the needed offsets to extend the Secure Rural Schools program and look forward to working with him closely in the coming weeks. I also thank the chairman of the Finance Committee for his consideration of this issue.

MEDICAL CARE ACCESS PROTECTION ACT OF 2006 AND HEALTHY MOTHERS AND HEALTHY BABIES ACCESS TO CARE ACT

Mr. KYL. Mr. President, I regret that, twice this week, the Senate has failed to address the problem of medical liability costs. I support S. 22, the Medical Care Access Protection Act of 2006, and S. 23, the Healthy Mothers and Healthy Babies Access to Care Act. Both of these bills would address the very real problem of access to medical care for people in my State and across the country. We have a crisis in the United States, and in particular in Arizona, when it comes to the availability of providers.

The terrible distortions in our medical liability system have been with us for years. In Arizona, we have seen emergency rooms that cannot remain open because there are not enough trauma surgeons and specialists to staff the ER, physicians who have decided to move from my State to States with more supportive medical liability law, and finally, doctors who have opted to retire early. It is troubling to have highly trained, dedicated, qualified members of the medical community leave or to give up their profession—all to the detriment of their patients.

This shrinking availability of physicians is due in part to the high insurance premiums that doctors are facing. In just 5 years, the premiums for general surgery in Arizona increased from $37,804 to $56,862—an increase of 50 percent. For obstetricians in Arizona, premiums in 2001 were $49,436 and are now averaging $72,734. These premiums are rising at a staggering rate in part because juries in malpractice cases have given high-dollar verdicts to plaintiffs. Some of the verdicts are merited; many, we know, are not. In the end, these legal excesses damage the medical liability system, push up premiums, and lead to the early exodus of physicians. The system is broken and it is patients who suffer.

Hard-working men and women who need emergency medical treatment face longer waiting times when there are too few physicians to staff hospitals. Instead of a few days, it takes weeks for children to be seen for complex conditions because of the lack of pediatric specialists. Our seniors are forced to drive longer distances because they are told that physicians are no longer seeing any new Medicare patients. The situation for both physicians and patients has grown bleak, and care is compromised.

We should address this by enacting meaningful medical liability reform. S. 22 provides full recovery of the cost of necessary medical expenses and lost wages in a medical negligence case. When a wrong has occurred, it is important that the patient be able to gain a legal settlement or verdict that meets his or her future needs. This has always been a hallmark of medical liability legislation I have supported because it is in the best interest of the patient. New to S. 22 is the Texas model of caps on noneconomic damages,limiting them to $750,000 for noneconomic damages from three parties. I hear constantly from physicians who share with me the escalating costs of medical liability insurance and the ways they have had to alter their practice to pay these bills.

We have had an exodus of specialists from emergency room on-call rosters, and as you might have expected, hospitals are having trouble recruiting new physicians to the area. Compared to the national average of 283 physicians per 100,000 people, Arizona has only 207 physicians per 100,000 people.

I recently got an e-mail from an emergency physician, Todd Taylor of Phoenix, who is leaving the clinical practice to go to Tennessee. He is giving up medicine at the age of 49, in part, he said, because he sees a bad situation getting worse. The American College of Emergency Physicians recently issued a "national report card" and graded the medical liability environment in Arizona a D-minus.

I also heard about a woman in Arizona who returned to her obstetrician to deliver her second child, only to find out that physician had stopped delivering babies because of the high liability premiums. Arizona cannot afford to have physicians leave the State or curtail their practices.

There are areas of my State like Apache County that don't have even a single obstetrician. That means women in labor have to drive to neighboring counties to deliver their children. Apache had only 34 physicians in the whole county in 2004 and has seen even more physicians leave the area since then. One physician there, Thomas Bennett, said that his liability premiums, coupled with decreasing reimbursement, forced him out of his practice after 25 years. Dr. Bennett was an OB/GYN and always practiced in rural areas. What a loss to that community and to our State. S. 23, the second bill I mentioned, would provide liability protection for those who deliver babies and might keep physicians in practice or encourage obstetricians to practice in underserved areas like Apache Conty, AZ.

This is not how the system was ever intended to work. If we want women and babies to enjoy the medical care they expect and deserve, we need to find ways to encourage physicians to practice throughout my State and throughout the country. We cannot afford to have doctors relocating to different States to find more favorable laws and for communities to go without vital services.

The health care community has asked for the protections it needs to continue to provide services.

My Senate colleagues should do the right thing for patients, physicians, and hospitals, and reconsider their opposition to medical liability reform now. We will keep coming back until they are willing to address this situation—not just for the medical community but for all of the patients it serves.

Mr. CHAMBLISS. Mr. President, I rise today to speak on the issue of medical liability reform. Earlier this week, we attempted to bring the issue of medical liability reform to the Senate floor for a debate. Two bills were offered, S. 22, the Medical Care Access Protection Act, and S. 23, the Healthy Mothers and Healthy Babies Access to Care Act, both medical liability reform bills. We had two votes that would have simply allowed us to proceed to a debate on these two bills. Both of these procedural motions failed, and unfortunately we were unable to discuss this very important issue in the United States Senate.

The American Medical Association has declared a medical malpractice crisis in 21 States, including my home State of Georgia. Hospitals, physicians, and patients in Georgia and across the Nation are being negatively impacted by rising costs in medical care and medical liability insurance premiums. Many health care providers have left their practices, retired, or moved to another State. As a result, we have seen a reduction in access to health care services and an adverse impact on the health and well-being of the citizens of Georgia. A new medical liability law in Georgia hopefully will help to improve the quality of health care services and assist in lowering the cost of health care liability insurance in my State. I applaud the lawmakers in the State of Georgia who took the time to address this issue on the State level and craft a law that will be beneficial to our physicians and patients.

I was disappointed that the Senate was not able to bring this discussion to the floor. Many of my colleagues and I would have enjoyed the opportunity to participate in a healthy debate. While I do not agree with all aspects of the two proposed pieces of legislation, it is vital that we move forward with a discussion if we ever expect to find a solution. Many of the issues that come before the Senate are not easy ones. In order to find compromises, this body must participate in debates.

Meaningful medical liability reform, at the Federal level, should help rid our court system of frivolous lawsuits, while addressing those who are seriously injured because of negligence. This reform would have to allow injured victims compensation for economic damages—medical expenses, rehabilitation costs, and loss of wages and future earnings—as well as reasonable awards for pain and suffering. We need a system that allows patients the right to pursue any cause where injury is the result of negligence; while at the same time, we need a system that provides reasonable protection to hospitals and physicians.

Our doctors throughout the country do amazing and heroic things everyday. I commend all of them for the hard work and long hours they put in to help ensure the health and wellness of the citizens in our great Nation. I am disappointed that the Senate could not move forward with a discussion on medical liability reform.

HONORING OUR ARMED FORCES

STAFF SERGEANT GREGORY WAGNER

Mr. JOHNSON. Mr. President, I rise today to pay tribute to SSG Greg Wagner and his heroic service to our country. As a member of the South Dakota National Guard, Staff Sergeant Wagner was deployed to Iraq with the Battery C, 1st Battalion, 147th Field Artillery based out of Yankton. On May 8, 2006, he died when his convoy was attacked in a Baghdad neighborhood.

Greg graduated in 1989 from Hanson High School in Alexandria. Soon after his graduation, he enlisted in the South Dakota National Guard. Al Blankenship, the Commander of the American Legion in Alexandria, remembers him as a true military man. Dedicated to the South Dakota National Guard, he worked full time as a heavy equipment mechanic at the National Guard maintenance complex in Mitchell until his unit was deployed in October 2005. Greg was a team leader for his unit, which was tasked with training and evaluating the Iraqi police force in one of the city's police districts.

Greg's high school football coach, Jim Haskamp, remembers him as a very loyal person, which was evident in all aspects of his life. Greg's favorite past time was football. Haskamp recalls that, "You could chew him out for something, and he'd come back and thank you for trying to make him better."

Sergeant Wagner gave his all for his soldiers and his country. Our Nation owes him a debt of gratitude, and the best way to honor his life is to emulate his commitment to our country. Mr. President, I join with all South Dakotans in expressing my deepest sympathy to the family of Staff Sergeant Greg Wagner. He will be missed, but his service to our Nation will never be forgotten.

FIRST SERGEANT CARLOS N. SAENZ

Mr. ENSIGN. Mr. President, next week, the family, friends, and comrades of 1SG Carlos Saenz will gather to say a final goodbye as he is laid to rest at Arlington National Cemetery. I pay tribute to his life and legacy.

Carlos Saenz will be buried at Arlington in the company of some of this Nation's greatest fighters, leaders, and explorers—men and women who changed the course of our country. It is completely fitting that Carlos Saenz be laid to rest there because Carlos represents all that is great about America.

Carlos was born in Mexico. He became a naturalized citizen and considered himself extremely lucky and proud to be an American, as we all should. And for more than 25 years, he gave back to this country with every fiber of his being.

Carlos entered active duty in 1978 and was a member of the Nevada National Guard from 1990 to 1992 serving with the 72nd Military Police Company out of Henderson, NV, in Desert Storm and Desert Shield. In June of 1994, he was assigned to the Guard's 1st Squadron, 221st Armor Battalion, Las Vegas, until January 2000. In January 2000, he became an instructor at the 421st Regional Training Institute in Stead, NV. Then, in May 2002, he joined the Guard's 1864th Transportation Company, in Henderson, until he was honorably discharged in January 2004. He then was assigned to the Individual Ready Reserve. He earned the rank of first sergeant in 2001.

Carlos was in Iraq as a trained civil affairs noncommissioned officer assigned to the 490th Civil Affairs Battalion, Abilene, TX. He had an extensive military education and had received countless awards for his service. Carlos had also worked for the Nevada Test Site's security firm for more than two decades where they are remembering him as "a patriot, a great American, and a good man."

Nowhere is his loss being felt more than at his home in Las Vegas, where he is being remembered and mourned by his wife, Nanette; his son, Juan; his parents; and brothers and sisters.

I had the opportunity to speak with Nanette Saenz yesterday. I called to extend my condolences and appreciation on behalf of this country. It shouldn't surprise me, but I am always taken aback by the strength and pride of the families of our fallen heroes. It makes sense that our brave servicemen and women have equally brave support systems at home. Nanette was no exception. As the family made clear in a statement, they "know the legacy he leaves behind while serving in a profession where 'all give some, but some give all'." Carlos loved being a soldier and loved what he was doing.

We are fortunate that someone like Carlos came to this country. He died as an American—defending his country, fighting for freedom, and working to keep his family and all our families safe and secure. May God keep him close and watch over his family. And may God continue to bless America with people like Carlos and Nanette Saenz.

POLICE CHIEFS SUPPORT COMMON SENSE NATIONAL GUN SAFETY REGULATIONS

Mr. LEVIN. Mr. President, a national study of police chiefs' support for a variety of possible gun safety regulations was recently completed by researchers at Wayne State University, the University of Toledo, and Kent State University. The study, titled "Police Chiefs' Perceptions of the Regulation of Firearms," was published in the April issue of the American Journal of Preventive Medicine. I applaud the researchers for addressing this important issue and for their contribution to the debate about common sense gun safety legislation.

As the study points out, "Firearm injuries are the second leading cause of injury death in the United States, and since 1972 have killed on average more than 30,000 people each year." Our police chiefs see the consequences of gun violence on a daily basis and are in a unique position to evaluate possible solutions to the gun violence epidemic in our country. For their study, researchers surveyed 600 randomly selected police chiefs in cities with populations of more than 25,000 people. This survey was intended to measure the police chiefs' support for a number of possible gun safety regulations. While the responses of the police chiefs may not be surprising to advocates of commonsense gun safety legislation, they are striking and certainly worth noting.

There were a number of potential gun safety regulations that received the support of an overwhelming majority of the police chiefs who returned surveys. Specifically, 93 percent of police chiefs supported a requirement that background checks be completed prior to the purchase of all handguns and 82 percent believed background checks should also be required for the purchase of rifles and shotguns. This means that overwhelmingly police chiefs believe background checks should be required for the purchase of all firearms, regardless of whether they are purchased from a public or private dealer.

As my colleagues know, current law requires that when an individual buys a firearm from a licensed dealer, a background check must be completed to insure that the purchaser is not prohibited by law from purchasing or possessing a gun. However, this is not the case for some gun purchases. For example, when an individual buys a firearm from a private citizen who is not a licensed gun dealer, there is no Federal requirement that the seller ensure the purchaser is not in a prohibited category. This creates a loophole in the law, making it easy for criminals, terrorists, and other prohibited buyers to evade background checks and buy guns. This loophole creates a gateway to the illegal market because prohibited buyers know they will not be subject to background checks when purchasing a firearm from a private citizen.

One of the factors that automatically disqualifies a person from purchasing a firearm is a prior felony conviction. However, most misdemeanor convictions do not disqualify a person under Federal law from buying a firearm. In response to the survey, a majority of the police chiefs supported a prohibition on the sale of firearms to those who have been convicted of misdemeanor crimes including the public display of a firearm in a threatening manner, domestic violence, and carrying a concealed weapon without a permit.

In addition, the police chiefs supported action on a number of other commonsense gun safety regulations on handguns. More than 81 percent of the police chiefs said that the Federal Government should require handguns to be assigned tamper-resistant serial numbers that could assist law enforcement officials in the prosecution of illegal gun traffickers. Nearly 70 percent of the police chiefs believe that all handguns should be registered, and 82 percent believe that the Federal Government should require all new handguns to be sold with trigger locks.

Our Nation's police chiefs are particularly knowledgeable and well placed to assess the importance of commonsense gun safety laws in protecting the safety of our communities and in stopping the flow of firearms to the illegal market. Through their responses to the survey, the police chiefs are sending a clear message that they believe that stricter national standards on the purchase and possession of firearms should be enacted. Congress should listen to this important message and take action on these issues.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On March 10, 2006, in Holland, MI, Jason Burns, a student at Hope College, was attacked leaving the campus library. Burns, a well-known gay rights advocate, frequently held lectures on homophobia after his freshman roommate moved out because of Burns' sexuality. While leaving the library a group of students attacked Burns, striking him multiple times and yelling homophobic epithets.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

THIRTIETH ANNIVERSARY OF THE FOUNDING OF THE MOSCOW HELSINKI GROUP

Mr. BROWNBACK. Mr. President, as chairman of the Helsinki Commission, I am pleased to recognize the accomplishments of the Moscow Helsinki Group, which will mark the 30th anniversary of its founding later this week in the Russian capital. I particularly want to acknowledge the tremendous courage of the men and women who—at great personal risk—established the group to hold the Soviet Government accountable for implementing the human rights commitment Moscow has signed onto in the historic Helsinki Final Act. Today, the Moscow Helsinki Group is the oldest of human rights organizations active in the Russian Federation. Having played a pivotal role in the struggle for human rights during the Soviet period, the group continues to work tirelessly for the cause of human rights, democracy, and rule of law throughout Russia.

When, on behalf of the United States, President Ford signed the Helsinki Accords in August 1975, he was criticized in some circles for supposedly having accepted Soviet control and domination of Eastern Europe in return for what some viewed as worthless promises on human rights. Ultimately, the skeptics were proven wrong. The Helsinki Accords did not legitimize the Soviet conquest of Eastern Europe at the end of World War II. Moreover, by reprinting the entire text of Accords in Pravda, the Soviet Government had publicly pledged to live up to certain human rights standards that were generally accepted in the West but only dreamed of in the Soviet Union and other captive nations. That fact would have huge consequences.

In late April 1976, Dr. Yuri Orlov, a Soviet physicist who had already been repressed for earlier advocacy for human rights, invited a small group of human rights activists to join in a public group committed to monitoring the implementation of the Helsinki Accords in the USSR. Others responded to this invitation, and on May 12 creation of the Public Group to Assist the Implementation of the Helsinki Accords in the USSR was announced at a Moscow press conference organized by future Noble Peace Prize winner Academician Andrei Sakharov. Among the founding members of the Moscow Helsinki Group, as it became known, were the current chairperson, Ludmilla Alexeyeva, Dr. Elena Bonner, who would endure prolonged persecution with Dr. Sakharov, her husband, and others like cyberneticist Anatoly "Natan" Sharansky. They were joined by seven brave and principled individuals who were ready to sacrifice their comfort, the professional lives, their freedom, and even their lives on behalf of the cause of human rights in their homeland. More would join in subsequent days.

The Moscow Helsinki Group carried out its mission by collecting information and publishing reports on implementation of the accords in various areas of human rights. The 26 documentation provided by the group proved particularly valuable when the signatories convened in Belgrade in 1977 to assess implementation of Helsinki provisions, including human rights.

Naturally, the Soviet Politburo and the Communist Party had no intention of tolerating citizens who actually expected their government to live up to the pledges it had signed in Helsinki. Some members of the Moscow Group were forced to emigrate, many were sentenced to long terms in labor camp, the Soviet "GULag," while others were sent into internal exile far from families and loved ones. In September 1982, under the repressive rule of former KGB chief Yuri Andropov, the Moscow Helsinki Group was forced to suspend its activity. Only three members remained at liberty, and they were constantly harassed by the KGB. Tragically, founding member Anatoly Marchenko died during a hunger strike at Chistopol Prison in December 1986, only a few months before the Gorbachev government began to empty the labor camps of political and religious prisoners.

Between 1982 and 1987, it seemed that the Soviet Government had succeeded in driving the human rights movement abroad, to the labor camps of the GULag, or underground. The reality was that the Helsinki movement had brought to light the deplorable human rights situation in the Soviet Union and put the Kremlin on the defensive before a world increasingly sensitive to the fate of individuals denied their fundamental rights. The efforts by Helsinki activists in the USSR, together with a stiffened resolve of Western governments, helped bring the Cold War to an end and bring down the barriers, both real and symbolic, that unnaturally divided Europe.

Reestablished in July 1989 by several veteran human rights activists, the

Moscow Helsinki Group faces new challenges in Putin's Russia. I have met with Ludmilla Alexeyeva, a founding member who had been exiled to the United States during the Soviet era, who serves as the chairperson today. While Russia has thrown off so much of its Soviet past, the temptation of authoritarianism remains strong. Russia's implementation of Helsinki commitments, particularly those concerning free and fair elections and democratic governance, remain of deep concern to me and my colleagues on the Helsinki Commission.

Ultimately, Mr. President, a strong and prosperous Russia will not be sustained by oil or natural gas revenues but on respect for the dignity of its citizens and the observation of human rights, civil society, and the rule of law. These goals remain at the heart of the Moscow Helsinki Group's ongoing work. I salute the dedicated service of the members of the Moscow Helsinki Group, past and present, and wish them success in their noble endeavors to promote a free and democratic Russia.

CELEBRATING JUNETEENTH

Mrs. BOXER. Mr. President, today I rise to mark "Juneteenth," the day in 1865 when General Gordon Granger issued his order proclaiming America's remaining slaves free.

On June 19, 1865, MG Gordon Granger and a group of Union soldiers landed at Galveston, TX. With their landing, they announced that the war had ended and that the slaves were now free. This was more than 2 years after President Lincoln's Emancipation Proclamation, which had little impact in Texas.

Though initially celebrated in Galveston, TX, Juneteenth is now observed nationwide. Americans from all racial and ethnic backgrounds celebrate Juneteenth. And while this day holds a special resonance for descendants of slaves, Juneteenth provides an important opportunity for us all to commemorate a central tenent of our great country: that we are all created equal. This Juneteenth let us all celebrate this milestone in the struggle for liberty by recommitting ourselves to the advancement of justice for all.

The stain of slavery can never be erased from the history of our Nation, and should never be forgotten. In celebrating Juneteenth, we also honor those who suffered under slavery and help to further our understanding of our Nation's history.

One of the most common elements of Juneteenth celebrations is the singing of "Lift Every Voice and Sing," written by James Weldon Johnson. I am happy to provide these lyrics of this great American song:

LIFT EVERY VOICE AND SING

Lift every voice and sing
Till earth and heaven ring,
Ring with the harmonies of Liberty;
Let our rejoicing rise
High as the listening skies,
Let it resound loud as the rolling sea.
Sing a song full of the faith that the dark past has taught us,
Sing a song full of the hope that the present has brought us,
Facing the rising sun of our new day begun
Let us march on till victory is won.

Stony the road we trod,
Bitter the chastening rod,
Felt in the days when hope unborn had died;
Yet with a steady beat,
Have not our weary feet
Come to the place for which our fathers sighed?
We have come over a way that with tears have been watered,
We have come, treading our path through the blood of the slaughtered,
Out from the gloomy past,
Till now we stand at last
Where the white gleam of our bright star is cast.

God of our weary years,
God of our silent tears,
Thou who has brought us thus far on the way;
Thou who has by Thy might
Led us into the light,
Keep us forever in the path, we pray.
Lest our feet stray from the places, Our God, where we met Thee;
Lest, our hearts drunk with the wine of the world, we forget Thee;
Shadowed beneath Thy hand,
May we forever stand.
True to our GOD,
True to our native land.

—*James Weldon Johnson.*

ENDANGERED SPECIES DAY

Mrs. FEINSTEIN. Mr. President, I rise today in recognition of the first day designated to the conservation of the world's endangered species. I would like to take a moment to thank my Senate colleagues for unanimously designating this special day, and especially to my Senate cosponsors for helping to make this day possible.

Let me also commend my constituent Mr. David Robinson for suggesting the establishment of Endangered Species Day. I appreciate his hard work and dedication. Today's designation shows that individuals like Mr. Robinson do make a difference.

I am encouraged to learn that today many fine institutions across our country will use the opportunity of Endangered Species Day to bolster public awareness about the threats facing endangered species worldwide. From lectures at local zoos to birding trips with regional Audubon chapters, events are being held nationwide to commemorate this day. My hope is that Endangered Species Day will spark the wonder and interest among young people, students, and the general public about how they can become more involved in these conservation efforts.

In fact, I am proud to note that in my State of California, conservation and management efforts have helped significantly to restore California condor, winter run chinook salmon, and California gray whale populations. It is remarkable that even species once believed to have been extinct, such as the mount diablo buckwheat and the ventura marsh milk vetch, have been newly found in our State. The dedicated conservation efforts of volunteers, organizations, businesses, private landowners, and government agencies have proved effective in rehabilitating many endangered species populations.

We can be encouraged by these developments. These instances demonstrate that with responsible management we can halt endangered species from continuing down the path towards extinction.

Such success stories also show that more needs to be done to ensure the survival of these species. There are more than 1,000 species in the U.S. and abroad that are designated as "at risk" of extinction. With awareness comes responsibility, and it is my hope that Endangered Species Day will inspire continued action in response to the precarious circumstances of endangered species.

Mr. President, I hope that communities across the country take advantage of this special day to discuss ways that they can participate in conservation efforts for endangered species in their State, throughout the country, and around the world.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 9:31 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1382. An act to require the Secretary of the Interior to accept the conveyance of certain land, to be held in trust for the benefit of the Puyallup Indian tribe.

The enrolled bill was subsequently signed by the President pro tempore (Mr. STEVENS).

At 12:31 p.m., a message from the House of Representatives, delivered by

Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5143. An act to authorize the Secretary of Energy to establish monetary prizes for achievements in overcoming scientific and technical barriers associated with hydrogen energy.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5143. An act to authorize the Secretary of Energy to establish monetary prizes for achievements in overcoming scientific and technical barriers associated with hydrogen energy; to the Committee on Energy and Natural Resources.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2791. A bill to amend title 46 and 49, United States Code, to provide improved maritime, rail, and public transportation security, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 11, 2006, she had presented to the President of the United States the following enrolled bill:

S. 1382. An act to require the Secretary of the Interior to accept the conveyance of certain land, to be held in trust for the benefit of the Puyallup Indian tribe.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6809. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period from October 1, 2005 through March 31, 2006; ordered to lie on the table.

EC–6810. A communication from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Global Terrorism Sanctions Regulations; Terrorism Sanctions Regulations; Foreign Terrorist Organizations Sanctions Regulations" (31 CFR Parts 594, 595, and 597) received on May 8, 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–6811. A communication from the Legal Counsel, Terrorism Risk Insurance Program, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Terrorism Risk Insurance Program; TRIA Extension Act Implementation" (RIN1505–AB66) received on May 8, 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–6812. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 06–85–06–101); to the Committee on Foreign Relations.

EC–6813. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Report on Sales of Drugs and Biologicals to Large Volume Purchasers"; to the Committee on Finance.

EC–6814. A communication from the Secretary of Labor, transmitting, the report of a draft bill entitled "Unemployment Compensation Program Integrity Act of 2006"; to the Committee on Finance.

EC–6815. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "User Fees for Competent Authority Limitation on Benefits Determination" (Rev. Proc. 2006–26) received on May 8, 2006; to the Committee on Finance.

EC–6816. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Coordinated Issue: Credit for Increasing Research Activities—Extraordinary Expenditures for Utilities" (UIL 41.51–01) received on May 11, 2006; to the Committee on Finance.

EC–6817. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revenue Ruling: Down Payment Assistance" (Rev. Rul. 2006–27) received on May 11, 2006; to the Committee on Finance.

EC–6818. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Intercompany Transactions; Manufacturer Incentive Payments" ((RIN1545–BF32)(TD 9261)) received on May 11, 2006; to the Committee on Finance.

EC–6819. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update" (Notice 2006–49) received on May 11, 2006; to the Committee on Finance.

EC–6820. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Sample, Discretionary Amendment to Section 401(k) Roth Plan" (Notice 2006–44) received on May 11, 2006; to the Committee on Finance.

EC–6821. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Update of Rev. Proc. 2003–44—Employee Plans Compliance Resolution System" (Rev. Proc. 2006–27) received on May 11, 2006; to the Committee on Finance.

EC–6822. A communication from the Director, Regulations and Disclosure Law, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Establishment of a New Port of Entry in the Tri-Cities Area of Tennessee and Virginia and Termination of the User-Fee-Status of Tri-Cities Regional Airport" (CBP Decision 06–14) received on May 11, 2006; to the Committee on Finance.

EC–6823. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Development of a Strategic Plan Regarding Physician Investment in Speciality Hospitals"; to the Committee on Health, Education, Labor, and Pensions.

EC–6824. A communication from the Administrator, Office of Workforce Security, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "UIPL 14–05, Changes to UI Performs; UIPL 14–05, Change 1, Performance Criterion for the Overpayment Detection Measure; Clarification of Appeals Timeliness Measures; and Implementation of Tax Quality Measure Corrective Action Plans (CAPs)" received on May 11, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–6825. A communication from the General Counsel, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, (3) reports on vacancies in the positions of Director and Deputy Director, Office of Management and Budget, and Administrator, Office of Federal Procurement Policy; to the Committee on Homeland Security and Governmental Affairs.

EC–6826. A communication from the Attorney, Office of Assistant General Counsel for Legislation and Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Assistance Regulations" (RIN1991–AB72) received on May 11, 2006; to the Committee on Energy and Natural Resources.

EC–6827. A communication from the Senior Counsel, Office of Legal Policy, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Eligibility of Arriving Aliens in Removal Proceedings to Apply for Adjustment of Status and Jurisdiction to Adjudicate Applications for Adjustment of Status" (RIN1615–AB50 and RIN1125–AA55) received on May 11, 2006; to the Committee on the Judiciary.

EC–6828. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Alabama; Redesignation of the Birmingham, Alabama 8-Hour Ozone Nonattainment Area to Attainment for Ozone" (FRL No. 8169–4) received on May 11, 2006; to the Committee on Environment and Public Works.

EC–6829. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri" (FRL No. 8169–3) received on May 11, 2006; to the Committee on Environment and Public Works.

EC–6830. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Air Quality Redesignation for the 8-Hour Ozone National Ambient Air Quality Standards; New York State" (FRL No. 8169–9) received on May 11, 2006; to the Committee on Environment and Public Works.

EC–6831. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion" (FRL No. 8169-5) received on May 11, 2006; to the Committee on Environment and Public Works.

EC-6832. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Ocean Dumping; De-designation of Ocean Dredged Material Disposal Site and Designation of New Site near Coos Bay, Oregon" (FRL No. 8167–7) received on May 11, 2006; to the Committee on Environment and Public Works.

EC-6833. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Arizona State Implementation Plan, Arizona Department of Environmental Quality, Pima County Department of Environmental Quality, and Pinal County Air Quality Control District" (FRL No. 8159–7) received on May 11 , 2006; to the Committee on Environment and Public Works.

EC-6834. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tennessee: Final Authorization of State Hazardous Waste Management Program Revisions" (FRL No. 8168-4) received on May 11, 2006; to the Committee on Environment and Public Works.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. SPECTER for the Committee on the Judiciary.

Brett M. Kavanaugh, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit.

Thomas L. Ludington, of Michigan, to be United States District Judge for the Eastern District of Michigan.

Sean F. Cox, of Michigan, to be United States District Judge for the Eastern District of Michigan.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LOTT (for himself, Mr. Martinez, and Ms. Landrieu):

S. 2783. A bill to amend the Federal Water Pollution Control Act to expand and strengthen cooperative efforts to monitor, restore, and protect the resource productivity, water quality, and marine ecosystems of the Gulf of Mexico; to the Committee on Environment and Public Works.

By Mrs. FEINSTEIN (for herself, Mr. Thomas, Mr. Akaka, Mr. Alexander, Mr. Allen, Mr. Baucus, Mr. Bayh, Mr. Biden, Mr. Bingaman, Mrs. Boxer, Mr. Burns, Mr. Byrd, Ms. Cantwell, Mr. Carper, Mr. Chafee, Mrs. Clinton, Mr. Coburn, Mr. Cochran, Mr. Coleman, Ms. Collins, Mr. Craig, Mr. Dayton, Mr. DeWine, Mr. Dodd, Mrs. Dole, Mr. Dorgan, Mr. Durbin, Mr. Ensign, Mr. Feingold, Mr. Grassley, Mr. Hagel, Mr. Harkin, Mr. Hatch, Mr. Inouye, Mr. Jeffords, Mr. Johnson, Mr. Kennedy, Mr. Kerry, Mr. Kohl, Mr. Kyl, Ms. Landrieu, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Lieberman, Mrs. Lincoln, Mr. Lott, Mr. Lugar, Mr. Martinez, Mr. McCain, Mr. Menendez, Ms. Mikulski, Ms. Murkowski, Mrs. Murray, Mr. Nelson of Florida, Mr. Nelson of Nebraska, Mr. Obama, Mr. Pryor, Mr. Reed, Mr. Reid, Mr. Rockefeller, Mr. Salazar, Mr. Santorum, Mr. Schumer, Mr. Sessions, Mr. Smith, Ms. Snowe, Mr. Specter, Ms. Stabenow, Mr. Sununu, Mr. Talent, Mr. Thune, Mr. Vitter, Mr. Voinovich, and Mr. Wyden):

S. 2784. A bill to award a congressional gold medal to Tenzin Gyatso, the Fourteenth Dalai Lama, in recognition of his many enduring and outstanding contributions to peace, non-violence, human rights, and religious understanding; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. CLINTON:

S. 2785. A bill to amend title 38, United States code, to provide for the payment of a monthly stipend to the surviving parents (known as "Gold Star Parents") of members of the Armed Forces who die during a period of war; to the Committee on Veterans' Affairs.

By Mr. VITTER:

S. 2786. A bill to amend title 5, United States Code, to permit access to databases maintained by the Federal Emergency Management Agency for purposes of complying with sex offender registry and notification laws, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CRAIG (for himself, Mr. Roberts, Mr. Thune, Mr. Thomas, Mr. Dorgan, Mr. Domenici, Mr. Enzi, Mr. Bennett, Mr. Baucus, and Mr. Burns):

S. 2787. A bill to permit United States persons to participate in the exploration for and the extraction of hydrocarbon resources from any portion of a foreign maritime exclusive economic zone that is contiguous to the exclusive economic zone of the United States, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BENNETT (for himself and Mr. Hatch):

S. 2788. A bill to direct the exchange of certain land in Grand, San Juan, and Uintah Counties, Utah, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BURNS (for himself and Ms. Murkowski):

S. 2789. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to rural primary health providers; to the Committee on Finance.

By Mr. BIDEN:

S. 2790. A bill to repeal the fossil fuel energy tax incentives contained in the Energy Policy Act of 2005; to the Committee on Finance.

By Mr. STEVENS (for himself, Mr. Inouye, Mr. Shelby, Mr. Sarbanes, Mrs. Hutchison, Ms. Snowe, Mr. Smith, Mr. Burns, Mr. Allard, Mr. Bennett, Mr. Vitter, Mr. Bunning, Mr. Allen, Mr. Graham, Mr. Lott, Mr. DeWine, Mr. Domenici, Mrs. Dole, Mr. Talent, Ms. Murkowski, Mr. Roberts, Mr. Lautenberg, Mr. Rockefeller, Mrs. Boxer, Mr. Nelson of Florida, Mr. Kerry, Ms. Cantwell, Mr. Reed, Mr. Akaka, Mr. Schumer, Mrs. Clinton, Mr. Carper, Mr. Menendez, Mr. Kennedy, Mr. Pryor, Ms. Stabenow, Mr. Dorgan, Mr. Kohl, Mr. Biden, Mr. Durbin, Ms. Mikulski, and Mr. Jeffords):

S. 2791. A bill to amend title 46 and 49, United States Code, to provide improved maritime, rail, and public transportation security, and for other purposes; read the first time.

By Mr. GREGG:

S. 2792. A bill to revise and extend certain provisions of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR:

S. 2793. A bill to enhance research and education in the areas of pharmaceutical and biotechnology science and engineering, including therapy development and manufacturing, analytical technologies, modeling, and informatics; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself, Mr. Reid, Mr. Baucus, Mr. Bingaman, Mr. Harkin, Ms. Mikulski, and Ms. Cantwell):

S. 2794. A bill to ensure the equitable provision of pension and medical benefits to Department of Energy contractor employees; to the Committee on Energy and Natural Resources.

By Mr. MARTINEZ:

S. 2795. A bill to exclude from admission to the United States aliens who have made investments contributing to the enhancement of the ability of Cuba to develop its petroleum resources, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LIEBERMAN (for himself and Ms. Collins):

S. Res. 474. A resolution thanking Joyce Rechtschaffen for her service to the Senate and to the Committee on Homeland Security and Governmental Affairs; to the Committee on Homeland Security and Governmental Affairs.

By Mr. INHOFE (for himself and Mr. Jeffords):

S. Res. 475. A resolution proclaiming the week of May 21 through May 27, 2006, as "National Public Works Week"; considered and agreed to.

By Mr. COCHRAN (for himself and Ms. Landrieu):

S. Con. Res. 94. A concurrent resolution expressing the sense of Congress that the needs of children and youth affected or displaced by disasters are unique and should be given special consideration in planning, responding, and recovering from such disasters in the United States; to the Committee on Homeland Security and Governmental Affairs.

ADDITIONAL COSPONSORS

S. 483

At the request of Mr. CORNYN, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 483, a bill to strengthen religious liberty and combat government hostility to expressions of faith, by extending the reach of The Equal Access Act to elementary schools.

S. 484

At the request of Mr. WARNER, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 859

At the request of Mr. SANTORUM, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 859, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 910

At the request of Ms. SNOWE, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 910, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 914

At the request of Mr. ALLARD, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 914, a bill to amend the Public Health Service Act to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

S. 932

At the request of Mr. KENNEDY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 932, a bill to provide for paid sick leave to ensure that Americans can address their own health needs and the health needs of their families.

S. 985

At the request of Mrs. CLINTON, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 985, a bill to establish kinship navigator programs, to establish kinship guardianship assistance payments for children, and for other purposes.

S. 1035

At the request of Mr. INHOFE, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1035, a bill to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States.

S. 1214

At the request of Ms. SNOWE, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 1214, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 1369

At the request of Mr. TALENT, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1369, a bill to establish an Unsolved Crimes Section in the Civil Rights Division of the Department of Justice.

S. 1948

At the request of Mrs. CLINTON, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1948, a bill to direct the Secretary of Transportation to issue regulations to reduce the incidence of child injury and death occurring inside or outside of passenger motor vehicles, and for other purposes.

S. 2025

At the request of Mr. BAYH, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 2025, a bill to promote the national security and stability of the United States economy by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, and for other purposes.

S. 2035

At the request of Mr. CRAIG, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2035, a bill to extend the time required for construction of a hydroelectric project in the State of Idaho, and for other purposes.

S. 2556

At the request of Mr. BAYH, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2556, a bill to amend title 11, United States Code, with respect to reform of executive compensation in corporate bankruptcies.

S. 2563

At the request of Mr. COCHRAN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2563, a bill to amend title XVIII of the Social Security Act to require prompt payment to pharmacies under part D, to restrict pharmacy co-branding on prescription drug cards issued under such part, and to provide guidelines for Medication Therapy Management Services programs offered by prescription drug plans and MA–PD plans under such part.

S. 2566

At the request of Mr. LUGAR, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 2566, a bill to provide for coordination of proliferation interdiction activities and conventional arms disarmament, and for other purposes.

S. 2568

At the request of Mr. SARBANES, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2568, a bill to amend the National Trails System Act to designate the Captain John Smith Chesapeake National Historic Trail.

S. 2607

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 2607, a bill to establish a 4-year small business health insurance information pilot program.

S. 2642

At the request of Mrs. FEINSTEIN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 2642, a bill to amend the Commodity Exchange Act to add a provision relating to reporting and recordkeeping for positions involving energy commodities.

S. 2643

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2643, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to clarify that Indian tribes are eligible to receive grants for confronting the use of methamphetamine.

S. 2658

At the request of Mr. LEAHY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2658, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

S. 2679

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2679, a bill to establish an Unsolved Crimes Section in the Civil Rights Division of the Department of Justice, and an Unsolved Civil Rights Crime Investigative Office in the Civil Rights Unit of the Federal Bureau of Investigation, and for other purposes.

At the request of Mr. TALENT, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 2679, supra.

S. 2760

At the request of Mrs. FEINSTEIN, the name of the Senator from Nevada (Mr.

ENSIGN) was added as a cosponsor of S. 2760, a bill to suspend the duty on imports of ethanol, and for other purposes.

S. RES. 270

At the request of Mr. BAYH, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. Res. 270, a resolution expressing the sense of the Senate that the International Monetary Fund should investigate whether China is manipulating the rate of exchange between the Chinese yuan and the United States dollar.

S. RES. 398

At the request of Mr. FEINGOLD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Res. 398, a resolution relating to the censure of George W. Bush.

S. RES. 431

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Res. 431, a resolution designating May 11, 2006, as "Endangered Species Day", and encouraging the people of the United States to become educated about, and aware of, threats to species, success stories in species recovery, and the opportunity to promote species conservation worldwide.

S. RES. 472

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of S. Res. 472, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

AMENDMENT NO. 3867

At the request of Ms. SNOWE, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of amendment No. 3867 intended to be proposed to S. 1955, a bill to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace.

AMENDMENT NO. 3914

At the request of Mr. DURBIN, his name was added as a cosponsor of amendment No. 3914 intended to be proposed to S. 1955, a bill to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace.

AMENDMENT NO. 3915

At the request of Mr. NELSON of Florida, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from North Dakota (Mr. DORGAN) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of amendment No. 3915 intended to be proposed to S. 1955, a bill to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace.

AMENDMENT NO. 3917

At the request of Mr. BAUCUS, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of amendment No. 3917 intended to be proposed to S. 1955, a bill to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace.

AMENDMENT NO. 3924

At the request of Ms. SNOWE, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of amendment No. 3924 intended to be proposed to S. 1955, a bill to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LOTT (for himself, Mr. MARTINEZ, and Ms. LANDRIEU):

S. 2783. A bill to amend the Federal Water Pollution Control Act to expand and strengthen cooperative efforts to monitor, restore, and protect the resource productivity, water quality, and marine ecosystems of the Gulf of Mexico; to the Committee on Environment and Public Works.

Mr. LOTT. Mr. President, I have been pleased to join with my distinguished colleagues, Senator MARTINEZ and Senator LANDRIEU, in introducing bipartisan legislation that will take a very significant step forward in restoring and protecting the Gulf of Mexico.

I want to highlight how important the Gulf of Mexico is to our country. The Gulf of Mexico is the ninth largest body of water in the world, and the Gulf region covers approximately 600,000 square miles. The Gulf of Mexico contains 7 of this Nation's top 10 ports in terms of tonnage or cargo value, 4 of the top 7 fishing ports in the Nation, yields more finfish, shrimp, and shellfish annually than the south and mid-Atlantic, Chesapeake, and New England areas combined, and supports a $20 billion annual tourism industry.

Sadly, over many years, the resource productivity and water quality of the Gulf of Mexico and its watershed have been diminished by nonpoint source pollution largely resulting from pollutant transport along the nearly 2,300-mile-long Mississippi River. I believe many Americans would be surprised to know that the Environmental Protection Agency's Gulf of Mexico Program, the only Federal program solely focused on protecting the health and productivity of the Gulf of Mexico, is neither authorized nor adequately funded to perform critical program functions vital to protecting and restoring one of this country's greatest natural resources.

The Gulf of Mexico Restoration and Protection Act will authorize the Environmental Protection Agency's Gulf of Mexico Program to undertake specific nonregulatory functions, and authorize annual appropriations to support activities designed to improve Gulf of Mexico water quality and marine resource productivity. With an 18-year track record of success, the Gulf of Mexico Program proves that it is not only possible but also practical to manage our natural resources through collaborative, nonregulatory approaches that leverage support, resources, and capabilities from Federal, State, nonprofit, and private sector partners. Unfortunately, the Gulf of Mexico Program is struggling with a very limited budget and a staff comprised largely of people "on loan" from other Federal agencies. The historic storm season of 2005 gravely worsened the situation by placing increased demand on the program's technical services, and I expect this pressure will continue to rise as the gulf coast rebuilds.

I commend the EPA Gulf of Mexico Program and its Federal, State, nonprofit, and private sector partners for doing so much with so little for so long. However, it is impractical to expect this to continue in perpetuity. Now is the time to take actions to ensure the Gulf of Mexico is protected for continued economic productivity, recreation, and to make certain this great water body remains a place of beauty and enjoyment for current and future generations.

By Mrs. FEINSTEIN (for herself, Mr. THOMAS, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BURNS, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CRAIG, Mr. DAYTON, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. FEINGOLD, Mr. GRASSLEY, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms.

LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mr. MENENDEZ, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SCHUMER, Mr. SESSIONS, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. SUNUNU, Mr. TALENT, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, and Mr. WYDEN):

S. 2784. A bill to award a congressional gold medal to Tenzin Gyatso, the Fourteenth Dalai Lama, in recognition of his many enduring and outstanding contributions to peace, nonviolence, human rights, and religious understanding; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Dalai Lama Congressional Gold Medal Act of 2006.

This legislation would convey upon the 14th Dalai Lama, Tenzin Gyatso, one of Congress' most prestigious awards for his advocacy of peace, tolerance, human rights, non-violence, and compassion throughout the globe.

I am deeply honored to be joined today by my colleague, Senator THOMAS, and wish to express my appreciation to him for his willingness to be the lead Republican sponsor of this legislation.

Senator THOMAS has long been an advocate for addressing the plight of the Tibetan people, and in 2001 joined with me in introducing the Tibetan Policy Act, the first piece of legislation outlining U.S. policy toward Tibet and its people. He was truly instrumental in helping to advance its passage in the Congress.

In fact, one of my proudest days as a U.S. Senator was on September 30, 2002, when President George W. Bush signed the Tibetan Policy Act into law.

Both Senator THOMAS and I are also grateful that 73 of our Senate colleagues have agreed to be original cosponsors of this legislation honoring the Dalai Lama.

Under the rules, Congressional Gold Medals need the support of at least two-thirds, or 67 Senators, in order for the Senate Banking Committee to consider such authorizing legislation.

I look forward to working closely with Chairman SHELBY and Ranking Member SARBANES to ensure that the Dalai Lama Congressional Gold Medal Act can be taken up and passed out of the Banking Committee in a timely and efficient manner.

In my view, there is no international figure more deserving of the Congressional Gold Medal than His Holiness the Dalai Lama.

This is a man who has dedicated his life to the betterment of humanity as a whole. As one of the most respected religious figures in the world today, the Dalai Lama's teachings on peace, nonviolence and ecumenical openness have been embraced by millions.

One of his greatest contributions has been his promotion of harmony and respect among the different religious faiths of the world.

In his own words: "I always believe that it is much better to have a variety of religions, a variety of philosophies, rather than one single religion or philosophy. This is necessary because of the different mental dispositions of each human being. Each religion has certain unique ideas or techniques, and learning about them can only enrich one's faith."

As the spiritual leader of Tibetan Buddhism, he has worked arduously for nearly 50 years to increase understanding between China and the people of Tibet.

He has also dedicated his life to the preservation of the Tibetan culture, religion, and language.

The Dalai Lama's story is a fascinating one.

In 1959, as a teenager, he fled his Tibetan homeland for neighboring India, where he established a government-in-exile that eventually settled at Dharmasala—in the Himalayan foothills.

While he admittedly once espoused independence for Tibet—particularly in the face of the heavy-handed oppression of the Tibetan people by the Chinese Communists—the Dalai Lama foreswore this position nearly two decades ago.

Alternatively, he began to pursue a reasonable and flexible "Middle Way Approach" that would provide for cultural and religious autonomy for Tibetans, within the People's Republic of China.

In 1989, the Dalai Lama was the recipient of the Noble Peace Prize for his consistent and unfailing advocacy for the rights of the Tibetan people, along with his promotion of non-violence and peace throughout the globe.

In their recommendation, the Nobel Committee wrote:

> The Committee wants to emphasize the fact that the Dalai Lama in his struggle for the liberation of Tibet consistently has opposed the use of violence. He has instead advocated peaceful solutions based upon tolerance and mutual respect in order to preserve the historical and cultural heritage of his people.

In April 1991, when the Congress welcomed the Dalai Lama in a ceremony in the Capitol Rotunda that was attended by the entire Congressional leadership, he offered a moving anecdote about receiving a small gift from President Franklin Roosevelt when he was a young boy.

That gift—a gold watch showing phases of the moon and the days of the week—became very special to him.

"I marveled at the distant land which could make such a practical object so beautiful," he said.

"But what truly inspired me were your ideas of freedom and democracy. I felt that your principles were identical to my own, the Buddhist beliefs in fundamental human rights freedom, equality, tolerance and compassion for all."

I have been blessed to be able to call the Dalai Lama a friend for almost three decades. I first met him through my husband Richard during a trip to India and Nepal in the fall of 1978.

Incidentally, our first stop was in Dharmasala, where we met with His Holiness and invited him to visit San Francisco where I was mayor.

The Dalai Lama was grateful for the invitation. At that time, he had never even been to the United States.

For political reasons, the Chinese objected to his visiting the United States, and our government, which at that time was in the process of normalizing relations with the People's Republic of China, was sensitive to these concerns.

While the trip was postponed temporarily, as mayor I was delighted to receive the Dalai Lama and present him with a key to the city upon his arrival in San Francisco in September 1979.

During our many conversations over the years, His Holiness has often reiterated that, at its core, Buddhism espouses reaching out to help others, particularly the less fortunate. And it encourages us all to be more kind and compassionate.

The Dalai Lama's persona exudes these qualities. He has a great sense of humor, responds quite spontaneously, and his philosophies cross all religions, cultures, and ethnic lines.

I have visited with him many times since 1978, and while his principled beliefs have never wavered, his teachings have become more expansive. His message has never been more relevant in our troubled world.

At the same time, I also had the opportunity as mayor of San Francisco to become acquainted with several of China's future leaders through the San Francisco-Shanghai Sister City Relationship that I started with Mayor Wang Daohan in 1980.

Mayor Wang's immediate successors, Jiang Zemin and Zhu Rongji, were both later promoted to high-level positions in the Chinese Communist Party and Central Government after leaving Shanghai.

Consequently, since 1990, my husband and I have had many discussions with Jiang Zemin, Zhu Rongji, and other Chinese officials about the status of the Dalai Lama and the plight of the Tibetans in and outside of Tibet.

On three separate occasions over the past 15 years, I have hand-delivered letters from His Holiness to the Chinese leadership, asking for direct talks and reiterating that he does not seek independence for Tibet.

I know that at the same time President Bill Clinton, President George W. Bush, and many others in the U.S. Government have also encouraged a meaningful dialogue. For the most part, these efforts have had little success.

If His Holiness the Dalai Lama were to return to Tibet, his wish is, as he says, to be a simple monk and to be involved only in religious and cultural matters.

China will be a better nation when it embraces the aspirations of the Tibetan people.

Through the passage of this legislation, the United States Senate would recognize the Dalai Lama's worldwide contributions to peace and religious understanding.

Among past recipients of the Congressional Gold Medal are fellow moral and religious leaders, including Pope John Paul II and Mother Teresa, and fellow Nobel Peace Laureates, such as Elie Wiesel and Nelson Mandela.

By definition, a Congressional Gold Medal is reserved for the most heroic, courageous and outstanding—those who we wish to emulate in our life's actions.

I strongly believe that the Dalai Lama is such an individual.

I am proud that the U.S. Congress has a long record of showing support for the Dalai Lama's message of peace and compassion, and I look forward to joining my colleagues in recognizing him with this distinguished award.

Mr. THOMAS. Mr. President, I rise today with my colleague from California in offering this legislation to award the 14th Dalai Lama with the prestigious Congressional Gold Medal.

Mr. President, the Dalai Lama has been one of the leading voices in advocating for peace, tolerance, human rights, nonviolence, and compassion throughout the globe. He has worked tirelessly for nearly 50 years to increase understanding between the Tibetan and Chinese people. In these difficult times, I believe it is necessary to recognize those who fight to bring people together. There are few international figures more deserving of receiving this award.

In 1959, the Dalai Lama fled his Tibetan homeland for neighboring India, where he established a government in exile. Under his "Middle Way" approach, he has worked arduously for the past two decades to find a reasonable and peaceful solution for providing cultural and religious autonomy for Tibetans within the People's Republic of China. He has also been a steadfast and vigorous advocate for peace and human rights for all people across the globe.

In 1989, he received the Nobel Peace Prize for his efforts. In their recommendation, the Nobel Committee noted that in his struggle for the liberation of Tibet, the Dalai Lama has consistently opposed the use of violence, and has instead advocated peaceful solutions based upon tolerance and mutual respect.

The Dalai Lama's worldwide contributions to peace, religious understanding, and the advancement of human rights are innumerable. He has made it his life's work to promote harmony and respect among the different religious faiths of the world. In his own words: "I always believe that it is much better to have a variety of religions, a variety of philosophies, rather than one single religion or philosophy. This is necessary because of the different mental dispositions of each human being. Each religion has certain unique ideas or techniques, and learning about them can only enrich one's faith."

By definition, a Congressional Gold Medal is reserved for the most heroic, courageous, and outstanding those who we wish to emulate in our own lives. The Dalai Lama is such an individual, and I urge all of my colleagues to join Senator FEINSTEIN and myself in honoring him with this distinctive award.

By Mr. BURNS (for himself and Ms. MURKOWSKI):

S. 2789. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to rural primary health providers; to the Committee on Finance.

Mr BURNS. Mr. President, I am joined today by Senator MURKOWSKI in introducing the Rural Physicians Relief Act of 2006. This legislation is intended to bring needed relief to doctors in rural America.

As those of us from rural States are well aware, our constituents face many unique challenges when seeking quality health care. Our populations are small and spread out across extremely remote areas. Incidentally, the costs of operating even the most basic medical practice are simply too much for many physicians. As a result, many areas of our States tend to be some of the most medically underserved areas in the Nation.

To give you an idea of the situation in Montana, nearly 286,000 or one third of my constituents live in what are known as frontier areas. According to the United States Census Bureau, these are counties with fewer than seven people per square mile. That means that 46 of Montana's 56 counties are classified as frontier—24 of those have fewer than two people per square mile and 10 of those have less than one per square mile. However, what is even more striking is 9 of these frontier counties have no doctors at all, and 10 others have fewer than 3. Consequently, a large percentage of Montanans must travel great distances simply to get basic medical treatment.

The legislation that Senator MURKOWSKI and I are introducing today seeks to alleviate this problem. It will provide incentives to encourage physicians to practice in these remote and underserved areas. Specifically, it would give a physician who is a Primary health services provider a $1,000 tax credit for each month that he or she provides services in a frontier area. Furthermore, physicians who treat a high percentage of patients from frontier areas would also be eligible for the tax credit.

All too often many of our constituents are at a disadvantage simply because of where they live. While this legislation will not completely solve the problem, it will go a long way toward bringing quality health care to those in rural America.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Physicians Relief Act of 2006".

SEC. 2. NONREFUNDABLE CREDIT FOR RURAL PRIMARY HEALTH SERVICES PROVIDERS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

"SEC. 25E. RURAL PRIMARY HEALTH SERVICES PROVIDERS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual who is a qualified primary health services provider for any month during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to $1,000 for each month during such taxable year—

"(1) which is part of the eligible service period of such individual, and

"(2) for which such individual is a qualified primary health services provider.

"(b) QUALIFIED PRIMARY HEALTH SERVICES PROVIDER.—For purposes of this section, the term 'qualified primary health services provider' means, with respect to any month, any physician who is certified for such month by the Bureau to be a primary health services provider or a licensed mental health provider who—

"(1) is primarily providing primary health services, and either—

"(A) substantially all of such primary health services are provided in frontier areas (within the meaning of section 330I(r) of the Public Health Service Act), or

"(B) such primary health services are provided in a practice which includes rural patients from frontier areas (as so defined) in a percentage of the total practice which is at least equal to the percentage of total residents in the State in which such practice is located who reside in frontier areas (as so defined),

"(2) is not receiving during the calendar year which includes such month a scholarship under the National Health Service Corps Scholarship Program or the Indian health professions scholarship program or a loan repayment under the National Health Service

Corps Loan Repayment Program or the Indian Health Service Loan Repayment Program,

"(3) is not fulfilling service obligations under such Programs, and

"(4) has not defaulted on such obligations. Such term shall not include any individual who is described in paragraph (1) with respect to any of the 3 most recent months ending before the date of the enactment of this section.

"(c) ELIGIBLE SERVICE PERIOD.—For purposes of this section, the term 'eligible service period' means the period of 60 consecutive calendar months beginning with the first month the taxpayer is a qualified primary health services provider.

"(d) OTHER DEFINITIONS AND SPECIAL RULE.—For purposes of this section—

"(1) BUREAU.—The term 'Bureau' means the Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration of the United States Public Health Service.

"(2) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act.

"(3) PRIMARY HEALTH SERVICES PROVIDER.—The term 'primary health services provider' means a provider of basic health services (as described in section 330(b)(1)(A)(i) of the Public Health Service Act).

"(4) ONLY 60 MONTHS TAKEN INTO ACCOUNT.—In no event shall more than 60 months be taken into account under subsection (a) by any individual for all taxable years.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25D the following new item:

"Sec. 25E. Rural primary health services providers.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

Ms. MURKOWSKI. Mr. President, today I am pleased to join Senator BURNS in introducing the Rural Physicians' Relief Act of 2006. This important legislation will bring needed assistance to physicians who provide primary health services to rural America.

Physicians who provide health care in the most rural locations in America face challenges unlike their more urban counterparts. Often great distances, remote locations, limited transportation, and harsh climate combine to make health care delivery extremely difficult to say the very least. Patient populations are small and spread out across extremely remote areas. As a result, many of these areas tend to be the most medically underserved areas in the Nation.

In my State of Alaska, a State that is larger than the States of California, Texas and Montana combined, nearly one-quarter of the State's population lives in communities and villages that are only reachable by boat or aircraft. In fact, Alaska has fewer roads than any other State—even fewer roads than Rhode Island. And unlike Rhode Island where over 90 percent of the roads are paved, less than 20 percent of the roads are paved in Alaska.

This means that approximately 75 percent of Alaskan communities are not connected by road to another community with a hospital. This means that all medical supplies, patients, and providers must travel by air. These remote populations tend to be among the poorest in the State. Air travel equates to excessively high health care costs—generally 70 percent higher than costs in the lower 48 States. In short, "rural" takes on a new definition in Alaska.

In Alaska, patient access to health care is exacerbated because our State also faces a chilling crisis—we have 25 percent to 30 percent fewer physicians than our population needs. In fact, Alaska has one of the smallest numbers of physicians per capita in the country. We need a minimum of 500 more doctors just to be at the national average of physicians per capita. An American Medical News article recently declared Alaska's precarious situation: "Alaska has long ranked among the worst states in terms of physician supply."

Our physician shortage crisis will only worsen. There is an expected retirement of at least 118 physicians in Anchorage alone in the next 10 years. In the 1990s, there were 130 new doctors each year. Now that figure has dropped to only 31 new physicians since 2001. Outside of Anchorage, one in every eight physician positions is vacant.

Additionally, many physicians are forced out of the Medicare and Medicaid Programs because reimbursement rates simply do not cover the cost to treat those patients. With Alaska's growing population, especially of our elderly, this shortage will lead to the severe health care access crisis for all Alaskans.

On top of harsh physical challenges, Alaska's rural population also faces significant human challenges. These rural patient populations are often in the greatest need for primary health care services. Heart disease, stroke, and other cardiovascular diseases are the leading causes of death in Alaska. Women in our State have higher death rates from stroke than do women nationally; and mortality among Native Alaskan women is dramatically on the rise, whereas it is actually declining among Caucasian women in Lower 48. The prevalence of chronic disease such as diabetes and even tuberculosis is increasing faster in Alaska than any other State. Each of these health concerns is magnified because access to health care—especially in rural Alaska—remains our greatest challenge.

The legislation that Senator BURNS and I introduce today seeks to lessen this problem. It will both assist physicians who currently practice in rural America and will provide an incentive to encourage physicians to practice in these remote and underserved areas. Specifically, it would give a physician who is a primary health services provider a $1,000 tax credit for each month that he or she provides services in a designated "frontier" area. Furthermore, physicians who treat a high percentage of patients from frontier areas would also be eligible for the tax credit.

Mr. President, my hope is to encourage physicians to practice medicine in rural Alaska and throughout rural America. Creating incentives that offset the high cost of providing care in the most remote areas of the Nation will go far in recruiting physicians to the areas that are most in need of their services.

By Mr. STEVENS (for himself, Mr. INOUYE, Mr. SHELBY, Mr. SARBANES, Mrs. HUTCHISON, Ms. SNOWE, Mr. SMITH, Mr Burns, Mr. ALLARD, Mr. BENNETT, Mr. VITTER, Mr. BUNNING, Mr. ALLEN, Mr. GRAHAM, Mr. LOTT, Mr. DEWINE, Mr. DOMENICI, Mrs. DOLE, Mr. TALENT, Ms. MURKOWSKI, Mr. ROBERTS, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mrs. BOXER, Mr. NELSON of Florida, Mr. KERRY, Ms. CANTWELL, Mr. REED, Mr. AKAKA, Mr. SCHUMER, Mrs. CLINTON, Mr. CARPER, Mr. MENENDEZ, Mr. KENNEDY, Mr. PRYOR, Ms. STABENOW, Mr. DORGAN, Mr. KOHL, Mr. BIDEN, Mr. DURBIN, Ms. MIKULSKI and Mr. JEFFORDS):

S. 2791. A bill to amend title 46 and 49, United States Code, to provide improved maritime, rail, and public transportation security, and for other purposes; read the first time.

Mr. STEVENS. Mr. President, today I introduce a bipartisan transportation security bill, which is a joint Commerce and Banking Committee bipartisan package co-sponsored by Senators INOUYE, SHELBY, SARBANES, and 37 of our colleagues. This bill would dramatically enhance our Nation's port, rail, and transit security systems. The port and rail provisions of this package are identical to provisions of the transportation security bill, S. 1052, which was reported unanimously by the Commerce Committee last year. The transit provisions of the package are identical to those reported unanimously by the Banking Committee.

The events of 9/11 made clear that Congress needed to address the vulnerabilities within the Nation's transportation systems and dramatically increase security measures to protect the essential interstate flow of commerce.

Even before 9/11, the Commerce Committee led the Senate's effort to achieve the delicate balance between improved transportation security and the uninterrupted flow of commerce. In the weeks and months following the 9/11 terrorist attacks, the Commerce Committee developed the Maritime Transportation Security Act, which was signed into law by the President in 2002. The committee later expanded

MTSA by developing the Coast Guard and Maritime Transportation Act of 2004.

In MTSA, the Commerce Committee called on both public and private sector entities, including Federal agencies, the port community, vessel owners, shippers, and earners, to play a role in dramatically enhancing maritime security. The International Maritime Organization followed suit with its own improvements, many of which were based on the foundation set forth in MTSA.

The Commerce Committee spearheaded the establishment of a harmonized security credential for all transportation workers, authorizing the creation of a Transportation Worker Identification Credential, TWIC, program in the Aviation and Transportation Security Act (2001), and twice more in the Maritime Transportation Security Acts of 2002 and 2004. Additional statutory authority from the PATRIOT Act reinforced the importance of such a transportation credential.

TWIC is intended to improve identity management for all transportation workers, ensuring that only authorized personnel gain unescorted access to secure areas of the country's transportation system. TWIC is designed to mitigate the threat of terrorists exploiting certain physical and cyber security gaps in the transportation system.

The bill would require TSA to deliver a rulemaking on the implementation of the TWIC program. It has been over three and one half years since Congress first required such a card, and this provision sets a mandatory deadline of January 1, 2007 for rollout.

The bill that I propose also would direct the Coast Guard to expand the deployment of Interagency Operations Centers to ports throughout the United States. These centers, already operating in five cities, would bring together all port security and operations stakeholders into a single facility at major ports. This approach has proven effective at maximizing communication among Federal, State, and local entities charged with securing the ports.

In addition, the provision would require greater standards and requirements for cargo screening equipment, and call for additional data to be incorporated into the system used to target cargo and containers for searches.

While TWIC, Interagency Operation Centers, and equipment standards will help improve security on our shores, we must be cognizant of the fact that maritime security begins in foreign ports. We must cast our security net as far back into the inbound international supply chain as possible.

Two programs that were authorized by the Commerce Committee in MTSA address the need to pre-screen cargo bound for the United States—the Container Security Initiative CSI, and the Customs-Trade Partnership Against Terrorism, (C–TPAT).

CSI is a program in which U.S. inspectors are deployed to foreign nations to assist their foreign counterparts in the pre-screening of U.S.-bound cargo containers. C–TPAT is a voluntary supply chain security program that allows companies to seek certification from the Federal Government that such companies have taken sufficient steps to ensure that their supply chains are secure in exchange for expedited cargo clearance benefits at U.S. ports.

The bill that I introduce with my colleagues would require that basic program elements and standards be developed by DHS in order to provide CSI and C–TPAT participants a baseline understanding of the security standards expected of them.

Maritime security is not the only improvement that we must make—the unfortunate attacks on passenger trains in Madrid and the subways in London underscored weaknesses in rail transportation that our bill would seek to address. To improve rail security, our bill would require TSA to conduct railroad threat assessments and to prioritize recommendations. In addition, the legislation would create a rail security research and development program to encourage deployment of rail car tracking equipment for shipment of hazardous materials, and require threat mitigation plans when specific threat information exists. The bill also would authorize further studies of necessary improvements to passenger rail screening, in an effort to increase security in this mode of public transportation.

Our mass transit systems have pressing security needs, upon which our colleagues on the Banking Committee are focused; as a result, transit security improvements are incorporated into our bipartisan bill. It is unfortunate that many transit agencies in the U.S. still lack sufficient resources to fulfill the post-9/11 recommendations of the Federal Transit Administration's security assessment. These needs are all the more pressing in light of recent DHS recommendations for U.S. mass transit systems to remain alert against the possibility of terrorist attacks. In response to this situation, our bill would create a needs-based grant program to identify and address risks and vulnerabilities within transit systems across the country. The bill would authorize $3.5 billion in funding over the next 3 years to transit agencies to invest in projects designed to resist and deter terrorist attacks, including: surveillance technologies; tunnel protection; chemical, biological, radiological, and explosive detection systems; perimeter protection; and a variety of other security improvements. The bill also would codify the role of an Information Sharing Analysis Center, which would provide security information to transit systems and ensure better communication among federal, state, local, and private sector entities.

To improve security, we must have clear objectives and methods to reach those goals. With limited resources, it is important to pinpoint risks and vulnerabilities that exist within our transportation systems, and address them accordingly. By combining provisions approved unanimously by the Commerce and Banking Committees, respectively, this bipartisan bill would make significant targeted improvements to the framework now in place to secure the Nation's port, rail, and transit environments.

Mr. INOUYE. Mr. President, it is hard to believe, but Congress has not made any substantive improvements to the Nation's transportation security systems since 2002. Yet nearly every day, we are provided further reminders that our transportation modes, particularly port, cargo, rail, and public transit, remain vulnerable.

Given the urgent need for further improvements, Chairman STEVENS and I have joined with the Banking Committee leaders, Senator SHELBY and Senator SARBANES, to advance a comprehensive transportation security bill that reflects the importance of our transportation infrastructure to the quality of life and economic health of the country.

Our legislation combines the port, cargo, and rail provisions of our Committee's Transportation Security Improvement Act with the Banking Committee's Public Transportation Terrorism Prevention Act. Together, the combined measure makes significant improvements to our port, cargo, rail, and public transit security nationwide.

It is important to note the level of Senate support for our approach. Not only have the elements of our bill been separately and unanimously approved by our respective Committees, our legislation has 42 Senate cosponsors on introduction. That kind of support demonstrates both the necessity of these improvements and the distinct possibility that we can move this bill this year.

The legislation that we introduce today, with its emphasis on the Coast Guard and the Transportation Security Administration, TSA, is the natural counterpart to the port security bill approved by the House of Representatives last week. The bills are directly compatible, and if the Senate moves quickly on this matter, we can proceed to conference and make real progress on transportation security before the session concludes.

This legislation reflects the port, cargo, and rail security expertise of the Commerce Committee and the public transit security expertise of the Banking Committee. On the Commerce

Committee, we began examining port and cargo security in 1999 and had begun to craft security legislation even before the September 11 tragedy.

In 2001, our committee authored the landmark Maritime Transportation Security Act, MTSA, which established the foundation for the Nation's port and cargo security. Under the MTSA, the Coast Guard became the lead agency on port security matters and created the Nation's current, international, inter-modal cargo security regime. That expertise and perspective is essential as we advance improvements to our maritime security laws.

However, the implementation of MTSA's security improvements has been weak and inconsistent. The Department of Homeland Security's budgets have not reflected port security's significance to the economy, and the Agency has missed numerous internal and legislated security deadlines. As a result, vulnerabilities remain.

Given the recent focus on the Nation's lingering, significant port security weaknesses, the country is now far more attuned to port and cargo security. The heartland is learning what the coasts have known for many years: Our national economy and physical security depend on strong port and cargo security.

Our legislation makes the many enhancements that are long overdue. It guides and enhances the Coast Guard's and the Department of Homeland Security's, DHS, authorities on maritime security. It improves examination of cargo before it reaches U.S. ports, provides a process for the speedy resumption of commerce in the event of an attack on a seaport, and expands the use of interagency operations centers.

Specifically, our legislation improves the examination of shipments before they reach U.S. shores. It calls upon the U.S. Customs and Border Protection, CBP, to develop standards for the evaluation, screening, and inspection of cargo destined for the U.S. prior to loading in a foreign port, and it provides greater targeting and scrutiny of high-risk cargo by requiring importers to file entry data 24-hours prior to loading at a foreign port.

Also, the legislation authorizes the random inspection of incoming cargo—a method which has proven to be 12 times more likely to find illicit shipments than traditional inspection methods.

In the event there is a seaport attack, our bill clarifies the requirements for expedited clearance of cargo through the Secure Systems of Transportation Program and extends the supply chain review to the initial point of loading. The bill also amends MTSA based on Government Accountability Office, GAO, recommendations to improve upon the Container Security Initiative, CSI, the Customs-Trade Partnership Against Terrorism Program, C-TPAT, and Automated Targeting System, ATS.

It is important to note that while our port security regime has significant weaknesses, the agencies involved have also begun to make some notable improvements in recent years. According to the Department of Homeland Security Inspector General's most recent report on the port security grant program, the DHS has made substantial progress on the program and is beginning to deliver funding to the Nation's ports efficiently and effectively.

Our legislation builds upon the port and cargo security systems that have taken 4 years to develop and provides the resources necessary to strengthen port security infrastructure, planning, and coordination. Other pending proposals have sought to reorganize the DHS yet again and add an additional layer of bureaucracy through a new Office of Cargo Policy. Such changes are counterproductive and suggest a lack of understanding of local stakeholders' actual needs and given the need for immediate improvements, they make little sense.

Our committee has also brought its transportation security expertise to bear on the challenges facing rail security. Consistent with the Rail Security Act approved unanimously by the Senate in 108th Congress, our legislation requires the Transportation Security Administration, TSA, to conduct a railroad sector threat assessment and submit prioritized recommendations for improving rail security. It also calls for the TSA and the Department of Transportation to clarify their respective roles for rail security.

Our legislation provides grants through TSA to Amtrak, freight railroads, and others to upgrade security across the entire railroad system. It provides funding through the Department of Transportation to make needed security and safety enhancements to Amtrak railroad tunnels in New York, Washington, and Baltimore.

Our bill creates a rail security research and development program through DHS and encourages the deployment of rail car tracking equipment for hazardous material rail shipments. It so requires railroads shipping high-hazard materials to create threat mitigation plans to protect high-consequence targets when specific threat information exists.

Finally, the bill authorizes studies to improve passenger rail screening and immigration processing along the U.S. northern border, creates a security training program for railroad workers, and provides whistleblower protections for workers who report security concerns.

All of these enhancements have been thoroughly vetted over several years of meticulous work. They have received the unanimous support of our committee membership, and in the case of the rail security provisions, the support of the full Senate in 2004.

In the 108th Congress, the Senate conclusive determined that transportation security and transportation safety could not be separated. Thus, given its oversight of the Coast Guard, TSA, and its general expertise in transportation matters, the Commerce Committee maintained jurisdiction over transportation security generally, and port, cargo, and rail security specifically. Similarly, the Banking Committee's expertise in urban transit has made it the Committee of jurisdiction for public transit security.

This expertise matters, particularly when crafting legislation that impacts how these systems operate. Transportation security legislation must reflect a balanced understanding of security, safety, and commerce. It is not enough to understand just one of those elements. Our economy is totally dependent upon efficient and effective transportation systems. Thus, our security policies must be robust, but they cannot ignore the realities of modern commerce nor the potential economic damage that could result from public policies that did not sufficiently take into account the resumption of our systems.

The legislation that we advance today reflects the Commerce and Banking Committees' expertise and understanding of this important balance. The time has come to advance these improvements, and nearly half of this body has already signed-on in support of this bill. Our legislation presents an opportunity to make immediate progress on transportation security, and it is my sincere hope that the Senate will act on this measure as soon as possible.

Mr. SARBANES. Mr. President, I am pleased to join with my colleagues in introducing legislation to improve security at our Nation's transit systems, rail lines, and ports. The transit title in this legislation was reported unanimously by the Banking Committee in November of last year, and the rail and port titles were reported on the same day by the Commerce Committee. Combining these titles into one piece of legislation makes extraordinary sense when one considers the urgent need to improve security in all areas of our Nation's multimodal transportation network.

As ranking member of the Banking Committee, which has jurisdiction over public transportation, I will focus my remarks on the transit portion of this legislation, though the need for improved security is equally great at our rail network and ports. Let me begin by noting that during the last Congress, the Senate unanimously passed the Public Transportation Terrorism

Prevention Act of 2004, which is identical to the transit title in the legislation we are introducing today. Unfortunately, that legislation was never enacted into law, and the threat to transit continues. Just last week the Department of Homeland Security issued a new warning to transit systems to remain alert against possible terrorist attacks. According to the Associated Press, the warning said that four people had been arrested over the last several months in separate incidents involving videotaping of European subway stations and trains or similar activity, which provides "indications of continued terrorist interest in mass transit systems as targets."

Last year, the London subway system was the target of a tragic attack that left 50 people dead, and in 2004, almost 200 people were killed when bombs exploded on commuter rail trains in Madrid. In fact, in 2002, the GAG reported that one-third of all terrorist attacks worldwide are against transit systems. Despite this significant threat, security funding has been grossly inadequate, and, as a result, our Nation's transit systems have been unable to implement necessary security improvements, including those that have been identified by the Department of Homeland Security. In an editorial last July, just after the London attacks, the Baltimore Sun stated that: Since September 11, 2001, the Federal Government has spent $18 billion on aviation security. Transit systems, which carry 16 times more passengers daily, have received about $250 million. That is a ridiculous imbalance.

The editorial goes on to state:

> How would those in charge of the nation's public transit systems spend the extra money? Chiefly for necessities like security cameras, radios, training an extra security personnel. Those aren't extravagant requests.

Let me give one example of a critical need right here with respect to Washington's Metro. Their greatest security need is a backup control operations center. This need was identified by the Federal Transit Administration in its initial security assessment and then identified again by the Department of Homeland Security in its subsequent security assessment. This critical need remains unaddressed because it has been unfunded. This legislation would authorize the funding to make this and other urgently needed security upgrades at transit systems around the country.

We know that transit systems are potential targets for terrorist attacks. We know the vital role these systems play in our Nation's economic infrastructure. We can wait no longer to make these security investments.

I thank the chairman of the Banking Committee, Senator SHELBY, for his excellent leadership on transit security and Senator REED for his strong and continued commitment on this issue. I also commend the leadership of the Commerce Committee for their foresight in moving the port and rail titles of this legislation. I thank all of our colleagues who have joined as cosponsors of this legislation, and I urge the full Senate to support it.

By Mr. GREGG:

S. 2792. A bill to revise and extend certain provisions of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. As we seen in recent years, our Nation is not immune from major public health and medical emergencies such as the terrorist attacks on 9/11 or Hurricanes Katrina and Rita. Many of us were living under a false sense of security that the United States was not susceptible to major terrorist attacks. We also believed that our Federal, state, and local governments had all the appropriate emergency preparedness measures in place to handle even the worst-case disasters, like the devastation caused by Hurricane Katrina or a pandemic outbreak of avian flu.

Prior to 9/11, our Nation's public health system provided passive surveillance to detect and track the spread of infectious diseases and to educate the public on how to better protect themselves. Are we better prepared today to handle a national public health emergency than we were prior to 9/11? I would say yes. But, we need to do more.

In the five years since 9/11 our Nation's public health system has begun to transform into a health system able to respond to public health emergencies, whether it is a terrorist attack, such as the anthrax, or a natural event.

The Bioterrorism and Public Health Emergency Preparedness Act of 2002, which I co-authored, provided a number of critical provisions to strengthen our Nation's public health infrastructure after we were attacked on 9/11. The act has authorized almost $8 billion for state and local public health and hospital preparedness to increase medical surge capacity and surveillance capabilities. The act created the Office of Public Health and Emergency Preparedness at HHS to coordinate Federal public health and medical emergency preparedness and response, such as significant increases of vaccines, antivirals, and medical supplies, such as gloves, masks and first-aid equipment for rapid deployment anywhere in the U.S. through the Strategic National Stockpile. The act also strengthened border protection authorities, including quarantine and isolation, and food importation and our water supply.

While the Bioterrorism and Emergency Preparedness Act of 2002 improved our Nation's public health and medical response infrastructure, much work remain. We still cannot say with any certainty that states are more prepared than before 9/11 because we still do not have meaningful standards to evaluate our level of preparedness. Once states develop preparedness plans, we must test and evaluate them. Individuals throughout all levels of government and the private sector agree that one of the biggest public health weaknesses is the lack of adequate testing and evaluation of the response plans long before an emergency occurs.

Now that we've had almost five years to strengthen our capacity to respond effectively to a national emergency, we need to now shift our focus to areas that are especially at a high risk of a terrorist attack or a natural emergency. The Federal government must play a role, but cannot stand alone. The state and local public health and medical first responders will be on front lines during a national emergency. State and local governments have the in-depth knowledge of their own medical surge capacity and response plans and must play a significant role in their own preparedness preparations.

We need to do more to encourage states and regions to coordinate and share resources, including personnel, hospital beds and medical supplies during a major emergency. The public health and emergency medical response community agrees that it is critical to establish regional agreements among neighboring states. A regional approach will greatly increase a state's surge capacity to handle a major public health emergency. Incentivizing states to coordinate emergency preparedness planning is critical. My state of New Hampshire, along with Maine and Vermont, have established memo of understanding to share resources, such as medical personnel and hospital beds, during an emergency in the region.

Finally, we must establish coordination among all levels of government—from the Federal government all the way down to the city and town leaders. The Federal response during a national emergency is managed by the Department of Homeland Security and guided by the National Response Plan (NRP). The NRP directs the Department of Health and Human Services (HHS) to lead the Federal public health and medical response and support the state and local first-responders. It is essential that clear and robust lines of communication are developed between federal agencies to effectively prepare for and respond to national emergencies.

Our Nation has certainly had its share of very difficult circumstances to overcome in recent years. I believe these incidents have given us a real wake-up call that we must prepare at all levels of government to provide a rapid and robust response. I believe the bill I am introducing today will focus on all levels of government to be accountable and prepared to better respond to national public health and medical emergencies.

By Mr. LUGAR:

S. 2793. A bill to enhance research and education in the areas of pharmaceutical and biotechnology science and engineering, including therapy development and manufacturing, analytical technologies, modeling, and informatics; to the Committee on Health, Education, Labor, and Pensions.

Mr. LUGAR. Mr. President, I rise today to introduce the Pharmaceutical Technology and Education Enhancement Act. The legislation that I introduce today would improve pharmaceutical and biotechnological development and manufacturing through education and research at our nation's institutions of higher education. By expanding pharmaceutical science, technology and engineering research within our universities, this bill aims to expedite the drug manufacturing process, thereby producing quality pharmaceuticals at a more affordable cost to consumers.

In 1999, 8.2 percent of total health care spending in the United States was attributed to prescription drugs. By 2010, prescription drugs are expected to account for 14 percent of our nation's health care spending. In addition, the average cost of bringing a new drug to market has risen 50 percent in the last five years, now costing as much as $1,700,000,000.

The trend of rising pharmaceutical costs is disturbing as it discourages innovation and impedes efforts to fight disease and address important public health concerns. High pharmaceutical manufacturing costs associated with outdated manufacturing processes significantly contribute to the rising cost of prescription drugs and overall health care in our country.

This legislation would establish a partnership between the Food and Drug Administration and other federal agencies, the pharmaceutical and medical industries, and the National Institute for Pharmaceutical Technology and Education whose member institutions include Purdue University, in my home state of Indiana, and ten other exemplary research universities throughout the country. This collaboration will expand the ability of those in the academic research field to contribute to the medical technology and pharmaceutical industries to create better quality products with more efficient, less costly manufacturing.

Without a change in the pharmaceutical manufacturing process, health care costs in this country will continue to rise and prevalent public health concerns will remain unanswered. Engaging the academic community in this process is vital and I urge my colleagues to join me as co-sponsors of this important legislation.

By Mr. KENNEDY (for himself, Mr. REID, Mr. BAUCUS, Mr. BINGAMAN, Mr. HARKIN, Ms. MIKULSKI, and Ms. CANTWELL):

S. 2794. A bill to ensure the equitable provision of pension and medical benefits to Department of Energy contractor employees; to the Committee on Energy and Natural Resources.

Mr. KENNEDY. Mr. President, today Senators REID, BAUCUS, BINGAMAN, HARKIN, MIKULSKI and CANTWELL join me in introducing legislation to protect the pensions and health care of America's nuclear defense and energy workers who provide critical services to support our national defense and energy security.

Our bill reverses a policy the Bush administration recently issued to eliminate secure pensions and good health care for workers under Department of Energy contracts. This policy is bad for workers and bad for business. By attacking their secure pensions and quality health care benefits, this administration is undermining our government's ability to protect our Nation and strengthen our economy. And it is broadcasting a message that American workers' secure retirement and good health care should be put on the chopping block. The Federal Government should be setting a good example with strong benefits for workers, instead of leading a race to the bottom.

By refusing to cover the costs for secure pensions, this administration is forcing contractors to put their employees into defined contribution plans. Workers will bear the risks of uncertain stock markets and the risk of outliving their savings. And businesses, instead of being free to choose which type of retirement plan is best for their workers, will be forced into a one-size-fits-all model.

The American Academy of Actuaries, the professionals who understand as well as anyone the benefit system in America, strongly objects to the Department's new policy, pointing out that it takes away contractors' ability to choose the type of benefit plans offered to workers and undermines retirement security. They urge that this policy be immediately rescinded.

This is a particular concern given the timing of this announcement. Right now we have a pension bill in conference designed to strengthen the defined benefit pension system.

At this critical time, the administration should be supporting the growth and expansion of the defined benefit pension system. But instead it is going the other way, by forcing businesses to abandon defined benefit pension plans. This says to me that this President is not committed to a secure retirement for Americans. First he tried to privatize Social Security; now he's trying to use our federal contracting system to do the same with our Nation's nuclear defense workers.

The administration is also attacking employer-provided health care, by saying the government will not pay more than the average in the industry for health care costs under Department of Energy contracts. In other words, it will pay only the average or below.

And the quality health care benefits Department of Energy contractors offer workers will have to be replaced by limited medical plans that unfairly penalize the least healthy workers.

These high deductible plans don't work for people who need health care the most. Persons with chronic health conditions or who are hit with illness or injury will have to pay significantly more than they would with the comprehensive insurance that the administration's proposal eliminates. These individuals will never be able to find the funds to cover the care they need before meeting the high-deductible needed for their plan to cover them. Is this how we want to treat American workers?

If the President's goal is to cut spending for health care, this is the wrong way to go about it. Workers with the kind of high-deductible health plan President Bush has mandated for Department of Energy contractors are more likely to avoid, skip or delay the care that prevents a medical crisis. This means workers will get care when they are sicker and may need costly hospital or emergency room care. Shifting costs to workers drives up costs instead of cutting them.

Last week Senator REID, Senators BAUCUS, BINGAMAN, HARKIN, MIKULSKI, CANTWELL, MURRAY and I sent a letter to the White House calling on the President to overturn this ill-conceived policy and call off his attack on the retirement security and health care of these skilled workers. We hope that the President will reconsider. But if he does not, we will be looking for every opportunity to address this issue through this legislation. I urge my colleagues, to support this legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 474—THANKING JOYCE RECHTSCHAFFEN FOR HER SERVICE TO THE SENATE AND TO THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. RES. 474

Whereas Joyce Rechtschaffen, an accomplished environmental lawyer, joined the staff of Senator Joseph I. Lieberman upon his entry into the Senate in 1989 and served as his legislative assistant and counsel for environmental issues for almost 10 years;

Whereas, during her tenure in Senator Lieberman's office, Joyce Rechtschaffen contributed greatly to the protection of the Nation's environment, most significantly through important contributions to the landmark Clean Air Act Amendments of 1990, ceaseless efforts to protect the Arctic National Wildlife Refuge, and innovative proposals to stem the harmful effects of greenhouse gasses;

Whereas, in 1999, upon Senator Lieberman becoming the Ranking Member on the committee known at the time as the Committee on Governmental Affairs, Joyce Rechtschaffen took on the new challenge of serving as Democratic Staff Director of that committee;

Whereas during her more than 7 years in that position, Joyce Rechtschaffen worked tirelessly to advance the work of the Committee on Governmental Affairs, and its current successor, the Committee on Homeland Security and Governmental Affairs, and of the Nation;

Whereas Joyce Rechtschaffen has played a leading role in every accomplishment of the Committee on Homeland Security and Governmental Affairs since 1999, from the 2002 creation of the Department of Homeland Security, to the establishment of the National Commission on Terrorist Attacks Upon the United States (commonly known as the "9/11 Commission") that same year, to the 2004 reorganization of the United States intelligence community, and to the 2006 investigation into the governmental response to Hurricane Katrina, among many other accomplishments;

Whereas Joyce Rechtschaffen has shown the same focus and dedication to all of the work of the Committee on Homeland Security and Governmental Affairs no matter how significant the issue at hand;

Whereas Joyce Rechtschaffen has been a model manager, staffer, employee, and colleague to all who have worked with her;

Whereas Joyce Rechtschaffen has worked tirelessly and selflessly for the Committee on Homeland Security and Governmental Affairs, and its predecessor, the Committee on Governmental Affairs, these past 7 years, often at great personal sacrifice; and

Whereas Joyce Rechtschaffen has been a model of integrity, intelligence, compassion, and commitment to building a better United States and has shown herself to be the very best and brightest of both civil and Congressional service: Now therefore, be it

Resolved, That the Committee on Homeland Security and Governmental Affairs of the Senate thanks Joyce Rechtschaffen for her years of work for and dedication to the Committee on Homeland Security and Governmental Affairs and wishes her every success in her future endeavors.

SENATE RESOLUTION 475—PROCLAIMING THE WEEK OF MAY 21 THROUGH MAY 27, 2006, AS "NATIONAL PUBLIC WORKS WEEK"

Mr. INHOFE (for himself and Mr. JEFFORDS) submitted the following resolution; which was considered and agreed to:

S. RES. 475

Whereas public works infrastructure, facilities, and services are of vital importance to the health, safety, and well-being of the people of the United States;

Whereas those facilities and services could not be provided without the dedicated efforts of public works professionals, engineers, and administrators who represent State and local governments throughout the United States;

Whereas those individuals design, build, operate, and maintain the transportation systems, water supply infrastructure, sewage and refuse disposal systems, public buildings, and other structures and facilities that are vital to the citizens and communities of the United States; and

Whereas it is in the interest of the public for citizens and civic leaders to understand the role that public infrastructure plays in—

(1) protecting the environment;

(2) improving public health and safety;

(3) contributing to economic vitality; and

(4) enhancing the quality of life of every community of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the week of May 21 through May 27, 2006, as "National Public Works Week";

(2) recognizes and celebrates the important contributions that public works professionals make every day to improve—

(A) the public infrastructure of the United States; and

(B) the communities that those professionals serve; and

(3) urges citizens and communities throughout the United States to join with representatives of the Federal Government and the American Public Works Association in activities and ceremonies that are designed—

(A) to pay tribute to the public works professionals of the Nation; and

(B) to recognize the substantial contributions that public works professionals make to the Nation.

SENATE CONCURRENT RESOLUTION 94—EXPRESSING THE SENSE OF CONGRESS THAT THE NEEDS OF CHILDREN AND YOUTH AFFECTED OR DISPLACED BY DISASTERS ARE UNIQUE AND SHOULD BE GIVEN SPECIAL CONSIDERATION IN PLANNING, RESPONDING, AND RECOVERING FROM SUCH DISASTERS IN THE UNITED STATES

Mr. COCHRAN (for himself and Ms. LANDRIEU) submitted the following concurrent resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

Mr. COCHRAN. Mr. President, the hurricanes of last summer brought new demands on all of our nation's rescue resources. The needs of children, particularly young children and their families, are unique and not a part of local and national recovery plans. Mental health, physical needs, day care, education, and family separation continue to be needs that for communities to address.

The National Center for Rural Early Childhood Learning Initiatives and the non-profit Save the Children, continue to lead the focused on the special needs of children. While assessing damages and recording destroyed facilities, the Rural Early Childhood center and Save the Children, with assistance from others, also developed a plan for future disasters.

Today I am introducing a Senate concurrent resolution that expresses the sense of the Senate that the Federal Emergency Management Agency should consider the unique needs of children and consider the recent experiences, suggestions and solutions of organizations and research centers. We ought to support the incorporation of child-specific needs and concerns into the National Response Plan. The Senator from Louisiana, Ms. LANDRIEU, is cosponsoring this resolution. We invite all Senators to join us.

S. CON. RES. 94

Whereas major disasters resulting in Presidential disaster declarations in the United States have increased from an average of 38 per year in the 1980s, to 46 per year in the 1990s, to 52 per year during the first half of this decade;

Whereas the occurrence of major disasters in the United States is expected to continue to increase in the foreseeable future;

Whereas the number of people in the United States affected by disasters each year is a staggering 2,000,000 to 3,000,000 as measured by the Federal Emergency Management Agency (even outside of truly catastrophic events as occurred on the Gulf Coast in 2005);

Whereas 5,192 children were reported missing or displaced to the National Center for Missing & Exploited Children as a result of Hurricanes Katrina and Rita, and it took 6 ½ months to reunite the last child separated from her family;

Whereas the most serious of such cases were those 45 children arriving at shelters separated from parents or guardians with no adult supervision and it took more than 1 month to resolve all of those cases;

Whereas 1,100 schools were closed immediately following Hurricane Katrina and 372,000 schoolchildren were initially unable to attend school in New Orleans and the Gulf Coast due to the hurricane;

Whereas in Mississippi 7 percent and in Louisiana 21 percent of elementary schools and secondary schools remained closed 6 months after Hurricane Katrina;

Whereas more than 400,000 children under the age of 5 live in or have evacuated from counties or parishes that have been declared disaster areas by the Federal Emergency Management Agency;

Whereas the numbers of licensed child care facilities in areas affected by Hurricanes Katrina and Rita declined by 4 percent (54 facilities) in Mississippi and by 25 percent (356 facilities) in Louisiana after the storms;

Whereas children are known to benefit from rapid mental health programming following disasters to mitigate longer term impacts;

Whereas the existing system of disaster management in the United States is the purview of Federal, State, and local government emergency management organizations and the disaster management programs and activities of these organizations are not mandated nor are able to fully respond to the unique needs of children;

Whereas Federal, State, and local government emergency management professionals lack the technical knowledge, support, and contacts to address the unique needs of children that need to be incorporated into such professionals' disaster management programs and activities; and

Whereas existing legislative constraints on Federal disaster response and recovery aid programs restrict disaster officials from responding to the specific needs of children in a disaster and there is no government liaison or program concerning children's issues in disasters: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the needs of children and youth affected by major disasters are unique and should be given special consideration in planning, responding, and recovering to major disasters; and

(2) the Federal Emergency Management Agency should consult with appropriate child-focused non-governmental organizations and public university national research centers with experience in addressing the needs of children in major disasters to address the needs of children and youth in disaster preparedness, response, recovery, and mitigation, including by—

(A) incorporating suggestions from such organizations on children's issues into the National Response Plan;

(B) seeking the recommendations of such organizations on how to address the needs of children in emergency shelters, trailer parks, and transitional housing sites;

(C) jointly developing child-, family-, early childhood service-, and school-focused disaster preparedness materials to support understanding of the impact of disasters on children and strategies to mitigate them; and

(D) jointly developing risk assessment tools for communities to use in determining children's specific disaster risks.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3925. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table.

SA 3926. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3927. Mr. DORGAN (for himself, Ms. Snowe, Mr. Kennedy, Mr. McCain, and Ms. Stabenow) submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3928. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3929. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3930. Mr. COBURN (for himself, Mr. Brownback, and Mr. Graham) submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3931. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3932. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3933. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 3924 submitted by Ms. Snowe (for herself, Mr. Byrd, Mr. Talent, and Mr. Domenici) and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3934. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3899 submitted by Mr. Durbin (for himself, Mrs. Lincoln, Mr. Reid, Mr. Baucus, Mr. Kennedy, Mrs. Clinton, Mr. Kerry, Mr. Bingaman, Ms. Cantwell, Mr. Pryor, Mr. Harkin, Mr. Obama, Mr. Lautenberg, Mr. Schumer, Mr. Kohl, Mr. Lieberman, Mr. Dodd, Mr. Dayton, Mr. Johnson, Mr. Menendez, Mrs. Boxer, Mr. Nelson of Florida, Ms. Mikulski, Ms. Stabenow, Mr. Carper, and Mr. Rockefeller) and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3935. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3925 submitted by Mr. Kennedy and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3936. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3919 submitted by Mr. Dodd and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3937. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3918 submitted by Mr. Dodd (for himself and Mr. Menendez) and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3938. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3916 submitted by Mr. Reid (for himself, Mrs. Clinton, Mrs. Murray, and Mr. Menendez) and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3939. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3912 submitted by Mr. Harkin and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3940. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3913 submitted by Mr. Harkin and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3941. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3907 submitted by Mr. Baucus and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3942. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3900 submitted by Mr. Carper (for himself and Mrs. Feinstein) and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3943. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3866 submitted by Mr. Smith and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3944. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3892 submitted by Ms. Collins (for herself and Mr. Bingaman) and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3945. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3880 submitted by Mr. Kennedy and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3946. Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 3924 submitted by Ms. Snowe (for herself, Mr. Byrd, Mr. Talent, and Mr. Domenici) and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3947. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed to amendment SA 3926 submitted by Mr. Nelson of Nebraska and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3948. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 3926 submitted by Mr. Nelson of Nebraska and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3949. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3900 submitted by Mr. Carper (for himself and Mrs. Feinstein) and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3950. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3866 submitted by Mr. Smith and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3951. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3892 submitted by Ms. Collins (for herself and Mr. Bingaman) and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3952. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3880 submitted by Mr. Kennedy and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3953. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3907 submitted by Mr. Baucus and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3954. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3919 submitted by Mr. Dodd and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3955. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3913 submitted by Mr. Harkin and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3956. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3916 submitted by Mr. Reid (for himself, Mrs. Clinton, Mrs. Murray, and Mr. Menendez) and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3957. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3918 submitted by Mr. Dodd (for himself and Mr. Menendez) and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3958. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3925 submitted by Mr. Kennedy and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3959. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3912 submitted by Mr. Harkin and intended to be proposed to the bill S. 1955, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3925. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title

I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON APPLICATION OF CERTAIN PROVISIONS RELATING TO DIABETES.

Notwithstanding any other provision of this Act (or an amendment made by this Act), any provision of this Act (or amendment) that has the effect of—

(1) increasing premiums for health insurance coverage for individuals with diabetes;

(2) permitting a health insurance issuer to deny coverage for medical items or services needed to treat, mitigate, or cure diabetes; or

(3) limiting the ability of a State to enforce State laws that prohibit premium increases or denials of coverage described in paragraphs (1) or (2);

shall not apply and shall not be enforced.

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON APPLICATION OF CERTAIN PROVISIONS RELATING TO CANCER.

Notwithstanding any other provision of this Act (or an amendment made by this Act), any provision of this Act (or amendment) that has the effect of—

(1) increasing premiums for health insurance coverage for individuals with cancer;

(2) permitting a health insurance issuer to deny coverage for medical items or services needed to treat, mitigate, or cure cancer; or

(3) limiting the ability of a State to enforce State laws that prohibit premium increases or denials of coverage described in paragraphs (1) or (2);

shall not apply and shall not be enforced.

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON APPLICATION OF CERTAIN PROVISIONS RELATING TO CARDIOVASCULAR DISEASE.

Notwithstanding any other provision of this Act (or an amendment made by this Act), any provision of this Act (or amendment) that has the effect of—

(1) increasing premiums for health insurance coverage for individuals with cardiovascular disease;

(2) permitting a health insurance issuer to deny coverage for medical items or services needed to treat, mitigate, or cure cardiovascular disease; or

(3) limiting the ability of a State to enforce State laws that prohibit premium increases or denials of coverage described in paragraphs (1) or (2);

shall not apply and shall not be enforced.

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON APPLICATION OF CERTAIN PROVISIONS RELATING TO MENTAL ILLNESS.

Notwithstanding any other provision of this Act (or an amendment made by this Act), any provision of this Act (or amendment) that has the effect of—

(1) increasing premiums for health insurance coverage for individuals with a mental illness;

(2) permitting a health insurance issuer to deny coverage for medical items or services needed to treat, mitigate, or cure a mental illness; or

(3) limiting the ability of a State to enforce State laws that prohibit premium increases or denials of coverage described in paragraphs (1) or (2);

shall not apply and shall not be enforced.

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON APPLICATION OF CERTAIN PROVISIONS RELATING TO BRAIN INJURY.

Notwithstanding any other provision of this Act (or an amendment made by this Act), any provision of this Act (or amendment) that has the effect of—

(1) increasing premiums for health insurance coverage for individuals with a brain injury;

(2) permitting a health insurance issuer to deny coverage for medical items or services needed to treat, mitigate, or cure a brain injury; or

(3) limiting the ability of a State to enforce State laws that prohibit premium increases or denials of coverage described in paragraphs (1) or (2);

shall not apply and shall not be enforced.

SA 3926. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

On page 1 of the amendment, strike all after the part heading and insert the following:

"SEC. 2921. DEFINITIONS.

"In this part:

"(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted a law providing that small group and large group health insurers in such State may offer and sell products in accordance with the List of Required Benefits and the Terms of Application as provided for in section 2922(b)

"(2) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

"(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the List of Required Benefits and Terms of Application in a nonadopting State;

"(B) notifies the insurance department of a nonadopting State (or other applicable State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the List of Required Benefits and Terms of Application, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

"(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the List of Required Benefits and a description of the Terms of Application, including a description of the benefits to be provided, and that adherence to such standards is included as a term of such contract.

"(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the small group or large group health insurance markets, including with respect to small business health plans, except that such term shall not include excepted benefits (as defined in section 2791(c)).

"(4) LIST OF REQUIRED BENEFITS.—The term 'List of Required Benefits' means the List issued under section 2922(a).

"(5) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

"(6) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"(7) STATE PROVIDER FREEDOM OF CHOICE LAW.—The term 'State Provider Freedom of Choice Law' means a State law requiring that a health insurance issuer, with respect to health insurance coverage, not discriminate with respect to participation, reimbursement, or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law.

"(8) TERMS OF APPLICATION.—The term 'Terms of Application' means terms provided under section 2922(a).

"SEC. 2922. OFFERING AFFORDABLE PLANS.

"(a) LIST OF REQUIRED BENEFITS.—Not later than 3 months after the date of enactment of this title, the Secretary, in consultation with the National Association of Insurance Commissioners, shall issue by interim final rule a list (to be known as the 'List of Required Benefits') of covered benefits, services, or categories of providers that are required to be provided by health insurance issuers, in each of the small group and large group markets, in at least 26 States as a result of the application of State covered benefit, service, and category of provider mandate laws. With respect to plans sold to or through small business health plans, the List of Required Benefits applicable to the small group market shall apply.

"(b) TERMS OF APPLICATION.—

"(1) STATE WITH MANDATES.—With respect to a State that has a covered benefit, service, or category of provider mandate in effect that is covered under the List of Required Benefits under subsection (a), such State mandate shall, subject to paragraph (3) (concerning uniform application), apply to a coverage plan or plan in, as applicable, the small group or large group market or through a small business health plan in such State.

"(2) STATES WITHOUT MANDATES.—With respect to a State that does not have a covered benefit, service, or category of provider mandate in effect that is covered under the List of Required Benefits under subsection (a), such mandate shall not apply, as applicable, to a coverage plan or plan in the small group or large group market or through a small business health plan in such State.

"(3) UNIFORM APPLICATION OF LAWS.—

"(A) IN GENERAL.—With respect to a State described in paragraph (1), in applying a covered benefit, service, or category of provider mandate that is on the List of Required Benefits under subsection (a) the State shall permit a coverage plan or plan offered in the small group or large group market or through a small business health plan in such State to apply such benefit, service, or category of provider coverage in a manner consistent with the manner in which such coverage is applied under one of the three most heavily subscribed national health plans offered under the Federal Employee Health Benefits Program under chapter 89 of title 5, United States Code (as determined by the Secretary in consultation with the Director of the Office of Personnel Management), and consistent with the Publication of Benefit Applications under subsection (c). In the event a covered benefit, service, or category of provider appearing in the List of Required Benefits is not offered in one of the three most heavily subscribed national health plans offered under the Federal Employees Health Benefits Program, such covered benefit, service, or category of provider requirement shall be applied in a manner consistent with the manner in which such coverage is offered in the remaining most heavily subscribed plan of the remaining Federal Employees Health Benefits Program plans, as determined by the Secretary, in consultation with the Director of the Office of Personnel Management.

"(B) EXCEPTION REGARDING STATE PROVIDER FREEDOM OF CHOICE LAWS.—Notwithstanding subparagraph (A), in the event a category of provider mandate is included in the List of Covered Benefits, any State Provider Freedom of Choice Law (as defined in section 2921(7)) that is in effect in any State in which such category of provider mandate is in effect shall not be preempted, with respect to that category of provider, by this part.

"(c) PUBLICATION OF BENEFIT APPLICATIONS.—Not later than 3 months after the date of enactment of this title, and on the first day of every calendar year thereafter, the Secretary, in consultation with the Director of the Office of Personnel Management, shall publish in the Federal Register a description of such covered benefits, services, and categories of providers covered in that calendar year by each of the three most heavily subscribed nationally available Federal Employee Health Benefits Plan options which are also included on the List of Required Benefits.

"(d) EFFECTIVE DATES.—

"(1) SMALL BUSINESS HEALTH PLANS.—With respect to health insurance provided to participating employers of small business health plans, the requirements of this part (concerning lower cost plans) shall apply beginning on the date that is 12 months after the date of enactment of this title.

"(2) NON-ASSOCIATION COVERAGE.—With respect to health insurance provided to groups or individuals other than participating employers of small business health plans, the requirements of this part shall apply beginning on the date that is 15 months after the date of enactment of this title.

"(e) UPDATING OF LIST OF REQUIRED BENEFITS.—Not later than 2 years after the date on which the list of required benefits is issued under subsection (a), and every 2 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners, shall update the list based on changes in the laws and regulations of the States. The Secretary shall issue the updated list by regulation, and such updated list shall be effective upon the first plan year following the issuance of such regulation.".

SA 3927. Mr. DORGAN (for himself, Ms. SNOWE, Mr. KENNEDY, Mr. MCCAIN, and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___ —IMPORTATION OF PRESCRIPTION DRUGS

SEC. 1. SHORT TITLE.

This title may be cited as the "Pharmaceutical Market Access and Drug Safety Act of 2006".

SEC. 2. FINDINGS.

Congress finds that—

(1) Americans unjustly pay up to 5 times more to fill their prescriptions than consumers in other countries;

(2) the United States is the largest market for pharmaceuticals in the world, yet American consumers pay the highest prices for brand pharmaceuticals in the world;

(3) a prescription drug is neither safe nor effective to an individual who cannot afford it;

(4) allowing and structuring the importation of prescription drugs to ensure access to safe and affordable drugs approved by the Food and Drug Administration will provide a level of safety to American consumers that they do not currently enjoy;

(5) American seniors alone will spend $1,800,000,000,000 on pharmaceuticals over the next 10 years; and

(6) allowing open pharmaceutical markets could save American consumers at least $38,000,000,000 each year.

SEC. 3. REPEAL OF CERTAIN SECTION REGARDING IMPORTATION OF PRESCRIPTION DRUGS.

Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by striking section 804.

SEC. 4. IMPORTATION OF PRESCRIPTION DRUGS; WAIVER OF CERTAIN IMPORT RESTRICTIONS.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section 3, is further amended by inserting after section 803 the following:

"SEC. 804. COMMERCIAL AND PERSONAL IMPORTATION OF PRESCRIPTION DRUGS.

"(a) IMPORTATION OF PRESCRIPTION DRUGS.—

"(1) IN GENERAL.—In the case of qualifying drugs imported or offered for import into the United States from registered exporters or by registered importers—

"(A) the limitation on importation that is established in section 801(d)(1) is waived; and

"(B) the standards referred to in section 801(a) regarding admission of the drugs are subject to subsection (g) of this section (including with respect to qualifying drugs to which section 801(d)(1) does not apply).

"(2) IMPORTERS.—A qualifying drug may not be imported under paragraph (1) unless—

"(A) the drug is imported by a pharmacy, group of pharmacies, or a wholesaler that is a registered importer; or

"(B) the drug is imported by an individual for personal use or for the use of a family member of the individual (not for resale) from a registered exporter.

"(3) RULE OF CONSTRUCTION.—This section shall apply only with respect to a drug that is imported or offered for import into the United States—

"(A) by a registered importer; or

"(B) from a registered exporter to an individual.

"(4) DEFINITIONS.—

"(A) REGISTERED EXPORTER; REGISTERED IMPORTER.—For purposes of this section:

"(i) The term 'registered exporter' means an exporter for which a registration under subsection (b) has been approved and is in effect.

"(ii) The term 'registered importer' means a pharmacy, group of pharmacies, or a wholesaler for which a registration under subsection (b) has been approved and is in effect.

"(iii) The term 'registration condition' means a condition that must exist for a registration under subsection (b) to be approved.

"(B) QUALIFYING DRUG.—For purposes of this section, the term 'qualifying drug' means a drug for which there is a corresponding U.S. label drug.

"(C) U.S. LABEL DRUG.—For purposes of this section, the term 'U.S. label drug' means a prescription drug that—

"(i) with respect to a qualifying drug, has the same active ingredient or ingredients, route of administration, dosage form, and strength as the qualifying drug;

"(ii) with respect to the qualifying drug, is manufactured by or for the person that manufactures the qualifying drug;

"(iii) is approved under section 505(c); and

"(iv) is not—

"(I) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(II) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262), including—

"(aa) a therapeutic DNA plasmid product;

"(bb) a therapeutic synthetic peptide product;

"(cc) a monoclonal antibody product for in vivo use; and

"(dd) a therapeutic recombinant DNA-derived product;

"(III) an infused drug, including a peritoneal dialysis solution;

"(IV) an injected drug;

"(V) a drug that is inhaled during surgery;

"(VI) a drug that is the listed drug referred to in 2 or more abbreviated new drug applications under which the drug is commercially marketed; or

"(VII) a sterile opthlamic drug intended for topical use on or in the eye.

"(D) OTHER DEFINITIONS.—For purposes of this section:

"(i)(I) The term 'exporter' means a person that is in the business of exporting a drug to individuals in the United States from Canada or from a permitted country designated by the Secretary under subclause (II), or that, pursuant to submitting a registration under subsection (b), seeks to be in such business.

"(II) The Secretary shall designate a permitted country under subparagraph (E) (other than Canada) as a country from which an exporter may export a drug to individuals in the United States if the Secretary determines that—

"(aa) the country has statutory or regulatory standards that are equivalent to the standards in the United States and Canada with respect to—

"(AA) the training of pharmacists;

"(BB) the practice of pharmacy; and

"(CC) the protection of the privacy of personal medical information; and "(bb) the importation of drugs to individuals in the United States from the country will not adversely affect public health.

"(ii) The term 'importer' means a pharmacy, a group of pharmacies, or a wholesaler that is in the business of importing a drug into the United States or that, pursuant to submitting a registration under subsection (b), seeks to be in such business.

"(iii) The term 'pharmacist' means a person licensed by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

"(iv) The term 'pharmacy' means a person that—

"(I) is licensed by a State to engage in the business of selling prescription drugs at retail; and

"(II) employs 1 or more pharmacists.

"(v) The term 'prescription drug' means a drug that is described in section 503(b)(1).

"(vi) The term 'wholesaler'—

"(I) means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A); and

"(II) does not include a person authorized to import drugs under section 801(d)(1).

"(E) PERMITTED COUNTRY.—The term 'permitted country' means—

"(i) Australia;

"(ii) Canada;

"(iii) a member country of the European Union, but does not include a member country with respect to which—

"(I) the country's Annex to the Treaty of Accession to the European Union 2003 includes a transitional measure for the regulation of human pharmaceutical products that has not expired; or

"(II) the Secretary determines that the requirements described in subclauses (I) and (II) of clause (vii) will not be met by the date on which such transitional measure for the regulation of human pharmaceutical products expires;

"(iv) Japan;

"(v) New Zealand;

"(vi) Switzerland; and

"(vii) a country in which the Secretary determines the following requirements are met:

"(I) The country has statutory or regulatory requirements—

"(aa) that require the review of drugs for safety and effectiveness by an entity of the government of the country;

"(bb) that authorize the approval of only those drugs that have been determined to be safe and effective by experts employed by or acting on behalf of such entity and qualified by scientific training and experience to evaluate the safety and effectiveness of drugs on the basis of adequate and well-controlled investigations, including clinical investigations, conducted by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs;

"(cc) that require the methods used in, and the facilities and controls used for the manufacture, processing, and packing of drugs in the country to be adequate to preserve their identity, quality, purity, and strength;

"(dd) for the reporting of adverse reactions to drugs and procedures to withdraw approval and remove drugs found not to be safe or effective; and

"(ee) that require the labeling and promotion of drugs to be in accordance with the approval of the drug.

"(II) The valid marketing authorization system in the country is equivalent to the systems in the countries described in clauses (i) through (vi).

"(III) The importation of drugs to the United States from the country will not adversely affect public health.

"(b) REGISTRATION OF IMPORTERS AND EXPORTERS.—

"(1) REGISTRATION OF IMPORTERS AND EXPORTERS.—A registration condition is that the importer or exporter involved (referred to in this subsection as a 'registrant') submits to the Secretary a registration containing the following:

"(A)(i) In the case of an exporter, the name of the exporter and an identification of all places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter.

"(ii) In the case of an importer, the name of the importer and an identification of the places of business of the importer at which the importer initially receives a qualifying drug after importation (which shall not exceed 3 places of business except by permission of the Secretary).

"(B) Such information as the Secretary determines to be necessary to demonstrate that the registrant is in compliance with registration conditions under—

"(i) in the case of an importer, subsections (c), (d), (e), (g), and (j) (relating to the sources of imported qualifying drugs; the inspection of facilities of the importer; the payment of fees; compliance with the standards referred to in section 801(a); and maintenance of records and samples); or

"(ii) in the case of an exporter, subsections (c), (d), (f), (g), (h), (i), and (j) (relating to the sources of exported qualifying drugs; the inspection of facilities of the exporter and the marking of compliant shipments; the payment of fees; and compliance with the standards referred to in section 801(a); being licensed as a pharmacist; conditions for individual importation; and maintenance of records and samples).

"(C) An agreement by the registrant that the registrant will not under subsection (a) import or export any drug that is not a qualifying drug.

"(D) An agreement by the registrant to—

"(i) notify the Secretary of a recall or withdrawal of a qualifying drug distributed in a permitted country that the registrant has exported or imported, or intends to export or import, to the United States under subsection (a);

"(ii) provide for the return to the registrant of such drug; and

"(iii) cease, or not begin, the exportation or importation of such drug unless the Secretary has notified the registrant that exportation or importation of such drug may proceed.

"(E) An agreement by the registrant to ensure and monitor compliance with each registration condition, to promptly correct any noncompliance with such a condition, and to promptly report to the Secretary any such noncompliance.

"(F) A plan describing the manner in which the registrant will comply with the agreement under subparagraph (E).

"(G) An agreement by the registrant to enforce a contract under subsection (c)(3)(B) against a party in the chain of custody of a qualifying drug with respect to the authority of the Secretary under clauses (ii) and (iii) of that subsection.

"(H) An agreement by the registrant to notify the Secretary not more than 30 days before the registrant intends to make the change, of—

"(i) any change that the registrant intends to make regarding information provided under subparagraph (A) or (B); and

"(ii) any change that the registrant intends to make in the compliance plan under subparagraph (F).

"(I) In the case of an exporter—

"(i) An agreement by the exporter that a qualifying drug will not under subsection (a) be exported to any individual not authorized pursuant to subsection (a)(2)(B) to be an importer of such drug.

"(ii) An agreement to post a bond, payable to the Treasury of the United States that is equal in value to the lesser of—

"(I) the value of drugs exported by the exporter to the United States in a typical 4-week period over the course of a year under this section; or

"(II) $1,000,000;

"(iii) An agreement by the exporter to comply with applicable provisions of Canadian law, or the law of the permitted country designated under subsection (a)(4)(D)(i)(II) in which the exporter is located, that protect the privacy of personal information with respect to each individual importing a prescription drug from the exporter under subsection (a)(2)(B).

"(iv) An agreement by the exporter to report to the Secretary—

"(I) not later than August 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the 6-month period from January 1 through June 30 of that year; and

"(II) not later than January 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the previous fiscal year.

"(J) In the case of an importer, an agreement by the importer to report to the Secretary—

"(i) not later than August 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the 6-month period from January 1 through June 30 of that fiscal year; and

"(ii) not later than January 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the previous fiscal year.

"(K) Such other provisions as the Secretary may require by regulation to protect the public health while permitting—

"(i) the importation by pharmacies, groups of pharmacies, and wholesalers as registered importers of qualifying drugs under subsection (a); and

"(ii) importation by individuals of qualifying drugs under subsection (a).

"(2) APPROVAL OR DISAPPROVAL OF REGISTRATION.—

"(A) IN GENERAL.—Not later than 90 days after the date on which a registrant submits to the Secretary a registration under paragraph (1), the Secretary shall notify the registrant whether the registration is approved or is disapproved. The Secretary shall disapprove a registration if there is reason to believe that the registrant is not in compliance with one or more registration conditions, and shall notify the registrant of such reason. In the case of a disapproved registration, the Secretary shall subsequently notify the registrant that the registration is approved if the Secretary determines that the registrant is in compliance with such conditions.

"(B) CHANGES IN REGISTRATION INFORMATION.—Not later than 30 days after receiving a notice under paragraph (1)(H) from a registrant, the Secretary shall determine whether the change involved affects the approval of the registration of the registrant under paragraph (1), and shall inform the registrant of the determination.

“(3) PUBLICATION OF CONTACT INFORMATION FOR REGISTERED EXPORTERS.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall make readily available to the public a list of registered exporters, including contact information for the exporters. Promptly after the approval of a registration submitted under paragraph (1), the Secretary shall update the Internet website and the information provided through the toll-free telephone number accordingly.

“(4) SUSPENSION AND TERMINATION.—

“(A) SUSPENSION.—With respect to the effectiveness of a registration submitted under paragraph (1):

“(i) Subject to clause (ii), the Secretary may suspend the registration if the Secretary determines, after notice and opportunity for a hearing, that the registrant has failed to maintain substantial compliance with a registration condition.

“(ii) If the Secretary determines that, under color of the registration, the exporter has exported a drug or the importer has imported a drug that is not a qualifying drug, or a drug that does not comply with subsection (g)(2)(A) or (g)(4), or has exported a qualifying drug to an individual in violation of subsection (i)(2)(F), the Secretary shall immediately suspend the registration. A suspension under the preceding sentence is not subject to the provision by the Secretary of prior notice, and the Secretary shall provide to the registrant an opportunity for a hearing not later than 10 days after the date on which the registration is suspended.

“(iii) The Secretary may reinstate the registration, whether suspended under clause (i) or (ii), if the Secretary determines that the registrant has demonstrated that further violations of registration conditions will not occur.

“(B) TERMINATION.—The Secretary, after notice and opportunity for a hearing, may terminate the registration under paragraph (1) of a registrant if the Secretary determines that the registrant has engaged in a pattern or practice of violating 1 or more registration conditions, or if on 1 or more occasions the Secretary has under subparagraph (A)(ii) suspended the registration of the registrant. The Secretary may make the termination permanent, or for a fixed period of not less than 1 year. During the period in which the registration is terminated, any registration submitted under paragraph (1) by the registrant, or a person that is a partner in the export or import enterprise, or a principal officer in such enterprise, and any registration prepared with the assistance of the registrant or such a person, has no legal effect under this section.

“(5) DEFAULT OF BOND.—A bond required to be posted by an exporter under paragraph (1)(I)(ii) shall be defaulted and paid to the Treasury of the United States if, after opportunity for an informal hearing, the Secretary determines that the exporter has—

“(A) exported a drug to the United States that is not a qualifying drug or that is not in compliance with subsection (g)(2)(A), (g)(4), or (i); or

“(B) failed to permit the Secretary to conduct an inspection described under subsection (d).

“(c) SOURCES OF QUALIFYING DRUGS.—A registration condition is that the exporter or importer involved agrees that a qualifying drug will under subsection (a) be exported or imported into the United States only if there is compliance with the following:

“(1) The drug was manufactured in an establishment—

“(A) required to register under subsection (h) or (i) of section 510; and

“(B)(i) inspected by the Secretary; or

“(ii) for which the Secretary has elected to rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country whose regulatory system the Secretary recognizes as equivalent under a mutual recognition agreement, as provided for under section 510(i)(3), section 803, or part 26 of title 21, Code of Federal Regulations (or any corresponding successor rule or regulation).

“(2) The establishment is located in any country, and the establishment manufactured the drug for distribution in the United States or for distribution in 1 or more of the permitted countries (without regard to whether in addition the drug is manufactured for distribution in a foreign country that is not a permitted country).

“(3) The exporter or importer obtained the drug—

“(A) directly from the establishment; or

“(B) directly from an entity that, by contract with the exporter or importer—

“(i) provides to the exporter or importer a statement (in such form and containing such information as the Secretary may require) that, for the chain of custody from the establishment, identifies each prior sale, purchase, or trade of the drug (including the date of the transaction and the names and addresses of all parties to the transaction);

“(ii) agrees to permit the Secretary to inspect such statements and related records to determine their accuracy;

“(iii) agrees, with respect to the qualifying drugs involved, to permit the Secretary to inspect warehouses and other facilities, including records, of the entity for purposes of determining whether the facilities are in compliance with any standards under this Act that are applicable to facilities of that type in the United States; and

“(iv) has ensured, through such contractual relationships as may be necessary, that the Secretary has the same authority regarding other parties in the chain of custody from the establishment that the Secretary has under clauses (ii) and (iii) regarding such entity.

“(4)(A) The foreign country from which the importer will import the drug is a permitted country; or

“(B) The foreign country from which the exporter will export the drug is the permitted country in which the exporter is located.

“(5) During any period in which the drug was not in the control of the manufacturer of the drug, the drug did not enter any country that is not a permitted country.

“(6) The exporter or importer retains a sample of each lot of the drug sufficient for testing by the Secretary.

“(d) INSPECTION OF FACILITIES; MARKING OF SHIPMENTS.—

“(1) INSPECTION OF FACILITIES.—A registration condition is that, for the purpose of assisting the Secretary in determining whether the exporter involved is in compliance with all other registration conditions—

“(A) the exporter agrees to permit the Secretary—

“(i) to conduct onsite inspections, including monitoring on a day-to-day basis, of places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter;

“(ii) to have access, including on a day-to-day basis, to—

“(I) records of the exporter that relate to the export of such drugs, including financial records; and

“(II) samples of such drugs;

“(iii) to carry out the duties described in paragraph (3); and

“(iv) to carry out any other functions determined by the Secretary to be necessary regarding the compliance of the exporter; and

“(B) the Secretary has assigned 1 or more employees of the Secretary to carry out the functions described in this subsection for the Secretary randomly, but not less than 12 times annually, on the premises of places of businesses referred to in subparagraph (A)(i), and such an assignment remains in effect on a continuous basis.

“(2) MARKING OF COMPLIANT SHIPMENTS.—A registration condition is that the exporter involved agrees to affix to each shipping container of qualifying drugs exported under subsection (a) such markings as the Secretary determines to be necessary to identify the shipment as being in compliance with all registration conditions. Markings under the preceding sentence shall—

“(A) be designed to prevent affixation of the markings to any shipping container that is not authorized to bear the markings; and

“(B) include anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies.

“(3) CERTAIN DUTIES RELATING TO EXPORTERS.—Duties of the Secretary with respect to an exporter include the following:

“(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the exporter at which qualifying drugs are stored and from which qualifying drugs are shipped.

“(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the exporter, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an exporter.

“(C) Randomly reviewing records of exports to individuals for the purpose of determining whether the drugs are being imported by the individuals in accordance with the conditions under subsection (i). Such reviews shall be conducted in a manner that will result in a statistically significant determination of compliance with all such conditions.

“(D) Monitoring the affixing of markings under paragraph (2).

“(E) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records, of other parties in the chain of custody of qualifying drugs.

“(F) Determining whether the exporter is in compliance with all other registration conditions.

“(4) PRIOR NOTICE OF SHIPMENTS.—A registration condition is that, not less than 8 hours and not more than 5 days in advance of the time of the importation of a shipment of qualifying drugs, the importer involved agrees to submit to the Secretary a notice with respect to the shipment of drugs to be imported or offered for import into the United States under subsection (a). A notice under the preceding sentence shall include—

“(A) the name and complete contact information of the person submitting the notice;

“(B) the name and complete contact information of the importer involved;

“(C) the identity of the drug, including the established name of the drug, the quantity of the drug, and the lot number assigned by the manufacturer;

“(D) the identity of the manufacturer of the drug, including the identity of the establishment at which the drug was manufactured;

“(E) the country from which the drug is shipped;

“(F) the name and complete contact information for the shipper of the drug;

“(G) anticipated arrival information, including the port of arrival and crossing location within that port, and the date and time;

“(H) a summary of the chain of custody of the drug from the establishment in which the drug was manufactured to the importer;

“(I) a declaration as to whether the Secretary has ordered that importation of the drug from the permitted country cease under subsection (g)(2)(C) or (D); and

“(J) such other information as the Secretary may require by regulation.

“(5) MARKING OF COMPLIANT SHIPMENTS.—A registration condition is that the importer involved agrees, before wholesale distribution (as defined in section 503(e)) of a qualifying drug that has been imported under subsection (a), to affix to each container of such drug such markings or other technology as the Secretary determines necessary to identify the shipment as being in compliance with all registration conditions, except that the markings or other technology shall not be required on a drug that bears comparable, compatible markings or technology from the manufacturer of the drug. Markings or other technology under the preceding sentence shall—

“(A) be designed to prevent affixation of the markings or other technology to any container that is not authorized to bear the markings; and

“(B) shall include anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of such technologies.

“(6) CERTAIN DUTIES RELATING TO IMPORTERS.—Duties of the Secretary with respect to an importer include the following:

“(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the importer at which a qualifying drug is initially received after importation.

“(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the importer, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an importer.

“(C) Reviewing notices under paragraph (4).

“(D) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records of other parties in the chain of custody of qualifying drugs.

“(E) Determining whether the importer is in compliance with all other registration conditions.

“(e) IMPORTER FEES.—

“(1) REGISTRATION FEE.—A registration condition is that the importer involved pays to the Secretary a fee of $10,000 due on the date on which the importer first submits the registration to the Secretary under subsection (b).

“(2) INSPECTION FEE.—A registration condition is that the importer involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

“(3) AMOUNT OF INSPECTION FEE.—

“(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for importers for that fiscal year that is sufficient, and not more than necessary, to pay the costs for that fiscal year of administering this section with respect to registered importers, including the costs associated with—

“(i) inspecting the facilities of registered importers, and of other entities in the chain of custody of a qualifying drug as necessary, under subsection (d)(6);

“(ii) developing, implementing, and operating under such subsection an electronic system for submission and review of the notices required under subsection (d)(4) with respect to shipments of qualifying drugs under subsection (a) to assess compliance with all registration conditions when such shipments are offered for import into the United States; and

“(iii) inspecting such shipments as necessary, when offered for import into the United States to determine if such a shipment should be refused admission under subsection (g)(5).

“(B) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 2.5 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (a).

“(C) TOTAL PRICE OF DRUGS.—

“(i) ESTIMATE.—For the purposes of complying with the limitation described in subparagraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under paragraph (2) for a fiscal year, the Secretary shall estimate the total price of qualifying drugs imported into the United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during the 6-month period from January 1 through June 30 of the previous fiscal year, as reported to the Secretary by each registered importer under subsection (b)(1)(J).

“(ii) CALCULATION.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during that fiscal year, as reported to the Secretary by each registered importer under subsection (b)(1)(J).

“(iii) ADJUSTMENT.—If the total price of qualifying drugs imported into the United States by registered importers during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for that fiscal year, the Secretary shall provide for a pro-rata reduction in the fee due from each registered importer on April 1 of the subsequent fiscal year so that the limitation described in subparagraph (B) is observed.

“(D) INDIVIDUAL IMPORTER FEE.—Subject to the limitation described in subparagraph (B), the fee under paragraph (2) to be paid on October 1 and April 1 by an importer shall be an amount that is proportional to a reasonable estimate by the Secretary of the semiannual share of the importer of the volume of qualifying drugs imported by importers under subsection (a).

“(4) USE OF FEES.—

“(A) IN GENERAL.—Subject to appropriations Acts, fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration until expended (without fiscal year limitation), and the Secretary may, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, transfer some proportion of such fees to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

“(B) SOLE PURPOSE.—Fees collected by the Secretary under paragraphs (1) and (2) are only available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

“(5) COLLECTION OF FEES.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

“(f) EXPORTER FEES.—

“(1) REGISTRATION FEE.—A registration condition is that the exporter involved pays to the Secretary a fee of $10,000 due on the date on which the exporter first submits that registration to the Secretary under subsection (b).

“(2) INSPECTION FEE.—A registration condition is that the exporter involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

“(3) AMOUNT OF INSPECTION FEE.—

“(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for exporters for that fiscal year that is sufficient, and not more than necessary, to pay the costs for that fiscal year of administering this section with respect to registered exporters, including the costs associated with—

“(i) inspecting the facilities of registered exporters, and of other entities in the chain of custody of a qualifying drug as necessary, under subsection (d)(3);

“(ii) developing, implementing, and operating under such subsection a system to screen marks on shipments of qualifying drugs under subsection (a) that indicate compliance with all registration conditions, when such shipments are offered for import into the United States; and

“(iii) screening such markings, and inspecting such shipments as necessary, when offered for import into the United States to determine if such a shipment should be refused admission under subsection (g)(5).

“(B) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 2.5 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered exporters under subsection (a).

"(C) TOTAL PRICE OF DRUGS.—

"(i) ESTIMATE.—For the purposes of complying with the limitation described in subparagraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under paragraph (2) for a fiscal year, the Secretary shall estimate the total price of qualifying drugs imported into the United States by registered exporters during that fiscal year by adding the total price of qualifying drugs exported by each registered exporter during the 6-month period from January 1 through June 30 of the previous fiscal year, as reported to the Secretary by each registered exporter under subsection (b)(1)(I)(iv).

"(ii) CALCULATION.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered exporters during that fiscal year by adding the total price of qualifying drugs exported by each registered exporter during that fiscal year, as reported to the Secretary by each registered exporter under subsection (b)(1)(I)(iv).

"(iii) ADJUSTMENT.—If the total price of qualifying drugs imported into the United States by registered exporters during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for that fiscal year, the Secretary shall provide for a pro-rata reduction in the fee due from each registered exporter on April 1 of the subsequent fiscal year so that the limitation described in subparagraph (B) is observed.

"(D) INDIVIDUAL EXPORTER FEE.—Subject to the limitation described in subparagraph (B), the fee under paragraph (2) to be paid on October 1 and April 1 by an exporter shall be an amount that is proportional to a reasonable estimate by the Secretary of the semiannual share of the exporter of the volume of qualifying drugs exported by exporters under subsection (a).

"(4) USE OF FEES.—

"(A) IN GENERAL.—Subject to appropriations Acts, fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration until expended (without fiscal year limitation), and the Secretary may, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, transfer some proportion of such fees to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

"(B) SOLE PURPOSE.—Fees collected by the Secretary under paragraphs (1) and (2) are only available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

"(5) COLLECTION OF FEES.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

"(g) COMPLIANCE WITH SECTION 801(a).—

"(1) IN GENERAL.—A registration condition is that each qualifying drug exported under subsection (a) by the registered exporter involved or imported under subsection (a) by the registered importer involved is in compliance with the standards referred to in section 801(a) regarding admission of the drug into the United States, subject to paragraphs (2), (3), and (4).

"(2) SECTION 505; APPROVAL STATUS.—

"(A) IN GENERAL.—A qualifying drug that is imported or offered for import under subsection (a) shall comply with the conditions established in the approved application under section 505(b) for the U.S. label drug as described under this subsection.

"(B) NOTICE BY MANUFACTURER; GENERAL PROVISIONS.—

"(i) IN GENERAL.—The person that manufactures a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country shall in accordance with this paragraph submit to the Secretary a notice that—

"(I) includes each difference in the qualifying drug from a condition established in the approved application for the U.S. label drug beyond—

"(aa) the variations provided for in the application; and

"(bb) any difference in labeling (except ingredient labeling); or

"(II) states that there is no difference in the qualifying drug from a condition established in the approved application for the U.S. label drug beyond—

"(aa) the variations provided for in the application; and

"(bb) any difference in labeling (except ingredient labeling).

"(ii) INFORMATION IN NOTICE.—A notice under clause (i)(I) shall include the information that the Secretary may require under section 506A, any additional information the Secretary may require (which may include data on bioequivalence if such data are not required under section 506A), and, with respect to the permitted country that approved the qualifying drug for commercial distribution, or with respect to which such approval is sought, include the following:

"(I) The date on which the qualifying drug with such difference was, or will be, introduced for commercial distribution in the permitted country.

"(II) Information demonstrating that the person submitting the notice has also notified the government of the permitted country in writing that the person is submitting to the Secretary a notice under clause (i)(I), which notice describes the difference in the qualifying drug from a condition established in the approved application for the U.S. label drug.

"(III) The information that the person submitted or will submit to the government of the permitted country for purposes of obtaining approval for commercial distribution of the drug in the country which, if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name, address, and a brief statement of the qualifications of the person that made the translation.

"(iii) CERTIFICATIONS.—The chief executive officer and the chief medical officer of the manufacturer involved shall each certify in the notice under clause (i) that—

"(I) the information provided in the notice is complete and true; and

"(II) a copy of the notice has been provided to the Federal Trade Commission and to the State attorneys general.

"(iv) FEE.—If a notice submitted under clause (i) includes a difference that would, under section 506A, require the submission of a supplemental application if made as a change to the U.S. label drug, the person that submits the notice shall pay to the Secretary a fee in the same amount as would apply if the person were paying a fee pursuant to section 736(a)(1)(A)(ii). Subject to appropriations Acts, fees collected by the Secretary under the preceding sentence are available only to the Secretary and are for the sole purpose of paying the costs of reviewing notices submitted under clause (i).

"(v) TIMING OF SUBMISSION OF NOTICES.—

"(I) PRIOR APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (C) applies shall be submitted to the Secretary not later than 120 days before the qualifying drug with the difference is introduced for commercial distribution in a permitted country, unless the country requires that distribution of the qualifying drug with the difference begin less than 120 days after the country requires the difference.

"(II) OTHER APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (D) applies shall be submitted to the Secretary not later than the day on which the qualifying drug with the difference is introduced for commercial distribution in a permitted country.

"(III) OTHER NOTICES.—A notice under clause (i) to which subparagraph (E) applies shall be submitted to the Secretary on the date that the qualifying drug is first introduced for commercial distribution in a permitted country and annually thereafter.

"(vi) REVIEW BY SECRETARY.—

"(I) IN GENERAL.—In this paragraph, the difference in a qualifying drug that is submitted in a notice under clause (i) from the U.S. label drug shall be treated by the Secretary as if it were a manufacturing change to the U.S. label drug under section 506A.

"(II) STANDARD OF REVIEW.—Except as provided in subclause (III), the Secretary shall review and approve or disapprove the difference in a notice submitted under clause (i), if required under section 506A, using the safe and effective standard for approving or disapproving a manufacturing change under section 506A.

"(III) BIOEQUIVALENCE.—If the Secretary would approve the difference in a notice submitted under clause (i) using the safe and effective standard under section 506A and if the Secretary determines that the qualifying drug is not bioequivalent to the U.S. label drug, the Secretary may—

"(aa) include in the labeling provided under paragraph (3) a prominent advisory that the qualifying drug is safe and effective but is not bioequivalent to the U.S. label drug if the Secretary determines that such an advisory is necessary for health care practitioners and patients to use the qualifying drug safely and effectively; or

"(bb) ,decline to approve the difference if the Secretary determines that the availability of both the qualifying drug and the U.S. label drug would pose a threat to the public health.

"(IV) REVIEW BY THE SECRETARY.—The Secretary shall review and approve or disapprove the difference in a notice submitted under clause (i), if required under section 506A, not later than 120 days after the date on which the notice is submitted.

"(V) ESTABLISHMENT INSPECTION.—If review of such difference would require an inspection of the establishment in which the qualifying drug is manufactured—

"(aa) such inspection by the Secretary shall be authorized; and

"(bb) the Secretary may rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country whose regulatory system the Secretary recognizes as equivalent under a mutual recognition agreement, as provided under section 510(i)(3), section 803, or part 26 of title 21, Code of Federal Regulations (or any corresponding successor rule or regulation).

"(vii) PUBLICATION OF INFORMATION ON NOTICES.—

"(I) IN GENERAL.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall readily make available to the public a list of notices submitted under clause (i).

"(II) CONTENTS.—The list under subclause (I) shall include the date on which a notice is submitted and whether—

"(aa) a notice is under review;

"(bb) the Secretary has ordered that importation of the qualifying drug from a permitted country cease; or

"(cc) the importation of the drug is permitted under subsection (a).

"(III) UPDATE.—The Secretary shall promptly update the Internet website with any changes to the list.

"(C) NOTICE; DRUG DIFFERENCE REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(c) or (d)(3)(B)(i), require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

"(i) Promptly after the notice is submitted, the Secretary shall notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general that the notice has been submitted with respect to the qualifying drug involved.

"(ii) If the Secretary has not made a determination whether such a supplemental application regarding the U.S. label drug would be approved or disapproved by the date on which the qualifying drug involved is to be introduced for commercial distribution in a permitted country, the Secretary shall—

"(I) order that the importation of the qualifying drug involved from the permitted country not begin until the Secretary completes review of the notice; and

"(II) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the order.

"(iii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

"(I) order that the importation of the qualifying drug involved from the permitted country cease, or provide that an order under clause (ii), if any, remains in effect;

"(II) notify the permitted country that approved the qualifying drug for commercial distribution of the determination; and

"(III) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

"(iv) If the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the Secretary shall—

"(I) vacate the order under clause (ii), if any;

"(II) consider the difference to be a variation provided for in the approved application for the U.S. label drug;

"(III) permit importation of the qualifying drug under subsection (a); and

"(IV) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

"(D) NOTICE; DRUG DIFFERENCE NOT REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(d)(3)(B)(ii), not require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

"(i) During the period in which the notice is being reviewed by the Secretary, the authority under this subsection to import the qualifying drug involved continues in effect.

"(ii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

"(I) order that the importation of the qualifying drug involved from the permitted country cease;

"(II) notify the permitted country that approved the qualifying drug for commercial distribution of the determination; and

"(III) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

"(iii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the difference shall be considered to be a variation provided for in the approved application for the U.S. label drug.

"(E) NOTICE; DRUG DIFFERENCE NOT REQUIRING APPROVAL; NO DIFFERENCE.—In the case of a notice under subparagraph (B)(i) that includes a difference for which, under section 506A(d)(1)(A), a supplemental application would not be required for the difference to be made to the U.S. label drug, or that states that there is no difference, the Secretary—

"(i) shall consider such difference to be a variation provided for in the approved application for the U.S. label drug;

"(ii) may not order that the importation of the qualifying drug involved cease; and

"(iii) shall promptly notify registered exporters and registered importers.

"(F) DIFFERENCES IN ACTIVE INGREDIENT, ROUTE OF ADMINISTRATION, DOSAGE FORM, OR STRENGTH.—

"(i) IN GENERAL.—A person who manufactures a drug approved under section 505(b) shall submit an application under section 505(b) for approval of another drug that is manufactured for distribution in a permitted country by or for the person that manufactures the drug approved under section 505(b) if—

"(I) there is no qualifying drug in commercial distribution in permitted countries whose combined population represents at least 50 percent of the total population of all permitted countries with the same active ingredient or ingredients, route of administration, dosage form, and strength as the drug approved under section 505(b); and

"(II) each active ingredient of the other drug is related to an active ingredient of the drug approved under section 505(b), as defined in clause (v).

"(ii) APPLICATION UNDER SECTION 505(b).—The application under section 505(b) required under clause (i) shall—

"(I) request approval of the other drug for the indication or indications for which the drug approved under section 505(b) is labeled;

"(II) include the information that the person submitted to the government of the permitted country for purposes of obtaining approval for commercial distribution of the other drug in that country, which if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name, address, and a brief statement of the qualifications of the person that made the translation;

"(III) include a right of reference to the application for the drug approved under section 505(b); and

"(IV) include such additional information as the Secretary may require.

"(iii) TIMING OF SUBMISSION OF APPLICATION.—An application under section 505(b) required under clause (i) shall be submitted to the Secretary not later than the day on which the information referred to in clause (ii)(II) is submitted to the government of the permitted country.

"(iv) NOTICE OF DECISION ON APPLICATION.—The Secretary shall promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of a determination to approve or to disapprove an application under section 505(b) required under clause (i).

"(v) RELATED ACTIVE INGREDIENTS.—For purposes of clause (i)(II), 2 active ingredients are related if they are—

"(I) the same; or

"(II) different salts, esters, or complexes of the same moiety.

"(3) SECTION 502; LABELING.—

"(A) IMPORTATION BY REGISTERED IMPORTER.—

"(i) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered importer, such drug shall be considered to be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the qualifying drug bears—

"(I) a copy of the labeling approved for the U.S. label drug under section 505, without regard to whether the copy bears any trademark involved;

"(II) the name of the manufacturer and location of the manufacturer;

"(III) the lot number assigned by the manufacturer;

"(IV) the name, location, and registration number of the importer; and

"(V) the National Drug Code number assigned to the qualifying drug by the Secretary.

"(ii) REQUEST FOR COPY OF THE LABELING.—The Secretary shall provide such copy to the registered importer involved, upon request of the importer.

"(iii) REQUESTED LABELING.—The labeling provided by the Secretary under clause (ii) shall—

"(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the qualifying drug;

"(II) not include the proprietary name of the U.S. label drug or any active ingredient thereof;

"(III) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the qualifying drug is safe and effective but not bioequivalent to the U.S. label drug; and

"(IV) if the inactive ingredients of the qualifying drug are different from the inactive ingredients for the U.S. label drug, include—

"(aa) a prominent notice that the ingredients of the qualifying drug differ from the ingredients of the U.S. label drug and that the qualifying drug must be dispensed with an advisory to people with allergies about this difference and a list of ingredients; and

"(bb) a list of the ingredients of the qualifying drug as would be required under section 502(e).

"(B) IMPORTATION BY INDIVIDUAL.—

"(i) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered exporter to an individual, such drug shall be considered to be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the packaging and labeling of the qualifying drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and the labeling of the qualifying drug includes—

"(I) directions for use by the consumer;

"(II) the lot number assigned by the manufacturer;

"(III) the name and registration number of the exporter;

"(IV) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug;

"(V) if the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

"(aa) a prominent advisory that persons with an allergy should check the ingredient list of the drug because the ingredients of the drug differ from the ingredients of the U.S. label drug; and

"(bb) a list of the ingredients of the drug as would be required under section 502(e); and

"(VI) a copy of any special labeling that would be required by the Secretary had the U.S. label drug been dispensed by a pharmacist in the United States, without regard to whether the special labeling bears any trademark involved.

"(ii) PACKAGING.—A qualifying drug offered for import to an individual by an exporter under this section that is packaged in a unit-of-use container (as those items are defined in the United States Pharmacopeia and National Formulary) shall not be repackaged, provided that—

"(I) the packaging complies with all applicable regulations under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.); or

"(II) the consumer consents to waive the requirements of such Act, after being informed that the packaging does not comply with such Act and that the exporter will provide the drug in packaging that is compliant at no additional cost.

"(iii) REQUEST FOR COPY OF SPECIAL LABELING AND INGREDIENT LIST.—The Secretary shall provide to the registered exporter involved a copy of the special labeling, the advisory, and the ingredient list described under clause (i), upon request of the exporter.

"(iv) REQUESTED LABELING AND INGREDIENT LIST.—The labeling and ingredient list provided by the Secretary under clause (iii) shall—

"(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the drug; and

"(II) not include the proprietary name of the U.S. label drug or any active ingredient thereof.

"(4) SECTION 501; ADULTERATION.—A qualifying drug that is imported or offered for import under subsection (a) shall be considered to be in compliance with section 501 if the drug is in compliance with subsection (c).

"(5) STANDARDS FOR REFUSING ADMISSION.—A drug exported under subsection (a) from a registered exporter or imported by a registered importer may be refused admission into the United States if 1 or more of the following applies:

"(A) The drug is not a qualifying drug.

"(B) A notice for the drug required under paragraph (2)(B) has not been submitted to the Secretary.

"(C) The Secretary has ordered that importation of the drug from the permitted country cease under paragraph (2)(C) or (D).

"(D) The drug does not comply with paragraph (3) or (4).

"(E) The shipping container appears damaged in a way that may affect the strength, quality, or purity of the drug.

"(F) The Secretary becomes aware that—

"(i) the drug may be counterfeit;

"(ii) the drug may have been prepared, packed, or held under insanitary conditions; or

"(iii) the methods used in, or the facilities or controls used for, the manufacturing, processing, packing, or holding of the drug do not conform to good manufacturing practice.

"(G) The Secretary has obtained an injunction under section 302 that prohibits the distribution of the drug in interstate commerce.

"(H) The Secretary has under section 505(e) withdrawn approval of the drug.

"(I) The manufacturer of the drug has instituted a recall of the drug.

"(J) If the drug is imported or offered for import by a registered importer without submission of a notice in accordance with subsection (d)(4).

"(K) If the drug is imported or offered for import from a registered exporter to an individual and 1 or more of the following applies:

"(i) The shipping container for such drug does not bear the markings required under subsection (d)(2).

"(ii) The markings on the shipping container appear to be counterfeit.

"(iii) The shipping container or markings appear to have been tampered with.

"(h) LICENSING AS PHARMACIST.—A registration condition is that the exporter involved agrees that a qualifying drug will be exported to an individual only if the Secretary has verified that—

"(1) the exporter is authorized under the law of the permitted country in which the exporter is located to dispense prescription drugs; and

"(2) the exporter employs persons that are licensed under the law of the permitted country in which the exporter is located to dispense prescription drugs in sufficient number to dispense safely the drugs exported by the exporter to individuals, and the exporter assigns to those persons responsibility for dispensing such drugs to individuals.

"(i) INDIVIDUALS; CONDITIONS FOR IMPORTATION.—

"(1) IN GENERAL.—For purposes of subsection (a)(2)(B), the importation of a qualifying drug by an individual is in accordance with this subsection if the following conditions are met:

"(A) The drug is accompanied by a copy of a prescription for the drug, which prescription—

"(i) is valid under applicable Federal and State laws; and

"(ii) was issued by a practitioner who, under the law of a State of which the individual is a resident, or in which the individual receives care from the practitioner who issues the prescription, is authorized to administer prescription drugs.

"(B) The drug is accompanied by a copy of the documentation that was required under the law or regulations of the permitted country in which the exporter is located, as a condition of dispensing the drug to the individual.

"(C) The copies referred to in subparagraphs (A)(i) and (B) are marked in a manner sufficient—

"(i) to indicate that the prescription, and the equivalent document in the permitted country in which the exporter is located, have been filled; and

"(ii) to prevent a duplicative filling by another pharmacist.

"(D) The individual has provided to the registered exporter a complete list of all drugs used by the individual for review by the individuals who dispense the drug.

"(E) The quantity of the drug does not exceed a 90-day supply.

"(F) The drug is not an ineligible subpart H drug. For purposes of this section, a prescription drug is an 'ineligible subpart H drug' if the drug was approved by the Secretary under subpart H of part 314 of title 21, Code of Federal Regulations (relating to accelerated approval), with restrictions under section 520 of such part to assure safe use, and the Secretary has published in the Federal Register a notice that the Secretary has determined that good cause exists to prohibit the drug from being imported pursuant to this subsection.

"(2) NOTICE REGARDING DRUG REFUSED ADMISSION.—If a registered exporter ships a drug to an individual pursuant to subsection (a)(2)(B) and the drug is refused admission to the United States, a written notice shall be sent to the individual and to the exporter that informs the individual and the exporter of such refusal and the reason for the refusal.

"(j) MAINTENANCE OF RECORDS AND SAMPLES.—

"(1) IN GENERAL.—A registration condition is that the importer or exporter involved shall—

"(A) maintain records required under this section for not less than 2 years; and

"(B) maintain samples of each lot of a qualifying drug required under this section for not less than 2 years.

"(2) PLACE OF RECORD MAINTENANCE.—The records described under paragraph (1) shall be maintained—

"(A) in the case of an importer, at the place of business of the importer at which the importer initially receives the qualifying drug after importation; or

"(B) in the case of an exporter, at the facility from which the exporter ships the qualifying drug to the United States.

"(k) DRUG RECALLS.—

"(1) MANUFACTURERS.—A person that manufactures a qualifying drug imported from a permitted country under this section shall promptly inform the Secretary—

"(A) if the drug is recalled or withdrawn from the market in a permitted country;

"(B) how the drug may be identified, including lot number; and

"(C) the reason for the recall or withdrawal.

"(2) SECRETARY.—With respect to each permitted country, the Secretary shall—

"(A) enter into an agreement with the government of the country to receive information about recalls and withdrawals of qualifying drugs in the country; or

"(B) monitor recalls and withdrawals of qualifying drugs in the country using any information that is available to the public in any media.

"(3) NOTICE.—The Secretary may notify, as appropriate, registered exporters, registered importers, wholesalers, pharmacies, or the public of a recall or withdrawal of a qualifying drug in a permitted country.

"(l) DRUG LABELING AND PACKAGING.—

"(1) IN GENERAL.—When a qualifying drug that is imported into the United States by an importer under subsection (a) is dispensed by a pharmacist to an individual, the pharmacist shall provide that the packaging and labeling of the drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and shall include with any other labeling provided to the individual the following:

"(A) The lot number assigned by the manufacturer.

"(B) The name and registration number of the importer.

"(C) If required under paragraph (2)(B)(vi)(III) of subsection (g), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug.

"(D) If the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

"(i) a prominent advisory that persons with allergies should check the ingredient list of the drug because the ingredients of the drug differ from the ingredients of the U.S. label drug; and

"(ii) a list of the ingredients of the drug as would be required under section 502(e).

"(2) PACKAGING.—A qualifying drug that is packaged in a unit-of-use container (as those terms are defined in the United States Pharmacopeia and National Formulary) shall not be repackaged, provided that—

"(A) the packaging complies with all applicable regulations under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.); or

"(B) the consumer consents to waive the requirements of such Act, after being informed that the packaging does not comply with such Act and that the pharmacist will provide the drug in packaging that is compliant at no additional cost.

"(m) CHARITABLE CONTRIBUTIONS.—Notwithstanding any other provision of this section, this section does not authorize the importation into the United States of a qualifying drug donated or otherwise supplied for free or at nominal cost by the manufacturer of the drug to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country.

"(n) UNFAIR AND DISCRIMINATORY ACTS AND PRACTICES.—

"(1) IN GENERAL.—It is unlawful for a manufacturer, directly or indirectly (including by being a party to a licensing agreement or other agreement), to—

"(A) discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of rebates or other incentives to the permitted country or other person, to another person that is in the same country and that does not export a qualifying drug into the United States under this section;

"(B) discriminate by charging a higher price for a prescription drug sold to a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section than the price that is charged to another person in the United States that does not import a qualifying drug under this section, or that does not distribute, sell, or use such a drug;

"(C) discriminate by denying, restricting, or delaying supplies of a prescription drug to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section or to a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section;

"(D) discriminate by publicly, privately, or otherwise refusing to do business with a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section or with a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section;

"(E) knowingly fail to submit a notice under subsection (g)(2)(B)(i), knowingly fail to submit such a notice on or before the date specified in subsection (g)(2)(B)(v) or as otherwise required under subsection (e)(3), (4), and (5) of section 4 of the Pharmaceutical Market Access and Drug Safety Act of 2006, knowingly submit such a notice that makes a materially false, fictitious, or fraudulent statement, or knowingly fail to provide promptly any information requested by the Secretary to review such a notice;

"(F) knowingly fail to submit an application required under subsection (g)(2)(F), knowingly fail to submit such an application on or before the date specified in subsection (g)(2)(F)(ii), knowingly submit such an application that makes a materially false, fictitious, or fraudulent statement, or knowingly fail to provide promptly any information requested by the Secretary to review such an application;

"(G) cause there to be a difference (including a difference in active ingredient, route of administration, dosage form, strength, formulation, manufacturing establishment, manufacturing process, or person that manufactures the drug) between a prescription drug for distribution in the United States and the drug for distribution in a permitted country;

"(H) refuse to allow an inspection authorized under this section of an establishment that manufactures a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country;

"(I) fail to conform to the methods used in, or the facilities used for, the manufacturing, processing, packing, or holding of a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country to good manufacturing practice under this Act;

"(J) become a party to a licensing agreement or other agreement related to a qualifying drug that fails to provide for compliance with all requirements of this section with respect to such drug;

"(K) enter into a contract that restricts, prohibits, or delays the importation of a qualifying drug under this section;

"(L) engage in any other action to restrict, prohibit, or delay the importation of a qualifying drug under this section; or

"(M) engage in any other action that the Federal Trade Commission determines to discriminate against a person that engages or attempts to engage in the importation of a qualifying drug under this section.

"(2) REFERRAL OF POTENTIAL VIOLATIONS.—The Secretary shall promptly refer to the Federal Trade Commission each potential violation of subparagraph (E), (F), (G), (H), or (I) of paragraph (1) that becomes known to the Secretary.

"(3) AFFIRMATIVE DEFENSE.—

"(A) DISCRIMINATION.—It shall be an affirmative defense to a charge that a manufacturer has discriminated under subparagraph (A), (B), (C), (D), or (M) of paragraph (1) that the higher price charged for a prescription drug sold to a person, the denial, restriction, or delay of supplies of a prescription drug to a person, the refusal to do business with a person, or other discriminatory activity against a person, is not based; in whole or in part, on—

"(i) the person exporting or importing a qualifying drug into the United States under this section; or

"(ii) the person distributing, selling, or using a qualifying drug imported into the United States under this section.

"(B) DRUG DIFFERENCES.—It shall be an affirmative defense to a charge that a manufacturer has caused there to be a difference described in subparagraph (G) of paragraph (1) that—

"(i) the difference was required by the country in which the drug is distributed;

"(ii) the Secretary has determined that the difference was necessary to improve the safety or effectiveness of the drug;

"(iii) the person manufacturing the drug for distribution in the United States has given notice to the Secretary under subsection (g)(2)(B)(i) that the drug for distribution in the United States is not different from a drug for distribution in permitted countries whose combined population represents at least 50 percent of the total population of all permitted countries; or

"(iv) the difference was not caused, in whole or in part, for the purpose of restricting importation of the drug into the United States under this section.

"(4) EFFECT OF SUBSECTION.—

"(A) SALES IN OTHER COUNTRIES.—This subsection applies only to the sale or distribution of a prescription drug in a country if the manufacturer of the drug chooses to sell or distribute the drug in the country. Nothing in this subsection shall be construed to compel the manufacturer of a drug to distribute or sell the drug in a country.

"(B) DISCOUNTS TO INSURERS, HEALTH PLANS, PHARMACY BENEFIT MANAGERS, AND COVERED ENTITIES.—Nothing in this subsection shall be construed to—

"(i) prevent or restrict a manufacturer of a prescription drug from providing discounts to an insurer, health plan, pharmacy benefit manager in the United States, or covered entity in the drug discount program under section 340B of the Public Health Service Act (42 U.S.C. 256b) in return for inclusion of the drug on a formulary;

"(ii) require that such discounts be made available to other purchasers of the prescription drug; or

"(iii) prevent or restrict any other measures taken by an insurer, health plan, or pharmacy benefit manager to encourage consumption of such prescription drug.

"(C) CHARITABLE CONTRIBUTIONS.—Nothing in this subsection shall be construed to—

"(i) prevent a manufacturer from donating a prescription drug, or supplying a prescription drug at nominal cost, to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country; or

"(ii) apply to such donations or supplying of a prescription drug.

"(5) ENFORCEMENT.—

"(A) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of this subsection shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

"(B) ACTIONS BY THE COMMISSION.—The Federal Trade Commission—

"(i) shall enforce this subsection in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section; and

"(ii) may seek monetary relief threefold the damages sustained, in addition to any other remedy available to the Federal Trade Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

"(6) ACTIONS BY STATES.—

"(A) IN GENERAL.—

"(i) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State have been adversely affected by any manufacturer that violates paragraph (1), the attorney general of a State may bring a civil action on behalf of the residents of the State, and persons doing business in the State, in a district court of the United States of appropriate jurisdiction to—

"(I) enjoin that practice;

"(II) enforce compliance with this subsection;

"(III) obtain damages, restitution, or other compensation on behalf of residents of the State and persons doing business in the State, including threefold the damages; or

"(IV) obtain such other relief as the court may consider to be appropriate.

"(ii) NOTICE.—

"(I) IN GENERAL.—Before filing an action under clause (i), the attorney general of the State involved shall provide to the Federal Trade Commission—

"(aa) written notice of that action; and

"(bb) a copy of the complaint for that action.

"(II) EXEMPTION.—Subclause (I) shall not apply with respect to the filing of an action by an attorney general of a State under this paragraph, if the attorney general determines that it is not feasible to provide the notice described in that subclause before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Federal Trade Commission at the same time as the attorney general files the action.

"(B) INTERVENTION.—

"(i) IN GENERAL.—On receiving notice under subparagraph (A)(ii), the Federal Trade Commission shall have the right to intervene in the action that is the subject of the notice.

"(ii) EFFECT OF INTERVENTION.—If the Federal Trade Commission intervenes in an action under subparagraph (A), it shall have the right—

"(I) to be heard with respect to any matter that arises in that action; and

"(II) to file a petition for appeal.

"(C) CONSTRUCTION.—For purposes of bringing any civil action under subparagraph (A), nothing in this subsection shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

"(i) conduct investigations;

"(ii) administer oaths or affirmations; or

"(iii) compel the attendance of witnesses or the production of documentary and other evidence.

"(D) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Federal Trade Commission for a violation of paragraph (1), a State may not, during the pendency of that action, institute an action under subparagraph (A) for the same violation against any defendant named in the complaint in that action.

"(E) VENUE.—Any action brought under subparagraph (A) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

"(F) SERVICE OF PROCESS.—In an action brought under subparagraph (A), process may be served in any district in which the defendant—

"(i) is an inhabitant; or

"(ii) may be found.

"(G) MEASUREMENT OF DAMAGES.—In any action under this paragraph to enforce a cause of action under this subsection in which there has been a determination that a defendant has violated a provision of this subsection, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

"(H) EXCLUSION ON DUPLICATIVE RELIEF.—The district court shall exclude from the amount of monetary relief awarded in an action under this paragraph brought by the attorney general of a State any amount of monetary relief which duplicates amounts which have been awarded for the same injury.

"(7) EFFECT ON ANTITRUST LAWS.—Nothing in this subsection shall be construed to modify, impair, or supersede the operation of the antitrust laws. For the purpose of this subsection, the term 'antitrust laws' has the meaning given it in the first section of the Clayton Act, except that it includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

"(8) MANUFACTURER.—In this subsection, the term 'manufacturer' means any entity, including any affiliate or licensee of that entity, that is engaged in—

"(A) the production, preparation, propagation, compounding, conversion, or processing of a prescription drug, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; or

"(B) the packaging, repackaging, labeling, relabeling, or distribution of a prescription drug.".

(b) PROHIBITED ACTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 301 (21 U.S.C. 331), by striking paragraph (aa) and inserting the following:

"(aa)(1) The sale or trade by a pharmacist, or by a business organization of which the pharmacist is a part, of a qualifying drug that under section 804(a)(2)(A) was imported by the pharmacist, other than—

"(A) a sale at retail made pursuant to dispensing the drug to a customer of the pharmacist or organization; or

"(B) a sale or trade of the drug to a pharmacy or a wholesaler registered to import drugs under section 804.

"(2) The sale or trade by an individual of a qualifying drug that under section 804(a)(2)(B) was imported by the individual.

"(3) The making of a materially false, fictitious, or fraudulent statement or representation, or a material omission, in a notice under clause (i) of section 804(g)(2)(B) or in an application required under section 804(g)(2)(F), or the failure to submit such a notice or application.

"(4) The importation of a drug in violation of a registration condition or other requirement under section 804, the falsification of any record required to be maintained, or provided to the Secretary, under such section, or the violation of any registration condition or other requirement under such section."; and

(2) in section 303(a) (21 U.S.C. 333(a)), by striking paragraph (6) and inserting the following:

"(6) Notwithstanding subsection (a), any person that knowingly violates section 301(i) (2) or (3) or section 301(aa)(4) shall be imprisoned not more than 10 years, or fined in accordance with title 18, United States Code, or both.".

(c) AMENDMENT OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by striking subsection (g) and inserting the following:

"(g) With respect to a prescription drug that is imported or offered for import into the United States by an individual who is not in the business of such importation, that is not shipped by a registered exporter under section 804, and that is refused admission under subsection (a), the Secretary shall notify the individual that—

"(1) the drug has been refused admission because the drug was not a lawful import under section 804;

"(2) the drug is not otherwise subject to a waiver of the requirements of subsection (a);

"(3) the individual may under section 804 lawfully import certain prescription drugs from exporters registered with the Secretary under section 804; and

"(4) the individual can find information about such importation, including a list of registered exporters, on the Internet website of the Food and Drug Administration or through a toll-free telephone number required under section 804.".

(2) ESTABLISHMENT REGISTRATION.—Section 510(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(i)) is amended in paragraph (1) by inserting after "import into the United States" the following: ", including a drug that is, or may be, imported or offered for import into the United States under section 804,".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is 90 days after the date of enactment of this title.

(d) EXHAUSTION.—

(1) IN GENERAL.—Section 271 of title 35, United States Code, is amended—

(A) by redesignating subsections (h) and (i) as (i) and (j), respectively; and

(B) by inserting after subsection (g) the following:

"(h) It shall not be an act of infringement to use, offer to sell, or sell within the United States or to import into the United States any patented invention under section 804 of the Federal Food, Drug, and Cosmetic Act that was first sold abroad by or under authority of the owner or licensee of such patent.".

(2) RULE OF CONSTRUCTION.—Nothing in the amendment made by paragraph (1) shall be construed to affect the ability of a patent owner or licensee to enforce their patent, subject to such amendment.

(e) EFFECT OF SECTION 804.—

(1) IN GENERAL.—Section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall permit the importation of qualifying drugs (as defined in such section 804) into the United States without regard to the status of the issuance of implementing regulations—

(A) from exporters registered under such section 804 on the date that is 90 days after the date of enactment of this title; and

(B) from permitted countries, as defined in such section 804, by importers registered under such section 804 on the date that is 1 year after the date of enactment of this title.

(2) REVIEW OF REGISTRATION BY CERTAIN EXPORTERS.—

(A) REVIEW PRIORITY.—In the review of registrations submitted under subsection (b) of such section 804, registrations submitted by entities in Canada that are significant exporters of prescription drugs to individuals in the United States as of the date of enactment of this title will have priority during the 90 day period that begins on such date of enactment.

(B) PERIOD FOR REVIEW.—During such 90-day period, the reference in subsection (b)(2)(A) of such section 804 to 90 days (relating to approval or disapproval of registrations) is, as applied to such entities, deemed to be 30 days.

(C) LIMITATION.—That an exporter in Canada exports, or has exported, prescription drugs to individuals in the United States on or before the date that is 90 days after the date of enactment of this title shall not serve as a basis, in whole or in part, for disapproving a registration under such section 804 from the exporter.

(D) FIRST YEAR LIMIT ON NUMBER OF EXPORTERS.—During the 1-year period beginning on the date of enactment of this title, the Secretary of Health and Human Services (referred to in this section as the "Secretary") may limit the number of registered exporters under such section 804 to not less than 50, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(E) SECOND YEAR LIMIT ON NUMBER OF EXPORTERS.—During the 1-year period beginning on the date that is 1 year after the date of enactment of this title, the Secretary may limit the number of registered exporters under such section 804 to not less than 100, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(F) FURTHER LIMIT ON NUMBER OF EXPORTERS.—During any 1-year period beginning on a date that is 2 or more years after the date of enactment of this title, the Secretary may limit the number of registered exporters under such section 804 to not less than 25 more than the number of such exporters during the previous 1-year period, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(3) LIMITS ON NUMBER OF IMPORTERS.—

(A) FIRST YEAR LIMIT ON NUMBER OF IMPORTERS.—During the 1-year period beginning on the date that is 1 year after the date of enactment of this title, the Secretary may limit the number of registered importers under such section 804 to not less than 100 (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups), so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs imported into the United States.

(B) SECOND YEAR LIMIT ON NUMBER OF IMPORTERS.—During the 1-year period beginning on the date that is 2 years after the date of enactment of this title, the Secretary may limit the number of registered importers under such section 804 to not less than 200 (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups), so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs into the United States.

(C) FURTHER LIMIT ON NUMBER OF IMPORTERS.—During any 1-year period beginning on a date that is 3 or more years after the date of enactment of this title, the Secretary may limit the number of registered importers under such section 804 to not less than 50 more (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups) than the number of such importers during the previous 1-year period, so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs to the United States.

(4) NOTICES FOR DRUGS FOR IMPORT FROM CANADA.—The notice with respect to a qualifying drug introduced for commercial distribution in Canada as of the date of enactment of this title that is required under subsection (g)(2)(B)(i) of such section 804 shall be submitted to the Secretary not later than 30 days after the date of enactment of this title if—

(A) the U.S. label drug (as defined in such section 804) for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period most recently completed before the date of enactment of this title; or

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(5) NOTICE FOR DRUGS FOR IMPORT FROM OTHER COUNTRIES.—The notice with respect to a qualifying drug introduced for commercial distribution in a permitted country other than Canada as of the date of enactment of this title that is required under subsection (g)(2)(B)(i) of such section 804 shall be submitted to the Secretary not later than 180 days after the date of enactment of this title if—

(A) the U.S. label drug for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period that is first completed on the date that is 120 days after the date of enactment of this title; or

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(6) NOTICE FOR OTHER DRUGS FOR IMPORT.—

(A) GUIDANCE ON SUBMISSION DATES.—The Secretary shall by guidance establish a series of submission dates for the notices under subsection (g)(2)(B)(i) of such section 804 with respect to qualifying drugs introduced for commercial distribution as of the date of enactment of this title and that are not required to be submitted under paragraph (4) or (5).

(B) CONSISTENT AND EFFICIENT USE OF RESOURCES.—The Secretary shall establish the dates described under subparagraph (A) so that such notices described under subparagraph (A) are submitted and reviewed at a rate that allows consistent and efficient use of the resources and staff available to the Secretary for such reviews. The Secretary may condition the requirement to submit such a notice, and the review of such a notice, on the submission by a registered exporter or a registered importer to the Secretary of a notice that such exporter or importer intends to import such qualifying drug to the United States under such section 804.

(C) PRIORITY FOR DRUGS WITH HIGHER SALES.—The Secretary shall establish the dates described under subparagraph (A) so that the Secretary reviews the notices described under such subparagraph with respect to qualifying drugs with higher dollar volume of sales in the United States before the notices with respect to drugs with lower sales in the United States.

(7) NOTICES FOR DRUGS APPROVED AFTER EFFECTIVE DATE.—The notice required under subsection (g)(2)(B)(i) of such section 804 for a qualifying drug first introduced for commercial distribution in a permitted country (as defined in such section 804) after the date of enactment of this title shall be submitted to and reviewed by the Secretary as provided under subsection (g)(2)(B) of such section 804, without regard to paragraph (4), (5), or (6).

(8) REPORT.—Beginning with fiscal year 2006, not later than 90 days after the end of each fiscal year during which the Secretary reviews a notice referred to in paragraph (4), (5), or (6), the Secretary shall submit a report to Congress concerning the progress of the Food and Drug Administration in reviewing the notices referred to in paragraphs (4), (5), and (6).

(9) USER FEES.—

(A) EXPORTERS.—When establishing an aggregate total of fees to be collected from exporters under subsection (f)(2) of such section 804, the Secretary shall, under subsection (f)(3)(C)(i) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by registered exporters during fiscal year 2006 to be $1,000,000,000.

(B) IMPORTERS.—When establishing an aggregate total of fees to be collected from importers under subsection (e)(2) of such section 804, the Secretary shall, under subsection (e)(3)(C)(i) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by registered importers during—

(i) fiscal year 2006 to be $1,000,000,000; and

(ii) fiscal year 2007 to be $10,000,000,000.

(C) FISCAL YEAR 2007 ADJUSTMENT.—

(i) REPORTS.—Not later than February 20, 2007, registered importers shall report to the Secretary the total price and the total volume of drugs imported to the United States by the importer during the 4-month period from October 1, 2006, through January 31, 2007.

(ii) REESTIMATE.—Notwithstanding subsection (e)(3)(C)(ii) of such section 804 or subparagraph (B), the Secretary shall reestimate the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during fiscal year 2007. Such reestimate shall be equal to—

(I) the total price of qualifying drugs imported by each importer as reported under clause (i); multiplied by

(II) 3.

(iii) ADJUSTMENT.—The Secretary shall adjust the fee due on April 1, 2007, from each importer so that the aggregate total of fees collected under subsection (e)(2) for fiscal year 2007 does not exceed the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during fiscal year 2007 as reestimated under clause (ii).

(D) FAILURE TO PAY FEES.—Notwithstanding any other provision of this section, the Secretary may prohibit a registered importer or exporter that is required to pay user fees under subsection (e) or (f) of such section 804 and that fails to pay such fees within 30 days after the date on which it is due, from importing or offering for importation a qualifying drug under such section 804 until such fee is paid.

(E) ANNUAL REPORT.—

(i) FOOD AND DRUG ADMINISTRATION.—Beginning with fiscal year 2006, not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e), (f), or (g)(2)(B)(iv) of such section 804, the Secretary shall prepare and submit to the House of Representatives and the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for the fiscal year for which the report is made and credited to the Food and Drug Administration.

(ii) CUSTOMS AND BORDER CONTROL.—Beginning with fiscal year 2006, not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e) or (f) of such section 804, the Secretary of Homeland Security, in consultation with the Secretary of the Treasury, shall prepare and submit to the House of Representatives and the Senate a report on the use, by the Bureau of Customs and Border Protection, of the fees, if any, transferred by the Secretary to the Bureau of Customs and Border Protection for the fiscal year for which the report is made.

(10) SPECIAL RULE REGARDING IMPORTATION BY INDIVIDUALS.—

(A) IN GENERAL.—Notwithstanding any provision of this title (or an amendment made by this title), the Secretary shall designate additional countries from which an individual may import a qualifying drug into the United States under such section 804 if any action implemented by the Government of Canada has the effect of limiting or prohibiting the importation of qualifying drugs into the United States from Canada.

(B) TIMING AND CRITERIA.—The Secretary shall designate such additional countries under subparagraph (A)—

(i) not later than 6 months after the date of the action by the Government of Canada described under such subparagraph; and

(ii) using the criteria described under subsection (a)(4)(D)(i)(II) of such section 804.

(f) IMPLEMENTATION OF SECTION 804.—

(1) INTERIM RULE.—The Secretary may promulgate an interim rule for implementing section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a) of this section.

(2) NO NOTICE OF PROPOSED RULEMAKING.—The interim rule described under paragraph (1) may be developed and promulgated by the Secretary without providing general notice of proposed rulemaking.

(3) FINAL RULE.—Not later than 1 year after the date on which the Secretary promulgates an interim rule under paragraph (1), the Secretary shall, in accordance with procedures under section 553 of title 5, United States Code, promulgate a final rule for implementing such section 804, which may incorporate by reference provisions of the interim rule provided for under paragraph (1), to the extent that such provisions are not modified.

(g) CONSUMER EDUCATION.—The Secretary shall carry out activities that educate consumers—

(1) with regard to the availability of qualifying drugs for import for personal use from an exporter registered with and approved by the Food and Drug Administration under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by this section, including information on how to verify whether an exporter is registered and approved by use of the Internet website of the Food and Drug Administration and the toll-free telephone number required by this title;

(2) that drugs that consumers attempt to import from an exporter that is not registered with and approved by the Food and Drug Administration can be seized by the United States Customs Service and destroyed, and that such drugs may be counterfeit, unapproved, unsafe, or ineffective;

(3) with regard to the suspension and termination of any registration of a registered importer or exporter under such section 804; and

(4) with regard to the availability at domestic retail pharmacies of qualifying drugs imported under such section 804 by domestic wholesalers and pharmacies registered with and approved by the Food and Drug Administration.

(h) EFFECT ON ADMINISTRATION PRACTICES.—Notwithstanding any provision of this title (and the amendments made by this title), nothing in this title (or the amendments made by this title) shall be construed to change, limit, or restrict the practices of the Food and Drug Administration or the Bureau of Customs and Border Protection in effect on January 1, 2004, with respect to the importation of prescription drugs into the United States by an individual, on the person of such individual, for personal use.

(i) REPORT TO CONGRESS.—The Federal Trade Commission shall, on an annual basis, submit to Congress a report that describes any action taken during the period for which the report is being prepared to enforce the provisions of section 804(n) of the Federal Food, Drug, and Cosmetic Act (as added by this title), including any pending investigations or civil actions under such section.

SEC. ___5. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION INTO UNITED STATES.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section 3, is further amended by adding at the end the following section:

"SEC. 805. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION.

"(a) IN GENERAL.—The Secretary of Homeland Security shall deliver to the Secretary a shipment of drugs that is imported or offered for import into the United States if—

"(1) the shipment has a declared value of less than $10,000; and

"(2)(A) the shipping container for such drugs does not bear the markings required under section 804(d)(2); or

"(B) the Secretary has requested delivery of such shipment of drugs.

"(b) NO BOND OR EXPORT.—Section 801(b) does not authorize the delivery to the owner or consignee of drugs delivered to the Secretary under subsection (a) pursuant to the execution of a bond, and such drugs may not be exported.

"(c) DESTRUCTION OF VIOLATIVE SHIPMENT.—The Secretary shall destroy a shipment of drugs delivered by the Secretary of Homeland Security to the Secretary under subsection (a) if—

"(1) in the case of drugs that are imported or offered for import from a registered exporter under section 804, the drugs are in violation of any standard described in section 804(g)(5); or

"(2) in the case of drugs that are not imported or offered for import from a registered exporter under section 804, the drugs are in violation of a standard referred to in section 801(a) or 801(d)(1).

"(d) CERTAIN PROCEDURES.—

"(1) IN GENERAL.—The delivery and destruction of drugs under this section may be carried out without notice to the importer, owner, or consignee of the drugs except as required by section 801(g) or section 804(i)(2). The issuance of receipts for the drugs, and recordkeeping activities regarding the drugs, may be carried out on a summary basis.

"(2) OBJECTIVE OF PROCEDURES.—Procedures promulgated under paragraph (1) shall be designed toward the objective of ensuring that, with respect to efficiently utilizing Federal resources available for carrying out this section, a substantial majority of shipments of drugs subject to described in subsection (c) are identified and destroyed.

"(e) EVIDENCE EXCEPTION.—Drugs may not be destroyed under subsection (c) to the extent that the Attorney General of the United States determines that the drugs should be preserved as evidence or potential evidence with respect to an offense against the United States.

"(f) RULE OF CONSTRUCTION.—This section may not be construed as having any legal effect on applicable law with respect to a shipment of drugs that is imported or offered for import into the United States and has a declared value equal to or greater than $10,000.".

(b) PROCEDURES.—Procedures for carrying out section 805 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall be established not later than 90 days after the date of the enactment of this title.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 90 days after the date of enactment of this title.

SEC. 6. WHOLESALE DISTRIBUTION OF DRUGS; STATEMENTS REGARDING PRIOR SALE, PURCHASE, OR TRADE.

(a) STRIKING OF EXEMPTIONS; APPLICABILITY TO REGISTERED EXPORTERS.—Section 503(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(e)) is amended—

(1) in paragraph (1)—

(A) by striking "and who is not the manufacturer or an authorized distributor of record of such drug";

(B) by striking "to an authorized distributor of record or"; and

(C) by striking subparagraph (B) and inserting the following:

"(B) The fact that a drug subject to subsection (b) is exported from the United States does not with respect to such drug exempt any person that is engaged in the business of the wholesale distribution of the drug from providing the statement described in subparagraph (A) to the person that receives the drug pursuant to the export of the drug.

"(C)(i) The Secretary shall by regulation establish requirements that supersede subparagraph (A) (referred to in this subparagraph as 'alternative requirements') to identify the chain of custody of a drug subject to subsection (b) from the manufacturer of the drug throughout the wholesale distribution of the drug to a pharmacist who intends to sell the drug at retail if the Secretary determines that the alternative requirements, which may include standardized anti-counterfeiting or track-and-trace technologies, will identify such chain of custody or the identity of the discrete package of the drug from which the drug is dispensed with equal or greater certainty to the requirements of subparagraph (A), and that the alternative requirements are economically and technically feasible.

"(ii) When the Secretary promulgates a final rule to establish such alternative requirements, the final rule in addition shall, with respect to the registration condition established in clause (i) of section 804(c)(3)(B), establish a condition equivalent to the alternative requirements, and such equivalent condition may be met in lieu of the registration condition established in such clause (i).";

(2) in paragraph (2)(A), by adding at the end the following: "The preceding sentence may not be construed as having any applicability with respect to a registered exporter under section 804."; and

(3) in paragraph (3), by striking "and subsection (d)—" in the matter preceding subparagraph (A) and all that follows through "the term 'wholesale distribution' means" in subparagraph (B) and inserting the following: "and subsection (d), the term 'wholesale distribution' means".

(b) CONFORMING AMENDMENT.—Section 503(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(d)) is amended by adding at the end the following:

"(4) Each manufacturer of a drug subject to subsection (b) shall maintain at its corporate offices a current list of the authorized distributors of record of such drug.

"(5) For purposes of this subsection, the term 'authorized distributors of record' means those distributors with whom a manufacturer has established an ongoing relationship to distribute such manufacturer's products.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) shall take effect on January 1, 2010.

(2) DRUGS IMPORTED BY REGISTERED IMPORTERS UNDER SECTION 804.—Notwithstanding paragraph (1), the amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) shall take effect on the date that is 90 days after the date of enactment of this title with respect to qualifying drugs imported under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by section ____4.

(3) HIGH-RISK DRUGS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), the Secretary of Health and Human Services (referred to in this section as the "Secretary") may apply the amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) before January 1, 2010, with respect to a prescription drug if the Secretary—

(i) determines that the drug is at high risk for being counterfeited; and

(ii) publishes the determination and the basis for the determination in the Federal Register.

(B) PEDIGREE NOT REQUIRED.—Notwithstanding a determination under subparagraph (A) with respect to a prescription drug, the amendments described in such subparagraph shall not apply with respect to a wholesale distribution of such drug if the drug is distributed by the manufacturer of the drug to a person that distributes the drug to a retail pharmacy for distribution to the consumer or patient, with no other intervening transactions.

(C) LIMITATION.—The Secretary may make the determination under subparagraph (A) with respect to not more than 50 drugs before January 1, 2010.

(4) EFFECT WITH RESPECT TO REGISTERED EXPORTERS.—The amendment made by subsection (a)(2) shall take effect on the date that is 90 days after the date of enactment of this title.

(5) ALTERNATIVE REQUIREMENTS.—The Secretary shall issue regulations to establish the alternative requirements, referred to in the amendment made by subsection (a)(1), that take effect not later than—

(A) January 1, 2008, with respect to a prescription drug determined under paragraph (3)(A) to be at high risk for being counterfeited; and

(B) January 1, 2010, with respect to all other prescription drugs.

(6) INTERMEDIATE REQUIREMENTS.—With respect to the prescription drugs described under paragraph (5)(B), the Secretary shall by regulation require the use of standardized anti-counterfeiting or track-and-trace technologies on such prescription drugs at the case and pallet level effective not later than January 1, 2008.

(7) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary shall, not later than January 1, 2007, require that the packaging of any prescription drug incorporates—

(i) overt optically variable counterfeit-resistant technologies that—

(I) are visible to the naked eye, providing for visual identification of product authenticity without the need for readers, microscopes, lighting devices, or scanners;

(II) are similar to that used by the Bureau of Engraving and Printing to secure United States currency;

(III) are manufactured and distributed in a highly secure, tightly controlled environment; and

(IV) incorporate additional layers of non-visible convert security features up to and including forensic capability, as described in subparagraph (B); or

(ii) technologies that have a function of security comparable to that described in clause (i), as determined by the Secretary.

(B) STANDARDS FOR PACKAGING.—For the purpose of making it more difficult to counterfeit the packaging of drugs subject to this paragraph, the manufacturers of such drugs shall incorporate the technologies described in subparagraph (A) into at least 1 additional element of the physical packaging of the drugs, including blister packs, shrink wrap, package labels, package seals, bottles, and boxes.

SEC. 7. INTERNET SALES OF PRESCRIPTION DRUGS.

(a) IN GENERAL.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 503A the following:

"SEC. 503B. INTERNET SALES OF PRESCRIPTION DRUGS.

"(a) REQUIREMENTS REGARDING INFORMATION ON INTERNET SITE.—

"(1) IN GENERAL.—A person may not dispense a prescription drug pursuant to a sale of the drug by such person if—

"(A) the purchaser of the drug submitted the purchase order for the drug, or conducted any other part of the sales transaction for the drug, through an Internet site;

"(B) the person dispenses the drug to the purchaser by mailing or shipping the drug to the purchaser; and

"(C) such site, or any other Internet site used by such person for purposes of sales of a prescription drug, fails to meet each of the requirements specified in paragraph (2), other than a site or pages on a site that—

"(i) are not intended to be accessed by purchasers or prospective purchasers; or

"(ii) provide an Internet information location tool within the meaning of section 231(e)(5) of the Communications Act of 1934 (47 U.S.C. 231(e)(5)).

"(2) REQUIREMENTS.—With respect to an Internet site, the requirements referred to in subparagraph (C) of paragraph (1) for a person to whom such paragraph applies are as follows:

"(A) Each page of the site shall include either the following information or a link to a page that provides the following information:

"(i) The name of such person.

"(ii) Each State in which the person is authorized by law to dispense prescription drugs.

"(iii) The address and telephone number of each place of business of the person with respect to sales of prescription drugs through the Internet, other than a place of business that does not mail or ship prescription drugs to purchasers.

"(iv) The name of each individual who serves as a pharmacist for prescription drugs that are mailed or shipped pursuant to the site, and each State in which the individual is authorized by law to dispense prescription drugs.

"(v) If the person provides for medical consultations through the site for purposes of providing prescriptions, the name of each individual who provides such consultations; each State in which the individual is licensed or otherwise authorized by law to provide such consultations or practice medicine; and the type or types of health professions for which the individual holds such licenses or other authorizations.

"(B) A link to which paragraph (1) applies shall be displayed in a clear and prominent place and manner, and shall include in the caption for the link the words 'licensing and contact information'.

"(b) INTERNET SALES WITHOUT APPROPRIATE MEDICAL RELATIONSHIPS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a person may not dispense a prescription drug, or sell such a drug, if—

"(A) for purposes of such dispensing or sale, the purchaser communicated with the person through the Internet;

"(B) the patient for whom the drug was dispensed or purchased did not, when such communications began, have a prescription for the drug that is valid in the United States;

"(C) pursuant to such communications, the person provided for the involvement of a practitioner, or an individual represented by the person as a practitioner, and the practitioner or such individual issued a prescription for the drug that was purchased;

"(D) the person knew, or had reason to know, that the practitioner or the individual referred to in subparagraph (C) did not, when issuing the prescription, have a qualifying medical relationship with the patient; and

"(E) the person received payment for the dispensing or sale of the drug.

For purposes of subparagraph (E), payment is received if money or other valuable consideration is received.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

"(A) the dispensing or selling of a prescription drug pursuant to telemedicine practices sponsored by—

"(i) a hospital that has in effect a provider agreement under title XVIII of the Social Security Act (relating to the Medicare program); or

"(ii) a group practice that has not fewer than 100 physicians who have in effect provider agreements under such title; or

"(B) the dispensing or selling of a prescription drug pursuant to practices that promote the public health, as determined by the Secretary by regulation.

"(3) QUALIFYING MEDICAL RELATIONSHIP.—

"(A) IN GENERAL.—With respect to issuing a prescription for a drug for a patient, a practitioner has a qualifying medical relationship with the patient for purposes of this section if—

"(i) at least one in-person medical evaluation of the patient has been conducted by the practitioner; or

"(ii) the practitioner conducts a medical evaluation of the patient as a covering practitioner.

"(B) IN-PERSON MEDICAL EVALUATION.—A medical evaluation by a practitioner is an in-person medical evaluation for purposes of this section if the practitioner is in the physical presence of the patient as part of conducting the evaluation, without regard to whether portions of the evaluation are conducted by other health professionals.

"(C) COVERING PRACTITIONER.—With respect to a patient, a practitioner is a covering practitioner for purposes of this section if the practitioner conducts a medical evaluation of the patient at the request of a practitioner who has conducted at least one in-person medical evaluation of the patient and is temporarily unavailable to conduct the evaluation of the patient. A practitioner is a covering practitioner without regard to whether the practitioner has conducted any in-person medical evaluation of the patient involved.

"(4) RULES OF CONSTRUCTION.—

"(A) INDIVIDUALS REPRESENTED AS PRACTITIONERS.—A person who is not a practitioner (as defined in subsection (e)(1)) lacks legal capacity under this section to have a qualifying medical relationship with any patient.

"(B) STANDARD PRACTICE OF PHARMACY.—Paragraph (1) may not be construed as prohibiting any conduct that is a standard practice in the practice of pharmacy.

"(C) APPLICABILITY OF REQUIREMENTS.—Paragraph (3) may not be construed as having any applicability beyond this section, and does not affect any State law, or interpretation of State law, concerning the practice of medicine.

"(c) ACTIONS BY STATES.—

"(1) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice that violates section 301(l), the State may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such practice, to enforce compliance with such section (including a nationwide injunction), to obtain damages, restitution, or other compensation on behalf of residents of such State, to obtain reasonable attorneys fees and costs if the State prevails in the civil action, or to obtain such further and other relief as the court may deem appropriate.

"(2) NOTICE.—The State shall serve prior written notice of any civil action under paragraph (1) or (5)(B) upon the Secretary and provide the Secretary with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Secretary shall have the right—

"(A) to intervene in such action;

"(B) upon so intervening, to be heard on all matters arising therein; and

"(C) to file petitions for appeal.

"(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this chapter shall prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

"(5) ACTIONS BY OTHER STATE OFFICIALS.—

"(A) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

"(B) In addition to actions brought by an attorney general of a State under paragraph (1), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

"(d) EFFECT OF SECTION.—This section shall not apply to a person that is a registered exporter under section 804.

"(e) GENERAL DEFINITIONS.—For purposes of this section:

"(1) The term 'practitioner' means a practitioner referred to in section 503(b)(1) with respect to issuing a written or oral prescription.

"(2) The term 'prescription drug' means a drug that is described in section 503(b)(1).

"(3) The term 'qualifying medical relationship', with respect to a practitioner and a patient, has the meaning indicated for such term in subsection (b).

"(f) INTERNET-RELATED DEFINITIONS.—

"(1) IN GENERAL.—For purposes of this section:

"(A) The term 'Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the transmission control protocol/internet protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

"(B) The term 'link', with respect to the Internet, means one or more letters, words, numbers, symbols, or graphic items that appear on a page of an Internet site for the purpose of serving, when activated, as a method for executing an electronic command—

"(i) to move from viewing one portion of a page on such site to another portion of the page;

"(ii) to move from viewing one page on such site to another page on such site; or

"(iii) to move from viewing a page on one Internet site to a page on another Internet site.

"(C) The term 'page', with respect to the Internet, means a document or other file accessed at an Internet site.

"(D)(i) The terms 'site' and 'address', with respect to the Internet, mean a specific location on the Internet that is determined by Internet Protocol numbers. Such term includes the domain name, if any.

"(ii) The term 'domain name' means a method of representing an Internet address without direct reference to the Internet Protocol numbers for the address, including methods that use designations such as '.com', '.edu', '.gov', '.net', or '.org'.

"(iii) The term 'Internet Protocol numbers' includes any successor protocol for determining a specific location on the Internet.

"(2) AUTHORITY OF SECRETARY.—The Secretary may by regulation modify any definition under paragraph (1) to take into account changes in technology.

"(g) INTERACTIVE COMPUTER SERVICE; ADVERTISING.—No provider of an interactive computer service, as defined in section 230(f)(2) of the Communications Act of 1934 (47 U.S.C. 230(f)(2)), or of advertising services shall be liable under this section for dispensing or selling prescription drugs in violation of this section on account of another person's selling or dispensing such drugs, provided that the provider of the interactive computer service or of advertising services does not own or exercise corporate control over such person.".

(b) INCLUSION AS PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by inserting after paragraph (k) the following:

"(l) The dispensing or selling of a prescription drug in violation of section 503B.".

(c) INTERNET SALES OF PRESCRIPTION DRUGS; CONSIDERATION BY SECRETARY OF PRACTICES AND PROCEDURES FOR CERTIFICATION OF LEGITIMATE BUSINESSES.—In carrying out section 503B of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section), the Secretary of Health and Human Services shall take into consideration the practices and procedures of public or private entities that certify that businesses selling prescription drugs through Internet sites are legitimate businesses, including practices and procedures regarding disclosure formats and verification programs.

(d) REPORTS REGARDING INTERNET-RELATED VIOLATIONS OF FEDERAL AND STATE LAWS ON DISPENSING OF DRUGS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this subsection as the "Secretary") shall, pursuant to the submission of an application meeting the criteria of the Secretary, make an award of a grant or contract to the National Clearinghouse on Internet Prescribing (operated by the Federation of State Medical Boards) for the purpose of—

(A) identifying Internet sites that appear to be in violation of Federal or State laws concerning the dispensing of drugs;

(B) reporting such sites to State medical licensing boards and State pharmacy licensing boards, and to the Attorney General and the Secretary, for further investigation; and

(C) submitting, for each fiscal year for which the award under this subsection is made, a report to the Secretary describing investigations undertaken with respect to violations described in subparagraph (A).

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there is authorized to be appropriated $100,000 for each of the fiscal years 2006 through 2008.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) take effect 90 days after the date of enactment of this title, without regard to whether a final rule to implement such amendments has been promulgated by the Secretary of Health and Human Services under section 701(a) of the Federal Food, Drug, and Cosmetic Act. The preceding sentence may not be construed as affecting the authority of such Secretary to promulgate such a final rule.

SEC. 8. PROHIBITING PAYMENTS TO UNREGISTERED FOREIGN PHARMACIES.

(a) IN GENERAL.—Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following:

"(g) RESTRICTED TRANSACTIONS.—

"(1) IN GENERAL.—The introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system is prohibited.

"(2) PAYMENT SYSTEM.—

"(A) IN GENERAL.—The term 'payment system' means a system used by a person described in subparagraph (B) to effect a credit transaction, electronic fund transfer, or money transmitting service that may be used in connection with, or to facilitate, a restricted transaction, and includes—

"(i) a credit card system;

"(ii) an international, national, regional, or local network used to effect a credit transaction, an electronic fund transfer, or a money transmitting service; and

"(iii) any other system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic fund transfers, or money transmitting services.

"(B) PERSONS DESCRIBED.—A person referred to in subparagraph (A) is—

"(i) a creditor;

"(ii) a credit card issuer;

"(iii) a financial institution;

"(iv) an operator of a terminal at which an electronic fund transfer may be initiated;

"(v) a money transmitting business; or

"(vi) a participant in an international, national, regional, or local network used to effect a credit transaction, electronic fund transfer, or money transmitting service.

"(3) RESTRICTED TRANSACTION.—The term 'restricted transaction' means a transaction or transmittal, on behalf of an individual who places an unlawful drug importation request to any person engaged in the operation of an unregistered foreign pharmacy, of—

"(A) credit, or the proceeds of credit, extended to or on behalf of the individual for the purpose of the unlawful drug importation request (including credit extended through the use of a credit card);

"(B) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the individual for the purpose of the unlawful drug importation request;

"(C) a check, draft, or similar instrument which is drawn by or on behalf of the individual for the purpose of the unlawful drug importation request and is drawn on or payable at or through any financial institution; or

"(D) the proceeds of any other form of financial transaction (identified by the Board by regulation) that involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the individual for the purpose of the unlawful drug importation request.

"(4) UNLAWFUL DRUG IMPORTATION REQUEST.—The term 'unlawful drug importation request' means the request, or transmittal of a request, made to an unregistered foreign pharmacy for a prescription drug by mail (including a private carrier), facsimile, phone, or electronic mail, or by a means that involves the use, in whole or in part, of the Internet.

"(5) UNREGISTERED FOREIGN PHARMACY.—The term 'unregistered foreign pharmacy' means a person in a country other than the United States that is not a registered exporter under section 804.

"(6) OTHER DEFINITIONS.—

"(A) CREDIT; CREDITOR; CREDIT CARD.—The terms 'credit', 'creditor', and 'credit card' have the meanings given the terms in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

"(B) ACCESS DEVICE; ELECTRONIC FUND TRANSFER.—The terms 'access device' and 'electronic fund transfer'—

"(i) have the meaning given the term in section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a); and

"(ii) the term 'electronic fund transfer' also includes any fund transfer covered under Article 4A of the Uniform Commercial Code, as in effect in any State.

"(C) FINANCIAL INSTITUTION.—The term 'financial institution'—

"(i) has the meaning given the term in section 903 of the Electronic Transfer Fund Act (15 U.S.C. 1693a); and

"(ii) includes a financial institution (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)).

"(D) MONEY TRANSMITTING BUSINESS; MONEY TRANSMITTING SERVICE.—The terms 'money transmitting business' and 'money transmitting service' have the meaning given the terms in section 5330(d) of title 31, United States Code.

"(E) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

"(7) POLICIES AND PROCEDURES REQUIRED TO PREVENT RESTRICTED TRANSACTIONS.—

"(A) REGULATIONS.—The Board shall promulgate regulations requiring—

"(i) an operator of a credit card system;

"(ii) an operator of an international, national, regional, or local network used to effect a credit transaction, an electronic fund transfer, or a money transmitting service;

"(iii) an operator of any other payment system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic transfers or money transmitting services where at least one party to the transaction or transfer is an individual; and

"(iv) any other person described in paragraph (2)(B) and specified by the Board in such regulations,

to establish policies and procedures that are reasonably designed to prevent the introduction of a restricted transaction into a payment system or the completion of a restricted transaction using a payment system.

"(B) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In promulgating regulations under subparagraph (A), the Board shall—

"(i) identify types of policies and procedures, including nonexclusive examples, that shall be considered to be reasonably designed to prevent the introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system; and

"(ii) to the extent practicable, permit any payment system, or person described in paragraph (2)(B), as applicable, to choose among alternative means of preventing the introduction or completion of restricted transactions.

"(C) NO LIABILITY FOR BLOCKING OR REFUSING TO HONOR RESTRICTED TRANSACTION.—

"(i) IN GENERAL.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, and any participant in such payment system that prevents or otherwise refuses to honor transactions in an effort to implement the policies and procedures required under this subsection or to otherwise comply with this subsection shall not be liable to any party for such action.

"(ii) COMPLIANCE.—A person described in paragraph (2)(B) meets the requirements of this subsection if the person relies on and complies with the policies and procedures of a payment system of which the person is a member or in which the person is a participant, and such policies and procedures of the payment system comply with the requirements of the regulations promulgated under subparagraph (A).

"(D) ENFORCEMENT.—

"(i) IN GENERAL.—This section shall be enforced by the Federal functional regulators and the Federal Trade Commission under applicable law in the manner provided in section 505(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)).

"(ii) FACTORS TO BE CONSIDERED.—In considering any enforcement action under this subsection against a payment system or person described in paragraph (2)(B), the Federal functional regulators and the Federal Trade Commission shall consider the following factors:

"(I) The extent to which the payment system or person knowingly permits restricted transactions.

"(II) The history of the payment system or person in connection with permitting restricted transactions.

"(III) The extent to which the payment system or person has established and is maintaining policies and procedures in compliance with regulations prescribed under this subsection.

"(8) TRANSACTIONS PERMITTED.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, is authorized to engage in transactions with foreign pharmacies in connection with investigating violations or potential violations of any rule or requirement adopted by the payment system or person in connection with complying with paragraph (7). A payment system, or such a person, and its agents and employees shall not be found to be in violation of, or liable under, any Federal, State or other law by virtue of engaging in any such transaction.

"(9) RELATION TO STATE LAWS.—No requirement, prohibition, or liability may be imposed on a payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, under the laws of any state with respect to any payment transaction by an individual because the payment transaction involves a payment to a foreign pharmacy.

"(10) TIMING OF REQUIREMENTS.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, must adopt policies and procedures reasonably designed to comply with any regulations required under paragraph (7) within 60 days after such regulations are issued in final form.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day that is 90 days after the date of enactment of this title.

(c) IMPLEMENTATION.—The Board of Governors of the Federal Reserve System shall promulgate regulations as required by subsection (g)(7) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333), as added by subsection (a), not later than 90 days after the date of enactment of this title.

SEC. 9. IMPORTATION EXEMPTION UNDER CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1006(a)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 956(a)(2)) is amended by striking "not import the controlled substance into the United States in an amount that exceeds 50 dosage units of the controlled substance." and inserting "import into the United States not more than 10 dosage units combined of all such controlled substances.".

SA 3928. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

In part II of subtitle A of title XXIX of the Public Health Services Act, as added by section 201 of the amendment, at the end of section 2921 insert the following:

"SEC. 29 . LIMITATION ON APPLICATION OF CERTAIN BENEFIT, SERVICE, OR PROVIDER MANDATES.

"Notwithstanding any other provision of this title, a specific mandate regarding a covered benefit, service, or category of provider, other than a mandate applicable as provided for under a basic option or an enhanced option (as such terms are defined for purposes of this title) under this title, shall not apply with respect to health insurance coverage provided by a health insurance issuer if the application of such specific mandate to such coverage would, based on applicable standards of actuarial practice, result in an increase in premiums of at least 1 percent.

SA 3929. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place in subtitle B of title XXIX of the Public Health Service Act, as added by section 301 of the bill, insert the following:

SEC. ___. CONGRESSIONAL APPROVAL OF STANDARDS.

Notwithstanding any other provision of this subtitle, the harmonized standards certified by the Secretary under this section shall not take effect with respect to any State until the date that is 18 months after Congress has adopted a Concurrent Resolution that provides for the approval of such standards. The preceding sentence shall apply to any modifications or amendments to such harmonized standards as may be made by the Secretary.

SA 3930. Mr. COBURN (for himself, Mr. BROWNBACK, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

In section 801(b) of the Employee Retirement Income Security Act of 1974, as added by section 101(a) of the amendment, strike paragraph (1) and insert the following:

"(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, a convention or association of churches (within the meaning of section 170(b)(1)(A)(i) of the Internal Revenue Code of 1986), or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining medical care, except that for purposes of this part, any such association, convention or association, or chamber shall not be required to comply with certain benefit requirements of this part if such compliance is prohibited by the bona fide religious or cultural beliefs of the association, convention or association, or chamber;".

SA 3931. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . RULE OF CONSTRUCTION RELATING TO PREGNANCY.

Nothing in this Act (or an amendment made by this Act) shall be construed to—

(1) limit the application of section 701(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(k)), commonly referred to as the Pregnancy Discrimination Act;

(2) limit the application of section 701(d)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(d)(3)) or section 2701(d)(3) of the Public Health Service Act (42 U.S.C. 300gg(d)(3)), relating to prohibiting the use of pregnancy as a preexisting condition; and

(3) limit the application of section 711 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185) or section 2704 of the Public Health Service Act (42 U.S.C. 300gg-4), relating to benefits for mothers and newborns;

to small business health plans and other health insurance coverage to which this Act (or amendments) apply.

SA 3932. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike title III and insert the following:

TITLE III—HARMONIZATION OF HEALTH INSURANCE STANDARDS

SEC. 301. HEALTH INSURANCE STANDARDS HARMONIZATION.

Title XXIX of the Public Health Service Act (as added by section 201) is amended by adding at the end the following:

"Subtitle B—Standards Harmonization

"SEC. 2931. DEFINITIONS.

"In this subtitle:

"(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted the harmonized standards adopted under this subtitle in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

"(2) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

"(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the harmonized standards in a nonadopting State;

"(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the harmonized standards published pursuant to section 2933(d), and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

"(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such health coverage) and filed with the State pursuant to subparagraph (B), a description of the harmonized standards published pursuant to section 2933(g)(2) and an affirmation that such standards are a term of the contract.

"(3) HARMONIZED STANDARDS.—The term 'harmonized standards' means the standards certified by the Secretary under section 2933(d).

"(4) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the health insurance market, except that such term shall not include excepted benefits (as defined in section 2791(c). '

"(5) NONADOPTING STATE.—The term 'nonadopting State' means a State that fails to enact, within 18 months of the date on which the Secretary certifies the harmonized standards under this subtitle, the harmonized standards in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

"(6) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"SEC. 2932. STATE FLEXIBILITY RELATING TO HEALTH INSURANCE LAWS.

"(a) EFFECTIVENESS OF SUBTITLE.—

"(1) IN GENERAL.—The provisions of this subtitle shall take effect unless, not later than 3 years after the date of the enactment of this subtitle, an adequate number of the

States (as defined in paragraph (2) have enacted harmonized laws and regulations governing the provision of health insurance within the State.

"(2) ADEQUATE NUMBER OF THE STATES.—For purposes of paragraph (1), an adequate number of the States is, with respect to the date that is 3 years after the date of enactment of this subtitle, the number of States necessary to ensure that at least 75 percent of the health insurance premium volume of the United States is covered under health insurance coverage to which this subtitle applies.

"(b) HARMONIZATION REQUIRED.—States shall be deemed to have enacted harmonized laws and regulations necessary to satisfy subsection (a)(1) if an adequate number of States as provided for in subsection (a)(2) establish harmonized State health insurance laws in those areas and insuch a manner as described in section 2933(b)(1).

"(c) DETERMINATION.—

"(1) NAIC DETERMINATION.—At the end of the 3-year period beginning on the date of the enactment of this subtitle, the National Association of Insurance Commissioners (hereafter in this subtitle referred to as the 'NAIC') shall determine, in consultation with the insurance commissioners or chief insurance regulatory officials of the States, whether the harmonization required by subsection (b) has been achieved.

"(2) APPLICATION OF HARMONIZED STANDARD UNDER SECTION 2933.—If the NAIC determines under paragraph (1) that the harmonization required under subsection (b) has not occurred, the provisions of section 2933, and the harmonized standards under this section, take effect as provided for in this subtitle.

"(3) JUDICIAL REVIEW.—The appropriate United States district court shall have exclusive jurisdiction over any challenge to the NAIC's determination under this section and such court shall apply the standards set forth in section 706 of title 5, United States Code, when reviewing any such challenge.

"(d) CONTINUED APPLICATION.—If, at any time, the harmonization required by subsection (b) no longer exists, the provisions of this subtitle shall take effect 2 years after the date on which such harmonization ceases to exist, unless the harmonization required by such subsection is satisfied before the expiration of that 2-year period.

"SEC. 2933. HARMONIZED STANDARDS.

"(a) BOARD.—

"(1) ESTABLISHMENT.—Not later than 3 months after the date of enactment of this title, the Secretary, in consultation with the NAIC, shall establish the Health Insurance Consensus Standards Board (referred to in this subtitle as the 'Board') to develop recommendations that harmonize inconsistent State health insurance laws in accordance with the procedures described in subsection (b).

"(2) COMPOSITION.—

"(A) IN GENERAL.—The Board shall be composed of the following voting members to be appointed by the Secretary after considering the recommendations of professional organizations representing the entities and constituencies described in this paragraph:

"(i) Four State insurance commissioners as recommended by the National Association of Insurance Commissioners, of which 2 shall be Democrats and 2 shall be Republicans, and of which one shall be designated as the chairperson and one shall be designated as the vice chairperson.

"(ii) Four representatives of State government, two of which shall be governors of States and two of which shall be State legislators, and two of which shall be Democrats and two of which shall be Republicans.

"(iii) Four representatives of health insurers, of which one shall represent insurers that offer coverage in the small group market, one shall represent insurers that offer coverage in the large group market, one shall represent insurers that offer coverage in the individual market, and one shall represent carriers operating in a regional market.

"(iv) Two representatives of insurance agents and brokers.

"(v) Two independent representatives of the American Academy of Actuaries who have familiarity with the actuarial methods applicable to health insurance.

"(B) EX OFFICIO MEMBER.—A representative of the Secretary shall serve as an ex officio member of the Board.

"(3) ADVISORY PANEL.—The Secretary shall establish an advisory panel to provide advice to the Board, and shall appoint its members after considering the recommendations of professional organizations representing the entities and constituencies identified in this paragraph:

"(A) Two representatives of small business health plans.

"(B) Two representatives of employers, of which one shall represent small employers and one shall represent large employers.

"(C) Two representatives of consumer organizations.

"(D) Two representatives of health care providers.

"(4) QUALIFICATIONS.—The membership of the Board shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health plans, providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

"(5) ETHICAL DISCLOSURE.—The Secretary shall establish a system for public disclosure by members of the Board of financial and other potential conflicts of interest relating to such members. Members of the Board shall be treated as employees of Congress for purposes of applying title I of the Ethics in Government Act of 1978 (Public Law 95–521).

"(6) DIRECTOR AND STAFF.—Subject to such review as the Secretary deems necessary to assure the efficient administration of the Board, the chair and vice-chair of the Board may—

"(A) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Board (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

"(D) make advance, progress, and other payments which relate to the work of the Board;

"(E) provide transportation and subsistence for persons serving without compensation; and

"(F) prescribe such rules as it deems necessary with respect to the internal organization and operation of the Board.

"(7) TERMS.—The members of the Board shall serve for the duration of the Board. Vacancies in the Board shall be filled as needed in a manner consistent with the composition described in paragraph (2).

"(b) DEVELOPMENT OF HARMONIZED STANDARDS.—

"(1) IN GENERAL.—In accordance with the process described in subsection (c), the Board shall identify and recommend nationally harmonized standards for each of the following process categories:

"(A) FORM FILING AND RATE FILING.—Form and rate filing standards shall be established which promote speed to market and include the following defined areas for States that require such filings:

"(i) Procedures for form and rate filing pursuant to a streamlined administrative filing process.

"(ii) Timeframes for filings to be reviewed by a State if review is required before they are deemed approved.

"(iii) Timeframes for an eligible insurer to respond to State requests following its review.

"(iv) A process for an eligible insurer to self-certify.

"(v) State development of form and rate filing templates that include only non-preempted State law and Federal law requirements for eligible insurers with timely updates.

"(vi) Procedures for the resubmission of forms and rates.

"(vii) Disapproval rationale of a form or rate filing based on material omissions or violations of non-preempted State law or Federal law with violations cited and explained.

"(viii) For States that may require a hearing, a rationale for hearings based on violations of non-preempted State law or insurer requests.

"(B) MARKET CONDUCT REVIEW.—Market conduct review standards shall be developed which provide for the following:

"(i) Mandatory participation in national databases.

"(ii) The confidentiality of examination materials.

"(iii) The identification of the State agency with primary responsibility for examinations.

"(iv) Consultation and verification of complaint data with the eligible insurer prior to State actions.

"(v) Consistency of reporting requirements with the recordkeeping and administrative practices of the eligible insurer.

"(vi) Examinations that seek to correct material errors and harmful business practices rather than infrequent errors.

"(vii) Transparency and publishing of the State's examination standards.

"(viii) Coordination of market conduct analysis.

"(ix) Coordination and nonduplication between State examinations of the same eligible insurer.

"(x) Rationale and protocols to be met before a full examination is conducted.

"(xi) Requirements on examiners prior to beginning examinations such as budget planning and work plans.

"(xii) Consideration of methods to limit examiners' fees such as caps, competitive bidding, or other alternatives.

"(xiii) Reasonable fines and penalties for material errors and harmful business practices.

"(C) PROMPT PAYMENT OF CLAIMS.—The Board shall establish prompt payment standards for eligible insurers based on standards similar to those applicable to the Social Security Act as set forth in section 1842(c)(2) of such Act (42 U.S.C. 1395u(c)(2)). Such prompt payment standards shall be consistent with the timing and notice requirements of the claims procedure rules to be specified under subparagraph (D), and shall include appropriate exceptions such as for fraud, nonpayment of premiums, or late submission of claims.

“(D) INTERNAL REVIEW.—The Board shall establish standards for claims procedures for eligible insurers that are consistent with the requirements relating to initial claims for benefits and appeals of claims for benefits under the Employee Retirement Income Security Act of 1974 as set forth in section 503 of such Act (29 U.S.C. 1133) and the regulations thereunder.

“(2) RECOMMENDATIONS.—The Board shall recommend harmonized standards for each element of the categories described in subparagraph (A) through (D) of paragraph (1) within each such market. Notwithstanding the previous sentence, the Board shall not recommend any harmonized standards that disrupt, expand, or duplicate the benefit, service, or provider mandate standards provided in the Benefit Choice Standards pursuant to section 2922(a).

“(c) PROCESS FOR IDENTIFYING HARMONIZED STANDARDS.—

“(1) IN GENERAL.—The Board shall develop recommendations to harmonize inconsistent State insurance laws with respect to each of the process categories described in subparagraphs (A) through (D) of subsection (b)(1).

“(2) REQUIREMENTS.—In adopting standards under this section, the Board shall consider the following:

“(A) Any model acts or regulations of the National Association of Insurance Commissioners in each of the process categories described in subparagraphs (A) through (D) of subsection (b)(1).

“(B) Substantially similar standards followed by a plurality of States, as reflected in existing State laws, relating to the specific process categories described in subparagraphs (A) through (D) of subsection (b)(1).

“(C) Any Federal law requirement related to specific process categories described in subparagraphs (A) through (D) of subsection (b)(1).

“(D) In the case of the adoption of any standard that differs substantially from those referred to in subparagraphs (A), (B), or (C), the Board shall provide evidence to the Secretary that such standard is necessary to protect health insurance consumers or promote speed to market or administrative efficiency.

“(E) The criteria specified in clauses (i) through (iii) of subsection (d)(2)(B).

“(d) RECOMMENDATIONS AND CERTIFICATION BY SECRETARY.—

“(1) RECOMMENDATIONS.—Not later than 18 months after the date on which all members of the Board are selected under subsection (a), the Board shall recommend to the Secretary the certification of the harmonized standards identified pursuant to subsection (c).

“(2) CERTIFICATION.—

“(A) IN GENERAL.—Not later than 120 days after receipt of the Board's recommendations under paragraph (1), the Secretary shall certify the recommended harmonized standards as provided for in subparagraph (B), and issue such standards in the form of an interim final regulation.

“(B) CERTIFICATION PROCESS.—The Secretary shall establish a process for certifying the recommended harmonized standard, by category, as recommended by the Board under this section. Such process shall—

“(i) ensure that the certified standards for a particular process area achieve regulatory harmonization with respect to health plans on a national basis;

“(ii) ensure that the approved standards are the minimum necessary, with regard to substance and quantity of requirements, to protect health insurance consumers and maintain a competitive regulatory environment; and

“(iii) ensure that the approved standards will not limit the range of group health plan designs and insurance products, such as catastrophic coverage only plans, health savings accounts, and health maintenance organizations, that might otherwise be available to consumers.

“(3) APPLICATION AND EFFECTIVE DATE.—The standards certified by the Secretary under paragraph (2) shall apply and become effective on the date on which the NAIC makes the determination described in section 2932(c)(2).

“(e) TERMINATION.—The Board shall terminate and be dissolved after making the recommendations to the Secretary pursuant to subsection (d)(1).

“(f) ONGOING REVIEW.—Not earlier than 3 years after the termination of the Board under subsection (e), and not earlier than every 3 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners and the entities and constituencies represented on the Board and the Advisory Panel, shall prepare and submit to the appropriate committees of Congress a report that assesses the effect of the harmonized standards applied under this section on access, cost, and health insurance market functioning. The Secretary may, based on such report and applying the process established for certification under subsection (d)(2)(B), in consultation with the National Association of Insurance Commissioners and the entities and constituencies represented on the Board and the Advisory Panel, update the harmonized standards through notice and comment rulemaking.

“(g) PUBLICATION.—

“(1) LISTING.—The Secretary shall maintain an up to date listing of all harmonized standards certified under this section on the Internet website of the Department of Health and Human Services.

“(2) SAMPLE CONTRACT LANGUAGE.—The Secretary shall publish on the Internet website of the Department of Health and Human Services sample contract language that incorporates the harmonized standards certified under this section, which may be used by insurers seeking to qualify as an eligible insurer. The types of harmonized standards that shall be included in sample contract language are the standards that are relevant to the contractual bargain between the insurer and insured.

“(h) STATE ADOPTION AND ENFORCEMENT.—Not later than 18 months after the certification by the Secretary of harmonized standards under this section, the States may adopt such harmonized standards (and become an adopting State) and, in which case, shall enforce the harmonized standards pursuant to State law.

“SEC. 2934. APPLICATION AND PREEMPTION.

“(a) SUPERCEDING OF STATE LAW.—

“(1) IN GENERAL.—The harmonized standards certified under this subtitle and applied as provided for in section 2933(d)(3), shall supersede any and all State laws of a nonadopting State insofar as such State laws relate to the areas of harmonized standards as applied to an eligible insurer, or health insurance coverage issued by a eligible insurer, including with respect to coverage issued to a small business health plan, in a nonadopting State.

“(2) NONADOPTING STATES.—This subtitle shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as they may—

“(A) prohibit an eligible insurer from offering, marketing, or implementing health insurance coverage consistent with the harmonized standards; or

“(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing health insurance coverage consistent with the harmonized standards under this subtitle.

“(b) SAVINGS CLAUSE AND CONSTRUCTION.—

“(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting States.

“(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

“(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supercede any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the harmonized standards under this subtitle.

“(4) NO EFFECT ON PREEMPTION.—In no case shall this subtitle be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this subtitle be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

“(c) EFFECTIVE DATE.—This section shall apply beginning on the date that is 18 months after the date on harmonized standards are certified by the Secretary under this subtitle.

“SEC. 2935. CIVIL ACTIONS AND JURISDICTION.

“(a) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this subtitle.

“(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 2933.

“(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

“(d) EXPEDITED REVIEW.—

“(1) DISTRICT COURT.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

“(2) COURT OF APPEALS.—In the case of an action brought directly in a United States

Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

"(e) Standard of Review.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

"SEC. 2936. AUTHORIZATION OF APPROPRIATIONS; RULE OF CONSTRUCTION.

"(a) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

"(b) Health Savings Accounts.—Nothing in this subtitle shall be construed to create any mandates for coverage of any benefits below the deductible levels set for any health savings account-qualified health plan pursuant to section 223 of the Internal Revenue Code of 1986.".

SA 3933. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 3924 submitted by Ms. Snowe (for herself, Mr. Byrd, Mr. Talent, and Mr. Domenici) and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after the part heading in the amendment and insert the following:

"SEC. 2921. DEFINITIONS.

"In this part:

"(1) Adopting state.—The term 'adopting State' means a State that has enacted the Benefit Choice Standards in their entirety and as the exclusive laws of the State that relate to benefit, service, and provider mandates in the group and individual insurance markets.

"(2) Benefit choice standards.—The term 'Benefit Choice Standards' means the Standards issued under section 2922.

"(3) Eligible insurer.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

"(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the Benefit Choice Standards in a nonadopting State;

"(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the Benefit Choice Standards, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

"(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the Benefit Choice Standards and that adherence to such Standards is included as a term of such contract.

"(4) Health insurance coverage.—The term 'health insurance coverage' means any coverage issued in the group or individual health insurance markets, except that such term shall not include excepted benefits (as defined in section 2791(c)).

"(5) Nonadopting state.—The term 'nonadopting State' means a State that is not an adopting State.

"(6) Small group insurance market.—The term 'small group insurance market' shall have the meaning given the term 'small group market' in section 2791(e)(5).

"(7) State law.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"SEC. 2922. OFFERING AFFORDABLE PLANS.

"(a) Benefit Choice Options.—

"(1) Development.—Not later than 6 months after the date of enactment of this title, the Secretary shall issue, by interim final rule, Benefit Choice Standards that implement the standards provided for in this part.

"(2) Basic options.—The Benefit Choice Standards shall provide that a health insurance issuer in a State, may offer a coverage plan or plan in the small group market, individual market, large group market, or through a small business health plan, that does not comply with one or more mandates regarding covered benefits, services, or category of provider as may be in effect in such State with respect to such market or markets (either prior to or following the date of enactment of this title), if such issuer also offers in such market or markets an enhanced option as provided for in paragraph (3) of the List of Required Benefits option as provided for in paragraph (5).

"(3) Enhanced option.—A health insurance issuer issuing a basic option as provided for in paragraph (2) shall also offer to purchasers (including, with respect to a small business health plan, the participating employers of such plan) an enhanced option, which shall at a minimum include such covered benefits, services, and categories of providers as are covered by a State employee coverage plan in one of the 5 most populous States as are in effect in the calendar year in which such enhanced option is offered.

"(4) Publication of benefits.—Not later than 3 months after the date of enactment of this title, and on the first day of every calendar year thereafter, the Secretary shall publish in the Federal Register such covered benefits, services, and categories of providers covered in that calendar year by the State employee coverage plans in the 5 most populous States.

"(5) List of required benefits option.—

"(A) In general.—Not later than 3 months after the date of enactment of this title, the Secretary, in consultation with the National Association of Insurance Commissioners, shall issue by interim final rule a list (to be known as the 'List of Required Benefits') of covered benefits, services, or categories of providers that are required to be provided by health insurance issuers, in each of the small group and large group markets, in at least 26 States as a result of the application of State covered benefit, service, and category of provider mandate laws. With respect to plans sold to or through small business health plans, the List of Required Benefits applicable to the small group market shall apply.

"(B) Application.—The provision of paragraph (2) relating to the offering of a basic option plan under this part shall, in addition to allowing such option to be offered if the enhanced option under paragraph (3) is offered, permit such basic option to be offered if the health insurance issuer also offers an option providing coverage for the List of Required Benefits under subparagraph (A).

"(b) Effective Dates.—

"(1) Small business health plans.—With respect to health insurance provided to participating employers of small business health plans, the requirements of this part (concerning lower cost plans) shall apply beginning on the date that is 12 months after the date of enactment of this title.

"(2) Non-association coverage.—With respect to health insurance provided to groups or individuals other than participating employers of small business health plans, the requirements of this part shall apply beginning on the date that is 15 months after the date of enactment of this title.".

SA 3934. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3899 submitted by Mr. Durbin (for himself, Mrs. Lincoln, Mr. Reid, Mr. Baucus, Mr. Kennedy, Mrs. Clinton, Mr. Kerry, Mr. Bingaman, Ms. Cantwell, Mr. Pryor, Mr. Harkin, Mr. Obama, Mr. Lautenberg, Mr. Schumer, Mr. Kohl, Mr. Lieberman, Mr. Dodd, Mr. Dayton, Mr. Johnson, Mr. Menendez, Mrs. Boxer, Mr. Nelson of Florida, Ms. Mikulski, Ms. Stabenow, Mr. Carper, and Mr. Rockefeller) and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

On page 34 of the amendment, strike lines 14 through 18, and insert the following:

SEC. 16. EFFECTIVE DATE AND TERMINATION.

(a) Effective Date.—Except as provided in section 10(e), this Act shall take effect on the date of enactment of this Act and shall apply to contracts that take effect with respect to calendar year 2007 and each calendar year thereafter.

(b) Termination.—The provisions of this Act shall not apply and shall be repealed on the date on which the Director of the Office of Personal Management certifies to Congress that the Director, with respect to a plan year, is unable to contract with a sufficient number of insurance carriers under this Act to provide at least an equal number of State and national health plan choices as are available under the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code, in such plan year.

SA 3935. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3925 submitted by Mr. KENNEDY and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after "SEC." in the amendment and insert the following:

___. **REVIEW OF HEALTH INSURANCE COVERAGE.**

Not later than 4 years after the date of enactment of this Act, the Government Accountability Office shall submit to the appropriate committees of Congress a report on the extent to which health insurance provided to groups and individuals, including health insurance provided to participating employers of small business health plans, includes coverage of diabetes supplies, education, and treatment; and treatments or medical items for individuals with cancer; and treatment or services needed to treat or cure cardiovascular disease.

SA 3936. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3919 submitted by Mr. DODD and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after "SEC." in the amendment and insert the following:

. **REVIEW OF HEALTH INSURANCE COVERAGE.**

Not later than 4 years after the date of enactment of this Act, the Government Accountability Office shall submit to the appropriate committees of Congress a report on the extent to which health insurance provided to groups and individuals, including health insurance provided to participating employers of small business health plans, includes coverage of services for newborns and children, including pediatric and well-child care and immunizations.

SA 3937. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3918 submitted by Mr. DODD (for himself and Mr. MENENDEZ) and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after "SEC." in the amendment and insert the following:

. **REVIEW OF HEALTH INSURANCE COVERAGE.**

Not later than 4 years after the date of enactment of this Act, the Government Accountability Office shall submit to the appropriate committees of Congress a report on the extent to which health insurance provided to groups and individuals, including health insurance provided to participating employers of small business health plans, includes coverage of services for beneficiaries participating in clinical trials.

SA 3938. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3916 submitted by Mr. REID (for himself, Mrs. CLINTON, Mrs. MURRAY, and Mr. MENENDEZ) and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after "SEC." in the amendment and insert the following:

. **REVIEW OF HEALTH INSURANCE COVERAGE.**

Not later than 4 years after the date of enactment of this Act, the Government Accountability Office shall submit to the appropriate committees of Congress a report on the extent to which health insurance provided to groups and individuals, including health insurance provided to participating employers of small business health plans, includes coverage of prescription contraceptive drugs, or devices as approved by the Food and Drug Administration or generic equivalents approved as substitutable.

SA 3939. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3912 submitted by Mr. HARKIN and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after "SEC." in the amendment and insert the following:

. **REVIEW OF HEALTH INSURANCE COVERAGE.**

Not later than 4 years after the date of enactment of this Act, the Government Accountability Office shall submit to the appropriate committees of Congress a report on the extent to which health insurance provided to groups and individuals, including health insurance provided to participating employers of small business health plans, includes coverage of a preventive service that is recommended by the United States Preventive Services Task Force through a rating of "A" or "B."

SA 3940. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3913 submitted by Mr. HARKIN and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after "SEC." in the amendment and insert the following:

___. **REVIEW OF HEALTH INSURANCE COVERAGE.**

Not later than 4 years after the date of enactment of this Act, the Government Accountability Office shall submit to the appropriate committees of Congress a report on the extent to which health insurance provided to groups and individuals, including health insurance provided to participating employers of small business health plans, includes coverage of obesity screening and counseling.

SA 3941. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3907 submitted by Mr. BAUCUS and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after "SEC." in the amendment and insert the following:

___. **REVIEW OF HEALTH INSURANCE COVERAGE.**

Not later than 4 years after the date of enactment of this Act, the Government Accountability Office shall submit to the appropriate committees of Congress a report on the extent to which health insurance provided to groups and individuals, including health insurance provided to participating employers of small business health plans, includes coverage of maternity care or related pre- and post-natal care for women and their infants.

SA 3942. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3900 submitted by Mr. CARPER (for himself and Mrs. FEINSTEIN) and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after "SEC." in the amendment and insert the following:

___. **REVIEW OF HEALTH INSURANCE COVERAGE.**

Not later than 4 years after the date of enactment of this Act, the Government Accountability Office shall submit to the appropriate committees of Congress a report on the extent to which health insurance provided to groups and individuals, including health insurance provided to participating employers of small business health plans, includes coverage of cancer screenings, including screening for breast, cervical, prostate, uterine, skin, colon, and stomach cancer.

SA 3943. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3866 submitted by Mr. SMITH and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after "SEC." in the amendment and insert the following:

__. REVIEW OF HEALTH INSURANCE COVERAGE.

Not later than 4 years after the date of enactment of this Act, the Government Accountability Office shall submit to the appropriate committees of Congress a report on the extent to which health insurance provided to groups and individuals, including health insurance provided to participating employers of small business health plans, includes coverage of Mental Health Parity.

SA 3944. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3892 submitted by Ms. COLLINS (for herself and Mr. BINGAMAN) and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after "SEC." in the amendment and insert the following:

__. REVIEW OF HEALTH INSURANCE COVERAGE.

Not later than 4 years after the date of enactment of this Act, the Government Accountability Office shall submit to the appropriate committees of Congress a report on the extent to which health insurance provided to groups and individuals, including health insurance provided to participating employers of small business health plans, includes coverage of diabetes treatment, education, supplies, and prescription drugs.

SA 3945. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3880 submitted by Mr. KENNEDY and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after "SEC." in the amendment and insert the following:

__. REVIEW OF HEALTH INSURANCE COVERAGE.

Not later than 4 years after the date of enactment of this Act, the Government Accountability Office shall submit to the appropriate committees of Congress a report on the extent to which health insurance provided to groups and individuals, including health insurance provided to participating employers of small business health plans, includes coverage of medical items and services for the treatment of diabetes.

SA 3946. Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 3924 submitted by Ms. SNOWE (for herself, Mr. BYRD, Mr. TALENT, and Mr. DOMENICI) and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Beginning on page 1 of the amendment, strike all after the part heading and insert the following:

"SEC. 2921. DEFINITIONS.

"In this part:

"(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted a law providing that small group, individual, and large group health insurers in such State may offer and sell products in accordance with the List of Required Benefits and the Terms of Application as provided for in section 2922(b)

"(2) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

"(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the List of Required Benefits and Terms of Application in a nonadopting State;

"(B) notifies the insurance department of a nonadopting State (or other applicable State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the List of Required Benefits and Terms of Application, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

"(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the List of Required Benefits and a description of the Terms of Application, including a description of the benefits to be provided, and that adherence to such standards is included as a term of such contract.

"(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the small group, individual, or large group health insurance markets, including with respect to small business health plans, except that such term shall not include excepted benefits (as defined in section 2791(c)).

"(4) LIST OF REQUIRED BENEFITS.—The term 'List of Required Benefits' means the List issued under section 2922(a).

"(5) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

"(6) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"(7) STATE PROVIDER FREEDOM OF CHOICE LAW.—The term 'State Provider Freedom of Choice Law' means a State law requiring that a health insurance issuer, with respect to health insurance coverage, not discriminate with respect to participation, reimbursement, or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law.

"(8) TERMS OF APPLICATION.—The term 'Terms of Application' means terms provided under section 2922(a).

"SEC. 2922. OFFERING AFFORDABLE PLANS.

"(a) LIST OF REQUIRED BENEFITS.—Not later than 3 months after the date of enactment of this title, the Secretary, in consultation with the National Association of Insurance Commissioners, shall issue by interim final rule a list (to be known as the 'List of Required Benefits') of covered benefits, services, or categories of providers that are required to be provided by health insurance issuers, in each of the small group, individual, and large group markets, in at least 26 States as a result of the application of State covered benefit, service, and category of provider mandate laws. With respect to plans sold to or through small business health plans, the List of Required Benefits applicable to the small group market shall apply.

"(b) TERMS OF APPLICATION.—

"(1) STATE WITH MANDATES.—With respect to a State that has a covered benefit, service, or category of provider mandate in effect that is covered under the List of Required Benefits under subsection (a), such State mandate shall, subject to paragraph (3) (concerning uniform application), apply to a coverage plan or plan in, as applicable, the small group, individual, or large group market or through a small business health plan in such State.

"(2) STATES WITHOUT MANDATES.—With respect to a State that does not have a covered benefit, service, or category of provider mandate in effect that is covered under the List of Required Benefits under subsection (a), such mandate shall not apply, as applicable, to a coverage plan or plan in the small group, individual, or large group market or through a small business health plan in such State.

"(3) UNIFORM APPLICATION OF LAWS.—

"(A) IN GENERAL.—With respect to a State described in paragraph (1), in applying a covered benefit, service, or category of provider mandate that is on the List of Required Benefits under subsection (a) the State shall permit a coverage plan or plan offered in the small group, individual, or large group market or through a small business health plan in such State to apply such benefit, service, or category of provider coverage in a manner consistent with the manner in which such coverage is applied under one of the three most heavily subscribed national health plans offered under the Federal Employee Health Benefits Program under chapter 89 of title 5, United States Code (as determined by the Secretary in consultation with the Director of the Office of Personnel Management), and consistent with the Publication of Benefit Applications under subsection (c). In the event a covered benefit, service, or category of provider appearing in the List of Required Benefits is not offered in one of the three most heavily subscribed national health plans offered under the Federal Employees Health Benefits Program, such covered benefit, service, or category of provider requirement shall be applied in a manner consistent with the manner in which such coverage is offered in the remaining most heavily subscribed plan of the remaining Federal Employees Health Benefits Program plans, as determined by the Secretary, in consultation with the Director of the Office of Personnel Management.

"(B) EXCEPTION REGARDING STATE PROVIDER FREEDOM OF CHOICE LAWS.—Notwithstanding subparagraph (A), in the event a category of provider mandate is included in the List of Covered Benefits, any State Provider Freedom of Choice Law (as defined in section 2921(7)) that is in effect in any State in which such category of provider mandate is in effect shall not be preempted, with respect to that category of provider, by this part.

"(c) PUBLICATION OF BENEFIT APPLICATIONS.—Not later than 3 months after the date of enactment of this title, and on the first day of every calendar year thereafter, the Secretary, in consultation with the Director of the Office of Personnel Management, shall publish in the Federal Register a description of such covered benefits, services, and categories of providers covered in that calendar year by each of the three most heavily subscribed nationally available Federal Employee Health Benefits Plan options which are also included on the List of Required Benefits.

"(d) EFFECTIVE DATES.—

"(1) SMALL BUSINESS HEALTH PLANS.—With respect to health insurance provided to participating employers of small business health plans, the requirements of this part (concerning lower cost plans) shall apply beginning on the date that is 12 months after the date of enactment of this title.

"(2) NON-ASSOCIATION COVERAGE.—With respect to health insurance provided to groups or individuals other than participating employers of small business health plans, the requirements of this part shall apply beginning on the date that is 15 months after the date of enactment of this title.

"(e) UPDATING OF LIST OF REQUIRED BENEFITS.—Not later than 2 years after the date on which the list of required benefits is issued under subsection (a), and every 2 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners, shall update the list based on changes in the laws and regulations of the States. The Secretary shall issue the updated list by regulation, and such updated list shall be effective upon the first plan year following the issuance of such regulation.".

SA 3947. Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 3926 submitted by Mr. NELSON of Nebraska and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace: which was ordered to lie on the table; as follows:

Beginning on page 1 of the amendment, strike all after the part heading and insert the following:

"SEC. 2921. DEFINITIONS.

"In this part:

"(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted a law providing that small group, individual, and large group health insurers in such State may offer and sell products in accordance with the List of Required Benefits and the Terms of Application as provided for in section 2922(b)

"(2) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

"(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the List of Required Benefits and Terms of Application in a nonadopting State;

"(B) notifies the insurance department of a nonadopting State (or other applicable State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the List of Required Benefits and Terms of Application, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

"(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the List of Required Benefits and a description of the Terms of Application, including a description of the benefits to be provided, and that adherence to such standards is included as a term of such contract.

"(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the small group, individual, or large group health insurance markets, including with respect to small business health plans, except that such term shall not include excepted benefits (as defined in section 2791(c)).

"(4) LIST OF REQUIRED BENEFITS.—The term 'List of Required Benefits' means the List issued under section 2922(a).

"(5) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

"(6) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"(7) STATE PROVIDER FREEDOM OF CHOICE LAW.—The term 'State Provider Freedom of Choice Law' means a State law requiring that a health insurance issuer, with respect to health insurance coverage, not discriminate with respect to participation, reimbursement, or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law.

"(8) TERMS OF APPLICATION.—The term 'Terms of Application' means terms provided under section 2922(a).

"SEC. 2922. OFFERING AFFORDABLE PLANS.

"(a) LIST OF REQUIRED BENEFITS.—Not later than 3 months after the date of enactment of this title, the Secretary, in consultation with the National Association of Insurance Commissioners, shall issue by interim final rule a list (to be known as the 'List of Required Benefits') of covered benefits, services, or categories of providers that are required to be provided by health insurance issuers, in each of the small group, individual, and large group markets, in at least 26 States as a result of the application of State covered benefit, service, and category of provider mandate laws. With respect to plans sold to or through small business health plans, the List of Required Benefits applicable to the small group market shall apply.

"(b) TERMS OF APPLICATION.—

"(1) STATE WITH MANDATES.—With respect to a State that has a covered benefit, service, or category of provider mandate in effect that is covered under the List of Required Benefits under subsection (a), such State mandate shall, subject to paragraph (3) (concerning uniform application), apply to a coverage plan or plan in, as applicable, the small group, individual, or large group market or through a small business health plan in such State.

"(2) STATES WITHOUT MANDATES.—With respect to a State that does not have a covered benefit, service, or category of provider mandate in effect that is covered under the List of Required Benefits under subsection (a), such mandate shall not apply, as applicable, to a coverage plan or plan in the small group, individual, or large group market or through a small business health plan in such State.

"(3) UNIFORM APPLICATION OF LAWS.—

"(A) IN GENERAL.—With respect to a State described in paragraph (1), in applying a covered benefit, service, or category of provider mandate that is on the List of Required Benefits under subsection (a) the State shall permit a coverage plan or plan offered in the small group, individual, or large group market or through a small business health plan in such State to apply such benefit, service, or category of provider coverage in a manner consistent with the manner in which such coverage is applied under one of the three most heavily subscribed national health plans offered under the Federal Employee Health Benefits Program under chapter 89 of title 5, United States Code (as determined by the Secretary in consultation with the Director of the Office of Personnel Management), and consistent with the Publication of Benefit Applications under subsection (c). In the event a covered benefit, service, or category of provider appearing in the List of Required Benefits is not offered in one of the three most heavily subscribed national health plans offered under the Federal Employees Health Benefits Program, such covered benefit, service, or category of provider requirement shall be applied in a manner consistent with the manner in which such coverage is offered in the remaining most heavily subscribed plan of the remaining Federal Employees Health Benefits Program plans, as determined by the Secretary, in consultation with the Director of the Office of Personnel Management.

"(B) EXCEPTION REGARDING STATE PROVIDER FREEDOM OF CHOICE LAWS.—Notwithstanding subparagraph (A), in the event a category of provider mandate is included in the List of Covered Benefits, any State Provider Freedom of Choice Law (as defined in section 2921(7)) that is in effect in any State in which such category of provider mandate is in effect shall not be preempted, with respect to that category of provider, by this part.

"(c) PUBLICATION OF BENEFIT APPLICATIONS.—Not later than 3 months after the date of enactment of this title, and on the first day of every calendar year thereafter, the Secretary, in consultation with the Director of the Office of Personnel Management, shall publish in the Federal Register a description of such covered benefits, services, and categories of providers covered in that calendar year by each of the three most heavily subscribed nationally available Federal Employee Health Benefits Plan options which are also included on the List of Required Benefits.

"(d) EFFECTIVE DATES.—

"(1) SMALL BUSINESS HEALTH PLANS.—With respect to health insurance provided to participating employers of small business health plans, the requirements of this part (concerning lower cost plans) shall apply beginning on the date that is 12 months after the date of enactment of this title.

"(2) NON-ASSOCIATION COVERAGE.—With respect to health insurance provided to groups or individuals other than participating employers of small business health plans, the requirements of this part shall apply beginning on the date that is 15 months after the date of enactment of this title.

"(e) UPDATING OF LIST OF REQUIRED BENEFITS.—Not later than 2 years after the date on which the list of required benefits is issued under subsection (a), and every 2 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners, shall update the list based on changes in the laws and regulations of the States. The Secretary shall issue the updated list by regulation, and such updated list shall be effective upon the first plan year following the issuance of such regulation.".

SA 3948. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 3926 submitted by Mr. NELSON of Nebraska and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

On page 1 of the amendment, strike all after line 3 and insert the following:

"In this part:

"(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted a law providing that small group health insurers in such State may offer and sell products in accordance with the List of Required Benefits and the Terms of Application as provided for in section 2922(b)

"(2) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

"(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the List of Required Benefits and Terms of Application in a nonadopting State;

"(B) notifies the insurance department of a nonadopting State (or other applicable State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the List of Required Benefits and Terms of Application, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

"(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the List of Required Benefits and a description of the Terms of Application, including a description of the benefits to be provided, and that adherence to such standards is included as a term of such contract.

"(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the small group insurance markets, including with respect to small business health plans, except that such term shall not include excepted benefits (as defined in section 2791(c)).

"(4) LIST OF REQUIRED BENEFITS.—The term 'List of Required Benefits' means the List issued under section 2922(a).

"(5) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

"(6) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"(7) STATE PROVIDER FREEDOM OF CHOICE LAW.—The term 'State Provider Freedom of Choice Law' means a State law requiring that a health insurance issuer, with respect to health insurance coverage, not discriminate with respect to participation, reimbursement, or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law.

"(8) TERMS OF APPLICATION.—The term 'Terms of Application' means terms provided under section 2922(a).

"SEC. 2922. OFFERING AFFORDABLE PLANS.

"(a) LIST OF REQUIRED BENEFITS.—Not later than 3 months after the date of enactment of this title, the Secretary, in consultation with the National Association of Insurance Commissioners, shall issue by interim final rule a list (to be known as the 'List of Required Benefits') of covered benefits, services, or categories of providers that are required to be provided by health insurance issuers, in each of the small group markets, in at least 26 States as a result of the application of State covered benefit, service, and category of provider mandate laws. With respect to plans sold to or through small business health plans, the List of Required Benefits applicable to the small group market shall apply.

"(b) TERMS OF APPLICATION.—

"(1) STATE WITH MANDATES.—With respect to a State that has a covered benefit, service, or category of provider mandate in effect that is covered under the List of Required Benefits under subsection (a), such State mandate shall, subject to paragraph (3) (concerning uniform application), apply to a coverage plan or plan in, as applicable, the small group market or through a small business health plan in such State.

"(2) STATES WITHOUT MANDATES.—With respect to a State that does not have a covered benefit, service, or category of provider mandate in effect that is covered under the List of Required Benefits under subsection (a), such mandate shall not apply, as applicable, to a coverage plan or plan in the small group market or through a small business health plan in such State.

"(3) UNIFORM APPLICATION OF LAWS.—

"(A) IN GENERAL.—With respect to a State described in paragraph (1), in applying a covered benefit, service, or category of provider mandate that is on the List of Required Benefits under subsection (a) the State shall permit a coverage plan or plan offered in the small group market or through a small business health plan in such State to apply such benefit, service, or category of provider coverage in a manner consistent with the manner in which such coverage is applied under one of the three most heavily subscribed national health plans offered under the Federal Employee Health Benefits Program under chapter 89 of title 5, United States Code (as determined by the Secretary in consultation with the Director of the Office of Personnel Management), and consistent with the Publication of Benefit Applications under subsection (c). In the event a covered benefit, service, or category of provider appearing in the List of Required Benefits is not offered in one of the three most heavily subscribed national health plans offered under the Federal Employees Health Benefits Program, such covered benefit, service, or category of provider requirement shall be applied in a manner consistent with the manner in which such coverage is offered in the remaining most heavily subscribed plan of the remaining Federal Employees Health Benefits Program plans, as determined by the Secretary, in consultation with the Director of the Office of Personnel Management.

"(B) EXCEPTION REGARDING STATE PROVIDER FREEDOM OF CHOICE LAWS.—Notwithstanding subparagraph (A), in the event a category of provider mandate is included in the List of Covered Benefits, any State Provider Freedom of Choice Law (as defined in section 2921(7)) that is in effect in any State in which such category of provider mandate is in effect shall not be preempted, with respect to that category of provider, by this part.

"(c) PUBLICATION OF BENEFIT APPLICATIONS.—Not later than 3 months after the date of enactment of this title, and on the first day of every calendar year thereafter, the Secretary, in consultation with the Director of the Office of Personnel Management, shall publish in the Federal Register a description of such covered benefits, services, and categories of providers covered in that calendar year by each of the three most heavily subscribed nationally available Federal Employee Health Benefits Plan options which are also included on the List of Required Benefits.

"(d) EFFECTIVE DATES.—

"(1) SMALL BUSINESS HEALTH PLANS.—With respect to health insurance provided to participating employers of small business health plans, the requirements of this part (concerning lower cost plans) shall apply beginning on the date that is 12 months after the date of enactment of this title.

"(2) NON-ASSOCIATION COVERAGE.—With respect to health insurance provided to groups or individuals other than participating employers of small business health plans, the requirements of this part shall apply beginning on the date that is 15 months after the date of enactment of this title.

"(e) UPDATING OF LIST OF REQUIRED BENEFITS.—Not later than 2 years after the date on which the list of required benefits is issued under subsection (a), and every 2 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners, shall update the list based on changes in the laws and regulations of the States. The Secretary shall issue the updated list by regulation, and such updated list shall be effective upon the first plan year following the issuance of such regulation.".

SA 3949. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3900 submitted by Mr. CARPER (for himself and Mrs. FEINSTEIN) and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the end of the amendment, insert before the period the following: ", except that nothing in this section shall be construed to supersede the provisions of section 2922 (regarding coverage requirements)" of cancer screenings for breast, cervical, prostate, colon, skin, and stomach cancer.

SA 3950. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3866 submitted by Mr. SMITH and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the end of the amendment, insert before the period the following: ", except that nothing in this section shall be construed to supersede the provisions of section 2922 (regarding coverage requirements)". Mental Health Parity

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SA 3951. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3982 submitted by Ms. COLLINS (for herself and Mr. BINGAMAN) and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the end of the amendment, insert before the period the following: ", except that nothing in this section shall be construed to supersede the provisions of section 2922 (regarding coverage requirements)" of diabetes treatment, education, supplies, and prescription drugs.

SA 3952. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3880 submitted by Mr. KENNEDY and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the end of the amendment, insert before the period the following: ", except that nothing in this section shall be construed to supersede the provisions of section 2922 (regarding coverage requirements)" of medical items and services for the treatment of diabetes.

SA 3953. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3907 submitted by Mr. BAUCUS and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the end of the amendment, insert before the period the following: ", except that nothing in this section shall be construed to supersede the provisions of section 2922 (regarding coverage requirements)". Cancer screening, including screening for breast, cervical, prostate, uterine, skin, colon and stomach cancer.

SA 3954. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3919 submitted by Mr. DODD and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the end of the amendment, insert before the period the following: ", except that nothing in this section shall be construed to supersede the provisions of section 2922 (regarding coverage requirements)". Services for newborns and children, including pediatric and well-child care and immunizations.

SA 3955. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3913 submitted by Mr. HARKIN and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the end of the amendment, insert before the period the following: ", except that nothing in this section shall be construed to supersede the provisions of section 2922 (regarding coverage requirements)". Obesity screening and counseling.

SA 3956. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3916 submitted by Mr. REID (for himself, Mrs. CLINTON, Mrs. MURRAY, and Mr. MENENDEZ) and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the end of the amendment, insert before the period the following: ", except that nothing in this section shall be construed to supersede the provisions of section 2922 (regarding coverage requirements)". Prescription contraceptive drugs, or devices as approved by the Food and Drug Administration or generic equivalents approved as a substitute.

SA 3957. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3918 submitted by Mr. DODD (for himself and Mr. MENENDEZ) and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the end of the amendment, insert before the period the following: ", except that nothing in this section shall be construed to supersede the provisions of section 2922 (regarding coverage requirements)". Services for beneficiaries participating in clinical trials.

SA 3958. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3925 submitted by Mr. KENNEDY and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the end of the amendment, insert before the period the following: ", except that nothing in this section shall be construed to supersede the provisions of section 2922 (regarding coverage requirements)". Diabetes supplies.' education and treatment; and treatments or medical items for individuals with cancer, and treatments or services needed to treat or are cardiovascular diseases.

SA 3959. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3912 submitted by Mr. HARKIN and intended to be proposed to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the end of the amendment, insert before the period the following: ", except that nothing in this section shall be construed to supersede the provisions of section 2922 (regarding coverage requirements)" of maternity care or related pre- and post-natal care for women and their infants.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, May 17, 2006, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Suicide Prevention Programs and their Application in Indian Country.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, May 25, 2006, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Indian Education.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, May 24th, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills: S. 1135, to authorize the exchange of certain land in Grand and Uintah Counties, Utah, and for other purposes; S. 2466, to authorize and direct the exchange and conveyance of certain National Forest land and other land in southeast Arizona; and S. 2567, to maintain the rural heritage of the Eastern Sierra and enhance the region's tourism economy by designating certain public lands as wilderness and certain rivers as wild and scenic rivers in the State of California, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Frank Gladics at 202–224–2878, Dick Bouts at 202–2247545, or Sara Zecher 202–224–8276.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a full committee hearing during the session of the Senate on Thursday, May 11, 2006 at 10:30 a.m. in SD–106, Dirksen Senate Office Building. The purpose of this hearing will be to review the United States Department of Agriculture National Response Plan to detect and control the potential spread of avian influenza into the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 11, 2006, at 9:30 a.m., to hold a closed briefing on Iran's Nuclear Program and the Impact of Potential Sanctions: An Intelligence Community Assessment.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 11, 2006, at 2:30 p.m., to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 11, 2006 at 2:30 p.m., to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, May 11, 2006, at 9:30 a.m., in the Dirksen Senate Office Building Room 226. The agenda is attached.

I. Nominations: Brett Kavanaugh, to be U.S. Circuit Judge for the DC Circuit; Sean F. Cox, to be U.S. District Judge for the Eastern District of Michigan; Thomas L. Ludington, to be U.S. District judge for the Eastern District of Michigan.

II. Bills: S. 2453, National Security Surveillance Act of 2006, Specter; S. 2455, Terrorist Surveillance Act of 2006, De Wine, Graham; S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes, Schumer; S. 2039, Prosecutors and Defenders Incentive Act of 2005, Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold, Schumer.

III. Matters: S.J. Res. 1, Marriage Protection Amendment, Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback, DeWine.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, May 11, 2006, for a committee hearing re pending health care related legislation. The hearing will take place in room 418 of the Russell Senate Office Building at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Anne Freeman and Elizabeth Goff of the Committee on Finance be given privileges of the floor for the duration of the deliberation on H.R. 4297, the Tax Increase Prevention and Reconciliation Act of 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

Mr. BAUCUS. I ask consent the following fellows, interns, detailees of the Committee on Finance be allowed on the Senate floor for the duration of the debate on the tax relief bill, H.R. 4297: Mary Baker, Tom Louthan, Tiffany Smith, Robin Burgess, Christal Edwards, Laura Kellams, Caroline Ulbrich, Margaret Hathaway, Britt Sandler, and Lauren Shields.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I ask unanimous consent that immediately following the time for the two leaders on Tuesday, May 16, the Senate proceed to executive session for the consideration of Calendar No. 625, the nomination of Milan Smith, to be United States Circuit Judge for the Ninth Circuit; provided further, that prior to the vote, there be 15 minutes for debate, with 5 minutes for the chairman, 5 minutes for the ranking member, and 5 minutes for Senator SMITH; that at the expiration or yielding back of time, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate; provided further, that following the vote, the President be immediately notified of the Senate's action and the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 2791

Mr. McCONNELL. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2791) to amend titles 46 and 49, United States Code, to provide improved maritime, rail, and public transportation security, and for other purposes.

Mr. McCONNELL. Mr. President, I now ask for its second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

NATIONAL PUBLIC WORKS WEEK

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 475 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 475) proclaiming the week of May 21 through May 27, 2006, as "National Public Works Week".

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 475) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 475

Whereas public works infrastructure, facilities, and services are of vital importance to the health, safety, and well-being of the people of the United States;

Whereas those facilities and services could not be provided without the dedicated efforts of public works professionals, engineers, and administrators who represent State and local governments throughout the United States;

Whereas those individuals design, build, operate, and maintain the transportation systems, water supply infrastructure, sewage and refuse disposal systems, public buildings, and other structures and facilities that are vital to the citizens and communities of the United States; and

Whereas it is in the interest of the public for citizens and civic leaders to understand the role that public infrastructure plays in—

(1) protecting the environment;

(2) improving public health and safety;

(3) contributing to economic vitality; and

(4) enhancing the quality of life of every community of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the week of May 21 through May 27, 2006, as "National Public Works Week";

(2) recognizes and celebrates the important contributions that public works professionals make every day to improve—

(A) the public infrastructure of the United States; and

(B) the communities that those professionals serve; and

(3) urges citizens and communities throughout the United States to join with representatives of the Federal Government and the American Public Works Association in activities and ceremonies that are designed—

(A) to pay tribute to the public works professionals of the Nation; and

(B) to recognize the substantial contributions that public works professionals make to the Nation.

INDIAN YOUTH TELEMENTAL HEALTH DEMONSTRATION PROJECT ACT OF 2006

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 412, S. 2245.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2245) to establish an Indian youth telemental health demonstration project.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD as if read, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2245) was ordered to be engrossed for a third reading, read the third time and passed, as follows:

S. 2245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Youth Telemental Health Demonstration Project Act of 2006".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) suicide for Indians and Alaska Natives is 2½ times higher than the national average and the highest for all ethnic groups in the United States, at a rate of more than 16 per 100,000 males of all age groups, and 27.9 per 100,000 for males aged 15 through 24, according to data for 2002;

(2) according to national data for 2002, suicide was the second-leading cause of death for Indians and Alaska Natives aged 15 through 34 and the fourth-leading cause of death for Indians and Alaska Natives aged 10 through 14;

(3) the suicide rates of Indian and Alaska Native males aged 15 through 24 are nearly 4 times greater than suicide rates of Indian and Alaska Native females of that age group;

(4)(A) 90 percent of all teens who die by suicide suffer from a diagnosable mental illness at the time of death; and

(B) more than ½ of the people who commit suicide in Indian Country have never been seen by a mental health provider;

(5) death rates for Indians and Alaska Natives are statistically underestimated;

(6) suicide clustering in Indian Country affects entire tribal communities; and

(7) since 2003, the Indian Health Service has carried out a National Suicide Prevention Initiative to work with Service, tribal, and urban Indian health programs.

(b) PURPOSE.—The purpose of this Act is to authorize the Secretary to carry out a demonstration project to test the use of telemental health services in suicide prevention, intervention, and treatment of Indian youth, including through—

(1) the use of psychotherapy, psychiatric assessments, diagnostic interviews, therapies for mental health conditions predisposing to suicide, and alcohol and substance abuse treatment;

(2) the provision of clinical expertise to, consultation services with, and medical advice and training for frontline health care providers working with Indian youth;

(3) training and related support for community leaders, family members and health and education workers who work with Indian youth;

(4) the development of culturally-relevant educational materials on suicide; and

(5) data collection and reporting.

SEC. 3. DEFINITIONS.

In this Act:

(1) DEMONSTRATION PROJECT.—The term "demonstration project" means the Indian youth telemental health demonstration project authorized under section 4(a).

(2) DEPARTMENT.—The term "Department" means the Department of Health and Human Services.

(3) INDIAN.—The term "Indian" means any individual who is a member of an Indian tribe or is eligible for health services under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

(4) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(6) SERVICE.—The term "Service" means the Indian Health Service.

(7) TELEMENTAL HEALTH.—The term "telemental health" means the use of electronic information and telecommunications technologies to support long distance mental health care, patient and professional-related education, public health, and health administration.

(8) TRADITIONAL HEALTH CARE PRACTICES.—The term "traditional health care practices" means the application by Native healing practitioners of the Native healing sciences (as opposed or in contradistinction to Western healing sciences) that—

(A) embody the influences or forces of innate Tribal discovery, history, description, explanation and knowledge of the states of wellness and illness; and

(B) call upon those influences or forces in the promotion, restoration, preservation, and maintenance of health, well-being, and life's harmony.

(9) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 4. INDIAN YOUTH TELEMENTAL HEALTH DEMONSTRATION PROJECT.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary is authorized to carry out a demonstration project to

award grants for the provision of telemental health services to Indian youth who—

(A) have expressed suicidal ideas;

(B) have attempted suicide; or

(C) have mental health conditions that increase or could increase the risk of suicide.

(2) ELIGIBILITY FOR GRANTS.—Grants described in paragraph (1) shall be awarded to Indian tribes and tribal organizations that operate 1 or more facilities—

(A) located in Alaska and part of the Alaska Federal Health Care Access Network;

(B) reporting active clinical telehealth capabilities; or

(C) offering school-based telemental health services relating to psychiatry to Indian youth.

(3) GRANT PERIOD.—The Secretary shall award grants under this section for a period of up to 4 years.

(4) MAXIMUM NUMBER OF GRANTS.—Not more than 5 grants shall be provided under paragraph (1), with priority consideration given to Indian tribes and tribal organizations that—

(A) serve a particular community or geographic area in which there is a demonstrated need to address Indian youth suicide;

(B) enter into collaborative partnerships with Service or other tribal health programs or facilities to provide services under this demonstration project;

(C) serve an isolated community or geographic area which has limited or no access to behavioral health services; or

(D) operate a detention facility at which Indian youth are detained.

(b) USE OF FUNDS.—An Indian tribe or tribal organization shall use a grant received under subsection (a) for the following purposes:

(1) To provide telemental health services to Indian youth, including the provision of—

(A) psychotherapy;

(B) psychiatric assessments and diagnostic interviews, therapies for mental health conditions predisposing to suicide, and treatment; and

(C) alcohol and substance abuse treatment.

(2) To provide clinician-interactive medical advice, guidance and training, assistance in diagnosis and interpretation, crisis counseling and intervention, and related assistance to Service or tribal clinicians and health services providers working with youth being served under the demonstration project.

(3) To assist, educate, and train community leaders, health education professionals and paraprofessionals, tribal outreach workers, and family members who work with the youth receiving telemental health services under the demonstration project, including with identification of suicidal tendencies, crisis intervention and suicide prevention, emergency skill development, and building and expanding networks among those individuals and with State and local health services providers.

(4) To develop and distribute culturally-appropriate community educational materials on—

(A) suicide prevention;

(B) suicide education;

(C) suicide screening;

(D) suicide intervention; and

(E) ways to mobilize communities with respect to the identification of risk factors for suicide.

(5) To conduct data collection and reporting relating to Indian youth suicide prevention efforts.

(c) APPLICATIONS.—To be eligible to receive a grant under subsection (a), an Indian tribe or tribal organization shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the project that the Indian tribe or tribal organization will carry out using the funds provided under the grant;

(2) a description of the manner in which the project funded under the grant would—

(A) meet the telemental health care needs of the Indian youth population to be served by the project; or

(B) improve the access of the Indian youth population to be served to suicide prevention and treatment services;

(3) evidence of support for the project from the local community to be served by the project;

(4) a description of how the families and leadership of the communities or populations to be served by the project would be involved in the development and ongoing operations of the project;

(5) a plan to involve the tribal community of the youth who are provided services by the project in planning and evaluating the mental health care and suicide prevention efforts provided, in order to ensure the integration of community, clinical, environmental, and cultural components of the treatment; and

(6) a plan for sustaining the project after Federal assistance for the demonstration project has terminated.

(d) TRADITIONAL HEALTH CARE PRACTICES.—The Secretary, acting through the Service, shall ensure that the demonstration project involves the use and promotion of the traditional health care practices of the Indian tribes of the youth to be served.

(e) COLLABORATION.—The Secretary, acting through the Service, shall encourage Indian tribes and tribal organizations receiving grants under this section to collaborate to enable comparisons about best practices across projects.

(f) ANNUAL REPORT.—Each grant recipient shall submit to the Secretary an annual report that—

(1) describes the number of telemental health services provided; and

(2) includes any other information that the Secretary may require.

(g) REPORT TO CONGRESS.—Not later than 270 days after the date of termination of the demonstration project, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Resources and the Committee on Energy and Commerce of the House of Representatives a final report that—

(1) describes the results of the projects funded by grants awarded under this section, including any data available that indicate the number of attempted suicides;

(2) evaluates the impact of the telemental health services funded by the grants in reducing the number of completed suicides among Indian youth;

(3) evaluates whether the demonstration project should be—

(A) expanded to provide more than 5 grants; and

(B) designated a permanent program; and

(4) evaluates the benefits of expanding the demonstration project to include urban Indian organizations.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for each of fiscal years 2007 through 2010.

ORDERS FOR FRIDAY, MAY 12, 2006

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, May 12; I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time of the two leaders be reserved, and the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, as I indicated earlier today, the Senate passed the tax relief extension conference report. Chairman GRASSLEY of course did an extraordinary job. He has the gratitude of all of us for his important role in advancing this extremely significant measure, which guarantees the continued robust economy we are enjoying.

Tomorrow we will be in a period of morning business. However, no votes will occur tomorrow. Moments ago we reached an agreement for a vote on Tuesday morning that will be on the Smith circuit court nomination. We will return to the immigration bill on Monday, and we are hoping to have other votes stacked on Tuesday morning in relation to immigration amendments. The votes on Tuesday morning will be the next set of rollcall votes.

Let me further underscore that it would be important for Members who have amendments to the immigration bill to get over here Monday, lay down and debate those amendments. We have a kind of gentlemen's agreement between the two parties here in the Senate that we are going to process a lot of amendments before completing that bill. The occupant of the chair, for example, has been deeply involved in this issue and has been very understanding of the needs of Members on this side who believe that amendments should be processed in the regular order before final passage on a bill of this magnitude. I know there is a demand for amendments on the other side.

The way to accommodate all Senators, obviously, is for Senators to come over here and offer their amendments, not delay; to be willing to accept rather short time agreements so that patience prevails around here and we are able to accommodate the important amendments Senators desire to offer on both sides of the aisle.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. If there is no further business to come before the Senate, I ask unanimous consent that the

Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:26 p.m., adjourned until Friday, May 12, 2006, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 11, 2006:

DEPARTMENT OF ENERGY

WILLIAM H. TOBEY, OF CONNECTICUT, TO BE DEPUTY ADMINISTRATOR FOR DEFENSE NUCLEAR NONPROLIFERATION, NATIONAL NUCLEAR SECURITY ADMINISTRATION, VICE PAUL MORGAN LONGSWORTH, RESIGNED.

DEPARTMENT OF STATE

GAYLEATHA BEATRICE BROWN, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BENIN.

PETER R. CONEWAY, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SWITZERLAND, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PRINCIPALITY OF LIECHTENSTEIN.

CHRISTINA B. ROCCA, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS U.S. REPRESENTATIVE TO THE CONFERENCE ON DISARMAMENT.

DEPARTMENT OF JUSTICE

THOMAS D. ANDERSON, OF VERMONT, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF VERMONT FOR THE TERM OF FOUR YEARS, VICE PETER W. HALL, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS PERMANENT PROFESSOR, UNITED STATES AIR FORCE ACADEMY, IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 9333(B) AND 9336(A):

To be colonel

THOMAS L. YODER, 6189

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

CONRAD C. CHUN, 1254
JACK E. HANZLIK, JR., 3399
JOHN F. KIRBY, 0944

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

MICHAEL D. ANGOVE, 6027
JAMES BERDEGUEZ, 5950
BRIAN B. BROWN, 1265
GRANT A. COOPER IV, 0468
VINCENT F. GIAMPAOLO, 6601
KENNETH J. SCHWINGSHAKL, 0074
CORY A. SPRINGER, 5414
DAVID J. WALSH, 9387

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

CRAIG L. EATON, 8657
ROBERT S. FINLEY, 3533
STEPHEN E. JOHNSON, 9698
GLEN M. LITTLE, JR., 6406
ROBERT E. LOKEN, 3236
KENT L. MILLER, 8182
DERRICK A. MITCHELL, 0707
JAMES R. OAKES, 5149
BRENT D. OLDLAND, 4099
GERARD A. SLEVIN, 6552
RICHARD E. VERBEKE, 3507

EXTENSIONS OF REMARKS

RECOGNIZING BRADY MILLER FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Brady Miller, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 249, and in earning the most prestigious award of Eagle Scout.

Brady has been very active with his troop, participating in many scout activities. For his Eagle Scout project, he constructed a 114 foot walking trail off the main trail at Platte Ridge Park for the Platte County Parks and Recreation Department. Over the many years Brady has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Brady Miller for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

TRIBUTE TO STODDART-FLEISHER MIDDLE SCHOOL

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise today to pay special tribute to the Stoddart-Fleisher Middle School, located in North Central Philadelphia. The Stoddart-Fleisher School will be closing this summer after providing 80 years of service to our community.

Throughout its history, this fine school has played an important role in the community and it has always provided a quality education to its attending students. Stoddard-Fleisher was the product of a merger in 1950 of the Stoddard and Fleisher schools. Both schools have a history of providing vocational and regular academic training for students in the area of North Central Philadelphia. In recent years, Stoddart has been a neighborhood school for seventh and eighth grade students.

The continued growth of kindergarten through eighth grade schools throughout the city as well as a population shift to other parts of the city have resulted in declining enrollment for Stoddard, especially within the past 5 years. This summer will mark the end of a great era in public education for North Central Philadelphia and we are sad to see our community lose such a respected institution.

On June 16th, there will be a commemorative reception and program for Stoddard's closing and hopefully other schools will pay close attention to and follow in the tradition of the Stoddard-Fleisher Middle School.

TRIBUTE TO JUDGE LEOPOLD BORRELLO

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to Judge Leopold Borrello as he retires from an illustrious career as a Saginaw County Michigan jurist. Judge Borrello will be honored at a reception on May 23 in Saginaw by the community.

A native of Saginaw, Judge Borrello started working when he was in the third grade at his father's grocery store. After graduating from Saginaw High School in 1951, Judge Borrello received a Bachelor of Arts degree from Albion College and his Juris Doctor degree from the University of Michigan Law School in 1958. He returned to the Saginaw area and opened a practice of law. He worked in solo practice and for several firms before heading up his own firm of Borrello, Thomas and Jenson.

In 1987 Governor James Blanchard appointed him to the 10th Judicial Circuit Court. Judge Borrello became Chief Judge of the 10th Judical Circuit Court in 1992 and has continued to serve in that capacity until his retirement on April 14th of this year. He ran unopposed in 1988, 1994 and 2000 to be returned to his place on the bench. During his tenure Judge Borrello presided over three one-man grand juries and numerous criminal and civil cases.

In addition to his work on the bench, Judge Borrello is also active with the Saginaw County Crime Prevention Council and the American Kennel Club, where he also serves as a show judge. Judge Borrello and his wife Audre have passed on their work ethic to their three sons: Stephen, an appellate court judge; Andre, a Saginaw attorney; and Murray, a professor at Alma College.

Mr. Speaker, I ask the House of Representatives to join me in applauding the career of a hardworking, dedicated public servant, Leopold Borrello. His intelligence, common sense, and consideration for the public welfare have earned the well deserved respect of his fellow jurists and the esteem of the Saginaw community.

RECOGNIZING COLE S. KLAWUHN FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Cole S. Klawuhn, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 94, and in earning the most prestigious award of Eagle Scout.

Cole has been very active with his troop, participating in many scout activities. Over the many years Cole has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Cole S. Klawuhn for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

TRIBUTE TO CONSULAR CORPS ASSOCIATION OF PHILADELPHIA

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor the Consular Corps Association of Philadelphia.

In celebration of 44 years of promoting international understanding, I extend congratulations to the first Consular Corps in the United States, the Consular Corps Association of Philadelphia.

With the founding of the Corps, now one of the largest diplomatic associations in the Nation, a model was created that allows us to reach beyond geographic boundaries to strengthen international relations.

Thirty-seven countries are represented in the Philadelphia Association and as a result there are increased opportunities for business, educational and diplomatic partnerships.

The Consular Corps Association of Philadelphia has also provided humanitarian aid. Its members aided relief efforts for Asian and African victims of the tsunami disaster and survivors of civil war.

On the educational front, the organization has developed innovative cultural exchange programs, including partnerships with the World Affairs Council, the International Visitors' Council and the Bodine High School for International Affairs. As a result of these outreach programs, many area young people now see themselves as world citizens with a greater appreciation for cultural and racial diversity.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, the Consular Corps of Philadelphia helps us understand that by reaching beyond our geographic boundaries, there is hope that we can learn to share more fairly in the world's bounty and it is for these reasons that I ask that you and my other distinguished colleagues rise to honor them.

TRIBUTE TO THE 75TH ANNIVERSARY OF GOODWILL INDUSTRIES OF MID-MICHIGAN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. KILDEE. Mr. Speaker, today I would like to recognize the accomplishments of Goodwill Industries of Mid-Michigan as it celebrates its 75th anniversary of employing persons with disabilities. Goodwill Industries of Mid-Michigan will celebrate this milestone at a party on May 23 in my hometown of Flint, Michigan.

Reverend John E. Martin, pastor of the Oak Park Methodist Church, brought Goodwill Industries to the Flint area in April 1931. Originally started as a program to assist immigrants, Goodwill Industries soon became a service for persons with disabilities. The focus shifted to employment, training and rehabilitation. The emphasis is on giving all persons with disabilities the dignity that comes from work and economic self-sufficiency.

In the 1950s Goodwill Industries became a subcontractor for General Motors and other area businesses. The expanded services and training mandated a need for additional space, and through the generosity of C.S. Mott, Goodwill Industries was able to move to its present location. In 1986 the name was changed to Goodwill Industries of Mid-Michigan to reflect the organization's expansion into the areas surrounding Flint.

Currently serving clients in six Michigan counties, operating 11 retail stores, a business services unit and employing over 200 workers, Goodwill Industries of Mid-Michigan offers rehabilitation programs designed to enhance interpersonal relationships, leadership development, vocational training and computer skills. They provide services to over 500 individuals while maintaining a high level of competence, customer satisfaction and effectiveness.

Mr. Speaker, please join me in congratulating Goodwill Industries of Mid-Michigan as it celebrates 75 years providing efficient, professional assistance to persons with disabilities and the communities of Mid-Michigan. They are to be commended for their dedication to teaching every segment of our society the satisfaction that comes from succeeding in the workplace.

RECOGNIZING DANIEL JAMES GREEN FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Daniel James Green, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 374, and in earning the most prestigious award of Eagle Scout.

Daniel has been very active with his troop, participating in many scout activities. He is currently serving as the Senior Patrol Leader, is a Warrior in the Tribe of Mic-O-Say, and is a Member of the Order of the Arrow. For his Eagle Scout Project, Daniel chose to build bookcases for four classrooms for Liberty Junior High School. Over the many years Daniel has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Daniel James Green for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

TRIBUTE TO LIEUTENANT COLONEL MARK SCHOENROCK

HON. TOM OSBORNE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. OSBORNE. Mr. Speaker, Lt. Col. Mark Schoenrock faithfully served as a U.S. Army officer for 28 years in positions of increasing responsibility. His performance of his duties and contributions to the United States of America over the course of his career were truly outstanding. He was recognized with two awards of the Legion of Merit, seven awards of the Meritorious Service Medal, and the Army Commendation Medal, among other awards.

He was commissioned an officer in the U.S. Army on May 13, 1978, in Lincoln, Nebraska, upon graduation from the University of Nebraska-Lincoln and the Army Reserve Officers Training Corps, ROTC. He was a four-year Army ROTC scholarship winner, graduated from the University with distinction, and was an ROTC Distinguished Military Graduate. He completed the Quartermaster Officer Basic Course at Fort Lee, Virginia, with honors and was assigned as an Assistant Brigade Logistics Officer, Platoon Leader, and Battalion Logistics Officer with the 25th Infantry Division (Tropic Lightning) at Schofield Barracks, Hawaii. While assigned to the Tropic Lightning Division, Lt. Col. Schoenrock deployed with his unit three times to the Republic of Korea. He was consistently cited as being an outstanding young officer. The areas for which he was responsible excelled during numerous external inspections. His dining facility won the Connelly Award as being among the best in the Army.

Following his 3 years in Hawaii, Lt. Col. Schoenrock completed the Quartermaster Officer Advanced Course at Fort Lee, Virginia, again graduating with honors. He was selected as the Outstanding Logistician for the course. He was subsequently assigned to Fort Riley, Kansas, and the First Infantry Division, Big Red One, where he served as a company commander and maneuver brigade logistics officer. He was consistently rated among the top officers in the entire brigade. He led the ROTC Third Region advanced camp transportation mission. In this effort, his soldiers drove over 1,000 missions covering over 170,000 miles flawlessly. As the First Brigade logistics officer, he deployed twice to the Federal Republic of Germany in support of Operation Reforger. He was responsible for the entire logistical support (supply, maintenance and transportation) of 2,500 soldiers and 298 tracked vehicles. During Reforger, he ensured the brigade's safe and efficient transport from Kansas to Germany and return. He also deployed five times to the National Training Center at Fort Irwin, California in his capacity as a company commander and maneuver brigade logistics officer. As a company commander, he was cited as always coming through in a first class, professional manner. As the brigade logistics officer, he was cited by the brigade commander for his mature judgment, poise under stress, technical competence, positive nature, willingness to learn, great energy and dedication to excellence.

Upon the completion of his 4-year tour at Fort Riley, Lt. Col. Schoenrock was selected to represent the Army in the highly competitive Training With Industry (TWI) program. He served as the Army's first representative with the General Motors Corporation, Allison Gas Turbine Division. He played an instrumental role in the development of the T–800 engine, which was the engine in the Army's Comanche helicopter. General Motors cited him as a credit to the U.S. Army.

Following TWI, Lt. Col. Schoenrock served as a Contracting Officer and Contracting Section Chief in St. Louis, Missouri, responsible for the development and acquisition of petroleum logistics and water logistics. He was responsible for the acquisition of many end items that served our soldiers during Operation Desert Storm and that were vital to the United States' ultimate victory in the deserts of southwest Asia. He was cited by the Contracting Director as the best military section chief in the entire directorate. He then was selected to attend the Army Command and General Staff College (CGSC) in resident status at Fort Leavenworth, Kansas.

Following CGSC graduation, Lt. Col. Schoenrock was selected to be the principal acquisition advisor to the Inspector General of the Army in Washington. In this role, he advised and assisted the Inspector General with some of the Army's most sensitive acquisition programs and other matters. He routinely was responsible for matters of national importance and interest. He was cited as consistently demonstrating those traits that are expected from the Army's best officers. He then was selected to serve as an executive officer in the Office of the Assistant Secretary of the Army

(Research, Development and Acquisition). He served as a key facilitator in preparing the Army leadership for senior level Secretary of Defense and Congressional reviews for programs that were valued in excess of $30 billion. He excelled in managing all administration, logistics support, security and automation to support 37 senior civilian and military personnel. His senior executive service supervisor called him the best officer with whom he had ever served.

He then was selected to serve as a liaison with the U.S. Congress. Lt. Col. Schoenrock worked directly with the Army leadership and with Members of Congress and their staffs in resolving matters of the utmost national sensitivity and urgency. He ensured that programs that total billions of dollars were wisely and prudently executed to provide maximum benefit to the Army and to the communities that are closely related to the Army. He excelled as the principal congressional coordinator for the prime vendor support initiative. This is the lead Army program in which the Army is considering the outsourcing of the entire wholesale logistics of a principal major weapons system, with cost savings of $1.8 billion. He flawlessly announced nearly 1,000 contract actions, each valued in excess of $5 million, to over 3,500 Members of Congress, totaling $22.5 billion. He was an influential and visible spokesman on Capitol Hill.

In his last assignment, Lt. Col. Schoenrock excelled as the Inspector General for the State of Colorado. He advised and assisted the State of Colorado military leadership in the conduct of all military functions for 5,000 soldiers and airmen. He trained the Republic of Slovenia Defense Inspectorate in the conduct of inspector general functions as part of the North Atlantic Treaty Organization, NATO, Partnership for Peace Program. He also established the effort to develop the legislative liaison function between the Slovene Minister of Defense and the Slovene Parliament. His efforts with Slovenia went far towards helping this newly-emerging democracy develop the foundation for an enduring form of democratic government and to attain NATO membership. He excelled as a member of Governor Owens' state advocate council responsible for military and veterans issues. He contributed to significant increases in the wartime readiness of the Colorado National Guard and its ability to execute a myriad of missions in support of Operations Noble Eagle, Enduring Freedom and Iraqi Freedom. Lt. Col. Schoenrock's efforts contributed immeasurably to the Colorado National Guard's soldier welfare, readiness and public image.

As a career Army officer, husband and father, and dedicated citizen, Mark Schoenrock exemplifies what is good and right about America. His life is a credit to his family, to his home state of Nebraska, to the U.S. Army, and to his generation. His 28 years of service as a U.S. Army officer in increasingly demanding positions of trust and responsibility rising from company level to the Department of the Army staff and service with the U.S. Congress, culminating in 8 years as the Colorado Inspector General, significantly contributed to the security and freedom of the United States of America. His career achievements influenced the lives of thousands and left a legacy of freedom that will be built upon for generations to come. His career was a credit to his generation of Americans who have served the United States of America.

REMEMBERING BUNKY HUGGINS

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. PICKERING. Mr. Speaker, yesterday, the Mississippi legislature said good-bye to a long time friend and public servant. State Senator Robert Gene Huggins—"Bunky" to everyone who knew him—passed away Wednesday in Jackson, Mississippi, after a long battle with cancer.

Bunky was born in Carrollton, Mississippi on November 12, 1938. He graduated from Greenwood High School and attended the University of Southern Mississippi and Mississippi College. A farmer and businessman, he was elected to the House of Representatives in 1971 and reelected for two more terms before moving to the Senate in 1984 where he served for 22 years. Most recently he was chairman of the Senate Corrections Committee and had previously served as chairman of the Appropriations Committee and the Public Health Committee.

His funeral will be at his home church, St. John's Methodist Church in Greenwood.

Mr. Speaker, our prayers are with Bunky's family: his wife, Gerry and his two children and four grandchildren. He will be remembered as a hard worker and a dedicated public servant with a love for Mississippi and his Delta home. His humor and wit and tireless dedication to public service will be remembered by colleagues and constituents for years to come. I hope Congress joins me today in remembering this honored public official.

RECOGNIZING ORMER ROGERS, JR.

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Ormer Rogers, Jr., the District Manager for the Mid America District of the United States Postal Service. Ormer is retiring after 37 years in the United States Postal Service. He has served the Postal Service with dignity and respect throughout his career.

Ormer began his career in the Postal Service in 1969 as a letter carrier in Dallas, Texas. Over the years he has held management positions in Texas, Ohio, Indiana. Iowa, Tennessee, Illinois, and Missouri. As the current District Manager for the Mid America District he is responsible for providing postal services to more than 1.5 million customers in Missouri and Kansas. He manages over 13,000 employees in 710 post offices and six mail processing plants. Ormer has a reputation of treating people with dignity and respect, managing by the philosophy of, treat others how you wish to be treated.

Ormer has always been committed to service. He received a Bachelor's Degree from Dallas Baptist University and a Master's Degree in business administration from Abilene Christian University in Dallas, Texas. He also served as a paratrooper in the United States Army with a tour of duty in Vietnam. He has just recently completed serving two terms as Chairman of the Kansas City Federal Executive Board. He also serves on the board of the Heart of America United Way, the board of Visitors of Park University and is president of the Heart America Chapter of Tuskegee Airmen, Inc.

Mr. Speaker, I proudly ask you to join me in recognizing Ormer Rogers, Jr. His commitment to service and dedication to the United States Postal Service are greatly appreciated. He will certainly be missed and I would like to ask the House of Representatives to join me in thanking him for all of his hard work and dedication over the years. I am honored to represent him in the United States Congress.

TRIBUTE TO MOTHER'S DAY

HON. JEAN SCHMIDT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mrs. SCHMIDT. Mr. Speaker, this Sunday, the world will celebrate a tradition born in Greece and celebrated around the world, Mother's Day.

I know that my fellow mothers in this House look forward to a special day with family. I know that my male colleagues had better be planning a special time with their wives and mothers, as well.

The birth of a child is a magical experience that changes a parent's life forever. Joy, laughter, some tears, and always love, are just part of the emotional rollercoaster ride we call parenthood.

My little girl was recently married and one day, God willing, will enjoy the experience that I wouldn't trade for a subcommittee gavel on the Appropriations Committee.

But giving birth in large parts of the world is very dangerous, even deadly. In some parts of the developing world, 1 of every 10 mothers giving birth gives her life in the process. Equally disturbing, 3 million brand new babies die in the first week of life due to inadequate healthcare.

On this Mothers Day, let us celebrate our mothers. We can hardly repay them, but we can try at least for one day. But let us also pause to appreciate the struggle mothers thousands of miles away in places we will never visit. Let us rededicate ourselves to reach out to every human hand, no matter how small or how frail.

On Sunday, please join me in honoring your mother and mothers everywhere across this small planet.

RECOGNIZING JEFFREY B. ROE

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Jeffrey B. Roe. After 12 years by my side, Jeff recently retired as my Chief of Staff. Since meeting him in 1994, while I was serving in the Missouri State House of Representatives, Jeff and I have maintained a unique bond; he has been there throughout my entire political career, offering guidance and expertise.

Jeff and I began working together in 1994, when he was an intern and I was a State Representative pursuing a position in the State Senate. We won that election, and Jeff soon became an instrumental member of my staff. Over the next six years, he came in early and stayed late, the consummate professional. When I made the decision to seek the 6th Congressional District seat in the 2000, Jeff was again by my side. Those late nights and tireless hours on the road paid off, and Jeff followed me to Washington, DC, and created an office structure that we still use today. Jeff has held every job in each of my offices and has used that experience to help develop outstanding employees that leave our office more polished and determined than when they enter. Jeff has always had a love of government and politics. He has a unique perspective on the way that the world works. His tireless work ethic has always been something that has set him apart, and he was even recognized as one of Kansas City's 40 most influential leaders under the age of 40, in Ingram's Magazine 2003 honors. Throughout his distinguished career in politics, he has helped countless people in their pursuit of public office.

Mr. Speaker, I proudly ask you to join me in recognizing Jeffrey B. Roe. His commitment to public service and the professional manner with which he has crafted my office will be missed. I would respectfully like to ask the House of Representatives to join me in thanking him for all of his hard work and dedication over the years. Though he is no longer a member of my staff, I am comforted to know that, because of his hard work, I have the honor of representing him in the United States Congress.

HONORING LOS ANGELES POLICE DEPARTMENT OFFICER OSBALDO "OZZIE" RAMOS

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise today to recognize Officer Osbaldo "Ozzie" Ramos for being named a 2006 "TOP COP" by the National Association of Police Organizations (NAPO).

The TOP COP is given annually by NAPO to pay tribute to outstanding law enforcement officers whose actions have gone above and beyond the call of duty.

Officer Ozzie Ramos was nominated by his fellow Los Angeles Police Department Officers for his heroism in the face of grave danger last spring. On March 10, 2005, Officer Ramos and three fellow LAPD officers brought down two dangerous gunmen. That day the two suspects loaded a SUV with 500 rounds of ammunition and a rifle and lured officers into a chase. Several police cars joined the pursuit, including Officer Ozzie Ramos and his partner Officer Trevor Jackson, when suddenly the suspects opened the door of the van and began firing shots at the police cars.

While Officer Ramos drove the patrol car, Officer Jackson returned the suspects' fire using his shotgun. When Officer Jackson ran out of ammunition, Officer Ramos courageously maintained their position in proximity to the SUV while simultaneously pulling out his weapon and firing a full magazine at the suspects.

The Officers' fire caused the SUV to crash in a parking lot, but the suspects continued firing at Officer Ozzie Ramos and his comrades. Officer Ramos exited his vehicle and while firing, crossed an unprotected area to gain a better shot and more accurately relay information on the suspects' position. As a result of Officer Ramos' information, another officer fired through the door of the vehicle and ended the standoff.

Officer Ramos' heroism that day is a reflection of his distinguished career in law enforcement. A 12-year veteran, Officer Ramos graduated from the Police Academy at the young age of 22. Upon graduation Officer Ramos was assigned to the 77th Street Patrol Division as a probationary officer. After completing probation, Officer Ramos served one year in the Central Traffic Division as a Collision Investigator before joining the Gang Enforcement Unit. He was certified as a gang expert and promoted to the ranks of Police Officer III and Assistant Squad Leader in the Gang Unit. After serving a tour in the Gang Unit, Officer Ramos continued his work as the Assistant Squad Leader in the Special Enforcement Unit. Presently Officer Ramos is a Field Training Officer in the 77th Street Patrol Division and he has received thirty-one Commendations for various acts, works, and accomplishments since 1998.

Mr. Speaker and distinguished colleagues, please join me in honoring Officer Ozzie Ramos for being honored with the TOP COP award for 2006. He is an exemplary police officer whose dedicated and fearless service is keeping the people of southern California safe.

RECOGNIZING BRITTNEY LOCH

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Brittney Loch of Maryville, Missouri. Over the past few months, Brittney has served as my office intern. She has handled her responsibilities with class and enthusiasm. Her efforts to represent my office have been commended by both my staff and our constituents.

As a student at Drake University, Brittney has been pursuing a degree in Political Science and came to Washington, DC through the Washington Semester Program to study Public Law. Her ambition and interest in politics have been evident since the first time I met her years ago. Her commitment to public service and her enthusiasm in helping the people of the 6th District is something to be admired.

Mr. Speaker, I proudly ask you to join me in recognizing Brittney Loch. She has been great to have in the office and her efforts are much appreciated. I have no doubt that her dreams of working in Congress will be fulfilled. She will certainly be missed and I would like to ask the House of Representatives to join me in thanking her for all of her hard work and dedication. I am honored to represent her in the United States Congress.

PAYING TRIBUTE TO LEVON HELM AND THE DECLARATION OF LEVON HELM DAY IN WOODSTOCK, NEW YORK

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. HINCHEY. Mr. Speaker, I rise today to pay tribute to a remarkable and talented man, a man who I am proud to call my friend, Mr. Levon Helm.

Levon once said of the music of Bill Monroe and His Blue Grass Boys, "it really tattooed my brain." That's how I feel about Levon's music, which I have had the pleasure of enjoying since the late 1960s, when he recorded "Music from Big Pink" in West Saugerties, New York.

Levon Helm was born on May 26, 1940 in Elaine, Arkansas. From an early age, Levon had a musical gift. He performed all over Arkansas with his sister Linda, entertaining crowds with a homemade string bass, harmonica and guitar. As a teenager he formed his own band, The Jungle Bush Beaters, and honed his musical gift by watching entertainers such as Johnny Cash, Little Richard, Jerry Lee Lewis, and a young Elvis Presley.

After The Jungle Bush Beaters, Levon joined The Hawks, which recorded such hits as "Forty Days" and "Mary Lou." The Hawks sold 750,000 copies of their record and appeared on Dick Clark's American Bandstand.

After splitting with The Hawks' founder, Ronnie Hawkins, Levon and his band mates signed on as Bob Dylan's backup band, and followed Dylan to West Saugerties, New York, where they took up residence in a pink house, wrote and rehearsed. The group became known simply as The Band, and the outcome of that period was one of the most important albums of the 20th century, "Music from Big Pink." It was the album that introduced Levon Helm to America, and it introduced me to their amazing sound.

Luckily for Levon, he didn't put his roots down in the Hudson Valley just yet. While working in Los Angeles in 1974, he met the lovely Sandra Dodd who would become his wife seven years later. I am happy to know her and call her a friend.

The Band continued to prosper in the early 1970s and in 1975, the barn and studio that Levon built in Woodstock was complete. Unfortunately it was just a year later that we said goodbye to The Band, but it would not be goodbye for Levon Helm.

Over the next seven years, Levon continued pursuing his own musical career with cutting-edge albums like "The RCO All-Stars," the self-titled "Levon Helm" and "American Son." Then in 1984, much to their fans' delight, The Band reunited, performing together and recording three more albums.

In 1996, Levon was diagnosed with throat cancer, and we all feared we would never hear his voice again, but he miraculously recovered, and I, and so many others, still enjoy Levon's music at the Midnight Rambles he holds in his studio in Woodstock.

For the past 30 years, Levon has been much more than our famous neighbor in Woodstock. He has, quietly and unobtrusively, been a very generous and committed member of our community. He has worked hard for and supported cancer centers, local little leagues, volunteer firefighters, members of the armed forces and school music programs.

It is because of this great man, and the great music he produces that the Village of Woodstock, New York, has declared May 20 as Levon Helm Day. It continues to be an honor and a great pleasure for so many of us in New York and across America to bear witness to the incredible career and life of this very strong, extremely talented and generous man. I look forward to many more Midnight Rambles.

IN HONOR OF BLAIR L. SADLER ON THE OCCASION OF HIS RETIREMENT

HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mrs. DAVIS of California. Mr. Speaker, it is with great pleasure that I rise today to congratulate Blair L. Sadler, who has been the President and Chief Executive Officer of Children's Hospital and Health Center of San Diego since 1980. Mr. Sadler celebrates his retirement after more than a quarter of a century of service in the field of pediatric healthcare.

A native of New York City, Blair graduated from Amherst College with a bachelor's degree in economics and received his Juris Doctorate from the University of Pennsylvania Law School. He served as a law clerk with the Superior Court of Pennsylvania and as a medical-legal specialist for the National Institutes of Health. He was an Assistant Professor at Yale University for 3 years and served for 4 years as Assistant Vice President at the Robert Wood Johnson Foundation in Princeton, New Jersey. Prior to his appointment at Children's Hospital, Blair served as Vice President and Director of the hospital and clinics at Scripps Clinical and Research Foundation for 3 years.

Before coming to California, Blair had already established a national and international reputation in several fields, including organ transplantation, physician assistant programs, and emergency medical care and trauma services. While at the National Institutes of Health, with his physician twin brother, he was very involved in writing a model organ donation law that was adopted in all 50 states and published leading articles on transplantation and the law. While on the Yale University Medical School faculty, he co-authored two books The Physician's Assistant—Today and Tomorrow and Emergency Medical Care: The Neglected Public Service, which were widely utilized. At the Robert Wood Johnson Foundation, he designed and led their first national competitive grants program in regional emergency medical communication systems that became a model for the Foundation's work.

His many accomplishments show a deep commitment to improving healthcare. He has skillfully integrated quantitative indicators along with qualitative elements to fashion a truly unique healing experience for the patients at Children's Hospitals.

Under his leadership, Children's has become one of the leading pediatric hospitals in America and was the country's first children's hospital to receive the prestigious Ernest A. Codman Award in recognition for its pioneering work in quality of care. Children's is the major pediatric partner of the entire Sharp and Scripps health care systems and, in 2001, signed a historic agreement combining the UCSD pediatric programs with Children's.

Blair's leadership has enabled Children's to grow and develop as one of the Nation's best pediatric hospitals and, during his tenure, Children's has provided care for more than a million children in the San Diego region since 1980. Children's has added many nationally recognized programs and services and has developed strong collaborative relationships with virtually every healthcare provider in San Diego. While Blair has been at the helm, the hospital has planned and constructed more than 200,000 square feet of facilities and he has championed a healing environment for Children's.

Thanks to Blair's vision, Children's is not just a conglomeration of buildings; it represents a model healing environment for kids and their families. In 1999, Children's built the first healing garden in an American children's hospital and there are now four gardens on its campus. In 2001, in partnership with the nonprofit Society for the Arts in Healthcare, he created and personally funded the Blair L. Sadler Healing Arts Award program that annually recognizes professional and student artists who have made measurable contributions to improved health care through the arts.

On behalf of the people of San Diego, I would like to extend my sincere appreciation for Blair's commitment and my best wishes for his retirement. I wish him and his family the very best in their new endeavors.

RECOGNIZING ERIC S. GROOMS FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Eric S. Grooms, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 180, and in earning the most prestigious award of Eagle Scout.

Eric has been very active with his troop, participating in many scout activities. Over the many years Eric has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Eric S. Grooms for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

EDS AWARENESS MONTH

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. COSTELLO. Mr. Speaker, I rise today to raise awareness to and pay tribute to those affected by Ehlers-Danlos Syndrome, EDS.

The problems present in EDS include changes in the physical properties of skin, joints, blood vessels, and other tissues such as ligaments and tendons. EDS is a rare disorder, occurring in approximately 1 in 5,000 people; however, 90 percent of individuals who have EDS remain undiagnosed. The various forms of EDS are characterized by abnormalities in the chemical structure of the body's connective tissues resulting in some degree of joint looseness, fragile small blood vessels, and abnormal scar formation and wound healing. Some forms of EDS can present problems with the spine, including curved spine; the eyes; and weak internal organs, including the uterus, intestines, and large blood vessels.

There is no cure for this condition, although researchers believe that specific research on EDS would not only benefit EDS patients with diagnostic tools and treatment, but would also benefit understanding of other connective tissue related diseases. Scientific researchers have made some significant advances in recent years in trying to understand this condition, but many scientific challenges still remain.

Mr. Speaker, the Ehlers-Danlos National Foundation, a national nonprofit membership organization dedicated to controlling the effects of EDS as well as creating a support system for those diagnosed with this condition and their families, has designated May EDS Awareness Month. The goal of this effort is to educate the public about the nature and effects of EDS.

Mr. Speaker, I urge my colleagues to become familiar with this disease and join us in recognizing the importance of an accurate diagnosis of EDS to ensure appropriate treatment and educational outreach. EDS Awareness Month gives all of us an opportunity to learn more about the condition. It will help us better understand the impact that EDS can have on people living with the disorder, as well as recognize the importance of early diagnosis and proper treatment. In short, we must enhance public awareness of this very misunderstood and often misdiagnosed disease.

RECOGNIZING JACOB R. HARRINGTON FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Jacob R. Harrington, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 180, and in earning the most prestigious award of Eagle Scout.

Jacob has been very active with his troop, participating in many scout activities. Over the many years Jacob has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Jacob R. Harrington for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

HONORING JAN STOHR UPON HER RETIREMENT

HON. DORIS O. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Ms. MATSUI. Mr. Speaker, I rise today in tribute to a distinguished woman who has tirelessly served the Sacramento area for many years. Jan Stohr will soon be retiring from the Nonprofit Resource Center as its Executive Director. As her colleagues, friends and family gather to celebrate her retirement, I ask all of my colleagues to join me in saluting this outstanding citizen of Sacramento.

When she steps down, Jan will leave behind a long list of accomplishments and a career devoted to helping others. She has been the driving force behind the creation of multiple Sacramento based nonprofits that continue to thrive decades after their founding.

In 1976, as a member of the Junior League, she initiated the establishment of the Child Abuse Prevention Council of Sacramento, CAPC, and a few years later was instrumental in the development of the Sacramento Region Community Foundation. Due to the successful efforts and outreach of CAPC, thousands of children have been spared from being victims of abuse; and since its founding, the Sacramento Region Community Foundation has given out 44 million dollars in grants.

The cornerstone of Jan's work in Sacramento, however, has been her longtime commitment to the Nonprofit Resource Center. The Center began in 1988 with Jan's help and has since blossomed into the place where nonprofits can turn to for assistance in writing grant proposals, securing funds and developing solid management practices. She has served as the Center's Executive Director since its establishment in 1988. Located in downtown Sacramento, the center now assists nonprofits throughout northern California.

Additionally, Jan has given her time by serving on the board of directors for numerous non-profits in the Sacramento area, including the Community Services Planning Council, the United Way, and the Mountain Valley Chapter of the American Leadership Forum. She also seen by many as a leader in the nonprofit field and has been active with the California Association of Non profits' Nonprofit Policy Council, UC Davis's Community Development Graduate Group and the Association of Fundraising Professionals.

Through her work, Jan has been awarded with numerous recognitions, including the Association of Fundraising Professionals' Outstanding Fundraising Executive Award and the United Way's Distinguished Service Award. Many more awards and accolades will certainly follow as she transitions into retirement.

Mr. Speaker, as Jan Stohr enters retirement, I am truly honored to pay tribute to one of my dear friends and one of Sacramento's most honorable citizens. I ask all of my colleagues to join with me in wishing Jan and her husband Phil continued success and happiness in all of their future endeavors.

THIRTIETH ANNIVERSARY OF THE FOUNDING OF THE MOSCOW HELSINKI GROUP

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. CARDIN. Mr. Speaker, as Ranking Member of the Commission on Security and Cooperation in Europe, the Helsinki Commission, I note that tomorrow marks one of the major events in the struggle for human rights around the globe. Thirty years ago a courageous band of human rights defenders in the Soviet Union founded the "Moscow Helsinki Group," dedicated to monitoring Soviet compliance with the Helsinki Final Act, an historic agreement containing important provisions on human rights.

When General Secretary Brezhnev signed the Helsinki Final Act, or the Helsinki Accords, on August 1, 1975 on behalf of the USSR, Soviet officials believed that they had gained an important foreign policy victory. Indeed, there were some provisions that Soviet diplomats had sought assiduously during the negotiations among the thirty-five nations of Europe and the United States and Canada. However, the West, for its part, had insisted on certain provisions in the area of human rights and humanitarian affairs, including the right of citizens "to know their rights and to act upon them."

With this commitment in mind, Professor Yuri Orlov, a Soviet physicist who had been involved in the defense of human rights in the Soviet Union previously, called upon several of his similarly-minded colleagues to join together in an organization to press publicly for implementation of the Helsinki Accords in their country.

Eleven brave individuals answered the call, and on May 12, 1976, at a press conference called by famed human rights campaigner and peace activist Dr. Andrei Sakharov, the creation of the "Public Group to Assist in the Implementation of the Helsinki Final Act," or as it became later known, the "Moscow Helsinki Group" was announced.

The Moscow Helsinki Group committed itself to collecting information about implementation of the Helsinki Accords in the Soviet Union and publishing reports on their findings. During the first six years of its activity, they produced almost two hundred specific reports, as well as other announcements and appeals. More activists joined with the passing months. Similar Helsinki monitoring groups were established elsewhere in the USSR, including in Ukraine, Lithuania, Georgia and Armenia. Other groups focused on specific human rights issues such as psychiatric abuse or religious liberty joined the movement. The Moscow Group became an important source of information for individuals and groups seeking assistance in the area of human rights.

Naturally, the Soviet leadership rejected such "assistance" and undertook to suppress the Moscow Helsinki Group. Members were fired from their jobs, "persuaded" to emigrate, castigated in the press, and subjected to KGB searches and interrogations. When such reprisals proved mostly ineffective, members were charged with political crimes and given lengthy sentences in labor camps of the Soviet Gulag, usually with an additional term of "internal exile," forced resettlement, typically somewhere in Siberia or the Soviet Far East.

Ten years after the founding of the Moscow Helsinki Group, 14 members had been sentenced to a total of 69 years in labor camp or prison, and 50 years internal exile. Anatoly Marchenko, a founding member and veteran dissident, died during a hunger strike at Chistopol Prison in December 1986. By 1982, the Moscow Helsinki Group had been forced to suspend its activities in the face of intense KGB repression.

But while Moscow had rid itself of some troublesome dissidents, the spirit of Helsinki was not so easily quashed. Ludmilla Alekseyeva, an exiled member of the group, testified in the U.S. Congress in October 1985 that "for victims of human rights abuses in the Eastern bloc, Helsinki remains the main source of hope . . . and a rallying point in their struggle for freedom and peace." Just a little over 4 years after she spoke those words, the Berlin Wall fell.

The Moscow Helsinki Group was re-established in 1989. Reinvigorated through the work of new and veteran members, it is one of the most respected human rights organizations in the Russian Federation today. Alexeyeva, who returned to Russia in the early 1990s, following the demise of the Soviet Union, serves as chair of the group.

Mr. Speaker, we would do well to heed the wise words of Andrei Sakharov when he noted, "The whole point of the Helsinki Accords is mutual monitoring, not mutual evasion of difficult problems." A key to the ultimate success of the Helsinki Process has been the involvement of civil society—courageous human rights defenders like those who established the Moscow Group—willing to speak out on behalf of others. I remain deeply concerned over human rights trends in Russia, especially the adoption of regressive laws affecting fundamental human rights and freedoms.

I join my colleagues on the Helsinki Commission in congratulating the Moscow Helsinki Group on the occasion of its 30th anniversary of dedicated service in the defense of fundamental freedoms and liberty.

RECOGNIZING NICHOLAS J. PARK FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Nicholas J. Park, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 180, and in earning the most prestigious award of Eagle Scout.

Nicholas has been very active with his troop, participating in many scout activities. Over the many years Nicholas has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Nicholas J. Park for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

TRIBUTE TO THE LATE CALIFORNIA STATE SENATOR ED DAVIS

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. McKEON. Mr. Speaker, I rise in sadness today to honor the memory of Ed Davis, a former California State Senator and Los Angeles Chief of Police. He was a remarkable man who was a monumental presence on the Los Angeles and California political scene. Senator Davis passed away on April 22, 2006 in San Luis Obispo, CA at the age of 89.

Born Edward Michael Davis on November 15, 1916 in Los Angeles, he graduated from John C. Fremont High School and enlisted in the United States Navy where he became a decorated officer. He later received his Masters in Public Administration from USC. Always a proud alumnus, he often sported a maroon blazer and gold pants, USC's famous colors, on the State Senate floor.

Joining the Los Angeles Police Department in 1940, Ed first walked a beat in downtown Los Angeles with the late Los Angeles Mayor Tom Bradley. Rising up through the ranks, he was a director of the police and fire union and later a trusted top aide to legendary Chief William Parker. Ed served as Los Angeles Chief of Police from 1969 until 1978 where he was known as a popular firebrand who pushed law and order during times of turbulence.

Chief Davis proved popular with not only with the people of Los Angeles, but also with weary Americans who were looking for tough leadership during uncertain times. During the same period, his officers' morale was at an all-time high. He became a national figure as a tough law and order proponent quelling student protests during the Vietnam War, opposing the Black Panthers, and taking a strident stance against the epidemic of hijacking in the early 1970's.

In 1974, the entire nation watched as the Chief's force had a climatic shootout with the Simbionese Liberation Army who had kidnapped heiress Patty Hearst. Several leaders of the gang died in a fiery blaze at the conclusion of the confrontation.

Chief Davis implemented historic reforms at the LAPD and left a legacy of influence in law enforcement. His innovations include creating the Neighborhood Watch concept to bring residents together, and instituting community policing. While crime rose by 55 percent across the Nation during his tenure as Chief, crime actually decreased by 1 percent in Los Angeles. His influence still exists in the LAPD, and programs that the Chief invented are at the heart of every police organization worldwide. The City of Los Angeles honored him by naming the newest and most elaborate of the three LAPD training centers "The Ed Davis Emergency Vehicle Operations Center & Tactics/Firearms Training Center" in 1998.

A respected member of the academic community, Chief Davis lecturing at USC and Cal State Los Angeles as an adjunct professor of police administration and management for 18 years. He was the author of Staff One, a leading police management textbook.

Prior to his appointment as Chief, he served for many years as a law enforcement advocate working with the California Legislature in Sacramento. Among his many outstanding contributions is the landmark Peace Officer's Standards and Training Act of 1959, which set minimum police standards for California.

After retiring as Police Chief in 1978, he set his sights on the California Governor's mansion. Running in the Republican gubernatorial primary, the Chief came in second to Attorney General Evelle Younger in a four-man race, which included State Senator Ken Maddy and San Diego Mayor Pete Wilson.

Chief Davis returned to the political arena in 1980 after winning the State Senate election for the 19th Senate District. He represented Thousand Oaks, Simi Valley, the North San Fernando Valley and the Santa Clarita Valley.

Overwhelmingly re-elected to a second Senate term in 1984, Senator Davis again set his sights on higher office. He entered the 1986 U.S. Senate race against longtime incumbent Alan Cranston. His slogan, "One Tough Cop, and One Great Senator." recalled his glory days as Chief.

The Republican race was upended when one of Senator Davis' opponents was indicted for allegedly offering him $100,000 if he dropped out of the race. The courts ultimately threw out the indictment, but the scuffle derailed the Senator's campaign and helped Congressman Ed Zschau win the nomination.

Davis turned his energy and attention back to Sacramento, winning praise as a reasoned Vice-Chair of the Senate Judiciary Committee. Often called central casting's choice as a senator, the white-haired gentleman was easily reelected to a third term to the State Senate in 1988.

Known by his friends as a man of great charm and graciousness, Senator Davis celebrated 50 years of public service with a gala dinner in 1991. Highlights of the evening included recorded tributes from comedian Bob Hope and former Presidents Ronald Reagan and Richard Nixon. Looking forward to a peaceful retirement, Senator Davis and his wife, Bobbie, moved north to Morro Bay, California in 1992.

Senator Davis is survived by his wife, Bobbie, his children Michael Davis, Christine Coey and Mary Ellen Burde and step-children Fred, Michael, and Kyltie as well as several beloved grandchildren.

HONORING ROBERT ROGERS

HON. KENNY MARCHANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. MARCHANT. Mr. Speaker, I rise today to recognize Mr. Robert Rogers upon his retirement as President and Chief Executive Officer of the Educational Employees Credit Union, after almost 30 years of service in the credit union industry.

His retirement concludes a phenomenal career in the credit union business, starting as a Texas State Examiner in 1977. Rogers later held executive-level positions at Hughes Employees Credit Union, Houston Area Teacher's Credit Union, and the University of Arkansas Credit Union. He also served as Deputy Commissioner for the State of Texas in 1988 and was named Commissioner three years later. In 1995 Rogers moved to Fort Worth to act as President and CEO of EECU.

Rogers has been an active leader with many credit-union related affiliates on the local, state, and national level. He is a former Director for the National Association of Community Credit Unions, and is on the Board of Directors for Town North Bank. Other noteworthy accomplishments include founding the Texas Credit Union Legislative Coalition, and being appointed to the Texas Credit Union League's Board of Trustees.

Rogers has been an advocate for credit unions and members throughout his career. He has always sought to provide vital financial services for the underserved and ensured that the voices of credit unions and their members were heard in the political arena. I thank him for his years of dedication to Texas families. I wish him well in his retirement; his presence will truly be missed.

RECOGNIZING BENJAMIN F. SANDERSON FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Benjamin F. Sanderson, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 180, and in earning the most prestigious award of Eagle Scout.

Benjamin has been very active with his troop, participating in many scout activities. Over the many years Benjamin has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Benjamin F. Sanderson for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

BREAST CANCER AND ENVIRONMENTAL RESEARCH ACT

HON. JOHN E. SWEENEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. SWEENEY. Mr. Speaker, Sunday is Mother's Day. In honor of all of our Mothers, I rise today to urge all my colleagues to push for passage of the Breast Cancer and Environmental Research Act (H.R. 2231) this year.

One out of eight women in the United States will develop breast cancer at some point in her lifetime. It afflicts our mothers, our daughters, our sisters, our wives. It currently afflicts three million women—including one million women who do not yet know they have breast cancer. In New York alone, there is expected to be 14,400 new cases in 2006 and over 2,700 deaths due to breast cancer.

The human toll of this disease is staggering. All women are at risk of getting breast cancer. In some way, breast cancer will directly or indirectly affect you or someone you know. Breast cancer takes a life every 14 minutes. Another woman will receive a life altering diagnosis of breast cancer every 3 minutes.

Passing the Breast Cancer and Environmental Research Act would help get to the bottom of what causes breast cancer and how to prevent it.

H.R. 2231 authorizes $30 million a year for five years to establish these multi-institutional, multidisciplinary centers. The centers would include institutions with different areas of expertise working together to look at different aspects of the same issue.

This bill creates a new mechanism for environmental health research, and provide a unique process by which up to 8 research centers are developed to study environmental factors and their impact on breast cancer. Modeled after the DOD Breast Cancer Research Program, which has been so successful, it would include consumer advocates in the peer review and programmatic review process.

This Federal commitment is critical for the overall, national strategy and the long-term research investments needed to discover the environmental causes of breast cancer, so that we can prevent it, treat it more effectively, and cure it.

It is generally believed that the environment plays some role in the development of breast cancer, but the extent of that role is not understood. More research needs to be done to determine the impact of the environment on breast cancer, which has been understudied in the past.

Less than 30 percent of breast cancers are explained by known risk factors; however, there is little consensus in the scientific community on how the environment impacts breast cancer. Studies have explored the effect of isolated environmental factors such as diet, pesticides, and electromagnetic fields, but in most cases there is no conclusive evidence. Furthermore, there are many other factors that are suspected to play a role but have not been fully studied. These could provide valuable in understanding the causes of breast cancer and could lead to prevention strategies.

We must all work together to find a cure for breast cancer. As we work to achieve that goal, we must continue to create comprehensive programs to study the disease, increase awareness and ensure early detection takes place. We must make a commitment to women who have or will be affected by breast cancer. I am proud to support efforts that will help so many of our sisters, daughters, wives and mothers.

INTRODUCTION OF STRATEGIC REFINERY RESERVE

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. BOUCHER. Mr. Speaker, I am pleased today to join my colleague from Michigan, Mr. DINGELL, in introducing legislation to expand the nation's refinery capacity by establishing a federal Strategic Refinery Reserve (SRR), which will deliver refined petroleum products to the commercial market during supply emergencies.

The legislation that Congressman DINGELL and I are introducing builds upon the success of the Strategic Petroleum Reserve by taking the commonsense step of establishing a reserve which can produce refined petroleum products. The presence of such a reserve will ensure the availability of emergency refinery capacity—a need which has been clearly illustrated by the events and high gasoline prices of recent months.

Last year's catastrophic hurricanes, which severely damaged oil refineries in the gulf coast illustrated the nation's vulnerability to a disruption in supply of refined petroleum and exposed shortcomings in our current Strategic Petroleum Reserve (SPR) system. If the nation loses significant refinery capacity, crude released from the SPR cannot be converted easily into refined product such as gasoline or home heating oil. Even with no disruptions, our nation's refineries are running at virtually full capacity meaning that any reduction in our ability to refine product results in an almost immediate increase in gasoline prices.

The legislation we are introducing would help address this vulnerability by requiring the Secretary of Energy to establish and operate a Strategic Refinery Reserve (SRR) with capacity equal to 5 percent of the total United States demand for gasoline, home heating oil and other refined petroleum products. The Secretary may design and construct new facilities or acquire and re-open previously closed facilities.

During non-emergency times the SRR would provide refined product to the federal fleet, including the Department of Defense. Operating the refinery reserve on a full-time basis will ensure that federal fleet and military needs are met, will lessen start up times for SRR refineries to full production during emergencies and will lessen the demand for refined product in the consumer market by freeing additional supply.

During times of emergency, the SRR production could be increased and the resulting refined products could be used in the commercial market. Under the legislation, the Secretary is authorized to use SRR production for commercial use based on two criteria: the same severe supply disruption criteria used to trigger a drawdown of the SPR and upon a Presidential determination of a regional supply shortage.

Our legislation is a common sense approach to ensure that additional refinery capacity is available to provide gasoline during times of energy emergency, and I urge its consideration and approval by the House.

NATIONAL NURSES WEEK

HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. LIPINSKI. Mr. Speaker, I rise today to honor the work of America's 2.9 million registered nurses and recognize National Nurses Week, which is celebrated annually May 6–12 throughout the United States. The purpose of National Nurses Week is to raise public awareness of the value of nursing and to help educate the public about the vital roles registered nurses play in meeting the health care needs of the American people.

America's nurses comprise our nation's largest health care profession. They continue to meet the different, emerging, and challenging health care needs of the American population in a wide range of settings. Nurses enhance both primary and preventive health care and are an indispensable component in the safety and quality of care of hospitalized patients.

It is my honor to recognize registered nurses who care for all of us. Today, we celebrate registered nursing's accomplishments and efforts to improve our health care system and show our appreciation for the nation's registered nurses not just during this week, but at every opportunity throughout the year.

TRIBUTE TO CALHOUN HIGH SCHOOL

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. PAUL. Mr. Speaker, I rise today to honor Calhoun High School (CHS) of Port Lavaca, Calhoun County, TX. On January 6–7, 2006 the CHS advanced government class, taught by Gennie Westbrook, traveled to Austin to participate in the Texas State final meet for We the People: The Citizen and the Constitution. Calhoun High School ranked second of the seven schools participating in the meet, which is the highest rank yet achieved by a CHS class. In 1995, 2002, and 2003, the CHS class placed third. Students participating in the State contest were Holly Batchelder, Matthew Boyett, Ryan Cardona, Kenneth Chang, Karl Chen, Andrew Delgado, Carlos Galindo, Julio Herrera, Paul Jenkins, Brian Kao, Dustin Lambden, Kayla Meyer, Jake Prejean, and Thomas Reagan.

Twenty-two CHS juniors accompanied the group as observers. We the People alumnae who also accompanied the group to assist as guest judges for practice times were Jessica Davenport, John Westbrook, Bobby Van Borssum, Redford Hong, William Krause, and Jason Fite.

Local community members who helped the class in their weekly practice sessions after school were Connie Hunt and Assistant District Attorney Shannon Salyer, who have worked with each year's class for several years. Others who assisted the class in preparation this year included District Attorney Dan Heard, Assistant District Attorney Pat Brown, and Texas A&M aerospace PhD student Darren Hartl.

We the People: The Citizen and the Constitution is a nationally acclaimed civic education program focusing on the history and principles of the U.S. Constitution and Bill of Rights. In addition to the requirements of the standard government class, students in this program must master a rigorous curriculum in the background and philosophy of the U.S. Constitution. They participate in oral assessment that involves both prepared and extemporaneous responses to challenging questions. In this nationwide competition, students play the role of "experts in the Constitution," testifying before a mock Congressional hearing. Among other criteria, students are evaluated on their depth of knowledge, ability to apply academic data to current problems, and understanding of landmark Supreme Court cases. Teams of three students each present a four-minute prepared testimony to answer questions they have researched all semester, and then they respond to extemporaneous follow-up questions from the judges for another six minutes. Judges at the state contest include practicing attorneys, university professors, historians, and legislative staff members.

In 2001, the Center for Civic Education conducted a survey of We the People alumnae, focusing on voting and civic participation. Among the former students, 82 percent reported that they voted in the November 2000 election. In addition, 77 percent had voted in previous elections. By contrast, the National Election Studies reported 48 percent turnout in the November 2000 election by other respondents aged 18–30. Research also indicates that participation in We the People programs helps encourage greater interest in politics and public affairs, increased involvement in government decision making at all levels, greater willingness to respect the opinions and rights of others, and better preparation for the privileges and responsibilities of democratic citizenship. More information about the program may be found at the Center for Civic Education website, *http://www.civiced.org/wethepeople.php*.

We the People: the Citizen and the Constitution is the Advanced U.S. Government class available every fall to Calhoun High School seniors. The first place team from each state traveled to Washington, D.C. for the National Final Competition on April 29–May 1, 2006. McAllen's Lamar Academy team, taught by LeAnna Morse, won first place this year in Texas, and her class often receives Honorable Mention as one of the top 10 schools at the national final meet.

Mr. Speaker, I want to congratulate teacher Gennie Westbrook, the students of Calhoun High School and all the others participating in this important effort.

INTRODUCTION OF THE EARLY CAREER RESEARCH ACT AND THE RESEARCH FOR COMPETITIVENESS ACT

HON. MICHAEL T. McCAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. McCAUL of Texas. Mr. Speaker, I am pleased to introduce today the Early Career Research Act and the Research for Competitiveness Act. These bills expand and strengthen science and engineering research programs at the National Science Foundation and the Department of Energy to encourage young scientists and engineers to pursue innovative research that could lead to the major scientific breakthroughs of tomorrow.

President Bush, in his State of the Union Address, articulated the link between science and engineering research and national competitiveness. I agree with the President. Like him, I believe that science shapes the future. And, like him, I believe that for America to remain number one in the world, it must remain number one in science. I want to ensure that the highly-innovative, highly-productive industries of tomorrow are created here in America and stay in America to provide high-wage jobs for our children and grandchildren.

Texas is one of the world's leading technology centers and I have the privilege of representing Texas' high-tech core. In Texas, we know that science and technology are the wellsprings of economic competitiveness and national strength.

In December of last year, Mr. Richard Templeton, President and CEO of Texas Instruments, came to Washington to lead the National Summit on Competitiveness. The theme of that Summit was "Investing in U.S. Innovation." Mr. Templeton and 60 business, academic, and government leaders, including four Cabinet Secretaries, came together to discuss the competitiveness challenge posed by globalization and the rise of new economic competitors, such as India and China. Mr. Templeton and his business and academic colleagues told the President and the Congress that our government must do more to foster America's capacity to innovate by focusing on the health of the American scientific enterprise.

The President rose to the challenge and proposed The American Competitiveness Initiative, a bold plan to double Federal investments in fundamental physical science research over 10 years at three science agencies: the National Science Foundation, the Office of Science in the Department of Energy, and the National Institute of Standards and Technology.

My bills build upon the President's initiative and focus on fostering innovation by providing grants to promising young researchers to pursue research that could lead to the technology breakthroughs of tomorrow. One of my bills provides for matching funds from industry to promote closer ties between academic and industrial researchers.

Mr. Speaker, I am pleased that so many business, science, and educational organizations have endorsed my bill, including Texas Instruments, AeA (formerly the American Electronics Association), the Telecommunications Industry Association, the Electronics Industries Alliance, the Council on Competitiveness, the Battelle Memorial Institute, the American Chemical Society, the Association of American Universities, and a host of other organizations. I am grateful for their support. Together, we can ensure that America remains first in science and first in economic competitiveness—so that Americans can continue to enjoy the highest standard of living in the world.

INTRODUCTION OF THE SCIENCE AND MATHEMATICS EDUCATION FOR COMPETITIVENESS ACT

HON. JOHN J.H. "JOE" SCHWARZ

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. SCHWARZ of Michigan. Mr. Speaker, I am pleased to introduce today the Science and Mathematics Education for Competitiveness Act. The bill expands and strengthens math and science education programs at the National Science Foundation and the Department of Energy to improve the math and science literacy of our nation and prepare our young people for the high-tech, high-wage jobs of tomorrow.

President Bush, in his State of the Union Address, articulated the link between math and science education and national competitiveness. I agree with the President. Like him, I want to ensure that the 21st Century remains "the next American century." And, like him, I want to ensure that Americans continue to enjoy the highest standard of living in the world.

The jobs of today require a higher level of math and science skills than ever before. The jobs of tomorrow will be even more demanding. And we know that the rest of the world is not standing still. In an increasingly globalized economy, our children and grandchildren will be competing with highly-skilled, highly-educated workers around the world for high-wage jobs in high-value-added industries. I want to make sure that those industries and those jobs stay here in America. To do that, our nation's business leaders tell us that we have to boost the math and science skills of American students.

I know of no better way to improve math and science education in this country than to build upon the successful programs of the National Science Foundation and to expand the ability of some of America's most brilliant scientists and engineers in the Department of Energy to lend their talent and expertise to the education of U.S. students.

In crafting my bill, I focused on what already works and I sought to minimize the creation of new programs. Based on testimony offered in a series of hearings in the Science Committee, and on recommendations offered in a series of reports by American business and academic leaders, my bill focuses on encouraging more teachers to specialize in teaching math and science, and encouraging more students to pursue undergraduate and graduate degrees in math, science, and engineering.

Mr. Speaker, I am pleased that so many business and educational organizations have endorsed my bill, including Texas Instruments, AeA (formerly the American Electronics Association), the Telecommunications Industry Association, the Electronics Industries Alliance, the Council on Competitiveness, the Battelle Memorial Institute, the American Chemical Society, the National Education Association, the National Science Teachers Association, the National Council of Teachers of Mathematics, the American Association of Colleges for Teacher Education, the American Association of Physics Teachers, the American Geological Institute, the Science Technology Engineering and Mathematics Education Coalition, the Council of Graduate Schools, the Association of American Universities, and a host of other organizations. I am grateful for their support. Together, we can ensure that America remains the most competitive nation in the world.

TRIBUTE TO TOYOTA MOTOR MANUFACTURING

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. HOSTETTLER. Mr. Speaker, I rise before you today to recognize Toyota Motor Manufacturing on their 10th anniversary of operation in Princeton, Indiana. Since 1996, Toyota has been a top contributor to both the economy and the community life of southern Indiana. During the past 10 years, Toyota has both harnessed the excellent workforce and favorable business conditions available in our region, and has invested time and resources back into our local people and businesses.

The Princeton Toyota plant opened their doors with an initial investment of $700 million, employing 1,300 team members with a production rate of 100,000 trucks per year. In just 10 years, production has skyrocketed to 300,000 vehicles per year, including the Tundra full-size pickup truck, Sequoia SUV, and Sienna minivan. With the recent addition of another plant in Lafayette, Toyota is now the largest automaker in Indiana.

A study released by University of Evansville and University of Southern Indiana determined that Toyota's annual economic impact in Indiana equals 31,385 jobs, $502.9 million in employee compensation, and $5.5 billion in business sales, representing a significant influence on the economy of southwest Indiana, and the state as a whole. In Gibson County alone, Toyota generates 8,865 jobs, $118.9 million in employee compensation, $518.6 million in business sales. The Evansville area enjoys 12,990 jobs, $341.7 million in employee compensation, and $1.4 billion in business sales as a result of Toyota.

In addition to their positive economic impact, Toyota has been a wonderful neighbor to Princeton and the surrounding communities. Toyota is proactively involved in educational and charitable initiatives by awarding scholarships to local students, and providing grants to local schools and non-profit organizations. I am pleased to commend Toyota as an example of good citizenship.

I ask my colleagues to join me in congratulating Toyota on 10 years of outstanding service and contribution to southern Indiana.

HOUSE OF REPRESENTATIVES—*Friday, May 12, 2006*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. THORNBERRY).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 12, 2006.

I hereby appoint the Honorable MAC THORNBERRY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Dr. Barry C. Black, Chaplain, United States Senate, offered the following prayer:

Our gracious Redeemer, we have loved You, but not enough. We have sought You, but not diligently. We have seen, but not perceived. We have heard, but not understood. We have desired things heavenly, but clung to the things on earth.

Strengthen the Members of this body to do Your will. As they learn to love, seek, perceive, desire, and understand Your will, give them the peace that comes from trusting You.

We pray in Your holy name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REPORT ON H.R. 5384, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2007

Mr. LEWIS of California, from the Committee on Appropriations, submitted a privileged report (Rept. No. 109–463) on the bill (H.R. 5384) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2007, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 12, 2006.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on May 12, 2006, at 10:50 a.m.:

That the Senate passed S. 2245.

With best wishes, I am,

Sincerely,

MARJORIE C. KELAHER,
Deputy Clerk of the House.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2245. An act to establish an Indian youth telemental health demonstration project; to the Committee on Resources, in addition to the Committee on Energy and Commerce for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADJOURNMENT

Mr. LEWIS of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until Monday, May 15, 2006, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7485. A letter from the Under Secretary, Acquisition, Technology, and Logistics, Department of Defense, transmitting a Report on Activities and Programs for Countering Proliferation and NBC Terrorism, pursuant to Public Law 107–314, section 1208; to the Committee on Armed Services.

7486. A letter from the Attorney, Pipeline & Hazardous Materials Safety Administration, Department of Transportation, transmitting the Department's final rule — Hazardous Materials: Requirements for Lighters and Lighter Refills [Docket No. RSPA-2004-18795 (HM-237)] (RIN: 2120-AD88) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7487. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Gothenburg, Quinn Field, NE [Docket No. FAA-2006-23545; Airspace Docket No. 06-ACE-1] received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7488. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D Airspace; and Revision of Class E Airspace; Big Delta, Allen Army Airfirld, Fort Greely, AK [Docket No. FAA-2005-20643; Airspace Docket No. 05-AAL-13] received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7489. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace; Koliganek, AK [Docket No. FAA-2005-22538; Airspace Docket No. 05-AAL-30] received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7490. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of High Alitutde Area Navigation Routes; South Central United States [Docket No. FAA-2005-22398; Airspace Docket No. 05-ASO-7] (RIN: 2120-AA66] received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7491. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of the Minneapolis Class B Airspace Area; MN [Docket No. FAA-2003-15471; Airspace Docket No. 03-AWA-6] (RIN: 2120-AA66) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7492. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Application of Section 338 to Insurance Companies [TD 9257] (RIN: 1545-AY49) received April 17, 2006, pursuant to 26 U.S.C. 5704 Public Law 106-476, section 4002(e); to the Committee on Ways and Means.

7493. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Gulf Opportunity Zone Bonds, Gulf Opportunity Zone Advance Refunding Bonds, and

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Gulf Tax Credit Bonds [Notice 2006-41] received April 17, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7494. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Statutory Mergers and Consolidations [TD 9259] (RIN: 1545-BF36) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7495. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Application of Seperate Limitations to Dividends from Noncontrolled Section 902 Corporations [TD 9260] (RIN: 1545-BF46) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7496. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Administrative, Procedural, and Miscellaneous (Rev. Proc. 2006-23) received May 2, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BONILLA: Committee on Appropriations. H.R. 5384. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2007, and for other purposes (Rept. 109–463). Referred to the Committee of the Whole House on the State of the Union, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII.

Mr. COSTELLO introduced a resolution (H. Res. 814) providing for consideration of the bill (H.R. 4755) to amend title 49, United States Code, to modify the mediation and implementation requirements of section 40122 regarding changes in the Federal Aviation Administration personnel management system, and for other purposes; which was referred to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 952: Mr. THOMPSON of California.
H.R. 1652: Mr. INSLEE.
H.R. 2812: Mr. CONYERS.
H.R. 4197: Mrs. MCCARTHY.
H.R. 4215: Mr. CASE.
H.R. 4229: Mr. SANDERS.
H.R. 4313: Mr. DOOLITTLE.
H.R. 4932: Mr. LANTOS.
H.R. 5052: Mr. VAN HOLLEN.
H.R. 5148: Mr. RAHALL and Mr. BISHOP of Georgia.
H.R. 5336: Ms. GINNY BROWN-WAITE of Florida.
H. Con. Res. 390: Mr. SENSENBRENNER, Mr. RYUN of Kansas, and Mr. SOUDER.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 6 by Mr. ABERCROMBIE on House Resolution 543: Darlene Hooley.

Petition 7 by Ms. HERSETH on House Resolution 568: Darlene Hooley and Rosa L. DeLauro.

Petition 12 by Mr. MARKEY on H.R. 4263: Tom Lantos and Wm. Lacy Clay.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 4200

OFFERED BY MR. POMBO

AMENDMENT NO. 1: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as "Forest Emergency Recovery and Research Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—RESPONSE TO CATASTROPHIC EVENTS ON FEDERAL LANDS

Sec. 101. Development of research protocols and use in catastrophic event research projects.
Sec. 102. Catastrophic event recovery evaluations.
Sec. 103. Compliance with National Environmental Policy Act.
Sec. 104. Availability and use of pre-approved management practices.
Sec. 105. Availability and use of emergency procedures.
Sec. 106. Administrative and judicial review.
Sec. 107. Guidance regarding reforestation in response to catastrophic events.
Sec. 108. Effect of title.
Sec. 109. Standards for tree retention.

TITLE II—RESTORING LANDSCAPES AND COMMUNITIES IMPACTED BY CATASTROPHIC EVENTS

Subtitle A—Cooperative Forestry Assistance Act of 1978

Sec. 201. Assistance under Cooperative Forestry Assistance Act of 1978 to restore landscapes and communities affected by catastrophic events.

Subtitle B—Department of the Interior Assistance

Sec. 211. Restoring landscapes.
Sec. 212. Restoring communities.

TITLE III—EXPERIMENTAL FORESTS

Sec. 301. Findings.
Sec. 302. Availability and use of pre-approved management practices on National Forest experimental forests.
Sec. 303. Limited consideration of alternatives for projects on National Forest experimental forests.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Regulations.
Sec. 402. Dedicated source of funds for research and monitoring.
Sec. 403. Other funding sources.
Sec. 404. Effect of declaration of major disaster or emergency.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The number and severity of catastrophic events causing resource damage to Federal land has significantly increased over the last 20 years, and such catastrophic events also create serious adverse environmental, social, and economic consequences for Federal land and adjacent non-Federal land and communities.

(2) Catastrophic events often devastate forest or rangeland ecosystems and eliminate sources of seed for desired tree and plant species, which—

(A) delays or even precludes the reestablishment of appropriate forest or plant cover on millions of acres of Federal land;

(B) increases the susceptibility of the damaged land to wildfire and noxious or harmful species and reduces the economic value of the damaged land's resources;

(C) increases the susceptibility of adjacent undamaged land to insect infestations, disease, and noxious weeds;

(D) pollutes municipal water supplies and damages water delivery infrastructure;

(E) exacerbates sediment production that adversely impacts native fish habitat and soil productivity;

(F) results in unsafe campgrounds, trails, roads, and other infrastructure; and

(G) adversely impacts the sustainability of ecosystems and the well-being of adjacent communities.

(3) Program authorities and funding mechanisms currently available to the Secretary of Agriculture and the Secretary of the Interior to respond to catastrophic events on forested Federal land do not provide for consistent and timely response activities.

(4) The Council on Environmental Quality has approved on an infrequent basis the use of alternative arrangements to respond to catastrophic events on forested Federal land, but, when used in the past, such alternative arrangements have encouraged expedited and successful recovery outcomes.

(5) A prompt and standardized management response to a catastrophic event, which is also adaptive to the unique characteristics of each catastrophic event, is needed—

(A) to effectively recover the area damaged by the catastrophic event,

(B) to minimize the impact on the resources of the area and adjacent communities adversely affected by the catastrophic event; and

(C) to recover damaged, but still merchantable, material before it loses its economic value.

(6) Reforestation treatments on forested Federal land after a catastrophic event helps to restore appropriate forest cover, which provides multiple renewable resource benefits, including—

(A) protecting soil and water resources;

(B) providing habitat for wildlife and fish;

(C) contributing to aesthetics and enhancing the recreational experience for visitors;

(D) providing a future source of timber for domestic use; and

(E) ensuring the health and resiliency of affected ecosystems for present and future generations.

(7) According to the Comptroller General, the reforestation backlog for Federal land has increased since 2000 as a result of natural disturbances, such as wildland fires, insect infestations, and diseases.

(8) Additional scientific and monitoring information is needed regarding the effectiveness of recovery treatments to improve subsequent recovery proposals in response to future catastrophic events.

(9) State, tribal, and local governments, local communities, and other entities play a critical role in restoring landscapes damaged by a catastrophic event and in reducing the risks associated with the catastrophic event.

(10) Greater resources and adaptive arrangements must be made available to land managers to facilitate the prompt implementation of recovery treatments, including reforestation, following catastrophic events.

SEC. 3. DEFINITIONS.

In this Act:

(1) BURNED AREA EMERGENCY RESPONSE.—The term "burned area emergency response" means the process used by the Secretary concerned to plan and implement emergency stabilization actions on Federal land in response to a catastrophic event in order to minimize threats to life or property or to stabilize and prevent unacceptable degradation to natural and cultural resources resulting from the effects of the catastrophic event.

(2) CATASTROPHIC EVENT.—The term "catastrophic event" means any natural disaster or any fire, flood, or explosion, regardless of cause, that the Secretary concerned determines has caused or will cause damage of significant severity and magnitude to Federal land or, in the case of title II, non-Federal land. A natural disaster may include a hurricane, tornado, windstorm, snow or ice storm, rain storm, high water, wind-driven water, tidal wave, earthquake, volcanic eruption, landslide, mudslide, drought, or insect or disease outbreak.

(3) CATASTROPHIC EVENT RECOVERY.—The term "catastrophic event recovery", with respect to an area of Federal land damaged by a catastrophic event, means—

(A) if the catastrophic event involved fire, the rehabilitation and restoration activities (other than any emergency stabilization treatments undertaken as part of the burned area emergency response) that are undertaken on the damaged Federal land, including any infrastructure or facilities thereon, in response to the catastrophic event;

(B) if the catastrophic event did not involve fire, the emergency stabilization and rehabilitation and restoration activities that are undertaken on the damaged Federal land, including infrastructure or facilities thereon, in response to the catastrophic event; or

(C) the reforestation or revegetation, consistent with the applicable land and resource management plan, of the damaged Federal land in response to the catastrophic event using, to the extent practicable and preferable, native or beneficial plants to avoid creation of plantation forests and the recovery of trees on the damaged Federal land, through the use of timber harvesting and other appropriate methods of forest regeneration.

(4) CATASTROPHIC EVENT RECOVERY EVALUATION.—The term "catastrophic event recovery evaluation", with respect to an area of Federal land damaged by a catastrophic event, means an evaluation of the damaged Federal land that is conducted in accordance with section 102.

(5) CATASTROPHIC EVENT RECOVERY PROPOSAL.—The term "catastrophic event recovery proposal" means the list and brief description of catastrophic event recovery projects, catastrophic event research projects, and pre-approved management practices that are—

(A) identified as part of the catastrophic event recovery evaluation of an area of Federal land damaged by a catastrophic event; and

(B) proposed to be undertaken to facilitate the catastrophic event recovery of the area or evaluate the effects and effectiveness of such recovery efforts.

(6) CATASTROPHIC EVENT RECOVERY PROJECT.—The term "catastrophic event recovery project" means an individual activity or a series of activities identified in a catastrophic event recovery proposal for an area of Federal land damaged by a catastrophic event and proposed to be undertaken in response to the catastrophic event to promote catastrophic event recovery.

(7) CATASTROPHIC EVENT RESEARCH PROJECT.—The term "catastrophic event research project" means a scientifically designed study of the effects and effectiveness of—

(A) any catastrophic event recovery projects undertaken in an area of land damaged by a catastrophic event; and

(B) any emergency stabilization treatments undertaken as part of a burned area emergency response in the area of land damaged by a catastrophic event.

(8) COMMUNITY WILDFIRE PROTECTION PLAN.—The term "community wildfire protection plan" has the meaning given that term in section 101(3) of the Healthy Forest Restoration Act of 2003 (16 U.S.C. 6511(3)).

(9) ELIGIBLE ENTITY.—The term "eligible entity", for purposes of providing assistance under subtitle B of title II, means a State Forester or equivalent State official, an Indian tribe, local government, community-based organization, or other person.

(10) FEDERAL LAND.—The term "Federal land" means land in the National Forest System and public lands. The term does not include any land contained in a component of the National Wilderness Preservation System or designated as a national monument.

(11) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(12) LAND AND RESOURCE MANAGEMENT PLAN.—The term "land and resource management plan" means—

(A) a land and resource management plan developed for a unit of the National Forest System under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); or

(B) a land use plan developed for an area of the public lands under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(13) LAND-GRANT COLLEGES AND UNIVERSITIES.—The term "land-grant colleges and universities" has the meaning given that term in section 1404(11) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(11)).

(14) LANDSCAPE ASSESSMENT.—The term "landscape assessment" means an assessment describing catastrophic event conditions and recovery needs and opportunities on non-Federal land affected by a catastrophic event and including a list of proposed special recovery projects to address those needs and opportunities.

(15) NATIONAL FOREST SYSTEM.—The term "National Forest System" has the meaning given that term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(16) PRE-APPROVED MANAGEMENT PRACTICE.—The term "pre-approved management practice" means a management practice identified by the Secretary concerned under section 104(a) that may be immediately implemented as part of a catastrophic event recovery project or catastrophic event research project to facilitate the catastrophic event recovery of an area of Federal land damaged by a catastrophic event.

(17) PUBLIC LANDS.—The term "public lands" has the meaning given that term in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(18) SECRETARY CONCERNED.—The term "Secretary concerned" means—

(A) the Secretary of Agriculture, with respect to National Forest System land; and

(B) the Secretary of the Interior, with respect to public lands.

(19) SPECIAL RECOVERY PROJECT.—The term "special recovery project" means an individual activity or a series of activities proposed to be undertaken to rehabilitate, repair, and restore non-Federal land damaged by a catastrophic event, community infrastructure and facilities on the land, and economic, social, and cultural conditions affected by the catastrophic event.

TITLE I—RESPONSE TO CATASTROPHIC EVENTS ON FEDERAL LANDS

SEC. 101. DEVELOPMENT OF RESEARCH PROTOCOLS AND USE IN CATASTROPHIC EVENT RESEARCH PROJECTS.

(a) DEVELOPMENT OF PROTOCOLS; PURPOSE.—For the purpose of conducting and evaluating the effectiveness and effects of a catastrophic event recovery project and of emergency stabilization treatments undertaken as part of a burned area emergency response, the Secretary concerned shall develop research protocols consisting of—

(1) a research approach that is specifically designed to improve knowledge, understanding, and predictive capabilities—

(A) to increase the long-term benefits of management activities, including natural and artificial regeneration of vegetation; and

(B) to decrease the short-term impacts of such management activities;

(2) an appropriate and scientifically sound experimental design or set of sampling procedures; and

(3) accompanying methods of data analysis and interpretation.

(b) PEER REVIEW.—The research protocols developed under subsection (a), and any subsequent modification thereof, shall be subject to peer review, including independent, third-party peer review, by scientific and land management experts.

(c) TIME FOR COMPLETION; MODIFICATION.—The research protocols required by this section shall be submitted to Congress not later than 180 days after the date of the enactment of this Act. The Secretary concerned may modify the research protocols, as the Secretary determines necessary, after their submission to Congress. The Secretary concerned shall notify Congress regarding any such modification.

(d) CATASTROPHIC EVENT RESEARCH PROJECTS.—In accordance with the research protocols developed under this section, the Secretary concerned may conduct one or more catastrophic event research projects in an area of land damaged by a catastrophic event. The Secretary may develop a proposed catastrophic event research project as part of a catastrophic event recovery proposal or develop a catastrophic event research project independently of the catastrophic event recovery proposal during the catastrophic event recovery in response to changing conditions in the area damaged by the catastrophic event.

(e) PUBLIC ACCESS.—

(1) PROTOCOLS.—The Secretary concerned shall make the research protocols developed under subsection (a), including any modification thereof, publicly available, in a form determined to be appropriate by the Secretary.

(2) RESEARCH RESULTS.—After completion of the peer review required by subsection (b), the Secretary concerned shall make the results of catastrophic event research projects publicly available, in a form determined to be appropriate by the Secretary.

(f) FOREST HEALTH PARTNERSHIPS.—In developing and using the research protocols required by this section, the Secretary concerned shall enter into cooperative agreements with land-grant colleges and universities and other institutions of higher education to form forest health partnerships, including regional institutes, to utilize their education, research, and outreach capacity to address the catastrophic event recovery of forested land. A forest health partnership may be aligned with the current network of Cooperative Ecosystem Studies Units.

SEC. 102. CATASTROPHIC EVENT RECOVERY EVALUATIONS.

(a) COMMENCEMENT.—

(1) EVALUATION REQUIRED.—In response to a catastrophic event affecting 1,000 or more acres of Federal land, the Secretary concerned shall conduct a catastrophic event recovery evaluation of the damaged Federal land.

(2) EVALUATION AUTHORIZED.—If a catastrophic event affects more than 250 acres of Federal land, but less than 1,000 acres, the Secretary concerned is authorized, but not required, to conduct a catastrophic event recovery evaluation of the damaged Federal land.

(b) TIME FOR COMMENCEMENT.—

(1) WHEN EVALUATION REQUIRED.—When a catastrophic event recovery evaluation is required under subsection (a)(1), the Secretary concerned shall commence the catastrophic event recovery evaluation for the Federal land damaged by the catastrophic event—

(A) as soon as practicable during or after the conclusion of the catastrophic event to facilitate prompt decision-making with regard to the catastrophic event recovery of the damaged Federal land; but

(B) in no event later than 30 days after the conclusion of the catastrophic event.

(2) WHEN EVALUATION DISCRETIONARY.—When a catastrophic event recovery evaluation is simply discretionary under subsection (a)(2), the Secretary concerned shall make a final decision whether to commence a catastrophic event recovery evaluation for the Federal land damaged by the catastrophic event, and, if the final decision is to commence a catastrophic event recovery evaluation, actually commence the evaluation—

(A) as soon as practicable during or after the conclusion of the catastrophic event to facilitate prompt decision-making with regard to the catastrophic event recovery of the damaged Federal land; but

(B) in no event later than 30 days after the conclusion of the catastrophic event.

(c) COMPLETION.—

(1) TIME FOR COMPLETION.—To facilitate prompt implementation of catastrophic event recovery projects on Federal land damaged by a catastrophic event when a catastrophic event recovery evaluation is undertaken under subsection (a), whether because the evaluation is required under paragraph (1) of such subsection or because the Secretary concerned makes a decision to conduct an evaluation under paragraph (2) of such subsection, the Secretary concerned shall complete the catastrophic event recovery evaluation for the damaged Federal land not later than 30 days after the date on which Secretary commenced the catastrophic event recovery evaluation.

(2) EXTENSION.—The Secretary concerned may extend the completion date for a catastrophic event recovery evaluation, on a case-by-case basis, when the Secretary concerned determines that additional time is necessary to evaluate a complex catastrophic event, an on-going catastrophic event, or a series of catastrophic events. Only a single extension may be provided for any catastrophic event recovery evaluation, and the extension shall not be longer than 60 days after the date on which the evaluation was otherwise required to be completed under paragraph (1).

(d) ELEMENTS OF CATASTROPHIC EVENT EVALUATION.—In conducting the catastrophic event recovery evaluation for an area of Federal land damaged by a catastrophic event, the Secretary concerned shall prepare the following:

(1) A description of catastrophic event conditions on the damaged Federal land, recovery needs and opportunities, and the areas where management intervention would be helpful to achieve the catastrophic event recovery of the damaged Federal land.

(2) A preliminary determination of any catastrophic event research projects that best fit the circumstances of the particular catastrophic event environment or would enhance scientific understanding relevant to the damaged area.

(3) A catastrophic event recovery proposal containing possible catastrophic event recovery projects and catastrophic event research projects for the damaged area and describing the anticipated size and scope of these projects.

(4) One or more maps detailing the area of damaged Federal land and the location of catastrophic event recovery proposals.

(5) A preliminary estimate of the funding that would be needed to complete the catastrophic event recovery projects and catastrophic event research projects contained in the catastrophic event recovery proposal.

(6) A preliminary estimate of the receipts, including receipts from biomass and other forest products, to be derived from the catastrophic event recovery projects and catastrophic event research projects contained in the catastrophic event recovery proposal, and, to the maximum extent practicable, an estimate of revenues likely to be lost if action is not taken in a timely manner.

(7) A preliminary schedule showing the timing of possible catastrophic event recovery projects and catastrophic event research projects by fiscal year, assuming funding is available to undertake the projects.

(e) USE OF PRE-APPROVED MANAGEMENT PRACTICES OR EMERGENCY PROCEDURES.—

(1) DETERMINATION.—In addition to complying with the requirements specified in subsection (d) for each catastrophic event recovery evaluation, the Secretary concerned shall make a determination of—

(A) whether or not any pre-approved management practices should be immediately implemented under section 104 to facilitate the catastrophic event recovery of the area covered by the catastrophic event recovery evaluation; and

(B) whether or not any catastrophic event recovery project or catastrophic event research project, or portion of such a project, contained in the catastrophic event recovery proposal should be developed and carried out using the emergency procedures authorized by section 105.

(2) FACTORS.—In making any determination under paragraph (1)(B) to develop and carry out a catastrophic event recovery project or catastrophic event research project, or portion of such a project, using emergency procedures under section 105, the Secretary concerned shall consider at a minimum the following:

(A) The necessity of promptly responding to the catastrophic event on the damaged Federal land.

(B) The recovery needs and opportunities identified under subsection (d)(1) with respect to the damaged Federal land.

(C) The lack of pre-approved management practices authorized by section 104 applicable to the damaged Federal land.

(D) The threat to public health and safety.

(E) The likelihood of substantial loss of adjacent private and public property or other substantial economic losses.

(3) CEQ NOTIFICATION.—The Secretary concerned shall make the determination under paragraph (1) after notification of the Council on Environmental Quality, but the determination remains in the sole discretion of the Secretary.

(f) INTERDISCIPLINARY APPROACH.—To conduct the catastrophic event recovery evaluation of an area of Federal land damaged by a catastrophic event, the Secretary concerned shall use a systematic, interdisciplinary approach that insures the integrated use of appropriate natural and social sciences.

(g) COORDINATION WITH OTHER ACTIVITIES.—

(1) RELATED ASSESSMENT OF NON-FEDERAL LAND.—The Secretary concerned may combine the preparation of a catastrophic event recovery evaluation of Federal land with the preparation of a landscape assessment for non-Federal land in the vicinity of the damaged Federal land prepared under subtitle B of title II or subsection (c) of section 10A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2106c), as added by section 201.

(2) RELATED COMMUNITY WILDFIRE PROTECTION PLANS.—During preparation of a catastrophic event recovery evaluation for an area of Federal land damaged by a catastrophic event involving wildfire, the Secretary concerned shall consider post-fire management recommendations, if any, contained in any community wildfire protection plan addressing the damaged Federal land.

(h) PUBLIC COLLABORATION.—To encourage meaningful participation during the preparation of catastrophic event recovery projects, the Secretary concerned shall facilitate collaboration among State and local governments, Indian tribes, land-grant colleges and universities, and interested persons during the preparation of catastrophic event recovery evaluations and catastrophic event recovery proposals.

(i) PUBLIC NOTICE.—

(1) NOTICE OF EVALUATION.—The Secretary concerned shall provide public notice of each catastrophic event recovery evaluation, including the catastrophic event recovery proposal prepared as part of the evaluation. The notice shall be provided in a form determined to be appropriate by the Secretary concerned.

(2) NOTICE OF PUBLIC MEETINGS.—The Secretary concerned shall provide notice of public meetings conducted in connection with a catastrophic event recovery evaluation and the availability of preliminary analyses or documents prepared as part of the evaluation. The notice shall be provided at such times and in such a manner as the Secretary concerned considers appropriate.

SEC. 103. COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT.

(a) Compliance Required.—Except as provided in subsection (b), the Secretary concerned shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.), its implementing regulations, and other applicable laws in designing and conducting catastrophic event recovery projects and catastrophic event research projects.

(b) Satisfaction of NEPA Requirements.—The following activities are deemed to satisfy the requirements of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332 et seq.) and its implementing regulations:

(1) The preparation of the list of pre-approved management practices under section 104.

(2) The use of pre-approved management practices on the list in the manner provided in section 104.

(3) The use of emergency procedures in the manner provided in section 105.

SEC. 104. AVAILABILITY AND USE OF PRE-APPROVED MANAGEMENT PRACTICES.

(a) List of Available Pre-Approved Management Practices.—The Secretary concerned shall prepare a list of management practices, by forest type or plant association group, that may be immediately implemented as part of a catastrophic event recovery project or catastrophic event research project to facilitate the catastrophic event recovery of an area of Federal land damaged by a catastrophic event. The list of pre-approved management practices shall be prepared using notice and comment rule making under section 553 of title 5, United States Code.

(b) Peer Review.—Before a management practice may be included on the list of pre-approved management practices, the management practice shall be subject to peer review, including independent, third-party peer review, by scientific and land management experts. The results of the peer review shall be available to the public during the comment period.

(c) Revision or Amendment of List.—The Secretary concerned may amend or revise the list of pre-approved management practices as necessary whenever new scientific and managerial information becomes available. Subsections (a) and (b) shall apply to the amendment or revision process.

(d) Use for Certain Activities Prohibited.—

(1) Road construction.—A pre-approved management practice may not authorize any permanent road building. Any temporary road constructed as part of a pre-approved management practice shall be obliterated upon conclusion of the practice and the road area restored to the extent practicable.

(2) Timber harvesting.—Timber harvesting carried out as part of a pre-approved management practice shall be limited to trees—

(A) that are already down, dead, broken, or severely root sprung;

(B) regarding which mortality is highly probable within five years after the end of the catastrophic event; or

(C) that are required to be removed for worker or public safety.

(e) Compliance With Other Laws.—

(1) ESA consultation.—In the case of the proposed use of a pre-approved management practice included on the list prepared under subsection (a), the Secretary concerned may use the emergency procedures described in section 402.05 of title 50, Code of Federal Regulations, to comply with section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536). At the conclusion of the consultation, the statement required by subsection (b)(4) of such section shall be issued for any incidental taking that may occur while using the pre-approved management practice, which shall be effective beginning on the date the Secretary concerned initiates the practice and shall apply to all persons assisting or cooperating with the Secretary in using the practice.

(2) Other required consultation.—Any consultation required under other laws, such as the National Historic Preservation Act (16 U.S.C. 470 et seq.), may proceed simultaneously with the implementation of a pre-approved management practice. Results of consultation shall be immediately incorporated into the practice, to the extent feasible, practical, and consistent with the response, recovery, and rehabilitation objectives of the project.

(3) Federal water pollution control act compliance.—Compliance with any applicable requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) may proceed simultaneously with the implementation of a pre-approved management practice.

(f) Issuance of Decision Document.—Not later than 30 days after the date on which the Secretary concerned makes the determination under section 102(e) to use a pre-approved management practice to facilitate the catastrophic event recovery of an area of Federal land damaged by a catastrophic event, the Secretary concerned shall issue a concise decision document that contains the following:

(1) A description of the pre-approved management practice to be implemented.

(2) The rationale for the agency decision.

(3) An economic analysis and justification.

(4) An analysis of the environmental effects of the pre-approved management practice and how such effects will be minimized or mitigated consistent with the applicable land and resource management plan. As part of this analysis, the Secretary concerned shall consider, to the extent the Secretary concerned determines appropriate, forest type or plant association group, standing- and down-dead wood, watershed, water quality, wildlife habitat, and soils applicable to the damaged Federal land.

(g) Immediate Implementation.—The Secretary concerned shall implement a pre-approved management practice immediately after the issuance of the decision document under subsection (f), subject only to the availability of funds for the practice.

(h) Monitoring.—To monitor the implementation of a pre-approved management practice, the Secretary concerned may establish a third-party monitoring group, as determined to be appropriate by the Secretary.

SEC. 105. AVAILABILITY AND USE OF EMERGENCY PROCEDURES.

(a) Limited Consideration of Alternatives.—If the Secretary concerned determines under section 102(e) to utilize emergency procedures to conduct a catastrophic event recovery project or catastrophic event research project, or portion of such a project, the Secretary concerned is not required to study, develop, or describe more than the proposed agency action and the alternative of no action in designing that project or the portion of the project for which the emergency procedures are utilized.

(b) Use for Certain Activities Prohibited.—

(1) Road construction.—Emergency procedures under this section may not be used to design or conduct a catastrophic event recovery project or catastrophic event research project, or portion of such a project, that provides for any permanent road building. Any temporary road constructed as part of the project shall be obliterated upon completion of the project and the road area restored to the extent practicable.

(2) Timber harvesting.—Timber harvesting carried out as part of a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which emergency procedures under this section were used shall be limited to trees—

(A) that are already down, dead, broken, or severely root sprung;

(B) regarding which mortality is highly probable within five years after the end of the catastrophic event; or

(C) that are required to be removed for worker or public safety.

(c) Compliance With Other Laws.—

(1) ESA consultation.—In the case of a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which emergency procedures under this section are used, the Secretary concerned may use the procedures described in section 402.05 of title 50, Code of Federal Regulations, to comply with section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536). At the conclusion of the consultation, the statement required by subsection (b)(4) of such section shall be issued for any incidental taking that may occur under the project, which shall be effective beginning on the date the Secretary concerned initiates action under the project and shall apply to all persons assisting or cooperating with the Secretary under the project.

(2) Other required consultation.—Any consultation required under other laws, such as the National Historic Preservation Act (16 U.S.C. 470 et seq.), may proceed simultaneously with the design of a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which emergency procedures under this section are used. Results of consultation shall be immediately incorporated into the project, to the extent feasible, practical, and consistent with the response, recovery, and rehabilitation objectives of the project.

(3) Federal water pollution control act compliance.—Compliance with any applicable requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) may proceed simultaneously with the design of a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which emergency procedures under this section are used.

(d) Completion of Emergency Procedures and Issuance of Decision Document.—Not later than 90 days after the date on which the Secretary concerned makes the determination under section 102(e) to develop and carry out a catastrophic event recovery project or catastrophic event research project, or portion of such a project, using emergency procedures, the Secretary concerned shall—

(1) complete the emergency procedures for that catastrophic event recovery project or catastrophic event research project, or portion thereof, under this section; and

(2) issue a concise decision document that contains the following:

(A) The rationale for the agency decision.

(B) An economic analysis and justification.

(C) An analysis of the environmental effects of the project and how such effects will be minimized or mitigated consistent with the applicable land and resource management plan. As part of this analysis, the Secretary concerned shall consider, to the extent the Secretary concerned determines appropriate, forest type or plant association group, standing- and down-dead wood, watershed, water quality, wildlife habitat, and soils applicable to the damaged Federal land.

(e) Immediate Implementation.—In the case of a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which the emergency procedures authorized by this section are used, the Secretary concerned shall implement the project, or portion of the project, immediately after the issuance of the decision document under subsection (d), subject only to the availability of funds for the project.

(f) Monitoring.—To monitor a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which the emergency procedures authorized by this section were used, the Secretary concerned may establish a third-party monitoring group, as determined to be appropriate by the Secretary.

SEC. 106. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) Administrative Review Generally.—Except as provided in subsection (b), nothing in this title affects—

(1) the notice, comment, and appeal requirements of section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public 102–381; 16 U.S.C. 1612 note); and

(2) section 215 of title 36, Code of Federal Regulations.

(b) Predecisional Administrative Notice, Comment, and Review.—

(1) Interim final regulations.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate interim final regulations to establish a predecisional administrative review process that will serve as the sole means by which—

(A) the Secretary of Agriculture will provide notice of and solicit comments regarding—

(i) the proposed use of a pre-approved management practice under section 104 on National Forest System land; and

(ii) a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which the emergency procedures under section 105 are used on National Forest System land; and

(B) a person can seek administrative review regarding—

(i) the proposed use of a pre-approved management practice under section 104 on National Forest System land; and

(ii) a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which the emergency procedures under section 105 are used on National Forest System land.

(2) Period covered by review process.—The review portion of the predecisional administrative review process described in paragraph (1)(B) shall occur during the period—

(A) beginning on the date on which the Secretary of Agriculture makes a determination to use pre-approved management practices or emergency procedures under section 102(e); and

(B) ending not later than the date of the issuance of applicable decision document under section 104 or 105.

(3) Effective date.—The interim final regulations promulgated under paragraph (1) shall take effect on the date of promulgation of the regulations.

(4) Final regulations.—The Secretary of Agriculture shall promulgate final regulations to establish the predecisional administrative review process described in paragraph (1) as soon as practicable after the interim final regulations have been promulgated and a reasonable period of time has been provided for public comment.

(c) Judicial Review.—Section 106 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6516) shall apply with respect to the implementation of a pre-approved management practice under section 104 or a catastrophic event recovery project or catastrophic event research project regarding which the applicable administrative review process has been exhausted. In any proceeding for judicial review of agency action under this subsection, attorney fees awarded to a prevailing party may not exceed the hourly rates established in section 3006A of title 18, United States Code.

SEC. 107. GUIDANCE REGARDING REFORESTATION IN RESPONSE TO CATASTROPHIC EVENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary concerned shall—

(1) standardize the collection, reporting, and review procedures for data regarding more aggressive, expedited, and comprehensive reforestation in response to catastrophic events by clarifying agency-wide guidance and developing standard protocols for determining when and how reforestation can be best achieved as part of the response to catastrophic events;

(2) clarify agency-wide guidance regarding reforestation in response to catastrophic events to ensure that such guidance is consistent with agency goals and budget constraints; and

(3) clarify agency-wide guidance regarding the development, during the revision of a land and resource management plan, of goals and objectives for catastrophic event recovery to ensure that such guidance addresses catastrophic event recovery objectives, by forest type or plant association group, related to standing- and down-dead wood, soil and watershed protection, wildlife habitat, and other resource values.

SEC. 108. EFFECT OF TITLE.

(a) Use of Other Authorities.—Nothing in this title affects the use by the Secretary concerned of other statutory or administrative authority, including categorical exclusions adopted to implement the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), to conduct a catastrophic event recovery project or catastrophic event research project, or portion of such a project, that is not conducted using the emergency procedures authorized by section 105.

(b) Preference for Local Operators.—In the manner provided in section 420 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109–54; 119 Stat. 553), the Secretary concerned may give consideration to local contractors in awarding a Federal contract to implement—

(1) a pre-approved management practice under section 104; or

(2) a catastrophic event recovery project or catastrophic event research project, or portions of such a project, for which the emergency procedures under section 105 are used.

(c) Advisory Committees.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to—

(1) the peer review provided by scientific and land management experts under section 101(b) or 104(b);

(2) the monitoring process under section 104(h) or 105(f); and

(3) the preparation of a catastrophic event recovery evaluation or catastrophic event recovery proposal.

SEC. 109. STANDARDS FOR TREE RETENTION.

(a) Standing Dead Trees and Downed Wood.—In planning or conducting any catastrophic event recovery project or catastrophic event research project, the Secretary concerned shall ensure that—

(1) standing dead tree and downed wood retention guidelines contained in the applicable land and resource management plan are applied; or

(2) if the applicable land and resource management plan does not contain standing dead tree and downed wood retention guidelines, adequate standing dead trees and downed wood of the oldest age class are retained in the project area—

(A) to provide habitat for associated species through various stages of forest development;

(B) to provide a long-term nutrient source; and

(C) to retain, to the extent practicable and appropriate for forest type and plant association group, the more decay-resistant species.

(b) Exception.—Subsection (a) shall not apply if the Secretary concerned determines that science from land-grant colleges and universities or a Forest Service Research Station provides more appropriate standing dead tree and downed wood retention guidelines for a particular catastrophic event recovery project or catastrophic event research project.

(c) Plan Amendment.—The Secretary concerned may amend a land and resource management plan to incorporate standing dead tree and downed wood retention guidelines, specific to forest type or plant association group.

TITLE II—RESTORING LANDSCAPES AND COMMUNITIES IMPACTED BY CATASTROPHIC EVENTS

Subtitle A—Cooperative Forestry Assistance Act of 1978

SEC. 201. ASSISTANCE UNDER COOPERATIVE FORESTRY ASSISTANCE ACT OF 1978 TO RESTORE LANDSCAPES AND COMMUNITIES AFFECTED BY CATASTROPHIC EVENTS.

(a) Assistance Authorized.—Section 10A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2106c) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Response to Catastrophic Events Affecting Non-Federal Lands.—

"(1) Landscape assessments.—At the request of an eligible entity, the Secretary may cooperate with the eligible entity in the preparation of a landscape assessment for non-Federal lands affected by a catastrophic event. The Secretary may combine the preparation of a landscape assessment with the preparation of a catastrophic event recovery evaluation under title I of the Forest Emergency Recovery and Research Act regarding Federal land in the vicinity of the damaged non-Federal land.

"(2) Community assessments.—At the request of an eligible entity affected by a catastrophic event, the Secretary may cooperate with the eligible entity in the preparation of a community wildfire protection plan or related plan.

"(3) DECISION TO PROVIDE ASSESSMENT ASSISTANCE.—In response to the request of an eligible entity for assistance under paragraph (1) or (2), the Secretary shall make a decision, within 30 days after receiving the request, whether or not to provide such assistance. The decision rests in the sole discretion of the Secretary, but, if the Secretary rejects the request for assistance, the Secretary shall provide the eligible entity with an explanation of the reasons for the rejection.

"(4) TYPES OF ASSISTANCE.—The Secretary concerned may provide technical and financial cost-share assistance to an eligible entity—

"(A) to assist in the preparation of a landscape assessment under paragraph (1) or a community wildfire protection plan, community assessment, or community action plan under paragraph (2); and

"(B) to implement special recovery projects identified in the landscape assessment or community wildfire protection plan, community assessment, or community action plan.

"(5) SPECIAL RECOVERY PROJECTS.—Special recovery projects supported under paragraph (4)(B) may include projects involving—

"(A) revegetation, tree planting, and other management practices the Secretary determines to be appropriate;

"(B) developing products from and markets for timber harvested in response to a catastrophic event and remaining forest resources;

"(C) training for the local populace for work in connection with catastrophic event recovery;

"(D) repair of forest roads, bridges, and trails and water supply areas affected by a catastrophic event; and

"(E) such other activities as the Secretary determines to be necessary to undertake the special recovery project.

"(6) ADDITIONAL FUNDING SOURCES.—Amounts appropriated to the Secretary to carry out sections 8 and 10 may be used to provide assistance under this subsection.

"(7) DEFINITIONS.—In this subsection:

"(A) The term 'eligible entity' means a State Forester or equivalent State official, an Indian tribe, or local government. The term may include community-based organizations and other persons working in conjunction with a State Forester or equivalent State official, an Indian tribe, or local government.

"(B) The terms 'catastrophic event', 'landscape assessment', and 'special recovery project' have the meanings given those terms in section 3 of the Forest Emergency Recovery and Research Act.

"(C) The term 'community wildfire protection plan' has the meaning given that term in section 101(3) of the Healthy Forest Restoration Act of 2003 (16 U.S.C. 6511(3)).".

(b) CLERICAL AMENDMENT.—The heading of such section is amended by inserting before the period at the end the following: "**AND RESPONSE TO CATASTROPHIC EVENTS**".

Subtitle B—Department of the Interior Assistance

SEC. 211. RESTORING LANDSCAPES.

(a) LANDSCAPE ASSESSMENTS.—At the request of an eligible entity, the Secretary of the Interior may cooperate with the eligible entity in the preparation of a landscape assessment for non-Federal lands affected by a catastrophic event. The Secretary may combine the preparation of a landscape assessment with the preparation of a catastrophic event recovery evaluation under title I regarding Federal land in the vicinity of the damaged non-Federal land.

(b) DECISION TO PROVIDE ASSESSMENT ASSISTANCE.—In response to the request of an eligible entity for assistance under subsection (a), the Secretary of the Interior shall make a decision, within 30 days after receiving the request, whether or not to provide such assistance. The decision rests in the sole discretion of the Secretary, but, if the Secretary rejects the request for assistance, the Secretary shall provide the eligible entity with an explanation of the reasons for the rejection.

(c) TYPES OF ASSISTANCE.—The Secretary of the Interior may provide technical and financial cost-share assistance to an eligible entity—

(1) to assist in the preparation of a landscape assessment; and

(2) to implement special recovery projects identified in the landscape assessment.

(d) SPECIAL RECOVERY PROJECTS.—The Secretary of the Interior may provide assistance under subsection (c)(2) for special recovery projects, including revegetation, tree planting, and other practices the Secretary determines to be appropriate.

SEC. 212. RESTORING COMMUNITIES.

(a) COMMUNITY ASSESSMENTS.—At the request of an eligible entity affected by a catastrophic event, the Secretary of the Interior may cooperate with the eligible entity in the preparation of a community wildfire protection plan or related plan.

(b) DECISION TO PROVIDE ASSESSMENT ASSISTANCE.—In response to the request of an eligible entity for assistance under subsection (a), the Secretary of the Interior shall make a decision, within 30 days after receiving the request, whether or not to provide such assistance. The decision rests in the sole discretion of the Secretary, but, if the Secretary rejects the request for assistance, the Secretary shall provide the eligible entity with an explanation of the reasons for the rejection.

(c) TYPES OF ASSISTANCE.—The Secretary of the Interior may provide technical and financial cost-share assistance to an eligible entity—

(1) to assist in the preparation of development of a community wildfire protection plan, a community assessment, or a community action plan; and

(2) to implement special recovery projects identified in a community wildfire protection plan, a community assessment, or a community action plan.

(d) SPECIAL RECOVERY PROJECTS.—Special recovery projects supported under subsection (c)(2) may include projects involving—

(1) developing products from and markets for timber harvested in response to a catastrophic event and remaining forest resources;

(2) training for the local populace for work in connection with catastrophic event recovery;

(3) repair of forest roads, bridges, and trails and water supply areas affected by a catastrophic event; and

(4) such other activities as the Secretary determines to be necessary to undertake the special recovery project.

TITLE III—EXPERIMENTAL FORESTS

SEC. 301. FINDINGS.

Congress finds the following:

(1) The experimental forests established pursuant to section 4 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1643) or the organic administrative authorities of the Secretary of Agriculture (16 U.S.C. 551) serve as a natural laboratory for the Forest Service to evaluate management practices generally and specific responses to catastrophic events that can be eventually used throughout the National Forest System.

(2) To build upon the knowledge base to be developed using catastrophic events research projects conducted under title I, the Secretary of Agriculture should be authorized to use the same authorities provided under sections 104 and 105 to design and carry out projects in the experimental forests.

SEC. 302. AVAILABILITY AND USE OF PRE-APPROVED MANAGEMENT PRACTICES ON NATIONAL FOREST EXPERIMENTAL FORESTS.

Management practices included on the list of pre-approved management practices prepared under subsection (a) of section 104 may be implemented, in the manner provided by such section, in an experimental forest established pursuant to section 4 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1643) or the organic administrative authorities of the Secretary of Agriculture (16 U.S.C. 551).

SEC. 303. LIMITED CONSIDERATION OF ALTERNATIVES FOR PROJECTS ON NATIONAL FOREST EXPERIMENTAL FORESTS.

Section 105(a) shall apply with respect to any individual activity or a series of activities proposed to be undertaken in an experimental forest established pursuant to section 4 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1643) or the organic administrative authorities of the Secretary of Agriculture (16 U.S.C. 551).

TITLE IV—GENERAL PROVISIONS

SEC. 401. REGULATIONS.

Except as provided in section 106(b), the Secretary concerned is not required to promulgate regulations to implement this Act.

SEC. 402. DEDICATED SOURCE OF FUNDS FOR RESEARCH AND MONITORING.

(a) SPECIAL ACCOUNT.—The Secretary of the Treasury shall establish a special account in the Treasury for each Secretary concerned.

(b) DEPOSITS.—Ten percent of the gross proceeds derived by the Secretary concerned from catastrophic event recovery projects and catastrophic event research projects conducted by the Secretary concerned under title I shall—

(1) be deposited in the special account established for that Secretary; and

(2) remain available, without further appropriation and until expended, for expenditure as provided in subsection (c).

(c) RESEARCH-RELATED USE OF SPECIAL ACCOUNTS.—The Secretary concerned shall use amounts in the special account established for that Secretary—

(1) to develop research protocols under section 101;

(2) to prepare and implement catastrophic event research projects; and

(3) to provide for monitoring under sections 104 and 105.

(d) RELATION TO OTHER FUNDS.—Amounts in the special account established for the Secretary concerned are in addition to other amounts available to that Secretary for the purposes described in subsection (c).

SEC. 403. OTHER FUNDING SOURCES.

(a) AVAILABILITY OF KNUTSON-VANDENBERG FUNDS.—Section 3 of the Act of June 9, 1930 (commonly known as the Knutson-Vandenberg Act; 16 U.S.C. 576b), is amended—

(1) by striking "Such deposits shall be covered" and inserting the following:

"(b) Amounts deposited under subsection (a) shall be covered";

(2) by inserting after "national park." the following new sentence: "The Secretary of Agriculture may also use excess amounts to cover the costs of activities of the Secretary under title I of the Forest Emergency Recovery and Research Act."; and

(3) in subsection (c)—

(A) in paragraph (1), by striking "and";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) the excess amounts will not be needed for activities of the Secretary under title I of the Forest Emergency Recovery and Research Act during the fiscal year in which the transfer would be made; and".

(b) AVAILABILITY OF FOREST SERVICE SALVAGE SALE FUNDS.—Section 14(h) of the National Forest Management Act of 1976 (16 U.S.C. 472a(h)) is amended—

(1) in the fourth sentence, by inserting after "the purposes for which deposited" the following: "and to cover the costs of activities of the Secretary under title I of the Forest Emergency Recovery and Research Act"; and

(2) in last proviso, by striking "for which deposited on any national forest" and inserting "for which deposits of money are available under this subsection".

(c) AVAILABILITY OF BLM REVOLVING FUND DERIVED FROM DISPOSAL OF SALVAGE TIMBER.—The first paragraph under the headings "FOREST ECOSYSTEMS HEALTH AND RECOVERY" and "REVOLVING FUND, SPECIAL ACCOUNT" in title I of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102–381; 106 Stat. 1376; 43 U.S.C. 1736a), is amended by adding at the end the following new sentence: "The money in this fund shall likewise be immediately available to cover the costs of activities of the Bureau of Land Management under title I of the Forest Emergency Recovery and Research Act.".

SEC. 404. EFFECT OF DECLARATION OF MAJOR DISASTER OR EMERGENCY.

(a) AVAILABILITY OF FUNDS.—If an area of non-Federal land damaged by a catastrophic event is also covered by a declaration by the President under section 401 or 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170, 5191) that a major disaster or emergency exists, the Director of Federal Emergency Management Agency may use funds available for activities under that Act to reimburse the Secretary concerned for assistance in that area provided under—

(1) subtitle B of title II; or

(2) subsection (c) of section 10A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2106c), as added by section 201.

(b) LIMITATION.—Reimbursements under subsection (a) shall be limited to those activities authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122 et seq.) for which assistance under paragraph (1) or (2) of such subsection is provided.

SENATE—*Friday, May 12, 2006*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Sovereign God, whom to know is life eternal, speak Your transforming words to us. Speak words of encouragement to lift us from pessimism. Speak words of strength to prepare us for temptation. Speak words of warning to keep us from evil. Speak words of comfort to heal our hurts. Speak words of guidance to lead us on the right path.

Speak words of power to our Senators today to equip them to meet challenges and to lift burdens. Remove from us everything that prevents us from hearing Your voice.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will be in a period of morning business in order for Senators to make statements. Yesterday we completed our work on the Tax Relief Act with a vote of 54 to 44. We had a good debate—a great debate—on the importance of this extended tax relief, this progrowth policy put forth by the President and supported by this body yesterday. We had a lot of Senators participate on both sides of that important debate of the direction of the country to continue this strong economic growth with the creation of over 5.3 million jobs in the last 30 or so months. I congratulate Chairman GRASSLEY for his tremendous work in helping bring that tax relief package to the floor which will ensure continued economic growth and job creation.

Yesterday, unfortunately, we missed an opportunity to assist small businesses across this Nation. We all know it is in those small businesses that we find the engine of economic growth and the creation of new jobs. We had an opportunity to assist them with lowering their health care costs by allowing them to group together, to band together to capture marketing clout, which would lower prices for health care for their employees. We were unsuccessful in that particular effort, although it is one that will come back again and again because the cost of health care is skyrocketing and is getting increasingly out of the reach of everyday working Americans.

I wish to thank Chairman ENZI, who has worked tirelessly on this bipartisan bill which would attempt to do just that and would have accomplished that if we had been able to pass it yesterday. Chairman ENZI has done a tremendous job in pulling people together and in educating people broadly on it. I thank him for his work.

As we stated yesterday, we will return on Monday to a very important bill, the importance of which is captured by the passion expressed across the country, whether it is on television or in newspapers, on talk shows or on the streets or at the workplace, and that is the immigration debate. As we all know, we need to tighten our borders and we need to focus on our borders. But we also need to approach the issue in a comprehensive way because we are a magnet attracting people across that border, and then people are hiring them illegally, so many employers are breaking the law. We need to tighten up there and address the temporary worker program, as well as the people who have come here illegally in the past.

As we talked about yesterday morning, we will have a robust debate, an open debate, and Senators will have ample opportunity to offer their amendments. But as the Democratic leader and I said on the floor 24 hours ago, it is important for people to bring their amendments right now to the leadership in language so we can start the process and so that process, with debate and amendment, is not pushed off for a few days but literally starts on Monday. We should consider several amendments on Monday and then begin voting on those on Tuesday. So I do encourage our colleagues to come forward.

On Tuesday morning, we have locked in a vote on a circuit court nomination that will begin around 10 o'clock in the morning, and I expect we will have votes on the immigration bill shortly thereafter. It is my hope that we will have votes over the course of Tuesday and, indeed, on each day next week. We may be working into the evenings because we will finish this bill prior to the Memorial Day recess.

With that, Mr. President, over the course of the day, I expect there will be a number of Senators coming down to make statements, reflecting on what has occurred over the past week and celebrating the great victory for the American people in the bill that passed yesterday in terms of tax relief. The passage of that bill yesterday will affect about 7 million people who report on capital gains each year, about 20 million people who report on dividends each year, and another 7 million, almost 8 million people who would otherwise see their taxes go up because of the alternative minimum tax.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MARTINEZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TRADE WITH CUBA

Mr. MARTINEZ. Mr. President, yesterday, I introduced a measure which is a companion to one introduced in the House of Representatives by Congresswoman ROS-LEHTINEN relating to the business of trade with Cuba. This morning, I wanted to speak a little on the issue of my bill as well as on the overall need for us to file this bill.

Many years ago, perhaps too long for some in this Chamber to remember, as a result of hostile acts by the state of Cuba, under the government of Fidel Castro, who today continues to terrorize his people and to be a very negative influence on the world and is one of the longest reigning dictatorships in the history of the world—certainly the modern history of the world—because of hostile acts by the Cuban Government against the United States and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

against the interests of the United States in Cuba, the Government of the United States felt it necessary to begin trade sanctions against the Cuban Government. These trade sanctions were designed as retaliation for the actions of the Cuban Government.

Those actions included, among other hostile actions, the expropriation without adequate compensation of properties of citizens of the United States on the island of Cuba. They included the property of oil companies such as Texaco and Standard Oil and other interests of the United States that had large refineries in Cuba, that had oil exploration interests, and that also had, of course, retail outlets on the island.

As a result of Cuba's action, the United States imposed the sanctions. The sanctions were designed to help the Cuban Government understand that it had to live by international law and by international standards, which were to pay just compensation, fair compensation, for the expropriated properties. Unfortunately, the Cuban Government chose not to do so, and to this day these claims of the nationals of the United States for the unfair, unlawful, and uncompensated expropriation by the Cuban Government continues unsettled. The Cuban Government has never taken steps to recognize allegations under international law or obligations under international law or obligations to a neighbor with whom it purports to want better and improved relations.

So the United States began a policy of an embargo or trade sanctions against Cuba. It really wasn't an embargo, it was simply: We will not trade with Cuba. The Government of the United States will not trade with Cuba. That has been in effect even until today. It was done by Executive order for many years, but then many years ago, with the Helms-Burton Act, it was codified into legislation. It became part of the law of the land as a result of congressional action.

That legislation also provided a path by which these sanctions could be ended. It provided a path by which more normal trade and other relations could be had, and they had to do with the issue of something simple, something this President has so eloquently spoken about: democracy, rule of law, elections—a quaint thought, that the people of a country ought to elect their leader. The thought that the people of a country would have an opportunity on a given day in life to go to a booth and in private exercise that universal right to vote, to say whom they want their leader to be—Cuba doesn't permit that.

There might be a free press. Wouldn't that be a nice thing? People could speak their mind. Folks would have an opportunity to go into a public square and debate the issues of the day. Cubans are denied that. That is no longer an opportunity and continues not to be so.

In addition to those problems, the actions of the Cuban Government over its history have been anything but benign. They have been quite hostile to the interests of the United States.

This is to not go into all of the details of the actions of the Cuban Government toward its own people—human rights and its denial of the most basic human rights—but as we look to other issues such as the issues of actions in the world, Cuba has tried to export revolution, to foment and foster revolutions throughout the world. They were very active in Africa as a surrogate for the Soviet Union in Angola, working hostile to the interests of the United States. In addition to that, they proceeded to encourage and foster wars in Central America which caused countless thousands of deaths in the 1980s.

Thanks to the determined and decided action of the United States, it was possible for these countries to live in peace and for these countries to have Democratic and normal elections.

Fast forwarding to now, even as recently as a few days ago, the U.S. State Department continues to have Cuba on the list of States that are sponsors of terrorism. There are probably 180-some nation states in the United Nations. Of those, there are only a half dozen that are on the list of terrorist states around the world. Cuba is one of them.

In addition to that, Cuba now is part of an axis, an axis that works in partnership with Hugo Chavez, the somewhat democratically elected President of Venezuela but someone who increasingly governs as an autocrat. This is someone who, in partnership with Fidel Castro, has encouraged and helped Evo Morales to be elected as President of Bolivia. What have these countries under the tutelage of Castro done? Morales, in the past few days, has shown or expressed his intentions to nationalize the gas industry, to nationalize the natural resources of his country, beginning with gas. Yet in Europe he made some very clear statements that he believed that for 500 years Europeans have pillaged his country and that all natural resources ought to belong to the people of Bolivia, and therefore more expropriations are sure to come of the natural resources as defined by Mr. Morales, President Morales, and they include natural gas, and he will move on to others.

Yesterday as well, or the day before, the Congress in Venezuela said that they also believe they should be nationalizing all the natural resources of Venezuela. This includes, of course, the investment that the U.S. oil companies have had in Venezuela for a number of years.

So what is the suggestion and answer that some would have to our dependence on foreign sources of oil, to our dependence on unstable foreign governments, to our dependence on foreign governments that are hostile to the United States? To enter into business with the country of Cuba in order to partner with them in oil exploration, a little less than 50 miles off the shores of Florida. Why is this not a good idea? Simply for the fact that to enter into a partnership with a government that does not observe the rule of law, to enter into a partnership and encourage American companies to invest in a country where we have very strained, if any, diplomatic relations, is not only not a good idea—to enter into a partnership for oil exploration with a country that has in the past expropriated American oil companies' properties in Cuba would be only to repeat a cycle of mistakes made in the past. It would be only to come back into the fold of a dictator who does not observe or understand the rule of law. To go into a business in a country that does not have a judicial system that is independent, to go into business with a country that does not recognize the fact that foreign investors have a right to their property when they purchase it, who will not honor the rule of law, will not honor private property rights? With this kind of country, it is suggested we go into a partnership in order for us to have sufficient energy, in order for us to be independent in our resources.

These efforts are sadly misguided. What we must do is do things such as explore for oil—and I know the Presiding Officer, our President pro tempore, so passionately cares about this—in the ANWR, an area that is totally under the control of the United States, that is part of the United States. We can also drill in the Gulf of Mexico, an area that is so sensitive to Floridians and where we have acquiesced to drilling in 2 to 3 million acres of the gulf.

To conclude, I suggest the bill we have filed, which tries to reenact and speak to the Cuban embargo that has been in place for many years, with good reason. That embargo would be stringently enforced with those who seek to invest in partnership with this illegitimate government, a government that continues to be a threat to its neighbors, continues to be a hostile government to the United States.

In September of this year, the President of Iran, Mahmud Ahmadi-Nejad, is going to be visiting Castro in Cuba. This is a return visit for one that Fidel Castro paid to Iran a year or so ago. At that time, Castro said to the people in Iran: Working together and in partnership we will bring the United States to its knees. It is with this government that some would suggest we should enter into a partnership in order to solve our energy woes. I would say those efforts are misguided, and I look forward to further debate on my proposal which seeks to reassert the long-held position of the United States that trade with Cuba today would not be in the best interests of this country.

The PRESIDING OFFICER (Mr. ISAKSON). The Senator from Hawaii is recognized.

S. 147, NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT OF 2005

Mr. AKAKA. Mr. President, I rise again to talk about legislation of critical importance to me and the people of Hawaii, S. 147, the Native Hawaiian Government Reorganization Act. As my colleagues are aware, we have been trying to schedule this bill for a debate and vote on the Senate floor. Unfortunately, the bill has been blocked by a handful of my colleagues who fail to understand the importance of this issue to the people of Hawaii.

S. 147 is a bipartisan bill. It is supported by members on both sides of the aisle. I want to thank my colleagues who have cosponsored this legislation: Senators CANTWELL, COLEMAN, DODD, DORGAN, GRAHAM, INOUYE, MURKOWSKI, SMITH and STEVENS. Your support for the people of Hawaii has not gone unnoticed.

I want to talk about what we did to draft this legislation. I want to explain the broad and inclusive process that we used. My colleagues should know that in drafting this legislation we consulted a broad array of individuals, both native and non-native.

In 1999, Hawaii's Congressional delegation formed the Task Force on Native Hawaiian Issues. The Task Force was composed of myself, the senior Senator from Hawaii, and our colleagues in the House of Representatives, Representative NEIL ABERCROMBIE and Patsy Mink. It was determined that I would serve as the head of the Task Force.

My colleagues need to understand that the issue of political status for Native Hawaiians is not a new issue. It has been a hot topic for many, many years and in fact has been a topic of contention since Hawaii became a State in 1959. Given its history, I wanted to tap into the experience of the many individuals who have addressed this issue and who would be impacted by Federal recognition for Native Hawaiians. I decided to establish five working groups: the Native Hawaiian Community working group, the State officials working group, the Federal officials working group, the Native American and Constitutional Scholars working group, and the Congressional members and caucuses working group. Overall, more than 100 individuals were involved in meeting and advising Hawaii's Congressional delegation on what should and should not be included in this legislation.

The Native Hawaiian Community working group's role was to advise us as to the views of the Native Hawaiian community. The membership of the working group was balanced to include a broad variety of individuals from different islands, professions and backgrounds.

The State officials working group was composed of State legislators as well as the heads of State agencies who would be directly impacted by a Native Hawaiian governing entity participating in a government-to-government relationship with the United States. This group advised us on the impact of such a policy on State programs and agencies.

The Federal officials working group was composed of Federal officials from agencies currently administering services and programs impacting Native Hawaiians. The role of this working group was to advise us of how best to extend the Federal policy of self-governance and self-determination to Hawaii's indigenous peoples.

The Native American and constitutional scholars working group was composed of a number of tribal leaders and key constitutional scholars in Indian law. We benefited from the advice provided by tribal leaders who were willing to share lessons learned and from constitutional scholars well-versed in Federal Indian law.

The Congressional members and caucus group was composed of our colleagues who sought to help us at the member level to move this legislation.

We held several public meetings in Hawaii with the members of the Native Hawaiian community working group and the State working group. Individuals who were not members of the working group, and many who opposed our efforts, were allowed to attend and participate in the meetings. Overall, we had over 100 individuals provide initial input to the drafting of the legislation.

The bill was first considered by the 106th Congress. Five days of hearings were held in Hawaii in August 2000. While the bill passed the House, the Senate failed to take action. The bill was subsequently considered by the 107th and 108th Congresses. In Each Congress, the bill has been favorably reported by the Senate Committee on Indian Affairs and its companion measure has been favorably reported by the House Committee on Resources.

Despite the many modifications to the legislation over the past 7 years, I have ensured that the process authorized in this bill has always retained the appropriate balance between the structure necessary to comply with Federal law and the flexibility necessary to ensure that Native Hawaiians can make the critical decisions necessary to form their governing entity.

I want all of my colleagues to know that when the Senate considers this bill, I will offer a substitute amendment. The substitute amendment has been widely distributed since September 2005 and is the result of successful negotiations between the executive branch officials and our Congressional delegation and Governor. I thank the chairman and vice chairman of the Senate Committee on Indian Affairs for helping to facilitate the negotiations process.

The substitute amendment satisfactorily addresses the concerns raised in a letter from the Department of Justice to the chairman of the Senate Committee on Indian Affairs. The letter addressed 4 concerns with the legislation: liability of the United States, civil and criminal jurisdiction, military readiness, and gaming. The legislative language in the substitute amendment has been cleared by the executive branch and addresses the practical concerns expressed in the July 13, 2005 letter.

I look forward to the debate on the substitute amendment.

My colleagues can see from the process that I have just outlined that this legislation is based on the collective thoughts of a wide array of individuals, native and non-native, from Hawaii and across the entire Nation. It is based on the contributions of individuals well-versed in the Federal policies dealing with indigenous peoples—by those who understand the legal and political relationship the United States has with its indigenous peoples. It is based on Federal law and is substantiated by the many judicial rulings on the political and legal relationship between the United States and its indigenous peoples. It reflects the respect that the people of Hawaii have for the preservation of the culture and traditions of Hawaii's indigenous peoples—the culture and traditions which form the basis of the spirit of Aloha—which all citizens of Hawaii are proud to demonstrate.

This bill is supported by Hawaii's Governor, Linda Lingle, the Hawaii State Legislature, Office of Hawaiian Affairs and Department of Hawaiian Home Lands. The National Congress of American Indians and the Alaska Federation of Natives have passed resolutions in support of this bill. The bill is also supported by a number of organizations, native and non-native, including the American Bar Association, Japanese American Citizens' League, Inter Tribal Council of Arizona, and the Hawaii State Teachers Association.

I want to express my sincerest appreciation to our majority and minority leaders for working with me and Hawaii's senior Senator on scheduling the Senate's consideration of S. 147, the Native Hawaiian Government Reorganization Act of 2005. It is my understanding that the motion to invoke cloture on the motion to proceed to S. 147 will be filed on June 6, 2006, with the vote on the motion to occur on June 8, 2006.

I look forward to this opportunity to finally discuss S. 147. As my colleagues have heard over the past week, this is an issue of importance to all of the people of Hawaii, and this is not a native versus non-native issue in Hawaii. Rather, this is about authorizing a process for the people of Hawaii to be able to address longstanding issues resulting from a tragic, poignant period in our history. This is about establishing parity for Hawaii's indigenous peoples in Federal policies. This is about clarifying the existing political and legal relationship between native Hawaiians and the United States.

Again, I express my deep appreciation to our majority and Democratic leaders, to the cosponsors of this legislation, and to the senator from Arizona for helping to work out this agreement. I want to express my deep appreciation to Hawaii's senior Senator who has stood firm with me as we have sought to do what is right for the people of Hawaii.

Passing this legislation will make it right.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION

Mr. SESSIONS. Mr. President, I want to share some thoughts about the immigration legislation that we will be dealing with next week. The bill before us is a massive piece of legislation—over 600 pages, as I recall, and deals with a number of extremely important issues. Little, if any, thought has been given, and certainly no debate and discussion or seeking of economic and scientific information to help us decide what our future immigration policies should be.

I have studied that legislation in some depth. I am a member of the Judiciary Committee, and have some fine lawyers on my staff. We have been digging into it, and have become more and more troubled as we studied what the legislation actually means and says. It does not do what it purports to do, which is to create a guest worker or temporary working policy for America. It has a number of other problems with it that I think deserve the most serious consideration.

Few, if any, issues that we face in this Senate have greater long-term consequences for our country than immigration. That is a fact.

Why are the American people so interested in this? Why have they expressed such concern about it? Because it is very important. We are responsible for them, and we have an obligation to them to think about this very carefully. Unfortunately, we have not done so. It is an idea that we have to do something. Yes, we need to do something. Let us all agree on that.

I have suggested that we should first proceed, as the House of Representatives did in a bipartisan, substantial majority vote decided, to deal with enforcement first, and establish some credibility with the American people that we can and will enforce whatever laws we have. To pass a new law and enforce it no better than the one that we have enforced in the past is no good.

That is the biggest frustration out there with anyone in our country who believes in law and order, policy and fairness and decency. You don't allow people to break in line ahead of others. How much more basic can it be than that? That is what we learned in elementary school. That is what we follow as adults in this country, but that is not what we are doing at the border.

We all know the system is broken. It has made a mockery of the law, and it is a terrible challenge for us, but one that we need to confront.

We decided in the Senate, and the President believes, we can't fix the law enforcement system first—we need to fix the entire scheme of immigration.

We have not had enough serious hearings on the fundamentals of what we are doing. I have asked for five hearings in the Senate on the Judiciary Committee on the economic and social implication of immigration. We were given one. It was a very valuable hearing but not enough, in my view. Certainly, I do not think the average Senator is fully engaged and aware of the serious concerns this legislation raises.

I will take a few minutes to go back over what I called in a speech a few weeks ago loopholes in the legislation. Some of that speech was based on the original Kennedy-McCain bill. I made that speech right after a compromise, the so-called Hagel-Martinez bill, hit the Senate. I will go back over these fundamental problems with the legislation. It indicates the weaknesses that exist today under the bill which will be in the Senate beginning next week.

As we go forward into the week, I will be discussing, and perhaps others will as well, deeper flaws in the legislation that deal with the fundamental guiding principles of this legislation: What should we be doing? How many people should be allowed into this country? What skill sets should they bring? How should those decisions be made? How can we create a system which is enforceable, which will work to allow the country to decide what is in its best interests with regard to those who come here?

They say we are not supposed to talk too much next week. We are just supposed to come to the floor, offer amendments and maybe ask for 30 minutes of debate. We can have 20 amendments, and we will talk for just 30 minutes on those amendments on each side. We have been told: Don't talk too much, Senator, because we have to move this bill and get it off our plate. They do not want to talk about it too much because people back home might find out what is actually in the bill. That is the honest truth. On both sides, Republican leadership and Democratic leadership want to move something through. But "something" is not good enough. We ought to do the right thing.

Now I will talk about some of the flaws that continue to exist in this bill. I begin with loophole No. 1, illegal aliens. People here illegally are going to be part of this mass amnesty. We have discussed amnesty and whether the provisions in this bill are amnesty. I have to say I spent 30 minutes in the Senate going back to the immigration laws passed in 1986, and everyone admitted 1986 was amnesty when they passed it. They promised they would enforce the law in the future. They got the amnesty, and they didn't enforce the law. In 1986, they said there would be 1.5 million people claiming amnesty, yet over 3 million people claimed amnesty. They claimed we would have lawful immigration in the future, and now we have 11 million people here illegally. Why should the American people not have some doubts about the promises of Congress and the President to carry out a legal system that will work?

Let me point out a few of the things we are dealing with. "Blacks Law Dictionary," which is the premiere dictionary that virtually every lawyer in America has on his desk, has a definition in its section on amnesty, and it is defined as the 1986 Immigration Act. It is included as one of the definitions of what amnesty is.

What I suggest, essentially this current bill is probably less tight, less enforceable than the 1986 act. If amnesty has any meaning, this bill is amnesty. I don't want to get into any more debate about it, but I do not back down on the fundamental concept that the legislation before the Senate today is basically an amnesty for the people who came here illegally in violation of our law. They have to do a few things, they have to take some steps, but in no way will they be denied the fundamental things they sought when they came here illegally.

We are a generous nation. We know we have a real problem. We are not intending in any way to make all of these people who have come illegally leave the country. We will have to work through this in some generous and humane way to make sure we treat this sensitively and justly, but it is a difficult problem when we reward people who violate the law, for their very violation of that law. It is not a principle that should be lightly traversed.

Now here are just some of the loopholes.

Loophole No. 1: Illegal aliens with felonies or three or more misdemeanors will not be barred from getting amnesty under the Immigration and Nationality Act.

Different crimes make different aliens inadmissible and deportable or ineligible for benefits. As written in this bill, on page 347, it only requires an alien to show they are not inadmissible to qualify for the amnesty. However, some felonies make an alien inadmissible under the act and others do not.

The Kyl-Cornyn amendment that we will deal with next week that was blocked by the other side previously was designed to fix this loophole. Senator REID refused to allow these amendments to be voted on when the bill came up before because he did not want to have his Members recorded as voting for anything. I am not sure too many on our side want to have any votes, either, but it was clear that the Democratic leader was intent on moving this bill forward without any votes or as few votes as possible so we would not have to deal with some of these issues. This was a hot issue. We tried to get a vote on it, and we could not get a vote. So the Kyl-Cornyn amendment which was blocked was designed to fix this loophole. It will keep aliens with felony convictions or three misdemeanors from being eligible for amnesty.

Why do we want to give amnesty to felons? The United States ought to decide who it wants to be part of its citizenry. Since we cannot accept everyone in the world who would like to come here, why in the world would we not want to say: If you have a felony conviction, you are not one of them. We will invite someone who is honest and decent who will contribute positively to our country's growth, development, and culture. We could not even get a vote on this to fix it.

We have to make this change. Hopefully, we will get a vote on it this week to fix it. I believe we will have a vote in favor of not allowing felons to be given amnesty, but I am not sure, given the mood of the Senate today.

Loophole No. 2: Aliens previously barred from receiving immigration benefits for life because they filed frivolous asylum applications will be able to receive amnesty.

This is an interesting reversal of existing law. If you come in and make some bogus claim that you are entitled to asylum, you can still get amnesty. We have had a lot of problems with people coming from a country, where maybe they were arrested for a legitimate crime and fled to the United States, saying they are being persecuted back home, and they want asylum. After looking into their claim, we find out it is bogus and they were actually an armed robber in their home country. We barred them from being able to get an application for any benefits under the immigration laws. It is a form of saying: We are not going to tolerate that. This bill reverses that.

Under INA section 208(d)6, if the Attorney General of the United States determines an alien knowingly filed a frivolous asylum application, he is to be permanently ineligible for any benefits under the INA. This bill would change that. On page 345, it says:

> Notwithstanding any other provision of law, the secretary shall adjust an alien who meets the requirements for amnesty.

No provision of the bill states that the alien is ineligible for amnesty if they previously committed immigration fraud by filing a frivolous asylum application. The bill gives benefits to aliens previously barred from all immigration benefits. We give amnesty to them. If we want to keep those who have committed immigration fraud in the past from getting amnesty, we have to change that. We need to change that by closing this loophole.

Why did they put that in there? Who wrote this bill, I keep asking. I am sure the sponsors of the bill do not know the implications of all of these provisions. I don't know who put this together.

Loophole No. 3: All aliens who are subject to a final order of removal who fail to leave pursuant to a voluntary departure agreement, or who are subject to the reinstatement of a final order of removal because they illegally reentered after being once removed from the United States are eligible for amnesty.

Pages 358 to 359 of the bill clearly state that certain grounds of inadmissibility in the act will not apply to aliens who apply for amnesty under the bill. The current inadmissibility provisions that are waived include aliens with final orders of removal for document fraud. If you file a false claim to the Government as an American citizen, that is a felony. These charges are providing false documents, offenses that are felony offenses.

I repeat, the current inadmissibility provisions that are waived under this bill that will be in the Senate this week include aliens with final orders of removal for document fraud. They have been apprehended, caught, found to be here as a result of making false claims to the Government, failed to attend removal proceedings, were allowed to be out on bail, asked to come to court and answer the charges, and did not show up. They violated a court order to show up. They did not attend their removal proceedings. We call them absconders. And aliens who already have final orders of removal and many other categories are exempted.

This means aliens who have already received their day in court, they have had their cases fully tried and have failed to depart the United States unlawfully, will now be rewarded for not leaving. They will qualify for amnesty. They will be able to become citizens of the United States. This will include many of the 37,000 Chinese nationals China has refused to take back whom we have ordered deported. If we want to enforce the laws against illegal aliens who already had their day in court, this loophole must be closed.

Loophole No. 4: Aliens who illegally entered multiple times, which is a felony, qualify for amnesty.

The first time you come into the country illegally, it is a misdemeanor. If you are apprehended and deported and you come back the second time, it is a felony. Aliens who have illegally entered multiple times—that is, chargeable with felonies—are eligible for amnesty. The bill, on pages 12–23, requires that the illegal alien be continuously present in the United States since 2001 to qualify for amnesty. However, the bill allows the alien to have left the United States for "brief, casual, and innocent departures."

Let us remind ourselves that criminal laws are being broken each time an illegal alien crosses the border of the United States. Title 8, section 1325, of the United States Code says that illegal entry into the United States is a misdemeanor the first time and a felony thereafter. I don't think multiple illegal felonies are casual, brief, or innocent. It rewards those who have not followed the law.

Loophole No. 5: The bill allows aliens who have persecuted anyone—a persecutor on account of race, religion, national membership in a particular social group, or political opinion—to get amnesty. It fails to make persecutors ineligible for amnesty.

I would have thought this was an oversight until we noticed that on page 375—there are a lot of pages in this bill, over 600—line 22 makes these heinous acts bar aliens here between 2 and 5 years from amnesty. The same bar is left out for the 8.8 million aliens who have been here for more than 5 years. This can only be interpreted by any court as an intentional decision that Congress has made to allow persecutors who have been in the country more than 5 years to be able to stay here. I do not think we want to do that. Let's close that loophole.

We are told that people who come here come here to work, and for many that is certainly true. And many are fine, decent, good workers. Loophole No. 6, however, is that there is no continuous work requirement for this amnesty. We have been told that you have to earn your citizenship, earn your amnesty by working. But there is no real requirement for that.

To be eligible to adjust from illegal to legal status under the bill, the alien must simply have been "physically present in the United States on or before the date that is 5 years before April 5, 2006," and have been employed "in the aggregate" for "at least 3 years during the 5-year period ending on April 5, 2006," and employed for "at least 6 years after the date of enactment" of this bill.

But it does not say—on pages 346, 347—that the alien must be employed continuously or that the requirement of employment be full-time employment.

The bill will be interpreted to allow the alien to be eligible if they have been employed in the United States either full time, part time, seasonally, or self-employed. It also allows the time of employment to be shortened if the alien is in attendance at a school or is under 20 years of age.

The employment requirement under the language as written is as broad as possible. Essentially, any alien who worked in the United States for 3 out of 5 years at any time prior to April 5, 2006, will fulfill these requirements. This is not any kind of rigorous standard. It is designed to let everybody qualify. It is so broad that if the Immigration Service were to try to go to court and challenge it, almost any alien would be able to meet and defeat the challenge and be able to have a judge—who is required to enforce the law as we write it—not enforce that law.

Loophole No. 7: The bill tells the Department of Homeland Security to accept "just and reasonable inferences" from day labor centers and the alien's "sworn declaration" as evidence that the alien has met the amnesty's work requirement.

Under the bill, the alien would meet the "burden of proving by a preponderance of the evidence"—that is all the burden is, a preponderance of the evidence—"that [he] has satisfied the [work] requirements" if the alien can demonstrate employment "as a matter of just and reasonable inference."

An alien can present "conclusive evidence" of employment in the United States by presenting documents from Social Security, the Internal Revenue Service, employers, or a "union or day labor center."

The bill then states:

> [I]t is the intent of Congress that the [work] requirement . . . be interpreted and implemented in a manner that recognizes and takes into account the difficulties encountered by aliens in obtaining evidence of employment due to the undocumented status of the alien.

What does that mean? It means it is unenforceable, if you want to know the truth. I was a prosecutor for 15 years, a Federal prosecutor. How are you going to enforce the language? What kind of prosecutor is going to go to court when the Congress has basically said: "It is our policy that anything goes. Any documents they present, any inference that is raised would be sufficient to allow this to occur?"

Then it goes on to say that even if the lax standards I mentioned cannot be met, in order to make sure everybody meets the standard of being allowed to work here, it allows them to self-submit affidavits, "sworn declarations for each period of employment."

The invitation for fraud cannot be clearer. Congress is telling the Department of Homeland Security to take the illegal aliens' word for it, to accept pretty much anything as proof of work.

These provisions are all contained on pages 349 and 350. If we want to make sure the fraud that occurred in the 1986 amnesty does not occur again in the 2006 amnesty, these loopholes have to be closed. Why do we have these standards? Because politicians want to say that everybody here are workers, and we are not going to give amnesty to people who are not workers. OK. That sounds good. But when you read the bill, it does not require that. There is no way this can be enforced. And the authors of the legislation know it. They know it cannot be enforced. That is why they wrote it the way they wrote it, to let everybody qualify. So it is not true that this is a bill that requires earned amnesty by work. It does not.

Loophole 8: The bill benefits only those who broke the law and not those who followed it and got work visas to come to the United States or those who left when their visas expired.

I want you to understand this, colleagues. It is important to point out the unfairness that is inherent in the bill. Page 346 lays out the requirement that you must have been "not legally present in the United States on April 5, 2001." So to qualify for the benefits here, you had to be illegally present in the United States on April 5, 2001. Illegal presence allows people to qualify for the amnesty and the pathway to citizenship that the amnesty provides.

The bill goes on to define "not . . . legally present" to include visa overstays—an "alien who has violated any conditions of his or her visa"—making sure that illegal alien visa overstays qualify for amnesty.

So if you were here legally on April 5, 2001, meaning you followed the rules, and you got a work visa to come here, you will not get any benefits from this amnesty. If you had a visa in 2001, but it expired before April 5, and you, therefore, followed the law and left the United States before April 5, you will not get the benefit of this amnesty. This amnesty benefits you only if you did not leave the United States, as the visa required, and you stayed here illegally or you came here illegally.

Another loophole, No. 9, deals with this guest worker concept. The bill's future flow "guest worker" program in title IV of the legislation leaves no illegal alien behind. It is not limited to the people outside the United States who want to come here to work in the future, but includes illegal aliens currently present in the United States who do not qualify for the amnesty programs in title VI, including aliens here for less than 2 years.

Now, we are told if you have been here for less than 2 years—you came since we started talking about this legislation in 2004—that you do not qualify for the benefits of the program, and have to go home. That has been part of the mantra. You have heard that debate: If you have been here for less than 2 years—and the reason for that is. We are giving notice to people around the world who might want to come here: Don't rush into our country while we are considering this amnesty, to take advantage of it, because if you come in after we started discussing it, then you are not going to get the benefits of it—a fairly legitimate approach to things, I would suggest. And we are told the legislation does that. But it does not do that, I have to tell you.

Under the language, you can qualify for the new H-2C program to work as a low-skilled, permanent immigrant even if you are unlawfully present in the United States today. The bill specifically says:

> In determining the alien's admissibility as an H-2C nonimmigrant . . . paragraphs (5), (6)(A), 7, (9)(B), and (9)(C) of section 212(a) may be waived for conduct that occurred before the effective date. . . .

By waiving these grounds of inadmissibility, the new H-2C program is specifically intended, I submit, to apply to, No. 1, absconders—those are people who were apprehended, ordered to leave the country or ordered to come to court, and they have skipped and did not leave and did not come to court; 400,000 of those we are trying to find this very day to deport them to enforce the law—No. 2, it applies to illegal aliens who were in removal proceedings and signed a voluntary departure agreement but violated that agreement and did not leave, and, No. 3, it applies illegal aliens who were already removed from the United States but who illegally reentered.

The bill covers everybody. No illegal alien will be left behind. No illegal alien will have to go home—not this 2-year group, as has been said. So once again, the rhetoric about the legislation does not match the reality.

Loophole No. 10: The annual numerical cap on this program is completely artificial. The bill's sponsors say that the new H-2C guest worker program is limited to 325,000 people and their families per year.

However, the cap has a built-in automatic escalator. If the 325,000 limit per year—the cap on the number who can come here legally—is reached, the cap automatically adjusts itself to make more room, by adding an additional 20 percent, which is 65,000 more visas the first year. So if somewhere in the year the cap limits are being met by people who want to come here, that very year the cap goes up by 20 percent. And then, the next year, automatically the cap will not be 325,000, it will be that number increased by 20-percent. And if that cap number is met, it goes up that year 20 percent. And the next year, that additional 20-percent increase will be the cap.

It is an utterly escalating cap, without any thought whatsoever as to how many people this country needs in our workplace or otherwise in the Nation. They can be readily assimilated and made a part of this glorious and wonderful country. What kind of language is that?

We calculate if this cap is reached each year, the number of people allowed under this one program to enter this country legally, 10 years from passage—hold your hat—would be 2,012,314. I am not kidding. That is an automatic provision in the act. We have given no thought, no serious evaluation, whatsoever, to how many people ought to be brought into this country.

And even if the cap never increases and stays at the 325,000 per year, we will have a minimum of 1,950,000—almost 2 million—low-skilled workers who are permanent immigrants in the first 6 years of the program, which is the length of an H–2C visa if the individual does not file for a green card.

In 10 years, we will have immigrated 3,250,000 low-skilled workers and their families. Understand, each and every one of these 3 million people who would enter under this provision alone—and there are others where the impact is large—all of these workers will be eligible for green cards.

What does that mean? A green card means you are a permanent resident. They say these are temporary workers and guest workers. Within the first year, they can obtain a green card if their employer requests it. After 4 years, if their employer doesn't and they don't have an employer, they can self-petition for a green card. This is a big change in our policy since immigrants under this provision were supposed to be workers and it allows them to petition for a greencard even thought they are not working for anybody. They can self-petition under this bill. That is a big change. This is pretty thunderous in its impact.

Loophole No. 11, a new H–2C guest worker does not have to prove they are essential to the economy to come to the United States or to stay or to apply for a green card once they are here. Nothing about the H–2C "temporary guest worker program" is temporary. They can say it is temporary until they are blue in the face, and it is just not so. That is why we need to be talking about this legislation. To be eligible for an H–2C visa, an alien merely has to establish that they are "capable of performing the labor or services" they have an intent to perform in the United States. So page 250 of the bill only makes them prove they are capable of performing a labor they have an intent to perform when they come here, and they have received a job offer from an employer who has complied with the requirements.

To stay in the United States once they enter, the H–2C holder simply cannot be "unemployed for 60 or more consecutive days." If they are unemployed for that period of time, they are supposed to leave. Such a requirement, of course, is absolutely and utterly unenforceable. Who is going to be checking on this? They will say: It is not enforceable. If a guest worker is out of work for 60 days, 2 months, it is obvious that the economy does not depend on them. The fact that H–2C status only terminates after 60 consecutive days of unemployment means an alien is still essential to the economy and able to stay in the United States if they are working for as little as 1 or 2 days every 2 months. That is what it means. If somebody has to try to enforce this law, that is the kind of thing they would be dealing with when they go to court.

More importantly, no Government entity is going to spend their time searching over the country to determine if aliens have been out of work for 55 or 65 consecutive days, because the bill allows the alien worker to move from employer to employer and then, as noted on page 263, specifically exempts employers from having to notify the Department of Homeland Security when the alien is fired or voluntarily quits. This will ensure that the Government will never have the information it needs to enforce the 60-day requirement. Employers are not required to notify. If they bring in somebody, they certify they need them to work, they have them work for 6 months, they no longer need them and lay them off, there is no requirement that they notify the Department of Homeland Security or Labor or Commerce that they are no longer needed.

The bill contains, more importantly, no economic trigger enabling us to send workers home when the economy dips. This has been a matter of some dispute. I hear it asked by Senators. I have been asked several times. Some have stated publicly to the contrary. We have read the bill. This is what the bill says about the economy. What if we go into a recession and have brought in these 3 million workers. Now we have 40 million workers in the next 3 or 4 years, 5 years, 8 years, and we go into a recession. They are temporary workers. What is the deal? They go home? Do we not use those workers? We don't need them any longer and they have to go home? No, there is no trigger that reduces the number of workers here if the economy goes into recession. It is not in this legislation. There is an automatic increase every year, as I noted, if the applicants reach that level. It can go up to as much as 3 million a year, but there is no way to reduce it unless we pass a bill in Congress.

More importantly, once the H–2C worker is in the United States, they will be here permanently. On day one, when the alien begins to work in the United States, their employer can sponsor them for a green card. If they come here under this program, the employer can sponsor them for a green card that first day. That means 5 years later, they can be a citizen entitled to all the benefits. As a green card holder, they are entitled to bring their wife and children immediately. Five years later, they can become a citizen. Five years later, the wife can become a citizen. Do you know what the wife can do then? She can bring her children in as a green card holder. He can bring in his brothers and sisters, and she can bring in her brothers and sisters, once they become a citizen under the chain migration rules. It has tremendous implications for us.

Those are matters that are very important. I have a couple more points. I see my distinguished colleague from West Virginia. I think I can wrap up in about 3 or 4 minutes, if that is OK with him.

I would also say, I am honored to have worked with Senator BYRD, the senior Senator from West Virginia, former Democratic leader and majority leader of the Senate, on a realistic approach to immigration. I asked, are we able to enforce our borders, are we able to do things together. We had Senator BEN NELSON of Nebraska, Senator BYRD of West Virginia, both Democrats. We worked together. We presented some very good proposals. Not enough of them have been accepted and made part of this legislation, unfortunately. But there is a genuine bipartisan concern here that we are moving too fast and getting the cart before the horse in a lot of different ways.

Loophole No. 12, a work requirement for a blue card can be satisfied in a matter of hours, under the AgJOBS portion that was added in committee with about 30 minutes of debate. Under the AgJOBS component of this substitute bill, illegal alien agricultural workers who worked 150 workdays in agriculture over the last 2 years will receive a blue card allowing them to live and work permanently in the United States. Let's get that straight. We keep talking about the guest worker program, the seasonal worker program. Why we don't have that in the bill, I can't understand. Almost every provision puts people on the route to permanent citizenship.

So under the AgJOBS portion that was adopted in committee without debate, agricultural workers who have worked 150 workdays—that is not a full day—over the last 2 years, less than half time, will receive a blue card, and that will allow them to live and work permanently in the United States. However, because current law defines an agricultural workday as 1 hour of work per day—that definition is reinstated in the bill on page 397—an alien who has worked for as little as 150 hours in agriculture over the last 2 years will qualify for a blue card.

> Loophole No. 13: Once an illegal alien worker receives a blue card, the blue card never expires. Blue cards, the new category of cards given to aliens who are amnestied under the AgJOBS provision of this bill, never expire. The blue card holder can choose to pursue a green card, legal permanent resident status, by working for more hours in agriculture, but that is not a requirement to stay in the United States.

Page 399 specifically states:

> An alien in blue card status shall be provided an employment authorized endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

This means that once the illegal alien has a blue card, he or she can live in the United States and work in any job permanently. They can adjust to a green card status and move on the path of citizenship, bringing in their aging parents and have them receive the great benefits of health care in America.

Loophole No. 14, free legal counsel: The AgJOBS amendment goes as far as to provide free legal counsel to illegal aliens who want to receive amnesty, page 421. In a paragraph entitled "eligibility for legal services," the bill lays out that recipients of funds under the Legal Services Corporation Act can "provide legal assistance directly related to an application for adjustment of status under this section." So not only will AgJOBS give amnesty to 1.5 million illegal aliens, it would have the American taxpayer pay the legal bills for filling out the applications of those 1 million illegal aliens.

Finally, I will mention loophole No. 15. There are a lot of other provisions that concern me. I will only mention 15. It deals with the DREAM Act. The bill makes in-State tuition and other higher education benefits available to illegal aliens. Current law, some years ago, was passed to deal with a perceived abuse in the system.

So the current law that is in effect today says:

> [A]n alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any posteducation benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.

The DREAM Act portion of this bill, page 503 through 520, eliminates this provision and will allows a benefit to those who came here illegally even when all United States citizens are not afforded those same privileges. The bill goes further making other types of higher education assistance available through the illegal aliens that receive amnesty under the bill, student loans, Federal work study programs and Federal services to access this assistance.

One of the first things you want to do if you want to reduce illegal immigration is not provide benefits to people who come illegally. How much more commonsensical can it get than that? You don't provide inducements, generous social benefits that we would like to provide to more people in the country but can't, to people who come here illegally. That does not make sense and it is not a principled position.

I will conclude by saying, I urge my colleagues, with the greatest sincerity, to look at this legislation and to think about these loopholes I have mentioned. While they are very real and evidence an intent by whoever drafted the legislation to go far beyond what they are publicly saying the bill does, read it carefully and make sure that you feel comfortable supporting it. When amendments come up, we will fix some of these things, although there will not be sufficient time in the debate or sufficient amendments allowed to fix all the problems. They need to vote for those amendments to make the bill better. More importantly, we have continued to study the legislation. My concerns have deepened that we have an unprincipled, not well thought out policy for future immigration that increases legal immigration to an extraordinary degree, far beyond what those people think is part of this legislation.

It is permanent and it allows those who are outside our Nation to decide when they come. It is similar to an entitlement. If you are a veteran, you walk up and you get your entitled benefit. If 10 times as many people showed up for that benefit as we expected, all of them get that benefit—American citizens, veterans. That is an entitlement.

In this legislation, we basically create an entitlement to let people who are noncitizens of the country decide how many are going to come in, without this Nation making those decisions. Canada has a point system. They limit immigration, and they review it based on what their needs are. The more the immigrant has qualities and education and training that meet what they need, the better chance they have of entering. If you don't have qualifications and abilities that are relevant to Canada's needs, you don't get in. Our bill does none of that. I urge my colleagues to be more focused on the actual wording of the legislation.

I thank the Senator from West Virginia for showing leadership and recognizing that we need to do better in this legislation on immigration.

I suspect that the Senator from West Virginia might talk about Mother's Day. I have had the honor to be in the chair—and I see Senator ISAKSON—when Senator BYRD in previous years has spoken about his mother on Mother's Day. I think we are all in for a treat.

I yield the floor.

MOTHER'S DAY

Mr. BYRD. Mr. President, I thank my distinguished and able friend from Alabama. I thank him for his reference to Mother's Day. I do indeed have some remarks that I want to make in reference to Mother's Day.

Mr. President, the irises are blooming, their beauty as refined as a Japanese print. Roses are spilling their sweet perfume into the air. A bountiful harvest of sweet, red strawberries is making its way into pies and shortcakes. The phones are busy at the florists around the country. The signs are clear that this coming Sunday the Nation will again observe the annual celebration of that great day, Mother's Day. Mother's Day is beloved by florists, by candy makers, by greeting card producers, by phone companies, and by restaurants, for it is a busy day indeed for them. But the day is also beloved by mothers, for it is on this one day, more than any other day, that they receive credit for their favorite and most important job. This coming Sunday, mothers will be showered with affection, waited upon, called upon, and honored. They deserve all of it, every bit of it.

It is the little things that count
And give a mother pleasure—
The things her children bring to her
Which they so richly treasure . . .
The picture that is smudged a bit
With tiny fingerprints,
The colored rock, the lightning bugs,
The sticky peppermints;
The ragged, bright bouquet of flowers
A child brings, roots and all—
These things delight a mother's heart
Although they seem quite small.
A mother can see beauty
In the very smallest thing
For there's a little bit of heaven
In a small child's offering.

A mother stays with you throughout your life. Her words and her actions resonate. Yes, we can hear her voice echoing across time when we repeat to our children the lessons that mother taught us: "Sit up straight," "use your napkin," "stop fidgeting and pay attention," Do you remember? She said those things to us. "Say thank you," and "if everyone else jumped off a cliff, would you jump, too?"

Every mother molds and shapes her children in ways large and small, from lessons as important as treating others with thoughtfulness and courtesy to tasks as small as how to fold laundry. Years later, as we teach our own children to fold laundry, we might smile to recall that it was our mother—your mother—who taught us how to fold a shirt in a particular way. It is also probable that she was teaching you to fold it in the same way her mother had taught her—that is the way it is, you know—just as her mother taught her courtesy and just as she taught you. Those gentle hands carried the ingrained lessons of many generations, lessons honed and reinforced over many generations.

On Mother's Day, when we honor mothers all across the Nation, we also honor grandmothers and great-grandmothers, whether or not we were fortunate enough to have known them in life. "Children and mothers never truly part, bound in the beating of each other's heart." So wrote Charlotte Gray, and her words speak to the heritable nature of a mother's love. A mother's love. It passes through the generations like our own DNA.

Mothers also model efficiency. Mothers were the earliest adopters of "multitasking," long before such a phrase had even been coined. Modern appliances make mothers even more efficient, simultaneously washing and drying clothes while cleaning the house, making dinner, keeping up with the news, and monitoring their children's homework. In today's busy world, working mothers must master such multitasking, and many do it with amazing dexterity, juggling work and family and all of their children's outside activities with all of the skill of a circus act. You know how it goes. Mothers are also the lifeblood of many activities important to their children, from scouting to athletics, parent-teacher associations to Sunday school, music lessons to swim teams. The phrase "soccer mom"—have you heard that phrase? It accurately reflects a wide swath of American culture.

And still mothers find time to nurture, to cuddle, to listen, to heal, and to teach. Henry Ward Beecher observed that "the mother's heart is the child's schoolroom." Think about that. This is surely true, for with every action, every look, every word, be they soft and loving or briskly authoritative, mothers teach their children.

Their influence upon the world is incalculable. George Washington, the first President of our great country, that great general who fought at Valley Forge, said:

> My mother was the most beautiful woman I ever saw. All I am I owe to my mother. I attribute all my success in life to the moral, intellectual and physical education I received from her.

Abraham Lincoln said:

> I remember my mother's prayers and they have always followed me. They have clung to me all my life.

He also said:

> All that I am, or hope to be, I owe to my angel mother.

Andrew Jackson noted about his mother:

> There was never a woman like her. She was gentle as a dove and brave as a lioness. . . . The memory of my mother and her teachings were, after all, the only capital I had to start life with, and on that capital I have made my way.

Booker T. Washington. Let's hear what he said. He said:

> In all my efforts to learn to read, my mother shared fully my ambition and sympathized with me and aided me in every way that she could. If I have done anything in life worth attention, I feel sure that I inherited the disposition from my mother.

The leaders of our future are being molded and shaped right now by their mothers. It is hard to imagine that those small faces being wiped clean by their mother's hand might someday smile at us from the Oval Office, or that those chubby fingers might someday operate dangerous machinery. But that childish confidence is fostered by their mother's love, urged on by her unwavering support, and raised up by her tender sympathy. Their mother's support will give them the wings to fly high and to achieve great success.

I am sure that these future leaders will someday echo the words of Washington, Lincoln, and Jackson in crediting their mothers for their success—their angel mothers.

I have no recollections of my mother. She died on Armistice Day 1918. She told the faithful couple who raised me: Take the baby—I was a baby—and three older brothers and a sister. Take the baby. Keep him as your own. And she went away. I am sure that her prayers have followed me and that today she looks down from Heaven waiting. I don't remember seeing her in this life, but I shall have the opportunity to see her someday.

Every child deserves a mother worthy of such sentiments. And as a nation, we are fortunate to possess so many wonderful mothers.

There is a poem called "Mother's Love" that I would like to recite at this moment. "Mother's Love":

Her love is like an island
In life's ocean, vast and wide:
A peaceful, quiet shelter
From the wind, the rain, the tide.
'Tis bound on the north by Hope,
By Patience on the West,
By tender counsel on the South,
And on the East by Rest.
Above it like a beacon light
Shine Faith, and Truth, and Prayer;
And thro' the changing scenes in life
I find a haven there.

Mr. President, my own dear mother waits for me.

I would like to reflect on this great old poem, "Rock Me To Sleep," and I dedicate it—it is not my poem, but it is the one I love—I dedicate it to my dear wife Erma, who was a wonderful mother to her children, and to all the mothers throughout this broad land. Let us think of them. They thought of us. They rocked us. They gave us comfort. They nurtured us. Think of them, the mothers of America.

Backward, turn backward, O time, in your flight,
Make me a child again just for to-night!
Mother, come back from the echoless shore,
Take me again to your heart as of yore;
Kiss from my forehead the furrows of care,
Smooth the few silver threads out of my hair;
Over my slumbers your loving watch keep;—
Rock me to sleep, Mother—rock me to sleep!

Backward, flow backward, oh, tide of the years
I am so weary of toil and of tears—
Toil without recompense, tears all in vain—
Take them, and give me my childhood again!
I have grown weary of dust and decay—
Weary of flinging my soul-wealth away,
Weary of sowing for others to reap;—
Rock me to sleep, Mother—rock me to sleep!

Tired of the hollow, the base, the untrue,
Mother, O Mother, my heart calls for you!
Many a summer the grass has grown green,
Blossomed and faded, our faces between:
Yet, with strong yearning and passionate pain,
Long I to-night for your presence again.
Come from the silence so long and so deep;—
Rock me to sleep, Mother—rock me to sleep!

Over my heart in the days that are flown,
No love like mother—love ever has shown;
No other worship abides and endures—
Faithful, unselfish, and patient like yours:
None like a mother can charm away pain
From the sick soul and the world-weary brain.
Slumber's soft calms o'er my heavy lids creep;—
Rock me to sleep, Mother—rock me to sleep!

Come, let your brown hair, just lighted with gold,
Fall on your shoulders again as of old;
Let it drop over my forehead to-night,
Shading my faint eyes away from the light;
For with its sunny-edged shadows once more
Haply will throng the sweet visions of yore;
Lovingly, softly, its bright billows sweep;—
Rock me to sleep, Mother—rock me to sleep!

Mother, dear Mother, the years have been long
Since I last listened your lullaby song:
Sing, then, and unto my soul it shall seem
Womanhood's years have been only a dream.
Clasped to your heart in a loving embrace,
With your light lashes just sweeping my face,
Never hereafter to wake or to weep;
Rock me to sleep, Mother—rock me to sleep!

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, what is the order now?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. KERRY. I thank the Chair. I will proceed in morning business.

AFTERMATH OF HURRICANE KATRINA

Mr. KERRY. Mr. President, last Friday, May 5, at the invitation of Senator LANDRIEU, I went down to New Orleans, LA, for a second trip to the

State since the hurricane. I wanted to have a chance to be able to get around the city, meet with people, and measure the recovery effort up close and personally now that we are 8½ months since Hurricane Katrina.

Let me, first of all, express my gratitude to Senator LANDRIEU who has been tireless, as I know Senator VITTER has. They both have been pushing hard for their State, as they ought to. But I particularly want to thank Senator LANDRIEU who spent the day with me and who, together with me, sat through a small business roundtable with a great many small businesspeople in New Orleans who were struggling to make things work in the aftermath of the hurricane.

She took me around New Orleans East, and we drove through on the interstate, able to see on both sides of the interstate the still-current state of abandonment of so much of the city. The statistics somehow don't really convey what is happening there and what is not happening there.

I know Washington is a tough place to make anything mean anything right now. We are caught up in an awful lot of partisanship, and there is a lot of back and forth and not a whole lot that is going on legislatively as a consequence of that, though we all hope there is going to be a breakthrough on the immigration bill in the next days. But I have to tell my colleagues that somehow we have to find a way to break through on the reality of what is happening to a whole bunch of folks down in New Orleans and on the gulf coast, whose lives have been disrupted, who have all the hope in the world of being able to return to their homes but increasingly are finding a lagging effort and a bureaucracy and other kinds of problems standing in their way. That has a huge cost—a huge cost. Before Hurricanes Katrina and Rita, Louisiana had 86,000 small businesses, employing more than 850,000 people and contributing $22 billion to the local economy. Of those 86,000 small businesses, 71,000 were in the disaster zones, and nearly 20,000 were catastrophically destroyed. More than 365,000 residents were left homeless. But those statistics 8½ months later do not tell the story of New Orleans.

I thought I was going to go down there and I was going to see this incredible burst of energy of the cleanup, unbelievable numbers of folks out in the streets loading trucks and moving debris and doing things. But instead what I saw in New Orleans East and, most importantly, what I heard from people who are there struggling to make ends meet, to make this work, stunned me as to how little organized, fundamental activity is still taking place 8½ months after New Orleans was devastated.

When I went to New Orleans the first time in the immediate days after the hurricane, I saw a region that was damaged by a storm but at that point in time still very strong in spirit. I saw people determined to turn things around and to make it work. I talked to people who proved their resilience and their love of their State when they committed themselves to not just not giving up, but to not leaving, to rebuilding their homes and their businesses. On that trip I met people who felt that if the words of the Federal Government and the State and the city were, in fact, followed through on, they had hope for the future.

On this trip that I just made a week ago, I met with small business CEOs. I met with people who have spent a lifetime there who are beginning to feel a kind of despair about the lack of presence of real leadership that is changing their lives for the better. As I went down streets, I saw street after street after street filled with debris, garbage bags just out in the streets, cars with the word "tow" on them waiting to be towed. Eight and a half months later, we can't tow cars.

Where were the trucks lined up with people loading them up with the debris being taken out? I expected to see a backed-up line of trucks with an enormous burst of energy. No such thing.

I met people in New Orleans who are increasingly afraid, angry, and disillusioned. I was reminded by small business owners and homeowners last week that New Orleans doesn't only have a hurricane problem, New Orleans has a levee problem. And the levee problem is more than just a problem of the levees that broke, it is an overall levee problem. And if that levee problem were addressed with the speed—I know there are some who say, well, we just allocated additional money and this and that. I tell you, we are building bases in Iraq a lot faster than we are rebuilding New Orleans, and we are putting more energy into saying we will stay the course there than we are staying the course in New Orleans.

Too little has been done in any kind of rapid fashion to help deal with those levees with respect to the hurricane season that starts in just a few weeks. I left New Orleans convinced that the gulf coast doesn't have a morale problem, but I will tell you what: Washington and the community there have a leadership problem, and it is up to us to change it before it is too late. I want to explain that.

We all understand the response immediately after Hurricane Katrina, and there is a lot on the record about who did what, and so forth. I don't want to go back to that. That is not what this is about. But what is most distressing to me is that after that lesson was supposed to have been learned, the people I met in New Orleans told me they were fed up with empty promises that have followed the initial shock of what happened at the Superdome. They believe the promises have been broken and more mistakes have been made after they had been promised that mistakes weren't going to be repeated.

What I heard from people on a very personal level is that schools are overcrowded, that parents are struggling to hold on because they want to stay there, but they don't know if they can. There is an enormous personal anxiety that takes a toll day after day after day as people are living like that.

One of the businesses I visited is a linen and laundry business that used to take care of all of the hospitals in the region. Well, now there is only one trauma center open. They are paying more employees than there is work because they want to try to keep the employees there, but the CEO just left last week. He took his family and left New Orleans. Gone because they don't see the revitalization taking place that they need.

Across the way from that particular business was another business: Tommy's Seafood. He has been there a long time. He bought a new building. The new building was mortgaged. The new building was hurt, damaged in the winds. So he gets the insurance check, but guess what. The insurance check is made out to the bank. So the bank gets the money and the building still has to be fixed.

That is not what we intended in the U.S. Congress. That is not what disaster assistance is supposed to do in a smart way. There are all kinds of examples like this where people are waiting for SBA loans, trying to get the loans. They can't get the loans. More loans have been denied than have been granted. Out of $9 billion—the administration says: Well, we have given $9 billion in loans. Guess what. Only $1 billion of that $9 billion has actually gone out to people.

On September 15, the President spoke to the Nation from Jackson Square, and he made a series of promises. Here is what he said:

> Throughout the area hit by the hurricane, we will do what it takes. We will stay as long as it takes to help citizens rebuild their communities and their lives. When the streets are rebuilt, there should be many new businesses, including minority-owned businesses, along those streets. When the houses are rebuilt, more families should own, not rent, those houses. When the regional economy revives, local people should be prepared for the jobs being created.

Over 8 months later—over 8 months later—history is repeating itself. Too little has been provided in real response, and a lot of time has been wasted without real solutions for getting the gulf coast back to business. Eight months after the President stood in Jackson Square, there aren't trucks massively lined up, hauling this debris out of the city and garbage out of the city. In fact, there seems to be very little activity from the Federal Government.

I know the President has been down there 12 times. That is what they will tell you very quickly. They will tell you about the amount of aid that has flowed into the region. We will talk about that in a minute. The fact is, the piles of debris that remain standing before every building are an unbelievable reminder of the devastation to people, but they also stand as a blockade, as a barrier to the ability of businesses to get going, to the ability of people to be able to come back and figure out what they are doing with their homes. The more they see that, the more a homeowner sees that kind of debris just stuck there, the more they begin to say: This "ain't" happening. I am out of here. I am out of here.

Local officials told me they have fears that mosquitoes and rodents are carrying diseases as a result of the piles of garbage on the streets. In the richest country on the face of the Earth, we shouldn't have Americans abandoned to the worry that their children are going to be at risk for Third World health problems because Washington didn't meet its most basic obligations to those citizens. More than $10 billion in contracts have been awarded for debris removal, emergency response, and reconstruction efforts, but where is it? Tens of thousands of abandoned cars are still littering different streets. There is garbage, hurricane debris, trash in front of virtually every home or business that I saw. Most of those homes are abandoned still, obviously.

Katrina pulled back the curtain, and it revealed poverty and squalor that many didn't believe could exist in our country. But 8 months later, after people said no more and never again, and the cameras went away to a large degree, those images are still there on the streets of New Orleans.

I don't know any Americans who remember what they saw in the Superdome who feel that their dues have been totally paid by making a one-time contribution to the Red Cross. And in the same way, when you look at what the Federal Government response is, people in New Orleans are left wondering whether we have come to a different conclusion.

Eight months after the President promised the revitalization of new, small, minority-owned businesses, the businesspeople who have shown great courage staying in New Orleans are literally fighting to keep their doors open in the face of such a slow and woefully inadequate Federal response. Orleans Parish, which is the center of Louisiana's economy, had 12,695 small businesses employing 245,000 people before August 29 of last year. Today, it is estimated that only a little more than 2,000 of the 12,600 have opened. Where is our response? Those businesses need people to sell things to and people need a place to live.

The President seems to mean something when he speaks about staying the course in Iraq, but it doesn't appear as if we are staying the course down in New Orleans, notwithstanding the money that has been allocated. It takes more than money. It takes a strong leader who is rolling up his sleeves and bringing people together and organizing all of these contractors and different efforts in a way that maximizes both the volunteer and paid effort of the United States of America.

One person I spoke with confirmed what I could see with my own eyes. One person said to me—this is a professional who has spent years down there, whose home is there, who helped rescue people, who stayed through the whole thing, and he was rescuing people in boats blocks away from his house. He said: Basic services in 70 percent of the city don't exist. In those areas, there is no fire protection, police presence is minimal, there is garbage, hurricane debris, trash in front of all of the homes. Billions have been spent. Yet the city is piled high with debris of every kind.

Those are his words. Those are his words.

The residents of New Orleans are beginning to put their hopes elsewhere. That is what is happening. Maybe some people want that to happen. That is a question that ought to be asked. They are starting to put their future in a new place. Over 3,400 private homes are for sale in New Orleans, more than at any other time since we started tracking this indicator 6 weeks after Katrina made landfall. This is up from approximately 2,800 homes that were for sale in February, and it is the highest number since October of 2005.

Jim Funk, who is CEO of the Louisiana Restaurant Association, said the pre-Katrina restaurant workforce of New Orleans has been reduced from 133,000 to 22,000. Only 1,500 of the almost 3,500 pre-Katrina restaurants are back open. Of course, restaurants need people and need workers. The unemployment rate of those who remain displaced jumped to nearly 35 percent in March, a 54-percent increase from the month before. Unemployment is up 54 percent from the month before, even though we are supposed to be putting people back to work.

I met Pat Murphy, who owns United Cab. United Cab is a 66-year-old business. He spoke at our roundtable. After wading through redtape and months of administrative delay in a process that he described as, quoting Pat Murphy, "turning into harassment," he finally received his SBA loan.

Why does a small business that has existed for 66 years have to go through 8½ months of a painful process, which they term "harassment," in order to get a loan after a disaster and come back into business, from the very agency whose sole purpose is to be able to provide that kind of assistance? The worst part is that Pat Murphy will tell you he is one of the lucky ones. He actually received a loan, and he knows a whole bunch of folks who are still waiting around for that money.

Some may have heard that the administration brags about that $9 billion of disaster loans they have approved. But as I said, only one-ninth of that, only $1 billion, has found its way into the hands of people. Why can't you deliver the checks? If you approve it, why can't you make sure people get it right away? Mr. President, 11 percent of the funding has actually reached the people who are asking for it. In addition, what is more, about half of those who applied for disaster loans were denied. What are they going to do? All these folks who have been denied loans have nowhere to turn.

If you are serious about revitalizing New Orleans, you have to be willing to put that money into their hands. One of the biggest problems they have is capital, being able to pay some people for a period of time so they can stay. For people who need to put food on the table and take care of their kids, if there is no certainty as to that availability of money, they are going to go somewhere. They have to go somewhere. What happens is the fabric of New Orleans gets destroyed because people put down their roots somewhere else.

For those who have been fortunate enough to receive housing assistance, they are living in front of their damaged homes, many of them in trailers that are sitting on concrete blocks. What is the problem with that? Let me tell you what the problem is. No. 1, the trailers FEMA is providing cost $70,000 a piece. They are not permanent.

Hurricane season starts in a few weeks. The National Weather Service is predicting 14 named storms to hit the gulf during this next hurricane season. I might add that they were accurate last year in the number of named storms they predicted. Do you know what is going to happen when the wind hits, 90 miles an hour, 100 miles an hour or more? Those trailers are going to blow around, and they are going to create more damage.

I am told by people in New Orleans you could have built modular housing for less money with greater permanency. If you had been smart about this, you could have set up a village of modular housing for people who are working on their permanent housing, you could create lumber distribution centers, you could bring carpenters from around the country, plumbers, electricians. Labor unions from all around the country would be willing to donate, come down and live in a special village and then to rebuild. None of that kind of basic organization effort that America is supposed to be so good at—that we are so good at, when led—is taking place.

I want to know what kind of leadership spends $900 million to buy 25,000 manufactured homes and 1,300 modular homes and they can't be used because FEMA rules say they are too big or unsafe in a flood zone. Bureaucracy, lack of imagination, lack of willingness to do what it takes—which is what the President said we would do in Jackson Square.

What type of leadership spends $249 million to secure 8,136 cruise ship cabins for 6 months at a cost that Inspector General Richard Skinner estimated at $5,100 a month per passenger, six times the cost of renting a two- bedroom apartment?

Eight months after the promises were made, New Orleans has only one level 1 trauma center. The largest medical complex, Charity Hospital, needs to be rebuilt, but FEMA will only fund repairs, so they are not going to rebuild, or can't yet.

So what do the residents of New Orleans do during the coming hurricane season if one of those named storms is severe? Eight months after promises were made to expand local business participation in the recovery, guess what, FEMA is continuing its business model of hiring megacontractors to oversee the recovery efforts. Why is it that debris removal contract dollars aren't making it to the local businesses? We had one particular guy who has been in business for I think it was 27 years. He does tree removal and tree work. He has not been used. In fact, he was called and told by FEMA that they are using an outside contractor. He is one of the people trying to stay, and they are going to take his business away for somebody out of State.

Why are so many local contractors waiting for FEMA to pay them millions of dollars for work they have already completed?

Last Thursday, the Senate passed an emergency spending bill that includes $2.2 billion for levee reconstruction in southeast Louisiana, $1.5 billion for Orleans Parish levee projects, and $1.3 billion for the disaster loan program. Senator LANDRIEU and I offered—I cosponsored an amendment that she proposed—two amendments. One was to ensure the SBA sends up its disaster response plan to Congress before June 1, which is the start of the 2006 hurricane season; and second, to require the SBA to report to Congress monthly on the status of the disaster loan program now and after future disasters.

Senator LANDRIEU, Senator SNOWE, and I also cosponsored an amendment by Senator VITTER that declares areas hit by Hurricanes Katrina and Rita as historically underutilized business zones—HUBZones, as we call them. It makes sure, though, that small, local businesses will get first consideration for Federal contracts. This is something we have been trying to get done since last September. We put that on the floor of the Senate right after the hurricane, and still it has taken the Congress to this day to get this done.

But that is only part of the story. We passed bipartisan legislation which offers a more comprehensive approach to help get small businesses back on their feet. Let me tell you what we wanted to do. We wanted to give some small businesses grants—not loans, grants—because clearly those small businesses are going to need a tide-over period of time until you can get a population back that is going to begin to use them. If you are serious about keeping the integrity of this city and you are serious about rebuilding it and allowing those citizens who have been told they will have the opportunity to stay there, to stay there, you have to give them some money. They can't repay the loans if they can't do the business right now.

How much money have we spent in Iraq that is going to turn out to be a grant versus what is happening down in New Orleans, to our own citizens.

The Senate passed that legislation. I will tell you what, it has been blocked. It has been blocked since we passed it after Hurricane Katrina. There has not even been a serious effort, despite our efforts, Senator SNOWE and mine, to try to get some sort of negotiation on it—not even serious. It was dropped from the 2006 CJS conference, and now it is waiting for action as a freestanding bill. This legislation includes essential bridge loans and the grants that would help those suffering the most to be able to keep their doors open so you do maintain the integrity of New Orleans.

The Senate has yet to take action on a bill introduced by Senator LANDRIEU which I cosponsored to follow on this other bill which has additional provisions, recognizing the situation and the needs on the ground. There is no excuse for us not making every good-faith effort possible, in a bipartisan way, to do what makes sense if we are going to keep faith with those folks and with all of our citizens, to whom this sends a message.

I don't want to just talk about the slow response. I think we have to find a way to get some urgency here. The businesses in the gulf coast cannot and should not have to face bureaucratic redtape and delays. They will not be able to last much longer. Many of the businesses that didn't have business interruption insurance are already gone. Many others are on the verge of closing unless they are able to secure financial assistance in an expedited manner. These companies cannot survive on empty promises. What Louisiana and Mississippi need, obviously, is a level of leadership that is prepared to break through the bureaucracy and come together and create the ingenuity and creativity to rebuild the region.

There are a lot of Americans who would be prepared to volunteer time if you want to organize them. That could be done. You could have a civilian assistance corps of experts who are willing to undergo some hardship for a period of time, live in tough circumstances—a tent city or whatever it is—to lend their expertise to helping to rebuild and do certain things. There are all kinds of ways you could do more cleanup and more rebuilding in an expedited fashion.

The fact is, we saw after Katrina, when the National Guard was there—I give them great credit. Under General Honore, a career soldier in the Army, he showed what strong leadership, what a hierarchal organization with clear lines of command, what a real structure could bring. In those areas where the National Guard did cleanup and did immediate work, a great deal happened. That is what should have continued. But guess what. They have gone. I thought we were going to stay as long as it takes. I thought we were going to do whatever it takes. Those are the words of the President. But they are gone. They could be there today still doing things if we had the will.

New Orleans is one of the great cities of our country. It has an amazing history, a diverse and ethnically rich population, and great culture. I think every American has a stake in its resurrection.

I thank Senator LANDRIEU again for inviting me there for a firsthand look. I really thought I was going to see something very different. I know there have been about 40 Senators or more who have gone down there at one point or another. They have seen a lot of this with their own eyes. It just defies my sense of what the possibilities are in our country. With all of the unbelievable equipment we have, with all of the skilled labor we have, with the volunteer spirit of our Nation, it is stunning to me that we are not proceeding more rapidly to do for New Orleans what New Orleans needs.

My hope is that we will pass those bills I talked about and that over these next 8 months, over the next months, we can ramp up.

Everybody said never again. I will tell you what is happening in New Orleans today. The images people saw at the Superdome, of people who felt abandoned, who didn't have adequate shelter, while misjudgments were being made around them by those who were supposed to be responsible, is actually being repeated at this very moment.

There is a Superdome II taking place in New Orleans today, for those citizens who can't get back on their feet, who don't know what to do with their property, for the 70 percent of the city that has no basic services, for the people who cannot move because of the debris or the garbage, the people who don't have a prayer of getting their home going again or their business going again because of the lack of adequacy of the housing and a clear plan that says to them with certainty that there is a future. Right now, that future for a lot of folks is very difficult.

One of the problems I heard about from a number of responsible people—there were chamber folks there and other folks there—is the mental health issue. There are a lot of citizens who have been living under an extraordinary level of stress since Hurricane Katrina. Some of them have lost family members. Almost all are struggling to pay bills. It is hard to think about the future. That stress takes its toll.

I was told how crime is rising, about how the sense of despair is taking a greater toll, and how there is going to be a larger mental health problem within that region, as a consequence of the lack of adequacy of response and the plight in which people find themselves.

We can do better. I think everybody here knows we can do better.

We have strong leaders in this country. We have excellent generals and military personnel. They know how to manage. We have business leaders who run extraordinary companies, who understand the hierarchy and understand how to get things done. Clearly, FEMA doesn't, and clearly whatever the structure is that is there, it is inadequate to get the job done.

My hope and prayer is that we can deliver on the promises to New Orleans and turn this around.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH WEEK

Mr. FRIST. Mr. President, we will be closing shortly. I take the opportunity before doing so to comment on two issues. One is the event of the last week in terms of our health care initiatives and, second, comment on the 125th anniversary of the Red Cross which is this year.

We have had a good week this week with a relative victory for the American people in terms of the issue of tax relief and the tax package which left here which will create jobs. The bottom line is, a good economy with 5 million jobs created in the last 30 or so months. Unemployment is down to 4.7 percent, which is lower than the average of the 1960s, the 1970s, the 1980s or the 1990s. Homeownership is doing well, with minority homeownership at an alltime high.

We have good, solid economic growth. That is, in large part, first and foremost, due to the hard work, entrepreneurial spirit of the American people, no doubt. But in terms of the policy standpoint, it is because of the progrowth tax policy put forward by President Bush that this Congress has followed. Indeed, we followed it again this week in addressing issues surrounding tax policy on capital gains and dividends and keeping the alternative minimum tax from reaching out and grabbing another 7 million people this year. The President will sign that bill next week which will give us another opportunity to celebrate the great victory for the American people.

Most of the time this week was spent on an issue that I feel passionately about, I think most people in this Senate do, the health care of Americans. Without health, one cannot do very much in life. We need that healthy body, that healthy mind for being able to be productive.

We have a system today that has too many gaps in it. The greatest health care system in the world, one that I have been a beneficiary of in my own field of heart and lung transplantation and the treatment of heart disease and lung disease, but there are huge gaps in our health care system today that lead to less quality, less access, higher costs, gaps that are so obvious that they do require action on our part.

This week we tried to take two of those, to keep focused on those two, and other Members want to grab all the other different challenges and challenging issues and pull them in. The only way to make progress in this Senate is to stay focused on an issue and move to the next issue and the next issue and pull together the very best.

The first issue was medical liability. We, on this side of the aisle, voted to lower the cost of medicine by controlling, in some manner, the out-of-control litigation costs, what has become a litigation lottery—a system today that because of medical liability premiums, because of frivolous lawsuits, because of the incentives given to the trial lawyers out there, the more predatory trial lawyers who are out there, punishes expectant mothers who are delivering children by driving obstetricians out of county and out-of-state, causes neurosurgeons to no longer take trauma calls at night, closing down obstetrical wards. We have to get that under control. It is apparent from debate, this side of the aisle voted in favor of commonsense reform and the other side voted against it.

Then we moved to the issue of expanding health care coverage for millions of uninsured people in this country, focusing on the small businesses today that simply do not have the purchasing clout that larger organizations have, that the big companies have. It is sad because we have small businesses that are the engine of economic growth in this country that operate on very small margins, that simply cannot afford to offer health care today but allowing them to group together in larger and larger groups, we have that clout to bring the costs down.

In both of those instances, the Democrats chose to obstruct on motions to proceed so we could not fully debate those issues. To me, it is a disappointment. It means millions of people will have access to health care that is not as affordable as it might be or they have no access at all, especially those with small businesses.

Reforming our health care system, eliminating the gaps, getting rid of the waste, fraud, and abuse in our health care system today, the best health care system in the world, in terms of what we can do, has got to be a goal of this Senate. We as Republicans have led on that. We got a majority vote in the Senate, but we were unable to reach that 60-vote threshold.

The 46 million people who do not have health insurance in this country are a major concern to me because it is such a large gap. We have addressed it in the past in an incremental way with some success in health savings accounts, which I will come back to. The problem is we have so many tangled regulations, we have complicated bureaucracies out there with overlapping responsibility. We have an insurance market that is getting choked. A lot of it comes from excessive mandates. One mandate put on another, on another, on another, and if you put all the mandates in there, the cost of insurance for everyone goes up. Then it is out of reach of the small business person or the person who has a modest income.

We will keep pressing forward. We on this side of the aisle, Republicans, recognize that our health care system lacks some of the fundamental mechanisms that are required in order to get rid of the waste, fraud, and abuse to make it more transparent, to make it more efficient. We have to be able to harness the transparency, having the 21st century information out there in order for people to make good decisions so that individuals can make more choices. We have hundreds of millions of health care decisions being made, all of which drive toward better access and higher quality and lower cost.

If we look out to where we want to be going as we address medical liability, which is killing our system, as we address the small business health reform, it is for a 21st century health care system that is driven by that information, that is out there that is available today, that is driven by choice, it is driven by that element of control.

Health care should not be a red State, blue State, Democratic, Republican, liberal, conservative matter. We have to come together. We did so with the health savings accounts, I mentioned few moments ago; accounts where an individual has a deductible plan where you can save for you only, you take it with you, you control it. The decisions you make have an impact, and they have been very successful. Three million people today have health savings accounts. None had health savings accounts 3 years ago. And most of the 3 million people had no health insurance in the past. So it begins to chip away at that large number of uninsured people in this country.

Another issue we have passed in this Senate in a bipartisan way is electronic medical records, information technology so that we can develop a platform on which we can make good choices, transparent choices, and can be held accountable. There is a communication among hospitals and doctors and consumers and patients which, with that communication, gets rid of all the waste. That has the obvious ability, through electronic medical records, to have seamless health care no matter where people are. If you are in an accident in Kentucky and you are from Tennessee, your doctor at that trauma hospital can immediately know something about you, what your blood type is, what your allergies are, what medicines you are on, by a push of a button. Now this is done through fax machines and phone calls or going to the basement for records of hospitals and clinics to retrieve information.

We passed that in the Senate. The House has not yet addressed that issue. But, again, it is another example of where this Senate can work together, as with the health savings accounts, that we can pass legislation that is to the benefit of all Americans. That is real progress. We can make progress.

I am disappointed in this week that we did not have the other side of the aisle participating in these very important issues. But we will continue to address them as we move ahead.

RED CROSS ANNIVERSARY

Mr. FRIST. Mr. President, I mentioned a second issue, and that is the 125th anniversary of the American Red Cross. This year is 125 years of voluntarism. We have seen it in our own lives, especially in the Katrina episode over the last year.

Yesterday, I had the opportunity of going in front of the Capitol. My office actually looks out over the Mall, and there is a big red tent with the big Red Cross on it. I have been watching that tent for the last several days. Yesterday, I had the opportunity to speak to probably 400 or 500 volunteers who had come from around the country from their various Red Cross entities, I assume from about every State in the country.

I mention this because volunteers are the lifeblood of the American Red Cross. I have seen it directly in my own life, both as a doctor, as a physician, of course, as a citizen, as well as a Senator. These volunteers affected my life in a very direct way. I told them yesterday, as I ran the multiorgan transplant center at Vanderbilt, we did heart transplants, we did lung transplants, bone marrow transplants, we transplanted pancreases, we transplanted livers, transplanted kidneys. None of that could take place without the Red Cross because all of the blood that is required in terms of transfusions—liver transplants especially, probably heart transplants, secondly, and lung transplants, all of that blood comes from where? The Red Cross, from volunteers who manage the Red Cross facility and from the people who actually donate their blood.

I would not have done all of the heart transplants I have done if it were not for the Red Cross, the volunteers associated with the Red Cross. People do not think about how much we depend on the volunteers.

Jump, fast forward, 15 years and go to New Orleans. About 3 days after the levees broke, I was in New Orleans, more as a physician, as a volunteer, than as a Senator. I was in the airport there in September with evacuees who lost everything—their medicines, sometimes their family members, clothes, their home. Sitting there on the baggage belts, coming in on the baggage carts, being unloaded from helicopters, all they needed at that point in time was someone to talk to, for the most part—some needed medical help—someone to talk to and a hot meal to be comforted, some semblance of security, having lost everything.

So who was there? Who was there right up front? It was the Red Cross. Once again, and almost instantaneously, shelters sprung up in Tennessee. But Alabama, Mississippi, Florida, Georgia, and Texas, of course, all opened their doors to the gulf coast evacuees.

By the end of that week, 675 Red Cross shelters had opened up in 23 States, which was the single largest response to a natural disaster in Red Cross history. Remarkable. Remarkable.

Then, jump forward about a few months to what happened last month in Tennessee. We had tornadoes that came right through middle Tennessee and all through west Tennessee about 2 or 3 weeks apart. Thousands of homes were damaged. Many people lost their lives.

Once again, it was the Red Cross that came in and set their trucks, had food cooked, talked to people, arranged for places for people to stay who had just lost their homes. There were tens of thousands of meals served. People were taken care of. And there was mental health care in terms of the devastation people felt, the depression people felt. They came to that Red Cross van to be able to talk to somebody.

I mention those three examples because I have seen them. I saw it in Tennessee when I was back there talking to people whose homes had been destroyed. I saw it in New Orleans, 3 days after those levees broke. And I saw it for years and years and years, for 20 years of my life, when I saw it every day, working in hospitals, with that donation of blood.

It is the 125th anniversary of the Red Cross. They had a gala last night. Karyn, my wife, was one of the cochairs for that gala. We were there to see the generosity of people who have volunteered and also have contributed. One person who was honored last night had given $9 million—one person had given $9 million—to the Red Cross.

It takes a lot of people working together. But all of that does provide a symbol of hope and compassion and strength and endurance. It is going to take the continued commitment of those volunteers to continue that, so I do want to thank you, those of you who might be listening who have volunteered and will volunteer for the American Red Cross.

MOTHER'S DAY

Mr. FRIST. Mr. President, one last item, a very important statement, and then we will close down. But it is very important and people will recognize why.

This Sunday, millions of families around the world will celebrate their moms. I was changing my reservations around. I know a lot of people are scurrying around for reservations. I should be cooking at home that day, I guess, but I am looking for an appropriate place for reservations, shifting it from Sunday afternoon to Sunday evening.

Restaurants will be packed on Sunday. Living rooms will be packed full, crammed full of aunts and uncles and fidgety children.

Families will warmly "remember when" to show their moms they love them. I have three boys, and they let me know all the time how much they love their mom. But I don't know where all three boys are going to be. They are going to be traveling all over the country today, so I am trying to get them together as well—all the challenges of Mother's Day.

Mother's Day, as we all know, is the busiest long distance calling day of the year. It accounts for more than one-fifth of all the floral purchases made for the holidays that 1 day.

We typically start the day by going to church and then gathering either in the afternoon or the evening—a tradition that millions and millions and millions of people will celebrate and have celebrated over the years.

The celebrations of our moms have gone back millennia. The ancient Greeks celebrated a holiday in honor of a mythological mother of gods. Ancient Romans celebrated their mother goddess symbol. In the British Isles and Celtic Europe, the people honored the goddess Brigid in a spring celebration of motherhood.

Mother's Day in America got its start in West Virginia in 1858, led by Anna Reeves Jarvis, a local schoolteacher. After years of strenuous petitioning, Mother's Day finally became an official American holiday in 1914. It was passed by the U.S. Congress as a joint resolution and signed by President Woodrow Wilson.

Today, 90 years later, Mother's Day is celebrated all over the world—all over the world—including Denmark, Finland, Italy, Turkey, Australia, and Belgium.

It is celebrated by the humble and by the proud throughout the ages and across continents.

Abraham Lincoln said of his mom:

> All that I am, or hope to be, I owe to my angel mother.

Human nature does bind us to our mothers. The Bible instructs us to respect and obey them. Mothers give us the gift we can never return—life itself.

I will close with a quote by the basketball legend Kareem Abdul Jabar. His mom knew him well, and I suspect never stopped looking after him. He once confessed:

> My mother had to send me to the movies with my birth certificate, so that I wouldn't have to pay the extra fifty cents the adults had to pay.

I do want to wish a happy Mother's Day to all of the mothers of the world.

To my own mother, who I miss very much, her daily image comes down on just about everything I do in terms of what she might have done, what she would do, what she would whisper into my ear to do.

To my own wife, Karyn, the mother of our three boys, Jonathan, Harrison, and Bryan, I say thank you, I love you. You are the rock that holds our family together and makes everything possible.

TRIBUTE TO DAVID WILLIAMS

Mr. McCONNELL. Mr. President, I rise to pay tribute to the Kentucky Senate President, David Williams. He is a master legislator, a fighter for the people of Kentucky, and a true friend.

David has served the people of the 16th Senate District since 1987, and has served as Senate President since 2000. In his leadership position, he is one of the dominant figures in Kentucky politics. David and I have worked together on many issues important to the Commonwealth over the years, and I have always been impressed by his knowledge, ability, and talent to persuade others. David defends his ideas and his principles well, and as a result has positively influenced much of the legislation that comes out of the state capital.

Every Kentuckian benefits from having David Williams as Senate President. This year, the Kentucky State Senate had a productive and beneficial session under his helm. I ask unanimous consent to print in the RECORD an article that appeared in the Lexington Herald-Leader on May 8, 2006, that details his recent accomplishments. I ask my fellow Senators to join me in thanking David Williams for his service to the people of Kentucky.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POWER POLITICS HAS A NEW CAPTAIN

(By Ryan Alessi)

FRANKFORT.—For better or for worse, this was Senate President David Williams' General Assembly session.

Williams, the commanding and strategic-minded Republican from Burkesville, has gradually established himself as the dominant personality in the legislature since taking the helm of the upper chamber six years ago.

But during this year's session, which wrapped up last month, Williams played multiple starring roles.

He was the deal maker—adding more money in the budget for the University of Kentucky and ensuring that one of Gov. Ernie Fletcher's priorities, the addition of two school days, was approved.

He was a facilitator. Just when most everyone thought a seat-belt enforcement bill was dead, Williams tacked the measure—another key priority of Fletcher—on to less controversial legislation, which eventually passed.

And early in the session, Democrats praised him for allowing bipartisan proposals relating to mine safety and a ban on protests at military funerals.

He also was a lightning rod for criticism, notably the controversy over the University of the Cumberlands.

It was Williams who inserted $10 million into the budget for construction of a pharmacy school on the campus of the Baptist-run university in Williamsburg, which is in his Senate district. Another $1 million would go to scholarships at the pharmacy school.

The revelation about public funds going to a private university sparked some outcries, particularly after the school expelled a student for announcing on a Web site that he is gay. Williams has defended the funding.

And an ongoing rhetorical feud between Williams and Supreme Court Chief Justice Joseph Lambert provided an interesting sidebar to the legislature's work, as Williams sparked debates about separation of powers between the legislative and judicial branches.

Throughout the 60-day session, all roads seemed to lead through Williams.

"They led through me or over me?" joked Williams, who at times comes off as affable and self-deprecating, and at others as defiant and argumentative.

He acknowledged that he tried to approach 2006 differently than recent sessions that digressed into bickering and stalemate among the legislative leaders over key issues—especially the budget.

"I felt like in the past, I had been drawn into a few confrontations that I shouldn't have gotten into. I don't think it was constructive to the institution," Williams said.

That's not to say he remained above the fray.

The last week of the session was a particularly grueling test of Williams' restraint. Lawmakers were trying to finalize details of the budget while scrambling to pass the last batch of other bills, including a proposal to lessen the tax burden on certain small businesses.

As Williams attempted to ram through the Senate's version of that tax-relief plan, Democratic Sen. Tim Shaughnessy vehemently objected, at one point declaring: "I don't trust you guys."

So Williams switched off Shaughnessy's microphone.

In the end, negotiations between Senate Republicans and House Democrats crumbled on the small-business tax issue—one of a handful of key priorities pegged by both parties that failed.

But the main goal—passing the state's two-year, $18.1 billion spending plan—was achieved. And negotiations between House Democratic and Senate Republican leaders again proved to be a stage for Williams.

For instance, House Democrats first included $17.5 million in their budget draft to repair a dam on the Kentucky River.

The Senate stripped that funding in its version.

During later closed-door negotiations between the two chambers' leaders, Williams was the first to emerge to tell reporters that they had restored the funds and allowed the Kentucky River Authority to use $33 million in additional fee money to fix more dams.

Senate Republicans often gain the upper hand during such budget negotiations because Williams and Majority Floor Leader Dan Kelly of Springfield usually convey a united front, lawmakers say.

Sen. Ernesto Scorsone, a Lexington Democrat, said that's because Williams "controls the party caucus."

But Williams noted that it's easier for Senate Republicans to get on the same page because there's just 21 of them, compared to 56 House Democrats.

"It would appear to me that the Democratic negotiators generally do not have a unified plan or plan of action. There are about five or six strong personalities," he said. "They don't seem to come to a consensus before they come to the table."

Others say that the Senate Republican leaders have a knack for putting their own stamp on just about every key bill.

"David and Sen. Kelly are the driving force behind all the legislation that comes out, no matter where it originates," said Rep. Stan Lee, a Lexington Republican.

As a result, many legislators have dubbed Williams the most powerful man in Frankfort, with more effect than even the governor.

"David knows what he wants and goes out and gets it. I don't think the governor knows exactly what he wants, and certainly doesn't know how to get it," said Scorsone. "Fletcher's future, in terms of legislative success, is very much in the hands of David Williams."

The governor's staff disagreed, saying Fletcher has stood on his own.

"Governor Fletcher's record of accomplishments speaks for itself. His style is to build consensus and find areas of common ground with members of the assembly," said chief of staff Stan Cave in a statement.

Williams, who has said he supports Fletcher's re-election bid in '07, is deferential, noting that Fletcher missed a month of the session battling complications from a gallstone and pancreatitis.

"It's hard to compare management styles," he said. "Obviously the governor, because of his illness, was not around a lot at crucial times."

Williams, meanwhile, rarely missed a cue at those critical points.

"I feel I had the most productive session I've ever had," he said.

VOTE EXPLANATION

Mr. COBURN. Mr. President, I ask that it be submitted to the RECORD that I inadvertently missed the vote on cloture on the motion to proceed to S. 22, the Medical Care Access Protection Act of 2006, due to unavoidable airline flight delays. Had I been present, I would have voted "yea."

Americans are going to spend $2.3 trillion this year on health care. One out of every three dollars does not go to help anybody get well. We are never going to be able to compete globally if we cannot control the health care costs in this country. The threat of medical liability raises the cost of health care for everybody in this country.

Only 16 percent of the lawsuits that are filed across the entire country have any merit whatsoever—84 percent of them are filled with the idea that we can intimidate people into settling a case so a lawyer can make money. It has nothing to do with the patient. It has everything to do with enriching the trial bar. I have experienced that personally as a physician who has delivered over 4,000 children into this world.

We have a problem with out of control medical liability—the cost of defensive medicine alone is up to $126 billion per year. We can fix those problems. But we can't fix them by protecting special interest groups that have been protected for years—special interest groups that claim they want to do something great for people but who most of the time are motivated to do something great for themselves.

The Medical Care Access Protection Act of 2006 is based on the successful Texas model of medical liability reform. It's a solution to the problem that is already getting results.

NATIONAL POLICE SURVIVORS DAY

Ms. MURKOWSKI. In 1962, the Congress enacted and President Kennedy signed into law a joint resolution designating May 15 as Peace Officers Memorial Day and the week in which May 15 falls as National Police Week.

National Police Week is observed with numerous events here in our Nation's Capitol and parallel events in communities across the Nation. The two most moving of these events are the Peace Officers Memorial Day ceremony, on the Capitol grounds, and a candlelight vigil at the National Law Enforcement Officers Memorial on Judiciary Square. At that candlelight vigil, the name of each officer who perished in the line of duty during the preceding year is read aloud to an assemblage numbering 10,000 or more.

These events emphasize the heroic acts of the law enforcement officers who lost their lives in the line of duty. The National Law Enforcement Officers Memorial bears the inscription that our fallen officers are not heroes for the way that they died but for the way they lived their lives. Heroes, as we know, live on forever in our hearts, our spirits and our collective memories

But for the families, friends and coworkers of law enforcement officers who lost their lives in the line of duty, the grief and the loss are very real. The survivors of fallen law enforcement officers command our sympathy and our prayers.

Yet after the funeral is over and news of the tragedy falls off of the front pages of the daily newspaper, the very hard and often solitary process of adjustment begins. In many cases, that process can last for years and years after the loss and during that lengthy period, our police survivors need support in more tangible ways.

On May 14, 2003, on the eve of the National Peace Officers' Memorial Service, 10 widows of fallen law enforcement officers came together at dinner to ask the question, "What about us?"

At the National Police Week gatherings, everyone focuses on the loved one whose life is lost, but it is also important to focus on the needs of survivors who must rebuild their lives from the ashes.

From this dinner conversation came the birth of a new national organization called "Concerns of Police Survivors." The acronym is "COPS".

One year later, COPS was formed at the first National Police Survivors Seminar which drew 110 law enforcement survivors.

Suzie Sawyer, a former President of the Fraternal Order of Police Auxiliary was selected as COPS' first Executive Director. She is also the only person to have served as the group's executive director.

Today, COPS provides healing, love and the opportunity for a renewed life to over 15,000 families through a network of 48 chapters around the country.

Over its 22 year history, COPS, as it is called, has expanded its offering of programs to include: peer support and counseling for survivors every day of the year, assistance in obtaining death benefits, assistance in coping with parole hearings, and scholarships for surviving spouses and children.

It offers special programs for parents, siblings and spouses of fallen officers as well as a summer camp for young and teenage children.

COPS also trains police agencies on how to cope with a line of duty death.

But one of the most important activities COPS offers is the Annual Police Survivors Seminar. This weekend at a hotel in Alexandria that is closed off to the public and the media, survivors from across the country will find a safe place to vent, to cry, to laugh, to think, and to heal.

COPS has played a pivotal role in helping the families of Alaska's survivors rebuild their lives. COPS was there for Laurie Heck Huckeba, the widow of Alaska State Trooper Bruce Heck, slain on January 10, 1997. Laurie went on to become a member of the COPS national board of directors, and facilitates sessions at the National Police Survivors Seminar.

Survivors helping survivors—that's what COPS is all about.

And COPS was there for the family of slain Kenai Police Officer John Watson, who tragically lost his life on Christmas Day, 2003, while checking on the welfare of another. Officer Watson is the last Alaska officer to lose his life in the line of duty.

COPS will be there for the family, coworkers and friends of Vicki Armel, the Fairfax County Detective who was senselessly slain by a sniper outside the Sully District Police Station this week.

And it will do the same for the survivors of slain Philadelphia Police Officer Gary Skerski, also shot to death this week after responding to a robbery call at a bar. The perpetrator told patrons that he planned to kill an officer. Eleven Philadelphia officers have been shot in the last 25 months, according to the Fraternal Order of Police. Every one of those incidents takes an emotional toll on so many others.

Thanks to the work of Suzie Sawyer and COPS, all of those affected by a police line of duty death no longer need to ask the question, "What about us?"

They refer to law enforcement as the "thin blue line." Thanks to COPS, that thin blue line of support for our law enforcement families is tens of thousands of people thick.

In honor of our police survivors and the vital work that is undertaken by COPS, I joined with my colleagues earlier this week in offering Senate Resolution 473 which designates May 14, the anniversary of the founding of COPS, as National Police Survivors Day. The resolution is intended to engage all of our fellow citizens to lend their hearts and to lend a hand to the survivors of our police heroes.

I am pleased that the Senate adopted Senate Resolution 473. I appreciate the support of our colleagues in moving this resolution through swiftly. It is especially timely given the unfortunate events that occurred this week in Fairfax County and in Philadelphia. How tragic that these events occurred on the very eve of National Police Week.

I also want to acknowledge the leadership of my colleague, Mr. TALENT, in whose state of Missouri COPS is headquartered, and my colleague, Mrs. LINCOLN, our lead co-sponsor on the Democratic side, who worked with me to put forward this resolution.

In the United States, one law enforcement officer dies in the line of duty every 53 hours. Each year somewhere between 140 and 160 lose their lives in the line of duty.

As we remember the heroic deeds of the 17,535 law enforcement officers whose names are carved into the marble wall on Judiciary Square, let us also take a moment to reflect on those who are left to carry on. Let's do this on May 14—National Police Survivors Day.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Armed Services.

(The nomination received today is printed at the end of the Senate proceedings.)

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2791. A bill to amend title 46 and 49, United States Code, to provide improved maritime, rail, and public transportation security, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAHAM (for himself and Mr. DORGAN):

S. 2796. A bill to authorize the Secretary of Energy to establish monetary prizes for achievements in overcoming scientific and technical barriers associated with hydrogen energy; to the Committee on Energy and Natural Resources.

By Ms. MURKOWSKI:

S. 2797. A bill to provide competitive status to certain Federal employees in the State of Alaska; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself, Mr. ROCKEFELLER, Mrs. MURRAY, and Mr. DURBIN):

S. 2798. A bill to establish improved mandatory standards to protect miners during emergencies, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. NELSON of Florida (for himself, Mr. DEWINE, Mr. BINGAMAN, Mr. FEINGOLD, Mr. LIEBERMAN, Mr. DURBIN, Mr. COLEMAN, Mr. KENNEDY, and Mr. MARTINEZ):

S. Res. 476. A resolution supporting democracy, development, and stabilization in Haiti; considered and agreed to.

ADDITIONAL COSPONSORS

S. 908

At the request of Mr. MCCONNELL, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 908, a bill to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

S. 1698

At the request of Mr. LUGAR, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1698, a bill to accelerate efforts to develop vaccines for diseases primarily affecting developing countries, and for other purposes.

S. 2284

At the request of Ms. MIKULSKI, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2284, a bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

S. 2401

At the request of Mr. GRASSLEY, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2401, a bill to amend the Internal Revenue Code of 1986 to extend certain energy tax incentives, and for other purposes.

S. 2498

At the request of Mr. THOMAS, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 2498, a bill to amend the Internal Revenue Code of 1986 to prohibit the disclosure of tax return information by tax return preparers to third parties.

S. 2503

At the request of Mrs. LINCOLN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2503, a bill to amend the Internal Revenue Code of 1986 to provide for an extension of the period of limitation to file claims for refunds on account of disability determinations by the Department of Veterans Affairs.

S. 2568

At the request of Mr. SARBANES, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2568, a bill to amend the National Trails System Act to designate the Captain John Smith Chesapeake National Historic Trail.

S. 2703

At the request of Mr. LEAHY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2703, a bill to amend the Voting Rights Act of 1965.

S. 2723

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 2723, a bill to amend title XVIII of the Social Security Act to require the sponsor of a prescription drug plan or an organization offering an MA–PD plan to promptly pay claims submitted under part D, and for other purposes.

S. 2770

At the request of Mr. MCCAIN, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 2770, a bill to impose sanctions on certain officials of Uzbekistan responsible for the Andijan massacre.

S. 2787

At the request of Mr. CRAIG, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2787, a bill to permit United States persons to participate in the exploration for and the extraction of hydrocarbon resources from any portion of a foreign maritime exclusive economic zone that is contiguous to the exclusive economic zone of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself and Mr. DORGAN):

S. 2796. A bill to authorize the Secretary of Energy to establish monetary prizes for achievements in overcoming scientific and technical barriers associated with hydrogen energy; to the Committee on Energy and Natural Resources.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the text of the H-Prize Act be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "H-Prize Act of 2006".

SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTERING ENTITY.—The term "administering entity" means the entity with which the Secretary enters into an agreement under section 3(c).

(2) DEPARTMENT.—The term "Department" means the Department of Energy.

(3) SECRETARY.—The term "Secretary" means the Secretary of Energy.

SEC. 3. PRIZE AUTHORITY.

(a) IN GENERAL.—The Secretary shall carry out a program to competitively award cash prizes only in conformity with this Act to advance the research, development, demonstration, and commercial application of hydrogen energy technologies.

(b) ADVERTISING AND SOLICITATION OF COMPETITORS.—

(1) ADVERTISING.—The Secretary shall widely advertise prize competitions to encourage broad participation, including participation by—

(A) individuals;

(B) institutions of higher education, including historically Black colleges and universities and other institutions serving minorities; and

(C) large and small businesses, including businesses owned or controlled by socially and economically disadvantaged persons.

(2) ANNOUNCEMENT THROUGH FEDERAL REGISTER NOTICE.—

(A) IN GENERAL.—The Secretary shall announce each prize competition by publishing a notice in the Federal Register.

(B) REQUIREMENTS.—The notice shall include a description of—

(i) the subject of the competition;

(ii) the duration of the competition;

(iii) the eligibility requirements for participation in the competition;

(iv) the process for participants to register for the competition;

(v) the amount of the prize; and

(vi) the criteria for awarding the prize.

(c) ADMINISTERING THE COMPETITIONS.—

(1) IN GENERAL.—The Secretary shall enter into an agreement with a private, nonprofit entity to administer the prize competitions, subject to this Act.

(2) DUTIES.—The duties of the administering entity under the agreement shall include—

(A) advertising prize competitions and the results of the prize competitions;

(B) raising funds from private entities and individuals to pay for administrative costs and contribute to cash prizes;

(C) working with the Secretary to develop the criteria for selecting winners in prize competitions, based on goals provided by the Secretary;

(D) determining, in consultation with the Secretary, the appropriate amount for each prize to be awarded;

(E) selecting judges in accordance with section 4(d), using criteria developed in consultation with the Secretary; and

(F) preventing the unauthorized use or disclosure of the intellectual property, trade secrets, and confidential business information of registered participants.

(d) FUNDING SOURCES.—

(1) IN GENERAL.—Cash prizes under this Act shall consist of funds appropriated under section 8 and any funds provided by the administering entity for the cash prizes (including funds raised pursuant to subsection (c)(2)(B)).

(2) OTHER FEDERAL AGENCIES.—The Secretary may accept funds from other Federal agencies for the cash prizes.

(3) NO SPECIAL CONSIDERATION.—The Secretary may not give any special consideration to any private sector entity or individual in return for a donation to the administering entity.

(e) ANNOUNCEMENT OF PRIZES.—

(1) IN GENERAL.—The Secretary may not issue a notice required by subsection (b)(2) until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by the administering entity.

(2) INCREASE IN AMOUNT OF PRIZE.—The Secretary may increase the amount of a prize after an initial announcement is made under subsection (b)(2) if—

(A) notice of the increase is provided in the same manner as the initial notice of the prize; and

(B) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by the administering entity.

SEC. 4. PRIZE CATEGORIES.

(a) CATEGORIES.—The Secretary shall establish prizes for—

(1) advancements in components or systems related to—

(A) hydrogen production;

(B) hydrogen storage;

(C) hydrogen distribution; and

(D) hydrogen utilization;

(2) prototypes of hydrogen-powered vehicles or other hydrogen-based products that best meet or exceed objective performance criteria, such as completion of a race over a certain distance or terrain or generation of energy at certain levels of efficiency; and

(3) transformational changes in technologies for the distribution or production of hydrogen that meet or exceed far-reaching objective criteria that—

(A) shall include minimal carbon emissions; and

(B) may include cost criteria designed to facilitate the eventual market success of a winning technology.

(b) AWARDS.—

(1) ADVANCEMENTS.—

(A) IN GENERAL.—To the extent permitted under section 3(e), the prizes authorized under subsection (a)(1) shall be awarded biennially to the most significant advance made in each of the 4 subcategories described in subparagraphs (A) through (D) of subsection (a)(1) since the submission deadline of the previous prize competition in the same category under subsection (a)(1) or the date of enactment of this Act, whichever is later, unless no such advance is significant enough to merit an award.

(B) MAXIMUM AMOUNT FOR SINGLE PRIZE.—No single prize described in subparagraph (A) may exceed $1,000,000.

(C) INSUFFICIENT TOTAL FUNDS.—If less than $4,000,000 is available for a prize competition under subsection (a)(1), the Secretary may—

(i) omit 1 or more subcategories;

(ii) reduce the amount of the prizes; or

(iii) not hold a prize competition.

(2) PROTOTYPES.—

(A) IN GENERAL.—To the extent permitted under section 3(e), prizes authorized under subsection (a)(2) shall be awarded biennially in alternate years from the prizes authorized under subsection (a)(1).

(B) TOTAL NUMBER OF PRIZES.—The Secretary may award no more than 1 prize under subsection (a)(1) in each 2-year period.

(C) MAXIMUM AMOUNT FOR SINGLE PRIZE.—No single prize under this paragraph may exceed $4,000,000.

(D) INSUFFICIENT QUALIFIED ENTRIES.—If no registered participant meets the objective performance criteria established pursuant to subsection (c) for a competition under this paragraph, the Secretary shall not award a prize.

(3) TRANSFORMATIONAL TECHNOLOGIES.—

(A) IN GENERAL.—To the extent permitted under section 3(e), the Secretary shall announce 1 prize competition authorized under subsection (a)(3) as soon as practicable after the date of enactment of this Act.

(B) AMOUNT OF PRIZE.—A prize offered under this paragraph shall—

(i) be in an amount not less than $10,000,000;

(ii) be paid to the winner in a lump sum; and

(iii) include an additional amount paid to the winner as a match for each dollar of non-Federal funding raised by the winner for the hydrogen technology beginning on the date the winner was named.

(C) MATCHING.—

(i) IN GENERAL.—The match described in subparagraph (B)(iii) shall be provided until the earlier of—

(I) the date that is 3 years after the date the prize winner is named; or

(II) the date on which the full amount of the prize has been paid out.

(ii) ELECTION.—A prize winner may elect to have the match amount paid to another entity that is continuing the development of the winning technology.

(iii) RULES.—The Secretary shall announce the rules for receiving the match in the notice required by section 3(b)(2).

(D) REQUIREMENTS.—The Secretary shall award a prize under this paragraph only when a registered participant has met the objective criteria established for the prize pursuant to subsection (c) and announced pursuant to section 3(b)(2).

(E) TOTAL AMOUNT OF FUNDS.—

(i) FEDERAL FUNDS.—Not more than $10,000,000 in Federal funds may be used for the prize award under this paragraph.

(ii) MATCHING FUNDS.—As a condition of entering into an agreement under section 3(c), the administering entity shall seek to raise $40,000,000 in non-Federal funds toward the matching award under this paragraph.

(c) CRITERIA.—In establishing the criteria required by this Act, the Secretary shall consult with—

(1) the Hydrogen Technical and Fuel Cell Advisory Committee of the Department;

(2) other Federal agencies, including the National Science Foundation; and

(3) private organizations, including professional societies, industry associations, the National Academy of Sciences, and the National Academy of Engineering.

(d) JUDGES.—

(1) IN GENERAL.—For each prize competition, the Secretary shall assemble a panel of qualified judges to select the 1 or more winners on the basis of the criteria established under subsection (c).

(2) INCLUSIONS.—Judges for each prize competition shall include individuals from outside the Department, including from the private sector.

(3) PROHIBITIONS.—A judge may not—

(A) have personal or financial interests in, or be an employee, officer, director, or agent of, any entity that is a registered participant in the prize competition for which the judge will serve as a judge; or

(B) have a familial or financial relationship with an individual who is a registered participant in the prize competition for which the judge will serve as a judge.

SEC. 5. ELIGIBILITY.

To be eligible to win a prize under this Act, an individual or entity—

(1) shall have complied with all the requirements in accordance with the Federal Register notice required under section 3(b)(2);

(2) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States;

(3) in the case of an individual (whether participating singly or in a group), shall be a citizen of, or an alien lawfully admitted for permanent residence in, the United States; and

(4) shall not be a Federal entity, a Federal employee acting within the scope of employment, or an employee of a national laboratory acting within the scope of employment.

SEC. 6. INTELLECTUAL PROPERTY.

(a) IN GENERAL.—Subject to subsection (b), the Federal Government shall not, by virtue of offering or awarding a prize under this

Act, be entitled to any intellectual property rights derived as a consequence of, or direct relation to, the participation by a registered participant in a competition authorized by this Act.

(b) Negotiation of Licenses Permitted.—This section does not prevent the Federal Government from negotiating a license for the use of intellectual property developed for a prize competition under this Act.

SEC. 7. LIABILITY.

(a) Waiver of Liability.—

(1) In general.—As a condition of participation in a competition under this Act, the Secretary may require registered participants to waive claims against the Federal Government and the administering entity (except claims for willful misconduct) for any injury, death, damage, or loss of property, revenue, or profits arising from the participation of the registered participants in a competition under this Act.

(2) Notice required.—The Secretary shall provide notice of any waiver required under this subsection in the notice required by section 3(b)(2).

(3) Prohibition.—The Secretary may not require a registered participant to waive claims against the administering entity arising out of the unauthorized use or disclosure by the administering entity of the intellectual property, trade secrets, or confidential business information of the registered participant.

(b) Liability Insurance.—

(1) Requirements.—As a condition of participation in a competition under this Act, a registered participant shall be required to obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by—

(A) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out in connection with participation in a competition under this Act; and

(B) the Federal Government for damage or loss to Government property resulting from such an activity.

(2) Federal government insured.—

(A) In general.—The Federal Government shall be named as an additional insured under the insurance policy of a registered participant required under paragraph (1)(A).

(B) Mandatory indemnification.—As a condition of participation in a competition under this Act, a registered participant shall be required to agree to indemnify the Federal Government against third party claims for damages arising from or related to competition activities.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization of Appropriations.—

(1) Awards.—There are authorized to be appropriated to the Secretary to carry out this Act for the period of fiscal years 2007 through 2016—

(A) $20,000,000 for awards described in section 4(a)(1);

(B) $20,000,000 for awards described in section 4(a)(2); and

(C) $10,000,000 for the award described in section 4(a)(3).

(2) Administration.—In addition to the amounts authorized in paragraph (1), there are authorized to be appropriated to the Secretary for the administrative costs of carrying out this Act $2,000,000 for each of fiscal years 2007 through 2016.

(b) Carryover of Funds.—

(1) In general.—Funds appropriated for prize awards under this Act—

(A) shall remain available until expended; and

(B) may be transferred, reprogrammed, or expended for other purposes only after the expiration of 10 fiscal years after the fiscal year for which the funds were originally appropriated.

(2) Relation to other law.—No provision in this Act permits obligation or payment of funds in violation of section 1341 of title 31, United States Code (commonly known as the "Anti-Deficiency Act").

SEC. 9. MAINTENANCE OF EFFORT.

The Secretary shall ensure that funds provided under this Act will be used only to supplement, and not to supplant, Federal research and development programs.

SEC. 10. SUNSET.

The authority provided by this Act shall terminate on September 30, 2017.

By Ms. MURKOWSKI:

S. 2797. A bill to provide competitive status to certain Federal employees in the State of Alaska; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, as we approach the start of National Police Week and the annual memorial service, I would like to take this opportunity once again to speak about the life and accomplishments of the late Thomas P. O'Hara, a National Park Service Protection Ranger and pilot and an Alaskan hero.

Thomas P. O'Hara was assigned to the Katmai National Park and Preserve in the Bristol Bay region of western Alaska. On December 19, 2002, Ranger O'Hara and his passenger, a Fish and Wildlife Service employee, were on a mission in the Alaska Peninsula National Wildlife Refuge. Their plane went down on the tundra.

When the plane was reported overdue, a rescue effort consisting of 14 single engine aircraft, an Alaska Air National Guard plane, and a Coast Guard helicopter quickly mobilized. Many of the single-engine aircraft were piloted by Tom's friends. The wreckage was located late in the afternoon of December 20. The passenger survived the crash, but Ranger Tom did not.

Tom O'Hara was an experienced pilot with 11,000 hours as a pilot-in-command. He was active in the communities of Naknek and King Salmon where he grew up, flying children to Bible camp and coaching young wrestlers. Tom provided a strong link between the residents of Bristol Bay and the National Park Service.

Although Tom O'Hara was a most valued employee of the National Park Service, he did not enjoy the same status as National Park Service employees with competitive career status. Tom was hired under a special hiring authority established under the Alaska National Interest Lands Conservation Act, ANILCA, which permits land management agencies like the National Park Service to hire, on a noncompetitive basis, Alaskans who by reason of having lived or worked in or near public lands in Alaska, have special knowledge or expertise concerning the natural or cultural resources of public lands and the management thereof.

Tom O'Hara possessed this knowledge and offered it freely to the National Park Service. But because he was hired under this special authority, his opportunities for transfer and promotion within the Park Service were limited, even though his service was exemplary.

As a lasting memorial to Tom O'Hara's exemplary career, I am introducing legislation today that will grant competitive status to ANILCA local hire employees who hold permanent appointments with the Federal land management agencies after the completion of 2 years of satisfactory service. In Tom's honor, the short title of this legislation is the Thomas P. O'Hara Public Land Career Opportunity Act of 2006.

It is my sincere hope that the enactment of this legislation will encourage other Alaskans, particularly Alaska Natives, to follow in Tom O'Hara's footsteps and seek lifelong careers with the Federal land management agencies.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the text of the bill was ordered to be printed in the Record, as follows:

S. 2797

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Thomas P. O'Hara Public Land Career Opportunity Act of 2006".

SEC. 2. COMPETITIVE STATUS FOR CERTAIN FEDERAL EMPLOYEES IN THE STATE OF ALASKA.

Section 1308 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3198) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) Competitive Status.—An individual appointed to a permanent position under subsection (a) shall be converted to competitive status after—

"(1) if the appointment is full time, the completion of 2 years of competitive and satisfactory full time service; or

"(2) if the appointment is less than full time, the period that is equivalent to 2 years of competitive and satisfactory full time service.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 476—SUPPORTING DEMOCRACY, DEVELOPMENT, AND STABILIZATION IN HAITI

Mr. NELSON of Florida (for himself, Mr. DeWine, Mr. Bingaman, Mr. Feingold, Mr. Lieberman, Mr. Durbin, Mr. Coleman, Mr. Kennedy, and Mr. Martinez) submitted the following resolution; which was considered and agreed to:

S. Res. 476

Whereas Haiti has a per capita gross domestic product (GDP) of $361, over 65 percent of the population lives under the poverty line, 50 percent of the population does not have access to clean water, and nearly 50 percent of the population is illiterate, according to the World Bank;

Whereas the Government of Haiti has fundamental requirements with respect to providing citizen security, protecting the rule of law, controlling drug trafficking, and fighting corruption;

Whereas, on March 2, 2004, United Nations Secretary-General Kofi Annan stated, "We should put the people of Haiti at the center of everything we try to do, and try and help them build a better future. And as I have indicated before, I hope this time the international community will go in for the long haul and not a quick turn-around. We need to work with them to stabilize the country, and sustain the effort. It may take years and I hope we will have the patience to do it.";

Whereas the United Nations Stabilization Mission in Haiti (MINUSTAH) was established by United Nations Security Council Resolution 1542 on April 30, 2004, and extended again until August 15, 2006, by United Nations Security Council Resolution 1658, "with the intention to renew for further periods";

Whereas over 40 countries participate in MINUSTAH, including 12 countries from the Western Hemisphere;

Whereas the leadership of MINUSTAH is comprised of representatives from Canada, Brazil, and Chile;

Whereas more than 3,500,000 Haitians registered to vote in Haiti according to the Organization of American States;

Whereas more than 2,000,000 Haitians voted in the national elections on February 7, 2006, according to the Haitian Provisional Electoral Council (CEP); and

Whereas more than $1,000,000,000 was pledged at the International Donors Conference in July 2004 in support of Haiti's Interim Cooperation Framework: Now, therefore, be it

Resolved, That the Senate—

(1) urges reconciliation among the people of Haiti, including a government led by President-elect Rene Preval that respects the rights of all political parties;

(2) supports the efforts of President-elect Preval to coordinate municipal and local elections in 2006;

(3) thanks the countries that are contributing personnel to MINUSTAH, particularly Brazil, whose President, Luiz Inacio Lula da Silva, announced on March 13, 2006, that peacekeepers from Brazil will stay in Haiti for as long as the new government in Haiti needs them;

(4) supports efforts by the United States to encourage Canada, Chile, and Argentina to maintain their commitments to MINUSTAH;

(5) strongly encourages the members of the United Nations Security Council to continue to support the current troop levels of MINUSTAH and to raise significantly the numbers of United Nations civilian police forces;

(6) urges the broader international community to continue to support MINUSTAH, to fulfill the pledges made at the July 2004 International Donors Conference, and to plan for a new multi-year commitment of support at a new donor's conference to be held no later than July 2006;

(7) recommends the creation of an effective demobilization, disarmament, and reintegration program to encompass former military members and gangs;

(8) recommends that the new government cooperate fully with MINUSTAH in assuring police and judiciary reform; and

(9) supports assistance from the United States Government to support the reconstruction of Haiti, including programs to promote job creation, governance and rule of law, protection of the environment, access to basic education and health care, and reconstruction of vital infrastructure.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, May 12, 2006, at 10 a.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—S. 2791

Mr. FRIST. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (S. 2791) to amend titles 46 and 49, United States Code, to provide improved maritime, rail, and public transportation security, and for other purposes.

Mr. FRIST. In order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

SUPPORTING DEMOCRACY DEVELOPMENT AND STABILIZATION IN HAITI

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 476, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 476) supporting democracy development and stabilization in Haiti.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statement relating to the bill be printed in the Record as if read, without intervening action our debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 476) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 476

Whereas Haiti has a per capita gross domestic product (GDP) of $361, over 65 percent of the population lives under the poverty line, 50 percent of the population does not have access to clean water, and nearly 50 percent of the population is illiterate, according to the World Bank;

Whereas the Government of Haiti has fundamental requirements with respect to providing citizen security, protecting the rule of law, controlling drug trafficking, and fighting corruption;

Whereas, on March 2, 2004, United Nations Secretary-General Kofi Annan stated, "We should put the people of Haiti at the center of everything we try to do, and try and help them build a better future. And as I have indicated before, I hope this time the international community will go in for the long haul and not a quick turn-around. We need to work with them to stabilize the country, and sustain the effort. It may take years and I hope we will have the patience to do it.";

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(2) supports the efforts of President-elect Preval to coordinate municipal and local elections in 2006;

(3) thanks the countries that are contributing personnel to MINUSTAH, particularly Brazil, whose President, Luiz Inacio Lula da Silva, announced on March 13, 2006, that peacekeepers from Brazil will stay in Haiti for as long as the new government in Haiti needs them;

(4) supports efforts by the United States to encourage Canada, Chile, and Argentina to maintain their commitments to MINUSTAH;

(5) strongly encourages the members of the United Nations Security Council to continue to support the current troop levels of MINUSTAH and to raise significantly the numbers of United Nations civilian police forces;

(6) urges the broader international community to continue to support MINUSTAH, to fulfill the pledges made at the July 2004 International Donors Conference, and to plan for a new multi-year commitment of support at a new donor's conference to be held no later than July 2006;

(7) recommends the creation of an effective demobilization, disarmament, and reintegration program to encompass former military members and gangs;

(8) recommends that the new government cooperate fully with MINUSTAH in assuring police and judiciary reform; and

(9) supports assistance from the United States Government to support the reconstruction of Haiti, including programs to promote job creation, governance and rule of law, protection of the environment, access to basic education and health care, and reconstruction of vital infrastructure.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on today's Executive Calendar: Nos. 576, 577, 578, 579, 619, 620, and 623.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF AGRICULTURE

Marc L. Kesselman, of Tennessee, to be General Counsel of the Department of Agriculture.

Linda Avery Strachan, of Virginia, to be an Assistant Secretary of Agriculture.

Boyd Kevin Rutherford, of Maryland, to be an Assistant Secretary of Agriculture.

Gale A. Buchanan, of Georgia, to be Under Secretary of Agriculture for Research, Education, and Economics.

DEPARTMENT OF JUSTICE

Timothy Anthony Junker, of Iowa, to be United States Marshal for the Northern District of Iowa for the term of four years.

Patrick Carroll Smith, Sr., of Maryland, to be United States Marshal for the Western District of North Carolina for the term of four years.

DEPARTMENT OF HOMELAND SECURITY

Uttam Dhillon, of California, to be Director of the Office of Counternarcotics Enforcement, Department of Homeland Security.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDERS FOR MONDAY, MAY 15, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 2 p.m. on Monday, May 15. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to S. 2611, the Comprehensive Immigration Reform Act, as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, on Monday, we will return to the immigration reform bill. Members wishing to offer amendments to this bill and wishing to debate the bill are encouraged to do so starting on Monday.

The first rollcall vote next week will be on Tuesday morning at 10 o'clock. That particular vote will be on the confirmation of a circuit court judicial nomination. In all likelihood, we will have several other votes stacked on immigration shortly thereafter.

We will have a full week next week. The Democratic leader and I outlined yesterday morning what the plans would be, expecting a full debate on what we know is a contentious issue, in large part because of the complexity of the issue.

We all know we need to address the insecurity that exists on our borders today. It has to be first and foremost, up front. That is where illegal people, millions of illegal people, come through every year.

There is a real distrust of Government being able to accomplish that among the American people today. We hear it by direct conversation, and we see it by e-mail. We have to do our absolute best to secure those borders. It takes money, it takes planning, it takes Federal involvement, State involvement, and that has to be accomplished.

I feel very good about the progress that has been made to date. It is still totally inadequate, but last year we put about $10 billion on our borders, increasing the number of border security guards, and adding 1,400 detention beds inside this country. It does take time when we put the money there to train people and to get them on board. I am not making any excuses, but that was the end of last year.

Last week in this body, we said we need to spend another $1.9 billion on the border in terms of providing the technology, the surveillance, the infrared cameras, the unmanned aerial vehicles, the capital expenditures that are required.

Now it is important for us to put together a comprehensive plan which stresses border security. We have to tighten it, but we also recognize this country is a magnet for people coming in from other countries. If we have employers hiring people illegally, who break the law, people are going to climb over the fence no matter how high we make it, or dig under that fence, and that is why we have to extend it to comprehensive reform.

From a workforce standpoint, we in this Nation welcome legal immigrants to come and work. That will be addressed as well.

It is going to require lots of debate, lots of amendments, and agreement. Again, the Democratic leader and I agree 100 percent on our approach, coming together in this body to address an issue which I hope will be in a dignified and civil way that reflects the very best of this institution. We will complete this bill before the Memorial Day recess.

ADJOURNMENT UNTIL MONDAY, MAY 15, 2006, AT 2 P.M.

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 12:42 p.m., adjourned until Monday, May 15, 2006, at 2 p.m.

NOMINATIONS

Executive nomination received by the Senate May 12, 2006:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES N. SOLIGAN, 8751

CONFIRMATIONS

Executive nominations confirmed by the Senate Friday, May 12, 2006:

DEPARTMENT OF HOMELAND SECURITY

UTTAM DHILLON, OF CALIFORNIA, TO BE DIRECTOR OF THE OFFICE OF COUNTERNARCOTICS ENFORCEMENT, DEPARTMENT OF HOMELAND SECURITY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF AGRICULTURE

MARC L. KESSELMAN, OF TENNESSEE, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF AGRICULTURE.

LINDA AVERY STRACHAN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

BOYD KEVIN RUTHERFORD, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

GALE A. BUCHANAN, OF GEORGIA, TO BE UNDER SECRETARY OF AGRICULTURE FOR RESEARCH, EDUCATION, AND ECONOMICS.

DEPARTMENT OF JUSTICE

TIMOTHY ANTHONY JUNKER, OF IOWA, TO BE UNITED STATES MARSHALL FOR THE NORTHERN DISTRICT OF IOWA FOR THE TERM OF 4 YEARS.

PATRICK CARROLL SMITH, SR., OF MARYLAND, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF 4 YEARS.

EXTENSIONS OF REMARKS

TRIBUTE TO MR. NORTON HURD OF DELTAVILLE, VIRGINIA

HON. JO ANN DAVIS
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, May 11, 2006

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I would like to submit for the RECORD the accomplishments of Mr. Norton Hurd of Deltaville, Virginia.

Mr. Hurd, whose grandfather fought at the Battle of Gettysburg, grew up in Deltaville, Virginia, and attended Lynchburg College, studying history while playing varsity tennis, baseball, and basketball. After graduating from Lynchburg, Mr. Norton became a teacher and coach at Amelia High School before signing up for the U.S. Naval Air Reserve in 1941. After receiving his flight wings in May 1942, Ensign Hurd was stationed in Minneapolis, training pilots in open-cockpit planes in the frigid temperatures of Minnesota. He, however, longed for combat.

Ensign Hurd repeatedly asked his skipper for a transfer, telling him "I don't want to tell my grandchildren, when the war is over, that I fought the battle of Minneapolis." After flight training sessions in New Jersey and Massachusetts, Lieutenant Hurd found himself aboard the legendary aircraft carrier *Wasp*, heading for Guam. Lt. Hurd was a member of the Hell Razors, and flew in the first group of Navy planes to bomb Tokyo. After surviving a showdown with a Japanese fighter near Chi-Chi Jima, one of his engines failed, and he crashed into the Pacific within 100 yards of the *Wasp*. After being rescued, Lt. Hurd was awarded the Distinguished Flying Cross, given to those who distinguish themselves by heroism or extraordinary achievement while participating in aerial flight.

After returning home from the Pacific, Mr. Hurd opened Hurd's Home Appliances in Deltaville in January 1946, figuring that after the war everyone would need appliances. In 1947 he married Alvine Taylor, and they have three children together, Myra, Jack, and Michael. Mr. Norton is a charter member of the Middlesex Lions Club, has served as presidents of the Deltaville Community Association and the Middlesex County Chamber of Commerce, and for 25 years was on the Board of Directors of the Bank of Middlesex, First Virginia Bank. He is also a member of the fire department and rescue squad, and has been inducted into the Lynchburg College Hall of Fame. Mr. Hurd is an outstanding athlete, gentleman, and asset to Virginia, and is loved by everyone who knows him.

I would like to submit for the RECORD a recent article about Mr. Hurd in the Baysplash, entitled "Hell Razor: Staying Still's Been the One Thing Norman Hurd of Deltaville Can't Do." I recommend my colleagues in the House of Representatives to read about this fine American in the First District of Virginia.

HELL RAZOR: STAYING STILL'S BEEN THE ONE THING NORTON HURD OF DELTAVILLE CAN'T DO

(By Capt. Bob Cerullo)

As a young lad, Norton Hurd, now nearing 90, loved to sit with his grandfather on the porch of the home his grandfather built after the Civil War. He recalled the day his grandfather "gave me a dime to stay still and not say a word for ten minutes because I was always jumping and carrying on."

His grandfather, Jesse C. Hurd, had been shot in the leg at the Battle of Gettysburg. When the Civil War ended he arrived in Deltaville and did logging work, fell in love with the place, became a carpenter, built several homes including his own, and fell in love again, marrying Ida Harrow of Deltaville.

Their son (and Norton's father), Jesse W. Hurd, married Mabel Norton, also of Deltaville. Jesse W. loved farming and eventually opened a grocery store to sell the crops he grew. Young Norton worked the crops, milked the cows, gathered eggs, tended the store and dreamed about baseball. Ted Williams was his hero, and there is a family legend that Norton's first words were, "Throw it here."

Norton, who didn't share his father's love of farming, attended Lynchburg College, studied history, and played varsity tennis, basketball and baseball. After graduation he was a teacher and coach at Amelia High School, and he recalls coaching a student named Monte Kennedy, who went on to play for the Brooklyn Dodgers.

TRAINING FOR COMBAT

With the drums of war beating in Europe, it was only a matter of time before Norton faced being drafted, probably into the infantry. "I had played a lot of baseball and I had played every position, at one time or another, except catching," he said. "I have not had any desire to be a catcher. So I said, 'I think I would really rather be up there pitching than down there catching'." Determined to be a pilot, the gangly young teacher signed up with the U.S. Naval Air Reserve, Air Corps. A few weeks later he reported to Anacostia, MD, for a physical, where doctors found he was underweight, had a cold and was running a fever; they told him to go home, stay still, rest and eat. Staying still was the hardest part, and after consuming dozens of bananas and quarts of milk he was back in three days, both heavier and fever-free.

By August of 1941 he was flying an open-cockpit N2S Starman bi-plane, and with seven hours of in-flight training he was transferred to Jacksonville, Florida, where he got his wings in May of 1942. Ensign Hurd was then stationed in Minneapolis, where he trained pilots in freezing cold open-cockpit planes for two winters. "It got so cold up at 5,000 feet that you couldn't stay in the air for more than 30 minutes," he said. "The Red Cross ladies knitted ski masks for us, but it was cold." There were several close calls when a student panicked and he had to take over the controls to avoid crashing the plane.

Hurd, impatient for combat, kept asking his skipper for a transfer, and the skipper in turn asked him if he knew what he was saying, and why he wanted to be reassigned. "Well, I joined because I thought there was going to be a fight," Hurd told him. "I don't want to tell my grandchildren, when the war is over, that I fought the battle of Minneapolis." Three months later he was in Wildwood, NJ, where he trained to fly Curtiss SB2C dive bombers; pilots nicknamed the cumbersome plane "The Beast." Next, at Otis Field in Massachusetts, he learned to land a plane on an aircraft carrier. "The first time I went out there to land I had to find the carrier and make three landings to qualify," he said. "The Navy figured if you could land on one of the little carriers then you could land on anything. I looked down at that carrier and it really looked to me like a wooden roof shingle floating in the sea. I made it."

THE HELL RAZORS

Sent to Maui, Hurd reported aboard the legendary aircraft carrier *Wasp*, steaming for Guam. He was a member of the infamous air group known as the Hell Razors, and flew in the first group of Navy planes to bomb Tokyo. On a flight over Chi-Chi Jima, a Japanese communication center near Iwo Jima, he was jumped by a Japanese fighter, which he shot down, then, within about a hundred yards of landing back on the *Wasp*, his engine failed and Lt. Hurd plowed into the sea.

It was February, the churning sea water was cold, and the plane hit the water hard. "My head hit the cockpit. I was momentarily stunned," he said. "When a fighter goes in it goes down in the water, then comes back up. The water came over my head. I thought I was sinking so I jumped out of the cockpit and crawled out on the wing. Then the plane came up. I swam back to try to get the lifeboat that I knew was stored under the pilot's seat."

Pilots sometimes debated about whether one could be sucked down when a plane ditched, Hurd recalled, and "I didn't think it was time to settle that debate right there, so I ran off the wing again and jumped overboard. My head was bleeding. All I had was a Mae West life preserver, a dye marker and a whistle. I was treading water and blowing the whistle. In the waves, one minute I could see the carrier going away; in the next I couldn't see anything. I was bleeding and thinking about the sharks. It finally hit me that there was no place to swim to. Finally I saw a destroyer coming. Then, God, I am standing in the water blowing my whistle. It steamed right on past me. Then finally it backed,up. They threw me a rope and wanted me to climb up it. I was so weak I couldn't do it. Then they threw me a net and pulled me up and put me in sick bay.

"They sewed up my head, then took me up on deck to be transferred back to the *Wasp*. The transfer basket from the *Wasp* arrived with ten gallons of ice cream aboard. Then they put me in the transfer basket and sent me back over the raging sea to the *Wasp*. So I figure I am worth ten gallons of ice cream."

Hurd was awarded the Distinguished Flying Cross, given to those who distinguish themselves by heroism or extraordinary achievement while participating in aerial flight, as evidenced by voluntary action above and beyond the call of duty.

BACK HOME

Undecided about what to do after the war, Hurd said he thought about sailing a boat around the world but couldn't find any of his friends who were "crazy enough" to go with him. He headed to Deltaville to relax and contemplate a career, but the future was decided for him. His father had sold his grocery business for $5,000, which he used to buy a store for Norton. "When I came home my dad said, 'I got a place'," he recalled. "My father never wanted me to leave home. Dad was a hard worker and expected the same from me." In January of 1946 Norton opened Hurd's Home Appliances, figuring that everyone would need appliances after the war. With his father's help he obtained credit and a stock of scarce home appliances, and had more customers than stock.

In 1947 he married Alvine Taylor, daughter of the founder of Taylor's Restaurant, still a Deltaville landmark. "When I came home from the war and saw Alvine Taylor, I knew she was the most attractive young woman I had ever seen anywhere," he said. "We were married two years later." They have three children: Myra Wall and Jack Hurd run Hurd's Hardware, and Michael, a former prosecutor, is an attorney in Deltaville; his office is in the renovated old store once run by Norton and his father. Jack and his wife live in the old Hurd home built by his great grandfather, Jesse C.; Michael and his wife live in a home Norton built in 1953.

Norton, a charter member and later resident of the Middlesex Lions Club, also has served as president of the Deltaville Community Association and the Middlesex County Chamber of Commerce, and for 25 years was on the Board of Directors of the Bank of Middlesex, First Virginia Bank. A member of the fire department and rescue squad, he has been a member of the Phillippi Christian Church since he was 12 and has served as a deacon, board member and elder. He is perhaps best known as a baseball coach and player, and once played with the Deltaville Deltas. He also has been inducted into the Lynchburg College Hall of Fame.

Hurd retired from his business in 1981, at age 65, but still is actively involved. While Jack now manages the store, Norton's often there on Saturdays and other days when Jack is off. Since he retired he has found more time to golf, often playing 36 holes straight.

Of his many awards and wartime memorabilia, he seems to treasure most a tattered copy of the Amelia High School yearbook compiled by his former students and dedicated to him. A copy was sent to him while he was fighting in the Pacific. He considers it perhaps his proudest possession.

It's unlikely Norton Hurd will earn any more dimes, as he did from his grandfather, for sitting still. That never was something he liked to do.

RECOGNIZING THE LAUNCH OF NATIONAL HEPATITIS B AWARENESS WEEK

HON. CHARLES W. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. DENT. Mr. Speaker, I rise today to recognize the efforts of the Hepatitis B Foundation, which is located in my state of Pennsylvania, as well as all the groups involved in the "AIM for the B" campaign which seeks to raise awareness for chronic hepatitis B. The "AIM for the B" campaign has been working over the past 3 years to encourage communities most impacted by the chronic hepatitis B virus, including Asian Americans, to seek treatment for the disease, and to prioritize the disease as a serious health issue in the U.S. and I commend them for this noble goal.

In the United States, approximately one out of every 10 Asian Americans is chronically infected with the hepatitis B virus, resulting in more than half of the chronic hepatitis B cases and half of the deaths resulting from chronic hepatitis B infection. Today, only a small percentage of diagnosed chronic hepatitis B patients are being actively managed for their disease. Every year, approximately one million people worldwide die from chronic hepatitis B because they are diagnosed past the point where medical care and intervention can be effective.

In December, I, along with Congressman MIKE HONDA, introduced H.R. 4550, the National Hepatitis B Act, which included strategies for expanded vaccination programs, primary and secondary preventive education and training, surveillance and early detection, and research. I want to thank Congressman HONDA for his tireless efforts on behalf of this issue and my 21 colleagues who have already recognized the importance of this legislation and are currently cosponsors of this bill. I encourage my colleagues to be a part of the solution to this terrible and silent disease and sign on to co-sponsor this important legislation.

Today, Congressman HONDA and I along with representatives from the Center for Disease Control and Prevention (CDC), National Institutes of Health (NIH), patient advocacy organizations, physicians and patients joined together at a Congressional Briefing in the Rayburn House Office Building hosted by the "AIM for the B" campaign to kick off National Hepatitis B Awareness Week. The week will educate communities, patients and families about chronic hepatitis B through events held across the country. The briefing was designed to increase knowledge of chronic hepatitis B as a serious health issue in the United States and to emphasize the importance of increasing diagnosis, screening and treatment. The briefing allowed us to communicate the potential consequences of chronic hepatitis B and to lay out actions needed to increase treatment rates for this extremely infectious disease.

I want to take this opportunity to especially recognize the Hepatitis B Foundation based in Doylestown, Pennsylvania. As a representative of Pennsylvania, I am pleased to support this national non-profit organization solely dedicated to the global problem of hepatitis B. The foundation was founded in 1991, with the support of Dr. Baruch Blumberg, who won the Nobel Prize for his discovery of the hepatitis B virus. In just 10 years, the Hepatitis B Foundation has grown from a grassroots effort into a national non-profit organization dedicated to finding a cure and improving the quality of life for those affected by hepatitis B.

As we begin National Hepatitis B Awareness week, I urge my colleagues to reflect on the severity of hepatitis B and take steps to educate, raise awareness about and put an end to this disease. Together, we can make a difference in addressing this U.S. and global public health issue.

IN RECOGNITION OF MR. NIRANJAN S. SHAH

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. CROWLEY. Mr. Speaker, I rise today to congratulate Mr. Niranjan S. Shah, a prominent Indian-American businessman, activist, and philanthropist, who was one of the few selected to receive the prestigious 2006 Ellis Island Medals of Honor. This award is presented to influential leaders of various fields and ethnic backgrounds who contribute greatly to American society. Established in 1986 by the National Ethnic Coalition of Organizations (NECO), the Ellis Island Medals of Honor pay tribute to the heritage of those groups that comprise America's unique cultural mosaic and extraordinary individual achievement. Past medalists include six U.S. Presidents as well as Nobel Prize winners and leaders of industry, education, the arts, sports and government.

As a young man growing up in India, Mr. Shah was an academic standout obtaining his bachelor's degree in engineering from Sardar Patel University. After the completion of his studies in India he was given the opportunity to pursue a Master's degree in the United States, a big move for a young man from India. With the support of his family and his village, Mr. Shah left India for America and successfully obtained his Master's degree in Civil Engineering from the University of Mississippi. After receiving his Master's degree he supplemented his engineering education with the Harvard Business School Executive Management program. With this incredible wealth of education a lack opportunities still existed for a young Indian. So Mr. Shah went forward with his own American dream and decided to go it on his own and create what is now a thriving engineering firm. He is well known in his adopted hometown of Chicago for his engineering success. Any American who has flown through O'Hare International Airport, or has attended a convention at McCormick Place has seen first hand the work of Niranjan Shah and his engineering firm.

The spirit of making a better life was not limited to just himself but pushed him to provide assistance to those less fortunate than himself. Mr. Shah's generosity was extended to small villages in India and he has worked tirelessly to create a better U.S. Indo relationship. Mr. Shah is one of the few Americans who was also recognized this winter by the President of India through the Pravasi Bharatiya Samman award, the highest Indian civilian award to be given to people of Indian origin, to recognize the contributions of the Indian Diaspora to India.

Mr. Speaker, Niranjan is an asset to the United States and his efforts are deserving of this prestigious award. Mr. Shah fully embodies the commitment and values that the

Ellis Island Medal of Honor represents. Mr. Shah will receive this honor joined by his loving wife Pratima, and his two children Smita and Ajay. It is an honor for me to recognize this great American today.

IN HONOR OF BAYOU METO UNITED METHODIST CHURCH ON THE CHURCH'S 125TH ANNIVERSARY

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. BERRY. Mr. Speaker, I rise here today to pay tribute to the Bayou Meto United Methodist Church in DeWitt, Arkansas, where my parents were married, my family and I have attended for more than fifty years, and my brother Mark and his family are members. This month marks our church's 25th anniversary, a significant milestone for the congregation and the entire community.

The Bayou Meto United Methodist Church was organized in 1881 as the Mt. Zion Methodist Episcopal Church South. The original 13 charter members chose the southwest corner of the Bayou Meto Cemetery to build a small wooden sanctuary of sawed boards. The sanctuary only had six windows, four of which were made of glass shipped by boat from St. Louis to Crockett's Bluff and hauled by ox wagon to the church site. The original building was heated by a wood stove and furnished with handmade pews and oil lamps.

The Bayou Meto United Methodist Church played a prominent role in the community during this time, serving as the local school until residents could build a school house elsewhere. The first minister, Reverend C.T. Thompson, traveled on horseback from Goldman once a month to preach two services.

By 1915, the church community was anxious to expand. Mrs. Joe Webster donated one acre of land to the church and local residents moved the original building to a new location using horses and ropes. Just four years later, the congregation sold the church building as a private resident and built a new structure to accommodate the growing congregation. The original building still stands about 1,500 feet from its first location.

The new sanctuary included a bell tower and bell donated by a prominent Jewish merchant of DeWitt, Mr. T.M. Loeb. Although our community constructed Sunday school rooms, a pastor's study, and replaced the original church pews, the sanctuary is almost identical to the one constructed in 1919.

The Reverend C.H. Andrews became the church's first resident minister in 1939. During his tenure, the church constructed a parsonage, and a new education building. The church's current minister, Reverend Jackie Gregory, now occupies the parsonage and is the minister for both Bayou Meto and Lodge Corner Churches. The congregation continues to worship in the sanctuary, and the community frequently holds weddings, funerals, reunions, and meetings in both the sanctuary and education building.

The congregation has grown smaller over time as residents leave for larger towns, in search of job opportunities, schools, or greater convenience. As Lucinda Ax Jacobs wrote in her history of the Bayou Meto Cemetery, "Our Bayou Meto community was settled by former soldiers, both Union and Confederate, glad to find peace and a place they could build homes, raise families, and make an honest living for themselves." This phrase remains true for those of us who see this community as their home, and intend to remain to raise our families and earn an honest living.

The Bayou Meto United Methodist Church has a long history, marked by the community's strong commitment to service. Every single building on the church property was constructed by the men in this community through hours upon hours of hard work and sacrifice. This spirit is unique to our church, and will guide the members in our congregation for years to come.

On May 28, 2006, our community will gather to celebrate the 125th anniversary of the Bayou Meto United Methodist Church. I ask my colleagues in the U.S. House of Representatives to join me in recognizing this community on this important day in history, and to send our best wishes for a memorable service of homecoming and remembrance.

REMARKS IN HONOR OF JENNY CHIA-JEN CHANG

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. PRICE of North Carolina. Mr. Speaker, I rise today to pay tribute to a former staffer who has touched my life and the lives of many others.

Jenny Chang was in the first class of Park Scholars at North Carolina State University, a Caldwell Fellow, student body president, senior class president, and dean's list student. She graduated in 2000 with a degree in biochemistry and minor in economics. She was also awarded a Truman Scholarship for graduate study. Jenny worked in my 2000 re-election campaign and then brought her talent, dedication, and cooperative spirit to my Washington office. Later, she moved to the office of the gentlewoman from New York, CAROLYN MALONEY.

On April 29, Jenny Chang died after a 4-year battle with breast cancer. She was 28 years old.

One of the things that made Jenny such a remarkable young woman was her grace. She confronted death in the same way she lived life: with candor, with faith, and without mincing words. Knowing that her time with us was probably short, she wasted not a single opportunity whether traveling to the places she longed to see, savoring a good meal, or sharing her love with the people she cherished.

Along the way, Jenny befriended countless breast cancer survivors who were as exhausted by battling bureaucracy as they were from fighting cancer. She was a compassionate warrior. She would visit sister patients in the hospital, even when her energy was diminished by that day's rigorous chemotherapy treatment. She would take a book or just sit quietly nearby, offering support and complete understanding.

Jenny was outraged that we live in a nation where almost 213,000 women this year will be diagnosed with breast cancer and 41,000 will die from the disease. Still, she believed in the power of public policy to create change. She requested that memorial contributions in her honor be made to a scholarship fund to provide a stipend to students in public policy internships.

We honor Jenny by remembering that when we consider funding and policy questions regarding research on breast cancer and other dread diseases, we must get beyond the abstractions of budgets and ideologies. We're talking about the lives of loved ones, friends and co-workers. Despite extraordinary advances in medicine and technology, there is still much we do not know. Jenny tried every therapy available to her, but there was no cure.

Jenny was a leader and expected leaders to be good stewards of their power. It stuns us that she is gone, but her legacy of courage, honesty, kindness, and purpose rekindle our efforts and inspire our leadership. We will do better in her name.

HONORING THE CAMDEN NATIONAL BANK ON THE OCCASION OF ITS 100TH ANNIVERSARY

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. BONNER. Mr. Speaker, today I rise to pay tribute to the Camden National Bank, on the occasion of its 100th year. On May 12, 1906, the United States Department of the Treasury issued a charter for the operation of the Camden National Bank. Since that time, the bank has been a "home-owned, home-operated bank" with faithful and loyal employees.

Throughout the bank's existence, it has overcome periods of serious financial instability including the boll weevil infestation, the Great Depression, and the war years. Although the bank has faced such challenges in the past, it continues to grow and prosper. In March 2004, the Camden National Bank opened its first branch in Greenville, Alabama.

One of the most remarkable qualities of the Camden National Bank is its list of faithful employees. In its 100 years of existence, the bank has seen only four presidents. The first president elected was Mr. Edwin Walker Berry, a former high school principal and mayor of Camden. Upon Mr. Berry's retirement in 1934, Mr. Joseph McReynolds Moore was elected president of the bank, followed by Mr. A.L. (Les) Johnson, Sr. in 1952, and Mr. A.L. Johnson, Jr. who remains president today.

In addition to the presidents, vice presidents, and founding directors, there are several other employees that have substantially contributed to the growth and success of the bank. For example, the bank's first employee, Mrs. Dorothy McNeil, was hired as the bookkeeper in 1941. The Hugh C. Dale Directors' Building was named to honor Mr. Hugh C.

Dale and his years of service, including 43 years as a director. Mrs. Barbara Ivey was elected vice president and cashier in 1972 becoming the first female vice president of the Camden National Bank. Also, Mrs. Lola Saulsberry was the first African American employee of the bank when she was hired in 1982 and was later elected assistant cashier in 1995.

The Camden National Bank, over its 100 years, continues to have a "hometown bank" atmosphere. With the help of its loyal employees who have contributed to its success, the Camden National Bank continues to thrive in its accomplishments and its service to the people of Camden and Wilcox County. It is my sincere hope that the Camden National Bank will continue its success in south Alabama for another 100 years.

IN RECOGNITION OF CARL L. WHATLEY, JR., 2006 ALABAMA STATE SMALL BUSINESS PERSON OF THE YEAR

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. ROGERS of Alabama. Mr. Speaker, I rise today to pay tribute to Carl Whatley, Jr., of Montgomery, Alabama. The United States Small Business Administration recently recognized Mr. Whatley, Founder and CEO of ProEthic Pharmaceuticals, Inc., as the Alabama State Small Business Person of the Year during Small Business Week 2006.

Mr. Whatley began his career in the industry by working as a salesman for major pharmaceutical firms. In 2001, after nineteen years of working for other companies, he founded Pro Ethic Pharmaceuticals, Inc. The business was created to focus on selling specialty pharmaceuticals that larger companies considered insignificant. Mr. Whatley's company has grown from five to 113 employees, expanding from one to 15 products that it now acquires, develops and markets in 31 states. ProEthic Pharmaceuticals has seen revenues rise from $1.2 million in 2002 to $25 million in 2005.

National Small Business Week recognizes outstanding small business owners for their personal achievements and contributions to our nation's economy. Mr. Whatley is a dedicated individual whose hard work warrants congratulations.

PAYING TRIBUTE TO BARNEY WEHR

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Barney Wehr for his long and distinguished nursing career.

Barney has been a nurse for the past 35 years. Over the course of her career she has worked in the Operating Room, Post Anesthesia Care Unit and as a Labor and Delivery nurse. Barney has been working at Boulder City Hospital as an Endoscopy nurse for over 10 years.

During her tenure at Boulder City she greatly contributed to the start up and development of the GI Department. Barney also belongs to the Endoscopy RN Society and uses this professional affiliation to help keep the department current on the latest technology. She is admired by both her peers and patients, and regarded as knowledgeable and experienced. Barney is recognized within the Boulder City Community as one of the best nurses in the community. She is a true asset to Boulder City Hospital and the nursing profession.

Mr. Speaker, I am proud to honor Barney Wehr for her professional expertise and significant contributions to the art of nursing. I wish her the best in her future efforts.

ON AVIAN FLU

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. KUCINICH. Mr. Speaker, I made the attached remarks regarding the Avian Flu on May 11, 2006.

You're on your own.

This has been the credo for the Administration's approach to health care and it summarizes their approach to Avian Flu. The Implementation Plan gives a little guidance to state and local governments and businesses and then wishes them luck.

First, there is the leadership vacuum. The plan calls for HHS to coordinate the medical response but calls for Homeland Security to coordinate federal operations and resources. A bipartisan report out of the Senate, released in April, found that the Department has lagged in fixing the problems that plagued its atrocious response to Hurricane Katrina. It found that major structural reforms were necessary and that little has changed in the Department so far. So we can expect Homeland Security to adopt a similar motto to the one they adopted last Summer: you're on your own.

What's more is that the plan has been called the mother of all unfunded mandates. While 7.1 billion dollars for avian flu preparedness is a step in the right direction, it is simply not enough. Dr. Irwin Redlener, director of the National Center for Disaster Preparedness at Columbia University's Mailman School of Public Health, called the budget "completely unrealistic." A big part of the reason it is insufficient is that it has to make up for years of steady erosion of the public health infrastructure due to lack of funding. In fact, Dr. Redlener points out the need for 5 billion dollars just for "staffs, equipment and supplies, and general resiliency." Yet the vast majority of the Administration's funding is going toward the anti-viral and vaccine stockpile.

This plan, therefore, gives us inadequate leadership and inadequate funding, which leaves the clear impression that we truly will be on our own in a pandemic. And a crisis is precisely the time we need to look out for each other the most.

However, we can be assured that everyone is not left to their own devices.

On November 4, 2005 during a House Government Reform Committee hearing on Avian Flu Preparedness, HHS Secretary Michael Leavitt responded to my questioning by saying that he would not be issuing a compulsory license for the anti-viral drug, Tamiflu. He also declared that he was in negotiations with Roche, manufacturer of Tamiflu, over the cost of the drug being purchased for the national stockpile. On one hand, Secretary Leavitt has a Congressional mandate to stockpile enough Tamiflu for 25% of the nation. On the other hand, he withdrew the threat of compulsory licensing, even if Roche tries to price gouge. In so doing, Leavitt undercut his own negotiating power and effectively surrendered control of price to Roche.

On November 10, six days after the hearing, the New York Times reported that Roche announced what they would be charging developed countries for Tamiflu: 15 Euros, or about 19 dollars for a course of treatment. Wondering how the price negotiations between HHS and Roche went, my office recently asked HHS what they were paying for Tamiflu for the stockpile. The asking price of 15 Euros, or 19 dollars. Even with the bulk purchasing power of 810 million pills, HHS did not bother to get a better deal than the asking price.

Lest you get the impression that this price is fair, allow me to point out that Roche did not sink a dime into research on the drug. They simply license it from its inventor, Gilead Sciences. That means there is no need to recoup research costs. Furthermore, we know it can be sold for a profit for much less. Cipla, a generics manufacturer in India, for example, is selling Tamiflu for only 12 dollars. That is 36 percent less than what the Federal Government is paying. If we paid Cipla's price instead of Roche's, we would save over a half a billion dollars. I bet local health agencies and hospitals could save a lot of lives with that kind of money. Think of what we could do with a half billion dollars—we could reduce the deficit, put teachers in classrooms, invest in renewable energy, provide health care to some of the uninsured, brace ourselves for the effects of climate change.

Those that stand to gain from inflated prices for pandemic pharmaceuticals are doing well. Roche's sales for the first quarter of 2006 are up 22 percent to 7.7 billion dollars. Gilead Sciences, the company that originally developed Tamiflu and continues to receive royalties on its sales, outperformed RBC Capital Markets estimate of 350 million dollars in Tamiflu Sales by 163 million dollars.

In essence, we are telling state and local governments that there's not enough money to fund things like medical personnel and equipment while we're giving away bags of money to the already incredibly profitable pharmaceutical industry. In other words, you're on your own, unless you're big Pharma.

CONGRATULATING CHARLES D. LEMMOND FOR 50 YEARS OF MEMBERSHIP IN THE WILKES-BARRE LAW AND LIBRARY ASSOCIATION

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to Pennsylvania Sen. Charles Lemmond, who is observing 50 years of membership in the Wilkes-Barre Law and Library Association.

A lifelong resident of Luzerne County, Pennsylvania, Senator Lemmond received a bachelor's degree from Harvard University, a law degree from the University of Pennsylvania and an honorary doctor of humane letters degree from Wilkes University.

Prior to his election to the Senate of Pennsylvania in 1985, he served as an assistant and first assistant district attorney in Luzerne County and as a judge of the Luzerne County Court of Common Pleas.

Long active in community and civic organizations, Senator Lemmond is a past potentate of Irem Temple and a 33rd degree Mason, a trustee of the Wyoming Conference of the United Methodist Church, a life member of the board of trustees of Wyoming Seminary and a member of the advisory boards of Penn State's Wilkes-Barre campus and the Salvation Army.

The Wilkes-Barre Law and Library Association was located in the county Court House located on Wilkes-Barre's Public Square from 1859 to 1909 when it was moved to the second floor of the current county Court House at 200 N. River Street in Wilkes-Barre.

The Law Library contains over 20,000 volumes of law books, reports and journals. The Law Library also operates the Luzerne Legal Register, the law journal of Luzerne County and the official reporter of the decisions of the Court of Common Pleas of Luzerne County. A lawyer referral service is also operated out of the law library for people who need a lawyer but do not know whom to contact.

The Law and Library Association also operates a charitable foundation that supports charitable and humanitarian projects throughout Luzerne County. It is intended to enhance the public's understanding and appreciation of the legal system in Luzerne County, ensure access to legal information and representation to all members of the Luzerne County community and foster good relations between members of the Bar, Judiciary and the public.

Mr. Speaker, please join me in congratulating Senator Lemmond for a half century of membership in the Wilkes-Barre Law and Library Association. His devoted service and the service of other distinguished legal practitioners have enabled the Association to grow and thrive and be a continuous source of support to its members.

A TRIBUTE TO THE EAST NEW YORK FAMILY ACADEMY GIRLS' BASKETBALL TEAM

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. TOWNS. Mr. Speaker, I rise today in recognition of the East New York Family Academy Girls' Varsity Basketball Team. They are champions of the 2006 Girls Varsity Division VIII–B of the Public School Athletic League of New York City. Under the direction of Head Coach Earl S. Mitchell, Assistant Coach Eddie Barron, and Managers Rayon Clarke and Shakeema Mattocks, the 2006 "Lady Eagles" excelled to an undefeated regular season record of 18 wins and no losses, while losing only one out of five games during the playoff season. Additionally, the East New York Family Academy Lady Eagles currently holds a record of two consecutive undefeated regular seasons.

I want to especially recognize the work of Athletic Director, John Cortese, and Principal Sheila Richards, who have worked hard to infuse excellence, respect and accountability not only in athletic programs, but in academic departments as well. At East New York Family Academy, it is truly a family affair. Coaches Mitchell and Barron have received a tremendous amount of inspiration from Tony Yard, the Head Coach of the Boys' Varsity Basketball Team and former member of the Panamanian Olympic Team, and from Donald Vanteerpool, the Head Coach of the Boys' Junior Varsity Basketball Team. Coach Mitchell is deeply appreciative of these coaches for teaching his team to respect the fundamentals of the game and for always being there when needed.

Although athletics are important, academics have not taken a backseat. In an era when sports achievements have sometimes replaced excellence in English, math, science and other academic areas, the coaches have demanded a high level of academic performance from team members. As an example, two players rank in the Top 10 of their senior class and four members of the starting five have received college acceptance offers.

Long after the last shot has been taken and the last ball dribbled, the members of the 2006 "Lady Eagles": Naledi Anderson, Alana Arthurs, Veldina Chaunce, Karanja Craigg, Tiffany Dugue' Ayana James, Shada Jordon, Dalkeitha Layne, Shamika Mcintosh, Krista Mitchell, Tashanya Morris, and Tara Powell will benefit from the leadership, love and guidance given to them by their coaches, teachers and administrators at East New York Family Academy.

I am certain that in the days to come, the members of the 2006 "Lady Eagles" will build upon their experiences in basketball and their days at the East New York Family Academy and there will be more achievements to come.

Mr. Speaker, in this spirit, I believe that the accomplishments of the 2006 "Lady Eagles," and the work of their coaches, teachers and administrators, are truly worthy of our recognition here today.

IN RECOGNITION OF ELLIE MAE MAXWELL

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. ROGERS of Alabama. Mr. Speaker, I rise today to recognize Ms. Ellie Mae Maxwell, of Coosa County, Alabama. Ms. Maxwell turned 103 years old on April 20th, which she celebrated with family and friends in her Kellyton home.

From 1903 until today, Ms. Maxwell has lived a full life that has seen many transitions in our country's history. She remembers growing up as a witness to the introduction of cars, computers, and laundry machines. She enjoys reading the Bible and newspaper, both without her glasses, on a daily basis. A mother of eleven, she has inspired her family from her oldest child to her youngest great-great grandchild.

I am proud to recognize Ms. Maxwell today in the House, and congratulate her on her 103rd birthday. I wish her the best and many more enjoyable times with her family and friends.

PAYING TRIBUTE TO LYDIA MOORE

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Lydia Moore for her 38 years of service to the Boulder City Hospital.

Lydia Moore came to Boulder City Hospital on November 2, 1968 as a Certified Nursing Assistant. While working she developed a program for unit clerks. Desiring to further her education she enrolled in Clark County Community College and received her Licensed Practical Nursing degree and later returned to Clark County Community College receiving a Registered Nursing degree. She has held several supervisory positions including night Charge Nurse, House Supervisor, Medical Surgical Unit Manager, and is currently the Social Services Manager.

Lydia received the Clark County March of Dimes Nurse of the Year in 1992 and is Vice President of Lend a Hand. She continues to be an advocate for the prevention of domestic violence and is active in the Clark County immunization program for children.

Lydia has served her community continuously throughout her life and Boulder City Hospital has been privileged to benefit from her knowledge and service for the past 38 years.

Mr. Speaker, I am proud to honor Lydia Moore for her years of service to the Boulder City Hospital and the Boulder City community. She has been a great asset to Southern Nevada and deserves recognition for her valuable efforts.

IN RECOGNITION OF STAMP OUT HUNGER, THE ANNUAL FOOD DRIVE ORGANIZED BY THE NATIONAL ASSOCIATION OF LETTER CARRIERS

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today to commend the National Association of Letter Carriers as they prepare to stage their fourteenth annual Stamp Out Hunger food drive this Saturday. Letter carriers in over 10,000 cities and towns will participate in this effort, the largest one-day food drive in the United States.

In the Fourth Congressional District, the National Association of Letter Carriers Pioneer Branch 2 partners with the Hunger Task Force to ensure that all food collected gets distributed quickly, fairly and safely. Last year's effort netted over 1.29 million pounds of food, and solicited the participation of 800 volunteers. Thousands of families contributed food, and letter carriers throughout the Milwaukee area worked tirelessly to make the event a success. As a result, this annual food drive is a true community effort that enables all of us to serve our neighbors. I have no doubt this year's event will meet or exceed last year's impressive achievements, and thousands of Milwaukeeans will have access to food throughout the summer as a result.

It is simply unconscionable that so many Americans have insufficient food to meet their needs. Stamp Out Hunger is a true testament to the strength of our community and our commitment to ensuring the security of our most vulnerable residents. I am honored to express my gratitude to the Hunger Task Force, NALC Pioneer Branch 2, and the constituents of the Fourth Congressional District who give to this year's Stamp Out Hunger food drive.

CONGRATULATING COLONEL EILEEN COLLINS ON HER RETIREMENT

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. UDALL of Colorado. Mr. Speaker, it is my pleasure today to honor the achievements of Colonel Eileen Collins, an inspirational member of the aerospace community. Last week, she announced her decision to retire from NASA, where her passion for discovery and her leadership skills will be greatly missed.

Building on a childhood love for airplanes and space, Col. Collins studied mathematics and science, earning her associate degree from Corning Community College in 1976, her bachelor's degree from Syracuse University in 1978, her master of science degree from Stanford University in 1986, and her master of arts degree from Webster University in 1989.

Col. Collins' career included many firsts: she was the first woman to enter Air Force pilot training straight from college, the first woman to pilot a space shuttle, and the first woman to serve as commander for a space shuttle mission. She also served her country as an Air Force pilot and as a mathematics teacher at the Air Force Academy. Her last space flight took place during the summer of 2005 when she commanded the STS–114 space shuttle mission, the first mission following the 2003 Columbia space shuttle disaster. As we've all come to expect, she carried out her duties on this mission with distinction. In sum, as noted by the Colorado Springs Gazette referred to her nearly 30-year career as an "era" in spaceflight. And I think that that is a truly fitting description of her legacy.

I would like to include the following article with more details about Col. Collins' extraordinary work. The progress she made for both her gender and her country are admirable.

[From the Colorado Springs Gazette, May 8, 2006]

HAPPY (CON)TRAILS TO COLLINS

For some reason, perhaps buried deep in the subconscious, people love to mark events in their lives. The media are especially fond of memorializing moments we think should be important to readers and viewers. Last week, when Eileen Collins announced her retirement from NASA, it truly marked the end of an era in spaceflight. She was an astronaut who represented the pioneering spirit that drove mankind to explore space.

From an early age, she longed to fly airplanes and dreamed of space travel. One biography pointed out that her parents used to take her to the airport to watch planes land and take off. She worked hard in school and earned multiple degrees in mathematics and space-related subjects. After college, her career literally took off.

She was among the first women to go directly from college to Air Force pilot training. She spent several years flying various aircraft for Uncle Sam and continued her education as a student at the Air Force Institute of Technology. From 1986–1989 she taught mathematics and was an instructor pilot at the Air Force Academy.

Tapped by NASA for astronaut training while she was attending the Air Force's test pilot school in 1990, she later became the first woman selected for shuttle pilot training, was the first woman pilot of the space shuttle and the first woman commander of a space shuttle mission. She retired from the Air Force in January 2005 and will leave her NASA duties later this month.

Collins has had a career of which anyone could be proud and many can only dream of. We wish her blue skies and tailwinds as she pursues other interests in the aerospace industry.

TRIBUTE TO TOYOTA MOTOR MANUFACTURING

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mrs. CAPITO. Mr. Speaker, this year marks the 10th anniversary of the Toyota Motor Manufacturing, West Virginia. While Toyota is considered leader in the "new American auto industry," this anniversary clearly demonstrates that Toyota is well established in the United States. With a 10-year history and West Virginia investment rapidly approaching the $1 billion mark, Toyota has been contributing to the U.S. and local economies for a long time—hopefully with more to come.

The Buffalo plant, which produces four-cylinder engines for Corolla, Matrix, and Pontiac Vibe; V6 engines for the Sienna and Lexus RX 330; and automatic transmissions for North American-built Camry, Solara, Lexus RX 330 and Sienna, currently provides quality jobs for over 1,000 team members. Employment is projected to grow to 1,150 when the current transmission plant is expanded.

As a testament to the Mountain State's workforce, Toyota Motor Manufacturing, West Virginia has been named four times the "Most Productive Engine Plant in North America" and has earned a global reputation for producing high quality engines and transmissions.

Importantly, the jobs Toyota has created in the Second Congressional District have not come at the expense of our environment. The West Virginia Department of Environmental Protection presented this facility with its environmental award in 2004 due to the facility's focus on the environment through the products it produces and its environmentally-sound business practices.

Throughout the last decade, Toyota Motor Manufacturing, West Virginia has understood that people are the most valuable resources available, and it continues to develop their talents and strengths for future success in the auto industry.

Mr. Speaker, again I want to congratulate Toyota for this important milestone. We are proud to have them as West Virginia corporate citizens, and I look forward to celebrating similar anniversaries in the many years ahead.

IN RECOGNITION OF GEORGE WEBB ROWELL

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. ROGERS of Alabama. Mr. Speaker, I respectfully ask the House's attention today to recognize George Webb Rowell of Lee County, Alabama, in anticipation of his 90th birthday on May 31, 2006.

In 1916, Mr. Rowell was the seventh born child to a poor farming family in Loachapoka, Alabama, where he resides today. He was the only son to serve overseas in World War II, beginning his service with the U.S. Army in June of 1941. He served in the 1st Army under General Eisenhower, with the 3rd Armored Division in the 703rd Tank Battalion. It was his division that landed on the beach in Normandy on D-Day, fought in the Battle of the Bulge, entered France and marched through Belgium to Germany to defeat the enemy. Mr. Rowell spent four years and four months in the Army, and his service was awarded with a Silver Star.

When he returned home he attended a trade school to learn farming techniques. He and his wife raised five children on a small farm. Mr. Rowell is a devout Christian, a patriot, and an American Hero to his family and his country.

Thank you, Mr. Speaker, for the House's attention to the life of George Rowell today, and I thank my colleagues for helping honor an American who so bravely served our Nation as a member of our Greatest Generation.

PAYING TRIBUTE TO SALOME JARVIS

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Salome Jarvis and her service to the health care community.

Salome has a long and distinguished career dating back 20 years. She received her certificate in Gerontology from Chaffey College in California in 1985 and also took numerous nursing courses at San Bernardino Community College. After working in a California hospital for nearly 15 years, Salome moved to the Las Vegas Area in 1991 and began working at the Boulder City Hospital. She subsequently obtained her National Certification as an Activities Director. The professional affiliations of which she is a member include the National Association of Activities Professionals and the Southern Nevada Activity Professionals Associations, both of which she serves as an officer of the board. Salome is also very active in the community primary working with programs designed to promote positive change for youths.

Mr. Speaker, I am proud to honor Salome Jarvis for her distinguished record of service to the health care community. I wish her the best with her future efforts.

IN HONOR OF THE 40TH ANNIVERSARY OF THE ZION CHAPEL MISSIONARY BAPTIST CHURCH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the leaders and members, past and present, of Zion Chapel Missionary Baptist Church of Cleveland, Ohio, as they celebrate forty years of faith, guidance and support, embracing citizens of all ages within our Cleveland community and far beyond.

Zion Chapel Missionary Baptist Church was founded in the spring of 1966, when a small group of devoted Christians met at the home of Reverend and Mrs. Rudy York and decided that an organized mission of faith and service was needed in the neighborhood. On Monday, May 2, 1966, the Church was officially established and the Reverend Robert M. Berry was called upon to lead as the first Pastor.

Reverend Berry guided the early days of the church with commitment and compassion. When he became ill, Reverend Thomas Shearer served as interim pastor, and did so with great care and dedication. In June of 1969, Reverend George O. Stewart was called to serve as Pastor. For 37 years, Reverend Stewart has led this congregation with grace, energy and steadfast faith in the resilience and goodness of the human heart, raising lives into the light of self-awareness, forgiveness and service to others. Reverend Stewart's kind heart and charismatic demeanor inspires thousands of churchgoers every week. His dynamic leadership is reflected in faith-based initiatives for families, children and teens; is evidenced within a congregation that continues to flourish; and is visible in structural expansions that include a new fellowship hall, new parking lots and new residential properties.

Mr. Speaker and Colleagues, please join me in honor and recognition of every member and leader, past and present, of the Zion Chapel Missionary Baptist Church, as they celebrate 40 years of faith, hope and healing. The guidance and compassion offered here serves to strengthen the lives of countless families and individuals, and offers light and hope along Lee Road and horizons beyond.

CONGRATULATING ATTORNEY CHARLES BUFALINO FOR 50 YEARS OF SERVICE TO THE WILKES-BARRE LAW AND LIBRARY ASSOCIATION

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to Attorney Charles Bufalino, of West Pittston, Pennsylvania, on the occasion of his 50th anniversary of membership in the Wilkes-Barre Law and Library Association.

A graduate of Wyoming Seminary Preparatory School, Villanova University and the University of Pennsylvania Law School, Attorney Bufalino was admitted to the practice of law in 1956 and he continues to be an active practitioner before the Luzerne County Court, all of the appellate courts of Pennsylvania and the United States Courts for the Third Circuit and the Middle District of Pennsylvania. He is admitted to practice before the Supreme Court of the United States and is a member of the Pennsylvania Bar Association.

Attorney Bufalino has been involved in precedent-setting litigation involving both First Amendment rights and freedom of the press as well as workers' compensation law.

A First Amendment landmark case was considered by the United States Supreme Court and a workers' compensation case was decided earlier this year by the Pennsylvania Supreme Court.

Attorney Bufalino served as special assistant attorney general, Luzerne County solicitor, law clerk to the late Judge Harold Flannery and as solicitor to many municipalities.

The Wilkes-Barre Law and Library Association was located in the county Court House located on Wilkes-Barre's Public Square from 1859 to 1909 when it was moved to the second floor of the current county Court House at 200 N. River Street in Wilkes-Barre.

The Law Library contains over 20,000 volumes of law books, reports and journals. The Law Library also operates the Luzerne Legal Register, the law journal of Luzerne County and the official reporter of the decisions of the Court of Common Pleas of Luzerne County. A lawyer referral service is also operated out of the law library for people who need a lawyer but do not know whom to contact.

The Law and Library Association also operates a charitable foundation that supports charitable and humanitarian projects throughout Luzerne County. It is intended to enhance the public's understanding and appreciation of the legal system in Luzerne County, ensure access to legal information and representation to all members of the Luzerne County community and foster good relations between members of the Bar, Judiciary and the public.

Mr. Speaker, please join me in congratulating Attorney Bufalino for a half century of membership in the Wilkes-Barre Law and Library Association. His devoted service and the service of other distinguished legal practitioners have enabled the Association to grow and thrive and be a continuous source of support to its members.

CONGRATULATING WILLIAM CLIFFORD ADAMS ON GRADUATING FROM THE UNITED STATES NAVAL ACADEMY

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. EDWARDS. Mr. Speaker, I rise today to pay a special tribute to an exceptional young man from Central Texas. I am happy to announce that William Clifford Adams will graduate with a degree in Political Science from the United States Naval Academy on May 26th, with the midshipmen class of 2006. He will go on to serve specializing in surface warfare in the U.S. Navy.

As the highest ranking midshipman in his class, Cliff has demonstrated incredible leadership abilities and strength of character. This top ranking was based not only on his outstanding academic achievement, but also on his standing among his peers. He has led countless demonstrations and is clearly a respected student leader on campus.

I have had the great pleasure of working with Cliff personally, and there could not be anyone more worthy of this prestigious honor. Cliff grew up in Goldthwaite, Texas, and has excelled in all of his academic and community activities. As an intern in my Congressional office in 2003, I learned first-hand of Cliff's outstanding dedication to the community, his intelligence and tremendous wit. He is a remarkable young man who, without a doubt, will go on to become one of Texas' and America's great leaders.

Mr. Speaker I ask you to join me today in recognizing William Clifford Adams on his remarkable achievement of graduating from the United States Naval Academy.

A TRIBUTE TO THE THOMAS JEFFERSON GIRLS' BASKETBALL TEAM

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. TOWNS. Mr. Speaker, I rise today in recognition of the Thomas Jefferson Girls' Varsity Basketball Team, champions of the 2006 Public School Athletic League of New York City, Girls Varsity Basketball—B Division. In one year, under the direction of Head Coach Calvin Young, Assistant Coach Unique Nelson, Assistant Coach Helms, and Student Manager Natoya Sylvester, the Lady Orange Wave excelled to a regular season record of 15 wins and only three losses, while going undefeated with 5 more victories in the city playoffs.

I also want to especially recognize the work of Athletic Director, Fred Landron; Principals Michael A. Alexander, Ms. Almonte, Ms. Gibbs, Mr. Palmer, and Ms. Lawrence; and Superintendent Varleton McDonald. These educators have worked hard to infuse excellence, respect and accountability not only in athletic programs, but in academic departments as well. In addition, Coaches Young, Nelson and Helms have instilled a team first approach and a tough regimen of discipline and no excuses that has lead to the team's current success.

However, academics have not taken a backseat. In an era when sports achievements have sometimes replaced excellence in English, math, science and other academic areas, the coaches have demanded a high level of academic performance from team members.

Moreover, long after the last shot has been taken and the last ball dribbled, the members of the 2006 Lady Orange Wave: Crystal Berry, Chanell Bracker, Shaequana Brathwaite, Raven Cumberbatch, Wuraola Dipeolu, Esther Farmer, Elisabeth Ferby, Melonie Jones, Takima Lucky, Makini Manning, Shameek Pollard, Talaya Robinson, and Chrysty Taylor will benefit from the leadership, love and guidance given to them by their coaches, teachers and administrators at Thomas Jefferson High School.

I am certain the 2006 Lady Orange Wave's experiences in basketball and their days at Thomas Jefferson will guide them through life's journey and there will be more achievements to come.

Mr. Speaker, in this spirit, I believe that the accomplishments of the 2006 Lady Orange Wave, and the work of their coaches, teachers and administrators, are truly worthy of our recognition here today.

HONORING THE WORK OF DEBRA STEINBERG, RECIPIENT OF THE AMERICAN BAR ASSOCIATION'S PRO BONO PUBLICO AWARD

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mrs. MALONEY. Mr. Speaker, I rise today to congratulate a constituent of mine who is being honored by the American Bar Association (ABA) as a recipient of their Pro Bono Publico Award. Ms. Steinberg is being recognized by the ABA for her work in assisting families of World Trade Center Victims.

I will be submitting for the record the ABA's description of her service, but I also want to personally recognize the work that she has done for our community. I have been proud to work with Ms. Steinberg to draft legislation, H.R. 3575, The September 11th Family Humanitarian Relief and Patriotism Act. This legislation would provide humanitarian assistance to the non-citizen victims of 9/11 by providing them with an adjustment of their immigration status. Ms. Steinberg's commitment to this legislation is a very personal one, as she has dedicated countless hours assisting these families. I commend her commitment to humanity and I congratulate her on this well deserved recognition by her peers.

ABA's Description of Debra Steinberg's work:

DEBRA BROWN STEINBERG

Ms. Steinberg led the Cadwalader firm's 9/11 pro bono efforts providing representation of families of World Trade Center victims. She personally represented several families of 9/11 victims. Furthermore she played a leading role in the creation and development of the New York Lawyers for the Public Interest 9/11 Project which came together in early October 2001.

She drafted The Association of the Bar of the City of New York's comments on the interim and final regulations for the 9/11 Victim Compensation Fund, she drafted a substantial portion of the 9/11 Victims and Families Relief Act in NY, and she's assumed a leading role in advocating at both the state and national levels on behalf of victims' families. In particular, she drafted substantial portions of legislation to provide legal recognition and protection to family members of non-citizen victims of the attacks—the September 11 Family Humanitarian Relief and Patriotism Act (pending in both the House and Senate).

Ms. Steinberg's public service was honored in the United States House of Representatives (May 18, 2004) and in a New York State Senate Legislative Resolution (April 29, 2003). Ms. Steinberg also received the New York State Bar Association's 2003 Pro Bono Service Award.

IN TRIBUTE TO MRS. RUTH BACHHUBER DOYLE

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today to recognize the life and accomplishments of an extraordinary Wisconsin woman, Mrs. Ruth Bachhuber Doyle. Mrs. Doyle died May 6, 2006, after a long life dedicated to public service.

Born in Milwaukee and raised in Wausau, Ruth Bachhuber met Jim Doyle Sr. when both were students at the University of Wisconsin-Madison in the 1930s. They married in 1940, and had three children together, including the current governor of Wisconsin, The Honorable Jim Doyle. Though three generations of her family preceded her in political life, Mrs. Doyle was one of the first women elected to the state Legislature. As a result of her election, the Bachhuber family became the only one in Wisconsin history to see four generations serve in the state Legislature. Mrs. Doyle is also known for helping to revitalize Wisconsin's Democratic Party. She reenergized the party by engaging women as leaders and activists. She later served on the Dane County Board, and as the first woman president of the Madison School Board.

In addition to her exemplary political career, Mrs. Doyle and her husband—who served at one point as U.S. district attorney—raised four children. She was a true public servant in every meaning of the term, with a keen interest in education, and a strong commitment to acting always with integrity and maintaining and honoring the integrity of the democratic process.

Mrs. Doyle pioneered a new public role for women. I consider myself very fortunate to be one of those who has benefited from the trail she blazed. Women, men, and families throughout our state have been blessed by her quiet wisdom and sincerity and her constant efforts to safeguard the interests and needs of Wisconsin citizens. I am honored to have this opportunity to recognize her life and achievements, and send my condolences to her family.

ON INTRODUCTION OF CREDIT CARD LEGISLATION

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. UDALL of Colorado. Mr. Speaker, I am today introducing legislation to add some common-sense rules to the laws governing issuance of credit cards.

Americans benefit from the widespread availability of consumer credit, and their use of that credit has been important to our economy. But there are some warning signs that signal a need for some additional legislation.

Overall, during the last decade, total credit-card debt rose by about 70 percent, and this clearly has an effect on consumers. Some polls have reported that about 70 percent of surveyed families said the quality of their lives is adversely affected by the extent of their debts, and young people are more worried about going deeply into debt than about a terrorist attack.

For many Americans, consumer credit is more than a convenience. It is something that many people need to use to pay for their everyday needs. For them, it is a necessity.

And, of course, another word for credit is debt.

In its most recent report on family finances, the Federal Reserve says that from the third quarter of 2001 to the same period in 2004, inflation-adjusted household debt increased by more than 26 percent. During the same period, when incomes remained about the same, more families carried a credit-card balance and the average balance owed on a card rose nearly 16 percent, to $5,100.

Some have argued that much of this debt was caused by recklessness and an erosion of financial responsibility. That was one of the main arguments advanced in support of the legislation to revise the bankruptcy laws that Congress passed last year.

There was something to that argument, but it was not the whole story and it put too much emphasis on borrowers alone.

Instead of just focusing on borrowers, Congress should also do more to promote responsibility by those who provide the credit—and one place to start is with credit card companies.

For example, let's talk about interest rates.

Credit is not free, and it should not be. But consumers should be treated fairly.

We have all seen print ads and commercials that advertise very low interest rates, but don't make clear that these rates can change, sometimes without warning, and that higher rates can apply even if a consumer gets a warning and then acts to cancel a card.

The bill would address that by requiring that a credit card company provide advance notice of any increase (unless the increase results from the expiration of an introductory rate for new accounts or a change in another rate to which the credit-card rate is indexed) and notice of the right to avoid paying the higher rate by cancelling the card before the new rate takes effect. And it says that if the consumer does cancel the card in time, any remaining amounts owed on that card will be subject to the terms and conditions that applied at the time of cancellation.

Similarly, the bill would require that card holders be more fully informed about the relationship between the monthly minimum payments and the full amounts owing on their cards and what monthly payment would be required to eliminate the outstanding balance in 36 months if they do not use their cards to make additional purchases.

Further, the bill would require that card holders be given clear notice of any fees, other charges, or increases in interest rates that would result from their making late payments.

For payments made by mail, card holders would have to be given a reasonable time for their payments to be received and would have be to told the date on which a mailed payment must be postmarked in order to avoid fees, charges, or increased interest rates.

And if a card issuer accepts payments made in person, a payment made at least one day before the due date would mean that no late-payment penalties would be in order.

The bill also would bar charging fees or other penalties because a card holder pays more than the monthly minimum or pays in full an existing account balance.

And it would bar imposing a fee for a charge that would mean a card holder has gone over the total credit authorized on a card if the card issuer has authorized that charge either in advance or at the time of a purchase.

The bill also would limit issuance of credit cards to people under the age of 18.

People under that age applying for a credit card will need one of three things—the signature of a parent or guardian willing to take responsibility for the applicant's debts; information indicating that the applicant has some other means of repaying any debt; or a certification that the applicant has completed a credit counseling course by a qualified nonprofit budget and credit counseling agency. These requirements would apply to issuance of both regular credit cards and college "affinity cards."

And, finally, the bill increases the amounts people injured by violations of the rules can collect from card issuers.

Mr. Speaker, like a similar (but not identical) bill introduced by Senator DODD, the bill I am introducing today takes some simple, common-sense steps to stop abusive practices, educate cardholders, and stiffen the penalties for violations. I think it deserves to be enacted.

For the benefit of our colleagues, I am attaching a short digest of the bill's provisions.

OUTLINE OF THE BILL

Section One provides a short title and table of contents. The short title is "Credit Card Accountability, Responsibility, and Disclosure Act of 2006 or 'Credit CARD Act of 2006' ".

Section Two authorizes the Federal Reserve's Board of Governors to issue rules or publish model forms to implement the bill and the changes it makes in existing law.

TITLE I

Title I amends the Truth in Lending Act regarding certain credit card rates and fees.

Section 101 requires at least 15 days' notice of certain increases in interest rates and requires card holders to be told of their right to cancel an account before the increases take effect.

Section 102 imposes a freeze on interest-rate terms and fees applicable to accounts closed or canceled before a scheduled rate increase.

Section 103 bars charging penalty fees for on-time payments or for either full payment of a balance owed or a payment larger than the minimum required amount.

Section 104 bars imposing fees for a purchase that exceeds a credit card's limit if the lender approves the charge in advance or at the time the card holder makes the purchase.

TITLE II

Title II amends the Truth in Lending Act's provisions regarding disclosures to card holders.

Section 201 specifies information that must be provided regarding outstanding balances, required monthly minimum payments, grace periods for avoiding additional charges, and the monthly payments needed to pay off the balance in 36 months.

Section 202 requires that card holders be told the date by which mailed payments must be postmarked to avoid late fees, whether (and by how much) interest rates will be increased because of one or more late payments, whether (and if so, where) a payment can be made in person and when it must be made to avoid late fees (which must be no sooner than one business day before the payment is due).

TITLE III

Title III adds provisions to the Truth in Lending Act dealing with issuing credit cards to people under age 18 and amends the Act's provisions regarding penalties.

Section 301 requires that a credit card can be issued to someone under 18 only if the application includes either (1) the signature of a parent, legal guardian, spouse, or other person willing and able to be jointly liable for amounts charged on the card before the card holder becomes 18; or (2) financial information showing the applicant has enough independent means to be able to repay amounts charged on the card; or (3) proof that the applicant has completed a credit-counseling course by a nonprofit budget and credit counseling agency meeting certain specified requirements.

Section 302 allows borrowers injured by violations of credit card rules to collect increased amounts from card issuers. Current law says they can recover at least $200 but no more than $2,000. This section would increase that to at least $500 or twice the amount of an improper finance charge (whichever is higher), with an overall limit of $5,000 for isolated violations or appropriately higher amounts for established patterns or practice of violations.

Section 303 makes the rules specified in section 301 for regular credit cards apply as well to college "affinity cards" (a card with the logo or name of an institution of higher education in addition to that of the lender) issued to someone under age 18.

TRIBUTE TO SANDY KING

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mrs. CAPITO. Mr. Speaker, I rise today to recognize Sandy King as the recipient of the 2006 Weston Democrat Citizen of the Year Award. Sandy is receiving this award in recognition for her life long commitment and commendable service to Lewis County by enhancing the dignity and worth of all of its citizens.

Sandy has always been known as ready and willing to help neighbors and friends in need. She has long been involved with the community through Our Neighbor, CEOS activities, and the Irish Spring Festival. Sandy is currently the president of the Shamrock CEOS Club and attends the Ireland United Methodist Church. She also works as a liaison between the Salvation Army, local churches, and the public.

I commend Sandy for being an outstanding citizen and a dedicated asset to her county and her state. The citizens of Lewis County will forever be indebted to Sandy for her tireless dedication.

Mr. Speaker, I would like to congratulate Sandy King for her life long commitment to the community of Lewis County. She works tirelessly to give so much that she is truly the Citizen of the Year.

IN RECOGNITION OF SANDRA BRIDGES NEWKIRK

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. ROGERS of Alabama. Mr. Speaker, I respectfully ask the attention of the House today to pay tribute to Sandra Bridges Newkirk, who has devoted her life to her work and service in Lee County, Alabama. After 40 years with Auburn University's Department of Health and Human Performance, Mrs. Newkirk is anticipating retirement on May 15, 2006.

Mrs. Newkirk has accomplished much at Auburn University and is wholly deserving to be recognized for contributing to some of the University's firsts. As the first volleyball coach, the first intramural director, and the first Women's Athletic Director at Auburn, she has proven to be a monumental supporter of health and wellness. Mrs. Newkirk advanced women's sport programs in Alabama and worked to elevate such programs to a competitive basis. The Department of Health and Human Performance is sure to miss her as one of its professors.

In addition to her dedication to Auburn University, Sandra Bridges Newkirk has also contributed greatly to the Lee County community, including her service as a mediator with the Lee County Court System for adults.

I salute Mrs. Newkirk for her contributions to Auburn University, Lee County, and for the betterment of the entire State of Alabama.

IN HONOR OF JAMES A. TUCCIARONE

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of James A. Tucciarone, upon his retirement that follows an exemplary, thirty-six year career with the Federal Aviation Administration (FAA), throughout Ohio, Michigan and Illinois.

In 1971, Mr. Tucciarone began his career as an FAA air traffic controller at the Akron-Canton control tower, and later served as Manager of the Akron Municipal Air Traffic Control Tower, Akron-Canton Air Traffic Control Tower and the Columbus Air Traffic Control Tower. He was called upon to serve as Manager of the Cleveland Center, and as Sectional Supervisor of the Operations Branch at the Great Lakes Regional Office in Des Plaines, IL. Mr. Tucciarone also worked as Assistant Air Traffic Manager at Cleveland and Detroit Metro Towers, and also at the Cleveland Air Route Traffic Control Center. In every place he worked, Mr. Tucciarone's integrity, expertise and focus on flight safety never wavered.

Mr. Tucciarone's boundless enthusiasm, energy, kind heart and steadfast integrity frame both his personal and professional life. Aside from his numerous accomplishments in the field of aviation, Mr. Tucciarone is an active member of his community. He is a member of the Board of Directors and Advisory Board for "Kids in Flight, " a non-profit organization whose mission is to use aviation as a tool of empowerment for seriously ill children and their families. He is a member of numerous civic agencies and also volunteers his time coaching and umpiring youth basketball and softball teams.

Mr. Speaker and Colleagues, please join me in honor, recognition and gratitude of Mr. James A. Tucciarone, upon his retirement from the FAA that follows thirty-six years of outstanding service and accomplishment. His dedication, expertise, leadership, and energy, focused on excellence and safety in aviation, also extends outward into the community, where he offers his time and talent to children and their families who struggle daily with illness, uplifting their lives to a place where hopes and dreams take flight. I wish Mr. Tucciarone and his family an abundance of health, peace and happiness as his journey begins from here.

CONGRATULATING MICHAEL BUTERA, ESQ., ON A SUCCESSFUL TERM AS PRESIDENT OF THE WILKES-BARRE LAW AND LIBRARY ASSOCIATION

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to Attorney Michael Butera, immediate past president of the Wilkes-Barre Law and Library Association in Luzerne County, Pennsylvania.

Attorney Butera performed in an exemplary manner by providing leadership and direction to a proud and prestigious organization founded 156 years ago on June 18, 1850.

A graduate of the University of Scranton and Temple University School of Law, Attorney Butera has been in the private practice of law since 1976 in Pittston, Pennsylvania.

He is also active with the Pennsylvania Bar Association, the American Bar Association, Northeastern Pennsylvania Trial Lawyers Association and the Pennsylvania Criminal Defense Lawyers Association. Attorney Butera served on the Wyoming Area School Board for six years. He also served as president of the board of Luzerne Intermediate Unit 18, president of the board of the Greater Pittston YMCA and was vice president of the Third Legislative District for the Luzerne County Democrat Party. He is also a charter member of the St. Martin Society.

The Wilkes-Barre Law and Library Association was located in the county Court House located on Wilkes-Barre's Public Square from 1859 to 1909 when it was moved to the second floor of the current county Court House at 200 N. River Street in Wilkes-Barre.

The Law Library contains over 20,000 volumes of law books, reports and journals. The Law Library also operates the Luzerne Legal Register, the law journal of Luzerne County and the official reporter of the decisions of the Court of Common Pleas of Luzerne County. A lawyer referral service is also operated out of the law library for people who need a lawyer but do not know whom to contact.

The Law and Library Association also operates a charitable foundation that supports charitable and humanitarian projects throughout Luzerne County. It is intended to enhance the public's understanding and appreciation of the legal system in Luzerne County, ensure access to legal information and representation to all members of the Luzerne County community and foster good relations between members of the Bar, Judiciary and the public.

Mr. Speaker, please join me in congratulating Attorney Butera on a job well done. His devotion to community service is reflected in his tireless pursuit of excellence on behalf of the Wilkes-Barre Law and Library Association.

HONORING THE 50TH ANNIVERSARY OF THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. COSTA. Mr. Speaker, I rise today to honor the Fresno Metropolitan Flood Control District for reaching a momentous milestone—its 50th anniversary.

Over 50 years ago, the Fresno Metropolitan Flood Control District was created in order to regulate flooding that had plagued the community for over 80 years. From the outset, the Flood Control District committed itself to managing the flood, storm, surface and ground water resources of the area with the goal of preventing property damage and personal injury as a result of floods. The agency works to conserve such waters for local, domestic and agricultural use. In addition, it seeks to maximize the public use and benefit of the District's programs and infrastructure. This has resulted in the use of ponding basins for recreational purposes such as soccer fields, baseball diamonds and parks. The district has generated 22 recreational sites, including the Sloan Johnson Oso de Oro Lake Park in Fresno, which serves to accommodate disabled children. This recreational facility has received numerous awards, including the Innovations in American Government Award from the John F. Kennedy School of Government at Harvard University.

With such a mission in mind, the Fresno Metropolitan Flood Control District has established infrastructure projects and completed systems in Fresno and its surrounding areas. These projects, valued at over $600,000,000, include 149 ponding basins, 57 pumping plants, 513 miles of pipeline, three dams, seven flood detention basins, two major stream diversion channels, 145 miles of natural streams and eight river outfalls.

In addition to the creation of these infrastructure projects, the Fresno Metropolitan Flood Control District has worked resolutely for over 50 years to create programs such as "Clean Storm Water" that seek to educate the community on the importance of water resource management and the prevention of pollution to help protect and preserve groundwater supplies for the future. Moreover, many of its policies on outsourcing construction, professional services and maintenance of certain facilities have not only helped the flooding problems, but also have created countless local jobs as well.

The Fresno Metropolitan Flood Control District has had long standing and effective working partnerships with State and Federal agencies such as the California Department of

Water Resources and U.S. Army Corps of Engineers. The agency and its partners have created a successful model for cooperative interagency planning, management, and execution of local public works projects among the Fresno Irrigation District, County of Fresno, City of Fresno and the City of Clovis. Moreover, it has greatly enhanced the safety and quality of life in the Fresno and Clovis areas.

For all its efforts, I would like to commend the Fresno Metropolitan Flood Control District. The organization has tirelessly worked to meet the flood control, drainage and water resource management needs of its constituency; while adhering to high standards of performance, environmental sensitivity, economic efficiency and maximization of public benefit. On this special occasion I would like to extend congratulations to the Fresno Metropolitan Flood Control District on its milestone 50th Anniversary.

RECOGNITION OF CHIEF WARRANT OFFICER TWO CHRISTOPHER B. DONALDSON

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the life of Chief Warrant Officer Two Christopher B. Donaldson who was recently killed in a helicopter crash during combat operations fighting for freedom in Kunar Province, Afghanistan.

Donaldson was a 28-year-old from Effingham, Illinois and was assigned to the 3rd Battalion, 10th Aviation Regiment, 10th Mountain Division out of Fort Drum, New York. He was a 1995 graduate from Effingham High School in Effingham, IL. His awards and decorations include the Army Commendation Medal, Army Good Conduct Medal, National Defense Service Medal, Kosovo Campaign Medal, Global War on Terrorism Service Medal, Army Service Ribbon, Overseas Service Ribbon, NATO Medal, Air Assault Badge and the Army Aviator Badge.

Donaldson paid the ultimate sacrifice for his country. He is survived by his mother, Lynne Donaldson of Effingham; his father, William Donaldson of Beecher City and many other family, friends and loved ones. I am proud of the service this young man gave to his country and the service his fellow troops perform everyday. Not enough can be said about Chief Warrant Officer Two Donaldson. It is soldiers like him that are risking their lives day in and day out to ensure our freedom here at home and to others throughout the rest of the world. I salute him and my best wishes go out to his family and all the troops fighting to ensure freedom and democracy. God bless them and may God continue to bless America.

TRIBUTE TO OWOSSO MASONIC LODGE

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. CAMP of Michigan. Mr. Speaker, I rise tomorrow, Friday, May 12, 2006, to congratulate all the members of the Owosso Masonic Lodge as they celebrate the 150th anniversary since the founding of the lodge.

Since its establishment, the lodge has built a storied tradition of service and charity. This tradition of support to the residents of Michigan continues today through activities including the Special Olympics and support for the local police and fire departments and youth programs. The Owosso Masonic Lodge should be proud of their accomplishments, and I commend their dedication to the community for the last 150 years.

On behalf of the 4th Congressional District of Michigan, I applaud the Owosso Masonic Lodge for this outstanding achievement.

HONORING MR. LINDSLEY FRENETTE

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. STUPAK. Mr. Speaker, I rise today to honor the work of an extraordinary man who has dedicated his life to serving and bettering his community.

Mr. Lindsley Frenette started his public service career in 1953, when he began serving as Doyle Township Supervisor. For 13 years, he served in that capacity before he was elected Schoolcraft County Board Commissioner in 1966.

Not only has Mr. Frenette made his community a better place through 52 years of involvement with local government, but he has spent decades working to improve mental health in Michigan.

As a co-founder of the Schoolcraft County Community Mental Health program and its successor agency, the Hiawatha Community Mental Health Authority, he has helped to provide mental health services to many people who would otherwise not have had access to them. In addition to creating these agencies Mr. Frenette helped grow and sustain them, spending 33 years on the Schoolcraft County Mental Health Board.

Mr. Frenette also spent many years on the Legislative Committee for the Michigan Association of County Mental Health Boards. In that capacity he played a key role educating state and federal legislators about the importance of mental health. My own father spent a number of years serving alongside Mr. Frenette on the Mental Health Board and he had nothing but good things to say about Mr. Frenette and his dedication.

By all reports, Mr. Frenette is not only a devoted public servant, but a genuinely kind person who is concerned about the welfare of his fellow citizens.

Together he and his wife Guerda raised seven children and saw the arrival of many grandchildren.

On Friday, Lindsley Frenette will be honored by friends, family and colleagues for his 33 years of service as a Community Mental Health Board member. While he is not retiring, the people closest to him decided it was time to come together and pay tribute to Mr. Frenette.

Mr. Speaker, that recognition is truly deserved. I join Mr. Frenette's friends and family in wishing him and his family all the best, in saluting him for his years of service and in wishing him the best for his many future endeavors.

TRIBUTE TO EDDY ARNOLD

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mrs. BLACKBURN. Mr. Speaker, I ask my colleagues to take a moment today to honor Eddy Arnold on his 88th birthday.

I'm fortune enough to call him a friend and neighbor, but like so many Americans, I'm also a fan of his wonderful musical talent.

Raised on a Tennessee farm, the "Tennessee Plowboy" started playing guitar at ten and he's been entertaining us all ever since.

He shattered the country and pop charts with 28 number one hits. And he proved that a beautiful song never gets old with hits like "You Don't Know Me."

Eddy's songs spanned 5 decades. Whether you saw him at the Grand Ole Opry, watched Eddy Arnold Time on television, or heard one of his songs just the other day on the radio—there's no mistaking that Eddy Arnold is an American icon and we wish him all the best on his birthday.

TRIBUTE TO STUDENTS FROM SADDLE BROOK MIDDLE SCHOOL

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. ROTHMAN. Mr. Speaker, I rise today to congratulate four outstanding students from Saddle Brook Middle School in my district: Urszula Kapinos, Heather Kuehnle, Ashley LaRose, and Kasia Truszkowska. This team of girls was recently named the national winners of the Christopher Columbus Awards competition, a science and technology program for middle school students, for their invention called the Auto-MAT-ic. As the winners of the competition, the girls received a $25,000 award to further develop their prize winning invention.

The dedication that Urszula, Heather, Ashley, and Kasia have demonstrated to this project is a true testament to the excellent work that is being done in New Jersey public schools. After learning that 1.6 million senior citizens are treated in emergency rooms for injuries caused by falls in the home and that many of these falls are caused by darkness, these four members of the Saddle Brook Gifted and Talented Program figured out a way to help solve one of the causes of this problem. As a result of four months of intensive research and design, they invented a pressure sensitive floor mat, the Auto-MAT-ic, that automatically illuminates a bedside lamp enabling seniors to see, so they can walk safely at night. Preventing falls will not only save injuries and medical costs, but it will also help seniors retain their independence.

In many ways, the work has only started for these young ladies. They are currently putting their $25,000 prize to good use. The girls have contracted with a company to help them make their product wireless and to date they have made progress in creating four prototypes that are being tested by seniors. In addition, the students have created their own corporation, Safety Steps LLC. On Monday, May 15, 2006 the group will be in Washington, D.C. to meet with Congressional staff, the American Association of Retired Persons, and the Center for Aging Services Technology about their product and to continue their advocacy on behalf of seniors.

Mr. Speaker, I am very proud of these four students. I commend Urszula Kapinos, Heather Kuehnle, Ashley LaRose, and Kasia Truszkowska for their continued pursuit of trying to help keep seniors safe by creating devices to help prevent falls in the home. On behalf of the people of the Ninth Congressional District of New Jersey, I congratulate them on winning the Christopher Columbus Award. I wish them continued success in their work and advocacy.

CONGRATULATIONS TO THE 4-LIFE PROJECT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. SKELTON. Mr. Speaker, let me take this means to congratulate the 4-Life Project in Lexington, Missouri. On May 12, 2006, the 4-Life Project will receive the Bishop John J. Sullivan Award by the Catholic Charities of Kansas City–St. Joseph. The award, the Catholic Charities' most distinguished honor, is given to individuals or organizations whose deeds, character, leadership, and accomplishments best exemplify the mission of the Catholic Charities.

The 4-Life Project consists of 4 programs critical to the Lafayette County area: the Margaret Gray Senior Center, the Rodgers-Lafayette Community Health Center, the Lexington School District Preschool, and Vocational Childcare Training Program. The Senior Center opened on February 15, 2006. It provides a wide array of home and community based services for persons 60 and over, including on-site and home delivered meals, computer classes, and a new program called ProjectEnhance, which assists seniors with ongoing health and wellness issues. The Rodgers-Lafayette Community Health Center opened on January 15, 2006, and provides comprehensive medical care, including dental and mental health care. The Lexington School District Preschool and the Vocational Childcare Training Program provides the area with a much needed total early childhood center.

Mr. Speaker, I am certain that the Members of the House will join me in congratulating the staff of the 4-Life Project for their accomplishments and in thanking them for their contributions to the community.

HONORING EVA HALLER AND WOMEN'S eNEWS

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mrs. CAPPS. Mr. Speaker, today I rise to pay tribute to a great friend, constituent and tireless advocate for women's issues, Ms. Eva Haller.

Eva Haller began her political activism in Budapest, Hungary during World War II by printing and distributing anti-Hitler leaflets. She eventually moved to the United States, where she earned a master's degree in social work while maintaining full-time employment in the service-industry. After graduating, Eva worked as a social worker in New York's Lower East Side. She then took time to volunteer for UNICEF with her husband in Southeast Asia, officially beginning her career as a philanthropist.

A dedicated activist as well, Eva serves on the board of Women for Women International, a Washington-based agency that helps women in war-torn regions rebuild their lives. She also chairs the American board of Free the Children U.S.A., an organization dedicated to eradicating child poverty, exploitation and the use of child soldiers.

Dedicated and talented women such as Eva Haller deserve to be recognized by such credible institutions as Women's eNews. Serving as the definitive source of substantive news—unavailable anywhere else—covering issues of particular concern to women and providing women's perspectives on public policy, Women's eNews enhances women's ability to define their own lives and to participate fully in every sector of human endeavor.

Eva is an excellent example for all of us to live up to and I am proud to recognize the inspiring work she does on her own and in conjunction with Women's eNews. It is no accident that the organization will honor Eva, among other admirable women, at its gala dinner, "21 Leaders for the 21st Century" on May 16. In these trying times there is more and more need for the leadership exemplified by Eva and Women's eNews.

SALUTE TO THE 50TH ANNIVERSARY OF THE ZILWAUKEE LIONS CLUB

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. KILDEE. Mr. Speaker, today I ask the House of Representatives to join me in congratulating the Zilwaukee Lions Club as it celebrates 50 years of service to the community of Zilwaukee, Michigan. The Lions Club will gather on June 9th to mark the occasion with a banquet.

The Zilwaukee Lions Club was founded in March 1956 by a group of men looking to fulfill the Lions motto, "We Serve." Lions Clubs offer their associates the opportunity to give back to the community and the members of the Zilwaukee Club have embraced this philosophy wholeheartedly.

That same year, the members built the first boat dock in Zilwaukee. Not content to be limited to one endeavor, the Zilwaukee Lions Club has spent the past 50 years providing such diverse services as arranging eye exams and glasses for the needy; taking blind men fishing; expanding the tape library for the blind; building a pavilion in the Zilwaukee City Park; holding an annual Christmas Dinner for the senior citizens of Zilwaukee; and many other worthwhile projects too numerous to name.

Lions Clubs International has 1,300,000 members in 196 countries all contributing to the Vision Program. The Zilwaukee Lions Club participates with its fellow clubs to achieve the goal of bringing sight to the world's blind as well as improving their individual communities. The Zilwaukee Club has continuously maintained this commitment throughout its 50 year history.

Mr. Speaker and Members of the House of Representatives, please join me in congratulating the Zilwaukee Lions Club on the wonderful job they have done over the past 50 years serving the residents of Zilwaukee, Michigan and the surrounding area. They are to be commended for their good work, their dedication to others and their pledge to continue to serve.

HONORING STAFF SGT. GREG WARNER

HON. STEPHANIE HERSETH

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Ms. HERSETH. Mr. Speaker, I want to take this opportunity to honor the life of Staff Sgt. Greg Wagner who died May 8, 2006, from wounds suffered while serving in Iraq.

Every member of the House of Representatives has taken a solemn oath to defend the Constitution against all enemies, foreign and domestic. While we certainly understand the gravity of the issues facing this legislative body, Greg lived that commitment to our country. Today, we remember and honor his noble service to the United States and the ultimate sacrifice he has paid with his life to defend our freedoms and foster liberty for others.

The lives of countless people were enormously enhanced by Greg's compassion and service. Greg, who represented the best of the United States, South Dakota, and the military, continues to inspire all those who knew him and many who did not. Our Nation and the State of South Dakota are far better places because of his service, and the best way to honor him is to emulate his devotion to our country.

I join with all South Dakotans in expressing my sympathies to the family of Staff Sgt. Greg Wagner. His commitment to and sacrifice for our Nation will never be forgotten.

TRIBUTE TO THE CENTAURI HIGH SCHOOL FALCONS GIRLS

HON. JOHN T. SALAZAR

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. SALAZAR. Mr. Speaker, I rise today to commend and applaud the Centauri High School Falcons Girls Basketball team for their thrilling victory over the Denver Christian High Crusaders in the Colorado State Championship this past March. This riveting victory marks Centauri High School's second girls state championship, one undoubtedly deserved by this group of hard-working and devoted players.

Displaying their tenacious defense, the Falcons forced 31 turnovers against the Crusaders. Even though they were down by 8 points at the end of the first half, Centauri High proved its maturity and experience, regrouping and coming back in the second half to win the game 62 to 57.

The Falcons are soaring high today not only because they are great individuals, but because they are great athletes who work together. Led by coach Dave Forster, teammates Janette McCarroll, Amanda Gylling, Marcie Cooley, Wynona Miller, Lucia Muniz, Jeree Booth, Krystina George, Raina Gylling, Venessa Jaramillo, Lisa McCarroll, Lindy Norton, Amanda Ruybal, and Lacey Smith all displayed the determination, focus, and teamwork needed to defeat their challenging opponent. The Falcons' victory was based on a combination of accurate shooting, powerful defense, and masterful passing. Throughout the intense second half, the team never lost its focus or concentration, sinking pivotal free throws and continually executing plays with perfection.

The Falcons' ability to work together is a true inspiration to any person who has ever been on a team or worked with others. Once again, congratulations to these amazing student athletes and all of Centauri High School on their great victory!

TRIBUTE TO DR. DON MICHAEL RANDEL

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. RUSH. Mr. Speaker, I rise today to offer recognition to Dr. Don Michael Randel, the outgoing president of the University of Chicago. Dr. Randel has presided over the University of Chicago since 2000, and he has been instrumental in strengthening the humanities and the arts on the campus. Dr. Randel has also been active in overseeing a broad range of interactions with the city of Chicago and further strengthening the University's programs in the physical and biomedical sciences and its relationship with the Argonne National Laboratory. He also led the Chicago Initiative, an ongoing campaign for $2 billion, the largest in the University's history, which has raised more than $1.3 billion toward this goal.

Dr. Randel came to Chicago after 32 years at Cornell University, where he served as a faculty member in the department of music and in many administrative posts, including department chair, vice-provost, and associate dean and then dean of the College of Arts and Sciences. He became provost of Cornell University in 1995.

Dr. Randel is one of the nation's leading musicologists and served as the editor of the Journal of the American Musicology Society. He also is editor of the Harvard Dictionary of Music 4th ed., published in 2003, the Harvard Biographical Dictionary of Music, published in 1996, and the Harvard Concise Dictionary of Music and Musicians, published in 1999.

During Dr. Randel's presidency, substantial improvements to the University of Chicago's facilities were completed, including the Palevsky residence halls, the Ratner Athletic Center, the new Graduate School of Business and the $200 million Center for Integrative Sciences, the largest building in the University's history. The University also completed several joint programs with the city along the Midway, including opening a highly successful charter school, which has now been joined by another, under the auspices of the University's Center for Urban School Improvement. The University also has launched the Collegiate Scholars Program, a College bridge program aimed at preparing Chicago public school students for elite academic institutions.

Dr. Randel will leave a long-lasting impact on the First Congressional District by encouraging a greater awareness of the value of diversity. Speaking on the importance of combating prejudice, Dr. Randel noted the related virtue of diversity, both of ideas and of experience when he commented, "No part of the University community can think of itself as immune from this concern for diversity. An unprecedented number of programs are in place to increase diversity in the functioning of our academic programs and in the ways in which we carry on our business affairs and our relations with the neighborhood and city of which we are a part. Each of us must believe that embracing—not merely tolerating—diversity is a personal obligation."

Mr. Speaker, the University of Chicago, as well as the city itself, will be losing an exceptional, first-class leader, but we want to wish Dr. Randel well on all of his future endeavors, as well as thank him for his many contributions to the school and to the great city of Chicago.

FREEDOM FOR EMILIO LEYVA PÉREZ

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Emilio Leyva Pérez, a political prisoner in totalitarian Cuba.

Mr. Leyva Pérez is a pro-democracy activist, President of the opposition group Hard Front Line and a delegate of the pro-freedom coalition Assembly to Promote Civil Society. Because of Mr. Leyva Pérez's steadfast conviction in human liberty and his constant work to bring freedom to an island enslaved by the nightmare that is the Castro regime, he has been a constant target of the dictatorship.

Amnesty International classified him as a prisoner of conscience after he was arrested by the terrorist regime on February 22, 2002. He was locked in the totalitarian gulag for over 2 years, without ever being convicted of a supposed "crime."

The U.S. Department of State's Country Reports on Human Rights Practices—2005, describes the deplorable conditions in the totalitarian gulag, "Prison conditions continued to be harsh and life threatening. Conditions in detention facilities also were harsh. Prison authorities frequently beat, neglected, isolated, and denied medical treatment to detainees and prisoners, particularly those convicted of political crimes or those who persisted in expressing their views . . . Prisoners sometimes were held in "punishment cells," which usually were located in the basement of a prison, with continuous semi-dark conditions, no available water, and only a hole for a toilet."

Despite over 2 years in this hellish gulag, Mr. Leyva Pérez never wavered in his commitment to freedom for all Cubans. As part of the tyrant's heinous July 2005 crackdown on peaceful pro-democracy opponents, on July 13, 2005, Mr. Leyva Pérez and other opposition activists were detained whilst commemorating the "13 de Marzo" tugboat sinking of 1994, when the dictatorship murdered dozens of unarmed men, women and children. Once again, the tyranny has locked Mr. Leyva Pérez in the totalitarian gulag awaiting "trial."

Mr. Leyva Pérez is one of the many heroes of the peaceful Cuban democratic movement who are locked in the dungeons of the dictatorship for their beliefs. They are symbols of freedom and democracy who will always be remembered when freedom reigns again in Cuba. His bravery and courage in defiance of tyranny serve as a tragic reminder that the totalitarian gulags are full of men and women of all backgrounds and ages who represent the best of the Cuban nation.

Mr. Speaker, Mr. Leyva Pérez is suffering in a grotesque gulag because he believes in freedom, democracy and human rights. My colleagues, it is categorically unacceptable that peaceful pro-democracy activists are languishing in the depraved prisons of tyrants.

TRIBUTE TO FATHER BRENDAN NALLY

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. McGOVERN. Mr. Speaker, I rise today in recognition of Father Brendan Nally. I am proud to join with the members of Our Lady of the Rosary in Clinton, Massachusetts in saluting him with a special celebration of his retirement as well as the 50th Anniversary of his

Ordination to the priesthood in the Catholic Church.

Since 1989, Father Nally has served as Pastor of "Holy Rosary," as the Church located in the Acre District of Clinton is known. As the one priest assigned to the Parish during the past 17 years, Father Nally has singularly ministered to the spiritual needs of all the parishioners—saying all the daily and weekly Masses, performing all the religious sacraments and ceremonies including baptisms, weddings and funerals, visiting the sick and elderly, as well as performing all the administrative tasks and duties required for the operation of the Church. Throughout this period, Father Nally has endeared himself not only to the many families and members of his Parish but to countless citizens of the Town of Clinton.

As a recognized community leader, Father Nally has been a strong supporter of the local youth of the town. In addition to coordinating and overseeing a strong religious education program for the children of Holy Rosary, he has ensured that a program of other youth activities be maintained. He has also been a loyal fan and booster of the local school athletic teams, attending and cheering on the town's athletes to victory. When the Clinton Public Schools needed a clergy member to participate in the Baccalaureate Exercises for graduating seniors, Father Nally was there. Whenever other organizations needed help, Father Nally was only too glad to be of assistance—as, for example, when a local Alcoholics Anonymous chapter or an Irish step-dancing group needed a meeting place and the parish hall was made available to them.

As if he didn't already have enough duties and obligations to fulfill during his busy days, Father Nally also answered the call and served for a number of years as Chaplain to the Massachusetts Department of Corrections Pre-Release Center in the nearby town of Lancaster.

Prior to his most recent assignment as Pastor of Our Lady of the Rosary, Father Nally had served as a Pastor and Associate Pastor at a number of other Parishes throughout the Diocese of Worcester in Central Massachusetts. Additionally, his priestly service included periods as a faculty member and Headmaster at several Catholic High Schools in the region.

A native of Fitchburg, Massachusetts, Father Nally attended LaSalette Preparatory Seminary and LaSalette Major Seminary in Ipswich, Massachusetts and was ordained a Priest on May 5, 1956.

The 50th Anniversary of Father Nally's Ordination as a Priest, and his remarkable record of outstanding service to the Church, certainly deserves to be applauded and celebrated. His rich legacy of religious ministry and service has touched and improved the lives of so many people, and I am truly honored to offer my personal thanks and congratulations. I know that my colleagues will join me in paying tribute to this wonderful man of God and in extending very best wishes for a retirement blessed with continued health and happiness to Father Brendan Nally.

NATIONAL CHILDCARE PROVIDER APPRECIATION

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mrs. CUBIN. Mr. Speaker, I rise to recognize May 12th, 2006 as National Childcare Provider Appreciation Day. Child care providers are all too often unsung heroes. Yet early childhood is a critical developmental period for children and it takes a special person to work in this field. The contribution of childcare providers to the quality of family life is certainly deserving of recognition by this body.

Started in 1996 by a group of volunteers, National Childcare Provider Appreciation Day is appropriately celebrated each year on the Friday before Mother's Day. This recognition takes many forms, including state and municipal government proclamations, local media coverage, business and community events, and the personal acknowledgment of providers by parents.

The childcare profession not only plays a critical role in supporting healthy families and children, but is also a key part of the economy. A recent National Child Care Association study shows that there are at least 2.8 million people who earn their living by teaching or caring for young children. It is also estimated that of the 21 million children under age 6 in America, 13 million are in child care at least part-time. An additional 24 million school-age children are in some form of child care outside of school-time.

I am proud to recognize Wyoming childcare providers and their efforts to make Wyoming's bright future even brighter through their dedicated care. In a state with wide open spaces, Wyoming's daycare providers have wide open arms with which they embrace our children to help them grow and prosper.

With that, I commend our nation's childcare providers and invite my colleagues to do the same on National Childcare Provider Appreciation Day.

STATEMENT HONORING THE TOWN OF CANTON, CONNECTICUT ON THE OCCASION OF ITS 200TH ANNIVERSARY

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today to pay tribute to the Town of Canton, Connecticut, on the occasion of its 200th Anniversary on May 20, 2006.

While the Town of Canton officially celebrates its bicentennial on this date, the community that became Canton actually traces its roots as far back as 1737, when it was known as the First Ecclesiastical District of West Simsbury. The community officially separated from the Town of Simsbury on May 20, 1806, taking the name Canton, which means "division of territory."

Many generations of hard-working people have lived and worked in Canton throughout its 200 years. When David and Samuel Collins and their cousin William Wells sought natural waterways for factory power, they settled in Canton in 1826. Through their industriousness, they developed the world's first factory devoted to making axes, which eventually became the world's largest manufacturer of edged tools. The Collins Company also gained recognition as one of the world's most innovative manufacturers, after Samuel Collins developed the utilization of anthracite coal for factory operation—a significant step in igniting our country's Industrial Revolution.

Of course, the Collins Company would not have realized this impressive and historical success were it not for the hard-working citizens who helped establish a very solid industrial base in the region. Many generations of Canton residents have stood out and have had important roles in shaping the town's history for the past 200 years. One of Canton's most famous citizens, William Edgar Symonds, earned the Medal of Honor for bravery while fighting with the Union Army in the Civil War. After the war, Mr. Symonds became a well-known patent attorney and political figure, rising to the position of Speaker of the House in the State Legislature. Later, as a U.S. Congressman, he helped pass legislation to protect patents on an international level, and was awarded the French Legion of Merit.

Mr. Speaker, I rise today to honor Canton, Connecticut, upon achieving its 200th Anniversary. I applaud the generations of Canton citizens who have helped this town grow since its founding in 1806, and I commend today's Canton residents for everything they do to make sure that this great town will enjoy a prosperous and productive future.

CHRONIC HEPATITIS B NEEDS PRIORITIZATION AS A SERIOUS HEALTH CONCERN

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. HONDA. Mr. Speaker, I rise today to thank my colleagues for sending so many staff members to today's "AIM for the B" briefing designed to elevate awareness of chronic hepatitis B, a serious health issue in the United States. This briefing emphasized the importance of increasing diagnosis, screening, and treatment, particularly for Asian Pacific Islander Americans who are disproportionately affected with the disease.

I joined my colleague, Rep. CHARLIE DENT of Pennsylvania, and representatives from the Centers for Disease Control and Prevention (CDC), National Institutes of Health (NIH), patient advocacy organizations, physicians, and patients to convey the potential consequences of chronic hepatitis B and to layout actions needed to increase awareness and address the continued progression of this infectious disease.

Rep. DENT and I have introduced H.R. 4550, the National Hepatitis B Act, which would authorize additional resources to more effectively research, track, diagnose, treat and manage chronic hepatitis B. I urge my colleagues to recognize chronic hepatitis B as a potentially life-threatening disease and to help us enact this bill in the 109th Congress. Together, we can make a difference in addressing this national and global public health Issue.

We are extremely fortunate to have vaccines and treatments available that were not available 25 years ago. With treatment, patients have a better chance at beating this disease and preventing its progression to liver disease. However, there is much work that remains to be done. We need to increase public education about chronic hepatitis B and its relation to liver disease, help infected patients and their physicians identify and manage this disease, and work to increase the length and quality of life for patients chronically infected with chronic hepatitis B. Unfortunately, vaccination rates remain low and the hepatitis B virus continues to be one of the most commonly reported vaccine preventable diseases in the United States.

Mr. Speaker, as Chair of the Congressional Asian Pacific American Caucus, I am especially concerned about the tremendous impact that chronic hepatitis B has on the Asian Pacific Islander American community. As many as 1 in 10 Asian Pacific Islander Americans have chronic hepatitis B.

Today's "AIM for the B" briefing and next week's National Hepatitis B Awareness Week events in California and New York are encouraging steps in the right direction. We have the ability to stop the spread and progression of this disease and it is the responsibility to help our constituents affected by chronic hepatitis B.

THE TRUTH ABOUT HIGH GAS PRICES

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. HENSARLING. Mr. Speaker, on May 3, 2006, the House of Representatives voted on legislation, H.R. 5253, to federally prohibit price gouging in the sale of gasoline, diesel, home heating oil, and biofuels. While I am committed to working with my colleagues to enact energy policies that will lower gas prices and help out American families, I do not believe that this legislation will help.

I voted against this legislation because I believe it irresponsible to criminalize an action without defining exactly what we would be criminalizing. As my constituents in East Texas would say, this legislation simply does not pass the smell test. Not only does this legislation criminalize an action without defining the crime, but it passes off that responsibility to unelected bureaucrats at the Federal Trade Commission. Thus, this legislation could effectively criminalize profit making by companies according to some artificial and arbitrary definition determined by bureaucrats in Washington—and that's not the American way.

Additionally, at a November 9, 2005, joint hearing of the Senate Energy and Natural Resources Committee and Senate Commerce, Science, and Transportation Committee, Federal Trade Commissioner Deborah Platt Majoras testified that federal price gouging laws would unnecessarily hurt consumers, instead emphasizing that enforcement of our current antitrust laws is the best method by which to protect American consumers. I find it interesting that not even the Federal Trade Commission believes that federal price gouging laws are an effective protection for consumers.

While I believe that price gouging may exist in limited circumstances, such as the immediate aftermath of a hurricane where market forces have broken down, I have seen no evidence that we are experiencing high gas prices because of price gouging. Instead, I believe that the following factors are responsible for high gasoline prices: (1) A huge increase in worldwide demand, especially in China and India; (2) Supply uncertainty and political instability from large producers like Iran, Venezuela and Nigeria; (3) Over-reliance on the Gulf Coast region; (4) Environmental concerns limiting domestic production and refining; (5) Failure of new technologies to yet mature. Only through increasing our domestic production and reducing excessive federal regulations will we create conditions for lower gasoline prices in the future.

In the face of high gas prices, Congress must not pass knee-jerk reaction legislation that will only worsen the problem in the future. We owe it to our constituents to pass solid, sensible legislation that will promote American energy independence in the future and address this issue in the long term. Ultimately, I did not believe this bill would do anything to lower gas prices for my constituents.

IN CELEBRATION OF THE MILWAUKEE YOUTH SYMPHONY ORCHESTRA'S 50TH ANNIVERSARY

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today in Celebration of the 50th Anniversary of the Milwaukee Youth Symphony Orchestra, MYSO. MYSO was started in 1956, with assistance from the Junior League Children's Arts Program, the Milwaukee Art Center and later the Rotary Club. It has since grown into a valued community institution and the largest youth orchestra program in the Nation.

MYSO provides valuable education and character development for all of its young participants. Through participation in MYSO programs, young musicians develop discipline and creative problem-solving skills, and learn to work as part of a team. MYSO provides young artists with exposure to professional musicians and master teachers. Since its inception, the Milwaukee Youth Symphony Orchestra has become one of the most respected youth orchestras in the United States, serving almost 800 young musicians in a range of programs that include several large orchestras in additional to smaller and more specialized ensemble groups. MYSO alumni have gone on to distinguished careers as professional musicians, and have become accomplished and dedicated supporters of arts in the community.

MYSO has also made a significant commitment to bringing arts into the community. As budget cuts trim funding for arts and music education in the Milwaukee Public Schools, MYSO has created new programs that ensure everyone has the opportunity to learn about and appreciate music. Programs like Progressions and MYSO Jazz Studies bring instrumental instruction and ensemble performance to students who might otherwise never have the opportunity to play an instrument or learn to read music. Together with several other youth arts organizations, MYSO collaborated to develop the Milwaukee Youth Arts Center, creating a dedicated space for youth arts that fosters excellence and honors the creative talents of Milwaukee-area youth. This project has contributed to the revitalization of a key central city neighborhood.

For all of these good works, I am honored to commend the Milwaukee Youth Symphony Orchestra. I thank them for 50 years of exemplary leadership and teaching, and look forward to their continued efforts to provide Milwaukee's youth with outstanding arts education.

TRIBUTE TO KATHERINE ROSE MYERS

HON. JAMES E. CLYBURN

OF SORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a truly exemplary student and constituent as she prepares to graduate from C.A. Johnson Preparatory Academy on May 23, 2006. Not only is Katherine Rose Myers valedictorian of her high school, she is a student leader among leaders and an outstanding example for all young people.

Katherine is the daughter of Kenneth Myers, Sr. and Emma McGraw Myers of Columbia, South Carolina. She has grown up in the same home where her mother was raised. However, she made a different choice than her mother regarding her high school education. Katherine's mother helped integrate a nearby high school during the early days of desegregation. Although Katherine could have chosen to attend any high school in her school district, she chose to go to C.A. Johnson, the neighborhood school. She felt very strongly about her choice, telling the local newspaper "It's my community and it's a nurturing environment."

It is certainly an environment in which Katherine thrived. Academically, she earned a 4.93 grade point average and has been recognized as a National Achievement Finalist, Palmetto Fellow Scholar and an Academic All-Star. Outside the classroom, Katherine has been a student leader as well. Her peers elected her to serve as Student Body President, and she is on the leadership team of the Fellowship of Christian Athletes. She is a varsity member of the Lady Hornets Basketball team and the track team. During the summer of 2005, Katherine was chosen to attend the prestigious

Palmetto Girls State where she was chosen by her peers to serve as Governor. To honor this significant accomplishment Columbia City Council proclaimed October 5, 2005 Katherine Myers Day and awarded her the key to the city.

Despite all of these accomplishments, Katherine still finds the time to contribute to her community. She is the former state vice president of the L.M. Atkinson Federated Youth Club Ladies of Essence and a Senior Cadette in the Girl Scouts Council of the Congaree Area. She also sings in the W.H. Neal Youth Choir at First Nazareth Baptist Church in Columbia.

This fall, Katherine will attend Furman University in Greenville, South Carolina as the recipient of the Herman W. Lay Scholarship, and will study political science. Prior to beginning her college experience, Katherine has already been selected to be one of ten Furman incoming freshmen to study in China for three weeks in July.

Mr. Speaker, I invite you and my colleagues to join me in commending Katherine Rose Myers as a leader of tomorrow. She has demonstrated that she will be a young person to watch in the coming years, and I will certainly be following her progress.

INTRODUCTION OF THE "DEPARTMENT OF ENERGY CONTRACTOR EMPLOYEE EQUITABLE TREATMENT ACT OF 2006"

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. GEORGE MILLER of California. Mr. Speaker, the Department of Energy, DOE, recently announced that it will no longer reimburse its contractors for the cost of providing defined benefit pensions for new employees. Beginning in March 2007, contractors will only be reimbursed for defined contribution, 401 (k)-type plans. Furthermore, DOE will only reimburse for a "market-based medical benefit plan," thus encouraging contractors who provide comprehensive medical coverage for their employees to drop or reduce that coverage. In short, the DOE's action is a direct threat to workers' retirement and health care security.

That is why I rise today to introduce legislation to put an immediate halt to this policy. At a time when even well-funded companies are choosing to terminate their pension plans and Congress is struggling to find ways to encourage employers to provide meaningful health and retirement benefits to workers, penalizing federal contractors for offering guaranteed retirement benefits and quality health insurance is hypocritical and counterproductive. This bill, "the Department of Energy Contractor Employee Equitable Treatment Act of 2006," will simply prevent DOE from using its funds to implement this wrong-headed proposal.

According to a Department press release, the purpose of the new policy is "based on sound business practices and market-based benchmarks for cost management." However, at a speech at the National Press Club in January of last year, Labor Secretary Elaine Chao claimed that "President Bush has made retirement security one of the highest priorities of his second term. A critical component of his agenda is ensuring that the defined benefit pension system is viable and that the promises made to the workers enrolled in these plans are kept." This new DOE policy, particularly after the President's effort to privatize Social Security, contradicts that statement and reveals a true agenda of undermining guaranteed retirement benefits.

The DOE rationale—that defined benefit pension plans are too volatile—is particularly ironic given the pressure the Bush Administration is pushing for a House-Senate pension conference bill to change pension law in ways that will make the cost of a pension plan higher and less predictable.

Moreover, by tying reimbursement to a "market based medical benefit plan," the DOE encourages contractors who provide comprehensive medical coverage to reduce such coverage and to further shift health care cost burdens onto employees, rather than addressing rising health care costs. The DOE directive requires all contractors to make clear that they can "unilaterally change, suspend, or terminate any medical plan, coverage or contribution at any time." It further limits the conditions under which retirees may receive retiree health benefit coverage. Encouraging the loss or reduction of health benefits of any workers or retirees, including workers and retirees serving our country at nuclear facilities, is just plain wrong.

I encourage my colleagues to join me in support of this legislation.

IN HONOR OF DR. DANIEL R. MISHELL, JR. ON THE OCCASION OF HIS 75TH BIRTHDAY

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. BECERRA. Mr. Speaker, it is with utmost pleasure and privilege that I rise today to pay tribute to Dr. Daniel R. Mishell, Jr., an outstanding physician and pioneer in the field of women's health. This Saturday, May 13, 2006, family, friends and admirers will gather to celebrate Dr. Mishell's 75th birthday—which occurred on May 7—and salute his many achievements as husband, father and consummate professional.

Daniel Mishell, Jr., earned his BA with great distinction in 1952 and his medical degree in 1955 from Stanford University. As a faculty member at the University of California, Los Angeles in the 1960s, Dr. Mishell's breakthrough research resulted in the first pregnancy tests in the United States not involving animals. In 1969, he joined the faculty of the University of Southern California's Keck School of Medicine. As the Lyle G. McNeile Professor in the Department of Obstetrics and Gynecology and as its chairman from 1978 to 2005, Dr. Mishell has left an indelible hand print upon this nationally recognized institution of women's health.

Throughout his career, Dr. Mishell has held several prominent national posts and consulted internationally throughout the years in the field of obstetrics and gynecology. Since 1970, he has served as editor-in-chief of Contraception, the Association of Reproductive Health Professionals' official journal. He served as president of the American Board of Obstetrics and Gynecology from 1986 to 1990 and then as its chairman from 1990 to 1994. In 2003, he was elected as a fellow ad eundem of the Royal College of Obstetricians and Gynecologists of Great Britain. Respected as an international trailblazer in his field, Dr. Mishell led the World Health Organization's only clinical research and training center for human reproduction in the United States. Included, Dr. Mishell has received numerous awards and honors throughout the years, including the Distinguished Scientist Award from the Society of Gynecologic Investigation in 1994 and the Guttmacher lectureship of the Association of Reproductive Health Professionals in 1999.

The countless studies and research that he has conducted and guided throughout his career have placed Dr. Mishell at the forefront in the field of women's health. His studies in the late 1960's resulted in the development of many of the devices and hormonal methods used for contraception today, including the Copper IUD, Norplant and the Contraceptive Ring. He directed research that led to technologies and tools that make it easier for women to conceive. He published more than 260 scientific papers in peer review journals, co-edited 34 medical textbooks, and wrote more than 140 textbook chapters on contraception, reproductive endocrinology, and infertility. There's no doubt that you will agree with me when I say that Dr. Mishell continues to influence the field of women's health today.

Dr. Mishell regards as one of his greatest achievements having "trained over 400 residents and made sure they would provide excellent health care in the field of Ob/Gyn." Imagine that! There are over 400 residents who have had the opportunity to learn from Dr. Mishell and they continue to build on his work in the field of women's health and share his enthusiastic commitment to ensuring that all women have the healthcare they deserve. Mr. Speaker, I can make this declaration with full confidence in its accuracy because I am the fortunate spouse of one of those superbly trained obstetrician/gynecologists. Moreover, as another of America's finest physicians, Dr. Paul Brenner, professor of obstetrics and gynecology at the Keck School, points out, Dr. Mishell has been instrumental in opening the field to more female physicians. With Dr. Mishell playing a major role in the education of numerous residents, fellows and junior faculty, it is easy to see why Dr. Brenner acknowledges that "in my lifetime, I don't think there's been anyone else who's had a greater impact on the field of ob/gyn."

Mr. Speaker, as Carol, Dr. Mishell's wife of almost 45 years, their children Sandra, Daniel and Tanya, and their four grandchildren gather with family and friends to toast his 75th birthday, it is with great admiration and pride that I ask my colleagues to join me today in saluting this thoughtful human being and tireless champion of women's health.

THE PROTECTION OF UNIVERSITY GOVERNANCE ACT

HON. DAN BOREN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. BOREN. Mr. Speaker, on May 9, 2006, I withdrew my support for H.R. 5289, the Protection of University Governance Act. I cosponsored the legislation believing at the time that it would help schools such as Southeastern Oklahoma State University in Durant recoup costs associated with eliminating offensive mascots. Upon further inspection it is clear to me that this bill does not achieve that goal. Rather, this bill helps those schools that refuse to change and I cannot support that effort.

Changing a mascot is a costly proposition for a public college or university. For this reason, I feel our public institutions that have voluntarily decided to no longer associate themselves with offensive mascots need whatever assistance we can provide to them. Additionally, I feel that easing the financial burden of this undertaking could also encourage other schools to follow this responsible course of action.

NATIONAL NURSES WEEK 2006

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. HOLT. Mr. Speaker, I rise to pay tribute to the 2.9 million nurses across the country whose vital contributions to our healthcare system are rightfully honored this week during "National Nurses Week."

The theme of National Nurses Week (NNW) 2006 is "Nurses: Strength, Commitment, Compassion." These are 3 qualities that nurses show on a daily basis in caring for patients during times of disaster and crisis, at the bedside, and through continuing education.

In my own healthcare and that provided to my family and friends, I am continually impressed by the knowledge, professionalism, and kindness that nurses demonstrate in their patient care. They are literally at the front lines of our healthcare system, and their important role deserves to be recognized. That is why I am pleased to support House Resolution 245, supporting the goals and ideals of National Nurses Week.

There are immediate challenges facing the profession of nursing, and there are concrete steps that Congress should take in order to ensure that patients can benefit from their care now and in the future. Most notably, we must take steps to address the growing shortage of nurses and the aging of the nursing workforce.

Recruitment and retention of nurses is important, as is ensuring that schools of nursing have the faculty and resources they need to teach and train students. That is why I introduced H.R. 2184, the Nursing School Capacity Act, which would authorize an Institute of Medicine (IOM) study to identify constraints encountered by schools of nursing in admitting an adequate number of nurses for our healthcare system, and develop recommendations to alleviate the constraints.

We must fully fund nurse workforce development programs through Title VIII of the Public Health Service Act. Unfortunately, as the nursing shortage has worsened, funding has remained flat. We must ensure that healthcare providers are adequately staffed with nurses, and protect nurses from mandatory overtime. We also must support the right of nurses to bargain collectively with their employer, a basic right that should be afforded to workers in all sectors of our economy.

I thank all nurses for the contributions that they make to our health and to our communities.

THE PLATFORM EQUALITY AND REMEDIES FOR RIGHTS HOLDERS IN MUSIC ACT OF 2006

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 2006

Mr. BERMAN. Mr. Speaker, today I join my colleague MARY BONO in introducing "The Platform Equality and Remedies for Rights Holders in Music Act of 2006" (Perform Act) which we hope will be the first step in addressing the convergence of digital radio and distribution technology. This bill mirrors the PERFORM ACT introduced by my colleagues two weeks ago in the Senate. The purpose of the PERFORM Act is to address current inequities in the Section 114 compulsory license of the Copyright Act.

One of America's greatest treasures is its intellectual property. In cities and towns across the nation and in countries around the world, American music is heard throughout the streets. People are consuming more music than ever. Yet the music industry is in crisis. The total value for the music industry at retail declined from $14.5 billion in 1999 to $12.1 billion in 2004. In March 2005 alone, 243 million songs were downloaded from illicit peer-to-peer services (NPD Musicwatch).

Our Founding Fathers recognized that in order for America to be at the forefront of creativity they must support and incentivize musicians to pursue their art by providing necessary protection to these original works to produce a return on investment in those works.

In that vein, in 1995 Congress took a step forward and established a limited performance right for digital sound recordings. However, while with one hand Congress granted a right to creators when their music is performed digitally, with the other hand it took away by requiring that this new limited right be subject to a government compulsory license for radio-like services. Therefore, as we continue with this debate we must remember that copyright owners cannot negotiate a fair market price for their works in the marketplace for digital radio, and cannot withhold access to their works as leverage in the marketplace to negotiate for necessary content protection on digital radio.

Cable, satellite, and Internet radio services are granted a compulsory license to broadcast (perform) music as long as they pay the statutorily defined fee (or another negotiated rate) and abide by the terms and conditions of the government license.

We are fortunate that with the evolution of new technologies there are many legal music distribution services currently available. Cable, Internet and satellite platform providers all compete to provide consumers their choice of music, anytime, in any place, in any format. While I am encouraged by the many options, I am concerned that certain features of the new devices turn radio, or performance services, into distribution services. This increased functionality may cause the unintended consequence of bypassing the typical marketplace distribution channels by allowing the consumer to turn broadcasts into downloads. This utility enables consumers to create an unlicensed music library without paying the artist.

However, just as consumers have certain expectations when it comes to radio usage, copyright owners have a reasonable expectation to be compensated for both the performance right (where a copy is listened to but not kept by the consumer such as a broadcast or concert) and the copying of their works into a library (such as a download or reproduction). This bill seeks the appropriate balance between promoting the creativity of music and fostering the innovation of technology.

Some say the legislation is unnecessary because they assert that current business models are technically legal. While I myself refrain from statutory interpretation, the question for Congress now is how to formulate the right policy to ensure that creators receive adequate compensation for their work and that fair rules apply evenly across all platforms of music that deliver similar services to consumers. Some say this legislation is lacking because it does not provide parity across all broadcasting platforms. While I believe there should be a full performance right for all digital transmissions, across all broadcasting platforms, the bill provides a step in the right direction.

We hope that with introduction of this companion bill in the House to the PERFORM Act in the Senate, Congress will act quickly to level the playing field between technologies and ensure rightful compensation to artists.

In order to level the playing field for those technologies currently covered by Section 114, this bill establishes parity in the rules and regulations covering service platforms (satellite, webcasters, cable) by ensuring that satellite, webcasters, and cable operators are required to operate under the same rate standard and content protection rules. Under the bill, the performance license will only be available for behavior that constitutes a performance, and will require a radio service that wants to engage in a distribution business model to get a distribution license in the free marketplace like its competitors.

For services coupled with new and proposed devices that permit subscribers to search for and keep permanent copies of songs included in the broadcaster's programming without ever listening to the program and where subscribers simply scroll through a list of songs and pick those they want to keep without ever buying the song or paying additional subscription fees a service will not be able to take advantage of the 114 license unless they get a necessary distribution license in the marketplace.

The ability to enable automatic, organized copying and storage of individual songs that replace the sale of downloads or subscriptions by competitive distribution services such as Napster, Rhapsody, and iTunes should not be allowed without similar rules and compensation requirements. If listeners are able to instantly make a free copy of the song they are listening to, they will have little reason to purchase it. The use of a performance license should not be a shield against providing the requisite payment for the reproduction or distribution.

Section 1 provides parity in the rate standard for the technologies currently covered under the section 114 license. All licenses under section 112 and 114 will have their rates set under the same standard, a fair market value standard, that would more closely replicate aggregate deals in the marketplace. Fair Market Value is a standard that is used hundreds of times in the laws of the United States and is one that replicates to the closest extent possible to free marketplace. Currently, the rate for satellite and cable music services are set under factors contained in Section 801(b) of the Copyright Act. The rate for Internet services is a "willing buyer, willing seller" standard that approximates what a particular willing buyer would pay a particular willing seller in the marketplace. The bill sets the standard at "fair market value" to provide broad-based market-influenced compensation to creators across all platforms.

Section 2 provides that the technologies which broadcast sound recordings provide adequate protection to the content. These provisions ensure that all licensees under section 114 have similar content protection requirements, which respond to marketplace developments but include recording for legitimate time shifting purposes.

The bill also requires that licensees use reasonably available technology to prevent copying of the transmission to prevent against third party "stream-ripping"—the use of tools created by third parties that captures the stream, and then disaggregates the songs for storage in a manner that substitutes for a sale. However, any content protection system must allow for reasonable recording. Most notably the bill allows for all manual consumer recording to the extent such recording is consistent with fair use under Section 107 of the Copyright Act.

Section 3 provides a placeholder for the Copyright Office to convene a meeting with interested stakeholders to discuss creation of a category of new interactive services. Currently, one of the most contested issues in the license is the definition of interactivity. The question is "how much consumer influence is allowed before the experience has transitioned from a purely listening service to an interactive service?". The definition of interactivity itself impacts whether one can take advantage of the compulsory license, and the share of the royalty to the artists, musicians and other vocalists. I am hopeful that the Copyright Office will be able to provide some guidance and recommendations for Congress.

Finally, while not included in the bill, I do believe at some point soon, Congress needs to take another look at the Audio Home Recording Act. I don't believe that the royalties provided by the AHRA were ever intended to substitute for the marketplace licenses afforded end-to-end transmission and distribution services. The AHRA was intended to protect music creators from serial copying using off-the-shelf consumer electronics devices, not to enable transmission services to transform themselves into distribution services that provide an unlicensed download that substitutes for record sales. The time has come to reevaluate the act in light of new technologies and changing business models.

I do not want to suggest that this bill is a "perfect" solution. Thus, I remain open to suggestions for amending the language to improve its efficacy or rectify any unintended consequences.

This bill attempts to strike a balance between providing adequate protection to our musicians and continuing to support new innovative technologies. My goal is to preserve the legitimate marketplace by reserving downloading capability for those services that appropriately pay for it. I hope the parties can work together to reach further consensus on how to achieve parity between technologies and provide rightful compensation to our artists.

OPENING OF THE MOTHER HALE LEARNING CENTER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 2006

Mr. RANGEL. Mr. Speaker, I rise today to recognize the significance of the Mother Hale Learning Center by entering into the record an article from the New York CaribNews that celebrates the official opening of the MHLC in Harlem, New York.

Clara Hale, best known as "Mother Hale," was a prominent philanthropist, social activist and child care worker who founded Hale House in New York City and created a sanctuary for drug-addicted and AIDS-infected infants and their mothers.

As a foster care parent in 1940, Mother Hale provided a home to over 40 children of all ethnic and religious backgrounds over the next 25 years. As problems associated with drug abuse exploded in Harlem, Mother Hale expanded her home for infants addicted before birth. It was the first—and only known program—in the U.S. designed to deal with infants born addicted to illegal drugs.

Clara Hale was a rare individual who devoted her life to caring for over 800 unwanted children. She left her loving imprint on the lives of thousands. When Mother Hale passed away in December, 1992, her daughter, Lorraine Hale carried on her mother's mission.

The Mother Hale Learning Center is an expansion of the work Hale House does through its residential programs. It also allows for affordable childcare to the Harlem community.

This dedication of the Mother Hale Learning Center, as detailed in the attached article, is recognized as the perfect present to honor the legacy of Mother Clara Hale.

Mr. Speaker: I congratulate everyone associated with this notable community resource expansion known as the Mother Hale Learning Center. This center is truly a testament to the life work of Clara Hale.

DEPUTY MAYOR & CHILDREN'S CHARACTER CLIFFORD THE BIG RED DOG JOIN IN OPENING MOTHER HALE LEARNING CENTER

NEW YORK, NY.—Dennis Walcott, Deputy Mayor for Education and Community Development and beloved children's character Clifford The Big Red Dog, recently joined Zachary Carter, Hale House Chairman of the Board, and Randolph McLaughlin, Executive Director of Hale House, civic leaders, parents and children to officially open the Mother Hale Learning Center (MHLC), located at 300 Manhattan Avenue in Harlem.

"The opening of the Mother Hale Learning Center is a natural expansion of the work Hale House does through its residential programs and gives us the opportunity to provide educational and affordable childcare to the community-at-large," said Mr. McLaughlin. "It also is the perfect present to honor the legacy of Mother Hale, who would have been 101 on April 1st."

Following the opening ceremony, attendees were led on a tour of the facilities and Deputy Mayor Walcott and Clifford The Big Red Dog greeted the excited children.

MHLC offers high-quality, yet affordable educational childcare for infants, toddlers and preschoolers of families in the community. Classes are led by the Center's experienced and highly trained childcare staff, who create an atmosphere that is caring, nurturing and supportive to each child's educational needs. Adhering to the standards of excellence set forth by the National Association for the Education of Young Children, the curriculum is designed to foster the growth of each child by focusing on social, emotional, physical and cognitive development.

There are classrooms for each age group, each with a daily curriculum and activities specifically designed for that particular group, including: Infants (6 weeks to 1 year old) curriculum which utilizes tactile toys and stimulating activities to help infants gain awareness of their senses; Young Toddlers (1 to 2 years old) and Older Toddlers (2 to 3 years old) curriculum which focuses on building language, creativity, motor skills and social interaction to help children process the new and exciting things they discover each day; and Preschoolers (3 years old to their 5th birthday) curriculum which provides hands-on learning experiences that foster independent thinking and self-expression, and daily group activities that help enhance cognitive and social skills to prepare children for kindergarten.

As one of the few educational programs in Harlem that works with both infants and toddlers, the fully secured facility can accommodate up to 38 children and is open Monday through Friday, 7:30 a.m. to 6:30 p.m. It also features a computer room with three child-friendly computer stations—donated by I.B.M. and United Way—a sleep room for the infants, as well as an outdoor recreation courtyard. The Center will also provide parent workshops, a resource library and referrals to other appropriate services.

HONORING DAMU SMITH

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 12, 2006

Ms. LEE. Mr. Speaker, I rise today with a heavy heart to join my colleagues here in the Congressional Black Caucus, throughout the United States and across the globe in commemorating and honoring the extraordinary life of Damu Smith. A leader in the ongoing struggles for civil rights as well as social and environmental justice for more than 30 years, Damu is known worldwide for his lifelong commitment to advancing equality, human rights and nonviolence. Damu passed away on May 5, 2006 after a courageous battle with cancer.

Born in 1951 in St. Louis, Missouri to Sylvester and Vernice Smith, Damu was raised with his two brothers and sister in the Carr Square Village housing project. A working-class family, they often struggled to make ends meet, sometimes receiving welfare or other government assistance. Damu has said that having this experience growing up developed in him a great sensitivity to the plight of low-income communities, and played a central role in shaping his views as an adult and as an activist.

As a high school student, Damu had the chance to attend some of the Black Solidarity Day rallies in Cairo, Illinois, where he listened to speeches by Amiri Baraka, Nina Simone and Jesse Jackson, and toured black neighborhoods where white supremacists had sprayed houses with gunfire, a sight that changed his life. As a freshman at St. John's University in Minnesota, and president of the Organization of Afro-American Students, Damu led a protest and takeover of the school's administrative offices to demand a Black studies program. It was during that time that he changed his name to Damu Amiri Imara Smith, the first three words meaning "blood," "leadership," and "strength" in Swahili, respectively. In 1973, he moved to Washington D.C., where he began the next chapter in his lifelong mission of advocating for social justice in the United States and abroad.

Over the next thirty years, Damu's activism included vigilance in the fight against Apartheid in South Africa as Executive Director of the Washington Office on Africa and co-founder of Artists for a Free South Africa. Additionally, Damu focused his energy and attention on broad-based efforts to expose gun violence and police brutality, and was also active in peace and nuclear weapons freeze campaigns, working as the Associate Director of the Washington Office of the American Friends Service Committee.

Furthermore, Damu was known for his pioneering leadership in the environmental justice movement, working as the first environmental justice coordinator for the Southern Organizing Committee for Economic and Social Justice. After touring cities severely impacted by chemical pollution and seeing the devastating impacts of these practices on low income and African American communities, he organized Toxic Tours in the South for Greenpeace. In 1999, he coordinated the largest environmental justice conference ever held, an event which led to the formation of the National Black Environmental Justice Network, which was the first ever network of Black environmental justice activists, and of which he served as the Executive Director.

Throughout his historic and far-reaching career of activism and advocacy, Damu was widely respected and viewed as a leading voice for social justice and progressive change in the United States and abroad. Revered by his colleagues and all who knew him as not just a leader but a true visionary in the fight for justice, peace and equality, Damu's contributions to the effort to affect genuinely democratic reforms in the United States and around the world are truly immeasurable.

My life was personally touched by Damu. I met him many years ago and his intellect, heart and soul brought joy and clarity to my life. Like all who knew and loved him, I will deeply miss his presence on this earth.

Though his death is a great loss to our country and to our entire global family, the legacy of his work will continue to improve countless lives for generations to come. My thoughts and prayers are with Damu's family, as well as the numerous friends, colleagues and other individuals that he inspired during his lifetime as we mourn the loss of this exemplary leader.

HOUSE OF REPRESENTATIVES—*Monday, May 15, 2006*

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. CAMPBELL of California).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 15, 2006.

I hereby appoint the Honorable JOHN CAMPBELL to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Strengthened by Your grace, Lord God, we call upon Your holy name and ask Your blessing upon our land, its leaders in government, representatives of this population. Grant glory to our military forces. Protect them and help them to establish peace.

Shepherd Your people in these days, that we do not wander aimlessly, forgetting Your mighty deeds in our Nation's past. Ever mindful of our religious heritage, make us a virtuous people, an example to other nations. Tend to our needs with blameless heart.

With the skills of a discerning mind, united in truth and justice, lead this Congress to enact laws of equal justice now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from California (Mr. LEWIS) come forward and lead the House in the Pledge of Allegiance.

Mr. LEWIS of California led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REPORT ON H.R. 5385, MILITARY QUALITY OF LIFE AND VETERANS AFFAIRS APPROPRIATIONS ACT, 2007

Mr. LEWIS of California, from the Committee on Appropriations, submitted a privileged report (Rept. No. 109–464) on the bill (H.R. 5385) making appropriations for the military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2007, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore. Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2007

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until 3 p.m., May 15, 2006, to file a privileged report, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2007, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

APPOINTMENT AS MEMBER TO BOARD OF TRUSTEES OF OPEN WORLD LEADERSHIP CENTER

The SPEAKER pro tempore. Pursuant to section 313 of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1151), amended by section 1401 of Public Law 108–7, the order of the House of December 18, 2005, and upon the recommendation of the majority leader, the Chair announces the Speaker's appointment of the following member on the part of the House to the Board of Trustees of the Open World Leadership Center for a term of 3 years:

Mr. Roger F. Wicker, Tupelo, Mississippi

REAPPOINTMENT AS MEMBER TO COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

The SPEAKER pro tempore. Pursuant to section 201(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6431 note), amended by section 681(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (22 U.S.C. 2651 note), the order of the House of December 18, 2005, and upon the recommendation of the minority leader, the Chair announces the Speaker's reappointment of the following member on the part of the House to the Commission on International Religious Freedom for a 2-year term ending May 14, 2008:

Ms. Elizabeth H. Prodromou of Boston, Massachusetts, to succeed herself

ADJOURNMENT

Mr. LEWIS of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 7 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, May 16, 2006, at 12:30 p.m., for morning hour debate.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7497. A letter from the Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule — Alternative Market Risk and Credit Risk Capital Charges for Futures Commission Merchants and Specified Foreign Currency Forward and Inventory Capital Charges (RIN: 3038-AC05) received March 9, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7498. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's final rule — Milk Income Loss Contract Program (RIN: 0560-AH47) received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7499. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Emerald Ash Borer; Quarantined Areas [Docket No. 02-125-4] received March 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7500. A letter from the Legislative Affairs Branch, Chief, NRCS, Department of Agriculture, transmitting the Department's final rule — Grassland Reserve Program (RIN: 0578-AA38) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

7501. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Milk in the Northeast and Other Marketing Areas; Order Amending Orders [Docket No. AO-14-A75, et al.; DA-06-06] received May 2, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7502. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule — Listing of Color Additives Exempt From Certification; Tomato Lycopene Extract and Tomato Lycopene Concentrate [Docket No. 2001C-0486] (formerly Docket No. 01C-0486) received March 10, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7503. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule — Food Additives Permitted for Direct Addition to Food for Human Consumption; Glycerides and Polyglycides [Docket No. 1991F-0457] (formerly Docket No. 91F-0457] received March 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7504. A letter from the Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting the 2005 Report on National Defense Stockpile Requirements, pursuant to 50 U.S.C. 98h-5; to the Committee on Armed Services.

7505. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule — Capital Adequacy Guidelines for Bank Holding Companies; Small Bank Holding Company Policy Statement; Definition of a Qualifying Small Bank Holding Company [Regulation Y; Docket No. 1235] received March 7, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7506. A letter from the Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule — Conversion of Developments from Public Housing Stock; Methodology for Comparing Costs of Public Housing and Tenant-Based Assistance [Docket No. FR-4718-F-02] (RIN: 2577-AC33) received April 4, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7507. A letter from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting the Department's final rule — Financial Crimes Enforcement Network; Anti-Money Laundering Programs; Special Due Diligence Programs for Certain Foreign Accounts (RIN: 1506-AA29) received March 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7508. A letter from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting the Department's final rule — Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations — Imposition of Special Measure Against Commercial Bank of Syria, Including Its Subsidiary, Syrian Lebanese Commercial Bank, as a Financial Institution of Primary Money Laundering Concern (RIN: 1506-AA64) received March 13, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7509. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

7510. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Sixth Annual Report to Congress on the Inter-American Convention Against Corruption; to the Committee on International Relations.

7511. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the Board's Performance and Accountability Report for FY 2005, as required by the Government Performance and Results Act and the Accountability of Tax Dollars Act of 2002; to the Committee on Government Reform.

7512. A letter from the Inspector General Liaison, Selective Service System, transmitting the semiannual report in accordance with the Inspector General Act of 1978, as amended, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

7513. A letter from the Director, Federal Judicial Center, transmitting the Federal Judicial Center's Annual Report for the 2005 calendar year, pursuant to 28 U.S.C. 623(b); to the Committee on the Judiciary.

7514. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification that the Department intends to use unobligated 2001 funds out of the "X-year" account to fund International Military Education and Training students in the English Language Instructors Course during FY 2006; jointly to the Committees on Appropriations and International Relations.

7515. A letter from the Acting Secretary, Department of the Interior, transmitting the Department's report on the impacts of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands for Fiscal Year 2005, pursuant to Public Law 108-188, section 104(h); jointly to the Committees on Resources and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4681. A bill to promote the development of democratic institutions in areas under the administrative control of the Palestinian Authority, and for other purposes; with an amendment (Rept. 109-462 Pt. 2).

Mr. WALSH: Committee on Appropriations. H.R. 5385. A bill making appropriations for the military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2007, and for other purposes (Rept. 109-464). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAYLOR of North Carolina: Committee on Appropriations. H.R. 5386. A bill making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2007, and for other purposes (Rept. 109-465). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Under clause 2 of rule XII the Committee on Financial Services discharged from further consideration. H.R. 4681 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

314. The SPEAKER presented a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 108 memorializing the Congress of the United States to add Social Studies to the testing requirements of the No Child Left Behind Act of 2001; to the Committee on Education and the Workforce.

315. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 226 memorializing the Congress of the United States to enact legislation restricting protests at funerals; jointly to the Committees on Veterans' Affairs and the Judiciary.

316. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 123 memorializing the Congress of the United States to take prompt action to provide relief from high gas and to call on the Governor of the State of Michigan to investigate potential effects of State government policies that may add to the price of gasoline in Michigan; jointly to the Committees on the Judiciary, Energy and Commerce, and Ways and Means.

317. Also, a memorial of the Senate of the State of Michigan, relative to Senate Resolution No. 61 memorializing the Congress of the United States to take prompt action to provide relief from high gas prices; jointly to the Committees on the Judiciary, Energy and Commerce, and Ways and Means.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 3883: Mrs. MUSGRAVE and Mr. BARTON of Texas.

H.R. 4239: Mr. STUPAK.

H.R. 4347: Ms. CORRINE BROWN of Florida.

H.R. 4547: Mr. SOUDER.

H.R. 5005: Mr. SALAZAR.

H.R. 5336: Mr. GINGREY.

H.R. 5372: Mr. CLYBURN, Mr. OBERSTAR, Mr. BOSWELL, Mr. ROSS, and Mr. BERRY.

H. Res. 740: Mr. HIGGINS.

H. Res. 794: Ms. WATSON, Mr. FITZPATRICK of Pennsylvania, Mr. MCCOTTER, and Mr. BURTON of Indiana.

H. Res. 795: Mr. MILLER of Florida.

H. Res. 801: Mr. BLUMENAUER, Mr. ENGLISH of Pennsylvania, Mr. PETRI, Mr. FRANK of Massachusetts, Mr. MCGOVERN, and Mr. UDALL of Colorado.

PETITIONS, ETC.

Under clause 3 of rule XII,

116. The SPEAKER presented a petition of the City Council and County of Honolulu, Hawaii, relative to Resolution No. 06-084 supporting proposed federal legislation to address the problem of chemical munitions dumped in water off Hawaii; which was referred to the Committee on Armed Services.

SENATE—*Monday, May 15, 2006*

The Senate met at 2:05 p.m. and was called to order by the Honorable JOHN CORNYN, a Senator from the State of Texas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O, maker of the seas and the Earth, speak to our hearts. Teach us to cling to the things that endure beyond time. When we are tempted to doubt, remind us of Your unfailing precepts. Sustain our lawmakers today in their important work. Help them to sacrifice and not to count the cost; to toil and not to seek for rest; to strive and not to ask for any reward except that of knowing they are doing Your will.

Use them today to do all the good they can for as many as they can for the honor of Your Name.

Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN CORNYN led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 15, 2006.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN CORNYN, a Senator from the State of Texas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. CORNYN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this afternoon we begin consideration of S. 2611, a comprehensive immigration measure. Chairman SPECTER is here today to manage amendments to the bill. We have several Senators on this side of the aisle who have indicated they are prepared to pose their amendments during today's session. I encourage Members to come forward and bring their amendments to the managers just as soon as possible so that we will be able to consider them. Exactly how we handle amendments over the course of the afternoon, the Democratic leader and I and the chairman and managers will be discussing in a few minutes. We do expect a full session on the immigration bill today.

On Tuesday we have an order to have a rollcall vote at shortly after 10 o'clock on the confirmation of a circuit court nomination. I expect after that we would have some other votes that could be stacked and voted upon before our policy luncheons.

I do want to say, once again, that we need Senators to offer their amendments, to give us language on their amendments just as soon as possible. The debate itself will be fair, will be dignified. We have all agreed we want to be able to dispose of these amendments in a way that allows time for effective debate, whatever time is necessary for a debate, but that we would expect to be voting about every 2 hours—and that could go to 3 hours on some and could go to 10 minutes on others. But in order to consider the range and number of amendments that have been proposed, we do need people to come forward and we will deal with those accordingly.

This is an important bill. It is a bill that we have talked a lot about on the floor for a couple of weeks already. There has been much good discussion, both on and off the Senate floor. I think everybody has spent a lot more time with the bill and with the proposed amendments. Thus, I think we should be able to address the issue in a careful, deliberate way, a complete way, and finish this bill before Memorial Day.

It is an important bill. It is an important bill to our national security. It is an important bill to our values, to our economy, and to our safety.

I have a brief statement to make on another topic, but I turn to the Democratic leader, if there is any comment on scheduling, of course.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished Democratic leader is recognized.

IMMIGRATION

Mr. REID. Mr. President, very briefly, we have in this most important debate two veterans of the Senate, to say the least, Senators SPECTER and LEAHY, who will be managing this bill. I agree with the distinguished majority leader. This debate should be dignified. People have very strong feelings about issues. I look forward to some very pronounced debate and voting.

We have had a lot of talk about the need to do immigration. Now is the opportunity to see what we can do. I met with my staff today, and I asked them to prioritize our amendments. We worked through some of those, which ones we want to offer first, second, third. I am sure that has been done on the majority side also. So I hope with Senator SPECTER and Senator LEAHY leading the charge that we can move forward very quickly.

Mr. FRIST. Mr. President, I am going to make a few comments on a separate issue. Then we will come straight back to the immigration bill and how we can best handle the debate over the course of today.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

NATIONAL PEACE OFFICERS MEMORIAL SERVICE

Mr. FRIST. Mr. President, as I speak, on the west front of the Capitol Building we are observing the 25th National Peace Officers Memorial Service. Tribute is being paid to the 155 peace officers who lost their lives in the line of duty last year. The President spoke there moments ago, and is still there expressing his sympathy to the families who have lost loved ones.

It is always, each year, a solemn occasion. It is a sacred occasion. It reminds us of the huge sacrifices our law enforcement makes day in and day out on our behalf in our communities all across the country. Every day around the clock America's peace officers are on the front lines, protecting our lives, our homes, and our freedoms. On the front line, when we need someone to investigate a dark alley or quell a domestic dispute or subdue a criminal, it is these dedicated professionals who answer that call, who answer that need. Each time they take a risk, and they never know if that risk will be the last call they will make.

On August 8, 2005, when Tennessee Correctional Officer Wayne Thomas Morgan got ready for work, he couldn't know that it would be his last morning to say goodbye. At 10 a.m, during a routine prisoner transfer at the Roane County Courthouse, he was shot and killed. Prison nurse Jennifer Hyatte ambushed him as he and another guard escorted her husband, George Hyatte, from the courthouse to a prison van. From behind the wheel of her SUV, Jennifer drove into the parking lot, shot Officer Morgan three times, and fled the scene, escaping with her husband in the car.

The couple were arrested 36 hours later in Ohio. They now face trial on murder charges scheduled for later this year. It was an outrageous crime that shocked the Nation and shocked the close-knit Kingston community.

A deacon and choir member of the Meadowview Baptist Church, Officer Morgan was well known and much loved throughout his community. His funeral was attended by over 1,000 people, including law enforcement officers from seven States and Canada.

Bradley County Chief Deputy Bill Griffith said Officer Morgan's death "reminds those of us in law enforcement that we put our lives on the line every day."

Today, we echo those words as we pay tribute to our fallen heroes.

I would like to take just a moment to recognize Tennessee's own who gave the ultimate sacrifice in the line of duty last year: Officer Michael Keith Buckner, who served the Decherd Police Department and was killed in an automobile accident while returning from an investigation in a severe snowstorm. He is survived by his wife and daughter.

Trooper Todd Michael Larkins, who served with the Tennessee Highway Patrol for 5 years, was struck and killed by a tractor trailer while conducting a vehicle stop. He is survived by his wife and daughter.

Correctional Officer Wayne Thomas Morgan, who served with the Tennessee Department of Correction for 28 years, is survived by his wife, son, and daughter.

And Officer Kay Frances Rogers, a 15-year veteran who served with the Murfreesboro Police Department for 4 of those years, died of injuries sustained in a motorcycle accident. She is survived by her mother, three brothers, and three sisters.

Our hearts go out to these families, to friends and colleagues. And we bow our heads in recognition of their dedication, their sacrifice, and their courage.

As a Senator and an American citizen, I pledge to keep working on behalf of our Nation's peace officers.

In 2004, I cosponsored the Law Enforcement Safety Act, which the President signed into law. This legislation was the No. 1 priority for our Nation's law enforcement community. It is now law of the land. It allows current retired police officers to carry a concealed weapon in any of the 50 States. America now has the added security of tens of thousands of trained and certified law enforcement officers serving and protecting us across the country even into retirement.

There are more than 800,000 law enforcement officers serving communities all across America, the highest number ever.

Each of these officers is a hero. And each of these officers has a family who deserves our appreciation and gratitude for their service.

May God bless the brave women and men who swear to protect and serve us.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. 2611, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (S. 2611) to provide for comprehensive immigration reform and for other purposes.

Mr. REID. Mr. President, this is summertime. It is the time that we see the rolling out of American blockbuster movies. They also try to save their best for the summer. This summer's blockbuster is "The Da Vinci Code," starring Tom Hanks. It starts this Friday all across America. But the third week in May on the Senate floor we have our own Senate blockbuster. It is the sequel though, not the original, part 2 of immigration. The first installment didn't go well for a number of reasons. One of the reasons I felt it didn't go well was the fact that the President wasn't involved personally in it. He wasn't involved in the debate.

For the first installment, I think the Judiciary Committee did very well. They were working on a very tight timeframe. There probably should have been more hearings. That is one reason there were probably more amendments than we would normally have on a bill. But I think Senators Leahy and Specter did an outstanding job to work out the bipartisan compromise—what we call the McCain-Kennedy legislation. It is a bill we tried to deal with on the floor. It didn't move forward for a number of reasons, one of which is the fact we couldn't work out a procedural mechanism to go forward. We tried. We had two cloture votes. All the Democrats voted to go forward with this; all the Republicans voted not to go forward with the legislation.

What did that legislation have in it? Both the McCain-Kennedy and the so-called Hagel-Martinez substitute. They have in them provisions that I think are so important to this country.

First, our border security.

I was in the Congress 20 years ago and served in the House of Representatives when we passed an immigration bill. Obviously, we didn't do a very good job. Twenty years later, we have at least 12 million people who are here that are undocumented.

With this legislation, which is so important, we do good, sound, long-term border security.

We also have to have a temporary worker program. There could be a number of amendments offered on this legislation. But we have to have a temporary worker program. I have said on a number of occasions that Las Vegas is a perfect example of why we need a temporary worker program. In the next 4 or 5 years, they will have 50,000 new hotel rooms. Management and the union say they cannot find the workers to man those hotels. So we need a temporary guest worker program.

I have mentioned we have 12 million people who are now living in the shadows. We have to have a way of bringing them out of the shadows. The McCain-Kennedy legislation sets the framework for doing that. How? By putting them on path of legalization—a path that would require their having jobs, paying taxes, staying out of trouble, no crimes, learning English, paying some penalty. Then they move to the back of the line. It will take a long time for them to get to the front of the line, but at least they can come out of the shadows and not be worried about being picked up for a violation of some kind, with their American husbands and wives and their children. We need to do that.

Finally, we have to have in a good immigration bill something to make meaningful employer sanctions. That is why I support the legislation now before the Senate.

Of course, I am going to vote for some amendments. I think some improvements can be made.

We are now on the sequel of what took place before the Easter vacation. Yes, the sequel.

I hope the President will take a leading role in this sequel, a role on this rerun. But his role is up to him. It is up to him. His role starts tonight in a speech that he is going to give to the Nation. We have had preliminary statements as to what this speech is going to be. We understand that one of the things he is going to talk about is bringing out the National Guard.

I believe in strong border security. If there is a way we can work out the National Guard situation, fine. I am willing to go along with that. But my colleague, Senator HAGEL, has said he believes that the National Guard is stretched too thin. My colleague, Senator BIDEN, said the same thing. He said it both yesterday and on Sunday talk shows. Some National Guardsmen have had four tours of duty in Iraq.

I hope we can come up with something that is meaningful.

Governor Napolitano and Governor Richardson of Arizona and New Mexico have stated on a number of occasions over the last many months they believe the National Guard should be called out. The problem is they need some way of financing this. This is a Federal obligation. The States shouldn't have to bear it.

I hope the President will address that.

The President must be specific. We must have permanent solutions—not stopgap measures for our border security.

The President's role in this sequel, "Immigration No. 2," is up to him. I would be the first to give him a leading role. We need him. We didn't have him involved in the first immigration debate. He came in and started saying things after the votes had already taken place.

I hope the President is willing to stand up and be counted on this issue.

I have some questions for the President. The first question is very basic. We need to know what kind of immigration reform he supports.

Does he believe, as his Republicans in the House do, that we should build a 700-mile fence on our border? He must take a stand in that regard.

Does he believe, as his Republican colleagues in the House do, that we should make all undocumented immigrants felons?

Does the President believe, as his Republicans in the House believe, that we should make all those who feed, clothe, and otherwise assist undocumented immigrants felons—also, people such as priests, ministers, missionaries, social workers, and welfare personnel?

He must speak out on these very unfavorable provisions in the House bill.

Two weeks ago, I had the opportunity to spend some time in my office with Cardinal McCarrick and Cardinal Mahony, two wonderful, caring, spiritual men.

Under the House legislation, Cardinal Mahony would be a felon.

Here is what Cardinal Mahony said about the bill:

> The whole concept of punishing people who serve immigrants is un-American. If you take this to its logical, ludicrous extreme, every single person who comes up to receive Holy Communion, you have to ask them to show papers. It becomes absurd and the church is not about to get into that. The church is here to serve people. We're not about to become immigration agents. It just throws more gasoline on the discussion and inflames people.

I believe the Senate will move forward with good, strong immigration reform. But I also believe our work could be hijacked by House Republicans who want to turn immigrants into felons.

I have fought to prevent this from happening by guaranteeing fair representation in the conference committee. The President can do even more tonight.

Chairman SENSENBRENNER, the chairman of the House Judiciary Committee, the man who among others pushed this felony provision, stated publicly that the measure was included at the "administration's request." If that is the case, President Bush needs to tell Chairman SENSENBRENNER to remove the provision and that it is dead.

The President needs to make it clear once and for all that he will only support immigration reform that is tough and smart. He must publicly denounce the House bill.

The second question for President Bush concerns security. It is fine to hear him say that he wants to send the National Guard, but what else will he do to address 4½ years of neglect?

We all remember. We were celebrating the fact that one of the first things he did after becoming President was going to Mexico and saying he was going to work out the immigration problems with President Fox. It hasn't worked. This issue has been ignored for 5½ years.

Tonight, it is not enough for the President to tell us he wants to increase security at our borders. After all, I repeat, he has had 5½ years to do this. If he wants to be credible on border security, he must acknowledge the mistakes in the past and commit to fixing them.

The lack of security at our borders is frightening. Apprehensions of undocumented immigrants have dropped under President Bush by 30 percent. We have gone from apprehending 1.7 million individuals illegally crossing between 1996 and 2000 to just over 1 million now.

It is not that less people are coming. It is that we don't have the resources we need to catch them.

A month ago, I was on the border. I saw some of the problems which the overworked Border Patrol agents face. At San Ysidro, it is hard to comprehend, but there are 24 lanes of traffic coming into the United States 24 hours a day, 7 days a week—24 lanes of traffic one way.

They are understaffed and under-resourced. They simply can't handle it. It can be handled, but they need the resources to do it.

But it is more than people whom we can't catch coming across our borders. We can't forget that a few weeks ago the Government Accountability Office reported that in March they detailed how two Federal investigators were able to smuggle into our country nuclear material. This shocking report is an indictment of what has happened on our borders. For too long this administration has neglected its responsibility for protecting our homeland, including our border.

The 9/11 Commission told the President that he should work with other countries to develop a terrorist watch list which Border Patrol agents could use to check people crossing the border. Did he do it? No.

The 9/11 Commission gave him a failing grade when they issued their report card last year—a "D."

In the 9/11 legislation which we passed to help secure our country, Congress authorized 2,000 new Border Parol agents.

What did the President of the United States do to put these 2,000 agents in place? Well, he did 75 percent of it. We are still 500 agents short. The President watched as the Republicans in Congress have refused to fund these positions even though we have tried.

The same legislation, the September 11 act, authorized facilities to hold up to 8,000 individuals detained while illegally crossing our border. Currently, we do not have the capacity to hold all those we detain, so they are most often released with a court date. They then disappear into our country. Over the weekend, there were news stories about tens of thousands coming into our country illegally. They are detained. Then we say: See you later, check in for court. Of course, they never come to court. Rarely do they come to court. Why do the authorities let them go? They have no place to put them. Did the President make sure the new 8,000 detention bed facilities became a reality? No. He has allowed the Congress to fund only 1,800 of these new detention beds. No wonder the border agents have no alternative but to let them go.

All this adds up to a credibility gap. It is no wonder the President got a failing grade, a D. He is coming late to this sequel. He did not appear at all in immigration I. Let's hope he appears in immigration II and answers some of these questions.

It is not enough for him to unveil a proposal to use our National Guard. We need more. He must commit to fixing the problems that have been neglected and tell us when he will add additional agents. Congress calls for 2,000 agents; we are 500 short. It is not right that Congress passes laws saying we need 8,000 additional beds for the people coming to our country illegally and we get 1,800. He must commit to fixing the problem. These problems have been neglected. He needs to tell us when we will be getting the necessary authorized agents.

The States have had to bear the expense of holding these people. That should be defrayed by the Federal Government. This is not the State's border, it is the U.S. border. We must implement the recommendations of the 9/11 Commission.

Question No. 3: If President Bush is going to get tough on border security, will he finally get tough on border sanctions as well?

This is a question of credibility. For years, this administration has been willing to look the other way as immigration laws have gone unenforced. In 2004, the Government issued just three notices of intent to fine employers. There are tens of thousands of employers, and most of us believe that lots of them have violated the law with improper papers. There were just three notices of intent in 2004. No one was fined. In 2005, the administration targeted only one employer for an enforcement action. That was Wal-Mart. Overall audits of employers suspected of using illegal immigrants have dropped from 8,000 under President Clinton to less than 2,000 in 2003. President Bush must account for this record. He must do it in tonight's speech.

Question No. 4: If, as rumored, the President will announce he is going to send the National Guard to our border, will he tell the American people how this proposal will work without jeopardizing the critical role the National Guard plays in keeping our communities and Nation safe?

Our National Guard is a vital force on which all of us—Presidents, Governors, mayors, and Members of Congress—depend. Unfortunately, President Bush has overtaxed, overused, and underfunded this critical national security resource. The men and women of our Guard have given us their best in Iraq, Afghanistan, and around the world. They have given their best on the gulf coast. They have given their best in Nevada and other States across America, whether it is fires, floods, hurricanes, or civil unrest.

Now, if it is true that the President is going to order them on another mission, he must tell us how he will help them succeed and ensure they are ready and prepared should they be called to another mission—our border.

It is remarkable that in January, this White House submitted a budget to Congress calling to cut 17,000 guardsmen. Yet now he is asking them to do more with less. Tonight, in clear and consistent terms, we need to hear how they will be used, how they will be supported, how they will prepare and be ready for the unexpected missions.

Remember, all the preliminaries coming out from the White House say that it is going to be a temporary fix. I am for doing anything we can to protect our borders, within reason, but we must do it on a permanent basis, not a temporary basis. We have been told this Guard thing is a stop-gap measure.

These are just four questions. There are a lot of other questions we could ask, but these are questions on which I will judge the President tonight, as I believe the American people will. His answers will tell if he is committed to comprehensive reform and if he is finally serious about securing our borders. As I said, today marks the beginning of immigration part II. Scene I closes tonight with the President's speech, leaving many more scenes to play in the Senate, but the President must be a player, an actor, not a spectator, in all the processes of this debate, not just the first act.

The bill before the Senate is not perfect. I like McCain-Kennedy better than I like the substitute, the Hagel-Martinez bill. There will be amendments to consider and to work their way through the Senate.

For example, it is important we pass a bill and go on record supporting the concept of immigration reform, our enforcement-plus-reform approach, and opposing the House punitive enforcement-only bill. I have made it clear that I will support the Hagel-Martinez compromise but with some amendments. We will be well advised to take a look at some of the provisions in that bill to see if they should be amended. There are Members from both sides with good intentions who want to offer amendments, and they should do that. I voted to move forward on Hagel-Martinez before the Easter recess, with germane amendments being available postcloture. That did not work.

However, we are here now. The compromise we have is not perfect. Among other problems with the bill, I particularly wish to highlight my concern with the division of the population of 11 to 12 million undocumented immigrants that is in this legislation.

Under the Hagel-Martinez bill, we have three groups. The middle group of immigrants who have been here between 2 and 5 years will be required to do what I have heard some refer to as the "touch back" or "touch base" return. They have to cross the border at a port of entry then they can come right back. I personally think that is a big waste of time, effort, and energy, but that is what is in that legislation. There will be amendments offered on that, and unless there is something I don't understand, I would support the amendment to change that provision. It does not make sense to me. I fear that it may deter participation in the program because some immigrants fear they will not be allowed to return or will be fined, or it is too much of a hardship with regard to their financial or childcare responsibilities to be able to make that trip. There is a waiver in it, but it is very difficult to obtain.

I repeat, this provision is a waste of time, energy, and effort. I know there will be an amendment offered to take that out.

More importantly, this bill includes some mean-spirited provisions for this group that strike me as unwise as a matter of public policy. They have to waive their right to administrative or judicial review, which means they have no right to contest the decision of some bureaucrat who for whatever reason decides they do not meet the requirement to participate in this legalization program. This sounds like a big problem to me.

In addition, many tens of thousands of people in this group will be ineligible for the program because they had a prior deportation order and failed to leave the country under a voluntary departure agreement or—this is particularly disturbing—they failed to comply with any request for information by the Department of Homeland Security.

The whole point of what we are doing is to deal with this population which is here under the table, for lack of a better description. They are here. They came here illegally, and there has been a decision made—and some people disagree with this, but we cannot simply deport all of these people. So we want to put them on a path to legalization. I repeat, jobs, taxes, no crimes, learn English, pay penalties. Most people believe that is the right thing to do. And in the future, have a better hold on our border and make sure we do not have problems in the future. This is what we need to do.

I don't see why we should make a distinction between those who have been unlucky enough to get caught and put through deportation proceedings and those who have not.

As far as those who have been here less than 2 years, we have to draw a cutoff line somewhere, but I am concerned, as the bill stands, this will simply lead to a situation where a couple million people will not leave the country and will simply remain here undocumented. That is unfortunate. I hope we can make improvements in the bill to address this group of people as well.

We have so much to do. I hope we can make some fixes to these sections so we can get as many people as possible out of the shadows, registered with the Government, paying taxes, learning English, staying out of trouble, and complying with the law generally.

I look forward to this bipartisan debate. I hope it is that. There are strong feelings, but this is when the Senate is at its best. This is a debate which needs to take place. People have the ability to offer their amendments, debate those amendments, and move this legislation along. Democrats and Republicans are working together to construct legislation to protect our borders. It is so important we do this. I look forward to this debate. As I have indicated, we can do this. We must have this bipartisan measure move forward. The American people recognize the importance of it. It is important for our country.

In the Senate now, we have the distinguished chairman of the Judiciary Committee. He and I have not always agreed on matters. More often we have agreed than disagreed, but I want the record spread with my view on the remarkably good job under a very difficult situation that this experienced legislator has done during his tenure as chairman of the Judiciary Committee. We have been able to work our way through the most difficult issues.

I don't serve on the Judiciary Committee. Never have. I did in the State legislature. All difficult measures that are around come through the Judiciary Committee. They are funneled through the Judiciary Committee. That is the way it was in the State legislature, and we find the same here. Contentious issues find their way into the Judiciary Committee. Senator SPECTER has done a tremendously good job.

As I indicated in my opening remarks, what he and Senator LEAHY were able to do to get this bill to this point was a miracle. It was nothing short of a miracle to get the bill out of the committee in the first place and then to get it in the Senate. I hope, in the not-too-distant future, we can all look back and say this is one of the times the Senate has shown what the Senate is known for, and that is working its way through very difficult issues and having debates the country will long remember.

The ACTING PRESIDENT pro tempore. The distinguished Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the distinguished Democratic leader for his comments, and I thank him for his statements today suggesting a bipartisan approach to this very important piece of legislation.

The leader of the Democrats is accurate when he has characterized the work which Senator LEAHY, the ranking member of the full committee, and I have done on this bill. It has been 16 months of cooperation on some of the tough issues, including moving ahead with bankruptcy reform, class action reform. Through very strenuous efforts, we were able to steer this Senate away from a confrontation and a filibuster in the so-called constitutional option. We moved through the confirmation of two Supreme Court Justices, Chief Justice Roberts and Justice Alito, which could have been very problematic.

We were able to work through the PATRIOT Act. We were able to work through the asbestos reform bill where there are still issues of controversy that I hope we will be able to address in the not too distant future. And then, as the distinguished leader of the Democrats commented, moving this immigration bill out of committee was a very strenuous effort on the final Monday, with a marathon session.

Now the bill is back in the Senate, and with the spirit of cooperation which the distinguished majority leader, Senator FRIST, and the distinguished minority leader, Senator REID, have articulated, we are in a position to go forward. But we have a great deal of hard work to do.

As manager of the bill, along with Senator LEAHY, it appears we will have some 30 amendments. That is a lot of amendments but a manageable number if we address them with time limits so the arguments can be made on both sides and we can proceed to votes.

There will be other business which will have to be considered at the same time this bill is on the floor. We have pending the nomination of Brett M. Kavanaugh for the Court of Appeals for the District of Columbia Circuit. The prospects are there will be debate and an up-or-down vote, and that will have to be worked into our schedule.

The nomination of General Hayden is pending for Director of CIA. What the timetable will be there remains to be seen. But that is an important position, and it may be that action will be possible on that nomination up or down before we adjourn for the Memorial Day recess.

But the core work which we have to do will be the amendments on this immigration bill. I have discussed the timing of votes with the majority leader, who is prepared to back the managers of this bill on time limits on the votes. We have a 15-minute time limit on votes and a 5-minute grace period. It is our expectation we will be enforcing those limits rigorously. When we have stacked votes, as is our custom, we have 10-minute votes and 5-minute extensions. We will be enforcing those limits rigorously.

There have been some occasions when the votes have languished for very protracted periods of time. In the past, when we have rigorously enforced the time limits, it is something which I think meets with virtually unanimous approval among the Members. Even those who occasionally miss a vote appreciate the fact that they do not have to wait for 10, 15, or even more minutes after the vote is supposed to have ended until the next vote starts and the next debate starts. So everyone should be on notice that we intend to proceed in that manner.

We return to the debate on the immigration bill, after a period where we could not come to terms on the structuring of debate before the last recess. But now we are in a position to go forward.

This bill is an outgrowth of the core provisions of the McCain-Kennedy legislation, then reported out by the Judiciary Committee with substantial modifications, putting the so-called 11 million undocumented immigrants at the end of the line, making provisions for border enforcement, making provisions for employer enforcement, and making provisions for judicial reform.

Then we have had additional modifications made by the amendments offered by Senator HAGEL and Senator MARTINEZ, so that we now have an amalgam of legislation, trying to work through the ideas of many Senators on very hotly contested items, and items which are very emotional.

There have been questions raised about what will happen beyond a Senate-passed bill, which will be a comprehensive bill, which will include a guest worker provision, which has been advocated by President Bush, also advocated by the Speaker of the House of Representatives, DENNIS HASTERT.

With that guest worker provision, and with other provisions, the Senate bill will be significantly different from the House bill.

We have worked cooperatively with Chairman SENSENBRENNER in the past on complex legislation. With the good faith which I know will be present by both bodies, I believe we can craft, under our bicameral system, a legislative package in conference which will be acceptable to both the House and the Senate.

There have been those who have said they will reject any major changes in the Senate bill. I believe the core provisions in the Senate bill—finding an answer to the 11 million undocumented immigrants, an answer to their status, is indispensable on immigration reform.

We cannot create a fugitive class in America. We do need immigrants, guest workers to handle very important jobs in our economy. I believe within a broad ambit we can reach agreement with the House of Representatives.

We are looking at this large group of undocumented immigrants, estimated by the Pew Hispanic Center to be between 11 and 12 million individuals. We know these undocumented immigrants constitute almost 5 percent of our labor workforce. We know, according to the Center for American Progress, the total cost to, so-called, round up every illegal immigrant within the United States would be $200 billion to $230 billion over 5 years, without the capacity to house people once they are arrested and under very difficult circumstances.

The legislation we are considering today is not amnesty. That is a pejorative term, really a smear term used to denigrate the efforts at comprehensive immigration reform. This is not amnesty because amnesty means a pardon of those who have broken the law. That is not the case here. These undocumented immigrants will have to pay a fine. They will have to undergo a rigorous criminal background investigation to be sure we do not have a criminal element subject to staying in the United States and being on the citizenship track. They will have to learn English so they can integrate into our society. They will have to have a job for 6 years. They will then be at the end of the line.

When the comments are made about enforcing our borders, the first amendment which will be offered by the proponents of the bill will be a border security certification, which provides that:

The Secretary may not implement any program authorized by this Act or by any amendments made under this Act which grants legal status to any individual or adjusts the current status of any individual who enters or entered the United States in violation of Federal law unless the Secretary has submitted a written certification to the President and Congress that the border security measures authorized under title I and the increases in Federal detention space authorized under section 233 have been fully completed and are operational.

Now, this certification really is directed to those who have said we ought to have border security in place and employment sanctions in place before we consider what we do with the 11 million undocumented aliens, immigrants, or what we do on a guest worker program. Well, that is the cart-before-the-horse argument. This border security certification puts the horse in place before we move ahead to the cart and I think, when implemented, as implemented, will answer that point.

This bill, which we are laying down today, provides very material items on border enforcement. For example, it increases Border Patrol by 400 per year for 5 years; authorizes technologies to create a so-called virtual fence along the southern border; authorizes physical barriers for highly trafficked parts of Arizona's border and California's border, and highly trafficked parts on other borders; provides for a study of a possible new fence along the southern border; and creates crimes for eluding immigration inspectors; and it ends the catch-and-release practice for other-than Mexicans.

We also have very substantial provisions on interior enforcement. It eliminates gang members from admissibility for citizenship and deports those gang members. It clarifies and strengthens alien smuggling laws with increased penalties. It provides criminal penalties for various immigration-related document fraud. It provides for 20 more alien detention facilities, with the capacity for 10,000.

In title III we have employment enforcement. One of the major failings of the 1986 legislation was the failure to have employment enforcement.

We have provisions for a guest worker program. We have provisions for family-based and employment-based green cards.

We have title VI: work authorization and legalization of undocumented individuals.

Mr. President, I ask unanimous consent that, at the conclusion of my oral remarks, the full outline of S. 2611 be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. We have created, under the work authorization and legalization of undocumented individuals, three separate categories: a category for those who have been in the United States for more than 5 years before April 5, 2006; a second category, category 2, for those who have been in the United States for less than 5 years before January 7, 2004, which does have a "leave country and touch base" requirement.

The Senator from Nevada, the leader of the Democrats, raised his concerns about this provision as to whether it ought to stay in the bill and said there will be amendments to remove it. It is a controversial provision. There is a real issue as to whether it accomplishes something which is worthwhile. But in cobbling together and crafting a bill, it has been necessary to put in provisions which are not universally accepted. And that is the nature of legislation, that there are accommodations, and everyone does not get everything they like. But we will subject this particular provision to very careful analysis and debate, and the will of the Senate will be worked on it.

There is a third category of those who entered the United States after January 7 of the year 2004.

Mr. President, I ask unanimous consent that the full text of my statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IMMIGRATION FLOOR STATEMENT

Mr. SPECTER. Mr. President, today the Senate resumes the debate on immigration reform with S. 2611, featuring the compromise that was crafted by a group of Senators shortly before our last recess. This legislation will affect millions of individuals and will alter America's social and economic landscape. According to the Pew Hispanic Center, between 11 and 12 million individuals reside in the U.S. unlawfully, and illegal immigrants account for about 4.9 percent of the U.S. labor force. According to the Center for American Progress, the total cost to "round up" every illegal immigrant within the United States would be $206 to $230 billion over 5 years, a plan that neither is fiscally sound nor accomplishes the goal of bringing the country's undocumented workers out of the underground economy.

In 1986, President Ronald Reagan signed into law a bill that instantly conferred legal resident status to millions of illegal immigrants. However, the 1986 bill had several flaws. Most importantly, the legislation did not include comprehensive immigration reform that dealt with all facets of the immigration problem. Thus, it failed to meet American business's demand for increased legal immigration. We cannot afford to repeat the mistake of 20 years ago. Nor can we simply confer legal status to presently undocumented workers without asking for something in return. Amnesty, by definition, is a pardon or a free pass granted to a large group of individuals without any consideration in return for the amnesty granted. Requiring earned adjustments, as our bill does, is not amnesty; it is a system that enables undocumented immigrants, who are neither criminals nor terrorists, to earn legal status and to remain productive members of our society.

The 1986 immigration bill's failure to create a guest worker program to meet the needs of our employers meant the market would step in to accommodate those needs. Market forces created, de facto, an "illegal guest worker" program, whereby undocumented workers would enter the country illegally in order to obtain work. Employers benefited under this system because they obtained workers. Undocumented workers benefited because they secured jobs. But an "illegal guest worker program" is unacceptable. As the economic motivation to come to the U.S. remains strong, we should provide the avenues and incentives for U.S. employers and foreign workers to only use legal channels. The bill before the U.S. Senate makes it attractive for immigrants to use existing legal channels rather than so-called coyotes who illegally traffic foreign workers into the United States.

The compromise creates an earned adjustment program for longer-termed undocumented individuals who have deep roots within their communities. It allows for individuals who have been in the United States 5 years before April 5, 2001, to come out of the shadows and legalize their status. However, unlike the 1986 amnesty, which only had minimum requirements, our compromise has strict, objective requirements that must be met in order for the individual to legalize and adjust his status. The individual must undergo security and criminal background checks; must not be determined to be a criminal or a national security threat and deemed inadmissible; must have worked a minimum of 3 of the 5 years prior to April 5, 2001; and must continue to work for a minimum of 6 years after the date of enactment to adjust their status to lawful permanent resident. Most importantly, these individuals are required to "get in the back of the line" and cannot adjust their status to lawful permanent resident and get a green card until those waiting in the queue have their opportunity to receive their green card. The individual must also pay a fine of $2,000, pay all applicable back taxes as well as remain current liability, and must demonstrate knowledge of the English language and an understanding of American history and Government.

The compromise also creates a new status called "Mandatory Departure and Reentry" for individuals who have been in the U.S. and employed less than 5 years but before January 7, 2004. These individuals must come out of the shadows during the 3-year period after the date of enactment and must leave the U.S. and return to the country in a legal status. The crux of these provisions is that it encourages undocumented individuals to leave the United States and surrender their status as soon as possible, without separating families and without disrupting businesses. If departure occurs within the first year, the individual is not subject to any fines. If departure occurs within the second year, there is a $2,000 penalty, and if departure occurs within the last year of the program, the alien must pay a fine of $3,000. Individuals who entered after January 7, 2004, must immediately depart the U.S. and apply through the new visa category created in my bill, the new H–2C program for temporary workers. The total number of H–2C visas available will be 325,000 visas and will adjust, either up or down, according to the market demands. These individuals have lived in the shadows and outside the protection of law for too long. As such, out of fear and desperation, many are abused and discriminated against at the workplace and are afraid to come forward. The compromise achieves the goal by allowing these individuals to come forward.

Another flaw of the 1986 amnesty was that it did not provide for realistic enforcement. S. 2611 strengthens enforcement of immigration laws and provides the necessary resources for effective border and interior enforcement. S. 2611 provides employers with the tools they need to ensure their workforce is authorized, coupled with a commitment to provide the resources necessary to abate the flow of illegal immigrants into this country in the future.

The 1986 bill failed because it did not address our Nation's economic need for future guest workers. Immigration reform cannot only deal with the current illegal population or just provide tough border enforcement measures, but must also provide avenues for future immigrants to come to this country to labor and to enjoy the fruits of U.S. citizenship. We must require illegal aliens already in the U.S. to come forward, register, and undergo the necessary background checks to ensure our national security, and we must provide a legal avenue for future immigration to meet the future needs of our economy. As we return to the immigration debate, let us not repeat the mistakes of the past but build upon the growing consensus in America to allow immigration to help shape our future.

Mr. SPECTER. Mr. President, I have talked long enough to have noted the arrival of the distinguished ranking member, who I know will shortly be seeking recognition. Before he does, let me repeat for him the comments made by the distinguished leader of the Democrats, complimenting the work Senator LEAHY has done, complimenting the work which we have done jointly generally in the Judiciary Committee, and complimenting the work especially of the Judiciary Committee on this immigration bill.

Senator LEAHY and I appeared together earlier today in a tribute to fallen police officers and commenting about the need for bulletproof jackets. He and I have worked together on a great many matters, with our collaboration having originated before either of us got to the Senate at the National District Attorneys convention in Philadelphia in 1969, when he was DA of Burlington and I was DA of Philadelphia. Our efforts on bipartisanship, I think, have been followed by other Senators, and I think it has been in the interest of the Senate and the country to have that kind of cooperation.

We will be handling the amendments one at a time. But we invite Senators who have amendments to be offered tomorrow to come to the floor this afternoon to debate those amendments. The chief of staff, the staff director, and general counsel, Michael O'Neill, has already been in touch with a number of those Senators, urging them to come down, following the comments of the distinguished ranking member, to start to talk about amendments so we can have abbreviated debate when we conclude the first amendment.

EXHIBIT 1

S. 2611, THE COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006

TITLE I—BORDER ENFORCEMENT

Increases border patrol by 400 per year for 5 years (Feinstein-Sessions)

Authorizes technologies to create a "virtual fence" along the Southern border

Authorizes physical barriers for highly trafficked parts of Arizona's border (Kyl)

Provides for a study of a possible new fence along the Southern border.

Creates crimes for eluding immigration inspectors (Sessions) and constructing border tunnels (Kyl, Feinstein)

Ends the "catch and release" practice for other-than-Mexicans (Sessions)

TITLE II—INTERIOR ENFORCEMENT

Makes suspected gang members inadmissible to, and deportable from, the U.S.

Clarifies and strengthens alien smuggling laws and increases penalties

Adds criminal penalties for various immigration-related document fraud

Provides 20 more alien detention facilities with a capacity of 10,000 (Sessions)

TITLE III—EMPLOYMENT ENFORCEMENT (subject to a Grassley substitute amendment to Title III on the Floor)

Establishes a nationwide, mandatory verification program for hiring workers

Limits the number of acceptable hiring documents along with REAL ID standards

Makes the standard for hiring illegal workers "knowingly" or "with reckless disregard"

Authorizes 2,000 worksite enforcement agents and 1,000 anti-fraud agents

TITLE IV—GUEST WORKER PROGRAM

Creates a new guest worker program (called H-2C) for future workers

Provides the following in the guest worker program:

6-year duration with an annual cap of 325,000

Travel privileges in and out of the U.S., and portability between jobs

Allows workers to obtain green cards by self-petitioning

Allows students with advanced degrees in science/math to stay in the U.S.

Exempts workers with advanced degrees in science/math from green card caps

Increases the H-1B professional worker visa annual cap from 65,000 to 115,000 (with a fluctuating cap)

TITLE V—FAMILY-BASED AND EMPLOYMENT-BASED GREEN CARDS

FAMILY-BASED VISAS/GREEN CARDS:

Exempts Immediate Relatives (spouses, minor children, parents) of U.S. Citizens from the 480,000 numerical cap

Recaptures unused green cards from past years to reduce the processing backlog

Increases the per country limits on visas to add fairness in the overall allocation

EMPLOYMENT-BASED VISAS/GREEN CARDS:

Increases the numerical cap from 140,000 to 450,000. This increase sunset after 10 years reverting to 290,000

Exempts spouses and children from counting against the numerical cap

Recaptures unused green cards to help reduce the processing backlog

Eliminates the 5,000 visa limit on unskilled workers who seek a green card

TITLE VI—WORK AUTHORIZATION AND LEGALIZATION OF UNDOCUMENTED INDIVIDUALS

Subtitle A—Access to Earned Adjustment and Mandatory Departure and Reentry

Cagtegory I—Access to Earned Adjustment—In the U.S. more than 5 years before April 5, 2001

Security and criminal background checks

Employed for at least 3 out of the 5 years ending on April 5, 2006 and must work at least 6 years after the date of enactment

Pay all applicable back taxes

Demonstrate knowledge of English language and U.S. history and government

Pay $2,000 fine (and all applicable fees)

Must wait until the current green card backlog is cleared (approximately 6 years)

Exempt from current green card numerical limitations

Category II—Mandatory Departure and Reentry—In the U.S. less than 5 years but before January 7, 2004

Security and criminal background checks

Must apply within 3 years of date of enactment

Must be employed before January 7, 2004 and must be continuously employed for at least 60 days

If departure within 1st year, no fine; if departure within the 2nd year, $2,000 fine; and departure within the last years; $3,000 fine

Application fee of $1,000

Grounds of Ineligibility

Ordered excluded, deported, removed, or agreed to depart voluntarily from the U.S.

Failed to comply with any request for information by the Sec of DHS

"Leave Country and Touch-Base" Requirement—Must exit the country and reentry through any U.S. land port or through U.S. Visit.

Category III—U.S. after January 7, 2004

Required to immediately depart the United States and return in applicable legal channels.

Waives the current bar denying illegal immigrants admission and allows them an opportunity to return to the United States.

Subtitle B—Agricultural Job Opportunities, Benefits, and Security

Creates a "blue card" program for legalization and adjustment of status for agricultural workers (Feinstein)

Reforms the current H-2A (temporary guest worker program for agricultural worker)

Subtitle C—DREAM ACT

Provides for students here undocumented in the U.S. to obtain a green card (Durbin)

TITLE VII—MISCELLANEOUS

Subtitle A—Immigration Litigation Reduction

Increase immigration judges and personnel

Increases the number of judges on the Board of Immigration Appeals

Provides for a GAO study on consolidation of immigration appeals

Subtitle B—Mikulski (citizenship assistance for the armed services)

Subtitle C—Kohl (State Court Interpreter Grant Program)

Subtitle D—Domenici (Border Infrastructure/Technology Modernization)

Subtitle E—Lautenberg (Family Humanitarian Relief)

Subtitle F—(Other Matters):

Frist (Non-citizen membership in the armed forces)

Collins (P visa for minor league athletes)

Mikulski (H-2B extension)

Nelson (Surveillance Technologies Programs)

Isakson (Comprehensive Immigration Efficiency Review)

Cantwell (Northern Border Prosecution Initiative)

Hutchison (Southern Border Prosecution Initiative)

Harkin (Grant Program to Assist Eligible Applicants)

Allard (Terrorist Activities)

Levin (Screening of Municipal Solid Waste)

Stevens (Access to Immigration Services in Areas)

Thomas (Border Security on Certain Federal Land)

Kennedy (Family Unity)

Mr. SPECTER. Mr. President, to start the debate, if I may, as I have referred to earlier, I send an amendment to the desk and will ask for its consideration when we debate the amendment further tomorrow and proceed to a vote. It is an amendment that has been summarized briefly which would require border security arrangements to be in place before we move ahead to the handling of the 11 million undocumented immigrants and the guest worker program.

I yield the floor for my distinguished ranking member.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, today the Senate turns its attention again to comprehensive immigration reform. I hope we can finish the job the Judiciary Committee started in March and the Senate began considering in April. We need to fix the broken immigration system with tough reforms that secure our borders and with reforms that will bring millions of undocumented immigrants out of the shadows.

I commend the majority and minority leaders for continuing to search for a procedural agreement, even though Republicans blocked action on a comprehensive solution by filibustering before the April recess. Democrats supported the bill that was reported by the Judiciary Committee, and we were willing to support the Hagel-Martinez compromise. In fact, Democrats voted twice in two days for comprehensive reform, but the Republican leadership refused to follow the commitments it made when the cameras were on, and folded its tent by declining to support cloture even on the motion of the Republican leader.

I hope that when the President speaks to the Nation this evening, he will strongly encourage his party to support a comprehensive bill in the Senate. The President offered some helpful comments in April, but these words came too late, as the far right wing of his party had already undermined the potential compromise. Democrats were prepared to pass a bill in April and are prepared to pass a fair and comprehensive bill now.

The Bush-Cheney administration has gone to great lengths to create the impression that it is now committed to strengthening our border security. The reality is that very little progress has been made. A recent report concluded that the number of people apprehended at our borders for illegal entry fell 31 percent under President Bush's watch, from a yearly average of 1.52 million between 1996 and 2000 to 1.05 million between 2001 and 2004. The number of illegal immigrants apprehended while in the interior of the country declined 36 percent, from a yearly average of roughly 40,000 between 1996 and 2000 to 25,901 between 2001 and 2004. Audits and fines against employers of illegal immigrants have also fallen significantly since President Bush took office. Given the vast increases in the number of Border Patrol Agents, the decline in enforcement can only be explained by a failure of leadership.

The recent aggressive and well-publicized enforcement efforts to detain illegal immigrants are little more than political posturing that do little to improve the situation. We need comprehensive reform, backed up by leadership committed to using the tools Congress provides, not piecemeal political stunts.

Tonight we expect to hear that the National Guard will be deployed to the Mexican border. Once again the administration turns to the fine men and women of the National Guard in a crisis. After our intervention turned sour in Iraq, the Pentagon turned to the Guard. After the governmental-wide failure in responding to Katrina, we turned to the Guard. Now, the administration's continual unwillingness to focus on our porous border and develop a comprehensive immigration policy, the administration turns once again to the Guard. Yet I am continually puzzled that this administration, which seems so ready to take advantage of the Guard, fights so vigorously against providing this essential force with adequate, equipment, a seat at the table in policy debates—even adequate health insurance for the men and women of the Guard.

As long as these Guard units operate under the authority of State Governors, I believe this action is appropriate. In addition, the Federal Government should pick up the full costs of such a deployment and be clear about the length of this service. Those costs should not be foisted onto the States and their already taxed Guard units. Their families have been called upon to sacrifice more than any other group of Americans. My heart goes out to the members of the Guard and their families.

Controlling our borders is a national responsibility, and it is regrettable that so much of this duty has been punted to the States and now to the Guard. The Guard is pitching in above and beyond, balancing its already demanding responsibilities to the States, while sending troops who have been deployed to Iraq. The Guard served admirably in response to Hurricane Katrina when the Federal Government utterly failed to respond in a timely or sufficient manner. The Vermont Guard and others have been contributing to our national security since the immediate aftermath of 9/11. Later tonight, we expect the President will announce that after more than 5 years of failing to use the authority and funding Congress has provided to strengthen the Border Patrol and our border security, it has come to this, militarizing our southern border.

Instead of proposing a budget with robust and complete funding for our Border Patrol, the President has focused on providing tax cuts for the wealthiest among us. Congress has had to step in time and again to create new Border Agent positions and direct that they be filled. Instead of urging his party to take early and decisive action to pass comprehensive immigration reform as he signaled he would in February 2001, the President began his second term campaigning to undercut the protections of our Social Security system that Americans oppose. While the President talks about the importance of our first responders, he has proposed 67 percent cuts in the grant program that supplies bulletproof vests to police officers, a program that has special resonance today when we meet to recognize the 157 officers we lost last year.

Five years of the Bush-Cheney administration's inaction and misplaced priorities have done nothing to improve our immigration situation. Its time for action, not more talk. The Senate just passed an emergency supplemental appropriations bill that includes nearly $2 billion for border security. These are important programs and we all support them, although a number of us believe the Democratic leader was right to offer them without taking the funds from our troops' needs in Iraq.

Border security alone is not enough to solve our immigration problems. We must pass a bill—and enact a law—that will not only strengthen the security along our borders, but which will also encourage millions of people to come out of the shadows. When this is accomplished we will be more secure because we will know who is living and working in the United States. We must encourage the undocumented to come forward, undergo background checks, and pay taxes to earn a place on the path to citizenship.

Just a few weeks ago I went to the White House with a bipartisan delegation of Senators to speak with the President. The need for a fair and comprehensive immigration bill was the consensus at that meeting and I believe the President was sincere when he told us that we had his support. I hope he will include that commitment in his statement to the nation tonight. If not, I trust that he will not wait to urge comprehensive immigration reform on those Republican Senators and the Republican House leadership who have yet to endorse our bipartisan comprehensive approach. Without Republican support and the intervention of the President with the recalcitrant factions within his party, this effort is unlikely to be successful and the hopes of millions will be destroyed. Those who have peacefully demonstrated their dedication to justice and comprehensive immigration reform should not be relegated back into the shadows.

The bill that won the bipartisan support of a majority of the Judiciary Committee was a compromise that contained the essential components that are required for comprehensive immigration reform. Before the last recess, I was willing to support a further compromise that incorporated the principles of the Hagel-Martinez bill because it was proposed by the majority leader as a "breakthrough" that would allow us to pass immigration reform.

Immigration reform must be comprehensive if it is to lead to real security and real reform. Enforcement-only measures may sound tough, but they are insufficient. In these next 2 weeks, the Senate has an opportunity, and a responsibility, to pass a bill that addresses our broken system with comprehensive reform and puts the pieces in place to secure the Nation.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 3961

Mr. CORNYN. Mr. President, on behalf of Senator ISAKSON, I call up amendment No. 3961, which was earlier sent to the desk by Senator SPECTER.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. CORNYN], for Mr. ISAKSON, proposes an amendment numbered 3961.

Mr. CORNYN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the granting of legal status, or adjustment of current status, to any individual who enters or entered the United States in violation of Federal law unless the border security measures authorized under Title I and section 233 are fully completed and fully operational)

On page 53, between lines 14 and 15, insert the following:

SEC. 133. BORDER SECURITY CERTIFICATION.

The Secretary may not implement any program authorized by this Act, or by amendments made under this Act, which grants legal status to any individual, or adjusts the current status of any individual, who enters or entered the United States in violation of Federal law unless the Secretary has submitted a written certification to the President and Congress that the border security measures authorized under Title I and the increases in Federal detention space authorized under section 233 have been fully completed and are fully operational.

Mr. CORNYN. Mr. President, I ask unanimous consent to set aside the pending amendment and send another amendment to the desk on behalf of Senator KYL.

Mr. LEAHY. Reserving the right to object, what was the request?

The PRESIDING OFFICER. Will the Senator restate his request?

Mr. CORNYN. I ask unanimous consent to set aside the pending amendment and send another amendment to the desk on behalf of Senator KYL and myself, and I ask for its immediate consideration.

Mr. LEAHY. Mr. President, I don't think this is in keeping with what I understand the distinguished Republican leader and the distinguished Democratic leader had discussed as a procedure, nor discussed by the chairman of the Senate Judiciary Committee. So I will, for the moment, object until such time as we can figure out what is it they want. I came in late on the earlier agreement, but I want to make sure the Senator from Texas is following what the two leaders had proposed. So I will object.

The PRESIDING OFFICER. Objection is heard.

Mr. CORNYN. Mr. President, about a month ago when we were debating immigration reform and, unfortunately, because of the inability to get amendments heard and debated and voted on, that process was derailed, and here we are again. I was under the distinct impression that we were actually going to have a chance to offer amendments and then have debates and votes. We will work out whatever the misunderstanding is between the sides. But my hope is that we will have that opportunity because I think the American people are yearning for an honest and complete and comprehensive debate about this issue. It affects all of us. It affects all of the States that each of us as Senators represent, and it represents a clash of our values. We are proudly a nation of immigrants, but we are also a nation of laws. Unfortunately, it is hard to reconcile the second ideal as a nation of laws with the current situation we see in this country with our porous border which last year allowed 1.1 million people to come across the border, and because we only had about 2,000 detention beds, most of those individuals were simply subject to what has now become known as the notorious catch-and-release program. And those who were sent back to Mexico came back again in short order, and we saw roughly 250,000 of those individuals who were detained at the border came from countries other than Mexico, including countries such as Syria, Iran, and other countries of special interest, which cause a lot of people, including me, an awful lot of concern because it is indicative of the fact that our southern border has become a magnet and has become a sieve for illegal immigration, not just from Mexico and Central and South America but literally from countries all around the world.

I support comprehensive immigration reform, as a Senator from Texas. With about a 1,600-mile border, we understand what the border is about. A number of Senators have had the opportunity since this debate began to go to the border. I think that has been very instructive for all of them. But I can tell you that my constituents live and work along the border and have come to know both the tremendous benefits of that region of our country and the culture that transcends international boundaries, the fact that families have relatives on both sides of the border, the fact that for the last 11 years, since NAFTA, the North American Free Trade Agreement, was signed by the United States, Canada, and Mexico, we have seen a tremendous growth in legal commerce and traffic across the border that has been enormously beneficial to all of those countries and created an awful lot of new jobs in my State.

None of us want to jeopardize all of the benefits that attend to the fact that we do have a neighbor to our immediate south, Mexico, and the benefits that come from the cultural heritage and interaction, but the fact is that illegal immigration across the southern border of the United States has changed dramatically over the last few years because Mexico has been unable to control its southern border and, in fact, has become a sort of a land bridge into the United States and created a tremendous amount of concern, as it should, in a post-9/11 world. We simply have to know who is coming into our country and why they are here. We can no longer assume their motives are simply benign.

I have no doubt that in most instances—perhaps nearly all instances—people come to this country for the same reason people have always come to America, and that is for a better life. We all understand that on a fundamentally human level. But we also understand that if we don't control our immigration system, if we don't control our borders, not only are we less secure, but literally our way of life may be subjected to a huge tsunami of humanity, people from all over the world who want to come to the United States, but if they don't do so in a controlled way, in a way that complies with our laws and allows us to regulate the flow in the pursuit of our national interest, that we will have lost something very important, and part of that will be the opportunity to provide the sort of prosperity we enjoy today to our children and our grandchildren.

My hope is we will create a legal system of immigration that we will be able to regard with pride and that people who, as they always have, come here from all around the world through a legal system of immigration will become Americans. After all, becoming an American is an idea and an ideal. In other words, it doesn't matter where your country of origin is, where you were born. It doesn't matter how you pronounce your last name. It doesn't matter what race you are or what ethnicity you are. When people come to America and become Americans, they become part of this vast melting pot which we thank God for every day and which has become the envy of the world.

We have benefited enormously from the fact that we are a nation of immigrants, but we are in danger because we are no longer a nation of laws when it comes to our immigration system.

During the course of this debate, I will be offering several amendments. I want to talk about one of them in a moment. Because of the objection, we won't be offering any additional amendments today until we can work out the differences between the majority and minority side.

As the chairman of the Immigration and Border Security and Citizenship Subcommittee of the Senate Judiciary Committee, it has been my great honor to preside over a number of hearings on our broken immigration system. That has both caused me a great deal of concern but also a sense that there is a lot we can do if we focus on answering the practical questions that need to be answered before we can actually fix our broken immigration system.

The Judiciary Committee voted out a bill that I think is fair to say bears the authorship of Senator MCCAIN and Senator KENNEDY. That then came to the floor and now has been amended by Senator HAGEL and Senator MARTINEZ and is supported by a bipartisan group of Senators.

I am sorry to say at this point that I am not able to support that bill, as amended, but it is my hope that after this debate and during the course of the amendment process that we have votes, and hopefully I will be able to win a few of those votes on amendments that will improve the bill to the point where I feel comfortable supporting the Senate bill. That is my hope.

Regardless, I look forward to working with my Senate colleagues and our colleagues from the House once the Senate passes a bill, assuming we are successful in doing so, in trying to reconcile the differences in the approach the Senate intends to take in comprehensive reform and the House approach, which is primarily a border security bill.

I am proud to say that this bill, when I talk about comprehensive reform, has a number of components. I mentioned the first is border security. I am proud to say that the bill Senator KYL of Arizona and I filed about a year ago now has been largely incorporated into the bill before us. When it comes to the work we need to perform for security along our border, we need to vastly increase the number of Border Patrol agents.

I understand the President tonight may make some announcement with regard to the use of National Guard on a temporary basis to fill in the gaps and provide additional boots on the ground so we can get to that level of security faster, and I believe we should use all of our national assets to provide border security. But I also had the honor this morning of going out to Fort Belvoir, where the Army Materiel Command provided a demonstration to me with some of the unmanned aerial vehicles and ground sensors, the radars, the thermal imagery, and so forth, that the military has developed for force protection. It has obvious applications in providing the Department of Homeland Security additional technology which will allow us to secure our border. Here again, the problem is not a shortage of ideas: the problem is the shortage of assets, including human assets and technological assets that will actually allow the Department of Homeland Security to accomplish the goal of border security. We have a long way to go between ideas and concepts and actually building the infrastructure, actually purchasing the technology and training people to operate it.

That is one reason I look forward to further debate on Senator ISAKSON's amendment currently pending that provides a trigger. In essence it is saying the rest of the provisions of the bill will not be implemented until such time as the Secretary of the Department of Homeland Security certifies that the border security provisions have, in fact, been implemented. I think that is a significant proposal.

I commend to my colleagues an article that I read this morning called "Can Immigration Reform Work?" This is an article written by Lawrence B. Lindsey, who was the former chief economic adviser for President Bush. Mr. Lindsey writes as an advocate of comprehensive immigration reform, as am I, but he asks some very practical questions which I think have to be answered during the course of this debate.

First of all, advocates of the current bill pending on the floor acknowledge that beneficiaries of the provisions of the bill, the 12 million or so who will benefit from the earned legalization—or some might call it amnesty based on its similarity with the amnesty of 1986—but the argument is that the beneficiaries of this provision of the bill will have to go to the back of the line. Again, I commend the Lindsey article to my colleagues.

The question is: The back of which line? Basically what this bill does is it allows people who are currently here in an unauthorized status; that is, they have come either in violation of the immigration laws or they have come here legally and have overstayed in violation of the immigration laws, it allows them 6 years before they can then receive a green card. A green card confers legal permanent residency. After 5 more years, in other words, a total of 11 years, they can then apply for and receive American citizenship.

The problem with the current bill on the floor is that it essentially guarantees the 12 million a green card and all they have to do is stay where they are. In other words, the line does not start in America: the line starts at the consulate in Hong Kong or in Mexico City or in Bogota, Colombia, or in some other place around the world where people would apply for a green card, not here in the United States. What they are essentially saying is people under this current bill can break in line in front of those who have been waiting patiently outside the country, but break in line for those awaiting citizenship who otherwise would have to wait outside the country. There is something, it seems to me, fundamentally unfair about line-jumping, about breaking in line, and many have expressed concerns, and I am one of those who have the concerns, about rewarding people for line-jumping.

Another aspect of Mr. Lindsey's article, which I again commend to my colleagues because, again, these are practical questions: How are you going to solve this problem? And I stand here as someone who is interested in solving the problem and as a supporter of comprehensive immigration reform. But we have to do better than the bill that is currently on the floor. That is why I strongly urge my colleagues to study it and also to listen to the amendments, and hopefully we can improve it.

The other question that Mr. Lindsey raises is the sheer immensity of the program proposed in the Hagel-Martinez compromise. In 2004, the Immigration and Naturalization Service issued almost 1 million green cards and naturalized 537,000 people. Contrast that with what this bill would do. It would give green cards to about 12 million people in one fell swoop and make them eligible for citizenship 6 years later, which is roughly a twelvefold increase in the workload of the agencies and the people who are actually supposed to make this work.

I hope all of us will pay close attention to whether this thing that we are creating, this comprehensive immigration reform, can actually work. Part of making it work is going to be making sure there are the people and the processes, the databases, the computers, the cards, all of the things that are going to be necessary to actually make it function as intended. If not, we are going to be swamped by a tsunami of newly legalized people seeking documentation without any real ability to actually respond to that.

The third issue he raises is the need for what he calls a certificate of legal residency. We are going to have to—and the bill does provide, and there will be some additional debate about this—a work site verification program, which is absolutely critical to the functioning of comprehensive immigration reform. I think it needs to be beefed up and improved because what we need to provide employers is a way to swipe a card through a card reader and then almost immediately the light turns green and that means that person can work here legally. If it is red, they can't. Right now, employers can be presented some combination of up to 19 different documents to prove eligibility to work in the United States, and what happens is the human smugglers and those who benefit from this phenomenon provide a whole host of counterfeit documents.

In other words, there are millions who generate fake documents such as driver's licenses, Social Security cards, and birth certificates. So we need a secure identification card that can help us as part of this enforcement regime because if we don't, then we will find ourselves 5 years or 10 years from now in the same fix we are in today, except probably worse.

I say that because in 1986 the Congress thought it was fixing this problem once and for all when it granted what everyone acknowledges was an amnesty. It bears a lot of resemblance to the proposal that is on the floor today. Yet some say: Well, it is not really amnesty, it is earned legalization. Well, whatever it is, it looks very similar, if not its identical twin. But everyone I think will agree that the amnesty in 1986 was a complete and total failure, probably for one of two reasons.

Some say: Well, it is because we didn't really have any provision for a legal work force, a temporary worker program as part of that. But I think most people would agree that it was mainly a failure of work site verification and employer sanctions. There have been virtually no employer sanctions prosecuted by the Federal officials responsible for that, and part of the reason has been because it is very hard for employers to know whether the person they are in fact hiring is legally eligible to work in the United States.

We can figure this one out. It is not rocket science. If we can go into a convenience store and buy a bag of chips and a Coca Cola and hand the clerk our card and they swipe it and in a matter of seconds it is authorized, we can figure this one out. We have a variety of identification cards and biometric identifiers to help verify that the person who holds the card is in fact the same person whose name is on the card. So we can figure that out. I will talk more about that later.

I think the proponents of this bill as written need to convince the American people that this time we are serious, that we are not going to pull the rug out from under the American people if they put their confidence in the solution proffered by this bill. I remember what my dad always said: Fool me once, shame on you; fool me twice, shame on me. The American people can be enormously forgiving and tolerant. But if they feel as if the Federal Government is simply not serious about this and is going to pan this bill off as strict on enforcement and not fund it and not implement it, and not be serious about it, I think there is going to be a terrible price to be paid. Unfortunately, it will be deserved if we are not serious about doing what we say we are going to do when it comes to enforcement, including work site verification.

I want to talk briefly about an amendment I tried to offer, but there was an objection. Hopefully, we will work this out. This was actually the amendment that was pending by Senator KYL and myself back about a month ago when this whole debate got derailed because we couldn't get any votes on the amendments and basically we ended up going nowhere. After a month now, we are back here again. Hopefully, we are locked and loaded and ready to proceed in the regular order, which means that in the world's greatest deliberative body we will actually have debates and we will actually have votes and majorities will prevail and people who don't get the majority vote will lose. While none of us likes to lose, that is the process, and that should be the process.

Unfortunately, we are here a month later, but now I hope we have an opportunity to have those debates and to have those votes and to proceed to passage of a good bill.

The amendment I am referring to specifically would exclude from the benefits of the bill on the floor—and what I mean by that is the 12 million people who are here in an unauthorized status, who either came illegally or who overstayed their legal authorization: they are here in violation of our immigration laws. It would exclude from amnesty or earned legalization or whatever you want to call it the benefits for convicted felons. In other words, convicted felons would not get amnesty under this bill if this amendment passes. People who have committed at least three misdemeanors would not get amnesty under this bill if this amendment is agreed to and passes. Finally, it would exclude the benefits of the bill to those it applies to, those who have actually had their day in court and lost and simply melted into this huge American landscape.

What I mean by that is they are absconders. In other words, they are people who have been caught in violation of the law, people who have had their day in court, who have exhausted their remedies, and then refused to show up when it came time to go back home. These are known as absconders.

What this amendment would do is say, if you are an absconder, then you don't get the benefit of the amnesty because you have already had your one bite at the apple, and we are not going to give you two bites at the apple. I don't think any Americans really believe that it is just OK to ignore a lawful court order. How many Americans, for example, after receiving a subpoena to show up in court or maybe a jury summons, simply ignore it and skip the date?

Today in the United States, there are 544,000—544,000—aliens who have been ordered deported but then have gone underground. That is more than a half million people who simply chose to ignore a lawful court order. Under current law, it is a felony offense punishable by up to 4 years in jail to not comply with a deportation order. So let's be clear. We are not talking about civil violations. We are talking about criminals, people who not only have overstayed their legal authorization or who have come in illegally and been caught; we are talking about people who have had their day in court and simply ignored the judgment of the court and gone underground.

I believe this amendment is indicative of whether we will continue to tolerate and reward those who violate our immigration laws.

The current bill increases penalties and would impose a mandatory minimum criminal sentence of 6 months on any alien who fails to leave the country after being ordered deported.

The current bill requires the Department of Homeland Security to list absconders in the NCIC, the national database, criminal database, so that State and local police officers can arrest them when they are encountered during regular traffic stops.

These are both steps in the right direction, I believe. But then, oddly in the same bill, the same proposal on the floor, it would allow those same individuals to apply for legalization and would prohibit the Department of Homeland Security from apprehending or detaining these same aliens. In other words, this bill simultaneously increases criminal penalties for failing to follow a court order but then rewards the same criminal act with an easier path to a green card. I do not think there is a better example of Congress sending mixed signals on immigration reform. If we are going to avoid the mistakes of 1986 and avoid the massive buildup of people who are in our country out of status, we have to create a system that encourages self-compliance by illegal aliens.

Each year, there are 300,000 deportation hearings. What is the point of conducting those hearings if those who are ultimately ordered deported after they have had their day in court simply go underground and ignore a lawful court order? If the absconder rate is about 85 percent today, what will it be in the future if we reward those who fail to comply with amnesty? The aliens who comply and who leave the country would not be eligible for amnesty. So the message, at least so far as the bill on the floor is concerned, is you are better off violating the law, hunkering down, melting into the landscape, and then you are going to get amnesty. But if you actually comply with a lawful court order and leave, then you are not entitled to the benefits under the bill—exactly the opposite of the message we ought to be sending. We need to decide whether we are more interested in granting amnesty than we are in reforming the immigration laws and restoring confidence in the immigration system.

Without this amendment, the current bill would grant amnesty to aliens who committed felony offenses, thereby encouraging further violations of immigration and undermining the integrity of our immigration court system.

Some may argue that the majority of aliens deported never receive notice that they are in proceedings. That is simply not true. Deportation proceedings are initiated when written notice is provided to the alien, which is almost always done when that individual is apprehended. The notice, informally called a notice to appear, advises the recipient of three things: No. 1, the conduct alleged to be in violation of the law; No. 2, the alien's obligation to provide the Government with a written record of an address; and No. 3, the consequences of failure to provide or update the address on record with the Government.

The Government is also required by statute to provide notice to the alien of any change or postponement of the proceedings. Just as in any other civil or criminal proceeding, the alien has an obligation to provide a current address. If that were not the case, how would the immigration courts administer the 300,000-plus cases they hear each year?

So what happens if the alien fails to appear at the hearing? The court may order the alien removed in absentia only if the Government establishes by clear, unequivocal, and convincing evidence that the written notice was provided to the alien and that the alien is, in fact, deportable. The court may rescind the order if, within 6 months of the order, the alien establishes that he did not receive notice of the hearing or if exceptional circumstances prevented the alien from appearing. This amendment we are offering—will offer when permitted—includes the same waiver standard, so any alien who establishes that he or she did not receive notice as required or was unable to appear at a hearing because of a medical emergency or other exceptional circumstance remains eligible to apply.

The text of the amendment is unambiguous. It would not apply to any alien who entered without inspection, overstayed a visa, or violated their visa status unless the alien has had his or her day in court and been ordered deported. To avoid any confusion, this amendment uses the exact language as in the current Immigration and Nationality Act.

In conclusion, let me say that national security demands that we know who is living within our borders, especially since 9/11. We must reform our immigration laws in order to bring millions of those who are living outside of the law out of the shadows and in compliance with that law. But success of immigration reform cannot be measured solely on how many aliens obtain legal status. The 1986 amnesty bill brought millions of illegal aliens out of shadows. Yet Congress never lived up to its commitment to enforce the law at the border and at the worksite. Today, 20 years since the 1986 amnesty, the continued failure to enforce the law has resulted in a new class of illegal aliens that is estimated to be approximately 12 million. That is four times larger than 20 years ago.

I share the goal of comprehensive reform and of bringing those 12 million illegal aliens out of the shadows and into compliance with the law. In fact, I believe we ought to give them a second chance to reenter the country in a legal status. But I also believe that we should not repeat the failures of 1986 and restore credibility and law and order to the immigration system. The current bill, without any amendment, rewards criminal behavior and will undermine the Government's ability to enforce the immigration laws. My amendment, which only excludes criminals from obtaining legal status, will reveal whether we are really serious about reforming our immigration laws or if we are strictly interested in granting legal status to as many illegal aliens as possible, irrespective of whether they are criminals or whether rewarding them would repeat the failures of 1986.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I welcome the start of this week and the prospect of a good and fair debate on the whole issue of our borders and how we are going to deal with immigration reform. There are some exceedingly important public policy issues and questions that have to be decided. But it certainly appears that the Senate itself is prepared to take votes on these measures. I believe that is certainly the way we ought to proceed.

I hope as we start the debate we understand there are a lot of misstatements about the different positions which have been outlined in the course of this debate. It is going to be important for the American people to listen to those of us who are putting forward proposals—I will outline briefly the proposal of Senator MCCAIN and myself—and then to listen to those who are supportive of those proposals. In this debate, not unlike other debates, we will find those who misrepresent our proposal, distort our proposal, and then differ with it. That is a rather tried, true, tested process around here. Why should I believe this debate might be different? Maybe that is hoping for too much.

These are tough enough choices and decisions for this body to make. Hopefully we will have the opportunity to have a fair debate on the substance of these matters. That is certainly what I look forward to. I know Senator MCCAIN looks forward to that. That is certainly in the tradition of this great legislative body.

I will take just a few minutes this afternoon to outline in broad terms the proposal Senator MCCAIN and I supported. We go back, Senator MCCAIN and I.

Mr. REID. Will the Senator from Massachusetts yield briefly?

Mr. KENNEDY. I am glad to yield for a question.

Mr. REID. Mr. President, through the Chair—the Senator, because of airplane connections today, wasn't here. I made a statement on this legislation. One of the things I want to make sure the Senator from Massachusetts understands is that I completed my statement this morning saying that I hope we can have bipartisan, good debate on this legislation; this legislation is so badly needed.

I also want the Senator from Massachusetts to understand that as far as I am concerned, the key to our having been able to move forward on this legislation is the work done by the Democratic Senator from the State of Massachusetts, the senior Senator from Massachusetts, and the Republican Senator from Arizona, the senior Senator from Arizona. The Kennedy-McCain legislation is the framework for doing something to solve a problem that needs to be solved. I hope we can move forward on this matter in a bipartisan, constructive way.

I said this morning there are strong feelings on all sides of this issue, as there should be. But I hope the Senator from Massachusetts agrees with me that it is imperative that this legislation be completed and that—the Senator, being the modest person he is, would not agree with me about the importance of the Kennedy-McCain bill—but I want the Senator to know that I believe the key to our moving forward was the work done on this matter in many private meetings, some public meetings, with you and the Senator from Arizona. I want to compliment and applaud you for the work done.

making it possible to be at the point we are in this legislation.

Mr. KENNEDY. Mr. President, I thank our leader, Senator REID, for both his support and encouragement, working with Senator FRIST to bring us to this point. That was a real challenge.

I thank him for his comments. If he will remain on the floor for just a moment? I am very hopeful that, as he outlined in his statement, we will have a bipartisan approach to an issue of enormous importance—the security of our borders. How are we going to treat the 12 million individuals who are here now, the overwhelming majority of whom want to play by the rules, work hard, be part of the American process and dream, like the tradition of so many other immigrant groups? We have tough enforcement issues. We have issues of fairness. And I thank the Senator for his comments.

The Senator knows the history of this institution. To find the type of bipartisanship which we have had on this issue, we would have to go back, frankly, to almost the time of the civil rights laws. Maybe the action to end the war in Vietnam. We have not had that kind of bipartisanship in a major policy issue that I know of in any recent time.

As the Senator from Nevada has pointed out, we are facing an issue of enormous importance with regard to our national security. This is a defining issue of who will eventually have that great opportunity of participating as an American citizen, really the greatest achievement, in personal terms, for so many people who earn that citizenship. We are back for a few moments to a time when the Senate of the United States, Republicans and Democrats, came together to take action on a controversial and difficult issue but one that was clearly in the national interest.

I think the comments of the Senator remind us of that tradition. That is what this institution has done when it has been at its best. We did it with Medicare. We did it with civil rights. We did it on the issues of ending the war. We did it with the progress we have made on disability issues, knocking down the walls of disability and gender. On all of these issues, we came together. We had strong bipartisan majorities on them. That is not something we have seen very much of, I would say, in very recent times. We have that opportunity now.

As I hear the Senator, he is calling on us to really try to make sure that this institution is going to act in its great traditions and make something worthy of remembering. I think that is what I hear from the Senator, and I thank him for that expression.

As I was saying, I thank our leaders for bringing us to where we are. I am grateful for the opportunity of working with Senator McCAIN to bring forward this reform bill and for the work Senator HAGEL, Senator MARTINEZ, and so many others have brought us to this point. As we have talked about at other times, 2½ years ago I had legislation, and Senator McCAIN had legislation maybe 2½ years ago. We began to come together. About that time, Senator HAGEL had legislation, somewhat different from that of Senator McCAIN and me. They are all working to try to come together in a common spirit to address this issue.

What we now have is something that has come out of our Judiciary Committee with a 12-to-6 bipartisan vote. We have now before the Senate strong legislation that will deal with our national security concerns and also deal with the issue of earned—and we mean earned—legalization and tough enforcement at the workplace.

I think we have a good combination. I am very grateful to all those who have been a part of this process. So many have added so much to help get us where we are today.

We recall that throughout our history courageous immigrants have provided the hard work, the strong family, and the love of country which defines the American spirit. They dug our canals, built our railroads, they advanced our science, fostered our innovation, and they fought in our wars. And 60,000 have served our colors with pride in Iraq and Afghanistan.

Those are the permanent resident aliens that are in the service in Iraq and Afghanistan—and other places around the world. They became part of the American dream.

Immigrants have been the heart and muscle that has moved this country forward for 400 years and helped make America the envy of the world.

Last month, we were reminded, in a personal way, of the contributions of immigrants by the moving stories related by Senator DOMENICI and Senator MARTINEZ. Senator DOMENICI told how his parents came here from Italy with nothing. His father earned his citizenship through his service in the Army in the first World War. His mother was here for many years before gaining her legal status and once faced deportation but later became an American citizen. The Domenici's worked hard, learned English, built a successful grocery business and one of their children went on to become a distinguished and respected Senator.

Senator MARTINEZ of Florida told us about his family's flight from Cuba to begin a new life in America. A young Martinez was 15 years old when his family escaped from Cuba to seek a new life of freedom. And similar to millions before him, his family worked hard, learned English, and earned their success in Florida. Today, MEL MARTINEZ was not only a Cabinet Secretary but was elected by the people of Florida to serve as their Senator.

This is the immigrant story.

We are a great people because that story has been repeated millions of times over many generations.

As in the past, today's immigrants are tomorrow's Americans, regardless of where they came from or how they got here. They and their children and grandchildren will contribute anew to our national life.

I have mentioned that from my office in the JFK Building in Boston, I can look out the window and see the pier where my great-grandparents landed from Ireland in 1848—and the stairs they walked up too. The immigrants called them the "golden stairs" because it offered the golden hope of opportunity for them. I can look out the window and see those same eight stairs where all of them walked up and entered Boston to begin their lives and begin earning their American citizenship.

It is something that is not in our remote past. Every American knows how our immigration system is currently broken. It falls short of meeting our security needs and strengthening our economy, upholding our values—and what we have tried in the past no longer works today.

We have heard already the issue—Well, we already had amnesty in 1986, and it didn't help us because we didn't have enforcement. But this bill is not amnesty. Amnesty was in 1986, when we said we forgive you—and we were also supposed to have effective enforcement by employers. They were to take those not provided with amnesty and to enforce the law. That was never done under Republican or Democratic administrations. But we are not talking about that now.

We are talking about an entirely different situation.

There was a time when oceans and borders protected us and enabled us to better control immigration. That is no longer the case today. In the past decade, we have spent more than $20 billion to triple our border patrols and build fences. But we have learned that border enforcement alone will not work. Building fences and putting more agents on the border is doomed to fail. It is a strategy that will make us weaker, not stronger, in dealing with immigration.

Ten years ago we had 40,000 individuals coming across the border illegally. We have spent $20 billion, and we have tripled the number of border agents. We added $10 billion more in terms of border security, and now we have more than 400,000 individuals crossing illegally. You can estimate. Some will say it is 600,000 or 700,000. Border security enforcement in and of itself will not work.

We need an immigration program for the 21st century that is worthy of our heritage as a nation of immigrants—one that is tough, smart and fair; one that sees to our security and reflects our humanity.

I believe the compromise legislation before us meets that test.

It is four parts.

First, it mandates very tough enforcement. It doubles our Border Patrol; builds fences and barriers along the border, and requires state-of-the-art technology in fighting illegal immigration. It increases enforcement against employers who hire undocumented workers, and requires tamper-proof immigration documents so that employers can determine who can and cannot work in America.

It fully implements a system for keeping track who comes to our country and when they leave. It establishes new penalties against digging tunnels under the border and for evading immigration officials. It sets up a massive new effort to shut down criminal syndicates that smuggle immigrants into the country. It expands the capacity of our immigration detention facilities and grants new authority to detain dangerous immigrants. It provides vast new authorities to identify and remove terrorists and criminals.

In the area of border enforcement, those needs are self-evident. We are talking specifically about the border with 12,000 new Border Patrol agents, 2,000 more than were actually requested in the 9/11 Commission. It creates the high-technology "virtual fence." This is key. Using newer kinds of technology for a "virtual fence."

I think it is vastly more effective than putting a chain fence along 1,800 miles of border.

It expands the exit-entry security system at land borders and airports so we can know people coming in and when they leave. We can do that more effectively.

It deals with records and vehicle barriers. It authorizes permanent highway check points near the border. It authorizes the additional ports of entry along the land borders and new criminal penalties for tunnels.

This is a problem in southern California as Senator FEINSTEIN pointed out.

They have a new land and water surveillance plan at present time. It can be expanded and has been effective to secure Mexico's southern borders.

Ours is the only plan that recognizes that, if you are going to be effective, you have to also deal with the countries in Central America and deal with the challenges that we are facing from individuals in South America coming across.

We have to work with Mexico in an effective way to limit the number of people coming into Mexico, and also more effective in terms of the people coming into Central America—and to do that in ways that work, with the cooperation of those countries. We can do that.

It also deals with the alien smuggling and requires the additional time for detention.

That is one aspect of what we have at the border.

Another one is interior, and we have worksites.

Those are the three elements of enforcement.

We deal with money laundering.

We provide for fraud-proof immigration documents with biometrics.

Unless you effectively deal with documents, you are never going to get a handle on the constant fraudulent production of documents. We are doing that with biometrics. That is going to be enormously effective. It is the technology.

We have the new border fences and the other elements in terms of interior.

This is the result of a good many hours we spent in the Judiciary Committee.

The third aspect of enforcement is in the workforce. We have added 10,000 worksite inspectors.

The fact is we have not had inspection of worksites, as I mentioned, under either Republican or Democratic administrations. They have been a joke. Therefore, employers have hired undocumented, and illegal workers, with all kinds of implications—driving wages down, work conditions down, exploitation of these individuals, all of that.

That will be ultimately changed because we have effective enforcement.

We have a process by which we are going to insist on valid documentation.

These are the various kinds of provisions. They are all outlined in the legislation. I think they are enormously compelling.

These are some of the new enforcement tools that our bill provides. These steps alone are not enough.

Therefore, the second step in our bill acknowledges that the 11 million undocumented immigrants who are already here are not going away. But they also have something to offer to our communities and to our country. Common sense says we cannot and should not embark on a massive deportation program. That would disrupt communities and businesses and it would uproot families.

What are you going to do when there are children who are citizens? Are we going to deport their parents because they are undocumented? There is a whole host of families like that. That would disrupt families. And cost money. Of course, the best estimate is some $240 billion, requiring a caravan of buses stretching from Alaska all the way through California. Instead, we should recognize the desire of these immigrants to contribute to America.

Our bill provides a means for them to earn the privilege of American citizenship. It is not amnesty. Amnesty means forgiveness. Amnesty means going ahead of the line. No one goes to the head of the line. They go to the back of the line. They do not only go to the back of line for current applicants, but they go to the back of the line for everyone who is in line today. They go to the back of the line in terms of their ability to adjust their status. They have to pay the penalty. They have to learn English. They have to demonstrate that they have no criminal activities. And they have to demonstrate that they are working.

The fastest they can be able to earn their citizenship is 11 years. They have to demonstrate that they are learning English. They are playing by the rules; they are in no trouble with the law; they pay the penalty at the beginning and another penalty at the end.

They have that opportunity of going to the back of the line, and at the end of 11 years, they have the opportunity of becoming citizens.

That is not what we will hear during the debate. It is so easy for those who are opposed to our program who will say that is amnesty; that is just amnesty. But it isn't. They pay a penalty and go to the back of the line. And they have to earn citizenship over a long period of time.

They have to demonstrate that they are contributing something to America over 11 years. That is called earning the right to become a citizen.

The alternative, with all due respect to all of those who are out here talking about deportation. They ought to get it straight.

Which are they for? There is no in between.

Members can say: We don't like the McCain-Kennedy approach, which is basically supported by the Hagel. We don't like that. That is the alternative. There isn't another one that I know of.

We should recognize the desire that many of these immigrants want to contribute to America. And our bill provides the means for them to earn the privilege of American citizenship.

They must pay taxes. There is a penalty for coming illegally. They have to learn English and obey our laws over several years.

Third, our bill recognizes that we must provide legal challenges for future immigrants so that employers are not tempted to hire illegal immigrants in the future.

That is all part of bringing the people out of the shadows. The reality is, immigrants will come and employers will hire them even if we erect miles and miles of new fences. It is far better for future immigrants to be here legally so they are out of the shadows and protected by our laws rather than used illegally to undermine American wages and American jobs. For that reason, our bill establishes a program to allow workers to come here legally, to work here temporarily with the prospect of earning their way to permanent status in the future. They have to demonstrate the prevailing wage that will be available to them, and they will then have the document that will give them the assurance of employment. They will be able to avoid that kind of exploitation. That is an important part of this proposal.

That is our program. It has been embraced by employers, workers, Republicans, Democrats, civil rights groups, immigration experts, immigrant groups, and more. We are all waiting to hear what the President has to say about it in his national immigration address this evening.

President Bush is to be commended for his courage and leadership in advancing the immigration debate in our Nation. As a former Governor of a border State, he understands the issue and appreciates what is at stake. He knows the many contributions of immigrants to our Nation. Tonight, we need President Bush to speak in a clear, strong voice in favor of this comprehensive, bipartisan, commonsense immigration plan. Each of its three elements is necessary to fix our broken system. None will work in isolation from the others. That is the key aspect. All three steps must be implemented at the same time if we are to restore the integrity of American immigration. All of them are based upon conforming with the law, both in terms of the border and those who might be guests.

The President must state unequivocally that enforcement-only approaches are a failed strategy and "enforcement-first" may make a tidy bumper sticker slogan, but it is not a strategy for success. However, I urge the President not to distract the Nation from the urgent work of immigration reform. I know we will hear tonight from the President about the possibilities of deployment of the National Guard along the border. All are very much aware that our National Guard is stretched, and stretched thin; that our National Guard has important responsibilities in Western States to manage fires. Even up in my State, as of today, we have dramatic floods in the northeast communities in my State of Massachusetts. We are facing the hurricane season where the National Guard has played an absolutely key and indispensable role.

We understand the way the administration is considering using the National Guard; not putting them on the front line of deployment but having them more in a support role. That would certainly make sense because our border guards have some 15 weeks of training in how to deal with these challenges. To be effective, that is necessary training.

We will hear more about this issue this evening. It is important we have the full story from the administration about the utilization of the National Guard. There are important issues and questions that we will all have and we will look forward to the responses by the administration.

I believe our national attention and our valuable tax dollars should be spent on the hiring and training of Border Patrol agents and immigration officers needed along the border. That is what we have in this proposal when we are talking about the expanded number of border agents as recommended not only by our Judiciary Committee but also by the 9/11 Commission. We believe this is the way to move.

In a way, the reform debate is much larger and far reaching than the issue of immigration alone. It is about the kind of America we have been and the even stronger America we hope to become. It is about a land whose greatest strength is the way we treat our neighbors and care for our fellow citizens. It is about opening doors of opportunity to unleash the talents and strengths of everyone in the land, regardless of color or creed, so that we face the future with hope and determination. That is what this debate is all about.

We see it in the faces of hundreds of thousands who have marched for opportunity in cities across our land. We see it with our employers who know that a skilled, diverse workforce is essential to our competitiveness in the global economy. We see it with our military leaders who are recruiting a diverse fighting force to think in new ways as we deal with our dangerous world.

Just as in the past, this debate comes with controversy. This has always been the case throughout our immigrant history. Just as it was with the struggle for civil rights in the 1960s, who today would argue that Italian or Irish or Catholic or Jewish immigrants should be excluded? And just the same, who would argue that African Americans should be excluded from our schools, or that discrimination against the hiring of Latinos is acceptable in America today?

Similarly, over the next several days, as the Senate debates immigration, there will be strongly felt discussion and hotly contested amendments. Many of these amendments, if adopted, would end the prospects for comprehensive reform. The outcome of these amendments will determine what vision of America we will pursue—one mired in fear that seeks to preserve the status quo, or one anchored in hope that looks with optimism to America's future. That is the issue behind this whole debate.

I look forward to participating in the debate. Hopefully, we will have a positive outcome.

I see my friend and colleague from West Virginia in the Senate. I know he is eager to speak. I had one other item that I will address very quickly if I could. It is timely. Then I will yield the floor.

MEDICARE

Mr. President, for seniors in Medicare today, it is judgment day, the day when the misjudgments, the failures, the basic errors of the competence in implementing the Republican Medicare law will bite into the savings of 8 million seniors across America. Today, the situation will get worse as seniors are hit with financial penalties if they are unable to wade through the complicated tangle of private insurance plans and the Part D Program.

In Massachusetts, citizens have over 45 stand-alone drug coverage plans and a number of HMO plans to choose from, each with different drugs offered at different prices. Seniors have to work out which plan covers which drug at which price, with what copayment, what deductible, for dozens of separate plans. They struggle with long waits on the Medicare help line and inaccurate and frequently changing information about the program as even the administration struggles to understand and explain it.

Today, my State, Massachusetts, is currently under a state of emergency due to major flooding in the State. I have requested for all of Massachusetts an extension of the Part D deadline in our State. Many seniors have been evacuated from their homes, others have no electricity, and many have no ability to get to the Post Office or to counselors to discuss enrollment due to the flooded roads.

I urge the administration to extend the deadline for these seniors. The administration has said that their computer programs will enable seniors to decide which plans to choose, but not every senior is computer literate, and many do not have access to the Internet. The program is so confusing that even HHS Secretary Leavitt could not work out which drug program was right for his parents. Imagine how difficult the choice is for seniors who do not have the HHS Secretary to help them? If seniors have not worked through all of that confusion by today's arbitrary and punitive deadline, the Republican Medicare law hits them with a fine that grows month after month for as long as they do not sign up for the program.

Every Member of the Senate and our staffs and the employees of every Federal agency can obtain health insurance through the Federal Employees Health Benefits Plan. It is voluntary. Most people sign up for coverage, but some may decide not to because they are included in a spouse's policy or have some other coverage.

Are Members of Congress who decide not to sign up for the Federal coverage hit with extra payments when they enroll at a later date? Of course not. But the GOP law says seniors who do not sign up by today's deadline in the Medicare Program will have to pay a penalty when they sign up later. Those payments will go up and up and up the longer the seniors decide not to enroll.

The Republican majority is not rushing to impose fines on Members of Congress who do not sign up for health care by some arbitrary date, but that does not stop them from enacting a law that penalizes seniors who miss the Medicare deadline.

Senator BILL NELSON has introduced important legislation to let seniors make their selection of a drug program without being coerced into a premature choice by today's deadline. The administration says enrolling in the drug benefit is entirely voluntary, but it is hardly voluntary if you have to pay a fine when you did not join by an arbitrary deadline. The proposal Senator NELSON has offered will waive the penalties that seniors would otherwise have to pay for not signing up for a drug plan in time.

The fiasco of today's punitive deadline is all the more serious because enactment of a good Medicare drug program could and should have been a chance to make real progress in meeting the health care needs of American seniors.

I was here when we passed the Medicare Program. We failed to pass it in 1964: we passed it in 1965. The Medicaid Program was passed 8 or 10 months later and both of them were implemented within 11 months—when we did not have computers, and it was done without a hitch. Now the administration has said 2 to 2½ years to implement this program, with all the computers in the world, and the seniors in my State are confused, troubled, and scared.

The proposal Senator NELSON has offered is to try and relieve that anxiety, that fear, the sense of loss that so many of our seniors have.

If I can get the attention of the Presiding Officer, I ask unanimous consent that the Committee on Finance be discharged from further consideration of H 1841; that the Senate proceed to its immediate consideration, the bill be read a third time and passed, the motion to reconsider be laid upon the table with no intervening action or debate, and that any statements related to the bill be placed in the RECORD at the appropriate place.

The PRESIDING OFFICER. The distinguished Senator from Massachusetts does have the attention of the Chair, and on behalf of the Republican leadership, I object.

Mr. KENNEDY. Mr. President, this was an attempt to try, on this last day, to give one last opportunity for the Senate to address this issue in the form of the Nelson amendment. I regret very much we have an objection to it.

I yield the floor.

The PRESIDING OFFICER (Mr. WARNER). The distinguished Senator from West Virginia is recognized.

THE NECESSITY OF THE SENATE IN THE FEDERAL GOVERNMENT

Mr. BYRD. Mr. President, I thank the Chair.

In my continuing series of statements on the idea of a Senate, I refer today to the necessity of the Senate in the Federal Government by James Madison in the Federalist 62, 1787.

Was the Senate really necessary? Was a Senate really necessary? Since the American Revolution, the United States had operated under a single body legislature, but the Framers of the Constitution created both a Senate and a House of Representatives.

Writing in the Federalist Papers, a collection of 85 letters, written to newspapers in support of the Constitution's ratification, James Madison explained the unique nature of the Senate and the cautious deliberative role that it would play in the American Government.

> Federalist 62:
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> The qualifications proposed for senators, as distinguished from those of representatives, consists in a more advanced age and a longer period of citizenship. . . . The propriety of these distinctions is explained by the nature of the senatorial trust, which, requiring greater extent of information and stability of character, requires at the same time, that the senator should have reached a period of life most likely to supply these advantages . . .
>
> It is equally unnecessary to dilate on the appointment of senators by the State legislatures. . . . It is recommended by the double advantage of favoring a select appointment, and of giving to the State governments such an agency in the formation of the federal government. . . .
>
> The equality of representation in the Senate is another point, which, being evidently the result of compromise between the opposite pretensions of the large and the small States, does not call for much discussion. . . .
>
> In this spirit it may be remarked, that the equal vote allowed to each State is at once a constitutional recognition of the portion of sovereignty remaining in the individual States, and an instrument for preserving that residuary sovereignty. . . .
>
> Another advantage accruing from this ingredient in the constitution of the Senate is, the additional impediment it must prove against improper acts of legislation. No law or resolution can now be passed without the concurrence, first, of a majority of the people, and then, of a majority of the States. It must be acknowledged that this complicated check on legislation may in some instances be injurious as well as beneficial; and that the peculiar defence which it involves in favour of the smaller States would be more rational, if any interests common to them, and distinct from those of the other States, would otherwise be exposed to peculiar danger. But as the larger States will always be able, by their power over the supplies, to defeat unreasonable exertions of this prerogative of the lesser States; and as the facility and excess of law-making seem to be the diseases to which our governments are most liable, it is not impossible that this part of the Constitution may be more convenient in practice, than it appears to many in contemplation. . . .
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> . . . The necessity of a senate is not less indicated by the propensity of all single and numerous assemblies, to yield to the impulse of sudden and violent passions, and to be seduced by factious leaders into intemperate and pernicious resolutions. . . . All that need be remarked is, that a body which is to correct this infirmity, ought itself to be free from it, and consequently ought to be less numerous. It ought moreover to possess great firmness, and consequently ought to hold its authority by a tenure of considerable duration. . . .
>
> . . . The mutability in the public councils, arising from a rapid succession of new members, however qualified they may be, points out, in the strongest manner, the necessity of some stable institution in the government.

On September 17, 1787, the 39 delegates to the Constitutional Convention, meeting in Philadelphia, signed the new Federal Constitution. They agreed that the new Constitution, intended to replace the Articles of Confederation, would take effect when it gained ratification by 9 of the 13 States.

To overcome suspicion and outright opposition, supporters of the Constitution needed to convince Americans of the wisdom of the new plan. In the weeks and months that followed, newspapers throughout the States printed opinion pieces that both praised and condemned the proposed Federal structure. Most prominent among these propaganda pieces was a series of letters written by Alexander Hamilton, James Madison, and John Jay. Signed "Publius," and published in 1788 as "The Federalist," these essays explained how the new Constitution—dividing the Government into three equal branches—would preserve the Union, reconcile differences among States and political factions, and promote a common welfare, while carefully controlling power through a system of checks and balances.

Of the 85 essays the trio authored, seven dealt specifically with the Senate—Nos. 62, 63, 64, 65, 66, 75, and 76—while others, such as essay No. 51, discussed the Senate as part of the broader definition of a Federal Government that included a bicameral legislature.

In essay No. 62, James Madison eloquently stated the need for a smaller, more deliberative body in the legislative branch to cool the passions and control the urges of democratic masses. By requiring Senators to be at least 30 years old, 5 years greater than the minimum age for their House counterparts, and to be elected by State legislatures rather than through direct popular election, the Framers created an institution designed to provide experience and stability.

Such qualifications would be vital in a body to which the Constitution assigned such constitutional duties as providing advice and consent to treaties and to Presidential appointments. Senators also would serve 6-year, overlapping terms, creating continuity by allowing two-thirds of its Members to remain from Congress to Congress.

Longer terms, combined with a system of indirect election, would allow Senators to resist the whims of public opinion.

The Framers also established equality of States in the Senate, assigning each State two Senators. The "Great Compromise of 1787," reached on July 16, 1787, reconciled the demands of the large States with those of the small States by establishing proportional representation of States in the House of Representatives based on population, and equal representation in the Senate. This compromise guaranteed that the Senate would remain a smaller body than the House, where Members could enjoy more freedom in debate and create the necessary compromises to bring about successful legislation.

Of all the qualities established by the Framers, only the system of indirect election has changed significantly over time. Election by State legislatures ultimately proved vulnerable to corruption. Following the Civil War, newspaper reporters accused State legislatures of accepting bribes to elect Senators favorable to special interests or remaining willfully "deadlocked," depriving some States of their Senate representation for months—yes, for months—even years.

Reformers reacted to these allegations by advocating a constitutional amendment that would allow the people to vote directly for Senators. This correction to the Framers' handiwork for the Senate went into effect in 1913 as the 17th amendment.

The Senate has remained a smaller body where States have an equal voice. It has served continuously now—continuously, may I say to the distinguished occupant of the Chair, the very able senior Senator from the Old Dominion, the State of Virginia—since 1789, never requiring the biennial reorganization necessary in the House.

Senators have tended to be somewhat older and more experienced than Representatives, and the Senate has remained—yes, remained—a deliberative institution that has brought caution and stability to the legislative process.

As James Madison commented at the Constitutional Convention, the "use of the Senate is to consist in its proceeding with more coolness, with more system, and with more wisdom, than the popular branch" of the Congress.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, my understanding is we are on the immigration bill as of this afternoon, and there is an amendment now pending. I wish to say a few words about the general issue of immigration and also talk about a couple of items the Democratic leader, Senator REID, spoke about earlier today.

First of all, I think this needs to be, and I hope will be, a very sensitive debate. The fact is, this is a great country in which we live. It is a country that in many ways over many decades of its two-plus centuries has been built by immigrants, has been nourished by immigrants. Virtually every one of us in this Chamber would have come from immigrant parents, grandparents, or great-grandparents. So it is important we understand that and we understand what immigrants have brought to and have given this country.

It is also important that we understand why as a country we have decided to have immigration laws and to have quotas for immigration. The reason we have had quotas for immigration is the world has progressed in different parts of this globe at a very different rate. In some countries, the economies have lagged far behind. In other countries, the economies have become very advanced, and the circumstances of the countries are very different.

This Earth of ours has somewhere around 6.3 billion people living on it, this little planet. We circle around the Sun. Of the 6.3 billion people, somewhere now nearing 300 million people live in this little place called the United States of America.

We are pleased to live on this planet. One-half of the people who live on this planet make less than $2 a day, one-half of the people who live on this Earth have never made a telephone call, and 1.5 billion people living on this Earth don't have daily access to clean, potable water. There are people living on this Earth with great challenges.

We, however, are a country that has been blessed with resources, wonderful people, and ingenuity, and we have built something very special. Building it was not easy. Building the kind of economy and the standard of living we have had in this country has required sacrifice. We have had people die on the streets for the right of workers to organize. We have had very substantial debates about rights—about civil rights, workers' rights, about women's rights. We have done a lot of things that are very tough and challenging, and we have built quite a remarkable country.

Because of that, this is a country to which many around the world aspire to come, to live here, to work here, to be here. If tomorrow, for example, we in the United States said, on Tuesday, tomorrow, May 16, there is a new policy, and that new policy is this: Anyone living on this planet is able to come to this country unrestricted, come here, stay here, live here, work here, you are welcome, the welcome mat is out, if we did that, what do we think might happen? I know what would happen. Tens of millions of people—tens and tens and tens of millions of people—would aspire to find their way to the United States of America because it is, in fact, a beacon of hope and opportunity all around the world. There are jobs in this country, jobs available, rates of pay that are far in excess of those of Third World countries. The difference between, for example, the jobs in Mexico and the rate of pay for those jobs versus the jobs in the United States is very substantial.

We have on our southern border people who aspire to come to this country from Guatemala, Honduras, El Salvador, on up through Mexico to try to cross our borders. The result is we have, in order to protect our way of life and our standard of living and to protect jobs that need to go to American workers, quotas that limit the amount of immigration, and those quotas year by year are quotas we work with to try to understand how many we can have come into this country from various parts of the world.

Let me give some statistics about last year to the extent we know it. Last year, 1.1 million people tried to come into this country illegally from the border of Mexico, up through that southern border; 1.1 million people tried to enter this country illegally and were apprehended, stopped, and not allowed to enter the United States illegally. Mr. President, 750,000, it is estimated, did come to that border and got across the border illegally and were not detected and were not stopped. So 1.1 million were detected, stopped, and prevented from entering. Probably three-quarters of a million entered illegally. Another 175,000, it is estimated, came to that border and entered legally; that is, children, relatives, and others. Under the quota system, they entered legally. This is a circumstance just on our southern border.

The result is we have immigration laws, and those laws are laws that determine how many we can allow into this country. We do that for the protection and for the economic interests of the American people.

The American people include immigrants who have been here, came here legally; some have been here a long time. We want to make sure that jobs are available for them, that the middle class in this country has jobs that pay well with benefits.

We also have another influence in this country, and the other influence is that larger corporations are now made much larger because of mergers and are wanting to export good American jobs to China and import cheap, substandard labor, particularly from the

South, and pay even less than minimum wage, and because they are hiring someone illegal, they are highly unlikely to be critical of them if they don't pay the minimum wage. They feel they don't have the right to criticize.

We have a circumstance where at least some enterprises in this country want to export good American jobs and import cheap labor on the bottom. That is, in my judgment, the circumstance that will pull apart the middle class in our country. That is why we have to be concerned about all that is happening.

The situation which exists in this country is that we put together, recognizing there was an immigration problem, a bill 20 years ago in the Congress—I wasn't serving in the Senate at the time. I was in the House. It was a bill called Simpson-Mazzoli. It was named after Senator Simpson and Congressman Mazzoli. It was said at the time that the way to deal with illegal immigration is to shut off the jobs because people aspire to come here illegally to take a job. They see this job as hope and promise for the future.

I have pointed out many times about a helicopter I was on that ran out of gas at one point. We were touring down near Honduras and Nicaragua in the jungle and mountainous area. I was on a helicopter, and we ran out of fuel. We landed under power, but the red lights were on and alarms were ringing, and the pilots brought us down right then and there in this jungle, mountainous area. We were there a good many hours until the U.S. Army found out where we were and hauled us out of there.

The campasinos in the area came walking through the underbrush to see who landed in these two helicopters. Three of us had an interpreter with us. I was talking to the campasinos through the interpreter. They had never seen anyone from the United States. They lived up in the hills, a life of significant difficulty and poverty.

I was talking with them about their lives. I asked one young woman: How many children do you have?

She said: Only four, kind of disappointed. She was a very young woman. The interpreter told me later: The reason that woman said "only four" is you should understand there is no social security program down here. The only social security you have is to have as many children as you can possibly have and hope that enough of them survive that perhaps if you are lucky enough to reach old age, you will have children alive to support you in your old age. That is social security.

A number of women with a number of children came looking to see who landed. I was talking with, as I said, this young woman: What is your wish, your desire for your future and your children's future? What are you hoping for?

She said: That is easy. I want to come to the United States of America.

I said: Why do you want to come to the United States of America?

Oh, she said, that is an area where there is hope and opportunity for my children, and jobs.

You find that all over. So it is not surprising there are people trying to cross our border, trying to find jobs and opportunities in this country.

We passed legislation 20 years ago called Simpson-Mazzoli. The basic premise of that legislation was very simple. The premise was this: The attraction for people to come to this country illegally is to find a job and to earn money. If you shut off that attraction, shut off that job, you at least substantially diminish illegal immigration coming into this country. And so the legislation was passed.

I went back recently and read all the debate about Simpson-Mazzoli. The legislation was passed, and it was going to shut off the jobs. In fact, how was that going to happen? It was going to happen because there were going to be employer sanctions, saying to America's employers: If you hire illegal aliens, if you hire illegal immigrants to come into this country to take a job, you are going to be in some trouble. You can't hire people who are here illegally to work in your plants, to work in your businesses.

Those then were the approaches that were going to be used to shut down this illegal immigration. What happened? Let me give an example. I am told that last year, there was only one action taken against an American business—one—in all of America for hiring illegal workers.

I will give an example of hiring illegal workers. A couple of weeks ago—there is an energy plant being built in North Dakota—the highway patrol picked up I believe it was seven people. I believe six were from Guatemala, one was from Mexico. They detained them. They were not here legally. They had come here illegally to take a job in constructing the energy plant.

The law enforcement people took them to Minot, ND, to the immigration office. As a result of that, they took them back down to a motel nearly an hour south of Minot and dropped them off at the motel where they were staying with the admonition that they are now required, because they were here illegally, to show up in Minneapolis some weeks hence for a hearing. Of course, they will never show up in Minneapolis. They are gone. That is the way the system works: Come here, find a job; if you get caught, they say show up later; you never show up later. And that is the way the system works. That is the way the system works.

Now, what about the employer who hired these seven people? In 2004, in the entire United States of America, the administration took action against three companies that hired illegal immigrants. Let me say that again. In the entire country, they took action against only three companies that hired illegal immigrants. That is the same as saying to companies: You know what, don't worry, be happy. Hire illegal workers if you wish. Pay them substandard wages if you wish because they won't complain because they are illegal. Don't worry about it. It is a great way of cutting your costs. Be our guests because we are not going to enforce the law.

That is unbelievable to me.

So the whole promise of the law that was changed 20 years ago to shut off these jobs for people who are not in our country legally was a complete failure because there was an abject lack of enforcement. Now we have a piece of legislation on the floor of the Senate dealing with immigration, and we are going to go through this process again. We are told there are 11 million to 12 million people who have come into our country illegally. Some have come in recent years, some have been here a long while, and some have been here long enough to have children and grandchildren. So the question is: What do you do about that?

Then we have people come to the floor of the Senate and they say: Well, let's do a new immigration bill. Yet doing a new immigration bill without effectively finding ways to shut the border to illegal immigration will have us back in the same Chamber in 10 years or 20 years saying: Now what do we do about the next 10 million or 20 million people who are here illegally?

Let me tell you why I think this is so important. No. 1, I said when I started that I think it is important that this be dealt with in a very sensitive way. I don't want people to in any way suggest that this debate diminishes or demeans immigrants. We have some wonderful people who have come to this country. That is how I got to this country. I wasn't alive when my ancestors came here, but they came over from Norway, and most Members of this Senate are here in this country because someone had the courage to get on a boat and probably land at Ellis Island. So let's understand that, first of all, about immigration.

But let's also understand that the issue of legal and illegal immigration is different. There are legal ways to come to this country and there are ways to get into this country illegally. What we have built in this country is very unusual on the face of the Earth.

I have spoken before about a man named Jim Fyler. Jim Fyler died. He was shot 54 times—54 times he was shot. Do you know why he was shot? Because he felt that coal miners ought to have a right to organize for better pay and better work hours, so he gave his life. Well, Mr. Fyler is one example of dozens of examples of what we have done in this country: The courage of men and women to stand up for the interests of workers for good jobs that pay well, with benefits, including retirement, health care, and more. So we have built something very special.

Now we have a whole series of influences which include, yes, illegal immigration to diminished salaries, diminished wages, diminished benefits, and diminished opportunities for American workers. It is not right.

So what I feel we should do is work on this immigration system in a serious and thoughtful way and try to evaluate what do we do about several issues. First, what do we do to control our border? I know some of the discussions today and perhaps this week and next week will be about terrorists. Yes, we have to try to keep terrorists from coming across the border. That is something that is very important. Terrorists wish to do harm to the American people. We need to keep terrorists from coming across this border and trying to kill American citizens. But in addition to the issue of detecting terrorists and preventing them from coming in, we also need to have some control of our border to prevent an uncontrolled inflow of illegal immigrants who will take American jobs at substandard wages and then beginning to put downward pressure on American workers and American wages.

It is not an accident what is happening in this country today. You can read all the newspapers and evaluate what you find. You find companies that want to ship good jobs overseas to China. Why? Because they pay less money to get their products produced, and they want to ship their product back to this country to sell it and then they want to run their income through the Grand Cayman Islands and not pay taxes. So the same companies that want to export good Americans jobs are the same companies that would like to import cheap wages for the jobs we lost here.

Alan Blinder, a very respected economist, used to be vice chairman of the Federal Reserve Board. He wrote a piece that is interesting. I know some, when they talk about exporting American jobs, are viewed as xenophobes and isolationists and protectionist.

Allen Blinder wrote a piece; he is a former vice chair of the Fed, a very respected economist. He said there are somewhere between 42 million and 54 million American jobs that are potential jobs to be outsourced—outsourced—because there is a billion to a billion and a half workers in the rest of the world who will do those jobs for 30 cents an hour, 50 cents an hour, and you can put them in unsafe work plants, put the chemicals in the air and water. You don't have to worry about all that. They are much less expensive than hiring an American worker. He also said that it is likely that 42 million to 54 million American jobs would not be exported, but even those that are not exported, if they remain here, they are competing with lower wages and with those workers overseas who are willing to accept much lower wages.

So we face some very significant economic pressures for the American worker and the middle class in this country. Nobody seems to think much about it, care much about it or talk much about it. But it is implicit in this discussion as well, and it applies not to a certain class of American workers; it applies to all American workers. Yes, those are Hispanic workers and African-American workers; all American workers are affected by this. Those who are in the minority suffer most. They are the first to lose their jobs and the last to get a job back, and when they do get a job back, it is lower pay because they are told: This is a new global economy, and you have to compete with others in other parts of the world willing to work for much less money.

So that is the subtext as well for this kind of discussion, but I want to finally say this: If this debate moves forward without an understanding that you have to find a way to deal with this issue of employer sanctions or shut off the lure, shut down the lure of a job; if we don't decide to get serious about saying to employers: You can't hire illegal immigrants, you can't do that without significant sanctions; if we don't do that, then we should make reservations to come back every 10 years and have another debate about how we deal with the next 5 million or 10 million people who want to come into this country.

So I think that this issue in the coming couple of days is going to be a difficult issue with perhaps a lot of amendments. I will be offering an amendment. My amendment will be one that will eliminate the guest worker provision which is the extra "above" provision saying that there are another—with this new proposal before us, there is another, I think it is 3.8 million workers who don't yet live in this country, but above H–2A and H–2B and the other programs, above all of that, there is another 3.8 million workers living outside the country now that will be allowed in as a part of this compromise. It doesn't make any sense to me. That is not, in my judgment, the right thing to do.

So there will be, as I said, a lot of amendments and a difficult debate, I am sure. I think this is a very important issue, but I think it is very important that we do it right and get it right. One of the questions we ought to consider for all Americans as we proceed is what are the consequences on American workers, on American jobs, wages, retirement, the future? That is a very important issue as we consider these immigration issues in the next 2 weeks.

Mr. President, I yield the floor and make a point of order that the quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I would like to thank my colleague from North Dakota, Senator DORGAN, for his comments. I happened to be in South America a few weeks ago, and I noticed in the State Department news clips that there was a poll taken in Nicaragua, and it said that 60 percent of the people of Nicaragua would move to the United States if they could. Then I asked the Ambassador of Peru about it, and he said: Well, that is interesting. We did a poll down here just a couple of months ago and it was 70 percent. So I think Senator DORGAN has raised an important point, and that point is this: The United States must decide how many people and what skill sets we need in our country to strengthen our country. We simply cannot allow everybody in the world to individually decide they would like to come here and then to grant that request. It simply is not possible. I think what we would see in the months to come and the years to come is that more and more people would choose to come here, and as word got out if this bill were to pass in its present form, that they would decide to come here. The numbers could grow to exceed a level that most people think not possible today.

I had a press conference this morning, and we dealt with the question of the numbers of people that would be allowed into our country if this legislation were to pass. The numbers are staggering. Also at that press conference was Mr. Robert Rector, senior research fellow at the Heritage Foundation, the man who did the basic research on the welfare reform bill, one of the more respected individuals in Washington in terms of numbers and public policy. He stated at that press conference that this legislation is some of the most important legislation ever to come before Congress, and he compared it as rivaling in significance to Social Security and Medicare. That is what he said this morning. So we have to think seriously about the legislation that is before us.

Yes, we want to treat fairly and justly those people already in the country—even those who are here illegally—and figure out a way to do that right, and that is very significant. We also want to work hard on the border and to make sure we have a legal system that works in this country, and we have been doing some work on that. I don't think we are there yet. This bill does not get us there, but we can talk about it and perhaps make some progress.

I would say there is a deeper issue that is part of S. 2611 that has not been discussed publicly until this morning, and that is how many people might be admitted under this bill. My staff, Cindy Hayden and her Judiciary team, have been working for a week to try to figure out just how many people could be admitted. Right now, under current law, this country would admit 19 million new residents over 20 years. Under the legislation that is proposed today, over a 20 year period, we would admit a minimum of 78 million people—four times the number admitted under current law. In fact, as this chart shows, the number of people we admit could be as high as 217 people. If the base numbers in this bill grew at the maximum acceleration factors automatically built into the bill, acceleration factors that kick in not with regard to Congress or with regard to the Department of Labor making any certification of need but simply because people show up and apply to come into our country, they could actually hit 217 million people. That is a stunning number. That is two-thirds of the present population of the United States of America. I don't think it is going to hit 217 million, but I do think it is going to exceed 78 million.

Mr. Rector ran his numbers, and they came out very similar to ours. His top number for people admitted over 20 years was 200 million instead of 217 million. Based on his judgment about what might actually happen, he thinks that the number will be 103 million people over 20 years, five times the current rate of immigration into our country today. Based on this finding, that would mean that 20 years from today, 25 percent of the people in this country will not be native born citizens. That is a huge thing. What does that mean to jobs and employment and wages? We haven't thought that through. What have we done to make sure that the people who come here are welcomed and can be met, affirmed and raised in the traditions of America which have created the land of opportunity that attracts people here?

What about those people who came into our country legally or those who may be given amnesty under this bill? They are out working at a little above minimum wage and then, boom, every year, larger and larger numbers of people come in, keeping them down at the minimum wage level, not allowing them to build up their salaries. Those are all problems that we have not thought through in a significant way, but they are big problems. These are huge problems. But there is momentum to pass something. What we hear in the Senate is we need to pass something, to send some sort of signal, I guess, politically or otherwise, that we care. We have to do this.

We need to think. This Senate is supposed to carefully and thoughtfully consider legislation before we pass it. I am going to talk a good bit about it as time goes on throughout this debate. There are so many important things contained in the legislation, so much experiment, unthought-out policies that could be detrimental to our future, that we must discuss them in an effective way.

I guess it was about 3 weeks ago when the bill was previously on the floor and they tried to ram this thing through here. The Democratic leader would not even allow an amendment and they almost passed it. Some of us had to battle and push back. Senator FRIST, the majority leader, finally said we can't operate under this procedure. We are not going to deny our Members the right to have an amendment in the Senate on a piece of legislation that may be as important as Medicare and Social Security. For heaven's sake, that was the scheme of things.

Now we are supposed to move a 600 page piece of legislation through here, with an agreement that only 20 amendments are guaranteed to get a vote, and then we will pass the bill at the end of the week. I don't think we can really fix it by the end of this week, frankly. I don't think there is enough knowledge in the Senate about what is in the legislation to make it possible for us to reach an agreement on how to fix this.

When we had this issue blowup recently—I guess that is the word you would call it—and they tried to move this through and Senator REID said we would not have any amendments and it was pulled down, I raised the point at that time that we did not fully comprehend the importance of what is in it. We need to study the bill. We need to study the policy behind the bill. Around the country, I called for hearings in the Judiciary Committee, a national discussion on what would be the appropriate way to handle the people who are here illegally.

We are going to handle them in a nice and fair and generous way. What about the people who want to come in the future? What are we going to do about them? We can discuss that. Trust me, that is much larger in this piece of legislation. The people who are allowed under this bill to come here in the future dwarf the 11 million who are here now. We need to have a national dialog, but we have not had it.

We ended up having one hearing, about 2 hours long, maybe a little more. I think three or four Senators came in and out during the hearing. I was there. We had five economists. They made some important points, although not in depth because of the shortage of time. They noted that the bill as written emphasizes low-skilled workers, and all of them agreed that a low-skilled worker—over half of those now coming in do not have a high school education—cost the economy more than they bring in. All the economists agreed on that. A low-skill worker is not a net benefit for America at this point.

They questioned chain migration. They suggested we should question more about the skill sets of people who want to come here. They discussed the fact that there is strong evidence that workers' wages, middle-class and low-end-skill wages today are depressed by larger numbers of immigrants who come in who are willing to work for less.

Why would we think the law of supply and demand worked for every other component of our American economy but doesn't work for labor? How silly is that? Those are some of the things we discussed in the one hearing we had in the Judiciary Committee.

Friday, I came down to the Senate floor. I made a speech just this past Friday, detailing 15 loopholes in the base bill. Each of those loopholes is very significant and raises important questions we need to address. I will point out briefly what some of those are.

Under the bill on the floor today, illegal aliens with felonies or three misdemeanors can get amnesty. That is not what the American people want or what we should want.

Illegal aliens who have previously filed fraudulent asylum applications, prohibited by law from getting amnesty or citizenship today, can get amnesty and are put on a path to citizenship.

There is no continuous work requirement. They say the people are here to work, but the bill doesn't require continuous work in any significant way.

They allow evidence that can be produced to prove you have been in the country or been working that is very dubious and will clearly lead to fraud. The bill says you must accept just and reasonable inferences as evidence and that you can have documents from day labor centers and that an alien can file his or her "sworn declaration," and they must be accepted as evidence that the alien satisfies the work requirement.

I pointed out that the bill is fundamentally unfair because it benefits only those who broke the law and not those who followed it and got their work visas to come to the United States or those who left the country when their visa expired as they were supposed to.

Another loophole was that the annual numerical cap is not a cap at all. If it is met each year, it automatically goes up 20 percent without any thought going into that, or discussion.

Furthermore, in-state tuition will be made available to illegal aliens, reversing carefully considered and fully debated law that we passed a number of years ago in the Congress.

These are mostly enforcement loopholes. They deal with amnesty provisions and the enforcement provisions of the bill. They are part of this 614-page bill. But until today, no one has discussed publicly what S. 2611 would do about future immigration or how significant that could be. So we will be discussing that during the course of this debate. I am going to talk about it. I will not be able to complete those remarks tonight, but we will be talking about it the rest of the week, and I think we will see a national discussion begin as a result of the efforts of my staff, and that of the Heritage Foundation, independently, to conclude what the numbers will be.

Who and how many people will be admitted on the path to citizenship under this bill? I think we in the Senate, unfortunately, are blissfully ignorant of the scope and impact of the legislation.

I think most Members of the Senate still believe that the bill language that says "guest workers" is language that means temporary workers when the truth is that virtually all those who will qualify in the future under this bill are not temporary in any way but will be able to stay permanently in this country and will be placed on a direct path to citizenship. That is a fact.

On April 19, when we were trying to decide how to handle all these monumental issues, I wrote to the Judiciary Committee and asked to have hearings on the full impact of this bill which is now before the Senate. I asked a number of questions—see if you don't think these are fair questions to ask about a piece of legislation of this significance.

I asked: What is the estimated numerical impact of each of the proposed immigration programs? Wouldn't you like to know that? What is the numerical impact? How many will come in?

No. 2, how does the future chain migration of family members impact the total immigration numbers on the proposal? We don't know that number. As a matter of fact, in all the numbers we have worked on, we have not tried to calculate it.

Next, what will be the legislation's estimated fiscal impact on the Federal budget, as well as State and local governments' budgets? How much will it impact the Treasury of the United States, the taxpayers? Does anybody know that? The answer is no.

Next, how will entitlement programs such as Medicaid, TANF—welfare—and food stamps be affected? Do we need to know that? Sure.

What level of immigration in the future is in our best national, economic, social, and cultural interests? What is the interest of the United States? What do we need as a country? What would be good for us?

We believe in immigration, we want immigration to continue. I think we might even probably agree that we should increase the number of people who come legally into our country. But what level is correct? Have we discussed that? Have you heard any debate about that?

I next asked what categories of immigrants should compose the overall level of annual immigration. What categories? So I said we need to have a national discussion.

We had one hearing. We had a group of professors for about 2 hours to discuss the general economic principles relating to immigration. It just was not satisfactory. We did not examine in any way the specific provisions of this 600-page piece of legislation.

I sent another letter on April 28 asking our Judiciary Committee to hold five hearings and focus comprehensively on the effects of the proposed legislation. That did not occur. There have never been any hearings on the specifics of this bill. Therefore, as we have gone through it, my staff and I, trying to figure out the numerical impacts of the bill, we came up with some significant numbers. I will not go into the full detail of that tonight. I will talk more about it tomorrow.

I will point out again that these are the charts which show the 20-year impact of 2611. These numbers can be calculated based on the provisions of the bill, but it takes a lot of time and effort. We have charts that go down each provision to calculate what the minimum numbers admitted would be and what the maximum numbers admitted would be.

Under this piece of legislation today, if the caps, the upper limits on the immigration numbers that automatically go upward if they are ever met, don't go up at all and people bring in their families, their spouses and children who then become citizens, at a minimum 78.7 million people would be admitted over 20 years. That is four times the 18.9 million that the current law allows for today. Who has discussed the impact of that? And absolutely it is going to be more, in my view, than 78.7 million, for any number of reasons I will discuss.

In fact, if all the top quotas were hit, that number would hit 217 million, according to our calculations. The Heritage Foundation calculated the number to be about 200 million, I believe. Though that is the top number, Mr. Rector says a careful, conservative analysis of the legislation would lead him to believe that over 100 million people would actually come into America on a path to citizenship in 20 years. That is his best judgment. If somebody doesn't agree, I would like hear about it. One hundred million is five times the number that now can come into our country. It has not been discussed until today. Nobody has really discussed it but us today, that I know of. It is time to talk about that, wouldn't you think? Did anybody even know this was in the legislation? They would have passed this bill without an amendment just a few weeks ago. That was the plan around here, to move it on to conference. They say: Let's just get it out of here. Don't worry about what is in it, SESSIONS. Don't bother to read it, it is 614 pages. You know you will find something you don't like. That is kind of the talk going on around here.

We decided to read it. My staff actually came away stunned by the breadth and the size and scope of this legislation.

We need to talk about it more. I will have a few amendments. I am not going to try to file too many amendments. But we will talk about it as time goes.

I urge my colleagues to not say to yourself: Well, we need to pass something or I think I will vote for this bill, and maybe they will fix it in conference.

This is a piece of legislation that is extremely important to the people of this country of the United States. It is extremely important for our future as a Nation.

Mr. Rector said it is a matter of huge importance to our Nation.

We need to think about it.

If it is not the piece of legislation you thought it was, if it provides amnesty when they said it didn't, if you thought the workers were temporary and guest workers when they are permanent and on the route to citizenship, and you had no idea the number was going to be 100 million new people in the country permanently on the path to citizenship, five times the current number, then I ask you to vote no.

Let us back up here. Let us fix this bill or let us not pass this bill.

I thank the Chair.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

EDUCATION

Mr. REID. Mr. President, as we honor and celebrate America's teachers on National Teacher Appreciation Day, I thought it would be appropriate to say a few words about the state of education in my home State of Nevada.

I had an eye-opening meeting recently with the school superintendents from all corners of Nevada, and they shared the challenges that teachers and students face each day and ideas on what we can do to improve education. With only 17 school districts in the State, we have a unique situation where our education leaders can come together—in one room and around one table—for a discussion of the issues that concern them.

Even more remarkable is the unique diversity of Nevada's school districts. Our 17 school districts range from one of the Nation's largest and most diverse, Clark County, to vast, rural Esmeralda County, which has less than 100 students in the entire district. Such diversity makes Nevada a microcosm of the Nation and provides a snapshot of the varied needs of teachers and students across the country.

I met with many of the same superintendents during the early years of No Child Left Behind implementation to discuss the difficulties that their school districts were having in meeting the requirements of the new law.

When NCLB was passed, there were many who lauded President Bush's commitment to education. After all, who among us would allow any child to slip through the cracks in our education system if we could prevent it? None of us would do that. And at the time, many thought that this sweeping legislation would fill those gaps. Unfortunately, this hasn't been the case.

My own State of Nevada has suffered under the burden of unfunded mandates and punitive measures this law has imposed. But I want to give our educators in Nevada credit: from our teachers to our superintendents, they have all tried hard to comply with this law.

They have robbed Peter to pay Paul with their budgets. They have compromised on teaching art and history classes. They have shortened the time allotted for recess. And they have even tacked on extra reading or math classes.

Instead of resisting these requirements, they have tried to work within it, and I commend them for their unified efforts. But there is only so much they can do with a flawed law.

To be sure, Nevada isn't the only State that has struggled under this law. It is a national problem. School districts across the country are already trying to juggle school construction costs, increasing graduation rates, finding money for textbooks, reducing class sizes, and figuring out what to do about overcrowded high schools.

But, now, in its fourth year of implementation, most of us have heard similar stories about the many problems with No Child Left Behind.

So with an eye toward authorization of NCLB, I asked to meet with the State's school superintendents once again, not so much to discuss problems with the law, but, rather, ways to improve it and make it more responsive to the needs of our students and teachers. One after the other, these educators gave examples of how changes, some minor and others much larger, to the No Child Left Behind Act could help them to reach its stated goal.

No Child Left Behind is based on the premise that we can track the progress of every school by using a one-size-fits-all approach, including standardized tests. And what I heard from these superintendents was that their problems aren't standardized—so a one-size-fits-all approach doesn't always work.

In Clark County, Carla Steinforth talked about accommodating the more than 12,000 students that move into the county each year by building a school nearly every month.

Another of the more pervasive challenges that Nevada as a whole, and Clark County in particular, face: the influx of students who are not native English-speakers. There are so many children entering our public schools who don't speak English that—under the NCLB—most of our public schools will eventually be on the "watch-list" or considered a "failing school."

One idea to deal with the district's growing and constantly changing student population was to implement a "growth model" or accountability. Under such a model, student progress would be measured from year to year, rather than by measuring 1 year of student performance to another, as is currently being done. Keith Rheault, the State superintendent of education, said Nevada is pursuing this idea, under a pilot program that opens up this possibility to just a few States. Everyone, it seems, with the exception of the Federal Government, has recognized the need for greater flexibility under CLB.

A neighboring school system, Nye County, is growing but at a much slower rate than Clark County. Nye County is the largest school district in the continental United States. The superintendent, Rob Roberts, talked about the morale of many of the students, teachers, and parents, when their school has been labeled as a "failing school."

In rural Mineral County, Superintendent Steven Cook discussed the difficulty the district has had in retaining and attracting special education teachers. He talked about the need for greater flexibility for rural counties with teacher qualification requirements in NCLB. The superintendent of White Pine County, Bob Dolezal, concurred and shared the challenges of ensuring that his high school teaching staff of five, who each have taught multiple subjects, would be considered "highly qualified" to teach all subjects.

Make no mistake about it: The issue is not whether teachers in rural areas should be qualified to teach multiple subjects—they should. However, requiring them to attain "highly qualified" status in all subjects simultaneously is unreasonable.

In other counties, like Douglas County, they have actually seen enrollment decline, as housing costs drove families to less expensive areas. Yet the district has had increased expenses because of onerous NCLB requirements. The superintendent, John Soderman, said he appreciates the accountability principles in the law but also talked about the negative implications of the law's punitive nature.

Mary Pierczynski in Carson City cited NCLB's effect on thinking and creativity. They have over 200 days of curriculum to teach but with only 180 days of school. And standardized testing is taking up more 10 days of that time.

In Humboldt County, it is difficult to get qualified paraprofessionals, and additional requirements will leave many of the schools without aides. Superintendent Charlotte Peterson said that the only other option would be to bring them in from many miles away.

In Eureka County, where there are just a few hundred students, Ben Zunino talked about a feeling of inevitability for schools to be labeled as failing and how one student's performance can often make the difference between a school being labeled as high achieving or needs improvement. To improve this, Lincoln County Superintendent Rick Hardy suggested counting the percentage of students who move into proficiency as a way of recognizing improvement and the hard work of teachers and students.

In Storey County, Rob Slaby is fretful about the time for history and arts that has been lost to testing and preparation for these tests and suggested some kind of credit for these important subjects.

Dottie Merrill from Washoe County, the State's second largest school district, suggested that students who are English-learners not be included in testing until they have been in the United States for a few years, as opposed to 1 year, as is currently in the law. This would give schools the time necessary to help these students transition to school in the United States.

Nearly all superintendents mentioned the struggle to pay for the basics, like school buses and supplies, with the ever-increasing costs of NCLB requirements. If the Federal Government would fully fund NCLB, as it had promised, it would alleviate some of these hardships.

As an example, many of the districts mentioned the cost to provide transportation for their increasingly scattered student population. In many rural counties, where some students travel up to 150 miles a day for school, transportation expenses can be upwards of 70 percent of the budget. Many districts have had to cut some special events because of rising transportation costs, and all were concerned about the amount school bus costs and high gas prices will cut into their overall budgets.

I have touched on just a few of the problems with the No Child Left Behind Act and some of the ways educators in Nevada have suggested to improve it. It is going to take a lot of hard work to make it what it promised to be: a tool that will help the teachers and students in every public school in America.

Today, as we honor the Nation's teachers for their work and dedication, we must ensure that we keep our promise to America's students. We can't afford to leave them behind.

RECOGNITION OF CHUCK FULKERSON

Mr. REID. Mr. President, today I rise to honor one of the true heroes for Nevada's veterans, retired COL Charles "Chuck" Fulkerson. This man is a Reno native, a war hero, and a dedicated public servant.

I have known Chuck for many years, and I have always appreciated his dedication to improving the lives of veterans in our State. When Chuck spoke about veterans issues, he spoke from a position experience.

In 1955, Chuck enrolled in the Army Reserve while an undergraduate at the University of Nevada-Reno. The Korean war had ended, but our world was still a very unstable place. A few years, later when the United States found itself involved in another crisis in Southeast Asia, Chuck answered his Nation's call to service. He went to Vietnam, not once but twice, for tours of combat. After the war, Chuck served his country in Europe before returning home to serve in the Nevada National Guard.

While maintaining his military obligations, Chuck served the citizens of Nevada in a variety of government positions. Gov. Bob List appointed Chuck to be the director of the Nevada Selective Service in 1979. After almost 6 years of service in that role, Gov. Dick Bryan recalled Chuck to active duty when he appointed Chuck to be the director of the property and fiscal officers for the Nevada National Guard.

After almost 40 years of military service, Chuck retired in 1991. He taught military history at the University of Nevada-Reno, but his public service to our State was not yet complete. Gov. Kenny Guinn appointed Chuck to be the executive director of the Nevada Office of Veterans Services in 2000, an office he faithfully served until this March.

Chuck presided over the Nevada Office of Veterans Services at a critical point in our State's history. Since 1990, Nevada's veterans population has increased by more than 40 percent. This unprecedented growth put strain on many resources in Nevada, but Chuck was never discouraged.

Instead, he worked tirelessly for more staff and additional resources to help Nevada veterans.

Under Chuck's watch, Nevada modernized their veterans services including the completion of a new Veterans Nursing Home in Boulder City. Chuck presided over the construction of this facility, which is home to more than 162 of America's heroes. Another key part of Chuck's work was his effort to improve veterans cemeteries through Nevada, including cemeteries at Boulder City and Fernley. I was pleased to work with Chuck to secure Federal appropriations to expand these cemeteries.

The Board of Regents of the Nevada System of Higher Education has awarded Chuck their highest award, naming him a Distinguished Nevadan. With his long list of accomplishments for Nevada's veterans, Chuck is most deserving of this high honor, and I am pleased to recognize his accomplishments today before the Senate.

PEACE OFFICERS MEMORIAL DAY

Ms. STABENOW. Mr. President, I rise today to acknowledge the brave men and women who lost their lives while serving as law enforcement officers and to thank them for making the ultimate sacrifice.

Today is Peace Officers Memorial Day, a day to honor all the law enforcement officers in our communities who have been killed or disabled in the line of duty. I was proud to join Senator PATRICK LEAHY on S. Res. 472, a Senate resolution, which passed the Senate last week, commemorating this important day.

This past Saturday, thousands of people from across the country gathered at the National Law Enforcement Officers Memorial here in Washington, DC, for a candlelight vigil to honor these fallen officers. And today, there was a Peace Officers Memorial Service in front of the U.S. Capitol for these brave men and women. I am proud that we had a dedicated group of Michigan officers in attendance, representing their fellow officers from around the State.

The names of 466 fallen officers were added to the memorial on Saturday, including 8 officers from Michigan: Lavern Steven Brann, Battle Creek, Michigan; William A. Daniels, Cassopolis, Michigan; Owen David Fisher, Flint, Michigan; Dale Francis Bernock, Dearborn, Michigan; Scot Andrew Beyerstedt, Mattawan, Michigan; Benjamin Lewis Carpenter, Newaygo, Michigan; Michael Allen Scarbrough, Wayne County, Michigan; and Paul Lee Mickel, Wayne County, Michigan. We honor all of these officers today.

In Michigan, we also remember two officers who recently lost their lives in the line of duty. Less then a month ago, Reserve Officer Matthew Tuttle and Chief Scott Sumner were killed in a helicopter accident in Scio Township while providing aerial support for officers who were involved in a foot pursuit.

Chief Sumner was a 19-year veteran of the Chelsea Police Department, and Officer Tuttle was only 28 years old. Our thoughts and prayers go out to their families and the entire Chelsea Police Department.

Mr. DOMENICI. Mr. President, I commemorate the hard work and sacrifices made daily by law enforcement officers all across our great land. Many have lost their lives in the line of duty so that our families and communities may remain safe. We must never forget those who have given their lives to protect us all.

The annual celebration of Peace Officers Memorial Day and National Police Week during the calendar week has its roots in Public Law 87-726, which was signed into law on October 1, 1962 by President John F. Kennedy. Public Law 87-726 designated this day and week as a time for "recognition of the service given by the men and women who, night and day, stand guard in our midst to protect us through enforcement of our laws." This law was later amended during the 103rd Congress as part of the Violent Crime Control and Law Enforcement Act in 1994 to order the United States flag on all Government buildings displayed at half-staff on May 15.

Since the turn of the last century, more than 60 law enforcement officers have been killed in the line of duty in New Mexico. This year, among other activities, law enforcement officers from around the country honored the lives of three New Mexico police officers whose names were recently added to the National Law Enforcement Officers Memorial in Washington, D.C. One occurred a very long time ago, and the two others just last year.

Officer Michael R. King and Officer Richard W. Smith, Jr., both of the Albuquerque Police Department, are two of the three officers being honored this year. Their deaths occurred on a day that has become ingrained in the hearts of most New Mexicans as one of the bloodiest and most tragic in recent times. Officers King and Smith, longtime veterans of the Albuquerque Police Department, were responding to a call on August 20, 2005 ordering the pickup of a mental health patient from Kaseman Hospital. When they arrived at the scene, Officers King and Smith had no way of knowing that the subject of their call, John Hyde would be implicated in the shooting deaths of three people earlier that day. During the pickup Officers King and Smith were gunned down in the street before their murderer fled on a motorcycle. It took a force of approximately 300 of their fellow officers to chase down and finally apprehend the man responsible for the deaths of these brave and respected police officers.

The other officer honored this year was gunned down in Hope, New Mexico approximately 108 years ago. At the time, Eddy County Deputy Sheriff Bud Johnson had traveled to Hope in order to serve a warrant on one L.E. Pratt in regard to an infraction over water control. According to the Eddy County Sheriff's Department, Pratt shot and killed Bud Johnson with a shotgun when he was notified of the warrant. Deputy Sheriff Johnson died immediately.

Deputy Johnson's death shows us that the dangers of police work have been present throughout the long history of our Nation. All too recently, citizens of New Mexico mourned the loss of Deputy James McGrane, Jr., who was killed on March 22, 2006 during a traffic stop in Tijeras, NM. While we remember those who have lost their lives, we also take solace in the fact that many others have been able to survive the dangers of duty. Officer John Garcia, Officer Josh Otzenberger, Sergeant Carol Oleksak, Deputy Shaun Sanchez, and Sheriff's pilot Chris Holland were all shot during the past two years while protecting our communities. We are thankful that most of them survived these close brushes with death and were able to return to duty.

We should remember their dedication to protect and serve, and the tragic price they paid for that devotion. We must also remember the families of all fallen officers and the sacrifices they have incurred because of a deep-seated commitment to duty and public service. All of us from New Mexico owe a debt of gratitude to each and every officer who has lost their lives in the line of duty. To all who have paid the ultimate price and to those who continue to serve, may we forever be grateful and never take for granted what you do. You have my utmost admiration.

MARLBORO MUSIC FESTIVAL

Mr. LEAHY. Mr. President, Just south of Route 9 in southern Vermont, along a tree-lined road, lies one of Vermont's distinctive destinations, Marlboro College. Walk through this picturesque school in the summer months and you will hear some of the sweetest melodies imaginable, or you may be enveloped by warm pulses of sound that seem to linger like the wispy clouds above. The sounds you hear are those of another year of the Marlboro Music Festival.

Since its founding in 1951, this 8-week festival—one of the world's premiere chamber music workshops and weekend concert series—brings some of the most renowned and experienced musicians together with the rising stars of tomorrow.

This year has marked the 40th anniversary of the Musicians From Marlboro, the festival's active touring program which sends the musicians on the road to perform periodically across the country. At some of the Nation's premier venues, including historic places like the Freer Gallery in Washington and the Metropolitan Museum of Art in New York, the concerts feature the exceptional music heard first in the Marlboro Music Festival.

As this remarkable event approaches again this year, spanning the gorgeous Vermont months of June through August, it is fitting to pause to note the accomplishments of the Musicians From Marlboro and the entire Marlboro Music Festival. For four decades, the festival's touring group has brought their music to every corner of the United States. For four decades, the musicians have set a model of artistic excellence that has inspired other musicians and artists and their audiences. This band of musicians—outwardly casual but hard-driven in their pursuit of beauty and truth in their art—has moved thousands of concert-goers.

The touring group has featured such superb musicians as Rudolph Serkin, Richard Goode, Benita Velente, and Murray Perahia. Performers who went on to make up such noted ensembles as the Guarneri and Emerson String Quartets have received critical early boosts from the Marlboro experience of intensive summers and the tours. Their alumni can be found in many leading orchestras, from the Philadelphia Orchestra to the Chicago Symphony Orchestra.

There is certainly something about Vermont and the Green Mountains that helps inspire the ensemble. Whatever the inspiration, the Musicians From Marlboro are a superb reflection of the best Vermont has to offer.

Vermont is a richer place because of the Marlboro Music Festival, and the festival and its musicians have touched innumerable audiences across the country with their artistry. I know my colleagues join me in congratulating the Marlboro Music Festival and its Musicians From Marlboro on this great achievement of 40 years of touring and in wishing the festival many more happy and sonorous decades to come.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

In the summer of 1988 in Orange County, CA, a group of six youths went on a spree of beatings that police say was targeted at gay men. Robert Joyce testified that while walking along a stretch of coast popular to gay people, he was attacked by the youths. According to police reports, Joyce was beaten for several minutes, including being hit in the head with a 2-inch metal pipe. He required 80 stitches to mend his wounds. During the attack the attackers yelled, "Kill him! kill him! kill the faggot!" The group of youths attacked several other gay men in the area before being apprehended by police.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

PROTECTING AMERICA'S MINERS ACT

Mr. KENNEDY. I am proud to have introduced the Protecting America's Miners Act.

The need for this legislation is clear. This year began with the terrible tragedies at the Sago and Alma mines in West Virginia. Within days of the new year, 14 coal miners had died. In February, I went to West Virginia to meet with some of the families of the men who died. It was one of the most moving visits I have had in my career in the Senate. I left West Virginia with renewed commitment to passing legislation this year to improve safety and health conditions in our Nation's mines. The expert testimony at the HELP Committee hearing on mine safety in March only reinforced my commitment.

I was also deeply moved earlier this month by the West Virginia hearings on the Sago mine disaster and Randal McCloy's letter to his fallen coworkers' families about the conditions in the mine after the explosion. We have lost 26 coal miners so far this year—more than died in all of last year. The victims of these disasters and of prior disasters, like the explosion at Jim Walters No. 5, deserve nothing less than our dedication to making sure that they did not die in vain. The best way we can honor those fallen miners is to act on what we have learned. This bill is an important step in fulfilling that commitment.

There are many things we may still learn from these tragedies. But some lessons are already clear. We have not done enough to provide miners with oxygen and communications needed to survive an emergency. We must strengthen our safety enforcement so companies cannot treat safety violations as simply the cost of doing business. The average fine at the Sago mine was just $156 dollars—less than most parking tickets. And many safety and health standards are woefully outdated.

To address these lessons, this bill requires warning systems to alert miners when the air in the mine is becoming dangerous, before a disaster occurs; the most up-to-date communications and tracking technology in mines as soon as possible so rescuers can locate and direct miners in an emergency; more oxygen stored in mines so miners can survive until they can evacuate or are rescued; rescue chambers so, as a last resort, if miners cannot evacuate, they can safely await rescue in the mine; and increased penalties for repeat violators and minimum penalties.

In addition, some very specific problems at the Sago mine came to light during the hearings this month in West Virginia, such as ineffective equipment, lack of communications, and families' exclusion from the investigation process. To address this, the bill requires companies to check on the reliability of the oxygen stored for use in an emergency; independent investigations and public hearings on serious accidents; and an opportunity for victims' families to participate in accident investigations.

This bill not only tries to learn from past disasters but also looks to the future. The bill includes a program to help MSHA replace its aging inspector workforce. These new safety standards will do no good if MSHA cannot properly staff its inspection teams to ensure that the new standards are being enforced. It also directs Federal research dollars where they are most urgently needed—to develop better breathing apparatus, communications technology, atmospheric warning systems, and mine rescue technology.

We have a responsibility as Members of Congress to see that our mine safety laws make our mines the safest in the world. I urge my colleagues to support the Protecting America's Miners Act.

ADDITIONAL STATEMENTS

HONORING THE HONORABLE CHARLES L. YOUNG, SR.

• Mr. COCHRAN. Mr. President, it is my pleasure to congratulate the Honorable Charles L. Young, Sr. of Meridian, MS, for his 25 years of service as a member of the Mississippi House of Representatives. As chairman of the House Universities and Colleges Committee, he has worked effectively to improve the quality of education in our State.

Representative Young served his country as a member of the U.S. Army during the Korean war and was honored with the Bronze Star for Valor.

He has been recognized by his colleagues as a leader in the field of education, entrepreneurship, and social justice. As a pioneer in the civil rights movement, Representative Young was the first African-American member of the Meridian Chamber of Commerce. He has been a leader in the business community as chief executive officer and President of E.F. Young, Jr., Manufacturing Company, a business that his parents started in 1931.

He was one of the founders of Mississippi Action for Progress, which was the parent organization in our State for Head Start. Mr. Young is also one of the founders of the Greater Meridian Health Clinic, which operates in six locations and has a mobile dental lab.

He is a member of Newell Chapel C.M.E. Church, and he sponsors a tennis camp for over 100 children each year.

Mr. President, I commend Representative Young for his exemplary citizenship and service to the residents of Lauderdale Country and the State of Mississippi. I am proud to be his friend.•

RECOGNITION OF THE 150TH ANNIVERSARY OF THE OWOSSO MASONIC LODGE

• Mr. LEVIN. Mr. President, I would like to take this opportunity to congratulate the Owosso Masonic Lodge on its 150th anniversary. This is a significant milestone, and it is with pleasure that I thank the lodge for its many years of dedicated service to greater Owosso community. Tomorrow, a celebration will be held to commemorate this special occasion.

Service organizations play an important role in American society. These organizations play a key role in building stronger communities, often providing assistance to those most in need. The Owosso Masonic Lodge, which was chartered in January 1856 by the Grand Lodge of Michigan, has served the community well and has much of which to be proud. This lodge has worked to bring groups together over the years and has helped members work to achieve strong ethical standards.

I would also like to join the lodge in showing appreciation for the efforts of the 40-, 50-, and 80-year lodge members, who will be recognized at the celebration tomorrow. Among this group is Mr. George Hoddy, who at 100 years of age continues to be active in working to improve Owosso and the State of Michigan. I would like to recognize his long and distinguished membership in the Owosso Masonic Lodge. Mr. Hoddy's businesses have been a cornerstone of the local economy for many decades.

I know my colleagues join me in thanking the Owosso Masonic Lodge for 150 years of dedication and service to the community, and I wish them the best as they embark on another 150 years of distinguished service.•

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Armed Services.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:25 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5122. An act to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

The message also announced that pursuant to 46 U.S.C. 1295b(h), and the order of the House of December 18, 2005, the Speaker appoints the following Member of the House of Representatives to the Board of Visitors to the United States Merchant Marine Academy: Mrs. McCarthy of New York.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5122. An act to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2007, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 4954. An act to improve maritime and cargo security through enhanced layered defenses, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-6835. A communication from the Administrator, Environmental Protection

Agency, transmitting, the report of draft legislation entitled "Good Samaritan Clean Watershed Act" received on May 11, 2006; to the Committee on Environment and Public Works.

EC–6836. A communication from the Secretary of Energy, transmitting, the report of proposed legislation to provide protection against claims to the independent petroleum engineer retained to assist in the finalization of equity interests in the Naval Petroleum Reserve Elk Hills Unit; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–319. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Kentucky relative to urging support for the "25 by 25" initiative promoting agricultural-based renewable energy; to the Committee on Agriculture, Nutrition, and Forestry.

Resolution

Whereas, having an affordable, reliable, and plentiful energy supply is crucial to our economy, as well as our national and international food supply; and

Whereas, current and future risks to U.S. energy security are mounting, while domestic and global energy demands are escalating; and

Whereas, the Commonwealth of Kentucky has tremendous renewable energy resources; and

Whereas, the development of renewable energy sources, including wind power, biodiesel, biomass, methane digesters, ethanol, and solar, benefits the environment and will have a direct economic benefit to agricultural landowners and rural communities; and

Whereas, agricultural communities and their partners will experience multiple benefits, including establishing additional markets for agricultural commodities; increasing farm income; creating added-value uses for crops, livestock, and their byproducts; and creating new job opportunities; and

Whereas, American agriculture is well positioned to play an expanded role in the development and implementation of new energy solutions; and

Whereas, America's farms and ranches can become the factories that produce a new generation of fuels to help meet the nation's energy needs; and

Whereas, "25 by 25" is an agriculturally led initiative that envisions America's farms and ranches producing 25 percent of America's energy demand by the year 2025, while continuing to produce abundant, safe, and affordable food and fiber; and

Whereas, agriculture's role as an energy producer will have a positive effect on national security and trade imbalances, and will serve as a catalyst for rural development in the Commonwealth of Kentucky; now, therefore, be it

Resolved, by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. We, the members of the Kentucky House of Representatives, support and endorse the vision of "25 by 25" whereby agriculture will provide 25 percent of the total energy consumed in the United States by the year 2025, while continuing to produce abundant, safe, and affordable food and fiber.

Section 2. The Clerk of the House of Representatives is directed to send copies of this Resolution to President George W. Bush, each member of the Kentucky delegation to the Congress of the United States, the Clerk of the United States Senate, the Clerk of the United States House of Representatives, the Secretary of the United States Department of Energy, and the Secretary of the United States Department of Agriculture.

POM–320. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to taking such actions as are necessary to continue funding and operation of the United States Department of Agriculture's Agriculture Research Service located in Baton Rouge, Louisiana; to the Committee on Agriculture, Nutrition, and Forestry.

S. Con. Res. No. 35

Whereas, the unit of the United States Department of Agriculture's Agricultural Research Service (ARS) based at Louisiana State University in Baton Rouge, Louisiana, is carrying out scientific work of critical importance to the state, its economy, and environment; and

Whereas, this research includes work on improvements of agricultural best management practices and drainage systems that will help farmers to improve efficiency of water use and contribute to improving water quality in streams, rivers, and lakes; and

Whereas, a portion of this research is focused on Cabin Teele watershed in Madison Parish, which has been selected as a focus watershed by the United States Department of Agriculture's Conservation Effects Assessment Project and by the Lower Mississippi River Sub-basin Committee on Hypoxia; and

Whereas, this work is also significant on a national level, since this ARS unit has played a leadership role in the formation of the Agricultural Drainage Management Task Force that involves key states and industries in the Midwestern United States; and

Whereas, the work of the Agricultural Drainage Management Task Force is making a critical contribution to reducing nutrient loading to the Mississippi River and its tributaries that fuels the growth of hypoxia in the Gulf of Mexico, the spread of which is endangering Louisiana's coastal fisheries; and

Whereas, this ARS unit continues to collaborate with the university's students, faculty, and researchers, as well as agricultural producers and other stakeholder groups on projects of mutual benefit; now, therefore, be it

Resolved, that the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to continue funding and operation of the United States Department of Agriculture's Agricultural Research Service located in Baton Rouge, Louisiana; and be it further

Resolved, that a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives; to each member of the Louisiana congressional delegation; and to the secretary of the United States Department of Agriculture.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LEVIN (for himself and Ms. Stabenow):

S. 2799. A bill to suspend temporarily the duty on 4-Methoxy-2-methyldiphenylamine; to the Committee on Finance.

By Mr. INHOFE (for himself and Mr. Coburn):

S. 2800. A bill to designate the Department of Veterans Affairs Outpatient Clinic in Tulsa, Oklahoma, as the "Ernest Childers Department of Veterans Affairs Outpatient Clinic"; to the Committee on Veterans' Affairs.

By Mr. ALLARD (for himself and Mr. Salazar):

S. 2801. A bill to amend chapters 83 and 84 of title 5, United States Code, to authorize payments to certain trusts under the Social Security Act, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. ENSIGN (for himself, Mr. Stevens, and Mrs. Hutchison):

S. 2802. A bill to improve American innovation and competitiveness in the global economy; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT:

S. Res. 477. A resolution commemorating the 30th anniversary of the date that Rick Monday heroically rescued the American Flag from being desecrated and recognizing Rick Monday for his courage and patriotism; considered and agreed to.

By Mr. LAUTENBERG:

S. Res. 478. A resolution commemorating the development of the charge-coupled device; considered and agreed to.

By Mr. MENENDEZ (for himself, Mr. Lautenberg, Mr. Feingold, Mrs. Boxer, Mr. Kerry, Mr. Durbin, Mr. Bingaman, Mr. Kennedy, Mr. Inouye, and Mr. Dodd):

S. Res. 479. A resolution supporting the goals and ideas of a National Child Care Worthy Wage Day; considered and agreed to.

ADDITIONAL COSPONSORS

S. 1064

At the request of Mr. Cochran, the name of the Senator from Georgia (Mr. Chambliss) was added as a cosponsor of S. 1064, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1112

At the request of Mr. Grassley, the name of the Senator from Connecticut (Mr. Dodd) was added as a cosponsor of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1353

At the request of Mr. Reid, the name of the Senator from Washington (Mrs. Murray) was added as a cosponsor of S. 1353, a bill to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1687

At the request of Ms. MIKULSKI, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1687, a bill to amend the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

S. 1906

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1906, a bill to amend the Internal Revenue Code of 1986 to exclude property tax rebates and other benefits provided to volunteer firefighters, search and rescue personnel, and emergency medical responders from income and employment taxes and wage withholding.

S. 2035

At the request of Mr. CRAIG, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2035, a bill to extend the time required for construction of a hydroelectric project in the State of Idaho, and for other purposes.

S. 2321

At the request of Mr. SANTORUM, the names of the Senator from South Carolina (Mr. DEMINT), the Senator from Arizona (Mr. KYL) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 2321, a bill to require the Secretary of the Treasury to mint coins in commemoration of Louis Braille.

S. 2369

At the request of Mr. SPECTER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2369, a bill to require a more reasonable period for delayed-notice search warrants, to provide enhanced judicial review of FISA orders and national security letters, to require an enhanced factual basis for a FISA order, and to create national security letter sunset provisions.

S. 2459

At the request of Ms. COLLINS, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 2459, a bill to improve cargo security, and for other purposes.

S. 2491

At the request of Mr. CORNYN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2491, a bill to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

S. 2503

At the request of Mrs. LINCOLN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2503, a bill to amend the Internal Revenue Code of 1986 to provide for an extension of the period of limitation to file claims for refunds on account of disability determinations by the Department of Veterans Affairs.

S. 2512

At the request of Mr. DEMINT, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 2512, a bill to empower States with authority for most taxing and spending for highway programs and mass transit programs, and for other purposes.

S. 2653

At the request of Mr. STEVENS, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2653, a bill to direct the Federal Communications Commission to make efforts to reduce telephone rates for Armed Forces personnel deployed overseas.

S. 2658

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2658, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

At the request of Mr. LEAHY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2658, supra.

At the request of Mr. BOND, the names of the Senator from South Carolina (Mr. DEMINT) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 2658, supra.

S. 2681

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2681, a bill to amend title 10, United States Code, to provide for reports on the withdrawal or diversion of equipment from Reserve units to other Reserve units being mobilized, and for other purposes.

S. 2697

At the request of Mr. LUGAR, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2697, a bill to establish the position of the United States Ambassador for ASEAN.

S. 2703

At the request of Mr. SPECTER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2703, a bill to amend the Voting Rights Act of 1965.

S. 2723

At the request of Mr. LAUTENBERG, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2723, a bill to amend title XVIII of the Social Security Act to require the sponsor of a prescription drug plan or an organization offering an MA–PD plan to promptly pay claims submitted under part D, and for other purposes.

S. 2783

At the request of Mr. LOTT, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2783, a bill to amend the Federal Water Pollution Control Act to expand and strengthen cooperative efforts to monitor, restore, and protect the resource productivity, water quality, and marine ecosystems of the Gulf of Mexico.

S. 2795

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 2795, a bill to exclude from admission to the United States aliens who have made investments contributing to the enhancement of the ability of Cuba to develop its petroleum resources, and for other purposes.

S. CON. RES. 84

At the request of Mr. KYL, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. Con. Res. 84, a concurrent resolution expressing the sense of Congress regarding a free trade agreement between the United States and Taiwan.

S. RES. 313

At the request of Mr. FRIST, his name was added as a cosponsor of S. Res. 313, a resolution expressing the sense of the Senate that a National Methamphetamine Prevention Week should be established to increase awareness of methamphetamine and to educate the public on ways to help prevent the use of that damaging narcotic.

S. RES. 472

At the request of Mr. SPECTER, his name and the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of S. Res. 472, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INHOFE (for himself and Mr. COBURN):

S. 2800. A bill to designate the Department of Veterans Affairs Outpatient Clinic in Tulsa, Oklahoma, as the "Ernest Childers Department of Veterans Affairs Outpatient Clinic"; to the Committee on Veterans' Affairs.

Mr. INHOFE. Mr. President, I rise today for myself and on the behalf of my colleague, Dr. COBURN, to introduce a bill to honor the memory an American hero and proud son from our great state of Oklahoma. Ernest Childers was the first Native American to receive the Congressional Medal of Honor. This is our Nation's highest military award and it was awarded to him by Congress "for conspicuous gallantry and intrepidity at risk of life above and beyond the call of duty in action."

Ernest Childers was born in Broken Arrow, OK, on February 1, 1918, as the third of five children. His father died when he was young and he grew up mostly on a farm. His hunting skills in his youth provided much of the food for his family and formed the basis of a great military career.

Ernest Childers enlisted in the Oklahoma National Guard in 1937 while attending the Chilocco Indian School in north-central Oklahoma. He then went to Fort Sill in Lawton, OK, for basic training before being deployed to Africa in World War II. On September 22, 1943, despite a broken instep that forced him to crawl, 2nd Lieutenant Childers advanced against enemy machine gun nests in Oliveto, Italy, killing two snipers and capturing an enemy mortar observer in the process. His actions were instrumental in helping the Americans win the Battle of Oliveto and won him the Congressional Medal of Honor. He continued his career in the Army earning several other military awards including the Combat Infantry Badge, Europe and Africa Campaign Medals, The Purple Heart, The Bronze Star, and the Oklahoma Distinguished Service Cross. He retired from the Army in August of 1965 as a Lieutenant Colonel in Oklahoma's 45th Infantry Division.

Ernest Childers passed away on March 17, 2005 and was Oklahoma's last Congressional Medal of Honor winner still living in the state. He was an honored guest of many Presidential Inaugurations and as a Creek Indian, was named Oklahoma's Most Outstanding Indian by the Tulsa Chapter of the Council of American Indians in 1966. He once said "The American Indian has only one country to defend, and when you're picked on, the American Indian never turns his back." Mr. President, I am proud and believe it is only appropriate to introduce a bill to rename the Department of Veterans Affairs' Outpatient Clinic in Tulsa, Oklahoma, the Ernest Childers Department of Veterans Affairs Outpatient Clinic to honor the enduring legacy of a true hero and fine soldier.

SUBMITTED RESOLUTONS

SENATE RESOLUTION 477—COMMEMORATING THE 30TH ANNIVERSARY OF THE DATE THAT RICK MONDAY HEROICALLY RESCUED THE AMERICAN FLAG FROM BEING DESECRATED AND RECOGNIZING RICK MONDAY FOR HIS COURAGE AND PATRIOTISM

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 477

Whereas, on April 25, 1976, Rick Monday played centerfield for the Chicago Cubs in a game against the Los Angeles Dodgers at Dodger Stadium;

Whereas, during the 4th inning of that game, 2 individuals ran onto the outfield of Dodger Stadium, doused an American Flag with lighter fluid, and attempted to set the Flag on fire;

Whereas, once Rick Monday recognized that those individuals were about to publicly desecrate the American Flag, he quickly ran towards those individuals and grabbed the American Flag from them just as they were attempting to place a lit match on to the Flag;

Whereas the patriotic act of Rick Monday to rescue the American Flag inspired—

(1) the crowd at Dodger Stadium to stand in ovation and spontaneously begin singing "God Bless America";

(2) millions of citizens throughout the United States, especially those citizens who were serving or had served in the Armed Forces; and

(3) citizens of the United States who today continue look to the Flag as a symbol of liberty and justice;

Whereas Rick Monday, after reflecting on his act of rescuing the American Flag, said: "That flag represents all the rights and freedoms that we have in this country. If you desecrate the flag, you desecrate the efforts of all the people who fought and died to protect those rights and freedoms.";

Whereas the Major League Baseball Hall of Fame recognizes the actions taken by Rick Monday when he saved the American Flag as 1 of the 100 Classic Moments in the history of baseball;

Whereas Rick Monday served the United States honorably and courageously in the Marine Corps Reserve for over 6 years;

Whereas Rick Monday was a 2-time Major League Baseball All-Star during his distinguished, 19-year career; and

Whereas April 25, 2006, marked the 30th anniversary of the date that Rick Monday saved the American Flag from being desecrated: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the 30th anniversary of the date that Rick Monday heroically rescued the American Flag from being desecrated;

(2) recognizes Rick Monday for—

(A) his courage and patriotism;

(B) upholding the noble ideals and freedoms represented by the American Flag; and

(C) honoring the men and women whose sacrifices have protected those ideals and freedoms;

(3) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) Rick Monday;

(B) the National Baseball Hall of Fame and Museum in Cooperstown, New York;

(C) the Commissioner of Major League Baseball, Bud Selig;

(D) the owner of the Los Angeles Dodgers owner, Frank McCourt; and

(E) the owner of the Chicago Cubs, the Tribune Company.

SENATE RESOLUTION 478—COMMEMORATING THE DEVELOPMENT OF THE CHARGE-COUPLED DEVICE

Mr. LAUTENBURG submitted the following resolution; which was considered and agreed to:

S. RES. 478

Whereas charge-coupled device (commonly referred to as "CCD") technology revolutionized imaging equipment and has significantly affected society by improving quality of life and the technological capabilities of everyday tools and equipment;

Whereas the CCD is widely used in technology, including digital cameras, video recorders, space-based telescopes, satellites, and medical imaging devices;

Whereas Willard S. Boyle of Halifax, Nova Scotia, and George E. Smith of New Barnegat, New Jersey, have advanced society through their development of the CCD while working at the Murray Hill, New Jersey, Bell Labs site in 1969; and

Whereas Mr. Boyle and Mr. Smith have been awarded the 2006 Charles Stark Draper Prize by the National Academy of Engineering and inducted into the Nation Inventors Hall of Fame for their invention: Now, therefore, be it

Resolved, That the Senate commemorates the development of the charge-coupled device.

SENATE RESOLUTION 479—SUPPORTING THE GOALS AND IDEAS OF A CHILD CARE WORTHY WAGE DAY

Mr. MENENDEZ (for himself, Mr. LAUTENBERG, Mr. FEINGOLD, Mrs. BOXER, Mr. KERRY, Mr. DURBIN, Mr. BINGAMAN, Mr. KENNEDY, Mr. INOUYE, and Mr. DODD) submitted the following resolution; which was considered and agreed to:

S. RES. 479

Whereas approximately 13,000,0000 children are in nonparental care during part or all of the day while their parents work;

Whereas the early care and education industry employs more than 2,000,000 workers;

Whereas these workers indirectly add $580,000,000,000 to the economy by enabling millions of parents to perform their own jobs;

Whereas the average salary of early care and education workers is $18,060 per year, and only ⅓ have health insurance and even fewer have a pension plan;

Whereas the quality of early care and education programs is directly linked to the quality of early childhood educators;

Whereas the turnover rate of early childhood program staff is roughly 30 percent per year, and low wages and lack of benefits, among other factors, make it difficult to retain high quality educators who have the consistent, caring relationships with young children that are important to children's development;

Whereas the compensation of early childhood program staff should be commensurate with the importance of the job of helping the young children of the Nation develop their social, emotional, physical, and intellectual skills, and be ready for school;

Whereas providing adequate compensation to early childhood program staff should be a priority, and resources may be allocated to improve the compensation of early childhood educators to ensure that quality care and education are accessible to all families;

Whereas additional training and education for the child care workforce is critical to ensuring high-quality early learning environments, and whereas child care workers should receive compensation commensurate with such training and experience; and

Whereas the Center for the Child Care Workforce, A Project of the American Federation of Teachers Educational Foundation and other early childhood organizations recognized May 1 as National Child Care Worthy Wage Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 1, 2006, as National Child Care Worthy Wage Day, and

(2) calls on the people of the United States to observe National Child Care Worthy Wage Day by honoring early childhood care and education staff and programs in their communities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3960. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table.

SA 3961. Mr. CORNYN (for Mr. ISAKSON) proposed an amendment to the bill S. 2611, supra.

SA 3962. Mr. CORNYN (for Mr. KYL (for himself and Mr. CORNYN)) submitted an amendment intended to be proposed by Mr. CORNYN to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3963. Mr. VITTER (for himself, Mr. CHAMBLISS, Mr. GRASSLEY, and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3964. Mr. VITTER (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3965. Mr. CORNYN (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3966. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3967. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3968. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3969. Mr. KYL (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3970. Mr. KYL (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3971. Mr. OBAMA (for himself, Mrs. FEINSTEIN, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3972. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3973. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3974. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3975. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3976. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3977. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3978. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3979. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3980. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3981. Mr. BINGAMAN (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3982. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3983. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3984. Mr. LEVIN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3985. Mr. ENSIGN (for himself, Mr. SANTORUM, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3986. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3987. Mr. GRASSLEY (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3988. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3989. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3990. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3991. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3992. Mr. GRASSLEY (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3993. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3960. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VIII—WARTIME TREATMENT STUDY ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Wartime Treatment Study Act".

SEC. 802. FINDINGS.

Congress makes the following findings:

(1) During World War II, the United States successfully fought the spread of Nazism and fascism by Germany, Italy, and Japan.

(2) Nazi Germany persecuted and engaged in genocide against Jews and certain other groups. By the end of the war, 6,000,000 Jews had perished at the hands of Nazi Germany. United States Government policies, however, restricted entry to the United States to Jewish and other refugees who sought safety from Nazi persecution.

(3) While we were at war, the United States treated the Japanese American, German American, and Italian American communities as suspect.

(4) The United States Government should conduct an independent review to assess fully and acknowledge these actions. Congress has previously reviewed the United States Government's wartime treatment of Japanese Americans through the Commission on Wartime Relocation and Internment of Civilians. An independent review of the treatment of German Americans and Italian Americans and of Jewish refugees fleeing persecution and genocide has not yet been undertaken.

(5) During World War II, the United States Government branded as "enemy aliens" more than 600,000 Italian-born and 300,000 German-born United States resident aliens and their families and required them to carry Certificates of Identification, limited their travel, and seized their personal property. At that time, these groups were the two largest foreign-born groups in the United States.

(6) During World War II, the United States Government arrested, interned or otherwise detained thousands of European Americans, some remaining in custody for years after cessation of World War II hostilities, and repatriated, exchanged, or deported European Americans, including American-born children, to hostile, war-torn European Axis nations, many to be exchanged for Americans held in those nations.

(7) Pursuant to a policy coordinated by the United States with Latin American countries, many European Latin Americans, including German and Austrian Jews, were captured, shipped to the United States and interned. Many were later expatriated, repatriated or deported to hostile, war-torn European Axis nations during World War II, most to be exchanged for Americans and Latin Americans held in those nations.

(8) Millions of European Americans served in the armed forces and thousands sacrificed their lives in defense of the United States.

(9) The wartime policies of the United States Government were devastating to the Italian Americans and German American communities, individuals and their families. The detrimental effects are still being experienced.

(10) Prior to and during World War II, the United States restricted the entry of Jewish refugees who were fleeing persecution and sought safety in the United States. During the 1930's and 1940's, the quota system, immigration regulations, visa requirements, and the time required to process visa applications affected the number of Jewish refugees,

particularly those from Germany and Austria, who could gain admittance to the United States.

(11) Time is of the essence for the establishment of commissions, because of the increasing danger of destruction and loss of relevant documents, the advanced age of potential witnesses and, most importantly, the advanced age of those affected by the United States Government's policies. Many who suffered have already passed away and will never know of this effort.

SEC. 803. DEFINITIONS.

In this title:

(1) During World War II.—The term "during World War II" refers to the period between September 1, 1939, through December 31, 1948.

(2) European Americans.—

(A) In general.—The term "European Americans" refers to United States citizens and permanent resident aliens of European ancestry, including Italian Americans, German Americans, Hungarian Americans, Romanian Americans, and Bulgarian Americans.

(B) Italian Americans.—The term "Italian Americans" refers to United States citizens and permanent resident aliens of Italian ancestry.

(C) German Americans.—The term "German Americans" refers to United States citizens and permanent resident aliens of German ancestry.

(3) European Latin Americans.—The term "European Latin Americans" refers to persons of European ancestry, including Italian or German ancestry, residing in a Latin American nation during World War II.

CHAPTER 1—COMMISSION ON WARTIME TREATMENT OF EUROPEAN AMERICANS

SEC. 811. ESTABLISHMENT OF COMMISSION ON WARTIME TREATMENT OF EUROPEAN AMERICANS.

(a) In General.—There is established the Commission on Wartime Treatment of European Americans (referred to in this chapter as the "European American Commission").

(b) Membership.—The European American Commission shall be composed of 7 members, who shall be appointed not later than 90 days after the date of enactment of this Act as follows:

(1) Three members shall be appointed by the President.

(2) Two members shall be appointed by the Speaker of the House of Representatives, in consultation with the minority leader.

(3) Two members shall be appointed by the majority leader of the Senate, in consultation with the minority leader.

(c) Terms.—The term of office for members shall be for the life of the European American Commission. A vacancy in the European American Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(d) Representation.—The European American Commission shall include 2 members representing the interests of Italian Americans and 2 members representing the interests of German Americans.

(e) Meetings.—The President shall call the first meeting of the European American Commission not later than 120 days after the date of enactment of this Act.

(f) Quorum.—Four members of the European American Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) Chairman.—The European American Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the European American Commission.

(h) Compensation.—

(1) In general.—Members of the European American Commission shall serve without pay.

(2) Reimbursement of expenses.—All members of the European American Commission shall be reimbursed for reasonable travel and subsistence, and other reasonable and necessary expenses incurred by them in the performance of their duties.

SEC. 812. DUTIES OF THE EUROPEAN AMERICAN COMMISSION.

(a) In General.—It shall be the duty of the European American Commission to review the United States Government's wartime treatment of European Americans and European Latin Americans as provided in subsection (b).

(b) Scope of Review.—The European American Commission's review shall include the following:

(1) A comprehensive review of the facts and circumstances surrounding United States Government actions during World War II that violated the civil liberties of European Americans and European Latin Americans pursuant to the Alien Enemies Acts (50 U.S.C. 21–24), Presidential Proclamations 2526, 2527, 2655, 2662, Executive Orders 9066 and 9095, and any directive of the United States Government pursuant to such law, proclamations, or executive orders respecting the registration, arrest, exclusion, internment, exchange, or deportment of European Americans and European Latin Americans. This review shall include an assessment of the underlying rationale of the United States Government's decision to develop related programs and policies, the information the United States Government received or acquired suggesting the related programs and policies were necessary, the perceived benefit of enacting such programs and policies, and the immediate and long-term impact of such programs and policies on European Americans and European Latin Americans and their communities.

(2) A review of United States Government action with respect to European Americans pursuant to the Alien Enemies Acts (50 U.S.C. 21-24) and Executive Order 9066 during World War II, including registration requirements, travel and property restrictions, establishment of restricted areas, raids, arrests, internment, exclusion, policies relating to the families and property that excludees and internees were forced to abandon, internee employment by American companies (including a list of such companies and the terms and type of employment), exchange, repatriation, and deportment, and the immediate and long-term effect of such actions, particularly internment, on the lives of those affected. This review shall include a list of all temporary detention and long-term internment facilities.

(3) A brief review of the participation by European Americans in the United States Armed Forces including the participation of European Americans whose families were excluded, interned, repatriated, or exchanged.

(4) A recommendation of appropriate remedies, including how civil liberties can be better protected during war, or an actual, attempted, or threatened invasion or incursion, an assessment of the continued viability of the Alien Enemies Acts (50 U.S.C. 21–24), and public education programs related to the United States Government's wartime treatment of European Americans and European Latin Americans during World War II.

(c) Field Hearings.—The European American Commission shall hold public hearings in such cities of the United States as it deems appropriate.

(d) Report.—The European American Commission shall submit a written report of its findings and recommendations to Congress not later than 18 months after the date of the first meeting called pursuant to section 811(e).

SEC. 813. POWERS OF THE EUROPEAN AMERICAN COMMISSION.

(a) In General.—The European American Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this chapter, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandum, papers, and documents as the Commission or such subcommittee or member may deem advisable. The European American Commission may request the Attorney General to invoke the aid of an appropriate United States district court to require, by subpoena or otherwise, such attendance, testimony, or production.

(b) Government Information and Cooperation.—The European American Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information that the European American Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the European American Commission and furnish all information requested by the European American Commission to the extent permitted by law, including information collected as a result of Public Law 96–317 and Public Law 106–451. For purposes of the Privacy Act (5 U.S.C. 552a(b)(9)), the European American Commission shall be deemed to be a committee of jurisdiction.

SEC. 814. ADMINISTRATIVE PROVISIONS.

The European American Commission is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the rate payable under GS–15 of the General Schedule under section 5332 of such title;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of such title;

(3) obtain the detail of any Federal Government employee, and such detail shall be without reimbursement or interruption or loss of civil service status or privilege;

(4) enter into agreements with the Administrator of General Services for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator;

(5) procure supplies, services, and property by contract in accordance with applicable laws and regulations and to the extent or in such amounts as are provided in appropriation Acts; and

(6) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission, to the extent or in such amounts as are provided in appropriation Acts.

SEC. 815. FUNDING.

Of the amounts authorized to be appropriated to the Department of Justice, $500,000 shall be available to carry out this chapter.

SEC. 816. SUNSET.

The European American Commission shall terminate 60 days after it submits its report to Congress.

CHAPTER 2—COMMISSION ON WARTIME TREATMENT OF JEWISH REFUGEES

SEC. 821. ESTABLISHMENT OF COMMISSION ON WARTIME TREATMENT OF JEWISH REFUGEES.

(a) IN GENERAL.—There is established the Commission on Wartime Treatment of Jewish Refugees (referred to in this chapter as the "Jewish Refugee Commission").

(b) MEMBERSHIP.—The Jewish Refugee Commission shall be composed of 7 members, who shall be appointed not later than 90 days after the date of enactment of this Act as follows:

(1) Three members shall be appointed by the President.

(2) Two members shall be appointed by the Speaker of the House of Representatives, in consultation with the minority leader.

(3) Two members shall be appointed by the majority leader of the Senate, in consultation with the minority leader.

(c) TERMS.—The term of office for members shall be for the life of the Jewish Refugee Commission. A vacancy in the Jewish Refugee Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(d) REPRESENTATION.—The Jewish Refugee Commission shall include 2 members representing the interests of Jewish refugees.

(e) MEETINGS.—The President shall call the first meeting of the Jewish Refugee Commission not later than 120 days after the date of enactment of this Act.

(f) QUORUM.—Four members of the Jewish Refugee Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) CHAIRMAN.—The Jewish Refugee Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the Jewish Refugee Commission.

(h) COMPENSATION.—

(1) IN GENERAL.—Members of the Jewish Refugee Commission shall serve without pay.

(2) REIMBURSEMENT OF EXPENSES.—All members of the Jewish Refugee Commission shall be reimbursed for reasonable travel and subsistence, and other reasonable and necessary expenses incurred by them in the performance of their duties.

SEC. 822. DUTIES OF THE JEWISH REFUGEE COMMISSION.

(a) IN GENERAL.—It shall be the duty of the Jewish Refugee Commission to review the United States Government's refusal to allow Jewish and other refugees fleeing persecution in Europe entry to the United States as provided in subsection (b).

(b) SCOPE OF REVIEW.—The Jewish Refugee Commission's review shall cover the period between January 1, 1933, through December 31, 1945, and shall include, to the greatest extent practicable, the following:

(1) A review of the United States Government's refusal to allow Jewish and other refugees fleeing persecution and genocide entry to the United States, including a review of the underlying rationale of the United States Government's decision to refuse the Jewish and other refugees entry, the information the United States Government received or acquired suggesting such refusal was necessary, the perceived benefit of such refusal, and the impact of such refusal on the refugees.

(2) A review of Federal refugee policy relating to those fleeing persecution or genocide, including recommendations for making it easier for future victims of persecution or genocide to obtain refuge in the United States.

(c) FIELD HEARINGS.—The Jewish Refugee Commission shall hold public hearings in such cities of the United States as it deems appropriate.

(d) REPORT.—The Jewish Refugee Commission shall submit a written report of its findings and recommendations to Congress not later than 18 months after the date of the first meeting called pursuant to section 821(e).

SEC. 823. POWERS OF THE JEWISH REFUGEE COMMISSION.

(a) IN GENERAL.—The Jewish Refugee Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this chapter, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandum, papers, and documents as the Commission or such subcommittee or member may deem advisable. The Jewish Refugee Commission may request the Attorney General to invoke the aid of an appropriate United States district court to require, by subpoena or otherwise, such attendance, testimony, or production.

(b) GOVERNMENT INFORMATION AND COOPERATION.—The Jewish Refugee Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information that the Jewish Refugee Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Jewish Refugee Commission and furnish all information requested by the Jewish Refugee Commission to the extent permitted by law, including information collected as a result of Public Law 96–317 and Public Law 106–451. For purposes of the Privacy Act (5 U.S.C. 552a(b)(9)), the Jewish Refugee Commission shall be deemed to be a committee of jurisdiction.

SEC. 824. ADMINISTRATIVE PROVISIONS.

The Jewish Refugee Commission is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the rate payable under GS–15 of the General Schedule under section 5332 of such title;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of such title;

(3) obtain the detail of any Federal Government employee, and such detail shall be without reimbursement or interruption or loss of civil service status or privilege;

(4) enter into agreements with the Administrator of General Services for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator;

(5) procure supplies, services, and property by contract in accordance with applicable laws and regulations and to the extent or in such amounts as are provided in appropriation Acts; and

(6) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission, to the extent or in such amounts as are provided in appropriation Acts.

SEC. 825. FUNDING.

Of the amounts authorized to be appropriated to the Department of Justice, $500,000 shall be available to carry out this chapter.

SEC. 826. SUNSET.

The Jewish Refugee Commission shall terminate 60 days after it submits its report to Congress.

SA 3961. Mr. CORNYN (for Mr. ISAKSON) proposed an amendment to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; as follows:

On page 53, between lines 14 and 15, insert the following:

SEC. 133. BORDER SECURITY CERTIFICATION.

The Secretary may not implement any program authorized by this Act, or by amendments made under this Act, which grants legal status to any individual, or adjusts the current status of any individual, who enters or entered the United States in violation of Federal law unless the Secretary has submitted a written certification to the President and Congress that the border security measures authorized under Title I and the increases in Federal detention space authorized under section 233 have been fully completed and are fully operational.

SA 3962. Mr. CORNYN (for Mr. KYL (for himself and Mr. CORNYN)) submitted an amendment intended to be proposed by Mr. CORNYN to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 358, line 3, insert "(other than subparagraph (C)(i)(II))" after "(9)".

On page 359, strike lines 9 through 12, and insert the following:

"(6) INELIGIBILITY.—

"(A) IN GENERAL.—An alien is ineligible for adjustment to lawful permanent resident status under this section if—

"(i) the alien has been ordered removed from the United States—

"(I) for overstaying the period of authorized admission under section 217;

"(II) under section 235 or 238; or

"(III) pursuant to a final order of removal under section 240;

"(ii) the alien failed to depart the United States during the period of a voluntary departure order issued under section 240B;

"(iii) the Secretary of Homeland Security determines that—

"(I) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

"(II) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

"(III) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(iv) the alien has been convicted of a felony or 3 or more misdemeanors.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), an alien who has not been ordered removed from the United States shall remain eligible for adjustment to lawful permanent resident status under this section if the alien's ineligibility under subparagraph (A) is solely related to the alien's—

"(i) entry into the United States without inspection;

"(ii) remaining in the United States beyond the period of authorized admission; or

"(iii) failure to maintain legal status while in the United States.

"(C) WAIVER.—The Secretary may, in the Secretary's sole and unreviewable discretion, waive the application of subparagraph (A) if the alien—

"(i) demonstrates that the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 239(a); or

"(ii) establishes that the alien's failure to appear was due to exceptional circumstances beyond the control of the alien, such as serious illness of the alien or serious illness or death of the spouse, child, or parent of the alien.

On page 376, strike lines 13 through 20 and insert the following:

"(4) INELIGIBILITY.—

"(A) IN GENERAL.—The alien is ineligible for Deferred Mandatory Departure status if the alien—

"(i) has been ordered removed from the United States—

"(I) for overstaying the period of authorized admission under section 217;

"(II) under section 235 or 238; or

"(III) pursuant to a final order of removal under section 240;

"(ii) the alien failed to depart the United States during the period of a voluntary departure order issued under section 240B;

"(iii) the Secretary of Homeland Security determines that—

"(I) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

"(II) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

"(III) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(iv) the alien has been convicted of a felony or 3 or more misdemeanors.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), an alien who has not been ordered removed from the United States shall remain eligible for adjustment to lawful permanent resident status under this section if the alien's ineligibility under subparagraph (A) is solely related to the alien's—

"(i) entry into the United States without inspection;

"(ii) remaining in the United States beyond the period of authorized admission; or

"(iii) failure to maintain legal status while in the United States.

"(C) WAIVER.—The Secretary may, in the Secretary's sole and unreviewable discretion, waive the application of subparagraph (A) if the alien—

"(i) demonstrates that the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 239(a); or

"(ii) establishes that the alien's failure to appear was due to exceptional circumstances beyond the control of the alien, such as serious illness of the alien or serious illness or death of the spouse, child, or parent of the alien.

SA 3963. Mr. VITTER (for himself, Mr. CHAMBLISS, Mr. GRASSLEY, and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 601 through 614.

SA 3964. Mr. VITTER (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 350, strike line 1 and all that follows through "inference." on page 351, line 1, and insert the following:

"(II) OTHER DOCUMENTS.—An alien who is unable to submit a document described in subclause (I) may satisfy the requirement in clause (i) by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment for each required period of employment, including—

"(aa) bank records;

"(bb) business records;

"(cc) sworn affidavits from non-relatives who have direct knowledge of the alien's work, including the name, address, and phone number of the affiant, the nature and duration of the relationship between the affiant and the alien, and other verification information; or

"(dd) remittance records.

"(v) BURDEN OF PROOF.—An alien applying for adjustment of status under this subsection has the burden of proving by a preponderance of the evidence that the alien has satisfied the employment requirements in clause (i).

On page 374, line 22, insert after "work" the following: ", including the name, address, and phone number of the affiant, the nature and duration of the relationship between the affiant and the alien, and other verification information"

SA 3965. Mr. CORNYN (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 295, strike lines 14 through 16 and insert the following:

"(B) by the alien, if—

"(i) the alien has maintained such nonimmigrant status in the United States for a continuous period of not less than 4 years;

"(ii) an employer attests that the employer will employ the alien in the offered job position; and

"(iii) the Secretary of Labor determines and certifies that there are not sufficient United States workers who are able, willing, qualified, and available to fill the job position.

SA 3966. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . NULLIFICATION OF EXECUTIVE ORDER AND PROHIBITION OF FUNDS.

(a) NULLIFICATION OF EFFECT OF EXECUTIVE ORDER.—Executive Order 13166, issued August 16, 2000 (65 Fed. Reg. 50121) (relating to improving access to services for persons with limited English proficiency), is null and void and shall have no force or effect.

(b) PROHIBITION AGAINST USE OF FUNDS FOR CERTAIN PURPOSES.—No funds appropriated pursuant to any provision of law may be used to promulgate or enforce any executive order that creates an entitlement to services provided in any language other than English.

SA 3967. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 642 and 643.

SA 3968. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . COMPREHENSIVE METHAMPHETAMINE PLAN.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the President, in coordination with the Secretary of State, the Attorney General, and the Secretary of Homeland Security, shall submit to the Chairman of Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives a formal plan that outlines the diplomatic, law enforcement, and other procedures that the Federal Government should implement to reduce the amount of Methamphetamine being trafficked into the United States.

(b) CONTENTS OF PLAN.—The plan under subsection (a) shall, at a minimum, include—

(1) a specific timeline for engaging elected and diplomatic officials in a bilateral process focused on developing a framework to reduce the inflow of Methamphetamine into the United States;

(2) a specific plan to engage the 5 countries who export the most psuedoephedrine, ephedrine, phenylpropanolamine, and other such Methamphetamine precursor chemicals during calendar year preceding the year in which the plan is prepared; and

(3) a specific plan to outline what, if any, additional funding is needed to secure the border, ports of entry, or any other Methamphetamine trafficking windows that are currently being exploited by Methamphetamine traffickers.

(c) GAO Report.—Not later than 100 days after the date of enactment of this Act, the Government Accountability Office shall prepare and submit to the committees of Congress referred to in subsection (a), a report to determine whether the President is in compliance with this section.

SA 3969. Mr. KYL (for himself and Mr. Cornyn) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 295, strike line 8 and all that follows through page 297, line 2, and insert the following:

"(n) Notwithstanding any other provision of this Act, an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) is ineligible for and may not apply for adjustment of status under this section on the basis of such status.".

SA 3970. Mr. KYL (for himself and Mr. Cornyn) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 358, line 3, insert "(other than subparagraph (C)(i)(II))" after "(9)".

On page 359, strike lines 9 through 12, and insert the following:

"(6) Ineligibility.—

"(A) In general.—An alien is ineligible for adjustment to lawful permanent resident status under this section if—

"(i) the alien has been ordered removed from the United States—

"(I) for overstaying the period of authorized admission under section 217;

"(II) under section 235 or 238; or

"(III) pursuant to a final order of removal under section 240;

"(ii) the alien failed to depart the United States during the period of a voluntary departure order issued under section 240B;

"(iii) the Secretary of Homeland Security determines that—

"(I) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

"(II) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

"(III) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(iv) the alien has been convicted of a felony or 3 or more misdemeanors.

"(B) Exception.—Notwithstanding subparagraph (A), an alien who has not been ordered removed from the United States shall remain eligible for adjustment to lawful permanent resident status under this section if the alien's ineligibility under subparagraph (A) is solely related to the alien's—

"(i) entry into the United States without inspection;

"(ii) remaining in the United States beyond the period of authorized admission; or

"(iii) failure to maintain legal status while in the United States.

"(C) Waiver.—The Secretary may, in the Secretary's sole and unreviewable discretion, waive the application of subparagraph (A) if the alien—

"(i) demonstrates that the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 239(a); or

"(ii) establishes that the alien's failure to appear was due to exceptional circumstances beyond the control of the alien, such as serious illness of the alien or serious illness or death of the spouse, child, or parent of the alien.

On page 376, strike lines 13 through 20 and insert the following:

"(4) Ineligibility.—

"(A) In general.—The alien is ineligible for Deferred Mandatory Departure status if the alien—

"(i) has been ordered removed from the United States—

"(I) for overstaying the period of authorized admission under section 217;

"(II) under section 235 or 238; or

"(III) pursuant to a final order of removal under section 240;

"(ii) the alien failed to depart the United States during the period of a voluntary departure order issued under section 240B;

"(iii) the Secretary of Homeland Security determines that—

"(I) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

"(II) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

"(III) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(iv) the alien has been convicted of a felony or 3 or more misdemeanors.

"(B) Exception.—Notwithstanding subparagraph (A), an alien who has not been ordered removed from the United States shall remain eligible for adjustment to lawful permanent resident status under this section if the alien's ineligibility under subparagraph (A) is solely related to the alien's—

"(i) entry into the United States without inspection;

"(ii) remaining in the United States beyond the period of authorized admission; or

"(iii) failure to maintain legal status while in the United States.

"(C) Waiver.—The Secretary may, in the Secretary's sole and unreviewable discretion, waive the application of subparagraph (A) if the alien—

"(i) demonstrates that the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 239(a); or

"(ii) establishes that the alien's failure to appear was due to exceptional circumstances beyond the control of the alien, such as serious illness of the alien or serious illness or death of the spouse, child, or parent of the alien.

SA 3971. Mr. OBAMA (for himself, Mrs. Feinstein, and Mr. Bingaman) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 266, strike line 13 and all that follows through 267, line 3, and insert the following:

"(C) Prevailing wage level.—For purposes of subparagraph (A)(ii), the prevailing wage level shall be determined in accordance as follows:

"(i) If the job opportunity is covered by a collective bargaining agreement between a union and the employer, the prevailing wage shall be the wage rate set forth in the collective bargaining agreement.

"(ii) If the job opportunity is not covered by such an agreement and it is in an occupation that is covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing wage level shall be the appropriate statutory wage.

"(iii)(I) If the job opportunity is not covered by such an agreement and it is in an occupation that is not covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing wage level shall be based on published wage data for the occupation from the Bureau of Labor Statistics, including the Occupational Employment Statistics survey, Current Employment Statistics data, National Compensation Survey, and Occupational Employment Projections program. If the Bureau of Labor Statistics does not have wage data applicable to such occupation, the employer may base the prevailing wage level on another wage survey approved by the Secretary of Labor.

"(II) The Secretary shall promulgate regulations applicable to approval of such other wage surveys that require, among other things, that the Bureau of Labor Statistics determine such surveys are statistically viable.

On page 273, line 7, strike "unskilled and low-skilled workers" and insert "workers who have not completed any education beyond a high school diploma".

On page 273, line 9, strike "11.0" and insert "9.0".

SA 3972. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 307, strike line 1 and all that follows through page 313, line 22.

SA 3973. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 336, line 4, insert "and" after the semicolon at the end.

On page 336, strike line 5 and all that follows through "(4)" on line 7, and insert "(3)".

On page 336, line 13, strike "degree.'." and insert "degree; and".

On page 336, between lines 13 and 14, insert the following:

"(v) an alien who maintains actual residence and place of abode in the alien's country of nationality, who is described in clause (i), except that the alien's actual course of study may involve a distance learning program, for which the alien is temporarily visiting the United States for a period not to exceed 30 days.".

SA 3974. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. INADMISSIBILITY EXCEPTION FOR ALIENS WHO INVOLUNTARILY PROVIDE MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS.

Section 212(a)(3)(B) (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (vi)(III), by striking "not, which" and inserting "not, that the Secretary of the State, in consultation with or upon the request of the Attorney General or the Secretary of Homeland Security, has certified"; and

(2) by adding at the end the following:

"(vii) EXCEPTION FOR INVOLUNTARY MATERIAL SUPPORT.—An individual shall not be considered to have provided material support for a terrorist organization or activity under clause (iv)(VI) if the individual establishes, to the satisfaction of the Secretary of State, the Attorney General, or the Secretary of Homeland Security, that such support was involuntary or provided to protect the alien or another person from the use of, or the threat of, unlawful force that a reasonable person in the alien's situation would not have resisted.".

SA 3975. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 8, between lines 20 and 21, insert the following:

(3) RECRUITMENT OF FORMER MILITARY PERSONNEL.—

(A) IN GENERAL.—The Commissioner of United States Customs and Border Protection, in conjunction with the Secretary of Defense or a designee of the Secretary of Defense, shall establish a program to actively recruit members of the Army, Navy, Air Force, Marine Corps, and Coast Guard who have elected to separate from active duty.

(B) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commissioner shall submit a report on the implementation of the recruitment program established pursuant to subparagraph (A) to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

SA 3976. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 31, between lines 6 and 7, insert the following:

SEC. 115. STUDY AND REPORT ON THE USE OF TECHNOLOGY TO PREVENT UNLAWFUL IMMIGRATION.

(a) STUDY.—The Secretary of Homeland Security shall conduct a study of available technology, including radar animal detection systems, that could be utilized to—

(1) increase the security of the international borders of the United States; and

(2) permit law enforcement officials to detect and prevent illegal immigration.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report, which shall include—

(1) the results of the study carried out under subsection (a); and

(2) the recommendations of the Secretary related to the efficacy of the technologies studied.

SA 3977. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CRIMINAL PENALTIES FOR FORGERY OF FEDERAL DOCUMENTS.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding at the end the following:

"§ 515. Federal records, documents, and writings, generally

"Any person who—

"(1) falsely makes, alters, forges, or counterfeits any Federal record, Federal document, Federal writing, or record, document, or writing characterizing, or purporting to characterize, official Federal activity, service, contract, obligation, duty, property, or chose;

"(2) utters or publishes as true, or possesses with intent to utter or publish as true, any record, document, or writing described in paragraph (1), knowing, or negligently failing to know, that such record, document, or writing has not been verified, has been inconclusively verified, is unable to be verified, or is false, altered, forged, or counterfeited;

"(3) transmits to, or presents at any office, or to any officer, of the United States, any record, document, or writing described in paragraph (1), knowing, or negligently failing to know, that such record, document, or writing has not been verified, has been inconclusively verified, is unable to be verified, or is false, altered, forged, or counterfeited;

"(4) attempts, or conspires to commit, any of the acts described in paragraphs (1) through (3); or

"(5) while outside of the United States, engages in any of the acts described in paragraphs (1) through (3),

shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) CLERICAL AMENDMENT.—The table of contents for chapter 25 of title 18, United States Code, is amended by inserting after the item relating to section 514 the following:

"515. Federal records, documents, and writings, generally.".

SA 3978. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, insert the following:

Subtitle F—National Border Neighborhood Watch Program

SEC. 161. NATIONAL BORDER NEIGHBORHOOD WATCH PROGRAM.

The Commissioner of the Bureau of United States Customs and Border Protection (in this subtitle referred to as the "Commission") shall establish a National Border Neighborhood Watch Program (in this subtitle referred to as the "NBNW Program") to permit retired law enforcement officers and civilian volunteers to combat illegal immigration into the United States.

SEC. 162. BRAVE FORCE.

(a) ESTABLISHMENT.—There is established in the United States Bureau of Customs and Border Protection (in this subtitle referred to as "CBP") a Border Regiment Assisting in Valuable Enforcement Force (referred to in this subtitle as "BRAVE Force"), which shall consist of retired law enforcement officers, to carry out the NBNW Program.

(b) RETIRED LAW ENFORCEMENT OFFICERS.—In this section, the term "retired law enforcement officer" means an individual who—

(1) has retired from employment as a Federal, State, or local law enforcement officer; and

(2) has not reached the Social Security retirement age (as defined in section 216(*l*) of the Social Security Act (42 U.S.C. 416(*l*)).

(c) EFFECT ON PERSONNEL CAPS.—Employees of BRAVE Force hired to carry out the NBNW Program shall be considered as additional agents and shall not count against the CBP personnel limits.

(d) RETIRED ANNUITANTS.—An employee of BRAVE Force who has worked for the Federal Government shall be considered a rehired annuitant and shall have no reduction in annuity as a result of salary payment for such employees' service in the NBNW Program.

SEC. 163. CIVILIAN VOLUNTEERS.

(a) IN GENERAL.—The CBP shall provide the opportunity for civilian volunteers to assist in carrying out the purposes of the NBNW Program.

(b) ORGANIZATION.—Not less than 3 civilian volunteers in the NBNW Program may report to each employee of BRAVE Force.

(c) REPORTING.—A civilian volunteer shall report a violation of Federal immigration law to the appropriate employee of BRAVE Force as soon as possible after observing such violation.

(d) REIMBURSEMENT.—A civilian volunteer participating in the NBNW Program shall be eligible for reimbursement by the CBP for expenses related to carrying out the duties of the NBNW Program.

SEC. 164. LIABILITY OF BRAVE FORCE EMPLOYEES AND CIVILIAN VOLUNTEERS.

(a) CIVILIANS.—A civilian volunteer participating in the NBNW Program shall not be entitled to any immunity from personal liability by virtue of the volunteer's participation in the NBNW Program.

(b) EMPLOYEES.—An employee of the BRAVE Force shall not be liable for the actions of a civilian volunteer participating in the NBNW Program.

SEC. 165. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

SA 3979. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike section 106, and insert the following:

SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector

located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector; and

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) OTHER HIGH TRAFFICKED AREAS.—The Secretary shall construct not less than 370 miles of triple-layered fencing which may include portions already constructed in San Diego, Tucson and Yuma Sectors and 500 miles of vehicle barriers in other areas along the southwest border that the Secretary determines are areas that are most often used by smugglers and illegal aliens attempting to gain illegal entry into the United States.

(d) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a), (b), and (c) and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(e) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a), (b), and (c).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SA 3980. Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was other purposes; which was ordered to lie on the table; as follows:

On page 614, after line 5, add the following:

SEC. 766. PREVENTION OF CONGRESSIONAL REAPPORTIONMENT DISTORTIONS.

(a) SHORT TITLE.—This section may be cited as the "Fair and Accurate Representation Act of 2006".

(b) FINDINGS.—Congress finds that—

(1) during the years immediately preceding the date of the enactment of this Act, millions of aliens have entered the United States in violation of Federal immigration law and are unlawfully present in the United States and subject to deportation;

(2) the established policy of the Bureau of the Census is to make a concerted effort to count the foreign born population within the United States without making a separate computation for illegal aliens; and

(3) including the millions of illegal aliens in the reapportionment base for the House of Representatives will result in the loss of congressional representation by many States, in violation of the constitutional principle of "one man, one vote".

(c) ADJUSTMENTS TO PREVENT DISTORTIONS.—Section 141 of title 13, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g) The Secretary shall make such adjustments in total population figures as may be necessary, using such methods and procedures as the Secretary determines feasible and appropriate, to ensure that aliens who are in the United States in violation of the immigration laws of the United States are not counted in tabulating population under subsection (b) for the purposes of apportionment of Representatives in Congress among the several States. Nothing in this subsection shall be construed to supersede section 195 of this title.".

(d) CONFORMING AMENDMENT.—Section 22(a) of the Act entitled "An Act To provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress", of June 18, 1929 (2 U.S.C. 2a(a)), is amended by striking "as ascertained under the seventeenth and each subsequent decennial census of the population" and inserting "as ascertained and reported under section 141 of title 13, United States Code, for each decennial census of population".

SA 3981. Mr. BINGAMAN (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 292, strike line 18 and all that follows through page 295, line 4, and insert the following:

(g) NUMERICAL LIMITATIONS.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(2) by adding at the end the following:

"(C) under section 101(a)(15)(H)(ii)(c) may not exceed 200,000.".

SA 3982. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 53, between lines 14 and 15, insert the following:

SEC. 133. TEMPORARY ADMITTANCE OF MEXICAN NATIONALS WITH BORDER CROSSING CARDS.

The Secretary shall permit a national of Mexico, who enters the United States with a valid Border Crossing Card (as described in section 212.1(c)(1)(i) of title 8, Code of Federal Regulations, as in effect on the date of the enactment of this Act), and who is admitted to the United States at the Columbus, Santa Teresa, or Antelope Wells port of entry in New Mexico, to remain in New Mexico (within 75 miles of the international border between the United States and Mexico) for a period not to exceed 30 days.

SA 3983. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 15, between lines 5 and 6, insert the following:

SEC. 107. SOUTHWEST BORDER SECURITY TASK FORCE.

(a) SHORT TITLE.—This section may be cited as the "Southwest Border Security Task Force Act of 2006".

(b) SOUTHWEST BORDER SECURITY TASK FORCE PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a Southwest Border Security Task Force Program to—

(A) facilitate local participation in providing recommendations regarding steps to enhance border security; and

(B) provide financial and other assistance in implementing such recommendations.

(2) NUMBER.—In carrying out the program established under paragraph (1), the Secretary shall establish at least 1 Border Security Task Force (referred to in this section as a "Task Force") in each State that is adjacent to the international border between the United States and Mexico.

(3) MEMBERSHIP.—Each Task Force shall include representatives from—

(A) relevant Federal agencies;

(B) State and local law enforcement agencies;

(C) State and local government;

(D) community organizations;

(E) Indian tribes; and

(F) other interested parties.

(4) CHAIRMAN.—Each Task Force shall select a Chairman from among its members.

(5) RECOMMENDATIONS.—Not later than 9 months after the date of the enactment of this Act, and annually thereafter, each Task Force shall submit a report to the Secretary containing—

(A) specific recommendations to enhance border security along the international border between the State in which such Task Force is located and Mexico; and

(B) a request for financial and other resources necessary to implement the recommendations during the subsequent fiscal year.

(c) BORDER SECURITY GRANTS.—

(1) GRANTS AUTHORIZED.—The Secretary shall award a grant to each Task Force submitting a request under subsection (b)(5)(B) to the extent that—

(A) sufficient funds are available; and

(B) the request is consistent with the Nation's comprehensive border security strategy.

(2) MINIMUM AMOUNT.—Not less than 1 Task Force in each of the States adjacent to Mexico shall be eligible to receive a grant under this subsection in an amount not less than $500,000.

(3) REPORT.—Not later than 90 days after the end of each fiscal year for which Federal financial assistance or other resources are received by a Task Force, the Task Force shall submit a report to the Secretary describing the use of such financial assistance or other resources by the Task Force and by the organizations represented by the members of the Task Force.

(d) Authorization of Appropriations.—There are authorized to be appropriated $10,000,000 for each of fiscal years 2007 through 2011 to carry out this section.

SA 3984. Mr. LEVIN (for himself and Ms. Collins) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 34, strike lines 3 through 17 and insert the following:

SEC. 122. SECURE COMMUNICATION.

(a) In General.—The Secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

(1) among all Border Patrol agents conducting operations between ports of entry;

(2) between Border Patrol agents and their respective Border Patrol stations;

(3) between Border Patrol agents and residents in remote areas along the international land borders of the United States; and

(4) between all appropriate border security agencies of the Department and State, local, and tribal law enforcement agencies.

(b) Communication System Grants.—

(1) Definitions.—In this subsection—

(A) the term "demonstration project" means the demonstration project established under paragraph (2)(A); and

(B) the term "emergency response provider" has the meaning given that term in section 2(6) the Homeland Security Act of 2002 (6 U.S.C. 101(6)).

(2) In general.—

(A) Establishment.—There is established in the Department an International Border Community Interoperable Communications Demonstration Project.

(B) Minimum number of communities.—The Secretary shall select not fewer than 6 communities to participate in the demonstration project.

(C) Location of communities.—Not fewer than 3 of the communities selected under subparagraph (B) shall be located on the northern border of the United States and not fewer than 3 of the communities selected under subparagraph (B) shall be located on the southern border of the United States.

(3) Project requirements.—The demonstration project shall—

(A) address the interoperable communications needs of border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers;

(B) foster interoperable communications—

(i) among Federal, State, local, and tribal government agencies in the United States involved in security and response activities along the international land borders of the United States; and

(ii) with similar agencies in Canada and Mexico;

(C) identify common international cross-border frequencies for communications equipment, including radio or computer messaging equipment;

(D) foster the standardization of interoperable communications equipment;

(E) identify solutions that will facilitate communications interoperability across national borders expeditiously;

(F) ensure that border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers can communicate with each another and the public at disaster sites or in the event of a terrorist attack or other catastrophic event;

(G) provide training and equipment to enable border patrol agents and other Federal officials involved in border security activities, police officers, National Guard personnel, and emergency response providers to deal with threats and contingencies in a variety of environments; and

(H) identify and secure appropriate joint-use equipment to ensure communications access.

(4) Distribution of funds.—

(A) In general.—The Secretary shall distribute funds under this subsection to each community participating in the demonstration project through the State, or States, in which each community is located.

(B) Other participants.—Not later than 60 days after receiving funds under subparagraph (A), a State receiving funds under this subsection shall make the funds available to the local governments and emergency response providers participating in the demonstration project, as selected by the Secretary.

(5) Authorization of appropriations.—There are authorized to be appropriated such sums as are necessary in each of fiscal years 2006, 2007, and 2008, to carry out this subsection.

(6) Reporting.—Not later than December 31, 2006, and each year thereafter in which funds are appropriated for the demonstration project, the Secretary shall provide to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the demonstration project.

SA 3985. Mr. ENSIGN (for himself, Mr. Santorum, and Mr. Inhofe) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table: as follows:

Insert in the appropriate place:

SEC. . PRECLUSION OF SOCIAL SECURITY CREDITS PRIOR TO ENUMERATION.

(a) Insured Status.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end, the following new subsection:

"(d)(1) Except as provided in paragraph (2), no quarter of coverage shall be credited for purposes of this section if, with respect to any individual who is assigned a social security account number on or after the date of enactment of the Comprehensive Immigration Reform Act of 2006, such quarter of coverage is earned prior to the year in which such social security account number is assigned.

"(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who, at such time such quarter of coverage is earned, satisfies the criterion specified in subsection (c)(2).".

(b) Benefit Computation.—Section 215(e) of such Act (42 U.S.C. 415(e)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end a new paragraph as follows:

"(3) in computing the average indexed monthly earnings of an individual who is assigned a social security account number on or after the date of enactment of the Comprehensive Immigration Reform Act of 2006, there shall not be counted any wages or self-employment income for which no quarter of coverage may be credited to such individual as a result of the application of section 214(d).".

SA 3986. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table: as follows:

At the appropriate place, insert the following:

SEC. ___. OFFICE OF INTERNAL CORRUPTION INVESTIGATION.

(a) Internal Corruption; Benefits Fraud.—Section 453 of the Homeland Security Act of 2002 (6 U.S.C. 273) is amended—

(1) by striking "the Bureau of" each place it appears and inserting "United States";

(2) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

"(1) establishing the Office of Internal Corruption Investigation, which shall—

"(A) receive, process, administer, and investigate criminal and noncriminal allegations of misconduct, corruption, and fraud involving any employee or contract worker of United States Citizenship and Immigration Services that are not subject to investigation by the Inspector General for the Department;

"(B) ensure that all complaints alleging any violation described in subparagraph (A) are handled and stored in a manner appropriate to their sensitivity;

"(C) have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to United States Citizenship and Immigration Services, which relate to programs and operations for which the Director is responsible under this Act;

"(D) request such information or assistance from any Federal, State, or local government agency as may be necessary for carrying out the duties and responsibilities under this section;

"(E) require the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to carry out the functions under this section—

"(i) by subpoena, which shall be enforceable, in the case of contumacy or refusal to obey, by order of any appropriate United States district court; or

"(ii) through procedures other than subpoenas if obtaining documents or information from Federal agencies;

"(F) administer to, or take from, any person an oath, affirmation, or affidavit, as necessary to carry out the functions under this section, which oath, affirmation, or affidavit, if administered or taken by or before an agent of the Office of Internal Corruption Investigation shall have the same force and effect as if administered or taken by or before an officer having a seal;

"(G) investigate criminal allegations and noncriminal misconduct;

"(H) acquire adequate office space, equipment, and supplies as necessary to carry out the functions and responsibilities under this section; and

"(I) be under the direct supervision of the Director.";

(B) in paragraph (2), by striking "and" at the end;

(C) in paragraph (3), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(4) establishing the Office of Immigration Benefits Fraud Investigation, which shall—

"(A) conduct administrative investigations, including site visits, to address immigration benefit fraud;

"(B) assist United States Citizenship and Immigration Services provide the right benefit to the right person at the right time;

"(C) track, measure, assess, conduct pattern analysis, and report fraud-related data to the Director; and

"(D) work with counterparts in other Federal agencies on matters of mutual interest or information-sharing relating to immigration benefit fraud."; and

(3) by adding at the end the following:

"(c) Annual Report.—The Director, in consultation with the Office of Internal Corruption Investigations, shall submit an annual report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes—

"(1) the activities of the Office, including the number of investigations began, completed, pending, turned over to the Inspector General for criminal investigations, and turned over to a United States Attorney for prosecution; and

"(2) the types of allegations investigated by the Office during the 12-month period immediately preceding the submission of the report that relate to the misconduct, corruption, and fraud described in subsection (a)(1).".

(b) Use of Immigration Fees to Combat Fraud.—Section 286(v)(2)(B) (8 U.S.C. 1356(v)(2)(B)) is amended by adding at the end the following: "Not less than 20 percent of the funds made available under this subparagraph shall be used for activities and functions described in paragraphs (1) and (4) of section 453(a) of the Homeland Security Act of 2002 (6 U.S.C. 273(a)).".

SA 3987. Mr. GRASSLEY (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 10, line 11, insert "autonomous unmanned ground vehicles, " after "vehicles,".

On page 10, line 23, insert "autonomous unmanned ground vehicles, " after "vehicles,".

SA 3988. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 363, lines 7 and 8, strike ", when such information is requested in writing by such entity".

SA 3989. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 362, strike line 4 and all that follows through "(f)" on page 363, line 13, and insert "(e)".

SA 3990. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 353, lines 14 through 17, strike "The relevant Federal agencies shall work to ensure that such clearances are completed within 90 days of the submission of fingerprints.".

SA 3991. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 351, strike lines 7 through 22 and insert the following:

"(E) Payment of income taxes.—

"(i) In general.—Not later than the date on which status is adjusted under this section, the alien establishes the payment of all applicable Federal income tax liability by establishing that—

"(I) no such tax liability exists;

"(II) all outstanding liabilities have been paid; or

"(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

"(ii) Applicable federal income tax liability.—For purposes of clause (i), the term 'applicable Federal income tax liability' means liability for Federal income taxes owed for any year during the period of employment required by subparagraph (D)(i) for which the statutory period for assessment of any deficiency for such taxes has not expired.

"(iii) IRS cooperation.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all income taxes required by this subparagraph.

On page 411, strike lines 6 through 25 and insert the following:

(D) Payment of income taxes.—

(i) In general.—Not later than the date on which an alien's status is adjusted under this subsection, the alien shall establish the payment of all applicable Federal income tax liability by establishing that—

(I) no such tax liability exists;

(II) all outstanding liabilities have been paid; or

(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(ii) Applicable federal income tax liability.—For purposes of clause (i), the term "applicable Federal income tax liability" means liability for Federal income taxes owed for any year during the period of employment required under paragraph (1)(A) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(iii) IRS cooperation.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all income taxes required by this subparagraph.

SA 3992. Mr. GRASSLEY (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 295, line 22, strike "alien—" and all that follows through page 296, line 5, and insert "alien meets the requirements under section 312.".

On page 352, line 3, strike "alien either—" and all that follows through line 15, and insert "alien meets the requirements under section 312.".

SA 3993. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 271 of the amendment, between lines 14 and 15, insert the following:

"(13) Agreement to collect percentage of wages to offset cost of emergency health services furnished to uninsured H-2C nonimmigrants.—The employer shall collect an amount equal to 1.45 percent of the wages paid by the employer to any H-2C nonimmigrant and shall transmit such amount to the Secretary of the Treasury for deposit into the H-2C Nonimmigrant Health Services Trust Fund established under section 404(c) of the Comprehensive Immigration Reform Act of 2006 at such time and in such manner as the Secretary of the Treasury shall determine.

On page 286, before line 10, insert the following:

(c) H-2C Nonimmigrant Health Services Trust Fund.—

(1) Creation of trust fund.—There is established in the Treasury of the United States a trust fund to be known as the "H-2C Nonimmigrant Health Services Trust Fund", consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this subsection or under rules similar to the rules of section 9602 of the Internal Revenue Code of 1986.

(2) Transfers to trust fund.—There are hereby appropriated to the H-2C Nonimmigrant Health Services Trust Fund amounts equivalent to the amounts received by the Secretary of the Treasury as a result of the provisions of section 218B(b)(13) of the Immigration and Nationality Act.

(3) Expenditures from trust fund.—Amounts in the H-2C Nonimmigrant Health Services Trust Fund shall be available only for making payments by the Secretary of Health and Human Services out of the State allotments established in accordance with paragraph (4) directly to eligible providers for the provision of eligible services to H-2C nonimmigrants to the extent that the eligible provider was not otherwise reimbursed (through insurance or otherwise) for such services, as determined by such Secretary. Such payments shall be made under rules similar to the rules for making payments to eligible providers under section 1011 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd).

(4) State allotments.—Not later than January 1 of each year, the Secretary of Health and Human Services shall establish an allotment for each State equal to the product of—

(A) the total amount the Secretary of the Treasury notifies the Secretary of Health and Human Services was appropriated or credited to the H-2C Nonimmigrant Health Services Trust Fund during the preceding year; and

(B) the number of H–2C nonimmigrants employed in the State during such preceding year (as determined by the Secretary of Labor).

(5) DEFINITIONS.—In this subsection:

(A) ELIGIBLE PROVIDER; ELIGIBLE SERVICES.—The terms "eligible provider" and "eligible services" have the meanings given those terms in section 1011(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd).

(B) H–2C NONIMMIGRANT.—The term "H–2C nonimmigrant" has the meaning given that term in section 218A(n)(7) of the Immigration and Nationality Act.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on May 22, 2006 at 2:30 p.m. in room SD–366 of the Dirksen Building.

The purpose of the hearing is to receive testimony regarding nuclear power provisions contained in the Energy Policy Act of 2005.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Clint Williamson or Steve Waskiewicz.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, May 23, 2006 at 10 a.m. in room SD–366 of the Dirksen Building.

The purpose of the hearing is to receive testimony on the National Research Council report, Managing Construction and Infrastructure in the 21st Century Bureau of Reclamation and the U.S. Bureau of Reclamation Report, Managing for Excellence: An Action Plan for the 21st Century.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further Information, please contact Nate Gentry or Steve Waskiewicz.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SPECTER. Mr. PRESIDENT, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the Session of the Senate on Monday, May 15 at 2:30 p.m. The purpose of this hearing is to receive testimony relating to implementation of the Energy Policy Act of 2005's electricity reliability provisions.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. SPECTER. Mr. President, I ask unanimous consent that George Farmakides, Seth Moore, Juria Jones, and Joe Jacquot be given floor privileges for the duration of the consideration of S. 2611.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—H.R. 4954

Mr. FRIST. I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4954) to improve maritime and cargo security through enhanced layered defenses, and for other purposes.

Mr. FRIST. Mr. President, I now ask for its second reading, and in order to place the bill on the calendar under provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will receive its second reading on the next legislative day.

COMMEMORATING THE 30TH ANNIVERSARY OF THE HEROIC RESCUE OF THE AMERICAN FLAG

Mr. FRIST. Mr. President. I ask unanimous consent the Senate now proceed to the consideration of S. Res. 477 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 477) commemorating the 30th anniversary of the date that Rick Monday heroically rescued the American flag from being desecrated.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, the baseball field has been the setting for some of the most meaningful moments in American history. It was on a baseball field that the great slugger Lou Gehrig, shortly after learning he was suffering from a fatal disease, delivered his poignantly stirring farewell speech, in which he declared himself to be "the luckiest man on the face of the earth." It was on a baseball field that Jackie Robinson broke the color line that had prevented African Americans from competing in the Major Leagues, thus triggering not only integration in professional baseball but the removal of racial barriers throughout American society as well. And it was on a baseball field 30 years ago that another significant moment took place, one that continues to resonate in the minds of millions of Americans.

On April 25, 1976, the Chicago Cubs were playing the Los Angeles Dodgers in an afternoon game at Dodger Stadium. It was early in the season; thus, not much was riding on the game's outcome. Both teams were under .500 at the time. So for the fans in attendance, there was little reason to believe at the outset that the game ultimately would be anything more than pleasantly forgettable.

That all changed during the bottom of the game's fourth inning. The Dodgers were at bat when two protestors ran out onto the outfield grass carrying an American flag. These two proceeded to spread the flag on the ground, douse it with lighter fluid, and pull out some matches. Playing centerfield for the Cubs that day was Rick Monday. As soon as he recognized that these individuals were about to burn the American flag, Monday charged towards them. As Monday—a former Marine Corps reservist—would later describe, "I was mad. What they were trying to do was wrong. It was wrong in 1976, and I still think it's wrong today. . . . That flag represents all the rights and freedoms that we have in this country. If you desecrate the flag, you desecrate the efforts of all the people who fought and died to protect those rights and freedoms." Just as one of the protestors was about to put a lit match to the American flag, Monday—while running at full speed—grabbed the flag away.

The legendary Hall of Fame broadcaster Vin Scully did the radio play-by-play for the Dodgers that day. His real-time description of the incident was as follows:

> There's two of them. I'm not sure what he's doing out there. It looks like he's going to burn a flag. And Rick Monday runs and takes it away from him!. . . . I think a guy was going to set fire to an American flag, can you imagine that? Monday, when he realized what [the protestor] was going to do, raced over and took the flag away from him. . . . This guy was going to try and perform the indignity of setting fire to the American flag. . . . It looked like a piece of cloth but you couldn't really tell from here what it was. But Monday, from his angle, took one look and realized it was a flag. And the fellow evidently was all set to set fire to it when Monday realized it.
>
> And Rick will get an ovation and properly so. So Rick Monday—his alertness and quick

> thinking—gets a round of applause in center field. And on the message board, it just says, "Rick Monday—You Made a Great Play." And Monday is getting another ovation, and well he should. And now a lot of the folks are standing, and now the whole ballpark. And he's going to get a standing ovation.

Rick Monday's courageous and patriotic act of saving the American flag from public desecration then inspired the crowd at Dodger Stadium to spontaneously begin singing "God Bless America." As Monday remembers it, "It moved the entire crowd. I don't remember if we won or lost the game, but I'll never forget the people singing."

Rick Monday soon began receiving thousands of letters from people all across the country thanking him for rescuing the flag. His heroic act was especially inspiring to those men and women who were serving in the military or were war veterans. For instance, Monday received a letter from a Vietnam veteran who, as Monday described:

> wrote that there were two things that he had with him in two tours of Vietnam. These two things kept him in check with reality. One was a small picture of his wife. The other was a small American flag that was neatly folded. The picture was folded inside the flag and in the left breast pocket of his uniform. He would be in mud for weeks and months at a time. Those two things were what he looked at to connect him with reality, other than his buddies, and some of them were lost in battle. He wrote in the letter, "Thanks for protecting what those of us who were in Vietnam held onto dearly."

More recently, Monday was visiting the U.S.S. *Arizona* Memorial in Hawaii when a survivor of Pearl Harbor walked up to him. When Monday went to shake his hand, the veteran—with tears in his eyes—raised his arm and saluted Monday. He then told Monday, "What you did reaffirmed everything we did as members of the Armed Services."

To fully appreciate what Rick Monday did 30 years ago, one must remember what the country was going through at that time. The Vietnam War and Watergate had left our country bitterly divided, and America was struggling to regain its confidence in the tumultuous aftermath. In saving the American flag from those who sought to desecrate it, Monday conveyed through his actions that the country the flag represents, as well as the liberty and justice the flag symbolizes, are precious and worth defending. Monday's rescue of the flag thus helped rejuvenate American patriotism throughout the country. For this reason, the Baseball Hall of Fame recognizes the actions taken by Monday when he saved the American Flag as one of the 100 Classic Moments in the history of baseball.

Because of the courage and patriotism demonstrated on a baseball field by Rick Monday 30 years ago, I am pleased to introduce a resolution commemorating the 30th anniversary of the date that Rick Monday heroically rescued the American flag from being desecrated. It is a fitting way to honor a historic act performed by a man who not only was a great ballplayer but who is a great American as well.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 477) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 477

Whereas, on April 25, 1976, Rick Monday played centerfield for the Chicago Cubs in a game against the Los Angeles Dodgers at Dodger Stadium;

Whereas, during the 4th inning of that game, 2 individuals ran onto the outfield of Dodger Stadium, doused an American Flag with lighter fluid, and attempted to set the Flag on fire;

Whereas, once Rick Monday recognized that those individuals were about to publicly desecrate the American Flag, he quickly ran towards those individuals and grabbed the American Flag from them just as they were attempting to place a lit match on to the Flag;

Whereas the patriotic act of Rick Monday to rescue the American Flag inspired—

(1) the crowd at Dodger Stadium to stand in ovation and spontaneously begin singing "God Bless America";

(2) millions of citizens throughout the United States, especially those citizens who were serving or had served in the Armed Forces; and

(3) citizens of the United States who today continue look to the Flag as a symbol of liberty and justice;

Whereas Rick Monday, after reflecting on his act of rescuing the American Flag, said: "That flag represents all the rights and freedoms that we have in this country. If you desecrate the flag, you desecrate the efforts of all the people who fought and died to protect those rights and freedoms.";

Whereas the Major League Baseball Hall of Fame recognizes the actions taken by Rick Monday when he saved the American Flag as 1 of the 100 Classic Moments in the history of baseball;

Whereas Rick Monday served the United States honorably and courageously in the Marine Corps Reserve for over 6 years;

Whereas Rick Monday was a 2-time Major League Baseball All-Star during his distinguished, 19-year career; and

Whereas April 25, 2006, marked the 30th anniversary of the date that Rick Monday saved the American Flag from being desecrated: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the 30th anniversary of the date that Rick Monday heroically rescued the American Flag from being desecrated;

(2) recognizes Rick Monday for—

(A) his courage and patriotism;

(B) upholding the noble ideals and freedoms represented by the American Flag; and

(C) honoring the men and women whose sacrifices have protected those ideals and freedoms;

(3) respectfully requests the Secretary of the Senate to transmit an enrolled copy of this resolution to—

(A) Rick Monday;

(B) the National Baseball Hall of Fame and Museum in Cooperstown, New York;

(C) the Commissioner of Major League Baseball, Bud Selig;

(D) the owner of the Los Angeles Dodgers owner, Frank McCourt; and

(E) the owner of the Chicago Cubs, the Tribune Company.

COMMEMORATING DEVELOPMENT OF CHARGE-COUPLED DEVICE

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 478 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 478) commemorating the development of the charge-coupled device.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LAUTENBERG. Mr. President, I am pleased the Senate is poised to pass this resolution today honoring the invention of the charge-coupled device, or CCD, which has greatly improved our level of imaging technology.

In 1969, Dr. Willard S. Boyle and Dr. George E. Smith worked together at Bell Labs in Murray Hill, NJ, and created a basic design for a silicon-memory chip, known as a CCD. This breakthrough technology was crucial to advancing digital imaging technology and can be found in most imaging devices, including digital cameras and video recorders, space-based telescopes and satellites, and medical imaging devices.

A CCD contains a light-sensitive chip that is able to store small amounts of charges in capacitors. A group of these capacitors create a pixel, which can be combined with other pixels to generate an image. The first CCD had just six pixels while the average camera now contains four to six million pixels. It is a credit to Dr. Boyle and Dr. Smith's innovation that this technology has been developed into the high resolution images we use in our every day lives.

Each year, the National Academy of Engineering honors an engineer or engineers whose accomplishments have significantly bettered society by improving our quality of life, providing the ability to live freely and comfortably, and/or easing access to information. This year, the Academy has chosen to honor Dr. Boyle and Dr. Smith with the prestigious Charles Stark Draper Prize for their innovation in imaging technology and invention of the CCD.

The National Inventors Hall of Fame has also chosen to commemorate Dr. Boyle and Dr. Smith's contributions to society by inducting them into their

Hall of Fame. The National Inventors Hall of Fame was founded in 1973 by the U.S. Patent and Trademark Office and the National Council of Intellectual Property Law Associations.

I hope that my colleagues will join me in commemorating the contributions to our society and standard of living that CCD technology has made and congratulating Dr. Willard S. Boyle and Dr. George E. Smith for their justly deserved awards.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 478) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 478

Whereas charge-coupled device (commonly referred to as "CCD") technology revolutionized imaging equipment and has significantly affected society by improving quality of life and the technological capabilities of everyday tools and equipment;

Whereas the CCD is widely used in technology, including digital cameras, video recorders, space-based telescopes, satellites, and medical imaging devices;

Whereas Willard S. Boyle of Halifax, Nova Scotia, and George E. Smith of New Barnegat, New Jersey, have advanced society through their development of the CCD while working at the Murray Hill, New Jersey, Bell Labs site in 1969; and

Whereas Mr. Boyle and Mr. Smith have been awarded the 2006 Charles Stark Draper Prize by the National Academy of Engineering and inducted into the Nation Inventors Hall of Fame for their invention: Now, therefore, be it

Resolved, That the Senate commemorates the development of the charge-coupled device.

NATIONAL CHILD CARE WORTHY WAGE DAY

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 479 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 479) supporting the goals and ideas of a National Child Care Worthy Wage Day.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 479) was agreed to.

The preamble was agreed to.

The resolution, with the preamble, reads as follows:

S. RES. 479

Whereas approximately 13,000,0000 children are in nonparental care during part or all of the day while their parents work;

Whereas the early care and education industry employs more than 2,000,000 workers;

Whereas these workers indirectly add $580,000,000,000 to the economy by enabling millions of parents to perform their own jobs;

Whereas the average salary of early care and education workers is $18,060 per year, and only ⅓ have health insurance and even fewer have a pension plan;

Whereas the quality of early care and education programs is directly linked to the quality of early childhood educators;

Whereas the turnover rate of early childhood program staff is roughly 30 percent per year, and low wages and lack of benefits, among other factors, make it difficult to retain high quality educators who have the consistent, caring relationships with young children that are important to children's development;

Whereas the compensation of early childhood program staff should be commensurate with the importance of the job of helping the young children of the Nation develop their social, emotional, physical, and intellectual skills, and be ready for school;

Whereas providing adequate compensation to early childhood program staff should be a priority, and resources may be allocated to improve the compensation of early childhood educators to ensure that quality care and education are accessible to all families;

Whereas additional training and education for the child care workforce is critical to ensuring high-quality early learning environments, and whereas child care workers should receive compensation commensurate with such training and experience; and

Whereas the Center for the Child Care Workforce, A Project of the American Federation of Teachers Educational Foundation and other early childhood organizations recognized May 1 as National Child Care Worthy Wage Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 1, 2006, as National Child Care Worthy Wage Day, and

(2) calls on the people of the United States to observe National Child Care Worthy Wage Day by honoring early childhood care and education staff and programs in their communities.

NATIONAL METHAMPHETAMINE PREVENTION WEEK

Mr. FRIST. I ask unanimous consent the Judiciary Committee be discharged from further consideration of S. Res. 313, and the Senate then proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 313) expressing the sense of the Senate that a National Methamphetamine Prevention Week should be established.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 313) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 313

Whereas methamphetamine is a highly addictive, man-made drug that can be injected, snorted, smoked, or ingested orally, the effects of which include feelings of euphoria that last for up to 24 hours and psychotic behavior such as auditory hallucinations, mood disturbances, delusions, and paranoia, potentially causing the user to experience homicidal or suicidal thoughts as well as violent behavior and brain damage;

Whereas the number of admissions to treatment in which methamphetamine was the primary substance of abuse increased exponentially from 20,776 in 1993 to 116,604 in 2003;

Whereas methamphetamine is easily produced in clandestine laboratories, known as "meth labs", using a variety of volatile and toxic ingredients available in stores, and presents a danger to the individual preparing the methamphetamine, the community surrounding the laboratory, and the law enforcement personnel who discover the laboratory;

Whereas the Drug Enforcement Administration reports that domestic meth lab seizures have increased from 7,438 in 1999 to 17,170 in 2004;

Whereas studies have found that methamphetamine use is strongly linked to identity theft, domestic violence, overall crime rates, child abuse, and child neglect;

Whereas the National Association of Counties has conducted surveys with law enforcement and child welfare officials in more than 500 counties, and found that 87 percent of all law enforcement agencies surveyed reported increases in methamphetamine-related arrests in recent years, and 40 percent of all the child welfare officials in the survey reported increased out-of-home placements of children due to methamphetamine use;

Whereas methamphetamine use and production is prevalent around the world;

Whereas approximately 65 percent of the methamphetamine supply in the United States is trafficked in the form of a finished product from other countries;

Whereas the United Nations Office on Drugs and Crime reports that more than 30,000,000 people around the world use amphetamine-type stimulants, a number that eclipses the combined global use of cocaine and heroin;

Whereas methamphetamine and narcotics task forces, judges, prosecutors, defense attorneys, substance abuse treatment and rehabilitation professionals, law enforcement officials, researchers, students and educators, community leaders, parents, and others dedicated to fighting methamphetamine have a profound influence within their communities; and

Whereas the establishment of a National Methamphetamine Prevention Week would increase awareness of methamphetamine and educate the public on effective ways to help prevent methamphetamine use at the international, Federal, State, and local levels: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) a National Methamphetamine Prevention Week should be established to increase awareness of methamphetamine and educate the public on effective ways to help prevent methamphetamine use at the international, Federal, State, and local levels; and

(2) the people of the United States and interested groups should be encouraged to observe National Methamphetamine Prevention Week with appropriate ceremonies and activities.

Mr. FRIST. Mr. President, that is the Cantwell-Talent resolution expressing the sense of the Senate with regard to establishing a National Methamphetamine Prevention Week. I am delighted the resolution was adopted. It is an important issue. This is our No. 1 drug problem today. We made real progress earlier in the year addressing the methamphetamine epidemic that is occurring across the country. Much more needs to be done. I am delighted that resolution was adopted tonight.

ORDERS FOR TUESDAY, MAY 16, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Tuesday, May 16. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to executive session for the consideration of the nomination of Milan D. Smith, Jr., as under the previous order; further, that following the vote on confirmation, the Senate resume consideration of S. 2611, the Comprehensive Immigration Reform Act; further that the Senate stand in recess from 12:30 until 2:15 p.m. to accommodate the weekly policy luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, today, we did return to the immigration reform bill and have one amendment pending. We expected other additional amendments to be offered today, and had Senators prepared to offer and debate their amendments. I am disappointed the other side did not allow those amendments to come forward at this time. I hope we can get back on track tomorrow and start processing amendments.

The other side of the aisle will have an alternative to the Isakson amendment, and I hope it will be offered early. We have a number of Senators waiting to offer amendments, and I hope we can reach reasonable time agreements on each amendment.

At approximately 10 o'clock tomorrow morning, we will have a vote on a circuit court nomination. Following that vote, we will return to the immigration reform legislation. And if we are unable to reach a short time agreement, then it will be necessary to table the pending amendment. Senators can therefore expect at least one additional vote prior to the policy meetings.

I remind everyone, once again, to not make plans to be far from the Chamber as we proceed on the immigration bill; that is, stay close to the Chamber. We will vote each day this week and into each evening.

ORDER FOR ADJOURNMENT

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator DURBIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

IMMIGRATION REFORM

Mr. DURBIN. Mr. President, I am glad we are returning to the immigration bill, as Senator FRIST has alluded. I am concerned, as he is, there will be so many amendments offered we may not be able to bring it to a satisfactory conclusion soon.

We tried to get a limitation on amendments on the Democratic side and were unsuccessful and decided, finally, in desperation really, to go forward and to have amendments offered on the floor in the hopes that Members who offer them would accept reasonable limitations on their debate time.

It was unusual that when we debated health insurance for small businesses last week, the Republican majority used a procedure called "filling the tree," and then, of course, the cloture motion to cut off amendments, to limit amendments. When it comes to immigration, there has been no effort by the majority to do that. So we are going to face quite a few amendments, and I hope we can handle them in a reasonable and expeditious way.

This is an important bill. Comprehensive immigration reform is necessary in America. Our system is broken, badly broken. It does not protect America as it should, and it is not fair to people who have come to this country. We have to find a reasonable way to come up with comprehensive, tough but fair law when it comes to the issue of immigration.

MEDICARE PRESCRIPTION DRUG COVERAGE

Mr. DURBIN. Mr. President, there is another law that has an important milestone today and that is Medicare prescription Part D. I remember this bill when it was debated about 2½ years ago—2½ years ago on the floor of the Senate—and was passed and enacted by the President.

So the administration had 2 years to get ready, 2 years to be prepared for the millions of people under Medicare who would become eligible for a prescription drug benefit.

This is an important benefit, one that was not included in the original Medicare legislation. In those days, there were not that many prescription drugs, and they were not that good. Now we have quite a variety of very good drugs available to help the elderly and others stay healthy and strong and independent. So adding a prescription drug benefit to Medicare made sense.

Keeping people healthy and at home rather than sick and in the hospital or in the nursing home is not only morally right, it makes sense financially. So we passed a bill 2½ years ago. But it was not a very good one. It was extremely complicated.

Imagine, if you will, a bill written by the pharmaceutical industry and the insurance industry. And that is what we ended up with, a bill that allows those two industries to capitalize on opportunities for profit-taking, which they are going to do and already have done. Unfortunately, it is at the expense of senior citizens.

In my State of Illinois, seniors who are trying to figure out which might be the best approach for their prescription drugs have 45 different choices. Forty-five choices may sound like a holiday for some, akin to going to shop at a department store, but for many seniors it became overwhelming and confusing.

They tried to get help. They called the Medicare hotline. That was supposed to be the 1-800 number that would answer their questions. If you could get through—after waiting for a long period of time—surveys of people who tried to get through found that many times they were giving out bad information.

They also put out brochures. Medicare put out some written information for seniors, and people looked at it closely and said: Well, this is wrong. It is written poorly. It does not describe the law as it currently exists.

So what was a senior to do? Many of them turned to family friends. I have had friends of mine whose moms and dads had to make this call. They sat down with them, worked through the paperwork. They went online. They helped them make the choice. But that was not always the case. Some people don't have a family member who is available or one who can understand the complexities of this choice. So they went to other places.

They would go to their pharmacist. So many pharmacists—I want to salute them this evening—so many pharmacists gave up their time. Frankly, that is what they have to sell, their time and professional advice. And they gave it up for their customers to try to help them through this immensely complicated legislation.

Where are we today? Well, today, as the enrollment deadline is reached on May 15, 6 million Medicare recipients have yet to sign up for prescription drug benefits. If you say: Well, being out of 40 million or so, then you have done pretty well. It ignores the fact that over 25 million already had coverage. They were already covered with prescription drug protection. So we were setting out to sign up some 15 or 16 million, and we did not get it done and fell short—fell short by about 40 percent or maybe more. The final figures will come in, in the next few days.

Of the 6 million who have not signed up as of today, 3.2 million are low-income elderly and disabled. They are eligible for extra help in paying for their medicine.

In my home State, approximately 478,000 eligible beneficiaries have yet to sign up. That is about one-third of the eligible people in my home State of Illinois.

Despite the best efforts of all the senior citizen groups, all of the traveling by the President, and all of the information that has been given, a third of the eligible people have not signed up for Medicare prescription Part D in my State.

That is an indication of the tough choice that many have to make. According to the latest numbers available from Social Security, only 21 percent of seniors in Illinois eligible for extra help have been enrolled. Millions of beneficiaries need more time. Many beneficiaries are simply overwhelmed by the unnecessary complexity and confusion of a program that could have been so simple and straightforward.

Even if they take appropriate steps, they don't always get good information, and many of these people will not sign up by the deadline. The Government Accountability Office completed a study last week that found that Medicare's written promotional materials used too much technical jargon, that the call waiting times lasted from a few minutes to close to an hour, and the Government Web site was so confusing that many people gave up before completing the process.

Someone wrote in the New York Times today that this is clearly a situation where a program was designed and written by people who don't view Government as a solution to a problem, they view Government as a problem. So they created a program that is entirely too complicated and confusing.

Investigators at GAO posed as seniors or individuals helping seniors and they placed 500 calls to 1-800-MEDICARE and found that about a third of them resulted in bad information being given to seniors. These mistakes just added to the confusion. So what happens? If somebody fails to sign up today, when they were supposed to, unfortunately, there are going to be some dire consequences. First, they will not be able to enroll in a prescription drug plan under Part D until November 15 for coverage that starts in January of 2007. So for the remainder of this year, they will not have the protection of a prescription drug plan, even if they explained it to them and they could make their choice.

In addition, if they didn't sign up by today, under current law, as written and passed by this Senate and signed by the President, these seniors are going to face a significant penalty, an increase in monthly premiums of 1 percent for every month past the deadline. That means they will automatically be subject to a 7-percent minimum penalty tax for the rest of their lives. This is not a one-time penalty. They are stuck, branded. They came in too late, and they are supposed to pay the price.

I cannot tell you how many times we Democrats have come to the floor and said this is unfair. We need to extend the deadline and lift the penalty on those who otherwise would face the 7 percent indefinitely, for the rest of their lives, and we need to change this program.

Time after time, the Republican majority said: No, we are going to stick with this. It is tough, but that is the way it has to be.

It is my understanding that come tomorrow there will be an effort made—a bipartisan effort—to extend the deadline and lift the penalty. We are not sure. But delaying the penalty would be a good start. Without delaying the enrollment deadline, however, 6 million seniors will be left without coverage between now and November. Countless more will be left in limbo if they say there is no penalty if you didn't sign up by May 15, but you cannot sign up until November. Some people will be stuck with no opportunity to seek and to have the coverage they need for their prescription drugs.

In addition to the millions of seniors who have not yet signed up, there are many awaiting decisions from Medicare after filing complaints about various enrollment problems. They need more time.

Let me tell you about this afternoon. My office received a call from a couple in Illinois. They are enrolled in the Illinois Cares Rx program, a program for low-income seniors. This couple also had supplemental insurance through a former employer. Under the Illinois Cares Rx program, they could only enroll in one of two plans. They enrolled last December and until last week had been successfully filling prescriptions covered by the plan. Then, unknown to them, their former employer also signed them up for a plan. So the couple has been enrolled in two plans since January. Rather than giving the couple a choice of plans, Medicare now has automatically disenrolled them from the plan they had originally selected. They just learned this. The plan chosen by their former employer is not one of the two participating Illinois Cares Rx plans, which means the couple is now ineligible for the Medicare Part D Program and are paying nearly half of their monthly income for premiums and copays.

So this is an example of the complexity of this system. When you let all of these different entities bombard seniors who are doing their best to understand what is best for them—in my office, my staff assistant, Christa Donahue, received a phone call last year from a woman who said she wasn't sure which plan to take. We asked her: Can you tell us what prescription drugs you are currently taking? She gave us a list of four or five drugs. We decided, for our own knowledge, to take those five drugs and go after the 45 different plans in Illinois and see what happened to them. I will tell you what happened. Day after day, and week after week, the protection that had been promised in each of those plans changed. On any given day, the plan could drop one of the drugs they originally said they would cover or it could increase or decrease the price of the drug.

So seniors who believed they had signed up for something they could count on could not be sure. They could not be certain their drug would be covered when they needed it to be covered. They could not be certain new drugs would be covered, and they could not be certain of the price.

It was written in a way that always gave the advantage to the drug company and the insurance company at the expense of the senior citizen. Now, this couple thought they had done the right thing and it turns out, because of this bureaucratic glitch, they have been denied coverage for their prescription drugs and won't have a chance to sign up until November for the next year. Meanwhile, nearly half of their monthly income is going into premiums and copays.

So this is a situation that could have been avoided with a simpler bill, one designed to help seniors, one they could understand. It wasn't written that way; it was written to protect profits.

Even more surprising about this couple is, when they called Medicare and requested that they be switched back to the original plan that saves them the most money, they were told the change was impossible to make because they had already used up their one opportunity to switch plans during their initial enrollment period. Talk about bureaucratic muckity-muck. These poor folks are going to be stuck because the law we wrote was so complicated and because the bureaucracy decided to penalize them. I hope they will get by—at great sacrifice—until we can clear up the problem and straighten up this law.

Unless Medicare resolves this couple's problems today—and we tried during the course of the day—they are going to be stuck in the wrong plan until November, forced to pay higher premiums and higher drug prices, through no fault of their own.

That is one story. Seniors need more time. We certainly should extend the enrollment deadline until the end of the year. We should suspend any penalty during that period of time, and we also should do something I think is critically important: we ought to acknowledge the obvious. We should have allowed Medicare to offer an option under this plan—yes, one Medicare option that people could turn to as the standard option.

I am not saying private insurance companies could not compete with the Medicare option, but if Medicare was negotiating for the lowest drug prices for seniors, we know what would happen.

The Veterans' Administration negotiated to help seniors bring costs down and that brought the cost of drugs down. It made more drugs available for the veterans who served our country. The same could have happened for seniors under Medicare. The pharmaceutical companies and insurance companies knew that. They didn't want Medicare's bargaining power to bring it down to the lowest prices. So they stopped our efforts—repeated efforts—to allow Medicare to offer an option under Medicare prescription Part D.

It is time to change that. It is time to allow Medicare to negotiate for seniors, to bring down costs even at the expense of profit taking by the drug companies.

If this sounds vaguely familiar, it is what Canada does. They have done that to protect their seniors and others living in their country. They have said to the drug companies: You are entitled to a profit but not profiteering. You are entitled to make money for additional research but not at the expense of some of the most vulnerable people in Canada.

So they limited the amount of increase each year in the cost of the prescription drugs. That is why even today many people—even people in my family—are going to Canada to buy drugs. They are much cheaper there than in the United States. The difference between Canada and the United States is not a difference in culture, it is a difference in leadership—leadership where their Government stood up for seniors and, in this case, our Government stood up for pharmaceutical companies and insurance companies, so drugs would be more expensive than they should be and seniors will pay more and the benefit will not be as good as it should be.

We have problems with this bill, a doughnut hole. Wait until the middle of the year when it reaches 2,200. At that point coverage stops. People still will pay monthly premiums for their prescription drug plan, and in addition they are going to have to pay out of pocket almost $3,000 before the coverage kicks in again. It is going to be a time of awakening and reckoning.

I think that many who supported the plan and voted for it—I did not—will have to explain to their seniors how this makes sense. May 15 will come and go. The efforts to extend the deadline, to lift the penalty and change the plan, despite being made many times on the floor of the Senate, have been rejected.

By tomorrow, I hope my colleagues on both sides of the aisle will put aside their loyalty to this flawed plan and be more loyal to the seniors who count on us every day.

I yield the floor.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until Tuesday, May 16, at 9:45 a.m.

Thereupon, the Senate, at 6:35 p.m., adjourned until Tuesday, May 16, 2006, at 9:45 a.m.

NOMINATIONS

Executive nomination received by the Senate May 15, 2006:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. MICHAEL V. HAYDEN

EXTENSIONS OF REMARKS

HONORING THE DISTINGUISHED ETHIOPIAN POET LAUREATE TSEGAYE GABRE-MEDHIN

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 2006

Mr. CUMMINGS. Mr. Speaker, I rise today to honor the life and work of Ethiopian Poet Laureate Tsegaye Gabre-Medhin who passed away on February 25, 2006 at the age of 69 in his New York home.

Mr. Tsegaye Gabre-Medhin left behind a legacy of poetry and literary works that continue to inspire generations.

Tsegaye was born in 1936 in the town of Boda during the Italian invasion of Ethiopia. As a youth, he showed great promise as a writer. In elementary school he wrote and produced "King Dionysus and the Two Brothers," a play that was attended by Emperor Haile Selassie.

Tsegaye grew to become one of his country's most prominent literary figures and an international voice for African culture and peace. A prolific writer, he created more than 30 plays and numerous poems. Many in Ethiopia have claimed him to be that nation's "Shakespeare". For Tsegaye, poetry and theater were paths to inspiring hearts and condemning violence.

After completing secondary education in Ethiopia, he attended Blackstone School of Law in Chicago where he graduated in 1959. But, theater, not law, was his lifelong calling. In 1959 and 1960, he studied experimental drama at the Royal Court Theater in London and the Comedie-Francaise in Paris.

Tsegaye revolutionized theater with his portrayals of the poor and the forgotten, war, imperialism, human failings, and courage. While his work delighted the public, 18 of his 33 plays were banned by one government or another. He put into words what many could not say. Tsegaye's poem, "The Day's Hunger Consumed," voiced an Ethiopian public's outrage at the news of famine raging in the north.

From 1961–1971, he was artistic director of the Ethiopian National Theater. In 1964, "Oda Oak Oracle," a play written in English about Ethiopian country life and lore was produced around the world thrilling audiences in Africa, Great Britain and the U.S.

In 1971, Tsegaye was awarded a fellowship to the University of Dakar to study African cultural antiquities. That research led to a Fulbright Scholarship which enabled him to tour the U.S. lecturing on Ethiopian art and literature. During the 1970s, he helped found the department of theater at Addis Ababa University. He also worked as an Oxford University Press editor and in 1975 served as Vice Minister of Culture and Sports.

Tsegaye's contributions to art and history are recognized worldwide. In 1966, he was awarded Ethiopia's highest literary honor—the Haile Selassie Prize for Amharic Literature. Other awards include the Gold Mercury Ad Personam Award in 1982; Fulbright Senior Scholar Resident Fellowship Award at Columbia University in 1985; Human Rights Watch Free Expression Award in New York in 1994. In 1997, the Congress of World Poets and the United Poets Laureate International conveyed on him the title of Poet Laureate. The Norwegian Author's Union, along with the Royal Norwegian Ministry of Cultural Affairs, conferred its Annual Freedom of Expression Prize on Tsegaye in 2005.

Poet Laureate Tsegaye held membership in many distinguished organizations, including the African Writer's Union and the African Researcher's Union. While Tsegaye received many honors, one of his most prized was when the African Union selected one of his poems for its anthem. In the poem, Tsegaye wrote, "Let us make Africa the tree of life."

Ailing health forced Tsegaye to leave his beloved Ethiopia in 1998 to move to New York for medical treatment that was not available in Ethiopia. Undeterred by illness, weakened eyesight, and an exhausting regimen of medical procedures, he continued to educate and inspire through his art, his unwavering social consciousness, and his sense of purpose and humanity.

Through his literature, Tsegaye's pride in Ethiopia and love for Africa will live with us forever.

I close with one of Tsegaye's more famous quotations, "I crave for knowledge. I envy tolerant, peaceful folks. I am frightened by ignorance. I loathe violence."—Tsegaye Gabre-Medhin

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HONORING THE RETIREMENT OF ALAN F. CLAYTON

HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 2006

Mrs. NAPOLITANO. Mr. Speaker, I rise today to honor and pay tribute to Alan Clayton, who recently retired after more than 24 years of distinguished public service. His leadership in numerous advocacy efforts has helped to improve the life of Latinos in the United States, especially for my constituents in the 38th Congressional District and throughout California.

Alan Clayton has been working in public policy and civil rights since 1985. Over the next two decades, he held a wide and lengthy variety of positions fighting for equal opportunity, advocating fair representation, and defending key programs. He has most recently worked as the Director of Equal Employment Opportunity for the Los Angeles County Chicano Employees Association since 1994. His work has been recognized by civil rights organizations, Latino employee groups, and many local agencies.

In 1985, while he was a State civil rights representative for the California League of United Latin American Citizens, Alan filed a petition with the Governor and legislature over the lack of representation for Latinos in California State Government. His work lead to a joint legislative task force on the issue, and further efforts resulted in a redistricting for Los Angeles that better reflected representation for the Latino community.

On behalf of the Los Angeles County Chicano Employees Association, Alan filed a complaint against the California Department of Health Services in 1987 for their systematic discrimination against Latinos in their hiring and promotions. The complaint was settled in 1992, resulting in the successful allocation of funds towards equal opportunity recruitment.

Alan has also been a leader in advocating for Latino empowerment in the redistricting of the City of Los Angeles and the Los Angeles Unified School District. These redistricting efforts in 1991 lead to the election of a second Latino to the Los Angeles Unified School District Board and a third Latino to the Los Angeles City Council.

His work on civil rights continued in 1997, when he began a five year effort fighting for a state senate bill that would allow extended outreach to minority groups and women in recruitment programs conducted by public sector agencies.

Through his role as Director of Equal Employment Opportunity at the Los Angeles County Chicano Employees Association, Alan co-drafted and was the principle advocate for the Schiff-Cardenas Juvenile Justice Act of 2000. It has since provided over 550 million dollars of new money for juvenile programs administered both by probation departments, governmental agencies, and community based organizations. Since 2001, Alan has played a leading role in increasing representational fairness in Los Angeles County, both through ballot efforts, to expand the Board of Supervisors, and through work that has increased the Latino community's ability to elect candidates of their choice for both the school district and city council.

Mr. Speaker, today I would like to personally acknowledge and congratulate Alan Clayton for his many years of dedicated work. I ask my colleagues to join me and the many organizations in applauding his important efforts on behalf of California's Latino community. I wish him and his wife Diane continued success, health and happiness in the future.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PERSONAL EXPLANATION

HON. DAVID G. REICHERT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 2006

Mr. REICHERT. Mr. Speaker, on May 11, 2006, I missed rollcall vote No. 141, an amendment to the National Defense Authorization Act for FY07 offered by Congressman GOODE (VA). I was unavoidably detained. If I had been present, I would have voted "aye."

HONORING HERRICK HIGH SCHOOL FOR THEIR ACADEMIC SUCCESS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 2006

Mr. ACKERMAN. Mr. Speaker, I rise today to commend Herrick High School's academic team for surpassing fifteen other high schools in Nassau County to earn the title of Nassau County Champions in The Long Island Challenge. The Challenge, sponsored by Cablevision's Power to Learn educational initiative, is a televised game show encouraging academic competition among high schools on Long Island and New Jersey.

Under the supervision of their academic advisor Craig Lagnese, team captain Akhilesh Pillalamarri, Yaagnik Kosuri, Amol Jain and Andrew Kim rose to the occasion, proudly representing their school. Their exceptional knowledge of history, science, math, arts, and literature carried them through this competition and on to victory.

On May 25, 2006 the team will proceed to the Long Island Championship, where they will compete with the Suffolk County Champions. The victor of this match will continue on to challenge the champions of the New Jersey Challenge, and will be named the Challenge Champions.

Mr. Speaker, I want to extend my congratulations to the students representing Herrick High School. Their academic excellence will, I am sure, bring future successes that they, their families, and their community will be proud of. I ask my colleagues in the House of Representatives to please join me in honoring these four outstanding students, and wishing them luck on their continued journey in the Long Island Challenge.

GERMANY'S WORLD CUP BROTHELS: WOMEN AND CHILDREN AT GRAVE RISK OF EXPLOITATION

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 2006

Mr. SMITH of New Jersey. Mr. Speaker, recently I chaired a hearing of the Africa, Global Human Rights and International Operations Subcommittee regarding the deadly combination of international sporting events and legalized prostitution, which creates an increased risk that women and children will be trafficked for the purpose of sexual exploitation. In approximately one month, athletes and fans will be gathering for one of the premiere, worldwide sporting events of our day, the 2006 FIFA World Cup. The Subcommittee heard testimony on reports that the World Cup will sadly be an impetus for the exploitation of women. For most soccer fans like myself, this quadrennial spectacle is the showcase of world class athleticism and teamwork, but looming in its shadow is the very real potential that the World Cup matches will be a catalyst and magnet for sex trafficking into Germany.

The World Cup opens on June 9, and over the course of one month at 12 venues throughout Germany, national soccer teams from around the world will be playing. Millions of fans will join in the festivities. For the last year, the German Government has been preparing for this sports bonanza, coordinating security efforts with all neighboring countries, and attending to the myriad of details associated with such major international events. There is no doubt that human traffickers have also been working overtime to exploit this opportunity to improve their illicit revenues through the expected rise in demand, especially in the so-called sex industry.

Today we join our counterparts in the European Union who have expressed their worries that there will be an explosion of prostitution and trafficking during the time of the World Cup. The European Parliament rightfully recognized in their resolution passed on March 15 that major sporting events result in a "temporary and spectacular increase in the demand for sexual services." A number of actions were outlined that should be undertaken by Germany and their European neighbors, as well as by the sports associations involved, to warn potential victims and assist those who are trafficked, to "roundly condemn trafficking in human beings and forced prostitution", and to inform and educate the general public and potential clients in an effort to curb the demand.

During the February meeting in Vienna, as Head of the U.S. Delegation and as Special Representative on Human Trafficking for the OSCE Parliamentary Assembly, I vigorously raised concerns about the trafficking prevention efforts for this event. I was joined by other European parliamentarians who were sobered by the expectation that, especially since the matches are being held in Germany which legalized pimping and prostitution in 2001, the World Cup fans would be legally free to rape women in brothels or even in mobile units designed specifically for this form of exploitation. Of the approximately 400,000 prostitutes in Germany, it is estimated that 75 percent of those who are abused in these houses of prostitution are foreigners, many from Central and Eastern Europe.

Europeans and Americans are not the only ones who have trained their eyes on this explosive situation. Vivi Akakpo, West Africa coordinator for the All Africa Conference of Churches said, "It is now public knowledge that organized syndicates have plans to bring in young women, particularly from Eastern Europe and from other poor countries, to Germany in time for the World Soccer Cup 2006." The EU Justice and Home Affairs Council meeting last week adopted a commendable list of best practices which should be undertaken by member states holding major international events. Among the seven initiatives was the commitment to develop and implement measures that discourage the demand for trafficking victims.

All EU member states to some extent are affected by trafficking in women. Significant numbers of trafficked women coming to Germany are from Ukraine, Bulgaria, Russia, Belarus, Lithuania and Romania. Law enforcement reports that large enterprises and international networks run an organized "industry" with political support and economic resources in countries of origin, transit and destination. Corrupt officials are often implicated.

Traffickers use a variety of methods to recruit and move their victims, often utilizing legal avenues to illegally traffic women and children. Legitimate travel documents can be obtained for "trips to Germany" for the women and such documents as visas and passports are used to cross international borders, after which the trafficking victims disappear or overstay their visas. Traffickers, however, also use fraudulent documents to obtain genuine travel documents or use altered or counterfeit papers, thus making it more difficult for law enforcement to detect a trafficking victim.

Those that work with the victims of human trafficking have reported that trafficking of women and girls for the so-called sex industry usually heightens during international sports events. According to the BKA (the German Federal Criminal Investigation Office) annual report in 2001, an inquiry of 414 trafficked women revealed that 45 percent were forced into prostitution through violence, torture, rape or intimidation. Research conducted by Melissa Farley at Prostitution Research & Education found that 71 percent of women surveyed were physically assaulted while engaged in prostitution and 89 percent wanted to escape prostitution.

I am aware that the German Government is supporting public awareness efforts regarding trafficking for forced prostitution in the context of the World Cup. This is a somewhat absurd effort given that the infrastructure of legalized prostitution allowed in Germany is gearing up to expand its capacity during the World Cup and there is every reason to believe that the "new recruits" into prostitution will be trafficked women and girls. I see this as flagrant state complicity in promoting sex trafficking.

As Sister Lea Ackermann, the Catholic nun in Germany who founded SOLWODI—SOLIDARITY with Women in Distress, has declared, "We have decided to flash the 'red card' to those prostitution profiteers" who are taking advantage of the World Cup crowds. The president of the German Soccer Federation, Theo Zwanziter, came to the conclusion that they needed to change the Federation's position on prostitution after he became aware of the horrors that women forced into prostitution face. As the federation president has recognized, "We did underestimate the whole issue [of prostitution] and I regret that, I say it quite openly."

Ladies and gentlemen, it is time for Chancellor Merkel to take a stand and speak out against the exploitation of women and children in the name of sport. I would encourage her government to turn the tables beginning now with the World Cup, and commit to reversing Germany's laws on prostitution. We can all join together in the fight to combat human trafficking and make the forced prostitution of women and girls more difficult for the traffickers.

The Trafficking Victims Protection Act requires that every year the United States Department of State analyze and report on the problem of trafficking in persons around the world. If Germany is providing direct or indirect sanction for sex trafficking, then Germany does not deserve to be ranked as a tier one country.

As the world will turn its attention to soccer, those committed to ending the tragedy of trafficking of women and girls for sexual exploitation will be watching how Germany protects the most vulnerable. I hope that the German Government is ready.

HONORING CADET LIEUTENANT BRANDON J. ARCHULETA

HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 2006

Mrs. NAPOLITANO. Mr. Speaker, I rise today to honor Brandon Jason Archuleta, a distinguished Class President of the United States Military Academy at West Point over four consecutive years, a forthcoming graduate, and my constituent from the great city of Montebello, California.

On Saturday, May 27, 2006, Cadet Lieutenant Brandon Jason Archuleta will complete his term at West Point Academy with a Bachelor of Sciences degree in American History and a commission as a Field Artillery Officer in the United States Army. As a freshman, or "Plebe," at West Point, he was elected by 1200 of his peers as President for the Class of 2006. During his second year he was reelected to a life-term representing his peers, while he continued to expand his academic accomplishments and his extracurricular involvement. He has received the National Defense Service Medal and the Air Assault badge, while his leadership has been profiled by both MSNBC and the New York Times.

Brandon's studies included research into comparative politics, political participation, legislative procedures, defense policy, international security, and the media. In his fourth year, Brandon focused his senior thesis on American Politics. His work highlighted Hispanic Members of Congress and analyzed how concerns over ethnicity impacted their voting behavior and representation. While preparing this thesis, Brandon visited the Congressional Hispanic Caucus (CHC), interviewed several members, and was invited to attend a Caucus meeting in Washington where he met Senator KERRY. His study makes a unique contribution to the West Point academic community, as one of the first known research efforts on Hispanic Members of the 109th Congress.

Brandon Archuleta was born on November 24, 1983, to Bob and Vera Archuleta. A lifelong Montebello resident, he attended La Merced Elementary and Intermediate schools, becoming heavily involved in the Student Councils at both schools. He became an Eagle Scout, played baseball for several years, and developed artistic skill in both band and drama. Brandon attended St. John Bosco Catholic High School in Bellflower, and remained involved in: the varsity football team, 3 terms as class president, swim team, campus ministry, and the school newspaper. Brandon graduated with honors from St. John Bosco in 2001, and was chosen to deliver their commencement speech on behalf of his graduating class.

Shortly after graduating, he traveled to New Jersey where he attended the United States Military Academy Preparatory School, followed by his appointment to the United States Military Academy at West Point in 2002. As a Field Artillery Officer, Archuleta's first assignment will be with the 3rd Infantry Division at Fort Stewart, Georgia. After five years of preparation and training, Brandon is ready for another five year commitment as a commissioned officer in the United States Army.

Mr. Speaker, today I would like to personally acknowledge and commend Brandon Archuleta for his dedication to leadership and continuing service to our country. I ask my colleagues to join me in congratulating Brandon on his many achievements, especially upon his West Point graduation, and honoring his exemplary service as a role model for America's youth. I wish him all the best for his future.

A TRIBUTE TO THE 50TH ANNIVERSARY OF FOLSOM DAM

HON. DORIS O. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 2006

Ms. MATSUI. Mr. Speaker, I rise in honor of Folsom Dam, a one million acre-foot multiple-purpose reservoir near Sacramento, California, that was completed 50 years ago this month, in May 1956. Severe storms have hit the greater Sacramento metropolitan region a number of times in the last 50 years and without the Folsom Dam, Sacramento would undoubtedly have flooded and caused millions of dollars of damage to the region. As local, State, and Federal officials gather to ether to celebrate this significant achievement, I ask all of my colleagues to join with me in commemorating the 50th anniversary of the completion of the Folsom Dam.

Folsom Dam was initially authorized as a 355,000 acre-foot flood control unit, but in 1949 it was reauthorized as a 1,000,000 acre-foot multiple-use facility. The U.S. Army Corps of Engineers began building the dam in October 1948 and officially completed construction in May 1956. Even before the facility was completed, Folsom Dam was already storing water and was finished just in time to contain flows from a winter storm that filled the dam in a week. This first test of Folsom Dam proved that it would be able to successfully contain flows from severe storms and thereby prevent major flooding in Sacramento. Each year since 1956, Folsom Dam has prevented potential flooding from winter storms and spring snow melt.

After the dam's completion, the U.S. Army Corps of Engineers transferred Folsom Dam to the U.S. Bureau of Reclamation for coordinated operation as an integral part of the Central Valley Project. Although its primary purpose is flood control, Folsom Dam stores water for irrigation and urban use as well as for electrical power generation, salinity control in the Bay-Delta, ecosystem restoration, and recreation. Directly below the dam is the Folsom Power Plant consisting of three generators that produce almost 200,000 kilowatts of clean, renewable electricity to meet the need of nearly 10 percent of the power used in Sacramento each year.

The largest demand for water stored at Folsom Lake has been from California's vast agricultural needs. The crops grown from water stored at Folsom include beans, almonds, apricots, asparagus, peaches, tomatoes, walnuts, and dozens of the other fruits and vegetables that drive the State's economy.

Moreover, Folsom Lake State Recreation Area ranks as the most popular lake in the California State Parks and Recreation system with more than 1 million visitors annually. At the lake, visitors can enjoy themselves with such activities as boating, fishing, hiking, cycling, running, camping, and picnicking.

For 50 years Folsom Dam has provided the residents of Sacramento with increased flood protection, recreation, water storage, and power. With proposed modifications to Folsom Dam in the pipeline, Californians will enjoy even greater flood protection in the years to come. Mr. Speaker, as residents of Sacramento gather to commemorate this significant milestone, I ask all of my colleagues to join me in paying tribute to the 50th anniversary of Folsom Dam.

CONGRATULATIONS TO THE CHEERLEADERS OF VICTORIA MEMORIAL HIGH SCHOOL IN VICTORIA, TEXAS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 15, 2006

Mr. PAUL. Mr. Speaker, I rise today to congratulate the Cheerleaders of the Victoria Memorial High School in Victoria, Texas for their many recent accomplishments during the school year that is about to be completed.

Not only did these Cheerleaders win 1st place at the Universal Cheerleaders Association Regional Championship on December 11th, 2005, earning a bid to the National High School Cheerleading Championship in Orlando, Florida. They also won 1st place at the Universal Cheerleaders Association State Championship on January 29, 2006.

Moreover, they won 1st place at the Universal Cheerleaders Association National High School Cheerleading Championship in Orlando, Florida on February 12, 2006. The squad competed against 52 of the top cheerleading squads from across the Nation in the Small Varsity Division. The Memorial High School Cheerleading squad worked their way to the top spot in the Nation by placing among the top ten squads in the Nation since 2001.

In addition to their cheerleading duties, which include cheering at numerous athletic events held by their school and a rigorous practice schedule, each of these girls must maintain an overall grade average of 80 or above. They also participate in numerous community service activities, such as the American Cancer Society's Relay for Life, The American Heart Association's Heart Walk, and Red Ribbon Week. Additionally, they work with elementary and middle schools, building and promoting school spirit.

I want to congratulate Amanda Dunn and Spencer Streetman, Co-Head Cheerleaders as well as the rest of the squad, including: Caitlin Klare, Shelley Frerich, Ashley Blackburn, Marlee Mize, Syndal Brown, Brittney Morris, Sheina Farooqui, Kelcey Newell, Jordan Payne, Stephanie Bess, Ashton Bland, and Kay Boles.

I also wish to commend Head Coach Denise Neel, Choreographer Missy DeLuna and Assistant Coaches Ricky Contreras, Lindsay Neel, Bennie Cunningham, and Sarah Jambers.

Again, Mr. Speaker, my heartfelt congratulations to all those associated with the Cheerleaders of the Victoria Memorial High School in Victoria, Texas on a job well done.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, May 16, 2006 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 17

9:30 a.m.

Environment and Public Works

To hold hearings to examine the nominations of Dale Klein, of Texas, to be a Member of the Nuclear Regulatory Commission, and Molly A. O'Neill, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

SD–628

Foreign Relations

To hold hearings to examine Iran's political/nuclear ambitions and U.S. policy options.

SD–419

Indian Affairs

To hold an oversight hearing to examine Indian youth suicide.

SR–485

Judiciary

To hold hearings to examine understanding the benefits and cost of Section 5 pre-clearance requirements of the Voting Rights Act.

SD–226

10 a.m.

Appropriations

Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2007 for the Department of Defense.

SD–192

Finance

To hold hearings to examine physician-owned specialty hospitals.

SD–215

Health, Education, Labor, and Pensions

Business meeting to consider the proposed Ryan White Modernization Act of 2006, proposed Mine Safety and Health Act of 2006, proposed Older Americans Act Amendments of 2006, S. 860, to amend the National Assessment of Educational Progress Authorization Act to require State academic assessments of student achievement in United States history and civics, and the nominations of Jerry Gayle Bridges, of Virginia, to be Chief Financial Officer, and Vince J. Juaristi, of Virginia, to be a Member of the Board of Directors, both of the Corporation for National and Community Service, Harry R. Hoglander, of Massachusetts, and Peter W. Tredick, of California, each to be a Member of the National Mediation Board, J. C. A. Stagg, of Virginia, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation, Kent D. Talbert, of Virginia, to be General Counsel, Department of Education, and Horace A. Thompson, of Mississippi, to be a Member of the Occupational Safety and Health Review Commission.

SD–430

Homeland Security and Governmental Affairs

To hold hearings to examine the nomination of Robert J. Portman, of Ohio, to be Director of the Office of Management and Budget.

SD–342

10:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the United States Department of Agriculture Rural Utilities Service Broadband Program.

SR–328A

2 p.m.

Commission on Security and Cooperation in Europe

To hold hearings to examine the role of the Office for Democratic Institutions and Human Rights relating to advancing the human dimension in the OSCE, focusing on the Office for Democratic Institutions and Human Rights and its role in monitoring elections in OSCE countries.

SD–226

2:30 p.m.

Foreign Relations

To hold hearings to examine the nominations of Michael D. Kirby, of Virginia, to be Ambassador to the Republic of Moldova, John A. Cloud, Jr., of Virginia, to be Ambassador to the Republic of Lithuania, April H. Foley, of New York, to be Ambassador to the Republic of Hungary, Tracey Ann Jacobson, of the District of Columbia, to be Ambassador to the Republic of Tajikistan, Michael Wood, of the District of Columbia, to be Ambassador to Sweden, and Robert Anthony Bradtke, of Maryland, to be Ambassador to the Republic of Croatia.

SD–419

Homeland Security and Governmental Affairs

Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee

To resume hearings to examine the Federal government's security clearance process, focusing on the progress of the Office of Personnel Management in implementing a plan to address the longstanding backlog of security clearance investigations, including the next steps by the Office of Management and Budget, and the recent halt by the Defense Security Service in processing government contractor security clearances.

SD–342

Intelligence

Closed business meeting to consider pending calendar business.

SH–219

MAY 18

9 a.m.

Judiciary

Business meeting to consider to consider pending calendar business.

SD–226

9:30 a.m.

Banking, Housing, and Urban Affairs

Business meeting to consider S. 1881, to require the Secretary of the Treasury to mint coins in commemoration of the Old Mint at San Francisco otherwise known as the "Granite Lady", S. 633, to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States, and S. 2784, to award a congressional gold medal to Tenzin Gyatso, the Fourteenth Dalai Lama, in recognition of his many enduring and outstanding contributions to peace, non-violence, human rights, and religious understanding; to be followed by a hearing to examine the report to Congress on International Economic and Exchange Rate Policies.

SD–538

Foreign Relations

To continue hearings to examine Iran's political/nuclear ambitions and U.S. policy options.

SD–419

Intelligence

To hold hearings to examine the nomination of General Michael V. Hayden, United States Air Force, to be Director of the Central Intelligence Agency.

SH–216

10 a.m.

Commerce, Science, and Transportation

To hold hearings to examine S. 2686, to amend the Communications Act of 1934 and for other purposes.

SD–106

Homeland Security and Governmental Affairs

To hold hearings to examine the nomination of Robert Irwin Cusick, Jr., of Kentucky, to be Director of the Office

of Government Ethics, Office of Personnel Management.
SD–342

Aging
To hold hearings to examine caring for seniors during a national emergency.
SD–628

2:30 p.m.
Commerce, Science, and Transportation
Business meeting to markup the proposed innovation bill.
SD–562

Homeland Security and Governmental Affairs
Federal Financial Management, Government Information, and International Security Subcommittee
To hold hearings to examine unobligated balances, focusing on their treatment and how they affect agency budgeting and programming, including what happens to these accounts when they expire, and how Office of Management and Budget, the Treasury and the agencies treat them.
SD–342

Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings to examine transition from crisis to peaceful democracy in Nepal.
SD–419

3 p.m.
Judiciary
Antitrust, Competition Policy and Consumer Rights Subcommittee
To hold hearings to examine AT&T and BellSouth merger and what it means for consumers.
SD–226

MAY 19

9 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2007 for the National Institutes of Health.
SD–192

MAY 22

2 p.m.
Homeland Security and Governmental Affairs
To hold hearings to examine the nomination of Lurita Alexis Doan, of Virginia, to be Administrator of General Services.
SD–342

2:30 p.m.
Energy and Natural Resources
To hold hearings to examine nuclear power provisions contained in the Energy Policy Act of 2005.
SD–366

MAY 23

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine improving financial literacy in the United States.
SD–106

Commerce, Science, and Transportation
To hold hearings to examine price gouging related to gas prices.
SD–562

Energy and Natural Resources
To hold hearings to examine the National Research Council report, Managing Construction and Infrastructure in the 21st Century Bureau of Reclamation and the U.S. Bureau of Reclamation Report, Managing for Excellence: An Action Plan for the 21st Century.
SD–366

MAY 24

10 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

10:15 a.m.
Judiciary
To hold hearings to examine the McCarran-Ferguson Act, focusing on implications of repealing the insurers' antitrust exemption.
SD–226

10:30 a.m.
Appropriations
Legislative Branch Subcommittee
To resume hearings to examine the progress of construction on the Capitol Visitor Center.
SD–138

2:30 p.m.
Commerce, Science, and Transportation
Disaster Prevention and Prediction Subcommittee
To hold hearings to examine 2006 hurricane forecast and at-risk cities.
SD–562

Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 1135, to authorize the exchange of certain land in Grand and Uintah Counties, Utah, S. 2466, to authorize and direct the exchange and conveyance of certain National Forest land and other land in southeast Arizona, and S. 2567, to maintain the rural heritage of the Eastern Sierra and enhance the region's tourism economy by designating certain public lands as wilderness and certain rivers as wild a scenic rivers in the State of California.
SD–366

MAY 25

9:30 a.m.
Indian Affairs
To hold an oversight hearing to examine Indian education.
SR–485

10 a.m.
Commerce, Science, and Transportation
To resume hearings to examine S. 2686, to amend the Communications Act of 1934 and for other purposes.
SD–106

Veterans' Affairs
To hold hearings to examine pending benefits related legislation.
SR–418

2:30 p.m.
Commerce, Science, and Transportation
To hold hearings to examine Pacific Salmon Treaty.
SD–562

JUNE 8

10 a.m.
Commerce, Science, and Transportation
Business meeting to markup S. 2686, to amend the Communications Act of 1934 and for other purposes.
SH–216

JUNE 14

10 a.m.
Commerce, Science, and Transportation
Technology, Innovation, and Competitiveness Subcommittee
To hold hearings to examine alternative energy technologies.
Room to be announced

JUNE 15

10:30 a.m.
Commerce, Science, and Transportation
Fisheries and Coast Guard Subcommittee
To hold hearings to examine the Coast Guard budget.
SD–562

POSTPONEMENTS

MAY 17

10 a.m.
Commerce, Science, and Transportation
Technology, Innovation, and Competitiveness Subcommittee
To hold hearings to examine accelerating the adoption of health information technology.
SD–562

HOUSE OF REPRESENTATIVES—*Tuesday, May 16, 2006*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. BOUSTANY).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, *May 16, 2006.*

I hereby appoint the Honorable CHARLES W. BOUSTANY, Jr. to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 31, 2006, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. DEFAZIO) for 5 minutes.

NSA'S PHONE RECORDS PROGRAM

Mr. DEFAZIO. I thank the Chair.

Well, when we first heard about widespread wiretapping by the administration without legal authority under the Federal Intelligence Surveillance Act, the President said not to worry, just a handful of individuals, and only when they are communicating with people outside the U.S. Well, maybe not a handful. Maybe a few hundred. No, maybe 10,000 or thousands.

Oops. Now it actually turns out that they are monitoring and have asked for the records of the phone calls of hundreds of millions of Americans. Over a trillion phone call records, we are told. They say they need this to protect America. What are they going to do with this mountain of data? They are going to apply a complicated mathematical algorithm to it and they are going to find some terrorists. Thus far they have raided two takeout services and one call center. That is what they have yielded from this. How about good old-fashioned intelligence with humans and police work?

Let's look at the bungling that led up to 9/11. Actually the new nominee who headed the NSA who has perhaps perjured himself about these billions of monitored records, he had in his hands a communication from al Qaeda on 9/11, actually on 9/10, saying, tomorrow is zero hour. But the NSA didn't bother to translate that until after 9/11.

Then we had the FBI. Now, Agent Samit said he had a communication about Moussaoui from French intelligence in August after he had been arrested by the FBI saying he was very dangerous, indoctrinated in radical Islamic fundamentalism, completely devoted to radical fundamentalism and Osama bin Laden. But his superiors didn't think that was enough to give him a warrant to open Moussaoui's computer and perhaps stop 9/11.

That's why we need to monitor the phone calls of billions of phone calls made by Americans, because of the incompetence of the people running these agencies.

Now, Agent Samit sent a letter to FBI headquarters accusing Moussaoui of plotting international terrorism and air piracy. This is August. August, before 9/11. Then Agent Rowley came forward and also gave us the same information. Agent Samit also asked for help from the FBI's London, Paris and Oklahoma City offices, FBI headquarters, CIA counterterrorism center, Secret Service, Immigration and Naturalization Service, Federal Aviation Administration, an intelligence agency not identified but presumed to be the National Security Agency headed by General Hayden who failed to translate the warning before 9/11. But we need to monitor the phone calls of law-abiding Americans, billions of them. What a wild goose chase. They want to cover up the extraordinary incompetence that allowed these stumblebums to launch a devastating attack on America by saying they are doing something now by monitoring billions of phone calls. This is absolutely outrageous.

Let's go back a little further. There were two other guys involved, Nawafal Hazmi and Khalid al Mihdhar. Now, they were tracked to the planning meeting, pretty good work, by the CIA over in Southeast Asia. That's good. Unfortunately, they didn't have listening devices, they didn't have agents go through them, they didn't know what they were planning, but they knew they were bad guys planning something. Then they lost track of them. Where did they go? Well, they traveled legally to the United States of America with visas issued by the Bush State Department, they lived openly in San Diego with listed phone numbers, but they were never visited or monitored by the FBI or anybody else, even though the CIA knew these were bad guys.

But what are we going to do in response to this incompetence? Well, we'll give the people involved gold medals and great retirements. Mr. Tenet, who was heading the CIA, he got a gold medal for freedom from the President. No one has ever taken the fall for this incompetence. Now, instead, they are trying to divert us and say, what we're going to do is monitor all the telephone conversations of all Americans and apply a mathematical algorithm. So the next time we have a terrorist in hand, we won't open his computer, either, because we'll be watching the algorithms and the phone calls of law-abiding Americans.

What unbelievable incompetence on the part of this administration, in addition to law-breaking. The American people are not well served by this. We need to clean up this mess and truly protect America.

NEWBORN SCREENING SAVES LIVES

The SPEAKER pro tempore. Pursuant to the order of the House of January 31, 2006, the gentlewoman from California (Ms. ROYBAL-ALLARD) is recognized during morning hour debates for 5 minutes.

Ms. ROYBAL-ALLARD. Mr. Speaker, this past Sunday was Mother's Day. Across our Nation, America's mothers were honored with cards, gifts, flowers and phone calls. But for any mother, the most precious gift of all is a strong and healthy baby. Today, to help ensure that mothers receive that most precious of gifts, I am introducing the Newborn Screening Saves Lives Act of 2006.

Newborn screening is a public health intervention that involves a simple blood test used to identify many life-threatening genetic illnesses before any symptoms begin. Approximately 5,000 babies are born each year with detectable and treatable disorders. Forty years ago, these disorders would have gone undetected until symptoms appeared. As a result, these children unnecessarily died or suffered lifelong disabling consequences. Today, these severe disorders, mostly inborn errors of metabolism, can be detected in newborn babies and treated in time to prevent serious complications. But due to the fact that a national newborn screening law does not exist in this country, there is great disparity and variation from State to State in the quality and number of newborn screening tests an infant may receive. Consequently, each year approximately 2,000 infants are permanently disabled or die from otherwise treatable disorders. This bill could prevent these tragedies and save millions of dollars in health care costs to both families and States.

The Newborn Screening Act of 2006 seeks to eliminate these unnecessary deaths and severe disabilities by educating parents and health care professionals about the advisability of newborn screening and improves the system for follow-up care for infants detected with an illness through the newborn screening tests. The bill encourages States to uniformly test for all recommended disorders and provides resources for States to expand and improve their newborn screening programs. It also requires the CDC to ensure the quality of laboratories involved in newborn screening and establishes a system for collecting and analyzing data that will help researchers develop better detection, prevention and treatment strategies.

Mr. Speaker, somewhere in our country today, there is a mother holding her newborn son or daughter totally unaware that her seemingly healthy baby is being attacked by a genetic disease because her State or birthing facility did not offer the one test that could have provided her with this critical information. If she knew, she could have begun the treatment needed to protect her baby from permanent disability or death.

Mr. Speaker, we have the power to help prevent this tragedy. By passing the Newborn Screening Saves Lives Act of 2006, we can ensure that parents and health providers are knowledgeable about newborn screening and that babies receive the comprehensive and consistent testing they need. It is a challenge we simply cannot ignore.

I urge my colleagues to join me in presenting a Mother's Day gift to the 4 million women who give birth each year by becoming cosponsors of the Newborn Screening Saves Lives Act of 2006 and helping to pass it into law.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 41 minutes p.m.), the House stood in recess until 2 p.m.

☐ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. CAPITO) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Eternal God, You are forever faithful.

Our history reveals Your constant protection and guidance of this Nation, so we have placed all our trust in You.

As Your faithful people, we are always optimistic about the future because we rely not on human endeavor alone, but upon Your promises. "I am Your Lord God. I am with You."

As Your people, we become a people filled with promise. That does not mean we expect to see everything fulfilled according to our own timing. We simply mull over the seed of promise in our own hearts and plant Your promises in others.

With hope rooted in Your promises, O Lord, we foster the growth of vision in a world of neighbors and in the next generation by what we say and how we act. You alone fulfill every promise and will recreate the face of the earth now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Florida (Mr. KELLER) come forward and lead the House in the Pledge of Allegiance.

Mr. KELLER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

NATIONAL GUARD TROOPS BELONG ON THE BORDER

(Mr. KELLER asked and was given permission to address the House for 1 minute.)

Mr. KELLER. Madam Speaker, I rise today to applaud President Bush's decision to place additional National Guard troops on the Mexican border. I recently returned from a week long trip to the Mexico-California border. And as this photograph shows, I met with National Guard troops who were constructing a border security fence in the San Diego area.

President Bush's decision has been criticized from two sources.

First, some American politicians have complained that National Guard troops have no business being involved with border security. Well, this photograph clearly shows that National Guard troops are already playing a key role in helping to secure our borders.

Second, Mexico's President Vicente Fox complained about the U.S. possibly militarizing our border. This is the height of hypocrisy. Mexico was the first one to put their military on their southern border to stop illegals from coming into Mexico from Guatemala.

The American people want less whining from the open borders crowd and more action from the rest of us to secure our borders. This is a step in the right direction.

RECOGNIZING ELIZABETH STEPP

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Madam Speaker, thousands of high school students across America are participating in Poetry Out Loud, a national competition which helps students master public speaking skills and learn about their literary heritage.

On April 8, Elizabeth Stepp proudly represented Richland Northeast High School in the 2006 National Endowment for the Arts South Carolina Poetry Out Loud State Competition. After performing poetry before Poet Laureate Marjory Wentworth and Kwame Dawes, founder of the South Carolina Poetry Initiative, Elizabeth was awarded the South Carolina State Championship.

Tonight Elizabeth will represent South Carolina in the Poetry Out Loud National Finals held at the Lincoln Theater in Washington. As she prepares for this exciting event, I would like to recognize her tremendous accomplishment and wish her best wishes for continued success.

In conclusion, God bless the memory of Congressman Sonny Montgomery, God bless our troops, and we will never forget September 11.

BLACK CLOTH OF SACRIFICE

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Madam Speaker, today I would like to remember the 155 men and women ripped from the ranks, gunned down, stabbed, ambushed, killed. Not soldiers in Iraq or Afghanistan, but American peace officers fighting an insurgency on American streets.

We honor those who died and those who survive them. They drape their badges in the black cloth of sacrifice to respect their fellow warriors. They lay their friends to rest, but they still risk their own lives to protect and serve.

One of the 13 Texas officers murdered last year, Officer Hank Nava, Jr., of Fort Worth, was savagely gunned down by an outlaw on parole who shot Officer Nava in the face.

Just days ago, Detective Vicky Armel of Fairfax County, Virginia, was ambushed by a street punk firing more than 70 rounds from an attack rifle.

We do not know the agony of these officers, but we know their indifference to danger. This Police Week we honor the honorable. We give our gratitude to police officers nationwide for their courage. We say thank you to those who turn toward turmoil so that we may turn toward safety.

And that's just the way it is.

NATIONAL GUARD IS A GOOD FIRST STEP

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Madam Speaker, last night the President spoke to the American people about his plan for establishing a secure border and a sound immigration policy.

The highlight of President Bush's plans is to send up to 6,000 National Guard troops to assist Border Patrol agents, and I applaud the President for taking steps necessary to try and secure the borders. For far too long this Nation has had a policy of benign neglect, one that has left our system of immigration fundamentally broken. National Guard troops are an excellent short-term solution. However, this action must not be part of a real effort to enforce our laws and must not be coupled with a thinly veiled attempt to grant amnesty. The American people want assurances that our sovereignty and security are being respected.

America is a nation of immigrants. It is built upon the dreams and sacrifices of those who came to share in our common goals of liberty, fairness and adherence to law. It is in celebration of these principles and in honor of those who came before us that we should act in respect for law and in respect for liberty.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

RIGHT-TO-RIDE LIVESTOCK ON FEDERAL LANDS ACT OF 2005

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 586) to preserve the use and access of pack and saddle stock animals on public lands, including wilderness areas, national monuments, and other specifically designated areas, administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service where there is a historical tradition of such use, and for other purposes.

The Clerk read as follows:

H.R. 586

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Right-to-Ride Livestock on Federal Lands Act of 2005".

SEC. 2. USE AND ACCESS OF PACK AND SADDLE ANIMALS ON PUBLIC LANDS.

(a) National Park System Lands.—Section 12 of Public Law 91-383 (16 U.S.C. 1a-7) is amended by adding at the end the following new subsection:

"(c) Use and Access of Pack and Saddle Animals.—

"(1) General rule.—The Secretary of the Interior shall provide for the management of National Park System lands to preserve and facilitate the continued use and access of pack and saddle stock animals on such lands, including wilderness areas, national monuments, and other specifically designated areas, where there is a historical tradition of such use. As a general rule, all trails, routes, and areas used by pack and saddle stock shall remain open and accessible for such use. The Secretary may implement a proposed reduction in the use and access of pack and saddle stock animals on such lands only after complying with the full review process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) Rules of construction.—Nothing in paragraph (1) shall be construed—

"(A) to authorize the Secretary to refuse to issue a permit for a new use of pack and saddle stock animals, including use by a commercial outfitter or guide, without complying with applicable resource management plans and planning processes required under this Act or any other provision of law;

"(B) to limit the authority of the Secretary to impose a temporary emergency closure of a trail, route, or area to pack and saddle stock animals or issue special permits; or

"(C) to create a preference for one recreational use for any unit of the National Park System, without consideration of the stated purpose of the unit.".

(b) Bureau of Land Management Lands.—Section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732) is amended by adding at the end the following new subsection:

"(e) Use and Access of Pack and Saddle Animals.—

"(1) General rule.—The Secretary shall provide for the management of public lands to preserve and facilitate the continued use and access of pack and saddle stock animals on such lands, including wilderness areas, national monuments, and other specifically designated areas, where there is a historical tradition of such use. As a general rule, all trails, routes, and areas used by pack and saddle stock shall remain open and accessible for such use. The Secretary may implement a proposed reduction in the use and access of pack and saddle stock animals on such lands only after complying with the full review process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) Rules of construction.—Nothing in paragraph (1) shall be construed—

"(A) to authorize the Secretary to refuse to issue a permit for a new use of pack and saddle stock animals, including use by a commercial outfitter or guide, without complying with applicable resource management plans and planning processes required under this Act or any other provision of law;

"(B) to limit the authority of the Secretary to impose a temporary emergency closure of a trail, route, or area to pack and saddle stock animals or issue special permits; or

"(C) to create a preference for one recreational use for any area of the public lands, without consideration of the stated purpose of the area.".

(c) National Wildlife Refuge System Lands.—Section 4(d) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(d)) is amended by adding at the end the following new paragraph:

"(5)(A) The Secretary shall provide for the management of System lands to preserve and facilitate the continued use and access of pack and saddle stock animals on such lands, including wilderness areas, national monuments, and other specifically designated areas, where there is a historical tradition of such use. As a general rule, all trails, routes, and areas used by pack and saddle stock shall remain open and accessible for such use. The Secretary may implement a proposed reduction in the use and access of pack and saddle stock animals on such lands only after complying with the full review process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) Nothing in subparagraph (A) shall be construed—

"(i) to authorize the Secretary to refuse to issue a permit for a new use of pack and saddle stock animals, including use by a commercial outfitter or guide, without complying with applicable resource management plans and planning processes required under this Act or any other provision of law;

"(ii) to limit the authority of the Secretary to impose a temporary emergency closure of a trail, route, or area to pack and saddle stock animals or issue special permits; or

"(iii) to create a preference for one recreational use for any unit of the System, without consideration of the stated purpose of the unit.".

(d) National Forest System Lands.—Section 15 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1613) is amended—

(1) by inserting "(a)" before "Regulations"; and

(2) by adding at the end the following new subsection:

"(b) Use and Access of Pack and Saddle Animals.—

"(1) General rule.—The Secretary shall provide for the management of National Forest System lands to preserve and facilitate the continued use and access of pack and saddle stock animals on such lands, including wilderness areas, national monuments, and other specifically designated areas, where there is a historical tradition of such use. As a general rule, all trails, routes, and areas used by pack and saddle stock shall remain open and accessible for such use. The Secretary may implement a proposed reduction in the use and access of pack and saddle stock animals on such lands only after complying with the full review process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) Rules of construction.—Nothing in paragraph (1) shall be construed—

"(A) to authorize the Secretary to refuse to issue a permit for a new use of pack and saddle stock animals, including use by a commercial outfitter or guide, without complying with applicable resource management plans and planning processes required under this Act or any other provision of law;

"(B) to limit the authority of the Secretary to impose a temporary emergency closure of a trail, route, or area to pack and saddle stock animals or issue special permits; or

"(C) to create a preference for one recreational use for any unit of the National Forest System, without consideration of the stated purpose of the unit.".

(e) ISSUANCE OF RULES.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall issue final rules to define the meaning of a historical tradition of use of pack and saddle stock animals on Federal lands for purposes of the amendments made by this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. RADANOVICH. Madam Speaker, I ask unanimous consent that all Members may be given 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RADANOVICH. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, I am the author of H.R. 586, which is identical to the legislation that passed the House of Representatives in the 108th Congress. This bill would preserve the use and access of pack and saddle stock animals on our public lands where there is a historic traditional use.

Perhaps no other activity is more synonymous with the exploration of our vast open lands than that of the use of pack and saddle stock. Who could forget those images of President Teddy Roosevelt and John Muir on horseback at what was to become the Grand Canyon and Yosemite National Parks?

While some may claim that this bill singles out pack and saddle use and affords it greater consideration than other forms of recreation or commercial use, I would argue that the pack and saddle use has played a fair and greater historic role on our public lands, particularly in our western States than simply recreation. What may be perceived by some today as recreation was once a vital part of everyday living throughout our Nation's history.

In addition, this bill in no way diminishes the Secretary of the Interior's ability to implement emergency closures or permanent reductions in the use and access of these pack and stock animals after complying with the full public review process required under the National Environmental Policy Act.

H.R. 586 codifies our commitment to access and to preserving one of the most fundamental and truly historic ways to experience our public lands. I urge its adoption.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 586 has a checkered history. While there has been no action by the Resources Committee on the legislation in this Congress, questions and concerns were raised about identical legislation in the last session of Congress. In fact, the Bush administration has gone on record saying the legislation was both unnecessary and unwise.

Numerous recreational uses occur on our public lands, including hunting, fishing, hiking, camping. Singling out the recreational use of pack and saddle animals for special treatment creates the potential for conflict with these other recreational uses and complicates resource management of the public lands. At the very least, I think the Resources Committee should take time out of our schedule this session to explore the ramifications of what is being requested here. This will be the only recreational use codified in law.

With this noted, however, I will not object to the further consideration of this measure at this time. I appreciate my good friend and gentleman from California's interest in the subject. In fact, our office has received some e-mails and letters on this very subject ourselves.

Madam Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Madam Speaker, I would like to introduce into the RECORD a letter from Chairman GOODLATTE of Virginia. The Committee on Agriculture also received jurisdiction on this bill.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, May 15, 2006.

Hon. RICHARD POMBO,
Chairman, Committee on Resources,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for notifying the Committee on Agriculture with regards to your intention to move H.R. 586, a bill entitled as the "Right-to Ride Livestock on Federal Lands Act of 2005", under suspension of the rules.

As you are aware, the Committee on Agriculture received an additional referral of this legislation on those provisions of H.R. 586 that fall within this Committee's jurisdiction. However, after conferring with Chairman GUTKNECHT of the Subcommittee on Department Operations, Oversight, Nutrition, and Forestry, I will be glad to waive further consideration of this measure so as to allow its timely consideration by the entire House of Representatives.

This action is not intended to waive this Committee's jurisdiction over this matter for all purposes, and in the event a conference with the Senate is requested in this matter, I would ask you to support the Committee on Agriculture's request to be represented.

Thank you very much for your courtesy in this matter and I look forward to continued cooperation between our Committees as we deal with these issues in the future.

Sincerely,

BOB GOODLATTE,
Chairman.

Mr. RAHALL. Madam Speaker, as the Ranking Democratic Member of the Resources Committee I would first observe that we on this side of the aisle also cherish the proud American tradition of horsemanship.

Whether it be thoroughbreds—and a potential Triple Crown winner this year possibly in the making judging from Barbaro's smashing performance in the Kentucky Derby—Appaloosas, Arabians, Clydesdales, our wild Mustangs on the Western Plains, Palominos, and even the Chincoteague Pony made famous by the book "Misty," our country's history and indeed, still in the present, is deeply intertwined with the horse.

With that noted, while we will not object to the consideration of H.R. 586 today, there are certain problems with the legislation. In effect, the bill hampers the ability of local federal land managers to administer trails under their jurisdiction in a flexible fashion taking into account changed local circumstances. In effect, the pending bill says that trails historically open to pack and saddle stock horses shall always remain open to them within units of our National Park System, National Forest System, Wildlife Refuges and BLM lands. This not only ties the hands of the local land managers to make adjustments if warranted, but appears to be a nationwide rubber stamp approach to what has not been a national problem with respect to public trail usage.

I would observe there is one out, one means to make a change in the horse first rule this legislation advances, and that would be to go through a full-scale review under the National Environmental Policy Act. Here, I applaud those of my colleagues who are promoting this legislation because many of these have consistently voted in the Resources Committee to overturn, override, and exempt the application of NEPA to other matters.

I am also concerned about the precedent we are setting here. It is my understanding that the American Horse Council fully backs the pending bill. A noble organization, which does good service for the equine community. Yet, what if the American Motorcyclist Association catches wind of this bill. Can we expect a counter proposal from them, to make trails open to off-road motorcycles also deemed to be the highest and best use of public trails. I would expect their members would not want to be viewed as second class citizens when it comes to trail use. And the hikers, the bikers, the ATV groups. The list goes on.

With that Madam Speaker, I have some trepidation over the course this legislation sets, and this comes from a gentleman who is a strong defender of our horse tradition in this country.

Mr. RADANOVICH. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 586.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ALLOWING ASSINIBOINE AND SIOUX TRIBES OF FORT PECK INDIAN RESERVATION TO ENTER INTO A LEASE OR OTHER TEMPORARY CONVEYANCE OF WATER RIGHTS

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2978) to allow the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation to enter into a lease or other temporary conveyance of water rights recognized under the Fort Peck-Montana Compact for the purpose of meeting the water needs of the Dry Prairie Rural Water Association, Incorporated, and for other purposes.

The Clerk read as follows:

H.R. 2978

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MONTANA INDIAN TRIBES; AGREEMENT WITH DRY PRAIRIE RURAL WATER ASSOCIATION, INCORPORATED.

(a) IN GENERAL.—The Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation (referred to in this section as the "Tribes") may, with the approval of the Secretary of the Interior, enter into a lease or other temporary conveyance of water rights recognized under the Fort Peck-Montana Compact (Montana Code Annotated 85-20-201) for the purpose of meeting the water needs of the Dry Prairie Rural Water Association, Incorporated (or any successor entity), in accordance with section 5 of the Fort Peck Reservation Rural Water System Act of 2000 (Public Law 106–382; 114 Stat. 1454).

(b) CONDITIONS OF LEASE.—With respect to a lease or other temporary conveyance described in subsection (a)—

(1) the term of the lease or conveyance shall not exceed 100 years;

(2) the lease or conveyance may be approved by the Secretary of the Interior without monetary compensation to the Tribes; and

(3) the Secretary of the Interior shall not be subject to liability for any claim or cause of action relating to the compensation or consideration received by the Tribes under the lease or conveyance.

(c) NO PERMANENT ALIENATION OF WATER.—Nothing in this section authorizes any permanent alienation of any water by the Tribes.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. RADANOVICH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

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Mr. RADANOVICH. Madam Speaker, I yield myself such time as I may consume.

H.R. 2978, introduced by our colleague DENNIS REHBERG of Montana, allows two Fort Peck Indian Reservation Tribes to lease water to nearby non-Indian communities.

In northeastern Montana, water supplies are very scarce. For this reason Congress authorized a rural water supply protection for the Fort Peck Indian Reservation and some of its neighbors a few years ago. As the project is now under construction, water users realize that the underlying law needs to be clarified in order to ensure a water transfer. This bill makes this commonsense clarification on the Federal level. The State Water Commission has already approved the conveyance, and I urge my colleagues to support this noncontroversial bill.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, simply put, H.R. 2978 brings much-needed clean drinking water to over 31,000 residents of northeastern Montana. It does so by bringing together the plans of these tribes and the Dry Prairie Rural Water Association to convey water from an area of surplus to an area of need, with no compensation being asked and with full recognition and protection of the tribes' water rights.

Too often in this body, we are witness to conflicts over resources, and this is especially true for the limited precious water supply that we have. This bill is a welcomed departure from all of that.

Madam Speaker, we strongly support the adoption of H.R. 2978.

Madam Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 2978.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

COASTAL BARRIER RESOURCES REAUTHORIZATION ACT OF 2005

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 1869) to reauthorize the Coastal Barrier Resources Act, and for other purposes.

The Clerk read as follows:

S. 1869

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal Barrier Resources Reauthorization Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) OTHERWISE PROTECTED AREA.—The term "otherwise protected area" has the meaning given the term in section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note; Public Law 101–591).

(2) PILOT PROJECT.—The term "pilot project" means the digital mapping pilot project authorized under section 6 of the Coastal Barrier Resources Reauthorization Act of 2000 (16 U.S.C. 3503 note; Public Law 106–514).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) SYSTEM UNIT.—The term "System unit" has the meaning given the term in section 3 of the Coastal Barrier Resources Act (16 U.S.C. 3502).

SEC. 3. DIGITAL MAPPING PILOT PROJECT FINALIZATION.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report regarding the digital maps of the System units and otherwise protected areas created under the pilot project.

(b) CONSULTATION.—The Secretary shall prepare the report required under subsection (a)—

(1) in consultation with the Governors of the States in which any System units and otherwise protected areas are located; and

(2) after—

(A) providing an opportunity for the submission of public comments; and

(B) considering any public comments submitted under subparagraph (A).

(c) CONTENTS.—The report required under subsection (a) shall contain—

(1) the final recommended digital maps created under the pilot project;

(2) recommendations for the adoption of the digital maps by Congress;

(3) a summary of the comments received from the Governors of the States, other government officials, and the public regarding the digital maps;

(4) a summary and update of the protocols and findings of the report required under section 6(d) of the Coastal Barrier Resources Reauthorization Act of 2000 (16 U.S.C. 3503 note; Public Law 106–514); and

(5) an analysis of any benefits that the public would receive by using digital mapping technology for all System units and otherwise protected areas.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $500,000 for each of fiscal years 2006 through 2007.

SEC. 4. DIGITAL MAPPING PROJECT FOR THE REMAINING JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM UNITS AND OTHERWISE PROTECTED AREAS.

(a) IN GENERAL.—The Secretary shall carry out a project to create digital versions of all of the John H. Chafee Coastal Barrier Resources System maps referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)), including maps of otherwise protected areas, that were not included in the pilot project.

(b) DATA.—

(1) USE OF EXISTING DATA.—To the maximum extent practicable, in carrying out the project under this section, the Secretary shall use any digital spatial data in the possession of Federal, State, and local agencies, including digital orthophotos, color infrared photography, wetlands data, and property parcel data.

(2) PROVISION OF DATA BY OTHER AGENCIES.—The head of a Federal agency that possesses any data referred to in paragraph (1) shall, on request of the Secretary, promptly provide the data to the Secretary at no cost.

(3) PROVISION OF DATA BY NON-FEDERAL AGENCIES.—State and local agencies and any other non-Federal entities that possess data referred to in paragraph (1) are encouraged, on request of the Secretary, to promptly provide the data to the Secretary at no cost.

(4) ADDITIONAL DATA.—If the Secretary determines that any data necessary to carry out the project under this section does not exist, the Director of the United States Fish and Wildlife Service shall enter into an agreement with the Director of the United States Geological Survey under which the United States Geological Survey, in cooperation with the heads of other Federal agencies, as appropriate, shall obtain and provide to the Director of the United States Fish and Wildlife Service the data required to carry out this section.

(5) DATA STANDARDS.—All data used or created to carry out this section shall comply with—

(A) the National Spatial Data Infrastructure established by Executive Order No. 12906 (59 Fed. Reg. 17671); and

(B) any other standards established by the Federal Geographic Data Committee established by the Office of Management and Budget circular numbered A–16.

(c) REPORT.—

(1) IN GENERAL.—Not later than 5 years after the submission of the report under section 3(a), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report regarding the digital maps created under this section.

(2) CONSULTATION.—The Secretary shall prepare the report required under paragraph (1)—

(A) in consultation with the Governors of the States in which the System units and otherwise protected areas are located; and

(B) after—

(i) providing an opportunity for the submission of public comments; and

(ii) considering any public comments submitted under clause (i).

(3) CONTENTS.—The report required under paragraph (1) shall contain—

(A) a description of the extent to which the boundary lines on the digital maps differ from the boundary lines on the original maps;

(B) a summary of the comments received from Governors, other government officials, and the public regarding the digital maps created under this section;

(C) recommendations for the adoption of the digital maps created under this section by Congress;

(D) recommendations for expansion of the John H. Chafee Coastal Barrier Resources System and otherwise protected areas, as in existence on the date of enactment of this Act;

(E) a summary and update on the implementation and use of the digital maps created under the pilot project; and

(F) a description of the feasibility of, and the amount of funding necessary for—

(i) making all of the System unit and otherwise protected area maps available to the public in digital format; and

(ii) facilitating the integration of digital System unit and otherwise protected area boundaries into Federal, State, and local planning tools.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $1,000,000 for each of fiscal years 2006 through 2010.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Coastal Barrier Resources Act (16 U.S.C. 3510) is amended by striking "2001, 2002, 2003, 2004, and 2005" and inserting "2006 through 2010".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. RADANOVICH. Madam Speaker, I ask unanimous consent that all Members may be given 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RADANOVICH. Madam Speaker, I yield myself such time as I may consume.

This legislation, which was introduced by the distinguished chairman of the Senate Environment and Public Works Committee, would extend the authorization of appropriations for the Coastal Barrier Resources Act until September 30, 2010.

This law, first enacted in 1982, governs the John H. Chafee Coastal Barrier Resources System, which is made up of coastal barrier units delineated on maps adopted by Congress. Today this system is comprised of 856 units and more than 3 million acres of fastland and associated aquatic habitat.

In addition to allowing the Fish and Wildlife Service to continue to administer this vital program, the bill authorizes the digital mapping of the entire coastal barrier system. After more than 20 years of using outdated and many times inaccurate paper maps, it is time we provided this agency with the money to utilize modern technology.

According to the Department of the Interior, the Coastal Barrier Resources Act has saved the taxpayers in excess of $1.2 billion. Inclusion of this property within the Coastal Barrier Resources System does not prevent private development of the land, and the Fish and Wildlife Service is responsible for advising landowners whether their coastal property is within the boundaries of the system. Due to the nature of the existing maps, Congress has approved several technical corrections to the bills that have restored Federal flood insurance to taxpayers who were unfairly penalized by mapping errors.

I compliment Senator JAMES INHOFE for moving this program into the 21st century. I urge adoption of S. 1869.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as described by the previous speaker, this legislation would reauthorize the Coastal Barrier Resources Act for another 5 years.

The very essence of the John H. Chafee Coastal Barrier Resources System is the series of paper maps that identify every undeveloped coastal barrier land form lying along the coasts of the Atlantic Ocean, the Gulf of Mexico, and the Great Lakes.

In the quarter century that has elapsed since the time these maps were first created, there has been a quantum leap in the development of modern information technologies, especially technologies for utilizing geographic and other spatial data.

This legislation would authorize the U.S. Fish and Wildlife Service to transition from the current series of paper maps to a new, modern, digital data format. In the end, a digitized database should produce map products at a lower cost that are far more accurate, accessible, and easy to use to the general public.

In order to allow the service to begin this overdue process at the earliest possible date, Fisheries Subcommittee Chairman WAYNE GILCHREST and ranking Democratic member on the Fisheries Subcommittee, Congressman FRANK PALLONE, and the respective staffs have worked closely with the other body to develop this important piece of legislation.

I commend Mr. GILCHREST and Mr. PALLONE for their cooperation, and I urge Members to support this noncontroversial bill.

Madam Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 1869.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

NEOTROPICAL MIGRATORY BIRD CONSERVATION IMPROVEMENT ACT OF 2006

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 518) to require the Secretary of the Interior to refine the Department of the Interior program for providing assistance for the conservation of neotropical migratory birds, as amended.

The Clerk read as follows:

H.R. 518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Neotropical Migratory Bird Conservation Improvement Act of 2006".

SEC. 2. AMENDMENTS TO NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT.

(a) FINDINGS.—Section 2(1) of the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101(1)) is amended by inserting "but breed in Canada and the United States" after "the Caribbean".

(b) PURPOSES.—Section 3(2) of such Act (16 U.S.C. 6102(2)) is amended by inserting "Canada," after "United States,".

(c) DEFINITION OF CARIBBEAN.—Section 4 of such Act (16 U.S.C. 6103) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (5), respectively;

(2) by inserting after paragraph (1) the following:

"(2) CARIBBEAN.—The term 'Caribbean' includes Puerto Rico and the United States Virgin Islands."; and

(3) by inserting after paragraph (3), as so redesignated, the following:

"(4) FUND.—The term 'Fund' means the Neotropical Migratory Bird Conservation Fund established by section 9(a).".

(d) AUTHORIZATION OF PROJECTS TO ENHANCE CONSERVATION IN CANADA.—Section 5(c)(2) of such Act (16 U.S.C. 6104(c)(2)) is amended by inserting "Canada," after "the United States,".

(e) COST SHARING.—Section 5(e) of such Act (16 U.S.C. 6104(e)) is amended—

(1) in paragraph (1) by striking "25 percent" and inserting "50 percent"; and

(2) in paragraph (2) by amending subparagraph (B) to read as follows:

"(B) FORM OF PAYMENT.—

"(i) PROJECTS IN THE UNITED STATES AND CANADA.—The non-Federal share required to be paid for a project carried out in the United States or Canada shall be paid in cash.

"(ii) PROJECTS IN LATIN AMERICA AND THE CARIBBEAN.—The non-Federal share required to be paid for a project carried out in Latin America or the Caribbean may be paid in cash or in kind.".

(f) ADVISORY GROUP.—

(1) COMPOSITION.—Section 7(b)(1) of such Act (16 U.S.C. 6106(b)(1)) is amended by adding at the end the following: "The advisory group as a whole shall have expertise in the methods and procedures set forth in section 4(2) in each country and region of the Western Hemisphere".

(2) ENCOURAGEMENT TO CONVENE.—The Secretary of the Interior is encouraged to convene an advisory group under section 7(b)(1) of such Act by not later than 6 months after the effective date of this Act. This paragraph shall not be considered to authorize delay of the schedule previously established by the United States Fish and Wildlife Service for the submission, judging, and awarding of grants.

(g) REPORT.—Section 8 of such Act (16 U.S.C. 6107) is amended by striking "October 1, 2002," and inserting "2 years after the date of the enactment of the Neotropical Migratory Bird Conservation Improvement Act of 2006".

(h) NEOTROPICAL MIGRATORY BIRD CONSERVATION FUND.—

(1) IN GENERAL.—Section 9 of such Act (16 U.S.C. 6108) is amended by striking so much as precedes subsection (c) and inserting the following:

"SEC. 9. NEOTROPICAL MIGRATORY BIRD CONSERVATION FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury a separate account, which shall be known as the 'Neotropical Migratory Bird Conservation Fund'. The Fund shall consist of amounts deposited into the Fund by the Secretary of the Treasury under subsection (b).

"(b) DEPOSITS INTO THE FUND.—The Secretary of the Treasury shall deposit into the Fund—

"(1) all amounts received by the Secretary in the form of donations under subsection (d); and

"(2) other amounts appropriated to the Fund.".

(2) ADMINISTRATIVE EXPENSES.—Section 9(c)(2) of such Act (16 U.S.C. 6108(c)(2)) is amended by striking '$80,000' and inserting '$150,000'.

(3) CONFORMING AMENDMENTS.—Such Act is amended further as follows:

(A) In section 4 (16 U.S.C. 6103), by striking paragraph (1) and inserting the following:

"(1) FUND.—The term 'Fund' means the Neotropical Migratory Bird Conservation Fund established by section 9(a).".

(B) In section 9(d) (16 U.S.C. 6108(d)), by striking "Account" and inserting "Fund".

(4) TRANSFER.—The Secretary of the Treasury may transfer to the Neotropical Migratory Bird Conservation Fund amounts that were in the Neotropical Migratory Bird Conservation Account immediately before the enactment of this Act.

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 10 of such Act (16 U.S.C. 6109) is amended to read as follows:

(1) by inserting "(a) IN GENERAL.—" before the first sentence;

(2) by striking "$5,000,000 for each of fiscal years 2001 through 2005" and inserting "for each of fiscal years 2006 through 2010 the amount specified for that fiscal year in subsection (b)"; and

(3) by adding at the end the following:

"(b) AUTHORIZED AMOUNT.—The amount referred to in subsection (a) is—

"(1) $5,000,000 for each of fiscal years 2006 and 2007;

"(2) $5,500,000 for fiscal year 2008;

"(3) $6,000,000 for fiscal year 2009; and

"(4) $6,500,000 for fiscal year 2010.

"(c) AVAILABILITY.—Amounts appropriated under this section may remain available until expended.

"(d) ALLOCATION.—Of amounts appropriated under this section for each fiscal year, not less than 75 percent shall be expended for projects carried out outside the United States.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. RADANOVICH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RADANOVICH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would urge my colleagues to support this legislation to extend the Secretary of the Interior's authority to approve grants for the conservation of neotropical migratory birds. The Neotropical Migratory Bird Conservation Account was established in 2000 and has been widely popular.

In fact, the Fish and Wildlife Service, which administers the program, has received 690 grant requests to assist neotropical migratory birds. To date, the service has approved 146 conservation projects in 30 different countries. These projects have cost the Federal Government about $13.8 million, but they have generated almost $65 million in private matching funds. This is a remarkable achievement.

This bill would reauthorize the act for 4 years, expand the definition of the Caribbean to include Puerto Rico and all the U.S. Virgin Islands, reduce the matching fund requirement, allow conservation projects to be funded in Canada, and increase the authorization levels from $5 million to $6.5 million in fiscal year 2010.

I urge an "aye" vote on H.R. 518.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H.R. 518, the Neotropical Migratory Bird Conservation Improvement Act of 2006. This important legislation provides a comprehensive approach to addressing the varied and significant threats facing numerous species of migratory birds.

This act was first passed by Congress in 2000 and has a proven track record of reversing habitat loss and degradation. It also has advanced innovative management and habitat restoration strategies for a broad range of neotropical birds. This noncontroversial legislation would make technical and conforming improvements, most notably to broaden its scope to include Canada and adjust nonFederal matching fund requirements.

It is fitting that we are debating this bill on the House floor given that the

International Migratory Bird Day was just celebrated last week on May 12. The International Migratory Bird Day was created in 1993 to focus public attention on the need to protect birds and their habitats. This annual event celebrates one of the most important and spectacular events in the life of a migratory bird: its annual journey between summer and winter homes.

Moreover, last Saturday the Department of Interior announced $3.9 million in grants for neotropical migratory bird conservation to be provided to 43 conservation partners in 34 States and 17 Latin American and Caribbean countries. These partners will contribute an additional $17 million in matching funds to undertake projects that include researching, monitoring, and managing migratory bird populations.

Migratory birds contribute to our environmental and economic well-being. Many of these species protect crops and forests by feeding on insect pests. In addition, birds support a significant component of the economy. I know throughout my congressional district, which borders more shoreline along the Mississippi River than any other congressional district in the Nation, bird watching has become a large part of our recreational economy. In fact, the Upper Mississippi River Basin is North America's largest waterfowl migrating route. Each year 40 percent of all waterfowl species pass through the basin during migration. Additionally, nearly 70 million Americans spend more than $20 billion each year participating in bird-related activities. Birding is the fastest growing outdoor recreational activity in many parts of the country.

Finally, this legislation would provide a very modest increase in funding over 5 years. While I feel more funding is needed given the tremendous track record of the matching funds and private contributions that the partners make to these programs, I believe this legislation is important and the reauthorization needs to move forward. Therefore, I urge my colleagues to support this bill.

I also want to personally thank Chairman POMBO and Ranking Member RAHALL, as well as the Chair and ranking member of the subcommittee, Mr. GILCHREST and Mr. PALLONE, for their help and effort in the reauthorization process.

Again, I encourage adoption of this legislation.

Madam Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 518, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

JAMES CAMPBELL NATIONAL WILDLIFE REFUGE EXPANSION ACT OF 2005

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 1165) to provide for the expansion of the James Campbell National Wildlife Refuge, Honolulu County, Hawaii.

The Clerk read as follows:

S. 1165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "James Campbell National Wildlife Refuge Expansion Act of 2005".

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States Fish and Wildlife Service manages the James Campbell National Wildlife Refuge for the purpose of promoting the recovery of 4 species of endangered Hawaiian waterbirds;

(2) the United States Fish and Wildlife Service leases approximately 240 acres of high-value wetland habitat (including ponds, marshes, freshwater springs, and adjacent land) and manages the habitat in accordance with the National Wildlife Refuge System Improvement Act (16 U.S.C. 668dd note; Public Law 105–312);

(3) the United States Fish and Wildlife Service entered into a contract to purchase in fee title the land described in paragraph (2) from the estate of James Campbell for the purposes of—

(A) permanently protecting the endangered species habitat; and

(B) improving the management of the Refuge;

(4) the United States Fish and Wildlife Service has identified for inclusion in the Refuge approximately 800 acres of additional high-value wildlife habitat adjacent to the Refuge that are owned by the estate of James Campbell;

(5) the land of the estate of James Campbell on the Kahuku Coast features coastal dunes, coastal wetlands, and coastal strand that promote biological diversity for threatened and endangered species, including—

(A) the 4 species of endangered Hawaiian waterbirds described in paragraph (1);

(B) migratory shorebirds;

(C) waterfowl;

(D) seabirds;

(E) endangered and native plant species;

(F) endangered monk seals; and

(G) green sea turtles;

(6) because of extensive coastal development, habitats of the type within the Refuge are increasingly rare on the Hawaiian islands;

(7) expanding the Refuge will provide increased opportunities for wildlife-dependent public uses, including wildlife observation, photography, and environmental education and interpretation; and

(8) acquisition of the land described in paragraph (4)—

(A) will create a single, large, manageable, and ecologically-intact unit that includes sufficient buffer land to reduce impacts on the Refuge; and

(B) is necessary to reduce flood damage following heavy rainfall to residences, businesses, and public buildings in the town of Kahuku.

SEC. 3. DEFINITIONS.

In this Act:

(1) DIRECTOR.—The term "Director" means the Director of the United States Fish and Wildlife Service.

(2) REFUGE.—The term "Refuge" means the James Campbell National Wildlife Refuge established pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. EXPANSION OF REFUGE.

(a) EXPANSION.—The boundary of the Refuge is expanded to include the approximately 1,100 acres of land (including any water and interest in the land) depicted on the map entitled "James Campbell National Wildlife Refuge—Expansion" dated October 20, 2005, and on file in the office of the Director.

(b) BOUNDARY REVISIONS.—The Secretary may make such minor modifications to the boundary of the Refuge as the Secretary determines to be appropriate to—

(1) achieve the goals of the United States Fish and Wildlife Service relating to the Refuge; or

(2) facilitate the acquisition of property within the Refuge.

(c) AVAILABILITY OF MAP.—

(1) IN GENERAL.—The map described in subsection (a) shall remain available for inspection in an appropriate office of the United States Fish and Wildlife Service, as determined by the Secretary.

(2) NOTICE.—As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register and any publication of local circulation in the area of the Refuge notice of the availability of the map.

SEC. 5. ACQUISITION OF LAND AND WATER.

(a) IN GENERAL.—Subject to the availability of appropriated funds, the Secretary may acquire the land described in section 4(a).

(b) INCLUSION.—Any land, water, or interest acquired by the Secretary pursuant to this section shall—

(1) become part of the Refuge; and

(2) be administered in accordance with applicable law.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. RADANOVICH. Madam Speaker, I ask unanimous consent that all Members be given 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RADANOVICH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am pleased to urge the adoption of S. 1165, introduced by Senator DANIEL INOUYE. This bill is virtually identical to H.R. 2866, sponsored by our distinguished Resources Committee colleague, Congressman NEIL ABERCROMBIE.

This bill would increase the size of the James Campbell National Wildlife Refuge on the Island of Oahu by up to 800 acres of land. This refuge, which was created in 1976, provides essential wetland habitat for some 75 endangered plants and animals including four species of highly imperiled waterbirds. The birds depend on the protection of the James Campbell Refuge for their survival.

The sole owner of the property is the James Campbell Estate, and their legal representative testified that the estate is a willing seller of this property for inclusion within the refuge. The timing of this transaction is critical because the James Campbell Trust, which was created over 100 years ago, terminates on January 20, 2007. By acquiring this property, the two noncontiguous existing parts of the refuge will be connected. Historical wetland habitat will be restored and a new protected flyway will be created, and the Army Corps of Engineers will have the opportunity to provide some badly needed flood protection for a neighboring community. This refuge expansion will also conserve the last remaining large coastal dune ecosystem on Oahu, preserve native strand plants and protect threatened coastal wildlife including sea turtles, migratory shorebirds, and Hawaiian monk seals.

I urge an "aye" on S. 1165.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as described by my good friend from California, this noncontroversial legislation would authorize the expansion of the existing James Campbell National Wildlife Refuge, located on the north shore of the Island of Oahu in the State of Hawaii.

Members should also be aware that this legislation would accomplish other important conservation objectives such as wetland restoration, local flood protection, and the preservation of beach habitat for threatened and endangered species, especially green sea turtles and monk seals.

S. 1165 is virtually identical to H.R. 2866, companion legislation introduced in the House by my colleague from Hawaii, Congressman NEIL ABERCROMBIE.

In order to allow the U.S. Fish and Wildlife Service to proceed with these acquisitions at the earliest possible date, Mr. ABERCROMBIE has agreed to move this bill, passed by the other body, in order to expedite its passage by the Congress and the signing by the President.

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I commend the gentleman from Hawaii for his vision and foresight in developing this thoughtful conservation legislation, and I urge Members to support this noncontroversial bill.

Mr. CASE. Madam Speaker, I rise today in strong support of passage of S. 1165, the James Campbell National Wildlife Refuge Expansion Act of 2005. I cointroduced the House version of this bill (H.R. 2866) with my colleague, Congressman NEIL ABERCROMBIE.

S. 1165 expands the authorized boundary of the James Campbell National Wildlife Refuge in Honolulu, Hawaii, to include approximately 1,100 acres of land. The U.S. Fish and Wildlife Service, USFWS, has managed the James Campbell National Wildlife Refuge in Kahuku, Hawaii, for the past 30 years to protect four endangered Hawaiian water birds—the Hawaiian stilt (ae'o), the Hawaiian moorhen ('alae 'ula), the Hawaiian coot ('alae ke'oke'o), and the Hawaiian duck (koloa maoli)—and at least 25 different North American migratory birds. In 2005, USFWS acquired fee title to the 240-acre refuge located in two separate parcels. The expansion area will allow for acquisition of adjacent land to create a single, large, manageable, and ecologically intact unit that includes sufficient buffer land to reduce impacts on the Refuge. The acquisition will also facilitate a solution to area flooding problems.

The expanded acreage would allow for restoration of critical wetland habitat, which would form the largest managed freshwater wetland on Oahu. It would connect the two existing units and create a protected corridor between them to provide essential habitat for four endangered waterbird species and migratory waterbirds. It would also protect the last remaining large-scale and intact coastal dune ecosystem on Oahu and preserve native strand plants and protect coastal wildlife such as threatened green sea turtles, seabirds, migratory shorebirds, and possibly the endangered Hawaiian monk seal. Support facilities could be constructed on upland areas to support environmental education and interpretation programs, visitor services, and habitat management programs. All land proposed for purchase is owned by the Estate of James Campbell, a willing seller.

Heavy floods occur frequently in this area, devastating residents who live in the adjacent town of Kahuku. Because of the location and natural function of this floodplain, the land acquisition also serves as the crucial component for the proposed Kahuku flood control project by preserving the floodwater retention of these wetlands and providing an area where flood control design can be made more efficient.

This habitat restoration proposal represents the most significant wetland enhancement project ever undertaken in Hawaii. By combining effective wetland restoration, endangered species conservation, environmental education, visitor opportunities, and flood control, benefits provided will serve not only the local communities, but also Hawai'i residents and visitors for generations to come.

Mr. ABERCROMBIE. Madam Speaker, thank you for considering S. 1165 on the floor today. By authorizing the expansion of the James Campbell National Wildlife Refuge, NWR, we are protecting endangered and migratory birds from the effects of an increasingly urban island.

Located on the northern end of the island of Oahu, the Campbell NWR is the premier recovery area on the island for all four endangered Hawaiian waterbirds. The refuge consists of approximately 241 acres of naturally occurring, spring-fed marsh and manmade ponds in two separate parcels. Although the refuge was established specifically to benefit the endangered Hawaiian stilt (ae'o), coot ('alae ke'oke'o), moorhen ('alae 'ula), and duck (koloa maoli), it also provides essential habitat for at least 25 species of wintering migratory birds coming from as far away as Alaska, New Zealand, and Asia.

The expansion proposed by S. 1165 would connect these two parcels, providing a protected flyway and essential habitat. The expansion would also incorporate significant coastal property and preserve the last remaining large scale sand dune ecosystem. This boundary enlargement will preserve native strand species as well as coastal wildlife such as threatened green sea turtles, seabirds, migratory shorebirds and possibly the threatened Hawaiian monk seal.

As a dual benefit, this expansion would also help protect the neighboring town of Kahuku from devastating floods. The refuge expansion serves as an important component of the Kahuku flood control project by increasing drainage capacity and preserving the floodwater retention of these protected wetlands. In turn, the flood mitigation project could potentially enhance the wetland area to ensure maximum production and survival of endangered Hawaiian waterbird populations. The importance of this added benefit has been made clear as recent rains in Hawaii have flooded the town of Kahuku along with its schools and homes.

The Campbell NWR is a haven to endangered and migratory birds. Its expansion would further the goals of the refuge and the Refuge System while helping to protect an adjacent town from intermittent flooding.

I would also like to thank Chairman POMBO and Ranking Member RAHALL for their support and efforts in addressing this issue. I respectfully request my colleagues to support this measure and its intent to protect the wildlife on the north shore of Oahu.

Mr. KIND. Madam Speaker, I yield back the balance of my time.

Mr. RADANOVICH. Madam Speaker, I thank the gentleman from Wisconsin.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the Senate bill, S. 1165.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

ELIZABETH HARTWELL MASON NECK NATIONAL WILDLIFE REFUGE

Mr. RADANOVICH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3682) to redesignate the Mason Neck National Wildlife Refuge in Virginia as the Elizabeth Hartwell Mason Neck National Wildlife Refuge.

The Clerk read as follows:

H.R. 3682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIZABETH HARTWELL MASON NECK NATIONAL WILDLIFE REFUGE.

(a) REDESIGNATION.—The Mason Neck National Wildlife Refuge in Virginia, is hereby redesignated and shall be known as the "Elizabeth Hartwell Mason Neck National Wildlife Refuge".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the National Wildlife Refuge in Virginia referred to in subsection (a) shall be deemed to be a reference to the "Elizabeth Hartwell Mason Neck National Wildlife Refuge".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. RADANOVICH) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. RADANOVICH. Madam Speaker, I ask unanimous consent that all Members may be given 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. RADANOVICH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 3682 was introduced by two of our distinguished Virginia colleagues, TOM DAVIS and FRANK WOLF. This measure would rename the Mason Neck National Wildlife Refuge after Mrs. Elizabeth Hartwell. While I never had the opportunity to meet this remarkable woman, there seems to be no debate that she dedicated her life to conservation.

After nearly 20 years of tireless work to stop the destruction of the Mason Neck Peninsula, Mrs. Hartwell and her supporters were successful in their efforts to create the Mason Neck National Wildlife Refuge.

This refuge, which was the first established to protect the American bald eagle, has grown to 2,277 acres of land. In addition to one of the largest concentrations of bald eagles in the lower 48 States, Mason Neck is home to the largest great blue heron rookery in the mid-Atlantic region and more than 200 species of birds, 41 species of reptiles and amphibians, and 31 species of mammals.

I am sure the authors of this legislation will attest that this refuge would not exist had it not been for Mrs. Elizabeth Hartwell. Despite powerful and well-financed opponents, she was successful because she lived her life committed to the philosophy of one of our Nation's greatest conservationists, Theodore Roosevelt, who reminds us that "it is not what we have that makes us a great Nation; it is the way in which we use it."

This legislation proposes a fitting tribute to someone who was affectionately called the "Eagle Lady."

I urge an "aye" vote on H.R. 3682.

Madam Speaker, I reserve balance of my time.

Mr. KIND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, we have no objection to this legislation that would rename the Mason Neck National Wildlife Refuge to honor the late Elizabeth Hartwell, a local conservationist who dedicated much of her life to protecting this refuge located along the Potomac River.

I encourage my colleagues to support the name change.

Madam Speaker, I reserve the balance of my time.

Mr. RADANOVICH. Madam Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Madam Speaker, I am honored today to speak today in support of H.R. 3682, a bill to rename the Mason Neck National Wildlife Refuge after Elizabeth Hartwell.

For almost 20 years, Mrs. Hartwell spearheaded efforts to protect the Mason Neck area. Her efforts led to the establishment of the 2,300-acre Mason Neck National Wildlife Refuge, the 1,800-acre Mason Neck State Park, and the 1,000-acre Pohick Bay Regional Park.

Mrs. Hartwell began her environmental crusade in February 1965 when she learned about a rezoning application in Fairfax County for the development of a satellite city of 20,000 people on the most ecologically sensitive area of Mason Neck. She decided to lead an effort to stop this development and to preserve Mason Neck habitat for the endangered American bald eagle.

During the ensuing weeks and months, she organized a watchdog group called the Conservation Committee For Mason Neck. She made films of the wildlife that thrived there to show other civic organizations around the region. Mrs. Hartwell even gave tours by boat along Mason Neck's waterways and enlisted the support of several environmental organizations at the local, regional, State, and Federal levels.

The Mason Neck National Wildlife Refuge was established in 1969 for the protection of nesting, feeding, and roosting habitat for bald eagles. It was the first Federal refuge established specifically for the then-endangered bald eagle. Today, there are multiple nests on the refuge and on neighboring public and private lands.

I am pleased to support the effort of several Mason Neck area homeowners associations to rename the Mason Neck National Wildlife Refuge in honor of Mrs. Hartwell, who passed away on December 14, 2000. She dedicated her life to nature and to helping the environment, and it would be a fitting tribute to rename the Mason Neck Refuge after the woman who fought so valiantly for its creation.

Mr. KIND. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RADANOVICH. Madam Speaker, I too have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. RADANOVICH) that the House suspend the rules and pass the bill, H.R. 3682.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF PEACE OFFICERS MEMORIAL DAY

Mr. TOM DAVIS of Virginia. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 788) supporting the goals and ideals of Peace Officers Memorial Day.

The Clerk read as follows:

H. RES. 788

Whereas the well-being of all people of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 870,000 law enforcement personnel in the United States serve their fellow citizens as guardians of peace;

Whereas peace officers are on the front line in preserving the right of the children of the United States to receive an education in a crime-free environment, a right that is all too often threatened by the insidious fear caused by violence in schools;

Whereas 155 peace officers across the Nation were killed in the line of duty during 2005, well below the decade-long average of 164 deaths annually, and a major drop from 2001 when 237 officers were killed, including 72 officers in the September 11th terrorist attacks;

Whereas a law enforcement officer is killed in the United States every 53 hours, and there are 56,000 assaults against our law enforcement officers each year, resulting in 16,000 injuries;

Whereas section 136 of title 36, United States Code, requests that the President issue an annual proclamation designating May 15 as Peace Officers Memorial Day in honor of Federal, State, and local officers killed or disabled in the line of duty; and

Whereas on May 15, 2006, more than 20,000 peace officers are expected to gather in Washington, D.C. to join with the families of their recently fallen comrades to honor those comrades and all others who have fallen before them: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideals of Peace Officers Memorial Day to honor Federal,

State, and local peace officers killed or disabled in the line of duty; and

(2) calls upon the people of the United States to observe such a day with appropriate ceremonies and respect.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. TOM DAVIS of Virginia. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, each day, law enforcement officers in this country face grave danger as they protect the rights and freedoms we enjoy as Americans. Their commitment and sacrifice make our streets safer, our neighborhoods stronger, and our families more secure.

May 15 is set aside each year to honor the service and sacrifice of America's law enforcement officers and their families. It also promotes increased public support for the law enforcement profession and helps to promote law enforcement safety. The more than 850,000 men and women who guard our communities do so at great risk. Each year, one in 15 officers is assaulted, one in 46 is injured, and one in 5,255 is killed in the line of duty.

After the hijacked planes hit the World Trade Center in New York City on 9/11, 72 peace officers died while trying to ensure their fellow citizens got to safety. That act of terrorism resulted in the highest number of peace officers killed in a single incident in the history of this country.

Just 8 days ago, the tragedy of an officer killed in the line of duty struck my community in Fairfax County. Police officer Vicky Armel was killed and two officers were wounded after a gunman opened fire with high-powered weapons in the parking lot of a Chantilly police station during a shift change. These tragic events shook the community, and the Fairfax police force, to the core.

It is important to recognize the sacrifices that these officers and their families make each day to ensure that we will have a safe environment in which to live, work, and raise our families. National Peace Officers Memorial Day will provide the people of the United States with an opportunity to honor the extraordinary service and sacrifice given year after year by our police forces.

The annual ceremony, which was held the evening of May 13, featured several contributions from police officers all over the country, including the singing of the National Anthem by Fairfax County, Virginia, police officer Laura Zambron. Following the ceremony, prominent law enforcement leaders, survivors, and law enforcement supporters read the names of the 466 fallen officers whose names were officially added to the memorial.

I urge all Members to come together to honor the dedication of these brave men and women, like Detective Armel, by adopting House Resolution 788.

Madam Speaker, I reserve the balance of my time.

Ms. NORTON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, each day, peace officers nobly protect our families, friends, and neighbors from crime and work to improve the quality of life for all of us. For that, they deserve our sincere appreciation and respect.

While it is impossible to suitably thank these brave Americans for the tremendous sacrifices they make, we pause this week to salute them for their courage, dedication, and service and to pay our respects to those who have fallen in the line of duty.

In 1962, President John F. Kennedy designated May 15 of every year as Peace Officers Memorial Day. This day was set forth to give special recognition to the brave men and women who protect our lives every day, often at great risk to their health and lives.

On average, a crime is committed in this country every 2 seconds, and you can rest assured that one of the nearly 800,000 law enforcement officers in this great country will respond promptly and courageously, no matter how dangerous the situation might be. It is appropriate that we both honor current peace officers and memorialize fallen heroes for the safety and assistance they provide us all.

Recent events just miles from this building in Fairfax, Virginia, offered a clear and present example of the dangers law enforcement officers face each day. In this past year alone, 155 law officers were killed and over 10,000 were assaulted in the line of duty as they protected and served their communities. While this number is down from the previous decade's average of 169 annually, it is still very unacceptable.

This week, thousands of law enforcement officers from around the country gathered in Washington, D.C., to pay tribute and to mourn together. Those of us who benefit from their hard work and sacrifice also honor their work and sacrifices. We all owe them a debt of gratitude that we can never repay.

Madam Speaker, I support the goals and ideals of Peace Officers Memorial Day, as I am sure every Member of the House does, to honor Federal, State and local peace officers killed or disabled in the line of duty; and I support this day to honor those who stand for us every day in the line of duty. I call upon the people of the United States to observe such a day with appropriate ceremonies and respect, wherever they are.

Madam Speaker, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Madam Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from Colorado (Mr. HEFLEY), the author of this resolution.

Mr. HEFLEY. Madam Speaker, I thank the chairman for bringing this to the floor today. This is something we don't have to sell.

Madam Speaker, I rise, as the chairman and ranking member have to honor more than 20,000 peace officers from around the Nation who are visiting Washington, D.C., this week in honor of Peace Officers Memorial Day and National Police Week. These officers will commemorate the lives of 155 officers who died last year in the line of duty.

Today, we recognize May 15 as National Peace Officers Memorial Day and pay tribute to the commitment, sacrifice, and public safety and the services these officers provide for all Americans on a daily basis.

As we all know, September 11 stands out as one of the most tragic days in American history. We lost 72 police officers on that one day. That is the most on any single day in history. While that was unusual and an extreme example, these law enforcement officers are serving us and sacrificing and protecting us, showing heroism and valor every day in every community around the Nation.

Last year, as I said, 155 police officers were killed in the line of duty. Though unquestionably this is tragic, the 155 deaths were below the decade-long average of 163. Still, this is the second consecutive year that the numbers have increased and a trend that must come to an end in 2006, and thankfully is on track to do so so far.

Peace officers in every community have an admirable record of service and sacrifice, yet too many Americans lack a true understanding and appreciation of law enforcement's worth. This is why several years ago I participated in establishing the National Law Enforcement Museum in Washington, D.C. This past Saturday, 466 names of brave men and women were officially added to the memorial, including seven from my own home State of Colorado.

Peace officers face unprecedented risks, while bravely protecting our communities and our freedoms, and I hope my colleagues will join me today in paying tribute to our Nation's fallen officers and expressing our gratitude for the work these men and women do for us every day.

☐ 1445

Ms. NORTON. Madam Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Madam Speaker, I thank my good friend and colleague from the District for yielding me this time.

Madam Speaker, I do rise in support of this resolution which is supporting the goals and the ideals of the Peace Officers Memorial.

Madam Speaker, as a former prosecutor and special prosecutor in the State of Wisconsin, it was my honor, or privilege really, of being able to work each day with these law enforcement officers in our community and throughout the State. I have always been impressed with their dedication and professionalism, their commitment to the community.

These men and women in uniform wake up every morning with a shared goal of trying to make our communities just a little bit safer, trying to make us and our children and grandchildren and all of our families just a little bit safer during the day.

And all too often we hear the tragic stories or read about it or see on the news of fallen officers who fell in the line of duty. And it is right and proper that we have a National Peace Officers Memorial Day to honor their sacrifice made on behalf of all of us.

But what we do not hear about is the tremendous courage and dedication that officers exhibit each and every day and the cases that they sometimes find themselves in, which places their life and safety in great danger. And this, unfortunately, occurs on an all too frequent basis.

Madam Speaker, I also want to just take a moment and commend a member of my own family, my youngest brother, Terry Kind, for his years of dedicated service as a police officer for the Town of Holmen Police Department in western Wisconsin.

I have the chance to talk to him from time to time to try to keep a foot in the law enforcement community back home. And sometimes the stories that he relates to me are blood-curdling and quite startling. Not only talking about the victims of crime, but also the incredible danger that our officers face from time to time.

Madam Speaker, I would encourage all of my colleagues to support this resolution today. I want to commend my colleagues on the floor here for bringing this resolution forward and speaking so favorably about it. I also want to commend and thank those law enforcement officers across our country who do a tremendous job under very difficult and dangerous circumstances each and every day of their dedicated lives.

Mr. CANTOR. Madam Speaker, I rise in strong support of this resolution to support the goals and ideals of Peace Officers Memorial Day.

Recently, Virginia lost Detective Vicky Armel with the Fairfax County Police Department. Our Nation and the Commonwealth of Virginia experienced great loss as this fine police officer gave her life in line of duty.

Law enforcement officers take a solemn oath to protect and serve the communities they serve. With honor, they uphold our laws and protect the innocent.

As a nine-year veteran of the force, Detective Armel specialized in burglary crimes. She worked tirelessly each day to investigate and bring to justice those criminals who violated our homes, property, and peace of mind.

Her loss is felt deeply by her husband, Tyler, who is also a proud member of the Fairfax County Police Department, and their two children, 4-year-old daughter Mason and 7-year-old son Thomas. I stand with Detective Armel's community and congregation in support of her family.

Detective Armel's dedication and the sacrifices she made symbolize the honor of the law enforcement profession. Our thoughts and prayers are with her family, friends, and the community in which she served as we honor her passing on this Peace Officers Memorial Day.

Recently, Virginia lost Officer Gary J. Buro of the Chesterfield County Police Department. Our Nation and the Commonwealth of Virginia experienced great loss as this fine police officer gave his life in line of duty.

Law enforcement officers take a solemn oath to protect and serve the communities they serve. With honor, they uphold our laws and protect the innocent.

Officer Buro proudly served his Nation at home and abroad. As a U.S. Marine during the Gulf War, he defended our Constitution and fought to liberate Kuwait from Saddam Hussein's grasp. After returning home, he began a distinguished 11-year career in law enforcement. He served with the Lantana, Florida and New York City Police Departments. Only recently, Officer Buro brought his experience and dedication to Virginia and joined the Chesterfield County Police Department in January of this year.

Officer Buro's dedication and the sacrifices he made symbolize the honor of the law enforcement profession. Our thoughts and prayers are with his family, friends, and the community in which he served as we honor his passing on this Peace Officers Memorial Day.

Mr. COSTELLO. Madam Speaker, I rise today in support of H. Res. 788, a resolution that honors and celebrates the 25th Annual National Peace Officers' Memorial Service Observance Day on May 15, 2006. President John F. Kennedy proclaimed May 15th as National Peace Officers' Memorial Day in 1962. However, it was not until May 15, 1982 that the first National Peace Officers' Memorial Day Service was held in Washington, DC. It is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agencies. The memorial that was created in Washington, DC stands as a daily reminder of these dangers facing our law enforcement officers and of how these brave men and women died facing them.

As a former police officer, I salute those law enforcement officials who died in the line of duty in 2005 and continue to honor those police officers who gave their lives in past years. As a member of the Congressional Law Enforcement Caucus, I strongly support critical funding for programs, such as the Community Oriented Policing Services (COPS) program, to hire additional police officers and help law enforcement acquire the latest crime-fighting technologies. I will continue to be a strong supporter of the law enforcement community and will advocate on behalf of public safety in Congress.

Madam Speaker, in honor of the law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, I ask my colleagues to join me in recognizing and paying respect to our fallen heroes. As a proud cosponsor of H. Res. 788, I urge my colleagues to support this resolution.

Mr. STUPAK. Madam Speaker, I rise today to say thank you to the 850,000 police officers who go to work in our communities each day, and to pay tribute to the more than 17,000 who have made the ultimate sacrifice, and whose names are inscribed on th National Law Enforcement Officers Memorial.

As a former officer with the Michigan State Police and Escanaba City Police Department, as well as founder and co-chair of the Law Enforcement Caucus, I am proud to be a cosponsor of this resolution, and I want to thank Congressman HEFLEY for introducing it again this year.

Everyday, our Nation's police officers face danger and uncertainty in order to keep us safe. There are 56,000 assaults against law enforcement officers each year; and last year, 155 peace officers were killed in the line of duty, including five from my own state of Michigan. They leave behind husbands, wives, parents, and children, who supported them and believed in their work, and who now need and deserve our support.

I want to take a moment to thank organizations like Concerns of Police Survivors and Thin Blue Line that work to help give a voice and a helping hand to the families of officers who are killed. These compassionate organizations help to remind us that the law enforcement community goes beyond those who wear the uniform to include the families who share the risks that come with a career in police work. The ceremonies of this past weekend are for them, to commemorate their commitment and their sacrice, and to let them know that their Nation shares their loss and that their loved ones did not die in vain.

I also think that we need to go beyond the usual gestures to offer the families of fallen officers real, material support. We need to fully fund critical law enforcement programs like the Byrne Grant program, which was named for a fallen officer and which has helped to provide vital funding for organizations like Thin Blue Line. This program has been under attack by the administration in recent years, and I call on my colleagues to show the familes and officers gathered here this week that we mean to support them with our resources as well as our words.

In addition, I am especially proud to have introduced a piece of legislation that will provide health insurance coverage to the survivors of public safety officers who are killed in the line of duty. This bill, H.R. 4424, has been endorsed by leading national law enforcement organizations, and will help to relieve the financial strain on police survivors in the wake of the most traumatic possible loss. I think this legislation is an example of the kind of practical support that we can provide to law enforcement officers and their families, and I hope to see it move forward in the coming year.

After September 11, this Congress seemed to recognize the heroic nature of the work that our law enforcement officers do, and the importance of supporting them fully. However, I am concerned that we have begun to lose sight of our priorities in recent years. Funding for essential programs like COPS has been declining, and even highly successful programs like the Byrne Grant are being threatened with elimination. I believe that we need to go back to the model that helped to radically reduce crime across this country in the Clinton years: funding to put cops on the streets, support for succesful local programs, and federal commitment to initiatives, like communications interoperability, that help to make our first responders more effective.

This week should serve as a chance for us to renew our commitment to the men and women of the law enforcement community. Today, we have the chance to honor them with our words, through the excellent resolution that Mr. HEFLEY has introduced. For the rest of the year, let's make sure that we are honoring and supporting them through our priorities and our actions. It is the least we can do for the officers and families who do so much for us every day.

Ms. NORTON. Madam Speaker, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Madam Speaker, I yield back the balance of my time, and urge Members to support the adoption of House Resolution 788.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 788.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4217

Mr. KUHL of New York. Madam Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4217.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

RECOGNIZING CULTURAL AND EDUCATIONAL CONTRIBUTIONS OF AMERICAN BALLET THEATRE

Mr. KUHL of New York. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res 751) recognizing the cultural and educational contributions of American Ballet Theatre throughout its 65 years of service as "America's National Ballet Company".

The Clerk read as follows:

H. RES. 751

Whereas American Ballet Theatre (ABT) is recognized as one of the world's great dance companies;

Whereas ABT is dedicated to bringing dance to America and American dance to the world;

Whereas over its 65-year history, ABT has appeared in all 50 States of the United States, in a total of 126 cities, and has performed for more than 600,000 people annually;

Whereas ABT has performed in 42 countries as perhaps the most representative American ballet company, with many of those engagements sponsored by the Department of State;

Whereas ABT has been home to the world's most accomplished dancers and has commissioned works by all of the great choreographic geniuses of the 20th century;

Whereas Dwight D. Eisenhower recognized ABT's ability to convey through the medium of ballet "some measure of understanding of America's cultural environment and inspiration";

Whereas over the years ABT has performed repeatedly at the White House, most recently in December 2005;

Whereas ABT is committed to bringing dance to a broad audience and provides exposure to dance to more than 20,000 underprivileged children and their families each year;

Whereas ABT's award-winning Make a Ballet program and its other outreach initiatives help to meet the need for arts education in underserved schools and communities;

Whereas ABT's Studio Company brings world class ballet to smaller communities like Rochester, New York; Stamford, Connecticut; Sanibel, Florida; South Hadley, Massachusetts; and Winston-Salem, North Carolina; and

Whereas The Jacqueline Kennedy Onassis School at ABT and the ABT's other artistic development initiatives provide the highest quality training consistent with the professional standards of ABT: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes and commends American Ballet Theatre for over 65 years of service as "America's National Ballet Company", during which it has provided world class art to citizens in all 50 States;

(2) recognizes that American Ballet Theatre also serves as a true cultural ambassador for our Nation, by having performed in 42 countries and fulfilling its reputation as one of the world's most revered and innovative dance companies; and

(3) recognizes that American Ballet Theatre's extensive and innovative education, outreach, and artistic development programs both train future generations of great dancers and expose students to the arts.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. KUHL) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

GENERAL LEAVE

Mr. KUHL of New York. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous information on H. Res. 751.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. KUHL of New York. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, it gives me great pleasure to rise in support of House Resolution 751, recognizing the cultural and educational contributions of American Ballet Theatre throughout its 65 years of service as "America's National Ballet Company."

When the American Ballet Theatre began, it inspired to develop a repertoire of the best ballets from the past, and to encourage the creation of new works by gifted young choreographers, whenever they might be found. Since then it has continued to be dedicated to bringing dance to America and American dance to the world.

I would say it has succeeded. Today the American Ballet Theatre is recognized as one of the great dance companies of the world, and throughout its 65-year history, the American Ballet Theatre has appeared in 50 U.S. States, in a total of 126 cities around the world, and has performed for more than 600,000 people annually.

America's National Ballet Company has also made 15 international tours to 42 countries, and has been sponsored by the U.S. Department of State on many of these engagements.

It was also the first American company to dance in the Soviet Union. Additionally the theatre has commissioned works by all of the great choreographic geniuses of the 20th century and many of the world's most accomplished dancers, including Mikhail Baryshnikov, have called the American Ballet Theatre home.

Lastly, Madam Speaker, I would like to emphasize the many enrichment programs the American Ballet Theatre offers for families, for training young and future dancers, and for the public and private schools.

I would specifically like to point out the work that the American Ballet Theatre has done to expose more than 20,000 underprivileged families and children in the fine art of dance, as well as introducing such children to career opportunities in the arts, both on stage and back stage, while also helping students develop valuable life skills.

Madam Speaker, I want to thank my colleague and fellow New Yorker, Mrs.

MALONEY. for introducing this resolution. I am happy to join my colleagues in recognizing the accomplishments and contributions of America's National Ballet Company, the American Ballet Theatre, and ask my colleagues to support this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. KIND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of House Resolution 751, recognizing the cultural and educational contributions of the American Ballet Theatre throughout its 65 years of service as America's National Ballet Company.

Madam Speaker, I also want to applaud Congresswoman CAROLYN MALONEY for her leadership in sponsoring this resolution. Unfortunately, due to illness, it prevents her from being here on the House floor today to speak about it.

Madam Speaker, H. Res. 751 recognizes the anniversary of one of the finest and most distinguished ballet companies in the world, the American Ballet Theatre. The ABT is recognized as a living national treasure. Using dance as its medium, the American Ballet Theatre has brought joy to audiences here and abroad for over 40 years.

Equally important to the ABT has been its educational programs. Not only have they trained world class ballerinas, but ABT brings its art into the classroom by sponsoring dance programs in public schools across the country.

The Young People's Ballet Workshop offers students who would not ordinarily have the opportunity to experience the ballet to see the company perform and learn about the art of ballet. Again, I join my colleagues here today, and especially Congresswoman MALONEY, in supporting this resolution and congratulate the American Ballet Theatre on its 65th anniversary.

Mr. REYNOLDS. Madam Speaker, I rise today in support of H. Res. 751 to honor the American Ballet Theatre. For 65 years, the theatre has entertained and educated thousands, becoming a national cultural icon as "America's National Ballet Company."

The American Ballet Theatre has performed in all 50 states inspiring and thrilling Americans with their skilled artistry. The company has also served as America's cultural ambassador by bringing American dance to more than 42 countries, often as representatives of the State Department.

Yet beyond being one of the world's truly great ballet companies, the American Ballet Theatre has also excelled off the stage in its remarkable education efforts, Throughout its history, the company has brought classical dance to communities not typically able to experience world-class ballet and to students throughout the country. The theater has created some of the most innovative educational programs dealing with the arts, including the Make a Ballet program, empowering at-risk students by giving them the resources and confidence to produce and stage their very own ballet.

In my community, the American Ballet Theatre has also been a giving and vital artistic institution, providing Rochester-area residents rare performances and indispensable educational opportunities. In 2004, the company presented an extraordinary internationally-themed program at New Auditorium Theatre in Rochester, giving audience members the unique chance to see up close famed performers and dance styles from throughout the world. The American Ballet Theatre also offered a class—taught by the former theater dancer and artistic director John Meehan—giving local dance students the opportunity to learn and perform alongside up-and-coming ABT dancers.

Madam Speaker, I urge my colleagues to join me in supporting H. Res. 751 to celebrate and honor an important cultural icon of America, the American Ballet Theatre.

Mrs. MALONEY. Madam Speaker, I rise today in support of H. Res. 751, recognizing the cultural and educational contributions of American Ballet Theatre.

For 65 years American Ballet Theatre has educated and inspired us through their artistry and commitment to bringing dance to America and American dance to the world.

While ABT is truly a national company and has performed for countless people in all 50 states and 42 countries, I want to speak today about the special relationship between American Ballet Theatre and the city of New York.

In my district we have been the beneficiaries of six decades of American Ballet Theatre's world-class art. Next week, ABT will open their annual engagement at the Metropolitan Opera House, performing their renowned mix of great ballet classics and challenging new works.

These performances are a primary reason that American Ballet Theatre is universally regarded as one of the world's great ballet companies. From the scale of the productions to the artistry of the dancers, ABT's performances are truly something to behold and I encourage my colleagues to see one of their engagements at the Kennedy Center, in New York City, or in your home state.

ABT's importance to my city transcends these annual performances at the Met, however. Every year the company performs a second series at smaller venues in New York, allowing ballet fans the unique opportunity to watch many of the world's greatest dancers in an intimate setting and enhancing New York's status as one of the world's cultural capitals.

Beyond their performances, American Ballet Theatre's educational mission and their focus on bringing ballet and the classic arts to audiences that otherwise would not have access is truly special. For over 10 years, ABT has offered extensive outreach and in-school arts programming in public schools, completely free of charge. ABT focuses its efforts in underserved communities and "at-risk" schools in New York, bringing the arts to schools that suffer from budgetary cuts to arts programming, and they reach over 20,000 New York students each year. During the 2006 spring season at the Metropolitan Opera House, ABT will distribute 10,000 complimentary tickets to New York students who would not otherwise have access to ABT's incredible artistic resources.

American Ballet Theatre truly is an American treasure, and should be recognized for enriching the cultural landscape of New York and our country. I want to thank my cosponsors and the leadership of both parties for bringing this resolution to the floor. And again, I encourage all of my colleagues to experience the talent and artistry of American Ballet Theatre.

Mr. SHAYS. Madam Speaker, I rise today in support of H. Res. 751, recognizing American Ballet Theatre as a cultural and educational resource for our Nation.

Over the last 65 years, American Ballet Theatre has elevated the artistry and talent of classical dance in the United States, and has brought a greater appreciation and understanding of the arts to countless people in all 50 States and around the world.

American Ballet Theatre has developed a special relationship with Connecticut through the award-winning Make a Ballet Program.

Since 2002, ABT has been offering this program at The Waterside School, an independent, private day school in Stamford, which introduces low-income children to ballet. ABT Teaching Artists come to the school twice a week and provide a thorough introduction to the arts and high-quality dance instruction. This long-term, in-depth exposure to the arts leaves indelible impacts on the students, instilling a sense of confidence and accomplishment, and planting seeds that will reap appreciation for the arts for years to come.

American Ballet Theatre also holds a Ballet for the Young Dancer program at the YWCA in Greenwich each year, providing children between the ages of 5 and 12 with weekly ballet classes with some of the finest dancers in the world.

While the grand performances that American Ballet Theatre presents have established it as one of the world's great ballet companies, it is the interactions with local communities across America that truly distinguish ABT as a national treasure.

I urge my colleagues to support this resolution.

Mr. KIND. Madam Speaker, I yield back the balance of my time.

Mr. KUHL of New York. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. KUHL) that the House suspend the rules and agree to the resolution, H. Res. 751.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

☐ 1500

CALLING ON GOVERNMENT OF UNITED KINGDOM TO ESTABLISH INQUIRY INTO MURDER OF NORTHERN IRELAND DEFENSE ATTORNEY PAT FINUCANE

Mr. McCOTTER. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 740) calling on the Government of the United Kingdom to immediately establish a full, independent, public judicial inquiry into the murder of Northern Ireland defense attorney Pat Finucane, as recommended by international Judge Peter Cory as part of the Weston Park agreement and a way forward for the Northern Ireland Peace Process, as amended.

The Clerk read as follows:

H. Res. 740

Whereas human rights defense attorney and solicitor Patrick Finucane was brutally murdered in front of his wife and children at his home in Belfast on February 12, 1989;

Whereas many international bodies and nongovernmental human rights organizations, including Amnesty International, British Irish Rights Watch, the Committee for the Administration of Justice, and Human Rights First, have called attention to serious allegations of collusion between loyalist paramilitaries and British security forces in the murder of Mr. Finucane;

Whereas in July 2001 the Governments of Ireland and the United Kingdom under terms of the Weston Park Agreement appointed retired Canadian Judge Peter Cory to investigate the allegations of collusion between loyalist paramilitaries and British security forces in the murder of Mr. Finucane and other individuals;

Whereas Judge Cory reported to the Governments of Ireland and the United Kingdom in April 2004 that sufficient evidence of collusion existed to warrant a public independent, judicial inquiry into the murder of Mr. Finucane and recommended that a public inquiry take place without delay;

Whereas the Government of the United Kingdom in April 2005 adopted the Inquiries Act 2005 which empowers the Government to block scrutiny of state actions and limits independent action by the judiciary in inquiries held under its terms, and, after the enactment of this legislation establishing new limited inquiry procedures, the Government announced that an inquiry into the murder of Mr. Finucane would be established which would operate under terms of the new legislation;

Whereas Judge Cory, in a written statement presented to the Committee on International Relations of the House of Representatives in 2005, stated that his 2004 recommendation for a public inquiry into the murder of Mr. Finucane had "contemplated a true public inquiry constituted and acting pursuant to the provisions of the 1921 Act" (the Tribunals of Inquiry (Evidence) Act 1921), and also stated that "it seems to me that the proposed new Act would make a meaningful inquiry impossible";

Whereas the family of Mr. Finucane has rejected the limited authority of an inquiry conducted under terms of the Inquiries Act of 2005;

Whereas Amnesty International, British Irish Rights Watch, the Committee for the Administration of Justice, and Human Rights First have likewise rejected any proposed inquiry into the murder of Mr. Finucane established under procedures of the Inquiries Act of 2005 and have called for the repeal of the Act;

Whereas the Dial Eireann (Parliament of Ireland) adopted a resolution on March 8, 2006, calling for the establishment of a full public independent judicial inquiry into the murder of Patrick Finucane; and

Whereas the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228) and House Resolution 128 (April 20, 1999) support the establishment of a public independent judicial inquiry into the murder of Patrick Finucane: Now, therefore, be it

Resolved, That the House of Representatives—

(1) expresses to the family of Patrick Finucane deepest condolences on his death, commends their steadfast pursuit of justice in his brutal murder, and thanks his wife Geraldine and son Michael for their willingness to testify on this matter before committees of the House of Representatives on numerous occasions;

(2) supports the efforts of the Administration in seeking the full implementation of the Weston Park Agreement and the establishment of an independent judicial inquiry into the murder of Patrick Finucane;

(3) calls on the Government of the United Kingdom to reconsider its position on the matter of an inquiry into the murder of Mr. Finucane, to amend the Inquiries Act of 2005, and to take fully into account the objections of Judge Cory, objections raised by officials of the United States Government, other governments, and international bodies, and the objections raised by Mr. Finucane's family; and

(4) urges the Government of the United Kingdom immediately to establish a full, independent, and public judicial inquiry into the murder of Patrick Finucane which would enjoy the full cooperation and support of his family, the people of Northern Ireland, and the international community as recommended by Judge Cory.

The SPEAKER pro tempore (Mrs. CAPITO). Pursuant to the rule, the gentleman from Michigan (Mr. McCOTTER) and the gentleman from Florida (Mr. WEXLER) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. McCOTTER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. McCOTTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H. Res. 740. I thank my colleague from New Jersey (Mr. SMITH) for his leadership on human rights matters worldwide and for offering this important legislation regarding human rights in Northern Ireland.

Last month, on April 4, 2006, we voted nearly unanimously, 399–1, for H. Res. 744, that important resolution sponsored by the chairman of the House International Relations Committee, HENRY HYDE, expressed our support for the Good Friday Agreement of 1998 as the blueprint for lasting peace in Northern Ireland, and support for continued police reforms in Northern Ireland as a critical element in the peace process.

U.S. support was crucial to the signing of the Good Friday Agreement signed 8 years ago, and our support continues to be vital. H. Res. 744 rightly commended the progress which has been made in Northern Ireland. As a result of the Good Friday Agreement, there is a new Police Service of Northern Ireland, PSNI. Under the leadership of Chief Constable Hugh S. Orde, the PSNI has made giant strides toward fair and nonsectarian policing. There is a vigorous and fiercely independent Police Ombudsman's Office, whose chief, Nuala O'Loane, has been a catalyst for reform. There is now a policing board in Northern Ireland composed of independent and party representatives designed to provide civilian control and fair nonsectarian policing. There is a new historical inquiries team established by Chief Constable Orde which will provide a thorough and independent examination of unresolved deaths that occurred in connection with the Troubles from 1968 to 1989.

But H. Res. 740, which we shall vote on today, is the indispensable companion of Mr. HYDE's H. Res. 744. Even with all the improvements I have noted in policing, Madam Speaker, significant further work remains to be done in order to ensure acceptance by all communities of the Police Service in Northern Ireland. A key stumbling block to that greater acceptance has been the lack of resolution of charges of official collusion in the murder of human rights lawyer Patrick Finucane, who was gunned down in front of his home in front of his wife and three small children in 1989.

Pat Finucane was not only a courageous human rights activist and loving father and husband, he is also a symbol of the horrible culture of official collusion and terrorism and crime in Northern Ireland. Resolving the question surrounding his murder will help to put an end to that culture once and for all and allow Northern Ireland's still fragile peace to flourish in a new atmosphere of trust.

We have twice gone on record supporting establishment of a public independent judicial inquiry into the murder of Pat Finucane. In 1999, we adopted House Resolution 128 offered by the gentleman from New Jersey (Mr. SMITH) which condemned the murder of attorney Rosemary Nelson and requested a public inquiry into the Finucane murder.

In 2003, Congress passed and the President signed the Foreign Relations Authorization Act, which included a provision offered by the gentleman from New Jersey supporting public judicial inquiries into the murders of both Rosemary Nelson and Patrick Finucane. We have moved the issue towards resolution, but we are not there yet.

In 2001, the British and Irish governments jointly appointed Judge Peter Cory, a preeminent retired justice of the Supreme Court of Canada, to determine whether independent commissions should investigate possible state-sponsored collusion in six notorious and horrific murders. They also pledged to abide by his recommendations. In 2004, Judge Cory issued his report, yet the British Government still has not appointed an inquiry commission into the murder of Patrick Finucane. Our colleague, CHRIS SMITH, who could not be here today as he attends the funeral of Congressman Sonny Montgomery, has chaired numerous hearings on human rights and police reform in Northern Ireland since 1997, and in every one the issue of state-sponsored collusion in the Finucane murder has been central, yet still nothing has been done.

On March 8, the Irish Parliament passed an all-part motion fully supported by the Irish Government calling on the U.K. to immediately establish "a full independent public judicial inquiry into the murder of Pat Finucane as recommended by Judge Cory, which would enjoy the full cooperation of the family and the wider community throughout Ireland and abroad."

The U.K. Government must find a way to institute a credible inquiry which would be accepted by all: by Judge Cory, the Irish public, by the world community, and, most of all, by the Finucane family. I commend my colleagues CHRIS SMITH, ELTON GALLEGLY, PETER KING, JIM WALSH, RICHARD NEAL, DON PAYNE, and TOM LANTOS for their work on this issue.

Mr. Speaker, I reserve the balance of my time.

Mr. WEXLER. Mr. Speaker, I rise in strong support of H. Res. 740 and yield myself such time as I may consume.

Mr. Speaker, first I too would like to thank Chairman SMITH for introducing this important resolution. Congressman SMITH has been a tireless advocate in calling for full accountability in Northern Ireland, particularly as it relates to the 1989 slaying of Belfast attorney Patrick Finucane. I commend him for his dedication and determination to seek justice in this case along with the Finucane family, which has waited far too long for the truth to be unveiled.

Mr. Speaker, the resolution on the floor today simply calls on the Government of the United Kingdom to immediately establish a full independent public judicial inquiry into the murder of Pat Finucane as recommended by Judge Peter Cory as part of the Weston Park Agreement.

The fact remains that Mr. Finucane's brutal murder has been unresolved for 17 years. To this end, it is critical that the British Government fulfill its commitment to the Weston Park Agreement and agree to hold an independent public inquiry recognized as credible by the international community, the affected family, the Irish Government, the United States Congress that will shed light on the serious allegations of collusion between loyalist paramilitaries and British security forces in this egregious murder.

Mr. Speaker, just yesterday Northern Ireland's legislature met for the first time in 3½ years. I applaud this development that will hopefully lead to greater compromise and cooperation between Protestants and Catholics. The convening of the assembly along with the relevant tranquility and economic success that people of Northern Ireland have experienced since the signing of the Belfast agreement is deeply encouraging. However, issues at the core of the conflict remain unresolved, ultimately holding back lasting reconciliation. At the heart of this impasse are the public inquiries into high-profile murders in Northern Ireland, including the slaying of Mr. Finucane. The resolution before us states unequivocally Congress's interest as well as that of the United States to see a just, swift, and fair resolution to this unconscionable crime which must be resolved in order to ensure long-term peace and stability in Northern Ireland for generations to come.

Mr. Speaker, I strongly urge my colleagues to support this resolution.

Mr. ENGEL. Mr. Speaker, I rise in strong support of H. Res. 740 which calls on the government of the United Kingdom to immediately establish a full, independent, public judicial inquiry into the murder of Patrick Finucane. I would also like to commend CHRIS SMITH, the Chair of the Human Rights Subcommittee and the sponsor of this resolution, for his consistent attention to this tragic case.

On February 12, 1989, human rights defense attorney and solicitor Patrick Finucane was brutally murdered in front of his wife and children at his home in Belfast on February 12, 1989. There have been serious allegations of collusion between loyalist paramilitaries and British security forces in the murder of Mr. Finucane.

In July 2001, the Irish and British Governments made new commitments in the Weston Park Agreement to hold public inquiries into high profile murders if so recommended by former Canadian Supreme Court Judge Peter Cory. Indeed, Judge Cory found sufficient evidence of collusion to warrant a public inquiry into the murder of Patrick Finucane.

It was clearly understood that such an inquiry would be held under the United Kingdom Tribunals of Inquiry (Evidence) Act 1921, which would provide a fair procedure for the discovery of evidence and other matters. Yet, despite widespread criticism, the British government is attempting to set up a restricted inquiry under the controversial 2005 Inquiries Act, which gives control to a government minister rather than an independent tribunal. This would give the minister the power to decide what information is kept secret or excluded, to end the inquiry at any time, and to edit the inquiry's final report.

The Inquiries Act has been rejected as inadequate by Judge Cory, the Finucane family, the Irish Government and human rights groups. In fact, last year, Judge Cory submitted written testimony to the House International Relations Committee stating that the new legislation is "unfortunate to say the least" and "would make a meaningful inquiry impossible" .

Mr. Speaker, I have met several times with the Finucane family and human rights groups dedicated to a just inquiry into Patrick's murder. I stand with them today as the House of Representatives takes up this important resolution. Let their courage and determination be a symbol to all those fighting to uncover the truth of such horrors.

I would also like to commend Mitchell Reiss, the special envoy for the Northern Ireland Peace Process, who is continuing to push for full implementation of the Weston Park Agreement and the establishment of an appropriate investigation into Patrick Finucane's murder.

It is my hope that in the days ahead, after seeing this resolution, the United Kingdom will reconsider its position on the Finucane case and will immediately establish a full, independent, public judicial inquiry into the murder of Pat Finucane, as recommended by Judge Cory. Such an inquiry will have the support of the Finucane family and the confidence of all who follow this case.

Mr. SMITH of New Jersey. Mr. Speaker, H. Res. 740, which I introduced with bipartisan support, will do just what it says: provide a way forward for the Northern Ireland Peace Process.

I thank my colleague from Michigan, Mr. THAD MCCOTTER, for managing this bill so ably on the floor. I thank Chairman HENRY HYDE, Reps. ELTON GALLEGLY, PETER KING, JIM WALSH, TOM LANTOS, the Ranking Member of the House International Relations Committee and many others for their work and support on this bill.

Yesterday, the Northern Ireland Legislative Assembly met for the first time since 2002. Yet it still faces crucial challenges over community policing, and acceptance by the nationalist community of the Police Service of Northern Ireland (PSNI). For the population of Northern Ireland to fully transfer its trust to the police, it must have confidence that the police and the authorities deserve trust and will be held accountable.

A key stumbling block to that greater acceptance has been the lack of resolution of charges of official collusion in the murder of human rights lawyer Patrick Finucane, who was gunned down in his home, in front of his wife and three small children, in 1989. Pat Finucane was not only a courageous human rights activist, but also a loving father and husband. His murder symbolizes the depth and danger of official State sponsored collusion in Northern Ireland. Resolving the questions surrounding this murder will help restore confidence in the agencies of government in the north, and allow Northern Ireland's still fragile peace to flourish in a new atmosphere of trust.

That is a major reason why this inquiry needs to be done, and done right, as soon as possible. This is the purpose of H. Res. 740, which calls on the British government to establish the kind of full, public, independent, judicial inquiry into Patrick Finucane's killing called for by Judge Peter Cory, an esteemed Supreme Court judge from Canada who was asked by the British and Irish Governments to investigate this murder and make a recommendation regarding the possibility of collusion.

H. Res. 740 calls for exactly the type of inquiry that nongovernmental human rights organizations, including British Irish Rights Watch, the Committee for the Administration of Justice, Human Rights First, and Amnesty International have demanded. This is what the Irish Government and Parliament have urged. It is what we in Congress have supported. In 1999 the House passed House Resolution 128, which I authored, and in 2003 the full Congress passed, and the President signed into law, Chairman HYDE's Foreign Relations Authorization Act (Public Law 107-228).

But most of all, this is what the Finucane family, which for 17 years has courageously campaigned for justice, for Pat Finucane and all the victims in Northern Ireland, has demanded. Let us once again join them in their struggle.

I have held eleven hearings on human rights and police reform in Northern Ireland since 1997. In every one of those hearings witnesses have testified to the central role the Finucane murder has played in advancing an atmosphere of distrust and no confidence in state agencies. We've had family members, other Northern Ireland attorneys, nongovernmental human rights activists, as well as Mitch Reiss, President Bush's special envoy for the Northern Ireland Peace Process and Param Cumaraswamy, the United Nations' Special Rapporteur all testify that properly investigating this case is key to securing a just and lasting peace in Northern Ireland.

This is a crucial moment in the peace process in Northern Ireland. A credible public, independent, judicial inquiry into Pat Finucane's murder will help ensure confidence in the rule of law in the north of Ireland and will help bring the people of both sides of the divide to a just, stable and lasting peace which they richly deserve.

Mr. Speaker, I would like to again express my deepest condolences to the Finucane family and thank them for their courageous and tireless efforts on behalf of justice not only for their loved one but also for others who may have been victims of state-sponsored collusion in the north of Ireland. Similarly, I would like to acknowledge the work and support from many human rights activists including Jane Winter of British Irish Rights Watch, Elisa Massimino from Human Rights First (formerly the Lawyers Committee for Human Rights), and Maggie Beirne, Martin O'Brien and Paul Mageean who have testified before Congress on behalf of the Committee on the Administration of Justice. Finally, Mr. Speaker, I would also like to remind my colleagues of the riveting testimony offered on this matter in 1998 by Rosemary Nelson, an attorney from Northern Ireland who told Congress that defense attorneys there feared that they could be murdered themselves because no one had been held accountable in the murder of Patrick Finucane. Six months after her testimony, Rosemary Nelson was killed, the victim of a car bomb.

For the Finucanes, for Rosemary Nelson and her family, and for peace and justice in Northern Ireland, I urge my colleagues to vote to pass this important resolution.

I ask unanimous consent to include in the RECORD the statement from the Honorable Judge Peter Cory, March 15, 2005 and a copy of the resolution adopted by Dail Eireann on March 8th urging an independent, judicial, public inquiry into the murder of Patrick Finucane.

THE HONORABLE PETER CORY,
C.C., C.D., Q.C.,
Toronto, ON, March 15, 2005.

Chairman CHRIS SMITH,
Rayburn HOB,
Washington, DC.

DEAR CHAIRMAN SMITH: The proposed legislation pertaining to the public inquiries is unfortunate to say the least.

First, it must be remembered that when the Weston Park Accord was signed, the signatories would have had only one concept of a public inquiry. Namely, that it would be conducted pursuant to the 1921 Public Inquiry Act. Indeed, as an example, the Bloody Sunday Inquiry would have commenced its work as a public inquiry by that time.

The families of the victims and the people of Northern Ireland would have thought that if a public inquiry were to be directed it would be brought into existence pursuant to the 1921 Public Inquiry Act.

To change the ground rules at this late date seems unfair. It seems as well unnecessary since the security of the realm would be ensured by the courts when the issue arose in a true public inquiry.

My report certainly contemplated a true public inquiry constituted and acting pursuant to the provisions of the 1921 Act.

Further, it seems to me that the proposed new Act would make a meaningful inquiry impossible. The commissions would be working in an impossible situation. For example, the Minister, the actions of whose ministry was to be reviewed by the public inquiry would have the authority to thwart the efforts of the inquiry at every step. It really creates an intolerable Alice in Wonderland situation. There have been references in the press to an international judicial membership in the inquiry. If the new Act were to become law, I would advise all Canadian judges to decline an appointment in light of the impossible situation they would be facing. In fact, I cannot contemplate any self respecting Canadian judge accepting an appointment to an inquiry constituted under the new proposed act.

Yours sincerely,
THE HON. PETER DEC. CORY.

"That Dáil Éireann:

Recalling the brutal murder of solicitor, Patrick Finucane at his home in Belfast on 12 February 1989;

Noting the on-going allegations of collusion between loyalist paramilitaries and British security forces in the murder of Mr. Finucane;

Recalling the commitments made at the Weston Park talks in July 2001 by the British Government to hold a public inquiry into the Finucane case, if so recommended by the Honourable Judge Peter Cory, it being clearly understood that such an inquiry would be held under the UK Tribunals of Inquiry (Evidence) Act, 1921;

Noting that Judge Cory found sufficient evidence of collusion to warrant a public inquiry into the case and recommended that such an inquiry take place without delay;

Recalling that in his conclusions, Judge Cory set out the necessity and importance of a public inquiry into this case and that the failure to hold a public inquiry as quickly as reasonably possible could be seen as a denial of the agreement at Weston Park;

Noting that the limited form of inquiry under the UK Inquiries Act 2005, proposed by the British Government has been rejected as inadequate by Judge Cory, the Finucane family, the Government and human rights groups;

1. Commends the Finucane family for their courageous campaign to seek the truth in this case of collusion;

2. Deeply regrets the British Government's failure to honour its commitment to implement Judge Cory's recommendation in full;

3. Welcomes the sustained support of successive Governments and all parties for the Finucane family over the past decade in their efforts to find the truth behind the murder;

4. Acknowledges the work of the Oireachtas Sub-Committee on Human Rights in highlighting this case;

5. Welcomes the Taoiseach's commitment and efforts in pursuing the case with the British Prime Minister Tony Blair;

6. Endorses the Government's international efforts at highlighting the case in the US, at the United Nations and at the Council of Europe in Strasbourg,

7. Calls on the British Government to reconsider its position on the Finucane case to take full account of the family's objections and amend the UK Inquiries Act 2005;

8. Calls for the immediate establishment of a full, independent, public judicial inquiry

into the murder of Pat Finucane, as recommended by Judge Cory, which would enjoy the full co-operation of the family and the wider community throughout Ireland and abroad.

Mr. CROWLEY. Mr. Speaker, I rise today in strong support of the resolution introduced by my friend from New Jersey, CHRIS SMITH.

I was proud to join my colleagues as an original cosponsor of this important statement by the House of Representatives.

While the peace process in the north of Ireland has been moving along, but unfortunately, not at the pace many of us had hoped for after the acceptance of the Good Friday Agreement by all parties, it is still moving forward.

We saw one example of the process moving forward when all the political parties of the north met on Monday for the first time since the Assembly was suspended 3½ years ago.

I believe these political parties must overcome all of the obstacles for the sake of the people they were elected to represent in November of 2002.

They must elect new ministers to give the people of the north the representational government that they have sought out.

But beyond the issue of setting up the assembly, one of the important things about any peace process is making sure that past atrocities have been fully investigated and the people, who committed them be held responsible, which is why this resolution is so important for the peace process.

The violence that occurred before and after the signing of the historic Good Friday Agreement still remains fresh in the minds of the victim's families and the public as a whole.

To bring about a better trust between the people of the north, the British and Irish Governments agreed to hold public inquiries into high profile murders of human rights defenders like Pat Finucane.

It is time for the British to allow the truth to come out.

The family of Pat Finucane deserves to know the full extent of collusion that existed and caused the death of this husband and father.

The British must live up to their obligations under the Weston Park Agreement and the commitment they made if Judge Cory found evidence warranting a full independent inquiry.

It is time for an independent, judicial inquiry into the murder of Patrick Finucane.

I urge all of my colleagues to support this resolution.

Mr. WEXLER. Mr. Speaker, I yield back the balance of my time.

Mr. McCOTTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GOHMERT). The question is on the motion offered by the gentleman from Michigan (Mr. McCOTTER) that the House suspend the rules and agree to the resolution, H. Res. 740, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. McCOTTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

CONDEMNING IN THE STRONGEST TERMS THE TERRORIST ATTACKS IN DAHAB AND NORTHERN SINAI, EGYPT, ON APRIL 24 AND 26, 2006

Mr. McCOTTER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 795) condemning in the strongest terms the terrorist attacks in Dahab and Northern Sinai, Egypt, on April 24 and 26, 2006.

The Clerk read as follows:

H. RES. 795

Whereas, on April 24 and 26, 2006, a series of explosions at Dahab and in Northern Sinai, Egypt, planned and carried out by terrorists, resulted in the deaths of scores of civilians and the injury of many others;

Whereas the people of Egypt have been subjected to several other deadly terrorist attacks over the past years; and

Whereas President George W. Bush called President Hosni Mubarak of Egypt to extend condolences on behalf of the American people for the loss of life: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns in the strongest terms the terrorist attacks on Dahab and Northern Sinai, Egypt and other terrorist attacks directed against Egypt;

(2) expresses its condolences to the families and friends of those individuals who were killed in the attacks and expresses its sympathies to those individuals who have been injured;

(3) joins with President George W. Bush in expressing the solidarity of the people and Government of the United States with the people and Government of Egypt as they recover from these cowardly and inhuman attacks; and

(4) expresses its readiness to support the Egyptian authorities in their efforts to bring to justice those individuals responsible for the recent attacks in Egypt and to pursue, disrupt, undermine, and dismantle the networks which plan and carry out such attacks.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. McCOTTER) and the gentleman from Florida (Mr. WEXLER) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. McCOTTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. McCOTTER. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of House Resolution 795. With this resolution, the House reflects on the recent bombings in the Sinai which cut short dozens of lives. We take this opportunity to share with our friends, the people of Egypt, our sorrow, our sympathy, and our determination to help Egypt defend itself against such attacks.

The Egyptian people have been subject to terrorist attacks for many years; they have responded strongly and generally effectively. While there were several successful attacks during 2005, there were also antiterrorism successes. According to the State Department's "Country Report on Terrorism," two attempts to target tourists in Cairo were thwarted by Egyptian authorities. Nevertheless, because the Egyptian economy relies so strongly on tourism, each incident has an effect that is magnified for the country and has an impact that goes beyond the personal tragedies of those who are killed and injured. Anyone who has had the opportunity to visit Egypt will have experienced the gracious hospitality for which Egyptians are famous. It is a terrible shame that the Egyptians in the tourism sector, many of whom are economically deprived, must bear the burden of the vicious terrorist strikes.

Mr. Speaker, Egypt and the United States have a good level of antiterrorism cooperation. I hope that the combined antiterrorism efforts of Egypt and the United States will continue to bear fruit. We must continue to work together.

Mr. Speaker, let me conclude by quoting the statement of the Secretary of State, Dr. Condoleezza Rice, on April 4, 2006: "The United States condemns the vicious terrorist bombings in Dahab, Egypt today. We extend our deepest sympathies to those injured by this attack and to the families and loved ones of those killed. There could be no justification for this barbaric act of terrorism. Our thoughts and prayers are with the people of Egypt at this time of grief. We have been in contact with the Egyptian Government to extend our condolences and to offer whatever assistance they may need. We will support our Egyptian friends in their commitment to fight terror and to bring justice to those who are responsible for this crime."

Mr. Speaker, I reserve the balance of my time.

Mr. WEXLER. Mr. Speaker, I rise in strong support of H. Res. 795 and yield myself as much time as I may consume.

Mr. Speaker, I want to thank my colleagues Congressman DAVIS and Congressman ISSA for joining me in introducing this important resolution being considered on the floor today.

On April 24 and April 26, a series of attacks were carried out in the Sinai region of Egypt, claiming the lives of 23 innocent civilians and injuring more than 60 men, women, and children. These horrific acts further demonstrate that no nation is free from the scourge of terror that has targeted the United States and our allies in Europe, Asia, and the Middle East. From Taba to Dahab to Sharm al-Shaykh, the terrorist attacks perpetrated by Islamic extremists in Egypt are deplorable and should be condemned by every nation that shares a commitment to security and peace. It is in this regard that I call on leaders of the international community and especially the Arab world to join the United States in decrying these horrific acts, these action by terrorists, and exhaust ever measure to work with Egypt in combating extremism and terror.

Today, Congress expresses its solidarity with the people of Egypt who have suffered greatly at the hands of terror. As allies in the war on terror, the United States and Egypt share a common commitment to security in the Middle East. As such, the people of America stand shoulder to shoulder with the people of Egypt and renew our commitment to eradicating terror throughout the world.

Mr. Speaker, I strongly urge our colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. McCOTTER. Mr. Speaker, I yield so much time as he may consume to the gentleman from Virginia (Mr. TOM DAVIS), the sponsor of the resolution.

□ 1515

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today in strong support of H. Res. 795, a resolution I introduced condemning the terrorist attacks in Dahab and northern Sinai in Egypt.

On April 24 and 26, 2006, a series of explosions at Dahab and in northern Sinai, Egypt, planned and carried out by terrorists, resulted in the deaths of scores of civilians and the injuries of many others.

Over the years, the relationship between the United States and Egypt has proven to be of critical importance to both countries. These relations have always been founded on mutual and deep understanding of each country's interests and role, both at the regional and international levels, in creating a world that is more safe and secure.

Like the United States, Egypt is a prime target of terrorism. President Sadat lost his life in 1981 as a price for signing the peace accords with Israel. Between 1990 and 1997, Egypt suffered from a series of terrorist attacks, mainly targeting the tourism sector that had long been the anchor of economic growth in the country.

Since September 11, Egypt has been a crucial ally to the United States in the global war on terror. Egypt, along with other Middle East allies such as Israel and Jordan, have paid a price for that too. Terrorist attacks rocked the Sinai Peninsula three times over 18 months. Moreover, last year, Egypt lost its Ambassador to Iraq.

The bloody attacks that took innocent lives in Dahab earlier this month indicate that terrorism does not discriminate by race, ethnicity, or region. Instead, terrorists target those seeking to live a peaceful and free life. We must hunt the terrorists down and bring them to justice. There is no other way to respond to those so committed to the destruction of life. We must also stand with the Egyptian people in solidarity.

This resolution does just that, making it clear that Congress and the American people are behind them during this difficult period.

Mr. Speaker, let the House of Representatives speak in unison and with clarity on this issue: Terrorism has no place in this world and it will not be tolerated.

I want to thank my colleagues, DARRELL ISSA, Mr. WEXLER and Ms. ROS-LEHTINEN for their work on this resolution. It is only through their efforts that we were able to bring it to the floor so quickly. I also want to thank my colleague, Mr. McCOTTER, for managing this so well. In addition, I thank the leadership on both sides for allowing this bill on the floor today, and I urge an "aye" vote.

Mr. LANTOS. Mr. Speaker, I rise in strong support of H. Res. 795. The cruel and deadly terrorist attacks last month in Egypt's Sinai Peninsula took place on the weekend of the Coptic Orthodox Easter and an Egyptian national holiday commemorating the Israeli withdrawal from the Sinai. Its casualties included Egyptian Muslims and Egyptian Christians, as well as foreigners. In all, 18 people were murdered—12 of them Egyptian—and 85 wounded.

These attacks have proven once again that the extreme ideology of violent Islamic fundamentalism poses a danger not only to the Western World but to all peace-loving people on the globe. The terrorists do not distinguish between Christians, Jews, or Muslims—or between Arabs and non-Arabs—in their search to destroy the core values of civilization.

Mr. Speaker, at this difficult time we extend our deepest sympathies to the Egyptian people—and to the loved ones of all those of many nations who perished in the April 24 bombings. We also offer sincere expressions of concern to all those wounded in the bombings on April 24 and 26—in the latter of which only the would-be murderers themselves lost their lives.

The rise of terrorism in the once placid Sinai is a source of great concern to Egypt, its neighbors, and to all its friends. This was the third major bombing at Sinai resorts in the past 18 months, following attacks on Taba and its environs on October 7, 2004, which left 34 dead, and on Sharm el-Sheikh on July 23, 2005, which murdered 64. The April 26 attack to which I alluded a moment ago was directed at both Egyptian police and a contingent of the U.S.-led Multinational Force and Observers (MFO) in the Sinai, people who have no purpose other than preserving the peace between Israel and Egypt.

We want the Egyptian people to know they have our full support as they seek to hunt down those who planned and implemented all these heinous attacks and as they seek to eradicate the scourge of fundamentalist violence that has afflicted Egypt in ebbs and flows over the years—the same scourge that took the life of Anwar Sadat, one of the towering figures of the twentieth century, as well as the life of Farag Hoda, a brilliant author and highly principled secularist.

I believe the ultimate answer to this problem lies in education, economic development, and political reform. But now is not the time to debate such issues.

For now, Mr. Speaker, let us stand as one with the Egyptian people and government in opposing and rejecting the violent ideology of hate, of which Egypt has been but the latest victim.

Mr. Speaker, I strongly support this resolution, and I urge all my colleagues to join me in doing likewise.

Mrs. CUBIN. Mr. Speaker, I rise today in strong support of House Resolution 795, condemning the terrorist bombings in Egypt on April 24 and 26, 2006. The deplorable and cowardly acts of violence perpetrated against civilians on those two days of terror are worthy of our condemnation, and illustrate the depths to which terrorists will sink to spread their hatred and violence. I urge my colleagues to support this resolution on its own merits, but also out of respect for four good people from my hometown of Casper, Wyoming, all of whom were severely injured in the April 24 blast in Dahab.

On the evening of April 24, 2006, Betsy Lamberson, Tom South, Bruce Lamberson and Cindy Parrish were attempting to enjoy a nice dinner together at this resort town on the Gulf of Aqaba. Their plans were suddenly and brutally cut short when a terrorist group affiliated with Al-Qaeda detonated three separate blasts, killing 24 people and injuring more than 80. These four Wyoming folks were among those seriously injured. We can thank God that all of them lived through the ordeal. However, with broken limbs and serious shrapnel injuries, each of them has a long road to recovery.

Mr. Speaker, there can be no greater reminder to us of what is at stake in our war against terrorism then four innocent people from my hometown nearly cut down by the senseless hatred of radical Islamists. Will cannot and will not live in the shadow of this violence, unable to visit family in far away places out of fear for our very lives. Our resolve is only hardened by these attacks on our countrymen, and our commitment to defeating terrorism across the globe is renewed today.

On behalf of Wyoming and her citizens, I pray that Betsy, Tom, Bruce, and Cindy will fully recover from their injuries and be able to enjoy all that life has yet to offer them. I urge my colleagues to support this resolution, which sends a clear message to terrorists wherever they may be hiding: we will not stand idly by while you so callously attempt to harm innocent people, and destroy the freedoms they deserve.

Mr. WEXLER. Mr. Speaker, I yield back the remaining time.

Mr. McCOTTER. Mr. Speaker, I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. MCCOTTER) that the House suspend the rules and agree to the resolution, H. Res. 795.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. McCOTTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

CONDEMNING MURDER OF AMERICAN JOURNALIST PAUL KLEBNIKOV ON JULY 9, 2004, IN MOSCOW AND MURDERS OF OTHER MEMBERS OF THE MEDIA IN THE RUSSIAN FEDERATION

Mr. McCOTTER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 499) condemning the murder of American journalist Paul Klebnikov on July 9, 2004, in Moscow and the murders of other members of the media in the Russian Federation, as amended.

The Clerk read as follows:

H. RES. 499

Whereas on July 9, 2004, American journalist Paul Klebnikov was murdered by gunmen as he exited the Moscow offices of Forbes Magazine;

Whereas no person has been convicted of any offense in connection with the murder of Mr. Klebnikov;

Whereas Mr. Klebnikov is survived by his wife Helen, and his three young children;

Whereas twelve journalists have been murdered in the Russian Federation since 2000 and Mr. Klebnikov was the first and only United States citizen among these journalists;

Whereas the Department of State's 2005 Country Reports on Human Rights Practices states government pressure in Russia continues to weaken freedom of expression and the independence and freedom of the media, particularly among the major national television networks and regional media outlets;

Whereas the Russian Prosecutor General's office arrested and tried Musa Vahaev and Kazbek Dukzov for the murder of Mr. Klebnikov;

Whereas Musa Vahaev and Kazbek Dukzov were acquitted on May 5, 2006, of the charges of murdering Mr. Klebnikov;

Whereas the Government of Russia has stated that Mr. Klebnikov's murder was ordered by Khozh-Akhmed Nukhayev, a fugitive Chechen criminal gang leader, but has not publicly released any evidence of Mr. Nukhayev's complicity;

Whereas it remains unclear who ordered the murder of Mr. Klebnikov or if any party will be convicted of this crime; and

Whereas a group of United States investigative journalists has launched an independent inquiry into the death of Mr. Klebnikov: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns the murder of American journalist Paul Klebnikov on July 9, 2004, in Moscow and the murders of other members of the media in the Russian Federation;

(2) commends the Russian Prosecutor General's office for its continuing investigation of the murder of Mr. Klebnikov;

(3) urges the Government of Russia to continue its inquiries to determine and bring to justice all parties involved in the murder of Mr. Klebnikov;

(4) urges the Government of Russia to accept offers of assistance with the investigation of Mr. Klebnikov's murder from the United States and other concerned governments;

(5) urges the Government of Russia to take appropriate action to protect the independence and freedom of the Russian media and all visiting members of the media; and

(6) commends all journalists working and living in Russia for their courageous dedication to transparency and the truth.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. MCCOTTER) and the gentleman from Florida (Mr. WEXLER) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. McCOTTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. McCOTTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H. Res. 499, a resolution that condemns the murder of American journalist Paul Klebnikov in Moscow and the murder of other members of the media in the Russian Federation. H. Res. 499 was a product which I introduced, and I commend and thank the chairman of the Europe and Emerging Threats Subcommittee, Mr. GALLEGLY, and, of course, the chairman of the committee, Chairman HYDE, for all of their help with this legislation, as well as all of my colleagues on the International Relations Committee, and not surprisingly, I strongly urge its passage.

On July 9, 2004, Paul Klebnikov, the editor-in-chief of the Russian edition of Forbes Magazine, was shot 10 times outside his office building in Moscow. He left behind a wife and three young children. As part of his work, Mr. Klebnikov had developed into one of the foremost experts on the intersection between organized crime, politics, law enforcement and big business in Russia. Unfortunately, the murder of Paul Klebnikov is not an isolated attack on members of the press. In the past 6 years alone, 12 journalists have been murdered in the Russian Federation.

H. Res. 499 condemns this brutal murder, as well as the murder of other members of the Russian media. While applauding the work of the Russian prosecutor general's office for its ongoing investigation, the legislation urges the Government of Russia to continue its inquiry and bring to justice all parties involved in this horrific crime. It also calls upon Russia to accept offers of assistance from the United States and other rightly concerned governments.

Finally, H. Res. 499 commends Russian-based journalists for their courageous dedication to transparency and the truth and urges the Russian Government to take appropriate action to protect the independence and freedom of members of the press working and living in Russia.

H. Res. 499 was approved both by the Subcommittee on Europe and Emerging Threats and the full International Relations Committee.

Mr. Speaker, it is often wondered why in the United States our Constitution refers to freedom of speech rather than freedom of conscience. It is because the founders of this country and the framers of our Constitution understood that there can be no freedom of conscience where there is not freedom of speech to express it. What the Founding Fathers knew has been perverted by many who would enslave and subjugate their fellow human beings, which is why we in the United States who enjoy a freedom of speech and its concomitant freedom of conscience must be ever alert to ensure that the watchdogs of liberty, a free and unfettered press, are forever protected from intimidation or extermination at the hands of dictators.

Again, I would like to thank my colleagues on the International Relations Committee, and I would like to urge my colleagues to adopt this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. WEXLER. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of H. Res. 499, and I want to thank Congressman MCCOTTER for introducing this important resolution that is being considered on the floor today.

Mr. Speaker, American journalist Paul Klebnikov devoted his career to exposing corruption within Russia. He was committed to seeing Russia become a free and wholly democratic society. I think I can speak for everyone in this room today that we all share his dream.

Unfortunately, Mr. Klebnikov will not be witness to this, as he was ruthlessly gunned down outside the Moscow offices of Forbes Magazine. He, like 11 other journalists since the Putin administration took office, was murdered in cold blood, chilling freedom of speech and the media in Russia.

Last year, President Putin announced publicly that fighting corruption and protecting the Russian people from crime is a priority for his administration. For this promise not to be seen as yet another hollow gesture, President Putin must do everything in his power to investigate and prosecute the perpetrators of Mr. Klebnikov's murder. A free media will never exist in Russia unless the murderers are brought to justice.

Mr. Speaker, I strongly urge our colleagues to support this resolution.

Mr. Speaker, I yield back the remainder of my time.

Mr. McCOTTER. Mr. Speaker, I yield myself such time as I may consume.

I just wish to thank the gentleman from Florida (Mr. WEXLER), the gentleman from California (Mr. SCHIFF), and of course, the ranking member of the International Relations Committee, the gentleman from California (Mr. LANTOS), who has been a staunch opponent of totalitarianism and a champion of freedom in this institution for decades.

Mr. SCHIFF. Mr. Speaker, I rise in strong support of H. Res. 499, condemning the murder of American journalist Paul Klebnikov in Moscow and the murders of other members of the media in the Russian Federation.

Less than two weeks ago, on World Press Freedom Day, my colleague MIKE PENCE and I launched the new Congressional Caucus for Freedom of the Press. Representatives from a variety of non-governmental organizations came to extend their endorsement of this undertaking and several other Members of Congress spoke about the importance of press freedom for promoting democracy and human rights around the world.

The guests of honor, however—and the reason we were all there—were the journalists who came to share their stories of persecution and harassment. He Qinglian spent a year under 24-hour surveillance when the Chinese Propaganda Department accused her of 'inciting antagonism between the different strata of Chinese society' with her exposes of government corruption. After trying to investigate the presence of Taliban and Al-Qaeda elements in tribal areas in the autonomous zone between Pakistan and Afghanistan, Khawar Mehdi Rizvi was detained and tortured by Pakistani security forces for almost three months, before human rights groups and media organizations helped secure his escape to the United States.

We were also joined by Musa Klebnikov, the widow of American journalist, Paul Klebnikov, whose unresolved murder this resolution condemns. Mrs. Klebnikov told us that Paul believed that without freedom of the press there is no civil society, and can be no true democracy. He died for this ideal, becoming one of the fallen heroes of this ongoing worldwide struggle.

Paul committed himself to revealing the corrupt underside of Russia as well as celebrating its successes. His murder reveals both the importance of this type of work as well as the dangers facing journalists in the Russian Federation. Paul was the twelfth reporter to be killed in Russia since President Putin came to power in 2000. Russia's press laws remain very far below European standards and in the nearly two years since Paul's murder, working conditions for journalists continued to worsen alarmingly.

Paul's murder stimulated the Russian government to dedicate real effort to prosecuting the hit men who shot him, and this resolution commends that effort. Unfortunately, two days after expressing her hope that this trial would set a standard for future cases of media persecution, the Russian court acquitted his killers. This resolution calls upon the Government of Russia to continue its inquiries into Paul's murder and to take appropriate action to protect the independence and freedom of journalists in the country.

Paul Klebnikov's murder exposed the problem of violence against journalists in Russia and increased the awareness of widespread threats to press freedom. The Congressional Caucus for Freedom of the Press was created to highlight and condemn media censorship and the persecution of journalists around the world. This Resolution is an important affirmation of these objectives, and I commend my colleague, Mr. MCCOTTER, for bringing it to the floor, and encourage broad support for its passage.

Mr. McCOTTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. MCCOTTER) that the House suspend the rules and agree to the resolution, H. Res. 499, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

ILLEGAL IMMIGRATION

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, today the phones in our district offices and our D.C. offices are ringing off the hook, and most of those calls are coming in about the situation that our country faces with illegal immigration.

Mr. Speaker, it is not that complicated an issue. The Members of this body and here in the House agree, secure the border first. That is the first thing that needs to be done.

The Republican leadership in the House worked hard to pass the bill that we passed last December, which addresses border security and employer enforcement.

So to my constituents and to the other Members of this body I say, let us say no to amnesty or any type of amnesty. Let us continue to support construction of a border, whether it is a wall or surveillance. Let us secure our border. I do support the use of military presence on the border as an emergency measure.

Mr. Speaker, it is time for action. The time has passed. It is time for us to be certain that this Nation is secure. It is an issue of national security.

HAPPY MOTHER'S DAY

(Mr. McCOTTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCOTTER. Mr. Speaker, ordinarily I would have recognized the work and dedication of a special constituent from Michigan's 11th District on Sunday. However, she was away from home.

I would like to thank Georgia Joan McCotter, a mother, for a lifetime of trying to make sure that her two sons, Thaddeus and Dennis, were raised to be good and decent people. Although she fully succeeded in my brother's case, I would like to assure her that I am still trying, but that the love in my heart for her will never diminish over time.

So, to her belatedly, if you are home, if you are listening, Happy Mother's Day.

☐ 1530

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ENERGY PRODUCTION AND SUPPLY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes as the designee of the majority leader.

Mr. BARTLETT of Maryland. Mr. Speaker, recently our Secretary of State, Condoleezza Rice, made a statement that I would like to read. In this statement she said: "We do have to do something about the energy problem. I can tell you that nothing has really taken me aback more as Secretary of State than the way that the politics of energy is, I will use the word 'warping diplomacy,' around the world. We have simply got to do something about the warping now of diplomatic effort by the all-out rush for energy supply."

Mr. Speaker, the 8th of this March was a really historic date, and it passed and really very few people knew how historic it was. It was 50 years since a report given in San Antonio, Texas, by a world-famous scientist. And I will talk about that a bit more in a few minutes.

The 15th of March of this year marked one year from the date that I first came to this floor to talk about the problem that Condoleezza Rice was talking about, about the energy problem; and since that time I have been to the floor several times to talk about that. Since then, there have been two major government studies on this same topic. One of them is known as the "Hirsch Report," from Robert Hirsch, who was the principal investigator for SAIC, a very large prestigious scientific engineering organization.

This study was sponsored by the Department of Energy; and for several months after the report was available, it was kind of bottled up inside the agency and we were kind of asking the question, why wasn't it out on the street sooner because it really makes some very significant points.

A second study was done at the request of the Army by the Corps of Engineers. And I have those two reports here. Here is the "Peaking of World Oil Production: Impacts, Mitigation and Risk Management." The project leader was Dr. Robert Hirsch. And here is that report, paid for by our Department of Energy and done by SAIC. That was dated February of 2005.

A few months later, in September of 2005, a report by the Corps of Engineers, and here is a copy of that report, which just got out to the street about 3 months ago, by the way. So for a number of months this was bottled up inside the Pentagon. Both of these reports say essentially the same thing, and I would like to spend a few minutes this afternoon talking about what these two reports say.

The first is a quote from the "Energy Trends and Their Implications, U.S. Army Installations." And, Mr. Speaker, anywhere in this report that the Army is mentioned, you could put the United States in, or for that matter the world, and it would have the same meaning. But since they are a part of the Army and this was an Army study, they talk about the Army.

This first statement: "In general, all nonrenewable resources," and fossil fuels are generally perceived of as being in the time scale that we are concerned about, nonrenewable. "In general, all nonrenewable resources follow a natural supply curve. Production increases rapidly, slows, reaches a peak, and then declines at a rapid pace similar to its initial increase. The major question for petroleum is not whether production will peak, but when. There are many estimates of recoverable petroleum reserves, giving rise to many estimates of when peak will occur and how high the peak will be. A careful review of all of the estimates leads to the conclusion that world oil production may peak within a few short years, after which it will decline. Once a peak occurs, then historic patterns of world oil demand and price cycles will cease."

And the next is a quote from the "Hirsch Report": "World oil peaking is going to happen," saying the same thing as the Army Corps of Engineers. And, by the way, we have no reason to believe that there was any interchange between these two groups that were doing the study. "World oil production is going to peak. World production of conventional oil will reach a maximum and decline thereafter." Exactly the same thing that the Army Corps of Engineers was saying. "That maximum is called the peak. A number of competent forecasters project peaking within a decade, others contend it will be later. Prediction of the peaking is extremely difficult because of geological complexities, measurement problems, pricing variations, demand elasticity, and political influences. Peaking will happen, but the timing is uncertain."

"Oil peaking presents a unique challenge," they say. And then this astounding statement: "The world has never faced a problem like this." There is no precedent. You cannot go back in history to find a problem like this. They say: "The world has never faced a problem like this. Without massive mitigation more than a decade before the fact," and most of the world experts believe we do not have a decade, in fact, we may be there, "without massive mitigation more than a decade before the fact, the problem will be pervasive and will not be temporary. Previous energy transitions, wood to coal and coal to oil, were gradual and evolutionary. Oil peaking will be abrupt and revolutionary."

The next chart shows that these same data inspired 30 prominent Americans, Boyden Gray, Jim Woolsey, and Frank Gaffney, and 27 other very prominent people, among them several retired four-star generals and admirals, to write a letter to the President. In effect what they said was, Mr. President, the fact that we have only about 2 percent of the world's reserves of oil, and we use 25 percent of the world's oil and we import about two-thirds of what we use, presents a totally unacceptable national security risk. We really have to do something about that.

As the chart shows here, we represent a bit less than 5 percent of the world's population, about 1 person out of 22. And we are really good at pumping our oil. We have only 2 percent of the reserves, which from that 2 percent of the reserves we are pumping 8 percent of the world's oil, which means we are pumping our wells four times faster than the average.

Now, what are they talking about? As the next chart shows, this was all predicted quite awhile ago. To understand the history of this, to put it in context, we have to go back more than half a century to the 1940s and 1950s. A scientist by the name of M. King Hubbert was working for the Shell Oil Company, and he observed the pumping and the exhaustion of individual oil fields. The United States was pretty much first on the scene in any large way. At one time we were the world's largest producer of oil, and I believe the world's largest exporter of oil. And right when we were in our heyday in 1956, M. King Hubbert went to San Antonio, Texas, and gave that famous paper I referred to a few minutes ago, saying that in just 14 years, in about 1970, the United States would peak in oil production; we would reach a maximum.

Shell Oil Company did not believe that was going to happen and cautioned that he would make himself a fool and them a fool for hiring him if he went to give that paper and published it. And he went anyway. Then 14 years later, right on schedule, we peaked in oil production.

The smooth green curve here was the M. King Hubbert's curve. The more ragged green curve with the larger symbols is the actual production data. And you see that that peaked in 1970 and then fell off. Now, this is the lower 48. In just a moment, we will put another chart up here which shows what happens when you include the Alaskan oil finds.

This is the lower 48, and this is what has happened in the lower 48. The red curve there, by the way, is the former Soviet Union, and they kind of came unglued when the Soviet Union fell apart. You see that their production did not reach the potential. They are already on the downside, by the way. They have somewhat more oil than we. They peaked a little bit later. They had a second small peak, but then it is all downhill after that.

The next chart shows where our oil has come from in our country. And the rest of the U.S. and Texas, the dark blue and light blue, are what M. King Hubbert was talking about, and these are the actual data points from 1935 to now. We have added to this now the natural gas liquids and the Alaskan oil find, that big oil find in Alaska, Prudhoe Bay, Dead Horse. I have been there, at the very beginning of that 4-foot pipeline through which about a fourth of our domestic production has been flowing. That is on the downside now, by the way, and it is becoming less and less. Notice that there was just a blip and the slide down the other side of Hubbert's Peak with that big Alaska oil find.

The thing on this chart, Mr. Speaker, which interests me is that little yellow there on the downside. Just a blip. A small blip. That is the famed Gulf of Mexico oil find. You may remember that. It wasn't all that many years ago we found that, and, boy, that was a lot of oil. There are now 4,000 oil wells out there in the Gulf of Mexico. And that was to save us. It just barely, barely is a ripple in our slide down the other side of Hubbert's Peak.

The next chart puts this in world perspective. We have been talking about the United States, and now this takes us to the world. The big bars here are the discovery of oil, and you will notice some of that was found way back in the 1940s, some big discoveries, then the 1950s, and, boy, the 1970s and the 1980s. But notice that since 1980, the finds of oil have been ever less and less, and that is in spite of really good techniques for finding oil.

We now have 3D seismic, we have computer modeling, and we have been very aggressive. You see, since about 1980, we have been finding less oil than we are using, because the consumption curve here is this solid black line. At about 1980, you see there the consumption of oil exceeded the oil that we were finding. So for that period between 1980 and now, the deficit between what we found and what we are using has been filled with reserves that we have. Worldwide, pretty big reserves.

☐ 1545

Not much in our country because we have been pumping our oil for a long time, very aggressively.

This is an interesting chart, and anyone who works with these charts knows that the area under one of these curves represents the total amount available. So if you add up all of these little bars, we made a smooth curve through the discovery here. The area under that discovery curve would represent the total amount of oil that we have discovered. Similarly, the area under the consumption curve will represent the total amount of oil that we have consumed.

Now, what is very obvious is that you can't consume oil that you haven't found. So what does that mean? Now, you can have any projection for the future that you like. You can assume that we are going to do a lot of enhanced oil recovery, that we are going to find a little bit of oil, most experts believe there isn't that much left, the little bit of oil that remains and pump it very quickly.

But one thing is certain: you cannot pump what you haven't found. And so ultimately the area under the consumption curve cannot be greater than the area under the discovery curve.

Notice that they are suggesting in this little chart that peaking is going to be at about 2010. Some believe that it may have already occurred.

The next chart is an interesting one from the Energy Information Agency, and they use a very strange, in a way, bizarre application of statistics. We have the 95 percent probability in statistics which is the most probable, and something is significant if it is the 95 percent probability. It is highly significant at 97. You can go on down with the 50 percent probability or a 5 percent probability.

You can get a little sense of these probabilities when you look at the little chart they draw about a hurricane's path. You notice that for the next 24 hours it is a fairly narrow funnel, and then it gets wider and wider as they go out because of the increased uncertainty as you go out.

Well, here the Energy Information Agency has drawn the oil curve, and you see that they peaked in 1970. We have been going downhill ever since. And back there, a little bit before 2000, I guess on this graph they made a projection of where we were going. Now, they are using these statistics you see at the bottom down there, the past, which is the red line, and then the 95 percent probability and the mean, which is the 50 percent.

The 50 percent probability is not the mean, Mr. Speaker. If you were going to draw this chart realistically, you would have to have another green line that came as far below the yellow line as that one is above it like here, and another blue line that is down here. They are using the 50 percent probability as if it were the mean and saying that is the most probable. Of course in statistics, 95 percent probability is obviously more probable than the 50 percent probability.

Well, this bizarre use of statistics results in something that the next chart will show. But just a moment on this one. Notice what has happened since they made this projection. Notice where the red line has been going. It has of course been following the 95 percent probability, although they believe that it should be following the 50 percent probability, or the green line. In other words, we should be finding more and more oil.

The next chart looks at that in another way. By the way, they say here the probability, they say 95 percent is low probability. That is the highest probability. I have no idea how you get this warped statistic; 95 percent is the highest probability. The 50 percent probability is not the mean, and the lowest probability is 5 percent.

Well, they mean that the lowest amount of oil you would find is a 95 percent probability. The highest amount is 5 percent. But the 5 percent could just as well be the other side of the 95 percent probability which would be really, really low.

Well, here is a graph that they have drawn, and this graph points out something very interesting, the peak for the 95 percent probability, which says that the world had totally about 2,000 gigabarrels of oil. By the way, we use "giga" rather than billion because in England a million million is a billion. In our country it is a thousand million, which is a billion. But giga means the same thing to everybody world around, so we use gigabarrels.

If we have in fact 2,000 gigabarrels total, we have used about a thousand of that, and about a thousand remains, which means that we are at this point here; and this should start sliding downhill after that. But they have imagined another thousand gigabarrels of oil to be found; and if that is true, notice that moves the peak out only to 2016.

We are using oil at such a horrendous rate in the world, that even if we found 50 percent more oil than we have ever found, that moves the peak out only that far. And then they show what happens if you go out to 2037. If you have enhanced oil recovery and so forth and get that much more, look what happens. Look at the way it drops there.

The next chart is an interesting one. It shows the same thing pretty much that we showed in that big oil chart that showed the discovery curve. And these are, this is the relationship of discovery to use. Notice, in about 1980 here, we started using more than we had discovered. So this curve says the same kind of thing that the previous one said, only this shows the relationship of discoveries to use.

The next chart is another statement from the "Hirsch Report," and I want to spend a few minutes now on these two reports because they are really very meaningful reports. I will note, Mr. Speaker, that both of these reports have come out in the past year after we gave our first discussion here a year ago, the 14th of March.

This again is from the "Hirsch Report." The peaking of world oil production presents the United States and the world with an unprecedented risk management problem. As peaking is approached, liquid fuel prices and price volatility will increase dramatically. And without timely mitigation, the economic, social and political cost will be unprecedented. Viable mitigation options exist on both the supply and demand side, but to have substantial impact they must be initiated more than a decade in advance of peaking.

Mr. Speaker, we probably do not have a decade. As a matter of fact, we may be here. Dealing with world oil production peaking will be extremely complex, involve literally trillions of dollars, and require many years of intense effort.

Mr. Speaker, the question I am asking is, If this is true, and if this report was paid for by the Department of Energy, why aren't the leaders in our country telling the American people this?

Now, if they didn't believe this report, just a few months later came the report from the Corps of Engineers that says essentially the same thing as we will see from some following charts. The next chart is another quote from the "Hirsch Report": "We cannot conceive of any affordable government-sponsored crash program to accelerate normal replacement schedules." They are talking now about what will we do to make sure that there is enough oil available when we have reached peak production: what can we fill that gap with.

They are saying they can't conceive of any affordable government-sponsored crash program to make this happen, so as to incorporate higher energy efficiency technologies in the privately owned transportation sectors. Significant improvements in energy efficiency will thus be inherently time consuming on the order of a decade or more. For some things like efficient automobiles, the average light trucks and cars out there, some 16 to 18 years in the fleet, the big 18-wheelers are out there 28 years. So if you are going to make any impact on efficiency in that market, you have to really wait awhile unless you think people are going to scrap their newly purchased SUV.

The next chart is from the Corps of Engineers study, and this is really an interesting chart. Remember the date of this was September '05. The current price of oil is in the $45 to $57 per-barrel range and is expected to stay in that range for several years. Mr. Speaker, I don't think $70 a barrel is within the range of 45 to 57. And it has been less than a year.

So what this shows is that even the experts, these people who spend a long while studying this, when they look at the picture, they didn't anticipate the extent, the seriousness of this problem.

Oil prices may go significantly higher and some have predicted prices ranging up to $180 a barrel in a few years. Mr. Speaker, if that is true, why aren't the leaders of our country telling the American people this?

Friends, we have got a problem ahead of us. It is not an insoluble problem: but the longer we wait, the tougher it is going to be to get through it. We really need to get started now. I don't here our leadership telling us that, Mr. Speaker. And in view of these two reports both saying essentially the same thing, I am wondering why.

Another chart from the Army Corps of Engineers study: oil is the most important form of energy in the world today. I think few would deny that. In addition to transportation, and we use 70 percent of our oil in transportation, it is the feed stock from a really large petrochemical industry. We live in a plastic world. Just look around you at all the things made of plastic. Without oil, most of them wouldn't be here.

Historically, no other energy source equals oil's intrinsic qualities of extractability, transportability, versatility, and cost. The qualities that enabled oil to take over from coal as the front-line energy source for the industrialized world in the middle of the 20th century are as relevant today as they were then.

And another chart from this same Corps of Engineers study, over and over, Mr. Speaker, they are saying the same thing: we face a big challenge.

Petroleum experts Colin Campbell, John LaHerrere, Brian Fleay, Roger Blanchard, Richard Duncan, Walter Youngquist and Albert Bartlett, no relative of mine, but you can pull up on the Web Albert Bartlett, do a Google search for Albert Bartlett and he gives the most interesting 1-hour lecture I have ever heard on energy and the exponential principle, have all estimated that a peak in conventional oil production will occur around 2005. This is 2006.

The corporate executive officers, CEOs at Eni SPA Italian oil companies and ARCO have also published estimates of a peak in 2005. So the problem may already be here.

The next chart shows a very interesting quote from one of the experts in this area, and this really focuses on a chart that we had just a few minutes ago. Jean LaHerrere made an assessment of the USGS report that concludes, now, USGS says that we are going to find half again the oil that we have already found. We have found about 2,000 gigabarrels, used about 1,000 of that. They say we are going to find another 1,000 gigabarrels. This is what Dr. LaHerrere says. The USGS estimate implies a fivefold increase in discovery that is over the present anemic discovery, a fivefold increase in discovery rate and reserve addition, for which no evidence is presented.

Such an improvement in performance is in fact utterly implausible, given the great technological achievements of the industry over the past 20 years, the worldwide search, and the deliberate effort to find the largest remaining prospects.

In other words, he is saying that we have been looking really hard with really good technique and we haven't found it for the last decade. There is just no justification to this euphemistic projection that we are going to find another 1,000 gigabarrels of oil.

The next chart puts this in kind of a global and time perspective. The chart on the top shows the last 400 of 5,000 years of recorded history. And it shows the beginning of the Industrial Revolution with wood, and it did begin with wood. We were making steel with wood, with charcoal, denuded the hills of New England, carrying it to England to make steel. You can visit Little Catoctin Furnace up here in Frederick County, and we denuded the hills of Northern Frederick County to make charcoal for that little furnace there.

And then we discovered coal. And on the ordinate here is quadrillion Btus. That is the amount of energy you produce. Not very much from wood down there. You see the brown.

It really got six or eight times bigger with coal. And look what happened when we found oil and gas. That is the red curve there which seems to go almost straight up. This is only about a 2 percent increase.

Albert Einstein said that the force of compound interest is the most powerful force in the universe which, after discovering nuclear energy he was asked, Dr. Einstein, what will be the next great force in the universe? And he said that it was the power of compound interest, which is exponential growth, of course.

Notice what happened in the 1970s there, and the downturn. There really was a world recession. We used less oil, fortunately, because what was happening up until that time, Mr. Speaker, is really quite phenomenal. Every decade we were using as much oil as had been used in all of previous history. What that means is that when we used half of all the oil, only one decade of oil remained at current-use rates.

Of course that is not the rate at which oil will be used. We are now about 150 years into the age of oil; 5,000 years of recorded history. That curve is now coming down. It is peaking and will be coming down. And it will come down for about another 100, 150 years. So in 200, 300 years we will have been through the age of oil.

It is interesting, Mr. Speaker, to put this in this perspective: 5,000 years of recorded history, we found this incredible wealth under the ground. It really was incredible wealth. Just one barrel of this oil provides you the energy of 12 people working all year for you; 12 people working all year. You can buy that for a little more than $100, 42 gallons, a little more than $100 at the pump.

☐ 1600

If you produce electricity with it, for less than 25 cents a day, an electric motor will do more work than a hardworking, athletic worker. Really incredible wealth.

What the world should have done when we discovered this, realizing that it could not be infinite, that there just had to be an end to it, that the world is not made of oil and even if it was made of oil, there would still be an end to it by and by, but it is not made of oil; we should have stopped and said, what can we do with this incredible wealth to provide the most good for the most people for the longest time? That clearly is not what we did. As this chart shows here, we just pigged out like kids who found the cookie jar, with no thought for tomorrow. We behaved as if oil was infinite, that it would be there absolutely forever. And, of course, that could not be true.

I started asking myself these questions maybe 40 years ago. I knew that oil and gas and coal could not be forever, and I asked myself what does that mean? Is it something that we need to worry about in 10 years, 100 years, 1,000 years, 1 million years? What does it mean? And a number of people have been asking themselves this question.

The next chart is interesting, and it kind of simplifies this curve. By the way, this is the same curve that we saw before, the red curve going up very steeply. All we have done here is to compress the scale on the ordinate and expand the scale on the abscissa so that now we have a more gradual curve. But it is still a 2 percent growth rate. That doubles in 35 years.

At the beginning of the little yellow there, which is the difference between what we would like to use, that is, the demand curve, and the supply curve, which is the blue-green curve, that is doubled at the end over there. So we know that took 35 years to get there because it doubles in 35 years. If we are there, and there should be a question mark after that because we are not dead certain, what this shows is that the shortage actually starts to occur a bit before the peak occurs, as you are breaking away from that nice, smooth curve. And, of course, there are going to be ups and downs, as we have seen in the price of oil. It is up $5 and down $4 and up another $5 and down $4, but ever up and up as we go through. We face some big challenges.

What most people want to do since we are, as the President says, hooked on oil, we would like to keep that habit. We do not want to kick that habit. We would like to keep that habit. So what most people are focusing on is how do we fill the gap? The gap is that yellow. The gap is the difference between what we have and what we would like to use. And as time goes on, that gets bigger and bigger.

I would like to make the argument, and we will come back to that in a few minutes, that we probably should not be trying to fill the gap, for a couple of reasons. One is that I do not think that we can fill the gap. And the second thing is that there will be a future and we do have kids and we do have grandkids, and to the extent that we are successful today in finding and pumping what oil remains, we are dooming them to an increased crisis where they are going to have less and less opportunity to live like we have lived because our incredibly lavish lifestyle is in large measure built on this really high-quality fossil fuel energy.

The next chart shows us what we will ultimately transition to, and there is no escaping this, oil is finite. There will be a peaking. It could be now; it could be in a few years. It is not if, it is when. And there are some finite resources that we can have that we can work with, but they are finite, although they are enormous in volume. For instance, the tar sands, the Canadians would rather call them oil sands because "tar" does not have a good sound to it. But it is tar. It is not much better quality than the asphalt out here in the roadway, which flows with the hot sun, as you may notice. The cars sit on it and it sinks down. Put a blowtorch on it and it will really flow. The oil shales in our west and coal are all finite resources.

The Canadians are aggressively pursuing the production of oil from their tar sands, or oil sands, as they like to call them. But I understand that they are using more energy from natural gas to cook that oil sand to get the oil out and more energy from natural gas than they are getting out of the oil. From a business perspective, that makes good sense because that gas up there is stranded. It is in Alberta, Canada. There are not very many people there. Gas is hard to transport, and stranded gas is very cheap. So they use a cheap gas to produce very expensive oil. It costs them about $18 a barrel, I understand, to produce it. And they are getting $70 a barrel. That is a really good dollar/profit ratio. The energy/profit ratio is less than one; so ultimately that is not sustainable, of course, using more energy in than you get out.

The oil shales in our west, there have been some very glowing articles in the papers. I talked to the investigator there. He attended a conference out in Denver, Colorado a few months ago that I was at. And Shell Oil Company, it will be several years before they decide whether or not it is even feasible economically to get oil out of our oil shales. There is an enormous quantity there, nearly as much as the world has found, but not all recoverable. There are estimates that 800 billion barrels may be recoverable, but at what cost? What they do out there is to drill a series of holes around the periphery, and they freeze that so that the oil that they melt out in the middle will not contaminate the groundwater, and then they cook it with steam for about a year. And then after they have cooked it for about a year, heating it up, they drill a well there and they start pumping and cooking, and they do that for another year or two, and they can get meaningful amounts of oil. But the scalability of this and the economic feasibility of this are still unknown, so they are pursuing that.

I would caution, Mr. Speaker, not to be too euphoric about their prospects of getting energy out of these tar sands and oil shales. There is a lot of energy there. It will be difficult to get it out economically, particularly difficult to have a meaningful energy/profit ratio getting it out. But it is there and we have to do the best we can to get it out as efficiently as we can.

Then coal; you will hear we have 250 years of coal, and the next chart shows that is true. We do have 250 years of coal at current use rates, at no growth. But notice what happens when there is only 2 percent growth. Now, I think that as we have less oil, we are going to have to use coal more. Hitler ran his whole economy and his military on oil from coal. So did South Africa with the embargoes that we had there. With just 2 percent growth rate, this exponential growth has an incredible effect. This 2 percent, the 250 years shrinks to about 85 years. And for most of its uses, you cannot use coal. You are going to have to convert it to a gas or a liquid. And if you take the energy to do that, you have now shrunk it down to about 50 years. And that is only 2 percent growth. I believe we will have to increase the use of coal more than 2 percent.

Now, back to this chart of the potential alternative sources:

Nuclear. Nuclear produces now about 8 percent of our total energy in this country and about 20 percent of our electricity. In France it produces about 80, 85 percent of their electricity. There are three kinds of nuclear power. Two kinds of nuclear fission: the lightwater reactor and breeder reactors. We use only lightwater reactors in this country. The only breeder reactors we ever used were in producing the fuel for our nuclear missiles. The world has a limited supply. It is hard to get good numbers on that, but the world has a limited supply of fissionable uranium, and then we will have to go to breeder reactors, which, as the name implies, produce more fuel than they use. But you also buy big problems with that, transporting it around and enriching it, and some of it is weapons grade; so you have to deal with those problems if you want to go to fission with a breeder reactor.

I have friends here in the Congress who were devoutly opposed to nuclear. They are bright people, and when they are considering the alternative, which may be shivering in the dark if we do not have enough electricity, now nuclear is not looking all that bad to them if the alternative is shivering in the dark. Nuclear could and maybe should grow. But in this country it is very difficult to site a plant and to build it. It may take 10 years, and I understand that the plant has to be operating maybe 20 years before you get back the amount of fossil fuel energy that went into producing the plant.

Again, Mr. Speaker, on many of these things we need good numbers. It is hard to have a rational discussion when there is so much disagreement in numbers, and we really do need to enlist an honor broker so that we can agree on numbers because it is very difficult to have a rational discussion when there are such wide differences of opinion as to how much is out there of this and that.

Nuclear fusion. If we can discover that, we are home free. That is what the sun does to produce all the energy we get from the sun. And we are just a tiny, tiny speck in that whole sphere around the sun and the incredible amount of energy that comes from the sun. We are home free if we get there, by the way. But I think the odds of getting there are about the same as the odds of your or my solving our personal economic problems by winning the lottery. That would be nice, but I doubt, Mr. Speaker, that you are plotting your economic future on the assumption that you are going to win the lottery, and I do not think we ought to plot our energy future on the assumption that we are going to get fusion. I support all of the money, about $250 million a year or so. Of course, it goes into fusion. I hope we get there. But, frequently, my hopes and my expectations are not the same thing. In this case I would not bet the ranch that we are going to get fusion energy. If we do, we are home free, and we need to continue to invest all the money that that technology can reasonably absorb.

And now we come to the truly renewable resources. And ultimately, Mr. Speaker, after this age of oil, which will end, and when I say "oil," I mean gas and coal too, which will end in about another 100, 150 years, we will be running our world on these energy sources: solar and wind and geothermal and ocean energy from tides or thermal gradients or waves. Agricultural resources, a lot of possibilities there: soy diesel, biodiesel, ethanol, methanol, biomass, cellulosic ethanol. You hear a lot of these words.

Burning our waste to get energy, that is a really good idea, and we should do more of that. We need fewer landfills, and we would have a little more electricity if we did that.

The last one here that I want to spend just a moment on, it says hydrogen from renewables. Today we are not making hydrogen from renewables. We are making hydrogen from natural gas. That is going to peak and be running down about the same curve that oil is running down. One thing is true, Mr. Speaker: We will always use more energy producing hydrogen than we get out of hydrogen. Unless we are going to suspend the second law of thermal dynamics, that will be true.

Well, if it takes more energy to produce hydrogen, why are we even thinking about hydrogen? For two reasons: One is when you finally use it, burn it, you get only water. That is not a very polluting product. And the second reason we are really interested in hydrogen is that it is one of the better things to feed a fuel cell with if we ever get economically feasible fuel cells. A fuel cell will get more than twice the efficiency of a reciprocating engine. So even though you lose some energy when you go from electricity or coal or whatever to hydrogen, you will more than get it back in the increased efficiency of the fuel cell if we ever get to the fuel cell, if it is economically feasible. And you are certainly not polluting, you are producing only water.

The next chart is an interesting look at one aspect of the agriculture, and that is the amount of energy that goes into producing a bushel of corn. On the chart we show two things: On the right is petroleum, and it shows that if you put in about 1¼ million Btus, you will get out 1 million. On the left-hand side, it shows a picture for ethanol, that if you put in three-fourths of a million Btus, you get out 1 million. And some people will tell you that this is pretty optimistic. In fact, Pimentel says it is actually negative. You use more energy producing ethanol than you get out of it. But if this is true, what that means is that today the way we produce ethanol, for every gallon of ethanol you burn, you are burning the equivalent of three-fourths of a gallon of fossil fuels, because that is the fossil fuel energy it took to produce ethanol.

The chart at the bottom shows why this is true, and it shows all of the total energy requirements of farm inputs.

□ 1615

This is Btus per bushel of corn. The energy goes into producing a bushel of corn.

You notice that big, nearly half of it, that says nitrogen? Mr. Speaker, that is natural gas from which we make nitrogen fertilizer. Before we learned how to do that, all of our nitrogen fertilizer came from barnyard manures or guano. Guano is gone. If we wait another 10,000 or 20,000 years, there will be some more.

But most people don't know that nitrogen fertilizer today, essentially all of it comes from natural gas, almost none of it produced in our country. Natural gas is too expensive here. It is made in other countries where gas is kind of stranded.

The next chart looks at where we are. I use an analogy here which I think is very apt. We are very much like a young couple that has gotten married and their grandparents died and left them a big inheritance, and they have established a lifestyle where 85 percent of all the money they spend comes from their grandparents' inheritance and only 15 percent from their income.

They look at the inheritance, and it is not going to last until they retire. So what will they do? Obviously, they have got to do one or both of two things. They either have got to spend less or make more. I use those numbers, others may use 86–14. I use those numbers because that is exactly where we are with our energy use today. Eight-five percent of all the energy we use comes from coal and oil and natural gas, and only 15 percent of it comes from some other source.

Now, a bit more than half of that comes from nuclear electric power. That is 8 percent of our total energy, about 20 percent of our electricity. The rest, 7 percent, is the true renewables. Mr. Speaker, those are the things which we ultimately will transition to.

Now this is a chart from 2000, and the solar and the wind and so forth would be bigger today. That is 1 percent in this chart of 7 percent. That is .07 percent. It is really in the noise level. We are four times bigger than that today at .28 percent. Big deal. It is a long, long way to go from .28 percent to go to something really meaningful as a contribution. But that is what we will be turning to increasingly in the future.

Notice that on this renewable sources there, the biggest one, 46 percent, is conventional hydroelectric. That will not increase in our country. We are pretty much tapped out on that. We might go to microhydro and use little microturbines in thousands of little streams across the country without affecting the environment as much as the big ones, by the way, and get about that much more energy.

But notice that solar and wind and agriculture down here, it is just alcohol fuel there; but it could be biomass, soy diesel, biodiesel and so forth, are very small amounts. Where we can get it, we ought to be getting more of geothermal. There is not much in this country. All of Iceland's energy comes from geothermal. I don't think there is a chimney in Iceland, because they don't need it. They get it all from geothermal sources.

Notice the waste to energy up there, which is 8 percent. That could grow. Instead of putting it in a landfill, there is a very nice plant up here in Montgomery County they will be happy to show you through. It is really a very handsome plant, and they are burning waste up there to produce electricity.

Just a word of caution about energy from agriculture. We must keep two realities in mind. The first is that we must feed the world. Tonight, about 20 percent of the world will go to bed hungry, obviously not in this country. And we have to maintain our top soils. If you don't have top soils, you will not feed the world.

Now, if we would live lower on the food chain, if we ate the corn and the soybeans instead of the pig or the chicken or the cow that eat the corn and soybeans, we would have between 10 and 20 times as many calories to eat, because that is about the ratio. They say one pound of grain to three pounds of pig or chicken, but that is dry grain and wet pig and you can only eat about half of the pig. When you get down to the true ratio of dry to dry matter, it is about 10 to one for the steer. By the way, milk and eggs are very much more economically produced and really higher-quality proteins.

When it comes to things like cellulosic ethanol and biomass and so forth, be careful that we aren't using so much of that that we are mining our top soils of an essential element called humus. Humus is what gives tilts to the soil. It is why top soil is different than subsoil. It holds water; it holds the nutrients. If you take all of that out, you no longer have top soil.

We can get some energy from agriculture, but it will not fill the gap between what will be available and what we would like to use.

The next chart is a really interesting one. This shows on an interesting scale, this is how good you feel about your station in life on the ordinate here. Then the absyssa is how much energy you use. Notice where we are. We are way over there in the far right. We use more energy than any other society in the world.

You know, notice you can't feel very good about your station in life until you have used a meaningful amount of energy, but it is striking that this is all relative. China is up here. China feels really good about where they are. Notice how little energy the average man uses, so they are better off today than yesterday, so they feel good about it. They are improving. What I want to point out on this chart, you don't have to use the amount of energy we use to feel good about your position in life.

There are about a dozen countries over there that use less energy than we. Everybody above that line uses less energy than we and feels better about their station in life than we feel. We have lots of potential to use less energy and feel good.

The next chart shows a really interesting one on energy efficiency. There may not be this kind of opportunity everywhere, but on the left here is a usual incandescent bulb. If you are brooding chickens, you use a light bulb. It is not light you want; it is heat.

But notice that 90 percent of all the energy that comes out of that incandescent bulb, that is what is up here, I am looking up at them, Mr. Speaker, 90 percent of the energy that comes out of that is heat.

Now, if you go to a fluorescent, you have these little screw in fluorescents now, and notice, by the way, the green here is the same amount of light every time. Notice that you use demonstrably less energy, four times less energy. A 13-watt little spiral bulb will give you as much light as a 60-watt bulb. These fluorescents are very efficient.

Now notice what happens with a light-emitting diode. Notice that the amount of heat produced in a light-emitting diode is only about one-tenth of the light you get. No wonder much of new technology is moving to diodes.

The next chart is an interesting one from our country, and this shows the energy used per capita electricity consumption in California and the U.S.A. Remember several years ago they had some blackouts and brownouts in California, and we were predicting massive rolling brownouts or blackouts the following year. It did not happen.

The reason it didn't happen is because the Californians, without anybody telling them they had to, voluntarily reduced their consumption of electricity by 11 percent. And notice, the average Californian uses about, what, about 65 percent of electricity as the average in the rest of our country. It would be hard to argue that Californians don't live as well as we.

The next chart is a very interesting picture. We don't want to go there, and unless we do something meaningful to address this coming energy crisis, we could do what the Easter Islanders did. They had a good thing going for them there. They fished the oceans and the fish was there for the taking.

To make their boats, they cut down the trees. And the trees weren't growing as fast as the boats they were making, and they cut down more and more trees, and ultimately they cut down the last tree. And when those boats rotted and they could no longer fish, their society started deteriorating. When they were finally discovered, they were down to eating rats and living in caves and eating each other. They had a civilization before that which could indulge in such things as these very large sculptures that you see here.

What they did was to mine a nonrecoverable resource, and they had no fallback. They had no alternative to fall back on.

The next chart shows kind of where we are and where we need to go. So far, Mr. Speaker, it may not be obvious that we have a really bright future ahead of us, but I think we do. We have some big challenges here. Challenges and opportunities are two faces of the same thing, and I would like to think of them as opportunities.

I think that what we need to address this problem is the equivalent of a program that embodies the total commitment of World War II. I lived through that war. There were no automobiles made in, what, '43, '44 and '45. There was gas rationing. I can't remember people grumbling about the gas rationing.

Everybody had a victory garden who could. They were encouraged to do that. It was the patriotic thing to do. We started daylight savings time so you could have some time after work in the evening to work on your victory garden.

Everybody saved their household grease. I am still not quite sure what they did with that, but we took it to a central repository.

The point is everybody was involved. It was the last time in our country that everybody has really been involved, and we need a program that involves everybody. We also need a program that kind of has the technology focus of putting a man on the Moon, because there are some really big technology challenges here.

Thirdly, this program needs to have the kind of urgency that we had in the Manhattan Project, because time is really of the essence here. We don't have the luxury of a leisurely approach to solving this problem.

There will be an increasing deficit of oil in the world and in our country; but I will tell you, Mr. Speaker, I think the biggest deficit today is leadership, both here and in the world.

With so many experts, and these two studies, and again I go back to the two studies, here they are, paid for by our government, saying that we are at or nearly at peak oil and pointing to the dire consequences if you haven't prepared for that, I don't see our leaders in our country or in the world standing up and telling their citizens that we face this problem.

This chart shows what we need to do. The first thing we need to do is to buy some time. How do we buy time? Right now there is no surplus energy available to invest in alternatives, like building a nuclear power plant, like finding a really good way to make ethanol, to make a whole lot more solar panels, to make a whole lot more wind machines. By the way, wind machines are producing electricity at 2.5 cents a kilowatt hour. That is very competitive.

If we can have a very aggressive conservation program that you can do quickly, we can free up some oil, which buys us some time so that we can invest in these alternatives.

Then we need to use this wisely. Somehow we need an entity which is making judgments as to what is the best uses of the limited resources of both time and energy that we will have.

By the way, Mr. Speaker, we need to invest three things to get these alternatives. We need money and we need energy and we need time. Of course, in this Congress, we never worry about money, we just borrow that from our kids and our grandkids without their approval. But we can't borrow time from them, and we can't borrow energy from them.

Thinking about our children and grandchildren, Mr. Speaker, I would just like to make an argument that there is a moral dimension to the challenge we face. To the extent that we are able to go out there and get these remaining resources to fill the gap, to continue life as we know it, we are going to be denying our children and our grandchildren access to these energy sources.

Right now, we are telling them although we cannot do it, we cannot even come close to running our government on current revenue, not only will they have to run their government on current revenues, they will have to pay back all the money we borrowed from their generation.

I am having a moral problem with going out there with the techniques that we have to get this gas and oil and coal, the little that remains, more quickly. We will certainly be denying our children the opportunity to do that.

Somehow we have to have an organization which makes decisions. We have only limited time. We have only limited energy. How will we invest it? What is the wisest way to invest it?

There are many benefits that can come from this. One of the benefits, Mr. Speaker, I can imagine Americans going to bed in the evening feeling really good about the contribution they have made that day to this problem. This shouldn't be viewed as a problem; this should be viewed as a challenge. Life is really easy in our country. Most people don't have to really stretch to do well.

I think that our people would marshal. We have the most creative, innovative society in the world; and if our people only knew that there was this problem, I think that all of our energy, our creativity, our innovation could be marshaled to address this.

We have no alternative but to be a role model. We use a fourth of all the world's energy. We are a role model. We need to be a good role model for this transition.

Mr. Speaker, I yield back the balance of my time, with the realization that if every American is challenged to address this problem, that there is a way out, we will have a bright future. But the later we start, the more difficult that transformation will be. We should have started a decade ago. We can't turn back the hands of time, but we can from now on do what we should have been doing in the past.

□ 1630

RELIEF FOR SOUTHWEST LOUISIANA FROM RITA

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under a previous order of the House, the gentleman from Louisiana (Mr. BOUSTANY) is recognized for 5 minutes.

Mr. BOUSTANY. Mr. Speaker, next month the Gulf Coast will prepare for yet another Hurricane season. As we prepare for this year's storm season, it is important to remember that two category 3 storms hit the gulf coast last year.

In late September, the eye of Hurricane Rita made landfall in Cameron Parish in the southwest corner of Louisiana. The storm inflicted devastating damage to my district in southwest Louisiana as well as to the districts of my colleagues from southeast Texas.

In the coming weeks, House and Senate conferees will meet to determine a final bill to provide important relief to residents on the gulf coast. Today we are not here to compete with one another, but to together ask our colleagues to consider our needs and to remember Rita.

Unfortunately, more than 6 months after Hurricane Rita hit the coast of southwest Louisiana and southeast Texas, our road to recovery is not yet complete. Hurricane Katrina is off the front pages. Hurricane Rita is off the back pages.

Mr. Speaker, it is important to note that the people of southwest Louisiana, and our friends in southeast Texas are not asking for a Federal handout. We do, however, need the Nation's support and the support of this body to recover and protect ourselves from future disasters.

This Hurricane supplemental is especially critical to my constituents in southwest Louisiana. Homes are destroyed or uninhabitable. In Cameron Parish, 90 percent of the homes were reduced to slabs of concrete. Students and teachers in southwest Louisiana are still waiting on Federal education disaster assistance to rebuild.

Our farmers are also hurting. Last year, farmers in Vermilion Parish planted 75,000 acres of rice. This year that number has been reduced to only 25,000. And this is why. This is why, right here. This is a picture just 4 weeks ago in my district, some 7 or 8 miles inland from the coast. These were rice fields that have been virtually destroyed due to tremendous saltwater damage that Hurricane Rita has left in its wake. Before Rita, this field was a thriving rice crop.

And you can see, this is another field. Same thing. All this white in here is salt deposition. This just 4 weeks ago, over 6 months from Rita. And we are still coping with this.

We owe it to these farmers to work as hard for them as they do for their families and neighbors in southwest Louisiana.

Mr. Speaker, our industries are hurting as well. The Lake Area Industry Alliance, home of a vast petrochemical complex which serves the entire U.S., reports damages to its facility of nearly $50 million. This picture here was taken in the immediate aftermath of the storm.

They show the Henry Hub, just one of the many energy facilities in my district that supply much of our Nation's energy industry. This facility alone supplies close to 40 percent of the natural gas for our country, and was off line for a considerable amount of time following Hurricane Rita. It highlights the strategic interest that southwest Louisiana plays to our energy industry and why we must ensure that this infrastructure will be protected from storms.

This is another photo of the same area, more close up, showing the tanks. We had about 7 or 8 feet of water in this area. One way we can protect our energy infrastructure is to expand drilling in the Outer Continental Shelf. This can provide a long-term oil and gas supply that would serve the bridge to renewable energy sources.

Most importantly, it would also provide States with critical revenue sharing from any oil or gas leasing off their coast, allowing States like Louisiana to fund our own protection from future disasters.

Mr. Speaker, despite our many challenges, the people of southwest Louisiana remain determined to rebuild their communities and businesses. Parents look forward to the day when their children can once again attend schools and churches in a safe and comfortable environment.

Travelers look forward to a day when they can escape the summer heat with a trip to Holly Beach in Cameron Parish. Farmers look forward to the day when they can once again tend to their fields.

Mr. Speaker, southwest Louisiana has already begun to plan for our future. It is up to us as Members of Congress to help them realize it.

EQUITABLE FUNDING FOR HURRICANE RITA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BRADY) is recognized for 5 minutes.

Mr. BRADY of Texas. Mr. Speaker, I want to thank my colleague, Congressman MEEK from Florida, for allowing me to reclaim my time.

Mr. Speaker, I rise today to join my good friend, Congressman BOUSTANY from Louisiana, in urging our colleagues not to forget the victims of Hurricane Rita as they determine priority funding in the Hurricane supplemental bill that is before the House and the Senate today.

You may know, but, of course, last August Hurricane Katrina, the sixth largest Hurricane in gulf coast history hit the gulf coast. It sent a human tide of over half a million evacuees to Texas. And while our State was struggling with the unprecedented effects of that storm, its own coast took a direct hit from Hurricane Rita, the fourth largest storm in gulf coast history, just 3 weeks later.

As Hurricane Rita grew into one of the most intense storms in recorded history, steering a path through Texas and along the Louisiana border, our State, and especially southeast and east Texas were in the midst of its unprecedented response to Hurricane Katrina.

So our region not only took in evacuees, tens of thousands from Louisiana, and are thrilled that we did, we also took in 2.7 million evacuees from Hurricane Rita, the largest in history.

Then the hurricane shifted; Hurricane Rita went right up those same communities that had already done so much. Rita delivered a devastating blow to the region. As this photo illustrates, the resulting physical damage was massive.

The town of Sabine Pass was leveled. Further inland, entire communities, including houses, businesses, bridges, roads and utilities, were severely damaged or destroyed by Hurricane-force winds and torrential rains.

Over 75,000 Texas homes were damaged or destroyed in Rita, $1 billion of our timber crop, the largest economic driver in east Texas; and today, 10 percent of our Rita evacuees have yet to return. Without homes or without places to work, we are again in a real fight for our lives.

Today we have a number of our Texas leaders, southeast Texas Recovery Team in Washington meeting with the White House, meeting with House leaders, meeting with FEMA and HUD to talk about how Texas can recover.

We had, as I said, 75,000 homes damaged or destroyed. Many of those have temporary blue tarps on today that are starting to deteriorate or blow off. When the hurricane season hits, we will put more and more people out of their homes.

We are asking for about $1 billion in community development block grant funds in housing to help repair those homes, to help get people back in their homes, to help southeast Texas recover.

We are also asking for equal treatment. These are all photos from the Beaumont Enterprise and their special edition on Rita, showing the damage from this region. But as we rebuild, we find that, unfortunately, the Federal Government split Hurricane Rita along State lines, literally provided one assistance to our Louisiana neighbors, and a different level to our Texas neighbors, which is terribly unfair and creates a terrible burden on our Texas communities, many of whom are poor, many with very high minority and poverty rates, all of them eager to help our Louisiana neighbors, but also eager to try to recover ourselves.

So we are up here asking for the same 90/10 reimbursement rate of FEMA that our Louisiana folks have received for the exact same hurricane, same storm, same damage. Different treatment, same storm. It ought to be the same storm, same damage, same treatment.

Mr. Speaker, let me close with this. This Congress, our government, are charged with a duty to wisely allocate precious taxpayer dollars. This hurricane supplement has become a magnet for some less-than-justified projects.

Mr. Speaker, I can tell you this: that the Hurricane Rita assistance in schools of 90/10 and in housing are not only fair and justified, but will go a long way toward helping these communities who did so much for our Louisiana neighbors and are doing so much today to help them recover at a time of terrible need.

LADIES OF THE GULF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Mr. Speaker, I want to thank Mr. MEEK for allowing me to make some additional comments with my friends, Mr. BRADY from southeast Texas, and Dr. CHARLES BOUSTANY from Louisiana.

The area of the State of Texas that I represent, Mr. Speaker, borders Louisiana, and also borders the Gulf of Mexico. And today we had another storm hit not Texas, but Washington, DC. Individuals from southeast Texas and east Texas, government leaders, community activists, chambers of commerce presidents, came to Washington to make the case for what occurred in the last 6½ months in southeast Texas.

By way of review, the ladies of the gulf came into the Gulf of Mexico last fall. The first of those, Katrina, came through, became the sixth largest hurricane, most powerful hurricane to ever hit the gulf coast. And when that occurred, 450,000 people from Louisiana went west. They crossed the Sabine River into Texas. Many of them came into my district.

Many of those people are still there. Several thousand kids are still in school in Texas from Louisiana. So many people are in Texas from Louisiana that we have a mayor's race in New Orleans this Saturday, and the two candidates campaigning for mayor in Louisiana have billboards all over the Houston area soliciting votes from people in Louisiana that happen to be in Texas.

Katrina was mainly a water-damage hurricane. The waters rose, caused damage, the waters stayed a long time. One of the towns of course hit was New Orleans. The national media focused on Katrina day after day after day. But 3 weeks later, another lady of the gulf came. Her name was Rita. She became the fourth most powerful hurricane to ever hit the gulf coast. She hit western Louisiana and east Texas, part of the area that I represent.

The largest evacuation in American history took place in Texas because of Hurricane Rita. Over 2 million people evacuated their homes. In Beaumont alone, 8,320 people were airlifted out of hospitals, in the middle of the night with C–130 transport planes, to 14 different States.

The first responders before Hurricane Rita hit loaded their police cars, their emergency equipment, their fire trucks, their front-end loaders, and even helicopters on two enormous cargo ships that were in the Port of Beaumont. Those ships deploy cargo to the war in Iraq and Afghanistan.

The community, because of Hurricane Rita, was left without electricity for over 3 weeks; 75,000 homes were destroyed. Several thousand homes to this day have not been repaired, and people are still living under blue roofs.

That part of the gulf coast, Mr. Speaker, is a petrochemical area, refinery area. Eleven percent of the Nation's gasoline is refined out of that small area in southeast Texas. Thirty percent of the Nation's aviation fuel is manufactured there. And the Port of Beaumont, as I mentioned, that deploys one-third of the military cargo going to Iraq and Afghanistan.

But this hurricane was not a water-damage hurricane, although there was a storm surge. It was a wind-damage hurricane, and people lost their homes not to rising water, to losing their roofs and water coming in because of rain.

And that whole issue is being dealt with, or not being dealt with, with the insurance companies because of their refusal in many cases to even pay for the damage because it was not water damage, it was wind damage.

But be that as it may, the devastation affected the rice industry. This part of southeast Texas is a rice-growing area. As with Dr. BOUSTANY and his area, this part of the Nation supplies a lot of rice for not only the United States but other nations.

This year the rice farmers lost their second crop, that is the crop that they make money on. And now, rice season is back upon us. But to show you the devastation from Hurricane Rita, I talked to the owner of two John Deere stores there in southeast Texas that supply the farm machinery for the rice farmers.

He says he has not sold one piece of farm machinery this year because the rice farmers cannot afford to buy them. Those rice farmers now, many of them will go out of business and that land will be turned into something else. But be that as it may, Hurricane Rita was not one of those issues that caught the National attention, because local officials, many of them that were here today, took care of business as soon as Hurricane Rita showed up. There was very little loss of life.

And because there was no loss of life, that was not a story for the national media to portray. Mr. Speaker, we just hope in the supplemental that two things occur: that the people of Louisiana are treated not unfairly, but the people in Texas are treated equal to the people in Louisiana.

Rita was a hurricane just as powerful as Hurricane Katrina, and that the funding be the same, and that the line between Louisiana and Texas, the Sabine River, not separate fairness; that fairness go across the river and treat all Americans the same.

☐ 1645

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill today:

H.R. 4297, to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEK of Florida. Mr. Speaker, it is an honor to come before the House once again. I would definitely like to thank the Democratic leadership for allowing me to have this hour, this 30-something hour, Democratic leader NANCY PELOSI and also Mr. STENY HOYER, our whip, and our chairman Mr. JAMES CLYBURN and also Mr. LARSON, JOHN LARSON, our vice chair of our caucus.

As you know, Mr. Speaker, we come to the floor every day that we are in session, almost every day, to share not only with the Members how we should work in a bipartisan way leading on behalf of this country, but also to share with the American people how important that its elected representation here in Washington, DC, need it be Democrats, Republicans, Independents, that we come together under one flag and we salute one flag to make sure that we fight on behalf of what they need, not what the special interests may need here in Washington, DC.

I can't help but segue out of that opening into this historic day in American history. This historic day, and it wouldn't be anything that I would say that we should put forth a House Resolution to designate it as some sort of special holiday, but I think the Members need to be made aware of what happened 5 years ago on this day that might have put into motion, I believe had a lot to put into motion of what the American people are feeling now, not only on the east coast or in the Midwest or on the west coast or north or south, but what they are feeling of the sound of the ring at the gas pump when they are pumping gas into their tank, the feeling that they have when they can no longer carry cash because all of the cash is being spent on fueling their tanks to be able to give their children a ride to school or be able to help a sick loved one to a doctor's appointment, or a small business person trying to figure out how he or she is going to go up on the cost of their service or the product that they provide to a given company because of these gas prices.

Mr. Speaker, I don't want to be a Member of Congress with a conspiracy theory; and so that is the reason why, Mr. Speaker, the 30-something Working Group, we have gone back to looking for the facts of how do we get to where we are now, where did we fall short as a Congress on behalf of the American people. Now, when I say fall short, I want to make sure that the Members don't get confused.

I think here on the Democratic side of the aisle that we have done a very good job, if not an outstanding job, of trying to represent the people that wake up every day and want to provide, want to put forth their best role, their best foot in this great democracy of ours. I think on the majority side that it has been well documented that there has been access into energy policy here in this country in government-funded buildings where special interest was top shelf. That is a heavy charge, but let me just back it up here.

2001 on this day, not yesterday, not tomorrow, but on this day, Vice President DICK CHENEY and his energy task force had a secret meeting bringing together big oil companies, energy lobbyists, CEOs, and other special interests to craft the administration's energy agenda, an agenda to deliver Big Oil big dividends. This is well documented within the media, this is well documented as it relates to testimony in some committees before Congress. Big five oil companies, $32.8 billion in the first quarter profits this year, free drilling rights on public lands, $9 billion in subsidies; $20 billion over 5 years, and waived royalty fees, another gift that was given out of this energy policy.

Big Oil comes through for the GOP. Big Oil gave 84 percent of their campaign contributions to Republicans in the last 24 months. Bush-Cheney got more than $2.46 million in 2004 as it relates to campaign contributions. More than $70 million to the Bush and Republican Congress since 2000.

Democrats want to take this country in a new direction, and I think it is important that we point out some of the things that have taken place.

Now, some may say, Well, Congressman, I mean, that is good, you pointed that out. But, Mr. Speaker, I must go down memory lane to remind the Members and also the American people that this meeting was well denied by many: What are you talking about, a secret meeting? What do you mean? We do everything in the sunshine here in Washington, DC. We have transparency. We believe that we are here on behalf of the American people.

Well, let me just say that, and I want to point to an article that I pointed out last week, and I think it is important because we come to Washington every week for the business of the people and I think it is important that we point this out. This is a Washington Post article that is dated November 16, 2005. As a matter of fact, it was on the front page: White House documents show that executives from big oil companies met with Vice President DICK CHENEY's energy task force in 2001, something long expected by environmentalists but denied as recently as last week by industry officials testifying before Congress.

We should have a problem with that. The document obtained, this week, November of 2005 by the Washington Post, shows that officials from ExxonMobil Corporation, Phillips, Shell Oil Company, and BP of America, Inc., met in the White House complex with CHENEY's aides who were developing a national energy policy, parts of which became law, parts of which are still being debated.

I think it is important, Mr. Speaker, that we bring that to the attention of the Members and remind them as we Members come to the floor, especially on the majority side, and start talking about, well, you know, I don't know how we got here. I don't know why these oil prices are the way they are. And I am going to show that chart there in a minute, but like it is some sort of, like it is someone there like a puppet, like pulling the strings and, I don't know how the puppet is moving.

Well, let me just remind the Members with all due respect, Mr. Speaker, that when we tried to come forth with an energy policy last year that would be meaningful for all Americans, not just some, and definitely not the folks that were invited to the White House. Now, I don't know and I don't know this as a fact, but I would have a pretty strong, I guess you can, like some people say, you could take this to the bank that everyday Americans were not called to the White House and asked how energy policy should be put forth in this country, because all of these subsidies were being placed on the table for these big oil companies.

And when it was reported, I remember very vividly, Mr. Speaker, that some folks said, well, it is in innovation, that is the reason why we are meeting with them. They are the professionals. Well, why while they were giving their advice, they were cutting their deal. And I think it is important for us to again say what this means to the American people.

Gas prices across America doubled. Big Oil profits quadrupled. I have already gone over that, but Big Oil has profited in a way that no other time in the history of this Republic, and I think it is important that people understand that we, those of us that are on this side of the aisle, Democrats, we believe in investing in the Midwest and not the Middle East. It is far too expensive, and I think we have figured that out and I think the Republican majority hopefully will get the message.

The bottom line is, like the commercial, Mr. Speaker, got milk? The bottom line, have you gotten enough? Have you gotten enough of the backroom deals? Have you gotten enough of the secret meetings that are later revealed? Because there are some people of good will that will share this with the American people. I mean, on this side of the aisle we have called for and I am going to talk about an amendment that we put forth that was voted down on party lines that made a lot of sense; but I guess because Democratic

Members put forth that amendment on behalf of the American people, I guess it wasn't good enough, because we weren't invited to the meeting.

Once again, Mr. Speaker, I go back to the only way we can have bipartisanship here in Washington, DC, like I have mentioned before in other floor speeches, is that the leadership has to allow bipartisanship. You can't come from a minority position or the minority here in this House, as the Democrats, and say, well, we want to work in a bipartisan way. That is a statement. The action is the leadership, the Republican leadership of this House and this Congress say, well, we want to work in a bipartisan way and we will; we will let the minority Members know, the Democratic Members know when we will come together in a conference committee. We will sit down with Democrats to craft legislation, energy policy, prescription drug policy, health care policy. You name it. Social Security policy. We will come together in a bipartisan way to make sure that we put forth the will of the American people. But that was not allowed.

We are calling for on this side, we ran our amendments in committee and here on this floor, relief for consumers and farmers and small businesses, investigate and punish price gouging by big oil companies. Investigate and punish price gouging by big oil companies. Stop billions in tax breaks and subsidies and handouts that are ongoing to big oil companies. Keeping Americans, Americans home-owned and homegrown out of poverty of paying so much for energy prices. Increase production and use of American biofuels. Increase cars and trucks that run on ethanol. Make ethanol and biodiesel more available at the pump. Increase energy independence and create good-paying jobs in rural America, research and development to create cutting-edge technologies and biofuels.

Now, I am going to say, Mr. Speaker, because some folks may say, well, you know, Congressman, that is great, that is some great points there, but it is here on the innovation agenda. This is like the quick read on our promise to the American people on innovation. And we have a number of folks that have endorsed this innovation agenda and that are Democrat and Republicans, not only in the area of education and broad-band technology but also as it relates to energy independence in 10 years.

Mr. Speaker, that is not an if we do get in the majority, when I say the Democrats get in the majority, that is when we get in the majority what will happen. That is a promise. That is not something like a campaign slogan and saying that, well, you know, we filled our, you know, we will represent you well. No, that is the plan. And the Members can go on housedemocrats.gov if they want to get information on the innovation agenda. It is just that simple. Just like that. It is just that simple.

The energy plan is right here. Ready, set, go, Mr. Speaker. Ready for bipartisanship or a Democratic majority. I think it is going to take a Democratic majority to get us to where we need to be to be able to put forth the kind of leadership that is needed in energy level.

Again, Mr. Speaker, not talking fiction but fact. I hold in my hand here a report that was done by the minority staff and the Government Reform Committee talking about the Bush administration energy policy and the 5-year review of what it is going to cost Americans in the long run. We know this, Mr. Speaker, because we have tried to offer and head off what is happening right now. And I think it is important that the Members understand. That report is out there in case Members want to take a leadership role on the Republican side and say maybe we need to start working with the Democratic side on some of these issues.

□ 1700

I think it is also important, Mr. Speaker, to point out that as we look at these record-breaking prices at the gas pump, that we look at the subsidies and cut out the talk about is there price gouging or not. I think the American people are going through a major head-scratching session throughout this country of saying I am paying through the nose; they are saying there is a gas shortage; but meanwhile, these big oil companies, even though they show up on the Today show trying to explain to Americans why the prices are what they are, they are getting another membership at the golf club. Forget, let alone buying golf clubs, they can buy these country clubs now because it is record-breaking profits, and it is very, very unfortunate that that is the case.

I want to say that last fall, Mr. Speaker, we had an appropriations amendment on the floor that we put forth that would have increased the opportunities for another look at the innovation, make sure that it falls on the side of the American people, that we do not use environmentally sensitive land to be able to carry out the will of big oil companies who just want to continue to do what they have been doing over the years but, hopefully, ahead in the area of biofuels, more emission vehicles and also innovation. We have talked about the innovation, and I think it is important we brought that to the attention of the American people.

I also have to, Mr. Speaker, share with you today. I have given the Web site out. I just want to make sure because I want to make sure the Members are able to follow me. Let us talk a little bit about border security, and I think I am now going to talk a little about it because a lot has been said, very little has been done. I think it is important to look at the facts of what is actually taking place here, and I do have some facts here, and I also have a solution, something that folks like to talk about but they do not like to enact.

We talk about immigration and border security, the President gave a speech last night and said that we need to protect the southwest border, we need to protect America. My goodness, if we do not do it, we do not know what is going to happen. We have got to keep the terrorists out.

Well, last I checked, Mr. Speaker, there are a number of terrorists and well-known terrorists, even a recent documented case in Washington State of a terrorist coming through the Washington-Canada border and all along the northern border and some other places here in the United States. So to say that it is all in the southwest United States, that that is the issue and we need to deal with it, I think that there are some other underlying issues that are there. And I just want to share with you that when you look at a leadership that has been in place, Mr. Speaker, for oh, well, I know 6 years with a Republican President in the White House, Republican-controlled House, the double-digit years, and now look up and say we have a problem where we have to send the National Guard—the National Guard to the border?

Well, I guess it would be easy if Democrats were in control anytime during that time, because you can point at the Democrats and say that is the reason why we have to send the National Guard, because it has been mismanagement of the government and we have not adhered to the number of recommendations and reports that have been coming out over the years saying that we have to increase the number of border patrol agents and because of the lack of oversight and the lack of follow-through and executing any of that; we have found wasteful spending from the Department of Homeland Security, need it be secure borders or whatever the initiatives were dealing with cameras and sensors and all. We were so busy giving out these contracts to the special interests that no one bothered to hold the light of accountability over these contracts, and so we find ourselves in these quick fix, make money for folks, that can influence this process over what should happen in a functional government.

Let me get that Gingrich poster if I can. I want to bring Mr. Gingrich, not Mr. Gingrich, Speaker Gingrich, Mr. Speaker, who delivered the Republican majority to the Republicans, and this is what he is saying. He is saying, "They are seen by the country as being in charge of a government that cannot function." They, Mr. Speaker. When you have a former Speaker of the House that said "they" that means he is separating himself. "They" means that they are no longer the people I knew when I was there. "They," they is like a group of people that the relationship may not be what it was, but I do not know what they are doing. They are over there. They are not on our side.

I guess that is what the Speaker is saying, and so I think it is important for us to look at the reason why this Republican Congress, Mr. Speaker, is being seen as they, even by individuals that were in the leadership of bringing about and delivering the majority.

Border. There are 1,000 fewer border patrol agents than were promised in the 9/11 Act. There was a lot of discussion around the 9/11 Act that passed off this floor, but there are 1,000 fewer than what was promised to the American people. The Republican-controlled Congress has broken the promise it made in funding additional border patrol agents, immigration enforcement officers and detention beds, especially in the 2004 Congress when it enacted the Intelligence Reform Act, or better known as the 9/11 Act, which mandated an additional 2,000 border patrol agents being hired over each of the 5 years.

But the President's subsequent budgets have failed to include adequate resources to implement the act. Indeed, the President's fiscal year 2006 budget called for only 210 additional border agents.

Now, Mr. Speaker, I had to read that part, and I am going to stop right there for a moment, because sometimes when they have the newscast on these cable stations, they run the breaking news at the bottom. I wish I had one of those ticker tape little areas under the President last night to read out in the fiscal year 2006 budget; that is, 2006 budget only called for 210 additional border patrol agents. That is the facts. That is not something from the Democratic Caucus. That is not something that I was walking down the street and just said, hey, I am going to say to the President. No, you can look in his budget, you can look it up on line, you can look in the White House Web sites archives, if they have not taken it off just based on I said something about it.

Now the President is ringing the bell saying, let us send 11,000 National Guard troops down to the southwest border even if there are documented cases of what is going on on the northern border.

The Republican Congress has not done much better. In the fiscal year 2006, they only funded an additional 1,000 agents, only 1,000, even though the 9/11 Act called for 2,000 agents per year. I am going to read off, Mr. Speaker, a little later on the amendment that we put forth here on this floor that was voted down by Republicans and voted for by Democrats.

The act also mandated an additional 8,000 detention beds, but only in the fiscal year 2006 the Congress funded only 1,800 additional detention beds. Again, I must add, one may go on prime-time television, say another thing, but the facts state different. We call it the Potomac Two-Step.

The President and the Republicans continue to underfund the border patrol. The President's fiscal year 2007 budget does not fully fund the authorized level of border patrol, while the Democratic budget substitute does.

The fiscal year 2007 House homeland security appropriation bill that was marked up in subcommittee last Thursday falls 800 border patrol agents short and 3,130 detention beds and 500 immigration enforcement agents short of the authorized levels that was passed off of this floor just a few years ago.

Again, I mean, I am so glad that God has given me breath to come to this floor to share this with the Members and the American people, because if we look at the prime-time address or some sort of press conference, we will never get down to what is actually happening here in Washington, DC. I can tell you, on this side of the aisle, we have had enough of this kind of talk and lack of action.

Now, let me just pull out here that this border security, Mr. Speaker, is a nonpartisan issue and should not be a Democrat-Republican issue. It should not be, well, that Independent in the House has a proposal, that Independent. It should not be former Members of the House, Speaker of the House, calling Republican majority "they," as though they are not working in a way that they should work on behalf of the American people. Not my words, but Speaker Gingrich's words.

I can tell you that it is important that we move in the direction of making sure that we do not cater to certain major conservative voices, telling the President let us send 11,000 National Guard troops. Let me break that down for the Members in case some of the Members probably do not understand what that means.

I am a member of the Armed Services Committee. Last I checked, we had an issue as relates to end strength. We do not have the necessary personnel to even take on the obligations that we have now. We have men and women in harm's way in Iraq and Afghanistan and other very dangerous places, in the Horn of Africa, at this time. And when we talk about the National Guard, that means someone in your neighborhood will be called up for, what, for 2 weeks to go to the southwest border. For 2 weeks, they are going to be trained, mobilized, fed and dropped on the southwest border, for 2 weeks at a time.

I am going to tell you what that means for Members like me, Mr. Speaker, and there are 20-some odd Members from Florida, 25, 26, 27, and counting the two Senators. But this means for Florida that our Florida National Guard, hurricane season is starting in 3 weeks, have to have in their mind that they are going to the southwest border to protect only the southwest border and not really carry out a mission of homeland security against terrorism. That means that those individuals that have been deployed and pulled away from their families from some area of 12 months to 14 months at a time, in Iraq now, has to come back home, kiss the kids, hug the wife, and then head off for 2 weeks over to the southwest border.

Now, this is something that has been going on for some time now and something that we have been calling for to be changed.

In addition, I hold in my hand here, Mr. Speaker, the 9/11 Commission report, at least the cover of it, a report card, the final report of the 9/11 Commission, dated December 5 of 2006. And this report card basically, and I will come down before the week is out to bring my copy of the 9/11 report to the floor, and I can read into the record verbally several pages of that report of things that should be taking place now or should have been taking place, and it has not.

The 9/11 report basically called for exactly what we passed here on this floor: 2,000 additional border patrol agents annually, okay; almost coming to the tune of 12,000 additional border patrol agents; of making sure that we are able to deal with attrition, we are able to make sure that we have professionals that are on the border. Being a border patrol agent is not just something you can hop up and just try to do tomorrow. Making sure that we move from a G–11 status to a G–13, which means that there is higher pay, paying these men and women for being the professionals that they are and making sure they have the kind of force that they should have.

Border patrol is not something that should be enforced or carried out when the poll says that we are not doing anything. It is something that is to protect the United States of America and it should not be a knee jerk.

□ 1715

Everything cannot be: Well, what if this? Well, we will send the military. What if we? We will send the military. We have a volunteer force. They signed up to stand up and do what they have to do on behalf of this country. My hat is off to them. They allow the veterans who, Mr. Speaker, serve in this Chamber, and also we represent throughout this great country of ours, they fought to allow us to salute one flag. And that is something I don't take lightly.

But when you have a Republican-controlled Congress that doesn't believe in bipartisanship, in working together. I think it is important to be able to point out some of these issues that are of great importance.

When you start looking at guidelines for government sharing of personal information, that is a "D." Wow. That is in the news today. That is their report from 2005. When you start looking at checking bags and cargo screening, that is also a "D." I wonder how they came up with that? That has been in the news recently. When we start looking at the issue of critical infrastructure assessment, that is also a "D." When you start looking at the issues of how do we deal with FBI security workforce, that is a "C." When you start looking at the guidelines for intelligence oversight reform, that is a "D." When you start looking at unclassified top-line intelligence budgets, that is an "F." When you start looking at the issues of moving in the direction of securing our borders, also very low marks.

I think it is important that we point this out, and this will be on our Web site for your perusal, the Members, if they want to take a look at it. I think it is important to talk about the issue at hand, of what the President has shared with us last night, and to talk about it being willing to endorse something. And we will put a copy of that amendment that we put forth on the homeland security piece and what it called for on the Web site as well.

Well, in December of 2005, Democrats had a motion to recommit on H.R. 4437. In that amendment we called for an increase of border patrol numbers, border patrol officers by 3,000 additional agents, totaling 12,000 in total, and to expand the new training facility to be able to handle the capacity of training those officers.

We called for increased border patrol agents and inspectors, pay agents, from G–11 to G–13 that I mentioned earlier, Mr. Speaker, that would put these agents on par with other law enforcement agencies so that we don't end up being the training ground for other law enforcement agencies that then take the dollars we have put into training, recruiting, and all of those things that goes into bringing those individuals on; that they are not taken away by other law enforcement agencies.

Immigration and customs enforcement, which are ICE officers, 2,000 additional agents and 250 additional detention officers.

This is a plan, Mr. Speaker. This is not something where you just jump up on television and say we are going to send 11,000 National Guard troops. That is not a plan. That is a Band-Aid. And I want those comments of what Republicans are saying about that plan.

We have here where we also call for 100 additional U.S. attorneys. U.S. attorneys. One hundred additional U.S. attorneys to be able to handle the cases. We don't want them sitting in detention centers taking up all that bedspace. That is 400 in total to be able to deal with the prosecution of individuals that come into the country illegally, and also those smugglers.

We are also calling for immigration judges, 75 additional immigration judges. We called for Coast Guard, 2,500 additional enforcement personnel, or 10,000 in total.

It is also important to be able to deal with the investigations of fraudulent schemes and documents, so we called for 1,000 investigators that would be able to investigate those fraudulent documents so that we can have, guess what, competence.

We are finding in the Department of Homeland Security, Mr. Speaker, the reason why these procurement officers are going through so much trouble and not being able to have oversight over these contracts is that we haven't put the individuals there to oversee the contracts. So the contractors, those that come in, government contractors know they can come in and take advantage of the government and there are several months before we figure out what is going on, or before the Department figures out what is going on.

The amendment also calls for a thousand entry inspectors and K–9 enforcement teams, 375, that would take the place of many personnel individuals. These K–9s have been an effective tool in the effort against terrorism in U.S. enforcement throughout this country and along the borders.

I think it is important to look at a plan, not a Band-Aid. Now, speaking of a plan and a Band-Aid, let's talk for a minute about these 11,000 troops. An L.A. Times article today. In California, Governor Arnold Schwarzenegger said he agreed with the President on the need for a border overhaul and immigration policies, but he criticized the plan of the National Guard on the border. Border State Governors were not consulted about the proposal in advance, and there are many outstanding questions about the impact of the President's proposal on Californians, he said in a statement. It remains unclear what impact only 6,000 National Guard troops will have on securing the border, says Schwarzenegger. I am concerned that asking the National Guard troops to guard our Nation's borders is a Band-Aid solution and not the permanent solution we need.

I just wanted to say that Governor Schwarzenegger, being a Governor in a State, a large State, where usually the National Guard reports to the Governor of that State, until they are federalized I mean, I would be concerned if no one at least had a conference call and said, hey, we are thinking about doing this: Governors, what do you feel about that? Okay, let's just take that out. Let us just talk about the way they do things here in Washington, DC. Let us just talk about Republican Governors, and say, what do you think about this; and how do you feel about how your National Guard can play a role in this? Well, that is from Governor Schwarzenegger.

Here is a Member of Congress, Congressman JONES of North Carolina. This is his quote. "If Bush had done this 2 years ago, we could have seen a real solution that might have improved the environment for the debate about what we should do now."

That is from that same article, and we will have this on our Web site a little later on today for the Members that would like to have that information.

We put forth that amendment, Mr. Speaker, going back to the amendment which was voted down on partisan lines, I guess because Democrats had an idea and a solution, not just a Band-Aid.

I think it is also important, Mr. Speaker, for us to take a step back and to make sure that the American people know that we should all be on their side. And I do believe my colleagues in some areas are on their side, but there are too many people listening to the special interests here in Washington, DC.

We have a plan. We put our energy plan on the table. It is on Housedemocrats.gov. It is there. It wouldn't just be on the Web site, it would be implemented if the Republican majority would work in a bipartisan way with Democrats in putting forth these plans. Maybe we wouldn't be paying more at the pumps if the Democrat proposals and amendments that were on this floor at the time we were dealing with energy policy on price gouging, there wouldn't be a question whether there was price gouging or not because there would be enough U.S. attorneys to be able to deal with it. The oil companies would know there would be a $3 million fine, plus prison time, jail time.

It is criminal to spend $56 to fill up the tank of an F10 Ford truck. It is criminal to have folks running around here putting $10 at a time in their tank and only getting three gallons, if that, in some cases to make it back and forth from work. And I think it is important that people understand what is happening.

I think it is important to note, Mr. Speaker, to the American people and the Members, and I just want to mainly talk to the Members, that we have time. We have time for a revelation, a paradigm shift for the majority to say we are willing to work with Democrats in a real way. But guess what? History doesn't speak to that. Recent history and the history of 5 or 6 years doesn't speak to that.

I am very concerned that people are paying for a one-sided policy, a Republican majority policy, a White House policy, a rubber-stamp policy, Mr.

Speaker, of saying, Mr. President, whatever you want, we are willing to fund it. We are willing to give tax breaks to billionaires that we cannot afford; we are willing to give tax-free giveaways to the oil companies, which has never happened in the history of the country: we are willing to turn our heads and ignore real price-gouging policy and laws because somebody from the oil companies may end up going to jail.

Well, let me tell you what is happening. Gas prices are so high now that I know, I mean, I know for a fact that crime will go up because of gas prices. People are going to do what they have to do to fill their tanks or to put some gas in it. And I am not encouraging that. I used to be a State trooper. I want those individuals to be dealt with. But I wonder why we would put the country in the posture it is in now to benefit the few oil companies that are out there?

We can talk about the rubber stamp a little further, Mr. Speaker, because I think it is important that not only when we talk about oil, we talk about immigration. As I said, when I talked about the incompetence of one-sided policymaking without working in a bipartisan way, I just want to say that it seems like the Republican majority here in the House are afraid of foreign people but not afraid of foreign money.

When I talk about foreign money, Mr. Speaker, I have to get this chart here. I bring this chart out again. I have talked about this chart so much until I see it sometimes when I close my eyes, because I cannot help but point out again to the Members on the Republican side, the majority that is setting forth the policy and that has put this in motion and has been a part of history-making in the wrong way.

There are 42 presidents, Mr. Speaker. This is a fact. This is the U.S. Department of Treasury. This is not a 30-something report or the Kendrick Meek report. In 224 years, $1.01 trillion has been borrowed from foreign nations. These are the Presidents and these are their pictures. Four years, 2001 to 2005, the President, along with the Republican Congress, pictured down here, have borrowed $1.05 trillion from foreign nations.

Well, who are these nations? Well, we have put together, the 30-something Working Group, we wanted to break this down so that the Members will know what they have done. Republican Members would know what they have done, because we have called for pay as you go, and we will talk about that, not just borrowing as we go from foreign nations, putting this country in an economic posture it has never been in in the history of the Republic. I am not talking about in the last 2 years or 20 years or last 100 years, but in the history of the Republic.

So what the majority Republican Congress has done has enabled America from being how it was prior to the arrival of the Bush administration and the rubber-stamp Republican Congress.

Japan owns $682.8 billion of the American apple pie, where they have bought our debt, Mr. Speaker. These are not my numbers, these are the U.S. Department of Treasury numbers. China, $249.8 billion of U.S. debt.

□ 1730

China didn't make us do it. It is the policies coming out of the White House rubber-stamped by the Republican majority. If we worked in a bipartisan way, Mr. Speaker, the Republican majority can be able to say, well, you know, both parties made this mistake. Oh, no. History reflects and the present reflects the reality of that statement, or the lack of reality of it. The U.K., $223.2 billion of U.S. debt that they bought. The Caribbean nations, $115.3 billion of U.S. debt that they have bought, not because American people said, hey, let's just go out on a credit card and spend money. It is because the Republican majority said, let's go out on a foreign credit card and spend the money and do things that we can't afford to do like $11 million in National Guard troops that will be activated that we will pick up the bill for because of a lack of policies in taking on the recommendations of the 9/11 Commission. I can't say that enough.

Taiwan, $71.3 billion Taiwan owns of our debt. OPEC nations. OPEC nations covering Florida and Georgia, $67.8 billion. OPEC nations have a lot to do with the oil situation right now that are providing most of our crude.

Germany, $65.7 billion they have bought of the U.S. debt. Korea, $66.5 billion; Canada, $53.8 billion of U.S. debt.

Now, I can talk and speak boldly on this issue, Mr. Speaker, and I will tell you why. There is only one party here in this House that has balanced the U.S. budget, period. Not one, not one with an echo in this Chamber, Mr. Speaker, Republican that is presently serving or served when the budget was balanced can say that they took their voting card out and they voted to balance the budget where the surplus is as far as the eye can see, until the President was elected and the Republican Congress was emboldened with a rubber stamp. Now, deficits as far as the eye can see. Record-breaking borrowing.

How do you borrow in 4 years $1.05 trillion? How does that happen? Mismanagement and tax giveaways and special deals to special interests, that is how that happens. Somebody said, okay, well, Congressman, if this was a two-way conversation, well what about that thing we call the war? What about the thing we call 9/11? Well, what was World War II? What was World War I? What was the Great Depression? There were many other challenges that the United States of America has had over the history of 224 years prior to the Bush administration coming into power and the Republican Congress being handed a rubber stamp. So I don't think the Members would be able to explain this chart or explain the facts of incompetence or explain the fact that they have had a rubber stamp in their hand ever since President Bush has taken to the White House and the Republican majority has had their way of saying, Mr. President, whatever you want, we will do it. And that is how we got to $1.05 trillion in 4 years. That is how that has happened.

I think it is important that, again, when we talk about issues and we point out the problem, guess what, Mr. Speaker? The solution will follow, or the attempt for a solution.

We talked about pay as we go. Some policymakers call it PAYGO, but I just want to make sure everyone understands what we are talking about in Washington because a lot of times we use acronyms and we lose people. We lose people that elected us to come up here and represent them. So we use these acronyms sometimes not only to cut down a speech or what have you, but to also carry out that dance that happens up here that is called the Potomac 2-Step. If we use enough acronyms, it will lose the people and they won't know exactly what is going on up here. But we on the Democratic side believe in spelling this thing out for everyone.

Congressman JOHN SPRATT from South Carolina, one of the most honorable Members of this House and ranking member on the Budget Committee, put forth a substitute amendment on House Concurrent Resolution 95 in the 2006 budget resolution that instituted pay as you go.

Now, what does that mean? Now let's just make sure that we break this down just in case a Member of the House or Senate or a staff member or just, you know, everyday-Joe or -Sue doesn't understand when we say pay as you go. That means what many of us do every day. If we are going to buy something, we have got to know how we are going to pay for it. If we are going out and we want to buy, I don't know, a radio, and you go out and you buy that radio and the radio costs $100, well then you step back. You can be at one of our favorite American department stores and you say, well, if I am going to buy that radio, where am I going to get the money? Do I have $100 in my pocket? That is the first question that you ask yourself. Then you say, well, maybe I can't afford it. Or do I want to put it on this credit card?

Well, what the Republican Congress has done is that they have been taking out the credit card and they have just been charging everything, not only charging everything, charging it to foreign nations, the power of people that have, not people, but countries that have bought our debt not based on what everyday Americans have done as it relates to irresponsible spending and a lack of planning; it is because what the Republican Congress has done. These are our leaders that have been elected to lead.

Now, maybe I know this country will be better off financially if there was a bipartisan approach towards fiscal responsibility, but it has not been. And the Republican Congress has put forth, has endorsed and rubber-stamped everything the administration handed down.

So Congressman SPRATT, along with the Democrats, said, let's institute pay as you go. If you put it in the budget and it is going to be something that you want to spend money on, you better say how you are going to pay for it in real money, not funny money, not borrowing from foreign nations and weakening the economic opportunities on behalf of this country. That is what that amendment did. And guess what? Here's the vote right here. It failed. Not one Republican. 228 Republicans vote against it. It is roll call vote 87, March 17 of 2005.

Well, if that one vote, I mean, you look at these two opportunities here, Mr. Speaker. They are the only opportunities that the Republican majority allowed us to even bring something to the floor. We had to work hard to get that to the floor.

If the Democrats were in control of this House, which I hope the American people will allow Democrats to be in control of this House, A, we will work in a bipartisan way; B, we will institute pay-as-you-go policies, and we will cut out countries buying our debt and owning a part of the American apple pie.

Mr. SPRATT, again substitute amendment to House Concurrent Resolution 393 of the 2005 budget resolution. Again, 224 Republicans voted, zero voted for pay-as-you-go policies. Roll call vote 91, March 25 of 2004.

Now, Mr. Speaker, I just wanted to point those two things out because I want to make sure that people know that we are taking every opportunity on this side of the aisle to put this country back on track of fiscal responsibility. I can't tell you how many times that I have shared that with the Members, and I can't tell you how many times the Members have come to this floor with the rubber stamp in their hand. And I am going to tell you, I am going to show you what that rubber stamp looks like in reality, because I want to make sure that the Members that are checking this debate out see exactly what we are talking about.

This rubber stamp comes in the form of a voting card. This is my not only ID but voting card. And the President wants to give tax breaks that we can't afford to billionaires. Done. Let me vote for it. The President said that we should give unprecedented tax breaks to big oil companies in the time they are making record profits. Done. Let me vote for it. That is fine. Whatever the President wants, so shall he spell it out, we will rubber-stamp it and endorse it. Should we deal with issues as it relates to no plan for a war in Iraq? President said we should. Done. That is what the Republican Congress is saying.

And so here on the Democratic side, we are saying, hey, you know something, and this thing that we call a democracy, Mr. Speaker, we talk about a three-tier government. We talk about a legislative branch. We don't have to talk about it. It is in the U.S. Constitution. We have an executive branch, and we have a judiciary. If the American people want to do away with the Republican rubber-stamp Congress, you know what to do. You want to see this rubber stamp thrown out the back door, then you know what to do. If you want Members to come with their voting card to vote on behalf of the American people and not the special interests and what the White House has said that should be done, you know what to do.

Because the thing about it, Mr. Speaker, and the only thing that I feel good about these days is that November is coming soon and that the American people are so fed up that maybe, just maybe, and I think we are beyond maybe right now with the scare tactics that will be coming from special interests because they know their day is coming. Their day is coming with the American people, and we will have tax breaks, real tax breaks for the middle class; we will have an energy policy that we will say will be energy independent in 10 years. They know that will happen. They will also know that we will have a true prescription drug and a true health care policy that small businesses and large businesses will be able to provide health care for their employees, and that will be done. They know that we will also move with a pay-as-you-go policy and not a borrow-and-spend policy from foreign nations that will also happen. And so I think that it is important that everyone understand that we are here on their behalf.

As I say, as I get ready to close, Mr. Speaker, I think that it is imperative that the Members understand that this is fact and not fiction. If it was fiction, I could not walk around this Chamber and this House of Representatives and this Capitol and speak to Members on a day-in-and-day-out basis. It is not personal. It is just business. And it is the business of the American people.

Let me get the chart here so that I can make sure that Members can get more information.

Housedemocrats.gov/30-something.

You can get all the charts that we have shared with you here today and the reports. That is housedemocrats.gov/30-something. We encourage e-mails and anything that Members want to share with us.

Mr. Speaker, what is very unfortunate is the fact that on the eve, or last night, at 12 midnight the clock ran out on seniors here in the United States of America as it relates to the prescription drug plan. On that night, when there should have been great celebration by the Republican majority, what was going on? Going back to the movie "Wag the Dog." No, let's talk about immigration on the deadline of the sign-up time for prescription drugs.

So that goes to show you, Mr. Speaker, that it is something their trying to change the debate of the deadline and seniors being confused and now seniors being penalized the next day after. And so I just want to make sure that the Members know that there are some people that are paying attention to what is going on, and they are called the American people. And you do have time to change, and you do have time to bring about this paradigm shift, but history doesn't speak to it.

And so, Mr. Speaker, with that I would like to thank the Democratic leadership for allowing me to come to the floor with another 30-something hour. We look forward to being back on the floor tomorrow if we have the opportunity.

ILLEGAL IMMIGRATION

The SPEAKER pro tempore (Mr. KUHL of New York). Under the Speaker's announced policy of January 4, 2005, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Mr. Speaker, as always I profoundly appreciate the privilege to address you, Mr. Speaker, and to stand on the floor of the United States House of Representatives, make remarks for a period of time about issues that are so pertinent to our day. The future and the history of this country, many times, has been turned right here on this spot, Mr. Speaker, and we would like to believe that we are reflecting the will and the wishes of the American people but adding the level of knowledge and judgment has been endorsed by us, endorsed in us by the voters and the United States of America and the 435 congressional districts, Mr. Speaker.

And I would point out as I listened to the discussion here in the previous hour that the word Republican, Mr. Speaker, is not a profane term. No matter how one says it, I am proud to be a Republican. I am proud to stand up for the values of fiscal responsibility and personal responsibility and limited government and lower taxes and lower regulation, a strong national defense, a vision that goes beyond the horizon for a strong energy policy that will expand the size of the energy pie and drill in ANWR and drill in the Outer Continental Shelf of Florida especially, so that we can get some natural gas into this country and some gasoline and some diesel fuel out of ANWR and out of our Outer Continental Shelf and expand our ethanol and expand our biodiesel and our wind energy, our renewable energies and clean-burning coal and expand our nuclear generating capability, along with a number of other, hydrogen, for example, a number of other energy alternatives.

□ 1745

All of these things are Republican principles, and all of these principles are blocked by people on the other side of the aisle who say the word "Republican" as if it were a four-letter word, Mr. Speaker.

And, furthermore, they say the word "democracy" as if the United States of America were a democracy. Our Founding Fathers knew better than that, Mr. Speaker. In fact, at one time there was a display down at the National Archives that demonstrated the pure democracy that they had in the Greek city-states perhaps 3,000 years ago. Our Founding Fathers studied that pure democracy, and they saw where they blackballed the demagogues and banished them from the city-state for 7 years because they had such an effective, rhetorical skill that they would sometimes lead the city-state and the masses that would follow that rhetorical skill in the wrong direction. That was for the diminishment of the greater good of the city-states in Greece.

That is why the Founding Fathers did not set up for us a democracy, Mr. Speaker, but they set up a constitutional Republic, a representative form of government. And our job here, we owe our constituents and we owe all Americans because we swear an allegiance to the Constitution, we owe all Americans our best judgment; and sometimes that best judgment might not be the best thing for our particular district but the best thing for the United States of America. It is not a matter of whether we take the poll of the public and vote the way the polls are. If we wanted to do that, if we wanted to have a pure democracy, it would be far easier today in the Internet era than it was during the days of the city-states when the Greeks had to bring all of their of age males, the people who got the chance to vote in those days, into their coliseum or their city center where they would debate the issues of the day and the majority vote won. So they would introduce a motion, and if a majority vote prevailed, then that was the policy of the day until it changed.

There were no guarantees or protections for minorities, for example. There were no constitutional protections like our Constitution. Our Bill of Rights, in particular, is drafted to protect the rights of the minority against the will of the majority and, in fact, to protect the rights of the majority against the whims of a court. All of those protections are in our Constitution. But continually I hear the word "democracy," "democracy," "democracy," as if that were somehow such a high and shining ideal, that that solved all of nature's ills and cured everything that there was on the globe. Truthfully, our Founding Fathers came to the conclusion sometime well before 1789 that a democracy would not succeed in this country and, understanding human nature, a democracy just simply could not succeed; so they crafted out of whole cloth a constitutional Republic: a balanced three branches of government, checks and balances on each one. Not three equal branches of government, but three that were balanced with the natural tension between the judicial branch of government, the legislative branch of government where we stand, Mr. Speaker, and also the executive branch of government where the White House stands.

That is what we have. We have a constitutional Republic, a representative form of government. And our job is to be as informed as we can be: to be in tune with the events of the day; look into the future and anticipate what the future might bring; prepare this country for the future as much as our vision can allow; receive all the input across America; sort the good ideas from the bad, the wheat and the chaff, so to speak; and implement the policies that are best for America and debate them here on this floor.

That is the challenge that the Constitution lays out for us, and that is the challenge that our Founding Fathers envisioned: a deliberative body and a constitutional Republic, a representative form of government. Not a democracy.

And we have Republicans and we have Democrats that have divided themselves in this country in a two-party system, which our Founding Fathers did not envision. But when you look at the structure of the legislative branch, it is inevitable that we have a two-party system because we have a winner-take-all system. That means that the majority in the House and the majority in the Senate select the committee chairs and they make their appointments to the committees in greater numbers, sometimes by one or two, sometimes by a little more than that, in each of our committees so that the majority party has majority control of each of the committees.

If the public is unhappy with the direction that that is going, then it is their ability to go to the voting booth and elect people from the other party who would then come in power, as the power changed here in 1994 because the people at that time were fed up with the kind of policies that were rejected in the elections of 1994 when the Republicans took over the majority here in the House of Representatives.

That is the system that we have, Mr. Speaker. I am proud of the system we have. It is the best in the world. It is far superior, I believe, to any kind of a pure democracy and superior to a parliamentary form of government because we have a guaranteed protection of rights, and those are limited in their scope and the government's powers are limited, although sometimes we go beyond our constitutional authority.

Well, today, Mr. Speaker, brings us to a point, a point within this great national debate, an issue that was envisioned again by our founders, and we have a constitutional responsibility here in the Congress to establish an immigration policy. Our founders envisioned it, it is referenced, and it is our duty to have this debate and to shape a policy that is good for America.

We are having a national debate, finally, and this national debate is a national debate that was, as I recall, called for by Pat Buchanan in 1996, Mr. Speaker, when he said we must have a national debate on immigration. He knew then and I knew then that this issue was getting out of control and out of hand. It was only 10 years since Simpson-Mazzoli, the 1986 amnesty legislation that was signed into law by President Reagan. And it was designed to provide amnesty and it was an admission of amnesty then, they did not try to redefine the word "amnesty," to about a little more than 1 million people, 1.2 million, perhaps 1.3 million people. And the trade-off for amnesty for a little over 1 million people was enforcement, employer sanctions, strict enforcement of laws that required employers, and I was one at that time, Mr. Speaker, to fill out the I-9 forms, check the identification of the applicants for jobs in my company, and verify who they were and carefully dotted the I's and crossed the T's of the regulations, because I was sure that there would be a Federal agent who would walk into my office, demand to see the I-9 forms for all of my applicants, make sure they were in order and make sure that I had taken a look at their Social Security number and their driver's license, at a minimum, and verified who they were.

Well, I filed all those records, Mr. Speaker, and I carefully followed the law. And here we are, 20 years later, and no one has come along to check my I-9 forms. And I have to say I believe that would be consistent with the vast, vast majority of the employers in America who have followed the law but slowly begin to realize, month by month, year by year, that there was not going to be enforcement. And as we see illegal workers flow into our communities and take up jobs all around us, we begin to realize there was not anyone enforcing against those companies either.

And as a company, if you look at your competition and they are hiring cheap, illegal labor, labor that they may not have to have Workers Comp on, probably do not have health insurance on, probably do not provide for a retirement benefit, maybe do not pay overtime to, maybe pay them off the books, sometimes on the books, all of those competitive advantages and be able to bring people to work, work them when you need them, and simply discard them when you do not need them, more like a machine than a worker; that kind of workforce in the hands of your competition makes it very difficult to hire people who are legal to work in the United States, green card holders, American citizens, lawful residents, people who have lawful presence in the United States, and pay them the wages necessary and the benefits necessary.

We for years and years provided health insurance and mostly retirement benefits and year-around work in a seasonal business so that we had high-quality employees. And we have been able to compete for now going on what must be 31 years that we have been in business, and in that period of time we have been able to keep people on year round and be able to have long-term employees, but compete against those people who have discount employees.

And we had testimony in this Congress, Mr. Speaker, to that effect and people who have lost their business because of that kind of competition, who refused to break the law, refused to hire illegals, and saw their competitiveness diminish on them to where they could not function any longer. And that is the kind of thing that is happening across America.

Well, the scope of this is far bigger and far worse than I described. And so that 1 million people that turned into 3 million people that received amnesty in 1986, we know that the counterfeiters kicked into gear when the amnesty was passed and signed by President Reagan, Simpson-Mazzoli in 1986, that is why it went from 1 million to 3 million, because a large percentage of that extra 2 million that got added on there were people who came into the United States, rushed in here illegally, and then had to have counterfeit documents to demonstrate that they had already been here, like maybe a heating bill or a light bill or a gas bill or a telephone bill, some kind of a document showing that they had been here, maybe a paycheck or two or four or five.

Those kinds of records were generated by the counterfeit industry back then so that people that just came into the country after Simpson-Mazzoli was signed could find themselves on the path to citizenship, to receive the amnesty. And the people that worked with that paperwork very well know this, Mr. Speaker. It is something that I have not heard come out in the testimony and the discussion and the debate. The people who are for guest worker/temporary worker will do or say almost anything except respond to the facts at hand. That is one of the facts. And if the people who are advocating for guest worker/temporary worker are right and there are only 12 million people here, then I will submit that you will see that number at least double and probably triple before they get finished processing all of the counterfeit documents for the people who allege that they were here longer than 2 years so that they can get the path to citizenship.

Those are the circumstances we are dealing with. And the strategy of the people who are coming into the United States know that we have actually had seven amnesties since 1986. The most famous was Simpson-Mazzoli. There are six others that were listed throughout that period of time. Sometimes we missed some people with amnesty and maybe they were not adept enough to bring their counterfeit documents to the front; so we had to go ahead and pass another amnesty for this 400,000, another amnesty for these 300,000; and pretty soon we have logged seven amnesties since 1986 and including 1986, Simpson-Mazzoli.

This Congress, the Senate, is poised to pass the eighth amnesty in 20 years. And the numbers in this country have grown and grown and grown and no one really knows how many. But we have testimony from the Border Patrol, and I agree with this number, and the President made it in his speech last night, that they turned back more than 6 million illegal crossers at the border since he came into office 5½ years ago.

The numbers that I know are numbers for 2004. The Border Patrol intercepted on our southern border 1.159 million and presumably turned back 1.159 million. They only adjudicated for deportation 1,640. That would be a fact.

For 2005 the statistical number is 1.188 million that were intercepted at the border, collared at the border, I say, and turned back. I do not know the number that actually were adjudicated for deportation.

But the Border Patrol also testified, Mr. Speaker, that they stopped one-fourth to one-third of the illegal entrants into the United States. One-fourth to one-third; 1 out of 4, 1 out of 3, as the best that they can hope for. So if 4 million come across the border, which would be the statistical number, 4 million, and we turned back 1 million, that means each year the population of illegals in this country grew by 3 million. And, yes, some of them turned around and went back and some of them died and some of them became citizens through some fashion; so maybe that number of growing illegals is not quite 3 million. Maybe it is not even quite 2 million, but I do not believe it is less than 2 million myself, and I do not know that it is only 4 million that came across the border.

I was down on the border a week ago last weekend, Mr. Speaker, and I spent 4 days on the ground down there, in the Tucson sector mostly, but overall, the Arizona-Mexico border. And I asked a question consistently of the people who work that border, and these would be officers who have been there for a period of time. They had hands-on experience. And I took the testimony that I received here in the Judiciary Committee, in the Immigration Subcommittee, the testimony of the Border Patrol's stopping one-fourth to one-third, that being 1.2 million in a year, and also the President's statement that in his administration they have turned back more than 6 million. I pointed out the 25 percent interception rate, perhaps the 33 percent interception rate. And of the people who have hands-on experience on the border, no one would agree to that number. No one would say, "I think that is an appropriate number." They all had a number lower than that. The most consistent number that they gave me in their judgment was we stopped perhaps 10 percent. Ten percent.

Now, I am not sure I can calculate how we could have 10 million come across the border and only stop 1 million out of 10 million.

□ 1800

So maybe some of those people come back over and over again and keep trying. We are re-catching a lot of the same people, and they try until they get here.

One thing I don't accept is the idea that a high percentage of them go back to Mexico, for example, because those who walk across 5 or 10 or 20 miles of Mexican desert to get to the border, who walk across 10 or 20 or 25 or even 30 miles of American desert to get to the highway, where they can get picked up and get a ride, it is so difficult to come in and the journey is so arduous, it might require three to six days on the ground in the desert with little water and a little bit of food and having to travel mostly at night, that kind of arduous travel into the United States isn't going to be taken lightly, especially if they pay a coyote $1,500 to come into the United States.

You can't afford to come back and forth a lot, if that is your path into the United States. So I think a significant percentage of those who come into the United States will stay here, for those who succeed in traveling into the United States.

The numbers that are here are so astonishingly large, and the American people are so, I don't want to say ill informed, they have not had access to empirical studies that show what would happen to the immigration numbers in America if the modern version of Simpson-Mazzoli, amnesty plus the path to citizenship that was advocated by the President last night, if that should become something that would be policy.

So I submit as I picked up the paper this morning, Mr. Speaker, and began to review some of the language that is in here, and after I had listened to the speech last night, I was aware there was a study being done by Mr. Robert Rector of the Heritage Foundation, a very careful, conservative study that kept low assumptions and tried to keep low numbers so it would be credible and believable by the American people, rather than high numbers that might be somewhat suspicious. These are low, careful numbers in this study.

This study, and it is in the headlines of the Washington Times, it says the bill, and this would be the Hagel-Martinez bill from the other body, the bill would permit as many as 193 million more aliens in the next 20 years, by 2026.

Mr. Speaker, I will repeat that: the bill permits up to 193 million, that is million with an M, more aliens in the next 20 years, until 2026.

Now, this 193 million would be 60 percent of the current U.S. population over the next 20 years. According to Mr. Rector, the magnitude of changes entailed in this bill are largely unknown, but they rival the impact of the creation of Social Security or the creation of the Medicare program. Mr. Rector is a senior policy analyst at the Heritage Foundation that conducted this study.

He also backed down a little bit from that and said that is the high number. But if we go to the low number, the lower number of his prediction, he said it is more likely that about 103 million new immigrants actually would arrive in the next 20 years. 103 million.

It just so happens that the population of Mexico, Mr. Speaker, is 104 million, or it was until maybe the last couple of weeks when the population got diminished substantially again. We are taking in from across that border some Central Americans, the vast majority are Mexicans, we are taking across that border 11,000 a day. That adds up to 77,000 a week, roughly a little bit smaller than the population of Sioux City, Iowa, which pours across our southern border every single week. And we don't seem to be outraged by the magnitude of that kind of a migration, to use a nice term for it. An invasion, to use a more accurate term for it.

We saw people marching in the streets, Mr. Speaker, and particularly in the streets of Los Angeles, half a million or maybe more than that in the streets. Some of the people that were there just got across the border illegally the night before, and they picked up the flag of another nation and joined hundreds of thousands of their former fellow countrymen and marched in the streets and demonstrated because they want to be made citizens of the United States of America. Even though they have defied our laws and they defy our majority rule, they demand that we provide for them citizenship and all of the benefits that go along with it, the welfare benefits and the vast welfare state that we have would grow dramatically if we went down that path and granted that citizenship.

But there is the image of more than half a million people with flags from their home countries, mostly Mexican flags, pouring into the streets of Los Angeles, demonstrating in the streets Los Angeles.

Then what I hear from the liberals in America, Mr. Speaker, I hear them say, well, why would you be offended because someone flies a flag from their home country, they are proud of their home country?

It is true we fly Irish flags on St. Patrick's Day. In the small town where I live of Kiron, they fly the Swedish flag on the flagpole from time to time. It is true we do celebrate our heritage from our other countries. Those are appropriate things to do in this country, provided that our allegiance is to Old Glory and to the United States of America and the flag of a foreign country is simply a flag that demonstrates heritage.

But when you fly a flag of a foreign nation like a Mexican flag above the American flag on the same flagpole, and the American flag upside down, that is not a message of celebrating your heritage if you come from that country. That is an insult to the United States of America. The upside-down American flag is a sign of distress, and in fact I think there is distress in this country if we tolerate things like that without objection, if we move on and think there is nothing wrong and stick our heads in the sand while 11,000 people every day pour across our border.

This is the magnitude of immigration, far greater than anything we have ever seen in the history of the country. I am doing the research now, Mr. Speaker, and I expect to come back to this floor, perhaps sometimes this week, with the totals for all the numbers of legal immigration in all of the history of America.

I am willing to speculate here tonight that the total for all of the legal immigration, those that came through Ellis Island, those who came through other ports such as San Francisco or Seattle, those who came to the United States in a legal fashion without violating American laws and accessed a path to citizenship, and those who have built this country with those born in this country and teamed up and worn the uniform and fought under that American flag, those people that are the heritage of this country but came across here legally, I believe are far outnumbered by even the lowest number that is presented by this study that is printed here in the Washington Times today, far outnumbered by the 103 million, which will be the lowest number projected under the only empirical study that we have to work with. Mr. Speaker; 103 million people in 20 years. The population of Mexico in 20 years.

This bill, Hagel-Martinez, advocates for adopting all people from Central America, including Mexico, into the United States. It is the same thing as annexing everything down to the Panama Canal minus the natural resources. This is moving the Rio Grande down to the Panama Canal without taking the natural resources, but moving all the people up here into the United States so that they can, yes, go to work here; yes, contribute to our economy; but also access the welfare benefits, which will cost significantly more to fund them than the amount of the economy that they generate.

Now, someone out there is thinking that is not true, because I have heard them say in the public arena for months and months and perhaps for the last couple of years that all immigrants that come into the country, legal and illegal, grow our economy, and so therefore we can't get along without them because they are the reason our economy is growing.

I will submit there is a difference between highly educated, technically skilled immigrants who come in here on an H-1B program, who are going to step in here and make $75,000 a year, Mr. Speaker, and someone who comes in here who is illiterate in their own language and doesn't have a high school education.

But I submit that those Americans who are high school dropouts put more pressure on our welfare than those who have graduated from high school. High school graduates put more pressure on our welfare system than those who have a college education or college degree.

A significant majority of illegals who come into the United States are illiterate in their own language. They don't have a high school degree. Those that do have, there are only 7 percent that have a diploma. More than that have a high school education, but at least 60 percent do not. Statistically, there is no way to avoid the facts that people that match those demographics are going to put more pressure on the welfare roles here in the United States. The demographics of the illegal immigrants coming into the country show that there is 45 percent out-of-wedlock childbirth. That is another guarantee for poverty.

So if you are underemployed and your children are not being born in wedlock, the pressure on this society to fund your well-being, to be able to provide the welfare benefits is tremendous.

There was a study that was done by the former Secretary of Education who laid out something that is just an empirical fact. If you want to solve the pathology of America, a solution to that is get an education, get married, stay married, get a job, keep the job. That solves most of the pathologies of America. Statistically it is an easy thing to sort out.

But if we are going to bring into this country 103 million to 193 million people, with the majority of them without a high school education, the majority of them not literate in their own language, Mr. Speaker, the burden on us is going to be great; and it is going to cost us at least $50 billion a year.

The study goes on, Mr. Speaker, and I am going to pick up where I left off, and that is the balance of this study shows that the Senate is ignoring the scope and the impact of the bill. It goes on and says the impact this bill will have over the next 20 years is monumental. It has not been thought through. That is the Hagel-Martinez bill. It says the population would grow exponentially, because the millions of new citizens would be permitted to bring along their extended families.

The bill includes escalating caps which would raise the number of immigrants allowed as more people seek to enter the United States. These escalating caps essentially go up as the request for more and more H-1Bs or temporary workers or agriculture workers raises the number, and the cap that grows out of this takes us out to this.

Even the chain migration that comes from family members, when one accesses citizenship or even green card holder access, then they can bring in their parents. Certainly if they are married, they can bring in their spouse, their dependent children. Then those people then extend that out and then they offer the opening to go to their family members and their extended family members. This chain migration continues on and on.

I have stood on this floor and submitted that everybody that comes into this country on average would have about four family members at a minimum they would want to ask into the United States once they access this path to citizenship, and those four family members I thought was a rather conservative estimate. This study, Mr. Speaker, only claims six-tenths of a family member total with regard to the chain migration. That formula that is here I believe is significantly understated. This number will be much greater.

So this 103 million people over the next 20 years, I will submit, by 2026 will be larger than that, because chain migration, in my opinion, and I am not critical of the Rector study except to say I think it is very conservative and I think the numbers will be quite great, we are really talking about emptying out Central America into the United States and a population that is perhaps as much as two-thirds, at least more than 60 percent of the population of the United States of America, increase that much again. We can see in 20 years a population growth here in America that would take this 300 million on up to 500 million, and by the next generation we are well on our way to 1 billion people here in America.

□ 1815

Now I am not saying that we cannot feed them. I am not saying we could not build the infrastructure. But what I will say, Mr. Speaker, is we need to have our eyes wide open. And America needs to have a debate on this cost.

But the numbers aside, the pressure aside, the $50 billion a year and the escalating number, the cost to the taxpayers to fund the deficits that are created by the pressure on the public services and on the welfare roles, all of that aside, to me the central point is this. America is a Nation of laws.

It was founded and people will say it is a Nation built by immigrants. Well, every Nation is built by immigrants. I think that it is a redundant point, except we have got more richness from our immigrants here than maybe any country in the world. But we are founded on the rule of law, Mr. Speaker.

That is the principle that I wish to take. And the advocacy last night in that address from the Oval Office was an advocacy for a path to citizenship for people who have broken the laws in the United States, and those who have broken the earliest and the longest and the most often would be the ones rewarded first.

At the same time, Mr. Speaker, I hear, well, we have to make people go to the back of the line. We cannot put them to the front of the line and reward them with citizenship when other people have followed the law.

But there is not a way to do this under Hagel-Martinez without people going to the front of the line. They are already in the front of the line. They are already in the country. They already have roots down. They already have jobs. And some of them already have families.

And the advocacy last night was, give them a path to citizenship. Yes, make them learn English and demonstrate good citizenship, pay their taxes, and then the reward for that is going to be this precious reward of citizenship.

And then help us choose the next leader of the free world. Send some people to Congress here who have capitalized on contempt for the rule of law, Mr. Speaker. That is the path that is being chosen by the White House.

That is the path that appears to be chosen by the United States Senate. It is an erroneous path. It is a path that is not thought out. And the cost to this society, again Mr. Speaker, is tremendous.

I advocate for this. There is no requirement that when we do enforcement, as the House passed under H.R. 4437, we can do enforcement without guest worker. We can do enforcement without temporary worker. In fact, we must do enforcement before we can have a legitimate debate on guest worker or temporary worker. That is our duty and that is our responsibility.

We take an oath to uphold the Constitution and the rule of law here on this floor. We passed that legislation off the floor. And that is the first responsibility of the President of the United States, is to enforce our laws, protect our Nation and enforce our laws.

In this case the two things are tied together. But guest worker and enforcement of our laws are not linked together, Mr. Speaker. They are separate subject matters. We can do enforcement without doing guest worker.

And the President argues to the opposite. In fact I would submit, Mr. Speaker, that if you simply want to have guest worker or temporary worker, if you designate anyone who wants to come to the United States as Hagel-Martinez does essentially, anyone who is not a felon, anyone who is not objectionable and does not have a record, that they would have a path to come to the United States.

That is simply opening up our borders to everybody but a few undesirables. If you do that, then you do not need to have border control, Mr. Speaker, because you have already allowed everyone into the United States who wants to come, and they do not even have to hurry, they can come in their own good time, because now we will put it into statute that we are going to have an open door and a red carpet.

And that the people who lined up the right way were really wasting their time, they should have rushed to the United States, come across the border, gotten themselves a job and simply waited for amnesty number eight over the last 20 years, so that in the next 20 years we can have 103 or 193 million people here in the United States, at a cost of least $50 billion extra a year, an expansion of our welfare state, and one of the most significant transformations of America that this country has ever seen.

Now there are other things that matter. And it matters, culture matters, and values matter. And I think for the most part, those who are coming across from our southern border are consistent with the American culture and

American values, they are Christians, for the most part they are Catholic.

They think a lot of families, even though the illegitimacy rate is high, they are tightly bonded together as families and they work together as families. Those are rich qualities. They go to church as families. And they work together as families.

Their commitment to assimilation is not questioned. I would question that after seeing the streets of Los Angeles. But we need to reach out to that, and we need to promote assimilation to the people who are here legally.

But the people who are here illegally need to go home, they need to go home and grow the country that they came from, solve the problems there. You know, Mexico seems to think it would be an insult to them, and they will say that it is, if we would build a wall from San Diego to Brownsville and seal off the border. And it would be, I am going to say, 90 percent effective if it is patrolled right.

And I have drawn up a design for a wall like that, Mr. Speaker. But Mexico says, no, we would be offended by that, in fact we do not like the idea that the National Guard would be coming down to the border, because that sends the wrong message, you are talking about militarizing the border.

But meanwhile, Mexico pushes their young people into the United States, tells them, come here, go into the United States, enter the United States illegally, stay there, get a job, send your money back home, do not learn the language, do not assimilate into the culture, effect the policy of the United States vis-a-vis Mexico in favor of Mexico.

That was a stated policy by the former minister for Mexicans living in the United States named Juan Hernandez, who now is a high profile individual apparently here in the United States, and claims to be an American citizen, I expect he is.

But that was the Mexican policy, unload your excess young people into the United States, and go tell them, do not build an allegiance with the country who has welcomed you, but keep your allegiance with the country that you left, send your money back down there and vote in the United States, and speak up in the United States and vote on a bilingual ballot, I would add.

Also, Mr. Speaker, there is no excuse for producing multi-lingual ballots of any kind here in America. There is a requirement when you are a naturalized citizen that you demonstrate proficiency in English. And so therefore if you come into this country legally and you acquire citizenship, which is a requirement for voting in America, you will have been required to demonstrate proficiency and literacy in English.

That means then that you can go into a voting booth and vote in any voting booth in America on an English language ballot, not another language ballot. And the only other scenario by which one might be sitting in the United States and eligible to vote and not have command of the English language would be if they were born here in the United States, they had birthright citizenship, which I reject that idea, but it is our practice today, someone with birthright citizenship, and by the time they get to be 18 and register to vote, they go into the voting booth and they had not had enough exposure to English to be able to understand a simple ballot, and so we would give someone who was born in America, an American citizen, lived in an ethnic enclave, never learned English, and give them that interpreter in the voting booth so we can find a way to coddle them and be an enabler, just like an enabler for an alcoholic, hand them a bottle of booze so they do not cure themselves.

But why do not we give them an incentive then, if they are not learning English in their enclave, let them learn English when it is time to go to vote. They could take pride in that. They could assimilate into the society. They can be far more successful, make more money and contribute more to this society and live a richer, fuller life.

But we have a bilingual provision in the Voting Rights Act. That was wrong on its original premise. It is wrong in the language that is there today. It will be wrong when it comes to the floor of this House of Representatives, Mr. Speaker. It needs to be amended. And I intend to seek to try to amend that legislation, that being another piece of this overall puzzle, Mr. Speaker.

But what I am for is, I am for building a wall from San Diego to Brownsville, 12-feet high, concrete wall, precast panels, dropped into a footing that has got a notch in it and a cut-off wall so it is hard to dig underneath, the kind of stability that it needs, something that will look like the barrier that the Israelis built to defend themselves and protect themselves from the bombers that were coming over from the West Bank.

That barrier has been 95 percent effective, even though people are determined to come across to kill people. We can do something very similar to that for less money than the Israelis are spending.

Now but the scope of the dollars that we are spending on our southern border are astonishing, Mr. Speaker. I would submit that the authorization request for the Border Patrol, for the air and marine division, for ICE, for the Customs border protection division all together that will be allocated for our southern border, and this would not include significant resources and assets that come from the National Park Service and other agencies down there that have jurisdiction in the area, that request is over $6 billion for the 2,000 miles of our southwest border, over $6 billion.

Now when you divide that out, it is a little less than that, say a 2,000-mile border just for round numbers. You come back with a cost-per-mile, Mr. Speaker, of $3,181,336 per mile, $3,181,000 per mile to defend our southern border, to stop 10 percent, maybe 25 percent, probably not 33 percent of the illegal traffic.

So we have got maybe 25 percent effectiveness for a price of $6 billion. So when we quadruple that then to go to $24 billion to defend our southern border at 2,000 miles. Would that get 100 percent control of the border? I say not. Not without a physical barrier that is effective.

And so for $3 million a mile, $3,181,000 a mile, I wondered what would happen if we applied the free enterprise solution to this task? What would happen if we simply put out a request for proposals and offered companies that had insurance, that had professional credentials, that could bond the job, to bid a section of the border under an open, competitive, low-bid contract that met standards?

And if there were companies out there that wanted to be in control of security in the border between San Diego and Tijuana, let them bid for that for an appropriate price and see if that competitive bidding will come up with some more creative ways and some more effective ways to control our border.

Me, I would be interested in, had I been back in the private sector where I spent 31 years in the construction business, all together about 35 years in the construction business, 31 years in the construction business actively owning and operating.

But I would be interested in the stretch across the desert where you did not have intense, I will say intense urban areas to deal with, that stretch across the desert, some of it does not have a marker at all.

If you go down into New Mexico, there is a concrete pylon that stands on the horizon. And you look across that horizon, you go to that one, you look at the next horizon, and you can see the next one, and the next one. As far as you can see with these high-powered big old brass transits that they had back in those days when they laid that out.

Mr. Speaker, I imagine that was about 1848 or so when they laid out the border between Mexico and the United States, horizon to horizon, concrete pylons that high, poured, set on the border.

Mr. Speaker, that is the only marker. And so when people walk across the desert, they do not know where the United States is and where Mexico happens to be. I would want to bid that stretch of the desert. But I do not think they want to pay me $3 million to protect that stretch of the desert.

But you know for $1 million a mile, I could do quite a job. So could many American companies enter into a contract and say, I want to bid this 100 miles of border, and I will bid you X dollars per mile. And I have got insurance. I have got bonding. I will perform.

And if anybody gets across here, we will have the Border Patrol count the footprints of those that get across and dock it from my contract so that there is a penalty if I am not efficient.

Now, we do could do that, and we could control this border in a year. We could have the contractual structures all in place. Some of those people will say I want to build a wall. I want to build a wall to keep people out. And I want to bid this accordingly.

Mr. Speaker, I drew up a little diagram for a wall that I think would be effective. And I did this, Mr. Speaker, because we have a little trouble dealing with concepts. And so this wall that I propose works something like this.

I would go in and build a concrete footing, and this concrete footing would be perhaps 2 foot over, 8 inches down, put you a notch in there like that, and that would be the footing. This would be about 4 foot deep in here. This would be about 8 inches of footing all together.

This would be 6 inches wide in there. And then I would put on a precast concrete panel that would be about 12 feet high. It would drop down into this notch and go up like this.

□ 1830

Now this, Mr. Speaker, is a very rudimentary drawing of the kind of concrete wall that I would construct, and this kind of wall is very simple, and it would be cheap to make. You could trench this and you could slip-form that with a machine. And then this represents a 6-inch-thick wall from a cross-section end, just like if you were going to slice a loaf of bread and look at it from the end. Twelve feet high. I would put wire on top, a little constantine wire on top, perhaps 4 feet of that sticking up there. 12 feet of concrete sticking up out of this footing. These could be precast panels, you could set those in, it wouldn't be hard to make a mile a day of that with a small crew. It would go very quickly once the footing was poured.

This kind of a wall, allowing a little bit for sensors and some of the bells and whistles that one would have, this kind of a wall can be built for about $500,000 a mile, when we are spending $3 million a mile, Mr. Speaker, for our Border Patrol to drive back and forth and watching maybe 75 or more percent of those illegal border crossers get through. This kind of a wall, if patrolled, if managed, if maintained would cut down on illegal crossings by, I am going to say, at least 90 percent. And if it is well manned, it can go very close to 100 percent.

Now, people say walls don't work. Then why do we put fences around prisons? Why is there a fence around the White House? How many people got across the wall in Berlin? How successful was that? Extraordinarily successful, I would say, Mr. Speaker. And then those who say that the Berlin Wall was an offense to humanity, I would agree to that. But the Berlin Wall was a wall that was built to keep people in. This wall would be a wall that would be built to keep people out, and that is a 180-degree philosophical difference. It should not be offensive to people who live in freedom to have to protect their freedom by building a wall. That is the most cost effective thing we can do. For every $6 that goes down to the southern border to fund our Border Patrol down there for 2007, for every $6, if we would just take one of the $6, we can construct this kind of a structure for 2,000 miles along our southern border, and you know that it would make the Border Patrol far more effective and that they would be able then to be able to utilize their time chasing people down and actually catching people and deporting them instead of being flooded by this mass of humanity that comes pouring across the border every single day.

It would make the Border Patrol more effective, and it would honor their work. It would save lives, Mr. Speaker.

I visited the location where a young forest ranger park officer named Chris Eggle was killed in the line of duty 3½ years ago just across the border. There was a drug smuggler, they were under the Mexican police who were in hot pursuit of a drug smuggler who drove across the border where there wasn't a barrier, and his vehicle broke down on the U.S. side of the border where the Mexican person, the Mexican police officers continued in their pursuit at least to the border, and Chris Eggle came in with his partner, closed in on the suspect, and the suspect let off four automatic rounds of an AK-47 and Chris Eggle was killed on that location.

I visited that location, Mr. Speaker. If we had had even a vehicle barrier fence which exists there today in the Oregon Cactus National Monument, Oregon Pipe Cactus National Monument, that vehicle barrier would have saved Chris's life. This kind of a barrier would have easily saved his life.

Every major city in America has at least one police officer who has been killed in the line of duty by an illegal here in the United States of America. That is over 70 police officers who have been killed in the line of duty by illegals. All of their lives would have been saved if we had enforced our border as I propose, Mr. Speaker. And that is just the police officers.

The numbers of those who die at the hands of those who should have been apprehended and deported escalate day by day by day. Twenty-eight percent of the inmates in our prisons in the United States between our city, our county, our State, and our Federal penitentiaries, 28 percent, Mr. Speaker, are criminal aliens. They didn't all come into the United States illegally, but they were unlawfully present here when they became criminal aliens and sent off to prison. That is the percentage of crime that is being created that could be prevented if we enforced our laws.

And that is why 13 people every day die at the hands of negligent homicide, generally a drunk driver who is unlawfully present in the United States. Twelve people every day die at the hands of a first-degree murderer, second-degree murderer, or manslaughter violently at the hands of someone who is unlawfully present in the United States, a criminal alien here in the United States. That is 25 people a day.

This is slow-motion terrorism taking place in the United States. I am not implying that everyone who comes across this border is a criminal, or, I will say, wishes the American people ill will, Mr. Speaker. I will apply that everyone who comes, I won't just imply, I will state that every one who comes into the United States illegally is a criminal. They are guilty of a criminal misdemeanor for illegally entering the United States, and I find it ironic to see the demonstrators in the street carrying signs that say, "I am not a criminal." Well, does the other sign say, "I am an illegal alien, but I am not a criminal"? You can't have that in the United States of America. If you are in the United States illegally, then you are guilty of a criminal misdemeanor that is punishable by 6 months in the penitentiary and then deportation. That is the law here in the United States. Denying it with a poster in the streets doesn't make it not so. It is the law, regardless of whether H.R. 4437 passes which makes it a felony to enter into the United States.

The reason for that is so that the law breakers will be entered into the NCIC computer database, the National Crime Information Center computer information database and we can keep better track on them. Sometimes because it is a misdemeanor, they don't get booked, they don't get printed, and their prints don't go into the records so that they can be searched and scanned. Sometimes we don't know whether it is catch and release for two or three violations or whether it is seven or whether it is 20 different violations, because it is not always recorded the way it needs to be. And sometimes they are not booked at all. Sometimes they are simply released because of the urgency of the moment.

The drugs that come into this country, Mr. Speaker, it is an astonishing number. The Federal Government keeps track of these things, and their number is at 90 percent of the illegal drugs in America come across the border of Mexico. That is the Federal Government's fact. And it is not one that they very much relish repeating, but it is the Federal Government's fact: 90 percent of the illegal drugs, amounting to, amounting to $60 billion, that is with a B, $60 billion worth of illegal drugs.

And you match that up with the slow-motion terrorism that comes with the loss of 25 American lives every day at the hands of criminal aliens. Far more have lost their lives at the hands of criminal aliens than were victims of September 11. And you couple that with $20 billion that is wired into Mexico every year from the wages of many of those who are illegally working here and another $10 billion that goes to the Central American countries, $30 billion of wages wired south and $60 billion worth of drugs hauled north, and you have got a $90 billion economic problem. You have got a $90 billion drain on the gross domestic product of the United States of America, and it is a $90 billion injection into the economy of Mexico.

And people wonder why Vicente Fox doesn't step in and do something about the meth labs that are in northern Mexico, the marijuana smuggling and the marijuana harvest that is taking place, about the thousands of pounds of drugs that pour into the United States, one report, 2 million pounds of illegal drugs in a year. Two million pounds.

And I watched down there, Mr. Speaker, as we took 18 bales of marijuana, each about 10 pounds or more, out from underneath the bed of a pickup. Eighteen bales of marijuana smuggled into the United States. And the officers who made the interdiction said sometimes 200 pounds, and this was maybe 180 pounds, maybe as much as 200 pounds, sometimes 200 pounds is a decoy; it is simply a decoy, Mr. Speaker, and the effort to run the gauntlet with 180 to 200 pounds of marijuana would just distract the officers so that they can get by with a 2,000- or 2,600-pound load in another vehicle going through the gap that was created while they were distracted picking up the 200-pound load. That is a lot of drugs, Mr. Speaker, and a lot of damage here in the United States of America.

And I don't make excuses for the drug users here. There is a demand here that draws those drugs into the United States. We need to deal with that, too, Mr. Speaker. But meanwhile, we can raise the cost of the transaction; we can make it a lot harder to get those drugs across the southern border.

If we could shut off this southern border and just simply allow legal entrants into the United States at our ports of entry, if we could do that, then at least in theory, and if we could do it overnight, we could cut off 90 percent of the illegal drugs in America. That means some people will not get their drugs, some people won't go on drugs, some people will wean themselves off. Every time that happens, there is another life that has been improved, another standard of living that has been improved. Sometimes a life has been saved. Sometimes a little boy or a little girl gets a new pair of tennis shoes instead of their daddy or mommy buying drugs. Sometimes that daddy or mommy gets off drugs and spends their time raising their children and loving their children and nurturing them in the fashion that God intended, Mr. Speaker. Every time we can make an improvement in that drug equation, we are improving the lives of children in America somewhere sometime.

And so I would submit that we need to enforce this border. We need to build a wall similar to this design that I have with a 4-foot wide footing, a 6-inch wide notch in that footing, probably have to brace it right there and right there. I didn't draw that in. And then at least a 4-foot deep cutoff wall, and then drop in a 12-foot high pre-cast concrete panel, 12-foot high, 10 feet long would be my guess.

So that, as we lay those panels out, every time you set a panel you build another 10 feet of wall. We could do this for less than $500,000 a mile, a half-a-million-dollar a mile, for one out of every $6 that is spent protecting our border today before the increases that will be necessary for 6,000 more National Guard troops on our border. This is a capital investment that could be amortized over 40 years or more, and it doesn't cost that every year. It is only one-sixth of budget. That is a one-time expenditure and then a small maintenance fee, and we could easily fund the maintenance fee by requiring fewer personnel down on the border because this would be so much more effective.

So I would submit, Mr. Speaker, we need to have enforcement first and enforcement only until enforcement established, and the American people will agree that the administration has made a real commitment to uphold the laws of the United States of America including our immigration laws. Seal the border, end birthright citizenship because that is another magnet: 300,000 to 350,000 babies born in America that in the practice of birthright citizenship can start the chain migration to bring their families in.

The misconception idea that somehow all family reunions have to take place north of the Rio Grande instead of south of the Rio Grande. I don't know how that ever got started into our verbiage and accepted as an institutional commitment by the United States of America. Seal the border, end birthright citizenship, shut off the jobs magnet. That means sanction employers, require them to use the basic pilot program, the instant-check program so that they check their employees. And I don't mean just the perspective employees or those they have just hired, but check every employee so we can process that through and let those go who are not lawfully present and can't legally work here in the United States, and pass the New IDEA bill, the new Illegal Deduction Elimination Act, IDEA, I-D-E-A, Illegal Deduction Elimination Act. That lets the IRS enforce the law.

When they do a normal audit, which they do on many of the larger companies every single year, they would run the employees' Social Security numbers that are on the 941 form through the instant-check program on the Internet. Punch those Social Security numbers in there, and it will go out to the Social Security Administration database and the Department of Homeland Security's database, NCIC again, and identify if that number, that Social Security number and the other identifiers that would be entered with it would identify someone legal to work in the United States.

If an employer uses that method, they would get safe harbor, Mr. Speaker, and the IRS would not bother them. But if they didn't use the instant-check Internet-based program, or if they did use it and ignored the results and hired them anyway, then the IRS would deny the deductibility of those wages. So the business expense that would be wages, say $10 an hour, would be denied. Now that is no longer an expense; that goes over into the profit column presumably, and that $10 an hour that was a write-off or an expense becomes taxable income. And if they are a corporation in a 34 percent bracket, that is a $10 an hour wage, then the 34 percent tax on it plus the interest plus the penalty kicks that fee up to about $6 an hour added to the $10, and your $10 an hour worker becomes a $16 an hour illegal worker, and the notice goes off to the Department of Homeland Security that we have an employer here that is violating the law, step in and sanction that employer also with the fines that are appropriate for the violations that are in place.

We can shut off this jobs magnet, Mr. Speaker. And if we do that, attrition, the time when people make a decision to go back home, they can go back home with the skills they have learned here, they can go back home with the free education that we provided for tens of thousands of children, an educated nation south of us that can be renovated by the new blood that comes from us saying we are going to be a nation of laws, Mr. Speaker.

□ 1845

We must be a Nation of laws. We must defend our borders. We must defend our sovereignty, and if we do not do that, we will not have a country. The American people know that, Mr. Speaker, and I wish that the people over in the other body and the advocates for this thing called a guest worker or temporary worker knew that.

When you grant citizenship to someone, they are no longer a temporary worker. Citizens do not go home. We do not have temporary citizens, and we must not have 103 million to 193 million new residents here in the United States, unless the American people debate that and say that is what they want. If the American people want to open up their doors to that kind of numbers of people, then they should step up and say so.

Until that, Mr. Speaker, I am going to stand on the rule of law, defending our borders, enforcing our laws, and perhaps if that enforcement can take place for 3 to 5 years, we can have then a legitimate debate on those who would be left in this country and how to deal with them in an appropriate fashion.

With that, Mr. Speaker, I thank you for your indulgence.

RECESS

The SPEAKER pro tempore (Mr. JINDAL). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess for approximately 10 minutes.

Accordingly (at 6 o'clock and 46 minutes p.m.), the House stood in recess for approximately 10 minutes.

□ 1856

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore at 6 o'clock and 56 minutes p.m.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. BISHOP of Utah, from the Committee on Rules, submitted a privileged report (Rept. No. 109–466) on the resolution (H. Res. 815) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4200, FOREST EMERGENCY RECOVERY AND RESEARCH ACT

Mr. BISHOP of Utah, from the Committee on Rules, submitted a privileged report (Rept. No. 109–467) on the resolution (H. Res. 816) providing for consideration of the bill (H.R. 4200) to improve the ability of the Secretary of Agriculture and the Secretary of the Interior to promptly implement recovery treatments in response to catastrophic events affecting Federal lands under their jurisdiction, including the removal of dead and damaged trees and the implementation of reforestation treatments, to support the recovery of non-Federal lands damaged by catastrophic events, to revitalize Forest Service experimental forests, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BLACKBURN) to revise and extend their remarks and include extraneous material:)

Mrs. McCARTHY, for 5 minutes, today.

Mr. DeFAZIO, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

(The following Members (at the request of Mrs. BLACKBURN) to revise and extend their remarks and include extraneous material:)

Mr. BOUSTANY, for 5 minutes, today.

Mr. BRADY of Texas, for 5 minutes, today.

Mr. OSBORNE, for 5 minutes, today.

Mr. McHENRY, for 5 minutes, today and May 17, 18, and 19.

Mr. POE, for 5 minutes, today and May 17, 18, and 19.

Mr. HUNTER, for 5 minutes, May 23.

Mr. BURTON of Indiana, for 5 minutes, today and May 17, 18, and 19.

Mr. GOHMERT, for 5 minutes, today.

ENROLLED BILL SIGNED

Mrs. Haas, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4297. An act to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.

ADJOURNMENT

Mr. BISHOP of Utah. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 58 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 17, 2006, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7516. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's "Major" final rule—Percentages for Direct and Counter-Cyclical Program Advance Payments (RIN: 0560–AH49) received May 8, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7517. A letter from the Regulatory Officer, Forest Service, Department of Agriculture, transmitting the Department's final rule—National Forest System Land Management Planning (RIN: 0596–AC43) received April 21, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7518. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Administration's final rule—Bacillus Thuringiensis VIP3A Insect Control Protein and the Genetic Material Necessary for its Production in Cotton; Extension of a Temporary Exemption from the Requirement of a Tolerance [EPA-HQ-OPP-2005-0282; FRL-7722-7] received April 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7519. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Administration's final rule—Benzaldehyde, Captafol, Hexaconazole, Paraformaldehyde, Sodium dimethyldithiocarbamate, and Tetradifon; Tolerance Actions [EPA-HQ-OPP-2005-0322; FRL-8065-1] received April 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7520. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Administration's final rule—Pantoea Agglomerans Strain C9-1; Exemption from the Requirement of a Tolerance [EPA-HQ-OPP-2006-0267; FRL-7772-6] received April 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7521. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Administration's final rule—Approval of Clean Air Act, Section 112(I), Authority for Hazardous Air Pollutants: Perchloroethylene Dry Cleaner Regulation Maine Department of Environmental Protection [EPA-R01-OAR-2006-0119; A-1-FRL-8049-9] received April 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7522. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Administration's final rule—Georgia: Final Authorization of State Hazardous Waste Management Program Revision [EPA-R04-RCRA-2006-0375; FRL-8161-2] received April 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7523. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Administration's final rule—OMB Approvals Under the Paperwork Reduction Act; Technical Amendment [FRL-8161-7] received April 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7524. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Administration's final rule—Technical Amendments to the Highway and Nonroad Diesel

Regulations [EPA-HQ-OAR-2006-0224; FRL-8161-9] (RIN: 2060-AN78) received April 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7525. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Administration's final rule—Regulation of Fuels and Fuel Additives: Removal of Reformulated Gasoline Oxygen Content Requirement and Revision of Commingling Prohibition to Address Non-Oxygenated Reformulated Gasoline; Partial Withdrawal; Correction [EPA-HQ-OAR-2005-0170 FRL-8167-4] received May 3, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7526. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Administration's final rule—Update of Continuous Instrumental Test Methods [EPA-OAR-2002-0071; FRL-8165-1] (RIN: 2060-AK61) received May 3, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7527. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Administration's final rule—Regulation of Fuels and Fuel Additives; Removal of Reformulated Gasoline Oxygen Content Requirement [EPA-HQ-OAR-2005-0170; FRL-8167-5] received May 3, 2006', pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7528. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Administration's final rule—Virginia: Final Authorization of State Hazardous Waste Management Program Revisions [EPA-R03-RCRA-2006-0381; FRL-8165-7] received May 3, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7529. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Administration's final rule—Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to Stage II Vapor Recovery at Gasoline Dispensing Facilities [EPA-R03-2006-0314; FRL-8165-2] received May 3, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7530. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Administration's final rule—Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Large Municipal Waste Combustors [EPA-HQ-OAR-2005-0117; FRL-8164-9] (RIN: 2060-AL97) received May 3, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7531. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of High Alitude Area Navigation Routes; South Central United States [Docket No. FAA-2005-22398; Airspace Docket No. 05-ASO-7] (RIN: 2120-AA66) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7532. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of High Altitude Area Navigation Routes; South Central United States [Docket No. FAA-2005-22398; Airspace Docket No. 05-ASO-7] (RIN: 2120-AA66) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7533. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of the St. Louis Class B Airspace Area: MO [Docket No. FAA-2005-22509; Airspace Docket No. 03-AWA-2] (RIN: 2120-AA66) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7534. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Palm Springs, CA [Docket No. FAA-2005-23184; Airspace Docket No. 05-AWP-14] received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7535. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Kennett, MO [Docket No. FAA-2005-22746; Airspace Docket No. 05-ACE-32] received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7536. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Kennett, MO [Docket No. FAA-2005-22746; Airspace Docket No. 05-ACE-32] received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7537. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Beatrice, NE [Docket No. FAA-2005-23375; Airspace Docket No. 05-ACE-35] received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7538. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Wenatchee, WA [Docket No. FAA-2005-20417; Airspace Docket 05-ANM-06] (RIN: 2120-AA66) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7539. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Restricted Area 2507E; Chocolate Mountains, CA [Docket No. FAA-2004-19051; Airspace Docket No. 04-AWP-6] (RIN: 2120-AA66) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7540. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Offshore Airspace Areas: Gulf of Alaska Low and Control 1487L; AK [Docket No. FAA-2005-22708; Airspace Docket No. 05-AAL-32] (RIN: 2120-AA66) received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7541. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Chignik, AK [Docket No. FAA-2005-22855; Airspace Docket No. 05-AAL-35] received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7542. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace; Holy Cross, AK [Docket No. FAA-2005-22854; Airspace Docket No. 05-AAL-34] received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7543. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Toksook Bay, AK [Docket No. FAA-2005-22856; Airspace Docket No. 05-AAL-36] received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7544. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revisions of Class E Airspace; Koyuk Alfred Adams; AK [Docket No. FAA-2005-22111' Airspace Docket No. 05-AAL-14] received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7545. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Toksook Bay, AK [Docket No. FAA-2005-22856; Airspace Docket No. 05-AAL-36] received April 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BONILLA: Committee on Appropriations. Supplemental report on H.R. 5384. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2007, and for other purposes. Ordered to be printed. (Rept. 109-463 Pt. 2).

Mr. WALSH: Committee on Appropriations. Supplemental report on H.R. 5385. A bill making appropriations for the military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2007, and for other purposes. Ordered to be printed. (Rept. 109-464 Pt. 2).

Mr. PUTNAM: Committee on Rules. H. Res. 815. A resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 109-466). Referred to the House Calendar.

Mr. BISHOP of Utah: Committee on Rules. H. Res. 816. A resolution providing for consideration of the bill (H.R. 4200) to improve the ability of the Secretary of Agriculture and the Secretary of the Interior to promptly implement recovery treatments in response to catastrophic events affecting Federal lands under their jurisdiction, including the removal of dead and damaged trees and the implementation of reforestation treatments, to support the recovery of non-Federal lands damaged by catastrophic events, to revitalize Forest Service experimental forests, and for other purposes. (Rept. 109-467). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. WELLER:

H.R. 5387. A bill to amend title XVIII of the Social Security Act to provide for an additional two-month period in 2006 for enrollments in the Medicare Advantage plans and for the Medicare prescription drug benefit without any late enrollment penalty for months before the end of such two-month period; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TOM DAVIS of Virginia (for himself, Ms. NORTON, Mr. WAXMAN, Mr. SHAYS, Mr. PLATTS, Mr. CANNON, Mr. BISHOP of Utah, Mr. LEACH, Mr. SIMMONS, Mr. ENGLISH of Pennsylvania, Mr. MOORE of Kansas, Mr. FOLEY, Mr. ISSA, Mr. FATTAH, Mr. MORAN of Virginia, Mr. WYNN, Mr. OWENS, Mr. TOWNS, Mr. KIRK, Mr. BOUCHER, Mr. VAN HOLLEN, Mr. PORTER, and Mr. GILCHREST):

H.R. 5388. A bill to provide for the treatment of the District of Columbia as a Congressional district for purposes of representation in the House of Representatives, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEORGE MILLER of California (for himself, Mr. RAHALL, Mr. OWENS, Mr. CHANDLER, Mr. HOLT, Mr. DAVIS of Alabama, Mr. MOLLOHAN, Mr. BROWN of Ohio, Mr. COSTELLO, and Mr. MURTHA):

H.R. 5389. A bill to establish improved mandatory standards to protect miners during emergencies, and for other purposes; to the Committee on Education and the Workforce.

By Mr. WICKER (for himself and Mr. HOYER):

H.R. 5390. A bill to provide for the expansion and coordination of activities of the National Institutes of Health and the Centers for Disease Control and Prevention with respect to research and programs on cancer survivorship, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CHABOT (for himself, Mr. MORAN of Virginia, Mrs. SCHMIDT, Mr. FOLEY, Mr. TOM DAVIS of Virginia, and Mr. WOLF):

H.R. 5391. A bill to amend title 10, United States Code, to provide eligibility for certain additional dependent children for annuities under the military Survivor Benefit Plan; to the Committee on Armed Services.

By Mr. BAKER (for himself and Mr. BOUSTANY):

H.R. 5392. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to direct the President to extend the availability of unemployment assistance made available in connection with Hurricane Katrina and Hurricane Rita; to the Committee on Transportation and Infrastructure.

By Mr. BAKER (for himself and Mr. FRANK of Massachusetts):

H.R. 5393. A bill to provide for the Department of Housing and Urban Development to coordinate Federal housing assistance efforts in the case of disasters resulting in long-term housing needs; to the Committee on Financial Services, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HOOLEY (for herself, Mr. DEFAZIO, Mr. BLUMENAUER, and Mr. WU):

H.R. 5394. A bill to waive application of the Indian Self-Determination and Education Assistance Act to a specific parcel of real property transferred by the United States to 2 Indian tribes in Oregon, and for other purposes; to the Committee on Resources.

By Mr. ISRAEL:

H.R. 5395. A bill to authorize the Secretary of the Treasury to issue Energy Freedom Bonds to finance programs to facilitate the research, development, and deployment of clean renewable energy technologies; to the Committee on Ways and Means.

By Mr. MORAN of Kansas (for himself and Mr. MICHAUD):

H.R. 5396. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to employ additional categories of mental health professionals; to the Committee on Veterans' Affairs.

By Ms. ROYBAL-ALLARD (for herself and Mr. SIMPSON):

H.R. 5397. A bill to amend the Public Health Service Act to establish grant programs to provide for education and outreach on newborn screening and coordinated followup care once newborn screening has been conducted, to reauthorize programs under part A of title XI of such Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SALAZAR (for himself, Mr. GUTKNECHT, and Mr. OSBORNE):

H.R. 5398. A bill to amend the Clean Air Act to exclude from the definition of renewable fuel any fuel that is imported or derived from any matter that is imported; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. JINDAL.

H.R. 115: Ms. SCHAKOWSKY.

H.R. 128: Mr. HOYER.

H.R. 303: Mrs. BONO.

H.R. 408: Mr. ISSA.

H.R. 503: Mr. OXLEY, Mrs. KELLY, Mr. WAMP, Ms. LORETTA SANCHEZ of California, Mr. SCHIFF, Mr. BISHOP of New York, and Mr. MILLER of North Carolina.

H.R. 515: Mr. FOLEY.

H.R. 663: Mr. GRIJALVA, Ms. JACKSON-LEE of Texas, Ms. WATSON, Ms. CARSON, and Ms. NORTON.

H.R. 699: Mr. CALVERT and Mr. SALAZAR.

H.R. 717: Mr. DAVIS of Kentucky and Mr. PETERSON of Minnesota.

H.R. 752: Ms. MILLENDER-MCDONALD and Mr. OBEY.

H.R. 783: Ms. GINNY BROWN-WAITE of Florida.

H.R. 821: Ms. BERKLEY.

H.R. 964: Mr. SOUDER and Mr. SANDERS.

H.R. 968: Ms. SCHWARTZ of Pennsylvania.

H.R. 1103: Mr. SCHIFF.

H.R. 1366: Mr. LEWIS of Kentucky.

H.R. 1408: Mr. MARKEY.

H.R. 1425: Mr. OWENS and Mrs. DAVIS of California.

H.R. 1471: Mr. BARROW, Mr. HINCHEY, and Mr. MOORE of Kansas.

H.R. 1498: Mr. LYNCH.

H.R. 1518: Mr. VAN HOLLEN.

H.R. 1554: Mr. DELAHUNT.

H.R. 1598: Ms. BERKLEY.

H.R. 1697: Mr. SANDERS.

H.R. 1951: Mrs. CAPITO, Mr. BURTON of Indiana, and Mr. DAVIS of Kentucky.

H.R. 2035: Mr. BROWN of Ohio.

H.R. 2047: Mr. LEACH.

H.R. 2072: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 2088: Mr. DELAY.

H.R. 2456: Ms. CARSON.

H.R. 2684: Mr. COSTA.

H.R. 2804: Mr. SULLIVAN.

H.R. 2961: Mr. STUPAK.

H.R. 3055: Mr. GRIJALVA.

H.R. 3173: Mr. SANDERS.

H.R. 3427: Mr. HINCHEY.

H.R. 3476: Ms. SCHAKOWSKY, Mr. MILLER of Florida, Mr. PICKERING, Mrs. MCCARTHY, Mrs. KELLY, Mr. KIND, Mr. BOSWELL, Mr. MOORE of Kansas, and Mr. JONES of North Carolina.

H.R. 3781: Ms. CARSON.

H.R. 3883: Mr. MCCAUL of Texas.

H.R. 3936: Mr. CLEAVER and Ms. WOOLSEY.

H.R. 4259: Mr. MARSHALL.

H.R. 4293: Mr. CONYERS.

H.R. 4315: Mr. MICHAUD.

H.R. 4364: Mr. WELDON of Florida, Mr. STEARNS, Mr. WICKER, and Mr. HOSTETTLER.

H.R. 4384: Mr. SERRANO.

H.R. 4398: Mr. BACHUS.

H.R. 4479: Ms. BALDWIN.

H.R. 4542: Mr. SWEENEY and Mrs. NAPOLITANO.

H.R. 4547: Mr. DELAY and Mr. SHADEGG.

H.R. 4622: Mr. DAVIS of Illinois, Mr. PAUL, and Mr. DOYLE.

H.R. 4623: Mr. FITZPATRICK of Pennsylvania.

H.R. 4633: Mrs. CHRISTENSEN, Mr. JEFFERSON, Mr. THOMPSON of Mississippi, Mr. HONDA, and Ms. WATERS.

H.R. 4672: Mrs. NORTHUP.

H.R. 4695: Ms. ROYBAL-ALLARD, Ms. ZOE LOFGREN of California, Mr. MOORE of Kansas, and Mr. VAN HOLLEN.

H.R. 4727: Mr. YOUNG of Florida.

H.R. 4739: Ms. SCHAKOWSKY.

H.R. 4755: Mr. OBERSTAR, Mrs. JOHNSON of Connecticut, Mr. BOUSTANY, and Mr. TANNER.

H.R. 4843: Mr. BARROW.

H.R. 4894: Mr. JINDAL.

H.R. 4922: Mr. SWEENEY.

H.R. 4992: Mr. KUHL of New York, Mr. BURTON of Indiana, and Mr. MCINTYRE.

H.R. 5005: Mr. CARTER, Mr. DOOLITTLE, and Mr. DELAY.

H.R. 5013: Mr. BROWN of South Carolina, Mr. MACK, Mr. CARTER, Mr. DELAY, Mr. BOUSTANY, and Mr. SALAZAR.

H.R. 5014: Mr. GOHMERT, Mr. COOPER, and Mr. CASE.

H.R. 5118: Mr. BOSWELL, Mr. REYES, and Mr. HIGGINS.

H.R. 5131: Mr. NUNES and Mr. BECERRA.

H.R. 5139: Mr. HONDA.

H.R. 5140: Mr. HONDA.

H.R. 5141: Mr. HONDA.

H.R. 5142: Mr. HONDA.

H.R. 5150: Mrs. DAVIS of California, Mr. WEXLER, and Mr. OWENS.

H.R. 5159: Mr. GALLEGLY, Mr. PASTOR, and Mr. BACHUS.

H.R. 5166: Mr. HOYER, Mr. BOUCHER, Mr. UDALL of Colorado, Mr. TERRY, Mrs. CAPITO, Mr. BEAUPREZ, and Mr. JINDAL.

H.R. 5200: Mr. LAHOOD, Ms. HERSETH, Mr. STRICKLAND, Mr. TERRY, Mr. SIMPSON, and Mr. ROHRABACHER.

H.R. 5201: Mr. DELAHUNT, Mr. JOHNSON of Illinois, Mr. MORAN of Kansas, Mrs. WILSON of New Mexico, Ms. GINNY BROWN-WAITE of Florida, Mr. AL GREEN of Texas, Mr. RENZI, Mr. DAVIS of Tennessee, Mrs. CAPITO, Mr. PAYNE, Mr. SALAZAR, Mr. MILLER of North Carolina, and Mr. KANJORSKI.

H.R. 5204: Mr. BACA, Mr. JEFFERSON, and Mr. VAN HOLLEN.

H.R. 5225: Mr. MCDERMOTT, Mr. THOMPSON of Mississippi, Mr. SANDERS, Ms. SCHAKOWSKY, and Mr. WAXMAN.

H.R. 5230: Mr. MILLER of Florida and Ms. GINNY BROWN-WAITE of Florida.

H.R. 5248: Ms. SCHAKOWSKY.

H.R. 5293: Mr. WILSON of South Carolina and Mr. DAVIS of Illinois.

H.R. 5310: Mr. LATOURETTE.

H.R. 5316: Mr. DINGELL, Mr. EHLERS, Mr. MCHENRY, Mr. NEY, Mr. JOHNSON of Illinois, Mr. FEENEY, Mr. FORTUÑO, Mr. MACK, and Mr. BROWN of South Carolina.

H.R. 5333: Mr. BURTON of Indiana, Mr. FARR, Ms. BORDALLO, Mr. BERMAN, Mr. SCHIFF, Mr. CROWLEY, Mr. ROHRABACHER, and Mr. FRANK of Massachusetts.

H.R. 5347: Mr. CASTLE.

H.R. 5352: Mr. ISTOOK.

H.R. 5354: Mr. CASTLE.

H.R. 5362: Mrs. MALONEY, Ms. MATSUI, and Mr. GRIJALVA.

H.R. 5365: Mr. BROWN of Ohio, Mrs. CAPPS, Mr. DOYLE, and Mr. WYNN.

H. Con. Res. 380. Mr. JEFFERSON and Mr. BARROW.

H. Res. 155: Mr. FILNER.

H. Res. 222: Mr. COSTA.

H. Res. 295: Mr. KENNEDY of Rhode Island, Mr. FITZPATRICK of Pennsylvania, Mr. MCNULTY, and Mr. HIGGINS.

H. Res. 316: Mr. DOOLITTLE and Mrs. JONES of Ohio

H. Res. 363: Mr. MICHAUD.

H. Res. 740: Mr. WEXLER and Mr. GARRETT of New Jersey.

H. Res. 749: Mr. KUCINICH.

H. Res. 756: Ms. MCKINNEY.

H. Res. 759: Mr. JEFFERSON and Mr. KUCINICH.

H. Res. 773: Mrs. JONES of Ohio.

H. Res. 790: Mr. FORD, Ms. MILLENDER-MCDONALD, Ms. CARSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Mr. JEFFERSON, and Mr. ORTIZ.

H. Res. 795: Mr. BISHOP of Georgia and Mrs. CUBIN.

DELETION OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4217: Mr. KUHL of New York.

AMENDMENTS

Under clause 8 of the rule XVIII, proposed amendments were submitted as follows:

H.R. 5384

OFFERED BY: MR. KING OF IOWA

AMENDMENT NO. 1. At the end of the bill (before the short title), insert the following new section:

SEC. 753. Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit to Congress a report on the National Animal Identification Plan, including the lessons learned and the effectiveness of the pilot programs funded in fiscal year 2007, an analysis of the economic impact of the proposed National Animal Identification System on the livestock industry, and the expected cost of implementing the National Animal Identification System.

H.R. 5384

OFFERED BY: MR. KING OF IOWA

AMENDMENT NO. 2: Page 21, line 4, insert before the period at the end the following: ": *Provided further*, That $1,000,000 of this appropriation shall not be available until the Secretary of Agriculture submits to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the National Animal Identification Plan, including the lessons learned and the effectiveness of the pilot programs funded in fiscal year 2007, an analysis of the economic impact of the proposed National Animal Identification System on the livestock industry, and the expected cost of implementing the National Animal Identification System".

H.R. 5384

OFFERED BY: MR. KENNEDY OF MINNESOTA

AMENDMENT NO. 3: Page 5, line 15, insert after the dollar amount the following: "(reduced by $500,000)".

Page 13, line 6, insert after the dollar amount the following: "(increased by $500,000)".

H.R. 5384

OFFERED BY: MR. PAUL

AMENDMENT NO. 4: At the end of the bill (before the short title), insert the following new sections:

SEC. . None of the funds made available in this Act may be used to implement or administer the National Animal Identification System.

H.R. 5384

OFFERED BY: MR. CARTER

AMENDMENT NO. 5: At the end of the bill (before the short title), add the following new section:

SEC. 7__. The Secretary of Agriculture may use not more than $3,600,000 of funds made available under section 522(e) of the Federal Crop Insurance Act (7 U.S.C. 1522(e)) for program integrity purposes, including the data mining project.

H.R. 5384

OFFERED BY: MR. BLUMENAUER

AMENDMENT NO. 6: At the end of the bill (before the short title), add the following new section:

SEC. 7__. None of the funds appropriated or otherwise made available by this Act may be used to pay the salaries and expenses of personnel who make loans available under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) to processors of domestically grown sugarcane at a rate in excess of 17 cents per pound for raw cane sugar or to processors of domestically grown sugar beets at a rate in excess of 21.6 cents per pound for refined beet sugar.

H.R. 5384

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 7: At the end of the bill (before the short title), insert the following new section:

SEC. __. None of the funds made available in this Act may be used for the National Animal Identification program.

H.R. 5384

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 8: At the end of the bill (before the short title), insert the following:

SEC. __. Appropriations made in this Act are hereby reduced in the amount of $178,120,000.

H.R. 5384

OFFERED BY: MR. LUCAS

AMENDMENT NO. 9: At the end of the bill (before the short title), add the following new section:

SEC. 7__. The amounts otherwise provided by title II of this Act for "NATURAL RESOURCES CONSERVATION SERVICE—CONSERVATION OPERATIONS" are revised by reducing the amount made available for National Headquarters salaries and expenses, and by increasing the amount made available for conservation technical assistance, by $50,000,000.

H.R. 5384

OFFERED BY: MR. SCHWARZ OF MICHIGAN

AMENDMENT NO. 10: At the end of the bill (before the short title), insert the following new section:

SEC. 7 . It is the sense of Congress that the Secretary of Agriculture should use the transfer authority provided by section 442 of the Plant Protection Act (7 U.S.C. 7772) to implement the strategic plan developed by the Animal and Plant Health Inspection Service for the eradication of Emerald Ash Borer in the States of Michigan, Ohio, and Indiana.

H.R. 5384

OFFERED BY: MS. BORDALLO OF GUAM

AMENDMENT NO. 11: Page 13, line 19, after the dollar amount, insert "(decreased by $1,000,000)".

Page 15, line 2, after the dollar amount, insert "(increased by $1,000,000)".

H.R. 5384

OFFERED BY: MR. CHABOT

AMENDMENT NO. 12: At the end of the bill (before the short title) insert the following new section:

SEC. __. None of the funds appropriated or otherwise made available by this Act may be used to carry out section 203 of the Agriculture Trade Act of 1978 (7 U.S.C. 5623) or to pay the salaries and expenses of personnel who carry out a market program under such section.

H.R. 5386

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 1: At the end of the bill (before the short title), insert the following new title:

TITLE VI—ADDITIONAL GENERAL PROVISIONS

SEC. 601. Each amount appropriated or otherwise 3 made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 1 percent.

H.R. 5386

OFFERED BY: MR. PUTNAM

AMENDMENT NO. 2: At the end of the bill (before the short title), insert the following:

TITLE —ADDITIONAL GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. . No funds provided in title I may be expended by the Department of the Interior—

(1) for the conduct of offshore natural gas preleasing, leasing, and related activities placed under restriction in the President's moratorium statement of June 12, 1998, in the areas of northern, central, and southern California; the North Atlantic; Washington and Oregon; and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude;

(2) to conduct offshore natural gas preleasing, leasing, and related activities in the eastern Gulf of Mexico planning area for any lands located outside Sale 181, as identified in the final Outer Continental Shelf 5-Year Oil and Gas Leasing Program, 1997–2002; or

(3) to conduct natural gas preleasing, leasing, and related activities in the Mid-Atlantic and South Atlantic planning areas.

SENATE—*Tuesday, May 16, 2006*

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God of courage, make us brave in facing the challenges of our time. Show us how to meet each difficulty with faith and wisdom. Make us faithful in the small things that matter in order to prepare us to face greater obstacles with trust in Your power.

Guide our lawmakers in their daunting work. May they live with such honor that they will be ready to be tested in life's storms. Infuse them with an ethical courage that will make them passionate about staying on the right path.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. DEMINT). The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning following the opening remarks of the two leaders we will proceed to the consideration of a nomination to the Ninth Circuit Court. We have set aside up to 15 minutes for comments on that nomination prior to the rollcall vote. Therefore, I expect the vote to occur after 10 a.m, but it should not be too long after 10 a.m. this morning.

Following that vote, we will resume debate on the comprehensive immigration bill and the pending amendment proposed by Senator ISAKSON. This amendment was offered yesterday and had been pending from our earlier consideration of the immigration bill. It was my hope to lock in a vote to occur shortly after the judge vote of this morning, and we want to allow a few minutes for closing remarks and we want to accommodate a few minutes before that vote. I will be in discussion with the Democratic leader about that. There may be a Democratic alternative which I believe may have been just submitted. We will take a look at that and plan the vote on this accordingly. I do want to alert Members that we could expect a vote or two prior to our luncheons today.

As Senators return for the first vote of the week, they should be reminded—which both the Democratic leader and I did yesterday—that this will be a very full week, with lengthy sessions and with a number of votes. We recognize that people have a lot of schedules which compete with the votes, but our major priority must be this bill. We ask for everybody's consideration in that regard. We will be in session as long as it takes in the evening to accommodate the wishes of Senators and their desire to present amendments.

We have this week and next week prior to the next recess to complete this bill. We have a supplemental bill, a pensions bill, and the Kavanaugh nomination—all which is a heavy load which I believe can be accomplished.

I will also add, the manager of the bill yesterday—both managers, I believe—stated we want these votes to be 20-minute votes, when we are actually voting and recognize that 20 minutes is a short period of time, but it is plenty of time if people know as soon as the bell goes off that they need to start coming here.

I have a statement—it will be brief—on immigration, but I turn to the Democratic leader if he has anything in terms of scheduling?

Mr. REID. No.

IMMIGRATION AND BORDER SECURITY

Mr. FRIST. Mr. President, last night the President of the United States addressed the Nation on the need to fix a broken immigration system, the focus of that speech last night being on securing the borders. The President was very clear on the fact that our borders have to be secure, we have to stop the hemorrhaging of people coming across-the-border for an immigration plan to really work. I applaud the President's leadership on this important issue, this pressing issue, especially because we are in the middle of this debate on the floor of the Senate. I support the proposal in terms of turning to the National Guard as a short-term, an interim, stopgap measure to secure our borders because anything we do does take time.

The President outlined the progress that has been made over the last 4 to 5 years on the border. Yet the problem gets worse and worse, in spite of the fact that we do have more people on the border. Our infrastructure is getting better, and we are building barriers. The fact is, as the President said last night, our borders are out of control, and we are failing the American people until we bring them back under control. Our border agents down there are stretched too far. They are overstretched. Technology has not been fully applied to the degree that it should be. Each year we have millions of undocumented immigrants, illegal immigrants once they cross that border, who come across the southern border and indeed our other borders as well.

We catch more than we did in the past, but the numbers coming are increasing even faster than the numbers we catch, and far too many escape detection, and then, unfortunately, because of a catch-and-release program which is not working to the degree it should, as the President mentioned last night, they are then released into the country.

We need to beef up the electronic surveillance and physical barriers where appropriate. Bottom line, we need to stop the hemorrhaging, and the President laid out a five-point plan very specifically last night, as to how we might do that. The reality of his remarks last night is that we are debating that very issue on the floor and this body must act, and will act, over the next 9 or 10 days to secure those borders and further the comprehensive immigration reform plan that addresses the issue of security and enforcement at the workplace, a strong temporary worker program, and addressing—a lot of the amendments will focus on this—the situation of 12 million people who are here illegally.

Our supplemental appropriations bill we passed a few weeks ago included almost $2 billion to repair fences in high-traffic areas, to replace broken Border Patrol aircraft for lower traffic areas, and for supporting training of additional customs and Border Protection agents. We paid for this additional spending by cuts in other areas. The Senate—and we will hear this debated over the next several days—is near consensus on putting nearly 15,000 new border security agents in the field over the next 6 years.

We are taking action. We are taking control. But these changes are going to take time. It is not a matter of just money, it is a matter of training and support and applying that technology. That is why I strongly support the President's proposal last night of sending a contingent of National Guardsmen now as an interim measure.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

But that is an interim measure, and securing our border is only one part—a very important part and many argue it is the most important part—of a comprehensive immigration reform plan that has to be tough, it has to be fair, and that does have to be comprehensive.

We started the debate once again yesterday, and we will continue today and throughout the course of this week. I am confident that by staying focused under the leadership of our tremendous managers, Chairman SPECTER and Ranking Member LEAHY, we will be able to pass a bipartisan comprehensive plan before Memorial Day.

I, also, thank Senators HAGEL and MARTINEZ for their determined efforts to bring consensus to the issue at hand. Under their leadership, we have developed, building on the work of others—namely, Senator MCCAIN and Senator KENNEDY—a fair, workable plan to help deal with each of the four components of the comprehensive immigration proposal, but most specifically to address the 12 million people who currently live in the United States illegally.

The overall approach deals with the diversity of this population. We know that 40 percent of these 12 million people have been here longer than 10 years. Many are fully assimilated into our society today. We know we can't give people who have broken the law a leg up in applying for American citizenship, but they must be treated fairly, must be treated compassionately, and that is what this bill intends to do. And it may be modified in making it even a little better over the next several days.

Law breakers should not be able to cut in line, as the President mentioned last night. People in this category need to be put at the end of the line.

I am confident that as we proceed with the debate, as long as we consider these amendments in a fair and open way, and we have that well underway today, we will have a comprehensive bill. Immigration is not a Republican issue, it is not a Democratic issue, it is a sensitive issue that touches on our values as a nation. We should not have to choose between respect for history as a country of immigrants with the respect for our laws. I am confident we will be able to pass this comprehensive plan in the days to come.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. DEMINT). The minority leader is recognized.

IMMIGRATION REFORM

Mr. REID. Mr. President, yesterday morning I talked about this being the summer season, new movies—there is a blockbuster out, starting this Friday it is, "The Da Vinci Code," with Tom Hanks. I suggested yesterday that in the third week of May, on the Senate floor, we have our own blockbuster that is part 2 of immigration.

We had part 1. It didn't go very well. I suggested yesterday that in the President's speech he was going to give, he should become a player, an actor in this part 2 of the Senate blockbuster.

Last night the President, I thought, did a commendable job in laying out what he felt was a path to solving this immigration situation.

I acknowledge the President's statement, and I support the direction the President has taken. I want the President to continue to be a player in all of this. I remind everyone, however, that much of what the President talked about we should already have done. For example, the President talked—and rightfully so—about the fact that we don't have enough beds. We have the so-called catch-and-release program where we find people who are here illegally and we let them go because we have no place to put them.

Following the 9/11 Commission, there was a recommendation that we provide additional beds for the illegals, and we did. We authorized 18,000. But even though we have tried, the President and the majority have not supported our position in this regard. We only have 1,800 beds. We have to move forward and do all of that. I certainly hope that can be done.

It is important that we have additional Border Patrol agents. We have already called for them. In fact, our request has only been filled to 75 percent capacity. The President has said we need more beds. Let's move on that now. The President said we need more Border Patrol agents. Let's move on that now.

The National Guard: Yesterday, I asked the President to give us a timetable. He said within the next year. I hope we can take care of that situation so that we don't need to have National Guardsmen there. But in this interim period, I support the National Guard being on our border.

It is important that we move forward as quickly as possible with this very important legislation. I hope in the days to come that the President will also acknowledge how wrong the Republican House approach is to this. They are still talking the same way. They haven't backed down. They think their approach is the best, from what I have seen by a couple of speeches the chairman of the Judiciary Committee gave last week.

The President needs to stay engaged. He needs to recognize how bad the House bill really is and speak to the American public about how bad it is.

Yesterday, there were some remarks on both sides on this issue which I thought were good. Here is an opportunity. We always talk about bipartisanship.

Interestingly, I was just talking to a member of the Republican staff coming into the building today. We exchanged greetings. He said on the Republican side they are just going to vote their conscience. I said that is an interesting way to legislate. That is what we all need to do. We should have been doing it more in the past. This is the week in which we need to vote our conscience. We don't need to vote the Democratic way or the Republican way. We need to vote the American way and move this most important legislation down the road. I hope we can do that.

STEM CELLS

Mr. REID. Mr. President, let me also talk about one other important issue; that is, the American people are not only counting on us to finish the immigration bill—which we need to do—but they are also counting on us to finish the stem cells bill.

Today, in the New York Times there is a letter from Nancy Reagan to Senator HATCH in which she writes:

> For those who are waiting every day for scientific progress to help their loved ones, the wait for the U.S. Senate action has been very difficult and very hard to comprehend.

Yes, it really has.

Last Thursday, the Republican leadership concluded the only week they intend to devote to health care in this Congress. I was disappointed that—despite his repeated promises to allow the Senate to consider the House-passed stem cells bill—Senator FRIST didn't consider this issue important enough to bring to the floor and that parliamentary tactics were used to deny our efforts to bring this forward.

On May 10, prior to the conclusion of Health Week, my friend, the distinguished majority leader, Dr. Frist, stated:

> The issue of stem cells is a very important issue. . . .I am very committed to addressing that particular issue. . . .The interest in stem cells will be debated in the future, at a time that is mutually set by the Democratic leadership working with the Republican leadership.

The one-year anniversary of the date the House of Representatives passed H.R. 810, the Stem Cell Research Enhancement Act, is May 24, exactly 1 week from tomorrow.

The bill would offer hope to millions of Americans and their families. Why are we waiting so long to simply vote?

If the distinguished majority leader agreed that this is "a very important issue," then I hope he will keep this issue moving forward and vote on it immediately and schedule a vote on the House-passed bill.

EXECUTIVE CALENDAR

Mr. REID. Mr. President, finally, we are going to momentarily take up the issue of the circuit court judge, and proceed to the consideration of the nomination of Milan D. Smith, Jr., of California to be a U.S. circuit judge for the Ninth Circuit. That is a circuit which Nevada is in and a big, powerful circuit. This is an exemplary judge-to-be.

Just to mention a few names, such as Wallace. Wallace is the first person who has gotten the "nonqualified" rating, but yet he is going to be brought forward, I am told. Boyle, a man who is steeped in controversy, has been reversed 165 times, has ethical problems.

Let's go to the Milan Smiths. There are many qualified Republicans who I hope meet the standard following the Constitution and who are not controversial but are good people. Some are lawyers and some are judges elevated to a higher position. Let us move to those kinds of people. And there is no better example of that than the judge we are going to vote on in just a few minutes, Milan Smith.

I compliment the President for sending him to us.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, I ask unanimous consent that at noon today the Senate proceed to a vote in relation to the Isakson amendment, No. 3961, to be followed immediately by a vote in relation to the Salazar trigger amendment, which is at the desk; provided further that no second degrees be in order to either amendment prior to the votes and that all time after the judicial nomination vote and noon be equally divided in the usual form.

Mrs. BOXER. Mr. President, reserving the right to object—I shall not—Senator FEINSTEIN and I are in favor of the distinguished nominee of the Ninth Circuit. We ask to have an additional 5 minutes for debate so that the result would be 10 minutes on either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF MILAN D. SMITH, JR. TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session for consideration of Executive Calendar No. 625, which the clerk will report.

The legislative clerk read the nomination of Milan D. Smith, Jr., of California, to be U.S. Circuit Judge for the Ninth Circuit.

Mr. SPECTER. Mr. President, I have sought recognition to urge my colleagues to vote in support of the nomination of Milan D. Smith, Jr., for the U.S. Court of Appeals for the Ninth Circuit.

The Judiciary Committee has held a hearing on Mr. Smith, and we recommend him to our colleagues.

He was a graduate of Brigham Young University, cum laude, in 1966, and he has a law degree from the University of Chicago Law School in 1969.

He has had a distinguished career in the practice of law. After law school, he joined the international law firm of O'Melveny & Myers.

In 1972, Mr. Smith formed his own firm, Smith Crane Robinson & Parker, one of Southern California's premier law firms specializing in complex transactions.

Mr. Smith has served in public services. In 1988, he served as Commissioner of the California Fair Employment and Housing Commission where he remained until 1991.

The American Bar Association gave Mr. Smith a "substantial majority well qualified" and a "minority qualified" rating.

Beyond these excellent credentials, he comes with a strong recommendation from somebody who knows him very well, and that is our distinguished colleague, Senator GORDON SMITH from Oregon.

I am pleased at this time to yield the floor either to Senator SMITH or to the senior Senator from California.

The PRESIDING OFFICER. Under the previous order, there will be 5 minutes each to the Senators from California and 5 minutes to the Senator from Oregon, and 5 minutes to the Senator from Pennsylvania.

The Senator from California is recognized.

Mrs. FEINSTEIN. Thank you very much.

Mr. President, I am very pleased to be here as a member of the Judiciary Committee and as a Californian to indicate my support for the confirmation of Milan Smith to the Ninth Circuit Court of Appeals. It is a fine occasion to be able to come here and represent that we have a very competent man to become an appellate court judge.

Mr. Smith has a long and distinguished legal career in our State. The chairman of the committee pointed out some of this. After graduating from the University of Chicago Law School in 1969, Milan Smith moved to Los Angeles where he has been an important part of the legal community ever since.

Mr. Smith founded the law firm known as Smith Crane Robinson & Parker in 1972, and over the last 34 years with Smith Crane Robinson & Parker he has engaged in a wide-ranging legal practice in business and real estate law.

After reviewing his extensive record, a majority of the American Bar Association rated him "well qualified" to serve as a judge of the Ninth Circuit Court of Appeals.

He has demonstrated an impressive and enduring commitment to serving the public, from presiding over the Governing Board of the Los Angeles State Building Authority to acting as vice chairman of Ettie Lee Homes for Youth.

As many of you know, Milan Smith is the older brother of our esteemed colleague, Senator GORDON SMITH. I know the Senator from Idaho was just talking to Senator SMITH and saying: Isn't it nice that California is getting a Californian.

We are having a little tussle over another judge which the Senator from Idaho believes should be an Idaho judge, and the Senators from California believe should be a California judge. So that issue has not yet to be joined, but it certainly will.

Mr. CRAIG. Mr. President, will the Senator yield only for a moment?

Mrs. FEINSTEIN. Certainly.

Mr. CRAIG. It is important to recognize that we are getting the Smith from California, and we are asking that we get a Smith from Idaho.

Mrs. FEINSTEIN. California would prefer having two Smiths. But we will talk about that another day.

The Smiths' maternal grandfather, Jesse Udall, was the chief justice of the Arizona Supreme Court. So Milan Smith stands poised to follow family precedent in serving on one of our Nation's highest courts.

I congratulate him on this nomination. I urge all of my colleagues to vote for him. I say to his younger brother, who is sitting here in the Chamber, that it is a wonderful day for both Senator BOXER and for me to be able to see you so happy. I know what it means to you and how great it is to have such a fine legal mind in your family. We offer you our best congratulations, as well.

Thank you very much, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, this is a special day for all of us who are on the floor presently because this date has been coming, in my opinion, for far too long. We could have done this 4 years ago, but sometimes it takes a while for good things to happen.

We will not look back, we will look ahead.

I say to my colleague, Senator FEINSTEIN, that we are very fortunate because we worked hard to set up a system for our district court nominees which is working beautifully. We don't have rancor in California over judges—we really don't.

This nomination of Milan Smith is also an opportunity to bring everyone together around a fine man, someone who will be, I believe, a very fine judge. Why? Because Mr. Smith is highly respected by those who know him and know his work. I am confident he will discharge his responsibilities with dignity, integrity, and intelligence.

After law school, Mr. Smith joined the firm of O'Melveny & Myers and later started his own law firm where he is the managing partner. His work in the private sector has given him a wealth of experience and has earned him respect from his peers.

Mr. Smith's career goes beyond the private practice of law. He has dedicated a significant amount of time and energy to public service, as well. In 1984, then-Governor Deukmejian appointed Mr. Smith to the governing board of the Los Angeles Service Building Authority where he served as president until 1992. Since then, he has acted as the Authority's general counsel.

He also was appointed as a member of the California Fair Employment and Housing Commission. He joined the Fair Employment and Housing Commission in 1988 and worked for the next 3 years to protect the rights of the disadvantaged. It says a lot about Milan Smith. This was something he wanted to do: protect the rights of others who are less fortunate than he.

During that tenure, Mr. Smith worked with legislators to reverse a Supreme Court of California decision limiting the commission's power to reward and collect damages for victims of discrimination. Because of Mr. Smith's hard work, passion, and compassion, the California Legislature passed a bill restoring the commission's authority to award damages to victims of discrimination.

When then-Governor Wilson vetoed the bill, Mr. Smith resigned in protest. We all know a lot of fine people, but it takes guts to stand up and say: I submit my resignation. That shows courage and independence of mind. Here is Milan Smith, standing up to a Governor of the same political party. That is hard to do. I am sure it was painful. I am sure it was terrible. But he did it.

In his resignation letter, Mr. Smith said:

> Despite my generally conservative political views, I've come to know much more of the sexual harassment, bigotry and mean spiritedness abroad in the land. To continue to sit on the FEHC when we can do nothing to fairly compensate genuine victims of unlawful sexual harassment, for example, would be unconscionable to me.

Again, those words are eloquent. They are courageous. They show the kind of leadership we need in a judge. We need someone who is fair, someone who truly understands the rights of all Americans, and certainly of all Californians. Mr. Smith gained my profound respect by refusing to sit quietly in the face of what he believed to be injustice. It gives me confidence that as judges sit around and discuss cases that have come before them, he will be motivated by a fierce sense of independence. He will not fear standing up and will be counted when the moment comes.

I am absolutely thrilled about this nomination. The Ninth Circuit will benefit greatly with the addition of Milan Smith. I strongly support his nomination. I had written a letter in favor of this nominee 4, maybe more, 5 years ago. This is a wonderful day for me, personally. I know Senator FEINSTEIN feels that way. My colleague feels that way, and I think most of our colleagues feel this way. It shows we can reach across party lines and come to a point where we can compromise. I am sure Mr. Smith isn't going to do everything I want or everything that Senator FRIST wants, but this is a wonderful choice today.

I yield the floor.

The PRESIDING OFFICER. The proud Senator from Oregon.

Mr. SMITH. Mr. President, it is an honor to be here today, a special day for me, I know for my brother, and all of our family.

Let me begin my remarks by expressing to Senator FEINSTEIN and Senator BOXER my heart felt appreciation for their kind words about my big brother. Let me tell them what a pleasure it has been to work with them on coming to this hour in which the Senate will vote on his confirmation.

I would be remiss if I also did not give special thanks to Senator FRIST and Senator REID, the leaders of this Senate, for their courtesy to me in making this moment possible. Also, to Senator SPECTER and Senator LEAHY, Senator HATCH who chaired the hearing for my brother, all have been his champions, as well, in this very difficult process.

Finally, most profoundly I thank President Bush for his confidence in my brother, for his courtesy to my family, and to all of his staff, specifically Harriet Miers, who have been wonderful throughout this journey. I am profoundly thankful to them.

I have been in this Senate now for a decade. There are times when I feel a certain electricity, a certain excitement to be here. As I reflect upon my memories of service and the hundreds of votes I have cast, some stand out more than others. But those that stand out most for me are those occasions when we watch the operation of the Constitution of the United States.

This is one of those moments. Those special times are when the branches of our Government come together and we watch the Constitution literally in operation.

What I am talking about in a broader sense is the rule of law. The rule of law stands in great contrast to the rule of man. The rule of man has been responsible for much of the blood and carnage and horror on this Earth. But it is the rule of law, however imperfect it is, to which we are all bound and to which we are all obligated to give obedience. The rule of law—equal protection, due process—involves principles which, fortunately, we in America are able to take for granted in large measure but which are at the center of a good and decent society that the American people have created in this country.

Today we are watching the three articles of the Constitution in play. Article I establishes the Congress, specifically, the Senate, charged with providing advice and consent on nominations to the courts. Article II, the President has nominated Milan D. Smith, Jr., for this position on the Ninth Circuit. Article III is about the court's responsibility in dispensing equal protection and due process of law. This is one of those moments when these three branches of Government intersect in the Senate.

For me, it is a very special moment, not just because of my responsibilities as a Senator, my understanding of the Constitution, but because it is a profoundly proud moment for my family.

I could speak about my brother in many contexts. My colleagues from California have done that already. I could speak of our mother, Jessica Udall Smith, who is the descendent of David King Udall, who is one of the drafters of the Arizona State Constitution. I could speak of our grandfather, Jesse Udall, who was the chief justice of the Arizona Supreme Court for many decades. I could certainly speak of the heritage we received from our father, Milan D. Smith, and his service in the Eisenhower administration, his many discussions with us about politics, and the importance of public service.

What I could also speak about is Milan's preparation. His academic credentials are sterling. I could speak about his studies at Brigham Young University, the University of Chicago Law School, and I could say many things that would make clear about him and to others his preparation for this moment in this great position.

But what I will do is share with you, the whole Senate, what I wrote about my brother in introducing him to the Judiciary Committee. I only quote a part of it:

> Milan, Jr., is the eldest child of Milan Dale and Jessica Udall Smith's ten children. I am the eighth in that number and Milan's youngest brother. In my 54 years of life, Milan has been an example and force for good in our family, and, since the death of our parents, has been truly a family leader and friend to us all through times of tears and cheers.
>
> For as far back as my memory serves, I have been witness to a concourse of people who have sought him out for his wisdom and judgment, for counsel and comfort on matters great and small. These have included my parents, myself, and all of my brothers and sisters, cousins, and kinsman from far and wide, his own six children, and of course, his legions of legal clients over many decades. Without respect of persons, he has been a wise friend and a good shepherd to all.

His academic preparations and provident life speak for themselves. But, in sum, what I can say is that he is one of the wisest men I have ever known. He has an understanding heart, a heart for judgment, he is possessed of the spirit of discernment, between good and bad, right and wrong, the just and the unjust. I cannot think of a time or a court, when a man of his quality and preparations are more sorely in need than this one, at this time, in our time.

Mr. President, I am honored to be here today to speak about my big brother. I urge his confirmation to the Ninth Circuit Court of Appeals.

That brings us to the point where it is my privilege to ask for the yeas and nays on behalf of Milan Dale Smith, Jr.

I yield the floor.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Milan D. Smith, Jr., of California, to be United States Circuit Judge for the Ninth Circuit? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Mississippi (Mr. COCHRAN), the Senator from New Hampshire (Mr. GREGG), the Senator from Mississippi (Mr. LOTT), the Senator from Arizona (Mr. MCCAIN), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Missouri (Mr. TALENT).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER. Are they any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 120 Ex.]

YEAS—93

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
Martinez
McConnell
Menendez
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Salazar
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—7

Cochran
Gregg
Lott
McCain
Rockefeller
Santorum
Talent

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate shall resume legislative session.

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2611, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2611) to provide for comprehensive immigration reform and for other purposes.

Pending:

CORNYN (for ISAKSON) amendment No. 3961, to prohibit the granting of legal status, or adjustment of current status, to any individual who enters or entered the United States in violation of Federal law under the border security measures authorized unless title I and section 233 are fully completed and fully operational.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, may I remind my colleagues, as announced yesterday, that the majority leader has authorized strict enforcement of the 15-minute voting rule and 5-minute extra and on stacked votes 10 and 5. We have a great many amendments and a lot of work to do to finish this bill before Memorial Day. We are about to proceed to the amendment offered by the Senator from Georgia, Mr. ISAKSON. Senator CRAIG has asked specially for 5 minutes to talk about the President's speech. We are not going to be able to accommodate discussions beyond the Isakson amendment, except for Senator CRAIG. After the 5 minutes, Senator ISAKSON will be recognized to make the opening argument on his amendment. We do not have a great deal of time under the order to proceed with the two votes at noon. So let us use the time as expeditiously as we can.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we resumed yesterday what I think most of us believe is a historic debate in consideration of comprehensive immigration reform. This body debated immigration reform and brought forth a resolution in 1986. We did it once again in 1996. And here it is, 2006, and we are back, frustrated in some ways, angered in others, that there may be as many as 12 million illegal immigrants in our country, illegal foreign nationals who came in a relatively uncontrolled or unenforced fashion.

Last night I heard, and America heard, our President deliver what I believe was one of the most comprehensive approaches toward dealing with this issue. First and foremost, he recognized what the Congress did not recognize in 1986, nor did we recognize it in 1996. No matter how comprehensive our reform is, it will not work, unless this Nation controls and secures its borders and, therefore, devises programs that allow a reasonable number of foreign nationals to come into our economy on an annual basis to help us grow and help us continue to be the great immigrant Nation we are. Then the President, beyond his approach toward securing the border, talked about a variety of other approaches.

Let me talk only about border security. A good number of us began to work with the White House several months ago, and our message was quite simple. We didn't believe the Congress could fashion comprehensive immigration reform, that the politics of the day were too contentious, unless we had convinced the American people, first and foremost, that primarily our southern border would become more secure, that the flood of humanity coming across it on an hourly basis was stopped, and that the comprehensive bill that would then be fashioned would recognize the needs of our economy and bring workers to our economy in a reasonable fashion. The President gets it. His speech last night said it. While the work the Judiciary Committee and the Senate have done do beef up border control, you don't get there overnight. You don't invest billions of dollars and stand up a virtual wall, and a real wall in some places, in a 24-hour period. The President, understanding that, is now engaging the four border States along our southwestern border, with the complement of the National Guard, not to enforce but to facilitate the Border Patrol, which is legally trained and deputized to do what is necessary in the area of border enforcement.

Securing our southwestern border is critical. One AP reporter asked me last night: Isn't this political?

I said: It is not political at all. The President simply gets it. If this Senate doesn't get it, shame on us. We can't write a bill in any fashion, Democratic or Republican, that works unless our borders are secure, and the law plays against the border in allowing an orderly approach through that border on a daily and an annual basis.

Yes, our economy needs immigrant workers. We will need several hundreds of thousands a year, if we expect our economy to continue to grow as it has, to prosper. But we want them to come to work. And those who might want to stay ought to get in line and apply for citizenship and do as all other Americans have done in the past who were born in a foreign country, who came here and became an American. They assimilated. They learned our culture; they learned our history; they learned to speak English; and we accepted them with open arms. It is the vitality of our country. We have always accepted an orderly amount of the world's humanity to become Americans. But we did it in a controlled and responsible way. That is what our President said last night. We ought to applaud him for an immediate approach to a problem while we work out the long-term approach. That debate is here today. That debate is here for the balance of the week, to build a comprehensive reform package that plays up against a secure border that our President proposed to us last night and that we should rush to help him implement for the sake of this country.

I thank the chairman of the Judiciary Committee and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, we now have 1 hour equally divided. On this side, the time is under the control of Senator Isakson, who has signified that there will be 5 minutes for Senator Cornyn, 5 minutes for Senator Alexander, 5 minutes for Senator Chambliss, and we will try to find time for Senator Thune as well. We will alternate back and forth. Time is under the control of Senator Isakson.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. KENNEDY. Parliamentary inquiry, Mr. President: How was that time allocated? Was that morning business?

The PRESIDING OFFICER. The time of the Senator from Idaho was allocated to the Senator from Pennsylvania.

Mr. KENNEDY. I see. How much time on each side?

The PRESIDING OFFICER. The Senator from Massachusetts has 34 minutes. The Senator from Georgia has 27½ minutes.

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, parliamentary inquiry: It was my understanding that the time of the distinguished Senator from Idaho was not a part of the debate but was to precede our debate, and we were supposed to equally divide the remaining time. Am I incorrect?

The PRESIDING OFFICER. The time was allocated to the Senator from Pennsylvania as the bill was laid down, equally divided.

Mr. ISAKSON. So we have how many minutes?

The PRESIDING OFFICER. There is 27½ minutes.

Mr. SALAZAR. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. SALAZAR. My understanding was that under the unanimous consent agreement that had been entered into by the floor managers, the next hour would be divided equally between the Senator from Georgia in relation to his amendment, as well as the amendment that I would be offering following the Senator from Georgia.

The PRESIDING OFFICER. The time following the vote between now and 12 o'clock has already been equally divided.

Mr. KENNEDY. So we have 34 minutes.

Mr. SALAZAR. I thank the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I appreciate the statement of the Senator from Colorado. I thank the Senator from South Carolina, the Presiding Officer. I thank Senator Specter, chairman of the Judiciary Committee, for the untiring efforts he made on the bill and the courtesies he has shown to me. I thank leader Harry Reid for accommodating us and allowing us to come to the floor and have a debate. I particularly thank Lindsey Graham and John McCain for seeing to it that all of us who had amendments to offer had a chance to negotiate the time to do that. I especially thank my staff, in particular, Mike Quiello, for the work he has done on this issue over a long period of time.

Mr. President, to set the stage for my remarks on my amendment, let me, first of all, tell you a little bit about myself. I am a product of the legal immigration system of the United States. My grandfather came here in 1903 and went through Ellis Island. There is nobody who has greater respect for the hope and opportunity and the laws of our country than do I. I was in the construction industry, and I know the great contribution the workers made to construction and to tourism and to hospitality services and to agriculture.

I, also, know the issue before us is now the most important issue domestically before the United States. When I ran for the Senate in 2003 and 2004, the most commonly asked question after Iraq was: What are you going to do about illegal immigration? In the first speech on any issue I made as a Senator, I made the statement that I thought illegal immigration was the No. 1 domestic issue in this country.

I rise to tell you my mind has not been changed. I think neither have the minds been changed of the American people because you have seen the intensity of the interest of all Americans in border security and immigration.

My amendment is very simple. It says that before any provision of this Immigration Act could grant legal status to someone who is here illegally is in effect, the Secretary of Homeland Security must certify to the President and the Congress that every provision for border security and enforcement contained in title I and section 233 of title II is in place, funded, and is operational.

There is a simple reason for that. In 1986, this Congress, under President Ronald Reagan, passed a border security and amnesty bill for the 3 million illegal aliens who were in this country. We enforced the border and granted amnesty. And 20 years later, there are 11 million to 13 million illegal aliens who have come because of the promise of this country and its opportunity but also because we have given a wink and a nod to the security of our borders.

I want to emphasize that I am not just talking about something I am thinking about or that I read. I have been to our border. I took a codel with Senator Coleman in February. We went to Fort Huachuca in Arizona and saw the unmanned aerial vehicle working and identifying those coming across the border and sealing a 150-mile stretch. In San Diego, at the border with Juarez, we saw where the barriers at Smugglers' Gulch have effectively stopped the people coming through that gully and immigrating illegally into this country. We went up and down the border and saw the bits and pieces of security that worked. We also saw the over 1,500 miles of the border that are not secure—the 1,500 miles that have allowed people to come here either through smuggling or through their own volition or by paying bribes to get here, to get into our workforce, to overcrowd our schools, to stretch the services in our emergency rooms and put great pressure on our civil justice system.

It is time that we seal the border and secure it so that the promise of legal immigration works and illegally entering this country is not the preferred way to cross on our southern border.

I commend the President for his remarks last night. The President last night said, in order, the five important things we must do. The first thing the President said is to secure the border. With this amendment, with our commitment and with the President's commitment, securing the border will take place. Then we can grant a program to those who are here illegally, with the sincere knowledge that we know no more are coming. If we grant programs and status to those who are here illegally and look the other way, the next time we bring this up in 10 or 15 years, it will not be 12 million, it will be 24 million and, worst of all, we will have lost control.

Last night, the President said we are a nation of laws. And we are a nation of laws. I submit to you that when laws are enforced, and they are enforced soundly, laws are obeyed and they are respected. We have not enforced our border and, therefore, its security is not respected.

So I call on all of our colleagues, Democrats and Republicans alike, everybody who is interested in a comprehensive reform of our immigration policy and our immigration system, to think what comes first. And what comes first is securing the border. After that, the American people would be willing to work with us on programs to grant status. But in the absence of securing the border and making that commitment, we are not going to have the cooperation of the American people. We are not going to have comprehensive reform, and a growing problem in this country will grow even greater.

My last point is there may be some who say you cannot secure the border or it is going to take too long. Listen, this country put a man on the Moon in 9 years, and we responded to the terrorist attacks within 3 weeks. This country can do anything it sets its mind to do. We know how to do it. In incremental places, we do it now. It is time we put in the additional 6,000 border security agents, put the UAVs in the air, put the ground sensors on the ground, put the prosecuting officials along the border in those jurisdictions to see to it that the law is enforced and prosecuted, and it is time that we build the barriers in those areas that are easy smuggling corridors. We must make a commitment to ourselves and the American people.

The Senator from Colorado is going to offer an amendment side by side. I read the amendment. It gives the President the authority to authorize sections 4 and 6, which are the status sections, whenever it is in the best interest of the national security of the United States. That is well and good, but that has nothing to do with security on the border. If we don't adopt the Isakson amendment to secure the border, then we will have given a wink and a nod one more time to those who would come here illegally. We will have said to our local governments, school systems, emergency rooms, and law enforcement officers that we don't care.

Mr. President, I think we do care. I urge support for the Isakson amendment to the immigration bill. I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. SUNUNU). Who yields time?

Mr. KENNEDY. I yield 10 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

AMENDMENT NO. 3994

Mr. SALAZAR. Mr. President, I call up amendment No. 3994 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. SALAZAR) proposes an amendment numbered 3994.

(Purpose: To prohibit implementation of title IV and title VI until the President determines that implementation of such titles will strengthen the national security of the United States)

At the appropriate place, insert the following:

SEC. ___. NATIONAL SECURITY DETERMINATION.

Notwithstanding any other provision of this Act, the President shall ensure that no provision of title IV or title VI of this Act, or any amendment made by either such title, is carried out until after the date on which the President makes a determination that the implementation of such title IV and title VI, and the amendments made by either such title, will strengthen the national security of the United States.

Mr. SALAZAR. Mr. President, as we come back to the floor of the Senate today to take up this issue of national security and the national urgency on workable immigration law, I want to first say that I applaud my colleagues both on the Democratic and the Republican sides who have been working so hard to move forward with a comprehensive immigration reform package.

I also want to say thank you to the President of the United States of America for his statement last night to the Nation, in which he appealed to the best interests of America to come together and develop a comprehensive immigration reform package. I believe it is worthwhile to quote again from what the President said last night.

> Tonight I want to speak directly to Members of the House and the Senate. An immigration reform bill needs to be comprehensive because all elements of this problem must be addressed together, or none of them will be solved at all. The House has passed an immigration bill. The Senate should act by the end of this month so that we can work out the differences between the two bills and Congress can pass a comprehensive bill for me to sign into law.

Again, he said we need to work on this problem together, on all of its elements, or none of the elements will be solved.

Mr. President, amendment No. 3994 is an amendment that takes a very different approach from the Senator from Georgia, my good friend, Senator ISAKSON. As chairman Specter noted on the floor yesterday, the proponents of the Isakson amendment take the view that we ought to have all our border-strengthening and security measures in place before we address any aspect of this problem. I don't think that that is an effective approach.

In the past, for the last 20 years, when we have tried to approach immigration issues by only looking at one issue at a time, we have failed. We have continually thrown money at a problem to increase border security through funding. Yet our borders continue to be porous and broken, and the lawlessness that comes with that is something we see across America. I don't believe we should let this crisis fester. I don't believe we should continue to tolerate those being in the shadows of society, the 11 million undocumented workers in this country today. I don't believe we in the Senate should stand in the way of a comprehensive immigration reform that has extensive bipartisan support in this body.

It is very clear to all of us today that the current situation is inadequate and there is a lot of work that needs to be done. I want to move ahead on all fronts and take the comprehensive approach that has been discussed on this floor, and a comprehensive approach which the President himself has endorsed.

National security is at the heart of a workable immigration law, and we should not allow an immigration law to go into effect if it will not address the national security interests of the United States. That is at the heart of my amendment. My amendment is a very simple amendment. As the clerk read that amendment, it was very clear and straightforward, and it simply requires the President of the United States to make a determination that the national security of the United States will be strengthened by the following programs: Title IV, which includes the new guest worker program, and title VI, which includes the provisions relating to the 11 million undocumented workers who are living in the shadows of America today; and it also includes the bipartisan changes to immigration that have been forged in this body by leaders such as Senator CRAIG and Senator FEINSTEIN on agriculture jobs and the DREAM Act, which is another bipartisan measure. Under our amendment, those provisions of the bill cannot be implemented unless and until the President of the United States finds that it is in the national interest and for national security that those provisions of the legislation be implemented.

Senator ISAKSON's amendment, on the other hand, is designed to weaken this comprehensive approach. The approach of my friend from Georgia would focus only on border enforcement. When we look at the history of the last 20 years, approaches that have focused on border enforcement only have been approaches that have not succeeded in dealing with the issue of immigration.

I agree with President Bush that we need to address this issue in a comprehensive manner, and I urge my colleagues to support amendment No. 3994.

At the end of the day, it seems to me that those of us in this body who recognize the importance of this issue need to understand that the stool has to have three legs for us to develop comprehensive immigration reform.

First, we need to secure our borders. In the legislation we have proposed, there are multiple provisions that deal with the strengthening of our borders, including the doubling of the number of Border Patrol officers, bringing in new technology that would allow us to make sure we know who is coming and going across our borders, and a number of other provisions that are intended to ensure that our borders become secure.

The second leg of that stool is making sure that we are enforcing our immigration laws within our country. We have not done an adequate job of enforcing our immigration laws in this country. The President acknowledged that reality as well. Our legislation will make sure that we are enforcing our immigration laws within the interior of our country.

The third leg on that stool is to make sure we are addressing the human and economic reality of the 11 million people who currently live in an undocumented status in America today.

Sometimes when we get into these debates on the Senate floor, it is a discussion about policy, but it is also important for us never to forget why we are here, and never to forget that there are, in fact, millions of human beings who are very much affected by the current system of lawlessness on our borders.

Sadly, last year, over 300 people died trying to cross the border. In my own community, over the last several Sundays, I heard a Catholic priest talk about how it is that people were dying of thirst and hunger in the deserts of Arizona and places such as Texas. I heard my colleague, my friend from Arizona, Senator JOHN MCCAIN, speak eloquently and passionately about this issue.

Since 1998, more than 2,000 men, women, and children have lost their lives crossing the border between Mexico and the United States. That is not what we are about in America. Anywhere else in America if we had 2,000 people dying, the people of America would be standing up and saying we must do something to correct this problem and to correct it in a way that is going to work. That is why a comprehensive solution is needed in this situation. That is why my amendment No. 3994 was proposed. It will help us move down the road to developing that comprehensive immigration reform package.

I thank the Chair, and I yield the remainder of my time to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I wonder if the Senator will yield for a question. Is it the Senator's understanding that if we accept the Isakson amendment, we will continue to have this culture of illegality in the United States? If we accept the Isakson amendment, we will still have the hiring by employers of illegal aliens, we will be driving wages down, we will still have a whole culture of illegality, we will have people in the shadows, we will have people whose names we don't know because we are unable to bring people out into the sunlight and understand who is actually here in terms of our national security? Does the Senator from Colorado not believe that this is really—the Senator from Colorado, as I understand it, has been a strong supporter of border security, provisions that are in the underlying bill. He has been a strong supporter to make sure that this is a key element in our total immigration strategy: a strong border and that we deal with the dangers of our border, but to understand that if we are going to be able to deal with the dangers of our border, we are going to also have to deal with enforcement in this country of employers. We are also going to have to deal with the adjustment of the status of those who are here. Is that the position of the Senator from Colorado?

Mr. President, I want to understand clearly, he is not taking a second step to anyone, is he, in having a strong border enforcement; am I right?

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. SALAZAR. Mr. President, my friend from Massachusetts is correct. We stand firmly for the proposition that we need to absolutely secure our borders. Indeed, if we fail to address the reality of 11 million people living in the shadows of the United States today, we will have failed to achieve the national security objective.

If one thinks about what happened in the days after 9/11, our Government ought to know who is living in our society. We cannot know that when we have 11 million people living in the shadows. Those people need to be brought out of the shadows, they need to be brought out into the sunlight, they need to be registered, they need to pay a fine, they need to learn English, and they need to do the rest of the things we talk about in this legislation.

The very fundamental principle of an immigration law to provide us with national security in America will be altered if we are not able to move forward with the implementation of those provisions of the law.

The proposal which my good friend from Georgia has proposed, the Isakson amendment, would essentially gut the sense of our comprehensive immigration reform bill because we would not be able to deal with that reality and we would not be able to deal with the guest worker program that the President of the United States is proposing.

Mr. KENNEDY. Mr. President, if the Senator will yield further, therefore, the Senator from Colorado, with his amendment, believes that he offers a path that is going to protect our national security in the most effective way because we will gain information, we will gain knowledge, we will understand the people who are here and will know their names, will know their addresses, will know where they live, and they will be part of our society.

Secondly, I understand that he believes that without his amendment, we are still going to have this culture of illegality where we have employers hiring undocumented workers. The Isakson amendment doesn't do anything about that, as I understand. If we adopt the Isakson amendment, we will still have the exploitations of undocumented workers, and we will also have the conditions where we are driving wages down, which drives wages down for Americans. Does the Senator not believe that will continue to be the result unless we do a comprehensive approach?

Mr. SALAZAR. Mr. President, I agree with my friend from Massachusetts. In fact, that would happen. We would have 11 million workers who probably would continue to work as they have been working now, for some of them decades in this country, and that the system of illegality in terms of employers hiring undocumented workers is simply a system that is going to continue into the future unabated. That is why it is so essential that we move forward with this issue in a comprehensive approach.

Last night the President was absolutely correct in his statement that we cannot deal with this issue of immigration reform in a piecemeal manner. We have to deal with it in a comprehensive manner that addresses the issue of 11 million undocumented workers who are in this country today.

The PRESIDING OFFICER. The time of the Senator from Colorado has expired. Who yields time?

Mr. KENNEDY. I yield 4 more minutes, Mr. President.

The PRESIDING OFFICER. The Senator from Colorado is recognized for an additional 4 minutes.

Mr. KENNEDY. Mr. President, as I understand the Senator from Colorado, his position, quite frankly, is much more consistent with what the President talked about last night, am I correct, where the President talked about a comprehensive approach to deal with the challenges of illegality. And his position is that we ought to look at it in a comprehensive way, and the best way to deal with illegality on the border is to also deal with illegality in employment and deal with legality and illegality in adjusting the status in terms of earning the right to remain here; am I correct?

Mr. SALAZAR. Mr. President, my friend from Massachusetts is, in fact, correct. We need to deal with the entire set of immigration issues today, including the illegal hiring of people in this country. The provisions we have set forward in this bill will allow us to, in fact, bring those people who are here illegally and who are undocumented out of the shadows so we can address the national security interests.

My amendment requires the President of the United States to basically say that before the guest worker program is implemented, the President has to determine that it is in the interest of national security for us to implement those provisions; that before we move forward with the program that addresses the reality of 11 million undocumented workers, the President of the United States shall acknowledge and make a statement that, in fact, it is in the national security interests of the United States of America. That is why this amendment is a much better, preferred approach than the amendment which is being offered by my friend from Georgia.

Mr. KENNEDY. Mr. President, finally, I have my differences with the President, but I agree with the Senator from Colorado. We support that judgment and that decision and his ability to make that judgment and decision. That is what the Senator from Colorado supports, and I do, too.

I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Georgia.

Mr. ISAKSON. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Georgia controls 20 minutes, and the Senator from Massachusetts controls 17 minutes.

Mr. ISAKSON. Mr. President, I think the distinguished Senators, Mr. SALAZAR and Mr. KENNEDY, who are both Senators and lawyers and understand smoke and mirrors. I think they understand the enforcement of the law. The Isakson amendment calls for us to enforce the laws that have been brought about because of the lack of enforcement, which is why this bill is on the floor of the Senate now.

Mr. President, I ask unanimous consent that Senators CHAMBLISS, CORNYN, ALEXANDER, DOMENICI, and SANTORUM be added as original sponsors of the Isakson amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ISAKSON. Mr. President, I am pleased to recognize for 10 minutes the Senator from Texas, Mr. CORNYN.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, there is no doubt that trying to fix our broken immigration system is a complex issue. Frankly, part of what we have been trying to do is to find solutions that thread the needle and shrink the gap between the approach of the House of Representatives, which is primarily an enforcement-only bill, and comprehensive immigration reform that I believe is supported by most of us in the Senate, including myself.

I differ with the sponsors of the bill in the Senate, and I intend to offer amendments that will, I believe, improve it, while retaining its comprehensive nature. I believe it is simply surreal to suggest that what the amendment of the Senator from Georgia does somehow retreats to the House position and is an enforcement-only approach.

Indeed, I think the Senator from Georgia has struck upon an ingenious way to thread the needle by saying, yes, we believe that border security is important; yes, we believe that we ought to produce the computer systems, hire and train the people, create the databases which will actually make this reform work, rather than put the cart before the horse and say, with the stroke of a pen, that 12 million people who are living out of legal status are suddenly legal; and, yes, we are going to have 325,000 new people each year come into the country, regardless of whether our economy is in a boom or a bust and possibly compete with Americans for those jobs.

What the Senator from Georgia has done is say let's put the horse in front of the cart, not the cart in front of the horse. Let's do first things first. Let's make sure this will actually work.

Last night the President talked about sending 6,000 National Guard troops to help the Border Patrol secure the border, recognizing that it takes time to train Border Patrol agents. We now train them at the rate of 1,500 a year, and we can't all of a sudden secure the border because we can't all of a sudden train enough Border Patrol agents. We can't all of a sudden, with the wave of a magic wand, build the infrastructure that is necessary. We can't, with the wave of a magic wand, issue the request for proposals to actually let the contracts that will allow the construction of the computer systems and the databases that will actually make this work. We can't, with the wave of a magic wand, say we are going to create a secure identification card which will allow employers to verify the eligibility of prospective employees. It is going to take a little bit of time.

But that is not the same thing as saying, as the Senator from Colorado has said, that somehow we are going with an enforcement-only approach.

I support a comprehensive immigration reform plan that is built on a foundation of border security, that says we need to have worksite verification, that we need to have a secure identification card so that employers can determine whether in fact a person is eligible to work. I believe we ought to have sanctions against employers who cheat. I believe we ought to have a temporary worker program, not like the proposed guest worker program in this underlying bill, and that will be the subject for future amendments.

The message we need to send the American people is that we are actually serious about making this proposed comprehensive immigration reform system work. If we adopt the amendment of the Senator from Colorado, it will send a message that we are not serious about making sure we have the infrastructure and the people and the systems and the cards in place that will actually make this comprehensive reform work.

The American people have already been burned once very badly when it comes to comprehensive immigration reform. In 1986, when President Ronald Reagan signed an amnesty, the tradeoff was supposed to be worksite verification and employer sanctions for employers who cheat. But the Federal Government never did what it was supposed to do by providing the means for employers to actually make that determination in a way that had some integrity. Now I believe the American people are looking at us skeptically, wondering whether we are going to try to pull the rug out from under them again.

The American people can be amazingly tolerant, they can be amazingly forgiving, but they won't be mocked, and they will not believe us unless we build some confidence into the system by saying we are going to take care of helping to secure the border, we are going to provide the means to enforce this system, before we are going to implement a 12-million person amnesty which will put a tremendous load on the men and women who are supposed to administer this system. Can you imagine how long it will take to make this happen? All this does is say let's do first things first, rather than put the cart before the horse.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, my friend and colleague from Michigan has a special request. We know it is not completely consistent with the subject matter at hand, but we are willing to yield time, Senator SALAZAR and I, out of our time, so we are not going to delay the proceedings of the Senate. This is an important matter.

I yield 4 minutes, if that is sufficient time.

The PRESIDING OFFICER. The Senator from Michigan.

MEDICARE PRESCRIPTION PART-D BENEFIT

Ms. STABENOW. Mr. President, I thank my colleagues who are managing this very important bill and Senators KENNEDY and SALAZAR as well. We are engaged in an important debate right now, but there is another important debate going on around every kitchen table and in every senior citizen center right now, which is what is going to happen today after they can no longer sign up for the Medicare prescription Part D benefit.

We know that for about 3 million low-income seniors, they are going to be allowed to continue to sign up until the end of the year without penalty. But for the 3 million to 5 million seniors who are not in that category, they are not allowed to continue to sign up, and there will be a penalty between now and November when they can sign up again.

I ask unanimous consent that the Senate proceed to the immediate consideration of a bill which I will send to the desk now which extends the enrollment deadline for Medicare Part D, waives the late enrollment penalty, provides the option for a one-time change of plan during 2006, and provides increased funding for State health insurance counseling and assistance programs.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Mr. President, I am hearing this for the first time. I must object until I take a look at it and consult with some people on this matter.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. For current purposes, I do object.

Ms. STABENOW. Mr. President, if I might just continue, there are three important pieces in this bill. They are certainly not new to us. I appreciate we are in the middle of another important discussion, but we have had an ongoing discussion with seniors all across America who are concerned about this issue. If not this entire bill, I ask unanimous consent to pass a bill that would at least extend the enrollment until the end of the year.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Mr President, I am constrained to object again until I have had a chance to examine the specifics as to what the Senator from Michigan is offering.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. May I add that I have joined with other Senators in seeking to have an extension of the date. So I am in agreement with what I believe to be the thrust of what the Senator from Michigan seeks to accomplish. But speaking for myself, I would have to know more and examine the documents before I could refrain from objecting. And on behalf of others on this side, as the manager of the bill, it is incumbent upon me to give them an opportunity to examine what the Senator from Michigan wants to do. So I am constrained to object.

The PRESIDING OFFICER. Objection is heard. The Senator from Michigan has 1 minute remaining.

Ms. STABENOW. Mr. President, I then ask, because of the seriousness and sense of urgency, that we have unanimous consent at least to pass the bill containing only the part that waives the late enrollment penalty that starts today.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Mr. President, I again object for the reasons I said. I will be glad to have the effort of the Senator from Michigan renewed later today when I have had a chance to examine it and others have had a chance to examine it. But on this state of the record, hearing it for the first time and being surprised by it, we need time to study it and time for others to consider it.

The PRESIDING OFFICER. Objection is heard. The Senator has 10 seconds remaining.

Ms. STABENOW. Mr. President, I appreciate the position of the Senator from Pennsylvania, but I ask unanimous consent to pass the bill containing a provision which provides at least a one-time change of plan during 2006.

Mr. SPECTER. Objection, without restating all my reasons.

The PRESIDING OFFICER. Objection is heard. The time of the Senator has expired. Who yields time?

The Senator from Georgia.

Mr. ISAKSON. I yield 5 minutes to the distinguished Senator from Tennessee, Mr. ALEXANDER.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ALEXANDER. Will the Chair please advise me when 60 seconds remains.

Mr. President, I thank the Senator from Georgia and congratulate him on his amendment.

The President talked last night about what we need to do to secure our borders. He took an important step forward. He committed to doubling the number of Border Patrol agents during his time as President. As that is ramped up, he said he would ask the National Guard to help us fill the gap. Guard members would help by operating surveillance systems, analyzing intelligence, installing fences and vehicle barriers, building patrol roads, and providing training. As a former commander in chief of the Tennessee National Guard when I was Governor, the proposal sounded to me eminently sensible.

The President also talked about using high-technology verification cards, ways that employers could do a better job of making certain the people they hire are legally here. He talked about Federal-State cooperation being improved with State and local law enforcement.

All of this will take some time, but we need to do whatever we can in the Senate to ensure that the President's commitment to secure the border succeeds. That is why I joined with Senator GREGG and others last week to add $1.9 billion to the Border Patrol during our debate on the emergency supplemental bill. That money will help replace outdated vehicles that are breaking down and purchase new boats and other equipment. That is why I am cosponsoring the amendment of Senator ISAKSON today. Senator ISAKSON's amendment says clearly: Border security must come first.

Under this amendment, we can still pass. I believe—and I will ask the Senator this question when my time has expired—we can still pass a comprehensive immigration bill, but we can't adjust the legal status of those illegally here until the border is secure. We have no business passing a comprehensive immigration bill without making sure first that the border will be secure. Upholding the rule of law on our border is as important as defending our freedom in Iraq. A nation that loses control of its own borders is a nation that will not likely exist for long.

Last year, more than half a million new citizens became Americans. They had waited 5 years, learned English, pledged allegiance to our country, had foresworn allegiance to the country from which they came, and learned about our Constitution and laws. They know the principles that unite us as Americans—not our race, not our ancestry, but principles. Among those principles are equal opportunity and laissez-faire. We thrive on immigration in this country. But among those principles, too, is our unity. And first among those principles—at least none is more important—is the principle of the rule of law. Those half-million new citizens know that they are free to drive here across the country but not to run stop lights; that they are free to make contracts in this economy but not to break them; that they are free to own a gun under the second amendment but not to shoot someone.

We thrive on legal immigration, but we cannot tolerate illegal immigration.

I would like to ask through the Chair, if I may, a question of the Senator from Georgia.

The PRESIDING OFFICER. Without objection, the Senator has 30 seconds remaining.

Mr. ALEXANDER. Through the Chair, my question to the Senator from Georgia is this: I favor a comprehensive immigration bill. I would like to see border security. I would like to see legal status for students who study here, for skilled people who help win Nobel Prizes here and improve our economy. I would like to see a comprehensive immigration bill that includes help for people legally here to learn English and learn our history and unite us as Americans. But, Senator ISAKSON, am I correct that if we pass your amendment, it is still true, is it not, that we can pass a comprehensive immigration bill that includes all of these provisions I just described? The only difference is, as I understand it, that we may not adjust the legal status of those illegally here until the border is secure? Am I correct about that or am I wrong about that?

Mr. ISAKSON. The Senator is absolutely correct, and the premise is you don't want to create an attraction for more to come until the border is secure and we know we put an end to it.

Mr. LEAHY. Mr. President, The Isakson amendment is designed to tear apart the interwoven fabric of a bill that many of us have worked so hard in a bipartisan manner to pass in the Senate.

The Isakson amendment asserts that there can be no guest worker program and no legalization path for undocumented immigrants currently in the United States until security at the borders is guaranteed. Sounds good, until you realize that comprehensive immigration reform consists of several interrelated steps, each depending on the rest in order to maximize the prospects of the overall plan to get the job done. This amendment is a prescription for failure, by ripping a comprehensive plan apart. That is why this amendment has been described as a "poison pill" that would undermine the bipartisan bill before the Senate.

The Senate recently passed the Defense supplemental appropriations bill, a bill that included nearly $2 billion for border security. It seems that what Senator ISAKSON wants the Senate to do is to wait until all of those funds are expended, and then assess our security. Many of us have been fighting for years to improve border security by targeting more resources for technology on the borders and by adding additional Border Patrol agents. The Bush administration repeatedly failed to fulfill Congress's directives in recent years, but I was pleased to hear the President say last night that he now supports increasing the number of Border Patrol agents by 6,000. He made a statement last night that was stronger and displayed a stronger commitment than we have heard from him previously, and I hope he plans to follow through on his words.

The President also spoke about the need to simultaneously implement guest worker programs and a path to earned citizenship for the undocumented. This is similar to the comprehensive approach that those of us who supported the Judiciary Committee bill, and then the Hagel-Martinez compromise, still believe is necessary to reform our broken system and to secure our borders. Do Senator ISAKSON and the supporters of his amendment believe that the President is taking the Nation in the wrong direction? I find it troubling that with such strong bipartisan support for S. 2611 in the Senate, and the leadership of the White House on the core principles of the bill, these Senators refuse to join in constructive efforts to enact comprehensive reform. From the beginning, many voices outside of the Senate have been intent on bringing down this bill.

Senator SALAZAR has offered an alternative that supports the principles of S. 2611 and that reflects the goals laid out by the President in his statement last night. I urge all Members of the Senate to vote against the Isakson ameendment and for the Salazar alternative. We must work toward comprehensive solutions that secure our borders and strengthen the Nation, not piecemeal gambits that undermine the efforts of bipartisan progress toward a Senate bill.

The PRESIDING OFFICER. The time of the Senator has expired. So 8½ minutes remain under the control of the Senator from Georgia, 12½ minutes under the control of the Senator from Massachusetts.

Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. I yield 4 minutes to myself, 4 minutes to the Senator from Illinois, and 4 minutes to the Senator from Colorado.

I ask the Chair, when I have 30 seconds left, to be informed.

Mr. President, the amendment of the Senator from Georgia does nothing with regard to the National Guard. I have listened to the debate and discussion about the National Guard. Frankly, the way the President described it last night, the Guard would be very limited. They have mainly a supportive kind of proposal. I have real concerns because in my State the Guard is very busy today with the flooding we have in part of Massachusetts. But we are open, at least I am open, on this issue. This amendment has nothing to do with that.

The fact is that those of us who oppose the amendment of the Senator and support Senator SALAZAR's amendment believe in strong border security. But we also read history. We know the record on the border. Twenty years ago, we had 40,000 people who were coming in here illegally; 10 years ago, it was 400,000. Do you know what we did? We spent $20 billion over the last 10 years, we have increased border guards by 300 percent, and guess what: We have doubled the numbers to 800,000 today—to 800,000.

What is the answer to that? The answer to that is we need tough border security, but we need tough law enforcement here in the United States, and we have to deal with the legality or adjustment of status for those who are here, prepared to pay a penalty, work hard, play by the rules, participate in the armed services of our country, and then join the end of the line for those people waiting to come into the United States—at the end of the line, and 11 years from now be able to achieve citizenship.

The fact remains, if you only do one of the proposals—and this the President of the United States understands and spoke to very clearly. I have my differences with the President, but he is absolutely right. He understands history. He is a border State Governor, and he knows you can't do this by itself, only at the border. The fact is, in the bill that we support, we increased by 12,000 the border patrol. We create a virtual fence.

If the Senator from Georgia has additional national security matters that they think can be added, we are glad to consider them. But we are dealing with the recognition that you have to have a comprehensive approach if you are going to gain control of the borders. History teaches us that. We have had hours and days of hearings about that. All you have to do is look at what has happened to the border in the last years.

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. KENNEDY. Mr. President, as has been pointed out, it is a three-legged stool: tough border security, tough legal enforcement here in the United States, and a recognition of our humanity and decency and our immigration background. If people are prepared to pay a penalty, play by the rules, work hard, and stay free from any trouble with law enforcement, at the end of the line they can earn American citizenship. That is the way to go, and the Isakson amendment short circuits that process.

The PRESIDING OFFICER. Who yields time? The Senator from Georgia.

Mr. ISAKSON. Mr. President, the Senator from Massachusetts has made the most eloquent statement in favor of this amendment I have ever heard. He put on the record exactly what we raised in title I, section 133, to secure the border. I appreciate his comments.

I am happy to yield 4 minutes to the Senator from Georgia, Mr. CHAMBLISS.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I rise in strong support of the Isakson amendment and am proud to be a cosponsor. The American people have heard Senators from both sides of the aisle and across the political spectrum come down to the floor of the Senate to talk about the 1986 Immigration Reform and Control Act and how it did not solve the problem of illegal immigration. This was the first attempt by Congress to address the issue of illegal immigration in a comprehensive way. The Immigration Reform and Control Act was the product of a number of compromises, the main one being legalizing the illegal population in exchange for stronger enforcement of our immigration laws both at the border and inside the country.

However, we all know now that the 1986 legislation, which closely mirrors S. 2611, did not work and, in fact, invited further illegal immigration, resulting in the critical situation we face regarding illegal immigration today.

As the Senate considers S. 2611 we are operating under the assumption that there are around 11 million illegal immigrants who will take advantage of an amnesty. But the fact is that we simply do not know how many illegal immigrants are in the U.S. some venture to guess that there are 20 million or more.

However, once again we find that many in the Senate are willing to make the same compromise that was made in 1986: legalize an unlimited amount of illegal aliens in exchange for increasing border security, interior enforcement, and worksite enforcement.

I personally do not agree with this approach. I do not believe that we should provide illegal immigrants with a new path to citizenship through this bill or any bill. I do not think it is the right way to address the presence of a large number of illegal immigrants.

While I do not believe in providing a new path to citizenship for illegal immigrants, the Judiciary Committee disagreed. As a result, the Senate is now considering a bill that will provide a pathway to citizenship for illegal immigrants. If we are willing to travel down the same path that proved not to work before, shouldn't we ask ourselves what didn't work with the 1986 amnesty that will work today? What has changed?

I think one of the main problems with the 1986 amnesty bill was that it ended up being one sided—the government adjusted the status of millions of illegal immigrants but the promise of greater border security, interior enforcement, and worksite enforcement never materialized.

That is why Senator ISAKSON's amendment is so critical. It says that we cannot implement any program to grant legal status to an illegal immigrant provided in this bill until the Secretary of Homeland Security certifies in writing to the President and to Congress that the border security measures in this bill are complete and operational. This is a very simple amendment.

I do not see how any Senator who is serious about border security and enforcing our immigration laws can disagree with Senator ISAKSON's amendment. It is that we ensure, before we take the same path we did in 1986, a path I disagree with, that we remedy one of the fatal flaws of the 1986 Immigration Reform and Control Act.

Disagreeing with this amendment sends the message to the American people that we are more eager to give illegal immigrants a path to citizenship than we are to secure our borders from further illegal immigration and the smuggling of illegal drugs and weapons. I know that is not the message my constituents in Georgia want to hear.

Regardless of where Georgians stand on dealing with the current illegal population, the constant refrain I hear from folks back home is: secure the border. If we do not secure the border and have serious interior and worksite enforcement, then we have accomplished nothing. The American people demand no more and deserve no less.

I am proud to cosponsor this critical amendment, which will show the American people that providing an amnesty to millions of illegal immigrants is not more important than securing our borders. I urge my colleagues to support the Isakson amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts controls 9 minutes, the Senator from Georgia controls 4 minutes 20 seconds.

Mr. KENNEDY. Mr. President, I yield 4 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 4 minutes.

Mr. DURBIN. Mr. President, I listened carefully to the President's speech last night. He gets it. As you listen to the debate on the floor from both sides the aisle, more and more Republican and Democratic Senators get it. They understand it now. It isn't just a matter of getting tough. It isn't just a matter of enforcement. It is a matter of enforcement and a process that results in comprehensive immigration reform.

If it were just a matter of making it tough to cross our borders, you would assume we would have moved toward solving the problem. But it hasn't happened. In the last decade, we have doubled the number of Border Patrol agents. They have spent eight times as many hours patrolling the border in that 10-year period of time, and during that same period the number of undocumented immigrants coming into the United States has doubled—despite this dramatic increase in resources. Enforcement at the border is not stopping the flow.

The comprehensive bill says you need to do three things. You need border enforcement. I support what the President said last night. I think sending the National Guard, if we can get all the details, on an interim basis is a good thing to move toward enforcement. But you also need to have enforcement in the workplace so there is no magnet for these people to move into the United States. And you need to deal honestly with the 11 million or 12 million who are here and bring them out of the shadows so that we know who they are and where they are, whether they are working and whether they pose any threat to this country. It is a comprehensive approach.

Senator ISAKSON is stuck on the first issue—just enforce the borders and do nothing else until you have enforced the borders. But we have learned that is, in and of itself, not successful. You need to have a comprehensive approach—enforcement at borders, enforcement in the workplace, and a process that brings these people out of the shadows.

Senator SALAZAR has offered a reasonable alternative. He says leave it to the President of the United States to certify that it is in the best interest of our national security to move forward with this process. That puts a mind on the job that we need. It isn't just a simple certification of enforcement; it looks at the whole picture. Until you look at the whole picture on immigration, we will continue to have politicians debate it back and forth, with their 30-second ads flying in both directions, and nothing is going to happen.

This is a unique opportunity in our history to move forward with comprehensive immigration reform, something that will finally work.

Twenty years ago, when we granted amnesty, we thought it was the end of the issue. We were wrong. We have seen a dramatic increase in illegal immigration into the United States. Now, 20 years later, let us not repeat the mistake with a simpleminded, linear approach that says if we just get tough on the border, everything will be fine. You have to do the whole package. The President argued for that last night.

Part of that enforcement in the workplace is a tamper-proof ID card using biometrics so we know who that employee is, where they live, what their background may be, and finally a process—a long, tough process—where those who are here undocumented can earn their way into legal status. It may take them 10 years, it may take them 12 years, but in that period of time, they have to learn English, they have to work, they have to pay their taxes, they have to pay any fines they owe this Government for coming into this country, and they have to show they have a demonstrated knowledge of our history and the way our Government works. They have to report every year so we know that they are keeping up with their requirements. And if they stick with it for 10 or 12 years, they will reach legal status. It is not amnesty, but it is a sensible part of comprehensive immigration reform.

I urge my colleagues to support Senator SALAZAR and oppose Senator ISAKSON's amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield the remaining time to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 4 minutes 20 seconds.

Mr. SALAZAR. Mr. President, let me reiterate that the approach which was outlined by the President, which the bipartisan coalition of Senators has been working on, is a comprehensive approach. History has shown that when we take only one aspect of immigration reform, we fail. We failed in 1986. We failed at different efforts over the last 20 years. This time, we have to get it right.

The President of the United States is right when he ultimately stated last night that we need comprehensive immigration reform. The proposed amendment by my colleague from the State of Georgia, and my good friend, essentially would take what are the 54 provisions of title I in this piece of legislation we are currently considering, going from section 101 all the way to section 154. It essentially would say that we are only going to be about a border enforcement bill without dealing with the other aspects of the legislation which is proposed. He would leave on the side what we do to bring the 11 million people who are here out of the shadows and get them registered in a system where we can monitor them, make sure if they are criminals they are deported, make sure if they are law-abiding citizens we put them in a kind of guest worker program that will work, and his provision essentially would gut this bill.

The proposal of my good friend from Georgia is no different in most respects from what came out of the House of Representatives. It is a border-enforcement-only bill. It has been said time and time again that if we are going to address the issue of immigration reform, we need to do it in a comprehensive manner. We need to move with border enforcement, and our legislation does that. The President's statement last night that in the meantime we will go ahead and have the National Guard assist us in making sure we are securing our borders needs to be followed.

Second, we need to make sure we are enforcing our immigration laws within the interior of our country. Our legislation proposes to do that.

Third, we need to deal with the reality of the bill and the elephant in the room—the 11 million people who are living here in the United States today. We need to bring them out of the shadows. My friend from Georgia would propose to leave them in the shadows for an indefinite period of time, whether it be 5 years, 20 years, or 30 years, whatever it might be. That will not work. We need to move forward with comprehensive immigration reform today.

I urge my colleagues to oppose the Isakson amendment and to support the amendment which I have offered.

I yield my time back to the Senator from Massachusetts.

The PRESIDING OFFICER. Who yields time?

Mr. ISAKSON. Mr. President, I yield 1 minute 30 seconds to the Senator from South Dakota, Mr. THUNE.

Mr. THUNE. Mr. President, I ask unanimous consent that my name be added as an original cosponsor of the Isakson amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THUNE. Mr. President, I would like to speak in support of that amendment this morning.

This approach is a very sound concept. In fact, as we get to the debate about immigration, clearly the first and most important issue to deal with is the issue of border security, and the people across this country are asking us to deal with it. Frankly, until we deal with that issue, we can't move on to the next issue of dealing with the 12 million people who are here already. Until we give the American people the confidence that we are serious about enforcing the border, that becomes an irrelevant conversation. This is a very simple concept.

I have supported the Isakson amendment since he first introduced it. We discussed this issue several weeks ago when he had his amendment filed and pending. I am glad we will have an opportunity to vote on it. I believe it is a very sound approach. It simply says that until we do these things, we can't do these things. The first and foremost paramount responsibility here is border security.

We need to enforce our borders. The Isakson amendment makes that abundantly clear.

Again, before we can deal with the other issues in this debate, I believe the American people expect us to have a secure border and one that is enforced and one that we are serious about in getting our illegal immigration stopped.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I will take the last minute 20 seconds.

We ought to learn from history. What we learn from history, from the studies on the border and listening to those hearings, is that just trying to build up the border and add the fence down there is not going to solve the problem. If you read from history, as has been pointed out by Republicans and Democrats, if you just grant amnesty, it doesn't solve the problem.

We have crafted a balanced program which will have strong national security, strong border protection, and also have strong enforcement in terms of employers and recognize that those individuals who are here working hard, playing by the rules, and paying the fines, we will have the ability to adjust their status.

You have to have the three legs of the stool. History teaches us that. The Isakson amendment will take two of those important legs away. It doesn't make sense if we are interested in national security, and it doesn't make sense if we want to have real immigration reform. The President understands it. I hope the Senate will.

The President understands it. I hope the Senate will.

Mr. REID. Is all time expired?

The PRESIDING OFFICER (Mr. BURR). The Senate majority still has 2½ minutes.

Mr. ISAKSON. Facts are stubborn figures. Senator KENNEDY said we should learn from history. He served in 1986, when we passed a bill that promised border security that did not deliver and granted amnesty that did not deliver, and we ended up quadrupling the number of illegal aliens in the United States.

Facts are also stubborn because every word he said about the Isakson amendment is inaccurate. He did not discuss a single word of the 614 pages, except to say before you grant legal status to people here illegally, we must have border security so we do not repeat the tragedy of 1986.

In Deep South Georgia, we have an old saying: If you want to get the mud out of the spring, you have to get the hog out of the water. The hog in the water in this debate is those who have been trying to obfuscate everything we are trying to say.

Simply, we want the same thing. We want comprehensive reform. That begins with what the President said last night: Border security first. The President said last night that we can do it by 2008. Ask Congress for the money. This is an authorization. I want a commitment.

If we do not commit to the people of the United States of America—our school systems that are overcrowded, our health care and emergency rooms that are challenged, our civil justice system is challenged—and see to it that we get a border that is secure so we can manage our legal immigration in the future, history will be the teacher that we had in 1986.

Facts are stubborn things. The fact is, the Isakson amendment on this comprehensive reform says what the President said last night, that securing the border first is job one. I submit anything that anyone says that is the opposite means they want to repeat the tragedy of 1986.

I ask my colleagues to sincerely search their heart and soul for their constituents and vote in favor of this amendment. Let's have comprehensive reform that begins with a secure border.

The PRESIDING OFFICER. All time is expired.

Mr. REID. I will use my leader time.

The PRESIDING OFFICER. Without objection, it is so ordered.

10,000TH VOTE FOR SENATOR LEVIN

Mr. REID. Mr. President, on the next vote cast, we are going to vote on the Isakson amendment, and then we will vote on the Salazar amendment. On the Salazar vote, the distinguished senior Senator from the State of Michigan, CARL LEVIN, will cast his 10,000th vote.

It is very difficult in a short period of time, or a long period of time, to convey to the American people and to this

Senate the personality of CARL LEVIN. I have had the good fortune of serving in Congress now for more than two decades. Prior to that, I had the good fortune of representing the State of Nevada in other positions in government. CARL LEVIN is a unique individual. I have never served with anyone whom I had greater respect for his ability to understand an issue.

There are so many instances. I can look at the last time we did the Defense authorization bill. We worked very hard to get 45 Democratic Senators to have an amendment that we could agree on that we would put forward our position on the intractable war in Iraq, led by CARL LEVIN. In numerous meetings we held in my office, we came up with an amendment. He would come back each time with his handwritten notes that this needed to be changed or that needed to be changed.

To show his integrity and how people feel about him on both sides of the aisle, when we finished our difficult work, he called me within an hour and said: Would you mind if I discussed this with Senator WARNER? I said: Of course, not. Within a few minutes, Senator WARNER was a cosponsor of that Democratic amendment. It was not a Democratic amendment, as we thought it was, it was an amendment for the Senate, and it passed overwhelmingly in the Senate.

With the Schiavo case that came before the Senate, a very difficult matter that came before the Senate, we were out of session. CARL LEVIN was in town. He worked on this, as many will recall, during the recess. We went back and looked at it some more. CARL LEVIN was changing parts of this. Changes were agreed upon by the Senate, and when this matter went to the Eleventh Circuit, the reason they decided the way they did is because of what LEVIN did to this matter before the Senate.

These are only two examples I came up with as I walked into the Senate. The instances are too numerous to mention, but it is not difficult to mention what a difference he has made in the Senate and in our country.

Here is a man who has an exemplary family. His wife Barbara is one of the loveliest, kindest, finest people, with one of the best smiles I have ever seen on a person I have ever known. He has three daughters.

To try to convey the kind of man he is, I was thinking about running for the Senate. I was a Member of the House of Representatives. I came to visit CARL LEVIN. One of the first things I said to him after I said hello, I said: I served in Congress with your brother, Sandy. CARL LEVIN said to me, in the most positive, affectionate way about his brother, he said: Yes, he is my brother, but he is also my best friend.

That is CARL LEVIN, a man who was born in Detroit, MI, who has an outstanding educational background. He was a law professor. He practiced law. He now joins a distinguished group of Senators. CARL LEVIN will shortly cast his 10,000th vote. Senators SARBANES, LUGAR, and HATCH are in that category. Over 12,000 votes for Senators LEAHY, BIDEN, and DOMENICI. Over 14,000 votes for Senators STEVENS, INOUYE, and KENNEDY; and Senator BYRD has over 17,000 votes. One, two, three, four, five, six, seven, eight, nine, he is in the top ten. And that is the same reason that Time magazine announced that CARL LEVIN was one of the best Senators in the United States. I agree with Time magazine. Congratulations, CARL.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I ask unanimous consent for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, first, let me thank the Democratic leader for everything he said and for everything he stands for and who he is.

This is a moment I have not looked forward to in terms of responding to what I knew was forthcoming. Basically, I don't feel 10,000 votes old. The Senate has changed a lot in the last 27 years. Some things have not changed. The trust and the affection and respect we feel for each other is still the basis of our operations. That has not changed.

This Senate is still, surely, the singular place in the world, where men and women can give their own lives and do so with respect for the rights of the minority to debate, to deliberate, and, yes, to delay, if that is important to making an issue clear.

The resilient strength of this Senate makes it almost impossible for someone to serve without sensing the majesty of this place and the special responsibility we all have as caretakers of the Senate.

In addition to my leader, I thank all the leaders of this Senate for making it what it is and keeping it what it is so be. I thank all my colleagues for all of the courtesies they have shown me over the years.

Let me thank my family for the constancy with which they have supported me and thank my staff for all the help they have provided to me. We all know we cannot function without family and staff giving us the total support.

I thank our leader for mentioning my wife Barbara and our three children. I would only add four grandchildren to that. Other than that, he did cover the waterfront so well for us, and I am grateful for that.

Finally, let me thank the people of Michigan who have honored me for all these years with their trust and what is the responsibility that we all bear to our State and to our people.

I look forward to working with each of you, my colleagues, in the future as we have in the past. And a special thanks, again, to you Senator REID for the feeling and passion with which you do your work and in speaking these words.

The PRESIDING OFFICER. The question is on the Isakson amendment No. 3961.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. And I ask for the yeas and nays on the following amendment, on the Salazar amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SALAZAR. I ask unanimous consent Senator MARTINEZ be added as a cosponsor to amendment No. 3994, which is my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment numbered 3961. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Mississippi (Mr. COCHRAN), the Senator from New Hampshire (Mr. GREGG), the Senator from Mississippi (Mr. LOTT), and the Senator from Arizona (Mr. McCAIN).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 55, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—40

Alexander
Allard
Allen
Bond
Bunning
Burns
Burr
Byrd
Chambliss
Coburn
Conrad
Cornyn
Crapo
DeMint
Dole
Domenici
Dorgan
Ensign
Enzi
Frist
Grassley
Hatch
Hutchison
Inhofe
Isakson
Kyl
Landrieu
McConnell
Nelson (NE)
Roberts
Santorum
Sessions
Smith
Stabenow
Sununu
Talent
Thomas
Thune
Vitter
Wyden

NAYS—55

Akaka
Baucus
Bayh
Bennett
Biden
Bingaman
Boxer
Brownback
Cantwell
Carper
Chafee
Clinton
Coleman
Collins
Craig
Dayton
DeWine
Dodd
Durbin
Feingold
Feinstein
Graham
Hagel
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
Martinez
Menendez
Mikulski
Murkowski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Salazar
Sarbanes

Schumer
Shelby
Snowe
Specter
Stevens
Voinovich
Warner

NOT VOTING—5

Cochran
Gregg
Lott
McCain
Rockefeller

The amendment (No. 3961) was rejected.

Mr. CONRAD. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I voted to support the Isakson amendment which would have delayed the implementation of the amnesty provisions of this bill until the Secretary of Homeland Security had certified that the bill's security measures are fully operational.

I oppose amnesty for illegal aliens—absolutely and unequivocally. Therefore, I support those measures, such as the Isakson amendment, that would prevent the amnesty provisions of this bill from taking effect.

The PRESIDING OFFICER. The Senator from Michigan.

CONGRATULATING SENATOR LEVIN

Ms. STABENOW. Mr. President, before we proceed to the next vote, I want to acknowledge that this is a historic vote for us in Michigan because our senior Senator CARL LEVIN will be casting his 10.000th vote. We are so proud of him in Michigan. He stands for all that we believe in and serves with dignity and is respected by everyone here. I want to mention he is the 25th Senator in the history of our Senate to cast 10,000 votes.

I went back to research his very first vote. I thought this was an example of a historic moment. He cast his first vote on February 22, 1979. It was in favor of a Byrd motion to table a Stevens amendment to S. Res. 61 which was a postcloture rules change resolution. It was very profound, and he has been profound ever since.

Congratulations to Senator LEVIN.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, I join the minority leader in congratulating our colleague, Senator LEVIN, on his 10.000th vote. His 28-year tenure has been marked by vote after vote. It represents his integrity, his character, his leadership. He cast his vote in some of the most significant consequential debates of this country.

Senator LEVIN has been that tireless advocate for our military, our military families. His work with Chairman WARNER on our annual defense authorization bill provides that critical support for our troops in the form of both equipment and readiness. In 2004, the National Guard Association of the United States presented him with the Harry S. Truman Award for distinguished service in support of national defense. The awards go on and on and on. This is only one of the many awards he has received for his unflagging support of our military. I commend and thank Senator LEVIN for his tremendous contributions to this country and for his long and distinguished service to the people of Michigan.

(Applause, Senators rising.)

VOTE ON AMENDMENT NO. 3994

The PRESIDING OFFICER. The question is on agreeing to the Salazar amendment No. 3994.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Mississippi (Mr. COCHRAN), the Senator from New Hampshire (Mr. GREGG), the Senator from Mississippi (Mr. LOTT), and the Senator from Arizona (Mr. MCCAIN).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 16, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—79

Akaka
Alexander
Baucus
Bayh
Bennett
Biden
Bingaman
Boxer
Brownback
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Coleman
Collins
Conrad
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Durbin
Ensign
Feingold
Feinstein
Frist
Graham
Grassley
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
Martinez
Menendez
Mikulski
Murkowski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Roberts
Salazar
Santorum
Sarbanes
Schumer
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—16

Allard
Allen
Bond
Bunning
Burns
Burr
Byrd
Cornyn
Dorgan
Enzi
McConnell
Nelson (NE)
Sessions
Shelby
Talent
Thomas

NOT VOTING—5

Cochran
Gregg
Lott
McCain
Rockefeller

The amendment (No. 3994) was agreed to.

Mr. KENNEDY. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I believe when we return at 2:1 p.m., we will go to Senator DORGAN's amendment, followed, hopefully, shortly thereafter by the Bingaman amendment, depending on the outcome, for the notification of the Members.

I thank all of our colleagues for their cooperation for a good morning's debate and discussion.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2:15 p.m.

Thereupon, at 1:02 p.m., the Senate recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006—Continued

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, it is 2:15. We are reconvening. We are about ready to proceed with the bill. We have quite a number of Senators who have stated an interest in filing amendments. We urge them to come to the floor so we can get a queue and proceed to consider the amendments and dispose of the bill.

Mr. DORGAN. Mr. President, is the Senator asking an inquiry at this point? I did not hear the inquiry.

Mr. SPECTER. We are ready for your amendment, Senator DORGAN, if you are prepared to offer it.

Mr. DORGAN. I will be laying the amendment down in just about a minute. I am reviewing one piece of it. I will be laying the amendment down in about a minute.

Mr. SPECTER. While you are undertaking those last-minute preparations, would you give some consideration to a time agreement, an hour equally divided?

Mr. DORGAN. Mr. President, I will do that, but I will not do it at the moment. I want to perfect the amendment and begin discussions, see how many on my side and perhaps your side wish to speak on it before we would make an agreement with respect to the time.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from North Dakota.

AMENDMENT NO. 4017

Mr. DORGAN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes amendment numbered 4017.

Mr. DORGAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit aliens who are currently outside the United States from participating in the H–2C guestworker visa program)

On page 250, between lines 13 and 14, insert the following:

"(1) ELIGIBILITY FOR DEFERRED MANDATORY DEPARTURE STATUS.—The alien shall establish that the alien is eligible for Deferred Mandatory Departure status under section 245C.

Mr. DORGAN. Mr. President, I have offered an amendment. I will describe very briefly what it does. It essentially strikes the guest worker provision, as it is now known. Guest worker is described in other ways—future flow, guest worker. It strikes that provision, but it does it in a way that would not interrupt the underlying bill's decision to have those who are here for 2 to 5 years to step outside this country and step back in. It would not affect those folks, but it would prevent the guest worker provision from being operative in a way that would allow those who are now living outside of our country, who are not in this country, living outside of the country, to come in in future years under this guest worker provision.

The guest worker, future flow—all these titles that are used by the President and by people in the Senate, it is kind of like Mr. Roger's Neighborhood. These are wonderful-sounding terms—future flow. I didn't know what that was until I learned or heard some of the descriptions of future flow. What that means is we are going to provide a circumstance where we try to get control of immigration but at the same time allow others who are now outside of our country to come into our country under a guest worker provision.

Let me describe the circumstances, especially on the southern border, for the moment. Last year, we believe there were 1.1 to 1.2 million people who tried to come into this country but were apprehended and stopped and prevented from coming in illegally. We also believe that in addition to the 1.1 million or so who were stopped and not allowed to come into this country illegally, there were another probably three-quarters of a million people who came illegally across the southern border.

In addition to that, about 175,000 people came in legally across the southern border—those who had children here under the quotas or other circumstances and came into our country legally. So 1.1 million were apprehended and stopped, about three-quarters of a million came illegally, and about another 175,000 came legally into this country.

We are at a time where, if you read the paper every single day, what you see is the new corporate economic strategy. In fact, Tom Friedman wrote a book, "The World Is Flat." Of course, the world isn't flat. That sells a lot of books, but the world isn't flat. The proposition of "The World Is Flat" is that there are now 1 billion to 1.5 billion people around the rest of the world willing to work for a very small amount of money, so those who want to produce products can move those jobs now to China, India, Bangladesh, Sri Lanka, and produce for a very small amount of income. So they pay pennies: 20 cents an hour, 30 cents an hour, 40 cents an hour to produce the product. They ship the product into the United States to sell. Then they run the income through the Cayman Islands so they don't have to pay taxes.

Even while this strategy of shipping good American jobs overseas is underway by some of the largest corporate interests, those interests also want not only to ship those jobs overseas, they want to import cheap labor at home. That is the strategy: export good American jobs and import cheap labor. That is probably a good strategy for profits, I am guessing, but it is an awful strategy for this country. That is not the way we built this country. The broad middle class that burgeoned in this country in the last century happened because of the good jobs that paid good wages and had health care benefits and retirement and so on. That is what helped create a middle class in this country. And the presence of that middle class in this country, the middle-income workers in this country, has made this country something very unusual on the face of the Earth.

Now we see a new strategy. The world is flat, we are told. That flat world means you can get rid of American jobs, move them to China. I have told the stories forever, so I will not again, but Fruit of the Loom underwear, you know, the underwear with the dancing grapes telling us how wonderful Fruit of the Loom is, they are gone; Levis, they are gone; Huffy bicycles, gone; the Little Red Wagon is gone; Fig Newton cookies is now Mexican. I could tell stories forever about exporting American jobs, but the corollary to that is that is not enough. Exporting good American jobs is not enough. Now it is importing cheap labor.

Alan Blinder—no radical economist, former Vice Chairman of the Federal Reserve Board—Alan Blinder just wrote a piece. He said there are somewhere between 42 million and 54 million American jobs that have the potential to be outsourced. He said not all of them will be moved abroad in search of cheap wages. But, he said, even those that stay here are going to have to compete with cheaper wages, with lower wages abroad. So that is the future. That is the strategy. That is the new corporate approach—aided and abetted, I might say, by the Congress with these trade deals.

In addition to that which is threatening American workers, we have the back side coming in: illegal workers. Yes, they are illegal. When they come into this country, they are illegal if they don't come through a legal process. They come in and compete with subpar wages with American workers.

Let me just ask the question for a moment: What would happen in this country if tomorrow we had no immigration laws at all? If we said: Look, we are the United States of America. We are a great country. We say to the rest of the world: Welcome. Come here, stay here, live here, work here. Just come on, come to America. You are welcome. There are no longer any immigration laws at all.

What would be the result of that in a world in which one-half of the population lives on less than $2 a day, in a world in which one-half of the population hasn't even made a telephone call? What would be the result of our saying we no longer have any immigration laws; we invite the rest of the world to come to this country?

It is interesting. There have been polls done in other countries: How many of you would like to immigrate to the United States? It is massive numbers of people. We would be awash in people. So it is not selfish for our country to be somewhat protective of our standard of living, somewhat protective of our jobs and our interest in retaining a middle class that lives well, that has a job in order to work at a decent wage, has health care, has retirement. It is not selfish for us to do that.

There are many voices speaking for immigrants. I don't want in any way to diminish the dignity or the worth of immigrants. I come from immigrants. I assume most of the people serving in this Chamber come from immigrant parents, grandparents or great-grandparents.

I don't want in any way for this debate to inflame or in any way diminish the worth or dignity of immigrants. I don't want us to inflame passions against those who have tried to escape poverty in their own countries to come to the United States to escape misery and poverty. But we in America have a responsibility as well to our citizens, and there is precious little talk about them in this Chamber these days. We have built the strongest economy in the world. Now we talk about immigration. I don't think that we can talk about immigration without talking about American jobs, about salaries, workers' benefits, and opportunities for those who are here legally. Yes, I am talking about all the American workers. That includes Hispanic workers, African-American, Asian, Caucasian, all American workers.

I will show some charts in a few moments to discuss what is happening to them.

We have gotten a lot of people speaking up for those who are immigrants, many who have come here illegally.

Let me speak for a moment on behalf of American workers, and let me talk for a little bit about what has happened to the American workers.

We are told by the President and by others, including debate in this Chamber, that Americans don't want these jobs, so we need the illegal immigration to occur. And now we would make it legal, and now we would have additional guest workers to occur because Americans will not take these jobs.

Seven percent of the transportation workers are illegal, but 93 percent are legal.

Americans will not take those jobs?

Ninety-one percent of the jobs in manufacturing are U.S. citizens, legal workers, and 9 percent are illegal workers.

Construction: 86 percent of the people who work construction in this country are American workers, legal workers, American citizens here legally. And we are told that Americans will not take these construction jobs? I don't think so. Of course, they will.

The evidence is pretty substantial. The question is: What has been the impact on American workers of illegal immigration?

We talk about this, as I said, as if it is kind of "Mister Rogers' Neighborhood"—it is all feel-good, easy sound bites, soft words, future flow, guest workers.

Let me talk about a study by Professor Borjas of the John F. Kennedy School of Government at Harvard University in 2004. He said the impact of immigration from 1980 to 2000—and principally we are talking about legal immigration, the impact by ethnicity of U.S. workers—has cost the average American worker $1,700 in lost wages per year.

Whom does it hurt the most? It hurts the Hispanic workers in this country, those who are here legally. It hurts the African-American workers. It hurts Asian workers. It hurts all American workers.

This is not a painless or pain-free exercise to have millions and millions of people come through the back door into this country illegally to assume jobs. It is not painless. The American people are paying the cost of that. The American workers are experiencing the problems as a result of it. The problems are lower wages.

Let me describe what has happened to income in this country. As we can see the changes in after-tax earnings by income bracket, the top 1 percent are doing well. It is the case of the top fifth. The people at bottom are hurting, with very little income increase at all.

What is happening is we have now the development of the "haves" and the "have nots." At least a portion of that, in my judgment, a significant portion of that imbalance comes as a result of public policy in this Chamber from people who believe that as the economy works when we put something in at the top—and it is called classic trickle-down economics—put something in at the top, it filters down, trickles down, and pretty soon everybody gets a little damp. It is not true. It doesn't work.

I would like to show some additional charts about what we are dealing with.

When we talk about guest workers and future flows, let me describe it specifically with respect to the bill that is on the floor. The bill on the floor says we have 11 million to 12 million people who have come here illegally. We are not sure how many, we need to find a status for them. And it develops three different categories for them. But it also says, in addition to all of that, there are other people living outside of our country whom we want to invite in, in the future, 325,000 a year, and over 6 years with a 20-percent escalator each year that is in this bill you are talking about the potential of 3.8 million additional people.

This piece of legislation says: By the way, let us invite another 10 million people here in 10 years.

That is the way it grows, with 325,000 and the 20-percent escalator.

Is that what we should be doing in our country? Is that the strategy that makes sense?

This country is unusual on this planet. We live here with about 6.3 billion neighbors. We circle the Sun, and in this spot on the globe there is illumination of having developed something extraordinary in the world. I have described the time when I was on a helicopter that ran out of fuel in the mountains and jungle area between Honduras and Nicaragua. We landed under power, but the red lights were on and the bells were ringing and we were not going to fly anymore. We were stuck there for some many hours until we were found. The campesinos from the mountains came to see who had landed. We had an interpreter with us. I was asking them, through this interpreter, a little bit about their lives, what they would aspire for their lives. A young woman was there with three or four children. I said: What is it you aspire for your life?

I want to come to America. I want to move to the United States.

I asked: Why?

Because that is the area of opportunity. The United States is an area of opportunity. It is jobs. It is for me and my children to have jobs in the future.

We find that virtually in every part of the world. So as a result of that, we have had to have immigration laws. Twenty years ago, we had this same problem; that is, illegal immigration overrunning this country.

It has a direct impact, as I have shown, on American workers, something not much discussed in this Chamber today. But it has a direct and a detrimental impact on American workers. That includes Hispanic workers who are here legally and have been here a long time. It diminishes their wages. But 20 years ago we had this debate.

The debate when I was serving in the House at the time was: How do you deal with immigration? The answer was simple. Senator Simpson was on the floor of the Senate, Congressman Mazzoli was in the House, and a piece of legislation passed and was signed into law called the Simpson-Mazzoli bill. There was great celebration because this was going to solve the immigration problem.

How would it solve the immigration problem and employer sanctions? The proposition was that the lure for people to come to this country is to find a job. If you shut off the jobs and you say to the employers: Don't you dare hire illegal workers, don't you dare bring people through the back door and pay them subpar wages because they are illegal. If you do that, you are going to be hit with sanctions. This Government is going to penalize you.

Guess what. Last year, I am told there was one enforcement action in all of the United States against a company that was hiring illegal workers. The year before, there were three actions in all of the United States against employers who hired illegal workers.

This Government did nothing to deal with it, nothing.

The other day in North Dakota—they are building an energy plant—I believe it was the highway patrol who picked up seven people, illegal workers. I think six were from Guatemala and one from Mexico. They drove them about an hour north to Minot, ND, to the immigration office. They processed them through the immigration office. They then drove them back to the motel near, I believe, Washburn, ND, dropped them off and said: You are now required to come to Minneapolis within the next month—they gave them a specific date—to a hearing on your case. Of course, they will never be in Minneapolis. We will never see them again. They will never show up again.

It is the process. As some call it, catch and release. You catch them, you let them go, and say: Show up later. Oh, by the way, next time they show up, they will probably be on another job site because this Government does nothing to enforce the law. Now we are told this is a three-legged stool, as if this is a furniture store. All morning I hear three-legged stool. I do not know where the stool came from. I don't know about the three legs. All I know is that you must, it seems to me—if you are going to be dealing with immigration issues—find a way to effectively reduce illegal immigration. You have to do that. You don't do that by turning a blind eye to the issue of employer sanctions.

Say you are an employer and want to bring in a string of illegal agricultural workers and pay them subpar wages, you are going to get in trouble. If you do that, you are not going to solve this problem.

In the President's address last night to the country, I didn't hear a word about that. He is going to deploy the National Guard, an overstretched National Guard. They have been on multiple deployments, in some cases, to Iraq, but no discussion about shutting off the jobs that represent the lure for illegal workers to come into this country—not a word.

It is true that the first step to deal with the immigration issue is to enforce the prohibition on hiring illegal workers.

This issue we are discussing is a big, broad issue. It has legal immigrants coming in who are not citizens but entitled to work under the H–2A program and the H–2B program. We have workers who come in on a temporary basis dealing in agriculture. We already have processes by which people come into this country legally to work. What is being discussed is on top of all of that.

You have a bill that comes to the floor of the Senate that says: All right. Let us take the 11 million or 12 million—whatever it is—who are here illegally and separate them into three groups. One is the group that has been here less than 2 years. They have to go back. The second is the group that has been here 2 to 5 years. They have to go back, and then they can come right back in.

Third is the group that has been here longer than 5 years, and they have the capability of earned citizenship, as will the 2 to 5 million people under certain circumstances.

So that is what is in front of us.

On top of that, as if they put a big old discolored patch on an inner tube, this legislation—and by the way, in addition to dealing with that and trying to get tough on employer sanctions, something I have heard before as all of my colleagues have as well, and responding to those needs—in addition to all of that, we have decided there are not enough people coming into our country, so we want to allow more, up to 3.8 million more in the coming 6 years. These are people who do not now live here whom we want to come in to take American jobs. We are told the reason for that is there will be people attempting to get across the border anyway.

Let us at least recognize they are going to be what are called future flows.

That seems to be giving up on the issue of whether you have good border enforcement. You either have decent enforcement on the border or you don't. If you have good enforcement, why on Earth would you decide that in addition to allowing 11 million or 12 million people who are here illegally to deal with their status internally in this country and decide in addition to that we have decided that, yes, we have quotas for our country. We have immigration opportunities in H–2A and H–2B and many other areas. But on top of that, we have decided we want up to 3.8 million more to come through our doors. Why is that provision in this bill?

I am told it is in this bill because that is the price the Chamber of Commerce extracted for supporting this bill. No one has disabused my plea of that. I am told that is the basis on which the U.S. Chamber of Commerce would support this piece of legislation. Why would they want up to another 3.8 million in 6 years, or far more in 10 years? Why would they want additional guest workers or future flows to come in legally on top of what is already allowed in this legislation? The answer is simple. It goes back to the first chart I showed. It is the economic strategy and the new national world, exporting good jobs and importing cheap labor. The guest worker provisions and the future flow provisions are about importing cheap labor.

Yesterday I mentioned a man named Jim Fyler. Jim Fyler died because he was shot 54 times. He was shot 54 times because Jim Fyler believed strongly that people should have the right to collectively bargain and to organize. Jim Fyler cared deeply about coal miners and the conditions under which coal miners were working: underground, long hours, child labor, bad wages, no benefits. Jim Fyler was one of those folks who, on behalf of collective bargaining, on behalf of forming a union of coal miners, was shot 54 times.

We have gone through all of that in a century—people losing their lives fighting, battling for the right to organize, people battling for the right to work in a safe workplace. We have had the political fights for minimum wages, the fight to prevent polluting the air and water by companies producing products and dumping their chemicals into the water and the air. We have been through all of these fights.

Now the American worker is told: By the way, those fights are over. In fact, you won them for a while, but now you have lost because anyone who wants to produce can pole-vault over that and move their production to China and hire someone for 33 cents an hour, work them 7 days a week, 12 to 14 hours a day, and if American workers do not like it, tough luck: The reason we did it is because you cannot compete.

By the way, for those who still have your jobs and they are not outsourced, look behind you. In the back door, we are bringing in low wage workers. Those low wage workers will work for substantially less money than you are willing to work.

This is about low wage replacement workers, as I call them. It is not guest workers. It is not future flow. It is low wage replacement workers, 3.8 million in the coming 6 years in this bill.

My amendment does two things. One, it gets rid of this future flow guest worker. That does not mean we won't have immigration. We will. We have many other provisions in the law allowing for legal immigration, temporary workers, agricultural workers. That already exists. I eliminate the provision that is above that.

My amendment also accommodates the underlying bill, if, in fact, it passes, and will not interrupt that with respect to the 2- to 5-year people who must step out of the country before they come back into the country and then seek legal status. I have written this amendment so I don't interrupt that, either. Someone mentioned earlier that they thought this would affect that. It does not. This simply affects the piece of legislation that will allow those who never lived in this country, who now live outside of our country, and who, in this piece of legislation, will be told, in addition to all the legal ways you can come to this country, we are going to have a future flow, a guest worker provision that allows you to take American jobs. Why? Because I guess American workers are not available for those jobs or maybe it is because this same body has not increased the minimum wage for nearly 9 years. For 9 years, this body has not seen fit to increase the minimum wage. Maybe there are jobs they have trouble getting the American workers to take. Maybe it is because they have not increased the minimum wage at the bottom of the economic ladder, the bottom rung. The solution to that? Well, we will not increase wages for American workers. Let's not shore up benefits for American workers. Let's instead decide we will bring in additional guest workers from outside of our country.

I will show a chart that describes what these folks are earning. In Russia, it is 51 cents an hour in wages; 37 cents an hour in Nicaragua; 33 cents an hour in China; 33 cents an hour in Bangladesh; 30 cents an hour in Haiti; and 11 cents an hour in India. This is what we want American workers to compete with?

It is one thing to see American jobs moved to those overseas wages. I have spoken at great length and I have almost resisted the attempt to speak at greater length about these companies which have decided to avail themselves of 20-cents-an-hour labor so they can ship their product to the store shelves in Pittsburgh, Fargo, Los Angeles, and Chicago. I have almost resisted that, but I am thinking maybe I shouldn't. Maybe I should discuss at some length the circumstances of moving those jobs overseas. Then, by the way, for those whose jobs have not moved, we have a surprise for you in the back end.

We now have, additionally, guest workers coming in who will work at the bottom of the economic ladder and, as the professor from Harvard has said, put downward pressure on wages in this country.

All I am asking the Senate is this: Maybe we could have some discussion, even as we talk about immigration, about the impact and the effect of this subject on American workers, on workers who are here legally. Yes, those are Hispanics, African Americans, Asians, Caucasians, everyone. Many are struggling. They lose their job and get another job at lower pay. The burgeoning middle class is slimming down because the world is flat. We are, too.

That is total rubbish, of course. The so-called flat world is a rose-colored evaluation of how corporations can simply make more money by having American jobs leave our shores and then sell their products back into our country. I am saying that in the long term, I don't think that works. I don't think that supports or creates the foundation for the sustaining of a strong, robust economy in this country that grows for everyone.

We have dangerous inequalities in this country of ours with respect to income. I have shown a couple of charts about that. We need to have some discussion about the impact on American workers with respect to these policies. That is why I have offered this amendment.

I believe the Senator from Pennsylvania wishes to speak.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I inquire of the Senator from North Dakota whether he is prepared now to enter into a time agreement. There have been no Senators on this side of the aisle who have expressed an interest in debating the issue. My reply will be relatively brief. My suggestion would be that we ought to seek to close off debate—it is now 8 minutes to 3 o'clock—close off debate by 3:15 and move on to another amendment.

I alert colleagues on this side: we are in a position to move forward with the Kyl-Cornyn amendment, which is next on the list. I do not know what amendments will be offered by the Democrats, but I have made an inquiry, and they are making an effort to identify the Senators who will offer amendments and bring them to the Senate. If the Kyl-Cornyn amendment can be worked out, which is a distinct prospect, we would then move to the Sessions amendment. I have alerted Senator SESSIONS. If he can come to the Senate in the next few minutes, that will be helpful. Then we have Senator VITTER's two amendments. Senator VITTER talked to me shortly before noontime. If he can come to the Senate and be available, we are in a position to move ahead.

I inquire of the Senator from North Dakota whether he is in a position to agree to conclude debate, say, in 20 more minutes, equally divided.

Mr. DORGAN. I am not in a position to do that. Forty minutes a side is satisfactory. I have a number of Members who have asked for time to speak on amendments. We are trying to reach them.

I understand the Senator from Pennsylvania has an interest in efficiency and moving forward, but there are a good many jobs that depend on getting these things right. This is an important amendment. I am happy to agree to 40 minutes a side.

Mr. SPECTER. I understand the position of the Senator from North Dakota.

I ask unanimous consent that 80 minutes be divided equally between the Senator from North Dakota and myself as manager of the bill and that the debate be concluded in 80 minutes, unless time is yielded back.

I now have the handiwork of the expert staff. In their form, I ask unanimous consent that there be 80 minutes for debate in relation to the Dorgan amendment, provided that no second degrees be in order prior to the vote, and after the use or yielding back of time, the Senate proceed to a vote in relation to the Dorgan amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

By way of reply, I can understand the concerns of the Senator from North Dakota about the loss of American jobs. I compliment him for speaking about this subject with some frequency with some effect in the Senate.

I agree totally with the Senator from North Dakota that we ought not to export American jobs. I also agree with the Senator from North Dakota that we ought to retain American jobs in America to the maximum extent that we are able to do so.

The Judiciary Committee had a hearing and had four witnesses testify. Without going into their testimony in great detail—it is all a matter of record—the net conclusions were that there would not be a significant impact in the loss of American jobs.

It is frequently said that the immigrants handle jobs that Americans do not want. As a generalization, that is true, but not universally true.

We have had considerable suggestions and contentions by Senators from agricultural States about the indispensable nature of immigrant workers. Anecdotally, I have many from my home State come to me and tell me about the need for agricultural workers.

Mr. DORGAN. Will the Senator yield?

Mr. SPECTER. I would on his time.

Mr. DORGAN. Mr. President, let me say quickly, and I appreciate the Senator's courtesy for yielding, my amendment does nothing with respect to agricultural workers. We still have the provisions in underlying law allowing for temporary workers to come in and support the agricultural needs of this country.

Mr. SPECTER. I am not unaware of that, but it goes to the overall point of the experts who testify as to whether we would be taking away jobs American workers would want. The experts further testify that although there was some impact on the wages, there would not be a significant loss in wages.

When the Senator from North Dakota talks about the costs of bringing in 10 million people, that simply is not what title IV does. The title he wishes to eliminate as to any immigrants coming into the country in the future is only open to those now in the country. Title IV provides that there be an annual cap of 325,000, with each guest worker employed for up to 3 years, renewable for an additional 3 years. Then the approach is that those individuals will return to their home country unless they can otherwise qualify to stay here.

The guest workers will enjoy travel privileges in and out of the United States and portability between jobs. We allow workers to obtain green cards by self-petitioning, if they qualify, and allow students with advanced degrees in science and math to stay in the United States. Title IV exempts workers with advanced degrees in science and math from green card caps, and it increases the annual allotment of H-1B professional worker visas from 65,000 to 115,000, with a fluctuating cap.

Title IV is important as part of a balanced program. If we do not provide for guest workers who can fill the needs of the American economy, then we are going to create a vacuum and a situation where illegal immigrants will come in to fill those needs. But if we calibrate the number of guest workers which can be accommodated by our economy, which are needed by our economy, then we will discourage illegal immigrants from coming in and taking jobs, finding jobs, which would otherwise be filled by the guest workers who come to this country legally.

This title has been crafted very carefully by the Judiciary Committee. There is substantial support for it, as I understand it, on the other side of the aisle, even as there is some opposition on this side of the aisle. But if there are other Senators who wish to come and debate on this side of the aisle, I invite colleagues to debate and move ahead, and perhaps yield back time if that time is not to be used.

I yield the floor.

Mr. DORGAN. Mr. President, I yield up to 15 minutes to the Senator from California, Mrs. BOXER.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, thank you very much. I thank my colleague.

Senator DORGAN, for being such a leader on this particular part of the bill which I have found extremely troubling from day one.

I note that the chairman of the Judiciary Committee said we better not take the guest worker program out because, oh, my goodness, if we do take it out, there will be more illegal immigration. Well, maybe I am wrong on this—I do not think I am—but isn't a basic part of this bill to strengthen the border, the protections at the border? And isn't that part of what we are trying to do so we can stop the flow of illegal immigration—and having done that, allow the 11 to 12 million who are already here, who have clean records, who are willing to step forward, who are willing pay a fine, the chance at earned legalization?

And then there is another piece that deals with specific sectors of our economy, such as agriculture, where we know there are problems with the workforce. With respect to the agriculture industry, we set up a program called AgJOBS, which I credit Senator FEINSTEIN for putting it in the bill. Senators CRAIG and KENNEDY, in a bipartisan effort, have supported this for many years, along with myself and others.

So we had, I thought, a very well balanced bill until we added a guest worker program. In other words, the bill strengthened the border in one section, created a pathway for the undocumented immigrants currently in the country, and then—addressed one area, agriculture, where we know we need these workers and set up a very carefully tailored program. The bill also made adjustments for highly skilled workers such as engineers, and fixed some of the visa programs.

So I thought that was a fairly balanced bill. Then what happened is, another piece was added, which is this really open-ended guest worker program which, in my opinion, will result in a permanent underclass of workers coming into our country.

What disturbs me is what the provision does to the American workforce. You hear: Oh, these are people who will do work that Americans won't do. Now, I would say that is a good argument when it comes to agriculture. But we have taken care of agriculture in the bill. We have the AgJOBS provision. And we have taken care of the 11 to 12 million undocumented workers currently in the U.S. and given them a path for continued employment.

So now, on top of it, we are looking at a program for 325,000 guest workers, each and every year, with an escalator of up to 20 percent added on to that. And what do you create now? A huge underclass of workers who will take jobs away from Americans.

Now, the American people are compassionate. They are understanding. I think most of them want us to do a comprehensive bill. Most of them do not like what is in the House bill, where if you lean over to help someone who may be having a heart attack on the ground in front of you and that person is undocumented, according to the House, you could go to jail. The American people do not like that.

But the American people also know we have not raised the minimum wage in almost 10 long years—which, by the way, I think we ought to darn well do on this bill—and that if you create another, virtually open-ended guest worker program, you are going to hurt the American people at the end of the day.

So you hear the colleagues on the other side saying: Oh, No. 1, if you don't have this additional guest worker program, then people will sneak across the border. No. We are strengthening the border. That is one of the underlying principles of the bill. So that is not accurate.

Now they say: Oh, if you don't do this, we will have jobs that are not filled. Now, what kind of jobs would guest workers do? Remember, we have already taken care of agriculture, so these guest workers are not for agricultural jobs. There are also separate provisions for the most highly educated immigrants, the various visa programs. So what would the guest workers do?

Here are some examples: construction, food preparation, manufacturing, and transportation jobs. Now, these are fields where the vast majority of jobs are held by U.S. citizens and by legal workers. So it is incorrect to claim that the guest worker program, which has been kind of added on to what I think is a good bill, is targeted at jobs Americans will not do. These jobs are good jobs in good industries.

Now, according to the Bureau of Labor Statistics, in 2004, there were 6.3 million workers employed in the U.S. construction sector, at an average wage of $18.21 an hour or $37,890 a year. Now, when I meet with my working people in California, they are fighting hard for these jobs. They want more of these jobs, not fewer of these jobs. The last thing they want is a guest worker program that is going to provide a big pool of workers who may make far less than this amount and take jobs away from my people.

I support the underlying bill except for this provision. I think this guest worker provision throws the whole thing out of whack.

For the bottom quarter of Americans, who are making an average wage of about $7 an hour, construction work is a dream job. They pray for those jobs. They stand in line hours for those jobs. But what are we doing if the Dorgan amendment does not succeed? We are going to take those jobs away because an employer is going to say: Gee, should I hire an $18-an-hour American worker or, let's see, a foreign worker in a guest worker program who I could pay less? You know what is going to happen.

Now, I think the real reason for a guest worker program is not what we hear about, oh, well, otherwise there will be more people sneaking across the border, or we are short all these workers and we don't have workers for construction jobs, transportation jobs, food preparation jobs, manufacturing jobs, and the like; but it is really to set up, in my view, a permanent number of workers who are prepared to work at very cheap wages. That would be bad for the American workforce.

If we take this guest worker program out of this bill, we will have, my colleagues, a far better bill, a bill that we can all feel good about, a bill that does, in fact, reach out and say to undocumented workers who have worked here 5 years, 10 years, 15 years, 3 years—and they have clean records and they have paid their taxes and they are willing to come forward and pay their fines, and the rest—we will have a good bill for them, we will have a good bill that strengthens the border, which I strongly support and have supported for years, we will have a balanced bill, that includes the AgJOBS piece. But if we do not take this out, we have a bill that I believe is going to hurt many American workers.

So I think the real reason this was put in was to have cheap labor, a cheap labor workforce.

Now, the median wage in Mexico is $1.83 an hour. The typical hourly wage in China is 33 cents. So I ask my colleagues, what does a minimum wage—even if it is not raised, and shame on us that it has not been raised in 9 long years, going on 10 years—what does a $5-an-hour wage look like? Heaven to those people. And we are going to sanction this fairly open-ended program that escalates up to 20 percent a year for what reason other than to provide a permanent cheap labor force? It is very worrisome to me.

There are some businesses that are wonderful, exemplary. There are others that would rather not look at their business as a family but just want to get the cheapest labor they can possibly get. So I cannot support the undermining of U.S. working conditions, and I cannot support a guest worker program that will decrease wages for low-income Americans.

For goodness' sake, I have stood on this floor 1 year—2, 3, 4, 5, 6, 7, 8, 9—going on 10 years, fighting to increase the minimum wage. How could I possibly vote to keep in this bill a guest worker program when we have such an opportunity to strengthen this bill by stripping this out. It would leave us with a bill with tighter enforcement at the border, a humane, legal path for people who are living in the shadows—it will make us safer to get them out of the shadows, that is for sure—an

AgJOBS program that is tailored to agriculture in a way that makes sense, and all those visa programs that address high skilled jobs? All that makes sense.

I commend the committee for giving us a chance craft such a bill. I would be proud to have as my legacy such a bill. But if we can remove this, what I call this guest worker add-on, if we can remove this, I think we will have a far stronger bill.

I commend my friend, Senator DORGAN. He is—I wanted to say he is dogged, and he is. He is dogged on behalf of working people. And I think he got this just right. I am very glad he has offered us this chance to improve this bill by pulling out the guest worker program.

With that, Mr. President, I yield back the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, I would like a brief few minutes.

Mr. MCCAIN. Mr. President, how much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Pennsylvania has 35 minutes. The Senator from North Dakota has 27½ minutes.

Mr. SESSIONS. Mr. President, I would just ask for 5 minutes in support of Senator DORGAN's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I ask the Senator, are you for or against the amendment?

Mr. SESSIONS. I am for it. I know Senator DORGAN's time is limited. I would ask for maybe 3 minutes.

Mr. DORGAN. I will yield the Senator 5 minutes.

Mr. SESSIONS. I will try to wrap up briefly.

Mr. President, I believe this section of the bill as drafted is flawed. It goes further than the drafters and the American people or the President would want it to go. I am not sure how we can fix it at this point. I think the way to concentrate everybody's mind and get it fixed would be for the Dorgan amendment to pass.

Let's start over and talk about how we are going to handle this. My staff has looked at these numbers and tried to be as objective as they possibly can to see just what this would allow to occur in America if it were to pass, and I am confident that it includes more than people would think.

First of all, it is absolutely not true that this is a temporary worker program. It is called guest worker, which sounds like "temporary worker," but it is not. A person will come into our country under this program—325,000 the first year. Their employer can apply, the day they get here, the first year, for a green card. A green card gives them permanent residence in the United States, unless they get convicted of a felony or something. They get permanent residence. Within 5 years, they can apply for citizenship. So there is nothing temporary about this so-called guest worker program.

The President mentioned this morning a couple times, I understand—I heard it a bit, one clip on TV—that he favored a temporary worker program. This is not a temporary worker program.

Second, the numbers are extraordinary. Some of you who have been listening to me today are pretty good mathematicians. It is 325,000 the first year. But if that number is reached, automatically it kicks up 20 percent. The next year, if that number is reached, it is 20 percent; the next year, 20 percent; the next year, 20 percent. Those are pretty big numbers. In fact, if it were to stay at that 60 percent level, the numbers would be extraordinary. If you took the congressional resource number, that when a person comes in under this provision as a guest worker and they get a green card and are able to bring in their family, they have calculated 1.2 family members they would bring in for each guest worker. And if you add up those numbers of what we can reasonably expect over a 20-year period, it would be 133 million people. I don't think we will be at 20 percent every year. There are some factors that would show that is not the case. But that is what the bill authorizes, 20 percent automatically, if the caps are reached each year. If it went up at about 10 percent a year, you would still have a very significant increase in just this one program.

When you talk about 100 million people, you are talking about one-third of the current population of the United States being admitted under a low-skill worker program, called a guest worker program, that does not require high-skill abilities.

We need to completely redo it. I believe that; I really do. I urge my colleagues to think seriously about this, what we are voting for. I know the motive and I know the desire to do the right thing. We are a nation of immigrants. We are going to allow immigration in the future to continue. When we do, we will increase legal immigration into this country, and I will support that. But the rate of increase provided for in this provision is unjustifiable and, therefore, I support the Dorgan amendment.

I yield back the remainder of my time to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I yield 10 minutes to the distinguished Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I begin by thanking the Senator from Pennsylvania for his continued leadership and incredible effort on this issue. He has invested thousands of hours, and I continue to appreciate the great job he is doing.

I also congratulate the President of the United States for his remarks last night. It is pretty obvious that his remarks were well received. He gave an outstanding depiction not only of the situation in the United States but the need for us to act. As he said near the end of his remarks:

> Tonight I want to speak directly to Members of the House and Senate. An immigration reform bill needs to be comprehensive because all elements of this problem must be addressed together or none of them will be solved at all.

The President's comments are exactly right:

> All elements of this problem must be addressed together or none of them will be solved at all.

He went on to say:

> The House has passed an immigration bill. The Senate should act by the end of the month so we can work out the differences. . . .

The Senator from North Dakota, my friend, keeps talking about how the 1986 amnesty didn't work. It obviously didn't work. The reason it didn't work is because there wasn't a guest worker program, which is exactly what the Senator from North Dakota is trying to remove from the bill which then would give us 1986 all over again. More importantly, there are certain realities in America today that we are trying to address. Among them, that the American population is growing older. The baby boomers are retiring and leaving in their wake a number of jobs that need to be filled. Restaurants are locking their doors because there is no one to serve the food or clear dishes. Today, fruit is rotting on the vine and lettuce is dying in the fields because farmers can't find workers to harvest the crops.

Why do we need a viable guest worker program? So that we can stop the flood of illegals from coming across our borders, so we can make the present incentive that brings people to cross our borders illegally come to a halt. How do we do that? Our proposal says if an employer advertises a job for 60 days over the Internet, in a broad variety of ways, and no American comes forward to take that job, then a willing worker and a willing employer can join together in a contract that that person can come and work and fill that job that it has already been proven an American won't take. If that person continues to work in the United States, he is allowed to remain in the United States under our proposal.

An equally important aspect is that those who are now south of our border or anywhere else in the world will recognize that even if they cross our border illegally and are able to do so, there will be no job for them because the person who has entered into that contract has a tamper-proof biometric visa, and that is the only document that will be recognized as a valid document in order for someone to obtain employment.

So if someone does cross our border illegally, gets a job—one, he shouldn't get it because he doesn't have that contract but, two, if an employer hires that individual, then, of course, that employer should be prosecuted to the full extent of the law.

It is not an exact parallel, but let me remind colleagues, about 15 years ago we declared a war on drugs. All of us, we were going to stop the flow of drugs from coming across our border and destroying America. Any objective observer will tell you that our progress has been limited, if at all successful. Why? Because there is still a demand for drugs, and they are coming across our borders. People are using them, and there is still a demand.

There is a demand for workers in this country. And these people are coming across our borders, both northern and southern—we seem to concentrate so much of our attention on the southern border, but they are coming across both borders—to feed themselves and their families which they can't do where they are. I would be glad to discuss the failure of the Mexican Government to enforce their border, including their southern border, the need for us to work more cooperatively, the corruption problems, all of the issues that are associated with the issue of people coming across our border. But I predict, even if we had the best cooperation from the Mexican Government, people who can't feed themselves and their families where they are would still try to come to this country to get jobs. And if you can prove that there are jobs that no American will take, why not have a process, a system where someone can come and take it and work?

There are very few of my colleagues who would deny that the overwhelming majority of people who come to this country are honest, God-fearing, hardworking people, some of whom, by the way, have died in the desert in an effort to come, a larger number every year in the Arizona desert. Their only desire is to better themselves and provide better lives for themselves and their families. There are all kinds of other benefits associated with this, as well. One of the reasons why workers come to this country today and stay is because it is so difficult to move back and forth to the families and the homes they came from. If they have a tamper-proof visa, then, of course, on their vacations or even at the completion of their work, they would feel comfortable in returning to the place where they came from. But now, with the difficulty of crossing back and forth over the border, more and more of them remain here, and sometimes there is a criminal element.

Let me make another point. With illegal immigration, with transportation of people across the border who are coming across illegally, terrible things are happening. We have the coyotes who mistreat them, the coyotes who sometimes hold them captive and demand more and more money. There are shootouts on our freeways in Arizona. No State in America understands how terrible this issue is more than the citizens of my State because over half of the people crossing the border illegally are coming across the Arizona Sonora Desert. It is terrible what is going on. The exploitation and the mistreatment of these people who are honest, who are God's children, is terrible. If we could have a viable guest worker program, one that we could enforce, then you would lose this incredible attraction that draws people illegally into our country and, of course, all of the associated bad aspects of it that the citizens of my State of Arizona are so intimately familiar with.

Of course, it frustrates citizens. Of course, it frustrates the citizens of my State to have so many hundreds of millions of dollars in uncompensated health care costs, to have law enforcement requirements and expenses go up, to have all of the problems associated with illegal immigration. But to say somehow that we are not going to satisfy what is clearly, primarily economic immigration—by the way, the Border Patrol statistics say 99 percent of those attempting to cross our Nation's border illegally are "economic immigrants"—then we are going to be faced with a problem. No wall, no barrier, no sensor, no barbed wire will ever stop people from trying to do what is a basic yearning of human beings all over the world, and that is to have better lives for themselves and their families.

I hope and believe we will reject the Dorgan amendment. As the Senator from Alabama said, he wants to go back and start over. There are a number of us who have invested years in this issue.

I thank my colleague from Massachusetts for his continued leadership.

By the way, all of us are very grateful that he survived a very serious aircraft emergency recently. We are glad that he is well and with us.

I hope we will reject the amendment. I hope we will then move on to other amendments and within a relatively short period of time resolve most of the controversial aspects of this legislation.

Finally, I thank the President of the United States for what was greeted, as we know from the overnight polls, very favorably by the American people, his support of a comprehensive resolution of this terrible issue that afflicts our Nation, that of illegal immigration.

I yield the floor.

Mr. KENNEDY. Would the Senator be willing to yield 10 minutes?

Mr. SPECTER. Mr. President, I am delighted to yield 10 minutes to the Senator from Massachusetts. But before doing so, I urge other Senators to come to the floor to offer amendments. It is thought that if we focus on the guest worker provisions, we can finish them up this afternoon. Senator KYL and Senator CORNYN actually have precedence, but if they would be willing to yield to the other Senators on guest worker, I think we would finish this entire category. And perhaps we can find a way to work out Kyl-Cornyn in the interim. We will be looking for an amendment from Senator BINGAMAN who wants to reduce the number of guest workers. We have an amendment by Senator OBAMA which is on a related issue, I am told, on labor protections. And we have an amendment by Senator FEINSTEIN on having some sunset provisions. Then it is hoped we can get agreement on Senator KERRY's amendment and be able to accept that. If we could finish this grouping, we would be well on our way.

So if those Senators can come to the floor, we can work out time agreements and proceed in an expeditious manner. Meanwhile, Senator KENNEDY has requested 10 minutes.

Mr. KENNEDY. Mr. President, I thank the Senator from Pennsylvania. I want to thank my friend and colleague and the principal sponsor of the major comprehensive legislation.

In addition, I ask the Senator from Arizona, is it not true that you have the advertising for a worker in the United States where there is not an American worker and a willing worker who comes from outside of the country, that they have some important labor protections—protections with regard to the minimum wage, with regard to Davis-Bacon, with regard to service contracts, protections against exploitation of contractors, which were the source of great abuses at the time we had the Bracero issue and question. Is it not true that we have some protections for those individuals and, therefore, the idea that there is going to be a continuation of the exploitation of these workers working in a substandard way is fundamentally addressed? And is it also not true we have some 2,000 inspectors that are included in the underlying legislation that are going to be charged with the enforcement of this provision, which we have never had?

I listened to so many people talk about 1986 and the amnesty. Part of that provision was to have employer enforcement, and it didn't take place—not under Republicans or Democrats. But we have addressed that issue in the McCain-Kennedy proposal. We have 2,000 individuals whose sole responsibility is going to be in terms of the adequate enforcement of the labor protections. Is it also not true—it is true—that we have had important economists who have been before our Judiciary Committee who say that this will have an important, positive impact in terms of wages, working conditions, and treatment of American workers?

I know there are several items that are included in this question, but I want to make sure that we include and add on to what was the excellent presentation of the Senator from Arizona. We have talked about having a comprehensive approach. We hoped to have a comprehensive approach earlier this morning, and we have a comprehensive approach by recognizing what the Senator from Arizona has said and is so obvious—that is, if you are going to have the demand in this country and desperate people in the others, it makes a good deal more sense to try to develop a legal process by which that can be controlled, rather than think that we are going to be able to build fences high enough, long enough, along the 1,800-mile border and prohibit tunnels deep enough to keep people out.

Mr. McCAIN. Mr. President, in response to my friend from Massachusetts, the Kennedy-McCain bill was a subject of long negotiations. And for more than a year, many of these issues were discussed with us and others. We felt that one of the most important aspects of this legislation was the protection of workers. One of the reasons why illegal immigration is so evil—one aspect you don't hear so much about is the terrible treatment and exploitation by cruel people of innocent people. A year ago last August, I believe, a policeman in Phoenix opened the door of a horse trailer and 73 people were packed inside, and one was a 4-month-old child.

Often, the Senator from Massachusetts and I have discussed what it is like to die in the desert. Every year, every summer more people die. They are not coming—99 percent of them, according to the Border Patrol—to do evil things but to work. Why are there jobs? Because there are jobs that Americans will not fill.

My response to the Senator from Massachusetts is that no one should be under the misunderstanding that this is another Bracero Program. The Bracero Program died because of the abuses associated with it. This gives them a status not of citizenship but of equal protection under the law. Any human being who resides in the United States should not be subject to exploitation and cruelty. That is the nature of America. We don't say in America that only citizens have the protections of our laws. We say anyone who comes to our country does, too.

So, finally, I want to say to my friend from Massachusetts that this is a fundamental part of this legislation, as he knows. If you take this out, you will then be face with the exact same economic pressures that we have been experiencing in the past. And as much as I believe in technology and as much as I think walls are important and UAVs and all that, there has never been a case in history where you have been able to stop people from doing something that has to do with their very existence. That is the way many people feel who come here.

Mr. KENNEDY. One final question. The Senator is addressing the issue of real security, national security. But we are committed to trying to have a secure border. We have gone through the measures which we have included in our legislation, many of which were enhanced during the course of the markup and have been expanded in the supplemental. But a key aspect of that security and in controlling the border is to stop the flow of people climbing fences, going into tunnels, and circumventing the border. A key aspect of this is to develop an orderly process by which people in the limited numbers that we have outlined in the bill would be able to come.

Would the Senator not agree that this is a security issue, border security issue, as well as a worker issue?

Mr. McCAIN. I agree with the Senator. Interestingly enough, if I can mention again, the President of the United States, having served as Governor of the State of Texas, understands this issue very well. He made a very important point last night because all elements of this problem must be addressed together or none of them will be solved at all. The President is exactly right. None of these problems can be solved unless we have a comprehensive approach to this legislation.

Again, Mr. President, I say to my friend from Massachusetts, briefly, that we still have a terrible problem of drugs flowing across our border. If we had the guest worker program that we have talked about in this legislation, then there would be people who are coming for jobs, and we could focus our effort and attention on the drug dealers who are now corrupting America's youth. I thank the Senator and, again, I hope my colleagues realize the implication of this vote because if we did take it out, then obviously—at least in the view of most experts that I know—the rest of the reforms would not be either applicable or enforceable.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I am going to make a few comments briefly in rebuttal. Then I understand Senator DORGAN is prepared to yield back time and so will I. The other Senators whom we had talked about, when they come to the floor, will be ready for their amendments momentarily—Senators BINGAMAN, OBAMA, and FEINSTEIN. If they are not here, Senator VITTER can be recognized or Senator KYL and Senator CORNYN.

Mr. DORGAN. If the Senator will yield. I intend to use my remaining time at the conclusion of the comments of the Senator from Pennsylvania.

Mr. SPECTER. Fair enough. My information was incorrect then. By way of brief rebuttal on the question of impact of guest workers on the American workers. I ask unanimous consent that the testimony of Dan Siciliano, from the Stanford Law School, be printed in the RECORD at the conclusion of my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. The key statement of Mr. Siciliano is:

> Some claim that immigration reduces employment levels and wages among native-born workers. This is generally not true.

The text of his statement amplifies on that. I ask unanimous consent that the statement of Professor Harry Holzer from Georgetown University be printed in the RECORD at the conclusion of my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SPECTER. The essence is a statement that:

> There seems little doubt, then, that any negative effects of immigration on earnings are modest in magnitude and mostly short-term in nature.

I ask unanimous consent that the statement of Professor Richard Freeman, Harvard University, be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. SPECTER. His conclusion was:

> The gains to native complements exceed the losses to native substitutes, so that immigration—like trade and capital flows—are a net boon for the economy.

The Senator from California had made the argument that American employees are disadvantaged by cheaper costs from immigrant employees, and that is not so under the express terms of the statute.

The bill, S. 2611, does protect U.S. workers and eliminates incentives for employers to hire foreign workers, unless no U.S. worker is available. The bill provides that employers must at least pay the higher of the actual wage paid to other employees with the same skill so that immigrant workers are paid the same or, the prevailing wage for that job. Employers must provide the same working conditions and benefits that are normal to similar jobs, and employers must provide insurance if State workers' compensation doesn't cover all the workers. So that under the pending legislation, an employer has the same cost to hire a foreign worker as a U.S. worker.

How much time remains on my side?

The PRESIDING OFFICER. Eleven minutes.

Mr. SPECTER. I thank the Chair and yield the floor.

EXHIBIT 1

Senator KENNEDY. Let me get to this point that the Chairman has made, Dan, with your analysis. You gave us some projections. You talked about the limitations in terms of productivity, the numbers in the labor force, retirement issues, and then the job growth. And you talked about GDP, 14 percent and 11 percent. You talked about legal and the illegal. Maybe you could just flesh those figures out a little bit. What you appear to be saying is that if you consider the numbers of both legal and illegal, you get a certain rate of growth, and without them you get another different rate of growth. And that is what I would be interested in.

Maybe we cannot parse between the legal numbers the Chairman talked about, whether that is 500,000 or we are looking at just the general range of numbers now. Could you expand on that?

Mr. SICILIANO. Sure. Thank you, Senator Kennedy. I think this also answers Chairman Specter's question in part, which is: What is the true net economic contribution and where does it come from and why? And so from my viewpoint, and in light of the demographic numbers, it appears that our economy is on the trend growth rate, we hope, at 3 percent or better. Now, that growth rate of GDP is reliant on many factors. One of the key factors is available workers to fill the jobs that are created. So even while at the high-skill level you have Nobel Prize winners and other people inventing companies, somebody needs to build the buildings, clean the buildings, you know, service the lavatories in which these people are operating. And this is a part of the capacity for GDP to grow.

So to put a finer point on it, if you look at the fiscal economic impact, which is the Government coffers impact, it might be true that lower-skilled workers, just like all of us on average, actually, at the moment because of deficit spending, have a negative impact on the fiscal bottom line. But that should not be confused—and this would be a mistake to confuse this. That should not be confused with the economic impact. It is a little like my younger sister who recently said, "I am earning more, but look at all the taxes I am paying. I am paying more taxes." I said, "Yes, but you are earning more."

And so we may have a modest net negative fiscal impact for all low-wage workers in the United States, not just immigrants. That is not unique to immigrants, documented or undocumented, but what we do know is it helps us achieve a higher rate of growth and national income goes up, which benefits everybody. It becomes your challenge, I think to talk about how to, you know, work that out at who shares and how at the pie level. But it is clear that this divide between available workers and the demand for workers will slow down economic growth if we do not manage it appropriately.

Senator KENNEDY. Let me just get to the high skilled/low-skilled. I think most of us would like to believe that we are going to train our own people to be able to take these high-skilled jobs. And we have under our current programs training resources that are paid into the fund to try to continue to upgrade skills for Americans. But we are not able to get quite there at the present time. Other countries, industrial countries, have required training programs. They pay—what is it?—in European countries a percent and a half, other countries, so that they have required training programs, which we do not have, continuing training programs which we do not have.

So how are we going to adjust? What is your sense about how we are going to—we have seen a significant—actually, we are getting the skills, but where people that are going to into these high-skilled programs, but how are we going to get Americans up to speed so that those Nobel laureates are going to be the sons of native workers rather than foreign workers? What can you comment on that?

Mr. SICILIANO. I think there are two issues. One, you know, the expanded H–1B program with the continued diversion of monies into special training programs is a good start, so we need the talent in the first place. We need that high-skilled talent to maintain our competitive edge, which gives us some runway into which to develop and train native talent. It cannot happen overnight. So the first question is: What do we do to make sure over the next 20 years we still get the world's absolute bet and brightest, lure them to our best universities, have them pay for that education, make them enamored of the United States, and then they stay here and then have children.

Now, you divert that money and you direct it into targeted training, and that is a bigger issue, I think, to entice U.S.-born workers into the difficult and long-term training that will prepare them for a modern, very knowledge-based economy. But the start is to make sure we keep the industries here because we lure the right talent here, and then we do something over the next 20 years so that the 5-year-olds right now do end up getting the double Ph.D., electrical engineering and applied physics, and go on to win the Nobel Prize. But you are talking about the 5-years-olds, not the 25-year-olds. We need the 25-year-old to get an H–1B, have their own Government pay to go to Stanford University, get that Ph.D. there, and then work at Google, stay here. Good deal for us.

Senator Feinstein. Let me mention another point. I happen to believe that the weakest part of the bills that I have supported is the guest worker program. From a California perspective, it is impossible to say to somebody you can come here for at least six years by renewing your guest worker permit, but at the end of six years you have to go home. The experience we have had is quite simply people do not go home. Therefore, it seems to me that the H–2A program, where you bring someone for a limited period of time, has a much better opportunity to work because then they do go back and forth across the border

What do you believe is the optimum amount of time that an individual will come as a guest worker and then actually go home at the end of that period of time?

Mr. SICILIANO. Senator Feinstein, I think one thing to consider is that by limiting the amount of time that an employer may utilize a guest worker, it alters their behavior in terms of their incentives to invest even in a low-skilled guest worker. So even a low-skilled worker will require a certain amount of training and investment, and the shorter the duration of that opportunity for employment, the less investment there is, which is bad for everyone.

I think one of the possible alternative views here is to recognize some of the limitations that occur if you create a temporary guest worker program and then instead try to identify those lesser-skilled individuals who, in the long run—if you created boundaries of wage and hour rules, allowable behavior on the part of businesses, and then screened up front for who you would allow to enter on that basis and create some path, assuming continuing employment, and a very high bar for behavior and civic behavior, then perhaps you can solve both problems, because I believe the evidence demonstrates and I think a lot of the arguments assume that the economy will work it out. If there are no opportunities, people will go back.

Senator FEINSTEIN. But that is difficult to do. Therefore, if you take the 10 to 12 million people that are here already that work in agriculture, construction, landscaping, housekeeping, et cetera, and provide a steady stream of employment and enable them to have a pathway to legalization, are you not really doing the best thing possible economically to see that there is economic upward mobility?

Mr. SICILIANO. I see. With that subset, yes, I would argue that that is the right path, and then on the other question I would defer. I am sorry that I don't have a solution. . . .

Chairman SPECTER. Thank you, Senator Feinstein.

Senator Kyl.

Senator KYL. Thank you, Mr. Chairman. Thank you, panel. One of the arguments for not being as tough in enforcing the law especially at the border is that in the years past there was a lot of circular migration especially from Mexico and Central America, people who came here, worked for a while and then went back home. It wasn't hard for them to continue that process, but once we began strong border enforcement, then they were stuck and stayed.

I don't know that there is any evidence to support that or refute it, but it has been the basis for a lot of people talking about this concept of circularity, and I want to get back to that concept and also ask you this question in view of the fact that at least a couple of you are very skeptical that a temporary worker program really ends up being temporary because people don't want to go home. I mean, what I just said may to some extent refute that, but clearly there are people that probably fall into both categories.

What we haven't talked about here is the differentiation between a time like today when we are at very high employment and a time when in the future we will have a recession and we will have high unemployment. And let me stipulate for a moment, even though there is a little bit of argument about mechanization, and so on, that in the lettuce fields of Yuma County, it has always been hard to get Americans to do that work. It has been traditionally work done, by the way, by people who live in Mexico and come across everyday and go back home by and large, although there are some that stay longer.

In Arizona, we can't find enough people to build houses today. Under the bill that Senator Cornyn and I have, we would be issuing lots of temporary visas right now. But we have also seen many economic downturns when you can't get a job in construction, no matter how skilled an American citizen you are. In that case, under our bill we wouldn't be issuing temporary visas. We would let the ones that are here expire; we wouldn't issue any more.

I am troubled by the fact that all of you seem to be so skeptical that people would return. One concept was that, well, when there is not work, they will return. But isn't it just as likely that what they will do is under-bid Americans for those same jobs?

I have gone through enough political times when we were in that high employment situation where Americans were looking for work. It is not a pleasant thing. So I am concerned about a program that lets people come in under today's circumstances, but who may not have a job, or at least there won't be enough jobs for everybody in tomorrow's circumstances.

Given that fact, doesn't it make sense to consider the economic realities in how many permits you issue, and especially if you are saying folks won't go home, to be very careful about the number of visas that you issue for these low-skilled workers because you have to consider tomorrow's lack of employment opportunity as well as today's full employment opportunity?

I have sort of posited several different thoughts and questions inferred there. If you could just each give me your general take on what I have said.

Mr. SICILIANO. let me throw in one item, as well, to clarify. For all we know about business cycles, we still don't know a lot. One of the things, I think, to observe is that as we go into a down business cycle, we make macro adjustments to the cost of capital as a way of spurring the economy potentially and creating jobs and creating businesses through capital formation.

It is worth thinking about—and I don't think it is a conclusive answer for you, but it is worth thinking about the fact that available labor supplies during a downturn is its own form of self-corrective mechanism. And I would fear second-guessing at a micro level the small and medium-size businesses who might be reformulating strategies to alter their response to global competition and need the liquidity that is provided by available workforce. And we do suffer through a terrible time which is short and hence has changed, but it might be akin to cost of capital.

Labor is one of the critical inputs to all of economic development and we tinker with it at a micro level, we might inadvertently prevent ourselves from emerging as quickly as we might otherwise have from a recession.

Senator KYL. I appreciate that. In view of the fact that there is only one more to question, might I just offer a comment? All of that there is fine in economic theory. As I said, I have had to stand in town hall meetings with 3 or 400 Americans that don't have jobs.

Senator SESSIONS. I am not sure wno to ask this question to, but if anybody would speak up and give me a thought on it, I would appreciate it. Is there a difference economically in the effect of a temporary or a permanent worker? Does anybody have any thought about that?

Mr. SICILIANO. Senator Sessions, I will address one small part so that others can comment, and that is I think we know intuitively that renters and owners treat their properties differently. Renting to own may be a compromise, but I would say that we have recent evidence citing Giovanni Peri's paper out of UC-Davis in November that we know that the entrepreneurial behavior of those immigrants who feel that they have some possibility of being here in the long term is increased because they are more likely to invest their capital here in the United States to engage in skill-building that resonates better in the United States and they get better returns on.

So my one comment would be we know we sometimes get very efficient and good behaviors for our national interest from immigrants of all skill levels if the think they may have a long-term role to play here both about themselves and their children.

Senator SESSIONS. Would it be in our interest, therefore, to attempt to identify the people that bring the most skill sets and the most ability to the country when we allow whatever limited number we have to come here legally?

Mr. SICILIANO. Mr. Chairman, I am familiar with the the [Center for Immigration] study. I can answer the specific question, if I may.

Chairman SPECTER. Go ahead, Professor Siciliano.

Mr. SICILIANO. Thank you. That particular study has two types of expenditures—direct payments to immigrants and immigrant households, so it includes sometimes U.S. citizen children, and indirect attributive costs which are the general expenses by the government divided by the number of households in the United States.

The study is actually dominated by the general government expenditures component of those costs. So, in other words, you take the government expenditures, you divide it by the number of households, and then you take that number. And that number is a large number right now because we have high levels of expenditures relative to tax collections.

That is why it is driven by our fiscal state as a Federal Government, as opposed to simply the behavior of the immigrants. The direct payments are an important component, but they are actually dominated by and outweighed by the general expenditures share, which is interesting, but I think it overstates the interest of that particular number that you have cited. It is not irrelevant.

Chairman SPECTER. The President of the Dominican Republic was very interested in the money coming back to the Dominican Republic. The estimates are the immigrants in the United States send home about $39 billion a year in remittances. So on one hand, there is a concern about what that does to our economy. That purchasing power is not being used in the United States.

The other aspect is that our foreign relations are very complicated. We heard a great deal about the difficulties with Venezuela and President Chavez. A vote of the Andean countries on protecting property rights was three-to-two, with the United States winning. We have trade there to try to strengthen our foreign relations. We heard a lot of talk about their recognizing the leaders of the foreign governments, recognizing our rights to control our borders, but also looking for a humanitarian approach that we have.

How big an impact is it, Professor Siciliano, if $39 billion is remitted from the United States to the home countries?

Mr. SICILIANO. Well, as a component of the overall economy, I actually think it is a fairly small number, but it obviously has tremendous impact for the countries who receive the remittances.

Two points. One, the transmission of that money actually generates substantial revenue and profits for U.S.-based business, primarily financial institutions who serve as the intermediaries to make that happen. I don't think we want to forget that.

The second issue is that the money lands in the hands of individuals who are nationals of obviously that country and some of it recycles as demand for our goods and services, hence jump-starting, we hope, the ongoing trade relations which may mitigate some of the foreign national risks you have identified. So I think it is a small piece in a big global economy and one that shouldn't dominate the thinking about how we decide to move forward on the immigration debate . . .

Chairman SPECTER. Professor Siciliano, do you have a brief comment?

Mr. SICILIANO. Yes, two key points. I think anecdote in the hands of the economist is a dangerous weapon, so let me just give two kinds of actual points of data. First, in the 1960s we know that roughly half of the U.S. workforce lacked a high school diploma, and now about 12 percent of the native-born workforce lacks a high school diploma.

This skill set difference is driving the comment that I think is true, which is it is not the case that immigrant labor is displacing by and large U.S. labor or depressing wages, and there are two key points to highlight that. Nevada and Kentucky, arguably similar in cost of living in many ways—7.5 percent of the population of Nevada right now is estimated to be undocumented. The average high school drop-out wage is $10 per hour. In Kentucky, less than 1 percent of the population is estimated to be undocumented, and yet the high school drop-out wage is $8.73 per hour.

It can't be simplified into simply saying immigrant labor shows up and it hurts U.S.-born labor. It is much more complex than that. I think, net, it clearly benefits U.S. labor . . .

Exhibit 2

Does Immigration Help or Hurt Less-Educated Americans?

TESTIMONY OF HARRY J. HOLZER, JUDICIARY COMMITTEE, U.S. SENATE, APRIL 25, 2006

The vast majority of economists in the U.S. believe that, on average, immigration is good for the U.S. economy. By helping reduce the costs of producing certain goods and services, it adds to our national output, and makes consumers better off. Business owners also profit very clearly from immigration.

At the same time, it is possible that some native-born Americans—especially the less-educated Americans who might have to compete with immigrants for jobs—might be made worse off. Certain costs—especially for public education and services to the poor—might rise. And there are various non-economic considerations, both positive and negative.

On these various issues, what does the evidence show? And what does the evidence imply for immigration policy?

EFFECTS ON EARNINGS OF NATIVE-BORN AMERICANS

For many years, most studies of the U.S. labor market have shown little or no negative effects of immigration on the wages or employment of native-born workers—including minorities and those with little education. More recently, another few studies that use different statistical methods from the earlier ones find somewhat stronger negative effects. According to these more recent studies, immigration during the period 1980-2000 might have reduced the earnings of native-born high school dropouts by as much as 8 percent, and those of other workers by 2-4 percent.

However, some strong statistical assumptions are required to achieve these results. And, even in these latter studies, the long run negative effects of immigration (i.e., after capital flows have adjusted across sectors to the presence of immigrants) are reduced to only 4-5% for dropouts and virtually disappear for labor overall.

There seems little doubt, then, that any negative effects of immigration on earnings are modest in magnitude and mostly short-term in nature. To the extent that high school graduates as well as dropouts in the U.S. have fared poorly in the labor market in recent years—especially among men—other factors are much more likely responsible (such as new technologies in the workplace, international trade, and disappearing unionization).

Native-born minority and especially African-American men face many labor market problems besides immigration—such as poor education, discrimination, and the disappearance of jobs from central-cities. In recent years, their high rates of crime and incarceration, as well as child support obligations for non-custodial fathers, have worsened their situation.

Does immigration also worsen their plight? There are certain sectors—like construction, for example—where direct competition from immigrants might reduce employment opportunities for black men. But in many other occupational categories (e.g., agriculture, gardening, janitorial work) such competition is more limited or nonexistent, as the native-born men show little interest in such employment at current wage levels. In the absence of immigration, it is possible that wages would rise and maybe entice some native-born men to seek these jobs that they consider dirty and menial; but the wage increases needed would likely never materialize in many cases, as employers would either replace these jobs with capital equipment or enter other kinds of business as wages rose.

Two additional points are important here. First, the potential competition to less-educated American workers from immigrants depends in part on the overall health of the economy. Immigration rates have been fairly constant to the U.S. over the past few decades. In the very strong labor markets of the late 1990's, these rates of immigration did not prevent us from achieving extremely low unemployment rates and real earnings growth, even among the least-educated Americans. In the more sluggish labor markets since 2001, the same rate of immigration generates more concern about job competition. But, even in this latter period, the very weak earnings growth of most American workers cannot possibly be attributed to the arrival of a million or so new immigrants annually.

Second, the illegal status of perhaps one-third of immigrants might well magnify any competitive pressures they generate for less-educated native-born workers. The reduced wages and benefits associated with their illegal status offer employers one more incentive for hiring them instead of native-born workers, who might be interested in some of these jobs and might be more appealing to employers at equal wages.

OTHER ECONOMIC EFFECTS

There is virtually no doubt that immigration reduces the prices paid by consumers on many goods and services. There remains much uncertainty about the magnitudes of these effects, and on exactly who benefits the most. For instance, higher-income Americans might benefit the most from child care and other private household services, gardening, and food preparation services in restaurants. But lower-income Americans likely * * * disproportionately from lower prices on food, housing and even some medical services that are associated with immigrant labor in agriculture, construction and health support occupations respectively.

Over the next few decades the contributions of immigrant labor to certain key sectors will likely grow more important. For example, the scientists and engineers needed to keep our nation competitive in scientific innovation and new product development will depend to a growing extent on foreign graduate students who choose to remain here after finishing their schooling, even though their presence might reduce the incentives of some native-born students from entering these fields. In other sectors, the retirements of "Baby Boomers" may also generate stronger labor demand. A variety of labor market adjustments (such as delayed retirements, new technologies, greater foreign "offshoring" of work, etc.) will likely mitigate the impacts of these retirements in the aggregate. But in certain key sectors—especially health care and elder care—these adjustments are less likely to meet the necessary demand, and the need for immigrant (and other) labor may remain quite strong.

Perhaps the most serious economic costs imposed by immigrants on native-born Americans—at least in those few states that serve as the primary "ports of entry" to immigrants—are those associated with public education, health care and other income transfers to the poor. While these costs are no doubt significant in those states, they have been reduced by legal changes in the welfare system that reduced immigrant eligibility for such transfers. Over time, immigration might modestly improve the fiscal status of Social Security and Medicare, as it helps replenish the falling ratios of workers to retirees.

By far the greatest benefits of immigration to the U.S. accrue to the immigrants themselves, whose earnings here are often vastly higher than they would be in their home countries. Both foreign policy and humanitarian considerations might lead us to approve of this, even though the direct economic benefits to native-born Americans are more limited.

POLICY IMPLICATIONS

If immigration is largely good for the overall U.S. economy, should we simply "open the floodgates" and remove all legal restrictions on it? Most Americans would be reluctant to do so, especially since there are some significant costs to immigration, and at least some workers who are made worse off. The noneconomic implications of such a move (e.g., for the national character and makeup of our communities) might also be troubling to many people.

But, if our ability to restrict immigration legally is imperfect, what shall we do? Efforts to improve the enforcement of existing laws in humane ways (e.g., without creating felonies for illegal immigrants and those who hire or assist them, or building costly fences along the Mexican border) may be worth trying, though their effectiveness may be limited. On the other hand, generating pathways by which illegal immigrants in the U.S. can achieve full citizenship (by paying fines, back taxes etc.) makes a lot of sense, given that their illegal status imposes hardships on them and their children while likely exacerbating the competition they pose to native-born Americans. It seems unlikely that any such move would dramatically raise the incentives that illegal immigrants currently have to enter the country given the gains in their standards of living that occur even when they enter illegally.

Guest worker programs have some major limitations, particularly in terms of enforcing legal rights for these workers and ensuring that they maintain some bargaining power relative to their employers. Since most guest workers stay permanently, the benefits of such an approach seem dubious. But some legal changes that encourage greater immigration of highly educated workers over time would likely generate greater benefits to the U.S. economy.

Finally, if we really want to improve opportunities for less-educated Americans in the labor market, there are a variety of approaches (such as improvements in education and training, expansion of public supports like health insurance and child care, and supporting protective institutions such as minimum wage laws and unions) that would likely be more effective than restricting immigration.

EXHIBIT 3

THE NEW IMMIGRATION AND THE NEW U.S. ECONOMY

(Richard B. Freeman, Harvard University and NBER, April 25, 2006)

STATEMENT BEFORE THE SENATE JUDICIARY COMMITTEE

I have organized my comments around eight points.

(1) Immigration is part of globalization. It is intimately connected to increased trade, free mobility of capital, and transmission of knowledge across national lines. Ideally, immigration and these other flows allow the U.S. and the world to make better use of available resources and to raise national and world output. A worker who comes to the U.S. increases the American labor supply, which means the country can produce more. If that worker does not immigrate, he or she may make the same or similar good in their native country and export that good to the U.S. Or a U.S. or other multinational may invest in that worker's country to produce the good. In other situations, the immigrant may bring capital, particularly human capital, with them, so that both capital and labor move together. The message for thinking about immigration in the global economy is: view immigration as related to trade and capital flows; policies that affect trade and capital will alter immigration and conversely.

(2) Immigration is the least developed part of globalization. Immigrants make up about 3 percent of the global workforce; whereas international trade's share of world output is around 13 percent; and foreign equities in investors' equity portfolio are on the order of 15 percent, as of the early 2000s. Consistent with this, the range of pay for workers with nominally similar skills is far greater than the range of prices for goods around the world or the returns to capital: The ratios of wages in the same occupation in high paying countries relative to low paying countries are on the order of ten to one measured in exchange rates and are on the order of four to five to one measured in purchasing power parity prices. The comparable ratio for prices of Big Macs is less than 2 to 1 and the comparable ratio for the cost of capital is 1.4 to 1. Thus, there is a huge incentive for workers to immigrate from developing countries to developing countries. Given this gap in incomes, the incentive to immigrate will remain huge for the next 40–50 years at least.

(3) In the simplest economic model of globalization, the flow of people, goods, and capital are substitute ways to raise production and economic well-being. During the NAFTA debate, the Clinton Administration argued that the treaty would reduce illegal Mexican immigration to the U.S. on the notion that increased trade with Mexico would

create more jobs there and lower the incentive to migrate to the U.S. This turned out to be incorrect. The U.S. attracts capital flows and unskilled immigrants and skilled immigrants while running a huge trade deficit. One reason is that the U.S. has a technological edge and a business climate edge over most other countries, particularly poor countries.

(4) Economic analysis predicts that immigrants reduce earnings of substitute factors and raise the earnings of complementary factors, where complements include capital and other types of native-born labor. The gains to native complements exceed the losses to native substitutes, so that immigration—like trade and capital flows—are a net boon for the economy. Most immigration studies estimate the adverse effect of immigrants on native earnings or employment, but the logic of the analysis establishes a direct link between the losses to native substitutes and the larger gains to native complements. Studies that compare wages/employment in cities with lots of immigrants with wages/employment in cities with few immigrants find little adverse effect of immigration on native workers. But this also means that there is little native gain from immigration (save when immigrants do things that no native can or will do at any reasonable wage). Studies that compare wages/employment among groups over time find that immigrants depress the wages/employment of natives, with a larger impact among more highly educated workers. Even so, the gains and losses to natives from immigration are dwarfed by the gains that immigrants themselves make. An unskilled Mexican can earn 6 to 8 times as much in the U.S. as in rural Mexico. The main beneficiaries from immigration to the U.S. are immigrants; this is why so many are willing to enter illegally when they can—from Mexico or Central America or the Caribbean.

(5) The huge difference in the earnings of low skilled immigrants, in particular, in their native land and in the U.S. creates a powerful economic force for continued immigrant flows and makes it very difficult to control the U.S. borders. At the same time, however, it suggests that many current illegal immigrants or potential immigrants would be willing to pay for legal status in the country. To change immigration flows from illegal to legal and to control the flows requires redistributing some of the huge gains to immigrants to natives.

(6) At the other end of the skill distribution, the U.S. relies extensively on highly skilled immigrants to maintain our comparative advantage in science and technology. The United States imports science and engineering specialists, who help the country maintain its position at the technological frontier. During the 1990s boom, the United States greatly increased the proportion of foreign-born workers among scientists and engineers. In 2000 over half of the country's Ph.D. scientists and engineers were born overseas! Sixty percent of the growth of S&E workers over this decade came from the foreign born. Without this flow of immigrants, U.S. labs, including government labs such as those of NIH, would have to cut their workload in half. Highly skilled immigrants add to the ability of our economy to maintain predominance in high-tech industries with good jobs and growth potential. The desire of highly educated immigrants to come to the U.S. is a major competitive advantage to the U.S.

(7) But having a huge flow of highly skilled immigrants invariably reduces the incentives for American students to go on in science and engineering. The 1990s increase in science and engineering employment occurred without great increases in pay for these workers, in part because of the large supply of foreign born specialists desirous of coming to the U.S. Without gains in earnings and quality of work life, many outstanding American students, particularly men, shunned science and engineering in favor of business, law, and other disciplines. This does not however mean that the U.S. must limit foreign flows to attract more Americans into these fields. It can attract more Americans with more and increased graduate fellowships and undergraduate scholarships. To maintain the U.S. as the lead scientific and technological country, the U.S. should develop policies to attract more able students from our native born population without seeking to reduce immigrant flows.

(8) Multinational firms today source highly skilled labor globally. They seek the best workers they can get regardless of country of origin. As the number of university graduates is increasing throughout the world, the competition facing educated American workers has risen. Is it better for native born and resident Americans to compete with educated foreigners from developing countries who come as immigrants in the U.S., where wages and working conditions are reasonably high, or to compete with them when they are working overseas, where wages and working conditions are generally lower? Is it better to have U.S. firms offshore jobs or bring in more immigrants? While there is no definitive analysis of these questions, my guess is that it is better to have the top foreign talent in the U.S.; and to do what we can to get them to become citizens and remain here than to have them compete with U.S. workers from lower wage settings overseas. Because trade and capital and immigration flows are intimately connected, however, there are some economic factors operating in the other direction.

In sum, we should think about the economics of immigration in two parts. Taking unskilled and often illegal immigration first, the main beneficiaries of low skill immigration are the immigrants, who have a huge economic incentive to come to the U.S. when they can. The vast improvement they can make in their lives and the lives of their children by coming to our country speaks well for our society, even if few of those benefits accrue to current citizens and residents. With respect to the highly educated immigrants, they add to the country's strength in the sectors that we need to prosper in the global economy. We should compete actively in the global market for the top students and workers in science and engineering and other technical fields, but also provide incentives for more Americans to enter these fields.

Mr. GREGG. Will the Senator yield me 3 minutes?

Mr. SPECTER. Yes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 3 minutes.

Mr. GREGG. Mr. President, I rise in opposition to this amendment and support Senator SPECTER and Senator KENNEDY's and Senator MCCAIN's position. I think, relative to the effort in this Congress and in the Senate, nobody has put more time into the issue of how we secure our borders relative to the actual physical activity on our borders than I have because I find myself in the jurisdiction of the Appropriations Committee that covers the border security issues.

I have come to this conclusion: We can secure our borders. But you cannot do it with just people and money on the border. There has to be a policy in place that creates an atmosphere that lessens the pressure for people to come across the border illegally. The essence of doing that is this guest worker concept. Yes, you have to do everything we can to tighten up the borders in the area of boots on the ground, technology being used, and making sure we have a strong Coast Guard, a strong immigration force, and strong border security force. That type of commitment has been a primary effort of the Senate and myself. We put $1.9 billion into the supplemental that went through here to try to upgrade the capital for the aircraft and cars and unmanned vehicles and the necessary facilities for the Coast Guard, recognizing that border security has to be significantly beefed up.

The President made this point last night very well. But that cannot stop the issue—that doesn't resolve the issue of how you secure the border because as long as you have human nature guiding people's actions, and as long as you have the role of supply and demand in play, you are going to have people who are willing to take the risks to come across the border illegally, no matter how many people you have there. If you are paying $5 a day in Mexico and $50 a day in the United States for a job, and you have a family and you are trying to better yourself, you are going to want to seek that job in America.

The question is, Isn't there a way to set this process up so that a job seeker can come here, do the job, which the employer also needs them to do because they can't otherwise fill that position—and this bill protects to make sure that is the case, that it is not taking jobs from Americans—isn't there some way to set this up so that a person can come into this country, work a reasonable amount of time, and then return to their country, or be here as a guest worker in a guest worker status?

That is what this bill attempts to address. It is one of the three elements of the formula for getting control over our borders. The first element is, of course, strong physical capability on the borders to control the borders.

The second element is to make sure we have in place a program where when people come into this country to work, they can come in legally.

The third element, of course, is enforcement at the workplace to make sure people who are working have that legal status of a guest worker.

That is the essence of this bill, in part, along with the border security elements. I strongly support it and hope we will reject the amendment as proposed.

I yield the floor and reserve the remainder of the time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, the Senator from Pennsylvania is not on the floor of the Senate. My understanding was when his side was finished, he was going to yield back his time. I will proceed on the assumption that his time is done, and I have the right to close. How much time remains?

The PRESIDING OFFICER. The Senator has 23 minutes.

Mr. DORGAN. Mr. President, this is an interesting discussion and interesting debate. A couple of points have come to mind.

I have heard now three or four people come to the floor of the Senate and say: We have worked a long time and we put together a comprehensive proposal—in fact, they credited the President for saying the proposal needs to be comprehensive—and you can't take any part of this and change it. It is like pulling a loose string on a cheap suit: pull the string, the arm falls off. You destroy the bill if you do anything that alters it.

Then they come to the floor and say this is a three-legged stool, and if you cut off one of the legs, the stool falls over. Maybe they ought to bring a four-legged stool to the floor of the Senate. If you have a bad leg, you better have another leg to balance on.

The fact is, this is not a three-legged stool or a cheap suit. It is bad policy, just bad policy.

I want to answer some of the offers made by the other side. First, this issue of guests, temporary workers. We have a guest bedroom in our home. We call it the guest bedroom because it is not used much. But when someone uses the guest bedroom, you expect they are going to be there for a short period and leave. They are friends who come and stay. If somebody were to come and stay forever in that room, I guess I wouldn't call them a guest. Yet this so-called guest provision they have stuck in this bill by saying we are going to declare illegal immigration legal for up to 3.8 million people in the next 6 years—that is the way we will deal with illegal immigration. We will just call it legal. The so-called guest provision is people who come here, then apply for a green card, and then stay. There is nothing temporary about that. Don't call them guests. Guests, future flow—what soft-sounding words. Maybe tourists, guest tourists, future flow. But we know why they are coming. My colleagues described why they are coming. They want to work in this country.

The problem is, in all this discussion, I don't hear anybody talking about the American worker. What is the impact on the American worker?

I didn't know all of the economists just cited by my friend from Pennsylvania. They are probably very distinguished economists, probably extraordinarily well-educated economists, probably economists whose names I should know and, if so, I apologize.

Let me read this name, Paul Samuelson. I studied his textbook on economics. I actually taught his textbook in college. Professor Paul Samuelson. If you didn't learn this in Economics 101, then you should have failed. He says:

> Let us underline this basic principle: An increase in the labor supply will, other things being equal, tend to depress wage rates.

That is exactly what has happened in this country. Now we say there are 11 to 12 million people who have come to this country illegally. I said earlier that I don't want to diminish the worth or dignity of anyone who is in this country legally or illegally. I am not interested in trying to diminish their worth or dignity. Somebody has been here 25 years, didn't come legally 25 years ago, has a child here, or two, perhaps a grandchild, they worked here, paid taxes here. I am not interested in rounding them up and moving them out of this country.

I understand some of the urges of people who have written some of this legislation. What I don't understand is this: There is no discussion about its impact on the American worker when they say: Oh, by the way, let's solve all these issues and let's, on top of all of this, add one more big arm that sticks out, and that is the so-called guest workers where we allow 3.8 million people in the next 6 years who are not here now, not working in America now, living outside of our country now, to come in and take American jobs.

What on Earth are we thinking? Can't there be some modicum of discussion about the effect on American workers?

I put this chart up earlier, and I will put it up again because this discussion relates exactly to a string of failures. I am told we are all complimenting the President for his speech last night. I don't compliment the President for his trade strategy. We have the highest trade deficit in the history of this country: every single day, 7 days a week, $2 billion in trade deficit—every single day. That means Americans jobs are going overseas. We are choking on debt.

What is the status of this trade? It is a green light for big companies to export jobs, and they are going wholesale, 3 to 4 million jobs just in the last few years. They are leaving.

By the way, Alan Blinder, a mainstream economist, former Vice Chairman of the Federal Reserve Board, said in his recent piece: I believe in "Foreign Affairs." that there are now 42 to 54 million American jobs that are potentially subject to being exported to other parts of the world because now we have 1 billion to 1.5 billion people in the rest of the world willing to work for pennies. So 42 to 54 million American jobs are subject to that kind of influence.

He says they won't all be exported, but even those who remain here will see lower wages and downward pressure on wages and benefits, health care, and retirement. That is the future on that side. Exporting good jobs.

The world is flat, we are told. The book shines from the bookstores, "The World is Flat." We look with rose-colored glasses at all the American jobs now in Bangalore, now in Xinsheng, China. We say: Isn't that something?

I will tell you what is something. Those jobs used to be here supporting families. There is no social program this Senate works on that is more important than a good job that pays benefits and allows people to take care of their family. There is no social program as good as that.

We are talking about exporting good jobs, and exactly the same influence that resulted in this provision being put in this bill wants there to be imported cheap labor through the back door. That is what this guest worker provision is all about: importing cheap labor.

We are told the reason the 1986 law that was trumpeted 20 years ago, immigration reform, sanctions against employers who hire illegal immigrants didn't work is because there was no guest worker program. That is unbelievable to me. That is not the case at all.

This proposition is to say: You know how we will stop illegal immigration? We will just define them all as legal. At least 325,000 plus 20 percent, that is 3.8 million in 6 years. We will define them as legal. We won't have a problem, we will just change the definition.

Let me show a couple of charts. These are people living in extraordinarily primitive conditions. They are undocumented workers. We can see where they are bunking. They were brought in, by the way, by a company to help repair in the aftermath of Katrina, a Government contract, mind you, with undocumented workers.

Let me tell you whose jobs they took. That contractor hired these folks, and all the electricians, including one Sam Smith whose house was completely destroyed in the Ninth Ward after Katrina slammed into that coast. He returned to the city because of the promise of $22-an-hour wages for qualified, experienced, long-term electricians. He and 75 people were guaranteed work for a year at that naval institution.

He was quickly disappointed. He lost his job within 3 weeks because the other contracting company brought in undocumented workers who were unqualified and were willing to work for pennies.

I am the one who exposed this situation, and not long after I exposed it, there were inspectors who went on that base. I don't know the result of it all. All I am telling you is this is going on all across this country. This is a guy who lost his home and had a job and was displaced by someone coming through the back door willing to work for pennies. It wasn't just that person, it was the employer who decided they wanted to fatten their profits by hiring, in this case, illegals.

The way to solve that is not to say: Let's make them legal. The way to solve that is to say that job ought to go to Sam who lost his home, who is a qualified electrician. He is the person who needed that job. Yet contractors bring in these undocumented workers or, in this case, they perhaps bring in workers under the so-called guest worker provisions. Actually, they are not really guest workers, they are low-wage replacement workers. We should call them what they are.

We were told in the discussion earlier that we should accept this because we can't stop it. It is going to happen whether we like it or not, so let's just declare them legal. I don't understand that at all.

I mentioned earlier that this planet we live on, to the extent we know it, is the only place in the universe where we know life exists and we move around the Sun. On this planet of ours, we were blessed to be born in this country, live in this country, or come to this country and be a part of this great place called the United States. We built a standard of living unparalleled in the world. We did that through great sacrifice and through great debates. Now we are told none of that matters very much because it is a flat world, it is a global economy; by the way, we can move jobs overseas, and we can bring cheap labor through the back door.

Just once—and I guess it won't happen this afternoon—just once I would like to hear a real debate about jobs in this country, about American workers and, yes, that includes Hispanic, African-American, Asian-American workers—our entire workforce. Just once I want to hear a discussion about what this means to American workers. Yet almost none of that has been heard on the floor of the Senate any time during this discussion.

Mr. SESSIONS. Mr. President, will the Senator yield for a question?

Mr. DORGAN. I will be happy to yield.

Mr. SESSIONS. I have the opportunity to serve on the Senate Judiciary Committee. We had one hearing that dealt with these issues and dealt with some of the issues the Senator has been talking about specifically. Professor Richard Freeman—and these were pretty pro-immigration panels, but I think they all agree with Senator DORGAN—Richard Freeman holds the Herbert Asherman Chair, professor of economics at Harvard University. This was his quote just a few weeks ago at a hearing:

> One of the concerns when immigrants come in that way, they may take some jobs from some Americans and drive down the wages of some Americans and, obviously, if there is a large number of immigrants coming in and if they are coming in at a bad economic time, that's likely to happen.

Is that consistent with the Senator's views and that of Professor Samuelson?

Mr. DORGAN. That is exactly the case, although this is Professor Freeman. I have never known an economist to lose his or her job to a bad trade agreement. They sit around thumbing their suspenders. They occasionally smoke a pipe, wear their little corduroy coat with their leather arm pads. They pontificate about these issues. The fact is, half of them can't remember their telephone numbers, and they are telling us what is going to happen 5 years in the future.

I understand, and I think most people understand, what is happening in this country today. What is happening today is the export of good jobs and the import of cheap labor and depressing the conditions of employment in America. That is what is happening, and nobody seems to care very much.

The inequality grows. The wealthy get wealthier, the people at the bottom are stuck—they haven't had an increase in the minimum wage in 9 years, mind you, so they are stuck and they are losing ground.

The question is, Who is going to stand for them and speak for them?

Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator has 10 minutes 15 seconds remaining.

Mr. DORGAN. Mr. President, I mentioned earlier—and I think it fits exactly with the debate—the export of jobs and import of cheap labor. I mentioned about the dancing grapes. All of us have seen when Fruit of the Loom advertises their underwear, they do it with people called dancing grapes. Somebody is dressed in red grapes and somebody else is dressed in green grapes. We have all seen them. What kind of adult would wear a grape suit and sing? Nonetheless, we are all entertained by dancing grapes.

The dancing grapes represent Fruit of the Loom underwear, T-shirts, shorts, so on. They were made in this country, just as Levis and other products were made in this country. The dancing grapes danced right out of our country. All those jobs to make those underwear, gone. This country doesn't make one pair of Levis anymore. Not one pair of Levis is made in the United States.

Anyway, the dancing grapes leave our country, and those jobs are elsewhere. Why are they gone from this country? Because they went in search of cheap labor.

So to the extent that companies can move these jobs out of this country to find cheap labor, they will. They still want to sell back into this country. They still need the American consumer, the American consumer who has just lost his or her job. One question is, then, where is the income going to come from?

In any event, even as they move these jobs out of this country, there are some that will remain in this country. In this new global economy, there are some jobs you can't move. And some of the same economic interests that want to move the jobs they can want to displace the jobs they can't with cheap labor.

How do they do that with cheap labor? What they do is they attract people to come into this country from areas around the world—and one-half of the people in this world live on less than $2 a day—they attract people to come in the back door. At the moment, it is illegal, so we gather on the floor of the Senate to talk about illegal immigration. What is one of the approaches to solve this? Let's just get a stamp and stamp it legal. That way we can say we don't have illegal immigration. So it appears to me what we are going to have is up to 3.8 million people in the next 6 years, who will come into this country and take American jobs, who otherwise would be declared illegal. By the way, that is on top of the 11 million or 12 million people the underlying bill will describe as legal. They say we are going to allow them to come in, take American jobs, but they will not be illegal because we have decided in the Senate we are going to put a different stamp there. It is going to be fine.

So nobody on the Senate floor is standing up and saying: What about the tradeoff here of an American family? We hear a lot about other families. One of my colleagues just described economic immigrants. Man, the world is full of them. If the world has one-half of its population making less than $2 a day, are there economic immigrants willing to come from many corners of this globe to this country? The answer is, of course. But we have immigration laws and quotas because if we were flooded with tens and tens of millions of people searching for opportunities in our country, we would diminish opportunities for Americans who live here and work here and built this country. So that is why we have immigration quotas.

One final point, if I might, on this issue of employer sanctions. That is a matter of will. You know there are no employer sanctions. The law says there are employer sanctions. Last year, I am told—I need to check this for sure, but I am told that there was one enforcement effort against one employer that hired illegal immigrants. The year before, there were three in the entire

United States—three. That is a matter of lack of will. That is a matter of looking the other way when businesses want to hire cheap labor through the back door. Only when they are pressed will authorities finally go down and take a look at the folks living in these conditions who have taken jobs of people who lost their homes in Hurricane Katrina. Only when they are forced will someone show up, knock on the door, and say: You know something, this isn't legal.

This is a very important debate. In some ways, I regret that we have as short a time as we do. I probably should not have agreed to a time agreement, there is so much to say about it. Yet we will have a vote this afternoon.

My colleagues have spoken here with great authority. We all come here and wear white shirts and dark suits and all sound authoritative. Some are right, and some are wrong. It is hard to tell the difference. So we will have a vote on this. At the end of this vote, I suppose this will move right ahead because we are told, if this vote prevails, if my amendment prevails, as I said earlier, it is like pulling a loose thread on a cheap suit—the whole arm falls off and the whole suit is worthless. I don't understand why they construct legislation that way, but every time somebody brings a proposal to the floor of the Senate which is the result of negotiations, they say you can't interrupt anything because, after all, when we shut the door and negotiated this, we all did that in good faith, so don't be messing with our product. If you pull one piece of it out, you ruin what we have done. I have heard that a million times on the floor of the Senate.

I think the Senate ought to just mess with this piece and say to those folks who constructed it, with respect: You are wrong about this. This piece is the price for the Chamber of Commerce to support this legislation. This piece is the price for the Chamber of Commerce to say: Allow us to bring 3.8 million people through the back door, cheap labor, and we will support the legislation, the substantial immigration reform.

I just happen to disagree with that. I happen to stand here in support of and concerned about—immigrant families, yes, but in support especially of American workers, in support of workers who do not seem to have much of a voice on the floor of this Senate.

The next trade bill that comes up, once again we will see their jobs further traded overseas. It is bizarre. There is no minimum wage increase for 9 years. Every trade agreement that comes along is pulling the rug out from under American workers. God bless them. See you, so long.

That is the way it goes around here. Maybe we ought to call this what it is. Maybe we ought to stop at this. Maybe the stop sign on behalf of American workers ought to be to say it is time for this Senate to stand up for American jobs. After all, this country's middle class, which we built over the last couple of centuries, especially the last century, that middle class is what supported the highest standard of living in the world. But that standard of living will not long exist if we export good jobs to low wage countries and then import cheap labor to perform those subpar-wage duties here in this country. That is not, in my judgment, what works for our country's best economic future.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 3 minutes 25 seconds.

Mr. DORGAN. Mr. President, the Senator, I believe, wanted to ask if I would yield for a question. I am happy to do that.

Mr. SESSIONS. I would, briefly. I think it sort of confirms what you are saying. We had a subcommittee hearing on this, and the second professor, Dr. Barry Chiswick, the head and research professor at the Department of Economics at the University of Illinois in Chicago, said:

> [T]here is a competition in the labor market. And the large increase in low-skilled immigration that we've seen over the last 20 years has had a substantial negative effect on the employment and earning opportunities of low-skilled Americans. . . . [The] large increase in low-skilled immigration has had the effect of decreasing the wages and employment opportunities of low-skilled workers who are currently resident in the United States.

Does that comport with the theme of the remarks of the Senator?

Mr. DORGAN. The Senator is absolutely correct. It seems to me this is not at issue, the question of what this means to American workers. It just is not.

Mr. SESSIONS. Here is Professor Harry Holzer at the same committee hearing, three out of five witnesses, most of them pro-immigration witnesses. He is an associate dean and professor of public policy at Georgetown. He says:

> Now, absent the immigrants, employers might need to raise those wages and improve those conditions of work to entice native born workers into those [construction, agriculture, janitorial, food preparation . . .] jobs.
>
> I believe when immigrants are illegal they do more to undercut the level of wages of native born workers.

So I think he also would agree with the Senator from North Dakota.

Mr. DORGAN. Mr. President, let me say that this economic strategy isn't working. This doesn't work. Fig Newton cookies moved to Mexico, and the Chinese just bought WHAM-O, Hula Hoop, Slip 'N Slide, and Frisbee. To the extent this bill will make illegal workers come in stamped as legal, we know they are not going to make Fig Newtons and Frisbees because those jobs are gone, but we know there is a reason for a guest worker provision, and the reason is there are interests that support this bill only on the condition that they continue to allow low wage workers to come in the back door even as major American corporations are exporting good American jobs out the front door. I think that is a construct that 5, 10, and 20 years from now is dangerous to this country and restricts opportunity rather than expands it for the American people.

I do not support this provision. I hope my colleagues will support my amendment and strike this guest worker, future flow, or low wage replacement worker provision, as I call it, in the underlying piece of legislation.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, I will yield back. Is all time consumed by Senator DORGAN?

Mr. DORGAN. I yield back my time.

Mr. SPECTER. I yield my time. I move to table the Dorgan amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on Agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

McCONNELL. The following Senators were necessarily absent: the Senator from Mississippi (Mr. COCHRAN) and the Senator from Mississippi (Mr. LOTT).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The result was announced—yeas 69, nays 28, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—69

Akaka
Alexander
Allard
Allen
Bennett
Biden
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Cantwell
Carper
Chafee
Chambliss
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Domenici
Ensign
Enzi
Feingold
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Lieberman
Lincoln
Lugar
Martinez
McCain
McConnell
Menendez
Mikulski
Murkowski
Murray
Nelson (FL)
Pryor
Reid
Salazar
Santorum
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Thomas
Thune
Voinovich
Warner

NAYS—28

Baucus
Bayh
Boxer
Byrd
Clinton
Coburn
Conrad
Dayton
Dodd
Dole
Dorgan
Durbin
Feinstein
Harkin
Inhofe
Inouye
Levin
Nelson (NE)
Obama
Reed
Roberts

Sarbanes
Schumer
Sessions
Stabenow
Talent
Vitter
Wyden

NOT VOTING—3

Cochran
Lott
Rockefeller

The motion was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President. we have the amendment from Senator KYL and Senator CORNYN next in sequence. They have a right to go next. If they are willing to wait until the morning, we will proceed with another amendment.

Mr. KYL. Mr. President, Chairman SPECTER, it is my understanding that if I defer to the Senator from New Mexico, we can actually get an amendment of the Senator from New Mexico voted on and perhaps another amendment considered by Senator KERRY, so they would be disposed of. whereas it may take a bit longer if our amendment is put down.

Mr. SPECTER. The Senator from Arizona is correct.

Mr. KYL. If we start tomorrow morning with our amendment, the Kyl-Cornyn et al. amendment, perhaps we could conclude more business if we follow in that process.

Mr. SPECTER. Mr. President, I appreciate the gracious comment by Senator KYL. We will proceed with Kyl-Cornyn first thing tomorrow morning.

Now we will proceed with the Bingaman amendment under a unanimous consent agreement of 1 hour equally divided, with no second-degree amendments in order, with the time evenly divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I yield to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 3981

Mr. BINGAMAN. Mr. President, I thank my colleague from Pennsylvania, the chairman, for yielding to me.

I ask consent to bring up Senate amendment 3981.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mrs. FEINSTEIN, proposes an amendment numbered 3981.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To reduce the number of H–2C nonimmigrants to 200,000 during any fiscal year)

Beginning on page 292, strike line 18 and all that follows through page 295, line 4, and insert the following:

(g) NUMERICAL LIMITATIONS.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(2) by adding at the end the following:

"(C) under section 101(a)(15)(H)(ii)(c) may not exceed 200,000.".

Mr. BINGAMAN. Mr. President, as we all know, the immigration bill creates a new temporary guest worker program aimed at providing an equal and orderly process for individuals to come to this country and to work in sectors of our economy where there is a shortage of available workers.

We had good debate in connection with the Dorgan amendment with regard to that guest worker program. Everyone who listened to that debate understands this is a new program which is being added to our immigration laws, one which is not available today for anyone to use.

Specifically, the bill pending before the Senate allocates 325,000 temporary visas for the first fiscal year, and in each subsequent year the numerical limit is flexible.

If the cap is reached—that is, the full 325,000—the number of available visas would increase. It could increase by 10 percent, it could increase by 15 percent, it could increase by 20 percent in the next fiscal year, depending upon how quickly those visas were used or taken.

In essence, what the bill provides—the bill pending before us—is for an open-ended automatic-increase mechanism that has the potential to significantly increase the number of visas we are making available. When I say an automatic-increase mechanism, we have all heard about compound interest. Everyone who has a checking account knows the power of compounding interest. What we have here is not compounding interest, it is compounding immigration, because the 20-percent increase over the previous year's level continues indefinitely into the future. You start with 325,000, plus 20 percent; then you take the new figure, plus 20 percent; then you take the new figure, plus 20 percent; and it goes on and on.

My amendment, which Senator FEINSTEIN is cosponsoring, would simply put in place, instead of that, a hard cap of 200,000 on the number of visas available each year under this program. Of course, in addition to this program, we all understand there are many other programs that people can use to gain legal access into our country.

Let me show a chart. This chart: guest worker visas issued under S. 2611. Now, the olive-colored wedge down at the bottom represents the number of visas that would be issued over the next 6 years under my amendment. That is 200,000 per year, each year, for 6 years, or a total of 1.2 million visas under the guest worker program.

If the Senate were to defeat the amendment I am offering and just go with the bill as it currently pends before the Senate, then it could take any of a number of courses. If there is a 10-percent increase, because of the speed with which people apply for these visas, it would go up to 2.725 million visas by the end of 6 years. If it is a 15-percent increase, it gets you to 3.222 million visas by the end of 6 years. And if, in fact, there are enough applicants for these visas to get you a full 20-percent increase, then you get to 3.8 million immigrant visas issued over this 6 years.

Now, why did I stop this chart at 6 years? The truth is, this legislation has no sunset. This legislation continues indefinitely until Congress changes the law again. So this chart could just as easily have been for 10 years or 15 years or 20 years. And if you really want to see the power of compound immigration, just like the power of compound interest, we should have developed a chart that takes us out 10 or 15 or 20 years. So the chart exemplifies how the number of guest workers may increase over this 6-year period under these different scenarios. The chart could have been made for a longer period.

If the 325,000-person cap is reached within the first 3 months of the fiscal year, we will have added almost 4 million guest workers over this 6-year period. If the cap is reached in the second quarter of the fiscal year, we will have added just over 3 million. And if the cap is hit in the third quarter of the year, we will have added a little under 3 million workers under this particular program.

In addition, it is important to note that although these visas are issued only for up to 6 years, these workers have the right to petition to become legal permanent residents within 1 year if the employer files for them or within 4 years if they self-petition.

Frankly, I believe we need to be a little more judicious with respect to the number of visas we are allocating under this program. This is a brandnew program. Under my amendment, which sets the numerical limit for such visas at 200,000, there would be no more than 1.2 million guest workers admitted over these first 6 years.

We need to recognize that guest worker programs, if they are not properly implemented, can impact on American workers. Senator DORGAN made the case, I believe very eloquently, that many economists have spoken about the downward pressure on wages that results when you increase the labor supply. We need to recognize that our success with regard to the temporary worker program we have now, such as with regard to agricultural workers, has been mixed. We should not make a mistake here by erring on the side of extravagance in allocating these visas or authorizing the issuance of these visas until we know how this program is going to impact American workers.

I did not vote for Senator DORGAN's amendment to eliminate the guest worker program, but I do believe we need to be judicious about the extent of the guest worker program that we authorize. We definitely should not be signing on to some kind of automatic compounding of the number of workers eligible for legal entry into this country under that program. There are a variety of jobs that may be filled by these guest workers—from construction jobs to hotel service jobs—but we should not be placing American workers in these sectors of our economy in the position of competing with virtually an unlimited number of guest workers, which is what I fear we are putting in the law if we leave the law the way it now pends in this pending legislation.

The underlying bill does create a temporary guest worker task force. This task force is charged with assessing the impact of the guest worker program on wages and on labor conditions and the employment of American workers and with then making recommendations about whether the numerical cap should be lowered or raised. But then you go on with the legislation, and the increase mechanism is not in any way tied to the recommendations of the task force. The overall number of visas could significantly increase automatically, regardless of whether the program is determined, by this temporary guest worker task force, to be hurting American workers.

So if Congress wants to raise the caps, we have the authority to do that every year. We meet here every year. We can raise the cap. But we should not provide for an automatic increase in the number of temporary visas irrespective of how that increase is affecting American workers.

Just to be clear, reducing the number of guest worker visas to 200,000 a year is not a drastic measure that undercuts the bill's goal of providing a more realistic framework for immigrants to legally come into this country. According to the Congressional Research Service, under this overall bill, we will at least be doubling—here is a chart that shows what is going to happen to the projections for employment-based legal permanent residents coming into this country under this legislation. We will at least be doubling the flow of legal permanent immigration under the bill in the first year. We increase family- and employment-based numerical limits, and we exempt categories of individuals from these caps.

Overall, the bill does provide for many legal avenues for individuals to legally come into the United States and to work. For example, as this chart shows—this is a chart based on the Congressional Research Service report—we are significantly increasing the number of employment-based legal permanent residents under the bill.

I strongly believe the amendment I am offering with Senator FEINSTEIN is a reasonable approach. It ensures that an unlimited number of guest workers are not admitted under this program. I hope my colleagues will agree with me that this is a good change. This amendment would improve the legislation, would allow us to maintain a guest worker program, which the President has strongly endorsed maintaining, but would improve the program by limiting it to a level we can understand and manage in these first few years.

Mr. President, I yield the floor, and I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be equally divided between the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The Senator has 17½ minutes.

Mr. BINGAMAN. Seventeen and a half?

The PRESIDING OFFICER. Yes.

Mr. BINGAMAN. Mr. President, I yield 12 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from New Mexico.

Mr. President, I would like to speak as a member of the Judiciary Committee. I think one of the things we really need to understand about this bill is that it is a very large bill. It is 640 pages long. It contains a multitude of programs. And it—through the visa programs, the nonimmigrant visas—brings in large numbers of people.

I think when we were in Judiciary we did not realize the extent to which large numbers of people are brought in on some of these visas. We were working to a march. We had to get the bill done. And it is my understanding that studies of the bill now on the floor have shown that this bill could allow up to 193 million new legal immigrants. That is a number greater than 60 percent of the current U.S. population in the next 20 years. Now, that is a way-out figure—20 years—but I think we have to begin to look at each of the visa increases over at least the next 10-year period to determine how many people would come in, particularly the guest worker program.

I am happy to cosponsor this amendment with Senator BINGAMAN. The amendment does two things: it lowers the annual numerical cap from 325,000 of H–2C guest worker visas—and there are a myriad of guest worker visas, but this one is H–2C—to 200,000, and it eliminates the annual escalator.

In my view, all annual escalators in this bill should be eliminated because they bring in too many people over a relatively short period of time. This bill has the potential, as I said, to bring in millions of guest workers over the years. This means that over 6 years—the length of an alien's stay in the United States in this one temporary visa category—there could be 1.2 million workers in the United States.

Under the current proposal, let's say you start at 325,000 guest workers in the first year, and you add the 10-percent escalator. The 10-percent escalator would yield, over 6 years, 2.7 million people. The 15-percent escalator would take it to, over 6 years, 3.2 million people. And if you had the 20-percent escalator, it would take it up to, over 6 years, 3,807,000 people. It is simply too many. So the current bill doubles and even triples the number of foreign guest workers who could enter the United States over the 6 years of our amendment.

I hope this amendment will pass. I would hope that we could eliminate the escalators in these visa programs. The H–1B visa escalator would have a total of 3.67 million people over the next 10 years coming in under an H–1B visa. We increase the H–1B from 56,000 to 115,000, and then we put in a 20-percent escalator each year. If the number of visas reached the 115,000—and it will—therefore, the next year you add 20 percent. Then if that is reached, you add another 20 percent. And it compounds in this manner to the tune of a total of 3.6 million.

I am very concerned about this. I hope the Bingaman amendment will be successful. Again, it does two things. It reduces the base amount from 325,000 to 200,000, and it eliminates the escalator. Two hundred thousand guest workers a year are ample because this is just one part of the bill. There are other visa programs. There is AgJOBS. There is earned adjustment. It all adds up to millions and millions of people.

I strongly support the Bingaman amendment. I urge my colleagues to vote yes.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from New Mexico.

Mr. BINGAMAN. First, I thank the Senator from California for her strong support for my amendment. Particularly because of her role in the development of the legislation in the Judiciary Committee, she pointed out very well the reasons this amendment is meritorious. I hope people, even some Members on the Judiciary Committee with Senator FEINSTEIN, will look at this favorably and consider it an improvement to the bill.

I ask unanimous consent that Senator ALEXANDER from Tennessee be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. I know we have one other Senator who has indicated a desire to speak in favor of the amendment. Let me point out to my colleagues that both myself and Senator ALEXANDER are Members who voted against the Dorgan amendment that was just tabled. I cannot speak for Senator ALEXANDER, but from my perspective, I am persuaded that there is value in having a viable guest worker program. I support that part of the legislation. My concern is with the magnitude of it, particularly since it is a new program.

For us to start it at 325,000 per year and then have an automatic escalator in the law and have no sunset on it at all, so that we all understand that this is permanent law, unless Congress comes back and changes the law 10 years from now, we will still be taking the previous year's total and be able to increase it by 20 percent. That gets to a point where American workers are going to have a very legitimate complaint. I favor allowing an opportunity for people to come here and take jobs that Americans don't want. But I do not favor allowing people to come here to bid down the price of labor to such a point that Americans are unwilling to take jobs for the very meager salaries that employers are able to pay.

It is a straightforward amendment. I hope my colleagues will support it. I know we do have one more speaker. I believe the Senator from California would like 2 minutes. I yield 2 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I thank my colleague from New Mexico. As anyone watching the debate saw, I was in support of what Senator DORGAN was trying to do which was to strip the guest worker program from this bill, a bill that has a lot of good to it. I do support strengthening the border, and I do support giving 11 or 12 million hardworking people who have paid their dues, who will come forward and learn English and who will pay the fines, who have a clean record, a path to legality. I strongly support that, and I strongly support the AgJOBS provision of this bill. But I predict that this guest worker program, which the Senate has now ratified, is going to come back to haunt people because, as Senator BINGAMAN has shown us, the way this bill is structured, the workers will grow exponentially in this guest worker program to the point where, according to some estimates, we are talking about tens of millions of guest workers over the next 20 years.

What Senator BINGAMAN is trying to do is to put a cap on this, a real cap, not the phony cap that is in the bill that says it will escalate up to 20 percent every year. You figure out the math. It is kind of amazing.

What Senator BINGAMAN is doing is making this a better bill. I strongly support the cap he is proposing. I thank him for the opportunity to speak on behalf of his amendment. As usual, he has brought commonsense to the Senate. I hope the Senate will strongly support the Bingaman amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, it is always difficult to make a determination as to what is the right figure. The committee came to the figure of 325,000, after a great deal of analysis and thought. It is the result of a compromise that was worked out, with some figures being substantially higher than that, some lower. But that is the figure the committee came to. The amendment offered by Senator BINGAMAN and Senator FEINSTEIN would also eliminate the fluctuation which is to allow for a 20-percent increase if we hit the top. What we are trying to do in this legislation is to accommodate the market, if there is demand for these guest workers. So the fluctuating cap is perhaps even more important than the difference between 325,000 and 200,000.

When we considered the Dorgan amendment, we were debating the issue as to the way the guest worker program fits into overall comprehensive reform so that if we were able to accommodate the needs of the American economy with these guest workers, then we fill the jobs. They are not open. We do not create a vacuum on jobs so that immigrants who are in this country illegally would be available to take the jobs. This is a regulatory approach which accommodates for the needs of the economy and is the figure that we best calculate to accommodate them. I think if we had come in at 200,000, we would be looking at an amendment for 125,000 or at some other figure. There is an obvious give and take as to whatever figure we have. Somebody has a different figure to make it lower.

I have great respect for those who say we ought to protect American jobs and that we ought not to have guest workers who are going to take those jobs or lower the compensation for the people who hold American jobs. We put into the RECORD on the Dorgan amendment testimony from three expert witnesses. I will not repeat it and put it into the RECORD again. But the essential conclusion was that there would be minimal impact on taking American jobs and minimal impact on compensation.

The statute is carefully constructed to protect American workers, taking away any incentives for employers to hire foreign workers. For example, the employees must be paid the higher of what is the actual wage paid to other employees with the same skill or the prevailing wage rate for that job. So the law requires the employer to pay the immigrants the same as they would pay somebody else. And the employers must provide the same working conditions and benefits that are available for similar jobs. You don't have a class of immigrant workers who are being taken advantage of. The employers must provide insurance if the State workers compensation doesn't cover all of these workers. So you have a situation where there are no incentives to lose American jobs. We think this figure is a fair figure and a realistic figure arrived at by the committee after very long deliberation and after a compromise. We think this figure should stay.

In the absence of any other Senator seeking recognition, I would inquire how much time I have remaining?

The PRESIDING OFFICER. The Senator has 24 minutes remaining, and the Senator from New Mexico has 7 minutes. Mr. SPECTER. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. May I ask my colleague, is it his intent that I should close my argument now and then we would have a vote?

Mr. SPECTER. Mr. President, yes.

Mr. BINGAMAN. Mr. President, I thank my colleague for that concise answer.

Let me say that I have great respect for the chairman and his efforts to put together a bill that he believes makes sense. As he says, it accommodates the market. That is an interesting concept, accommodating the market. The amendment I am offering, along with Senator FEINSTEIN and Senator ALEXANDER, is an amendment that would say that we need to go at this in a prudent fashion and limit the number of people who are going to be able to come into the country and apply through this new program that we are defining for the first time in law as part of this bill.

Some of the arguments I have heard in favor of the guest worker program relate to the workers themselves, the workers who are trying to get into this country to make a better life for themselves. I have empathy for those workers as well. But, quite frankly, there is a virtually unlimited supply of people who would like to come here and work and improve their life by doing so. We need to make judgments about how large a group we are going to allow in each year. That is why I am proposing the amendment.

As far as employers are concerned, there are a lot of employers who, given the option of signing a contract to bring in workers from another country who they know will be in many respects less likely to complain about working conditions, less likely to raise any concerns about their employment situation, would find that attractive. And accordingly, you could see a great demand by some employers to go ahead and meet their employment needs through this device.

As I said before, I favor a guest worker program. It makes sense to have a guest worker program.

But I think it also makes sense for us to do it in a more reasonable way than the bill currently calls for and not to build in some kind of automatic escalator that will occur regardless of what we determine the impact is going to be on American workers. I think we can come back and raise the cap again if we decide in 2 years or 5 years, or whatever, that we want to do that. But we should not build into this legislation an automatic escalator that will make it extremely likely that the number of workers will substantially increase in coming years by virtue of this legal provision that we put in the law.

Mr. President, I urge the support of my amendment, and I hope my colleagues will see this as a way to improve the legislation rather than an undermining provision of the legislation.

I yield the floor.

Mr. SPECTER. Mr. President, I move to table the amendment and ask for the yeas and nays. I put my colleagues on notice that this is going to be a strict 20-minute vote because we have Members who have planes to catch.

The PRESIDING OFFICER. Is all time yielded back? All time is yield back. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion to table.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Mississippi (Mr. COCHRAN) and the Senator from Mississippi (Mr. LOTT).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 18, nays 79, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—18

Bond
Brownback
Chafee
DeWine
Graham
Gregg
Hagel
Kennedy
Lieberman
Lugar
Martinez
McCain
Murkowski
Salazar
Shelby
Smith
Specter
Stevens

NAYS—79

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Boxer
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chambliss
Clinton
Coburn
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Grassley
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
McConnell
Menendez
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Santorum
Sarbanes
Schumer
Sessions
Snowe
Stabenow
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—3

Cochran
Lott
Rockefeller

The motion was rejected.

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3981) was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, we have been engaged in extensive discussions to try to move the schedule along. What we plan to do is to take Senator KERRY's amendment and accept it, with 15 minutes to Senator KERRY. He says he will try not to use all of it.

Tomorrow morning we will go to Kyl-Cornyn, and since people are still looking at it, we do not have a time agreement. Senator KENNEDY says he will make a good-faith effort to limit debate to 30 minutes tomorrow.

Then we will go to the amendment of Senator OBAMA, and once we have had a chance to analyze it, we will see if we can accept it. Then we will go to Senator SESSIONS. The majority leader has authorized me to say that there will be no further votes tonight.

Mr. KYL. Mr. President, might I ask the chairman to yield?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. It is my understanding that following Senator KERRY this evening we will lay down the Kyl-Cornyn-Graham-Allen-McCain-Frist-Brownback-Martinez amendment so all can see what it is and we can start some debate this evening and then finish the debate tomorrow. Is that correct?

Mr. SPECTER. Mr. President, the Senator from Arizona is correct.

I now yield to the Senator from Massachusetts, Mr. KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 3999

Mr. KERRY. Mr. President, I call up amendment No. 3999.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 3999.

Mr. KERRY. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve the capacity of the United States Border Patrol to rapidly respond to threats to border security)

On page 63, between lines 9 and 10, insert the following:

Subtitle F—Rapid Response Measures

SEC. 161. DEPLOYMENT OF BORDER PATROL AGENTS.

(a) EMERGENCY DEPLOYMENT OF BORDER PATROL AGENTS.—

(1) IN GENERAL.—If the Governor of a State on an international border of the United States declares an international border security emergency and requests additional United States Border Patrol agents (referred to in this subtitle as "agents") from the Secretary, the Secretary, subject to paragraphs (1) and (2), may provide the State with not more than 1,000 additional agents for the purpose of patrolling and defending the international border, in order to prevent individuals from crossing the international border into the United States at any location other than an authorized port of entry.

(2) CONSULTATION.—Upon receiving a request for agents under paragraph (1), the Secretary, after consultation with the President, shall grant such request to the extent that providing such agents will not significantly impair the Department's ability to provide border security for any other State.

(3) COLLECTIVE BARGAINING.—Emergency deployments under this subsection shall be made in accordance with all applicable collective bargaining agreements and obligations.

(b) ELIMINATION OF FIXED DEPLOYMENT OF BORDER PATROL AGENTS.—The Secretary shall ensure that agents are not precluded from performing patrol duties and apprehending violators of law, except in unusual circumstances if the temporary use of fixed deployment positions is necessary.

(c) INCREASE IN FULL-TIME BORDER PATROL AGENTS.—Section 5202(a)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734), I as amended by section 101(b)(2), is further amended by striking "2,000" and inserting "3,000".

SEC. 162. BORDER PATROL MAJOR ASSETS.

(a) CONTROL OF BORDER PATROL ASSETS.—The United States Border Patrol shall have complete and exclusive administrative and operational control over all the assets utilized in carrying out its mission, including, air, craft, watercraft, vehicles, detention space, transportation, and all of the personnel associated with such assets.

(b) Helicopters and Power Boats.—

(1) Helicopters.—The Secretary shall increase, by not less than 100, the number of helicopters under the control of the United States Border Patrol. The Secretary shall ensure that appropriate types of helicopters are procured for the various missions being performed.

(2) Power boats.—The Secretary shall increase, by not less than 250, the number of power boats under the control of the United States Border Patrol. The Secretary shall ensure that the types of power boats that are procured are appropriate for both the waterways in which they are used and the mission requirements.

(3) Use and training.—The Secretary shall—

(A) establish an overall policy on how the helicopters and power boats procured under this subsection will be used; and

(B) implement training programs for the agents who use such assets, including safe operating procedures and rescue operations.

(c) Motor Vehicles.—

(1) Quantity.—The Secretary shall establish a fleet of motor vehicles appropriate for use by the United States Border Patrol that will permit a ratio of not less than 1 police-type vehicle for every 3 agents. These police-type vehicles shall be replaced not less than every 3 years. The Secretary shall ensure that there are sufficient numbers and types of other motor vehicles to support the mission of the United States Border Patrol.

(2) Features.—All motor vehicles purchased for the United States Border Patrol shall—

(A) be appropriate for the mission of the United States Border Patrol; and

(B) have a panic button and a global positioning system device that is activated solely in emergency situations to track the location of agents in distress.

SEC. 163. ELECTRONIC EQUIPMENT.

(a) Portable Computers.—The Secretary shall ensure that each police-type motor vehicle in the fleet of the United States Border Patrol is equipped with a portable computer with access to all necessary law enforcement databases and otherwise suited to the unique operational requirements of the United States Border Patrol.

(b) Radio Communications.—The Secretary shall augment the existing radio communications system so that all law enforcement personnel working in each area where United States Border Patrol operations are conducted have clear and encrypted 2-way radio communication capabilities at all times. Each portable communications device shall be equipped with a panic button and a global positioning system device that is activated solely in emergency situations to track the location of agents in distress.

(c) Hand-Held Global Positioning System Devices.—The Secretary shall ensure that each United States Border Patrol agent is issued a state-of-the-art hand-held global positioning system device for navigational purposes.

(d) Night Vision Equipment.—The Secretary shall ensure that sufficient quantities of state-of-the-art night vision equipment are procured and maintained to enable each United States Border Patrol agent working during the hours of darkness to be equipped with a portable night vision device.

SEC. 164. PERSONAL EQUIPMENT.

(a) Border Armor.—The Secretary shall ensure that every agent is issued high-quality body armor that is appropriate for the climate and risks faced by the agent. Each agent shall be permitted to select from among a variety of approved brands and styles. Agents shall be strongly encouraged, but not required, to wear such body armor whenever practicable. All body armor shall be replaced not less than every 5 years.

(b) Weapons.—The Secretary shall ensure that agents are equipped with weapons that are reliable and effective to protect themselves, their fellow agents, and innocent third parties from the threats posed by armed criminals. The Secretary shall ensure that the policies of the Department authorize all agents to carry weapons that are suited to the potential threats that they face.

(c) Uniforms.—The Secretary shall ensure that all agents are provided with all necessary uniform items, including outerwear suited to the climate, footwear, belts, holsters, and personal protective equipment, at no cost to such agents. Such items shall be replaced at no cost to such agents as they become worn, unserviceable, or no longer fit properly.

SEC. 165. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this subtitle.

Mr. KERRY. Mr. President, I also ask unanimous consent that Senator Bingaman be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, obviously this is an issue that has touched a lot of nerves all across the country. We all understand the volatility and the tension within in it. We have an enormous task to try to find a fair, orderly, humane, and secure process for protecting our border. That is what we are trying to do.

Last night, President Bush spoke to the Nation about the challenge we face. I have strong reservaticns about some of the President's immigration proposals. But I believe on balance the President gave a thoughtful and compelling address that laid out why we have to act urgently. I think he particularly talked about the importance of acting comprehensively in solving the immigration puzzle.

I say to my colleagues, I think most of us have found as we have been wrestling with this issue, it is like a balloon. If you push in one place, it expands in another place, so you have to come at it in a comprehensive way. Each component of this reform is dependent on the other component in order to make the overall reform successful. We are not going to be successful if we don't create an effective employer verification system because workers will find a way to keep coming if we don't. By the same token, securing the border doesn't address the 11 million undocumented workers currently in the country.

We need the President's leadership so that this bill or this approach does not turn into one of those unfunded mandates or neglected opportunities like No Child Left Behind or even the Medicare prescription drug law.

Last night, the President announced his intention to dispatch 6,000 National Guard troops to the southern border. All of us agree we need to strengthen the southern border. But I disagree with President Bush about how we ought to get there and how fast we can get there. Yes, we need more strength and more personnel at the border. We need better enforcement of our immigration laws. But, particularly in a post-9/11 world, when you look at the recommendations of the 9/11 Commission, we need to do a better job of preventing the flood of immigrants who are crossing the borders every day.

But the bottom line is, what you need to do that job is not a makeshift force of already overextended National Guardsmen to militarize the border but rather specialized agents who are trained to do the police work, to track down individuals who make an illegal crossing, and to ensure that the borders are not easy avenues for those crossings.

I remind my colleagues that in the late 1980s and early 1990s, when our cities and our communities were facing a crime epidemic, we didn't send the National Guard in to do the job. We hired more police officers and invested in community policing. The COPS Program put 100,000 skilled and trained law enforcement officers on the streets of the communities of our country and crime dropped.

After 9/11, the mission of the Border Patrol changed. No longer are they charged with simply securing the border. They are now patrolling one of the greatest vulnerabilities in the war on terror. As their mission changed, their numbers increased, but they have never increased enough to do the job.

Each year for the past 10 years between 700,000 and 800,000 illegal immigrants arrived in this country. Despite more than doubling the number of Border Patrol agents between 1995 and 2005, Federal enforcement of our immigration laws has decreased significantly. The number of border apprehensions has declined by 31 percent, from an average of 1.5 million apprehensions a year between 1996 and 2000, to an average of 1.05 million between 2001 and 2004.

At the same time, the number of illegal immigrants apprehended within the interior of the country has plummeted by 36 percent, from an average of 40,193 between 1996 and 2000, to an average of 25,901 between 2001 and 2004.

As much as the strength of the Border Patrol has grown in the last years, actual performance demonstrates that we have to close a gap by almost twice or three times as much. The current

Border Patrol agents protect more than 8,000 miles of international border and they detect and prevent smuggling, unlawful entry, undocumented immigrants, they apprehend persons violating the immigration laws, and they interdict contraband such as narcotics. They work under difficult circumstances for long periods and in all kinds of weather.

Currently, we have fewer than 12,000 Border Patrol agents. Those agents are responsible for patrolling 8,000 miles of land and seacoast, and because of the need to provide continuous coverage, no more than 25 percent of those agents are securing our borders at any given moment. That means there are only 4,000 agents patrolling 8,000 miles of land and our borders. So, if instead of spreading them out as we do today you put them all along the border, with just Texas alone, you would then have roughly two Border Patrol agents per mile. It is physically impossible to protect the borders of the United States under those circumstances.

There are additional numbers put into this legislation, but I have heard that, in fact, by joining the Federal Law Enforcement Training Center together with the National Training Center in Artesia, NM, which has recently increased its training capacity, we could do more. It is not rocket science, it is about capacity. If you don't have the capacity, then you build the capacity to meet the demand.

If we have the will to make this happen, we can make it happen.

So we already know this is a stopgap measure with the military to cover up what is already a failed immigration policy and a failed border policy. The 9/11 Commission warned us, several years ago now, that we needed to have additional personnel. Those calls have never been heeded. We need to heed them now. My amendment will increase the number by an additional 1,000 this year and that will be above the increase of 2,000 agents contained in the underlying bill.

Frankly, I think we ought to be trying to do more than that, but that is the reasonable level that we seem to be able to accept and also train at the same time under the current circumstances.

In addition, my amendment would give border State Governors the ability to request up to 1,000 more Border Patrol agents in the Department of Homeland Security in times of international border emergencies. In deciding whether to grant the Governor's request, the Secretary would have to consider the effect any shuffling of Border Patrol agents would have on overall border security.

Last year, a survey by Peter D. Hart found that just 34 percent of the frontline Border Patrol agents said they were satisfied with the "tools, training, and support" they received to protect our borders. That should be 100 percent. What we need to do is guarantee that we take the steps in order to make it so.

In addition, my amendment increases the number of helicopters and power boats available for Border Patrol, and it provides Border Patrol agents with the training they need to use those tools. We guarantee a ratio of one patrol vehicle for every three agents and ensure that each of those vehicles is equipped with a portable computer. That also provides every agent with clear and encrypted two-way radios, night vision equipment, GPS devices, high-quality body armor, and reliable and effective weapons. It makes each and every agent certain that they have the necessary equipment and uniforms for the kind of climate in which they are working.

I am glad that the Senator from Pennsylvania is prepared to accept this amendment. I thank my colleagues for their support of it.

As I said, if we don't have a sufficient training capacity, it is clear that the expertise needed is real. I heard of Border Patrol agents who have had to go through survival training and different kinds of training that is highly specialized. These individuals are engaged in law enforcement and police work. I think everybody in this country would like to see our National Guard, which is already stretched thin, minimally involved to the degree possible. The best way to do that is to get more Border Patrol agents trained faster.

I thank the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I think it is a good amendment to increase the number of Border Patrol agents. We accept the amendment.

The PRESIDING OFFICER (Mr. CHAMBLISS). The question is on agreeing to the amendment.

The amendment (No. 3999) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, I now yield to Senator KYL for the Kyl-Cornyn amendment. I ask unanimous consent that it be the first amendment pending tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized.

AMENDMENT NO. 4027

Mr. KYL. Mr. President, there is an amendment at the desk which I would like to have considered at this time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] for himself and Mr. CORNYN, Mr. GRAHAM, Mr. ALLEN, Mr. MCCAIN, Mr. FRIST, Mr. BROWNBACK, and Mr. MARTINEZ, proposes an amendment numbered 4027.

Mr. KYL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 358, line 3, insert "(other than subparagraph (C)(i)(II)" after "(9)".

On page 359, after line 12, insert the following:

"(6) INELIGIBILITY.—

"(A) IN GENERAL.—An alien is ineligible for adjustment to lawful permanent resident status under this section if—

"(i) the alien has been ordered removed from the United States—

"(I) for overstaying the period of authorized admission under section 217;

"(II) under section 235 or 238; or

"(III) pursuant to a final order of removal under section 240;

"(ii) the alien failed to depart the United States during the period of a voluntary departure order issued under section 240B;

"(iii) the alien is subject to section 241(a)(5);

"(iv) the Secretary of Homeland Security determines that—

"(I) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

"(II) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

"(III) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(v) the alien has been convicted of a felony or 3 or more misdemeanors.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), an alien who has not been ordered removed from the United States shall remain eligible for adjustment to lawful permanent resident status under this section if the alien's ineligibility under subparagraph (A) is solely related to the alien's—

"(i) entry into the United States without inspection;

"(ii) remaining in the United States beyond the period of authorized admission; or

"(iii) failure to maintain legal status while in the United States.

"(C) WAIVER.—The Secretary may, in the Secretary's sole and unreviewable discretion, waive the application of subparagraph (A) if the alien was ordered removed on the basis that the alien (i) entered without inspection, (ii) failed to maintain status, or (iii) was ordered removed under 212(a)(6)(C)(i) prior to April 7, 2006, and—

"(i) demonstrates that the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 239(a); or

"(ii) establishes that the alien's failure to appear was due to exceptional circumstances beyond the control of the alien; or

"(iii) the alien's departure from the U.S. now would result in extreme hardship to the alien's spouse, parent, or child who is a citizen of the United States or an alien lawfully admitted for permanent residence.

On page 376, strike lines 13 through 20 and insert the following:

"(4) INELIGIBILITY.—

"(A) IN GENERAL.—The alien is ineligible for Deferred Mandatory Departure status if the alien—

"(i) has been ordered removed from the United States—

"(I) for overstaying the period of authorized admission under section 217;

"(II) under section 235 or 238; or

"(III) pursuant to a final order of removal under section 240;

"(iii) the alien is subject to section 241(a)(5);

"(ii) the alien failed to depart the United States during the period of a voluntary departure order issued under section 240B;

"(iv) the Secretary of Homeland Security determines that—

"(I) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

"(II) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

"(III) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(v) the alien has been convicted of a felony or 3 or more misdemeanors.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), an alien who has not been ordered removed from the United States shall remain eligible for adjustment to lawful permanent resident status under this section if the alien's ineligibility under subparagraph (A) is solely related to the alien's—

"(i) entry into the United States without inspection;

"(ii) remaining in the United States beyond the period of authorized admission; or

"(iii) failure to maintain legal status while in the United States.

"(C) WAIVER.—The Secretary may, in the Secretary's sole and unreviewable discretion, waive the application of subparagraph (A) if the alien was ordered removed on the basis that the alien entered without inspection, failed to maintain status, or (iii) was ordered removed under 212(a)(6)(C)(1) prior to April 7, 2006, and—

"(i) demonstrates that the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 239(a); or

"(ii) establishes that the alien's failure to appear was due to exceptional circumstances beyond the control of the alien, or

"(iii) the alien's departure from the U.S. now would result in extreme hardship to the alien's spouse, parent, or child who is a citizen of the United States or an alien lawfully admitted for permanent residence."

Mr. KYL. Mr. President, let me briefly explain this amendment. It is a somewhat different version from what was introduced a couple of weeks ago and was pending at the time this legislation was laid aside for other business.

This amendment has the primary purpose of ensuring that people who have committed serious crimes or have absconded after on order for their removal has been issued would not be entitled to the benefits of the legislation.

Specifically, in the bill as written, there were certain crimes which were included, and if you had committed one of those crimes, you couldn't participate in the program—certain crimes of moral turpitude, for example.

What we found was that list was not all-inclusive and there were other serious crimes, including felonies, that were not included and therefore we felt should be added so that nobody who had committed a serious crime would be able to participate in the program.

Among the crimes that courts have said did not involve moral turpitude and therefore needed to be included in this legislation are the following: alien smuggling, conspiracy to commit offenses against the United States, simple assault and battery, involuntary manslaughter, simple kidnapping, weapons possession—for example, one of the cases dealt with possession of a sawed-off shot gun—burglary, money laundering, and there are others as well.

The point is, we want to be sure this legislation denies the benefits of legal status, including potential citizenship, to anyone who has committed a serious crime of this type. Therefore, the statute provides that if you have been convicted of a felony or three misdemeanors or have been convicted of a serious crime or there are reasonable grounds to believe the alien has committed a serious crime outside of the United States prior to arrival, and there are reasonable grounds for regarding the alien as a danger to the security of the United States, then in those events the individual would not be able to participate in the benefits of the law.

In addition to that, there are several categories of individuals who for various reasons have been ordered removed from the United States and have adjudicated their case and a final order of removal has been issued, either by an immigration judge or another judge or immigration official. Here, too, given the fact that we want the benefits of this legislation to apply to people who are willing to comply with the law, even where there has been a court adjudication of this statute, if they do not like the results and decide they are not going to leave even though the judge ordered them to leave, then we should not allow the benefits of this legislation to apply to them.

One of the things which is inherent in most of the bills—I think in all of the bills, including the bill that is on the floor—is the concept that you are not permitted to be in the United States unless certain things happen. If you commit a crime, for example, then you can't stay here. That relies to some extent on the individual complying with the court order to leave.

This part of the amendment says that when you have been ordered to leave by a judge, you have to do that. If you have demonstrated that you are not willing to do that, then you shouldn't be able to participate in the benefits of this law.

One of the things we have done—and as a result, there have been several cosponsors added to the legislation—is provided some opportunities to have this provision waived if people can make certain arguments. For example, if an individual who has been ordered to be removed can demonstrate they did not receive notice of removal proceedings, under that condition, this provision could be waived.

In addition, the alien could argue that his failure to appear and be removed was due to exceptional circumstances beyond the control of the alien or that the alien's departure from the United States would result in extreme hardship to the alien's spouse, parent, or child who is a citizen of the United States or an alien lawfully admitted for permanent residence.

There is one other factor that has been added relative to coming into this country based upon fraudulent documents. In those situations, the alien could argue that there was a reason this provision should be waived and the alien should still be permitted to participate in the benefits of the legislation.

We think we have drafted something that is fair, that ensures that people who should not be citizens of the United States or granted other legal status under the bill will not be granted the status, but that if there is some reason they can argue that there should be an exception, they will have every right to do so. In that sense, we think this is a firm but fair provision.

I hope our colleagues on the other side of the aisle and colleagues who support the underlying legislation would consider this not an unfriendly amendment but an amendment that is truly designed to ensure that a key principle is upheld. The principle is already built into the underlying bill in one respect. The object of this amendment is to make sure it is complete and covers all of the kinds of crimes one might want to cover. As a result, we would hope this would receive an overwhelming response and could be supported by a large number of our colleagues, both on the Democratic and Republican side.

Let me conclude by saying that this vote will not occur until tomorrow, but it is an important vote. I think it will demonstrate our willingness to continue to move this legislation forward.

I appreciate the consideration of this amendment and ask my colleagues to support it tomorrow.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank Senators KYL and CORNYN for this amendment. I thank them for the intense discussions and negotiations for which we have been able to get widespread support for this amendment; also, the Senator from Massachusetts, Senator KENNEDY, on the other side of the aisle.

Senator CORNYN and Senator KYL have focused attention very appropriately on one who is convicted of a crime, who would more likely, obviously, commit another crime. That is not what this bill is all about. I think these efforts bear fruit in this amendment, and they seek to bar the potentially dangerous criminal alien from taking advantage of this program.

The amendment specifically addresses individuals who have been convicted of one felony or three misdemeanors. It also addresses those who have just ignored our laws and thumbed their nose at our judicial system. But thanks to these negotiations, we allow individuals who may have been caught up in an unjust and unfair system to apply for a waiver and possibly have their cases reconsidered.

I believe that ultimately this amendment makes the bill better and our country safer.

I wish to again thank Senators KYL and CORNYN for their willingness to negotiate some questions that we had about a very small aspect of this bill. I think it preserves the very important intent of the Kyl-Cornyn amendment—that we will never allow people who have committed felonies or crimes to be eligible for citizenship in this country. I thank them for their efforts in this direction. I hope our friends on the other side of the aisle will have a chance to examine this amendment overnight, and perhaps we could dispense with it early in the morning.

There are a number of amendments on our side. I am told there are a number of amendments on the other side. I think we have made good progress today in addressing some of the major issues, but obviously we need to move forward. I hope my friends on the other side of the aisle will see fit to have a vote as quickly as possible so we can move on to other amendments.

I yield the floor.

Mr. KYL. Mr. President, I appreciate the comments of my colleague and thank him, Senator GRAHAM, and Senator KENNEDY for their work in helping us to negotiate provisions of this amendment.

I join my colleague from Arizona in expressing the view that we should not take very long tomorrow to conclude the debate, and I hope we will receive substantial support for the amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, for the record, I would like to compliment our staff because most of the hard work in this place goes on in some back room with our staff people trying to work through the problems of the bill. They have done a great job for Senators KYL, CORNYN, and McCAIN. I am proud of what my staff has done, and particularly Senator KENNEDY's staff. We have all gotten good staff support on this issue.

Very clearly, succinctly, to the point, if you are a criminal, if you have committed a felony, if you have committed a crime or three misdemeanors, you don't get a second shot. Off you go. That, to me, is important.

Under the bill, we are trying to give people a pathway to citizenship that would be earned and that would add value to our country. Senators KYL and CORNYN have made this a better bill because the one thing we should all be able to agree on here is you are not adding value to the country when you openly admit people who are criminals, who are mean and hateful, and who keep breaking the law.

There is another group of people who are subject to deportation on the civil side. I think it is very fair that in a limited class of cases, we will allow people on the civil side subject to deportation a chance to make their case anew in terms of being eligible for a future guest worker program that may become our Nation's law based on the base bill.

Who are these people? If you are in a civil deportation hearing and you can demonstrate that you never received the order to leave, then we are going to give you a second shot. It is hard to comply with something you don't know about. That happens on occasion.

Second, we are going to allow you, on the civil side receiving a deportation order, to make an argument about how it would affect your family and take the human condition into consideration.

There is a unique group of people who come to this country—not by illegally crossing the border and overstaying their visa—who are one step ahead of a death squad in some foreign land. It could be Haiti or other places, it could be Cuba, with an oppressive Communist regime, and the only way they can get out of that country to come here is it make up a story that would keep them from being killed. What we are saying is, if you come into our country through an inspection system and you have to save your family from an oppressive government or ahead of a death squad, we will let you tell us about that. We will sit down and figure out if it makes sense to make you part of this program.

There are not that many people, but we don't want to leave anybody behind that has a meritorious case to be made on the civil side. If you are a criminal, forget it. You have had your chance, and you have blown it. This, to me, makes the bill better, whether it is the underlying bill or not. This is a concept that is uniquely American.

If you believe in playing by the rules, as Americans do, and you hurt people, you are not going to get a second shot at hurting people again in our country. If you got caught up in a legal system that sometimes is complicated and you have a meritorious argument to be made and you have never hurt anyone, we are going to listen to what you have to say.

I am proud to be part of it. Senator KENNEDY has been very helpful. I hope we can get close to 100 votes. This is something that should bring us together. Senators KYL and CORNYN demonstrated the best of this body, reaching out, even though Members may not agree with the base bill, to try to find a way to make this part of the bill better.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, let me express my appreciation to the Senator from Arizona, the senior Senator, the Senator from South Carolina, for working with Senator KYL and myself on this amendment.

This whole subject is complicated and has so many different moving parts. What I mean by "subject," I mean comprehensive immigration reform. Sometimes I think people start with a deep skepticism about what other Senators are actually trying to do.

I hope as this amendment is accepted when we vote tomorrow, showing the alliance that has been created around this amendment, that our colleagues understand, even though there may be some who disagree with some aspects of the bill in the Senate, we are deeply committed to comprehensive immigration reform. We understand it is important we have border security, interior enforcement, worksite enforcement, a temporary worker program, and that we deal in a humane and compassionate fashion with the 12 million people who now live in our country in violation of our immigration laws.

Certainly, there are improvements that can be made to this underlying bill. This amendment is designed to do exactly that. It is ironic that it was first introduced well over a month ago and then, unfortunately, we were unsuccessful in getting a vote on the amendment. It now looks as if, through hard work, discussion and cooperation, the intent behind the amendment is better understood. It has already been eloquently explained by Senators KYL, GRAHAM, and McCAIN.

Let me say the whole purpose of this amendment was to make sure that those who have already had access to our criminal justice system and our civil litigation system, and lost, cannot come back and get another second bite at the apple. This amendment clarifies whether certain convicted criminals are eligible for the benefits of the legalization program contained in the underlying bill.

To be clear, the underlying bill, without this amendment, would allow certain criminal aliens to get legal status. The underlying bill disqualifies aliens who are ineligible to obtain a visa because of certain criminal convictions. But this only means crimes that are defined as crimes involving moral turpitude or drug-related crimes.

Under the current bill, without this amendment, not all crimes—including some felonies—would bar an alien from obtaining legal status. Let me share quickly a few examples of crimes that do not automatically exclude an alien from getting a visa and therefore would not render an alien ineligible for legalization absent this amendment.

For example, someone who has been convicted of the crime of kidnapping; someone who has been convicted of the crime of weapons possession; for example, possession of a sawed-off shotgun. Another example would be alien smuggling. This amendment would make ineligible any alien who has been convicted of a felony or three misdemeanors.

Ironically, this provision, once this amendment is accepted, will bring this bill in the Senate up to par, basically, with the 1986 law which recognized that problem and excluded any alien that had been convicted of a felony or three misdemeanors. That is the basis upon which this amendment is offered.

I might also add, of course, those who have had an opportunity to have their cases adjudicated, to have their day in court, but simply thumb their nose at the law and have gone underground, those individuals who have already had a bite at the apple, have already had their day in court and lost and simply gone underground and defied their deportation order, they also would be excluded from the legalization benefits contained in the bill, subject to some of the exceptions and the extreme hardship provisions that Senator GRAHAM and others have discussed.

I very much appreciate my colleagues, including Senator KENNEDY, the manager of the bill on the minority side, indicating their positive response to this amendment. While there is no formal agreement, it is the sense that this amendment is likely to be accepted by overwhelming numbers.

It just goes to show if we continue to work together, talk to each other and try to work our way through our differences, we can make progress on the bill and actually improve it over the bill as proposed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, in view of some things that were said a couple weeks ago, let me close this out with a couple of brief comments.

At the time that Senator CORNYN and I first introduced this amendment, we speculated that it might ultimately result in 300,000, 400,000 500,000 people being denied the benefits of the legislation. However, there were those on the other side who said this was a poison pill, this was going to preclude everyone who came into the country illegally or overstayed a visa from getting the benefits of the legislation. We said: No, that is not true. It is cast narrowly by its terms. It talks about convicted felons, three misdemeanors, and the people who have avoided a court order or a judge's order that they leave the country. That is it.

Some on the other side said: We look at the language, and we think maybe this could apply to anyone who comes into the country illegally. By laying it down, you have created a poison bill. As a result, they would not permit a vote on the amendment. As a result, this legislation came to the end of the period of time, the end of the week, and the majority leader had to lay it aside so that the Senate could go on its recess.

Senator CORNYN and I never had an intention to bring the bill to a halt or to create some kind of a poison pill that would make it impossible for anyone to support the legislation if the amendment were agreed to. We simply were trying to point out that there was a deficiency in the bill. Serious criminals could become citizens of the United States. We felt that was wrong.

So we introduced the amendment and tried to explain at the time that was our sole motivation. Frankly, we could have dispensed with this amendment 3 weeks ago if our colleagues had simply gotten down to the debate, carefully read it, talked it out with us, and gotten a vote.

Because of a question that our colleagues raised that we referred to earlier this evening, we have made a couple of modifications to the amendment, demonstrating that we are perfectly willing to negotiate a provision if there is a sense that we should have done something a little bit differently, which we did.

I hope as we proceed to introduce other amendments to this legislation, that our colleagues on the other side will be willing to have votes. We wanted to have a vote on this earlier today or tonight or to lock in a time for a vote tomorrow. No, the other side said: No, we are not ready yet.

If we continue at this pace, we are not going to finish the bill by Memorial Day, as the majority leader has requested, as the President has requested, and as we are committed to do.

Our colleagues are going to have to do two things with respect to the rest of the debate on this bill: No. 1, to be willing to move with us to a quick consideration of amendments, a reasonable time for debate, then a vote, and then move on to the next amendment. No. 2, instead of characterizing amendments in a way that is not correct and attributing political motives to those who are simply trying to point out deficiencies in the bill and correct them with these amendments, they ought to simply be willing to come to the Senate, have the debate, and then proceed to a vote on the amendment.

We are not in this to somehow try to stop the legislation as our repeated efforts to get a vote and move on have demonstrated.

I join my colleague from Texas in saying I appreciate the fact that, hopefully now, knock on wood, tomorrow morning, first thing, we will be able to have a vote on this amendment and not only vote on it but finally, having sat down and looked at it, our colleagues will say: This is an amendment we can support. It makes sense to deny citizenship to serious criminals.

If we can approach the other amendments in the same fashion we have finally gotten to with this amendment, we can actually finish this bill. I urge my colleagues to cooperate with us in that way.

Mr. CORNYN. Will the Senator yield?

Mr. KYL. I am happy to yield.

Mr. CORNYN. Mr. President, through the Chair, I inquire, isn't it a fact over the last few weeks on behalf of the Republican leadership, the Senator has tried to collect all of the potential pool of amendments and consolidate those amendments down into a reasonable number in a good-faith effort to try to move this process forward? We shared that list with our colleagues on the other side of the aisle. Does the Senator believe that demonstrates the good faith we have tried to demonstrate from the very start?

Mr. KYL. I thank the Senator from Texas.

Yes, we have tried to do that.

I see the distinguished minority leader is here, and I suggest the best way to get this bill quickly considered and finished is to lay down as many of the amendments as Members have ready and then have the minority and majority side work together to figure out the proper order of those amendments, to try to enter into time agreements. If we are able to do that, I don't have any doubt that working in good faith we can complete the work of this Senate before the Memorial Day recess on this important piece of legislation.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The distinguished Senator from Oklahoma has asked that I indicate that we have no objection to his being in the queue.

As has been announced by the distinguished manager of the bill, the Senator from Pennsylvania, we are going to take up the Kyl amendment, the Obama amendment, and then we are going to go to Sessions, then a Democrat, and as far as we are concerned on our side, we have no objection whatever to Senator INHOFE being the next Republican amendment in order.

I have not checked with the majority leader, and if there is a problem, I can change it, but I ask consent that be the case.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, I thank the minority leader for that quick response to my request. I know we are all anxious to get as many amendments up and taken care of as possible.

I know we cannot do this until probably tomorrow sometime, and it is our understanding there is now a unanimous consent for Senators KYL, OBAMA, SESSIONS, a Democrat, and then me. With that, if no others want to be heard on the amendments, I would like to visit about the amendment we will take up tomorrow.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, in his speech, the President endorsed the idea that people immigrating to this country should assimilate and learn English.

I will quote from his speech:

> . . . We must honor the great American tradition of the melting pot, which has made us one nation out of many peoples. The success of our country depends upon helping newcomers assimilate into society, and embrace our common identity as Americans. Americans are bound together by our shared ideals, an appreciation for our history, respect for the flag we fly, and an ability to speak and write the English language. English is also the key to unlocking the opportunity of America. English allows newcomers to go from picking crops to opening a grocery . . . from cleaning offices to running offices . . . from a life of low-paying jobs to a diploma, a career, and a home of their own. When immigrants assimilate and advance in our society, they realize their dreams . . . they renew our spirit . . . and they add to the unity of Americans.

Last November, speaking to an audience in Davis-Monthan Air Force Base in Tucson, President Bush again stated his support for immigrants to learn English. He said:

> Every new citizen of the United States has an obligation to learn our custom and our values, including liberty and civic responsibility, equality under God and tolerance for others, and the English language.

So this has been very specific. Ronald Reagan addressed it many times, certainly, in the State of the Union Message. I recall being here in 1999, when President Bill Clinton at that time said:

> Our new immigrants . . . have a responsibility to enter the mainstream of America. That means learning English.

It goes on and on and on. I think almost every Member has at one time or another talked in the Senate about the reasons it is necessary for the English language to be part of any kind of an immigration bill.

Today, once again, I am offering my English amendment, No. 3996, along with my colleagues, Senators SESSIONS, COBURN, BURNS, BUNNING, and others. My amendment follows Congressman PETER KING's bill, H.R. 4408, as well as Senator SHELBY's bill, S. 323, from the 105th Congress, by making English the official language and requiring all official business of the United States to be conducted in English.

It also allows exceptions. This is very important because arguments have been made against it. But there are exceptions where our law specifically says something should be done in another language, such things as protecting someone's legal rights to make sure they understand what their privileges are, what their responsibilities are when they are served.

Also, recently, when we experienced Hurricane Katrina, where an evacuation order was issued, that order could be delivered by the Federal Government in necessary languages to get the message out.

So we have taken care of these problems.

I would suggest there are three main reasons to adopt this amendment. One is for unity and assimilation. To begin with, as the President has said numerous times, learning English is vital to achieving assimilation, assimilating yourself into society. So many people are looking at illegals who are coming over and getting jobs, but they do not stop and think about the fact that in order to become a citizen, you have to assimilate into society so you can enjoy the benefits. They do not come naturally. You have to make it happen.

President Theodore Roosevelt echoed this point at a luncheon for the National Americanization Committee on February 1, 1916. He said:

> Let us say to the immigrant not that we hope he will learn English, but that he has got to learn it. . . . He has got to consider the interest of the United States or he should not stay here.

It goes all the way back for many years. Our leaders have reiterated this. Our country is made up of immigrants from all over the world, immigrants who have joined together under common ideas, common beliefs, and a common language to function as "one nation under God."

As we allow great numbers of immigrants, legal and illegal, into the country, we are overwhelming the assimilation process and creating what some have called "linguistic ghettos," segregating these immigrants into a massive underclass who are not able to obtain good-paying jobs and climb out of poverty and Government dependency.

By not requiring immigrants to assimilate and learn English, we are also undermining our unity and importing dangerous, deadly philosophies that go against our American ideals.

September 11 is an example of this, as Muslim extremists executed their jihadist philosophy against the United States and caused thousands of Americans to lose their lives.

The second thing to be considered is the cost. The Office of Management and Budget estimates that it costs taxpayers between $1 billion and $2 billion to provide language assistance under President Clinton's Executive order that came out during his Presidency.

There are also enormous costs associated with the mandate that local governments provide multilingual ballots. For example, Los Angeles County taxpayers spent over $1.1 million in 1996 to provide multilingual voting assistance in Spanish, Chinese, Vietnamese, Japanese, and Filipino, according to a GAO report.

In 2002, Los Angeles's multilingual election costs more than doubled to $3.3 million, according to the Associated Press.

The third reason is, this is something the American people want. All the American people want it. I have never seen anything polled more consistently than this issue has been polled. Three national associations are dedicated solely to this amendment: U.S. English, English First, and Pro-English.

Senator SPECTER's Judiciary Committee invited this amendment in the Legislative Directors' meeting in the Republican Policy Committee by saying it "welcomed amendments on English" as a means to enhance "assimilation" of immigrants.

This issue has raised millions of dollars in direct mail over the years. These donors must include populists, given the huge levels of support. No other amendment has been more thoroughly vetted. This concept has been around for decades, indeed, for centuries. Historically, the legislation has been bipartisan.

In 1997, several of us joined Senator SHELBY in his official English bill. It was a bipartisan bill with 21 cosponsors, including Democrats Hollings and BYRD and many others. And over 150 current Members of the House of Representatives have cosponsored official English legislation.

Most of the States—27—have made English their official language. This is kind of interesting. The vast majority of the States, on their own, on a State basis, have made English the official language.

There are 51 nations around the world that have made English their official language, but we have not. Now, can you explain to me why Gambia, Ghana, Liberia, Nigeria, Sierra Leone, Uganda, Zambia, and Zimbabwe have made English their official language, yet the United States has not?

The pollsters, consistently over the last 20 years, have all shown positive results at levels in the 80s, the 80-percentile range. In 1988, G. Lawrence Research showed 87 percent favored English as the official language, with only 8 percent opposed and 5 percent not sure.

A 1996 national survey by Luntz Research asked: Do you think English should be made the official language of the United States? Eighty-six percent of Americans supported making English the official language. Only 12 percent opposed it.

Eighty-one percent of first-generation immigrants, 83 percent of second-generation immigrants, and 87 percent of third- and fourth-generation immigrants supported making English the official language.

I think a lot of people have this misunderstanding that this is some kind of a protectionist issue. Yet the vast majority of Latinos, the vast majority of immigrants have supported this, also.

In 2000, Public Opinion Strategies showed 84 percent favored English as the official language, with only 12 percent opposing.

Ninety-two percent of Republicans, 76 percent of Democrats, and 76 percent of Independents favor making English the official language. That is according to a 2004 Zogby International poll.

Another Zogby International poll question on official English—this poll is a month old, conducted between March 14 and 16 of 2006—said: Five out of six likely voters support official English. When informed the United States has no official language, five out of six likely voters—84 percent—agree the country should make English the official language. The majority of Hispanic voters support official English. An overwhelming majority of likely Hispanic voters—71 percent—agree the country should make English the official language.

A bipartisan majority support official English. Official English is not an "extreme" position. Eighty-four percent of self-identified "moderate" voters support English as the official language.

Hispanics also agree learning English is important. So it is not just that it is the right thing to do, it is what they can do for themselves. The National Council of LaRaza, which opposes official English, commissioned a 2004 Zogby poll showing that Latinos believe in the importance of learning English. Over 97 percent strongly agreed that "the ability to speak English is important to succeed in this country."

In south Florida, Hispanics back English, according to a 2005 University of Miami School of Communications/Zogby International survey. "How important is it for Hispanics who immigrate to the United States to adopt American culture?" Seventy percent said it is very important. These are Hispanics who are responding.

The December 2002 Pew Hispanic Center/Henry J. Kaiser Family Foundation National Survey of Latinos asked:

> Do you think adult Latino immigrants need to learn English to succeed in the United States or can they succeed even if they only speak Spanish?

About 9 in 10—89 percent—of Latinos indicate that they believe immigrants need to learn to speak English to succeed in the United States.

And this goes on and on and on. There should not be any question in anyone's mind that one of the most popular notions out there is for us to adopt English as the official language.

Finally, according to ProEnglish, a group dedicated to making English the official language, one out of every five Americans speaks a language other than English at home.

Referring to immigrants speaking English in our country, Congressman STEVE KING of Iowa said:

> I don't think the immigrants are the problem; I think it is the people at the border that are telling them that they don't have to learn English, should not have to and keep them in these cultural enclaves so that then allows them to control the immigrants and gives them political power.

I believe we are doing a great disservice if we do not recognize this as one of the true, great issues of our time. There is no more appropriate time than during the consideration of this immigration bill to bring this out and finally do something we have talked about doing now for over 100 years and getting it done and getting it done on this bill.

Mr. President, let me repeat how much I appreciate the minority leader allowing me to get into the queue. We look forward to having this debated and voted on tomorrow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

20TH ANNIVERSARY OF TOYOTA IN GEORGETOWN, KENTUCKY

Mr. McCONNELL. Mr. President, 20 years ago I was pleased and proud to help welcome Toyota to Kentucky. I rise today, equally pleased and proud, to congratulate Toyota on its 20 years of success in the Commonwealth and to wish them much continued success for the future.

Toyota provides 7,000 jobs in the Georgetown, KY, plant that it opened 20 years ago, and the company's manufacturing operations in Kentucky produced half a million American-made cars last year alone. In fact, the Toyota Camry, which is manufactured in Kentucky, has been the most popular model on the American market for the last 4 years and eight times in the past 9 years. Beginning this fall, Toyota will bring the future of automotive technology to Kentucky with the production of the environmentally friendly Camry Hybrid. The Georgetown plant will produce 4,000 models a month.

Since it arrived in Kentucky, Toyota has invested more than $5 billion in its operations. This includes the manufacturing site in Georgetown; Toyota's North American Parts Center-Kentucky, the company's largest parts-distribution center in the world, in Hebron, KY; and its North American manufacturing headquarters in Erlanger, KY. Together, these businesses provide about $500 million a year in paychecks to Kentucky workers. More significantly, Toyota has become an anchor for related suppliers and vendors that provide thousands more jobs for Kentuckians.

Toyota has provided an important economic lesson on the value of insourcing. Some have bemoaned the loss of American jobs to overseas firms. Well, we in Kentucky are proud to have nurtured one of the first and most successful efforts by an overseas manufacturer to bring jobs here. Toyota and Kentucky both have benefited greatly from this partnership over these last 20 years.

And Kentucky has gained more than just jobs—Toyota has proved to be a model member of the business community. It supports education, computer literacy in the workforce, the University of Kentucky Children's Hospital, and many other worthy causes across the Commonwealth. Many Kentuckians have benefited from Toyota's generosity, and we are all happy that Toyota chose Kentucky as its major center for U.S. operations two decades ago.

Mr. President, I ask my colleagues to join me in congratulating the thousands of Kentuckians who work for Toyota for their dedication to achievement and success, both on the job and in their communities. Kentucky is still reaping the rewards of its 20-year partnership with Toyota, and we hope to continue to do so for years to come.

HONORING OUR ARMED FORCES

STAFF SERGEANT LANCE M. CHASE

Mr. INHOFE. Mr. President, I rise today to remember a fallen son of Oklahoma who died while defending his Nation, SSG Lance M. Chase.

Staff Sergeant Chase grew up in Midwest City Oklahoma and graduated from Midwest City High School in 1991 after playing football there. He was also an avid fisherman and fan of NASCAR. Before joining the Army in 1995, Staff Sergeant Chase spent 20 months working for the Oklahoma City Sheriff's Office as a detention officer alongside his father who is a Reserve officer and member of the sheriff's bomb squad.

Staff Sergeant Chase was assigned to 1st Battalion, 12th Infantry Regiment, 4th Infantry Division at Fort Hood Texas. There he trained other soldiers on how to maintain and move M1A2 Abrams tanks and was an honored marksman. After returning from his first tour of duty in Iraq, he got involved with efforts sending books and hygiene products to the Iraqi people. He told his wife Kristen that his biggest joy was seeing Iraqi children returning to their local schools.

Before Staff Sergeant Chase went to Iraq, he told his two sons—Brett, who is 11 years old, and Trevor, who is 9 years old, that he would rather fight this type of terrorist war on their soil than to fight it on our own soil where his children would be in danger. Staff Sergeant Chase was in his second tour of duty in Iraq on January 23, 2006, when his M1A2 Abrams tank was hit by an improvised explosive device in Baghdad, Iraq. He was 32 years old. SSG Chase clearly understood our mission in Iraq and felt that he had helped to make the lives of the Iraqi people better. Staff Sergeant Lance M. Chase deserves to be remembered for the fine soldier that he was and the sacrifice that he made for us.

STAFF SERGEANT JOHN G. DOLES

Mr. President, I wish to honor a brave soldier from Oklahoma who gave his life in service of this Nation. SSG John Doles of the U.S. Army embodies the spirit and values that have protected this country's freedom and continue to spread hope to the far corners of the world.

Sergeant Doles was an "all-American kid" he grew up in Chelsea, OK, riding horses and playing football. Sergeant Doles joined the Army in 2000 and attended Airborne School at Fort Benning, GA. He went on to become a Ranger and told his father that this was what he wanted to do with his life because he loved his country.

Sergeant Doles was also a devoted family man. He left behind a wife, Heather, and two children, Logan and Breanna. After his tour in Afghanistan, he planned to reenlist and become an instructor at the Army Ranger Camp at Fort Benning, GA, so he could be closer to his family.

Sergeant Doles was no stranger to the hazards of duty. He participated in one of the largest combat jumps since World War II. His unit parachuted into northern Iraq in March of 2003 with the "Red Devils." This major operation assisted in the swift liberation of Iraq. Sergeant Doles was a squad leader of about a dozen soldiers with the 1st Battalion, 508th Infantry Regiment, part of the 173rd Airborne Brigade. On Friday September 30, 2005, he was killed in an ambush in Shah Wali, Afghanistan. He was 29 years old.

Sergeant Doles gave his utmost to his family and his country. He has left behind many who saw firsthand what a true hero he was. As a son of Oklahoma and a fine example of what this country stands for, Staff Sergeant Doles deserves our honor and remembrance.

PRIVATE FIRST CLASS TRAVIS J. GRIGG

Mr. President, I rise today to honor the memory of a remarkable man. PFC Travis J. Grigg was an Oklahoman through-and-through: a hard worker, dedicated, friendly, and a lover of his family and country. Those who knew him best remembered him as athletic and caring more about others than himself. He graduated from Inola High School, of Inola, OK, in 1999 and was a starter on the football, basketball, and baseball teams. He entered the U.S. Army in 2004, proudly serving his Nation in Iraq for about a year.

According to his family, Private First Class Grigg found his niche in the Army. He was a team player and a responsible man who once commented, "I feel like we're helping some people over here." He was assigned to the 1st Battalion, 320th Field Artillery Regiment, 101st Airborne Division. He joined the Army to earn money for college to become a teacher and football coach, but after joining, he decided that he wanted to become a firefighter like his father.

November 15, 2005, in Taji, Iraq, Private First Class Grigg was one of four individuals in a HMMWV that was hit when an improvised explosive device detonated. Tragically he, along with four other soldiers, did not survive the incident. He was 24 years old.

Private First Class Grigg will be missed by his father, four sisters, and two brothers. His sacrifice will not soon be forgotten by them his friends, his fellow soldiers, or by his country. I ask that we take this time to honor his name and his life.

PETTY OFFICER SECOND CLASS BRIAN K. JOPLIN

Mr. President, I rise today to honor the memory of a son of Oklahoma, Petty Officer Brian K. Joplin.

Petty Officer Joplin grew up in Hugo, OK and was assigned to Helicopter Mine Countermeasures Squadron 15, based at the Naval Air Station in Corpus Christi, TX. He was an aviation machinist and was known as a mechanic whose talent was second to none. Petty Officer Joplin was always willing to donate his time to his friends and neighbors. He spent his Memorial Day weekend of 2005 repairing and certifying a vintage B–25 Mitchell Bomber that was very much like the one his grandfather flew in World War II.

Petty Officer Joplin was deployed to Iraq in June of 2005. On Tuesday October 4, 2005, he was on a training mission when he fell from his MH–53 Sea Dragon helicopter and was killed. He was 32 years old.

Petty Officer Joplin is survived by his wife of 12 years, Belinda, and his daughters, Tori and Alicia. They will always remember a loving husband and father who had a great sense of humor, patience, and forgiveness and our thoughts are with them. We remember Petty Officer Joplin for his service, dedication, and love of his country, and at the same time, we recognize his valor and commitment. He will not be forgotten. It is because of men like Petty Officer Joplin that I am proud to be a part of this great country. He was a special soldier, a true Oklahoman, and a true American.

PRIVATE FIRST CLASS DAVID J. MARTIN

Mr. President, I rise to pay homage to Army PFC David J. Martin, who gave the ultimate sacrifice for his country with his life. Although he was only 21 years old, Private First Class Marshall was a dedicated defender of America and knew the value of freedom and the sacrifices freedom sometimes demands. For his service, I am proud to honor him on the Senate floor today.

Private First Class Martin was a member of the Second Battalion, 502nd Infantry Regiment, 2nd Brigade Combat Team, of the 101st Airborne Division. A native Oklahoman from Edmond, Private First Class Martin was one of four sons of Richard and Janet Martin. Private First Class Martin's mother is the president of the Edmond and North Oklahoma City Chapter of the Blue Star Mothers, a support group for mothers whose children are in the military and also send care packages to our soldiers in Iraq. We hold her in our prayers as all of her sons are serving our country in some way. Private First Class Martin's younger brother, Daniel, also enlisted last year, and his older brothers, Neil and Andrew, are police officers in Edmond, OK.

After graduating from Edmond North High School in 2002, Private First Class Martin briefly attended the University of Central Oklahoma and was a member of the ROTC unit there before enlisting in the Army. He earned an Army Achievement Medal during his training in Fort Benning, GA, for being an outstanding leader.

Private First Class Martin had only been in Iraq for a month when he was tragically killed. On October 31, 2005, the humvee he and three other fellow soldiers were riding in was struck by an improvised explosive device in Al Mahmudiyah, Iraq. I ask that the U.S. Senate now pay tribute to PFC David Martin, a man who knew the true meaning of service and sacrifice. I am proud of him and proud of his demonstrated commitment to winning the freedom of those he did not know. We will not forget this Oklahoman hero, this American patriot—PFC David Martin.

FIRST SERGEANT TOBIAS C. MEISTER

Mr. President, I stand today to honor the memory of a brave American who gave his life defending the Nation. He felt a call to serve his country, to be part of something bigger than himself, and ultimately he paid the highest price. First Sergeant Tobias C. Meister, of Jenks, OK, was assigned to the

Army's 321st Civil Affairs Brigade which was deployed to Afghanistan.

First Sergeant Meister was born in Remsen, Iowa and joined the Iowa National Guard in 1992, 2 years prior to graduating from Ramsen-Union Community High School in Iowa. He was an infantryman before transferring to the Reserves in 1998 and attending the University of Texas at San Antonio. There he earned a business degree and later took a job in Tulsa, OK, with the oil and gas firm Horizon Natural Resources.

First Sergeant Meister was an accomplished martial artist who was undefeated as a kickboxer. Those who fought against him knew immediately he was a fierce competitor. One of his opponents said that Meister weighed about "165 pounds and you knew 100 pounds of it was heart if you saw him fight." He loved martial arts and the discipline that it required.

First Sergeant Meister was a drill sergeant and had been named the Army Reserve's Drill Sergeant of the Year in 2002. In 2004, he decided to join those he had been training for combat. On December 28, 2005 in Asadabad, Afghanistan, he was killed at the age of 30 during combat patrol operations when an improvised explosive device was detonated near his humvee.

First Sergeant Meister gave his life for the freedom of millions of Americans and also for the peace and prosperity of the Afghani people crippled by a totalitarian regime. He is survived by his wife Alicia and 18-month-old son Will. The loss of this exemplary husband, father, and soldier is a loss we all feel; our thoughts and prayers are especially with his family and friends. He knew that he and his fellow soldiers were fighting to protect America, to keep their Nation safe. It is for men like First Sergeant Meister that I am proud to be a part of this great country. He was a special soldier, a special man, and a defender of our freedom.

TECHNICAL SERGEANT JASON L. NORTON

Mr. President, I rise today to honor the memory of a man who paid the last full measure for the protection of our freedom. TSgt Jason L. Norton was from Miami, OK, and was assigned to the 3rd Security Forces Squadron at Elmendorf Air Force Base in Alaska serving as a patrol and security officer training police canines. He had been deployed to Iraq in November of 2005.

Technical Sergeant Norton joined the Air Force in 1992 after graduating from Miami High School in 1991, where he played football and wrestled. His Air Force career took him to many different places. He was known as smart, easy to talk to, and always willing to share what he knew with others. He earned 17 medals, including an Air Force Commendation Medal, 4 Air Force Achievement Awards, and 2 Air Force Expeditionary Service Medals. He enjoyed his time in Alaska, earning a reputation as a great Alaskan hunter while also providing his time as a father figure to children who needed one.

For Technical Sergeant Norton, family was everything. Even though he was stationed 4,000 miles away in Alaska, he made a point to return home often to see his family. He met his wife Cristina while he was serving at Tinker Air Force Base in Oklahoma, and they have two children, a daughter, Rebecca, who is 8 years old, and a son Dalton, who is 7. He has been described as a great father who showed an equal devotion to his lifelong friends. Once he traveled back to Oklahoma from Alaska to attend the funeral for the wife of a longtime friend who had died of cancer.

On January 22, 2006, TSgt Jason L. Norton's vehicle struck an improvised explosive device while conducting a convoy escort in the vicinity of Taji, Iraq. He was 32 years old, and the Air Force posthumously awarded him the Bronze Star and Purple Heart. Mr. President, we have lost a shining example of dedication, service, and sacrifice for others and should never forget the sacrifice of TSgt Jason L. Norton.

ARMY SPECIALIST JOSHUA M. PEARCE

Mr. President, I rise today to remember a young man from Oklahoma, Army SPC Joshua M. Pearce, who knew what it meant to be a soldier and was willing to pay the ultimate price for our freedom.

Specialist Pearce was from Guymon, OK, and was a baseball pitcher on the Guymon High School baseball team who was voted "Life of the Party" and "Best Looking" by his senior classmates in 2003. He always wanted to be a soldier, so he enlisted in the Army right after graduation, joining his older brother, Jeremy, in the Armed Forces. Specialist Pearce was described by friends and family alike as a person who always made everybody in the room smile.

Specialist Pearce was deployed to Iraq as a part of the 2nd Battalion, 1st Infantry Regiment, 172nd Stryker Brigade Combat Team that is stationed at Fort Wainwright, AK. Over the 6 months he served in Iraq, he talked to his mother, Becky Hilliard, through e-mail, telephone, or instant messaging on a daily basis. In an open letter he wrote on September 11, 2005, Specialist Pearce stated that "I am not here to kill someone; I am here to help as many as I can live a better life. If killing some people to save the life of a fellow soldier happens to fall in the agenda, so be it. We drive down the streets of these little towns and see little children on the corners bare-footed asking for water, food, or whatever they can get." He told his sister, Heidi Barncastle, that "he was doing this so his nephews didn't have to."

Specialist Pearce was riding in his Stryker military vehicle on February 26, 2006 near Mosul, Iraq, when it was hit with an improvised explosive device. He was 21 years old. Specialist Pearce did not want his friends and family to mourn his loss should he die. He was doing what he always wanted to do and believed in the mission that he was on. Mr. President, we will not forget this Oklahoma hero and American patriot, SPC Joshua M. Pearce, who died doing something that he loved.

PRIVATE FIRST CLASS JOSHUA FRANCIS POWERS

Mr. President, I rise today to honor one of Oklahoma's brave soldiers who has given us the last full measure to protect our freedom. PFC Joshua Francis Powers' sacrifice for his country should never be forgotten.

Private First Class Powers was from Skiatook, OK. He joined the Army in July of 2005, 1 month after earning his GED. He was remembered as an even-tempered soul who had varied interests from collecting swords and knives, making soap for senior citizens, fishing, and just simply hitting golf balls out into the pasture to occupy his time. He had a penchant for reading, sewing, playing video games, and often served as a peacemaker between his brothers, Michael and Jonathan. He was also a devout son who would often fix his mother Patrica's frozen pipes before he was asked to.

Private First Class Powers was assigned to the 2nd Battalion, 592nd Infantry Regiment, 2nd Brigade Combat Team, 101st Airborne Division at Fort Campbell, KY. After joining the Army, he was worried that his dog, Spunky, who had been his pet since he was in kindergarten, would die of old age before he got home. Private First Class Powers had been in Iraq for only 2½ weeks before he died of noncombat related injuries. He was 21 years old. Mr. President, we should always remember those who served the way PFC Joshua Francis Powers served and sacrificed for our freedom.

CORPORAL JEFFRY A. ROGERS

Mr. President, I wish to honor a true hero who, on November 16, 2005, gave his life while serving in Iraq. Cpl Jeffry Alan Rogers is an example of the selfless dedication that is essential to maintaining this country's freedom.

Corporal Rogers was from Oklahoma City and attended Putnam City North High School. He was one of six from the class of 2002 who enlisted in the military after graduating. He insisted on enlisting in the Marines after witnessing the horrors of September 11 saying, "We have to keep our world safe. We have to protect our people."

Corporal Rogers became an outstanding marine assigned to F. Company, 2nd Battalion, 1st Marine Division in Camp Pendleton, CA. His high test scores earned him an invitation to join the security forces and a $50,000 scholarship. He suggested to his parents that they build a house with the money that they had saved for his college education, and he even designed the house where his family now lives in Yukon, OK.

Corporal Rogers is remembered as a courteous and loving man who always said the little things that mean a lot to people. His commanders fondly recall how he invested into those under him and helped them set goals.

In his last letter to his parents, he quoted John 15:13 saying "Greater love hath no man than this, that a man lay down his life for his friends." Mr. President, Cpl Jeffry Rogers indeed demonstrated this deepest love. At 21 years of age, he put aside his own safety, volunteering to serve in the most dangerous of professions. He gave everything, and his sacrifice will be remembered by friends, family, and all of us who are profoundly indebted to him.

TECHNICAL SERGEANT PATRICK L. SHANNON

Mr. President, I rise today to honor a son of Oklahoma who after over 37 years has finally returned home. TSgt Patrick L. Shannon was serving his country in the Vietnam War when he was declared missing in action in 1968 after the radar site he and 18 other servicemen were operating in Laos was attacked by North Vietnamese commandos. We now know that Technical Sergeant Shannon did not survive the attack. He was 30 years old.

Technical Sergeant Shannon was from Owasso, OK, and was operating a radar installation Lima Site 85 atop the Pha Thi Mountain in the Houaphan Province in Laos, which was approximately 13 miles south of the border with North Vietnam. Lima Site 85 was helping to direct U.S. bombing missions of key targets in North Vietnam. On the morning of March 11, 1968, the site was overrun by North Vietnamese commandos. Only 7 of the 19 servicemen survived the attack, and the United States later bombed the site for 4 days to destroy the equipment that was left behind. North Vietnamese soldiers later threw the bodies of the dead servicemen off a cliff because the rocky ground did not permit a burial. This is where the remains of Technical Sergeant Shannon were found.

Technical Sergeant Shannon finally came home last year. A DNA sample from his sister helped to positively identify Technical Sergeant Shannon and bring closure to his family who had wondered what had really happened to him on that fateful day. His youngest child, Paula Wallace, said that her father "would be happy to be back in America." Mr. President, I, too, am happy that TSgt Patrick L. Shannon has finally returned home after answering his country's call to arms.

SERGEANT FIRST CLASS BRANDON K. SNEED

Mr. President, I wish to honor a brave soldier from Oklahoma who gave the last full measure to protect our freedom. SFC Brandon Sneed of the U.S. Army embodied the spirit of service and the values that make this country what it is today.

Sergeant Sneed was a great soldier. He joined soon after graduating from high school in 1990. As he rose through the ranks, he developed a reputation of dependability. He was serving as a field medic with Bravo Company in the 1st Battalion, 30th Infantry Regiment attached to the 69th Armor Regiment serving in Iraq.

Sergeant Sneed was no stranger to the hazards of duty. He would routinely go under fire to retrieve wounded soldiers. His second tour in Iraq was scheduled to end in December of last year.

Sergeant Sneed was also a family man. He married his wife Lori in 1994, and they had three children, Christopher, Brandee, and Brandon, Jr. His family had just moved into a new home. Sergeant Sneed met his wife while they both served their first tour in the Army together; they had plans to open a rehabilitation facility upon his retirement from the Army.

On October 10, 2005, Sergeant Sneed was killed while attempting to rescue an injured soldier when his Bradley Fighting Vehicle was destroyed by a roadside bomb. This occurred near Ramadi in Iraq's Anbar province. He was 33 years old. He had a strong sense of duty, work ethic, and a caring heart. He was devoted to his family, his country, and gave the highest sacrifice to his soldiers. Sergeant First Class Sneed deserves our honor and remembrance.

CORPORAL JOSHUA J. WARE

Mr. President, I wish to honor one of this country's fallen warriors, a young man that comes from my home State of Oklahoma. Marine Cpl Joshua J. Ware was serving the cause of freedom in Iraq when he paid the ultimate price.

Corporal Ware was born in Lawton, OK. He played football and baseball and ran track at Roland High School. In 2002, 1 year before he graduated, he signed up for the Marine Corps and enlisted just 5 days after graduating from High School and just 2 days after his birthday.

Corporal Ware was serving in Iraq with F Company, 2nd, Battalion, 1st Marine Division, and bravely fought in the second battle of Fallujah. He was on his second tour of duty in Iraq on November 16, 2005, when he was killed as a result of enemy small arms fire in Ubaydi, Iraq. He was 20 years old and was the first Comanche or Kiowa to die in combat since 1968.

Many are left behind who are proud and grieved at his sacrifice. Corporal Ware is survived by his parents, three brothers, and one sister.

The loss of Corporal Ware is one that will continue to be felt as the years pass. He gave more than was required, in life and in the sacrifice of his death. He gave up his own well-being, putting himself in harm's way, and demonstrated courage that demands our recognition. I hope to express our gratefulness for his sacrifice with these simple words and honor him before the Senate today.

THIRTIETH ANNIVERSARY OF THE MOSCOW HELSINKI GROUP

Mr. DODD. Mr. President, last Friday, May 12, marked the 30th anniversary of the oldest active Russian human rights organization, the Moscow Helsinki Group.

The creation of the Moscow Helsinki Group was announced on May 12, 1976, at a press conference called by Academician Andrei Sakharov, who later won the Nobel Peace Prize for his defense of human rights and his commitment to world peace. Formally named the "Public Group to Assist in the Implementation of the Helsinki Final Act in the USSR," its members sought to monitor the Soviet Government's implementation of the historic Helsinki Accords.

At the initiative of Professor Yuri Orlov, a physicist by profession and a veteran human rights activist, the group joined together 11 committed individuals to collect and publicize information on Soviet violations of the human rights provisions enshrined in the Helsinki Accords. The group monitored fundamental rights and freedoms, including freedom of movement and freedom of religion, as well as the basic rights of minorities.

The group documented evidence of systemic human rights abuses and provided reports of Helsinki violations to the Presidium of the Supreme Soviet and the embassies of Helsinki signatory countries in Moscow. Additionally, these reports were widely distributed to Western correspondents. All together, the Moscow Helsinki Group published 195 numbered reports, along with numerous other documents, some of them in cooperative initiatives with other human rights organizations. These reports played a critical role in documenting the Soviet Union's failure to adhere to many of its Helsinki commitments.

The example set by the Moscow Helsinki Group inspired human rights activists elsewhere in the USSR. Helsinki monitoring groups were founded in Ukraine, Lithuania, Georgia, and Armenia, and affiliated groups were also established to combat psychiatric abuse for political purposes and to defend religious liberty in Lithuania. As time went on, more brave individuals joined the Moscow Helsinki Group in its pursuit of truth and accountability.

However, regrettably, the Soviet Government had no intention of tolerating the "assistance" provided by the Moscow Helsinki Group in monitoring the Soviet Union's adherence to Helsinki commitments. The state-controlled Soviet press launched a campaign of slander against the group. By early 1977, the group's founders, Dr.

Yuri Orlov and Alexander Ginzburg, a longtime activist who had earlier produced the celebrated "White Book" on the trial of writers Andrei Sinyavsky and Yuli Daniel, had been arrested on political charges. Cyberneticist Anatoly "Natan" Sharansky and retired geologist Malva Landa were arrested shortly thereafter. Orlov was sentenced to 7 years in a labor camp and 5 years in internal exile. Ginzburg received 8 years labor camp and 3 years internal exile. Sharansky was sentenced to a total of 13 years in labor camp and prison, and Landa received 2 years internal exile.

Other members followed this path into the "Gulag" or were forced to emigrate. By 1981, KGB pressure had left only three members of the Moscow Helsinki Group at liberty in the Soviet Union, and they were forced to announce the "suspension" of their work. In 1984, one of those three, Dr. Elena Bonner, joined her husband, Dr. Sakharov, in forced internal exile in the closed city of Gorky.

Tragically, in December 1986, just as the Soviet political system was showing the signs of the exhaustion that would eventually lead to its collapse, Moscow Helsinki Group member Anatoly Marchenko died during a hunger strike at Chistopol Prison. Just over 2 months later, hundreds of known political and religious prisoners were freed from the Soviet prison system.

With the advent of Glasnost, the Moscow Helsinki Group was formally reestablished in July 1989 by a handful of Helsinki veterans, and several new members joined their cause. Today, the Moscow Helsinki Group continues to work to defend human rights in post-Soviet Russia. And while there have been dramatic changes in Russia since the collapse of the Soviet Union, the lure of authoritarianism still has a strong appeal for some in today's Russia.

Mr. President, on the occasion of its 30th anniversary, I congratulate the members and former members of the Moscow Helsinki Group, many of whom, sadly, are no longer with us, for their courage and fortitude in the struggle against tyranny. I wish the group continued success as they work to advance democracy, defend human rights, and promote a vigorous civil society.

TRIBUTE TO JOHN BRAMLEY

Mr. LEAHY. Mr. President, at the end of this month, John Bramley will step down as provost of the University of Vermont. From a day-to-day standpoint, the provost of a university is more important than the president of a university. The provost is the chief of operations who embraces the president's vision and implements ideas into reality. By ensuring that academics, research, and student life are running smoothly, the provost creates an environment that enriches the lives of students, faculty, administrators, and the community.

As provost of the University of Vermont since 2002, John Bramley has not only excelled as provost, but also set a standard that will serve as a benchmark to measure other provosts around the country.

I have known John since he came to the University of Vermont from England in the early 1990s. I believe that John excelled as provost because of his leadership in earlier positions that he held at the university. John is first and foremost an animal science scholar who is known internationally for his groundbreaking research on bovine mastitis. He is also an excellent teacher who genuinely enjoys the interaction between and challenges from students—both undergraduate and graduate. That became evident when he was recognized with the Joseph Carrigan Teaching Award in 1998.

John easily made the transition to administrator. He directed the university's farm programs, cochaired the agricultural extension programs, chaired the Department of Animal Sciences and, perhaps most notably, was chair of the Faculty Senate—a position held by election among his faculty peers.

I jokingly think that his early demonstration of these administrative skills likely led to his demise as being tapped interim provost and then eventually as provost in 2002. And we are so grateful that John was at his position, as this turned out to be a critical time in the history of the University of Vermont.

It is no secret that during the 1990s UVM suffered from several years of unstable and rocky leadership. Not surprisingly, such a rapid turnover at the helm of a major university led to many problems including budget shortfalls; low morale among faculty, staff and students; and, less than stellar relations with the local Burlington and statewide communities. The work of both interim president Ed Colodny and John guided the university to calmer waters during that difficult time, and helped to build a strong and valuable foundation for the incoming president.

Under President Fogel's administration, the university has been reinvigorated and its prestige restored. I am sure that President Fogel would agree when I say to all my colleagues that we owe much to John Bramley for bringing the university into this new, promising chapter in its history.

John is stepping down as provost, but I am glad that I do not have to end this speech with a farewell. John will be returning to what I think he enjoys most, his teaching and research. I know he will continue to be an important part of the University of Vermont community and I look forward to continuing to see him on campus.

IN RECOGNITION OF REPRESENTATIVE TINA FALLON

Mr. CARPER. Mr. President, I rise today to recognize Representative Evelyn K. "Tina" Fallon upon her retirement from Delaware's House of Representatives after more than 28 years of dedicated public service. Known to friends and colleagues alike as "Tina," she is a woman with a kind heart, diverse interests and great abilities. Tina embodies the best of Delaware.

Born in Dudley, NC, on September 16, 1917, Tina has experienced firsthand the many changes that Delaware has undergone over the years and this level of experience will be difficult, if not impossible, to replace.

A longtime resident of Seaford, DE, Tina holds a bachelor of arts degree from Meredith College, located in Raleigh, NC, and a master's degree in education from the University of Delaware. She married her husband, James D. Fallon, Jr., in 1938, and they had four children together. After James' passing in 1982, Tina continued to raise their sons, George, James, William and Howard.

Before winning her first campaign when she was 61 years old, an age when many public servants are ready to retire, Tina worked for more than 25 years as an educator teaching math and science at Seaford High School. This experience has allowed her to speak with authority about Delaware's education system and the many issues that affect Delaware's young people.

Often recognized as the oldest member of the State legislature, Tina brought a wealth of knowledge to Delaware's House of Representatives along with energy and enthusiasm that belied her age. Her life experience gave her an understanding of faith and family values that transcended party slogans and struck an authentic chord in her constituents and everyone who had the pleasure of calling her their friend.

Representative Fallon quickly became known as one of Delaware's most approachable and hardestworking public officials. Her keen intellect and commonsense approach to problem-solving helped her serve her constituents and make Delaware a better place for us all.

Tina also served as a mentor for incoming members of Delaware's House of Representatives. Her positive attitude and boundless energy set a high standard for her colleagues to follow. A firm believer in acknowledging the hard work and accomplishments of her constituents, Tina was often seen visiting homes and businesses throughout the 39 district while delivering House tributes to those who deserved them.

During my time as Governor, I had the honor of naming Representative Fallon as the "Travel and Tourism Person of the Year" in 1998 for her outstanding work to promote and develop Delaware's tourism industry. Delaware's economic health and many small businesses are better off because of her efforts to promote the first State's historical and natural attractions. Also in 1998, she was honored by the National Republican Legislators Association as a "1998 Legislator of the Year." She was one of only 10 people across the Nation to receive this honor.

As a member of the influential Joint Finance Committee, Representative Fallon helped shape Delaware's multibillion dollar annual operating budget. Her ability to work with members of both parties made her an invaluable participant in figuring out how best to fund the current and future needs of Delaware. Tina also chairs the House Tourism Committee and is a member of five other committees as well.

Following her retirement, Tina plans to spend time with her children and grandchildren. After such a distinguished career serving the people of Delaware, I am certain that many will agree with me when I say that her retirement is well deserved. I thank Tina for her friendship, applaud her service, and wish her and her family only the very best in all that lies ahead for them.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

TEN-YEAR ANNIVERSARY OF THE BUFFALO, WV TOYOTA PLANT

• Mr. ROCKEFELLER. Mr. President, I rise today to recognize a milestone in my home State of West Virginia. Ten years ago, in 1996, a world-renowned automobile company, the Toyota Motor Corp., began producing engines and transmissions in my home State, marking the first major automobile manufacturing plant in West Virginia. In the following 10 years, Toyota Motor Manufacturing of West Virginia, TMMWV, has never stopped expanding. It now employs more than 1,100 people and has invested more than $1 billion in our State.

But the story actually begins almost 10 years earlier with a series of meetings I had with Dr. Shoichiro Toyoda, the son of Toyota's founder and its visionary leader for much of the 1980s and 1990s. I met Dr. Toyoda's father, the company founder, during my time in Japan in the 1960s. He soon introduced me to his son, Shoichiro, who would go on to steer Toyota into the 21st century, beginning production of the Lexus line and the Prius hybrid, as well as turning Toyota into a truly global force in the automobile industry. So in the mid-1980s, very early in my Senate career, I began the long, slow process of trying to woo this great company and great family to invest in West Virginia as a key part of their bold plan for investment in the United States and in North America.

I recall walking through cornfields in Putnam County with the Toyota site selection committee—facing the hurdles of excavation, preparation of the site, the narrow valley in Buffalo, highway infrastructure, and the construction of a bridge to reach the site. By the time Toyota decided to make Buffalo its new home, I felt like a full-fledged member of that site selection team. The cornfield of those days is now a state-of-the-art manufacturing facility, with a spotless parking lot outside for the hundreds of West Virginia workers proud to arrive for work there every day.

Many in the company and outside thought this move was a mistake for Toyota. They thought that transportation of materials and people to and from Buffalo would be too difficult. They thought that West Virginians could not do the work.

But Dr. Toyoda saw what others did not—a strong, smart, and friendly workforce and a great place to do business. Although it took many years and a number of meetings with my friend Dr. Toyoda—meetings I now look back upon fondly—Toyota finally decided to place a production facility in West Virginia, and we held our first of many groundbreaking celebrations here in 1996.

Now, Toyota's plant in Buffalo, WV, has gained national and international renown. It is the single most productive engine and transmission facility in all of North America for 3 years running, according to the Harbour Report, which is the auto industry authority on manufacturing efficiency and productivity. Toyota has implemented more recommendations from its Buffalo workforce than from most of its other facilities. In fact, other much larger cities around the country are envious of our tremendous success. In The Buffalo News recently, we learned that Buffalo, NY, is looking longingly at Buffalo, WV, and its enormous success in the automotive industry.

Toyota is now the second largest automobile producer in the world and has expanded six times in West Virginia alone. Our plant has also spawned a number of automotive suppliers around the State. Toyota has been the anchor to what is now a well-developed supply chain for auto parts, serving not only Toyota but also other car manufacturers in the United States. All of this growth has taken West Virginia, in just 10 short years, to its position today as a major center of American automotive manufacturing.

The credit for these great accomplishments goes, first and foremost, to the men and women of West Virginia, some of whom drive hours a day to work at this plant. But Toyota's management in the United States and in Japan has given these workers the tools they need to succeed and excel. I extend my gratitude for this coordination and my congratulations for 10 years of hard work and great accomplishments.

Again, Mr. President, I commend the workers and Toyota for 10 years of operations in West Virginia. This company, which is a worldwide model for any kind of manufacturing, took a risk on West Virginia. But their investment has paid enormous dividends, just as I promised my friend Dr. Toyoda it would almost 20 years ago.•

LIBYA

Mr. FEINGOLD. Mr. President, Libya's decision to abandon its illegal weapons programs, and today's news that the verification process has been successfully completed, and the fact that Libya is cooperating in international counterterrorism efforts, are tremendously positive developments that make our world safer. Libya's experience demonstrates that countries have more to gain by acting responsibly and abiding by international norms than by seeking weapons of mass destruction. However, the establishment of diplomatic relations between our countries does not mean that Libya's progress on all fronts has been satisfactory. According to the State Department's 2005 human rights report, Libya's human rights record remained poor last year, with Libyan citizens unable to change their government and subject to severe restrictions of their civil liberties. As we begin developing a new relationship with Libya, we must continue to press Libya to improve its human rights record and governance problems, and to address the cases pending in U.S. courts with regard to its terrorist activities of the 1980s.

ADDITIONAL STATEMENTS

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

CONGRATULATING BUDRO KENNETH BAISDEN

• Mr. ROCKEFELLER. Mr. President, today, I want to congratulate Budro Kenneth Baisden and other young, aspiring poets for their poetry as part of the Poetry of Rural Places writing competition. Budro Baisden comes from southern West Virginia and he has lived in our coal fields, surrounded by coal miners and the culture of the coal fields. He participates in the Coalfield Writers, Marshall University Writing Project. This month, as the West Virginia winner, he got to travel to Washington, DC, for the first time, to accept his award, and to read his poem in the Library of Congress. In his poem, Baisden eloquently expresses the arduous life of a coal miner, the adversity that oppresses rural Americans, and the acceptance of a life destined to be spent underground in the mines. Given the mine tragedies that hit West

Virginia and other States earlier this year, the spirit and the simplicity of his words implores us to acknowledge the parallel experiences of rural Americans nationwide. The words of this young West Virginia poet should inspire us to think about life through the eyes of a coal miner. It is with great pride that I submit this poem for the RECORD to share with my colleague and the public.

Mr. President, I ask that the poem be printed in the RECORD.

The poem follows:

LIFE THROUGH A COAL MINER'S EYES

Dark at day
Dark at night
It never changes
That's the mines

Cold and wet this they know
Still they put on their hardhats
And go

No one knows why they seek that hole
Deep in the mountains
With all that coal
To risk their lives for a single light pole
That shines through a window of a
Coal miner's home

But there is only one thing that shines so bright
Not the light you pass every night
It's the smile of their wives
When they come home at night

That's life through a coal miner's eyes.

—*Budro Baisden.*

• Mr. ROCKEFELLER. Baisden is one of several students visiting Washington for the Poetry of Rural Places program, representing the National Writing Project, NWP, and the Rural School and Community Trust initiatives. Working together in a unique partnership, the NWP and the Rural School and Community Trust have provided students from rural areas nationwide an opportunity to compose and publish original poems that convey their sense of place and vision of life in rural America. Beginning with local programs led by writing project sites, the contest culminates in a national reading event at the Library of Congress. Hopefully, this contest will inspire students nationwide to use the power of poetry to explore their lives, communities, and futures as rural Americans.

I encourage all of my colleagues to read the other poems written by these young people as they offer a profound vision of life in contemporary rural America. Their poems are available at www.ruralpoetry.org.•

DES MOINES POLICE OFFICERS HONORED FOR VALOR

• Mr. HARKIN. Mr. President, I have come to the floor today to salute the achievement of four Des Moines police officers who received richly earned recognition from the National Association of Police Organizations last week at the TOP COPS Awards here in Washington.

Every year for the past 13 years, the National Association of Police Organizations has presented awards to outstanding law enforcement officers across the country for their actions above and beyond the call of duty. This year, Captain Kelly Willis, Sergeant Jeff Edwards, and Officers Chris Hardy and Robert Clark, all of the Des Moines Police Department, were recognized for their professionalism and valor in saving the life of a teenage robbery suspect.

Last winter, when officers attempted to stop a stolen vehicle being driven, the suspect, a teenager from Nebraska, abandoned the vehicle and attempted to swim across the icy waters of the Des Moines River. Sergeant Edwards and Officer Hardy realized the teen was in trouble when the suspect grew tired and his head went under water. They understood the risks of entering the frigid river; nonetheless, they jumped in after the teen and attempted to pull him ashore. Captain Willis and Officer Clark also entered the river to assist with the rescue. After pulling the teenager to shore, Officer Clark performed CPR on the unconscious teen, who was taken to the hospital in critical condition but eventually recovered.

I congratulate these four public servants for their courageous actions last winter. Law enforcement officers are often required to make life-or-death decisions in a split second. This requires superb training and excellent judgment, which these four officers clearly possess in abundance. The people of Des Moines are very fortunate to be served by such outstanding professionals. I thank these four officers for their service, and I congratulate them on their well-deserved recognition by their peers at the TOP COP Awards program last week.•

TRUANCY COURT PROJECT

• Mr. THUNE. Mr. President, today I rise to recognize the students who participated in the Truancy Court Project for the Pennington County Juvenile Diversion Program.

The 17 students who successfully participated in the Truancy Court Project deserve the special recognition they are receiving today. After starting off the school year with a rocky beginning, each individual student took it upon themselves to volunteer for this project and to excel at it. Each of them has improved attendance, improved their relationships with their teachers, and most importantly learned the value of education.

It gives me great pleasure to rise with the citizens of Rapid City and Ellsworth in congratulating the Truancy Court Project students for their successful participation in the program.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 4:00 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4297. An act to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.

The enrolled bill was subsequently signed by the President pro tempore (Mr. STEVENS).

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 4954. An act to improve maritime and cargo security through enhanced layered defenses, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2810. A bill to amend title XVIII of the Social Security Act to eliminate months in 2006 from the calculation of any late enrollment penalty under the Medicare part D prescription drug program and to provide for additional funding for State health insurance counseling program and area agencies on aging, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6837. A communication from the Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, the National Guard ChalleNGe Program Annual Report for Fiscal Year 2005; to the Committee on Armed Services.

EC–6838. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, (3) reports relative to vacancy announcements within the Department, received on May 15, 2006; to the Committee on Armed Services.

EC–6839. A communication from the Under Secretary of Defense (Acquisition, Technology, and Logistics), transmitting, pursuant to law, a report entitled "Distribution of DoD Depot Maintenance Workloads—Fiscal Years 2005 through 2007"; to the Committee on Armed Services.

EC–6840. A communication from the Under Secretary of Defense (Acquisition, Technology, and Logistics), transmitting, pursuant to law, a report entitled "Foreign Sources of Supply: Assessment of the United States Defense Industrial Base"; to the Committee on Armed Services.

EC–6841. A communication from the Under Secretary of Defense (Acquisition, Technology, and Logistics), transmitting, pursuant to law, the Department of Defense 2005 Commercial FAIR Act Report and the Department of Defense 2005 Inherently Governmental FAIR Act Report; to the Committee on Armed Services.

EC–6842. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC–6843. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Burma that was declared in Executive Order 13047 of May 20, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–6844. A communication from the Secretary of the Treasury, transmitting, pursuant to the law, a six-month periodic report on the national emergency with respect to the Development Fund for Iraq that was declared in Executive Order 13303 of May 22, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–6845. A communication from the Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Change in Default Reporting Period" ((RIN2502–AI20)(FR–4916–F–02)) received on May 15, 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–6846. A communication from the Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Manufactured Home Construction and Safety Standards Technical Correction" ((RIN2502–AI12)(FR–4886–C–03)) received on May 15, 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–6847. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to omitting Libya and adding Venezuela to the list of countries not cooperating fully with U.S. antiterrorism efforts; to the Committee on Foreign Relations.

EC–6848. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Italy; to the Committee on Foreign Relations.

EC–6849. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed authorization for the export of significant military equipment in the amount of $50,000,000 or more to Space Systems/Loral and PanAmSat of the United States; to the Committee on Foreign Relations.

EC–6850. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed authorization for the sale of significant military equipment sold commercially under contract in the amount of $100,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–6851. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Algeria and Spain; to the Committee on Foreign Relations.

EC–6852. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC–6853. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to the Republic of Korea; to the Committee on Foreign Relations.

EC–6854. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Australia, Canada, and Malaysia; to the Committee on Foreign Relations.

EC–6855. A communication from the Assistant Secretary, Policy Management and Budget, Department of the Interior, transmitting, pursuant to law, the Final Engineering Report and Water Conservation Plan for the Rocky Boy's/North Central Montana Regional Water System; to the Committee on Energy and Natural Resources.

EC–6856. A communication from the Chairman, U.S. Merit Systems Protection Board, transmitting, the report of draft legislation to authorize appropriations for the Merit Systems Protection Board, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

EC–6857. A communication from the Acting Senior Procurement Executive, Office of the Chief Acquisition Officer, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2005–09" (FAC Case 2005–09) received on May 15, 2006; to the Committee on Homeland Security and Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. ISAKSON, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. BYRD, Mr. DEWINE, and Mr. SANTORUM):

S. 2803. A bill to amend the Federal Mine Safety and Health Act of 1977 to improve the safety of mines and mining; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEMINT:

S. 2804. A bill to extend the duty suspension on polysiloxane; to the Committee on Finance.

By Mr. DEMINT:

S. 2805. A bill to suspend temporarily the duty on 2,6-Di-tert-butylphenol; to the Committee on Finance.

By Mr. DEMINT:

S. 2806. A bill to suspend temporarily the duty on sodium hypophosphite; to the Committee on Finance.

By Mr. DEMINT:

S. 2807. A bill to suspend temporarily the duty on Cyanuric chloride; to the Committee on Finance.

By Mr. DEMINT:

S. 2808. A bill to suspend temporarily the duty on textured rolled glass sheets; to the Committee on Finance.

By Mr. DEMINT:

S. 2809. A bill to suspend temporarily the duty on 4,4'-Diaminostilbene-2,2'-disulfonic acid; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DEWINE, Mr. NELSON of Florida, Mr. KYL, Mr. CARPER, Mr. TALENT, Mrs. LINCOLN, Ms. SNOWE, Ms. CANTWELL, Mr. SANTORUM, Mr. BAYH, Mr. BURNS, Mr. CONRAD, Ms. MURKOWSKI, Mrs. MURRAY, Mr. SMITH, and Mr. HATCH):

S. 2810. A bill to amend title XVIII of the Social Security Act to eliminate months in 2006 from the calculation of any late enrollment penalty under the Medicare part D prescription drug program and to provide for additional funding for State health insurance counseling program and area agencies on aging, and for other purposes; read the first time.

By Ms. STABENOW (for herself and Mr. DORGAN):

S. 2811. A bill to amend title XVIII of the Social Security Act to extend the annual, coordinated election period under the Medicare part D prescription drug program through all of 2006 and to provide for a refund of excess premiums paid during 2006, and for other purposes; to the Committee on Finance.

By Mr. DAYTON:

S. 2812. A bill to amend the Petroleum Marketing Practices Act to prohibit restrictions on the installation of renewable fuel pumps, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN:

S. 2813. A bill for the relief of Claudia Marquez Rico; to the Committee on the Judiciary.

By Mr. BURNS:

S. 2814. A bill to amend title 10, United States Code, to provide for support of funeral ceremonies for veterans provided by details that consist solely of members of veterans organizations and other organizations, and for other purposes; to the Committee on Armed Services.

By Mr. DODD:

S. 2815. A bill to establish the Commission on Economic Indicators to conduct a study and submit a report containing recommendations concerning the appropriateness and accuracy of the methodology, calculations, and reporting used by the Government relating to certain economic indicators; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN (for himself, Mr. LUGAR, Mr. JOHNSON, Mr. DORGAN, and Mr. BIDEN):

S. 2816. A bill to amend the Internal Revenue Code of 1986 to provide an income tax credit for the manufacture of flexible fuel motor vehicles and to extend and increase the income tax credit for alternative fuel refueling property, and for other purposes; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. LUGAR, Mr. JOHNSON, Mr. DORGAN, and Mr. BIDEN):

S. 2817. A bill to promote renewable fuel and energy security of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SALAZAR (for himself, Mr. ALLARD, Mr. BAYH, Mr. BUNNING, Mr. MCCONNELL, and Mr. WYDEN):

S. Res. 480. A resolution expressing the sense of the Senate regarding the Chemical Weapons Convention; to the Committee on Armed Services.

By Mr. FRIST (for himself, Mr. REID, and Mr. ENSIGN):

S. Res. 481. A resolution relative to the death of Jacob Chic Hecht, former United States Senator for the State of Nevada; considered and agreed to.

ADDITIONAL COSPONSORS

S. 647

At the request of Mrs. LINCOLN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 647, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 886

At the request of Mr. MCCAIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 886, a bill to eliminate the annual operating deficit and maintenance backlog in the national parks, and for other purposes.

S. 914

At the request of Mr. ALLARD, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 914, a bill to amend the Public Health Service Act to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

S. 1104

At the request of Mrs. CLINTON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1104, a bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance programs.

S. 1112

At the request of Mr. GRASSLEY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1263

At the request of Mr. BOND, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1263, a bill to amend the Small Business Act to establish eligibility requirements for business concerns to receive awards under the Small Business Innovation Research Program.

S. 1354

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1354, a bill to establish commissions to review the facts and circumstances surrounding injustices suffered by European Americans, European Latin Americans, and Jewish refugees during World War II.

S. 1479

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1479, a bill to provide for the expansion of Federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne diseases, including the establishment of a Tick-Borne Diseases Advisory Committee.

S. 1862

At the request of Mr. SMITH, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1862, a bill to establish a joint energy cooperation program within the Department of Energy to fund eligible ventures between United States and Israeli businesses and academic persons in the national interest, and for other purposes.

S. 2005

At the request of Mr. REED, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2005, a bill to provide for the reviewing, updating, and maintenance of National Flood Insurance Program rate maps, and for other purposes.

S. 2010

At the request of Mr. HATCH, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2010, a bill to amend the Social Security Act to enhance the Social Security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 2140

At the request of Mr. HATCH, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2140, a bill to enhance protection of children from sexual exploitation by strengthening section 2257 of title 18, United States Code, requiring producers of sexually explicit material to keep and permit inspection of records regarding the age of performers, and for other purposes.

S. 2178

At the request of Mr. SCHUMER, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2178, a bill to make the stealing and selling of telephone records a criminal offense.

S. 2392

At the request of Mrs. BOXER, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2392, a bill to promote the empowerment of women in Afghanistan.

S. 2461

At the request of Mr. SANTORUM, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2461, a bill to prohibit United States assistance to develop or promote any rail connections or railway-related connections that traverse or connect Baku, Azerbaijan, Tbilisi, Georgia, and Kars, Turkey, and that specifically exclude cities in Armenia.

S. 2480

At the request of Mr. LEAHY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2480, a bill to amend the Fairness to Contact Lens Consumers Act with respect to the availability of contact lenses.

S. 2556

At the request of Mr. BAYH, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2556, a bill to amend title 11, United States Code, with respect to reform of executive compensation in corporate bankruptcies.

S. 2566

At the request of Mr. LUGAR, the names of the Senator from New Hampshire (Mr. SUNUNU) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 2566, a bill to provide for coordination of proliferation interdiction activities and conventional arms disarmament, and for other purposes.

S. 2614

At the request of Mr. THUNE, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 2614, a bill to amend the Solid

Waste Disposal Act to establish a program to provide reimbursement for the installation of alternative energy refueling systems.

S. 2629

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2629, a bill to improve the tracking of stolen firearms and firearms used in a crime, to allow more frequent inspections of gun dealers to ensure compliance with Federal gun law, to enhance the penalties for gun trafficking, and for other purposes.

S. 2658

At the request of Mr. BOND, the names of the Senator from New Hampshire (Mr. SUNUNU) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 2658, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

S. 2682

At the request of Mr. NELSON of Florida, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2682, a bill to exclude from admission to the United States aliens who have made investments directly and significantly contributing to the enhancement of the ability of Cuba to develop its petroleum resources, and for other purposes.

S. 2703

At the request of Mr. LEAHY, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 2703, a bill to amend the Voting Rights Act of 1965.

S. 2725

At the request of Mrs. CLINTON, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 2725, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal Minimum wage and to ensure that increases in the Federal minimum wage keep pace with any pay adjustments for Members of Congress.

S.J. RES. 10

At the request of Mr. SHELBY, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S.J. Res. 10, a joint resolution proposing an amendment to the Constitution of the United States which requires (except during time of war and subject to suspension by Congress) that the total amount of money expended by the United States during any fiscal year not exceed the amount of certain revenue received by the United States during such fiscal year and not exceed 20 per centum of the gross national product of the United States during the previous calendar year.

S. RES. 236

At the request of Mr. COLEMAN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. Res. 236, a resolution recognizing the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis, supporting the goals and ideals of National Idiopathic Pulmonary Fibrosis Awareness Week, and for other purposes.

S. RES. 320

At the request of Mr. ENSIGN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Res. 320, a resolution calling for the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide.

S. RES. 420

At the request of Mr. SMITH, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Res. 420, a resolution expressing the sense of the Senate that effective treatment and access to care for individuals with psoriasis and psoriatic arthritis should be improved.

S. RES. 462

At the request of Mr. GRASSLEY, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Utah (Mr. HATCH) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. Res. 462, a resolution designating June 8, 2006, as the day of a National Vigil for Lost Promise.

S. RES. 469

At the request of Mr. ENSIGN, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. Res. 469, a resolution condemning the April 25, 2006, beating and intimidation of Cuban dissident Martha Beatriz Roque.

At the request of Mr. LIEBERMAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 469, supra.

AMENDMENT NO. 3960

At the request of Mr. FEINGOLD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of amendment No. 3960 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 3961

At the request of Mr. ISAKSON, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senator from Tennessee (Mr. ALEXANDER), the Senator from New Mexico (Mr. DOMENICI) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of amendment No. 3961 proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

At the request of Mr. ALLARD, his name was added as a cosponsor of amendment No. 3961 proposed to S. 2611, supra.

At the request of Mr. THUNE, his name was added as a cosponsor of amendment No. 3961 proposed to S. 2611, supra.

AMENDMENT NO. 3966

At the request of Mr. COBURN, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of amendment No. 3966 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 3968

At the request of Mr. ALLARD, the names of the Senator from Montana (Mr. BURNS) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of amendment No. 3968 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 3981

At the request of Mr. BINGAMAN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 3981 proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 3985

At the request of Mr. ENSIGN, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of amendment No. 3985 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. ISAKSON, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. BYRD, Mr. DEWINE, and Mr. SANTORUM):

S. 2803. A bill to amend the Federal Mine Safety and Health Act of 1977 to improve the safety of mines and mining; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, as the chairman of the Senate Committee on Health, Education, Labor and Pensions I am pleased to announce today the introduction of comprehensive legislation designed to make our Nation's mines and miners safer—the Mine Improvement and New Emergency Response Act of 2006, the MINER Act. I am particularly pleased to note that the MINER Act is the product of a truly bipartisan effort that includes Senator KENNEDY, the committee's ranking member. Senators ISAKSON and MURRAY, the chair and ranking member of the Subcommittee on Employment and Workplace Safety, and Senators ROCKEFELLER and BYRD. They have all worked tirelessly to make this bill a reality, and I am grateful for their leadership on this issue and their co-sponsorship of the MINER Act.

Mining, and coal mining in particular, is vital to our national and local economies, and to our national energy security. No aspect of mining is more important than protecting the health and safety of those whose hard work fuels the industry.

This year our Nation has experienced tragic losses in the coal mines of West Virginia. Following the accident at the Sago mine, Senators ISAKSON, KENNEDY, ROCKEFELLER, and I traveled to West Virginia to meet with the families of those miners whose lives were lost. We were all deeply moved by that experience, and committed to do our best to ensure that such tragedies will not be repeated. To further that commitment, we have sought the views of experts and stakeholders on a wide range of mine safety issues and have conducted hearings and roundtables on such issues as mine safety technology. In the MINER Act, we have done much to reach our common goal of safeguarding the lives of all those who work in our Nation's mines.

The legislation we introduce today addresses the issue of mine safety in a variety of ways. First, the MINER Act would require the development of mine-specific emergency response plans that incorporate safety and technology provisions designed to enhance miner safety. In the area of technology, in particular, the MINER Act recognizes that as safety technology evolves, so, too, must our approach. Thus, the plans that are initially developed must be periodically modified to reflect such changes.

Second, the MINER Act recognizes the critical role of mine rescue teams, and those who serve on them, in enhancing the safety of miners. The legislation directs the Secretary of Labor to issue regulations that will make new provisions for mine rescue teams, and it creates liability protection for those who serve on those teams and their employers.

Third, the MINER Act recognizes that in emergencies the ability to craft a prompt response is dependent upon prompt notification. Thus, the MINER Act provides that in the case of serious life-threatening accidents notification must be made to Federal Mine Safety officials within 15 minutes.

Fourth, the legislation recognizes that despite all efforts, accidents may occur in the future, and that in those instances MSHA should be prepared to provide assistance to and communicate with the families of those affected. Accordingly, the MINER Act requires MSHA to establish a policy to meet both of these objectives.

Fifth, the legislation recognizes the key role of technology in improving mine safety and the key role of the National Institute of Occupational Safety and Health in advancing such technological development. The MINER Act establishes an Office of Mine Safety within NIOSH, a NIOSH-administered grant and contract program designed to foster the development and manufacture of new mine safety equipment, and a NIOSH-chaired interagency working group designed to facilitate the transfer of technology that may be adaptable to mine usage from such other Federal sources as the National Aeronautics and Space Administration, NASA, the Department of Defense. The bill also contains provisions to streamline the testing of new technologies.

Sixth, the MINER Act recognizes there are some areas regarding technology and engineering and mining practice about which uncertainty remains. The MINER Act recognizes that such issues are better addressed with the informed assistance of experts. Thus, the MINER Act creates a technical study panel to review the belt air issue and directs further NIOSH study and testing regarding refuge chambers. It also requires the Secretary to utilize the regulatory process to issue final regulations regarding the strength of seals used in abandoned mining sections. These directives do not prejudge the issues or dictate any result or action. They do, however, provide an important means of developing a body of expert opinion with regard to these issues.

Seventh, throughout the development of this legislation my long-held view that the vast majority of mine operators take their safety responsibilities with great seriousness has been reinforced. The conscientious efforts of mine operators throughout the country have been the principal reason behind our continual improvement in mine safety over the years. We must recognize this essential fact even as we must also recognize that there are a handful of operators who do not fall in this camp. In the instance of these "bad actors," the MINER Act provides tools MSHA can use to more readily deal with those who fail to pay civil penalties. The MINER Act codifies a tenfold increase in the available criminal penalties, and it creates an increased maximum for flagrant violators in line with the administration's proposal and creates minimum penalties for the most serious types of infractions.

Lastly, the legislation recognizes that training and education play a critical role in the effort to make mines and miners safer. Therefore, the legislation contains scholarship provisions to address the anticipated shortages of trained miners and MSHA personnel as well as fostering the skills of those who will work on the next generation of mine safety technology. It also contains provisions for the establishment of a program to provide a full range of mine safety training grants.

These steps, when taken together, will help make our nation's mines a safer workplace today and in years to come.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. ROCKEFELLER. Mr. President, it is my honor today to join with several of my distinguished colleagues to introduce S. 2803, the Mine Improvement and New Emergency Response, MINER Act of 2006. This is the first time Congress has taken a critical look at mine safety since the 1970s. It will be the first significant update of statutory mine safety standards in a generation. The advances in this legislation represent long overdue health and safety improvements for our Nation's miners. The MINER Act will affect every mine and every miner in the country. When fully implemented by the Mine Safety and Health Administration, MSHA, and coal operators, the MINER Act will make the men and women who work in our Nation's coal mines safer than they have ever been.

Like many Americans, I was transfixed by the coverage of the tragic events at the Sago Mine in Upshur County, WV, this past January. My heart went out to the families of the miners as they waited and prayed for—and were cruelly denied—a happy ending. Except for the brief elation when we learned of Randal McCloy's miraculous survival, we were all heartbroken by the devastating outcome. Because these were miners and families in my State of West Virginia and because for years I lived and worked in nearby Buckhannon, the tragedy at Sago hit very close to home for me. For current and retired miners and their families across the country, the deaths of the Sago miners were very much the deaths of brothers.

When two more miners went missing after a fire in the Alma No. 1 mine near Melville, in Logan County, WV, I knew my place was there with the families. There was little that could be done to ease the anxiety of the miners' families while they waited and prayed together in the church in Melville, having themselves lived through the Sago tragedy. That day, I was standing with Governor Manchin at the mine mouth and we got the news that no one wanted to hear. We returned to the church to be with the families when they heard the words that crushed their hopes for another miracle. No parent or spouse should have to live through a moment like that ever again. It was clear that better mine safety regulation was essential.

One positive consequence of the broad news coverage of the Sago and Alma tragedies was that the world got a glimpse of West Virginia at its best: people who work hard, love their families, and trust in their God. My trip to Upshur County to meet with the families—and then the immensely sad and too-familiar repeat 2 weeks later to sit and to grieve with families of the Alma miners in Logan County—inspired what I hope will be a more lasting and tangible result. It became my mission to substantially improve and make more rigorous health and safety standards in American coal mines. I believe the MINER Act is legislation that will fulfill those goals and is the very least we can do as we recall the Sago and Alma miners, as well as those who lost their lives at the Longbranch No. 18, Black Castle, Candice No. 2, and Jacob No. 1 mines in West Virginia and at other mines in Kentucky, Utah, Alabama, and Maryland just this year.

The MINER Act amends the Federal Mine Safety and Health Act of 1977 to do the following:

Requires companies to submit to MSHA emergency preparedness and response plans, including requirements to deploy state-of-the-art technologies for two-way communications, miner tracking, improved breathing apparatuses, and lifelines. These improvements must be made immediately wherever feasible and no later than 3 years after enactment. Each miner must have enough breathable air accessible to last for a sustained period of time.

Requires coal operators to supply miners with additional supplies of breathable air, both in working sections of coal mines and at intervals on escapeways so miners can walk out in the event of a disaster.

Increases training on self-rescuers to make sure that technologies are properly deployed in the mine as soon as they become available.

Requires operators to notify MSHA within 15 minutes of a disaster or face up to $60,000 in penalties.

Improves the overall safety of miners by strengthening mine rescue team requirements for all underground mines. Now at least one miner per shift will have to be sufficiently familiar with the mine's operations to serve as a coordinator in the even of an accident, more miners will be rescue-trained, and response time will be cut in half—down to 1 hour.

Requires NIOSH to conduct research, including field testing, of refuge chambers and could result in the Secretary issuing a new regulation to require them.

Creates an Office of Mine Safety in NIOSH to distribute mine safety research and development grants and to coordinate with other Government agencies on technology they use that might be adapted for mine safety purposes.

Establishes a family liaison position for post-accident assistance to miners' families.

Creates for the first time a schedule of higher minimum penalties for the most egregious health and safety violations—essentially doubling fines for serious violations.

Tightens up MSHA fine collection procedures and gives MSHA new authority to shut down mines for failure to pay persistent violations.

Requires the Secretary of Labor to improve standards for seals in abandoned areas of underground coal mines.

Establishes a technical study panel made up of scientists and health and safety experts to review and report to the Secretaries of Labor and Health and Human Services on the use of "belt air" and the replacement of worn belts with fire-resistant materials.

Creates three scholarship programs: for community college study in basic safety and mine skills for new miners; for college-level study leading toward employment with MSHA; and college and graduate study in mining-related disciplines.

Creates the Brookwood-Sago Mine Safety Grants Program in the Department of Labor to fund education and training programs designed to identify, avoid, and prevent unsafe working conditions in and around mines.

While television allowed the entire globe to look in on the 24-hour-a-day vigils at Sago and then Alma, I received a number of calls of support and condolences from around the country and around the world. Among the first were calls from Senate Health, Education, Labor, and Pensions, HELP, Committee chairman MIKE ENZI and his ranking Democrat member, TED KENNEDY. Chairman ENZI comes from a coal community in Wyoming and understands the bond between miners and their families. He also understands the hazards of mining coal, and he has been determined from the beginning to put out a good bill that can pass this Congress. I have known and admired MIKE ENZI since he was the mayor of Gillette, WY, and I, while Governor of West Virginia, was serving as chairman of President Carter's Coal Commission. He is a fine and honest man, and it has been a pleasure to work with him on this vitally important legislation.

As for Senator KENNEDY, with the exception of his home State of Massachusetts, there can be few places where his long career in the Senate has had more positive impacts than in my State of West Virginia. Both Senator KENNEDY and Senator ENZI expressed to me their heartfelt sorrow and their unshakable commitment to work with me on mine safety legislation in this Congress.

That commitment had its first demonstration when Chairman ENZI, Senator KENNEDY, and HELP Employment and Workplace Safety Subcommittee chairman JOHNNY ISAKSON joined me on a trip to Upshur County so they could sit with the families of the Sago miners, as well as with survivors of the accident and company officials. Few meetings that I have attended in my public career were as powerful as the more than 2 hours we spent with the Sago families. But the commitment has been proven beyond all doubt as Chairman ENZI and Senators KENNEDY, ISAKSON, MURRAY, and BYRD have worked with me to negotiate the MINER Act over the course of the last several months.

We have had some differences of opinion and worked through issues in which we were all trying to accomplish the same goal but from occasionally different angles. The good will and conscientiousness that Chairman ENZI and Senator ISAKSON have shown in this process give me hope for greater bipartisan cooperation in the future. I am extremely grateful to them for their willingness to work through our honest differences.

While I believe the MINER Act will result in greatly improved safety in our mines, it is not the last word in health and safety protections for the men and women who work underground. More aggressive measures on mine safety may be needed. Chairman ENZI has produced a very good bill, but I would have included more definitive language to push the introduction of emergency refuge chambers in mines, and I would have prevented the use of belt air anywhere its use presents an unreasonable hazard to miners. In any event, miners should not have to wait much longer for Congress to act. Legislating can be a slow process, but in times of crisis—and I believe we are in a time of crisis in our mines—Congress must act.

As we work to move this legislation through Congress, we must commit with equal dedication to ongoing oversight. I believe I have that commitment from the chairman of the HELP Committee. But we need to ask more of the administration also: in resources—real dollars; in a renewed dedication to an inspector workforce weakened by retirements and attrition; and in more vigilance on the part of mine inspectors, who must be willing to spend the time in those mines where safety concerns go unabated today. On the front lines, I believe our coal companies understand that safe mines are productive mines, and our miners come to work each day ready and willing to do their jobs in the safest way possible.

I commit to work with my cosponsors and all in Congress and the administration who care about miners to get this bill enacted this year and to continue to improve mine safety even after the MINER Act passes.●

Mr. ENZI. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

(The bill will be printed in a future edition of the RECORD.)

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. DEWINE, Mr. NELSON of Florida, Mr. KYL, Mr. CARPER, Mr. TALENT, Mrs. LINCOLN, Ms. SNOWE, Ms. CANTWELL, Mr. SANTORUM, Mr. BAYH, Mr. BURNS, Mr. CONRAD, Ms. MURKOWSKI, Mrs. MURRAY, Mr. SMITH, and Mr. HATCH):

S. 2810. A bill to amend title XVIII of the Social Security Act to eliminate months in 2006 from the calculation of any late enrollment penalty under the Medicare part D prescription drug program and to provide for additional funding for State health insurance counseling program and area agencies on aging, and for other purposes; read the first time.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 2810

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Late Enrollment Assistance Act of 2006".

SEC. 2. ELIMINATION OF MONTHS IN 2006 FROM THE CALCULATION OF ANY LATE ENROLLMENT PENALTY UNDER MEDICARE PART D.

(a) ELIMINATION.—Section 1860D–13(b)(3)(B) of the Social Security Act (42 U.S.C. 1895w–113(b)(3)(B)) is amended by adding at the end the following new sentence: "In no case shall any month in 2006 be considered to be an uncovered month under this subsection.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of section 101(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2071).

SEC. 3. ADDITIONAL FUNDING FOR STATE HEALTH INSURANCE COUNSELING PROGRAMS.

(a) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated $13,000,000 to the Secretary of Health and Human Services for fiscal year 2007, for the purpose of providing grants to States for State health insurance counseling programs receiving assistance under section 4360 of the Omnibus Reconciliation Act of 1990.

(b) ALLOCATION.—

(1) ALLOCATION BASED ON PERCENTAGE OF LOW-INCOME BENEFICIARIES.—The amount of a grant to a State under this section from ½ of the total amount made available under subsection (a) shall be based on the number of individuals that meet the requirement under section 1860D–14(a)(3)(A)(ii) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(A)(ii)) relative to the total number of part D eligible individuals (as defined in section 1860D–1(a)(3)(A) of such Act (42 U.S.C. 1395w–101(a)(3))) in each State, as estimated by the Secretary of Health and Human Services.

(2) ALLOCATION BASED ON PERCENTAGE OF RURAL BENEFICIARIES.—The amount of a grant to a State under this section from ½ of the total amount made available under subsection (a) shall be based on the number of part D eligible individuals (as so defined) residing in a rural area (as determined by the Administrator of the Centers for Medicare & Medicaid Services) relative to the total number of such individuals in each State, as estimated by the Secretary of Health and Human Services.

(c) AVAILABILITY.—Amounts made available under subsection (a) shall remain available—

(1) for obligation until November 1, 2006; and

(2) for expenditure until June 30, 2008.

SEC. 4. ADDITIONAL FUNDING FOR AREA AGENCIES ON AGING.

(a) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated $5,000,000 to the Secretary of Health and Human Services for fiscal year 2007, to enable the Assistant Secretary on Aging to provide grants to States for area agencies on aging (as defined in section 102 of the Older American Act of 1965 (42 U.S.C. 3002)). Such assistance shall be used to provide eligible Medicare beneficiaries with information regarding benefits under title XVIII of the Social Security Act.

(b) ALLOCATION BASED ON PERCENTAGE OF LOW-INCOME AND RURAL BENEFICIARIES.—The amount of a grant to a State under this section from the total amount made available under subsection (a) shall be determined in the same manner as the amount of a grant to a State under section 4 from the total amount made available under subsection (a) of such section is determined under paragraphs (1) and (2) of subsection (b) of such section.

(c) AVAILIBILITY.—Amounts made available under subsection (a) shall remain available—

(1) for obligation until November 1, 2006; and

(2) for expenditure until June 30, 2008.

SEC. 5. MEDICARE ADVANTAGE REGIONAL PLAN STABILIZATION FUND REVISIONS.

(a) IN GENERAL.—Section 1858(e)(5) of the Social Security Act (42 U.S.C. 1395w–27a(e)(5)) is amended by adding at the end the following new subparagraph:

"(C) ADDITIONAL LIMITATION.—In no case may the total expenditures from the Fund—

"(I) prior to October 1, 2007, exceed $566,000,000;

"(II) during the period beginning on October 1, 2007, and ending on September 30, 2011, exceed $4,507,000,000."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 221(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2181).

By Mrs. FEINSTEIN:

S. 2813. A bill for the relief of Claudia Marquez Rico; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am offering today private relief legislation to provide lawful permanent residence status to Claudia Marquez Rico, a Mexican national living in Redwood City, CA

Born in Jalisco, Mexico, Claudia was brought to the United States by her parents 16 years ago. Claudia was just 6 years old at the time. She has two younger brothers, Jose and Omar, who came to America with her, and a sister, Maribel, who was born in California and is a U.S. Citizen. America is the only home they know.

Six years ago that home was visited by tragedy. As Mr. and Mrs. Marquez were driving to work early on the morning of October 4, 2000, they were both killed in a horrible traffic accident when their car collided with a truck on an isolated rural road.

The children went to live with their aunt and uncle, Hortencia and Patricio Alcala. The Alcalas are a generous and loving couple. They are U.S. citizens with two children of their own. They took the Marquez children in and did all they could to comfort them in their grief. They supervised their schooling, and made sure they received the counseling they needed, too. The family is active in their parish at Buen Pastor Catholic Church, and Patricio Alcala serves as a youth soccer coach. In 2001, the Alcalas were appointed the legal guardians of the Marquez children.

Sadly, the Marquez family received bad legal representation. At the time of their parents' death, Claudia and Jose were minors, and qualified for special immigrant juvenile status. This category was enacted by Congress to protect children like them from the hardship that would result from deportation under such extraordinary circumstances, when a State court deems them to be dependents due to abuse, abandonment or neglect. Today, their younger brother Omar is on track to lawful permanent residence status as a special immigrant juvenile. Unfortunately, the family's previous lawyer failed to secure this relief for Claudia, and she has now reached the age of majority without having resolved her immigration status.

I should note that their former lawyer, Walter Pineda, is currently answering charges on 29 counts of professional incompetence and 5 counts of moral turpitude for mishandling immigration cases and appears on his way to being disbarred.

I am offering legislation on Claudia's behalf because I believe that, without it, this family would endure an immense and unfair hardship. Indeed, without this legislation, this family will not remain a family for much longer.

Despite the adversity they encountered, Claudia and José finished school and now work together in a pet grooming store in Redwood City, where Claudia is the store manager. They support themselves, and they are dedicated to their community and devoted to their family. In fact, last year Claudia became the legal guardian of her 14-year-old sister Maribel, who lives with her and José at their home in Redwood City. Omar, now 17 years old, continues to live with the Alcalas so as not to interrupt his studies at Aragon High School in San Mateo. Again, Maribel is a U.S. citizen, and Omar is eligible for a green card.

Claudia has no close relatives in Mexico. She has never visited Mexico, and she was so young when she was brought to America that she has no memories of it. How can we expect her to start a new life there now?

It would be a grave injustice to add to this family's misfortune by tearing these siblings apart. This is a close family, and they have come to rely on each other heavily in the absence of their deceased parents. This bill will prevent the added tragedy of another wrenching separation.

I ask unanimous consent that the text of the bill be printed in the RECORD along with a letter from Claudia and José Marquez Rico.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR CLAUDIA MARQUEZ RICO.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Claudia Marquez Rico shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Claudia Marquez Rico enters the United States before the filing deadline specified in subsection (c), she shall be considered to have entered and remained lawfully and, if otherwise eligible, shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Claudia Marquez Rico, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 202(e) of such Act.

(e) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Claudia Marquez Rico shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

JANUARY 3, 2005.

Senator DIANNE FEINSTEIN,
U.S. Congress,
Washington, DC.

DEAR SENATOR FEINSTEIN: We are writing to request your assistance in introducing a private bill in the United States Senate on our behalf. We are currently in deportation proceedings before the Immigration Court in San Francisco, California. We are twenty-one and eighteen years old respectively. We have two other siblings, Omar, sixteen, and Maribel, twelve.

Our parents entered the United States without documents in 1990. We were very young at the time and don't remember entering the United States or ever living in Mexico. Our life in the United States is the only thing we have ever known, it is where our family, friends, and community are and have always been.

In October 2000 our parents were both killed in a terrible car accident. We were so sad to suddenly not have our parents and scared about what our future would bring. After the accident we went to live with our aunt and uncle, Hortencia and Patricio Alcala, in San Mateo, California and they became our legal guardians. It was difficult to adjust to life without our parents. We lived in a new home, in a new environment, and attended different schools with new people. Everything in our lives had changed.

Before their deaths, our parents had a case before the Immigration Court in San Francisco, California and we were included in that case. Our youngest sister Maribel was born here in the United States and so she is a citizen and not part of the case. We know that despite the deaths of our parents that case continues and that we may be deported to Mexico. We have a lawyer who is trying to help us with our case, Angela Bean. She said she will be able to help our brother Omar in his case because he is still a minor but that there are few options for us to remain in the United States legally. We are trying to find a solution for our case but are scared we may be deported before we are able to do so.

Our parents came to this country because they wanted a better future for us and all we want is the chance to have the kind of opportunities they sought for us. Jose Elvis wants to study mechanics and then open his own shop and Claudia wants to go to college. All of our dreams would be lost if we had to return to Mexico. We have no family there and no way of supporting ourselves. Even though we were born there, we came to the United States at such a young age it's as if we have never been there before.

We not only worry about our future, but about our sister Maribel if we were forced to go back to Mexico. She is the youngest and we want to be here for her as she grows up and to protect her and teach her things. All we have is each other now and we don't want to be separated from the family we have left.

We ask for your help so that we can remain in the United States and so we can continue to grow and be surrounded by the people and places we know and love, Our lives have been very difficult since the deaths of our parents and we hope that we can remain in this country where we have the opportunities our parents wanted for us and the family support that we need.

Sincerely,

CLAUDIA MARQUEZ-RICO.
JOSE ELVIS MARQUEZ-RICO.

By Mr. DODD:

S. 2815. A bill to establish the Commission on Economic Indicators to conduct a study and submit a report containing recommendations concerning the appropriateness and accuracy of the methodology, calculations, and reporting used by the Government relating to certain economic indicators; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, I introduce legislation today to improve the way we measure the condition of America's economy. My bill, the Economic Indicators Commission Act of 2006, would establish a nonpartisan commission of experts to make recommendations concerning the appropriateness and accuracy of the methodology, calculations, and reporting of the government's economic statistics. I am joined in this effort by Representative EMANUEL in the other body.

The statistics that describe our economy provide essential information and guidance for private market actors and public policymakers. Statistics like Gross Domestic Product, GDP, the inflation rate, and the unemployment rate help investors decide how to allocate their money, help entrepreneurs decide whether to start a new business, and help job-seekers decide where to look for new opportunities. Policymakers ranging from central bankers to elected officials rely on the same statistics to make informed decisions about monetary and fiscal policy and public sector investments.

Yet while we rely on these indicators, we know that they paint an imperfect picture. The Bureau of Labor Statistics, BLS, for example, reports two separate measures of employment, which, as many of us may remember, created some controversy in 2003 and 2004 when they provided conflicting assessments of our economy's health. The BLS's two series never match up perfectly, but at one point, one measure showed a loss of 1 million jobs since the recession's official end in November 2001, while the other reported an increase of 1.4 million. The 2004 Economic Report of the President called such a large and sustained divergence "unprecedented."

Ben Bernanke, now Chairman of the Federal Reserve Board of Governors, described well the challenge of relying on imperfect indicators in a 2004 speech to the National Economists Club in Washington, DC. In the speech, Dr. Bernanke made light of a common analogy used to describe American monetary policy, which compares the Federal Reserve's Federal Open Market Committee to the driver of a car—the U.S. economy—who must decide whether to tap the accelerator or the brake in order to maintain proper speed. Dr. Bernanke offered a slightly modified comparison: "[I]f making monetary policy is like driving a car," he said, "then the car is one that has an unreliable speedometer, a foggy windshield, and a tendency to respond unpredictably and with delay to the accelerator or the brake."

While our economic statistics will likely never provide perfect, real-time gauges of our economy's performance, that does not mean we should cease seeking to improve them. Chairman Bernanke's predecessor at the Federal Reserve, Alan Greenspan, was known for his search for insight not only by reading economic data, but also by knowing its limitations and pushing for better ways to measure what was happening in the national and global economies. As Chairman Greenspan recognized in a speech to the American Economic Association on January 3, 2004, "the economic world in which we function is best described by a structure whose parameters are continuously changing."

Chairman Greenspan makes an important point. As our economy evolves, so too should our methods for measuring it. In a recent Business Week cover story, reporter Michael Mandel outlines one example of how modem features of the 21st century economy may be challenging the accuracy of traditional economic indicators. America's economy, Mandel argues, has become increasingly "knowledge-based," driven by intangible investments in addition to the production of tangible goods. Intangibles, however, are notoriously difficult to measure, so as a result, our traditional indicators may be leaving out a growing portion of the economic picture. If intangibles truly are growing in importance, our statistics must better account for them in order to provide a full and accurate measure of economic activity.

Intangibles aren't the only economic factor that our current indicators may not capture accurately. Researchers in academic and public policy institutions have also questioned the way we measure poverty in America. They suggest that the government's use of "reported household income" as the primary measurement tool does not properly account for regional differences in the cost of living or noncash items such as food stamps. As a result, we may be systematically undercounting the number of Americans living in poverty, especially those living in high-cost areas. Mr. President, if we as a Nation are going to effectively fight the scourge of poverty, we must know where to aim and have the ability to measure our progress.

Properly accounting for intangibles and developing more realistic standards of poverty represent only two of the many challenges we face in improving the way we measure our economy. Public servants at each of our government statistical agencies, along with independent researchers, are working continuously and diligently to better the techniques for collecting and reporting information. But the challenge is to bring these efforts together in a larger, coordinated context, with the mission to fundamentally re-examine the way we measure economic activity and our progress as a society.

The legislation I introduce today, the Economic Indicators Commission Act of 2006, will achieve this goal. It establishes a nonpartisan panel of eight experts appointed by Senate and House leadership, in consultation with the chairman and ranking members of the Banking and Finance Committees in the Senate, the Financial Services and Ways and Means Committees in the House, and the Joint Economic Committee. The bill directs the Commission to consult with both users and reporters of data, such as the Federal Reserve and Council of Economic Advisers and the Commerce and Labor Departments, and report its findings and recommendations to the Congress within 12 months.

In order to formulate effective policy and improve market efficiency, we need a full and accurate picture of the economy. Our economic data has the power to literally move markets; it influences billions of dollars worth of investment and public policy decisions. The legislation I introduce today will help Americans make more informed decisions by improving these statistics. Going back to Chairman Benanke's joke about the analogy of the economy as a difficult-to-drive car, this bill will help drivers de-fog the windshield and upgrade the speedometer, for the benefit of all.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2815

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission on Economic Indicators Act of 2006".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Federal and State governments and private sector entities depend on the economic statistics published by the Federal Government;

(2) questions have been raised about the accuracy of various measures including productivity, poverty, inflation, employment and unemployment, and wages and income; and

(3) it is essential that these indicators accurately reflect underlying economic activity and conditions.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established the Commission on Economic Indicators (in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 8 members of whom—

(A) 2 shall be appointed by the Majority Leader of the Senate, in consultation with the Chairmen and Ranking Members of the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Finance of the Senate, and the Joint Economic Committee;

(B) 2 shall be appointed by the Minority Leader of the Senate, in consultation with the Chairmen and Ranking Members of the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Finance of the Senate, and the Joint Economic Committee;

(C) 2 shall be appointed by the Speaker of the House of Representatives, in consultation with the Chairmen and Ranking Members of the Committee on Financial Services of the House of Representatives, the Committee on Ways and Means of the House of Representatives, and the Joint Economic Committee; and

(D) 2 shall be appointed by the Minority Leader of the House of Representatives, in consultation with the Chairmen and Ranking Members of the Committee on Financial Services of the House of Representatives, the Committee on Ways and Means of the House of Representatives, and the Joint Economic Committee.

(2) QUALIFICATIONS.—Members of the Commission shall be—

(A) appointed on a nonpartisan basis; and

(B) experts in the fields of economics, statistics, or other related professions.

(3) DATE.—The appointments of the members of the Commission shall be made not later than 60 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner: as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

SEC. 4. DUTIES OF THE COMMISSION.

(a) STUDY.—The Commission shall conduct a study of—

(1) economic statistics collected and reported by United States Government agencies, including national income, employment and unemployment, wages, personal income, wealth, savings, debt, productivity, inflation, and international trade and capital flows; and

(2) ways to improve the related statistical. measurements so that such measurements provide a more accurate and complete depiction of economic conditions.

(b) CONSULTATION.—In conducting the study under this section, the Commission shall consult with—

(1) the Chairman of the Federal Reserve Board of Governors;

(2) the Secretary of Commerce;

(3) the Secretary of Labor;

(4) the Secretary of the Treasury;

(5) the Chairman of the Council of Economic Advisers; and

(6) the Comptroller General of the United States.

(c) REPORT.—Not later than 1 year after the date of the first meeting of the Commission, the Commission shall submit a report to Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with recommendations for such legislation and administrative actions as the Commission considers appropriate, including a recommendation of the appropriateness of establishing a similar commission after the termination of the Commission.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

The Commission shall maintain the same level of confidentiality for such information made available under this subsection as is required of the head of the department or agency from which the information was obtained.

(c) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) Compensation of Members.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) Travel Expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) Staff.—

(1) In general.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) Compensation.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) Personnel as federal employees.—

(A) In general.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B, and 90 of that title.

(B) Members of board.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(d) Detail of Government Employees.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) Procurement of Temporary and Intermittent Services.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 4.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out this Act.

By Mr. HARKIN (for himself, Mr. Lugar, Mr. Johnson, Mr. Dorgan, and Mr. Biden):

S. 2816. A bill to amend the Internal Revenue Code of 1986 to provide an income tax credit for the manufacture of flexible fuel motor vehicles and to extend and increase the income tax credit for alternative fuel refueling property, and for other purposes; to the Committee on Finance.

Mr. HARKIN. Today, I am introducing, along with Senators Lugar, Johnson, Dorgan and Biden, tax legislation that is designed to complement the Biofuels Security Act of 2006, also being introduced today. I will walk through these provisions very briefly.

The legislation amends the existing tax credit for installing alternative fueling infrastructure, such as E85 fueling pumps and tanks which was enacted as part of last year's energy bill. That existing provision allows a tax credit of 30 percent of the cost of installation, with a maximum credit of $30,000. Our bill modifies this credit in three ways. First, we would eliminate availability of the credit for the large oil companies that would be required to install such E85 pumps under the companion Biofuels Security Act. These companies have the financial wherewithal to install these pumps without the need for a tax credit. Second, for retailers who would not be required to install E85 pumps and tanks under our proposed legislation, our bill would enhance the tax credit to 50 percent of the cost of installation, with a maximum credit of $30,000. Third, for small retailers, that is, those with 5 or fewer stations, our bill would increase the credit to 75 percent of the cost of installation, up to a maximum credit of $45,000.

This tax legislation would also create a new consumer tax credit for the purchase of flexfuel vehicles if the vehicles have no fuel efficiency loss from the use of E85 as compared to regular gasoline. Current flex-fuel models do have some mileage loss. We understand that there is technology available—for example, a Saab "biofuel" flex-fuel E-85 vehicle on the market in parts of Europe—allowing vehicles to have no fuel efficiency loss when burning E85 in comparison to gasoline, and perhaps even some mileage gain. The tax incentive we propose here will help foster further development of biofuels-related technology and promote better fuel efficiency as well.

I urge my colleagues to support this important legislation.

Mr. JOHNSON. Mr. President, today I join Senators Harkin, Lugar, and Dorgan in introducing a broad package of initiatives to jump-start the distribution of renewable fuels, empower consumers, and achieve our long-standing goal of displacing foreign sources of energy.

The Biofuels Security Act of 2006 stakes out three broad approaches toward increasing production of renewable fuels and connecting the infrastructure required to deliver biofuels to a new fleet of flexible fuel vehicles. In combination these policies can extend home-grown renewable fuels to a predominate place in America's energy mix.

The Biofuels Security Act of 2006 moves forward to aggressively increase the amount of renewable fuels used in the marketplace to a requirement of 60 billion gallons in 2030. Our approach is phased through a realistic and technically feasible glide path beginning with a 10 billion gallon requirement in 2010, escalating to 30 billion gallons in 2020 and doubling that standard in the final decade. Existing ethanol capacity is anticipated to grow by approximately 30 percent in 2006, from 4.4 billion gallons to 6.3 billion gallons by the end of 2006. Domestic ethanol production is meeting demand and ethanol from corn has the capability of producing upwards of another 10 to 15 billion gallons in the next decade. As ethanol production from corn matures, new feedstocks, such as switch grass will compliment corn as a driver toward ethanol production. Setting benchmarks and creating long-term market stability through a demand-driven standard will ensure a competitive biofuel market and help drive down the cost of gasoline and other refined products that pinch consumer budgets.

Tying together future demand are 2 sets of standards and incentives that will transform the availability of higher blends of ethanol fuels. Our bipartisan approach requires auto manufactures to produce vehicles that can run on higher blends of renewable fuels. Flexible fuel vehicles are capable of optimal performance with high ethanol blended fuels, such as E85—a blend of 85 percent ethanol and 15 percent gasoline. Auto manufacturers are gradually moving toward production methods that can inexpensively modify trucks and cars to perform at the highest standards on E85 fuel. The Nation lacks, however, a long-term policy that sets benchmarks and targets to manufacture dual-fueled vehicles. Today, there are approximately 6 million dual-fueled vehicles in the United States, a small fraction of the 230 million gasoline an diesel-fueled vehicles filling our roads. Through introducing this bill we are committing to the public that a decade after enactment of the Biofuels Security Act all vehicles sold in the in the United States will be dual-fueled vehicles providing maximum performance on all fuel blends.

The second basket of requirements and incentives is targeted toward ensuring that as Americans purchase dual-fueled vehicles that the fueling infrastructure is in place to meet the demand. Retail gasolene stations that market E85 and B20—diesel fuel mixed with biodiesel and petroleum diesel fuel—are few and far between. Fuel distributors and retail station owners who want to market E85 are often locked out through contractual agreements with big oil companies offering certain fuel blends. Accordingly, most gasoline marketers offering E85 are independent distributors and station owners that understand the competitive advantage from distributing alternative fuels. The Biofuels Security Act ties together dual-fueled vehicles with refueling infrastructure through an enhanced tax credit of 75 percent capped at $45,000 for the installation of refueling equipment for small business gas station owners. The credit is phased-back to 50 percent and capped at $30,000 for larger retail gasoline station owners. Our goal is that in a decade at least 40 percent of all retail gasoline stations include an alternative fuel pump.

The Biofuels Security Act of 2006 builds upon the strong consumer demand pushing our country toward portfolio of biofuels—ethanol, biodiesel—from diversified feedstocks grown and refined throughout the country. Combining a long-term renewable fuel requirement to infrastructure and vehicle preference can decrease our reliance on imported energy sources and lower consumer energy costs. All 3 of these pieces need to move in concert in order to maximize the transition from a hydrocarbon-based society to a more balanced and sustainable model.

By Mr. HARKIN (for himself, Mr. LUGAR, Mr. JOHNSON, Mr. DORGAN, and Mr. BIDEN):

S. 2817. A bill to promote renewable fuel and energy security of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HARKIN. Mr. President, high prices for gasoline, diesel fuel and other petroleum-based energy continue to cause pain for millions of people, in Iowa and all across the country. Our dependence on foreign oil is a clear and present danger to our national security.

If we are serious about national security, we need a bold national commitment to renewable energy—a commitment on par with the Apollo moon-shot program in the 1960s. Today, I am pleased to be joined by my colleague from Indiana, Senator LUGAR in proposing a major component of such a program—the Biofuels Security Act—a comprehensive plan to ramp-up ethanol and biodiesel production, and to make it available and usable at the pump in every State in America.

Perhaps Senator LUGAR said it best earlier this year when he commented that energy is the albatross around the neck of U.S. national security. The distinguished senior Senator from Indiana has been a thoughtful, prescient thinker about the national security implications of our addiction to foreign oil, and I am delighted to be joining with him, today.

Senators JOHNSON, DORGAN and BIDEN are also original cosponsors of this legislation, for which I am grateful. The Senators have been outspoken champions of biofuels for many years now, and strong advocates for their home States.

The goal of this legislation is to help restore America's energy security—which, in this day and age, is synonymous with national security. Transportation fuels, accounting for two-thirds of our oil imports, are the place to start this transition.

Our plan has three key components. First, we are proposing a substantially higher, but achievable, renewable fuels standard or RFS, requiring that our Nation blend into the gasoline supply 10 billion gallons of renewable fuel annually by the year 2010, 30 billion gallons of renewable fuel annually by the year 2020 and 60 billion gallons annually in the year 2030. The current RFS is 7.5 billion gallons of renewable fuels in 2012. At the time we enacted the present RFS in last year's energy bill, many of us believed this was a reasonably ambitious schedule. However, it is now evident that biofuels growth will outpace this figure within the next couple of years—well in advance of the 2012 target date. This is very good news.

Second, our plan would make E85—the blend of gasoline and 85 percent ethanol—available at gas stations all across America. Major oil companies would be required to increase the number of E85 pumps at their stations by 5 percentage points annually. Within a decade, approximately 25 percent of gas stations nationwide would be required to have E85 pumps.

The major oil companies have the financial wherewithal—and the ability—to provide E85 infrastructure at a growing percentage of gasoline stations over the next decade. This is a reasonable, responsible reinvestment of a fraction of their recent earnings in the many billions of dollars. The bottom line is that our domestic oil companies have a shared responsibility to help enhance our energy security, and this is one excellent way for them to contribute.

Third, our plan would make flex-fuel vehicles nearly universal in the United States. Automakers would be required to increase the production of flex-fuel vehicles—capable of using both gasoline and 85 percent ethanol blends—by 10 percentage points annually, until nearly all new vehicles sold in the U.S. are flex-fuel within a decade. Our legislation calls for all of the auto manufacturers to produce increasing numbers of FFVs, rising to 100 percent of vehicles 10,000 pounds or less over the next decade. This is eminently achievable, and probably easy enough to do much sooner than that.

Recent estimates for the extra cost of manufacturing an FFV are as low as $30. It is a matter of modifying the engine, fuel line and adding a fuel sensor, which most vehicles have anyway. That is less expensive than many other federal requirements for the auto industry. Air bags are more expensive, for instance. And the bottom line is FFVs are being sold for the same price as regular cars.

America's dependence on foreign oil is the source of so many of our problems, today. We are transferring vast amounts of wealth to regimes that are not friendly to our interests. We are vulnerable to price hikes and embargoes. Millions of petrodollars are finding their way into the hands of terrorists and other extremists. And we are accelerating the pace of global warming.

Substituting biofuels for oil in the transportation sector won't solve these problems overnight, but it will make a difference, and a potentially dramatic one in the longer run.

Let me mention a few eye-opening facts and figures to illustrate these points. The United States has less than 5 percent of the world's population, but we consume 25 percent of the world's oil. If crude oil prices remain above $60 a barrel this year, we will spend well over $300 billion on oil imports. Projections indicate that, over the next 25 years, world demand for energy will grow by 50 percent. All of this growth in energy use, of course, contributes to dangerously rising levels of greenhouse gas emissions.

The reality is that gasoline is much more costly than most Americans realize, even at $3 a gallon. According to a recent study entitled the "The Hidden Cost of Oil," gas really costs more than $10 a gallon. This is because of all the costs we don't factor into its price at the pump, including wars, other military expenses, subsidies, and so on.

There is no question that the ambitious goals set forth in this bill are achievable.

Several decades ago, Brazil committed itself to a similar course. Renewable fuels have played a big part in Brazil's achieving energy independence. Currently, ethanol production in the U.S. is increasing by 25 percent annually. If we sustain that rate of increase, we will be able to reach the aggressive renewable fuels standard in the Harkin-Lugar plan. In fact, we will be able to beat it.

For example, Brazil, years ago directed that all gasoline stations carry ethanol as an alternative fuel. Our legislation would require the major oil companies to do their share by installing E85 pumps over the next decade.

This should not pose too much of a challenge or burden.

Another key to Brazil's success is the fact that, in just 3 years' time, nearly 70 percent of new vehicles sold there are flex-fuel vehicles. We are asking the auto companies to accomplish a similar goal of nearly universal production, only we are giving them a decade to phase in the production and sale of flex-fuel vehicles. Most of the companies that sell vehicles in the United States also sell them in Brazil. If they can produce flex-fuel vehicles for Brazil, they can also produce them for the United States.

Let me explain in more detail why what Senator LUGAR and I are proposing can be accomplished.

The 10 billion gallon goal can certainly be met by 2010. The ethanol industry will produce more than 4.5 billion gallons this year. There are 97 ethanol plants in operation, with 35 more coming on-line in the near future. Biodiesel production is growing remarkably, as well, at more than 60 plants nationwide.

The 30-billion-gallon and 60-billion-gallon targets are attainable, as well. A joint study by the Department of Agriculture and the Department of Energy found that biofuels could supply 60 billion gallons of renewable fuels a year—30 percent of current U.S. gasoline consumption—on existing lands without any disruption to our food or feed supply.

The key to ramping-up production will be commercializing ethanol made from feedstocks in addition to corn and other grains, including corn stover, straw from wheat and other crops, switchgrass or even trees. There are a host of provisions that I and others authored in the energy bill— ranging from loan guarantees to increased biomass research and development—to make cellulosic ethanol production a reality.

Currently, at least three companies are planning commercial-scale cellulosic ethanol plants. They could be operating within the next 2 to 3 years. One company, Iogen, has the backing of Shell Oil. Just 2 weeks ago, according to reports, Iogen received a cash infusion from Goldman Sachs. By setting an ambitious new RFS, with a sufficient lead time, I believe the 60-billion-gallon threshold is not only attainable, but beatable.

In any case, should something unexpected happen to interfere with reaching these benchmarks, the Environmental Protection Agency has, within the existing RFS, authority to waive the requirement in whole or in part based on a finding of insufficient supply.

If we take bold actions to guarantee the fuel supply, if we increase the number of flex-fuel vehicles capable of running on E85, and if we increase the infrastructure ofE85 pumps, we will be poised to usher in a new era of energy security much sooner than previously imagined. That is the foundation we lay in this legislation.

This bill would also require that 100 percent of new vehicles purchased for federal fleets be alternative-fueled vehicles, which could include flex-fuel vehicles. The current requirement is 75 percent. I do not see why we shouldn't expect the federal government to be as aggressive as possible in this area.

Last year's energy bill closed a loophole in the purchasing requirement that had allowed agencies to buy alternative-fuel vehicles but not use alternative fuels such as E85. That was a step forward. Requiring all the federal fleet to be alternative fueled is yet another step forward in having the Federal Government lead by example when it comes to alternative fuels.

We also update the Gasohol Competition Act of 1980, legislation designed many years ago to ensure the reasonable availability of ethanol at the pump, so it applies to high blends such as E85 and so that oil companies cannot prevent a franchisee from installing E85 pumps.

The concern back then, and still today, is that petroleum companies were unreasonably preventing or prohibiting ethanol-blended fuels from being offered at gasoline stations. The Gasohol Competition Act did two things. First, it made it unlawful to charge additional credit card fees for gasohol. Second, it prohibited unreasonable discrimination against the sale of gasohol. Our legislation would update the Gasohol Competition Act to prohibit discrimination against E85.

We are also proposing several relatively modest tax components designed to bolster this legislation which will be introduced as stand-alone legislation.

The oil-producing countries think they have us over a barrel, but they will soon get the message: We have had enough. And we are dead serious about determining our own energy future.

I urge my colleagues to cosponsor this important legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 480—EXPRESSING THE SENSE OF THE SENATE REGARDING THE CHEMICAL WEAPONS CONVENTION

Mr. SALAZAR (for himself, Mr. ALLARD, Mr. BAYH, Mr. BUNNING, Mr. McCONNELL, and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 480

Whereas the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, done at Paris on January 13, 1993 (commonly referred to as the "Chemical Weapons Convention"), requires all United States chemical weapons stockpiles be destroyed by April 29, 2012;

Whereas, on April 10, 2006, the Department of Defense notified Congress that the United States would not meet the deadline under the Chemical Weapons Convention for destruction of United States chemical weapons stockpiles;

Whereas, destroying existing chemical weapons is a homeland security imperative, an arms control priority, and required by United States law; and

Whereas, the elimination and nonproliferation of chemical weapons of mass destruction is of utmost importance to the national security of the United States: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States is committed to making every effort to safely dispose of its chemical weapons stockpiles by the Chemical Weapons Convention deadline of April 29, 2012, or as soon thereafter as possible, and will carry out all of its other obligations under the Convention; and

(2) the Secretary of Defense should prepare a comprehensive schedule for safely destroying the United States chemical weapons stockpiles to prevent further delays in the destruction of such stockpiles, and the schedule should be submitted annually to the congressional defense committees separately or as part of another required report.

SENATE RESOLUTION 481—RELATIVE TO THE DEATH OF JACOB CHIC HECHT, FORMER UNITED STATES SENATOR FOR THE STATE OF NEVADA

Mr. FRIST (for himself, Mr. REID, and Mr. ENSIGN) submitted the following resolution; which was considered and agreed to:

S. RES. 481

Whereas Jacob Chic Hecht served as a special agent in the United States Army Intelligence Corps;

Whereas Jacob Chic Hecht served the people of Nevada with distinction from 1983 to 1989 in the United States Senate;

Whereas Jacob Chic Hecht served as United States Ambassador to the Bahamas from 1989 until 1994: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of Jacob Chic Hecht, former member of the United States Senate; and be it further

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased; and be it further

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Jacob Chic Hecht.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3994. Mr. SALAZAR (for himself and Mr. MARTINEZ) proposed an amendment to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes.

SA 3995. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3996. Mr. INHOFE (for himself, Mr. Sessions, Mr. Coburn, Mr. Bunning, and Mr. Burns) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3997. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3998. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 3999. Mr. KERRY (for himself and Mr. Bingaman) submitted an amendment intended to be proposed by him to the bill S. 2611, supra.

SA 4000. Mr. SANTORUM (for himself, Mr. Frist, and Ms. Mikulski) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4001. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4002. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4003. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4004. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4005. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4006. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4007. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4008. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4009. Mr. CHAMBLISS (for himself and Mr. Isakson) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4010. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4011. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4012. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4013. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4014. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4015. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4016. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4017. Mr. DORGAN proposed an amendment to the bill S. 2611, supra.

SA 4018. Mr. STEVENS (for himself, Mr. Leahy, Ms. Murkowski, Mr. Coleman, Mr. Jeffords, and Ms. Stabenow) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4019. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4020. Mr. BROWNBACK (for himself and Mr. Lieberman) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4021. Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4022. Mr. DOMENICI (for himself, Mr. Kyl, Mr. Cornyn, and Mrs. Hutchison) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4023. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4024. Mr. DOMENICI (for himself, Mr. Bingaman, Mr. Kyl, Mr. Cornyn, and Mrs. Hutchison) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4025. Ms. LANDRIEU (for herself and Mr. DeMint) submitted an amendment intended to be proposed by her to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4026. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4027. Mr. KYL (for himself, Mr. Cornyn, Mr. Graham, Mr. Allen, Mr. McCain, Mr. Frist, Mr. Brownback, Mr. Martinez, Mr. Hagel, and Mr. Alexander) proposed an amendment to the bill S. 2611, supra.

SA 4028. Mr. FRIST (for Ms. Collins (for herself and Ms. Murkowski)) proposed an amendment to the bill S. 879, to make improvements to the Arctic Research and Policy Act of 1984.

SA 4029. Mr. AKAKA (for himself and Mr. Inouye) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table.

SA 4030. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4031. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4032. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4033. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4034. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4035. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4036. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3994. Mr. SALAZAR (for himself and Mr. Martinez) proposed an amendment to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . NATIONAL SECURITY DETERMINATION.

Notwithstanding any other provision of this Act, the President shall ensure that no provision of title IV or title VI of this Act, or any amendment made by either such title, is carried out until after the date on which the President makes a determination that the implementation of such title IV and title VI, and the amendments made by either such title, will strengthen the national security of the United States.

SA 3995. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 354, strike line 3 through 11, and insert the following:

"(I) Adjustment of status.—An alien may not adjust to an immigrant classification under this section until the consideration of all applications filed under section 201, 202, or 203 before the date of enactment of this section.

SA 3996. Mr. INHOFE (for himself, Mr. Sessions, Mr. Coburn, Mr. Bunning, and Mr. Burns) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 295, line 22, strike "the alien—" and all that follows through page 296, line 5, and insert "the alien meets the requirements of section 312.".

On page 352, line 3, strike "either—" and all that follows through line 15, and insert "meets the requirements of section 312(a) (relating to English proficiency and understanding of United States history and Government).".

On page 614, after line 5, insert the following:

SEC. 766. ENGLISH AS OFFICIAL LANGUAGE.

(a) In General.—Title 4, United States Code, is amended by adding at the end the following:

"CHAPTER 6—LANGUAGE OF THE GOVERNMENT

"Sec.
"161. Declaration of official language.
"162. Official Government activities in English.
"163. Preserving and enhancing the role of the official language.

"§ 161. Declaration of official language

"English shall be the official language of the Government of the United States.

"§ 162. Official Government activities in English

"The Government of the United States shall conduct its official business in English, including publications, income tax forms, and informational materials.

"§ 163. Preserving and enhancing the role of the official language

"The Government of the United States shall preserve and enhance the role of English as the official language of the United States of America. Unless specifically stated in applicable law, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If exceptions are made, that does not create a legal entitlement to additional services in that language or any language other than English. If any forms are issued by the Federal Government in a language other than English (or such forms are completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.".

(b) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end the following:

"6. Language of the Government .... 161".

SEC. 767. REQUIREMENTS FOR NATURALIZATION.

(a) ENGLISH LANGUAGE REQUIREMENTS.—Section 312(a)(1) (8 U.S.C. 1423(a)(1)) is amended to read as follows:

" (1) an understanding of, and proficiency in, the English language on a sixth grade level, in accordance with regulations prescribed by the Secretary of Homeland Security, in consultation with the Secretary of State and the Secretary of Education; and".

(b) REQUIREMENT FOR HISTORY AND GOVERNMENT TESTING.—Section 312(a)(2) (8 U.S.C. 1423(a)(2)) is amended by striking the period at the end and inserting ", as demonstrated by receiving a passing score on a standardized test administered by the Secretary of Homeland Security of not less than 50 randomly selected questions from a database of not less than 1000 questions developed by the Secretary.".

SA 3997. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title I, insert the following:

SEC. . IMMIGRATION TRAINING FOR LAW ENFORCEMENT.

The Assistant Secretary of Homeland Security for the Bureau of Immigration and Customs Enforcement (ICE) shall maximize the training provided by ICE by—

(1) fully utilizing the Center Domestic Preparedness of the Department of Homeland Security to provide—

(A) residential basic immigration enforcement training for State, local, and tribal police officers; and

(B) residential training authorized under section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g));

(2) using law-enforcement-sensitive, secure, encrypted, Web-based e-learning, including the Distributed Learning Program of the Federal Law Enforcement Training Center to provide—

(A) basic immigration enforcement training for State, local, and tribal police officers; and

(B) training, mentoring, and updates authorized under section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) through e-learning, to the maximum extent possible; and

(3) access to ICE information, updates, and notices for ICE field agents during field deployments.

SA 3998. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 178, line 24, before "20 detention facilities", insert "at least".

On page 179, line 1, strike "10,000" and insert "20,000".

Beginning on page 179, strike lines 5 through 23 and insert the following:

(b) CONSTRUCTION OF OR ACQUISITION OF DETENTION FACILITIES.—

(1) REQUIREMENT TO CONSTRUCT OR ACQUIRE.—The Secretary shall construct or acquire additional detention facilities in the United States to accommodate the detention beds required by section 5204(c) of the Intelligence Reform and Terrorism Protection Act of 2004, as amended by subsection (a).

(2) USE OF ALTERNATE DETENTION FACILITIES.—Subject to the availability of appropriations, the Secretary shall fully utilize all possible options to cost effectively increase available detention capacities, and shall utilize detention facilities that are owned and operated by the Federal Government if the use of such facilities is cost effective.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring additional detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for use in accordance with subsection (a).

(4) DETERMINATION OF LOCATION.—The location of any detention facility constructed or acquired in accordance with this subsection shall be determined, with the concurrence of the Secretary, by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(c) ANNUAL REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, in consultation with the heads of other appropriate Federal agencies, the Secretary shall submit to Congress an assessment of the additional detention facilities and bed space needed to detain unlawful aliens apprehended at the United States ports of entry or along the international land borders of the United States.

SA 3999. Mr. KERRY (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; as follows:

On page 63, between lines 9 and 10, insert the following:

Subtitle F—Rapid Response Measures

SEC. 161. DEPLOYMENT OF BORDER PATROL AGENTS.

(a) EMERGENCY DEPLOYMENT OF BORDER PATROL AGENTS.—

(1) IN GENERAL.—If the Governor of a State on an international border of the United States declares an international border security emergency and requests additional United States Border Patrol agents (referred to in this subtitle as "agents") from the Secretary, the Secretary, subject to paragraphs (1) and (2), may provide the State with not more than 1,000 additional agents for the purpose of patrolling and defending the international border, in order to prevent individuals from crossing the international border into the United States at any location other than an authorized port of entry.

(2) CONSULTATION.—Upon receiving a request for agents under paragraph (1), the Secretary, after consultation with the President, shall grant such request to the extent that providing such agents will not significantly impair the Department's ability to provide border security for any other State.

(3) COLLECTIVE BARGAINING.—Emergency deployments under this subsection shall be made in accordance with all applicable collective bargaining agreements and obligations.

(b) ELIMINATION OF FIXED DEPLOYMENT OF BORDER PATROL AGENTS.—The Secretary shall ensure that agents are not precluded from performing patrol duties and apprehending violators of law, except in unusual circumstances if the temporary use of fixed deployment positions is necessary.

(c) INCREASE IN FULL-TIME BORDER PATROL AGENTS.—Section 5202(a)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734), as amended by section 101(b)(2), is further amended by striking "2,000" and inserting "3,000".

SEC. 162. BORDER PATROL MAJOR ASSETS.

(a) CONTROL OF BORDER PATROL ASSETS.—The United States Border Patrol shall have complete and exclusive administrative and operational control over all the assets utilized in carrying out its mission, including, aircraft, watercraft, vehicles, detention space, transportation, and all of the personnel associated with such assets.

(b) HELICOPTERS AND POWER BOATS.—

(1) HELICOPTERS.—The Secretary shall increase, by not less than 100, the number of helicopters under the control of the United States Border Patrol. The Secretary shall ensure that appropriate types of helicopters are procured for the various missions being performed.

(2) POWER BOATS.—The Secretary shall increase, by not less than 250, the number of power boats under the control of the United States Border Patrol. The Secretary shall ensure that the types of power boats that are procured are appropriate for both the waterways in which they are used and the mission requirements.

(3) USE AND TRAINING.—The Secretary shall—

(A) establish an overall policy on how the helicopters and power boats procured under this subsection will be used; and

(B) implement training programs for the agents who use such assets, including safe operating procedures and rescue operations.

(c) MOTOR VEHICLES.—

(1) QUANTITY.—The Secretary shall establish a fleet of motor vehicles appropriate for use by the United States Border Patrol that will permit a ratio of not less than 1 police-type vehicle for every 3 agents. These police-type vehicles shall be replaced not less than

every 3 years. The Secretary shall ensure that there are sufficient numbers and types of other motor vehicles to support the mission of the United States Border Patrol.

(2) FEATURES.—All motor vehicles purchased for the United States Border Patrol shall—

(A) be appropriate for the mission of the United States Border Patrol; and

(B) have a panic button and a global positioning system device that is activated solely in emergency situations to track the location of agents in distress.

SEC. 163. ELECTRONIC EQUIPMENT.

(a) PORTABLE COMPUTERS.—The Secretary shall ensure that each police-type motor vehicle in the fleet of the United States Border Patrol is equipped with a portable computer with access to all necessary law enforcement databases and otherwise suited to the unique operational requirements of the United States Border Patrol.

(b) RADIO COMMUNICATIONS.—The Secretary shall augment the existing radio communications system so that all law enforcement personnel working in each area where United States Border Patrol operations are conducted have clear and encrypted 2-way radio communication capabilities at all times. Each portable communications device shall be equipped with a panic button and a global positioning system device that is activated solely in emergency situations to track the location of agents in distress.

(c) HAND-HELD GLOBAL POSITIONING SYSTEM DEVICES.—The Secretary shall ensure that each United States Border Patrol agent is issued a state-of-the-art hand-held global positioning system device for navigational purposes.

(d) NIGHT VISION EQUIPMENT.—The Secretary shall ensure that sufficient quantities of state-of-the-art night vision equipment are procured and maintained to enable each United States Border Patrol agent working during the hours of darkness to be equipped with a portable night vision device.

SEC. 164. PERSONAL EQUIPMENT.

(a) BORDER ARMOR.—The Secretary shall ensure that every agent is issued high-quality body armor that is appropriate for the climate and risks faced by the agent. Each agent shall be permitted to select from among a variety of approved brands and styles. Agents shall be strongly encouraged, but not required, to wear such body armor whenever practicable. All body armor shall be replaced not less than every 5 years.

(b) WEAPONS.—The Secretary shall ensure that agents are equipped with weapons that are reliable and effective to protect themselves, their fellow agents, and innocent third parties from the threats posed by armed criminals. The Secretary shall ensure that the policies of the Department authorize all agents to carry weapons that are suited to the potential threats that they face.

(c) UNIFORMS.—The Secretary shall ensure that all agents are provided with all necessary uniform items, including outerwear suited to the climate, footwear, belts, holsters, and personal protective equipment, at no cost to such agents. Such items shall be replaced at no cost to such agents as they become worn, unserviceable, or no longer fit properly.

SEC. 165. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this subtitle.

SA 4000. Mr. SANTORUM (for himself, Mr. FRIST, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 306, strike line 13 and insert the following:

SEC. 413. VISA WAIVER PROGRAM EXPANSION.

Section 217(c) (8 U.S.C. 1187(c)) is amended by adding at the end the following:

"(8) PROBATIONARY ADMISSION.—

"(A) DEFINITION OF MATERIAL SUPPORT.—In this paragraph, the term 'material support' means the current provision of the equivalent of, but not less than, a battalion (which consists of 300 to 1,000 military personnel) to Operation Iraqi Freedom or Operation Enduring Freedom to provide training, logistical or tactical support, or a military presence.

"(B) DESIGNATION AS A PROGRAM COUNTRY.—Notwithstanding any other provision of this section, a country may be designated as a program country, on a probationary basis, under this section if—

"(i) the country is a member of the European Union;

"(ii) the country is providing material support to the United States or the multilateral forces in Afghanistan or Iraq, as determined by the Secretary of Defense, in consultation with the Secretary of State; and

"(iii) the Secretary of Homeland Security, in consultation with the Secretary of State, determines that participation of the country in the visa waiver program under this section does not compromise the law enforcement interests of the United States.

"(C) REFUSAL RATES; OVERSTAY RATES.—The determination under subparagraph (B)(iii) shall only take into account any refusal rates or overstay rates after the expiration of the first full year of the country's admission into the European Union.

"(D) FULL COMPLIANCE.—Not later than 2 years after the date of a country's designation under subparagraph (B), the country—

"(i) shall be in full compliance with all applicable requirements for program country status under this section; or

"(ii) shall have its program country designation terminated.

"(E) EXTENSIONS.—The Secretary of State may extend, for a period not to exceed 2 years, the probationary designation granted under subparagraph (B) if the country—

"(i) is making significant progress towards coming into full compliance with all applicable requirements for program country status under this section;

"(ii) is likely to achieve full compliance before the end of such 2-year period; and

"(iii) continues to be an ally of the United States against terrorist states, organizations, and individuals, as determined by the Secretary of Defense, in consultation with the Secretary of State.".

SEC. 414. AUTHORIZATION OF APPROPRIATIONS.

SA 4001. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, insert the following:

SEC. 766. ENGLISH FLUENCY REQUIREMENTS FOR CERTAIN EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION.

Section 214(g)(5)(A) (8 U.S.C. 1184(g)(5)(A)) is amended to read as follows:

"(A)(i) except as provided in clause (ii), is employed (or has received an offer of employment) at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), or a related or affiliated nonprofit entity; or

"(ii) is employed (or has received an offer of employment) at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), or a related or affiliated nonprofit entity if—

"(I) such employment includes providing classroom instruction; and

"(II) the alien has demonstrated a high proficiency in the spoken English language;".

SA 4002. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 362, strike line 4 and all that follows through page 363, line 12, and insert the following:

"(e) CONFIDENTIALITY OF INFORMATION.—

"(1) IN GENERAL.—Except as provided in paragraph (1) or (2) or as otherwise provided in this section, or pursuant to written waiver of the applicant or order of a court of competent jurisdiction, no Federal agency or bureau, or any officer or employee of such agency or bureau, may—

"(A) use the information furnished by the applicant pursuant to an application filed under paragraph (1) or (2) of subsection (a) for any purpose other than to make a determination on the application;

"(B) make any publication through which the information furnished by any particular applicant can be identified; or

"(C) permit anyone other than the sworn officers and employees of such agency, bureau, or approved entity, as approved by the Secretary of Homeland Security, to examine individual applications that have been filed.

"(2) REQUIRED DISCLOSURES.—The Secretary of Homeland Security and the Secretary of State shall provide the information furnished pursuant to an application filed under paragraph (1) or (2) of subsection (a), and any other information derived from such furnished information, to—

"(A) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested in writing by such entity; or

"(B) an official coroner for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

"(3) INAPPLICABILITY AFTER DENIAL.—The limitation under paragraph (1)—

"(A) shall apply only until an application filed under paragraph (1) or (2) of subsection (a) is denied and all opportunities for appeal of the denial have been exhausted; and

"(B) shall not apply to use of the information furnished pursuant to such application in any removal proceeding or other criminal or civil case or action relating to an alien whose application has been granted that is based upon any violation of law committed or discovered after such grant.

"(4) CRIMINAL PENALTY.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this subsection shall be fined not more than $10,000.

SA 4003. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 49, strike lines 7 and 8 and insert the following:

SEC. 131. ELIMINATING RELEASE OF ALIENS APPREHENDED AT OR BETWEEN PORTS OF ENTRY.

On page 50, line 9, insert "or a flight risk" after "risk".

On page 50, strike lines 10 and 11 and insert the following:

(2) the alien provides a bond of not less than—

(A) $5,000; and

(B) $10,000, if the alien is from a country outside of the Western Hemisphere.

On page 51, between lines 5 and 6, insert the following:

(d) REINSTATEMENT OF PREVIOUS REMOVAL ORDERS.—

(1) IN GENERAL.—Section 241(a)(5) (8 U.S.C. 1231(a)(5)) is amended to read as follows:

"(5) REINSTATEMENT OF PREVIOUS REMOVAL ORDERS.—

"(A) REMOVAL.—If the Secretary of Homeland Security determines that an alien has entered the United States illegally after having been removed, deported or excluded or having departed voluntarily, under an order of removal, deportation, or exclusion, regardless of the date of the original order or the date of the illegal entry—

"(i) the order of removal, deportation, or exclusion shall be reinstated from its original date and, notwithstanding section 242(a)(2)(D), such order may not be reopened or reviewed;

"(ii) the alien is not eligible and may not apply for any relief under this Act, regardless of the date that an application or request for such relief may have been filed or made; and

"(iii) the alien shall be removed under the order of removal, deportation, or exclusion at any time after the illegal entry.

"(B) PROCEEDINGS NOT REQUIRED.—Reinstatement under this paragraph shall not require proceedings under section 240 or other proceedings before an immigration judge.".

(2) JUDICIAL REVIEW.—Section 242 (8 U.S.C. 1252) is amended by adding at the end the following:

"(h) JUDICIAL REVIEW OF REINSTATEMENT.—

"(1) REVIEW.—Judicial review of any determination under section 241(a)(5) shall be available in any action under subsection (a).

"(2) NO REVIEW OF ORIGINAL ORDER.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision sections 1361 and 1651 of such title, no court shall have jurisdiction to review any cause or claim, arising from or relating to any challenge to the original order.".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall—

(A) take effect as if enacted on April 1, 1997; and

(B) apply to all orders reinstated or after such date by the Secretary of Homeland Security (or by the Attorney General prior to March 1, 2003), regardless of the date of the original order.

SA 4004. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 359, strike line 13 and all that follows through page 362, line 3, and insert the following:

"(g) TREATMENT OF APPLICANTS DURING REMOVAL PROCEEDINGS.—Notwithstanding any provision of this Act, an alien who is in removal proceedings shall have an opportunity to apply for a grant of status under this title unless a final administrative determination has been made.

SA 4005. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 507 and 508, and insert the following:

Subtitle B—SKIL Act

SEC. 511. SHORT TITLE.

This subtitle may be cited as the "Securing Knowledge, Innovation, add Leadership Act of 2006" or the "SKIL Act of 2006"

SEC. 512. H-1B VISA HOLDERS.

(a) IN GENERAL.—Section 214(g)(5) (8 U.S.C. 1184(g)(5)) is amended—

(1) in subpragraph (B)—

(A) by striking "nonprofit research" and inserting "nonprofit";

(B) by inserting "Federal, State, or local" before "governmental"; and

(C) by striking "or" at the end;

(2) in subparagraph (C)—

(A) by striking "a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)))," and inserting "an institution of higher education in a foreign country,"; and

(B) by striking the period at the end and inserting a semicolon;

(3) by adding at the end, the following new subparagraphs:

"(D) has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)));

"(E) has been awarded medical specialty certification based on post-doctoral training and experience in the United States; or".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to any petition or visa application pending on the date of enactment of this Act and any petition or visa application filed on or after such date.

SEC. 513. MARKET-BASED VISA LIMITS.

Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "(beginning with fiscal year 1992)"; and

(B) in subparagraph (A)—

(i) in clause (vi) by striking "and";

(ii) in clause (vii), by striking "each succeeding fiscal year; or" and inserting "each of fiscal years 2004, 2005, and 2006;"; and

(iii) by adding after clause (vii) the following:

"(viii) 115,000 in the first fiscal year beginning after the date of the enactment of the Securing Knowledge, Innovation, and Leadership Act of 2006; and

"(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or";

(2) in paragraph (8), by striking subparagraphs (B)(iv) and (D);

(3) by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively; and

(4) by inserting after paragraph (8) the following:

"(9) If the numerical limitation in paragraph (1)(A)—

"(A) is reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to 120 percent of the numerical limitation of the given fiscal year; or

"(B) is not reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to the numerical limitation of the given fiscal year.".

SEC. 514. UNITED STATES EDUCATED IMMIGRANTS.

(a) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following:

"(F) Aliens who have earned a master's or higher degree from an accredited United States university.

"(G) Aliens who have been awarded medical specialty certification based on post-doctoral training and experience in the United States preceding their application for an immigrant visa under section 203(b).

"(H) Aliens who will perform labor in shortage occupations designated by the Secretary of Labor for blanket certification under section 212(a)(5)(A) as lacking sufficient United States workers able, willing, qualified, and available for such occupations and for which the employment of aliens will not adversely affect the terms and conditions of similarly employed United States workers.

"(I) Aliens who have earned a master's degree or higher in science, technology, engineering, or math and have been working in a related field in the United States in a nonimmigrant status during the 3-year period preceding their application for an immigrant visa under section 203(b).

"(J) Aliens described in subparagraph (A) or (B) of section 203(b)(1) or who have received a national interest waiver under section 203(b)(2)(B).

"(K) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).".

(b) LABOR CERTIFICATIONS.—Section 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

(1) by striking "or" at the end of subclause (I);

(2) by striking the period at the end of subclause (II) and inserting "; or"; and

(3) by adding at the end the following:

(III) is a member of the professions and has a master's degree or higher from an accredited United States university or has been awarded medical specialty certification based on post-doctoral training and experience in the United States.".

SEC. 515. STUDENT VISA REFORM.

(a) IN GENERAL.—

(1) NONIMMIGRANT CLASSIFICATION.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended to read as follows:

"(F) an alien—

"(i) who—

"(I) is a bona fide student qualified to pursue a full course of study in mathematics, engineering, technology, or the sciences leading to a bachelors or graduate degree and who seeks to enter the United States for the purpose of pursuing such a course of study consistent with section 214(m) at an institution of higher education (as defined by section 101(a) of the Higher Education Act of

1965 (20 U.S.C. 1001(a))) in the United States, particularly designated by the alien and approved by the Secretary of Homeland Security, after consultation with the Secretary of Education, which institution or place of study shall have agreed to report to the Secretary the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn; or

(II) is engaged in temporary employment for optional practical training related to such alien's area of study following completion of the course of study described in subclause (I) for a period or periods of not more than 24 months;

"(ii) who—

"(I) has a residence in a foreign country which the alien has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study, and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study consistent with section 214(m) at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language training program in the United States, particularly designated by the alien and approved by the Secretary of Homeland Security, after consultation with the Secretary of Education, which institution or place of study shall have agreed to report to the Secretary the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn; or

"(II) is engaged in temporary employment for optional practical training related to such alien's area of study following completion of the course of study described in subclause (I) for a period or periods of not more than 24 months;

"(iii) who is the spouse or minor child of an alien described in clause (i) or (ii) if accompanying or following to join such an alien; or

"(iv) who——

"(I) is a national of Canada or Mexico, who maintains actual residence and place of abode in the country of nationality, who is described in clause (i) or (ii) except that the alien's qualifications for and actual course of study may be full or part-time, and who commutes to the United States institution or place of study from Canada or Mexico; or

"(II) is engaged in temporary employment for optional practical training related to such the student's area of study following completion of the course of study described in subclause (I) for a period or periods of not more than 24 months;".

(2) ADMISSION.—Section 214(b) (8 U.S.C. 1184(b)) is amended by inserting "(F)(i)," before "(L) or (V)".

(3) CONFORMING AMENDMENT.—Section 214(m)(1) (8 U.S.C. 1184(m)(1)) is amended, in the matter preceding subparagraph (A), by striking "(i) or (iii)" and inserting "(i), (ii), or (iv)".

(b) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.——

(1) IN GENERAL.—Aliens admitted as nonimmigrant students described in section 101(a)(15)(F), as amended by subsection (a), (8 U.S.C. 1101(a)(15)(F)) may be employed in an off campus position unrelated to the alien's field of study if——

(A) the alien has enrolled full time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer——

(i) has spent at least 21 days recruiting United States citizens to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of——

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for a hearing, shall be disqualified from employing an alien student under paragraph (1).

SEC. 516. L-1 VISA HOLDERS SUBJECT TO VISA BACKLOG.

Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended by adding at the end the following new subparagraph:

"(G) The limitations contained in subparagraph (D) with respect to the duration of authorized stay shall not apply to any nonimmigrant alien previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(L) on whose behalf a petition under section 204(b) to accord the alien immigrant status under section 203(b), or an application for labor certification (if such certification is required for the alien to obtain status under such section 203(b)) has been filed, if 365 days or more have elapsed since such filing. The Secretary of Homeland Security shall extend the stay of an alien who qualifies for an exemption under this subparagraph until such time as a final decision is made on the alien's lawful permanent residence.".

SEC. 517. RETAINING WORKERS SUBJECT TO GREEN CARD BACKLOG.

(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—The status of an alien who was inspected and admitted or paroled into the United States or the status of any other alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) may be adjusted by the Secretary of Homeland Security or the Attorney General, in the discretion of the Secretary or the Attorney General under such regulations as the Secretary or Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

"(A) the alien makes an application for such adjustment;

"(B) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence; and

"(C) an immigrant visa is immediately available to the alien at the time the application is filed.

"(2) SUPPLEMENTAL FEE.—An application under paragraph (1) that is based on a petition approved or approvable under subparagraph (E) or (F) of section 204(a)(1) may be filed without regard to the limitation set forth in paragraph (1)(C) if a supplemental fee of $500 is paid by the principal alien at the time the application is filed. A supplemental fee may not be required for any dependent alien accompanying or following to join the principal alien.

"(3) VISA AVAILABILITY.—An application for adjustment filed under this paragraph may not be approved until such time as an immigrant visa becomes available.".

(b) USE OF FEES.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting before the period at the end "and the fees collected under section 245(a)(2).".

SEC. 518. STREAMLINING THE ADJUDICATION PROCESS FOR ESTABLISHED EMPLOYERS.

Section 214(c) (8. U.S.C. 1184) is amended by adding at the end the following new paragraph:

"(1) Not later than 180 days after the date of the enactment of the Securing Knowledge, Innovation, and Leadership Act of 2006, the Secretary of Homeland Security shall establish a precertification procedure for employers who file multiple petitions described in this subsection or section 203(b). Such precertification procedure shall enable an employer to avoid repeatedly submitting I documentation that is common to multiple petitions and establish through a single filing criteria relating to the employer and the offered employment opportunity.".

SEC. 519. PROVIDING PREMIUM PROCESSING OF EMPLOYMENT-BASED VISA PETITIONS.

(a) IN GENERAL.—Pursuant to section 286(u) of the Immigration and Nationality Act (8 U.S.C. 1356(u)), the Secretary of Homeland Security shall establish and collect a fee for premium processing of employment-based immigrant petitions.

(b) APPEALS.—Pursuant to such section 286(u), the Secretary of Homeland Security shall establish and collect a fee for premium processing of an administrative appeal of any decision on a permanent employment-based immigrant petition.

SEC. 520. ELIMINATING PROCEDURAL DELAYS IN LABOR CERTIFICATION PROCESS.

(a) PREVAILING WAGE RATE.—

(1) REQUIREMENT TO PROVIDE.—The Secretary of Labor shall provide prevailing wage determinations to employers seeking a labor certification for aliens pursuant to part 656 of title 20, Code of Federal Regulation (or any successor regulation). The Secretary of Labor may not delegate this function to any agency of a State.

(2) SCHEDULE FOR DETERMINATION.—Except as provided in paragraph (3), the Secretary of Labor shall provide a response to an employer's request for a prevailing wage determination in no more than 20 calendar days from the date of receipt of such request. If the Secretary of Labor fails to reply during such 20-day period, then the wage proposed by the employer shall be the valid prevailing wage rate.

(3) USE OF SURVEYS.—The Secretary of Labor shall accept an alternative wage survey provided by the employer unless the Secretary of Labor determines that the wage component of the Occupational Employment Statistics Survey is more accurate for the occupation in the labor market area.

(b) PLACEMENT OF JOB ORDER.—The Secretary of Labor shall maintain a website with links to the official website of each workforce agency of a State, and such official website shall contain instructions on the filing of a job order in order to satisfy the job order requirements of section 656.17(e)(1) of title 20, Code of Federal Regulation (or any successor regulation).

(c) TECHNICAL CORRECTIONS.—The Secretary of Labor shall establish a process by which employers seeking certification under section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)), as amended by section 514(b), may make technical corrections to applications in order to avoid requiring employers to conduct additional recruitment to correct an initial technical error. A technical error shall include any error that would not have a material effect on the validity of the employer's recruitment of able, willing, and qualified United States workers.

(d) ADMINISTRATIVE APPEALS.—Motions to reconsider, and administrative appeals of, a denial of a permanent labor certification application, shall be decided by the Secretary of Labor not later than 60 days after the date of the filing of such motion or such appeal.

(e) APPLICATIONS UNDER PREVIOUS SYSTEM.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall process and issue decisions on all applications for permanent alien labor certification that were filed prior to March 28, 2005.

(f) EFFECTIVE DATE.—The provisions of this section shall take effect 90 days after the date of enactment of this Act, whether or not the Secretary of Labor has amended the regulations at part 656 of title 20, Code of Federal Regulation to implement such changes.

SEC. 521. COMPLETION OF BACKGROUND AND SECURITY CHECKS.

Section 103 (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(i) REQUIREMENT FOR BACKGROUND CHECKS.—Notwithstanding any other provision of law, until appropriate background and security checks, as determined by the Secretary of Homeland Security, have been completed, and the information provided to and assessed by the official with jurisdiction to grant or issue the benefit or documentation, on an in camera basis as may be necessary with respect to classified, law enforcement, or other information that cannot be disclosed publicly, the Secretary of Homeland Security, the Attorney General, or any court may not—

"(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence;

"(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

"(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court.

"(j) REQUIREMENT TO RESOLVE FRAUD ALLEGATIONS.—Notwithstanding any other provision of law, until any suspected or alleged fraud relating to the granting of any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this Act has been investigated and resolved, the Secretary of Homeland Security and the Attorney General may not be required to—

"(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence;

"(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

"(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court.

"(k) PROHIBITION OF JUDICIAL ENFORCEMENT.—Notwithstanding any other provision of law, no court may require any act described in subsection (i) or (j) to be completed by a certain time or award any relief for the failure to complete such acts.".

SEC. 522. VISA REVALIDATION.

(a) IN GENERAL.—Section 222 (8 U.S.C. 1202) is amended by adding at the end the following:

"(i) The Secretary of State shall permit an alien granted a nonimmigrant visa under subparagraph E, H, I, L, O, or P of section 101(a)(15) to apply for a renewal of such visa within the United States if—

"(1) such visa expired during the 12-month period ending on the date of such application;

"(2) the alien is seeking a nonimmigrant visa under the same subparagraph under which the alien had previously received a visa; and

"(3) the alien has complied with the immigration laws and regulations of the United States.".

(b) CONFORMING AMENDMENT.—Section 222(h) of such Act is amended, in the matter preceding subparagraph (1), by inserting "and except as provided under subsection (i)," after "Act".

SA 4006. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 202, line 9, strike "(B)" and insert the following:

"(B) The Secretary shall require each employer who employs an H–2C nonimmigrant to register and participate in—

"(i) the System; or

"(ii) the employment eligibility confirmation basic pilot program under title IV of the Illegal Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

"(C)

SA 4007. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 345, strike line 10 and all that follows through page 372, line 12, and insert the following:

Subtitle A—Mandatory Departure and Reentry

SEC. 601. ACCESS TO MANDATORY DEPARTURE AND REENTRY

(a) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245A the following:

"SEC. 245B. MANDATORY DEPARTURE AND REENTRY.

On page 381, line 23, strike "3 years" and insert "5 years".

On page 384, line 22, insert "and" at the end.

On page 384, line 25, strike "; and" and all that follows through page 385, line 2, and insert a period.

On page 394, strike line 11 and all that follows through the matter following line 14, and insert the following:

(b) TABLE OF CONTENTS.—The table of contents (8 U.S.C. 1101 note) is amended by insert after the item relating to section 245A the following:

"Sec. 245B. Mandatory departure and reentry.".

On page 394, strike line 15 and insert the following:

(c) CONFORMING AMENDMENT.—Section

On page 394, line 19, strike "section 245C" and insert "section 245B".

On page 394, strike line 20 and all that follows through "subsection" on line 22, and insert the following:

(d) STATUTORY CONSTRUCTION.—Nothing in this section, or any amendment made by this section

On page 395, strike line 1 and insert the following:

(e) AUTHORIZATION OF APPROPRIATIONS.—

On page 395, line 6, strike "subsection" and all that follows through line 23, and insert "section.".

SA 4008. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 397, strike line 21 and all that follows through page 398, line 13, and insert the following:

(7) WORK DAY.—The term "work day" means any day in which the individual is employed 8 or more hours in agriculture.

CHAPTER 1—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

SEC. 613. AGRICULTURAL WORKERS.

(a) BLUE CARD PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 150 work days per year during the 24-month period ending on December 31, 2005;

SA 4009. Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 452, strike line 1 and all that follows through page 459, line 10, and insert the following:

"(A) IN GENERAL.—An employer applying to hire H–2A workers under section 218(a), or utilizing alien workers under blue card program established under section 613 of the Comprehensive Immigration Reform Act of 2006, shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for alien workers, not less than (and is not required to pay more than) the greater of—

"(i) the prevailing wage in the occupation in the area of intended employment; or

"(ii) the applicable State minimum wage.

"(B) PREVAILING WAGE DEFINED.—In this paragraph, the term 'prevailing wage' means the wage rate that includes the 51st percentile of employees with similar experience and qualifications in the agricultural occupation in the area of intended employment, expressed in terms of the prevailing rate of pay for the occupation in the area of intended employment.".

SA 4010. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes: which was ordered to lie on the table; as follows:

Beginning on page 438, strike line 6, and all that follows through page 440, line 6.

SA 4011. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 477, strike line 23 and all that follows through page 479, line 17.

SA 4012. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 402, strike line 15 and all that follows through page 407, line 9.

SA 4013. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 421, strike lines 13 through 20, and insert the following:

(8) APPLICATION FEES.—

SA 4014. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 482, line 14, strike "subsection (d)(1)" and insert "subsection (b)".

On page 482, line 24, strike "subsection (d)(1)" and insert "subsection (b)".

Beginning on page 485, strike line 4 and all that follows through page 491, line 25.

On page 492, strike lines 1 and 2 and insert the following:

"(b) DISCRIMINATION PROHIBITED.—It is a violation of this sub-

Beginning on page 492, strike line 19 and all that follows through page 493, line 7.

On page 493, line 8, strike "(e)" and insert "(c)".

On page 493, line 12, strike "(d)" and insert "(b)".

On page 493, line 17, strike "(f)" and insert "(d)".

SA 4015. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 491, after line 25, insert the following:

(11) ATTORNEY'S FEES.—In any action brought under this subsection, the prevailing party shall recover all costs and expenses of litigation, including reasonable attorney's fees, which shall be paid for by the losing party, unless the court finds that the payment of such costs and expenses would be manifestly unjust.

SA 4016. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 26, strike "500" and insert "1,500".

On page 8, line 10, strike "1000" and insert "2,000".

On page 8, line 18, strike "200" and insert "400".

On page 9, strike lines 15 through 21 and insert the following:

preceding fiscal year), by—

"(1) 2,000 in fiscal year 2006; and

"(2) 4,000 in each of fiscal years 2007 through 2011.

On page 180, between lines 6 and 7, insert the following:

SEC. 234. DETENTION POLICY.

(a) DIRECTORATE OF POLICY.—The Secretary shall in consultation, with the Director of Policy of the Directorate of Policy, add at least 3 additional positions at the Directorate of Policy that—

(1) shall be a position at GS-15 of the General Schedule;

(2) are solely responsible for formulating and executing the policy and regulations pertaining to vulnerable detained populations including unaccompanied alien children, victims of torture, trafficking or other serious harms, the elderly, the mentally disabled, and the infirm; and

(3) require background and expertise working directly with such vulnerable populations.

(b) ENHANCED PROTECTIONS FOR VULNERABLE UNACCOMPANIED ALIEN CHILDREN.—

(1) MANDATORY TRAINING.—The Secretary shall mandate the training of all personnel who come into contact with unaccompanied alien children in all relevant legal authorities, policies, and procedures pertaining to this vulnerable population in consultation with the head of the Office of Refugee Resettlement of the Department of Health and Human Services and independent child welfare experts.

(2) DELEGATION TO THE OFFICE OF REFUGEE RESETTLEMENT.—Notwithstanding any other provision of law, the Secretary shall delegate the authority and responsibility granted to the Secretary by the Homeland Security Act of 2002 (Public Law 107-296; 116 Stat. 2135) for transporting unaccompanied alien children who will undergo removal proceedings from Department custody to the custody and care of the Office of Refugee Resettlement and provide sufficient reimbursement to the head of such Office to undertake this critical function. The Secretary shall immediately notify such Office of an unaccompanied alien child in the custody of the Department and ensure that the child is transferred to the custody of such Office as soon as practicable, but not later than 72 hours after the child is taken into the custody of the Department.

(3) OTHER POLICIES AND PROCEDURES.—The Secretary shall further adopt important policies and procedures—

(A) for reliable age-determinations of children which exclude the use of fallible forensic testing of children's bones and teeth in consultation with medical and child welfare experts;

(B) to ensure the privacy and confidentiality of unaccompanied alien children's records, including psychological and medical reports, so that the information is not used adversely against the child in removal proceedings or for any other immigration action; and

(C) in close consultation with the Secretary of State and the head of the Office of Refugee Resettlement, to ensure the safe and secure repatriation of unaccompanied alien children to their home countries including through arranging placements of children with their families or other sponsoring agencies and to utilize all legal authorities to defer the child's removal if the child faces a clear risk of life-threatening harm upon return.

SEC. 235. DETENTION AND REMOVAL OFFICERS.

(a) IN GENERAL.—During each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purposes, designate a Detention and Removal officer to be placed in each Department field office whose sole responsibility will be to ensure safety and security at a detention facility and that each detention facility comply with the standards and regulations required by subsections (b), (c), and (d).

(b) CODIFICATION OF DETENTION OPERATIONS.—In order to ensure uniformity in the safety and security of all facilities used or contracted by the Secretary to hold alien detainees and to ensure the fair treatment and access to counsel of all alien detainees, not later than 180 days after the date of the enactment of this Act, the Secretary shall issue the provisions of the Detention Operations Manual of the Department, including all amendments made to such Manual since it was issued in 2000, as regulations for the Department. Such regulations shall be subject to the notice and comment requirements of subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) and shall apply to all facilities used by the Secretary to hold detainees for more than 72 hours.

(c) DETENTION STANDARDS FOR NUCLEAR FAMILY UNITS AND CERTAIN NON-CRIMINAL ALIENS.—For all facilities used or contracted by the Secretary to hold aliens, the regulations described in subsection (b) shall—

(1) provide for sight and sound separation of alien detainees without any criminal convictions from criminal inmates and pretrial detainees facing criminal prosecution; and

(2) establish specific standards for detaining nuclear family units together and for detaining noncriminal applicants for asylum, withholding of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in civilian facilities cognizant of their special needs.

(d) LEGAL ORIENTATION TO ENSURE EFFECTIVE REMOVAL PROCESS.—All alien detainees shall receive legal orientation presentations from an independent nonprofit agency as implemented by the Executive Office for Immigration Review of the Department of Justice in order to both maximize the efficiency and effectiveness of removal proceedings and to reduce detention costs.

On page 239, line 18, strike "2,000" and insert "4,000".

On page 240, line 10, strike "1,000" and insert "2,000".

On page 540, between lines 8 and 9, insert the following:

(d) UNITED STATES MARSHALS.—During each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations, add at least 200 Deputy United States Marshals to investigate criminal immigration matters for the fiscal year.

(e) PRO BONO REPRESENTATION.—The Attorney General shall take all necessary and reasonable steps to ensure that alien detainees receive appropriate pro bono representation in immigration matters.

(f) OFFICE OF GENERAL COUNSEL.—During each of fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase the number of positions for attorneys in the Office of General Counsel of the Department by at least 200 to represent the Department in immigration matters for the fiscal year.

SA 4017. Mr. DORGAN proposed an amendment to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; as follows:

On page 250, between lines 13 and 14, insert the following:

"(1) Eligibility for Deferred Mandatory Departure Status.—The alien shall establish that the alien is eligible for Deferred Mandatory Departure status under section 245C.

SA 4018. Mr. STEVENS (for himself, Mr. Leahy, Ms. Murkowski, Mr. Coleman, Mr. Jeffords, and Ms. Stabenow) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . TRAVEL DOCUMENT PLAN.

Section 7209 (b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note) is amended by striking "January 1, 2008" and inserting "June 1, 2009".

SA 4019. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 345, strike line 6 and all that follows through page 395, line 23, and insert the following:

TITLE VI—WORK AUTHORIZATION FOR UNDOCUMENTED INDIVIDUALS

Subtitle A—Treatment of Individuals Who Remain in United States After Authorized Entry

SEC. 601. ELIGIBILITY FOR H-2C NONIMMIGRANT STATUS.

(a) In General.—Notwithstanding the foreign residency requirement under section 101(a)(15)(H)(ii)(c)(aa) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(c)(aa)) and except as provided under subsection (b), an alien is eligible for H-2C nonimmigrant status (as defined in section 218A(n)(7) of such Act) under the terms and conditions established under section 218A of such Act, as added by section 403 of this Act, if the alien establishes that the alien—

(1) entered the United States in accordance with the immigration laws of the United States;

(2) has been continuously in the United States since such date of entry, except for brief, casual, and innocent departures; and

(3) remained in the United States after the end of the period for which the alien was admitted into the United States.

(b) Grounds for Ineligibility.—An alien is ineligible for H-2C nonimmigrant status if the alien—

(1) has been ordered excluded, deported, removed, or to depart voluntarily from the United States; or

(2) fails to comply with any request for information by the Secretary of Homeland Security.

(c) Additional Admission Requirements.—

(1) In General.—In addition to the admission requirements under section 218A(d) of the Immigration and Nationality Act, an alien who applies H-2C nonimmigrant status pursuant to this section shall submit to the Secretary—

(A) an acknowledgment made in writing and under oath that the alien—

(i) has remained in the United States beyond the period for which the alien was admitted and is subject to removal or deportation, as appropriate, under the Immigration and Nationality Act; and

(ii) understands the terms and conditions of H-2C nonimmigrant status;

(B) any Social Security account number or card in the possession or the alien or relied upon by the alien; and

(C) any false or fraudulent documents in the alien's possession.

(2) Use of Information.—None of the documents or other information provided in accordance with paragraph (1) may be used in a criminal proceeding against the alien providing such documents or information.

(d) Waiver of Numerical Limitations.—The numerical limitations under section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) shall not apply to any alien who is granted H-2C nonimmigrant status pursuant to this section.

(e) Benefits.—During the period in which an alien is granted H-2C nonimmigrant status pursuant to this section—

(1) the alien shall not be considered to be permanently residing in the United States under the color of law and shall be treated as a nonimmigrant admitted under section 214 of the Immigration and Nationality Act (8 U.S.C. 1184); and

(2) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)) or any political subdivision of such State, which furnishes such assistance.

(f) Termination.—The Secretary may terminate the H-2C nonimmigrant status of an alien described in subsection (a) if—

(1) the determines that the alien was not in fact eligible for such status; or

(2) the alien commits an act that makes the alien removable from the United States.

(g) Return in Legal Status.—An alien described in subsection (a) who complies with the terms and conditions of H-2C nonimmigrant status and who leaves the United States before the expiration of such status—

(1) shall not be subject to prosecution under section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)); and

(2) if otherwise eligible, may immediately seek readmission to the United States as a nonimmigrant or immigrant.

(h) Statutory Construction.—Nothing in this section, or any amendment made by this section, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

(i) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SA 4020. Mr. BROWNBACK (for himself and Mr. Lieberman) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—INSPECTIONS AND DETENTIONS

SEC. ___01. SHORT TITLE.

This title may be cited as the "Secure and Safe Detention and Asylum Act".

SEC. ___02. FINDINGS AND PURPOSES.

(a) Findings.—Congress makes the following findings:

(1) The origin of the United States is that of a land of refuge. Many of our Nation's founders fled here to escape persecution for their political opinion, their ethnicity, and their religion. Since that time, the United States has honored its history and founding values by standing against persecution around the world, offering refuge to those who flee from oppression, and welcoming them as contributors to a democratic society.

(2) The right to seek and enjoy asylum from persecution is a universal human right and fundamental freedom articulated in numerous international instruments endorsed by the United States, including the Universal Declaration of Human Rights, as well as the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and the Convention Against Torture. United States law also guarantees the right to seek asylum and protection from return to territories where one would have a well-founded fear of persecution on account of one's race, religion, nationality, membership in a particular social group, or political opinion.

(3) The United States has long recognized that asylum seekers often must flee their persecutors with false documents, or no documents at all. The second person in United States history to receive honorary citizenship by Act of Congress was Swedish diplomat Raoul Wallenberg, in gratitude for his issuance of more than 20,000 false Swedish passports to Hungarian Jews to assist them flee the Holocaust.

(4) In 1996, Congress amended section 235(b) of the Immigration and Nationality Act, to authorize immigration officers to detain and expeditiously remove aliens without proper documents, if that alien does not have a credible fear of persecution.

(5) Section 605 of the International Religious Freedom Act of 1998 subsequently authorized the United States Commission on International Religious Freedom to appoint experts to study the treatment of asylum seekers subject to expedited removal.

(6) The Departments of Justice and Homeland Security fully cooperated with the Commission, which reviewed thousands of previously unreleased statistics, approximately 1,000 files and records of proceeding related to expedited removal proceedings, observed more than 400 inspections, interviewed 200 aliens in expedited removal proceedings at 7 ports of entry, and surveyed 19 detention facilities and all 8 asylum offices. The Commission released its findings on February 8, 2005.

(7) Among its major findings, the Commission found that, while the Congress, the Immigration and Naturalization Service, and the Department of Homeland Security developed a number of processes to prevent bona fide asylum seekers from being expeditiously removed, these procedures were routinely disregarded by many immigration officers, placing the asylum seekers at risk, and undermining the reliability of evidence created for immigration enforcement purposes. The specific findings include the following:

(A) Department of Homeland Security procedures require that the immigration officer read a script to the alien that the alien should ask for protection—without delay—if the alien has any reason to fear being returned home. Yet in more than 50 percent of the expedited removal interviews observed by the Commission, this information was not conveyed to the applicant.

(B) Department of Homeland Security procedures require that the alien review the sworn statement taken by the immigration officer, make any necessary corrections for errors in interpretation, and then sign the statement.

The Commission found, however, that 72 percent of the time, the alien signs his sworn statement without the opportunity to review it.

(C) The Commission found that the sworn statements taken by the officer are not verbatim, are not verifiable, often attribute that information was conveyed to the alien which was never, in fact, conveyed, and sometimes contain questions which were never asked. These sworn statements look like verbatim transcripts but are not. Yet the Commission also found that, in 32 percent of the cases where the immigration judges found the asylum applicant were not credible, they specifically relied on these sworn statements.

(D) Department of Homeland Security regulations also require that, when an alien expresses a fear of return, he must be referred to an asylum officer to determine whether his fear is "credible." Yet, in nearly 15 percent of the cases which the Commission observed aliens who expressed a fear of return were nevertheless removed without a referral to an asylum officer.

(8) The Commission found that the sworn statements taken during expedited removal proceedings were reliable for neither enforcement nor protection purposes because Department of Homeland Security management reviewed only the paperwork created by the interviewing officer. The agency had no national quality assurance procedures to ensure that paper files are an accurate representation of the actual interview. The Commission recommended recording all interviews between Department of Homeland Security officers and aliens subject to expedited removal, and that procedures be established to ensure that these recordings are reviewed to ensure compliance.

(9) The Commission found that the Immigration and Naturalization Service (INS) issued policy guidance on December 30, 1997, defining criteria for decisions to release asylum seekers from detention. Neither the INS nor the Department of Homeland Security, however, had been following this, or any other discernible criteria, for detaining or releasing asylum seekers. The Study's review of Department of Homeland Security statistics revealed that release rates varied widely, between 5 percent and 95 percent, in different regions.

(10) In order to promote the most efficient use of detention resources and a humane yet secure approach to detention of aliens with a credible fear of persecution, the Commission urged that the Department of Homeland Security develop procedures to ensure that a release decision is taken at the time of the credible fear determination or as soon as feasible thereafter. Upon a determination that the alien has established credible fear, identity and community ties, and that the alien is not subject to any possible bar to asylum involving violence, misconduct, or threat to national security, the alien should be released from detention pending an asylum determination. The Commission also urged that the Secretary of Homeland Security establish procedures to ensure consistent implementation of release criteria, as well as the consideration of requests to consider new evidence relevant to the determination.

(11) In 1986, the United States, as a member of the Executive Committee of the United Nations High Commissioner for Refugees, noted that in view of the hardship which it involves, detention of asylum seekers should normally be avoided; that detention measures taken in respect of refugees and asylum-seekers should be subject to judicial or administrative review; that conditions of detention of refugees and asylum seekers must be humane; and that refugees and asylum-seekers shall, whenever possible, not be accommodated with persons detained as criminals.

(12) The USCIRF Study found that, of noncriminal asylum seekers and aliens detained, the vast majority are detained under inappropriate and potentially harmful conditions in jails and jail-like facilities. This occurs in spite of the development of a small number of successful nonpunitive detention facilities, such as those in Broward County Florida and Berks County, Pennsylvania.

(13) The Commission found that nearly all of the detention centers where asylum seekers are detained resemble, in every essential respect, conventional jails. Often, aliens with no criminal record are detained alongside criminals and criminal aliens. The standards applied by the Bureau of Immigration and Customs Enforcement for all of their detention facilities are identical to, and modeled after, correctional standards for criminal populations. In some facilities with "correctional dormitory" set-ups, there are large numbers of detainees sleeping, eating, going to the bathroom, and showering out in the open in one brightly lit, windowless, and locked room. Recreation in Bureau of Immigration and Customs Enforcement facilities often consists of unstructured activity of no more than 1 hour per day in a small outdoor space surrounded by high concrete walls.

(14) Immigration detention is civil and should be nonpunitive in nature.

(15) A study conducted by Physicians for Human Rights and the Bellevue/New York University Program for Survivors of Torture found that the mental health of asylum seekers was extremely poor, and worsened the longer individuals were in detention. This included high levels of anxiety, depression, and post-traumatic stress disorder. The study also raised concerns about inadequate access to health services, particularly mental health services. Asylum seekers interviewed consistently reported being treated like criminals, in violation of international human rights norms, which contributed to worsening of their mental health. Additionally, asylum seekers reported verbal abuse and inappropriate threats and use of solitary confinement.

(16) The Commission recommended that the secure but nonpunitive detention facility in Broward County Florida Broward provided a more appropriate framework for those asylum seekers who are not appropriate candidates for release.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To ensure that personnel within the Department of Homeland Security follow procedures designed to protect bona fide asylum seekers from being returned to places where they may face persecution.

(2) To ensure that persons who affirmatively apply for asylum or other forms of humanitarian protection and noncriminal detainees are not subject to arbitrary detention.

(3) To ensure that asylum seekers, families with children, noncriminal aliens, and other vulnerable populations, who are not eligible for release, are detained under appropriate and humane conditions.

SEC. 03. DEFINITIONS.

In this title:

(1) ASYLUM OFFICER.—The term "asylum officer" has the meaning given the term in section 235(b)(1)(E) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(E)).

(2) ASYLUM SEEKER.—The term "asylum seeker" means any applicant for asylum under section 208 or for withholding of removal under section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158) or any alien who indicates an intention to apply for relief under those sections and does not include any person with respect to whom a final adjudication denying the application has been entered.

(3) CREDIBLE OR REASONABLE FEAR OF PERSECUTION.—The term "credible fear of persecution" has the meaning given the term in section 235(b)(1)(B)(v) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)(v)). The term "reasonable fear" has the meaning given the term in section 208.31 of title 8, Code of Federal Regulations.

(4) DETAINEE.—The term "detainee" means an alien in the Department's custody held in a detention facility.

(5) DETENTION FACILITY.—The term "detention facility" means any Federal facility in which an asylum seeker, an alien detained pending the outcome of a removal proceeding, or an alien detained pending the execution of a final order of removal, is detained for more than 72 hours, or any other facility in which such detention services are provided to the Federal Government by contract, and does not include detention at any port of entry in the United States.

(6) IMMIGRATION JUDGE.—The term "immigration judge" has the meaning given the term in section 101(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(4)).

(7) STANDARD.—The term "standard" means any policy, procedure, or other requirement.

(8) VULNERABLE POPULATIONS.—The term "vulnerable populations" means classes of aliens subject to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) who have special needs requiring special consideration and treatment by virtue of their vulnerable characteristics, including experiences of, or risk of, abuse, mistreatment, or other serious harms threatening their health or safety. Vulnerable populations include the following:

(A) Asylum seekers as described in paragraph (2).

(B) Refugees admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), and individuals seeking such admission.

(C) Aliens whose deportation is being withheld under section 243(h) of the Immigration and Nationality Act (as in effect immediately before the effective date of section 307 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–612)) or section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)).

(D) Aliens granted or seeking protection under article 3 of the United Nations Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.

(E) Applicants for relief and benefits under the Immigration and Nationality Act pursuant to the amendments made by the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386), including applicants for visas under subparagraph (T) or (U) of section 101(a)(15)).

(F) Applicants for relief and benefits under the Immigration and Nationality Act pursuant to the amendments made by the Violence Against Women Act of 2000 (division B of Public Law 106–386).

(G) Unaccompanied alien children (as defined by 462(g) of the Homeland Security Act (6 U.S.C. 279(g)).

SEC. 04. RECORDING SECONDARY INSPECTION INTERVIEWS.

(a) In General.—The Secretary shall establish quality assurance procedures to ensure the accuracy and verifiability of signed or sworn statements taken by Department of Homeland Security employees exercising expedited removal authority under section 235(b) of the Immigration and Nationality Act.

(b) Factors Relating to Sworn Statements.—Any sworn or signed written statement taken of an alien as part of the record of a proceeding under section 235(b)(1)(A) of the Immigration and Nationality Act shall be accompanied by a recording of the interview which served as the basis for that sworn statement.

(c) Recordings.—

(1) In general.—The recording of the interview shall also include the written statement, in its entirety, being read back to the alien in a language which the alien claims to understand, and the alien affirming the accuracy of the statement or making any corrections thereto.

(2) Format.—The recordings shall be made in video, audio, or other equally reliable format.

(d) Interpreters.—The Secretary shall ensure professional certified interpreters are used when the interviewing officer does not speak a language understood by the alien.

(e) Recordings in Immigration Proceedings.—Recordings of interviews of aliens subject to expedited removal shall be included in the record of proceeding and may be considered as evidence in any further proceedings involving the alien.

SEC. 05. PROCEDURES GOVERNING DETENTION DECISIONS.

Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) in the first sentence by striking "Attorney General" and inserting" Secretary of Homeland Security";

(ii) by striking "(c)" and inserting "(d)"; and

(iii) in the second sentence by striking "Attorney General" and inserting "Secretary".

(B) in paragraph (2)

(i) by striking "Attorney General" in subparagraph (A) and inserting "Secretary";

(ii) by striking "or" at the end of subparagraph (A);

(iii) by striking "but" at the end of subparagraph (B); and

(iv) by inserting after subparagraph (B) the following:

"(C) the alien's own recognizance; or

"(D) a secure alternatives program as provided for in section ______09 of this title; but";

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (g), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b) Custody Decisions.—

"(1) In general.—In the case of a decision under subsection (a) or (c), the following shall apply:

"(A) The decision shall be made in writing and shall be served upon the alien. A decision to continue detention without bond or parole shall specify in writing the reasons for that decision.

"(B) The decision shall be served upon the alien within 72 hours of the alien's detention or, in the case of an alien subject to section 235 or 241(a)(5) who must establish a credible or reasonable fear of persecution in order to proceed in immigration court, within 72 hours of a positive credible or reasonable fear determination.

"(C) An alien subject to this section may at any time after being served with the Secretary's decision under subsections (a) or (c) request a redetermination of that decision by an Immigration Judge. All decisions by the Secretary to detain without bond or parole shall be subject to redetermination by an Immigration Judge within 2 weeks from the time the alien was served with the decision, unless waived by the alien. The alien may request a further redetermination upon a showing of a material change in circumstances since the last redetermination hearing.

"(2) Criteria to be considered.—The criteria to be considered by the Secretary and the Attorney General in making a custody decision shall include—

"(A) whether the alien poses a risk to public safety or national security;

"(B) whether the alien is likely to appear for immigration proceedings; and

"(C) any other relevant factors.

"(3) Application of subsections (a) and (b).—This subsection and subsection (a) shall apply to all aliens in the custody of the Department of Homeland Security, except those who are subject to mandatory detention under section 235(b)(1)(B)(iii)(IV), 236(c), or 236A or who have a final order of removal and have no proceedings pending before the Executive Office for Immigration Review.";

(4) in subsection (c), as redesignated—

(A) by striking "Attorney General" and inserting "Secretary"; and

(B) by striking "or parole" and inserting ", parole, or decision to release;";

(5) in subsection (d), as redesignated

(A) by striking "Attorney General" and inserting "Secretary" each place it appears; and

(B) in paragraph (2), by inserting "or for humanitarian reasons," after "such an investigation,";

(6) in subsection (e), as redesignated, by striking "Attorney General" and inserting "Secretary";

(7) by inserting after subparagraph (e), as redesignated, the following new subparagraph:

"(f) Administrative Review.—If an Immigration Judge's custody decision has been stayed by the action of the Department of Homeland Security, the stay shall expire in 30 days, unless the Board of Immigration Appeals before that time, and upon motion, enters an order continuing the stay."; and

(8) in subsection (g), as redesignated, by striking "Attorney General" and inserting "Secretary" each place it appears..

SEC._06. LEGAL ORIENTATION PROGRAM.

(a) In General.—The Attorney General, in consultation with the Secretary, shall ensure that all detained aliens in immigration and asylum proceedings receive legal orientation through a program administered by the Department of Justice Executive Office for Immigration Review.

(b) Content of Program.—The legal orientation program developed pursuant to this subsection shall be implemented by the Executive Office for Immigration Review and shall be based on the Legal Orientation Program in existence on the date of the enactment of this Act.

(c) Expansion of Legal Assistance.—The Secretary shall ensure the expansion through the United States Citizenship and Immigration Service of public-private partnerships that facilitate pro bono counseling and legal assistance for asylum seekers awaiting a credible fear interview. The pro bono counseling and legal assistance programs developed pursuant to this subsection shall be based on the pilot program developed in Arlington, Virginia by the United States Citizenship and Immigration Service.

SEC. 07. CONDITIONS OF DETENTION.

(a) In General.—The Secretary shall ensure that standards governing conditions and procedures at detention facilities are fully implemented and enforced, and that all detention facilities comply with the standards.

(b) Procedures and Standards.—The Secretary shall promulgate new standards, or modify existing detention standards, to improve conditions in detention facilities. The improvements shall address at a minimum the following policies and procedures:

(1) Fair and humane treatment.—Procedures to ensure that detainees are not subject to degrading or inhumane treatment such as verbal or physical abuse or harassment, sexual abuse or harassment, or arbitrary punishment.

(2) Limitations on shackling.—Procedures limiting the use of shackling, handcuffing, solitary confinement, and strip searches of detainees to situations where it is necessitated by security interests or other extraordinary circumstances.

(3) Ivestigation of grievances.—Procedures for the prompt and effective investigation of grievances raised by detainees, including review of grievances by officials of the Department who do not work at the same detention facility where the detainee filing the grievance is detained.

(4) Access to telephones.—Procedures permitting detainees sufficient access to telephones, and the ability to contact, free of charge, legal representatives, the immigration courts, the Board of Immigration Appeals, and the Federal courts through confidential toll-free numbers.

(5) Location of facilities.—Location of detention facilities, to the extent practicable, near sources of free or low cost legal representation with expertise in asylum or immigration law.

(6) Procedures governing transfers of detainees.—Procedures governing the transfer of a detainee that take into account—

(A) the detainee's access to legal representatives; and

(B) the proximity of the facility to the venue of the asylum or removal proceeding.

(7) Quality of medical care.—Prompt and adequate medical care provided at no cost to the detainee, including dental care, eye care, mental health care; individual and group counseling, medical dietary needs, and other medically necessary specialized care. Medical facilities in all detention facilities used by the Department maintain current accreditation by the National Commission on Correctional Health Care (NCCHC). Requirements that each medical facility that is not accredited by the Joint Commission on the

Accreditation of Health Care Organizations (JCAHO) will seek to obtain such accreditation. Maintenance of complete medical records for every detainee which shall be made available upon request to a detainee, his legal representative, or other authorized individuals.

(8) TRANSLATION CAPABILITIES.—The employment of detention facility staff that, to the extent practicable, are qualified in the languages represented in the population of detainees at a detention facility, and the provision of alternative translation services when necessary.

(9) RECREATIONAL PROGRAMS AND ACTIVITIES.—Daily access to indoor and outdoor recreational programs and activities.

(c) SPECIAL STANDARDS FOR NONCRIMINAL DETAINEES.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the special characteristics of noncriminal, nonviolent detainees, and ensure that procedures and conditions of detention are appropriate for a noncriminal population; and

(2) ensure that noncriminal detainees are separated from inmates with criminal convictions, pretrial inmates facing criminal prosecution, and those inmates exhibiting violent behavior while in detention.

(d) SPECIAL STANDARDS FOR VULNERABLE POPULATIONS.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the unique needs of asylum seekers, victims of torture and trafficking, families with children, detainees who do not speak English, detainees with special religious, cultural or spiritual considerations, and other vulnerable populations; and

(2) ensure that procedures and conditions of detention are appropriate for the populations listed in this subsection.

(e) TRAINING OF PERSONNEL.—

(1) IN GENERAL.—The Secretary shall ensure that personnel in detention facilities are given specialized training to better understand and work with the. population of detainees held at the facilities where they work. The training should address the unique needs of—

(A) asylum seekers;

(B) victims of torture or other trauma; and

(C) other vulnerable populations.

(2) SPECIALIZED TRAINING.—The training required by this subsection shall be designed to better enable personnel to work with detainees from different countries, and detainees who cannot speak English. The training shall emphasize that many detainees have no criminal records and are being held for civil violations.

SEC. 08. OFFICE OF DETENTION OVERSIGHT.

(a) ESTABLISHMENT OF THE OFFICE.—

(1) IN GENERAL.—There shall be established within the Department an Office of Detention Oversight (in this title referred to as the "Office").

(2) HEAD OF THE OFFICE.—There shall be at the head of the Office an Administrator who shall be appointed by, and report to, the Secretary.

(3) EFFECTIVE DATE.—The Office shall be established and the head of the Office appointed not later than 6 months after the date of the enactment of this Act.

(b) RESPONSIBILITIES OF THE OFFICE.—

(1) INSPECTIONS OF DETENTION CENTERS.—The Office shall—

(A) undertake frequent and unannounced inspections of all detention facilities;

(B) develop a procedure for any detainee or the detainee's representative to file a written complaint directly with the Office; and

(C) report to the Secretary and to the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement all findings of a detention facility's noncompliance with detention standards.

(2) INVESTIGATIONS.—The Office shall—

(A) initiate investigations, as appropriate, into allegations of systemic problems at detention facilities or incidents that constitute serious violations of detention standards;

(B) report to the Secretary and the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement the results of all investigations; and

(C) refer matters, where appropriate, for further action to—

(i) the Department of Justice;

(ii) the Office of the Inspector General of the Department of Homeland Security;

(iii) the Civil Rights Office of the Department of Homeland Security; or

(iv) any other relevant office of agency.

(3) REPORT TO CONGRESS.—

(A) IN GENERAL.—The Office shall annually submit a report on its findings on detention conditions and the results of its investigations to the Secretary, the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives.

(B) CONTENTS OF REPORT.—

(i) ACTION TAKEN.—The report described in subparagraph (A) shall also describe the actions to remedy findings of noncompliance or other problems that are taken by the Secretary, the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement, the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement, and each detention facility found to be in noncompliance.

(ii) RESULTS OF ACTIONS.—The report shall also include information regarding whether the actions taken were successful and resulted in compliance with detention standards.

(4) REVIEW OF COMPLAINTS BY DETAINEES.—The Office shall establish procedures to receive and review complaints of violations of the detention standards promulgated by the Secretary. The procedures shall protect the anonymity of the claimant, including detainees, employees or others, from retaliation.

(c) COOPERATION WITH OTHER OFFICES AND AGENCIES.—Whenever appropriate, the Office shall cooperate and coordinate its activities with—

(1) the Office of the Inspector General of the Department of Homeland Security;

(2) the Civil Rights Office of the Department of Homeland Security;

(3) the Privacy Officer of the Department of Homeland Security;

(4) the Civil Rights Section of the Department of Justice; and

(5) any other relevant office or agency.

SEC._09. SECURE ALTERNATIVES PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a secure alternatives program. For purposes of this subsection, the secure alternatives program means a program under which aliens may be released under enhanced supervision to prevent them from absconding, and to ensure that they make required appearances.

(b) PROGRAM REQUIREMENTS.—

(1) NATIONWIDE IMPLEMENTATION.—The Secretary shall facilitate the development of the secure alternatives program on a nationwide basis, as a continuation of existing pilot programs such as the Intensive Supervision Appearance Program (ISAP) developed by the Department of Homeland Security.

(2) UTILIZATION OF ALTERNATIVES.—The program shall utilize a continuum of alternatives based on the alien's need for supervision, including placement of the alien with an individual or organizational sponsor, or in a supervised group home.

(3) ALIENS ELIGIBILE FOR SECURE ALTERNATIVES PROGRAM.—

(A) IN GENERAL.—Aliens who would otherwise be subject to detention based on a consideration of the release criteria in section 236(b)(2), or who are released pursuant to section 236(d)(2), shall be considered for the secure alternatives program.

(B) DESIGN OF PROGRAMS.—Secure alternatives programs shall be designed to ensure sufficient supervision of the population described in subparagraph (A).

(4) CONTRACTS.—The Department shall enter into contracts with qualified nongovernmental entities to implement the secure alternatives program. In designing the program, the Secretary shall—

(A) consult with relevant experts; and

(B) consider programs that have proven successful in the past, including the Appearance Assistance Program developed by the Vera Institute and the Intensive Supervision Appearance Program (ISAP) developed by the Department of Homeland Security.

SEC._10. LESS RESTRICTIVE DETENTION FACILITIES.

(a) CONSTRUCTION.—The Secretary shall facilitate the construction or use of secure but less restrictive detention facilities.

(b) CRITERIA.—In developing detention facilities pursuant to this section, the Secretary shall—

(1) consider the design, operation, and conditions of existing secure but less restrictive detention facilities, such as the Department of Homeland Security detention facilities in Broward County, Florida, and Berks County, Pennsylvania;

(2) to the extent practicable, construct or use detention facilities where—

(A) movement within and between indoor and outdoor areas of the facility is subject to minimal restrictions;

(B) detainees have ready access to social, psychological, and medical services;

(C) detainees with special needs, including those who have experienced trauma or torture, have ready access to services and treatment addressing their needs;

(D) detainees have ready access to meaningful programmatic and recreational activities;

(E) detainees are permitted contact visits with legal representatives, family members, and others;

(F) detainees have access to private toilet and shower facilities;

(G) prison-style uniforms or jumpsuits are not required; and

(H) special facilities are provided to families with children.

(c) FACILITIES FOR FAMILIES WITH CHILDREN.—For situations where release or secure alternatives programs are not an option, the Secretary shall ensure that special detention facilities are specifically designed to house parents with their minor children, including ensuring that—

(1) procedures and conditions of detention are appropriate for families with minor children; and

(2) living and sleeping quarters for parents and minor children are not physically separated.

(d) PLACEMENT IN NONPUNITIVE FACILITIES.—Priority for placement in less restrictive facilities shall be given to asylum seekers, families with minor children, vulnerable populations, and nonviolent criminal detainees.

(e) PROCEDURES AND STANDARDS.—Where necessary, the Secretary shall promulgate new standards, or modify existing detention standards, to promote the development of less restrictive detention facilities.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

SEC._12. EFFECTIVE DATE.

Except as otherwise provided, this title shall take effect 6 months after the date of the enactment of this Act.

SA 4021. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . IDENTIFICATION REQUIREMENTS.

(a) REQUIREMENT FOR IDENTIFICATION CARDS TO INCLUDE CITIZENSHIP INFORMATION.—Section 7212(b)(2)(D) of the Intelligence Reform and Terrorism Prevention Act of 2004 (49 U.S.C. 30301 note) is amended by striking "and" at the end of clause (vi), by inserting "and" at the end of clause (vii), and by adding at the end the following new clause:

"(viii) whether the person is a United States citizen;".

(b) IDENTIFICATION REQUIRED FOR VOTING IN PERSON.—

(1) IN GENERAL.—Title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended by redesignating sections 304 and 305 as sections 305 and 306, respectively, and by inserting after section 305 the following new section:

"SEC. 304. IDENTIFICATION OF VOTERS AT THE POLLS.

"(a) IN GENERAL.—Notwithstanding the requirements of section 303(b), each State shall require individuals casting ballots in an election for Federal office in person to present before voting a current valid photo identification which is issued by a governmental entity and which meets the requirements of section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004 (49 U.S.C. 30301 note).

"(b) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of subsection (a) on and after January 1, 2008.".

(2) CONFORMING AMENDMENT.—Section 401 of the Help America Vote Act of 2002 (42 U.S.C. 15511) is amended by striking "and 303" and inserting "303, and 304".

SA 4022. Mr. DOMENICI (for himself, Mr. KYL, Mr. CORNYN, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . ADDITIONAL DISTRICT COURT JUDGESHIPS.

The President shall appoint, by and with the advice and consent of the Senate, such additional district court judges as are necessary to carry out the 2005 recommendations of the Judicial Conference for district courts in which the criminal immigration filings totaled more than 50 per cent of all criminal filings for the 12-month period ending September 30, 2004.

SA 4023. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2611, to provide comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. .COOPERATION WITH THE GOVERNMENT OF MEXICO.

(A) COOPERATION REGARDING BORDER SECURITY.—The Secretary of State, in cooperation with the Secretary and representatives of Federal, State, and local law enforcement agencies that are involved in border security and immigration enforcement efforts, shall work with the appropriate officials from the Government of Mexico to improve coordination between the United States and Mexico regarding—

(1) improved border security along the international border between the United States and Mexico;

(2) the reduction of human trafficking and smuggling between the United States and Mexico;

(3) the reduction of drug trafficking and smuggling between the United States and Mexico;

(4) the reduction of gang membership in the United States and Mexico;

(5) the reduction of violence against women in the United States and Mexico; and

(6) the reduction of other violence and criminal activity.

(b) COOPERATION REGARDING EDUCATION ON IMMIGRATION LAWS.—The Secretary of State, in cooperation with other appropriate Federal officials, shall work with the appropriate officials from the Government of Mexico to carry out activities to educate citizens and nationals of Mexico regarding eligibility for status as a non-immigrant under Federal law to ensure that the citizens and nationals are not exploited while working in the United States.

(c) COOPERATION REGARDING CIRCULAR MIGRATION.—The Secretary of State, in cooperation with the Secretary of Labor and other appropriate Federal officials, shall work with the appropriate officials from the Government of Mexico to improve coordination between the United States and Mexico to encourage circular migration, including assisting in the development of economic opportunities and providing job training for citizens and nationals in Mexico.

(d) ANNUAL REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of State shall submit to Congress a report on the actions taken by the United States and Mexico under this section.

SA 4024. Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. KYL, Mr. CORNYN, and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 8, between lines 20 and 21, insert the following:

(3) DEPUTY UNITED STATES MARSHALS.—In each of the fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations, increase by not less than 50 the number of positions for full-time active duty Deputy United States Marshals that investigate criminal matters related to immigration.

On page 9, line 3, strike "(2)" and insert the following:

(2) DEPUTY UNITED STATES MARSHALS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a)(3).

(3)

SA 4025. Ms. LANDRIEU (for herself and Mr. DEMINT) submitted an amendment intended to be proposed by her to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE —INTERCOUNTRY ADOPTION REFORM

SEC. 01. SHORT TITLE.

This title may be cited as the "Intercountry Adoption Reform Act of 2006" or the "ICARE Act".

SEC. 02. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) That a child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love, and understanding.

(2) That intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her country of origin.

(3) There has been a significant growth in intercountry adoptions. In 1990, Americans adopted 7,093 children from abroad. In 2004, they adopted 23,460 children from abroad.

(4) Americans increasingly seek to create or enlarge their families through intercountry adoptions.

(5) There are many children worldwide that are without permanent homes.

(6) In the interest of children without a permanent family and the United States citizens who are waiting to bring them into their families, reforms are needed in the intercountry adoption process used by United States citizens.

(7) Before adoption, each child should have the benefit of measures taken to ensure that intercountry adoption is in his or her best interest and that prevents the abduction, selling, or trafficking of children.

(8) In addition, Congress recognizes that foreign-born adopted children do not make the decision whether to immigrate to the United States. They are being chosen by Americans to become part of their immediate families.

(9) As such these children should not be classified as immigrants in the traditional sense. Once fully and finally adopted, they should be treated as children of United States citizens.

(10) Since a child who is fully and finally adopted is entitled to the same rights, duties, and responsibilities as a biological child, the law should reflect such equality.

(11) Therefore, foreign-born adopted children of United States citizens should be accorded the same procedural treatment as biological children born abroad to a United States citizen.

(12) If a United States citizen can confer citizenship to a biological child born abroad, then the same citizen is entitled to confer such citizenship to their legally and fully

adopted foreign-born child immediately upon final adoption.

(13) If a United States citizen cannot confer citizenship to a biological child born abroad, then such citizen cannot confer citizenship to their legally and fully adopted foreign-born child, except through the naturalization process.

(b) PURPOSES.—The purposes of this title are—

(1) to ensure that any adoption of a foreign-born child by parents in the United States is carried out in the manner that is in the best interest of the child;

(2) to ensure that foreign-born children adopted by United States citizens will be treated identically to a biological child born abroad to the same citizen parent; and

(3) to improve the intercountry adoption process to make it more citizen friendly and focused on the protection of the child.

SEC. 03. DEFINITIONS.

In this title:

(1) ADOPTABLE CHILD.—The term "adoptable child" has the same meaning given such term in section 101(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(c)(3)), as added by section ____ 24(a) of this Act.

(2) AMBASSADOR AT LARGE.—The term "Ambassador at Large" means the Ambassador at Large for Intercountry Adoptions appointed to head the Office pursuant to section 11(b).

(3) COMPETENT AUTHORITY.—The term "competent authority" means the entity or entities authorized by the law of the child's country of residence to engage in permanent placement of children who are no longer in the legal or physical custody of their biological parents.

(4) CONVENTION.—The term "Convention" means the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, done at The Hague on May 29, 1993.

(5) FULL AND FINAL ADOPTION.—The term "full and final adoption" means an adoption—

(A) that is completed according to the laws of the child's country of residence or the State law of the parent's residence;

(B) under which a person is granted full and legal custody of the adopted child;

(C) that has the force and effect of severing the child's legal ties to the child's biological parents;

(D) under which the adoptive parents meet the requirements of section 25; and

(E) under which the child has been adjudicated to be an adoptable child in accordance with section ____ 26.

(6) OFFICE.—The term "Office" means the Office of Intercountry Adoptions established under section ____ 11(a).

(7) READILY APPROVABLE.—A petition or certification is "readily approvable" if the documentary support provided along with such petition or certification demonstrates that the petitioner satisfies the eligibility requirements and no additional information or investigation is necessary.

Subtitle A—Administration of Intercountry Adoptions

SEC. 11. OFFICE OF INTERCOUNTRY ADOPTIONS.

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, there shall be established within the Department of State, an Office of Intercountry Adoptions which shall be headed by the Ambassador at Large for Intercountry Adoptions.

(b) AMBASSADOR AT LARGE.—

(1) APPOINTMENT.—The Ambassador at Large shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who have background, experience, and training in intercountry adoptions.

(2) CONFLICTS OF INTEREST.—The individual appointed to be the Ambassador at Large shall be free from any conflict of interest that could impede such individual's ability to serve as the Ambassador.

(3) AUTHORITY.—The Ambassador at Large shall report directly to the Secretary of State, in consultation with the Assistant Secretary for Consular Affairs.

(4) REGULATIONS.—The Ambassador at Large may not issue rules or regulations unless such rules or regulations have been approved by the Secretary of State.

(5) DUTIES OF THE AMBASSADOR AT LARGE.—The Ambassador at Large shall have the following responsibilities:

(A) IN GENERAL.—The primary responsibilities of the Ambassador at Large shall be—

(i) to ensure that any adoption of a foreign-born child by parents in the United States is carried out in the manner that is in the best interest of the child; and

(ii) to assist the Secretary of State in fulfilling the responsibilities designated to the central authority under title I of the Intercountry Adoption Act of 2000 (42 U.S.C. 14911 et seq.).

(B) ADVISORY ROLE.—The Ambassador at Large shall be a principal advisor to the President and the Secretary of State regarding matters affecting intercountry adoption and the general welfare of children abroad and shall make recommendations regarding—

(i) the policies of the United States with respect to the establishment of a system of cooperation among the parties to the Convention;

(ii) the policies to prevent abandonment, to strengthen families, and to advance the placement of children in permanent families; and

(iii) policies that promote the protection and well-being of children.

(C) DIPLOMATIC REPRESENTATION.—Subject to the direction of the President and the Secretary of State, the Ambassador at Large may represent the United States in matters and cases relevant to international adoption in—

(i) fulfillment of the responsibilities designated to the central authority under title I of the Intercountry Adoption Act of 2000 (42 U.S.C. 14911 et seq.);

(ii) contacts with foreign governments, intergovernmental organizations, and specialized agencies of the United Nations and other international organizations of which the United States is a member; and

(iii) multilateral conferences and meetings relevant to international adoption.

(D) INTERNATIONAL POLICY DEVELOPMENT.—The Ambassador at Large shall advise and support the Secretary of State and other relevant Bureaus of the Department of State in the development of sound policy regarding child protection and intercountry adoption.

(E) REPORTING RESPONSIBILITIES.—The Ambassador at Large shall have the following reporting responsibilities:

(i) IN GENERAL.—The Ambassador at Large shall assist the Secretary of State and other relevant Bureaus in preparing those portions of the Human Rights Reports that relate to the abduction, sale, and trafficking of children.

(ii) ANNUAL REPORT ON INTER-COUNTRY ADOPTION.—Not later than September 1 of each year, the Secretary of State shall prepare and submit to Congress an annual report on intercountry adoption. Each annual report shall include—

(I) a description of the status of child protection and adoption in each foreign country, including—

(aa) trends toward improvement in the welfare and protection of children and families;

(bb) trends in family reunification, domestic adoption, and intercountry adoption;

(cc) movement toward ratification and implementation of the Convention; and

(dd) census information on the number of children in orphanages, foster homes, and other types of nonpermanent residential care as reported by the foreign country;

(II) the number of intercountry adoptions by United States citizens, including the country from which each child emigrated, the State in which each child resides, and the country in which the adoption was finalized;

(III) the number of intercountry adoptions involving emigration from the United States, including the country where each child now resides and the State from which each child emigrated;

(IV) the number of placements for adoption in the United States that were disrupted including the country from which the child emigrated, the age of the child, the date of the placement for adoption, the reasons for the disruption, the resolution of the disruption, the agencies that handled the placement for adoption, and the plans for the child, and in addition, any information regarding disruption or dissolution of adoptions of children from other countries received pursuant to the section 422(b)(14) of the Social Security Act (42 U.S.C. 622(b)(14));

(V) the average time required for completion of an adoption, set forth by the country from which the child emigrated;

(VI) the current list of agencies accredited and persons approved under the Intercountry Adoption Act of 2000 (42 U.S.C. 14901 et seq.) to provide adoption services;

(VII) the names of the agencies and persons temporarily or permanently debarred under the Intercountry Adoption Act of 2000 (42 U.S.C. 14901 et seq.), and the reasons for the debarment;

(VIII) the range of adoption fees involving adoptions by United States citizens and the median of such fees set forth by the country of origin;

(IX) the range of fees charged for accreditation of agencies and the approval of persons in the United States engaged in providing adoption services under the Convention; and

(X) recommendations of ways the United States might act to improve the welfare and protection of children and families in each foreign country.

(c) FUNCTIONS OF OFFICE.—The Office shall have the following 7 functions:

(1) APPROVAL OF A FAMILY TO ADOPT.—To approve or disapprove the eligibility of a United States citizen to adopt a child born in a foreign country.

(2) CHILD ADJUDICATION.—To investigate and adjudicate the status of a child born in a foreign country to determine whether that child is an adoptable child.

(3) FAMILY SERVICES.—To provide assistance to United States citizens engaged in the intercountry adoption process in resolving problems with respect to that process and to track intercountry adoption cases so as to ensure that all such adoptions are processed in a timely manner.

(4) INTERNATIONAL POLICY DEVELOPMENT.—To advise and support the Ambassador at

Large and other relevant Bureaus of the Department of State in the development of sound policy regarding child protection and intercountry adoption.

(5) CENTRAL AUTHORITY.—To assist the Secretary of State in carrying out duties of the central authority as defined in section 3 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14902).

(6) ENFORCEMENT.—To investigate, either directly or in cooperation with other appropriate international, Federal, State, or local entities, improprieties relating to intercountry adoption, including issues of child protection, birth family protection, and consumer fraud.

(7) ADMINISTRATION.—To perform administrative functions related to the functions performed under paragraphs (1) through (6), including legal functions and congressional liaison and public affairs functions.

(d) ORGANIZATION.—

(1) IN GENERAL.—All functions of the Office shall be performed by officers employed in a central office located in Washington, D.C. Within that office, there shall be 7 divisions corresponding to the 7 functions of the Office. The director of each such division shall report directly to the Ambassador at Large.

(2) APPROVAL TO ADOPT.—The division responsible for approving parents to adopt shall be divided into regions of the United States as follows:

(A) Northwest.
(B) Northeast.
(C) Southwest.
(D) Southeast.
(E) Midwest.
(F) West.

(3) CHILD ADJUDICATION.—To the extent practicable, the division responsible for the adjudication of foreign-born children as adoptable shall be divided by world regions which correspond to the world regions used by other divisions within the Department of State.

(4) USE OF INTERNATIONAL FIELD OFFICERS.—Nothing in this section shall be construed to prohibit the use of international field officers posted abroad, as necessary, to fulfill the requirements of this Act.

(5) COORDINATION.—The Ambassador at Large shall coordinate with appropriate employees of other agencies and departments of the United States, whenever appropriate, in carrying out the duties of the Ambassador.

(e) QUALIFICATIONS AND TRAINING.—In addition to meeting the employment requirements of the Department of State, officers employed in any of the 7 divisions of the Office shall undergo extensive and specialized training in the laws and processes of intercountry adoption as well as understanding the cultural, medical, emotional, and social issues surrounding intercountry adoption and adoptive families. The Ambassador at Large shall, whenever possible, recruit and hire individuals with background and experience in intercountry adoptions, taking care to ensure that such individuals do not have any conflicts of interest that might inhibit their ability to serve.

(f) USE OF ELECTRONIC DATABASES AND FILING.—To the extent possible, the Office shall make use of centralized, electronic databases and electronic form filing.

SEC. 12. RECOGNITION OF CONVENTION ADOPTIONS IN THE UNITED STATES.

Section 505(a)(1) of the Intercountry Adoption Act of 2000 (42 U.S.C. 14901 note) is amended by inserting "301, 302," after "205,".

SEC. 13. TECHNICAL AND CONFORMING AMENDMENT.

Section 104 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14914) is repealed.

SEC. 14. TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—Subject to subsection (c), all functions under the immigration laws of the United States with respect to the adoption of foreign-born children by United States citizens and their admission to the United States that have been vested by statute in, or exercised by, the Secretary of Homeland Security immediately prior to the effective date of this Act, are transferred to the Secretary of State on the effective date of this Act and shall be carried out by the Ambassador at Large, under the supervision of the Secretary of State, in accordance with applicable laws and this Act.

(b) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, the Ambassador at Large may, for purposes of performing any function transferred to the Ambassador at Large under subsection (a), exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function pursuant to this subtitle.

(c) LIMITATION ON TRANSFER OF PENDING ADOPTIONS.—If an individual has filed a petition with the Immigration and Naturalization Service or the Department of Homeland Security with respect to the adoption of a foreign-born child prior to the date of enactment of this Act, the Secretary of Homeland Security shall have the authority to make the final determination on such petition and such petition shall not be transferred to the Office.

SEC. 15. TRANSFER OF RESOURCES.

Subject to section 1531 of title 31, United States Code, upon the effective date of this act, there are transferred to the Ambassador at Large for appropriate allocation in accordance with this Act, the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department of Homeland Security in connection with the functions transferred pursuant to this subtitle.

SEC. 16. INCIDENTAL TRANSFERS.

The Ambassador at Large may make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this subtitle. The Ambassador at Large shall provide for such further measures and dispositions as may be necessary to effectuate the purposes of this subtitle.

SEC. 17. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Ambassador at Large, the former Commissioner of the Immigration and Naturalization Service, or the Secretary of Homeland Security, or their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred pursuant to this subtitle; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(b) PROCEEDINGS.—

(1) PENDING.—The transfer of functions under section ____ 14 shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this subtitle before an office whose functions are transferred pursuant to this subtitle, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(c) SUITS.—This subtitle shall not affect suits commenced before the effective date of this subtitle, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of State, the Immigration and Naturalization Service, or the Department of Homeland Security, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred pursuant to this section, shall abate by reason or the enactment of this Act.

(e) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this subtitle such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this subtitle, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this subtitle shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

Subtitle B—Reform of United States Laws Governing Intercountry Adoptions

SEC. 21. AUTOMATIC ACQUISITION OF CITIZENSHIP FOR ADOPTED CHILDREN BORN OUTSIDE THE UNITED STATES.

(a) AUTOMATIC CITIZENSHIP PROVISIONS.—

(1) AMENDMENT OF THE INA.—Section 320 of the Immigration and Nationality Act (8 U.S.C. 1431) is amended to read as follows:

"SEC. 320. CONDITIONS FOR AUTOMATIC CITIZENSHIP FOR CHILDREN BORN OUTSIDE THE UNITED STATES.

"(a) IN GENERAL.—A child born outside of the United States automatically becomes a citizen of the United States—

"(1) if the child is not an adopted child—

"(A) at least 1 parent of the child is a citizen of the United States, whether by birth or naturalization, who has been physically present (as determined under subsection (b)) in the United States or its outlying possessions for a period or periods totaling not less than 5 years, at least 2 of which were after attaining the age of 14 years; and

"(B) the child is under the age of 18 years; or

"(2) if the child is an adopted child, on the date of the full and final adoption of the child—

"(A) at least 1 parent of the child is a citizen of the United States, whether by birth or naturalization, who has been physically present (as determined under subsection (b)) in the United States or its outlying possessions for a period or periods totaling not less than 5 years, at least 2 of which were after attaining the age of 14 years;

"(B) the child is an adoptable child;

"(C) the child is the beneficiary of a full and final adoption decree entered by a foreign government or a court in the United States; and

"(D) the child is under the age of 16 years.

"(b) PHYSICAL PRESENCE.—For the purposes of subsection (a)(2)(A), the requirement for physical presence in the United States or its outlying possessions may be satisfied by the following:

"(1) Any periods of honorable service in the Armed Forces of the United States.

"(2) Any periods of employment with the United States Government or with an international organization as that term is defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288) by such citizen parent.

"(3) Any periods during which such citizen parent is physically present outside the United States or its outlying possessions as the dependent unmarried son or daughter and a member of the household of a person—

"(A) honorably serving with the Armed Forces of the United States; or

"(B) employed by the United States Government or an international organization as defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288).

"(c) FULL AND FINAL ADOPTION.—In this section, the term 'full and final adoption' means an adoption—

"(1) that is completed under the laws of the child's country of residence or the State law of the parent's residence;

"(2) under which a person is granted full and legal custody of the adopted child;

"(3) that has the force and effect of severing the child's legal ties to the child's biological parents;

"(4) under which the adoptive parents meet the requirements of section ___ 25 of the Intercountry Adoption Reform Act of 2006; and

"(5) under which the child has been adjudicated to be an adoptable child in accordance with section 26 of the Intercountry Adoption Reform Act of 2006.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Immigration and Nationality Act (66 Stat. 163) is amended by striking the item relating to section 320 and inserting the following:

"Sec. 320. Conditions for automatic citizenship for children born outside the United States".

(c) EFFECTIVE DATE.—This section shall take effect as if enacted on June 27, 1952.

SEC. 22. REVISED PROCEDURES.

Notwithstanding any other provision of law, the following requirements shall apply with respect to the adoption of foreign born children by United States citizens:

(1) Upon completion of a full and final adoption, the Secretary shall issue a United States passport and a Consular Report of Birth for a child who satisfies the requirements of section 320(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1431(a)(2)), as amended by section 21 of this Act, upon application by a United States citizen parent.

(2) An adopted child described in paragraph (1) shall not require the issuance of a visa for travel and admission to the United States but shall be admitted to the United States upon presentation of a valid, unexpired United States passport.

(3) No affidavit of support under section 213A of the Immigration and Nationality Act (8 U.S.C. 1183a) shall be required in the case of any adoptable child.

(4) The Secretary of State, acting through the Ambassador at Large, shall require that agencies provide prospective adoptive parents an opportunity to conduct an independent medical exam and a copy of any medical records of the child known to exist (to the greatest extent practicable, these documents shall include an English translation) on a date that is not later than the earlier of the date that is 2 weeks before the adoption, or the date on which prospective adoptive parents travel to such a foreign country to complete all procedures in such country relating to adoption.

(5) The Secretary of State, acting through the Ambassador at Large, shall take necessary measures to ensure that all prospective adoptive parents adopting internationally are provided with training that includes counseling and guidance for the purpose of promoting a successful intercountry adoption before such parents travel to adopt the child or the child is placed with such parents for adoption.

(6) The Secretary of State, acting through the Ambassador at Large, shall take necessary measures to ensure that—

(A) prospective adoptive parents are given full disclosure of all direct and indirect costs of intercountry adoption before the parents are matched with a child for adoption;

(B) fees charged in relation to the intercountry adoption be on a fee-for-service basis not on a contingent fee basis; and

(C) that the transmission of fees between the adoption agency, the country of origin, and the prospective adoptive parents is carried out in a transparent and efficient manner.

(7) The Secretary of State, acting through the Ambassador at Large, shall take all measures necessary to ensure that all documents provided to a country of origin on behalf of a prospective adoptive parent are truthful and accurate.

SEC. 23. NONIMMIGRANT VISAS FOR CHILDREN TRAVELING TO THE UNITED STATES TO BE ADOPTED BY A UNITED STATES CITIZEN.

(a) NONIMMIGRANT CLASSIFICATION.—

(1) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended by adding at the end the following:

"(W) an adoptable child who is coming into the United States for adoption by a United States citizen and a spouse jointly or by an unmarried United States citizen at least 25 years of age, who has been approved to adopt by the Office of International Adoption of the Department of State.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Such section 101(a)(15) is further amended—

(A) by striking "or" at the end of subparagraph (U); and

(B) by striking the period at the end of subparagraph (V) and inserting "; or".

(b) TERMINATION OF PERIOD OF AUTHORIZED ADMISSION.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

"(s) In the case of a nonimmigrant described in section 101(a)(15)(W), the period of authorized admission shall terminate on the earlier of—

"(1) the date on which the adoption of the nonimmigrant is completed by the courts of the State where the parents reside; or

"(2) the date that is 4 years after the date of admission of the nonimmigrant into the United States, unless a petitioner is able to show cause as to why the adoption could not be completed prior to such date and the Secretary of State extends such period for the period necessary to complete the adoption.".

(c) TEMPORARY TREATMENT AS LEGAL PERMANENT RESIDENT.—Notwithstanding any other law, all benefits and protections that apply to a legal permanent resident shall apply to a nonimmigrant described in section 101(a)(15)(W) of the Immigration and Nationality Act, as added by subsection (a), pending a full and final adoption.

(d) EXCEPTION FROM IMMUNIZATION REQUIREMENT FOR CERTAIN ADOPTED CHILDREN.—Section 212(a)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(C)) is amended—

(1) in the heading by striking "**10 YEARS**" and inserting "**18 YEARS**"; and

(2) in clause (i), by striking "10 years" and inserting "18 years".

(e) REGULATIONS.—Not later than 90 days after the enactment of this Act, the Secretary of State shall prescribe such regulations as may be necessary to carry out this section.

SEC. 24. DEFINITION OF ADOPTABLE CHILD.

(a) IN GENERAL.—Section 101(c) of the Immigration and Nationality Act (8 U.S.C. 1101(c)) is amended by adding at the end the following:

"(3) The term 'adoptable child' means an unmarried person under the age of 18—

"(A)(i) whose biological parents (or parent, in the case of a child who has one sole or surviving parent) or other persons or institutions that retain legal custody of the child—

"(I) have freely given their written irrevocable consent to the termination of their legal relationship with the child, and to the child's emigration and adoption and that such consent has not been induced by payment or compensation of any kind and has not been given prior to the birth of the child;

"(II) are unable to provide proper care for the child, as determined by the competent authority of the child's residence; or

"(III) have voluntarily relinquished the child to the competent authorities pursuant to the law of the child's residence; or

"(ii) who, as determined by the competent authority of the child's residence—

"(I) has been abandoned or deserted by their biological parent, parents, or legal guardians; or

"(II) has been orphaned due to the death or disappearance of their biological parent, parents, or legal guardians;

"(B) with respect to whom the Secretary of State is satisfied that the proper care will be furnished the child if admitted to the United States;

"(C) with respect to whom the Secretary of State is satisfied that the purpose of the adoption is to form a bona fide parent-child relationship and that the parent-child relationship of the child and the biological parents has been terminated (and in carrying out both obligations under this subparagraph the Secretary of State, in consultation with the Secretary of Homeland Security, may consider whether there is a petition pending to confer immigrant status on one or both of the biological parents);

"(D) with respect to whom the Secretary of State, is satisfied that there has been no inducement, financial or otherwise, offered to obtain the consent nor was it given before the birth of the child;

"(E) with respect to whom the Secretary of State, in consultation with the Secretary of Homeland Security, is satisfied that the person is not a security risk; and

"(F) whose eligibility for adoption and emigration to the United States has been certified by the competent authority of the country of the child's place of birth or residence.".

(b) Conforming Amendment.—Section 204(d) of the Immigration and Nationality Act (8 U.S.C. 1154(d)) is amended by inserting "and an adoptable child as defined in section 101(c)(3)" before "unless a valid home-study".

SEC. 25. APPROVAL TO ADOPT.

(a) In General.—Prior to the issuance of a visa under section 101(a)(15)(W) of the Immigration and Nationality Act, as added by section ____ 23(a) of this Act, or the issuance of a full and final adoption decree, the United States citizen adoptive parent shall have approved by the Office a petition to adopt. Such petition shall be subject to the same terms and conditions as are applicable to petitions for classification under section 204.3 of title 8 of the Code of Federal Regulations, as in effect on the day before the date of enactment of this Act.

(b) Expiration of Approval.—Approval to adopt under this Act is valid for 24 months from the date of approval. Nothing in this section may prevent the Secretary of Homeland Security from periodically updating the fingerprints or an individual who has filed a petition for adoption.

(c) Expedited Reapproval Process of Families Previously Approved To Adopt.—The Secretary of State shall prescribe such regulations as may be necessary to provide for an expedited and streamlined process for families who have been previously approved to adopt and whose approval has expired, so long as not more than 4 years have lapsed since the original application.

(d) Denial of Petition.—

(1) Notice of intent.—If the officer adjudicating the petition to adopt finds that it is not readily approvable, the officer shall notify the petitioner, in writing, of the officer's intent to deny the petition. Such notice shall include the specific reasons why the petition is not readily approvable.

(2) Petitioner's right to respond.—Upon receiving a notice of intent to deny, the petitioner has 30 days to respond to such notice.

(3) Decision.—Within 30 days of receipt of the petitioner's response the Office must reach a final decision regarding the eligibility of the petitioner to adopt. Notice of a formal decision must be delivered in writing.

(4) Right to an appeal.—Unfavorable decisions may be appealed to the Department of State and, after the exhaustion of the appropriate appeals process of the Department, to a United States district court.

(5) Regulations regarding appeals.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall promulgate formal regulations regarding the process for appealing the denial of a petition.

SEC. 26. ADJUDICATION OF CHILD STATUS.

(a) In General.—Prior to the issuance of a full and final adoption decree or a visa under section 101(a)(15)(W) of the Immigration and Nationality Act, as added by section ____ 23(a) of this Act—

(1) the Ambassador at Large shall obtain from the competent authority of the country of the child's residence a certification, together with documentary support, that the child sought to be adopted meets the definition of an adoptable child; and

(2) not later than 15 days after the date of the receipt of the certification referred to in paragraph (1), the Secretary of State shall make a final determination on whether the certification and the documentary support are sufficient to meet the requirements of this section or whether additional investigation or information is required.

(b) Process for Determination.—

(1) In General.—The Ambassador at Large shall work with the competent authorities of the child's country of residence to establish a uniform, transparent, and efficient process for the exchange and approval of the certification and documentary support required under subsection (a).

(2) Notice of intent.—If the Secretary of State determines that a certification submitted by the competent authority of the child's country of origin is not readily approvable, the Ambassador at Large shall—

(A) notify the competent authority and the prospective adoptive parents, in writing, of the specific reasons why the certification is not sufficient; and

(B) provide the competent authority and the prospective adoptive parents the opportunity to address the stated insufficiencies.

(3) Petitioners' right to respond.—Upon receiving a notice of intent to find that a certification is not readily approvable, the prospective adoptive parents shall have 30 days to respond to such notice.

(4) Decision.—Not later than 30 days after the date of receipt of a response submitted under paragraph (3), the Secretary of State shall reach a final decision regarding the child's eligibility as an adoptable child. Notice of such decision must be in writing.

(5) Right to an appeal.—Unfavorable decisions on a certification may be appealed through the appropriate process of the Department of State and, after the exhaustion of such process, to a United States district court.

SEC. 27. FUNDS.

The Secretary of State shall provide the Ambassador at Large with such funds as may be necessary for—

(1) the hiring of staff for the Office;

(2) investigations conducted by such staff; and

(3) travel and other expenses necessary to carry out this title.

Subtitle C—Enforcement

SEC. 31. CIVIL PENALTIES AND ENFORCEMENT.

(a) Civil Penalties.—A person shall be subject, in addition to any other penalty that may be prescribed by law, to a civil money penalty of not more than $50,000 for a first violation, and not more than $100,000 for each succeeding violation if such person—

(1) violates a provision of this title or an amendment made by this title;

(2) makes a false or fraudulent statement, or misrepresentation, with respect to a material fact, or offers, gives, solicits, or accepts inducement by way of compensation, intended to influence or affect in the United States or a foreign country—

(A) a decision for an approval under title II;

(B) the relinquishment of parental rights or the giving of parental consent relating to the adoption of a child; or

(C) a decision or action of any entity performing a central authority function; or

(3) engages another person as an agent, whether in the United States or in a foreign country, who in the course of that agency takes any of the actions described in paragraph (1) or (2).

(b) Civil Enforcement.—

(1) Authority of attorney general.—The Attorney General may bring a civil action to enforce subsection (a) against any person in any United States district court.

(2) Factors to be considered in imposing penalties.—In imposing penalties the court shall consider the gravity of the violation, the degree of culpability of the defendant, and any history of prior violations by the defendant.

SEC. 32. CRIMINAL PENALTIES.

Whoever knowingly and willfully commits a violation described in paragraph (1) or (2) of section 31(a) shall be subject to a fine of not more than $250,000, imprisonment for not more than 5 years, or both.

SA 4026. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

(a) At the appropriate place, insert the following:

SEC. . VERIFICATION OF CITIZENSHIP FOR VOTER ELIGIBILITY.

(a) Requiring Provision of Certain Information by Applicants.—

(1) In general.—Section 303(a)(5)(A) of the Help America Vote Act of 2002 (42 U.S.C. 15483(a)(5)(A)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

"(iii) Required provision of place of birth and statement of citizenship.—Notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes the place of birth of the applicant and indicates that the applicant is a United States citizen.".

(C) Effective date.—Section 303(d)(1) of the Help America Vote Act of 2002 (42 U.S.C. 15483(d)(I)) is amended—

(i) in subparagraph (A), by inserting "and (C)" after "subparagraph (B)"; and

(ii) by adding at the end the following new subparagraph:

"(C) Required provision of place of birth and statement of citizenship.—Each State and jurisdiction shall be required to comply with the requirements of subsection (a)(5)(A)(iii) on and after November 1, 2007.".

(b) Requiring Federal Verification of Certain Information.—Section 205(r)(8) of the Social Security Act (42 U.S.C. 405(r)(8) is amended—

(1) in subparagraph (C), by striking "applications for voter registration," and all that follows through the period at the end and inserting "all applications for voter registration to which section 303(a)(5) of the Help America Vote Act of 2002 applies"; and

(2) in subparagraph (D)(i)(I) by inserting “the place of birth, status as a United States citizen,” after “year),”.

(c) Effective Date.—The amendments made by this section shall apply to applications for voter registration submitted on or after November 1, 2007.

SA 4027. Mr. KYL (for himself, Mr. Cornyn, Mr. Graham, Mr. Allen, Mr. McCain, Mr. Frist, Mr. Brownback, Mr. Martinez, Mr. Hagel, and Mr. Alexander) proposed an amendment to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; as follows:

On page 358, line 3, insert “(other than subparagraph (C)(i)(II))” after “(9)”.

On page 359, after line 12 insert the following:

“(6) Ineligibility.—

“(A) In general.—An alien is ineligible for adjustment to lawful permanent resident status under this section if—

“(i) the alien has been ordered removed from the United States—

“(I) for overstaying the period of authorized admission under section 217;.

“(II) under section 235 or 238; or

“(III) pursuant to a final order of removal under section 240;

“(ii) the alien failed to depart the United States during the period of a voluntary departure order issued under section 240B;

“(iii) the alien is subject to section 241(a)(5);

“(iv) the Secretary of Homeland Security determines that—

“(I) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

“(II) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

“(III) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

“(v) the alien has been convicted of a felony or 3 or more misdemeanors.

“(B) Exception.—Notwithstanding subparagraph (A), an alien who has not been ordered removed from the United States shall remain eligible for adjustment to lawful permanent resident status under this section if the alien's ineligibility under subparagraph (A) is solely related to the alien's—

“(i) entry into the United States without inspection;

“(ii) remaining in the United States beyond the period of authorized admission; or

“(iii) failure to maintain legal status while in the United States.

“(C) Waiver.—The Secretary may, in the Secretary's sole and unreviewable discretion, waive the application of subparagraph (A) if the alien was ordered removed on the basis that the alien, (1) entered without inspection, (ii) failed to maintain status, or (iii) was ordered removed under 212(a)(6)(C)(i) prior to April 7, 2006, and—

“(i) demonstrates that the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 239(a); or

“(ii) establishes that the alien's failure to appear was due to exceptional circumstances beyond the control of the alien; or

“(iii) the alien's departure from the U.S. now would result in extreme hardship to the alien's spouse, parent, or child who is a citizen of the United States or an alien lawfully admitted for permanent residence.

“On page 376, strike lines 13 through 20 and insert the following:

“(4) Ineligibility.—

“(A) In general.—The alien is ineligible for Deferred Mandatory Departure status if the alien—

“(i) has been ordered removed from the United States—

“(I) for overstaying the period of authorized admission under section 217;

“(II) under section 235 or 238; or

“(III) pursuant to a final order of removal under section 240;

“(ii) the alien failed to depart the United States during the period of a voluntary departure order issued under section 240B;

“(iii) the alien is subject to section 241(a)(5)

“(iv) the Secretary of Homeland Security determines that—

“(I) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

“(II) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

“(III) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

“(v) the alien has been convicted of a felony or 3 or more misdemeanors.

“(B) Exception.—Notwithstanding subparagraph (A), an alien who has not been ordered removed from the United States shall remain eligible for adjustment to lawful permanent resident status under this section if the alien's ineligibility under subparagraph (A) is solely related to the alien's—

“(i) entry into the United States without inspection;

“(ii) remaining in the United States beyond the period of authorized admission; or

“(iii) failure to maintain legal status while in the United States.

“(C) Waiver.—The Secretary may, in the Secretary's sole and unreviewable discretion, waive the application of subparagraph (A) if the alien was ordered removed on the basis that the alien

“(i) entered without inspection,

“(ii) failed to maintain status, or

“(iii) was ordered removed under 212(a)(6)(C)(1) prior to April 7, 2006, and—

“(I) demonstrates that the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) or section 239(a);

“(II) establishes that the alien's failure to appear was due to exceptional circumstances beyond the control of the alien, or

“(III) the alien's departure from the U.S. now would result in extreme hardship to the alien's spouse, parent, or child who is a citizen of the United States or an alien lawfully admitted for permanent residence.”

SA 4028. Mr. FRIST (for Ms. Collins (for herself and Ms. Murkowski)) proposed an amendment to the bill S. 879, to make improvements to the Arctic Research and Policy Act of 1984; as follows:

On page 2, strike line 7 and all that follows through the end of the bill.

SA 4029. Mr. AKAKA (for himself and Mr. Inouye) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 345, between lines 5 and 6, insert the following:

SEC. 509. CHILDREN OF FILIPINO WORLD WAR II VETERANS.

Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by sections 505 and 508, is further amended by adding at the end the following:

“(J) Aliens who are eligible for a visa under paragraph (1) or (3) of section 203(a) and are the children of a citizen of the United States who was naturalized pursuant to section 405 of the Immigration Act of 1990 (8 U.S.C. 1440 note).”.

SA 4030. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 431, strike line 16 and all that follows through page 432, line 21, and insert the following:

“(D) Temporary work or services.—The employer is seeking to employ a specific number of agricultural workers on a temporary basis.

“(E) Offers to United States workers.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

“(F) Provision of insurance.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

“(2) Job opportunities not covered by collective bargaining agreements.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

“(A) Strike or lockout.—The specific job opportunity for which the employer is requesting an H-2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute;

“(B) Temporary work or services.—The employer is seeking to employ a specific number of agricultural workers on a temporary basis.

SA 4031. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 485, strike line 4 and all that follows through page 491, line 25, and insert the following:

“(b) Legal Assistance to H-2A Workers.—The Legal Services Corporation, or any employee or agent of the Legal Services Corporation, may not provide legal assistance to, or on behalf of, any H-2A worker, unless the H-2A worker is present in the United States at the time the legal assistance is provided.

“(c) Mediation.—The Legal Services Corporation, or any employee or agent of the

Legal Services Corporation may not bring a civil action for damages on behalf of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) unless at least 90 days before the date on which the action is brought—

"(1) a request has been made to the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute; and

"(2) a mediation has been attempted.

"(d) CLARIFICATION OF PRIVATE PROPERTY RIGHTS.—The Legal Services Corporation, or any employee or agent of the Legal Services Corporation may not enter the property of an employer of aliens described in section 101(a)(15)(H)(ii)(a) without a prearranged appointment with a specific individual.

"(e) RECOVERING ATTORNEYS' FEES.—In any action under this section, the prevailing party shall have all costs and expenses, including reasonable attorneys' fees, paid for by the losing party, unless the ruling court finds that the payment of such costs and expenses would be manifestly unjust.

SA 4032. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 401, line 18, strike "$100" and insert "$1,000".

SA 4033. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 407, strike line 10 and all that follows through page 429, line 7, and insert the following:

(c) PERIOD OF AUTHORIZED ADMISSION.—

(1) IN GENERAL.—An alien may be granted blue card status for a period not to exceed 2 years.

(2) RETURN TO COUNTRY.—At the end of the period described in paragraph (1), the alien shall return to the country of nationality or last residence of the alien.

(3) ELIGIBILITY FOR NONIMMIGRANT VISA.—On return to the country of nationality or last residence of the alien under paragraph (2), the alien may apply for any nonimmigrant visa.

(d) LOSS OF EMPLOYMENT.—

(1) IN GENERAL.—The blue card status of an alien shall terminate if the alien is not employed for at least 60 consecutive days.

(2) RETURN TO COUNTRY.—An alien whose period of authorized admission terminates under paragraph (1) shall return to the country of nationality or last residence of the alien.

(e) PROHIBITION OF CHANGE OR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—An alien with blue card status shall not be eligible to change or adjust status in the United States.

(2) LOSS OF ELIGIBILITY.—An alien with blue card status shall lose the blue card status if the alien—

(A) files a petition to adjust status to legal permanent residence in the United States; or

(B) requests a consular processing for an immigrant or nonimmigrant visa outside the United States.

SA 4034. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 409, line 19, strike "$400" and insert "$1,000".

SA 4035. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike section 231.

SA 4036. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 129, beginning on line 15, strike all through page 130, line 16, and insert the following:

"(a) PROTECTION OF VULNERABLE PERSONS.—A person who is seeking protection, classification or status, as defined in subsection (b), shall not be prosecuted under section 1028, 1542, 1544, 1546 or 1548, of this title, or section 275 or 276 of the Immigration and Nationality Act (8 U.S.C. 1325 or 1326), in connection with the person's entry or attempted entry into the United States until the person's application for such protection, classification, or status has been adjudicated and denied in accordance with the Immigration and Nationality Act.

"(b) DEFINITION.—For purposes of this section, a person who is seeking protection, classification, or status is a person who—

"(1) has filed an application for asylum under section 208 of the Immigration and Nationality Act, withholding of removal under section 241(b)(3) of such Act, or relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment under title 8 of the Code of Federal Regulations, or after apprehension indicates without delay an intention to apply for such protection and promptly files the application;

"(2) has been referred for a credible fear interview, a reasonable fear interview, or an asylum-only hearing under section 235 of the Immigration and Nationality Act or title 8 of the Code of Federal Regulations; or

"(3) applies for classification or status under section 101(a)(15)(T), 101(a)(15)(U), 101(a)(27)(J), 101(a)(51), 216(c)(4)(C), 240A(b)(2) or 244(a)(3) of the Immigration and Nationality Act (as in effect on March 31, 1997).

"(c) SAVINGS PROVISION.—Nothing in this section

* * *

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. SMITH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on May 16, 2006, at 10 a.m., to conduct a hearing on the nominations of Mr. James Lambright, of Missouri, to be President, Export-Import Bank of the United States; Mr. Armando J. Bucelo, Jr., of Florida, to be a member of the Board of Directors of the Securities Investor Protection Corporation; Mr. Todd S. Farha, of Florida, to be a member of the Board of Directors of the Securities Investor Protection Corporation; Mr. Jon T. Rymer, of Tennessee, to be Inspector General, Federal Deposit Insurance Corporation; Mr. John Cox, of Texas, to be Chief Financial Officer, U.S. Department of Housing and Urban Development; and Mr. William Hardiman, of Michigan, to be a member of the Board of Directors of the National Institute of Building Sciences.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. SMITH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on May 16, 2006, at 2 p.m., to conduct a hearing on the "Role of Hedge Funds in our Capital Markets."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SMITH. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, May 16, 2006, at 10 a.m., on the Transportation Security Administration's Transportation Worker Identification Credential—TWIC—Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SMITH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, May 16 at 10 a.m. The purpose of this hearing is to receive testimony regarding the status of the Yucca Mountain Repository Project within the Office of Civilian Radioactive Waste Management at the Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. SMITH. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, May 16, 2006, at 10 a.m., in 215 Dirksen Senate Office Building, to consider the nomination of Susan C. Schwab to be United States Trade Representative, with the rank of Ambassador Extraordinary and Plenipotentiary, Executive Office of the President, vice Robert J. Portman.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. SMITH. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in Open Executive Session on Tuesday, May 16, 2006, in 215 Dirksen Senate Office Building, to consider favorably reporting the nomination of W. Ralph Basham, of Virginia, to be Commissioner of Customs, Department of Homeland Security, vice Robert C. Bonner, resigned.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SMITH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 16, 2006, at 9:30 a.m. to hold a hearing on Energy Security and Oil Dependence.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. SMITH. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in Open Executive Session on Tuesday, May 16, 2006, to review and make recommendations on proposed legislation implementing the U.S.-Oman Free Trade Agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. SMITH. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Retirement Security and Aging, be authorized to hold a hearing during the session of the Senate on Tuesday, May 16, 2006 at 10 a.m. in SD-430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SMITH. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet Tuesday, May 16, 2006, at 9:30 a.m. in Room 226 of the Dirksen Senate Office Building.

Witness List

Panel I: Anita S. Earls, Director of Advocacy, University of North Carolina Center for Civil Rights, Chapel Hill, North Carolina; Pamela S. Karlan, Kenneth and Harle Montgomery Professor of Public Interest Law, and Associate Dean for Research and Academics, Stanford University School of Law, Stanford, California; Keith Gaddie, Professor, Department of Political Science, University of Oklahoma, Norman, Oklahoma; Theodore S. Arrington, Chair, Department of Political Science, University of North Carolina, Charlotte, Charlotte, North Carolina; and Richard H. Pildes, Sudler Family Professor of Law, New York University School of Law, New York, New York.

SELECT COMMITTEE ON INTELLIGENCE

Mr. SMITH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 16, 2006 at 10:30 a.m. to hold a confirmation hearing on Kenneth Wainstein to be Assistant Attorney General for National Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. SMITH. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, May 16, at 2:30 p.m.

The purpose of the hearings is to receive testimony on the following bills: S. 1686, a bill to amend the Constitution Heritage Act of 1988 to provide for the operation of the National Constitution Center; S. 2417 and H.R. 4192, bills to authorize the secretary of the Interior to designate the President William Jefferson Clinton birthplace home in Hope, Arkansas, as a national historic site and unit of the National Park System, and for other purposes; S. 2419 and H.R. 4882, bills to ensure the proper remembrance of Vietnam Veterans and the Vietnam War by providing a deadline for the designation of a visitor center for the Vietnam Veterans Memorial; S. 2568, a bill to amend the National Trails System Act to designate the Captain John Smith Chesapeake National Historic Trail; S. 2627, a bill to amend the Act of August 21, 1935, to extend the authorization for the National Park System Advisory Board, and for other purposes; and S. Res. 468, a resolution supporting the continued administration of Channel Islands National Park, including Santa Rosa Island, in accordance with the laws (including regulations) and policies of the National Park Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, on behalf of Senator BAUCUS, I ask unanimous consent that the following fellows and interns of the Finance Committee be permitted floor privileges during the Senate's consideration of S. 2611, the immigration bill:

Lauren Shields, Caroline Ulbrich, Laura Kellams, Tiffany Smith, and Tara Rose.

MEASURE PLACED ON THE CALENDAR—H.R. 4954

Mr. FRIST. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the second time.

The assistant legislative clerk read as follows:

A bill (H.R. 4954) to improve maritime and cargo security through enhanced layered defenses, and for other purposes.

Mr. FRIST. In order to place the bill on the calendar, under the provisions of rule XIV, I object to further proceeding.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 107-252, Title II, Section 214, appoints the following individual to serve as a member of the Election Assistance Board of Advisors: Wesley R. Kliner, Jr. of Tennessee.

MEASURE READ THE FIRST TIME—S. 2810

Mr. FRIST. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 2810) to amend title XVIII of the Social Security Act to eliminate months in 2006 from the calculation of any late enrollment penalty under the Medicare part D prescription drug program and to provide for additional funding for State health insurance counseling programs and area agencies on aging, and for other purposes.

Mr. FRIST. Mr. President, I ask unanimous consent for its second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

RELATIVE TO THE DEATH OF FORMER SENATOR JACOB CHIC HECHT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 481, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 481) relative to the death of Jacob Chic Hecht, former United States Senator for the State of Nevada.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, yesterday morning in Las Vegas Chic Hecht died. Chic Hecht was a former Senator and a fellow Nevadan. On behalf of the entire Senate family, I extend condolences to Chic's wife, Gail, and their daughters, Leslie and Lori.

Chic was a man very small in stature, but his life has left a big shadow on the State of Nevada and the entire United States. Chic's political career was outstanding, and I consider it a privilege that I could serve with and know him.

When I was Lieutenant Governor of Nevada, Chic served in the Nevada State Senate. When I was elected to the Congress in 1982, he was elected to the Senate. A few years later, I had the good fortune of joining him here.

Chic was someone who had no guile. He made it through his political career recognizing that he was never going to be a dynamic speaker. He spoke with a distinct lisp. But this is something that people in Nevada came to admire and appreciate. People had great affection for him, as you can tell from his first Senate race.

Chic's election to the Senate is described as being the biggest political upset in the history of the State of Nevada. He beat a man who had served in the Senate 24 years, Senator Howard Cannon, a man who had been chairman of the Rules Committee, Commerce Committee and Armed Services Committee. It was a tremendous upset.

Chic was rightfully proud of that election. "Only in America could this happen," he said the night that he beat Howard Cannon. "Put that down. That is what makes America great."

Even Chic's opponents liked and respected him.

In 1988, Chic was beaten by Senator Richard Bryan. But as Senator Bryan said, they were good friends during the race and continued being good friends after. That was Chic Hecht.

As successful as he was in the political field, he was even more successful as an entrepreneur. He made his money in a number of different ways. One was selling women's clothing. The other was in the banking business. He was extremely successful.

But public service called him. In addition to his Nevada legislature and Senate experience, he also served as Ambassador to the Bahamas from 1989 to 1994.

During the 1950s, Chic was a member of the Army. At that time, Chic was an undercover person—a spy. He was known for this his entire life. During some of his campaigns, people checked to find out if, in fact, this man of small stature really was a spy because if that was not the case, they planned to use it against him in the campaign. But they couldn't, because it was true. He served with distinction in the military.

Here's another example of the kind of man Chic was.

We had today, as we have for many decades, our Tuesday caucuses. During the time Senator Hecht served in the Senate, he attended the Republican Tuesday caucus. Well, one Tuesday, JOHN KERRY was late coming to the Democratic caucus, and he came across Chic Hecht, who was in a state of distress because while eating lunch with the Republican caucus, he had some food lodged in his throat. He couldn't breathe. He staggered out of the Republican conference and, fortuitously, JOHN KERRY recognized that something was wrong. Senator KERRY applied the Heimlich maneuver, and the food came out. Chic Hecht was told by the doctors that he had a matter of a few seconds to live.

Now, to show the kind of man Chic Hecht was, every Christmas, even though he was proud of his Jewish faith, every Christmas thereafter, recognizing that that was a day of celebration for Senator KERRY, Senator Hecht called JOHN KERRY to tell him that he appreciated his having saved his life.

And what a life it was.

Nevada has had a great loss. I hope that Chic's family recognizes the greatness of this man. I know there are many in Nevada who do.

As strongly as I feel about Chic Hecht, his friends run deep in our state. My good friend Art Marshall, who is a good, strong Democrat and has helped me on everything that I have ever done, spoke with admiration of his deep friendship with Chic Hecht. They were from different political parties, but always had a very good relationship. Art called me nearly every day to tell me how Chic was doing while he wrestled with cancer.

Today, Chic's suffering is over. He will be missed.

In time, the pain of his loss will pass, but never our memories and appreciation for this man. Chic Hecht, Senator from Nevada.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 481) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 481

Whereas Jacob Chic Hecht served as a special agent in the United States Army Intelligence Corps;

Whereas Jacob Chic Hecht served the people of Nevada with distinction from 1983 to 1989 in the United States Senate;

Whereas Jacob Chic Hecht served as United States Ambassador to the Bahamas from 1989 until 1994:

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of Jacob Chic Hecht, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Jacob Chic Hecht.

ARCTIC RESEARCH AND POLICY AMENDMENTS ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration of S. 879, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 879) to make improvements to the Arctic Research and Policy Act of 1984.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment that is at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4028) was agreed to as follows:

(Purpose: To strike the sections regarding Commission awards and representation and reception activities)

On page 2, strike line 7 and all that follows through the end of the bill.

The bill (S. 879), as amended, was ordered to be engrossed for a third reading, was read the third time and passed, as follows:

S. 879

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arctic Research and Policy Amendments Act of 2005".

SEC. 2. CHAIRPERSON OF THE ARCTIC RESEARCH COMMISSION.

(a) COMPENSATION.—Section 103(d)(1) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4102(d)(1)) is amended in the second sentence by striking "90 days" and inserting ", in the case of the chairperson, 120 days, and, in the case of any other member, 90 days,".

(b) REDESIGNATION.—Section 103(d)(2) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4102(d)(2)) is amended by striking "Chairman" and inserting "chairperson".

ORDERS FOR WEDNESDAY, MAY 17, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:15 a.m. on Wednesday, May 17. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate resume consideration of S. 2611, the Comprehensive Immigration Reform Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, today we have made some progress on the immigration bill. Tomorrow we will continue to work through this complex bill, starting with the Kyl-Cornyn amendment, which is the pending amendment. Senators can expect a vote on this amendment in the morning. I remind everyone again that we still have many amendments to consider and, therefore, I hope Senators will be reasonable and agree to short time agreements.

As a reminder, Senators who have amendments to offer should be working with the bill managers in order to have their amendments debated and considered. Senators can expect a full day tomorrow, with votes throughout the day. I would also say it will be necessary to schedule sessions into the night to consider additional amendments.

I hope we can make great progress during the daylight hours. But if we consume a lot of time on each amendment, it will be necessary to continue into the evening with votes. As we have talked about now for several weeks, it is important that we consider a large number of amendments, a broad range of amendments, many to each section of this bill. It will require the cooperation of all of our colleagues with this goal in mind.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment as a further mark of respect for former Senator Chic Hecht.

There being no objection, the Senate, at 7:05 p.m., adjourned until Wednesday, May 17, 2006, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate May 16, 2006:

THE JUDICIARY

FRANCISCO AUGUSTO BESOSA, OF PUERTO RICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF PUERTO RICO, VICE JUAN M. PEREZ-GIMENEZ, RETIRED.

REFORM BOARD (AMTRAK)

R. HUNTER BIDEN, OF DELAWARE, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS, VICE MICHAEL S. DUKAKIS, TERM EXPIRED.

DONNA R. MCLEAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS, VICE JOHN ROBERT SMITH, TERM EXPIRED.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

JOHN H. HILL, OF INDIANA, TO BE ADMINISTRATOR OF THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, VICE ANNETTE SANDBERG, RESIGNED.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

JOHN RAY CORRELL, OF INDIANA, TO BE DIRECTOR OF THE OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, VICE JEFFREY D. JARRETT.

CONFIRMATION

Executive nomination confirmed by the Senate Tuesday, May 16, 2006:

THE JUDICIARY

MILAN D. SMITH, JR., OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

EXTENSIONS OF REMARKS

CONGRATULATING DR. GENE BOLLES ON RECEIVING THE AMERICAN ASSOCIATION OF NEUROLOGICAL SURGEONS' 2006 HUMANITARIAN AWARD

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. UDALL of Colorado. Mr. Speaker, I rise today to congratulate Dr. Gene Bolles on receiving the American Association of Neurological Surgeons' 2006 Humanitarian Award. The award recognizes "members who have done extraordinary work in neurosurgery, going way beyond their normal practice and bringing their skills to areas around the world that desperately need them." I can think of no better recipient for this honor than Dr. Bolles.

Dr. Bolles practiced neurosurgery in Boulder for 32 years before serving as chief of neurosurgery at the Landstuhl Regional Medical Center in Germany. There he repaired the shattered bodies of our U.S. soldiers who had been wounded in Afghanistan and Iraq. Now Dr. Bolles is in Kurdistan helping Iraqi physicians better care for civilians wounded in the war.

Gene Bolles has been using his skills and talent for humanitarian good for over twenty-five years. He was the first person to establish a neurosurgery program in Belize City. He has traveled to Indonesia several times with the purpose of providing medication to and performing surgery on the indigenous people there. Each year, he makes a trip to Albania to educate neurosurgeons and to keep them abreast of the latest technologies. In recent years, Dr. Bolles has used his first-hand experience to draw attention to the living casualties from the United States' actions in Iraq and Afghanistan.

Dr. Gene Bolles is a remarkable man. I greatly admire his energy, commitment and humanity. I ask my colleagues to join me in congratulating Dr. Bolles for his incredible work for people around the world and in particular for his work on behalf of our soldiers abroad. He is a great Coloradan and a great American. I wish him continued health and happiness in the future.

* * *

TRIBUTE TO DR. ALVIN D. GREENBERG AS HE RECEIVES THE 2006 TORCH OF LIBERTY AWARD

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Ms. DELAURO. Mr. Speaker, in my hometown of New Haven, Connecticut, friends, family and colleagues will gather to pay tribute to one of our community's most outstanding citizens and a dear friend of mine. I am proud to stand today and join the Connecticut Anti-Defamation League as they honor Dr. Alvin D. Greenberg with the 2006 Greater New Haven Torch of Liberty Award.

Our communities would not be the same without the efforts of individuals whose work truly benefits our families and neighborhoods. Each year, the Connecticut Anti-Defamation League presents the prestigious Torch of Liberty Award to an outstanding leader in the community, recognizing their unique commitment and dedication. Alvin is a remarkable reflection of the true spirit of community service. With extraordinary compassion and generosity, he has touched the lives of thousands of families throughout Greater New Haven through both his professional career and volunteer efforts.

Currently serving as the President of Temple Medical Center, Administrator of Yale-New Haven Ambulatory Services Corporation, Director of the Neuro-Rehabilitation Center and as a consultant in neurosurgery at Yale-New Haven Hospital, Dr. Greenberg continues to remain an active member of our medical community. His commitment and dedication to his patients and all of those who receive services at these various facilities is unparalleled. Throughout his distinguished career, Dr. Greenberg's integrity, collegiality, and expertise have earned him the respect not only of his colleagues, but of members of the medical field across the state. In addition to his professional contributions, Dr. Greenberg has dedicated countless hours to a variety of local organizations. The Union Trust Bank, the Juvenile Diabetes Research Foundation of Greater New Haven, and the Shubert Performing Arts Theater are just a few of those across the region who have benefited from his work.

It is not often that you find individuals who so willingly devote both their professional and personal time and energies to improving the quality of life for others. In his lifetime of good work and compassionate service, Dr. Greenberg has done just that. I am honored to rise today and join his wife, Barbara; his three children, family, friends, and colleagues to pay tribute to my good friend Dr. Alvin Greenberg for the many contributions he has made to Greater New Haven. I cannot think of a more appropriate honor than the Torch of Liberty Award to recognize the generosity and commitment Alvin has shown to our community. He has truly made a difference.

IN SUPPORT OF CHARTER SCHOOLS

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Ms. MCCOLLUM of Minnesota. Mr. Speaker, today, I rise in support of the seventh annual National Charter Schools Week, and to congratulate charter schools and their students, parents, teachers, and administrators for their commitment to innovation in public education.

I am proud to represent the district that is home to the first charter school in the United States, City Academy, which opened in St. Paul, Minnesota in 1992. Minnesota was the first state to pass charter school legislation in 1991. Today there are more than 120 charter schools in Minnesota that enroll more than 20,000 students.

Charter schools fulfill an important role in our nation's public education system. They encourage new ways of learning and require strong partnerships with the community. Charter schools often provide children who struggle in a traditional classroom the opportunity to thrive and grow.

In St. Paul and surrounding community there are more than two dozen charter schools. Each one provides a unique learning environment for its students—from the Academia Cesar Chavez Charter School which integrates Latino cultural values in its learning environment to the Community of Peace Academy that provides a violence-free environment for inner city children. Each of the charter schools in my district have focused their missions around a core set of values in order to provide a quality educational experience for their students.

It is with appreciation that I rise today to commend the teachers and students of charters schools, and the communities that support them, for their contributions and achievements.

* * *

TRIBUTE TO STUDENTS FROM MUNSTER HIGH SCHOOL

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. VISCLOSKY. Mr. Speaker, it gives me great pleasure to pay tribute to the outstanding achievements of an exceptional group of students from Munster High School, located in Indiana's First Congressional District. From April 29 to May 1, 2006, these students competed in the National Finals of the We the People: The Citizen and the Constitution program held in Washington, DC. For

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

their knowledge and understanding of the American government, these extraordinary young people were awarded the Central Region Award at this year's competition.

The We the People program, administered by the Center for Civic Education, is a program that reaches over 28 million elementary, middle, and high school students. The goal of the program is to provide students with an understanding of the fundamentals of the Constitution and the Bill of Rights. The program helps students to understand their rights under the American governmental system.

The people of Munster, as well as the entire Northwest Indiana community, can be proud of the following members of this truly remarkable class of students: Sara Brown, Emily Clark, Andrea Coulis, Kim Dooley, Reem (Sara) Farooq, Scott Goodwin, Lauren Hudak, Hannah Huebner, Casey Jedrzejczak, Alexis Jeter, Joseph Kasenga, Emily Lyness, Thomas Paliga, Shobba Pai, Samantha Skrobot, Tamiko Toyama, Lindsay Weiss, and Matt Westerlund. The teacher for this award winning team was Michael Gordon.

Mr. Speaker, I would like to once again extend my most heartfelt congratulations to the members of Munster High School's We the People program for their commitment to excellence, as well as to the faculty members who have instilled in their students the desire to succeed. The values exhibited by these young people and their interest in the history and fundamentals of our great Nation serve to inspire us all. I am proud to represent these fine individuals in Congress, and I am proud to have been given this opportunity to recognize these future leaders. I look forward to their future achievements as they continue to rise to the top.

TRIBUTE TO THE PFIZER PLANT RESEARCH LABORATORY AT THE NEW YORK BOTANICAL GARDEN

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. SERRANO. Mr. Speaker, it is with great pleasure that I rise today to honor The New York Botanical Garden as it celebrates the grand opening of the Pfizer Plant Research Laboratory on May 16, 2006. The opening marks the completion of the Garden's science campus, and is the only one of its kind at any botanical garden in the country.

Founded in 1891, The New York Botanical Garden is one of the world's great collections of plants, the region's leading educational center for gardening and horticulture, and an international center for plant research.

The Botanical Garden's presence in the Bronx adds to the borough's diversity and provides a temporary oasis from the ubiquitous presence of concrete and steel in the city.

Realizing the integral role it must play in the quest to unlock the secrets of plants in order to cure diseases and protect the earth, the Garden has created the Pfizer Plant Research Laboratory at The New York Botanical Garden with leadership support from Pfizer Inc. and The Pfizer Foundation.

The Pfizer Plant Research Laboratory marks a new era of scientific research at The New York Botanical Garden's International Plant Science Center. The laboratory is the latest addition in The Botanical Garden's comprehensive 15-year renaissance and will further its urgent mission to discover, decipher, document, and defend Earth's vast biodiversity.

The two-story, 28,000-square-foot laboratory provides highly advanced scientific research facilities, including robotic workstations and a high-throughput DNA sequencer. It forms a center for collaborative research in molecular systematics and plant genomics, serving scientists and graduate students not just from The Botanical Garden, but also from the region and indeed the whole world. The Pfizer Laboratory is the largest and finest laboratory research facility in any botanical garden in the United States, enabling scientists to reconstruct the genealogy of plants and fungi and to probe the mysteries of genes and genomes.

Mr. Speaker, it is only fitting for a structure that will house such important and groundbreaking work to be an architectural gem. Indeed, the Lab designed by Susan T. Rodriguez and Polshek Partnership Architects is nothing short of breathtaking. The freestanding building is located on a site across from the Steere Herbarium and overlooks the scenic Twin Lakes. The building's integration into its natural setting reinforces the vital importance of the natural world in the scientists' research. The exterior of the laboratory complements the design and materials of the adjacent Steere Herbarium and Library Building. Large windows in the labs and graduate study suites look out on the built and natural landscapes, and an inviting courtyard provides space for all types of gatherings.

I salute The New York Botanical Garden for its continued efforts not only to provide a beautiful museum of plants but also an environment for important research and development. I also salute Pfizer, a product of our sister borough, for its commitment to further mankind's understanding of the plant world. It is their shared hope, and indeed, mine, that one day this research will yield beneficial knowledge to curtail human suffering.

Mr. Speaker, may the collaboration of these two respected institutions provide fascinating and useful discoveries for generations to come.

11TH ANNUAL EXCELLENCE IN BUSINESS AWARDS

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize the 11th Annual Excellence in Business Award honorees for making outstanding contributions to the central San Joaquin Valley.

The recipients of the 11th Annual Excellence in Business Award are as follows:

Agriculture—Kevin and Diane Herman, The Specialty Crop Co.

Charitable/Nonprofit—Peter Carey, Self-Help Enterprises.

Financial/Banking/Insurance—County Bank.

Health Care—Family Health Care Network.

Manufacturing—ADCO Manufacturing.

Professional Services—Diane Anderson, Agricultural & Priority Pollutants Laboratory Inc.

Real Estate/Construction—Dirk Poeschel, Dirk Poeschel Land Development Services.

Retail/Wholesale—The Charles McMurray Company.

Small Business—Nelson's ACE Hardware.

Hall of Fame—Jack Stone, Stone Land Co.

Mr. Speaker, I rise to congratulate each of the Excellence in Business Award honorees for their leadership and numerous contributions to the community. I urge my colleagues to join me in wishing each recipient many more years of continued success.

PATARA: THE ORIGINS OF AMERICAN DEMOCRACY, 1800 YEARS AND 7,000 MILES AWAY

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. STEARNS. Mr. Speaker, the city of Patara in Turkey sports a fantastic beach that sprawls for more than 11 miles. It recently rated number one on the London Sunday Times' list of the world's best beaches. But Patara is worth our attention for more than sand and surf. An archeological team led by Akdeniz University Professors Fahri Isik and Havva Iskan Isik recently unearthed an ancient parliament building in Patara—the meeting place of the first federal republic in recorded human history. The building, called the Bouleuterion, housed at least twenty-three city-states of the Lycian League, which existed along the Mediterranean coast of Turkey from about 167 BC until 400 AD.

The Lycian League's republican governing system, utilizing proportional representation, was unparalleled in the ancient world, and fascinated the pioneering philosophers of the Enlightenment, particularly Montesquieu. Depending on the size of the member cities, each elected one, two or three representatives to the Lycian parliament. When cities were too small, two or three banded together to share one representative vote. The six largest cities in the League had the right to three votes. The parliament elected a president, called the "Lyciarch," which at various times served as the League's religious, military, and political leader. Although it is contested, there is evidence to suggest that women could be, and in fact were, Lyciarch.

In Book IX of Montesquieu's Spirit of the Laws, after charting the highs and lows of the earliest republics, he stresses the utility of a confederacy. He cites the Lycian League as an example: "It is unlikely that states that associate will be of the same size and have equal power. . . . If one had to propose a model of a fine federal republic, I would choose the republic of Lycia."

Montesquieu's interest in the Lycian way of government would prove central to our founding. Thanks to his writings, in the debates about our own Constitution, Alexander Hamilton and James Madison cited the Lycian

League as a model for our own system of government.

As well, in literal linkage, the semi-circular configuration of seats in this House of Representatives is exactly the same seating arrangement as in the Bouleuterion in Patara. The Bouleuterion's throne-like perch, where the elected Lyciarch sat, is much the same as the seat of the Speaker of the House of Representatives.

On June 30, 1787, at the Constitutional Convention in Philadelphia, James Madison appealed to the delegates' understanding of the Lycian League. The Convention had just rejected the "New Jersey Plan", which called for a rather modest revision of our Nation's first constitutional framework, the failed Articles of Confederation. The delegates resolved to come up with a new constitution, but had few notions in common of how it should proceed.

A delegate from Connecticut, Oliver Ellsworth, had just finished arguing for the Articles of Confederation's principle that every State should be equal in the national arena. He specifically asked, "Where is or was a confederation ever formed, where equality of voices was not a fundamental principle?"

James Madison replied that the Lycian League was different, according representation in reflection of actual size. His Virginia plan provided for a bicameral legislature, with both houses' representation based on States' population. He eventually had to accept a compromise, with a people's house of proportional representation, our House of Representatives, in tandem with a Senate of equal State representation.

Hamilton and Madison also cited the Lycian League in defense of representative democracy. While direct rule usually resulted in either tyranny or anarchy, the two founders felt that delegation of authority to elected representatives would allow the government to function properly.

The ideas and debates of our founding fathers may seem archaic to our modem times, but we face questions of federalism every day in this Congress. A federalist system of government divides power between a central authority (the Federal Government) and constituent political units (the States and localities). The delineation of that power comes into question particularly often on the Energy & Commerce Committee, of which I am a Subcommittee Chairman, whether we are debating the proper authority over electricity transmission across State lines, the regulation of hazardous waste, or the transmission of information through our telecommunications infrastructure.

Meanwhile, whether we are helping Iraq and other Middle Eastern countries develop representative democratic systems, or providing advice to the burgeoning democracies of post-Soviet Eastern Europe, we effectively reenact the Constitutional Convention's debates about the Lycian League and the nature of democracy around the world. We are doing what we can to help spread freedom and democracy, in our own image. Unfortunately, while it is relatively easy to conceive of the best model of government—as our founding fathers did, and Montesquieu did before them—the diversity of the real world, in geography, ethnicity, religion, and history, makes applying that best model quite difficult in practice.

The British archeologist George Bean highlighted some of the unique features of the Lycian League—features not dissimilar to our own country's: "Among the various races of Anatolia, the Lycians always held a distinctive place. Locked away in their mountainous country, they had a fierce love of freedom and independence, and resisted strongly all attempts at outside domination; they were the last in Asia Minor to be incorporated as a province into the Roman Empire."

Our experience so far in guiding the nascent democracy in Iraq should certainly illustrate that representative democracy may not be perfectly replicable, at least overnight.

Fifteen years ago, all a visitor to Patara would have noticed were the tops of a few old stones. Today, the excavations at Patara have unearthed the remains of an entire city. The archeological team has rescued numerous buildings and items from the sand and scrub brush, besides the Bouleuterion parliament building, including: a large necropolis; a Roman bath; a sizeable semicircular theater; a sprawling main avenue leading to the market square; a Byzantine basilica (one of 22 churches once packed into Patara); one of the world's oldest lighthouses; and a fortified wall.

I would encourage everyone to visit Patara, for its beauty and for its archeological significance. The excavation site is 10–15 minutes from the glorious beach, and will be opened to the public in 2007. While we wait, one of Turkey's largest museums, the Antalya Archaeological Museum, displays many of the finds from Patara and the surrounding area.

We owe a great debt to Turkey's Ministry of Culture and the Akdeniz University in Antalya for their dedication of time and money to bringing the ancient ruins of Patara out of the dust and back into our lives.

In closing, I would like to thank: Dr. Gul Isin, Associate Professor of Archeology at Akdeniz Antalya in Turkey, who has been diligently working with Dr. Fahri Isik and Dr. Havva Iskan Isik to uncover the mysteries of the Patara site; Professor James W. Muller of the University of Alaska, Anchorage, who dissected how the Lycian League affected the founding fathers; and the American Friends of Turkey, the Friends of Patara, and former Representatives Stephen Solarz and Robert Livingston, who graciously introduced me to the archeological findings at Patara, and the important work of Professors Isin and Muller.

BAY AREA RIDGE TRAIL TRIBUTE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. GEORGE MILLER of California. Mr. Speaker, I rise today to invite my colleagues to join me in recognizing the completion of the 300th mile of the San Francisco Bay Area Ridge Trail on June 3, 2006.

The Bay Area Ridge Trail was the vision of William Penn Mott Jr., who served as the head of the East Bay Regional Park District, California State Parks and as the Director of the National Park Service.

Through a lifetime of service, Mr. Mott saw the importance of preserving ridge top lands for scenic, watershed, and habitat values. A key strategy for gaining public support for a significant program of land conservation, in his view, was to create responsible, appropriate and managed ways for the public to access and enjoy these lands through trails.

A "Bay Area ridge trail," in the grand tradition of the Appalachian and Pacific Crest trails, could connect people to places around them and build support for land preservation and protection.

To bring this vision into reality, a group of public land managing agencies, nonprofit organizations, and local trails and community advocates began meeting in 1987 to plan the route of a ridgeline trail to connect protected land areas and promote additional land preservation. These initial meetings were led by the National Park Service and the People for Open Space (now, the Greenbelt Alliance).

In 1988, this planning process led to the birthing of a new nonprofit organization known as the Bay Area Ridge Trail Council to coordinate the efforts of these public and private partners and promote the concept of the trail to the public.

I am proud to have played a role in the success of the trail by helping to win congressional support for it.

The first trail was dedicated on May 13, 1989, in San Mateo County in the Wunderlich and Huddart County Parks and Purissima Creek Redwoods Open Space Preserve. Since 1989, a series of trails have been dedicated as part of the growing Ridge Trail system.

On June 3, 2006, the 300th mile will be dedicated in my district at the Crockett Hills Regional Park, in Contra Costa County. The total trail is expected to be over 500 miles in length; therefore this dedication brings the trail to more than halfway toward its completion.

The Council today is an independent nonprofit organization with a staff of six, a board of directors of 32, seven active County Committees organizing efforts locally, volunteers numbering in the hundreds, and over 3,500 members working together to complete the trail. As an organization, the Council has many strengths: a diverse and active Board of Directors; a skilled and committed staff; strong public name recognition; a compelling vision and clear mission; numerous strong partnerships with public agencies; strong political support from federal, state, county, and local governments; and committed local volunteer support.

No other organization in the Bay Area fills the important niche of providing public access to a regional network of ridgeline trails and open spaces and connecting local trails and communities to one another.

Beyond the Council, many public partners and nonprofit organizations work to make the Ridge Trail a reality. Our public agency partners also bring many strengths. The Bay Area enjoys a multitude of public agencies, local governments, and special districts committed to the preservation and protection of land and to providing public recreational access. These organizations have extremely capable and committed boards, directors, and staffs. Many of these organizations also enjoy dedicated public funding from parcel tax assessments, sales tax or general fund support that allows them to pursue a capital program of land acquisition and trail development.

As many of these partners helped to give birth to the Bay Area Ridge Trail Council, they have remained committed to helping complete the vision. The region also enjoys some of the most respected, skilled and well-funded land trusts in the nation that partner with the Council where our land acquisition needs overlap.

Collectively, these public and private agencies have already acquired much of the land needed for the next 100 miles of the Ridge Trail.

Some of the partners involved in the Bay Area Ridge Trail include The Golden Gate National Recreation Area, the John Muir National Historic Site, the Presidio Trust, the California Coastal Conservancy, California State Parks, the California Department of Fish and Game, the East Bay Regional Park District, the Mid Peninsula Regional Open Space District, Santa Clara County Parks Department, Santa Clara County Open Space Authority, San Mateo County Parks, the City of San Francisco, Marin County Open Space District, Sonoma County Agricultural Preservation and Open Space District, Sonoma County Regional Parks, Napa County, Solano County, the Sonoma Land Trust, Solano Land Trust, the Land Trust of Napa County, East Bay Municipal Utility District, San Francisco Water Department, Marin Municipal Water District.

The Bay Area Ridge Trail creates many public benefits from helping to preserve uplands habitat and watershed lands, protecting scenic vistas valued by communities and providing the public with access to these vista points. By preserving a corridor of green land, the trail also helps define the edges of urban development, while creating managed ways for the urban public to enjoy these open areas.

Through their involvement in building, maintaining and enjoying the Ridge Trail, trail users, community members, and private landowners can be given an opportunity to give back to their community and steward the land. The trail also helps with environmental restoration as it can be sited in a way to reduce environmental damage while providing access to the outdoors. The trail provides a recreational outlet in an increasingly dense metropolitan region; and increasing the health and well being of all who use the trail, a critical component in addressing the public health concern of obesity. And, in some cases, it can provide an alternative to using a private auto to travel from one's home to school or place of business.

I commend the Bay Area Ridge Trail Council and its partners on completing the 300th mile of the Bay Area Ridge Trail on June 3, 2006, in conjunction with National Trails Day and wish the Council and all its partners continued success with this important effort.

IN HONOR OF DR. EILENE GALLOWAY'S 100TH BIRTHDAY

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. GORDON. Mr. Speaker, I rise today to honor a distinguished American, Dr. Eilene Marie Galloway, on her 100th birthday. Dr. Galloway has lived a life of distinguished service to this Nation and to her profession, and it is fitting that we pause to recognize her accomplishments and to wish her well as she attains this significant milestone.

Dr. Galloway was born Eilene Marie Slack in Kansas City, Missouri on May 4, 1906—less than three years after the Wright Brothers achieved the first airplane flight. She married George Galloway in 1924. They had two sons, David and Jonathon, who have given her six grandchildren and five great-grandchildren. Dr. Galloway graduated from Swarthmore College in 1928 and holds honorary doctorates from Swarthmore and Lake Forest College. She is a proud member of Kappa Alpha Theta sorority.

Throughout her professional career, Dr. Galloway has been an influential force in the development and analysis of domestic and international space policy and law. When Sputnik was launched on October 4, 1957, she was working as a Senior Specialist in International Relations for the Legislative Reference Service (the forerunner of today's Congressional Research Service) at the Library of Congress. She was immediately asked to work with Senate Majority Leader Lyndon B. Johnson and Senate Armed Services Committee Chairman Richard Russell to develop America's response to the Soviet Union's space initiative. In that capacity, she helped to draft the National Aeronautics and Space Act of 1958, which established NASA and has remained an enduring framework for U.S. civil space policy.

From that time forward, Dr. Galloway has worked tirelessly with the U.S. Congress and as a consultant to NASA, the Federal Communications Commission, and the State Department to assess alternatives and develop approaches for U.S. and international space policy and law regarding the exploration and utilization of outer space. The international aspects of space activities have been a major recurring theme of Dr. Galloway's work. For example, she served as a consultant to Majority Leader Johnson in 1958 when he addressed the United Nations and recommended the creation of a Committee on Peaceful Uses of Outer Space (COPUOS). She has worked with COPUOS for decades, whether serving as part of the U.S. delegation or as liaison to COPUOS for the International Astronautical Federation (IAF). During that time, she helped draft the U.N. treaties that govern exploration of outer space, the Moon, and other celestial bodies. She also was instrumental in creating the International Institute of Space Law (IISL) in 1958, which has served as the forum for legal scholars and others from around the world to debate the myriad legal issues associated with space exploration and utilization.

Dr. Galloway has continued to be an active participant in space policy and space law debates for almost five decades, as well as serving as a resource to researchers and the media on historical and current space policy issues and mentoring new members of the space policy and space law communities. Her contributions to her profession have led to her selection as an Honorary Fellow of the American Institute of Aeronautics and Astronautics—the highest rank possible in the Institute, election as a Fellow of the American Astronautical Society, receipt of the Lifetime Achievement Award from the International Institute of Space Law, receipt of the Theodore Von Karman Award from the International Academy of Astronautics, receipt of the Lifetime Achievement Award from Women in Aerospace and numerous other awards and citations.

Mr. Speaker, Dr. Eilene Marie Galloway has served her profession and this country with distinction for many years. She is a worthy role model for young women and men everywhere, and she is an inspiration to all of us. I know my colleagues in the U.S. Congress join me in wishing Dr. Galloway a very happy 100th birthday.

TRIBUTE TO HOWARD ROITMAN

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to Mr. Howard Roitman. On May 12, 2006, Mr. Roitman is leaving the Colorado Department of Public Health and Environment to assume the position of Deputy Executive Director of the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) here in Washington.

Howard Roitman has worked on important environmental issues and programs for the State of Colorado for nearly 20 years. He joined the Colorado Department of Public Health and Environment in 1987 to serve as manager of the Uranium Mill Tailings Remedial Action Program. He later served as director of the department's combined remedial action and Superfund oversight programs before becoming director of the Hazardous Materials and Waste Management Division. Since January 2003 he has been the department's director of environmental programs.

His service has resulted in a safer, higher quality of life for all Coloradans. He was personally involved or oversaw efforts to cleanup radioactive waste piles, superfund sites, waste disposal facilities and pollution control and materials management at many industries and businesses across the State.

In addition to his service at the Department of Public Health and Environment, he was past president the Association of State and Territorial Solid Waste Management Officials, an organization that supports the environmental agencies of the states and trust territories. He also served as the chair of the Environmental Council of the States compliance committee and as chair of the Council's subcommittee on Long Term Stewardship. In his work on the subcommittee, he was responsible for successful negotiation of a memorandum of understanding with the U.S. Environmental Protection Agency and the U.S. Departments of Energy, Defense, and Interior. He also is recognized as a national spokesman for states on federal facilities issues. He also is on the faculty of the University of Denver's University College Environmental Policy and Management Program.

Prior to his work with the State of Colorado, he worked for the Solicitor's Office and the Office of Surface Mining for the U.S. Department of Interior's Denver regional office and private consulting work in government regulation, natural resources and environmental protection.

Howard Roitman is now moving on to a nationwide organization where he can share his expertise on environmental protection with other States and the Nation. ASTSWMO focuses on the needs of state hazardous waste programs; non hazardous municipal solid waste and industrial waste programs; recycling, waste minimization and reduction programs; Superfund and State hazardous waste cleanup programs; waste management and cleanup activities at federal facilities, and underground storage tank and leaking underground storage tank programs.

Howard Roitman has also spoken eloquently about the need for State-based programs and actions to address climate change. He is one of a growing number of State-based regulators who understand this environmental challenge.

Colorado has benefited from Howard Roitman's strong public service commitment and environmental ethic. I ask my colleagues to thank him for this service and to wish him much success at his new post.

TRIBUTE TO CHIEF FRANCISCO ORTIZ AS HE RECEIVES THE 2006 DISTINGUISHED COMMUNITY SERVICE AWARD

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Ms. DELAURO. Mr. Speaker, today, in my hometown of New Haven, Connecticut, friends, family and colleagues will gather to pay tribute to one of our community's most outstanding citizens and a dear friend of mine. I am proud to stand today and join the Connecticut Anti-Defamation League as they honor New Haven Police Chief Francisco Ortiz, Jr. with the 2006 Distinguished Community Service Award.

We owe a great debt of gratitude to those who dedicate themselves to public service, especially those who serve as law enforcement officials. These brave men and women face dangers and challenges that few of us can imagine. Over twenty-five years ago, Francisco (Cisco) Ortiz joined the New Haven Police Department and, over his career, worked his way through the ranks. In his time with the department he has been assigned to every major unit in the Department serving with both integrity and distinction. There were very few that were surprised when he was selected as Chief of the Department—a role in which he has served for the last several years.

Even more inspiring than his leadership in the Department has been the diversity of roles he has taken on in the community. Volunteer, board member, department liaison—Chief Ortiz has been a strong and vocal advocate for the families and residents of New Haven. Working with such organizations as the Community Consultation Center, Easter Seals/Goodwill Industries, and the New Haven Labor Day Road Race, Chief Ortiz has demonstrated a unique compassion and concern for our community and his efforts have touched the lives of many. Chief Ortiz is also a member of the Juvenile Justice Advisory Committee, the Connecticut Puerto Rican Parade Committee, and the Connecticut Special Olympics Law Enforcement Torch Run. He is also a Senior Fellow and one of the founders of the Yale Child Study Center's Development/Community Policing Program—a program which I have been proud to be a part of. His active participation in our community as a professional, volunteer, and advocate has made all the difference.

Each year, the Connecticut Anti-Defamation League presents the Distinguished Community Service Award to an outstanding leader in the community, recognizing their unique commitment and dedication. Chief Ortiz is a remarkable reflection of the true spirit of community service. I am proud to stand today to join his family, friends, and the many colleagues and community members who have gathered this evening to extend my heart-felt congratulations to my dear friend, Chief Francisco (Cisco) Ortiz, Jr. as he is honored with this very special award. It is a fitting tribute to his many years of service to our community and his continued dedication to improving the quality of life for others.

CONGRATULATING THE WASHINGTON HIGH SCHOOL SCIENCE OLYMPIAD TEAM

HON. G.K. BUTTERFIELD

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. BUTTERFIELD. Mr. Speaker, today I am proud to rise to congratulate the students of the Washington High School Science Olympiad Team for winning the North Carolina State Science Olympiad. Competing against 250 teams from around the state, the young men and women from Washington defeated some of the premier science and math high schools in the State.

Washington High School is becoming known in North Carolina for its excellence in science education. This year's victory represents the second straight year Washington High School has been named North Carolina's top team and the third time in the last four years.

This week they will travel to Bloomington, Indiana, to compete in the National Science Olympiad against equally capable schools from around the Nation. I am confident that the students of Washington High School will demonstrate their expertise again in competing to the best of their abilities with some of the best funded specialty schools in the country.

The students and faculty of Washington High School continue to show they can achieve great things with what little they are given, and it is my hope that my colleagues will agree that with the proper means, these students can achieve anything. Again, I congratulate the students of Washington High School for their great achievements and wish them the best of luck on May 17. We are very proud of them.

"THE ENDANGERED LAND OF RENTER-WORLD"

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. FRANK of Massachusetts. Mr. Speaker, one of the most effective advocates for housing for people of moderate and low income to have served recently in our federal government is Nicolas P. Retsinas. Mr. Retsinas now directs the Joint Center for Housing Studies at Harvard University, and he recently published an extremely important and cogent article in the Boston Globe, on May 5. One of the great mistakes that is made by people who talk about housing policy is to talk as if we are concerned only with promoting homeownership. Homeownership is a very important thing, and increasing the number of people who enjoy it is a desirable goal. But it is also the case that tens of millions of Americans for a variety of reasons, primarily economic, are unlikely ever to be homeowners, and if we do not pay attention to the need for a good stock of affordable rental housing, we will be condemning large numbers of our fellow citizens to substandard lives in many ways. Under the current Administration, as Mr. Retsinas points out, Federal policy badly neglects the needs of those who must rent.

It is true that a bias in public policy against renters unfortunately predates the Bush Administration, but it is this Administration that has greatly exacerbated it by its assault on the various programs by which we provide rental housing at affordable levels for moderate and low-income people. Using his literary device of talking of "Owner-World," and "Renter-World," Mr. Retsinas notes that, "Today parts of Renter-World constitute a desperation sector of America. Poor people, crammed into too-small apartments, struggle to pay for food, rent, transportation, and medical care."

Mr. Speaker, given Mr. Retsinas' experience in administering housing problems, his great scholarly expertise in this subject, and most of all his compassion and understanding of the needs for rental housing as part of a comprehensive national housing policy, I ask that his important article from the May 5 Boston Globe be printed here.

[From the Boston Globe, May 5, 2006]

THE ENDANGERED LAND OF RENTER-WORLD

(By Nicholas P. Retsinas)

Welcome to Renter-World, home to more than 34 million households. Renter-World denizens, aka tenants, comprise all ages. Eighty percent of all twentysomething households rent; so do 4 million senior households. Tenants come in all socioeconomic strata: Twenty percent of renters earn more than $60.000 a year; another 20 percent earn less than $10,000.

Yet a myopic Uncle Sam barely sees Renter-World.

Instead, Uncle Sam focuses on Owner-World. Owner-World captures the federal tax breaks: The homeownership tax deductions for mortgage interest and property taxes top $100 billion a year and are rising rapidly.

Owner-World also captures the federal attention: For almost 100 years, starting with a 1918 Department of Labor campaign and continuing through Franklin Delano Roosevelt's New Deal, Bill Clinton's National Homeownership Partnership, and George Bush's Ownership Society, the federal government has been promoting homeownership. Today 69 percent of households own a home—an all-time high.

From Uncle Sam's vantage, that statistic marks success. Homeownership is the American "dream;" the crucial first step on a family's pathway to the middle class. A homeowner amasses equity, so that one day he can own a piece of America. That vested interest spurs involvement in schools, in neighborhoods, in political life. Just as important, the home gives the owner a financial cushion. Even if owners do not reap the windfall of a superheated market, the home can still be a hedge against inflation.

Indeed, we are a nation of immigrants who have marked the exodus with a series of papers: green cards, citizenship, and mortgages. The "American dream" may be a three-bedroom Cape on a tiny lot, but immigrants have come here for that dream.

So Uncle Sam's myopia is understandable. He expects renters to move on—to become owners. That is what they too expect.

Renter-World, however, is in trouble.

Even though we are building new rental units, we are not adding to the net "affordable" (a euphemism for cheap) units. That supply is shrinking. Between 1993 and 2003, we lost 2 million low-rent units from the rental inventory. At the same time, rents are rising, especially for newly constructed units.

Consider the plight of the lowest income renters: 70 percent pay-more than half of their income for housing. The National Low Income Coalition could not find one county in the United States where a minimum wage worker, paying 30 percent of his or her income for housing, could afford a one-bedroom apartment.

As for the government rent subsidies aimed at alleviating the hardship of low-income tenants, those too have shrunk.

The war on terror and the war in Iraq have pushed them off the agenda.

Today parts of Renter-World constitute a desperation sector of America. Poor people, crammed into too-small apartments, struggle to pay for food, rent, transportation, and medical care.

To paraphrase Linda Loman, lamenting the plight of her husband, Willy, in "Death of a Salesman": "Attention must be paid" to these renters.

The reason is pragmatic.

In the past, Renter-World has been a gateway to Owner-World. Low-income workers, renting for a few years, have saved up enough for the downpayment on a house, and, with scrimping, have kept up with mortgage payments. But today's renters cannot so easily make that leap. The Big Box shelver, married to the fast food waitress, may want the American dream. They may have left family thousands of miles away to seize the dream. But without some housing relief, they will never leave Renter-World.

And the promise of America, the dream for millions of Americans, is to leave Renter-World. That first mortgage—often the first mortgage for a family—constitutes step one in the economic mobility we value. High rents trap families, anchoring them on the bottom rung of the ladder that we want them to climb.

For the sake of the renters, and of the nation as a whole, Uncle Sam must pay attention to Renter-World.

TRIBUTE TO THE 75TH ANNIVERSARY OF THE BURLINGTON BRISTOL BRIDGE

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. SAXTON. Mr. Speaker, I rise today to recognize the Burlington Bristol Bridge as it turns 75 years old. The Burlington Bristol Bridge (1931–2006) is a vital transportation asset to the residents of South Jersey, connecting New Jersey to Pennsylvania.

The bridge replaced a ferry service which carried passengers across the Delaware River to Burlington, Bristol and the amusement park on Burlington Island. Bridge construction commenced on April 28, 1930, and was completed one year later, for a total cost of approximately $1.5 million.

This landmark bridge stretches 2,301 feet from abutment to abutment, and is 20 feet in width, with one lane in each direction.

For many years after its construction, the bridge's lift span at 540 feet was the longest movable span ever built. It is a vertical "Lift" type of movable bridge, which raises regularly to allow large vessels to pass beneath.

Approximately 27,000 vehicles per day, or 9.9 million vehicles annually traverse it.

This man-made wonder has faithfully served the residents of South Jersey and Pennsylvania for three-quarters of a century, and will continue to do so for many more years. Its contributions to travelers and the citizens of South Jersey are hereby recognized.

INTRODUCTION OF THE "PROTECTING AMERICAN'S MINERS ACT"

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. GEORGE MILLER of California. Since the beginning of this year, we have witnessed numerous accidents in our Nation's underground mines. So far this year, 26 underground coal miners have died, more than the total for all of last year. Preliminary investigative reports and public hearings have made it clear that prompt action is necessary if we are to avoid a continued loss of life and disruptions to a vital American energy source.

For many months, I have been urging the Committee on Education and the Workforce to take action on this matter by marking up the legislation introduced by the West Virginia delegation. Sadly, that has not occurred. While the Senate is making progress on this matter in a bipartisan manner, the responsible leaders in this body have declined to treat this matter with the seriousness it deserves. The Administration, which helped create the problem by withdrawing regulatory initiatives that could have saved lives and moving enforcement resources into compliance assistance, is likewise lacking in purpose and direction in addressing this crisis.

Accordingly, today I rise to introduce new mine safety legislation, together with Congressman RAHALL of West Virginia, Congressman OWENS of New York, Congressman CHANDLER of Kentucky, Congressman HOLT of New Jersey, Congressman ARTUR DAVIS of Alabama, and Congressman MOLLOHAN of West Virginia. This legislation does not detract in any way from our continued pleas to this body to move forward with the West Virginia bill. It does, however, include refinements and new provisions based upon what we have learned since that bill was introduced. An identical bill is being introduced in the Senate by Senators KENNEDY, ROCKEFELLER, MURRAY and DURBIN, and we understand the refinements and new provisions reflected in this legislation are under active discussion in the responsible Senate committee. We hope that these new ideas will advance the discussion and lead to prompt action by this body. We will not let up on this, nor will we let complacency take root.

Following is a detailed section-by-section discussion of the new bill, entitled the "Protecting America's Miners Act." I encourage all of my colleagues to join me in support of this legislation, and in demanding action by this body before new tragedies strike.

SUMMARY OF PROTECTING AMERICA'S MINER'S ACT

(1) Short Title. "Protecting America's Miners Act".

(2) Sense of Congress. This legislation is necessary because of the failure by the current Administration to protect miners and properly prepare for the future.

(3) Definitions. Relevant definitions from the Mine Safety and Health Act of 1977 are incorporated into this free-standing legislation.

(4) Improved escape and refuge requirements to help protect miners in the event of an emergency.

This section would establish improved safety standards to help underground coal miners survive an underground emergency. Highlights include—

Requiring atmospheric detection and warning systems to alert miners to dangerous levels of harmful and explosive gases;

Requiring two-way messaging systems to communicate between miners and the surface once they are available; in the interim, one-way messaging systems and backup telephone lines would be required;

Requiring caches of self-rescuers for escape, and, until such time as the mine has established underground refuges, also requiring special caches to support prolonged stays underground;

Requiring underground refuges, meeting criteria based on past experience in the U.S. and abroad, to protect miners unable to escape from a mine; and

Requiring miners to be equipped with tracking devices to facilitate rescue.

The bill authorizes MSHA to revise these standards by regulation in order to improve them over time. This is the approach taken in 1977 when the current Mine Act was established. Similarly, MSHA is authorized to issue modifications of these standards for individual mines as with any safety standard under the requirements of existing law. Additional research on related topics is required by section 11 of the bill.

Because of the nature of these requirements, the bill would make any violation of them an "imminent danger" so that MSHA can act promptly to ensure mines are in compliance.

SECTION 5—FACILITATING THE PROMPT INITIATION OF RESCUE AND MINE RECOVERY EFFORTS

The bill would set up an Emergency Call Center to be sure MSHA is ready to receive information on emergencies—so callers don't find themselves going from answering machine to answering machine. The Call Center would have to be supplied by the Secretary with home and emergency numbers for key agency personnel, local emergency services, mine rescue teams, and others.

The bill would require that operators notify MSHA within 15 minutes of any emergency or serious incident. The bill ensures MSHA gets prompt notice of close calls, not just situations in which there are deaths or serious injuries.

The bill would separate mines into two categories for purposes of what mine rescue team requirements are applicable:

Those mines with less than 36 employees can contract out for mine rescue services to the nearest mines which maintain such teams, provided that: (1) the mine must include some of its own employees in the rescue team; (2) all rescue team members must be able to reach the mine within 1 hour; and (3) the operator must hold at least two rescue drills a year to ensure the team becomes familiar with the mine.

Those mines with 36 or more employees must have their own mine rescue teams (although they could contract for additional teams). These mines must also hold at least two rescue drills a year.

The bill would also require the Secretary to promptly initiate an expedited rulemaking to revise existing mine rescue team requirements, and to consult broadly with existing mine rescue teams, other rescue organizations, local and State emergency authorities and others in this regard. The rules would cover training and qualifications for rescue team members, the equipment and technology used in rescue, the structure and organization of mine rescue teams, and other factors which have been identified by mine rescue team members at recent public hearings as posing problems during recent rescue efforts. Section 11 of the bill contains related research requirements.

SECTION 6—ENHANCING THE INVESTIGATION OF MINE ACCIDENTS

This section directs the Secretary of Labor to issue regulations on an expedited basis concerning the investigation of mine accidents. No such regulations currently exist, and so each investigation is ad hoc.

The Secretary is directed to consult widely in developing these regulations—including directly contacting family members who can be identified of any miner who perished in a mining accident of any type in the last 10 years. Miner families are authorized to be involved in all aspects of the investigation, and an advocate is to be appointed to facilitate their participation.

The regulations are to require public hearings be held in connection with any fatal accident or any accident which could have resulted in multiple fatalities.

This section would also authorize a majority of the families of any miners killed in an accident, or an authorized miner representative, to request that an additional investigation be conducted by the Chemical Safety Board or other appropriate federal agency. This would permit a more independent review of major accidents in which MSHA's own conduct may be an issue.

SECTION 7—ENHANCING OPERATOR AND OWNER INCENTIVES TO AVOID SERIOUS RISKS TO MINERS

The bill would direct the Secretary to revise the regulations which layout the process for citing operators who engage in a "pattern of violations." Such a penalty has never been assessed by MSHA despite the number of scoff-laws that have been identified. The changes required by the legislation would ensure that MSHA is required to make decisions on these situations in a timely way, and the Secretary is authorized to withdraw miners from the entire mine until a pattern of violations is corrected. The bill would also significantly increase the penalties for a "pattern of violations" up to $1 million, and bar the Review Commission from reducing such penalties.

The bill also takes strong action to ensure operators pay their assessed penalties. The bill would forbid operators from contesting citations unless the assessed penalties are placed in escrow, and it would add criminal penalties for failure to pay.

The bill would also establish a minimum penalty of $500 and a maximum penalty of $250,000 for other violations. However, if the Secretary determines that the violation could have significantly and substantially contributed to a hazard, the bill would establish the minimum penalty as $1000 and the maximum penalty as $500,000. In addition, the bill establishes a penalty of between $60,000 and $100,000 for the failure to provide timely notification of accidents. The bill eliminates the requirement of current law that the size of the mine and the impact on an operator's ability to continue in business must be considered in assessing penalties.

SECTION 8—ENHANCING THE WILLINGNESS OF MINERS AND OTHERS TO REPORT SERIOUS PROBLEMS-BEFORE ACCIDENTS OCCUR

This would establish a Miner Ombudsman in the Office of the Inspector General in DOL to take safety and health complaints from miners. The purpose of this provision is to help assure miners that their identities will not be compromised if they report mine safety and health problems to the Department.

SECTION 9—ENHANCING SPECIFIC PROTECTIONS FOR UNDERGROUND COAL MINES

This section would require the Secretary to expeditiously revise three existing standards to enhance the protection of underground coal miners.

(a) Conveyor belts and ventilation ("belt-air" rule). The belts that carry coal out of a mine can ignite a fire or explosion due to friction. The legislation requires MSHA to expeditiously revise its regulations to adopt long-standing recommendations of the National Institute for Occupational Safety and Health that conveyor belts be designed to minimize flammability. Until the revised rules go into effect, the legislation suspends rules adopted in 2004 that generally permitted increased airflow over these conveyor belts. During this time, MSHA would, however, be permitted to return to its pre-2004 practice of permitting such additional airflow on a mine by mine basis following a public hearing on a request for such a modification.

(b) Seals. Seals are walls constructed in underground coal mines to enclose abandoned areas that they do not want to ventilate. Sealed areas can become highly explosive due to methane gas, and hence the seals have to meet prescribed standards. The bill would require MSHA to expeditiously adopt more protective standards. In addition to requiring seals to withstand more pressure than under the current rules, the Secretary is directed to consider whether it should inspect all seals during construction to be sure they are built according to plan. In addition to requiring an improved standard, the bill would require the Secretary to promptly conduct a special inspection of all current seals in underground coal mines composed on non-traditional materials to ensure they are properly constructed.

(c) Respirable (coal) dust. Black lung continues to be diagnosed among younger coal miners. To eliminate this disease forever, the bill requires the Secretary to expeditiously revise the current standard to reduce the allowable level of respirable dust to that recommended by the National Institute for Occupational Safety and Health. Consistent with other findings by NIOSH, the bill would eliminate the current requirement that several samples be averaged before a citation can be issued, and requires compliance samples to be taken by the Secretary or by placing personal dust monitors on at least 3 miners per shift.

SECTION 10—TRANSITION TO A NEW GENERATION OF INSPECTORS

It takes 18 months to train a new inspector; and government personnel ceilings and retirement rules mean there may be a critical gap in mine safety and health inspectors over the next few years even if there is money appropriated in sufficient quantities to take on new staff. The bill provides that for a 5-year period, MSHA inspector staffing is exempted from personnel ceilings (only funding governs) and from certain pension reductions that make it difficult to use retired inspectors as necessary to fill the gap.

An additional problem for MSHA is to simultaneously provide both enforcement and compliance assistance, particularly for small mine operators. The bill would provide that for a 5-year period, government resources be used exclusively for enforcement, while compliance assistance to the industry be funded exclusively through a user fee. The user fee would be $100 for every penalty assessed on any mine operator. This money would be used exclusively to provide the industry with technical support and advice, and priority would be given to requests for small mines (those with less than 20 miners).

Because of the unusual nature of these provisions, special monitoring by the Congress is appropriate, and an annual report would be required each of the five years that these requirements would be in effect.

SECTION 11—TECHNOLOGY RESEARCH PRIORITIES

The legislation requires that in implementing its research activities in the next five years, the National Institute for Occupational Safety and Health give due consideration to new technologies, and existing technologies that could be adopted for use in underground mines, which could facilitate the survival of miners in an emergency.

The bill notes that such technologies include, but are not limited to:

Longer lasting self-rescuers;

Two-way communication devices;

Improved battery capacity and specifications to handle multiple devices;

Improved technology to determine underground conditions during an emergency situation; and

Improved technology for mine rescue crews.

RECOGNIZING PAUL REDMAN

HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. TIBERI. Mr. Speaker, I rise today to recognize and pay tribute to Paul Redman, an individual who has contributed his time and effort to the central Ohio community for over a decade. Paul's talent has made the Franklin Park Conservatory one of the signature cultural sites in Columbus.

The Franklin Park Conservatory provides an important service to Ohioans. It provides not only a showcase for the beauty of nature but serves as a vital educational source on botanical and ecological matters. The extensive facilities allow thousands of individuals throughout the region to participate in the study and appreciation of nature and various nature-based art.

Paul's professionalism has drawn the premier artists of our day to display their work at the conservatory. His tireless efforts to provide the best exhiibits and value for the community have served to enhance central Ohio's reputation for quality people and superior work. His contributions to the civic and cultural landscape of central Ohio will continue to impact generations to come. His exemplary leadership and service have added to central Ohio's growing fame as one of the most vibrant areas in America.

I am pleased to recognize Paul's commitment to central Ohio and his outstanding tenure as Executive Director of the Franklin Park Conservatory. I'm proud to echo the sentiments expressed by so many prestigious voices across the country, and I wish him all the best in his future endeavors.

TRIBUTE TO CHRISTINE BURROUGHS

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Ms. ZOE LOFGREN of California. Mr. Speaker, I rise in gratitude to recognize the continued extraordinary achievements, community leadership and contributions of Christine Burroughs, Director of InnVision the Way Home. InnVision is a leading provider of services for homeless and low-income individuals and families in Santa Clara County.

Ms. Burroughs has successfully led InnVision the Way Home since 1991. During her tenure, she has grown the organization from a small, grass-roots agency into a leading provider of housing and support services to over 16,000 homeless individuals and families in Santa Clara and San Mateo Counties. She managed a staff of 115 at 20 sites with an annual operating budget of $10 million and $17 million in assets. She spearheaded the development of many community partnerships and at least 12 capital projects including the building and/or rehabilitation of various shelters, transitional housing facilities, permanent affordable apartments and multi-service centers. Program development included: mental health services, alcohol/drug rehabilitation, job training and children's activities for all ages.

In 1997, Ms. Burroughs was honored as a "Woman of Achievement" by the San Jose Mercury News (Women's Fund) and received commendations from City and County officials, as well as the Management Center in San Francisco. In 2004 and 2005, San Jose Magazine heralded her as one of Silicon Valley's Power 100. Currently, as a member of the San Jose Rotary Club, she serves on 2 committees whose focus is youth development. She is also a long-time member of First Presbyterian Church of San Jose and has served in leadership roles on various local coalitions and boards advocating for the homeless. Christine is a new board member of the Children's Musical Theatre in San Jose.

Ms. Burroughs paved "the way home" for countless people in need of assistance so as to improve their struggle for independence, freedom and dignity. Hope is the mainstay of achieving success, and Ms. Burroughs provided that element of strength for so many individuals and families.

Ms. Burroughs portrayed a pillar of strength, solidarity and integrity, by which all who met her (service providers or beneficiaries of services) became transformed to reach a better plan in life. She has been a tireless advocate for those persons unable to share their voice for themselves or their families. I hereby honor Christine Burroughs, on this special day of her retirement and wish her all the best in the years to come.

CONGRATULATING RECIPIENTS OF THE NINTH ANNUAL WIRTH CHAIR AWARDS

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. UDALL of Colorado. Mr. Speaker I rise today to congratulate four recipients of the Ninth Annual Wirth Chair Awards. The Wirth Chair was started by my good friend and predecessor, former Senator Tim Wirth. The Wirth Chair is committed to helping governments, businesses and non-profit groups and community organizations form sustainable development partnerships that carefully balance economic, environmental and expanded social welfare objectives and strategies. Their tremendous work is widely respected throughout the country. This year's recipients are very deserving of this prestigious honor.

Good Dirt Radio received the award for electronic media. The program is broadcast from Durango, Colorado. Good Dirt airs radio stories aimed at inspiring listeners to take ecological action in their own communities. Good Dirt is an all volunteer effort. Word is catching on about their good work, and I am confident that they will continue to grow and be successful.

Harumi Kato of the Yamagata Broadcasting Company was honored for her short film entitled "Little Steps in Colorado for Sustainable Living." The program was also broadcast in Japan in October of last year. She plans to have more viewings in Japan in the future because she wants people there to know "that despite not signing the Kyoto Protocols, some Americans are really concerned about taking action in many ways to protect our environment by practicing sustainable living."

Rick Gilliam of Western Resource Advocates was the primary author of Amendment 37. This was the first time that a renewable energy standard was put to a popular vote. The successful initiative required that 10 percent of Colorado's electricity be derived from renewable sources by 2015. I campaigned vigorously for this initiative and saw firsthand how hard the people associated with this effort worked on the campaign. It was because of their commitment that the initiative was passed despite being out spent ten-to-one by the opposition. Morey Wolfson, Robin Hubbard, Ron Larson, Matt Baker, Ron Lehr, Ken Regelson and Stephanie Bonin were all instrumental getting Amendment 37 passed.

Finally, the City of Denver was recognized for its historic sustainability initiative, "Greenprint Denver." The initiative advances and supports the integration of environmental impacts into the city's programs and policies, along with economic and social considerations. The comprehensive set of strategies includes: measurably reducing greenhouse gas emissions city wide, developing and implementing a municipal green building policy, increasing residential recycling, and increasing urban forest cover for air and water quality and aesthetic benefits.

I am inspired by all of these laudable efforts. I ask my colleagues to join me in congratulating these Wirth Chair Award recipients for their tremendously important good work.

IN RECOGNITION OF PAUL MILLER, EXECUTIVE DIRECTOR OF KIDANGO

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. STARK. Mr. Speaker, I rise today to pay tribute to Paul Miller, Executive Director of Kidango, a private, nonprofit agency providing a variety of services to children and families in Alameda, Santa Clara and San Francisco Counties. Paul Miller has successfully led Kidango to become a leader in providing quality childcare and child development services to children and support services to their families.

Mr. Miller joined Kidango in 1979 and has helped the organization grow from serving just 90 children at one Fremont, California center to over 2,800 children attending forty plus centers throughout the San Francisco Bay Counties. Kidango has over 350 employees. Miller points with pride to his dedicated and committed regional and center directors, teaching staff, maintenance, food service and administrative staff, all who have an integral role in making sure the families and children Kidango serve receive the best quality programs possible.

Recent evidence of Paul Miller's ability to seize new opportunities and offer quality programs for children is readily apparent in Union City, California, where Kidango operates a preschool program on every New Haven Unified School District campus. Building on a 20-year relationship, the school district and Kidango launched a Preschool for All program in 2001. By the following year, Union City has the distinction of being the first district in the State of California to offer Preschool for All. The flagship New Haven-Kidango Preschool for All program has caught the attention of educators and policymakers throughout the State of California.

Mr. Miller continues to work hard to introduce Universal Preschool to other Bay Area school districts and the California Superintendent of Public Instruction has appointed him to the Universal Preschool Task Force.

In addition to.his exemplary administrative leadership at Kidango, Paul Miller is a major force throughout the State of California advocating for public policy that promotes quality childcare and early education. He is actively involved in the Child Development Policy Institute, the leader in the childcare and development field on fiscal and public policy matters, and the principal advocate for children and families in California's legislative budget process.

Paul Miller's 30 plus years of advocacy for children and their families are beyond measure. He is committed and dedicated to excellence as demonstrated by the growth and success of Kidango. He works tirelessly with a single focus of inspiring all children and their families by promoting their potential and diversity through quality education and nurturing relationships.

Paul will be recognized at a well-deserved Kidango Staff Appreciation Dinner on May 20, 2006. I join them in appreciating him for his good work.

IN HONOR AND MEMORY OF STAFF SERGEANT ROBERT HERNANDEZ

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. RUPPERSBERGER. Mr. Speaker, I rise before you today to honor the life of a fallen Maryland soldier, Staff Sergeant Robert Hernandez, a veteran reservist of 24 years who died on the 28th day of March 2006.

Sergeant Hernandez was a member of the 3rd Battalion, 318th Regiment Military Police, 80th Division, U.S. Army Reserve, Fort Meade. He was killed when a makeshift bomb detonated near his military vehicle during combat operations in Al Taquaddum, Iraq.

The 47-year-old soldier was a former member of the Baltimore and Washington Police Departments. He was praised by colleagues for his hard work and jovial personality. He easily earned respect from those who knew him and worked with him daily.

As a member of the Prince George's County force, Sergeant Hernandez offered his expertise in a division that lacked Spanish-speaking officers. He served as a field training officer assisting officers who graduated from the police academy. He also served as a mentor at a local elementary school. Sergeant Hernandez is remembered for his leadership skills and ability to help others.

Sergeant Hernandez is survived by his fiancee and three children of Silver Spring. He is also survived by his parents in Puerto Rico. He will forever be remembered as a dependable, trustworthy and captivating person with a passion for life, children, family, and country.

Mr. Speaker, I ask that you join with me today in honoring the life and memory of a Maryland hero. Staff Sergeant Robert Hernandez was loyal to the citizens of the United States and deserves our recognition and appreciation.

BLUMENAUER AMENDMENT TO THE AGRICULTURE APPROPRIATIONS BILL FY 2007

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. BLUMENAUER. Mr. Speaker, tomorrow I will be offering an amendment, cosponsored by Congressman JEFF FLAKE, to the Agriculture Appropriations bill. The amendment will prevent any funds in the appropriations bill to go towards salaries or expenses of personnel who make loans in excess of 17 cents per pound for raw sugar cane or 21.6 per pound for refined beet sugar. This is, in effect, a 6 percent cut to the Sugar Loan Program.

TRIBUTE TO MSGR. CIPPEL OF ST. FRANCES CABRINI PARISH

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor a devout servant of the Catholic faith, Msgr. John A. Cippel of the St. Frances Cabrini Parish in Spring Hill, FL. Monsignor Cippel is retiring after more than 46 years as an ordained priest in the Catholic Church, the last 6 serving as monsignor at St. Frances Cabrini.

Msgr. John A. Cippel is the second pastor of St. Frances Cabrini Parish. Appointed in January 1996 by Bishop Robert Lynch to succeed the founding pastor, Father David Banks, Monsigor Cippel has served the parish with distinction for more than 10 years.

Ordained a priest on January 28, 1960, Father Cippel is an alumnus of St. Vincent Seminary, Latrobe, PA, and St. Louis seminary, Carthage, Tunisia. His first years of priesthood were spent as a missionary in Tanzania, East Africa.

Returning to the United States in 1973 to continue his studies at Andover Newton Theological School in Boston, Monsignor Cippel received the Degree of doctor of ministry from that institution in 1975.

Following his graduation, Monsignor Cippel moved to Florida to begin his ministry as a priest in the Diocese of St. Petersburg. His first assignments were associate pastor at St. Martha's Parish, Sarasota, St. Charles' Parish, Port Charlotte, and St. Mary's Parish, St. Petersburg. In addition to serving as pastor of St. Cecelia Parish, Clearwater from 1981 to 1990, Monsignor Cippel was also chosen as the spiritual director of St. Vincent de Paul Seminary, Boynton Beach, FL. He came to St. Frances Cabrini after completing a 5-year span at this seminary.

Mr. Speaker, over the years I have had the opportunity to see Monsignor Cippel interact on a personal and spiritual basis with his parishoners at St. Frances Cabrini. Most Thanksgivings I have been at the church working with the congregation and Monsignor Cippel to help prepare the Thanksgiving feast for those parishoners and all residents without family on the holiday.

Working alongside Monsignor Cippel I saw the compassion in his eyes and the dedication in his heart to serving those in need. For many years he has been a voice of reason in the Hernando County area and someone to whom the entire Catholic community looked up to for widsom and clarity of thought.

Mr. Speaker, on the occasion of Monsignor Cippel's retirement, I would like to commend him for his decades of work on behalf of the thousands of men and women whose lives he has touched and influenced. Monsignor Cippel has given so much to the men and women of Catholic faith and it is time that we say thank you to him as he leaves the St. Frances Parish.

IN RECOGNITION OF NORWAY'S CONSTITUTION DAY

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Ms. MCCOLLUM of Minnesota. Mr. Speaker, I rise today to recognize the people of the Kingdom of Norway and extend my congratulations to King Harald V, and to Prime Minister Jens Stoltenberg, as Norway celebrates its national day of recognition of the adoption of its constitution on May 17, 2006.

It was on May 17, 1814, that Norway adopted its constitution, making the country free and independent. The United States and Norway have long had a strong relationship, founded on cooperation on important bilateral and regional issues, as well as on shared values. Our countries are engaged on every level, including on economic, security and cultural matters, in a relationship that reflects a shared commitment to further strengthening our relationship. The strength of our friendship allows our two nations to openly engage on issues for which we might not share a common perspective, and work together to build common ground on issues of great importance to our citizens.

Norway holds a strategic position within the European community, and through its I membership in NATO and the European Union, Norway is a voice of reason in security matters that impact both its region and the world. In addition, Norway is a global leader in providing humanitarian aid to crises around the world, in aiding refugees, and in promoting human rights around the globe. I commend the Norwegian government for the important and life-saving work it is engaged in around the world.

As a Minnesotan, I and many of my constituents feel a particular bond to Norway, as so many ancestors of Minnesotans come from that great country. The strong links that have formed between Minnesota and Norway extend to business partnerships and social connections. Minnesotans also share with Norwegians the strong desire in helping to alleviate the suffering that is a daily struggle for so many around the world. Both Minnesotans and Norwegians feel compelled to act in the name of peace and democracy around the world, and I am proud there is such a strong Norwegian influence in Minnesota.

Mr. Speaker, we should extend warm regards and congratulations to the people of Norway, the Norwegian Government, King Harald V and Queen Sonja, and Prime Minister Stoltenberg as they celebrate the adoption of their constitution. They have consistently been warm friends of the United States, and I look forward to working with the Norwegian people on every level in the future, to ensure that our two countries maintain a strong relationship.

LIBRARY OF CONGRESS EMPLOYEE TRANSITION ASSISTANCE ACT OF 2006

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise to draw our colleagues' attention to legislation I have introduced (H.R. 5328) to make it easier for talented, experienced employees of the Congressional Research Service (CRS) facing loss of their jobs later this year to find positions elsewhere in the Federal government.

The need for this legislation is both apparent and pressing. In September 2005, the CRS, a unit of the Library of Congress, announced to 59 support employees that their positions will be eliminated not later than September 30, 2006, by a reduction-in-force (RIF) if necessary. The CRS Director, Daniel Mulhollan, argues that the 59 positions have become unnecessary due to technological advances that have changed the way CRS fulfills its mission, which is to serve Congress.

Several of our colleagues and I share serious concerns about this decision and question the CRS management practices which led to it. Since the announcement, I have personally met with affected employees and others, many of whom suggested, among other things, that CRS has placed insufficient emphasis on training and professional development offering opportunities for advancement. Moreover, given the Library's history in matters involving racial discrimination, many people inside and outside the organization are troubled by the fact that a large majority of the affected employees are women, African-Americans and other minorities.

Without debating the merits or demerits of Director Mulhollan's decision, clearly Congress should do everything reasonably possible to help these dedicated CRS employees to continue their careers elsewhere in the Federal government. It is certainly the compassionate and equitable thing to do; most if not all of the employees have never received an unsatisfactory performance review, and many are sole breadwinners who have devoted their entire careers to public service. It is also the smart thing to do, from the standpoint of the taxpayer, who has invested in these employees over the years, and who would lose the value of that investment if the employees were to take positions elsewhere. As a former personnel director, I certainly recognize that for any organization, including the Federal government, to maximize its effectiveness, it needs to attract the most talented people it can, invest in those people, and retain them. It makes sense to enable talented employees to transfer their skills to other agencies, if they wish to remain in Federal service and cannot find suitable positions in the Library or CRS.

The legislation which I have introduced would accomplish two things toward that end. First, it would give Library employees who have successfully completed a probationary period in a non-temporary position "competitive status" when seeking vacant positions in Executive departments and agencies for which the employees have the required qualifications. Currently, service in the Library, a Legislative-branch agency, does not confer competitive status, leaving Library employees at a disadvantage when competing for vacancies in Executive agencies requiring competitive status. The provision would become effective immediately, and is designed to assist current CRS employees who may wish to apply for positions throughout the government, as well as other CRS or Library employees seeking positions in the future.

Second, the legislation would render Library employees (including the Congressional Research Service) eligible for a program, administered by the Office of Personnel Management for displaced employees in the Executive branch, which provides "special selection priority" for employees facing a reduction-in-force. Thus, Library employees, including the CRS personnel facing loss of their jobs later this year, would qualify for priority selection to positions across the Executive branch.

Mr. Speaker, in 1990 Congress enacted similar legislation granting competitive status to employees of the Judicial branch. It made sense then for employees of the Federal courts, and it makes sense for the employees of the Library of Congress today.

Mr. Speaker, my legislation has the support of the Librarian of Congress, Dr. James Billington, and Director Mulhollan, who have assured me that they will do everything possible to identify suitable positions in the Library for the affected employees. I take them at their word and hope their efforts succeed for every employee who wants to continue contributing to the agency's success.

This Congress could not discharge its responsibilities without the support of the employees of the Congressional Research Service and the Library of Congress, who provide unbiased, non-partisan, timely, reliable information to its Members every day. As Ranking Member of the Committee on House Administration, which oversees the Library and CRS, I am eager to see this precious asset preserved, and I trust that Library management will do everything within its power to avoid a RIF in 2006 or any other year. In the meantime, H.R. 5328 will make it easier for the CRS employees now facing loss of their jobs to transfer their skills and expertise to other Federal agencies and continue their careers in public service. I urge all Members to join in supporting this urgent legislation.

IN REMEMBRANCE OF G.V. "SONNY" MONTGOMERY

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. RAHALL. Mr. Speaker, I rise today to remember the life of a man that I am proud to have called a colleague and a friend, Gillespie V. "Sonny" Montgomery. Sonny had already been serving the people of Mississippi for 10 years by the time I had been elected to Congress, but his drive and tenacity for the men and women of his District and of the armed services: rivaled that of any of my freshman class of 1977.

The epitome of one man making a difference, Sonny helped expand the G.I. Bill to Guardsmen and Reservists and helped make possible the dream of a higher education to countless Americans. His efforts to elevate the Veterans Administration into the 14th Cabinet level department truly ensured, in his words, that "veterans will no longer have to go through the back door to the White House."

Few men leave the kind of lasting legacy that Sonny leaves. When I am back home in West Virginia, I see him in the faces of the West Virginia National Guard. The time before his accomplishments seem to stand in stark contrast to the current realities of serving our great Nation, and it reminds us all of how justice always needs an advocate.

I see how one man can better the lives of so many, and it reminds and reaffirms in me what it means to be a public servant.

This coming Memorial Day, we will remember and pay tribute to those who have served our country, in doing so we also remember and pay tribute to Sonny.

As the Lord welcomes him back home into the Kingdom of Heaven, may we all honor his legacy by picking up the torch that he so skillfully carried.

HONORING G.V. "SONNY" MONTGOMERY

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. GIBBONS. Mr. Speaker, on behalf of the state of Nevada, I would like to recognize the late Gillespie V. "Sonny" Montgomery for all of his lifetime achievements. Sonny passed away on May 12 of this year. His 30 years in Congress and 13 years as Chairman of the House Veterans' Affairs Committee do not even begin to reveal all that he has done for this country.

As a strong Veterans' advocate, he was the man responsible for rallying Congress to pass The Montgomery G.I. Bill, which offered education benefits to National Guard and Reserve personnel for the first time. Mr. Montgomery also served on the House Armed Services Committee, where he made progress in the quality of life for both the National Guard and reserve units. As a veteran himself, he seemed to establish a stubbornness about him that pressed for improved treatment of veterans on Capitol Hill, where he gained the nickname "Mr. Veteran."

After returning home from World War II, he returned to active duty during the Korean War as part of the National Guard. Shortly thereafter, Sonny began his political career in 1956 when he was elected to the Mississippi State Senate, where he served for ten years before joining the United States House of Representatives in 1967. He remained in the National Guard and retired in 1980 with the rank of major general.

In 2005, he received the highest form of civilian honor when President Bush awarded him with the Presidential Medal of Freedom. Sonny Montgomery was the embodiment of freedom and worked every day of his professional life to strengthen our national defense and to ensure that this nation honors the soldiers who protect our freedom.

Not only has this country lost a dedicated serviceman and former Member of Congress, but we have also lost a great friend.

CONGRATULATING AMTRAK ON ITS 35TH ANNIVERSARY

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Mr. OBERSTAR. Mr. Speaker, I rise today to congratulate the National Railroad Passenger Corporation, known more commonly as Amtrak, and its workers for achieving 35 years of operation as America's passenger rail service provider.

Prior to the creation of Amtrak, passenger rail service had fallen on hard times. Freight railroads had a common carrier obligation to provide passenger train service, but virtually all of them were losing money and wanted to be rid of it. Regrettably, it was the policy of many of the freight railroads to simply allow the service to deteriorate to the point where ridership was so sparse that the Interstate Commerce Commission would grant the carriers permission to discontinue their passenger train operations. Some of the railroads went beyond benign neglect and actively downgraded the service to discourage people from riding the trains.

Indeed, passenger rail service had been in decline since 1920. Americans' preferences shifted to air and auto to meet their intercity transportation needs. In 1920, passenger rail was the dominant mode of intercity transportation; by 1970 passenger rail service had declined to relative insignificance. Many thought that the day of the passenger train was over, and that, outside of a few densely populated corridors, passenger trains were destined to join the stagecoach and the flatboat as relics of America's transportation history.

Fortunately, that was not the case. Congress understood the long-term value of and public need for intercity passenger rail service and passed the Rail Passenger Service Act of 1970 to create Amtrak.

On May 1, 1971, Amtrak assumed responsibility of the nation's passenger trains from the freight railroads and began service when Clocker No. 235 departed New York Penn Station at 12:05 a.m. bound for Philadelphia. It was clear from the outset that Amtrak would have to face a number of challenges. Years of freight railroad neglect of passenger operations meant that stations and terminals were often old and run down, that passenger cars offered dated amenities, and the equipment was prone to failure. The nation's railroad infrastructure was in a serious state of disrepair. Trains, even some passenger trains, crept along at 10–15 miles-per-hour in some places and derailments were becoming distressingly commonplace. By the time Amtrak commenced operations in 1971, the number of daily intercity passenger trains had been reduced from 11,000 in 1964 to fewer than 300 in 1970.

Today, despite chronic under-investment, Amtrak has managed to replace and upgrade many car and locomotive fleets, rehabilitate once dilapidated train stations, and introduce a variety of new services in an effort to keep people riding the rails. Ridership has grown from 4.4 million on 184 trains operated in 1971 to more than 24 million on 100,000 trains operated in 2005, a record level for Amtrak. And just last month, despite increasing freight congestion on the nation's railways, Amtrak's on-time performance on the Northeast Corridor reached 90 percent.

In other words, Amtrak survived—survived the inadequate equipment and facilities; survived the budget cutters, and survived the competition from low-cost airlines. And now, as we see gas prices soaring to more than $3 a gallon, we see the wisdom of keeping intercity passenger rail service in place in the United States.

This month, Congress will begin its annual debate on funding for Amtrak. The Administration and a minority in Congress will once again argue for inadequate or no funding for Amtrak. In the past 35 years combined, Amtrak has received less federal funding than we will spend on highways in just this fiscal year. The Federal Government has also established robust funding mechanisms for aviation and public transit, and Congress has always properly supported Federal investment in these modes. But not for Amtrak: Amtrak is forced to beg for federal funding year after year, and rarely gets what it needs because of false expectations that it should be profitable.

Railroads throughout the world receive some government support to supplement the revenues paid by passengers. China invests $16 to $20 billion annually in passenger rail. Japan and Germany devote 20 percent of their total annual transportation budget to passenger rail, totaling $3 to $4 billion each. A host of other nations also invest heavily in passenger rail—France, for example. When I was a graduate student at the College of Europe in Belgium, part of our work was to travel to various parts of Europe and see different economic systems. I traveled from Paris to Lyon, almost 300 miles. It was a 4½ hour trip. I went back in 1989, as chair of the Aviation Subcommittee. We were following the trail of Pam Am 103. I just wanted to experience the TGV (Train à Grande Vitesse). The same trip took 2:01 hours. At a certain point, the train passed a small airfield where a twin-engine aircraft had taken off, and the train passed the plane at 180 mph.

We can do the same here in the United States. The Federal Government just needs to step up and take charge with a strong program to support passenger rail.

Congratulations again to Amtrak and its workers for 35 years of public service. Not only are you a vital link to our nation's past, you are indispensable to our Nation's transportation future.

ENERGY LEGISLATION (H.R. 5253 AND H.R. 5254)

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 16, 2006

Ms. McCOLLUM of Minnesota. Mr. Speaker, I rise today in support of the Federal Energy Price Protection Act (H.R. 5253). By protecting consumers at the gas pump, this legislation takes an important step towards a more responsible federal energy policy.

H.R. 5253 bans price gouging in the sale of fuels, permits states to bring price gouging lawsuits against wholesalers or retailers and sets meaningful penalties for those convicted. After nearly a year of opposing these consumer protections, Republicans have finally realized this is a necessary and appropriate action to addressing rising gas prices. However, this is only a first step—it is what we do next that really matters.

We should not expect our energy situation to change until Congress gets serious about tackling our oil dependence. With the booming economies of China and India squeezing global oil supply, and political instability among key oil producing countries like Iran, Venezuela, Nigeria and Iraq, it is likely that world oil prices will remain volatile and could continue rising for some time to come. Unfortunately, the Republicans are proposing to meet this serious challenge with an ill-conceived policy of distraction.

The Refinery Permit Process Schedule Act (H.R. 5254) is a cynical attempt to relieve public pressure for new energy policies and divert attention away from meaningful solutions. It empowers the Secretary of Defense to evade state environmental laws and overrule the wishes of local communities by "streamlining" siting and permitting of new refineries on closed military bases. I strongly oppose this bill, which blames state environmental regulations for rising gas prices and would undermine local control in a misguided attempt to ease them. H.R. 5254 is another attempt by the Republican majority to sell Americans the false promise of easy answers.

With families burdened with gas at $3 per gallon, it is time for real leadership, vision and commitment from Washington to make the smart investments that will protect our BNation's economic security and our planet's future. A clean energy future that addresses oil dependence and environmental concerns such as climate change is achievable. It starts by rescinding the billion of dollars in subsidies for oil and gas companies and with investments in research and extending incentives for alternative energy sources such as wind, biomass and biofuels that keep energy costs down, create jobs and make us more competitive in the global economy. As Robert Samuelson stated in today's Washington Post, the United States has the energy policy it deserves but not the one it needs. It's time for real solutions.

[From the Washington Post, May 3, 2006]

HOW WE GOT TO $3 A GALLON

(By Robert J. Samuelson)

The United States has the energy policy it deserves, although not the one it needs. Having been told for years that their addiction to cheap gasoline was on a collision course with increasingly insecure supplies of foreign oil. Americans are horrified to discover that this is actually the case. But for all the public outcry and political hysteria, high gasoline prices haven't significantly hurt the economy—and may not do so. Since 2003 the economy has grown about 3.6 percent annually. It's still advancing briskly. That may be the real news.

But first, how did we get to $3 a gallon? The basic story is simple enough. Oil was cheap in the 1990s. From 1993 to 1999, crude prices averaged about $17 a barrel. Low prices discouraged exploration and encouraged consumption. China emerged as a big user. In 1995 global demand was about 70 million barrels daily; now it's almost 84 million barrels daily.

Spare production capacity slowly vanished, meaning that now any supply interruption—or rumor of interruption—sends prices up sharply. An Iraqi pipeline is attacked; prices jump. Nigerian rebels menace oil fields; prices jump.

These pressures get transmitted quickly to the pump, because there are few fixed-price contracts in the oil business. At each stage of distribution—from producers to refiners, from refiners to retailers—prices are adjusted quickly. They're often tied to prices on major commodities exchanges, where oil and other raw materials are traded.

"A gas station will get a delivery every four to eight days at a different price," says Mary Novak of Global Insight. Even between deliveries, station owners may push prices up because they know that "for my next tankload, I'll have to pay the market price."

Of course, profits have exploded. Production and refining costs haven't risen in tandem with prices. To the extent that oil companies have their own crude reserves—as opposed to buying from producing nations—they've reaped a bonanza. From 2002 to 2005, profits for most U.S. oil companies more than quadrupled, to almost $140 billion a year, the American Petroleum Institute reports. But the really big winners are the oil-producing countries. In 2005 their oil revenue exceeded $750 billion, up from $300 billion in 2002. (Crude oil and taxes represent about three-quarters of the retail price of gasoline; refining, distribution and marketing account for the rest.)

It's conventional wisdom that big increases in oil prices usually trigger a recession—or at least a sharp slowdown. Why haven't they? One oft-cited reason is that the economy has become more energy-efficient. True. Compared with 1973, Americans use 57 percent less oil and natural gas per dollar of output; compared with 1990, the decline is 24 percent. Cars and trucks have gotten more efficient, though not much more so since 1990. New industries (software programming, health clubs) use less energy than the old (steelmaking, farming). But there's a larger reason: The conventional wisdom is wrong.

Big oil price increases in the past (1973-74, 1979-80 and 1990-91) did not cause recessions, though recessions occurred at roughly the same time. The connection has been repeated so often that most people probably accept it as gospel. But much economic research has concluded that it's a myth. These recessions resulted mainly from rising inflation—inflation that preceded higher oil prices—and the Federal Reserve's efforts to suppress it. Higher oil prices merely made matters slightly worse. In 1980, for example, consumer prices rose 12.5 percent; excluding energy prices, they increased 11.7 percent.

This may explain the economy's resilience. One hopeful sign: most nonenergy companies aren't yet passing along higher energy costs to their customers. "Businesses have had wide profit margins," says Mark Zandi of Moody's Economy.com. "They may be willing to eat the higher costs." In 2006, he expects the economy to grow 3.5 percent, with average unemployment of 4.7 percent.

Indeed, he thinks oil prices may retreat to about $50 a barrel, from today's levels of about $70, later this year. Higher prices will slightly dampen demand, and added supplies will create some spare production capacity. Naturally, he could be wrong. Energy economist Philip K. Verleger Jr. thinks oil could be headed for $100 a barrel, with inflation going to 5 percent and inducing a recession. Continuing strong oil demand will collide with rigid supply (both production and refining). The conventional wisdom—wrong in the past—could be right in the future.

Whatever happens, the larger question is how Americans build on this episode. It may feel good to vilify the major oil companies and the oil cartel. But that won't help. We now import 60 percent of our oil; large imports will continue indefinitely. So far, we've escaped a true calamity. We may not be so lucky in the future. We could minimize our vulnerabilities to supply interruptions and price increases. We could open up more acreage (including Alaska) to drilling. We could orchestrate—through tougher fuel economy standards and a gradually rising energy tax—a big shift toward more-efficient vehicles. Once again, we've been warned. Will we contine to ignore it?

SENATE—*Wednesday, May 17, 2006*

The Senate met at 9:15 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord, the giver of life, teach us how to become our best selves. Activate us with noble impulses that will produce helpful speech and faithful actions. Lead us ever on the side of the gracious and good as we strive to be instruments of Your peace.

Today, sustain our Senators through the challenges they face. Infuse them with the humility that will motivate them to serve. May their thoughts, words, and deeds be acceptable to You.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. GREGG. Mr. President, this morning, on behalf of the leader, let me make a statement.

This morning we will immediately return to the consideration of the comprehensive immigration bill. Senators KYL and CORNYN have an amendment pending on which we hope to get a short time agreement. Senators have had overnight to review the language, and I expect us to lock in a time certain for a vote.

The chairman has been working on a lineup of amendments, and the leader encourages Senators to be ready with amendments when it is their time. We want to keep the bill moving, and the leader anticipates votes throughout the day.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized.

CONGRESSIONAL OVERSIGHT OF THE NSA PROGRAM

Mr. REID. Mr. President, last week USA Today reported that the Bush administration may be collecting the phone records of millions of Americans. The administration's efforts to monitor activities of American citizens appeared to be far broader than President Bush had previously acknowledged.

Not surprisingly, Democratic and Republican Members of Congress have expressed concerns about this report and indicated they have sought more information about this program. Several Members made it clear that General Hayden would be required to answer questions about this program as part of his confirmation process.

Late yesterday, the Senate was informed that the administration agreed to brief all members of the Senate Intelligence Committee on the President's authorization of NSA warrantless surveillance programs, including clarifying whether the reports in USA Today are accurate. This new overture to the Senate on one aspect of the administration's overall efforts is a welcome development. I hope this action has more to do with a newfound interest to keep Congress fully informed than about its concerns regarding their nomination for CIA Director. I am surprised it has taken so long, and so much tugging and pulling, to get the administration to at least this point. It is, quite simply, required by law under the National Security Act of 1947 and by the Senate's own rules. So it really is about time.

Chairman ROBERTS approached me on the floor yesterday to tell me about these new developments. The Senator from Kansas and I have had our differences and will continue to have those differences over the conduct of the Intelligence Committee's investigation of the administration's misuse of intelligence on Iraq. Senator ROBERTS and I spent many good years together as the chairman and vice chairman, back and forth—whatever the leadership was in the Senate—on the Ethics Committee. We had a good relationship. That is going to override all the negativity we have had on this Intelligence Committee stonewalling we have had.

In the instance about this NSA wiretapping, I appreciate Chairman ROBERTS' acknowledgment that the Senate needs more information on these programs and the role the President has played in this. I appreciate very much the work by the Chairman and the hard work by Vice Chairman ROCKEFELLER to step forward to allow all members of the Intelligence Committee to know what is going on or attempt to get to know what is going on. It is important for everyone in this Chamber and for the administration to recognize that this briefing on this single issue is very necessary but not sufficient for the American people to have confidence that their Government is not only protecting them from terrorists but also respecting their constitutional rights.

Clearly, Senators need to know a lot more about the domestic surveillance program, and I hope today's briefing accomplishes that objective. But just as clearly, Senators need to know a lot more about other important issues: misuse of intelligence, selective leaking, damage to the CIA.

I hope the administration's offer yesterday is the first of their efforts to inform Congress, not the last.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2611, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2611) to provide for comprehensive immigration reform and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Kyl amendment No. 4027, to make certain aliens ineligible for adjustment to lawful permanent resident status or Deferred Mandatory Departure status.

Mr. SPECTER. Mr. President, I think we made good progress yesterday. We

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

just had a brief discussion in the well of the Senate. I believe we are prepared to proceed.

I ask unanimous consent that we next take up the Kyl-Cornyn amendment, with no second-degree amendments in order, with 30 minutes equally divided.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I further ask unanimous consent that the amendments beyond Kyl-Cornyn be as follows—Senator SESSIONS, Senator VITTER, Senator OBAMA, and Senator INHOFE. I ask unanimous consent that sequence be agreed to.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, will the manager yield for a question?

Mr. SPECTER. Yes.

Mr. McCAIN. How soon does the manager anticipate voting on Kyl-Cornyn?

Mr. SPECTER. At 10:01.

Mr. McCAIN. I thank the Senator.

Mr. SPECTER. Mr. President, may we proceed with the final argument on Kyl-Cornyn?

AMENDMENT NO. 4027

The PRESIDENT pro tempore. The amendment is pending. Who yields time?

The Senator from Texas has 15 minutes.

Mr. CORNYN. Mr. President, it looks like we are beginning to make some progress. About 4 weeks ago, this amendment was introduced in its original form, and unfortunately debate was derailed. We were unsuccessful in moving on for further amendments and debate. Fortunately, it looks as if things have gotten back on track. We are starting to see votes and debate on amendments. I don't necessarily like the way all of the votes are turning out, but this is the Senate and majority rules and I accept that.

All of us who are interested in comprehensive immigration reform want to see this bill continue to move, to have amendments laid down, debated, and have them voted on. I am very pleased that it appears that we are very close to having, if not unanimous agreement, at least majority support on a bipartisan basis for the amendment that Senator KYL and I laid down about a month ago and which has now been modified slightly to bring more people on board.

This amendment, quite simply, is designed to make sure that convicted felons and people who have committed at least three misdemeanors do not get the benefit of the legalization track contained in the underlying bill, whatever it may be. There will be other amendments later on that perhaps won't share the same sort of bipartisan and majority support. But this one at least seems to have gathered a solid group of Senators to support it.

In addition to convicted felons, those who have committed at least three misdemeanors would not be given the benefit of earned legalization under the bill. It would also exclude absconders. By that, I mean people who have actually had their day in court and have been ordered deported from the country but have simply gone underground, hunkered down in the hope they might be able to stay.

There have been some motions made regarding this amendment for waiver by the Secretary of the Department of Homeland Security for extraordinary circumstances. For example, if someone is able to establish that they didn't actually get notified, then as a matter of fundamental due process considerations they ought to be able to revisit that and to show that they did not get notice of the removal proceedings. We agreed that would be a fair basis to waive this provision.

Finally, it also appears that the other basis for waiver would be if the alien's failure to appear was due to exceptional circumstances beyond the control of the alien—a very narrow exception; and, finally, if the alien's departure from the United States would result in extreme hardship to the alien's spouse, parent, or child who is a citizen of the United States or an alien lawfully permitted to have permanent status.

We move it in the right direction. It is a fundamentally fair and commonsense amendment. I am pleased to support it and announce what appears to be a growing consensus that it should be accepted.

I reserve the remainder of our time.

The PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Mr. President, I yield such time as the Senator from Arizona may need.

The PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, for the benefit of my colleagues, I would like to point out that we spent the better part of yesterday negotiating with Senator KYL and Senator CORNYN, along with Senator KENNEDY and others, a group of us. We have been trying to modify the original Kyl-Cornyn amendment so that it would be broadly acceptable. I think we have succeeded, thanks to the goodwill of all parties concerned.

Fundamentally, the purpose, which we are all in agreement with, is we don't want people who are convicted felons or criminals guilty of crimes to be eligible for citizenship in this country. We have enough problems without opening up that avenue. Yet, at the same time, we didn't want to go too far to exclude people from eligibility for citizenship who, frankly, may have committed incidental crimes or the crime was associated with their attempt to enter this country.

For example, in order to obtain asylum, when people flee oppressive and repressive regimes in which their lives are at risk, and they had to use a bogus or counterfeit document in order to expedite their entrance into this country, of course, we don't think that should make them ineligible for citizenship or application for citizenship.

I think we have reached a careful balance. There are categories of people under conditions of extreme hardship or danger who are seeking asylum and would be exempted, but at the same time the thrust of the Kyl-Cornyn amendment, which is the prevention of people who have committed felonies and numbers of misdemeanors and other crimes would not be eligible for a path to citizenship as outlined in the legislation that would apply to the others who have not committed crimes.

I am aware there is some concern about this on both sides of this issue. I want to assure everyone that this is the product of a long, arduous series of negotiations and discussions among all involved in this issue.

I hope there is an understanding that we have come up with what most of us think is a reasonable compromise to address very legitimate concerns on both sides. People who are fleeing oppression may have used a bogus document, and on the other side of the coin, obviously, someone who has committed serious crimes or a series of misdemeanors we would not want to have them eligible for citizenship.

I thank Senators KYL, CORNYN, KENNEDY, and others who have actively negotiated and come up with what we agree is a reasonable compromise.

By the way, that is the trademark of the progress of this legislation. That gives me optimism that we will be able to successfully conclude it in a reasonable period of time.

I yield the floor.

The PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Mr. President, I yield such time as the Senator from South Carolina needs.

Mr. GRAHAM. Mr. President, I would like for a moment to showcase the staff of all Senators involved who have been working for hours to try to get this right. It is important to get this right. For me, this is sort of the model for where we go from here as a Nation and how we address immigration issues. Senator KENNEDY and his staff have been terrific.

The goal, as Senator McCAIN said, was to make sure that our country is assimilating people who potentially add value to our country. If you are a thug, if you are a crook, if you are a murderer or a rapist or a bunco artist or a felon, you don't really add any value, and the only person you can blame is yourself. So I have no sympathy for your cause because your misconduct, your mean, hateful, cheating behavior has disqualified you—and too bad. You don't add value.

With three misdemeanors, as defined in the bill and as we have it under Kyl-Cornyn, you have had one chance, two chances, and the third time you are out. You have nobody to blame but yourself.

I think every Democrat and every Republican should come to grips with the idea that when we give people a second chance—whatever you want to call this process we are about to engage upon—there are certain people who do not get that second chance based upon what they did, either once or three times.

I think that is a good addition to this bill. It expands the base bill, and Kyl-Cornyn has done a good service to the body in that regard. But there is another side of this story. It is a group of people who haven't committed crimes other than violating immigration laws—nonviolent crimes or who, as Senator MCCAIN said, is one step ahead of a death squad in some bad part of the world and have come here to start a new life.

On the civil side, there is a group that split—the absconders. If you have been given an immigration deportation order and you just ignore it, then you are not subject to being eligible either because you have had your day in court. You lose and there is no use retrying your case.

However, if you fall into a category of people who had no knowledge or notice of the order for deportation, then it is not fair to hold you accountable to comply with something you didn't know about. So we are going to look at that case anew.

Within that population of people who have been issued deportation orders, some of the people we are talking about come to our country one step ahead of death squads or repressive governments. A humanitarian argument could be made in a few cases that we are going to listen to. For that small group of people, we will have a waiver requirement. We will waive the ineligibility if to deport you would reenforce a system that would have led to a tragedy.

If you had not gotten into the program using fraudulent documents—if I had to choose between my family's demise or forging a document to get away from a oppressive government, I would forge the document. I am willing to give those folks a chance to make the case that they add value.

On the humanitarian side, if you have a child or a member of a family who is an American citizen and you receive a deportation order, I am willing to allow a case to be made that it is not in the best interests of this country or justice to break up that family. There is a limited class of cases. That is just as important to me as dealing with the criminal because if you can't deal with hard cases that have some a sympathetic element, then you have hardened your heart as a body.

I don't mind telling a criminal: Too bad, you have nobody to blame but yourself. But I am proud of the body listening to people who deserve to be listened to and creating a waiver process that will bring about a just result and to allow people to add value to the country if they can prove they can.

Senator KYL and Senator CORNYN have been great to work with. I hope we get nearly 100 votes. I say to Senator KENNEDY's staff, it would not have been possible without you.

This body should be proud of this product because you break people into groups because of what they did in their individual circumstances. To me, that has been part of immigration reform. One size does not fit all.

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank Senators KENNEDY, KYL, and CORNYN, as well as Senator MCCAIN and those who are responsible for putting this together.

This is a dramatic improvement over the original version of this amendment.

I associate myself with the remarks of the Senator from South Carolina. I think of these laws and amendments in human terms that we deal with every day in our Senate offices. Almost 80 percent of all of the case work requests for help that we receive in my offices in Illinois relate to immigration. Every day, we have new situations and new family challenges that we are forced to confront. Some of them are heartbreaking.

I think specifically of the Benitez family in Chicago. Mr. Benitez is an American citizen. He works hard. He has lived in this country for many years. He is a wonderful man. I see him in downtown Chicago regularly when I am going around. It is always good to see such a fine man who has worked so hard and who really believes in his family. His wife came to this country on a visa, overstayed the visa, married him, and continued to live in the United States undocumented. They have four children. Mr. Benitez and his four children are all American citizens.

The mother of his undocumented wife died in Mexico. She went back to Mexico to the funeral of her mother. When she came back into the country, she was stopped at the border. Because of that, she has had an outstanding order of deportation. She made it back to the United States in an undocumented status with an outstanding order for deportation.

Is it justice in this case that this woman would somehow be deported from the United States at this moment if her husband and four children, all American citizens, are living here? They are good people, working hard, paying their taxes, speaking English, doing everything we ask of them. That is not fair.

We have added in this amendment an opportunity for Mrs. Benitez to appeal for a humanitarian waiver for family circumstances. The language of this amendment bears repeating so the intent is clear. We give to those aliens who would be subject to deportation an opportunity to petition in cases of extreme hardship if the alien spouse, parent, or child is a citizen of the United States or an alien lawfully admitted for permanent residence.

We have created a family unification, humanitarian waiver, nonreviewable, but at least it gives Mrs. Benitez and people like her a chance to say: Let me keep my family together. Let me stay in the United States. Give me a chance to become legal.

That is sensible. That makes good sense. I am glad Senators CORNYN and KYL have agreed to this and we have come together. There are some people who will not be protected, those subject to orders of deportation who are currently single and do not have any relatives within the United States who would qualify under these provisions. This may not apply to them. But certainly for the family circumstance I just described, this humanitarian waiver is on all fours. This affects these families in a very positive way and gives them the chance they have been praying for for so long.

I commend Senator KENNEDY and all who brought this together.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator will note that only 3 minutes remain. There was 15 minutes per side, and the time remaining is 3 minutes on the Democratic side.

Mr. KENNEDY. Mr. President, would the Senator from Texas yield me a couple of minutes on his time?

Mr. CORNYN. I would be happy to.

Mr. KENNEDY. I thank the Senator.

Mr. President, just so the membership has a good understanding of where we are, I will summarize this provision. I thank Senator CORNYN and Senator KYL for working with us, and Senator GRAHAM and Senator MCCAIN for their great help and assistance, and my wonderful assistant, Esther, for all of her good work. Senator DURBIN has illustrated the human terms which are involved in this issue as well.

Let me very quickly point out what the language provides. People should understand now what the sense of this whole proposal is about. We want to keep those who can harm us, the criminal element, out of the United States or for the consideration of being able to adjust status and be able to continue to work and live here. Those who can benefit the United States ought to be able to remain.

This is what we were attempting to do with this particular language. That is more complicated than it might seem.

Effectively, the Kyl-Cornyn amendment would make the various classes of aliens ineligible for the earned legalization program: Any person who is issued a removal order, failed to deport, or deported and subsequently returned; any person who was ordered to leave the country under the visa waiver program is subject to expedited removal; any person who fails to depart under a voluntary departure agreement; any person convicted of a serious crime inside or outside the United States; any person who has been convicted of a felony, or three misdemeanors.

That is the operative aspect of the amendment. The compromise reached yesterday strengthens the waiver so that aliens under the final orders of removal will still be eligible for earned legalization if they did not receive a notice of their immigration hearing, obviously, through no fault of their own—we know what the agency itself has missed, as the GAO report indicated—or it is established they failed to appear at their hearing because of exceptional circumstances, which are certainly understandable; or, three, that they can establish extreme hardship to their spouse or child or parent who was a U.S. citizen or a lawful permanent resident. Senator DURBIN gave the excellent examples of that provision. Those are the kinds of examples we are all familiar with in the Senate.

The waivers are available to immigrants who entered without inspection or those who fell out of status or who used false documents but not to criminal aliens or aggregated felons. We believe the waiver will cover many of the current undocumented who otherwise would be excluded under the original Kyl-Cornyn amendment.

We believe it is important progress. It is not the way, certainly, some Members would have drafted this proposal, but we understand the concerns that have been expressed by the proponents. We believe this is language which will for all intents and purposes treat individuals fairly, welcome those who should be welcome and exclude those who should be excluded.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. I ask unanimous consent Senator LANDRIEU be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I will take a moment, before we vote to again thank the folks I thanked last night: Senator KENNEDY; Senator MCCAIN; my colleague, Senator CORNYN, who worked on this amendment for a long time; and Senator LINDSEY GRAHAM, among others, for working together to arrive at a consensus on how this amendment should be drafted, to achieve the things the Senator from Massachusetts was just talking about.

We all agree on the significant benefits that can result from legislation of this kind, including, potentially, citizenship, for a lot of people. It should be limited to those who came here and otherwise worked honestly in this country, and it should never be available to those who have deliberately abused our laws, our process, or been convicted of serious crimes. As a result of this amendment, it will make certain that benefits of the legislation, however they are ultimately defined, are not available to that class of people we do not want to count as fellow citizens when this is all over with.

I hope my colleagues will join in voting yes on the amendment. I thank my colleagues.

Mr. LEAHY. Mr. President, Senator KYL opened debate on this amendment last night by noting that when an earlier version of this amendment was offered a few weeks ago to S. 2454, it was a "somewhat different" amendment. I understand and appreciate this understatement, but I also appreciate that Senator KYL and his lead cosponsor Senator, CORNYN, were willing to compromise and make improvements to their original text.

I wish to express my appreciation to the Democratic leader, Senator REID. He was right to insist that the original version of the Kyl-Cornyn amendment—a much broader version that some Senators wanted to adopt almost immediately when it was introduced a few weeks ago—deserved review and should not be rushed through the Senate to score political points. He was right, as the latest version of the amendment attests. In addition, in the immigration debate prior to the April recess, Senator DURBIN recognized and described several drafting flaws in the original amendment that would have swept in hundreds of thousands of immigrants, perhaps unintentionally. With a little time, and thanks to a lot of hard work, the amendment has been significantly changed, narrowed, and improved.

Among the modifications, the amendment now includes a waiver of its provisions. It allows the Secretary of Homeland Security to waive certain conditions of ineligibility to participate in the earned legalization program in title VI of the bill. A negative impact on family members, or humanitarian concerns such as harsh conditions in the immigrant's home country, should allow participation in the earned legalization program. An alien's failure to obey an order of deportation may be based upon the alien's trepidation over leaving behind his U.S. citizen children. An immigrant may have had to use false documents to gain entry into the U.S., such as the case of an asylum seeker who is fleeing persecution.

There is a humane way to treat otherwise law-abiding immigrants. This is consistent with American values. I wish that the Kyl-Cornyn amendment could be modified further so that its exclusions were more specifically focused on criminals. That is what we have done in our bill and in underlying law.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I ask unanimous consent Senator THUNE be added as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CORNYN. Mr. President, we yield back the time on both sides, if Senator KENNEDY is amenable.

Mr. KENNEDY. We yield back the balance.

The PRESIDING OFFICER. Is the Senator from Texas yielding back all time?

Mr. CORNYN. That is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—99

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Menendez
Mikulski
Murkowski

Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—1

Rockefeller

The amendment (No. 4027) was agreed to.

Mr. KENNEDY. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, under our sequencing, we are about to go to the amendment of the distinguished Senator from Alabama, Mr. SESSIONS. We are trying to get time agreements. Senator SESSIONS believes this is a very complex and important matter, which I agree that it is, so I propound a unanimous consent request for 3 hours equally divided.

The PRESIDING OFFICER. Is there objection?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, could I, just for a moment, ask the leader to withhold the request and see if I can clear this with the leadership here? Could you withhold the request?

Mr. SPECTER. Mr. President, I do withhold the request. In the interim, while Senator KENNEDY is reviewing the matter, we can start the debate with Senator SESSIONS and look forward to counting the time, which we start now, on Senator SESSIONS' ultimate hour and a half, if we may.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, perhaps as we go forward, we can finish up in less time than that. Maybe our colleagues on the other side will yield back some time. I think this is an amendment that we need to talk about in some significant way. This amendment deals with barriers at the border. I think this is something for which there is a growing appreciation, and it is not in the bill today.

Before I go into that, let me say to my colleagues and those who may be listening that we need to spend yet more time with this legislation. It is a 614-page bill. Few of our Senators have had the opportunity to study it or to understand in any significant degree the breadth of it. There are things in it that absolutely do not represent good policy and need to be reconsidered. I hope our colleagues will do that.

The vote last night on the Bingaman amendment was a very important one. It took the maximum number of people who could enter our country under the so-called guest worker provisions from around 130 million over 20 years, at a maximum, down far below that to probably 9 million. That is in only one provision of the bill. However, I remind my colleagues that while that was one of the most egregious provisions in this entire legislation, this legislation still calls for massive increases of legal immigration into our country, even with that change we effected last night.

My staff worked hard on this, and I don't think anybody has even considered the numbers until the last week or the last few days. That analysis concludes that as the bill is now written——

Mr. SPECTER. Mr. President, if I may interrupt the Senator from Alabama to propound a unanimous consent request.

Mr. SESSIONS. I will yield if I can reclaim the floor.

Mr. SPECTER. Mr. President, I ask unanimous consent that we set a 3-hour time limit, with an hour and a half under the control of Senator SESSIONS, 45 minutes under the control of Senator KENNEDY, and 45 minutes under my control, with the time of the vote to be determined by the leaders. I do not anticipate a 1:30 vote, which would be inconvenient. We will respect Senator REID's position of taking the amendments one at a time and not setting them aside. But we can do that consistent with stacking the votes until later in the afternoon.

Starting this morning, it was hard to get all of the people in, and we started the vote a little earlier than anticipated. So we did not maintain our time structure on the first vote. But we are going to insist on observing the rule of 15 minutes and 5 minutes over, or if votes are stacked, 10 minutes and 5 minutes over, to see if we can move the bill along. So I ask unanimous consent for that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I add to that agreement no second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3979

Mr. SESSIONS. Mr. President, I call up amendment No. 3979.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for himself, Mr. SANTORUM, Mr. NELSON of Nebraska, Mr. VITTER, and Mr. BUNNING, proposes an amendment numbered 3979.

Mr. SESSIONS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the amount of fencing and improve vehicle barriers installed along the southwest border of the United States)

Strike section 106, and insert the following:

SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector; and

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) OTHER HIGH TRAFFICKED AREAS.—The Secretary shall construct not less than 370 miles of triple-layered fencing which may include portions already constructed in San Diego Tucson and Yuma sectors and 500 miles of vehicle barriers in other areas along the southwest border that the Secretary determines are areas that are most often used by smugglers and illegal aliens attempting to gain illegal entry into the United States.

(d) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a), (b), and (c) and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(e) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a), (b), and (c).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Mr. SESSIONS. Mr. President, I ask unanimous consent that my colleagues, Senator SANTORUM, Senator BEN NELSON, Senator VITTER, and Senator BUNNING be made original cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, my colleagues need to know that we still, after the positive step we took last night, are looking at increasing immigration into our country by a significant amount. Those totals will range, depending on how it plays out, from a minimum of 63 million to 93 million. That is 3 to 5 times the current number we now allow, and would expect to allow, over 20 years, which is 19 million people allowed to come into our country legally. This would raise that number to between 63 million and 93 million. It is better than where we were yesterday, but I still submit that it is a number that has not been carefully thought out. We have not analyzed how to do this with a number that is still too great, in my opinion.

We hear over and over that this is a guest worker proposal, it is a guest worker plan. There is nothing "guest" about it. Every person who comes in under this legislation, as it is now written, as it is now on the floor of the Senate, will be able to enter for a significant period of time. They will be able to apply for a green card shortly thereafter. That means you are a legal, permanent resident. After 5 years, you can apply for citizenship. So this is not temporary.

As President Bush mentioned yesterday several times—a temporary worker program—it is not temporary. It is a permanent move for people to enter our country to become citizens, and that is a matter far more significant than some have suggested to us. I think it is important for us to all know that. Please, we need to know that. Anybody who says "temporary worker" in discussions with the media or on the floor of the Senate ought to have their hand spanked a little bit.

Next, the legislation continues and accelerates an emphasis on low-skilled workers. All of the economists that we have heard testify in the Senate Judiciary Committee—and we have not had a lot—agreed that low-skilled workers tend to be a net drain on the economy and utilize more in Government benefits, welfare, and health care than high-skilled workers. Any program that we pass ought to emphasize high-skilled workers. This bill doesn't do that. This bill does nothing about the chain migration in which people who work their way to citizenship can bring in their parents, their brothers and sisters, adult children, regardless of the needs of the United States for workers, regardless of what skills they may have and whether we need them in the United States. Under this bill, citizenship is an automatic right. That ought to be confronted. The economists and public policy experts we have heard from raise that point and say other countries are not that way.

So this is the Senate. We are supposed to be the thoughtful branch. This is one of the most important issues this Senate has faced in decades. The people of the United States really care about this. They are concerned about it. They want us to do the right thing. That will include creating a legal system that is enforceable and will increase the number of legal immigrants into our country.

But how will we do it? Will we do it in a principled way that is helpful to our Nation's future or will we continue to willy-nilly provide, in effect, entitlements to people from all over the world to come here regardless of the needs of the United States?

Some say: We just need to pass something. Don't be nitpicky, SESSIONS, just pass something. We will get it to conference and somehow it will be fixed there.

I have my doubts about that. No. 1. No. 2, this is the Senate. We will be casting votes on this legislation, and we ought not vote for anything that we know is not good public policy.

A critical part of the immigration reform that we need to effect for our country is to make sure that our legal system, which is so utterly broken on this issue, is repaired. It needs to work. Can anyone dispute that? Today, we understand that 1 million people come into the country legally each year. The estimates are that 500,000 to 800,000 will be coming in illegally each year—almost as many legal immigrants.

I see Senator VITTER in the Chair, who is such a knowledgeable and articulate spokesman on this issue. I happened to see the mayor's debate in New Orleans last night, and Hard Ball asked them what about illegal immigrants? They had to have them to do the work in New Orleans. There was a discussion about it. What is the answer to that? Of course, you don't need illegal immigrants to do the work. Of course, if we craft a good immigration bill, when you have a crisis like Hurricane Katrina, we would be able to have temporary workers come in in whatever numbers are necessary to do that work. That is what a good bill would do.

That is a crisis that calls for an unusual amount of workers. Why don't we draft something that would actually work in that circumstance? Not anybody, no one, should come in and justify illegality. If the law is not adequate, let's fix it. The truth is, I think it is adequate today.

A critical part of moving us to an effective, enforceable, honorable, decent, legal immigration system is to send the message to the world that our border is not open, our border is closed. There are a number of ways to do that. I think that is important because we need to reach a tipping point where the people who want to come to our country know without doubt that coming here illegally is not going to be successful, and their best way to come here is to file the proper application and wait in line. Isn't that the right policy?

So how do we go from this lawless system, a system that makes a mockery of the laws of this great Nation, the United States of America, to a system that works? We send some signals and we do some things appropriately. President Bush did one of them the night before last when he said we were going to use the National Guard. That is a signal to the world that business as usual has ended, that we are going to create a legal system that works. We want him to follow through on that and with all of the other requirements that go with it. But it is a good step and a good signal, and it will help us improve that system.

Another way is to have more Border Patrol agents. We need that. We have authorized some more in this bill but not enough. It is a matter of critical importance, and we will need to fund that—the Senate and House—and not just to authorize it. Isn't that an essential part of it if we are going to change from a lawless system to a lawful system?

Another thing that we absolutely need, and every expert knows, is to increase the retention space. We have to end the catch and release. When you catch someone who comes into this country through Mexico or Canada from a country that is other than Mexico or Canada, where they are not contiguous to the United States, how do you get them home?

How do you return them? You have to put them on a boat or train or plane, and that is not always easy to do. So do you know what has been happening, friends and neighbors? They catch them around the border, and they are released on bail and asked to come back at a certain time so they can be taken out of the country. How many do you think show up to be deported? They violated the law to come here, so we release them on bail and ask them to show up so they can be deported. How laughable is that? One reporter did an analysis in one area of this system, and 95 percent did not show up. Surprise, surprise. Why do we release them? Why do we not hold them until they can be deported? Because we don't have sufficient bed space.

Part of reaching a tipping point in creating a legal system is to make sure we don't eviscerate the work of our law enforcement agents by having them turn loose the people they just went out in the desert to catch. How simple is that? But it is critical, and it is not there yet. So people who say they want a stronger border have to support, in my view, more detention spaces.

This amendment also deals with a critical component of creating a legal system that works, and that is fencing. It sends a signal that open border days are over, and it will greatly enhance enforcement. It will pay for itself many times over the years. It is a reasonable proposal. It does not overreach. It builds on the provisions that are in the bill.

Senator KYL in committee had a number of provisions dealing with Arizona and fencing along that border. It builds on those provisions and keeps that language in the bill but provides and directs that we have 370 miles of fencing and 500 miles of barriers sufficient to keep vehicles from crossing the border. We are at a point where we need to take this step if we are serious.

The bill before us today, S. 2611, is the fundamental base bill from which we are working. Its language calls for repair and construction of additional fencing in very limited areas along the southern border, mostly in Arizona, as I just mentioned. But for the most part, this provision simply calls for the repair of fences that already exist in the Tucson and Yuma sections of Arizona.

Other than this limited amount of fencing, provisions contained in title I of this bill call only for the Secretary of the Department of Homeland Security to develop a comprehensive plan for the systematic surveillance of the border, and section 129 calls for only a study to assess the necessity, feasibility, and economic impact of constructing physical barriers along the border. Just a study.

This amendment attempts to go forward and create a real solution to the problem. It directs that the Secretary of Homeland Security construct at least 370 miles of triple-layered fencing, including the fencing already built in San Diego, and 500 miles of vehicle barriers at strategic locations along the southwest border.

These are not extreme numbers in any way. In fact, they are the numbers given to a number of Senators in a briefing a few weeks ago by Secretary Chertoff himself, President Bush's Secretary of Homeland Security. He said this is what he believes at this point in time he needs. It directs that this be done. It sends a signal to our appropriators that it should be funded, and it authorizes the President and the executive branch to go further than this and build such other fences as they may find appropriate.

We will have objections for reasons I am not sure why, but I suspect we will have objections. One of the points I have been making for some time when it comes to fixing our immigration system is that we have quite a number of Members of the House and Senate and members in the media who are all in favor of reforms and improvements as long as they don't really work. If it really makes a difference and will actually tilt the system from one that is illegal and will change the status quo and move us to a legal system, somehow, someway, there will be objections to it.

I submit that we are going to have objections to this modest proposal to build 370 miles of fencing and 500 miles of barriers according to the request of the Secretary of Homeland Security because it is going to work. That is why. We will have a lot of other reasons, such as it might send a bad signal. But good fences make good neighbors. Fences don't make bad neighbors. Go to the San Diego border and talk with the people. There was lawlessness, drug dealing, gangs, and economic depression on both sides of the border. When they built the fence and brought that border under control, the economy on both sides of the fence blossomed, crime has fallen, and it is an entirely different place and a much better place. That is just the way it is. We have to do this, and it is time to move forward.

A state-of-the-art border security system should be robust enough that it would not be easily compromised by cutting, climbing, tunneling, or ramming through with a vehicle, when combined with high-tech detection devices, motion sensors, body sensors, and seismic or subterranean sensors. A good barrier should make intrusion time consuming enough that a border unit could respond to the attempted intrusion before they are successful. That is what a fence does. To be worth our efforts, it does not need to be 100 percent impenetrable; it simply needs to improve significantly the status quo, and I am confident this amendment will do that.

Mr. President, it is great to see my colleague, Senator BEN NELSON, in the Chamber. He is dealing with a number of important issues today, but he has understood the importance of security at the border from the beginning. He has articulated clearly and effectively his vision for that and has recognized that unless we demonstrate to the world and to our own people that we have border security done first, then nothing else is going to be meaningful, and we will be right back where we were in the beginning.

I know Senator NELSON has to leave, and I am pleased to yield to him such time as we have remaining to speak on this amendment. I have been pleased to work with him on this issue.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Mr. President, I thank my colleague, the Senator from Alabama, for his incredible work on this border-security-first issue and his work on this particular amendment. It is a pleasure for me to join with him to support securing our borders.

Senator SESSIONS has made a very strong argument as to why we need to secure the border first to pursue this whole question of how do we deal with border security and with the immigration issues of those who are already here illegally.

The key is to prevent not only illegal pedestrian and vehicular traffic crossing the international border of the United States for people coming here to work, but it also includes a great concern, a growing concern about the number of people who are smuggling drugs into the United States, as well as those who are crossing the border for other illegal purposes, such as gang membership in communities across this country.

We have a multisituation with which we have to deal, but it is all handled in the same way in terms of securing the border first. Whether it is to prevent illegal people coming for purposes of work or whether it is for other purposes, most of which would be criminal in nature, we need to secure that border.

I never thought I would be proposing a security system that would include a border fence and a surveillance system that would protect our borders to the south or requiring a border study for the northern border as well. But I never expected that we would end up with the problem we have today.

If we go back to 1986 when the first amnesty bill was dealt with and President Reagan signed it and promised that the U.S. Government would continue to enforce border security, we had between 1 and 2 million people in the United States illegally. Of course, that was, by comparison to the 11 to 12 million today, a much smaller number, obviously, but a much smaller problem in terms of the numbers to deal with.

Today, the problem has continued to worsen, and as a result of the debate in the Senate and without action to secure the borders first from 3 weeks to 4 weeks ago, the number of border crossings is increasing percentagewise. The numbers continue to increase because there is an expectation that when they get here, somehow the U.S. Government, Congress, will find a way to bless it, find a way to excuse it, find a way to accept it, find a way to make it legal, and everything will be OK. That is because we haven't taken the opportunity to secure our borders first. Then, when we have those borders secured with this fence, with this barrier against pedestrian and vehicular traffic, we will be in a position to deal with the 11 to 12 million people in this country illegally and find solutions through a comprehensive approach.

My colleague has made it very clear and I believe it is very obvious that if we continue to pursue a multiapproach in the Senate, as opposed to border security, and try to solve all the problems with a do-everything bill, that if this bill then passes and goes to conference, it will be easier to square a circle than it will be to square the Senate bill with the House bill. I am not going to excuse the dealings we have with the people already here, but if we can't put the proper order in place, we are not going to be able to solve this problem. I believe that is a given.

When I first announced my border security bill last fall along with Senator SESSIONS and Senator COBURN, people across the country were talking about securing our borders, but there wasn't any action. The truth is, that was last fall, and here we are in the spring, and there is still no action, people are still coming across the border in significant numbers. We must, in fact, focus on how to deal with this problem in a commonsense and effective way.

Sometimes it is great to talk about a comprehensive approach, and sometimes it makes a great deal of sense to talk about what might be involved in a comprehensive approach, but when we don't have a comprehensive approach on the House side—and we have to, through conference, be able to make the Senate bill work with the House version. We have to be practical and recognize that these are two, in many ways, diametrically opposed approaches and there is no real way to square them.

I believe we ought to take the approach that makes the most sense, and that is to pass a border-security-first bill, adopt this amendment, and continue to work toward securing the borders so that once we get that done, we can get a bill to the House, to conference, and we can get that accomplished, and then we can spend the time necessary to figure out how we square the problems in the United States today with people who are here illegally. Before we jump to conclusions that will enable others to come here legally or illegally, let us figure out what the needs of the United States might be for workers before we decide to allow people to come on their own initiative, whether they fit the needs that exist for workers in the United States at the present time or the future.

We don't have to be mean-spirited dealing with this issue. We don't have to be divisive among one another to solve this problem. What we have to do is apply some common sense as to what is going to work and how we can get that accomplished. If we do that, then we can sit down and work our way through the other problem we have of the President's points 1 and 2 in terms of border security. We can figure out a way, if we are going to close the back door to illegal immigration, to open the front door to legal immigration, whether it is through guest workers or emergency situations where we have emergency needs that would require workers to come in on a guest-worker basis. We can resolve those issues. We can resolve that. What we cannot do is we cannot resolve all of this at the same time in one package effectively and get anything done.

I am an optimist on most occasions, but I have to tell you that I am very concerned what will happen is that the Senate will pass this comprehensive, do-everything version of a bill, and then it will go to conference and nothing will happen. Actually, nothing will happen on the legislation because it won't be able to be squared with the House version.

But let me tell you what will happen. If we don't have that border secured sufficiently, there will be an influx of more illegal immigrants coming to get here while they can, while nothing occurs on the legislation. That is unacceptable to the American people. The American people want to secure the borders. They want to find a comprehensive solution. But they know it doesn't make any sense for the problem to get bigger in terms of the numbers while nothing happens on our legislation once it is passed by the Senate and goes to the conference committee.

I wish it were different. I wish I could say all we have to do is pass a good version in the Senate and send it over to the House and somehow the whole process will work and everybody will come together and we will have a bill and then it will all be taken care of and we can all say: Well, we have solved that problem. It just doesn't work that way here. We all know that.

Why don't we admit the practicality of where we are and resolve the border security first, and then we can begin the very laborious and the necessary task of working with the people who are here and do it in an appropriate fashion, rather than rushing our way through with one amendment after another amendment after another amendment, and see at the end of the day what we have? When you make a pie a slice at a time, it isn't necessarily a comprehensive approach.

I appreciate and I thank my good friend from Alabama for the opportunity to speak on this issue today.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, the Senator from New Hampshire wanted to speak on a different subject, and I believe he has cleared that, and it would not count against the time on this amendment. I would be pleased, if there is no objection, to allow him to speak on that subject now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I ask unanimous consent that I be able to claim the floor afterward.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent to speak for 20 minutes and the time not be charged to this amendment and that Senator SESSIONS be recognized upon completion of my statement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GREGG. Mr. President, I wish to talk about border security. Obviously it is a topic of hot discussion here in the Chamber, and I just wanted to try to put in perspective what has actually happened and what may happen, especially in light of the President's presentation on Monday night.

I have the good fortune, I guess, to chair the appropriations subcommittee which has responsibility for border security. I took this over 2 years ago, a year and a half ago, I guess. When I took the committee over, it became immediately apparent to me that the priorities within the Department of Homeland Security were not necessarily focused on what I consider to be the primary threat. So we reoriented the funding within the Department to look at threat first, the highest level threat being, of course, a weapon of mass destruction which might be used against America. So we started to increase funding immediately in that account.

In my opinion, the second highest level of threat was the fact that our borders were simply not secure. They were porous. We didn't know who was coming in. We especially didn't know who was leaving. We knew that we weren't in control of the southern border relative to those folks coming in, and we knew that on the northern border, although we don't have the human-wave issue of illegal immigrants coming into the country, we do have a very serious issue of people who might come across the northern border represent clear and present threats to us, probably even more so than across the southern borders, in some cases. So we reoriented funding within the homeland security programs through the first bill that I was in charge of.

At that time, the administration sent up a proposal which essentially continued what I would call the benign neglect of the border security effort in our country. Their proposal in that budget was for 210 additional border agents and essentially no increase in technical capability or in the capacity of infrastructure or the capacity of ICE. There was a proposal in the Coast Guard area, but it was anemic. So we took that proposal which came from the administration and we reoriented that, too. We said: We are going to increase the number of border security agents on the border by 8,000. We are going to spend about 4 years to 5 years doing that. We had to begin slowly because the training facilities simply weren't there for this type of a huge increase in border security staff. So we began with a supplemental number of 500, and then we followed that up with 1,000 additional agents in the next regular bill that came through. So we added 1,500 new agents.

In addition, agents aren't the only issue. Boots on the ground is not the only issue. Technology is an issue, but probably even more important is the issue of what you do with an illegal immigrant who has come across our border once you capture that individual on our side of the border. Most of them are Mexican, on the southern border—about 85 percent—and they are immediately put on a bus and taken back across the border. In many instances, they just come back the next day or a week later. But a number of them are non-Mexicans, and those folks were given what was called a catch-and-release status, where you essentially gave them an indictment which said they must return to be heard in a hearing 2 or 3 weeks later, maybe a month later, and then you released these individuals. Of course most of them never come back. Sixty-six percent never return to that hearing. That wasn't working, so we believed we should significantly increase the number of detention beds so we would have the capacity to actually hold people, especially non-Mexicans, who were coming across our border and whom we couldn't immediately return by bus to their country, as we could with the Mexicans. So we started to expand the number of beds, and we increased the number of beds by about I think 2,000 in that first budget cycle.

After having done that, it was ironic, and I guess appropriate, that the White House came forward and said: What a great idea. That is our idea. Let's take credit for this idea. So they held a press conference and said: What a wonderful idea you had to increase the number of border agents by 1,500 people and the number of beds by a couple thousand, and we would actually be taking the money and putting it toward border security. That was a year ago.

Now the new budget came up again, and this time the administration sent up a budget which was oriented toward border security in that they represented that they were going to increase the number of agents by another 1,500 and the number of beds by another 6,000, and they were going to begin to put more money into the Coast Guard initiative called deepwater. But it is not really deepwater; it would be better called protecting our coastline from threat. "Deepwater" makes people think it is somewhere out in the middle of the ocean. It may occur in the ocean, but actually this is threat protection along our coast.

So they made these commitments within the budget they sent up. What they failed to do, however, was fund those commitments because they sent up really a hollow budget in that they put in that budget a system for paying for these new Border Patrol agents and these new beds by increasing the fees on people who are traveling on airplanes by about $1.2 billion. Of course, that fee proposal had been rejected the year before. The Chairman of the committee that has jurisdiction over that proposal had rejected it out of hand this year when that budget was sent up, and everybody knows that it is not going anywhere, so it is what is called a plug. It happens around here. People send up a budget, and they will put a plug in it, which is basically a number they know they are never going to get, but they put it in to make the budget look correct. This was a plug. Clearly, airline fees, if they are going to be increased, that revenue should go toward airline traffic protection, which is basically TSA activity, maybe some visa activity, but it is not appropriate to put an increase on the airline passenger, on people using the airlines, and then take that revenue and put it on the border. If you want to use a fee on the border, put a fee on the border. Put a 50-cent charge as if you are going through a toll gate. If people want to come across the border, maybe it should cost people 75 cents.

But in any event, that wasn't proposed. What was proposed was to raise the airline fee, which everybody knew was not going to be done. It was a plug number. So even though they sent up a budget number to increase the Border Patrol agents by 1,500 and the beds by about 6,000, as a practical matter, it would be very hard for us to do that with the numbers they sent up to back up those commitments, but at least the commitment was there.

As the chairman of that appropriations subcommittee, it put me in a very difficult position because basically I have to go out and find that $1.2 billion to fill that hole, to get the additional funding to get those agents, which we wanted to do or had intended to do. That means I have to convince the Chairman of the committee, Senator COCHRAN, to take money from some other subcommittee in order to do that within the confines of the budget—obviously a challenge to Senator COCHRAN and clearly a position he shouldn't have been put in, but he has been, as have I.

Now, because of the fact that, as we looked hard at the border patrol issue and the securing of the border issue, it became very apparent that not only were boots on the ground an issue but actual physical capital assets were a huge issue—for example, the planes that are flown by the Customs Department, the Customs agents, are 30 to 40 years old and 20 years past their useful life. The helicopters being flown by the Border Patrol agents are 20 years past their useful life. The Coast Guard has a fleet which is very aged and which is not fast. They have one or two planes that are up to snuff, but most of their planes need to be refurbished. In addition, the unmanned technological activity along the border, specifically unmanned aerial vehicles—there was one, but regrettably it crashed 3 weeks ago. That has been discussed a lot on this floor. So there are actually none right now, and there won't be a new one until August. In fact, the surveillance fleet is so bad that about a month ago, the entire fleet was grounded, so we had no planes in the air.

Then you have the vehicle issue. These vehicles wear out very quickly because they are used very aggressively in very difficult terrain. Then you have the issue of just simply the training facilities because as you dramatically expand the number of people you are trying to put in the Border Patrol, you need training facilities to do that. Those training facilities are being upgraded and have been upgraded, but they need to be upgraded further to handle the even more people we are going to put in there.

So I suggested about a year and a half ago that we do a capital infusion into the border security effort which would essentially accelerate the Coast Guard refurbishment, taking it from completion in the year 2026, which I thought was a little long to wait for the Coast Guard to be refurbished, down to 2016. It would get the new planes for the Customs Agency; get new helicopters for the Border Patrol; and instead of having one Predator, which no longer exists, in the air on the border, have three or four Predators on the border. There are other technologies which are a lot cheaper, actually, than using that vehicle which probably should be pursued, and doing the technology along the border relative to land-to-land detection.

In addition, the capital infusion would give the Border Patrol the physical facilities so that when we get all of these Border Patrol agents together in their various facilities, they have a place to sit down, they also have desks at which to work, and they have vehicles that allow them to go out in the field and do their job.

To accomplish that kind of refurbishment was in, our estimation, about a $1.9 billion effort. So I initially put that forward in the Defense bill last year. It got knocked out. It went in on the Senate floor, went to conference, and it got knocked out. I then put it in the reconciliation bill, and it got knocked out. I then put it in, with the support of the Senate—the strong support of the Senate—actually Senator BYRD has been a pleasure to work with as the ranking member on this subcommittee. I then put it into the most recent supplemental that came across the floor, $1.9 billion for capital activity. Well, then we had a presentation by the President on Monday night which suggested we bring in the National Guard to basically, I guess, as I understand it, free up Border Patrol agents from desk jobs and get them out in the field—to simplify the statement of what they will be doing, although they will be doing more than that, I am sure—essentially is funded by taking the $1.9 billion and moving it from capital refurbishment over to operational exercises. That, in my opinion, is not necessarily—well, I will let people assess where that is.

In any event, it would mean the capital initiative would no longer exist and the dollars would go to pay for the National Guard and for other activities that are operational in nature, including adding an additional 1,000 Border Patrol agents on top of the 1,500, which we did plan to add this year. This would be good if we could actually accomplish that. However, there are technical restrictions on the ability to hire—it takes about 35,000 applications to get 1,000 agents—and the capacity to train is extremely limited. It is limited, not extremely limited—but it is limited so you probably can't do 2,500 agents in the timeframe this proposal has put forward. Maybe you can. I doubt it. The track record of this department in this area is not stellar.

Essentially what is happening is that $1.9 billion which was supposed to go to capital improvements to get the planes, so they could fly the helicopters, fly the predators—so they could be up in the air, and the vehicle so they can drive around the border doesn't exist anymore. I was told by the Chairman of the conference yesterday: Good luck in getting this money. If you want to break the President's hard number of $94 billion and claim it as an emergency, you can get the money and get it that way.

Of course, as the Chairman of the Budget Committee, when I put this proposal forward I hadn't actually paid for it, and that was the key. I took it out of the across-the-board cut from defense. It was not my first choice on how to pay for it, but at the request of Senators STEVENS and WARNER, I did that. But, obviously, I am not going to put forward a proposal that exceeds the $94 billion and is unpaid for and there is no way to pay for it from the money paid to the Defense Department in this supplemental as an add-on to the initial $1.9 billion. We need, obviously, $3.8 billion at that point. So this capital improvement exercise is essentially dead as a result of the money being moved, migrated over to the operations side relative to the National Guard.

The practical effect of that also will be that the out-year pressure on the budget, on the appropriations account relative to this account, will be significantly higher because we will be putting in place a budget item essentially paying for the National Guard, or the people who replace the National Guard, which will be at least $1.9 billion in costs annually on top of the present appropriated plan. So to do it correctly we should not only use this $1.9 billion for this operational activity, but there should have been a supplemental request for the budget of the homeland security agency, the Department of Homeland Security, to reflect what you might call the expense that is going to be generated by the ongoing cost of putting this type of initiative in the field, if you are going to be sure that initiative will continue and will be robust.

I would be very much in support of that, obviously, because clearly that number is going to have to be paid for. As I mentioned earlier in this discussion, I already have a $1.2 billion hole in that budget which I have to pay for in order to get the full 1,500 complement in place of additional agents. Now I will have a $1.2 billion hole plus a $1.9 billion hole on the operational side. And in addition, of course, I will have a $1.9 billion hole on the capital expenditure side because we still have these airplanes that have to be replaced, helicopters that have to be replaced, unmanned vehicles that have to be put in the air, and a Coast Guard that really should not have to wait until 2026 to adequately defend our coastline.

I want to outline the specifics of where we are now on the dollars relative to border patrol and border security. When you get down to it, this is not a complex issue, securing our border. We all know that with 8,000 more agents, about 10,000 more detention beds, with decent technology on the border relative to unmanned vehicles and sensors, with a Coast Guard that is up to snuff, with airplanes that are up to snuff, we can essentially control the border to the extent you can control it without a guest worker program in place. A guest worker program still, in my opinion, is critical to any long-term resolution of this program because human nature says people are going to cross the border if they are getting paid $5 in Mexico and $50 in the United States for a day's labor and they have a family to support. So that is an element of it.

But the first element to which I think everybody has agreed is decent border security. Decent border security only requires resources. We have the capacity to do it; we have the technology to do it. It would be nice if the Defense Department would share a little more aggressively with Homeland Security, or Homeland Security would, on the other hand, go out more actively to try to get the Defense Department to share it, but we have all the parts sitting there in the box. What we have to do is pay the price of taking them out of the box and putting them in the places they should be.

I just wanted to outline where we stand relative to the issue of resources because I think there has been considerable confusion, especially in light of the speech by the President on Monday.

Mr. KENNEDY. Will the Senator be good enough to yield for a question?

Mr. GREGG. Of course, I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. We have before us now an amendment in terms of building some 350 miles of additional fence. It is going to be a triple fence. The best estimates—the Senate, I am sure, will hear from the Senator from Alabama—but the best estimates we have been able to see is approximately $4 billion.

I am just listening to the Senator talk about allocating resources to renew technology between border guards, between helicopters, unmanned aerial vehicles, other infrastructure improvements, and the pressure that we are under in terms of the appropriations. Having listened to the Senator from New Hampshire, and listened to how he had to allocate $1.9 billion, is he prepared to make any comment if we add another authorization for another $4 billion or $5 billion on fencing, where that money would be available?

Mr. GREGG. In response to the Senator from Massachusetts, neither he nor Senator SESSIONS is going to like my response. I come down on the middle on this one. We can have, in that capital allocation, money for a fence. I believe additional fencing is important, especially in the urban areas where the crossing points are basically stepping across a street corner, and you have to put up significant fencing to accomplish that. I honestly don't know the number of miles. But clearly there is going to be a significant cost. I am of the view that we ought to listen to the department as to what the number is relative to the miles of fence that is needed. I would very much oppose a fence that ran the whole length of the border. I think that would be a waste of money, it would be inappropriate, and it would be extremely inhospitable to Mexico.

But there are areas of the country that the only way you can do it is by fence. Certainly, the San Diego fence proved to us that fences do work in urban areas. What the distances should be and what the numbers should be, I don't know the answer to that question.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. If the Senator could yield for another question? Could the Senator have 3 more minutes to just yield for a question?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. I must say I agree with the Senator—we will have a chance, when I have my own time, to talk about Secretary Chertoff—that there are appropriate areas. I agree with the Senator as well. But just extending a fence all along the border does not make sense. I think his response is certainly one with which I agree, and I thank him for his comments.

Mr. GREGG. I thank the Senator and yield the floor and appreciate the courtesy of the Senator from Alabama and the Senator from Massachusetts for allowing me to speak.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from New Hampshire because it is very important that we have, as the chairman of our Budget Committee, someone who can add and someone who has a memory. We forget how things happen around here, and Senator GREGG has a way of reminding us of how we get in these fixes. It is very valuable to us.

I would respond to my colleague from Massachusetts that $4 billion to $5 billion is an estimate for the fence across the entire 1,980 miles of border. This amendment calls for 370 miles, some of which has already been built. It is called for by the Secretary of Homeland Security. It does, indeed, focus mostly on urban areas, and it gives him great flexibility in deciding where to put it.

Does it cost some money? Yes. But I want to tell every Member of our Senate community that the American people expect this. If it takes a sequester across the board and takes a half of 1 percent of every budget to get this thing done and fix immigration, that is what they want us to do.

I am delighted that Senator VITTER of Louisiana is here and also wants to speak on this issue. He is an original cosponsor.

I would also note, and add for the RECORD, that Senator GRAHAM, our Presiding Officer, and Senator INHOFE wish to be original cosponsors, as does Senator KYL from Arizona. I ask that be part of the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I yield such time as Senator VITTER uses.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I rise in strong support of this amendment. First, let me congratulate my colleague from Alabama for putting together this very essential amendment. I am proud to be an original cosponsor, and I want to strongly support it.

I also want to suggest that based on the discussion we just heard involving the chairman of the Budget Committee and the Senator from Massachusetts, everyone in this Chamber, based on their statements, should support this amendment. Based on what the Senator from Massachusetts just said, he should embrace this amendment because, if you look at the details of what this amendment does, it is perfectly consistent with those statements, and it is perfectly consistent with what the President said on Monday night. It is utterly consistent with what Secretary Chertoff says he wants and needs as a crucial element of border security. It is not the only element, not the only silver bullet, there is no magic wand, but it is a crucial element of border security.

Unfortunately, the underlying bill does not provide enough authorization and demand for fencing in this regard. The underlying bill, particularly section 106, only calls for a very limited and modest repair and construction of fencing along very limited parts of the southern border of Arizona. That is basically fencing that largely already exists in the Tucson and Yuma sections of Arizona.

What this amendment would do would be to expand that provision in a very reasonable and cost-effective way. What this amendment would say is that the Secretary of Homeland Security would construct at least 270 miles of triple-layered fence, including the miles of fence already built in San Diego, Tucson, and Yuma, and 500 miles of vehicle barriers at strategic locations.

Again, I underscore that this is not building a wall or a fence across the entire Mexican border. This is not the cost cited by the Senator from Massachusetts. This is something far more focused, that will be a great force multiplier as we put more agents at the border, and that is an absolutely critical part of truly defending the border.

As the chairman of the Budget Committee said, in highly urban areas there is simply no way around the need for a fence. To avoid a fence in highly populated areas would literally require a border agent every few feet to monitor the border because you are talking about a border running through the middle, essentially, of an urban neighborhood. That is an impossible enforcement situation without some sort of physical barrier. These 370 miles would go into those highly populated areas.

I underscore that this is exactly consistent with what virtually everybody has been talking about. Monday night the President talked about border security. He wasn't quite as strong on border security as I would have liked. He wasn't quite as focused on border security, first, before we move on to other elements of this bill, as I would have liked, but he explicitly mentioned the need for significant fencing for those highly populated areas. This amendment simply does that.

The President's own Secretary, Mike Chertoff, has met with Members of this body, and he specifically talked about exactly the same need and specifically talked about 370 miles. That is where this number in this amendment comes from. This number didn't come from out of the blue. It wasn't just a wild guess. It wasn't just a pretty number. It came from discussions with Secretary Chertoff.

The chairman of the Budget Committee, when asked by the Senator from Massachusetts would he support fencing, said we absolutely need it as a piece of our enforcement puzzle for highly populated areas—for urban neighborhoods.

That is exactly what this amendment addresses. Again, the 370 miles is exactly focused on that type of need—highly populated areas where to patrol the border without any physical structure would literally require a border agent every several feet, which is completely impractical and cost prohibitive.

I think this is an absolutely essential amendment to the bill. Really, this is the sort of amendment that will test how serious folks really are about enforcement.

This whole immigration debate is pretty interesting. We have wildly divergent views and strong passions on the issue from one end of the spectrum to the other. Yet if you listen to speakers on this floor, no one is in favor of amnesty and everyone is in favor of border security. Of course, it depends on how you define "amnesty" and how you define "border security."

In terms of border security, this amendment is a simple test on whether you are really serious in what you say. This is a gut check that the American people can understand very simply. If border security means anything, it surely means, among many other items, this 370-mile fence. If a Member of the Senate votes against this really quite narrowly tailored, limited in some ways, modest amendment, I think the American people will get it. They will surely know that Member isn't serious in any way about border security.

In closing, let me thank the Senator from Alabama again for this very necessary amendment. If border security is to mean anything, if it is to possibly work—and I have serious reservations about whether the plan in this underlying bill will be allowed to work, will be enforced, if the appropriations will happen to make it work, but if it is to have a chance to work, surely it has to include this modest 370-mile fence, the sort of fencing President Bush specifically talked about and the number of miles his Secretary of Homeland Security specifically mentioned in meetings with Members of this body.

I yield the floor.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 45 minutes.

Mr. KENNEDY. Mr. President, I yield such time as I might use.

Over the course of the discussion and debate on immigration reform, those of us who have been strong supporters of it have pointed out what the President of the United States pointed out; that is, this is about four major aspects of having this program work. They are all interrelated. That is what we call comprehensive. One of them is border security.

Those of us who support strong immigration reform strongly support border security. We voted for the enhancement and the increase in the supplemental.

We just listened to the Senator from New Hampshire who outlined how he allocated $1.9 billion. It is very interesting that we have some allocation for a San Diego fence in that, but he also talked about using new technology and using recent technological breakthroughs as being the most effective way to provide security at the border. He reiterated that today.

The chart behind me illustrates border enforcement which is in S. 2611 at the present time: 12,000 new border agents; high-technology, virtual fence which was favorably and positively commented on by the Senator from New Hampshire when he had responsibility to take the $1.9 billion and look at how he was going to allocate it over the period of time.

It talks about the new roads, vehicle barriers at the border, and about fencing in strategic locations.

Do you understand fencing in strategic locations? That is a part of S. 2611.

I was at the briefing with Mr. Chertoff. I understand he was talking about building a fence at strategic locations, but 400 miles of urban area is on the border.

Let us be serious—400 miles. That is almost a quarter of the southern border stretching from California to the Gulf of Mexico. And we are trying to convince the Member from Massachusetts that is an urban area? Come on.

We recognize there are going to be certain strategic areas for fencing. That is in this bill.

Authorization for permanent highways in the legislation, and we are all familiar with that. Who can get that bumper sticker up the highest? Let us put up another 30,000 border guards. I dare you to vote against that and I will show that you are not interested in border security. Let us put another 1,800 miles of fence down there and triple wiring to show how tough we are on it.

Is that the challenge out here when we are trying to deal with a comprehensive program? I don't think so.

What we are trying to do is do what is necessary.

The Senator from New Hampshire talked about the limitations in recruitment. You have to get 40,000 in order to get 1,000 in terms that will be qualified for border security. He talks about the limitations in training programs. He talks about the technological kinds of limitations.

I thought he made a very responsible presentation.

If there were additional needs, we were prepared.

We have had the opportunity to work on this issue on border security. We have also recognized that part of border security is enforcement in terms of those who would be coming into the United States as guest workers to make sure we are not going to have exploitation. If they are not going to be able to get that job which they are able to get today, there will be less pressures on the border.

All of that is entirely relevant. If they have the ability to go back and forth, there will be less pressure on the border as well. These are all entirely relevant. That is the result of the extensive hearings we had. These are all the items which we have included.

I am for Secretary Chertoff working through those particular areas. With his charts and maps, he demonstrated areas where he thought it made some sense to put some fencing and other areas where he thought it was completely unnecessary. There is nothing in the current legislation. In fact, there is sufficient authorization. So if the Secretary wants to use resources that are allocated to him to meet the responsibility, he has the power today to do it. There is no suggestion that he does not have the power and does not have the flexibility in terms of the budget to be able to do that today in the selected areas.

But the idea to effectively fence a quarter of the border on the south, that is the downpayment for fencing the whole border.

There are Members of this body who believe that is the way to go. Let us put the fence all down there. Then we are going to have guards going all along that. We will back that up with the National Guard.

I don't know whether we have enough men and women in the National Guard or if we are going to have a sufficient number of men and women in the military to do that.

Then we are going to look at our northern border, as the Senator from New Hampshire pointed out and as we have heard in our committee. If you are looking at security issues, there is as much concern about the northern border as there is about the southern border—so 4,200 miles up there as well. It is unlimited. Let us get more border guards up there. Let us get 4,200 miles of fencing up there as well.

We should secure our borders. To do that, you need a multidimensional approach. You need effective enforcement. You need enforcement in terms of here at home for employers that are going to bring undocumented aliens to their companies and corporations. And you need a process which is going to be vigorous in enforcement. We provide that as well.

I wish to mention a couple of items in terms of the fencing we have seen that I think are also related. If we look at what has happened at the border crossings over the last several years, let us recognize that we are all committed to doing more on the border. But the idea that border security in and of itself with fencing or not is going to solve the problem just defies all recent history.

Forty-thousand came across the border 20 years ago, and 400,000 10 years ago. Mr. President, $20 billion—23 times the number of border agents we have put on in the last 10 years, and it is probably double that today. You just can't spend enough money on those. You can't get enough agents. You have to look beyond that. You have to look at what is happening here in U.S. in terms of employment and tough enforcement. That is what we are about in this legislation.

Let me point out what this chart says. These are deaths due to unauthorized border crossings. You go from 1996 with 315 to 1998 with 491. The list goes on, 391, 371, 412, 369, 443. These are the deaths primarily in the desert.

We can ask ourselves, Why do we have a significant increase in 1997 to 1998? Why did it go from 129 to 325?

Do you know what happened during that period of time? The fence went up in southern California. There is 67 miles of fencing at the present time.

In the legislation, there are key areas which have been identified as urban areas, and we also provide the resources for targeted areas in Arizona.

That is what has happened. During the building and construction of that fence, we were driving these individuals who wanted to come to the United States to take the jobs which employers offered to them—and they shouldn't have offered it if we had an effective system—they had to travel across the great desert, they had to travel across the mountains at dramatically higher risk in terms of their own safety and in terms of their own security. The totality of the pressure for coming here was not reduced and the totality of the people who got in here was not reduced.

There was a dramatic increase in the cost of lives. That may mean something to some people and it may not mean much to others.

Again, as the Senator from New Hampshire pointed out, he talked about the new technology, and he talked about the unmanned aerial vehicles that we need to get and bring on board. He talked about new kinds of technology, which he pointed out, and which I believe, and as the testimony presents itself, is really effective in developing the virtual wall, the virtual wall of technology, the virtual wall that can provide the security which this Nation needs. I support that. I will support certainly the resources to be able to do it.

But this is a feel-good amendment. We need to do things which are serious and which are important in terms of the border. This doesn't happen to meet that particular requirement.

I hope the Senate will accept it. I withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, the time is under the control of Senator SESSIONS, who asked I take the floor next.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KYL. Mr. President, let me first of all note that I very strongly support this amendment for one reason: It embodies the entirety of an amendment which I offered in the Senate Judiciary Committee which was agreed to. When the Senator from Massachusetts defends the underlying bill, he is defending that amendment.

That amendment provides for about half of what we are talking about. In fact, all of the language of that amendment is also included in the amendment of Senator SESSIONS. Why do I know about that? It was my amendment because it deals specifically with the State of Arizona. What did we do? We went to the Border Patrol and we said: You will have aircraft, sensors, cameras, border patrol, vehicles, fencing, all of those things working in combination to try to secure the border.

What do you need, specifically? What are you recommending for the fencing part of that? This is what they said: First of all, we need to tear down some of the existing fencing because it is not very effective. It is the old surplus landing mat. It is solid steel. It stood vertically. The National Guard built that fencing and that is what exists in the urban areas.

I wish my colleague from Massachusetts could visit the border in Arizona and see how that solid-steel fencing has divided communities. It is an ugly eyesore. It is an ineffective way to prevent people from crossing, right in the middle of Nagales, AZ. On the other side from Naco-Sonora, separated by this fence, we have a huge 30-foot-high or 20-foot-high barrier of solid steel. It is ugly. It is ineffective. People can climb up the other side, and our Border Patrol cannot see them because it is solid steel.

What the Border Patrol would like is a double fencing that you can see through so they can see who is on the other side and what they are about to do. Moreover, the biggest part of violence now is the rock throwing that occurs. They cannot see what is on the other side of this steel barrier.

The first point is they want to replace this landing mat fencing with modern, up-to-date fencing that is probably double. That is to say, there are two fences involved, as there are in California. That has been extraordinarily effective to keep people out because you have a patrolling in the middle. People may get over one fence, but by the time they get over that fence the cameras spot them and are able to direct Border Patrol to the area. They are not able to get over the second fence so they cannot quickly melt into the rest of our society. That is why this double fencing actually works.

In the area of San Diego, I am told that still no one has crossed over the double or triple fencing. No one. In that sector of the border, the apprehensions have gone down. This is good news because it means there are not people crossing—from some 600,000 now down to 100,000. And that is the entire sector of San Diego. In the specific area where there are 26 miles of fencing, no one gets across. That is what we are trying to achieve in the urban areas.

The Senator from Massachusetts said all that has done is to drive them out into the desert, where it is more dangerous and deaths have increased. What is the point of that argument? Is the point that we should simply provide an invitation for those who would like to cross our border illegally, to do it in the same way as the urban area?

What the Border Patrol says works is a combination of things. Fencing in the urban area, where large numbers of people congregate at one time. We have seen the pictures of them rushing the border through the San Diego port of entry, where 200 or 300 people at a time congregate, rush the border, rush through, intermingle with the cars waiting to get through. It is impossible to apprehend more than a handful of them. That is one of the techniques.

We have to try to stop that. One way we do that in the urban area is to have this fencing. Frankly, if I can get my colleagues from New England or other States to come down. Members would agree it is not very sightly. From an environmental standpoint, it is not good. And from a good neighbor standpoint, it is not good to have this ugly fencing. We would like something that looks good and does the job.

What the amendment in the underlying bill does, and it is the same thing in Senator SESSION's amendment, it says we are going to replace that landing mat fencing with the kind of fencing the Border Patrol believes would be more effective. That is part of the reason for the 370 miles of fencing.

The Senator from Massachusetts derided the amendment as suggesting that it was not just for the urban areas because, after all, 370 miles of fencing is a lot of fencing. That is a big piece of the whole border. Now, let's calm down and do the math. There are several hundred towns along the border. As one should not argue against oneself when one supports the underlying bill, here is what one is supporting. What you are supporting is fencing in the urban areas, approximately 10 miles extended in either direction. The urban areas are maybe 5 or 6 miles and 2 or 3 miles beyond that. That is what the underlying bill provides.

I will read briefly from parts of the underlying amendment:

> (1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located approximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-layered fencing running parallel to the international boundary . . .

To extend it for a distance of not less than 2 miles beyond urban areas except it shall extend west of Naco for a distance of 10 miles. Then we talk about the Yuma Sector of Yuma, Somerton, and San Luis, so there are 15 communities in the State of Arizona.

If you proximate 10 miles on either side of the midpoint of the community, that comes out to 140 miles of fencing. If you add to that, there is at least 26 miles in the San Diego area. I don't know how much beyond that. If you add the 26 miles, that is 176 miles. There are many other communities in California, but let's say there are four or five. That gets you half of the 370 miles, and you have not even talked about the longest part of the border in New Mexico and Texas.

My point is, if all you do is extend, to a modest degree, for more than 10 miles on either side of the communities that are on the border, you are easily up to 326 miles of fencing.

Why did the Border Patrol say it needed 326 miles of fencing? Because they did the math. They counted up all of the communities and figured how much fencing they needed in each of these urban areas and that is what they asked for. This amendment simply takes the underlying bill, which my colleague from Massachusetts is supporting, and adds essentially the fencing for Texas, New Mexico, and California to that, and the sum total we get is about 370 miles to replace existing fencing and add fencing strictly in the urban areas, which will be effective as the fencing in San Diego has been.

The Senator from Massachusetts says we need to secure the border, but we should do it in a serious way. I submit that a virtual fence is not a fence. A serious way means building some miles of actual fence. That is what keeps the illegal immigrants from crossing illegally into the United States. In combination with UAVs, helicopter, fixed-wing surveillance—there is surveillance actually in other ways, as well, which we do not need to get into—there are sensors, there are cameras, there are people on patrol on horseback, on three-wheeled vehicles, on four-wheeled vehicles, and you put all of those things together, and we can build a combination of actual and virtual fencing that creates the ability to control the border. This is what you do if you are serious about controlling the border.

Finally, in the Judiciary Committee, we held hearings about what was necessary to secure the border. We heard from the head of the Border Patrol, David Aguilar. We heard from the former head of the Border Patrol, we heard from the U.S. attorney from Arizona, we heard from a couple of sheriffs on the border in Texas and Arizona. And we asked them what was going on at the border and what they need to control the border. Here are a couple of examples. David Aguilar said that over 10 percent of the people now apprehended coming into the country illegally had criminal records. They were serious criminal records. We are not talking about defacing public property. We are talking about murder, rape, kidnaping, violent smuggling, drug crimes, and the like. More than 10 percent. These people are deterred by fencing, and they need to be stopped. So we are not talking about people trying to come into the country to work.

The U.S. attorney for Arizona testified that crime, in the last year, in terms of assaults in the border areas, has increased by 108 percent. The reason is because the Border Patrol is finally getting to be a sufficient number, and the fencing is doing a good enough job that we are contesting the territory of the drug cartels, the smugglers, the coyotes, and the criminals are fighting back to try to regain the territory with weapons. Do not think rocks are not a lethal weapon. As a result, we are seeing that there is some progress being made, but it has increased the violence. The Border Patrol desperately needs more fencing in order to protect their agents from these criminals on the other side of the border.

It is beyond me why someone would deride a recommendation of the Border Patrol for a little bit of fencing in the urban areas to protect our officers who are out there trying to do their job, among other things, to prevent violent criminals from entering the United States, to prevent contraband drugs from entering the United States.

This is why we are adding a little bit of fencing. The border is 2,000 miles, roughly, and we are talking 370 miles, representing essentially the area of urban communities on the border. Bear in mind, these are communities that straddle the border. In Douglas, until a few years ago, there was a corral in the middle of town, and the border ran through the middle of the corral. There was nothing but a corral. In places right outside of town, there is a barbed-wire fence that is old and rusty and now does not even have three strands. That is the border.

These are communities in which people work and live on both sides, they cross frequently, and they are now subjected to a huge amount of crime because of the elements that have moved into those communities to transport drugs, to make a lot of money transporting illegal immigrants, and to come across the border from countries other than Mexico because they are criminals, and they figured out this is a good way to get into the United States to do their crime. Who knows what terrorists might be thinking.

The point of this amendment is to add, simply, a little bit more fencing to what is already in the underlying bill in the urban areas of the country to effectively secure the border which, after all, is what we ought to be about here, to protect the people who live in the vicinity of the fencing and to protect the officers we have put into harm's way to do the job we want them to do.

I will conclude with this point. It has become very fashionable now for everyone to say: We must secure the border. What this amendment says is, if you are serious, if you really mean that, here is a very modest little thing you can do, what the Border Patrol has recommended it needs, to have a modest amount of real fencing which they say protects themselves and protects American citizens.

I don't have the statistics on the top of my head, and maybe Senator CORNYN does, but at the hearing we held in our subcommittee, the testimony was that crime in the San Diego area where this fencing had gone up had gone way down, but that San Diego and the Mexican citizens on the other side of the border, likewise, have been subjected to a huge increase in crime until that fence was built. Once the coyotes and the cartels knew they could not come across in that area, they left. And so did the crime.

This is a great amendment. It should be supported by all Members. Crime in San Diego dropped by 56.3 percent between 1989 and 2000. If you can cut the crime in half in a community by building this double fence, and they did, and I don't hear anyone objecting to the double fence in the area of San Diego, why shouldn't the other communities? If anyone would like to come to the Senate and say that it was a mistake to build that double fence in the area of San Diego, I would like to ask them to please do it. I would love to hear the reason why that is not a good idea.

All we are asking is that in the other urban areas along the border, the same kind of fencing be built to protect our law enforcement officials and the citizens of those areas and to help prevent this kind of smuggling across our border—nothing more, nothing less. This is a modest amendment, and it should be unanimously agreed to by the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. I thank the Senator from Arizona. There is no more harder working, no more knowledgeable Senator in this Senate on the issues involving the border than he. I thank him for his eloquent remarks.

I am pleased to yield such time as he may consume to Senator CORNYN of Texas who, like myself, is one of the most knowledgeable people in this Senate who has been engaged in this debate from the beginning and whose advice and recommendations I have valued throughout. So I will yield to Senator CORNYN for such time as he may choose to use.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, may I inquire how much time remains on our side?

The PRESIDING OFFICER. Thirty-eight minutes.

Mr. CORNYN. Mr. President, I assure my colleagues, I will not use but a fraction of that time.

I think one of the things that makes this issue of fences and walls along the border so controversial is because walls and fences are powerful symbols. Indeed, I know, in talking to some of our friends on the other side of the border, they worry what the message is America would send if we were to build, let's say hypothetically, a 2,000-mile wall between America and Mexico.

Well, suffice it to say that I think, as we have had this debate both in the Judiciary Committee and now here on the floor of the Senate—and as a lot of us have been working to try to better understand what is actually needed by the Border Patrol to secure our borders—our thinking has evolved.

Indeed, I was one of those who initially was somewhat skeptical of the idea of a wall or a fence. But now I find myself supporting this amendment. I would like to explain just for a minute why.

We sometimes joke among ourselves that if, in fact, Congress was to authorize and the Department of Homeland Security was to build a 2,000-mile wall, 50-feet high, across the border, it would probably see a boom in the sale of 51-foot ladders or what we would see is a lot more of those tunnels like we have seen in the news recently in California and elsewhere, people going through a tunnel.

We all know, if you do not go over a wall or a fence, and you do not go under a fence, you might go around the sides of the fence. So I have wondered whether this is, in fact, the most effective way to deal with the problem.

As I have told my colleagues, coming from a State that has 1,600 miles of common border with the country of Mexico, I hope you will go look at it and see what we are talking about. I fear sometimes when people talk about the border they are relying more on their recollection, perhaps, of a movie they have seen or a novel they have read. It is a tough and difficult place to deal with, and you can appreciate, when you go to the border, the challenges the Border Patrol has and why it is so easy, relatively speaking, for people who want to come across that border into the United States, notwithstanding our efforts to try to secure it.

But I do not believe we ought to seal the border. I do not believe we ought to close the border. But I do believe we ought to secure the border. And I believe now that some strategic barriers—and, yes, even some fencing, such as Senator KYL and Senator SESSIONS have described—would be helpful.

Now, how did I arrive at that conclusion? Well, because we held a number of hearings. As chairman of the Immigration and Border Security and Citizenship Subcommittee of the Judiciary Committee, we have had a number of hearings, including the experts who have told us that, yes, it would be helpful in some areas along this 2,000-mile border to have some strategic barriers, some fences, some ways to funnel traffic so that the Border Patrol can have an easier job trying to actually detain people who come into the country illegally.

I would point out that under Senator SESSIONS' amendment, it would authorize the building of up to about 370 miles of fence. About 70 miles is already in place. So really we are talking about 15 percent of that 2,000-mile border which would be authorized to be built subject to the good judgment and discretion and professional decisions of the folks who are in charge. The Border Patrol, the Department of Homeland Security, they would be the ones deciding it because, frankly, I do not think we here in Washington are in any position to decide where it ought to go. We ought to leave it to the experts.

But the fact is, it is expensive. This leads me again to remind my colleagues that we can pass some pretty expansive legislation here, we can talk in grandiose terms about border security, worksite verification, and dealing with this great challenge that confronts us, but sooner or later we are going to have to pay for it. And the $1.9 billion the Senator from New Hampshire succeeded in getting appropriated in the supplemental appropriations bill is a mere downpayment on what it is going to cost. So I hope Senators who talk in very sincere terms, no doubt, about making sure this bill is enforceable will be just as emphatic when it comes to paying for these measures.

Let me say that we are not just talking about putting up some fencing in order to secure our borders. We are talking about doubling the number of Border Patrol agents. This is the primary law enforcement agency that is responsible for providing border security. The President announced on Monday night that he was going to authorize up to 6,000 National Guard troops to assist the Border Patrol on a stopgap basis, not to perform law enforcement per se but to provide support to the Border Patrol while we recruit and train more Border Patrol agents.

Now, one thing I do not understand is why we are told that the Border Patrol can only train 1,500 Border Patrol agents a year. We need more, and we need them faster. In the last 3 years, the United States and the coalition partners have trained a quarter of a million Iraqi security officers and police and army. Why we can train, with the assistance of our coalition partners, 250,000 Iraqis but we can only train 1,500 Border Patrol agents a year is beyond me. We need to find out why that is and fix it.

But I sincerely believe what we need is a combination of more boots on the ground—we need human beings. We need to roughly double the number of Border Patrol agents to about 20,000. And just by way of a footnote, let me point out in New York City alone there are about 40,000 police officers. So we are talking about half the number of law enforcement agents along our 2,000-mile border than they have in New York City. But they need some help.

We need the force multiplier that comes with technology. I know others have talked about this, but a couple days ago I went out to Fort Belvoir, VA, out to the Army's night vision lab and their sensor lab where they actually develop this technology for use by our military in places such as Iraq and Afghanistan and elsewhere. What they demonstrated for me is some of the technology that is relatively inexpensive that is already being used by our military in places such as Afghanistan and Iraq that could be easily used by the Department of Homeland Security along the border. And this ranges from unmanned aerial vehicles that are airplanes, basically, with cameras on them that weigh about 10 pounds that can stay in the air for up to 4 hours at a time, which can also tie into ground sensors and cameras, thermal imagery, radar, and other things that could be used to be a force multiplier for our Border Patrol.

I think what we need is a combination of things to provide that security along the border. I do not favor a 2,000-mile wall, but I do not see what the objection is to using the necessary tools that are required in order to provide some chance of stopping the flow of humanity across our border.

Last year alone, 1.19 million people were detained coming across our southern border—1.1 million people. And people wonder why we have a problem? People wonder why we have a problem with controlling our borders when we do not have enough people, we do not have the technology, we do not have the strategic barriers there?

Well, part of the problem is we only have about 20,000 detention beds—20,000. That is the reason the Department of Homeland Security is engaged in this flawed idea of catch and release. In other words, you catch 1.1 million people, you send people back home more or less immediately who come from Mexico, a contiguous nation. But if they come from other countries, then we have to make arrangements to send folks back where they came from. That requires them to be detained somewhere for a while.

With only 20,000 detention beds, and 250,000, roughly, people coming from countries other than Mexico last year alone, you can see the problem. So people are released on their own recognizance and asked to come back for their deportation hearing 30 days hence. And guess what. Most of them do not show up. It makes you kind of wonder about the ones who do, knowing, as they must, that we do not have the people, the technology, and the infrastructure in place actually to enforce the law. Well, that is what we are trying to fix here.

So let me say, in conclusion, I think we have all evolved in our understanding of what it is going to take to solve this problem. I believe we have seen some good movement across the aisle on a bipartisan basis to try to come up with solutions. And I have been led to conclude—as a result of all the discussions and debates we have had, the hearings we have had in the Judiciary Committee, listening to the experts who are in a position to know—that this is what they need.

Secretary Chertoff of the Department of Homeland Security told a number of us this is what he needed in order to get the job done. I believe we have an obligation to give our law enforcement officials the tools they actually need to get it done, and to do otherwise would be some sort of cruel joke, to pretend we are actually serious about dealing with this problem but yet failing to provide those same officials the tools they need in order to get the job done.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Illinois.

Mr. DURBIN. Madam President, I am not opposed to fences and vehicle barriers. They are included in the bill. It is our understanding there are some places where fencing can be effective to stop illegal immigration into America. But what we have here has become a symbol for the rightwing in American politics: the symbol of a fence, a fence between America and Mexico.

If you have been a student of politics for a few minutes or a few days, you will know where this is going to end. This proposal by Senator SESSIONS would construct a fence of about 370 miles in length. The House Republicans want to build a fence that is 2,000 miles long. So what will likely happen, should this amendment pass the Senate and go to conference, is we will split the difference, and we will end up with a fence that is over 1,000 miles long on America's southern border. And perhaps, as Senator KENNEDY has suggested, it will be the downpayment for a fence that would stretch for 2,000 miles.

They have come down from their original request of a 700- or 800-mile fence. That was going to be the first thing asked for, when somebody suggested that would be a fence the distance of which could stretch from the Washington Monument to the Sears Tower in Chicago. That is the distance we are talking about—700 or 800 miles—but that could be the ultimate result here.

The obvious question we have to ask ourselves—I think two questions—No. 1, will it work? If you build a fence like this, will it work? Will it hold people back or will it become our "Maginot Line"? The Maginot Line was the line of defense built by France after World War I to stop the Germans should they ever want to attack again. And the French invested a great sum of money and all of their national security in the idea they could build a line that the Germans could never cross. They waited, knowing they were secure, until World War II began and the German panzers just crushed the Maginot Line and came roaring over it, destroying all of their feelings that they were safe forever.

I feel the same way about this fence. What fence is it that we will build that cannot be tunneled under, that you cannot go over or around? Is this really going to be an effective deterrent?

What we have suggested in the bill, which is completely full of ideas on enforcement, is to use technology. It may not be this high fence they want to build is the best thing for us. The technology we have available might be much better. We can have a virtual fence which achieves much more than a fence, which would cost us millions of dollars and be easily overcome. So in the first instance, I am concerned where this will end, how long this fence will be, and whether, in the end, we will be safer in building it.

The second thing is the image it creates of a country, that our relationship with Mexico would come down to a barrier between our two countries. I believe we should have a more positive outlook toward where we are going to be. Working with the Mexican Government, working with them toward the goal of stopping illegal immigration, is far better than the confrontation of a fence or a wall. I think it could bring us to a day when we will have our borders under control, with all we invest in this bill, with what we do by way of enforcement at the border and in the workplace, and with what we do with those who are currently here in the United States. It is a coordinated and comprehensive approach. It isn't just a matter of building a fence. It isn't a matter of enforcement alone. It is enforcement as a starting point.

My concern about this fence, which is likely to end up being over 1,000 miles long, is that it will not protect America. It will not stop the illegal flow of immigration. It would create an image of America which I am not sure we would be proud of in years to come. I will oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, I want to bring some relevant and important facts to the debate. As we have pointed out, we are for security of the border. We have outlined, in my earlier comments, the provisions in this legislation which would help to achieve that. I want to point out some of the history of the building of a fence and the cost of the building of a fence.

When the first fence was going to be built, Congressman HUNTER, the House's largest proponent of fencing, originally estimated the cost of completing the 14 miles of fencing in San Diego at $14 million, the same as the current estimate, I believe, of the Senator from Alabama. Fencing was completed over 11 miles, and the cost was more than 200 percent over budget, costing $42 million. The real cost of construction ended up being more than $3.8 million per mile. At that rate, a complete fence across the U.S.-Mexican border would cost $7.6 billion.

As was referenced, the House of Representatives position calls for a 700-mile fence. Congressman HUNTER boasts of securing an additional $35 million for the last 3 miles of fencing in San Diego, approximately $12 million per mile. These costs are significantly higher because of difficult terrain. Much of the U.S. border with Mexico crosses mountain terrain such as these 3 miles, potentially driving up the cost of borderwide security.

Let's look at what happened in terms of people. Currently, there are 70 miles of fencing along the U.S.- Mexican border, including 40 miles in California and 25 in Arizona. Partial fencing of the U.S.-Mexican border shifted migrant traffic from one area to the other. The apprehensions dropped in San Diego from a high of 450,000 in 1994, when fencing construction began, to a low of 136,000 in 2005, a reduction of 70 percent. Over the same period, the apprehensions in the Tucson sector, covering most of Arizona, rose from 137,000 in 1994 to 489,000, almost an exact shift in migrant traffic from San Diego to Arizona. So the number of apprehensions along the U.S. border from 1994 to 2005 has barely fluctuated, ranging from 900,000 to well over a million per year.

What the facts show is that having large-scale fences has been grossly inadequate, if we are talking about security. We need to have real, effective security, as we discussed earlier, the virtual fence, using the latest in technology, and also enforcement of laws in the workplace which will discourage people from coming and which those who have studied this believe to be the most effective.

We are talking about a cost of billions of dollars for something that has not been shown to be effective in achieving an outcome. There are ways of securing the border, but this is not the way to do so, for the reasons I outlined earlier and the reasons I cited at this time. We have evaluations of fencing in our legislation. We ought to find out what is the most effective way, whether we use the virtual fence, the newer technologies, what is having the best and most positive result, and invest in that. That is what we ought to do.

What we are doing this afternoon is a good-feeling vote, in terms of trying to give some assurances to the American people, which history has shown is highly costly, and in terms of the amount of resources we are likely to expend has not been effective.

For the reason of raising the kinds of conflicts that we are going to have with our neighbors to the south rather than working with them effectively, there are better and more effective ways of securing the border.

I hope this amendment will be defeated.

As I understand it, there is a desire to vote at 2:30. I think I have used about all my time. I would be glad to yield back the time, maybe move on to another amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, we are talking about a possible 2:30 vote. The day is badly fragmented with a signing ceremony at the White House at 1:45, a briefing by Director Negroponte at 3, and a social at the White House at 5. It is pretty hard to see how we get any business done when we dodge in and out of the raindrops in a hurricane. But we are talking about a 2:30 vote. If we are to have it, I wanted to stack three votes at that time. We are going to respect what Senator REID wants to do, to take them up one at a time, but we are asking Senator VITTER to come over right now because we are about to wrap up. Senator SESSIONS wants 10 more minutes. I will speak briefly. Then we will yield back the remainder of the time. Then after Senator VITTER's amendment is heard—we have already argued Senator INHOFE's amendment—we may be in a position to stack three votes at 2:30 or very close to that time. That is what we are looking toward.

I yield to Senator SESSIONS for his final 10 minutes and yield back the remainder of the time to move on to Senator VITTER's amendment.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, we are at a point where everybody in this body—and overwhelmingly, the American people—wants to see a lawful system of immigration in America. We can all disagree about what to do about the people who have come here illegally already. There are a lot of ideas about that. We can disagree about what our policy should be in the future, but we pretty well have been unified on that point. The 370 miles of fencing that we are talking about, plus barriers for vehicle traffic in a larger amount, has the support of Secretary of Homeland Security Chertoff and the administration. They believe it is a good expenditure, and they are prepared to help find the money to fund it because it will save money in the long run. It is a one-time expenditure and will be a multiplier of the effectiveness of every single Border Patrol agent.

As we have heard from Senators CORNYN and KYL, who have visited the border on a regular basis, we have borders that run right through the middle of towns and communities. How could we possibly put enough agents at every corner, every street to guard it? We need to do better and we can do better.

I am amused by my colleague from Illinois, Senator DURBIN, saying there is going to be 1,000 miles of fencing. I had originally offered in committee 700 miles. That is what the House passed. We have now come in and listened to the administration and proposed a modest figure of 370 total, counting portions of the fence already built in San Diego, and those being refurbished in Arizona. The House is at 700. So the argument that it is going to be a fence across the whole border or the argument that we are going to build 1,000 miles of fence is not very plausible. Frankly, if the Senate is at 370 and the House is at 700, we are not likely to come out with a compromise at 1,000. What kind of argument is that?

Then we heard the argument that it is going to bankrupt America. We spend over $800 billion a year. We can't find a billion dollars to fix this problem? We certainly can. They ask: Will it work? I say let them go to San Diego. Let them go there and talk to the people on both sides of the border where the whole county showed a 56-percent reduction in crime, and on both sides of that fence the economy is booming. It is safe and secure. The smugglers and dope dealers are gone, and things are much better off. It is a positive development. Why are we having opposition to it?

Senator KYL came close to the truth when he said: Whenever anything gets proposed—I am paraphrasing—that might actually work, we get an objection to it. What about a good identifier card? They say something like that makes sense, but every time we get close to having a good biometric identifier card that would actually work, we get all kinds of objections.

There is no doubt that some people believe in open borders. There are people who do not want to see this immigration system become a lawful system. I will repeat, we are a nation of immigrants. We are going to increase the number of immigrants. I will support increasing the number of lawful immigrants into our country by a reasonable amount, not three to five times the current level that is in this bill today, even after we reduced the numbers last night. Three to five times is way out of the range of what should be accepted. But we are going to increase immigration. We are not against immigration. I reject that. We want to travel across the border, particularly our Mexican border. It is a very busy place. Senators KYL and CORNYN are familiar with that border, and they wouldn't support anything that would back that up.

I am confident we are on the right track. We have checked with a series of contractors and looked at the numbers. The best estimate we get is that the kind of premier fence we are talking about would be at most $3.2 million per mile, and that would, at 296 miles of new fencing cost approximately $940 million, not $14 billion. Where did that come from? That is not so. It will probably cost around a billion dollars.

Remember, as Senator CORNYN reminded us, 1.1 million people are being arrested each day at that border, 1.1 million. How much does it cost to detain and process those people and deport them and move them out of the country or release them or catch and release, in which they then abscond and don't show up to be deported? Is it not better to reduce the number of arrests by creating an effective system that prevents crossing the border rather than all the expense of detecting and apprehending and deporting?

We have had some good discussion. We have talked about these issues in a number of ways. With regard to the San Diego fence, according to the FBI crime index, crime in that county dropped 56.3 percent between 1989 and 2000, after the fence was erected. Vehicle drive-throughs in the region have fallen between 6 to 10 per day before the construction of the border infrastructure to only 4 drive-throughs in 2004 for the year. And those occurred only where the secondary fence is incomplete.

According to the numbers provided by the San Diego sector of the Border Patrol, in February of 2004, apprehensions decreased from 531,609. The American people need to hear this as well as Senators. In 2004, the apprehensions on the San Diego, CA, sector of the border only were 532,689 apprehensions. How expensive is that? Those figures were in 1993. And in 2003, after the fence was built, it dropped to 111,000 across that whole sector.

So the idea that the fence had no impact and everybody went around it is not true. It sent a message that we were serious about creating a border that works, and it reduced by four-fifths the numbers of arrests. How much money did that save? How much time did that save? And it left the Border Patrol officers available to do a lot of different things.

In 1993, authorities at the San Diego border apprehended over 58,000 pounds of marijuana coming across the border from Mexico. In 2003, after the fence, the tide of drugs was reduced and only 36,000 pounds of marijuana were apprehended, and cocaine smuggling decreased from 1,200 pounds to 150 pounds. That is some of the progress that was made.

This is a narrow amendment, concentrating on the most important 800, 500, or 350 miles of fencing, with 500 miles of barriers. It is focused and it is what the Department of Homeland Security says they need. It is reasonable in cost. It will save money considerably over the long run. It is a one-time expenditure, but it can save us from having thousands of permanent investigators, permanent prison bed spaces, and things of that nature. The key to it is to change the perception and the reality of how we are doing business.

Let me conclude with that thought. It is important for this country to make clear to our own citizens and to the world that a lawful system is going to be created, that this is no longer any open border. Once that happens, and once that is absolutely clear, we are going to have fewer people attempt to come in. It is that simple. How do you do it?

Well, the President's call out to the National Guard is one signal that things have changed. Business as usual is over. Utilizing fencing is important. Increasing bed spaces and increasing agents along the border are important. All those things can help us reach a tipping point, a magic point on the seesaw or the balance scale. When it tips, it is going to tip so that people will find out it makes more sense to apply to come here legally, according to our laws, rather than coming in illegally. It will add to the workplace enforcement on top of that, and you will become serious about immigration.

We can do this. It is not hopeless or impossible. For a reasonable cost, we can tip the scales from illegality to legality. That is what the American people are asking us to do. A vote for this amendment is a step in that direction.

I thank the Chair and yield the floor.

Mr. LEAHY. Madam President, when the Judiciary Committee met to consider a comprehensive immigration reform bill, we adopted an amendment by Senator KYL on limited fences and barriers along the border. I supported that amendment. It called for replacing and repairing barriers in certain border towns.

Now Senator SESSIONS is offering an amendment to correct what Senator KYL had included in the Judiciary

Committee bill and that was incorporated in the underlying bill now before the Senate. I had thought that the Senator from Arizona had consulted with the administration and, in particular, with the Department of Homeland Security before offering his amendment and that the committee action would have been sufficient. Apparently Senator SESSIONS and his cosponsors, which include a number of Republican Senators on the Judiciary Committee, think that the Kyl amendment was inadequate. They say that their discussions with Secretary Chertoff, the Border Patrol, and Homeland Security lead them to seek a needed change and correction.

As Senator KENNEDY noted, the fact may well be that the Secretary and the administration have all the legal authority they need without this amendment to do what they think needs to be done. That they have not done more before now was not for the lack of authority as far as I know. Nor has Congress refused to provide such authority as may have been necessary or that has been requested by the administration.

On this point, I quote a column from today's Roll Call authored by Norman Ornstein. He concludes:

> For nearly five years, we drastically have underfunded our first responders while failing to coordinate plans across state and regional lines. We still do not have interoperable communications among first responders. We have underfunded border security despite warnings that immigration issues were intertwined with basic security issues. No wonder this issue has exploded on the national scene, and no wonder we are seeing this belated move to "solve" the problem with a National Guard presence.
>
> Where has Congress been in all of this? For nearly five years, absent without leave. It's been AWOL on oversight, AWOL on serious legislation to deal with either the lapses in the department or the broader problem of border security, AWOL on serious deliberations about broader immigration issues, AWOL on seeking bipartisan solutions for difficult problems that need some consensus in the middle. And it's been worse than AWOL in making sure that we have institutions of governance after the next massive attack. Congress' approval rating is 22 percent? That seems too high.

Sadly, there is much truth in what Mr. Ornstein writes. During Republican congressional control they have slavishly taken their cues from the Republican administration and defended its every misstep.

With respect to the Sessions amendment I have questions, questions about its value and whether it is meant to signal some kind of "fortress America" approach to real world problems. I also have questions about its cost and how the Senator from Alabama intends to pay for its additional costs. He said during the course of the debate that he estimated that it would cost an additional billion dollars. On the day that the President is signing into law billions of dollars of additional tax breaks for the wealthiest Americans, I wonder whether we might not have been wiser to set aside a billion dollars from those tax breaks being provided millionaires to help fund enforcement measures for America's border security.

The Congressional Budget Office says that this bill will require more than $54 billion in expenditures. The Sessions amendment will add additional costs. Is it several hundred million dollars, a billion dollars, as the Senator from Alabama has estimated, or more? The Senator from Texas has said that this bill is merely a downpayment on what it will cost to secure our borders. I wonder what the Senator from Texas believes this will eventually cost. I wonder how he intends to pay for these measures. Under Republican leadership we are already running the largest annual deficits in history and have turned a $5 trillion surplus into a projected debt of somewhere between $8 trillion to $10 trillion.

Earlier today the Republican chairman of the Homeland Security Appropriations Subcommittee came to the Senate to make an extraordinary statement. I am sorry he spoke to an almost empty floor. I urge all Senators to consider his remarks. The Senator from New Hampshire is someone I have worked with to provide interoperable communications to law enforcement along the shared border of our States. He is one of the most straight-talking Members of the Senate and he demonstrated that again today. He said today that the $1.9 billion capital account he had sought to establish for border security improvements is gone, that it has been transferred to operational needs. In addition, he expressed regret for having had to structure his amendment to the emergency supplemental appropriations bill to take funds from military accounts in order to allocate it to border security.

In that regard, the Democratic leader has been proven right in his amendment that would have provided the $1.9 billion without taking funds from our troops. Now the Senator from New Hampshire says that he understands that his amendment will not survive the House-Senate emergency supplemental appropriations conference. The Democratic leader was right to offer his amendment and the Senate would have been wiser had it adopted it to fund border security with real dollars. As matters now stand, if Senator GREGG is correct, it appears there is no money in the budget or available to fund these measures. Let us not make false promises to the American people about border security. Let us not call for measures that we will not be able to pay for but wish to trumpet.

I ask unanimous consent that the article to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Roll Call, May 17, 2006]

CONGRESS' NEGLECT OF IMMIGRATION IS WHY WE'RE STUCK TODAY

(By Norman Ornstein)

Why do we need members of the National Guard patrolling our borders? It is a question, frankly, that doesn't have a very edifying answer. The National Guard is spread way too thin as it is, and I am not sure how many members are eager to go from two tours of duty in Iraq and Afghanistan to a new tour in Nogales.

If the response to that is, "Well, we are just sending token numbers"—6,000—the counter-response is, "Why mess with the Guard for token purposes when the results will include sharper tension with Mexico over the issue of militarizing the border and fodder for Hugo Chavez and our other hemispheric adversaries to dump on the imperialist and militaristic USA?" Then there's the issue of whether anything in the training of the National Guard prepares them for border patrol work, whether on the front lines or back in the office doing paperwork.

Of course, we know the less edifying answers. The president needed a symbol of his determination to toughen the borders in order to pacify his base and to get conservatives in Congress to consider the immigration plan advanced by Sens. John McCain (R-Ariz.) and Edward Kennedy (D-Mass.) to legalize many of the illegals who have been in the country for years without having to expel 12 million people or more.

This is necessary because the House Republican leadership will not move a bill that has broad bipartisan support if it comes at the expense of losing even a sliver of the party's ideological base. There is another reason. We need some supplements for the undermanned border patrol forces who are themselves spread way too thin. The failures of the border patrol—not just caused by inadequate numbers but also by dysfunction within their agency and a continuing set of problems with coordinating responsibilities with federal customs and immigration officials—have led to serious public unhappiness in border states, especially Arizona, New Mexico and Texas, and a need for some kind of governmental response.

I find it more disturbing to dwell on the dynamics of this issue after seeing the film United 93 over the weekend. It is a superb movie, and the one-word description of it given by virtually everyone who has seen it—"harrowing"—is accurate. But to a student of government, the harrowing part goes well beyond reliving the Sept. 11, 2001, terrorist attacks and watching a graphic portrayal of a suicide-hijacking mission. The movie portrays a government in near-chaos, with the limited communication between the Federal Aviation Administration, air traffic controllers and the military filled with misinformation and nearly inexplicable delays. The military was unable to scramble any significant force to protect the airspace around Washington, D.C., for a long time after it became clear that the capital—and the Capitol—were obvious targets of the terrorist attack.

Perhaps others left the theater with a belief that the chaos was understandable; after all, who would have imagined a broad-based, concerted effort by suicidal terrorists to kill thousands of people in coordinated attacks on American soil? Most moviegoers probably felt a small sense of relief that at least now, more than four years later, we have learned some lessons, beefed up the communications among these agencies and the rapid response necessary when another attack occurs. But I did not.

The response by the federal government since Sept. 11 has been reluctant, halting and generally ineffectual in most areas of homeland security. I have no reason to believe that we have had a systematic effort to improve communications and coordination—not just between the FAA and the Pentagon but among other agencies that might be on the front lines in the next attack, which is not likely to come from commercial airliners.

I also know that the creation of the Department of Homeland Security—long after it was clear that the office setup in the White House was inadequate to the task—was done in a textbook fashion, specifically a textbook showing how not to do a major reorganization. Instead of focusing on the problems in border security by integrating the jobs of border patrol, customs, immigration and the Coast Guard, and instead of focusing intensely on crafting a strong bureaucratic culture around their shared missions, the White House and Congress brought together 20 disparate units in a massive reorganization that hasn't come close to working and will take many more years to become functional.

We saw what happened with Hurricane Katrina, and the problems with the Federal Emergency Management Agency are manifest in the border area and many others. We are woefully unprepared to deal with a biological attack, a pandemic, a massive natural disaster or another broad-based terrorist attack. One is coming—we just don't know when. United 93 underscores the ominous reality that al-Qaida takes a long time doing its planning before making its move. It is surely planning the next one as I write.

For nearly five years, we drastically have underfunded our first responders while failing to coordinate plans across state and regional lines. We still do not have interoperable communications among first responders. We have underfunded border security despite warnings that immigration issues were intertwined with basic security issues. No wonder this issue has exploded on the national scene, and no wonder we are seeing this belated move to "solve" the problem with a National Guard presence.

Where has Congress been in all of this? For nearly five years, absent without leave. It's been AWOL on oversight, AWOL on serious legislation to deal with either the lapses in the department or the broader problems of border security, AWOL on serious deliberation about broader immigration issues, AWOL on seeking bipartisan solutions for difficult problems that need some consensus in the middle. And it's been worse than AWOL in making sure that we have institutions of governance after the next massive attack. Congress' approval rating is 22 percent? That seems too high.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, the issue of border security is obviously a vital matter. The assurances that we will be able to check the flow of illegal immigrants will materially aid in the passage of this bill, a comprehensive bill—if assurances can be given that the border is secure and also with employer sanctions.

I think the Senator from Alabama has submitted a good amendment. It does not have the overtone of the enormous fence along the entire border, stretching 2,000 miles. It is targeted. We have been advised by the administration, by Secretary Chertoff, that there is support for the amendment of the Senator from Alabama. That is about what they are looking for. They have made a detailed analysis. Secretary Chertoff met with the Judiciary Committee on a very extensive briefing 2 weeks ago. We talked about this at length. For those reasons, I plan to support the Sessions amendment.

Madam President, I am prepared to yield back all time if Senator SESSIONS and Senator KENNEDY are prepared.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. If we can yield back time, we are prepared to go on to another amendment. We are trying to structure it so we will have three votes in the range of 2:30.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Madam President, I have not yielded back my time. I may yield back my time. I will have to get a short quorum call if we are going to ask consent on establishing—unless our leaders have agreed to have the series, I would have a short quorum call until we can clear that.

Mr. SPECTER. Madam President, while the Senator from Massachusetts is working out the questions, I have discussed with him setting aside temporarily the Sessions amendment so that we can proceed to the Vitter amendment and not waste any time. Madam President, I have discussed it with Senator VITTER, who is agreeable with an hour and a half equally divided. I have made that suggestion to Senator KENNEDY. He is going to run it by his leadership to see if it is acceptable on his side. Why don't we proceed as if it is so that Senator VITTER is recognized now and starts to talk, and it will count against his time when we finally get the agreement.

The PRESIDING OFFICER. Is all time on the Sessions amendment yielded back?

Mr. KENNEDY. Yes, I yield back my time.

Mr. SPECTER. I yield back my time and Senator SESSIONS yields back his time.

The PRESIDING OFFICER. All time is yielded back.

Mr. SPECTER. I think the record is closed on the Sessions amendment, and we are now proceeding to the Vitter amendment, and we will await Senator KENNEDY's comment as to the unanimous consent request on an hour and a half. I thank the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

AMENDMENT NO. 3963

Mr. VITTER. Madam President, I call up amendment No. 3963.

The PRESIDING OFFICER. Without objection, the Sessions amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. VITTER) proposes an amendment numbered 3963.

Mr. VITTER. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike the provisions related to certain undocumented individuals)

Strike sections 601 through 614.

Mr. VITTER. Madam President, I bring before the Senate an important amendment, I believe, which goes to the heart of so many American concerns about the bill before us.

I must say, in the beginning discussion of this amendment, that I have grave concerns about this bill. I think it is a mistake in many aspects. I think it ignores history and ignores very specific, concrete experience. Not too long ago, in 1986, Congress passed similar measures, albeit on a much smaller scale, which ultimately and clearly failed to solve the immigration problem.

I am very fearful that we are repeating history, only on a much broader, much bigger, much more dangerous scale. My amendment goes to the heart of those concerns, goes to the heart of the matter, goes to the absolute heart of what so many Americans find most objectionable about the bill on the floor. That is what I would characterize what tens of millions of Americans characterize as amnesty provisions in this bill.

In introducing this amendment, let me thank the many coauthors I have who are in strong support of it: Senators GRASSLEY, CHAMBLISS, and SANTORUM. Also, I ask unanimous consent that Senator COBURN be added to this list of original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. VITTER. All of us join together with tens of millions of Americans to simply say we cannot have amnesty provisions in this bill. We cannot have anything approaching amnesty in this measure. So my amendment would very clearly, very simply, withdraw those provisions from the bill.

Madam President, as I noted while speaking on another amendment about an hour ago, this is an interesting debate. The country, including the Senate, is widely divided on the question in many respects. Passions run deep from one end of the argument to the other. Yet to listen to the debate, particularly on the Senate floor in the midst of a fundamental disagreement, it is interesting that nobody says they are for amnesty, and everybody says they are for enforcement.

But, of course, the devil is in the details. Of course, it depends on what you mean by amnesty, what you mean by enforcement. And what I mean by amnesty certainly covers many provisions of the underlying bill, which my amendment would strike. More importantly, what tens of millions of Americans know through common sense, basic reasoning is amnesty is included in this underlying bill and we must take it out.

Maybe we can begin the discussion with what is amnesty. Well, the President, in his speech 2 nights ago, said that he is not for amnesty and "they"—meaning illegal aliens—"should not be given an automatic path to citizenship." What is an automatic path to citizenship? The President himself, again, 2 nights ago, pointed to this distinction: "that middle ground"—the one he is advocating—"recognizes that there are differences between an illegal immigrant who crossed the border recently and someone who has worked here for many years and has a home, a family, and an otherwise clean record."

So what the President points to, in terms of why the provisions in this bill are not amnesty, is that distinction between folks who crossed the border illegally very recently and those who have been here for some time. I think it is very important, if we think about that distinction, to look at the details of the bill.

I encourage my colleagues to actually read this bill. The devil is in the details. If that were ever true, it is true in terms of this legislation. It is important to read the bill and understand the details. Yes, this bill does make a distinction between those who have been in the country 5 years or longer and those who have been in the country less than 5 years, and some other distinctions, 2 years and between 2 and 5 years. But again, the devil is in the details.

How does an illegal immigrant prove that he has been in the country over 5 years? You would assume the proof required is specific documentation which has been verified by the Government or other authentication sources. Those documents are certainly accepted, but they are not required, because if an illegal immigrant doesn't have those sources of documents—objective evidence—he or she can do something else. He or she can get a piece of paper, declare that he or she has been in the country over 5 years, sign his or her name to it, and that is it. That is all that is required.

Well, if the President's argument that this is not amnesty in large part hinges on this big distinction that we are not giving a path to citizenship for those who have been in the country a shorter period of time, should it not matter what documentary evidence is required? Doesn't it make a farce of the whole distinction if that immigrant can simply sign a piece of paper declaring otherwise? That obliterates the entire distinction. That means, in fact, that we are making available this fairly automatic path to citizenship to virtually everyone in the country illegally.

The President also points to four requirements: This is not amnesty because there is a penalty the immigrant has to pay because they have to pay their taxes, because they have to learn English, and because they have to be in a job for a number of years.

Again, I say to my fellow Senators and everyone watching this debate, the devil is in the details. Let's look at this bill. Let's look at what it requires.

No. 1, a penalty. It is true, the underlying bill means a person has to pay $2,000—$2,000—which is less, in some cases far less, than many legal immigrants pay to go through the legal process. Is it a penalty when the amount of money required is the same or, in many cases, less than a person who is following all the rules, doing everything we ask of them, following the law, living by the law, becoming a legal immigrant and a full citizen through the legal process?

No. 2, pay all their taxes. Well, not all their taxes. A person doesn't have to pay all of their back taxes. They have to pay a certain number of years; they do not have to go back for the entire length of time that person was in the country. Again, they are being treated better than the folks who have lived by the rules from the word go than the folks who are citizens through the legal immigration process who have had to pay taxes every step of the way. Those folks who live by the rules have to pay all their taxes. These folks do not have to pay all their back taxes by any stretch of the imagination. The devil is in the details.

No. 3, learn English. Well, not necessarily learn English. The actual requirement can be met simply by being enrolled in an approved English language and history program. Again, the requirement can be met simply by being enrolled in a program with no test at the end of the program about proficiency or anything else.

And No. 4, work in a job for a number of years. Well, not the full period for a number of years, only 60 percent of the time for a handful of years.

Again, the devil is in the details, and I suggest that when the American people look at those details and ask themselves, is this amnesty, is this a fairly automatic path to citizenship, the answer will clearly be yes.

What does this sort of amnesty program do? We can debate about that, we can bring up hypotheticals, we can say I think it is going to do this, may do that, but the sure answer is to study history—and not ancient history, but recent history, going back only to 1986 because the last time Congress acted on this matter in a major way, it put together a package strikingly similar to this general package before us, which included an amnesty provision for agricultural workers.

One of the most interesting exercises I performed in thinking about this issue, in getting ready for this floor debate, was to go back to that time period, the mid-1980s, and read some of the arguments made in this Chamber, including the arguments of the folks who were for that immigration reform proposal of 1986.

The arguments they made are strikingly similar to the arguments being made by the proponents today: We need to do something comprehensive; it can't be enforcement only; we need to do this provision for earned citizenship, once, this one time, and then the problem will be solved forever because we will have border security and will have dealt with illegal immigrants then in our country.

What is the bottom line on that experiment doing exactly what we are debating doing again? The bottom line is not very hopeful in terms of solving the problem once and for all. The bottom line is back then the flow of illegal aliens was 140,000 per year, and now the flow is 700,000 per year. So it didn't exactly stop the problem.

The bottom line is back then the number of illegal aliens in the country was perhaps about 3 million, and today, by conservative estimates, it is 12 million. It didn't exactly solve the problem.

Mr. SPECTER. Madam President, will the Senator from Louisiana yield for a unanimous consent request?

Mr. VITTER. I will be happy to yield.

Mr. SPECTER. Madam President, we have now worked out that we will conclude Senator VITTER's amendment, then we will go to Senator OBAMA's amendment, which I believe we can accept.

I ask unanimous consent that between now and 2 o'clock, the time will be equally divided between Senator VITTER on one side and Senator KENNEDY and myself on the other.

Mr. KENNEDY. That is fine.

Mr. SPECTER. Senator KENNEDY and I will divide the time evenly, and we are agreed we will have two votes at 2:30 p.m. or perhaps 3 p.m. if the Obama amendment is to have a vote, but I do not expect it. And we preclude second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

Mr. VITTER. Reclaiming my time, Madam President.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, there have been significant studies since 1986 that have looked specifically at the impact of what Congress did then. What do these studies show?

A 2000 report by the Center for Immigration Studies states:

> INS estimates show that the 1986 amnesty almost certainly increased illegal immigration, as the relatives of newly legalized illegals came to the United States to join their family members.

Again, these are INS statistics, not some think tank on the conservative side. These INS statistics show that even though 2.7 million illegal aliens were granted lawful citizenship through the amnesty program—and by the way, that was far more than anticipated—within 10 years, a new illegal alien population had replaced all of those and had grown to 5 million. That growth only continued.

Again, that growth today has gone from 140,000 illegal aliens streaming across the border per year back in 1986 to 700,000 per year today. That growth has been 3 million illegal aliens in the country going back to 1986 to at least 12 million today.

There was another study in 1992, 6 years after the agricultural amnesty program was passed. The Commission on Agricultural Workers issued a report to Congress—so a specific report to Congress that studied the effects, again, of the 1986 agricultural amnesty program. First, the Commission found that the number of workers amnestied under the bill had been severely underestimated. So the numbers that were talked about, in fact, the true numbers were well more than that.

Second, the Commission found that the agricultural worker amnesty only exacerbated existing problems:

> Six years after IRCA was signed into law, the problems within the system of agricultural labor continued to exist. . . . In most areas, an increasing number of newly arriving unauthorized workers compete for available jobs, reducing the number of work hours available to all harvest workers and contributing to lower annual earnings. . . .

Again, the bottom line is very clear. We had the same arguments back then as today: Let's do this once, the problem is solved forever; we will get tough with enforcement, we promise; really, we mean it. And what happened? That 140,000 per year increased to 700,000 per year. The problem of 3 million illegal aliens has increased to at least 12 million. We do need to study history and see what the impact of this amnesty program in this bill will be.

This threat is particularly grave, and I think it is absolutely certain that this will exacerbate the problem for the following simple reason: In terms of border security, everyone—everyone—on the floor of this body, everyone agrees that true border security cannot and will not happen overnight. The best case, if we are sincere about it, if we follow up this debate with adequate appropriations, the money, the manpower, the resources, the focus, the best case is that we will get a handle on our border in several years, perhaps 2 to 3 years, absolute minimum. But, of course, the other elements of this bill would be passed into law and would go into effect immediately. That is repeating the exact mistake of 1986. It would be one thing to consider an amnesty program down the road after we have acted on border security and proven that we have executed meaningful border security.

I don't think I could be for it even in that circumstance. That would be one thing. But what this bill does is something far different and even far more dangerous. What this bill does is put that program into effect now, immediately, move forward with that amnesty track immediately, even though everyone agrees, best case, we will only have meaningful border security in several years. So we establish the magnet to draw more illegal aliens into the country before anyone pretends that we have adequate border security or workplace security.

That is an even clearer reason that this is a big mistake and repeating the mistakes of the past, particularly in the era around 1986, on a much grander and, therefore, more troublesome scale.

Another point I wish to make is the overall numbers these provisions will lead to because I think there has been a lot of fuzzy math and a lack of attention to detail on this question. Again, the devil is in the details. Let's read this bill. Let's look at this bill and understand the full consequences of this bill, including the amnesty program.

The number folks toss around most commonly on the floor of the Senate, as well as in the wider debate around the country, is 12 million illegal aliens are currently in this country. Most experts seem to think that is a pretty minimum number. It could be significantly above that. Again, we need to look at the bill, and we need to understand the details because that is not the total number who may be eligible for citizenship.

The bill is very liberal and very broad in granting this citizenship path to an extended definition of family members of these folks. So in fact, as a direct, immediate result of this bill, we could well have about 30 million folks on that citizenship path, getting on that path very quickly.

Over an extended number of years, that number will be far larger. Estimates, for instance, by Robert Rector over a 20-year period after enactment of this underlying bill is that it would mean a minimum of 103 million new folks gaining citizenship, possibly much higher. Again, the devil is in the details. Let's look hard at the numbers. Let's add it up. We are not talking about 12 million, we are talking about 30 million immediately. We are talking about huge numbers, 100 million or more over 20 years.

Finally, the argument that is most often put up against avoiding this sort of amnesty program is that we can't make felons of all these millions of illegal aliens in the country. We can't round them up and deport them. It is impractical. It may not be a good idea, even if we could do it. President Bush made this specific argument 2 nights ago. Many of my colleagues on the Senate floor have made the same argument.

The truth is that is not the alternative. That is a straw man, an easy argument to push aside and defeat. That is not the practical alternative at all. The practical alternative to rushing toward an amnesty program is to do meaningful things with regard to enforcement and other measures in the country that on their own can decrease the illegal alien population in this country over time.

Let me mention six items in particular: Secure the borders through Border Patrol agents, increase fencing, substantially increase detention space and do that before we do anything else. Some provisions are in this bill, but it is not being done before we move on to other aspects of the bill.

No. 2: Implement strong and serious worksite enforcement measures and, again, do that before other aspects of the bill are implemented.

No. 3: Eliminate document fraud through the use of biometrics, immigration documents, and secure Social Security cards.

No. 4: Reform existing laws to reduce the incentive to work illegally by providing the IRS with increased resources to investigate and sanction both employers and illegal aliens for submitting fraudulent tax returns, requiring the Social Security Administration to share information with DHS when no match letters are sent to employers, and barring illegal workers from counting work performed illegally toward Social Security.

No. 5: Encourage State and local law enforcement to enforce immigration laws themselves by giving them authority and by requiring the Feds to reimburse them for expenses directly related to that enforcement, and enhancing coordination and information sharing between the State and local law enforcement and Federal immigration authorities.

No. 6: Provide the Department of Homeland Security and the Department of Justice with the necessary resources to perform their jobs.

Madam President, these six things, without an amnesty program, would, in fact, lower the population of illegal aliens in this country over time. Why would it lower it? Because it would remove the incentives for those folks to stay here. It would remove the mechanism by which they can successfully stay in this country and gain employment.

So again, it is a straw man to talk about making all of these people felons. My amendment doesn't do that. We are not proposing that on the floor of the Senate. It is a straw man to talk about rounding up 12 million people around the country. It is a completely false argument to suggest that the only alternative to essentially amnesty is to have to do that and deport all 12 million of these people.

The practical alternative, which we can absolutely do, is avoid amnesty while implementing steps such as these six things. And that will provide real border security and real workplace security by demanding absolute requirements that ensure that folks getting jobs are legal immigrants, not illegals. That is the practical alternative which, over time, can dramatically reduce the illegal population in the country.

I don't know of any single aspect of this bill before us on the floor of the Senate that has Americans more concerned than these amnesty provisions. It goes to the heart of this debate. It goes to the heart of Americans' concerns that, once again, we are talking a good game about enforcement, but we are not demanding that it happen before considering other aspects of the bill. It goes to the heart of our experience in 1986, when that agricultural worker amnesty program clearly—clearly—was a huge part of the failure of that attempt to get our hands around illegal immigration. It was a huge part of the flow across our border, ballooning from 170,000 per year to 700,000 per year, and a huge part of the illegal population in our country skyrocketing from about 3 million to over 12 million.

So this is an important amendment that goes to the heart of so many Americans' concerns about the bill which are reflected in townhall meetings and discussions I have all across Louisiana. It is also reflected in every major national public opinion poll on the subject. Over and over again, Americans make very clear the huge majority want enforcement. There is a legitimate debate about a temporary worker program, but a huge majority have fundamental problems with these provisions which they know, using common sense, particularly when they understand the details of the bill, amount to absolute amnesty.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. THUNE). Who yields time?

Mr. MCCAIN. Mr. President, I ask unanimous consent to yield myself such time as I may consume.

The PRESIDING OFFICER. Is there objection?

Mr. VITTER. Mr. President, if I could clarify the request to understand that under our previous unanimous consent agreement on this amendment, it will come out of the time of the opposition.

Mr. MCCAIN. Mr. President, in a moment of seriousness, what is the parliamentary situation? How much time on either side?

The PRESIDING OFFICER. The time until 2 o'clock is divided between the Senator from Louisiana and the Senators from Massachusetts and Pennsylvania.

Mr. MCCAIN. Then I ask unanimous consent to be recognized for 10 minutes, taken from the time of the opposition to the amendment, which is the time of the Senator from Pennsylvania and the Senator from Massachusetts.

The PRESIDING OFFICER. Without objection, the Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I appreciate the remarks of my friend from Louisiana. Of course, it is not amnesty. Of course, it is not amnesty. I urge my colleagues, as well as specifically my colleague from Louisiana—next time up, I am going to bring a dictionary out here to confirm the definition of the word "amnesty." The definition of the word "amnesty" is forgiveness. We did that in the 1980s and it didn't work. And to call the process that we require under this legislation amnesty, frankly, distorts the debate and is an unfair interpretation of it. I might add that the President of the United States, in a very powerful statement to the American people, called it what it is, and that is earned citizenship.

Now, I understand why the opponents of what we are trying to do would call it amnesty. That is a great idea. Call it amnesty. Call it a banana, if you want to. But the fact is that it is earned citizenship. The reason why the opponents of this legislation keep calling it amnesty is because they know that in poll after poll after poll, the majority of the American people say let them earn their citizenship. And when it is explained to the American people what we are requiring: A criminal background check, payment of back taxes, payment of a $2,000 fine, 5 or 6 years before getting in line behind everyone else in order to get a green card and then another 5 years or more, depending on how this legislation comes out, before eligibility for citizenship, it is a perversion of the word "amnesty." Frankly, I am growing a little weary of it. I am growing a little weary of it. We ought to be debating this issue on its merits and only on the merits and not by labeling it something it is not.

Again, the definition of amnesty is forgiveness—forgiveness. We are not forgiving anything. We are trying to find the best option—the best option—for an untenable situation bred by 40 or 50 years of failed Government policies.

What are the options we have with these 11 million or 12 million people? What are the options? One is the status quo. No one believes that the status quo is acceptable, to have 11 million or 12 million people washing around America's society with no protection of our laws, no accountability, no identity. It is terrible for America and our society. I believe the sponsors of this amendment and those of us who vehemently oppose it, because basically it guts the entire proposal, including the fact it is in direct contradiction to the leader of our party, the position of the President of the United States on it—but having said that, the status quo, I think my friend from Louisiana would agree, is unacceptable.

So what is the other option? The other option is to round up 11 million people and find some way to transport them back to the country from which they came. Many of them have been here since yesterday. Some of them have been here 50 or 60 years. Some of them have children who are fighting in Iraq. I am not interested—I wonder if the Senator from Louisiana is interested—in calling a soldier in Iraq and saying: By the way, while you are fighting today, we are deporting your parents. I don't think we want to do that. I don't think we want to do that.

And by the way, the columnist George Will pointed out the other day it would take some 200,000 buses from San Diego to Alaska in order to transport these people at least back to Mexico, and then I don't know how you get them back to other places.

So here we are with the option of the status quo, rounding up 11 million or 12 million people, or making it very clear that because they have broken our laws, they must pay a very severe penalty—a very severe penalty. And according to the Hagel-Martinez compromise, those people who have been here less than 5 years will have to go back. And in the case of 2 to 5 years, they will have to go back to a port of embarkation. If they have been here since January 1, 2004, then they have to go back completely—completely. If they have been here more than 5 years, then obviously we have given them a way to earn citizenship.

We passed an amendment that we supported that was the Kyl-Cornyn amendment, supported by me and Senator GRAHAM and Senator KENNEDY and others, that would prevent felons from ever being on the path to citizenship. So what does that say? What this proposal now says is anyone who came here innocently, who came here to work, which is the reason why the overwhelming majority of them did, will have a chance to earn their citizenship. And every time—every time—that the word "amnesty" is mentioned, I am going to try to get back on the floor and refute that because the description in no way fits the word.

So here we are now with a comprehensive approach to immigration reform which, probably, according to at least most polls, the American people are, overall, supportive of, and a President of the United States who gave what I think is one of the finest speeches of his presidency on this issue, and we are now considering an amendment which would fundamentally gut the entire proposal.

I want to quote from the President, again:

> It is neither wise nor realistic to round up millions of people, many with deep roots in the United States, and send them across the border. There is a rational middle ground between granting an automatic path to citizenship for every illegal immigrant, and a program of mass deportation. That middle ground recognizes that there are differences between an illegal immigrant who crossed the border recently and someone who has worked here for many years and has a home, a family, and an otherwise clean record. I believe that illegal immigrants who have roots in our country and want to stay should have to pay a meaningful penalty for breaking the law: To pay their taxes, to learn English, and to work in a job for a number of years. People who meet these conditions should be able to apply for citizenship, but approval would not be automatic, and they will have to wait in line behind those who played by the rules and followed the law. What I have described is not amnesty. It is a way for those who have broken the law to pay their debt to society and demonstrate the character that makes a good citizen.

I could not say it better than what the President of the United States says.

Fundamentally, Americans are decent, humane, wonderful people, and they recognize that these are human beings. They recognize that 99 percent of these people came here because they couldn't work, feed their families and themselves where they came from. As former President John F. Kennedy wrote, we are a nation of immigrants. We are all a nation of immigrants. I urge my colleagues to take a look at the words that were written back in the early 1960s by then-President Kennedy and that apply to the world today. It has a unique and very timely application. I intend to read from it as we proceed with the consideration of this bill.

I understand that there are differing viewpoints about how to handle this issue of illegal immigration. There is no State that has been more burdened with the consequences of illegal immigration than mine. We have broken borders. We have shootouts on our freeways. We have safe houses where people are jammed in, in the most inhumane conditions. We have the coyotes who take someone across the border and say: Tucson is right over the hill. And more and more people every year are dying in the desert. We understand that. That's why we understand that there has to be a comprehensive approach to this issue and only a comprehensive approach will reach the kind of resolution to this issue which has plagued our Nation and, frankly, my State of Arizona, for a long period of time.

I hope my colleagues will understand that this is basically an eviscerating amendment we are considering. Have no doubt about it. If you agree with the President of the United States and the majority of Americans—poll after poll shows that the overwhelming majority of Americans believe that we should allow people who are here illegally, after a certain period of time, to earn their citizenship—then you will vote against this amendment. If you believe that the only answer to our immigration problem is to build a bigger wall, then I would argue you are not totally aware of the conditions of the human heart and that is that all people, wherever they are, who are created equal, have the same ambitions for themselves and their families and their children and their grandchildren that we did and our forebears did. Our forebears, whether they came with the Mayflower or whether they came yesterday, all have the same yearnings to breathe free.

I hope my colleagues will understand the implications of this amendment. I hope my colleagues on this side of the aisle will understand the implications for the Republican Party of this kind of an amendment. Because what this is saying to millions and millions of people who have come here is: I am sorry, you are leaving.

I hope we can appeal to the better angels of our nature and turn down this amendment and move forward with a comprehensive solution to this terrible problem that plagues our Nation.

I believe my time has expired.

The PRESIDING OFFICER. Who yields time? The Senator from Louisiana.

Mr. VITTER. Mr. President, I ask for 5 minutes to respond to some of the arguments of the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, what is amnesty? I'll tell you what Merriam-Webster's dictionary says:

> [T]he act of an authority (as a government) by which pardon is granted to a large group of individuals.

What we are talking about is a large group of individuals illegally in the country. And the main consequence of that, under present law, is to leave the country. Surely, under this provision, we are pardoning them from that main consequence. Surely, this is a pardon from what present law states must happen to folks who have come into this country illegally, who stay in this country illegally.

The Senator from Arizona made several points, all of which I essentially rebutted in my comments before. There is a big distinction in this bill between those who have been here over 5 years and those under. There is on paper. And guess what. An illegal alien can satisfy the requirements of the bill that they have been here over 5 years and get all of the benefits of this amnesty program by simply signing a piece of paper himself that it is so. It makes a mockery of the distinction.

The other requirements—a penalty. Yes, a penalty, which is less money than many immigrants pay to go through the legal process. Is that a penalty?

Paying back taxes—well, not all of them. Paying some back taxes. That is certainly less than folks who have gone through the legal process have had to do.

Learning English—well, not exactly. Being enrolled in a program is good enough, not proving any proficiency.

And working in a job solidly for a number of years. Well, not solidly for a number of years; 60 percent of the time is good enough.

The devil is in the details. I invite Members to look at the definition of amnesty. I invite Members to study the details of this bill because the American people certainly will and will come to the clear conclusion that is what it is and is a repeat of the mistake of past experience.

I would now like to yield 10 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 10 minutes.

Mr. CHAMBLISS. Mr. President, before I give my remarks, I would like to extend a thank you to the Senator from Arizona and to the Senator from Massachusetts. During the debate on this issue a couple of weeks ago, it became pretty obvious that there were some Members in this body who did not want to see the Senate function the way it always has, with respect to legislation, and that is to give all Members of this body the opportunity to debate an issue, to submit amendments, and to ultimately have a vote on those amendments and a vote on the legislation. Were it not for the efforts of Senator McCAIN and Senator KENNEDY, we would have been at a deadlock, once again, and those of us who object to this underlying bill would not have had the opportunity to see the Senate work its will. So I do extend a thank you to these Senators for the very professional way in which they handled themselves during the course of the debate a couple of weeks ago, as well as right now.

I rise in strong support of Senator VITTER's amendment, and I am proud to be a cosponsor of it. I think this amendment crystalizes the whole debate we are having in the Senate on this bill. It all comes down to the simple question of whether you oppose or you favor amnesty.

I think the way Senators vote on this amendment will tell you where they stand on this issue, so I hope the American people will take careful note of how every Senator in this body votes on this amendment. I am in favor of a comprehensive immigration reform bill. The way I see it, there are three areas that must be addressed in accomplishing comprehensive reform. The first and foremost is border security. If we do not have operational control of our borders and serious interior worksite enforcement, then there is no point in trying to address the other issues relative to comprehensive reform.

The second key component we must address is to have a viable temporary guestworker program for those outside of the country who want to come to this country and work in a job that needs to be filled that cannot, or will not, be filled by an American worker.

The third component we must address is the reality of the 11 million, 12 million—whatever the number is—of illegal immigrants who are currently in the United States.

I think we can address all three of these issues without providing a new path to citizenship for those who are currently here illegally. There have been a number of alternative approaches mentioned throughout this debate. I had one for agricultural workers, for example, which would have allowed those workers to remain working for a period of 2 years before returning to their home country and have them reenter the United States on a valid and viable guest worker program. This would allow employers to structure their workforce in a way that they can send their illegal workers home and have them return in a manner that does not result in a complete work stoppage on our Nation's farms.

My main opposition to amnesty is that it has been tried before and it has been proven that it does not work.

As chairman of the Senate Agriculture Committee, my main focus in this debate has been on agricultural workers. I firmly believe that an amnesty is not in the best interests of agriculture in the United States. The agricultural amnesty in this bill is so similar to the Special Agricultural Worker Program that was enacted as the mechanism for the 1986 amnesty bill that it is really startling. We have heard many Senators talk about all that illegal aliens have to do in order to adjust their status. However, I don't think many people realize that the requirements are not the same for illegal agricultural workers, under the base bill. For illegal agricultural workers to take advantage of the amnesty in this bill, they must have worked at least 150 hours in agriculture over a 2-year period, ending in December of 2005. Meeting that threshold requirement will allow the illegal worker to obtain a blue card.

Once in possession of a blue card—which is a new process, a new card—that currently illegal worker has a choice of two different paths to a green card. In addition to paying back taxes, he can work 100 hours per year for 5 years or work 150 hours per year for 3 years and get a green card. There is not even a requirement to learn English for agricultural workers to take advantage of the amnesty provision in the base bill.

I think the requirements for illegal workers to take advantage of the agricultural amnesty are so low that I fear a repeat of what happened, and failed, in 1986. We should not repeat the mistakes we made before.

I am not the only one who feels this way. Several months ago, as we were ramping up toward bringing this bill to the floor, I had the opportunity to speak to 135 brand new American citizens who came from 125 different countries. They were sworn in at the Federal building in Atlanta, GA. After my comments to them and their swearing-in ceremony, I had about two dozen of these 133 individuals come up to me, one at a time, and say: Senator, whatever you do, please don't allow those folks who came into this country illegally to get a pathway to citizenship that is different from the path I had to follow.

In some instances, these individuals took 5 years; in some instances 8; in some instances 12. In one instance, 22 years that individual had to work to become a citizen of the United States. For all 133 of those individuals who stood up that morning and raised their right hand and swore to uphold the Constitution of the United States, it was the proudest day of their lives. You can understand why they do not want somebody who came into this country illegally to get a leg up on people who were in the position that they were in for so many years, trying to earn citizenship.

The people I saw at that naturalization ceremony truly did earn their citizenship, and it means something to them, as it should to everybody who becomes an American citizen. It does not seem fair to me to call the process those newly naturalized individuals followed earned citizenship and also call the provision for illegal agricultural workers in this bill earned citizenship. There is a fundamental difference between the two that should be recognized in the rhetoric of this debate.

Another problem I have with the agricultural amnesty provision is that it does not remedy the problem with fraud that was prevalent in the 1986 Special Agricultural Worker Program. Under the 1986 program, illegal farm workers who did at least 90 days of farm work during a 12-month period could earn a legal status. The illegal immigrants had to present evidence that they did at least 90 days of farm work, such as pay stubs or a letter from an employer or even fellow workers. Because it was assumed that many unauthorized farm workers were employed by labor contractors, who did not keep accurate records, after a farm worker had presented evidence that he had done qualifying farm work, the burden of proof shifted to the Government to disprove the claimed work.

The Government was not prepared for the flood of SAW applicants and had little expertise on typical harvesting seasons. Therefore, an applicant who told a story such as: I climbed a ladder to pick strawberries, had that application denied, while those who said: I picked tomatoes for 92 days in an area with a picking season of only 72 days was able to adjust.

Careful analysis of the sample of applications from the 1986 worker program in California, where most applications were filed, suggests that most applicants had not done the qualifying farm work, but over 90 percent were nonetheless approved.

The propensity for fraud is not remedied in this bill and compounds bad policy with the ability for unscrupulous actors to take advantage of it.

I think the most important lesson to learn from the 1986 program is that providing illegal immigrants who work on the farms of this country does not benefit the agricultural workforce for long. History shows that the vast majority of illegal workers who gain a legal status leave agriculture within 5 years. This means that under proposed agricultural amnesty, those who questionably performed agricultural work in the past will work at least 100 or 150 hours in agriculture per year for the next 3 to 5 years. But after that, particularly in light of the changes made to the H-2A program, I expect us to be in the same situation in agriculture that we are today.

It is worth noting that the Immigration Reform and Control Act of 1986 created a Commission on Agricultural Workers, an 11-member bipartisan panel comprised of growers, union representatives, academics, civil servants, and clergy, and tasked it with examining the impact the amnesty for special agricultural workers had on the domestic farm labor supply, working conditions, and wages.

Mr. President, I ask for an additional 3 minutes.

Mr. VITTER. I have no objection and will be happy to grant the Senator an additional 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 5 minutes.

Mr. KENNEDY. What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator from Massachusetts has 12 minutes.

Mr. KENNEDY. The other side?

The PRESIDING OFFICER. The Senator from Pennsylvania has 12 minutes—the other side has 6 minutes.

Mr. KENNEDY. I thank the Chair.

Mr. CHAMBLISS. Back 6 years after the Immigration Reform and Control Act was passed, the Commission found that the same problems in the agricultural industry persist; the living and working conditions of farm workers had not improved; wages remained stagnant; increasing numbers of new illegal aliens are arriving to compete for the same small number of jobs, thus reducing the work hours available to each worker and contributing to lower annual earnings; and virtually all workers who hold seasonal agricultural jobs are unemployed at some point during the year.

I think the experience of the SAW program should serve as a lesson to the Senate as we grapple with how to handle our current illegal population. I believe the amnesty in this bill is far too similar to the SAW Program in 1986 and will likely have the same result.

We know from past experience that agricultural workers do not stay in their agricultural jobs for long, especially when they gain a legal status and have the option to work in less back-breaking occupations. Therefore, the focus on agricultural immigration should be on the H–2A program. This is the program that regardless of what the Senate does with amnesty, will be relied upon by our agricultural employers across the country in the near future.

Let me conclude by saying that while I do support a lot of the provisions in the underlying bill, there is one basic concept in the underlying bill that is baffling to me; that is, why do we have to connect a pathway to citizenship for those who are here illegally to meaningful immigration reform? There are a lot of these people—whether it is 11 million or 20 million, whatever the number may be—who came here for the right reason, that reason being to improve the quality of life for themselves and their families. We need to show compassion for those individuals.

Does that mean we ought to give them an automatic pass to citizenship that they may, or may not, want? We have no idea how many of these people will actually want to be citizens. Why do we grant that privilege which we cherish so much and those 133 individuals in Atlanta, GA, cherished so much on the day they were sworn in as American citizens? Why don't we simply leave the law on citizenship exactly the way it is today and let people who want to earn it earn it in the way that current law provides?

Let us look out for these 11 million or 12 million or whatever the number is. We have methods by which we can deal with those individuals and at the same time accomplish real, meaningful border security, as well as provide our employers in this country with a meaningful, quality supply of workers that they know are here for the right reasons and that they know are here legally.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield 6 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, thank you. I thank the distinguished Senator from Massachusetts for his continued leadership. I don't believe there is anyone in the Senate who has worked harder or done more or who understands the issue better than Senator KENNEDY.

We are dealing with a very complicated, difficult issue. It is complicated and difficult for many reasons. Partly it is complicated and difficult because we have deferred this issue for years. We have refused to take a responsible position on all the different aspects of immigration reform.

I hear with interest from some colleagues that 11 million to 12 million illegal aliens don't deserve a pathway to legal status and ultimately citizenship. They, however, do not come forward with alternatives. Obviously, border security is the core, the beginning of immigration reform. I am not aware of any Senator who has questioned or contested that point.

In fact, the underlying bill that we are debating today is replete—absolutely—in its focus on border security, enforcement of that border, doubling the border agents, doubling the budget, doubling the unmanned vehicles, doubling the technology, doing more in the fencing and physical protection of those borders.

That is not the debate. The debate, of course, resides around the difficult issues, the 11 or 12 million illegals now in this country.

This debate elicits great and deep emotions and passion—and it should. We were sent here to deal with the great challenges of our time, to resolve the issues, find solutions, not give speeches, not go halfway—just if we had a better border, if we could enforce our border in stronger or more effective ways, and the rest of it just sorts its way out. It doesn't sort itself out. That is leadership. That is what you saw from President Bush Monday night in his speech of 17 minutes; he laid it out clearly, succinctly. The American people could understand it.

It is a national security issue. It is an economic issue. It is a societal issue. You can take pieces of each and pick and choose which might make you more comfortable politically, but it doesn't work that way. It is all wrapped into the same enigma. It is woven into the same fabric. That is what we are dealing with.

On this issue of amnesty, I find it astounding that my colleagues who are straight-faced would stand up and talk about amnesty. Let me tell you what amnesty is. Some of you might recall 1978 when President Jimmy Carter pardoned those who fled this country, who refused to serve their country in Vietnam—unconditional forgiveness. That, my friend, is amnesty. This is not amnesty. So let us get the terms right.

The American people deserve an honest debate and exchange. Come on, let's stop the nonsense. If you have a better answer, step forward and give me a better answer for it. But let us at least be honest with the American people in what we are talking about. This is not amnesty. You all know what we are talking about. This is dealing with a set of criteria that people would have to follow in order to just get on a pathway.

Let me ask this question: Are we better off just to continue to defer this and not allow the illegals in this country an opportunity to step out of the shadows? Who wins? Is it really protecting the security of this country? Is it really doing more in the way of enhancing our economy and our society to keep pushing these people back into the shadows? Where are we winning? How is this getting to the point, to the issue? How is this dealing with the issue that we must deal with? It is not. It is not.

I said this is a complicated, difficult issue. It is. There is not a perfect solution, or any solution we can come up with which is imperfect. Most solutions are imperfect. Most are imperfect. But it is going to take some courage from this body.

I don't think the American public sees a great abundance of courage in this town, in this Congress, in politicians today. Read the front page of the Washington Post today and read any poll.

But in this case, the President and the Congress are showing some courage to step forward in the middle of a difficult political year, where my own party, the President's party, is divided on this issue. But this is courage and leadership. It is leadership to take on the tough issues. What we are trying to do today and tomorrow and next week is find the common ground of responsible governance to deal with this issue.

This is one of those issues which tests and defines a society. It tests and defines a country. And the precious glue that has been indispensable in holding this country together for over 200 years has been common interests and mutual respect. I don't know of an issue that is facing our country today that is more important, that is framed in that precious glue concept more precisely than this issue.

I hope my colleagues will vote against the Vitter amendment. It is irresponsible. It doesn't present an alternative. I think what we have before us is an alternative.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I thank the Senator from Nebraska for his excellent presentation. He laid out as effectively as one could the reasons against this amendment. Effectively, the Vitter amendment undermines the whole concept of a comprehensive immigration bill. But having said that, it is not a constructive or positive solution to the challenges we are facing with the 11 million or 12 million undocumented individuals who are here at the present time.

First of all, our bill says if you are going to be able to earn citizenship, you have to pay a penalty. So you have to pay the penalty. You have to be continuously employed. You have to meet a security background check. You must learn English. You must learn U.S. History. You must pay all back taxes, and then you get in the back of the line of all of the applicants waiting for green cards. Effectively, it takes 11 years for them to be able to earn citizenship. That is the earned legalization program.

For those who say this is 1986, they are either distorting the record or haven't read it clearly. This is what we are talking about for those 11 million or 12 million people: They have to earn it—the end of the line, pay the penalty, work hard.

We have seen some of them join the Armed Forces of our country. That is the earned legalization.

What is Senator VITTER's answer? Do you know what is going to happen? You are going to have the 11 million or 12 million individuals continue to be exploited in the workplace. You are going to drive down the wages and, therefore, undermine working conditions for Americans. They are going to be exploited. They are going to be threatened in the workplace: If you do not do this job that I am asking you to do, I am going to call the immigration service and have you deported.

They are threatened. That is happening every single day all across this country to these individuals.

Third, if you are a woman you are going to suffer exploitation, you are going to suffer abuse, and you are going to suffer sexual harassment. That is the record. Those are the things that are happening, and at the end of the day you are going to have a two-tiered society. That is something that we, as Americans, have avoided. We take pride that we are a singular society and we struggle to create equality for all the people of our society.

If you accept the Vitter amendment, you are going to have a two-tiered society; that is, a permanent underclass. That is the United States of America. That is going to be the result if we are going to follow the recommendations. There is even the suggestion it was going to be for deportation.

We have heard different approaches to these 12 million. Our friends in the House of Representatives have effectively wanted to criminalize every 1 of these 12 million. We are going to criminalize them and stain them for the rest of their lives. We have rejected that.

We have, on the one hand, people prepared to play by the rules. By and large, these are the people who are devoted to their families, who want to work hard, who want to play by the rules. There are 70,000 permanent residents now serving in the Armed Forces in Iraq and Afghanistan and around the world, willing to do so. Many of them have died in Iraq and Afghanistan. They are prepared to do so. They want to be part of the American dream, as our forebears from other nationalities have been part of the American dream. They want to participate. We are saying to them, that is the choice: a permanent subclass, permanent underclass, permanent exploitation of 11 million or 12 million, or have them earn their way, go to the back of the line, show they are going to be good citizens, learn English, pay their back taxes, and demonstrate they are committed to the American dream.

That is the choice we have made. That is the choice which is clearly in the interest of our country. That would be altered and changed and dramatically undermined with the Vitter amendment. I hope it is not accepted.

I withhold whatever time remains.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, I yield 3 minutes to the Senator from South Carolina.

Mr. GRAHAM. Mr. President, quickly, while Senator VITTER is speaking for a lot of people who believe we should not do this together, we should have border security and come back and look at a different way of doing this with 11 or 12 million people, that does not mean you are hateful, that does not mean you don't understand there is a problem. They have a problem with the citizenship path, and I understand that.

I agree with the President, Senator MARTINEZ, Senator HAGEL, Senator SPECTER, Senator KENNEDY, 70 percent of the American people—we have to do both. We are not going to put everybody in jail. That is off the table. It is not going to work. We are not going to deport 11 million or 12 million people. What do we do? Of these 11 or 12 million people, how many have children who are American citizens? How do you get them out of the shadows effectively to get control of the problem?

If we want to control the borders, control employment. If we do not control employment, we can build the biggest fence in the world, and it will not work. People will keep coming here until we get a grip on employment.

How do you control employment? Make sure you know who is being employed, and punish employers who cheat. Give them a chance to participate in the system that will work. The way to control employment is get people out of the shadows, sign up for a system we can control.

If you make them felons, they are not going to come out of the shadows. If you deport the parents and leave the children behind, they are not coming out.

If you think it is silly not to beef up the border, you are right. If you think it is wise to separate these issues and have a system where no one will participate by punishing people for coming out of the shadows, you are dead wrong. You can punish them in a fair-minded way after they come out of the shadows, with an incentive for them to come, put them on probation. We are talking about a nonviolent offense.

We need the workers. We have 4.7 percent unemployment. We have 11 million people here working. They are not putting people out of work; they are adding value to our country. Some will make it to citizenship, some won't. Those who make it will have learned to speak English and will always have a job for 45 days. They will have a hard road but will have earned it if they get to the end. And some will not make it.

To deny they exist and to have a solution that will not get control of employment is just as irresponsible as not doing something about the border. That is why the President has chosen to get involved with a comprehensive solution that does two things at once—controls the employment and does something about the 11 million in a fairminded way—and also controls the border. If we separate these issues, we will fail again as a country.

I look forward to passing a bill that does both—deals with the employment problems, the border problems, and treats people fairly, punishes them fairly, and makes them pay their debt to society fairly. But I believe deep in my heart that some of the 11 million people will make it and some won't. They can add value to my country. And my friend from Florida is a value to my country, and he was not born here.

Mr. SPECTER. I yield 3 minutes to the Senator from Florida.

Mr. MARTINEZ. Mr. President, I rise in agreement and opposition to the Vitter amendment.

I must say I am delighted that the President on Monday sort of laid out the game plan. He laid out the vision. The vision is of a strong border, one that secures admittance into the country and does not permit illegal entry but understands we have a dynamic country, that we have a growing economy, that we have employment needs which today are being met by what is largely, in terms of this force, illegally here.

The fact is, we have tried to craft a compromise, which is what Senator HAGEL and I added to what was excellent work by Senator SPECTER in his work, and Senators MCCAIN and KENNEDY, who earlier than that came up with a concept to create a two- or three-tier system for those already here.

For those 10 million people who are in our country illegally working, those people need to be treated differently. We set up a three-tier system. Five years and more, and you are more established, you have been here a long time. The President talked about this on Monday night. He spoke of this very concept. Those people would have one path to permanency and to earn legalization very much along the lines of what Senator KENNEDY described—step after step after step.

Those who have been here less than 5 years but more than 2 years have to reenter the country legally. They have to go to an entry point and come back in legally. We will then know who they are. As a matter of fact, when those people do that, they then go back in and have the same requirements of those who have been here more than 10 years before they get a green card or before they become citizens. Then there are those more recent arrivals, and they do not get a benefit from the bill. Those are people who presumably have only come in the last couple of years to take advantage of what is currently perceived to be an opportunity.

As to all of those people, who are they and what are they doing? In my State of Florida, they are working in agriculture, they are working in construction, and they are working in a number of other enterprises. They are working in the tourism industry. They are building homes. If you are a home builder in Florida, you depend on this labor force and these workers to be there. You depend on them for you to make a good living, for your company to prosper, for your economy to continue to grow. In Florida, we virtually have no unemployment. In fact, we have labor shortages in some sectors of our economy. These demands are being met by this illegal system.

What we seek to do in this bill is to create a legal system, a system that can be compatible with our ideals and concepts of a nation of laws and also a nation that has for so many years been a nation that has welcomed immigrants. I am proud to be among them.

I understand the opportunity the American dream can provide to us all. I am very mindful of the openness and the love I felt in this country by the welcoming of people here who allowed me to make a way myself. This is what we are seeking for these people. After a long and projected trajectory, they have a path to citizenship. They, too, will have a stake in this country. They will have a stake in the outcome. We are not relegating them to a second-class citizenship; we are welcoming them as part of the whole.

I yield the floor.

Mr. SPECTER. How much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 5 minutes 45 seconds.

Mr. SPECTER. That is all the time that remains?

The PRESIDING OFFICER. The Senator from Louisiana has 2 minutes 45 seconds.

Mr. SPECTER. Mr. President, I oppose the amendment by the Senator from Louisiana because it makes enormous changes in the committee bill by eliminating the citizenship track.

I understand the point of the Senator from Louisiana. He does not want to see the 11 million undocumented immigrants on the citizenship track. But I believe we should not have a fugitive class in America, that it is necessary, in order to bring these immigrants out of the so-called shadows—they are out of the shadows for many purposes, and they are identifiable, working constructively in the American economy—to have them come forward, we are going to have to provide incentives for them to do so.

We have had a great deal of debate on whether there is amnesty in the committee bill. My own view is that we ought to tone down the rhetoric on that subject, not accuse one side of amnesty, trying to give away something that ought not to be given away, and in return not charging that amnesty is an evil argument.

We ought to deal with what the facts are. The issue is whether it is in our national interest, considering all the factors, to grant citizenship to these 11 million undocumented immigrants when they go to the end of the line if they perform certain tasks, if they meet certain criteria. The criteria are substantial and onerous: the payment of a fine, the payment of back taxes, the criminal background checks, learning English, the learning of American history, working a substantial period of time, and then 6 more years at the end of the line.

In a very realistic way, there is not really a lot of choice as to what we are going to do. It is totally impractical and unrealistic to think about deporting 11 million people. The question is, What do we do with them? How do we handle them?

It has been said in the Senate repeatedly but not too often that we are a nation of immigrants. Many of the Senators who speak start off by referencing their own backgrounds, as I have.

My father came to this country in 1911 at the age of 18. He came from czarist Russia. The czar wanted to send him to Siberia. As I have said in the past, he chose Kansas. It was, perhaps, a close call, I say in a facetious way. My mother came at the age of 6 with her family, settled in St. Joe, MO, and my parents have contributed to the American way of life. My father served in World War I and was wounded in action. In my Senate office, I proudly have their wedding picture. He was in uniform, and she was a beautiful bride of 19. They raised four children who contributed to our country and many grandchildren and many great-grandchildren and many great-great-grandchildren, so far.

This situation is a test of our humanity as a nation and the values in which we believe in the United States. We do not condone the breaking of the law, the breaking of the rule of law, but we are dealing with a very difficult situation in the best way we can.

With respect to the Senator from Louisiana, if his amendment were agreed to, we would not have comprehensive immigration reform. I believe comprehensive immigration reform is what is needed.

I yield the floor and reserve the final minute for perhaps some rebuttal.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. In closing the debate on this amendment, I thank all of the Members who have participated on both sides. It is a very important debate.

I wish to make three closing points.

First of all, I find it a little bit amusing and quite telling, the extreme reaction that erupted from some of the Senators at my suggestion that this is amnesty. It sort of reminds me of the famous line "Thou doth protest too much."

I offered a textbook definition of amnesty, and I heard no rebuttal to the fact that these provisions match that definition. Here is an even better definition from "Black's Law Dictionary," which specifically cites as an example:

> The 1986 Immigration Reform and Control Act provided amnesty for undocumented aliens already present in the country.

What is the comparison between that 1986 act and this bill? The comparison is laid out, and it is very striking. Penalties were there in both cases. Learning English? Guess what. That was required in 1986. Working in a job for certain periods of time? Guess what. That was in 1986 as well. The parallels, the comparison is striking.

Second, again, it is a straw man to suggest there is absolutely no way to deal with the 12 million illegal aliens presently in the country but the provisions of this bill. There are alternatives. I laid out an alternative. Senator CHAMBLISS laid out an alternative offering these folks the ability to work as temporary workers but not an automatic guaranteed path to citizenship.

This is not about whether we deal with the problem; this is about how we deal with the problem. And amnesty, in my opinion, is exactly the wrong way to deal with the problem. Recent history has proven that.

Third, and finally, I do not offer this amendment ignoring the values behind American citizenship, ignoring the enormous devotion to those values that so many Americans have, perhaps most of all those who have recently become American citizens. I offer this amendment because of those values and my commitment to honor them because I truly believe the provisions of this bill, which amount to amnesty, will erode the concept of citizenship and will erode those very values.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Pennsylvania has 1 minute.

Mr. SPECTER. Mr. President, the essence of the argument from the Senator from Louisiana is when he says "automatic guaranteed path to citizenship." Well, it simply is not so. There is nothing automatic when you have to fulfill the requirements of paying a fine and learning English and paying back taxes and working for a protracted period of time. There is nothing guaranteed about it. It is earned. And that is the hallmark of American values: to earn it.

That concludes my argument, Mr. President.

Mr. VITTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment there is not a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, as soon as Senator KENNEDY returns to the floor, I will make it official on asking unanimous consent locking in the two votes at 2:30.

I am informed there is agreement by authorized representatives of the leader of the Democrats. And we are now awaiting the arrival of Senator OBAMA, who is reportedly due here momentarily.

So until he arrives, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I ask unanimous consent to be able to speak for 2 minutes.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 2 minutes.

Mr. SESSIONS. Mr. President, on the Vitter amendment, I thank Senator VITTER for his amendment. Yesterday, Senator DORGAN offered an amendment to remove the guest worker program in its entirety, and I supported that because I believed it was flawed. Eventually, last night, we came back with an amendment that pretty much fixed it, that whole guest worker program, which I thought was good.

I think Senator VITTER's amendment points out and allows us to focus on the fact that this amnesty provision in the bill or regularization provision in the bill—whatever the fair way to describe it is—also has serious flaws. By supporting this amendment, it would be my intention to say let's make it better because I do believe we are not going to reject the people who are here and try to eject all of those people who have come illegally. We need to treat them in a decent and fair and caring way.

But also the rule of law is important. I think we ought not to develop a procedure that essentially provides every benefit to someone who came illegally that we would provide to those who come legally. So I will be supporting the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, when we complete debate on Senator OBAMA's amendment, we will then have two votes at 2:30. And then, after the votes, it is our desire, subject to Senator INHOFE's agreement, to come and debate his amendment. That may take a substantial period of time. I am advised by Senator KENNEDY they would like 2 hours equally divided. So that will take us fairly far into the afternoon. We will stay in session even though Director Negroponte will be having a session upstairs. This bill needs to be moved, so we will stay in session on the Inhofe amendment during that period of time.

Mr. President, I ask unanimous consent that the Senator from Idaho be given 2 minutes to debate the Vitter amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Idaho is recognized for 2 minutes.

Mr. CRAIG. Mr. President, I do have to stand in opposition to the Vitter amendment and hope my colleagues will oppose it. We are all finding out that what we are attempting to do is phenomenally complicated, with all the different kinds of categories of work status and reality that we as the Senate and the American people are awakening to.

There is one reality. We have a lot of undocumented foreign nationals in our country. By definition, they are illegal. Some—and many—have been here 5 and 6 years or more or less. They are law abiding. They are hard working. They have not violated the laws, other than they walked across the border. And they did violate a law when they did that.

Earned adjustment is an attempt to bring some reality to this by saying, if you have been here and you worked a while, then you can stay and work: You will pay a fine, you will have a background check, but we will provide you with a legal status to stay and to work—not citizenship. If you want citizenship, you go to the back of the line and you qualify.

But we are talking about a legal work status. Some call that amnesty. I call it earned adjustment because we are beginning to find out who is here, why they are here. There is a background check. Are they legal in the sense, did they violate laws, other than walking across the border? And I do not mean to take that lightly.

The Vitter amendment wipes out all of that. It wipes out the work of the committee. It wipes out how you deal with 10 million undocumented people in our country in a systematic, legal, and responsible fashion.

I urge my colleagues to oppose the Vitter amendment. There may be a better idea than earned adjustment. But after having worked on this issue for 5 years and attempting to work with all of the interest groups to bring about some equity, stability of workforce—assuring that those who are out in the field now working or in our processing plants working can stay and work and keep our economy moving—I ask my colleagues to oppose the Vitter amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that at 2:30 we proceed to the Sessions amendment for a 15-minute vote, and thereafter we proceed to the Vitter amendment for a 10-minute vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SPECTER. Mr. President, we have Senator OBAMA on the floor ready to offer his amendment. There is some issue as to whether it has been worked through on all of the aspects of being modified. But I think we are very close. So what I would suggest we do is proceed to consider the Obama amendment, subject to some minor change which may be made on modification. And I ask unanimous consent that the time be equally divided between now and 2:30.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The time between now and 2:30 will be equally divided.

The Senator from Illinois.

Mr. OBAMA. Thank you very much, Mr. President.

AMENDMENT NO. 3971, AS MODIFIED

Mr. President, while the staff is consulting—we thought that the modifications had been agreed to—what I would like to do is tell you the essence of the amendment that I plan to offer. As soon as we get the go-ahead, we will offer it for immediate consideration.

Mr. President, I rise today to discuss amendment No. 3971, which pertains to the guest worker provisions in the bill. I have some significant concerns with respect to the guest worker provisions. I am concerned that the guest worker provisions are premised on the idea that American workers are not available to fill the jobs that are currently being filled by undocumented workers or foreign guest workers. I am not certain that is the case.

Recently, I was on vacation in Arizona. I was staying at a hotel, and I noticed that all the individuals who were serving drinks and lunch at the swimming pool appeared to be from the West Indies. So I asked one of them: Where are you from? He said: I am from Jamaica. I asked: Are all the guys here from Jamaica? He said: Yes. I asked: How do you come here? He said: Well, I work for a company that essentially brings us in for 9 months during the high season. Then during the low season of vacation we will go back. And they take care of all their paperwork and handle all their immigration issues.

And he said: Did you notice that all the women who are cleaning the rooms are from China? I said: You know, I happened to notice that.

It turned out they have the same arrangement.

What it indicated was essentially you have a situation in which international temp agencies are being set up where workers will come in for 9 months, doing jobs that I think many Americans would be willing to do if they were available.

Now, having said that, there are some industries in which guest workers and agricultural workers are absolutely necessary. So the question is: How do we create this program but make sure it is tight enough that it does not disadvantage workers? To do that we are going to have to make the prevailing wage requirements of this bill real for all workers and all jobs.

We have to ensure that communities where American unemployment rates are high will not experience unnecessary competition from guest workers. So to that end, I will be offering an amendment, as modified, along with Senators FEINSTEIN and BINGAMAN, to strengthen the prevailing wage language and to freeze the guest worker program in communities with unemployment rates for low-skilled workers of 9 percent or greater.

This amendment would establish a true prevailing wage for all occupations to ensure that guest workers are paid a wage that does not lower American wages. The bill on the floor requires that employers advertise jobs to American workers at a prevailing wage before offering that job to a guest worker. And it requires that employers pay guest workers a prevailing wage. But the bill, currently, without the amendment, does not clarify how to calculate the prevailing wage for workers not covered by a collective bargaining agreement or the Service Contract Act of 1965, which governs contracts entered into by the Federal Government. That leaves most jobs and most workers unprotected.

The bill currently before us simply states that an employer has to provide working conditions and benefits such as those provided to workers "similarly" employed. So as a consequence, a bad employer could easily game the system by offering an artificially low wage to American workers and just count on those workers not taking the job. The employer could then offer that job at below-average wages to guest workers, knowing they would take it to get here legally.

That is not good for American workers, and it is not good for guest workers.

My amendment fixes that language. It directs the employer to use Department of Labor data to calculate a prevailing wage in those cases in which neither a collective bargaining agreement nor the Service Contract Act applies. That would mean an employer would have to make an offer at an average wage across comparable employers instead of just an average wage that she or he is willing to pay. The amendment also would establish stronger prohibitions on the guest worker program in high unemployment areas. The bill currently bars use of the program if the unemployment rate for low-skilled workers in a metropolitan area averages more than 11 percent. Our amendment would lower that unemployment rate to 9 percent of workers unemployed with a high school diploma or less. There is no reason any community with large pockets of unemployed Americans needs guest workers.

This is a good, commonsense amendment which is endorsed by SEIU, the Laborers Union, the AFL-CIO Building and Construction Trades Department, and the National Council of La Raza. I urge my colleagues to support it.

I will actually call up the amendment to be read as soon as it comes back. I think there are some discussions taking place right now.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, we are still working on a modification. I am advised that it is a minor modification, but until we get it, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank my friend from Illinois for bringing this to the attention of the Senate. I rise in strong support of the amendment. One of the dynamics of a comprehensive approach is legality and fairness. What we want to make sure is that when jobs are advertised for Americans first, Americans should be able to take advantage of the opportunity. But if they are going to go, by and large, to Hispanic individuals who come here, they ought to be treated at fair wages. There are protections that are included in the bill at the present time. The amendment offered by the Senator from Illinois addresses that issue and strengthens it. I hope we will find a way to accept it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. OBAMA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. OBAMA. Mr. President, we have been having some discussion. My understanding is that the concerns that have been raised have to do with the underlying bill and not my amendment. As a consequence, I ask unanimous consent to send to the desk amendment No. 3971, as modified, and ask for its immediate consideration.

I also ask unanimous consent to add Senators LIEBERMAN and LANDRIEU as cosponsors of the amendment.

The PRESIDING OFFICER. Is there objection to setting the pending amendments aside?

Without objection, the pending amendments are set aside. Does the Senator have a modified version?

Mr. OBAMA. Yes.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. OBAMA], for himself, Mrs. FEINSTEIN, Mr. BINGAMAN, Mr. LIEBERMAN, and Ms. LANDRIEU, proposes an amendment numbered 3971, as modified.

Mr. OBAMA. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the temporary worker program)

Beginning on page 266, strike line 13 and all that follows through 267, line 3, and insert the following:

"(C) PREVAILING WAGE LEVEL.—For purposes of subparagraph (A)(ii), the prevailing wage level shall be determined in accordance as follows:

"(i) If the job opportunity is covered by a collective bargaining agreement between a union and the employer, the prevailing wage shall be the wage rate set forth in the collective bargaining agreement.

"(ii) If the job opportunity is not covered by such an agreement and it is in an occupation that is covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing wage level shall be the appropriate statutory wage.

"(iii)(I) If the job opportunity is not covered by such an agreement and it is in an occupation that is not covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing wage level shall be based on published wage data for the occupation from the Bureau of Labor Statistics, including the Occupational Employment Statistics survey, Current Employment Statistics data, National Compensation Survey, and Occupational Employment Projections program. If the Bureau of Labor Statistics does not have wage data applicable to such occupation, the employer may base the prevailing wage level on another wage survey approved by the Secretary of Labor.

"(II) The Secretary shall promulgate regulations applicable to approval of such other wage surveys that require, among other things, that the Bureau of Labor Statistics determine such surveys are statistically viable.

On page 273, line 7, strike "unskilled and low-skilled workers" and insert "workers who have not completed any education beyond a high school diploma".

On page 273, line 9, strike "11.0" and insert "9.0", and on line 4, after "immigrant", add "is not agriculture based and".

Mr. OBAMA. I already explained the amendment, Mr. President. My suggestion would be that if the manager of the bill has no objection, we go ahead. I want to make sure I am going in the appropriate order, given the manager's fine job of keeping this process moving.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have no objection to proceeding to consider the amendment, as modified. There are still Senators on this side of the aisle reviewing it. We are not yet prepared to take a position. I think it is entirely appropriate to consider the discussion. I believe, as I said to Senator OBAMA privately, that we will work it out.

I yield to the Senator from Illinois for further debate.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OBAMA. As I indicated, this amendment essentially says that the prevailing wage provisions in the underlying bill should be tightened to ensure that they apply to all workers and not just some workers. The way the underlying bill is currently structured, essentially those workers who fall outside of Davis-Bacon projects or collective bargaining agreements or other provisions are not going to be covered. That could be 25 million workers or so which could be subject to competition from guest workers, even though they are prepared to take the jobs that the employers are offering, if they were offered at a prevailing wage. My hope would be that we can work out whatever disagreements there are on the other side. This is a mechanism to ensure that the guest worker program is not used to undercut American workers and to put downward pressure on the wages of American workers.

Everybody in this Chamber has agreed that if we are going to have a guest worker program, it should only be made available where there is a genuine need that has been shown by the employers that American workers are not available for those jobs. Without this amendment, that will not be the case, and we will have a situation in which we have guest workers who are taking jobs that Americans are prepared to take, if, in fact, prevailing wages were provided for. I don't know anybody here—and I have been working closely with those who are interested in passing a bill—who wants to see a situation in which we are creating a mechanism to undermine the position of American workers.

I ask that this amendment be considered, and I will hold off on asking for the yeas and nays until we have had a chance to discuss it further.

The PRESIDING OFFICER. Under the previous order, the hour of 2:30 having arrived, the vote is to occur in relation to the Sessions amendment No. 3979.

Mr. SPECTER. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. SPECTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Have the yeas and nays been ordered on the Vitter amendment?

The PRESIDING OFFICER. Yes, the yeas and nays have been ordered on the Vitter amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama, Mr. SESSIONS.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 83, nays 16, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—83

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dole
Domenici
Dorgan
Ensign
Enzi
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Nelson (FL)
Nelson (NE)
Pryor
Reid
Roberts
Salazar
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—16

Akaka
Bingaman
Cantwell
Dodd
Durbin
Feingold
Inouye
Jeffords
Kennedy
Lautenberg
Lieberman
Menendez
Murray
Obama
Reed
Sarbanes

NOT VOTING—1

Rockefeller

The amendment (No. 3979) was agreed to.

Mr. SPECTER. I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, for 1 minute.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

AMENDMENT NO. 3971, AS MODIFIED

Mr. SPECTER. Mr. President, before moving on to the next vote, we have the pending amendment by the Senator from Illinois, Mr. OBAMA, which we are prepared to accept. I ask for a voice vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the yeas and nays have been ordered on the Vitter amendment, and it is scheduled for a vote at the conclusion of this vote. The Senator from Pennsylvania has asked unanimous consent that prior to that vote the Obama amendment be considered by a voice vote. Is there objection? Without objection, it is so ordered.

The question is on agreeing to Obama amendment No. 3971, as modified.

The amendment (No. 3971), as modified, was agreed to.

AMENDMENT NO. 4018

The PRESIDING OFFICER. Under the previous order, a vote will now occur in relation to the Vitter amendment.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that we call up the Stevens, Leahy, Murkowski, Jeffords, Coleman, Stabenow, Collins, and Levin amendment No. 4018 to extend the implementation deadline for the Western Hemisphere initiative by 18 months. I ask unanimous consent that it be allowed to be called up. It will simply be a voice vote.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for Mr. STEVENS, for himself, Mr. LEAHY, Ms. MURKOWSKI, Mr. COLEMAN, Mr. JEFFORDS, Ms. STABENOW, Ms. COLLINS, and Mr. LEVIN, proposes an amendment numbered 4018.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To extend the deadline given to the Secretary of Homeland Security for the implementation of a new travel document plan for border crossings to June 1, 2009)

At the appropriate place, insert the following:

SEC. . TRAVEL DOCUMENT PLAN.

Section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note) is amended by striking "January 1, 2008" and inserting "June 1, 2009".

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4018.

Mr. DOMENICI. What is the amendment?

Mr. LEAHY. The amendment simply extends for 18 months the Western Hemisphere travel initiative on the northern border.

Mr. VITTER. Mr. President, I object to proceeding with the amendment.

The PRESIDING OFFICER. Objection is heard.

Mr. LEAHY. Mr. President, the amendment has been called up. There is to be a voice vote by consent. A voice vote is still allowed to go forward. The Senator can vote against it, of course.

The PRESIDING OFFICER. By unanimous consent, the amendment has been considered. Under the previous order, a vote is now to occur in relation to the Vitter amendment on which the yeas and nays have been ordered.

Mr. LEAHY. Parliamentary inquiry, Mr. President: What happens to the amendment that was brought up by unanimous consent, amendment——

The PRESIDING OFFICER. That amendment is the pending amendment.

Mr. LEAHY. I thank the Chair. So does that mean that amendment becomes the pending amendment following the disposition of the Vitter amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. I thank the Chair.

Mr. SPECTER. Mr. President, parliamentary inquiry: Isn't it true that we have the unanimous consent agreement to take up the Inhofe amendment after we have the vote on the Vitter amendment?

The PRESIDING OFFICER. No. The Inhofe amendment has not been agreed to be considered under any previous order.

Mr. SPECTER. Mr. President, then I ask unanimous consent that the Inhofe amendment be taken up following the amendment referenced by the Senator from Vermont.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, as I understand, at the time they are going to have the consideration of the Inhofe amendment, there may be a side-by-side amendment, and I hope that perhaps we would move to Inhofe. I would also hope that the Senator might withhold his unanimous consent request, at least until we have the full package, so that the Senate understands exactly the way we are going to proceed.

Mr. SPECTER. Mr. President, that is agreeable.

VOTE ON AMENDMENT NO. 3963

The PRESIDING OFFICER (Mr. MARTINEZ). The question is on agreeing to the Vitter amendment No. 3963. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The result was announced—yeas 33, nays 66, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—33

Allard
Allen
Bennett
Bond
Bunning
Burns
Burr
Byrd
Chambliss
Coburn
Cornyn
Crapo
DeMint
Dole
Ensign
Enzi
Grassley
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
McConnell
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Talent
Thomas
Thune
Vitter

NAYS—66

Akaka
Alexander
Baucus
Bayh
Biden
Bingaman
Boxer
Brownback
Cantwell
Carper
Chafee
Clinton
Cochran
Coleman
Collins
Conrad
Craig
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Frist
Graham
Gregg
Hagel
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
Martinez
McCain
Menendez
Mikulski
Murkowski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Salazar
Sarbanes
Schumer
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Voinovich
Warner
Wyden

NOT VOTING—1

Rockefeller

The amendment (No. 3963) was rejected.

Mr. DORGAN. Mr. President, I would like to explain my reasons for my vote on the Vitter amendment No. 3963.

It is estimated that there are currently around 12 million illegal immigrants in this country. And I do not support the proposition that everyone of those 12 million illegal immigrants currently in the United States should be given the right to a green card and eventual citizenship.

However, there are certain cases where illegal immigrants have been here for a very long time—in some cases, for decades. Some of these people have families here and deep ties to their local communities.

The Vitter amendment would have made no exception for such cases at all. And I do think that we need some flexibility for humanitarian reasons.

For this reason, I voted against the Vitter amendment. But I would like to emphasize that I am not in favor of a broad, blanket amnesty for illegal immigrants.

AMENDMENT NO. 4018

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I think we are ready to go on the amendment.

Mrs. HUTCHISON. Mr. President, if I could ask the distinguished manager if I, along with Senator CORNYN, could be added as cosponsors to Senator LEAHY's amendment since it applies to both the northern and southern borders?

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I have no objection to that. It fairly states it. This would apply to both borders and, of course, simply extends the time after which we have to have the kind of ID that would be called for in previous legislation. It would extend to both the northern and southern border. I will be glad to have both Senators from Texas as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. I thank the Senator.

Mr. STEVENS. Mr. President, I offer an amendment to the Western Hemisphere Travel Initiative. This initiative is based on the 9/11 Commission's recommendations and was authorized in "The Intelligence Reform and Terrorism Prevention Act of 2004." It requires the Department of Homeland Security—DHS—to implement a new documentation program by January 1, 2008. Once this program is in place, all U.S. citizens crossing the Canadian or Mexican border into our country must have a passport or other accepted documentation, such as a passcard, in order to verify their citizenship.

The Department of Homeland Security and the State Department are now in the process of developing the rules needed to implement this initiative. The air and sea portion of this initiative could be implemented as early as next January.

The Department of Homeland Security and the State Department are evaluating two options for this initiative. The first would require a person entering the United States to present a passport. However, passports are expensive and require weeks to acquire. The second option is a passcard, which would be slightly cheaper, but would still require a background check and could only be used for travel between our country, Canada, and Mexico.

We must tighten our border security, but many have raised serious concerns about both of these options. It is unlikely the State Department will be able to process the flood of requests for passports and passcards that will come from this initiative by the deadline. The travel and business activities of millions of people will be adversely affected.

Take a military family reassigned from the lower 48 to Eielson Air Force Base, Alaska. They must drive from the lower 48 through Canada with all of their belongings, and they may not have the opportunity or funds to acquire the passports this initiative will require.

Our State is the only State in the Nation which cannot be accessed by land without passing through a foreign country. Alaskans are very concerned about the impact this initiative will have on travel to and from our State.

Every year, a large number of people travel to Alaska from the lower 48 on the Alaska-Canada highway, Also known as the Al-Can. Each summer we routinely see RVs on the road with license plates from New York, Pennsylvania, Florida, California, and elsewhere. These visitors will now need a passcard or a passport to drive to our State. I worry about how this will affect our tourism industry and the challenges it will create for Americans who want to visit one of the most beautiful places in our country.

These are just some of the issues which must be considered before implementing this plan. I believe the department of homeland security and the State department are operating under an unrealistic timeframe. We must ensure they have enough time to properly test and implement this system, which includes biometrics and new border security equipment.

Those of us in Alaska share a special relationship with our friends in Canada. It would be unfortunate if a hastily imposed initiative negatively affected movement in and out of Canada, or negatively affected our relationship with our neighbors.

The deadline Congress gave the Department of Homeland Security is fast approaching. Little progress has been made. We must pass this amendment to give them more time.

There is just too much at stake to rush this, and I urge my colleagues to support this amendment.

Mr. LEAHY. Mr. President, when the Congress passed the intelligence reform bill in 2004, it included measures that were intended to help secure our borders. These provisions, called the Western Hemisphere Travel Initiative, require that any person, including a U.S. citizen, present a passport or its equivalent, when they enter the United States from neighboring countries, including Canada or Mexico.

We have long enjoyed less-formal immigration policies with our neighbors, and especially with Canada. These policies encourage tourism and trade and promote goodwill between our nations.

The impact of the Western Hemisphere Travel Initiative on Northern Border states could be extremely harmful. Last year, Vermont exported $1.516 billion worth of products to Canada. And in 2003, more than 2 million Canadians visited Vermont, spending $188 million while here. Other northern border States enjoy similar trade and tourism benefits with Canada and face what could be significant downturns in their economies if this law is not implemented smoothly.

States like Alaska and Minnesota have unique challenges under the law because in Alaska all or in Minnesota some residents have to cross into Canada before entering the continental U.S. by land. In addition, several southern States could experience negative impacts. Florida and Nevada welcome significant numbers of Canadian tourists. Other States have strong economic ties to Canada and depend on the efficient movement of products across international borders.

We all know that the economic health of many small towns along the border depends upon their access to neighboring Canadian towns. In some cases, these towns share emergency services, grocery stores and other basic services. Residents sometimes cross the border on foot several times a day. This is true in Vermont, and I am sure that it is true for communities in many border States.

The State Department is developing a lower cost passport alternative—called the PASS Card—but that program has serious problems and potential for delay. The two Government agencies responsible for these PASS Cards are still arguing over what technology to embed in the card.

This issue alone indicates that DHS cannot meet the January 1, 2008 deadline when all U.S. citizens will need this card, or the more expensive traditional passport, to cross the northern border at land ports of entry.

I have worked in recent months with Senators STEVENS, JEFFORDS, COLEMAN, STABENOW, MURKOWSKI, CORNYN and LEVIN to extend the implementation date for this program to June 2009. That would give the U.S. and Canada an extra 18 months to prepare for a smooth transition. The bipartisan amendment we offer today should be non controversial and I hope all Senators will support it.

No one is suggesting that we should repeal the Western Hemisphere Travel Initiative altogether, but in order to protect our economy and to preserve community ties, we should intervene now to ensure that the Government can implement this law in a rational manner. An extension is the sensible way to proceed. We need to be smart about border security, not just to sound "tough" about it.

Mr. SPECTER. Mr. President, we are ready to have a voice vote on the pending Leahy-Stevens amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4018) was agreed to.

Mr. SPECTER. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4000

Mr. SPECTER. Mr. President, I will now ask for consideration of the Santorum amendment, amendment No. 4000, which has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM], for himself, Mr. FRIST, and Ms. MIKULSKI, proposes an amendment numbered 4000.

Mr. SANTORUM. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To allow additional countries to participate in the visa waiver program under section 217 of the Immigration and Nationality Act if they meet certain criteria)

On page 306, strike line 13 and insert the following:

SEC. 413. VISA WAIVER PROGRAM EXPANSION.

Section 217(c) (8 U.S.C. 1187(c)) is amended by adding at the end the following:

"(8) PROBATIONARY ADMISSION.—

"(A) DEFINITION OF MATERIAL SUPPORT.—In this paragraph, the term 'material support' means the current provision of the equivalent of, but not less than, a battalion (which consists of 300 to 1,000 military personnel) to Operation Iraqi Freedom or Operation Enduring Freedom to provide training, logistical or tactical support, or a military presence.

"(B) DESIGNATION AS A PROGRAM COUNTRY.—Notwithstanding any other provision of this section, a country may be designated as a program country, on a probationary basis, under this section if—

"(i) the country is a member of the European Union;

"(ii) the country is providing material support to the United States or the multilateral forces in Afghanistan or Iraq, as determined by the Secretary of Defense, in consultation with the Secretary of State; and

"(iii) the Secretary of Homeland Security, in consultation with the Secretary of State, determines that participation of the country in the visa waiver program under this section does not compromise the law enforcement interests of the United States.

"(C) REFUSAL RATES; OVERSTAY RATES.—The determination under subparagraph (B)(iii) shall only take into account any refusal rates or overstay rates after the expiration of the first full year of the country's admission into the European Union.

"(D) FULL COMPLIANCE.—Not later than 2 years after the date of a country's designation under subparagraph (B), the country—

"(i) shall be in full compliance with all applicable requirements for program country status under this section; or

"(ii) shall have its program country designation terminated.

"(E) EXTENSIONS.—The Secretary of State may extend, for a period not to exceed 2 years, the probationary designation granted under subparagraph (B) if the country—

"(i) is making significant progress towards coming into full compliance with all applicable requirements for program country status under this section;

"(ii) is likely to achieve full compliance before the end of such 2-year period; and

"(iii) continues to be an ally of the United States against terrorist states, organizations, and individuals, as determined by the Secretary of Defense, in consultation with the Secretary of State.".

SEC. 414. AUTHORIZATION OF APPROPRIATIONS.

Mr. SANTORUM. Mr. President, I congratulate my cosponsor, Senator MIKULSKI, for the excellent work we did as a team on this amendment. It took a long time to work this through the process, but we are very pleased today this amendment will be accepted.

Mr. President, when a country is a staunch defense ally and partner in the war on terror, they should have the opportunity to participate in the Visa Waiver Program on a probationary basis while they work to come into full compliance. I previously introduced and called up a similar amendment, No. 3214, cosponsored by Senator MIKULSKI. After consultation with the Judiciary Committee and the Department of State, this modified version seeks to address some of the concerns that have been raised.

I believe it is time that we allow average citizens from our allies in the war on terror to come to the U.S. for weddings, birthdays and funerals without the arbitrary determination of an embassy bureaucrat. This amendment provides an opportunity—just an opportunity—for our allies to allow their citizens to visit here for average events that we all take for granted. It does not provide an open-ended opportunity, just a 2-year window.

Any country that meets the probationary criteria then must come into full compliance within 2 years—if not, they are terminated from the program. This amendment also addressed a particular concern related to certain countries with a Cold War history where even in the post-Cold War era is held accountable for decades-old problems. This provision ensures that overstay and refusal rates are based on current issues after the country's admission into the European Union, and not its past history.

Finally, the amendment provides a one-time option to the Secretary of State to extend a country's probationary status under certain specific criteria. After researching countries that could meet the criteria of the amendment, my staff indicates that the only country currently meeting the eligibility requirements is Poland.

Poland has been a strong ally to the United States at a critical time in history. Poland was a staunch ally to the U.S. in Operation Iraqi Freedom. Poland has committed up to 2,300 soldiers to help with ongoing peace efforts in Iraq, and currently assumes command of the Multi-National Division—MND—Central South in Iraq. Poland demonstrated its commitment to global security by becoming a member of NATO. Poland also just recently became a member of the EU. And in 1991, Poland unilaterally repealed the visa requirement for U.S. citizens traveling to Poland for less than 90 days. Today, more than 100,000 Polish citizens travel to the United States annually.

On February 10, 2005, I introduced S. 348 designating Poland as a visa waiver country, with Senator MIKULSKI. This bill designates Poland as a visa waiver country. Under this amendment, Polish citizens visiting the U.S. within a 90-day period would not need to apply for a visa. Representative NANCY JOHNSON introduced identical legislation March 8, 2005 in the House, H.R. 635. Cosponsors of the bill are Representatives CROWLEY, JACKSON-LEE, HART, LAHOOD, SHIMKUS, LIPINSKI and WEINER.

I wrote a letter on February 9, 2005 to Secretary of State Rice urging the State Department's support for this legislation. Following up on that letter, I had conversations with Secretary Rice in the Spring of 2005. Then in February 2006, I again wrote to Deputy Secretary Zoellick urging his support for this legislation and offering to address any concerns the State Department may have. To date, and despite my staffs continued outreach, they have failed to take us up on the offer.

So instead of working for a compromise, we continue not to move forward on a bill to support the allies that have supported us. On August 31, 2005 Poland celebrated the 25th anniversary of the 1980 shipyard strikes in Gdansk and the creation of the Solidarity Trade Union. I was an original cosponsor of the Senate-passed resolution. The Senate passed a resolution commemorating this anniversary. I had the incredible privilege of meeting with Lech Walesa in October 2004 upon introduction of my bill designating Poland as a member country of the Visa Waiver Program. He is "the symbol of the solidarity movement." Since the demise of communism, Poland has become a stable, democratic nation. Poland has adopted economic policies that promote free markets and economic growth.

When President Bush and then-Polish President Kwasniewski met in February 2005, they affirmed the goal of Poland entering the Visa Waiver Program—VMP, and agreed to a "road-map" of mutual steps to advance this goal in conformity with U.S. legislative criteria. Through pressure from Congress and advocacy groups this issue has been advanced further than ever before, making this "road map" possible. Although the State Department has assured me it is working hard to implement a "clean slate" so immigration violations before 1989 will not render them ineligible for a U.S. visa, we know that a key element will be the 2006 review of visa overstay rates based on new 2005 data from Poland's first year in the EU. Another part of the agreement includes the U.S. working with Poland to meet the visa waiver requirements, particularly with regard to refusal and overstay rates, and exploring the provision of technical assistance to bring Poland's passports in compliance. I hope the cooperation that has begun will continue in earnest to ensure that Poland comes into full compliance in the 2-year window under this provision.

The current roadmap is a step in the right direction, but it continues to move at a very slow pace. We can and should do more for those that have stepped up to the plate and been incredible allies in the war on terror. Today, as we consider who should be allowed to immigrate to our country and how, we are focused on how to ensure security and the rule flaw for those that have come into our country illegally. For a moment I propose to turn the discussion to how to help those who have stood with us—indeed those who have fought and died with us—a preferred legal way to obtain a visa to come to this country.

I am here to stand with the Polish people in asking each of you to support bringing Poland into the Visa Waiver Program. Why is it that countries such as Brunei, Liechtenstein and San Marino are in the Visa Waiver Program, but not Poland or other allies in the war on terror? Polish troops have fought alongside American and British and Australian troops from day one of the war in Iraq. Just like Congress did in 1996 when it legislatively brought Ireland in as a full participant in the Visa Waiver Program, it is time for us to take a stand and support our allies in the war on terror.

As a country, we look forward to continuing our strong friendship with Poland and its new President Lech Kaczynski. Is this then a country that we don't want to allow its citizens to come to this country? Is this a country we want to say "thanks for your help" but we won't help your citizens come to the U.S.? I think there is a better course of action. Colleagues, this is an to opportunity for us to strengthen that relationship in a real and substantial way. Open a pathway for those that have supported us to come visit our country. In that way—in this small way—we can reach back the hand of an ally that has reached out to help us in the War on Terror. I urge my colleagues to support the Santorum-Mikulski-Frist amendment.

Ms. MIKULSKI. Mr. President, I rise today to continue the fight to right a wrong in America's visa program. It is time to extend the Visa Waiver Program to Poland. I am pleased to have formed bipartisan partnership with Senator SANTORUM and Senator FRIST to introduce this amendment to get it done.

In September 2004, Senator SANTORUM and I met with a hero of the cold war, Lech Walesa. When he jumped over the wall of the Gdansk shipyard, he took Poland and the world with him. He told us that the visa issue is a question of honor for Poland. That day we introduced a bill to once again stand in solidarity with the father of Solidarity by extending the Visa Waiver Program to Poland.

Two months ago, I had the honor of meeting with Poland's new President, Lech Kaczynski. We reaffirmed the close ties between the Polish and American peoples. And we heard loud and clear that the Visa Waiver Program remains a high priority for Poland.

The people of Poland don't understand, and frankly neither do I, why France is among the 27 countries of the Visa Waiver Program but Poland is not. Poland, whose troops joined us in the opening days of war in Iraq. Nine hundred Polish troops stand with us there today. Seventeen Polish soldiers have been killed in Iraq and 27 wounded. Poland, whose troops are preparing to deploy to Afghanistan, sending 1,000 Polish soldiers to help lead NATO's mission there. The United States is blessed with few allies as stalwart as Poland. But we tell a grandmother in Gdansk she needs a visa to visit her grandchildren in America.

This amendment will allow Poland and any other European Union country with troops in Iraq or Afghanistan today to join the Visa Waiver Program for 2 years on probationary status. It will allow Polish citizens to travel to the U.S. for tourism or business for up to 60 days without needing to stand in line for a visa. Shouldn't we make it easier for the Pulaskis and Marie Curies to visit our country?

We know our borders will be no less secure because of this amendment. But we know our alliance will be more secure. I thank my colleagues for their support.

I am glad the Santorum-Mikulski amendment is being considered. It shows that when we work together we can get a lot done. I thank both Senators from Pennsylvania for their help and cooperation to get this amendment agreed to.

This amendment rights a wrong in America's visa program.

It is time to extend the visa waiver program to Poland. I am pleased to have formed bipartisan partnership with Senator SANTORUM and Senator FRIST to get it done.

In September 2004, Senator SANTORUM and I met with the hero of the cold war—Lech Walesa. When he jumped over the wall of the Gdansk shipyard he took Poland and the world with him. He told us that the visa issue is a question of honor for Poland. That day, we introduced bill to once again stand in solidarity and with the father of Solidarity by extending the visa waiver program to Poland.

Two months ago, I met with Poland's new President, Lech Kaczynski. We reaffirmed close ties between the Polish and American peoples. We hear loud and clear that the visa waiver program is a high priority for Poland.

Why is it important?

The people of Poland don't understand, and frankly, neither do I, why France is among the 27 countries of the visa waiver program but Poland is not. Poland, whose troops joined us in the opening days of war in Iraq, has had 900 troops stand with us there today. Mr. President, 17 Polish soldiers have been killed in Iraq and 27 were wounded. Polish troops are preparing to deploy to Afghanistan. One thousand Polish soldiers help lead NATO's mission there.

The United States is blessed with few allies as stalwart as Poland, but we tell a grandmother in Gdansk she needs a visa to visit her grandchildren in America.

What will it do?

This amendment will allow Poland and any other EU country with troops in Iraq or Afghanistan today to join the visa waiver program for 2 years on probationary status.

It will allow Polish citizens to travel to the United States for tourism or business for up to 60 days without needing to stand in line for a visa.

Shouldn't we make it easier for the Pulaskis and Marie Curies to visit our country? We know our borders will be no less secure because of this amendment, but we know our alliance will be more secure.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4000) was agreed to.

Mr. SANTORUM. Mr. President, I move to reconsider the vote.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I think we are prepared to go with the amendment by the Senator from Texas, Mr. CORNYN. I ask unanimous consent that we have a 2-hour time agreement on the Cornyn amendment equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. Mr. President, reserving the right to object, it is my understanding that we have under unanimous consent my amendment and then a Democratic amendment and then the Ensign amendment. Is the Senator talking about changing that order?

Mr. SPECTER. Mr. President, I am talking about changing the order. When the Senator from Oklahoma and I last talked, Senator KYL had asked for more time and there were discussions. It is my understanding that we were trying to work through to simplify the action once it got to the floor. My interest is finding an amendment which I can bring to the floor and debate and vote. I am prepared to go any direction practicable to achieve that. We now have Senator VITTER on the floor who has another amendment. But may we hear from the Senator from Oklahoma as to what his concerns are?

Mr. INHOFE. Mr. President, I believe we are ready with our amendment, and under the unanimous consent we would be next. We are making some modifications right now. We could use a little time. We are ready to go in our place in line, unless it works out by unanimous consent that Senator ENSIGN and I change places so that my amendment would come up after the next Democratic amendment. That is what I will be willing to do.

I ask unanimous consent that we stay on the current unanimous consent request, with the exception that Senator ENSIGN's amendment be traded with mine, and I will take his place after the next amendment.

Mr. KENNEDY. Mr. President, reserving the right to object, we have been ready to go, urging relatively short time agreements. We have a whole series of proposals from that side and virtually none from here. This has been sort of a jump ball. We are trying to adopt to that. We have a Democratic amendment that we are prepared to go to. I am more than glad to work out with the floor manager as to time limits. The Cornyn amendment we had not expected would come up. It reaches the heart of the issue, and our side needs at least an hour for it. I know the Inhofe amendment has been a matter that has been discussed. We were trying to work out a time agreement for consideration of a side-by-side. There has been a good deal of discussion and desire to try to work out a relatively limited amount of time. We are not interested in prolonging that discussion and debate. I think people would like some time to try to figure that out. I think when they have that, we could have a relatively short period of time for the consideration of it. I am familiar with the Ensign amendment. Senator VITTER and Senator CORNYN have amendments. We are prepared to have a short time agreement.

Our concern is that we have a whole series of Republican amendments, and we are not having Democratic amendments. We want to try to work this thing through. We have had a short time. I have every intention of suggesting to our side that we have short times. But we need to at least try to work out with the floor manager some opportunity for the consideration of our side.

Mr. SPECTER. Mr. President, do I understand the Senator from Massachusetts to mean he would be prepared to go, if we revert to the original schedule, with Senator INHOFE and take the Inhofe amendment now under a time agreement?

Mr. KENNEDY. Mr. President, I am glad to do the Inhofe amendment. I understand there is going to be a side-by-side, but I can't enter into a time agreement on that until that thing is finished. I know what the Senator's amendment is. I know people want to debate it. But in terms of limiting the time, until we have the side-by-side, I cannot enter into a time agreement. When we have a side-by-side, we would enter into a short time agreement—I think an hour or an hour and half evenly divided. There isn't any desire to prolong this. We are going to be on this bill—I understand there are 16 more amendments on that side which are serious amendments. We are going to be on this legislation. We made good progress today. I am glad to make some progress. That happens to be the reality on this. Maybe later in the afternoon we could get a short time agreement. But until we work out the side-by-side language on it, I would not be able to enter into a time agreement at this time on the Inhofe amendment.

Mr. SPECTER. Mr. President, it would be my suggestion, if we can't work out a time agreement on the Inhofe amendment, subject to an agreement on all sides, that we try to get the side-by-side before the afternoon is up so we can take up the Inhofe amendment first thing tomorrow morning, hopefully, on a limited time agreement. Would that be acceptable?

Mr. INHOFE. No. I respectfully say to the chairman that we are ready to go with our amendment, and the unanimous consent request propounded by the minority leader has a Democratic amendment prior to mine. I don't know. Is that still in the order? I ask if it is. If it is not, I ask for regular order.

Mr. SPECTER. Mr. President, is there a unanimous consent agreement setting up the Inhofe amendment?

The PRESIDING OFFICER. The previous agreement has been negated.

Mr. SPECTER. Will the Chair repeat that?

The PRESIDING OFFICER. The previous agreement has been negated.

Mr. INHOFE. The previous unanimous consent has been negated; is that my understanding?

The PRESIDING OFFICER. The Senator is correct.

Mr. INHOFE. How, might I ask, did that happen?

The PRESIDING OFFICER. By a subsequent unanimous consent request.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent that we proceed to the Cornyn amendment with a time agreement of 2 hours, equally divided. There has been a suggestion by Senator CORNYN that he can take less time. Perhaps Senator KENNEDY can take less. But the consent agreement is for 2 hours, equally divided, with no second degrees.

The PRESIDING OFFICER (Mr. COBURN). Without objection, it is so ordered.

Mr. SPECTER. Then I ask unanimous consent that we proceed to the Vitter amendment for 45 minutes, equally divided, with no second-degree amendments.

Mr. KENNEDY. I am glad, when we get to the Vitter amendment, to go for 45 minutes, but I think it is our turn after disposing of the Cornyn amendment. Senator LIEBERMAN has an amendment, the Lieberman-Brownback amendment. We can agree to a short time limit on that. We would want to go back and forth.

Mr. SPECTER. Can we have a time agreement on Lieberman-Brownback, 45 minutes equally decided?

Mr. KENNEDY. I suggest an hour. I think we can get it done in 45.

Mr. SPECTER. One hour equally divided, no second-degree amendments.

Mr. ENSIGN. Reserving the right to object, may I hear the unanimous consent request?

Mr. SPECTER. The unanimous consent request is to go next to the Lieberman-Brownback amendment for 1 hour, equally divided, with no second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Mr. CORNYN. Reserving the right to object, we already have a unanimous consent to go to the Cornyn amendment.

Mr. SPECTER. We already had the unanimous consent to go to the Cornyn amendment.

Mr. President, I ask consent that we then lock in the Vitter amendment next in sequence, for 45 minutes, equally divided.

Mr. INHOFE. Reserving the right to object, the problem is, I say respectfully to our chairman, we are being left out of this queue. If we are going right now to a Democratic amendment, under the regular order I should be the next amendment. As it is now, it would be the Cornyn amendment and then the Democratic amendment.

Mr. SPECTER. I modify the request. Senator VITTER is moved. After Lieberman, we go to the Inhofe amendment, and perhaps by that time we can have them laid down, side by side, and before we begin debate, have a time agreement.

Mr. ENSIGN. Mr. President, we have been trying to get in the amendment queue for a couple of days. We would love to get locked in, along with this.

Mr. SPECTER. We will move to get Senator ENSIGN in the queue, but we can start on the Cornyn amendment, and we will talk about this in the cloakroom.

Mr. KENNEDY. Mr. President, I have no objection. I think for the time being we have an order now for the next three. I have no objection to going at sometime to Ensign. I expect that would be the regular order. But for all intents and purposes, we agree to the three outlined here. I can understand they will probably follow along, but for all intents and purposes, we agree to the three.

Mr. SPECTER. Senator KENNEDY is correct. May we proceed?

The PRESIDING OFFICER. Without objection, it is so ordered. The requests are agreed to.

The Senator from Texas.

AMENDMENT NO. 3965, AS MODIFIED

Mr. CORNYN. I send a modification to amendment 3965 to the desk for consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN], for himself and Mr. KYL, proposes an amendment numbered 3965, as modified.

Mr. CORNYN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3965), as modified, is as follows:

On page 295, strike lines 14 through 16 and insert the following:

"(B) by the alien, if—

"(i) the alien has been employed in H-2C status for a cumulative period of not less than 4 years;

"(ii) an employer attests that the employer will employ the alien in the offered job position; and

"(iii) the Secretary of Labor determines and certifies that there are not sufficient United States workers who are able, willing, qualified, and available to fill the job position.

Mr. CORNYN. Mr. President, the bill in the Senate is a massive piece of legislation creating a number of new programs within our immigration system. Obviously, we have talked a lot about border security and ways we can tighten our border to make sure we know who is coming into the country and why they are here.

Second, we also need to make sure we have a successful worksite verification program to make sure people who present themselves for employment in the United States are, indeed, legally authorized to work in the United States.

This is an enormously important comprehensive approach. While I hope it is clear that there are some segments of the approach I differ with and we are trying to improve, from my perspective, I do support the approach of comprehensive immigration reform because we need to deal with the security demands of this problem, and we also need to deal with the economic demands of the problem.

One of the ways the underlying bill purports to do that is by creating what is called a guest worker program. One component of the guest worker program is as follows. For people who are not yet in the United States but who want to come in the future, this plan creates a guest worker program, but what it fails to do is to match up willing workers who want to qualify within this program with an actual job. In other words, what it does is creates a phenomenon whereby individuals who participate in the program can literally self-petition without having an employer sponsor that petition for them to get a green card—in other words, to become a legal permanent resident and be put on a pathway to American citizenship.

This amendment strikes that position of the underlying bill which would allow individuals participating in this guest worker program to self-petition; that is, without an employer being there to sponsor them and acknowledge and attest that no American worker is willing or has indicated a willingness to perform that job.

This is a fundamental worker protection provision which I hope my colleagues will support. If we don't agree to this amendment, it means individuals can come to the United States as a guest worker and then self-petition without having an employer there to sponsor their application for legal permanent residency and can thereby be on a path to become an American citizen and end up competing with American workers for those jobs.

We all understand America is a compassionate country. We want to make sure we do this immigration reform plan correctly. One of the things we do not want to do is actually hurt American workers. Unless we strike the self-petition provision, we will be doing exactly that. We need to make sure before someone can come in and get a job that, No. 1, they have a job and have not just self-petitioned and then become self-employed and perhaps even become a burden on the American taxpayer through various welfare benefits they might receive. We need to make sure before someone gets a job that the employer acknowledges and attests that they put it up, they advertised it, and they sought American workers to fill that job, but, in fact, no American worker has come forward. Only under those circumstances do I believe a guest worker ought to be able to fill that job. This underlying bill does not provide for that.

This amendment would say that after 4 years of cumulative employed status as an H–2C worker, before someone can apply for and receive a green card, they must do two things: No. 1, they have to find an employer willing to sponsor them; and No. 2, they have to attest that no American worker has stepped forward when that job has been offered to the public at large; otherwise, we will find this guest worker program in direct conflict with the needs of native, American-born workers and otherwise legal immigrants. That would be a terrible direction for us to head down.

This is one of those provisions of the bill with which, since it is 600 pages long, many Members may not be intimately familiar. I hope by filing this amendment and by having this debate they can inform themselves and hopefully agree to support this amendment which is designed to protect American workers and to put the interests of American workers first. Then and only then can a participant in this guest worker program get the job that an American had an opportunity to get but decided not to apply.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. I yield such time as I might use.

We will look at exactly who these individuals are who are going to come into the United States and what the process is.

First, we will find out that an employer needs a particular kind of function to be able to continue their business—maybe it is related to the employment of other individuals. They search around to try, for some 60 days, to see if there is an American prepared to take that job at that salary. They cannot find an American prepared to take that job, and they still need to have that particular function filled. So they find out there is a willing person from overseas prepared to take that particular job, get paid the particular wages mentioned for that particular profile, and that individual then comes to the United States and works for that particular employer.

Under the current legislation, we are saying that after a period of 4 years—or even before the 4-year-period—if the employer wants to petition for a green card for that particular employee, they can go ahead and do that. That is in the law at the present time.

Senator CORNYN's amendment does not do that. We provide after 4 years that if the individual wants to make a petition for that particular job, they ought to be entitled to do so. They will still have to wait the 5 years in order to become a citizen. That is a total of 9 years to be able to become a citizen. Senator CORNYN does not want that particular right for that particular worker.

One of the things we have seen over the period of years, going back to the Bracero issue in question where we had individuals who came into the United States and were extraordinarily exploited—they were exploited all the way through by unscrupulous employers because those particular workers did not have any rights in order to be able to protect themselves. In the 1960s, we got rid of the Bracero because it was such a shameful aspect in this country's employment history.

We want to avoid the same circumstance with this new legislation. We have tried to learn from 1986, when we had amnesty. We also should have had the prosecution of employers employing individuals who should not have been employed, but that was never enforced.

Now we have the earned citizenship. Now we have protections for workers to come in here.

Now, we have strengthened border security. We have learned from the past. One of the important experiences of learning from the past is not to permit these workers to be exploited. One of the best ways to ensure that is to give them—at least after 4 years of working in the United States—the opportunity of getting on the path for a green card and eventually citizenship.

Now, the Senator from Texas does not want that. He wants to leave all of the power with the employer. Well, I do not buy that. The employer starts out saying: Look, I need a worker. I can't get a worker. I really need you. You come on in here. I will really look out after you. But I want to tell you something: unless you are going to work those extra hours—and I might not pay you overtime—unless you are going to do this or unless you are going to do that. I will never petition for you. And you are not going to be able to petition for yourself.

So I think it is an issue about whether we are going to respect individuals and have as much respect for employees as we have for the employers.

It is interesting that under this legislation, if an employee comes in, and the employer likes that person, they can go ahead and make the petition now for the green card. They have the power to do that in the first year, the second year, the third year, and the fourth year. So we are just swinging all of this power into the hands of the employers.

If you accept the Cornyn amendment, you are effectively leaving people high and dry on that. I do not think that is what we are trying to do.

We are trying to have fairness in the legislation. We are trying to have legality, strong border security. We are trying to have an employer-employee relationship where the employer is going to know that employee, has the documents and, therefore, will not go out and hire other employees who are here illegally and give them depressed wages, which will depress the wages on Americans and American workers, which is the current case.

We are saying we want to stop the exploitation of both those individuals and what is happening to American workers. But we want to at least say that after 4 years, where this individual has filled an important slot that no American worker was prepared to fill, and they want to be a part of the whole American dream, play by the rules, pay their taxes, do what any citizen would do in the United States but the employer said: No, I am not going to do it, and then they have to go back to their country, it leaves all the power with the employer and denies the employee respect, which I think will invite further kinds of exploitation.

We do not want to go back to the Bracero period. And this is starting us back down that road. I think it is the wrong way to resolve this particular issue. I hope the amendment will not be accepted.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I want to make sure our colleagues understand exactly what this amendment does. It is very short. Let me read from it. What it says is one can qualify for a guest worker program if "the alien has been employed in H–2C status" and maintained that "for a cumulative period of not less than 4 years. . . ."

Let me make clear, that was part of a negotiation that Senator McCAIN and Senator GRAHAM and others and I entered into before we offered the modification because they felt it would be fairer. I agreed that was a reasonable request on their part. I would hope that others would feel the same way.

But the second and third parts are the guts of this amendment. It also requires that:

> An employer attests that the employer will employ the alien in the offered job position; and—

And this is the most important part. This is the American worker protection—

> the Secretary of Labor determines and certifies that there are not sufficient United States workers who are able, willing, qualified, and available to fill the job position.

Now, this underlying bill provides a lot of protection for guest workers who qualify under this program. And I agree that they should be protected from exploitation. That is one of the reasons this law has been created. But it does not create exploitation at the hands of an employer any more than any other employee in America is subjected to exploitation by their employer. In other words, this does not bind the guest worker to a particular employer. Indeed, they can get this certification from any employer who has a job they want to fill subject to the requirement that the Secretary of Labor provide this attestation that there are not sufficient U.S. workers "able, willing, qualified, and available to fill the job position."

This amendment does not say these individuals cannot eventually get a green card if they otherwise qualify, having been sponsored by an employer, and for a job that no American has stepped forward to fill. So it does not tie a worker to a particular employer. It does not limit that. It does not say these guest workers cannot ultimately get a green card.

Ultimately, this is not so much about protections for the guest worker as it is protections for the American worker. Indeed, one of the attributes of sovereignty is that the United States has to regain some control not only of our borders but of our broken employment system which, right now, employs millions of people who cannot legally work in the United States. We are trying to fix that. But it does not fix the problem to say that individuals can continue to come into the United States and compete with American workers.

We ought to be all about trying to work out a system that protects American workers and yet allows guest workers who qualify to fill the gaps that American workers cannot fill. I suggest to my colleagues if you believe the rights of this guest worker are paramount and the rights of the American worker are subservient—if you really believe that, then you ought to vote against the amendment. But if you believe we ought to protect the rights of American workers first, and then, in the event the Secretary of Labor certifies there are not sufficient American workers, allow guest workers to work—if you think that is a better system, then you should vote for this amendment.

In no sense does this subject any guest worker to exploitation. They are protected under this bill by the labor laws that protect all American workers. All it does is protect American workers from having to compete against guest workers for jobs that would be rightfully theirs and available except for the fact that someone has self-petitioned and taken a job that an American would otherwise want and would be able to do.

I yield the floor and reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have difficulty following the logic of my good friend from Texas because American workers are protected when the temporary worker is protected.

Now, let me give you a possible factual situation: An employer has one of these temporary workers. They have gone out and petitioned and can't find an American to do this job. They can't find an American to do the job. Then they have the foreigner who comes in and works for them, and works for them for 4 years.

Now, under our proposal, after the 4-year period, if they have paid their taxes, if they have not gotten into trouble with the law the rest of the way, they can petition for a green card. Then, if they follow all the procedures, pass the naturalization exam, they can become a citizen 5 years after that—9 years.

Now, this is what Mr. CORNYN, the Senator from Texas says: Look, after the 4 years, we are going to take away the right of that person—unless the employer is going to petition for them, unless the employer is going to do it.

Now, you tell me what is going to happen in a lot of the workplaces. The employee says: Look, Mr. Employer, when are you going to petition for me? I have worked for you for 4 years. Under the old bill, they used to be able to say I could petition. But they passed the Cornyn amendment, and it says, no. I am completely dependent upon you.

Well, the employer says: Don't ask for a raise. Take a wage cut. Take a wage cut for a couple of years. Don't complain about unfair working conditions. Don't complain about it. Don't complain about working a little longer, working Saturdays, maybe a few hours on Sunday. If you complain about it, I am not going to petition for you. You are going to be left high and dry.

You tell me how that protects American workers. Once you get the exploitation of the temporary worker, we see what happens, as we have seen today: Employers are employing the undocumented and they are paying them a good deal less. That is an adverse impact and effect on American wages. If you raise those wages and give them the protections we have under our legislation, that is going to protect American workers.

I fail to understand—when you give the whole deck of cards to the employer, and tell the employer he can do anything he wants with that employee—how that employee is protected and how an American worker is protected. I just do not get it. I just do not see it. It defies history. It defies the history of the old employment. It can work very well for that particular employer because he has that employee right by the throat because if that employee complains, does not do what the employer says, that person is on their way back to whatever country they came from, or they will disappear into the community. That is not good. That is what we are trying to avoid—exploitation.

I think this is what we have tried to do throughout the bill both in terms of the exploitation of workers, in terms of the legal system, the legal structure, and in terms of the border security, and the others. I have difficulty in following the rationale and the reasoning that if you give one person in the employer-employee relationship all of the cards, that somehow inures to the benefit of the employee. It never has in the history of the relationship between workers and employers, and it will not. And it will not if that is the outcome of the Cornyn amendment.

Mr. President, I yield the floor.

Mr. CORNYN. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. KENNEDY. Sure. Yes.

Mr. CORNYN. Mr. President, I ask the distinguished Senator from Massachusetts whether there is a requirement that an employer sponsor a guest worker when they first enter the country under the H–2C program?

Mr. KENNEDY. The answer to that is affirmative, yes.

Mr. CORNYN. I would ask, if I may, Mr. President, if the Senator will yield for one more question, whether it is true that, for example, high-skilled workers, H–1B workers—people with math, science, engineering degrees, and the like—whether there is a requirement that there be an employer who actually sponsors those workers before they can receive one of those types of visas?

Mr. KENNEDY. The answer is affirmative, yes.

Mr. CORNYN. I thank the Senator very much.

Mr. KENNEDY. Mr. President, it is a very fundamental reason why. You are talking about the H–1B. You are talking about the most highly skilled, highly educated, and highly competent individuals in the world—H–1B—going on to universities, going into the high-tech areas, individuals for which the world is their oyster. They do not suffer the kind of exploitation, the kind of humiliation that other workers suffer. These workers are taking jobs that American workers will not take.

There is a big difference between that and going to the top companies of America and working for the CEO, when you have all the education, the professional degrees. Those individuals are not the ones being exploited. They never have been, and they are not today. It is an entirely different situation.

We are talking about the tough, difficult work that no American will take. We are talking about the history of these kinds of jobs. We have seen it. We have read about it. We have experienced it. I did, certainly, in the early 1960s, going across the Southwest in the Bracero Program. Exploitation is one of the sad aspects of American employment history. We do not want to go there.

The H–2Bs in my State are doing very well at universities and colleges and enormously successful businesses. The idea behind the H–2Bs was getting the very able and gifted people. As history has shown, that results in the hiring of additional people because of their abilities. They end up, as a result of these programs, adding key elements of success to various businesses and employment expands. Generally, those are good jobs with good benefits and good retirement. That is an entirely different situation. I am glad we were able to clear that up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I appreciate the Senator from Massachusetts candidly responding to the questions I asked. What his answers established was that in order for guest workers under his proposal to come into the country in the first place, they have to have an employer, someone who has indicated that there is a job available for them. Under the amendment, they could work in that job for a cumulative period of up to 4 years. But for some reason, under the current bill, after 4 years, you would no longer have to have an employer who would certify that they had a job available for that guest worker to do and that no American was available to do it.

I also appreciate the Senator's candor in answering the question about highly skilled workers. As his answer indicated, highly skilled workers cannot come into the country unless there is an employer who is willing to sponsor them. My point is that we ought to make our immigration law uniform across the employment spectrum, whether you are a high-skilled worker or whether you are a low-skilled worker.

The Senator mentioned the Bracero Program and reports of exploitation of workers in America's past. I won't debate that with him. I have read of reports of problems with the Bracero Program. While the program as a whole was pretty good, I won't debate whether there were some problems associated with it. But America, in 2006, is not America in the 1950s. The legal protection that is available for guest workers under this program, the vigilance of the media and advocacy groups, will make it virtually impossible for the kind of exploitation the Senator talks about to occur. What happens is, in spite of the protections offered to the guest workers under our labor laws and despite the vigilance of the media and advocacy groups that would likely disclose any problems with a relationship between a guest worker and that employer, what we are finding out is that the one who ultimately has to pay the price for this concern, that I believe will not be realized and is not real, is the American worker who can't find a job because we have offered that job to a guest worker who has come into the United States.

At bottom, we ought to be as sure as we possibly can that whatever we do doesn't create more problems for American workers. The answer is, let's give American workers every opportunity to find jobs and then, if we can't find a sufficient workforce, let's give guest workers an opportunity to fill in those gaps. That is a worthy objective. But we should not be blind to the potential dangers to American workers losing jobs to guest workers under this program, unless the protections in this amendment are adopted—that an employer attest that the employer will employ the alien in the offered job position and the Secretary of Labor determines and certifies that there are not sufficient U.S. workers who are able, willing, qualified, and available to fill the job position.

I don't know whether there are others who want to speak either for or against the amendment. I know we agreed to an hour between us. Depending on whether the distinguished manager of the bill on the minority side would be interested in yielding time back, I think we have had a chance to cover the merits of this particular amendment. I am prepared to yield the remainder of our time back, if he is likewise prepared to yield the remainder of his time.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I believe the Senator from Texas, before he went to a necessary meeting at the White House, indicated he was prepared to yield back his time if I yielded back my time. I am prepared to yield back my time.

Mr. President, I withhold my request. I yield 5 minutes to the Senator from Nebraska, if I have it.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

(The remarks of Mr. HAGEL are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the time has been yielded back by Senator CORNYN and Senator KENNEDY on the Cornyn amendment. We are now ready to proceed with the Lieberman-Brownback amendment. If they will come to the floor, we can move ahead.

In the absence of any Senator seeking recognition, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, we had expected the Cornyn amendment to take 2 hours, which was the time agreement. Time was yielded back. Senator VITTER has now come to the floor. We are unable to proceed with the amendment in regular form, but I do think it would be appropriate to have Senator VITTER discuss his amendment, which could abbreviate the time which we would need when he lays it down. So, if I may, I would like to yield the floor to the Senator from Louisiana for purposes of having him discuss his amendment.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

AMENDMENT NO. 3964

Mr. VITTER. Mr. President, I thank the distinguished chairman of the committee for creating this opportunity to begin to discuss this amendment.

This is amendment No. 3964. This amendment would close some very serious invitations for fraud that are contained in the bill as it now stands.

I said on the floor before that I have some very serious reservations with this bill. One of those is that it is riddled with loopholes and invitations for fraud. There are many of these, in my opinion. As I have said many times over, the devil is in the details. Senators need to read this bill. Senators need to look at the details and understand how it would work, or more accurately how it would not work in practice, because this is not just an esoteric debate on the Senate floor. This would be law which would be put into practice, and we need to think about the hard nuts-and-bolts issues of how this would work or how it would not work in practice.

Unfortunately, I believe these loopholes, these invitations to fraud, and these other detail problems are numerous in the bill. My amendment, No. 3964, simply highlights and hopefully will correct, if adopted, a couple of these specific provisions. These are among the most important invitations for fraud and problems. In particular, there are glaring loopholes contained in section 601 of the bill.

We have heard over and over how this bill does not contain amnesty. It is not amnesty, the proponents say. And one of the reasons they say that illegal aliens are put into different categories is according to how many years they have been in the country. They are treated differently according to how many years they have been in the country. President Bush made this point on Monday night specifically, that folks should be treated differently if they have been in the country for many years, if they have put down roots, if they have family here, et cetera, versus if they have just come into the country and have been here a clearly shorter period of time. That is a reasonable argument.

The problem is, when you look at the details of the bill, when you actually read the bill, again the devil is in the details. The details of this bill make a mockery of that distinction. Why do I say that? It is because under the provisions of the bill that say how an illegal alien may prove how long he has been in the country, there are many different types of proof which are acceptable—certain documents, certain sworn affidavits from employers, certain records. But another form of acceptable proof is nothing more than a statement by that illegal alien himself, signed by that person, a piece of paper saying: I have been in the country some years, under these circumstances; here is my signature.

Again, for this to be an acceptable method of proof to put an illegal alien in the best category that offers the best track to citizenship, a program I would absolutely characterize as amnesty, obviously means that these distinctions, depending on how long you have been in the country, are meaningless. In practice, all a person has to do to put himself in the best category, the most lucrative category that will lead to this amnesty, is to sign a piece of paper saying it is so. That is an enormous invitation to fraud. That is a huge loophole which will make all of the related provisions of this bill completely unworkable.

There are other aspects of the bill that are similar. There are other distinctions between having been in the country 2 years, less than 2 years versus between 2 and 5 years. Again, the devil is in the details. When one looks at the proof required for these various categories, again a simple affidavit signed by any third party is acceptable in that case. Again, that makes the whole system unenforceable. That makes all of these distinctions meaningless and, in fact, ridiculous.

We need to close these loopholes. We need to require more significant proof and documentary evidence than a simple affidavit signed either by the illegal alien himself or any third person. That is what my amendment would correct. If a Senator wants to be half serious about making this work, if a Senator wants to put any meaning behind his or her words in favor of enforcement, clearly we need to fix these glaring deficiencies in the bill.

In summary, my amendment would close just some of the loopholes in section 602 of the underlying bill. These loopholes would not only allow fraud but create incentives for illegal aliens to commit fraud.

My amendment would strike the language allowing an alien to prove employment history by providing a self-signed sworn declaration—nothing more than a piece of paper with the illegal alien's own signature.

My amendment would require that sworn affidavits from nonrelatives who have direct knowledge of the alien's work be corroborated by the Secretary of the Department of Homeland Security and include contact information of the affiant, the nature and duration of the relationship, his name and address, and the phone number of the affiant's relationship. In other words, these types of affidavits can at least be checked. At least the Secretary of the Department of Homeland Security and his personnel can put some rigor into the process to see if these statements by third persons are true.

My amendment would make the types of other documents provided to prove work history the same for those illegal aliens who have been living in the United States for over 5 years and those who have been here between 2 and 5 years, bringing some more rigor, some more demand for objective evidence into the enforcement mechanism.

My amendment would clarify that the alien has the burden of proving his or her employment history by a preponderance of the evidence.

Again, I am very fearful that the Senate is doing on this matter what we do all too often. We have these debates. We get very involved in words and arguments. Yet we ignore where the rubber really hits the road—the details, the practicality of enforcement: is this system really going to work? Are these promises really going to be borne out to the American people? The devil is in the details. We need to have a system that is workable.

We have lived this history before. The 1986 experience was an utter failure because the enforcement mechanism was completely unworkable. Are we going to repeat that history or are we going to have enforcement that is workable, that is meaningful?

If we are going to make these distinctions, they have to be able to be meaningful in practice. If an illegal alien can put himself in the best category on that path to amnesty versus the category in which he truly belongs based on the number of years he has truly been in the country, then all of these promises by the proponents of the bill are utterly meaningless and the enforcement mechanism will be utterly unworkable. We need to fix these sorts of glaring loopholes and invitations to fraud in the bill.

Let me not oversell my amendment. My amendment does not fix all of those loopholes. It does not close down all of those outright invitations to fraud, but it does address two of the most important, two of the most serious. I invite all Senators on both sides of this debate to come together to pass this amendment.

Again, I think this is one of these gut-check amendments. This is one of the basic threshold test amendments, like the security fence amendment was. If a Senator isn't willing to close this sort out of outrageous loophole, then that Senator, in my opinion, is not serious in the least about making enforcement work. This is an absolute minimum to begin closing these serious loopholes.

I look forward to coming back to this amendment tomorrow when I will be able to present it formally on the floor and have the entire Senate take it up. I look forward to Senators from both sides of the aisle—in fact, both sides of this debate—coming together in support of my amendment because it is a basic gut-check amendment. It is an absolute minimum that needs to be done to begin to close these outrageous loopholes and invitations to fraud in the bill.

Mr. LEAHY. Mr. President, I oppose the Cornyn amendment because I believe it undermines the careful balance between American workers and business that is contained in the bill.

The Comprehensive Immigration Reform Act, S. 2611, allows guest workers under the new H-2C visa to work initially on a temporary visa and to apply later for a green card if their work is needed over a long period of time. Under the program, after 1-year the employer of the immigrant guest worker could petition for a green card. Alternatively, after 4-years the immigrant guest worker could petition on his or her own for permanent resident status.

The Cornyn amendment would strike the right of immigrant guest workers to self-petition. This is a dangerous proposal. One of the reasons that guest worker programs have failed in the past is that prior programs did not provide labor rights to the temporary workers. By placing the rights of petition exclusively in the hands of employers, unscrupulous actors have the ability to manipulate or abuse workers by controlling the workers' access to legal immigration status.

The bill before us is a compromise package that seeks to balance the rights of American business and labor, and that enhances our economy and national security by bringing illegal workers out the shadows. The balance depends in part on treating all workers equally, including giving immigrant workers the same labor rights that are available to U.S. citizens. If all workers possess the same rights, then employers cannot depress wages by preying on illegal workers, or workers whose status is held hostage by their employers. The business community understands this issue and therefore the Essential Worker Coalition, a broad coalition of employers and associations calling for comprehensive immigration reform, is opposed to the Cornyn amendment.

Under the bill, immigrants who decide to self-petition will have to meet all of the other requirements for a green card. In the new guest worker program, these requirements include a work requirement, passing security and background checks, demonstrating that the immigrant is learning English and civics, and undergoing medical exams.

The self-petition provision in the bill is not a backdoor or a short cut to citizenship. It should not be stricken by the Cornyn amendment.

The PRESIDING OFFICER. Who yields time?

Mr. VITTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask consent that the vote in relation to the Cornyn amendment occur at 6 o'clock this evening; provided further that the amendment be temporarily set aside to allow Senator INHOFE to offer an amendment; and finally, I ask consent that Senator CORNYN be recognized for up to 2 minutes on his amendment prior to the vote.

Mr. CONRAD. Reserving the right to object, I am not the manager of this bill, but I have been called into service because the manager on our side is not immediately available. I apologize for that.

Senator KENNEDY's staff informs me apparently Senator LIEBERMAN will not go forward with his amendment and Senator KENNEDY would like to have an amendment on our side before we go back to the other side. Perhaps that can be worked out with the managers.

At this point, I am constrained to object to setting the amendment aside.

Mr. SPECTER. In light of that objection, perhaps we can start with some discussion by Senator INHOFE in the absence of setting aside the amendment and having him lay down the amendment so we do not waste more time.

I ask consent the vote be set at 6 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. INHOFE. If I could ask the acting majority leader a question, it is my understanding the Lieberman amendment that was to be the Democratic amendment between the two Republicans amendments is now not going to be offered, at least at this time; that being the case, would the Senator object to setting the current amendment aside for me to bring mine up for consideration? Is this what the Senator is objecting to?

Mr. CONRAD. Yes, the Senator is correct. I apologize to the Senator. I'm not the manager of this bill. I am simply standing in for the manager of the bill on our side who is not available at this moment. That is what I have been asked to do on behalf of the manager.

Mr. INHOFE. Will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. KENNEDY. The Kennedy amendment you are talking about putting up now, would that be considered next after this vote takes place on the Cornyn amendment?

Mr. CONRAD. That is my understanding.

Mr. INHOFE. Is there any time that has been scheduled for his amendment?

Mr. CONRAD. Not that I know of.

I apologize to the Senator. We are in this bit of a situation where we have to have a manager of our bill here before those agreements can be made.

The PRESIDING OFFICER. The Senator from Oklahoma is currently recognized.

Mr. SPECTER. Mr. President, in an effort to not lose any more time, we had an amendment by Senator LIEBERMAN, which he decided not to offer. It is more time to discuss the rules as to whether that constitutes the Democratic amendment, but the suggestion has been made that the Democrats are be agreeable to setting aside the Cornyn amendment on the condition that a Democratic amendment will be considered before Senator INHOFE's amendment is considered further, but Senator INHOFE would be permitted to lay down his amendment and speak for a few minutes. Is that acceptable?

Mr. CONRAD. With that understanding, that is entirely acceptable on this side.

Mr. SPECTER. I ask consent for that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I would like to ask one more question. After the Cornyn amendment, we will go to the Kennedy amendment. I am locked in after that; is that our understanding?

Mr. CONRAD. It is the understanding of this Senator.

Mr. INHOFE. And this Senator.

It is our understanding, then, after we dispose of the Kennedy amendment, then we come to my amendment; is that correct?

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4064

Mr. INHOFE. I ask unanimous consent to set aside the current amendment and bring up amendment No. 4064.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for himself, Mr. BYRD, Mr. SESSIONS, Mr. ENZI, Mr. CHAMBLISS, Mr. COBURN, Mr. BURNS, and Mr. BUNNING, proposes an amendment numbered 4064.

Mr. INHOFE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend title 4 United States Code, to declare English as the national language of the United States and to promote the patriotic integration of prospective US citizens)

On page 295, line 22, strike "the alien—" and all that follows through page 296, line 5, and insert "the alien meets the requirements of section 312.".

On page 352, line 3, strike "either—" and all that follows through line 15, and insert "meets the requirements of section 312(a) (relating to English proficiency and understanding of United States history and Government).".

On page 614, after line 5, insert the following:

SEC. 766. ENGLISH AS NATIONAL LANGUAGE

(a) IN GENERAL.—Title 4, United States Code, is "amended by adding at the end the following:

"CHAPTER 6—LANGUAGE OF THE GOVERNMENT

"161. Declaration of national language

"162. Preserving and enhancing the role of the national language

"§ 161. Declaration of official language

"English is the national language of the United States.

§ 162. Preserving and enhancing the role of the national language

"The Government of the United States shall preserve and enhance the role of English as the national language of the United States of America. Unless specifically stated in applicable law, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If exceptions are made, that does not create a legal entitlement to additional services in that language or any language other than English. If any forms are issued by the Federal Government in a language other than English (or such forms are completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.".

(b) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end of the following:

"6. Language of the Government .... 161".

SEC. 767. REQUIREMENTS FOR NATURALIZATION.

(a) FINDINGS.—The Senate makes the following findings:

a. Under United States law (8 U.S.C. 1423 (a)), lawful permanent residents of the United States who have immigrated from foreign countries must, among other requirements, demonstrate an understanding of the English language, United States history and Government, to become citizens of the United States.

b. The Department of Homeland Security is currently conducting a review of the testing process used to ensure prospective United States citizens demonstrate said knowledge of the English language and United States history and government for the purpose of redesigning said test.

(b) DEFINITIONS.—For purposes of this section only, the following words are defined:

(1) KEY DOCUMENTS.—The term "key documents" means the documents that established or explained the foundational principles of democracy in the United States, including the United States Constitution and the amendments to the Constitution (particularly the Bill of Rights), the Declaration of Independence, the Federalist Papers, and the Emancipation Proclamation.

(2) KEY EVENTS.—The term "key events" means the critical turning points in the history of the United States (including the American Revolution, the Civil War, the world wars of the twentieth century, the civil rights movement, and the major court decisions and legislation) that contributed to extending the promise of democracy in American life.

(3) KEY IDEAS.—The term "key ideas" means the ideas that shaped the democratic institutions and heritage of the United States, including the notion of equal justice under the law, freedom, individualism, human rights, and a belief in progress.

(4) KEY PERSONS.—The term "key persons" means the men and women who led the United States as founding fathers, elected officials, scientists, inventors, pioneers, advocates of equal rights, entrepreneurs, and artists.

(c) GOALS FOR CITIZENSHIP TEST REDESIGN.—The Department of Homeland Security shall establish as goals of the testing process designed to comply with provisions of [8 U.S.C. 1423(a)] that prospective citizens:

a. Demonstrate a sufficient understanding of the English language for usage in everyday life;

b. Demonstrate an understanding of American common values and traditions, including the principles of the Constitution of the United States, the Pledge of Allegiance, respect for the flag of the United States, the National Anthem, and voting in public elections;

c. Demonstrate an understanding of the history of the United States, including the key events, key persons, key ideas, and key documents that shaped the institutions and democratic heritage of the United States;

d. Demonstrate an attachment to the principles of the Constitution of the United States and the well-being and happiness of the people of the United States; and

e. Demonstrate an understanding of the rights and responsibilities of citizenship in the United States.

(d) IMPLEMENTATION.—The Secretary of Homeland Security shall implement changes to the testing process designed to ensure compliance with [8 U.S.C. 1423(a)] not later than January 1, 2008.

Mr. INHOFE. I know we will have a vote at 6 o'clock, so I will paraphrase a few things so everyone will know in advance what we are doing.

This is English as the national language amendment. We talked about it at length last night. It has been very popular and enjoyed the support of most of the Members in the Senate today.

We heard the other night when the President made his speech, among other things:

> . . . an ability to speak and write the English language is very significant . . . English allows newcomers to go from picking crops to opening a grocery . . . from cleaning offices to running offices . . . from a life of low-paying jobs to a diploma, a career, and a home of their own.

He also said:

> Every new citizen of the United States has an obligation to our customs and values, including liberty and civic responsibility, equality under God and tolerance for others and the English language.

I recall President Clinton standing on the floor and making the statement about the responsibility of new people coming into this country. He said:

> . . . they have the responsibility to enter the mainstream of American life. That means learning English and learning about our democratic system of government.

Many others have been quoted, going all the way back to Teddy Roosevelt, that we must also learn one language. That language is English.

This has been aired quite a number of times. In 1997, Senator SHELBY offered the amendment and never got a vote on the amendment, but he did have a number of Democrats and Republicans as cosponsors of the amendment. We currently have Senators BYRD, BUNNING, BURNS, CHAMBLISS, COBURN, ENZI, and SESSIONS as cosponsors of this amendment, and we have not made an effort to get more cosponsors which we will do prior to bringing it up after the Kennedy amendment.

The time has come to go ahead and do it and quit talking about it. This time is now.

There has been a lot of polling data that shows that the vast majority of Americans, the most recent one being the Zogby poll only a couple of months ago, 84 percent of Americans want this as the language. Interestingly enough, when they segregate out the Latinos who responded to the polling, over 70 percent in many polls—which I will go over when there is more time—support this as our national language.

Mr. CONRAD. Will the Senator yield for a question, briefly?

Mr. INHOFE. Of course.

Mr. CONRAD. Could the Senator share with this Senator and colleagues, what is the upshot of the Senator's amendment? What is the force and effect that would be provided in law if the Senator's amendment were agreed to?

Mr. INHOFE. We would be joining 51 other countries that have English as their language: 27 States have used this language in the State legislature to make this their language.

Mr. CONRAD. Would it be that English would be the official language of the country?

Mr. INHOFE. The national language, yes.

Mr. CONRAD. Are there legal requirements as to how that would apply?

Mr. INHOFE. There are, yes. There are some.

First of all, there are some exceptions. Our language says "except where otherwise provided in law." There are some exceptions. For example, before the Court Interpreters Act, passed in 1978, defendants did not have the right to an interpreter. It was up to the court's own discretion. In 1978, they said that they did. This has not changed that. This leaves that in place. We also have the bilingual ballots requirement, Voting Rights Act. That is not changed by this. Maybe it should be changed, but that should take special legislation that addresses the Voting Rights Act.

The national disaster emergency evacuation provides if you had something in California, for example, where there was a tsunami, you could use the Chinese language in Chinatown, in places where it is appropriate. It leaves those common sense things in place.

Mr. CONRAD. Could I say to the Senator, speaking for myself, I am very interested in his legislation. If he could provide a copy of that legislation and an interpretation to my office, I might well be a cosponsor of the Senator's legislation.

My family came here as immigrants from Scandinavia. The first thing they wanted to do was to learn English. My wife's family came here as immigrants from Italy. The first thing they wanted to do was learn English. I don't think we do people any favors by not having a requirement in place.

The PRESIDING OFFICER. Under the previous order, the time of 6 o'clock has arrived, and the Cornyn amendment is the matter before the Senate. It will be brought to a vote.

Mr. CONRAD. Mr. President, again, I thank the Senator.

Mr. INHOFE. Mr. President, I thank the Senator. I also would like to say, our family came from Germany, and that is the first thing they did, too.

AMENDMENT NO. 3965, AS MODIFIED

Mr. McCAIN. Mr. President, I ask unanimous consent to speak for 1 minute on the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Arizona is recognized for 1 minute.

Mr. McCAIN. Mr. President, I wish to tell my colleagues that we had some good-faith negotiations with Senator CORNYN. I am sorry I was unable to talk to him before this vote. I know he had a previous engagement down at the White House. But the Kennedy amendment will probably be a side-by-side since there are still areas of the Cornyn amendment we have difficulty agreeing to.

So I wish I could have talked with Senator CORNYN since I think our differences are minimal, but we still have not resolved them.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Cornyn amendment.

Mr. CONRAD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. KOHL) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 128 Leg.]

YEAS—50

Alexander
Allard
Allen
Bennett
Bond
Bunning
Burns
Burr
Byrd
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Crapo
DeMint
Dole
Domenici
Ensign
Enzi
Frist
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Martinez
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—48

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Brownback
Cantwell
Carper
Chafee
Clinton
Conrad
Craig
Dayton
DeWine
Dodd
Dorgan
Durbin
Feingold
Feinstein
Graham
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
McCain
Menendez
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Salazar
Sarbanes
Schumer
Specter
Wyden

NOT VOTING—2

Kohl
Rockefeller

The amendment (No. 3965), as modified, was agreed to.

Mr. CORNYN. I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, the Senate is coming in at 9 o'clock tomorrow, as I understand it. As soon as we go on the bill tomorrow, the first amendment will be offered by Senator KENNEDY. Then the second amendment will be offered by Senator INHOFE. The third will be offered by Senator AKAKA. The fourth will be offered by Senator ENSIGN. The fifth will be offered by Senator NELSON. The sixth will be offered by Senator VITTER. The seventh will be offered by Senator DURBIN. The eighth will be offered by Senator KYL. And then our next amendment, after a Democratic amendment, will be by Senator CHAMBLISS.

What we would like to do is have the Senators present promptly, and we would appreciate it if we get people down here about a half hour before their amendment comes up. We had some dead time today because we had nobody on deck. But we want to give people notice so we can proceed expeditiously. We have a great many amendments, and we want to move on them.

I ask unanimous consent that the time agreement on Senator KENNEDY's amendment be 10 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. So we will have an early vote tomorrow morning to get us started.

Mr. CHAMBLISS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that I be allowed to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING DR. KIRBY GODSEY

Mr. CHAMBLISS. Mr. President, I rise today to pay tribute to a man who has earned a place in Georgia history and, in my opinion, will be unmatched for many years to come. My good friend, Dr. Kirby Godsey, has served as the president of Mercer University since 1979. He is currently the longest serving university president, not only in Mercer history, but in Georgia history as well. He has presided over 250 graduation ceremonies. He will retire on the 30th day of June of this year.

Kirby Godsey has achieved so much. I simply don't know where to begin. He is the embodiment of a great educator, a dedicated community leader, public servant, spiritual advisor, problem solver, and the list goes on. His accomplishments are endless.

My wife Julianne and I have had the privilege of knowing Dr. Godsey for many years. In fact, my son Bo received his undergraduate and law degrees from Mercer University and Mercer Law School not too long ago. During my years in the Congress, I have always appreciated his expertise and knowledge on the issues that he has discussed with me during his visits to Washington, as well as in Macon, on many complex matters relevant to education and otherwise.

Dr. Godsey has been named three times among the top 100 most influential Georgians by Georgia Trend magazine for his commitment to quality education, to economic growth, and to the needs of Georgians. He has received this honor multiple times for good reason, his impact on the State is extensive.

During his presidency, Mercer University has become one of the leading and most comprehensive universities of its size in the Nation, with 10 schools and colleges. When Dr. Godsey became president of Mercer in 1979, the enrollment was 3,800, the budget was $21.3 million, and the endowment was $16.5 million. Back then, the university's economic impact on Georgia was more than $21 million. Today, Mercer's enrollment is more than 7,300; the budget is $175 million, and the endowment is close to $200 million, with more than $200 million expected to be received in the near future from planned gifts.

But if you ask Kirby Godsey about the legacy that he will leave behind with his upcoming retirement, he won't point to any of those things. To him, it is not about bricks and mortar and money. To Kirby, it is about the students, the graduates of Mercer University who are making the school a proud institution through their professions and service to others—and their contributions to the greater good.

To Kirby Godsey, service learning is a key priority. Mercer's reputation for scholastic excellence, rigorous academic programs, innovative teaching, and time-honored values has earned its designation in 2005 as a "College with a Conscience" by the Princeton Review and Campus Compact. For 16 consecutive years, Mercer has been recognized as one of the leading universities in the South by U.S. News & World Report.

Dr. Kirby Godsey is a workhorse, and I will share a few examples. When Middle Georgia leaders asked him to establish a medical school, he traveled throughout the State, talking with community and State leaders and developing vital partnerships. Accepting only Georgia residents in its doctor of medicine program, Mercer School of Medicine opened in 1982 with a mission to educate more physicians to serve Georgians.

Today, Mercer graduates practice in 112 towns and cities and 87 counties in Georgia and handle more than 1.3 million patient visits each year. Instead of developing a separate teaching hospital, Dr. Godsey developed strong partnerships with the Medical Center of Central Georgia in Macon and Memorial Health University Medical Center in Savannah. Those partnerships have enabled Macon and Savannah to become major hubs of health care services in Georgia.

He has established a Center for Health & Learning in partnership with Piedmont Healthcare in Atlanta. And with the increasing shortages of pharmacists, nurses, and educators nationwide, Dr. Godsey has worked to ensure that Mercer addresses these critical needs through undergraduate and graduate programs.

In the early 1980s, Middle Georgia's economic engine, Robins Air Force Base, struggled to find enough engineers, endangering its continuing operations. So the base commander turned to Dr. Godsey for a solution. In 1985, Mercer opened the school of engineering on the Macon campus and the Mercer Engineering Research Center in Warner Robins. More than 62 percent of Mercer engineering graduates work in Georgia, and the university is the No. 1 provider of engineers to Robins Air Force Base. The Mercer Engineering Research Center that the university established in Warner Robins has exceeded more than $189 million in contract revenue in research.

Dr. Godsey happened to be in my office today, and he advised me that he has now secured the full funding for a new engineering building to be located on the Mercer campus in Macon. It is a building we have helped contribute to at the Federal level. He has also gotten State funding. But the overwhelming amount of money needed to construct this facility was contributed by private individuals around our State and around the country.

It has been a privilege to work with Dr. Godsey over the years, and we have worked to secure funding for a program that is vital to Warner Robins Air Logistics Center, the Critical Personnel Development Program. The centerpiece of this educational partnership between Robins and Mercer's Macon campus is to provide a state-of-the-art facility for academic training and laboratory research in support of the Logistics Center's mission requirements. In addition, it will create regional economic development opportunities, and we all know how critical that is. I am pleased, as I said, that Mercer University has now secured this vital funding and is finalizing this project. As this project becomes a true reality, we will all be able to recall Dr. Godsey's hard work on this effort.

There is no question, Kirby Godsey has been a strong advocate for his community. Under his leadership, the Mercer Center for Community Development, which promotes stronger community ties by working to socially and economically revitalize neighborhoods around the school, received the Jimmy and Rosalyn Carter Campus-Community Partnership Award in 2002.

He has served as chairman of New Town Macon since its beginning in 1996 and has worked hard to revitalize the downtown area in Macon, Georgia. Incidentally, my Middle Georgia Senate office is located there, and I can say without question, the revitalization efforts have been incredible. In 2003, Dr. Godsey was named the Citizen of the Year by the Greater Macon Chamber of Commerce and presented him with its highest honor, the prestigious Meritorious Service Award.

He has also been recognized for influencing the quality of education across the Southeast as a leader with the Southern Association of Colleges and Schools. In 2002, the Council for the Advancement and Support of Education recognized him as the Southeast's CEO of the year. It is also fitting that in 2006, the Georgia Legislature honored him at the State capitol for his many accomplishments during his 27-year presidency.

Kirby Godsey is an inspirational leader whose dedication to Mercer University has enabled great advancements in our community, our State, and our Nation. He is a good friend and a true hero to the State of Georgia. I ask the Members of the Senate to join me in paying tribute to this great Georgian, this great American, and a great friend of this Member of the Senate—Kirby Godsey.

MORNING BUSINESS

TRIBUTE TO FORMER CONGRESSMAN SONNY MONTGOMERY

Mr. HAGEL. Mr. President, I rise this afternoon to pay tribute to a former friend and colleague, one who contributed mightily to this great Nation over many years. Yesterday, in Meridian, MS, the former chairman of the House Veterans' Committee, Congressman Sonny Montgomery, was laid to rest. Two of our colleagues in this body, Senators COCHRAN and LOTT, were in attendance and spoke at Chairman Montgomery's funeral. Senators COCHRAN and LOTT were very close to Congressman Montgomery. They were Members in the House together for many years.

I had the privilege of knowing Sonny Montgomery for over 35 years. He was one of those unique public servants whom all who knew him, liked him, respected him.

He contributed to this country every day. He was a Democrat from Mississippi. He was proud of that fact. He never ran from it. He knew who he was, and he believed in things. But he always brought a sense of purpose, he brought a sense of importance, he brought a sense of bipartisanship, dignity, tolerance, and respect to the body and the institution he served.

At a time in American politics when we are lacking those graces, we look to people such as Sonny Montgomery and recall the impact he had on the Congress of the United States, how he brought people together. He formed a consensus of purpose. There were differences—there should be differences—but he was anchored with the belief first in his country, second in his responsibilities as a Member of Congress, and third in his party. He always represented his district, his State, and his country with great dignity.

Sonny Montgomery was a World War II veteran and a Korean war veteran. He became an Army National Guard general and served as chairman of the House Committee on Veterans' Affairs for 13 years.

There are many personal stories about Sonny Montgomery. One that is legend in Washington is his close, almost brotherly, relationship with the first President Bush. The first President Bush was elected to Congress on the same day Sonny Montgomery was elected—a Republican from Texas, a Democrat from Mississippi—in 1966. They became very close friends. As a matter of fact, Barbara Bush spoke yesterday at Sonny Montgomery's funeral.

That is but one example of the affection and respect that all who knew Sonny Montgomery had for him. Here is a man who led legislation that increased veterans eligibility for home loans, veterans life insurance, increased medical coverage for veterans, and he was the sponsor of a law that made the Veterans' Administration the 14th Cabinet department of our Government in 1988.

I had the privilege of serving with President Reagan as President Reagan's first Deputy Administrator of the Veterans' Administration, so I worked closely with Sonny Montgomery.

On a personal note, I met my wife Lilibet in 1982 when she was working for Sonny Montgomery. Lilibet is from Meridian, MS. That is where Sonny Montgomery was born 86 years ago. That is how Lilibet got a job on Capitol Hill, and that is how I met her.

It is those kinds of personal stories that are by the hundreds, people who somehow Sonny Montgomery was close to and had some responsibility for connecting. His reach was long, and it is appropriate that not only we recognize him but remember him and thank him, but again, as I said earlier, at a time when our country is divided in a very dangerous way—and that is reflected to a great extent in the Congress of the United States—there are those to whom we can reach back to inspire us to greater heights, to expect more from ourselves, and do more for our country, if we would take the Sonny Montgomery model of service to his country and service to those he had the privilege of leading.

I appreciate very much the opportunity to make these remarks about a dear friend, one we will all miss, especially those who had the opportunity to serve with him in some capacity over his glorious 30 years in the Congress of the United States.

Mr. President, I yield the floor.

CELEBRATING THE TENTH ANNIVERSARY OF TOYOTA MOTOR MANUFACTURING, INDIANA

Mr. LUGAR. Mr. President, I am pleased to rise today to celebrate the 10th anniversary of the founding of Toyota Motor Manufacturing, Indiana, TMMI, and their operation of the state-of-the-art production facility in Princeton, IN. The continuing success of TMMI and the nearly 5,000 team members at the facility demonstrate the remarkable capabilities of many Hoosiers as they work together as innovators and leaders of the automotive industry in Indiana, the United States, and abroad.

In addition to TMMI important leadership in the automotive industry, the company's more than $2.6 billion investment in Princeton and surrounding communities has been an important engine of economic growth and development in southwestern Indiana. A study by the University of Evansville concluded that TMMI's production in Princeton has created 8,865 jobs in Gibson County, 12,990 in the Evansville metropolitan area, and 31,385 across the State of Indiana. TMMI's investment has resulted in more than $5.5 billion in business sales. This economic activity has strengthened communities and improved lives across the State.

I am also pleased that TMMI's dedication to the State of Indiana will be growing in the coming years. In March, I had the privilege of sharing with my fellow Hoosiers news that Toyota will begin production of the Camry in Lafayette. It is expected that this venture will create an additional 1,000 jobs in Indiana. This decision signals a recognition by Toyota that the highly skilled Hoosier workforce and attractive business climate in Indiana will allow them to achieve their goals in the coming years.

I am hopeful that you will join me in congratulating Toyota Motor Manufacturing, Indiana, and in wishing them many years of success and leadership in Indiana.

TOYOTA MOTOR COMPANY

Mr. BUNNING. Mr. President, today I rise to extend my heartfelt congratulations to the Toyota Motor Company for their 20 years of successful and prosperous operations in Georgetown, KY. This stunning achievement serves as a shining example to us all in regards to leadership and innovation in the American workforce.

Since coming to Kentucky in 1986, Toyota has provided our State with thousands of job opportunities while giving the employees the ability to contribute ideas for product improvement, oversee quality control, and continually strive for perfection. This strive has resulted in the Toyota Camry being named the most popular car on the American automotive market eight times out of the last 9 years.

With three locations in Kentucky, the Georgetown manufacturing plant, the North American Parts Center—Kentucky, and the company's largest North American manufacturing headquarters in Erlanger, KY, it is easy to see the economic benefits that Toyota has brought to our State. The Georgetown plant alone employs over 7,000 team members and has generated over 34,000 jobs in Kentucky and nearly 100,000 jobs across the United States. So often we hear about jobs being lost to overseas firms, but in Kentucky we are fortunate the Toyota jobs came to us. This partnership has benefited Toyota and Kentucky, and I know both parties will reap the benefits for years to come.

Today, the Georgetown production facility is Toyota's largest production plant in North America. Kentucky's dedicated skilled production team has been key to Toyota's success.

Toyota has proven its commitment to Kentucky by supporting the interests of the Commonwealth and giving back to our State in so many ways. By contributing to education, the arts, local business leadership organizations, and supporting women's rights, this company has proven time and again the importance of a strong business and community partnership.

Words cannot express the generosity that Toyota has shown Kentucky through industry job opportunities and community service. I am excited to see what this partnership will bring to Kentuckians and generations to come. Once again, I want to congratulate the Toyota Georgetown facility and its employees on 20 years of success. I also want to thank them for all they have given to our State.

EXTENDING THE WESTERN HEMISPHERE TRAVEL INITIATIVE DEADLINE

Mr. LEVIN. Mr. President, as my colleagues know, the Western Hemisphere Travel Initiative, WHTI, currently requires anyone entering the United States via a U.S.-Canadian land border to have a passport or other acceptable alternative document by January 1,

2008. I am pleased to join my colleagues from Alaska and Vermont as a cosponsor of their amendment to extend the WHTI implementation deadline by 18 months to June 1, 2009.

The WHTI will play an important role in securing our borders, but it must be implemented in a reasonable, fair, and well-thought-out manner. This amendment responds to concerns I have heard from various constituents, including those in the travel, tourism, and shipping industries.

My home State of Michigan, like other northern border States, enjoys a close economic and social relationship with Canada. It is important that the WHTI be implemented in a way that minimizes negative impacts on trade, travel, and tourism.

We must ensure that our border crossings are both secure and efficient. This amendment would provide additional time for the Departments of State and Homeland Security to study the various implementation issues related to the WHTI. This delay would enable a more in-depth examination of issues including the economic impact of the WHTI, the civil liberties and security concerns related to new passport technologies, and the feasibility of creating a single border crossing identification card that will satisfy the requirements of both the WHTI and the REAL ID Act.

I urge my colleagues to support this amendment.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On May 16, 2006, a 20-year-old Washington, DC, lesbian died after being shot in the head in what appears to have been a hate crime.

Crystal Smith died shortly before midnight when two unidentified men opened fire on her while standing on a street corner in Southeast Washington, DC. According to reports, the police department's Gay and Lesbian Liaison Unit is assisting in the investigation. The fact that Smith was shot in the head makes it appear more likely that she was targeted.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

TAX RECONCILIATION

• Mr. ROCKEFELLER. Mr. President, I regret that rehabilitation following back surgery prevented me from being on the floor to cast my vote against the tax reconciliation package which the Senate narrowly approved on May 11. Today President Bush will sign that bill into law, and I would like to take this opportunity to share my thoughts with my constituents and my colleagues. I am extremely disturbed by the Nation's fiscal mismanagement over the past several years, and this new tax cut bill was another disappointing step in the wrong direction.

On February 2, I voted for the Senate's version of the tax reconciliation bill. That legislation protected middle-class taxpayers from the alternative minimum tax and extended some widely supported tax provisions that recently expired. The Senate bill also included urgently needed incentives for investment in mine safety equipment and technology. I was pleased to support that bill.

Unfortunately, as I feared, during negotiations with the House, the reasonable compromise struck in the Senate was abandoned. The final tax package that the conference committee produced has the wrong priorities and will make America's fiscal situation substantially worse.

Middle-class relief from the alternative minimum tax expired at the end of last year. The conference report extends AMT relief through 2006 but does nothing about next year when millions of families will face an enormous tax increase. Additionally, the bill does not include the tax provisions, which I have long supported, that help average West Virginians. Tax cuts which benefit families paying college tuition, schoolteachers buying supplies, and businesses investing in research and development were simply not included in this bill. These provisions have already expired, meaning taxpayers will be hit with higher taxes this year. I recognize that the Senate majority leader has indicated his intention to address these issues later this year, and I will continue to advocate for extension of these important provisions. However, I believe it is irresponsible not to make tax cuts for middle-class families our top priority.

Instead of addressing these urgent priorities, the bill acts to extend tax cuts for investors that were not even set to expire until 2009. I cannot understand why tax cuts that primarily benefit taxpayers with more than $200,000 in income would get a higher priority than tax relief for middle-class families. Unfortunately, in West Virginia, very few taxpayers have been able to benefit from the investor tax cuts enacted in 2003. Fewer than 17 percent of taxpayers reported any dividend income, and fewer than 11 percent of our taxpayers had any capital gains subject to tax.

I am also extremely disturbed by the budget gimmicks used in order to comply with the Senate's rules designed to impose fiscal discipline. By taking advantage of unusual revenue effects, this bill amazingly pays for tax cuts with yet more tax cuts. But without question, we are digging ourselves deeper in debt with such games. In the long run, this bill will cost us even more than the $70 billion its sponsors claim. And because so many important issues have been left unaddressed, Congress will need to enact additional tax cuts this year. This fiscal mismanagement increases our borrowing from foreign nations and increases the burden on our future generations.

Finally, I would like to mention the 18 miners in West Virginia, as well as those in other States, who lost their lives this year and their devastated families, friends, and communities. I am deeply disappointed that this agreement does not include the bipartisan mine safety amendment, which I worked so hard to include in the Senate bill. That amendment would have encouraged mine companies to invest in additional mine safety equipment and training and, most importantly, would have saved lives. This is a provision which cannot wait, and I will continue to push to have this provision enacted. The well-being and safety of miners demands it.•

SMALL BUSINESS RELIEF

Mr. BURNS. Mr. President, in 2002 Congress passed the Sarbanes-Oxley Act, providing important safeguards against unscrupulous accounting practices. In the wake of significant corporate accounting scandals, Congress created the Public Company Accounting Oversight Board overseen by the Securities and Exchange Commission. It restricted the actions of accounting firms who perform audits—specifically preventing them from undertaking other activities which lead to conflicts of interest. At the end of the day, this legislation is important to protect shareholders and employees from dishonest accounting practices that can cost them their futures and, in extreme cases, even their businesses.

Section 404 of Sarbanes-Oxley requires the Commission to create rules for annual reports and to prescribe internal control reports to ensure that financial reporting is accurate and ethical. The goals of this provision are warranted but the burden on smaller publicly held companies has come at a great cost.

Unfortunately, they are also incredibly and unnecessarily burdensome for small- and medium-sized businesses. In my State of Montana, it is these small- and medium-sized businesses that fuel the engine of our economy. Small businesses are collectively the largest employer in Montana, and it has always been important to me that the Federal Government consider the impact its regulatory policies have on small businesses.

For this reason, I am proud to be added as an original cosponsor of legislation that will reduce some of the burden facing small businesses, specifically in section 404. S. 2824, the Competitive and Open Markets that Protect and Enhance Treatment of Entrepreneurs Act, or COMPETE Act, will not remove the important safeguards that Sarbanes-Oxley created, but it will increase the flexibility of the law to allow businesses to comply with the law with less hardship.

In 2004, the average cost for a public company to be public was $3.4 million. One out of every three dollars spent were for audits performed even if there was little or no value of those audits to the investors. It defies common sense to have the same requirements for the largest public companies as we do for the smallest, and the COMPETE Act will offer small- and medium-sized companies the option to comply with standard internal control guidelines with enhanced internal controls, greater transparency, and specific restrictions against conflicts of interest.

One of the things I have learned here in Washington, DC, is that one-size-fits-all solutions don't work. American innovation is too diverse to encompass through inflexible regulations. When we passed Sarbanes-Oxley, our intentions were to protect investors and employees from the minority of companies that abused accounting practices to mislead their shareholders. This intention remains important, but in the past years I have heard from Montanans about the unforeseen and unintended consequences of this legislation. The COMPETE Act can sort these out, keeping the goals of Sarbanes-Oxley intact, while increasing the flexibility needed to make the regulation as harmless as possible to honest businesses.

COMMENDING THE USTR

Mr. BROWNBACK. Mr. President, I rise today because, as you may know, for several years now there have been ongoing negotiations between the State of Israel and the Office of the United States Trade Representative, USTR, regarding Israel's protections of U.S. intellectual property rights. I commend the USTR for so vigorously protecting these very valuable assets to the U.S. economy. However, what has caused my colleagues and I concern has been the treatment of Israel in this process; a process that we hope will become more transparent. This year, I was joined by Senators SCHUMER and WYDEN on a letter to the U.S. Trade Representative expressing our hope that the positive steps Israel has taken, particularly in the context of how many of our other trading partners have acted, would be granted the recognition it deserves. Unfortunately, when this year's Special 301 report was released, Israel was put on par with countries such as China and Russia while other countries, which have little or no intellectual property protections, were given a much less egregious designation.

Ron Dermer, the Israel Embassy's Minister for Economic Affairs, recently stated that "countries with a record of much more severe breaches of intellectual property than those attributed to Israel, are not included in these lists."

I do look forward to continuing our work with the Office of the USTR on this issue and to make sure that those countries that are working towards our mutual goals are met with the recognition and support from our government they deserve.

AMERICAN UNIVERSITY

Mr. GRASSLEY. Mr. President, I ask unanimous consent to have printed in the RECORD my correspondence with American University, AU. AU is a federally chartered nonprofit, tax-exempt educational organization.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, May 17, 2006.

GARY M. ABRAMSON,
Chair of the Board, American University.
THOMAS GOTTSCHALK,
Vice Chair of the Board, American University, Washington, DC.

DEAR MR. ABRAMSON AND MR. GOTTSCHALK: I am writing to you regarding the Finance Committee's review of governance issues at American University ("AU"). AU is a federally chartered non-profit, tax-exempt educational organization. Congress enacted the law in 1893 that first incorporated AU, appointed its initial individual corporate members, and specified the size and composition of its board of trustees. Act of Feb. 24, 1893, ch. 160. In 1953, Congress enacted legislation, altering, among other things, the process by which the AU board of trustees is elected. Act of Aug. 1, 1953, Pub. L. No. 183, ch. 309. The Finance Committee's review is predicated on this unique history of the legislative relationship between the federal government and AU as a congressionally chartered institution, as well as on the Committee's general legislative and oversight jurisdiction over tax-exempt charitable organizations.

In conducting its governance review, the Finance Committee has reviewed the numerous documents provided by AU and material provided by other sources, as well as discussions with current and former board members, faculty, students and AU employees. In addition, I have heard concerns raised by AU students from Iowa and their parents. To allow students, faculty and staff, and the public to have a better understanding of the governance issues still facing AU, I am today releasing relevant material provided to the Finance Committee. It says volumes about problems of AU governance that students, faculty, and supporters often have to learn about the work of the AU board from the U.S. Senate Finance Committee rather than from the board itself. I understand that governance changes are to be proposed that proponents claim will ensure that there will be greater openness and transparency at AU. I look forward to meaningful reform in this area and expect to be informed of the details of those proposals.

While I am releasing quite a bit of information today, I am frustrated that there is certain key material that I cannot release today. When the Committee began this investigation on October 27, 2005, I received assurances of cooperation. The Washington Post stated on October 28, 2005, "Gottschalk said yesterday that the board would do everything it could to cooperate." Unfortunately, those words have not always been met by deeds. While AU has over time provided material requested, AU continues to redact material provided and most frustratingly labels key documents' 'confidential' and not to be released to the public. This is not what I would expect from a university that benefits from tax-exempt status and was chartered by act of Congress. I call on you to hold to your public commitments of full cooperation and allow for public release of all documents without redaction that have been requested. AU students, faculty and supporters have a right to a full understanding of the board's actions.

One of my principal governance concerns relates to the legal structure and composition of the AU board. The Finance Committee, during its roundtable discussion on charitable governance, heard from AU student leaders, faculty, and former board members, a number of whom called for the removal of certain AU board members—particularly focusing on members serving on the ad hoc committee that took actions regarding former AU president Dr. Ladner without the knowledge of key board members.

In reviewing the material, I understand the views of those who believe the members of the ad hoc committee should be removed. In the course of our review, I have also focused on several key votes by some AU board members. In particular, given all related information reviewed by the Finance Committee, I am seriously troubled by votes cast in October 2005: 1) to amend the audit committee's recommendation and secondly to reject the audit committee's recommendations on a vote for reconsideration; 2) to reject three identical recommendations from counsel, including Manatt Phelps as well as Arnold & Porter, that had concluded that Dr. Ladner's 1997 employment agreement was invalid; 3) not to terminate Dr. Ladner for cause; and 4) to increase cash severance to Dr. Ladner by an additional $800,000 over eight years—after the board had already voted to increase Dr. Ladner's cash severance by $950,000.

It is important to bear in mind that these votes were made after the findings from protiviti independent risk consulting reports, which I am releasing today; were known to the board and that provided in detail the expenses of Dr. Ladner and his wife that he charged to AU. The report shows expenses that would make for a good episode of 'Lifestyles of the Rich and Famous'—a lifestyle paid for by AU students and their parents. In addition, as noted above, the board members were aware of the findings of two respected law firms that found that Dr. Ladner's 1997 employment agreement was invalid.

While I fully understand that as Chairman of the Senate Finance Committee, I'm not here to direct the management of the affairs of AU or its board, I do want you to know that I am considering proposing federal legislation that would require changes in the structure, composition, and governance of the AU board, as Congress has done previously. In particular, in discussions with Finance staff, AU board members have noted that they do not view that under current federal law the AU board has the authority to compel a board member to resign. Please confirm if that is accurate, and please also provide your views about the wisdom of Congress amending the law to provide the AU board such authority and, if so, suggested changes to the law.

In addition, I want to draw your specific attention to a board meeting that discussed Mr. Ladner's compensation package. In general, under federal tax laws, outside review and justification for the salary of a highly compensated individual at a public charity provides a safe harbor from penalties under Section 4958 of the Internal Revenue Code. My review of tax-exempt organizations and corporations has found that in the overwhelming number of cases outside consultants provide a justification for the salary request that is being considered. In fact, the AU situation is the only example Finance Committee staff have seen of an outside consultant stating that a salary of an individual at a public charity is too high.

However, in calling for a salary for Dr. Ladner higher than that recommended by outside consultants, some AU board members appear to have rejected concerns about complying with the laws passed by Congress and instead described financial penalties for violating federal law as 'de minimis.' Comments that suggest that federal laws should be disregarded because penalties are 'de minimis' are stunning when I hear them from members of for-profit corporate boards; they are shocking when they come from board members of a tax-exempt university. Do you believe this is the appropriate message AU should send to students—it is all right to violate the law if the penalty is de minimis? Please provide a complete explanation of these events and your views of them, as well as all related material.

The issue of whistleblower protection at non-profit institutions has also been of great concern to me in the course of the Committee's work. Whistleblowers in certain situations are protected from retaliation under state and federal law. A series of aggressive emails to other AU board members by one AU board member appear to attack whistleblowers trying to do the right thing regarding the situation at AU. They include the following language: "You are right in citing a Nixon era example. People do not tolerate leaks any more. No one is so naive anymore to think that unidentified 'whistleblowers' are public servants. You are right in saying there always must be a process for people to report wrongdoing but this is not the way."

As a champion of whistleblowers in Congress for years, I can state categorically that not only are whistleblowers public servants, they are often heroes—saving lives and taxpayers billions. I commend you, Mr. Gottschalk, and former board chair Ms. Bains, for taking a strong line against any effort to bring the Salem witchcraft trials to northwest DC. But again, that a board member might propose retribution against whistleblowers, as appears from some of these emails.is inexcusable. I would appreciate your general views on the benefit of whistleblower protection at tax-exempt organizations, as well as your specific views on the series of emails appearing to support aggressive efforts to search, find, and punish those who try to speak out against what is wrong. In particular, do you believe such efforts send the appropriate message to AU students—especially given that a large number of AU graduates will be employed in public service?

Finally, let me return to the overall issue of governance. In meetings with my staff, AU representatives have given assurances that AU will have in place governance reforms that will provide students and faculty a meaningful and substantive voice at AU. I view this as a vital part of AU governance reforms coupled with greater sunshine and transparency that I mentioned at the beginning of my letter. Please inform me in detail what the governance reforms are as to students and faculty.

Given that Congress is currently considering reforms to provisions of the tax code affecting charities as part of the conference on the pension bill, I ask that you provide answers to this letter within 10 working days. Thank you for your time and courtesy.

Cordially yours,

CHARLES E. GRASSLEY,
Chairman.

HONORING THE INDY RACING LEAGUE

Mr. BAYH. Mr. President, I rise today to applaud the Indy Racing League, IRL, for its decision to use ethanol in its race cars and the impact that decision has had on efforts to inform Americans about this important alternative fuel. Since 1911, Indiana has been the center of the autoracing world, setting the standard in racing for drivers and fans alike. And now, the Indy Racing League is setting a new standard, this time for greater energy independence.

This year all of the IndyCars will race on a 10-percent ethanol blend before switching to a 100-percent ethanol fuel next year. With this change, the corn harvested on farms across the country will power the fastest cars in the world.

The ethanol that will power its race cars will deliver the same high-performance capabilities that drivers rely on, only without harmful air pollution. It also represents an important step toward reducing America's dependence on foreign oil, by providing a renewable energy source grown in our own fields. By tapping the energy potential of America's farm fields, we can ensure a reliable domestic energy supply to meet our Nation's needs while ending our reliance on unstable countries such as Saudia Arabia, Russia, and Venezuela for their oil and creating thousands of jobs for Hoosier farmers.

Every Memorial Day weekend, millions of Americans and sports fans from around the world watch the Indy 500. But this year, when they tune in to see who wins the Brickyard, they will also be watching the future of American energy unfold at 220 miles per hour.

With its decision to use ethanol as the fuel for the IndyCar series, the IRL is leading the way to encourage greater public use of renewable fuels. After all, if a high-performance vehicle can win the Brickyard running on ethanol, then surely ethanol is good enough for the family minivan, too.

I have introduced a bipartisan bill that will promote the use of ethanol and other biofuels, and I will continue to support efforts to find new ways to use ethanol in the future. I applaud the Indy Racing League for leading the way in this effort and, along with thousands of other Hoosiers, look forward to this year's ethanol-powered races.

AMERICAN LEGION POST 51 OF EAST POINT, GA

Mr. ISAKSON. Mr. President, I rise today to recognize in the RECORD American Legion Post 51 of East Point, GA, for its unselfish efforts on behalf of our brave soldiers serving in Iraq. The Post 51 family has adopted Charlie Company 324th Signal Battalion from East Point, GA. This Reserve unit made up of 144 service men and women is in the process of deploying in support of Operation Iraqi Freedom.

The post held a barbeque for the soldiers' families, planned a Christmas party for the soldiers, and Post 51 members attended the deployment ceremony for nine members of Charlie Company. Post 51 has also dedicated countless hours supporting the families of deployed members by helping with home repairs and offering financial advice.

Mr. President, I am very proud of our troops serving in Iraq and Afghanistan, and I am equally proud of organizations such as American Legion Post 51 for all it is doing to support our soldiers and their families here at home.

THE LEGACY OF CHIC HECHT

Mr. ENSIGN. Mr. President, I rise today to celebrate the life of Chic Hecht, a friend, a leader, and a great Nevadan. Chic served my home State and this country with honor, humility, and great devotion. He leaves behind the legacy of a true statesman, an intelligence officer, a successful businessman, and most importantly, a committed husband and father.

For me, Chic's legacy is that of a public servant who was fiercely loyal, unwavering in his principles, and an all-around decent human being.

Chic was drafted into the Army after college and served as an intelligence officer in Berlin during the Korean war. Chic retained a lifelong membership in the National Military Intelligence Association, and in 1988, was inducted into the Army Intelligence Hall of Fame.

Chic served in the Nevada State Senate for more than a decade before winning a U.S. Senate seat in what has been called the biggest political upset in our State's history. During his term in the Senate, Chic served on the Energy and Natural Resources Committee; the Banking, Housing and Urban Affairs Committee; and the Select Committee on Intelligence. In the Senate, Chic worked with President Reagan in persuading the Soviet Union to lift restrictions on the emigration of Jews—a part of his legacy that will endure for generations. Chic went on to serve 4 years as the U.S. Ambassador to the Bahamas.

But it was Nevada that was always home to Chic. And Chic never lost that down-to-earth, man of the people charisma that won him friends wherever he went. While his charm helped him make friends throughout his life, it was his loyalty that made him a lifelong friend.

I will miss Chic. He was the first to step up when I was being criticized, and he believed in me when very few others did. In politics, you learn quickly who your real friends are, and Chic was a real friend.

He left the Senate more than a decade before I took office, but I am well aware of the impact he made. Chic was a great role model, and I hope to carry on his legacy and the lessons he taught me: to be fiercely loyal, unwavering in principles, and an all-around decent human being.

Chic will be missed, but he has set an example for us all to follow. God bless him.

ADDITIONAL STATEMENTS

THE DEATH OF SISTER ROSE THERING

• Mr. MENENDEZ. Mr. President, New Jersey and the Nation mourn the May 6, 2006, passing of Sister Rose Thering, a selfless luminary, who was a leader in stamping out bigotry and intolerance and who brought Christians and Jews together for increased mutual understanding. We were indeed lucky to have Sister Rose live in New Jersey for so many years. From 1968, when she first came to Seton Hall in South Orange, New Jersey benefited greatly from her wisdom and her tenacity to act as a bridge between people of different faiths and backgrounds. Sister Rose has made many contributions to the New Jersey community. As a member of the New Jersey Holocaust Commission, she helped write a 1994 law mandating the teaching of the Holocaust and genocide in the schools in New Jersey. As a member of the Seton Hall community, she forged an educational outreach program in Christian-Jewish studies.

Last year, Sister Rose moved back to Racine, WI, to live with her Sisters in the convent in which she initially entered religious life. Many in the New Jersey community sent her off with heavy hearts, knowing she was ill and knowing that they might never see her again. But it was her wish to live her last remaining days with her Dominican Sisters in Racine. As her life went full circle, the path she took is an example to us all.

In her early years, Sister Rose was dismayed at the disparaging comments she heard about Jews. She learned from her teachers that Jews killed Jesus; she heard whisperings of other anti-Semitic statements in her close-knit community. Concerned that a people were being unfairly treated, Sister Rose made it her passion to fight anti-Semitism and to bring attention to the culprit Catholic texts in which anti-Semitism was perpetuated. She wrote her doctorate dissertation on this topic at St. Louis University. In 1965, the Vatican used her dissertation as a basis for Nostra Aetate, the declaration that forever changed the relations between Catholic and Jews.

Sister Rose continued her commitment to Jewish-Christian relations by forging strong bonds with the Jewish community. She was unconventional, feisty, and strong willed always wanting to make principled decisions in support of her cause. She wore a necklace of the Star of David fused to the cross. In 1986, she protested the inauguration of President Kurt Waldheim, former U.N. Secretary General, because he had served in a Nazi unit. In 1987, she went to the Soviet Union to protest the treatment of Russian Jews. She visited Israel frequently, often bringing students with her. At a particularly vulnerable time for Israel, Sister Rose decided to attend the Rally for Israel on April 15, 2002 on the Mall in Washington, DC. Despite her poor health, when she learned that there was no Catholic speaker on the program, she insisted on speaking to show her solidarity. And as no surprise, it was Sister Rose that was given the honor of giving the invocation.

Her legacy is great. It lives on in the documentary "Sister Rose's Passion" that won a Tribeca Film Festival Award and nomination for an Academy Award for best documentary. It lives on the Sister Rose Thering Endowment for Christian-Jewish studies, which has provided scholarships for 350 teachers for graduate work on the Holocaust and other related topics. She will be missed for all her good work and for taking the difficult path toward greater understanding between peoples.•

IN CELEBRATION OF THE 30TH ANNIVERSARY OF THE MARY CAMPBELL CENTER

• Mr. CARPER. Mr. President, I rise today to celebrate the 30th anniversary of the Mary Campbell Center in serving people with disabilities in Delaware. Since opening in 1976, the Mary Campbell Center has touched the lives of literally thousands of people.

The center is located in Wilmington, DE, on 10 beautiful acres of land. The grounds were originally a farm owned by Amos and Mary Talley Campbell, whose daughter Evelyn had Down's syndrome. After his wife died, Amos Campbell donated their land so that a special long-term-care facility for Evelyn and other people with disabilities could be built. And that is how it came to be called the Mary Campbell Center.

The center was founded by a group of loving individuals—Marjorie M. Anderson, Richard P. DiSabatino, Sr., Barbara Z. Holmes, David W. Holmes, William H. Kelley, Joseph J. Picciotti, Jr., Marcia V. Raniere, Charles E. Welch, and Charma L. Welch. Each of these founders and their families has given unselfishly to make the Mary Campbell Center the success that it is today.

Since 1976, there have been many Mary Campbell Center milestones. The center has grown from having a handful of residents to 65 residents. They benefit from around-the-clock health care, case management, counseling, education, assistive technology, recreation, physician services, physical therapy, occupational therapy, massage therapy, speech and language therapy, hydrotherapy, exercise, nutritional services, and transportation. Local families have come to depend on the Mary Campbell Center for respite care. Residents and members of the community are also benefiting from the center's unique educational program. Furthermore, over 200 children and youths with special needs and their siblings participate in various programs and summer camp experiences. And the most recent venture, the day program, is expanding to serve even more families.

Physically, the Mary Campbell Center has gone from a compact building to a comfortable state-of-the-art and fully accessible facility with an indoor swimming pool, a learning center with the latest technologies, a greenhouse, and an adaptive playground. There is even an accessible nature trail that is an especially popular retreat during spring and summer. Today, more than ever, assistive technology is helping so many reach new goals and communicate with family and friends all over the world. Community involvement is at an alltime high. Over 300 volunteers give their time and talent to make a difference there. As the Mary Campbell Center enters its third decade, it continues to grow. Another expansion to the building is about to get underway. The center is doubling the size of their community room, the All-Star Room, and constructing a basement. This will provide additional usable space.

I had the privilege of visiting the Mary Campbell Center earlier this year. I was able to see first hand the difference the center makes in people's lives. I rise today to thank the Mary Campbell Center community for all that they do in Delaware, and I wish them a very happy 30th anniversary.●

MESSAGE FROM THE HOUSE

At 2:53 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 1165. An act to provide for the expansion of the James Campbell National Wildlife Refuge, Honolulu County, Hawaii.

S. 1869. An act to reauthorize the Coastal Barrier Resources Act, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 518. An act to require the Secretary of the Interior to refine the Department of the Interior program for providing assistance for the conservation of neotropical migratory birds.

H.R. 586. An act to preserve the use and access of pack and saddle stock animals on public lands, including wilderness areas, national monuments, and other specifically designated areas, administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service where there is a historical tradition of such use, and for other purposes.

H.R. 2978. An act to allow the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation to enter into a lease or other temporary conveyance of water rights recognized under the Fort Peck-Montana Compact for the purpose of meeting the water needs of the Dry Prairie Rural Water Association, Incorporated, and for other purposes.

H.R. 3682. An act to redesignate the Mason Neck National Wildlife Refuge in Virginia as the Elizabeth Hartwell Mason Neck National Wildlife Refuge.

The message further announced that pursuant to section 313 of the Legislative Branch Appropriations Act, 2001 (2 U.S.C. 1151), amended by section 1401 of Public Law 108–7, the order of the House of December 18, 2005, and upon the recommendation of the Majority Leader, the Speaker appoints the following member on the part of the House of Representatives to the Board of Trustees of the Open World Leadership Center for a term of 3 years: Mr. Roger F. Wicker of Tupelo, Mississippi.

The message also announced that pursuant to section 201(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6431 note), amended by section 681(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (22 U.S.C. 2651 note), the order of the House of December 18, 2005, and upon the recommendation of the Minority Leader, the Speaker reappoints the following member on the part of the House of Representatives to the Commission on International Religious Freedom for a 2-year term ending May 14, 2008: Ms. Elizabeth H. Prodromou of Boston, Massachusetts, to succeed herself.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 586. An act to preserve the use and access of pack and saddle stock animals on public lands, including wilderness areas, national monuments, and other specifically designated areas, administered by the National Park Service, the Bureau of Land Management, the United States Fish and Wildlife Service, or the Forest Service where there is a historical tradition of such use, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2978. An act to allow the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation to enter into a lease or other temporary conveyance of water rights recognized under the Fort Peck-Montana Compact for the purpose of meeting the water needs of the Dry Prairie Rural Water Association, Incorporated, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3682. An act to redesignate the Mason Neck National Wildlife Refuge in Virginia as the Elizabeth Hartwell Mason Neck National Wildlife Refuge; to the Committee on Environment and Public Works.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2810. A bill to amend title XVIII of the Social Security Act to eliminate months in 2006 from the calculation of any late enrollment penalty under the Medicare part D prescription drug program and to provide for additional funding for State health insurance counseling program and area agencies on aging, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 518. An act to require the Secretary of the Interior to refine the Department of the Interior program for providing assistance for the conservation of neotropical migratory birds.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6858. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, the report of proposed legislation entitled "Child Pornography Amendments of 2006"; to the Committee on the Judiciary.

EC–6859. A communication from the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Change to Vintage Date Requirements (2005R–212P)" (RIN1513–AB11) received on May 17, 2006; to the Committee on the Judiciary.

EC–6860. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report containing the initial estimate of the Secretary's recommendation for the applicable percentage increase in Medicare's hospital inpatient prospective payment system (IPPS) rates for Federal fiscal year (FY) 2007 and initial estimates on recommendations for updates to the payment amounts for hospitals and hospital units excluded from the IPPS, and for adjustments to the diagnosis-related group (DRG) weighting factors; to the Committee on Finance.

EC–6861. A communication from the Human Resources Specialist, Office of the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of action on a nomination, discontinuation of service in the acting role, and conformation for the position of Assistant Secretary for Occupational Safety and Health, received on May 15, 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–6862. A communication from the Director, Regulatory Review Group, Commodity Credit Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Milk Income Loss Contract Program" (RIN0560–AH47) received on May 15, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6863. A communication from the Acting Administrator, National Highway Traffic Safety Administration and the Acting Assistant Secretary for Communication and Information, National Telecommunications and Information Administration, Department of Commerce, transmitting, pursuant to law, a report on the activities of the Implementation Coordination Office; to the Committee on Commerce, Science, and Transportation.

EC–6864. A communication from the Secretary of Transportation, transmitting, the report of proposed legislation to amend the automobile fuel economy provisions of title 49, United States Code, to reform the setting and calculation of fuel economy standards for passenger automobiles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC–6865. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels less than 60 feet (18.3 Meters) Length Overall Using Pot or Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area" (I.D. 040606A) received on May 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6866. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area" (I.D. 040506C) received on May 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6867. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic

Zone Off Alaska; Pacific Cod by Catcher Processor Vessels Using Pot Gear in the Bering Sea and Aleutian Islands Management Area" (I.D. 040606B) received on May 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6868. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the West Yakutat District of the Gulf of Alaska" (I.D. 040706G) received on May 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6869. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Rock Sole, Flathead Sole, and 'Other Flatfish' by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area" (I.D. 041206A) received on May 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6870. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure" (I.D. 011106A) received on May 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6871. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "NOAA Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers; Fisheries Off West Coast States; Fisheries in the Western Pacific; Final Rule" (RIN0648-AU21) received on May 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6872. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Upgrade Electronic Reporting Software and Hardware Requirements" (RIN0648-AS93) received on May 15, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6873. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations (including 3 regulations beginning with CGD05-05-031)" (RIN1625-AA08) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6874. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Security Zones (including 4 regulations beginning with COTP Honolulu 06-005)" (RIN1625-AA87) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6875. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Security Zone; Chesapeake Bay, between Sandy Point and Kent Island, MD" (RIN1625–AA87) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6876. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations; Wishkah River, WA" (RIN1625–AA09) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6877. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations for Marine Events; Maryland Swim for Life, Chester River, Chestertown, MD" (RIN1625–AA08) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6878. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations (including 7 regulations beginning with CGD01–06–019)" (RIN1625-AA09) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6879. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zones (including 7 regulations beginning with COPT Guam 06-004)" (RIN1625-AA00) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6880. A communication from the Assistant Chief Counsel, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Design Standards for Highways; Interstate System" (RIN2125–AF06) received on May 16, 2005; to the Committee on Commerce, Science, and Transportation.

EC–6881. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment to Grant Criteria for Alcohol-Impaired Driving Countermeasures Programs (Section 410)" (RIN2127-AJ73) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6882. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Light Duty Truck Lines Subject to the Requirements of Part 541 and Exempted Vehicle Lines for Model Year 2007" (RIN2127-AJ89) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6883. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Definition of Low Speed Vehicles (LSV) Response to Petitions for Reconsideration" (RIN2127-AJ85) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6884. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Procedures for Participating in and Receiving Data from the National Driver Register Problem Driver Pointer System Pursuant to a Personnel Security Investigation and Determination" (RIN2127–AJ66) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6885. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modernize Federal Motor Vehicle Safety Standards No. 114; Theft Protection" (RIN2127-AJ31) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6886. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Response to Petitions for Reconsideration, FMVSS No. 118, Power-Operated Window, Partition, and Roof Panel Systems" (RIN2127-AJ78) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6887. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activities" ((RIN2120-AH14) (Docket No. FAA–2002–11301)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6888. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747–200F, 747–300, 747–400, 747–400D, 747SP, 747SR, 767–200, 767–300, 777–200, 777–300, and 777–300ER Series Airplanes" ((RIN2120-AA64) (Docket No. 2005-NM-057)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6889. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Thrush Aircraft, Inc. Model 600 S2D and S2R Series Airplanes" ((RIN2120–AA64) (Docket No. 2006-CE–08)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6890. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; General Electric Company Model CF6-80C2D1F Turbofan Engines" ((RIN2120-AA64) (Docket No. 2005-NE-31)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6891. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747-200B, 747-200C, 747-300, 747-400, 747-400D, and 747SR Series Airplanes" ((RIN2120-AA64) (Docket No. 2005–NM-105)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6892. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Lycoming Engines AEIO–360, IO–360, O–360, LIO–360, and LO–360 Series Reciprocating Engines" ((RIN2120–AA64) (Docket No. 2005–NE–50)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6893. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Turbomeca Arriel 1B, 1D, and 1D1 Turboshaft Engines" ((RIN2120–AA64) (Docket No. 2005–NE–26)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6894. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–100B SUD, 747–200B, 747–300, 747–400, and 747–400D Series Airplanes" ((RIN2120–AA64) (Docket No. 2005–NM–102)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6895. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. Model ERJ 170 Airplanes" ((RIN2120–AA64) (Docket No. 2005–NM–117)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6896. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Airplanes" ((RIN2120–AA64) (Docket No. 2005–NM–204)) received on May 16, 2006; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. ENZI for the Committee on Health, Education, Labor, and Pensions.

*Horace A. Thompson, of Mississippi, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2011.

*Kent D. Talbert, of Virginia, to be General Counsel, Department of Education.

*J. C. A. Stagg, of Virginia, to be a member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term expiring November 17, 2011.

*Vince J. Juaristi, of Virginia, to be a member of the Board of Directors of the Corporation for National and Community Service for a term expiring February 8, 2009.

*Jerry Gayle Bridges, of Virginia, to be Chief Financial Officer, Corporation for National and Community Service.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KOHL:

S. 2818. A bill to reduce temporarily the duty on automatic shower cleaners; to the Committee on Finance.

By Mr. COLEMAN (for himself and Mr. DURBIN):

S. 2819. A bill to amend part C of title XVIII of the Social Security Act to provide for a minimum payment rate by Medicare Advantage organizations for services furnished by a critical access hospital and a rural health clinic under the Medicare program; to the Committee on Finance.

By Mr. COLEMAN:

S. 2820. A bill to require the Secretary of Energy to provide block grants to States to provide needs-based assistance to households of consumers of high-priced fuel, and for other purposes; to the Committee on Finance.

By Mr. CRAIG:

S. 2821. A bill to repeal the imposition of withholding on certain payments made to vendors by government entities; to the Committee on Finance.

By Mr. GRAHAM:

S. 2822. A bill to authorize the Marion Park Project and Committee of the Palmetto Conservation Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor Brigadier General Francis Marion; to the Committee on Energy and Natural Resources.

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. HATCH, Mr. DEWINE, Mr. BURR, and Mr. FRIST):

S. 2823. A bill to provide life-saving care for those with HIV/AIDS; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEMINT (for himself, Mr. ENSIGN, Mr. MARTINEZ, Mr. INHOFE, Mr. BURNS, and Mr. ALLEN):

S. 2824. A bill to reduce the burdens of the implementation of section 404 of the Sarbanes-Oxley Act of 2002; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BINGAMAN (for himself, Mrs. HUTCHISON, Mrs. FEINSTEIN, and Mrs. BOXER):

S. 2825. A bill to establish grant programs to improve the health of border area residents and for bioterrorism preparedness in the border area, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY:

S. 2826. A bill to amend the Internal Revenue Code of 1986 to extend and expand relief from the alternative minimum tax and to repeal the extension of the lower rates for capital gains and dividends for 2009 and 2010; to the Committee on Finance.

By Mr. AKAKA (for himself and Mr. LIEBERMAN):

S. 2827. A bill to amend the Homeland Security Act of 2002 to clarify the investigative authorities of the privacy officer of the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. REED, Mrs. CLINTON, Mr. LAUTENBERG, Mr. SARBANES, Mr. AKAKA, Mr. KERRY, Ms. LANDRIEU, and Mr. MENENDEZ):

S. 2828. A bill to provide for educational opportunities for all students in State public school systems, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL (for herself, Mr. REID, Mr. DURBIN, Ms. MIKULSKI, Mr. DODD, Mr. MENENDEZ, Mr. CARPER, Mr. DAYTON, Mr. KERRY, Mr. REED, Mr. BINGAMAN, Mrs. FEINSTEIN, Mr. HARKIN, Mr. SALAZAR, Mr. SCHUMER, Mr. DORGAN, Mrs. CLINTON, Mr. LEAHY, Mr. JOHNSON, Mrs. BOXER, Mr. LIEBERMAN, Mr. BYRD, Ms. STABENOW, Mr. LEVIN, and Mr. BIDEN):

S. 2829. A bill to reduce the addiction of the United States to oil, to ensure near-term energy affordability and empower American families, to accelerate clean fuels and electricity, to provide government leadership for clean and secure energy, to secure a reliable, affordable, and sustainable energy future, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. LANDRIEU:

S. Res. 482. A resolution supporting the goals of an annual National Time-Out Day to promote patient safety and optimal outcomes in the operating room; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 327

At the request of Mr. SANTORUM, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to expand the tip credit to certain employers and to promote tax compliance.

S. 548

At the request of Mr. CONRAD, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 548, a bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments.

S. 889

At the request of Mrs. FEINSTEIN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 889, a bill to amend title 49, United States Code, to require phased increases in the fuel efficiency standards applicable to light trucks, to require fuel economy standards for automobiles up to 10,000 pounds gross vehicle weight, to increase the fuel economy of the Federal fleet of vehicles, and for other purposes.

S. 1353

At the request of Mr. REID, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 1353, a bill to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1513

At the request of Ms. MIKULSKI, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 1513, a bill to reauthorize the HOPE VI program for revitalization of severely distressed public housing, and for other purposes.

S. 1966

At the request of Mrs. DOLE, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1966, a bill to establish a pilot program to provide grants to encourage eligible institutions of higher education to establish and operate pregnant and parenting student services offices for pregnant students, parenting students, prospective parenting students who are anticipating a birth or adoption, and students who are placing or have placed a child for adoption.

S. 2010

At the request of Mr. HATCH, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2010, a bill to amend the Social Security Act to enhance the Social Security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 2278

At the request of Ms. STABENOW, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Maine (Ms. COLLINS), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 2278, a bill to amend the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diseases in women.

S. 2284

At the request of Ms. MIKULSKI, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2284, a bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

S. 2321

At the request of Mr. SANTORUM, the names of the Senator from Nevada (Mr. REID) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 2321, a bill to require the Secretary of the Treasury to mint coins in commemoration of Louis Braille.

S. 2484

At the request of Mr. OBAMA, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 2484, a bill to amend the Internal Revenue Code of 1986 to prohibit the disclosure of tax return information by tax return preparers to third parties.

S. 2491

At the request of Mr. CORNYN, the names of the Senator from Connecticut (Mr. DODD) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 2491, a bill to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

S. 2566

At the request of Mr. LUGAR, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of S. 2566, a bill to provide for coordination of proliferation interdiction activities and conventional arms disarmament, and for other purposes.

S. 2593

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2593, a bill to protect, consistent with Roe v. Wade, a woman's freedom to choose to bear a child or terminate a pregnancy, and for other purposes.

S. 2653

At the request of Mr. STEVENS, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2653, a bill to direct the Federal Communications Commission to make efforts to reduce telephone rates for Armed Forces personnel deployed overseas.

S. 2666

At the request of Mr. BURNS, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2666, a bill to temporarily suspend the revised tax treatment of kerosene for use in aviation under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

S. 2685

At the request of Mr. LUGAR, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2685, a bill to suspend temporarily the duty on certain textured rolled glass sheets.

S. 2736

At the request of Mr. CRAIG, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2736, a bill to require the Secretary of Veterans Affairs to establish centers to provide enhanced services to veterans with amputations and prosthetic devices, and for other purposes.

S. 2779

At the request of Mr. INHOFE, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 2779, a bill to amend titles 38 and 18, United States Code, to prohibit certain demonstrations at cemeteries under the control of the National Cemetery Administration and at Arlington National Cemetery, and for other purposes.

S. CON. RES. 92

At the request of Mr. DEMINT, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. Con. Res. 92, a concurrent resolution encouraging all 50 States to recognize and accommodate the release of public school pupils from school attendance to attend off-campus religious classes at their churches, synagogues, houses of worship, and faith-based organizations.

S. RES. 462

At the request of Mr. GRASSLEY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 462, a resolution designating June 8, 2006, as the day of a National Vigil for Lost Promise.

AMENDMENT NO. 3963

At the request of Mr. VITTER, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of amendment No. 3963 proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 3964

At the request of Mr. VITTER, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of amendment No. 3964 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 3968

At the request of Mr. ALLARD, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of amendment No. 3968 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 3971

At the request of Mr. OBAMA, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 3971 proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

At the request of Mr. KENNEDY, his name was added as a cosponsor of amendment No. 3971 proposed to S. 2611, supra.

AMENDMENT NO. 3974

At the request of Mr. LEAHY, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 3974 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 3978

At the request of Mr. INHOFE, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of amendment No. 3978 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 3979

At the request of Mr. SESSIONS, the names of the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Nebraska (Mr. NELSON), the Senator from Louisiana (Mr. VITTER), the Senator from Kentucky (Mr. BUNNING), the Senator from South Carolina (Mr. GRAHAM), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Arizona (Mr. KYL) were added as cosponsors of amendment No. 3979 proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

At the request of Mr. TALENT, his name was added as a cosponsor of amendment No. 3979 proposed to S. 2611, supra.

At the request of Mr. ISAKSON, his name was added as a cosponsor of amendment No. 3979 proposed to S. 2611, supra.

AMENDMENT NO. 3985

At the request of Mr. ENSIGN, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of amendment No. 3985 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 3996

At the request of Mr. INHOFE, the names of the Senator from West Virginia (Mr. BYRD), the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of amendment No. 3996 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 4018

At the request of Mr. STEVENS, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of amendment No. 4018 proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

At the request of Mrs. HUTCHISON, her name and the name of the Senator from Texas (Mr. CORNYN) were added as cosponsors of amendment No. 4018 proposed to S. 2611, supra.

At the request of Mrs. MURRAY, her name was added as a cosponsor of amendment No. 4018 proposed to S. 2611, supra.

AMENDMENT NO. 4025

At the request of Mr. DEMINT, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 4025 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 4027

At the request of Mr. KYL, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 4027 proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

At the request of Mr. CORNYN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of amendment No. 4027 proposed to S. 2611, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL:

S. 2818. A bill to reduce temporarily the duty on automatic shower cleaners; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to introduce legislation that would temporarily reduce the duty on automatic shower cleaners on behalf of S.C. Johnson, a company headquartered in Racine, WI.

I understand the importance of manufacturing and the role it plays in our everyday lives. It is no secret that the Bush administration has enfeebled the manufacturing sector, cutting needed funding that helps manufacturers stay competitive. Since 2000, Wisconsin has been hit hard, losing 90,000 manufacturing jobs. A healthy manufacturing sector is key to better jobs, rising productivity, and higher standards of living. Every individual and industry depends on manufactured goods. And the production of those goods creates the quality jobs that keep so many American families healthy and strong.

This legislation would reduce the duty on automatic shower cleaners, an input S.C. Johnson refines to make high quality and affordable shower cleaners that eliminate the build-up of tough soap scum, mold, and mildew stains for the U.S. market. S.C. Johnson was created in 1886 as a parquet flooring company and today is one of the world's leading manufacturers of household products including Ziploc storage containers, Windex glass cleaner, Raid insect repellant, and Glade fragrances. Today, S.C. Johnson employs 12,000 people and provides products in more than 110 countries around the world. In January of 2006, S.C. Johnson was awarded the Ron Brown Award for Corporate Leadership for its outstanding achievements in employee and community relations. Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELECTRIC AUTOMATIC SHOWER CLEANERS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.98.08	Bath and shower cleaner electric device that dispenses a dilute solution of detergents and bleach alternative into a shower enclosure using a button activated, battery powered piston pump controlled by a microchip that automatically releases a measured amount of solution on demand (provided for in subheading 8509.80.00)	2.1%	No change	No change	On or before 12/31/2009	".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. CRAIG:

S. 2821. A bill to repeal the imposition of withholding on certain payments made to vendors by government entities; to the Committee on Finance.

Mr. CRAIG. Mr. President, I rise to introduce S. 2821, the Withholding Tax Relief Act of 2006. Today, President Bush signed into law H.R. 4297, the Tax Increase Prevention and Reconciliation Act of 2005, and this afternoon, I am making good on a promise I made on the Senate floor last week—to repeal the expanded withholding tax contained in H.R. 4297 to ensure that the bill does what its title claims, that is, prevents tax Increases.

Americans have been asking for tax relief. Congress answered this call, in part, when it passed the Tax Increase Prevention and Reconciliation Act of 2005. The lower taxes on capital gains and dividends—and the higher alternative minimum tax exemption amounts—contained in H.R. 4297 will assist small businesses, encourage the kind of investment that creates jobs and makes our economy grow, and ensure fairer tax treatment for middle-income families who would otherwise be left footing the bill for a tax intended for the wealthy.

Alongside these tax relief provisions, however, conferees inserted a sweeping new withholding requirement that will raise taxes by nearly $7 billion. This bill seems to have a history of that. When the original tax reconciliation bill came before the Senate, it contained a windfall profits tax provision that would have imposed an additional $4.923 billion tax on the energy industry. I voted against it because the bill that was supposed to provide tax relief actually raised taxes. Although the conferees stripped this provision in conference, they replaced it with an even bigger tax hike—section 511's expanded withholding requirement.

Section 511 of H.R. 4297 imposes a new mandatory 3 percent withholding requirement on all payments for goods and services made to Federal, State, and local contractors. The provision, which is the largest revenue raiser in the bill, represents a significant shift in U.S. tax policy.

Withholding has not always been around. Despite predominant public opposition, Congress enacted mandatory withholding on Federal income tax in 1943 in order to fund World War II. As a result, tax collections jumped from $7.3 billion in 1939 to $43 billion in 1945. That is an increase of $35.7 billion in just 4 years. In congressional hearings on the issue, Congressmen spoke candidly of the revenues that needed to be "fried out of the taxpayers." There was no doubt in the minds of lawmakers that the result of withholding would be an increase in the tax burden on the public.

Congress sought to expand withholding to dividends and interest in 1982, and public opposition was so profound that it was repealed 1 year later. Now, proponents of section 511's expanded withholding requirement say that it is necessary to close a "tax loophole" that allows taxpayers to avoid their tax obligations. There is no such "loophole"—the Internal Revenue Service, IRS, has simply failed to do its job of collecting.

Information-reporting requirements are already in place to assist the IRS in its collection duties. Government entities are required to make an information return, reporting payments to corporations as well as individuals. Moreover, every head of every Federal executive agency that enters into contracts must file an information return reporting the contractor's name, address, date of contract action, amount to be paid to the contractor, and other information. Expanding withholding would now not only have the Federal Government spend taxpayers' dollars, but it would make taxpayers bear the burden and costs of collecting them, too.

The costs of section 511 are high—so high, in fact, that the Congressional Budget Office said that the provision constitutes an unfunded mandate on the State and local governments, exceeding the annual threshold established in the Unfunded Mandates Reform Act. The provision will also cause the cost of doing business to go up. A 3-percent withholding on multibillion dollar contracts—for as long as 15 months, held interest-free—will affect cash flows, investment, and cause businesses to raise prices in order to make up for losses, thereby putting them at a significant competitive disadvantage. Consider the Federal contract totals for Idaho and California alone. In fiscal year 2004, Idaho's nondefense contracts totaled $1.1 billion, and in fiscal year 2005, the State's defense contracts added up to $154 million. In fiscal year 2004, California's nondefense contracts totaled $9.4 billion, and in fiscal year 2005, the State had $30.9 billion in defense contracts.

The bill that I am introducing today, the Withholding Tax Relief Act of 2006, will repeal the $7 billion withholding tax contained in H.R. 4297. Tax relief should not be coupled with tax increases, and I will continue to work to give more meaning to the phrase in the bill's title, "Tax Increase Prevention." This bill is a first step. I urge my colleagues to join me in support of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2821

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Withholding Tax Relief Act of 2006".

SEC. 2. REPEAL OF IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE TO VENDORS BY GOVERNMENT ENTITIES.

The amendment made by section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 is repealed and the Internal Revenue Code of 1986 shall be applied as if such amendment had never been enacted.

By Mr. BINGAMAN (for himself, Mrs. HUTCHISON, MRS. FEINSTEIN, and Mrs. BOXER):

S. 2825. A bill to establish grant programs to improve the health of border area residents and for bioterrorism preparedness in the border area, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, today I am introducing a bill with Senators HUTCHISON, FEINSTEIN, and BOXER entitled the Border Health Security Act of 2006. This bill addresses the tremendous health problems confronting our nation's southwestern border.

The United States-Mexico border region is defined in the U.S.-Mexico Border Health Commission authorizing legislation as the area of land 100 kilometers, or 62.5 miles, north and south of the international boundary. It stretches 2,000 miles from California, through Arizona and New Mexico to the southern tip of Texas and is estimated to have a population of 12 million residents.

The border region comprises 2 sovereign nations, 25 Native American tribes, and 4 States in the United States and six States in Mexico.

Why should we provide some focus to this geographic region? The situation along the border is among the most dire in the country. In the past, we have recognized problems with other regions, through the Denali, Delta, and Appalachian commissions, and have provided targeted funding to those areas. The U.S.-Mexico Border Health Commission, legislation I sponsored with Senators McCAIN, Simon, and HUTCHISON, was created for the same reasons and annually receives about $4 million in funding that is matched by $1 million from the Mexican Government for administrative purposes to improve international cooperation and agreements to tackle health problems in the region. However, we need to take the next step and provide resources to address the problems.

In the border region, 3 of the 10 poorest counties in the United States are located in the border area, 21 of the counties have been designated as economically distressed, approximately 430,000 people live in 1,200 colonias in Texas and New Mexico, which are unincorporated communities that are characterized by substandard housing, unsafe public drinking water, and wastewater systems, very high unemployment, and the lowest per capita income as a region in the Nation.

In a report earlier this year by the U.S.-Mexico Border Counties Coalition, the Coalition found that, if the border were a State, it would rank second with respect to the uninsured, last with respect to access to health professionals, including doctors, nurses and allied health professionals per capita; second with respect to tuberculosis, third with respect to hepatitis; and fifth with respect to diabetes.

The result is a health system that confronts tremendous health problems with little or no resources.

According to U.S. Census Bureau data reported in September 2005 for the three-year average of 2002 to 2004, the states of Texas and New Mexico rank first and second as the states with the highest uninsured rates in the country with rates of 25.0 percent and 21.0 percent, respectively. California and Arizona are not much better and had uninsured rates of 18.7 percent and 17.1 percent, respectively.

However, the figures along the border are even worse, as the rates of uninsured are higher still than that in the four states overall. Uninsured rates in many border counties are estimated to be above 30 percent and as high as 50 percent in certain communities. According to the U.S. Census Bureau's small area health insurance estimates, SAHIE, the three New Mexico border counties had an uninsured rate of 29.4 percent compared to the statewide average of 23.7 percent and more than twice the United States rate of 14.2 percent.

As the U.S.-Mexico Border Commission notes, "The border is characterized by weaknesses in the border health systems and infrastructure, lack of public financial resources, poor distribution of physicians and other health professionals and hospitals. Moreover, the low rates of health insurance coverage and low incomes puts access to health services out of reach for many border residents and thus keeps the border communities at risk."

The U.S.-Mexico Border Commission has identified and approved of an agenda through its Health Border 2010 initiative, which seeks to, among other things: reduce by 25 percent the population lacking access to a primary provider; reduce the female breast cancer death rate by 20 percent; reduce the cervical cancer death rate by 30 percent; reduce deaths due to diabetes by 10 percent; reduce hospitalizations due to diabetes by 25 percent; reduce the incidence of HIV cases by 50 percent; reduce the incidence of tuberculosis cases by 50 percent; reduce the incidence of hepatitis A and B cases by 50 percent; reduce the infant mortality rate by 15 percent; and, increase initiation of prenatal care in the first trimester by 85 percent.

However, the U.S.-Mexico Border Commission lacks the resources that are needed to address those important goals. The bipartisan legislation I am introducing today with Senators HUTCHISON, FEINSTEIN, and BOXER would address that problem by reauthorizing the U.S.-Mexico Border Health Commission at $10 million and authorizing additional funding to improve the infrastructure, access, and the delivery of health care services along the entire U.S.-Mexico border.

These grants would be flexible and allow the individual communities to establish their own priorities with which to spend these funds for the following range of purposes: maternal and child health, primary care and preventative health, public health and public health infrastructure, health promotion, oral health, behavioral and mental health, substance abuse, health conditions that have a high prevalence in the border region, medical and health services research, community health workers or promotoras, health care infrastructure, including planning and construction grants, health disparities, environmental health, health education, and outreach and enrollment services with respect to Medicaid and the State Children's Health Insurance Program, CHIP.

We would certainly expect those grants would be used for the purpose of striving to achieve the measurable goals established by the Health Border 2010 initiative.

In addition, the bill contains authorization for $25 million for funding to border communities to improve the infrastructure, preparedness, and education of health professionals along the U.S.-Mexico border with respect to bioterrorism. This includes the establishment of a health alert network to identify and communicate information quickly to health providers about emerging health care threats.

Mr. President, on October 15, 2001, just one month after the September 11, 2001, attack on our Nation, Secretary Thompson spoke to the U.S.-Mexico Border Health Commission and urged them to put together an application for $25 million for bioterrorism and preparedness. The Commission has done so but has not seen targeted funding despite the vulnerability that border communities have with respect to a bioterrorism attack. Our legislation addresses the vulnerability of communities along the border and targets funding to those communities specifically to improve infrastructure, training, and preparedness.

Our relationship with Mexico, like that with Canada, is a special one. Those countries are our closest neighbors, and yet, we often and wrongly neglect our neighbor to the South and the much needed economic development needed in the region. Mexico is the United States's second largest trading partner and the border is recognized as one of the busiest ports of entry in the world. And yet the region is often neglected.

As the U.S.-Mexico Border Health Commission points out, "Without increases and sustained federal, state and local governmental and private funding for health programs, infrastructure and education, the border populations will continue to lag behind the United States in these areas."

I would like to thank Senator HUTCHISON, who was an original cosponsor of the U.S.-Mexico Border Health Commission legislation, Public Law 103–400, that we passed in 1994 and is the lead cosponsor of this legislation today. She has also been the lead senator in getting funding for the U.S.-Mexico Border Health Commission since its inception.

I would also thank Senators FEINSTEIN and BOXER for working with us on this important legislation and for their constant support over the years for the work of the Commission.

I urge the adoption of this bipartisan legislation by this Congress and ask for unanimous consent for a summary and the text of the bill to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Border Health Security Act of 2006".

SEC. 2. DEFINITIONS.

In this Act:

(1) BORDER AREA.—The term "border area" has the meaning given the term "United States-Mexico Border Area" in section 8 of the United States-Mexico Border Health Commission Act (22 U.S.C. 290n–6).

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 3. BORDER HEALTH GRANTS.

(a) ELIGIBLE ENTITY DEFINED.—In this section, the term "eligible entity" means a State, public institution of higher education, local government, tribal government, nonprofit health organization, or community health center receiving assistance under section 330 of the Public Health Service Act (42 U.S.C. 254b), that is located in the border area.

(b) AUTHORIZATION.—From funds appropriated under subsection (f), the Secretary, acting through the United States members of the United States-Mexico Border Health Commission, shall award grants to eligible entities to address priorities and recommendations to improve the health of border area residents that are established by—

(1) the United States members of the United States-Mexico Border Health Commission;

(2) the State border health offices; and

(3) the Secretary.

(c) APPLICATION.—An eligible entity that desires a grant under subsection (b) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) USE OF FUNDS.—An eligible entity that receives a grant under subsection (b) shall use the grant funds for—

(1) programs relating to—

(A) maternal and child health;

(B) primary care and preventative health;

(C) public health and public health infrastructure;

(D) health promotion;

(E) oral health;

(F) behavioral and mental health;

(G) substance abuse;

(H) health conditions that have a high prevalence in the border area;

(I) medical and health services research;

(J) workforce training and development;

(K) community health workers or promotoras;

(L) health care infrastructure problems in the border area (including planning and construction grants);

(M) health disparities in the border area;

(N) environmental health;

(O) health education; and

(P) outreach and enrollment services with respect to Federal programs (including programs authorized under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 and 1397aa)); and

(2) other programs determined appropriate by the Secretary.

(e) SUPPLEMENT, NOT SUPPLANT.—Amounts provided to an eligible entity awarded a grant under subsection (b) shall be used to supplement and not supplant other funds available to the eligible entity to carry out the activities described in subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2007 and each succeeding fiscal year.

SEC. 4. BORDER BIOTERRORISM PREPAREDNESS GRANTS.

(a) ELIGIBLE ENTITY DEFINED.—In this section, the term "eligible entity" means a

State, local government, tribal government, or public health entity.

(b) AUTHORIZATION.—From funds appropriated under subsection (e), the Secretary shall award grants to eligible entities for bioterrorism preparedness in the border area.

(c) APPLICATION.—An eligible entity that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) USES OF FUNDS.—An eligible entity that receives a grant under subsection (b) shall use the grant funds to, in coordination with State and local bioterrorism programs—

(1) develop and implement bioterror preparedness plans and readiness assessments and purchase items necessary for such plans;

(2) coordinate bioterrorism and emergency preparedness planning in the region;

(3) improve infrastructure, including syndrome surveillance and laboratory capacity;

(4) create a health alert network, including risk communication and information dissemination;

(5) educate and train clinicians, epidemiologists, laboratories, and emergency personnel; and

(6) carry out such other activities identified by the Secretary, the United States-Mexico Border Health Commission, State and local public health offices, and border health offices.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 2007 and such sums as may be necessary for each succeeding fiscal year.

SEC. 5. UNITED STATES-MEXICO BORDER HEALTH COMMISSION ACT AMENDMENTS.

The United States-Mexico Border Health Commission Act (22 U.S.C. 290n et seq.) is amended by adding at the end the following:

"SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this Act $10,000,000 for fiscal year 2007 and such sums as may be necessary for each succeeding fiscal year.".

SEC. 6. COORDINATION OF HEALTH SERVICES AND SURVEILLANCE.

The Secretary may coordinate with the Secretary of Homeland Security in establishing a health alert system that—

(1) alerts clinicians and public health officials of emerging disease clusters and syndromes along the border area; and

(2) is alerted to signs of health threats or bioterrorism along the border area.

SEC. 7. BINATIONAL PUBLIC HEALTH INFRASTRUCTURE AND HEALTH INSURANCE.

(a) IN GENERAL.—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the conduct of a study concerning binational public health infrastructure and health insurance efforts. In conducting such study, the Institute shall solicit input from border health experts and health insurance issuers.

(b) REPORT.—Not later than 1 year after the date on which the Secretary of Health and Human Services enters into the contract under subsection (a), the Institute of Medicine shall submit to the Secretary and the appropriate committees of Congress a report concerning the study conducted under such contract. Such report shall include the recommendations of the Institute on ways to expand or improve binational public health infrastructure and health insurance efforts.

SEC. 8. PROVISION OF RECOMMENDATIONS AND ADVICE TO CONGRESS.

Section 5 of the United States-Mexico Border Health Commission Act (22 U.S.C. 290n–3) is amended by adding at the end the following:

"(d) PROVIDING ADVICE AND RECOMMENDATIONS TO CONGRESS.—A member of the Commission, or an individual who is on the staff of the Commission, may at any time provide advice or recommendations to Congress concerning issues that are considered by the Commission. Such advice or recommendations may be provided whether or not a request for such is made by a member of Congress and regardless of whether the member or individual is authorized to provide such advice or recommendations by the Commission or any other Federal official.".

FACT SHEET

BORDER HEALTH SECURITY ACT OF 2006

Sens. Jeff Bingaman (D-NM), Kay Bailey Hutchison (R-TX), Dianne Feinstein (D-CA), and Barbara Boxer (D–CA) introduced the "Border Health Security Act of 2006" on May 17, 2006. The legislation would improve the infrastructure, access, and delivery of health care services to residents along the U.S.-Mexico border.

The legislation would achieve these goals by—

Improving Border Health Services: Provides authorization for funding to states, local governments, tribal governments, institutions of higher education, nonprofit health organizations, or community health centers along the U.S.-Mexico border to improve infrastructure, access, and the delivery of health care services.

These grants are flexible and would allow the community to establish its own priorities with which to spend these funds for the following range of purposes: maternal and child health, primary care and preventative health, public health and public health infrastructure, health promotion, oral health, behavioral and mental health, substance abuse, health conditions that have a high prevalence in the border region, medical and health services research, community health workers or promotoras, health care infrastructure (including planning and construction grants), health disparities, environmental health, health education, and outreach and enrollment services with respect to Medicaid and the State Children's Health Insurance Program (CHIP).

Providing Border Bioterrorism Preparedness Grants: Provides for $25 million in funding to states and local governments or public health departments to improve the infrastructure, preparedness, and education of health professionals along the U.S.-Mexico border with respect to bioterrorism. This includes the establishment of a health alert network to identify and communicate information quickly to health providers about emerging health care threats and coordination of the system between the U.S. Department of Health and Human Services (HHS) and Department of Homeland Security (DHS).

Reauthorizing the U.S.-Mexico Border Health Commission: Provides for the reauthorization of the U.S.-Mexico Border Health Commission at $10 million annually.

Coordination and Study: The legislation also affirms that recommendations and advice on how to improve border health from the U.S.-Mexico Border Health Commission shall be communicated to the Congress. And finally, the legislation provides for a study of binational health insurance options and barriers to improve coverage for people residing along the border.

By Mr. KERRY:

S. 2826. A bill to amend the Internal Revenue Code of 1986 to extend and expand relief from the alternative minimum tax and to repeal the extension of the lower rates for capital gains and dividends for 2009 and 2010; to the Committee on Finance.

Mr. KERRY. Mr. President, today, President Bush is signing H.R. 4297, the Tax Increase Prevention and Reconciliation Act of 2005. I opposed this legislation because it contains the wrong priorities for America—leaving behind working families and substantially adding to the deficit. This law chooses to extend the lower rates on capital gains and dividends for 2009 and 2010, but only addresses the individual alternative minimum tax (AMT) for 2006.

According to the Joint Committee on Taxation, those earning $200,000 or more will receive 84 percent of the benefit of the capital gains tax cut and 63 percent of the benefit of the dividends tax cuts. According to the Congressional Budget Office, 42.8 percent of taxpayers with income between $50,000 and $100,000 will be impacted by the AMT if the AMT is not addressed for 2007—a number that increases to 66 percent by 2010. The Tax Increase Prevention and Reconciliation of Act of 2005 extends a tax cut that does not expire to the end of 2008 with a price tag of $50 billion, but fails to protect the hard working families that will be impacted by the AMT. These families were never intended to be impacted by the AMT, a tax originally designed to prevent a small number of high income taxpayers from avoiding taxation.

Today, I am introducing legislation that will address the AMT for 2007 and repeal the lower tax rates on capital dividends for 2009 and 2010. To calculate the AMT, individuals add back certain "preference items" to their regular tax liability. These include personal exemptions, the standard deduction, and the itemized deduction for state and local taxes. From this amount, taxpayers subtract the AMT exemption amount, commonly referred to as the "patch" which reverted to lower levels at the end of 2005. H.R. 4297 increased and extended the patch for 2006. The patch was increased in order to hold the same number of taxpayers harmless from the AMT in 2006 as in 2005.

The problem with the AMT is that while the regular tax system is indexed for inflation, the AMT exemption amounts and tax brackets remain constant. This has the perverse consequence of punishing taxpayers for the mere fact their incomes rose due to inflation.

A choice was made in 2001 to provide more tax cuts to those with incomes of over one million dollars rather than addressing a looming tax problem for the middle class. The Economic Growth and Tax Relief Reconciliation Act of 2001 did include a small adjustment to the AMT, but it was not enough. We knew at the time that the number of taxpayers subject to the AMT would continue to rise steadily. The combination of lower tax cuts and a minor adjustment to the AMT would cause the AMT to explode. We are now approaching this explosion.

My legislation extends and expands the AMT exemption amount for 2007 to prevent additional taxpayers from being impacted by the AMT. Without increasing and extending the AMT exemption for 2007, an additional 3.2 million taxpayers will be impacted by the AMT in 2007. In addition, the legislation will allow nonrefundable personal credits such as the higher education tax credits and the dependent care credit against the AMT for 2007. This legislation is offset by repealing the lower rates on capital gains and dividends.

My colleagues in the majority argue that the extension of the capital gains and dividends benefits is necessary to provide investor certainty. But I believe that the certainty of working families worried about paying the AMT should come first. New data from the Joint Committee on Taxation requested by the Ways and Means Democratic Members shows that in 2007, 62 percent of all taxable capital gain income will be recognized by taxpayers liable for the minimum tax. Simply put, taxpayers forced to carry the AMT burden will not benefit from the lower capital gains and dividends rate.

The AMT is a looming problem that is impacting hard-working families and for each year that we fail to address the AMT, it gets worse and more expensive. We need to address the AMT for 2007. My legislation is not a long-term cure to the AMT crisis, but it will provide certainty for next year to hard working families that will be impacted by the AMT just because of where they live and the number of children they have, and it will address the AMT in a revenue neutral manner for 2007 as well.

The Tax Increase Prevention and Reconciliation Act of 2005 addresses the AMT for 2006, but at a price—providing a $42,000 tax cut to those making more than a million dollars a year. The AMT for 2006 could have been addressed in a bill that did not include the extension of additional tax cuts and it could have been offset. Instead, addressing the AMT for 2006 was included in a bill that will add far more than $70 billion to the deficit.

We all agree that the AMT should not be impacting families with incomes below $100,000. I am concerned that we will not address the AMT for 2007 in a timely and fiscally responsible manner. My bill does this and would give Congress time to work together in a bipartisan manner to find a fiscally responsible permanent solution to the AMT.

I ask unanimous consent that the full text of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION AND INCREASE IN MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) IN GENERAL.—Section 55(d)(1) of the Internal Revenue Code of 1986, as amended by the Tax Increase Prevention and Reconciliation Act of 2005, is amended—

(1) by striking “$62,550 in the case of taxable years beginning in 2006” in subparagraph (A) and inserting “$66,100 in the case of taxable years beginning in 2007”, and

(2) by striking “$42,500 in the case of taxable years beginning in 2006” in subparagraph (B) and inserting “$45,900 in the case of taxable years beginning in 2007”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 2. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) of the Internal Revenue Code of 1986, as amended by the Tax Increase Prevention and Reconciliation Act of 2005, is amended—

(1) by striking “2006” in the heading thereof and inserting “2007”, and

(2) by striking “or 2006” and inserting “2006, or 2007”.

(b) CONFORMING PROVISIONS.—

(1) Section 30B(g) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) SPECIAL RULE FOR 2007.—For purposes of any taxable year beginning during 2007, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(B) the sum of the credits allowable under subpart A and this subpart (other than this section and section 30C).”.

(2) Section 30C(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) SPECIAL RULE FOR 2007.—For purposes of any taxable year beginning during 2007, the credit allowed under subsection (a) (after the application of paragraph (1)) shall not exceed the excess of—

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(B) the sum of the credits allowable under subpart A and this subpart (other than this section).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 3. REPEAL OF EXTENSION OF LOWER RATES FOR CAPITAL GAINS AND DIVIDENDS.

The amendment made by section 102 of the Tax Increase Prevention and Reconciliation Act of 2005 is repealed and the Internal Revenue Code of 1986 shall be applied as if such amendment had never been enacted.

By Mr. AKAKA (for himself and Mr. LIEBERMAN):

S. 2827. A bill to amend the Homeland Security Act of 2002 to clarify the investigative authorities of the privacy officer of the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce the Privacy Officer With Enhanced Rights Act of 2006, POWER Act. I am pleased to be joined by Senator LIEBERMAN, the Ranking Member of the Homeland Security and Governmental Affairs Committee, in introducing this important legislation, which is a companion bill to H.R. 3041. The POWER Act will strengthen the authority of the Department of Homeland Security, DHS, Chief Privacy Officer, CPO, and will provide a much needed check on government power.

Americans have an expectation that their personal privacy will not be invaded and that their government will not misuse its powers. Democracy is founded on the principle that the people are the ultimate source of the Government's powers. Recent events validate the suspicions of our Nation's Founders against concentrating power into the hands of the few or in granting authority to those who are not accountable for how power is utilized. We need to consider the effects of intelligence and information gathering now that new government powers threaten to erode our most cherished freedoms and technological advances appear to outpace our ability to protect personal information.

In response to the terrorist attacks of 9/11, new law enforcement strategies were created and information sharing between government agencies increased substantially. DHS was established to face new challenges and address new threats. However, we were concerned that the unprecedented size and reach of the new department could intrude on the values that our nation cherishes most dearly. We wanted DHS to accomplish its vital mission, but we had to make sure that it was not at the cost of our liberty.

Times of crisis and unexpected trials do not excuse curtailment of our citizens' fundamental liberties, which is why the DHS CPO was created. The mission of the CPO is to ensure that the loss of the freedoms that define this country would not be sacrificed for increased vigilance against our adversaries. Although I voted against the Homeland Security Act, I was pleased to work with my colleagues to establish the CPO.

The DHS CPO has three primary responsibilities: (1) assuring that new technologies and information gathering methods do not erode personal privacy; (2) evaluating the privacy impact of new government programs; and (3) investigating privacy complaints.

However, the CPO's powers have proved to be inadequate. The major problem is that the CPO lacks subpoena power and, therefore, cannot fully investigate privacy violations. Instead, the CPO must rely on voluntary submissions of information in order to conduct investigations which significantly weakens the office. We all remember the news accounts about how the CPO's requests for documents in her investigation of the Transportation Security Administration's, TSA, transfer of passenger data from a major commercial air carrier to the Defense Department were rebuffed repeatedly. Our bill will go a long way to ensure that such situations will not happen again.

We are also concerned by the fact that the CPO cannot communicate directly with Congress, but instead, must report through DHS senior leadership. Similar to the Inspector General, the CPO can often be put at odds with those subject to investigation, so the authority to report directly to Congress and deliver unaltered findings is critical.

The POWER Act will address these shortcomings by providing the CPO with the power to: access all records deemed necessary to do the job; undertake any privacy investigation that is appropriate for the office; subpoena documents from the private sector when necessary to fulfill the CPO's statutory mandate; and obtain sworn testimony.

To provide independence for this position, the CPO will submit reports directly to Congress regarding the performance of his or her duties, without any prior comment or amendment by the DHS Secretary. In addition, our bill would protect the CPO from retaliation by mandating that the CPO cannot be removed from office without notifying the President and Congress of the reasons for removal.

With concerns over the development of new data mining activities at the Department and the potential use of commercial data by TSA, it is essential now more than ever that the DHS CPO have the tools and authority to protect the personal information of all Americans. I urge my colleagues to support this bill and ask unanimous consent that the text of the bill and a letter of support from the American Civil Liberties Union be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Privacy Officer With Enhanced Rights Act of 2006" or the "POWER Act of 2006".

SEC. 2. AUTHORITIES OF THE PRIVACY OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

Section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) is amended—

(1) by inserting "(a) APPOINTMENT AND RESPONSIBILITIES.—" before "The Secretary"; and

(2) by adding at the end the following:

"(b) AUTHORITY TO INVESTIGATE.—

"(1) IN GENERAL.—The senior official appointed under subsection (a) may—

"(A) have access to all records, reports, audits, reviews, documents, papers, recommendations, and other materials available to the Department that relate to programs and operations with respect to the responsibilities of the senior official under this section;

"(B) make such investigations and reports relating to the administration of the programs and operations of the Department that are necessary or desirable as determined by that senior official;

"(C) require by subpoena the production, by any person other than a Federal agency, of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to performance of the responsibilities of the senior official under this section; and

"(D) administer to or take from any person an oath, affirmation, or affidavit, whenever necessary to performance of the responsibilities of the senior official under this section.

"(2) ENFORCEMENT OF SUBPOENAS.—Any subpoena issued under paragraph (1)(C) shall, in the case of contumacy or refusal to obey, be enforceable by order of any appropriate United States district court.

"(3) EFFECT OF OATHS.—Any oath, affirmation, or affidavit administered or taken under paragraph (1)(D) by or before an employee of the Privacy Office designated for that purpose by the senior official appointed under subsection (a) shall have the same force and effect as if administered or taken by or before an officer having a seal of office.

"(c) SUPERVISION.—

"(1) IN GENERAL.—The senior official appointed under subsection (a) shall report to, and be under the general supervision of the Secretary.

"(2) NOTIFICATION TO CONGRESS.—If the Secretary removes the senior official appointed under subsection (a) or transfers that senior official to another position or location within the Department, the Secretary shall—

"(A) promptly submit a written notification of the removal or transfer to Houses of Congress; and

"(B) include in any such notification the reasons for the removal or transfer.

"(d) REPORTS BY SENIOR OFFICIAL TO CONGRESS.—The senior official appointed under subsection (a) shall submit reports directly to the Congress regarding performance of the responsibilities of the senior official under this section, without any prior comment or amendment by the Secretary, Deputy Secretary, or any other officer or employee of the Department or the Office of Management and Budget.".

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, May 17, 2006.

DEAR SENATORS AKAKA AND LIEBERMAN: The American Civil Liberties Union commends you for introducing the Privacy Officer With Enhanced Rights Act (POWER Act). This legislation and its companion bill in the House, H.R. 3041, are an important step towards ensuring that the Department of Homeland Security's Privacy Officer has all the tools needed to carry out the mission Congress envisioned for the office when it created the Department of Homeland Security ("DHS"). The POWER Act will allow the Privacy Officer to better protect the privacy rights of all Americans by providing important oversight of DHS, which handles extensive amounts of sensitive personal information on Americans.

The original Congressional intention of the DHS Privacy Officer's authority has not yet been achieved. The Homeland Security Act of 2002 mandated the creation of a senior official to assume responsibility for DHS privacy policies. Specifically, this official is to assure that new technologies do not erode the personal privacy of Americans, evaluate new proposals concerning the use of personal data, assure that DHS is in full compliance with the Privacy Act of 1974, and to report to Congress on an annual basis any activities that impact privacy including "complaints of privacy violations, implementation of the Privacy Act of 1974, internal controls, and other matters."

Congress, however, failed to endow this position with the necessary investigative powers necessary to fulfill these duties. Currently, the Privacy Officer must rely on voluntary submission of information to conduct investigations. For example, when the Privacy Officer attempted to investigate the disclosure of JetBlue passenger information by the Transportation Security Administration to the Department of Defense, its requests for information were repeatedly rebuffed preventing a comprehensive investigation. The shortcomings of this process prevent the Privacy Officer from being an effective advocate for the privacy rights of Americans.

The POWER Act addresses these problems by providing the Privacy Officer with the tools and independence necessary to conduct investigations and thereby fulfill the duties charged to the position by Congress in 2002. This legislation empowers the Privacy Officer to access all records deemed necessary, undertake any investigation deemed appropriate, subpoena documents, and obtain sworn testimony. This legislation also directs the Privacy Officer to submit reports directly to Congress without prior amendment by other Department officials, helping to protect the position from internal censorship.

The POWER Act is an important piece of legislation to help ensure that the privacy rights of Americans are not being violated by their own government by providing crucial internal oversight. We commend you for introducing this important piece of legislation, the Privacy Officer With Enhanced Rights Act, and pledge to work with you to ensure its passage.

Sincerely,

CAROLINE FREDRICKSON,
Director.
TIMOTHY SPARAPANI,
Legislative Counsel.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. REED, Mrs. CLINTON, Mr. LAUTENBERG, Mr. SARBANES, Mr. AKAKA, Mr. KERRY, Ms. LANDRIEU, and Mr. MENENDEZ):

S. 2828. A bill to provide for educational opportunities for all students in State public school systems, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today with Senators KENNEDY, REED, CLINTON, SARBANES, AKAKA, LAUTENBERG, KERRY, LANDRIEU and MENENDEZ to introduce the Student Bill of Rights. This bill would ensure that every child in America has an equal opportunity to receive a good education.

The Student Bill of Rights would achieve this goal by providing America's children with the key components of a solid education. These components include highly qualified teachers, challenging curricula, small classes, current textbooks, quality libraries, and up-to-date technology.

Currently, Federal law requires that schools within the same district provide comparable educational services. The Student Bill of Rights would extend that basic guarantee of equal opportunity to the State level by requiring comparability of resources across school districts within a State.

Over 50 years ago, Brown v. Board of Education struck down segregation in law. Over 50 years later, we know that just because there is no segregation in law does not mean that it does not persist. Today, our education system remains largely separate and unequal.

All too often, whether an American child is taught by a high quality teacher, has access to the best courses and instructional materials, goes to school in a new, modern building, and otherwise benefits from educational resources that have been shown to be essential to a quality education still depends on where the child's family can afford to live. In fact, the United States ranks at the bottom among developed countries in the disparity in the quality of schools available to wealthy and low-income children. This gap is simply unacceptable, and it is why the Student Bill of Rights is so important to our children's ability to gain the skills they need to be responsible, participating citizens in our diverse democracy, and to compete and succeed in the global economy.

Of course, factors besides resources are also important to academic achievement—supportive parents, motivated peers, and positive role models in the community, just to name a few. But at the same time, we also know that adequate resources are vital to providing students with the opportunity to receive a solid education.

This bill is entirely consistent with America's historical commitment to equal opportunity. That is why 42 Senators voted for similar legislation in the 107th Congress. On the other hand, it would be inconsistent with America's principles to tolerate an educational system that provides meaningful educational opportunities for just a select few.

The quality of a child's education should not be determined by his or her ZIP code. The Student Bill of Rights will help ensure that each and every child gets a decent education, and in turn, an equal opportunity for a successful future.

Mr. President, I hope that my colleagues will join me in supporting the Student Bill of Rights and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Student Bill of Rights".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings and purposes.

TITLE I—ACCESS TO EDUCATIONAL OPPORTUNITY

Sec. 101. State public school systems.
Sec. 102. Fundamentals of educational opportunity.

TITLE II—STATE ACCOUNTABILITY

Sec. 201. State accountability plan.
Sec. 202. Consequences of failure to meet requirements.

TITLE III—REPORT TO CONGRESS AND THE PUBLIC

Sec. 301. Annual report on State public school systems.

TITLE IV—REMEDY

Sec. 401. Civil action for enforcement.

TITLE V—GENERAL PROVISIONS

Sec. 501. Definitions.
Sec. 502. Rulemaking.
Sec. 503. Construction.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) A high-quality, highly competitive education for all students is imperative for the economic growth and productivity of the United States, for its effective national defense, and to achieve the historical aspiration to be one Nation of equal citizens. It is therefore necessary and proper to overcome the nationwide phenomenon of State public school systems that do not meet the requirements of section 101(a), in which high-quality public schools typically serve high-income communities and poor-quality schools typically serve low-income, urban, rural, and minority communities.

(2) In 2005, the National Academies found in their report "Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future" that the inadequate preparation of kindergarten through grade 12 students in science and mathematics, including the significant lack of teachers qualified to teach these subjects, threatens the economic prosperity of the United States. When students do not receive quality mathematics and science preparation in kindergarten through grade 12, they are not prepared to take advanced courses in these subjects at the postsecondary level, leaving the United States with a critical shortage of scientists and engineers—a shortfall being filled by professionals from other countries.

(3) There exists in the States a significant educational opportunity gap for low-income, urban, rural, and minority students characterized by the following:

(A) Continuing disparities within States in students' access to the fundamentals of educational opportunity described in section 102.

(B) Highly differential educational expenditures (adjusted for cost and need) among school districts within States.

(C) Radically differential educational achievement among students in school districts within States as measured by the following:

(i) Achievement in mathematics, reading or language arts, and science on State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) and on the National Assessment of Educational Progress.

(ii) Advanced placement courses taken.

(iii) SAT and ACT test scores.

(iv) Dropout rates and graduation rates.

(v) College-going and college-completion rates.

(4) As a consequence of this educational opportunity gap, the quality of a child's education depends largely upon where the child's family can afford to live, and the detriments of lower quality education are imposed particularly on—

(A) children from low-income families;

(B) children living in urban and rural areas; and

(C) minority children.

(5) Since 1785, Congress, exercising the power to admit new States under section 3 of article IV of the Constitution (and previously, the Congress of the Confederation of States under the Articles of Confederation), has imposed upon every State, as a fundamental condition of the State's admission, that the State provide for the establishment and maintenance of systems of public schools open to all children in such State.

(6) Over the years since the landmark ruling in Brown v. Board of Education, 347 U.S. 483, 493 (1954), when a unanimous Supreme Court held that "the opportunity of an education . . . , where the State has undertaken to provide it, is a right which must be made available to all on equal terms", courts in 44 States have heard challenges to the establishment, maintenance, and operation of State public school systems that are separate and not educationally adequate.

(7) In 1970, the Presidential Commission on School Finance found that significant disparities in the distribution of educational resources existed among school districts within States because the States relied too significantly on local district financing for educational revenues, and that reforms in systems of school financing would increase the Nation's ability to serve the educational needs of all children.

(8) In 1999, the National Research Council of the National Academy of Sciences published a report entitled "Making Money Matter, Financing America's Schools", which found that the concept of funding adequacy, which moves beyond the more traditional concepts of finance equity to focus attention on the sufficiency of funding for desired educational outcomes, is an important step in developing a fair and productive educational system.

(9) In 2001, the Executive Order establishing the President's Commission on Educational Resource Equity declared, "A quality education is essential to the success of every child in the 21st century and to the continued strength and prosperity of our Nation. . . . [L]ong-standing gaps in access to educational resources exist, including disparities based on race and ethnicity." (Exec. Order No. 13190, 66 Fed. Reg. 5424 (2001)).

(10) According to the Secretary of Education, as stated in a letter (with enclosures) from the Secretary to States dated January 19, 2001—

(A) racial and ethnic minorities continue to suffer from lack of access to educational resources, including "experienced and qualified teachers, adequate facilities, and instructional programs and support, including technology, as well as . . . the funding necessary to secure these resources"; and

(B) these inadequacies are "particularly acute in high-poverty schools, including urban schools, where many students of color are isolated and where the effect of the resource gaps may be cumulative. In other words, students who need the most may often receive the least, and these students often are students of color.".

(11) In the amendments made by the No Child Left Behind Act of 2001, Congress—

(A)(i) required each State to establish standards and assessments in mathematics, reading or language arts, and science; and

(ii) required schools to ensure that all students are proficient in mathematics, reading or language arts, and science not later than 12 years after the end of the 2001–2002 school year, and held schools accountable for the students' progress; and

(B) required each State to describe how the State will help local educational agencies and schools to develop the capacity to improve student academic achievement.

(12) The standards and accountability movement will succeed only if, in addition to standards and accountability, all schools have access to the educational resources necessary to enable students to achieve.

(13) Raising standards without ensuring access to educational resources may in fact exacerbate achievement gaps and set children up for failure.

(14) According to the World Economic Forum's Global Competitiveness Report 2001–2002, the United States ranks last among developed countries in the difference in the quality of schools available to rich and poor children.

(15) The persistence of pervasive inadequacies in the quality of education provided by State public school systems effectively deprives millions of children throughout the United States of the opportunity for an education adequate to enable the children to—

(A) acquire the knowledge and skills necessary for responsible citizenship in a diverse democracy, including the ability to participate fully in the political process through informed electoral choice;

(B) meet challenging student academic achievement standards; and

(C) be able to compete and succeed in a global economy.

(16) Each State government has ultimate authority to determine every important aspect and priority of the public school system that provides elementary and secondary education to children in the State, including whether students throughout the State have access to the fundamentals of educational opportunity described in section 102.

(17) Because a well educated populace is critical to the Nation's political and economic well-being and national security, the Federal Government has a substantial interest in ensuring that States provide a high-quality education by ensuring that all students have access to the fundamentals of educational opportunity described in section 102 to enable the students to succeed academically and in life.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To further the goals of the Elementary and Secondary Education Act of 1965 (as amended by the No Child Left Behind Act of 2001), by holding States accountable for providing all students with access to the fundamentals of educational opportunity described in section 102.

(2) To ensure that all students in public elementary schools and secondary schools receive educational opportunities that enable such students to—

(A) acquire the knowledge and skills necessary for responsible citizenship in a diverse democracy, including the ability to participate fully in the political process through informed electoral choice;

(B) meet challenging student academic achievement standards; and

(C) be able to compete and succeed in a global economy.

(3) To end the pervasive pattern of States maintaining public school systems that do not meet the requirements of section 101(a).

TITLE I—ACCESS TO EDUCATIONAL OPPORTUNITY

SEC. 101. STATE PUBLIC SCHOOL SYSTEMS.

(a) REQUIREMENTS.—Each State receiving Federal financial assistance for elementary or secondary education shall ensure that the State's public school system provides all students within the State with an education that enables the students to acquire the knowledge and skills necessary for responsible citizenship in a diverse democracy, including the ability to participate fully in the political process through informed electoral choice, to meet challenging student academic achievement standards, and to be able to compete and succeed in a global economy, through—

(1) the provision of fundamentals of educational opportunity described in section 102, at adequate or ideal levels as defined by the State under section 201(a)(1)(A) to students at each public elementary school and secondary school in the State;

(2) the provision of educational services in school districts that receive funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) that are, taken as a whole, at least comparable to educational services provided in school districts not receiving such funds; and

(3) compliance with any final Federal or State court order in any matter concerning the adequacy or equitableness of the State's public school system.

(b) DETERMINATIONS CONCERNING STATE PUBLIC SCHOOL SYSTEMS.—Not later than October 1 of each year, the Secretary shall determine whether each State maintains a public school system that meets the requirements of subsection (a). The Secretary may make a determination that a State public school system does not meet such requirements only after providing notice and an opportunity for a hearing.

(c) PUBLICATION.—The Secretary shall publish and make available to the general public (including by means of the Internet) the determinations made under subsection (b).

SEC. 102. FUNDAMENTALS OF EDUCATIONAL OPPORTUNITY.

The fundamentals of educational opportunity are the following:

(1) HIGHLY QUALIFIED TEACHERS, PRINCIPALS, AND ACADEMIC SUPPORT PERSONNEL.—

(A) HIGHLY QUALIFIED TEACHERS.—Instruction from highly qualified teachers in core academic subjects.

(B) HIGHLY QUALIFIED PRINCIPALS.—Leadership, management, and guidance from principals who meet State certification standards.

(C) HIGHLY QUALIFIED ACADEMIC SUPPORT PERSONNEL.—Necessary additional academic support in reading or language arts, mathematics, and other core academic subjects from personnel who meet applicable State standards.

(2) RIGOROUS ACADEMIC STANDARDS, CURRICULA, AND METHODS OF INSTRUCTION.—Rigorous academic standards, curricula, and methods of instruction, as measured by the extent to which each school district succeeds in providing high-quality academic standards, curricula, and methods of instruction to students in each public elementary school and secondary school within the district.

(3) SMALL CLASS SIZES.—Small class sizes, as measured by—

(A) the average class size and the range of class sizes; and

(B) the percentage of elementary school classes with 17 or fewer students.

(4) TEXTBOOKS, INSTRUCTIONAL MATERIALS, AND SUPPLIES.—Textbooks, instructional materials, and supplies, as measured by—

(A) the average age and quality of textbooks, instructional materials, and supplies used in core academic subjects; and

(B) the percentage of students who begin the school year with school-issued textbooks, instructional materials, and supplies.

(5) LIBRARY RESOURCES.—Library resources, as measured by—

(A) the size and qualifications of the library's staff, including whether the library is staffed by a full-time librarian certified under applicable State standards;

(B) the size (relative to the number of students) and quality (including age) of the library's collection of books and periodicals; and

(C) the library's hours of operation.

(6) SCHOOL FACILITIES AND COMPUTER TECHNOLOGY.—

(A) QUALITY SCHOOL FACILITIES.—Quality school facilities, as measured by—

(i) the physical condition of school buildings and major school building features;

(ii) environmental conditions in school buildings; and

(iii) the quality of instructional space.

(B) COMPUTER TECHNOLOGY.—Computer technology, as measured by—

(i) the ratio of computers to students;

(ii) the quality of computers and software available to students;

(iii) Internet access;

(iv) the quality of system maintenance and technical assistance for the computers; and

(v) the number of computer laboratory courses taught by qualified computer instructors.

(7) QUALITY GUIDANCE COUNSELING.—Qualified guidance counselors, as measured by the ratio of students to qualified guidance counselors who have been certified under an applicable State or national program.

TITLE II—STATE ACCOUNTABILITY

SEC. 201. STATE ACCOUNTABILITY PLAN.

(a) GENERAL PLAN.—

(1) CONTENTS.—Each State receiving Federal financial assistance for elementary and secondary education shall annually submit to the Secretary a plan, developed by the State educational agency, in consultation with local educational agencies, teachers, principals, pupil services personnel, administrators, other staff, and parents, that contains the following:

(A) A description of 2 levels of high access (adequate and ideal) to each of the fundamentals of educational opportunity described in section 102 that measure how well the State, through school districts, public elementary schools, and public secondary schools, is achieving the purposes of this Act by providing children with the resources they need to succeed academically and in life.

(B) A description of a third level of access (basic) to each of the fundamentals of educational opportunity described in section 102 that measures how well the State, through school districts, public elementary schools, and public secondary schools, is achieving the purposes of this Act by providing children with the resources they need to succeed academically and in life.

(C) A description of the level of access of each school district, public elementary school, and public secondary school in the State to each of the fundamentals of educational opportunity described in section 102, including identification of any such schools that lack high access (as described in subparagraph (A)) to any of the fundamentals.

(D) An estimate of the additional cost, if any, of ensuring that the system meets the requirements of section 101(a).

(E) Information stating the percentage of students in each school district, public elementary school, and public secondary school in the State that are proficient in mathematics, reading or language arts, and science, as measured through assessments administered as described in section 1111(b)(3)(C)(v) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(v)).

(F) Information stating whether each school district, public elementary school, and public secondary school in the State is making adequate yearly progress, as defined under section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)).

(G)(i) For each school district, public elementary school, and public secondary school in the State, information stating—

(I) the number and percentage of children counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); and

(II) the number and percentage of students described in section 1111(b)(3)(C)(xiii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(xiii)).

(ii) For each such school district, information stating whether the district is an urban, mixed, or rural district (as defined by the National Center for Education Statistics).

(2) LEVELS OF ACCESS.—For purposes of the plan submitted under paragraph (1)—

(A) in defining basic, adequate, and ideal levels of access to each of the fundamentals of educational opportunity, each State shall consider, in addition to the factors described in section 102, the access available to students in the highest-achieving decile of public elementary schools and secondary schools, the unique needs of low-income, urban and rural, and minority students, and other educationally appropriate factors; and

(B) the levels of access described in subparagraphs (A) and (B) of paragraph (1) shall be aligned with the challenging academic content standards, challenging student academic achievement standards, and high-quality academic assessments required under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(3) INFORMATION.—The State shall annually disseminate to parents, in an understandable and uniform format, the descriptions, estimate, and information described in paragraph (1).

(b) ACCOUNTABILITY AND REMEDIATION.—

(1) ACCOUNTABILITY.—If the Secretary determines under section 101(b) that a State maintains a public school system that fails to meet the requirements of section 101(a)(1), the plan submitted under subsection (a)(1) shall—

(A) demonstrate that the State has developed and is implementing a single, statewide State accountability system that will be effective in ensuring that the State makes adequate yearly progress under this Act (as defined by the State in a manner that annually reduces the number of public elementary schools and secondary schools in the State without high access (as described in subsection (a)(1)(A)) to each of fundamentals of educational opportunity described in section 102);

(B) demonstrate, based on the levels of access described in paragraph (1) what constitutes adequate yearly progress of the State under this Act toward providing all students with high access to the fundamentals of educational opportunity described in section 102; and

(C) ensure—

(i) the establishment of a timeline for that adequate yearly progress that includes interim yearly goals for the reduction of the number of public elementary schools and secondary schools in the State without high access to each of the fundamentals of educational opportunity described in section 102; and

(ii) that not later than 12 years after the end of the 2005–2006 school year, each public elementary school in the State shall have access to each of the fundamentals of educational opportunity described in section 102.

(2) REMEDIATION.—If the Secretary determines under section 101(b) that a State maintains a public school system that fails to meet the requirements of section 101(a)(2), not later than 1 year after the Secretary makes the determination, the State shall include in the plan submitted under subsection (a)(1) a strategy to remediate the conditions that caused the Secretary to make such determination, not later than the end of the second school year beginning after submission of the plan.

(c) AMENDMENTS.—A State may amend the plan submitted under subsection (a)(1) to improve the plan or to take into account significantly changed circumstances.

(d) DISAPPROVAL.—The Secretary may disapprove the plan submitted under subsection (a)(1) (or an amendment to such a plan) if the Secretary determines, after notice and opportunity for hearing, that the plan (or amendment) is inadequate to meet the requirements described in subsections (a) and (b).

(e) WAIVER.—

(1) IN GENERAL.—A State may request, and the Secretary may grant, a waiver of the requirements of subsections (a) and (b) for 1 year for exceptional circumstances, such as a precipitous decrease in State revenues, or another circumstance that the Secretary determines to be exceptional, that prevents a State from complying with the requirements of subsections (a) and (b).

(2) CONTENTS OF WAIVER REQUEST.—A State that requests a waiver under paragraph (1) shall include in the request—

(A) a description of the exceptional circumstance that prevents the State from complying with the requirements of subsections (a) and (b); and

(B) a plan that details the manner in which the State will comply with such requirements by the end of the waiver period.

SEC. 202. CONSEQUENCES OF FAILURE TO MEET REQUIREMENTS.

(a) INTERIM YEARLY GOALS.—

(1) IN GENERAL.—For a fiscal year and a State described in section 201(b)(1), the Secretary shall withhold from the State 2.75 percent of funds otherwise available to the State for the administration of Federal elementary and secondary education programs, for each covered goal that the Secretary determines the State is not meeting during that year.

(2) DEFINITION.—In this subsection, the term "covered goal", used with respect to a fiscal year, means an interim yearly goal described in section 201(b)(1)(C)(i) that is applicable to that year or a prior fiscal year.

(b) CONSEQUENCES OF NONREMEDIATION.—Notwithstanding any other provision of law, if the Secretary determines that a State required to include a strategy under section 201(b)(2) continues to maintain a public school system that does not meet the requirements of section 101(a)(2) at the end of the second school year described in section 201(b)(2), the Secretary shall withhold from the State not more than 33⅓ percent of funds otherwise available to the State for the administration of programs authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) until the Secretary determines that the State maintains a public school system that meets the requirements of section 101(a)(2).

(c) CONSEQUENCES OF NONCOMPLIANCE WITH COURT ORDERS.—If the Secretary determines under section 101(b) that a State maintains a public school system that fails to meet the requirements of section 101(a)(3), the Secretary shall withhold from the State not more than 33⅓ percent of funds otherwise available to the State for the administration of programs authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(d) DISPOSITION OF FUNDS WITHHELD.—

(1) DETERMINATION.—Not later than 1 year after the Secretary withholds funds from a State under this section, the Secretary shall determine whether the State has corrected the condition that led to the withholding.

(2) DISPOSITION.—

(A) CORRECTION.—If the Secretary determines under paragraph (1), that the State has corrected the condition that led to the withholding, the Secretary shall make the withheld funds available to the State to use for the original purpose of the funds during 1 or more fiscal years specified by the Secretary.

(B) NONCORRECTION.—If the Secretary determines under paragraph (1), that the State has not corrected the condition that led to the withholding, the Secretary shall allocate the withheld funds to public school districts, public elementary schools, or public secondary schools in the State that are most adversely affected by the condition that led to the withholding, to enable the districts or schools to correct the condition during 1 or more fiscal years specified by the Secretary.

(3) AVAILABILITY.—Amounts made available or allocated under subparagraph (A) or (B) of paragraph (2) shall remain available during the fiscal years specified by the Secretary under that subparagraph.

TITLE III—REPORT TO CONGRESS AND THE PUBLIC

SEC. 301. ANNUAL REPORT ON STATE PUBLIC SCHOOL SYSTEMS.

(a) ANNUAL REPORT TO CONGRESS.—Not later than October 1 of each year, beginning the year after completion of the first full school year after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes a full and complete analysis of the public school system of each State.

(b) CONTENTS OF REPORT.—The analysis conducted under subsection (a) shall include the following:

(1) PUBLIC SCHOOL SYSTEM INFORMATION.—The following information related to the public school system of each State:

(A) The number of school districts, public elementary schools, public secondary schools, and students in the system.

(B)(i) For each such school district and school—

(I) information stating the number and percentage of children counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); and

(II) the number and percentage of students, disaggregated by groups described in section 1111(b)(3)(C)(xiii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(xiii)).

(ii) For each such district, information stating whether the district is an urban, mixed, or rural district (as defined by the National Center for Education Statistics).

(C) The average per-pupil expenditure (both in actual dollars and adjusted for cost and need) for the State and for each school district in the State.

(D) Each school district's decile ranking as measured by achievement in mathematics, reading or language arts, and science on State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) and on the National Assessment of Educational Progress.

(E) For each school district, public elementary school, and public secondary school—

(i) the level of access (as described in section 201(a)(1)) to each of the fundamentals of educational opportunity described in section 102;

(ii) the percentage of students that are proficient in mathematics, reading or language arts, and science, as measured through assessments administered as described in section 1111(b)(3)(C)(v) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(v)); and

(iii) whether the school district or school is making adequate yearly progress—

(I) as defined under section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)); and

(II) as defined by the State under section 201(b)(1)(A).

(F) For each State, the number of public elementary schools and secondary schools that lack, and names of each such school that lacks, high access (as described in section 201(a)(1)(A)) to any of the fundamentals of educational opportunity described in section 102.

(G) For the year covered by the report, a summary of any changes in the data required in subparagraphs (A) through (F) for each of the preceding 3 years (which may be based on such data as are available, for the first 3 reports submitted under subsection (a)).

(H) Such other information as the Secretary considers useful and appropriate.

(2) STATE ACTIONS.—For each State that the Secretary determines under section 101(b) maintains a public school system that fails to meet the requirements of section 101(a), a detailed description and evaluation of the success of any actions taken by the State, and measures proposed to be taken by the State, to meet the requirements.

(3) STATE PLANS.—A copy of each State's most recent plan submitted under section 201(a)(1).

(4) RELATIONSHIP BETWEEN COMPLIANCE AND ACHIEVEMENT.—An analysis of the relationship between meeting the requirements of section 101(a) and improving student academic achievement, as measured on State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)).

(c) SCOPE OF REPORT.—The report required under subsection (a) shall cover the school year ending in the calendar year in which the report is required to be submitted.

(d) SUBMISSION OF DATA TO SECRETARY.—Each State receiving Federal financial assistance for elementary and secondary education shall submit to the Secretary, at such time and in such manner as the Secretary may reasonably require, such data as the Secretary determines to be necessary to make a determination under section 101(b) and to submit the report under this section. Such data shall include the information used to measure the State's success in providing the fundamentals of educational opportunity described in section 102.

(e) FAILURE TO SUBMIT DATA.—If a State fails to submit the data that the Secretary determines to be necessary to make a determination under section 101(b) regarding whether the State maintains a public school system that meets the requirements of section 101(a)—

(1) such State's public school system shall be deemed not to have met the applicable requirements until the State submits such data and the Secretary is able to make such determination under section 101(b); and

(2) the Secretary shall provide, to the extent practicable, the analysis required in subsection (a) for the State based on the best data available to the Secretary.

(f) PUBLICATION.—The Secretary shall publish and make available to the general public (including by means of the Internet) the report required under subsection (a).

TITLE IV—REMEDY

SEC. 401. CIVIL ACTION FOR ENFORCEMENT.

A student or parent of a student aggrieved by a violation of this Act may bring a civil action against the appropriate official in an appropriate Federal district court seeking declaratory or injunctive relief to enforce the requirements of this Act, together with reasonable attorney's fees and the costs of the action.

TITLE V—GENERAL PROVISIONS

SEC. 501. DEFINITIONS.

In this Act:

(1) REFERENCED TERMS.—The terms "elementary school", "secondary school", "local educational agency", "highly qualified", "core academic subjects", "parent", and "average per-pupil expenditure" have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) FEDERAL ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.—The term "Federal elementary and secondary education programs" means programs providing Federal financial assistance for elementary or secondary education, other than programs under the following provisions of law:

(A) The Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(B) Title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6801 et seq.).

(C) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(D) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(3) PUBLIC SCHOOL SYSTEM.—The term "public school system" means a State's system of public elementary and secondary education.

(4) STATE.—The term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 502. RULEMAKING.

The Secretary may prescribe regulations to carry out this Act.

SEC. 503. CONSTRUCTION.

Nothing in this Act shall be construed to require a jurisdiction to increase its property tax or other tax rates or to redistribute revenues from such taxes.

By Ms. CANTWELL (for herself, Mr. REID, Mr. DURBIN, Ms. MIKULSKI, Mr. DODD, Mr. MENENDEZ, Mr. CARPER, Mr. DAYTON, Mr. KERRY, Mr. REED, Mr. BINGAMAN, Mrs. FEINSTEIN, Mr. HARKIN, Mr. SALAZAR, Mr. SCHUMER, Mr. DORGAN, Mrs. CLINTON, Mr. LEAHY, Mr. JOHNSON, Mrs. BOXER, Mr. LIEBERMAN, Mr. BYRD, Ms. STABENOW, Mr. LEVIN, and Mr. BIDEN):

S. 2829. A bill to reduce the addiction of the United States to oil, to ensure near-term energy affordability and empower American families, to accelerate clean fuels and electricity, to provide government leadership for clean and secure energy, to secure a reliable, affordable, and sustainable energy future, and for other purposes; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I rise to introduce legislation that seeks to put America squarely on the path toward energy security for the 21st Century. Today, I am joined by a number of my colleagues in introducing the Clean Energy Development for a Growing Economy, or Clean EDGE, Act.

Mr. President, this legislation is a sweeping proposal that incorporates the ideas of many of my colleagues on this side of the aisle. It is our attempt to move America forward, on a pressing issue that—as we've said many times before—poses one of the greatest national security, economic and environmental challenges faced by our generation. I am talking about the issue of energy independence, and what it will take to put America on the right track.

The legislation we are presenting today is the result of a good deal of work within our caucus. As a member of the Senate Energy Committee, I speak from some experience when I say that developing a cohesive, national approach to energy policy is quite difficult. That is because, in so many instances, there are important issues of regional diversity that can divide us.

Instead of immediately succumbing to those divisions, what we did when we began to work on this legislation was to start with a goal. Like the Manhattan Project that established America as the world's first nuclear power, and the Apollo Project that ensured America won the race to the moon, we recognized that initiatives of this magnitude must begin with a goal. When America sets a goal, America will achieve it. It takes leadership and resolve, and it takes the shared commitment of individual citizens to make it a truly national effort. But make no mistake: the people of the United States will rise to the challenge.

Today, we can no longer ignore the enormous cost of America's dependence on foreign oil. It has become a crisis for consumers; it poses an imminent risk to our national security; and it jeopardizes our long-term economic competitiveness. That is why we believe that America must strive for an aggressive goal: to reduce our national petroleum consumption equivalent to 40 percent of our projected imports by 2020, or about 6 million barrels of oil a day.

Next, we set out to define agreed-upon principles about the best ways we could jumpstart our Nation's effort to achieve this goal. I am proud to say that we were able to achieve a good deal of consensus on these principles. Today, we sent the President a letter outlining them, which gained the signatures of 42 of my colleagues. These principles boil down to this:

The United States must launch an aggressive effort designed to ensure that an increasing number of new vehicles sold in America can run on alternative fuels—starting with 25 percent in 2010—and must launch a bold initiative to invest in the infrastructure needed to promote real competition at the gas pump.

The United States must ensure that consumers are protected from gasoline price-gouging and energy market manipulation.

The United States must lessen its reliance on fossil fuels and take steps to curb greenhouse gas emissions by diversifying electricity sources to include more renewable resources.

The United States Governmment—our Nation's single largest energy consumer—must help lead the transition by adopting the best available fuel efficiency and alternative vehicle technologies to reduce its petroleum consumption by 20 percent over the next 5 years, and by 40 percent by 2020.

The United States must level the playing field for new renewable and energy efficiency technologies by providing incentives for consumers and manufacturers to develop and deploy the next generation of fuel efficient vehicles, and by ensuring that major oil companies pay their fair share in taxes and royalties owed to the American public.

These are the principles that guided us as we crafted the Clean EDGE Act. This legislation is a starting point, as we try to advance the dialogue about what it will take to put America on the path toward energy independence.

There are provisions contained in this bill that we know can garner broad bipartisan support. There are others that may not have been possible to enact, before America started waking up to the costs of our energy independence. And there are other ideas that require broader debate and close scrutiny within the Senate Committees of jurisdiction. The Senate should work its will.

But once again, that is the point of this legislation: to start the process: to jump-start the debate, and outline a vision of where this country needs to go to secure our future.

As we have come together on this side of the aisle in recognition of the need to address the pressing issue of energy security, I know I speak for a number of my colleagues when I say I believe it is possible to come together in a bipartisan manner to pass energy legislation this summer. It is possible, if the Senate decides to put politics and partisan rancor aside. We can roll up our sleeves and get to work on crafting a real energy security plan that brings out the best in America. That process would also bring out the best in the Senate.

So I am proud to introduce this legislation today, and look forward to working with my colleagues across the aisle in further developing an energy independence plan for America.

FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

The bill (S. 2803), as introduced on Tuesday, May 16, 2006, is as follows:

S. 2803

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mine Improvement and New Emergency Response Act of 2006" or the "MINER Act".

SEC. 2. EMERGENCY RESPONSE.

Section 316 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 876) is amended—

(1) in the section heading by adding at the end the following: "AND EMERGENCY RESPONSE PLANS";

(2) by striking "Telephone" and inserting "(a) IN GENERAL.—Telephone"; and

(3) by adding at the end the following:

"(b) ACCIDENT PREPAREDNESS AND RESPONSE.—

"(1) IN GENERAL.—Each underground coal mine operator shall carry out on a continuing basis a program to improve accident preparedness and response at each mine.

"(2) RESPONSE AND PREPAREDNESS PLAN.—

"(A) IN GENERAL.—Not later than 60 days after the date of enactment of the Mine Improvement and New Emergency Response Act of 2006, each underground coal mine operator shall develop and adopt a written accident response plan that complies with this subsection with respect to each mine of the operator, and periodically update such plans to reflect changes in operations in the mine, advances in technology, or other relevant considerations. Each such operator shall make the accident response plan available to the miners and the miners' representatives.

"(B) PLAN REQUIREMENTS.—An accident response plan under subparagraph (A) shall—

"(i) provide for the evacuation of all individuals endangered by an emergency; and

"(ii) provide for the maintenance of individuals trapped underground in the event that miners are not able to evacuate the mine.

"(C) PLAN APPROVAL.—The accident response plan under subparagraph (A) shall be subject to review and approval by the Secretary. In determining whether to approve a particular plan the Secretary shall take into consideration all comments submitted by miners or their representatives. Approved plans shall—

"(i) afford miners a level of safety protection at least consistent with the existing standards, including standards mandated by law and regulation;

"(ii) reflect the most recent credible scientific research;

"(iii) be technologically feasible, make use of current commercially available technology, and account for the specific physical characteristics of the mine; and

"(iv) reflect the improvements in mine safety gained from experience under this Act and other worker safety and health laws.

"(D) PLAN REVIEW.—The accident response plan under subparagraph (A) shall be reviewed periodically, but at least every 6 months, by the Secretary. In such periodic reviews, the Secretary shall consider all comments submitted by miners and miners' representatives and intervening advancements in science and technology that could be implemented to enhance miners' ability to evacuate or otherwise survive in an emergency.

"(E) PLAN CONTENT-GENERAL REQUIREMENTS.—To be approved under subparagraph (C), an accident response plan shall include the following:

"(i) POST-ACCIDENT COMMUNICATIONS.—The plan shall provide for a redundant means of communication with the surface for persons underground, such as secondary telephone or equivalent two-way communication.

"(ii) POST-ACCIDENT TRACKING.—Consistent with commercially available technology and with the physical constraints, if any, of the mine, the plan shall provide for above ground personnel to determine the current, or immediately pre-accident, location of all underground personnel. Any system so utilized shall be functional, reliable, and calculated to remain serviceable in a post-accident setting.

"(iii) POST-ACCIDENT BREATHABLE AIR.—The plan shall provide for—

"(I) emergency supplies of breathable air for individuals trapped underground sufficient to maintain such individuals for a sustained period of time;

"(II) caches of self-rescuers providing in the aggregate not less than 2 hours for each miner to be kept in escapeways from the deepest work area to the surface at a distance of no further than an average miner could walk in 30 minutes;

"(III) a maintenance schedule for checking the reliability of self rescuers, retiring older self-rescuers first, and introducing new self-rescuer technology, such as units with interchangeable air or oxygen cylinders not requiring doffing to replenish airflow and units with supplies of greater than 60 minutes, as they are approved by the Administration and become available on the market; and

"(IV) training for each miner in proper procedures for donning self-rescuers, switching from one unit to another, and ensuring a proper fit.

"(iv) POST-ACCIDENT LIFELINES.—The plan shall provide for the use of flame-resistant directional lifelines or equivalent systems in escapeways to enable evacuation. The flame-resistance requirement of this clause shall apply upon the replacement of existing lifelines, or, in the case of lifelines in working sections, upon the earlier of the replacement of such lifelines or 3 years after the date of enactment of the Mine Improvement and New Emergency Response Act of 2006.

"(v) TRAINING.—The plan shall provide a training program for emergency procedures described in the plan which will not diminish the requirements for mandatory health and safety training currently required under section 115.

“(vi) LOCAL COORDINATION.—The plan shall set out procedures for coordination and communication between the operator, mine rescue teams, and local emergency response personnel and make provisions for familiarizing local rescue personnel with surface functions that may be required in the course of mine rescue work.

“(F) PLAN CONTENT-SPECIFIC REQUIREMENTS.—

“(i) IN GENERAL.—In addition to the content requirements contained in subparagraph (E), and subject to the considerations contained in subparagraph (C), the Secretary may make additional plan requirements with respect to any of the content matters.

“(ii) POST ACCIDENT COMMUNICATIONS.—Not later than 3 years after the date of enactment of the Mine Improvement and New Emergency Response Act of 2006, a plan shall, to be approved, provide for post accident communication between underground and surface personnel via a wireless two-way medium, and provide for an electronic tracking system permitting surface personnel to determine the location of any persons trapped underground or set forth within the plan the reasons such provisions can not be adopted. Where such plan sets forth the reasons such provisions can not be adopted, the plan shall also set forth the operator's alternative means of compliance. Such alternative shall approximate, as closely as possible, the degree of functional utility and safety protection provided by the wireless two-way medium and tracking system referred to in this subpart.

“(G) PLAN DISPUTE RESOLUTION.—

“(i) IN GENERAL.—Any dispute between the Secretary and an operator with respect to the content of the operator's plan or any refusal by the Secretary to approve such a plan shall be resolved on an expedited basis.

“(ii) DISPUTES.—In the event of a dispute or refusal described in clause (i), the Secretary shall issue a technical citation which shall be immediately referred to a Department of Labor Administrative Law Judge. The Secretary and the operator shall submit all relevant material regarding the dispute to the Administrative Law Judge within 15 days of the date of the referral. The Administrative Law Judge shall render his or her decision with respect to the plan content dispute within 15 days of the receipt of the submission.

“(iii) FURTHER APPEALS.—A party adversely affected by a decision under clause (ii) may pursue all further available appeal rights with respect to the citation involved, except that inclusion of the disputed provision in the plan will not be limited by such appeal unless such relief is requested by the operator and permitted by the Administrative Law Judge.

“(iv) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to modify the authority of the Secretary to issue citations or orders as provided for in this Act.

“(H) MAINTAINING PROTECTIONS FOR MINERS.—Notwithstanding any other provision of this Act, nothing in this section, and no response and preparedness plan developed under this section, shall be approved if it reduces the protection afforded miners by an existing mandatory health or safety standard.”.

SEC. 3. INCIDENT COMMAND AND CONTROL.

Title I of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 811 et seq.) is amended by adding at the end the following:

“SEC. 116. LIMITATION ON CERTAIN LIABILITY FOR RESCUE OPERATIONS.

“(a) IN GENERAL.—No person shall bring an action against any covered individual or his or her regular employer for property damage or an injury (or death) sustained as a result of carrying out activities relating to mine accident rescue or recovery operations. This subsection shall not apply where the action that is alleged to result in the property damages or injury (or death) was the result of gross negligence, reckless conduct, or illegal conduct or, where the regular employer (as such term is used in this Act) is the operator of the mine at which the rescue activity takes place. Nothing in this section shall be construed to preempt State workers' compensation laws

“(b) COVERED INDIVIDUAL.—For purposes of subsection (a), the term ‘covered individual’ means an individual—

“(1) who is a member of a mine rescue team or who is otherwise a volunteer with respect to a mine accident; and

“(2) who is carrying out activities relating to mine accident rescue or recovery operations.

“(c) REGULAR EMPLOYER.—For purposes of subsection (a), the term ‘regular employer’ means the entity that is the covered employee's legal or statutory employer pursuant to applicable State law.”.

SEC. 4. MINE RESCUE TEAMS.

Section 115(e) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 825(e)) is amended—

(1) by inserting “(1)” after the subsection designation; and

(2) by adding at the end the following:

“(1)(A) The Secretary shall issue regulations with regard to mine rescue teams which shall be finalized and in effect not later than 18 months after the date of enactment of the Mine Improvement and New Emergency Response Act of 2006.

“(B) Such regulations shall provide for the following:

“(i) That such regulations shall not be construed to waive operator training requirements applicable to existing mine rescue teams.

“(ii) That the Mine Safety and Health Administration shall establish, and update every 5 years thereafter, criteria to certify the qualifications of mine rescue teams.

“(iii)(I) That the operator of each underground coal mine with more than 36 employees—

“(aa) have an employee knowledgeable in mine emergency response who is employed at the mine on each shift at each underground mine; and

“(bb) make available two certified mine rescue teams whose members—

“(AA) are familiar with the operations of such coal mine;

“(BB) participate at least annually in two local mine rescue contests;

“(CC) participate at least annually in mine rescue training at the underground coal mine covered by the mine rescue team; and

“(DD) are available at the mine within one hour ground travel time from the mine rescue station.

“(II)(aa) For the purpose of complying with subclause (I), an operator shall employ one team that is either an individual mine site mine rescue team or a composite team as provided for in item (bb).

“(bb) The following options may be used by an operator to comply with the requirements of item (aa):

“(AA) An individual mine-site mine rescue team.

“(BB) A multi-employer composite team that is made up of team members who are knowledgeable about the operations and ventilation of the covered mines and who train on a semi-annual basis at the covered underground coal mine—

“(aaa) which provides coverage for multiple operators that have team members which include at least two active employees from each of the covered mines;

“(bbb) which provides coverage for multiple mines owned by the same operator which members include at least two active employees from each mine; or

“(ccc) which is a State-sponsored mine rescue team comprised of at least two active employees from each of the covered mines.

“(CC) A commercial mine rescue team provided by contract through a third-party vendor or mine rescue team provided by another coal company, if such team—

“(aaa) trains on a quarterly basis at covered underground coal mines;

“(bbb) is knowledgeable about the operations and ventilation of the covered mines; and

“(ccc) is comprised of individuals with a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team.

“(DD) A State-sponsored team made up of State employees.

“(iv) That the operator of each underground coal mine with 36 or less employees shall—

“(I) have an employee on each shift who is knowledgeable in mine emergency responses; and

“(II) make available two certified mine rescue teams whose members—

“(aa) are familiar with the operations of such coal mine;

“(bb) participate at least annually in two local mine rescue contests;

“(cc) participate at least semi-annually in mine rescue training at the underground coal mine covered by the mine rescue team;

“(dd) are available at the mine within one hour ground travel time from the mine rescue station;

“(ee) are knowledgeable about the operations and ventilation of the covered mines; and

“(ff) are comprised of individuals with a minimum of 3 years underground coal mine experience that shall have occurred within the 10-year period preceding their employment on the contract mine rescue team.”.

SEC. 5. PROMPT INCIDENT NOTIFICATION.

(a) IN GENERAL.—Section 103(j) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 813(j)) is amended by inserting after the first sentence the following: “For purposes of the preceding sentence, the notification required shall be provided by the operator within 15 minutes of the time at which the operator realizes that the death of an individual at the mine, or an injury or entrapment of an individual at the mine which has a reasonable potential to cause death, has occurred.”.

(b) PENALTY.—Section 110(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820(a)) is amended—

(1) by striking “The operator” and inserting “(1) The operator”; and

(2) by adding at the end the following:

“(2) The operator of a coal or other mine who fails to provide timely notification to the Secretary as required under section 103(j) (relating to the 15 minute requirement) shall be assessed a civil penalty by the Secretary of not less than $5,000 and not more than $60,000.”.

SEC. 6. NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.

(a) GRANTS.—Section 22 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 671) is amended by adding at the end the following:

"(h) OFFICE OF MINE SAFETY AND HEALTH.—

"(1) IN GENERAL.—There shall be permanently established within the Institute an Office of Mine Safety and Health which shall be administered by an Associate Director to be appointed by the Director.

"(2) PURPOSE.—The purpose of the Office is to enhance the development of new mine safety technology and technological applications and to expedite the commercial availability and implementation of such technology in mining environments.

"(3) FUNCTIONS.—In addition to all purposes and authorities provided for under this section, the Office of Mine Safety and Health shall be responsible for research, development, and testing of new technologies and equipment designed to enhance mine safety and health. To carry out such functions the Director of the Institute, acting through the Office, shall have the authority to—

"(A) award competitive grants to institutions and private entities to encourage the development and manufacture of mine safety equipment;

"(B) award contracts to educational institutions or private laboratories for the performance of product testing or related work with respect to new mine technology and equipment; and

"(C) establish an interagency working group as provided for in paragraph (5).

"(4) GRANT AUTHORITY.—To be eligible to receive a grant under the authority provided for under paragraph (3)(A), an entity or institution shall—

"(A) submit to the Director of the Institute an application at such time, in such manner, and containing such information as the Director may require; and

"(B) include in the application under subparagraph (A), a description of the mine safety equipment to be developed and manufactured under the grant and a description of the reasons that such equipment would otherwise not be developed or manufactured, including reasons relating to the limited potential commercial market for such equipment.

"(5) INTERAGENCY WORKING GROUP.—

"(A) ESTABLISHMENT.—The Director of the Institute, in carrying out paragraph (3)(D) shall establish an interagency working group to share technology and technological research and developments that could be utilized to enhance mine safety and accident response.

"(B) MEMBERSHIP.—The working group under subparagraph (A) shall be chaired by the Associate Director of the Office who shall appoint the members of the working group, which may include representatives of other Federal agencies or departments as determined appropriate by the Associate Director.

"(C) DUTIES.—The working group under subparagraph (A) shall conduct an evaluation of research conducted by, and the technological developments of, agencies and departments who are represented on the working group that may have applicability to mine safety and accident response and make recommendations to the Director for the further development and eventual implementation of such technology.

"(6) ANNUAL REPORT.—Not later than 1 year after the establishment of the Office under this subsection, and annually thereafter, the Director of the Institute shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives a report that, with respect to the year involved, described the new mine safety technologies and equipment that have been studied, tested, and certified for use, and with respect to those instances of technologies and equipment that have been considered but not yet certified for use, there reasons therefore.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, such sums as may be necessary to enable the Institute and the Office of Mine Safety and Health to carry out this subsection.".

SEC. 7. REQUIREMENT CONCERNING FAMILY LIAISONS.

The Secretary of Labor shall establish a policy that—

(1) requires the temporary assignment of an individual Department of Labor official to be a liaison between the Department and the families of victims of mine tragedies involving multiple deaths;

(2) requires the Mine Safety and Health Administration to be as responsive as possible to requests from the families of mine accident victims for information relating to mine accidents; and

(3) requires that in such accidents, that the Mine Safety and Health Administration shall serve as the primary communicator with the operator, miners' families, the press and the public.

SEC. 8. PENALTIES.

(a) IN GENERAL.—Section 110 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end the following:

"(2) Any operator who willfully violates a mandatory health or safety standard, or knowingly violates or fails or refuses to comply with any order issued under section 104 and section 107, or any order incorporated in a final decision issued under this title, except an order incorporated in a decision under paragraph (1) or section 105(c), shall, upon conviction, be punished by a fine of not more than $250,000, or by imprisonment for not more than one year, or by both, except that if the conviction is for a violation committed after the first conviction of such operator under this Act, punishment shall be by a fine of not more than $500,000, or by imprisonment for not more than five years, or both.

"(3)(A) The minimum penalty for any citation issued under section 104(d)(1) shall be $2,000.

"(B) The minimum penalty for a failure or refusal to comply with any order issued under section 104(d)(2) shall be $4,000.

"(4) Nothing in this subsection shall be construed to prevent an operator from obtaining a review, in accordance with section 106, of an order imposing a penalty described in this subsection. If a court, in making such review, sustains the order, the court shall apply the minimum penalties required under this subsection."; and

(2) by adding at the end of subsection (b) the following: "Violations under this section that are deemed to be flagrant may be assessed a civil penalty of not more than $220,000. For purposes of the preceding sentence, the term 'flagrant' with respect to a violation means a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory health or safety standard that substantially and proximately caused, or reasonably could have been expected to cause, death or serious bodily injury.".

(b) REGULATIONS.—Not later than December 31, 2006, the Secretary of Labor shall promulgate final regulations with respect to the penalties provided for under the amendments made by this section.

SEC. 9. FINE COLLECTIONS.

Section 108(a)(1)(A) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 818(a)(1)(A)) is amended by inserting before the comma, the following: ", or fails or refuses to comply with any order or decision, including a civil penalty assessment order, that is issued under this Act".

SEC. 10. SEALING OF ABANDONED AREAS.

Not later than 18 months after the issuance by the Mine Safety and Health Administration of a final report on the Sago Mine accident or the date of enactment of the Mine Improvement and New Emergency Response Act of 2006, whichever occurs earlier, the Secretary of Labor shall finalize mandatory heath and safety standards relating to the sealing of abandoned areas in underground coal mines. Such health and safety standards shall provide for an increase in the 20 psi standard currently set forth in section 75.335(a)(2) of title 30, Code of Federal Regulations.

SEC. 11. TECHNICAL STUDY PANEL.

Title V of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951 et seq.) is amended by adding at the end the following:

"SEC. 514. TECHNICAL STUDY PANEL.

"(a) ESTABLISHMENT.—There is established a Technical Study Panel (referred to in this section as the 'Panel') which shall provide independent scientific and engineering review and recommendations with respect to the utilization of belt air and the composition and fire retardant properties of belt materials in underground coal mining.

"(b) MEMBERSHIP.—The Panel shall be composed of—

"(1) two individuals to be appointed by the Secretary of Health and Human Services, in consultation with the Director of the National Institute for Occupational Safety and Health and the Associate Director of the Office of Mine Safety;

"(2) two individuals to be appointed by the Secretary of Labor, in consultation with the Assistant Secretary for Mine Safety and Health; and

"(3) two individuals, one to be appointed jointly by the majority leaders of the Senate and House of Representatives and one to be appointed jointly by the minority leader of the Senate and House of Representatives, each to be appointed prior to the sine die adjournment of the second session of the 109th Congress.

"(c) QUALIFICATIONS.—Four of the six individuals appointed to the Panel under subsection (b) shall possess a masters or doctoral level degree in mining engineering or another scientific field demonstrably related to the subject of the report. No individual appointed to the Panel shall be an employee of any coal or other mine, or of any labor organization, or of any State or Federal agency primarily responsible for regulating the mining industry.

"(d) REPORT.—

"(1) IN GENERAL.—Not later than 1 year after the date on which all members of the Panel are appointed under subsection (b), the Panel shall prepare and submit to the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives a report concerning the utilization of belt air and the composition and fire retardant properties of belt materials in underground coal mining.

“(2) Response by Secretary.—Not later than 180 days after the receipt of the report under paragraph (1), the Secretary of Labor shall provide a response to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives containing a description of the actions, if any, that the Secretary intends to take based upon the report, including proposing regulatory changes, and the reasons for such actions.

“(e) Compensation.—Members appointed to the panel, while carrying out the duties of the Panel shall be entitled to receive compensation, per diem in lieu of subsistence, and travel expenses in the same manner and under the same conditions as that prescribed under section 208(c) of the Public Health Service Act.”.

SEC. 12. SCHOLARSHIPS.

Title V of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951 et seq.), as amended by section 12, is further amended by adding at the end the following:

“SEC. 515. SCHOLARSHIPS.

“(a) Establishment.—The Secretary of Education (referred to in this section as the ‘Secretary’), in consultation with the Secretary of Labor and the Secretary of Health and Human Services, shall establish a program to provide scholarships to eligible individuals to increase the skilled workforce for both private sector coal mine operators and mine safety inspectors and other regulatory personnel for the Mine Safety and Health Administration.

“(b) Fundamental Skills Scholarships.—

“(1) In general.—Under the program under subsection (a), the Secretary may award scholarship to fully or partially pay the tuition costs of eligible individuals enrolled in 2-year associate's degree programs at community colleges or other colleges and universities that focus on providing the fundamental skills and training that is of immediate use to a beginning coal miner.

“(2) Skills.—The skills described in paragraph (1) shall include basic math, basic health and safety, business principles, management and supervisory skills, skills related to electric circuitry, skills related to heavy equipment operations, and skills related to communications.

“(3) Eligibility.—To be eligible to receive a scholarship under this subsection an individual shall—

“(A) have a high school diploma or a GED;

“(B) have at least 2 years experience in full-time employment in mining or mining-related activities;

“(C) submit to the Secretary an application at such time, in such manner, and containing such information; and

“(D) demonstrate an interest in working in the field of mining and performing an internship with the Mine Safety and Health Administration or the National Institute for Occupational Safety and Health Office of Mine Safety.

“(c) Mine Safety Inspector Scholarships.—

“(1) In general.—Under the program under subsection (a), the Secretary may award scholarship to fully or partially pay the tuition costs of eligible individuals enrolled in undergraduate bachelor's degree programs at accredited colleges or universities that provide the skills needed to become mine safety inspectors.

“(2) Skills.—The skills described in paragraph (1) include skills developed through programs leading to a degree in mining engineering, civil engineering, mechanical engineering, electrical engineering, industrial engineering, environmental engineering, industrial hygiene, occupational health and safety, geology, chemistry, or other fields of study related to mine safety and health work.

“(3) Eligibility.—To be eligible to receive a scholarship under this subsection an individual shall—

“(A) have a high school diploma or a GED:

“(B) have at least 5 years experience in full-time employment in mining or mining-related activities;

“(C) submit to the Secretary an application at such time, in such manner, and containing such information; and

“(D) agree to be employed for a period of at least 5 years at the Mine Safety and Health Administration or, to repay, on a pro-rated basis, the funds received under this program, plus interest, at a rate established by the Secretary upon the issuance of the scholarship.

“(d) Advanced Research Scholarships.—

“(1) In general.—Under the program under subsection (a), the Secretary may award scholarships to fully or partially pay the tuition costs of eligible individuals enrolled in undergraduate bachelor's degree, masters degree, and Ph.D. degree programs at accredited colleges or universities that provide the skills needed to augment and advance research in mine safety and to broaden, improve, and expand the universe of candidates for mine safety inspector and other regulatory positions in the Mine Safety and Health Administration.

“(2) Skills.—The skills described in paragraph (1) include skills developed through programs leading to a degree is mining engineering, civil engineering, mechanical engineering, electrical engineering, industrial engineering, environmental engineering, industrial hygiene, occupational health and safety, geology, chemistry, or other fields of study related to mine safety and health work.

“(3) Eligibility.—To be eligible to receive a scholarship under this subsection an individual shall—

“(A) have a bachelor's degree or equivalent from an accredited 4-year institution;

“(B) have at least 5 years experience in full-time employment in underground mining or mining-related activities: and

“(C) submit to the Secretary an application at such time, in such manner, and containing such information.

“(e) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.”.

SEC. 13. RESEARCH CONCERNING REFUGE ALTERNATIVES.

(a) In General.—The National Institute of Occupational Safety and Health shall provide for the conduct of research, including field tests, concerning the utility, practicality, survivability, and cost of various refuge alternatives in an underground coal mine environment, including commercially-available portable refuge chambers.

(b) Report.—

(1) In general.—Not later than 18 months after the date of enactment of this Act, the National Institute for Occupational Safety and Health shall prepare and submit to the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives a report concerning the results of the research conducted under subsection (a), including any field tests.

(2) Response by secretary.—Not later than 180 days after the receipt of the report under paragraph (1), the Secretary of Labor shall provide a response to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives containing a description of the actions, if any, that the Secretary intends to take based upon the report, including proposing regulatory changes, and the reasons for such actions.

SEC. 14. SAGO MINE SAFETY GRANTS.

(a) In General.—The Secretary of Labor shall establish a program to award competitive grants for education and training to carry out the purposes of this section.

(b) Purposes.—It is the purpose of this section, to provide for the funding of education and training programs to better identify, avoid, and prevent unsafe working conditions in and around mines.

(c) Eligibility.—To be eligible to receive a grant under this section, an entity shall—

(1) be a public or private nonprofit entity; and

(2) submit to the Secretary of Labor an application at such time, in such manner, and containing such information as the Secretary may require.

(d) Use of Funds.—Amounts received under a grant under this section shall be used to establish and implement education and training programs, or to develop training materials for employers and miners, concerning safety and health topics in mines, as determined appropriate by the Mine Safety and Health Administration.

(e) Awarding of Grants.—

(1) Annual basis.—Grants under this section shall be awarded on an annual basis.

(2) Special emphasis.—In awarding grants under this section, the Secretary of Labor shall give special emphasis to programs and materials that target workers in smaller mines, including training miners and employers about new Mine Safety and Health Administration standards, high risk activities, or hazards identified by such Administration.

(3) Priority.—In awarding grants under this section, the Secretary of Labor shall give priority to the funding of pilot and demonstration projects that the Secretary determines will provide opportunities for broad applicability for mine safety.

(f) Evaluation.—The Secretary of Labor shall use not less than 1 percent of the funds made available to carry out this section in a fiscal year to conduct evaluations of the projects funded under grants under this section.

(g) Authorization of Appropriations.—There are authorized to be appropriated for each fiscal year, such sums as may be necessary to carry out this section.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 482—SUPPORTING THE GOALS OF AN ANNUAL NATIONAL TIME-OUT DAY TO PROMOTE PATIENT SAFETY AND OPTIMAL OUTCOMES IN THE OPERATING ROOM

Ms. LANDRIEU submitted the following resolution: which was referred to the Committee on Health, Education, Labor, and Pensions:

S. Res. 482

Whereas according to an Institute of Medicine (referred to in this resolution as the "IOM") report entitled "To Err is Human: Building a Safer Health System", published in 2000, between 44,000 and 98,000 hospitalized people in the United States die each year due to medical errors, and untold thousands more suffer injury or illness as a result of preventable errors;

Whereas the IOM report recommends the establishment of a national goal of reducing the number of medical errors by 50 percent over 5 years;

Whereas there are more than 40,000,000 inpatient surgery procedures and 31,000,000 outpatient surgery procedures performed annually in the United States;

Whereas it is the right of every patient to receive the highest quality of care in all surgical settings;

Whereas a patient is the most vulnerable and unable to make decisions on their own behalf during a surgical or invasive procedure due to anesthesia or other sedation;

Whereas improved communication among the surgical team and a reduction in medical errors in the operating room are essential for optimal outcomes during operative or other invasive procedures;

Whereas the Association of periOperative Registered Nurses, the Joint Commission on Accreditation of Healthcare Organizations, the American College of Surgeons, and the American Society for Healthcare Risk Management celebrated a National Time-Out Day on June 23, 2004, to promote the adoption of the Joint Commission on Accreditation of Healthcare Organizations' universal protocol for preventing wrong site surgery errors in operating rooms in the United States;

Whereas the Senate during the 109th Congress supported a National Time-Out Day in 2005 on behalf of the Association of periOperative Registered Nurses, the Joint Commission on Accreditation of Healthcare Organizations, the American College of Surgeons, and the American Society for Healthcare Risk Management to promote the adoption of the Joint Commission on Accreditation of Healthcare Organizations' universal protocol for preventing errors in the operating room;

Whereas the Association of periOperative Registered Nurses, joined by coalition partners, celebrated a National Time-Out Day on June 22, 2005, for the purpose of promoting safe medication administration practices and the Association of periOperative Registered Nurses distributed "Safe Medication Administration Tool Kits" to more than 5,000 hospitals and 13,000 nurse managers or educators;

Whereas the 109th Congress passed the Patient Safety and Quality Improvement Act of 2005 to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety;

Whereas the Association of periOperative Registered Nurses develops and issues, with coalition partners, universally-accepted authoritative statements, recommended guidelines, best practice guidelines, and competency statements for how to provide optimal care for patients in the operating room;

Whereas there is nationally-focused attention on improving patient safety in all healthcare facilities through the reduction of medical errors;

Whereas the Association of periOperative Registered Nurses, the recognized leader in patient safety in the operating room, promotes the highest quality of patient care during all operative or invasive procedures; and

Whereas the Association of periOperative Registered Nurses designates and celebrates National Time-Out Day on June 21, 2006, and each third Wednesday of June thereafter to promote patient safety and optimal outcomes in the operating room by focusing on the reduction of medical errors, fostering better communication among the members of the surgical team, and collaborating with coalition partners to establish universal protocols to increase quality and safety for surgical patients: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideal of an annual National Time-Out Day as designated by the Association of periOperative Registered Nurses for ensuring patient safety and optimal outcomes in the operating room; and

(2) congratulates perioperative nurses and representatives of surgical teams for working together to protect patient safety during all operative and other invasive procedures.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4037. Mr. LEVIN (for himself, Ms. Stabenow, and Mr. Kennedy) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table.

SA 4038. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4039. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4040. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4041. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4042. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4043. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4044. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4045. Mr. GRASSLEY (for himself, Mr. Harkin, Mr. Reid, Mr. Isakson, and Mr. Chambliss) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4046. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4047. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4048. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4049. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4050. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4051. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4052. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4053. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4054. Mr. GREGG (for himself and Ms. Cantwell) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4055. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4056. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4057. Mr. THOMAS (for himself, Mr. Kyl, Mr. Salazar, Mr. Bingaman, and Mr. Cornyn) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4058. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4059. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4060. Mr. LIEBERMAN (for himself and Mr. Brownback) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4061. Mr. LIEBERMAN (for himself and Ms. Collins) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4062. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4063. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4064. Mr. INHOFE (for himself, Mr. Byrd, Mr. Bunning, Mr. Burns, Mr. Chambliss, Mr. Coburn, Mr. Enzi, Mr. Sessions, and Mr. Graham) proposed an amendment to the bill S. 2611, supra.

SA 4065. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4037. Mr. LEVIN (for himself, Ms. Stabenow, and Mr. Kennedy) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 63, strike lines 14 through 16 and insert the following:

(a) DENIAL OR TERMINATION OF ASYLUM.—Section 208 (8 U.S.C. 1158) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(A)(v), by striking "or (VI)" and inserting "(V), (VI), (VII), or (VIII)"; and

(B) by adding at the end the following:

"(4) CHANGED COUNTRY CONDITIONS.—An alien seeking asylum based on persecution or a well-founded fear of persecution shall not be denied asylum based on changed country conditions unless fundamental and lasting changes have stabilized the country of the alien's nationality.";

(2) in subsection (c)(2)(A), by striking "a fundamental change in circumstances" and inserting "fundamental and lasting changes that have stabilized the country of the alien's nationality"; and

(3) in subsection (d)(5), by adding at the end the following:

"(C) MOTION TO REOPEN.—If an application for asylum filed before the effective date of this subparagraph is denied based on changed country conditions, the alien who filed such an application may file a single motion to reopen the administrative adjudication of the asylum application. Subsection (b)(4) shall apply to any adjudication reopened under this subparagraph.".

SA 4038. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 264, strike lines 13 through 20.

On page 370, line 21, strike "this subsection" and insert "paragraphs (2) and (3)".

On page 371, between lines 14 and 15, insert the following:

"(5) STATE IMPACT ASSISTANCE FEE.—

"(A) IN GENERAL.—In addition to any other amounts required to be paid under this subsection, an alien shall submit, at the time the alien files an application under this section, a State impact assistance fee equal to—

"(i) $750 for the principal alien; and

"(ii) $100 for the spouse and each child described in subsection (a)(2).

"(B) USE OF FEE.—The fees collected under subparagraph (A) shall be deposited in the State Impact Assistance Account established under section 286(x).

On page 389, between lines 6 and 7, insert the following:

"(3) STATE IMPACT ASSISTANCE FEE.—

"(A) IN GENERAL.—In addition to any other amounts required to be paid under this subsection, an alien seeking Deferred Mandatory Departure status shall submit, at the time the alien files an application under this section, a State impact assistance fee equal to $750.

"(B) USE OF FEE.—The fees collected under subparagraph (A) shall be deposited in the State Impact Assistance Account established under section 286(x).

On page 389, between lines 21 and 22, insert the following:

"(3) STATE IMPACT ASSISTANCE FEE.—

"(A) IN GENERAL.—In addition to any other amounts required to be paid under this subsection, the spouse and each child of an alien seeking Deferred Mandatory Departure status shall submit a State impact assistance fee equal to $100.

"(B) USE OF FEE.—The fees collected under subparagraph (A) shall be deposited in the State Impact Assistance Account established under section 286(x).

On page 395, after line 23, add the following:

(e) STATE IMPACT ASSISTANCE ACCOUNT.—Section 286 (8 U.S.C. 1356) is amended by inserting after subsection (w) the following:

"(x) STATE IMPACT ASSISTANCE ACCOUNT.—

"(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'State Impact Assistance Account'.

"(2) SOURCE OF FUNDS.—Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the State Impact Assistance Account all State impact assistance fees collected under section 245B(m)(5) and subsections (j)(3) and (k)(3) of section 245C.

"(3) USE OF FUNDS.—Amounts deposited into the State Impact Assistance Account may only be used to carry out the State Impact Assistance Grant Program established under paragraph (4).

"(4) STATE IMPACT ASSISTANCE GRANT PROGRAM.—

"(A) ESTABLISHMENT.—The Secretary of Health and Human Services, in consultation with the Secretary of Education, shall establish the State Impact Assistance Grant Program (referred to in this section as the 'Program'), under which the Secretary may award grants to States to provide health and education services to noncitizens in accordance with this paragraph.

"(B) STATE ALLOCATIONS.—The Secretary of Health and Human Services shall annually allocate the amounts available in the State Impact Assistance Account among the States as follows:

"(i) NONCITIZEN POPULATION.—Eighty percent of such amounts shall be allocated so that each State receives the greater of—

"(I) $5,000,000; or

"(II) after adjusting for allocations under subclause (I), the percentage of the amount to be distributed under this clause that is equal to the noncitizen resident population of the State divided by the noncitizen resident population of all States, based on the most recent data available from the Bureau of the Census.

"(ii) HIGH GROWTH RATES.—Twenty percent of such amounts shall be allocated among the 20 States with the largest growth rates in noncitizen resident population, as determined by the Secretary of Health and Human Services, so that each such State receives the percentage of the amount distributed under this clause that is equal to—

"(I) the growth rate in the noncitizen resident population of the State during the most recent 3-year period for which data is available from the Bureau of the Census; divided by

"(II) the average growth rate in noncitizen resident population for the 20 States during such 3-year period.

"(iii) LEGISLATIVE APPROPRIATIONS.—The use of grant funds allocated to States under this paragraph shall be subject to appropriation by the legislature of each State in accordance with the terms and conditions under this paragraph.

"(C) FUNDING FOR LOCAL GOVERNMENT.—

"(i) DISTRIBUTION CRITERIA.—Grant funds received by States under this paragraph shall be distributed to units of local government based on need and function.

"(ii) MINIMUM DISTRIBUTION.—Except as provided in clause (iii), a State shall distribute not less than 30 percent of the grant funds received under this paragraph to units of local government not later than 180 days after receiving such funds.

"(iii) EXCEPTION.—If an eligible unit of local government that is available to carry out the activities described in subparagraph (D) cannot be found in a State, the State does not need to comply with clause (ii).

"(iv) UNEXPENDED FUNDS.—Any grant funds distributed by a State to a unit of local government that remain unexpended as of the end of the grant period shall revert to the State for redistribution to another unit of local government.

"(D) USE OF FUNDS.—States and units of local government shall use grant funds received under this paragraph to provide health services, educational services, and related services to noncitizens within their jurisdiction directly, or through contracts with eligible services providers, including—

"(i) health care providers;

"(ii) local educational agencies; and

"(iii) charitable and religious organizations.

"(E) STATE DEFINED.—In this paragraph, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(F) CERTIFICATION.—In order to receive a payment under this section, the State shall provide the Secretary of Health and Human Services with a certification that the State's proposed uses of the fund are consistent with (D).

(G) ANNUAL REPORT.—The Secretary of Health and Human Services shall inform the States annually of the amount of funds available to each State under the Program.".

SA 4039. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EXPEDITED ADJUDICATION OF EMPLOYER PETITIONS FOR ALIENS OF EXTRAORDINARY ARTISTIC ABILITY.

Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) by striking "Attorney General" each place it appears and inserting "Secretary of Homeland Security"; and

(2) in paragraph (6)(D)—

(A) by Striking "Any person" and inserting "(i) Except as provided in clause (ii), any person"; and

(B) adding at the end the following:

"(ii) The Secretary of Homeland Security shall adjudicate each petition for an alien with extraordinary ability in the arts (as described in section 101(a)(15)(O)(i)), an alien accompanying such an alien (as described in clauses (ii) and (iii) of section 101(a)(15)(O)), or an alien described in section 101(a)(15)(P) not later than 30 days after—

"(I) the date on which the petitioner submits the petition with a written advisory opinion, letter of no objection, or request for a waiver; or

"(II) the date on which the 15-day period described in clause (i) has expired, if the petitioner has had an opportunity, as appropriate, to supply rebuttal evidence.

"(iii) If a petition described in clause (ii) is not adjudicated before the end of the 30-day period described in clause (ii) and the petitioner is a qualified nonprofit organization or an individual or entity petitioning primarily on behalf of a qualified nonprofit organization, the Secretary of Homeland Security shall provide the petitioner with the premium-processing services referred to in section 286(u), without a fee.".

SA 4040. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 69, strike line 3 and all that follows through "(G)" on line 9 and insert "(F)".

On page 69, line 11, strike "(H)" and insert "(G)".

On page 71, strike line 19 and all that follows through "(L)" on page 78, line 12, and insert the following;

"(E) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary may, in the Secretary's discretion, impose conditions on release in accordance with the regulations prescribed pursuant to paragraph (3).

"(F) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any alien returned to custody as if the removal period terminated on the day of the redetention.

"(G)

On page 78, strike line 16 and all that follows through page 79, line 4, and insert the following: "guidelines established under sections 241.4 and 241.13 of title 8, Code of Federal Regulations.'.".

On page 83, lines 17 and 18, strike ", including classified, sensitive, or national security information;';" and insert ";'; and".

On page 84, line 6, strike "; and" and all that follows through line 17, and insert a period.

On page 86, lines 10 and 11, strike "including classified, sensitive, or national security information,".

On page 88, strike line 7 and all that follows through "(3)" on page 89, line 23, and insert "(1)".

On page 137, strike line 24 and all that follows through "(2)" on page 138, line 7, and insert "(1)".

On page 138, line 13, strike "(3)" and insert "(2)".

On page 138, strike lines 21 through 23 and insert the following:

"(3) FAILURE TO COMPLY WITH AGREEMENT.—If an alien agrees to

On page 139, line 5, strike "(i) ineligible" and insert the following:

"(A) ineligible

On page 139, line 7, strike "(ii) subject" and insert the following:

"(B) subject

On page 139, line 9, strike "(iii) subject" and insert the following:

"(C) subject

On page 139, line 11, strike the period at the end and all that follows through "Secretary" on page 140, line 6.

On page 141, line 10, strike the period at the end and all that follows through "protection" on page 142, line 3.

SA 4041. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . JUDICIAL REVIEW OF VISA REVOCATION.

(a) IN GENERAL.—Section 221(i) (8 U.S.C. 1201(i)) is amended by striking the last sentence and inserting the following: "Notwithstanding any other provision of law (statutory or nonstatutory), including sections, 1361, 1651, and 2241 of title 28, United States Code, and any other habeas corpus provision, a revocation under this subsection may not be reviewed by any court, and no court shall have jurisdiction to hear any claim arising from, or any challenge to, such a revocation." .

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall—

(1) take effect on the date of enactment of this Act; and

(2) apply to visa revocations effected before, on, or after the date of enactment of this Act.

SA 4042. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. H-1B EMPLOYER FEE.

Section 214(c)(9)(B) (8 U.S.C. 1184(c)(9)(B)) is amended by striking "$1,500" and inserting "$2,000".

SA 4043. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 260, line 18, strike "may be required to" and insert "shall".

SA 4044. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 385, strike line 21 and all that follows through page 386, line 3, and insert the following:

"(B) a fine of $5,000 if the alien does not depart within 2 years after the grant of Deferred Mandatory Departure; and

"(C) a fine of $10,000 if the alien does not depart within 3 years after the grant of Deferred Mandatory Departure.

SA 4045. Mr. GRASSLEY (for himself, Mr. HARKIN, Mr. REID, Mr. ISAKSON, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ADDRESSING POVERTY IN MEXICO.

(a) FINDINGS.—Congress finds the following:

(1) There is a strong correlation between economic freedom and economic prosperity.

(2) Trade policy, fiscal burden of government, government intervention in the economy, monetary policy, capital flows and foreign investment, banking and finance, wages and prices, property rights, regulation, and informal market activity are key factors in economic freedom.

(3) Poverty in Mexico, including rural poverty, can be mitigated through strengthened economic freedom within Mexico.

(4) Strengthened economic freedom in Mexico can be a major influence in mitigating illegal immigration.

(5) Advancing economic freedom within Mexico is an important part of any comprehensive plan to understanding the sources of poverty and the path to economic prosperity.

(b) GRANT AUTHORIZED.—The Secretary of State may award a grant to a land grant university in the United States to establish a national program for a broad, university-based Mexican rural poverty mitigation program.

(c) FUNCTIONS OF MEXICAN RURAL POVERTY MITIGATION PROGRAM.—The program established pursuant to subsection (b) shall—

(1) match a land grant university in the United States with the lead Mexican public university in each of Mexico's 31 states to provide state-level coordination of rural poverty programs in Mexico;

(2) establish relationships and coordinate programmatic ties between universities in the United States and universities in Mexico to address the issue of rural poverty in Mexico;

(3) establish and coordinate relationships with key leaders in the United States and Mexico to explore the effect of rural poverty on illegal immigration of Mexicans into the United States; and

(4) address immigration and border security concerns through a university-based, binational approach for long-term institutional change.

(d) USE OF FUNDS.—

(1) AUTHORIZED USES.—Grant funds awarded under this section may be used—

(A) for education, training, technical assistance, and any related expenses (including personnel and equipment) incurred by the grantee in implementing a program described in subsection (a); and

(B) to establish an administrative structure for such program in the United States.

(2) LIMITATIONS.—Grant funds awarded under this section may not be used for activities, responsibilities, or related costs incurred by entities in Mexico.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such funds as may be necessary to carry out this section.

SA 4046. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 313, after line 22, add the following:

Subtitle A—Secure Authorized Foreign Employee (SAFE) Visa Program

SEC. 441. ADMISSION OF SAFE VISA WORKERS.

(a) IN GENERAL.—Chapter 2 of title II (8 U.S.C. 1181 et seq.), as amended by this title and title VI, is further amended by inserting after section 218 the following:

SEC. 2181. SECURE AUTHORIZED FOREIGN EMPLOYEE (SAFE) VISA PROGRAM.

"(a) AUTHORIZATION.—Not later than twelve months after the date of enactment of this Act, the Secretary of State shall grant a SAFE visa to a national of a NAFTA or CAFTA-DR nation who meets the requirements under subsection (b) to perform services in the United States in accordance with this section.

"(b) REQUIREMENTS FOR ADMISSION.—An alien is eligible for a SAFE visa if the alien—

"(1) has a residence in a NAFTA or CAFTA-DR nation which the alien has no intention of abandoning;

"(2) applies for an initial SAFE visa from their home country;

"(3) establishes that the alien has received a job offer from an employer who has complied with the requirements under subsection (c);

"(4) undergoes a medical examination (including a determination of immunization status), at the alien's expense, that conforms to generally accepted standards of medical practice;

"(5) passes all appropriate background checks;

"(6) submits a completed application, on a form designed by the Secretary of Homeland Security; and

"(7) pays a visa issuance fee, as determined by the Secretary of State, in an amount equal to not less than the cost of processing and adjudicating such application.

"(c) Employer Responsibilities.—An employer seeking to hire a national of a NAFTA or CAFTA-DR nation under this section shall—

"(1) submit a request to the Secretary of Labor for a certification under subsection (d) that there is a shortage of workers in the occupational classification and geographic area for which the worker is sought;

"(2) submit to each worker a written employment offer that sets forth the rate of pay at a rate that is not less than the greater of—

"(A) the prevailing wage for such occupational classification in such geographic area; or

"(B) the applicable minimum wage in the State in which the worker will be employed;

"(3) provide the workers with necessary transportation, housing, and meal costs, which may be deducted from the worker's pay under an employment agreement; and

"(4) withhold and remit appropriate payroll deductions to the Internal Revenue Service.

"(d) Labor Certification.—Upon receiving a request from an employer under subsection (c)(1), the Secretary of Labor shall provide the employer with labor shortage certification for the occupational classification for which the worker is sought if the Secretary of Labor determines the existence of such shortage, based on the national unemployment rate and the number of workers needed in the occupational classification and geographic area for which the worker is sought.

"(e) Period of Authorized Admission.—

"(1) Duration.—A SAFE visa worker may remain in the United States for not longer than 10 months during the 12 month period for which the visa is issued.

"(2) Renewal.—A SAFE visa may be renewed for additional 10-month work periods under the same terms and conditions as the original issuance.

"(3) Visits outside united states.—Under regulations established by the Secretary of Homeland Security, a SAFE visa worker—

"(A) may travel outside of the United States; and

"(B) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

"(4) Loss of employment.—The period of authorized admission under this section shall terminate if the SAFE visa worker is unemployed for 60 or more consecutive days. Any SAFE visa worker whose period of authorized admission terminates under this paragraph shall be required to leave the United States. Failure to comply with the terms of the SAFE visa will result in permanent ineligibility for the program.

"(5) Return to country of origin.—A SAFE visa worker may not apply for lawful permanent residence or any other visa category until the worker has relinquished the SAFE visa and returned to their country of origin.

"(f) Evidence of Nonimmigrant Status.—Each SAFE visa worker shall be issued a SAFE visa card, which—

"(1) shall be machine-readable, tamper-resistant, and allow for biometric authentication;

"(2) shall be designed in consultation with the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement; and

"(3) shall, during the alien's authorized period of admission under subsection (e), serve as a valid document for the purpose of physically entering the United States.

"(g) Social Services.—

"(1) In general.—SAFE visa workers are not eligible for Federal, State, or local government-sponsored social services.

"(2) Social security.—SAFE visa workers are eligible to receive the employee portion of the social security contributions withheld from their pay not earlier than the date on which the worker permanently leaves the SAFE visa program.

"(3) Medicare.—Amounts withheld from the SAFE visa workers pay for Medicare contributions shall be used to pay for uncompensated emergency health care provided to noncitizens.

"(h) Permanent Residence; Citizenship.—Nothing in this section shall be construed to provide a SAFE visa worker with eligibility to apply for legal permanent residence or a path towards United States citizenship.".

(b) Clerical Amendment.—The table of contents (8 U.S.C. 1101) is amended by inserting after the item relating to section 218H, as added by section 615, the following:

"Sec. 2181. Secure Authorized Foreign Employee (SAFE) Visa Program.".

SA 4047. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FAIR MINIMUM WAGE.

(a) Short Title.—This section may be cited as the "Fair Minimum Wage Act of 2006".

(b) Minimum Wage.—

(1) In general.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than—

"(A) $5.15 an hour beginning September 1, 1997;

"(B) $5.85 an hour beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2006;

"(C) $6.55 an hour beginning 12 months after such 60th day; and

"(D) $7.25 an hour beginning 24 months after such 60th day;".

(2) Effective date.—The amendment made by paragraph (1) shall take effect 60 days after the date of enactment of this Act.

(c) Applicability of Minimum Wage to the Commonwealth of the Northern Mariana Islands.—

(1) In general.—Except as provided in paragraph (2), section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(2) Transition.—Notwithstanding paragraph (1), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(A) $3.55 an hour beginning on the 60th day after the date of enactment of this Act; and

(B) increased by $0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act) beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this paragraph is equal to the minimum wage set forth in such section.

SA 4048. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 36, between lines 5 and 6, insert the following:

(c) Northern Border Training Facility.—

(1) In general.—The Secretary shall establish a northern border training facility at Rainy River Community College in International Falls, Minnesota, to carry out the training programs described in this subsection.

(2) Use of training facility.—The training facility established under paragraph (1) shall be used to conduct various supplemental and periodic training programs for border security personnel stationed along the northern international border between the United States and Canada.

(3) Training curriculum.—The Secretary shall design training curriculum to be offered at the training facility through multiday training programs involving classroom and real-world applications, which shall include training in—

(A) a variety of disciplines relating to offensive and defensive skills for personnel and vehicle safety, including—

(i) firearms and weapons;

(ii) self defense;

(iii) search and seizure;

(iv) defensive and high speed driving;

(v) mobility training;

(vi) the use of all-terrain vehicles, watercraft, aircraft and snowmobiles; and

(vii) safety issues related to biological and chemical hazards;

(B) technology upgrades and integration; and

(C) matters relating directly to terrorist threats and issues, including—

(i) profiling;

(ii) changing tactics;

(iii) language;

(iv) culture; and

(v) communications.

(4) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this subsection.

SA 4049. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . CONTAINER SECURITY.

(a) Requirements for Scanning.—Except as provided in subsection (b), after the date that is 3 years after the date of the enactment of this Act, a container may not enter the United States, either directly or via a foreign port, unless the container is scanned with radiation detection equipment.

(b) Extension of Time.—The Secretary may extend by up to one year the date referred to in subsection (a) if the Secretary finds that the required radiation detection scanning equipment is not available for purchase and installation and submits such finding to Congress not later than 90 days prior to issuing such an extension.

(c) Standards.—The Secretary shall establish standards for equipment used to carry out the scanning required by subsection (a) to ensure such equipment uses the best available technology for radiation detection screening.

(d) Report.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the Secretary's plan to implement this section.

SA 4050. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 10, strike lines 9 through 16, and insert the following:

(a) Acquisition.—Subject to the availability of appropriations, the Secretary shall—

(1) procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a "virtual fence" along such international borders to provide a barrier to illegal immigration; and

(2) acquire and utilize real time, high-resolution, multi-spectral, precisely-rectified digital aerial imagery to detect physical changes and patterns in the landscape along the northern or southern international border of the United States to identify uncommon passage ways used by aliens to illegally enter the United States.

SA 4051. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 34, between lines 2 and 3, insert the following:

(b) Mobile Identification System.—

(1) Requirement for systems.—Not later than October 1, 2007, the Secretary shall deploy wireless, hand-held biometric identification devices, interfaced with United States Government immigration databases, at all United States ports of entry and along the international land borders of the United States.

(2) Authorization of appropriations.—There are authorized to be appropriated to the Secretary $10,000,000 for fiscal year 2007 to carry out this subsection.

(3) Availability of funds.—Amounts appropriated pursuant to the authorization of appropriations in paragraph (2) shall remain available until expended.

SA 4052. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 345, strike line 10 and all that follows through page 395, line 23, and insert the following:

Subtitle A—Mandatory Departure and Reentry in Legal Status

SEC. 601. MANDATORY DEPARTURE AND REENTRY IN LEGAL STATUS.

(a) In General.—Title II (8 U.S.C. 1151 et seq.) is amended by inserting after section 218C, as added by section 405, the following:

"SEC. 218D. MANDATORY DEPARTURE AND REENTRY.

"(a) In General.—The Secretary of Homeland Security may grant Deferred Mandatory Departure status to aliens who are in the United States illegally to allow such aliens time to depart the United States and to seek admission as a nonimmigrant or immigrant alien.

"(b) Requirements.—

"(1) Presence.—An alien shall establish that the alien—

"(A) was physically present in the United States on the date that is 1 year before the date on which the Comprehensive Immigration Reform Act of 2006 was introduced in Congress; and

"(B) has been continuously in the United States since that date; and

"(C) was not legally present in the United States under any classification set forth in section 101(a)(15) on that date.

"(2) Employment.—An alien must establish that the alien—

"(A) was employed in the United States before the date on which the Comprehensive Immigration Reform Act of 2006 was introduced in Congress; and

"(B) has been employed in the United States since that date.

"(3) Admissibility.—

"(A) In general.—The alien must establish that the alien—

"(i) is admissible to the United States (except as provided in subparagraph (B)); and

"(ii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(B) Grounds not applicable.—The provisions of paragraphs (5), (6)(A), and (7) of section 212(a) shall not apply.

"(C) Waiver.—The Secretary of Homeland Security may waive any other provision of section 212(a), or a ground of ineligibility under paragraph (4), as applied to individual aliens—

"(i) for humanitarian purposes;

"(ii) to assure family unity; or

"(iii) if such waiver is otherwise in the public interest.

"(4) Ineligible.—An alien is ineligible for Deferred Mandatory Departure status if the alien—

"(A) has been ordered removed from the United States—(i) for overstaying the period of authorized admission under section 217; (ii) under section 235 or 238; or (iii) pursuant to a final order of removal under section 240;

"(B) failed to depart the United States during the period of a voluntary departure order under section 240B;

"(C) is subject to section 241(a)(5);

"(D) has been issued a notice to appear under section 239, unless the sole acts of conduct alleged to be in violation of the law are that the alien is removable under section 237(a)(1)(C) or inadmissible under section 212(a)(6)(A);

"(E) is a resident of a country for which the Secretary of State has made a determination that the government of such country has repeatedly provided support for acts of international terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371);

"(F) fails to comply with any request for information by the Secretary of Homeland Security; or

"(G) the Secretary of Homeland Security determines that—(i) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States; (ii) there are reasonable grounds for * * * a serious crime outside the United States prior to the arrival of the alien in the United States; or (iii) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(H) the alien has been convicted of a felony or 3 or more misdemeanors.

"(I) Exception.—notwithstanding subparagraphs (A) and (B), an alien who has not been ordered removed from the United States shall remain eligible for defered mandatory departure status if the alien's ineligibility under subparagraphs (A) and (B) is solely related to the alien's—(i) entry into the United States without inspection; (ii) remaining in the United States beyond the period of authorized admissions; or (iii) failure to maintain legal status while in the United States.

(J) Waiver.—The Secretary may, in the Secretary's sole and unreviewable discretion, waive the application of subparagraphs (A) and (B) if the alien was ordered removed on the basis that the alien (i) entered without inspection;

(ii) failed to maintain status, or (iii) was ordered removed under 212(a)(6)(c)(i) prior to April 7, 2006, and—(i) demonstrates that the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 239(a) or; (ii) establishes that the alien's failure to appear was due to exceptional circumstances beyond the control of the alien; or (iii) the alien's departure from the United States now would result in extreme hardship to the alien's spouse, parent, or child who is a citizen of the United States or an alien lawfully admitted for permanent residence.

"(5) Medical examination.—The alien may be required, at the alien's expense, to undergo an appropriate medical examination (including a determination of immunization status) that conforms to generally accepted professional standards of medical practice.

"(6) Termination.—The Secretary of Homeland Security may terminate an alien's Deferred Mandatory Departure status—

"(A) if the Secretary determines that the alien was not eligible for such status; or

"(B) if the alien commits an act that makes the alien removable from the United States.

"(7) Application content and waiver.—

"(A) Application form.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Deferred Mandatory Departure status.

"(B) Content.—In addition to any other information that the Secretary determines is required to determine an alien's eligibility for Deferred Mandatory Departure, the Secretary shall require an alien to answer questions concerning the alien's physical and mental health, criminal history and gang membership, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States government, voter registration history, claims to United States citizenship, and tax history.

"(C) WAIVER.—The Secretary of Homeland Security shall require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of obtaining Deferred Mandatory Departure status, the alien agrees to waive any right to administrative or judicial review or appeal of an immigration officer's determination as to the alien's eligibility, or to contest any removal action, other than on the basis of an application for asylum pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

"(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

"(c) IMPLEMENTATION AND APPLICATION TIME PERIODS.—

"(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that the application process is secure and incorporates antifraud protection. The Secretary shall interview an alien to determine eligibility for Deferred Mandatory Departure status and shall utilize biometric authentication at time of document issuance.

"(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security shall begin accepting applications for Deferred Mandatory Departure status not later than 3 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

"(3) APPLICATION.—An alien shall submit an initial application for Deferred Mandatory Departure status not later than 6 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006. An alien that fails to comply with this requirement is ineligible for Deferred Mandatory Departure status.

"(4) COMPLETION OF PROCESSING.—The Secretary of Homeland Security shall ensure that all applications for Deferred Mandatory Departure status are processed not later than 12 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

"(d) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien may not be granted Deferred Mandatory Departure status unless the alien submits biometric data in accordance with procedures established by the Secretary of Homeland Security. The Secretary of Homeland Security may not grant Deferred Mandatory Departure status until all appropriate background checks are completed to the satisfaction of the Secretary of Homeland Security.

"(e) ACKNOWLEDGMENT.—An alien who applies for Deferred Mandatory Departure status shall submit to the Secretary of Homeland Security—

"(1) an acknowledgment made in writing and under oath that the alien—

"(A) is unlawfully present in the United States and subject to removal or deportation, as appropriate, under this Act; and

"(B) understands the terms of the terms of Deferred Mandatory Departure;

"(2) any Social Security account number or card in the possession of the alien or relied upon by the alien;

"(3) any false or fraudulent documents in the alien's possession.

"(f) MANDATORY DEPARTURE.—

"(1) IN GENERAL.—The Secretary of Homeland Security may, in the Secretary's sole and unreviewable discretion, grant Deferred Mandatory Departure status to an alien for a period not to exceed 5 years.

"(2) REGISTRATION AT TIME OF DEPARTURE.—An alien granted Deferred Mandatory Departure shall—

"(A) depart the United States before the expiration of the period of Deferred Mandatory Departure status;

"(B) register with the Secretary of Homeland Security at the time of departure; and

"(C) surrender any evidence of Deferred Mandatory Departure status at time of departure.

"(3) RETURN IN LEGAL STATUS.—An alien who complies with the terms of Deferred Mandatory Departure status and departs before the expiration of such status—

"(A) shall not be subject to section 212(a)(9)(B); and

"(B) may immediately seek admission as a nonimmigrant or immigrant, if otherwise eligible.

"(4) FAILURE TO DEPART.—An alien who fails to depart the United States before the expiration of Deferred Mandatory Departure status is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law for a period of 10 years, except as provided under section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates an intention to apply for asylum under section 208 or a fear of persecution or torture.

"(5) PENALTIES FOR DELAYED DEPARTURE.—An alien who fails to immediately depart the United States shall be subject to—

"(A) no fine if the alien departs the United States not later than 1 year after being granted Deferred Mandatory Departure status;

"(B) a fine of $2,000 if the alien remains in the United States for more than 1 year and not more than 2 years after being granted Deferred Mandatory Departure status;

"(C) a fine of $3,000 if the alien remains in the United States for more than 2 years and not more than 3 years after being granted Deferred Mandatory Departure status;

"(D) a fine of $4,000 if the alien remains in the United States for more than 3 years and not more than 4 years after being granted Deferred Mandatory Departure status; and

"(E) a fine of $5,000 if the alien remains in the United States for more than 4 years after being granted Deferred Mandatory Departure status.

"(g) EVIDENCE OF DEFERRED MANDATORY DEPARTURE STATUS.—Evidence of Deferred Mandatory Departure status shall be machine-readable, tamper-resistant, and allow for biometric authentication. The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity. The document may be accepted by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B).

"(h) TERMS OF STATUS.—

"(1) REPORTING.—During the period in which an alien is in Deferred Mandatory Departure status, the alien shall comply with all registration requirements under section 264.

"(2) TRAVEL.—

"(A) An alien granted Deferred Mandatory Departure status is not subject to section 212(a)(9) for any unlawful presence that occurred before the Secretary of Homeland Security granting such status to the alien.

"(B) Under regulations established by the Secretary of Homeland Security, an alien granted Deferred Mandatory Departure status—

"(i) may travel outside of the United States and may be readmitted if the period of Deferred Mandatory Departure status has not expired; and

"(ii) shall establish, at the time of application for admission, that the alien is admissible under section 212.

"(C) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (B) shall not extend the period of Deferred Mandatory Departure status.

"(3) BENEFITS.—During the period in which an alien is granted Deferred Mandatory Departure status under this section, the alien—

"(A) shall not be considered to be permanently residing in the United States under the color of law and shall be treated as a nonimmigrant admitted under section 214; and

"(B) may be deemed ineligible for public assistance by a State or any political subdivision of a State that furnishes such assistance.

"(i) PROHIBITION ON CHANGE OF STATUS OR ADJUSTMENT OF STATUS.—An alien granted Deferred Mandatory Departure status may not apply to change status under section 248 or, unless otherwise eligible under section 245(i), from applying for adjustment of status to that of a permanent resident under section 245.

"(j) APPLICATION FEE.—

"(1) IN GENERAL.—An alien seeking a grant of Deferred Mandatory Departure status shall submit, in addition to any other fees authorized by law, an application fee of $1,000.

"(2) USE OF FEE.—The fees collected under paragraph ,(1) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

"(k) FAMILY MEMBERS.—

"(1) FAMILY MEMBERS.—

"(A) IN GENERAL.—The spouse or child of an alien granted Deferred Mandatory Departure status is subject to the same terms and conditions as the principal alien, but is not authorized to work in the United States.

"(B) APPLICATION FEE.—

"(i) IN GENERAL.—The spouse or child of an alien seeking Deferred Mandatory Departure status shall submit, in addition to any other fee authorized by law, an additional fee of $500.

"(ii) USE OF FEE.—The fees collected under clause (i) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove aliens who are removable under section 237.

"(l) EMPLOYMENT.—

"(1) IN GENERAL.—An alien may be employed by any United States employer authorized by the Secretary of Homeland Security to hire aliens.

"(2) CONTINUOUS EMPLOYMENT.—An alien granted Deferred Mandatory Departure status shall be employed while the alien is in the United States. An alien who fails to be employed for 30 days may not be hired until the alien has departed the United States and reentered. The Secretary of Homeland Security may, in the Secretary's sole and unreviewable discretion, reauthorize an alien for employment without requiring the alien's departure from the United States.

"(m) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security System, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at the time the Secretary of Homeland Security grants an alien Deferred Mandatory Departure status.

"(n) PENALTIES FOR FALSE STATEMENTS IN APPLICATION FOR DEFERRED MANDATORY DEPARTURE.—

"(1) CRIMINAL PENALTY.—

"(A) VIOLATION.—It shall be unlawful for any person—

"(i) to file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, misrepresent, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

"(ii) to create or supply a false writing or document for use in making such an application.

"(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

"(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

"(o) RELATION TO CANCELLATION OF REMOVAL.—With respect to an alien granted Deferred Mandatory Departure status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 240A(a), unless the Secretary of Homeland Security determines that extreme hardship exists.

"(p) WAIVER OF RIGHTS.—An alien is not eligible for Deferred Mandatory Departure status, unless the alien has waived any right to contest, other than on the basis of an application for asylum or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, any action for deportation or removal of the alien that is instituted against the alien subsequent to a grant of Deferred Mandatory Departure status.

"(q) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of Deferred Mandatory Departure status is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

"(1) any judgment regarding the granting of relief under this section; or

"(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 1158(a).

"(r) JUDICIAL REVIEW.—

"(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

"(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

"(i) an order or notice denying an alien a grant of Deferred Mandatory Departure status or any other benefit arising from such status; or

"(ii) an order of removal, exclusion, or deportation entered against an alien after a grant of Deferred Mandatory Departure status; or

"(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

"(2) CHALLENGES TO VALIDITY.—

"(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

"(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

"(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.".

(b) CONFORMING AMENDMENTS.—

(1) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 218C the following:

"Sec. 218D. Mandatory departure and reentry.".

(2) DEPORTATION.—Section 237(a)(2)(A)(i)(II) (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended by striking the period at the end and inserting "(or 6 months in the case of an alien granted Deferred Mandatory Departure status under section 218D),".

SEC. 602. STATUTORY CONSTRUCTION.

Nothing in this title, or any amendment made by this title, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 603. EXCEPTIONS FOR HUMANITARIAN REASONS.

Notwithstanding any other provision of law, an alien may be exempt from Deferred Mandatory Departure status and may apply for lawful permanent resident status during the 1-year period beginning on the date of the enactment of this Act if the alien—

(1) is the spouse of a citizen of the United States at the time of application for lawful permanent resident status;

(2) is the parent of a child who is a citizen of the United States;

(3) is not younger than 65 years of age;

(4) is not older than 16 years of age and is attending school in the United States;

(5) is younger than 5 years of age;

(6) on removal from the United States, would suffer long-term endangerment to the life of the alien; or

(7) owns a business or real property in the United States.

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,000,000,000 for facilities, personnel (including consular officers), training, technology, and processing necessary to carry out this title and the amendments made by this title.

SA 4053. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. IMMIGRANTS TO NEW AMERICANS MODEL PROGRAMS

(a) FINDINGS.—The Senate finds the following: (1) English is the language of the United States, and all members of the society recognize the importance of English to national life and individual accomplishment;

(2) The English language is spoken by 92 percent of United States residents, according to the 2000 United States Census, and English language skills are essential to successful participation in communities across the United States;

(3) Many communities recognize the need to continue to provide services in languages other than English to facilitate access to essential functions of government, promote public health and safety, promote equal educational opportunity, and ensure government efficiency.

(b) PURPOSE.—The purpose of this section is to establish a grant program, within the Department of Education, that provides funding to partnerships of local educational agencies and community-based organizations to develop model programs that encourage all residents of this country to become fully proficient in English and provide immigrant students and their families the services needed to successfully participate in elementary schools, secondary schools, and communities, in the United States.

(c) DEFINITIONS.—In this section:

(1) SECONDARY SCHOOL.—The terms "community-based organization", "elementary school", "local educational agency", and "secondary school" have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) IMMIGRANT.—The term "immigrant" has the meaning given the term in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(3) SECRETARY.—The term "Secretary" means the Secretary of Education.

(d) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award not more than 10 grants in a fiscal year to eligible partnerships for the design and implementation of model programs to—

(A) assist immigrant students to achieve in elementary schools and secondary schools in the United States by offering such educational services as English as a second language classes, literacy programs, programs for introduction to the education system, and civics education; and

(B) assist parents of immigrant students by offering such services as Adult English as a second language class, civics and government classes, parent education, and literacy development services, and;

(C) to coordinate activities with other entities to provide comprehensive community social services such as health care, job training, child care, and transportation services.

(2) DURATION.—Each grant awarded under this section shall be awarded for a period of

not more than 5 years. A partnership may use funds made available through the grant for not more than 1 year for planning and program design.

(e) APPLICATIONS FOR GRANTS.—

(1) IN GENERAL.—Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(2) ELIGIBLE PARTNERSHIPS.—To be eligible to receive a grant under this section, a partnership—

(A) shall include—

(i) at least 1 local educational agency; and

(ii) at least 1 community-based organization; and

(B) may include another entity such as an institution of higher education, a local or State government agency, a private sector entity, or another entity with expertise in working with immigrants.

(3) REQUIRED DOCUMENTATION.—Each application submitted by a partnership under this section for a proposed program shall include documentation that—

(A) the partnership has the qualified personnel required to develop, administer, and implement the proposed program; and

(B) the leadership of each participating school has been involved in the development and planning of the program in the school.

(4) OTHER APPLICATION CONTENTS.—Each application submitted by a partnership under this section for a proposed program shall include—

(A) a list of the organizations entering into the partnership;

(B) a description of the need for the proposed program, including data on the number of immigrant students, and the number of such students with limited English proficiency, in the schools or school districts to be served through the program and the characteristics of the students described in this subparagraph, including—

(i) the native languages of the students to be served;

(ii) the proficiency of the students in English and the native languages;

(iii) achievement data for the students in—

(I) reading or language arts (in English and in the native languages, if applicable); and

(II) mathematics; and

(iv) the previous schooling experiences of the students;

(C) a description of the goals of the program;

(D) a description of how the funds made available through the grant will be used to supplement the basic services provided to the immigrant students to be served;

(E) a description of activities that will be pursued by the partnership through the program, including a description of—

(i) how parents, students, and other members of the community, including members of private organizations and nonprofit organizations, will be involved in the design and implementation of the program;

(ii) how the activities will further the academic achievement of immigrant students served through the program;

(iii) methods of teacher training and parent education that will be used or developed through the program, including the dissemination of information to immigrant parents, that is easily understandable in the language of the parents, about educational programs and the rights of the parents to participate in educational decisions involving their children; and

(iv) methods of coordinating comprehensive community social services to assist immigrant families;

(F) a description of how the partnership will evaluate the progress of the partnership in achieving the goals of the program;

(G) a description of how the local educational agency will disseminate information on model programs, materials, and other information developed under this section that the local educational agency determines to be appropriate for use by other local educational agencies in establishing similar programs to facilitate the educational achievement of immigrant students;

(H) an assurance that the partnership will annually provide to the Secretary such information as may be required to determine the effectiveness of the program; and

(I) any other information that the Secretary may require.

(f) SELECTION OF GRANTEES.—

(1) CRITERIA.—The Secretary, through a peer review process, shall select partnerships to receive grants under this section on the basis of the quality of the programs proposed in the applications submitted under subsection (f), taking into consideration such factors as—

(A) the extent to which the program proposed in such an application effectively addresses differences in language, culture, and customs;

(B) the quality of the activities proposed by a partnership;

(C) the extent of parental, student, and community involvement;

(D) the extent to which comprehensive community social services are made available;

(E) the quality of the plan for measuring and assessing success; and

(F) the likelihood that the goals of the program will be achieved.

(2) GEOGRAPHIC DISTRIBUTION OF PROGRAMS.—The Secretary shall approve applications under this section in a manner that ensures, to the extent practicable, that programs assisted under this section serve different areas of the Nation, including urban, suburban, and rural areas, with special attention to areas that are experiencing an influx of immigrant groups (including refugee groups), and that have limited prior experience in serving the immigrant community.

(g) EVALUATION AND PROGRAM DEVELOPMENT.—

(1) REQUIREMENT.—Each partnership receiving a grant under this section shall—

(A) conduct a comprehensive evaluation of the program assisted under this section, including an evaluation of the impact of the program on students, teachers, administrators, parents, and others; and

(B) prepare and submit to the Secretary a report containing the results of the evaluation.

(2) EVALUATION REPORT COMPONENTS.—Each evaluation report submitted under this section for a program shall include—

(A) data on the partnership's progress in achieving the goals of the program;

(B) data showing the extent to which all students served by the program are meeting the State's student performance standards, including—

(i) data comparing the students served to other students, with regard to grade retention and academic achievement in reading and language arts, in English and in the native languages of the students if the program develops native language proficiency, and in mathematics; and

(ii) a description of how the activities carried out through the program are coordinated and integrated with the overall school program of the school in which the program described in this section is carried out, and with other Federal, State, or local programs serving limited English proficient students;

(C) data showing the extent to which families served by the program have been afforded access to comprehensive community social services; and

(D) such other information as the Secretary may require.

(h) ADMINISTRATIVE FUNDS.—A partnership that receives a grant under this section may use not more than 5 percent of the grant funds received under this section for administrative purposes.

(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums for fiscal year 2007 and such sums as may be necessary for each of the 4 succeeding fiscal years.

SA 4054. Mr. GREGG (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 345, between lines 5 and 6, insert the following:

(e) WORLDWIDE LEVEL OF IMMIGRANTS WITH ADVANCED DEGREES.—Section 201 (8 U.S.C. 1151) is amended—

(1) in subsection (a)(3), by inserting "and immigrants with advanced degrees" after "diversity immigrants"; and

(2) by amending subsection (e) to read as follows:

"(e) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS AND IMMIGRANTS WITH ADVANCED DEGREES.—

"(1) DIVERSITY IMMIGRANTS.—The worldwide level of diversity immigrants described in section 203(c)(1) is equal to 18,333 for each fiscal year.

"(2) IMMIGRANTS WITH ADVANCED DEGREES.—The worldwide level of immigrants with advanced degrees described in section 203(c)(2) is equal to 36,667 for each fiscal year.".

(f) IMMIGRANTS WITH ADVANCED DEGREES.—Section 203 (8 U.S.C. 1153(c)) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by striking "paragraph (2), aliens subject to the worldwide level specified in section 201(e)" and inserting "paragraphs (2) and (3), aliens subject to the worldwide level specified in section 201(e)(1)";

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting after paragraph (1) the following:

"(2) ALIENS WHO HOLD AN ADVANCED DEGREE IN SCIENCE, MATHEMATICS, TECHNOLOGY, OR ENGINEERING.—

"(A) IN GENERAL.—Qualified immigrants who hold a master's or doctorate degree in the life sciences, the physical sciences, mathematics, technology, or engineering shall be allotted visas each fiscal year in a number not to exceed the worldwide level specified in section 201(e)(2).

"(B) ECONOMIC CONSIDERATIONS.—Beginning on the date which is 1 year after the date of the enactment of this paragraph, the Secretary of State, in consultation with the Secretary of Commerce and the Secretary of Labor, and after notice and public hearing, shall determine which of the degrees described in subparagraph (A) will provide immigrants with the knowledge and skills that are most needed to meet anticipated workforce needs and protect the economic security of the United States.";

(D) in paragraph (3), as redesignated, by striking "this subsection" each place it appears and inserting "paragraph (1)"; and

(E) by amending paragraph (4), as redesignated, to read as follows:

"(4) MAINTENANCE OF INFORMATION.—

"(A) DIVERSITY IMMIGRANTS.—The Secretary of State shall maintain information on the age, occupation, education level, and other relevant characteristics of immigrants issued visas under paragraph (1).

"(B) IMMIGRANTS WITH ADVANCED DEGREES.—The Secretary of State shall maintain information on the age, degree (including field of study), occupation, work experience, and other relevant characteristics of immigrants issued visas under paragraph (2)."; and

(2) in subsection (e)—

(A) in paragraph (2), by striking "(c)" and inserting "(c)(1)";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) Immigrant visas made available under subsection (c)(2) shall be issued as follows:

"(A) If the Secretary of State has not made a determination under subsection (c)(2)(B), immigrant visas shall be issued in a strictly random order established by the Secretary for the fiscal year involved.

"(B) If the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants who have a degree selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is greater than the worldwide level specified in section 201(e)(2), the Secretary shall issue immigrant visas only to such immigrants and in a strictly random order established by the Secretary for the fiscal year involved.

"(C) If the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants who have degrees selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is not greater than the worldwide level specified in section 201(e)(2), the Secretary shall—

"(i) issue immigrant visas to eligible qualified immigrants with degrees selected in subsection (c)(2)(B); and

"(ii) issue any immigrant visas remaining thereafter to other eligible qualified immigrants with degrees described in subsection (c)(2)(A) in a strictly random order established by the Secretary for the fiscal year involved.".

(g) ADVANCED DEGREE AND DIVERSITY VISA CARRYOVER.—Section 204(a)(1)(I)(ii)(II) (8 U.S.C. 1154(a)(1)(I)(ii)(II)) is amended to read as follows:

"(II) An immigrant visa made available under subsection 203(c) for fiscal year 2007 or any subsequent fiscal year may be issued, or adjustment of status under section 245(a) may be granted, to an eligible qualified alien who has properly applied for such visa or adjustment of status in the fiscal year for which the alien was selected notwithstanding the end of such fiscal year. Such visa or adjustment of status shall be counted against the worldwide levels set forth in section 201(e) for the fiscal year for which the alien was selected.".

(h) EFFECTIVE DATE.—The amendments made by subsections (e) through (g) shall take effect on October 1, 2006.

SA 4055. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . ELIGIBILITY OF AGRICULTURAL AND FORESTRY WORKERS FOR CERTAIN LEGAL ASSISTANCE.

Section 305 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 note; Public Law 99-603) is amended—

(1) by striking "section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a))" and inserting "item (a) or (b) of section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii))"; and

(2) by inserting "or forestry" after "agricultural".

SA 4056. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GRANTS FOR LOCAL PROGRAMS RELATING TO UNDOCUMENTED IMMIGRANTS.

(a) GRANTS AUTHORIZED.—The Secretary is authorized to award competitive grants to units of local government for innovative programs that address the increased expenses incurred in responding to the needs of undocumented immigrants.

(b) MAXIMUM AMOUNT.—The Secretary may not award a grant under this section to a unit of local government in an amount which exceeds $15,000,000.

(c) USE OF GRANT FUNDS.—Grants awarded under this section may be used for activities relating to the undocumented immigrant population residing in the locality, including—

(1) law enforcement activities;

(2) uncompensated health care;

(3) public housing;

(4) inmate transportation; and

(5) reduction in jail overcrowding.

(d) APPLICATION.—Each unit of local government desiring a grant under this section shall submit an application to the Secretary, at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(e) DISTRIBUTION OF GRANT AMOUNTS.—Of the amounts made available to provide grants to units of local governments under this section, 75 percent shall be made available to counties that have a population of less than 3,000,000 according to the 2000 census.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for each of the fiscal years 2007 through 2011 to carry out this section.

SA 4057. Mr. THOMAS (for himself, Mr. KYL, Mr. SALAZAR, Mr. BINGAMAN, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike section 761 and insert the following:

SEC. 761. BORDER SECURITY ON CERTAIN FEDERAL LAND.

(a) DEFINITIONS.—In this section:

(1) PROTECTED LAND.—The term "protected land" means land under the jurisdiction of the Secretary concerned.

(2) SECRETARY CONCERNED.—The term "Secretary concerned" means—

(A) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

(b) SUPPORT FOR BORDER SECURITY NEEDS.—

(1) IN GENERAL.—To gain operational control over the international land borders of the United States and to prevent the entry of terrorists, unlawful aliens, narcotics, and other contraband into the United States, the Secretary, in cooperation with the Secretary concerned, shall provide—

(A) increased Customs and Border Protection personnel to secure protected land along the international land borders of the United States;

(B) Federal land resource training for Customs and Border Protection agents dedicated to protected land; and

(C) Unmanned Aerial Vehicles, aerial assets, Remote Video Surveillance camera systems, and sensors on protected land that is directly adjacent to the international land border of the United States, with priority given to units of the National Park System.

(2) COORDINATION.—In providing training for Customs and Border Protection agents under paragraph (1)(B), the Secretary shall coordinate with the Secretary concerned to ensure that the training is appropriate to the mission of the National Park Service, the United States Fish and Wildlife Service, the Forest Service, or the relevant agency of the Department of the Interior or the Department of Agriculture to minimize the adverse impact on natural and cultural resources from border protection activities.

(c) INVENTORY OF COSTS AND ACTIVITIES.—The Secretary concerned shall develop and submit to the Secretary an inventory of costs incurred by the Secretary concerned relating to illegal border activity, including the cost of equipment, training, recurring maintenance, construction of facilities, restoration of natural and cultural resources, recapitalization of facilities, and operations.

(d) RECOMMENDATIONS.—The Secretary shall—

(1) develop joint recommendations with the National Park Service, the United States Fish and Wildlife Service, and the Forest Service for an appropriate cost recovery mechanism relating to items identified in subsection (c); and

(2) not later than March 31, 2007, submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S. C. 101)), including the Subcommittee on National Parks of the Senate and the Subcommittee on National Parks, Recreation and Public Lands of the House of Representatives, the recommendations developed under paragraph (1).

(e) BORDER PROTECTION STRATEGY.—The Secretary, the Secretary of the Interior, and the Secretary of Agriculture shall jointly develop a border protection strategy that supports the border security needs of the United States in the manner that best protects—

(1) units of the National Park System;

(2) National Forest System land;

(3) land under the jurisdiction of the United States Fish and Wildlife Service; and

(4) other relevant land under the jurisdiction of the Department of the Interior or the Department of Agriculture.

SA 4058. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 315, strike line 7 and all that follows through page 316, line 5, and insert the following:

"(A)(i) for each of fiscal years 2007 through 2016, 450,000; or

"(ii) for fiscal year 2017 and each subsequent fiscal year, 290,000; and

"(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year.

"(2) RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS FOR FISCAL YEARS 2001 THROUGH 2005.—

"(A) IN GENERAL.—Beginning in fiscal year 2006, the number of employment-based visas made available for immigrants described in paragraph (1), (2), or (3) of section 203(b) during any fiscal year, as calculated under paragraph (1), shall be increased by the number described in subparagraph (B).

"(B) ADDITIONAL NUMBER.—

"(i) IN GENERAL.—Subject to clause (ii), the number referred to in subparagraph (A) shall be equal to the sum of—

"(I) the difference between—

"(aa) the number of employment-based visas made available during the period of fiscal years 2001 through 2005; and

"(bb) the number of employment-based visas actually used during that period; and

"(II) the number of immigrant visas issued after September 30, 2004, to spouses and children of employment-based immigrants that were counted for purposes of paragraph (1)(B).

"(ii) REDUCTION.—For fiscal year 2007 and each fiscal year thereafter, the number described in clause (i) shall be reduced by the number of employment-based visas actually used under subparagraph (A) during the preceding fiscal year.".

On page 316, strike lines 6 through 15 and insert the following:

SEC. 502. COUNTRY LIMITS.

Section 202(a) (8 U.S.C. 1152(a)) is amended by striking "7 percent (in the case of a single foreign state) or 2 percent" and inserting "10 percent (in the case of a single foreign state) or 5 percent".

On page 341, strike lines 1 through 4 and insert the following:

"(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.

"(4) FILING IN CASES OF UNAVAILABLE VISA NUMBERS.—Subject to the limitation described in paragraph (3), if a supplemental petition fee is paid for a petition under subparagraph (E) or (F) of section 204(a)(1), an application under paragraph (1) on behalf of an alien that is a beneficiary of the petition (including a spouse or child who is accompanying or following to join the beneficiary) may be filed without regard to the requirement under paragraph (1)(D).

"(5) PENDING APPLICATIONS.—Subject to the limitation described in paragraph (3), if a petition under subparagraph (E) or (F) of section 204(a)(1) is pending or approved as of the date of enactment of this paragraph, on payment of the supplemental petition fee under that section, the alien that is the beneficiary of the petition may submit an application for adjustment of status under this subsection without regard to the requirement under paragraph (1)(D).

"(6) EMPLOYMENT AUTHORIZATIONS AND ADVANCED PAROLE TRAVEL DOCUMENTATION.—The Attorney General shall—

"(A) provide to any immigrant who has submitted an application for adjustment of status under this subsection not less than 3 increments, the duration of each of which shall be not less than 3 years, for any applicable employment authorization or advanced parole travel document of the immigrant; and

"(B) adjust each applicable fee payment schedule in accordance with the increments provided under subparagraph (A) so that 1 fee for each authorization or document is required for each 3-year increment.".

Beginning on page 341, strike line 23 and all that follows through page 342, line 4, and insert the following:

"(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and are employed in a related field.

On page 345, between lines 5 and 6, insert the following:

(e) TEMPORARY WORKER VISA DURATION.—Section 106 of the American Competitiveness in the Twenty-First Century Act of 2000 (Public Law 106–313; 114 Stat. 1254) is amended by striking subsection (b) and inserting the following:

"(b) EXTENSION OF H–1B WORKER STATUS.—The Attorney General shall—

"(1) extend the stay of an alien who qualifies for an exemption under subsection (a) in not less than 3 increments, the duration of each of which shall be not less than 3 years, until such time as a final decision is made with respect to the lawful permanent residence of the alien; and

"(2) adjust each applicable fee payment schedule in accordance with the increments provided under paragraph (1) so that 1 fee is required for each 3-year increment.".

SA 4059. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . INADMISSIBILITY FOR FALSELY CLAIMING CITIZENSHIP.

Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)(6)(C)(iii), by inserting after "clause (i)" the following: "or (ii)"; and

(2) in subsection (i)(1), by inserting after "clause (i)" the following: "or (ii)".

SA 4060. Mr. LIEBERMAN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —INSPECTIONS AND DETENTIONS

SEC. 01. SHORT TITLE.

This title may be cited as the "Secure and Safe Detention and Asylum Act".

SEC. ___02. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The origin of the United States is that of a land of refuge. Many of our Nation's founders fled here to escape persecution for their political opinion, their ethnicity, and their religion. Since that time, the United States has honored its history and founding values by standing against persecution around the world, offering refuge to those who flee from oppression, and welcoming them as contributors to a democratic society.

(2) The right to seek and enjoy asylum from persecution is a universal human right and fundamental freedom articulated in numerous international instruments endorsed by the United States, including the Universal Declaration of Human Rights, as well as the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and the Convention Against Torture. United States law also guarantees the right to seek asylum and protection from return to territories where one would have a well-founded fear of persecution on account of one's race, religion, nationality, membership in a particular social group, or political opinion.

(3) The United States has long recognized that asylum seekers often must flee their persecutors with false documents, or no documents at all. The second person in United States history to receive honorary citizenship by Act of Congress was Swedish diplomat Raoul Wallenberg, in gratitude for his issuance of more than 20,000 false Swedish passports to Hungarian Jews to assist them flee the Holocaust.

(4) In 1996, Congress amended section 235(b) of the Immigration and Nationality Act, to authorize immigration officers to detain and expeditiously remove aliens without proper documents, if that alien does not have a credible fear of persecution.

(5) Section 605 of the International Religious Freedom Act of 1998 subsequently authorized the United States Commission on International Religious Freedom to appoint experts to study the treatment of asylum seekers subject to expedited removal.

(6) The Departments of Justice and Homeland Security fully cooperated with the Commission, which reviewed thousands of previously unreleased statistics, approximately 1,000 files and records of proceeding related to expedited removal proceedings, observed more than 400 inspections, interviewed 200 aliens in expedited removal proceedings at 7 ports of entry, and surveyed 19 detention facilities and all 8 asylum offices. The Commission released its findings on February 8, 2005.

(7) Among its major findings, the Commission found that, while the Congress, the Immigration and Naturalization Service, and the Department of Homeland Security developed a number of processes to prevent bona fide asylum seekers from being expeditiously removed, these procedures were routinely disregarded by many immigration officers, placing the asylum seekers at risk, and undermining the reliability of evidence created for immigration enforcement purposes. The specific findings include the following:

(A) Department of Homeland Security procedures require that the immigration officer read a script to the alien that the alien should ask for protection—without delay—if the alien has any reason to fear being returned home. Yet in more than 50 percent of the expedited removal interviews observed by the Commission, this information was not conveyed to the applicant.

(B) Department of Homeland Security procedures require that the alien review the sworn statement taken by the immigration officer, make any necessary corrections for errors in interpretation, and then sign the statement. The Commission found, however, that 72 percent of the time, the alien signs his sworn statement without the opportunity to review it.

(C) The Commission found that the sworn statements taken by the officer are not verbatim, are not verifiable, often attribute that information was conveyed to the alien which was never, in fact, conveyed, and sometimes contain questions which were never asked. These sworn statements look like verbatim transcripts but are not. Yet the Commission also found that, in 32 percent of the cases where the immigration judges found the asylum applicant were not credible, they specifically relied on these sworn statements.

(D) Department of Homeland Security regulations also require that, when an alien expresses a fear of return, he must be referred to an asylum officer to determine whether his fear is "credible." Yet, in nearly 15 percent of the cases which the Commission observed aliens who expressed a fear of return were nevertheless removed without a referral to an asylum officer.

(8) The Commission found that the sworn statements taken during expedited removal proceedings were reliable for neither enforcement nor protection purposes because Department of Homeland Security management reviewed only the paperwork created by the interviewing officer. The agency had no national quality assurance procedures to ensure that paper files are an accurate representation of the actual interview. The Commission recommended recording all interviews between Department of Homeland Security officers and aliens subject to expedited removal, and that procedures be established to ensure that these recordings are reviewed to ensure compliance.

(9) The Commission found that the Immigration and Naturalization Service (INS) issued policy guidance on December 30, 1997, defining criteria for decisions to release asylum seekers from detention. Neither the INS nor the Department of Homeland Security, however, had been following this, or any other discernible criteria, for detaining or releasing asylum seekers. The Study's review of Department of Homeland Security statistics revealed that release rates varied widely, between 5 percent and 95 percent, in different regions.

(10) In order to promote the most efficient use of detention resources and a humane yet secure approach to detention of aliens with a credible fear of persecution, the Commission urged that the Department of Homeland Security develop procedures to ensure that a release decision is taken at the time of the credible fear determination or as soon as feasible thereafter. Upon a determination that the alien has established credible fear, identity and community ties, and that the alien is not subject to any possible bar to asylum involving violence, misconduct, or threat to national security, the alien should be released from detention pending an asylum determination. The Commission also urged that the Secretary of Homeland Security establish procedures to ensure consistent implementation of release criteria, as well as the consideration of requests to consider new evidence relevant to the determination.

(11) In 1986, the United States, as a member of the Executive Committee of the United Nations High Commissioner for Refugees, noted that in view of the hardship which it involves, detention of asylum seekers should normally be avoided; that detention measures taken in respect of refugees and asylum-seekers should be subject to judicial or administrative review; that conditions of detention of refugees and asylum seekers must be humane; and that refugees and asylum-seekers shall, whenever possible, not be accommodated with persons detained as criminals.

(12) The USCIRF Study found that, of noncriminal asylum seekers and aliens detained, the vast majority are detained under inappropriate and potentially harmful conditions in jails and jail-like facilities. This occurs in spite of the development of a small number of successful nonpunitive detention facilities, such as those in Broward County Florida and Berks County, Pennsylvania.

(13) The Commission found that nearly all of the detention centers where asylum seekers are detained resemble, in every essential respect, conventional jails. Often, aliens with no criminal record are detained alongside criminals and criminal aliens. The standards applied by the Bureau of Immigration and Customs Enforcement for all of their detention facilities are identical to, and modeled after, correctional standards for criminal populations. In some facilities with "correctional dormitory" set-ups, there are large numbers of detainees sleeping, eating, going to the bathroom, and showering out in the open in one brightly lit, windowless, and locked room. Recreation in Bureau of Immigration and Customs Enforcement facilities often consists of unstructured activity of no more than 1 hour per day in a small outdoor space surrounded by high concrete walls.

(14) Immigration detention is civil and should be nonpunitive in nature.

(15) A study conducted by Physicians for Human Rights and the Bellevue/New York University Program for Survivors of Torture found that the mental health of asylum seekers was extremely poor, and worsened the longer individuals were in detention. This included high levels of anxiety, depression, and post-traumatic stress disorder. The study also raised concerns about inadequate access to health services, particularly mental health services. Asylum seekers interviewed consistently reported being treated like criminals, in violation of international human rights norms, which contributed to worsening of their mental health. Additionally, asylum seekers reported verbal abuse and inappropriate threats and use of solitary confinement.

(16) The Commission recommended that the secure but nonpunitive detention facility in Broward County Florida Broward provided a more appropriate framework for those asylum seekers who are not appropriate candidates for release.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To ensure that personnel within the Department of Homeland Security follow procedures designed to protect bona fide asylum seekers from being returned to places where they may face persecution.

(2) To ensure that persons who affirmatively apply for asylum or other forms of humanitarian protection and noncriminal detainees are not subject to arbitrary detention.

(3) To ensure that asylum seekers, families with children, noncriminal aliens, and other vulnerable populations, who are not eligible for release, are detained under appropriate and humane conditions.

SEC. 03. DEFINITIONS.

In this title:

(1) ASYLUM OFFICER.—The term "asylum officer" has the meaning given the term in section 235(b)(1)(E) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(E)).

(2) ASYLUM SEEKER.—The term "asylum seeker" means any applicant for asylum under section 208 or for withholding of removal under section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158) or any alien who indicates an intention to apply for relief under those sections and does not include any person with respect to whom a final adjudication denying the application has been entered.

(3) CREDIBLE OR REASONABLE FEAR OF PERSECUTION.—The term "credible fear of persecution" has the meaning given the term in section 235(b)(1)(B)(v) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)(v)). The term "reasonable fear" has the meaning given the term in section 208.31 of title 8, Code of Federal Regulations.

(4) DETAINEE.—The term "detainee" means an alien in the Department's custody held in a detention facility.

(5) DETENTION FACILITY.—The term "detention facility" means any Federal facility in which an asylum seeker, an alien detained pending the outcome of a removal proceeding, or an alien detained pending the execution of a final order of removal, is detained for more than 72 hours, or any other facility in which such detention services are provided to the Federal Government by contract, and does not include detention at any port of entry in the United States.

(6) IMMIGRATION JUDGE.—The term "immigration judge" has the meaning given the term in section 101(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(4)).

(7) STANDARD.—The term "standard" means any policy, procedure, or other requirement.

(8) VULNERABLE POPULATIONS.—The term "vulnerable populations" means classes of aliens subject to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) who have special needs requiring special consideration and treatment by virtue of their vulnerable characteristics, including experiences of, or risk of, abuse, mistreatment, or other serious harms threatening their health or safety. Vulnerable populations include the following:

(A) Asylum seekers as described in paragraph (2).

(B) Refugees admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), and individuals seeking such admission.

(C) Aliens whose deportation is being withheld under section 243(h) of the Immigration and Nationality Act (as in effect immediately before the effective date of section 307 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-612)) or section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)).

(D) Aliens granted or seeking protection under article 3 of the United Nations Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.

(E) Applicants for relief and benefits under the Immigration and Nationality Act pursuant to the amendments made by the Trafficking Victims Protection Act of 2000 (division A of Public Law 106-386), including applicants for visas under subparagraph (T) or (U) of section 101(a)(15)).

(F) Applicants for relief and benefits under the Immigration and Nationality Act pursuant to the amendments made by the Violence Against Women Act of 2000 (division B of Public Law 106-386).

(G) Unaccompanied alien children (as defined by 462(g) of the Homeland Security Act (6 U.S.C. 279(g)).

SEC. ___04. RECORDING SECONDARY INSPECTION INTERVIEWS.

(a) In General.—The Secretary shall establish quality assurance procedures to ensure the accuracy and verifiability of signed or sworn statements taken by Department of Homeland Security employees exercising expedited removal authority under section 235(b) of the Immigration and Nationality Act.

(b) Factors Relating to Sworn Statements.—Any sworn or signed written statement taken of an alien as part of the record of a proceeding under section 235(b)(1)(A) of the Immigration and Nationality Act shall be accompanied by a recording of the interview which served as the basis for that sworn statement. Nothing in this section shall be construed to require the recording of an interview conducted by a government employee in any context other than that of a proceeding pursuant ot 235(b)(1)(A) of the Immigration and Nationality Act.

(c) Recordings.—

(1) In general.—The recording of the interview shall also include the written statement, in its entirety, being read back to the alien in a language which the alien claims to understand, and the alien affirming the accuracy of the statement or making any corrections thereto.

(2) Format.—The recordings shall be made in video, audio, or other equally reliable format.

(d) Interpreters.—The Secretary shall ensure professional certified interpreters are used when the interviewing officer does not speak a language understood by the alien.

(e) Recordings in Immigration Proceedings.—Recordings of interviews of aliens subject to expedited removal shall be included in the record of proceeding and may be considered as evidence in any further proceedings involving the alien.

SEC. ___05. PROCEDURES GOVERNING DETENTION DECISIONS.

Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) in the first sentence by striking “Attorney General” and inserting “Secretary of Homeland Security”;

(ii) by striking “(c)” and inserting “(d)”; and

(iii) in the second sentence by striking “Attorney General” and inserting “Secretary”.

(B) in paragraph (2)—

(i) by striking “Attorney General” in subparagraph (A) and inserting “Secretary”;

(ii) by striking “or” at the end of subparagraph (A);

(iii) by striking “but” at the end of subparagraph (B); and

(iv) by inserting after subparagraph (B) the following:

“(C) the alien's own recognizance; or

“(D) a secure alternatives program as provided for in section _____09 of this title; but”;

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (g), respectively;

(3) by inserting after subsection (a) the following new subsection:

“(b) Custody Decisions.—

“(1) In general.—In the case of a decision under subsection (a) or (c), the following shall apply:

“(A) The decision shall be made in writing and shall be served upon the alien. A decision to continue detention without bond or parole shall specify in writing the reasons for that decision.

“(B) The decision shall be served upon the alien within 72 hours of the alien's detention or, in the case of an alien subject to section 235 or 241(a)(5) who must establish a credible or reasonable fear of persecution in order to proceed in immigration court, within 72 hours of a positive credible or reasonable fear determination.

“(C) An alien subject to this section may at any time after being served with the Secretary's decision under subsections (a) or (c) request a redetermination of that decision by an Immigration Judge. All decisions by the Secretary to detain without bond or parole shall be subject to redetermination by an Immigration Judge within 2 weeks from the time the alien was served with the decision, unless waived by the alien. The alien may request a further redetermination upon a showing of a material change in circumstances since the last redetermination hearing.

“(2) Criteria to be considered.—The criteria to be considered by the Secretary and the Attorney General in making a custody decision shall include—

“(A) whether the alien poses a risk to public safety or national security;

“(B) whether the alien is likely to appear for immigration proceedings; and

“(C) any other relevant factors.

“(3) Application of subsections (a) and (b).—This subsection and subsection (a) shall apply to all aliens in the custody of the Department of Homeland Security, except those who are subject to mandatory detention under section 235(b)(1)(B)(iii)(IV), 236(c), or 236A or who have a final order of removal and have no proceedings pending before the Executive Office for Immigration Review.”;

(4) in subsection (c), as redesignated—

(A) by striking “Attorney General” and insert “Secretary”; and

(B) by striking “or parole” and inserting “, parole, or decision to release;”;

(5) in subsection (d), as redesignated—

(A) by striking “Attorney General” and inserting “Secretary” each place it appears; and

(B) in paragraph (2), by inserting “or for humanitarian reasons,” after “such an investigation,”;

(6) in subsection (e), as redesignated, by striking “Attorney General” and inserting “Secretary”;

(7) by inserting after subparagraph (e), as redesignated, the following new subparagraph:

“(f) Administrative Review.—If an Immigration Judge's custody decision has been stayed by the action of the Department of Homeland Security, the stay shall expire in 30 days, unless the Board of Immigration Appeals before that time, and upon motion, enters an order continuing the stay.”; and

(8) in subsection (g), as redesignated, by striking “Attorney General” and inserting “Secretary” each place it appears..

SEC. 06. LEGAL ORIENTATION PROGRAM.

(a) In General.—The Attorney General, in consultation with the Secretary, shall ensure that all detained aliens in immigration and asylum proceedings receive legal orientation through a program administered by the Department of Justice Executive Office for Immigration Review.

(b) Content of Program.—The legal orientation program developed pursuant to this subsection shall be implemented by the Executive Office for Immigration Review and shall be based on the Legal Orientation Program in existence on the date of the enactment of this Act.

(c) Expansion of Legal Assistance.—The Secretary shall ensure the expansion through the United States Citizenship and Immigration Service of public-private partnerships that facilitate pro bono counseling and legal assistance for asylum seekers awaiting a credible fear interview. The pro bono counseling and legal assistance programs developed pursuant to this subsection shall be based on the pilot program developed in Arlington, Virginia by the United States Citizenship and Immigration Service.

SEC. 07. CONDITIONS OF DETENTION.

(a) In General.—The Secretary shall ensure that standards governing conditions and procedures at detention facilities are fully implemented and enforced, and that all detention facilities comply with the standards.

(b) Procedures and Standards.—The Secretary shall promulgate new standards, or modify existing detention standards, to improve conditions in detention facilities. The improvements shall address at a minimum the following policies and procedures:

(1) Fair and humane treatment.—Procedures to ensure that detainees are not subject to degrading or inhumane treatment such as verbal or physical abuse or harassment, sexual abuse or harassment, or arbitrary punishment.

(2) Limitations on shackling.—Procedures limiting the use of shackling, handcuffing, solitary confinement, and strip searches of detainees to situations where it is necessitated by security interests or other extraordinary circumstances.

(3) Investigation of grievances.—Procedures for the prompt and effective investigation of grievances raised by detainees, including review of grievances by officials of the Department who do not work at the same detention facility where the detainee filing the grievance is detained.

(4) Access to telephones.—Procedures permitting detainees sufficient access to telephones, and the ability to contact, free of charge, legal representatives, the immigration courts, the Board of Immigration Appeals, and the Federal courts through confidential toll-free numbers.

(5) Location of facilities.—Location of detention facilities, to the extent practicable, near sources of free or low cost legal representation with expertise in asylum or immigration law.

(6) Procedures governing transfers of detainees.—Procedures governing the transfer of a detainee that take into account—

(A) the detainee's access to legal representatives; and

(B) the proximity of the facility to the venue of the asylum or removal proceeding.

(7) Quality of medical care.—Prompt and adequate medical care provided at no cost to the detainee, including dental care, eye care, mental health care, individual and group counseling, medical dietary needs, and other medically necessary specialized care. Medical facilities in all detention facilities used by the Department maintain current accreditation by the National Commission on Correctional Health Care (NCCHC). Requirements that each medical facility that is not accredited by the Joint Commission on the Accreditation of Health Care Organizations (JCAHO) will seek to obtain such accreditation. Maintenance of complete medical records for every detainee which shall be made available upon request to a detainee, his legal representative, or other authorized individuals.

(8) Translation capabilities.—The employment of detention facility staff that, to the extent practicable, are qualified in the

languages represented in the population of detainees at a detention facility, and the provision of alternative translation services when necessary.

(9) RECREATIONAL PROGRAMS AND ACTIVITIES.—Daily access to indoor and outdoor recreational programs and activities.

(c) SPECIAL STANDARDS FOR NONCRIMINAL DETAINEES.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the special characteristics of noncriminal, nonviolent detainees, and ensure that procedures and conditions of detention are appropriate for a noncriminal population; and

(2) ensure that noncriminal detainees are separated from inmates with criminal convictions, pretrial inmates facing criminal prosecution, and those inmates exhibiting violent behavior while in detention.

(d) SPECIAL STANDARDS FOR VULNERABLE POPULATIONS.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the unique needs of asylum seekers, victims of torture and trafficking, families with children, detainees who do not speak English, detainees with special religious, cultural or spiritual considerations, and other vulnerable populations; and

(2) ensure that procedures and conditions of detention are appropriate for the populations listed in this subsection.

(e) TRAINING OF PERSONNEL.—

(1) IN GENERAL.—The Secretary shall ensure that personnel in detention facilities are given specialized training to better understand and work with the population of detainees held at the facilities where they work. The training should address the unique needs of—

(A) asylum seekers;

(B) victims of torture or other trauma; and

(C) other vulnerable populations.

(2) SPECIALIZED TRAINING.—The training required by this subsection shall be designed to better enable personnel to work with detainees from different countries, and detainees who cannot speak English. The training shall emphasize that many detainees have no criminal records and are being held for civil violations.

SEC. ___08. OFFICE OF DETENTION OVERSIGHT.

(a) ESTABLISHMENT OF THE OFFICE.—

(1) IN GENERAL.—There shall be established within the Department an Office of Detention Oversight (in this title referred to as the "Office").

(2) HEAD OF THE OFFICE.—There shall be at the head of the Office an Administrator who shall be appointed by, and report to, the Secretary.

(3) EFFECTIVE DATE.—The Office shall be established and the head of the Office appointed not later than 6 months after the date of the enactment of this Act.

(b) RESPONSIBILITIES OF THE OFFICE.—

(1) INSPECTIONS OF DETENTION CENTERS.—The Office shall—

(A) undertake frequent and unannounced inspections of all detention facilities;

(B) develop a procedure for any detainee or the detainee's representative to file a written complaint directly with the Office; and

(C) report to the Secretary and to the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement all findings of a detention facility's noncompliance with detention standards.

(2) INVESTIGATIONS.—The Office shall—

(A) initiate investigations, as appropriate, into allegations of systemic problems at detention facilities or incidents that constitute serious violations of detention standards;

(B) report to the Secretary and the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement the results of all investigations; and

(C) refer matters, where appropriate, for further action to—

(i) the Department of Justice;

(ii) the Office of the Inspector General of the Department of Homeland Security;

(iii) the Civil Rights Office of the Department of Homeland Security; or

(iv) any other relevant office of agency.

(3) REPORT TO CONGRESS.—

(A) IN GENERAL.—The Office shall annually submit a report on its findings on detention conditions and the results of its investigations to the Secretary, the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives.

(B) CONTENTS OF REPORT.—

(i) ACTIONS TAKEN.—The report described in subparagraph (A) shall also describe the actions to remedy findings of noncompliance or other problems that are taken by the Secretary, the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement, the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement, and each detention facility found to be in noncompliance.

(ii) RESULTS OF ACTIONS.—The report shall also include information regarding whether the actions taken were successful and resulted in compliance with detention standards.

(4) REVIEW OF COMPLAINTS BY DETAINEES.—The Office shall establish procedures to receive and review complaints of violations of the detention standards promulgated by the Secretary. The procedures shall protect the anonymity of the claimant, including detainees, employees or others, from retaliation.

(c) COOPERATION WITH OTHER OFFICES AND AGENCIES.—Whenever appropriate, the Office shall cooperate and coordinate its activities with—

(1) the Office of the Inspector General of the Department of Homeland Security;

(2) the Civil Rights Office of the Department of Homeland Security;

(3) the Privacy Officer of the Department of Homeland Security;

(4) the Civil Rights Section of the Department of Justice; and

(5) any other relevant office or agency.

SEC. ___09. SECURE ALTERNATIVES PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a secure alternatives program. For purposes of this subsection, the secure alternatives program means a program under which aliens may be released under enhanced supervision to prevent them from absconding, and to ensure that they make required appearances.

(b) PROGRAM REQUIREMENTS.—

(1) NATIONWIDE IMPLEMENTATION.—The Secretary shall facilitate the development of the secure alternatives program on a nationwide basis, as a continuation of existing pilot programs such as the Intensive Supervision Appearance Program (ISAP) developed by the Department of Homeland Security.

(2) UTILIZATION OF ALTERNATIVES.—The program shall utilize a continuum of alternatives based on the alien's need for supervision, including placement of the alien with an individual or organizational sponsor, or in a supervised group home.

(3) ALIENS ELIGIBLE FOR SECURE ALTERNATIVES PROGRAM.—

(A) IN GENERAL.—Aliens who would otherwise be subject to detention based on a consideration of the release criteria in section 236(b)(2), or who are released pursuant to section 236(d)(2), shall be considered for the secure alternatives program.

(B) DESIGN OF PROGRAMS.—Secure alternatives programs shall be designed to ensure sufficient supervision of the population described in subparagraph (A).

(4) CONTRACTS.—The Department shall enter into contracts with qualified nongovernmental entities to implement the secure alternatives program. In designing the program, the Secretary shall—

(A) consult with relevant experts; and

(B) consider programs that have proven successful in the past, including the Appearance Assistance Program developed by the Vera Institute and the Intensive Supervision Appearance Program (ISAP) developed by the Department of Homeland Security.

SEC. 10. LESS RESTRICTIVE DETENTION FACILITIES.

(a) CONSTRUCTION.—The Secretary shall facilitate the construction or use of secure but less restrictive detention facilities.

(b) CRITERIA.—In developing detention facilities pursuant to this section, the Secretary shall—

(1) consider the design, operation, and conditions of existing secure but less restrictive detention facilities, such as the Department of Homeland Security detention facilities in Broward County, Florida, and Berks County, Pennsylvania;

(2) to the extent practicable, construct or use detention facilities where—

(A) movement within and between indoor and outdoor areas of the facility is subject to minimal restrictions;

(B) detainees have ready access to social, psychological, and medical services;

(C) detainees with special needs, including those who have experienced trauma or torture, have ready access to services and treatment addressing their needs;

(D) detainees have ready access to meaningful programmatic and recreational activities;

(E) detainees are permitted contact visits with legal representatives, family members, and others;

(F) detainees have access to private toilet and shower facilities;

(G) prison-style uniforms or jumpsuits are not required; and

(H) special facilities are provided to families with children.

(c) FACILITIES FOR FAMILIES WITH CHILDREN.—For situations where release or secure alternatives programs are not an option, the Secretary shall ensure that special detention facilities are specifically designed to house parents with their minor children, including ensuring that—

(1) procedures and conditions of detention are appropriate for families with minor children; and

(2) living and sleeping quarters for parents and minor children are not physically separated.

(d) PLACEMENT IN NONPUNITIVE FACILITIES.—Priority for placement in less restrictive facilities shall be given to asylum seekers, families with minor children, vulnerable populations, and nonviolent criminal detainees.

(e) PROCEDURES AND STANDARDS.—Where necessary, the Secretary shall promulgate new standards, or modify existing detention standards, to promote the development of less restrictive detention facilities.

SEC. ___11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

SEC. ___12. EFFECTIVE DATE.

Except as otherwise provided, this title shall take effect 6 months after the date of the enactment of this Act.

SA 4061. Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ESTABLISHMENT OF THE OFFICE OF IMMIGRATION POLICY.

(a) IN GENERAL.—Subtitle F of title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.) is amended by adding at the end the following:

"SEC. 479. OFFICE OF IMMIGRATION POLICY.

"(a) ESTABLISHMENT.—There is established within the Department the Office of Immigration Policy (referred to in this section as the 'Office').

"(b) PURPOSE.—The Office shall coordinate all Department policies and programs relating to immigration and border security.

"(c) DIRECTOR.—

"(1) APPOINTMENT.—The Office shall be headed by a Director, who shall—

"(A) be appointed by the Secretary; and

"(B) report to the Assistant Secretary for Policy.

"(2) RESPONSIBILITIES.—The Director shall—

"(A) advise the Secretary and the Assistant Secretary for Policy regarding all aspects of Department programs relating to immigration and border security;

"(B) develop Department-wide policies regarding immigration and border security;

"(C) coordinate the immigration and border security policies and programs of the Department with other executive agencies; and

"(D) coordinate all policies and programs of the Department relating to immigration and border security among United States Immigration and Customs Enforcement, United States Customs and Border Protection, United States Citizenship and Immigration Services, and other agencies of the Department.".

(b) CLERICAL AMENDMENT.—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 478 the following:

"Sec. 479. Office of Immigration Policy.".

SA 4062. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. RESIDENCY REQUIREMENTS FOR CERTAIN ALIEN SPOUSES.

Notwithstanding any other provision of law, for purposes of determining eligibility for naturalization under section 319 of the Immigration and Nationality Act with respect to an alien spouse who is married to a citizen spouse who was stationed abroad on orders from the United States Government for a period of not less than 1 year and reassigned to the United States thereafter, the following rules shall apply:

(1) The citizen spouse shall be treated as regularly scheduled abroad without regard to whether the citizen spouse is reassigned to duty in the United States.

(2) Any period of time during which the alien spouse is living abroad with his or her citizen spouse shall be treated as residency within the United States for purposes of meeting the residency requirements under section 319 of the Immigration and Nationality Act, even if the citizen spouse is reassigned to duty in the United States at the time the alien spouse files an application for naturalization.

SA 4063. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. PEACE GARDEN PASS.

(a) AUTHORIZATION.—Notwithstanding section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), the Secretary, in consultation with the Director of the Bureau of Citizenship and Immigration Services, shall develop a travel document (referred to in this section as the "Peace Garden Pass") to allow citizens and nationals of the United States to travel to the International Peace Garden.

(b) ADMITTANCE.—The Peace Garden Pass shall be issued to, and shall authorize the admittance of, any person who enters the International Peace Garden from the United States and exits the International Peace Garden into the United States without having been granted entry into Canada.

(c) IDENTIFICATION.—The Secretary of State, in consultation with the Secretary, shall—

(1) determine what form of identification (other than a passport, passport card, or similar alternative to a passport) will be required to be presented by individuals applying for the Peace Garden Pass; and

(2) ensure that cards are only issued to—

(A) individuals providing the identification required under paragraph (1); or

(B) individuals under 18 years of age who are accompanied by an individual described in subparagraph (A).

(d) LIMITATION.—The Peace Garden Pass shall not grant entry into Canada.

(e) DURATION.—Each Peace Garden Pass shall be valid for a period not to exceed 14 days. The actual period of validity shall be determined by the issuer depending on the individual circumstances of the applicant and shall be clearly indicated on the pass.

(f) COST.—The Secretary may not charge a fee for the issuance of a Peace Garden Pass.

SA 4064. Mr. INHOFE (for himself, Mr. BYRD, Mr. BUNNING, Mr. BURNS, Mr. CHAMBLISS, Mr. COBURN, Mr. ENZI, Mr. SESSIONS, and Mr. GRAHAM) proposed an amendment to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; as follows:

On page 295, line 22, strike "the alien—" and all that follows through page 296, line 5, and insert "the alien meets the requirements of section 312.".

On page 352, line 3, strike "either—" and all that follows through line 15, and insert "meets the requirements of section 312(a) (relating to English proficiency and understanding of United States history and Government).".

On page 614, after line 5, insert the following:

SEC. 766. ENGLISH AS NATIONAL LANGUAGE

(a) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following:

"CHAPTER 6—LANGUAGE OF THE GOVERNMENT

"Sec.
"161. Declaration of national language
"162. Preserving and enhancing the role of the national language

"§ 161. Declaration of official language

"English is the national language of the United States.

§ 162. Preserving and enhancing the role of the national language

"The Government of the United States shall preserve and enhance the role of English as the national language of the United States of America. Unless specifically stated in applicable law, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If exceptions are made, that does not create a legal entitlement to additional services in that language or any language other than English. If any forms are issued by the Federal Government in a language other than English (or such forms are completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.".

(b) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end the following:

"6. Language of the Government .... 161".

SEC. 767. REQUIREMENTS FOR NATURALIZATION.

(a) FINDINGS.—The Senate makes the following findings:

(1) Under United States law (8 U.S.C. 1423 (a)), lawful permanent residents of the United States who have immigrated from foreign countries must, among other requirements, demonstrate an understanding of the English language, United States history and Government, to become citizens of the United States.

(2) The Department of Homeland Security is currently conducting a review of the testing process used to ensure prospective United States citizens demonstrate said knowledge of the English language and United States history and government for the purpose of redesigning said test.

(b) DEFINITIONS.—For purposes of this section only, the following words are defined:

(1) KEY DOCUMENT.—The term "key documents" means the documents that established or explained the foundational principles of democracy in the United States, including the United States Constitution and the amendments to the Constitution (particularly the Bill of Rights), the Declaration of Independence, the Federalist Papers, and the Emancipation Proclamation.

(2) KEY EVENTS.— The term "key events" means the critical turning points in the history of the United States (including the American Revolution, the Civil War, the world wars of the twentieth century, the civil rights movement, and the major court decisions and legislation) that contributed to extending the promise of democracy in American life.

(3) KEY IDEAS.—The term "key ideas" means the ideas that shaped the democratic institutions and heritage of the United States, including the notion of equal justice under the law, freedom, individualism, human rights, and a belief in progress.

(4) KEY PERSONS.—The term "key persons" means the men and women who led the United States as founding fathers, elected officials, scientists, inventors, pioneers, advocates of equal rights, entrepreneurs, and artists.

(c) GOALS FOR CITIZENSHIP TEST REDESIGN.—The Department of Homeland Security shall establish as goals of the testing process designed to comply with provisions of [8 U.S.C. 1423 (a)] that prospective citizens:

1. demonstrate a sufficient understanding of the English language for usage in everyday life;

2. demonstrate an understanding of American common values and traditions, including the principles of the Constitution of the United States, the Pledge of Allegiance, respect for the flag of the United States, the National Anthem, and voting in public elections;

3. demonstrate an understanding of the history of the United States, including the key events, key persons, key ideas, and key documents that shaped the institutions and democratic heritage of the United States;

4. demonstrate an attachment to the principles of the Constitution of the United States and the well being and happiness of the people of the United States; and

5. Demonstrate an understanding of the rights and responsibilities of citizenship in the United States.

(d) IMPLEMENTATION.—The Secretary of Homeland Security shall implement changes to the testing process designed to ensure compliance with [8 U.S.C. 1423 (a)] not later than January 1, 2008.

SA 4065. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 295, strike lines 14 through 16 and insert the following:

"(B) by the alien, if—

"(i) the alien has maintained such nonimmigrant status in the United States for a cumulative period of not less than 4 years of employment;

"(ii) the Secretary of Labor determines and certifies that there are not sufficient United States workers who are able, willing, qualified, and available to fill the job position, and

"(iii) an employer attests that the employer will employ the alien in the offered job position; or

"(iv) the alien shall submit at least 2 of the following documents for current employment, which shall be considered evidence of such current employment:

"(aa) Records maintained by the Social Security Administration.

"(bb) Records maintained by an employer, such as pay stubs, time sheets, or employment work verification.

"(cc) Records maintained by Internal Revenue Service.

"(dd) Records maintained by any other government agency, such as worker compensation records, disability records, or business licensing records."

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, May 25, 2006, at 10 a.m. in room SD-366 of the Dirksen Building.

The purpose of the hearing is to receive testimony regarding the outlook for growth of coal fired electric generation and whether sufficient supplies of coal will be available to supply electric generators on a timely basis both in the near term and in the future.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Kellie Donnelly, John Peschke, or Shannon Ewan.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that S. 2788, a bill to direct the exchange of certain land in Grand, San Juan and Uintah Counties, Utah, and for other purposes has been added to the agenda of the hearing scheduled before the Subcommittee on Public Lands and Forests scheduled for Wednesday, May 24, at 2:30 p.m. in room SD-366. This will replace S. 1135 which has been removed from the agenda.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Frank Gladics, Dick Bouts, or Sara Zecher.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a full committee hearing during the session of the Senate on Wednesday, May 17, 2006 at 10;30 a.m. in SR-328A, Russell Senate Office Building. The purpose of this hearing will be to review the United States Department of Agriculture Rural Utilities Service Broadband Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on May 17, 2006, at 4 p.m., in open session to receive testimony on the roles and missions of the National Guard in support of the Bureau of Customs and Border Protection.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on May 17, 2006, at 4:30 p.m., in close session to receive a briefing from the Joint Improvised Explosive Device Defeat Organization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. SESSIONS. Mr. President, I would like to ask unanimous consent that the Committee on Environment and Public Works be authorized to hold a hearing on Wednesday, May 17, 2006, at 9:30 a.m. to consider the following pending nominations: Dale Klein to be a Commissioner of the Nuclear Regulatory Commission and Molly O'Neill to be an Assistant Administrator, Environmental Protection Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, May 17, 2006, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony at a hearing entitled, "Physician-Owned Specialty Hospitals: Profits before Patients?"

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 17, 2006, at 9:30 a.m. to hold a hearing on Iran's Political/Nuclear Ambitions and U.S. Policy Options.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 17, 2006, at 2:30 p.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions meet in executive session during the session of the Senate on Wednesday, May 17, 2006, at 10 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, May 17, 2006, at 10 a.m. to consider the nomination of Robert J. Portman to be Director of the Office of Management and Budget.

The PRESIDING OFFICER. without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, May 17, 2006, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on Suicide Prevention Programs and their Application in Indian Country.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing on "Understanding the Benefits and Costs of Section 5 Pre-Clearance" on Wednesday, May 17, 2006, at 9 a.m. in Room 226 of the Dirksen Senate Office Building.

Witness List

Panel I: Fred Grey, Senior Partners, Gray, Langford, Sapp, McGowan, Gray and Nathanson, Montgomery, Alabama; Drew S. Days III, Alfred M. Rankin, Professor of Law, Yale Law School, New Haven, Connecticut; Abigail M. Thernstrom, Senior Fellow, Manhattan Institute, New York, New York; Armand Derfner, Attorney, Derfner, Altman and Wilborn, Charleston, South Carolina; Nate Persily, Professor Law, University of Pennsylvania Law School, Philadelphia, Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 17, 2006, at 2:30 p.m. to hold a closed Business Meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia be authorized to meet on Wednesday, May 17, 2006, at 2:30 p.m. for a hearing entitled, Progress or More Problems: Assessing the Federal Government's Security Clearance Process.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Kentucky.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the following Senators as members of the Senate Delegation to the NATO Parliamentary Assembly, during the 109th Congress: the Honorable PATRICK LEAHY of Vermont and the Honorable RON WYDEN of Oregon.

The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the following Senators to the Senate Delegation to the NATO Parliamentary Assembly, during the 109th Congress: the Honorable CHARLES GRASSLEY of Iowa, the Honorable WAYNE ALLARD of Colorado, the Honorable JEFF SESSIONS of Alabama, the Honorable GEORGE VOINOVICH of Ohio, and the Honorable NORM COLEMAN of Minnesota.

MEASURE PLACED ON THE CALENDAR—S. 2810

Mr. McCONNELL. Mr. President, I understand there is a bill at the desk due for a second reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (S. 2810) to amend title XVIII of the Social Security Act to eliminate months in 2006 from the calculation of any late enrollment penalty under the Medicare part D prescription drug program and to provide for additional funding for State health insurance counseling programs and area agencies on aging, and for other purposes.

Mr. McCONNELL. In order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The PRESIDING OFFICER. Objection having been heard, the bill will be placed on the calendar.

ORDERS FOR THURSDAY, MAY 18, 2006

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. tomorrow, Thursday, May 18. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate resume consideration of S. 2611, the Comprehensive Immigration Reform Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Today we continued to make considerable progress on the immigration bill. We will be starting early tomorrow. We have Senator KENNEDY's and Senator INHOFE's amendments lined up, next up in the queue. Members can expect early votes on those two amendments. The managers have outlined an order for the next several amendments. We hope to get short time agreements on each of these and have votes throughout the day. We also expect there likely to be votes into the evening tomorrow. We have a lot of amendments to process for this bill, in fairness to Members on both sides of the aisle who feel strongly about this measure and want to process a very significant number of amendments. With the cooperation of Members on both sides of the aisle, we should be able to accomplish that. Tomorrow will be, as I said earlier, a busy day and potentially a busy evening as well.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand in adjournment under the previous order.

There being no objection, the Senate, at 7 p.m., adjourned until Thursday, May 18, 2006, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, May 17, 2006*

The House met at 10 a.m.

The Reverend Ted A. Hartley, Pastor, Farina United Methodist Church, Farina, Illinois, offered the following prayer:

O gracious and loving Creator God, we exist by Your power and we exist for Your glory. Bring justice to our courts, wisdom to our government, guidance to our schools and love to our homes. Inspire the minds of all persons to whom You have committed the responsibility of government and leadership in our country. Give to them the vision of truth and justice, that by their counsel all nations and people may work together. Give to our government passion for justice and strength of self-control that we may use our liberty in accordance with Your gracious will. Thank You, God, for the balance of our legislative and executive and judicial branches of government and the women and men who serve this great Nation with love and dedication. Bless us, God, but as You bless us, may we be a blessing to others. All honor and glory is Yours, now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Illinois (Mr. WELLER) come forward and lead the House in the Pledge of Allegiance.

Mr. WELLER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate agreed to the following resolution:

S. RES. 481

Whereas Jacob Chic Hecht served as a special agent in the United States Army Intelligence Corps;

Whereas Jacob Chic Hecht served the people of Nevada with distinction from 1983 to 1989 in the United States Senate;

Whereas Jacob Chic Hecht served as United States Ambassador to the Bahamas from 1989 until 1994;

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of Jacob Chic Hecht, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Jacob Chic Hecht.

The message also announced that the Senate has passed a bill of the following title in which concurrence of the House is requested:

S. 879. An act to make improvements to the Arctic Research and Policy Act of 1984.

The message also announced that pursuant to section 214 of title II, Public Law 107-252, the Chair, on behalf of the Majority Leader, appoints the following individual to serve as a member of the Election Assistance Board of Advisors:

Wesley R. Kliner, Jr. of Tennessee.

RECOGNIZING REV. TED HARTLEY AS GUEST CHAPLAIN

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I rise today to introduce the Reverend Ted Hartley, Senior Pastor of Farina, Illinois United Methodist Church as today's guest chaplain.

Rev. Hartley is a native of McLeansboro, Illinois and served as a pastor for 14 years. In addition to serving in towns such as East Peoria, Charleston, Virden and Abingdon, Illinois. Rev. Hartley has also preached the gospel in places such as Zimbabwe, Moscow, throughout Europe, Japan and China.

He has been an outspoken and integral advocate for fostering race relations and ecumenical work. Rev. Hartley is a graduate of Southern Illinois University at Carbondale and is a well-known Salukis fan. He attended seminary at Garrett Evangelical and Methodist Theological School in Ohio.

Accompanying him today is his son, Chris, an 18-year-old college student who is poised to become a future American Idol with his band Noxious, as well as Matthew Metcalf.

I am honored to have Rev. Hartley share his prayer with us today, and thank Father Coughlin for giving him and Farina, Illinois an opportunity of a lifetime.

ETHNIC GENOCIDE IN BURMA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, yesterday demonstrations in over a dozen countries, including the U.S., U.K., Thailand and Japan took place demanding that the U.N. Security Council take action to stop the violence in eastern Burma.

I join them today in speaking out against the brutal military dictatorship of Burma. The thugs of Rangoon are on an all-out rampage. Since March the Burmese military dictatorship has forced over 15,000 Karen tribal people from their homes.

This map shows more than 2,800 villages. All of these dots are villages that have been destroyed, and hundreds of thousands of people displaced since 1996. These photos point to the awful plight of the displaced persons.

There are numerous reports documenting the systematic tracking, torturing, the killing of many of the Karen tribe in the recent weeks. But ethnic genocide is occurring in Burma.

On December 16 the U.N. Security Council held its first-ever briefing on Burma. At the briefing, U.N. Secretary General Annan indicated that the Security Council should get involved in Burma.

But mere talk is not enough. The U.S. should lead an effort to pass a resolution on Burma and the Security Council.

The world knows what is happening. If the international community does not act, we are complicit in their atrocities.

NATURAL DISASTERS

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, as we have seen this week in the news, it is not just the Gulf Coast that is at risk for flooding and other natural disasters. Indeed, it is the whole Nation.

The Governors of Maine, Massachusetts and New Hampshire have all declared states of emergency due to flooding from torrential rains. Four thousand residents in Merrimack County, Massachusetts are just now starting to return to homes filled not just with water but with sewage.

Florida has declared an emergency as well due to wildfires. Residents of Edgewater, Florida were evacuated

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

when a wildfire broke out south of Daytona Beach. Eight thousand acres and several homes were burned.

Hurricane season officially starts the first of next month, with researchers at Colorado State predicting as many as five intense hurricanes this year, with the chance of one striking the gulf coast at least 50 percent.

When less than half the States require even comprehensive plans to deal with natural disasters, one asks, is it going to take another whole summer of fires, hurricanes, and other such disasters for the Federal Government and States to take simple, commonsense steps to protect communities? We can start today in our Transportation and Infrastructure Committee.

MEDICARE PART D ENROLLMENT ACTIVITY

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, as of midnight, May 15, 90 percent of seniors had prescription drug coverage, despite the warnings and threats from the other side of the aisle. They threatened, they scared seniors in robocalls, paid for by people who have prescription drug coverage, telling them too confusing, too difficult, not adequate.

Let me tell you something. The very people that were raising a ruckus and scaring seniors are the ones that are on this floor that do have prescription drug coverage paid for by the taxpayers.

Union groups that are paying for these robocalls urging seniors to be panicked, well, these are the seniors that got us through the Depression, World War II, Vietnam. These are the people that have fought for the values of this country. And they are being insulted daily by the rhetoric that somehow they can't figure out how prescription drugs work.

I am embarrassed by the conduct of others. But I am proud that Palm Beach County and people in the 16th District of Florida knew enough to be able to sign up and now are receiving valuable needed coverage on prescription drugs.

QUESTIONING THE PRESIDENT'S BORDER PLAN

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, it seems the President has found a new use for the Guard, dealing with his Presidency.

On Monday the President announced his intention to send 6,000 National Guardsmen to secure the border. Never mind that his budget cuts the National Guard by 17,000, and that the Guard has been stretched to the breaking point by the war in Iraq.

Never mind that the President's own budget this year fails to provide adequate funding for new border agents, and never mind that Michael Chertoff, the head of Homeland Security, thought this was a bad idea just 6 months ago.

In December 2005 Michael Chertoff told Bill O'Reilly, "The National Guard is not trained for the border mission."

Now it is an election year, the President's poll numbers are down, so the President has decided to deploy the Guard, regardless of what his own budget and the Homeland Security Director has said.

This is an election year, of course. Michael Chertoff is now changing his tune. "What the President did last night was to put on the turbo chargers in dealing with and focusing on this illegal immigration effort that we have got, on a comprehensive basis."

Mr. Speaker, I have been in politics a long time. I have seen my share of political gestures. Having failed to do anything on immigration for 5½ years, the President has decided to act with just 5½ months to go before election day.

It is time for a change. It is time for new priorities.

IRAQI TANK BRIGADE TAKES CONTROL OF TAJI

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, the American Forces Press Service recently reported that only 7 months ago, the Iraqi 2nd Brigade of the 9th Mechanized Division had no personnel, weapons, uniforms, housing or tanks.

Since January, members of the U.S. Army's 7th Squadron, 10th Cavalry Regiment, have served as mentors, coaches and battle partners to the Iraqi Brigade. While fighting together against terrorists on the streets of Iraq, they have formed a strong partnership and greatly improved the brigade's ability to protect the lives of citizens and create a civil society in Iraq.

Today, the 2nd Brigade is now ready to defend 150 square kilometers of the region. As these brave Iraqi soldiers begin to fulfill this important responsibility, I believe we should recognize this clear sign of progress in Iraq. I am especially proud of the U.S. troops who trained and equipped Iraqis to serve their own country. By confronting terrorism in Iraq we are protecting American families at home.

In conclusion, God bless our troops, and we will never forget September 11.

PLAN B FOR MEDICARE PART D

(Mr. BISHOP of New York asked and was given permission to address the House for 1 minute.)

Mr. BISHOP of New York. Mr. Speaker, just because the Medicare enrollment deadline has passed and the President refuses to extend it, those of us who voted against a shortsighted Medicare bill and opposed this past Monday's deadline will not fade quietly away.

We will continue to fight for seniors who need more time to choose a plan that is right for them. We will fight the punitive lifetime tax on the elderly and disabled who, through no fault of their own, have yet to sign up for a plan.

And here is the ultimate irony. While the President and congressional Republicans never met a tax cut they didn't like, including more dividend and capital gains tax cuts for the already very comfortable, corporate tax holidays for extra-territorial income, they are imposing a new tax on one of the most vulnerable segments of our population: seniors.

Medicare part D works just fine for the pharmaceutical companies and big business HMOs, but it is not working for those seniors who have yet to sign up for a plan and who will have to pay for it for the rest of their life.

Mr. Speaker, it is long overdue that we fix this program. We need a plan B for part D.

MINNESOTA STEM CELL ADVANCES

(Mr. KENNEDY of Minnesota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Minnesota. Mr. Speaker, stem cell researchers at the University of Minnesota and BioE, a company in my home State, have reported that they have successfully differentiated cord blood stem cells into lung cells.

This potential breakthrough would extend the promise of stem cell research to a treatment of many respiratory conditions. And just this past February, researchers at the University of Minnesota discovered the potential application of cord blood stem cells in nerve tissue regeneration.

This research reinforces the importance of the Stem Cell Therapeutic and Research Act we passed last year, and why we must fully fund the stem cell research it authorized.

This research out of my home State of Minnesota reminds us that stem cell research that respects life is already being used to provide astonishing miracles for devastating diseases.

OUR COUNTRY IS LIVING IN DEBT

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, during these tough economic times when Americans are paying record amounts at the pump, struggling with rising college tuition bills and facing high health care costs, many families are working hard to keep their bank balances positive and their heads above water.

These families know well the consequences of going into debt and the importance of living on a pay-as-you-go system. It is a lesson that they should teach House Republicans who have once again proposed a budget resolution that sends us spiraling even further into record debt and proposes no plan for balancing our Nation's account.

Republicans propose we continue living on credit, money borrowed from nations such as China, to whom we now owe $257 billion. In fact, they have the audacity to propose that we even increase the debt limit for our Nation for the fifth time since this President took office.

Mr. Speaker, this shameful budget proposal is another example of how this Republican Congress failed to do what every American family must do, to live within their means.

BORDER SECURITY AND IMMIGRATION LAW ENFORCEMENT

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, earlier this week President Bush laid out a plan to strengthen our border security, and I commend him for focusing on this vital issue. There is nothing more important to me than the safety and security of this country. Border security is the starting point for ensuring that all Americans remain safe.

Don't get me wrong. I sympathize with those who wish to live the American dream. America is a Nation of immigrants, but we must never forget that we are also a Nation of laws. Immigration laws exist to provide the necessary steps for safe and legal entry into this country. And we must be able to enforce them.

Illegal immigration is a major problem that is having a very negative effect on our education, health care, Social Security, taxes, employment, wages, crime and countless other areas of our daily lives. Immigration laws exist to provide the steps for safe and legal entry into this country, and we must enforce them.

I support doing whatever it takes to secure our border and enforce our laws, including deploying members of our National Guard to our southern border. I also support denying government benefits to illegal aliens, making English our official language, and cracking down on those who knowingly hire illegal workers. However I do not support a guest worker program that has amnesty components or that leads to citizenship for those who break our laws.

□ 1015

BUDGET IMPACT ON WOMEN

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, this morning I rise to highlight how the Republican budget resolution will harm millions of women and children around the country.

This budget makes it more difficult for young women to earn college degrees by cutting their financial aid. This budget continues to shortchange hundreds of thousands of children by freezing for the 5th year, the 5th year, the Child Care Development Block Grant.

During the President's tenure, the number of children living in poverty has actually increased and not decreased. In addition, the Republican budget resolution cuts key health programs, veterans programs, and environmental programs. These cuts, as you know, will hurt our American families when they are feeling the pain the most, when they have to pay higher gas prices. All their bills are going up. Health care costs are out of bounds.

H. Con. Res. 376 will actually increase the Nation's deficit, does nothing to balance the budget, and adds to the crushing national debt.

I urge my colleagues to support the Democratic budget substitute and vote "no" on this immoral and irresponsible Republican budget resolution.

REPLACE IMPORTED OIL WITH DOMESTIC BIOFUELS

(Mr. WELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELLER. Mr. Speaker, our Nation is addicted to oil, and it is a national security issue.

The fact that two-thirds of the oil that we consume is imported puts us at risk. Today left-wing autocrats like Venezuela's Hugo Chavez have told us very clearly they plan to use oil as a political weapon against the United States.

There is a reason we have $3 gasoline. It is time that we replace imported oil with domestic, homegrown biofuels like ethanol and biodiesel.

Last year's energy bill was a good start, doubling the biofuels that we consume from 4 billion to 7.6 billion gallons by the year 2011. That is why today there are 26 organizations in Illinois planning to move forward to build ethanol plants, five in the district that I represent alone. But that only represents 2.5 percent of all the fuel that we consume; so we need to do more.

I urge this House to move forward on an aggressive plan to replace imported oil with the homegrown biofuels. The Biofuels Act of 2006 accomplishes that goal. Let us pass it. Let us move it now.

REPUBLICAN BUDGET PUTS U.S. FURTHER IN DEBT TO OTHER NATIONS

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, instead of offering a plan to bring us out of debt, the Republican budget actually makes the deficit worse. This is fiscal irresponsibility, and that means that we will continue to borrow billions of dollars from other nations.

Today we owe Japan $682 billion; China, $249 billion; the Caribbean nations, $115 billion; Korea, $66 billion; and OPEC, that is right, the oil-producing nations we rely on so heavily to fuel our vehicles, we owe $67 billion.

Washington Republicans have been so fiscally irresponsible that President Bush has now borrowed more money from other nations than all other 42 predecessors combined. And they are not done. They plan to borrow more because they stuck another debt limit increase in the budget.

Mr. Speaker, this does not sound like a record anyone would be proud of. No wonder that so many Republicans are skittish about supporting it.

The Democratic plan balances the budget in 5 years and restores pay-as-you-go that worked so well in the 1990s.

THE MEDICARE PRESCRIPTION DRUG PLAN

(Mrs. MYRICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MYRICK. Mr. Speaker, Monday marked the cut-off date for all seniors to sign up for the new Medicare prescription drug plan. And I am happy to announce that more than 38 million seniors, representing more than 90 percent of all seniors on Medicare, now have coverage for prescription drugs.

We created this program because seniors were having to choose between their prescriptions and paying their bills, and now they do not have to make those sacrifices to get the medicines that they need.

I also want to take a moment to thank the countless organizations who helped them and made sure that they signed up for the right plan. They walked them through the process, and I applaud them for that. It was very helpful. And, again, now more than 38 million seniors have coverage for prescription drugs. They have it because we made a promise, and we kept it.

DARFUR, SUDAN

(Mr. AL GREEN of Texas asked and was given permission to address the House for 1 minute.)

Mr. AL GREEN of Texas. Mr. Speaker, a tragedy of the highest magnitude exists in Darfur in Sudan, Africa.

Mr. Speaker, over 450,000 have died; 2.5 million have been displaced internally; 200,000 have fled to Chad; 3 million, Mr. Speaker, are living on emergency aid.

Mr. Speaker, this tragedy exists for two reasons: One, people of ill will, the actions of these people of ill will; and two, the inactions of people of goodwill.

Mr. Speaker, it is time for people of goodwill to take a stand and realize that injustice anywhere, as Dr. King put it, is a threat to justice everywhere. And injustice in Sudan in Africa is a threat to justice in America.

BORDER SECURITY

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, the American people have reached a consensus on the border security issue; so I find it very hard to understand why we here in Washington are having trouble doing the same.

Outside the Beltway people think it is perfectly reasonable to build a wall to protect the border. They do not see a problem with installing surveillance technology to monitor the border. They do not support amnesty.

It is only here where the pundits rule, and in the New York newsrooms, that we see such hand wringing on the border security issue. An op-ed in The Washington Post called people concerned about illegal immigration "nativists." Apparently, worrying about border security and the rule of law makes one a nativist. I find that it is a sad statement on the attitude of those opposed to beefing up our border security.

I ask my colleagues to join me to look past the pundits, past the liberal editorial pages, and do what the vast majority of Americans want done: Secure the border and do it without amnesty.

REPUBLICAN BUDGET INCREASES DEBT WITH NO PLAN TO BALANCE BUDGET

(Mr. SALAZAR asked and was given permission to address the House for 1 minute.)

Mr. SALAZAR. Mr. Speaker, 6 years ago our Nation was in a secure financial position. We had a balanced budget, a pay-as-you-go system for funding government programs, and a record surplus of $5.6 trillion.

Now after years of imposing their reckless fiscal policies on this country, the administration and Congress have squandered our reserves, and their policies have created a record $3.2 trillion debt.

Not only that, but under this watch the cost of living for average Americans has gone up significantly. In just the last few years alone, gas prices have reached $3 a gallon, fuel costs for farmers have gone up 113 percent, and the interest rate has risen more than 16 times.

But just when you think things cannot get any worse, the leaders of this body put forward a shameful budget resolution that makes no attempt to bring our Nation's finances back into balance. Instead, their irresponsible fiscal record continues full steam ahead. The proposed 2007 budget will increase the deficit even further with no plan to ever return to balance in the future.

Mr. Speaker, this budget resolution may be more of the same, but Americans know it is time for change.

IMMIGRATION REFORM

(Mr. McHENRY asked and was given permission to address the House for 1 minute.)

Mr. McHENRY. Mr. Speaker, the U.S. House last year in December did the right thing and passed a strong immigration reform bill that increases border security and takes amnesty off the table.

Now it is time for the Senate to respond to the growing problem of illegal immigration and do what is best for legal immigrants and citizens of this country.

I am encouraged by President Bush's plan to increase our security by positioning National Guard troops on our southern border. This will provide essential, but temporary, security along our porous and vulnerable borders.

However, the better alternative is to enact a comprehensive border security program like the House bill by constructing fences, bolstering our Border Patrols, and improving our surveillance capabilities.

Additionally, a guest worker program is nothing more than amnesty wearing makeup. It is easier to look at, but it is still ugly underneath. The simple truth is that if you break the law to come to this country, you will not respect it once you are here.

STROKE AWARENESS MONTH/STOP STROKE ACT

(Mrs. CAPPS asked and was given permission to address the House for 1 minute.)

Mrs. CAPPS. Mr. Speaker, I wish to remind my colleagues today that May is Stroke Awareness Month.

Throughout this month we recognize the millions of Americans struggling with the effects of stroke, and we recommit ourselves to helping them. We also acknowledge the efforts of organizations, like the American Stroke Association, which provide leadership, helping all of us to prevent and treat stroke.

On average every 45 seconds, someone in the United States has a stroke, and someone dies from stroke every 3 minutes. Representative PICKERING and I have introduced the Stroke Treatment and Ongoing Prevention Stroke Act, H.R. 898, the STOP Stroke Act, which now has the support of 132 of our colleagues. This legislation will increase awareness, provide critical resources to implement stroke care systems. The legislation will help ensure that patients recognize the symptoms of stroke and treat it as a medical emergency. We want to ensure that hospitals and other health care providers provide timely, lifesaving treatment that reduces disability from stroke and the need for extensive rehabilitation.

I urge my colleagues to support this bill and all efforts which address the scourge of stroke.

HYPOCRISY HAS CROSSED THE BORDER

(Mr. KELLER asked and was given permission to address the House for 1 minute.)

Mr. KELLER. Mr. Speaker, hypocrisy has crossed the border. Mexico has its own serious illegal immigration problem. Hundreds of thousands of illegal immigrants are coming across Mexico's southern border from Guatemala and other Central American countries.

What do Mexico's politicians say about it? They say these illegals are overcrowding Mexico's hospitals and schools. They say they are taking away jobs from Mexican citizens. They say it poses a security threat to Mexico.

In other words, they sound like the Minutemen.

What did Mexico do about it? Did they put out a welcome mat? Did they grant everyone citizenship? No. They got tough. Mexico put their military at the southern border to stop illegals. Mexico deported 250,000 illegals last year. And Mexico criminalized illegal immigration, making it a felony punishable by 2 years in prison.

Now Mexico hypocritically criticizes our having National Guard troops on the border.

We have a saying in this country: Actions speak louder than words.

THE REPUBLICAN BUDGET

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, the do-nothing Congress is in session today to enact a sham budget.

Let me explain why I say that. There is a provision in that budget which raises the debt limit. Now, if you are balancing the budget, why are you implying you are going to go out and borrow more money? If one of your children said, "Well, Dad, I am making

$40,000 this year, but my wife and I have decided to take $100,000 in a home equity loan so we can pay for whatever we want," you would tell your son or your daughter that was fiscally irresponsible.

What the Republicans are doing is borrowing more than $300 billion from the Chinese, the Japanese, and anybody else who will give us money, and they are giving it in a tax cut to the people earning $1 million a year. They are going to get over $100,000 back from the borrowing. That is what this budget really does. It is a sham. It doesn't balance anything, and it should be rejected, both by the Congress and the people on election day in November.

□ 1030

CONGRATULATING MARIETTA HIGH SCHOOL

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, I rise today to congratulate Marietta High School in Cobb County, Georgia, on an outstanding accomplishment.

This past week, Marietta High School was honored as one of the top 5 percent of all high schools in America by Newsweek magazine. The magazine praised the school's commitment to student achievement and noted the high number of advanced placement and international baccalaureate students at Marietta.

When I served as chairman of the Marietta City School Board, I was always impressed by the school's deep commitment to student achievement. This award is certainly well deserved.

Mr. Speaker, I would like to congratulate Principal Leigh Colburn, Assistant Principal Donna Thornton and all the faculty and staff at Marietta High School. They are doing an incredible job educating our children, and I should know. After all, I am the proud parent of four former Marietta High School students.

Mr. Speaker, I ask that you join me in congratulating Marietta High School on this impressive achievement, and in thanking the school for its dedication to developing the minds of our community's rising leaders.

HOUSE REPUBLICANS NEED TO STAND UP TO BUSH ADMINISTRATION AND HELP AMERICA'S SENIORS

(Ms. CORRINE BROWN of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CORRINE BROWN of Florida. Mr. Speaker, House Republicans have failed millions of American seniors by choosing once again to rubber-stamp the harmful policy of the Bush administration. Despite the fact that recent polls show only 55 percent of seniors knew about the May 15 sign-up deadline for a private prescription drug plan, House Republicans refused to join us in extending the deadline until the end of the year.

Now, millions of seniors who have yet to sign up cannot until the end of the year. House Republicans and the Bush administration will also penalize them when they sign up with at least a 7 percent tax on their premium, a tax that they will be forced to pay every month for the rest of their lives.

Our seniors are not to blame for this complicated and confusing prescription drug law. It is so confusing that the people who are attempting to answer the seniors' questions about the different plans are giving out wrong information more than half of the time.

Once again, the House Republicans have failed American seniors.

PROPOSED BUDGET REAFFIRMING COMMITMENT TO FISCAL DISCIPLINE AND REFORM

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, with record deficits and national debt, today the House of Representatives will take on one of our most important duties every year. We will consider a budget resolution.

Thanks to the leadership of Speaker DENNIS HASTERT, we will be bringing a budget to the floor that will reaffirm our commitment to fiscal discipline and reform. By holding the line on the President's number on domestic spending and by including a rainy day fund for the first time ever, Republicans will say to millions of Americans, troubled by a sea of red ink, we hear you and this Republican Congress is ready to make the hard choices to put our fiscal house in order.

I urge all of my colleagues to stand together today, Republicans and even Democrats, to support this budget resolution.

PROPOSED BUDGET A FISCAL CATASTROPHE

(Mr. POMEROY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POMEROY. Mr. Speaker, the preceding 1 minute could not have been more false. Today's budget raises the debt limit again, today's budget will add deficits in each of the years of its operation, today's budget will bring the national debt to $9.6 trillion, and to hear words on the floor of this House about this being a budget of fiscal discipline, this being a budget responding to the concerns of taxpayers worried about red ink, that is pure unadulterated hooey.

This budget is a fiscal catastrophe: It raises the debt limit in May, just after we raised the debt limit in March.

Anyone thinking that the Nation's finances have spun completely under control under the consolidated power of this administration and this Republican Congress needs only to look at this budget and only needs to look at the fact that they are back at the bank one more time, raising the debt limit, to understand the deep trouble that we are in.

THE BENEFITS OF THE MEDICARE PRESCRIPTION DRUG PLAN

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, I am excited about the benefits of the Medicare D prescription drug plan. I have two stories I would like to relate to you and to my colleagues.

I have one lady who is saving $24,000 a year by now taking part in Medicare part D. For the first time in years, she now is back on the road driving because she couldn't afford to buy automobile insurance. So not only is she saving money, but she is now free again to take part in activities that she for so long put aside.

Another HIV-positive disabled individual is saving $15,000 a year accessing the Medicare D prescription drug plan.

So it is a plan that is working. For those that did not sign up, I would encourage our seniors to continue to investigate it. At the most, it will be an additional $25 premium if they sign up in May. And if you are low income, there is never a penalty. Low-income seniors who take access even now will never pay a Medicare D prescription drug penalty, because the program was designed for the poorest of all seniors so they wouldn't have to make a choice between food and prescription drugs.

BUSH ADMINISTRATION WAS WRONG TO FORCE SENIORS INTO A DRUG PLAN BY MAY 15

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, Republicans were dead wrong to force American seniors to pick a private drug plan by May 15.

Choosing the right plan is not easy for any of us. Seniors had dozens of plans to choose from. In Nevada alone, we had 44 plans. But this decision was made even more difficult by an incompetent Bush administration that did not give seniors accurate information.

The nonpartisan GAO conducted an investigation which concluded seniors were receiving bad information 60 percent of the time on critical questions concerning which drug plan cost the least based on a senior's prescription drug needs. One in five seniors are now actually paying more for their drugs than they did before they signed up. Seniors received bad information from the Bush administration, and based on this bad information, they made a very bad decision.

House Democrats wanted to extend the deadline until the end of the year, giving seniors more time and preventing an unfair penalty tax from taking effect. House Republicans refused to join us in this effort, and now millions of seniors will unfortunately pay the price.

COMMUNICATION FROM CONSTITUENT SERVICES DIRECTOR OF HON. SAM JOHNSON, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. GILLMOR) laid before the House the following communication from Jerry Durham, Constituent Services Director of the Honorable Sam Johnson, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 15, 2006.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a civil subpoena, issued by the 417th Judicial District Court for Collin County, Texas, for testimony and documents.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

JERRY W. DURHAM,
Constituent Services Director.

PROVIDING FOR CONSIDERATION OF H.R. 4200, FOREST EMERGENCY RECOVERY AND RESEARCH ACT

Mr. BISHOP of Utah. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 816 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 816

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4200) to improve the ability of the Secretary of Agriculture and the Secretary of the Interior to promptly implement recovery treatments in response to catastrophic events affecting Federal lands under their jurisdiction, including the removal of dead and damaged trees and the implementation of reforestation treatments, to support the recovery of non-Federal lands damaged by catastrophic events, to revitalize Forest Service experimental forests, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour, with 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Resources, 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment recommended by the Committee on Resources now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of the amendment in the nature of a substitute printed in the Congressional Record and numbered 1 pursuant to clause 8 of rule XVIII. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived. Notwithstanding clause 11 of rule XVIII, no amendment to that amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Utah (Mr. BISHOP) is recognized for 1 hour.

Mr. BISHOP of Utah. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from California (Ms. MATSUI), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 816 provides for a structured rule and allows for 1 hour of general debate with 20 minutes equally divided and controlled by each of the chairman and ranking minority members of the Committee on Resources, the Committee on Agriculture and the Committee on Transportation and Infrastructure.

There also are four amendments, Democrat amendments, that have been filed with the bill made in order. Each of these amendments was considered in the committee markup and was defeated in those markups, but we have decided in the rule of fairness to allow them all to have a chance of debating those amendments on the floor, giving them another chance to convince a majority of the House Members that their approach to forest management is better than the bill before us.

In testimony received in the Rules Committee, it was mentioned that this particular bill has had, approximately 50 times, a redrafting to make sure the needs of individuals were met; it was passed by strong bipartisan support in both the Rules Committee and the Agriculture Committee; it has 147 bipartisan sponsors; it has had nine hearings; the sponsors have traveled to forests from Oregon to Georgia; they have had input from Fish and Wildlife, from Tribal land managers; it has been endorsed by the 25,000-member National Federation of Federal Employees Union, by the 15,000 members of the Society of American Foresters and by the 12,000-member Coalition of Professional Firefighters.

This bill has gone through regular order. It is as regular, it is so regular you would think it was sponsored by Metamucil.

I am also very grateful to the chairman of the subcommittee who is the sponsor, Mr. WALDEN, for his work on this, as well as Mr. GOODLATTE, Mr. GILCHREST, Mr. BAIRD, Ms. HERSETH, who presented this bill to us, and also to the gentleman from Washington, Mr. HASTINGS, who told me everything I need to know about forests, and if this bill is good with him, it obviously has to be a good bill.

Those of us who live in the western States realize that we have enormous tracts of land, both in Forest Service land and in BLM lands, and the forest in those areas has been under tremendous stress in the past two decades. We estimate there are at least 190 million acres of land at risk, over 1 million acres that is currently in a restoration backlog. It has taken us about 2 years to begin the restoration process. If there is any kind of regulatory process, the average is 3½ years.

□ 1045

Yet, in those same areas, non-Federal lands, whether it is private or governmental, can begin their restoration process in weeks using best practices that have been tried and true.

At the Rules Committee it was mentioned after the Mt. St. Helens eruption, if you now go to Washington State, you can clearly see where the private forest management, which included selective and partial harvesting of dead timber, has resulted in a quicker and better recovery than adjacent Federal lands where the actions have been hindered oftentimes by litigation.

In my own State of Utah, the Dixie National Forest in southern Utah over a decade ago was infested by pine beetles, originally committed to only 6 acres of infestation above the Cedar Breaks National Monument, an area that was filled with beautiful and very tall Englemann spruce trees.

The best available science protocols and the Forest Service's preferred alternative was a remediation plan that called for harvesting of a certain size of tree in the infested area. Apparently these pine beetles only like a certain age of trees; kind of like a fine wine of only a certain year is what they would consume. The forestry experts said that by harvesting selectively in this contained 6-acre area, they could contain the insects' further spread.

Unfortunately their plan was subject to intense litigation which lasted for over 2 years. In that 2-year period of time, the Forest Service was precluded by injunction from proceeding with their remediation plan. The beetle, unfortunately, did not wait for those 2 years, for the lawyers and the judges in a typical slow, deliberative judicial pace to solve their differences.

Instead of 6 acres being impacted, thousands of acres were killed in this particular forest. Today, if you visit this area, the sad legacy of this litigation was that under the guise of protecting our forest, it was actually very extremely detrimental to our forest. What was once a pristine and amazingly beautiful forest is now acre after acre after acre of dead trees. Habitat has been lost, vegetation was lost, mud slides have increased, water and air quality has decreased, and soil erosion has increased. This area is now an extremely high risk of devastating fire.

There are events that take place in our life that disrupt our forest system. Last year we passed the Healthy Forest Restoration Act to give tools of management to our forest experts for forest health, for community protection, fuel reduction and fire prevention.

This year we are now bringing before you the Forest Emergency Recovery and Research Act, a commonsense recovery plan that would follow natural disasters affecting our forest land. This gives tools of rehabilitation. It is not a plantation forest which environmentalists do not like. There is heavy emphasis on alternative energy that can be used for some of the materials that will be recovered.

You may hear some opponents of this particular bill talking the same old talking points of yesteryear. The important thing to remember is in H.R. 4200 there are three specific elements to it.

Number one, it pursues scientific research in conjunction with land grant universities to improve our knowledge about postcatastrophe treatment. Secondly, it mandates preapproved action, subject to peer review, without blatant proscriptions of actions that will give best science efforts in controlling and preserving our forest land. Number three, it provides firefighter protection.

The most treacherous and dangerous situation for a firefighter is always the second fire in the same area. The passage of this bill would eliminate the potential harm and risk not only to species, but also would potentially save the lives of many of our firefighters.

This bill is such a good bill that it actually should be on the suspension calendar, but we are here today to consider this legislation on the floor under a rule. Once again, Mr. Speaker, this rule provided under H. Res. 816 is fair by any standard of judgment.

I am proud to be a cosponsor of this underlying legislation, the Forest Emergency Recovery and Research Act. I believe it represents a model for how Congress can act in a methodical, reasonable and bipartisan manner to address vital concerns on this emotional environmental issue.

Mr. Speaker, I urge the adoption of the resolution and the underlying legislation in H.R. 4200.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I thank the gentleman from Utah (Mr. BISHOP) for yielding me this time, and yield myself such time as I may consume.

Mr. Speaker, our forests are a valuable natural resource. They offer beauty and recreation for many across the Nation. My own hometown of Sacramento is but a couple of hours from Tahoe National Forest. Throughout the year, Sacramentans can be found taking advantage of this proximity, using the park for hiking, skiing and camping.

With 18 national forests and 20 million acres of national forestland in my home State of California, we face the challenge of a wildfire on almost an annual basis. Many western States deal with forest fires every summer.

In addition, Americas's forests also endure damage from hurricanes, floods, mudslides and our natural disasters. All of these events require swift action from our Nation's brave network of first responders as well as tailored government policies to help forests regenerate over the long term.

The rule before us would authorize debate on H.R. 4200, a bill which its supporters see as a way to speed forest recovery by loosening or eliminating some Federal regulations protecting our public lands. Such a proposal demands scrutiny and debate.

To warrant congressional action, there must be a demonstrable need for such a proposal and reliable proof that the proposed solution meets that need. Unfortunately, the evidence on the need for this bill points in both directions. While some sources claim that this bill would improve the state of forests, other scientific accounts indicate that H.R. 4200 would actually hurt the forest recovery process.

We do know that it would create a loophole to allow some industries to skirt compliance with the National Environmental Policy Act and the Endangered Species Act.

Supporters contend that the logging industry is saddled with unfair government regulations which impede their postfire operations and ultimately hurt the forests themselves. At the same time, 35 percent of all logging in national forests in the past 6 years came from timber salvage in ways similar to this bill, accounting for $35 million to $40 million annually. The only difference is that now these activities have to comply fully with NEPA and the Endangered Species Act before moving forward.

While a CBO estimate projects that this bill would increase timber profits from salvaging by 40 percent, the first question which must be answered is not one of business, but one of science. Does the policy recommended under this bill make sense?

As I stated at the beginning, the evidence is too murky to tell, and we need to spend more time learning about and debating this issue before we act. I am encouraged that the Rules Committee recognized this and made four amendments in order which will add to the public discourse on this bill.

However, it is difficult to ignore the arguments of those opposed to H.R. 4200. One such voice comes from a January 2006 issue of Science Magazine. In that issue, a group of researchers published a study of logging in the aftermath of the 2002 Biscuit fire in Oregon. This peer-reviewed study concluded that the impact of logging in these areas reduced regeneration of new trees by some 70 percent.

This single scientific article is not the final word on such a complicated matter for sure, but its findings are consistent with a good portion of the larger body of literature on this subject. And when so many experts express concern with H.R. 4200, Members would be well advised to listen to their reservations and take time to reconsider the issue.

Mr. Speaker, I will insert at this point in the RECORD a letter to Congress signed by 169 experts in the areas of biology, ecology and forest management. This group of researchers includes UC Davis professors Dr. Robert Coats and Dr. Peter Moyle, as well as 13 other Californians.

MARCH 14, 2006.

DEAR MEMBERS OF CONGRESS: The United States has made great strides by relying on science to inform our decision making. Science helped us travel to the moon; advance medicine and health; and understand the complex web of life on land and in rivers, lakes, and oceans. Science has also opened our eyes to the workings of forests and provided blueprints for federal plans to better protect the abundant natural resources of our public lands.

When we, as scientists, see policies being developed that run counter to the lessons of science, we feel compelled to speak up. Proposed post-disturbance legislation (specifically the Forest Emergency Recovery and Research Act [H.R. 4200] and the related Forests for Future Generations Act [S. 2079]), crafted as a response to recent fires and other disturbances, is misguided because it distorts or ignores recent scientific advances. Under the labels of "recovery" and "restoration," these bills would speed logging and replanting after natural disturbances.

Although logging and replanting may seem like a reasonable way to clean up and restore forests after disturbances like wildland fires, such activity would actually slow the natural recovery of forests and of streams and creatures within them. Many scientist-reviewed studies and syntheses (please see the selected citations appended to this letter) have recently come to this conclusion. For example, no substantive evidence supports the idea that fire-adapted forests might be improved by logging after a fire. In fact, many carefully conducted studies have concluded just the opposite. Most plants and animals in these forests are adapted to periodic fires and other natural disturbances. They have a remarkable way of recovering—literally rising from the ashes—because they have evolved with and even depend upon fire.

We are concerned that H.R. 4200 and S. 2079 will bind us to land management practices that, perhaps logical in the past, are no longer tenable in the light of recent scientific understanding. Specifically, post-disturbance logging impedes regeneration of forest landscapes when it compacts soils, removes or destroys so-called biological legacies (such as soil organic material, seeds in the soil, large standing and downed trees), damages riparian corridors, introduces or spreads invasive species, causes erosion, delivers sediment to streams from logging roads and steep slopes, degrades water quality, and damages populations of many aquatic species. In testimony before the House Subcommittee on Resources (November 10, 2005), eminent forest ecologist and University of Washington Professor Jerry Franklin noted that logging dead trees often has greater negative impacts than logging of live trees. He concluded that "timber salvage is most appropriately viewed as a 'tax' on ecological recovery."

Beyond those concerns, post-disturbance logging often intensifies the potential severity of future fires by concentrating the slash from logging at or near the ground. Rather than leaving plant material standing—and providing perching, nesting, and feeding sites for wildlife—such logging abruptly moves the material to the ground. Most of this material would naturally fall to the ground, adding important supplies of nutrients and energy to the forest floor and structure in the form of woody debris to stream channels. But this naturally happens over decades, not in the relatively short time associated with a logging operation. Advocates of post-disturbance logging may argue that this slash can be disposed of with controlled burns and other treatments. Yet such treatments can severely damage underlying soils, imposing other taxes on natural recovery.

One additional tax concerns us. Postfire logging taxes the public treasury. Recent analysis of postfire logging operations after Oregon's Biscuit fire of 2002 shows that costs of the logging operations exceeded revenue by about $14 million for logging that removed more than 53 million board feet of timber (DellaSala et al. 2006).

Science provides the best insight into the real consequences of our policies and actions. Ironically, this legislation is crafted to ignore the science by waiving environmental reviews, reviews that would make use of the scientific knowledge often available only because of expenditures of public funds. Failure to conduct full environmental reviews informed by that science will inevitably lead to ecological and economic harm from post-disturbance logging.

In short, neither ecological benefits nor economic efficiency result from post-disturbance logging. We therefore urge you to defeat these legislative efforts because they will set back forest recovery. We urge you to work with your fellow lawmakers to craft legislation that will rely on the most up-to-date scientific knowledge to protect the natural resources of the nation's public lands.

Sincerely,

Isabella A. Abbott, Ph.D., Wilder Professor Emerita, Botany University of Hawaii, Honolulu, HI.

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James P. Amon, Ph.D., Professor, Wetland Biologist, Department of Biological Sciences, Wright State University, Dayton, OH.

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Stephen M. Spomer, Research Associate, Department of Entomology, University of Nebaska, Lincoln, NE.

James R. Spotila, Ph.D., Betz Chair Professor, Environmental Science, Department of Bioscience and Biotechnology, Drexel University, Philadelphia, PA.

Robert Stiles, Ph.D., Ichthyologist, Department of Biology, Samford University, Birmingham, AL.

James R. Strittholt, Ph.D., Executive Director, Landscape Ecologist, Conservation Biology Institute, Corvallis, OR.

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Robert O. Wagner, Ph.D., Wildlife Ecologist, DeRidder, LA.

Don Waller, Ph.D., Forest Ecologist, Department of Botany, University of Wisconsin, Madison, WI.

B. Michael Walton, Ph.D., Director, Environmental Institute, Associate Professor, Biological, Geological, and Environmental Sciences, Cleveland State University, Cleveland, OH.

James H. Warner, Ph.D., Ecologist, Professor Emeritus, Biology, University of Wisconsin-La Crosse, La Crosse, WI.

Peter Warner, M.A., Ecology, Environmental Scientist, California Department of Parks & Recreation, Little River, CA.

Vicki Watson, Ph.D., Professor and Watershed Ecologist, University of Montana, Missoula, MT.

Tom Wessels, M.S., Professor, Ecology, Antioch New England Graduate School, Keene, NH.

Cindy Deacon Williams, Fisheries Biologist, Headwaters, Ashland, OR.

Jack E. Williams, Ph.D., Chief Scientist, Trout Unlimited, Medford, OR.

Mr. Speaker, I would like to read an excerpt from this letter because it illustrates the need for us to carefully consider what we are doing if we pass this bill.

"Although logging and replanting may seem like a reasonable way to clean up and restore forests, after disturbances like wildland fires, such activity would actually slow the natural recovery of forests and its streams and creatures within them. For example, no substantive evidence supports the idea that fire-adapted forests might be improved by logging after fire. In fact, many carefully conducted studies have concluded just the opposite."

Mr. Speaker, if Congress wants to give itself adequate time to investigate the evidence and debate this complex and important issue, it will put this bill aside. To do otherwise would ignore the voices of some forest management experts and scientists who contend that this bill will make our forests more vulnerable to fire.

At the same time, approving this bill would needlessly undermine the Federal laws put in place to balance the interests of industry with those of the environment.

Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield as much time as he may consume to the gentleman from Oregon (Mr. WALDEN), who is the chairman of the subcommittee, as well as the sponsor of the bill, and recognized as probably one of our experts on forest life and forest health in this Congress.

Mr. WALDEN of Oregon. Mr. Speaker, I appreciate the opportunity to speak on this legislation today. H.R. 4200 comes before you today after more than 2 years of work by Representatives BAIRD, HERSETH, GOODLATTE, GILCHREST, myself and many others.

Mr. Speaker, we have worked on more than 50 drafts of this legislation in an open and inclusive process, deliberately in an attempt to produce legislation that carefully reduces the obstacles to forest recovery following catastrophic events such as massive wildfires, blowdowns and ice storms.

Mr. Speaker, we moved the bill successfully through the House Resources Committee on a 25–13 bipartisan vote, and through the House Agriculture Committee by a 36–3 bipartisan vote, easily defeating all opposing amendments.

The Congressional Budget Office score, while showing an initial cost of $5 million in the first year, shows the bill will reduce spending by the Federal Government by $21 million from 2007 through 2011, and will generate hundreds of millions of dollars in net revenue for the land management agencies.

Mr. Speaker, this poster next to me here shows what happens on our Federal forests in terms of replanting costs and salvage value.

The longer you take to replant a forest, the more it costs. The longer you wait to salvage, if that is the plan, the less value you get out of it. This is pretty simple science, pretty simple and explanatory math that explains what we are trying to accomplish here. Salvage sooner, plant sooner, restore the forest quicker.

We come to you today with 146 cosponsors; the support of hundreds of organizations and thousands of forest and conservation professionals; wildland firefighting organizations, the real ones, the ones that actually represent thousands and thousands of the people who put their lives on the line to extinguish the fires in our forest. Organizations representing labor have weighed in strongly in support of this legislation.

Mr. Speaker, I will insert into the RECORD at this point letters that I have received and others have in support of this legislation.

FEDERAL WILDLAND FIRE
SERVICE ASSOCIATION,
Inkom, ID.

Hon. GREG WALDEN,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WALDEN: The FWFSA is a nation-wide employee association comprised of federal wildland firefighters from the five land-management agencies. Our membership spans the breadth of fire positions from entry-level firefighters to Forest Fire & Aviation Chiefs.

We have been asked to review HR 4200. The Forest Emergency Recovery & Research Act and to provide our thoughts on this legislative proposal. We are cognizant of the frequent debate regarding forest policies and quite candidly often find ourselves in the middle of such debates. However in reviewing HR 4200, we are looking for the impact to our firefighter's health and welfare. We have reviewed documents in support of the measure as well as documents opposing it. With all due respect to those that oppose this legislation, we don't believe many of their positions or conclusions are plausible.

In looking at the legislation strictly from a wildland firefighter standpoint, this organization believes the Forest Emergency Recovery & Research Act is a common sense approach to addressing a number of complex issues. Therefore we are pleased to offer our support of this measure.

Should you have any questions, please feel free to contact me.

With warm regards,

CASEY JUDD,
Business Manager.

INTERNATIONAL ASSOCIATION,
OF FIRE CHIEFS
Fairfax, VA, May 16, 2006.
Hon. GREG WALDEN,
Chairman, Subcommittee on Forests and Forest Health, Committee on Resources, House of Representatives, Washington, DC.

DEAR CHAIRMAN WALDEN: On behalf of the nearly 13,000 chief fire and emergency officers members of the International Association of Fire Chiefs (IAFC), I would like to commend you for introducing H.R. 4200, the "Forest Emergency Recovery and Research Act."

America's fire service is tasked with responding to emergencies and disasters caused by all hazards, including wildland fires. As such, we understand the importance of healthy forest management activities, such as reducing fuel loads, to decreasing risk to communities and preventing future fires. This legislation will play an important role in these activities by allowing federal forest managers to remove dead and dying timber in a timely manner from areas affected by catastrophic events.

Please feel free to contact Ken LaSala, Director of Government Relations, at (703) 273-9815 x347, if we can be of assistance.

Sincerely,
CHIEF WILLIAM D. KILLEN,
President.

MAY 9, 2006.
Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: We recently read about a group representing a very small handful of wildland firefighters, the Firefighters United for Safety, Ethics, and Ecology and their opposition to legislation critical to the future health of our national forests and rural communities. We represent the majority of the organizations and individuals who are the first responders in our national forests to catastrophic natural disasters like wildfires, tornadoes, hurricanes and ice storms. We strongly support and endorse the bipartisan Forest Emergency Recovery and Research Act (HR 4200) introduced by Representatives Greg Walden (R-OR), Brian Baird (D-WA) and Stephanie Herseth (D-SD) and cosponsored by 145 of their colleagues. Our employees are the firefighters, airplane and helicopter pilots, hazard tree fallers, and support personnel who put their lives on the line as they respond to disasters in our national forests. Natural catastrophes impact our nation's treasured forests on a regular basis. Wildfires, tornadoes, ice storms, bug infestations and windstorms are frequent occurrences which often leave our national forests dead and in need of recovery and restoration. HR 4200 would deliver the critical, science-based tools needed to repair these forests after disaster strikes them.

When dead and dying timber is left to rot in our national forests, excessive fuel loads build which result in hotter, faster burning, uncontrollable wildfires. The fuels and intense wildfires they produce not only impair the environmental health of our forests, watersheds and airsheds; they also pose significantly greater danger to our firefighters and the communities they try to protect. Current law simply doesn't allow the science-based, proven and quick treatment of our forests after a catastrophic act of nature damages them, but HR 4200 would provide the badly needed tools to our professional forest managers who would decide the best course of action after a disaster occurs. It is critical to the future of these forests, and to the communities affected by their health, that federal land managers are able to rapidly assess damage, determine environmentally sound action plans and get to work recovering damaged forests.

Another significant benefit of this legislation is that it encourages public participation, follows an overwhelmingly bipartisan and congressionally approved appeals and litigation process and requires collaboration with states, local governments, tribes, colleges and universities, and other interested parties.

When it comes to the health of our national forests as well as the health of our firefighters and other first responders, we have a responsibility to get to work restoring lands damaged by catastrophe. The Forest Emergency Recovery and Research Act would help do just that. We are united in our strong support of it and urge the House to pass it as soon as possible.

Sincerely,

Debbie Miley, Executive Secretary, National Wildfire Suppression Association.

Tom Eversole, Executive Director, American Helicopter Services & Aerial Firefighting Association.

Mike Wheelock, President, National Environmental Fuels Association.

Bruce Ferguson, President, Ferguson Management Company.

Don Pollard, President, GFP Inc.

Michael Fahey, President, Columbia Helicopters Inc.

BL Kafman President, Croman Corp.

John Bennett, President, Northwest Contract Firefighters Association.

Eric Helpenstell, Operations Manager, Pacific Wildfire International.

John Bennett, President, Enterprise Unlimited.

Rick Dice, President, PatRick Corp.

Rich Denker, Executive Director, Western Forest Fire Services Association.

Shari Downhill, President, N.W. Timber Fallers Inc.

Nelda Herman, President, Oregon Firefighting Contractors Association.

Don Moss, President, Strike Back.

Eric Helpenstell, President, Pacific Wildfire.

Paul Washburn, President, Washburn Contract Services Inc.

Mike Wheelock, President, Grayback Forestry.

Mark Gibson, General Manager, TL Forest Products.

Mr. Speaker, let me read from the Federal Wildland Fire Service Organization and what they said about H.R. 4200, the Forest Emergency Recovery and Research Act. They were asked to review the bill, and they did, and they provided their thoughts on this legislative proposal.

"We are cognizant of the frequent debate regarding forest policies, and quite candidly often find ourselves in the middle of such debates. However, in reviewing H.R. 4200, we are looking for the impact to our firefighters' health and welfare. We have reviewed documents in support of the measure, as well as documents opposing it."

☐ 1100

With all due respect to those that oppose this legislation, we don't believe many of their positions or conclusions are plausible. In looking at the legislation strictly from a wildland firefighters standpoint, this organization believes the Forest Emergency Recovery and Research Act is a commonsense approach to addressing a number of complex issues. Therefore, we are pleased to offer our support of this measure.

This is from the Federal Wildland Fire Service Association, the real association that represents firefighters.

From the International Association of Fire Chiefs, they write: America's Fire Service is tasked with responding to emergencies and disasters caused by all hazards including wildland fires. As such, we understand the importance of healthy forest management activities such as reducing fuel loads to decreasing risk to communities and preventing future fires. This legislation will play an important role in these activities by allowing Federal forest managers to remove dead and dying timber in a timely manner from areas affected by catastrophic events.

The International Association of Fire Chiefs. I have a letter here signed by organizations representing 12,000 firefighting professionals and 300 companies that do the day-to-day tough work out in our forests to make them healthier, to put out the fires to save lives and save communities. They have reviewed this legislation; they understand it; their lives are on the line, and they support it. We have held nine hearings on this issue. We asked the Nation's leading scientists and foresters for their input. We asked the Government Accountability Office for their assistance. We traveled to forests from Oregon to Georgia, from Washington State to South Dakota. We consulted with tribal land managers and fish and wildlife organizations, and we learned much in this process.

First, we learned that the science of forest recovery is a mixed bag, so the legislation proposes the most significant increase in forest research put forward in a decade or more. We want to continually use science to improve our practices, to improve our practices. So we call for more research, we set up the way to do it, and we fund it in this legislation. We embrace scientific research and improve stewardship that comes from it.

Second, we learned that every non-Federal forest manager in the Nation, county, State, tribal, and private, has the ability to move more quickly after a fire or blowdown to remove the debris and restore the land. The forest practices used by these land managers have been developed and honed by trial and error over the centuries and have become environmentally and economically sound and successful. While these proven practices allow State and private land managers to act in a matter of weeks, the Federal process can take years.

Let me show you here an example from my State of Oregon in the Willamette National Forest. These are two different fire scenarios, but they tell the story of what happens. This is the Warner Creek fire in the Willamette National Forest. Thirteen years later, no restoration. This is the forest America gets. This is the stewardship current law allows. This is what happens today and why we want to change the law. This is what happens when you can get in and manage. So this too happens. It is just we have got a million acres backlog like this. We are not being responsible stewards when we could get forests such as that.

Third, while the science itself may offer competing views, there is broad agreement that if the decision is made in a forest to remove dead or dying trees and replant, quick action is best. So the conflicting science says do different things, manage differently, look at slopes, look at plant association types and all that. But if you are going to act, it makes more sense to act quicker rather than later.

Fourth, as Americans we look at our wood products. Seats in this House are made from wood and leather. Our homes, our furniture. We are developing biomass facilities to produce energy. And, if we can't get the wood here in the United States, then we import it from abroad, where I daresay environmental laws are lax. So if you are going to use wood, doesn't it make sense to first use the burned dead wood, the burned dead trees rather than to cut down the green ones?

Fifth, we learned it is important to leave behind snags and other debris, even if you harvest some of the trees. The birds, wildlife, and insects need a home, too, and this legislation directly provides for this need.

We also heard from groups that plantation forests are not appropriate, and we agree. This legislation specifically and clearly speaks to this issue as well. In addition, the bill requires 100 percent compliance with existing forest plans, plans developed by the agencies locally, scientifically, with complete public input that comply with all environmental laws. We waive no environmental laws in this legislation. If an activity is not allowed in the forest, it would not be allowed as a result of this legislation.

Sixth, we learned from the GAO that on Federal forests of America, there is a million-acre backlog of untreated lands that need reforestation recovery work. The chief of the Forest Service testified that if he had the authority contained in this legislation, he would be able to generate the revenue needed to pay for forest recovery and restoration needs. He also testified that while he was able to use the authority in the Healthy Forest Restoration Act to aid in the recovery efforts after Hurricanes Katrina and Rita, the authorities in this measure would have aided their work even more.

In the months since the hurricanes struck the South, the Congress and the public have pummeled Federal agencies for failing to act quickly to clean up devastated areas. Yet it can take 3½ years for the Forest Service to finally get the permission from a Federal court to cut a burned dead tree in Oregon, and then most of the trees have lost their value.

The Eyerly fire from 2002 is a perfect example of what we face. This fire burned in 2002. It claimed thousands of acres; to be exact, 23,573 acres. Three years later, reforestation actions began, restoration actions began, and then only on 1,045 acres. And as of today, only 645 acres are treated. These are American forests. This is what happens after a catastrophic event. Can you imagine in the South if we said after a hurricane we are going to wait 3 years to do the cleanup? Nobody would tolerate that. And yet in the forests of America we allow it to occur and we ignore it. And that is wrong, and this legislation would change that.

People in my State of Oregon don't accept the notion that it should take 3 years to clean up after a catastrophic fire. They want green healthy forests restored. They understand that if the trees have value and it is appropriate to remove them and there is a public process that allows for that, including appeal which our bill does, then move forward. Cut the trees while they have value, if that is what the plan allows for, and if you follow the environmental rules which our bill requires.

But remember, H.R. 4200 does not mandate a single tree be cut. It doesn't say that. Its expedited procedures can only be used if the agency can first demonstrate that there is an emergency and they need to act quickly. The public still has the right to appeal administratively and judicially. And even if this bill becomes law, there will still be more public involvement in the management of Federal lands than there is on State, county, or tribal lands. And it could still take the Federal agency four or five times as long to implement the recovery plans as these other entities.

And some will say, well, what about this definition of emergency? If you don't like the definition of the emergency in our bill, then you had better change the definition of an emergency under the Federal Emergency Management Act, because they are the same. It is the same concept. An emergency in Florida, an emergency in Mississippi or Louisiana, shouldn't be any different than an emergency in our Federal forests. We are the stewards of the future for those forests. Kids and grandkids expect us to go in and do the management that the plans that have been developed in the public process call for and that we should move forward.

I appreciate the rule under which this bill is coming to the floor that allows for that full and open debate and the consideration of competing amendments, because this is a debate America needs to have. It is a debate I am proud to have because this legislation is good for the future of our country and forests.

Ms. MATSUI. Mr. Speaker, I yield 4½ minutes to the gentlewoman from South Dakota (Ms. HERSETH).

Ms. HERSETH. I thank the gentlewoman for yielding.

Mr. Speaker, I rise in support today of the resolution in H.R. 4200, the Forest Emergency Recovery and Research Act. I have been working on this legislation for many months with Chairman WALDEN, with Representative BAIRD, Chairman GOODLATTE, and many others, and I have appreciated their leadership on this important issue.

I serve on both the House Resources and Agriculture Committees, and have been able to consider this legislation from both seats. H.R. 4200 has been through numerous congressional hearings, including field hearings, extensive discussions on language and provisions, two committee markups, and multiple adjustments along the way. The process has been open and responsive to many of the concerns raised by the bill's opponents.

When I first began discussing this bill with others, the conversations started with the recognition that our country's forest management system as it pertains to the aftermath of fires, hurricanes, and beetle infestations or other events is critically broken. Forest managers often have the knowledge but not the ability to respond, unlike their State, tribal, or county counterparts.

In the face of this paralysis we all recognize that, far from being over, another crisis sometimes begins after the fire is extinguished. The cost of inaction is high and has been felt in my home State of South Dakota.

In 1988, fire burned a portion of the Custer National Forest in northwestern South Dakota. The Forest Service was unable to remove any of the dead ,trees, and in 2002 the same area burned again. The second fire consumed most of the organic matter and new generation, inflicting even more harm.

Now, pictured to my right is the reburned area. The white lines of ash that you see throughout this photo are what remain from the trees downed by the original 1988 fire. Swift action after the first fire could have prevented this bare landscape and could have helped the area to regenerate.

I support H.R. 4200 and the corresponding rule not only because of the past consequences of inaction, but in anticipation of what the next fire season may leave us with. Many of today's forests are subject to drought conditions, bug infestations, and in many cases an unhealthy and overgrown condition. This is certainly true in South Dakota. Fires in places like these pose an extra and unnatural risk, high-intensity fires that destroy precious sources and soils and in many instances damage any real chance at natural regeneration. The need for sensible and responsive management tools is clear.

To meet this need, H.R. 4200 brings two new and important ideas to the table: a fund dedicated to post-catastrophic events science research, and the creation of preapproved practices. Science is the essential. It should be the touchstone of our management decisions, and in the face of new scientific evidence we should adjust the way we manage our forests.

H.R. 4200 recognizes that need and creates a new program to analyze and better understand forest regeneration. In fact, the bill requires that 10 percent of the proceeds from any recovery project go toward the new research activity. This emphasis serves an important check on forest management decisions and will complement the bill's numerous requirements that all actions must be consistent with the underlying forest management plan.

The other innovative aspect of this legislation is the creation of preapproved practices. As we can see from this picture, delays do have consequences. Fortunately, this could have been averted with swift action, actions enabled, but, as Mr. WALDEN explained, not required by H.R. 4200. With the completion of preapproved techniques and practices, we will have a library of approved actions to choose from, each tailored to meet unique forest recovery needs, and all of them ready for implementation. This process will make the most of the time we have before a catastrophe takes place. They will allow managers to consider the unique landscape and ecology of each forest. As they are drafted and approved, they will provide an important forum for public input and oversight. H.R. 4200 includes key provisions to ensure that forest management plans are followed. If they are followed, it preserves the public's role and in many instances goes even further. The bill language actually weighs in against plantation-like restoration projects and requires that new temporary roads built to achieve recovery projects be obliterated.

The bill has been strengthened by many changes that I mentioned throughout the Resources and Agriculture Committees hearings, and I think that my colleagues should support it as is. I encourage them to do so without the addition of any further amendments. I urge my colleagues to support H.R. 4200, to vote "yes" on the rule and on passage of the bill.

Mr. BISHOP of Utah. Mr. Speaker, I yield 4 minutes to the Chairman of the Agriculture Committee, the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I rise today in strong support of the rule for H.R. 4200, the Forest Emergency Recovery and Research Act, or FERRA. This bill has 147 bipartisan cosponsors, including almost every Representative whose district includes substantial amounts of public forest land.

FERRA is designed to help our professional foresters respond to disasters such as fires, hurricanes, and ice storms more quickly, while providing a dedicated source of funding to conduct research on forest recovery.

In 2003, this House came together on a bipartisan basis and passed the Healthy Forest Restoration Act. That bill was designed to help our public land managers move quickly to help restore forest health across our national forests. But with millions of acres of our public forests at risk of catastrophic wildfires and still others subject to disasters such as Hurricane Katrina, it is obvious that some forests will sustain catastrophic damage. The question then becomes what to do about it.

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Our public land managers have been faced with this question over and over again in recent years. It has become apparent that the framework of existing laws and regulations discourages them from acting quickly to restore forests and capture the value of damaged timber.

The Forest Service has encountered difficulties in my home State when insect outbreaks or ice storms have damaged our national forests. Between 1992 and 1994, the gypsy moth, a nonnative, invasive pest, defoliated over half a million acres of Virginia's national forest, killing trees on tens of thousands of acres. Unfortunately, the Forest Service conducted salvage sales on a mere 2,700 acres, a very small percent of the total.

Furthermore, the response to the ice and windstorms that hit our forests proceeds at a snail's pace, and it can take the NEPA from 6 months to several years to move forward with a salvage and recovery project. Even as the agency has attempted to use administrative rules to move more quickly, radical environmental groups who oppose all timber harvest on our public lands have sued to force even small projects through cumbersome appeals processes.

H.R. 4200 would help provide some assurance that restoration projects would at least be considered in a timely fashion.

I have worked closely with the bill's bipartisan lead sponsors, my friends and colleagues, the gentleman from Oregon (Mr. WALDEN), the gentleman from Washington (Mr. BAIRD) and the gentlewoman from South Dakota (Ms. HERSETH) on this bill. The final version before you today reflects months of work and countless revisions to ensure that the bill protects the environment while ensuring that forest recovery can take place while damaged trees still have value.

That is why there is broad support for H.R. 4200 within the private sector where it has been endorsed by more than 50 organizations, including professional resource managers and sportsmen's groups.

My belief is that H.R. 4200 provides a balanced approach to forest recovery while sending Federal land managers a clear signal that forest recovery should be a priority. Delays result in wasted timber resources, degraded environmental conditions, and increased costs for taxpayers. Projects which could have paid for themselves, provided valuable timber to local industry, and help put our forests on the road to recovery wind up delayed to the point where the timber is valueless. Adjacent private landowners meanwhile absorb the risk as national forests become the source of future insect epidemics and wildfires.

H.R. 4200 also focuses on improving the science behind forest recovery, and it does not waive a single environmental law. It requires consideration and, if appropriate, implementation of expedited environmental review to ensure that projects are documented and implemented in a timely fashion.

As Forest Service Chief Dale Bosworth told the Committee on Agriculture, "H.R. 4200 would provide direction for rapid response to catastrophic events and allow managers and partners to spend less time planning and more time doing."

Recovering forests quickly after a disaster is common sense. Our bill ensures that the Forest Service will take these commonsense measures and back them up with sound science.

I urge my colleagues to support this rule and the accompanying legislation.

Ms. MATSUI. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. BOREN).

Mr. BOREN. Mr. Speaker, I thank the gentlewoman for yielding.

The Ouachita National Forest, part of which is in my district, covers 1.8 million acres in central Arkansas and southeastern Oklahoma. It is about 70 degrees right now in Oklahoma, but in December of 2000, it was not so pleasant, as you can see by the photo.

A major ice storm hit approximately 340,000 acres in the Ouachita Mountains, closing State highways and county roads. In recovering from the storm, the Forest Service obtained the approval of alternative arrangements under the National Environmental Policy Act. Alternative arrangements must be approved by the White House and have only been used a handful of times to allow a quick response to catastrophic events such as the Ouachita ice storm. These arrangements allowed action on roughly 66,000 acres to reduce fuels and the risk of wildfire in the areas posing the greatest threat to public safety and private property.

The area within the alternative arrangements zone included 1,862 homes and 23 churches in my district. About 100 million boardfeet of timber was harvested; less than a third of that was damaged.

Alternative arrangements worked, at least for the acreage that was treated, but the White House simply does not have the time or the staff needed to respond to every catastrophic event. H.R. 4200, the Forest Emergency Recovery and Research Act, does this.

Ice storms and other devastating events will continue to happen. We need to make streamlined recovery available to public land managers.

The Forest Emergency Recovery and Research Act would help to make certain the next ice storm in the Ouachita National Forest and other parts of the country are responsibly restored.

Mr. Speaker, I ask my colleagues to support the rule and overall bill.

Mr. BISHOP of Utah. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding.

I rise in support of the rule and the underlying bill. The Forest Emergency Recovery and Research Act is a great piece of legislation. Not only is it going to be good for our forests and for our environment, it saves the taxpayers money as well.

This will reduce spending by about $21 million from 2007 to 2011 and $23 million from 2007 through 2016. In addition, the CBO has stated that over $122 million in additional receipts will be generated by the agencies. This is money that will then be available for restoration, reforestation and additional research.

As a result of catastrophic events and natural disasters, there are over 1 million acres of public land in need of reforestation. My home State of Arizona had a devastating fire a couple of years ago, burning over 400,000 acres. Much of that acreage is in Arizona.

I happened to drive over the weekend to my hometown of Snowflake and to see the forest that was devastated by that fire or those fires that is still yet to recover at all because we have not had people go in and actually manage the forests as it ought to be managed.

This legislation will help cut through that red tape. It will save agency money. It will save the taxpayers money, and with $21 million in savings over 5 years, the opportunity to restore thousands more acres, this is the answer to what we have been looking for.

I urge my colleagues to support the rule and the underlying bill.

Ms. MATSUI. Mr. Speaker, I yield 4 minutes to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, I thank the gentlewoman and my dear friend Congressman WALDEN and colleagues on both sides of the aisle for their work on this.

I come to this bill as someone who has a long and proud history of concern for the environment. I would compare my environmental record to anyone in this body.

I also represent a district that is one of the 10 most heavily forested districts in the United States of America. In parts of my district, certain counties, the unemployment rate is still in double digits. Small timber communities have been devastated over the past years by cutbacks in timber harvest and other impacts.

This bill is a commonsense bill. We use wood. Wood has to come from somewhere. The choice before us is, shall we get it from dead trees or from live trees? Shall we get it from domestic forests where we have environmental and labor standards, or shall we get it from rainforests or the Russian Taiga where there are virtually no environmental standards?

It is good for the environment, I believe, to harvest dead trees in a way that reduces erosion, that expedites reforestation with diverse natural species.

My dear friend from California mentioned earlier, and I recognize there are questions about this on both sides, but my dear friend suggested that we might want to wait. As you heard from Mr. WALDEN, we have had a number of hearings on this. More impressively still, the 15,000-member-strong Society of American Foresters has endorsed this bill.

The fact is we do not lack evidence that this can be done. We have abundant evidence that it can be done responsibly. Hundreds of thousands of acres of land across this country have been harvested and reforested and is vibrant today.

We also have evidence from natural events. I happen to represent Mount St. Helens. The picture beside me shows an area of industrial forestland harvested post-St. Helens eruption, reforested by the Weyerhaeuser Company. Adjacent to it is the national monument. You can see clearly trees have grown more rapidly in the area that was harvested and reforested.

Our bill specifically says that in a national forest you not replant in a plantation style, but there can be no doubt that evidence is clear that you can have more rapid regeneration following harvests and replanting than in an area that is left undisturbed.

Our bill, I should emphasize, protects national monuments and wilderness areas. No impact from this bill on those areas.

The bill has also been endorsed by labor unions, the Association of Western Pulp and Paperworkers, the carpenters and others. Furthermore, it has the support of professional firefighters. The people whose lives depend on the situation in the woods have recognized that this bill has merit.

Now, some have said, well, if you replant in the wrong way, you can increase fire risk. We agree, but our bill calls for you to replant in a right way that does not increase fire risk. The natural requirements of forest plans require the removal of downed timber, thereby further reducing the fire risk.

When this bill came before the Rules Committee yesterday, my colleague Congressman WALDEN, Ms. HERSETH and I and others encouraged that these four amendments be allowed. We disagree with them. We think they are counterproductive, but we think it is important to have an open debate.

I am very proud of this legislation. If people would get past the rhetoric and ask themselves this simple question, if we are going to use wood, does it make sense to get it from dead trees or live trees; and if we can harvest it responsibly, gain economic benefit from doing so, if we do so correctly, benefit the environment as well by reducing erosion and restoring habitat more rapidly, should we not do so?

Existing law prohibits us from doing that. That is why we are moving to change the law. We believe we can improve on existing law. We believe there is evidence where existing law has actually harmed the environment, has been economically counterproductive, and we believe this commonsense legislation improves upon that.

So I urge passage of this rule, and I urge passage of this legislation when it comes to the floor, and I urge rejection of the four amendments. Though I am glad they were ruled in order, we should vote them down.

Mr. BISHOP of Utah. Mr. Speaker, I am pleased to yield 2½ minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Speaker, I stand today in strong support of H.R. 4200, the Forest Emergency Research and Recovery Act. I tell you, is it not good to see common sense coming out on both sides and good things prevail?

Well, excessive red tape prevents the Forest Service from being the best possible stewards of our public lands. While we have heard from many that there is no need to move quickly after a catastrophic event, here is an outline of the situation we face in the Gulf States. I think you will see we do need to move quickly, and inaction is not acceptable.

The Gulf States are booming with newcomers, and many are moving in and living near the national forests. Hurricanes have hit and will hit, and when they do, they knock down trees, just as they did last fall. Shortly after the hurricane season ends, fire season begins.

Forest managers need to remove the dead trees after a hurricane to reduce the chances for catastrophic fires, and because the wood rots quickly in this region, management actions need to occur within months, not years, as is often the case. H.R. 4200 will allow for expedited cleanup of excess wood debris that are actually fuels.

If a fire does occur, it is also important to move quickly to remove dead trees to reduce the potential for insect epidemics, which have happened and do happen. H.R. 4200 will allow for the expedited removal of burned, dead trees.

In addition, because of the rapid growth of brush and competing vegetation after a catastrophic event, the planting of seedlings needs to happen quickly for it to be successful.

Right here in my district in east Texas, we have one of the best forestry schools in the entire world, and that is at Stephen F. Austin University. James Hull, the State forester to the State of Texas said on Monday in an editorial in the Houston Chronicle, "Red tape forces Federal agencies to wait as long as 2 years before properly managing damaged forests afflicted by wildfires and hurricanes. With every passing day, there are increased risks. We must adjust current regulations in ways to promote healthy habitat, increased water and air quality and growth of new trees."

Not to mention that we have a couple of industries that are willing to use the debris in order to generate energy to make that go so that we can free up electricity and natural gas and oil.

I agree with the Texas State forester. I do urge my colleagues, this is the right thing to do. It is good for all of us. It is good for America, and it is good for the forests.

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Ms. MATSUI. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, here we go again. First, we had the clean skies bill, that got more pollution; then we had the deficit reduction bill, and we had more deficit; now we have the forest recovery bill, which assures that we will be using less science and less common sense by the American people to make decisions of where and how to do forest recovery plans.

This has largely been a red-herring debate to date. This is not a question whether we are going to have forest recovery plans and places to replant and places to harvest deadwood. What it is a debate about is where we do these recovery plans and how we do these recovery plans. This bill, as currently structured, guarantees two things: We will at times do them in the wrong place and we will at times do them in the wrong way.

It does that by a repeated continuation of the terrible habit this Congress has gotten into, which is to repeal our environmental protection laws. And that is why every single environmental group dedicated to the preservation of our forests is very strongly opposed to this bill.

Now, how is it going to be the wrong place and the wrong way? First, it will assure these are sometimes done in the wrong way by gutting the insistence that we use science. Right now, existing rules require bureaucracies to use science when they make decisions; to not go by some cookie-cutter approach that some bureaucrat in Washington sets out and says you can do this, that, and the other all across the Rocky Mountains, without ever stepping foot in the area where they are going to do this harvesting and replanting. Existing law requires that.

This law, through a quite clever shell game, guts that requirement that Americans will use science when these decisions are made. What it does is it essentially says that NEPA requirements, the National Environmental Protection Act requirements, to use science when we make these decisions where to cut, which trees to cut, and how to replant. And it does that on page 24, in a very clever way.

It doesn't say we gut NEPA. It doesn't say we repeal the National Environmental Protection Act. What it says, and I quote, "Satisfaction of NEPA requirements. The following activities are deemed to satisfy the requirements of section 102 of the National Environmental Policy Act." What they say is, what you do here just wipes away the requirements of NEPA because we deem it complied with.

We care about our forests in Washington State. The Kettle roadless area in eastern Washington, the Eagle Cap roadless area in western Washington. We want to insist that our Federal agencies use science. This bill removes one of the fundamental pillars of making these decisions. It removes science. So it does something to make sure that we do something the wrong way.

But it also does something in the wrong place, and I will get to that when my amendment comes to preserve the roadless areas of our forests.

Mr. BISHOP of Utah. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, here is a real-world example of why this legislation is so crucially important. In 1995, a storm leveled 30,000 acres of forestland in the northern California district I represent. This blowdown increased the fuel load in the forest by as much as 500 percent. Immediate action was needed to protect the landscape and, thereby, communities from catastrophic fire.

Forest Service experts said it is not a matter of if a fire will occur, but how extensive the damage will be unless restoration proceeds immediately. But timely restoration work was mired in paperwork, appeals, and frivolous litigation. Four years later, the Megram fire swept through the area, fueled by the timber that was left to die on the forest floor. Thousands of acres that could have been protected were destroyed and will take a lifetime to recover.

These two photos demonstrate the consequences of delay and inaction. This first photo, taken in 2004, shows the results of prompt reforestation efforts following the volcano fire of 1960. In 1960, Federal managers were able to act quickly and reforestation was successful. Today, foresters cannot act quickly because of red tape, and destroyed landscapes that you see on the left is the result. This other photo, taken in the Tahoe National Forest, shows just how deadly catastrophic fire can be to the forests and surrounding environments.

Mr. Speaker, delay is a recipe for disaster. Swift action is needed to protect our forests and communities from future tragedies like that which occurred in my district. I urge support for the rule and H.R. 4200.

Ms. MATSUI. Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Speaker, we are here talking today about salvage logging. And let us first of all be clear that salvage logging is taking place on our public lands. And if you want a lot more salvage logging, this is the bill to be for. The CBO says 40 percent more salvage logging.

Now, why is that a concern? Salvage logging has been found to impede forest regeneration. Now, that doesn't take a scientist to figure that out. When you have bulldozers and skidders and you are dragging trees that have been burned and you are dragging them through the forest, you are hurting the ability of that forest to regenerate. Seedlings that are on the ground are being destroyed. So salvage logging hurts the ability of the forest to regrow itself.

It damages riparian areas. It damages riparian areas. So we are talking here about streams, where if you cut the forests and take these logs out that you will not then have the ability to then allow these streams to produce clean water. They silt up after this kind of salvage logging that occurs.

Salvage logging also introduces and spreads invasive species, it causes erosion, and it degrades water quality. This is what our forests are all about. Our forests, we use them as watersheds. They supply us clean water. What this bill is all about is degrading those watersheds. That is what is going on here today, and they do not want to talk about it.

They come and say, oh, no laws, no laws will be waived. Well, folks, let me tell you, this legislation exempts and waives the National Environmental

Policy Act, one of the best planning laws that has been on the books for 30 years; the Endangered Species Act, which has been on the books for 30 years; the National Historic Preservation Act and the Clean Water Act. These are laws that say look before you leap. Let us let the public be involved, let us study what we are doing before we jump into these situations. Significant laws are being waived, and don't believe what they are telling you on the other side.

Now, we have in place adequate laws and regulations to handle emergency situations. This bill actually has the word "emergency" in it, implying that there is some emergency. We had a big emergency in this country, folks. It was Katrina, and it created one of the biggest salvage situations. And guess what? Down in Louisiana and Mississippi, they are moving forward. They are doing the salvage. They do not need a new law. They have done it. And if there is a real emergency, the agencies can go to the Council on Environmental Quality and get a waiver. This has never been turned down by the Council on Environmental Quality.

So what are we talking about here? We are talking about science. The majority of peer-reviewed science says that salvage logging is not good for our forests. And what do these scientists say? It increases the forest-fire risk and it decreases forest regeneration.

I offered an amendment in the committee, and this amendment will be on the floor today. That amendment says, well, if we are going to go by the science, which you hear talk of science on the other side, then the Secretary has to certify on every project. The Secretary will certify the project would not increase the forest-fire risk or decrease forest regeneration, hurt the seedlings. And the chairman and all of the others here are going to vote that amendment down. So I think that tells you what is really going on.

We are not supporting what science says we should be doing with our forests. The claims are made that we are under regular order. As the chairman knows, this is one of the most outrageous situations to date. A major bill is before our Committee on Resources, the fisheries bill, and here we get 20 minutes for the major committee on the floor and we are over, running back and forth to a markup in the committee, and having this debate on the floor. This is not the regular order. This is an outrage, what is going on here, and I would hope that the chairman would object to this.

Mr. BISHOP of Utah. Mr. Speaker, I yield 15 seconds to the gentleman from Oregon (Mr. WALDEN) for a factual clarification.

Mr. WALDEN of Oregon. Mr. Speaker, I want to clarify that the gentleman was in error when he quoted the Congressional Budget Office. This increase would not increase salvage logging by 40 percent. It increases the receipts from the logging that would take place that would be following the forest management plans, because the timber wouldn't deteriorate.

That is the whole point here. We will get more money out if they make a decision to cut. It doesn't mean you are going to cut more trees. So I just wanted to put that on the record, and I submit the CBO cost estimate for the RECORD:

H.R. 4200—Forest Emergency Recovery and Research Act

Summary: H.R. 4200 would establish new procedures for responding to catastrophic events causing damage to certain federal land. The legislation would direct the Secretaries of Agriculture and the Interior to establish research protocols for assessing methods of restoring federal land following such events and would specify expedited procedures for implementing projects to rehabilitate that land, which could include timber harvests.

CBO expects that enacting H.R. 4200 would increase direct spending by $5 million in 2007, but would reduce it by $21 million over the 2007-2011 period and by $23 million over the 2007-2016 period. Enacting the bill would not affect revenues.

H.R. 4200 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. Federal assistance authorized by this bill would benefit state, local, and tribal governments.

Estimated Cost to the Federal Government: For this estimate, CBO assumes that H.R. 4200 will be enacted near the start of fiscal year 2007. The estimated budgetary impact of H.R. 4200 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment) and 800 (general government).

	By fiscal year, in millions of dollars—									
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
CHANGES IN DIRECT SPENDING										
Research Protocols and Pre-Approved Management Practices:										
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	5	−1	−2	−2	0	0	0	0	0	0
Receipts from Timber Salvage Sales:										
Estimated Budget Authority	0	−4	−9	−15	−15	−15	−16	−16	−16	−16
Estimated Outlays	0	−4	−9	−15	−15	−15	−16	−16	−16	−16
Spending of Receipts from Timber Salvage Sales:										
Estimated Budget Authority	0	3	7	11	11	11	12	12	12	12
Estimated Outlays	0	0	2	5	8	10	11	12	12	12
Payments to States:										
Estimated Budget Authority	0	1	2	4	4	4	4	4	4	4
Estimated Outlays	0	0	1	2	4	4	4	4	4	4
Total:										
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	5	−5	−8	−10	−3	−1	−1	0	0	0

Note.—* = less than $500,000.

Basis of Estimate: H.R. 4200 would establish new procedures to expedite projects to stabilize and rehabilitate federal land following catastrophic events such as fires, floods, explosions, and other disasters that cause significant damage. Such projects might include removing damaged, diseased, or insect-infested forest vegetation to improve the health of such land. Under the bill, the Secretaries of Agriculture and the Interior would have discretion over when to use those expedited procedures to accelerate the implementation of certain projects which, in some cases, could include the sale of salvageable timber that has been damaged by qualifying catastrophic events.

CBO estimates that enacting H.R. 4200 would increase direct spending by $5 million in 2007, but would reduce it by $21 million over the 2007-2011 period and by $23 million over the 2007-2016 period. The 2007 cost includes developing research protocols and lists of preapproved management practices that would form the basis for using new expediting procedures specified in the bill. Over the 2008-2016 period, CBO estimates that those expedited procedures would result in a net increase in offsetting receipts (a credit against direct spending) from the sale of salvageable timber and that those increased receipts would be partially offset by increased direct spending for related activities. We also expect that increasing receipts from such sales would increase direct spending for payments to states in which those receipts are generated.

RESEARCH PROTOCOLS AND PRE-APPROVED MANAGEMENT PRACTICES

The bill would direct the two Secretaries to develop research protocols to determine the effectiveness of land management practices following catastrophic events. To complete that task, the Secretaries could enter into cooperative agreements with land-grant colleges and universities. The bill also would direct the Secretaries to prepare lists of preapproved management practices that could be implemented immediately after a catastrophic event.

Based on information from the Forest Service and the Department of the Interior (DOI), CBO estimates that developing the required protocols and lists would cost $5 million in 2007. Although H.R. 4200 would not provide new funding for those activities, the legislation would allow the Secretaries to use existing balances from a variety of permanently appropriated funds to complete the proposed tasks. Under current law, we expect those funds would be spent over several years starting in 2008. Thus, relative to current law, we expect that enacting H.R. 4200 would increase direct spending by $5 million in 2007, but that increase would be fully offset by forgone spending over the 2008–2010 period.

RECEIPTS FROM TIMBER SALVAGE SALES

CBO estimates that allowing the Secretaries to use expedited procedures to implement land management practices following qualified catastrophic events would increase offsetting receipts from the sale of salvageable timber. CBO expects the proposed procedures would allow the agencies to hold such sales at least several months and possibly years sooner than under current law. According to the Forest Service and DOI, holding those sales before the damaged timber begins to substantially deteriorate would increase the value and volume of salvageable timber, thereby increasing the amount that timber harvesters would be willing to pay for it.

Under current law, CBO estimates that receipts from salvage sales following catastrophic events average between $35 million and $40 million annually. Based on information from the Forest Service about rates of deterioration and other key factors, CBO estimates that accelerating salvage sales under H.R. 4200 would increase proceeds from those sales, on average, by about 40 percent. Assuming the agencies would phase in the use of the new procedures over several years, we estimate that increases in receipts would begin in 2008 and total $122 million over the 2008–2016 period.

SPENDING OF RECEIPTS FROM TIMBER SALVAGE SALES

Under H.R. 4200, increased receipts could be spent to update research protocols required under the bill, prepare and implement projects following catastrophic events, and monitor the effectiveness of such projects. Based on historical spending patterns for such activities, we expect that there would be a lag between when receipts are collected and subsequently spent. We estimate that spending of increased salvage receipts would total $72 million over the 2008–2016 period.

INCREASED PAYMENTS TO STATES

Under current law, states receive payments based on the level of receipts generated from federal timber sales that occur within their boundaries. Starting in fiscal year 2008, states will receive payments equal to 25 percent of receipts generated in the previous year. For this estimate, we assume that receipt-sharing formula would apply to the increased proceeds from the sale of salvageable timber under H.R. 4200.

Because the Forest Service and DOI have authority to spend 100 percent of receipts from timber salvage sales for restoration activities, the source of funding for payments to states is unclear. For this estimate, however, CBO assumes that the two agencies would control spending on restoration activities and use some of the new receipts generated under H.R. 4200 to make those payments, which we estimate would cost $27 million over the 2009–2016 period.

Intergovernmental and Private-Sector Impact: H.R. 4200 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Federal assistance authorized by this bill would benefit state, local, and tribal governments.

Estimate Prepared By: Federal Costs: Megan Carroll. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Craig Cammarata.

Estimate Approved By: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

Ms. MATSUI. Mr. Speaker, I am prepared to close, and I yield myself such time as I may consume.

As I noted at the beginning of the debate, 169 scientists, all experts in the field, oppose this bill because its policies will impede the national forest recovery process. The preponderance of scientific literature supports this assumption in their opinion. The letter concludes with the following: "Science provides the best insight into the real consequences of our policies and actions."

I could not agree more. There seems to be a disconnect between the policy recommended in this bill and the consensus among the scientific community. For that reason, I cannot support the underlying legislation, and I urge my colleagues to do the same.

Mr. Speaker, I yield back the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I am pleased to close what I consider to be about 50 minutes of bipartisan support for this particular rule and the underlying bill.

This bill, indeed, would give us the rehabilitation tools to combine science and research, preapproved action, and protection of our firefighters, which is why the professionals who know and work and run our forests are all in support of this particular bill and this action. And knowing our goal is to get green and not black forests, and healthy trees not dead stumps, I urge all my colleagues to support this rule and the underlying bill.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1145

GENERAL LEAVE

Mr. WALDEN of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill, H.R. 4200.

The SPEAKER pro tempore (Mr. BISHOP of Utah). Is there objection to the request of the gentleman from Oregon?

There was no objection.

FOREST EMERGENCY RECOVERY AND RESEARCH ACT

The SPEAKER pro tempore. Pursuant to House Resolution 816 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4200.

□ 1145

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4200) to improve the ability of the Secretary of Agriculture and the Secretary of the Interior to promptly implement recovery treatments in response to catastrophic events affecting Federal lands under their jurisdiction, including the removal of dead and damaged trees and the implementation of reforestation treatments, to support the recovery of non-Federal lands damaged by catastrophic events, to revitalize Forest Service experimental forests, and for other purposes, with Mr. FOLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

General debate shall not exceed 1 hour, with 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Resources, 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure.

The gentleman from Oregon (Mr. WALDEN), the gentleman from New Mexico (Mr. UDALL), the gentleman from Virginia (Mr. GOODLATTE), the gentleman from Minnesota (Mr. PETERSON), the gentleman from Alaska (Mr. YOUNG) and the gentleman from Washington (Mr. BAIRD) each will control 10 minutes.

The Chair recognizes the gentleman from Oregon.

Mr. WALDEN of Oregon. Mr. Chairman, I yield myself such time as I may consume.

I am delighted today to bring H.R. 4200 to the House for its consideration. I have spoken on it during the debate on the rule. This legislation is extraordinarily important for America to become a better steward of her forests.

Our Committee on the Forest and Forest Health has traveled the Nation's forests. We have listened to the experts from the scientific community. We have listened to the experts in the fire-fighting community. We have held field hearings where we have heard from tribal leaders who manage forestlands and move quickly after catastrophic events. We have met with State foresters who, in many cases, are in after a major forest fire or blowdown in a matter of days, if not weeks, doing what we propose to allow your Federal Land Management Agencies to do. You see, every other manager of Federal forest does what we are trying to put in place here.

We do require that environmental laws be followed. We do provide for administrative appeal and litigation. What we require is that the underlying forest plans be followed. And if those forest plans say you can't harvest here and you have to do this sort of retention there for snags and habitat, then you have to do that. We don't change any of that. We require a site-specific evaluation, so it isn't a one-size-fits-all plan. We don't do that from here. We just say, whatever your plan called for, whatever the scientists on the ground say needs to be done, let us give our Federal land managers the authority to move quicker than they can move today if an emergency exists.

It is precisely what we expect out of our Federal Emergency Management Agency and, yes, demand: quick action after a hurricane in southern States, let us say, to clean up, to restore, to prevent erosion, to fix roads, to do the things that Americans expect and actually think are being done.

We want to protect our watersheds, and this legislation will help us do that.

The timber that comes out, if that is what the decision is, will have value. Today, when it takes 2 to 3 years to harvest a burned, dead tree that bugs have been in, that rot has occurred and nobody bids on it, it has no value, or very little by then. What the Congressional Budget Office found, unlike what my colleague from New Mexico said is, what they found is by passing this legislation, we would actually act quicker and the trees wouldn't have deteriorated, and the receipts to the Federal Government would be up 40 percent, not that we would harvest that many more trees necessarily. But you do it while they still have value. And that makes sense to the taxpayers and the forests.

Mr. Chairman, at this time I yield 3½ minutes to the gentleman from Minnesota, the chairman of the Forest Committee and the Agriculture Committee, Mr. GUTKNECHT.

Mr. GUTKNECHT. Mr. Chairman, I rise in support of H.R. 4200, the Forest Emergency Recovery and Research Act. We have heard so far this morning some people say that this bill is about somehow suspending the laws of science. But I would argue this bill is really about restoring some common sense, and we have heard some excellent testimony by Members of both sides of the aisle.

In Minnesota we have the Superior National Forest. It covers about 3 million acres in northeastern Minnesota. It is not in my district, but I have had the opportunity, as chairman of the Forestry Subcommittee of the Agriculture Committee, to go up there on several occasions. Now, the forest itself is beautiful. It is perhaps one of the most beautiful national forests in the entire galaxy. But you don't have to visit there very long to understand the sense of frustration among the locals in the way that we manage that forest.

In a State that is dominated by public timberland, the national forests in Minnesota have a reputation of being too bureaucratic, slow moving, and unresponsive. When there is a catastrophic event, county and State foresters, and certainly private land owners, are far quicker to move to salvage and reforest than the National Forest Service is. H.R. 4200 is a step in the right direction. It would require the National Forest Service to rapidly evaluate the need for recovery projects and then allow the salvage to go forward if necessary.

Many of my colleagues today will give examples of catastrophic events in their districts or States, how the National Forest Service responds to them, and, therefore, why this legislation is needed.

For me, the example of a windstorm that swept northern Minnesota in July of 1999 is a great example. It damaged nearly 500,000 acres, over 600 square miles, in the Superior National Forest alone. This was one of the largest blowdowns ever recorded in North America. To date, only 50,000 trees have been cleaned up.

The Forest Service's attempts to deal with this blowdown illustrate the need for H.R. 4200.

The only legal or administrative tool at the agency's disposal to deal with an unprecedented event like this was alternative arrangements to comply with the National Environmental Policy Act, and those required approval of the White House Council on Environmental Quality. While the CEQ granted those agreements to the Forest Service, actual debris removal didn't occur until long after the windstorm hit. By this time the downed trees had deteriorated significantly, losing much of their value.

Unless we act today, the national forest will continue to face events like this blowdown without the authority to quickly analyze, propose and move forward with forest recovery projects. To me, it is clear the agency needs this new authority to act quickly to capture the value of damaged timber and restore our forest to a healthy and growing condition.

The goal of H.R. 4200 is to provide consistent and uniform procedures for the Forest Service to follow after catastrophic events. The bill does not open wilderness areas or other withdrawn from harvest to new timber cutting. It merely requires that the agency has to quickly evaluate whether expedited salvage is necessary, and then it allows it to cut through the red tape to make sure that the project gets done. The people of Minnesota care deeply about our national forests and so do the professionals who manage those forests. H.R. 4200 simply gives them the tools to demonstrate their commitment whenever Mother Nature throws our forest a curve ball.

I urge my colleagues to support this bipartisan and important legislation.

Mr. UDALL of New Mexico. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I oppose H.R. 4200. This unnecessary legislation waives critical conservation laws, compromises the public's proven commitment to protecting roadless areas, and ignores the body of peer-reviewed science on the harmful impacts of salvage logging.

H.R. 4200 represents yet another attempt by the majority in this Congress to dismantle our Nation's most paramount conservation laws. As its core, H.R. 4200 allows for environmental exemptions to expedite the removal of timber after a catastrophic event on Federal lands. These unnecessary environmental exemptions, however, come at the expense of critical laws such as the National Environmental Policy Act, the Endangered Species Act, the Clean Water Act, the National Historic Preservation Act. Should Congress approve H.R. 4200, the result would be weakening of existing laws meant to protect public participation and provide for environmental protections.

Proponents of H.R. 4200 argue this legislation complies with conservation laws. This is simply not true. To be clear, H.R. 4200 waives the requirements of four very critical conservation laws.

Mr. Chairman, in our discussion of H.R. 4200 on the Forests and Forest Health Subcommittee, it has become apparent to me that the authorities granted under H.R. 4200 for timber salvage are unnecessary. The argument that there is an abundance of timber salvage going to waste on our public lands because of the length of the NEPA process is false. In reality, the Forest Service and Bureau of Land Management have an abundance of existing authorities that allow for timber salvage to be completed on our public lands with the appropriate checks and balances.

Salvage logging already accounts for 35 percent of timber harvested on our national forests. Also, one of the largest salvage logging projects in the history of the U.S. Forest Service, on the Forest Service lands impacted by Hurricane Katrina, is being completed quickly under the authorities from the Healthy Forest Restoration Act of 2003.

Furthermore, H.R. 4200 is not scientifically sound. The underlying premise of H.R. 4200 that post-disturbance salvage logging must be completed to recover a forest and improve forest health is not supported by the abundance of peer-reviewed science on this issue to date. A study published by Donato and others in a January 2006 edition of the well-respected journal Science, found that post-fire logging in the wake of the 2002 Biscuit fire, reduced forest regeneration by 71 percent and increased short-term fire risk. This study adds to a substantial list of peer-reviewed science that concludes that salvage logging is contrary to the goal of improving forest health. 169 scientists from around the country submitted a letter to Congress opposing H.R. 4200 as salvage logging has been found to impede forest regeneration, damage riparian corridors, introduce or spread invasive species, cause erosion and degrade water quality.

Mr. Chairman, H.R. 4200 is unnecessary legislation with significant negative consequences. I urge my colleagues to join me in voting "no" on H.R. 4200.

I reserve the balance of my time.

Mr. BAIRD. Mr Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. SALAZAR).

Mr. SALAZAR. Mr. Chairman, I would like to thank the gentleman from Washington and the gentleman from Oregon for bringing forth this important legislation.

Mr. Chairman, I rise today in support of the Forest Emergency Recovery and Research Act. Our Nation's forests are providing so many benefits to the public and we have that responsibility to pass this measure which will give forest managers the tools to maintain healthy forest. It will allow them to rehabilitate and reforest areas that have been hit by catastrophic events like ice storms, wildfires and disease.

Out West we are battling a huge insect epidemic that is destroying our forests, especially in Colorado. In 2005, over 425,000 acres in Colorado forests were infested with mountain pine beetle. And this means that we have 425,000 acres of prime real estate for forest fires.

Reducing wildfire hazard is critical if we are to maintain forests as a resource for communities. Forest management, including tree cutting and prescribed fire, can help return Colorado's forests to good health.

The previously passed healthy forest legislation provided forest managers with some of the tools needed. What this bill does, it adds to the tool box and strengthens their ability to restore forests across the country.

□ 1200

This legislation is vital to the West, and I urge my colleagues to support the passage of this bill.

Mr. WALDEN of Oregon. Madam Chairman, I yield 3 minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Madam Chairman, I thank my colleague from Oregon for this time.

I rise in strong support of the Forest Emergency Recovery and Research Act and would like to highlight a few of the more than 100 diverse groups that share in my support of this legislation. While these groups range in background and represent interests from across the country, they all strongly support the timely restoration of our precious public lands.

A number of professional firefighting groups support this act, including the International Association of Fire Chiefs. In addition, the National Association of State Foresters, National Association of Federal Employees, National Wildlife Suppression Association, and Pacific Wildfire International, which collectively represent 25,000 firefighters, all support H.R. 4200.

In fact, the State Foresters say, "As a leader in wildland firefighting, the National Association of State Foresters supports H.R. 4200 as a tool for restoring forests and reducing long-term fire danger, thereby reducing risk to communities and wildland firefighters alike."

Twenty-three wildlife and outdoor sports groups, including the International Association of Fish and Wildlife Agencies, the Rocky Mountain Elk Foundation, the Theodore Roosevelt Conservation Partnership, Wildlife Management Institute, all support this legislation as well. The Congressional Sportsmen's Foundation comments, "This legislation's commitment to timely responses to catastrophic events by allowing for rapid restoration of ecosystems, utilization of damaged trees before they lose economic value, protection of adjacent lands from subsequent wildfires, and the opportunity for public participation and recovery planning is consistent with our members' expectations and is simply common sense."

The Society of American Foresters, or SAF, which represents more than 15,000 scientists, professional forest managers, researchers, and consultants from across the country likewise supports this legislation. According to the SAF, "Catastrophic events will forever alter our forests, but we can bring them back quickly with timely and thoughtful science and experience-informed management . . . this act would also provide for additional research to help improve actions forest managers take in responding to catastrophes . . . We urge you to support the Forest Emergency Recovery and Research Act."

Moreover, a wide variety of associations, such as the Southern Forest Products Association, the American Forest & Paper Association, and the National Association of Home Builders, all support this bill. And a host of our State and local government partners have written letters of support for this legislation, including the National Association of Counties and the National Association of Conservation Districts.

The comments of support this bill has received consistently express one key theme: When catastrophe strikes, the Federal Government must have scientifically proven, commonsense policies in place that allow us to act quickly to restore and reforest public land. This legislation allows us to do this.

I urge my colleagues to join us in support of this bipartisan legislation.

Mr. UDALL of New Mexico. Madam Chairman, I yield 3½ minutes to the chairman of the House Science Committee, Representative BOEHLERT.

Mr. BOEHLERT. Madam Chairman, I rise in strong opposition to this bill.

I know the sponsors of this bill mean well, and I know they think they have written a narrowly tailored, environmentally protective bill. But, unfortunately, they have not. I am not questioning the sponsors' intent, but I do have serious problems with the product of their actions.

Let me start by emphasizing that I am open to efforts to expedite environmental procedures for true emergencies or in other clear cases where current laws are needlessly burdensome. I helped negotiate the Healthy Forests Restoration Act, and I supported its passage. That act and the preexisting laws which were improved to be both responsive and responsible has enabled us to respond in a meaningful and timely way to Katrina. But the bill before us today is far broader than that act and all other current law and contains few, if any, of their environmental protections.

Here are some things that could happen that you should know about H.R. 4200: First of all, it can be applied to a wide variety of situations far beyond the normal definition of an emergency that requires immediate action. Under the bill a catastrophic event includes slowly developing problems like drought and insect infestation, problems that can be addressed through processes that allow for true analysis and review. Not only that, the bill applies to situations in which damage may not occur for many years, again a situation that needs to be addressed, but not so quickly as to allow no time for true analysis.

There are very few forests that are not experiencing a catastrophic event on almost a daily basis under the definition in this bill. If you want to write an emergency bill, then I think it ought to apply to emergencies.

I would also point out that this bill applies to wilderness study areas, which are exempt under Healthy Forests.

And what can happen when this bill is applied? Well, all normal environmental reviews are waived. Reviews are even waived for preapproved plans that are written long before an emergency. No environmental review. Then under the bill projects can proceed without the consultation required by the Endangered Species Act and the Clean Water Act. When would consultation occur? The bill does not set a time frame. It would just be sometime after the project started, probably after any unnecessary damage has been done.

In short, this bill does not expedite procedures. It eviscerates the application of environmental law for the projects under the bill. No environmental analysis of alternatives. No timely analysis of the effect on clean water.

We cannot just put a nice-sounding label on a bill and expect us to support a cosmetic labeling plan on its surface without looking at the rest of the story. I wish this bill were as advertised. A targeted bill to handle legitimate emergencies would pass muster with me. But this is a bill that would allow unanalyzed salvage timber sales; new road building, including in roadless areas; and projects that threaten water supplies without any true legally reviewable analysis of alternatives and without ample opportunity for public review and comment.

I urge my colleagues to oppose this bill.

Mr. BAIRD. Madam Chairman, I yield myself such time as I may consume.

I just invite my dear friend from New Mexico, who spoke earlier, if he might address a question for me because I think, with respect, he is comparing apples and oranges.

He suggested that a scientific study by Oregon State University showed that postfire logging decreases forest regeneration and increases fire risk. Is the gentleman from New Mexico aware that that study gathered data 2 years postfire, not from a harvest begun 90 days after the fire, as we would allow in this bill? Is the gentleman aware of that?

Madam Chairman, I yield 30 seconds to the gentleman from New Mexico to answer that question.

Mr. UDALL of New Mexico. Madam Chairman, the gentleman from Washington should know and understand that the Science Journal that this was published in is peer reviewed. It is one of the most solid scientific publications, and it came out and said that regeneration was hurt 71 percent, that 71 percent was hurt in that regeneration process.

Mr. BAIRD. Madam Chairman, I yield myself such time as I may consume.

I asked a straightforward question about a study that was conducted 2 years post. I got a dissertation about the journal in which the study was published.

I happen to hold a doctorate in clinical psychology, used to teach research methods, and I will tell you that particular study, as many that we have heard today, does not apply to this. It is an apples and oranges comparison.

One of the things that has been remarkable to me, as an environmentalist, as a scientist, and as someone who represents a forested district, is the willingness of the opponents of this legislation to simply distort the truth. Elsewhere I have introduced legislation called the "72-Hour Rule" to give us time to read bills before we vote on them. I am coming to believe today that that is unnecessary because I do not think people do read bills before they come down here to debate.

Let me address some points that have been made. People have suggested that this dismantles laws. Not a single fundamental environmental law is dismantled by this legislation. That is a false claim.

People have suggested that there are no protections for riparian areas. My colleague from New Mexico suggested that. We are just going to have logging right up to the streamside, it seems. That is not correct. Existing forest management plans require streamside set-asides. I can take you to fires where the harvest has been conducted, and you have got 150-foot buffers as required under existing law, law that must be followed under this proposed legislation. So we have buffers for streams.

People have suggested this bill allows for plantation-type reforestation. That, too, is false. This legislation specifically proscribes, prohibits, plantation-type reforestation and requires that you plant with diverse and dispersed natural species.

People have suggested that you inevitably increase erosion when you harvest. Dr. Korb, from the University of Montana, a Ph.D. scientist, testified that by cross-falling trees, you can actually reduce erosion, and you know that is common sense. If you have got a hillside that is barren because of a fire, and you go in and you drop some of the trees laterally, you create little check dams, and in areas where that is done, siltation has actually been reduced and salmon habitat and other habitat preserved and clean water preserved.

It is astonishing to me, astonishing, how my friends are able to cite studies that are apples and oranges comparisons and irrelevant to the legislation, how they are able to claim things about the legislation that are not, in fact, the case. If I believed half of what the opponents of this bill have claimed, I might oppose the bill myself. But I wrote the bill, along with Congressman WALDEN and others, so I do know what is in it. And as an environmentalist and as a scientist, it is good legislation.

Madam Chairman, I reserve the balance of my time.

Mr. WALDEN of Oregon. Madam Chairman, I yield 30 seconds to the gentlewoman from Washington (Miss MCMORRIS) to speak in favor of the Forest Emergency Recovery and Research Act.

Miss MCMORRIS. Madam Chairman, I thank the chairman for yielding.

I, too, just want to rise in support of this legislation and applaud the leadership of those who have been working on this legislation that is so important to move quickly to restore forests, key watersheds, wildlife habitat, and stabilize our soils.

It is not acceptable that we continue to see thousands of acres burn because of forest fires, because of poor management on our forests, big kill, and we have these catastrophic situations take place when we are not able to take action.

I wanted to specifically speak to the provisions related to the National Environmental Policy Act, NEPA. I have been working on chairing a task force, and although I applaud the authors of NEPA, who truly were visionary for their time, I do believe there is an opportunity for us to improve the implementation of NEPA 35 years later. It is unfortunate that so often this is the law used through paperwork or bureaucratic means to prevent us from really taking action that is needed on our forests.

Northeastern Washington is known for its vast public forests that span over 2.6 million acres of land. These forests, and the resulting timber, play an extremely important role in our region's economy. Maintaining healthy forests is essential to those who make a living from the land and for those of us who use them for others purposes. Unfortunately, there are a number of critical issues that impact the health and the economic stability of the forests in our region.

One of my top priorities in Congress is to grow our economy and in order to do this we must protect our natural resources. Currently, the Colville Forest is dying faster than it is being maintained, leaving a large number of dead or dying trees susceptible to disease, insect infestation, and future wildfires.

I have also been interested in exploring issues affecting post-fire rehabilitation. Immediate restoration work on forests following catastrophic events is essential for reforestation and rehabilitation to be successful. As the chair of the National Environmental Policy Act (NEPA) task force, I have unfortunately discovered that legal and procedural delays have become the norm, leaving vast areas of national forest land barren of trees for decades. This has lead to devastating impacts on wildlife habitat, soil stability and water quality.

In my district last year, just south of Pomeroy, Washington, the School Fire started on August 5th and over 13 days burned nearly 50,000 acres, destroying 215 homes, recreational cabins and outbuildings. According to James Agee, a University of Washington forest ecologist and professor who specialize in dry forest fire ecology said the area burned by the School Fire likely will take about 150 years to grow back if we let Mother Nature takes it course. That is simply not acceptable.

I co-sponsored the Forest Emergency Recovery and Research Act because our forests, and the resulting timber, play an extremely important role in the economy in the Pacific Northwest. Maintaining healthy forests is essential to those who make a living from the land and for those of us who use them for recreational purposes. Eastern Washington has experienced a number of deadly forest fires this season, and it is crucial that we have bipartisan legislation that will expedite the research and restoration process.

□ 1215

Mr. UDALL of New Mexico. Madam Chairman, I yield 1¼ minutes to the gentleman from Oregon (Mr. DEFAZIO), who worked with the Biscuit fire and has great experience in these forestry issues.

Mr. DEFAZIO. Madam Chairman, are there problems with the current process? Yes. For the most part, they are political. In the case of the Biscuit fire, the professional managers developed a plan that would have yielded somewhere around 175 million boardfeet of salvage.

The administration, in an election year, said that is not enough, we want a lot more. They pulled that plan. They came back with another plan, much bigger numbers, but they haven't even harvested half of the original proposal, which was virtually noncontroversial. So in response, unfortunately, instead of prescribing a professional management in the future that is site specific, that mandates things, we are providing even more discretion to political appointees with this legislation.

As I said to some folks from the timber industry in my district, you may think it is a great bill with Mark Ray down there and George Bush at the White House. But what if the Clintons come back? They said, "Oh my God, that would be horrible."

So if you give total discretion to salvage or not salvage, if you fill the bill with mays and mays and mays, which it does, for instance, the point was made as I came to the floor, I have been involved in other committee work, that they are mandating science. Well, actually, no; on page 14 it says "may," the Secretary may conduct one or more catastrophic event research projects.

The bill is rife with discretion for political appointees. We need professional management and certainty. This bill won't get us there.

Mr. GOODLATTE. Madam Chairman, I yield myself 4 minutes.

Madam Chairman, I rise in support of H.R. 4200, the Forest Emergency Recovery and Research Act. This bill is a very moderate approach to a very serious problem. As usual, I have worked in close cooperation with my friends and colleagues on the House Resources Committee to develop a commonsense approach to forest recovery that has garnered wide bipartisan support from our colleagues and strong endorsements from professional foresters, firefighters and local officials.

The Society of American Foresters, representing some 15,000 forestry professionals in both public and private service, has supported and, in fact, provided constructive input as both committees have worked through numerous revisions of this important bill.

FERRA has been endorsed by the Federal Wildland Fire Service Association, which represents some 12,000 firefighters who annually risk life and limb fighting forest fires and responding to other disasters. The association called FERRA "a commonsense approach" to addressing forest recovery.

Additionally, this bill has been endorsed by the National Association of State Foresters, State officials who manage millions of acres of State forests and help the Nation's over 10 million family forest owners keep their woodlands healthy.

Among the bill's many other supporters are the National Association of Counties, the American Farm Bureau Federation, the International Association of Fish and Wildlife Agencies, United Brotherhood of Carpenters and Joiners, Wildlife Management Institute, and the Rocky Mountain Elk Foundation.

Many of you have heard that FERRA is not relevant to your States. I am here to tell you that is not the case. First, the bill directs the Forest Service and Department of the Interior to work with the adjacent landowners and managers when catastrophe strikes to develop landscape-scale assessments of the damage. Since the Forest Service is only in charge of about one-quarter of our Nation's forests, this leaves the large majority of forestlands in the hands of private land owners. This provision is critically important to any Member who represents a forestland owner back home.

Second, many of you have been told not to worry about forest catastrophes, that they only happen somewhere else. Unfortunately, catastrophic events know no boundaries.

In my home State of Virginia, just last week the Forest Service wrapped up fire-fighting efforts on the Cardinal fire in Page County, Virginia, just outside my district. This fire, seen in these photographs, damaged over 1,900 acres of public lands.

So what would happen in Page County if H.R. 4200 was already in place? The Forest Service would simply have 30 days to complete a rapid evaluation of the burned area and then it would have to decide whether or not to propose a catastrophic event recovery project. That is it. No environmental laws are waived, no wilderness areas are entered, no logging is required. Nothing in the bill forces the Forest Service to cut a single tree.

If the professional land managers and the Forest Service do decide that H.R. 4200's emergency procedures are appropriate, the agency would have 90 days to analyze a proposed project and the no-action alternative. Appeals and litigation would be governed by the same sort of rules overwhelmingly approved by this body under the Healthy Forest Restoration Act. All projects would comply with existing forest plans.

FERRA also directs the Forest Service to develop preapproved practices that will undergo rigorous scientific peer review. It emphasizes the need for research, and provides that 10 percent of the revenues from any timber removed for a recovery project be dedicated to research on forest recovery. This bill addresses the need for further research and is equipped with its own funding mechanism to drive this research.

The bill will also pay for itself. CBO found that H.R. 4200 will save the taxpayers $21 million over the next 5 years.

I urge my colleagues to support this bipartisan bill that has earned the strong support of our professional forest management people. Please join me in giving them one more tool to use in their efforts to promote forest health and the sustainability of our precious forests.

Mr. PETERSON of Minnesota. Madam Chairman, I yield myself such time as I might consume.

Madam Chairman, I rise today in support of H.R. 4200, the Forest Emergency Recovery and Research Act, and I want to commend my colleagues, Mr. WALDEN and Mr. BAIRD, for their leadership and hard work in crafting this much-needed bipartisan legislation, and I urge my colleagues to support final passage of this bill.

H.R. 4200 resulted from the devastation caused by the 2002 Biscuit wildfire in southern Oregon where 500,000 acres were destroyed. Unfortunately, the struggles did not end when the fire was extinguished. Post-fire recovery efforts were hampered by an exceedingly slow administrative response caused by procedural delays, administrative appeals and litigation. These delays resulted in significant losses of marketable salvage timber, the sales of which helps fund restoration efforts.

In Minnesota's Superior National Forest, we had a different kind of catastrophic event in July of 1999. A major windstorm with wind speeds of up to 100 miles an hour swept across northern Minnesota, impacting about 477,000 acres within the Superior National Forest. Although the Forest Service did a good job of recovering and restoring forest resources in that case, we can always do better. For example, it took the Feds almost 4 months to organize salvage timber sales on a small portion of the impacted lands and more than a year to organize the remaining sales. By that time, some of the most valuable timber had lost most of its value. This legislation offers additional tools to facilitate sales more quickly where the salvageable timber is at risk of degrading in quality.

Looking forward, the Forest Service predicts another record-breaking fire season. Since December, drought conditions, coupled with the high temperatures and wind that resulted in over 17,000 wildfires and an estimated 1.5 million acres burned, fire officials have expressed concern that the Southwest and Great Plains are at a risk of similar devastation as seen in Texas and Oklahoma these past months.

While the Healthy Forest Restoration Act provided tools to care for our forests, we need to make sure that we have the tools in place to support recovery and restoration efforts after a catastrophic event. H.R. 4200 improves this process and paves the way for prompt evaluations and development plans while meeting environmental requirements.

I am pleased to cosponsor H.R. 4200, and I encourage my colleagues to support final passage.

Mr. GOODLATTE. Madam Chairman, it is my pleasure to yield 2 minutes to the gentlewoman from North Carolina (Ms. FOXX).

Ms. FOXX. Madam Chairman, I rise today in support of H.R. 4200, the Forest Emergency Recovery and Research Act. North Carolina is home to 1.2 million square acres of national forest, with the majority of those acres being located in the western North Carolina mountains.

Our forests are visited by over 6 million tourists each year and generate millions of dollars for the local economies. People from all over the country and other nations travel to cities and towns in North Carolina and my district to see the wonderful natural resources our forests hold, and many of the towns in my district depend on that tourism industry to provide jobs and economic growth. With that said, Madam Chairman, you can understand my eagerness to protect and sustain these national treasures.

In order to protect and sustain our National Forests and lands, Madam Chairman, Congress has passed environmental laws designed to guard against man-made encroachment. However, we cannot legislate against natural disasters. Even in the mountains of North Carolina, we are susceptible to hurricane damage, flooding and tornadoes, which destroy thousands of acres of National Forest.

When Hurricane Hugo swept through North Carolina, it damaged more than 2.7 million acres of forest in 26 counties, with almost complete destruction of 68,000 acres. Timber losses to the State were valued at $250 million. To make matters worse, only very little timber was able to be salvaged due to the fact that forestry experts were overwhelmed by the sheer volume of dead trees and there was no real plan to deal with such a catastrophe. By the time the forestry officials jumped through all the environmental hoops, most of the timber was either splintered or decayed, rendering it unusable.

Madam Chairman, we witnessed this exact same incident again last year, but on a larger scale. When Hurricane Katrina hit, millions of acres of forest were downed and destroyed, creating dangerous scenarios for disease, infestations and forest fires. Once again, because we had no plan in place for the recovery, forestry officials were forced to sit by and watch millions of dollars of boardfeet rot.

If H.R. 4200 were law, the Forest Service and private companies would have cleaned up the damage and salvaged the good timber.

We cannot allow the lessons of Hurricane Hugo and Katrina to be forgotten. We must design and implement a plan to deal with such scenarios.

Today, Madam Chairman, we have a chance to learn from our misfortunes and guard against losing so much again. H.R. 4200 is a common sense approach to a problem the United States faces yearly. The Forest Service needs the tool of rapid damage assessment, so they can quickly restore landscapes and prevent more forests from decaying and becoming fuel for uncontrollable wildfires. Research is also needed to expand and enhance knowledge on post-catastrophe treatments. This bill is critical to stopping disease and infestations from spreading, preventing wildfires, and maintaining healthy forests.

I would like to reassure my colleagues on both sides of the aisle that H.R. 4200 is not designed to circumvent existing environmental laws. In fact, it is the exact opposite. The provisions in this bill can only be used in case of a severe natural disaster to our national forests. The bill does not affect national parks, wilderness areas, or national monuments. The bill does not override existing environmental laws, such as the Endangered Species Act, the Wilderness Act, the Clean Air Act, or the Safe Drinking Water Act. The bill simply allows the forest service to apply common sense techniques in the case of a natural disaster. It's about time the federal government put some common sense into environmental cleanup and maintenance in my opinion.

In conclusion, Madam Chairman, I would like to thank Chairman POMBO and Chairman GOODLATTE for their work on this bill. Both their Committees held numerous hearings on the bill and carefully crafted this measure with the input of local governments and environmental groups. The bill increases collaboration among federal, state, and private interested parties. The bill enjoys wide bipartisan support and will benefit the entire country, all while saving the federal government money. Again, the bill makes sound, environmental sense and I support final passage of the bill.

Mr. BAIRD. Madam Chairman, I yield myself such time as I may consume.

Let us step back for just a second, because it seems some folks may not fully understand why we need this legislation. We need this legislation because following a fire or a blowdown or other catastrophic event, the wood is actually still good, but it is only good for a finite time, as Mr. WALDEN said in his opening remarks. Every day that you delay, the value of the wood declines.

Now, we believe that it is not a situation where you can just say, well, let us look infinitely before you leap. You have got to act, because not acting here has consequences. What this bill does is expedite a way of acting responsibly so the public has input, so that you use best available science, and then the public has an appeals process.

But beyond that, the bill contains a host of protections, and I want to underscore those. Contrary to what my friend from the Science Committee suggested, you can only cut trees that are either dead or in eminent demise. So if a tree is blown over, it can live for a year or so, but it is going to die mighty soon. There is no provision in this bill, none whatsoever, that allows you to go into a healthy stand of green trees and cut it.

Secondly, if a wilderness area or a national park burns, they are off limits. The bill doesn't touch them. Doesn't touch them.

Third, the bill does not require logging anyway. It merely says that if the managers on the ground think it can be done responsibly and economically and appropriately, they can move forward. In fact, many of the fires in the Pacific Northwest, you have hundreds of thousands of acres burned, and only 6 or 7 percent harvested.

Congressman WALDEN and I agree with the science that there are a number of species that depend on standing burned logs for habitat. That is why the bill specifically says you have to leave some logs. It is also why many areas would be left unharvested.

But you look at these 100,000-acre forest fires and you say if you are going to harvest 6 or 7 percent, you have plenty of habitat for those critters that depend on burned trees. But there are also species that prosper more in an open area after harvest, and if what you truly want to support is broad species diversity, you will realize net greatest overall species diversity from harvesting some areas, leaving other areas standing.

I also want to follow up on something Mr. GOODLATTE said. People who don't represent forest districts may say what is in it for me; why should I care?

Here is why you should care. Because when you build your house, if you had a builder come to you and say here is your choice; we can either build this house with perfectly solid wood that came from dead trees that were killed in a fire, or we can build your house by cutting down live trees that are standing today, which would you prefer? Most Americans would say, you know, I would rather use the dead wood, if it is good structurally, to build my house; and indeed it is good structurally, but only if you harvest it promptly.

Let me go right back to basics. We use wood. It has got to come from somewhere. If you can get it from burned forests and do so responsibly and protect the environment, as this bill requires, that is where you ought to get the wood from. But if you delay that harvest unnecessarily, you will diminish the value of the wood and you will increase the adverse environmental impact.

Finally, let me say this: We make decisions in our society and we make trade-offs and balance things. My friends on the other side would say, where is your peer-review science that proves it is good for a forest to harvest burned trees?

You make sacrifices whether you harvest live trees or dead trees. In the case of a live tree, you are sacrificing a living tree. In the case of a dead tree, you are sacrificing a dead tree. The choice is pretty clear to me, and that is what this bill allows us to make: that choice.

☐ 1230

Mr. UDALL of New Mexico. Madam Chairman, I yield our remaining time to a leader in our Resources Committee on forest issues and a champion on protecting our forests and watersheds, Representative INSLEE.

Mr. INSLEE. Madam Chairman, the people of the State of Washington deserve decisions about the Eagle Gap Wilderness area to be made based on science and public input, not the whims of President George Bush.

Why do we rush to give this President, the President with the worst environmental record in American history, more discretion, more leeway, less science, less public input? That is a bit like giving Bonnie and Clyde a relaxation of the rules against bank robbery.

There is no reason, given the record of this administration, to trust these administration policies with our national forests. But this bill will give a blank check to the whims of the political decisionmakers in the White House, not the foresters on the ground.

This, in fact, strips, strips us of the requirement that we have a site-specific decision to go out and look at these properties. Now I will tell you how bad it is. I will tell you how George Bush's administration has not respected science. When Mr. Donato, a researcher at Oregon State University, reported his paper in a well-respected journal, Science Magazine, a peer-reviewed journal, do you know what happened? Do you know what his BLM did? They canceled his contract.

That is how the Bush administration treats science. They cancel your contract if you come out with science, with an answer that is not apparently approved by Carl Rove and his political minions.

Madam Chairman, we should not be on this floor giving George Bush more authority to make more bad decisions about the national forests. Reject this bill.

Mr. GOODLATTE. Madam Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Madam Chairman, I thank the chairman for yielding me the time.

Madam Chairman, I rise in strong support of H.R. 4200. The people who wrote the bill are here in the room, as far as I can tell. Forestry is the dominant land use in my State, covering almost two-thirds of our land. About 10 percent of our timberland is in Federal ownership. H.R. 4200 would give our forestry advisors a badly needed new tool to deal with the types of catastrophes that sometimes visit our forests.

Although we do have fires, our forests suffer much greater harm from bugs, like the pine beetle, and from hurricanes like Hugo. Thank God we have not had a visitor like that for some time.

Hugo destroyed some $250 million worth of timber. South Carolina suffered similar damage from that storm. The 2000 outbreak of southern pine beetle spread rapidly to over 130,000 acres of non-Federal land, and additional private land in and around Pisgah National Forest and the Biltmore Estate, known as the Cradle of Forestry in America.

If the beetle is not controlled quickly, it will easily spread to adjacent lands. Most of this outbreak is on Federal lands, making it extremely important the Forest Service respond quickly to avoid spreading infestations to adjacent healthy non-Federal forests.

"We do not have a year or 2 years" stated Jim Hefley, a retired forestry professional charged with heading up the committee to address the outbreak. "We have 120 days to accomplish our work and remove the infested trees."

This statement was made in November of 2000 as the beetles entered their period of winter dormancy. The Forest Service did not issue their decision to implement treatments until April 16, 2002. This is unconscionably slow.

With the authority available under H.R. 4200, the Forest Service could substantially shorten the time frame to move forward with the recovery project down to as little as 60 days if the Forest Service develops an appropriate preapproved practice to deal with southern pine beetles.

In the Southeast, we are lucky that our pine forests grow quickly. That is why they make such good wildlife habitat, and why they are the engine of the region's timber economy.

Madam Chairman, I urge unanimous support of H.R. 4200.

Mr. PETERSON of Minnesota. Madam Chairman, I yield 2 minutes to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Madam Chairman, I thank the gentleman from Minnesota.

Madam Chairman, just briefly, I mentioned earlier the amazement with which I have watched some of the misrepresentation that has occurred on the floor today.

I just saw it again a second ago from my good friend from Washington State. BLM did not, for the record, cancel the contract of the researcher, they suspended it following a review to make sure procedures had been followed.

I also want to talk about this criticism of planning ahead. You know, folks on my side have been in high dudgeon and great outrage at the lack of planning by FEMA prior to Hurricane Katrina. Here we are with a bill that would allow us to plan ahead, so that when disaster strikes we can respond responsibly and promptly with the best available science to protect the environment and to save the taxpayers money, and we are being criticized for advance planning.

It is a good bit paradoxical, my friends. You cannot say on the one hand we ought to plan for disasters like Katrina, but we should not plan for disasters in a forest. You should plan for both, and we have proven mechanisms for responding to both.

And here is something that has to be underscored. What we are talking about today is standard practice, standard practice by State foresters, by industrial foresters, by private timber owners, and by tribes. People who have fiduciary responsibilities to their taxpayers, to their stockholders, and to the timber owners do this every day across the country.

And if you would come with Congressman WALDEN and I, we can walk you through beautiful, magnificent forests that were burned one time, harvested, and regenerated. That is why we are supporting this bill.

I would just say for all of the talk on evidence, the evidence can be obtained right here with your eyes. Just come visit these forests. If 15,000 people who manage forests on the ground every day support this, this is not about giving President George Bush authority over burned fires, it is about giving the timber managers who live and work and know the ground and raise their families nearby and drink the water from the watersheds and have years of experience, that is who gets the authority under this bill.

Mr. GOODLATTE. Madam Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Madam Chairman, I appreciate the bipartisan leadership on this bill. I think sometimes in Washington we would do better to not clear-cut the truth when it comes to issues like this.

Madam Chairman, the truth is when natural disasters hit our forests, as they do in east Texas, our regulations really hinder our ability to recover that forest quickly. They do not help; they hinder it. This bill does the opposite. I strongly support it.

Madam Chairman, in 1998 we had a windstorm that hit the Sabine, Angelina and Sam Houston National

Forests here in east Texas, damaged about 200 million boardfeet of timber. As bad as that looks, and as big as that looks, you should have seen what Hurricane Rita did. The fourth largest hurricane to ever hit the gulf coast damaged nearly a million boardfeet of timber, and that is our number one, not only our number one economic driver in east Texas, but we really value our forests. We want to recover them, because that to us was a huge natural disaster.

This bill will help us recover from disasters like this. All of them had salvageable timber; terrible Hurricane damage, but salvageable timber. But because of the large volume of timber that was damaged, the rapid decay of the dead wood, and procedural red tape and economic constraints, salvage operations, the ability to salvage this is limited. And if we do not do that, the down and damaged timber becomes hazardous fuel, endangering the public and firefighter safety.

And all of the remaining undamaged timber becomes highly susceptible to other timber losses, because of bark beetles further impairing the forest health, and blue stain, which affects the timber itself. So failure to remove salvageable timber impedes the restoration of some of our treasured habitat, such as threatened and endangered red cockheaded woodpecker and the Louisiana pine snake.

Madam Chairman, delays to harvesting downed timber means delays and increased costs all across the board, and the ability in this bill to use alternative ways to do it makes healthier forests and better species. Madam Chairman, I strongly support this bill.

Mr. PETERSON of Minnesota. Madam Chairman, I yield to Mr. BAIRD such time as he may consume.

Mr. BAIRD. Madam Chairman, I want to add one other environmental consideration on this, the issue of greenhouse gases. When you talk about billions of boardfeet of timber down post-Katrina, and you think about what happens if there is a secondary burn and how much carbon is put into the air, that is not good if you want to contain greenhouse gases.

Those who are concerned about global warming, as am I, and as are many of my friends who have spoken today, seriously ought to consider, you can entrap the carbon in those trees by building a home with the wood, or you can leave the carbon in those trees to burn a second time and to fill the atmosphere with smoke.

I would submit that it is better from an environmental perspective to make sure that those forests do not reburn if you can do so responsibly, and we have testimony from wildland forest fighters that by removing these trees postfire you can actually reduce the risk of subsequent fires if you reharvest.

Mr. GOODLATTE. Madam Chairman, will the gentleman yield?

Mr. BAIRD. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Madam Chairman, the gentleman makes an excellent point. And the point you made earlier about choosing between dead, dying, burned trees versus live, living trees not being cut down are also helping the environment by absorbing that CO_2. So this is a very proenvironmental piece of legislation

Mr. BAIRD. Madam Chairman, reclaiming my time. I appreciate that point. This is the choice you are making. You are not choosing whether or not to use wood. We have got to use wood, and it is a darn good product.

You are going to get some from living trees, you are going to get some from burned trees, but if you have got the burned trees, use the wood responsibly, use it promptly. Sink the carbon in your house, do not put it into the atmosphere.

Mr. DUNCAN. Madam Chairman, I claim the time of the Transportation and Infrastructure Committee on behalf of Chairman YOUNG.

The Acting CHAIRMAN (Mrs. MILLER of Michigan). The gentleman is recognized for 10 minutes.

Mr. DUNCAN. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, before I yield some time to Chairman WALDEN, I would like to mention a couple of things. A few years ago I read the book "A Walk in the Woods" by Bill Bryson about hiking the Appalachian Trail. He says in that book that New England in 1850 was 30 percent in forestland. Today it is almost 70 percent in forestland. A few days ago I think it was USA Today or one of the national publications had an article about the State of Vermont and said it is 77 percent in forestland.

The Knoxville New Sentinel a few years ago said that Tennessee in 1950 was 36 percent in forestland. Today it is 55 percent in forestland. Yet if I went to any school in this country and asked the kids, are there more trees now than there was 100 or 150 years ago, they would all say, no, there are a lot fewer trees; when the truth is, there are billions and billions more trees, and hundreds of millions of acres more in forest today than at any time in our history.

And then I remember in the forest subcommittee in 2002, at the first of the year and then again in late spring, we were warned that 40 million acres in the West were in imminent danger of catastrophic forest fire, and later that year we saw some 7 million acres burned by needless, unnecessary forest fires that could have been prevented. I am told by the staff that we will probably have 7 million acres more burned this year, and that is a sad, unfortunate thing.

We have groups all over this country who do not want you to drill for any oil, do not want you to dig for any coal, do not want you to produce any natural gas, and do not want you to cut any trees. Madam Chairman, do you know who that hurts? It hurts the poor and the lower-income and the working people of this country most of all. The wealthy are always going to do all right. But these things that we do up here affect the poor and the lower-income and working people most of all because when you do not allow anything, any type of natural resource production in this country, what do you do? You drive up prices and you destroy jobs. Who does that hurt the most? It hurts the poor and the lower-income and the working people. And it drives up prices for everything that uses wood, from homes and furniture to toilet paper and everything else.

And so that is what some of this bill is about today. I have got some more I would like to say on it.

Madam Chairman, I yield such time as he may consume to Chairman WALDEN for some further remarks.

Mr. WALDEN of Oregon. Madam Chairman, I certainly appreciate all of the work that Mr. DUNCAN has done on our Subcommittee on Forests and Forest Health, and the gentleman's comments today really, I think, make a very, very strong point.

We have more forested acres today than we did 100 years ago, and we have more trees today than we did. In fact, one of the issues we face in America's forests in the West is overstocked forests. And when forests get overstocked, then bugs come in, nature takes over, you have disease, you have stressed trees, and often they die. And then you get a fire.

You have seen earlier in the debate pictures of these forests after they have burned. Now I represent a district that is nearly 70,000 square miles, home to, I think, 10 or 11 national forests. More than half of the land mass of the district I represent is in government ownership.

I love to get out and backpack and hike. I was up on Dog Mountain this weekend in Columbia Gorge. I love these forests.

☐ 1245

I want healthy green forests. I want to protect the watersheds. I also drive through forests that burned years ago and nothing has been done to recover them. There are valuable stands of timber there that could have been harvested to pay for the recovery effort. The Congressional Budget Office says if we allow the Forest Service and the BLM to move quicker on the projects they deem to be appropriate under their planning documents and in compliance with the Federal environmental laws, we could actually increase receipts by 40 percent from those sales. Forty percent. We could pay for the restoration work. We could restore the forests.

Now, you have heard comments today about how do we define a disaster. Well, we define it virtually identically to the way the Federal Emergency Management Agency defines a major disaster. The language is almost identical. It means any natural catastrophic catastrophe, including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowslide, drought. All of those things contribute to a catastrophe in America's forests, and so we use the same definition. So if you don't like our definition here, well then maybe we need to change FEMA. But I don't think anybody would stand for that in an emergency. If we have an emergency in a forest, the emergency doesn't end when the smoke clears.

We have also heard today, erroneously, no site evaluation. We would wipe that out. Nobody would ever have to go on the ground. That is not true. Go to page 32 of the manager's amendment that we are debating today: We require the agencies to show rationale for their decision, economic analysis and justification, an analysis of the environmental effects of the project, and how such effects will be minimized or mitigated consistent with applicable land and resource management plan. And it goes on through.

And let me say, we continually heard this nonsense that somehow you can do this without ever following the Clean Water Act or Safe Drinking Water Act or the Endangered Species, and that is simply not the case; because Americans act, and that is simply not the case; because Americans under our law would have the same right they have under existing law in the Healthy Forest Restoration Act to appeal, and to appeal to a court of law who would immediately shut down a project with a temporary restraining order, stop them in their tracks if they didn't follow existing Federal law. The safeguards are in this bill to do what is needed to be done to improve America's forests, to get them back into restored status, to move quickly after a catastrophe, after a disaster, as we expect the government to do after a lot of different events that occur in our country. We just want to be able to do that in our forests as well, like every other forestland manager has the authority to do.

Madam Chairman, I reserve the balance of my time.

Mr. PETERSON of Minnesota. Madam Chairwoman, I would like to yield the balance of my time to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Madam Chairman, I thank the gentleman. I want to follow up on something my good friend Mr. DUNCAN pointed out. In my district I mentioned earlier we have got communities with double-digit unemployment. Some of these small timber towns, the only real game in town is timber. And if there is a catastrophic fire in the vicinity of that mill and the choice is to let that wood rot or put some people to work by milling it, it is going to be mighty hard for me to go back home and look these folks in the eye and say, "I know that there is perfectly good wood that we could get out. I know that we could build houses with it, make paper products, but you know we have to leave it completely untouched until that wood just rots."

Now, we are not saying harvest every stick of timber. We are not saying that in every fire or blowdown you harvest anything. But if you can get economically valuable products out and if you can do it in a responsible way, then by golly you ought to do it. And that is what this bill comes down to at the end of the day.

When Congressman WALDEN and I visited the Timbered Rock fire, we rode out to that fire site with the forest people, the forest managers of that area. This is not about having some bureaucrat in Washington, DC, manage forests. That is actually what is happening now. We are managing through litigation. Litigation is probably the most inefficient way to manage anything. If you can avoid it, do so. The folks who actually manage these post-fire scenarios live in the communities. I talked to one fellow, he said, "This is where I come to fish with my kids. Do you think I want to let this go forward in a way that is going to destroy the fishing? This is where we come to hunt." The water supply for my community is downstream from this fire. I have every investment in managing this responsibly.

The forest managers who go into that profession go into it because they love the forests. They live in the field, they know the terrain. And this bill allows them to respond promptly if there is an incident, and to use advanced planning to prepare for an incident so that they can do the most responsible thing the most promptly. That is what this thing is about. Again, it is common sense and I am proud to have coauthored it. I thank the gentleman for his leadership. We will see some proposed amendments in a moment. I would urge rejection of those and final passage of the legislation.

Mr. DUNCAN. Madam Chairman, I am pleased that the gentleman from Washington, who is a really good Member and a good friend of mine, that he mentioned the small logging companies. I remember in 1978, we had 157 small coal companies in east Tennessee, and then they opened up a Federal mining office and now there are none of those small companies left.

When you overregulate anything, it helps the big giants, but it first runs the small companies out and then even the medium-sized companies. And I am told that is what is happening all over the country to our small logging companies. And I remember, I was told years ago that in the mid-eighties that Congress passed a bill that the environmentalists wanted that would not allow cutting of more than 80 percent of the new growth in our national forests. Today, we are cutting less than one-seventh of the new growth in our national forests, and we have two or three or four times as much dead and dying trees, and under the present rules we can't even go in there and get some of these dead and dying trees out. Like he said earlier, I said this bill is just another of many things that we are trying to not only help the environment but to help the poor and the lower income and the working people by not driving up prices and not destroying jobs in the way that we have been doing. But also this is a bill that would help some of the small businesses, some of the small logging companies maybe to survive instead of all having to go out.

H.R. 4200, this Forest Emergency Research and Recovery Act, would allow land managers to move swiftly after a disaster to stabilize soils, protect streams and riparian areas and reforest the land. The bill allows for the establishment of preapproved management practices and emergency procedures that could be implemented quickly after a fire or other catastrophic event. This bill, H.R. 4200, allows for compliance with the Clean Water Act requirements to occur simultaneously with the implementation of these preapproved management practices or emergency procedures.

H.R. 4200 is essential, I think, to ensuring our national forests are forested for future generations. This is a good bill. It is good for the environment, it is good for business, and it is good for the average ordinary citizen who doesn't need for wood product prices to just go out of sight. And so I urge passage.

Mr. BACA. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

Mr. Chairman, I want to voice my support for H.R. 4200.

The catastrophic wildfires that devastated southern California in late 2003 are proof that forest health and recovery are essential. We must expand these tools however possible to protect the lives and property of our constituents.

I only wish the agency and administration would have heeded our demands from then Governor Davis, Senators BOXER and FEINSTEIN, and many others including myself for emergency fuels reduction funding.

The fact is that many forests in southern California continue to be matches waiting to set ablaze. Bark Beetle infestations have ravaged the San Bernardino National Forest and many populated rural areas.

Either we learn the lessons of the past or we are condemned to repeat those mistakes in the future.

By the time the 14 major wildfires in southern California were extinguished in November 2003, 24 lives were lost, 3,710 homes were destroyed, and 750,043 acres were blackened—70,000 of those acres in San Bernardino County.

We must also remember the post-fire flooding in the erosion-prone mountain watersheds, and how 17 lives were lost in San Bernardino County alone. Sixteen of these lives were lost on Christmas Day, including those of two constituents.

Mr. Chairman, I completely agree that recovery is essential, but I am also very interested in ensuring that the contractors doing this recovery are not engaging in criminal violations of health, safety and labor law.

At the December hearing on this bill in the Agriculture Committee, I introduced into the record an exposé by the Sacramento Bee on the deplorable, and often criminal, conditions to which these H2B and other contract employees are subjected.

Some are not paid their full wage, denied safety equipment, or made to live in subhuman conditions because of their H2B guestworker status.

Mr. Chairman, that is why I will be holding a briefing tomorrow at 2 p.m. in the Science Committee room on these forest workers and how agencies can improve their oversight of wage and workplace safety violations.

Mr. Chairman, I agree that we need to protect the lives and property of our constituents by maintaining healthy forests and recovering after disasters and pest infestations. That is why I am voting in favor of this legislation. I urge my colleagues to do the same.

Mr. THOMPSON of Mississippi. Mr. Chairman, I rise in favor of H.R. 4200, the Forest Emergency Recovery and Research Act (FERRA).

Many of you are supporting this bill because of wild fires. My state and I have a different, but just as important need. Hurricane Katrina caused the largest single forest and wildlife habitat devastation in our Nation's history—5 million acres—and it did not discriminate between public or private land or the rich, poor or the middle class. She was an equal opportunity destroyer. By the way, this represents 19 billion board feet of timber with a value of $5 billion. This is enough timber to build 800,000 homes and make 25 million tons of paper and paperboard.)

National Wildlife Refuges, National Parks and National Forests were all severely damaged. The DeSoto National Forest was hit the hardest. But besides trees, we had a diversity of plants and animals that lost their homes too. In fact, the damage left by Katrina is the largest single devastation of fish and wildlife habitat since the Exxon Valdez.

I have witnessed the devastated, high quality forests of the DeSoto degrade to a point that we must appropriate many millions to clean up the debris and recover this forest. That was not necessary.

By acting in a timely manner as FERRA will allow, we can salvage valuable wood products before they deteriorate. This will generate much needed dollars for rural schools and return more dollars to federal and state treasuries. It will also generate funds to restore the homes of wildlife and the citizens of places like the Gulf Coast and New Orleans.

We don't need to cut down live trees that are valuable at producing oxygen, sequestering carbon dioxide and providing fish and wildlife habitat when we can use ones that are already damaged. It's just common sense.

As the first member of my party to co-sponsor the Healthy Forests Restoration Act, I ask you to vote in favor of H.R. 4200.

Mr. LARSON of Connecticut. Madam Chairman, I regret that I could not be present today because of a family medical emergency and I am in opposition to the Forest Emergency Recovery and Research Act (H.R. 4200).

This bill misses the point. In the face of the President's drastic budget cuts to State and local wildfire assistance programs, including a 30 percent cut in the State Fire Assistance program, which directly funds local community fire risk reduction planning and projects, this bill seems wholly inappropriate. Instead of providing the necessary tools to mitigate future fires to the 11,000 high risk communities around the country threatened by wildfires, this bill "expedites" or "streamlines" the timber salvage process for the logging industry following a catastrophic event. It is unnecessary and unwise to weaken existing laws meant to protect public participation and the environment, when the authority and ability to recover and restore forests after fires, floods, or other disasters is not being prevented. Our communities deserve better. I urge my colleagues to oppose the underlying bill.

Mr. UDALL of Colorado. Madam Chairman, I cannot support this bill in its current form.

H.R. 4200 focuses on actions to be taken after a "catastrophic event," defined as any one of various natural disasters or events.

For Colorado, this misses the point—our most pressing issue is the increased likelihood of severe wildfires that endanger human life and property (and municipal water supplies) resulting from a combination of increased fuel stocks (itself the result of various causes, including past fire-suppression policies), drought, and widespread insect infestations.

So, what we need is accelerated action to reduce hazardous fuels in the "red zones" before the communities that adjoin or intermingle with the forests are confronted with severe wildfires—not legislation that aims at speeding salvage or restoration after the damage has been done.

The bill also has serious flaws. I will not attempt to list them all, because they have been discussed fat length in today's debate. But I think it is worth emphasizing that while it is doubtful that the legislation is necessary anywhere it seems clear that there are certain lands to which it should not apply, including (1) National Conservation Areas and National Recreation Areas; (2) lands that have been recommended for wilderness by the President; (3) wilderness study areas; (4) BLM-designated areas of critical environmental concern; (5) lands recommended for wilderness in a Forest Service or BLM land-management plan; (6) the Fossil Ridge Recreation Management Area in Colorado; (7) the Bowen Gulch Protection Area in Colorado; (8) the Piedra, Roubideau, and Tabeguache Areas in Colorado; (9) the James Peak Protection Area in Colorado; and (10) the Arapaho National Recreation Area in Colorado. Further, I think the bill should include language to make clear that it will not change the requirement of section 103(d) of the Healthy Forests Restoration Act, which requires that at least 50% of the fuel-reduction funds must be used for projects in the wildland-urban interface—the "red zone" lands.

In the Resources Committee, I offered an amendment to make those changes, and also supported amendments offered by other Members. Unfortunately, those amendments were not adopted.

Similarly, I voted for the Rahall, DeFazio, Inslee, and Udall of New Mexico amendments when the House considered the bill earlier today.

Regrettably, however, the House did not agree to revise the bill as proposed in those amendments. And because I think the bill should not be enacted without those changes, I must vote against it.

Mr. SHAYS. Madam Chairman, protecting our environment is one of the most important jobs I have as a Congressman. Unfortunately, the legislation before us today would hurt, rather than protect, our forests by speeding up destructive logging projects in national forests impacted by natural disturbances.

H.R. 4200 would limit critical environmental reviews and excludes the public from the decision making process. Basic protections for streams, critical wildlife habitat, old growth forests, roadless areas, fragile soils, and other essential natural resources would be removed under this legislation.

Science suggests logging harms damaged forests and impedes their recovery, and can actually increase the likelihood and severity of future forest fires. A study by researchers at Oregon State University has shown allowing forests to recover naturally after a fire increases forest regeneration and decreases the risk of future fires.

I urge my colleagues to oppose this legislation. Congress can and must do a better job protecting our environment. We simply will not have a world to live in if we continue our neglectful ways.

Mr. STARK. Madam Chairman, I rise today in opposition to H.R. 4200, the Forest Emergency Recovery and Research Act.

Rather than aid in a speedy recovery after a natural disaster, this bill is itself a disaster for the environment.

Forestry experts have repeatedly expressed concern about the harmful effects of salvage logging, yet Republicans choose to ignore sound science and insist on implementing environmentally irresponsible logging policies. Contrary to what Republicans and their campaign contributors in the logging industry would like you to believe, research shows that post-fire logging actually impedes forest regeneration, causes erosion and degrades water quality.

As if facilitating the destruction of forests wasn't enough, this bill also weakens existing laws meant to protect our entire environment. In the case of a catastrophic event, H.R. 4200 allows for the removal of timber salvage while ignoring the National Environmental Protection Act, the Clean Water Act, and key provisions of the Endangered Species Act.

The exemptions contained in this bill are entirely unnecessary. The Forest Service is currently completing the removal of timber salvage, on national forests impacted by Hurricane Katrina with existing environmental guidelines and authorities for such practices. H.R. 4200 isn't needed and it is merely another attempt by Republicans to dismantle landmark environmental laws.

Finally, H.R. 4200 provides no protection for roadless areas, nation recreation areas, national conservation areas or wilderness study areas, thus putting many of our valuable public lands at risk.

I believe we have more reason to be concerned about the damage this bill will cause than the potential damage caused by actual natural disasters. H.R. 4200 is nothing short of disastrous for our national forests and public lands and I urge my colleagues to vote against it.

Ms. JACKSON-LEE of Texas. Madam Chairman, I would have hoped to be able to rise today to support a bill that strengthened our existing law in caring for and protecting our environment. Unfortunately, this is not so.

When the Forests Emergency Recovery and Research Act was introduced, I did not consider it perfect, but I felt that the intent was good. I had faith that as the bill moved through committees, any weaknesses or inconsistencies would be amended, and that ultimately we would have on the floor a bill that I would want to support.

Unfortunately, this does not seem to be the case. The bill purports to provide for emergency recovery projects to help lands heal from natural disasters such as floods and fires, when in fact it imposes unnecessary exemptions from provisions in the Clean Water Act, the National Historic Preservation Act, the National Environmental Policy Act, and the Endangered Species Act.

New research and peer-reviewed science is emerging that verifies that post-disturbance or post-fire logging destroys wildlife habitat, pollutes watersheds, and delays a forest's ability to regenerate itself. In fact, what some term "salvage logging" may even increase the risk of fire.

These studies have indicated that ecosystems have an amazing ability to recover quickly from fires; in fact, fires are needed for regeneration and re-growth. Forests are, in fact, much like the legendary Phoenix, experiencing a majestic rebirth from ashes periodically. Dead or damaged trees help to insulate ground-level growth and absorb moisture, preventing fire. These "snags" also serve as protective homes for multitudes of wildlife before they decompose and return sustenance to the soil.

At stake here, however, is writing into law land management practices that are quickly proving themselves not only out of date, but detrimental to the environment. We must remember that fire clean-up and logging profit is not the only goal—our main goal should be to preserve these forests for posterity.

Therefore I can not support this bill in its current form, and I encourage my colleagues to vote against an act that attempts to undermine existing environmental protections and damage delicate ecological balance.

Mr. DUNCAN. Madam Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mrs. MILLER of Michigan). All time for general debate has expired.

In lieu of the amendment recommended by the Committee on Resources printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute printed in the designated place in the CONGRESSIONAL RECORD and numbered 1. That amendment in the nature of a substitute shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as "Forest Emergency Recovery and Research Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—RESPONSE TO CATASTROPHIC EVENTS ON FEDERAL LANDS

Sec. 101. Development of research protocols and use in catastrophic event research projects.
Sec. 102. Catastrophic event recovery evaluations.
Sec. 103. Compliance with National Environmental Policy Act.
Sec. 104. Availability and use of pre-approved management practices.
Sec. 105. Availability and use of emergency procedures.
Sec. 106. Administrative and judicial review.
Sec. 107. Guidance regarding reforestation in response to catastrophic events.
Sec. 108. Effect of title.
Sec. 109. Standards for tree retention.

TITLE II—RESTORING LANDSCAPES AND COMMUNITIES IMPACTED BY CATASTROPHIC EVENTS

Subtitle A—Cooperative Forestry Assistance Act of 1978

Sec. 201. Assistance under Cooperative Forestry Assistance Act of 1978 to restore landscapes and communities affected by catastrophic events.

Subtitle B—Department of the Interior Assistance

Sec. 211. Restoring landscapes.
Sec. 212. Restoring communities.

TITLE III—EXPERIMENTAL FORESTS

Sec. 301. Findings.
Sec. 302. Availability and use of pre-approved management practices on National Forest experimental forests.
Sec. 303. Limited consideration of alternatives for projects on National Forest experimental forests.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Regulations.
Sec. 402. Dedicated source of funds for research and monitoring.
Sec. 403. Other funding sources.
Sec. 404. Effect of declaration of major disaster or emergency.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The number and severity of catastrophic events causing resource damage to Federal land has significantly increased over the last 20 years, and such catastrophic events also create serious adverse environmental, social, and economic consequences for Federal land and adjacent non-Federal land and communities.

(2) Catastrophic events often devastate forest or rangeland ecosystems and eliminate sources of seed for desired tree and plant species, which—

(A) delays or even precludes the reestablishment of appropriate forest or plant cover on millions of acres of Federal land;

(B) increases the susceptibility of the damaged land to wildfire and noxious or harmful species and reduces the economic value of the damaged land's resources;

(C) increases the susceptibility of adjacent undamaged land to insect infestations, disease, and noxious weeds;

(D) pollutes municipal water supplies and damages water delivery infrastructure;

(E) exacerbates sediment production that adversely impacts native fish habitat and soil productivity;

(F) results in unsafe campgrounds, trails, roads, and other infrastructure; and

(G) adversely impacts the sustainability of ecosystems and the well-being of adjacent communities.

(3) Program authorities and funding mechanisms currently available to the Secretary of Agriculture and the Secretary of the Interior to respond to catastrophic events on forested Federal land do not provide for consistent and timely response activities.

(4) The Council on Environmental Quality has approved on an infrequent basis the use of alternative arrangements to respond to catastrophic events on forested Federal land, but, when used in the past, such alternative arrangements have encouraged expedited and successful recovery outcomes.

(5) A prompt and standardized management response to a catastrophic event, which is also adaptive to the unique characteristics of each catastrophic event, is needed—

(A) to effectively recover the area damaged by the catastrophic event,

(B) to minimize the impact on the resources of the area and adjacent communities adversely affected by the catastrophic event; and

(C) to recover damaged, but still merchantable, material before it loses its economic value.

(6) Reforestation treatments on forested Federal land after a catastrophic event helps to restore appropriate forest cover, which provides multiple renewable resource benefits, including—

(A) protecting soil and water resources;

(B) providing habitat for wildlife and fish;

(C) contributing to aesthetics and enhancing the recreational experience for visitors;

(D) providing a future source of timber for domestic use; and

(E) ensuring the health and resiliency of affected ecosystems for present and future generations.

(7) According to the Comptroller General, the reforestation backlog for Federal land has increased since 2000 as a result of natural disturbances, such as wildland fires, insect infestations, and diseases.

(8) Additional scientific and monitoring information is needed regarding the effectiveness of recovery treatments to improve subsequent recovery proposals in response to future catastrophic events.

(9) State, tribal, and local governments, local communities, and other entities play a critical role in restoring landscapes damaged by a catastrophic event and in reducing the risks associated with the catastrophic event.

(10) Greater resources and adaptive arrangements must be made available to land managers to facilitate the prompt implementation of recovery treatments, including reforestation, following catastrophic events.

SEC. 3. DEFINITIONS.

In this Act:

(1) BURNED AREA EMERGENCY RESPONSE.—The term "burned area emergency response" means the process used by the Secretary concerned to plan and implement emergency stabilization actions on Federal land in response to a catastrophic event in order to minimize threats to life or property or to stabilize and prevent unacceptable degradation to natural and cultural resources resulting from the effects of the catastrophic event.

(2) CATASTROPHIC EVENT.—The term "catastrophic event" means any natural disaster or any fire, flood, or explosion, regardless of cause, that the Secretary concerned determines has caused or will cause damage of significant severity and magnitude to Federal land or, in the case of title II, non-Federal land. A natural disaster may include a hurricane, tornado, windstorm, snow or ice storm, rain storm, high water, wind-driven water, tidal wave, earthquake, volcanic eruption, landslide, mudslide, drought, or insect or disease outbreak.

(3) CATASTROPHIC EVENT RECOVERY.—The term "catastrophic event recovery", with respect to an area of Federal land damaged by a catastrophic event, means—

(A) if the catastrophic event involved fire, the rehabilitation and restoration activities (other than any emergency stabilization treatments undertaken as part of the burned area emergency response) that are undertaken on the damaged Federal land, including any infrastructure or facilities thereon, in response to the catastrophic event;

(B) if the catastrophic event did not involve fire, the emergency stabilization and rehabilitation and restoration activities that are undertaken on the damaged Federal land, including infrastructure or facilities thereon, in response to the catastrophic event; or

(C) the reforestation or revegetation, consistent with the applicable land and resource management plan, of the damaged Federal land in response to the catastrophic event using, to the extent practicable and preferable, native or beneficial plants to avoid creation of plantation forests and the recovery of trees on the damaged Federal land, through the use of timber harvesting and other appropriate methods of forest regeneration.

(4) CATASTROPHIC EVENT RECOVERY EVALUATION.—The term "catastrophic event recovery evaluation", with respect to an area of Federal land damaged by a catastrophic event, means an evaluation of the damaged Federal land that is conducted in accordance with section 102.

(5) CATASTROPHIC EVENT RECOVERY PROPOSAL.—The term "catastrophic event recovery proposal" means the list and brief description of catastrophic event recovery projects, catastrophic event research projects, and pre-approved management practices that are—

(A) identified as part of the catastrophic event recovery evaluation of an area of Federal land damaged by a catastrophic event; and

(B) proposed to be undertaken to facilitate the catastrophic event recovery of the area or evaluate the effects and effectiveness of such recovery efforts.

(6) CATASTROPHIC EVENT RECOVERY PROJECT.—The term "catastrophic event recovery project" means an individual activity or a series of activities identified in a catastrophic event recovery proposal for an area of Federal land damaged by a catastrophic event and proposed to be undertaken in response to the catastrophic event to promote catastrophic event recovery.

(7) CATASTROPHIC EVENT RESEARCH PROJECT.—The term "catastrophic event research project" means a scientifically designed study of the effects and effectiveness of—

(A) any catastrophic event recovery projects undertaken in an area of land damaged by a catastrophic event; and

(B) any emergency stabilization treatments undertaken as part of a burned area emergency response in the area of land damaged by a catastrophic event.

(8) COMMUNITY WILDFIRE PROTECTION PLAN.—The term "community wildfire protection plan" has the meaning given that term in section 101(3) of the Healthy Forest Restoration Act of 2003 (16 U.S.C. 6511(3)).

(9) ELIGIBLE ENTITY.—The term "eligible entity", for purposes of providing assistance under subtitle B of title II, means a State Forester or equivalent State official, an Indian tribe, local government, community-based organization, or other person.

(10) FEDERAL LAND.—The term "Federal land" means land in the National Forest System and public lands. The term does not include any land contained in a component of the National Wilderness Preservation System or designated as a national monument.

(11) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(12) LAND AND RESOURCE MANAGEMENT PLAN.—The term "land and resource management plan" means—

(A) a land and resource management plan developed for a unit of the National Forest System under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); or

(B) a land use plan developed for an area of the public lands under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(13) LAND-GRANT COLLEGES AND UNIVERSITIES.—The term "land-grant colleges and universities" has the meaning given that term in section 1404(11) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(11)).

(14) LANDSCAPE ASSESSMENT.—The term "landscape assessment" means an assessment describing catastrophic event conditions and recovery needs and opportunities on non-Federal land affected by a catastrophic event and including a list of proposed special recovery projects to address those needs and opportunities.

(15) NATIONAL FOREST SYSTEM.—The term "National Forest System" has the meaning given that term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(16) PRE-APPROVED MANAGEMENT PRACTICE.—The term "pre-approved management practice" means a management practice identified by the Secretary concerned under section 104(a) that may be immediately implemented as part of a catastrophic event recovery project or catastrophic event research project to facilitate the catastrophic event recovery of an area of Federal land damaged by a catastrophic event.

(17) PUBLIC LANDS.—The term "public lands" has the meaning given that term in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(18) SECRETARY CONCERNED.—The term "Secretary concerned" means—

(A) the Secretary of Agriculture, with respect to National Forest System land; and

(B) the Secretary of the Interior, with respect to public lands.

(19) SPECIAL RECOVERY PROJECT.—The term "special recovery project" means an individual activity or a series of activities proposed to be undertaken to rehabilitate, repair, and restore non-Federal land damaged by a catastrophic event, community infrastructure and facilities on the land, and economic, social, and cultural conditions affected by the catastrophic event.

TITLE I—RESPONSE TO CATASTROPHIC EVENTS ON FEDERAL LANDS

SEC. 101. DEVELOPMENT OF RESEARCH PROTOCOLS AND USE IN CATASTROPHIC EVENT RESEARCH PROJECTS.

(a) DEVELOPMENT OF PROTOCOLS; PURPOSE.—For the purpose of conducting and evaluating the effectiveness and effects of a catastrophic event recovery project and of emergency stabilization treatments undertaken as part of a burned area emergency response, the Secretary concerned shall develop research protocols consisting of—

(1) a research approach that is specifically designed to improve knowledge, understanding, and predictive capabilities—

(A) to increase the long-term benefits of management activities, including natural and artificial regeneration of vegetation; and

(B) to decrease the short-term impacts of such management activities;

(2) an appropriate and scientifically sound experimental design or set of sampling procedures; and

(3) accompanying methods of data analysis and interpretation.

(b) PEER REVIEW.—The research protocols developed under subsection (a), and any subsequent modification thereof, shall be subject to peer review, including independent, third-party peer review, by scientific and land management experts.

(c) TIME FOR COMPLETION; MODIFICATION.—The research protocols required by this section shall be submitted to Congress not later than 180 days after the date of the enactment of this Act. The Secretary concerned may modify the research protocols, as the Secretary determines necessary, after their submission to Congress. The Secretary concerned shall notify Congress regarding any such modification.

(d) CATASTROPHIC EVENT RESEARCH PROJECTS.—In accordance with the research protocols developed under this section, the Secretary concerned may conduct one or more catastrophic event research projects in an area of land damaged by a catastrophic event. The Secretary may develop a proposed catastrophic event research project as part of a catastrophic event recovery proposal or develop a catastrophic event research project independently of the catastrophic event recovery proposal during the catastrophic event recovery in response to changing conditions in the area damaged by the catastrophic event.

(e) PUBLIC ACCESS.—

(1) PROTOCOLS.—The Secretary concerned shall make the research protocols developed under subsection (a), including any modification thereof, publicly available, in a form determined to be appropriate by the Secretary.

(2) RESEARCH RESULTS.—After completion of the peer review required by subsection (b),

the Secretary concerned shall make the results of catastrophic event research projects publicly available, in a form determined to be appropriate by the Secretary.

(f) FOREST HEALTH PARTNERSHIPS.—In developing and using the research protocols required by this section, the Secretary concerned shall enter into cooperative agreements with land-grant colleges and universities and other institutions of higher education to form forest health partnerships, including regional institutes, to utilize their education, research, and outreach capacity to address the catastrophic event recovery of forested land. A forest health partnership may be aligned with the current network of Cooperative Ecosystem Studies Units.

SEC. 102. CATASTROPHIC EVENT RECOVERY EVALUATIONS.

(a) COMMENCEMENT.—

(1) EVALUATION REQUIRED.—In response to a catastrophic event affecting 1,000 or more acres of Federal land, the Secretary concerned shall conduct a catastrophic event recovery evaluation of the damaged Federal land.

(2) EVALUATION AUTHORIZED.—If a catastrophic event affects more than 250 acres of Federal land, but less than 1,000 acres, the Secretary concerned is authorized, but not required, to conduct a catastrophic event recovery evaluation of the damaged Federal land.

(b) TIME FOR COMMENCEMENT.—

(1) WHEN EVALUATION REQUIRED.—When a catastrophic event recovery evaluation is required under subsection (a)(1), the Secretary concerned shall commence the catastrophic event recovery evaluation for the Federal land damaged by the catastrophic event—

(A) as soon as practicable during or after the conclusion of the catastrophic event to facilitate prompt decision-making with regard to the catastrophic event recovery of the damaged Federal land; but

(B) in no event later than 30 days after the conclusion of the catastrophic event.

(2) WHEN EVALUATION DISCRETIONARY.—When a catastrophic event recovery evaluation is simply discretionary under subsection (a)(2), the Secretary concerned shall make a final decision whether to commence a catastrophic event recovery evaluation for the Federal land damaged by the catastrophic event, and, if the final decision is to commence a catastrophic event recovery evaluation, actually commence the evaluation—

(A) as soon as practicable during or after the conclusion of the catastrophic event to facilitate prompt decision-making with regard to the catastrophic event recovery of the damaged Federal land; but

(B) in no event later than 30 days after the conclusion of the catastrophic event.

(c) COMPLETION.—

(1) TIME FOR COMPLETION.—To facilitate prompt implementation of catastrophic event recovery projects on Federal land damaged by a catastrophic event when a catastrophic event recovery evaluation is undertaken under subsection (a), whether because the evaluation is required under paragraph (1) of such subsection or because the Secretary concerned makes a decision to conduct an evaluation under paragraph (2) of such subsection, the Secretary concerned shall complete the catastrophic event recovery evaluation for the damaged Federal land not later than 30 days after the date on which Secretary commenced the catastrophic event recovery evaluation.

(2) EXTENSION.—The Secretary concerned may extend the completion date for a catastrophic event recovery evaluation, on a case-by-case basis, when the Secretary concerned determines that additional time is necessary to evaluate a complex catastrophic event, an on-going catastrophic event, or a series of catastrophic events. Only a single extension may be provided for any catastrophic event recovery evaluation, and the extension shall not be longer than 60 days after the date on which the evaluation was otherwise required to be completed under paragraph (1).

(d) ELEMENTS OF CATASTROPHIC EVENT EVALUATION.—In conducting the catastrophic event recovery evaluation for an area of Federal land damaged by a catastrophic event, the Secretary concerned shall prepare the following:

(1) A description of catastrophic event conditions on the damaged Federal land, recovery needs and opportunities, and the areas where management intervention would be helpful to achieve the catastrophic event recovery of the damaged Federal land.

(2) A preliminary determination of any catastrophic event research projects that best fit the circumstances of the particular catastrophic event environment or would enhance scientific understanding relevant to the damaged area.

(3) A catastrophic event recovery proposal containing possible catastrophic event recovery projects and catastrophic event research projects for the damaged area and describing the anticipated size and scope of these projects.

(4) One or more maps detailing the area of damaged Federal land and the location of catastrophic event recovery proposals.

(5) A preliminary estimate of the funding that would be needed to complete the catastrophic event recovery projects and catastrophic event research projects contained in the catastrophic event recovery proposal.

(6) A preliminary estimate of the receipts, including receipts from biomass and other forest products, to be derived from the catastrophic event recovery projects and catastrophic event research projects contained in the catastrophic event recovery proposal, and, to the maximum extent practicable, an estimate of revenues likely to be lost if action is not taken in a timely manner.

(7) A preliminary schedule showing the timing of possible catastrophic event recovery projects and catastrophic event research projects by fiscal year, assuming funding is available to undertake the projects.

(e) USE OF PRE-APPROVED MANAGEMENT PRACTICES OR EMERGENCY PROCEDURES.—

(1) DETERMINATION.—In addition to complying with the requirements specified in subsection (d) for each catastrophic event recovery evaluation, the Secretary concerned shall make a determination of—

(A) whether or not any pre-approved management practices should be immediately implemented under section 104 to facilitate the catastrophic event recovery of the area covered by the catastrophic event recovery evaluation; and

(B) whether or not any catastrophic event recovery project or catastrophic event research project, or portion of such a project, contained in the catastrophic event recovery proposal should be developed and carried out using the emergency procedures authorized by section 105.

(2) FACTORS.—In making any determination under paragraph (1)(B) to develop and carry out a catastrophic event recovery project or catastrophic event research project, or portion of such a project, using emergency procedures under section 105, the Secretary concerned shall consider at a minimum the following:

(A) The necessity of promptly responding to the catastrophic event on the damaged Federal land.

(B) The recovery needs and opportunities identified under subsection (d)(1) with respect to the damaged Federal land.

(C) The lack of pre-approved management practices authorized by section 104 applicable to the damaged Federal land.

(D) The threat to public health and safety.

(E) The likelihood of substantial loss of adjacent private and public property or other substantial economic losses.

(3) CEQ NOTIFICATION.—The Secretary concerned shall make the determination under paragraph (1) after notification of the Council on Environmental Quality, but the determination remains in the sole discretion of the Secretary.

(f) INTERDISCIPLINARY APPROACH.—To conduct the catastrophic event recovery evaluation of an area of Federal land damaged by a catastrophic event, the Secretary concerned shall use a systematic, interdisciplinary approach that insures the integrated use of appropriate natural and social sciences.

(g) COORDINATION WITH OTHER ACTIVITIES.—

(1) RELATED ASSESSMENT OF NON-FEDERAL LAND.—The Secretary concerned may combine the preparation of a catastrophic event recovery evaluation of Federal land with the preparation of a landscape assessment for non-Federal land in the vicinity of the damaged Federal land prepared under subtitle B of title II or subsection (c) of section 10A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2106c), as added by section 201.

(2) RELATED COMMUNITY WILDFIRE PROTECTION PLANS.—During preparation of a catastrophic event recovery evaluation for an area of Federal land damaged by a catastrophic event involving wildfire, the Secretary concerned shall consider post-fire management recommendations, if any, contained in any community wildfire protection plan addressing the damaged Federal land.

(h) PUBLIC COLLABORATION.—To encourage meaningful participation during the preparation of catastrophic event recovery projects, the Secretary concerned shall facilitate collaboration among State and local governments, Indian tribes, land-grant colleges and universities, and interested persons during the preparation of catastrophic event recovery evaluations and catastrophic event recovery proposals.

(i) PUBLIC NOTICE.—

(1) NOTICE OF EVALUATION.—The Secretary concerned shall provide public notice of each catastrophic event recovery evaluation, including the catastrophic event recovery proposal prepared as part of the evaluation. The notice shall be provided in a form determined to be appropriate by the Secretary concerned.

(2) NOTICE OF PUBLIC MEETINGS.—The Secretary concerned shall provide notice of public meetings conducted in connection with a catastrophic event recovery evaluation and the availability of preliminary analyses or documents prepared as part of the evaluation. The notice shall be provided at such times and in such a manner as the Secretary concerned considers appropriate.

SEC. 103. COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT.

(a) COMPLIANCE REQUIRED.—Except as provided in subsection (b), the Secretary concerned shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.), its implementing regulations, and other applicable laws in designing and conducting catastrophic event recovery projects and catastrophic event research projects.

(b) Satisfaction of NEPA Requirements.—The following activities are deemed to satisfy the requirements of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332 et seq.) and its implementing regulations:

(1) The preparation of the list of pre-approved management practices under section 104.

(2) The use of pre-approved management practices on the list in the manner provided in section 104.

(3) The use of emergency procedures in the manner provided in section 105.

SEC. 104. AVAILABILITY AND USE OF PRE-APPROVED MANAGEMENT PRACTICES.

(a) List of Available Pre-Approved Management Practices.—The Secretary concerned shall prepare a list of management practices, by forest type or plant association group, that may be immediately implemented as part of a catastrophic event recovery project or catastrophic event research project to facilitate the catastrophic event recovery of an area of Federal land damaged by a catastrophic event. The list of pre-approved management practices shall be prepared using notice and comment rule making under section 553 of title 5, United States Code.

(b) Peer Review.—Before a management practice may be included on the list of pre-approved management practices, the management practice shall be subject to peer review, including independent, third-party peer review, by scientific and land management experts. The results of the peer review shall be available to the public during the comment period.

(c) Revision or Amendment of List.—The Secretary concerned may amend or revise the list of pre-approved management practices as necessary whenever new scientific and managerial information becomes available. Subsections (a) and (b) shall apply to the amendment or revision process.

(d) Use for Certain Activities Prohibited.—

(1) Road construction.—A pre-approved management practice may not authorize any permanent road building. Any temporary road constructed as part of a pre-approved management practice shall be obliterated upon conclusion of the practice and the road area restored to the extent practicable.

(2) Timber harvesting.—Timber harvesting carried out as part of a pre-approved management practice shall be limited to trees—

(A) that are already down, dead, broken, or severely root sprung;

(B) regarding which mortality is highly probable within five years after the end of the catastrophic event; or

(C) that are required to be removed for worker or public safety.

(e) Compliance With Other Laws.—

(1) ESA consultation.—In the case of the proposed use of a pre-approved management practice included on the list prepared under subsection (a), the Secretary concerned may use the emergency procedures described in section 402.05 of title 50, Code of Federal Regulations, to comply with section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536). At the conclusion of the consultation, the statement required by subsection (b)(4) of such section shall be issued for any incidental taking that may occur while using the pre-approved management practice, which shall be effective beginning on the date the Secretary concerned initiates the practice and shall apply to all persons assisting or cooperating with the Secretary in using the practice.

(2) Other required consultation.—Any consultation required under other laws, such as the National Historic Preservation Act (16 U.S.C. 470 et seq.), may proceed simultaneously with the implementation of a pre-approved management practice. Results of consultation shall be immediately incorporated into the practice, to the extent feasible, practical, and consistent with the response, recovery, and rehabilitation objectives of the project.

(3) Federal water pollution control act compliance.—Compliance with any applicable requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) may proceed simultaneously with the implementation of a pre-approved management practice.

(f) Issuance of Decision Document.—Not later than 30 days after the date on which the Secretary concerned makes the determination under section 102(e) to use a pre-approved management practice to facilitate the catastrophic event recovery of an area of Federal land damaged by a catastrophic event, the Secretary concerned shall issue a concise decision document that contains the following:

(1) A description of the pre-approved management practice to be implemented.

(2) The rationale for the agency decision.

(3) An economic analysis and justification.

(4) An analysis of the environmental effects of the pre-approved management practice and how such effects will be minimized or mitigated consistent with the applicable land and resource management plan. As part of this analysis, the Secretary concerned shall consider, to the extent the Secretary concerned determines appropriate, forest type or plant association group, standing- and down-dead wood, watershed, water quality, wildlife habitat, and soils applicable to the damaged Federal land.

(g) Immediate Implementation.—The Secretary concerned shall implement a pre-approved management practice immediately after the issuance of the decision document under subsection (f), subject only to the availability of funds for the practice.

(h) Monitoring.—To monitor the implementation of a pre-approved management practice, the Secretary concerned may establish a third-party monitoring group, as determined to be appropriate by the Secretary.

SEC. 105. AVAILABILITY AND USE OF EMERGENCY PROCEDURES.

(a) Limited Consideration of Alternatives.—If the Secretary concerned determines under section 102(e) to utilize emergency procedures to conduct a catastrophic event recovery project or catastrophic event research project, or portion of such a project, the Secretary concerned is not required to study, develop, or describe more than the proposed agency action and the alternative of no action in designing that project or the portion of the project for which the emergency procedures are utilized.

(b) Use for Certain Activities Prohibited.—

(1) Road construction.—Emergency procedures under this section may not be used to design or conduct a catastrophic event recovery project or catastrophic event research project, or portion of such a project, that provides for any permanent road building. Any temporary road constructed as part of the project shall be obliterated upon completion of the project and the road area restored to the extent practicable.

(2) Timber harvesting.—Timber harvesting carried out as part of a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which emergency procedures under this section were used shall be limited to trees—

(A) that are already down, dead, broken, or severely root sprung;

(B) regarding which mortality is highly probable within five years after the end of the catastrophic event; or

(C) that are required to be removed for worker or public safety.

(c) Compliance With Other Laws.—

(1) ESA consultation.—In the case of a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which emergency procedures under this section are used, the Secretary concerned may use the procedures described in section 402.05 of title 50, Code of Federal Regulations, to comply with section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536). At the conclusion of the consultation, the statement required by subsection (b)(4) of such section shall be issued for any incidental taking that may occur under the project, which shall be effective beginning on the date the Secretary concerned initiates action under the project and shall apply to all persons assisting or cooperating with the Secretary under the project.

(2) Other required consultation.—Any consultation required under other laws, such as the National Historic Preservation Act (16 U.S.C. 470 et seq.), may proceed simultaneously with the design of a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which emergency procedures under this section are used. Results of consultation shall be immediately incorporated into the project, to the extent feasible, practical, and consistent with the response, recovery, and rehabilitation objectives of the project.

(3) Federal water pollution control act compliance.—Compliance with any applicable requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) may proceed simultaneously with the design of a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which emergency procedures under this section are used.

(d) Completion of Emergency Procedures and Issuance of Decision Document.—Not later than 90 days after the date on which the Secretary concerned makes the determination under section 102(e) to develop and carry out a catastrophic event recovery project or catastrophic event research project, or portion of such a project, using emergency procedures, the Secretary concerned shall—

(1) complete the emergency procedures for that catastrophic event recovery project or catastrophic event research project, or portion thereof, under this section; and

(2) issue a concise decision document that contains the following:

(A) The rationale for the agency decision.

(B) An economic analysis and justification.

(C) An analysis of the environmental effects of the project and how such effects will be minimized or mitigated consistent with the applicable land and resource management plan. As part of this analysis, the Secretary concerned shall consider, to the extent the Secretary concerned determines appropriate, forest type or plant association group, standing- and down-dead wood, watershed, water quality, wildlife habitat, and soils applicable to the damaged Federal land.

(e) Immediate Implementation.—In the case of a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which the emergency procedures authorized by this section are used, the Secretary concerned shall implement the project, or portion of the project, immediately after the issuance of the decision document under subsection (d), subject only to the availability of funds for the project.

(f) Monitoring.—To monitor a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which the emergency procedures authorized by this section were used, the Secretary concerned may establish a third-party monitoring group, as determined to be appropriate by the Secretary.

SEC. 106. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) Administrative Review Generally.—Except as provided in subsection (b), nothing in this title affects—

(1) the notice, comment, and appeal requirements of section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public 102-381; 16 U.S.C. 1612 note); and

(2) section 215 of title 36, Code of Federal Regulations.

(b) Predecisional Administrative Notice, Comment, and Review.—

(1) Interim final regulations.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate interim final regulations to establish a predecisional administrative review process that will serve as the sole means by which—

(A) the Secretary of Agriculture will provide notice of and solicit comments regarding—

(i) the proposed use of a pre-approved management practice under section 104 on National Forest System land; and

(ii) a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which the emergency procedures under section 105 are used on National Forest System land; and

(B) a person can seek administrative review regarding—

(i) the proposed use of a pre-approved management practice under section 104 on National Forest System land; and

(ii) a catastrophic event recovery project or catastrophic event research project, or portion of such a project, for which the emergency procedures under section 105 are used on National Forest System land.

(2) Period covered by review process.—The review portion of the predecisional administrative review process described in paragraph (1)(B) shall occur during the period—

(A) beginning on the date on which the Secretary of Agriculture makes a determination to use pre-approved management practices or emergency procedures under section 102(e); and

(B) ending not later than the date of the issuance of applicable decision document under section 104 or 105.

(3) Effective date.—The interim final regulations promulgated under paragraph (1) shall take effect on the date of promulgation of the regulations.

(4) Final regulations.—The Secretary of Agriculture shall promulgate final regulations to establish the predecisional administrative review process described in paragraph (1) as soon as practicable after the interim final regulations have been promulgated and a reasonable period of time has been provided for public comment.

(c) Judicial Review.—Section 106 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6516) shall apply with respect to the implementation of a pre-approved management practice under section 104 or a catastrophic event recovery project or catastrophic event research project regarding which the applicable administrative review process has been exhausted. In any proceeding for judicial review of agency action under this subsection, attorney fees awarded to a prevailing party may not exceed the hourly rates established in section 3006A of title 18, United States Code.

SEC. 107. GUIDANCE REGARDING REFORESTATION IN RESPONSE TO CATASTROPHIC EVENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary concerned shall—

(1) standardize the collection, reporting, and review procedures for data regarding more aggressive, expedited, and comprehensive reforestation in response to catastrophic events by clarifying agency-wide guidance and developing standard protocols for determining when and how reforestation can be best achieved as part of the response to catastrophic events;

(2) clarify agency-wide guidance regarding reforestation in response to catastrophic events to ensure that such guidance is consistent with agency goals and budget constraints; and

(3) clarify agency-wide guidance regarding the development, during the revision of a land and resource management plan, of goals and objectives for catastrophic event recovery to ensure that such guidance addresses catastrophic event recovery objectives, by forest type or plant association group, related to standing- and down-dead wood, soil and watershed protection, wildlife habitat, and other resource values.

SEC. 108. EFFECT OF TITLE.

(a) Use of Other Authorities.—Nothing in this title affects the use by the Secretary concerned of other statutory or administrative authority, including categorical exclusions adopted to implement the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), to conduct a catastrophic event recovery project or catastrophic event research project, or portion of such a project, that is not conducted using the emergency procedures authorized by section 105.

(b) Preference for Local Operators.—In the manner provided in section 420 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109-54; 119 Stat. 553), the Secretary concerned may give consideration to local contractors in awarding a Federal contract to implement—

(1) a pre-approved management practice under section 104; or

(2) a catastrophic event recovery project or catastrophic event research project, or portions of such a project, for which the emergency procedures under section 105 are used.

(c) Advisory Committees.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to—

(1) the peer review provided by scientific and land management experts under section 101(b) or 104(b);

(2) the monitoring process under section 104(h) or 105(f); and

(3) the preparation of a catastrophic event recovery evaluation or catastrophic event recovery proposal.

SEC. 109. STANDARDS FOR TREE RETENTION.

(a) Standing Dead Trees and Downed Wood.—In planning or conducting any catastrophic event recovery project or catastrophic event research project, the Secretary concerned shall ensure that—

(1) standing dead tree and downed wood retention guidelines contained in the applicable land and resource management plan are applied; or

(2) if the applicable land and resource management plan does not contain standing dead tree and downed wood retention guidelines, adequate standing dead trees and downed wood of the oldest age class are retained in the project area—

(A) to provide habitat for associated species through various stages of forest development;

(B) to provide a long-term nutrient source; and

(C) to retain, to the extent practicable and appropriate for forest type and plant association group, the more decay-resistant species.

(b) Exception.—Subsection (a) shall not apply if the Secretary concerned determines that science from land-grant colleges and universities or a Forest Service Research Station provides more appropriate standing dead tree and downed wood retention guidelines for a particular catastrophic event recovery project or catastrophic event research project.

(c) Plan Amendment.—The Secretary concerned may amend a land and resource management plan to incorporate standing dead tree and downed wood retention guidelines, specific to forest type or plant association group.

TITLE II—RESTORING LANDSCAPES AND COMMUNITIES IMPACTED BY CATASTROPHIC EVENTS

Subtitle A—Cooperative Forestry Assistance Act of 1978

SEC. 201. ASSISTANCE UNDER COOPERATIVE FORESTRY ASSISTANCE ACT OF 1978 TO RESTORE LANDSCAPES AND COMMUNITIES AFFECTED BY CATASTROPHIC EVENTS.

(a) Assistance Authorized.—Section 10A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2106c) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Response to Catastrophic Events Affecting Non-Federal Lands.—

"(1) Landscape assessments.—At the request of an eligible entity, the Secretary may cooperate with the eligible entity in the preparation of a landscape assessment for non-Federal lands affected by a catastrophic event. The Secretary may combine the preparation of a landscape assessment with the preparation of a catastrophic event recovery evaluation under title I of the Forest Emergency Recovery and Research Act regarding Federal land in the vicinity of the damaged non-Federal land.

"(2) Community assessments.—At the request of an eligible entity affected by a catastrophic event, the Secretary may cooperate with the eligible entity in the preparation of a community wildfire protection plan or related plan.

"(3) Decision to provide assessment assistance.—In response to the request of an eligible entity for assistance under paragraph (1) or (2), the Secretary shall make a decision, within 30 days after receiving the request, whether or not to provide such assistance. The decision rests in the sole discretion of the Secretary, but, if the Secretary rejects the request for assistance, the Secretary shall provide the eligible entity with an explanation of the reasons for the rejection.

"(4) TYPES OF ASSISTANCE.—The Secretary concerned may provide technical and financial cost-share assistance to an eligible entity—

"(A) to assist in the preparation of a landscape assessment under paragraph (1) or a community wildfire protection plan, community assessment, or community action plan under paragraph (2); and

"(B) to implement special recovery projects identified in the landscape assessment or community wildfire protection plan, community assessment, or community action plan.

"(5) SPECIAL RECOVERY PROJECTS.—Special recovery projects supported under paragraph (4)(B) may include projects involving—

"(A) revegetation, tree planting, and other management practices the Secretary determines to be appropriate;

"(B) developing products from and markets for timber harvested in response to a catastrophic event and remaining forest resources;

"(C) training for the local populace for work in connection with catastrophic event recovery;

"(D) repair of forest roads, bridges, and trails and water supply areas affected by a catastrophic event; and

"(E) such other activities as the Secretary determines to be necessary to undertake the special recovery project.

"(6) ADDITIONAL FUNDING SOURCES.—Amounts appropriated to the Secretary to carry out sections 8 and 10 may be used to provide assistance under this subsection.

"(7) DEFINITIONS.—In this subsection:

"(A) The term 'eligible entity' means a State Forester or equivalent State official, an Indian tribe, or local government. The term may include community-based organizations and other persons working in conjunction with a State Forester or equivalent State official, an Indian tribe, or local government.

"(B) The terms 'catastrophic event', 'landscape assessment', and 'special recovery project' have the meanings given those terms in section 3 of the Forest Emergency Recovery and Research Act.

"(C) The term 'community wildfire protection plan' has the meaning given that term in section 101(3) of the Healthy Forest Restoration Act of 2003 (16 U.S.C. 6511(3)).".

(b) CLERICAL AMENDMENT.—The heading of such section is amended by inserting before the period at the end the following: "**AND RESPONSE TO CATASTROPHIC EVENTS**".

Subtitle B—Department of the Interior Assistance

SEC. 211. RESTORING LANDSCAPES.

(a) LANDSCAPE ASSESSMENTS.—At the request of an eligible entity, the Secretary of the Interior may cooperate with the eligible entity in the preparation of a landscape assessment for non-Federal lands affected by a catastrophic event. The Secretary may combine the preparation of a landscape assessment with the preparation of a catastrophic event recovery evaluation under title I regarding Federal land in the vicinity of the damaged non-Federal land.

(b) DECISION TO PROVIDE ASSESSMENT ASSISTANCE.—In response to the request of an eligible entity for assistance under subsection (a), the Secretary of the Interior shall make a decision, within 30 days after receiving the request, whether or not to provide such assistance. The decision rests in the sole discretion of the Secretary, but, if the Secretary rejects the request for assistance, the Secretary shall provide the eligible entity with an explanation of the reasons for the rejection.

(c) TYPES OF ASSISTANCE.—The Secretary of the Interior may provide technical and financial cost-share assistance to an eligible entity—

(1) to assist in the preparation of a landscape assessment; and

(2) to implement special recovery projects identified in the landscape assessment.

(d) SPECIAL RECOVERY PROJECTS.—The Secretary of the Interior may provide assistance under subsection (c)(2) for special recovery projects, including revegetation, tree planting, and other practices the Secretary determines to be appropriate.

SEC. 212. RESTORING COMMUNITIES.

(a) COMMUNITY ASSESSMENTS.—At the request of an eligible entity affected by a catastrophic event, the Secretary of the Interior may cooperate with the eligible entity in the preparation of a community wildfire protection plan or related plan.

(b) DECISION TO PROVIDE ASSESSMENT ASSISTANCE.—In response to the request of an eligible entity for assistance under subsection (a), the Secretary of the Interior shall make a decision, within 30 days after receiving the request, whether or not to provide such assistance. The decision rests in the sole discretion of the Secretary, but, if the Secretary rejects the request for assistance, the Secretary shall provide the eligible entity with an explanation of the reasons for the rejection.

(c) TYPES OF ASSISTANCE.—The Secretary of the Interior may provide technical and financial cost-share assistance to an eligible entity—

(1) to assist in the preparation of development of a community wildfire protection plan, a community assessment, or a community action plan; and

(2) to implement special recovery projects identified in a community wildfire protection plan, a community assessment, or a community action plan.

(d) SPECIAL RECOVERY PROJECTS.—Special recovery projects supported under subsection (c)(2) may include projects involving—

(1) developing products from and markets for timber harvested in response to a catastrophic event and remaining forest resources;

(2) training for the local populace for work in connection with catastrophic event recovery;

(3) repair of forest roads, bridges, and trails and water supply areas affected by a catastrophic event; and

(4) such other activities as the Secretary determines to be necessary to undertake the special recovery project.

TITLE III—EXPERIMENTAL FORESTS

SEC. 301. FINDINGS.

Congress finds the following:

(1) The experimental forests established pursuant to section 4 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1643) or the organic administrative authorities of the Secretary of Agriculture (16 U.S.C. 551) serve as a natural laboratory for the Forest Service to evaluate management practices generally and specific responses to catastrophic events that can be eventually used throughout the National Forest System.

(2) To build upon the knowledge base to be developed using catastrophic events research projects conducted under title I, the Secretary of Agriculture should be authorized to use the same authorities provided under sections 104 and 105 to design and carry out projects in the experimental forests.

SEC. 302. AVAILABILITY AND USE OF PRE-APPROVED MANAGEMENT PRACTICES ON NATIONAL FOREST EXPERIMENTAL FORESTS.

Management practices included on the list of pre-approved management practices prepared under subsection (a) of section 104 may be implemented, in the manner provided by such section, in an experimental forest established pursuant to section 4 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1643) or the organic administrative authorities of the Secretary of Agriculture (16 U.S.C. 551).

SEC. 303. LIMITED CONSIDERATION OF ALTERNATIVES FOR PROJECTS ON NATIONAL FOREST EXPERIMENTAL FORESTS.

Section 105(a) shall apply with respect to any individual activity or a series of activities proposed to be undertaken in an experimental forest established pursuant to section 4 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1643) or the organic administrative authorities of the Secretary of Agriculture (16 U.S.C. 551).

TITLE IV—GENERAL PROVISIONS

SEC. 401. REGULATIONS.

Except as provided in section 106(b), the Secretary concerned is not required to promulgate regulations to implement this Act.

SEC. 402. DEDICATED SOURCE OF FUNDS FOR RESEARCH AND MONITORING.

(a) SPECIAL ACCOUNT.—The Secretary of the Treasury shall establish a special account in the Treasury for each Secretary concerned.

(b) DEPOSITS.—Ten percent of the gross proceeds derived by the Secretary concerned from catastrophic event recovery projects and catastrophic event research projects conducted by the Secretary concerned under title I shall—

(1) be deposited in the special account established for that Secretary; and

(2) remain available, without further appropriation and until expended, for expenditure as provided in subsection (c).

(c) RESEARCH-RELATED USE OF SPECIAL ACCOUNTS.—The Secretary concerned shall use amounts in the special account established for that Secretary—

(1) to develop research protocols under section 101;

(2) to prepare and implement catastrophic event research projects; and

(3) to provide for monitoring under sections 104 and 105.

(d) RELATION TO OTHER FUNDS.—Amounts in the special account established for the Secretary concerned are in addition to other amounts available to that Secretary for the purposes described in subsection (c).

SEC. 403. OTHER FUNDING SOURCES.

(a) AVAILABILITY OF KNUTSON-VANDENBERG FUNDS.—Section 3 of the Act of June 9, 1930 (commonly known as the Knutson-Vandenberg Act; 16 U.S.C. 576b), is amended—

(1) by striking "Such deposits shall be covered" and inserting the following:

"(b) Amounts deposited under subsection (a) shall be covered";

(2) by inserting after "national park." the following new sentence: "The Secretary of Agriculture may also use excess amounts to cover the costs of activities of the Secretary under title I of the Forest Emergency Recovery and Research Act."; and

(3) in subsection (c)—

(A) in paragraph (1), by striking "and";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) the excess amounts will not be needed for activities of the Secretary under title I of the Forest Emergency Recovery and Research Act during the fiscal year in which the transfer would be made; and".

(b) Availability of Forest Service Salvage Sale Funds.—Section 14(h) of the National Forest Management Act of 1976 (16 U.S.C. 472a(h)) is amended—

(1) in the fourth sentence, by inserting after "the purposes for which deposited" the following: "and to cover the costs of activities of the Secretary under title I of the Forest Emergency Recovery and Research Act"; and

(2) in last proviso, by striking "for which deposited on any national forest" and inserting "for which deposits of money are available under this subsection".

(c) Availability of BLM Revolving Fund Derived From Disposal of Salvage Timber.—The first paragraph under the headings "Forest Ecosystems Health and Recovery" and "revolving fund, special account" in title I of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102–381; 106 Stat. 1376; 43 U.S.C. 1736a), is amended by adding at the end the following new sentence: "The money in this fund shall likewise be immediately available to cover the costs of activities of the Bureau of Land Management under title I of the Forest Emergency Recovery and Research Act.".

SEC. 404. EFFECT OF DECLARATION OF MAJOR DISASTER OR EMERGENCY.

(a) Availability of Funds.—If an area of non-Federal land damaged by a catastrophic event is also covered by a declaration by the President under section 401 or 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170, 5191) that a major disaster or emergency exists, the Director of Federal Emergency Management Agency may use funds available for activities under that Act to reimburse the Secretary concerned for assistance in that area provided under—

(1) subtitle B of title II; or

(2) subsection (c) of section 10A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2106c), as added by section 201.

(b) Limitation.—Reimbursements under subsection (a) shall be limited to those activities authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122 et seq.) for which assistance under paragraph (1) or (2) of such subsection is provided.

The Acting CHAIRMAN. No amendment to that amendment shall be in order except those printed in House Report 109–467. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

AMENDMENT NO. 1 OFFERED BY MR. RAHALL

Mr. RAHALL. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 printed in House Report 109–467 offered by Mr. Rahall:

Strike section 103 (page 23, line 14, through page 24, line 9) and insert the following:

SEC. 103. COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT.

The Secretary concerned shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.), its implementing regulations, and other applicable laws in designing and conducting catastrophic event recovery projects and catastrophic event research projects.

Strike section 104(e) (page 26, line 3, through page 27, line 8).

Strike section 105(c) (page 30, line 1, through page 31, line 11).

The Acting CHAIRMAN. Pursuant to House Resolution 816, the gentleman from West Virginia (Mr. Rahall) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from West Virginia.

Mr. RAHALL. Madam Chair, I yield myself such time as I may consume.

Madam Chair, I would like to begin by observing that I strongly share the view of the gentleman from New Mexico and our colleague, a very valued member of the Resources Committee, Mr. Tom Udall, that the pending measure is totally unnecessary and seriously deficient and should not be approved by this body.

With that noted, the amendment I am offering is simple and it is straightforward. It would strike from H.R. 4200 its most egregious provisions which ride roughshod over the National Environmental Policy Act, the Endangered Species Act, the National Historic Preservation Act, and the Clean Water Act.

These unwarranted assaults on our Nation's premier conservation laws under the guise of enhancing forest management should be an embarrassment to this body, to this House of Representatives.

Should this body prove the pending measure, the result would be a weakening of existing law in the form of NEPA, a law that is meant to ensure public participation in actions by the Federal Government.

The American public is already in an uproar over this administration's penchant for surveillance of their phone conversations and e-mail transactions. Now we are going to say to American taxpayers that they cannot even participate in proposed Federal actions that directly affect them? What message is this sending?

Did George Orwell really have it right when he wrote the book, "1984" back in 1949, in which he penned and I quote, "If you want to picture the future, imagine a boot stamping on a human face, forever."

I would note that the sponsor of the pending legislation, the gentleman from Oregon, is very passionate about this matter and I certainly respect that. Yesterday during the Rules Committee's consideration of this bill he described my amendment as one that would gut the bill. I, on the other hand, firmly believe that Americans cherish the Clean Water Act and do not want its application waived. I also believe that Americans believe they should have a say under the National Environmental Policy Act on major Federal actions impacting their lives. Obviously, the gentleman from Oregon and I have a very different view of America.

And the gulf which divides us on this issue makes for a very clear vote in the House of Representatives today on this amendment. The pending measure also constitutes a direct assault on the ESA. It legislatively directs that an incidental take permit be issued without limitation, no ifs, no ands, no buts about it, regardless of the impacts of the salvaging operation on endangered species. This is not fair play. This is draconian.

Finally, my amendment would strike provisions of the pending measure involving compliance with the National Historic Preservation Act. I would ask the question: Are we to sacrifice our country's past, our national heritage, on the altar of something like salvage logging?

Let us send the proper message to the people of this Nation today. Regardless of how Members view the remaining part of the pending measure, let us first vote to ensure that the public's right to participate in proposed Federal actions is preserved, and that our country's fundamental conservation laws will remain in place. I urge adoption of the amendment.

Madam Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Does any Member rise in opposition to the amendment?

Mr. WALDEN of Oregon. Why, Madam Chairman, indeed I do. I rise in opposition and seek the time.

The Acting CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. WALDEN of Oregon. I would like to take a moment to outline just how Forest Emergency Recovery and Research Act complies with the NEPA standards and often exceeds those standards.

The Forest Emergency Recovery and Research Act requires public notice, public collaboration, and an opportunity for the public to object to any proposed action. Read the bill: Pages 22, 23, 24, 25, 33, and 34. It is right there in black and white.

The judicial review requirement under this bill is identical to those in the Healthy Forest Restoration Act which Congress passed last year. See page 35. Now, we actually passed that a couple years ago, and I know my friend and colleague from West Virginia voted against it when it was in the House and voted against the conference report when it came back. So it is no surprise because he doesn't like this bill because he hated the Healthy Forest Restoration Act even after the Senate voice-voted it, as did my colleague from New Mexico, Mr. UDALL, opposed the Healthy Forest Restoration Act. So some of the same people who are here today saying we are going to do all these awful things said the same thing a couple years ago when we passed the Healthy Forest Restoration Act. Ironically, some of those same Members now say, oh, we are not fully implementing the Healthy Forest Restoration Act and we should be doing more on that. We wouldn't have it if they had been in charge because they voted against it every time they had an opportunity.

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The Forest Emergency Recovery and Research Act also requires disclosure of the decision rationale, economic analysis, and analysis of the environmental effects of the project which leads to a very transparent agency process, page 32. We require independent, third-party, scientific peer review of recovery practices. See page 13 and page 24.

These are just a few examples of how this legislation complies with the intent of NEPA, and if the agency fails to comply with all these things, we prescribe in the law they can be sued. If they fail to comply with the very laws that have been identified by my colleague, they can be sued.

These projects can be halted. We do not say do anything you want, notwithstanding any other Federal law, including all the ones you have heard listed repeatedly. Those laws still have to be complied with.

Currently there are bills that actually go further than where this bill goes. They would waive environmental documentation altogether. My friend and colleague, the gentleman from Colorado (Mr. UDALL), one of the most vocal critics of this legislation, has introduced H.R. 4875, which, through categorical exclusion, would waive environmental documentation completely for insect emergency areas in Colorado. We do not do that here.

I read where one of the opponents of this legislation worked on the sale in the Biscuit fire, and said we do not need this bill, we did 16 million boardfeet of harvest, and we did it using existing laws. Yeah, they used a categorical exclusion which you cannot even do now.

We have a balanced bill here. It involves the public. It tracks with what we did with the Healthy Forest Restoration Act to allow for free decisional appeals and for judicial appeal.

It is backed by all kinds of groups that love to be in the outdoors, the Bear Trust International, Boone and Crockett Club, the Bow Hunting Preservation Alliance, the Archery Trade, the Congressional Sportsmen Caucus, you go through it, people are out there enjoying the woods, the Rocky Mountain Elk Foundation, the Deer Management Association, and professional firefighters groups and the Society of American Foresters.

We are trying to give our Federal land managers the troops that our State and tribal land managers have, and we are trying to allow them to be able to move quicker and still involve the public because this Member of Congress believes fundamentally the public should have the right to appeal a decision of the government, and this bill allows that.

Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

As I conclude, the bottom line here is whether we are for NEPA or whether we are against it, whether we are for the Clean Water Act or whether we are against it, whether we are for the historic preservation laws of our land or whether we are against them, whether we are for the Endangered Species Act or whether we are against it.

We have got to be for these premier preservation laws that have guided our country so well over many years. We cannot willy-nilly pick at the edges and try to exempt special-interest groups on every piece of legislation that the Republican leadership in this body wants to consider. We cannot continue to do that or we will not have any of it.

Let us make that decision, whether we are going to have these laws or whether we are not going to have these laws.

This amendment is an effort to preserve NEPA and all of our premier conservation laws that have worked so well for our country and for our future generations. I would urge adoption of my amendment.

Mr. Chairman, I yield back my time.

Mr. WALDEN of Oregon. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding, especially under these time constraints.

On July 4, 1999, a powerful storm, 100-mile-an-hour winds, blew through the boundary waters canoe area of the Superior National Forest in my district, blew down 26 million trees over a huge area. The loss was estimated somewhere between $12 million and $18 million in timber value, but the problem was cleanup.

The State, the county all were able to get in and clean up their lands within weeks, but I had to take the supervisor of the Superior National Forest out here to Washington, meet with the Council on Environmental Quality, with the chairman of the appropriations subcommittee, gentleman from Ohio, and work things out laboriously; took us months to get that salvage operation by the Federal Government under way to protect the homes and residences and resorts outside the wilderness area along the Gunflint Trail to be protected against fire. This legislation will help us move that along.

Mr. Chairman, on July 4, 1999, a widespread convective windstorm called a "derecho" swept across the arrowhead region of northeastern Minnesota. The straight line winds reached 90 to 100 miles an hour, causing serious damage to nearly 600 square miles of forest in and around Minnesota's Boundary Waters Canoe Area Wilderness (BWCAW). The aftermath left 30 million toppled trees on the forest floor; in some areas the downed trees were stacked 10 and 12 feet high. This area approximately 30 miles long and 12 miles wide, or about a quarter million acres, was leveled. The timber loss was estimated at 500,000 to 750,000 million cords, valued between $12 and $18 million. The State of Minnesota estimated the cost of other damage and debris clearance for Lake and Cook counties at nearly $5 million.

This powerful storm created near perfect conditions for a major forest fire. Only two questions remain: When will the major forest fire happen, and how destructive will it be? The blowdown quadrupled the amount of fuel per acre that can readily burn and the fire risk is expected to increase in the next several years as the timber continues to dry out.

Under H.R. 4200, the Forest Emergency Recovery and Research Act, an expedited review process will be established to provide our Federal land managers the resources they need to complete a quick, thorough evaluation of forest conditions after catastrophic events.

Wayne Brandt, Senior Vice President of Minnesota Forest Industries explained "after the blowdown, private landowners were cleaning up the next day. County lands were being cleaned up within a couple of weeks and State lands within a month." The U.S. Forest Service, even with the expedited procedures granted by the Council on Environmental Quality, was not ready to put timber up for sale until late fall. Nearly all private, county and State lands were salvaged by the winter of 2000/2001. The U.S. Forest Service, despite the extraordinary efforts of supervisor Jim Sanders and the staff of the Superior National Forest, found their hands tied for months.

Speed is of the utmost importance, especially with softwoods. Insect infestation begins to take its toll within a couple of weeks, rendering the material unusable for lumber and difficult for paper and Oriented Strand Board (OSB). Hardwoods, such as aspen, can last a bit longer if the trees still have root structure attached to the soil. In a number of instances, the hardwoods leafed out in 2000. However, any trees that were snapped off, were very soon unusable.

County and State land management agencies are able to react almost immediately to natural catastrophes because these agencies are allowed to acknowledge the reality that the condition of the forest that they manage has been completely changed. Guidelines normally appealed to mitigate possible negative impacts of land management activities are often not realistic when the forestry resource has been drastically altered. The Forest Service has been kept from doing its job by restrictions that should not apply in the aftermath of a natural catastrophic event.

The Minnesota Department of Natural Resources has documented that downed wood can act as a breeding ground for insect infestations and disease, making the material prime for fire. After a few years, the blowdown will greatly increase the fuel load and potential for fire hazard; worse, left as is, the blowdown timber will hinder regeneration for many years. Access through these areas is impossible without clearing.

My good friend, Harry Fisher, owner of Northshore Business Products on the Gunflint Trail, had several active timber sales in the Superior National Forest prior to the 1999 Blowdown. Because of the lengthy NEPA process, Mr. Fisher waited 6 months for these prior timber sales to be approved. Although the NEPA process had been complete on these original sales, Mr. Fisher had to wait an additional 6 months for expanded sales to recover the salvage. Unfortunately, the process to salvage the timber had taken its toll on his crews. It was no longer worth the return. Had H.R. 4200 been in place in 1999, some 30,000–40,000 cords of wood could have been salvaged in the Superior National Forest. Instead, Harry's crew was only able to recover 20,000 cords of wood—Less than half.

The current process makes for bad forest management. It increases the risk for forest fire and insect infestation, and puts homes, businesses and human lives in danger.

Immediately after the Blowdown, many people across the State of Minnesota approached me to ask: "Why aren't we going into the National Forest to recover this timber?" The environmental community was concerned about insect infestation and forest fire in the boundary Waters Canoe Area. These two often competing interests were coming together for the purpose of best forest management. The answer to their question is: The process of salvaging timber in a National Forest has become too cumbersome.

The U.S. Forest Service process has too many steps and is not efficient when confronting a disaster such as the 1999 blowdown in the Superior National Forest. The U.S. Forest Service staff on the Superior National Forest were nearly heroic in responding to the blowdown, putting in 7-day work weeks of creative effort to address both environmental and good forestry practice concerns, invoke every available emergency clause to accelerate the cleanup process, producing an EIS in record time. Unfortunately, they were confronted by a plethora of obstacles. The laws in place prevent Forest Service personnel from being professional foresters, rather, they have become surrogate lawyers making sure that their proposed timber sales are "bullet proof" from possible litigation.

The Forest Emergency Recovery and Research Act, H.R. 4200, requires an expedited National Environmental Policy Act procedural review and complies fully with all other environmental laws, including the 1964 Wilderness Act and the Endangered Species Act of 1973. This law still secures the public's right to appeal and litigate Federal forest recovery projects. H.R. 4200 requires that funds from the removal of trees during recovery projects be used to help repair the catastrophic damage to our Federal forests, in turn, offsetting the cost of critical watershed and wildlife habitat restoration.

Federal Foresters can get the job done if they are allowed to assess the condition of the forest immediately after a natural catastrophic event, protect known special resources and salvage affected merchantable timber as soon as possible.

Blowdown events are not unusual in Northeastern Minnesota. The 1999 blowdown created the potential for extreme fire danger conditions throughout the affected area with the potential to threaten lives within and life and property outside the BWCAW. So far, Mother Nature has given residents and resorters along the Gunflint Trail a respite with favorable weather. The ability to expedite Forest Service response time will benefit local communities and economies, improve access for recreational users and most importantly, greatly improve forest health which benefits everyone.

I urge my colleagues to join me in supporting H.R. 4200, the Forest Emergency Recovery and Research Act.

The Acting CHAIRMAN (Mr. MCHUGH). The time of the gentleman from Oregon (Mr. WALDEN) has expired.

The question is on the amendment offered by the gentleman from West Virginia (Mr. RAHALL).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. RAHALL. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from West Virginia will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. DE FAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 printed in House Report 109–467 offered by Mr. DEFAZIO:

Strike section 104 (page 24, line 10, through page 28, line 14) and insert the following new section:

SEC. 104. PRE-EVENT MANAGEMENT PLANS.

(a) PLAN AMENDMENT.—For Federal land where timber harvest is allowed, but not the primary management objective, the Secretary concerned shall amend the land and resource management plan or land use plan applicable to the land to pre-plan for certain activities to immediately follow a fire or other catastrophic event. The activities shall be specific to forest type and plant association group, and be appropriate to the management objectives for area described in the plan. The Secretary concerned shall initiate plan amendments with priority to areas at the greatest risk of a catastrophic event and with the most suitability for post-event activities. Managers using this pre-planning authority shall conduct environmental analysis in accordance with 36 C.F.R. 219 et seq. and 40 C.F.R. 1500 et seq.

(b) PEER REVIEW.—Before an activity, or collection of activities, may be adopted as an amendment to a land and resource management plan or land use plan, the activity or activities shall be subject to independent, third-party peer review by scientific and land management experts. The results of the peer review shall be available to the public no later than the availability of the draft plan revision.

(c) EXPEDITED REVIEW.—The Secretary concerned may use the procedures provided in section 104 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6514; Public Law 108–148) to implement activities adopted as part of the amendment of a land and resource management plan or land use plan according to subsections (a) and (b). If environmental documentation is conducted under this authority, then the administrative and judicial appeals process described in sections 105 and 106 of such Act (16 U.S.C. 6515, 6516) shall apply.

Add at the end of the bill the following new section:

SEC. 405. LIMITATION ON APPLICATION OF ACT.

In the case of Federal land covered by this Act, the Secretary concerned shall use the authorities provided for in this Act only on those Federal lands that—

(1) are designated as general forest areas available for timber production; and

(2) are not otherwise reserved or managed for non-timber production values.

The Acting CHAIRMAN. Pursuant to House Resolution 816, the gentleman from Oregon (Mr. DEFAZIO) and the gentleman from Oregon (Mr. WALDEN) each will control 5 minutes.

The Chair recognizes the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, I yield myself such time as I may consume.

I agree with much of what I have heard. Unfortunately, I do not believe that the bill gets us in that direction. As I said earlier, giving unbridled discretion to political appointees may sit well with this administration and some supporters in the industry, but it does not bode well for long-term management of the forests.

So I looked at this and said, well, there is a way to fix that, and that would be to say in areas that are designated for timber management, you can use the expedited procedure since that is the plan objective, and in areas that are not intended for that, you would use normal procedures, which does not preclude salvage. It just means a little bit more evaluation of the work until such a time as you had anticipated catastrophic events and amended the forest plans.

Now, the Forest Service objects that it would take time, would have to involve the public to amend the forest plans, but the thing is the experts, the scientists, say that is the only way to get there. They say you cannot have a peer-reviewed list of preapproved practices that are not site-specific and are not specific to the management goals of the forest.

In fact, the dean of the Oregon College of Forestry Hal Salwasser, Jerry Franklin and Norman Johnson, from Oregon State, said here, "Management objectives for the area in question are the primary consideration in any decision regarding postfire logging, reforestation, or any other activities." He said that "those goals, together with information on the forest type, or plan association group, postevent conditions in disturbed areas, and future climate trends will largely determine what actions, if any, are appropriate. If management plan direction is not clear," and it is not, most plans do not have a salvage provision in them, "for appropriate actions following large disturbance events, plan revisions should provide such clarity. Major disturbances should not be the basis for de facto changes in land allocations or management objectives," which is what this bill does.

So the preeminent scientist invited by the chairman to a hearing confirmed that.

I am offering what I think would be a perfecting amendment. It would open up millions of acres to expedited procedures. It would allow the Forest Service to then amend their plan so in the future they could apply with certainty preapproved practices, not with discretion, and greatly expedite future salvage under those conditions.

In the meantime they could use regular procedures, and I pointed out earlier, on the Biscuit fire, that could have yielded 175 million boardfeet, but, because of political intervention, yielded about 75 million boardfeet of harvest.

Mr. Chairman, I reserve the balance of my time.

Mr. WALDEN of Oregon. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the comments of my colleague and friend from southern Oregon, and we have tried to come together on this legislation, and we have not quite gotten there yet, but I have to rise in opposition to his amendment.

The term "timber production land" means different things when discussing different forests. Even in the broadest sense, land where timber is the primary objective has been steadily decreasing, reflecting a shifting focus on timber production to using harvest for other purposes, such as wildlife habitat, hazardous fuels reduction or forest health.

For example, in Oregon there are 32 million acres of BLM and national forestlands. Less than 20 percent is designated for timber production. In the State of California, of the 12 national forests in the Sierra framework, totaling over 11 million acres, only 1 percent is designated as timber production land.

These figures illustrate just what a devastating effect the amendment would have. It would be very, very restrictive, guaranteeing only a very small portion of the Nation's forests would have proper recovery efforts in the event of a catastrophe. Obviously, a quicker review and recovery is necessary than what this amendment would allow at this point.

Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. EVERETT).

Mr. EVERETT. Mr. Chairman, I rise in strong opposition to the gentleman's amendment. In the case of the Conecuh National Forest in Alabama, the amendment could leave areas designated as potential old growth subject to increased fire and insect risk.

Our revised forest plan identifies 60,000 acres as potential old growth sites. Half of these acres in this designation are suitable for harvest. Half of them are not designated as suitable. So this amendment would prohibit the application of H.R. 4200 in these areas.

In our forests, scenic river designations, cultural areas, and scenic areas are all considered unsuitable for timber production; yet harvest may be allowed to provide certain habitats, demonstrate cultural heritage or provide vistas.

This amendment would leave these areas untouched by restoration efforts. This situation could damage the very trees it is allegedly intended to save. Again, this is why this bill provides flexibility while requiring compliance with forest plans.

This amendment was defeated on a bipartisan basis in the committee, and it should be defeated on a bipartisan basis on the floor today. This is not a good amendment.

Mr. DEFAZIO. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, I was detained in committee on a markup during general debate, and I want to rise in support of the DeFazio amendment and against the underlying legislation.

I believe that the rationale for this legislation simply does not exist. There is no evidence that existing authorities are inadequate.

The Forest Service and the Bureau of Land Management already have many existing authorities for timber salvage, including the Healthy Forest Restoration Act.

For situations involving threats to life and property, the Forest Service and Bureau of Land Management can request alternative arrangements with the Council on Environmental Quality, and to date I do not believe that one Forest Service request has been denied.

I think the DeFazio amendment is improving the legislation.

The sponsors' underlying rationale for this legislation is that there is a dire need for environmental exemptions for timber salvage on Federal lands following a catastrophic event.

But there's no evidence that existing authorities are inadequate.

The Forest Service and Bureau of Land Management already have many existing authorities for timber salvage, including the Healthy Forests Restoration Act of 2003.

In 2005, 35 percent of the logging volume on our National Forests came from timber salvage—all completed with existing authorities.

The Forest Service is quickly completing one of the largest timber salvage projects in history, 676 million board feet, for those National Forests on the gulf coast impacted by Hurricane Katrina in 2005.

For situations involving threats to life and property, the Forest Service and Bureau of Land Management may request alternative arrangements with the Council on Environmental Quality, and to date not one Forest Service request has been denied.

If Congress approves H.R. 4200, roads will be built in inventoried roadless areas, even though the existing road maintenance backlog is large and growing.

Ironically, H.R. 4200 will also divert resources from wildfire prevention. Over 11,000 communities around the country are at high risk for wildfire. There's an urgent need to treat the neighboring forests to reduce the danger. And there are similar conditions across the Country.

But instead of focusing on this elevated threat, H.R. 4200 would emphasize putting limited resources on post-fire timber sales, even in areas far from communities. To make things worse, there is a serious chance these salvage operations could actually increase the risk of new fires.

The bottom line is that H.R. 4200 is worse than unnecessary—it's counterproductive.

Mr. WALDEN of Oregon. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. BAIRD), my friend and colleague, the coauthor of this legislation.

Mr. BAIRD. Mr. Chairman, I want to commend both gentlemen from Oregon. Both at least recognize that there is an issue here, that there is a reason to use the wood after a fire. There are two concerns I would just have about my friend Mr. DEFAZIO.

First of all, he cites Dean Salwasser from Oregon State University. For the record, it should show that the dean has actually endorsed this legislation. So we recognize that the land allocation values are critical.

There is a paradox in the gentleman from Oregon's (Mr. DEFAZIO) legislation in that because other States do not necessarily designate so much land as for the primary purpose for harvest, you could actually have a paradoxical situation where burned trees end up getting more protection than live trees, which I do not think is the gentleman's intent.

Finally, the gentleman points out that this bill does leave discretion to local land managers. We think that is a plus. You cannot legislatively legislate certainty. You cannot do it. Circumstances on the ground will change.

The bill provides sufficient flexibility for the local land managers to make the needed decisions while giving broad enough structure that those decisions occur within certain parameters, parameters like watershed protection, et cetera.

For that reason, I urge rejection of this amendment.

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Mr. DEFAZIO. Well, Dean Salwasser does support the thrust of the legislation, but he also supports my amendment as a perfecting amendment, and I read previously from joint testimony of Dr. Salwasser, Dean Salwasser, Dr. Franklin, and Dr. Johnson.

That is the key here, is I believe that there is a reason, unlike some of the others, as the chairman pointed out. I did support the Healthy Forest Restoration Act. The Healthy Forest Restoration Act was used for much of the post-Katrina recovery with little or no controversy, and I believe that these tools can be valuable. But we also have to relate back to the forests themselves.

As the experts said in their testimony, and I asked them, how could you establish a list of peer-reviewed, preapproved practices? They said, you can't unless you were considering site-specific, class-specific application. You can't possibly do that. There is no generic way of doing that. So my amendment would, I believe, further the objectives of the authors of the bill and remove some uncertainty, because it is not clear from their testimony how you are ever going to get together this list.

And if the alternative to the list is to go to the CEQ, the Chief of the Forest Service said he didn't want to go there. He used HFRA instead, which is another proposal I put forward, which is why not just use, since we are all familiar with, there is still some controversy, but I think very little, attached to HFRA and its application, why not apply HFRA procedures to the problems in postcatastrophic events? But that was not deemed to be adequate for some reason, and now we have an entirely new construct which I believe has some need for perfecting amendments.

And that is why I am offering my amendment, and I would recommend it to my colleagues.

I yield back the balance of my time.

Mr. WALDEN of Oregon. Mr. Chairman, I would just comment to my colleague from Oregon that we looked at using the HFRA procedures, and they are just not fast enough. When you have a catastrophe, an emergency, the agency has testified before our committee that the Chief of the Forest Service has said, yes, I was able to use the Healthy Forest Restoration Act procedures even in Katrina because the trees were on the ground, and they posed a fire threat. I said, why can't you use those then when a forest is burned when the trees are still standing? He said it is a different threat.

He also said that had he had this, and he wants this authority, by the way, and had he had it, he would have been able to move quicker. And that is really the underlying issue here is the ability to move without upending any of the environmental laws, but move quicker procedurally. The public still has a right to input; the public still has the right to object and appeal and to stop a project if a law is being violated.

Finally, I would just conclude regarding this amendment that, indeed, it is so proscriptive that very few forests would be able to take advantage of the underlying legislation. Again, only about 1 percent the Sierra framework forest in California, most of the Southeast forests would be excluded, and actually very few in the Northwest.

So I hope my colleague from Oregon, my friend, and I can continue to work on this legislation as it moves forward to find common ground, but we think we have found pretty good balance right here, the Republicans and Democrats that are cosponsoring this bill and have worked now on the 50th draft to work out all the issues before bringing it to the Committee of the Whole for its consideration. So I urge opposition to the DeFazio amendment.

The Acting CHAIRMAN (Mr. MCHUGH). All time having expired, the question is on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. DEFAZIO. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Oregon will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. INSLEE

Mr. INSLEE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 printed in House Report 109–467 offered by Mr. INSLEE:

Add at the end the following new section:

SEC. 405. EXCLUSION OF INVENTORIED ROADLESS AREAS.

This Act shall not apply to any inventoried roadless area within the National Forest System set forth in the maps contained in the Forest Service Roadless Area Conservation, Final Environmental Impact Statement, Volume 2, dated November 2000.

The Acting CHAIRMAN. Pursuant to House Resolution 816, the gentleman from Washington (Mr. INSLEE) and the gentleman from Oregon (Mr. WALDEN) each will control 5 minutes.

The Chair recognizes the gentleman from Washington.

Mr. INSLEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment, simply put, will fix a problem with this legislation that otherwise would allow a giant loophole in our rule that now we have been fighting to maintain for some period of time to protect our roadless areas in our national forests. These roadless areas are the most pristine areas of the national forests. We have made a decision, 96 percent of Americans who have commented on the roadless areas have concluded that they want these areas managed for the clean water they provide, the recreation they provide, the aesthetics they provide rather than timber harvest through log road building.

My amendment would essentially say that we are not going to tax, we are not going to subsidize log road building anymore in these roadless areas. There are three reasons we need to do this, and they are two fiscal and one environmental. I will address first the two fiscal reasons we need to adopt this amendment.

First, this Chamber went on record in an amendment some time ago that said we are going to stop subsidizing roads with taxpayer dollars. And we essentially are going to stop, by this amendment, stop subsidizing logging roads in some of our steeper areas. These roadless areas are commonly found in our steeper, higher elevations. They are at the tops of our mountains, and they are the most expensive places to build logging roads. They are the places where the taxpayers get soaked the most in our subsidization programs.

We would say essentially that you cannot use this legislation, in our amendment, to continue that log road-building program which ends up putting the tab on the American taxpayer. This is a fiscal reason.

The second fiscal reason is it makes no sense now, it makes no sense to make a misprioritization from, instead of doing the $10 billion of backlog we already have to repair and maintain our existing mileage, enough to, I think it is 336,000 miles of existing roads, with a $10 billion backlog already. Uncle Sam already has a $10 billion commitment to get those roads and keep them from washing out. Eighty percent of these roads are not even fit. You cannot even drive your car on them.

Instead of letting people get recreational value, to drive and go up to go hunting and go fishing and take your kids on a picnic by the creek, 80 percent of these roads are falling apart. Instead of taking care of their interests, this bill would subsidize the logging industry to go in and log as a priority. Now, they have tried to fix this problem, saying these will be temporary roads. There is no such thing as a temporary road. We have 60,000 miles of roads that should have been decommissioned already but aren't.

So there are two sound fiscal reasons to adopt this amendment, but the third is an environmental reason. We depend on these roadless areas, the Kettle River Range in Washington, the Eagle Cap roadless area in Washington, we depend on them for clean water. We depend on them for habitat. And the fact of the matter is when you build a road into a roadless area, you double the chance of fire. And that, as a science, is well proven. You may get some timber out, but you double the chance of fire, and you increase areas of road that can erode and silt our streams.

So two fiscal reasons and one environmental reason that commends this.

Mr. Chairman, I reserve the balance of my time.

Mr. WALDEN of Oregon. Mr. Chairman, I yield myself such time as I may consume.

I am trying to figure out the gentleman's arguments, because I have here the Congressional Budget Office cost estimate for the Forest Emergency Recovery and Research Act, and it talks about how if H.R. 4200 would pass, it would increase proceeds from salvage sales on average by 40 percent. Assuming the agencies would phase in the use of the new procedures over several years, we estimate increased receipts would begin in 2008 and total $122 million over the 2008 through 2016 period.

Now, they go through and have a bunch of other numbers they work through on what would be offset, but the long and short of it is that over the next 7 years, it is something like $21 million additional to the Treasury simply by eliminating the bureaucratic red tape that delays the projects until the trees have no value.

So the fiscally prudent argument here is to follow the only number sheet I can find, the Congressional Budget Office report, where the experts have evaluated the bill independently of any politics and said this bill makes money, and it makes sense.

Now, let us go to the bill. On page 25 of the manager's amendment, it talks about this issue of roadless. We were sensitive to this issue. We addressed this issue. And it requires that any preapproved management practice may not authorize any permanent road building, and any temporary road constructed as part of a preapproved management practice shall be obliterated upon conclusion of the practice and the road area restored to the extent practicable.

Now, some people will say, well, that is just in the statute. That is just in the law. They don't do it now, they won't do it then, whatever. They will make it up. The contracts also require this. The contracts written by the Forest Service that are entered into as a legal, binding document will require a bond, will require obliteration. They work all that out there, but the statute backs it up and says obliterate the temporary roads. So it is all part of the management practice that would go on, and it is codified here in the statute.

So I just am not quite sure where the gentleman is going with all this. The new roadless rule allows each of the 38 States with roadless areas to participate in the development of their own State's specific plan. A lot of these States are undergoing that now, and we should let them have that local authority to help guide the Federal Government in that planning.

Simply put, if a forest plan prohibits road building in an area, then this legislation prohibits that, because the underlying forest plans are what dictates what happens. Roadless stays roadless. H.R. 4200 will not create any new permanent roads. The only roads allowed are temporary roads, which must be removed after completion of the project. It is in the statute we propose that the Congress pass.

So we have put it in statute. I am sure it is also in the contracts that get negotiated, and we have been very clear on this. So I would urge opposition to the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. INSLEE. Mr. Chairman, there are two problems. One, although I respect the drafters of this bill, the bill does not respect the clearly expressed sentiment of the American people, because 96 percent of the American people said don't build roads; temporary, permanent, transitory, big, small, little. Ninety-six percent of the Americans who expressed their opinion on this issue said don't do what this bill does, which allows building roads in these designated roadless areas.

This ignores the clearly expressed intention of the people, and that ought to be enough in itself to endorse this particular amendment.

Now, I come back to when you look at these roadless areas, they have value that is not in this accounting, which is to keep the silt out of our streams. I respect that we might put a line in a book somewhere that will be over in the Library of Congress that says, presto change-o, these are all going to be "temporary." There is also a line in a book over in the Library of Congress that says 60,000 miles that have been out there for decades are "temporary." In real life, this guts roadless area rules. We need this amendment if this bill is going to pass.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. The time of the gentleman has expired.

Mr. WALDEN of Oregon. Mr. Chairman, I yield myself 30 seconds, and I understand I have 2 minutes remaining.

I just want to say that this bill grants no new authority to build roads anywhere, anytime. To say so is to make it up. It is that simple. It does not say go build roads anywhere, anytime. That is not a new authority in this bill.

Mr. Chairman, I yield the balance of my time to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Chairman, I'll just make two quick points. It is a red herring, to say the least, to say that this is about giving President Bush or the Bush administration control over our Federal forests.

Max Peterson was the former Chief of the Forest Service under a Democratic President, President Carter. This is what Max Peterson said about this bill: "The Forest Emergency Recovery and Research Act allows trained forest managers to act in accordance with carefully developed forest plans, ending compliance with environmental laws to best restore, protect, and enhance the health of our Federal forests. The legislation deserves favorable action by the House and the Senate and approval by the President." That is not a Bush appointee, it is a Carter appointee, a Democrat.

Let me also address this issue of 96 percent of Americans seeming to oppose the road element of this bill. That is specious. Ninety-six percent of the American public did not say this. If there has been a catastrophic fire and you could use the wood responsibly, and roads in would be built and paid for by the people pulling out the wood, and they would be immediately decommissioned so that no permanent road would remain, how do you feel about that?

That is not what they said. Essentially I think they were saying in a healthy green forest, unimpacted by fire, should we keep the roads out? Yeah. But that is a different question. It is apples and oranges.

We are talking about a situation where you have had a catastrophic event, where you would try to get the wood out. And I really want to underscore this. This is not some additional tax on the taxpayers. The people extracting the wood would be required to post a bond, a bond saying they will pay for the removal of these roads. If they renege on that bond, they not only have to pay a penalty, but they also become ineligible for future harvests, so the taxpayers are not left holding this bag.

Mr. RAHALL. Mr. Chairman, I would like to join my colleague, Mr. INSLEE, in supporting this amendment to exclude inventoried roadless areas from HR 4200.

The public has proven its commitment to protecting inventoried roadless areas. The Forest Service has received 1.6 million public comments about the roadless rule, and over 95 percent of those comments favor protecting roadless areas.

Inventoried roadless areas represent 58.5 million acres of wild roadless areas in our National Forests in 39 states. In my home state of West Virginia, we have 202,000 acres of roadless areas. These last remaining wild forests protect our water, sustain our wildlife, and provide for an array of recreational opportunities for Americans.

This amendment is critical to ensuring protection of our most treasured areas in our National Forests. Without this amendment, logging roads for timber salvage operations will be built in inventoried roadless areas.

While bill proponents claim these roads could be temporary and obliterated upon completion of the project, one only needs to look to the Forest Service's current road maintenance backlog, which rings in at $10 billion, to see where this road leads.

I support this amendment and I urge my colleagues to adopt it.

□ 1330

The Acting CHAIRMAN (Mr. McHUGH). The question is on the amendment offered by the gentleman from Washington (Mr. INSLEE).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. INSLEE. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Washington will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. UDALL OF NEW MEXICO

Mr. UDALL of New Mexico. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 printed in House Report 109–467 offered by Mr. UDALL of New Mexico:

At the end of section 102(e) (page 21, after line 15), add the following new paragraph:

(4) CONSIDERATION OF FIRE RISK AND REGENERATION.—In making any determination under paragraph (1) to implement any preapproved management practice under section 104 or to develop and carry out a catastrophic event recovery project or catastrophic event research project, or portion of such a project, using emergency procedures under section 105, the Secretary concerned—

(A) shall consider the effect of the practice or project on fire risk and forest regeneration; and

(B) may not implement the practice or carry out the project unless the Secretary certifies that the practice or project will not increase fire-risk or decrease forest regeneration.

The Acting CHAIRMAN. Pursuant to House Resolution 816, the gentleman from New Mexico (Mr. UDALL) and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. UDALL of New Mexico. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment will require the Secretary concerned to certify that a catastrophic event recovery project will not decrease forest regeneration or increase forest fire risk.

This amendment is very important considering the results of a peer-reviewed study recently published in the respected journal Science by Donato and others from Oregon State University. This study concluded that logging in the wake of the 2002 Biscuit fire decreased forest regeneration by 71 percent and increased short-term fire risk.

Unfortunately, this peer-reviewed study came under attack from those who disagreed with its conclusions. Even the Bureau of Land Management threatened to withdraw funding for the study. This was very unfortunate and I believe yet another attempt to silence science.

The vast majority of peer-reviewed science on salvage logging to date demonstrates that salvage logging is contrary to the goal of improving forest health. In fact, 169 scientists from around the country submitted a letter to Congress expressing their opposition to H.R. 4200. Disappointingly, H.R. 4200 ignores this body of science on the harmful impacts of salvage logging, including its potential to increase forest-fire risk and decrease forest regeneration. This amendment attempts to incorporate some of the science into the underlying bill.

In the Southwest, we are facing what is predicted to be a record fire season. Even firefighters are opposed to H.R. 4200 because it could greatly increase fire risk to our communities. The group Firefighters United for Safety, Ethics and Ecology, an organization of current, former, and retired firefighters, opposes H.R. 4200.

The practices authorized under H.R. 4200 should not increase the risk of fire to our national forests and nearby communities. Nor should H.R. 4200 impede seedling regeneration of our national forests.

I urge my colleagues to adopt this amendment.

I reserve the balance of my time.

The Acting CHAIRMAN. Does any Member rise in opposition to the amendment?

Mr. WALDEN of Oregon. Indeed, Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. WALDEN of Oregon. Again, Mr. Chairman, let me say that the national organizations that represent the men and women who put their lives on the line to put out fires support this legislation. The national organizations, the Fire Chiefs International, the Forest Firefighters folks, support this legislation because they know what it will do and how important it is.

The Udall amendment may sound plausible, may sound reasonable, and it is neither. The Udall amendment is based on the theory that salvage increases fire risk. Wildfire fighting associations representing over 12,000 firefighters disagree.

This amendment also requires that no practice may be carried out unless the Secretary certifies the practice or project will not increase fire risk or decrease forest regeneration.

Now, if you haven't been involved in this discussion like we have in nine hearings and 50 drafts, you would think, well, that sounds reasonable. We wouldn't want to do anything that would increase fire risk or maybe decrease regeneration.

Well, let me give you an example of what happens in the real world. Imagine the following scenario: Logging creates logging slash. Under contractual agreements it must be cleaned up, often within 30 days. The agency could get sued because of the increased fire risk that exists during that 30-day period.

To do a recovery after a hurricane, the Forest Service proposes a salvage sale to capture value, remove hazardous fuels and plant a mix of willow species and riparian areas and mixed conifers on the drier sites. A lawsuit could be filed saying the agency hasn't proven that one seedling that survived that fire or that hurricane would be affected. So otherwise they can get you coming and going. You can't prove that an action in the forest will not have any effect. If you go hiking in the forest, you could step on a seedling.

And I am going to tell you, if you do a project in the forest you are going to have an effect. That is why our legislation requires mitigation and minimalization.

I reserve the balance of my time.

Mr. UDALL of New Mexico. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, it is difficult to understand how anyone would oppose an amendment that simply says the administration should have what is not too onerous a burden, to certify that under the best available science this is not going to degrade that which we are trying to achieve, which is forest regeneration and suppression of fire. Is that asking too much of the Bush administration, to simply say if you are going to have a program, that you will tell the American people that it won't make things worse? We don't think that is asking too much.

And there is a point during this debate I think needs to be made, and that is that when there is a fire, it is a human instinct to get in there and want to fix things. We are fixers. We believe that we are the smarter species on the planet.

But if you look at the beautiful forests we have, if you look at the Eagle CAP wilderness, the Kettle River range in Washington State, you look at our national forests and you look at those forests, those forests are there without the intervention of President George Bush. They have evolved over decades and centuries and eons, and they are beautiful and they are healthy and they give us picnics for our kids, fishing and hunting for our cousins and our families, and clean water to drink, without the administration of George Bush going in with their chain saws and deciding what they decide to cut.

Now, given that historical fact that these forests have done very, very well without us for tens of thousands of years, we don't think it is too much to ask that before President Bush gets out his chain saw, that he is required to certify, in the best available science, this won't make things worse.

Now I understand why they object to it, because they object to the science and the Donato study in the Science magazine from Oregon State University, they objected to it. They didn't like it. It didn't fit their political preconceptions so they put it on ice, put it on review, canceled it. Use whatever language you want.

We are saying that the science needs to be asked to be listened to, just like the American people should be. This is a commonsense amendment. I commend Mr. UDALL.

Mr. WALDEN of Oregon. Mr. Chairman, I yield myself 30 seconds.

One of the issues here with the amendment is there no specified time period. There is no specified landscape. It is wide open.

Does this mean anytime, anywhere in the forest you might step on a seedling, then, boom, you are going to get sued?

As for Mr. Donato, let us be forthright about this. The BLM did suspend the funding while they responded to allegations they hadn't followed the rules. When they got the answers, they were satisfied with them and the funding continued and the research continues. And even Mr. Donato said, don't overinterpret my findings.

I yield 2 minutes to my colleague from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Chairman, two things. I have spent a fair bit of time studying that. It is distressing that my friend from New Mexico, who requested a congressional hearing, was not able to answer a direct question earlier about whether or not the Donato study studied the fire 2 years post-logging or immediately post-logging. It was 2 years post, my friends. And it is irrelevant to the bill at hand.

This amendment by Mr. UDALL is something that, if you like to go camping in the woods with your family, you better not support this amendment because you would have a hard time having the Secretary of the Interior certify that building a camp fire in a national forest campground does not in some way increase the risks of forest fires.

If we are going to apply this standard to everything that happens, that in no way must any action possibly increase the risk of fire or impact natural regeneration, we are going to paralyze the woods. We are not going to go camping. We are not going to drive motorized vehicles on forest service roads, we are not going to do anything. And in fact, Mr. UDALL, we are not going to cut live trees either. And isn't that really the agenda, to stop all harvest on the Federal lands, live trees, burned trees, blowdown trees, drive that harvest to the rainforests, drive that harvest to the Russian Taiga, all in the name of environmental protection? That is not responsible environmental policy.

The legislation before us is good policy. This amendment is not. This amendment should be rejected out of hand.

Mr. WALDEN of Oregon. Mr. Chairman, I reserve the balance of my time.

Mr. UDALL of New Mexico. Mr. Chairman, I am just going to close at this point, so I reserve my time.

The Acting CHAIRMAN. Both sides have 30 seconds remaining. The gentleman from Oregon may reserve the balance of his time to close. The gentleman from New Mexico has 30 seconds remaining and is recognized.

Mr. UDALL of New Mexico. Mr. Chairman, there are ecologically sound ways to do salvage logging. This amendment assures that the science is followed. All we are asking is that the Secretary, in approving one of these projects, certify it will not increase forest-fire risk, and will not decrease forest regeneration.

I urge my colleagues to support the amendment.

I yield back any remaining time.

Mr. WALDEN of Oregon. Mr. Chairman, I urge opposition to the amendment.

I yield the balance of the time to the chairman of the full Resources Committee, Mr. POMBO.

The Acting CHAIRMAN. The gentleman from California is recognized for 30 seconds.

Mr. POMBO. Mr. Chairman, I thank the gentleman for yielding, and I just wanted to congratulate the chairman of the subcommittee, Mr. WALDEN, for the fantastic job he has done. And I especially want to thank Mr. BAIRD for the work that he has put into this.

This was an effort to bridge across party lines, across different ideologies in order to produce a bill that is better for the environment, better for the communities and better for our entire country, and I thank them for all of the work that they have put into this in working together to produce the kind of legislation that this House can be proud of, because this is the kind of bipartisan effort that produces the kind of legislation that this country deserves. So congratulations to both of you.

Mr. RAHALL. Mr. Chairman, I would like to voice my support for the gentleman from New Mexico's amendment.

This amendment corrects some of the fuzzy vision contained in H.R. 4200 while ensuring that we do not turn a blind eye to the science on salvage logging.

A recent peer-reviewed study out of Oregon State University, published in the highly respected journal Science, found that salvage logging, after the 2002 Biscuit fire destroyed more than two-thirds of the seedlings that were beginning to regenerate the burned forest. That operation effectively increased short-term fire risks.

The Oregon State study is far from the only scientific voice being raised about the effects of salvage logging. Over and over again we have heard from forest ecology scientists about the increased risk of fire and the harm that salvage logging imposes on new and developing trees.

This amendment simply ensures that the Secretary will not carry out a project that will increase fire risk or decrease forest regeneration. We should not be promoting salvage logging that promotes fires and puts forest communities at risk.

I urge the adoption of the Udall Amendment.

The Acting CHAIRMAN. All time having expired, the question is on the amendment offered by the gentleman from New Mexico (Mr. UDALL).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. UDALL of New Mexico. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Mexico will be postponed.

Mr. WALDEN of Oregon. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PUTNAM) having assumed the chair, Mr. MCHUGH, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4200) to improve the ability of the Secretary of Agriculture and the Secretary of the Interior to promptly implement recovery treatments in response to catastrophic events affecting Federal lands under their jurisdiction, including the removal of dead and damaged trees and the implementation of reforestation treatments, to support the recovery of non-Federal lands damaged by catastrophic events, to revitalize Forest Service experimental forests, and for other purposes, had come to no resolution thereon.

□ 1345

WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. PUTNAM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 815 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 815

Resolved, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of May 17, 2006: (1) providing for consideration of the concurrent resolution (H. Con. Res. 376) establishing the congressional budget for the United States Government for fiscal year 2007 and setting forth appropriate budgetary levels for fiscal years 2008 through 2011; or (2) addressing budget enforcement or priorities.

The SPEAKER pro tempore (Mr. McHugh). The gentleman from Florida (Mr. Putnam) is recognized for 1 hour.

Mr. PUTNAM. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. McGovern), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. PUTNAM. Mr. Speaker, House Resolution 815 is a same-day rule that waives clause 6(a) of rule XIII, which requires a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee against certain resolutions reported from the Rules Committee. It applies the waiver to any resolution reported on the legislative day of May 17, 2006, providing for consideration of the concurrent resolution, H. Con. Res. 376, establishing the congressional budget for the United States Government for fiscal year 2007 and setting forth appropriate budgetary levels for fiscal years 2008 through 2011.

Mr. Speaker, it is imperative that we pass this same-day rule. This resolution will prepare the ground so that the House may complete its business and pass a budget resolution. We are working to moving this process along toward the goal of setting the spending priorities for the next fiscal year.

The House is prepared to begin consideration of several appropriations measures to fund our government's activities, but we must pass this budget first. We must set the priorities in funding levels before we proceed with the appropriations process. The budget is our congressional spending blueprint. We must complete its consideration to move on with the business of the House.

The Committee on Rules will meet later today to provide a rule for the consideration of H. Con. Res. 376, the budget for fiscal year 2007, and I am pleased that this same-day rule facilitates the timely deliberation of this important legislation.

I urge my colleagues to support the same-day rule so that we can move forward to a serious discussion about the budget legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I want to thank the gentleman from Florida (Mr. Putnam), my very good friend, for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to this martial law rule and in opposition to the outrageous process that continues to plague this House. Apparently the Republican leadership has twisted enough arms and broken enough legs to try to ram through their mystery budget package. And I call it a mystery because, aside from a select few chosen by the leadership, no one has actually seen this budget.

We are not talking about naming a post office here, Mr. Speaker, or congratulating a sports team. What we are talking about is the budget priorities that will affect every single American on issues like health care, education, veterans care, environmental protection, national defense, and it goes on and on and on.

So what is in this thing that we are going to see sometime later today? If it is anything like the last version of the budget, which came up a few weeks ago that was pulled, it is probably full of misplaced priorities, broken promises, and empty rhetoric. If it is anything like the last version, it will bankrupt our children and our grandchildren at the expense of the very wealthy. If it is anything like the last version, it will be an assault on our veterans. And if it is anything like the last version, it slashes critical programs in the areas of education, job training, environmental protection and conservation funding, public health programs, medical research, and social services.

But, Mr. Speaker, we do not really know what is in this budget because the leadership of this House would prefer us not to know. They would prefer the American people not to know.

To make a bad situation even worse, we have before us a martial law rule that allows the leadership to once again ignore the rules of the House and the procedures and the traditions of this House. Martial law is no way to run a democracy. Mr. Speaker, no matter what your ideology, no matter what your party affiliation, no matter what you believe about what the budget priorities of this Nation should be, every single Member of this House should have the opportunity to review a bill of this magnitude before voting on it.

Mr. Speaker, we really are in the Land of Oz here with the leadership saying, pay no attention to that man behind the curtain. We know somebody is back there, and we know they are putting together a budget, in my opinion probably a lousy budget, but we really do not want anyone to know the truth. We do not want anyone to know the facts.

Mr. Speaker, those across this country who are watching these proceedings on their television must be wondering how and why the House of Representatives, the greatest deliberative body in the world, could be bringing a budget to the House floor without allowing all Members, even supporters and those who probably will oppose this bill, the opportunity to be able to look at it, to be able to understand what the implications are. But the fact is this much talked about budget, this much talked about but rarely seen budget, will be working its way to the House floor sometime today. I hope the Members will have an opportunity to look at the budget. They are not going to be given enough time, but I hope they will be given some time to see what it is before we begin the debate.

Mr. Speaker, I reserve the balance of my time.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

I agree with my friend from Massachusetts about the magnitude of this budget process and its importance and how we establish priorities in this government, how we lay out a spending blueprint.

My friend from Massachusetts has referred to this as the greatest deliberative body in the world on a couple of occasions, and I would just offer a slight correction that perhaps the Senate is the greatest deliberative body in the world, and we are the greatest legislative body in the world. They talk about it, and we act. We move forward on the agendas that are important to Americans, and we do it in a bold and decisive way, while perhaps the more deliberative body talks things to death and produces nothing.

The budget of the Federal Government works a bit differently than it does for those Members who came from a State legislative background or from local government background. It is a two-step process. The budget lays down the markers, the fence lines, if you will, around the big numbers: X amount for Defense, X amount for Transportation, X amount for Health and Human Services. And the second step of the process then is the appropriations process, which consists of 11 separate bills moving to fill in the blanks: How many tanks and jeeps and bullets and bombs do you buy within the budget framework for defense? How many post offices do you construct or repair within the Postal Subcommittee? How many bridges and roads do you get within the Transportation? They put the meat on the bones.

The skeletal framework is this budget, this blueprint, this spending priority for the Federal Government. And the rule that we are here to debate, and I suspect that this will become a proxy debate on the budget itself, which is not what we are considering before the Speaker today; what we are considering is the procedure that allows us to move forward with the budget that is a hugely important blueprint for this Nation. It is important that we get going on it. We have now been considering it for several weeks. The committee mark has been available for over a month. The substitute amendments that undoubtedly will be presented to the Rules Committee as alternatives have been available for weeks.

So there is no mystery here. There is no secret. We are attempting to facilitate the work of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my friend from Florida for his comments. And we should be the greatest deliberative body in the world. We should be the greatest legislative body in the world. But to be the greatest legislative body in the world, I think, requires some deliberation. And that is why so many of us have strong objections to this martial law rule.

We are faced with some very serious challenges in this country. The fiscal irresponsibility and misplaced priorities, I think, of the last several Congresses and by this administration have resulted in an incredible debt that I think is probably the biggest debt that this country has ever seen in our history. We are concerned about whether our veterans are going to be treated with the respect that they not only deserve, but they have earned. We are worried about whether or not these unfunded mandates that are contained in No Child Left Behind will get adequate funding. We are worried about health care, over 43 million Americans without health care in this country. We are worried about environmental protection and job creation and so many other things. We are worried about the high cost of energy and whether or not we are going to invest appropriately in alternative forms of energy.

But the gentleman is correct that what we are debating right now is not the budget, but the process under which that budget will be considered. And it just strikes me and a lot of other people on this side somewhat astounding that a bill of this magnitude would be brought to the floor under this proceeding.

The gentleman says that the budget has been available, that people know what is in the budget. Well, we know what was in the last budget that was brought before the House floor and that it was pulled when we did not have the votes. The question is what is new in the budget brought forward today? I assume that there are going to be some changes. If there are no changes, then I can understand the gentleman's point about this is not that big of a deal. But my understanding is that there are changes; that as we speak right now, there are back-room deals being negotiated and secret negotiations going on that most Members of this House, Republican and Democrat, have no clue about its content.

So this is a very, very serious matter. I do not think it is unreasonable to demand that every Member of this Chamber, Democrat and Republican alike, should be given the opportunity and the courtesy to be able to know what they are voting on, to know the implications of what they are voting on before this moves forward.

Mr. Speaker, I yield 3 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Speaker, I thank my friend for yielding.

Mr. Speaker, I rise in strong opposition to this martial law rule and also strong opposition to the budget resolution that we will be dealing with later this afternoon.

Mr. Speaker, the budget resolution that we will be debating is wrong and very bad public policy for at least three reasons: First, it is grossly unfair at a time when the middle class is shrinking, when the incomes of ordinary people are not keeping up with inflation, at a time when under President Bush 5 million more Americans have slipped into poverty, and at a time when the wealthiest people in this country have never had it so good, it is wrong, wrong, to continue to give tens of billions of dollars in tax breaks to the wealthiest people in America. They do not need it.

Frankly, Mr. Lee Raymond, the former CEO of ExxonMobil, who received a $398 million retirement package, can survive. He will just about make it okay, trust me, without another Republican tax break.

Secondly, while the middle class is struggling, it is just plain wrong, as Mr. McGOVERN has just indicated, to cut back a desperately needed program. At a time when the cost of college education is soaring, when middle-class families are finding it harder and harder to afford a college education for their kids, how do we cut back on financial aid for college education at the same time as we give tax breaks for billionaires? That is wrong.

Everybody knows that the Veterans Administration is undergoing enormous financial stress. There are waiting lines for veterans in the State of Vermont, all over this country. 17,000 American soldiers have been wounded in Iraq.

□ 1400

More and more are coming back with post-traumatic stress disorder. At a time when the VA is already underfunded, we cannot cut back on the needs of our veterans.

Thirdly, thirdly, we presently have a $8.3 trillion national debt, a heck of a legacy to be leaving to our kids and our grandchildren. This budget resolution will increase the national debt.

This is bad public policy. This martial law rule should be defeated and the budget resolution should be defeated.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend from Vermont for raising the points that he did. They are very timely in that almost as we speak, the White House signing ceremony will be occurring, where the President, along with the congressional leadership, will be celebrating the fact that we have prevented taxes from automatically increasing, something that the other side would have advocated by virtue of opposing the tax plan.

Now, let's talk a little bit about this tax issue.

Mr. SANDERS. Mr. Speaker, will the gentleman yield?

Mr. PUTNAM. I gladly yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Speaker, how does my friend feel about a tax bill, the one that the President is signing, which will give $43,000 in tax breaks to millionaires and a $10 a year tax cut to people making $50,000 a year or less? Does my friend think that that is a fair proposal?

Mr. PUTNAM. Mr. Speaker, reclaiming my time to answer the gentleman's question, I would answer the question with a question, which is how does the gentleman feel about the fact that 40 percent of American taxpayers end up with no tax liability, and the fact that the top half of all taxpayers in this country contribute almost 97 percent of all income tax revenues to the government? So you have to have a situation where the people who pay taxes are getting tax relief, because we have created such an upside down system where 40 percent of Americans have no tax liability. How is that sharing in the burdens of democracy? How is that contributing to the needs of the Federal Government?

Let me go into this a bit. Up to 40 percent of Federal tax filers cannot receive further tax relief because they have no tax liability. Millions of families in the bottom 20 percent have either zero tax liability or get money back from the government after April 15 through the Earned Income Tax Credit or the child tax credit. In 2003, as I said, the top half of taxpayers, the top 50 percent of taxpayers, contributed 96.5 percent of all Federal individual income taxes, while the bottom 50 percent, the bottom half, contributed less than 3.5 percent. This reflects the early effects of the Republican tax reforms under the Economic Growth and Tax Reconciliation Act and the Jobs and Growth Tax Reconciliation Act.

The top 1 percent, the top 1 percent of tax filers paid 34 percent of all Federal personal income taxes in 2003, while the top 10 percent accounted for 66 percent of those taxes.

So this is not just about going after athletes and rock stars and Hall of Fame pitchers. It is small businesses who pay at the individual rate that are receiving the benefits of these tax reforms. It is married couples who have benefited from seeing the marriage tax penalty eliminated. It is families with children. It is an extension of the 10 percent bracket. It is the increase in the AMT, the alternative minimum tax, the Rostenkowski tax that was put in place under the Democratic leadership of the Congress, that now, like the insidious effects of the Federal Government, has found its way into the pockets of millions of middle-class Americans.

The tax bill the President is signing today prevents those taxes from going up on middle-class Americans, it prevents the AMT from taking effect on millions of people who don't know what AMT even stands for but are going to get stuck with a tax bill for it and it encourages investment in this strong economy.

Frankly, the results have been staggering, where revenues to the government have gone up 14 percent because of the fact that we have had in place capital gains rates, dividend tax rates, AMT relief, sales tax deductions, that allow people to continue to invest and take on new employees and take risks, which is the heart of a free enterprise economy.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Speaker, I thank my friend for his presentation, but when you talk about who is paying what in income tax, you are forgetting a very important part of the equation, and that is who is making what in income.

As the gentleman knows, or should know, in the United States today we have the most unequal distribution of income and wealth of any major country on Earth. The gentleman knows, or should know, that the wealthiest 1 percent in America own more wealth than the bottom 90 percent. And the gentleman should know that the wealthiest 13,000 families earn more income than do the bottom 20 million families.

So when the gentleman said, my goodness, look at how much the wealthy are paying, those are the people, and in many cases, the only people who are seeing an increase in their income. The gentleman knows that family household income is stagnant, that working people are working longer hours for lower wages because the jobs that are being created by and large in this country are low wage jobs.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am listening to my very good friend from Florida talk about the signing ceremony at the White House today where the President is supposedly celebrating his tax bill. I would argue that what they are celebrating is increased debt on the American people. I don't think that is anything to celebrate over.

I want to get back to process here for a minute, if I can. Democrats and Republicans differ on a whole range of issues, and we can argue that appropriately when the full budget comes before the House. But what is troublesome is the fact that we don't know what you are going to bring to the floor later today, and I have to believe that if the roles were reversed here and the Democrats were in control of the Congress and we were to rush a budget to the floor today without you having seen it, that you wouldn't be too happy either, that you would think that is not an appropriate way to do business.

This is May 17. We have been here 127 days this year, and we have only been in session 41 of those 127 days. To argue that we don't have the time or that we need to rush to get this budget passed or we don't have the time to deliberate, to even be able to read what is actually in the bill coming before us, I just think is hard to defend.

Also in this budget, unless it changes, but I am assuming it will be similar to the last budget, is that when we pass this plan, there will be an automatic passage of a $653 debt limit increase by the House. We would not have a separate debate or a separate vote on that.

When I go home and people want to know why aren't we doing more to control the spending, why aren't we doing more to control the debt, why don't you have a debate on the debt limit, my answer has to be, well, the issue of the debt limit is hidden in a budget. It is automatic. We don't even get a chance to vote up or down on something like that. That is an important issue, I would think, that even my colleagues on the other side of the aisle would agree with.

So putting the policy disagreements aside for one moment, the main objection to this martial law rule is the process, a process that doesn't even allow Members of both parties to have the opportunity to review what is in it. And deliberation is important, I would say to my friend from Florida. It is important that we debate issues seriously, that we debate important issues seriously, and not just the trivial ones. And this is important. Increasing the debt limit, the implications of this budget, this is important, and we should have that opportunity.

Mr. Speaker, I yield 8 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, it is fair to ask, why are we resorting to this extraordinary procedure, where we override all the rules of the House, on a matter of this magnitude including a rule that requires that a bill of this kind, a budget resolution, lay overnight for our examination before we bring it to the floor? The martial law rule mows down all exceptions, all of those procedural guards and guidelines, and makes something immediately subject to consideration by the House.

We have no idea what is going to be in that resolution when it comes, yet we are put to a vote here on a martial law resolution. It simply isn't good procedure, a good way to run the House.

I think that the reason we are playing this game of "hide the ball" is that the Republicans cannot muster the vote in their own ranks, still not yet, to pass their own resolution. Democrats aren't going to vote for it, because we haven't found it to be worthy of our support. But the reasons for their reluctance are they can't close the deal on their side either, plainly because it is a bad deal.

I want to show you just a few highlights, Mr. Speaker, of this particular bill to understand exactly why it is not a good piece of legislation and why we should adopt the Democratic substitute, a far superior approach to the problem at hand.

First of all, let's go back to what Mr. McGOVERN just said. When this Congress passed President Bush's first budget, we were assured by the Office of Management and Budget, that even with their tax cuts, $1.7 to $1.8 trillion, even with their tax cuts, they would not be back to us to ask for an increase in the debt ceiling, the limit to which we can legally borrow, for at least another six or seven years. 2008 was the year they indicated.

But the next year, hat in hand, June of 2002, they came back and said, we erred a bit and we will need to increase the debt ceiling by $450 billion. This Congress, with Republican support, voted for that debt ceiling increase.

The next year, May of 2003, they were back again, and this time they wanted a phenomenal sum of money, $984 billion, the biggest single increase ever in the debt ceiling of the United States. You would have thought that would have taken us for some period of time. But under the budgets of this administration, in order to accommodate those budgets, the debt ceiling had to be raised again in November of 2004, within 15 months after this huge increase of $984 billion, by another $800 billion.

Two months ago, just 2 months ago in March, this Congress raised the debt ceiling of the United States by $781 billion. That was 2 months ago, last March.

Now, in this resolution, when you vote for this, and I will show you an excerpt from the budget resolution right now, when you vote for this, everyone should read and be aware of page 121 of this resolution because it effectively says in voting for this, you are voting to increase the legal debt ceiling of the United States by $653 billion. Don't take it from me, look at the hard copy, the black and white print shown here on this poster, reproduced from page 121 of the budget resolution.

This resolution will increase the debt ceiling of the United States by $653 billion, or at least it will be the action of the House must take. The Senate would have to follow through. This will be the vote in the House, raising the ceiling by $653 billion.

When you add those increases, $450, $984, $800, $781 and finally $653, all of which have been necessary to make room for the budgets of the Bush administration with their enormous deficits, when you add all these together, you get $3.668 trillion, $3.7 trillion since June of 2002. In 5 years, 5 years, we have had to raise virtually by 50 percent the debt ceiling of the United States, by $3.7 trillion. That is why we have got a martial law rule now. This budget won't stand scrutiny. These numbers simply are indefensible.

Let me show you, for example, what has happened to the deficits since the Bush administration took office. Over the last 5 years, with this budget we will experience the five largest deficits in nominal terms in the history of the United States.

□ 1415

Once again, this is why, not only on our side are we not supporting it, but on their side, too, the votes are not there to pass this resolution, because it will not bear scrutiny.

Now, one of the things the administration and also the Budget Committee is attempting to do in order to begin squeezing this budget back into balance is they are coming down hard on one particular sector of the budget known as domestic discretionary spending.

Domestic discretionary spending includes education, it includes highways, it includes the government basically as we know it, including the operation of the government. It does not include defense, it does not include foreign affairs, it does not include entitlement programs; it includes the money we appropriate every year in 10 appropriation bills.

That is the one sector of the budget which constitutes less than 15 percent of the budget which they are bearing down on, and here is what is happening to those different functions in that particular part of the budget.

Over the next 5 years, the purchasing power, the real value of the amount of money that we appropriate for education, for health care, for research, for scientific endeavors, for the operation of the government, the park system, the court system, you name it, will decrease in value by $167 billion cumulative over that period of time.

This will begin to hurt. Let me illustrate how. Education. Surely this is a time in our national history when we should be unstinting in what we spend on education, because our survival in the global economy depends critically upon it. Education will be cut $45.294 billion below current services, $45 billion over the next 5 years.

This budget will lay the basis for what the President has proposed, namely to eliminate 42 programs in education, and, for the second time in a row, to cut what we appropriate for education below the level of the previous year.

Veterans. If there is ever a time when we should appreciate what our veterans do for us, it is now. There were 17,000 grievously wounded in the Persian Gulf. Surely, surely we should be providing amply for veterans health care. But this budget is $6 billion below what we call current services, maintaining what we provide now over the next 5 years. It cuts veterans.

Health. Now, that is a broad category, a big category, because it includes the National Institutes of Health, the Centers for Disease Control. It includes a number of rural health care initiatives, a whole host of health care programs. This budget cuts those programs $18 billion.

Just 5 years ago, when we had a surplus, a $236 billion surplus in the year 2000, we resolved, Democrats and Republicans, House and Senate, that we would double the budget of the NIH, but we are now reneging on that commitment. We achieved that goal; we are now backing back down the slope, and each year NIH is going to take a hit under this budget because it is $18 billion short of current services for health.

And then finally the environment. The Environmental Protection Agency, the Clean Water Act, the Clean Water Drinking Act, the Corps of Engineers, which has extraordinary demands on it because of Katrina, the National Park Service, this budget imposes a cut of $25 billion below current services over the next 5 years.

Why are we here? Why are we seeking a martial law rule? Why? Because this budget will not stand scrutiny. Thank you.

Mr. PUTNAM. Mr. Speaker, I appreciate the gentleman from South Carolina's diligent efforts on the Budget Committee as the ranking member. He, along with our chairman, have forged a very strong working relationship. I respect his efforts on these issues, and he has certainly been working on them for years.

Let me take a moment, though, to scrutinize the Democratic substitute, where, if our budget is the Land of Oz, theirs is worthy of a good Sherlock Holmes novel, a who-done-it and where-did-they-put-it, because they seem to rely on revenues that just do not exist.

For example, the key component of their revenue in the Democratic substitute is over $700 billion in what the IRS calls the tax gap. In other words, it is the difference between what people owe the IRS in taxes and the collections that actually come in.

They assume, my friends on the other side of the aisle, in their budget projections that all $727 billion of that so-called tax gap shows up. Now, if they know where it is now to project it in their budget, please share it with us so that we may meet these needs, these unmet needs that have been described with great elaboration.

You seem to know where it is, because you know for a fact such that you budget for it, that it will appear, poof, that it will show up in time to make your budget balance.

They allow the important tax reforms that we have worked so hard to implement over the past several years to expire. They allow taxes to go back up. Their budget, their budget, provides for only $150 billion in tax relief, which I am glad to see that they are coming around to the concept that tax relief can be an important economic stimulant, as we were just hearing the opposite view in congratulating the President for signing $70 billion in tax relief, and yet they account for $150 billion, but say that our $70 billion was reckless and irresponsible. They would allow the child tax credit to expire, or the 10 percent bracket to expire, or the death tax to expire, or the marriage penalty to expire to make their numbers work.

And so when we get tied up in all of the rhetoric about this issue, it is important to remember that the budget debate that we will be moving forward with today is about choices. It is about a different set of priorities as represented by the two political parties for the future of this country. Our budget deals with both sides of the ledger. Our budget recognizes that over half of the Federal spending today is on the mandatory side of the ledger. It is on automatic pilot.

That is unsustainable. Both parties know that Social Security needs help. Both parties know that Medicare needs help. Both parties know that Medicaid needs help or it will sink the entire Federal budget. It makes up 55 percent of spending today. Within the decade it will make up two-thirds of Federal spending. Their budget does not address 55 percent of the Federal budget, a $2.17 trillion budget; just ignores it. That is not responsible. That is not dealing with the problems that we know exist and will only grow in magnitude and scale as time moves on.

These are the challenges that our budget attempts to deal with and deal with in a very responsible and balanced way.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Florida is absolutely correct when he says that this budget is about choices. And there are clear differences between what Democrats believe are the right choices and what Republicans believe. But the vote we are going to have on this martial law rule is also about choices, and the choice is, should Members of Congress, Republicans and Democrats, be afforded the opportunity to know what they are voting on, to be able to see what is in the budget that they are going to bring to the floor later today?

I do not think that that is unreasonable. I mean, even if you disagree with me and people on the Democratic side on all of the budgetary issues. I mean, do you not think that it is reasonable to require that Members should be able to know what is going to be in your budget, what changes you are going to make?

I mean, as I said before, when you vote for your budget, it is an automatic increase in the debt ceiling. I mean, what else is going to be put in there that we are not going to know about until when it is on the floor?

Mr. Speaker, I think the process is indefensible. We can argue the policy later, but the process is indefensible. We need to do much better.

Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. Mr. Speaker, I thank Mr. McGOVERN for yielding me the time.

Mr. Speaker, I rise in opposition to this martial law same-day rule, and in opposition to the budget resolution.

Every landmark budget reform enacted by Congress was intended to make the process more efficient so we can go about the business of funding programs important to the American people, particularly aid and relief to those who need our help the most.

We can all agree that a budget is supposed to be the congressional blueprint for funding America's priorities. Regrettably, however, the Republicans have abrogated this responsibility on at least two counts. First, this resolution comes halfway into the calendar year, and halfway into the third quarter of the current fiscal year, way too late to responsibly budget for America's priorities.

Second, this budget comes sandwiched between $70 billion worth of tax cuts for the most comfortable among us, and $100 billion in off-budget supplemental funds. It is this kind of fiscal irresponsibility that drives people to disapprove of the 109th Congress and why a change of leadership is needed before our country sinks deeper into red ink and before the budget resolution becomes completely irrelevant.

Mr. PUTNAM. Mr. Speaker, I yield 4 minutes to the chairman of the Joint Economic Committee, the gentlemen from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Speaker, I thank the gentleman from Florida (Mr. PUTNAM) for yielding me time.

Mr. Speaker, I was listening a few minutes ago when I heard an exchange about taxes and the President's signature being placed on the tax cut extension bill today. I just wanted to share very quickly with the Members the thought that has been placed behind this over the last number of years.

If you believe, as I do, that tax policy can be useful in stimulating economic growth, then one might look for opportunities to show that that really worked. As a matter of fact it really worked. It really worked in 1962, when John Kennedy was President and he recommended that we cut taxes, and in 1962 and 1963, the Congress did cut taxes, and it worked. The economy grew.

Ronald Reagan suggested that we do the same thing, because the economy was not growing very well. And we did cut taxes, and the economy grew. And in 2003, when we were having very slow economic growth, following a shallow recession in 2001, President Bush suggested that we cut taxes, and we did, and the economy has been growing great, robustly ever since.

As a matter of fact, since 2003, we have had great economic growth, culminating last quarter with a 4.7 percent increase in GDP. Now, if we are going to cut taxes, then we have to cut taxes on people who pay taxes. Otherwise, by definition it will not work.

This chart to my left is a chart that expresses figures that have been compiled by the IRS. And it shows, as Mr. PUTNAM had pointed out, that the top 1 percent of taxpayers, wage earners, pay 35 percent of the taxes, 34.2 percent to be more exact. And it shows that the top half of the taxpayers in terms of their income levels pay 96.5 percent of the taxes.

Therefore, as we look at these figures, and the top 5 percent pay over 50 percent of the taxes, the top 10 percent pay 65 percent of the taxes, and as I said a minute ago, the top 50 percent of the wage earners in this country pay 96.5 percent of the taxes.

So I ask you, if John Kennedy believed that cutting taxes would make the economy grow, and he was right, and Ronald Reagan thought cutting taxes would work, and turned out he was right, and President Bush thought cutting taxes would work, and it turned out the economy grew as a result of his policies, then where are we going to cut the taxes?

Obviously the bottom half of the wage earners in this country paying 3.5 percent of the taxes, it will not do a lot of good to the economy if we reduce that even further. We have to cut it in the area of wage earners who pay taxes. And so it is very clear to me that today's signing of the tax cut extension bill is a well thought out, good economic policy venture, which will continue, as has been shown throughout history, to provide for a stimulus for economic growth.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just say to the gentleman from New Jersey and some of the previous speakers that if these Republican policies are so wonderful, and if it is so obvious that they work, then why have you been struggling for months trying to get a budget together? Why are we here debating a martial law rule to bring up a budget that nobody has seen yet because you are still trying to work out deals within your own party, because you do not have the votes within your own party to pass this? This goes back to the point I had made at the very beginning.

☐ 1430

We can argue and argue about the policy, and that is totally appropriate. But how do you defend this process? I mean, how do you defend this process? And I think that that is a question that is yet to be answered.

Mr. PUTNAM. Mr. Speaker, will the gentleman yield?

Mr. McGOVERN. I yield to the gentleman from Florida 20 seconds.

Mr. PUTNAM. Well, I thank the gentleman for his generosity.

Mr. Speaker, I would ask the gentleman, in his use of the term martial law, the fact that we are here in a democratic process arguing about it for an hour and then going to have a vote on it, under which chapter and verse of Webster's is that martial law where there is debate, discussion, transparency, and a vote?

Mr. McGOVERN. Well, I would say to the gentleman, I define this as a martial law rule because what it is doing is enabling the leadership of this House to bring a budget to the floor that nobody has seen. And I don't think that is democratic. I don't think that is respectful of the deliberative process here in this House. I don't think that that is something, if the shoes were on a different foot, the gentleman would want to tolerate. And I hope that, given the opportunity to be able to take control of this House, that we can demonstrate a different standard on some of this stuff.

Mr. Speaker, I yield 2½ minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I thank my friend from Massachusetts for yielding me this time.

Mr. Speaker, just in quick response to my good friend and colleague from New Jersey and his income tax chart, that really shouldn't be surprising to anyone here in this Chamber, because the whole basis of our income tax system is based on progressivity. Meaning, those who can afford more, those who are most wealthy, are asked to contribute more, and that is the fair and decent thing to do in our society.

But the one thing that that chart does not show is one of the most regressive taxes in the entire country, which is the payroll tax, the FICA tax, which is cut off at $90,000. And that is something that everyone under that 50 percent category is paying taxes on based on every single dollar that they earn. Yet they conveniently ignore that fact, and the fact that they are robbing those trust funds right now, both Social Security and Medicare, which comes from the FICA tax in order to help pay for the tax breaks for the most wealthy.

I agree with my friend from Florida, who I serve on the Budget Committee with, that we do have a challenge with entitlement spending. We have to lock arms in a bipartisan fashion to get those growing costs under control. But his party has forfeited any basis of fiscal responsibility related to entitlement spending by passing the largest expansion of entitlement funding in over 40 years with the new prescription drug plan, something that is not paid for, something that in fact has no cost containment measures in; it specifically prohibits any price negotiation with the drug companies, and it is blowing a hole in the Federal budget. And that is outrageous.

And what is even more outrageous is something that my ranking member on the Budget Committee, Mr. SPRATT, pointed out on page 122, and that is the fifth increase in the debt limit ceiling in the last 6 years. This has been the largest, the fastest expansion of national debt in our Nation's history under this Congress and this current administration. And what is even more alarming is we no longer owe this debt to ourselves. China is the number one purchaser of our government deficits today, and they are soon to be followed by Russia and Saudi Arabia. Why? Because of the petro dollars that are flowing to those two countries and who are in turn starting to buy more of our debt.

The amount of debt that is being accumulated is truly staggering, and deficits do matter. And this is something I am going to point out during general debate, because of who suffers when we run deficits? I will tell you who suffers. It is the children and the students of this country who are suffering, when we are going to see another $4.5 billion worth of cuts based on current funding levels for higher education programs under this budget, where they are defunding special education funding, going from 17.8 percent down to 17 percent when the bipartisan goal has been funding it at a 40 percent federal cost share. Those are the people who are suffering when we run deficits. We have a better alternative with the Democratic substitute, a substitute that pays-as-we-go and I hope our colleagues support that.

Mr. PUTNAM. Mr. Speaker, I am pleased to yield 5 minutes to my friend and colleague from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I rise in support of the rule and support of the budget, and I support the budget for a number of reasons. But I do want to say, as I listen to the arguments from the other side, they are a little bit all over the place. And yet that is not unusual, because if you are in the minority party, you can pick and choose your relevancy. And generally the message that we are hearing from that side is it cuts too much here, it doesn't spend enough there, I don't like this, I don't like that. And yet they don't have a unified plan except to vote "no" on everything. We won't pick up a vote, you guys know that. The only thing they are unified by is a "no." They cannot even within their own caucus support a budget that could get a majority. And we would like to work with them.

We just heard they don't like the Medicare prescription drug benefits, so they are, I guess, against the Medicare prescription drug benefit and want to return to the days when seniors were choosing between food on their table and medicine that they needed from their doctor.

We have heard they are supporting a Social Security tax increase. Well, I had a lot of Social Security town meetings; I didn't hear anybody who wanted to increase taxes on Social Security. I don't know if that is an official view or just one Member, but I do know that in terms of Social Security, there again it was a big "no" vote because they did not want to participate.

Now, what they also don't like is the economic prosperity that we are enjoying right now, because their whole view is if somebody is making money, then they are bad and they are evil, because they have this obsession with the wealthy in our society; unless they are a union, business agent, or a Barbra Streisand and some of the big wheels of Hollywood who fund their coffers, then it is okay to be rich and wealthy.

The interesting thing, though, is that under Republican Party policy, the economy has done so well. And think about this: that the domestic gross product grew by 8 percent the first quarter of 2006, and in the month of April alone 138,000 new jobs were created. We know, because it is an economic fact, that since our tax reductions went into play for farmers and small businesses, that 5 million new jobs were created. And there is a very important thing in there, business expensing, that allows the bicycle shops back home and the clothes store and the pet shops to expand and get a tax deduction for doing so. I know the Democrat Party doesn't like business, which would include small business. I think it is okay to have a healthy distrust of some of the big Wall Street guys. Some of those firms, after all, are Democratic. So we should kind of distrust some of those. They were big Clinton supporters, as I remember some of that crowd. But small businesses need this, because they can grow, and we need to give them some tax incentives.

In terms of tax receipts, as I sit in the Appropriations Committee, and bill after bill the Democrats want to spend more on and they want to take away this mythical tax cut for the rich, and the idea is because the rich are paying their taxes that the deficit is down. And yet the Treasury Department has reported that the receipts are up $137 billion, that is 11 percent, in the first 7 months of the year, of the fiscal year of 2006 which started October 1. So receipts are up 11 percent and yet taxes are down.

Now, why is that? Well, you could put it this way. If a business was doing three or four transactions a day and we were getting a tax on each transaction, now they are doing eight or nine, ten transactions a day, and we are still getting that tax. So we are taxing more because there is more activity and there are more transactions in the business world. And, again, because of that, the revenues are up $137 billion.

Now, last year they were up $274 billion, or an increase of 14.6 percent in fiscal year 2005. That is very significant for folks to remember. And, as Mr. SAXTON said, President Kennedy, President Reagan, and now President Bush have shown the American people spend their money better than we do in Washington. And, again, I want to speak as an appropriator. I am in these meetings and I am convinced the American people can do better with their own money than we can. It stimulates the economy, it creates jobs, it is good for all of us. And then, in Washington, we do get more revenues.

Do I want to cut spending? Yes, I do. Do I think we need to reform entitlement? Yes, I do. I want to work on a bipartisan basis to do that, though, because I think that is the way the American people want to see us cooperate.

Mr. McGOVERN. Mr. Speaker, may I inquire how much time remains on both sides?

The SPEAKER pro tempore (Mr. FOSSELLA). The gentleman from Massachusetts has 1½ minutes remaining, and the gentleman from Florida has 9 minutes remaining.

Mr. McGOVERN. Mr. Speaker, I again rise in strong opposition to this martial law rule. We have rules and procedures in this House, and today by bringing this martial law rule to the floor and by bringing a budget bill to the floor, sight unseen, we are breaking those rules. We are basically making a mockery of the procedures that are in place to ensure that Members of Congress, at a minimum, know what in fact they are voting on when some of these bills come to the floor.

This is not a trivial matter. The budget is a big deal. It sets out our priorities. And it is totally appropriate for people to be able to debate all different issues openly and on the House floor. And I would again, after listening to the gentleman from Georgia, I guess my question to him is, again, if things are so wonderful, why can't you even get Members of your own party to get behind a budget?

But putting that aside, this vote we are about to have is on process, it is on whether or not Members of Congress, Republicans and Democrats, should have the right to read what is in the proposed budget. I don't think that that is too much to ask for. I don't think that is unreasonable. I think most Americans who are watching this debate are scratching their heads saying, why can't you show us what is in this bill? What is the big secret? When are we going to have this budget available to us? When are we going to know what is in it? When are we going to find out what deals have been negotiated behind closed doors? I don't think that is unreasonable.

So I would urge my colleagues to vote "no" on this martial law rule, and let us demand that we have a process in place in this House and have some integrity.

Mr. Speaker, I yield back the balance of my time.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend from Massachusetts. He does have a way with words and continues to refer to a process whereby, in order to waive the rules of the House, you must come to the floor, introduce a resolution, it must be given an hour of debate, which we have been engaged in very vigorously, and be voted on. I mean, Pinochet and Castro would laugh at the notion that that has anything to do with martial law. This is a process under our rules that requires a vote. It requires debate. It requires transparency.

The simple fact of the matter is we have to move a budget. This Nation needs the spending blueprint, it needs the discipline, it needs the restraint that a budget provides. Then the appropriators, as my friend from Georgia has discussed, the appropriators take over. And they can pass within that box that we have put Federal spending in, in the Federal budget, 11 different bills that deal with each component of government: defense, veterans, transportation, energy and the environment, military quality of life, the whole range of issues that then are debated again in committee, in subcommittee, on this floor, in the conference with the Senate.

This is a transparent process, a patently transparent process where people are free to watch their Members actively, aggressively, work to take language out of bills, to put language in the bills, to shift formulas around to benefit high-growth States or to protect low-growth States from having those monies shifted around; to put more money into veterans and less for the arts, or more into the arts and less for the Corps of Engineers, or more for the Corps of Engineers because of Katrina; to set aside emergency funds because we know that every year there will be a drought or a wildfire or a hurricane or an earthquake. All of those huge issues that are embodied in over $2 trillion in Federal spending are here today in the form of the Federal budget.

This bill, this resolution, allows us to move forward with that process that began months ago, that began on a bipartisan basis in the Budget Committee, that was debated extensively in the Budget Committee, that was marked up in the Budget Committee, and will end up on the floor of this House today.

This is an open process, it is a transparent process. Anyone who has observed this debate can see that it involves a great deal of viewpoints about a great deal of very important issues. And that is the position we find ourselves in here today. It is a healthy process because it is a fundamental decision about the direction that Americans' hard-earned tax dollars will be taken.

□ 1445

Will those tax dollars find their way into bloated bureaucratic programs? Will they find their way into duplicative programs? Will they find their way back into a surging economy? Will they find their way into investments in the cure for cancer and Lou Gehrig's disease and a whole host of other ailments? Will they fund our troops in the theater of war?

That is the decision we are positioned to move forward on here today.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McGOVERN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

FOREST EMERGENCY RECOVERY AND RESEARCH ACT

The SPEAKER pro tempore (Mr. CONAWAY). Pursuant to House Resolution 816 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4200.

□ 1446

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4200) to improve the ability of the Secretary of Agriculture and the Secretary of the Interior to promptly implement recovery treatments in response to catastrophic events affecting Federal lands under their jurisdiction, including the removal of dead and damaged trees and the implementation of reforestation treatments, to support the recovery of non-Federal lands damaged by catastrophic events, to revitalize Forest Service experimental forests, and for other purposes, with Mr. FOSSELLA (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose earlier today, a request for a recorded vote on amendment No. 4 printed in House Report 109–467 by the gentleman from New Mexico (Mr. UDALL) had been postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment No. 1 by Mr. RAHALL of West Virginia.

Amendment No. 2 by Mr. DEFAZIO of Oregon.

Amendment No. 3 by Mr. INSLEE of Washington.

Amendment No. 4 by Mr. UDALL of New Mexico.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. RAHALL

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from West Virginia (Mr. RAHALL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 236, not voting 7, as follows:

[Roll No. 147]

AYES—189

Abercrombie
Ackerman
Allen
Andrews
Baldwin
Bean
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boehlert
Boucher
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Capps

Capuano
Cardin
Carnahan
Carson
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Ehlers
Emanuel
Engel
Eshoo
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Ford
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Harris
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kildee
Kilpatrick (MI)
Kind
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Pelosi
Petri
Price (NC)
Rahall
Ramstad
Rangel
Reichert
Reyes
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Sensenbrenner
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Sweeney
Tauscher
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NOES—236

Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Etheridge
Everett
Feeney
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Salazar
Schmidt
Scott (GA)
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Walden (OR)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Barton (TX)
Cleaver
Evans
Kennedy (RI)
Larson (CT)
Payne
Stupak

□ 1512

Mrs. EMERSON and Messrs. COBLE, SODREL, EVERETT, BURGESS, HOLDEN and CAMP of Michigan changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. DE FAZIO

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 184, noes 240, not voting 8, as follows:

[Roll No. 148]

AYES—184

Abercrombie
Ackerman
Allen
Andrews
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boehlert
Boucher
Brady (PA)
Brown, Corrine
Capps
Capuano
Cardin
Carnahan
Carson
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell
Doggett
Doyle
Ehlers
Emanuel
Engel
Eshoo
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Holt
Honda
Hooley
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kildee
Kilpatrick (MI)
Kind
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Pelosi
Price (NC)
Ramstad
Rangel
Reichert
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tauscher
Taylor (MS)
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NOES—240

Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Conaway
Costa
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Etheridge
Everett
Feeney
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall

Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hobson
Hoekstra
Holden
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Salazar
Schmidt
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Barton (TX)
Cleaver
Cole (OK)
Evans
Kennedy (RI)
Larson (CT)
Payne
Stupak

☐ 1521

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY MR. INSLEE

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Washington (Mr. INSLEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 191, noes 231, not voting 10, as follows:

[Roll No. 149]

AYES—191

Abercrombie
Ackerman
Allen
Andrews
Baldwin
Barrow
Bartlett (MD)
Bean
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boehlert
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carnahan
Carson
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell
Doggett
Doyle
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Ford
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Gonzalez
Gordon
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kildee
Kilpatrick (MI)
Kind
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Petri
Price (NC)
Rahall
Ramstad
Rangel
Reichert
Reyes
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Sensenbrenner
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tauscher
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NOES—231

Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Barrett (SC)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Everett
Feeney
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Schmidt
Schwarz (MI)
Scott (GA)
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Walden (OR)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—10

Barton (TX)
Cleaver
Davis (FL)
Evans
Green, Al
Kennedy (RI)
Larson (CT)
Musgrave
Rush
Stupak

☐ 1529

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 4 OFFERED BY MR. UDALL OF NEW MEXICO

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New Mexico (Mr. UDALL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 197, noes 228, not voting 7, as follows:

[Roll No. 150]

AYES—197

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Barrow
Bartlett (MD)
Bean
Becerra
Berkley
Berman
Bilirakis
Bishop (NY)
Blumenauer

Boehlert
Boucher
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carnahan
Carson
Case
Castle
Chandler
Clay
Clyburn
Conyers
Costa
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Ford
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kelly
Kildee
Kilpatrick (MI)
Kind
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Petri
Price (NC)
Rahall
Ramstad
Rangel
Reichert
Reyes
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tauscher
Taylor (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Whitfield
Woolsey
Wu
Wynn
Young (FL)

NOES—228

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Barrett (SC)
Bass
Beauprez
Berry
Biggert
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cooper
Crenshaw
Cubin
Cuellar
Culberson
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Everett
Feeney
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Schmidt
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Wamp
Weldon (FL)
Weller
Westmoreland
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—7

Barton (TX)
Cleaver
Evans
Kaptur
Kennedy (RI)
Larson (CT)
Stupak

☐ 1537

So the amendment was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN (Mr. FOSSELLA). There being no other amendments, the question is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. REHBERG) having assumed the chair, Mr. FOSSELLA, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4200) to improve the ability of the Secretary of Agriculture and the Secretary of the Interior to promptly implement recovery treatments in response to catastrophic events affecting Federal lands under their jurisdiction, including the removal of dead and damaged trees and the implementation of reforestation treatments, to support the recovery of non-Federal lands damaged by catastrophic events, to revitalize Forest Service experimental forests, and for other purposes, pursuant to House Resolution 816, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. INSLEE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage of H.R. 4200 will be followed by a 5-minute vote on adoption of House Resolution 815.

The vote was taken by electronic device, and there were—ayes 243, noes 182, not voting 7, as follows:

[Roll No. 151]

AYES—243

Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Etheridge
Everett
Feeney
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jefferson
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry

McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Salazar
Schmidt
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Walden (OR)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—182

Abercrombie
Ackerman
Allen
Andrews
Baldwin
Bean
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boehlert
Boucher
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carnahan
Carson
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Ehlers
Emanuel
Engel
Eshoo
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Ford
Frank (MA)
Frelinghuysen
Gerlach
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kildee
Kilpatrick (MI)
Kind
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Petri
Price (NC)
Rahall
Ramstad
Rangel
Reichert
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Sweeney
Tauscher
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NOT VOTING—7

Barton (TX)
Cleaver
Evans
Kennedy (RI)
Larson (CT)
Myrick
Stupak

☐ 1557

Mr. MURTHA and Mr. LINDER changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

The SPEAKER pro tempore. The pending business is the vote on adoption of House Resolution 815 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 227, nays 195, not voting 10, as follows:

[Roll No. 152]

YEAS—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—195

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson

Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—10

Brady (TX)
Cleaver
Evans
Granger
Hensarling
Kennedy (RI)
Larson (CT)
Marshall
Stupak
Wu

☐ 1608

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2567

Ms. BALDWIN. Mr. Speaker, I ask unanimous consent to have my name removed from H.R. 2567.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Wisconsin?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 9 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 1745

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. KUHL of New York) at 5 o'clock and 45 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H. CON. RES. 376, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2007

Mr. PUTNAM, from the Committee on Rules, submitted a privileged report (Rept. No. 109–468) on the resolution (H. Res. 817) providing for consideration of the concurrent resolution (H. Con. Res 376) establishing the congressional budget for the United States Government for fiscal year 2007 and setting forth appropriate budgetary levels for fiscal years 2008 through 2011, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5386, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2007

Mr. PUTNAM, from the Committee on Rules, submitted a privileged report (Rept. No. 109–469) on the resolution (H. Res. 818) providing for consideration of the bill (H.R. 5386) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2007, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR FURTHER CONSIDERATION OF H. CON. RES. 376, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2007

Mr. PUTNAM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 817 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 817

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for further consideration of the concurrent resolution (H. Con. Res. 376) establishing the congressional budget for the United States Government for fiscal year 2007 and setting forth appropriate budgetary levels for fiscal years 2008 through 2011. The amendments printed in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. The concurrent resolution, as amended, shall be considered as read. No further amendment shall be in order except those printed in part B of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for 40 minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against the amendments printed in the report are waived except that the adoption of an amendment in the nature of a substitute shall constitute the conclusion of consideration of the concurrent resolution for amendment. After the conclusion of consideration of the concurrent resolution for amendment and a final period of general debate, which shall not exceed 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget, the Committee shall rise and report the concurrent resolution, as amended, to the House with such further amendment as may have been adopted. The previous question shall be considered as ordered on the concurrent resolution and amendments thereto to final adoption without intervening motion except amendments offered by the chairman of the Committee on the Budget pursuant to section 305(a)(5) of the Congressional Budget Act of 1974 to achieve mathematical consistency. The concurrent resolution shall not be subject to a demand for division of the question of its adoption.

SEC. 2. After adoption of House Concurrent Resolution 376, it shall be in order to take from the Speaker's table Senate Concurrent Resolution 83 and to consider the Senate concurrent resolution in the House. All points of order against consideration of the Senate concurrent resolution are waived. It shall be in order to move to strike all after the resolving clause of the Senate concurrent resolution and to insert in lieu thereof the provisions of House Concurrent Resolution 376 as adopted by the House. All points of order against that motion are waived. If the motion is adopted and the Senate concurrent resolution, as amended, is adopted, then it shall be in order to move that the House insist on its amendment to the Senate concurrent resolution and request a conference with the Senate thereon.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PUTNAM) is recognized for 1 hour.

Mr. PUTNAM. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. McGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. PUTNAM. Mr. Speaker, House Resolution 817 is the rule that provides for debate on House Concurrent Resolution 376, which is the Federal budget, the bill that establishes the Federal spending priorities for the United States Government for fiscal year 2007, and setting forth the appropriate budgetary levels for the outyears in 2008 through 2011.

As a member of both the Rules Committee and someone who serves on the Budget Committee, I am pleased to bring this resolution to the floor for the House's consideration. This rule makes in order three substitute amendments, three different viewpoints on the direction that Federal spending should take for the coming fiscal year.

Each of those will be debatable for 40 minutes. The rule waives all points of order against consideration of the concurrent resolution.

I come to the floor today, Mr. Speaker, with a resolution that allows us to complete the debate and passage for the House budget resolution for fiscal year 2007. It is a work product over many, many weeks, beginning with Chairman NUSSLE and Ranking Member SPRATT in the Budget Committee, along with all of the Members of this House to bring it to fruition here today.

The resolution continues policies that have helped to continue a strong U.S. economy. We have included savings for working Americans with $228 billion in further tax reforms. We account for the tax cut, the tax reforms, that this House passed last week by a vote of 244–185 to extend 2001 and 2003 tax relief and preventing automatic tax increases from taking place.

That bill was signed into law today by the President, again preventing tax increases from coming on the backs of the American people. Those provisions included alternative minimum tax relief, that insidious tax that was proffered under Chairman Rostenkowski's reign at the Ways and Means Committee under Democratic rule, that is now taking into its arms, grasping within its reach millions of middle-class Americans who unknowingly are being swept into a net of higher taxation; House-passed pension bill; and other tax relief.

The continuation of these successful economic policies is generating record revenue levels for the Federal Government without increasing taxes. In other words, a strong and growing economy is bringing additional revenue into the Federal Government as a result of enhanced economic activity brought about by lower tax barriers.

While working to give Americans back some of their hard-earned dollars, we also enact a responsible spending plan that exercises control and restraint. I am proud that once again this House has delivered a budget that practices conscientious spending. Our goal is to stem the ever-expanding outflow of Federal dollars.

We hold nonsecurity discretionary spending to a near freeze and create mandatory savings, mandatory being that portion of the budget which now makes up over 55 percent of Federal spending. It is essentially on automatic pilot, and if it is not brought under control, it will consume two-thirds of Federal spending within the decade.

We bring about mandatory savings of nearly $7 billion over 5 years. Together these policies, the policies of economic stimulation and fiscal restraint, will reduce the deficit by more than half, from the $521 billion projected in 2004 to under $200 billion in 2009.

House Concurrent Resolution 376 has an overall discretionary spending level that is equal to the President's budget at $873 billion.

As is the case with our bifurcated budgeting and appropriations process, the discretion lies with the House Appropriations Committee to determine the final allocation of these funds.

This budget essentially freezes nonsecurity discretionary spending with only a .1 percent increase over last year's level, and as an additional savings method, this budget caps the advance appropriations.

In the area of mandatory spending, we provide a total of $1.5 trillion in entitlement spending. In an effort to control this automatic outflow of Federal dollars, the budget resolution calls for mandatory spending reforms from a number of different committees, allowing regular order to reign, along the authorizing committees, to find the proper waste, fraud, duplication and inefficiencies using their own expertise in the various subject matters. These savings total $6.75 billion over 5 years.

Mr. Speaker, I am pleased that this year the Budget Committee included an emergency reserve fund to help Congress plan for unforeseen costs that arise in the future. Every year somewhere in America there is an earthquake or a flood, or a hurricane, or a wildfire, or a drought, or a massive snowstorm that requires Federal spending that was unforeseen.

But the fact that it happens every year means that we ought to be able to foresee that something bad is going to happen. We may not know exactly what it will be, it may not rise to the level of Katrina in scale and scope, and, heaven help us, we hope that it does not, but we know that emergencies will arise.

This budget plans for those emergencies, and we set aside in addition $50 billion toward what we anticipate will be a wartime supplemental request, and again set aside nearly $6.5 billion for other emergencies stemming from natural disasters.

Mr. Speaker, I am proud of the work of this Budget Committee, Chairman NUSSLE, Ranking Member SPRATT, for pushing forward a budget that has fiscal discipline, restraint. It incorporates real reforms on the mandatory side as well as providing for the tools that allow this economy to continue to grow and strengthen.

Mr. Speaker, I urge the House to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I want to thank my good friend from Florida (Mr. PUTNAM) for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, we waited months for this? The fact is what we have before us is a sham. What the Republicans have come up with is essentially a shell game. Under this so-called grand compromise, moderate Republicans can increase spending on domestic programs, but only if they cut other domestic priorities.

In other words, if you want more money for children's immunizations or more money for No Child Left Behind, you have to cut funding for Medicaid or further cut student aid. This is the classic definition of robbing Peter to pay Paul.

So to the moderates, let me say after all of us, you have got some words, but in reality you have got nothing. Do not be a cheap date. The responsibility is to the people of this country to make sure that their needs are met, not to saving face. Heaven forbid that the richest in this country do not get their capital gains tax cuts so that we can adequately fund health care and veterans benefits and education.

No, those precious tax cuts are protected. So tonight the crowd on Wall Street can have champagne and caviar at Tavern on the Green while the people who work on Main Street are scratching their heads with disbelief and asking why has their government forgotten them?

The misplaced priorities demonstrated in this budget are astounding. Last month we had a debate on the first rule for the fiscal year 2007 budget resolution. My friends on the other side of the aisle laid out their plans and did their best to defend their priorities.

Unfortunately, Mr. Speaker, their plans are misguided, and their priorities are out of step with the American people. This is a major reason why it has taken weeks and weeks for the Republican leadership to try to jam their budget through this House. Under the Republican budget, our Nation's deficits get worse, not better.

Remember, under Republican policies, the 5 largest deficits in the history of the United States of America will have occurred in 5 consecutive years.

Further, this budget provides only $50 billion for the wars in Iraq and Afghanistan. I cannot figure out if they have forgotten about these wars or somehow stumbled onto an exit strategy. The truth is that we know the administration will request hundreds of billions of dollars for these wars in the next few years, but this budget makes no mention of that.

Under the Republican budget, up is down, down is up, and the war we see every day is not really happening. The Republicans once again underfund port security, despite their rhetoric of the Dubai Ports deal. Recently the Republicans followed the Democrats' lead and opposed President Bush's approval of the United Arab Emirates control of American ports.

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But when faced with the opportunity to follow through on their rhetoric, they decided to cut port security by over $6 billion over the next 5 years.

Under this budget resolution, the Republicans make $228 billion available for new tax cuts, but in the process cut important education, health, and environmental programs.

Cutting these programs for tax cuts is deplorable. Deceiving the American people about future funding for the wars in Iraq and Afghanistan is flat wrong. But the most egregious thing about this budget is the way it disrespects our veterans.

My friend from Florida is fond of saying that facts are a stubborn thing. Indeed they are, and here are just a few facts:

According to the Department of Defense, there are almost 297,000 troops currently stationed in Iraq and Afghanistan. Since 2003, the beginning of the war in Iraq, more than 1.2 million troops have served in Iraq and Afghanistan. These are troops that are most likely to need the services of the Veterans Affairs health care systems. These are the troops that will need the most help from this Congress. The costs of their treatment are substantial, yet the Republican budget actually cuts the funding that supports the veterans health care systems. The truth is there are two parts of the veterans funding in this budget, mandatory funding that is guaranteed to be there, and discretionary funding that is subject to appropriations. When mandatory funding is subtracted from the overall funding level, the truth is revealed; and the truth is that after fiscal year 2007 the amount of funding for veterans decreases by $4 billion. The administration claims they can live with these decreases because the number of veterans will decrease over the next few years. Well, the truth is that there was a 21 percent increase in the number of Iraq war veterans using the VA health care system in the first 3 months of 2006 alone. As of March 14, 2006, the VA had already treated 144,426 veterans, 33,858 more than the administration projected would use the VA system over the entire year.

The administration projected that it would treat 18,000 veterans from the Iraq and Afghanistan wars for post-traumatic stress disorder for fiscal year 2006, but as of March 14, 2006, VA data shows that it is already treating 20,638 veterans for PTSD, an increase of 2,638 before the middle of March.

How then with good conscience can they claim that the number of veterans needing care through the VA health systems will go down in the future? This is either dangerously naive or deliberately misleading. And the claim that the VA could get by with reduced funding would be laughable if it didn't have such serious ramifications.

Just look at what happened last year. The Republican leadership in the House provided $1.5 billion less than what the veterans services organizations recommended for the VA. For months we were told by the Republicans that, don't worry, everything will be fine. But finally in November the leadership finally relented and provided the amount needed to provide care for our veterans because they saw what was going on.

Well, it is deja vu all over again. The Republicans are calling for cuts to the VA system, but we all know we are going to need to provide more funding to meet the demand of the current soldiers who will be the veterans of tomorrow.

Mr. Speaker, the Democrats have alternatives. We have a plan that is simple. Besides reducing the deficit, reinstating the pay-as-you-go-system, and properly funding education, health care, and homeland security, we give the veterans the services and respect that they deserve. Our budget provides $6 billion more than the Republican budget does for veterans health care.

My Republican friends charge the Democrats believe enough is never enough. Well, Mr. Speaker, when it comes to America's veterans, I strongly believe that enough is enough only when veterans have timely access to quality health care that they were promised. I believe enough is enough only when our veterans are not forced to wait 6 months for a doctor's appointment. I believe enough is enough only when our veterans and our veterans' families are cared for with the utmost respect and are not shortchanged. We can and we must do better.

Mr. Speaker, I reserve the balance of my time.

Mr. PUTNAM. Mr. Speaker, obviously this is one of the most important debates of the year as it lays out the blueprint, the outline for Federal priorities. Where we place our priorities is generally where we allocate funding, and the Republican budget divides those priorities between creating incentives for people to continue to grow their businesses, to create an atmosphere of record low unemployment which we enjoy in this country today of 4.8 percent, creating incentives for people to purchase a new piece of equipment, add a new assembly line, add a new store, take on a new employee, fiscal restraint to go along with that economic growth.

Fiscal restraint on the discretionary side where there is a near freeze in discretionary spending, and on the mandatory side which is gobbling up the budget at a record rate, where we for the second year in a row, something that is unprecedented in modern budgeting history, for the second year in a row are looking for savings on that mandatory side of the ledger that so many previous Congresses have been afraid to touch, and bringing about important reforms so that people have confidence in where their hard-earned tax dollars are going.

Mr. Speaker, I see that my friend from Massachusetts has a number of speakers, and I will reserve the balance of my time and look forward to a thorough vetting of this important issue.

Mr. McGOVERN. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York, the ranking Democrat on the House Rules Committee, Ms. SLAUGHTER.

Ms. SLAUGHTER. I thank the gentleman for yielding.

Mr. Speaker, every justification of the budget we have heard today presents it as a noble and responsible attempt to respond to the harsh economic realities facing our Nation and our people. But when we examine it objectively, we can't avoid seeing the reality behind the pretense.

The bill is designed to do everything it can to protect the record tax cuts for the richest of Americans. For the majority, that is more important than educating our children or providing health care to the veterans or helping Americans raise themselves out of poverty, or even protecting our country from the consequences of either national disasters or mounting national debt.

The authors and supporters of the legislation will tell us that if we wish to avoid increasing our national deficit, which they have already driven to unprecedented heights, we have no choice but to spend on the programs that Americans rely on the most while they are busily cutting out the revenues that come into the government.

But, once again, they are offering a false choice. For 5 years they have forced the massive tax cuts through the Congress. Last week they made the most recent down payment on the cuts. One was $70 billion. While President Bush signs that bill into law today, Republicans are asking us to pass this bill which adds another $158 billion to those cuts. So in 2 weeks, we have made those massive cuts, and any justification melts away when we realize who is benefiting from it. They are not for the poor, they are not for the working class, they are not for the middle class. They are for the oil companies. They won't spur our economy or help the average person afford their morning drive to work. They are instead the cuts for billionaires and millionaires, pure and simple. They are not going to help the economy, but they will indeed help people who don't need it, and that assistance will come at the expense of everyone else.

But as always the case, despite objections not just from Democrats but much of the American public, reducing or extending these cuts isn't even on the table here. It never is. They are considered too sacred to touch. And just tonight in the Rules Committee, once again, we turned down an opportunity to pay for more by taking away part of their tax cut.

What do we get in exchange for this giveaway? Well, the majority offered us a budget that will cut domestic spending between 1 and 2 percent every year. As a result, the party that tells us to support the troops is cutting veterans health care by $6 billion. And we worry and fear for the over 20,000 young soldiers in Iraq and Afghanistan who have been grievously life-altering wounded will not be able to get the care they need when they come back.

Republicans who promised to leave no child behind will be cutting education funding by $45.3 billion, and the budget of the Department of Education by $2.2 billion.

Now, not content to make education less rewarding in the present, they apparently want to make our students worry more about loan payments in the future. The bill eliminates all mandatory spending on student loans, leaving congressional appropriators to somehow find $600 million to meet the students' needs.

The majority wants to cut environmental protection efforts by $25 billion, and take over $1 billion from community development and social service initiatives which we desperately need.

The poorest of the poor won't find any relief at all in this legislation. In fact, they will find the opposite. The budget will underfund housing and child care assistance by $447 million over the next year, and over 5 years the funding for them will fall almost $15 billion short.

What will the results be? Well, consider the fate of the commodity supplemental food program which provides nutritious meals to 420,000 low-income elderly and 50,000 mothers and children at a cost of $111 million a year. The budget eliminates it entirely.

Mr. Speaker, it may make sense that they are forcing the cuts through Congress so they can afford the hand-outs to the rich, but perhaps that really is what today's Republican Party stands for. But apparently they also stand for something new, contrary to their rhetoric: irresponsible government spending. The legislation before us will increase our deficit without a vote by $410 billion over the next 5 years. At the same time, it increases the debt limit by over $650 billion. By 2011, the limit will stand at $9.6 trillion.

When the Clinton administration left office, the debt limit was about $4.5 trillion, and they left us the greatest surplus we have ever had. The majority claims the bill will make us more fiscally secure, but what they really do is sow the seeds of greater insecurity both now and for years to come. When we realize that it isn't necessity driving this bill, but rather a world view that puts the richest Americans ahead of everybody else, we are not left with much else to say but "shame."

We don't share these values. Democrats believe instead, as did that great Republican President Theodore Roosevelt and countless other Americans, that investing in the middle class, which is disappearing quickly, and guaranteeing broad prosperity is the surest way to ensure sustained economic growth.

Mr. PUTNAM. Mr. Speaker, the gentlewoman raised the issue of education funding. I would point out that the facts are a bit counter to her assertion. Take special education, something that has long been a priority of both sides of the aisle. Special education funding goes up for the sixth consecutive year, an increase of $100 million this year, which is an estimated $1,500 per student, reaching almost 7 million students who have special needs.

On Pell Grants, the budget provides $12.7 billion in available Pell Grant aid, for an average grant of nearly $2,500. More than 5.2 million students would be eligible for these grants, an increase of 60,000 students over the previous year.

Title I, those schools that serve the most in need, the resolution provides nearly $13 billion for title I grants to help schools in the high poverty communities move ahead with No Child Left Behind; $1 billion for the Reading First program, and increased funding for charter schools, magnet schools, voluntary public school choice, all substantial funding for these very important programs.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. I thank the gentleman for yielding.

Mr. Speaker, today's time line reveals everything about the programs and the politics of the majority running this Congress. This afternoon they gathered at the White House. The President signed at a time of staggering deficits yet another tax cut skewed to help the most affluent while doing little to help those who needed help.

This evening in the middle of this debate, they are going to recess so they can go to a big fund-raising party and reap the special interest contributions of those who have benefited so much from their cash-and-carry government. And after that, they are going to come back to the floor of this House and vote to raise the national debt as part of this budget. That is right, raise the national debt as part of this budget.

I haven't heard Mr. PUTNAM say anything about the language in here that raises the national debt $653 billion. It was buried on the bottom of page 121 of their budget.

It is a mere 2 months since they last raised it. They raised the national debt in March, they pass the tax cut, they have a fund-raiser, and they come back to the floor of the House to raise the national debt again. In fact, it is the fifth time under this President that they have raised the national debt: June 2002, May 2003, November 2004, March 2006, May 2006. And do you know what? They are planning to raise it again once the election is over.

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If there is any further clearer evidence that we have a totally irresponsible majority running this country into a fiscal ditch, that is requiring unending borrowing which will saddle our children with a legacy of debt, I do not know what could more perfectly illustrate it than the events unfolding today.

Sign a tax cut, have a fund-raiser, raise the national debt again: That is the fiscal record of this majority. That is why this budget must be defeated.

Mr. PUTNAM. Mr. Speaker, I reserve my time.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, we are here today to observe a surrender. Once again, our moderate Republican colleagues will hand over their tin swords to the Republican leadership. They are very predictable, and they are my friends, and it is nice to have predictable friends. On every important issue, the moderate Republicans have an unfailing three-step approach to the issue: ineffectual protests, abject surrender, and denial.

Now, they told us for a long time that this budget did not have enough funding for important domestic programs. Indeed, as part of this rule, we have what is called a self-executing rule, which adopts a resolution to mollify the consciences of the Republican moderates. Those are easily mollified.

My colleague from Massachusetts said the gentleman from Florida said facts are stubborn things. Facts are very different from the moderate Republicans. They are the very opposite of stubborn things. They are among the most pliable thing known to man or woman.

So they have a resolution which says, in the summary, it recognizes the need to increase the President's Labor-HHS appropriation by not less than $7 billion. It recognizes it. It does not do it. It just recognizes it, and on the basis of being able to recognize what they claim is a defect, they are going to vote for this, and that is the deal that is made. Now, I would have liked to have debated their resolution, but it is self-executing.

People watching, I know we are not supposed to refer to them, but we do not address them directly, but we can explain things to them. It gets a little complicated. People might wonder what do we mean by a self-executing resolution. In this case, it allows the moderate Republicans to execute their own moral principles. That is what is self-executing. It allows them to come forward and say, we wish we had more money for poor people, and we have a resolution that says there is not enough money for poor people, and we will vote for that budget that does not have enough money for poor people because we said it does not have enough money. On that, some people consider themselves to have shown independence.

If that was the spirit of independence that motivated this country 250 years ago, that would be the British flag up there and the representative of the Crown. So I hope we defeat this sham, and maybe the moderate Republicans will grow some spines.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Massachusetts has had some very harsh words for some Members of this body. I would query the gentleman from Massachusetts, if he would agree, how much is enough spending for the gentleman from Massachusetts?

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. PUTNAM. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, well, I will say this. I would say enough would be what the moderate Republicans said, $7 billion more for Labor-HHS. The problem is that they said that was enough, but it is not there. So I would be satisfied if my moderate Republican friends simply lived up to their own declaration.

Mr. PUTNAM. Mr. Speaker, reclaiming my time, this negotiation, this process that yields this budget, recognizes that we have a number of challenges at this point in time, and all points of view recognize that we have to create an environment, a climate for economic growth and strength, and we have to have fiscal restraint.

There is not a blank checkbook, as some, perhaps some from Massachusetts or other parts, might suggest where it is just an ongoing, empty, bottomless pit of spending. You have to be responsible about the taxpayers' money. You have to draw lines around it and prioritize, and we have done that in this budget.

In the minority, you have the luxury of not having to rally behind any one particular proposal. In fact, that is why there are two different substitutes offered that offer at least two very different viewpoints from your own caucus.

We have the obligation, we have the responsibility to actually move a product that changes lives. We have the responsibility to actually pass a budget that implements spending controls on an over $2 trillion Federal budget and put us on a path to cutting the deficit while still securing a climate that allows economic growth and prosperity to continue.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield the gentleman from Massachusetts (Mr. FRANK) 30 seconds so he can respond.

Mr. FRANK of Massachusetts. Mr. Speaker, again, I was simply quoting the moderate Republicans, for one thing.

Secondly, that claim for responsibility and this assumption that they would get the job done would be more impressive if we thought that they in the Senate were going to agree to something.

So, in fact, we had a problem earlier this year where bills passed in somewhat different form in the House and the Senate were signed into law despite the Constitution, and we now know why, because whether it is lobbying and ethics reform or the budget or immigration, the Republican House and the Republican Senate cannot get together.

I will have to say to the gentleman from Florida that beating of your chest and talking about how responsive you are as to beat the moderates into submission would be more impressive if I thought you had any chance of getting an actual budget signed by the Senate.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member on the Appropriations Committee.

Mr. OBEY. Mr. Speaker, for weeks we have been wondering whether the Republican moderates were going to stick to their guns when they said they knew that it was wrong to pass a budget that provided $40 billion in tax cuts for people making $1 million a year while you are squeezing the guts out of education and health programs. We now know the answer. They are doing a poor imitation of Bert Lahr, the Cowardly Lion in "The Wizard of Oz." I wish Bert were here. He would cry at their performance.

The fact is they are now selling out for a promise that if sometime in the deep, dark, distant future somebody does something to change this budget resolution, then there might be a table scrap or two left for additional education and health care. There is about as much chance of that happening as there is of the Chicago Cubs winning the pennant this year.

With respect to what the gentleman from Florida said on education, the fact is the Congress promised the States that on special education we would pay for 40 percent of the costs. Each year for the last 3 years, the Federal share of the cost of special education has been cut by budgets that you have voted for.

You talk about Pell Grants. The fact is it costs $3,400 more to go to a 4-year public college today than it did 5 years ago. The President wanted to solve that by adding $100 to the Pell Grant program. House Republicans said, no, that was too much. You cut it to $50, and then when you sent it to the Senate, you cut out the rest of the 50 bucks.

So, in 5 years you have not done one whit to make it easier for people to go to college by increasing the Pell Grants.

So do not give us your crocodile tears, and do not brag incidentally about how much you have increased education for the last 6 years, because there are $16 billion in the education budget today that would not be there if we had not dragged you kicking and screaming into supporting Labor-Health budgets that in the end were higher than the original House Republican budget.

So I do not mind if the gentleman wants to live in the Land of Oz. Just do not take us there with you.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

It is becoming more and more clear that there is never enough spending, although we will undoubtedly hear from speakers later in the evening who will talk about how they would have fiscal restraint over here, more spending over here, more spending over here and more fiscal restraint over here. They have that luxury being in the minority.

But the bottom line is education funding has gone up year after year after year. Special education funding is at record levels, far higher than it was when the other team was in charge.

Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Texas (Mr. HENSARLING), my good friend from the Budget Committee.

Mr. HENSARLING. Mr. Speaker, I thank the gentleman for yielding, and indeed, it does beg the question, how much Federal spending is enough?

I am reminded yet again that people are entitled to their own opinions, but they are not entitled to their own facts, and, Mr. Speaker, maybe we ought to get a few of the facts on the table. Let us just take a look in our rearview mirror over the last 10 years and see how much money the Federal Government has been spending.

International affairs is up 89.1 percent; natural resources and environment, 43.8 percent; commerce and housing credit, 28.4. Since we have been discussing education training and employment, in 10 years that budget has gone from $53 billion to $114 billion. That is an increase of 113 percent. I mean, Mr. Speaker, how much do we need here in Federal spending? Should it be a 130 percent increase in 10 years, 150, 200?

We have to remember, also, Mr. Speaker, where is this money coming from? Although maybe there is literally a printing press down the road, figuratively there is not one. All of this money is coming from some American family, and every time we are increasing some Federal program, we are taking it away from some family program. Right now, again, budgets are about values, and they are about dollars and cents, and ultimately, this debate does come down again to taxes and spending.

The Democrats have said that we are offering all these great tax cuts. I looked very closely in the budget. I am having a little trouble finding that. What I do find is that we are going to prevent a huge automatic tax increase engineered by the other side. It is very fascinating to me in the Federal city how spending is forever; yet tax relief seems to be temporary.

Our colleagues on the other side of the aisle decry any of the tax relief that has occurred under President Bush's watch. So that means they want to take it away. Well, what does that mean? It means, well, the lowest-income taxpayers will see that their taxes are increased 50 percent. It means we lose the 10 percent bracket. We go to the 15 percent bracket, a 50 percent increase on our lowest-income taxpayers.

Married taxpayers will see the marriage penalty return if they have their way and have their huge automatic tax increases. Taxpayers with children will lose 50 percent of their child tax credits. Taxes on dividends and capital gains could jump as much as 100 percent.

Again, you start to think, well, wait a second, where is all this money coming from? Well, it is coming from families. It is coming from small business.

So how do families all across America afford to send their children to college? How about their education programs? Already, Mr. Speaker, we are now spending over $22,000 per American household. Last year was the first time since World War II that we have reached that level of spending. All that spending has got to be paid for. It has got to be paid for. It has got to be paid for by American families.

Now, again, our friends on the other side of the aisle want to decry all of the tax relief and say that somehow it is the root cause of the deficit, the increase in the national debt. Well, again, they are entitled to their own opinions. They are not entitled to their own facts.

I happen to have in my hand the latest report from the Treasury statement on revenues, which I would be happy to share with any of my colleagues on the other side of the aisle, that says, guess what, we have more tax revenue. We have more tax receipts. Last year tax receipts increased roughly 15 percent. This year we are on track to have tax revenues increase about 11 percent.

Guess what? Since we have allowed American families and small business to keep more of what they earn, they have gone out and they have created jobs, and people pay taxes, and all of the sudden we have more tax revenues. It is kind of hard to make the argument that somehow tax relief that created 5 million new jobs has somehow added to the national debt. Clearly we have a large challenge with our national debt.

Mr. Speaker, I would say it is not because the American people are undertaxed. In fact, I am surprised that our friends on the other side of the aisle are not applauding the President for really presiding over one of the largest tax increases in American history. Here it is right here. We are awash in new revenue, but we did it the right way, Mr. Speaker. We grew the economy. We created jobs.

Now, what happens if you start to take the tax relief away? Well, again, since we have had tax relief, 5 million new jobs have been created. We have the highest rate of homeownership in the entire history of the United States of America, and yet, if you start to take away the tax relief, if you have these automatic tax increases, you lose the jobs. That is just wrong, Mr. Speaker.

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Mr. McGOVERN. Mr. Speaker, I yield myself 10 seconds to just respond to the gentleman.

When President Bush came to office, we had a debt of $5.6 trillion. By the end of this year, it will be over $9 trillion. By the end of his term, he will have doubled it. So you have done such a wonderful job driving this country into deep debt that we are going to have to pass it on to our children and our grandchildren.

Pay as you go is what we are saying over here. You are the ones who are behaving fiscally irresponsibly.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I am sure my colleagues are familiar with the Kenny Rogers song which says you have to know when to hold and know when to fold. I sure would like to be in a poker game with the Republican moderates. They fold before they even see their cards. They got nothing out of this budget deal, and they are going to tell us how wonderfully they did. It is nothing but a promise, and it will be a promise that is not kept.

My colleague from Florida talks about the bottomless pit of spending. Talking about bottomless pits, let us talk about $8 billion in subsidies to the oil industry. Let us talk about another $7 billion in a windfall and not having them pay a royalty tax for the oil they take out of the ground. We just waived it for all of them. And they get a prescription drug bill which has nothing but massive subsidies for the pharmaceutical industry and for the insurance industry. That is where the bottomless pit is.

And you have a tax cut bill, $70 billion, and you cannot find it in your heart to do something for low-income families? I can tell you what people in this country don't know: that if you make $11,000 or less, you are not eligible for a child tax credit. But we see that some of the wealthiest people in this Nation get one very, very big tax break.

Let us take a look at what happened between last week and this week when the majority failed to muster the votes on the budget. Are we no longer staring down the barrel of a $2.2 billion in education cuts, $8.6 billion in cuts to veterans services, and $18.1 billion in health care costs? That is exactly what we are looking at.

And I will tell you, we could pay for this budget's $3 billion shortfall in education, health and workforce training programs with that tax cut's $4.8 billion in breaks that helps corporations like GE and Citicorp increase their profits overseas.

You know, Republicans today are wondering why the American people have lost all faith in their leadership. The goal of the budget ought to be to benefit the common good. That may seem like a novelty to this Republican majority, but the country is crying out for that leadership.

Mr. PUTNAM. Mr. Speaker, I would point out to the gentlewoman, who has apparently not had an opportunity to review the budget, that there is an additional $3.1 billion reserve fund for domestic priorities; $3.1 billion additional for Labor, Health and Human Services, and Education. And in addition to that, we budget for emergencies. We draw lines around the restraint that is necessary to keep the deficit on a path to be cut in half in 5 years. We keep the economy growing.

They rail against the $70 billion that were involved in tax reconciliation that prevents taxes from going up today, yet their own budget has $150 billion. Which is it? They talk about not having enough money in our side of the budget, and yet they rail about the deficit.

You can't have it both ways. Well, I guess you can if you are on the floor of the House arguing against a responsible budget plan.

This bill lays out a responsible roadmap towards shrinking the deficit, keeping the economy strong and growing, and being able to look constituents in the eye about the levels of spending. It does not open up a bottomless pit of spending, as some would prefer on the other side of the aisle, where enough is never enough. We recognize that trade-offs have to be made in businesses, in families, and in the Federal Government, and it is important that we look at both sides of the ledger, discretionary and mandatory.

The only thing that my friends on the other side of the aisle could find to clap about in the State of the Union Address was our President and our leadership's noble attempt to rein in mandatory spending, something that both parties' think tanks on each side of the ideological spectrum and administrations of each political party have agreed is in desperate need of help. Yet they can only take glee in the fact that they shut down the first real attempt to reform mandatory spending in a generation.

This budget lays out a framework for reform, restraint, and economic growth, and they are trying to have it not just both ways, but three or four or five different ways.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 5 seconds to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. The gentleman from Florida should not continue to fool the American public. There is no new funding in this bill for health, education and other programs.

Mr. McGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. MCDERMOTT).

Mr. McDERMOTT. Mr. Speaker, May is Foster Care Appreciation Month, when the Nation honors those who open their hearts and homes to America's most vulnerable children. These are children who cannot live at home because it isn't safe.

How ironic and out of touch that the Republican majority should choose May to bring out a budget that neglects America's neglected children by obliterating the funding for the Social Services Block Grant program. This program funds America's response to the SOS of neglected children who need us to protect them.

The Republicans have other priorities: Giving the rich more money. The Republicans believe a safe house for a child is a mansion for the rich, so they will cut $500 million out of these programs which help the poor in order to give away millions to the rich.

There is no home, no heart and no shame in this Republican budget. They take care of the top 1 percent. They cannot give enough to those people at the top. They cannot borrow enough to give to those people at the top. And they forget about everybody else, including the foster children. That is the American way for the Republicans.

I offered an amendment to change this. They turned it down. Vote "no" on this budget.

Mr. PUTNAM. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, I speak tonight as a cochair of the Blue Dog Coalition, a group of fiscally conservative Democrats, and I speak tonight with some disappointment because I am one in this Chamber who knows how hard it is to put together a budget. It is a tough job that the majority has.

I am sorry that my friends who are moderate Republicans sold out so cheap. And I am even sorrier that my friends who are part of the Republican Study Committee did not get more of what they wished. But it is tough to put together a budget.

In all this blizzard of words and numbers we have been hearing about tonight, there is one central principle that should guide the Members here, at least the ones who are listening and not already at the big Republican fundraiser tonight, and that one central principle that should guide our deliberations is the principle that not only I hold dear, but Alan Greenspan, the former Chairman of the Federal Reserve, one of the great financial minds in this country, said was the single most important reform that this House could undertake. And what is that? It is called pay as you go.

We had it in this country from 1990, under the first President Bush, all the way through the second President Bush. We had it for 12 years, from 1990 to 2002, and then the Republican majority let it expire. But Alan Greenspan said it was the single most important thing we could do to regain our fiscal balance, our fiscal sanity. Yet there is no real pay as you go in the Republican budget. There is in the Democratic budget.

That is why on behalf of the Blue Dogs I urge all of our Members who care about Alan Greenspan, who care about pay as you go, who care about fiscal sanity to vote for PAYGO. Because that is the principle that every family back home understands. If you want something, pay for it.

That is what the Democratic budget does, and I am proud to vote for the Democratic budget tonight.

Mr. McGOVERN. Mr. Speaker, at this time I yield 2 minutes to the distinguished gentleman from California (Mr. COSTA).

Mr. COSTA. Mr. Speaker, I thank the gentleman from Massachusetts for yielding 2 minutes.

Mr. Speaker, I served in the California Legislature for 24 years, half of which was spent in a leadership role, and I believe I know how to engage in a bipartisan process. Unfortunately this budget resolution is not a bipartisan process.

Rather than provide the House with an opportunity to engage in serious and meaningful budget discussions, we are left with this "take it or leave it" package. Today this body acts in a de facto parliamentary fashion. Rather than consider the constructive and realistic solutions to our budget problems, like the Blue Dog 12-point plan that was referenced by Mr. COOPER, that includes a pay-as-you-go provision, we are left with this proposal as our only option. It is a Hobson's choice, which I believe is no choice at all.

Rather than do what our constituents expect us to do, discuss, debate, and have meaningful oversight, make tough policy choices, we are left with a budget package within a failed budget process that is nothing more than a fig leaf to cover a host of fiscal policy shortcomings that have resulted in massive budget deficits over the last 5 years. It is a chronic case of wanting to have your cake and eat it, too.

We cannot continue to tell the American people they can have tax cuts, increased spending, and not impact our budget deficits, but that is what this budget resolution does. I do not believe that a majority of Americans support this way of doing the people's business. They expect us, as adults, to work together to solve the fiscal problems of our Nation. Unfortunately, that is not what is happening in this effort, and I unfortunately must oppose this budget resolution.

Mr. PUTNAM. Mr. Speaker, the gentleman from California and the speaker before him from Tennessee made reference to the Blue Dog budget, and, in fact, there was even reference to how difficult it is to produce a budget. Well, apparently it is so difficult they couldn't do it because there is no Blue Dog substitute.

I tip my hat to the Progressive Caucus. They managed to produce a budget that we will debate on this floor. It is an alternative view of where this Nation ought to be headed. I don't agree with it, but they made the tough decisions to put it together, embody it in an amendment, and put it to debate on this floor. I tip my hat to Mr. SPRATT, the distinguished ranking member of the committee. They have a substitute amendment.

The Blue Dogs are all bark and no bite. No budget substitute was offered. Apparently putting together a budget that met their own internal divisions proved too difficult in the end.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. BACA).

Mr. BACA. Mr. Speaker, I rise and urge the defeat of this previous question.

It should come as no surprise to anyone in this country that Democrats and Republicans differ in their priorities for America. With the White House set to vote on the budget tonight, I as a Blue Dog oppose the majority party's misguided plan which will result in a staggering $10 trillion deficit by the year 2010.

The Blue Dog 12-step reform plan is a comprehensive, responsible alternative to the meager attempt to reform and contain the Republican budget. The Blue Dog plan is based on a commitment to resolving the fiscal problems facing our country that includes a call for a balanced budget, strict spending plan, and a pay-as-you-go rule, especially establishing a rainy day justification.

The budget resolution debated tonight will cut critical programs in order to pay for millionaire tax cuts, cuts to food stamps, the WIC program, the school lunch program, the breakfast program, student financial assistance, Community Development Block Grants, veterans health care, and funding to help local law enforcement, to name a few.

I ask our colleagues to defeat this budget. We need to help those poor and disadvantaged, our veterans, our health block grants, and students who need an education.

Mr. PUTNAM. I would ask the gentleman where the Blue Dog budget is? Where is the Blue Dog substitute amendment? We are looking for it. We can't find it. There is no Blue Dog substitute amendment. It is back on the porch. It is in the pound. It is in the kennel. I don't know where it is.

There is a progressive substitute. There is a Spratt substitute. There is no Blue Dog substitute.

Mr. BACA. There is a pay as you go.

Mr. PUTNAM. There is not a Blue Dog substitute.

Mr. BACA. Then you should look at the pay-as-you-go plan. You know that? It is there.

Mr. PUTNAM. Reclaiming my time, Mr. Speaker.

The SPEAKER pro tempore (Mr. KUHL of New York). The gentleman will suspend.

Mr. PUTNAM. There have been three references to a Blue Dog substitute that is mythical. It is as mythical as the $727 billion tax gap, Wizard of Oz smoke and mirrors that is in one of the other substitutes. It is as mythical as the numbers that they use to pay for their increased spending.

There is no such thing. There is not a substitute amendment.

Mr. BACA. That is why we are supporting the Democratic substitute amendment, and that is pay as you go. The Democratic substitute budget.

The SPEAKER pro tempore. The gentleman will suspend. The gentleman from Florida has the floor.

Mr. PUTNAM. Well, Mr. Speaker, I think it is pretty clear we made our point.

Mr. Speaker, I reserve the balance of my time.

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Mr. McGOVERN. Mr. Speaker, I reserve the balance of my time.

Mr. PUTNAM. Mr. Speaker, I yield 1 minute to my good friend from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Speaker, I don't know if I would be happier if Americans are watching this debate, or if they are not watching the debate. I am an auctioneer and it sounds almost like an auction: no matter how much we spend it is not enough. But here is something I think all Members need to be aware of. Next year the taxpayers are going to generously provide this Congress and this Federal Government with a 12 percent increase in revenue. Over the next 5 years, the estimate is it will be at least an increase averaging 5.4 percent per year. Now that is at a time when we expect the inflation rate will be somewhere less than 3 percent. In other words, revenue to the Federal Government will be almost double what we project the inflation rate to be.

And Americans watching at home are asking a simple question: Why can't you live within your means? And that is what this budget is about. That is what this debate is about. And I think Americans watching at home must be wondering, how in the world, why is it with a 12 percent increase next year and a 5½ percent increase averaging over the next 5 years, why can't you figure it out to live within your means?

Mr. McGOVERN. Mr. Speaker, I reserve the balance of my time.

Mr. PUTNAM. Mr. Speaker, I yield 1 minute to the distinguished majority leader, the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, let me first congratulate the chairman of the Budget Committee, Mr. NUSSLE. This is his sixth year chairing the Budget Committee. As I think most of my colleagues know, it has been six tough years, and Mr. NUSSLE has done a very, very good job in bringing us to this point. And I want to congratulate him and wish him well as he decides to leave the House and to pursue other political interests in the State of Iowa.

I think all of us know that we have been through a long, arduous process to bring this budget to the floor tonight. It has been months of conversations with Members, not always easy; certainly it has been very difficult. But the process has allowed us to better understand each other, understand our needs, and understand the needs of the American people.

As one of my colleagues earlier was pointing out, revenues to the Federal Government grew last year at over 11 percent. Revenues to the Federal Government this year are going to grow at over 12 percent, which really, I think, speaks volumes, that lowering tax rates does not necessarily mean lower revenues to the Federal Government.

If you look at what we did in the late 1990s when we balanced the budget, it was revenue growing to double digits rates and us holding the line on spending. And I know there is a lot of well-meaning, well-intentioned spending that people would like. But we can't continue to spend our kids' and their kids' inheritance every year, which has gone on here far too long. And if you look at what we are doing here, with revenues rising and holding the line on spending, we can, in fact, balance the budget in the next 4 or 5 years. It is very possible. And so I want to thank all of my colleagues for working with us to get to this point.

I want to yield to my colleague from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I thank the majority leader for yielding to me, and I would just like to go through with him and for the edification of those who may not be that familiar with it, some of the negotiations that have been going on with respect to this.

First of all, there are those of us who were concerned about the President's budget, Mr. Majority Leader, and we called that to your attention early on. It is a little bit unusual to be dealing with this at budget time because we are basically with one of the appropriations. And I agree with you that the gentleman from Ohio has done a wonderful job on this. I don't always vote for his budgets, but he has certainly done a wonderful job dealing with this over the years.

But in this particular circumstance, what came down from the President was not satisfactory to some of us, and so I prepared an amendment to increase the Labor HHS Education allocation by $7.158 billion. We then entered into the negotiations.

I don't remember any time precedence for that in the time that I have been here which has happened at the level of dealing with a specific allocation when we are dealing with the budget. Basically, we were concerned about health accounts. We wanted them increased by $1.1 billion, education accounts by 4.6; LIHEAP by 1.3 was the primary focus here. I tried to bring it to 2006 funding plus 2 percent for inflation.

We had negotiations with you, sir; we had negotiations with the chairman of the Appropriations Committee and other House leaders as well. And let me just thank you very much for that. That has not always been the case, and we are very appreciative of it.

Eventually, a decision was made by the leadership to transfer over $6 billion which was shifted from defense in foreign operations without raising the cap at all with respect to the 302(a) number and $4.1 billion of that went to Labor, HHS, Education, which is $843 million more than was received in 2006.

Obviously, this is an important budget to many of us because we are concerned about what happens at home. This relates to health research, which is vital to all of us I think, to IDEA, to Centers for Disease Control, afterschool care, vocational education and the National Institutes of Health, just to name a few. And so we increased it by that particular amount of money.

In further negotiations with Mr. LEWIS and with you, we also established some other areas of concern that would be addressed, that is, community development block grants, the Byrne and COPS grants all would be at the 2006 levels, and the President's competitive initiative would be funded at his requested level. So all this was arranged as a matter of negotiation.

There was actually another billion dollars to homeland security and approximately $500 million to agriculture and $500 million to energy and water as part of this.

This is probably not ideal. And I am sure there are those who would get up and say, well, gee, why didn't you get the whole loaf? Well, I frankly don't know of anyone who has ever gotten this kind of change made in the budget after the budget has been introduced in terms of building to that.

And more importantly, we have an assurance from you, for whom I have a great deal of respect and trust, having worked with you and listening to your word on the Education Committee all these years, that this will be done, that we'll eventually get to the $7.158 billion, that we may get to it before we actually vote on the Labor, HHS, Education bill in the House or perhaps later when it might come out of conference. And that is very important as well. That has been repeated again and again and I think needs to be reiterated here today.

Then that raises the question of if this is an assurance or a sense of Congress, versus real money, which is what it really is when you get right down to it. We have received commitments that that additional $3 billion will not come from mandatory programs that serve the people we are trying to help, like Medicaid and Medicare, food stamps, foster programs and others. We want to make sure that any offsets are carefully crafted and our group of about 20 people that has been involved with this has no intentions of supporting reductions which would adversely affect the neediest among us who we are trying to help by this. And I think it is very important that everybody understand that we have had that discussion as well in terms of where we are going as far as the future is concerned. So I would like to thank you for the negotiations.

With that, I do support the budget; and, sure, I would like to have the whole loaf, so to speak, if we could. But I understand why we are not there now, and perhaps there will be other changes actually before we vote on this. I don't know.

Mr. BOEHNER. Reclaiming my time, I thank my colleague from Delaware for his willingness to work through these long several months. I think you have very accurately portrayed the agreements that we have come to. And it is important to understand that we were able to do this without spending $1 more than what the President asked for. The $873 billion, 302(a) discretionary cap remains in effect. But moving the priorities around to meet the needs of our various Members is how we were able to do this. And any additional spending on the Labor, HHS bill at the end of the day is either going to have to be offset or come from other 302(b) accounts.

And the commitment is that we will get there at the end of the day. We will work with Members across the spectrum in terms of how we get there. But the important thing is that we are able to meet the needs of all of our Members without exceeding the President's numbers.

So I want to thank my colleague, tell him how much I have enjoyed working with him and all of the members of our conference. I am just glad that we are here.

Mr. McGOVERN. Mr. Speaker, I yield 30 seconds to the distinguished gentleman who is the ranking member on our Budget Committee, Mr. SPRATT.

Mr. SPRATT. I have great respect for the distinguished majority leader, but I have to take exception when he says if we hold the line on spending and let revenues continue, we will balance the budget in 5 years. The deficit this year without offsetting Social Security per this resolution for next year will be $545 billion. In 5 years, according to this resolution, it will be $428 billion.

During that same period of time between 2002 and 2011, the debt of the United States will grow to $11.3 trillion. That is twice its level when President Bush came to office. I don't think we are making the progress that we must make if we are really to get this problem under control.

Mr. McGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Speaker, I am still trying to decipher that colloquy. And it sure looked, smelled and felt like sleight of hand, so chances are it probably was.

But, Mr. Speaker, I rise tonight in support of the Democratic substitute, mainly for two reasons: because of the values and the priorities that are reflected in our budget, but also because of another important reason, and that is the budget disciplinary tool that we have called pay-as-you-go that they refuse to implement in their budget. Pay-as-you-go was something that worked very well in the 1990s, which gave us 4 years of budget surpluses where we were actually paying down the national debt, not becoming more dependent on China to be financing our deficits, which is the fiscal policy that they are pursuing. These are real choices that we have to make and pay-as-you-go is one real choice that is distinguished in the Democratic substitute.

The reason why their numbers don't add up is because there is a complete disconnect between their tax-and-spending policy. It is because too many of them believe in this concept of dynamic scoring which means four minus two equals three, not two. And if any third grader today taking their No Child Left Behind math test submitted an answer, four minus two equals three, they would fail and their school would be labeled as a failing school. And that is the problem with the fiscal policies under the majority today. They are failing the American people by leaving a legacy of debt for our children.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

I have a great deal of respect for my friend from Wisconsin with whom we have worked on the budget. The challenges I see with the Democratic substitute are ones that we have pointed out earlier. They depend upon money that doesn't exist to make their numbers work, a tax gap of $727 billion that the IRS can't find.

Well, if the IRS can't find it, does the other side know where it is? If we have been looking for it for all this time, but they know where it is to the point that they have budgeted it, $727 billion to make their numbers work, then they must have some better insight as to where that gap is.

It is smoke and mirrors. The CBO won't even score it. The CBO scores it as a zero revenue raiser. And yet they are depending on it for $727 billion.

They only allocate $150 billion in their substitute for tax relief. And yet we have had opportunities on this House floor for half that amount that they have rejected. We had opportunities to prevent the AMT from impacting millions of middle-class Americans. Rejected. Preventing capital gains rates from going up which have allowed revenues to the government to increase, 11, 12 percent. Dividend taxes, preventing those from going up. They have rejected that. But they put $150 billion in their own substitute, which doesn't even cover the child tax credit, the marriage penalty, the death tax, the whole host of other issues. The numbers don't add up.

Ours is the responsible, comprehensive blueprint. We deal with a freeze, a near freeze on discretionary spending, non-defense discretionary spending. We deal with the mandatory side of the ledger which is now over half of Federal spending, something that the Blue Dogs claim that they are concerned about, something that fiscal hawks on the other side claim that they are concerned about; and it is nowhere to be found in their substitute.

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Ours is the only budget that is comprehensive, responsible, and honest about the challenges that are facing this great land.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 15 seconds to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, for the sake of clarification, there is no assumption in our budget resolution about a tax gap, realizing a tax gap. We did use that concept as an offset in the budget markup, but it is not in the budget resolution. There is no assumption to that effect at all.

Mr. McGOVERN. Mr. Speaker, I yield myself the balance of my time.

If the previous question is defeated, I will modify this rule to provide that immediately after the House passes this rule, it will take up legislation to restore fiscal responsibility to the congressional budget process.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. McGOVERN. Mr. Speaker, this bill will do two very important things.

First, it will reinstate the pay-as-you-go requirement that was in the Balanced Budget and Emergency Deficit Control Act that expired in 2002. The bill will restore the PAYGO provision and extend it through the year 2011.

Mr. Speaker, the budget process may be complicated, but one thing is clear: We should be required to pay for new spending and tax breaks instead of running the highest deficits in the history of our country. The message is simple: If you want more tax breaks for millionaires, then pay for them. Our constituents have to take responsibility for their personal spending and their personal debt. So should we.

In addition, this bill will repeal rule XXVII, the House rule that blocks a direct vote on increasing the Federal debt limit, thereby shielding Members of this House from any responsibility for the massive rise in the debt ceiling. Under this rule, simply passing the budget effectively triggers an automatic increase in the debt ceiling. Members never have to get their hands dirty or explain to their constituents why our national debt continues to skyrocket to numbers that are so massive that they are almost impossible to comprehend. They never have to take a position or provide a reason. They can just pretend that it happened without any way to stop it. And to make this even worse, it only happens in the House. The Senate will still vote for the debt limit increase directly.

This Republican budget resolution calls for yet another increase in the debt limit by $653 billion, bringing our total debt limit to $9.6 trillion. Democrats believe that we should repeal House rule XXVII and require a straight up-or-down vote on raising the Federal debt limit.

I say to my colleagues, take responsibility. Show some backbone. Have some courage and explain to the American people why you are driving this country into debt.

I urge a "no" vote on the previous question.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. PUTNAM. Mr. Speaker, I rise to make two clarifications. One, to my friend from Massachusetts, I would clarify that the rule he seeks to repeal is commonly known as the Gephardt rule. Secondarily, I would clarify the clarification made by my friend Mr. SPRATT that on page 51, lines 13 through 19 of the legislation known as the Spratt amendment, there is tax relief that is provided; the additional revenue loss is offset such as through the recovery of a portion of unpaid revenue, commonly known as the tax gap, which we referred to. So that is a portion of their amendment.

Mr. McGOVERN. Mr. Speaker, will the gentleman yield?

Mr. PUTNAM. I yield to the gentleman from Massachusetts.

Mr. McGOVERN. Mr. Speaker, just for clarification, the so-called Gephardt rule expired, and then it was reinstated by the Republican majority; so it is now the Hastert rule.

Mr. PUTNAM. We like to give credit where credit is due, and being big fans of intellectual property rights, since we protect intellectual property, the real creative genius in that belongs to Mr. Gephardt.

To my friend from Massachusetts, we have had a speaker come in since I said to you that I had no further speakers, and I would inquire as to whether you objected to allowing him to speak for 2 minutes.

Mr. McGOVERN. No, I would not object.

Mr. PUTNAM. Very well.

I would yield 2 minutes to my friend from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank my friend for yielding, and I thank my friend from Massachusetts as well.

I have to say I just got in on the tail end of this, but I wanted to come down and say I think that allowing these budgets to be discussed tonight is a good thing. The Democrats will have two budgets that they are offering. The Republicans will have one, and we had the other one; so I guess it is two to two. I know we would have 435 individual budgets if everybody could have something that they fully believed in. But, unfortunately, in a large body of 435 people where you have to have 218 votes or at least a plurality to get something done, you have got to leave behind some budgets.

And I think this is going to give us a night of some good debates. We will be able to discuss priorities, both priorities in spending and priorities in cutting and reducing and changing the face of government.

I want to point out that last year, and Mr. PUTNAM may remember, but I believe we passed the budget finally, and Mr. SPRATT might know, 214–212, which somewhat shows the precarious position of a dynamic body, that if you moved spending up a little bit, you would not have been able to pass it. If you reduced it a little bit, you would not have been able to pass it.

So in this large institution we had a budget that just was balanced as we could get it, and I think we are probably going to be heading in that direction again. And I do not think that is a bad thing. I think all this debating is good, and that our arguments that we will have tonight in a friendly spirit will also carry on to each of the 11 appropriation bills. I guess these days, 10 subcommittees, but these things will be carried on, and we will see them again and again in committee and subcommittee form.

The material previously referred to by Mr. McGOVERN is as follows:

PREVIOUS QUESTION ON H. RES. 517, RULE FOR H. CON. RES. 376—THE FY07 CONCURRENT BUDGET RESOLUTION

At the end of the resolution add the following new sections:

"SEC. 3. Immediately upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House a bill consisting of the text specfied in Section 4. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) 60 minutes of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget; and (2) one motion to recommit with or without instructions.

"SEC. 4. The text referred to in section 3 is as follows:".

H.R. .

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Restoring Fiscal Responsibility to the Congressional Budget Process Act of 2006".

SEC. 2. REINSTATEMENT OF PAY-AS-YOU-GO REQUIREMENT.

(a) SECTION 252 AMENDMENTS.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "2002" both places it appears and inserting "2011".

(b) SECTION 275 AMENDMENT.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "2006" and inserting "2015".

SEC. 3. VOTING TO CHANGE THE STATUTORY LIMIT ON THE PUBLIC DEBT.

The Rules of the House of Representatives are amended by repealing rule XXVII and by redesignating rule XXVIII as rule XXVII.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusel of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution * * * [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule * * * When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Descher's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

The SPEAKER pro tempore. All time for debate has expired.

The question is on ordering the previous question on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McGOVERN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 7 o'clock and 7 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 2000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SHIMKUS) at 8 p.m.

PROVIDING FOR FURTHER CONSIDERATION OF H. CON. RES. 376, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2007

The SPEAKER pro tempore. The pending business is the vote on ordering the previous question on House Resolution 817 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 224, nays 193, not voting 15, as follows:

[Roll No. 153]

YEAS—224

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cantor
Capito
Carter
Castle
Chabot
Chocola
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NAYS—193

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Herseth
Higgins
Hinchey
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—15

Cannon
Coble
Evans
Harman
Hinojosa
Jones (NC)
Kennedy (RI)
Larson (CT)
Matsui
Neugebauer
Sabo
Sanchez, Loretta
Stupak
Tiahrt
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 2027

Mr. BISHOP of Georgia and Mrs. McCARTHY changed their vote from "yea" to "nay."

Mr. WALSH changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Mr. NEUGEBAUER. Mr. Speaker, on rollcall No. 153 I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. TIAHRT. Mr. Speaker, on rollcall No. 153. I was unavoidably delayed. Had I been present, I would have voted "yea."

Stated against:

Mr. HINOJOSA. Mr. Speaker, on rollcall No. 153, had I been present, I would have voted "no."

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 226, noes 193, not voting 13, as follows:

[Roll No. 154]

AYES—226

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOES—193

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—13

Coble
Davis, Tom
Evans
Harman
Kennedy (RI)
Larson (CT)
Matsui
Moran (VA)
Sabo
Sanchez, Loretta
Stupak
Tiahrt
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 2037

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. TIAHRT. Mr. Speaker, on rollcall No. 154, I was unavoidably delayed. Had I been present, I would have voted "yea."

MAKING IN ORDER AMENDMENT NO. 3, AS MODIFIED, DURING FURTHER CONSIDERATION OF H. CON. RES. 376, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2007

Mr. SPRATT. Mr. Speaker, I ask unanimous consent that during consideration of House Concurrent Resolution 376, pursuant to House Resolution 817, the amendment that I have placed at the desk may be in order in lieu of amendment No. 3 printed in part B of House Report 109–468.

This amendment modifies the amendment I submitted to the Rules Committee last month to increase the emergency spending for natural disasters from $4.348 billion to $6.45 billion. The House has just passed a rule increasing the base bill by that amount, and my amendment, the amendment at the desk, raises the level in my substitute to the chairman's new level. It simply puts the two of them on parity with respect to this particular number.

The SPEAKER pro tempore (Mr. KIRK). Is there objection to the request of the gentleman from South Carolina?

Mr. NUSSLE. Mr. Speaker, reserving the right to object, and under that reservation, I want to thank the gentleman for his explanation. Just so I understand, I believe, and for Members' clarification too, what the gentleman from South Carolina is doing is basically matching the amount of money that we have set aside in our emergency reserve fund to begin this process to actually plan for and budget for emergencies. We are setting aside $6.45 billion for the first time ever to actually plan for emergencies. And what the gentleman from South Carolina is doing is he is matching that. The only thing I observe is that it is just a dollar amount. There is no procedure that you are adding to your amendment. In other words, there is no definition of an emergency; there is no reserve fund that specifically says this is for emergencies. There is no criteria for emergencies, just the amount of money is set aside.

Mr. SPRATT. If the gentleman will yield, the chairman is correct. First, unlike your bill, the base bill, we do not create a reserve fund within the budget resolution. Instead, we rely on the powers granted to the chairman under section 314 of the Congressional Budget Act. Second, we do not establish emergency criteria. And, thirdly, we do not create a procedure that further involves the Budget Committee.

Mr. NUSSLE. I thank the gentleman. We will have more discussion about this during the debate on his amendment.

I withdraw my reservation.

The SPEAKER pro tempore. Without objection, the new form of the amendment is considered as read.

There was no objection.

The text of the amendment, as modified, is as follows:

Strike all after the resolving clause and insert the following:

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2007.

The Congress declares that this is the concurrent resolution on the budget for fiscal year 2007, including appropriate budgetary levels for fiscal years 2008 through 2016.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for each of fiscal years 2007 through 2016:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2007: $1,793,599,000,000.
Fiscal year 2008: $1,907,776,000,000.
Fiscal year 2009: $2,017,571,000,000.
Fiscal year 2010: $2,121,977,000,000.
Fiscal year 2011: $2,343,071,000,000.
Fiscal year 2012: $2,547,527,000,000.
Fiscal year 2013: $2,679,797,000,000.
Fiscal year 2014: $2,821,098,000,000.
Fiscal year 2015: $2,972,309,000,000.
Fiscal year 2016: $3,133,156,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should, be reduced are as follows:

Fiscal year 2007: $26,000,000,000.
Fiscal year 2008: $14,000,000,000.
Fiscal year 2009: $14,000,000,000.
Fiscal year 2010: $14,000,000,000.
Fiscal year 2011: $14,000,000,000.
Fiscal year 2012: $14,000,000,000.
Fiscal year 2013: $14,000,000,000.
Fiscal year 2014: $14,000,000,000.
Fiscal year 2015: $13,000,000,000.
Fiscal year 2016: $13,000,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2007: $2,300,827,000,000.
Fiscal year 2008: $2,359,859,000,000.
Fiscal year 2009: $2,459,512,000,000.
Fiscal year 2010: $2,573,807,000,000.
Fiscal year 2011: $2,701,041,000,000.
Fiscal year 2012: $2,749,656,000,000.
Fiscal year 2013: $2,885,304,000,000.
Fiscal year 2014: $3,007,982,000,000.
Fiscal year 2015: $3,141,146,000,000.
Fiscal year 2016: $3,314,505,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2007: $2,332,758,000,000.
Fiscal year 2008: $2,381,732,000,000.
Fiscal year 2009: $2,460,024,000,000.
Fiscal year 2010: $2,564,336,000,000.
Fiscal year 2011: $2,688,386,000,000.
Fiscal year 2012: $2,723,784,000,000.
Fiscal year 2013: $2,863,459,000,000.
Fiscal year 2014: $2,985,643,000,000.
Fiscal year 2015: $3,118,777,000,000.
Fiscal year 2016: $3,298,256,000,000.

(4) DEFICITS (ON-BUDGET).—For purposes of the enforcement of this resolution, the amounts of the deficits (on-budget) are as follows:

Fiscal year 2007: $539,159,000,000.
Fiscal year 2008: $473,957,000,000.
Fiscal year 2009: $442,453,000,000.
Fiscal year 2010: $442,360,000,000.
Fiscal year 2011: $345,315,000,000.
Fiscal year 2012: $176,257,000,000.
Fiscal year 2013: $183,661,000,000.
Fiscal year 2014: $164,545,000,000.
Fiscal year 2015: $146,468,000,000.
Fiscal year 2016: $165,100,000,000.

(5) DEBT SUBJECT TO LIMIT.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, the appropriate levels of the public debt are as follows:

Fiscal year 2007: $9,167,000,000,000.
Fiscal year 2008: $9,752,000,000,000.
Fiscal year 2009: $10,302,000,000,000.
Fiscal year 2010: $10,849,000,000,000.
Fiscal year 2011: $11,291,000,000,000.
Fiscal year 2012: $11,577,000,000,000.
Fiscal year 2013: $11,860,000,000,000.
Fiscal year 2014: $12,123,000,000,000.
Fiscal year 2015: $12,364,000,000,000.
Fiscal year 2016: $12,610,000,000,000.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of debt held by the public are as follows:

Fiscal year 2007: $5,313,000,000,000.
Fiscal year 2008: $5,585,000,000,000.
Fiscal year 2009: $5,808,000,000,000.
Fiscal year 2010: $6,013,000,000,000.
Fiscal year 2011: $6,105,000,000,000.
Fiscal year 2012: $6,017,000,000,000.
Fiscal year 2013: $5,928,000,000,000.
Fiscal year 2014: $5,814,000,000,000.
Fiscal year 2015: $5,678,000,000,000.
Fiscal year 2016: $5,555,000,000,000.

SEC. 102. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority and outlays for fiscal years 2006 through 2016 for each major functional category are:

(1) National Defense (050):
Fiscal year 2007:
(A) New budget authority, $512,901,000,000.
(B) Outlays, $534,858,000,000.
Fiscal year 2008:
(A) New budget authority, $484,661,000,000.
(B) Outlays, $505,516,000,000.
Fiscal year 2009:
(A) New budget authority, $504,753,000,000.
(B) Outlays, $505,874,000,000.
Fiscal year 2010:
(A) New budget authority, $514,858,000,000.
(B) Outlays, $512,573,000,000.
Fiscal year 2011:
(A) New budget authority, $525,781,000,000.
(B) Outlays, $524,894,000,000.
Fiscal year 2012:
(A) New budget authority, $538,838,000,000.
(B) Outlays, $528,111,000,000.
Fiscal year 2013:
(A) New budget authority, $552,025,000,000.
(B) Outlays, $544,786,000,000.
Fiscal year 2014:
(A) New budget authority, $565,541,000,000.
(B) Outlays, $558,050,000,000.
Fiscal year 2015:
(A) New budget authority, $579,657,000,000.
(B) Outlays, $571,880,000,000.
Fiscal year 2016:
(A) New budget authority, $594,030,000,000.
(B) Outlays, $590,776,000,000.

(2) International Affairs (150):
Fiscal year 2007:
(A) New budget authority, $31,235,000,000.
(B) Outlays, $34,289,000,000.
Fiscal year 2008:
(A) New budget authority, $34,225,000,000.
(B) Outlays, $33,429,000,000.
Fiscal year 2009:
(A) New budget authority, $34,222,000,000.
(B) Outlays, $33,319,000,000.
Fiscal year 2010:
(A) New budget authority, $33,943,000,000.
(B) Outlays, $33,167,000,000.
Fiscal year 2011:
(A) New budget authority, $34,382,000,000.
(B) Outlays, $32,806,000,000.
Fiscal year 2012:
(A) New budget authority, $35,110,000,000.
(B) Outlays, $32,577,000,000.
Fiscal year 2013:
(A) New budget authority, $35,926,000,000.
(B) Outlays, $33,075,000,000.
Fiscal year 2014:
(A) New budget authority, $36,795,000,000.
(B) Outlays, $33,701,000,000.
Fiscal year 2015:
(A) New budget authority, $37,623,000,000.
(B) Outlays, $34,456,000,000.
Fiscal year 2016:
(A) New budget authority, $38,428,000,000.
(B) Outlays, $35,206,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 2007:
(A) New budget authority, $25,938,000,000.
(B) Outlays, $25,108,000,000.
Fiscal year 2008:
(A) New budget authority, $26,946,000,000.
(B) Outlays, $25,964,000,000.
Fiscal year 2009:
(A) New budget authority, $27,943,000,000.
(B) Outlays, $26,930,000,000.
Fiscal year 2010:
(A) New budget authority, $29,110,000,000.
(B) Outlays, $28,000,000,000.
Fiscal year 2011:
(A) New budget authority, $30,339,000,000.
(B) Outlays, $29,164,000,000.
Fiscal year 2012:
(A) New budget authority, $30,914,000,000.
(B) Outlays, $30,028,000,000.
Fiscal year 2013:
(A) New budget authority, $31,471,000,000.
(B) Outlays, $30,647,000,000.
Fiscal year 2014:
(A) New budget authority, $32,037,000,000.
(B) Outlays, $31,225,000,000.
Fiscal year 2015:
(A) New budget authority, $32,631,000,000.
(B) Outlays, $31,804,000,000.
Fiscal year 2016:
(A) New budget authority, $33,228,000,000.
(B) Outlays, $32,395,000,000.

(4) Energy (270):
Fiscal year 2007:
(A) New budget authority, $2,476,000,000.
(B) Outlays, $949,000,000.
Fiscal year 2008:
(A) New budget authority, $2,688,000,000.
(B) Outlays, $708,000,000.
Fiscal year 2009:
(A) New budget authority, $2,544,000,000.
(B) Outlays, $1,010,000,000.
Fiscal year 2010:

(A) New budget authority, $2,591,000,000.

(B) Outlays, $1,109,000,000.

Fiscal year 2011:

(A) New budget authority, $2,606,000,000.

(B) Outlays, $1,112,000,000.

Fiscal year 2012:

(A) New budget authority, $2,539,000,000.

(B) Outlays, $1,456,000,000.

Fiscal year 2013:

(A) New budget authority, $2,623,000,000.

(B) Outlays, $1,376,000,000.

Fiscal year 2014:

(A) New budget authority, $2,707,000,000.

(B) Outlays, $1,661,000,000.

Fiscal year 2015:

(A) New budget authority, $2,792,000,000.

(B) Outlays, $1,844,000,000.

Fiscal year 2016:

(A) New budget authority, $2,887,000,000.

(B) Outlays, $1,915,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 2007:

(A) New budget authority, $32,549,000,000.

(B) Outlays, $34,328,000,000.

Fiscal year 2008:

(A) New budget authority, $32,951,000,000.

(B) Outlays, $33,641,000,000.

Fiscal year 2009:

(A) New budget authority, $34,243,000,000.

(B) Outlays, $34,469,000,000.

Fiscal year 2010:

(A) New budget authority, $34,913,000,000.

(B) Outlays, $35,166,000,000.

Fiscal year 2011:

(A) New budget authority, $35,359,000,000.

(B) Outlays, $35,542,000,000.

Fiscal year 2012:

(A) New budget authority, $36,361,000,000.

(B) Outlays, $36,443,000,000.

Fiscal year 2013:

(A) New budget authority, $37,229,000,000.

(B) Outlays, $37,215,000,000.

Fiscal year 2014:

(A) New budget authority, $38,107,000,000.

(B) Outlays, $37,973,000,000.

Fiscal year 2015:

(A) New budget authority, $39,058,000,000.

(B) Outlays, $38,777,000,000.

Fiscal year 2016:

(A) New budget authority, $40,298,000,000.

(B) Outlays, $39,922,000,000.

(6) Agriculture (350):

Fiscal year 2007:

(A) New budget authority, $27,546,000,000.

(B) Outlays, $26,819,000,000.

Fiscal year 2008:

(A) New budget authority, $25,577,000,000.

(B) Outlays, $24,739,000,000.

Fiscal year 2009:

(A) New budget authority, $24,949,000,000.

(B) Outlays, $24,182,000,000.

Fiscal year 2010:

(A) New budget authority, $23,905,000,000.

(B) Outlays, $23,048,000,000.

Fiscal year 2011:

(A) New budget authority, $23,621,000,000.

(B) Outlays, $22,857,000,000.

Fiscal year 2012:

(A) New budget authority, $23,434,000,000.

(B) Outlays, $22,735,000,000.

Fiscal year 2013:

(A) New budget authority, $23,213,000,000.

(B) Outlays, $22,527,000,000.

Fiscal year 2014:

(A) New budget authority, $23,147,000,000.

(B) Outlays, $22,485,000,000.

Fiscal year 2015:

(A) New budget authority, $22,284,000,000.

(B) Outlays, $21,648,000,000.

Fiscal year 2016:

(A) New budget authority, $22,410,000,000.

(B) Outlays, $21,758,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 2007:

(A) New budget authority, $16,698,000,000.

(B) Outlays, $8,073,000,000.

Fiscal year 2008:

(A) New budget authority, $13,958,000,000.

(B) Outlays, $8,353,000,000.

Fiscal year 2009:

(A) New budget authority, $13,315,000,000.

(B) Outlays, $8,052,000,000.

Fiscal year 2010:

(A) New budget authority, $17,061,000,000.

(B) Outlays, $9,093,000,000.

Fiscal year 2011:

(A) New budget authority, $13,168,000,000.

(B) Outlays, $6,040,000,000.

Fiscal year 2012:

(A) New budget authority, $13,396,000,000.

(B) Outlays, $5,973,000,000.

Fiscal year 2013:

(A) New budget authority, $13,500,000,000.

(B) Outlays, $5,603,000,000.

Fiscal year 2014:

(A) New budget authority, $13,601,000,000.

(B) Outlays, $4,964,000,000.

Fiscal year 2015:

(A) New budget authority, $13,799,000,000.

(B) Outlays, $4,706,000,000.

Fiscal year 2016:

(A) New budget authority, $13,922,000,000.

(B) Outlays, $4,592,000,000.

(8) Transportation (400):

Fiscal year 2007:

(A) New budget authority, $80,547,000,000.

(B) Outlays, $76,316,000,000.

Fiscal year 2008:

(A) New budget authority, $83,069,000,000.

(B) Outlays, $78,827,000,000.

Fiscal year 2009:

(A) New budget authority, $75,081,000,000.

(B) Outlays, $79,281,000,000.

Fiscal year 2010:

(A) New budget authority, $75,886,000,000.

(B) Outlays, $80,019,000,000.

Fiscal year 2011:

(A) New budget authority, $76,690,000,000.

(B) Outlays, $81,168,000,000.

Fiscal year 2012:

(A) New budget authority, $77,515,000,000.

(B) Outlays, $82,531,000,000.

Fiscal year 2013:

(A) New budget authority, $78,361,000,000.

(B) Outlays, $84,060,000,000.

Fiscal year 2014:

(A) New budget authority, $79,238,000,000.

(B) Outlays, $85,652,000,000.

Fiscal year 2015:

(A) New budget authority, $80,164,000,000.

(B) Outlays, $87,783,000,000.

Fiscal year 2016:

(A) New budget authority, $81,109,000,000.

(B) Outlays, $89,530,000,000.

(9) Community and Regional Development (450):

Fiscal year 2007:

(A) New budget authority, $16,363,000,000.

(B) Outlays, $31,349,000,000.

Fiscal year 2008:

(A) New budget authority, $13,673,000,000.

(B) Outlays, $25,518,000,000.

Fiscal year 2009:

(A) New budget authority, $13,951,000,000.

(B) Outlays, $22,005,000,000.

Fiscal year 2010:

(A) New budget authority, $14,224,000,000.

(B) Outlays, $18,481,000,000.

Fiscal year 2011:

(A) New budget authority, $14,494,000,000.

(B) Outlays, $14,393,000,000.

Fiscal year 2012:

(A) New budget authority, $14,779,000,000.

(B) Outlays, $14,076,000,000.

Fiscal year 2013:

(A) New budget authority, $15,074,000,000.

(B) Outlays, $14,375,000,000.

Fiscal year 2014:

(A) New budget authority, $15,365,000,000.

(B) Outlays, $14,666,000,000.

Fiscal year 2015:

(A) New budget authority, $15,674,000,000.

(B) Outlays, $14,959,000,000.

Fiscal year 2016:

(A) New budget authority, $15,980,000,000.

(B) Outlays, $15,296,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 2007:

(A) New budget authority, $90,774,000,000.

(B) Outlays, $91,065,000,000.

Fiscal year 2008:

(A) New budget authority, $91,492,000,000.

(B) Outlays, $89,579,000,000.

Fiscal year 2009:

(A) New budget authority, $93,275,000,000.

(B) Outlays, $90,659,000,000.

Fiscal year 2010:

(A) New budget authority, $95,237,000,000.

(B) Outlays, $92,524,000,000.

Fiscal year 2011:

(A) New budget authority, $95,890,000,000.

(B) Outlays, $94,307,000,000.

Fiscal year 2012:

(A) New budget authority, $97,126,000,000.

(B) Outlays, $94,816,000,000.

Fiscal year 2013:

(A) New budget authority, $98,372,000,000.

(B) Outlays, $96,074,000,000.

Fiscal year 2014:

(A) New budget authority, $99,885,000,000.

(B) Outlays, $97,581,000,000.

Fiscal year 2015:

(A) New budget authority, $101,355,000,000.

(B) Outlays, $99,012,000,000.

Fiscal year 2016:

(A) New budget authority, $102,811,000,000.

(B) Outlays, $100,459,000,000.

(11) Health (550):

Fiscal year 2007:

(A) New budget authority, $277,009,000,000.

(B) Outlays, $274,711,000,000.

Fiscal year 2008:

(A) New budget authority, $293,454,000,000.

(B) Outlays, $293,003,000,000.

Fiscal year 2009:

(A) New budget authority, $314,496,000,000.

(B) Outlays, $311,811,000,000.

Fiscal year 2010:

(A) New budget authority, $332,644,000,000.

(B) Outlays, $331,249,000,000.

Fiscal year 2011:

(A) New budget authority, $354,558,000,000.

(B) Outlays, $352,587,000,000.

Fiscal year 2012:

(A) New budget authority, $377,770,000,000.

(B) Outlays, $375,314,000,000.

Fiscal year 2013:

(A) New budget authority, $403,232,000,000.

(B) Outlays, $400,466,000,000.

Fiscal year 2014:

(A) New budget authority, $430,683,000,000.

(B) Outlays, $427,732,000,000.

Fiscal year 2015:

(A) New budget authority, $460,378,000,000.

(B) Outlays, $457,224,000,000.

Fiscal year 2016:

(A) New budget authority, $492,667,000,000.

(B) Outlays, $489,380,000,000.

(12) Medicare (570):

Fiscal year 2007:

(A) New budget authority, $382,955,000,000.

(B) Outlays, $388,413,000,000.

Fiscal year 2008:

(A) New budget authority, $413,820,000,000.

(B) Outlays, $413,815,000,000.

Fiscal year 2009:

(A) New budget authority, $444,052,000,000.

(B) Outlays, $443,684,000,000.

Fiscal year 2010:

(A) New budget authority, $473,989,000,000.

(B) Outlays, $474,196,000,000.

Fiscal year 2011:

(A) New budget authority, $524,509,000,000.

(B) Outlays, $524,498,000,000.

Fiscal year 2012:

(A) New budget authority, $527,728,000,000.

(B) Outlays, $527,316,000,000.

Fiscal year 2013:

(A) New budget authority, $588,674,000,000.

(B) Outlays, $588,882,000,000.

Fiscal year 2014:

(A) New budget authority, $637,861,000,000.

(B) Outlays, $637,832,000,000.

Fiscal year 2015:

(A) New budget authority, $692,503,000,000.

(B) Outlays, $691,980,000,000.

Fiscal year 2016:

(A) New budget authority, $778,449,000,000.

(B) Outlays, $778,642,000,000.

(13) Income Security (600):

Fiscal year 2007:

(A) New budget authority, $358,606,000,000.

(B) Outlays, $363,159,000,000.

Fiscal year 2008:

(A) New budget authority, $373,318,000,000.

(B) Outlays, $376,098,000,000.

Fiscal year 2009:

(A) New budget authority, $385,726,000,000.

(B) Outlays, $387,538,000,000.

Fiscal year 2010:

(A) New budget authority, $397,837,000,000.

(B) Outlays, $398,691,000,000.

Fiscal year 2011:

(A) New budget authority, $413,602,000,000.

(B) Outlays, $413,948,000,000.

Fiscal year 2012:

(A) New budget authority, $400,150,000,000.

(B) Outlays, $399,943,000,000.

Fiscal year 2013:

(A) New budget authority, $415,125,000,000.

(B) Outlays, $415,175,000,000.

Fiscal year 2014:

(A) New budget authority, $426,333,000,000.

(B) Outlays, $426,726,000,000.

Fiscal year 2015:

(A) New budget authority, $437,450,000,000.

(B) Outlays, $438,186,000,000.

Fiscal year 2016:

(A) New budget authority, $453,901,000,000.

(B) Outlays, $454,986,000,000.

(14) Social Security (650):

Fiscal year 2007:

(A) New budget authority, $16,922,000,000.

(B) Outlays, $16,922,000,000.

Fiscal year 2008:

(A) New budget authority, $18,814,000,000.

(B) Outlays, $18,814,000,000.

Fiscal year 2009:

(A) New budget authority, $20,694,000,000.

(B) Outlays, $20,694,000,000.

Fiscal year 2010:

(A) New budget authority, $22,866,000,000.

(B) Outlays, $22,866,000,000.

Fiscal year 2011:

(A) New budget authority, $26,480,000,000.

(B) Outlays, $26,480,000,000.

Fiscal year 2012:

(A) New budget authority, $29,423,000,000.

(B) Outlays, $29,423,000,000.

Fiscal year 2013:

(A) New budget authority, $32,168,000,000.

(B) Outlays, $32,168,000,000.

Fiscal year 2014:

(A) New budget authority, $35,122,000,000.

(B) Outlays, $35,122,000,000.

Fiscal year 2015:

(A) New budget authority, $38,362,000,000.

(B) Outlays, $38,362,000,000.

Fiscal year 2016:

(A) New budget authority, $42,048,000,000.

(B) Outlays, $42,048,000,000.

(15) Veterans Benefits and Services (700):

Fiscal year 2007:

(A) New budget authority, $74,627,000,000.

(B) Outlays, $73,944,000,000.

Fiscal year 2008:

(A) New budget authority, $76,984,000,000.

(B) Outlays, $77,251,000,000.

Fiscal year 2009:

(A) New budget authority, $79,240,000,000.

(B) Outlays, $79,038,000,000.

Fiscal year 2010:

(A) New budget authority, $81,348,000,000.

(B) Outlays, $81,053,000,000.

Fiscal year 2011:

(A) New budget authority, $86,392,000,000.

(B) Outlays, $86,051,000,000.

Fiscal year 2012:

(A) New budget authority, $83,089,000,000.

(B) Outlays, $82,679,000,000.

Fiscal year 2013:

(A) New budget authority, $88,438,000,000.

(B) Outlays, $88,016,000,000.

Fiscal year 2014:

(A) New budget authority, $90,784,000,000.

(B) Outlays, $90,395,000,000.

Fiscal year 2015:

(A) New budget authority, $93,256,000,000.

(B) Outlays, $92,873,000,000.

Fiscal year 2016:

(A) New budget authority, $99,303,000,000.

(B) Outlays, $99,030,000,000.

(16) Administration of Justice (750):

Fiscal year 2007:

(A) New budget authority, $42,858,000,000.

(B) Outlays, $43,683,000,000.

Fiscal year 2008:

(A) New budget authority, $42,899,000,000.

(B) Outlays, $43,573,000,000.

Fiscal year 2009:

(A) New budget authority, $43,615,000,000.

(B) Outlays, $43,874,000,000.

Fiscal year 2010:

(A) New budget authority, $44,744,000,000.

(B) Outlays, $44,654,000,000.

Fiscal year 2011:

(A) New budget authority, $45,909,000,000.

(B) Outlays, $45,531,000,000.

Fiscal year 2012:

(A) New budget authority, $47,116,000,000.

(B) Outlays, $46,722,000,000.

Fiscal year 2013:

(A) New budget authority, $48,334,000,000.

(B) Outlays, $47,905,000,000.

Fiscal year 2014:

(A) New budget authority, $49,606,000,000.

(B) Outlays, $49,173,000,000.

Fiscal year 2015:

(A) New budget authority, $53,865,000,000.

(B) Outlays, $53,426,000,000.

Fiscal year 2016:

(A) New budget authority, $55,571,000,000.

(B) Outlays, $55,121,000,000.

(17) General Government (800):

Fiscal year 2007:

(A) New budget authority, $19,376,000,000.

(B) Outlays, $19,135,000,000.

Fiscal year 2008:

(A) New budget authority, $19,003,000,000.

(B) Outlays, $18,921,000,000.

Fiscal year 2009:

(A) New budget authority, $19,573,000,000.

(B) Outlays, $19,188,000,000.

Fiscal year 2010:

(A) New budget authority, $20,139,000,000.

(B) Outlays, $19,738,000,000.

Fiscal year 2011:

(A) New budget authority, $20,655,000,000.

(B) Outlays, $20,290,000,000.

Fiscal year 2012:

(A) New budget authority, $21,343,000,000.

(B) Outlays, $21,118,000,000.

Fiscal year 2013:

(A) New budget authority, $22,064,000,000.

(B) Outlays, $21,635,000,000.

Fiscal year 2014:

(A) New budget authority, $22,789,000,000.

(B) Outlays, $22,326,000,000.

Fiscal year 2015:

(A) New budget authority, $23,566,000,000.

(B) Outlays, $23,129,000,000.

Fiscal year 2016:

(A) New budget authority, $24,338,000,000.

(B) Outlays, $24,077,000,000.

(18) Net Interest (900):

Fiscal year 2007:

(A) New budget authority, $353,582,000,000.

(B) Outlays, $353,582,000,000.

Fiscal year 2008:

(A) New budget authority, $383,451,000,000.

(B) Outlays, $383,451,000,000.

Fiscal year 2009:

(A) New budget authority, $406,645,000,000.

(B) Outlays, $406,645,000,000.

Fiscal year 2010:

(A) New budget authority, $429,677,000,000.

(B) Outlays, $429,677,000,000.

Fiscal year 2011:

(A) New budget authority, $450,444,000,000.

(B) Outlays, $450,444,000,000.

Fiscal year 2012:

(A) New budget authority, $465,277,000,000.

(B) Outlays, $465,277,000,000.

Fiscal year 2013:

(A) New budget authority, $475,950,000,000.

(B) Outlays, $475,950,000,000.

Fiscal year 2014:

(A) New budget authority, $487,477,000,000.

(B) Outlays, $487,477,000,000.

Fiscal year 2015:

(A) New budget authority, $498,725,000,000.

(B) Outlays, $498,725,000,000.

Fiscal year 2016:

(A) New budget authority, $508,495,000,000.

(B) Outlays, $508,495,000,000.

(19) Allowances (920):

Fiscal year 2007:

(A) New budget authority, $6,450,000,000.

(B) Outlays, $5,483,000,000.

Fiscal year 2008:

(A) New budget authority, −$2,397,000,000.

(B) Outlays, −$1,070,000,000.

Fiscal year 2009:

(A) New budget authority, −$4,325,000,000.

(B) Outlays, −$4,036,000,000.

Fiscal year 2010:

(A) New budget authority, −$4,390,000,000.

(B) Outlays, −$4,380,000,000.

Fiscal year 2011:

(A) New budget authority, −$4,554,000,000.

(B) Outlays, −$4,529,000,000.

Fiscal year 2012:

(A) New budget authority, −$1,150,000,000.

(B) Outlays, −$1,661,000,000.

Fiscal year 2013:

(A) New budget authority, −$1,140,000,000.

(B) Outlays, −$1,142,000,000.

Fiscal year 2014:

(A) New budget authority, −$1,130,000,000.

(B) Outlays, −$1,132,000,000.

Fiscal year 2015:

(A) New budget authority, −$1,120,000,000.

(B) Outlays, −$1,122,000,000.

Fiscal year 2016:

(A) New budget authority, −$1,110,000,000.

(B) Outlays, −$1,112,000,000.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 2007:

(A) New budget authority, −$68,585,000,000.

(B) Outlays, −$69,427,000,000.

Fiscal year 2008:

(A) New budget authority, −$68,727,000,000.

(B) Outlays, −$68,399,000,000.

Fiscal year 2009:

(A) New budget authority, −$74,480,000,000.

(B) Outlays, −$74,199,000,000.

Fiscal year 2010:

(A) New budget authority, −$66,775,000,000.

(B) Outlays, −$66,588,000,000.

Fiscal year 2011:

(A) New budget authority, −$69,284,000,000.

(B) Outlays, −$69,247,000,000.

Fiscal year 2012:

(A) New budget authority, −$71,103,000,000.

(B) Outlays, −$71,094,000,000.

Fiscal year 2013:

(A) New budget authority, −$75,335,000,000.

(B) Outlays, −$75,335,000,000.

Fiscal year 2014:

(A) New budget authority, −$77,966,000,000.

(B) Outlays, −$77,966,000,000.

Fiscal year 2015:

(A) New budget authority, −$80,876,000,000.

(B) Outlays, −$80,876,000,000.

Fiscal year 2016:

(A) New budget authority, −$84,260,000,000.

(B) Outlays, −$84,260,000,000.

TITLE II—RESERVE FUNDS

SEC. 201. RESERVE FUND TO ADDRESS MEDICARE ADVANTAGE OVERPAYMENTS AND IMPROVE THE MEDICARE PRESCRIPTION DRUG BENEFIT.

(a) IN GENERAL.—In the House, if the Committee on Ways and Means or the Committee on Energy and Commerce reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides for a reduction in new budgetary authority and outlays under part C of title XVIII of the Social Security Act (Medicare Advantage), including elimination of the Medicare Advantage Regional Plan Stabilization Fund, or through authority to negotiate prescription drug prices, or both, and that provides for new budget authority in a corresponding amount through authority to improve the Medicare prescription drug benefit described in subsection (b), to the extent that the combined effect would not increase the deficit for fiscal year 2007 and for the period of fiscal years 2007 through 2016, the chairman of the Committee on the Budget shall revise the appropriate budgetary aggregates and allocations of new budget authority and outlays to take into account the budgetary effects of such measures for such purposes.

(b) AUTHORITY DEFINED.—For purposes of subsection (a), the authority described in this section may include any of the following:

(1) Reductions in beneficiary cost-sharing, including partial or complete elimination of the donut hole.

(2) Minimum standard transition coverage for new enrollees, or enrollees changing prescription drug plans.

(3) Prohibition of additional restrictions or limitations on coverage during the year, such as changing the formulary.

(4) Reimbursement of third parties for 2006 transition costs.

(5) Other methods that simplify enrollment (including initial enrollment, annual enrollment, or changes in between plans) in Part D or improve the Medicare Part D drug benefit; and

(6) Creation of a prescription drug plan option offered through Medicare with drug prices negotiated by the Secretary of the Department of Health and Human Services.

SEC. 202. DEFICIT-NEUTRAL RESERVE FUND FOR HEALTH INSURANCE COVERAGE FOR THE UNINSURED.

In the House, if legislation is reported, or if an amendment thereto is offered or a conference report thereon is submitted, that provides affordable, comprehensive health insurance to the uninsured and builds upon and strengthens public and private coverage, including ensuring that cost-sharing is affordable and protecting Medicaid beneficiaries from cost-sharing increases and preventing the erosion of Medicaid, State Children's Health Insurance Program, and other public and private coverage, the chairman of the committee on the Budget may make the appropriate adjustments in allocations and aggregates to the extent such measure is deficit neutral (whether by changes in revenues or direct spending) in fiscal year 2007 and for the period of fiscal years 2007 through 2016.

SEC. 203. DEFICIT-NEUTRAL RESERVE FUND TO PROTECT MEDICARE BENEFICIARIES WHO ENROLL IN THE PRESCRIPTION DRUG BENEFIT DURING 2006.

In the House, if legislation is reported, or if an amendment thereto is offered or a conference report thereon is submitted that extends the annual open enrollment period under the Medicare prescription drug program under part D of title XVIII through all of 2006 without imposing a late enrollment penalty for months during such period the chairman of the committee on the Budget may make the appropriate adjustments in allocations and aggregates to the extent such measure is deficit neutral (whether by changes in revenues or direct spending) in fiscal year 2007 and for the period of fiscal years 2007 through 2016.

SEC. 204. DEFICIT-NEUTRAL RESERVE FUND FOR PHYSICIAN PAYMENT INCREASES UNDER MEDICARE.

(a) IN GENERAL.—In the House, if the Committee on Ways and Means or the Committee on Energy and Commerce reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that has the effect of increasing the reimbursement rate for physicians under section 1848(d) of the Social Security Act, the chairman of the committee on the Budget may make the appropriate adjustments in allocations and aggregates to the extent such measure is deficit neutral (whether by changes in revenues or direct spending) in fiscal year 2007 and for the period of fiscal years 2007 through 2016.

SEC. 205. RESERVE FUND FOR THE REFORM OF THE REGULATION OF GOVERNMENT-SPONSORED ENTERPRISES.

In the House, if—

(1) the Committee on Financial Services reports a bill or joint resolution, or if an amendment is offered thereto or a conference report is submitted thereon, that reforms the regulation of certain housing-related Government-sponsored enterprises; and

(2) that committee is within its allocation as provided under section 302(a) of the Congressional Budget Act of 1974;

the chairman of the Committee on the Budget may make the appropriate adjustments in allocations and aggregates to the extent that such legislation would not increase the deficit for fiscal year 2007 and the period of fiscal years 2007 through 2016.

SEC. 206. RESERVE FUND FOR CALENDAR YEAR 2007 ALTERNATIVE MINIMUM TAX RELIEF.

If the Committee on Ways and Means reports a bill, or an amendment is offered thereto or a conference report is submitted thereon, that would increase the exemption amounts specified in section 55(d)(1) of the Internal Revenue Code of 1986 with respect to taxable years beginning in calendar year 2007, the chairman of the Committee on the Budget may make the appropriate adjustments in allocations and aggregates for fiscal year 2007 to the extent that such legislation would not reduce revenues below the aggregate level of revenues provided in section 101(1)(A) for the period of fiscal years 2007 through 2016.

SEC. 207. RESERVE FUND FOR SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT REAUTHORIZATION.

In the House, after the filing of a rule that provides for the consideration of any bill or joint resolution or whenever any bill or joint resolution is placed on any calendar, or if an amendment is offered to or conference report is submitted on any bill or joint resolution that provides for the reauthorization of the Secure Rural Schools and Community Self-Determination Act (Public Law 106–393), then the chairman of the Committee on the Budget may make the appropriate adjustments in allocations and aggregates to the extent that such legislation would not increase the deficit for the period of fiscal years 2007 through 2016.

SEC. 208. RESERVE FUND FOR THE NATIONAL FLOOD INSURANCE PROGRAM TO MEET OUTSTANDING CLAIMS FOR FLOOD DAMAGE IN THE GULF.

In the House the chairman of the Committee on the Budget may make the appropriate adjustments in allocations and aggregates for the purpose of liquidating the National Flood Insurance Fund's remaining contractual obligations resulting from claims made as a result of floods that occurred in 2005.

TITLE III—BUDGET ENFORCEMENT

SEC. 301. REQUIRING A SEPARATE VOTE IF THE STATUTORY DEBT LIMIT IS TO BE INCREASED.

The Rules of the House of Representatives are amended by repealing rule XXVII (relating to the statutory limit on the debt).

SEC. 302. RECONCILIATION SHALL NOT BE USED TO INCREASE THE DEFICIT.

(a) POINT OF ORDER.—It shall not be in order in the House to consider any concurrent resolution on the budget in which the combined effect of any reconciliation instructions increases the deficit for any of the following periods:

(1) The first year covered by the most recently adopted concurrent resolution on the budget.

(2) The period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

SEC. 303. ADJUSTMENTS FOR TAX LEGISLATION.

In the House, if the Committee on Ways and Means reports a bill or joint resolution, or an amendment is offered thereto or a conference report is submitted thereon, that amends the Internal Revenue Code of 1986 by extending the expiration dates for Federal tax policies that expired during fiscal year 2006 or that expire during the period of fiscal years 2007 through 2016, then the chairman of the Committee on the Budget may make appropriate adjustments in the allocations and aggregates of budget authority, outlays, and revenue set forth in this resolution to reflect the budgetary effects of such legislation, but only to the extent the adjustments would not cause the level of revenue to be less than the level of revenue provided for in this resolution for the period of fiscal years 2007 through 2016 and would not cause the deficit to exceed the appropriate level of deficits provided for in this resolution for the period of fiscal years 2007 through 2016.

SEC. 304. EXEMPTION OF AVIAN BIRD FLU RESPONSE.

In the House, if any bill or joint resolution is reported, or an amendment is offered thereto or a conference report is filed thereon, that makes appropriations for fiscal year 2007 to combat avian flu, increase local preparedness, and develop a vaccine to innoculate the United States population, then the new budget authority, new entitlement authority, or outlays resulting therefrom shall not count for purposes of titles III or IV of the Congressional Budget Act of 1974.

SEC. 305. OVERSEAS CONTINGENCY OPERATIONS.

(a) Exemption of Overseas Contingency Operations.—In the House, if any bill or joint resolution is reported, or an amendment is offered thereto or a conference report is filed thereon, that makes appropriations for fiscal year 2007 for contingency operations directly related to the global war on terrorism, and other unanticipated defense-related operations, then the new budget authority, new entitlement authority, outlays, or receipts resulting therefrom shall not count for purposes of titles III or IV of the Congressional Budget Act of 1974.

(b) Current Level.—Amounts included in this resolution for the purpose set forth in this section shall be considered to be current law for purposes of the preparation of the current level of budget authority and outlays and the appropriate levels shall be adjusted upon the enactment of such bill.

TITLE IV—SENSE OF CONGRESS

SEC. 401. SENSE OF THE HOUSE ON DEFENSE PRIORITIES.

It is the sense of the House that—

(1) funding cooperative threat reduction and nuclear nonproliferation programs at a level adequate to the threat and the risk is also a compelling homeland defense priority, and the President's budget should have requested sufficient funding for these programs;

(2) funding Army National Guard troop strength to the authorized level of 350,000 is critical to support homeland defense, crisis response in the United States, and to support overseas deployments and the President's budget should have requested sufficient funding for this requirement;

(3) ensuring the $150,000 death gratuity benefit be provided retroactively to those beneficiaries from May 5, 2005, through August 31, 2005, is a high priority that should not have been omitted from the President's budget request;

(4) increasing the level of free life insurance coverage from $150,000 to $400,000 to service members in a combat zone through the Service members Group Life Insurance Program (SGLI) is a high priority which should not have been omitted from the President's budget request;

(5) ensuring Tricare health care fees for military retirees under the age of 65 remain at current rates is a high priority;

(6) increasing pay and reenlistment bonuses are high priorities which should not have been omitted from the President's budget request because they are critical to the retention of experienced personnel, particularly senior noncommissioned officers and junior officers;

(7) increasing funds for family service centers to support families of deploying service members is a high priority, and the President's budget should have requested sufficient funding for this purpose;

(8) funding the Missile Defense Agency at a substantial but lower level and de-emphasizing space-based interceptor development will ensure a more measured acquisition strategy, yet still support a robust ballistic missile defense program;

(9) funding satellite research, development, and procurement at a level below the amount requested for fiscal year 2007, which amounts to a 14 percent increase above the current level, but sufficient to develop new satellite technologies while ensuring a more prudent acquisition strategy;

(10) providing sufficient resources to implement Government Accountability Office recommendations, such as improving financial management and contracting practices at the Department of Defense, should identify billions of dollars of obligations and disbursements and government overcharges for which the Department of Defense cannot account, and should result in substantial annual savings;

(11) all savings that accrue from the actions recommended in paragraphs (8) through (10) should be used to fund higher priorities within the national security function of the budget (050), and especially those high priorities identified in paragraphs (1) through (7).

SEC. 402. POLICY.

It is the policy of this concurrent resolution on the budget to balance long-term deficit reduction with middle-income tax relief, such as—

(1) extension of the child tax credit;

(2) extension of marriage penalty relief;

(3) extension of the 10 percent individual income tax bracket;

(4) modification of the alternative minimum tax to minimize its impact on middle-income taxpayers;

(5) elimination of estate taxes on all but a minute fraction of estates by reforming and substantially increasing the unified credit;

(6) extension of the research and experimentation tax credit; and

(7) extension of the deduction for State and local sales taxes.

To achieve this tax relief, this resolution assumes $150,000,000,000 in tax relief, and the accommodation of additional tax relief provided the additional revenue loss is offset such as through the recovery of a portion of unpaid revenue (commonly known as the "tax gap") owed the United States Treasury under the existing tax code and estimated to be $290,000,000,000 in 2001 alone.

SEC. 403. SENSE OF THE HOUSE REGARDING PAY PARITY.

It is the sense of the House that—

(1) compensation for civilian and military employees of the United States, without whom we cannot successfully serve and protect our citizens and taxpayers, must be sufficient to support our critical efforts to recruit, retain, and reward quality people effectively and responsibly; and

(2) to achieve this objective, the rate of increase in the compensation of civilian employees should be equal to that for military employees.

SEC. 404. SENSE OF THE HOUSE ON EXTENSION OF THE STATUTORY PAY-AS-YOU-GO RULE.

It is the sense of the House that in order to reduce the deficit Congress should extend PAYGO in its original form in the Budget Enforcement Act of 1990, making the rule apply both to tax decreases and to mandatory spending increases.

SEC. 405. SENSE OF THE HOUSE ON TAX SIMPLIFICATION AND TAX FAIRNESS.

It is the sense of the House that—

(1) the current tax system has been made increasingly complex and unfair to the detriment of the vast majority of working Americans during the past decade;

(2) constant change and manipulation of the tax code have adverse effects on taxpayers understanding and trust in the Nation's tax laws;

(3) these increases in complexity and inequity have made compliance more challenging for the average taxpayer and small business owner, increasing the number of middle income families subject to the alternative minimum tax, and widening the tax gap; and

(4) this concurrent resolution on the budget contemplates a comprehensive review of recent changes in the tax code, leading to future action to reduce the tax burden and compliance burden for middle-income workers and their families in the context of tax reform that makes the Federal tax code simpler and fairer to all taxpayers, and ensures that this generation of Americans does not force future generations to pay our bills.

SEC. 406. SENSE OF THE HOUSE ON HOMELAND SECURITY.

It is the sense of the House that—

(1) this resolution provides additional homeland security funding above the President's requested level and the budget reported by the Committee on the budget of the House for 2007 and every subsequent year;

(2) this resolution provides $6,100,000,000 above the President's requested level for 2007, and additional amounts in subsequent years, in the four budget functions (Function 400 Transportation; Function 450 Community and Regional Development; Function 550 Health; and Function 750 Administration of Justice) which fund most nondefense homeland security activities; and

(3) the homeland security funding provided in this resolution will help to strengthen the security of our Nation's transportation system, particularly our ports where significant security shortfalls still exist and foreign ports by expanding efforts to identify and scan all high-risk U.S.-bound cargo, equip our first responders, help secure our borders, increase the preparedness of our public health system, and strengthen the Nation's homeland security.

SEC. 407. SENSE OF THE HOUSE REGARDING FUNDING FOR THE MANUFACTURING EXTENSION PARTNERSHIP.

It is the sense of the House that this resolution rejects the President's budget cuts to the Manufacturing Extension Partnership, and ensures sufficient funding to protect the ability of the Manufacturing Extension Partnership to continue helping small manufacturers reach their optimal performance and create jobs.

SEC. 408. SENSE OF THE HOUSE ON REJECTING CUTS TO EDUCATION, HEALTH, AND TRAINING PROGRAMS.

It is the sense of the House that:

(1) Funding for vital education, health, social services, and training programs was cut for 2006, and would be reduced by a total of $7 billion below the 2005 level by the President's budget request for 2007.

(2) It is imperative that Congress reject cuts to key programs that the President's budget eliminates or cuts. These programs include vocational education, special education, college aid, and title I, which is the cornerstone of the No Child Left Behind Act. They also include medical research, including the National Institutes for Health and the Centers for Disease Control, community services, and job training.

(3) This resolution provides more than $7 billion above the Senate budget resolution's total for non-defense discretionary funding for 2007 and an even greater amount above the President's budget for 2007, and provides an amount which is sufficient to reject the President's cuts and maintain funding for vital health, social services, education, and job training programs.

SEC. 409. SENSE OF THE HOUSE ON RURAL DEVELOPMENT.

It is the sense of the House that—

(1) rural communities play an important role in the American economy, and the sustained viability of rural America is key to economic stability for many parts of the Nation; and

(2) this resolution supports sufficient funding for agriculture, rural economic development, infrastructure, research, and other priorities for rural communities, and rejects the cuts proposed in the President's budget.

SEC. 410. POLICY.

For fiscal year 2007, major functional category Allowances (920) reserves $6,450,000,000 in anticipation of emergency spending in response to natural disasters.

The SPEAKER pro tempore. Without objection, the request is agreed to.

There was no objection.

GENERAL LEAVE

Mr. NUSSLE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on H. Con. Res. 376.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2007

The SPEAKER pro tempore. Pursuant to House Resolution 817 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the concurrent resolution, H. Con. Res. 376.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the concurrent resolution (H. Con. Res. 376) establishing the congressional budget for the United States Government for fiscal year 2007 and setting forth appropriate budgetary levels for fiscal years 2008 through 2011, with Mr. SHIMKUS (Acting Chairman) in the chair.

The Clerk read the title of the concurrent resolution.

The Acting CHAIRMAN. When the Committee of the Whole rose on Thursday, April 6, 2006, all time for general debate pursuant to House Resolution 766 had expired.

Pursuant to House Resolution 817, the amendments printed in part A of House Report 109–468 are adopted and the concurrent resolution, as amended, is considered read for amendment under the 5-minute rule.

The text of the concurrent resolution, as amended, is as follows:

H. CON. RES. 376

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2007.

(a) DECLARATION.—The Congress declares that this is the concurrent resolution on the budget for fiscal year 2007, including appropriate budgetary levels for fiscal years 2008 through 2011.

(b) TABLE OF CONTENTS.—

Sec. 1. Concurrent resolution on the budget for fiscal year 2007.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

Sec. 101. Recommended levels and amounts.
Sec. 102. Major functional categories.

TITLE II—RECONCILIATION

Sec. 201. Reconciliation in the House of Representatives.

TITLE III—RESERVE FUNDS

Sec. 301. Reserve fund for the disposal of underutilized Federal real property.
Sec. 302. Reserve fund for Secure Rural Schools and Community Self-Determination Act Reauthorization.
Sec. 303. Reserve fund for calendar year 2007 alternative minimum tax relief.
Sec. 304. Reserve fund for the National Flood Insurance Program to meet outstanding claims for flood damage in the Gulf.
Sec. 305. Reserve fund for the reform of the regulation of government-sponsored enterprises.

TITLE IV—BUDGET ENFORCEMENT

Sec. 401. Restrictions on advance appropriations.
Sec. 402. Overseas contingency operations.
Sec. 403. Exemption of avian bird flu response.
Sec. 404. Application and effect of changes in allocations and aggregates.
Sec. 405. Adjustments to reflect changes in concepts and definitions.
Sec. 406. Compliance with section 13301 of the Budget Enforcement Act of 1990.
Sec. 407. Exercise of rulemaking powers.
Sec. 408. Treatment of allocations in the House.
Sec. 409. Budgetary treatment of the National Flood Insurance Program.
Sec. 410. Adjustments for tax legislation.

TITLE V—EMERGENCY RESERVE FUND

Sec. 501. Nondefense reserve fund for emergencies.
Sec. 502. Emergency criteria.
Sec. 503. Development of guidelines for application of emergency definition.
Sec. 504. Committee notification of emergency legislation.
Sec. 505. Up-to-date tabulations.

TITLE VI—SENSE OF CONGRESS

Sec. 601. Sense of Congress on long-term budgeting.
Sec. 602. Sense of Congress on closing the tax gap to reduce the deficit.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for each of fiscal years 2007 through 2011:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2007: $1,780,666,000,000.
Fiscal year 2008: $1,913,598,000,000.
Fiscal year 2009: $2,011,187,000,000.
Fiscal year 2010: $2,122,195,000,000.
Fiscal year 2011: $2,212,263,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be reduced are as follows:

Fiscal year 2007: $38,933,000,000.
Fiscal year 2008: $8,178,000,000.
Fiscal year 2009: $20,384,000,000.
Fiscal year 2010: $13,782,000,000.
Fiscal year 2011: $144,808,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2007: $2,283,029,000,000.
Fiscal year 2008: $2,332,599,000,000.
Fiscal year 2009: $2,426,014,000,000.
Fiscal year 2010: $2,526,861,000,000.
Fiscal year 2011: $2,649,474,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2007: $2,325,998,000,000.
Fiscal year 2008: $2,364,794,000,000.
Fiscal year 2009: $2,434,610,000,000.
Fiscal year 2010: $2,524,168,000,000.
Fiscal year 2011: $2,640,119,000,000.

(4) DEFICITS (ON-BUDGET).—For purposes of the enforcement of this resolution, the amounts of the deficits (on-budget) are as follows:

Fiscal year 2007: $545,332,000,000.
Fiscal year 2008: $451,196,000,000.
Fiscal year 2009: $423,423,000,000.
Fiscal year 2010: $401,973,000,000.
Fiscal year 2011: $427,856,000,000.

(5) DEBT SUBJECT TO LIMIT.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, the appropriate levels of the public debt are as follows:

Fiscal year 2007: $9,182,000,000,000.
Fiscal year 2008: $9,744,000,000,000.
Fiscal year 2009: $10,275,000,000,000.
Fiscal year 2010: $10,781,000,000,000.
Fiscal year 2011: $11,307,000,000,000.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of debt held by the public are as follows:

Fiscal year 2007: $5,328,000,000,000.
Fiscal year 2008: $5,577,000,000,000.
Fiscal year 2009: $5,781,000,000,000.
Fiscal year 2010: $5,946,000,000,000.
Fiscal year 2011: $6,120,000,000,000.

SEC. 102. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority and outlays for fiscal years 2007 through 2011 for each major functional category are:

(1) National Defense (050):

Fiscal year 2007:
(A) New budget authority, $512,901,000,000.
(B) Outlays, $534,858,000,000.
Fiscal year 2008:
(A) New budget authority, $484,661,000,000.
(B) Outlays, $505,516,000,000.
Fiscal year 2009:
(A) New budget authority, $504,753,000,000.
(B) Outlays, $505,874,000,000.
Fiscal year 2010:
(A) New budget authority, $514,858,000,000.
(B) Outlays, $512,573,000,000.
Fiscal year 2011:
(A) New budget authority, $525,781,000,000.
(B) Outlays, $524,894,000,000.

(2) International Affairs (150):

Fiscal year 2007:
(A) New budget authority, $31,216,000,000.
(B) Outlays, $34,270,000,000.
Fiscal year 2008:
(A) New budget authority, $34,206,000,000.
(B) Outlays, $33,410,000,000.
Fiscal year 2009:
(A) New budget authority, $34,178,000,000.
(B) Outlays, $33,275,000,000.
Fiscal year 2010:

(A) New budget authority, $33,869,000,000.

(B) Outlays, $33,093,000,000.

Fiscal year 2011:

(A) New budget authority, $34,293,000,000.

(B) Outlays, $32,717,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 2007:

(A) New budget authority, $25,938,000,000.

(B) Outlays, $25,108,000,000.

Fiscal year 2008:

(A) New budget authority, $27,146,000,000.

(B) Outlays, $26,083,000,000.

Fiscal year 2009:

(A) New budget authority, $28,193,000,000.

(B) Outlays, $27,135,000,000.

Fiscal year 2010:

(A) New budget authority, $29,410,000,000.

(B) Outlays, $28,263,000,000.

Fiscal year 2011:

(A) New budget authority, $30,689,000,000.

(B) Outlays, $29,483,000,000.

(4) Energy (270):

Fiscal year 2007:

(A) New budget authority, $2,262,000,000.

(B) Outlays, $915,000,000.

Fiscal year 2008:

(A) New budget authority, $2,688,000,000.

(B) Outlays, $703,000,000.

Fiscal year 2009:

(A) New budget authority, $2,317,000,000.

(B) Outlays, $913,000,000.

Fiscal year 2010:

(A) New budget authority, $2,190,000,000.

(B) Outlays, $867,000,000.

Fiscal year 2011:

(A) New budget authority, $2,094,000,000.

(B) Outlays, $711,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 2007:

(A) New budget authority, $29,650,000,000.

(B) Outlays, $33,038,000,000.

Fiscal year 2008:

(A) New budget authority, $28,833,000,000.

(B) Outlays, $30,756,000,000.

Fiscal year 2009:

(A) New budget authority, $29,238,000,000.

(B) Outlays, $30,285,000,000.

Fiscal year 2010:

(A) New budget authority, $28,687,000,000.

(B) Outlays, $29,724,000,000.

Fiscal year 2011:

(A) New budget authority, $28,595,000,000.

(B) Outlays, $29,313,000,000.

(6) Agriculture (350):

Fiscal year 2007:

(A) New budget authority, $27,356,000,000.

(B) Outlays, $26,782,000,000.

Fiscal year 2008:

(A) New budget authority, $25,205,000,000.

(B) Outlays, $24,564,000,000.

Fiscal year 2009:

(A) New budget authority, $24,512,000,000.

(B) Outlays, $23,829,000,000.

Fiscal year 2010:

(A) New budget authority, $23,370,000,000.

(B) Outlays, $22,560,000,000.

Fiscal year 2011:

(A) New budget authority, $23,011,000,000.

(B) Outlays, $22,281,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 2007:

(A) New budget authority, $16,518,000,000.

(B) Outlays, $8,049,000,000.

Fiscal year 2008:

(A) New budget authority, $13,178,000,000.

(B) Outlays, $7,997,000,000.

Fiscal year 2009:

(A) New budget authority, $13,278,000,000.

(B) Outlays, $7,987,000,000.

Fiscal year 2010:

(A) New budget authority, $17,062,000,000.

(B) Outlays, $8,857,000,000.

Fiscal year 2011:

(A) New budget authority, $11,866,000,000

(B) Outlays, $5,390,000,000.

(8) Transportation (400):

Fiscal year 2007:

(A) New budget authority, $78,258,000,000.

(B) Outlays, $75,774,000,000.

Fiscal year 2008:

(A) New budget authority, $81,283,000,000.

(B) Outlays, $78,557,000,000.

Fiscal year 2009:

(A) New budget authority, $72,878,000,000.

(B) Outlays, $78,329,000,000.

Fiscal year 2010:

(A) New budget authority, $72,926,000,000.

(B) Outlays, $77,828,000,000.

Fiscal year 2011:

(A) New budget authority, $73,477,000,000.

(B) Outlays, $77,833,000,000.

(9) Community and Regional Development (450):

Fiscal year 2007:

(A) New budget authority, $15,942,000,000.

(B) Outlays, $31,345,000,000.

Fiscal year 2008:

(A) New budget authority, $12,917,000,000.

(B) Outlays, $25,443,000,000.

Fiscal year 2009:

(A) New budget authority, $12,981,000,000.

(B) Outlays, $21,661,000,000.

Fiscal year 2010:

(A) New budget authority, $12,988,000,000.

(B) Outlays, $17,777,000,000.

Fiscal year 2011:

(A) New budget authority, $13,218,000,000.

(B) Outlays, $13,680,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 2007:

(A) New budget authority, $84,849,000,000.

(B) Outlays, $87,530,000,000.

Fiscal year 2008:

(A) New budget authority, $84,140,000,000.

(B) Outlays, $85,316,000,000.

Fiscal year 2009:

(A) New budget authority, $83,989,000,000.

(B) Outlays, $83,273,000,000.

Fiscal year 2010:

(A) New budget authority, $83,393,000,000.

(B) Outlays, $82,575,000,000.

Fiscal year 2011:

(A) New budget authority, $83,343,000,000.

(B) Outlays, $82,597,000,000.

(11) Health (550):

Fiscal year 2007:

(A) New budget authority, $273,450,000,000.

(B) Outlays, $274,616,000,000.

Fiscal year 2008:

(A) New budget authority, $289,867,000,000.

(B) Outlays, $291,070,000,000.

Fiscal year 2009:

(A) New budget authority, $310,193,000,000.

(B) Outlays, $308,529,000,000.

Fiscal year 2010:

(A) New budget authority, $326,949,000,000.

(B) Outlays, $326,511,000,000.

Fiscal year 2011:

(A) New budget authority, $348,509,000,000.

(B) Outlays, $346,802,000,000.

(12) Medicare (570):

Fiscal year 2007:

(A) New budget authority, $382,803,000,000.

(B) Outlays, $388,276,000,000.

Fiscal year 2008:

(A) New budget authority, $413,350,000,000.

(B) Outlays, $413,417,000,000.

Fiscal year 2009:

(A) New budget authority, $443,331,000,000.

(B) Outlays, $443,022,000,000.

Fiscal year 2010:

(A) New budget authority, $472,962,000,000.

(B) Outlays, $473,238,000,000.

Fiscal year 2011:

(A) New budget authority, $523,267,000,000.

(B) Outlays, $523,305,000,000.

(13) Income Security (600):

Fiscal year 2007:

(A) New budget authority, $356,761,000,000.

(B) Outlays, $362,086,000,000.

Fiscal year 2008:

(A) New budget authority, $371,174,000,000.

(B) Outlays, $374,267,000,000.

Fiscal year 2009:

(A) New budget authority, $381,732,000,000.

(B) Outlays, $384,278,000,000.

Fiscal year 2010:

(A) New budget authority, $391,682,000,000.

(B) Outlays, $393,209,000,000.

Fiscal year 2011:

(A) New budget authority, $406,687,000,000.

(B) Outlays, $406,960,000,000.

(14) Social Security (650):

Fiscal year 2007:

(A) New budget authority, $16,922,000,000.

(B) Outlays, $16,922,000,000.

Fiscal year 2008:

(A) New budget authority, $18,814,000,000.

(B) Outlays, $18,814,000,000.

Fiscal year 2009:

(A) New budget authority, $20,694,000,000.

(B) Outlays, $20,694,000,000.

Fiscal year 2010:

(A) New budget authority, $22,866,000,000.

(B) Outlays, $22,866,000,000.

Fiscal year 2011:

(A) New budget authority, $26,480,000,000.

(B) Outlays, $26,480,000,000.

(15) Veterans Benefits and Services (700):

Fiscal year 2007:

(A) New budget authority, $74,627,000,000.

(B) Outlays, $73,944,000,000.

Fiscal year 2008:

(A) New budget authority, $76,925,000,000.

(B) Outlays, $77,200,000,000.

Fiscal year 2009:

(A) New budget authority, $77,814,000,000.

(B) Outlays, $77,982,000,000.

Fiscal year 2010:

(A) New budget authority, $78,232,000,000.

(B) Outlays, $78,264,000,000.

Fiscal year 2011:

(A) New budget authority, $82,398,000,000.

(B) Outlays, $82,249,000,000.

(16) Administration of Justice (750):

Fiscal year 2007:

(A) New budget authority, $42,795,000,000.

(B) Outlays, $43,621,000,000.

Fiscal year 2008:

(A) New budget authority, $42,908,000,000.

(B) Outlays, $43,578,000,000.

Fiscal year 2009:

(A) New budget authority, $43,454,000,000.

(B) Outlays, $43,716,000,000.

Fiscal year 2010:

(A) New budget authority, $43,816,000,000.

(B) Outlays, $43,903,000,000.

Fiscal year 2011:

(A) New budget authority, $44,862,000,000.

(B) Outlays, $44,492,000,000.

(17) General Government (800):

Fiscal year 2007:

(A) New budget authority, $18,981,000,000.

(B) Outlays, $18,873,000,000.

Fiscal year 2008:

(A) New budget authority, $18,332,000,000.

(B) Outlays, $18,318,000,000.

Fiscal year 2009:

(A) New budget authority, $18,365,000,000.

(B) Outlays, $18,099,000,000.

Fiscal year 2010:

(A) New budget authority, $18,250,000,000.

(B) Outlays, $18,020,000,000.

Fiscal year 2011:

(A) New budget authority, $18,479,000,000.

(B) Outlays, $18,213,000,000.

(18) Net Interest (900):

Fiscal year 2007:

(A) New budget authority, $354,138,000,000.

(B) Outlays, $354,138,000,000.

Fiscal year 2008:

(A) New budget authority, $383,621,000,000.

(B) Outlays, $383,621,000,000.

Fiscal year 2009:

(A) New budget authority, $405,846,000,000.

(B) Outlays, $405,846,000,000.

Fiscal year 2010:

(A) New budget authority, $427,510,000,000.

(B) Outlays, $427,510,000,000.

Fiscal year 2011:

(A) New budget authority, $449,248,000,000.

(B) Outlays, $449,248,000,000.

(19) Allowances (920):

Fiscal year 2007:

(A) New budget authority, $6,247,000,000.

(B) Outlays, $5,280,000,000.

Fiscal year 2008:

(A) New budget authority, −$7,922,000,000.

(B) Outlays, −$5,437,000,000.

Fiscal year 2009:

(A) New budget authority, −$7,252,000,000.

(B) Outlays, −$5,918,000,000.

Fiscal year 2010:

(A) New budget authority, −$7,384,000,000.

(B) Outlays, −$6,882,000,000.

Fiscal year 2011:

(A) New budget authority, −$7,539,000,000.

(B) Outlays, −$7,282,000,000.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 2007:

(A) New budget authority, −$68,585,000,000.

(B) Outlays, −$69,427,000,000.

Fiscal year 2008:

(A) New budget authority, −$68,727,000,000.

(B) Outlays, −$68,399,000,000.

Fiscal year 2009:

(A) New budget authority, −$74,480,000,000.

(B) Outlays, −$74,199,000,000.

Fiscal year 2010:

(A) New budget authority, −$66,775,000,000.

(B) Outlays, −$66,588,000,000.

Fiscal year 2011:

(A) New budget authority, −$69,284,000,000.

(B) Outlays, −$69,247,000,000.

TITLE II—RECONCILIATION

SEC. 201. RECONCILIATION IN THE HOUSE OF REPRESENTATIVES.

(a) SUBMISSIONS TO PROVIDE FOR THE CONTINUED REFORM OF MANDATORY SPENDING.—(1) Not later than June 9, 2006, the House committees named in paragraph (2) shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the House Committee on the Budget shall report to the House a reconciliation bill carrying out all such recommendations without any substantive revision.

(2) INSTRUCTIONS.—

(A) COMMITTEE ON AGRICULTURE.—The House Committee on Agriculture shall report changes in laws within its jurisdiction sufficient to reduce the deficit by $55,000,000 for the period of fiscal years 2007 through 2011.

(B) COMMITTEE ON ARMED SERVICES.—The House Committee on Armed Services shall report changes in laws within its jurisdiction sufficient to reduce the deficit by $175,000,000 for the period of fiscal years 2007 through 2011.

(C) COMMITTEE ON EDUCATION AND THE WORKFORCE.—The House Committee on Education and the Workforce shall report changes in laws within its jurisdiction sufficient to reduce the deficit by $1,323,000,000 for the period of fiscal years 2007 through 2011.

(D) COMMITTEE ON FINANCIAL SERVICES INSTRUCTION TO TRIGGER RELEASE OF FLOOD INSURANCE RESERVE FUND TO COVER ADDITIONAL CLAIMS IN THE GULF REGION.—The House Committee on Financial Services shall report changes in laws within its jurisdiction sufficient to reduce the deficit by $400,000,000 for the period of fiscal years 2007 through 2011.

(E) COMMITTEE ON INTERNATIONAL RELATIONS.—The House Committee on International Relations shall report changes in laws within its jurisdiction sufficient to reduce the deficit by $250,000,000 for the period of fiscal years 2007 through 2011.

(F) COMMITTEE ON THE JUDICIARY.—The House Committee on the Judiciary shall report changes in laws within its jurisdiction sufficient to reduce the deficit by $500,000,000 for the period of fiscal years 2007 through 2011.

(G) COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE.—The House Committee on Transportation and Infrastructure shall report changes in laws within its jurisdiction sufficient to reduce the deficit by $50,000,000 for the period of fiscal years 2007 through 2011.

(H) COMMITTEE ON WAYS AND MEANS.—The House Committee on Ways and Means shall report changes in laws within its jurisdiction sufficient to reduce the deficit by $4,000,000,000 for the period of fiscal years 2007 through 2011.

(b) SUBMISSION OF REVISED ALLOCATIONS.—(1) Upon the submission to the Committee on the Budget of the House of a recommendation that has complied with its reconciliation instructions solely by virtue of section 310(c) of the Congressional Budget Act of 1974, the chairman of that committee may file with the House appropriately revised allocations under section 302(a) of such Act and revised functional levels and aggregates.

(2) Upon the submission to the House of a conference report recommending a reconciliation bill or resolution in which a committee has complied with its reconciliation instructions solely by virtue of this section, the chairman of the Committee on the Budget of the House may file with the House appropriately revised allocations under section 302(a) of such Act and revised functional levels and aggregates.

(3) Allocations and aggregates revised pursuant to this subsection shall be considered to be allocations and aggregates established by the concurrent resolution on the budget pursuant to section 301 of such Act.

TITLE III—RESERVE FUNDS

SEC. 301. RESERVE FUND FOR THE DISPOSAL OF UNDERUTILIZED FEDERAL REAL PROPERTY.

If the Committee on Government Reform of the House reports a bill or joint resolution, or an amendment is offered thereto or a conference report is submitted thereon, that enhances the Government's real property disposal authority and generates discretionary savings, the chairman of the Committee on the Budget may make the appropriate adjustments in allocations and aggregates by the amount provided by that measure for that purpose, but not to exceed $25,000,000 in new budget authority and outlays flowing therefrom for fiscal year 2007, and $25,000,000 in new budget authority and outlays flowing therefrom for the period of fiscal years 2007 through 2011.

SEC. 302. RESERVE FUND FOR SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT REAUTHORIZATION.

In the House, after the filing of a rule that provides for the consideration of any bill or joint resolution or whenever any bill or joint resolution is placed on any calendar, or if an amendment is offered to or conference report is submitted on any bill or joint resolution that provides for the reauthorization of the Secure Rural Schools and Community Self-Determination Act (Public Law 106–393), then the chairman of the Committee on the Budget may make the appropriate adjustments in allocations and aggregates to the extent that such legislation would not increase the deficit for the period of fiscal years 2007 through 2011.

SEC. 303. RESERVE FUND FOR CALENDAR YEAR 2007 ALTERNATIVE MINIMUM TAX RELIEF.

If the Committee on Ways and Means reports a bill, or an amendment is offered thereto or a conference report is submitted thereon, that would increase the exemption amounts specified in section 55(d)(1) of the Internal Revenue Code of 1986 with respect to taxable years beginning in calendar year 2007, the chairman of the Committee on the Budget may make the appropriate adjustments in allocations and aggregates for fiscal year 2007 to the extent that such legislation would not reduce revenues below the aggregate level of revenues provided in section 101(1)(A) for the period of fiscal years 2007 through 2011.

SEC. 304. RESERVE FUND FOR THE NATIONAL FLOOD INSURANCE PROGRAM TO MEET OUTSTANDING CLAIMS FOR FLOOD DAMAGE IN THE GULF.

If the Committee on Financial Services of the House reports a bill or joint resolution, or an amendment is offered thereto or a conference report is submitted thereon, that—

(1) establishes more actuarially sound rates on policies issued by the National Flood Insurance Program; and

(2) phases out flood insurance subsidies on pre-FIRM structures not used as primary residences;

the chairman of the Committee on the Budget may make the appropriate adjustments in allocations and aggregates by the amount provided by that measure for the purpose of liquidating the National Flood Insurance Fund's remaining contractual obligations resulting from claims made as a result of floods that occurred in 2005, but not to exceed $3,325,000,000 in new budget authority for fiscal year 2007 for that purpose. Such adjustments may also be made if the reforms set forth in paragraphs (1) and (2) have been enacted prior to the consideration of the measure referred to in this section.

SEC. 305. RESERVE FUND FOR THE REFORM OF THE REGULATION OF GOVERNMENT-SPONSORED ENTERPRISES.

In the House, if—

(1) the Committee on Financial Services of the House reports a bill or joint resolution, or if an amendment is offered thereto or a conference report is submitted thereon, that reforms the regulation of certain housing-related Government-sponsored enterprises; and

(2) that committee is within its allocation as provided under section 302(a) of the Congressional Budget Act of 1974;

the chairman of the Committee on the Budget may make the appropriate adjustments in allocations and aggregates to the extent that such legislation would not increase the deficit for fiscal year 2007 and the period of fiscal years 2007 through 2011.

SEC. 306. RESERVE FUND TO ACCOMMODATE FULLY OFFSET APPROPRIATIONS FOR LABOR/HHS, EDUCATION, AND OTHER DOMESTIC PRIORITIES.

In the House, if any measure is enacted that reduces direct spending for fiscal year 2007 and for the period of fiscal years 2007 through 2011, and so designates some or all of such savings provisions pursuant to this section, then the chairman of the Committee on Budget shall increase the allocation of new budget authority (and outlays flowing therefrom) to the Committee on Appropriations for fiscal year 2007 by an amount not to exceed the reduction in budget authority for that fiscal year achieved by such designated provisions. Adjustments made pursuant to this section may not be—

(1) greater than the savings achieved by the measure in which such designated provisions are included; or

(2) in excess of $3,100,000,000 for fiscal year 2007.

Such chairman may make any other appropriate adjustments to applicable aggregates and allocations under this section.

TITLE IV—BUDGET ENFORCEMENT

SEC. 401. RESTRICTIONS ON ADVANCE APPROPRIATIONS.

(a) In General.—(1) In the House, except as provided in subsection (b), an advance appropriation may not be reported in a bill or joint resolution making a general appropriation or continuing appropriation, and may not be in order as an amendment thereto.

(2) Managers on the part of the House may not agree to a Senate amendment that would violate paragraph (1) unless specific authority to agree to the amendment first is given by the House by a separate vote with respect thereto.

(b) Advance Appropriation.—In the House, an advance appropriation may be provided for the fiscal years 2008 and 2009 for programs, projects, activities, or accounts identified in the joint explanatory statement of managers accompanying this resolution under the heading "Accounts Identified for Advance Appropriations" in an aggregate amount not to exceed $23,565,000,000 in new budget authority in each year.

(c) Definition.—In this section, the term "advance appropriation" means any new budget authority provided in a bill or joint resolution making general appropriations or any new budget authority provided in a bill or joint resolution making continuing appropriations for fiscal year 2007 that first becomes available for any fiscal year after 2007.

SEC. 402. CONTINGENCY OPERATIONS RELATED TO THE GLOBAL WAR ON TERRORISM AND FOR UNANTICIPATED DEFENSE NEEDS.

(a) Exemption of Contingency Operations Related to the Global War on Terrorism and for Unanticipated Defense Needs.—In the House, if any bill or joint resolution is reported, or an amendment is offered thereto or a conference report is filed thereon, that makes appropriations for fiscal year 2007 for contingency operations directly related to the global war on terrorism, and other unanticipated defense-related operations, then the new budget authority, new entitlement authority, outlays, or receipts resulting therefrom shall not count for purposes of titles III or IV of the Congressional Budget Act of 1974.

(b) Current Level.—Amounts included in this resolution for the purpose set forth in this section shall be considered to be current law for purposes of the preparation of the current level of budget authority and outlays and the appropriate levels shall be adjusted upon the enactment of such bill.

SEC. 404. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.

(a) Application.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(b) Effect of Changed Allocations and Aggregates.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) Budget Committee Determinations.—For purposes of this resolution—

(1) the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the appropriate Committee on the Budget; and

(2) such chairman may make any other necessary adjustments to such levels, including adjustments necessary, and in the House separate allocations, to reflect the timing of responses to reconciliation directives pursuant to section 201 of this resolution.

SEC. 405. ADJUSTMENTS TO REFLECT CHANGES IN CONCEPTS AND DEFINITIONS.

Upon the enactment of a bill or joint resolution providing for a change in concepts or definitions, the appropriate chairman of the Committee on the Budget shall make adjustments to the levels and allocations in this resolution in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002).

SEC. 406. COMPLIANCE WITH SECTION 13301 OF THE BUDGET ENFORCEMENT ACT OF 1990.

(a) In General.—In the House and the Senate, notwithstanding section 302(a)(1) of the Congressional Budget Act of 1974 and section 13301 of the Budget Enforcement Act of 1990, the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget shall include in its allocation under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Appropriations amounts for the discretionary administrative expenses of the Social Security Administration.

(b) Special Rule.—In the House, for purposes of applying section 302(f) of the Congressional Budget Act of 1974, estimates of the level of total new budget authority and total outlays provided by a measure shall include any discretionary amounts provided for the Social Security Administration.

SEC. 407. EXERCISE OF RULEMAKING POWERS.

Congress adopts the provisions of this title—

(1) as an exercise of the rulemaking power of the Senate and the House, respectively, and as such they shall be considered as part of the rules of each House, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change those rules (so far as they relate to that house) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 408. TREATMENT OF ALLOCATIONS IN THE HOUSE.

(a) In General.—In the House, the Committee on Appropriations may make a separate suballocation for appropriations for the legislative branch for the first fiscal year of this resolution. Such suballocation shall be deemed to be made under section 302(b) of the Congressional Budget Act of 1974 and shall be treated as such a suballocation for all purposes under section 302 of such Act.

(b) Display of Committee Allocations.—An allocation to a committee under section 302(a) of the Congressional Budget Act of 1974 may display an amount to reflect a committee's instruction under the reconciliation process, but it shall not constitute an allocation within the meaning of section 302 of such Act. Any deficit reduction achieved in a reconciliation bill submitted pursuant to title II of this resolution shall not be included in current levels of new budget authority and outlays for purposes of enforcing an allocation under 302(a) of such Act.

SEC. 409. BUDGETARY TREATMENT OF THE NATIONAL FLOOD INSURANCE PROGRAM.

(a) Treatment.—For purposes of the allocations and aggregates in this resolution, the reconciliation directives established by this resolution, and for any other purpose under titles III and IV of the Congressional Budget Act of 1974, the budgetary effects of any bill or joint resolution, amendment thereto, or conference report thereon, or any recommendations submitted pursuant to section 201 that includes the reforms set forth in subsection (b) shall be scored without regard to the obligations resulting from the enactment of Public Law 109–208. Such estimate shall assume the liquidating of the National Flood Insurance Fund's remaining contractual obligations resulting from claims made as a result of floods that occurred in 2005.

(b) Legislation.—The legislation referred to in subsection (a) shall—

(1) establish more actuarially sound rates on policies issued by the National Flood Insurance Program; and

(2) end flood insurance subsidies on pre-FIRM structures not used as primary residences.

SEC. 410. ADJUSTMENTS FOR TAX LEGISLATION.

In the House, if the Committee on Ways and Means reports a bill or joint resolution, or an amendment is offered thereto or a conference report is submitted thereon, that amends the Internal Revenue Code of 1986 by extending the expiration dates for Federal tax policies that expired during fiscal year 2006 or that expire during the period of fiscal years 2007 through 2011, then the chairman of the Committee on the Budget may make appropriate adjustments in the allocations and aggregates of budget authority, outlays, and revenue set forth in this resolution to reflect the budgetary effects of such legislation, but only to the extent the adjustments would not cause the level of revenue to be less than the level of revenue provided for in this resolution for the period of fiscal years 2007 through 2011 and would not cause the deficit to exceed the appropriate level of deficits provided for in this resolution for the period of fiscal years 2007 through 2011.

TITLE V—EMERGENCY RESERVE FUND

SEC. 501. NONDEFENSE RESERVE FUND FOR EMERGENCIES.

(a) Nondefense Reserve Funds.—

(1) Discretionary reserve fund.—In the House and except as provided by subsection (b), if a bill or joint resolution is reported, or an amendment is offered thereto (or considered as adopted) or a conference report is filed thereon, that provides new discretionary budget authority (and outlays flowing therefrom), and such provision is designated as an emergency pursuant to this section, the chairman of the Committee on the Budget shall make adjustments to the allocations and aggregates set forth in this resolution up to the amount of such provisions if the requirements set forth in section 504 are met, but the sum of all adjustments

made under this paragraph shall not exceed $6,450,000,000 for fiscal year 2007.

(2) OTHER ADJUSTMENTS.—In the House, if a bill or joint resolution is reported or a conference report is filed thereon, and a direct spending or receipt provision included therein is designated as an emergency pursuant to this paragraph, the chairman of the Committee on the Budget may make adjustments to the allocations and aggregates set forth in this resolution.

(b) ADDITIONAL ADJUSTMENT PROCEDURES.—In the House, before any adjustment is made pursuant to this section for any bill, joint resolution, or conference report that designates a provision an emergency, the enactment of which would cause the total amount of the reserve fund set forth in subsection (a)(1) for fiscal year 2007 to be exceeded:

(1) The chairman of the Committee on the Budget shall convene a meeting of that committee, where it shall be in order, subject to the terms set forth in this section, for one motion described in paragraph (2) to be made to authorize the chairman to make adjustments above the maximum amount of adjustments set forth in subsection (a).

(2) The motion referred to in paragraph (1) shall be in the following form: 'I move that the chairman of the Committee on the Budget be authorized to adjust the allocations and aggregates set forth in the concurrent resolution on the budget for fiscal year 2007 by the following amount: $ for fiscal year 2007.', with the blank being filled in with the amount determined by the chairman of the Committee on the Budget. For any measure referred to in subsection (a)(1), such amount shall not exceed the total amount for fiscal year 2007 designated as an emergency in excess of the applicable amount remaining in the reserve fund.

(3) The motion set forth in paragraph (2) shall be open for debate and amendment, but any amendment offered thereto is only in order if limited to changing an amount in the motion.

(4) Except as provided by paragraph (5), the chairman of the Committee on the Budget may not make any adjustments under subsection (a) or subsection (b) unless or until the committee filing a report or joint statement of managers on a conference report on a measure including an emergency designation fulfills the terms set forth in section 504.

(5) The chairman of the Committee on the Budget shall make any adjustments he deems necessary under this section if he determines the enactment of the provision or provisions designated as an emergency is essential to respond to an urgent and imminent need, the chairman determines the exceptional circumstances referred to in rule 3 of the rules of the committee are met and the committee cannot convene to consider the motion referred to in this section in a timely fashion.

(c) APPLICATION OF ADJUSTMENTS.—The adjustments made pursuant to subsection (1) and (b) shall—

(1) apply while that bill, joint resolution, conference report or amendment is under consideration;

(2) take effect upon the enactment of that legislation; and

(3) be published in the Congressional Record as soon as practicable.

SEC. 502. EMERGENCY CRITERIA.

As used in this title:

(1) The term "emergency" means a situation that—

(A) requires new budget authority and outlays (or new budget authority and the outlays flowing therefrom) for the prevention or mitigation of, or response to, loss of life or property, or a threat to national security; and

(B) is unanticipated.

(2) The term "unanticipated" means that the underlying situation is—

(A) Sudden, which means quickly coming into being or not building up over time;

(B) Urgent, which means a pressing and compelling need requiring immediate action;

(C) Unforeseen, which means not predicted or anticipated as an emerging need; and

(D) Temporary, which means not of a permanent duration.

SEC. 503. DEVELOPMENT OF GUIDELINES FOR APPLICATION OF EMERGENCY DEFINITION.

In the House, as soon as practicable after the adoption of this resolution, the chairman of the Committee on the Budget shall, after consultation with the chairmen of the applicable committees, and the Director of the Congressional Budget Office, prepare guidelines for application of the definition of an emergency and publish such guidelines in the Congressional Record, and may issue any committee print from the Committee on the Budget for this or other purposes.

SEC. 504. COMMITTEE NOTIFICATION OF EMERGENCY LEGISLATION.

(a) COMMITTEE NOTIFICATION.—Whenever a committee of the House (including a committee of conference) reports any bill or joint resolution that includes a provision designated as an emergency pursuant to this title, the report accompanying that bill or joint resolution (or the joint explanatory statement of managers in the case of a conference report on any such bill or joint resolution) shall identify all provisions that provide amounts designated as an emergency and shall provide an explanation of the manner in which the provision meets the criteria set forth in section 502.

(b) CONGRESSIONAL RECORD.—If such a measure is to be considered by the House without being reported by the committee of jurisdiction, then the committee shall cause the explanation to be published in the Congressional Record as soon as practicable.

SEC. 505. UP-TO-DATE TABULATIONS.

The Committee on the Budget of the House shall publish in the Congressional Record up-to-date tabulations of amounts remaining in the reserve fund set forth in section 501, or authorized in excess thereof, as soon as practicable after the enactment of such amounts designated as emergencies.

TITLE VI—SENSE OF CONGRESS

SEC. 601. SENSE OF CONGRESS ON LONG-TERM BUDGETING.

It is the sense of Congress that the determination of the congressional budget for the United States Government and the President's budget request should include consideration of the Financial Report of the United States Government, especially its information regarding the Government's net operating cost, financial position, and long-term liabilities.

SEC. 602. SENSE OF CONGRESS ON CLOSING THE TAX GAP TO REDUCE THE DEFICIT.

It is the sense of Congress that any revenues increases achieved through recovery of taxes legally owed to the U.S. Treasury but not actually paid, the so-called "tax gap", shall be dedicated entirely to reducing the deficit and the accumulated debt, and not to financing additional spending.

SEC. ___. IMPORTANCE OF FUNDING FY2007 DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATION BILL.

(a) FINDINGS.—The House of Representatives finds that—

(1) the budget resolution sets total discretionary spending at $872,778,000,000; and

(2) additional funding can be provided for discretionary programs under the budget resolution provided that it is offset with mandatory or discretionary savings in negotiations with the Senate.

(b) RECOGNITION.—The House of Representatives recognizes the need to increase the President's fiscal year 2007 request for the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriation bill by not less than $7,158,000,000.

SEC. ___. UNOBLIGATED FUNDING OFFSET.

There should be included in any offsets enacted to provide for the increases relative to the President's request for the Labor, Health and Human Services, Education and Related Agencies Appropriations bill a rescission of at least $1,000,000,000 from available, unobligated funds previously appropriated for reconstruction activities in Iraq.

The Acting CHAIRMAN. No further amendment to the concurrent resolution is in order except the amendments printed in part B of the report. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for 40 minutes, equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment.

After conclusion of consideration of the concurrent resolution for amendment, there shall be a final period of general debate which shall not exceed 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

AMENDMENT NO. 1 OFFERED BY MR. WATT

Mr. WATT. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 1 in the nature of a substitute printed in House Report 109-468 offered by Mr. WATT:

Strike all after the resolving clause and insert the following:

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2007.

The Congress declares that this is the concurrent resolution on the budget for fiscal year 2007, including appropriate budgetary levels for fiscal years 2008 through 2011.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for each of fiscal years 2007 through 2011:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2007: $1,877,299,000,000.00.

Fiscal year 2008: $1,974,876,000,000.00.

Fiscal year 2009: $2,087,771,000,000.00.

Fiscal year 2010: $2,196,377,000,000.00.

Fiscal year 2011: $2,420,471,000,000.00.

(B) The amounts by which the aggregate levels of Federal revenues should be reduced are as follows:

Fiscal year 2007: $57,700,000,000.00.

Fiscal year 2008: $53,100,000,000.00.

Fiscal year 2009: $56,200,000,000.00.

Fiscal year 2010: $60,400,000,000.00.

Fiscal year 2011: $63,400,000,000.00.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2007: $2,339,794,000,000.00.

Fiscal year 2008: $2,377,266,000,000.00.

Fiscal year 2009: $2,470,110,000,000.00.

Fiscal year 2010: $2,570,061,000,000.00.

Fiscal year 2011: $2,691,732,000,000.00.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2007: $2,349,169,000,000.00.

Fiscal year 2008: $2,412,607,000,000.00.

Fiscal year 2009: $2,477,159,000,000.00.

Fiscal year 2010: $2,566,991,000,000.00.

Fiscal year 2011: $2,682,198,000,000.00.

(4) DEFICITS (ON-BUDGET).—For purposes of the enforcement of this resolution, the amounts of the deficits (on-budget) are as follows:

Fiscal year 2007: $ – 471,870,000,000.00.

Fiscal year 2008: $ – 437,731,000,000.00.

Fiscal year 2009: $ – 389,388,000,000.00.

Fiscal year 2010: $ – 370,614,000,000.00.

Fiscal year 2011: $ – 261,727,000,000.00.

(5) DEBT SUBJECT TO LIMIT.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, the appropriate levels of the public debt are as follows:

Fiscal year 2007: $9,098,905,000,000.00.

Fiscal year 2008: $9,648,135,000,000.00.

Fiscal year 2009: $10,145,324,000,000.00.

Fiscal year 2010: $10,620,812,000,000.00.

Fiscal year 2011: $10,980,497,000,000.00.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of debt held by the public are as follows:

Fiscal year 2007: $5,245,092,000,000.00.

Fiscal year 2008: $5,480,886,000,000.00.

Fiscal year 2009: $5,651,568,000,000.00.

Fiscal year 2010: $5,785,485,000,000.00.

Fiscal year 2011: $5,794,228,000,000.00.

SEC. 102. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority and outlays for fiscal years 2007 through 2011 for each major functional category are:

(1) National Defense (050):

Fiscal year 2007:

(A) New budget authority, $506,347,000,000.00.

(B) Outlays, $530,252,000,000.00.

Fiscal year 2008:

(A) New budget authority, $484,661,000,000.00.

(B) Outlays, $504,174,000,000.00.

Fiscal year 2009:

(A) New budget authority, $504,753,000,000.00.

(B) Outlays, $505,506,000,000.00.

Fiscal year 2010:

(A) New budget authority, $514,858,000,000.00.

(B) Outlays, $512,438,000,000.00.

Fiscal year 2011:

(A) New budget authority, $525,781,000,000.00.

(B) Outlays, $524,790,000,000.00.

(2) International Affairs (150):

Fiscal year 2007:

(A) New budget authority, $33,516,000,000.00.

(B) Outlays, $35,543,000,000.00.

Fiscal year 2008:

(A) New budget authority, $36,206,000,000.00.

(B) Outlays, $35,046,000,000.00.

Fiscal year 2009:

(A) New budget authority, $36,178,000,000.00.

(B) Outlays, $35,080,000,000.00.

Fiscal year 2010:

(A) New budget authority, $35,869,000,000.00.

(B) Outlays, $34,991,000,000.00.

Fiscal year 2011:

(A) New budget authority, $36,293,000,000.00.

(B) Outlays, $34,735,000,000.00.

(3) General Science, Space, and Technology (250):

Fiscal year 2007:

(A) New budget authority, $26,438,000,000.00.

(B) Outlays, $25,369,000,000.00.

Fiscal year 2008:

(A) New budget authority, $27,646,000,000.00.

(B) Outlays, $26,526,000,000.00.

Fiscal year 2009:

(A) New budget authority, $28,693,000,000.00.

(B) Outlays, $27,612,000,000.00.

Fiscal year 2010:

(A) New budget authority, $29,910,000,000.00.

(B) Outlays, $28,753,000,000.00.

Fiscal year 2011:

(A) New budget authority, $31,189,000,000.00.

(B) Outlays, $29,974,000,000.00.

(4) Energy (270):

Fiscal year 2007:

(A) New budget authority, $2,693,000,000.00.

(B) Outlays, $1,098,000,000.00.

Fiscal year 2008:

(A) New budget authority, $3,088,000,000.00.

(B) Outlays, $1,038,000,000.00.

Fiscal year 2009:

(A) New budget authority, $2,717,000,000.00.

(B) Outlays, $1,306,000,000.00.

Fiscal year 2010:

(A) New budget authority, $2,590,000,000.00.

(B) Outlays, $1,268,000,000.00.

Fiscal year 2011:

(A) New budget authority, $2,494,000,000.00.

(B) Outlays, $1,111,000,000.00.

(5) Natural Resources and Environment (300):

Fiscal year 2007:

(A) New budget authority, $30,674,000,000.00.

(B) Outlays, $33,707,000,000.00.

Fiscal year 2008:

(A) New budget authority, $29,833,000,000.00.

(B) Outlays, $31,608,000,000.00.

Fiscal year 2009:

(A) New budget authority, $30,238,000,000.00.

(B) Outlays, $31,236,000,000.00.

Fiscal year 2010:

(A) New budget authority, $29,687,000,000.00.

(B) Outlays, $30,702,000,000.00.

Fiscal year 2011:

(A) New budget authority, $29,595,000,000.00.

(B) Outlays, $30,304,000,000.00.

(6) Agriculture (350):

Fiscal year 2007:

(A) New budget authority, $30,029,000,000.00.

(B) Outlays, $28,804,000,000.00.

Fiscal year 2008:

(A) New budget authority, $27,705,000,000.00.

(B) Outlays, $27,086,000,000.00.

Fiscal year 2009:

(A) New budget authority, $27,012,000,000.00.

(B) Outlays, $26,330,000,000.00.

Fiscal year 2010:

(A) New budget authority, $25,870,000,000.00.

(B) Outlays, $25,060,000,000.00.

Fiscal year 2011:

(A) New budget authority, $25,511,000,000.00.

(B) Outlays, $24,781,000,000.00.

(7) Commerce and Housing Credit (370):

Fiscal year 2007:

(A) New budget authority, $18,018,000,000.00.

(B) Outlays, $9,277,000,000.00.

Fiscal year 2008:

(A) New budget authority, $14,678,000,000.00.

(B) Outlays, $9,414,000,000.00.

Fiscal year 2009:

(A) New budget authority, $14,778,000,000.00.

(B) Outlays, $9,458,000,000.00.

Fiscal year 2010:

(A) New budget authority, $18,562,000,000.00.

(B) Outlays, $10,357,000,000.00.

Fiscal year 2011:

(A) New budget authority, $13,366,000,000.00.

(B) Outlays, $6,890,000,000.00.

(8) Transportation (400):

Fiscal year 2007:

(A) New budget authority, $79,258,000,000.00.

(B) Outlays, $76,187,000,000.00.

Fiscal year 2008:

(A) New budget authority, $82,283,000,000.00.

(B) Outlays, $79,140,000,000.00.

Fiscal year 2009:

(A) New budget authority, $73,878,000,000.00.

(B) Outlays, $78,976,000,000.00.

Fiscal year 2010:

(A) New budget authority, $73,926,000,000.00.

(B) Outlays, $78,515,000,000.00.

Fiscal year 2011:

(A) New budget authority, $74,477,000,000.00.

(B) Outlays, $78,546,000,000.00.

(9) Community and Regional Development (450):

Fiscal year 2007:

(A) New budget authority, $17,942,000,000.00.

(B) Outlays, $31,792,000,000.00.

Fiscal year 2008:

(A) New budget authority, $14,917,000,000.00.

(B) Outlays, $26,500,000,000.00.

Fiscal year 2009:

(A) New budget authority, $14,981,000,000.00.

(B) Outlays, $23,201,000,000.00.

Fiscal year 2010:

(A) New budget authority, $14,988,000,000.00.

(B) Outlays, $19,656,000,000.00.

Fiscal year 2011:

(A) New budget authority, $15,218,000,000.00.

(B) Outlays, $15,602,000,000.00.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 2007:

(A) New budget authority, $116,924,000,000.00.

(B) Outlays, $98,336,000,000.00.

Fiscal year 2008:

(A) New budget authority, $99,140,000,000.00.

(B) Outlays, $109,332,000,000.00.

Fiscal year 2009:

(A) New budget authority, $98,989,000,000.00.

(B) Outlays, $98,848,000,000.00.

Fiscal year 2010:

(A) New budget authority, $98,393,000,000.00.

(B) Outlays, $97,923,000,000.00.

Fiscal year 2011:

(A) New budget authority, $98,343,000,000.00.

(B) Outlays, $97,597,000,000.00.

(11) Health (550):

Fiscal year 2007:

(A) New budget authority, $281,193,000,000.00.

(B) Outlays, $276,397,000,000.00.

Fiscal year 2008:

(A) New budget authority, $294,867,000,000.00.

(B) Outlays, $295,323,000,000.00.

Fiscal year 2009:

(A) New budget authority, $315,193,000,000.00.

(B) Outlays, $313,315,000,000.00.

Fiscal year 2010:

(A) New budget authority, $331,949,000,000.00.

(B) Outlays, $331,605,000,000.00.

Fiscal year 2011:

(A) New budget authority, $353,509,000,000.00.

(B) Outlays, $352,084,000,000.00.

(12) Medicare (570):
Fiscal year 2007:
(A) New budget authority, $383,503,000,000.00.
(B) Outlays, $388,845,000,000.00.
Fiscal year 2008:
(A) New budget authority, $414,050,000,000.00.
(B) Outlays, $414,094,000,000.00.
Fiscal year 2009:
(A) New budget authority, $444,031,000,000.00.
(B) Outlays, $443,720,000,000.00.
Fiscal year 2010:
(A) New budget authority, $473,662,000,000.00.
(B) Outlays, $473,938,000,000.00.
Fiscal year 2011:
(A) New budget authority, $523,967,000,000.00.
(B) Outlays, $524,005,000,000.00.
(13) Income Security (600):
Fiscal year 2007:
(A) New budget authority, $360,761,000,000.00.
(B) Outlays, $364,795,000,000.00.
Fiscal year 2008:
(A) New budget authority, $376,174,000,000.00.
(B) Outlays, $378,529,000,000.00.
Fiscal year 2009:
(A) New budget authority, $386,732,000,000.00.
(B) Outlays, $389,048,000,000.00.
Fiscal year 2010:
(A) New budget authority, $396,682,000,000.00.
(B) Outlays, $398,178,000,000.00.
Fiscal year 2011:
(A) New budget authority, $411,687,000,000.00.
(B) Outlays, $411,960,000,000.00.
(14) Social Security (650):
Fiscal year 2007:
(A) New budget authority, $17,000,000,000.00.
(B) Outlays, $16,990,000,000.00.
Fiscal year 2008:
(A) New budget authority, $18,604,000,000.00.
(B) Outlays, $18,636,000,000.00.
Fiscal year 2009:
(A) New budget authority, $20,312,000,000.00.
(B) Outlays, $20,351,000,000.00.
Fiscal year 2010:
(A) New budget authority, $22,268,000,000.00.
(B) Outlays, $22,305,000,000.00.
Fiscal year 2011:
(A) New budget authority, $25,782,000,000.00.
(B) Outlays, $25,806,000,000.00.
(15) Veterans Benefits and Services (700):
Fiscal year 2007:
(A) New budget authority, $79,181,000,000.00.
(B) Outlays, $77,849,000,000.00.
Fiscal year 2008:
(A) New budget authority, $81,425,000,000.00.
(B) Outlays, $81,596,000,000.00.
Fiscal year 2009:
(A) New budget authority, $82,314,000,000.00.
(B) Outlays, $82,420,000,000.00.
Fiscal year 2010:
(A) New budget authority, $82,732,000,000.00.
(B) Outlays, $82,741,000,000.00.
Fiscal year 2011:
(A) New budget authority, $86,898,000,000.00.
(B) Outlays, $86,749,000,000.00.
(16) Administration of Justice (750):
Fiscal year 2007:
(A) New budget authority, $45,953,000,000.00.
(B) Outlays, $46,180,000,000.00.
Fiscal year 2008:
(A) New budget authority, $45,908,000,000.00.
(B) Outlays, $46,369,000,000.00.
Fiscal year 2009:
(A) New budget authority, $46,454,000,000.00.
(B) Outlays, $46,692,000,000.00.
Fiscal year 2010:
(A) New budget authority, $46,816,000,000.00.
(B) Outlays, $46,874,000,000.00.
Fiscal year 2011:
(A) New budget authority, $47,862,000,000.00.
(B) Outlays, $47,494,000,000.00.
(17) General Government (800):
Fiscal year 2007:
(A) New budget authority, $19,481,000,000.00.
(B) Outlays, $19,285,000,000.00.
Fiscal year 2008:
(A) New budget authority, $18,832,000,000.00.
(B) Outlays, $18,792,000,000.00.
Fiscal year 2009:
(A) New budget authority, $18,865,000,000.00.
(B) Outlays, $18,586,000,000.00.
Fiscal year 2010:
(A) New budget authority, $18,750,000,000.00.
(B) Outlays, $18,507,000,000.00.
Fiscal year 2011:
(A) New budget authority, $18,979,000,000.00.
(B) Outlays, $18,707,000,000.00.
(18) Net Interest (900):
Fiscal year 2007:
(A) New budget authority, $353,323,000,000.00.
(B) Outlays, $353,323,000,000.00.
Fiscal year 2008:
(A) New budget authority, $381,898,000,000.00.
(B) Outlays, $381,898,000,000.00.
Fiscal year 2009:
(A) New budget authority, $403,724,000,000.00.
(B) Outlays, $403,724,000,000.00.
Fiscal year 2010:
(A) New budget authority, $424,708,000,000.00.
(B) Outlays, $424,708,000,000.00.
Fiscal year 2011:
(A) New budget authority, $445,604,000,000.00.
(B) Outlays, $445,604,000,000.00.
(19) Allowances (920):
Fiscal year 2007:
(A) New budget authority, $6,145,000,000.00.
(B) Outlays, $4,568,000,000.00.
Fiscal year 2008:
(A) New budget authority, $ - 5,922,000,000.00.
(B) Outlays, $ - 4,096,000,000.00.
Fiscal year 2009:
(A) New budget authority, $ - 5,252,000,000.00.
(B) Outlays, $ - 4,051,000,000.00.
Fiscal year 2010:
(A) New budget authority, $ - 5,384,000,000.00.
(B) Outlays, $ - 4,939,000,000.00.
Fiscal year 2011:
(A) New budget authority, $ - 5,539,000,000.00.
(B) Outlays, $ - 5,293,000,000.00.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 2007:
(A) New budget authority, $ - 68,585,000,000.00.
(B) Outlays, $ - 69,427,000,000.00.
Fiscal year 2008:
(A) New budget authority, $ - 68,727,000,000.00.
(B) Outlays, $ - 68,399,000,000.00.
Fiscal year 2009:
(A) New budget authority, $ - 74,480,000,000.00.
(B) Outlays, $ - 74,199,000,000.00.
Fiscal year 2010:
(A) New budget authority, $ - 66,775,000,000.00.
(B) Outlays, $ - 66,588,000,000.00.
Fiscal year 2011:
(A) New budget authority, $ - 69,284,000,000.00.
(B) Outlays, $ - 69,247,000,000.00.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. PAY-AS-YOU-GO POINT OF ORDER IN THE HOUSE.

(a) Point of Order.—It shall not be in order in the House to consider any direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit for any of the following periods:

(1) The budget year.

(2) The period of the budget year and the next 4 fiscal years.

(b) On-Budget Deficit.—

(1) Definition.—For purposes of this section, the term "on-budget deficit" means a budget deficit that occurs in any year in which total outlays exceed total revenues, counting Federal revenues and outlays, except those of the old age, survivors and disability insurance trust funds established under title II of the Social Security Act, as provided in section 13301 of the Budget Enforcement Act of 1990.

(c) Determination of Budget Levels.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House.

(d) Expiration.—This section shall expire on December 31, 2016.

SEC. 202. DEPARTMENT OF DEFENSE REPORT TO CONGRESS.

(a) Findings.—The Congress finds that—

(1) $290,600,000 has been specifically reallocated to the Department of Defense in order to implement the recommendations of the Government Accountability Office (GAO) for improvement that will produce tremendous cost savings within the Department;

(2) between 2001 and 2005, GAO provided the Department of Defense with 2153 recommendations, many related to improving their business practices and, to date, the Department of Defense has implemented 604 recommendations and closed 96 recommendations without implementation; and

(3) the GAO estimates that the 604 implemented recommendations have yielded the Department of Defense a savings of $40.8 billion between fiscal years 2001 and 2005.

(b) Assumption; Report.—

(1) Assumption.—This resolution assumes $290,600,000 to be used by the Department of Defense to implement the remaining 1,453 recommendations of the Government Accountability Office.

(2) Report.—The Secretary of Defense shall submit a report to Congress within 90 days that demonstrates how each such recommendation shall be implemented, and, in the case of any such recommendation that cannot be implemented, a detailed reason for such inability to implement such recommendation.

The Acting CHAIRMAN. Pursuant to House Resolution 817, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina.

Mr. WATT. Mr. Chairman, as the Chair of the Congressional Black Caucus, I am honored to offer the Congressional Black Caucus 2007 fiscal year budget alternative, and I yield myself 3 minutes.

Mr. Chairman, a number of budgets are going to be offered tonight, and I think we are going to see a lot of smoke and mirrors and trickery.

□ 2045

But we are honest in the way we approach our budget. We believe a budget is a statement of priorities, and we believe that there are priorities that we must pay for, and we must find the money to pay for them.

So let me be straight up front that we intend in our budget to roll back, rescind the tax cuts on individuals' adjusted gross income in excess of $200,000. People will still get the benefits of tax cuts under $200,000, but by doing that over a 5-year period, we will gain $137 billion. We intend to eliminate corporate tax incentives for offshoring jobs. By doing that over a 5-year period, we will gain $50 billion. We intend to close tax loopholes and abusive shelters, and with that we will gain $10 billion. And on and on and on. So we are transparent in where we are getting our money from.

We intend to spend that money on priorities that we have identified in the Congressional Black Caucus' agenda to close and eliminate disparities that continue to exist in our country between African Americans and other Americans in this country in education, in health care, in every conceivable way that we can approach this. It is our intention to do that.

Let there be no mistake. We are not here to apologize because we think it is a higher priority for our country to eliminate and close these disparities that have existed throughout our history. We think that is more important than giving tax breaks to people who make over $200,000 a year. That is the simple premise of our budget.

Mr. Chairman, I reserve the balance of my time.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, I rise to claim the time in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from Florida is recognized for 20 minutes.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first and foremost, I want to thank the members of the Congressional Black Caucus. Putting together a budget is not an easy task. It takes a lot of work, a lot of time; so I want to thank them for doing that and for proposing what I think is a piece of legislation that really dramatically shows the differences between the two sides.

Compared to the committee budget, this substitute increases taxes by $96.6 billion in fiscal year 2007 alone, and it increases taxes also on the American people by $516.9 billion in the next 5 years.

Now, I know that when you deal with numbers of this scope, it is hard for people, those of us here sometimes and people back home, to really kind of grasp what that is, put that in perspective. So I wanted to try to put what those numbers, those tax increases on the American people that this amendment proposes, what they really are like.

The tax increase proposal for fiscal year 2007, again $96.6 billion, proposed by this amendment, and I have a board here that has a picture of the State of Florida, the State that I am honored to represent, and they just had a legislative session in the State of Florida. The tax increases in this amendment are larger than the entire budget of the entire State of Florida. Now, keep in mind what we are talking about. The State of Florida, the fourth most populous State in the entire country, which funds from their budget schools and housing projects and every road in the State and environmental protection, including Everglades restoration, and law enforcement and prosecutors and health care and the court system and the public defenders and the judges, et cetera, et cetera, et cetera, et cetera. So if you get the entire budget of the entire State of Florida, it is smaller than the tax increases that this amendment proposes just in 1 year. Just in 1 year. I think that kind of puts it in perspective.

But that is not all, because if you look at the tax increases proposed for the 5-year program that this amendment proposes, which is a tax increase on the hard-working American people of $516.9 billion, and I have another board, that tax increase is larger than 1 year's expenditure of Argentina, the Bahamas, Belarus, Belgium, Colombia, Costa Rica, Croatia, the Czech Republic, Bulgaria, Egypt, Guatemala, Honduras, Jordan, Libya, Pakistan, Panama, Puerto Rico, Thailand, Uganda, Uzbekistan combined. So some people say we are spending too much money on foreign aid. No. The tax increases in this amendment over 5 years are larger than what these countries spend in 1 year for all their expenditures combined. I think that puts it in perspective.

But we can go further. We can go further. Let us put the entire Western Hemisphere, this amendment is asking the taxpayers of the United States in 5 years to pay in new increased taxes more than the entire expenditures of the governments of the entire Western Hemisphere combined. Yes, Mr. Chairman. Brazil, Argentina, Panama, Belize, Jamaica, Dominican Republic, Peru, Colombia, Venezuela, Guatemala, Costa Rica, Haiti, Paraguay, and all the Caribbean. If you funded their expenditures for 1 year, it is still not as large as the tax increase that this amendment imposes on the American people for the next 5 years.

But some people may say, Well, I do not know a lot about those countries, maybe they are just not that large. They are. But maybe they are not that large. So let me see, what is the biggest economic superpower that we hear about all the time? Let us pick China, Communist China. We know what a huge superpower it is. We know that it is an incredible monster of an economy. Let us look at what their expenditures are in 1 year, and let us compare it to the tax increases that this amendment proposes to impose on the American people in increased taxes over the next 5 years.

The expenditures of China for 1 year, $424.3 billion, and yet this tax increase on the hard-working American people over 5 years is larger than that expenditure of China. But also throw on top of that the entire budget of the State of Florida, and you still have about $20 billion of wiggle room to play with.

It is important to realize that there is a huge difference between these two bills. Under the budget, the following tax relief under this proposed amendment would obviously expire: the $1,000 child tax credit that all families benefit from; the 10 percent bracket, which the entire middle class benefits from; the repeal of the estate tax, which obviously would kill small businesses by that tax increase.

And the worst part, though, is not only does it increase taxes to an incredible degree, it also then cuts expenditures. For example, there is no provision for supplemental funding for the combat operations in Afghanistan and Iraq or even for natural disasters; so it increases dramatically taxes, but does not fund our war effort. At the same time, it cuts defense spending by $6.6 billion in budget authority and another $4.6 billion in outlays. Again, it asks to do that at a time when our men and women in uniform are in harm's way.

Again, I want to thank the sponsors because it is a dramatic difference, but for all those reasons I would obviously urge a "no" vote.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, tell us, how much time remains?

The Acting CHAIRMAN. The gentleman from North Carolina (Mr. WATT) has 17½ minutes remaining, and the gentleman from Florida (Mr. MARIO DIAZ-BALART) has 13 minutes remaining.

Mr. WATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I take it that the gentleman from Florida just spent 7 minutes telling the American people that for the people who make over $200,000 a year, how much of a tax benefit they are giving them, because all of the things he described adds up to the tax benefit that these people are getting. And I appreciate the gentleman's doing that.

Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I rise in support of the Congressional Black Caucus budget.

The problem of successfully reintegrating ex-offenders back into normal life is one of the major issues facing low income and minority communities throughout the Nation. This problem continues to fester throughout the United States of America. It is indeed a social as well as a public safety issue.

Nearly 650,000 people are being released from federal and state prisons this year. There are over 3,200 jails throughout the United States, the vast majority of which are operated by county governments. Each year, these jails will release in excess of 10,000,000 people back into the community. We will continue to have these massive releases over the next several years. The massive increase in incarceration in the United States that occurred during the past 25 years must now turn public attention toward the consequences of incarceration without providing meaningful rehabilitation measures and access to reentry programs and opportunities.

As we know, these large numbers of ex-offenders being released from prison will cause enormous public safety problems for many communities, especially where large numbers of ex-offenders will return and live in the same neighborhoods. The Justice Department reported that the cost of crime to victims is approximately $450 billion. Therefore, these communities will absorb the high cost of further victimization as a result of the presence of such a high number of ex-offenders.

The Congressional Black Caucus (CBC) is concerned about the Administration not requesting or adequately funding the Edward Byrne Memorial Justice Assistance Grant Program, Residential Substance Abuse Treatment Program, Gang Prevention, Juvenile Accountability Block Grant, Juvenile Delinquency Block Grants and other programs.

The Congressional Black Caucus recommends increasing the funding level up to $3.1 billion for justice programs and to expand the reentry programs for nonviolent ex-offenders to facilitate their transition from prison to normal community life. The CBC wants to ensure that specific programs are receiving adequate funding to prevent crime, increase public safety and reduce recidivism.

Mr. WATT. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Mr. Chairman, I rise in opposition to the budget resolution.

The budget is a reflection of this country's priorities.

According to this budget, however, our priorities are not sound.

This budget prioritizes deficits over balanced budgets, and tax cuts over the health and education of the American people.

By eliminating 42 education programs, the budget disappoints our children and wastes our opportunity to invest in their future.

It hurts low-incomes students' shot at the American Dream by wiping out the GEAR-UP program that prepares them for college.

It threatens our future economic competitiveness by eliminating the vocational education programs that help our students gain the skills to compete in a global economy.

It abandons health care research by cutting the budgets of 18 out of 19 institutes within the National Institutes of Health.

It cuts programs aimed at preventing illness and disease while also slashing programs that train health professionals to treat these diseases.

Without doubt, sacrifices must be made to successfully implement the war on terror and equip our troops.

But war costs are not even included in this budget, and the cuts on the domestic side are doing nothing to reduce our deficit.

In fact, this budget puts us on a path to post a deficit of $348 billion for 2007—one of the largest deficits in our nation's history.

Mr. Speaker, we have a Democratic substitute before us that reflects America's true values and would avoid the fiscal train-wreck that we're currently facing.

Mr. SPRATT's amendment puts us on the path toward balanced budgets and would achieve a balanced budget in 2012.

It implements common-sense budget enforcement rules that require the cost of any new mandatory spending or tax legislation to be fully offset.

By exercising fiscal discipline, the Spratt proposal would achieve balanced budgets while keeping our commitments to the health and education of the American people.

It would increase our country's investment in education by $4.6 billion and adequately fund our health care priorities—including medical research at the National Institutes of Health and the Centers for Disease Control.

It also keeps our promise to our country's veterans by rejecting the administration's proposal to increase health care fees on military retirees enrolled in TRICARE.

There's no question that the Spratt substitute strikes the best, most practical balance between maintaining fiscal discipline and funding national priorities.

I urge my colleagues to stand up for American values, get our fiscal house in order, and put our nation back on track by opposing this budget resolution and approving the Spratt substitute.

Mr. WATT. Mr. Chairman, I yield 4½ minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman, the Congressional Black Caucus's budget is one that is fiscally responsible and aimed at reducing disparities in America communities. The CBC alternative is proof that even modest changes can result in tremendous outcomes.

A top priority of the CBC is addressing the exploding deficit. We believe that if we do not control the budget today, we will not be able to afford Social Security and Medicare in the future. Our fiscal responsibility produces a balanced budget in 5 years. In fact, our budget will have a surplus of $2.3 billion in fiscal year 2011. Furthermore, it improves the deficit by an aggregate $313 billion and results in savings of $10 billion in interest alone compared to the Republican budget.

We did this by returning to the tax structure similar to the one we had during the 1990s when the economy was strong, we created 20 million jobs, and the stock market was doubling every 5 years. But the rollback in tax cuts only affects that portion of an individual's income that exceeds $200,000. Our revenue is used for critical spending and deficit reduction.

The CBC alternative is committed to making America more secure by supporting our military, investing in homeland security, and caring for our veterans. It also adds to our security by funding initiatives such as juvenile crime prevention programs and prisoner reentry programs.

Some of the funding for national security, urgent homeland security needs, and veterans programs comes from a $9.4 billion reduction in ballistic missile defense, better known as Star Wars. A portion of these funds has been reallocated to protect our troops in Iraq, increase the Army's troop level, maintain current National Guard strength, and provide an additional $1 billion for Navy ship building. Another portion of these funds is allocated to address the vital homeland security needs, including port security grants. We provide an additional $20 billion to improve veterans program. We believe that the sum of all these initiatives will make us more secure as a Nation.

On the domestic side, the CBC alternative builds for America's future and addresses domestic challenges by adding $80 billion to education and job-training programs. It also provides more funding for health care, social services, transportation, and scientific research.

The CBC alternative recognizes that it is the responsibility of the government to assist in natural disasters that devastate an entire region of our Nation. The CBC budget, therefore, provides the funding for school and college reconstruction and housing in the Gulf Coast and increased funding for the Army Corps of Engineers. And furthermore, Mr. Chairman, the Gulf Coast area shipyards will benefit from the $1 billion in funding for Navy ships.

□ 2100

Mr. Chairman, another way of looking at the differences between the CBC alternative and the Republican budget is to start with the CBC budget and work backwards. In other words, what would you have to do to the CBC budget in order to get to the Republican budget?

Well, first, you would have to repeal pay-as-you-go budgeting. Then you would have to cut Army body armor and personal support equipment for our troops in Iraq. We would have to decrease the Army's troop level, reduce the National Guard strength, eliminate $1 billion out of Navy shipbuilding, decrease port security and rail security grants, remove Federal air marshals, delay first responder grants and cut $20 billion out of veterans programs, all to fund Star Wars and partially fund the Republican tax cuts for those with incomes over $200,000.

Next you would have to cut $80 billion out of education and job training, $20 billion out of health care, and reduce funding for housing, community services, NASA research, Amtrak, the Coast Guard, college financial aid, NIH funding, foster care, Low Income Home Energy Assistance, housing, Medicare, juvenile justice and law enforcement grants, all to fund a portion of the tax cuts going to those with incomes over $200,000.

Third, you would have to borrow approximately $300 billion, mostly from foreign governments, to fund the rest of the tax cuts for the wealthiest in our society. And at the end of 5 years, you would have to move from our $2.3 billion surplus in the CBC budget to the $163 billion deficit in the Republican budget. Mr. Chairman, that indeed would be working backwards.

We have worked tirelessly to create a budget that is fiscally responsible and recognizes the needs of the American communities around the country. It is fiscally sound, protects and promotes the best values of America, and I urge my colleagues to support this amendment.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, first I yield myself 15 seconds to clarify something.

The gentleman just said that only the wealthy would pay. Here is a board that I showed. There aren't enough wealthy people in the United States to pay this amount of new taxes, and if they can't pay for it, who is going to pay for it? The American people are going to pay for it.

Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL of California. Mr. Chairman, I thank the gentleman from Florida for yielding.

You know, Mr. Chairman, there are some things we know about this budget proposal and some things that we don't know. We know that it raises taxes. We know that it raises taxes by a bunch. We know that it is about $100 billion a year, or half a trillion dollars over 5 years; that it raises taxes. What we don't really know is what taxes and for how much.

Now, the gentlemen across the aisle have indicated that it is their intention to raise taxes on those making $200,000 or more.

Mr. WATT. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL of California. I yield to the gentleman from North Carolina.

Mr. WATT. I made no such intention. You characterized it that way. I have never characterized it as raising taxes. We are rescinding the tax cuts on income over $200,000.

I really appreciate you all continuing to point out to the American people how much that represents when you look at it and to say that we don't have enough rich people in the country to do that.

Mr. CAMPBELL of California. Reclaiming my time, it is funny. If I am taxing you at 15 percent and then I tax you at 30 percent, I would think that most people would think that was an increase. I don't know how anyone would say that is not an increase. Four is more than three. Five is more than four. Thirty percent is more than 15 percent. Twenty percent is more than 15 percent. So you can call it anything you like, but it is in fact a tax increase.

So my question is for you, which you can answer later, but have you done any computations as to how you are going to tax?

Mr. WATT. Mr. Chairman, if the gentleman would yield, I would like to answer the question.

Mr. CAMPBELL of California. I would like to finish my remarks at this time, if I could, thank you.

How you are going to tax people with $200,000 or more income? What rate are you going to go to to raise this kind of money? So we know it is going to tax a lot. We don't know exactly how. We also don't know, because we don't know exactly how, what effect that is going to have on the economy.

We can talk a lot about tax increases and so forth, but the fact is that since the tax decreases of 2003, revenue to this government has increased substantially. We are tracking nearly a 12 percent increase this year after a 15 percent increase last year, and the rate since 2003 of increased revenues to the government is substantially higher after the tax rate reduction of 2003 than it was after the tax increases of the early 1990s.

You might find this hard to believe, but that is the way economics works. Sometimes when a business lowers the price of a product, people buy more of it and they actually make more money.

What has happened here is exactly that. We have lowered taxes, and the economy has increased, the economy has grown, and more total dollars are coming into the Federal Government. So we know taxes will be increased, but we don't know how much this is going to depress the economy. But it will.

Therefore, even though you may increase taxes at the rate of $100 billion a year, you will not see $100 billion a year revenue, because we know also the computations show that the tax decreases we have had already actually resulted in increased revenue.

The other thing we know that it does is it spends more money. The gentleman from Virginia outlined a bunch of things, most of which sounded to me as though it was discretionary spending increases, I believe, which means that if I am doing the math correctly, we are looking at discretionary spending increases of about 7 percent just in one year, 7 percent every year, which, if you keep that going with the entitlement increases which are already there, and there is no entitlement reform to deal with those, it is so perplexing to me that you introduce a budget on the basis of it being fiscally responsible and balancing, and then you propose to increase spending along the way, and increase spending by as much as 7 percent a year on discretionary spending.

That is not how you balance budgets. That is not how you get things back in line, by increasing spending.

Also, there was a discussion of smoke and mirrors. Well, the other thing that was included in the committee's budget was a reserve for natural disasters, which I believe you now have added to your budget here just recently, but there is an additional reserve we have for the war, the prosecution of the war in Afghanistan and Iraq.

Now, you may not agree with that war, and that is not the issue we are discussing today, but even if you were to terminate, decide you were going to immediately withdraw from both Iraq and Afghanistan, there will be additional supplemental expenditures going into next year even to do that. So by not including that, you are not including some additional spending, which is going to happen and is not included in your budget which is included in the committee's budget.

So, in summary, I think we are looking at higher taxes, less economic growth, more spending, and I would argue, when computed properly, higher deficits.

Mr. WATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just submit to the gentleman that I would rather educate my children than give a tax cut to people on income over $200,000. I hope he agrees with me.

Mr. Chairman, I yield 1 minute to the gentleman from Louisiana (Mr. JEFFERSON).

Mr. JEFFERSON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, not only does the Black Caucus budget restore fiscal discipline and fund important programs, of personal significance to me and to my constituents and the millions of Americans along the gulf coast whose lives are turned upside down by Hurricanes Katrina and Rita, the CBC budget acknowledges a reality that the Republican budget ignores.

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (Mr. SHIMKUS). Visitors in the gallery should remain quiet.

The gentleman from Louisiana may proceed.

Mr. JEFFERSON. Mr. Chairman, that reality is that recovery is a long-term effort. Recovery in New Orleans will not be achieved in a single fiscal year, and it should not be accomplished with emergency appropriations.

There are a number of pieces of the recovery that we know will take time to achieve, for example, enhancing the levees and flood protection systems along the gulf coast, and restoring homes and businesses. The Army Corps of Engineers has told the Congress repeatedly that this project will take from 5 to 7 years to complete; and yet not only does the Republican budget provide no funding for this project, it actually cuts overall funding for the Corps of Engineers at a time of extreme need. By contrast, the CBC provides significant additional funding to enhance our hurricane and flood protection systems back home.

The Republican budget starves housing programs at a time when along the gulf coast we are facing the gravest housing crisis in our Nation's long history. The CBC budget recognizes the need for a long-term commitment to solving our housing crisis confronting thousands of Americans across Mississippi and Louisiana and provides significant resources for this critically needed project in our area.

Mr. Chairman, the budget of the United States government should reflect the values and the priorities of the American people. After all, as our nation's first Republican President described it, the government of our great country is supposed to be a "government of the people, by the people, for the people." The Republican budget before us today, however, ignores the needs of the vast majority of the American people in order to preserve tax benefits that overwhelmingly benefit very few, very wealthy Americans. In other words, the priority of the Republican budget seems to reflect a devotion to taking care of those with the most, while overlooking those with the greatest need.

The preparation of the federal budget by Congress is similar to a family's preparation of its household budget. In order for it to succeed, priorities must be set, and discipline must be exercised. Too often, however, discipline is sacrificed to the pleasures of the moment. In Washington, we call the consequences of such behavior budget deficits. In our households, we call those consequences debt. Neither is good—for the country or for our families.

As a reflection of our nation's priorities, the Republican budget resolution that we debate today is a clear demonstration of just how fundamentally the Republican majority misunderstands the needs of the American people. It is fiscally reckless, morally bankrupt, and utterly devoid of the type of economic discipline and leadership that the nation requires—a budget that sets yet another record budget deficit and threatens to unravel completely the social safety net that protects the least among us in the places where the need is greatest.

The Republican budget resolution continues to drive our nation's budget deficit higher; fails to protect Social Security and Medicare; underfunds education; makes damaging cuts to community and regional development programs, income security programs, the Earned Income Tax Credit, child care and foster care programs, and nutrition programs; cuts veterans programs while simultaneously imposing new fees on veterans for current services; and includes harmful cuts to Medicaid, thereby jeopardizing health care for over 52 million children, parents, seniors and disabled individuals who rely on the program for their healthcare.

In sum, the Republican budget we are considering today offers the most to those who need the very least and takes the most from those who can least afford it.

During debate of this budget, I have heard a great deal of rhetoric about hard choices and shared sacrifice. However, it seems that the only choice my Republican friends have made is the easiest one a politician can make—to continue to cut taxes, however fiscally irresponsible perpetuating them may be. With respect to shared sacrifice, the evidence leads me to the unavoidable conclusion that the only sacrifices in this budget are being borne by the poor, the elderly on fixed incomes, the infirm, children and students. Accordingly, in the Bizarro world of the Republican budget, those with the least are compelled to sacrifice the most, while those with the most are not asked to sacrifice at all. That formula certainly does not reflect my priorities; nor, I am confident, does it reflect the priorities of the American people.

In one of his great parables, Jesus once said, "when you give a banquet, invite the poor, the crippled, the lame, the blind, and you will be blessed." If you compare this budget to the great banquet He described, in this budget, there are place cards and a sumptuous feast for the Forbes 400 and the Fortune 500, for the rich and the powerful—but, like Lazarus at the rich man's gate, the economically disenfranchised, the working families struggling to make ends meet, the students trying to get the education they need, those whose lives of poverty shocked the conscience of the nation when Hurricane Katrina exposed the straits so many grapple with daily in this wealthiest country in the world—they will be lucky to get even the scraps that fall from the table this budget constructs.

By contrast, my friend from South Carolina, the ranking Democrat on the House Budget Committee, and the Congressional Black Caucus have offered two alternatives to the Republican budget that are fiscally responsible while meeting the real needs of the American people.

Both alternatives restore fiscal discipline, protect Social Security, narrow disparities for minorities in healthcare, education and wealth creation, and fund national priorities like education, veterans' programs, and community development programs.

The Democratic substitute achieves a balanced budget in 7 years, by 2012, all the while balancing fiscal responsibility with the moral obligation to maintain the social safety net for Americans in greatest need.

The CBC budget alternative achieves balance even earlier, by 2011, and yet still makes great progress toward narrowing the growing disparities in America's communities by focusing on education, health care, economic opportunity, justice, and retirement security. It fully funds the President's No Child Left Behind Act (NCLB); provides an extension for the Head Start Program; increases federal funding for Historically Black Colleges and Universities and Hispanic Serving Institutions; enhances the Pell Grant allotment for college students; provides additional funding for the Minority Health Initiative and for Community Health Centers in urban and rural communities; increases assistance for job training, workforce development and adult education; funds home ownership programs; restores funding for Community Development Block Grants; and improves funding for law enforcement programs such as COPS.

Of personal significance to me, to my constituents and to the millions of Americans all along the Gulf coast whose lives were turned upside down by Hurricanes Katrina and Rita, the CBC budget acknowledges a reality that the Republican budget ignores—that recovery is a long-term effort. Recovery will not be achieved in a single fiscal year, and it should not be accomplished through emergency appropriations. There are a number of pieces of the recovery that we know will take time to achieve, for example, enhancing the levees and the hurricane and flood protection systems along the Gulf coast. The Army Corps of Engineers has told the Congress repeatedly that this project will take from 5 to 7 years to complete, and yet not only does the Republican budget provide no funding for this project, it actually cuts overall funding for the Corps of Engineers at a time of extreme need. By contrast, the CBC budget provides significant additional funding to enhance our hurricane and flood protection system back home.

The Republican budget starves housing programs at a time when, along the Gulf coast, we are facing the gravest housing crisis in our nation's long history. Both the Democratic and CBC alternatives recognize the need for a long-term commitment to resolving the housing crisis confronting thousands of Americans in Louisiana and Mississippi and provide significant resources for that critically important effort.

In the face of a natural disaster that laid waste to colleges and schools all along the Gulf coast, the Republican budget turns a blind eye to both the immediate and long term needs for reconstruction and rehabilitation of our education infrastructure. By contrast, both the Democratic and CBC alternatives provide additional resources to meet those challenges.

Finally, Mr. Chairman, both these alternatives recognize the success and critical importance of community and regional development programs to our nation's economy and to the recovery of our economy back home. Both alternatives allocate additional monies to these programs, while the Republican budget significantly shortchanges CDBG and other programs despite tremendous support and real current and long-term needs.

For these reasons, I am proud to rise in strong support of both the Democratic and CBC alternatives and in fervent opposition to the Republican budget. I will continue to fight to ensure that the needs and values of the least among us—hard-working American families—are reflected in the legislation we consider in the Congress. A responsible budget is the first step towards building a future worthy of the trust of the American people; and the Democratic and CBC alternatives are a step in the right direction; the Republican budget resolution is, at best, a step backward.

Mr. Chairman, I thank the gentleman for yielding, and I thank the Black

Caucus budget for what it does for my district back home.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, I yield myself 30 seconds.

We keep hearing from the gentlemen on the other side that they only want to raise taxes on those making over $200,000. Well, the numbers just don't add up. In order to raise the amount of taxes they are talking about, which is, again, larger than the budgets for 1 year for just about all the countries in the Western Hemisphere, they would have to let all the tax cuts expire, including the child tax credit, et cetera, et cetera, et cetera, and they would still have to find another $63 billion in tax increases for everybody else as well. So that is what the numbers are.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentlewoman from Georgia (Ms. MCKINNEY).

Ms. MCKINNEY. Mr. Chairman, the Congressional Black Caucus budget is a better statement for our country's values. Educators are asking for a fully funded No Child Left Behind because America's children are being left behind; seniors deserve accessible health care, but Medicare part D is leaving everyone confused; and veterans are only asking to receive the health care that recruiters promised them and that they deserve. But, you know, Tupac observed a long time ago that there's money for war, but we can't feed the poor.

Sadly, a study done by the Pentagon estimated that Halliburton has received over 52 percent of the $25 billion that it has paid to contractors. The study also shows that Halliburton presented questionable bills for nearly $2 billion, lost prefabricated bases worth over $75 million, and yet Halliburton still gets new contracts.

If this Congress wants to truly balance the budget and satisfy the needs of working Americans, it should vote to pass the Congressional Black Caucus budget.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, I yield myself 30 seconds.

Again, I just want to repeat that this amendment is such a huge tax increase that they would have to increase the child tax credit; the 10 percent bracket; the marriage penalty relief would go away, that tax cut; the education tax relief would disappear under their proposal; the pension reforms would disappear under their proposal; the AMT relief would disappear under their proposal; and they would even increase the death tax. Yes, even taxation with no respiration takes place in this amendment. It is a huge tax increase. And they cut defense while doing all those things. The numbers are there.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. DAVIS).

Mr. DAVIS of Alabama. Mr. Chairman, a minute gives me time to make one essential point: mark the time as 9:15 tonight, the first time anyone has mentioned that 3 hours ago the President of the United States signed a $70 billion increase to the deficit that was enacted by this body 1 week ago, and it returns to your fundamental point about candor.

This document levels with the American people and the choices it makes, the CBC document. The document in opposition it us tonight and the RSC document do not level with the American people, because how do you defend a document on the grounds of fiscal austerity and add $70 billion to the deficit? It is the wrong set of choices, and it masks a retreat from all kinds of commitments, Mr. Chairman.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL of California. Mr. Chairman, if this budget levels with the American people, then level with the American people and tell them what taxes you are going to raise. Tell them who you are going to raise it on, tell them how much you are going to raise it.

Mr. WATT. Will the gentleman yield?

Mr. CAMPBELL of California. Sir, I am only taking a minute and a half. You can respond at that time, because I have several other questions.

Tell them who you are going to raise it on, what rates they are going to be and what effect those are going to have on the economy.

Again, level with the American people on whether or not the spending that you have added to this thing increases the deficit or not, and level with the American people about whether or not you have accounted for the wars in Iraq and Afghanistan that are still going on, and level with the American people about whether or not you have included any reform of the entitlement programs that will soon eat up two-thirds of our entire Federal revenues and eventually eat up 100 percent of our Federal revenues; and level with the American people that that tax cut that the President just signed today, that increased time of those tax rates, has increased the economy in the United States and resulted in more revenue to the Federal Government and thereby reduced the deficit.

☐ 2115

Mr. WATT. Mr. Chairman, I yield 10 seconds to the gentlemen from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, the gentleman asked what is going to happen to the deficit. The red line is the Republican deficit year by year; the blue line is the CBC deficit year by year.

We end up with a $2.3 billion surplus, while you are still $163 billion in the ditch.

Mr. WATT. Mr. Chairman, can you tell us how much time remains?

The Acting CHAIRMAN. The gentleman from North Carolina has 9¼ minutes remaining. The gentlemen from Florida has 5¼ minutes remaining.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I rise today in strong support of the Congressional Black Caucus budget and in opposition to the Republican budget.

The Republican budget falls short on every account, especially when it comes to our defense priorities. The CBC budget reallocates $9.4 billion from an unworkable missile defense program and puts it into real security priorities like making sure that our troops have enough body armor, like ensuring that our veterans have enough access to benefits, and like securing our ports.

This substitute takes a first step at combating the enormous problems of waste, fraud and abuse at the Pentagon. GAO has concluded that one-third of the recommendations made to DOD on waste, fraud and abuse in the last 5 years has saved $40.8 billion by implementing them. Imagine how much would be saved and put into education, into health care, into job creation, into creating a liveable world for our communities here in America and abroad, if, in fact, the rest of these recommendations are implemented.

This substitute would require the Defense Department to work on eliminating waste, fraud and abuse immediately. Our national security priorities are taken very seriously in this budget. Let us support the Congressional Black Caucus budget.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, this is very simple. If you think that we should eliminate the child tax credit and raise those taxes on child credit, support this amendment. If you believe that we should eliminate the 10 percent bracket, support this amendment. If you believe that the marriage penalty should be increased, that the tax on marriage should be increased, vote for this amendment.

If you do not believe in the education tax relief, vote for this amendment. If you do not want the pension reforms that we have that have taken place, vote for this amendment. If you support not relieving the AMT, support this amendment. And if you believe that people should pay taxes even after they are dead, support this amendment. If you believe also that we should cut defense, support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Chairman, I rise to express my strong support for the fair, balanced, responsible, compassionate and patriotic Congressional Black Caucus budget, and with no apology for not giving the wealthy any more tax cuts and using that money instead for our children, our ill and our poor.

Mr. Chairman, just looking at health care where the Republican budget reduces access to health care through cuts to Medicaid and SCHIP, ours restores funding for our children and our poor.

Where their budget underfunds HIV/AIDS, mental health and substance abuse programs, we ensure these important services continue to enable all of us in our country to be the best we can be.

Where the Republican budget cuts help for veterans training that would ensure the diverse and robust workforce this country needs, the CBC maintains and opens up this pipeline. We add or restore funding to many programs important to all Americans, Healthy Start, Rural Health, Gulf Coast health infrastructure repair, NIH research to improve everyone's health. We further strengthen the Office of Minority Health and others that promote wellness and help families and communities.

The strength of our country depends on the health of our people, our economic well-being, a well-equipped staff and paid military, adherence to our founding values and commitment to freedom and opportunity for all. Mr. Chairman, that is what the CBC budget supports. It does so bringing us back into balance way ahead of the Republican budget. I urge its passage.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, I yield myself 15 seconds.

For the record, our budget has no cuts in SCHIP or Medicaid whatsoever. Get the record straight. It is not there. We also have no cuts in defense. Their amendment does cut defense radically.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida (Ms. CORRINE BROWN)

Ms. CORRINE BROWN of Florida. Mr. Chairman, breaking news: 77 percent of the American people said that the Republicans are leading us in the wrong direction.

The CBC once again created a budget that truly meets the needs of the American people. This budget fully funds Leave No Child Behind; restores $70 million in cuts made to Medicare; adds $4.5 billion in benefits and services for veterans; provides increased funding for public transportation, the Coast Guard, and ports and rail security; closes corporate tax loopholes; and keeps U.S. companies from sending jobs overseas, all while balancing the budget by 2011 and saving $10.5 billion on national debt interest payments.

The CBC budget is the responsible budget that truly meets the needs of the American people. Shame on the Republican leadership for once again pushing a budget to help their country club friends and giving the hard-working American people the shaft. Vote for the CBC budget.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman I reserve the balance of my time.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK of Michigan. Mr. Chairman, I thank our chairman for yielding to us. The Federal budget is $2.8 trillion. Ways and Means takes two-thirds of that. This budget is some $800-, nearly $900 billion. CBC's budget is within that. We pay as you go. We also invest in families, in health care, in education, in schools, in veterans health.

Mr. Chairman, it is the only budget that will be before you tonight that addresses the families in America. Vote for the CBC budget. It is the budget that will restore and make sure that our families are strong. We have put a lot of time and attention in this. I want to commend Congressman SCOTT from Virginia and our own Chairman WATT. The CBC budget is sound, it is fiscal, and it strengthens America's families.

A top priority of the CBC is to address the exploding budget deficit. If we do not control the budget today, we will not be able to afford Social Security and Medicare in the future.

The CBC Alternative brings the budget into balance in 5 years and generates a surplus of $2.3 billion by FY 2011.

Improves the deficit by a cumulative total of $313 billion and results in a savings of $10.5 billion in interest on the national debt.

The CBC Budget achieves fiscal balance by aligning our spending and tax policies on a glide path that restores the financial future health of the country.

It establishes PAYGO as a House rule, so we will avoid spending what we do not have. We must be realistic and include revenues and spending in any effort to bring our deficits under control. PAYGO does that. Ignoring PAYGO ignores the successful formula that brought us balanced budgets in the last half of the 1990s.

It reduces funding for Ballistic Missile Defense, so we can increase funding for homeland security, veterans programs, and honor our commitment to our troops and their families.

The CBC Budget reflects American values by investing in the security of our Nation, providing the health care for our veterans and supporting our troops who serve on the front lines.

It increases funding for homeland security needs to provide for port security grants, interoperable communications systems for first responders, the Centers for Disease Control and Prevention, and enhanced aviation security.

It invests in other domestic priorities such as juvenile crime prevention, prisoner re-entry programs, restores cuts the Republican budget proposes in veterans' health care and improves benefits to the survivors of veterans.

For all the President's talk about free trade, the CBC budget help those who are dislocated by our trade policies by providing $80 billion more in education and job training, and $20 million more for health care. It provides satisfactory levels of funding for Amtrak, Hope VI and Section 8 housing programs, and the Low-Income Home Energy Assistance Program.

My Republican friends are saying that their budget exercises fiscal constraint. Any budget that contains more tax expenditures than cost savings is not an exercise in fiscal responsibility. Last year we enacted $38 billion in spending cuts in one reconciliation bill, but cut taxes by another $70 billion in another reconciliation bill. The Republican budget follows that same formula. That is not the pathway to fiscal sanity.

Support the CBC Budget Alternative.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, we reserve the balance of our time.

Mr. WATT. Mr. Chairman, can you tell us how much time remains?

The Acting CHAIRMAN. The gentleman from North Carolina has 5½ minutes remaining. The gentleman from Florida has 4½ minutes remaining.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me thank Chairman WATT, and, of course, let me thank Congressman SCOTT for his excellent work, and all of the Members of the Congressional Black Caucus.

Mr. Chairman, I have not heard the theme of priorities being addressed on the floor of the House today. That is what the CBC budget represents. I would like to be standing here for working Americans, middle-class Americans.

With the CBC budget, we save $10.5 billion more in interest. That money goes into the pockets of working Americans. We cut the trillions and trillions and trillions of dollars of deficit, and we are able then to cut, if you will, the kinds of insidious, insidious, eliminate cuts on the budget that hurt the people of America.

I like the CBC budget because, in fact, it provides the opportunity to eliminate the $6 billion cuts that you make on veterans health care, or the $6 billion cuts that you make over 5 years on homeland security.

Mr. Chairman, it restores the moneys to Head Start. It restores the money to

Pell Grants. It restores the money to provide better health care for Americans. And, yes, it provides $10.5 billion of interest back in the pockets of Americans.

Vote for the CBC budget. It balances the budget, but most importantly it stands for working Americans.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, this side has this right to close? I want to make sure that that is correct.

The Acting CHAIRMAN. The member of the committee in opposition has the right to close.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, we reserve the balance of our time.

Mr. WATT. Mr. Chairman, would the Chair repeat what he just said?

The Acting CHAIRMAN. The gentleman from Florida has the right to close.

Mr. WATT. Can I make a parliamentary inquiry as to why that is the case? It is our amendment.

The Acting CHAIRMAN. The gentleman from Florida is manager in opposition to the amendment. Under clause 3(c) of rule XVII, the manager in opposition has the right to close.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Chairman, I would like to commend my chairman, MEL WATT, for the work that he has done in this area, and particularly my colleague BOBBY SCOTT from Virginia for all of his work.

Mr. Chairman, I want to focus on one particular area, and that is the provision in the CBC budget that doubles training funds for trade adjustment assistance programs to $518 million.

This program was established in 1962, and it assists workers who have lost their jobs due to international trade by providing unemployment and job training. We keep hearing from the Republican side that unemployment is down and dollars are up, but in my congressional district, there are areas where unemployment is significant, and specifically due to trade.

Mr. Chairman, I ask all of you to join us in supporting this CBC budget that provides for job training and unemployment assistance for those workers who would love to pay taxes if they only had a job.

Mr. Chairman, the Congressional Black Caucus budget is fiscally responsible and protects the services that millions of hard working Americans depend on.

The CBC alternative balances the budget in five years, and adopts the pay-as-you-go budget rules.

At the same time, our budget increases spending for health care by $20 billion, education and job training by $80 billion, and veteran benefits by $20 billion.

That is fiscal responsibility—balancing our checkbook without cutting the important services that millions of Americans depend on.

One provision in the CBC budget that I strongly support is the doubling of training funds for the Trade Adjustment Assistance (TAA) program to $518,000,000.

The program, which was established in 1962, assists workers who have lost their jobs due to international trade by providing unemployment benefits and job training.

However, many states exhaust their TAA training funds well before the end of the fiscal year.

In its past three budgets, the Administration has only requested an increase for TAA training of only $100,000.

That is unacceptable and insufficient when measured against the number of jobs being lost due to international trade.

I urge my colleagues to support this TAA provision and the CBC budget—fiscally responsible while at the same time fair to millions of hard working Americans.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, I reserve the balance of our time.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, let me thank the chairman of the Congressional Black Caucus, most especially Mr. SCOTT, for their unwavering support for the development of the CBC alternative budget that encompasses progressive and visionary funding motivated by principle and compassion.

The CBC alternative understands that our Nation's transportation system is the backbone of our economy and our way of life, either of which we cannot afford to shortchange. The CBC budget increases funding for public transportation, Amtrak, the FAA's airport improvement program, and other vital infrastructure programs crucial to ensure a stable economy.

The CBC alternative supports greater competitiveness in science and technology. As a senior member of the Science Committee, I feel it is important to invest in our children's future. Federal entitlements such as NASA and the National Science Foundation need funding to inspire today's youth so that we can have a future in research.

I ask, Mr. Chairman, that Members of this body listen to their conscience. We are in a position to prevent funding atrocities to infiltrate and demise progress. The Nation's budget cannot be based on one party's sole agenda. We cannot allow societal factors to divide us in irresponsible spending or unconscionable tax breaks to define us.

Mr. Chairman, I want to thank the Chairman of the Congressional Black Caucus, Mr. WATT, and Mr. SCOTT for their leadership and unwavering support for the development of this alternative budget. I also would like to thank all the members of the CBC and their staff for their help in completing this very important task. I appreciate and applaud their efforts on issues important to all of us.

The CBC alternative budget prioritizes the .importance of social justice by advocating for the forgotten poor and more specifically addressing the needs of African Americans and other neglected minorities. The CBC alternative budget is filled with progressive and visionary funding and is motivated by principle and compassion.

It is a budget that voices the concerns and needs of the poor, the children and the elderly that have been so easily set aside by this administration.

The shortsightedness of the Republican budget mirrors that of its drafters. The Republican budget borrows from future generations to pay for today's unconscionable tax cuts and irresponsible deficit spending. It offers a $372 billion deficit in 2006 and $348 billion in 2007, and $1.1 trillion worth of deficits over five years.

The Republican budget proposal ignores the needs of Texans and all hard working Americans and places the burden of the offset on their shoulders. It reduces taxes for the wealthiest Americans and slams the door on economic opportunity for working families. It reduces veterans' health care by $6 billion, education by $45.3 billion, public health by $18.1 billion, and environmental protection by $25.0 billion. They also include $6.8 billion in reconciliation cuts to mandatory programs.

The CBC alternative understands that our Nation's transportation system is the backbone of our economy and a way of life, either of which, we cannot afford to shortchange. The CBC budget increases funding for public transportation, Amtrak, the FAA's Airport Improvement Program, and other vital infrastructure programs crucial to ensure a stable economy.

The CBC alternative supports greater competitiveness in science and technology. As a senior Member of the House Science Committee, I feel it is important to invest in our children's futures. Federal entities such as NASA and the National Science Foundation need funding to inspire today's students and produce tomorrow's researchers. The science budget funds our scientific and engineering workforce, supports teacher enrichment programs, and helps inspire future generations of researchers. Our Nation's future depends more and more on the quality of our innovative ideas. The fruits of these investments meet vital national needs and improve the quality of life for all Americans.

The CBC alternative budget also provides funding for the minority health initiative, health insurance for the uninsured, child nutrition programs, job creation programs under the SBA, the extension of unemployment insurance benefits and eliminating the disabled veteran's tax. It provides $80 billion over the next five years for education and job training programs and provides over $20 billion more for health care programs than the Republican budget. It also provides $6 billion more on community and regional development which encompasses job creation programs under SBA, community and regional development programs, nutritional programs, Hope VI and Section 8 Housing Programs, Low-Income Home Energy Assistance, and housing for the disabled and the elderly.

I ask, Mr. Chairman, that Members of this body listen to their conscience. We are in a position to prevent funding atrocities to infiltrate and demise progress. This Nation's budget cannot be based on one party's sole agenda. We cannot allow societal factors to divide us and irresponsible spending or unconscionable tax cuts to define us.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, may I inquire as to how many speakers the sponsor of the amendment has lined up still?

Mr. WATT. Mr. Chairman, if the gentlemen will give us some more time, we have a whole list of speakers over here. But we are going to run out of time before we run out of speakers, I can assure you.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, I thank the gentlemen for his answer. I will always try to accommodate him as much as possible to close.

Mr. WATT. Mr. Chairman, will the gentleman give us some time?

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, let me see if I can work that out.

☐ 2130

Mr. WATT. Mr. Chairman, I yield to the gentleman from Florida for a unanimous consent request because we don't have enough time.

Mr. HASTINGS of Florida. I thank the Chairman, and I rise in support of the CBC morally and fiscally responsible budget.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Chairman, the CBC budget continues to clearly support education and job training as its number one priority. Over a 5-year period, $80 billion in increased funding is recommended.

Everybody in Washington talks about the dangerous deficiencies in American education when compared with other industrialized nations and China. Twenty-three years ago when I came here, "A Nation At Risk" was the report commissioned by President Reagan, and it said all the same things about how deficient our education system was. Several recent studies also indicate these same kinds of deficiencies in math and science and other areas. Oprah Winfrey and Bill and Melinda Gates have taken this alarm to a mass audience.

The whining and complaining about education goes on and on here in Washington, but nobody wants to appropriate any money except the CBC.

Mr. Speaker, the future prosperity and security of our Nation is clearly dependent on our human resources, our brain power; and that brain power, large parts of it are in our inner cities' communities, and they need more funding for education. I urge all Members to vote for this CBC budget as the budget that deals with the priority of education.

Mr. MARIO DIAZ-BALART of Florida. I am trying to see, Mr. Chairman, if we can work out to give the sponsor a little bit more time. So with the indulgence of the Chair, I just want to make sure, I believe we have 4½ minutes on this side?

The Acting CHAIRMAN (Mr. SHIMKUS). The gentleman from Florida has 4½ minutes remaining.

Mr. MARIO DIAZ-BALART of Florida. At this time, we will reserve and thank you.

Mr. WATT. Mr. Chairman, how much time remains on our side?

The Acting CHAIRMAN. The gentleman from North Carolina has 1½ minutes remaining.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, the CBC budget is the most fiscally responsible budget. It creates a balanced budget by eliminating the tax cuts for those earning more than $200,000, and eliminates tax abuse shelters and corporate tax loopholes.

Unlike the Republican budget that underfunds education, the CBC fully funds No Child Left Behind. Unlike the Republican budget that cuts health care for programs including Medicare, the CBC budget provides $20 billion for health care for the more than 45 million uninsured Americans. The CBC budget honors our veterans returning from Iraq by providing $250 million more for veterans mental health programs and $200 million for direct medical services. Finally, it gives real meaning to protecting our homeland by providing an additional $1 billion for port security, $50 million for air marshals, and $420 million for police and fire departments, the first responders to a disaster or terrorist attack.

The CBC budget is balanced and even creates a surplus by 2011. I urge my colleagues to reject the irresponsible Republican budget and adopt the CBC budget.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, what I would like to do, in an abundance of fairness, is cede 1½ minutes to the sponsors of the amendment with the huge tax increases on all the American people.

The Acting CHAIRMAN. Without objection, the gentleman from North Carolina will control an additional 1½ minutes.

There was no objection.

Mr. WATT. Would the Chairman tell me what that means I have left total?

The Acting CHAIRMAN. The gentleman from North Carolina has 2 minutes remaining.

Mr. WATT. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Chairman, this fits a well-worn routine: another year, another Republican budget awash in red ink, a reflection of the same failed priorities that have caused the Federal debt to balloon by $3.5 trillion since President Bush took office.

Mr. Chairman, we often talk about the national debt and budget deficit as though they were abstract value-neutral terms. In fact, they are very real threats to the security, prosperity, and health of our Nation. The national debt is money borrowed from our children and grandchildren's future.

Furthermore, this budget slashes funding for the priorities critical to American families. Community health funding is cut by $99 million. Renewable energy programs are cut to protect billions in tax giveaways to oil companies. And hundreds of thousands of veterans will face new health care fees.

Budgets are statements of what we value here in Congress, and this budget's lack of value should shame us all.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, at this time I would like to yield 1½ minutes to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL of California. Mr. Speaker, what I hear here and what I see here are four things: tax, spend, smoke, and mirrors.

Tax. We have seen, we have heard half a trillion dollars over 5 years, massive tax increase as yet not clearly defined, but a massive tax increase nonetheless.

Spend. Spending, that is, nearly a 7 percent increase in discretionary spending, that sort of spending which is unsustainable over time without constantly accelerating tax increases. So spending supposedly as the way to get us out of the deficit.

Smoke. Smoke to hide those things which are not addressed in the budget, such as the spending necessary for the war in Afghanistan and Iraq, and to deal with the ever escalating entitlement spending that we have going forth.

And mirrors used to make all of this look like somehow it is going to reduce the deficit over time, which I assure you, with the reduction to the economic growth that this will do and the additional spending that is in here and the lack of reform on any of that spending, I absolutely assure you, reducing the deficit is one thing this budget will not do.

Mr. WATT. Mr. Chairman, I yield myself the balance of the time.

I will let my colleagues and the American people determine what our budget does, but let me summarize it. The CBC budget balances the budget in 5 years, and is the only budget you are going to see on this floor tonight that yields a surplus at the end of 5 years instead of a deficit.

The CBC saves $10.5 billion in interest on the national debt over that period. The CBC budget adopts the PAYGO rules which you all have forgotten about.

Even with those accomplishments, the CBC budget funds these important programs: $80 billion more on education and job training, $20 billion more on veterans benefits and services, $20 billion more on health care, $6 billion more on community and regional development including the gulf coast, and billions more on research, nutrition, and food programs. And where do we get it from? On that money that comes from people making over $200,000 a year. We think these are higher priorities, and we are honest enough to tell you so.

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, again there is a huge difference between our budget and this budget by the CBC, the prestigious Members of the Democratic Congress. They increase taxes on the American people by almost $1 trillion over 5 years while cutting defense spending in a time of war.

To put it in perspective one more time, let us look at this. Look at all the countries south of Mexico, and excluding Florida, all the Caribbean, all of Central and South America. Their revenues, their expenditures over 1 year are smaller than the tax increases that this amendment proposes to impose on the hardworking American people over the next 5 years. That is the reality.

The bottom line is if you believe in massive tax increases large enough to fund the expenditures of all the countries in Latin America, if you believe in that, you would support this amendment.

If you believe that the American people are paying enough taxes, that we have got to use it more efficiently, and that we should not cut defense spending in a time of war, I would then urge my colleagues to respectfully oppose this well-intentioned but devastating amendment to the American taxpayer and to the American economy.

Mr. CUMMINGS. Mr. Chairman, I rise today in opposition to the FY 07 Republican Budget Resolution, H. Con. Res. 376, and in support of the Congressional Black Caucus Budget Substitute.

Mr. Chairman, the Republican Budget sets a record—not for balancing the budget, lowering the deficit, or reducing our reliance on foreign debt—but for exceeding the callousness evident in President Bush's Budget for America. This "compromise" is devoid of direction, balance and compassion.

It slashes K–12 programs, job training, Community Development and Social Services Block grants. It cuts veterans health care, the homeland security function; mandatory student loan spending and programs that help feed low-income elderly, mothers and children.

The sad truth is that all of these cuts are the sacrificial lamb for tax cuts for the wealthiest 1 percent of Americans. While many Americans are struggling under mounting debt and our country faces record deficits, this Budget funds another shameless $228 billion in tax cuts over 5 years.

The CBC Alternative Budget offers a real budget for all Americans. It would balance the budget, restore pay-as-you-go principles and restore funding to critical programs; not by creating deficits, but by rescinding the tax cuts for those making over $200,000, eliminating corporate tax incentives and closing corporate loopholes—all while eliminating waste, fraud and abuse.

I urge my colleagues to support the CBC Alternative Budget, which represents a return to fiscal discipline and responsibility and focuses our spending priorities on ALL Americans.

Mr. BISHOP of Georgia. Mr. Chairman, I rise today in strong support of the American people, and the Congressional Black Caucus' Alternative U.S. Budget (CBC Budget).

Mr. Chairman, budgets are moral documents. They reflect in a very real sense, our deep beliefs, our priorities, and define us as a community and as a Nation. So it is with deep regret that, as people of conscience, we must rise against this attack on seniors, children, families, workers, and small business—against the Majority's budget which levies an enormous cost on the backs of the majority of Americans, in order to benefit the wealthiest few among us.

Make no mistake about it—the majority's budget is a reckless and unfair attack on most Americans. It exacerbates our national debt in an age when we have already squandered a $5.6 trillion budget surplus and added $3 trillion in debt. It freezes important domestic programs—reducing veterans' health care by $6 billion, education by $45.3 billion, public health by $18.1 billion, and environmental protection by $25.0 billion—while also adding $6.8 billion in reconciliation cuts to mandatory programs. It is outrageous, Mr. Chairman, and it's simply un-American.

The CBC budget, which my office helped to draft, restores fiscal responsibility, balancing the budget in 5 years and creating a surplus of $2.3 billion in FY 2011. It reduces the deficit by $313 billion and saves $10.5 billion in interest payments compared to the Majority's budget. And it adopts PAYGO rules, so that Congress balances our checkbook just like most Americans do.

The CBC Budget adds $32 billion in Education, Training, Employment and Social Services, $1 billion in Natural Resources and Environment; and $5.4 billion in Health programs. It increases security and critical investments for our homeland, for our troops, for rail and port security grants, cargo and air cargo screening equipment, first responders, federal air marshals, and the U.S. Centers for Disease Control and Prevention.

It funds juvenile justice and local law enforcement programs, while restoring cuts in veterans' health care, enhances benefits to our veterans in survivor benefits, medical and prosthetic research, long-term care, and mental health care. It provides $80 billion more for education and job training programs than the Republic budget over 5 years, including funding for No Child Left Behind and school construction. It funds the minority health initiative, child nutrition programs, job creation programs, community and regional development, Gulf Coast reconstruction, scientific research, transportation, Medicare, and a variety of greatly-needed housing initiatives.

Mr. Chairman, we have a historic opportunity before us, to help millions of Americans, and to turn back the clock on fiscal policies, the effect of which this Nation will endure for decades. I urge my colleagues to join in conscience, and adopt this CBC Budget.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WATT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 131, noes 294, not voting 7, as follows:

[Roll No. 155]

AYES—131

Abercrombie
Ackerman
Andrews
Baca
Baldwin
Becerra
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carson
Cleaver
Clyburn
Conyers
Crowley
Cuellar
Cummings
Davis (AL)
Davis (FL)
Davis (IL)
DeFazio
Delahunt
DeLauro
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Farr
Fattah
Filner
Ford
Frank (MA)
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holt
Honda
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kildee
Kilpatrick (MI)
Lantos
Lee
Levin
Lewis (GA)
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (NC)
Miller, George
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rahall
Rangel
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Scott (GA)
Scott (VA)
Serrano
Slaughter
Solis
Stark
Tauscher
Thompson (MS)
Tierney
Towns
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—294

Aderholt
Akin
Alexander
Allen
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Cubin
Culberson
Davis (CA)
Davis (KY)

Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Salazar
Sanchez, Loretta
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Udall (CO)
Udall (NM)
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Cardoza
Clay
Evans
Kennedy (RI)
Larson (CT)
Stupak
Turner

□ 2201

Mr. UDALL of New Mexico changed his vote from "aye" to "no."

Mr. GUTIERREZ changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. TURNER. Mr. Chairman, on rollcall No. 155, the Watt Substitute for the Budget I am not recorded. Had I been present, I would have voted "no."

AMENDMENT NO. 2 OFFERED BY MR. HENSARLING

Mr. HENSARLING. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN (Mr. LaHood). The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 2 in the nature of a substitute printed in House Report 109-468 offered by Mr. Hensarling:

Strike all after the resolving clause and insert the following:

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2007.

The Congress declares that the concurrent resolution on the budget for fiscal year 2007 is hereby established and that the appropriate budgetary levels for fiscal years 2008 through 2011 are set forth.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for each of fiscal years 2007 through 2011:

(1) Federal revenues.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2007: $1,758,926,000,000.
Fiscal year 2008: $1,845,251,000,000.
Fiscal year 2009: $1,927,713,000,000.
Fiscal year 2010: $2,016,539,000,000.
Fiscal year 2011: $2,084,848,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be reduced are as follows:

Fiscal year 2007: $60,447,000,000.
Fiscal year 2008: $76,088,000,000.
Fiscal year 2009: $103,277,000,000.
Fiscal year 2010: $118,773,000,000.
Fiscal year 2011: $271,582,000,000.

(2) New budget authority.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2007: $2,197,306,000,000.
Fiscal year 2008: $2,208,964,000,000.
Fiscal year 2009: $2,247,453,000,000.
Fiscal year 2010: $2,271,960,000,000
Fiscal year 2011: $2,329,022,000,000.

(3) Budget outlays.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2007: $2,262,787,000,000.
Fiscal year 2008: $2,257,421,000,000.
Fiscal year 2009: $2,263,020,000,000.
Fiscal year 2010: $2,301,476,000,000.
Fiscal year 2011: $2,340,846,000,000.

(4) Deficits (on-budget).—For purposes of the enforcement of this resolution, the amounts of the deficits (on-budget) are as follows:

Fiscal year 2007: $503,861,000,000.
Fiscal year 2008: $412,170,000,000.
Fiscal year 2009: $335,307,000,000.
Fiscal year 2010: $284,937,000,000.
Fiscal year 2011: $255,998,000,000.

(5) Debt subject to limit.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, the appropriate levels of the public debt are as follows:

Fiscal year 2007: $9,156,000,000,000.
Fiscal year 2008: $9,690,000,000,000.
Fiscal year 2009: $10,146,000,000,000.
Fiscal year 2010: $10,542,000,000,000.
Fiscal year 2011: $10,916,000,000,000.

(6) Debt held by the public.—The appropriate levels of debt held by the public are as follows:

Fiscal year 2007: $5,270,000,000,000.
Fiscal year 2008: $5,477,000,000,000.
Fiscal year 2009: $5,591,000,000,000.
Fiscal year 2010: $5,637,000,000,000.
Fiscal year 2011: $5,637,000,000,000.

SEC. 102. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority and outlays for fiscal years 2007 through 2011 for each major functional category are:

(1) National Defense (050):

Fiscal year 2007:
(A) New budget authority, $510,580,000,000.
(B) Outlays, $534,623,000,000.
Fiscal year 2008:
(A) New budget authority, $481,271,000,000.
(B) Outlays, $502,489,000,000.
Fiscal year 2009:
(A) New budget authority, $481,126,000,000.
(B) Outlays, $489,152,000,000.
Fiscal year 2010:
(A) New budget authority, $481,099,000,000.
(B) Outlays, $484,908,000,000.
Fiscal year 2011:
(A) New budget authority, $481,134,000,000.
(B) Outlays, $486,641,000,000.

(2) International Affairs (150):

Fiscal year 2007:
(A) New budget authority, $25,820,000,000.
(B) Outlays, $29,603,000,000.
Fiscal year 2008:
(A) New budget authority, $24,179,000,000.
(B) Outlays, $25,863,000,000.
Fiscal year 2009:
(A) New budget authority, $22,456,000,000.
(B) Outlays, $22,853,000,000.
Fiscal year 2010:
(A) New budget authority, $22,443,000,000.
(B) Outlays, $20,894,000,000.
Fiscal year 2011:
(A) New budget authority, $22,432,000,000.
(B) Outlays, $19,817,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 2007:
(A) New budget authority, $23,666,000,000.
(B) Outlays, $23,804,000,000.
Fiscal year 2008:
(A) New budget authority, $21,531,000,000.
(B) Outlays, $22,073,000,000.
Fiscal year 2009:
(A) New budget authority, $21,237,000,000.
(B) Outlays, $21,206,000,000.
Fiscal year 2010:
(A) New budget authority, $21,096,000,000.
(B) Outlays, $20,882,000,000.
Fiscal year 2011:
(A) New budget authority, $17,901,000,000.
(B) Outlays, $18,672,000,000.

(4) Energy (270):

Fiscal year 2007:
(A) New budget authority, $817,000,000.
(B) Outlays, $247,000,000.
Fiscal year 2008:
(A) New budget authority, $41,000,000.
(B) Outlays, −$1,116,000,000.
Fiscal year 2009:
(A) New budget authority, −$169,000,000.
(B) Outlays, −$1,398,000,000.
Fiscal year 2010:
(A) New budget authority, −$395,000,000.
(B) Outlays, −$1,583,000,000.
Fiscal year 2011:
(A) New budget authority, −$509,000,000.
(B) Outlays, −$1,693,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 2007:
(A) New budget authority, $28,230,000,000.

(B) Outlays, $31,991,000,000.

Fiscal year 2008:

(A) New budget authority, $27,649,000,000.

(B) Outlays, $30,547,000,000.

Fiscal year 2009:

(A) New budget authority, $27,419,000,000.

(B) Outlays, $29,435,000,000.

Fiscal year 2010:

(A) New budget authority, $27,340,000,000.

(B) Outlays, $29,284,000,000.

Fiscal year 2011:

(A) New budget authority, $26,629,000,000.

(B) Outlays, $27,859,000,000.

(6) Agriculture (350):

Fiscal year 2007:

(A) New budget authority, $26,006,000,000.

(B) Outlays, $25,581,000,000.

Fiscal year 2008:

(A) New budget authority, $20,430,000,000.

(B) Outlays, $19,739,000,000.

Fiscal year 2009:

(A) New budget authority, $18,742,000,000.

(B) Outlays, $18,006,000,000.

Fiscal year 2010:

(A) New budget authority, $18,392,000,000.

(B) Outlays, $17,506,000,000.

Fiscal year 2011:

(A) New budget authority, $18,534,000,000.

(B) Outlays, $17,767,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 2007:

(A) New budget authority, $15,853,000,000.

(B) Outlays, $7,025,000,000.

Fiscal year 2008:

(A) New budget authority, $13,028,000,000.

(B) Outlays, $7,025,000,000.

Fiscal year 2009:

(A) New budget authority, $12,000,000,000.

(B) Outlays, $6,735,000,000.

Fiscal year 2010:

(A) New budget authority, $11,504,000,000.

(B) Outlays, $4,493,000,000.

Fiscal year 2011:

(A) New budget authority, $11,298,000,000.

(B) Outlays, $3,885,000,000.

(8) Transportation (400):

Fiscal year 2007:

(A) New budget authority, $69,371,000,000.

(B) Outlays, $70,226,000,000.

Fiscal year 2008:

(A) New budget authority, $67,054,000,000.

(B) Outlays, $72,017,000,000.

Fiscal year 2009:

(A) New budget authority, $63,686,000,000.

(B) Outlays, $68,586,000,000.

Fiscal year 2010:

(A) New budget authority, $19,197,000,000.

(B) Outlays, $50,759,000,000.

Fiscal year 2011:

(A) New budget authority, $15,594,000,000.

(B) Outlays, $32,178,000,000.

(9) Community and Regional Development (450):

Fiscal year 2007:

(A) New budget authority, $9,080,000,000.

(B) Outlays, $26,942,000,000.

Fiscal year 2008:

(A) New budget authority, $7,963,000,000.

(B) Outlays, $21,875,000,000.

Fiscal year 2009:

(A) New budget authority, $7,963,000,000.

(B) Outlays, $12,974,000,000.

Fiscal year 2010:

(A) New budget authority, $7,965,000,000.

(B) Outlays, $9,423,000,000.

Fiscal year 2011:

(A) New budget authority, $7,967,000,000.

(B) Outlays, $8,466,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 2007:

(A) New budget authority, $78,706,000,000.

(B) Outlays, $86,415,000,000.

Fiscal year 2008:

(A) New budget authority, $75,421,000,000.

(B) Outlays, $77,978,000,000.

Fiscal year 2009:

(A) New budget authority, $73,973,000,000.

(B) Outlays, $74,089,000,000.

Fiscal year 2010:

(A) New budget authority, $72,876,000,000.

(B) Outlays, $72,155,000,000.

Fiscal year 2011:

(A) New budget authority, $71,986,000,000.

(B) Outlays, $70,929,000,000.

(11) Health (550):

Fiscal year 2007:

(A) New budget authority, $269,698,000,000.

(B) Outlays, $272,369,000,000.

Fiscal year 2008:

(A) New budget authority, $279,170,000,000.

(B) Outlays, $279,387,000,000.

Fiscal year 2009:

(A) New budget authority, $291,222,000,000.

(B) Outlays, $288,810,000,000.

Fiscal year 2010:

(A) New budget authority, $300,435,000,000.

(B) Outlays, $299,486,000,000.

Fiscal year 2011:

(A) New budget authority, $312,928,000,000.

(B) Outlays, $311,802,000,000.

(12) Medicare (570):

Fiscal year 2007:

(A) New budget authority, $359,207,000,000.

(B) Outlays, $364,668,000,000.

Fiscal year 2008:

(A) New budget authority, $376,393,000,000.

(B) Outlays, $376,441,000,000.

Fiscal year 2009:

(A) New budget authority, $395,226,000,000.

(B) Outlays, $394,815,000,000.

Fiscal year 2010:

(A) New budget authority, $413,594,000,000.

(B) Outlays, $413,906,000,000.

Fiscal year 2011:

(A) New budget authority, $437,641,000,000.

(B) Outlays, $437,686,000,000.

(13) Income Security (600):

Fiscal year 2007:

(A) New budget authority, $346,496,000,000.

(B) Outlays, $355,735,000,000.

Fiscal year 2008:

(A) New budget authority, $355,080,000,000.

(B) Outlays, $361,544,000,000.

Fiscal year 2009:

(A) New budget authority, $365,727,000,000.

(B) Outlays, $369,553,000,000.

Fiscal year 2010:

(A) New budget authority, $376,340,000,000.

(B) Outlays, $378,687,000,000.

Fiscal year 2011:

(A) New budget authority, $390,469,000,000.

(B) Outlays, $391,965,000,000.

(14) Social Security (650):

Fiscal year 2007:

(A) New budget authority, $16,918,000,000.

(B) Outlays, $16,918,000,000.

Fiscal year 2008:

(A) New budget authority, $18,817,000,000.

(B) Outlays, $18,817,000,000.

Fiscal year 2009:

(A) New budget authority, $20,697,000,000.

(B) Outlays, $20,697,000,000.

Fiscal year 2010:

(A) New budget authority, $22,869,000,000.

(B) Outlays, $22,869,000,000.

Fiscal year 2011:

(A) New budget authority, $26,483,000,000.

(B) Outlays, $26,483,000,000.

(15) Veterans Benefits and Services (700):

Fiscal year 2007:

(A) New budget authority, $73,806,000,000.

(B) Outlays, $72,887,000,000.

Fiscal year 2008:

(A) New budget authority, $75,996,000,000.

(B) Outlays, $76,254,000,000.

Fiscal year 2009:

(A) New budget authority, $76,885,000,000.

(B) Outlays, $77,093,000,000.

Fiscal year 2010:

(A) New budget authority, $77,271,000,000.

(B) Outlays, $77,312,000,000.

Fiscal year 2011:

(A) New budget authority, $81,471,000,000.

(B) Outlays, $81,289,000,000.

(16) Administration of Justice (750):

Fiscal year 2007:

(A) New budget authority, $42,307,000,000.

(B) Outlays, $42,166,000,000.

Fiscal year 2008:

(A) New budget authority, $40,721,000,000.

(B) Outlays, $41,941,000,000.

Fiscal year 2009:

(A) New budget authority, $40,620,000,000.

(B) Outlays, $41,375,000,000.

Fiscal year 2010:

(A) New budget authority, $40,514,000,000.

(B) Outlays, $40,785,000,000.

Fiscal year 2011:

(A) New budget authority, $40,404,000,000.

(B) Outlays, $40,382,000,000.

(17) General Government (800):

Fiscal year 2007:

(A) New budget authority, $18,206,000,000.

(B) Outlays, $18,353,000,000.

Fiscal year 2008:

(A) New budget authority, $17,880,000,000.

(B) Outlays, $17,962,000,000.

Fiscal year 2009:

(A) New budget authority, $17,988,000,000.

(B) Outlays, $17,849,000,000.

Fiscal year 2010:

(A) New budget authority, $18,100,000,000.

(B) Outlays, $17,905,000,000.

Fiscal year 2011:

(A) New budget authority, $18,142,000,000.

(B) Outlays, $17,940,000,000.

(18) Net Interest (900):

Fiscal year 2007:

(A) New budget authority, $351,718,000,000.

(B) Outlays, $351,718,000,000.

Fiscal year 2008:

(A) New budget authority, $377,930,000,000.

(B) Outlays, $377,930,000,000.

Fiscal year 2009:

(A) New budget authority, $395,761,000,000.

(B) Outlays, $395,761,000,000.

Fiscal year 2010:

(A) New budget authority, $411,255,000,000.

(B) Outlays, $411,255,000,000.

Fiscal year 2011:

(A) New budget authority, $421,915,000,000.

(B) Outlays, $421,915,000,000.

(19) Allowances (920):

Fiscal year 2007:

(A) New budget authority, −$2,830,000,000.

(B) Outlays, −$1,685,000,000.

Fiscal year 2008:

(A) New budget authority, −$2,830,000,000.

(B) Outlays, −$2,260,000,000.

Fiscal year 2009:

(A) New budget authority, −$2,830,000,000.

(B) Outlays, −$2,545,000,000.

Fiscal year 2010:

(A) New budget authority, −$2,830,000,000.

(B) Outlays, −$2,685,000,000.

Fiscal year 2011:

(A) New budget authority, −$2,830,000,000.

(B) Outlays, −$2,770,000,000.

(20) Undistributed Offsetting Receipts (950):

Fiscal year 2007:

(A) New budget authority, −$66,349,000,000.

(B) Outlays, −$66,799,000,000.

Fiscal year 2008:

(A) New budget authority, −$68,760,000,000.

(B) Outlays, −$69,085,000,000.

Fiscal year 2009:

(A) New budget authority, −$82,276,000,000.

(B) Outlays, −$82,026,000,000.

Fiscal year 2010:

(A) New budget authority, −$67,105,000,000.

(B) Outlays, −$66,765,000,000.

Fiscal year 2011:

(A) New budget authority, −$70,567,000,000.

(B) Outlays, −$70,367,000,000.

TITLE II—RECONCILIATION SUBMISSIONS

SEC. 201. RECONCILIATION IN THE HOUSE OF REPRESENTATIVES.

(a) Submissions to Slow the Growth in Mandatory Spending and to Achieve Deficit Reduction.—(1) Not later than April 28, 2006, the House committees named in paragraph (2) shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the House Committee on the Budget shall report to the House a reconciliation bill carrying out all such recommendations without any substantive revision.

(2) Instructions.—

(A) Committee on agriculture.—The House Committee on Agriculture shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $2,083,000,000 in outlays for fiscal year 2007 and $29,116,000,000 in outlays for the period of fiscal years 2007 through 2011.

(B) Committee on armed services.—The House Committee on Armed Services shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $52,000,000 in outlays for fiscal year 2007 and $120,000,000 in outlays for the period of fiscal years 2007 through 2011.

(B) Committee on education and the workforce.—The House Committee on Education and the Workforce shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $1,010,000,000 in outlays for fiscal year 2007 and $7,470,000,000 in outlays for the period of fiscal years 2007 through 2011.

(C) Committee on energy and commerce.—The House Committee on Energy and Commerce shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $1,125,000,000 in outlays for fiscal year 2007 and $91,697,000,000 in outlays for the period of fiscal years 2007 through 2011.

(D) Committee on government reform.—The House Committee on Energy and Commerce shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $140,000,000 in outlays for fiscal year 2007 and $1,670,000,000 in outlays for the period of fiscal years 2007 through 2011.

(E) Committee on resources.—The House Committee on Resources shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $0 in outlays for fiscal year 2007 and $6,793,000,000 in outlays for the period of fiscal years 2007 through 2011.

(F) Committee on transportation and infrastructure.—The House Committee on Transportation and Infrastructure shall report changes in laws within its jurisdiction sufficient to reduce the level of direct spending for that committee by $32,000,000 in outlays for fiscal year 2007 and $230,000,000 in outlays for the period of fiscal years 2007 through 2011.

(G) Committee on ways and means.—The House Committee on Ways and Means shall report changes in laws within its jurisdiction sufficient to reduce the deficit by $27,457,000,000 for fiscal year 2007 and $221,189,000,000 for the period of fiscal years 2007 through 2011.

(H) Special rule.—The chairman of the Committee on the Budget may take into account legislation enacted after the adoption of this resolution that is determined to reduce the deficit and may make applicable adjustments in reconciliation instructions, allocations, and budget aggregates and may also make adjustments in reconciliation instructions to protect earned benefit programs.

(b) Submission Providing for Changes in Revenue.—The House Committee on Ways and Means shall report a reconciliation bill not later than April 28, 2006, that consists of changes in laws within its jurisdiction sufficient to reduce revenues by not more than $18,391,000,000 for fiscal year 2007 and by not more than $346,271,000,000 for the period of fiscal years 2007 through 2011.

(c) Revision of Allocations.—(1) Upon the submission to the Committee on the Budget of the House of a recommendation that has complied with its reconciliation instructions solely by virtue of section 310(b) of the Congressional Budget Act of 1974, the chairman of that committee may file with the House appropriately revised allocations under section 302(a) of such Act and revised functional levels and aggregates.

(2) Upon the submission to the House of a conference report recommending a reconciliation bill or resolution in which a committee has complied with its reconciliation instructions solely by virtue of this section, the chairman of the Committee on the Budget of the House may file with the House appropriately revised allocations under section 302(a) of such Act and revised functional levels and aggregates.

(3) Allocations and aggregates revised pursuant to this subsection shall be considered to be allocations and aggregates established by the concurrent resolution on the budget pursuant to section 301 of such Act.

SEC. 202. SUBMISSION OF REPORT ON VETERANS' SAVINGS.

In the House, not later than May 15, 2006, the Committee on Veterans' Affairs shall submit to the Committee on the Budget its findings that identify savings amounting to one percent of total spending under its jurisdiction from activities that are determined to be wasteful, unnecessary, or lower-priority. For purposes of this section, the report by the Committee on Veterans' Affairs shall be inserted in the Congressional Record by the chairman of the Committee on the Budget not later than May 21, 2006.

TITLE III—RESERVE FUND

SEC. 301. RESERVE FUND FOR EMERGENCIES.

In the House of Representatives and the Senate, if the Committee on Appropriations reports a bill or joint resolution, or if an amendment thereto is offered or a conference report thereon is submitted, that provides new budget authority (and outlays flowing therefrom) for emergencies and complies with the requirement of section 403, then the chairman of the Committee on the Budget of that House shall make the appropriate adjustments in allocations and aggregates to the extent that such legislation would not increase the deficit for fiscal year 2007 and for the period of fiscal years 2007 through 2011.

TITLE IV—BUDGET ENFORCEMENT

SEC. 401. RESTRICTIONS ON ADVANCE APPROPRIATIONS.

(a) In General.—(1) In the House, except as provided in subsection (b), an advance appropriation may not be reported in a bill or joint resolution making a general appropriation or continuing appropriation, and may not be in order as an amendment thereto.

(2) Managers on the part of the House may not agree to a Senate amendment that would violate paragraph (1) unless specific authority to agree to the amendment first is given by the House by a separate vote with respect thereto.

(b) Exception.—In the House, an advance appropriation may be provided for fiscal year 2008 and fiscal years 2009 for programs, projects, activities or accounts identified in the joint explanatory statement of managers accompanying this resolution under the heading 'Accounts Identified for Advance Appropriations' in an aggregate amount not to exceed $23,565,000,000 in new budget authority.

(c) Definition.—In this section, the term "advance appropriation" means any discretionary new budget authority in a bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2007 that first becomes available for any fiscal year after 2007.

SEC. 402. TURN OFF THE GEPHARDT RULE.

Rule XXVII shall not apply with respect to the adoption by the Congress of a concurrent resolution on the budget for fiscal year 2007.

SEC. 403. EMERGENCY SPENDING.

(a) Designations.—

(1) Guidance.—In the House, if a provision of legislation is designated as an emergency requirement under this section, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in paragraph (2). If such legislation is to be considered by the House without being reported, then the committee shall cause the explanation to be published in the Congressional Record in advance of floor consideration.

(2) Criteria.—

(A) In general.—Any such provision is an emergency requirement if the underlying situation poses a threat to life, property, or national security and is—

(i) sudden, quickly coming into being, and not building up over time;

(ii) an urgent, pressing, and compelling need requiring immediate action;

(iii) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and

(iv) not permanent, temporary in nature.

(B) Unforeseen.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(b) Enforcement.—It shall not be in order in the House of Representatives to consider any bill, joint resolution, amendment or conference report that contains an emergency designation unless that designation meets the criteria set out in subsection (a)(2).

(c) Enforcement in the House of Representatives.—It shall not be in order in the House of Representatives to consider a rule or order that waives the application of subsection (c).

(d) Disposition of Points of Order in the House.—As disposition of a point of order under subsection (b) or subsection (c), the Chair shall put the question of consideration with respect to the proposition that is the subject of the point of order. A question of consideration under this section shall be debatable for 10 minutes by the Member initiating the point of order and for 10 minutes by an opponent of the point of order, but shall otherwise be decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

SEC. 404. CHANGES IN ALLOCATIONS AND AGGREGATES RESULTING FROM REALISTIC SCORING OF MEASURES AFFECTING REVENUES.

(a) Whenever the House considers a bill, joint resolution, amendment, motion or conference report, including measures filed in compliance with section 201(b) or 201(c), that propose to change Federal revenues, the impact of such measure on Federal revenues shall be calculated by the Joint Committee on Taxation in a manner that takes into account—

(1) the impact of the proposed revenue changes on—

(A) Gross Domestic Product, including the growth rate for the Gross Domestic Product;

(B) total domestic employment;

(C) gross private domestic investment;

(D) general price index;

(E) interest rates; and

(F) other economic variables;

(2) the impact on Federal Revenue of the changes in economic variables analyzed under paragraph (1).

(b) the Chairman of the Committee on the Budget may make any necessary changes to allocations and aggregates in order to conform this concurrent resolution with the determinations made by the Joint Committee on Taxation pursuant to subsection (a).

SEC. 405. PROHIBITION ON USING REVENUE INCREASES TO COMPLY WITH BUDGET ALLOCATIONS AND AGGREGATES.

(a) For the purpose of enforcing this concurrent resolution in the House, the chairman of the Committee on the Budget shall not take into account the provisions of any piece of legislation which propose to increase revenue or offsetting collections if the net effect of the bill is to increase the level of revenue or offsetting collections beyond the level assumed in this concurrent resolution.

(b) Subsection (a) shall not apply to any provision of a piece of legislation that proposes a new or increased fee for the receipt of a defined benefit or service (including insurance coverage) by the person or entity paying the fee.

SEC. 406. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.

(a) APPLICATION.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(b) EFFECT OF CHANGED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this resolution—

(1) the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the appropriate Committee on the Budget; and

(2) such chairman may make any other necessary adjustments to such levels to carry out this resolution.

SEC. 407. DIRECT SPENDING SAFEGUARD.

(a) It shall not be in order in the House of Representatives to consider an direct spending legislation that would increase an on-budget deficit or decrease an on-budget surplus as provided by subsection (e) for any applicable time period.

(b) For purposes of this section, the term "applicable time period" means any of the following periods:

(1) The period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

(2) The period of the 5 fiscal years following first 5 years covered in the most recently adopted concurrent resolution on the budget.

(c) For purposes of this section and except as provided in subsection (d), the term "direct-spending legislation" means any bill, joint resolution, amendment, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.

(d) For purposes of this section, the term "direct-spending legislation" does not include—

(1) any legislation the title of which is as follows: "A bill to preserve Social Security."; or

(2) any legislation that would cause a net increase in aggregate direct spending of less than $100,000,000 for any applicable time period.

(e) If direct spending legislation increases the on-budget deficit or decreases an on-budget surpluses when taken individually, it must also increase the on-budget deficit or decrease the on-budget surplus when taken together with all direct spending legislation enacted since the beginning of the calendar year not accounted for in the baseline assumed for the most recent concurrent resolution on the budget, except that direct spending effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available.

(f) This section may be waived by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(g) For purposes of this section, the levels of budget authority and outlays for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget.

(h) The Committee on Rules may not report a rule or order proposing a waiver of subsection (a).

SEC. 408. BUDGET PROTECTION MANDATORY ACCOUNT.

(a)(1) The chairman of the Committee on the Budget shall maintain an account to be known as the "Budget Protection Mandatory Account". The Account shall be divided into entries corresponding to the allocations under section 302(a) of the Congressional Budget Act of 1974 in the most recently adopted concurrent resolution on the budget, except that it shall not include the Committee on Appropriations.

(2) Each entry shall consist only of amounts credited to it under subsection (b). No entry of a negative amount shall be made.

(b)(1) Upon the engrossment of a House bill or joint resolution or a House amendment to a Senate bill or joint resolution (other than an appropriation oill), the chairman of the Committee on the Budget shall—

(A) credit the applicable entries of the Budget Protection Mandatory Account by the amounts specified in paragraph (2); and

(B) reduce the applicable section 302(a) allocations by the amount specified in paragraph (2).

(2) Each amount specified in paragraph (1)(A) shall be the net reduction in mandatory budget authority (either under current law or proposed by the bill or joint resolution under consideration) provided by each amendment that was adopted in the House to the bill or joint resolution.

(c)(1) If an amendment includes a provision described in paragraph (2), the chairman of the Committee on the Budget shall, upon the engrossment of a House bill or joint resolution or a House amendment to a Senate bill or joint resolution, other than an appropriation bill, reduce the level of total revenues set forth in the applicable concurrent resolution on the budget for the fiscal year or for the total of that first fiscal year and the ensuing fiscal years in an amount equal to the net reduction in mandatory authority (either under current law or proposed by a bill or joint resolution under consideration) provided by each amendment adopted by the House to the bill or joint resolution. Such adjustment shall be in addition to the adjustments described in subsection (b).

(2)(A) The provision specified in paragraph (1) is as follows: "The amount of mandatory budget authority reduced by this amendment may be used to offset a decrease in revenues."

(B) All points of order are waived against an amendment including the text specified in subparagraph (A) provided the amendment is otherwise in order.

(d) As used in this rule, the term—

(1) "appropriation bill" means any general or special appropriation bill, and any bill or joint resolution making supplemental, deficiency, or continuing appropriations through the end of fiscal year 2007 or any subsequent fiscal year, as the case may be.

(2) "mandatory budget authority" means any entitlement authority as defined by, and interpreted for purposes of, the Congressional Budget Act of 1974.

(e) During the consideration of any bill or joint resolution, the chairman of the Committee on the Budget shall maintain a running tally, which shall be available to all Members, of the amendments adopted reflecting increases and decreases of budget authority in the bill or joint resolution.

SEC. 409. BUDGET DISCRETIONARY ACCOUNTS.

(a)(1) The chairman of the Committee on the Budget shall maintain an account to be known as the "Budget Protection Discretionary Account";. The Account shall be divided into entries corresponding to the allocation to the Committee on Appropriations, and the committee's suballocations, under section 302(a) and 302(b) of the Congressional Budget Act of 1974.

(2) Each entry shall consist only of amounts credited to it under subsection (b). No entry of a negative amount shall be made.

(b)(1) Upon the engrossment of a House appropriations bill, the chairman of the Committee on the Budget shall—

(A) credit the applicable entries of the Budget Protection Discretionary Account by the amounts specified in paragraph (2).

(B) reduce the applicable 302(a) and (b) allocations by the amount specified in paragraph (2).

(2) Each amount specified in subparagraph (A) shall be the net reduction in discretionary budget authority provided by each amendment adopted by the House to the bill or joint resolution.

(c)(1) If an amendment includes a provision described in paragraph (2), the chairman of the Committee on the Budget shall, upon the engrossment of a House appropriations bill, reduce the level of total revenues set forth in the applicable concurrent resolution on the budget for the fiscal year or for the total of that first fiscal year and the ensuing fiscal years in an amount equal to the net reduction in discretionary budget authority provided by each amendment that was adopted by the House to the bill or joint resolution. Such adjustment shall be in addition to the adjustments described in subsection (b).

(2)(A) The provision specified in paragraph (1) is as follows: "The amount of discretionary budget authority reduced by this amendment may be used to offset a decrease in revenues."

(B) All points of order are waived against an amendment including the text specified in subparagraph (A) provided the amendment is otherwise in order.

(d) As used in this rule, the term "appropriation bill" means any general or special appropriation bill, and any bill or joint resolution making supplemental, deficiency, or continuing appropriations through the end of fiscal year 2007 or any subsequent fiscal year, as the case may be.

(e) During the consideration of any bill or joint resolution, the chairman of the Committee on the Budget shall maintain a running tally, which shall be available to all Members, of the amendments adopted reflecting increases and decreases of budget authority in the bill or joint resolution.

The Acting CHAIRMAN. Pursuant to House Resolution 817, the gentleman from Texas (Mr. HENSARLING) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. HENSARLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before I begin my formal remarks, I want to acknowledge our dear friend and colleague Chairman NUSSLE for his great work. It has been one of my great honors and privileges to serve on his Budget Committee. I have thought that Chairman NUSSLE has had the hardest job in this body, and he has always chaired the Budget Committee with fairness and principle and diligence, and, I might add, success. Again, it has been an honor and a privilege to serve with him as he introduces his last budget. All I can say is Congress's loss is certainly Iowa's gain.

Mr. Chairman, over 10 years ago, visionary men and women of the Republican Party came forth with a very bold budget plan called the Contract with America budget. The Contract with America captured the imagination of the American people, and it gave the Republicans control of the people's House for the first time in decades.

More than just numbers, Mr. Chairman, the budget was about bedrock values. It called for true compassion by removing the yoke of dependency fashioned by the welfare state and replacing it with an opportunity society. It spoke of restoring personal freedom by ending centralized bureaucratic micromanagement of the Federal Government. It called for reforms, it called for accountability, and finally, Mr. Chairman, it actually balanced the budget without tax increases on hard-working American families.

Unfortunately, Mr. Chairman, the Contract with America budget was never enacted. Washington ignored the budget's ominous warning that if it failed to pass, within 10 years the national debt would grow to over $7.5 trillion from excess spending. That has proven true.

Today, members of the Republican Study Committee introduce the Contract with America Renewed Budget, a budget that is dedicated to achieving the goals of the original, chiefly balancing the budget in 5 years without raising taxes. This is the only budget proposed in Congress that would do so.

Mr. Chairman, not enough Americans realize it, but you can actually balance the budget without cutting 1 penny of Federal spending. That is right, without cutting 1 single penny. Even our budget will still grow government, but we slow its rate of growth, as we must. For the last 10 years, the Federal budget has grown beyond the ability of the family budget to pay for it. Washington has spent twice the rate of inflation and 50 percent faster than the family budget, and yet Democrats want to spend even more and tax more.

Every time Congress grows a Federal program, it takes money away from a family program, like a down payment on a home, college tuition for a child, or money to launch a small business. American families have to prioritize their spending every year. They have to balance their budget every year. They should expect no less from their Federal Government.

Now, to achieve a balanced budget without increasing taxes, our budget demands accountability, performance, and priorities. We propose the elimination of over 150 Federal programs. After almost 20 years after the fall of the Berlin Wall, we should still not be funding Radio Free Europe. The citrus canker program is not of equal priority to Kevlar vests for our brave troops, and we simply do not need other bridges to nowhere.

Our budget prevents the massive, the massive planned Democrat tax increase that threatens the 5 million new jobs that have been created since Republicans in this body enacted tax relief and progrowth job policies in 2003. Our budget proposes to reform out-of-control entitlement spending and then saving, actually saving, Medicare as we know it for our children.

The budget proposes a number of reforms, like a constitutional line item veto, a sunset commission, and earmark reform, all geared towards saving the family budget from the onslaught of the Federal budget.

Now, Mr. Chairman, there is no doubt in my mind that soon Democrats will stand up and call this something akin to a tough and heartless budget. But, Mr. Chairman, the tough and heartless budget is theirs. Their budget ignores out-of-control spending and will lead the next generation to desperate economic times.

According to the General Accountability Office, the Congressional Budget Office, and anybody else who has looked at the problem, without spending reforms we will soon be faced with the choice of having a Federal Government consisting of almost nothing but Medicare, Medicaid and Social Security, or actually doubling taxes on the next generation. That is the Democrats' budget plan for America.

But if we will simply embrace the principles of a balanced budget and limited accountable government, our future is bright. We can ensure unlimited freedom and unlimited opportunity for this generation and the next. We should enact the Contract with America Renewed Budget.

Mr. Chairman, I reserve the balance of my time.

Mr. NUSSLE. Mr. Chairman, I claim the time in opposition, and I ask unanimous consent to yield half the time to the gentleman from South Carolina (Mr. SPRATT) and that he be allowed to control that time.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. NUSSLE. Mr. Chairman, I yield myself such time as I may consume.

First of all, Mr. Chairman, it is my role and responsibility as the chairman of the Budget Committee to draft and defend the majority budget. I have done so. And that is the base resolution that we are considering tonight, to which the Republican Study Committee has provided an opportunity to look into the future and see what is possible. I oppose it, respectfully. And while there is enough of it that is worthy of discussion and worthy of support, it is my job, as I say, to defend and to pass the majority budget, and we will do so later on.

But let me just touch on some things that I think are important as you consider not only the underlying bill, but also what the Republican Study Committee has done. First of all, the members of the Republican Study Committee clearly have learned the lessons of the 1990s and the effort that we made to balance the budget, and there were three of them.

And let me suggest that those three lessons that we learned, that I certainly learned as a member of the Budget Committee, as a Member of Congress looking at the challenges that we faced, the first lesson was that we needed to grow the economy. That was clear. And we did so. The economy grew by leaps and bounds, and it brought revenue into the Treasury like never before. We cut the capital gains tax, and it created opportunities, it created jobs, and it created new businesses. As a result, it created new revenue to the Treasury.

Second, the lesson was if you control spending, if you slow things down, even to a freeze level, that that can help you gain the traction to get back to fiscal responsibility.

But the most important lesson, I believe, of the 1990s exercise of going through the Contract with America budget, as my friend from Texas suggested, and so many other budgets during those years that were successful, it was that we reformed government; that we were constantly weeding the garden looking for opportunities to make changes, looking for opportunities to deliver the product of government, the services of government in a more effective and efficient way.

I realize that there will be a lot of vitriol, of people coming forward saying you must hate this group or you must hate this person or you don't care about this. I would never cast that aspersion on anybody in this body. I say that very seriously. There is nobody who could get elected to this body by being that unfeeling and uncaring about the people that they serve and the people that elect them. It is just not possible.

So to say those kinds of things and to measure it based on the size of the wallet that the Federal Government is willing to throw at any problem is just, I believe, a ridiculous proposition. We can disagree on the method to solve problems, on the ways that we will meet challenges, but to come to the floor and suggest that just because you want to reform a program that has operated the same way for 20 years is because somehow you don't care, that is just simply not what either the RSC is trying to suggest in the budget they are proposing or that we are suggesting in the underlying budget.

We believe it is time, and that the time should always be present to reform government and to look for ways to use tax dollars wisely and to deliver a better product or service to the people that we are trying to help. That is what the RSC budget does.

Now, it does so at a time that we have other challenges. Obviously, we have many unexpected expenses that came up as a result of a war, as a result of 9/11, as a result of homeland security, as a result of immigration challenges, and as a result of Katrina, the hurricane. We have so many challenges that our budgets have had to face, and I believe we have balanced them as well as possible.

So while the RSC budget may go too far for a majority of people in the House of Representatives tonight, it does push the envelope forward and say we should always lean forward when it comes to reforming government.

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We should always be willing to lean forward and to support taxpayers and the job that they do, all taxpayers. And that is what the RSC budget does. I oppose it, respectfully, because I believe we need to support a majority budget to put the kind of fence, the fiscal fence, around the job we need to do here tonight and the rest of the year. But it is a good work product, worthy of our respect, if for no other reason because it points us in the constant direction of reform that this institution and our Federal Government must get serious about if we will meet the challenges that our kids and grandkids are going to need to deal with in the future.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the minority whip, Mr. HOYER.

Mr. HOYER. Mr. Chairman, I had not planned to speak at this point in time in the debate. But somebody, sometime ought to talk about facts.

The gentleman mentions the Contract with America. The first plank of the Contract with America was fiscal responsibility. Now, you weren't in charge when the Contract With America came into your purview as the majority in 1995. Bill Clinton was President of the United States. I have served here, my 26th year; 18 of those have been with Republican Presidents. Eight have been with a Democratic President. Every one of those 18 years we had a deficit of over $100 billion.

Now, there is only one person in America who can stop spending, the President of the United States. Reagan didn't stop spending. Bush didn't stop spending, and this President has spent, and you have spent, twice as much as we spent under Bill Clinton. The Heritage Foundation will tell you that, not we Democrats. We will tell you that too, but the Heritage Foundation will tell you that, I tell my friend from Texas.

You have voted for budgets which have provided the largest deficits in our history. In the last 64 months, your budgets and your policies have resulted in an additional $3 trillion of deficit spending. Three trillion. You are in charge of the House, you are in charge of the Senate, and you have the Presidency.

Now you say, oh, we had 9/11 and then we had the war. You didn't have that during the Reagan years, and you had a deficit every year. You didn't have that in Bush I. You had the Gulf War I, but guess what, that President Bush had the rest of the world substantially pay for that effort.

$3 trillion in additional debt. And in this budget, you are going to add an additional 650 billion-plus to the national debt. Those deficits, by the way, so you understand, and these are facts, you are welcome to look at your little books, get out your staff and say, oh, no, Hoyer is lying. The public maybe is watching.

During Republican Presidents those 18 years, $4.3 trillion of deficit spending net. You know what you had under Bill Clinton? $62.5 billion of surplus. The only President in your lifetime, I say to all of you, who had a net surplus during the course of his terms.

So I hear the gentleman from Texas get up and talk about the Contract With America. It was blarney.

You said you were going to be fiscally responsible. The finances of this Nation over the last 6 years have been the worst since my service here, and perhaps in the history. I think in the history of America. You talk a good game, but you are not playing a good game. You are not playing for real, and you are trying to fool the American public. The problem you have is they are not being fooled.

Mr. HENSARLING. Mr. Chairman, I yield myself 10 seconds.

I find it a little surreal to be lectured by a Democrat on the subject of spending since for the last 10 years every time the Republicans have introduced a budget, they have introduced a budget that spends more. If the gentleman is really concerned about spending, he should support the budget that spends the least, which is this budget.

Mr. Chairman, at this time I would like to yield 2½ minutes to the gentleman who is of the class of 1994 who voted for the original Contract With America, a former chairman of the Republican Study Committee and one of the great conservative leaders in the House, the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, I take the strong statement we just heard as an endorsement of the RSC budget. He talked about the budget you are proposing will increase the deficit. In fact, he wasn't talking about the RSC budget. Indeed it will produce $392 billion in net deficit reduction.

I rise in strong support of the Contract with America Renewed budget and compliment the gentleman from Texas for his hard work on this budget. This budget is a reasoned and responsible budget based on the Contract With America budget that I proudly voted for in 1995 and that the chairman of the House Budget Committee who sits here tonight also voted for, along with 108 other Republicans and two Democrats. And I certainly hope that tonight they will once again vote for this budget.

Mr. Chairman, when the Republicans were entrusted with the majority in 1994, we made a number of promises to the American people, but none of them was more important than our promise and nor more critical than our promise to the American people to shrink the size and the scope of the Federal Government, to have it tax less, spend less and interfere in our lives less; and, Mr. Chairman, it is time to keep that promise.

As the accompanying chart shows, in the time period from 1995 to 2005, Federal spending has increased at three times the pace of the average family income.

Mr. Chairman, that simply is not tolerable. This chart shows it. In that time period the average family income has gone up by 8.2 percent. Total Federal outlays have gone up by 25.6 percent. Growing the Federal Government at three times the pace of the family income simply is not tolerable, cannot be defended, and will not work in the long run.

The total amount of Federal spending is hard for the average American to comprehend. It is $2.2 trillion. In $1 bills it would stack halfway to the Moon. It weighs 10 times as much as the Sears Tower, and it would blanket the State of New Jersey.

Mr. Chairman, growth in spending has grown dramatically just in the last few years. From 2002 to 2005, the inflation rate was 2 percent. But we grew spending in 2002 by 7.9 percent, in 2003 by 7.4 percent, in 2004, by 6.1 percent and in 2005 by 8.2 percent. Each year, three to four times the rate of inflation.

Mr. Chairman, it is time for fiscal sanity. It is time to end the overspending.

I urge my colleagues to support the Contract with America Renewed budget.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, there is a credit card problem here on the House floor. You know what it would take to balance the budget while preserving these tax cuts? Let's take a look at your budget. To balance the budget by 2016, only 10 years away, while making the tax cuts permanent, you would have to cut Social Security benefits by 45 percent, you would have to cut defense spending by 66 percent, and you would have to cut Medicare by 56 percent. Every other program except Social Security, Medicare, Defense and Homeland Security you would have to cut by 32 percent. Now unless you are prepared to do that, you ought to take a look at the real facts.

The President promised that 5.5 million jobs would be created by 2003. Those tax cuts that we passed, that you passed in 2003. Instead, less than half of those jobs ever materialized.

If the workforce had only grown with the rate of population since 2001, there would be 3 million more people between the ages of 20 and 65 in the workforce than there is today.

Last year, middle-income wages actually grew less than the rate of inflation, reducing their buying power and their ability to grow the economy. That is why the American people are not fooled by your press conferences, by your budgets, by your shenanigans about we want to tax and spend. They don't believe you anymore.

Real wages have not grown since the passage of these tax cuts and are now at the level seen all the way back in November of 2001, before the tax cuts. In fact, one could make an argument that the economy would have grown the same if you would have increased taxes.

It makes no sense what has happened since 2001. President Bush and the Republican leadership have instituted round after round of reckless tax cuts for the rich, and all they have to show for it is one of the weakest so-called economic recoveries in the Nation's history. That is fact, and I give you those facts, and I hope you chew on them and think about them before you introduce your next budget.

Mr. Chairman, the problem with this substitute amendment is that like all fiscally irresponsible Republican budgets it will give large tax cuts for millionaires, while drastically cutting vital domestic programs used by average Americans. It will further grow our national deficit which stands at over $8 trillion, more than $28,000 per American.

The truth is that average working Americans are not only getting the tiniest share of the tax cuts; they are also not seeing any signs of an economic recovery. Unlike my Republican colleagues, let me state some facts to support my claim.

Fact: The President promised that 5.5 million jobs would be created by his 2003 tax cuts, instead less than half those jobs ever materialized.

Fact: If the workforce had only grown with the rate of population since 2001, there would be 3 million more people between the ages of 20 and 65 in the workforce than there is today.

Fact: Last year, middle income wages actually grew less than the rate of inflation, reducing their buying power and their ability to grow the economy.

Fact: Real wages have not been growing since the passage of these tax cuts and are now at the levels seen all the way back in November 2001.

I could state more facts all day and night, but I am limited by time, so let me just state what is abundantly clear: That President Bush and this Republican Congress have instituted round-after-round of reckless tax cuts for the rich and all they have to show for it is one of the weakest so-called economic recoveries in our nation's history and a bloated budget deficit.

For shame!

Mr. HENSARLING. Mr. Chairman, I yield 1 minute to a coauthor of the Family Budget Protection Act, one of the great fiscal conservatives of Congress, the gentleman from Indiana (Mr. CHOCOLA).

Mr. CHOCOLA. Mr. Chairman, you know, we can talk about a lot of things in a budget debate; but there are only a couple of things we know for sure. One is that we are on an unsustainable fiscal path and we have $46 trillion in unfunded liabilities. And by 2040, we will spend more on Social Security, Medicare, and interest than we have in Federal revenue, which will leave no money for defense, no money for education, no money for ag, no money for Department of Labor, no money for anything unless we have crushing tax increases.

Some say that this budget requires hard choices. I would argue it doesn't require any hard choices at all. It simply requires tough management. It is easy to spend other people's money, especially when it is other people's money. It is hard to manage money and achieve results.

This budget does the responsible thing by engaging in tough management and putting us on a path of sustainable fiscal future and not passing a debt along to our children that they simply will cannot afford.

This budget achieves better government at a lower cost, and I encourage all of my colleagues to support it.

Mr. HENSARLING. Mr. Chairman, I yield 1 minute to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Chairman, I want to thank the gentleman from Texas for his work on our RSC budget. He has done an outstanding job. And you know, this really is a time when we can renew the Contract With America and those goals that we focused on and the principles that were laid forth in that period of time, and this is a budget that helps move us again toward those goals and towards those principles.

Mr. Chairman, I find it so interesting that we are hearing people say, well, you can make an argument for this, you can make an argument for that. You can try to disprove this, you can try to disprove that. And you can make arguments all day long, but it doesn't make it true. It just does not make it true. And I think we have to put our focus on a few simple things that are fiscally responsible.

The budget we have before us that we are debating at this point in time is one that focuses on eliminating wasteful and unnecessary programs and capping growth in mandatory spending. Reducing the size of government and consolidating redundant agencies, this is a place that deserves our focus, it deserves our attention. It deserves our fiscal responsibility.

Mr. SPRATT. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

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Ms. JACKSON-LEE of Texas. Mr. Chairman, I think one of the problems that we have is not explaining to the American people the amount of pain that this Republican budget casts on Americans. So let me just tell you the truth this evening.

When the Democrats were in, when we passed the 1997 budget resolution, we developed a $5.6 trillion surplus. I think that is easy enough to understand. But right now, today, we have seen an arrow sink us down into an $8.8

trillion deficit and sliding on the slippery slope of this huge deficit that breaks the backs of working Americans. In fact, right now, today, when they vote, they will create a $3.2 trillion, if you will, deficit that will break the backs of working Americans. What that does is, of course, is to reenforce the fact that the tax cut that you are giving gives only to the richest of America, the 1 percent, but, in fact, even though Americans understand about mutual sacrifice of which they would rather have investment in education and health care and homeland security, your tax cut is going to cost $3 trillion, which is going to add to the trillions of dollars of deficit that we already have.

When we talk about priorities, what that means is that we are cutting $6 billion from homeland security, the very debate that we are having today. $6 billion we are cutting over a 5-year period in homeland security. What does that mean? It means we have no funding for border security. It means we have no funding to ensure that the homeland is safe with intelligence resources and collaboration. It also means that our military has no armored jackets. It means that our veterans hospitals are cut for $6 billion. But, most importantly, it cuts the children of America because it is the largest cut in education in 23 years. That is what this trillion-dollar deficit budget makes. That is what the Republican budget does. It cuts priorities, and that is what the Democrats are saying.

Our priorities are different. We want to invest in America. We do not want to build the deficit. We do not want to build $3 trillion in tax cuts that do not go to the average working American. We want that single mother, we want that family of 4, we want that family of 10, we want that young person looking for an opportunity to have the investment of capital to ensure that America is great.

Vote for the Democratic substitute. That is what makes America great, and that is what we would like to do for America.

Mr. Chairman, I rise today to add my voice of opposition to the Republican Budget Resolution.

The budget of the United States is more than a financial document and accounting device. Rather it is the numerical expression of the obligations free people voluntarily assume to help others, to serve the common good, and to form a more perfect union. But it is more than that. A budget is a reflection of our national values and a scorecard by which we can judge whether we are keeping faith with what we profess to believe. The budget resolution brought to the floor today by the Republican leadership does not reflect the best of American values. This budget breaks faith with what we know to be right.

Let me count the ways:

This budget undermines the federal programs that bolster the economy and welfare of our citizens.

The President's budget cuts $6.3 billion in Social Security benefits over ten years by eliminating the survivor benefits safety net for women and children. This benefit can make the difference between subsistence and destitution, and it is heart breaking that Congress could even consider pocketing funds rightly earned and needed by or constituents and their families.

The President's budget slashes Medicare by $36 billion over five years and $105 billion over 10 years and includes gross Medicaid cuts, including both legislative and regulatory cuts, of $17 billion over five years and $42 billion over 10 years, on top of the deep Medicaid cuts that Congress enacted in 2005.

The Republican 2007 budget resolution cuts spending on education by 29% and freezes Head Start funding at this year's level, guaranteeing that 19,000 children will have to be cut from Head Start next year. Even the President's own No Child Left Behind program is funded at $15.4 billion below the authorized level.

Cuts are also in store for environmental protection projects (by 4%), community block grants ($736 million), and community development programs ($4.3 billion below the amount needed to maintain current services).

Even the budget for Homeland Security is 24.9% lower than the amount enacted in FY2006.

What I have just described is a systematic asphyxiation of funding for vital elements that make up the fabric of our society—education, healthcare, social security, housing, and homeland security.

All of us agree on the American future we want for our children and generations yet unborn. An America that is highly educated, confident, capable, globally competitive, strong, and sage. Whether we achieve this goal depends upon what we do here today and now. This budget will not make America smarter, stronger, safer, more competitive, or proud. We can do much better. We must do better if we are to be true to the best of ourselves and to be consistent with our fundamental values.

I urge all members of the House to reject this budget resolution. I further urge my colleagues to support the Democratic Substitute Budget (the Spratt Resolution) and to support the CBC amendment to the Budget resolution.

Mr. HENSARLING. Mr. Chairman, at this time I yield 1 minute to the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, our constituents did not send us to Congress to create debt and pass it on to our children and our grandchildren. Yet it is estimated by the end of fiscal year 2006 that the Federal budget deficit alone will be $337 billion. Now, there are many reasons affecting this number, but the bottom line is spending is out of control.

Later tonight we will be voting on House passage of the fiscal year 2007 Federal budget, and I believe the time is now to make drastic reform. And the Republican Study Committee alternative budget is definitely a step in the right direction. This budget allows us to renew our purpose of fiscal restraint, pay down the national debt, and balance the budget.

Mr. Chairman, we cannot continue to spend on everything, because if we do, we will not be able to spend on anything. So I am rising in support of the amendment sponsored by the gentleman from Texas because it moves us in the right direction. It moves us in the direction of spending within our means and truly being accountable for our children and our grandchildren.

Mr. SPRATT. Mr. Chairman, I yield 1½ minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, if you kicked the Republican budget in the heart, you would break your toe.

These guys tonight are going to vote to cut $162 billion out of programs for the poor and the sick and the aged in our country in order to accommodate a $228 billion tax break for the wealthy.

Now, it would not be so bad if you did not follow the details. They are going to cut $18 billion out of public health programs for people across our country. They are going to cut the Centers for Disease Control. They are going to cut the research at the National Institutes of Health, which is looking for the cures for Alzheimer's, for Parkinson's, for juvenile diabetes. They are going to cut those programs. They are going to cut $6 billion in veterans health care. They are going to cut money for homeland security all to accommodate a $228 billion tax break almost exclusively for the wealthy in our country.

If you kicked the Republican budget in the heart, you would break your toe.

Mr. HENSARLING. Mr. Chairman, at this time I would like to yield 1 minute to a gentlewoman who knows that spending will increase every year under this budget, the gentlewoman from North Carolina (Ms. FOXX).

Ms. FOXX. Mr. Chairman, there are two clearly defined philosophies at work in Washington. On one side are conservatives, such as my RSC colleagues and I, who want to cut government spending and rein in the Federal deficit. On the other side are liberals, who believe that more government spending is the answer to all our problems, and these liberals will raise your taxes to pay for it.

I am pleased to be a part of this group of conservatives who today are proving that Republicans are indeed the party of fiscal discipline, reform, and accountability. Our budget proposal provides a general framework on how we can hold the line on spending, balance our budget within 5 years, pay down our national debt, and maintain tax relief for American families all at the same time.

Like every family across America, we need to make tough budget decisions and cut back on wasteful spending. That is not easy, but it is the right thing to do. After all, if your family was far into debt and was spending out of control, you would have to cut wasteful or unnecessary purchases.

With this budget we have a unique opportunity to streamline our government, reform ineffective and outdated Federal programs, cut spending, and provide greater accountability for the American people. Let us get to work.

Mr. SPRATT. Mr. Chairman, I reserve the balance of my time.

Mr. HENSARLING. Mr. Chairman, at this time I yield 1 minute to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Chairman, I rise in support of this amendment offered by the gentleman from Texas. I want to thank him for all his work in conjunction with the Republican Study Committee in advancing additional fiscal restraint in the budgetary process.

While the underlying budget does a commendable job of balancing our revenues with spending, the RSC does the same job. It just does it faster. Mr. Chairman, without question, both the underlying budget and this substitute budget make many tough choices. The budgetary process is not easy, but we must never forget it is not any easier for the taxpayer, who in every paycheck forks over too much of his or her paycheck to fund this budget.

This RSC alternative aims to balance the budget by 2011 by eliminating waste, fraud, and abuse and by pairing back unnecessary, duplicative bureaucracy by eliminating 150 Federal programs. It also protects Social Security and promotes a progrowth tax policy.

So I want to encourage all of my colleagues to support this amendment.

Mr. HENSARLING. Mr. Chairman, at this time I yield 1 minute to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Chairman, I thank the gentleman for yielding. I also want to thank Mr. HENSARLING for his leadership on budget reform. It is a pleasure to be a coauthor of the Family Budget Protection Act with him.

Mr. Chairman, budgets are about values. Budgets are about priorities, governing philosophies. What this Republican Study Committee budget does, what this Contract with America budget, renewed, does is express our values that the nucleus of the American economy and the American society is the individual. It is the families. It is not the government.

What this budget recognizes is that it is entirely possible not to cut the deficit in half in 5 years. It is entirely pragmatic and possible to eliminate the deficit in 5 years. What we are simply proposing to do is what Congress tried to do and did in 1995. It is not a ridiculous proposition that we can restrain the growth in government to eliminate the deficit in 5 years. We can keep taxes low, and we can restrain the growth of government to do this and reform the entitlements that are in desperate need of reform.

I compliment the gentleman on this budget. I urge its adoption.

Mr. HENSARLING. Mr. Chairman, at this time I yield 1 minute to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Chairman, I rise today in support of this, the RSC budget, simply because I care. I care about my constituents, the family budget. I care about American taxpayers everywhere. I care about the fact that they send their money to an overly bloated Federal Government. I care about growing our economy. I care also about the fact that we are growing deficits instead.

Over the last several hours now, we have heard Members from both sides of the aisle agree on one thing, and that is that we need to reduce Federal spending, lower our deficits, balance the budget. This budget plan will do that.

At the end of the day when all the rhetorical smoke clears, we are left with the fact that deficits will burden our children. My kids, your kids, our grandkids, American taxpayers today will all be burdened. So we can no longer simply afford to push this issue off into the future. We need to address it now.

I have the honor to serve on the Budget Committee and on the RSC as well, and I am not going to stand here and say that this is a perfect budget. But I will say it is a good budget, a budget that will do what it says it will do, rein in Federal spending, get us to a balanced budget. And anyone who wishes to reduce deficits should support this, the RSC budget.

Mr. HENSARLING. Mr. Chairman, at this time I yield 1 minute to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Chairman, I thank the gentleman for yielding and for his work on this budget.

Mr. Chairman, I support this budget because it is the most conservative, fiscally responsible budget that we have. It is not quite as conservative or fiscally responsible as I would like. I would like to put a balanced budget out here every year, and I would like to take the pain every year, and we would slow this government down. We should be able to do that in this Congress. This is as close as we can get and pull together the maximum amount of votes. It sends a message to the American people that we have people here that live by this budget the same way that you live by your family budget.

And I am going to stand with this Study Committee budget for a couple of other reasons. One is it allows some drilling in ANWR that can allow for some resources so we can do something to grow the size of the energy pie; and it repeals the Davis-Bacon wage scale, which is an outrageous Federal requirement on the wages that we have, so that we can let supply and demand set the marketplace.

Those are all good standards that have been put out here by the Study Committee budget, and I applaud them for the work that they have done. And I look forward to the time when we see a balanced budget come to the floor of this Congress from the Budget Committee.

Mr. HENSARLING. Mr. Chairman, I yield 1 minute to the esteemed majority deputy whip, the gentleman from Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Chairman, I thank the gentleman for yielding.

I would first like to recognize the leadership of Chairman NUSSLE on the underlying budget and the terrific job that he has done in compiling a budget that really reflects the will of the majority of this House in making those tough choices. I want to commend him on that.

But I rise today in support of this budget substitute because I believe it really reflects the awesome responsibility that we have here, the responsibility to care for our children, to lead this country and to be concerned about what our future holds. This budget proposal will save $358 billion from autopilot spending and provide $392 billion in net deficit reduction over the next 5 years. It will balance the Federal budget by 2011.

Mr. Chairman, Thomas Jefferson said in 1821: "The multiplication of public offices, increase of expense beyond income, growth and entailment of a public debt are indications soliciting the employment of the pruning knife." These words offer great insight today. It is time for us to spend more time spending less and to focus on finding ways to achieve savings and accomplish reform for the American people.

Mr. HENSARLING. Mr. Chairman, since I know he has capability of being twice as profound, I will yield him half the time. At this time I yield 30 seconds to the father of earmark reform, the gentleman from Arizona (Mr. FLAKE).

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Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding. I want to commend the gentleman from Texas for putting this budget forward and for working so hard on it.

It is simple to support this budget. This budget balances the budget within 5 years without tax increases. That is what we ought to support. Anything less is not doing justice for the generations to come who are going to be saddled with this debt unless we take bold action like this alternative budget. With that, I urge my colleagues to support it.

Mr. HENSARLING. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL of California. Mr. Chairman, I tried to keep track on my paper here of how many times the opposition to this budget proposal used the word "cut," and I ran off the edge of the page. It is 30-something or 40-something times they used the word "cut."

The truth is, this budget that is before you increases spending every single year. Let me repeat that. This budget increases spending every single year. Increasing is not a cut. When you go from three to four, that is not a cut. It does not increase spending as much as the current rate of increase, which is unsustainable over time, which is why this is such a responsible budget.

It also does not increase taxes and does not depress the economy in the way an increase of taxes would do, but it does balance this budget in 5 years in the only way we know we can do it; without smoke and mirrors, without any games, by simply spending within our means.

Mr. HENSARLING. Mr. Chairman, I yield the balance of my time to the chairman of the Republican Study Committee, one of the great conservative leaders in our Nation, the gentleman from Indiana (Mr. PENCE).

The Acting CHAIRMAN. The gentleman from Indiana is recognized for 2 minutes.

Mr. PENCE. Mr. Chairman, with record deficits and national debt, the time has come to level with the American people. We are not living within our means. Therefore, House conservatives, under the capable leadership of JEB HENSARLING of Texas, have put our own budget alternative together. We call it the Contract with America Renewed.

The Contract with America Renewed is a balanced budget based on the budget passed by the House of Representatives in 1995 as part of the Contract with America. That budget passed this House by all but one Republican vote, and this budget deserves the same level of support tonight.

House conservatives believe that this Republican Congress should return to our roots of fiscal discipline and reform. The Contract with America Renewed would balance the Federal budget by cutting wasteful government spending and ending outdated bureaucracies. It would protect the tax cuts that have made our economy thrive, would strengthen Social Security and provide for our veterans and national defense. And the Contract with America Renewed would keep our promise to future generations by reforming entitlements that threaten to bankrupt our national government.

The American people know that unbridled government spending threatens our future and our freedom, and they long for leaders who tell it like it is and are honest about the choices we face.

In the original Contract with America were these words: "America stands at a crossroads. Down one path lies more debt and the continued degradation of the Federal Government and the people it is intended to serve. Down the other path lies the restoration of the American dream." Those first Republicans in the majority in 40 years said, "We choose the second of these roads."

I urge my colleagues to support fiscal discipline and reform. Support the Republican Study Committee budget, and say yes again to the Contract with America Renewed.

Mr. SPRATT. Mr. Chairman, I yield myself the balance of my time.

The Acting CHAIRMAN. The gentleman is recognized for 1 minute.

Mr. SPRATT. Mr. Chairman, this budget already cuts, the base bill on the floor, education by $45 billion over the next 5 years; wipes out 42 programs; eliminates the Perkins plan for vocational education. Public health, the cuts come to $18 billion. That is the NIH, Center for Disease Control, Graduate Medical Education For Children's Hospitals, rural health care programs, on and on and on, cut $18 billion. Veterans, who should have a greater claim to our sympathy and support now than at any time, you see the sacrifices they are making, 18,000 grievously wounded, veterans health care will be funded at $6 billion below current services if this budget passes. To go deeper, to cut more is just unconscionable. I simply cannot imagine it.

In truth, what you have got here are $162 billion cumulative cuts in programs on which people depend over 5 years. You have already gone beyond the reasons of limit. Going even further would be truly unconscionable.

The Acting CHAIRMAN. The gentleman from Iowa has 5 minutes remaining.

Mr. NUSSLE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, back in 1995 as a brand new member of the Budget Committee, we did go through the exercise of balancing the budget and putting a plan together that actually accomplished that. We thought it was going to take, I think at the time, 7 years. We got it done in 5 years as a result of a number of advantages and opportunities that were happening at the time.

Certainly the budget in 1995 was not written during a recession, it was not written during a war, it was not written during an attack on our homeland, it was not written during one of the greatest natural disasters that our country has ever witnessed in Hurricane Katrina. Certainly the challenges we face today are different than 1995, and the opportunities that we have today are certainly different than they were in 1995.

But the one thing I like about this budget, even though I am going to oppose the amendment, is that what my friend from Texas, Mr. HENSARLING, Mr. PENCE from Indiana and so many of the very responsible members of the Republican Study Committee who have put together a detailed plan, is that they are blazing the trail. They are showing us how.

We may not get there today, as my friend from Iowa said, and I know for sure he can write a budget that can balance by tonight, or I am pretty sure. I am sure there are a lot of Members who could do that. But we are not writing the perfect budget tonight. That is not possible. We are writing a majority budget. We are writing a budget that can get 218 votes.

So if this budget does not get 218 votes because there are Members who believe that it goes too far too fast, let us not forget the principles, though, that it lays out, that we need to consider as we write any budget, and that is, number one, we must continue to grow the economy. That is lesson number one of the 1990s and the first historic balanced budget in a generation.

Number two, we have got to control spending. What the underlying budget does is it basically freezes domestic spending while we fight this global war on terror and while we have men and women in the field.

Third, during the nineties, particularly with welfare reform, that we had to drag President Clinton kicking and screaming to sign after he vetoed it twice, is that we must reform government programs and entitlements, constantly looking for better ways to deliver government products and services in the best way possible to the taxpayers of America.

This is what this budget attempts to do. The underlying budget will accomplish that. We ask for its support.

I respectfully ask that Members do not support the RSC budget, but that we take that lesson as a way to point us toward better fiscal responsibility in the future and always be willing to blaze that trail toward more discipline, more responsibility and more reform.

Mr. GUTKNECHT. Mr. Chairman, I rise today in support of the Republican Study Committee's amendment in the nature of a substitute.

On March 8, I joined with my colleagues from the Republican Study Committee to renew our commitment to the principles of the Contract With America. We must control government spending.

While I may not agree with every line of this substitute amendment, I do support its overall goal of balancing the budget in five years and saving taxpayers nearly $360 billion.

The attack of Sept. 11, the War on Terror and national emergencies like Katrina are largely to blame for our deficit . . . but not completely. Wasteful government spending also adds to the national debt, and we need to address it.

Our Nation's growing deficit amounts to a generational transfer of wealth. Today's youth will pay for the decisions we make today. For years, we have increased government spending, and now, we must work together to help rein it in and cut the deficit.

Here are some frightening statistics:

Since 2000, the amount the government spends on average per American household has grown 15.1 percent—the highest level since World War II.

In recent years, the federal budget growth has far outpaced the growth in the average American family budget.

This year's deficit may well exceed $400 billion.

Americans are saying enough is enough. The RSC budget will balance the budget in 5 years and eliminate more than 150 federal programs that are no longer making the grade.

Congress has some tough decisions to make during the 2007 budget process. This is no different than those Americans who establish their own annual budgets. Over the next five years, Americans will generously provide the federal government with an average increase of 5.3 percent in federal tax revenue. Congress must learn to live within that.

Think about it. When our constituents sit down to figure out their family budgets, they don't start by figuring out how much they want to spend. They start by figuring out how much they have to spend and then they work back from there.

We should do no less.

In the end, we must ask ourselves, what legacy do we want to leave our children? Will it be a massive government and crushing debt? Or the legacy of hope, prosperity and a lean and responsible government?

Mr. Chairman, budgeting is about making tough choices. Congress must return to the path of fiscal responsibility. We must balance the budget and rein in spending, and the RSC budget alternative is the best place to start.

Mr. NUSSLE. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. HENSARLING).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. HENSARLING. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENT MADE IN ORDER IN LIEU OF AMENDMENT NO. 3 OFFERED BY MR. SPRATT

Mr. SPRATT. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

Amendment made in order in lieu of part B amendment No. 3 in the nature of a substitute printed in House Report 109-468 offered by Mr. SPRATT:

(For text of the amendment, see prior proceedings of the House of today.)

The Acting CHAIRMAN. Pursuant to House Resolution 817, the gentleman from South Carolina (Mr. SPRATT) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from South Carolina.

Mr. SPRATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we offer a budget substitute which offers a difference, because, you see, our budget will return the budget to balance by the year 2012. In the interim, it will run smaller deficits and rack up less debt.

Our resolution will hold non-defense discretionary spending to the level of current services over the next 5 years, showing that we can exercise discipline and control without making devastating cuts in the essential services. The Republican budget, the base bill, never reaches balance, and, in my opinion, presents no plan or prospect of wiping out the debt or reducing the deficit.

I just outlined a few minutes ago some of the draconian cuts that are made over time. They may not seem that to start with, but they are relentless over a 5-year period of time. Education, for example, will be cut $45 billion; the environment will be cut substantially; and so will health, public health, NIH, Center for Disease Control, Graduate Medical Education for Children's Hospitals, on and on and on, rural health care programs that people depend upon.

Mr. Chairman, I yield 3 minutes to the gentleman from Maine (Mr. ALLEN), to discuss the health implications of the base bill and the difference between our substitute and the base bill when it comes to public health.

Mr. ALLEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this Republican budget we are voting on tonight does nothing to address the plight of the 46 million Americans who do not have health insurance. It does not improve our health care infrastructure. It does not ensure that physicians receive adequate Medicare reimbursement. It does not continue the level of Federal investment in medical research that has led to great advances in new treatments and cures for disease. Instead, this budget increases the deficit and adds to our Nation's exploding national debt.

The Democratic budget, on the other hand, rejects the Republicans' disastrous cuts to health care and other domestic priorities.

The Republican budget does not address the flawed sustainable growth rate formula for physician payments. Under the Republican budget, physicians will see a 4.6 percent cut to their Medicare payments in 2006, when their costs are going up continuously. The Democratic budget creates a reserve fund to increase Medicare payments to physicians, just like an amendment to the Senate budget resolution that passed unanimously.

The Republican budget echoes the President's insufficient level of funding for public health programs, shortchanging critical medical research, treatment, prevention and training programs. Programs facing cuts include 18 of 19 institutes at the National Institutes of Health, critical prevention programs at the Centers for Disease Control, Graduate Medical Education for Children's Hospitals and scores of other health programs that the President cut or eliminated.

The Democratic budget rejects the funding cuts to public health and ensures that these important programs maintain their purchasing power by providing $18 billion more than the Republican budget over 5 years.

I urge you to vote for the Democratic substitute and respect, respect, the claims that have been made to us by people with cancer, by people with ALS, just today in our offices saying if those research funds are not increased, their lives and the lives of those like them will be endangered.

Mr. RYAN of Wisconsin. Mr. Chairman, I claim the time in opposition.

The Acting CHAIRMAN. The gentleman from Wisconsin is recognized for 20 minutes.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING), an esteemed member of the Budget Committee.

Mr. HENSARLING. Mr. Chairman, again, what we see in this budget debate is it comes down to a debate about values, it comes down, frankly, to a debate about spending, it comes down to a debate about taxes.

Now, again, what we have heard all evening is that somehow the tax relief passed by Republicans has led to great deficits. The only problem is, that doesn't seem to jive with the facts.

I hold in my hand here the latest Treasury report on revenues. Since we have actually passed tax relief, we have more tax revenues. More tax revenues. When we allow the American people, the American families and small businesses to keep more of what they earn, they go out and they create jobs. And a lot of these jobs happen to be in my district. But, Mr. Chairman, if we enact this Democrat alternative, you are going to have a massive tax increase and you are going to start taking the jobs away.

Since we passed tax relief, Hugh Dublin in my congressional district, his business used to have three employees. Since we passed tax relief, he added two new employees, a guy named Dan and a guy named David.

□ 2300

Yet Democrats want to raise taxes on Hugh Dublin and his small business. They want to take away these guys' paychecks, and they are going to end up replacing them with welfare checks. And that is what they call compassion. That is what the Democratic tax increase is all about.

Let me tell you about Eddie Alexander of SSS Electric in my district back in Texas. Since we have had tax relief, he has had to hire two new people himself, a gentlemen by the name of Jared and a gentleman by the name of John Feagins. They were both unemployed, looking for employment in Henderson County, Texas.

Well, due to tax relief, they were able to expand their business. Yet the Democrats in their substitute budget want to increase taxes on Eddie Alexander and SSS Electric. They want to take away the paychecks of Jared and John and replace them with welfare checks. That is not compassion, Mr. Chairman. We need to reject this Democratic alternative.

Mr. SPRATT. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I stand in firm opposition to this budget resolution. It is offensive. It is immoral. It does not reflect the true priorities of the American people.

Speaking of priorities, just this week the Health Subcommittee of Energy and Commerce held a hearing on Children's Hospital's graduate medical education. This President's budget proposes cutting this successful program from $297 way down to $99 million. This program enables our Nation's independent children's hospitals to train the next generation of pediatricians, pediatric specialists, pediatric researchers who treat the sickest of our children.

I asked the administration's representative why the President wants to cut funding for children's hospitals, and she responded that this administration will be focusing those funds toward higher priorities.

I must ask, what is a higher priority than sick children? What is a higher priority than investments into life-saving medical research at the NIH, cancer patients waiting for the next clinical trial which will save their life? What is a higher priority than health care for our Nation's veterans coming home today from Iraq with such severe injuries? Judging by yesterday's tax vote, it would seem to be a further higher priority for this Republican Congress to have the wealthiest in our country have a tax cut.

That is what adopting this budget comes down to. I urge my colleagues to reject this budget resolution, the underlying resolution, and prove that you are committed to protecting funding for our Nation's hard-working families. Vote for the Democratic substitute and not for the special interests.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I would like to analyze this budget in several different ways. First of all, I want to compliment the Member from South Carolina for bringing the substitute to the floor. That is an important first step, because without competing ideas and competing budgets, we cannot really have a good debate here.

But what is this substitute we are dealing with right here? Number one, if you take a look at this substitute, it has enormous tax increases in it, and that is okay. It just defines the difference between the two parties and the two philosophies that we have.

Why does it have what I just said? Well, this budget claims to want to extend the extension of the child tax credit, extend the marriage penalty relief, 10 percent individual tax bracket, alternative minimum tax rate, estate tax relief, research and development tax credit, extension for the deduction of State and local sales taxes, marriage penalty, all of the kinds of things that we passed in the 2003 tax cuts that we all think are good ideas.

But the question, Mr. Chairman, is do they pay for it? No, they do not. They claim in their budget they have $150 billion set aside for this. Well, if you add up the costs, if you add up what it would take to continue this tax relief, that is $922 billion.

So they put in $150 billion in the budget for this tax policy, when it costs $922 billion. Where do they make up the difference? How do they come up with this $772 billion difference?

Well, that is the little asterisk that they have on their budget. That is the little footnote that they have on their budget. That is the tax gap. What they propose to do is simply this: If we just give the IRS some more money, if we hire more IRS agents, audit more Americans, and crack down harder on enforcement of the Tax Code, we will get this $772 billion.

So just trust us, the budget adds up. We know we are only setting aside $150 billion for the $922 billion of tax cuts we would like to pay for in this budget. So to make up the difference, we are just going to send the IRS after more people, and that is how we make up the additional $772 billion.

Now, the other question you want to ask is, well, are they being more frugal with the taxpayer dollars? Are they spending less money? Well, no this budget does not do this either. This budget spends more money than the majority budget, than the proposed budget. This budget spends $139 billion more.

Well, where do they spend that money? We have heard a lot of talk here on the floor about the need to support our troops. We need to support our soldiers. We need to invest in science and basic research. We need more mathematicians, more scientists to compete in the global economy and globalization.

Those are not extra funding in this budget. What about our veterans? Our veterans are returning from our wars, from Iraq and Afghanistan, coming back from other tours of duty. We need to work on our veterans. They do not propose any additional veterans spending over the base budget in here. They have $139 billion of more spending in other areas.

So they are not proposing more money for veterans, for science, for defense, which we believe are the top priorities. They are basically sticking with our numbers.

Mr. Chairman, I think what you have here is the same old same old: more spending, higher taxes, and a budget that just does not add up.

Mr. Chairman, I think the base budget that we are passing here today is a good budget. I prefer to do less on spending.

I was here speaking on the Contract with America renewed budget, the Study Committee budget, just a moment ago. But this budget honors our commitment to our troops, honors our commitment to our veterans, makes sure that we do think about the global economy and invest in basic research and science, and, more importantly, this budget budgets for that tax policy so our constituents, the American economy and the American taxpayer does not get stuck with higher taxes.

Gasoline is $3 a gallon. The cost of living is high in America because health insurance premiums are going up double digits a year. The last thing the American taxpayer needs is a tax increase. Yet if this budget were to pass, something tells me that these IRS agents, as smart as they are, as aggressive as they are, as good at doing audits as they may be, these IRS agents are not going to go out and get another $772 billion to make up and fill this hole to prevent those big tax increases from hitting the American people, from hitting the American economy.

Mr. Chairman, I reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me respond to the gentlemen before yielding to Mr. HOYER. What we have provided here is that there will be $150 billion of tax cuts before the PAYGO rule applies.

Otherwise, we just would take the PAYGO rule, which worked so well for us in the 1990s, which on three occasions, the gentleman heard him, Alan Greenspan said we should reinstate, double edge, applicable to tax cuts as well as to entitlement increases.

And what we are saying is, applying the PAYGO rule, go through the Code, as we did in 1986, $2½ trillion, surely the deductions and credits and exemptions and preferences there that can help you offset the taxes that will come up for renewable in 2010. That is what we are proposing.

You have got $228 billion in this budget resolution alone calls for tax cuts of that amount. It does not have a dime of them covered. And that is why, one of the reasons, that the deficit next year will be $545 billion on budget, before applying Social Security surplus. And 5 years from now it will be $428 billion. That is assuming no fix of the AMT and no additional costs after 2007 for Iraq.

That is why they do not get anywhere. It is a tread-water budget. So what we have proposed simply is that there would be additional tax cuts, of course, up to $150 billion without having to apply the PAYGO rule. But after that they would have to be offset so we can get about the business of working off these enormous deficits, which everybody knows are not sustainable into the future.

Mr. Chairman, I yield 4 minutes to the gentlemen from Maryland (Mr. HOYER), the minority whip.

Mr. HOYER. Mr. Chairman, let me start by saying that Democrats have not spent any money over the last 6 years. None of our budgets have passed. The appropriations bills would not have passed but for Republican votes, and the Republican President signed the budgets. That is what this crowd has offered. They have done it all. What has that meant? Three trillion dollars of additional deficit spending. That is what it has meant. This budget continues that practice.

Mr. Chairman, the overwhelming majority of Americans now believe that our great Nation is headed in the wrong direction. Not difficult to understand why they think that.

The Republican Party's incompetence over the past 5½ years is undeniable, from the miscalculations in Iraq to the inept response to Hurricane Katrina, to failure to secure our ports and borders, to the historic turnaround in our fiscal health from the $5.6 trillion surplus that they inherited, which they have turned into a $4 trillion deficit, a $9.6 trillion turnaround in 64 months; 5.4 million more Americans live in poverty, 6 million more are uninsured. Real median household income has dropped nearly $1,700. Thus, today it is stunning that our Republican colleagues have brought a budget resolution to this floor that so badly betrays our values and fails to meet our Nation's priorities.

This shamefully short-sighted budget resolution cuts crucial investment in our Nation and our people. The difference, I tell my friend from Wisconsin, is we want to pay for what we buy. You are buying a lot. You are buying more than we bought when we were in charge. You are not paying. You are borrowing from the Japanese, the Chinese, the Saudis. You borrowed more money from foreigners over the last 5 years than were borrowed in the 210 years before that.

Over the next 5 years, it slashes education by $45 billion; veterans health care, to which the gentleman referred, by $6 billion; public health by $18 billion; and environmental protection by $25 billion.

Even worse, this budget resolution is a continuation of the most reckless fiscal policies in the history of our Nation, policies that have squandered, as I said, a $5.6 trillion budget surplus. Who said that? George Bush, March 2001, said that is what we had.

They added more than $3 trillion to the national debt and weakened our ability, weakened our ability to respond to national and international crises.

Listen, my friends, to the warning of the nonpartisan Comptroller General David Walker, not a Democrat, appointed by your side, who stated in February, "Continuing on the unsustainable fiscal path will gradually erode if not suddenly damage our economy, our standard of living, and ultimately our national security."

Mr. Chairman, that is what Mr. Walker says their budgets are doing to America; yet that is precisely what this Republican budget continues to do. It not only fails to rein in the record Republican deficits of the last 5 years, it makes them worse. Hear me. This budget makes the deficits worse. It not only fails to arrest our exploding national debt, it calls for a debt limit increase of 653 billion additional dollars.

Last year during our debate on the budget resolution, the chairman of the Budget Committee confidently proclaimed, and I quote, "We will be able to give, I believe, our kids and grandkids the opportunities of a debt-free world if we begin with a small step again this year."

That is the chairman who brings to this floor a $653 billion additional increase in our national debt. The chairman's assertion then has been eviscerated by the facts now. Vote for this responsible Spratt alternative and reject this fiscally reckless proposal on top of the last five fiscally reckless proposals.

The reality is, this budget resolution—and the Republican party's policies—have instigated a dangerous spiral of deficits and debt that constitute nothing less than fiscal child abuse, because they will immorally force our children and grandchildren to pay our bills.

In sharp contrast, the Democratic alternative is reasonable and responsible.

It would balance the budget by 2012; reinstate the pay-as-you-go budget rules that were instrumental in creating four consecutive budget surpluses in the 1990s; and invest in our Nation and our people.

Our Democratic alternative provides matching resources for defense, and more resources for education, veterans' health care and other health priorities, and the environment.

I urge my colleagues: vote for fiscal sanity. Vote for the budget that puts America back on the right track.

Vote for the Democratic substitute.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield 2½ minutes to the chairman of the House Budget Committee, Mr. NUSSLE.

Mr. NUSSLE. Mr. Chairman, you know it is interesting that the distinguished minority whip indicated that all of the spending has been Republican spending in the last 6 years.

Mr. Chairman, I had a chance to go and check the gentlemen's Website, and, interestingly enough, he takes credit for spending. He voted for spending. He got projects for Maryland. Is not this interesting? Well, I think you may need to change your press release, I would say to the gentlemen. Maybe these are Republican projects that we provided the fine people of Maryland that you take credit for on your Website.

No, I think what is really going on here is that there is a lot of finger pointing.

□ 2315

There is a lot of interesting partisanship with regard to spending tonight, because the gentleman comes to the floor and says it is all our spending and it is all our fault, and yet the gentleman is the same gentleman on the Appropriations Committee who rolled out most of these bills, who takes credit for most of the projects, who voted for final passage in the conference reports on most of those bills as they move through the process. And so to blame us for spending I think is a little bit ridiculous.

Let me take the second one. He blames us for Katrina. I think that was a hurricane; I don't think it was a partisan issue. And instead of doing something about it in your budget, we actually put a reserve fund to plan for hurricanes, to plan for emergencies, to plan for natural disasters, the first time we have ever done this as a Congress. Not when the gentleman was in control in the majority. We have done this. We learned our lessons from Katrina. We are going to plan for natural disasters. We believe it is high time that we do that. So the gentleman comes to the floor and blames us. No, he blamed the President for Katrina, and then does nothing about it in his budget.

One final point. For the gentleman to say on the floor tonight that we cut too much on the one hand and that we provide too much tax relief on the other, there is only one plan that solves both and that is the Spratt Democrat substitute, and that is a massive tax increase on America. It is a secret, no one wants to talk about it; it is in the plan that they have rolled out. But the only way you deal with your huge increases of spending and your huge reductions in the tax relief policy that has been put out there to grow our economy is to increase taxes. That is the only way.

So I would say to the gentleman that he has certainly laid out a fine argument, but his own Web site demonstrates that I think he has a lot of credit that he can take for the challenges that this budget and this deficit and this fiscal situation have caused.

Mr. SPRATT. Mr. Chairman, I yield the gentleman from Maryland 1 additional minute.

Mr. HOYER. I thank the gentleman for yielding.

Mr. Chairman, I rose to express my appreciation on behalf of the people of Maryland for allowing us to invest in some very important projects. I will continue to take credit for those. But your budgets are the only ones that have passed, and the appropriations bills are the ones you have offered on the floor.

But let me say to the gentleman, I have been here long enough so that in 1993 I heard all the arguments from all your leadership that adopting our budget proposal would send the country to rack and ruin, would explode the deficit, explode unemployment, and create a deep recession. Dick Armey, your leader, said that, the Speaker said that, the chairman, Mr. Kasich, of your Budget Committee said that.

You are 180 degrees wrong, dead flat wrong. Exactly the opposite happened. Under a proposal that we made that you said was a massive tax increase, you never talk about of course the $250-plus billion spending cut, but we had the best economy in the history of America.

Mr. SPRATT. Mr. Chairman, before yielding to the gentleman from Texas, let me say that there are certain promises that we are bound to keep in government, and I think one of the most important are promises we have made to our veterans, because they were purchased for a dear price and usually therefore services are sorely needed, particularly veterans health care.

I yield now 3 minutes to the gentleman from Texas to talk about the difference between our budget substitute and the base bill when it comes to this vitally important thing called veterans health services.

Mr. EDWARDS. Mr. Chairman, with all due respect, if the House Republican leadership were to be accused in a court of law of being fiscally responsible, there would not be enough evidence to convict it. In fact, the evidence shows that this leader's free lunch philosophy has taken America in just 5 years from the largest surpluses in American history to the largest deficits in American history. We are now facing $1 billion-a-day deficits. Who is financing them? Communist China, Russia, Saudi Arabia, Iran, and Venezuela; and this budget continues the status quo.

This budget isn't just fiscally irresponsible; it turns its back on the American value of fairness. How? Just a few days ago, based on these budget numbers, the Republicans in this House voted for a $2 million dividend tax cut for poor Mr. Lee Raymond, the just-retired CEO of ExxonMobil who just got a $400 million retirement package. I guess that wasn't enough; he got $2 million more in dividend tax cuts from the same people who in this budget are saying to veterans making $28,000 a year, you make too much money to deserve VA health care in our hospital system even if you did serve our country in combat.

Worse yet, this budget resolution that I hope we will defeat would cut $8.6 billion during a time of war out of present services to our veterans health care. I don't think that reflects the American values. To service men and women, it says that we are going to, at least according to the present budget, cut $735 million out of defense health care services. That service is not just to military retirees; that is health care services to the men and women fighting in Iraq and Afghanistan today. That appropriation bill will be on the floor of the House this week because of this budget resolution. Those aren't America's values.

The choice is clear. If you think America is on the right track, if you like $1 billion-a-day deficits financed by the Communist Chinese, Russia, and Iran, vote for the Republican leadership budget. If you think Lee Raymond really needs a $2 million dividend tax cut this week while saying "no" to men and women who served our country in uniform and those who continue to serve our country in uniform, then vote for the Republican budget. But if you think veterans deserve better and our country deserves better, vote for the Spratt substitute, lower deficits, true fiscal responsibility, and an $8.6 billion increase, compared to the Republican budget for VA health care over the next 5 years.

If the Spratt budget were accused of being fiscally responsible, there would be enough evidence to convict it. It also passes the American values test of fairness, fairness for veterans, fairness to our service men and women, fairness to future generations of our children and grandchildren.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. CRENSHAW).

Mr. CRENSHAW. I thank the gentleman for yielding.

Mr. Chairman, I guess as I listened to this, I think it makes it very clear the difference in philosophy of the two parties that have put forth these budgets. Because, on the one hand you have got the Republican budget that takes the money that is available, sets a spending limit, does like every American family has to do, you sit down and you decide how much you are going to be able to spend on the priorities that you set out. And it does just that, it gets a handle on the spending, which is what the American people want. And then it tries to reform some of these areas of the government that need to be reformed. And, thirdly, it says that, look, there are some things we can do like establish a rainy day fund, we can set aside money for emergencies we know we are going to have, and it does those three things.

And yet you look on the other side and you see the Democratic alternative. There is no ounce of reform, none whatsoever. There is no real effort to set aside money for true emergencies.

I guess the most drastic difference between the budget that I support and the Republicans have offered and the budget that Mr. SPRATT has talked about is just that age-old philosophy of you just spend a little more money, you make a little more people happy, but how do you pay for it? Where do you get the money? And you all proudly talk about how you are going to spend more money, but you are not so proud about where the money is coming from because it is like magic money. You don't say we are going to raise taxes. You just do the things you do that automatically increase taxes on the middle class, the folks that you are saying you are going to help by spending more money, and that is just an endless cycle.

When I was a kid, I used to watch TV and there was a thing called Bullwinkle and he was a moose, and he had a friend that was named Rocky and he was a squirrel. And Bullwinkle would always say to Rocky, "Hey, watch me pull a rabbit out of this hat." And old Rocky the squirrel said, "No way. You are not going to be able to pull a rabbit out of the hat." And sure enough Bullwinkle would reach into that hat for that elusive rabbit, and he would always pull out something other than a rabbit. One time he pulled out a lion.

And I submit to you all that our Democratic colleagues once again are reaching in that hat just like Bullwinkle did; and instead of pulling out the magic money, they are going to pull out a tax increase. It is just the way it goes.

So let me just say to everyone, I think we all know we need money to provide services, but right now it seems to me we need something more. We need discipline to rein in spending. We need courage to make the right decisions even when they are hard. And we need a commitment to make sure that every task of government is accomplished more efficiently and more effectively than it ever has been before, because if life is going to change in America, life has got to change here in Washington.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield 2 minutes to the gentleman from New Hampshire (Mr. BRADLEY).

Mr. BRADLEY of New Hampshire. Mr. Chairman, I thank the gentleman for yielding me these 2 minutes. And I would like to respond to the gentleman from Texas who talked about veterans health care.

Let me just run through some of the numbers, because actually we are significantly increasing veterans health care spending in this budget. The 2006 appropriated number was $33.6 billion for veterans health care. In this budget under the chairman's mark, it was $36.1 billion. Under an amendment that was supported on a bipartisan basis and supported by the chairman, we increase that by nearly $800 million this year and for the next 4 years, bringing the total veterans health care number to $36.9 billion, which is a 9.8 percent increase.

We all know this is a 1-year budget. We have to continue to support our Nation's veterans, and we will do so. This year's budget allocates 10 percent of the health care dollars for mental health. We know how important that is with veterans returning from Iraq. Over the last several years we have doubled the health care numbers of veterans who are receiving top quality veterans health care from $2.5 million to $5 million. Over that 5-year period of time, the veterans health care dollars in the budget have gone from $21 billion to $33.6 billion last year, and under this budget, again, as I said before, $36.9 billion.

We have done other things, too, for veterans over the last 5 years, which have been very significant. We have more than doubled the GI education benefit. We have increased the death benefit for those who have given the ultimate sacrifice to $100,000. We have increased the VA home loan guarantee by 67 percent. We have expanded national cemeteries. Under the defense bills for the last couple of years, we have increased survivor benefits phased in over the next several years to the 55 percent promised level. And we have finally helped resolve the concurrent receipts disability payments for our Nation's veterans. We have made significant progress for our Nation's veterans. This budget continues that.

□ 2330

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Chairman, I want to thank my good friend and colleague Mr. SPRATT for giving me this time, but also for the leadership he has shown on the Budget Committee of which I am a member and for helping us present an alternative, an alternative for a different direction for our Nation, but also, I think, passes the tests of fairness and decency and reflects the values and the priorities that we have as Americans coming together.

Mr. Chairman, people are entitled to their own opinions, they are entitled to their own ideology, they are entitled to their own spin, but they are not entitled to their own facts. As President Reagan was fond of saying, facts can be a stubborn thing.

The fact of the matter is they have presided over the largest and quickest expansion of our national debt in our Nation's history. Their budget moves forward without pay-as-you-go rules in place, something that we have embraced with our own budget, which led to 4 years of budget surpluses in the 1990s, which actually helped us start paying down the national debt, rather than increasing our dependence on China to be financing these deficits of today.

People are wondering, well, what is the big deal about borrow and spend, borrow and spend, a philosophy they seem to have embraced. The problem is that the borrow-and-spend philosophy asks those who can contribute the least to sacrifice the most, and nothing is more apparent than the difference in our philosophy in regards to our support for the investment in the future of our country, in education, and what they are doing to education programs under their budget resolution.

Their budget calls for another $4.6 billion of education funding cuts from current funding levels. This follows on the heels of a $12 billion raid on student aid in the budget reconciliation that they passed earlier this year.

Their budget resolution, which tracks the President's number, calls for the elimination of 42 education programs such as Safe and Drug Free Schools, Education Technology, Even Start Family Literacy program.

Their budget calls for underfunding No Child Left Behind by an additional $15 billion, leaving that unfunded Federal mandate for States and local school districts to wrestle with, which increases the property tax burden in States like Wisconsin, we are finding.

Their budget also reduces funding for special education from 17.7 percent cost share at the Federal level down to 17 percent cost share, even though we have had a bipartisan attempt in this Congress to reach a 40 percent Federal cost share in special education. Again, another unfunded Federal mandate falling on the laps of local school districts.

Our substitute saves these programs. In fact, it also calls for the reduction of the student interest rate burden that our students are facing when they go on to postsecondary education, making it easier to afford higher education.

Our budget is fully paid for with pay-as-you-go rules. It recognizes the key investment that we have to make in the future of our country, to make sure that higher education is not just a dream for some, but an opportunity for all, because right now under current education policy, close to one-half of low-income students in this country who are qualified and want to go on to school don't because they cannot afford it. That is a recipe for economic disaster.

Our budget addresses that, and I encourage our colleagues to support the Democratic substitute.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. McCOTTER).

Mr. McCOTTER. Mr. Chairman, it seems that the debate is supposed to offer choices, and today the Republican Party of which I am a proud member offered a choice.

We stood with the President of the United States as we extended the tax relief to prevent the largest tax increase in history on the American people, and yet tonight we cannot seem to draw a clear distinction, and not for lack of trying on our side.

The reality is, with this budget that is before us for debate, is there are two fundamental premises which I think are not only flawed, but which will a aggrieve the American taxpayer when they find out what they are.

The first is the concept of PAYGO. We have heard a lot of talk about that. PAYGO means that unless Washington stops spending your money, you continue to pay high taxes. I assure you that that will not be a benefit to you because you will get the short end of the stick.

If the PAYGO provisions are not sufficient, we also see in the budget before us is the concept of the magic asterisk or the tax gap, whereby we will then be dependent upon the receipts of tax deadbeats to continue to spend money. We addressed the tax gap issue in the House Budget Committee by adopting an amendment I put forward with a couple of votes from the minority party which said that any tax gap or delinquent tax money that was recovered would be used for deficit reduction or debt elimination. What we see in the budget before us is that the money that is recovered from delinquent taxes under this will then instead be spent on new programs by the government.

The reality, in my mind, remains quite simply this. If PAYGO does not prove successful, if the Washington politicians somehow continue to spend your money, which is their forte, you will receive no tax relief, and if that is not sufficient for you to feel disgruntled, the reality then becomes that you can have your tax relief held hostage by tax deadbeats, because the reality is, under this budget, you get no tax relief unless a tax deadbeat decides to pay, and that is wrong for the American public. That is simply unfair, and it is unfair not to give a clear choice, with the laudatory talk about tax and spend of the 1990s is insufficient for true debate.

Mr. SPRATT. Mr. Chairman, I yield to the gentleman from California (Mr. GEORGE MILLER) for a unanimous consent request.

Mr. GEORGE MILLER of California. Mr. Chairman, I rise in support of the Spratt substitute.

Once again, the Republicans in the House have proved that there is little compassion in their brand of conservatism. If anything, with this budget they are declaring themselves to be fiscally irresponsible; soft on national security, veteran neglecting, anti-tax cuts for the middle class, pro-drug company, against real reform in rural health care as well as making quality education affordable.

I don't know what brand of conservatism you would call that, but it certainly isn't compassionate. If anything it's irrational; irrational conservatism. Because what the GOP proposes to do is wrong for America.

Here's a look:

FISCAL RESPONSIBILITY

The GOP budget calls for deficits for as far as the eye can see, never achieving balance—adding another $2.3 trillion to the national debt over the next 5 years.

Democrats propose to lower the deficit over the next 5 years, and get to balance in 6 years. Our plan would reimpose the pay-as-you-go rules, which require that spending increases and tax cuts to be paid for, and which brought us to budget surpluses in 1990s.

MAKES AMERICA SAFER HERE AT HOME?

GOP budget cuts homeland security by almost $500 this year and $6.1 billion over 5 years. It is not much better than the President's budget, which eliminates port security grants and rail and transit security grants—rolling them into a larger grant program.

Democrats would provide $6.5 billion more over the next 5 years for homeland security, thereby guaranteeing funding for port security, first responders, and Justice Assistance Grants.

ADEQUATELY FUNDS VETERANS' PROGRAMS?

The GOP budget cuts funding for veterans' health care by $6 billion over the next 5 years.

Democrats have a better way, by providing $6 billion more over the next 5 years for veterans' health care than the GOP budget. Also rejects increases in TRICARE health care costs for more than 3 million military retirees and their families.

TARGETS TAX CUTS TO THE MIDDLE CLASS?

No. The GOP budget follows the President's budget, which provides $2.5 trillion in tax cuts over the next 10 years, targeted to the very wealthiest taxpayers.

Democrats would provide $150 billion for middle-class tax relief including child tax credit, marriage penalty relief, and 10 percent individual bracket.

ADDRESSES PROBLEMS WITH THE PRESCRIPTION DRUG BENEFIT?

The GOP budget does nothing to address the serious problems in the confusing and costly Bush Prescription Drug plan.

Democrats would use PPO slush fund and savings from negotiating drug prices to improve the Prescription Drug plan by working to close the donut hole and providing that drug coverage is reliable. We would also extend the enrollment deadline without penalty.

PROVIDES FUNDING FOR KEY DISCRETIONARY HEALTH CARE INITIATIVES?

No. The GOP budget is identical to the Bush budget, which slashes rural health activities, underfunds NIH, and cuts prevention programs at the Centers for Disease Control. It also cuts physician payments by 5 percent each year.

Democrats would provide $18 billion more over the next 5 years for discretionary health care programs than the GOP budget, including NIH and the Centers for Disease Control. And we would provide for an increase in Medicare physician payments in 2007.

MAKES COLLEGE MORE AFFORDABLE?

No. The GOP Budget is identical to the Bush budget, which freezes Pell Grants for college and denies more than 460,000 students low-cost loans. This is on top of the $12 billion cut in student loan funding that Republicans just enacted.

Democrats reject the GOP cuts in higher education programs. We would also lower the cost of student loans—cutting the interest rate on student loans in half in 2007.

EXPANDS EDUCATIONAL OPPORTUNITY?

No. The GOP Budget is identical to the Bush budget, which underfunds No Child Left Behind by 39 percent, denying extra math and reading help to 3.7 million children and shutting 2 million children out of afterschool programs.

Democrats would provide $4.6 billion more in 2007 and $45.3 billion more over the next 5 years for education and training programs than the GOP budget.

PROVIDES FUNDING FOR KEY ENVIRONMENTAL PROTECTION INITIATIVES?

No. The GOP budget is similar to the Bush budget, which slashes Clean Water funds by 22 percent, cuts Safe Drinking Water funds, and underfunds land and water conservation programs.

Democrats would provides $2.9 billion more in 2007 and $25 billion more over the next 5 years for environmental protection programs than the GOP budget.

Mr. SPRATT. Mr. Chairman, I yield myself 30 seconds.

Let me just point out to the gentleman that amongst those who support the idea of closing the tax gap, using it in the budget, is the President himself. In his 2006 budget, he requested $446 million in extra funding for tax enforcement. The Senate side has bought into the idea. They have provided in the 2007 budget resolution $500 million, unanimously approved in the Senate for the same purpose. So it is not just a pipe dream by any means. It is something we should be about.

What we are simply proposing in PAYGO is what Mr. Greenspan asked on three occasions before our committee strongly recommended, that we reinstate the rules.

Mr. Chairman, I yield the remaining time to close to the gentlewoman from California (Ms. PELOSI), our distinguished minority leader.

Ms. PELOSI. Mr. Chairman, I thank the gentleman from South Carolina for yielding and acknowledge his tremendous leadership of putting forth the Spratt Democratic budget, which reflects the values of our country and is in balance.

Mr. Chairman, our most important responsibility as elected officials is to provide for the common defense. Keeping the American people safe is our first responsibility. That personal safety and America's national security are seriously jeopardized by the Republican budget. A vote for the Spratt Democratic alternative is a vote for a safer and more secure America.

Close to home in our neighborhoods, the Republican budget slashes funding for our first responders, including the COPS program and the SAFER Act, initiatives which put cops on the beat and equip our firefighters. The Spratt Democratic budget restores all of these cuts.

The Republican budget cuts homeland security funding by over $450 million in fiscal year 2007 and $6 billion over 5 years. I repeat, when it comes to our homeland security, the Republican budget cuts over $450 million for fiscal year 2007 alone and $6 billion over 5 years. The Democratic budget provides $1 billion more for port security and overall $6.5 billion more to keep our country safe.

The Republican budget continues to hide the cost of the Iraq war from the American public and cuts the Army National Guard strength by more than 17,000 troops despite the tremendous strain that the war has placed on them and now the additional charge that the President has made of them on immigration. The Democratic budget fully funds our Army National Guard.

The Republican budget betrays our veterans by cutting $6 billion over the next 5 years from current services and tripling TRICARE health fees. Mr. SPRATT's budget, the Democratic budget, keeps our commitment to veterans.

Republicans are abandoning our veterans and failing to invest in America's safety in order to give huge tax cuts to the wealthy that leave Americans awash in red ink.

Today the President signed a tax bill. Tonight, in this budget, we have to deal with the consequences of those tax cuts, largely for the wealthiest people in America. Under the President's bill and passed by this Republican Congress, Americans making $20,000 a year will receive $2 a year in tax cuts; $20,000, $2. Americans making $40,000 a year will receive $16, barely enough for a couple to go to the movies. Those making $50,000 a year will receive a $46 tax cut, barely enough to fill up your gas tank these days, thanks to Mr. CHENEY's energy policy. But if you make more than $1 million a year, $1 million a year, you get 1,000 times what somebody making $50,000 a year gets. You make $42,000 in tax cuts. Fifty thousand dollars a year, you can barely fill up your tank; $1 million a year, you can buy a luxury car because the American taxpayers are giving you $42,000.

In effect, American taxpayers are going into debt to China in order to give a tax cut to America's wealthiest people. When Republicans spend the Federal budget into the red, the U.S. Treasury borrows money from foreign countries. Since President Bush took office, the amount of foreign-owned debt has increased by over $1 trillion. In fact, it is more than all of the foreign-owned debt of the 42 previous Presidents combined, a horrible record.

The Japanese now own about $670 billion and the Chinese own $260 billion of our foreign debt. Our national debt is a national security issue. Countries that own our debt will not only be making our toys, our clothes and our computers, pretty soon they will be making our foreign policy. They have far too much leverage over us.

While the Republican budget is never balanced and has deficits as far as the eye can see, the Democratic budget, the Spratt substitute, reaches balance by 2012 and follows the strict pay-as-you-go rules, no deficit spending.

Instead of investing in our veterans, instead of securing our ports, the Republican policy of tax cuts for the wealthy have meant that the interest payments to foreign countries are the fastest-growing item in this budget.

Democrats take seriously our first responsibility to provide for the common defense. Our Democratic budget reflects that commitment. Mr. SPRATT is not only the ranking Democrat on the Budget Committee, he is a very senior member of the Armed Services Committee, and his commitment to tough and smart national security for our country where we project America's power to protect our people and protect our interests throughout the world is a strong commitment, and his, Mr. SPRATT's, patriotism and his commitment to our national security, they are reflected in this budget that he has proposed. He has helped create a Democratic budget that makes us all proud, and he does it in a fiscally sound way.

I urge our colleagues to support the Spratt substitute and to reject the unpatriotic, irresponsible and, as the religious community says, immoral budget that the Republicans are proposing tonight.

Mr. RYAN of Wisconsin. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on unpatriotic, irresponsible, immoral, wow, those are big words. First, a couple of facts. Veterans spending, defense spending, homeland security spending, they are increased in the budget. They are not cut. They are not savagely cut. Increased.

Let us talk about the differences between the Spratt Democrat substitute and the majority budget that is on the floor here today.

Number one, we believe it is important that we reform government. Just because we take our taxpayer dollars and spend them on government programs does not mean we cannot always look at reforming government. That is why this budget proposes reconciliation, going and looking and trying to find savings on the 60 percent of the Federal budget that is entitlement. They do not even touch that part of the budget. We are saying let us do it every year. That is important reform, number one.

Number two, we are trying to bring some common sense to the emergency spending process. Far too long in Congress, Congress has been able to declare virtually anything an emergency. Not anymore. We are saying if we are going to do emergency spending, it has to fit a tight definition of what truly is an emergency, an act of terrorism, a natural disaster, an act of war, things like that.

□ 2345

And more importantly, Mr. Chairman, we are going to budget for those emergencies because we always know that there is going to be that hurricane, that tornado, or that flood. That is smart and prudent budgeting. That is what we do. The Democrat substitute doesn't do any of that.

But where is the real difference? The real difference is this: we believe that the money that is made in America is the individual's money. We believe that the fruit of the labor of people who are working hard and paying taxes is theirs. It is their money. That is different from the premise on the other side of the aisle.

Let me explain it. One of the great things we accomplished in the 2003 tax cuts were that we saw that the vast majority of income tax ratepayers, the top ratepayers, were small businesses; yet we were taxing them at 40 percent when we were taxing IBM, Microsoft, and Exxon at 35 percent. So we lowered that tax rate on small businesses, on entrepreneurs, on family businesses and on farmers so they are at least not paying more taxes than the largest corporations in America.

What did the Democrats decide to do? Raise those taxes. Let's make sure we raise taxes on family farmers, raise taxes on small businesses so that that small business in America, the job-creating engine of America, pays higher taxes than Exxon and Microsoft and IBM. That is wrong. I think that is immoral. I think that is irresponsible. Yet that is what they are proposing to do.

You know what they are saying to the rest of America? You know what they are saying to the families that are getting a per-child tax credit, people who are married and who aren't paying a marriage penalty any more, people who are trying to save to send their kids to school, people who are saving for their IRAs or their pensions or their 401(k)s? You know what they are saying? They are saying to those people, if you don't want a massive tax increase, if you don't want a huge tax increase, we have to make sure we go after deadbeat tax cheats. And if we can collect more money from tax cheats, then we won't raise your taxes.

But if the government can't collect money from tax cheats, if the IRS can't do a good enough job and go get an extra $772 billion, then we are going to raise your taxes. That is what their budget proposal is. And on top of that, they propose even more spending.

Reject tax increases, reject high spending, and, Mr. Chairman, let us hold the line on domestic spending. Let's fund our veterans, let's protect our troops, let's support the war on terror, and let's not raise taxes. Defeat the Spratt substitute and support the majority budget.

Mr. BISHOP of Georgia. Mr. Chairman, I rise today in support of the Democratic Substitute Budget for fiscal year 2007. As a member of the Blue Dog Coalition I have fought for a balanced budget that represents our Nation's ideals. I believe that this Democratic amendment is the appropriate path for us to reach that goal.

This amendment promises to provide the fiscal discipline that is lacking in the Majority's proposed budget, which will allow us to achieve balance in less than 10 years. By 2012 our Nation's fiscal health will be restored, while providing for $150 billion in future middle-class tax cuts and matching or exceeding the Majority's proposed spending for national defense and domestic programs.

The current budget threatens the programs that our people depend on—Medicare, veterans' benefits, pension programs, and human services are in jeopardy yet again. The Spratt Substitute protects these crucial programs and the millions of Americans who have earned access to them.

This Democratic proposal matches the Republic budget dollar-for-dollar on National Defense and Homeland Security, while increasing funds for our troops and their families, preventing terrorists from accessing weapons of mass destruction, and fully adopting the recommendations of the bipartisan 9/11 Commission.

Mr. Chairman, this Congress's irresponsible spending must be stopped and the Democratic proposal will do just that. With pay-as-you-go rules, unwavering support for national security, and moral allocations of money to those who need it most, this Democratic proposal is a rock-solid budget with American values and I ask for your support.

Mr. HOLT. Mr. Chairman, I rise in opposition to the Republican budget resolution. The Republican budget resolution is no plan to bring the budget back to balance. The Republican budget includes a deficit for 2006 of $372 billion, and a deficit for 2007 of $348 billion. These deficits mean that, under Republican policies, the five largest deficits in history will have occurred in five consecutive years. Over the next five years (2007–2011), the budget resolution calls for deficits totaling $1.1 trillion.

Since this Administration took office, it has requested and the Congress has provided four increases in the statutory debt ceiling totaling $3 trillion. Under this budget, by 2011 the statutory debt will increase by another $2.3 trillion, for a total increase of $5.3 trillion. It will leave the statutory debt at a record level of $11.3 trillion. The President's reckless economic policies have doubled our nation's debt. Further, I am concerned by the amount of the debt that has been accumulated by foreign bank, individuals and governments. In 1980, 17 percent of the federal debt held by the public was in foreign hands. By 2006, 45 percent of the debt held by the public was owned overseas. Unfortunately, this trend seems to be increasing rapidly. During the past year, approximately 90 percent of the debt we have accumulated has been purchased by foreign banks, individuals and governments.

I support the Representative JOHN SPRATT's alternative budget, which would reach balance in 2012. The Spratt budget also has smaller deficits than the Republican budget, and accumulates less debt. By contrast, the Republican budget never returns to balance, and even refuses to show how big its deficits will be after 2011. The Spratt budget backs the two-sided Pay-As-You-Go (PAYGO) budget enforcement rules that require that the cost of any new mandatory spending or revenue legislation be fully offset. During the 1990s, two-sided PAYGO rules played a critical role in turning record deficits to record surpluses. The Spratt budget also requires a separate vote to increase the debt limit, and prohibits using fast-track reconciliation procedures to make the deficit worse.

The Republican budget cuts appropriations for domestic services by $9.4 billion relative to current services, and by $3.2 billion below the level passed by Republicans in the Senate. Meanwhile, the budget continues Medicare subsidies close to $60 billion for managed care providers of Medicare even though they are supposed to save Medicare money, not cost more. The resolution also includes $228 billion over five years for additional tax cuts, part of a $3 trillion ten-year Republican tax cut agenda.

The Republican resolution cuts appropriated funding for education and related programs below current services, providing the same inadequate level as provided by the President. For 2007, that Republican level cuts funding for the Department of Education by $2.2 billion below last year's comparable level, and eliminates 42 education programs.

The Spratt budget provides $4.6 billion more than the Republican budget for education appropriations, and over five years provides $45.3 billion more than the Republican resolution. The Spratt budget rejects the deep cuts proposed by the Republican budget, and preserves programs such as vocational education, Perkins loans, Safe and Drug-Free Schools state grants, and the GEAR–UP college readiness program. The Spratt budget also makes a down payment on college affordability by cutting student loan interest rates.

After a temporary one year gain, the Republican budget after five years cuts funding for veterans' health care by $6.0 billion below current services. The Spratt budget includes $6.0 billion more than the Republican budget over five years for veterans' health care. The Spratt budget also rejects the increase on health care fees on military retirees who are enrolled in Tricare. The Republican budget asks additional sacrifices from those who have served and sacrificed for our country; the Spratt budget rejects the misguided Republican policies and keeps our commitment to our veterans.

The Republican budget cuts funding for health by $18.1 billion below current services over five years, the same insufficient level provided by the President. The Republican level means cuts to priorities such as the Centers for Disease Control, 18 of 19 institutes at the National Institutes of Health, and rural health activities.

The Spratt budget provides $18 billion more over five years to fund health priorities cut by the Republican budget, including medical research at NIH and graduate medical education for children's hospitals. The Spratt budget also takes steps to address the problems with the implementation of the Medicare prescription drug benefit, including extending the May 15 signup period through the end of year and protecting seniors from any enrollment penalties. The Spratt budget also takes steps to help the uninsured, and creates a reserve fund to increase Medicare payments to physicians, which are currently scheduled to be cut.

For the environment and natural resources, this Republican budget imposes a $25.0 billion cut relative to current services over the next five years and imposes a $2.9 billion cut for next year alone. This is the same level as the President's budget, which cuts funding for the Environmental Protection Agency (including the Clean Water State Revolving Fund), the Army Corps of Engineers, and the National Park Service.

Mr. Chairman, the House Republican budget resolution actually makes the deficit worse, offers no plan to bring the budget back to balance, and adds to the growing burden of the national debt. Meanwhile, the Republican budget makes harmful cuts to critical services for the American people—including education, veterans' services, health, and environmental protection. I ask my colleagues to oppose this budget and support the Spratt alternative budget.

Mr. LARSON of Connecticut. Mr. Chairman, I regret that I could not be present today because of a family medical emergency. I am in strong opposition to the Republican's budget plan and in support of the Democratic alternative. This budget bill represents how out of touch the Republican Majority is with the needs of the American public.

The budget is a moral document and this budget highlights the priorities of the Republican leadership—cutting more taxes for the wealthy while making harmful cuts to critical programs for working families—including health, education, veterans' services and environmental protection. Most concerning about this budget is that it continues the Republican record of huge deficits and irresponsible debt accumulation. This budget plan writes a check that Congress cannot cash without increasing the debt limit to $9.618 trillion—hidden on page 121 of the report accompanying the budget resolution is a provision that will automatically increase the debt limit by $653 billion.

In contrast, the Democratic budget alternative would balance the federal budget by 2012 and immediately stop the Majority's record of increasing the national debt, again and again. Among other things, the Democratic alternative would reinstate the effective pay-as-you-go (PAYGO) budget rules to eliminate deficit spending and give the American people a budget that is fair and responsible. The Democratic alternative would provide $4.6 billion more for education; would provide $18 billion more for health programs over 5 years, which includes medical research at the National Institute of Health and the Centers for Disease Control and would protect seniors from Medicare prescription drug enrollment penalties; would provide $8.6 billion more for our veterans in healthcare over five years and rejects increases in fees for military retirees enrolled in Tricare; and finally would provide $2.9 billion more for environmental protection and conservation programs.

The Republican budget resolution does not reflect the priorities of the American people. As Members of Congress, we cannot abandon our obligations to our children, to our parents and future generations by cutting vital programs and increasing the debt limit to finance tax cuts bigger than we can afford and hiding the true cost of the ongoing war in Iraq. I urge my colleagues to reject the underlying bill and support the Democratic budget alternative.

Mr. LANGEVIN. Mr. Chairman, today I rise in support of the Spratt budget substitute and in strong opposition to H. Con. Res. 376, the Republican budget.

Our son, daughters, and neighbors are bravely fighting wars abroad. Unfortunately, when they return home, they will find a country that has lost its way. We pay lip service to shared sacrifice, but while they risk their lives for us, Republicans in Congress are providing tax cuts for the richest 1 percent of Americans, slashing programs for working-class families and turning their backs on the middle class. The budget before us today continues these misguided policies. It does not represent the priorities of the American people, nor does it respect the values our soldiers are fighting to protect.

For too long, Republicans have racked up charges on the national credit card, while passing the bill on to future generations. Now is our chance to set this country on the proper course to ensure America's economic success and protect our grandchildren from having to pay for today's irresponsible decisions.

There is a better way. Despite the horrible fiscal outlook facing our Nation due to Republican policies, the Spratt substitute still manages to balance the budget in 6 years, cut taxes for the middle class, and provide realistic funding for education, health care, and veterans programs, all of which are shortchanged by the Republicans.

The Spratt substitute has a better bottom line than the Republican budget every year. Fiscal responsibility today will lead to lower deficits, smaller interest payments, and less national debt in the future. Most significantly, after the budget is balanced, we can finally begin to pay off the trillions of dollars in debt that have accumulated since President Bush took office.

Unfortunately, the budget proposed by House Republicans does nothing to improve the quality of life in America. It would add more than $350 billion to the national debt next year alone. Under Republican stewardship, the five years between fiscal year 2003 and 2007 will provide us with the five largest deficits in American history. This is not a legacy worth continuing. We cannot afford to borrow additional money to continue paying for failed economic policies.

Not only does the Spratt substitute match the President's request for defense spending, but it also includes additional needed funds for homeland security programs, including port security. As a member of the Homeland Security Committee, I am concerned that the Republican budget closely mirrors the President's, which proposes to eliminate several programs important to the safety of all Americans. Programs on the chopping block include the COPS Interoperability Grant Program, the SAFER Program for firefighting equipment, the Metropolitan Medical Response System, the Law Enforcement Terrorism Prevention Program, and Justice Assistance Grants. In 2005, these programs provided more than $13 million in grants to help Rhode Island's first responders keep my constituents safe. Since September 11, we have asked our police and firefighters to do so much more, but this budget fails to provide the resources they so badly need.

In addition, the budget would freeze or cut all non-homeland security discretionary spending. If the Republicans have their way, 5 years from now, education and health programs will receive even less than they do today. Cuts to social programs would place a larger burden on the working class at a time when they can least afford it.

Even with all of these cuts, the Republicans still have no plan to balance the budget. Instead, they want to give away the savings to the wealthy by making permanent tax cuts on investment income. As a recent New York Times article indicated, "Americans with annual comes of $1 million or more, about one-tenth of 1 percent of all taxpayers, reaped 43 percent of all the savings on investment taxes in 2003." At the same time, those earning less than $50,000 saved an average of only $10 on the same capital gains and dividend tax cuts. The wealthiest Americans are doing fine on their own, and we should not be borrowing money to give them more special favors.

Deficit spending has stymied job growth and is plaguing our economy. No Rhode Islander would write a check without sufficient funds to cover it. Neither should the government. I urge my colleagues to join me in supporting the Spratt budget substitute and opposing the underlying Republican plan.

The Acting CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from South Carolina (Mr. SPRATT).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. SPRATT. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from South Carolina will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed. in the following order:

Amendment No. 2 offered by Mr. HENSARLING of Texas.

Amendment made in order in lieu of amendment No. 3 offered by Mr. SPRATT of South Carolina.

The Chair will reduce to 5 minutes the time for the second vote in this series.

AMENDMENT NO. 2 OFFERED BY MR. HENSARLING

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. HENSARLING) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 94, noes 331, answered "present" 1, not voting 6, as follows:

[Roll No. 156]

AYES—94

Akin
Bachus
Baker
Barrett (SC)
Barton (TX)
Beauprez
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Boozman
Brady (TX)
Brown-Waite, Ginny
Burton (IN)
Buyer
Campbell (CA)
Cannon
Cantor
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Deal (GA)
Dreier
Duncan
Feeney
Flake
Forbes
Foxx
Franks (AZ)
Garrett (NJ)
Gibbons
Gingrey
Gohmert
Goodlatte
Gutknecht
Harris
Hayes
Hayworth
Hefley
Hensarling
Herger
Hoekstra
Hostettler
Inglis (SC)
Issa
Istook
Johnson, Sam
King (IA)
Kingston
Kline
Linder
Lungren, Daniel E.
Mack
Manzullo
Marchant
McHenry
McMorris
Mica
Miller (FL)
Moran (KS)
Musgrave
Myrick
Neugebauer
Norwood
Otter
Oxley
Paul
Pearce
Pence
Pitts
Price (GA)
Radanovich
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Sensenbrenner
Sessions
Shadegg
Shuster
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Thornberry
Tiahrt
Westmoreland
Wilson (SC)
Young (FL)

NOES—331

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bartlett (MD)
Bass
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bonilla
Bonner
Bono
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Butterfield
Calvert
Camp (MI)
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Foley
Ford
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Gallegly
Gerlach
Gilchrest
Gillmor
Gonzalez
Goode
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall
Harman
Hart
Hastings (FL)
Hastings (WA)
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kirk
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Poe
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Sherwood
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Strickland
Sweeney
Tanner
Tauscher
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)

ANSWERED "PRESENT"—1

Shimkus

NOT VOTING—6

Evans
Kennedy (RI)
Kuhl (NY)
Larson (CT)
Sánchez, Linda T.
Stupak

□ 0016

Mr. SIMPSON, Mr. INSLEE and Mrs. JO ANN DAVIS of Virginia changed their vote from "aye" to "no."

Mr. SULLIVAN, Mr. MACK and Mr. BOOZMAN changed their vote from "no" to "aye."

Messrs. CROWLEY, NEAL of Massachusetts, RUSH, STARK, CRAMER, THOMPSON of California, FRANK of Massachusetts, ORTIZ, McDERMOTT, HASTINGS of Florida, RUPPERSBERGER, CLAY, THOMPSON of Mississippi, AL GREEN of Texas, HINCHEY, CLEAVER, CAPUANO, DELAHUNT, COSTA and SKELTON and Ms. PELOSI, Ms. JACKSON-LEE of Texas and Ms. SCHAKOWSKY changed their vote from "present" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT MADE IN ORDER IN LIEU OF AMENDMENT NO. 3 OFFERED BY MR. SPRATT

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from South Carolina (Mr. SPRATT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 184, noes 241, not voting 7, as follows:

[Roll No. 157]

AYES—184

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kildee
Kilpatrick (MI)
Kind
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Strickland
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—241

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costello
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stark
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Evans
Kennedy (RI)
Kuhl (NY)
Larson (CT)
Melancon
Serrano
Stupak

□ 0024

So the amendment was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN. Pursuant to House Resolution 817, it is now in order to consider a period of final debate on the concurrent resolution.

The gentleman from Iowa (Mr. NUSSLE) and the gentleman from South Carolina (Mr. SPRATT) each will control 10 minutes.

The Chair recognizes the gentleman from Iowa.

Mr. NUSSLE. Mr. Chairman, we reserve to close.

The Acting CHAIRMAN. The gentleman from South Carolina is recognized for 10 minutes.

Mr. SPRATT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say something first on a personal note. For 6 years now, JIM NUSSLE and I have sat side by side on the Budget Committee and collaborated and worked together in the spirit of cooperation and comity. We have had our vigorous disagreements from time to time; but there was always, always, the civility and friendship born of mutual respect between the two of us. We never had the pleasure of converging and collaborating on a budget itself, and I am sorry for that, JIM; but we always had I think the same goals in mind, the good of the country.

We are going to miss you here. I am going to be the first to come to the well and salute you for your service to the House and to the country and for the work you have done in particular on the Budget Committee.

Mr. Chairman, with all the jargon and all the numbers and all the rhetoric, it is hard to find your way around this budget maze, so let me start with just the basics, so basic that let's do something revolutionary, read the resolution before you.

Read this resolution and you will see that right here, page 1, the public debt of the United States will be $11.3 trillion in the year 2011, 5 years from now. At the end of 2001, 5 years ago, the day President Bush took office, the public debt was $5.7 trillion. That means that between 2002 and 2011, under the policies of this administration and this budget resolution, the public debt of the United States is going to double. In a 10-year period of time, we are going to double the debt from $5.7 trillion to $11.3 trillion. It is right here in your own resolution.

Keep on reading and you will see that the on-budget deficit for next year, the year 2007, is $545 billion. Now, on-budget, that means before you offset that against the surplus in Social Security. But there is a reason it is listed as an on-budget surplus or an on-budget deficit in this resolution. The law requires it, just as the law requires that Social Security be taken off budget.

Off budget, when it is treated that way, the deficit is $545 billion in the year 2007. In the year 2011, the on-budget deficit will be $428 billion. But that doesn't include anything for fixing the AMT. We all know that has to be done. It will have a significant effect on revenues when it is. Nor does it include anything after 2007 for the war in Iraq and Afghanistan. So when you make adjustments for those two factors, you are really back up to $550 billion.

For 5 years we will tread water, go nowhere. It is right here, the numbers in this resolution, the first two pages of this resolution. That is why I say this budget resolution presents no plan and no prospect of ever balancing the budget.

Indeed, our calculations show, from the staff of the Budget Committee, our calculations shows that this budget will actually make the deficit $400 billion worse over 5 years than if we just stood still and had a current services budget.

□ 0030

We actually lose ground if we pass this budget tonight, and we certainly do not move into a future that any of us thinks is fiscally sound.

Mr. Chairman, I want to show you one other chart which we used several times today so that you all will be aware of something when you vote on this budget. Buried in this budget on page 121 is a provision that is written in legalese, but it says that the joint resolution, if enacted to raise the debt, the debt will be increased, the debt ceiling of the United States will be increased by $653 billion.

Tonight if you vote for this budget resolution, you are, in effect, according to this language on page 121 of the budget resolution, voting to raise the debt ceiling of the United States by $653 billion.

Now, let me put that in context. Let me put it on the back of an envelope for you. This simple chart right here shows you the increases in the debt ceiling of the United States, the legal limit to which the United States Government can borrow that have been passed by this Congress over the last 5 years.

June 2002, those of you on the Budget Committee will recall that the Bush administration came to us selling their budget. They told us, look, pass this budget with $1.7 to $1.8 trillion in tax cuts, and we still will not be back until 2008 to ask for an increase in the debt ceiling. That is how much spare capacity we have got.

They missed it by a mile. A year later they were back, hat in hand, and they said, we need an increase in the debt ceiling of $450 billion. That was 1 year.

The next year they came back with a phenomenal increase. May 24, 2004, the increase was $984 billion. That lasted 15 months. Following the 15-month period there was another increase, $800 billion. Just 2 months ago, in March, there was a $781 billion increase. And now tonight, if you vote for this resolution, you can add $653 to that. Those will be the 5 increases over 5 years in the debt ceiling of the United States in order to accommodate the budgets that this Congress has passed during that period of time, all together $3.7 trillion in 5 years.

On the back of an envelope that is as dire as I can present it to you. In this budget, as I said, look at the numbers on the first page, $545 billion in 2007, $428 billion in 2011, does not take us anywhere. It does not present a plan or a solution or anything. At best it treads water.

Now, let me show you one other thing that is a problematic feature of this budget. The cuts in this budget are not, at least do not seem to be, Draconian, at least not at the outset, but they are relentless. And they take a toll over time, and they come down on one small segment of the budget, something we call nondefense discretionary spending. Nondefense discretionary spending.

Now, it is odd that this would be the object of all of the deficit reduction effort, because, number one, this is not the source of the problem. This is not where spending has been growing by any means. And, number two, it is less than 15 percent of the budget. You will never get a $400 or $500 billion deficit resolved out of an account or series that do not come to more than $380 billion all together.

But that is what you have chosen to do in this resolution. That is why for another reason it will not work over time, but it will hurt. It will hurt people who depend on programs that are essential, such as transitional Medicaid assistance, such as education. This budget takes a $45 billion hit on education.

What you see is that over time, as you freeze, this is what our Republican colleagues call this budget on its effects on discretionary spending, a freeze, if you simply hold it in place and do not allow it to increase, actually cut it a bit below inflation over a 5-year period of time, the total effect of spending is $162 billion. That is coming out of NIH, that is coming out of CDC, that is coming out of education, that is coming out of veterans health care. The list goes on and on and on.

And there are some things in there that are real anomalies. I was out here on the floor for much of the debate on the immigration reform bill. You remember that, I am sure. And often the question came up about stiffer sanctions and tougher rules. Obviously the issue was raised, how do you enforce them? And frequently the answer was, we go to State and local government; we are going to use them in addition to the immigration service and the Customs Service and the Border Patrol. We want to enlist, engage our sheriffs and our deputy sheriffs and our city policemen to get involved in immigration enforcement, too. Well, guess what is cut out in this budget? State criminal assistance programs, $400 million.

This is not the budget that will take us to the future that we all want. The best thing that we can do tonight is to take this budget, take this budget, reject it, send the budgeteers back to the drawing board, and come up with something different.

That is not going to happen. I know it will not happen. So we will just kick the can down the road one more time. But I warn you, you know as well as I, this problem will only get tougher with time, only get harder to resolve with time. But sooner or later the day of reckoning is coming. In the meantime, what we have got with this budget is more deficits, more debt and more denial.

Vote against this budget resolution.

Mr. NUSSLE. Mr. Chairman, first let me say thank you to my friend Mr. SPRATT. I liked the first part of his speech a little bit better than the last part, but I do thank him for his friendship, for his professionalism. There is nobody in the House of Representatives that knows more about the budget than he does, and he has been a worthy partner and friend in this effort. I want to thank him for that.

Also I want to thank my committee members and the staff that worked so hard to put together this product. When it comes right down to it, as Mr. SPRATT said, this is, I suppose, a document with numbers on it. There is no such thing as a perfect budget, only the budget that gets 218 votes.

If I wrote the budget for the budget that I personally wanted, it might look a little differently. We have seen substitute opportunities tonight that did not quite get the votes. We need to pass a budget that gets the votes. That may not be perfect to fit everybody's idea of exactly what the priorities are, but what we in a democracy can agree is the right direction.

So to close on our side, I would like to recognize and yield the balance of our time to our friend and the Speaker of the House, DENNY HASTERT.

Mr. HASTERT. I thank the gentleman from Iowa.

Mr. Chairman, as he moves his last budget before the House of Representatives, I want to thank him for his years of service, his steadfastness, and, JIM, we wish you well in all your future endeavors. Thank you very much. God bless you.

Friends, the hour is late, and we have heard a lot of arguments, and we voted on a lot of budgets today. But three things I just want to talk about very briefly. First of all, I have heard some arguments on the other side of the aisle saying, well, you know, if you earn $40,000 a year, you would not get a very big tax cut.

Well, folks, if you earn $40,000 a year, a family of two children, you do not pay any taxes. So you probably, if you do not pay any taxes, you are not going to get a very big tax cut.

Now, if you earn, as somebody said, $1 million a year, you are going to pay about, when all of the taxes are paid, about $400,000 of taxes. And maybe you will get a $40,000 tax cut, maybe. Well, look at the math.

But I am saying, you know, those are relative things. Now you have to look at it.

We also heard that, you know, we have a lot of numbers. But I will tell you, one of the numbers that are important this year because of the fiscal discipline that this House has had, and our tax policy that this conference has had, and this Congress has had, is that just in our revenues this year alone, we have almost $140 billion more in revenue than we projected even in January, and we are only 5 months into the year.

So, you know, if you can grow the economy, if you can make things work, if you create jobs for people, and incidentally those taxes that some folks talked about that were so terrible, is putting small business and letting them take their money and create new jobs. As a result, we have had almost 2 million new jobs in the last year. We have had 5 million new jobs since 2003. We have created an economy that is moving, and probably the most vibrant and healthy economy that we have had in years.

Unemployment is down. Gross national product is up. Consumer confidence is up. More people own their own homes in this country than ever before in the history of this country, and more minority folks own their own homes than ever before in the history of this country, so something is happening that is right.

But the last thing I want to remind you of is being able to pass a budget is being able to govern. And it is time that we quit talking, that we quit, you know, throwing numbers around here. I have been to auctions before. I have seen a lot of numbers move across the ring. But I will tell you, we are not going to the highest bidder. We are going to make sure that we do what is right, what the American taxpayers expect us to do. That is to be fiscally responsible, to pass a budget so that we govern and get the work of this House done.

Mr. Chairman, I have talked long enough. Let's vote.

Mr. SKELTON. Mr. Chairman, for several years now, the budgets brought before this Congress have not adequately represented the interests of the American people. Rather than approach budgeting in a bipartisan fashion, Republicans have consistently chosen to gild the lily, electing to enact large tax cuts while simultaneously failing to reign in government spending. These actions by today's leaders have passed a tremendous financial burden on to future generations of Americans.

The Republicans' Fiscal Year 2007 budget is no better. It makes the deficit worse, offers no plan to bring the budget back to balance, and adds to the growing weight of the national debt. The budget also makes harmful cuts to critical services for working families—including education, veterans' services, and health care.

In contrast, the Democratic budget plan proposed by Mr. SPRATT of South Carolina would reach balance in 2012, has smaller deficits, accumulates less debt, and repeals the House rule providing for automatic debt ceiling increases. It also would reject the Republican budget's cuts to domestic priorities and reinstate pay-as-you-go rules that helped spur the budget surpluses of the 1990s.

I come from Missouri—the "Show-Me State." If the leaders in Congress and at the White House want to be fiscally responsible, they ought to show Missourians and the rest of the American people they mean business by rejecting the failed budget policies of the past and by immediately convening a bipartisan budget summit. President George H.W. Bush did this during a similarly challenging time and America is better for it.

Mr. LEVIN. Mr. Chairman, I rise in opposition to the Majority's budget.

We need to acknowledge that there is something fundamentally wrong with the budgetary policies the Republican Leadership has pursued for the last 5 years. It is time for a little honesty about where these policies are taking this country. Since 2001, the Federal Government has posted record budget deficits year after year.

During the 1990s, Democrats and Republicans worked together with the Clinton Administration to cut the red ink and balance the budget. For the first time in many years, we balanced the budget in 1998. We kept it balanced in 1999, 2000 and 2001. Indeed, we ran budget surpluses during those years and, for the first time in a generation, actually began to pay down the national debt.

Since the Bush Administration took office in 2001, we've swung from balanced budgets to massive annual budget deficits. In 2002—the year after the Congress adopted the Administration's tax policies—the Federal Government posted a $128 billion deficit. In 2003, the deficit rose to $378 billion. In 2004, the deficit soared to an all-time high of $412 billion. In 2005, the deficit was $318 billion.

As bad as these deficits are, they do not tell the whole story, since these figures do not include the money the Federal Government borrows from Social Security and Medicare trust funds each year. In 2005 alone, the Federal Government borrowed nearly $175 billion from the trust funds, and we're on course to borrow even more this year.

We cannot continue on the course we're on. It is wrong for this Congress and this President to—keep borrowing half a trillion dollars each and every year and then pass this debt along to our children. It is wrong for Congress and the President to keep borrowing more and more from foreigners to fund tax cuts for the very wealthy. China alone owns more than $818 billion of our debt.

The Majority's budget simply digs the deficit hole deeper. The Republican budget proposes a $348 billion deficit for 2007. If you add in the borrowing from Social Security and Medicare—money that, by law, must be repaid—the total deficit for 2007 soars to $543 billion. The hard truth is that under the Majority's budget, the Federal budget never comes into balance. The tide of red ink rises forever. This policy is unsustainable and morally indefensible.

Tucked away in this budget is a provision to raise the government's borrowing limit another $653 billion. This would be on top of the $3 trillion in debt limit increases already approved since President Bush took office. At the very least, there should be a straight up-or-down vote on a debt limit of this magnitude, but evidently the plan is to try to sneak this through.

The Majority's budget also contains irresponsible cuts in critical domestic programs. In this regard, the Majority has mirrored the Bush Administration's budget, which included deep cuts in education, critical medical research, environmental protection, veterans' health care, to name only a few areas. There has been an attempt tonight to place a fig leaf over some of these cuts with a vague half promise of perhaps adding an additional $7.1 billion for domestic programs later. All this fig leaf does is acknowledge that the funding shortfall exists in the Republican budget without taking any action to actually address it.

I will vote for the Democratic budget substitute offered by Representative SPRATT. The Spratt budget pays down the deficits over the next 5 years and achieves balance in 2012. We restore fiscal discipline by bringing back the pay-as-you-go budgeting rules and we force a degree of accountability by requiring the House to take a separate up-or-down vote on measures to increase the national debt limit. In addition, the Democratic budget alternative provides $150 billion for future tax cuts, and requires that any further tax cuts meet the pay-as-you-go rules. Lastly, our budget alternative rejects yet another round of spending cuts to key domestic programs that have been cut repeatedly in recent years.

The choice before the House could not be more clear. We can vote to continue the failed economic policies of the last 5 years—policies that have resulted in massive annual deficits. Or we can say $3 trillion of debt and borrowing over 5 years is enough and vote for the Spratt budget alternative that pays down these deficits and balances the budget.

I urge all my colleagues to join me in voting for Representative SPRATT's budget.

Mr. STARK. Mr. Chairman, it appears the third time's the charm for the Republican leadership. Unfortunately, the same is not true for working Americans who will be worse off under yet another morally reprehensible Republican budget. This budget insults students, attacks veterans, and bankrupts future generations.

A budget is a statement about priorities. For the party of TOM DELAY and Jack Abramoff, that means rewarding corporate contributors at the expense of ordinary Americans. Republicans protected billions of dollars in giveaways to an oil industry awash in profits. But despite President Bush's State of the Union rhetoric, this budget underfunded investments in alternative energy that are necessary to prevent global warming.

What else do the Republicans believe is less important than additional billions of dollars in tax cuts for the wealthy? Education, health care, and the financial well being of our children and grandchildren.

Despite record enrollment from pre-K to college, Republicans support large cuts to education. This budget cuts Department of Education funding by $2.2 billion—and provides $15.4 billion less than Republicans promised when they passed No Child Left Behind. Even though college costs have risen 40 percent since 2001, the Republican budget again freezes the maximum Pell Grant and denies more than 460,000 students low-cost higher education loans.

Though 46 million Americans lack health insurance, the Republican budget does nothing to improve access to quality care—and actually includes policies that would increase the numbers of people without health insurance and who are underinsured. Rather than embrace necessary fixes to the Medicare prescription drug program, Republicans instead chose to continue billions of dollars in overpayments to managed care plans. And despite regularly thumping their chests while claiming to support the troops, Republicans propose $6.0 billion in cuts to veterans' health care over five years. Many Americans volunteer to serve their country, but the Republican Party rarely serves them.

When George Bush was elected President, a satirical newspaper joked that 'our long national nightmare of peace and prosperity' was finally over. In the years since, Americans have learned the Republican record of warmongering and fiscal mismanagement is no laughing matter. Prior to this year, Republicans had already turned a 10-year, $5.6 trillion surplus and turned it into a $3.2 trillion deficit. Though this budget cowardly rails to include tens of billions in supplemental requests related to a misguided Iraq War, it nonetheless adds another $2.3 trillion to the rational debt over the next five years.

This budget makes clear what no amount of spin and lies can hide. Republicans care more about wealthy corporations and campaign contributors than they do about America's families, our environment, land our future.

I urge my colleagues to vote against this cruel and heartless bill.

Mr. UDALL of Colorado. Mr. Speaker, this budget resolution represents more of the same misplaced priorities and, misguided policies that over the last 5 years have brought only deficits, debt, and danger. It does not deserve adoption, and I can not vote for it.

Even before last year's hurricanes, the Federal budget was on a dangerous course marked by tidal waves of red ink and towering piles of debt. Since 2001, the budget surplus that President Clinton and a Republican Congress bequeathed President Bush has been erased and our country is now in debt to the tune of $8 trillion, or $25,000 for every American man, woman and child.

There were several causes, but the size and scope of the Bush tax cuts must bear a large part of the blame.

Several parts of those tax cuts—for example, eliminating the marriage penalty, fixing the 10 percent bracket and extending child care tax credits—were good. They gave a reasonable boost for the economy and increased the fairness of the tax laws. But having campaigned on giving back most of the budget surplus in tax cuts, President Bush insisted on much more, and Congress went along. Many of us warned against reducing the surplus so recklessly, and urged the administration and Congress to remember the need to be ready for future emergencies.

But our pleas for restraint were ignored—and then came the attacks of 9/11 and the need for increased spending on homeland security, a military response in Afghanistan, and a war in Iraq. The budget nosedived from surplus into deep deficit.

Since then, even in the face of national emergency, neither the president nor this Republican Congress has seen fit to call on Americans for any sacrifice, and instead of temporarily scaling back tax cuts, the president and his supporters have insisted on making them permanent even as federal spending has skyrocketed.

So now we are putting the costs of war and everything else the government does on the national credit card—and much of the debt is owed not just to ourselves (as in the past), but to China, Japan and India.

Of course, this cannot go on forever. Sooner or later, something has to give. And, if the result is a new sense of responsibility, sooner is better—because there is an urgent need to rethink and revise our budget policies, including both taxes and spending.

Unfortunately, however, with this budget resolution the Republican leadership is doing just the opposite—instead of new thinking they are insisting on following the same policies that have produced the problem.

Even though the national debt has reached $8 trillion, under this Republican budget we will add another $2.3 trillion to the debt over the next 5 years in order to endorse the President's tax policies, which squander as much as $2.5 trillion over the next 10 years on permanent, top-heavy tax cuts.

And, even worse, this budget resolution still fails to meet the most important challenges that face us—protecting America, caring for our veterans, and making the investments needed for our future.

It shortchanges key homeland security programs—cutting them by $488 million this year and $6.1 billion over 5 years from the amount needed to keep up with inflation—while failing to provide for needed increases in our armed forces, including the National Guard, and shortchanging the program to dispose of the hundreds of tons of unsecured nuclear material around the world, particularly in Russia and former Soviet Union countries.

And even though the VA is already treating more than 144,000 veterans from Iraq and Afghanistan, with more to come, the budget resolution would cut veterans' health care by $6 billion over 5 years, and increase TRICARE health care premiums for more than 3 million military retirees and their families.

In addition, the budget resolution falls short in other areas.

For example, despite record enrollment growth, it follows the President's budget, which proposes the largest cuts in education in 23 years. It cuts discretionary appropriations for the Education Department—meaning an even greater gap between promise and performance in implementing the No Child Left Behind Act. And it also follows the lead of the President's budget in proposing to freeze the maximum Pell Grant for college at $4,050—for the fifth year in a row—while setting the stage for other cuts in programs to boost college opportunities and access.

And, like the President's budget, this resolution shortchanges NIH funding and public health programs, including prevention programs at the Centers for Disease Control and rural health activities, while also reducing funding for programs to protect and improve our water supplies, to protect open space, and to conserve natural resources.

I voted for the Spratt substitute, which would have led to lower deficits over the next 5 years and put us on the path to a balanced budget in 6 years while still doing more for homeland security, veterans care, education and training, and to protect public health and the environment.

Unfortunately, that alternative was not adopted, and so I am left with no choice but to vote against the Republican leadership's budget resolution.

Mr. FARR. Mr. Chairman, the Federal budget should be about meeting responsibilities and setting priorities that will help move America toward a better future. Unfortunately, the Republican Leadership has failed yet again to draft a balanced proposal that meets America's needs. Instead their Budget Resolution (H. Con. Res 376) is a testament to misguided priorities—underinvesting in education, the environment, the economy, and out Nation's veterans, while providing tax cuts to the wealthiest Americans and multiplying the Federal deficit to its highest levels ever.

The Republican budget matches the President's cuts in education by slashing $2.2 billion from the Department of Education. This is the second consecutive year in which the Republican Leadership has cut Federal education funding. The Administration's own initiative, No Child Left Behind, is now underfunded by a total of $40 billion since its passage 5 years ago. While the cost of higher education is almost unaffordable for middle-class American families, the Republican budget cuts the Perkins Loan program by $66 million.

The environment also gets short shrift in the Republican budget. The budget resolution cuts the Environmental Protection Agency (EPA) by $199 million, including a cut to the Clean Water State Revolving Fund. The National Park Service, perennially underfunded by the Administration and Republican majority, is cut by $102 million. The National Oceanic and Atmospheric Administration (NOAA) which funds important programs for the Central Coast like the Bay Watershed Education and Training (BWET) Program and the National Marine Sanctuary Program, is cut by 6 percent.

H. Con. Res. 376 provides $228 billion in tax cuts that primarily go to the wealthiest of Americans. While tax cuts to the rich are extended for 5 years, Alternative Minimum Tax (AMT) relief, which affects millions of middle-income taxpayers, is only extended for a year. In addition, the budget resolution increases our already huge deficit. Over the next 5 years, the budget resolution counts a total of $1.2 trillion in the Social Security trust funds to partially offset these record deficits. This is sham accounting and saddles our children and grandchildren with huge debt.

As a member of the House Appropriations Subcommittee with oversight over the Veterans' Administration, I am deeply concerned about Republican cuts to veterans' health care. H. Con. Res 376 proposes spending $6.6 billion less on veterans programs over the next 5 years, while the U.S. fights a global war on terrorism. We are a nation at war, and our men and women in uniform are making extreme sacrifices. Yet, the Republican Budget Resolution increases fees for TRICARE, the military health care program: Fees for retired officers will triple, double for retired senior enlisted personnel and increase by 40 percent for junior enlisted retirees.

The American people deserve better. I will support the Spratt budget substitute that fully invests in education, the environment and the economy and truly reflects the values of the Central Coast of California.

Mr. WAXMAN. Mr. Chairman, I rise to express my strong opposition to the Fiscal Year 2007 Budget Resolution.

The Budget Resolution is a reflection of our values and a statement of our national priorities. As in the previous years under President Bush, the 2007 Budget Resolution will force cuts in health care, environmental protection, education, housing, and other essential programs that enjoy broad public support.

And, as in previous years, a new round of tax cuts skewed to benefit our wealthiest citizens will threaten our long-term economic health and pile more debt onto our children. Eighty-seven percent of the benefits of the tax cuts the House just passed will go to the 14 percent of households with more than $100,000 in annual income. Less than 2 percent of the benefits will go to the 60 percent of households with less than $50,000 in annual income.

The year before President Bush took office, we enjoyed a record-breaking $236 billion surplus and projected surpluses that were expected to reach $5.6 trillion by 2011. In an unprecedented reversal, the policies of President Bush and congressional Republicans have brought us the five largest deficits in our history. According to the Bush Administration's own numbers, its policy of massive tax cuts and deficit borrowing will increase the gross federal debt by a total of $4.2 trillion over fiscal years 2001 to 2008. Our nation will have accumulated more debt in eight years under President Bush than under the first 41 presidents combined.

The Administration's reckless budget and tax policies are unsustainable and damaging to our nation. In 2006, for the first time since 1970, the President and Congressional Republicans reduced funding for the National Institutes of Health, the nation's largest federal supporter of basic research, applied research, and R&D. This year's budget reduces the budgets again of 18 of the 19 Institutes.

Just last September, overwhelming bipartisan majorities in the House and Senate wrote President Bush to express strong support for working aggressively toward the goal of eliminating cancer death and suffering by 2015. Incomprehensibly, eight short months later congressional Republicans are pushing through a budget that reduces funding for the National Cancer Institute (NCI) by $40 million.

This year, more than 1.4 million Americans will be diagnosed with cancer. Due to the investments we have made in research, prevention, and early detection, nearly 70% of today's cancer patients will survive more than five years, compared to just 50% in 1976. These gains will be reversed if we do not maintain a vigorous federal commitment to biomedical research.

The Republican budget carries with it senseless human costs. Dr. Evan Ross, a young medical doctor who has waged a valiant fight against cancer, has eloquently expressed below how our misplaced priorities are having far-reaching consequences on individual Americans:

> It is my understanding that the President's FY 2007 budget proposal calls for a cut of $40 million for the National Cancer Institute (which was cut .7 percent in FY 2006) . . . People like me need as much research as possible to be occurring. It's great that the President wants to fight a 'war' in Iraq, but to do so at the expense of those Americans suffering when more can be done to fight the war on cancer is simply not right. I'm 36 years old and I've had cancer four times. I have a two year old son. I should be dead, or should have earned a medal of honor. Neither are true. Yet, I'm still here, trying to help people as best I can by integrating Eastern medicine into the Western world.
>
> I intend to get through this battle too, and when I do, it would be nice to know that someone out there is doing whatever he or she can to make sure I don't have to fight my own war yet again, rather than throwing more obstacles in my path.

I urge my colleagues to consider the millions of Americans who are being hurt by the misguided policies of the Bush Administration and congressional Republicans. I urge you in the strongest terms to oppose this budget resolution and to support the advancement of medical research, affordable health care, education, environmental protections, and adequate housing for our citizens.

Mr. BLUMENAUER. Mr. Chairman, I will not support a budget plan that makes the overall budget deficit worse while providing further tax cuts for people who need them the least. The Republicans not only borrow the cost of their war, they refuse to honestly account for these costs by handling appropriations through emergency spending bills instead of the regular budget process. Playing politics with the budget short changes our future while creating an unsustainable mountain of debt. Refusing to provide permanent relief to tens of thousands of Oregonians threatened by the Alternative Minimum Tax, only providing a one year "fix" to the AMT, gambles with middle-class families' futures.

It is time for Congress to face up to the fiscal problems that they have created and deal honestly with American taxpayers about the budgeting sleight of hand and deficits. This budget doesn't begin to do this.

Mr. DAVIS of Florida. Mr. Chairman, I rise in opposition to H. Con. Res. 376, the Fiscal Year (FY) 2007 Budget Resolution, which will result in a deficit of $348 billion in FY 2007. To make matters worse, rather than offering a plan to balance our federal budget, this five-year spending plan would add an additional $2.3 trillion to the nation's already burgeoning $8.3 trillion debt over the next five years. It is time for Congress to pass a Budget Resolution that takes steps to begin paying down our federal debt and return to balanced budgets.

It is time for Congress to reinstate fiscal responsibility. Congress should enact budget enforcement mechanisms such as the pay-as-you-go (PAYGO) rule for new tax cuts and new mandatory spending, which would require the government to live within its means.

The Budget Resolution as reported by the Budget Committee contains harmful cuts to education, veterans and healthcare. I commend our colleague from South Carolina for crafting an alternative to this budget that will restore these devastating cuts while still balancing the federal budget by 2012. The Spratt Substitute will also protect America's families by enacting PAYGO rules.

I urge my colleagues to oppose H. Con. Res. 376 and support the Spratt Substitute.

Mr. CUMMINGS. Mr. Chairman, I rise today in opposition to the FY 07 Republican Budget Resolution, H. Con. Res. 376 and the Rule currently under consideration.

Mr. Chairman, the Republican FY07 Budget sets a record—not for balancing the budget, not for lowering the deficit, or for reducing our reliance on foreign debt—but for exceeding the callousness evident in President Bush's FY07 Budget for American families.

Mr. Chairman, the Republican budget is devoid of direction, balance and compassion.

It slashes by $2.2 billion K–12 programs, school improvement funds, job training, Community Services Block grants, and the Social Services Block grants. This budget cuts veterans health care and the homeland security function; eliminates the Hope VI program; fails to adequately fund public health programs; slashes environmental and conservation funding; cuts programs that help feed low-income elderly, mothers and children; cuts housing assistance for the elderly and disabled; and cuts or flat-funds 18 of the 19 institutes at the National Institutes of Health. On the mandatory spending side, it includes reconciled spending cuts for Medicare, Medicaid and the Pension Benefit Guarantee Corporation.

All of these cuts come at a time when the economy is floundering. They come at time when most Americans are trying to make ends meet—to take care of themselves, their children and their parents—all while being squeezed by flat wages, high gas prices and declining incomes. Yes, these cuts deeply hurt the least and most vulnerable of Americans, but in fact, they hurt nearly all American families.

The sad truth is that all of these cuts are the sacrificial lamb for funding tax cuts for the wealthiest 1 percent of Americans. In fact, while the national debt is rising and deficits are mounting, this Republican Budget funds another shameless $228 billion in tax over the next five years.

Meanwhile, since President Bush has been in office, 6 million more Americans lack health insurance, 1.4 million more children live in poverty, 1.2 million more are unemployed and long-term unemployment is two times larger at 1.4 million. The impact of these numbers intensifies by almost double in minority communities.

The CBC Alternative Budget offers a real budget for all Americans. It would balance the budget, restore pay-as-you-go budget principles, and in fact generate a surplus by 2011. It would restore funding to critical programs, not by creating deficits, but by rescinding the tax cuts for those making over $200,000, eliminating the corporate tax incentives for offshoring jobs, closing corporate loopholes; and reducing ballistic missile defense spending—all while getting rid of waste, fraud and abuse.

I urge my colleagues to support the CBC and Spratt Alternative Budgets—to vote to return to fiscal discipline and responsibility—to vote to focus our spending priorities on all Americans.

Mr. DINGELL. Mr. Chairman, I regret that I again must rise in opposition to the budget before the House. I cannot support another budget that not only adds to the deficit, but for the fifth consecutive year creates the largest deficit in history.

The Congressional budget is a reflection of our priorities—and at the risk of sounding like a broken record—I must say that this Republican budget once again gives priority to massive handouts for their fat cat buddies, and forces working families, veterans and students to foot the bill. Unfortunately, this seems to have become somewhat of a Republican tradition.

Some of my colleagues will praise this budget for its so-called "savings". What they fail to mention is that all of the spending cuts are not going towards reducing the deficit but instead are being used to partially offset the $228 billion price tag of a massive new tax cut.

Mr. Chairman, there is no rationale whatsoever to explain how you can decrease revenues while increasing spending and still balance the budget. Anyone with common sense can tell you that if you want to spend more, you must either earn more or save in other areas—otherwise you go into debt. Yet in each of the past six years, the Administration has increased spending faster than national income.

As bad as the numbers before us are, the true picture is in fact worse, because the budget resolution includes no funding after 2007 for military operations in Iraq and Afghanistan, and for 2007 includes only a $50 billion "placeholder"—less than half of the amount appropriated for 2006.

The war costs are only one of the many budgetary gimmicks used to hide the true nature of this budget. Another is the deceptive cut in veterans' health care. Republicans like to say that they have greatly increased funding for veterans' healthcare. This is true if you are speaking of total spending, but the only reason for the Republican spending increase is the increase in the number patients. On a per capita basis, increases in veterans' health care funding average only 0.1 percent per year, well below inflation.

Two days ago, President Bush announced that he will deploy up to 6,000 National Guard members to "assist the Border Patrol" along our southern border. It is important to note that in 2004, Congress authorized annual increases of 2,000 border patrol agents from 2006 through 2010. Ironically, for the first two years of this increase, the Administration and the Republican Congress have failed to meet this target. The President's budget proposal for fiscal years 2006 and 2007 failed to include enough funding for an additional 2,000 Border Patrol agents, and subsequently, Congress failed to appropriate full funding for the authorized increase. Under the tight spending constraints provided by the Republican budget framework, the House Homeland Security Appropriations Subcommittee reported a bill that provides only 1,200 new border patrol agents—800 agents less than the authorized level. In contrast, the Democratic Substitute provides more than enough funding to provide for an additional 2,000 Border Patrol agents.

Education also takes a hit in this budget resolution. The Department of Education is cut by $2.2 billion—the second year in a row that Republicans will cut federal education funding despite school districts' need for promised assistance to meet demanding standards under No Child Left Behind, and the increasing cost of higher education. In addition to funding cuts, 42 education programs will be eliminated under this budget, including the Even Start family literacy program, the TRIO Upward Bound program, the Perkins loan program and all federal vocational education programs.

In particular, the Perkins loan program is extremely important to colleges and universities throughout the state of Michigan. At the University of Michigan and Eastern Michigan University, both of which are located in my district, 8,658 students received Perkins loans during the 2004–2005 school year. At a time when we should be actively supporting opportunities for higher education, this proposed cut is a cruel slap in the face for our colleges and universities and for their students.

The environment will also suffer if this bill passes. Funding for the Environmental Protection Agency will be cut by $304 million from 2006, with most of this cut coming from programs that ensure clean drinking water and protect public health. The Clean Water State Revolving Fund is cut by 22 percent from 2006 which, when added to past years' cuts, represents a 49 percent decrease since 2004. Additionally, despite the growing backlog of infrastructure construction and maintenance projects, funding for the Army Corps of Engineers would be slashed by 11 percent. These cuts are ill-advised and will greatly undermine our Nation's ability to preserve and protect the resources we have been blessed with.

I would also like to mention one specific program that has been placed on the chopping block—the Commodity Supplemental Food Program (CSFP). This program provides nutritional food packages to over 475,000 low-income elderly, mothers and children, including 75,000 from my home state of Michigan. Under this budget resolution, CSFP would be eliminated, and all of these individuals would simply stop receiving their food packages. This is unacceptable. CSFP costs approximately $110 million per year, which is .03 percent of the projected deficit for FY2007. This means that eliminating the CSFP program will barely make a dent in the deficit, but 475,000 seniors, women and infants will be in danger of going hungry.

It is for these reasons and many more that I stand here today to oppose this budget. The Democratic alternative would balance the budget by 2012 while rejecting deep cuts in essential federal programs. I urge my colleagues to vote yes on the Democratic substitute and no on the Republican budget.

Mr. ETHERIDGE. Mr. Chairman, I rise in strong opposition to this misguided budget resolution, and I urge my colleagues to join me in voting against it.

The Federal budget is much more than just a government document; it is a statement of our Nation's priorities and values. I am tremendously proud that in my first term as the Second District of North Carolina's Representative in the U.S. House, Congress and the President balanced the budget for the first time in a generation. Until just a few years ago, the budget remained balanced and the surpluses we produced were being used to pay down the national debt and strengthen the solvency of Social Security. But this Administration and the Republican Congressional Leadership have squandered the budget surpluses on wasteful tax policies and are running record budget deficits as far as the eye can see.

This budget offers more of the same failed policies and it flunks the test of moral leadership by increasing the burdens on the poor, the middle class, families struggling to get into the middle class and future generations. This budget contains devastating cuts to essential services for our families and will leave the statutory debt at a record level of $11.3 trillion. The American people deserve better.

As the only former State schools chief serving in Congress, public education is my priority. Education holds the key to the American Dream for middle class families, and the Federal Government has a solemn obligation to help all of our people make the most of their God-given abilities. This budget eliminates 42 Federal education initiatives, cuts funding for education, social services and training by $4.6 billion below the amount needed to maintain purchasing power at the current level and will cut this funding more deeply each subsequent year.

Specifically, this budget completely dismantles: vocational education ($1.3 billion); Perkins Loans ($730 million); Safe and Drug-Free

Schools state grants ($347 million); GEAR-UP college readiness for low-income students ($303 million); education technology ($287 million); and Even Start family literacy services ($99 million). The budget cuts $15 billion from the amount authorized for the No Child Left Behind education reform effort and cuts the Federal contribution for special education from the current 17.7 percent to only 17.0 percent for the Individuals with Disabilities Education Act (IDEA) despite years of rhetoric from the Republicans claiming to support IDEA. And while the costs of college continue to rise, this budget contains none of the funds needed to raise Pell Grants beyond the 2003 funding level.

In addition, this Republican budget resolution cuts funding for homeland security, including port security by $6.1 billion over 5 years, cuts essential services for working families by $9.4 billion, cuts veterans' health care by $6.0 billion, slashes funding for health by $18.1 billion below current services and fails to protect the environment by imposing a cut of $25 billion over the next 5 years.

In contrast, the Spratt Substitute will balance the budget by 2012. It includes tough Pay-As-You-Go (PAYGO) budget enforcement rules that require the cost of any new mandatory spending or revenue legislation to be fully offset. Vice President CHENEY has claimed "deficits don't matter," but the American people know better. The Spratt budget provides $4.6 billion more for education in 2007 than the Republican budget and adds $45.3 billion over 5 years that our States and communities desperately need for quality schools.

The Spratt Substitute keeps our commitment to veterans by including $8.6 billion more than the Republican budget for veterans' health care. It provides $6.5 billion more over 5 years for homeland security, including port security and rejects the Republican cut to Army National Guard troop strength and the cut to Cooperative Threat Reduction that protects America from weapons of mass destruction. The Spratt alternative budget provides $18 billion more over 5 years to fund health priorities cut by the Republican budget, including medical research at NIH and CDC, rural health activities, and graduate medical education for children's hospitals. Finally, the Spratt Substitute rejects the Republican budget cuts for environmental protection and requires an honest, separate vote on any proposal to raise the limit on the national debt.

Finally, Mr. Chairman, I believe the Federal budget is the public expression of our Nation's priorities and values. I urge Congress to reject the Republican budget that is wrong for America and support the Spratt Substitute that restores funding for essential services for a stronger country and a brighter tomorrow for our families.

Mr. ORTIZ. Mr. Chairman, I rise in opposition to the deficits proposed by this budget. We are at war. This should be a time of sacrifice for all Americans; it is not the time for gutting programs that help working families to pay for tax cuts to the wealthy among us. Sacrifice should be shared, not dumped on some of us.

Everywhere I go these days, people ask me when Congress will do something about the budget deficit—whch will mean profound taxes on their children down the road . . . Republicans, Democrats, business people, laborers—everybody.

I keep telling them each budget we pass is worse and worse, growing the deficit at an incredible level. People used to say Congress was taxing and spending. These days Congress is borrowing and spending . . . worse, we're borrowing from our children. This budget grows both the deficit and the national debt. The deficits in this budget would, according to the report accompanying the resolution, lead to another debt limit increase of $653 billion—on top of the $3 trillion in debt ceiling increases already approved since President Bush took office.

And still . . . this resolution makes deep and harmful cuts to critical services for working families—including border security, education, and veterans' services. Democrats offer a budget today, that this House will certainly reject, that does not include the harmful cuts to domestic priorities while still reaching balance in 2012. It has smaller deficits than the Republican budget, accumulates less debt, and returns us back to paying for what we pass.

If we pass this budget resolution today—and I will vote no—this House is following the bad ideas in President Bush's budget, which continues the policies of the past 5 years that deeply cut into the spending for our homeland security, simply to pay for tax cuts to the wealthiest Americans.

The budget makes long-term damage in our real security . . . at a time the President and many in this Congress are saying the needs on the border are so severe that we must send the National Guard to protect the border. First, let me say how much I oppose deploying the Guard to the border . . . but let's talk about how we got to crisis on the border: it is entirely about calculated disregard to the security forces on the border.

The House budget shortchanges homeland security programs—cutting them by up to $488 million this year and up to $6.1 billion over 5 years from the amount needed to keep up with inflation. In December, when the 9/11 Commission issued its final report card, it gave the Bush Administration and this Congress a series of C's, D's, and F's on many areas in homeland security—including border security.

The only thing we have given border security is promises, but no money. We know generally how much it would cost for the recommendations the 9–11 Commission said was the very least we must do to make a dent in illegal immigration:

$375 million for the detention beds the 9/11 Commission determined we need,

$340 million for the Border Patrol agents the 9/11 Commission determined we need.

Even with the VA treating more than 144,000 veterans from Iraq and Afghanistan, the House budget cuts veterans' health care by $6 billion over 5 years, and increases TRICARE health care premiums for more than 3 million military retirees and their families.

Despite record enrollment growth from pre-K to college, the House budget makes the largest cuts in education in 23 years and provides $15.4 billion less in funding than promised by the No Child Left Behind Act.

Even as college costs have risen 40 percent since 2001, this budget freezes the maximum Pell Grant for college at $4,050—for the fourth year in a row. The budget denies more than 460,000 students low-cost loans and eliminates eight higher education programs, including GEAR–UP, TRIO Upward Bound, and TRIO Talent Search—all of which have made all the difference in the lives of South Texas students. These insulting cuts come just 2 months after the majority in this body voted to raid federal student aid programs by $12 billion.

The other thing people are saying to me everywhere I go is: when will Congress raise the minimum wage? Gas prices are going up, food prices are going up . . . the cost of everything is going up EXCEPT for the minimum wage.

I urge my colleagues to reject the budget before us.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in strong opposition to the Republican Budget Resolution.

Today, this Congress has the opportunity to send a clear message of hope for a better future to American families by investing in critical programs that enhance our children's ability to go to college, protect our public health against diseases and epidemics, and protect our public safety from gang violence and terrorist attacks.

Regrettably, the Republican leadership has chosen to squander this opportunity in order to make way for additional tax breaks for the wealthiest Americans.

The negative impact of this unnecessary and misguided budget is that programs essential to the safety, health and well-being of American families are cut and even eliminated.

Please permit me to cite examples that illustrate my point.

First, this Republican Budget Resolution sacrifices services vital to women and families by eliminating the funding for the National Resource Center on Workplace Responses. This Center was included in last year's reauthorization of the Violence Against Women Act (VAWA). It provides critical support to help employees who are victims of domestic violence maintain job security as they empower themselves to end the violence in their lives. It also provides employers with valuable information and expertise needed to make their workplace safe from abusers who often stalk their victims at the workplace.

Second, this Budget Resolution eliminates the funding for the National Institutes of Health's crucial National Children's Study. This study is examining the effects of environmental influences on the health and development of our nation's children. When completed, this national study could answer critical questions that will enable us to more effectively protect our children's health and future well-being.

By eliminating this important program, the Republican budget once again chooses giving tax breaks to the wealthiest individuals in America at the expense of our children.

Third, this budget resolution jeopardizes the future of millions of America's children by recommending the elimination of 42 education programs designed to provide our Nation's disadvantaged and middle-income children with the opportunities for a better and more fulfilling life.

Some of the programs the Republican budget proposes to eliminate are the Even Start program, which promotes family literacy in low-income areas; the School Drop-out Prevention Program, which helps at-risk children stay in school; and the Education Technology Block Grant, which integrates technology into the classroom to help students and teachers succeed in today's 21st Century workforce.

Once again, in order to pay for the $70 billion tax cut primarily for the wealthy, this Republican budget strips away the safety net needed to protect the future of our children who must be prepared to compete in our ever-growing and highly technical global economy.

I urge my colleagues to put the future of our children and our country first and vote against this misguided Republican Budget Resolution.

Mrs. SCHWARTZ of Pennsylvania. Mr. Chairman, this chamber is in the final stages of the annual budget process—a process that provides an important opportunity to discuss the things we value as a Nation.

Before we cast our votes, each of us should consider the following:

1. Does the Republican budget value fiscal discipline and honest budgeting? And, did the Republican leadership make the tough choices needed to balance the budget and pay down the debt?

No. The Republican budget continues the majority party's borrow-and-spend policies. As a result, it not only fails to balance the Federal government's checkbook, but will actually run a deficit of $348 billion for 2007—further increasing the mounting debt being, passed onto our children and grandchildren.

2. Does the Republican budget value our shared economic future? And, did the Republican majority make wise investments in education, workforce development and alternative fuels that will favorably position us in the highly competitive global marketplace?

No. The Republican budget cuts education funding by $2.2 billion, reduces support for renewable energy and energy-efficiency initiatives, and impedes access to health care for women and children.

3. Does the Republican budget value enhanced security at home and a strong defense? And, did the Republican majority provide for the men and women who protect us, both while they are on the front lines and after they have fulfilled their duties and return home?

No. The Republican budget cuts funding for veterans' health care by $6 billion, and will reduce our ability to maintain current homeland security efforts due to a lack of consistent and reliable funding.

4. Is the Republican budget based on sound, fair tax policies to recognize the priorities of everyday Americans?

No. The Republican budget has one purpose: to provide tax cuts to the wealthiest Americans. In fact, this budget provides $228 billion in new tax cuts—90 percent of which will go to the wealthiest ten percent of taxpayers.

This budget fails to meet sound fiscal principles, and it sets us on an irresponsible path for years to come—with mounting annual deficits, and an increasing national debt. In fact, the Republican majority went to great lengths to mask the fact that their spending plan does not include some of our Nation's largest financial commitments—commitments that we must meet.

Their plan almost completely ignores the cost of ongoing military operations in Afghanistan and Iraq, which according to the Congressional Budget Office will be at least $298 over 10 years. Except for a one year fix, it does nothing to address the Alternative Minimum Tax, which will increase taxes for middle class families by an estimated $844 billion over the next ten years.

Even with these cuts, omissions, and gimmicks, the majority's budget will add another $2.3 trillion to our national debt by 2011—or nearly $1 million of debt per minute. Under President Bush, and his Republican Congress, our Nation has incurred more debt than it did under the 42 presidents before him.

But there is a better way.

As a member of the House Budget Committee, I assisted Ranking Member SPRATT in the creation of a fiscal year 2007 budget that makes the necessary tough, fiscally disciplined choice. This Democratic alternative meets the basic budgetary principles of meeting our obligations, working within the resources we have, and making smart investments that will ensure the Nation's current and future fiscal well-being.

The Democratic budget will put our nation back on the right track by closing tax loopholes that provide incentives to companies to ship jobs overseas, by cracking down on tax cheats that avoid paying nearly $350 billion a year in taxes, by rescinding the tax breaks and subsidies for the oil and gas industry, and by rolling back Medicare overpayments to HMOs. We would then reinvest these savings in the priorities that matter to most Americans: national and homeland security, energy independence, education, and health care. And, it will do so while balancing the Federal Government's budget within 6 years, and begin to pay down the debt by 2013.

Our plan would secure our homeland through investments in our military and defense networks. Our plan would ensure that we are prepared here at home, while also pursuing smart foreign policies that encourage stability in nations throughout the world. And, our plan would meet our obligations to the men and women who have fought to protect our Nation.

Second, our plan would help secure our economic future by educating our children for the twenty-first century economy, promoting the development and innovation of small businesses, upholding environmental protections, and advancing the production of alternative sources of energy to end our dependence on foreign oil.

And, third, our plan would expand access to affordable health care for all Americans and improve retirement security with particular attention to the dramatic and costly needs of the baby boomers who will begin to reach retirement in 2007.

Mr. Chairman, I believe that we have a responsibility to meet our obligations and balance the budget. I am also well aware that the Federal Government's budgets have consequences. If the majority's budget passes, it will hurt State and local budgets by forcing them to cover the shortfalls—likely through increased local taxes. If the majority's budget passes, small businesses will be on their own as they fight to compete in the global marketplace in the face of rising health care and energy costs. If the majority's budget passes, senior citizens will risk losing the benefits they have been promised.

Unless we change course, the negative consequences of the Republican budget will be felt by every American.

My colleagues, Americans are seeking to meet their obligations to their families, their communities and to the Nation. We must honor their commitment and we should not, and I cannot walk away from our obligations to them. Vote "no" on this irresponsible Republican budget, and support the Democratic alternative.

Mrs. MALONEY. Mr. Chairman, this budget resolution that we are now debating is being sold as a deficit-reduction measure, but that is false advertising. This budget resolution does contain spending cuts—ones that hit lower-income families particularly hard. But those spending cuts pale beside the companion tax reconciliation measure that the President just signed into law. Together, those budget actions add to the deficit; they don't reduce it. Nothing illustrates that more clearly than the provision in this budget resolution that would increase the federal debt limit for the fifth time under President Bush.

This President and this Congress have squandered the fiscal discipline of the 1990s and created a legacy of deficits and debt that will erode the standard of living of our children and our grandchildren. This is a record-setting Administration, but they are the wrong records. We have seen the federal budget deficit set a record in dollar terms, we have seen the national debt rise to a record level, and we have seen our trade deficit and our indebtedness to the rest of the world rise to a record level.

The President likes to talk about how fast the economy is growing and how successful his policies have been in stimulating an economic recovery from the 2001 recession. But the American people are saying "what economic recovery?" and, "when am I going to see any benefits from this President's economic policies?" Mr. Speaker, we should listen to the American people and we should adopt economic policies that promote the economic well-being of all Americans—not just those at the very top of the economic ladder.

The President's FY 2007 budget and the House budget resolution do not do that. Instead they perpetuate economic policies that have produced a legacy of deficits and debt that leave us unprepared to deal with the budget challenges posed by the retirement of the baby-boom generation and that weakens the future standard of living of our children and grandchildren.

Economic policy over the past 5 years has not served the interest of the typical American family. The resilience of the American economy has allowed it to recover from the 2001 recession, but we are still experiencing the labor market effects of the most protracted jobs slump in decades. Job creation has lagged far behind what is typical in a strong economic recovery, there is still evidence of hidden unemployment, and the benefits of productivity growth have been showing up in the bottom lines of companies rather than in the paychecks of workers. Finally, there is a growing gap between the "haves" and the "have-nots" in this country as income and earnings disparities have widened.

Yes, workers have become more productive—they produce more and more in each hour that they work. But they haven't been getting rewarded for that productivity. Average hourly earnings have not kept up with inflation for the past 2 years and they barely kept even the year before that. Median family income has failed to keep up with inflation every year under President Bush.

Those who are already well-to-do are doing very well in the Bush economy. But the typical American family is struggling to make ends meet in the face of high costs for energy, health care, and a college education for their children.

This budget resolution does not address any of these problems. In fact, it makes things worse. An analysis by the Democratic staff of the Joint Economic Committee shows that budget cuts in programs that provide payments for individuals are concentrated among lower-income families, while the tax cuts that have already been enacted go overwhelmingly to those at the top of the distribution. More than a third of the costs of spending cuts for families go to those in the bottom 20 percent of the distribution (families that together have only 3 percent of aggregate income). Meanwhile those at the top get nearly three-quarters of the benefits from the tax cuts. This analysis relates to the budget resolution originally brought to the floor a month ago, but the essential character of the plan has not changed.

With policies that have turned a $5.6 trillion 10-year budget surplus into a deficit over those same 10 years of at least $2.7 trillion, this Administration and this Congress have turned the United States into a Nation of debtors, relying on the rest of the world to finance our budget deficits and the rest of our excessive spending. Last year we had a current account deficit of $805 billion. That is the amount of money we had to borrow from the rest of the world to finance our trade deficit and international payment imbalance.

Foreign governments are holding large quantities of our public debt, putting us at risk of a major international financial crisis if they should decide that the benefits of holding dollars are no longer worth the risk.

Mr. Chairman, future prosperity depends on increasing our national savings and making wise investments; it depends on being ready for the retirement of the baby-boom generation and the pressure we know that will put on the budget. But how is the other side preparing us for that future—with more deficits and more debt. They want to make the tax cuts that have gotten us into this mess permanent, and they have no realistic plan for controlling spending or bringing revenues into line with the amount we need to spend to defend the country and take care of the needs of our citizens. We need a better plan.

Mr. HERGER. Mr. Chairman, it's time for Congress to start making tough choices. Projected growth in mandatory spending threatens to crowd out all other spending and choke our economy unless we act now. Over the next 75 years, Medicare's unfunded liabilities amount to a staggering $30 trillion—more than 5 times as much as Social Security's. We're on a fiscal path that we simply cannot sustain, presenting our children and grandchildren with a legacy of enormous debt or stifling tax increases.

There are difficult decisions that have to be made, but we must be responsible, tighten our belts, and live within our means. I applaud the RSC for its work on this budget alternative, and urge its passage.

Ms. SCHAKOWSKY. Mr. Chairman, I rise today in opposition to the Republican budget resolution. The Republican's 2007 budget—and the signing of tax cuts for millionaires today—reflects priorities that are not in line with what our country stands for or the values in which most Americans believe. In keeping with an unfortunate tradition, the Republicans have once again put tax cuts for the wealthy ahead of national security, investing in our economic competitiveness, and meeting the needs of seniors, families, and students. This budget puts K Street ahead of the needs of Main Street.

The Republicans claim that this budget will decrease the massive Bush-era deficit. However, even with all the cruel cuts they make to medical research, health care, and nutrition assistance, their tax cuts add another $1.1 trillion to the deficit. Is that responsible?

The Republicans claim to have our country's best interests in mind. Yet, they slash funding for education and job training by $4.6 billion. Is that in our best interest?

The Republicans allege that their fiscal policies spark economic growth and prosperity. In reality, income is dropping, poverty has increased over the last several years, and 7.1 million Americans remain unemployed. Is that growth and prosperity?

What is responsible is funding vocational education to train our future workers, as the Democratic alternative to this budget would do. It is in our country's best interest to fund port security and homeland security. The Democratic budget recognizes that by providing $6.5 billion more than Republican budget does for homeland and port security. What would spur economic growth is funding initiatives like the Community Development Block Grants program, not cutting it by $736 million as the Republicans do. That money would help revitalize our dilapidated neighborhoods.

As I have said time and time again, budgets reflect what we value and what is important to us as a country. I value senior citizens—and that is why I cannot support a Republican budget that cuts their housing assistance by 26 percent. I believe it is important to prepare for our future so I cannot support a plan that cuts 42 education programs. I support our troops and refuse to support any budget that would cut veterans' health care by $8.6 billion even as new veterans, many severely wounded, are returning home every day. But that's what the Republican budget does.

I urge my colleagues to vote with our common American values and dreams in mind and support the Democratic and Congressional Black Caucus budgets and oppose the Republican budget that sells out the needs of the majority of Americans to make room for tax cuts for millionaires and K Street interests.

Ms. MCCOLLUM of Minnesota. Mr. Chairman, I rise in strong opposition to the reckless budget proposed by President Bush and House Republicans.

H. Con. Res. 376 is a $2.7 trillion budget that will add $1.1 trillion to our debt over the next 5 years. If this becomes the law of the land, our budget deficit will hit near record levels in 2006 and 2007. But that's only part of the story. The budget provides for no funding for Iraq and Afghanistan past 2007, although we have heard from President Bush that this war will last at least until 2009. Nor does it address tax issues facing middle class families—such as the alternative minimum tax. In addition, this bill includes a provision to raise the debt limit for the fifth year in a row—resulting in a $3.7 trillion increase since 2001.

This budget imposes painful cuts on children and families while allowing our national deficit to continue to spiral out of control. Cuts to health care, education, veterans' services, and the environment are all made in order to pay for tax cuts for the wealthy. But because even these devastating cuts do not equal the level of tax giveaways proposed, this budget forces future generations to pay for the mistakes of today.

Mr. Speaker, this budget does not reflect American values. It cuts education—from early education through higher education—when we need to reinvest in American global competitiveness. It cuts funding for public health and health research—shortchanging potential lifesaving research and health care providers struggling to serve current populations and to prepare for a possible pandemic. It cuts homeland security funding by $6 billion—as our Nation is involved in conflicts around the world and American good will is waning. Most outrageously, this budget cuts funding for veterans' health care by $8.6 billion over 5 years. At a time when we're asking more of our service men and women and their families, this type of across-the-board disinvestment is short-sighted and negligent and should be rejected.

Congress can and should pass a budget that is fiscally responsible and protects the priorities of the American people. Democrats offered an alternative plan investing in education, health research and veterans' benefits while balancing the budget by 2012. This plan, offered by Mr. SPRATT, would keep America competitive by making needed investments and reduce the burden of staggering Federal debt on future generations.

I urge my colleagues to support the Spratt substitute and reject the dangerous owe-as-you-go policies put forward by the Bush Administration and the Republican Majority in Congress.

The Acting CHAIRMAN. There being no further debate time, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BOOZMAN) having assumed the chair, Mr. LAHOOD, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 376) establishing the congressional budget for the United States

Government for fiscal year 2007 and setting forth appropriate budgetary levels for fiscal years 2008 through 2011, pursuant to House Resolution 817, he reported the concurrent resolution, as amended pursuant to that rule, back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the concurrent resolution.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, this 15-minute vote on adoption of the concurrent resolution will be followed by a 5-minute vote on the motion to suspend the rules on House Resolution 740.

The vote on House Resolution 795 will be taken tomorrow.

The vote was taken by electronic device, and there were—yeas 218, nays 210, not voting 5, as follows:

[Roll No. 158]

YEAS—218

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—210

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Fitzpatrick (PA)
Ford
Frank (MA)
Gerlach
Gonzalez
Goode
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Renzi
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOT VOTING—5

Evans
Kennedy (RI)
Larson (CT)
Paul
Stupak

□ 0102

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

CALLING ON GOVERNMENT OF UNITED KINGDOM TO ESTABLISH INQUIRY INTO MURDER OF NORTHERN IRELAND DEFENSE ATTORNEY PAT FINUCANE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 740, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. McCOTTER) that the House suspend the rules and agree to the resolution, H. Res. 740, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 390, nays 5, answered "present" 6, not voting 31, as follows:

[Roll No. 159]

YEAS—390

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, M.
Dingell
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Farr
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee

Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)
Slaughter
Smith (WA)
Stark
Stupak
Thornberry
Weldon (FL)

NAYS—5

Campbell (CA)
Cubin
Sensenbrenner
Tiahrt
Westmoreland

ANSWERED "PRESENT"—6

Everett
Gohmert
Hostettler
Lewis (KY)
Pence
Poe

NOT VOTING—31

Baker
Bishop (GA)
Bonilla
Coble
Davis, Jo Ann
Diaz-Balart, L.
Dicks
Doggett
Emerson
Evans
Fattah
Hefley
Johnson, Sam
Jones (NC)
Keller
Kennedy (RI)
Larson (CT)
Manzullo
McCrery
Murtha
Northup
Norwood
Oxley
Paul
Radanovich

☐ 0110

Mr. POE changed his vote from "yea" to "present."

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: "Resolution calling on the Government of the United Kingdom immediately to establish a full, independent, public judicial inquiry into the murder of Northern Ireland defense attorney Patrick Finucane, as recommended by Judge Peter Cory as part of the Weston Park Agreement, in order to move forward on the Northern Ireland peace process.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unavoidably detained and missed roll call vote No. 159. Had I been present, I would have voted "Aye" for 159.

PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, I regret that I could not be present today, Wednesday, May 17, 2006 and Thursday, May 18, 2006 to vote on rollcall vote Nos. 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, and 159 due to a family medical emergency.

Had I been present, I would have voted: "Yea" on rollcall vote No. 147 on an amendment to H.R. 4200 to strike all exemptions and waivers of the National Historic Preservation Act, the Clean Water Act, the Endangered Species Act, and the National Environmental Policy Act;

"Yea" on rollcall vote No. 148 on an amendment to H.R. 4200 to allow emergency procedures authorized in the bill to be used on lands managed for timber production;

"Yea" on rollcall vote No. 149 on an amendment to H.R. 4200 to stipulate that the bill would not apply to any areas in the National Forest System that are designated as roadless areas;

"Yea" on rollcall vote No. 150 on an amendment to H.R. 4200 to direct the Interior Department and the Agriculture Department to consider the impact of any pre-approved management practice, forest recovery or research project on the risk of fire and on forest regeneration;

"No" on rollcall vote No. 151 on passage of H.R. 4200—the Forest Emergency Recovery and Research Act;

"No" on rollcall vote No. 152 on passage of H. Res. 815—the rule providing martial law consideration for H. Con. Res. 376—Fiscal Year 2007 Budget Resolution;

"No" on rollcall vote No. 153 on calling the previous question on H. Res. 815—the rule providing martial law consideration for H. Con. Res. 376—Fiscal Year 2007 Budget Resolution;

"No" on rollcall vote No. 154 on passage of H. Res. 817—the rule providing for consideration for H. Con. Res. 376—Fiscal Year 2007 Budget Resolution;

"Yea" on rollcall vote No. 155 on an amendment in the nature of a substitute to H. Con. Res. 376 offered by Representative WATT;

"No" on rollcall vote No. 156 on an amendment in the nature of a substitute to H. Con. Res. 376 offered by Representative HENSARLING;

"Yea" on rollcall vote No. 157 on an amendment in the nature of a substitute to H. Con. Res. 376 offered by Representative SPRATT;

"No" on rollcall vote No. 158 on passage of H. Con. Res. 376—Fiscal Year 2007 Budget Resolution;

"Yea" on rollcall vote No. 159 on passage H. Res. 740—Calling on the Government of the United Kingdom to immediately establish a full, independent, public judicial inquiry into the murder of Northern Ireland defense attorney Pat Finucane, as recommended by international Judge Peter Cory as part of the Weston Park agreement and a way forward for the Northern Ireland Peace.

WHAT'S GOOD FOR FOX ISN'T GOOD FOR THE U.S.

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, Mexican nationals are not happy about the U.S. sending our National Guard to the border. Generalissimo Vicente Fox is not happy about it either, which tells plenty of Americans that it is probably a good idea.

For the first time in a long time, there will be more U.S. troops defending our border than Fox has crossing his border into the United States. Since 1996 there have been more than 200 run-ins between border patrol and highly armed Mexican soldiers coming into the United States.

One Texas sheriff's deputy recalls being outgunned while chasing drug dealers after Mexican soldiers mounted machine guns on the ground 200 yards inside Texas, and when those drug dealers got one of their SUVs struck in the Rio Grande trying to flee back into Mexico, a Mexican military humvee tried to pull it out.

Illegals look at invading America as a challenge. One said this week, "No Guard, no wall will keep us from crossing. For Mexicans, there are no obstacles."

American borders and laws are not a challenge. They should be a promise, and I am proud our National Guard is keeping that promise to protect the border and America from invasion.

And that's just the way it is.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLEAVER (at the request of Ms. PELOSI) for today before 6 p.m. on account of a death in the family.

Mr. LARSON of Connecticut (at the request of Ms. PELOSI) for today on account of a family medical emergency.

Mr. STUPAK (at the request of Ms. PELOSI) for today and the balance of the week on account of family obligations.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CROWLEY) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. WASSERMAN SCHULTZ, for 5 minutes, today.

Ms. MCKINNEY, for 5 minutes, today.

(The following Members (at the request of Mr. POE) to revise and extend their remarks and include extraneous material:)

Mr. BISHOP of Utah, for 5 minutes, May 18.

Mr. DREIER, for 5 minutes, May 19.

Ms. FOXX, for 5 minutes, May 18.

Mr. BILIRAKIS, for 5 minutes, May 22.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 879. An act to make improvements to the Arctic Research and Policy Act of 1984; to the Committee on Science.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1165. An act to provide for the expansion of the James Campbell National Wildlife Refuge, Honolulu County, Hawaii.

S. 1869. An act to reauthorize the Coastal Barrier Resources Act, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Karen L. Haas, Clerk of the House reports that on May 16, 2006, she presented to the President of the United States, for his approval, the following bill.

H.R. 4297. To provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006.

ADJOURNMENT

Mr. POE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 14 minutes a.m.), the House adjourned until today, Thursday, May 18, 2006, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7546. A letter from the Deputy Assistant Administrator for Operations, NMFA, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Emergency Secretarial Action [Docket No. 060209031-6092-02; I.D. 020606C] (RIN: 0648-AU09) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7547. A letter from the Acting Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Total Allowable Catch Amount for "Other Species" in the Groundfish Fisheries of the Gulf of Alaska [Docket No. 051116304-6035-02; I.D. 110805A] (RIN: 0648-AT92) received March 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7548. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Retention Standard [Docket No. 050607152-6070-02; I.D. 052605B] (RIN: 0648-AT04) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7549. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure [Docket No. 001005281-0369-02; I.D. 011106A] received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7550. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Specifications and Management Measures; Inseason Adjustments [Docket No. 051014263-6028-03; I.D. 040506A] received April 26, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7551. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Processor Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 060216045-6045-01; I.D. 030906G] received March 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7552. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Polluck in Statistical Area 630 of the Gulf of Alaska [Docket No. 060216044-6044-01; I.D. 030906A] received March 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7553. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure [Docket No. 001005281-0369-02; I.D. 030906E] received March 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7554. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Reduction [Docket No. 001005281-0369-02; I.D. 022306B] received March 27, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7555. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Modification of the Yellowtail Flounder Landing Limit for Western and Eastern U.S./Canada Areas [Docket No. 040804229-4300-02; I.D. 121405A] received April 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7556. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Modification of the Yellowtail Flounder Landing Limit for the U.S./Canada Management Area [Docket No. 04011-2010-4114-02; I.D. 032406B] received April 24, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7557. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Processor Vessels Using Pot Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 060216045-6045-01; I.D. 040606B] received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7558. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Polluck in the West Yakutat District of the Gulf of Alaska [Docket No. 060216044-6044-01; I.D. 040706G] received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7559. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area [Docket No. 060216045-6045-01; I.D. 040506C] received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7560. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish by Vessels Using Non-Pelagic Trawl Gear in the Red King Crab Savings Subarea [Docket No. 060216045-6045-01; I.D. 040406B] received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7561. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rolls-Royce plc RB211 Trent 553-61, 553A2-61, 556-61, 556A-61, 556B-61, 556B2-61, 560-61, and 560A-61 Turbofan Engines [Docket No. FAA-2005-23031; Directorate Identifier 2005-NE-41-AD; Amendment 39-14467; AD 2006-03-03] (RIN: 2120-AA64) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7562. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Airplanes [Docket No. FAA-2006-23703; Directorate Identifier 2005-NM-052-AD; Amendment 39-14465; AD 2006-03-01] (RIN: 2120-AA64) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7563. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-10-10, DC-10-10F, DC-10-15, DC-10-30, DC-10-30F (KC-10A and KDC-10), DC-10-40, DC-10-40F, MD-10-10F, MD-10-30F, MD-11, and MD-11F Airplanes [Docket No. FAA-2005-20034; Directorate Identifier 2004-NM-178-AD; Amendment 39-14463; AD 2006-02-11] (RIN: 2120-AA64) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7564. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Models DG-100 and DG-400 Sailplanes and DG Flugzeugbau GmbH Models DG-500 Elan Series and DG-500M Sailplanes [Docket No. FAA-2005-22157; Directorate Identifier 2005-CE-44-AD; Amendment 39-14464; AD 2006-02-12] (RIN: 2120-AA64) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7565. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company Model 390 Airplanes [Docket No. FAA-2005-23221; Directorate Identifier 2005-CE-51-AD; Amendment 39-14459; AD 2006-02-51] (RIN: 2120-AA64) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7566. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. FAA-2005-22793; Directorate Identifier 2005-NM-161-AD; Amendment 39-14462; AD 2006-02-10] (RIN: 2120-AA64) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7567. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Turbomeca Arriel 1B, 1D, 1D1, 1S1 Turboshaft Engines [Docket No. FAA-2005-21242; Directorate Identifier 2005-NE-09-AD; Amendment 39-14460; AD 2006-02-08] (RIN: 2120-AA64) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7568. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A330-200, A330-300, A340-200 and A340-300 Series Airplanes [Docket No. FAA-2004-18565; Directorate Identifier 2003-NM-168-AD; Amendment 39-14461; AD 2006-02-09] (RIN: 2120-AA64) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7569. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120, -120ER, -120FC, -120QC, and -120RT Airplanes [Docket No. FAA-2005-22871; Directorate Identifier 2005-NM-191-AD; Amendment 39-14454; AD 2006-02-02] (RIN: 2120-AA64) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7570. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL-600 2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. FAA-2005-22873; Directorate Identifier 2005-NM-197-AD; Amendment 39-14457; AD 2006-02-05] (RIN: 2120-AA64) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7571. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL-600-1A11 (CL-600), CL-600-2A12 (CL-601, and CL-600-2B16 (CL-601-3A, CL-601-3R, and CL-604) Airplanes [Docket No. FAA-2005-22917; Directorate Identifier 2005-NM-157-AD; Amendment 39-14456; AD 2006-02-04] (RIN: 2120-AA64) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7572. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A310-203, 0294, and -222 Airplanes, and Model A310-300 Series Airplanes [Docket No. FAA-2005-22810; Directorate Identifier 2005-NM-143-AD; Amendment 39-14458; AD 2006-02-06] (RIN: 2120-AA64) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7573. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Model Hawker 800XP Airplanes [Docket No. FAA-2005-22749; Directorate Identifier 2005-NM-188-AD; Amendment 39-14455; AD 2006-02-03] (RIN: 2120-AA64) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7574. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Model DH.125, HS.125, and BH.125 Series Airplanes; Model BAe.125 Series 800A (C-29A and U-125), 800B, 1000A, and 1000B Airplanes; and Model Hawker 800 (including variant U-125A), and 1000 Airplanes [Docket No. FAA-2005-20969; Directorate Identifier 2005-NM-017-AD; Amendment 39-14443; AD 2006-01-04] (RIN: 2120-AA64) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7575. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; British Aerospace Model HS 748 Airplanes [Docket No. FAA-2006-23799; Directorate Identifier 2004-NM-141-AD; Amendment 39-14475; AD 2006-03-11] (RIN: 2120-AA64) received April 25, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PUTNAM: Committee on Rules. House Resolution 817. Resolution providing for further consideration of the concurrent resolution (H. Con. Res. 376) establishing the congressional budget for the United States Government for fiscal year 2007 and setting forth appropriate budgetary levels for fiscal years 2008 through 2011 (Rept. 109-468). Referred to the House Calendar.

Mr. BISHOP of Utah: Committee on Rules. House Resolution 818. Resolution providing for consideration of the bill (H.R. 5386) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2007, and for other purposes (Rept. 109-469). Referred to the House Calendar.

Mr. BARTON of Texas: Committee on Energy and Commerce. H.R. 5252. A bill to promote the deployment of broadband networks and services (Rept. 109-470). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. JOHNSON of Connecticut (for herself, Mr. SHAW, Mr. SHAYS, Mr. RAMSTAD, Mr. FERGUSON, Mr. SIMMONS, Mr. TIBERI, Mr. FOLEY, Mr. ENGLISH of Pennsylvania, Mr. TOM DAVIS of Virginia, Mr. CASTLE, Mr. SWEENEY, Mrs. KELLY, Mr. REHBERG, Mr. SHERWOOD, Mr. LEACH, Mr. GERLACH, Mrs. JO ANN DAVIS of Virginia, Mr. DENT, Mr. BASS, Mr. BOEHLERT, Mr. UPTON, Mr. KIRK, Mr. SCHWARZ of Michigan, Mr. PORTER, and Mr. BILIRAKIS):

H.R. 5399. A bill to amend title XVIII of the Social Security Act to eliminate the Medicare prescription drug late enrollment penalty for months during 2006, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McCRERY (for himself, Mr. ALLEN, Mr. MURPHY, Mr. PORTER, and Mr. BOOZMAN):

H.R. 5400. A bill to amend title XIX of the Social Security Act to permit States to obtain reimbursement under the Medicaid Program for care or services required under the Emergency Medical Treatment and Active Labor Act that are provided in a nonpublicly owned or operated institution for mental diseases; to the Committee on Energy and Commerce.

By Mrs. EMERSON (for herself, Mr. SKELTON, Mr. REHBERG, Mr. CLEAVER, Mr. HOLT, Mr. HULSHOF, Mr. MOORE of Kansas, and Mr. OSBORNE):

H.R. 5401. A bill to amend section 308 of the Lewis and Clark Expedition Bicentennial Commemorative Coin Act to make certain clarifying and technical amendments; to the Committee on Financial Services.

By Mr. CONAWAY:

H.R. 5402. A bill to provide for the establishment of a partnership between the Secretary of Energy and appropriate industry groups for the creation of a transportation fuel conservation education campaign, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DELAY (for himself, Mr. HERGER, Mr. STARK, Mr. CAMP of Michigan, Ms. NORTON, Ms. HART, Mr. CARDOZA, and Mr. ENGLISH of Pennsylvania):

H.R. 5403. A bill to improve protections for children and to hold States accountable for the safe and timely placement of children across State lines, and for other purposes; to the Committee on Ways and Means.

By Mr. DUNCAN (by request):

H.R. 5404. A bill to authorize the Administrator of the Environmental Protection Agency to advance cooperative conservation efforts, to reduce barriers to the formation and use of partnerships to enable Federal environmental stewardship agencies to meet the conservation goals and obligations of the agencies, to promote remediation of inactive and abandoned mines, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Energy and Commerce, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FEENEY (for himself, Mr. MEEKS of New York, Mr. SESSIONS, Mrs. MILLER of Michigan, Mr. HENSARLING, Mr. JONES of North Carolina, Ms. FOXX, Mr. GARRETT of New Jersey, Mr. STEARNS, Mr. TIAHRT, Mr. WICKER, Mr. ROYCE, Mr. PENCE, and Mr. FLAKE):

H.R. 5405. A bill to reduce the burdens of the implementation of section 404 of the Sarbanes-Oxley Act of 2002; to the Committee on Financial Services.

By Mr. GINGREY:

H.R. 5406. A bill to suspend the visa waiver program until certain entry-exit control requirements are met, and for other purposes; to the Committee on the Judiciary.

By Mrs. LOWEY:

H.R. 5407. A bill to amend the Internal Revenue Code of 1986 to expand deductions allowed for education-related expenses and to allow an earned tuition credit against income tax for qualified tuition and related expenses; to the Committee on Ways and Means.

By Ms. McCOLLUM of Minnesota (for herself and Mr. OBERSTAR):

H.R. 5408. A bill to urge the Government of the Republic of Armenia to resolve the murder case of Joshua Haglund, a United States citizen, in Yerevan, Armenia, and to fund scholarships at the University of Minnesota in the memory of Joshua Haglund for study abroad and diversity training; to the Committee on International Relations, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MYRICK:

H.R. 5409. A bill to amend title II of the Social Security Act to require that the Commissioner of Social Security notify individuals of improper use of their social security account numbers; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 5410. A bill to provide for the treatment of the District of Columbia as a State for purposes of representation in the House of Representatives and Senate, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PEARCE:

H.R. 5411. A bill to direct the Secretary of the Interior to establish a demonstration program to facilitate landscape restoration programs within certain units of the National Park System established by law to preserve and interpret resources associated with American history, and for other purposes; to the Committee on Resources.

By Mr. REYES (for himself, Mr. KOLBE, Mr. ORTIZ, Mr. DOGGETT, Mr. GRIJALVA, and Mr. FILNER):

H.R. 5412. A bill to establish grant programs to improve the health of border area residents and for bioterrorism preparedness in the border area, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SENSENBRENNER (for himself and Mr. CONYERS):

H.R. 5413. A bill to make improvements in the codification of title 46, United States Code; to the Committee on the Judiciary.

By Mr. SENSENBRENNER (for himself and Mr. CONYERS):

H.R. 5414. A bill to enact certain laws relating to public contracts as title 41, United States Code, "Public Contracts"; to the Committee on the Judiciary.

By Mr. GERLACH:

H. Con. Res. 402. Concurrent resolution requiring certain committees of Congress to review and evaluate the activities and progress of the Government of Iraq in securing and stabilizing Iraq; to the Committee on Rules.

By Mr. HINCHEY (for himself, Mrs. BONO, and Mrs. CAPPS):

H. Con. Res. 403. Concurrent resolution expressing the sense of Congress with regard to the importance of Women's Health Week, which promotes awareness of diseases that affect women and which encourages women to take preventive measures to ensure good health; to the Committee on Energy and Commerce.

By Mrs. LOWEY:

H. Con. Res. 404. Concurrent resolution expressing the sense of the Congress concerning contraceptives for women; to the Committee on Energy and Commerce.

By Ms. MCKINNEY:

H. Con. Res. 405. Concurrent resolution opposing any agreement between the Government of the United States and the Government of Nigeria to deploy United States Armed Forces to Nigeria; to the Committee on International Relations.

By Mr. THOMPSON of Mississippi:

H. Con. Res. 406. Concurrent resolution expressing the sense of Congress that the needs of children affected by major disasters are unique and should be given special consideration in conducting disaster preparedness, response, recovery, and mitigation activities, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. WEXLER:

H. Res. 819. A resolution requesting the President and directing the Attorney General to submit to the House of Representatives all documents in the possession of the President and the Attorney General relating to requests made by the National Security Agency and other Federal agencies to telephone service providers requesting access to telephone communications records of persons in the United States and communications originating and terminating within the United States without a warrant; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. DINGELL introduced a bill (H.R. 5415) for the relief of Vernadette Bader; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 9: Mrs. MILLER of Michigan, Mr. MORAN of Virginia, Mr. COSTELLO, Mr. FARR, Mr. BLUMENAUER, Ms. MCCOLLUM of Minnesota, Ms. SCHAKOWSKY, Ms. KAPTUR, Mr. MOORE of Kansas, Ms. SLAUGHTER, Mr. WEINER, Mr. DOGGETT, Mr. SPRATT, Mrs. DAVIS of California, Mr. SHERMAN, Mr. MEEHAN, Ms. ROYBAL-ALLARD, Ms. MATSUI, Mr. SABO, Mr. BOUSTANY, Mr. MCHUGH, Mr. REICHERT, Mr. BOYD, Mrs. CAPPS, Mr. DEFAZIO, Mrs. MCCARTHY, Mr. BOUCHER, Ms. SOLIS, Mr. LANGEVIN, Mr. CAPUANO, Mr. WEXLER, Mr. UDALL of New Mexico, Mr. COOPER, Mr. LEACH, Mr. LOBIONDO, Mr. STRICKLAND, Mr. WELLER, Mr. ORTIZ, Mr. SANDERS, and Mrs. BIGGERT.

H.R. 23: Mr. ALEXANDER.

H.R. 65: Mr. PORTER, Mr. BAKER, Mr. BLUNT, Mr. HEFLEY, and Mr. FITZPATRICK of Pennsylvania.

H.R. 147: Mr. WHITFIELD and Mr. GRAVES.

H.R. 213: Mr. BISHOP of New York.

H.R. 269: Mr. BARROW.

H.R. 311: Mr. BOYD.

H.R. 376: Mr. GEORGE MILLER of California.

H.R. 503: Mr. HOSTETTLER.

H.R. 559: Mr. FILNER, Ms. WOOLSEY, and Mr. BROWN of Ohio.

H.R. 583: Mrs. EMERSON and Mr. FILNER.

H.R. 602: Ms. ROYBAL-ALLARD.

H.R. 698: Mr. HAYES and Mr. SHAYS.

H.R. 717: Mr. WEXLER.

H.R. 752: Mr. HIGGINS.

H.R. 898: Mr. LEVIN and Mr. CARDIN.

H.R. 1000: Mr. SCOTT of Georgia.

H.R. 1080: Ms. McKINNEY.

H.R. 1107: Mr. CARDOZA.

H.R. 1188: Mr. RANGEL, Mrs. JONES of Ohio, and Mr. SANDERS.

H.R. 1217: Mr. INSLEE.

H.R. 1298: Mr. FERGUSON.

H.R. 1351: Mr. BARROW.

H.R. 1356: Mr. WELDON of Pennsylvania.

H.R. 1358: Mr. STRICKLAND.

H.R. 1384: Mr. DeLAY

H.R. 1426: Mr. CLAY.

H.R. 1582: Mr. BILIRAKIS.

H.R. 1589: Mr. HONDA and Ms. NORTON.

H.R. 1806: Mr. BISHOP of New York.

H.R. 2037: Mrs. DAVIS of California, Mr. SHERMAN, Mr. BISHOP of New York, and Mrs. MUSGRAVE.

H.R. 2051: Mr. RAMSTAD.

H.R. 2178: Mr. FARR, Mr. GUTIERREZ, Ms. KAPTUR, Mr. HONDA, Mr. MILLER of North Carolina, Mrs. CAPPS, Ms. PELOSI, Mr. SANDERS, Mr. KENNEDY of Rhode Island, and Mr. KANJORSKI.

H.R. 2231: Mr. WELDON of Pennsylvania, Mr. ETHERIDGE, Mr. BEAUPREZ, Mr. BACHUS, Mr. JOHNSON of Illinois, Mr. WATT, Ms. MATSUI, Mr. AL GREEN of Texas, and Mr. SALAZAR.

H.R. 2305: Mr. BISHOP of New York.

H.R. 2306: Ms. CORRINE BROWN of Florida and Ms. BERKLEY.

H.R. 2369: Mr. MURTHA, Mr. HALL, and Mr. ALLEN.

H.R. 2421: Mr. TOWNS and Mr. MURTHA.

H.R. 2561: Mr. KUHL of New York and Mrs. McCARTHY.

H.R. 2567: Mr. MURTHA.

H.R. 2717: Mr. EDWARDS.

H.R. 2730: Mr. ISRAEL, Mr. MEEKS of New York, Ms. HERSETH, Mr. BROWN of Ohio, Mr. BOYD, Mr. LINDER, Mrs. DAVIS of California, Mr. FRANK of Massachusetts, Mr. DAVIS of Alabama, and Mr. BISHOP of Georgia.

H.R. 2828: Ms. McCOLLUM of Minnesota and Mr. JEFFERSON.

H.R. 3255: Mr. SIMMONS and Mr. PRICE of Georgia.

H.R. 3284: Mr. SMITH of Washington.

H.R. 3407: Mr. ANDREWS.

H.R. 3427: Mrs. JOHNSON of Connecticut and Mr. REYNOLDS.

H.R. 3478: Mr. DANIEL E. LUNGREN of California and Mr. PEARCE.

H.R. 3540: Mr. MORAN of Virginia.

H.R. 3547: Mr. ENGLISH of Pennsylvania.

H.R. 3584: Ms. WOOLSEY and Mr. MARKEY.

H.R. 3616: Mr. SANDERS.

H.R. 3658: Ms. JACKSON-LEE of Texas.

H.R. 3702: Mr. REYES.

H.R. 3836: Mr. SOUDER.

H.R. 3858: Mr. GALLEGLY and Ms. DeGETTE.

H.R. 3949: Mr. BARROW, Mr. GONZALEZ, and Mr. CONYERS.

H.R. 4042: Mrs. JO ANN DAVIS of Virginia.

H.R. 4063: Mr. PITTS.

H.R. 4098: Mr. EVERETT.

H.R. 4183: Mr. ABERCROMBIE.

H.R. 4188: Ms. MATSUI and Mr. CUMMINGS.

H.R. 4197: Mr. McGOVERN.

H.R. 4211: Ms. McKINNEY.

H.R. 4217: Mr. BRADLEY of New Hampshire.

H.R. 4236: Mr. MARSHALL.

H.R. 4239: Mr. CHOCOLA and Mr. NORWOOD.

H.R. 4381: Mr. BOUSTANY, Mr. JONES of North Carolina, and Mr. BURGESS.

H.R. 4416: Mr. SANDERS, Mrs. LOWEY, Ms. HARRIS, and Mr. BLUMENAUER.

H.R. 4450: Mr. FEENEY and Mr. HOEKSTRA.

H.R. 4452: Ms. LINDA T. SÁNCHEZ of California and Mr. VAN HOLLEN.

H.R. 4469: Ms. BORDALLO, Mrs. CHRISTENSEN, Mr. GRIJALVA, Ms. ROYBAL-ALLARD, Mr. CONYERS, Ms. LINDA T. SÁNCHEZ of California, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. NAPOLITANO, Mr. GUTIERREZ, Mr. ORTIZ, Mr. PASTOR, Mr. GONZALEZ, Mr. CUELLAR, Mr. BACA, Mr. SERRANO, Mr. DOGGETT, Mr. BROWN of Ohio, and Mr. STARK.

H.R. 4550: Mrs. WILSON of New Mexico, Ms. McCOLLUM of Minnesota, and Mr. STARK.

H.R. 4576: Mr. WICKER.

H.R. 4597: Mr. BURGESS, Mr. SESSIONS, Mr. EDWARDS, Mr. HEFLEY, Mr. BONILLA, and Ms. BERKLEY.

H.R. 4600: Mr. LANTOS and Ms. WOOLSEY.

H.R. 4621: Mr. SOUDER.

H.R. 4651: Mr. LANGEVIN.

H.R. 4730: Mr. WEXLER and Mr. WOLF.

H.R. 4740: Mr. CASTLE.

H.R. 4747: Mr. MOORE of Kansas, Mr. DAVIS of Illinois, Mrs. TAUSCHER, Ms. WOOLSEY, Mr. RUSH, Mrs. MALONEY, Mr. TOWNS, Mr. LYNCH, Mr. BOEHLERT, Mr. CARDIN, Mr. CUMMINGS, Mr. OBERSTAR, Mr. LANTOS, Mr. FRANK of Massachusetts, Mr. ALLEN, Mr. WYNN, Mr. ENGLISH of Pennsylvania, Mr. THOMPSON of Mississippi, Ms. WATSON, Mr. GERLACH, Mr. KING of New York, and Mr. HOLDEN.

H.R. 4751: Mr. WELDON of Pennsylvania, Mr. PETERSON of Pennsylvania, and Mr. HAYES.

H.R. 4755: Mr. SCOTT of Georgia, Mr. FERGUSON, Mr. LEWIS of Georgia, Mr. SHUSTER, and Mr. TERRY.

H.R. 4761: Mr. THOMPSON of Mississippi.

H.R. 4824: Mr. MOORE of Kansas.

H.R. 4843: Ms. HERSETH.

H.R. 4859: Mr. CASTLE.

H.R. 4873: Mr. LANGEVIN.

H.R. 4903: Ms. ZOE LOFGREN of California.

H.R. 4913: Mr. BARTLETT of Maryland and Mr. PAUL.

H.R. 4945: Mr. CARDIN.

H.R. 4974: Mr. JINDAL, Mr. LINDER, and Mr. HENSARLING.

H.R. 4985: Mr. HERGER.

H.R. 4992: Mr. WEXLER and Mr. REYES.

H.R. 5005: Mr. MARSHALL.

H.R. 5013: Mr. McCRERY, Mr. PICKERING, Mr. NEY, Mr. HOLDEN, and Mr. STEARNS.

H.R. 5022: Ms. HERSETH and Mr. SANDERS.

H.R. 5047: Ms. McKINNEY.

H.R. 5056: Mrs. MILLER of Michigan, Mr. DAVIS of Kentucky, Mrs. BIGGERT, Mr. McCAUL of Texas, Mrs. KELLY, and Ms. GINNY BROWN-WAITE of Florida.

H.R. 5058: Mr. MOORE of Kansas.

H.R. 5072: Mr. GRAVES.

H.R. 5099: Mr. BISHOP of Georgia and Mrs. MUSGRAVE.

H.R. 5106: Mr. BACA, Ms. SOLIS, Mr. SERRANO, Mr. GONZALEZ, Mr. BECERRA, Mr. McGOVERN, and Mr. FRANK of Massachusetts.

H.R. 5108: Mr. AL GREEN of Texas, Mr. CARTER, Mr. CULBERSON, Mr. BONILLA, Mr. BURGESS, Mr. CONAWAY, Mr. SESSIONS, Mr. McCAUL of Texas, Mr. DeLAY, Mr. BARTON of Texas, Ms. JACKSON-LEE of Texas, Mr. GENE GREEN of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PAUL, Mr. ORTIZ, Mr. REYES, Mr. DOGGETT, Mr. NEUGEBAUER, Mr. GOHMERT, Mr. THORNBERRY, Mr. BRADY of Texas, Mr. MARSHALL, Mr. SAM JOHNSON of Texas, Ms. GRANGER, Mr. HALL, Mr. HENSARLING, Mr. CUELLAR, Mr. GONZALEZ, Mr. HINOJOSA, Mr. EDWARDS, and Mr. SMITH of Texas.

H.R. 5121: Mr. FORTUÑO, Mrs. CAPITO, Ms. GINNY BROWN-WAITE of Florida, Mr. ISRAEL, Mr. PEARCE, Mr. LaTOURETTE, Mr. ROSS, Mr. DAVIS of Kentucky, Mr. FOLEY, Mr. PORTER, Mr. RENZI, Mr. NEUGEBAUER, Mrs. JO ANN DAVIS of Virginia, Mr. ANDREWS, Mr. SANDERS, Ms. PRYCE of Ohio, and Mr. FEENEY.

H.R. 5134: Mr. FRANK of Massachusetts, Mr. BISHOP of Utah, Mr. DAVIS of Tennessee, Mr. BISHOP of Georgia, Mr. MILLER of North Carolina, Mr. PEARCE, and Mr. SANDERS.

H.R. 5145: Mr. GIBBONS.

H.R. 5147: Mr. DeFAZIO, Mr. OWENS, Mrs. MALONEY, Mr. PAYNE, Mr. ROTHMAN, Mr. McGOVERN, and Ms. WOOLSEY.

H.R. 5149: Mr. SAXTON, Mr. RANGEL, and Mr. COSTA.

H.R. 5170: Mr. DAVIS of Kentucky.

H.R. 5171: Mr. BROWN of Ohio and Mr. RYAN of Ohio.

H.R. 5182: Mr. HINOJOSA, Mr. PETERSON of Minnesota, Mr. BACHUS, Mr. DOGGETT, Mr. BISHOP of Georgia, Ms. HERSETH, Mr. RAHALL, Mr. HOYER, Mr. UDALL of Colorado, Mr. RAMSTAD, Mr. TERRY, Ms. FOXX, Mr. MOLLOHAN, Mr. KUHL of New York, Mrs. CAPITO, Mr. RYAN of Ohio, and Mr. FORTENBERRY.

H.R. 5190: Mr. CUMMINGS, Mr. WYNN, Mr. JEFFERSON, and Mr. GONZALEZ.

H.R. 5201: Mr. STARK, Mr. MEEKS of New York, Mrs. MALONEY, Ms. SLAUGHTER, Mr. KING of New York, and Mr. SHUSTER.

H.R. 5206: Mr. BEAUPREZ, Mr. SANDERS, Mrs. McCARTHY, Mr. ROTHMAN, and Mr. McINTYRE.

H.R. 5220: Mr. HULSHOF.

H.R. 5229: Mr. FRANK of Massachusetts, Mr. McNULTY, Mr. SAXTON, Mr. BROWN of South Carolina, Mr. LANTOS, Mr. KILDEE, and Ms. MATSUI.

H.R. 5230: Mr. HOEKSTRA.

H.R. 5252: Mr. BACA, Mr. DAVIS of Tennessee, Mr. BARROW, Mr. HAYES, Mr. MACK, and Mr. BISHOP of Georgia.

H.R. 5255: Mr. MILLER of Florida, Mr. ROGERS of Alabama, and Mr. NORWOOD.

H.R. 5262: Mr. LEWIS of Kentucky, Mr. BURTON of Indiana, Ms. GINNY BROWN-WAITE of Florida, Mr. SIMPSON, and Mr. SESSIONS.

H.R. 5278: Mr. MILLER of Florida, Mr. CHOCOLA, and Mr. TERRY.

H.R. 5280: Mr. LATHAM.

H.R. 5286: Mr. OBERSTAR, Mr. CROWLEY, and Mr. McHUGH.

H.R. 5291: Ms. GINNY BROWN-WAITE of Florida, Mr. SESSIONS, and Mr. JINDAL.

H.R. 5318: Mr. CHABOT.

H.R. 5319: Ms. GINNY BROWN-WAITE of Florida.

H.R. 5333: Mr. SMITH of New Jersey, Ms. NORTON, Mr. CARNAHAN, Mr. MICA, and Mr. SMITH of Washington.

H.R. 5336: Mrs. JO ANN DAVIS of Virginia.

H.R. 5339: Mr. GRIJALVA and Mr. WELDON of Pennsylvania.

H.R. 5341: Mr. FEENEY, Mr. PAUL, and Mr. McHENRY.

H.R. 5348: Mr. FRANK of Massachusetts, Mr. TOWNS, and Mr. WAXMAN.

H.R. 5351: Mr. WELDON of Pennsylvania, Mr. SMITH of Texas, Mr. McCOTTER, Mr. BRADY of Texas, Mr. CRENSHAW, Ms. JACKSON-LEE of Texas, Ms. HARRIS, Mr. ANDREWS, Mrs. LOWEY, and Mr. DENT.

H.R. 5368: Mr. WELLER.

H.R. 5373: Mr. PETERSON of Minnesota.

H.R. 5382: Mr. BROWN of Ohio.

H.R. 5383: Ms. BORDALLO, and Mr. CONYERS.

H.R. 5388: Ms. DeGETTE, Mr. HIGGINS, and Mr. CUMMINGS.

H.J. Res. 39: Mr. Barrow, Mrs. Jo Ann Davis of Virginia, Mr. Davis of Kentucky, and Mr. Goode.

H.J. Res. 53: Mr. McCotter.

H. Con. Res. 336: Mr. Conyers.

H. Con. Res. 346: Ms. Loretta Sanchez of California, Mr. Stearns, Mr. Terry, Mr. Barton of Texas, and Mr. McCaul of Texas.

H. Con. Res. 348: Ms. Carson.

H. Con. Res. 384: Ms. Waters, Mr. Davis of Alabama, Mr. Wexler, Mr. Evans, Ms. Millender-McDonald, and Mr. Lantos.

H. Con. Res. 393: Mr. Brown of Ohio.

H. Con. Res. 401: Mr. Van Hollen, Mr. Brown of Ohio, Ms. Kaptur, Mr. Waxman, Mr. Doggett, Mr. Jefferson, Mr. Hinchey, Mr. Strickland, Mr. Larsen of Washington, Mr. Delahunt, Mr. Wynn, Ms. Jackson-Lee of Texas, Mr. McNulty, and Mr. McDermott.

H. Res. 230: Mr. Paul and Mr. Leach.

H. Res. 490: Ms. Carson and Mr. Gonzalez.

H. Res. 526: Mr. Sherman.

H. Res. 690: Mr. Cole of Oklahoma.

H. Res. 723: Ms. Berkley and Mr. Kucinich.

H. Res. 749: Mr. Rush.

H. Res. 760: Mr. Higgins and Mrs. McCarthy.

H. Res. 773: Mr. Rangel.

H. Res. 777: Mr. Owens, Mr. Hastings of Florida, Mrs. McCarthy, and Mr. Rush.

H. Res. 785: Mr. Young of Florida, Ms. DeGette, and Mr. Kucinich.

H. Res. 790: Mr. Grijalva and Mr. Hastings of Florida.

H. Res. 795: Mr. Fortenberry.

H. Res. 804: Mr. Akin, Mr. McNulty, Mr. Burton of Indiana, Ms. Hart, Mr. Ferguson, Mr. McGovern, Mr. Cantor, and Mr. Gordon.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2567: Ms. Baldwin.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 5386

Offered By: Mr. Pallone

Amendment No. 3: At the end of the bill (before the short title) insert the following:

TITLE VI—ADDITIONAL GENERAL PROVISIONS

Sec. 601. None of the funds made available in this Act may be used to promulgate in final form, issue, implement, or enforce the Environmental Protection Agency's Toxics Release Inventory Burden Reduction Proposed Rule published in the Federal Register on October 4, 2005 (Volume 70, Number 191) at pages 57822 and following or the Toxics Release Inventory 2006 Burden Reduction Proposed Rule published in the Federal Register on October 4, 2005 (Volume 70, Number 191) at pages 57871 through 57872.

H.R. 5386

Offered By: Mr. Chabot of Ohio

Amendment No. 4: At the end of the bill (before the short title), insert the following:

Sec. ___. None of the funds made available in this Act may be used to plan, design, study, or construct a forest development road in the Tongass National Forest for the purpose of harvesting timber by private entities or individuals.

H.R. 5386

Offered By: Mr. Beauprez

Amendment No. 5: In title III of the bill under the heading "WILDLAND FIRE MANAGEMENT (INCLUDING TRANSFER OF FUNDS)", insert after the first dollar amount the following: "(increased by $28,700,000)".

In title III of the bill under the heading "NATIONAL ENDOWMENT FOR THE ARTS—GRANTS AND ADMINISTRATION", insert after the first dollar amount the following: "(reduced by $30,000,000)".

H.R. 5386

Offered By: Mr. Rahall

Amendment No. 6: At the end of the bill (before the short title) insert the following new section:

SEC. ____. LIMITATION ON USE OF FUNDS FOR SALE OR SLAUGHTER OF FREE-ROAMING HORSES AND BURROS.

None of the funds made available by this Act may be used for the sale or slaughter of wild free-roaming horses and burros (as defined in Public Law 92–195).

H.R. 5386

Offered By: Mrs. Musgrave

Amendment No. 7: At the end of the bill (before the short title), add the following:

TITLE ___—ADDITIONAL GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. ___. None of the amounts made available in this Act may be used for review or study by the United States Geological Survey of Preble's meadow jumping mouse (Zapus hudsonius preblei) or of any subspecies of such species.

H.R. 5386

Offered By: Mr. Tancredo

Amendment No. 8: Page 28, line 14, strike "; and of which" and all that follows through "*Provided further*," on line 22.

H.R. 5386

Offered By: Mr. Meehan

Amendment No. 9: At the end of the bill (before the short title), insert the following:

TITLE VI—ADDITIONAL GENERAL PROVISIONS

Sec. 601. No funds appropriated under this Act may be used to finalize, issue, implement, or enforce the proposed policy of the Environmental Protection Agency entitled "National Emissions Standards for Hazardous Air Pollutants", Docket ID No. EPA–HQ–OAR–2004–0094 or any proposed or final rulemaking or policy change replacing the policy described in the May 16, 1995 EPA memorandum ("Potential to Emit for Maximum Achievable Control Technology (MACT) Standards—Guidance on Timing Issues," May 16, 1995, from John Seitz, Director, Office of Air Quality Planning and Standards, to EPA Regional Air Division Directors).

H.R. 5386

Offered By: Mr. Cannon

Amendment No. 10: Page 46, line 8, after the dollar amount insert "(reduced by $18,000,000)".

Page 47, line 1, after the first dollar amount insert "(increased by $16,000,000)".

H.R. 5386

Offered By: Mrs. Maloney

Amendment No. 11: Under "MINERALS MANAGEMENT SERVICE—ROYALTY AND OFFSHORE MINERALS MANAGEMENT", after the first dollar amount insert "(increased by $1,000,000) (reduced by $1,000,000)".

H.R. 5384

Offered By: Mr. Gutknecht

Amendment No. 13: At the end of the bill (before the short title), insert the following new section:

Sec. 7___. (a) Limitation on Use of Funds.—None of the funds appropriated or otherwise made available by this Act shall be used to implement the limitation in section 720 of this Act.

(b) Corresponding Reduction in Funds.—The amounts otherwise provided by this Act are revised by reducing the amount made available for "AGRICULTURAL RESEARCH SERVICE—BUILDINGS AND FACILITIES" and the amount made available for "COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE—RESEARCH AND EDUCATION ACTIVITIES" by $65,319,000 and $16,681,000, respectively.

H.R. 5384

Offered By: Mr. Johnson of Illinois

Amendment No. 14: Page 82, after line 14, insert the following:

Sec. 853. The Secretary of Agriculture shall request the Institute of Medicine of the National Academy of Sciences to conduct a study of the specific food consumption and the nutritional value of foods purchased by households that participate in the food stamp program. The National Academy of Sciences shall issue recommended guidelines based on the results of the study for the creation of a nutritional food list for use by such households for potential food purchase incentives.

EXTENSIONS OF REMARKS

IN HONOR AND RECOGNITION OF ANTHONY BRANCATELLI

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Anthony Brancatelli, Ward 12 Cleveland Councilman, as he is presented with Villa Montessori's prestigious Guardian Angel Award.

This award is given to a person who has been instrumental in the success of the Villa Montessori Center School. Mr. Brancatelli was the former chief executive of Slavic Village development and played a vital role in finding a space for the school and spearheaded its expansion during its 10 years of existence.

Mr. Brancatelli has always been a pioneer for community development, public safety and education. During his 17 years at the Slavic Village Community Development Corp., Mr. Brancatelli partnered with longtime councilman, Ed Rybka, to reshape and renew the neighborhood. He organized several block clubs on safety and housing issues, with community anchors such as Cleveland Central Catholic High School and with Third Federal Savings and Loan on major investments in the ward. He also brought forward a case to the Cleveland Housing Court in which they sued the owner of 110 severely neglected houses in a racially diverse, working-class neighborhood, since then it has developed into a respectable living area. Mr. Brancatelli was also the executive director of the Broadway Housing area housing coalition, which had renovated over four hundred houses. Under his leadership it was the largest number of renovations done by any community development corporation in Cleveland.

Mr. Speaker and Colleagues, please join me in recognition of Anthony Brancatelli as he rightfully receives the Guardian Angel Award. Mr. Brantacelli's perseverance, dedication, and compassion to the Slavic Village have made him a patriarch and champion for all people in the city of Cleveland.

DENTON REGIONAL MEDICAL CENTER HONORED AS TOP-RANKED PLACE TO WORK IN DFW

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. BURGESS. Mr. Speaker, I rise today to recognize Denton Regional Medical Center in my congressional district for being named "Top-Ranked Best Places to Work" in the Dallas Fort Worth Metroplex by the Dallas Business Journal.

Nearly 200 companies entered the competition that began in January of 2006. Denton Regional Medical Center, where I used to work, received the distinction for businesses with over 500 employees.

Denton Regional Medical Center is renown for maintaining a warm and inviting environment despite the fact that the full-service hospital has doubled its size in the last 5 years. The family atmosphere has been a hallmark of the institution for its beginnings.

The hospital promotes from within, offers scholarship loans and tuition reimbursement, ongoing education programs for employees and participates in community service projects such as Meals on Wheels and Habitat for Humanity, where about 200 employees contributed more than 1,700 volunteer hours to build a house last year.

Hospitals can be overwhelming places to work not only for the sheer number of hours that individuals give in time of service, but also the unusually high emotional stress associated with hospital positions. In 2005, Denton Regional Medical Center recorded 9,046 admissions and 42,131 emergency room visits. But hospital executives work diligently encouraging open dialogue by inviting managers and administrators to hold advisory group meetings. Hospital Chief Executive Bob Haley also conducts town hall meetings each quarter to which all employees are invited to attend and ask questions.

Today, I congratulate Denton Regional Medical Center for its service to the community and its commitment to providing a positive work environment for its dedicated medical and administrative staff. I am honored to have worked at Denton Regional Medical Center and to know represent its staff, my constituents, in Congress.

CONGRATULATING TEMPLE BETH ISRAEL FOR 100 YEARS OF SERVICE

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to Temple Beth Israel in Hazleton, Pennsylvania, on the occasion of its 100th anniversary.

In 1895, the Jews living in Hazleton organized an orthodox congregation. But, even at that time there was a desire among some of the members to establish a congregation that favored reform practices.

In the fall, of 1906, a small group was able to engage the services of Rabbi Block who conducted High Holiday services which they believed were more in keeping with the modern American conditions of the time.

Late in September 1906, 23 men met to organize a reform congregation that would be called Beth Israel, or "House of Israel." Soon, Temple Beth Israel joined the Union of American Hebrew Congregations.

Over the years, the congregation has followed the path of the city of Hazleton with a combination of good times and hard times. Throughout its history, Temple Beth Israel has contributed to the city's business and civic leaders, distinguished doctors and lawyers.

Temple Beth Israel has been a good neighbor and a helpful ally. The congregation has survived for 100 years and stands ready for the next 100 years.

Mr. Speaker, please join me in congratulating Temple Beth Israel and all its members on the happy occasion of their 100th anniversary. Congregations like Temple Beth Israel form the solid foundations every community needs for moral guidance and human development. It is a proud day for Temple Beth Israel and we share in the congregation's exuberance.

TRIBUTE TO MARIN YOUTH SYMPHONY ORCHESTRA

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Ms. WOOLSEY. Mr. Speaker, I rise today to honor the Marin Youth Symphony Orchestra (MYSO) on the occasion of its 50th anniversary. Over the past half century, the orchestra has provided the opportunity for over 3,000 talented young musicians to learn and perform classic symphonic orchestral music.

This was made possible by brilliant conductors such as founder Maestro Hugo Rinaldi who led the MSYO from its inception in the fall of 1954 until 1989 while the group enjoyed residence at Dominican College. Under his leadership the MSYO grew to become an integral part of the arts community in Marin County collaborating with the Marin Ballet, Marin Girl's Chorus, Marin Opera, Marin Theater Company, Marin Youth-In-Arts and numerous other organizations. He also toured the MSYO to Italy, Austria, and Australia, a unique experience for the young musicians.

Upon Hugo Rinaldi's retirement, Leslie Stewart led the group for seven seasons, adding scholarships and a chamber program. Dr. Anthony Adessa developed the orchestra further until 2001, when current conductor George Thomson took over the baton. Thompson moved MSYO to its current home with the College of Marin.

Under Maestro Thomson's leadership the orchestra has developed an extraordinary opportunity for soloists, and ensemble players to experiment with innovative repertoire. He continues to provide gifted young people with an

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

opportunity to benefit from his professional coaching and intimate knowledge of classical literature, allowing for participation in performing rich and rewarding orchestral music.

The MYSO has provided valuable training for a number of students who have continued their musical careers into the uppermost heights of musical accomplishment. Alumni include Joe Alessi, Principal Trombone of the New York Philharmonic; Mark Isham, Grammy, ASCAP, and Tony award winning film score composer; Tara Flandreau, Chair of the College of Marin Music Department; Dan Smiley, Second Violin; San Francisco Symphony; and numerous performers of the Marin Symphony Orchestra as well as music teachers who have continued to instruct successive generations.

In the words of participant Lucy Williams (First Violin Section, 2004), "When I went to hear Jeremy Constant (Marin Symphony concertmaster) perform on his Stradivarius at Davies Symphony Hall I asked him what inspired him. He said that as a youth symphony musician he got to play Scheherazade, by Rimsky-Korsakov, and I realized that he was my age when he was playing it and we had just finished performing that same piece! I felt a rush of excitement, like I was walking a path of history and it might lead me onto that stage some day. I thought about George telling us about the "giant nerf rocks" in the shipwreck passage and it made me feel like the luckiest person there."

Mr. Speaker, the Marin Youth Symphony Orchestra will continue to develop musical talent and provide inspiration for young talented people in Marin County by making it possible for them to learn and share musical experiences of the highest possible level. The benefits of this cultural asset extend to the entire community, enriching our national musical heritage. I congratulate them on this 50th anniversary celebration.

IN HONOR AND REMEMBRANCE OF IONE BIGGS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Ione Biggs, cherished wife, mother, grandmother, friend, and champion of peace and social justice whose remarkable life echoes a call for peace and civil rights within our community and around the world.

Mrs. Biggs began blazing trails early on. Every inroad she created was lined with grace, integrity, and courage. One of first women police officers hired in the city of Cleveland, Mrs. Biggs worked in the Juvenile Division where she guided and assisted women and children for more than 10 years. Disenchanted with the rampant sexism and racism that permeated the Police Division at that time, Mrs. Biggs transferred to the Cleveland Municipal Court in 1955, where she worked diligently until her retirement in 1986. Her husband of 53 years, the late Keith D. Biggs, their son, Keith, and daughter, Gladys, were central to her life. Beyond her commitment to family and work, Mrs. Biggs' unrelenting activism, focused on peace, minority rights, and women's rights, played a vital role in elevating the hearts and minds of the public and its leaders, at home and abroad. She marched in support of Cleveland Mayor Carl B. Stokes and marched in opposition of the Vietnam war. In 1995, Mrs. Biggs organized a local delegation to attend the International Women's Conference in Beijing. She was an active leader in Nine to Five, supported Cleveland Working Women, WomenSpace, League of Women Voters, the ACLU, SpeakOut for Affirmative Action and numerous other social justice organizations. Mrs. Biggs attended national and international peace conferences, including disarmament and human rights summits in Sweden, Kenya, and the former Soviet Union.

Mr. Speaker and colleagues, please join me in honor, gratitude, and remembrance of Mrs. Ione Biggs, who lived life with great joy, energy, passion, and in tireless advocacy on behalf of others. A certain grace illuminated her life, and the endless measure of her kindness and her dignified defiance will exist forever within the hearts of those who knew her well, especially her family and friends. Mrs. Biggs' legacy of peace transcends borders and time, lending light and hope to those who still live without justice, and to those who continue her march—from the steps of Public Square in Cleveland, Ohio, to the steps of the City Square in Nairobi, Kenya, and her journey will be remembered always.

IN RECOGNITION OF MAYOR EULINE BROCK'S OUTSTANDING SERVICE AND DEDICATION TO THE CITY OF DENTON

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. BURGESS. Mr. Speaker, I rise today in recognition of Denton Mayor Euline Brock. After 6 years of service as Mayor and more than 20 years of dedicated service to the city of Denton, Ms. Brock will retire on May 23, 2006.

Mayor Brock was elected mayor in 2000, was an at-large member of the Denton City Council from 1992–1998, serving as mayor pro tem from 1994–1998, and from 1998–2000 she served as chair of the 50-member Blue Ribbon Citizens' Committee that formulated and promoted the capital improvement bond program.

Under Mayor Euline Brock's guidance, the city of Denton has emerged as a major City in the Denton-Dallas-Fort Worth Metroplex and the State of Texas through her involvement in regional policy-making efforts. Ms. Brock served as president of Metroplex Mayors where she promoted development of a regional transit system and organized the first-ever joint meeting of the Metroplex Mayors and Tarrant County Mayors Council. Her initiatives included the regional "Keep Local Government Local" group organized to lobby the Texas Legislature on issues important to north Texas cities, and her vision of Denton as the "Third City" in the region—not third in size, but third in importance, as she has established Denton as a regional center for medical services, retail, banking, employment, entertainment, sports and the arts.

Mayor Brock was instrumental in the formation of the Denton Tomorrow and Denton Tomorrow II community symposiums which created a set of strategies and actions to achieve sustained economic vitality in Denton. Thanks in large measure to her vision and leadership, the city of Denton has been successful in expanding its retail base to address the needs of a vibrant and growing city including: the construction of Sally Beauty Company's new Worldwide Support Center, the construction of United Copper, Flowers Foods, Fastenal Company, Denton Crossing, and the expansion of Peterbilt's regional headquarters.

Ms. Brock's tenure also ushered in unprecedented improvements to the infrastructure of the city of Denton with a new central fire station, a new library branch, renovations of historic buildings and construction of new roads and water treatment facilities.

Perhaps one of her greatest strengths is her ability to build consensus, as demonstrated by her creating an environment of cooperation and respect on the Denton City Council, her hosting of the first ever joint meeting between the Denton City Council and the Denton Independent School District Board to explore better ways to work cooperatively, and her inclusion of the Denton Chamber of Commerce Board on key business issues before the city.

Mayor Euline Brock has also worked closely with my office to ensure that we are aware of the accomplishments and needs of the largest city in my district, Denton, She has been and continues to be a catalyst for positive change, always with Denton's future in mind and best interest at heart. Even with all of these and other accomplishments too numerous to list, Mayor Brock has remained a modest person who always shared the credit of progress with her fellow city council members, city staff, her husband Dr. Horace Brock, and with others in the community.

Today, I recognize her decades of hard work and selfless dedication given to the citizens of Denton. I am honored to represent Mayor Euline Brock in Washington, and I hope her service to the citizens of Denton will never be forgotten, but will often be set as a standard of dedication and true leadership.

CONGRATULATING THE SAN CATALDO SOCIETY ON ITS 100TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to the San Cataldo Society of Dunmore, Pennsylvania, which is celebrating its 100th anniversary this month.

In 1904, a group of Dunmore residents, recently emigrated from the island of Sicily, associated themselves for the purpose of promoting goodwill, civic betterment and for the benefit of its members in cases of sickness, accident or death from funds collected.

The early history reveals that these pioneers, bearing the customs which they inherited from their native land, but handicapped by a language barrier, overcame many difficulties and obstacles in the formation of the Societa San Cataldese Cooperativa Di Mutua Saccorso in Dunmore.

In March 1905, a group of 48 men held their first meeting at Washington Hall, Chestnut and Comer Streets, and they elected the late Rosario Bentivenge as the first president.

The society continued to progress since its incorporation under the laws of the Commonwealth of Pennsylvania on May 15, 1906. Meetings were conducted at various Dunmore landmarks, including DeAndrea's Hall on Willow Street; Lalli's Hall on Willow Street; Naro's Hall on Elm Street, and Luzio's Hall on Mortimer Street.

In 1927, after many years of sacrifices and perseverance by the members, the society began construction of a building at 316 Elizabeth Street. The same building is still in use today.

The Italian immigrants who made up the San Cataldo Society contributed much to their community, working in various occupations including coal miners, construction workers and skilled laborers. They served in public office and their descendants served and fought honorably in defense of this Nation. Their children, grandchildren and great-grandchildren have served the community and the nation becoming doctors, lawyers, engineers, judges, construction contractors, business owners, nurses, pharmacists and public servants.

Mr. Speaker, please join me in congratulating the San Cataldo Society and its members past and present. Their devotion to their community has improved the quality of life and serves as a positive example for others to emulate.

TRIBUTE TO MARINELL EVA

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Ms. WOOLSEY. Mr. Speaker, I rise today to honor my friend Marinell Eva, upon the occasion of her retirement as Executive Director of the Community Child Care Council of Sonoma County (4Cs). Thanks to Marinell, 4Cs is not only a successful agency but also one with a lot of heart. Her writings in the newsletter, reflective of her childhood and her children's, show her deep connection and empathy with families and children.

During Marinell's 17 years with the agency, she was a leader in developing a variety of child care services, collaborations with other organizations, and advocacy for children and families. Also, 4Cs researched and published the study, The Economic Impact of Child Care in Sonoma County, under her direction and in partnership with the Child Care Planning Council. 4Cs continues to inform businesses and government of the link between child care and our local economy.

Marinell moved to Sonoma County in 1978, and soon became the Program Director at the YWCA's A Special Place child care program where she served for many years. She volunteered with the Sonoma County Child Abuse Council and was a member of the Board of Directors of the Extended Child Care Coalition. She currently serves on the SRJC Child Development Advisory Committee, First Five Professional Community Advisory Committee, and is an advisory member of the Sonoma County Child Care Planning Council of Sonoma County. She has a B.A. in English Literature and Psychology, and an M.A. in Clinical Psychology.

Her commitment and passion have been an invaluable asset to Sonoma County. Carl Wong, Superintendent of Schools, says, "The teachers and principals of the Sonoma County K–12 public school system have benefited from the leadership and advocacy of Marinell Eva for over 16 years. Her professional dedication in support of children and families helps to promote a level playing field for the 5000+ Kindergarten students who begin their school experience each year."

These thoughts are echoed by Joel Gordon, the Director of Early Childhood Education at Santa Rosa Junior College: "Through the years Marinell has been one of my favorite people to work with. In a time when the word is overused, she has become a great leader in Sonoma. The combination of her vision, talent, commitment, compassion and sense of humor have changed for the better our community and ultimately the lives of many of its youngest citizens. She is one of a kind and will be greatly missed."

Marinell and her husband, David Pittman, live on property in Sebastopol, where two their children and all four grandchildren live. She plans to continue as a member of the Board of Trustees at the Sonoma Academy, and in between gardening and reading she will spend time studying Spanish, literature, and music as well as keeping up with the grandchildren.

Mr. Speaker, I, too, have been inspired by working with Marinell Eva. She says it best in her own words: "Working with people in the child care field has been my deep privilege. I have had the good fortune to work for what I believe in—meeting the needs of children. What better way to change the world?"

TRIBUTE TO THE LATE CALIFORNIA STATE SENATOR ED DAVIS

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. McKEON. Mr. Speaker, I rise in sadness today to honor the memory of Ed Davis, a former California State Senator and Los Angeles Chief of Police. He was a remarkable man who was a monumental presence on the Los Angeles and California political scene. Senator Davis passed away on April 22, 2006 in San Luis Obispo, CA, at the age of 89.

Born Edward Michael Davis on November 15, 1916 in Los Angeles, he graduated from John C. Fremont High School and enlisted in the United States Navy where he became a decorated officer. He later received his Masters in Public Administration from USC. Always a proud alumnus, he often sported a maroon blazer and gold pants, USC's famous colors, on the State Senate floor.

Joining the Los Angeles Police Department in 1940, Ed first walked a beat in downtown Los Angeles with the late Los Angeles Mayor Tom Bradley. Rising up through the ranks, he was a director of the police and fire union and later a trusted top aide to legendary Chief William Parker. Ed served as Los Angeles Chief of Police from 1969 until 1978 where he was known as a popular firebrand who pushed law and order during times of turbulence.

Chief Davis proved popular with not only the people of Los Angeles, but also with weary Americans who were looking for tough leadership during uncertain times. During the same period, his officers' morale was at an all-time high. He became a national figure as a tough law and order proponent quelling student protests during the Vietnam War, opposing the Black Panthers, and taking a strident stance against the epidemic of hijacking in the early 1970s.

In 1974, the entire Nation watched as the Chief's force had a climatic shootout with the Simbionese Liberation Army who had kidnapped heiress Patty Hearst. Several leaders of the gang died in a fiery blaze at the conclusion of the confrontation.

Chief Davis implemented historic reforms at the LAPD and left a legacy of influence in law enforcement. His innovations include creating the Neighborhood Watch concept to bring residents together, and instituting community policing. While crime rose by 55 percent across the Nation during his tenure as Chief, crime actually decreased by 1 percent in Los Angeles. His influence still exists in the LAPD, and programs that the Chief invented are at the heart of every police organization worldwide. The City of Los Angeles honored him by naming the newest and most elaborate of the three LAPD training centers "The Ed Davis Emergency Vehicle Operations Center & Tactics/Firearms Training Center" in 1998.

A respected member of the academic community, Chief Davis lecturing at USC and Cal State Los Angeles as an adjunct professor of police administration and management for 18 years. He was the author of Staff One, a leading police management textbook.

Prior to his appointment as Chief, he served for many years as a law enforcement advocate working with the California Legislature in Sacramento. Among his many outstanding contributions is the landmark Peace Officer's Standards and Training Act of 1959, which set minimum police standards for California.

After retiring as Police Chief in 1978, he set his sights on the California Governor's mansion. Running in the Republican gubernatorial primary, the Chief came in second to Attorney General Evelle Younger in a four-man race, which included State Senator Ken Maddy and San Diego Mayor Pete Wilson.

Chief Davis returned to the political arena in 1980 after winning the State Senate election for the 19th Senate District. He represented Thousand Oaks, Simi Valley, the North San Fernando Valley and the Santa Clarita Valley.

Overwhelmingly re-elected to a second Senate term in 1984, Senator Davis again set his sights on higher office. He entered the 1986

U.S. Senate race against longtime incumbent Alan Cranston. His slogan, "One Tough Cop, and One Great Senator" recalled his glory days as Chief.

The Republican race was upended when one of Senator Davis's opponents was indicted for allegedly offering him $100,000 if he dropped out of the race. The courts ultimately threw out the indictment, but the scuffle derailed the Senator's campaign and helped Congressman Ed Zschau win the nomination.

Davis turned his energy and attention back to Sacramento, winning praise as a reasoned Vice Chair of the Senate Judiciary Committee. Often called central casting's choice as a senator, the white-haired gentleman was easily reelected to a third term to the State Senate in 1988.

Known by his friends as a man of great charm and graciousness, Senator Davis celebrated 50 years of public service with a gala dinner in 1991. Highlights of the evening included recorded tributes from comedian Bob Hope and former Presidents Ronald Reagan and Richard Nixon. Looking forward to a peaceful retirement, Senator Davis and his wife, Bobbie, moved north to Morro Bay, California in 1992.

Senator Davis is survived by his wife, Bobbie, his children Michael Davis, Christine Coey and Mary Ellen Burde and step-children Fred, Michael, and Kyltie as well as several beloved grandchildren.

IN HONOR OF THE GRAND OPENING OF THE CZECH MUSEUM AND LIBRARY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Czech Cultural Center of Sokol Greater Cleveland, as we join them in celebration of the grand opening of the Czech Museum and Library, housed within the historic Bohemian National Hall in Cleveland's North Broadway neighborhood.

The Czech Museum and Library is part of the colorful weave in Cleveland's vibrant fabric of cultural diversity, and is visible in the strength, beauty and grace of the Bohemian National Hall. This historic treasure was built in 1897 by Czech immigrants whose quest for freedom and the opportunity for a better life for their families led them to America. Drawn to the booming industrial growth along the Great Lakes, thousands of Czech immigrants settled throughout the neighborhoods of Cleveland, grateful for their new beginning, yet never forgetting their country of origin. Their collective vision, focused on preserving and passing along tradition, heritage, language and culture, has allowed every new generation of Czech Americans to understand and celebrate the priceless traditions of their beloved Czech homeland.

The exhibits on display at the Czech Museum include artifacts and archives that reflect the history of the Broadway neighborhood, the history of the Bohemian National Hall, and the history of the Sokol Greater Cleveland organization. The numerous struggles and triumphs that outline the history of the Cleveland Czech community will also reflect among the exhibits at the Czech Museum and Library.

Mr. Speaker and Colleagues, please join me in honor and recognition of the leaders and members, past and present, of the Czech Cultural Center of Sokol of Greater Cleveland, upon the joyous occasion of the grand opening of the Czech Museum and Library. This monument of cultural preservation transcends time and distance, preserving and promoting the ancient cultural and historical traditions of Czech heritage, spanning oceans and borders—a permanent bridge of family, culture and history—from Cleveland, Ohio to the Czech Republic.

IN MEMORY OF KNOX TUCKER

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. BURGESS. Mr. Speaker, I rise today to give tribute to Knox Tucker, from the 26th Congressional District of Texas, for his lifelong contributions to his community and to his fellow citizens. Mr. Tucker committed his life to help whomever he could, whenever he could during more than 30 years as a coach and educator in the Fort Worth School District.

Mr. Tucker was born July 9, 1922, in Williamsport, Tenn. He was a 1939 graduate of Pearl High School in Nashville and served in the Army during World War II, rising to the rank of staff sergeant. After the war, he earned bachelor's and master's degrees from Tennessee State College. After teaching and coaching in Tennessee, he and his family moved to Fort Worth.

From 1952 to 1984, he was a coach, a teacher or an administrator. He is perhaps best known locally for his time coaching the I.M. Terrell High School basketball team. Under Coach Tucker, the team beat Prairie View to win the Interscholastic League State Championship in 1957.

He was a teacher, coach and vice principal at Como and Terrell, the city's black high schools, until 1971, when he became principal at Polytechnic. In 1980, he became principal at O.D. Wyatt. A year later, he was promoted into district administration as assistant director for high schools. After retiring in 1984, he worked as a Tarrant County probation officer for 10 years.

But he never gave up his habit of attending high school basketball games and tracking down former students and co-workers in the stands. In 2002, Mr. Tucker was inducted into the Texas Black Sports Hall of Fame.

It was my honor to represent Knox Tucker. I extend my sympathies to his family and friends. May the example of this man, whose contributions made richer the fabric of our American culture, be inspiration to all who seek their dreams and serve their fellow man.

SALUTING DR. DOROTHY IRENE HEIGHT ON THE ANNIVERSARY OF THE HISTORIC 1954 BROWN v. BOARD OF EDUCATION DECISION

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Ms. NORTON. Mr. Speaker, what can you say about a woman who has earned two of America's highest civilian honors—the Presidential Medal of Freedom by former President Bill Jefferson Clinton and the Congressional Gold Medal by our current President and Commander-In-Chief George W. Bush? For more than 80 years, Dr. Dorothy Irene Height, current Chair and President Emerita of the National Council of Negro Women (NCNW), the world's largest women's organization, has not only been a leader in the fight for women's and civil rights, but she has also been an activist and crusader for human rights. She has tirelessly dedicated her life's work to serving her community, our Nation and the world.

Dr. Height's Presidential Medal of Freedom and the Congressional Gold Medal symbolize the promise of America and embody the essence of sacrifice and allegiance to one's country. The values that have come to symbolize her life are the core values that should be represented in the lives of all Americans, young and old. She has worked to make America the best Nation that it can be and she is the best of what America represents as a Nation. She has fought to make the promise of the American dream, with justice and liberty for all, a reality in America through her tireless efforts.

Whether you choose to call her the "Queen Mother of the Civil Rights Movement" or the "Grand Dame of the Civil Rights Movement," Dr. Height is simply the embodiment of everything that makes our Nation great. She is truly an "indispensable" part of the civil, human and women's rights movement. She is one "America's National Treasures."

Her distinguished service and contributions to making the world a more just and humane one, have earned her hundreds of awards and honors from local, state, and national organizations and the federal government. Dr. Height has received over 24 honorary degrees, from such institutions as Spelman College, Lincoln University (Pennsylvania), Central State University, and Princeton University. She has not only been the recipient of hope's most precious gift—freedom, but she has been at the forefront as the giver of hope to millions of men, women and children of all races, colors, and creeds.

On this day, 52 years ago, the Brown vs. Board of Education decision served as a bridge to the promise of freedom for people from all races, creeds and colors. In commemoration of that historic decision, we celebrate the legacy of one woman who epitomizes the fight for freedom in this country and the journey for justice—Dr. Dorothy Irene Height.

In 1954, when the Brown vs. Board of Education decision was announced, Dr. Height led the way for the YWCA to produce the booklet, "Our Schools and Our Democracy," to encourage associations to participate fully in helping desegregate the schools. Dr. Height also convened a Southern Regional Conference in Atlanta to discuss the problems and opportunities of desegregation and worked closely with the student leadership of the YWCA to develop simple things that people could do, such as escorting a child to school when it is first integrated.

Fifty-two years later, her commitment to young people is alive and well today. Dr. Height is leading the way in leaving a lasting legacy for the next generation through the Dorothy Irene Height Youth For Excellence Initiative (YFE) Program in association with the Civil Rights musical, "If This Hat Could Talk: A Musical of Passion, Power, and Triumph." Dr. Height has utilized the musical as a strategy for "keeping the Civil Rights legacy alive" and empowering young people to make a difference in their local and global communities.

Because of her unwavering commitment to our youth, the YFE has become a cornerstone of the Musical's program. The YFE provides multicultural students, grades 7–12 with a free performance and materials for their teachers to continue teaching lessons of equality, fairness and respect for diversity in the classroom. The Musical experience allows them to learn about their Civil Rights legacy and continue that legacy through education. They view Dr. Height's journey throughout history and that of others like Rosa Parks, Fannie Lou Hamer, A. Phillip Randolph, John Lewis, Linda Brown and Mary McLeod Bethune, just to name a few. Today, because of her vision, her story, her on-going, never-ending commitment to kids, the Musical has been seen by over 10,000 youth. Dr. Height has set a new standard of excellence in her diligent, unwavering efforts to instill a commitment to Civil and Human rights in the next generation of leaders.

It is today that we, the members of the Congressional Black Caucus, celebrate and honor Dr. Dorothy Irene Height. We truly have an affinity for her. For 37 years, Dr. Height's trailblazing efforts have enabled us, as a Congressional Black Caucus, to empower the masses and effectively represent the interest of urban and rural America in this country and address the legislative concerns of citizens of all backgrounds. She has enabled us to be a viable, fair, fearless, and strong governmental force. Dr. Height showed us how one woman of courage, with one voice, could set in motion a mission that changed the world. As we continue as a Congressional Black Caucus, operating in one single voice, while reflecting our own diversity, we have gained strength, insight and instruction from her life. Through her efforts, she has taught us how to turn tumultuous times into turning points, pain into personal victory and adversity into achievement. For this, we are forever grateful.

HONORING JOEL M. CARP

HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. LIPINSKI. Mr. Speaker, I rise today to honor Joel M. Carp of the Jewish Federation of Metropolitan Chicago for his outstanding contributions to the Federation, as well as to the community at large. After 28 years of outstanding service, I have this great opportunity to congratulate Joel in his retirement.

Throughout his professional career in social work, social planning, and advocacy, Joel has engaged in efforts to create sound public policies and sustain quality, comprehensive health and human services for all people throughout Chicago, the state of Illinois, and the United States. He has served as chairman of and/or represented the Chicago Jewish community on a number of governmental task forces charged with determining public policy including: the City of Chicago Mayor's Task Force on Hunger, the Task Force on Homelessness, and the Task Force on Neighborhood Land Use. Additionally, Chicago Mayor Daley and Cook Country Board President Stroger appointed him to their Task Force on Welfare Reform. At the state level, he has served on: the Governor's Task Force on Services for the Homeless; the Department of Children and Family Services Child Welfare Advisory Committee; and on the advisory boards of the Illinois Department of Public Aid on social services, public welfare, block grants, and allocation of funds for emergency food and shelter. At the Illinois Department of Human Services, he serves as a member of the Family Self Sufficiency Council, the Governor's Families and Children Leadership Sub-Cabinet, and the Lt. Governor's Ethnic Affairs Council.

Joel has published over 30 articles on various subjects in the field of social work, social planning, voluntarism, and refugee resettlement. His most recent work is a chapter entitled "The Jewish Social Welfare Lobby in the U.S." in a two-volume work on the Jewish Polity & Civil Society, published in 2002. He has served a number of universities as a field faculty member in their graduate social work education programs.

I ask my colleagues in the House of Representatives to stand with me today and take this occasion to recognize Joel Carp for his many achievements, wishing him well in retirement. As Joel truly sets an example to all citizens, we acknowledge and thank him for his role in making our community a better place to live.

IN HONOR OF BARBARA BOYD

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. KUCINICH. Mr. Speaker, I rise today in tribute and recognition of Barbara Boyd, dedicated public servant, civic activist, community leader and devoted wife and mother, as she is being honored by the Community Living Hope United Methodist Church of Cleveland Heights, Ohio, for her unwavering focus, energy and work on behalf of improving the quality of life for all members of our community.

Ms. Boyd was born and raised in Cleveland, and graduated from Glenville High School. With a focus on higher education, Ms. Boyd graduated from St. Paul's College in Virginia, then moved back home to Cleveland where she worked as an educator in the Cleveland Public Schools. She began her tenure as a public servant in 1983, when she became the first African American elected to Cleveland Heights City Council. In 1992, Ms. Boyd was elected as the first African American Mayor in the history of Cleveland Heights.

Ms. Boyd's husband, Robert Boyd, and her daughter, Janine Boyd, continue to be the center of her life, with everything else radiating outward from there. With the great support of her family, she decided to continue her tenure of public service and run for state office. She was elected to the Ohio House of Representatives in 1993 and served until 2000 due to term limits. During her tenure in the House, Ms. Boyd focused her energy and expertise on committees that encompassed the support and empowerment of children, youth, families and the elderly. She was awarded the 2000 Legislator of the Year Award, for her work on alcohol and drug assistance and prevention; the Black Women's History Award in 1992, the Alzheimer's Award in 2000 and was named the "Official of the Year" by the Ohio Patrolmen Benevolent Association in 1989.

Mr. Speaker and Colleagues, please join me in honor of Barbara Boyd, as we join with the Community of Living Hope United Methodist Church in recognition of her professional excellence and devoted public service focused on uplifting our entire Cleveland community into the light of hope and possibility.

LAUREN WILLIAMSON WINS NINE TEXAS ASSOCIATED PRESS AWARDS

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. BURGESS. Mr. Speaker, I rise today to recognize Lauren Williamson, currently a senior at the University of North Texas for her nine broadcast awards from the Texas Associated Press.

A graduate of Marcus High School in 2003, Lauren Williamson is pursuing her journalism degree. During her time at UNT, Ms. Williamson worked as news director of KNTU–FM. The station competes for Division B of the Texas Associated Press Broadcasters which includes smaller radio markets throughout Texas. Ms. Williamson competed against other student and professional broadcasters.

Ms. Williamson won four, first place, three second place, and two honorable mention awards at this year's competition. The awards included her work on "Christmas in McKinney," "Fry Oil to Fuel," a report on the City of Denton's recycling program with Biodiesel Industries of Greater Dallas-Fort Worth, "Opening of Terminal D," a story about DFW Airport's newest international terminal and "Class Meets Media," concerning how UNT master's of public administration students training at Denton City Hall. Now, Lauren works as a weekend overnight anchor for local powerhouse WBAP and will soon be a part time producer for the local FOX 4 News.

Today, I congratulate Ms. Lauren Williamson on her broadcasting awards and her dedication to the profession of journalism. May her intellect, reporting and producing skills continue to serve her community with accurate and informative news. I am honored to represent Ms. Williamson in Congress, and I look forward to hearing more of her accomplishments in the years to come.

IN HONOR OF ARNOLD R. PINKNEY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. KUCINICH. Mr. Speaker, I rise today in tribute and recognition of Arnold R. Pinkney, dedicated family man, successful businessman, community activist, dedicated volunteer and friend and mentor to many, as he is being honored by the Community of Living Hope United Methodist Church of Cleveland Heights, Ohio.

Mr. Pinkney was born and raised in Youngstown and graduated from the Youngstown Public Schools. His quest for higher education led him to Michigan, where he graduated from Albion College with a Bachelor of Arts degree in Political Science and History. His personal integrity, strong self-motivation and unwavering dedication has guided him his whole life. During college, he was elected to "Who's Who in American Colleges and Universities," was President of the Independent Men's Union, and was a member of the Intercollegiate Athletic Association Team for Baseball and Basketball.

The focus on hard work and giving back to others continues to frame Mr. Pinkney's life. He is the Chairman of Pinkney-Perry Insurance Agency, a 41-year-old business located in Cleveland. He is also Senior Consultant and CEO of Betpin & Associates, a consulting firm established by his wife of 45 years, Betty Thompson Pinkney. His dedication to his wife and daughter, Traci Lynne Pinkney, extends outward into the community, where his spirit of volunteerism, leadership and energy continues to empower and support numerous local civic, educational, political and business agencies, including the Urban League, 100 Black Men, Inc., Cleveland Musical Arts Association, University Circle Incorporated, and the Race for Success, Inc.

Mr. Speaker and Colleagues, please join us in honor of Arnold R. Pinkney, as we join with the Community of Living Hope United Methodist Church in recognition of his dedicated service and contribution focused on family, faith and community. Mr. Pinkney's numerous contributions within the private and public sector continues to strengthen the well being of our entire Cleveland community.

PERSONAL EXPLANATION

HON. RANDY NEUGEBAUER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. NEUGEBAUER. Mr. Speaker, due to official business, I missed rollcall vote 146 on Thursday, May 11, 2006. Had I been present I would have voted "aye." This was a vote on H. Res. 802, a resolution to encourage all eligible Medicare beneficiaries who have not yet elected to enroll in the new Medicare Part D benefit to review the available options and to determine whether enrollment in a Medicare prescription drug plan best meets their current and future needs for prescription drug coverage.

I wholeheartedly agree with the message in H. Res. 802. To that end, I have worked diligently to notify my constituents of this new program wherever I go. I am pleased so many seniors have chosen to participate in this program and that so many are saving money.

TRIBUTE TO MANUEL GONZALEZ

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. GARY G. MILLER of California. Mr. Speaker, I rise today in honor of Correctional Officer Manuel Gonzalez.

Officer Gonzalez served for sixteen years as a correctional officer, dedicating his life to protecting the rights of the public and safeguarding our communities from criminal activity.

Manuel was born in East Los Angeles, California in 1961. He attended Rio Hondo College and subsequently enlisted in the United States Army in 1982. In the Army, he started his law enforcement career, serving in the United States and overseas in Germany.

In 1987, he married Silvia Ortiz. Together, they settled down to raise a family.

He joined the California Department of Corrections in 1988, and was assigned to the California Institution for Men in Chino in 1996.

On January 10, 2005, Manuel was killed in the line of duty while working his shift in the reception center of the institution. He was stabbed to death by an inmate known to be gang affiliated, who was already serving 75 years-to-life for the attempted murder of a peace officer.

Correctional officers who risk their lives to protect our safety should be commemorated today.

This week, Officer Gonzalez's name is being added to the Correction Officer's Memorial Wall. The wall is dedicated to the Correctional Officers, Employees, Jailors, and Deputies who made the ultimate sacrifice for their country, communities, and to their families.

Officer Gonzalez may be lost, but he is not forgotten. His unmatched love for his family, sense of humor, and dedication to his professional career are qualities we will never forget.

Today, my thoughts are not only with his family, but the families of all correctional officers who have died in line of duty.

Please join me in honoring Officer Gonzalez, his family, and all those who have given their lives in noble service to their community.

HONORING ROBERT SCHWANINGER, 2006 MASON DISTRICT CITIZEN OF THE YEAR

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Robert Schwaninger, the 2006 Mason District Citizen of the Year.

Robert Schwaninger became involved in Mason District community activities in 2001 by joining with his neighbors to participate informally in local land use issues. Through his involvement, he found that shaping the future of Mason District was an ongoing process that required engaging citizens at various levels.

He continues to work with members of his community to spur greater community involvement and voter participation. He authored and sent thousands of letters to residents of Mason District in order to encourage their participation in community development, local services and public cooperation. During the past two elections, Mr. Schwaninger worked the polls in his precinct, providing support and information to voters.

In 2005, Robert Schwaninger accepted the position of Chairman of the Area Plan Review Task Force. In doing so, he took on the responsibility of providing a forum for citizens to offer input regarding future land development throughout the District. Mr. Schwaninger guided the APR Task Force in an efficient and open manner, allowing for the timely and fair completion of the task.

Also during that time, Robert Schwaninger offered his expertise in the area of telecommunications law to Mason District and Supervisor Gross on issues related to emergency communications interoperability in support of first responders, land use issues related to the construction of radio towers and broadband infrastructure as well as other matters that fall within his practice specialties. As a widely-published, and often-quoted authority in the telecommunications field, Robert Schwaninger's consulting services have been a valuable contribution to Mason District.

Mr. Speaker, in closing, I would like to express my gratitude to Robert Schwaninger for all of his efforts on behalf of Mason District. I call upon my colleagues to join me in applauding his selection as the 2006 Mason District Citizen of the Year.

IN REMEMBRANCE OF CORPORAL HENRY D. CONNELL: AN HONOR LONG OVERDUE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. NEAL of Massachusetts. Mr. Speaker, this past Saturday it was my privilege to attend the funeral of Cpl. Henry D. Connell. It was a heart-warming, emotional and unique experience. This funeral was particularly moving since Corporal Connell was only 17 years old when he died on the battlefield in the small village of Unsan in the Democratic Republic of Korea. It was here that his regiment fought with the Chinese People's Volunteer Army for four long grueling days, and where he, and more than 1,000 members of the 8th Regiment, lost their lives.

It was November 2, 1950 when the United States Army declared Corporal Henry Connell to officially be missing in action. And 43 years later, on July 12, 1993, the Democratic People's Republic of Korea turned over the remains of 17 soldiers believed to be unaccounted for U.S. servicemen from the Korean War. Corporal Henry D. Connell's remains were one of the 17 soldiers recovered.

All told, this Springfield soldier was missing in action for 55 years. He enlisted in the Army at age 17, eager to serve in the Korean War, and served for only 8 months before he died, not living to see his 18th birthday. During his brief tenure in the army, he earned a Bronze Star and was promoted to corporal. Henry Connell was born in Springfield, MA and was the son of the late Robert F. Connell and Beatrice (Creamer) Connell Lanzillo. And this past Saturday, his remains were buried alongside his late mother in the Gate of Heaven Cemetery on Tinkham Road in Springfield.

Mr. Speaker, this was a unique and moving ceremony, and I feel fortunate to have been able to attend. I thank everyone involved who made this appropriate remembrance possible, and extend my sympathies to Thomas W. Connell, Henry's brother, and his wife Patricia and their family at this difficult, yet special time.

I would also like to enter into the CONGRESSIONAL RECORD the official obituary that recently ran in the Springfield, Massachusetts newspaper honoring the life of Corporal Henry D. Connell. May Henry Connell now rest in peace.

[From the Republican, May 7, 2006]

CPL. HENRY D. CONNELL

1933–1950 SPRINGFIELD.—Henry D. Connell, 17, a Corporal serving with the United States Army L Company, 3rd Battalion, 8th Cavalry Regiment, 1st Cavalry Division under the command of Major General Herbart Gay, was declared missing in action on November 2, 1950. He was born in Springfield, MA the son of the late Robert F. Connell and Beatrice (Creamer) Connell Lanzillo. Henry was educated from the Springfield School System, attended Cathedral High School, and joined the U.S. Army shortly after his 17 birthday. He was injured during combat on September 8, 1950, near the town of Taegu, R.O.K., and was evacuated to the 35th Station Hospital at Kyoto, Honshu, Japan. Shortly after he rejoined his unit, the 8th Calvary Regiment fought a pitched battle for four days with the Chinese People's Volunteer Army near the village of Unsan, Democratic People's Republic of Korea. It was during this battle that over 1,000 soldiers serving with the 8th Calvary lost their lives, Cpl. Henry D. Connell being one of them. The United States Army declared him missing in action on November 2, 1950. On July 12, 1993, the Democratic People's Republic of Korea turned over 17 soldier's sets of remains believed to be unaccounted for U.S. servicemen from the Korean War near Unsan. Cpl. Henry D. Connell remains were one of the 17 soldiers recovered, and missing in action, for over 43 years. Henry leaves his brother, Thomas W. Connell and his wife, Patricia (LeDoux) Connell of Stuart, FL; as well as several nieces and nephews living in Stuart, FL; and the Greater Springfield area. He was the brother of the late Audrey (Connell) Spencer of West Springfield, who died in 2004. His funeral with full military honors will be held Saturday, May 13, 2006, at Sampson's Chapel of the Acres, 21 Tinkham Rd., Springfield. During this service Henry's brother Thomas W. Connell, will be presented with the Bronze Star and Purple Heart for Henry's valor and dedicated service to a grateful nation by the United States Army. Rites of Committal will follow in Gate of Heaven Cemetery, Tinkham Rd., Springfield, where Henry will be buried next to his late mother and sister in the Connell family lot. Contributions in his memory may be directed to your nearest chapter of the Disabled American Veterans.

TRIBUTE TO ANNE BREHM OF KANSAS CITY, KANSAS

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. MOORE of Kansas. Mr. Speaker, as Memorial Day approaches, I want to take a moment to bring to the attention of the House of Representatives the noteworthy contribution of Anne Brehm of Kansas City, Kansas, to the Women in Military Service for America Memorial in Washington, D.C.

Originally attributed to an "unknown Army nurse," a quotation inscribed on the memorial site recently was attributed to World War II Air Force nurse Anne Sosh Brehm, who wrote it in a 1990 letter to retired Brig. Gen. Wilma Vaught, USAF, the foundation president for the memorial. The circumstances of her correspondence, and the recent attribution of the quote to Anne Brehm are recounted in a recent article from The Leaven, which I am including with this statement. Mrs. Brehm's quote, which will be properly attributed to her at a Memorial Day ceremony at the memorial later this month, is as follows:

"Let the generations know that the women in uniform also guaranteed their freedom; that our resolve was as great as the brave men who stood among us; and with victory our hearts were just as full and beat just as fast as theirs, that the tears fell just as hard for those we left behind us."

[From The Leaven, Nov. 11, 2005]

LET THE GENERATIONS KNOW—SACRED HEART PARISHIONER EARNED PLACE IN WORLD WAR II HISTORY

(By Bob Hart)

KANSAS CITY, KS—For years it was an anonymous quote, attributed to an "unknown Army nurse" at the Women in Military Service for America Memorial in Washington, D.C.:

"Let the generations know that the women in uniform also guaranteed their Freedom; that our resolve was as great as the brave men who stood among us; and with victory our hearts were just as full and beat as fast as theirs, that tears fell just as hard for those we left behind us."

Every so often, Anne Brehm, a parishioner of Sacred Heart Church in Kansas City, Kan., would hear of the quote, and think to herself, "I said that." Typically modest the former World War II Army nurse did nothing about it.

"For 15 years, I just let it go," Brehm said.

Things changed this past August when Brehm received a phone call from retired Brig. Gen. Wilma L. Vaught, USAF, foundation president for the memorial. Years earlier, Brehm had written the brigadier general to register for the memorial and had included the quote in the comments.

Vaught had been using it in speeches for years and had passed it on for inscription in a panel at the memorial itself, overlooking the pool. Unfortunately, she had long since misplaced Brehm's letter and could not remember whose words she was quoting.

As fate would have it, Vaught found Brehm's letter shortly before she was scheduled to speak at an American veterans of World War II convention in Kansas City, Mo., late this past summer. The rest, as they say, is history.

WHERE THE ACTION WAS

Gary, Ind., native Anne Sosh was just 22 and fresh out of nursing school in 1943 when she enlisted in the Second Air Force—incurring the playful wrath of her four brothers, who were all in the Navy.

"I betrayed my family," Brehm said, laughing in the kitchen of the Kansas City home in which she's lived for 50 years. "But the Navy didn't send their nurses overseas, and I wanted to be where the action was."

She got her wish.

She spent time in Bombay, India, where she was "in awe" at seeing Mahatma Gandhi; in Burma, where she saw Gen. Joseph Stillwell on the Ledo Road; and finally in China, where she got to know Gen. Claire Chennault and members of his famed Flying Tigers—many of whom were patients in the 172nd General Hospital where Brehm served.

She was still in China when the A-bomb was dropped. Chinese nationalists and Communists took up their fight, and the nurses were told to quickly leave the country.

They grabbed what pictures and other belongings they could, leaving behind 20 of their own—nurses and good friends who had been killed in a plane crash in Burma.

Brehm was first sent back to India. With the promise of her choice of hospitals, she reenlisted and requested Topeka General, stateside, with a secret ulterior motive: She was dating a young man she'd met overseas, Dick Brehm from Mission.

She would marry Dick Brehm and raise two children—son Alan and daughter Susie. She would also continue her nursing career until 1990, right about the time she heard about the memorial being built in Washington, D.C., to honor female veterans.

Ann Brehm picked up her pen and wrote, in her letter to Vaught, what would become a very famous quote.

"FOR ALL OF US"

"I was very moved by your words," Vaught told Brehm on the phone last August. "I've used them in hundreds and hundreds of speeches over the years."

The general invited Brehm to join her at the American veterans of World War II convention at Crown Center, where she would finally be identified as the writer of the quote that had been on display in the nation's capital for 15 years.

"I was introduced and spoke," Brehm said. "I have no idea what I said."

Brehm was greeted warmly by her fellow veterans, many of whom thanked her for the words that had moved them when they visited the memorial. Although the revelation that she is the woman who wrote "let the generations know" has brought her a certain level of celebrity, she treasures one clipping above all: a short article in her church bulletin written by her pastor, Father Michael Hermes, whom she calls "my archangel."

The memorial will soon change the inscription from "Author, unknown Army nurse" to properly credit 1st Lt. Ann Sosh Brehm. She thinks that's nice, but not such a big deal.

"We had a camaraderie you just don't find in civilian life," she said, recalling her fellow nurses, many long since gone. "What I said was for all of us, I don't need any credit."

TRIBUTE TO MR. DEAN J. UTEGG

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. HIGGINS. Mr. Speaker, I rise today to honor the life of Mr. Dean J. Utegg, a lifelong resident of Chautauqua County and a truly remarkable man.

DEAN J. UTEGG

[May 9, 2006]

Dean J. Utegg, 35, of 24 Maple Ave., Ripley died on Monday, May 8, 2006 at Select Specialty Hospital after a lengthy illness due to diabetes.

He was born on April 18, 1971, in Erie, to Fred L. Utegg of Ripley, and the late Joan L. Rizzo Utegg (1990).

He was a lifetime resident of Ripley, where he graduated from Ripley Central High School, and attended the State University at Fredonia.

He presently served as Ripley town supervisor and as district treasurer of Chautauqua Lake Central School, until recent retirement due to illness. He was also formerly employed at Mellon Bank in Erie for several years, and served as chairman of the Ripley and Chautauqua Democratic Committees, and was a former member of the Chautauqua Young Democrats. He also served as secretary for the Saturday Night Bowling League.

He was a member of St. Thomas More Church in Ripley and the Brotherhood of St. Joseph in North East. He loved bowling, golfing and was an avid true Cleveland Browns fan.

Besides his father, he is survived by his partner, Jai Trippy of Ripley; brothers: Stephen C. Utegg and his wife, Linda, and Mark A. Utegg and his wife, Lisa, both of North East, Pa.; sister, Belinda Mulholland and her husband, Timothy of Dewittville; several nieces and nephews, whom he was very close to; several aunts and uncles; and his friend, Miniature Dachshund, Brownie.

Friends may call at the William D. Elkin Funeral Home, 65 South Lake St., North East on Wednesday 7 to 9 p.m. and Thursday 2 to 4 and 7 to 9 p.m., and are invited to attend prayer services on Friday at 9:45 a.m. at the funeral home, followed by a Mass of Christian Burial at 10:30 a.m. at St. Gregory. Interment St. Gregory Cemetery. Memorials may be made to the American Diabetes Association, Pittsburgh Office, 300 Penn Center Blvd., Suite 602, Pittsburgh, Pa., 15235 or Ripley Hose Co., Ripley, NY., 14775.

Dean was a man who fully understood how to live life to its fullest and that, Mr. Speaker, is why I rise to honor him today.

HONORING ED WARNER

HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. BISHOP of New York. Mr. Speaker, I rise to recognize and honor a good friend and constituent, Mr. Ed Warner of Hampton Bays, New York, who recently passed away at the age of 80.

As a native of Hampton Bays and a fifth generation bayman, Mr. Warner knew more than just about anyone concerning the town's history and its people. He was highly admired for his kindness, generosity and steadfast advocacy for Southampton, its residents and its unique environment.

Born in 1925, Ed grew up in Hampton Bays developing a keen sense of loyalty and pride for his hometown. After serving in the Navy during the Second World War, he returned home and worked as a bayman, catching fish that he sold to the local market. Ed knew the best places to catch fish, how to catch the most fish and where to dig for the largest clams.

Ed put his knowledge of the sea to work as a member of the Southampton Board of Trustees. He excelled on this governing body that monitored the town's waterways, serving 27 years through 13 re-elections.

In addition to his public service, Ed's sense of humor and his generosity will not soon be forgotten. An example of his kindness and compassion for others was made evident when, without hesitation, Ed gave fifty dollars to a friend in need who couldn't afford to fix his chainsaw, which he used for his livelihood—sawing holes for ice fishing.

Indeed, Ed's sympathy and goodwill earned him an impeccable reputation. He will always be remembered as an excellent fisherman, public servant, and loving husband and father. He is survived by his wife of 48 years, Teresa, their daughter Merry, sons James and Edward Warner Jr., who is following in his father's footsteps as a newly appointed Southampton Trustee.

Mr. Speaker, on behalf of New York's first congressional district, the residents of Hampton Bays and the entire town of Southampton, I thank the House for this opportunity to express our sadness in the wake of Ed Warner's passing. He was a good man whose many enduring contributions to his community will always be remembered with fondness and gratitude.

HONORING PENN HIGH SCHOOL ON WINNING THE INDIANA ACADEMIC SUPER BOWL

HON. CHRIS CHOCOLA

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. CHOCOLA. Mr. Speaker, today I am excited to honor Penn High School for winning the Indiana Academic Super Bowl. Their first place showing at the Indiana Academic Super Bowl State Finals at Purdue University is their second in a row.

Vince Lombardi once said that "Winning is not a sometime thing; it's an all time thing. You don't win once in a while, you don't do things right once in a while, you do them right all the time. Winning is a habit." If this is true, then the Penn High School Academic Bowl Team is a great example of having a habit of winning.

The team members are: Jenny DeVito, Dmitri Gekhtman, Maggie Gerdes, Andrew Gresik, Josh Klopfenstein, Matt Klopfenstein, Kelsey McClure, Angela Shan, Josh Walker, and Michele Weldy.

I congratulate their Coach Peter Dekeever and all the members of the Penn High School Academic Super Bowl team on their great accomplishment.

TRIBUTE TO BOB LARSON OF WMBD–TV IN PEORIA, ILLINOIS

HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. LAHOOD. Mr. Speaker, I rise today to pay tribute to Bob Larson of WMBD–TV in Peoria, Illinois.

Next Tuesday, May 23, Bob will celebrate 35 years at this television station. Over that time, Bob has become an icon in Central Illinois. Every evening many citizens of my district tune in to the newscasts of Channel 31 to get the day's news from the familiar, friendly face of Bob Larson.

Bob started his broadcasting career at the age of 16 in his hometown of Morris, Illinois, and has served over the years on both radio and television as a reporter, weatherman, and anchor. He delivers the news in a straightforward, Midwestern style, sprinkled with humor and modesty. Through years of advancing technology and ever-changing news partners, Bob has remained a part of everyday life for Peorians and a bedrock part of WMBD. The Associated Press has honored Bob for Best Downstate Illinois Radio Newscast and Best Downstate Illinois TV Newscast. "I take the responsibility of giving Central Illinois the most comprehensive newscast we can very seriously," Bob has said.

Not only is a Bob an accomplished newsman, he has spent his career interacting with the public and being a tireless volunteer for many community activities. Bob is often seen riding in his convertible at the many parades throughout our area. He has hosted the Muscular Dystrophy Association telethon for more than 25 years. He has also served as host for the Easter Seals Telethon and Peoria's annual Santa Claus parade. Bob takes community service seriously, and he set a wonderful example for our community.

Today I congratulate Bob for his 35 years of service to WMBD. I count him as a friend and I look forward to watching his newscasts and working with him in the community for many years to come.

PERSONAL EXPLANATION

HON. CHARLES A. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. GONZALEZ. Mr. Speaker, on rollcall No. 131, 132, and 133, had I been present, I would have voted 131—"yes"; 132—"no" and 133—"yes."

HONORING NATIONAL SENIOR CENTER WEEK

HON. JEB BRADLEY

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. BRADLEY of New Hampshire. Mr. Speaker, I rise today to pay tribute to senior centers across New Hampshire during National Senior Center Week, which is May 15th through May 19th.

This year's theme is "Senior Centers—Our Community Investment." And an investment it is—senior centers provide a focal point for older Americans to access services, meet new People, and find ways to serve their communities. These centers offer invaluable services including employment assistance, health and wellness programs, transportation services, networking opportunities, and meal and nutrition programs, among others. They also introduce seniors to new technology through computer classes and Internet training.

In New Hampshire, there are approximately 45 senior centers across the State, including some in rural areas. I am fortunate to have had the opportunity to visit several of them, as well as a number of senior housing complexes and nursing homes. The seniors who visit these centers have a lifetime of experiences to share with others, and I enjoy hearing their stories. Many have answered the call to service: they serve as Foster Grandparents in schools, mentoring at-risk youth; others deliver meals to home-bound senior citizens; and many others serve their local communities by holding public office.

Each year in May, during Older Americans Month, we honor senior citizens for their contributions to our communities, which make them better places to live, work and raise a family. By continuing to provide programs that assist and educate older Americans, we can help them live longer, healthier, and more productive lives. I thank all of the volunteers and staff members at the senior centers around New Hampshire for their dedication to our Nation's older Americans.

HONORING LEROY HOMER, CO-PILOT OF UNITED AIRLINES FLIGHT 93

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. THOMPSON of Mississippi. Mr. Speaker, I would like to recognize the life and legacy of an African-American pilot and hero, LeRoy W. Homer, Jr., the First Officer of United Airlines Flight 93, which crashed into a reclaimed coal-mining area near Stonycreek and Shanksville on September 11, 2001.

At an early age, LeRoy W. Homer, Jr. knew that he wanted to be a pilot. As a child, LeRoy assembled model airplanes, collected aviation memorabilia and read books on aviation. LeRoy was 15 years old when he started flight instruction in Cessna 152. Working part-time jobs after school to pay for flying lessons, he completed his first solo at 16 years old, and obtained his private pilot's certificate in 1983.

In the fall of 1983, LeRoy entered the Air Force Academy, and graduated with the Class of 1987, 31st Squadron. After completing pilot training in 1988, he was assigned to McGuire AFB in New Jersey, flying the C–141B Starlifter. While on active duty, LeRoy served in Desert Shield and Desert Storm, and later supported operations in Somalia. He received many commendations, awards and medals during his military career. In 1993, he was named the 21st Air Force Aircrew Instructor of the Year. LeRoy achieved the rank of Captain before his honorable discharge from active duty in 1995.

LeRoy continued his military career as a reservist, initially as an instructor pilot with the 356th Airlift Squadron at Wright Patterson AFB, Ohio, then subsequently as an Academy Liaison Officer, recruiting potential candidates for both the Air Force Academy and the Air Force Reserve Officer Training Corps. During his time with the Reserves, he achieved rank of Major.

LeRoy continued his flying career by joining United Airlines in May 1995. His first assignment was Second Officer on the B727. He then upgraded to First Officer on the B757/767 in 1996, where he remained until September 11, 2001.

On September 11, 2001, LeRoy was flying with Captain Jason Dahl on United Flight 93. Based on information from several sources that day, we know LeRoy and Jason were the first to fight against the terrorist threat to the airplane.

LeRoy was able to accomplish much in his short life. He was able to do so because of the support of his family and friends, and the encouragement of his teachers and mentors. For his actions on board Flight 93, Homer received many awards and citations posthumously, including honorary membership in the historic Tuskegee Airmen, the Congress of Racial Equality's Dr. Martin Luther King, Jr. Award, the Southern Christian Leadership Conference Drum Major for Justice Award, and the Westchester County Trailblazer Award.

Above all of the accolades and awards, it is because of Homer's sacrifice that I pay tribute. I take great pride in recognizing Mr. LeRoy W. Homer, Jr., an African-American hero.

INSPIRING INTER-FAITH MUTUAL COOPERATION AND RESPECT

HON. THELMA D. DRAKE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mrs. DRAKE. Mr. Speaker, I had a unique opportunity to address on Holocaust Memorial Day (April 25) about 200 clergy and lay leaders representing 64 churches of the Presbytery of Eastern Virginia at their quarterly meeting at the historic Carver Memorial Presbyterian Church in downtown Newport News.

The gathering on that particular day of members of the Presbyterian Church, USA, was coincidental though my invitation to join them was not. It was a very thoughtful and touching gesture by a minister friend of mine, the Rev. Dick Keever of Bayside Presbyterian Church in Virginia Beach who served as the meeting's moderator. It speaks volumes of the inspiring inter-faith climate of mutual cooperation and respect in greater Hampton Roads which I've come to appreciate during my 21 years of living in this community and serving it as a rabbi. From 1985 to 1995 my congregation of Beth Chaverim was the only one in the world to meet in a Catholic facility, the most gracious Church Of The Ascension in Virginia Beach.

I was most gratified and a bit concerned to be welcomed by Presbyterian colleagues and friends given the recent tensions born of the controversial resolution to consider divestment from companies doing business in Israel which impacts upon the Palestinians. I felt that resolution was far too one-sided and discriminatory failing to invest toward a better future for all. I also happen to be the first rabbi to have earned a doctoral degree from the Presbyterian affiliated McCormick Theological Seminary in Chicago, adding an intriguing dimension to my special encounter on a day reminding me more than any other of being a son of Polish Holocaust survivors. I spent my early childhood in a Displaced Persons Camp in Frankfurt, Germany, and then grew up in Haifa, Israel, prior to coming to Chicago in 1966 to join my Holocaust survivor grandmother who lost her own parents, five siblings and countless others.

I was moved to share with my distinguished Presbyterian audience that the poison unleashed from the destruction of European Jewry had allowed for other genocides to occur, from the killing fields of Cambodia to Bosnia, Rwanda, Saddam Hussein's mass graves, suicide bombers wreaking havoc in New York and Israel, and Sudan's Darfur region where those with lighter skin color begrudge the presence and very lives of those with darker skin. The Holocaust, the defining event of the previous century, may yet prove to be the beginning of the end of civilized human life. After all, it took place in Christian Europe at the hands of the German nation deemed to be a leader in many fields, yet so quickly succumbing to the worst of human impulses. Though it was nourished by centuries of church led demonizing and dehumanizing, persecutions and expulsions of a vulnerable minority that in spite of its abuse as a scapegoat refused to abandon its distinct heritage.

Among the Holocaust's victims were members of my father's family, direct descendents of Spanish Jews expelled in 1492 and ultimately invited to build the town of Zamosc in eastern Poland in 1588, till Hitler sealed their destiny in 1939 without the option even of conversion.

The State of Israel, home to the largest number of Holocaust survivors who are now quickly diminishing with age, is the only nation-state on earth threatened openly with annihilation by the President of another state, Iran, while he denies that the Nazi Holocaust ever took place and thus proposing one as he is bent on acquiring a nuclear capability. I pleaded with the Presbyterians, having the misguided divestment plan in mind, not to endanger in any way the Holocaust's survivors who did not seek revenge at the war's end but rather to rebuild their lives in an ancient homeland where the dream of universal peace was first conceived. Survivors, like my parents, living in an Israel which ironically has not known shalom's blessings since its 1948 inception and on May 3rd will celebrate the 58th anniversary of the Jewish state. I vividly recall attending with my father Israeli military Independence Day parades early on, and his enthusiastic acclaim to the sight of a "Jewish tank" and a "Jewish plane," a response to our dire helplessness in the past and the sacred act of defending one's people and honor.

However, to presently despair in light of mighty challenges, would only betray the survivors noble and life-oriented spirit as well as the words of Anne Frank, one of a million and a half Jewish children including cousins of my own, "in spite of everything I still believe that people are really good at heart, I simply can't build up my hopes on a foundation consisting of confusion, misery and death." Indeed Jews, Christians, Muslims and all who share our anguished planet-earth ought to be reassured by Anne's loving message and make her vision a reality for all children including Israeli and Palestinian, American and Chinese, now and forever.

Rabbi Israel Zoberman is the spiritual leader of Congregation Beth Chaverim in Virginia Beach.

TRIBUTE TO MR. KEN POTTS

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to Mr. Ken Potts who is moving on after having served our community in Southwest Michigan as the director of the Kalamazoo/Battle Creek International Airport for 16 years. Ken has a strong bond with the Kalamazoo area as he also received his BS in Aviation Technology and Management and his MBA from Western Michigan University.

Ken's distinguished career began as an intern as at the Kalamazoo Municipal Airport, which would later become the Kalamazoo/Battle Creek International Airport. After two stints managing airports in North Carolina and Vermont, Ken returned home to direct the airport where his career started in Kalamazoo—he remained there for 16 years. His other career highlights include being an Accredited Airport Executive by the American Association of Airport Executives and serving as President of the Michigan Association of Airport Executives.

After so many years of great service, I want to be sure that proper recognition was given to Ken; his long career in the aviation field speaks for itself and I think that all of us in Southwest Michigan are quite lucky that we had him aboard for so many years. The presence of an airport in Kalamzoo not only makes travel convenient for our local folks, it also makes our corner of Michigan attractive to businesses that continue to view Southwest Michigan as an ideal place to run their business.

Ken leaves our airport better than he found it. We wish Ken and his family all of the best in their future endeavors.

USA RENEWABLE FUEL ACT OF 2006

HON. JOHN T. SALAZAR

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. SALAZAR. Mr. Speaker, I rise today to announce my introduction of the USA Renewable Fuels Act of 2006. I worked on this legislation with Congressman GUTKNECHT of Minnesota, who is also a strong supporter of biofuels.

The USA Renewable Fuel Act of 2006 is aimed at assisting domestic producers of biofuels, including ethanol and biodiesel. This act would ensure that key provisions of the 2005 Energy Bill pertaining to renewable fuels production would apply to U.S. production only. My vision is to help make agriculture a partner in the energy future of this country by investing in U.S. producers and manufacturers of biofuels. This legislation helps ensure that vision.

Last year, Congress passed and the President signed legislation that doubles the use of ethanol and biodiesel by the year 2012. Recently there has been a push to eliminate tariffs on the importation of biofuels from other countries—an action that could threaten the competitiveness of domestic producers.

This bill will ensure that the Renewable Fuel Standard Congress passed last year will apply only to domestic production of biofuels. This bill will not discourage the importation of foreign biofuels, but will simply reserve a portion of the market for U.S. producers. My hope is to help promote the production and use of biofuels within the United States, and I believe this legislation will help achieve that goal.

Biofuel production is perceived to play a key role in the revitalization of rural America, including Colorado's 3rd Congressional District. Right now many farmers are taking the initiative by investing in the production of biofuels. It is our role as their representatives to provide the necessary tools and help in any way we can to achieve these goals and help revitalize our rural communities. I urge my colleagues to support this legislation as it moves forward.

TRIBUTE TO BISHOP VICTOR T. CURRY: CELEBRATING HIS 15TH PASTORAL ANNIVERSARY

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. MEEK of Florida. Mr. Speaker, I would like to take this opportunity to pay tribute to one of Miami's great spiritual and community leaders, Bishop Victor T. Curry.

On May 21, Bishop Curry will celebrate his 15th pastoral anniversary, and I want to echo the same sentiments of joy and gratitude that the 15,000 members of the New Birth Baptist Church in Miami will lift up to Almighty God on this happy occasion.

Bishop Curry's ministerial journey truly represents the best and the noblest of our community. As bishop, senior pastor, and teacher of New Birth Baptist Church, he is leading his congregation in the ways of God and has tirelessly worked to enlighten our community on the path to spiritual wisdom, social responsibility and good government based on the laws of God and the dictates of conscience.

I want to acknowledge the tremendous work he is doing in constantly guiding not only the members of New Birth Baptist Church, but also the entire family of the "The Cathedral of Faith International." He has truly exemplified the model of Christ as the Good Shepherd, and has led his flock, sharing with them the words of God's wisdom and the good news emanating from the gospel.

His motto—"From Vision to Victory"—has impacted the lives of countless people, for Bishop Curry has carried forth his message of hope in person, in newspapers, on television, and on radio. He has demonstrated, both by word and by example, his unconditional love for and commitment to our children, the elderly, the poor, the disenfranchised, and those less fortunate among us.

I therefore join with his congregation and our entire community in honoring Bishop Curry on his 15th pastoral anniversary and in wishing him many more in the years to come.

A SUCCESS STORY OF DEMOCRACY IN AFRICA

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. FRANK of Massachusetts. Mr. Speaker, since congressional districts were realigned in Massachusetts in 1992, I have had the honor of representing a large number of Americans who trace their ancestry to the Republic of Cape Verde. As with other Americans who trace their ancestry to other nations, the Cape Verdean Americans who live in my district are very proud of their ancestral homeland, and are very much interested in my working to preserve good relations between our two countries. In the case of Cape Verde, that is very easy. The Republic of Cape Verde from the day of its independence has maintained a degree of democracy, respect for individual freedom, and respect for human rights that is very impressive. In the nature of things, people tend to hear bad news about other continents, countries or regions. But while it is important for us to give attention to those places where correction is needed, we should not by silence about successes let people think that there are none. I recently had the chance to read a very impressive study by Dr. Bruce Baker and Professor Roy May of Coventry University in the United Kingdom, entitled Cape Verde: The Most Democratic Nation In Africa?

In the acknowledgment to their report, the authors answer this question in the affirmative—We believe that the country fully lives up to the title of the most democratic nation in Africa.

Sensible space limitations prevent me from asking that their entire article be printed here. I do note that it will soon be appearing in a leading academic journal on African affairs. But given the importance of refuting the notion that democracy is somehow unsuited to African countries, a justification occasionally put forward by defenders of autocracy, I do want to quote some important passages here from their article:

One of the most striking indicators of Cape Verde's democratic maturity has been the ease by which power has been transferred, with defeated governments and their supporters accepting the electorate's verdict. Since the country's 1991 transition to multiparty democracy, Cape Verdeans have changed their government three times.

Deputies from both main parties believe the National Assembly to be effective in adversarial debate. Civil and political rights are enshrined in the constitution and widely respected in practice. The judiciary is regarded as independent and therefore free of political bias.

Mr. Speaker, the authors acknowledge that democracy of Cape Verde, as is true everywhere else, is not perfect, but they stress that there is an overall democratic atmosphere in Cape Verde in which those lapses can be pursued by people interested in improving the situation without fear of repression or retaliation.

Mr. Speaker, I am very pleased to call attention to the thriving democracy in the Republic of Cape Verde both because it deserves attention in itself, and is a counter to those who argue that somehow democracy and respect for basic human rights is a western doctrine that cannot travel to other parts of the world.

Mr. Speaker, the Cape Verdean Americans whom I represent are very proud of their homeland, as they should be. It is entirely appropriate that the Bush Administration recognized the flourishing democracy of Cape Verde, among other aspects of that nation's governance, by making it one of the first recipients of funds under the new Millennium Challenge foreign aid program.

DAMU SMITH INTERNATIONAL RENOWNED ACTIVIST DIES AT AGE 54

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. RANGEL. Mr. Speaker, I rise today to pay tribute to Damu Smith, who died May 5, 2006, and to enter into the record an article by Makani Themba-Nixon entitled Damu Smith, popular activist, dies at 54 which appeared on May 13, 2006 as a special to The Washington AFRO American.

Damu Smith was a people's activist who put his heart and energy into more than one cause. He was a St. Louis native and longtime Washington, D.C. resident, but he was renowned internationally as a great organizer and a man of ideas. He was a co-founder with Donelle Wilkins of the National Black Environmental Justice Network, NBEJN, in 1999.

As the first coordinator for Southern Organizing Committee for Economic and Social Justice, Smith revealed the practice of some corporations that targeted poor African American Communities. He organized Toxic Tours in the South to help bring national attention to this very serious problem. The story of this successful campaign to force a PVC plant out of Norco, La., was made into Lifetime cable movie, Fenceline: A Company Town Divided.

Smith was a leader and co-founder of several social justice initiatives including Artists for a Free South Africa and Black Voices for Peace. For over 30 years, Smith worked to bring justice to all.

When Smith first became ill, his many friends and followers from many peace, environmental and social justice movements rallied around him to give him their full support as a way of showing their love and gratitude for everything he had done to promote peace, justice and preservation of our mutually shared planet.

Among the many projects Smith was involved in was promoting a national Martin Luther King Jr., Holiday. In the 1990s he joined Greenpeace USA and monitored corporate pollution on the Gulf Coast. He coordinated the first National People of Color Environmental Leadership Summit in 1991, helping to link the civil rights movement to the environmental movement for the first time, colleagues said.

Born LeRoy Wesley Smith, he came to Washington in 1973. He later took the name Damu, which the Associated Press of May 8, 2006 reported means blood, leadership and strength in Swahili.

Damu Smith was a leader of great strength and passion. His causes were many and varied but all of them were about social justice and civil rights. Smith was an activist for 30 years. During this time, he was a co-founder of Artists for a Free South Africa and Black voice for Peace. His efforts ranged from a stint as executive director of the Washington Office on Africa during the anti-apartheid movement to work on gun violence and police brutality with the United Church of Christ Commission for Racial Justice.

According to the Afro American article, Ron Daniels founder and president of the Institute of the Black World 21st Century, reflected that Smith was an incredible organizer, an incredible leader and teacher. He was also an incredible human being. I certainly second that assessment.

Journalist George E. Curry wrote that Damu Smith who died at age 54, crammed more into his 54 years on earth than people who live twice as long. Yet, the feeling lingers that he left us too soon. Curry wrote that Smith was a man of integrity and he was a visionary. Those are words of high praise and they are true in describing Damu Smith. I want to add, he was a man with a great heart who spent his life working for those who most needed him.

Damu Smith loved his one child very much. His many friends knew how much and how deeply he loved Asha Hadia Vemice Moore Smith, his 14-year-old daughter. They have set up a trust fund so she will have the opportunity for the education he wanted for her.

I believe if Asha has inherited his heart and his character Damu Smith's daughter will be a light in the world just like her father.

[From the AFRO American News, May 10, 2006]

DAMU SMITH, POPULAR ACTIVIST, DIES AT 54

(By Makani Themba-Nixon)

Damu Smith, internationally renowned activist and a founder of the environmental justice movement, passed away early on May 5 at George Washington Hospital. Surrounded by a crowd of friends and family that spilled down hospital corridors, Smith, 54, succumbed after a year long bout with colorectal cancer. Smith was a dedicated organizer who even at the height of his health challenges found time to support social justice work. In recent months, Smith addressed the Millions More March and a capacity crowd for a TransAfrica forum, despite his ailing health. "He loved his people," says Donelle Wilkins, co-chair of the National Black Environmental Justice Network (NBEJN) an organization she and Smith founded in 1999. "You may have seen him at the big podiums and the big meetings but he was also in the country corners, the small towns, the little places. He rolled up his sleeves. He got his hands dirty."

A St. Louis native and long time Washington, D.C. resident, Smith was a leader and co-founder of several social justice initiatives including Artists for a Free South Africa and Black Voices for Peace. A consummate organizer and bridge builder, Smith's work extended over 30 years and several issues. "He was about bringing justice wherever it was needed," said Wilkens.

Smith's efforts ranged from a stint as executive director of the Washington Office on Africa during the anti-apartheid movement to work on gun violence and police brutality with the United Church of Christ Commission for Racial Justice, the National Wilmington 10 Defense Committee and the National Black Independent Political Party. An outspoken activist on peace and disarmament, Smith served as associate director of the Washington Office of the American Friends Service Committee and traveled internationally to support movements for peace and justice around the world. "He was undoubtedly one of the most important activists of our time," reflected Ron Daniels, founder and president of the Institute of the Black World 21st Century. "He was an incredible organizer, an incredible leader and teacher. He was also just an incredible human being." Perhaps Smith is best known for his groundbreaking work to establish the environmental justice movement. As national associate director and national toxics campaigner for Greenpeace USA, he helped carve out the racial justice analysis that helped distinguish environmental justice from the "green space" focus that typified environmental work of the day.

As the first coordinator for environmental justice for the Southern Organizing Committee for Economic and Social Justice, Smith gained firsthand experience of the corporate pollution practices that target poor and African American communities. He organized Toxic Tours in the South to help bring national attention to the issue, taking celebrities Alice Walker, Haki Madhubuti and others to the infamous area in Louisiana dubbed Cancer Alley. "The work in Cancer Alley was his heart. He didn't think anything about his well being. He stood in the face of the threats, of the violence, of the toxics. He set an example for what was possible. It gave his community a sense of strength, a sense that together they can make a difference. And they did. It was profound," said Wilkens.

The campaign to force a PVC plant out of Norco, La. was eventually the subject of a Lifetime cable channel movie, {Fenceline: A Company Town Divided}. Smith's efforts helped draw attention to the disproportionate toxic dumping in African-American communities nationwide, which led him to help found the National Black Environmental Justice Network.

"It was his vision to bring Black people together from all over the country to unite us around this issue," Wilkins said. "He singlehandedly brought together folk from more than 30 states—welfare moms to PhDs—to give birth to this network. Damu's leadership and commitment was relentless." Although Smith remained executive director of the network until his death, his primary campaign over the last year was his own survival. Friends launched the Spirit of Hope campaign to support Smith with living and healthcare expenses as years of organizing work left him with little resources and without health insurance. His wide network responded with an outpouring of support including a star studded gala last July that brought together artist activists Danny Glover, Bernice Reagon and Sonia Sanchez.

"These resources went to support Damu in acquiring the care he needed," said Sandra Rattley, Spirit of Hope coordinator. "Damu was so grateful. The doctors were saying he only had three months last year but the community came together and literally extended his life. And every month he had, he continued to give back."

Survivors include his daughter Asha Hadia Vernice Moore Smith, 13. He is also survived by a sister Sylnice Williams; two brothers Richard Anthony Smith and Leslie Dudley Smith; a significant other Adeleke Foster, two nephews, six nieces and thousands of friends and fellow soldiers in the battle for peace and justice.

Rattley said the community is rallying to ensure that Asha is provided for. Smith often referred to his daughter as the crown jewel of his life and once boasted had started a Black Kids for Peace organization. Friends and colleagues often remarked on what a devoted and caring father Smith was. "I know that Damu wanted to make sure that Asha is alright," says Rattley. A memorial service is scheduled for 5 p.m. May 20 at Plymouth Congregational Church, 5301 North Capitol St., N.W. in Washington, D.C. In lieu of floral arrangements, the family requests all donations be made to the Asha Moore Smith Trust, 1750 Columbia Road, N.W., Washington, D.C. 20009 or online at www.damusmith.org.

50TH ANNIVERSARY OF THE LIVONIA HISTORICAL SOCIETY IN LIVONIA, MICHIGAN

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. McCOTTER. Mr. Speaker, today I rise to honor and recognize the 50th anniversary of the Livonia Historical Society in Livonia, Michigan.

For five decades, the Livonia Historical Society has worked to preserve the historical and cultural heritage of our community. Initially founded in 1956 by Gladys and Don Ryder in the Bentley High School library, the Livonia Historical Society serves as guardian over Livonia's original buildings, museums, and homes.

The Livonia Historical Society's extraordinary accomplishments include preserving the Quaker House; and naming a library after prominent Livonia engineer Alfred Noble; and developing the 160-acre Greenmead historical village, which contains the 1820 estate of Joshua Simmons, an 1841 Greek Revival farmhouse, a one-room school house, and a generall store. Further, the Livonia Historical Society has collected and protected ancestral records and artifacts; educated the public about the history of Livonia; and held fundraisers to support restorative projects on Quaker Acres.

Mr. Speaker, I ask my colleagues to join me in congratulating my hometown's Livonia Historial Society for its first 50 years of noble civic service; and in extending our best wishes as they embark upon their next 50 years of preserving our community's uncommon legacy—and, in the process, selflessly affirming their own.

TRIBUTE TO THE 75TH ANNIVERSARY OF THE SOUTH FLINT TABERNACLE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to South Flint Tabernacle as it celebrates 75 years of worship. The Tabernacle will come together on Sunday, May 21st to pray and rejoice in the blessings be stowed by God for the past 75 years.

Reverend John McLaughlin founded South Flint Tabernacle in 1931. The original worship services wire held at Lincoln School in my hometown of Flint, Michigan. A few years later the congregation purchased the land now occupied by the current church in Burton Michigan and embarked upon building a permanent house of worship. After several building and remodeling projects the church has grown to its present size.

The Reverend Robert E. Henson has been the loving and charismatic pastor since 1979. A vibrant, dynamic congregation supports several ministries including Alcohol Chemical Treatment Ministry, Bus Ministry, Convalescent Ministry, Follow-up Visitation, Home Bible Studies, Home Friendship Groups, Inner City Evangelism, and Jail Ministry. The congregation and clergy live and pray their stated beliefs: The Bible is the inspired Word of God; There is only one God; Jesus Christ is God manifested or revealed in the flesh; The plan of salvation is clearly stated in the Holy Bible; The believer should live his or her life consecrated to the Lord Jesus Christ; Jesus Christ is coming again; There will be a final judgment.

Mr. Speaker, I ask the House of Representatives to rise with me and applaud the South Flint Tabernacle as it celebrates 75 years of prayer, adoration, fellowship, and outreach. The clergy, congregation and staff are to be commended for their pledge to bring about positive changes in their community and to support each other in the everyday struggles of human life. Their commitment to their faith is an inspiration to all privileged to witness their actions.

A TRIBUTE TO FLORENCE RICKETTS GAYNOR ON THE CELEBRATION OF HER 105TH BIRTHDAY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to Florence Ricketts Gaynor, my constituent, who will celebrate her birthday on May 18, 2006. She will be 105 years of age. I offer my congratulations to her on this special day, and my hearty wishes that she celebrate many more.

Born on May 18, 1901, Mrs. Gaynor was one of eight children of Frances Drake and James Ricketts who resided in Crooked River, Clarendon, Jamaica, West Indies. In the 1920's, she married Gilbert Gaynor in May Pen, Clarendon, where they had six children.

Throughout her life, Mrs. Gaynor remained active in the church, especially the Mother's Union. She worked as a sales clerk and a seamstress. She was also employed in the laundry at the U.S. Air Base at Vernon Field, Jamaica. Her husband, Gilbert Gaynor, died in 1978.

Mrs. Gaynor immigrated to New York City in May 2001, shortly after her 100th birthday, to live with two of her daughters—Violet Morgan and Enid Gaynor. They reside on Riverside Drive in the Washington Heights neighborhood of my congressional district.

Mrs. Gaynor has 14 grandchildren, 14 great grandchildren and one great, great granddaughter.

Mrs. Gaynor attributes her long life to her faith in God and uses white rum as part of her final hair rinse to prevent colds. As a proud resident of the United States, she is very happy to have a permanent resident card even though she has no plans to work.

It is my great privilege to represent Mrs. Gaynor in the Congress of the United States, and I call upon my colleagues to join with me in wishing her a happy birthday and joyous reunion with her family to celebrate the occasion.

TRIBUTE TO JOSEPH (JOE) F. DUNNABECK, SR.

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. McCOTTER. Mr. Speaker, I rise to honor and recognize Joseph (Joe) F. Dunnabeck, Sr. as he celebrates the arrival of his 90th birthday, May 20, 2006.

An adventurous and spirited leader, Joe dedicated his life to helping others. Joe and Lillian, his wife of 30 years, have led by example, spreading their "no such thing as can't" philosophy. With tireless effort, Joe served his Michigan community as a mechanic at the American Standard before retirement; and he still donates time to support the local Neighborhood Watch.

A devout Catholic, Joe personifies the teachings of his church through fairness, humility, and love. His pure and adventurous spirit has challenged the boundaries of age with his legendary exploits of hang gliding, and riding in hot-air balloons and on air-boats. As he nears his ninth decade of life, Joe's kindheartedness and bravery continues to inspire and ennoble his family and friends.

Mr. Speaker, in honor of his lifetime of benevolence and courage, I ask my colleagues to join me in celebrating Joe's birthday and thanking him for his contributions to our community and our country.

TRIBUTE TO THE 80TH ANNIVERSARY OF WHALEY CHILDREN'S CENTER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. KILDEE. Mr. Speaker, today I ask the House of Representatives to join me in congratulating the Whaley Children's Center as it celebrates 80 years helping children in my hometown of Flint, Michigan. Whaley Children's Center will hold an open house on May 18 to showcase their services and commemorate their anniversary.

Robert J. Whaley, then President of Citizens Bank, decided to organize a home for neglected, forgotten children during the 1880s. He made his decision to honor the memory of his deceased I son, Donald M. Whaley. At the time of his death at the age of eleven, Donald was saving money to send to an orphanage in the Detroit area. His father conceived of the idea to create a home for less fortunate children and bequeathed in his will the funds to build the Donald M. Whaley Home. On January 26, 1924 the Whaley Foundation was organized under the trusteeship of the wardens and vestry of St. Paul's Episcopal Church. After consulting with the Child Welfare League, the Memorial Home was built in 1926.

The Memorial Home has metamorphosed into the Whaley Children's Center, dedicated to helping troubled children achieve self-sufficiency at the same time meeting their everyday needs. Using the four pillars of the "Circle of Courage" model: Independence, Generosity, Mastery, and Belonging; Whaley Children's Center strives to serve the whole child. At the present time the Whaley Children's Center can serve 51 children through their 18th birthday and high school graduation. They have a separate unit, the McDonald Cottage, for children ages 6 through 10.

Mr. Speaker, I applaud the outstanding efforts of the community, volunteers, board and staff of the Whaley Children's Center. Their steadfast devotion to the children they serve is to be commended. I am glad that I have had this opportunity to recognize their hard work and their exceptional achievements helping our troubled youth attain a better future.

NOMINATION OF GEN. MICHAEL HAYDEN AS DIRECTOR OF THE CIA

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. EVERETT. Mr. Speaker, I rise today in support of the nomination of Gen. Michael Hayden as the next Director of the Central Intelligence Agency. I have known Gen. Hayden for years and believe he is the most qualified candidate in the country for this critical position.

To further illustrate this point, I would like to call your attention to a recent editorial by retired Gen. Charles Boyd that appeared in the Wall Street Journal on May 11 which makes a convincing case for the Hayden nomination.

Mr. Speaker, Gen. Boyd served 35 years in the Air Force. As a combat pilot in Vietnam, he was shot down on his 105th mission and survived 2,488 days as a prisoner of war. The only POW from that war to achieve the four-star rank, General Boyd's final military assignment was as deputy commander in chief of U.S. forces in Europe. Prior to this assignment, Gen. Boyd was the commander of Air University at Maxwell Air Force Base, in my congressional district.

With that, Mr. Speaker, I ask unanimous consent to place in the RECORD a copy of Gen. Boyd's editorial.

[From the Wall Street Journal, May 11, 2006]

A HAYDEN SYMPHONY AT THE CIA

(By Charles G. Boyd)

Our political disagreements are often obtuse for the simple reason that it is difficult to discern motives. Do disputants put the interests of the country ahead of partisan and personal concerns? Moreover, disagreements about intelligence issues are doubly hard to parse, since—despite leaks and rampant gossip—most of what goes on inside the Central Intelligence Agency remains opaque even to high-paid journalists and other Washington sophisticates. And so, amid partisan positioning and an imposing ignorance, is the scene set for the already dismaying dispute over the president's nomination of Michael Hayden to be CIA director.

The arguments (to use a generous term) being made against Gen. Hayden are so without merit or even serious content that one cannot help but suspect partisan stratagems at work. Of these, three are most common.

First, the contention that Michael Hayden is a kind of intelligence technocrat, knowledgeable only in signal intelligence, is pure canard. A liberal-arts man, Gen. Hayden has a masters degree in history, and was the broad-based senior intelligence official for the Air Force and the U.S. European Command before entering the technical domain of the National Security Agency. He worked on the National Security Council staff, in the U.N. Command and U.S. Forces Korea, and in these positions was a senior level consumer of intelligence as well as an earlier producer of it. Those who make such accusations do not know him or, more broadly, what they are talking about.

Some complain, secondly, that Gen. Hayden was somehow complicit in the domestic eavesdropping undertaken by the NSA at the president's direction. Gen. Hayden's sin in this case seems to stem from his calm and rational defense of an embattled president's heretofore secret program. No legal infractions attended anyone's behavior in what was, and remains, a policy response to a clear and present threat. Moreover, if Gen. Hayden had objected—having been assured by the attorney general, the Department of Justice, the White House counsel and the NSA general counsel that the program was legal—his position would have been unprofessional and ill-advised.

Third, there is the objection that Gen. Hayden is, well, a general—a military man—as if that automatically disqualifies him for the job. Since the National Security Act of 1947 created the CIA, four military officers have held the director's job—plus two more who directed the postwar predecessor to the CIA. So there is ample precedent for Gen. Hayden's nomination. But the complaint here is not so much about precedent as the presumption that Gen. Hayden would docilely do the bidding of the bureaucratic imperium represented by the present secretary of defense. To believe this is to ignore his professional history.

Gen. Hayden was the only high-ranking active-duty general to testify against Secretary Donald Rumsfeld's desires as the National Intelligence Directorate was debated by Congress in 2004. He did so, he believed, in the interests of a more rational template for oversight, and control of those intelligence agencies now under the Defense Department whose customers are multidepartmental. Gen. Hayden was a man of convictions with the courage to defend them when he was a lieutenant colonel, and has lost neither of those characteristics as he ascended into the senior ranks of his profession.

Most important, the best guarantee against coercion of the CIA director by any cabinet-level official—or president—may be stated in one word: professionalism. And Michael Hayden, as I have observed for nearly 20 years, is a professional par excellence.

Those who wish to harm the president seem intent on using Gen. Hayden as a bank shot into the Oval Office. This is a great shame, and stands to be an important missed opportunity, for the confirmation process—were it to focus truly on the national interest—could do a great deal of good at this time of tumult in the intelligence community.

There has been, for a long time, a tendency on the part of some presidents to select CIA directors who were amateurs in the craft. Their political or ideological leanings have sometimes been a more important factor in their appointment than their knowledge and capabilities in the arcane world of intelligence. With those chosen for such reasons comes a weakened ability to resist pressure to marshal intelligence in ways tailored to support the policy objectives of a president: pressure to give the president what he wants rather than what he needs. It is fair, I believe, to claim that the intelligence failures of recent years were a long time in the making, and that they were failures not so much of the institution but of a flawed intelligence leadership selection process.

"Amateur" is not, by definition, a swear word; we have had, on occasion, some very talented non-professional directors of Central Intelligence. But there is no substitute for the professional knowledge and ethos at the top that legitimate and protect the intelligence function from a host of political pressures and insinuations.

Gen. Hayden's confirmation hearings should, first of all, result in his confirmation. But beyond that, the hearings could do the country an important service if they were to consider a more thoroughgoing reform—modeling the key intelligence positions in the U.S. government on that of the chairman of the Federal Reserve, or of the Joint Chiefs, whose term does not run parallel to that of the president, and whose professional credentials are critical elements in his selection. More than anything else the Congress can do, such a reform would help restore the professionalism that is crucial to the intelligence function in a democracy. That would be no bank shot, but a slam-dunk for national security.

IN TRIBUTE AND APPRECIATION OF RONALD SHAIKO

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. BASS. Mr. Speaker, I rise today to recognize a distinguished resident of New Hampshire, Mr. Ronald Shaiko.

Sixteen Dartmouth students from all over the country have come to the Nation's Capital to serve as interns in various political positions throughout the District. This bright, energetic group has been led by a capable professor who shares their enthusiasm for governmental affairs. Mr. Shaiko has dedicated many years of service to higher education and has inspired many of his students to undertake successful ventures in their fields of choice throughout the country. He is the author of several political science publications and is currently acting as Visiting Associate Professor of Government at Dartmouth College. Recently, Mr. Shaiko visited the West Bank and Gaza as part of a United States observer delegation to the Palestinian Legislative Council elections despite the American embassy's security concerns.

Mr. Speaker, I am proud to pay tribute to Mr. Ronald Shaiko's service to New Hampshire and the Nation.

A NEW MEXICAN FALLEN HERO, DEPUTY JAMES "JIMMY" McGRANE

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mrs. WILSON of New Mexico. Mr. Speaker, today I bring to your attention Bernalillo County Sheriff's Deputy, James McGrane. Deputy McGrane was killed in the line of duty on March 22, 2006. He was only 38 years old and leaves behind his wife, Connie; his parents James and Rita McGrane; and his sister Ida.

Deputy McGrane was killed while conducting a nighttime traffic stop. Law enforcement officers avoid using the word routine, because they are always exposed to danger during these events. James McGrane dutifully made that stop on the evening of March 22. Deputy McGrane knew that a dangerous traffic stop could come at any time, but he also knew it was his job to protect the people of Bernalillo County and he gave his last breath honoring his commitment.

James McGrane always wanted to be in law enforcement. Even as a senior at Hope High School in Albuquerque, he talked about a career as a police officer. He joined the New Mexico State Police in 1992 when he was only 21 years old but he may not have been ready for his first assignment. James then went to work for the U.S. Postal Service, where he met the love of his life—Connie. But law enforcement was in his blood, so no one was surprised when he joined the Bernalillo County Sheriffs Department in 2002. It wasn't just a job, it was his hobby. Deputy McGrane was assigned to the East Mountain Area of the County. It was a natural fit because he enjoyed the style of community policing common to a rural area.

While James McGrane was a model law enforcement officer, he had his eccentric side. For example, right before midnight, he would walk into the squad room with a large bowl of cold oatmeal, sit in the same chair and eat it as his Sergeant conducted the nightly briefing. His fellow officers would tease him about being a health nut, how he was concerned about his appearance and being scared of the supernatural. James would take the good natured ribbing and continue working. If he didn't have a call he would find something to do. He would look to help out his fellow deputies by looking for wanted felons or running a radar station. As his wife Connie so graciously stated, "He was proud to put on that uniform."

Mr. Speaker, I ask you to join me and all the residents of New Mexico in honoring our fallen hero, Deputy James "Jimmy" McGrane. This man never quit, never complained and in the end, gave his life for something he loved. We thank his parents and his wife for sharing their son and husband with us. We owe them a tremendous amount of gratitude for James's service and devotion to his community.

PERSONAL EXPLANATION

HON. AL GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. AL GREEN of Texas. Mr. Speaker, today I was unavoidably delayed and missed the vote on the Jackson-Lee amendment to H.R. 5122, the National Defense Authorization Act, rollcall 143.

I respectfully request the opportunity to record my position. Had I been present I would have voted "yea" on rollcall 143.

At this time I would ask for unanimous consent that my position be entered into the RECORD following that vote or in the appropriate portion of the RECORD.

CODIFICATION OF TITLE 41, UNITED STATES CODE, PUBLIC CONTRACTS

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. SENSENBRENNER. Mr. Speaker, today I am introducing a bill to codify and enact certain general and permanent laws, related to public contracts, as Title 41 of the United States Code. This bill has been prepared by the Office of the Law Revision Counsel of the House of Representatives as the successor to H.R. 4320, introduced in the 108th Congress on May 10, 2004. This bill reflects changes resulting from the review and comment process that was provided after H.R. 4320 was introduced. All issues raised during that process have been resolved to the satisfaction of the parties involved.

The bill, along with a detailed section-by-section explanation of the bill, can be accessed on the Office's website at http://uscode.house.gov. Anyone interested in obtaining a printed copy of the bill and explanation, and persons interested in submitting comments on the bill, should contact Ken Paretzky, Senior Counsel, Office of the Law Revision Counsel, U.S. House of Representatives, H2–304 Ford House Office Building, Washington, DC 20515–6711. The telephone number is (202) 226–9061. Comments on the bill should be submitted to the Office of the Law Revision Counsel no later than July 16, 2006.

PAYING TRIBUTE TO CHIC HECHT

HON. JOHN C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor former United States Senator Chic Hecht for his service to the residents of Nevada as well as the United States of America.

Mayer Jacob Hecht was born on November 30, 1928. He is better known by his friends and family by the childhood nickname of Chic.

Chic was born into a Jewish family in Cape Girardeau, Missouri. He received a Bachelor of Science degree in retailing from Washington University in St. Louis in 1949 before entering the military.

Chic attended Military Intelligence School at Fort Holibird and served as an intelligence agent with the U.S. Armed Forces during the Korean War, from 1951 to 1953. Chic was a member of the National Military Intelligence Association, and was inducted into the Military Intelligence Hall of Fame in 1988. After leaving military service, Chic moved to Nevada. His business activities included retailing, the operation of a bank, and interests in hotels. He married the former Gail Kahn in 1959.

In 1966, Chic was elected to the Nevada State Senate, the first Republican to represent his predominantly Democratic district in and around Las Vegas in more than 25 years. He was a State Senator from 1967 to 1975, serving as Senate Minority Leader from 1969 to 1970. In 1982, Chic was elected to the United States Senate, ousting four-term incumbent Democrat Howard Cannon. He served only one term, from 1983 to 1989, having been defeated for reelection in 1988 by Democrat Richard Bryan. He was then appointed ambassador to the Bahamas by President George H.W. Bush, and served in that post from 1989 to 1994.

At age 77, Senator Hecht passed away on May 15, 2006 due to complications from cancer.

Mr. Speaker, I am proud to honor Senator Chic Hecht for his success in politics and his service to his community and his country. He will be dearly missed by all who knew him.

HONORING THE LIFE OF FLOYD PATTERSON, A HEAVYWEIGHT CHAMPION WHO ROSE FROM POVERTY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. CONYERS. Mr. Speaker, I rise tonight to honor the life of Floyd Patterson, a soft-spoken boxer who overcame a troubled childhood to become the heavyweight champion of the world.

Born on January 4, 1935 in Waco, North Carolina, Patterson grew up poor in Brooklyn, New York. Patterson's father was a manual laborer and his mother took care of Patterson and his 10 siblings. He had serious learning disabilities and could not read, write, or speak. At age 11, his mother had him committed to a school for emotionally disturbed boys. It was at this school where Patterson first picked up a pair of boxing gloves.

At age 16, Patterson won the New York Golden Gloves middleweight title at Madison Square Garden and at age 17, he won a gold medal as a middleweight at the 1952 Olympic Games in Helsinki. On November 30, 1956, Patterson became the youngest heavyweight champion in history at the age of 21.

Throughout his professional career, Patterson amassed a record of 55 wins, 8 losses, and 1 draw. His total earnings from boxing reached $8 million. Despite his talent in the boxing ring, Patterson was known as a gentle and sweet man. Red Smith, The New York Times sports columnist called him, "the man of peace who loves to fight."

After retiring, Patterson remained in boxing and opened up a gym. He took interest in young boxers, especially a troubled 11-year-old who reminded Patterson of himself. He eventually adopted the boy and became his trainer and manager. The special order organized by Representative STEPHANIE TUBBS JONES is an appropriate way to celebrate and honor this model human being.

SUPPORT FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. LEVIN. Mr. Speaker, I rise to speak in support of a program that makes an enormous difference in the lives of all our constituents: the Community Development Block Grant, or CDBG, program.

The CDBG program provides direct federal funding to local governments to make needed investments that improve the quality of life in our communities. These funds are used to prevent homelessness, reduce infant deaths, and provide youth enrichment programs. They are used to rehabilitate housing, to reconstruct residential streets, to help fund domestic violence shelters, to provide seniors with snow removal and lawn care assistance, and to fund important economic development initiatives.

The President has again demonstrated that his budget priorities are upside down and out of step with our communities' needs by proposing a 20 percent cut in formula funding to CDBG entitlement communities. But as the distinguished Ranking Member of the Appropriations Committee, Representative OBEY, has pointed out, just looking at this year's proposal doesn't tell the whole story.

The CDBG program is just one of many important domestic priorities that have been subject to a bizarre pattern in which, year after year, the President proposes draconian cuts, then Congress restores some of the funding and declares victory. However, the effect of this is that after several years, the draconian cuts are imposed. Since 2001, the CDBG program has already been cut by more than 22 percent in real dollars.

Yet the President wants to reduce these vital resources to our local communities even further. According to a Congressional Research Service analysis that I requested, the CDBG entitlement communities in my district would stand to lose $2.25 million next year if the President's proposed funding cuts are adopted.

As bad as these numbers sound, it is important to remember that there are real people behind them. During the April recess, two cities in my district, Warren and Southfield, Michigan, were kind enough to show me the impact that CDBG funds have had in their communities.

They have used these CDBG resources to make a real difference in the lives of countless families. I was particularly impressed by the housing rehabilitation programs that represent the largest CDBG-funded program in both communities. These efforts, along with CDBG-funded investments in local parks and roads, have helped maintain vibrant neighborhoods in both cities. I ask that summaries of these programs be included in the record, but I want to share with my colleagues just one example of the powerful difference that CDBG funds have meant to individual families.

Through its Residential Rehabilitation Loan Program, the City of Warren was able to help Michelle Amburgy and her son. I quote:

> Michelle Amburgy is a single mother employed by a catering service. When her furnace stopped working before Christmas and she and her son were living without heat. Ms. Amburgy did not have the resources to purchase a new furnace. She says she, ". . . tried everywhere to get money for a furnace . . ." and was unable to find a program to help her. Luckily the application she submitted to the City of Warren for a rehabilitation loan was being processed and according to her, ". . . the City put a rush on it . . ." in order to get a new furnace so she and her son could have heat. In addition to the furnace, various other improvements were done to her home, including an update of the electrical and plumbing systems which she says were definitely needed but she, ". . . never would have been able to afford on my own".

I hope that the House will remember Ms. Amburgy and her son, and the thousands of other families touched by the CDBG program when we consider funding for the CDBG program in the coming weeks.

CITY OF WARREN RESIDENTIAL REHABILITATION LOAN PROGRAM—CDBG

The City of Warren has spent over $14,370,000 of the Community Development Block Grant (CDBG) funding it has received since 1982 on an owner occupied rehabilitation loan program, which has assisted over 1,000 households. The low or deferred interest loans are offered to eligible households for necessary home improvements, including the correction of dangerous structural defects and the elimination of unhealthy living conditions. The program provides households who may otherwise not be able to improve their homes and living conditions with a means for doing so. For example, Michelle Amburgy is a single mother employed by a catering service. When her furnace stopped working before Christmas and she and her son were living without heat, Ms. Amburgy did not have the resources to purchase a new furnace. She says she, ". . . tried everywhere to get money for a furnace . . ." and was unable to find a program to help her. Luckily the application she submitted to the City of Warren for a rehabilitation loan was being processed and according to her, ". . . the City put a rush on it . . ." in order to get a new furnace so she and her son could have heat. In addition to the furnace, various other improvements were done to her home, including an update of the electrical and plumbing systems which she says were definitely needed but she, ". . . never would have been able to afford on my own".

In order to qualify for the program, the household must meet the definition of low or moderate income which is adjusted based upon household size. For instance, the total income for a household of two would have to be below $27,950 in order to be considered low income. If the household qualifies as low income, payments on the loan are deferred and no interest is charged. The total income for a moderate income household of two would have to be below $44,750. If the household is determined to be moderate income, monthly payments on the loan are due at a 4 percent interest rate. All loan payments and loan payoffs are placed into a revolving account used to fund future rehabilitation loans.

The rehabilitation loan program not only provides funding needed to make home repairs, it also provides expertise and guidance through the home improvement process. The City's inspectors perform a thorough inspection of the home and determine all items which must be corrected in order to bring the home into compliance with current housing codes, which may include updating electrical, plumbing and heating systems. This work must be addressed through the program. The homeowner, in consultation with City staff, may also identify other items which should be done in order to improve the condition of the property. This may include the installation of new windows, roofing, and modest kitchen and bath updates. The City oversees the preparation of specifications, the bid process and the actual rehabilitation to ensure that the appropriate work is being done by qualified individuals.

Arthur and Gloria Huard are a retired couple living in Warren. Mr. and Mrs. Huard were faced with a leaking roof that was causing structural damage to a portion of their home. Mrs. Huard says that she and her husband are living on a fixed income and, “. . . didn't have the money to pay . . .” for a new roof and the necessary repairs to the home. She and her husband received a rehabilitation loan from the City of Warren which funded a roof and repair of the structural damage. They were also able to have new windows installed and their bathroom updated, including the replacement of flooring which had been sinking. Mr. and Mrs. Huard were relieved to have the work done and she says that they were, “. . . very pleased . . .” with the work and that, “. . . the men that worked were very nice and helpful”. Mrs. Huard says that the pension and social security they receive must go to pay medical bills for her ailing husband and she's relieved that the loan funds do not have to be repaid to the City until they sell their home because they are retired senior citizens.

Many different types of households are assisted with the City of Warren's CDBG funded loan program. Of the 62 households receiving loans within the past two years, 22 were female head of household/not elderly, 19 were female head of household/elderly, 7 were elderly/not female head of household and 14 were classified as “other”. For example, Kevin and Kelly Sorlien are a young couple with three children of their own. In addition, the Sorlien's also have custody of Kelly's teenage sister and are responsible for her care. Mr. Sorlien works full-time and Mrs. Sorlien takes care of the children and has picked up a part-time job to help support the family. The Sorlien's needed some improvements done to their home and Mrs. Sorlien says they couldn't afford to do them on their own. They applied for a rehabilitation loan through the City because she says that, “. . . the interest rates were lower with the City's loan . . .” than they would have been able to get had they gone elsewhere for a loan. With the City's loan, the Sorlien's were able to get a new roof and siding and updates elsewhere in the home. Mrs. Sorlien says that she, “. . . loves the way my house turned out . . .” and was happy that the City was able to make this program available to her family.

SOUTHFIELD HOME IMPROVEMENT PROGRAM (SHIP) CDBG FUNDED RESIDENTIAL REHABILITATION PROGRAM

The City of Southfield, over the past 32 years, has spent close to $7,000,000 of the Community Development Block Grant (CDBG) funding on the Southfield Home Improvement Program (SHIP). Since 1975, SHIP has assisted over 930 households. The program is designed to assist low and moderate income homeowners afford structural repairs to their home who may not otherwise qualify for a bank loan.

The loans we give range from small emergency repairs to large scale structural problems. Although the average loan amount is $15,000 it is not unusual to have a $25,000 loan on one property which includes roof repair, plumbing, electrical and new windows. The clients of SHIP range in income from extremely low; those on fixed incomes due to age or disability; and those families with moderate incomes who are not classified as poverty stricken but don't have sufficient income for amenities outside of basic living necessities.

Sherry Crammer is a 59 year old widow of 16 years to a Detroit police officer and has lived in her Southfield home for 30 years. Her yearly income is $23,868 comprised primarily of her husband's pension. As a result of poor health issues, the homeowner incurred high medical bills and credit card balances forcing her into bankruptcy. In the early part of January 2006, the homeowner smelled a slight burning odor coming from her furnace. Upon calling the gas company, they red tagged the furnace after showing her the plastic coating on the wires that were melting. The act of ‘red tagging’ means that the gas appliance is determined to be a hazard and is not to be used until repaired or replaced. The call from the homeowner was received by SHIP on a late Friday afternoon. At 5 p.m. the Housing Inspector went to her home to examine the crisis and to assist with the application process. During this initial contact it was learned that she had an unused wall space heater in a spare bedroom. The Housing Inspector, with the help of some caring neighbors was able to get the space heater running until a contractor quote could be finalized that following Monday and a new furnace installed. The homeowner was very grateful for all of the personal attention and service. Before assistance from SHIP, Mrs. Crammer had contemplated moving into a senior citizen apartment. SHIP afforded her the opportunity to continue living in the home she loved.

The Andersons are a young couple who had in the past 2 years gotten married, bought a home in Southfield and started their own landscaping business. The business was doing okay, but there wasn't any extra money, most of the profits went back into the business. The home needed a new roof as well as electrical and plumbing repairs. With SHIP, the couple was able to get a 3 percent interest loan that wouldn't require monthly payments which would have added another strain to their already tight budget. They will be able to defer payment of the loan until the sale of their house. Without a program like SHIP being available this couple would probably not have qualified for a conventional loan and may have been the target of predatory lenders.

Mr. and Mrs. Willie Hunter are a family of seven. Their income consists of a pension, supplemental security insurance and child support. They just purchased their house a little over a year ago and needed to make some improvements. However, they quickly found out the house had more extensive problems then their budget would permit them to fix, including a leaking roof. In addition, while the Hunters were in the process of replacing the kitchen floor, they discovered under the linoleum and deteriorated subfloor that they had structural floor framing problems. Application to the Southfield Home Improvement Program addressed both of these major issues for the Hunters. They are now able to sit all together at the kitchen table to enjoy their meals under a roof that doesn't leak.

The focus of SHIP is “make a difference in the life of a family one house at a time”. Total home inspections are performed to identify housing code violations as well as abate any lead based paint hazards. The entire process is coordinated by the equivalent of 1½ staff positions. Staff prepares the specifications, reviews bids, communicates with contractors and oversees the actual rehab work in addition to processing the completed loan documents and tracking an average of 800 active loans. The goal is to complete 20–25 loans per year; making a difference one house at a time.

Note: Names have been changed to protect the privacy of program participants.

IN HONOR OF SPECIALIST ARMER N. BURKART

HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. GARRETT of New Jersey. Mr. Speaker, I rise today to pay tribute to a hero and a patriot who was killed while defending our Nation in Iraq. Army Specialist Armer N. Burkart died this week when an improvised explosive device exploded near his vehicle.

This brave 26-year-old soldier was serving as a gunner with the 1st Battalion of the 10th Division based at Fort Drum in New York. Prior to this tour in Iraq, Specialist Burkart served for nearly a year in Afghanistan.

Specialist Burkart's father, John, says that Armer "was proud to be in the Army. He volunteered for combat . . . he had a nice safe position which he chose to give up." This extraordinary young man had always wanted to be in the Army, following in his grandfathers' tradition of military service in the Navy. In fact, even as a high school student, he served in the ROTC.

America should be grateful for Armer Burkart's honorable service, and we should all remember the heroism of the other men and women who have been serving by his side. America should also be grateful to the loving families these servicemen and women leave behind. Our thoughts and prayers go out to Specialist Burkart's wife, father, and younger brother, as they do to the others who selflessly give of their family time that our Nation and our world may be safe and free.

TRIBUTE TO GARY PURDUE, MD, FACS

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. SAM JOHNSON of Texas. Mr. Speaker, Gary Purdue, MD, FACS, is one of my constituents performing life-saving work at the Burn Center at Parkland Health and Hospital System. In addition to his work at Parkland, Dr. Purdue is Professor of Surgery at The University of Texas Southwestern Medical Center in Dallas and is also a Professor of Anesthesiology and Plastic Surgery. In addition to these achievements, he has served as the President of the American Burn Association and spearheaded efforts to improve research into the treatment of burn injuries, worked to increase critical funding in the field, and furthered the cause of education for the prevention of devastating burn injuries.

Dr. Purdue's work as leader of the ABA is significant because this is the organization that sets the industry standard for this challenging specialization within the field of medicine. Burn professionals, physicians, nurses, fire fighters and emergency personnel practice in every state of the union, playing a significant role in this country's response to emergencies, including terrorism risks which are now part of our world.

The Burn Center at Parkland has been an ACS/ABA verified burn center since 1996, and the integrated in and out patient rehabilitation program gives the burn team a very strong presence treating over 600 new acute burn patients each year. Dr. Purdue's research interests include development and maintenance of a single center 14,500 patient database, causation of injury and high risk patients. He has had over 150 articles published in peer review journals and books.

I would like to take this opportunity to congratulate Dr. Purdue on his valuable contributions to the field of burn injury treatment, an area I have had personal experiences with, and to apprise my colleagues of the American Burn Association and urge them to work with the burn centers and burn professionals in their own districts and states.

A TRIBUTE TO OCTAVIA E. BUTLER

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. SCHIFF. Mr. Speaker, I rise today to honor the late Octavia E. Butler. Ms. Butler will be greatly missed. The world of literature lost a literary genius whose novels and short stories broke the conventional expectations of African Americans, women, and science fiction writers.

Ms. Butler was a Pasadena, California native who attended John Muir High School. She graduated from Pasadena City College in 1968. Octavia spent most of her adult life in the Pasadena/Altadena area where she lived until just a few years ago when she moved to Seattle, Washington. While Octavia's fans have marveled over her extraordinary literary creations, those who knew her as a friend also marveled at her ability to remain down to earth and unmoved by fame. As an adult, Ms. Butler had traveled all over the world, from the Amazon to Russia, to gather authentic material for her books.

Ms. Butler was an internationally acclaimed science fiction author whose novels explored pressing issues such as race, gender, slavery, poverty, and politics. In 1995, she became the first science fiction writer to receive a $295,000 genius grant from the John D. and Catherine T. MacArthur Foundation. She also received two Hugo Awards and two Nebula Awards for her science fiction works. During her funeral service, on March 11, 2006, the Pasadena City Mayor's office read a proclamation that declared March 17, 2006, to be Octavia Butler Day.

Octavia is the author of many novels, including Patternmaster, Adulthood Rite, Mind of My Mind, and Kindred. For many years, Kindred, which is Pasadena's "One City, One Story" choice this year, was required reading at John Muir High School. The program is designed to broaden and deepen the appreciation for reading.

I ask all Members of the United States House of Representatives to pause to honor a great woman, Octavia E. Butler, who inspired so many people through her words and her vision. She will be missed not only by her family, but by all who were fortunate enough to cross her path or enjoy her novels.

TRIBUTE TO HONOR OF THE 75TH ANNIVERSARY OF FLOYD BENNETT FIELD

HON. ANTHONY D. WEINER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. WEINER. Mr. Speaker, I rise today in recognition of the 75th anniversary of Floyd Bennett Field.

Floyd Bennett Field proudly served as New York City's first municipal airport, opening on May 23, 1931 with modern facilities and strong concrete runways. During the "Golden Age" of aviation, this airfield captured the imagination of the public and was the site of many legendary flights with spectators cheering on the accomplishments of aviators named Wiley Post, Howard Hughes, and Amelia Earhart.

In 1942 our country was at war, and Floyd Bennett Field was called into duty. Under the U.S. Navy, this airstrip served our country as a Naval Air Station which provided vital support to our troops as it recruited and trained pilots, tested planes, provided cargo transport, and performed sea rescues. Floyd Bennett Field became the first helicopter training facility in the world and is the longest continuously used law enforcement aviation unit in the world, currently housing the New York City Police Department Aviation Unit.

In 1972, after years of neglect and in the midst of municipal financial woes, Floyd Bennett Field as turned over to the National Park Service and again set records by becoming the first of the urban national parks. Since then, we have seen a resurgence in activity as the National Park Service finds new ways to invite in the public while preserving the history of the sites and tales of the past. Floyd Bennett Field now hosts an array of activities including hiking, cross-country skiing, camping, field sports, bird-watching, canoeing, and archery.

Therefore, on behalf of the United States House of Representatives, I recognize this anniversary milestone and challenge the National Park Service to maintain this field in a way that continues to benefit my constituents and the city of New York.

BURMESE MILITARY ATROCITIES

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. CROWLEY. Mr. Speaker, I rise today to raise the awareness of this Congress of the ongoing atrocities being committed by the Burmese military junta. I am deeply disturbed by what appears to be the largest attacks in 10 years on ethnic minorities in eastern Burma. Eastern Burma is a humanitarian nightmare. According to the Thailand-Burma Border Consortium, over the past 10 years, the military junta has destroyed or forcibly relocated over 2,700 villages. Not a single humanitarian relief agency is allowed into the area, not a single journalist is permitted to record the facts, and not a single U.N. official is permitted to meet, let alone protect, those on the run in Burma's eastern jungles. Even in Sudan aid agencies, journalists, and representatives of the United Nations and African Union are allowed—not so in eastern Burma.

It is time for the United States to press the U.N. Security Council to pass a binding resolution requiring change in Burma.

It is true that not all members of the Council will initially agree on the language and substance of such a proposal, and it is no secret that Russia and China have opposed the use of sanctions or military intervention in Burma.

We have listened to their points, and that is not what we are asking for.

Surely all Council members must agree that it is our collective responsibility to stop these attacks on innocent civilians and to facilitate true national reconciliation in Burma. The U.N. Security Council said so itself on April 28th when it stated in its new resolution that "the Council reaffirmed its strongest condemnation of all acts of violence or abuses committed against civilians in situations of armed conflict." By not addressing the situations in Burma, the United Nations Security Council is failing its own mandate and undermining the U.N. Charter.

We cannot remain silent. We cannot stand by and wait for someone else to provide leadership, if none is being provided. Leaders of the United States, United Nations and elsewhere should state publicly that it is time for a U.N. Security Council resolution on Burma. As the rainy season approaches in eastern Burma, many lives are at risk. We must act now.

TRIBUTE TO DARYL C. BROWN

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to an individual who serves as a great illustration of all the good that is being done in our public school systems. Daryl C. Brown is the principal of Carvers Bay High School located in Hemingway, South Carolina, one of the schools I proudly represent in this body.

Renowned educator and native South Carolinian Mary McLeod Bethune once said, "Invest in the human soul. Who knows, it might be a diamond in the rough." The continued success of our public schools requires not just a financial investment, but also an investment in the lives our young people. Mr. Brown's work exemplifies Dr. Bethune's mandate. Charged with the challenging task of combining two rival high schools, he so successfully managed the consolidation that the biggest obstacle was selecting the school colors. On the first day of school, he held an assembly where he showed students a newspaper article predicting that the school would not be a success. He forcefully disputed that assertion, saying that Carvers Bay would become a blue ribbon school, a prediction that was met with a rousing ovation from students and staff. Well on its way to that distinction, the school has made impressive gains on test scores, added AP classes, and started an ROTC program considered one of the best in the area.

An innovative leader who is often the first in the district to experiment with new strategies, Mr. Brown created a Freshman Academy to ease the transition from middle school, even designating a separate wing for the program. He also began an initiative to provide breakfast for all of his students, making Carvers Bay one of the few high schools with such a program. Though his students have dubbed him "Papa Bear" after the school mascot, the profound transformation he has led at Carvers Bay is no fairy tale.

Mr. Brown's dedication and commitment have not gone unnoticed. The Milken Family Foundation awarded him this year with one of the most prestigious awards in teaching—the Milken Educator Award. Referred to as the "Oscars of Teaching," by Teacher Magazine the Milken Family Foundation's National Educator Award is given each year to approximately 100 of the most outstanding teachers and principals in states across the country. This prestigious recognition, which began in 1987, comes with a cash award of $25,000 for each recipient. These awards pay homage to the importance of quality teachers and to the significance of the teaching profession.

Mr. Speaker, I ask you and my colleagues to join me in honoring the enormous public service of Mr. Daryl C. Brown. We also congratulate him on his recognition as a Milken Family Foundation National Educator. Our Nation prospers because of individuals like him.

HONORING NATE GOODEN'S UNITED AUTO WORKER RETIREMENT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. CONYERS. Mr. Speaker, I rise today to honor Nate Gooden's outstanding service at the UAW. Nate Gooden and I go back to the beginning of his career and our involvement in the coalition of Black Trade Unionists.

Since he first became a UAW member in 1964, Nate has remained a loyal activist. Like a true warrior, Nate has confronted those who frustrate the goal of creating a full employment society. He has consistently stood with me in my efforts to create and sustain a full employment system. He has also provided unwavering support for H.R. 676, a bill I introduced calling for a national universal health care system. As we currently seek to extend the Voting Rights Act, Nate has once again provided his strong voice of endorsement.

Nate's effective approach has always been the same. He has distinguished himself as being friendly but firm in negotiations, and this made him the "go to guy" at the UAW. In the best tradition of the labor movement, Nate's advocacy on behalf of auto workers has given an economic lift to so many. His good-natured personality and tremendous leadership will be sorely missed.

The Nate Gooden resolution follows:

TESTIMONIAL RESOLUTION HONORING NATE GOODEN

Whereas, Mr. Nate Gooden, was born in Detroit on April 14, 1938, has been a United Auto Worker ("UAW") member since 1964, was appointed as an international representative on the Region 1 staff in 1977, was, first elected the UAW International Executive Board Vice President in 1999, and was reelected in 2006; and

Whereas, Mr. Nate Gooden, was nominated as UAW's representative to the Supervisory Board of DaimlerChrysler AG in 2002, is the Director of the UAW's DaimlerChrysler Department, and is co-chair of the Joint Activities Board that operates the UAW-DaimlerChrysler National Training Center; and

Whereas, Mr. Nate Gooden, directs the UAW Heavy Trucks Department and the UAW Transplants, Trasnationals, and Joint Ventures Department; and

Whereas, Mr. Nate Gooden, directed successful negotiations with Freightliner in 2000, directed the UAW's national contract negotiations with the Chrysler Groups in 2004, helped win a first contract for workers at Thomas Built Bus in 2005, helped win a first contract for workers at the Michigan Global Engine Manufacturing Alliance facility in 2005, and helped secure options for Mack workers affected by the closing of the Winnsboro plant; and

Whereas, Mr. Nate Gooden has attended Wayne State University's Labor Studies program and serves as an advisor to the Ken Morris Center for the Study of Labor and work at Oakland University; and

Whereas, Mr. Nate Gooden is a U.S. army veteran, the executive secretary of the Coalition of Black Trade Unionists, Deputy Chair of the World Employee Committee at DaimlerChrysler, a national board member and life member of the NAACP, and an active member of the Michigan Democratic Party; and be it therefore

Resolved, That Mr. Nate Gooden be commended and honored on the 17th Day of May 2006 on the occasion of his retirement as Vice President and Director of the UAW DaimlerChrysler Department—for his unwavering commitment to the highest standards of integrity and professionalism as a dedicated and renowned leader and activist.

Congratulations, Brother Gooden. I must say that knowing Nate, I take any discussions of his immediate retirement with a grain of salt.

Congratulations, Nate Gooden, on a job well done.

HONORING COLONEL HUGH L. DUKES, JR.

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to pay public tribute to Chaplain (Colonel) Hugh Dukes, an exemplary minister, soldier, and citizen from my congressional district. Colonel Dukes and his wife Linda were honored earlier this month at a Court of Honor ceremony held at the United States Army Armor Center at Fort Knox, attended by the Commanding General and numerous other distinguished guests who gathered to celebrate Dukes' approaching retirement.

A native of Carrollton, Georgia, Colonel Dukes is an ordained minister of the American Baptist Churches, USA. He received direct commission into the United States Army Chaplain Corps on July 4, 1976 following his completion of theological studies at Duke University School of Divinity. After completing his 3-year obligation, Dukes joined the 101st Airborne at Fort Campbell and went on to fulfill a wide variety of assignments at home and abroad throughout his 30 years of pastoral service to the U.S. Army.

Prior to his assignment as Fort Knox Staff Chaplain, Colonel Dukes directed education and promotions for the Army's Chaplain Corps at the Pentagon. He was on hand as Acting Executive Officer for the Chief of Chaplains on September 11, 2001 when American Airlines Flight 77 crashed into the building. He served earlier pastoral missions at the Walter Reed Army Medical Center in Washington, DC, and numerous other assignments with soldier divisions and brigades in Kentucky, Virginia, Hawaii, and South Korea.

At Fort Knox, Colonel Dukes' supervises 23 unit chaplains with direct oversight of 17 different congregations. His leadership and spiritual guidance play an important role in the lives of thousands of soldiers, civilians, and their families, a fellowship that makes Fort Knox and its surrounding communities a great place to live and work. His spiritual advice has been especially important during a time of war as he's often called on by soldiers preparing for deployment or returning from combat contemplating serious questions about life and concern for loved ones.

Chaplain Dukes' awards and decorations include the Legion of Merit, Meritorious Service

Medal, Army Commendation Medal, Army Achievement Medal, Parachutist Badge, and the Air Assault Badge.

It is my great privilege to recognize Chaplain (Colonel) Hugh Dukes today, before the U.S. House of Representatives, for his lifelong example of leadership and service. His achievements and dedication to the men and women of the U.S. Army make him an outstanding American worthy of our collective honor and respect.

TRIBUTE TO STAFF SERGEANT DALE JAMES KELLY, JR.

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. LANGEVIN. Mr. Speaker, it is with profound sorrow that I rise to recognize the loss of a brave soldier in Iraq, Staff Sergeant Dale James Kelly, Jr., a member of the Maine Army National Guard and former Rhode Island resident who served his country with dignity and honor. I join his family and the people of Rhode Island and Maine in mourning this great loss.

Staff Sergeant Kelly grew up in Cranston, Rhode Island, and graduated from Cranston East High School in 1976. After school, he signed up with the Rhode Island Air National Guard, where he met his future wife, Nancy Cabral. He later sought work at Bath Iron Works in Maine, where he and Nancy raised their three children, Jennifer, Julie, and Christopher. In addition to being deeply committed to his family, he was remembered as an avid outdoorsman and a model of selflessness, always ready to assist those in need.

Staff Sergeant Kelly was serving in Iraq with B Company, 3rd Battalion of the 172nd Infantry Regiment, based in Brewer, Maine. A trained medic, he was in the lead vehicle of a convoy when a bomb detonated in Ad Diwaniyah, killing him and another soldier. However, prior to the incident, Staff Sergeant Kelly had taught his fellow soldiers how to administer their own intravenous medication in the event that he were harmed or unavailable. That instruction may have saved the life of Private Chris Fraser, who was seriously injured in the blast and administered his own IV. As was the case so many times in his life, Staff Sergeant Kelly's actions helped others in harm's way.

This loss causes us to reflect on the bravery demonstrated by our men and women in uniform as they carry out their obligations in the face of danger. When Staff Sergeant Kelly's nation called him to duty to preserve freedom, liberty, and security, he answered without hesitation. We will remember him as a patriot who made the ultimate sacrifice for his country.

Staff Sergeant Kelly is survived by his wife, three children, and three grandchildren; his mother, Barbara Kelly of Cranston; three sisters, Kathleen Kelly Sullivan, of Narragansett, Rhode Island, Barbara Wheaton of Yarmouth, Maine, and Kristin Kelly Ciamborne of Ashland, Massachusetts; two brothers, David Kelly of Warwick, Rhode Island, and Joseph Kelly of St. Petersburg, Florida; and many beloved nieces, nephews, aunts, uncles, cousins, and other relatives.

May we keep his loved ones in our thoughts and prayers as they endure this difficult period. We will also continue to hope for the safe and speedy return of all of our troops serving throughout the world.

RECOGNIZING CAREER OF CAROL KIENTZ

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 17, 2006

Mr. HOLT. Mr. Speaker, I rise today to recognize the career of Carol Kientz for over 40 years of dedicated service to the field of nursing.

Since receiving her B.S. in nursing from Cornell University in 1965 and her M.S. in nursing from the University of California, San Francisco in 1968, Ms. Kientz has been an active member of the healthcare community; serving in a variety of professional and community volunteer positions. She has served as a community health nurse for the New York City Health Department, a nurse educator in New York and New Jersey, supervisor for the Visiting Nurse Association, director of health services at Christ Home Hospital in Jersey City and for the past 16 years, as the Executive Director of the Home Care Association of New Jersey.

Outside of her professional responsibilities, Ms. Kientz has also participated in many healthcare organizations and activities including serving as a founding board member of the New Jersey Commission on Accreditation for Home Care, participating on numerous committees within the National Association for Home Care, and serving on the editorial review board for New Jersey Medicine and the Home Health Care Management and Practice.

Throughout her professional career in nursing, Ms. Kientz has received numerous recognitions and has had the distinct honor of receiving a number of public appointments. Most notably, she was named Home Health Assembly Member of the Year in 1989 and received the Home Health Assembly Martha Esposito Award in 1997. For her commitment to improving public health, Ms. Kientz was appointed and has served on the New Jersey Governor's AIDS Council from 1994 to 2002 and presently, serves on the Medical Assistance Advisory Council for the New Jersey Division of Medical Assistance and Health Services since 1995, Governor Corzine's New Jersey Healthcare Advisory Committee since 2002, and the Bioterrorism Advisory Committee for the Department of Health and Human Services since 2002.

In her most recent position, as executive director of the Home Care Association of New Jersey, Ms. Kientz has displayed great character and commitment towards achieving her goal of ensuring that all patients receive the highest quality of care. She has been instrumental in developing and facilitating committees within the organization responsible for addressing industry issues as well as advocating on a variety of healthcare policy issues. Her efforts have included establishing the Real Coalition, which allowed the home care industry to formulate a collective and unified voice, participating in the development of the Assisted Living Regulations for the State of New Jersey, improving the process for home health aide competency testing, strengthening relationships with State agencies, advocating for government initiatives to address the nursing and workforce shortage issues affecting the home care industry, establishing the home health aide scholarship process, and establishing the Home Care Foundation of New Jersey to explore Grant opportunities to benefit the greater home care industry.

Throughout her career, Ms. Kientz has genuinely demonstrated a strong commitment towards improving home healthcare. It is the enthusiasm and dedication of people like Ms. Kientz that have raised the bar of excellence in patient care. Please join me in recognizing her many accomplishments.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 18, 2006 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 19

Time to be announced

Homeland Security and Governmental Affairs

Business meeting to consider the nominations of Robert J. Portman, of Ohio, to be Director of the Office of Management and Budget, Robert Irwin Cusick, Jr., of Kentucky, to be Director of the Office of Government Ethics, and David L. Norquist, of Virginia, to be Chief Financial Officer, Department of Homeland Security.

Room to be announced

9 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2007 for the National Institutes of Health.

SD–192

MAY 22

2 p.m.

Homeland Security and Governmental Affairs

To hold hearings to examine the nomination of Lurita Alexis Doan, of Virginia, to be Administrator of General Services.

SD–342

2:30 p.m.

Energy and Natural Resources

To hold hearings to examine nuclear power provisions contained in the Energy Policy Act of 2005.

SD–366

MAY 23

9:30 a.m.

Judiciary

To hold hearings to examine ensuring competition and innovation related to reconsidering communication laws.

SD–226

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine improving financial literacy in the United States.

SD–106

Commerce, Science, and Transportation

To hold hearings to examine price gouging related to gas prices.

SD–562

Energy and Natural Resources

To hold hearings to examine the National Research Council report, Managing Construction and Infrastructure in the 21st Century Bureau of Reclamation and the U.S. Bureau of Reclamation Report, Managing for Excellence: An Action Plan for the 21st Century.

SD–366

2 p.m.

Judiciary

Intellectual Property Subcommittee

To hold hearings to examine post-grant review procedures and other litigation reforms relating to patents.

SD–226

2:15 p.m.

Foreign Relations

To hold hearings to examine the Convention on Supplementary Compensation for Nuclear Damage, with a declaration, done at Vienna on September 12, 1997, Convention Adopted by a Diplomatic Conference convened by the International Atomic Energy Agency (IAEA) and opened for signature at Vienna, during the IAEA General Conference (Treaty Doc. 107–21), S. Res. 312, expressing the sense of the Senate regarding the need for the United States to address global climate change through the negotiation of fair and effective international commitments, S. Res. 359, concerning the Government of Romania's ban on intercountry adoptions and the welfare of orphaned or abandoned children in Romania, S. Res. 456, expressing the sense of the Senate on the discussion by the North Atlantic Council of secure, sustainable, and reliable sources of energy, S. 559, to make the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency a priority of the United States Government, S. 1950, to promote global energy security through increased cooperation between the United States and India in diversifying sources of energy, stimulating development of alternative fuels, developing and deploying technologies that promote the clean and efficient use of coal, and improving energy efficiency, S. 2125, to promote relief, security, and democracy in the Democratic Republic of the Congo, S. 2200, to establish a United States-Poland parliamentary youth exchange program, S. 2566, to provide for coordination of proliferation interdiction activities and conventional arms disarmament, S. 2697, to establish the position of the United States Ambassador for ASEAN, and pending nominations.

S–116, Capitol

2:30 p.m.

Finance

Long-term Growth and Debt Reduction Subcommittee

To hold hearings to examine encouraging economic self-determination in Indian country.

SD–215

MAY 24

9:30 a.m.

Homeland Security and Governmental Affairs

To hold hearings to examine the nomination of R. David Paulison, of Florida, to be Under Secretary for Federal Emergency Management, Department of Homeland Security.

SD–342

10 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings to examine National Transportation Safety Board reauthorization.

SD–562

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD–366

10:15 a.m.

Judiciary

To hold hearings to examine the McCarran-Ferguson Act, focusing on implications of repealing the insurers' antitrust exemption.

SD–226

10:30 a.m.

Appropriations

Legislative Branch Subcommittee

To resume hearings to examine the progress of construction on the Capitol Visitor Center.

SD–138

2 p.m.

Judiciary

To hold hearings to examine judicial nominations.

SD–226

2:30 p.m.

Commerce, Science, and Transportation

Disaster Prevention and Prediction Subcommittee

To hold hearings to examine 2006 hurricane forecast and at-risk cities.

SD–562

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine S. 2466, to authorize and direct the exchange and conveyance of certain National Forest land and other land in southeast Arizona, S. 2788, to direct the exchange of certain land in Grand, San Juan, and Uintah Counties, Utah, and S. 2567, to maintain the rural heritage of the Eastern Sierra and enhance the region's tourism economy by designating certain public lands as wilderness and certain rivers as wild a scenic rivers in the State of California.

SD–366

MAY 25

9:30 a.m.

Indian Affairs

To hold an oversight hearing to examine Indian education.

SR–485

10 a.m.

Commerce, Science, and Transportation

To resume hearings to examine S. 2686, to amend the Communications Act of 1934 and for other purposes.

SD–106

Energy and Natural Resources

To hold hearings to examine the outlook for growth of coal fired electric generation and whether sufficient supplies of coal will be available to supply electric generators on a timely basis both in the near term and in the future.

SD–366

Veterans' Affairs

To hold hearings to examine pending benefits related legislation.

SR–418

2:30 p.m.

Commerce, Science, and Transportation

To hold hearings to examine Pacific Salmon Treaty.

SD–562

JUNE 8

10 a.m.

Commerce, Science, and Transportation

Business meeting to markup S. 2686, to amend the Communications Act of 1934 and for other purposes.

SH–216

JUNE 14

10 a.m.

Commerce, Science, and Transportation

Technology, Innovation, and Competitiveness Subcommittee

To hold hearings to examine alternative energy technologies.

Room to be announced

JUNE 15

10:30 a.m.

Commerce, Science, and Transportation

Fisheries and Coast Guard Subcommittee

To hold hearings to examine the Coast Guard budget.

SD–562